



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

FOURTH SECTION

CASE OF DAVIS AND OTHERS v. THE UNITED KINGDOM

(Applications nos. 60946/00, 60978/00, 61399/00 and 61408/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

6 February 2007

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

In the case of Davis and Others 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 K. TRAJA,

Mr S. PAVLOVSKI,

Mr J. ŠIKUTA,

Mrs P. HIRVELÄ, *judges*,

and Mr T.L. EARLY, *Section Registrar*,

Having deliberated in private on 16 January 2007

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

PROCEDURE

1. The case originated in four applications (nos. 60946/00, 60978/00, 61399/00 and 61408/00) 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 Paul Davis, Mr Kevin P Hutton, Mr Dennis Thomas and Mr Grahame D Rourke, respectively on 25 August 2000, 10 June 2000 respectively and 15 September 2000 in the case of the last two applicants.

2. The applicants were all represented before the Court by Pierce Glynn Solicitors, London. The United Kingdom Government (“the Government”) were represented by their Agent, Mr C. Whomersley of the Foreign and Commonwealth Office.

3. The applicants complained under Articles 8 and 14 of the Convention and Article 1 of Protocol No. 1 that, because they were men, they were denied social security benefits equivalent to those received by widows.

4 By partial decision of 10 October 2001 the Court decided to communicate these applications. On 8 April 2003, after obtaining the parties’ observations, the Court declared these applications admissible in so far as the complaints concerned Widowed Mother’s Allowance and declared the remainder of each application inadmissible.

THE FACTS

A. THE CIRCUMSTANCES OF THE CASE

A. Mr Davis

5. Mr Davis was born in 1953 and lives in North Somerset.

6. His wife died on 18 September 1998. His claim for widows' benefits was made on 16 May 2000 and was rejected on 19 May 2000 on the ground that he was not entitled to widows' benefits because he was not a woman. A formal decision was made by the Benefits Agency on 7 August 2000. The applicant did not appeal as he considered or was advised that such a remedy would be bound to fail since no security benefits were payable to widowers under United Kingdom Law.

B. Mr Hutton

7. The applicant was born in 1960 and lives in Berkshire.

8. His wife died on 7 July 1999. His claim for widows' benefits was made on 12 January 2000 and was rejected later in January 2000 on the ground that he was not entitled to widows' benefits because he was not a woman. The applicant did not appeal as he considered or was advised that such a remedy would be bound to fail since no security benefits were payable to widowers under United Kingdom Law.

C. Mr Thomas

9. The applicant was born in 1947 and lives in Somerset.

10. His wife died on 14 January 1991. His claim for widows' benefits was made on 12 May 2000 and was rejected on 13 June 2000 on the ground that he was not entitled to widows' benefits because he was not a woman. The applicant did not appeal as he considered or was advised that such a remedy would be bound to fail since no security benefits were payable to widowers under United Kingdom Law.

D. Mr Rourke

11. The applicant was born in 1949 and lives in Herefordshire.

12. His wife died on 4 August 1999. His claim for widows' benefits was made in mid-April 2000 and was rejected on 1 June 2000 on the ground that he was not entitled to widows' benefits because he was not a woman. The

applicant did not appeal as he considered or was advised that such a remedy would be bound to fail since no security benefits were payable to widowers under United Kingdom Law.

B. RELEVANT DOMESTIC LAW AND PRACTICE

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

THE LAW

14. 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.

15. On the 15 May 2006 the applicants' representatives notified the Court that Mr Davis had been offered GBP 9,383.79, Mr Hutton had been offered GBP 12,017.6, Mr Thomas had been offered GBP 6,759.66 and Mr Rourke had been offered GBP 4,180.22 and they had accepted payment. The representatives were sent a letter on 13 October 2006 requesting confirmation that no aspects of the applicants' claims were ongoing and informing them that the Court would now consider striking out each case from its list in its entirety. By a letter of 9 November 2006 the representatives confirmed that there were no outstanding claims and that the proceedings could be concluded.

16. 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).

17. Accordingly, the applications should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the applications out of the list.

Done in English, and notified in writing on 6 February 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Registrar

Josep CASADEVALL
President