



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

FOURTH SECTION

CASE OF DONOVAN v. THE UNITED KINGDOM

(Application no. 63466/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

6 March 2007

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

In the case of Donovan 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 10 October 2001 and on 13 February 2007,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 63466/00) 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 Donovan on 29 September 2000.

2. The applicant was 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 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. By a partial decision of 10 October 2001 the Court decided to communicate this application. On 8 April 2003, after obtaining the parties' observations, the Court declared this application admissible in so far as the complaints concerned Widowed Mother's Allowance and declared the remainder of the application inadmissible.

THE FACTS

5. The applicant was born in 1942 and lives in Hilderstone Staffs.

6. His wife died on 4 July 1992, leaving him with two children born in 1979 and 1983. His claim for widows' benefits was made on 12 October

1999 and was rejected on 23 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 such social 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. On 15 May 2006 and again on 13 July 2006 the applicant's representatives notified the Court that Mr Donovan had been offered GBP 6,346.34 and that he had accepted payment. The representatives were sent a letter on 30 November 2006, informing them that the Court might consider striking out the case from its list in its entirety. The representatives have not sent a letter objecting to the striking out of the application.

9. 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).

10. Accordingly, the application should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the application out of the list.

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

T.L. EARLY
Registrar

Josep CASADEVALL
President