



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

FOURTH SECTION

CASE OF O'CONNELL AND OTHERS v. THE UNITED KINGDOM

(Applications nos. 58370/00, 61781/00 and 62966/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

22 May 2007

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

In the case of O'Connell 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 3 May 2007,

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

PROCEDURE

1. The case originated in three applications (nos. 58370/00, 61781/00 and 62966/00) 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 Daniel O'Connell, Mr Roy Smith and Mr Peter Boak (“the applicants”), respectively on 9 June 2000, 8 August 2000 and 13 September 2000.

2. The first two applicants were represented before the Court by Mr L. Allamby, a lawyer practising in Belfast. The third applicant was unrepresented 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 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 a partial decision of 15 January 2002 the Court decided to communicate these applications, and to join them to other applications (nos. 60274/00, 60940/00, 61019/00, 61394/00, 61398/00, 63471/00, 63476/00, 63478/00, 63481/00, 63507/00).

5. On 6 May 2003, after obtaining the parties' observations, the Court declared these applications admissible in so far as the complaints concerned Widowed Mother's Allowance as from the date of the applicants' second claims and declared the remainder of each application inadmissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Mr O'Connell

6. The applicant was born in 1942 and lives in Belfast.

7. His wife died on 31 December 1993, leaving him with two children born in 1984 and 1986. His second claim for widows' benefits was made on 11 May 2000 and was rejected on 24 May 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.

B. Mr Smith

8. The applicant was born in 1952 and lives in Enniskillen.

9. His wife died on 11 November 1998, leaving him with two children born in 1985 and 1987. His second claim for widows' benefits was made on 10 May 2000 and was rejected on 18 May 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.

C. Mr Boak

10. The applicant was born in 1958 and lives in Port Talbot.

11. His wife died on 16 September 1990, leaving him with a child born in 1990. His second claim for widows' benefits was made on 3 May 2000 and was rejected some time after 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.

II. RELEVANT DOMESTIC LAW AND PRACTICE

12. 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

13. 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.

14. By a letter of 18 January 2007 the first two applicants' representative notified the Court that Mr O'Connell had been offered GBP 5,210.20 and Mr Smith had been offered GBP 16,397.15 and that they had accepted payment. On 19 January 2007 the representative was sent a letter by the Registry stating that if no reply was received to the contrary by 2 February 2007, the Court might consider striking out the applications from its list in their entirety. The representative has not sent a letter objecting to the striking out of the applications. On 26 October 2006 Mr Boak notified the Court that a settlement had been reached regarding his application. On 29 January 2007 the Registry informed him that he should provide details of the settlement and that the Court would then consider striking out the case from its list in its entirety. On 29 January 2007 Mr Boak informed the Court that he had been offered GBP 6,017.65 in full and final settlement and that he had accepted payment.

15. 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).

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to disjoin the applications from the others to which they were joined;
2. *Decides* to strike the applications out of its list of cases.

Done in English, and notified in writing on 22 May 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Registrar

Josep CASADEVALL
President