



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

FOURTH SECTION

CASE OF SINCLAIR v. THE UNITED KINGDOM

(Application no. 68621/01)

JUDGMENT
(Friendly settlement)

STRASBOURG

9 October 2007

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

In the case of Sinclair 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 12 March 2002 and on 18 September 2007,

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

PROCEDURE

1. The case originated in an application (no. 68621/01) 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 Mr Stewart Sinclair (“the applicant”) on 28 November 2000.

2. The applicant was represented before the Court by P. Glynn, solicitors practising in 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 and tax benefits equivalent to those received by widows.

4. By a partial decision of 12 March 2002 the Court decided to communicate this application. On 4 November 2003, after obtaining the parties' observations, the Court declared the application admissible in so far as the complaint concerned widow's benefits and Bereavement Tax Allowance.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

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

6. The applicant's wife died on 9 November 1994, leaving two children, born in 1987 and 1990. On 18 May 2000 the applicant applied for widow's benefits. By a letter dated 14 June 2000, the Benefits Agency informed him that it was unable to pay him any of the benefits claimed because he was not a woman. On 30 June 2000 the applicant appealed to an independent appeal tribunal. On 17 November 2000, the tribunal struck out his appeal.

7. On 11 September 2000 the applicant contacted the Inland Revenue and applied for widow's Bereavement Tax Allowance ("WBA") for the years 1994/5 and 1995/6. By a response dated 14 September 2000, he was informed that he did not qualify for WBA, since he was a man and the law provided only for payments to widows.

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

II. RELEVANT DOMESTIC LAW

9. The domestic law relevant to this application is set out in *Willis v. the United Kingdom*, no. 36042/97, §§ 14-26, ECHR 2002-IV and *Hobbs, Richard, Walsh and Geen v. United Kingdom*, nos. 63684/00, 63475/00, 63484/00 and 63468/00, 26 March 2007.

COMPLAINTS

10. The applicant complained that British social security and tax legislation discriminated against him on grounds of sex, in breach of Article 14 of the Convention taken in conjunction with both Article 8 of the Convention and Article 1 of Protocol No. 1.

THE LAW

11. 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.

12. By a letter of 15 May 2006 the applicant's legal representatives informed the Court that Mr Sinclair had been offered GBP 10,352.01 in respect of his claims for WPt and/or WMA and that he had accepted payment.

13. On 22 May 2007 the applicant's legal representative notified the Court that in accordance with the Court's case-law the Government had agreed to pay Mr Sinclair's costs of pursuing his application relating to WBA. On 6 June 2007 the Government confirmed the agreement on costs and that in accordance with the Court's lead judgment in *Hobbs, Richard, Walsh and Geen v. United Kingdom*, nos. 63684/00, 63475/00, 63484/00 and 63468/00, 26 March 2007, Mr Sinclair had suffered a violation of his rights.

14. Consequently, in view of the settlement reached and given that there were no outstanding claims, on 18 June 2007 the Registry sent the applicant's legal representatives a letter stating that the Court would consider striking the application out of its list of cases.

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

16. Accordingly, the remainder of the application should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the remainder of the application out of its list of cases.

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

T. L. EARLY
Registrar

Josep CASADEVALL
President