



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

FOURTH SECTION

CASE OF CAIRNEY v. THE UNITED KINGDOM

(Application no. 45773/99)

JUDGMENT
(Friendly settlement)

STRASBOURG

20 November 2007

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

In the case of Cairney 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 L. GARLICKI,

Mrs P. HIRVELÄ, *judges*,

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

Having deliberated in private on 23 October 2007,

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

PROCEDURE

1. The case originated in an application (no. 45773/99) against the United Kingdom of Great Britain and Northern Ireland lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Mr Denis Cairney (“the applicant”), on 8 January 1999.

2. The applicant was represented by Mr J. MacDonald, a solicitor with McArthur Stanton, Dumbarton, Scotland. The United Kingdom Government (“the Government”) were represented by their Agent, Mr C. A. Whomersley of the Foreign and Commonwealth Office, London.

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 7 March 2000, after obtaining the parties' observations, the Court declared the application admissible in so far as the complaint concerned Widowed Mother's Allowance related to the period from 22 May 1998 onwards, and inadmissible for the rest.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1959 and lives in Dumbarton.

6. His wife died on 25 April 1995 leaving a child born in 1994. His formal claim for Widowed Mother's Allowance ("WMA") was made on 22 May 1998 and was rejected on 31 July 1998 on the ground that he was not entitled to WMA because he was not a woman. The applicant did not appeal further 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

7. The domestic law relevant to this application is set out in *Willis v. the United Kingdom*, no. 36042/97, §§ 14-26, ECHR 2002-IV.

COMPLAINT

8. The applicant complained that British social security 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

9. 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.

10. On 29 May 2007 the applicant's legal representative notified the Court that a friendly settlement had been reached between the parties. By a letter of 27 July 2007 he informed the Court that Mr Cairney had been offered GBP 4,729.91 and that he had accepted payment. On 10 August 2007 the parties were sent a letter by the Registry stating that the Court would consider striking the application out of its list of cases.

11. 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).

12. 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 20 November 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T. L. EARLY
Registrar

Josep CASADEVALL
President