



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

FOURTH SECTION

CASE OF GEEN v. THE UNITED KINGDOM

(Application no. 63468/00)

JUDGMENT

STRASBOURG

4 December 2007

FINAL

04/03/2008

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Geen 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,

Ms L. MIJOVIĆ, *judges*,

and Mrs F. ARACI, *Deputy Section Registrar*,

Having deliberated in private on 13 November 2007,

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

PROCEDURE

1. The case originated in an application (no. 63468/00) 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 David Nigel Geen (“the applicant”) on 29 September 2000.

2. The United Kingdom Government (“the Government”) were represented by their Agent, Mr C. Whomersley of the Foreign and Commonwealth Office, London.

3. By a decision of 8 April 2003 the Court declared the application partly admissible.

4. By a judgment of 25 July 2007 the Court decided, *inter alia*, to adjourn Mr Geen's complaint about non-entitlement to a Widow's Pension.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1958 and lives in Maidenhead.

6. His wife died on 17 October 1995. There were three children of the marriage, born on 18 November 1987, 22 August 1989 and 22 April 1992. On 30 May 2000 the applicant applied to the Benefits Agency for survivor's benefits. He was refused by a letter dated 5 June 2000. 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.

II. RELEVANT DOMESTIC LAW AND PRACTICE

7. The domestic law relevant to this application is set out in *Runkee and White v. the United Kingdom*, nos. 42949/98 and 53134/99, 25 July 2007.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION TAKEN IN CONJUNCTION WITH ARTICLE 1 OF PROTOCOL NO.1 AND/OR ARTICLE 8 OF THE CONVENTION

8. The applicant complained that the United Kingdom authorities' refusal to pay him the social security benefit to which he would have been entitled had he been a woman in a similar position, namely Widow's Pension ("WP"), constituted discrimination against him on grounds of sex contrary to Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 and/or Article 8 of the Convention.

Article 14 of the Convention provides:

"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

Article 1 of Protocol No. 1 provides:

"1. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

2. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

Article 8 provides (as relevant):

"1. Everyone has the right to respect for his private and family life...

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of ... the economic well-being of the country..."

9. The Court considers that the applicant's complaint about the non-payment of WP falls within the scope of Article 1 of Protocol No. 1 (see *Stec and Others v. the United Kingdom* (dec.) [GC], nos. 65731/01 and 65900/01, § 54, ECHR 2006- ...). Since Article 14 therefore applies, it is not necessary to examine separately whether the complaint also raises an issue under Article 14 taken in conjunction with Article 8 (see also *Willis v. the United Kingdom*, § 53, ECHR 2002-IV). In reality the Article 8 complaint is a mere restatement of the complaint linked to Article 1 of Protocol No. 1.

10. The Court notes that the applicant's children are now 17 and 19 years of age, and it is possible that a woman in his position would have ceased to be entitled to Widowed Mother's Allowance and become entitled to a Widow's Pension.

11. However, the Court has previously examined cases raising issues similar to those in the present case and found no violation of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 (see *Runkee and White*, cited above, § 42).

12. The Court has examined the present case and finds that there are no facts or arguments from the Government which would lead to any different conclusion in this instance. It recalls in this connection that in its *Runkee and White* judgment the Court concluded that WP was intended to correct “factual inequalities” between older widows, as a group, and the rest of the population and that this difference in treatment was reasonably and objectively justified (*ibid* § 40).

13. There has accordingly been no violation of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been no violation of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 in connection with the applicant's complaint concerning non-entitlement to a Widow's Pension;
2. *Holds* that it is not necessary to examine separately the complaint under Article 14 in conjunction with Article 8 of the Convention as concerns the applicant's non-entitlement to a Widow's Pension.

Done in English, and notified in writing on 4 December 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş ARACI
Deputy Registrar

Josep CASADEVALL
President