CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

CASE OF WILLIAMS v. THE UNITED KINGDOM

(Application no. 63478/00)

JUDGMENT

STRASBOURG

8 January 2008

FINAL

08/04/2008

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 Williams v. the United Kingdom,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Josep Casadevall, *President,*
Nicolas Bratza,
Giovanni Bonello,
Kristaq Traja,
Stanislav Pavlovschi,
Ján Šikuta,
Päivi Hirvelä, *judges,*

and Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 4 December 2007,

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

PROCEDURE

1. The case originated in an application (no. 63478/00) 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 Barry Williams ("the applicant") on 5 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, London.

3. By a partial decision of 15 January 2002 the Court decided to communicate this application, and to join it to other applications (nos. 58370/00, 60274/00, 60940/00, 61019/00, 61394/00, 61398/00, 61781/00, 62966/00, 63471/00, 63476/00, 63481/00, 63507/00).

4. On 6 May 2003, after obtaining the parties' observations, the Court declared this application admissible in so far as the complaint concerned Widowed Mother's Allowance as from the date of the applicant's second claim and declared the remainder of the application inadmissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1957 and lives in Wirral.

6. His wife died on 6 December 1996, leaving three children born in 1986, 1989 and 1990. His second claim for widows' benefits was made on 23 May 2000 and was rejected on 1 June 2000 on the ground that he was not entitled to widows' benefits because he was not a woman. On 26 July 2000 and 23 August 2000 the Benefits Agency confirmed the applicant's lack of appeal rights. The applicant did not appeal further 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 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

I. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION TAKEN IN CONJUNCTION WITH ARTICLE 1 OF PROTOCOL NO. 1 OR 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 Widowed Mother's Allowance (“WMA”), 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 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..."

A. Widowed Mother's Allowance

9. The Court has previously examined cases raising issues similar to those in the present case and found a violation of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 (see *Willis,* cited above, §§ 41-43).

10. 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. Therefore the Court considers that the difference in treatment between men and women as regards entitlement to WMA, of which the applicant was a victim, was not based on any "objective and reasonable justification" (see *Willis*, cited above, § 42).

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

12. The Court, having concluded that there has been a breach of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 as regards the applicant's non-entitlement to WMA, does not consider it necessary to examine his complaints in that regard under Article 14 taken in conjunction with Article 8 (see *Willis*, cited above, § 53).

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. Article 41 of the Convention provides:

"If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Pecuniary damage

14. In respect of pecuniary damage the applicant claimed a total of 117,197.59 pounds sterling (GBP):

(i) GBP 7,961.96 for WMA payments from 29 February 2000 to 9 April 2001;

(ii) Christmas bonus, GBP 30;

(iii) Interest at 8% on the above amounts, namely, GBP 4,205.63;

(iv) GBP 105,000 for loss of pension (the financial constraints suffered, forced the applicant to change employment and join a different pension scheme).

15. The Government made no comment regarding the applicant's calculation of WMA due. They further noted that the interest rate had already been determined by the Court in the case of *Runkee and White v. the United Kingdom* (nos. 42949/98 and 53134/99, § 52, 25 July 2007). The Government contested the remaining claims as they were not due to the applicant's failure to receive social security benefits and added that other benefits were available to individuals in specific need.

16. The Court observes that the Government did not contest the applicant's calculation in respect of the WMA payable up to 9 April 2001 but opposed his claim for interest.

17. The Court considers that the interest rate applied, which is intended to compensate for loss of value of the award over time, should reflect national economic conditions, such as levels of inflation and rates of interest available to investors nationally during the relevant period. It considers that the rate determined by the Court in the case of *Runkee and White* (cited above, § 52) should apply.

18. In these circumstances, and making an award on an equitable basis, the Court awards compensation to the applicant of GBP 9,052 (approximately 13,040 euros) in respect of the refusal to grant him WMA up to 9 April 2001 and interest on it. The Court further considers that there is no causal link between the remaining pecuniary damage alleged by the applicant and the violation found in the present case (see *Central Mediterranean Development Corporation Limited v. Malta*, no. 35829/03, § 58, 24 October 2006). It therefore makes no award in respect of those claims.

B. Non-pecuniary damage

19. The applicant claimed GBP 11,000 for the hurt and distress caused by the alleged violation.

20. The Government contested the claim on the basis of the Court's jurisprudence.

21. The Court does not find it established that the applicant was caused real and serious emotional damage as a result of being denied the benefit in question. No award can accordingly be made under this head.

C. Costs and expenses

22. The applicant also claimed GBP 3,974.74 in respect of costs and expenses, inclusive of value added tax ("VAT").

23. The Government contested the claim, which they believed was excessive for a straightforward case. They submitted that the figure of GBP 2,000 inclusive of VAT would suffice.

24. The Court reiterates that only legal costs and expenses found to have been actually and necessarily incurred and which are reasonable as to quantum are recoverable under Article 41 of the Convention (see, among other authorities, *Nikolova v. Bulgaria* [GC], no. 31195/96, § 79, ECHR 1999-II). On the basis of the information in its possession and taking into account that the issues concerning WMA were established in *Willis*, the Court awards the applicant EUR 2,500 for legal costs and expenses, in addition to any VAT that may be payable.

D. Default interest

25. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to disjoin the application from the others to which it was joined;

2. *Holds* that there has been a violation of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 concerning the applicant's non-entitlement to a Widowed Mother's Allowance;

3. *Holds* that it is not necessary to consider the complaint under Article 14 of the Convention taken in conjunction with Article 8;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts to be converted into the national currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 13,040 (thirteen thousand and forty euros) in respect of pecuniary damage;

(ii) EUR 2,500 (two thousand five hundred euros) in respect of costs and expenses;

(iii) any tax that may be chargeable on the above amounts;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 8 January 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı	Josep Casadevall
Deputy Registrar	President