



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

FOURTH SECTION

CASE OF CUMMINS v. THE UNITED KINGDOM

(Application no. 14549/02)

JUDGMENT

STRASBOURG

1 April 2008

FINAL

01/07/2008

This judgment may be subject to editorial revision.

In the case of Cummins v. the United Kingdom,

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

Lech Garlicki, *President*,
Nicolas Bratza,
Stanislav Pavlovski,
Ljiljana Mijović,
David Thór Björgvinsson,
Ján Šikuta,
Päivi Hirvelä, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 11 March 2008,

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

PROCEDURE

1. The case originated in an application (no. 14549/02) 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 Rodney Cummins (“the applicant”) on 6 March 2002.

2. The 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, 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. By a partial decision of 12 November 2002 the Court decided to communicate the complaints concerning widows’ benefits and declared the remainder of the application inadmissible. Subsequently, it was decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1948 and lives in Gosport.

6. His wife died on 29 March 2001. His claim for widows’ benefits was made on 29 June 2001 and was rejected on 31 December 2001 on the ground that he was not entitled to widows’ benefits because he was not a

woman. The applicant appealed. On 7 May 2002 his appeal was heard and dismissed. 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 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 Payment ("Wpt") and 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...”

A. Widow’s Payment

1. Admissibility

9. The Court finds that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention, or inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

10. 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).

11. 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 Wpt, of which the applicant was a victim, was not based on any “objective and reasonable justification” (see *Willis*, cited above, § 42).

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

13. 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 Wpt, does not consider it necessary to examine his complaints in that regard under Article 14 taken in conjunction with Article 8.

B. Widow’s Pension

1. Admissibility

14. The Court held in its lead judgment regarding WP that at its origin, and until its abolition in respect of women whose spouses died after 9 April 2001, 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. Moreover, the Court considered that the United Kingdom could not be criticised for not having abolished WP earlier and that it was not unreasonable of the legislature to decide to introduce the reform slowly (see *Runkee and White*

v. the United Kingdom, no. 42949/98, §§ 40-41, 25 July 2007). The Court, consequently, considering it was not necessary to examine separately the complaint in respect of Article 8, did not find a violation of Article 14 taken in conjunction with Article 1 of Protocol No. 1 in respect of the non-payment to the applicants of Widow's Pension or equivalent (*ibid* § 42).

15. Consequently, the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

16. 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. Damage

17. In respect of pecuniary damage the applicant claimed the amount due in respect of WP.

18. The Court has found no violation in respect of the complaint regarding WP. It therefore rejects this claim.

C. Costs and expenses

19. The applicant did not submit any claims under this head.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to declare admissible the complaint relating to the applicant's non-entitlement to a Widow's Payment and inadmissible the remainder of the application;
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 Widow's Payment;
3. *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 Payment;
4. *Dismisses* the applicant's claim for just satisfaction.

Done in English, and notified in writing on 1 April 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Lech Garlicki
President