



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

FOURTH SECTION

CASE OF ROBERTSON v. THE UNITED KINGDOM

(Application no. 12828/02)

JUDGMENT
(Friendly settlement)

STRASBOURG

1 April 2008

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

In the case of Robertson v. the United Kingdom,

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

Lech Garlicki, *President*,

Nicolas Bratza,

Giovanni Bonello,

Ljiljana Mijović,

Ján Šikuta,

Päivi Hirvelä,

Ledi Bianku, *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. 12828/02) 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 John Robertson (“the applicant”) on 1 March 2000.

2. The applicant was represented before the Court by Royds, solicitors, 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 benefits equivalent to those received by widows.

4. By a partial decision of 30 April 2002 the Court decided to communicate the complaints concerning widows' benefits and declared the remainder of the application inadmissible. By a decision of 4 November 2003 the Court declared the complaint regarding Widowed Mother's Allowance admissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1945 and lives in Carlisle.

6. His wife died on 28 January 1997 leaving three children born in 1983, 1985 and 1988. His claim for Widowed Mother's Allowance was made on 5 June 2000 and was rejected on 12 June 2000 on the ground that he was not entitled to Widowed Mother's Allowance because he was not a woman.

7. On 19 June 2000 the applicant requested a reconsideration of this decision. On 20 June 2000 the decision was confirmed. On 26 June 2000 the applicant appealed. On 22 September 2000 the appeal was heard and the decision upheld.

8. 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

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.

COMPLAINTS

10. 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

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 11 December 2007 the applicant's representatives informed the Court that Mr Robertson had been offered GBP 9,236.04 and that he had accepted the offer. On 4 February 2008 the applicant's legal

representatives were sent a letter by the Registry stating that the Court would consider striking the application out of its list of cases.

13. 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).

14. 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 1 April 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Lech Garlicki
President