CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

Application no. 40251/02
by Reino HEMMI
against Finland

The European Court of Human Rights (Fourth Section), sitting on 31 May 2005 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr G. BONELLO,
Mr M. PELLONPÄÄ,
Mr K. TRAJA,
Mr L. GARLICKI,
Mr J. BORREGO BORREGO,
Ms L. MIJOVIĆ, *judges*,
and Mrs F. ELENS-PASSOS, *Deputy Section Registrar*,

Having regard to the above application lodged on 27 October 2002,

Having regard to the decision to grant priority to the above application under Rule 41 of the Rules of Court.

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Reino Hemmi, is a Finnish national who was born in 1936 and lives in Västerås, Sweden. The respondent Government were represented by their Agent, Mr Arto Kosonen, Director in the Ministry for Foreign Affairs.

The circumstances of the case

The facts of the case, as submitted by the parties and as they appear from the documents, may be summarised as follows.

The applicant worked in Finland from 1952 until 1964 for a period of twelve years and four months. In November 1964 he moved to Sweden where he worked for a period of thirty-six years and one month. He retired on 1 August 2001.

In Sweden the applicant was granted an annual employee's pension amounting to 19,400 Finnish marks (FIM; approximately 3,263 euros; EUR). In Finland the applicant was granted an annual employee's pension amounting to FIM 4,068 (EUR 684). His total pension from both countries is thus about EUR 3,947 per year, i.e. EUR 329 per month.

As a Finnish national who has worked in Finland and contributed to the Finnish national pension fund, he could be granted a national pension if his annual pension was less than FIM 55,550 (EUR 9,343). The applicant requested a national pension from 1 August 2001.

On 18 October 2001 the Social Insurance Institution (*kansaneläkelaitos, folkpensionsanstalten*) refused the application. The applicant appealed to the Appellate Board for Social Insurance (*tarkastuslautakunta, prövningsnämnden*), arguing that he was entitled to receive a national pension as his actual pension was well below the maximum limit of FIM 55,550.

On 14 August 2002 the Appellate Board rejected the appeal.

COMPLAINT

The applicant complained, without relying on any provision of the Convention, that he was refused a national pension.

THE LAW

The applicant alleged a violation of his property rights. Article 1 of Protocol No. 1 to the Convention reads:

> "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.
>
> 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."

The Government submitted their observations on 9 April 2003. The period allowed for submission of the applicant's observations in reply expired on 3 June 2003. No extension of the time-limit was requested.

By a letter of 24 July 2003 the applicant's attention was drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike an application out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application. The applicant has not responded to that letter.

The Court finds that the applicant no longer wishes to pursue his application within the meaning of Article 37 § 1 (a) of the Convention. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the examination of the application to be continued.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Françoise ELENS-PASSOS
Deputy Registrar

Nicolas BRATZA
President