



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

FOURTH SECTION

DECISION

Applications nos. 64986/01, 64996/01 and 68449/01
by John Francis PHILLIPS and Others
against the United Kingdom

The European Court of Human Rights (Fourth Section), sitting on
3 May 2007 as a Chamber composed of:

Mr J. CASADEVALL, *President*,

Sir Nicolas BRATZA,

Mr G. BONELLO,

Mr K. TRAJA,

Mr S. PAVLOVSCHI,

Mr J. ŠIKUTA,

Mrs P. HIRVELÄ, *judges*,

and Mr T.L. EARLY, *Section Registrar*,

Having regard to the above applications lodged on 15 January 2001 and
30 January 2001,

Having regard to the partial decision of 10 September 2002, *inter alia*, to
join these applications to other applications (nos. 58372/00, 61878/00,
63477/00, 63480/00, 63647/00, 63961/00, 65202/01, 65478/01, 65507/01,
65741/01, 65906/01, 66181/01, 67100/01, 67913/01, 68173/01, 68175/01,
68264/01, 68298/01, 69076/01, 69323/01, 69327/01, 69491/01, 70521/01,
70741/01, 71176/01, 71428/01, 71429/01, 71570/01, 71758/01, 72656/01,
73646/01, 73653/01, 73978/01, 74961/01, 75092/01, 75126/01, 75993/01,
75995/01, 77129/01, 77424/01, 682/02, 2573/02, 4810/02, 10747/02,
13944/02, 14404/02 and 14537/02),

Having regard to the formal declarations accepting a friendly settlement
of the case.

Having deliberated, decides as follows:

THE FACTS

The applicants, Mr John Francis Phillips, Mr John Magee and Mr Dermot Lynch are British nationals who were born in 1953 in the case of the first two applicants and 1962 in the case of the third applicant and live respectively in Lisburn, Belfast and Derry. They were represented before the Court by Mr L. Allamby, a lawyer practising in Belfast. The United Kingdom Government (“the Government”) were represented by their Agent, Mr C. Whomersley of the Foreign and Commonwealth Office.

A. The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

1. Mr Phillips

The applicant’s wife died on 11 April 1997, leaving him with two children born in 1978 and 1983. His claim for widows’ benefits was made on 2 May 2000 and was rejected on 18 May 2000 on the ground that he was not entitled to widows’ benefits because he was not a woman. The applicant lodged an appeal on 11 September 2000, which was decided and rejected by the Appeal Tribunal on 17 November 2000.

2. Mr Magee

The applicant’s wife died on 19 April 1990, leaving him with three children born in 1978, 1982 and 1988. His claim for widows’ benefits was made on 12 October 2000 and was rejected on 19 October 2000 on the ground that he was not entitled to widows’ benefits because he was not a woman. 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.

3. Mr Lynch

The applicant’s wife died on 2 August 1995, leaving him with two children born in 1991 and 1993. His claim for widows’ benefits was made on 21 November 2000 and was rejected on 7 January 2001 on the ground that he was not entitled to widows’ benefits because he was not a woman. 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.

B. Relevant domestic law

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

The applicants complain that British social security legislation discriminated against them 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

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.

By a letter of 18 January 2007 the applicants' representative notified the Court that Mr Phillips had been offered GBP 4,662.65, Mr Magee had been offered GBP 3,841.95 and Mr Lynch had been offered GBP 4,147.09 and that they had accepted payment. On 19 January 2007 the representative was sent a letter by the Registry stating that if no reply was received to the contrary by 2 February 2007, the Court might consider striking out the applications from its list in their entirety. The representative has not sent a letter objecting to the striking out of the applications.

The Court takes note of the friendly settlement reached between the parties. 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).

For these reasons, the Court unanimously

Decides to disjoin the applications from the others to which they were joined;

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

T.L. EARLY
Registrar

Josep CASADEVALL
President