



The Czech Republic's preferential treatment of women concerning their pension eligibility is justified

In today's Chamber judgment in the case [Andrle v. the Czech Republic](#) (application no. 6268/08), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

No violation of Article 14 (prohibition of discrimination) in conjunction with Article 1 of Protocol No. 1 (protection of property) of the European Convention on Human Rights.

The case concerned the current pension scheme in the Czech Republic whereby women and men who care for children are eligible for a pension at different ages.

Principal facts

The applicant, Augustin Andrle, is a Czech national who was born in 1946 and lives in Vysoké Mýto (Czech Republic).

Divorced, Mr Andrle was awarded custody of his two children, born in 1982 and 1985, in July 1998 and cared for them until they reached the age of majority.

In November 2003, at the age of 57, he applied to the Czech social security authorities for a retirement pension. His request was dismissed as he had not attained the age required by section 32 of the Pension Insurance Act for men to be eligible for a pension (in his case, 61 years and ten months). Unlike women, that age could not be lowered according to the number of children raised.

In October 2007 the national courts also dismissed his case, referring to recent proceedings before the Constitutional Court in which section 32 of the Pension was reviewed and found not to be discriminatory.

Mr Andrle's subsequent cassation and constitutional appeals were also dismissed.

Complaints, procedure and composition of the Court

Relying on Article 14 (prohibition of discrimination) in conjunction with Article 1 of Protocol No. 1 (protection of property), Mr Andrle complained about the current pension scheme in the Czech Republic whereby women and men who care for children are

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

eligible for a pension at different ages. Notably, he complained that he has been denied a pension at an age when a woman in his position would have been able to receive it.

The application was lodged with the European Court of Human Rights on 28 January 2008.

Judgment was given by a Chamber of seven, composed as follows:

Peer **Lorenzen** (Denmark), *President*,
Karel **Jungwiert** (the Czech Republic),
Renate **Jaeger** (Germany),
Mark **Villiger** (Liechtenstein),
Mirjana **Lazarova Trajkovska** ("the Former Yugoslav Republic of Macedonia"),
Zdravka **Kalaydjieva** (Bulgaria),
Ganna **Yudkivska** (Ukraine), *Judges*,

and also Claudia **Westerdiek**, *Section Registrar*.

Decision of the Court

Article 14 in conjunction with Article 1 of Protocol No. 1

The Court considered that the lowering of the age for which women were eligible for a pension in the Czech Republic, adopted in 1964 under the Social Security Act, was rooted in specific historical circumstances and reflected the realities of the then socialist Czechoslovakia. That measure pursued a "legitimate aim" as it was designed to compensate for the inequality and hardship generated by the expectations of women under the family model founded at the time (and which persists today): that of working on a full-time basis as well as taking care of the children and the household. Indeed, the amount of salaries and pensions awarded to women was also generally lower in comparison to men.

The perception of the roles of the sexes has evolved and the Czech Government are progressively modifying its pension system to reflect social and demographic change. The very nature of that change is, however, gradual and the government cannot be criticised for not having pushed for complete equalisation of the retirement age at a faster pace. Furthermore, the task of reform is demanding, especially given the different methods to choose from for equalisation and other demographic shifts, such as the ageing of the population and migration, which have to be taken into account. Moreover, the Court emphasised that the national authorities were the best placed to determine such a complex issue relating to economic and social policies, which depended on manifold domestic variables and direct knowledge of the society concerned.

Therefore, the Court found that the Czech Republic's approach concerning its pension scheme was reasonably and objectively justified and would continue to be so until such time as social and economic change in the country removed the need for special treatment of women. There had therefore been no violation of Article 14 taken in conjunction with Article 1 of Protocol No. 1.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.