



Case concerning the reduction of retirement pensions following austerity measures in Portugal declared inadmissible

In its decision in the case of [da Silva Carvalho Rico v. Portugal](#) (application no. 13341/14) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the reduction of retirement pensions following austerity measures taken in Portugal, in particular the extraordinary solidarity contribution (“CES”).

Following negotiations to receive financial support from the European Union, the euro area Member States and the International Monetary Fund, the Portuguese Government accepted that it had to implement economic and social policies from 2011 to 2014. Thus, Ms da Silva Carvalho, a pensioner belonging to the public-sector pension scheme, had budgetary measures applied to her pension in 2013 and 2014, reducing her monthly income. She complained before the European Court that these measures had breached her right to protection of property under Article 1 of Protocol 1 to the European Convention on Human Rights.

The Court noted in particular the overall public interests at stake in Portugal at a time of financial crisis and the limited and temporary nature of the measures applied to Ms da Silva Carvalho Rico’s pension. It therefore found that the pension reduction had been a proportionate restriction on the applicant’s right to protection of property in order to achieve medium-term economic recovery in the country.

Principal facts

The applicant, Ms Maria Alfredina da Silva Carvalho Rico, is a Portuguese national, who was born in 1942 and lives in Porto (Portugal).

In April 2011 Portugal requested financial assistance from the European Union, the euro area Member States and the International Monetary Fund. An Economic Adjustment Programme was subsequently negotiated and the Portuguese Government signed a Memorandum of Understanding setting out the economic and social policies – including tax and social-security measures – that Portugal should implement from 2011 to 2014 in order to improve the country’s financial situation and receive financial support. One of the measures stipulated was the reduction of pensions above 1,500 euros (EUR). The budgetary measures thus taken included extending the application of an already existing extraordinary solidarity contribution (“CES”) to include pensioners receiving a gross amount of EUR 1,350 and later to pensioners receiving a gross amount of EUR 1,000. In 2013 and 2014 the Constitutional Court authorised the implementation of the CES, finding that such measures, which were exceptional and only temporary, were necessary and proportionate, there being no alternatives which could have pursued the same public aims whilst affecting those entitled to social rights to a limited extent.

The applicant, a pensioner belonging to the public-sector pension scheme, was granted a retirement pension in 2009 amounting to EUR 1,980.72 gross per month. With the entry into force of the 2013 and 2014 State Budget Acts, the CES was applied to the applicant’s pension, resulting in a cumulative loss in 2013 and 2014 of EUR 2,573.56, amounting to 4.6% of her total annual pension.

In June 2014 Portugal exited the three-year Economic Adjustment Programme and is currently under surveillance until at least 75% of the financial assistance it received has been repaid.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 4 February 2014.

Relying on Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights, Ms da Silva Carvalho Rico complained about the reduction in her pension in 2014, alleging in particular that the CES was no longer a temporary measure as it had already been applied to her pension in 2013.

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

András **Sajó** (Hungary), *President*,
Khanlar **Hajiyev** (Azerbaijan),
Mirjana **Lazarova Trajkovska** ("The former Yugoslav Republic of Macedonia"),
Julia **Laffranque** (Estonia),
Paulo **Pinto de Albuquerque** (Portugal),
Linos-Alexandre **Sicilianos** (Greece),
Erik **Møse** (Norway), *Judges*,

and also André **Wampach**, *Deputy Section Registrar*.

Decision of the Court

The Court reiterated that Article 1 of Protocol 1 did not create a right to acquire property. Nor did it guarantee, as such, any right to a pension of a particular amount. Indeed, the right to an old age pension or any social benefit in a particular amount was not included as such among the rights and freedoms guaranteed by the Convention. However, if a Contracting State did have a system in place allowing for the payment of a welfare benefit as a right, that legislation had to be regarded as generating a proprietary interest under Article 1 of Protocol 1.

Ms da Silva Carvalho Rico had been legally entitled to receive a retirement pension of a gross amount of EUR 1,980.72 per month, and she received this amount from 2009 until 2013 when her pension became subject to the CES and was reduced. That decrease in her pension could have affected her standard of living and therefore the Court concluded that there had been an interference with her right to peaceful enjoyment of her possessions as protected by Article 1 of Protocol 1.

That interference with her property rights had been provided for by law, the CES having been provided for in the 2013 and 2014 State Budget Acts and considered lawful in the Constitutional Court rulings of 2013 and 2014.

Furthermore, the application of the CES to pensions provided for in the 2013 and 2014 State Budget Acts, intended to reduce public spending and achieve medium-term economic recovery, had been adopted in an extreme economic situation as a transitory measure. It had therefore clearly been in the public interest within the meaning of Article 1 of Protocol 1.

Lastly, the Court considered that the measures implemented with regard to pensions had struck the appropriate balance between the general interest of the community and the protection of Ms da Silva Carvalho Rico's fundamental rights. Notably, Ms da Silva Carvalho Rico herself had not suffered a substantial deprivation of income, the cumulative loss amounting to 4.6% of her total annual social security benefits. Moreover, the Constitutional Court had held in 2013 and 2014 that the measures taken had been proportionate and that there were no alternatives which could have pursued the same public aims whilst affecting those entitled to social rights to a limited extent. Bearing in mind a State's room for manoeuvre ("margin of appreciation") to decide on general measures of economic and social policy, it was not for the European Court to decide whether alternative measures could have been envisaged in order to reduce the State budget deficit and overcome the financial crisis.

In conclusion, given the overall public interests at stake in Portugal at the relevant time and the limited and temporary nature of the application of the CES to Ms da Silva Carvalho Rico's pension, the Court found that the measures taken in Portugal had been proportionate to the legitimate aim of achieving medium-term economic recovery.

The Court therefore dismissed the case as manifestly ill-founded.

The decision is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)

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.