



Complaints about reduction in old-age pensions in Serbia amid austerity measures, inadmissible

The case of [Žegarac and Others v. Serbia](#) (application no. 54805/15 and 10 other applications) primarily concerned the 11 applicants' complaints that the payment of their old-age pensions had been reduced from November 2014 to September 2018. The reduction followed legislative amendments introduced by the Government as part of a wider set of austerity measures. The legislation was repealed once it was considered that public debt had been sufficiently reduced.

In its decision today the European Court of Human Rights, unanimously, decided **to declare eight of the applications inadmissible**.

It ruled in particular that the reduction in pension payments had been limited to recipients of higher pensions, had been temporary – lasting just under four years – and had been part of the effort to balance the State budget. The authorities had therefore struck a fair balance between ensuring the financial stability of the pension system – which was in the general interest of the public – and protecting the applicants' property rights in order to prevent them from bearing an individual and excessive burden.

It also decided, unanimously, **to strike the other three applications out of its list of cases**. In one of those cases the Court had had no response to its correspondence, while the applicants in the other two cases had died without an heir submitting a request to pursue the proceedings before it.

The decision is final.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicants are 11 Serbian nationals, who live in Belgrade, Zavlaka or Požarevac (all Serbia). They are all pensioners benefitting from the State's public-sector pension scheme.

In 2014 the long-standing deficit in the country's pension system reached a historic high. The authorities decided that austerity measures were necessary to reduce the deficit and ensure the financial stability of the pension system.

One of those measures included a temporary reduction in the amounts paid out in respect of State pensions. Thus, on 26 October 2014 the National Assembly of the Republic of Serbia adopted the Act on the Temporary Regulation of the Manner of Paying Pensions ("the Pension Reduction Act"). Having been published in the Official Gazette, the new legislation entered into force on 28 October 2014.

Recipients of higher pensions – such as the applicants – were impacted by the reduction, while those benefitting from minimum-level pensions – that is to say, not exceeding 25,000 dinars (RSD – around 200 euros (EUR)) – were exempt.

By way of example, three of the applicants lost between EUR 35 to EUR 133 per month on their pension from November 2014 – when the legislation became directly applicable – to September 2018 – when the legislation was repealed because public expenditure had been reduced (accruing savings amounting to approximately EUR 840 million).

The applicants pursued different legal avenues, such as lodging civil or administrative claims and/or constitutional appeals, which were all ultimately unsuccessful.

In particular, in September 2015 the Constitutional Court rejected ten of the applicants' applications requesting a review of the legislation and suspension of its enforcement. The court reasoned, among other things, that the reduction in pension payments had been imposed by law, had not run counter to the Constitution or international treaties ratified by Serbia, had been justified by the public's interest in ensuring the financial stability of the pension system and could be considered to be proportionate, bearing in mind a number of factors including social solidarity, the short duration of the measures and the fact that the applicants had not been made to bear an excessive burden.

Complaints, procedure and composition of the Court

The applications were lodged with the European Court of Human Rights on various dates between 2015 and 2020.

All the applicants complained in particular under Article 1 of Protocol No. 1 (protection of property) to the Convention that the reduction in the payment of their pensions had unjustifiably breached their right to the peaceful enjoyment of their property.

The second, third and eleventh applicants also alleged that they had been discriminated against because they had been treated differently to other pensioners to whom the reduction in pension benefits had not applied or had applied only to a lesser extent, in breach of Article 14 (prohibition of discrimination) in conjunction with Article 1 of Protocol No. 1 and/or Article 1 of Protocol No. 12 (general prohibition of discrimination).

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

Gabriele **Kucsko-Stadlmayer** (Austria), *President*,
 Tim **Eicke** (the United Kingdom),
 Faris **Vehabović** (Bosnia and Herzegovina),
 Branko **Lubarda** (Serbia),
 Armen **Harutyunyan** (Armenia),
 Anja **Seibert-Fohr** (Germany),
 Ana Maria **Guerra Martins** (Portugal),

and also Ilse **Freiwirth**, *Deputy Section Registrar*.

Decision of the Court

The Court noted that it had had no response from the fourth applicant to its letters dating from November 2020 to September 2021, while the fifth and eighth applicants had died without an heir submitting a request to pursue either case. The Court therefore concluded that it was no longer justified to continue its examination of the fourth, fifth and eighth applications and decided to strike them out of its list of cases.

Article 1 of Protocol No. 1

As concerned the remaining eight applications, the Court reiterated that Article 1 of Protocol No. 1 did not guarantee, as such, any right to a pension of a particular amount.

The applicants were, however, officially recognised beneficiaries of the State's statutory pension scheme and it was not in dispute that the reduction in their pensions had amounted to an interference with their right to peaceful enjoyment of their possessions.

That interference had had a legal basis, namely the Pension Reduction Act, which had been comprehensively interpreted by the Constitutional Court in reasoning which this Court found

acceptable. Furthermore, the legislation had been published in the Official Gazette, allowing the applicants to foresee its ramifications for their pensions.

Moreover, in view of the documents submitted to the Court, it had no reason to doubt that the measures had been in the public interest – to ensure the financial stability of the pension system – in the face of budgetary shortfalls and rising public debt.

Lastly, the Court considered that the applicants had not been made to bear an excessive individual burden. The reduction in the applicants' pensions had been temporary – lasting four years – and the method used to calculate it had not been unreasonable, entailing a gradually increasing reduction for pensions exceeding 25,000 RSD. Nor had any of the applicants proved that they had been at risk of not having enough means to live or that their living conditions had deteriorated below the subsistence threshold.

The Court therefore concluded, while referring to its case-law and the State's wide discretion to decide on such matters ("margin of appreciation"), that the authorities had struck a fair balance between ensuring the financial stability of the pension system – which was in the general interest of the public – and protecting the applicants' property rights in order to prevent them from bearing an individual and excessive burden.

The Court rejected the applicants' complaints under Article 1 of Protocol No. 1 as manifestly ill-founded.

Article 14 in conjunction with Article 1 of Protocol No. 1 and/or Article 1 of Protocol No. 12

As concerned the second, third and eleventh applicants' allegations of discrimination, the Court noted that the decision to have a cut-off point (25,000 RSD) had not meant to put one category of pensioners in a less favourable position than others, but to contribute to a careful balancing exercise, while at the same time reflecting the principles of solidarity and social justice.

It concluded therefore that these three applicants' complaints were also manifestly ill-founded and had to be rejected.

The decision 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.