

## Complaint concerning new legislation in Hungary on private pension funds inadmissible

In its decision in the case of [E.B. \(No. 2\) v. Hungary](#) (application no. 34929/11) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned changes to the Hungarian pension system in 2010 via new laws and the allegation that the new legislation effectively amounted to confiscating private pension contributions for the benefit of the State.

The Court held that there had been no interference with Ms E.B.'s property rights, including her legitimate expectation to receive a pension in the future, as she was entitled to future pension payments through the contributions she had made during the entire period of her employment either to a private pension fund or the State fund.

### Principal facts

The applicant, Ms E.B., is a Hungarian and Serbian national who was born in 1983 and currently lives in Budapest.

After completing her legal studies in Serbia in 2008, Ms E.B. moved to Hungary to work. Under the two-pillar mandatory pension system in force in Hungary at the time, it was obligatory for her to contribute 8% of her monthly gross salary to a private pension fund and 1.5% to the State pension fund (the equivalent of 24% of her gross salary being paid by her employer to the State pension fund).

A process with a view to amending this pension system was introduced at the end of 2010 with the adoption of a series of laws. In particular, Act no. CLIV of 2010 amended the Pension Act, providing that all pension contributions paid by employees (that is, 9.5% of their monthly gross salary, which was raised to 10% as of 1 January 2011) between 1 November 2010 and 31 December 2011 were to be paid into the State pension fund to reduce its deficit. The two-pillar mandatory pension system was abolished and private pension fund members were given the choice of being automatically returned to the State pension scheme or declaring that they would remain private pension fund members.

Special rules were introduced with respect to the latter category. As of 31 December 2011 their entire contributions (10%) were to be directed to their private pension fund account, and they were no longer able to acquire additional service time or entitlement to a State pension on the basis of their employer's contribution paid after 1 December 2011.

Ms E.B. decided to remain a member of a private pension fund.

On 30 December 2011 a further amendment provided that the contributions paid by private fund members should be directed to the State fund.

Under a final amendment of 2 July 2012 private fund members regained their rights to acquire additional service time and a State pension in the State pension scheme. Their State pension will be calculated by adjusting the amount of the regular State pension using a multiplier.

As a result of this final amendment, the applicant – according to her understanding – will be entitled to receive a full State pension for service acquired after 1 November 2010 (that is, the date from which the entirety of the employees' contributions started to be paid into the State pension fund) and, prior to that date, to 75% of the regular State pension (with the residual 25% being disbursed by the private pension fund).

## Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 30 May 2011.

Relying on Article 1 of Protocol No. 1 (protection of property), Ms E.B. complained that the new legislation effectively amounted to confiscating her private pension contributions to the benefit of the State budget. She alleged in particular that, even if she was entitled to a full State pension under the new legislation, this fell short of a private pension scheme which was directly related to her contributions and investment strategy. She also complained that, as she intended to work abroad, it was not for certain that she would accumulate enough years' service to be entitled to a State pension.

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

Guido **Raimondi** (Italy), *President*,  
Danutė **Jočienė** (Lithuania),  
Peer **Lorenzen** (Denmark),  
András **Sajó** (Hungary),  
Işıl **Karakaş** (Turkey),  
Nebojša **Vučinić** (Montenegro),  
Helen **Keller** (Switzerland), *Judges*,

and also Françoise **Elens-Passos**, *Deputy Section Registrar*.

## Decision of the Court

The Court observed that Ms E.B.'s contributions to the private funds before 1 November 2010 remained intact under the new legislation, and that the ones made afterwards were transformed into an entitlement under the State scheme. Similarly, her service time was recognised in the periods both before and after the change in legislation. Any speculation as to accumulating service years domestically or abroad was, for the Court, immaterial.

Quite besides the fact that the situation complained of resulted from Ms E.B.'s own choice, she was in any case entitled to future pension payments through the contributions she had made during the entire period of her employment either to the private pension fund or the State fund. There had therefore been no interference with her property rights, including her legitimate expectation to receive a pension in the future.

Accordingly, the Court declared Ms E.B.'s application inadmissible.

*The decision is available only in English.*

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**Press contacts**

[echrpress@echr.coe.int](mailto:echrpress@echr.coe.int) | tel: +33 3 90 21 42 08

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

Céline Menu-Lange (tel: + 33 3 90 21 58 77)

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.