



Portugal's cuts to public sector pensions following the financial crisis were not disproportionate

In its decision in the cases of [Da Conceição Mateus v. Portugal and Santos Januário v. Portugal](#) (application no. 62235/12 and no. 57725/12) the European Court of Human Rights has unanimously declared the applications inadmissible. The decision is final.

The cases concerned the payment of the applicants' public sector pensions, which were reduced in 2012 as a result of cuts to Portuguese government spending. The Court examined the compatibility of the reductions of the applicants' pension payments with Article 1 of Protocol No.1 (protection of property).

The Court held that the pension reductions had been a proportionate restriction on the applicants' right to protection of property. In light of the exceptional financial problems that Portugal faced at the time, and given the limited and temporary nature of the pension cuts, the Portuguese government had struck a fair balance between the interests of the general public and the protection of the applicants' individual right to their pension payments.

Principal facts

The applicants, Antonio Augusto Da Conceição Mateus and Lino Jesus Santos Januário, are Portuguese nationals who were born in 1939 and 1940 and live in Aveiras de Baixo and Almeirim respectively (Portugal). They receive a state pension from the Portuguese government, which includes holiday and Christmas subsidies paid out in July and December each year. Prior to 2012, these holiday payments were equivalent to a 13th and 14th month of full pension.

In May 2011 Portugal negotiated an Economic Adjustment Programme with the European Union, the euro area member States and the International Monetary Fund. This involved the provision of 78 billion euros (EUR) to the Portuguese government, and the signing by Portugal of a memorandum of understanding stating that the country would implement various spending cuts. Among the cuts outlined was a reduction of pension payments. In December 2011 the Portuguese 2012 State Budget Act was published, which included provisions that would reduce various public sector pensions by decreasing the amount provided in holiday and Christmas payments between 2012 and 2014. As a result of the Act, in 2012 the holiday and Christmas payments of Mr Da Conceição Mateus, which were normally EUR 722.87, were reduced by EUR 551.20. Similarly, the equivalent payments to Mr Santos Januário, which were usually EUR 910.92, were reduced by EUR 684.02.

In January 2012 a group of Portuguese parliamentarians challenged these cuts before the Constitutional Court. The court found that, because no similar reduction was made to private sector pensions, the cuts were unconstitutional. However, the Constitutional court decided to suspend the effects of its own decision given that the 2012 Budget was already at an advanced stage of implementation and that it would therefore be impossible for Portugal to design alternative measures in order to meet its budgetary objectives and secure financial support from its lenders, which was of "an exceptionally important public interest".

Complaints, procedure and composition of the Court

The applicants complained about the impact that the reduction of their pensions had had on their financial situation and living conditions.

The applications of Mr Da Conceição Mateus and Mr Santos Januário were lodged with the European Court of Human Rights on 10 September 2012 and 27 August 2012, respectively.

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

Guido **Raimondi** (Italy), *President*,
Peer **Lorenzen** (Denmark),
Dragoljub **Popović** (Serbia),
András **Sajó** (Hungary),
Nebojša **Vučinić** (Montenegro),
Paulo **Pinto de Albuquerque** (Portugal),
Helen **Keller** (Switzerland), *Judges*,

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

Article 1 of Protocol No.1 (protection of property)

The Court chose to consider the complaints in the context of Article 1 of Protocol No.1. It found that in cases where a person was legally entitled to the payment of a pension, Article 1 of Protocol 1 allowed a member State to reduce the amount paid out in the pension when this was in the public interest as long as a fair balance had been struck between the general interest of the community and the protection of the person's individual rights. The essential question in these cases was therefore whether a fair balance had been struck.

The court noted that, while the applicants' holiday and Christmas payments had been cut, they otherwise continued to receive their basic monthly pension at the normal rate during 2012. Furthermore, the cut to their pension was a temporary measure, and would only last for three years between 2012 and 2014. Therefore the interference with the applicants' right to peaceful enjoyment of their possessions was limited in both time and quantity and Portugal had stayed within its room for manoeuvre ("margin of appreciation") to decide on measures of economic or social policy.

In light of the exceptional financial problems which Portugal faced at the time, and given the limited and temporary nature of the reductions in pension payments, the Court found that a fair balance had been struck between the interests of the general community and the rights of the applicants. Accordingly, the applications were found to be manifestly ill-founded and declared inadmissible.

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.