



Korkedvezményes Nyugdíjasok Országos Érdekvédelmi Egyesülete

Address: 1740 Budapest, Pf.: 50/1
web: <http://www.knoe.hu>
e-mail: info@knoe.hu

The Honorable Dean Spielmann
president

Court of Human Rights Council of Europe
F-67075 Strasbourg Cedex

October 05, 2014

Dear President Spielmann,

The National Association of Early Retirees (AER) handed in a petition to your office on December 31, 2011.

In this petition we stated that the pension our members obtained is as legal as old-age pension. Nevertheless, the Hungarian government took this pension away and made the legal status of early retirees completely unstable. True, the state keeps on providing some kind of monthly subsidy to early retirees, however this, according to current laws, could be revoked or reduced anytime.

We also described you in the petition that this measure was more than a reform of the social security system because it was a punishing act targeting only early retirees.

After two years you declared our petition impossible which is rather strange and suggests some kind of a bias or, at least, it implies that you have not understood or did not want to understand our position.

When refusing our arguments based upon three pilot cases you only indirectly refer to paragraph 35, 3/b of the European Convention of Human Rights (hereafter: Convention) signed in Rome in 1950.

Since you are not above the law, you must obey rules and regulations and cases must not be evaluated by partial judges, we hereby request that you start an investigation, clear up the circumstances that influenced your original decision and draw the necessary consequences based upon the following arguments.

1. The selected pilot cases were petitions of individuals whose pensions were really high. Furthermore, these cases do not allude to the legal disadvantages and social consequences early retirees must suffer in Hungary. It is fair to ask who chose these

pilot cases and for what reason were these selected? Wouldn't it be the point of the institution of pilot judgment that cases reflect the content of all relevant petitions?

2. Hungarian judge András Sajó participated in the pilot judgment. Mr. Sajó had earlier published a very biased article ("Social reproduction of state dysfunction", *Közgazdasági Szemle*, LV., July-August, 2008, pages 690-711) in which he made some characteristic statements about early retirement and retirement of disabled people. Based upon his essay it seems obvious that Mr. Sajó does not have an adequate knowledge about the subject and his views are extremely biased. We ask you if impartial judgment could be expected by Mr. Sajó after all? And what kind of a role did he play in evaluating our petition? We also raise the question if he should not have requested to be released from participating in the judgment process based upon prejudice?
3. You declared in your decision that we have not suffered a significant disadvantage. This is rather surprising and strange because, as we clearly describe in our petition, that the Hungarian government **retroactively** took away our pensioner status obtained legally and rightfully. Many of these pensioners had lived as such for more than ten years and from one day to another they were not retired anymore. Do you think this is right and tolerable? Do you think anything can be taken from anybody especially based upon retroactive acts?
4. It is very surprising that you did not address the following questions:
 - a) The state eliminated the pensioner status without providing any opportunity to legal petition.
 - b) Retiring age in Hungary is 65. Why did the government take away the pension from those younger than 57? Why are people between 57 and 65 years of age positively discriminated?
 - c) Why did not you take into account the fact that many individuals were forced into retirement by the government? As you could read in our petition that with the reorganization of the border guard and the dismissal of the Customs and Financial Control etc. the government made a great number of employees retire earlier than they had intended. Did the government do it in order to take away pensions later?
5. Why didn't your judges realize that the Hungarian government had pushed us from a stable pensioner status into an unstable and impossible situation? Why is it the interest of anybody? The only reason may be political and not rational or socially and economically reasonable.
6. Why didn't you take into account that in their active years a lot of early retirees had worked overtime for a low or no salary, therefore it was fair to have the opportunity to retire after 25 years of service? Legal rights of law enforcement workers were constantly limited.

7. You also disregarded the fact that we obtained our pensioner status rightfully and legally. Why aren't vested rights protected?
8. Being retroactively deprived of our vested rights (i.e. pension) we lost several benefits, such as:
 - a) Right to have funeral,
 - b) Right for medical treatment,
 - c) Right to have a job,
 - d) Right to get bank credits (note: our pension-turned-into-subsidy is not considered a monthly wage).
9. It is unintelligible why you think that we did not lose our right for fair legal proceedings? Why did you state that our petition was unacceptable according to the Convention as if the Hungarian state had "only" levied a "small amount" of duty on our pension? We ask you this because our pension was not taxed but it was simply taken away. What we received in return is not a guaranteed pension but a sort of subsidy that could easily be either reduced or taken away anytime.
10. Why did your distinguished judges disregard the fact that our pension that we had obtained lawfully in the past was taken away in the present? Why isn't this pensioner status considered a vested right? We regret that you do not even honor us with an explanation for your decision.
11. It is fair to suppose that, based upon the petition of AER, your judges should have realized that with the relevant legal action the state of Hungary had the firm intention to punish our pensioners. We can say that a political decision was made by the Hungarian government, as we detailed it in our petition:
 - a) The government wanted to influence public opinion by calling us names (e.g. lazy, people with monumental pension, people taking away jobs from others, parasite etc.),
 - b) The state secretary of the Ministry of Justice called us „hussars of the Kádár-regime,
 - c) The government promised us re-employment but they failed to so.
12. It is unclear why you needed 2.5 years for making your rather superficial decision about our case? This is a fair question since you did not touch upon several of our arguments so it is not unfair to conclude that you may not even have read our petition.

In sum it seems that your Court does not fulfil. Your decision is biased and raises the following questions:

1. Can the Court translate the Convention in a particular way, i.e. is it possible that you ignore certain relevant and important paragraphs of the Convention?

2. Do you have the right to declare petitions unacceptable without a detailed explanation?
3. Are you obliged to evaluate the petitions based upon their exact content?
4. May an obviously partial judge partake in the Court's decision making process?

I request that you start an investigation and take the necessary measures regarding the facts included in this letter. I am going to inform the Council of Europe about the details of our case.

Sincerely yours,

Üdvözlettel


Kuti László
KNOÉ elnöke

