



Case 62/1993

Country: Hungary

Region: Europe

Year: 1993

Court: Constitutional Court

Health Topics: Aging, Health systems and financing

Human Rights: Freedom from discrimination, Freedom from torture and cruel, inhuman or degrading treatment, Freedom of expression, Freedom of religion, Right to health, Right to social security

Facts

The petitioners challenged the constitutionality of a law (Act XII of 1991 on Revision of Certain Pensions and Terminating Certain Pension Supplements (the "Act")) that annulled the distribution of pension supplements which were given to individuals based on certain honors or honorary titles associated with achievements in science, sport or art, or service in specific military programs.

The petitioners argued that the Act conflicted with the prohibition of humiliating treatment and presumption of innocence since it did not annul pensions from persons but from groups, without examining whether the individual's acts or behaviors justify the annulment. Additionally, the petitioners argued that the retrospective annulment of their pensions infringed their right to physical and mental health, social security, and freedom of thought, conscience and religion.

Decision and Reasoning

The Court held that the retrospective annulment of certain pension benefits did not violate any constitutionally protected rights. The Court found that the pension supplements which were given on the basis of honors and honorary titles were exceptional and held that the government had the authority to retrospectively annul the pension scheme if doing so was beneficial to the nation. The Court also held that the Act would not infringe on the petitioners' right to freedom of thought, conscience and religion; nor would the right to social security and physical and mental health be infringed since this right to sustenance would still be provided for under Hungary's existing social security systems.

Decision Excerpts

"The establishment of certain state honours and defining the allowances connected to them is the result of the free decision of the legislator. The decision of the legislator to establish honours to protect values or to promote aims respected by society cannot be a matter of constitutionality. . Similarly the introduction of allowances connected to state honours is not a matter of constitutionality per se." (Page 3)

"The respect of acquired- rights is part of the rule of law. The rule of law can only interfere with acquired rights if these rights were creat-ed illicitly, for example violating the equality of citizens. The petitioner was wrong for considering the provisions of the Act unconstitutional on the basis that the Act annuls the legally acquired right to exceptional pensions and pension supplements retrospectively." (Page 3)

"The provisions of the Act do not conflict the right to social security defined in Article 70/E of the Constitution either. The right to social security, among others is a right of the citizens to sustenance, necessary for living in case of old age. The Republic of Hungary realizes the right to sustenance with the system of social security and social institutions. This provision of the Constitution does not conclude that the sustenance of those citizens who did not acquire entitlement to social security under the regulations of social security, should be provided within the system of social security." (Pages 3-4)