



Case 857/B/2005 AB

Country: Hungary

Region: Europe

Year: 2010

Court: Constitutional Court

Health Topics: Aging, Health systems and financing

Human Rights: Right to health, Right to social security

Facts

Petitioner sought a declaration that a certain provision of a government decree regulating minimum pension amounts was unconstitutional because it (a) regulated a fundamental right which could only be done by statute and (b) provided a social security benefit too low to maintain human dignity, which was guaranteed by the Constitution.

Decision and Reasoning

The Constitutional Court rejected the petition seeking unconstitutionality of the government decree.

First, the Court determined that not all kinds of connection to fundamental rights required regulation via statute and that, as the decree in question was in an indirect or remote context, no statutory regulation was necessary. The Court also held that while the right to health care and social security were "fundamental rights and obligations as citizens," the government could make changes as to how such benefits were distributed and calculated. Furthermore, the government's actions in this case were not in violation of Article 17 of the Constitution, which required that the state "care for those in need," because such constitutional guarantee did not mean that the government could not reformulate its pension and health systems. Rather the obligation of the state only required the "minimum level necessary for living," but the degree of its social security allowance "[depended] on the capacity of the national economy." Finally, the Court determined that the petitioner did not establish a connection between the challenged legislation and the Constitution infringement.

Decision Excerpts

"In the interpretation by the Constitutional Court, the content of the right to social security is a right demonstrated in a state covenant. . . . The state fulfills this obligation by organizing and maintaining the system of social security and social services. The state obligation only exists on account of the minimum level necessary for living . . . as the degree and methods of social benefits, support and other allowances depend on the capacity of the national economy, one cannot determine a constitutional obligation regarding the scope and method of social benefits, support and allowances and method from the Constitution. The obligations of the state towards its citizens are described in the Constitution in general and they do not mean a personal right to acquire a certain determined income, or to receive care." Section 2

"The petition only emphasized in connection with Article 2 Paragraph 1, Article 8 Paragraph 1, Article 54, Article 70/D Paragraph 1 and Article 70/A of the Constitution, that the amount was low, but it did not contain constitutional reasoning establishing a connection between the challenged legislation and the listed provisions of the Constitution. Hence it does not meet the content requirement of Section 22 Paragraph 2 of Act XXXIII of 1989 on the Constitutional Court, according to which the petition has to contain a definite request besides naming the reason that is the basis of the petition." Section 3