



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Communicated on 21 January 2014

SECOND SECTION

Application no. 53080/13
Bélané NAGY
against Hungary
lodged on 12 August 2013

STATEMENT OF FACTS

The applicant, Ms Bélané Nagy, is a Hungarian national, who was born in 1959 and lives in Baktalórántháza.

A. The circumstances of the case

The facts of the case, as submitted by the applicant, may be summarised as follows.

In November 2001 the applicant's loss of capacity to work was assessed to be 67 per cent as of 1 April 2001, and she was granted a disability pension. This assessment was maintained in January 2003, January 2006, July 2006 and October 2007. Pursuant to a modification of the applicable methodology and without any change in her health, the level of her disability was changed to 40 per cent in December 2009. Her entitlement to the disability pension was consequently withdrawn as of 1 February 2010.

In April 2012, under the new law on disability allowances (Act no. CXCI of 2011, effective as of 1 January 2012) she submitted a new request for a disability pension and underwent another assessment in which the level of her disability was established at 50 per cent. This assessment was maintained in June and November 2012.

In principle, such a level of disability would entitle her to a disability pension under the new system. However, the new law introduced additional applicability criteria. Notably, the disabled person must have at least 1,095 days covered by social security in the five years preceding the submission of his or her request. Persons who do not meet this requirement may nevertheless qualify if they have not had an interruption of social cover for more than 30 days throughout their career, or if they were in receipt of a disability pension on 31 December 2011.

However, since the applicant's disability pension was terminated in February 2010 and, moreover, she was not in a position to accumulate the requisite number of days covered by social security or to demonstrate an uninterrupted social cover, she was not eligible for a disability allowance under the new system.

Accordingly, the applicant's disability pension request was refused by both the administrative authorities and the Nyíregyháza Administrative and the Labour Court. The judgment became final on 20 June 2013.

COMPLAINT

The applicant complains that although her health has never improved, she lost her livelihood, only guaranteed by a disability allowance, as a result of the changes in legislation, applied by the authorities without equity. She relies on Article 6 of the Convention.

QUESTIONS TO THE PARTIES

1. Has the application been introduced in compliance with Article 35 § 1 of the Convention? In particular, did the applicant exhaust domestic remedies in regard to the withdrawal of her disability allowance in 2010? Has the applicant complied with the six-month time-limit in that respect? In that respect, did the promulgation of the new law in 2012 interrupt the running of the six-month period? Alternatively, was the situation created by the withdrawal of the applicant's disability allowance a continuing situation for the purposes of the six-month rule?

2. Did the applicant have a "possession" in respect of the disability pension, for the purposes of Article 1 of Protocol No. 1?

3. If so, has the applicant been deprived of her possessions within the meaning of Article 1 of Protocol No. 1? Did that deprivation impose an excessive individual burden on the applicant (see *Immobiliare Saffi v. Italy*, [GC], no. 22774/93, § 59, ECHR 1999-V) having regard to the fact that, apparently, she is no longer entitled to any allowance in respect of her disability?