

**Case number:**

U-I-100/15

ECLI:

ECLI:SI:USRS:2017:U.I.100.15

Challenged act:**Operative provisions:****Abstract:****The Right to a Pension - the Purchase of Periods of Study and of Military Service**

In Decision No. **U-I-100/15**, dated 14 September 2017 (Official Gazette RS, No. 54/17), upon the request of the Ombudsperson for Human Rights, the Constitutional Court decided on the constitutionality of a number of provisions of the Pension and Disability Insurance Act of 2012 (the PDIA-2) that regulate the conditions for obtaining the right to an old-age pension, the calculation of early pensions, and the protection of expected rights in accordance with the regulations previously in force. It conducted the review from the perspective of insured persons who purchased periods of study and of military service during the time when the Pension and Disability Insurance Act of 1992 (the PDIA/92) and the Pension and Disability Insurance Act of 1999 (the PDIA-1) were in force.

The Constitutional Court found that the regulation of the conditions for obtaining the right to an old-age pension that was enacted by the PDIA-2 did not worsen the position of insured persons, as already while the PDIA-1 was in force purchased periods of study and of military service did not enable insured persons to obtain the right to an old-age pension under the same conditions as insured persons who had completed the pension qualifying period on the basis of employment or on the basis of other pension qualifying periods that were deemed part of the so-called employment period pursuant to the law previously in force.

The concept of the pension qualifying period, excluding purchased periods, which was introduced by the PDIA-2 as a condition for obtaining the right to an old-age pension before attaining 65 years of age, also does not contradict the principle of equality before the law (the second paragraph of Article 14 of the Constitution). It was namely formulated in such a manner that it only enabled insured persons who completed their pension qualifying period or insurance period on the basis of employment, meaning that they actually worked for the prescribed period of 40 years, to obtain the right to an old age pension without reductions at an age that is lower (i.e. 60 years) than the general retirement age (i.e. 65 years).

As in accordance with the PDIA-2 insured persons who purchased periods of study and of military service in accordance with the laws previously in force can obtain the right to an old-age pension and an early old-age pension that takes into account the purchased periods and amounts to a sum that ensures their social security, the PDIA-2 does not interfere with their human rights to social security (the first paragraph of Article 50 of the Constitution) and private property (Article 33 of the Constitution).

Thesaurus:

Legal basis:

Cases joined:

Full text:

Type of procedure:

ocena ustavnosti in zakonitosti predpisov in drugih splošnih aktov

Type of act:

zakon

Applicant:

Ombudsperson for Human Rights

Date of application:

14. 7. 2015

Date of Decision:

14. 9. 2017

Type of decision adopted:

odločba

Outcome of proceedings:

ugotovitev - ni v neskladju z Ustavo/zakonom

Published:

Official Gazette RS, No. 54/2017

Document:

AN03878