



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

SECOND SECTION

DECISION

Application no. 10129/23
Sigríður J. GUÐMUNDSDÓTTIR and Others
against Iceland

The European Court of Human Rights (Second Section), sitting on 25 August 2026 as a Committee composed of:

Jovan Ilievski, *President*,

Péter Paczolay,

Juha Lavapuro, *judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 10129/23) against the Republic of Iceland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 27 February 2023 by three Icelandic nationals whose details are listed in the appended table (“the applicants”), represented by Mr Daniel I. Ágústsson, a lawyer practising in Reykjavik;

the decision to give notice of the complaint concerning the alleged discrimination of pensioners in the applicants’ situation to the Icelandic Government (“the Government”), represented by Ms Fanney Rós Þorsteinsdóttir, Agent, and to declare inadmissible the remainder of the application;

the parties’ observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns Iceland’s pension reform, which introduced a single means-tested old-age pension subject to reduction on account of other income.

2. Throughout their working lives, the applicants paid contributions to mandatory occupational pension funds pursuant to collective agreements and subsequently under a statutory obligation. They began receiving payments

from those funds on various dates between 2009 and 2014. Upon reaching the age of sixty-seven, they also became entitled to an old-age pension.

3. In 2017 the rules governing the payment of old-age pensions were reformed. The previously existing categories of the basic non-means-tested old-age pension and various means-tested benefits were merged into a single means-tested old-age pension (*ellilífeyrir*). Where the pensioner had other income, such as income from mandatory occupational pension funds, the amount of the pension was reduced by 45% of that income, less a monthly allowance of 25,000 Icelandic krónur (ISK).

4. The legislation established exemptions for specific types of income which did not result in a reduction of the old-age pension (Article 16(4) of Act No. 100/2007). Relevant to the present case were the exemptions concerning payments from private pension savings (*séreignarlífeyrissparnaður*) and from supplementary insurance cover (*viðbótartryggingavernd*). The legislature later considered the term “private pension savings” insufficiently precise because it did not clearly distinguish between the segregated component of mandatory pension contributions and voluntary supplementary savings exceeding the statutory minimum. By Act No. 55/2022, the reference to two types of payments was replaced with a reference to payments from supplementary pension savings (*viðbótarlífeyrissparnaður*), defined so as to restrict the scope of the exemption to voluntary pension savings only.

5. In addition, under the amended reduction rule introduced by Act No. 96/2017, pensioners who continued to work were entitled to an additional allowance of ISK 100,000 deductible from their employment income.

6. In 2020 the applicants applied to the Reykjavík District Court, claiming that the reduction of their old-age pension was unlawful. They invoked four grounds of discrimination. First, they argued that membership in, and ownership of rights in, a pension fund constituted a protected status, and that the reduction scheme discriminated against persons holding such pension-fund assets as compared with those who did not. Second, the exemption for payments from segregated savings (*séreign*) and supplementary insurance cover (*viðbótartryggingavernd*) created an unjustified distinction within the class of pension-fund contributors between those whose contributions had gone into pooled minimum cover and those who had been able to direct contributions into segregated or supplementary arrangements, amounting to discrimination based on fund membership and economic means. Third, they contended that the scheme singled out pension-fund entitlements as a basis for reducing old-age pension, while comparable wealth held in other forms, such as real or movable property, securities and bank deposits, was disregarded. Fourth, they argued that pension-fund payments were treated less favourably than employment income, since the former reduced the old-age pension above a substantially

lower threshold, although both forms of income were taxed in the same way when paid.

7. By judgment of 22 December 2021, the District Court dismissed the claim. The court found that the challenged provisions applied equally to all recipients of payments from mandatory occupational pension funds and declined to find that the distinctions drawn rested on objectively unreasonable grounds, accepting in respect of the employment income threshold that the legislature had pursued the legitimate aim of encouraging flexible retirement and a progressive reduction of working time.

8. On 2 November 2022 the Supreme Court dismissed the applicants' appeal, in which they maintained the same grounds of discrimination. It held first that the 2017 reforms had produced a net increase in the overall social-insurance payments received by the applicants, such that no interference with their property rights had occurred. Turning to the alleged discrimination, the court addressed the exemption for segregated savings and supplementary insurance cover by reasoning that whether an individual had directed contributions to those arrangements had at all times been a matter of personal choice, and that the legislature was therefore entitled to treat such voluntary savings in the same way as other assets created through personal saving. As regards the higher reduction threshold applicable to employment income, the court accepted that the arrangement served the legitimate aim of incentivising continued labour market participation after pension age and promoting greater flexibility in retirement, and found that the distinction was based on objective and reasonable grounds.

9. In their application, the applicants complained, under Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1, that the reduction rule discriminated against them in two respects. First, it applied only to payments from pooled or mutual pension funds but not to those pension funds that offered personal asset accounts, whilst people with higher income were in a better position to contribute to the latter. Second, the scheme applied unequally to persons depending on their ability to work, since employment income was subject to a more favourable threshold than pension fund income.

THE COURT'S ASSESSMENT

10. The applicants, in their observations, relied on two principal grounds of differential treatment. First, they alleged unjustified differences in treatment within the broader category of pension income. In that connection, they referred both to the distinction between pooled mandatory pension entitlements and segregated savings arrangements and to the exemption applicable to supplementary insurance cover and supplementary pension savings. In their view, the distinction between pooled and segregated funds stemmed from a legislative error which was subsequently corrected, whilst

the distinction between basic and supplementary insurance had a disparate impact on lower-income earners and foreign nationals, who participated in supplementary insurance schemes at substantially lower rates than higher-income Icelandic nationals. Secondly, they submitted that pensioners who continued to work after retirement age benefited from a substantially higher effective reduction threshold than pensioners whose income derived from pension-fund payments. Since continued labour-market participation was, in practice, less accessible to persons in poor health or with physical limitations, a category which they claimed included all three applicants, that distinction allegedly amounted to indirect discrimination on grounds of health or disability.

11. The Government contested both grounds. As regards the first, they raised a preliminary objection of non-exhaustion in relation to the distinction between pooled mandatory entitlements and segregated savings arrangements, submitting that that point had not been advanced before the domestic courts. They further acknowledged that the impugned distinction may have originated in imprecise legislative terminology, but noted that it had in any event been removed by Act No. 55/2022. As to the exemption for supplementary insurance cover and supplementary pension savings, the Government maintained that participation in those arrangements depended on voluntary financial choices open to all and that income derived from them could therefore legitimately be treated in the same way as other assets created through individual saving. They further submitted that participation rates did not correlate with socio-economic status or nationality in a manner capable of disclosing a “status” for the purposes of Article 14. As regards the second ground, the Government argued that the higher threshold applicable to employment income pursued the legitimate aim of encouraging continued labour-market participation after retirement age, which enabled older persons, particularly those with the lowest incomes, to improve their financial situation and was supported by research demonstrating the health and social benefits of remaining active.

12. The Court reiterates that, for an issue to arise under Article 14, there must be a difference in treatment between persons in analogous or relevantly similar situations, and that such a difference must be based on an identifiable characteristic, or “status”, within the meaning of that provision. Those requirements are distinct, though closely connected: even where a potential comparator group can be identified, the difference in treatment must be attributable to a personal characteristic by which the applicants are distinguishable from that group. The assessment of both questions is context-specific and must rest on objective and verifiable elements (see *Fábián v. Hungary* [GC], no. 78117/13, §§ 113 and 121, 5 September 2017, and *Carson and Others v. the United Kingdom* [GC], no. 42184/05, § 70, ECHR 2010).

13. As regards the distinction between income from pooled mandatory pension and from segregated savings arrangements, the Court does not consider it necessary to determine whether that complaint was properly raised before the domestic courts. Even assuming that it was, the distinction relied on by the applicants depends on the legal and structural features of the pension fund from which the income is derived. For the purposes of Article 14, the relevant question is not whether the pensioner concerned had any real choice in that regard, but whether the impugned distinction is linked to a personal characteristic of that person. The structure of a pension fund's assets is a feature of the scheme or institution in question, not of the individual pensioner. Just as the possession or absence of an account with a given bank does not constitute an identifiable characteristic or "status" within the meaning of Article 14 (see *Shylina v. Ukraine*, no. 2412/19, § 60, 15 February 2024), membership of a fund whose contributions happen to be pooled rather than segregated does not reflect any personal attribute of the pensioner. This part of the complaint therefore falls outside the scope of Article 14 and must be rejected as incompatible *ratione materiae* with the Convention.

14. As regards the part of the complaint concerning the exemption applicable to voluntary or supplementary insurance cover and pension savings, the Court observes that this was not articulated as a distinct complaint in the application form, which referred only to the different treatment of "pooled or mutual pension funds" and pension funds offering "personal asset accounts" (see paragraph 9 above). Since the Court can base its decision only on the facts complained of, it is not sufficient that a possible Convention issue might be "evident" from the facts or from the applicants' broader submissions. Rather, the complaint must be formulated with sufficient clarity to avoid leaving the Court to speculate, on the basis of ambiguous statements or isolated words, whether a certain complaint was raised or not (compare *Grosam v. the Czech Republic* [GC], no. 19750/13, § 90, 1 June 2023, and *Ilias and Ahmed v. Hungary* [GC], no. 47287/15, § 85, 21 November 2019). This complaint therefore falls outside the scope of the case and must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention.

15. As regards the higher reduction threshold applicable to employment income, the applicants sought to characterise that distinction as one based on health or disability, claiming that continued labour-market participation was in practice only available to healthy and able-bodied pensioners. The Court cannot accept that characterisation. The measure imposed no additional burden on persons unable to work and did not penalise anyone on account of health or disability. Rather, it offered a financial incentive to those who continued in employment. Not every measure which affects persons differently in practice gives rise to a distinction based on "status" within the meaning of Article 14. The fact that some pensioners were better placed than others to benefit from the employment-related threshold, whether because of

health, finances, place of residence, skills or labour-market opportunities, does not transform a neutral distinction based on the source of income into differential treatment on grounds of health or disability. Nor did the applicants adduce statistical or other material capable of demonstrating that the rule had a disproportionately prejudicial effect on pensioners with health conditions or disabilities (see, for evidential standards, *B.A. v. Iceland*, no. 17006/20, §§ 84-86, 26 August 2025). It follows that the applicants have not established that the differential treatment of employment income and pension fund income relates, whether directly or indirectly, to any protected ground within the meaning of Article 14 of the Convention. This complaint therefore must be rejected as incompatible *ratione materiae* in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 17 September 2026.

Dorothee von Arnim
Deputy Registrar

Jovan Ilievski
President

APPENDIX

List of applicants:

No.	Applicant's Name	Year of birth	Place of residence
1.	Sigríður J. Guðmundsdóttir	1942	Selfoss
2.	Ingibjörg H. Sverrisdóttir	1947	Reykjavík
3.	Wilhelm W.G. Wessman	1942	Reykjavík