



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

FIRST SECTION

DECISION

Application no. 38437/22
Draga PULJIĆ
against Croatia

The European Court of Human Rights (First Section), sitting on 27 August 2026 as a Committee composed of:

Raffaele Sabato, *President*,

Frédéric Krenc,

Davor Derenčinović, *judges*,

and Liv Tigerstedt, *Deputy Section Registrar*,

Having regard to:

the application (no. 38437/22) against the Republic of Croatia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 3 August 2022 by a Croatian national, Ms Draga Puljić (“the applicant”), who was born in 1960, lives in Metković and was represented by Mr M. Knezović, a lawyer practising in Zagreb;

the decision to give notice of the complaint concerning the right to the peaceful enjoyment of property to the Croatian Government (“the Government”), represented by their Agent, Ms Š. Stažnik, and to declare the remainder of the application inadmissible;

the parties’ observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the discontinuation of the applicant’s pension, which she had been receiving as the widow of a Croatian war veteran who had died in combat.

2. On 7 May 2007 the applicant was granted a survivor’s (family) pension in administrative proceedings by a decision of the Croatian Pension Insurance Fund (“the Fund”).

3. In 2014 the Zagreb Office of the Fund decided to reopen those proceedings on the basis of newly discovered facts which had come to light, *inter alia*, following an anonymous complaint expressing doubts as to the applicant's entitlement to the pension in question. In particular, the relevant authorities had established that the applicant's husband had not been recorded as a member of the Croatian armed forces in the database of the Ministry of Defence. Furthermore, the information contained in his death certificate – on the basis of which the applicant's pension had been granted – contradicted other evidence which suggested that he had been killed on the territory of Bosnia and Herzegovina as a member of the Croatian Defence Council, not in combat but in front of a café which had not been part of a battlefield. By a decision of 30 December 2014, the Zagreb Office of the Fund terminated the applicant's right to the pension and discontinued the payment thereof, starting from 31 December 2014, on the grounds that she was not a family member of a Croatian veteran killed in action.

4. On 22 September 2015 the Central Office of the Fund allowed an appeal lodged by the applicant, quashed the decision of 30 December 2014, and remitted the case to the first-instance authority. By a decision of 24 October 2016, the Zagreb Office of the Fund again terminated the applicant's right to the pension and discontinued the payment thereof, starting from 31 December 2014. An appeal lodged by her against that decision was dismissed by the Central Office of the Fund on 24 May 2018.

5. By a judgment of 19 November 2018, the Split Administrative Court dismissed an action for judicial review brought by the applicant. Among other things, it noted that the administrative proceedings had been duly reopened on the basis of newly discovered facts, in accordance with section 134 of the Pension Insurance Act – which had permitted a *proprio motu* review of a final decision in administrative proceedings relating to pensions – and that the applicant, despite having had the chance to do so, had not proposed any evidence that would call into question the findings established in the reopened proceedings.

6. On 7 October 2020 the High Administrative Court dismissed an appeal lodged by the applicant and upheld the first-instance judgment. The Constitutional Court dismissed a constitutional complaint lodged by the applicant by a decision of 23 March 2022, which was served on the applicant's representative on 5 April 2022.

7. In the meantime, in 2003, the authorities of Bosnia and Herzegovina granted the applicant a pension on the basis of her late husband's previous employment there, with payments retroactively starting from June 1995. In 2019 those authorities also granted her, as the widow of a deceased veteran, the right to a survivor's (family) disability allowance, starting from 1 November 2018.

8. In 2023, following amendments to the domestic legislation on the basis of which the family of deceased members of the Croatian Defence Council

could also be granted the right to a survivor's (family) pension, the applicant was once again granted that pension by the Fund, with payments retroactively starting from 1 January 2019.

9. Before the Court, the applicant complained that the decision to discontinue her survivor's (family) pension had been in breach of her right to the peaceful enjoyment of her possessions.

THE COURT'S ASSESSMENT

10. The Court notes at the outset that in her observations submitted in response to those of the Government, the applicant also complained, under Article 6 § 1 of the Convention, that in the reopened administrative proceedings her right to adversarial proceedings and the principles of equality of arms and of legal certainty had been violated. The Court finds that these new complaints are not an elaboration of the applicant's original complaint concerning the right to the peaceful enjoyment of her property, of which the Government were given notice. They therefore fall outside of the scope of the present case and will not be examined (see *Bogdan Shevchuk v. Ukraine*, no. 55737/16, § 32, 24 April 2025, and the case-law cited therein).

11. The Government argued that the applicant had not had a "possession" within the meaning of Article 1 of Protocol No. 1 to the Convention because, following the reopening of the administrative proceedings on the basis of newly discovered facts and the termination of her right to the survivor's (family) pension, she could not have had a legitimate expectation that she would nevertheless continue receiving that pension. The Court does not find it necessary to examine the Government's preliminary objection as, even assuming that Article 1 of Protocol No. 1 to the Convention is applicable, the present case is in any event inadmissible for the following reasons.

12. The general principles concerning interference with the peaceful enjoyment of possessions in connection with the revocation of a welfare benefit which has been granted by mistake were set out in *Romeva v. North Macedonia* (no. 32141/10, §§ 54-59, 12 December 2019). In such cases, the Court must assess whether that interference was provided for by law, if it pursued a legitimate aim, and whether it was reasonably proportionate to the aim sought to be realised.

13. The Court notes that the domestic courts established that, in accordance with section 134 of the Pension Insurance Act, the Zagreb Office of the Fund had reopened the administrative proceedings in which the applicant had been granted the right to a survivor's (family) pension, after having discovered new relevant facts (see paragraph 5 above). Having regard to its limited power to review compliance with domestic law, the Court sees no reason to depart from the domestic courts' findings and concludes that the interference with the applicant's property rights was provided for by law (compare *Romeva*, cited above, §§ 62-64).

14. Furthermore, the Court considers that the interference pursued a legitimate aim, since it was aimed at correcting a mistake by the social security authority and was therefore in the public interest (see *Čakarević v. Croatia*, no. 48921/13, § 76, 26 April 2018, and *Romeva*, cited above, § 65).

15. As to the proportionality of the interference, the Court notes that the decision to terminate the right to and discontinue the payment of the applicant's pension was issued *ex nunc* – that is, with immediate effect (see paragraph 4 above) – and that the applicant was not ordered to repay the sums which she had unduly received (compare *Moskal v. Poland*, no. 10373/05, §§ 69-70, 15 September 2009). It cannot therefore be said that the State avoided any consequences of its own error, nor that the whole burden thereof was placed on the applicant only (contrast *Čakarević*, cited above, § 86).

16. Moreover, while in some cases the Court held that the fact that the State had not asked the applicant to reimburse a benefit which had been unduly paid to him or her could not mitigate sufficiently the consequences flowing from such an interference (see, for example, *Moskal*, cited above, § 70), the applicant in the present case did not submit, let alone elaborate on, any evidence relating to financial difficulties she might have encountered as a consequence of the termination of her right to a survivor's (family) pension – an important factor in the Court's assessment of the proportionality of such a measure (see *Fábián v. Hungary* [GC], no. 78117/13, § 78, 5 September 2017). In that regard, the Court observes that that pension did not constitute her sole source of income, since she had concurrently been receiving a pension on account of her late husband's employment in Bosnia and Herzegovina (see paragraph 7 above, and contrast *Moskal*, § 74, and *Romeva*, § 77, both cited above). The applicant likewise submitted no information concerning her health or overall economic situation (compare *Čakarević*, cited above, §§ 88-89).

17. The Court also observes that the decision to terminate the applicant's right to the pension in question was issued some seven years after the pension had been granted. While it is true that the authorities are under the obligation to act in good time where an issue in the general interest is at stake (*ibid.*, § 80), in the present case they cannot be solely blamed for the somewhat protracted delay it took them to correct their mistake, since the decision to terminate the pension was based upon newly discovered facts and not merely on a reassessment of the evidence which had formed the basis of the Fund's initial decision to grant it to the applicant (see paragraph 3 above, and contrast *Romeva*, cited above, § 73). The applicant had the opportunity to challenge those facts but failed to do so (see paragraph 5 above). Indeed, the fair balance would be upset if, having discovered their mistake, the authorities were precluded from ever redressing its effects and were required to perpetuate the error by continuing to pay a pension which had been granted on erroneous grounds (see *Iwaszkiewicz v. Poland*, no. 30614/06, § 55, 26 July 2011).

18. Lastly, the Court cannot but note that, as the widow of a deceased veteran, the applicant was granted the right to a survivor's (family) disability allowance by the authorities of Bosnia and Herzegovina in 2019 and, moreover, in 2023 was once again granted the right to a survivor's (family) pension by the Fund, with payments retroactively starting from 1 January 2019 (see paragraphs 7 and 8 above).

19. In view of the above considerations, the Court finds that under the circumstances of the present case there is nothing to suggest that the decision to terminate the applicant's survivor's (family) pension and discontinue the payment thereof entailed an excessive individual burden on her.

20. It follows that this application is manifestly ill-founded and must be rejected 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.

Liv Tigerstedt
Deputy Registrar

Raffaele Sabato
President