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Latvian Constitutional Court Upholds Right to Social Security Despite IMF Pressure to Implement Fiscal Austerity Measures

Case No 2009-43-01: Latvia Pensions Case, Constitutional Court of the Republic of Latvia, December 21, 2009

This case was brought by pensioners to challenge the constitutionality of the state pension law, which temporarily restricted payment of pension funds. The overall economy was rapidly declining in 2009, and the Latvian Parliament argued that it had to act quickly to respond to the country's economic crisis. The law decreased the amount received by current pensioners by 10% and decreased the pensions of future pensioners (individuals currently employed) by 70%. Although temporary, the law did not provide for repayment of the reduced amounts once the economy stabilized. In defending the law, Parliament pointed to the liabilities it had under loan agreements with international creditors, including the International Monetary Fund. The Court found the law unconstitutional and in violation of an individual's right to a pension and relied on Article 109 of the Latvian Constitution and Article 9 of the International Covenant on Economic, Social and Cultural Rights to find that an individual's right to a pension is part of the fundamental right to social security, that the minimum essential levels must be guaranteed irrespective of resources and vulnerable groups such as pensioners must be particularly protected. Finally, the Court determined that the international creditors had not explicitly stipulated reductions in pension funds, and that these conditions had been proposed by Cabinet Ministers, but even if the conditions had been imposed by the creditors, the Court stated that conditions "cannot replace the rights established by the Constitution," and refused to recognize loan conditions as a valid argument in support of the law's reduction of pensions.

Finding the law to be unconstitutional, the Court ordered the Parliament to draft a plan for the repayment of the reduced pension funds by March 2010. Since this decision, the IMF has increased pressure on the government of Latvia to reduce "early" retirement, which they define as retirement before the age of 65. Austerity measures have provoked civil unrest in many countries since the 2009 financial crisis. In this case, the Latvian Constitutional Court asserted the primacy of constitutional and human rights law in making public policy decisions on fiscal allocations. The Court's declaration that international loan provisions could not trump human rights obligations was a major victory for those seeking greater accountability from multilateral institutions to universal human rights principles.

For a [full case summary](#) and information on the enforcement and other outcomes of this decision, visit the [Caselaw Database](#) at www.escr-net.org. There you will also find information on groups involved, case documents and secondary literature.

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