



## Failure to reimburse the retirement contributions made by a civil servant because she had not paid in enough to qualify for a pension was not in breach of the Convention

In its decision in the case of [Mauriello v. Italy](#) (application no. 14862/07) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerns the fact that the retirement pension contributions paid by Ms Mauriello during her ten-year career were not reimbursed, since she did not qualify for a civil servant's pension because she had not paid contributions for 15 years as required under domestic law.

The Court noted that the obligation to pay retirement pension contributions amounted to an interference with Ms Mauriello's right to the peaceful enjoyment of her possessions, but held that it had been provided for by law.

The Court found, however, that the interference did not amount to a disproportionate interference with Ms Mauriello's right to the peaceful enjoyment of her possessions, bearing in mind that the States enjoyed a wide margin of appreciation in choosing their retirement systems and that the Convention did not require them to adopt a specific model. The Court also noted that Ms Mauriello had begun to work and to pay contributions at a date when it was already certain that she would not obtain a pension entitlement, given that the national legislation stipulated at least 15 years' employment to qualify for such entitlement, and Ms Mauriello had been paying contributions for only 10 years when she reached the compulsory retirement age. Lastly, the Court noted that Ms Mauriello had provided no information about her allegedly poor financial position, which prevented her from making voluntary payments into a pension account, thus enabling her to obtain a pension.

### Principal facts

The applicant, Olga Mauriello, is an Italian national who was born in 1933 and lives in Naples (Italy).

Ms Mauriello was employed as a legal secretary from 29 May 1990 to 30 November 2000. As a result, she paid contributions to the National Civil-Service Pensions Institute (INPS).

On 1 December 2000 Ms Mauriello reached compulsory retirement age and had to stop work. As she had not paid sufficient contributions to qualify for a retirement pension, she applied to the domestic courts for permission to continue working until the age of 70. The Court of Cassation rejected her application on the ground that domestic law made no provision for such a possibility in her case.

The total amount of contributions paid by Ms Mauriello into the special retirement fund for civil servants was paid to the INPS with a view to creating a pension account under the compulsory scheme for old-age, invalidity and survivors' pensions. The lump sum to which she was entitled in lieu of a pension, amounting to 7,151.68 euros (EUR), was used to create a pension account with the INPS and was therefore not paid to Ms Mauriello. According to the applicant, in order to qualify for a pension she would have had to pay around EUR 10,300 in voluntary contributions into the pension account, an amount which she was unable to afford.

### Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 30 March 2007.

Without relying on any Article in particular, Ms Mauriello complained that she had been deprived of all the pension contributions deducted from her salary during her career and that she did not receive any corresponding amount in the form of a retirement pension or a lump sum.

Judgment was given by a Chamber of seven judges, composed as follows:

Mirjana **Lazarova Trajkovska** (the Former Yugoslav Republic of Macedonia), *President*,  
Ledi **Bianku** (Albania),  
Guido **Raimondi** (Italy),  
Kristina **Pardalos** (San Marino),  
Linos-Alexandre **Sicilianos** (Greece),  
Robert **Spano** (Iceland),  
Armen **Harutyunyan** (Armenia),

and also Abel **Campos**, *Section Registrar*.

## Decision of the Court

### [Article 1 of Protocol No. 1 \(protection of property\)](#)

The Court considered that the requirement to pay retirement-pension contributions amounted to interference with the applicant's right to the peaceful enjoyment of her possessions guaranteed by Article 1 of Protocol No. 1 to the Convention. However, it noted that the interference in question had been provided for by law.

The Court observed that States enjoyed a wide margin of appreciation in matters relating to general measures of economic and social strategy. Article 1 of Protocol No. 1 placed no restriction on the Contracting State's freedom to decide whether or not to have in place any form of social security scheme, or to choose the type or amount of benefits to provide under any such scheme. When it came to the choice of retirement system the Convention did not require States to adopt a specific model – whether based on solidarity, a mutual-insurance system, or another approach – or impose how they were to finance it. The States were free to choose the retirement system that they considered the most compatible with their political, economic and social requirements.

The Court observed that the law recognised entitlement to a pension for civil servants who had worked for at least 15 years; it further noted that Ms Mauriello had paid contributions for about 10 years, which meant that she did not meet the criteria for obtaining a pension. Thus, when Ms Mauriello began to work and to pay contributions, it had already been certain that she would not obtain entitlement to a pension. As a result, the Court considered that the contested decision had not come as a surprise to Ms Mauriello and that it had been entirely foreseeable.

The Court noted that Ms Mauriello had stated that she was unable to pay into the pension account through voluntary contributions, for want of sufficient financial means, but pointed out that the applicant had provided no information about her allegedly poor financial position or the amount of pension she received as a surviving spouse.

In consequence, the Court considered that, given the wide margin of appreciation enjoyed by the State in this area, the interference in question did not amount to a disproportionate interference with the applicant's right to the peaceful enjoyment of her possessions under Article 1 of Protocol No. 1 to the Convention. It therefore rejected the application as manifestly ill-founded, by application of Article 35 §§ 3 and 4 of the Convention.

*The judgment is available only in French.*

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