



To require residence in France for a supplementary disability allowance is not discriminatory

In its decision in the case of [Gouri v. France](#) (application no. 41069/11) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerns the applicant's request for the payment by France of a supplementary disability allowance, which was denied because she was living in Algeria.

The Court found that the supplementary disability allowance had been established by the legislature with the aim of securing a satisfactory living standard for individuals living in France, taking into account the economic parameters of their country of residence, making it difficult to establish a real comparison with the situation of people living abroad. There had been no discrimination against the applicant, who lived in Algeria and was thus not in a situation comparable to that of people living in France.

Principal facts

The applicant, Messaouda Gouri, is an Algerian national, who was born in 1952 and lives in Barika (Algeria).

On 2 July 1999 Ms Gouri was granted a disabled widow's pension backdated to 1 April 1993. On 8 July 2006 she applied for the payment of a supplementary disability allowance with retroactive effect from 1 April 1993. The Loiret Sickness Insurance Department dismissed her application on the ground that she did not satisfy the requirement of residence in France. The Social Security Tribunal upheld that decision, pointing out that the allowance in question was a special non-contributory benefit which meant that it could not be granted to individuals living outside France. The Orleans Court of Appeal upheld the judgment of the Social Security Tribunal. Ms Gouri's appeal on points of law was dismissed.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 28 May 2011.

Relying on Article 14 (prohibition of discrimination) taken together with Article 1 of Protocol No. 1 (protection of property) Ms Gouri argued that the imposition of a residence requirement for receipt of a supplementary disability allowance was discriminatory.

The decision was given by a Chamber of seven, composed as follows:

Angelika **Nußberger** (Germany), *President*,
Erik **Møse** (Norway),
André **Potocki** (France),
Faris **Vehabović** (Bosnia and Herzegovina),
Síofra **O'Leary** (Ireland),
Carlo **Ranzoni** (Liechtenstein),
Mārtiņš **Mits** (Latvia), *Judges*,

and also Milan **Blaško**, *Deputy Section Registrar*.

Decision of the Court

Article 14 taken together with Article 1 of Protocol No. 1

The Court had previously found that an individual's place of abode was one aspect of his or her personal status and thus constituted a ground of discrimination prohibited by Article 14 of the Convention. The question was then whether Ms Gouri was in a similar situation to that of individuals living in France and receiving the allowance in question.

As the Government had indicated, the allowance pursued the goal of guaranteeing a minimum level of income to individuals residing in France, taking account of the cost of living in the country. Thus, the ceiling was reviewed every year, together with the amount of the allowance. A French national residing abroad was not entitled to the allowance any more than a foreign national abroad.

The very foundation of the supplementary disability allowance was to secure a satisfactory living standard to individuals living in France, and thus primarily to meet their specific needs, while taking into account the economic parameters of their country of residence.

There had thus been no discrimination against Ms Gouri, who lived in Algeria and was thus not in a situation comparable to that of people living in France.

The Court declared the case inadmissible.

The decision is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.