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

Press Release
issued by the Registrar of the Court

ECHR 171 (2013)
06.06.2013

Disclosure of Jehovah's Witnesses' medical files following their refusal of blood transfusions breached their right to private life

The European Court of Human Rights has today notified in writing the following Chamber judgment, which is not final[1].

It also notified in writing today one committee judgment in the case of Kononova and Others v. Ukraine (application no. 11770/03 and 89 other applications), raising issues which have already been submitted to the Court. It is final.

The judgments are available only in English.

Avilkina and Others v. Russia (application no. 1585/09)

The case Avilkina and Others v. Russia concerned alleged harassment of Jehovah's Witnesses.

The applicants are a religious organisation, the Administrative Centre of Jehovah's Witnesses in Russia, which is based in St Petersburg, and three Russian nationals who are Jehovah's Witnesses: Yekaterina Avilkina, who was born in 2006 and lives in Nalchik; Nina Dubinina, who was born in 1959 and lives in Murmansk; and, Valentina Zhukova, who was born in 1956 and lives in the Leningrad region.

Relying on Article 8 (right to respect for private and family life) and Article 14 (prohibition of discrimination), the applicants notably complained about disclosure of their medical files to the Russian prosecution authorities following their refusal to have blood transfusions during their stay in public hospitals. In connection with an inquiry into the lawfulness of the applicant organisation's activities, the prosecuting authorities had instructed all St. Petersburg hospitals to report refusals of blood transfusions by Jehovah's Witnesses.

Violation of Article 8 - as concerned Ms Avilkina and Ms Zhukova

Just satisfaction: EUR 5,000 (non-pecuniary damage) to Ms Avilkina and Ms Zhukova, each, and EUR 2,522 to Ms Avilkina and EUR 1,880 to Ms Zhukova for costs and expenses

The complaint brought by Ms Dubinina was declared inadmissible as no disclosure of her medical files had actually taken place, and this was not in dispute by the parties. The complaints brought by the applicant religious organisation were also declared inadmissible.

As concerned Ms Avilkina and Ms Zhukova, the Court notably found that there had been no pressing social need to disclose confidential medical information on them. In particular, the hospitals where the applicants had been treated had not reported any alleged criminal behaviour on either applicant's behalf. Moreover, the medical staff could have requested judicial authorisation for Ms Avilkina, two years old at the time, to have

[1] Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a judgment's delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Under Article 28 of the Convention, judgments delivered by a Committee are final.
Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

a blood transfusion if they had believed her to have been in a life-threatening situation; and, the doctors who reported on Ms Zhukova did not suggest that her refusal to have a blood transfusion was the result of pressure from other Jehova's Witnesses. The means employed by the prosecutor in conducting the inquiry, involving disclosure of confidential information without any prior warning or opportunity to object, need not have been so oppressive. Therefore the authorities had made no effort to strike a fair balance between, on the one hand, the applicants' right to respect for their private life and, on the other, the prosecutor's aim of protecting public health. Nor indeed did they provide any relevant or sufficient reasons to justify the disclosure of such confidential information.

Given that finding of a violation, it considered that there was no need to examine the applicants' complaints from the standpoint of Article 14.

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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.