

Konovalova v. Russia - 37873/04

Judgment 9.10.2014 [Section I]

Article 8

Article 8-1

Respect for private life

Presence without mother's consent of medical students during child birth:
violation

Facts – The applicant was admitted to a public hospital in anticipation of the birth of her child. At the time of her admission, she was handed a booklet advising patients about their possible involvement in the hospital's clinical teaching programme. The applicant was suffering from complications associated with her pregnancy and, on two separate occasions, was put into a drug-induced sleep because she was suffering from fatigue. She alleges that she was informed prior to being sedated that her delivery was scheduled for the next day and would be attended by medical students. The delivery took place as scheduled in the presence of doctors and medical students who had been briefed about her health and medical treatment. According to the applicant, she had objected in the delivery room to the presence of medical students.

The domestic courts dismissed the applicant's civil action, essentially on the grounds that the legislation did not require the written consent of a patient to the presence of medical students at the time of delivery. The applicant had been given a copy of the hospital's booklet, which contained an express warning about the possible presence of medical students, and there was no evidence to show that she had raised an objection.

Law – Article 8: The attendance of medical students with access to confidential medical information at the birth had been sufficiently sensitive to amount to interference with her private life. That interference had had a legal basis under the domestic law in force at the time, namely Article 54 of the Health Care Act, which provided that specialist medical students could observe patients' treatment in line with the requirements of their curriculum and under the supervision of the medical staff responsible for them.

However, Article 54 was of a general nature, principally aimed at enabling medical students to take part in the treatment of patients as part of their clinical education. The relevant national legislation in force at the time did not contain any safeguards to protect patients' privacy rights.

This serious shortcoming was exacerbated by the way in which the hospital and domestic courts had addressed the issue. In particular, the booklet issued by the hospital contained a rather vague reference to the involvement of medical students in the "study process", without specifying the scope and degree of that involvement. Moreover, the involvement of medical students was presented in such a way as to suggest that participation was mandatory and that the applicant had no choice in the matter.

In addition, when dismissing the applicant's civil claim the domestic courts failed to take a number of important considerations into account: the inadequacy of the information in the hospital's booklet; the applicant's vulnerability at the time of notification of her possible involvement in the clinical teaching programme (she had suffered prolonged contractions and been in a drug-induced sleep); and the availability of alternative arrangements in the event of her objecting to the presence of the students during the birth.

Given the lack of procedural safeguards against arbitrary interference with privacy rights in the national legislation at the time, the presence of the medical students during the birth had not been in accordance with the law.

Conclusion: violation (unanimously).

Article 41: EUR 3,000 in respect of non-pecuniary damage; claim in respect of pecuniary damage dismissed.

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