



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

FIRST SECTION

**CASE OF KONOVALOVA v. RUSSIA**

*(Application no. 37873/04)*

JUDGMENT

*This version was rectified on 21 November 2014  
under Rule 81 of the Rules of Court.*

STRASBOURG

9 October 2014

**FINAL**

**16/02/2015**

*This judgment has become final under Article 44 § 2 of the Convention. It may be  
subject to editorial revision.*



**In the case of Konovalova v. Russia,**

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Isabelle Berro-Lefèvre, *President*,  
Khanlar Hajiyev,  
Mirjana Lazarova Trajkovska,  
Paulo Pinto de Albuquerque,  
Erik Møse,  
Ksenija Turković,  
Dmitry Dedov, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 16 September 2014,

Delivers the following judgment, which was adopted on that date:

## PROCEDURE

1. The case originated in an application (no. 37873/04) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Russian national, Ms Yevgeniya Alekseyevna Konovalova (“the applicant”), on 5 August 2004.

2. The applicant was represented by Mr A. I. Konovalov, a lawyer practising in St Petersburg. The Russian Government (“the Government”) were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

3. The applicant alleged, in particular, that she had been compelled to give birth to her child in front of medical students, and that this was in breach of domestic law and incompatible with the Convention.

4. On 9 March 2009 the application was communicated to the Government.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1980 and lives in St Petersburg.

### **A. The applicant's hospitalisation and the birth of her child**

6. On the morning of 23 April 1999 the pregnant applicant, after her contractions had started, was taken by ambulance to the gynaecology ward of the S. M. Kirov Military Medical Academy Hospital.

7. Following her admission, she was handed a booklet issued by the hospital which contained, among other things, a notice warning patients about their possible involvement in the clinical teaching taking place at the hospital. The notice read:

“We ask you to respect the fact that medical treatment in our hospital is combined with teaching for students studying obstetrics and gynaecology. Because of this, all patients are involved in the study process.”

8. The exact time at which the booklet was handed to her is unclear.

9. At 9 a.m. the applicant was examined by a doctor, who established that she was forty weeks pregnant and that there were complications with the pregnancy because she had mild polyhydramnios (excess amniotic fluid). The doctor noted that the applicant's contractions appeared premature and that she was suffering from fatigue. In view of these symptoms, she was put in a drug-induced sleep, which lasted from 10 a.m. to 12 noon.

10. At 2 p.m. the applicant's doctor again established that the contractions had been premature and prescribed her anti-contraction medication to suppress premature labour.

11. Between 2 and 10 p.m. the applicant underwent various medical examinations. The doctors found no other pathologies except that she had been having irregular contractions.

12. According to the applicant, at around 3 p.m. she was informed that her delivery was scheduled for the next day and that it would be attended by medical students.

13. At 10 p.m. the applicant was put in a drug-induced sleep. During the night her condition was monitored by doctors.

14. At 8 a.m. the next day, after the applicant had been woken up, the frequency and intensity of her contractions increased. The doctors found traces of meconium in her amniotic fluid, which indicated there was a risk that the foetus was suffering from hypoxia. The applicant was prescribed medicine to improve uteroplacental hemodynamics (blood flow to the placenta).

15. At 9 a.m. the doctors carried out a cardiotocography examination and described the state of health of both the applicant and her foetus as satisfactory. They also decided to conduct a vaginal delivery. According to the applicant, in the delivery room she objected to the presence of medical students at the birth.

16. The birth lasted from 10 to 10.35 a.m. in the presence of doctors and medical students, who had apparently received some information about her

state of health and medical treatment. During the labour the doctors performed an episiotomy (incision). The child was diagnosed with light asphyxia. At 1 p.m. the child was moved to a special care baby unit and remained there until 13 May 1999, the date the applicant took her home.

### **B. The applicant's complaints to the hospital**

17. On 10 August 1999 the applicant lodged a complaint with the hospital, seeking compensation for non-pecuniary damage allegedly caused as a result of the measures aimed at delaying the birth.

18. In response, the hospital administration carried out an internal inquiry. The results of were set out in a report dated 14 August 1999, which confirmed that the delivery had been conducted in line with the relevant standards, and that upon the applicant's admission she had been notified of the possible presence of the public during her labour. The relevant part of the report read as follows:

“... fourth-year medical students were present in the delivery room during [the applicant's] labour, as [per] their timetable for 24 April 1999. This could not have had any negative impact on the outcome of the birth. Management of the delivery was performed by [the head of the Maternity Department]. On admission [the applicant] was notified of the possible presence of the public during her labour. Obstetricians did not intentionally delay the birth. The treatment was carried out in the best interests of the mother and foetus in accordance with the particular circumstances of the applicant's delivery...”

19. On 19 August 1999 the hospital dismissed the applicant's request, stating that there had not been any mistakes in the management of the birth.

### **C. Civil proceedings against the hospital**

20. On 27 July 2000 the applicant sued the hospital in the St Petersburg Vyborg District Court ("the District Court"). She sought compensation for non-pecuniary damage and a public apology for the intentional delay to her labour and the non-authorized presence of third parties during the birth.

21. On 4 September 2002 the District Court ordered an expert examination of the applicant's case. Experts were requested to examine whether or not the applicant's delivery had been intentionally delayed and whether or not her labour had been affected by the presence of the students.

22. In their report dated 27 September 2002 the experts concluded that:

“[The hospital] provided [the applicant] with medical care without any shortcomings capable of deteriorating the health of mother or child. The medical treatment was adequate and carried out timeously. After [the applicant's admission] she had been carefully examined by doctors, who had made the correct diagnosis and prepared an adequate plan for the birth. Owing to the prematurity of [the applicant's] contractions and her general fatigue, the prescription of a drug-induced sleep should be considered

an appropriate measure. The subsequent treatment [for] the premature contractions was necessary...

Childbirth is stressful for every woman. The presence of [the hospital's] medical students, even at the second stage of delivery, when the pregnant woman was bearing down, could not have affected management of the labour. The delivery could only have been adversely affected at the first stage. During the bearing down phase, a pregnant woman is usually focused on her physical activity. The presence of the public could not adversely affect her labour. Medical documents show that it was impossible to delay the delivery at the second stage, the stage of unintentional bearing down. The documents in the [applicant's] case file contain no evidence to confirm that the birth was intentionally delayed with a view to arranging a study of this case by medical students.”

23. On 25 November 2003 the District Court rejected the applicant's claim. Relying on the above-mentioned expert report, it held that the quality of the applicant's treatment at the hospital had been adequate. It further noted that the domestic law, in particular, the Health Care Act, in force at the time, did not require the consent of a patient to the presence of medical students in writing. It also established the fact that the applicant had been informed of her involvement in the study process beforehand, as she had received the hospital's booklet containing an explicit warning about the possible presence of medical students during her treatment. The District Court dismissed her argument that she had objected to the presence of the public during the birth as unsubstantiated by accepting the oral submission of her doctor that no such objection had been made. The court did not verify the doctor's statements in this respect by questioning other witnesses and did not refer to any other evidence in connection with the issue. It concluded that the hospital doctors had acted lawfully and had not caused her any non-pecuniary damage.

24. The relevant part of the judgment reads as follows:

“... The applicant lodged a claim seeking compensation for non-pecuniary damage ... [She] alleged that the birth of her child had been intentionally delayed to arrange for a public procedure in the presence of medical students. [She] stated that the demonstration of her labour, which had been carried out without her consent, had caused her physical and psychological suffering and violated her rights. She stated that the defendant should pay her RUB 300,000 in compensation for non-pecuniary damage.

The representatives of [the hospital] objected to the claim. They stated that the [applicant] had been aware of the study process in [the hospital] before she had been admitted there ... They further argued that [she] had received adequate and timely medical treatment ...

[B.], a doctor who assisted [the applicant] during her labour stated while being questioned ... [in] court that the medical care had been provided in line with the expected standards and without delay. The applicant did not make any complaints about the quality of [her] medical care. [B.] also submitted that it was impossible to delay labour. According to her, the presence of students lasted only a few minutes. The students' curriculum provided that they had to take part in doctors' rounds and the medical treatment of patients...

In accordance with Article 54 of the Health Care Act, students of secondary and higher medical educational institutions are allowed to assist in the administration of medical treatment in line with the requirements of their curriculum and under the supervision of medical personnel. The relevant rules are to be set forth by the Ministry of Health of Russia. Articles 32 and 33 of the Health Care Act provide that such medical interventions may not be performed without a patient's consent, which must be confirmed in [writing].

The court finds that the mere presence of [the hospital's] students in the delivery room cannot be construed as a medical intervention within the meaning of Articles 32 and 33 of the Health Care Act. As can be seen from the case file documents, ambulances do not usually take their patients to [hospital]. [The applicant] was taken to [the hospital] because her husband served in the [army].

According to [the applicant's] statements, she was aware of her possible involvement in the study process (see the booklet). The case file contains no evidence which could support the allegations that she had objected to the presence of the public during the delivery.

Taking into account the circumstances of this case, the court sees no grounds to find the [hospital's] doctors guilty of inflicting any non-pecuniary damage or physical or moral suffering on the applicant. Accordingly, [the hospital] is under no obligation to pay any compensation [to her] ...”

25. On 24 May 2004 the St Petersburg City Court upheld the District Court's judgment on appeal.

## II. RELEVANT DOMESTIC LAW AND PRACTICE

### **A. Health Care Act (Federal law no. 5487-I dated 22 July 1993), as in force at the relevant time**

26. Article 32 of the Health Care Act provided that the voluntary and informed consent of a patient was a necessary precondition for any medical intervention.

27. Article 33 stated that a patient or his or her legal representative was entitled to refuse a medical intervention or request its discontinuance, save for the exceptions mentioned in Article 34.

28. Article 34 stipulated that an individual's medical treatment could be performed without his or her consent or that of his or her representative if he or she (1) was suffering from a disease which was dangerous to others, or (2) was suffering from serious mental illness, or (3) had committed a socially dangerous act for which his or her medical treatment was prescribed by law.

29. Article 54 set forth that students of secondary and higher medical educational institutions were allowed to assist in medical treatment in line with the requirements of their curriculum and under the supervision of the medical personnel responsible for their professional studies. Students' involvement in medical treatment was to be regulated by a special set of

rules to be issued by an executive agency in charge of healthcare. It does not appear that such rules were issued until 15 January 2007 (see paragraph 31 below).

30. Article 61 provided that information about an individual's request for medical care, the state of his or her health, a diagnosis of disease, or other data obtained as a result of his or her examination and treatment constituted confidential medical information. The individual was to have a firm guarantee of the confidentiality of the information imparted. It further stipulated that the dissemination of confidential medical information by persons who had had access to it was not permitted, except: (1) where examination and treatment was required of an individual incapable, on account of his or her condition, of expressing his or her will; (2) where there existed a threat of dissemination of infectious diseases, mass poisoning or infections; (3) upon the request of various official investigative bodies or a court in connection with a pending investigation or court proceedings; (3.1) upon the request of a body carrying out supervision in respect of the behaviour of a convict; (4) in cases of treatment of an underage person for drug addiction, to keep their parents and legal representatives informed; (5) where there were grounds to believe that an individual's health was at risk as a result of unlawful acts; (6) with a view to carrying out a military medical examination. Lastly, Article 61 provided that the persons who, in accordance with the law, were in receipt of the confidential medical information were, along with medical and pharmaceutical officials, liable, account being taken of the extent of the resulting damage, for the disclosure of the medical secret under the disciplinary, administrative or criminal law in accordance with the relevant legislation.

**B. Regulations on the admission of students of secondary and higher medical educational institutions to medical operations on patients, approved by Order no. 30 of the Ministry of Healthcare and Social Development of Russia of 15 January 2007**

31. Paragraph 4 of the Regulations on the admission of students of secondary and higher medical educational institutions to medical operations on patients provides that students may take part in the medical treatment of patients under the supervision of medical personnel, namely employees of healthcare establishments. Their involvement must take place in accordance with the requirements of medical ethics and must be performed with the consent of the patient or his representative.

### III. RELEVANT INTERNATIONAL MATERIALS

#### **A. Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (Convention on Human Rights and Biomedicine)**

32. The Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine was opened for signature on 4 April 1997 and entered into force on 1 December 1999. It has been ratified and entered into force in respect of twenty-nine Council of Europe member States, namely Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Greece, Hungary, Iceland, Latvia, Lithuania, Moldova, Montenegro, Norway, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Switzerland, The former Yugoslav Republic of Macedonia and Turkey.<sup>1</sup> The Russian Federation has not ratified or signed the Convention. Its relevant provisions read as follows:

##### **Article 5: General rule**

“An intervention in the health field may only be carried out after the person concerned has given free and informed consent to it. This person shall beforehand be given appropriate information as to the purpose and nature of the intervention as well as on its consequences and risks. The person concerned may freely withdraw consent at any time.”

#### **B. General Recommendation No. 24 adopted by the Committee on the Elimination of Discrimination against Women (CEDAW)**

33. At its 20<sup>th</sup> session which took place in 1999 the Committee on the Elimination of Discrimination against Women adopted the following opinion and recommendations for action by the States parties to the Convention on the Elimination of All Forms of Discrimination against Women (ratified by all Council of Europe member States):

“20. Women have the right to be fully informed, by properly trained personnel, of their options in agreeing to treatment or research, including likely benefits and potential adverse effects of proposed procedures and available alternatives.

22. States parties should also report on measures taken to ensure access to quality health care services, for example, by making them acceptable to women. Acceptable services are those which are delivered in a way that ensures that a woman gives her fully informed consent, respects her dignity, guarantees her confidentiality and is sensitive to her needs and perspectives. States parties should not permit forms of coercion, ... that violate women’s rights to informed consent and dignity.

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1. Rectified on 21 November 2014: the text was “It has been ratified by six Council of Europe member States, namely Croatia, Denmark, France, the Netherlands, Switzerland and Turkey.”

...

31. States parties should also, in particular:

(e) Require all health services to be consistent with the human rights of women, including the rights to autonomy, privacy, confidentiality, informed consent and choice.”

### **C. A Declaration on the Promotion of Patients’ Rights in Europe**

34. The Declaration was adopted within the framework of the European Consultation on the Rights of Patients, held in Amsterdam on 28-30 March 1994 under the auspices of the World Health Organisation’s Regional Office for Europe (WHO/EURO). The Consultation came at the end of a long preparatory process, during which WHO/EURO encouraged the emerging movement in favor of patients’ rights by, *inter alia*, carrying out studies and surveys on the development of patients’ rights throughout Europe. In its relevant part the Declaration stated as follows:

“3.9 The informed consent of the patient is needed for participation in clinical teaching.”

## **THE LAW**

### **I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION**

35. The applicant complained under Article 8 of the Convention about the unauthorised presence of medical students during the birth of her child. This Convention provision reads as follows:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

#### **A. The parties’ submissions**

36. The Government submitted that there had been no interference with the applicant’s rights, as the students’ presence did not amount to “an interference” since she had implicitly given her consent in this respect and had never objected to her treatment at the hospital. Moreover, the students were not involved in the medical procedure themselves, being only spectators. The Government further submitted that any interference with the

applicant's rights was lawful, as it had been performed in compliance with the students' curriculum and the Health Care Act. The alleged interference pursued the legitimate aim of providing for the needs of the educational process and was proportional to its aim because in-hospital training was the optimal means of ensuring elevated standards of medical education.

37. The applicant argued that the presence of the public during the delivery constituted "an interference" with her Article 8 rights. This interference was not lawful as she had not given written consent, and it was also neither necessary nor proportionate, because the notification about the possible presence of the public had been belated and had resulted in her inability to choose another hospital. According to her, she had only learned of the presence of the students at 3 p.m. on 23 April 1999. She was nearly unconscious at the time and had no access to a telephone to contact her relatives to arrange to have the child elsewhere. Moreover, given her physical condition she could not have left the hospital on her own.

## **B. The Court's assessment**

### *1. Admissibility*

38. The Court notes that the present complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and is not inadmissible on any other grounds. It must therefore be declared admissible.

### *2. Merits*

#### **(a) Whether there was an interference with the applicant's private life**

39. The Court reiterates that under its Article 8 case-law, the concept of "private life" is a broad term not susceptible to exhaustive definition. It covers, among other things, information relating to one's personal identity, such as a person's name, photograph, or physical and moral integrity (see, for example, *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, § 95, 7 February 2012) and generally extends to the personal information which individuals can legitimately expect to not be exposed to the public without their consent (see *Flinkkilä and Others v. Finland*, no. 25576/04, § 75, 6 April 2010; *Saaristo and Others v. Finland*, no. 184/06, § 61, 12 October 2010; and *Ageyevy v. Russia*, no. 7075/10, § 193, 18 April 2013). It also incorporates the right to respect for both the decisions to become and not to become a parent (see *Evans v. the United Kingdom* [GC], no. 6339/05, § 71, ECHR 2007-I) and, more specifically, the right of choosing the circumstances of becoming a parent (see *Ternovszky v. Hungary*, no. 67545/09, § 22, 14 December 2010).

40. Moreover, Article 8 encompasses the physical integrity of a person, since a person's body is the most intimate aspect of private life, and medical intervention, even if it is of minor importance, constitutes an interference with this right (see *Y.F. v. Turkey*, no. 24209/94, § 33, ECHR 2003-IX, *V.C. v. Slovakia*, no. 18968/07, §§ 138-142, ECHR 2011; *Solomakhin v. Ukraine*, no. 24429/03, § 33, 15 March 2012; and *I.G. and Others v. Slovakia*, no. 15966/04, §§ 135 - 146, 13 November 2012).

41. Turning to the circumstances of the instant case, the Court notes that given the sensitive nature of the medical procedure which the applicant underwent on 24 April 1999, and the fact that the medical students witnessed it and thus had access to the confidential medical information concerning the applicant's condition (see paragraphs 16 above), there is no doubt that such an arrangement amounted to "an interference" with the applicant's private life within the meaning of Article 8 of the Convention.

**(b) Whether the interference was in accordance with the law**

42. Under the Court's case-law, the expression "in accordance with the law" in Article 8 § 2 requires, among other things, that the measure in question should have some basis in domestic law (see, for example, *Aleksandra Dmitriyeva v. Russia*, no. 9390/05, §§ 104-07, 3 November 2011), but also refers to the quality of the law in question, requiring that it should be accessible to the person concerned and foreseeable as to its effects (see *Rotaru v. Romania* [GC], no. 28341/95, § 52, ECHR 2000-V). In order for the law to meet the criterion of foreseeability, it must set forth with sufficient precision the conditions in which a measure may be applied, to enable the persons concerned – if need be, with appropriate advice – to regulate their conduct. In the context of medical treatment, the domestic law must provide some protection for the individual against arbitrary interference with his or her rights under Article 8 (see, *mutatis mutandis*, *X v. Finland*, no. 34806/04, § 217, ECHR 2012).

43. The Court notes that the presence of medical students during the birth of the applicant's child was authorised in accordance with Article 54 of the Health Care Act, which provided that students of specialist medical educational institutions were allowed to assist in medical treatment in line with the requirements of their curriculum and under the supervision of the medical personnel responsible for their professional studies (see paragraph 29 above). Thus, it cannot be said the interference with the applicant's private life was devoid of any legal basis.

44. At the same time, the Court observes that Article 54 was a legal provision of a general nature, principally aimed at enabling medical students to participate in treatments for educational purposes. It delegated regulatory matters in this area to a competent executive agency, and as such did not contain specific rules protecting patients' private sphere (see paragraph 29 above). In particular, the provision did not contain any safeguards capable

of providing protection to patients' private lives in such situations. The Court would note in this connection that the relevant set of rules was only adopted eight years after the events, in the form of Order no. 30 of the Ministry of Healthcare and Social Development of Russia of 15 January 2007 (see paragraph 31 above). This document contained a procedural safeguard in the form of the requirement to obtain patients' consent for the participation of medical students in medical treatment.

45. In the Court's view, the absence of any safeguards against arbitrary interference with patients' rights in the relevant domestic law at the time constituted a serious shortcoming (see, *mutatis mutandis*, *V.C.*, cited above, §§ 138-142), which, in the circumstances of the present case, was further exacerbated by the way in which the hospital and the domestic courts approached the issue.

46. The Court would point out firstly that the information notice referred to by the hospital in the domestic proceedings contained a rather vague reference to the involvement of students in "the study process" without specifying the exact scope and degree of this involvement. Moreover, the information was presented in such a way as to suggest that the participation was mandatory and seemed not to leave any choice for the applicant to decide whether or not to refuse to allow the students to participate (see paragraph 7 above). In such circumstances, it is difficult to say that the applicant had received prior notification about the arrangement and could foresee its exact consequences.

47. Furthermore, the Court would note that the applicant learned of the presence of medical students during the birth the day before, between two sessions of drug-induced sleep, when she had already been for some time in a state of extreme stress and fatigue on account of her prolonged contractions (see paragraphs 6-16 above). It is unclear whether the applicant was given any choice regarding the participation of students on this occasion and whether, in the circumstances, she was at all capable of making an intelligible informed decision (see paragraph 37 above).

48. As regards the domestic courts' analysis of the applicant's civil claim, the Court notes that the applicable legal provision did not regulate the matter in detail and did not require the hospital to obtain the applicant's consent (see paragraph 29 above). Although the domestic courts found that under the applicable domestic law written consent was not necessary, they considered that implicit consent had been given (see paragraphs 23-25 above). Even if this finding had any bearing on the outcome of the domestic case, it remains unreliable because the courts simply deferred to the statements of the doctor without questioning any other witnesses, such as other medical personnel and the students involved (see paragraph 23 above). More importantly, the domestic courts did not take into account other relevant circumstances of the case, such as the alleged insufficiency of the information contained in the hospital's notice, the applicant's vulnerable

condition during notification as pointed out by the Court earlier, and the availability of any alternative arrangements in case the applicant decided to refuse the presence of the students during the birth (see paragraph 37 above).

49. In the light of the above, the Court finds that the presence of medical students during the birth of the applicant's child on 24 April 1999 did not comply with the requirement of lawfulness of Article 8 § 2 of the Convention, on account of the lack of sufficient procedural safeguards against arbitrary interference with the applicant's Article 8 rights in the domestic law at the time.

50. There has therefore been a breach of Article 8 of the Convention.

## II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

51. Relying on Article 3 of the Convention the applicant alleged that management of the birth was deficient and that her delivery had been intentionally delayed so that medical students could be present. This provision reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

52. The Court observes that the allegations of mismanagement and the intentional delay to the birth were raised by the applicant in the civil proceedings against the hospital. The courts examined this submission in detail and on the basis of, among other things, the report of 27 September 2002 compiled by a panel of medical experts, rejected the applicant's allegations as unfounded (see paragraphs 18 and 22-25 above). The case file contains no indications which would enable the Court to conclude otherwise.

53. In these circumstances, the Court concludes that the applicant's complaint under Article 3 is unsubstantiated. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

### III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

54. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

#### **A. Damage**

55. The applicant claimed 140,000 euros (EUR) in respect of pecuniary damage and EUR 25,000 in respect of non-pecuniary damage.

56. The Government argued that the applicant’s complaint concerning compensation of pecuniary damage is unsubstantiated. They noted that the applicant’s daughter had been provided with the required medical treatment free of charge. As to the non-pecuniary damage, they denied the existence of any damage attributable to the authorities.

57. The Court takes the view that the case file documents disclose no evidence confirming the existence of any pecuniary damage; it therefore rejects this claim. On the other hand, the Court considers that the applicant must have suffered stress and frustration as a result of the violation found. Making an assessment on an equitable basis, the Court awards the applicant EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

#### **B. Costs and expenses**

58. The applicant claimed 8,000 Russian roubles (RUB) for her expenses incurred before the national courts. According to her, she had to pay RUB 4,000 in court fees and a further RUB 4,000 to cover the cost of the expert examination. In a letter dated 5 August 2009 she claimed EUR 30 for postal expenses in the Strasbourg proceedings and submitted a receipt dated 23 August 2009 confirming payment of various fees in the amount of RUB 4,400.

59. The Government did not comment on these claims.

60. According to the Court’s case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the lump sum of EUR 200 covering costs under all heads.

### C. Default interest

61. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the alleged violation of the applicant's right to respect for her private life admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 8 of the Convention;
3. *Holds*
  - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent state at the rate applicable at the date of settlement:
    - (i) EUR 3,000 (three thousands euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
    - (ii) EUR 200 (two hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
  - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 9 October 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen  
Registrar

Isabelle Berro-Lefèvre  
President