



Jehovahâ€™s Witnesses of Moscow and Others v. Russia

Application No. 302/02

Country: Russia

Region: Europe

Year: 2010

Court: European Court of Human Rights European Court of Human Rights

Health Topics: Health care and health services, Informed consent

Human Rights: Freedom from discrimination, Freedom of association, Freedom of religion

Facts

On March 26, 2004, the District Court of Moscow upheld a claim to dissolve the religious community of Jehovahâ€™s Witnesses in Moscow (â€™Communityâ€™) and imposed a permanent ban on its activities. The court upheld the claim on various the grounds, which included charges that the Community encouraged its members to commit suicide and/or refused medical assistance in life-threatening situations.

Before being upheld, the claim had been rejected five times in the criminal court and once in the civil court.

The Community brought proceedings before the European Court of Human Rights alleging that the Russian Government violated the Communityâ€™s rights to freedom of religion, expression and association under Articles 9 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms (â€™Conventionâ€™). The Community also alleged that it had been discriminated against, in violation of Article 14 of the Convention.

Decision and Reasoning

The Court held that the ban on the Communityâ€™s activities violated its rights under the Convention. The Court reasoned that, while the ban pursued a legitimate interest (the protection of the health and rights of others), the interference was not necessary in a democratic society. Regarding the allegation that the Community encouraged suicide or refused medical assistance, the Court stated that the refusal of medical treatment on religious grounds is legally complex as it creates a conflict between the Stateâ€™s interest in protection the lives of its citizens and the individualâ€™s right to personal autonomy. Unless there was a need to protect third-parties, for example, mandatory vaccination, or there is evidence of undue influence or pressure being applied, the State should not interfere with freedom of choice in relation to health care.

The Court did not examine the merits of the Article 14 claim, holding that any inequality of treatment was sufficiently taken into account in finding a violation of Articles 9 and 11.

Decision Excerpts

â€™The Court recognises that the refusal of potentially life-saving treatment on religious grounds is a problem of considerable legal complexity, involving as it does a conflict between the Stateâ€™s interest in protection the lives and health of its citizens and the individualâ€™s right to personal autonomy in the sphere of physical integrity and religious beliefs.â€™ Para. 134.

â€™The freedom to accept or refuse specific medical treatment, or to select an alternative form of treatment, is vital to the principles of self-determination and personal autonomy.â€™ Para. 136.

â€™â€™given that the health and possibly life itself are at stake in such situations, the authenticity of the patientâ€™s refusal of medical treatment is a legitimate concernâ€™; If the patientâ€™s will was overborne, the refusal will not have represented a true decision.â€™ Para. 138.