



Armoniene v. Lithuania

Case Number 36919/02

Country: Lithuania

Region: Europe

Year: 2008

Court: The European Court of Human Rights

Health Topics: Health information, HIV/AIDS, Hospitals

Human Rights: Right to family life, Right to privacy

Facts

The applicant died during the pendency of proceedings at the Appellate stage. Prior to his death, the largest Lithuanian daily in an article titled "Pasvalys villages paralysed by the fear of death: residents of the remote Lithuanian area shackled by the AIDS threat" stated that the applicant's husband was a victim of AIDS and that from the symptoms of the disease, the doctor suspected him of being HIV positive and other details of his relationship with a woman named G. Biriuk. The husband first ensued proceedings in the District Court alleging breach of privacy. The Court ruled in his favour and stated that the newspaper had failed to establish truthfulness of the publication of his relationships and also that his status of health, address, full name had been disclosed without his consent. Further it did not have any compelling legitimate object in publishing these details. However, the Court stated that it did not seem like the disclosure had been made intentionally. The award granted therefore was 2896 Euros.

The Appellate Court agreed with the lower court's reasoning and the Supreme Court further affirmed the reasoning of the lower court.

Decision and Reasoning

The Court held that there had been a violation of Article 8 of the Convention and increased the amount of the award to 6500 Euros. The Court stated that the information that was published by the newspaper were completely of a private nature and it is the State's obligation to protect private data with utmost care. The Court further noted that the fact that the family lived in a small village and not a city increased the impact of the publication manifold, which caused him humiliation and exclusion from the social circle. The Court stated that there seemed no public interest reason in the said publication and the intention was just to satisfy the curious nature of the readers. The Court also said that as the newspaper stated that employees at the AIDS centres had confirmed the fact, it could dissuade people from undergoing HIV tests voluntarily. The Court further stated that the national law was not sufficient to protect confidential data about health.

Decision Excerpts

"The Court notes that the publication of the article about the state of health of the applicant's husband, namely that he was HIV-positive, as well as the allegation that he was the father of two children by another woman who was also suffering from AIDS (see paragraph 6 above), were of a purely private nature and therefore fell within the protection of Article 8 (see, for example, *Dudgeon v. the United Kingdom*, cited above, § 41). The Court takes particular note of the fact that the family lived not in a city but in a village, which increased the impact of the publication on the possibility that the husband's illness would be known by his neighbours and his immediate family, thereby causing public humiliation and exclusion from village social life. In this respect the Court sees no reason to depart from the conclusion of the national courts, which acknowledged that there had been interference with the family's right to privacy." (Para 42)

"However, the Court sees no such legitimate interest and agrees with the finding of the Vilnius City Third District Court, which held that making public information about the husband's state of health, indicating his full name, surname and residence, did not correspond to any legitimate public interest (paragraph 8 above). In the Court's view, the publication of the article in question, the sole purpose of which was apparently to satisfy the prurient curiosity of a particular readership, cannot be deemed to contribute to any debate of general interest to society (see, among many authorities, *Prisma Presse v. France* (dec.), nos. 66910/01 and

71612/01, 1 July 2003). Consequently, given that the balance lay in favour of the individual's right to privacy, the State had an obligation to ensure that the husband was able effectively to enforce that right against the press." (Para 43)

"Furthermore, the Court attaches particular significance to the fact that, according to the newspaper, the information about the husband's illness had been confirmed by employees of the AIDS centre. It cannot be denied that publication of such information in the biggest national daily newspaper could have a negative impact on the willingness of others to take voluntary tests for HIV (cf. paragraph 21 above). In this context, it is of special importance that domestic law provides appropriate safeguards to discourage any such disclosures and the further publication of personal data." (Para 44)

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