



## Vilnes and Ors. v. Norway

Applications nos. 52806/09 and 22703/10)

**Country:** Norway

**Region:** Europe

**Year:** 2013

**Court:** The European Court of Human Rights

**Health Topics:** Chronic and noncommunicable diseases, Health information, Occupational health

**Human Rights:** Freedom from torture and cruel, inhuman or degrading treatment, Right of access to information, Right to family life, Right to life

### Facts

The applicants were five Norwegian nationals, a Swedish national and an Icelandic national. The applicants developed health problems such as obstructive lung diseases and Post Traumatic Stress Disorder (PTSD) and became disabled. This had happened as a result of their deep diving jobs. They alleged that the working conditions and compromising safety had led to their current health conditions. Further they stated that decompression time had not been standardized till the 1990s and therefore the applicants were victims of decompression sickness. One of the applicants, who was involved in an accident suffered decompression sickness to the extent that it had led to permanent spine and brain damage. The High Court and the Supreme Court dismissed the claims of the applicants.

The applicants alleged that there had been a violation of Article 2 (right to life), Article 3 (prohibition of Inhuman and degrading treatment) and Article 8 (right to respect for private life). The applicants stated that the health and safety of deep-sea divers had been compromised and the State further failed to provide necessary information in relation to the risks involved and the decompression tables, which amounted to a violation of Article 8.

### Decision and Reasoning

The Court held that there was no violation of Article 2 as there was a regulatory framework regarding the applicant's safety in place and the activities had not been organized without following safety regulations. It stated that the allegations even if specific to the accident were vague.

However, the Court stated that the lack of scientific data on the effects of long term diving and decompression sickness, the applicants should have received adequate information to the extent possible and hence this action of promoting commercial interests over eliminating risk of the diver's health and safety interfered with the right under Article 8.

The Court did not analyse Article 3 since the authorities' failure to provide information was covered under Article 8.

### Decision Excerpts

“In sum, the Court concludes that there has been a violation of Article 8 of the Convention on account of the failure of the respondent State to ensure that the applicants received essential information regarding decompression tables enabling them to assess the risks to their health and safety. Having reached this conclusion, the Court considers that no separate issue arises under Article 2 and sees no need for it to consider whether there has also been a violation of the latter in this respect.” (Para 245)

“As far as Mr Vilnes' complaint is concerned, the Court refers to its findings above under Article 8 that the respondent State's shortcomings were confined to a failure to provide access to information regarding risks involved in the use of rapid decompression tables (see paragraphs 244 and 245 above). In the light of the nature of this omission and the limited extent to which there was knowledge about the long-term effects of decompression sickness (see paragraph 239 above), the Court does not find that the respondent State can be held liable for inhuman and degrading treatment in respect of Mr Vilnes in breach of Article 3.” (Para 253)