



X. v. Ireland

Application No. 6839/74

Country: Ireland

Region: Europe

Year: 1976

Court: European Commission on Human Rights European Commission of Human Rights

Health Topics: Child and adolescent health, Chronic and noncommunicable diseases, Disabilities, Health care and health services, Health systems and financing

Human Rights: Right to health, Right to life, Right to social security

Facts

The applicant argued that the refusal of the authorities to give her disabled daughter a medical card constituted a breach of her daughter's right to life guaranteed by Article 2 (right to life) of the European Convention of Human Rights (the Convention).

The applicant's daughter suffered from a serious deformation of the larynx, which prevented her from feeding normally. The daughter required constant medical care, which caused hardships on the family, leading to debt and the mother suffering a nervous breakdown. The applicant complained that her daughter was not issued a medical card which would have entitled her to free medical care and the help of a nurse. After she notified the press about the situation, she was issued a temporary medical card.

Decision and Reasoning

The Court held that the application was inadmissible. First, the Court noted that a person denied a medical card has a right to appeal, and the applicant had not shown that her family had exercised this right.

Nevertheless, the Court noted that entitlement to free medical services depends on the income of the head of the family, and the applicant's husband was earning more than the income guidelines provided.

The Court also noted that a temporary medical card had been issued to the applicant's daughter as a case of special hardship. Therefore, the applicant's daughter had received assistance and her life had not been endangered. The Court concluded that the application did not disclose a violation under Article 2 (right to life) of the Convention.

The Court left open the question of whether Article 2 of the Convention was only a negative right, or whether it also called for positive action on the part of the state. In this case, interpreting Article 2 as a positive right would require the state to provide free medical services if someone's life was in danger. Because this application was held to be inadmissible, this question was not pursued.

Decision Excerpts

The question whether the scope of this provision is limited to the negative prohibition of the taking of life or could in certain circumstances call for positive action on the part of the High Contracting Parties can be left open in this case. Thus, even assuming this complaint could raise an issue under Art. 2, the Commission does not consider that the applicant has substantiated her allegations. (Page 2)

The Commission notes that the entitlement to free medical services depends primarily on the income of the head of the family. A person who is refused a medical card entitling him, or a dependent, to free medical services by a local health board has a statutory right of appeal to the person so designated by the Minister of Health to deal with such appeals. (Page 2)