



## Case 1160

SCC. Decision No. 1160, dated December 16th, 2008 of the Supreme Court of Cassation on civil case No. 3373/2007, 3d Civil Division, Civil College

**Country:** Bulgaria

**Region:** Europe

**Year:** 2008

**Court:** Supreme Court of Cassation

**Health Topics:** Child and adolescent health, Health care and health services, Hospitals, Medical malpractice

### Facts

The appellants sued the defendant hospital for their son's death; they alleged that their son died three months after his birth due to the hospital's wrongful acts and omissions in the administration of his treatment.

The Appellate Court found that medical malpractice had not been established; the child's death was neither due to medical malpractice when diagnosing the disease nor to non-provision of medical care by medical team during this treatment.

### Decision and Reasoning

The Court found the Appellate Court's findings were partially unreasonable and based on incomplete evidence. The Court dismissed the appellant's first allegation regarding an unnecessary surgery, finding that performance of such urgent surgery had been required. However, the Court found that the second allegation of the appellants, regarding the mishandling of the child's medication was legitimate. The Appellate Court had failed to clarify if there were established medical rules for timely and effective treatment of the child's virus and if such rules had been applied in the case of the appellant's child.

Thus, the Court revoked the decision of the Appellate Court and returned the case to be examined by another panel of judges.

### Decision Excerpts