



Andersson, Anne-Marie v. Sweden

App. No. 20022/92, 25 Eur. H.R. Rep. 722 (1998).

Country: Sweden

Region: Europe

Year: 1997

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

Health Topics: Child and adolescent health, Health care and health services, Health information, Health systems and financing, Mental health

Human Rights: Right to due process/fair trial, Right to privacy

Facts

Applicant, a Swedish national who lived with her youngest son was unable to work as a result of dental problems which caused her severe pain, and anxiety about a dispute with her landlord. She contacted a psychiatric clinic in order to receive a medical certificate which would enable her to claim sickness benefit from the Health Insurance Office. The psychiatrist drew her attention to the possible detrimental effect her situation might have on her son and advised her to seek support for him from the children's psychiatric clinic or the social authorities but she refused. The psychiatrist informed the applicant that since the child's health might be at risk, she (the psychiatrist) had an obligation under Swedish law to contact the social authorities. Accordingly, the former informed the Social Council of the applicant's health problems, and notified the applicant by a letter.

The applicant filed a complaint alleging that the psychiatrist's submission of information to the Social Council without her knowledge or consent constituted a violation of Article 8 (respect for private life). Her inability to petition the psychiatrist to reverse her decision to disclose the information constituted a breach of Articles 6 (right to fair trial) and 13 (right to remedy).

Decision and Reasoning

The Court concluded that Article 6 § 1 was not applicable to the case at hand. The Court reasoned that, according to domestic law, the psychiatrist was under an obligation to divulge information about the applicant that was necessary to protect her underage son. Consequently, the disclosure took place as a result of the psychiatrist's statutory obligation and no "right" could be said to exist to prevent the communication of such information.

The Court had no jurisdiction to entertain applicant's claim that the disclosure of data in question amounted to a violation of her Article 8 rights since the Commission had declared it inadmissible. The Court held that the applicant had no arguable claim in respect of a violation of the Convention and there had accordingly been no violation of Article 13.

Decision Excerpts

"34. Under the rule on confidentiality contained in chapter 7, section 1, of the Secrecy Act, a duty of confidentiality applied to the kind of data in issue in the present case (see paragraph 15 above). The provision was evidently designed to protect a patient's interests in non-disclosure of medical data.

35. On the other hand, according to chapter 14, section 1, of the Secrecy Act, the rule of confidentiality did not apply where a statutory obligation required the disclosure of information to another authority (see paragraph 16 above). In the case under consideration, if the chief psychiatrist possessed information about the applicant patient to the effect that intervention by the Social Council was necessary for the protection of her under-age son, the psychiatrist was under a duty to report immediately to the Social Council. That duty extended to all data in her possession which were potentially relevant to the Social Council's investigation into the need to take protective measures with respect to the son (see paragraphs 17-19 above) and depended exclusively on the relevance of those data (section 71, subsections 2 and 4, of the Social Services Act)."

Page 11.