



Court rejects case on compulsory health insurance

In its decision in the case of [De Kok v. the Netherlands](#) (application no. 1443/19) the European Court of Human Rights has, unanimously, declared the application inadmissible. The decision is final.

The applicant complained about the obligation to buy basic health insurance in the Netherlands and the consequences of his not having done so.

The Court did not express itself on the applicability of Article 8. Assuming that there had been an interference under that Article, it found, in particular, that in order to ensure affordable healthcare by means of collective solidarity the State had legitimate reasons for obliging citizens to take out health insurance under Article 8 (right to respect for private and family life) of the European Convention on Human Rights and Article 1 of Protocol No. 1 (protection of property) to the European Convention. It also rejected complaints under Articles 9 (freedom of thought, conscience and religion) and 6 (right to a fair trial).

Principal facts

The applicant, Cedric Anakha de Kok, is a Dutch national who was born in 1995 and lives in Rotterdam (the Netherlands).

In the Netherlands it is compulsory to take out at least basic health insurance (*basispakket*), which covers, among other things GP care, specialist care, hospitalisation, and conventional medication. It is also possible to take out supplementary health insurance (*aanvullende ziektekostenverzekering*), which might cover, for instance, homeopathic treatment.

The main reason for the obligation is solidarity and burden sharing. The obligation is laid down in law and enforced by means of fines and the taking out of health insurance on behalf of individuals who refuse to comply with it.

In 2015, Mr De Kok was fined by the National Healthcare Institute (*Zorginstituut Nederland*) for not having basic health insurance. He objected, but the Institute dismissed that objection, with reference to the principle of solidarity. It pointed to the fact that individuals with a conscientious objection to all forms of insurance may pay additional tax in lieu, and noted that this was not Mr De Kok's case. A second fine followed in 2016.

Following this, the National Healthcare Institute took out basic health insurance on behalf of Mr De Kok at a cost to him of 122.33 euros per month.

The applicant took proceedings to the courts, but his appeal was dismissed by the Zeeland-West-Brabant Regional Court. It held that the obligation to take out health insurance did not contravene Mr De Kok's rights under Article 8 of the Convention and Article 1 of Protocol No. 1 or, in so far as applicable, Article 9 of the Convention. That judgment was upheld by the Central Appeals Tribunal.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 10 December 2018.

Relying, in particular, on Articles 8 (right to respect for private and family life) and 9 (freedom of thought, conscience and religion) and Article 1 of Protocol No. 1 (protection of property), Mr De Kok complained about the obligation to take out health insurance, stating that he would prefer to pay only for homeopathic remedies rather than sharing the collective burden of conventional medical

treatment covered by the basic insurance. He complained that he had been forced to take out basic health insurance contrary to his beliefs, with an opt-out only for those with conscientious objections to all forms of insurance, which had not been his case. He also complained that the obligation had interfered with his right to use his money as he saw fit.

Under Article 6 the applicant complained of a lack of impartiality on the part of the courts, in particular their refusal to address his arguments about the medical industry as a whole.

The decision was given by a Committee of three judges, composed as follows:

Armen **Harutyunyan** (Armenia), *President*,
 Jolien **Schukking** (the Netherlands),
 Ana Maria **Guerra Martins** (Portugal),
 and also Ilse **Freiwirth**, *Deputy Registrar*.

Decision of the Court

The Court noted that the matter of the applicant's complaints – in particular, the fine and health insurance being bought on his behalf – was connected to the obligation to take out health insurance more broadly.

Article 8

The Court considered that, in so far as Article 8 was applicable – and thus proceeding on the basis that it should be assumed that both the obligation for the applicant to take out basic health insurance and the taking out of such insurance on his behalf constituted an interference with his right to private life – the decision in question was grounded in law and served the legitimate aim of ensuring access to adequate medical facilities and to prevent people from being uninsured so as to ensure the protection of health and the protection of the rights of others.

The Court found that the obligation was the Netherlands' answer to the pressing social need of ensuring affordable healthcare via collective solidarity, and noted the wide discretion ("margin of appreciation") States had in that area.

It noted that Mr De Kok had been neither denied nor forced to have any treatment, and could have opted for supplementary health insurance that covered homeopathic remedies.

In sum, the Court rejected this complaint as manifestly ill-founded.

Article 9

Mr De Kok expressed a distrust of conventional medicine and was unwilling to contribute to that system through insurance premiums. The Court rejected this complaint as not being of sufficient cogency, seriousness, cohesion and importance to fall within the scope of Article 9.

Article 1 of Protocol No. 1

The Court stated that the obligation to buy health insurance was an interference with Mr de Kok's peaceful enjoyment of his possessions. However, the obligation had a basis in law and had the same legitimate aims as those under Article 8. It considered that in view of the solidarity principle, the cost of the health-insurance premium in question, the possibility to buy supplementary health insurance to cover homeopathic medicine, and the possibility for individuals with a modest income to apply for financial support (*zorgtoeslag*), the interference was proportionate to the legitimate aim pursued. Accordingly, the Court rejected this complaint as manifestly ill-founded.

Other articles

The complaint under Article 6 was also rejected as there did not appear to be any evidence of a violation.

The decision is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.