



Psychiatric hospital infringed patient's right to privacy and right to freedom of religion

In today's Chamber judgment¹ in the case of [Mockutė v. Lithuania](#) (no. 66490/09) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for private life) of the European Convention on Human Rights,

and, by five votes to two, that there had been:

a violation of Article 9 (right to freedom of thought, conscience and religion).

The case concerned allegations by the applicant, Neringa Mockutė, that a publicly run hospital had revealed highly personal and sensitive, confidential information about her private life to journalists and to her mother, and that she had been prevented from practising her religion on account of a restrictive hospital environment and the unsympathetic approach of her doctors.

The Court found that the hospital had unlawfully shared private information about the applicant, in contravention of domestic and international law, and had breached the applicant's freedom of religion by detaining her unlawfully and by pressurising her to "correct" her beliefs and practices.

Principal facts

The applicant, Neringa Mockutė, is a Lithuanian national who was born in 1973 and lives in Vilnius

From 1992 to 2002 the applicant received occasional treatment for various psychiatric conditions, including paranoia and depression. During that time she also obtained a law degree and won a competition to pursue post-graduate studies in the United States of America. In 2002 she had professional and personal difficulties and was diagnosed further with post-traumatic stress disorder.

In February 2003 Ms Mockutė affiliated herself to the Ojas Meditation Centre, a branch of the Osho religious movement, and began practising meditation, which she said brought her "inner healing".

In May 2003 she had a breakdown and was forcibly admitted to Vilnius Psychiatric Hospital, where she was diagnosed with acute psychosis and where she remained for 52 days. During that time a documentary was aired on national television. It featured Ms Mockutė's doctor, mother and sister, referred to the Ojas Meditation Centre, and discussed the applicant using the pseudonym "Violeta".

In 2006 the applicant brought a civil claim against the hospital. Following a forensic report, the regional court found that Ms Mockutė had been unlawfully deprived of her liberty during her time at Vilnius Psychiatric Hospital as she had been held against her will and in "outright disregard" for the 48-hour time-limit, after which time the hospital should have applied for a court order. The court further found that the documentary had allowed her to be identified, despite the use of the pseudonym, thus breaching her right to privacy. "By attempting to alter the applicant's attitude to

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

non-traditional religion” her freedom of religion had also been violated. She was awarded 110,000 LTL (EUR 31,850) in respect of non-pecuniary damage, with costs.

The hospital appealed, and the following year the Court of Appeal upheld the lower court’s decision on deprivation of liberty, but overturned the findings on privacy and religious freedom. In particular, it stated that the evidence as a whole was not sufficient to conclude that the interviews had led to a breach of confidentiality and that the information on her diagnosis provided to her mother could not be regarded as a breach of her right to privacy. Furthermore, the doctors’ critical approach to her meditative practices had not in itself restricted her freedom of religion. The damages were reduced and costs were awarded against her. An appeal on points of law by Ms Mockutė was refused.

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private life), Ms Mockutė complained that Vilnius Psychiatric Hospital had revealed personal, confidential information about her private life to the journalists and her mother.

Under Article 9 (right to freedom of thought, conscience and religion), she complained that she had been prevented from practising her religion on account of a restrictive hospital environment, and because the psychiatrists had persuaded her to have a critical attitude towards her religion.

The application was lodged with the European Court of Human Rights on 14 December 2009.

Judgment was given by a Chamber of seven judges, composed as follows:

Ganna **Yudkivska** (Ukraine), *President*,
Vincent A. **De Gaetano** (Malta),
Paulo **Pinto de Albuquerque** (Portugal),
Faris **Vehabović** (Bosnia and Herzegovina),
Egidijus **Kūris** (Lithuania),
Carlo **Ranzoni** (Liechtenstein),
Péter **Paczolay** (Hungary),

and also Andrea **Tamietti**, *Deputy Section Registrar*.

Decision of the Court

Article 8

The Court found that the doctor at Vilnius Psychiatric Hospital had revealed sensitive confidential information to the journalists that had been obtained during the applicant’s involuntary hospitalisation and treatment. That information, which had included the applicant’s diagnosis of acute psychosis and references to her treatment, her studies in the United States, and her sexual life, had been shared without her consent. Those revelations had amounted to an interference with her right to privacy. Likewise, the passing of information to her mother could also be considered under Article 8, especially as the relationship between the two women had been tense.

The Court found that the disclosures, both to the journalists and the mother, had amounted to a failure by the hospital as a State agent to abide by international legal obligations and domestic health and data protection laws. There had therefore been a violation of Article 8.

Article 9

The Court first observed that the domestic courts had disagreed about whether Ms Mockutė’s religious rights had been restricted during her confinement, with the first-instance court backing her claim and the appeal court rejecting it.

The Court stated that it would generally not take the place of domestic courts when assessing facts, but observed that in situations such as those in this case it remained free to make its own evaluation in the light of all the material at its disposal. It also took note of the applicant's vulnerability as a psychiatric patient, remarking that there was a need for "increased vigilance" when it came to reviewing such cases under the Convention. In that context, two factors were decisive in concluding that there had been an interference with her right to freedom of religion. First, she had been held unlawfully at the hospital for more than 50 days and had for the most part been under a very strict regime, such that she had been unable either to practise meditation or to visit the Osjo Meditation Centre. Second, the doctors had tried to "correct" her to persuade her to abandon her religion, which they considered as "fictitious", and she had felt constrained to obey them, even on pain of receiving a diagnosis which would have made her unemployable. Ms Mockutė had overall demonstrated that pressure had been exerted on her to change her religious beliefs and to prevent her from manifesting them.

There had been no justification, in domestic law or under the Convention, for such interference, and therefore there had been a violation of Article 9 of the Convention.

Just satisfaction (Article 41)

The Court held, by six votes to one, that Lithuania was to pay the applicant 8,000 euros (EUR) in respect of non-pecuniary damage, and 900 euros (EUR) for costs and expenses incurred before the Court.

Separate opinions

Judges Yudkivska and Ranzoni expressed a joint partly dissenting opinion, which is annexed to the judgment.

The judgment 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.