EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

DECISION

Application no. 11402/24
E.C.
against Spain

The European Court of Human Rights (Fifth Section), sitting on 24 April 2025 as a Committee composed of:

Stéphanie Mourou-Vikström*, President*,
María Elósegui,
Diana Sârcu*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 11402/24) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 17 April 2024 by a Spanish national, Ms E.C., who was born in 1963 and lives in Cullera ("the applicant") and was represented by Ms J. Ventoso Garcia, a lawyer practising in Cullera;

the decision not to have the applicant's name disclosed;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the judicial authorisation to vaccinate the applicant's daughter, L., against Covid-19, allegedly in breach of Articles 2, 3, 8 and 13 of the Convention.

2. L. was born in 2009 and the parental authority was shared between the mother (the applicant) and the father.

3. In August 2021 the applicant lodged a request with the Valencia First Instance Court no. 24 stating that L.'s father had informed her of his intention to have L. vaccinated against Covid-19 and asking the court to postpone the vaccination. She argued that she did not have enough information about the vaccines and did not want her daughter to be vaccinated until she solved her doubts.

4. On 2 September 2021 the first instance judge interviewed L., who stated that she had a good relationship with both of her parents, that they disagreed about her vaccination, and that she did not want to be vaccinated, but "did not know the reason" (*sic*).

5. On 13 July 2022 the Valencia First Instance Court no. 24 issued a decision authorising L.'s father to proceed with vaccination. It concluded that it was more beneficial for L. to be vaccinated than not, since – in the absence of any personal circumstances showing that the vaccine would be detrimental for her – the vaccine would increase her protection against the disease and help avoiding its severe consequences.

6. On 12 December 2022 the Valencia *Audiencia Provincial* dismissed the applicant's appeal and upheld the decision of the first instance court. The *Audiencia Provincial* observed that the vaccination had been recommended by medical experts. The court considered that, in view of L.'s difficulties to understand the scope of the vaccination, namely due to the emotional distress caused by her parents' conflict in the matter, the consent should be given by a legal representative, in accordance with the domestic law and Article 6 of the Oviedo Convention[1]. It concluded that, since the vaccine was in L.'s benefit and she did not firmly oppose it, the first instance court decision should be upheld.

7. The Constitutional Court declared the applicant's *amparo* appeal inadmissible.

8. Relying on Article 8, the applicant claimed that L.'s vaccination was authorised without L.'s consent and over the applicant's objections. She further argued that the imposition of a medical treatment without consent entailed a violation of Articles 2 and 3, as in this case the vaccine was experimental and put L.'s life at risk. Lastly, she submitted that the inadmissibility decision of the Constitutional Court violated her right to an effective remedy under Article 13.

THE COURT'S ASSESSMENT

A. Alleged violation of Article 8 of the Convention

9. The applicant complained that the domestic courts authorised L.'s vaccination over her objections and, moreover, without L.'s own consent.

10. Therefore, the first question to be examined is that of the authorities' ignoring the applicant's protest against the vaccination.

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[1] Article 6 of the Oviedo Convention provides: Where, according to law, a minor does not have the capacity to consent to an intervention, the intervention may only be carried out with the authorisation of his or her representative or an authority or a person or body provided for by law.
The opinion of the minor shall be taken into consideration as an increasingly determining factor in proportion to his or her age and degree of maturity.

11. The Court observes that the applicant was L.'s legal representative and thus, in principle, had the authority to act on her behalf. The Court will therefore proceed on the assumption that the applicant's own rights under Article 8 were directly affected (see, *a contrario*, *Rõigas v. Estonia*, no. 49045/13, § 128, 12 September 2017).

12. The Court has stated that compulsory vaccination – as an involuntary medical treatment – amounts to an interference with the right to respect for one's private life, which includes a person's physical and psychological integrity, as guaranteed by Article 8 § 1 (see *Vavřička and Others v. the Czech Republic* [GC], nos. 47621/13 and 5 others, § 263, 8 April 2021).

13. In the present case, it is unclear whether L. was ultimately vaccinated or not. However, since the applicant argued that the alleged violation derived from the domestic courts' decisions, rather than the administration of the vaccine, the Court assumes that there has been an interference with the right to respect for private life.

14. The Court will therefore ascertain whether or not this interference can be accepted as justified in the light of the conditions set out in the second paragraph of Article 8 (see *Pindo Mulla v. Spain* [GC], no. 15541/20, § 129, 17 September 2024).

15. The Court observes, firstly, that the interference was provided by law. Section 9 of Act no. 41/2002 of 14 November 2002 regulating patient rights states that consent shall be given by the legal representative where the patient is a child and is neither intellectually nor emotionally able to understand the scope of the intervention. In those cases, the decision should always be taken in the best interest of the patient's life or health. For its part, Article 156 of the Civil Code states that in case of disagreement between parents in decisions concerning their children, the judge shall confer the authority to decide to one of them, after hearing them and the child (if he or she has sufficient maturity and, in any case, if he or she is older than twelve).

16. Secondly, the interference pursued the legitimate aim of protection of health and the rights of others in the context of a pandemic which posed a serious risk to the population at large (see, *mutatis mutandis*, *Pasquinelli and Others v. San Marino*, no. 24622/22, §§ 94-96, 29 August 2024).

17. It remains to be examined whether this interference was necessary in a democratic society.

18. The Court considers that the vaccination was justified by public health considerations and the necessity to control the pandemic. Furthermore, adequate precautions were taken to ensure that the medical intervention would not be to L.'s detriment, as the medical reports before the domestic courts showed no contraindications for L.'s vaccination (see *Solomakhin v. Ukraine*, no. 24429/03, § 36, 15 March 2012). In fact, the applicant does not claim that the vaccination, if indeed done, harmed L.'s health in any way. Lastly, the domestic courts examined the applicant's allegations and based their decisions on reasonable grounds (ibid., § 38), taking into account all the

relevant elements, including the absence of a firm opposition by L. to the vaccine. The Court therefore finds that the reasons adduced by the national authorities to justify the interference were relevant and sufficient and the interference was proportionate to the legitimate aim pursued.

19. It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected, pursuant to Article 35 § 4 of the Convention.

20. Furthermore, in so far as the complaint is made indirectly, that is to say, on behalf of L. whose own lack of consent was overruled by the authorities, the Court recalls that the question of consent to medical treatment concerns the core of a person's right to respect for her private life and belongs to the category of non-transferable rights (see *Rõigas*, cited above, § 127).

21. In this case, while the applicant was L.'s legal guardian, the domestic proceedings concluded that her position was at variance with L.'s best interests. In the absence of any manifest flaws in those proceedings, the Court considers that the applicant cannot rely on the right to informed consent on behalf of her daughter in the present context.

22. It follows that this part of the application is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

B. Alleged violation of Articles 2 and 3 of the Convention

23. The applicant further claimed that the imposition of a medical treatment without consent was in breach of Articles 2 and 3 of the Convention, arguing that the vaccine was experimental, putting L.'s life at risk.

24. The Court has applied Article 2 where an individual has died and where there was a serious risk of an ensuing death (see *Brincat and Others v. Malta*, nos. 60908/11 and 4 others, § 82, 24 July 2014). Cases concerning medical interventions, including those carried out without the consent of the patient, will generally lend themselves rather to be examined under Article 8 of the Convention. In some cases, the Court has nonetheless accepted that, under certain conditions, medical interventions can reach the threshold of severity to be regarded as treatment prohibited by Article 3 of the Convention (see *Y.P. v. Russia*, no. 43399/13, § 34, 20 September 2022).

25. In the present case, the Court recalls that it is unclear whether L. was actually vaccinated. The applicant has not in any way substantiated that the administration of the vaccine put L. in a life-threatening situation capable of engaging the State's responsibility under Article 2 or that it reached the threshold of severity of Article 3 of the Convention. Besides, the Court has already established that the decision to authorise her vaccination was in accordance with Article 8 of the Convention. In particular, the domestic

courts considered, on the basis of the medical reports before them, that there were no medical contraindications to vaccinating L.

26. It follows that these complaints, outside the scope of the Articles relied on, are incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

C. Alleged violation of Article 13 of the Convention

27. Lastly, the applicant alleged a breach of her right to an effective remedy, as the Constitutional Court had declared her *amparo* appeal inadmissible, while other analogous complaints had been declared admissible.

28. The Court considers that this complaint is to be examined as an alleged violation of the applicant's right of access to a court under Article 6.

29. The Court has accepted that the conditions of admissibility of an *amparo* appeal may be stricter than for an ordinary appeal and that proceedings before the Constitutional Court may be more formal (see *Arribas Antón v. Spain*, no. 16563/11, §§ 42 and 50, 20 January 2015). Moreover, it is primarily for the national authorities, and in particular the courts, to interpret domestic legislation, and particularly in relation to the interpretation of procedural rules, such as admissibility requirements (ibid., § 46).

30. While the applicant claims that other analogous complaints were declared admissible by the Constitutional Court, she did not submit any documents to sustain her assertions or any specific arguments to show that the Constitutional Court decision was arbitrary or unreasonable.

31. It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected, pursuant to Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 15 May 2025.

Martina Keller Deputy Registrar	Stéphanie Mourou-Vikström President