



Disenfranchisement of mentally disabled woman was proportionate and in line with the Convention

In today's Chamber judgment¹ in the case of [Caamaño Valle v. Spain](#) (application no. 43564/17) the European Court of Human Rights held, by 6 votes to 1, that there had been:

no violation of Article 3 of Protocol No. 1 (right to free elections) to the European Convention on Human Rights, and

no violation of Article 14 (prohibition of discrimination) read in conjunction with Article 3 of Protocol No. 1 or of Article 1 of Protocol No. 12 (general prohibition of discrimination)

The case concerned the disenfranchisement of the applicant's daughter, M., who was mentally disabled.

The Court found in particular that "ensuring that only citizens capable of assessing the consequences of their decisions and making conscious and judicious decisions should participate in public affairs" was a legitimate aim that had informed the domestic courts' judgments in respect of M. It found that the disenfranchisement decision had been individualised and proportionate to that aim. And it found that her disenfranchisement did not thwart "the free expression of the opinion of the people".

The Court found that the domestic authorities had taken into account M.'s special status and had not discriminated against her.

Principal facts

The applicant, Maria del Mar Caamaño Valle, is a Spanish national who lives in Santiago de Compostela (Spain). She is the mother of M., a mentally disabled woman born in 1996.

Just before M.'s 18th birthday, the applicant applied for her guardianship over her daughter to be extended. However, she asked specifically that her daughter not be deprived of her right to vote. Nevertheless, when the extension of her guardianship was ordered, the First-Instance Judge ordered that M.'s right to vote be revoked, holding that she was not capable of exercising that right. The judgment contained extensive reasoning and references to Spanish law and case-law and Spain's international treaty obligations. The judge and the medical expert ascertained that the limitations imposed on M. in respect of her right to vote were based neither on the requirement of a higher cognitive or intellectual capacity nor on M.'s lack of knowledge regarding her voting options (that is to say her choice of candidate or party) nor on any hypothetical irrationality in respect of such choices, but on the strict and objective establishment of her lack of capacity in respect of political affairs and electoral matters. The restriction of her right to vote was not justified by the fact that she hardly knew anything about the Spanish political system, but because she was highly influenceable and not aware of the consequences of any vote that she might cast.

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.

An appeal and an appeal on points of law by the applicant were dismissed by the Regional Court of Corunna and the Supreme Court respectively. The applicant lodged an amparo appeal in 2016, which was dismissed by the Constitutional Court, which stated that there were limits on suffrage, including, among other things, judicial deprivation of the right to vote. It finally concluded that her rights had not been breached.

Complaints, procedure and composition of the Court

Relying on Article 3 of Protocol No. 1 (right to free elections), read alone or in conjunction with Article 14 (prohibition of discrimination), and Article 1 of Protocol No. 12 (general prohibition of discrimination), the applicant complained that the restrictions on her daughter's right to vote had infringed her rights and had been discriminatory.

The application was lodged with the European Court of Human Rights on 9 June 2017.

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

Paul Lemmens (Belgium), *President*,
Georgios A. Serghides (Cyprus),
Dmitry Dedov (Russia),
Georges Ravarani (Luxembourg),
María Elósegui (Spain),
Anja Seibert-Fohr (Germany),
Peeter Roosma (Estonia),

and also Milan Blaško, *Section Registrar*.

Decision of the Court

Article 3 of Protocol No. 1

Initially the Court stated that the European Convention on Human Rights was an international treaty and the Court had to establish the ordinary meaning of terms used within it. It reiterated that the Convention was not the sole reference for the interpretation of the rights contained within it, and so it took into account the relevant rules and international law applicable between the States.

The Court reiterated that Article 3 of Protocol No. 1 guaranteed individual rights, including the right to vote, although the States had some limited discretion in this area. Any conditions imposed had to be the "free expression of the people in their choice of legislature". The presumption had to be inclusion for all.

The Court reiterated that the aim of "ensuring that only citizens capable of assessing the consequences of their decisions and making conscious and judicious decisions should participate in public affairs" was legitimate. It was satisfied that that had been the aim in the decision to disenfranchise M.

In the light of the domestic courts' judgments at several levels of jurisdiction, the Court was also satisfied that the authorities had balanced the interests at stake and had based their judgments on M.'s personal lack of understanding of the meaning of a vote and her susceptibility to being influenced. As such, her disenfranchisement had been proportionate. The Court was furthermore satisfied that the disenfranchisement of the applicant's daughter did not thwart the free expression of the opinion of the people.

There had been no violation of the Convention in this regard.

Other articles

The Court noted that the difference in treatment of the applicant's daughter and a person with the right to vote was based on the mental capacity of each person. The restrictions took into account her special status. The difference in her treatment was justified, and there had been no violation of Article 14 read in conjunction with Article 3 of Protocol No. 1 or of Article 1 of Protocol No. 12.

Separate opinion

Judge Lemmens expressed a 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.