



## Grand Chamber to examine case concerning compulsory vaccination

The Chamber of the European Court of Human Rights to which the case **Vavříčka v. the Czech Republic** (application no. 47621/13) and **five other applications** (mentioned below) had been allocated has relinquished jurisdiction in favour of the Grand Chamber of the Court<sup>1</sup>.

The applications concern the Czech legislation on compulsory vaccination and its consequences for the applicants who refused to comply with it.

### Vavříčka v. the Czech Republic (application no. 47621/13) and five other applications

#### Principal facts

**Application no. 47621/13** was lodged on 23 July 2013 by Pavel Vavříčka, a Czech national who was born in 1965 and lives in Kutná Hora (Czech Republic).

In 2003 Mr Vavříčka was fined for refusing to have his two children, aged 14 and 13, vaccinated against poliomyelitis, hepatitis B and tetanus, as required under domestic law (order of the Ministry of Health no. 439/2000). The appeals lodged by Mr Vavříčka against the decision were dismissed by the domestic courts.

**Application no. 3867/14** was lodged on 9 January 2014 by Markéta Novotná, who was born in 2002 and lives in Prague.

The applicant's parents agreed to have her vaccinated against all diseases for which vaccination was compulsory except for measles, mumps and rubella (MMR) as they had doubts about this vaccine. In 2006 the applicant was admitted to nursery school. Two years later, having been informed by the paediatrician that the applicant was not vaccinated against MMR, the head teacher decided that she should be barred from attending school. The applicant unsuccessfully challenged the head teacher's decision in the domestic courts, which took the view that the exercise of the applicant's right to continue to attend nursery school (the right to education) could endanger the health of others and that the right to health protection was paramount.

**Application no. 73094/14** was lodged on 16 November 2014 by Pavel Hornych, who was born in 2008 and lives in Prague.

Having suffered from various health problems, Mr Hornych was not vaccinated based on the recommendation of his paediatrician. It appears that his parents never refused to have him vaccinated and that the health centre did not establish any failure on their part or on the part of the paediatrician. In 2011, at the time of the applicant's enrolment at nursery school, the paediatrician certified in writing that the applicant had not been vaccinated but also that he "was not lacking any regular vaccination prescribed by law". However, in the same year, Mr Hornych was refused admission to nursery school because he had not proved that he had been vaccinated. Appeals against this decision were unsuccessful.

<sup>1</sup> Under Article 30 of the European Convention of Human Rights "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects."

**Applications nos. 19306/15 and 19298/15** were lodged by Adam Brožík and Radomír Dubský on 16 April 2015. The applicants are Czech nationals who were born in 2011 and live in Jilemnice (Czech Republic).

The applicants' parents refused to have them vaccinated as prescribed by law on the grounds of their beliefs and convictions, as was certified by the paediatrician. In 2014 the head teacher refused to admit the applicants to nursery school, stating that compulsory vaccination constituted a permissible restriction of the right to freely manifest one's religion or belief, because it was a necessary measure for the protection of public health and the rights and freedoms of others. The applicants challenged this decision but their appeal was dismissed.

**Application no. 43883/15** was lodged by Prokop Roleček, a Czech national who was born in 2008 and lives in Náměšť nad Oslavou (Czech Republic).

The applicant's parents, who were biologists, decided to have an individual vaccination plan drawn up for the applicant, who was vaccinated later than scheduled by the vaccination calendar. In addition, he was not vaccinated against tuberculosis, poliomyelitis, hepatitis B, measles, mumps or rubella. In 2010 the head teachers of two nursery schools refused to admit the applicant on the grounds that the conditions laid down in the relevant law (no. 258/2000) had not been met. The applicant challenged this decision, but his appeal was dismissed.

### Complaints and procedure

The applications were lodged with the European Court of Human Rights between 2013 and 2015.

On 7 and 9 September 2015 the Czech Government were given [notice](#)<sup>2</sup> of these applications, with questions from the Court.

The applicants rely on a number of Articles of the European Convention on Human Rights, in particular Article 8 (right to respect for private and family life) and Article 9 (freedom of thought, conscience and religion) of the Convention, and Article 2 of Protocol No. 1 (right to education) to the Convention.

The Chamber to which these cases had been allocated relinquished jurisdiction in favour of the Grand Chamber on 17 December 2019.

### List of applications

1. Vavříčka v. Czech Republic (no. 47621/13)
2. Novotná v. Czech Republic (no. 3867/14)
3. Horných v. Czech Republic (no. 73094/14)
4. Brožík v. Czech Republic (no. 19306/15)
5. Dubský v. Czech Republic (no. 19298/15)
6. Roleček v. Czech Republic (no. 43883/15)

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<sup>2</sup> In accordance with Rule 54 of the Rules of Court, a Chamber of seven judges may decide to bring to the attention of a Convention State's Government that an application against that State is pending before the Court (the so-called "communications procedure"). Further information about the procedure after a case is communicated to a Government can be found in the Rules of Court.

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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.