



Grand Chamber to examine case on children's book of LGBT fairy tales

The Chamber of the European Court of Human Rights to which the case **Macatė v. Lithuania** (application no. 61435/19) had been allocated has **relinquished jurisdiction in favour of the Grand Chamber of the Court**¹.

This application concerns a book for nine-ten-year-olds written by an openly lesbian children's author containing six stories based on traditional fairy tales but including characters from marginalised social groups and topics such as emigration and bullying. Two of the six fairy tales contain story lines of romantic relationships and marriages between persons of the same sex. Following a recommendation issued by the Inspectorate of Journalistic Ethics, the book was labelled by the publisher as possibly harmful to children under 14 years of age.

Macatė v. Lithuania (application no. 61435/19)

Principal facts

The applicant, Neringa Dangvydė Macatė, was a Lithuanian national who was born in 1975 and lived in Vilnius. She died in March 2020 and her mother is continuing the proceedings in her place.

The applicant was a children's author who was openly lesbian and who wrote a book, aimed at nine-ten-year-olds, of six original fairy tales. Adapted from traditional fairy tales, they included characters from various marginalised social groups, such as Roma, persons from different racial backgrounds, persons with disabilities, divorced families, and stories around issues such as emigration and bullying. Two of the six fairy tales contained story lines of romantic relationships and marriages between persons of the same sex.

Soon after the book's publication, there were complaints from associations representing families, that stories about same-sex relationships were being presented to children. The Inspectorate of Journalistic Ethics concluded that the two fairy tales which depicted such relationships did not comply with Article 4 § 2 (16) of the Law on the Protection of Minors from Detrimental Effects of Public Information. That provision states that any information which "expresses contempt for family values" or "encourages a different concept of marriage and creation of family than the one enshrined in the Constitution or the Civil Code" is considered as having a negative effect on minors.

The publisher subsequently added a warning label that the book might be harmful for children under 14 years of age. The applicant lodged civil proceedings against the publisher, but courts dismissed her claim, finding that the publisher had acted in line with the domestic law concerning the concept of family and protection of minors from harmful information.

Complaints and procedure

Relying on Article 10 (freedom of expression) of the European Convention on Human Rights taken alone and in conjunction with Article 14 (prohibition of discrimination), the applicant complained that the book had been labelled as harmful to children for the sole reason that it contained a positive depiction of same-sex relationships. She also contended that Article 4 § 2 (16) of the Law on

¹ 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."

the Protection of Minors from Detrimental Effects of Public Information, although seemingly neutral, was in reality aimed at limiting the dissemination of any positive information about LGBT persons on the pretext of protecting children. In particular, she referred to several examples when various Lithuanian TV stations, relying on that provision, had refused to air videos aimed at promoting tolerance towards LGBT persons or had only agreed to air them late in the evening and accompanied by warnings.

The application was lodged with the European Court of Human Rights on 22 November 2019.

On 18 June 2020 the Lithuanian Government were given [notice](#)² of the application, with questions from the Court.

The Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 31 August 2021.

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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.

² 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.