



Refusal to allow Claude Lanzmann's widow to export her deceased son's sperm with a view to artificial insemination: inadmissible

In its decision in the case of [Petithory Lanzmann v. France](#) (application no. 23038/19) the European Court of Human Rights has unanimously declared the application inadmissible.

The case concerned the applicant's request to have her deceased son's sperm transferred to an establishment capable of arranging medically assisted reproduction or gestational surrogacy.

Noting that the right for an individual to decide how and when to become a parent was a non-transferable right and that Article 8 did not guarantee a right to become a grandparent, the Court declared the application inadmissible.

The decision is final.

Principal facts

The applicant, Dominique Petithory Lanzmann, is a French national who was born in 1957 and lives in Paris.

Ms Petithory Lanzmann is the widow of Claude Lanzmann, the journalist, writer and director of the film *Shoah*, who died in 2018. Their son died on 13 January 2017 as a result of a cancerous tumour that was diagnosed in 2014. As soon as he was informed of his illness, her son had expressed his wish to be a father and to have offspring, including in the event of his death. In consequence, he had deposited sperm with the *Centre d'études et de conservation des oeufs et du sperme* (CECOS) at the Cochin Hospital in Paris, had contacted a centre in Switzerland and was considering other options for banking sperm abroad, but had been unable to proceed with those on account of his illness.

In the spring of 2017 the president of the CECOS refused to transmit to the Biomedicine Agency a request by the applicant for the transfer of her son's sperm to a healthcare establishment in Israel. Ms Petithory Lanzmann applied to the urgent-applications judge at the Paris Administrative Court, asking that the necessary measures be taken to authorise the export of her son's sperm to a healthcare establishment in Israel which was authorised to carry out medically assisted reproduction. She argued that the refusal to grant her request deprived her of the right to exercise the private and family life to which she was entitled to aspire by becoming a grandmother and ensuring that her son's wishes were respected. The urgent-applications judge rejected the application. The applicant appealed against that decision to the *Conseil d'État*, which also rejected the application.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 25 April 2019.

Relying on Article 8 (right to respect for private and family life), the applicant complained that it was impossible to have access to her deceased son's sperm with a view to arranging, in accordance with his last wishes, medically assisted reproduction via a donation to an infertile couple or gestational surrogacy, procedures which would be authorised in Israel or the United States.

The decision was given by a Committee of three judges, composed as follows:

Mārtiņš Mits (Latvia), *President*,
André Potocki (France),
Lətif Hüseynov (Azerbaijan),

and also Milan Blaško, *Deputy Registrar*.

Decision of the Court

Article 8

The Court observed that the applicant's complaint actually comprised two distinct parts. In the first part she claimed to be an indirect victim, on behalf of her late son, while in the second she claimed to be a direct victim since she had been deprived of the possibility of becoming a grandparent.

With regard to the complaint alleging indirect victim status, the Court noted that the rights claimed by the applicant concerned her son's right to decide how and when to become a parent. However, the Court observed that this right belonged to the category of non-transferable rights. Accordingly, the applicant could not claim in this regard to be the victim of a violation of the Convention on her son's behalf.

As to the complaint alleging direct victim status, the Court considered that Article 8 did not guarantee a right to become a grandparent, however worthy the applicant's personal aspiration to continue the genetic line.

The Court therefore declared both parts of the application inadmissible.

The decision is available only in French.

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Press contacts

echrpess@echr.coe.int | tel: +33 3 90 21 42 08

Denis Lambert (tel: + 33 3 90 21 41 09)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Patrick Lannin (tel: + 33 3 90 21 44 18)

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.