



Grand Chamber hearing concerning the impossibility to give birth at home assisted by a midwife

The European Court of Human Rights is holding a **Grand Chamber**¹ hearing today **Wednesday 2 December 2015 at 9.15 a.m.** in the case of **Dubská and Krejzová v. the Czech Republic** (application no. 28859/11).

The case concerns the impossibility, under Czech law, for pregnant women to give birth at home with the assistance of a midwife.

The hearing will be broadcast from 2.30 p.m. on the Court's Internet site (www.echr.coe.int). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.

The applicants, Šárka Dubská and Alexandra Krejzová, are Czech nationals who were born in 1985 and 1980 and live in Jilemnice and Prague (the Czech Republic) respectively. Both applicants wished to give birth at home. However, under Czech law health professionals are not allowed to assist with home births.

When pregnant with her second child in 2010, Ms Dubská decided to give birth at home, given her experience during the birth of her first child in 2007 in a hospital when she had been urged to have various medical interventions against her wishes and had been ordered to stay in hospital longer than she wished. On her enquiries, she was informed that Czech legislation did not provide for the possibility of a public health insurance to cover the costs of a birth at home and that midwives were allowed to assist at births only in premises with the technical equipment required by law. Ms Dubská eventually gave birth to her second child at home alone in May 2011. In February 2012, the Czech Constitutional Court dismissed her complaint about being denied the possibility of giving birth at home with the assistance of a health professional.

Ms Krejzová gave birth to her first two children at home, in 2008 and 2010 respectively, with midwives who assisted her without any authorisation from the State. At the time of lodging her application with the European Court of Human Rights, she was pregnant with her third child but unable to find a midwife, because under new legislation, in force from 1 April 2012, midwives risked heavy fines for providing medical services without authorisation. She ended up giving birth in May 2012, 140 km from Prague in a hospital with a reputation for respecting the wishes of mothers during delivery.

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, both applicants complain that mothers have no choice but to give birth in a hospital if they wish to be assisted by a health professional.

Procedure

The application was lodged with the European Court of Human Rights on 4 May 2011.

1 Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

In its Chamber [judgment](#) of 11 December 2014, the European Court of Human Rights held, by six votes to one, that there had been no violation of Article 8 of the Convention. It took into consideration, in particular, that there was no European consensus on whether or not to allow home births, and that this question involved the allocation of financial resources, for example for an adequate emergency system for home births. The Chamber concluded that States had a lot of room for manoeuvre (“margin of appreciation”) in regulating this issue. Moreover, the applicants did not have to bear a disproportionate burden on account of the fact that they could only be assisted by a medical professional if giving birth in a hospital.

On 1 June 2015 the case was referred to the Grand Chamber at the request of the applicants. The Governments of Croatia and the Slovak Republic as well as the following bodies and organisations intervened as third parties in the written proceedings (Article 36 § 2 of the Convention): the Royal College of Midwives; the International Study Group of the World Association of Perinatal Medicine and the International Academy of Perinatal Medicine (Weil Cornell Medical College); the Czech Union of Midwives (UNIPA); the Public Defender of Rights (Ombudsman) of Czech Republic.

Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Guido Raimondi (Italy), *President*,
András Sajó (Hungary),
Işıl Karakaş (Turkey),
Luis López Guerra (Spain),
Mirjana Lazarova Trajkovska (“the former Yugoslav Republic of Macedonia”),
George Nicolaou (Cyprus),
Kristina Pardalos (San Marino)
Julia Laffranque (Estonia),
Helen Keller (Switzerland),
Helena Jäderblom (Sweden),
Aleš Pejchal (the Czech Republic),
Valeriu Griţco (the Republic of Moldova),
Faris Vehabović (Bosnia and Herzegovina),
Dmitry Dedov (Russia),
Egidijus Kūris (Lithuania),
Jon Fridrik Kjølbro (Denmark),
Siofra O’Leary (Ireland), *judges*,
Paulo Pinto de Albuquerque (Portugal),
Ledi Bianku (Albania),
Khanlar Hajiyev (Azerbaijan),
Carlo Ranzoni (Liechtenstein), *substitute judges*,

and also Johan Callewaert, *Deputy Grand Chamber Registrar*.

Representatives of the parties

Government

Vít Alexander Schorm, *Agent*,
Petr Velebil, Ota Hlinomaz, Jana Martinková, Denisa Kopková, Irena Köhlerová and Jaroslav Feyereisl, *Advisers*;

Applicants

On behalf of Ms Šárka Dubská

Zuzana **Candigliota**, *Counsel*,
Stanislava **Sládeková**, *Counsel*,
Patricia **Janssen**, *Advisor*;

On behalf of Ms Alexandra Krejzová

Richard **Hořejší** and Adéla **Hořejší**, *Counsel*,
Markéta **Pavlíková**, *Advisor*.

The applicant, Ms Alexandra **Krejzová**, will also attend the hearing.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

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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.