



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

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### THIRD SECTION

Application no. 15541/20  
Rosa Edelmira PINDO MULLA  
against Spain  
lodged on 13 March 2020  
communicated on 16 April 2021

### SUBJECT MATTER OF THE CASE

The application concerns the medical treatment performed on the applicant, who is a Jehovah's Witness, against her will. The applicant, due to life-threatening health issues, was being transferred from Soria to a hospital in Madrid. The latter, knowing that the applicant was a Jehovah's Witness that had reportedly refused any medical treatment, lodged a motion before the duty judge requesting permission to safeguard the applicant's life and physical integrity. The duty judge (namely, the investigating judge no. 9 of Madrid) rendered a decision on 7 June 2018 ordering to save the applicant's life taking into account the lack of reliable evidence concerning her refusal to receive medical treatment. The proceedings were carried out speedily, the applicant being unidentified at that moment and under life-threatening health issues, and disregarding her living will, which specified that she did not accept blood transfusions. Pursuant to this decision a surgery was performed, and blood transfusions were administered to the applicant. This decision was upheld on appeal and by the Constitutional Court.

Relying on Articles 8 and 9 of the Convention, the applicant complained that while her refusal to certain medical treatments had been clearly established in many official relevant documents, they were ignored by domestic authorities.

## QUESTIONS TO THE PARTIES

1. Has there been a violation of the applicant's right to respect for her private life contrary to Article 8 of the Convention (see, among others, *Pretty v. the United Kingdom*, no. 2346/02, §§ 61, 62 and 65, ECHR 2002-III; *Parrillo v. Italy* [GC], no. 46470/11, § 153 ECHR 2015; *Oliari and Others v. Italy*, nos. 18766/11 and 36030/11, § 159, 21 July 2015)? In particular, have the domestic authorities duly obtained the informed consent of the applicant to the medical treatment administered, according to Articles 5, 6, 7, 8 and 9 of the Convention on Human Rights and Biomedicine (Oviedo Convention, STE n°164, 1997) and the Court's relevant case-law (see, *mutatis mutandis*, *Y.F. v. Turkey*, no. 24209/94, § 33, ECHR 2003-IX, *R.R. v. Poland*, no. 27617/04, §§ 180 and 208, ECHR 2011)?

2. Has there been an interference with the applicant's freedom of conscience or religion, within the meaning of Article 9 § 1 of the Convention? In particular, was her written living will, stated in the relevant official documents specifying that she did not accept blood transfusions owing to her beliefs, a manifestation of the applicant's freedom of religion within the meaning of this provision?

If so, was that interference necessary in terms of Article 9 § 2?

Has there been a violation of the applicant's freedom of conscience or religion, contrary to Article 9 of the Convention? (*Bayatyan v. Armenia* [GC], no. 3459/03, § 123, ECHR 2011; *Jehovah's Witnesses of Moscow and Others v. Russia*, no. 302/02, 10 June 2010)?

3. Were there any alternative treatments that would have respected the applicant's will? Since the applicant was aware that document n° 3 a) joined to her application, dated 6 June 2018, lacked her signature already for the proceedings before the first instance court, the applicant is required to explain the reason why she didn't ask for it until the domestic proceedings were over.