

## **CASE OF ARMONIEN v. LITHUANIA Application no.\_36919/02**

In the Chamber's judgment in the case of **ARMONIEN v. LITHUANIA** the European Court of Human Rights held, unanimously, that there had been:

**- a violation of Article 8 of the Convention (right to private life).**

### **I. Principal facts**

The Applicant, Judita Armonien , is a Lithuanian national. The case concerned the Applicant's right to an effective protection of the right to private life and the state's obligation to penalize acts damaging one's reputation.

In 2002 a Lithuanian major newspaper had disclosed an information that the Applicant's husband, Mr Laimutis Armonas, is HIV positive and that he has two children with a woman, who he was not married to and who had AIDS.

Lithuanian courts awarded him the maximum sum for non-pecuniary damage - about 2,900 €  
The Applicant appealed arguing that the adjudged sum of money was inappropriate and there was a violation of her husband's right to an effective domestic remedy.

### **II. Complaints and procedure**

Relying on Article 8 of the Convention, the applicant complained that the Republic of Lithuania had failed to fulfill its positive obligation to secure respect for her family's private life. The Applicant claimed that the sum awarded by the domestic courts is inappropriate, because of strength of the newspaper and there was no public interest in publishing the information – its aim was to “satisfy the prurient curiosity of a particular readership”. Moreover, the Article 54 § 1 of the Law on the Provision

of Information to the Public was inadequate in this case, as it limited the amount of non-pecuniary damages for abuse of press freedom and it constitutes a breach of Article 8.

### **III. Decision of the Court**

The Court found that Lithuanian law, because of this ceiling, did not provide sufficient protection of the right to private life. The Court noted that the publication of the article about the HIV status of the Applicant's husband and that he was the father of two children by another woman who was suffering from AIDS "cannot be deemed to contribute to any debate of general interest to society". The Court emphasized that the family lived in a village than big city, therefore such information could lead to opprobrium and the risk of ostracism. Hence this case fell within protection of Article 8.

Furthermore, the Court states that the publication of such information in the biggest national daily newspaper could have a negative impact on the willingness of others to take voluntary tests for HIV.

The Court agrees that a State enjoys a certain margin of appreciation in deciding how to interpret "respect" for private life in particular circumstances. However, the Court reminds that facts such as an economic situation of the State should be taken into account when determining the sum of compensation. The imposition of financial limits is not in itself incompatible with a State's positive obligation under Article 8 of the Convention, however, they cannot deprive the individual of his or her privacy and thereby empty the right of its effective content. In this regard compensation payments or fines which are too high may have a chilling effect on the freedom of the press and therefore constitute a breach of Article 10 of Convention.

Nevertheless in the presented application the severe legislative limitations failed to provide the Applicant with the protection that could have legitimately been expected under Article 8 of the Convention.

In these circumstances the Court held that there has been a violation of Article 8 of the Convention.

### **IV. Just satisfaction**

The court held that Lithuania was to pay the applicant the sum of 6,500 € The applicant also claimed 580 € in respect of cost and expenses. However, the Court notes that this sum is covered by the legal aid which the applicant has already received under its legal aid scheme and makes no further award under this head.

## **V. Dissenting opinion**

Judges Popovi and Tsotsoria expressed a partly dissenting opinion and judge Zagrebelsky expressed a dissenting opinion, which are annexed to the judgments.

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