



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

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SECOND SECTION

Application no. 18748/24
Nedjbedin KJERIMI and Others
against North Macedonia
lodged on 19 June 2024
communicated on 17 August 2026

SUBJECT MATTER OF THE CASE

The application concerns the applicants' complaints about the alleged inappropriate procedural response of the domestic authorities to the death of their relative ('the mother') and her child ('the child'), allegedly caused by medical negligence during childbirth. A list of the applicants is set out in the appendix.

On 18 January 2018 a caesarean section was performed on the mother in the private hospital S., with the participation of the gynaecologists S.D. and F.V. and the anaesthesiologist D.A. The mother died on the same day. The child survived but suffered permanent significant brain damage. Subsequently, on 11 January 2024 he passed away.

In the meantime, on 9 March 2020 a public prosecutor indicted D.A for an aggravated offence of medical negligence because at the time of the mother's surgery he had not had the required experience as anaesthesiologist and had incorrectly intubated her, which had ultimately caused her death and life-threatening injuries to the child. The trial court commissioned a medical expert report, which found the death of the mother to be a result of D.A.'s medical error, S.D. and F.V.'s wrong decision to operate on her, and the lack of adequate equipment in the hospital S. Based on that medical report and the statements of the medical experts, the trial court convicted D.A. and sentenced him to four years' imprisonment. On 28 December 2023 the Court of Appeal upheld the trial court's judgment, finding also that after that

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judgment D.A. could not be located. The applicants submit that he had escaped to Germany where he currently lives and works as a doctor.

On 13 January 2023 the prosecutor indicted S.D. and F.V. for medical negligence, and V.Kj. (the director of hospital S.) for negligent performance of duties (*несовесно работење во службата*). The proceedings appear to be still pending.

Relying on Articles 2 and 6 of the Convention, the applicants complain that the investigation into the death of the mother and the child was protracted, that the indictment against S.D., F.V. and V.Kj. was submitted belatedly which might result in the prosecution against them becoming time-barred, and that the State did not undertake any actions to enforce D.A.'s prison sentence.

QUESTIONS TO THE PARTIES

1. Has the prison sentence imposed on D.A. been executed? If not, the Government are invited to explain the reasons.

2. Are the criminal proceedings against S.D., F.V. and V.Kj. still pending? The parties are invited to provide copies of any relevant documents from those proceedings.

3. Did the State comply with its procedural obligation under Article 2 of the Convention? In particular,

(a) did the circumstances of the case require a criminal-law response (see, for example, *Nicolae Virgiliu Tănase v. Romania* [GC], no. 41720/13, §§ 157-61, 25 June 2019; *Lopes de Sousa Fernandes v. Portugal* [GC], no. 56080/13, §§ 214-16 and 232, 19 December 2017; *Asiye Genç v. Turkey*, no. 24109/07, §§ 73 and 83, 27 January 2015; and *Koceski v. the former Yugoslav Republic of Macedonia* (dec.), no. 41107/07, §§ 20-25, 22 October 2013)?

(b) was the procedural response of the domestic authorities to the deaths compliant with the requirements of Article 2 of the Convention? Did the alleged failure of the authorities to enforce the sentence imposed on D.A. amount to a violation of Article 2 (see, in the context of intentional infringement of the right to life, *Akelienė v. Lithuania*, no. 54917/13, §§ 82-93, 16 October 2018, and *Kitanovska Stanojkovic and Others v. the former Yugoslav Republic of Macedonia*, no. 2319/14, §§ 26-32, 13 October 2016; see also *Minneker and Engrand v. Belgium* (dec.), no. 45870/12, §§ 26-33, 7 February 2017)? Were the investigation and the ensuing criminal proceedings against S.D., F.V. and V.Kj. prompt (see *Lopes de Sousa Fernandes*, cited above, §§ 218-19; *Kotelnikov v. Russia*, no. 45104/05, §§ 105-06, 12 July 2016; *Anna Todorova v. Bulgaria*, no 23302/03, § 76, 24 May 2011; *Oyal v. Turkey*, no. 4864/05, § 76, 23 March 2010)?

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APPENDIX

No.	Applicant's name	Year of birth	Nationality	Place of residence
1.	Nedjbedin KJERIMI	1954	Macedonian/ citizen of North Macedonia	Kichevo
2.	Adelina KJERIMI	1983	Macedonian/ citizen of North Macedonia	Kichevo
3.	Emine KJERIMI	1955	Macedonian/ citizen of North Macedonia	Kichevo
4.	Jeta KJERIMI	1983	Macedonian/ citizen of North Macedonia	Kichevo
5.	Vjolca KJERIMI RUSHAJ	1986	Austrian	Hall / Tirol