



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

FIFTH SECTION

DECISION

Application no. 15076/25
L.C.G. and A.S.
against Spain

The European Court of Human Rights (Fifth Section), sitting on 17 September 2026 as a Committee composed of:

Diana Sârcu, *President*,

María Elósegui,

Sébastien Biancheri, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application (no. 15076/25) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 8 May 2025 by two Spanish and Romanian nationals, Ms L.C.G. and Mr A.S. (“the applicants”), who were born in 1981 and live in Mostoles;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the sufficiency of the first applicant’s informed consent in respect of a caesarean delivery that ultimately resulted in the death of the newborn nine days after birth and the first applicant’s right to withdraw informed consent in respect of a tubal ligation, specifically in view of the newborn’s critical medical conditions after the delivery. The second applicant is the first applicant’s partner and the newborn’s father.

2. The applicants relied on Article 8 of the Convention and Article 6 in conjunction with Article 14.

3. In July 2017 the applicants were expecting their second child. Following a medical check-up, the first applicant was diagnosed with metrorrhagia and foetal lung immaturity. Owing to the detection of placenta praevia, a caesarean delivery was scheduled for 22 August 2017, in respect of which she signed an informed consent document on 17 August 2017.

4. Additionally, on 26 July 2017 the first applicant signed an informed consent document in respect of a tubal ligation, to be carried out right after the caesarean delivery.

5. On 22 August 2017, following the performance of the caesarean delivery, the postnatal medical report observed that even though the newborn was considered to have had an appropriate weight for his gestational age, he had suffered from hypovolaemic shock as a result of severe metabolic acidosis and moderate to severe hypoxic-ischaemic encephalopathy. The newborn was admitted to an intensive care unit and, after a worsening of his medical conditions, he passed away on 31 August 2017. It is not disputed that the first applicant's tubal ligation took place immediately after the caesarean delivery.

6. The applicants brought a civil action claiming medical liability for negligent conduct and insufficiency of informed consent in respect of both medical procedures. The claim was dismissed by a civil court (*Juzgado de Primera Instancia no. 92 de Madrid*) on 3 July 2020, primarily on the grounds that no breach of *lex artis* in the delivery procedure could be identified. The court further pointed out that according to the expert evidence produced, the caesarean had turned out to be very complex and the foetus had had to be delivered quickly to avoid the risk of death. Such procedures were known to be capable of causing injuries to newborns. In addition, concerning the informed consent document, the civil court found that the form contained all the information necessary for the patient, particularly bearing in mind that the caesarean had been the sole possible option for delivery in view of the first applicant's medical conditions.

7. The applicants then lodged an appeal with the Madrid *Audiencia Provincial*. The appeal was dismissed on 4 November 2021, with the *Audiencia Provincial* upholding the assessment of the lower court. Furthermore, the *Audiencia Provincial* held that all the necessary information was also contained in the consent form in respect of the tubal ligation and that neither the worsening of the medical conditions nor the newborn's death could have been foreseen.

8. The applicants then lodged an appeal on points of law that was declared inadmissible by the Supreme Court on 29 November 2023 for lack of objective cassational interest. Lastly, the Constitutional Court declared an *amparo* appeal lodged by the applicants inadmissible for lack of constitutional significance by a decision of 29 January 2025.

9. Relying on Article 8 of the Convention and Article 6 in conjunction with Article 14 of the Convention, the applicants objected to the outcome of the domestic proceedings and complained that the informed consent document had not contained full and fair information about the caesarean delivery. In respect of the tubal ligation procedure, they complained that the first applicant should have been informed of the newborn's critical condition

immediately after the delivery so that she could have withdrawn her consent in view of being able to have more children in the future.

THE COURT'S ASSESSMENT

A. Alleged violation of Article 8 of the Convention

10. The applicants alleged that their right to respect for their private life under Article 8 of the Convention had been violated, and they argued that the informed consent document had contained incomplete information about the caesarean delivery.

11. In respect of the tubal ligation, they submitted that the first applicant should have been informed of the newborn's critical condition immediately after the delivery in order to have the option to withdraw her consent.

12. The relevant domestic and international law governing patient autonomy and the rights and obligations relating to clinical information and documentation have been summarised in *Reyes Jimenez v. Spain* (no. 57020/18, §§ 15-17, 8 March 2022).

13. Furthermore, the relevant general principles on the conditions regarding information and informed consent safeguarding patient's rights have been summarised in *Y.P. v. Russia* (no. 43399/13, §§ 49-51, 20 September 2022) and *Reyes Jimenez* (cited above, §§ 27-31).

14. The Court notes at the outset that, contrary to the substance of the dispute before the national courts, the question before it does not concern any alleged negligence on the part of the medical staff, but the sufficiency of the documents signed by the first applicant containing her informed consent before the caesarean delivery and the possibility of revoking her informed consent in respect of the tubal ligation, given the circumstances of the case.

15. The domestic legislative framework expressly provides for a patient's free and informed consent where a medical procedure may affect his or her physical integrity. In particular, Law no. 41/2002 of 14 November 2002 on patient autonomy and on rights and obligations in relation to clinical information and records, as supported by domestic practice, explicitly requires doctors to provide patients with sufficient and relevant preliminary information to enable informed consent to such an intervention, and this must include sufficient information on its risks. This is fully in line with the Convention on Human Rights and Biomedicine (Oviedo Convention; see *Reyes Jiménez*, cited above, § 17). Furthermore, national legal provisions specify that for each of the actions set out in law ("surgical intervention and, in general, the application of procedures involving risks or presenting disadvantages with known and foreseeable negative consequences for the patient's health"), this consent must necessarily be given in writing, with very narrowly defined exceptions, in particular where there is an immediate and

serious threat to the person's life and where the patient or their relatives are unable to give such consent (see *Reyes Jiménez*, cited above, § 32).

16. In the present case, the applicants brought their complaints before the domestic courts, claiming that the information form in respect of the caesarean delivery was not complete, as it did not mention any of the specific risks faced by the first applicant and the newborn in view of the medical and obstetric records, and that the medical staff had failed to inform the patient with respect to an eventual withdrawal of consent in respect of the tubal ligation.

17. The Court must thus examine at the outset whether the manner in which the applicants' complaints were dealt with by the domestic courts can be regarded as sufficient to satisfy the State's positive obligations under Article 8 of the Convention and, therefore, if, as observed by the domestic courts, the consents given by the first applicant in respect of the information available on the consent forms can be considered sufficient to cover both medical procedures and, furthermore, whether it was expected of the medical staff to take different actions in view of the medical circumstances.

18. The domestic courts held in the above-mentioned judgments that the informed consent document in respect of a caesarean delivery, such as that signed by the first applicant, offered the necessary information about the risks of such intervention, in accordance with applicable domestic law, in particular Law no. 41/2002, expressly where it was the only possible method of delivery in view of the medical circumstances.

19. Regarding the withdrawal of informed consent in respect of the tubal ligation, the Court refers to the domestic courts' decisions considering that neither the complications arising from the caesarean delivery nor the newborn's death had been foreseeable.

20. The Court observes, in respect of the informed consent document signed by the first applicant before the caesarean delivery, that the form contained the applicant's diagnosis of total placental occlusion, which impeded vaginal delivery. The form also stated that there had not been any safe alternative for the delivery with regard to both the mother and the foetus. In addition, even if the wording of the consent form may be regarded as somewhat generic, it clearly stated that there had existed a slight risk of mortality and that a caesarean delivery had not been without possible complications.

21. Furthermore, the Court cannot but observe that the death of the newborn had no connection with the first applicant's medical and gynaecological records on which the applicants based their claim concerning the lack of sufficient information provided. According to the findings of the domestic courts, the fatal outcome had been a consequence of the difficulties arising from the caesarean delivery.

22. As regards the first applicant's informed consent in respect of the tubal ligation, the Court notes that the complaint does not refer to a lack of

sufficiency of the information provided as such, but to the fact that the first applicant was not informed of the various medical circumstances of the newborn arising from the caesarean delivery. The applicants submitted that, had the first applicant been informed, she would have been able to withdraw the informed consent previously given, as it was her wish to have another child.

23. The Court observes that, according to the informed consent document signed by the first applicant, the tubal ligation was expected to be carried out immediately after the caesarean delivery, as it was to be performed by the surgeon.

24. The unfortunate death of the newborn occurred on 31 August 2017, whereas the caesarean delivery was carried out on 22 August. In the Court's view, it does not appear reasonable to expect the medical staff to have taken different actions from those which had been set out by the first applicant in her informed consent in respect of the tubal ligation. On the contrary, taking different actions would have meant disregarding the first applicant's clear indication to have the tubal ligation carried out right after the caesarean delivery. In addition, even if the withdrawal of informed consent were provided for under domestic law, it is not clear to the Court how the first applicant's view could have been sought by the medical staff in the particular circumstances of an ongoing surgical procedure and, as stated by the domestic courts, taking into account that it was not foreseeable that the caesarean delivery would have such an adverse outcome.

25. The foregoing considerations are sufficient for the Court to conclude that the State's positive obligations in this regard have been fulfilled. Accordingly, this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

B. Alleged violation of Article 6 in conjunction with Article 14 of the Convention

26. The applicants further complained under Article 6 in conjunction with Article 14 of the Convention that the proceedings had been unfair, as the domestic courts had rejected their grounds related to the flaws in the informed consent form regarding the caesarean delivery and to the withdrawal of the informed consent in respect of the tubal ligation. They submitted that the existing case-law on informed consent had not been properly applied, which they argued was in breach of the principle of equality.

27. The crux of the applicants' complaint lies in their challenge to the applicability of the relevant legislation and domestic case-law in the present case, which is in no way ambiguous on this point. The Court reiterates in this regard that it is not its role to take the place of the domestic courts. It is primarily for the national authorities, and in particular the courts and tribunals to interpret and assess compliance with domestic law (see *Ramos Nunes de*

Carvalho e Sá v. Portugal [GC], nos. 55391/13 and 2 others, § 186, 6 November 2018, and *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, § 251, 1 December 2020). That means that it is not its task to deal with errors of fact or law allegedly committed by a national court unless and in so far as such errors might have infringed rights and freedoms protected by the Convention. It may not itself assess the facts which led a national court to adopt one decision rather than another. If it were otherwise, the Court would be acting as a court of third or fourth instance, which would be to disregard the limits imposed on its action (see *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I; *Lupeni Greek Catholic Parish and Others v. Romania* [GC], no. 76943/11, § 90, 29 November 2016; and *De Tommaso v. Italy* [GC], no. 43395/09, §§ 170-72, 23 February 2017).

28. The domestic courts delivered their decisions in accordance with the principles related to adversarial proceedings. They provided reasons, which do not reveal any arbitrariness, for the rejection of the applicants' claims, as has been already examined in paragraphs 20 to 25 above. In the absence of any procedural irregularities, the Court finds no reason to conclude that the above-mentioned decisions of the domestic courts were affected by arbitrariness or that they were otherwise manifestly unreasonable.

29. Lastly, the Court observes that the applicants' complaint under Article 14 of the Convention is unsubstantiated and not supported by any evidence of a difference in treatment between persons in analogous or relevantly similar situations that could raise issues regarding the prohibition of discrimination.

30. Accordingly, the complaint under Article 6, taken in conjunction with Article 14 is likewise manifestly ill-founded and must be rejected in accordance with Article 35 § 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 8 October 2026.

Martina Keller
Deputy Registrar

Diana Sârcu
President