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

SECOND SECTION

CASE OF COSTA AND PAVAN v. ITALY

(Application no. 54270/10 (/sites/eng/pages/search.aspx#{"appno":["54270/10"]}))

JUDGMENT
[Extracts]

STRASBOURG

28 August 2012

FINAL

11/02/2013

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Costa and Pavan v. Italy,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Françoise Tulkens, *President,*
Dragoljub Popović,
Isabelle Berro-Lefèvre,
András Sajó,
Guido Raimondi,
Paulo Pinto de Albuquerque,
Helen Keller, *judges,*

Danutė Jočienė,
Işıl Karakaş, *substitute judges,*
and Françoise Elens-Passos, *Deputy Section Registrar,*
Having deliberated in private on 10 July 2012,
Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 54270/10 (/sites/eng/pages/search.aspx#{"appno":["54270/10"]})) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Italian nationals, Ms Rosetta Costa ("the first applicant" and Mr Walter Pavan ("the second applicant"), on 20 September 2010.

2. The applicants were represented by Mr Nicolò Paoletti and Ms Ginevra Paoletti, lawyers practising in Rome. The Italian Government ("the Government") were represented by their Agent, Ms E. Spatafora, and by their co-Agent, Ms P. Accardo.

3. The applicants, who are healthy carriers of cystic fibrosis, complained that they had no access to preimplantation genetic diagnosis for the purposes of selecting an embryo unaffected by the disease and alleged that the technique was available to categories of persons to which they did not belong. They relied on Articles 8 and 14 of the Convention.

4. On 4 May 2011 the President decided, at the request of the applicants, to give priority to the application (Rule 41 of the Rules of Court).

5. On 7 June 2011 the application was communicated to the Government. It was also decided that the Chamber would examine the merits of the application at the same time as its admissibility (Article 29 § 1).

6. Pursuant to Rule 44 § 3, on 31 August and 7 November 2011 respectively the President granted two requests for leave to intervene in the written procedure. The first was submitted by Mr Grégor Puppinck on behalf of the European Centre for Law and Justice (ECLJ), the association Movimento per la vita and fifty-two Italian members of parliament (hereafter "the first third-party intervener") and the second by Ms Filomena Gallo on behalf of the associations Luca Coscioni, Amica Cicogna Onlus, Cerco un bimbo, L'altra cicogna and sixty Italian and European members of parliament (hereafter "the second third-party intervener"). The third-party interveners filed their observations on 22 September and 28 November 2011 respectively.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicants were born in 1977 and 1975 respectively and live in Rome.

8. Following the birth of their daughter in 2006, the applicants learned that they were healthy carriers of cystic fibrosis[1]. The child had been born with the disease.

9. In February 2010, when the first applicant was pregnant again, the applicants, who wanted to have a healthy child unaffected by the genetic disease, had a prenatal test carried out. The results showed that the foetus was affected by cystic fibrosis. The applicants then decided to have the pregnancy terminated on medical grounds.

10. The applicants now want to take advantage of assisted reproduction technology (hereafter “ART”) and preimplantation genetic diagnosis[2] (hereafter “PGD”) before the first applicant becomes pregnant again. However, under Law no. 40 of 19 February 2004, ART is available only to sterile or infertile couples. There is a blanket ban on the use of PGD.

11. By a decree of 11 April 2008, the Ministry of Health extended access to ART to couples in which the man suffers from a sexually transmissible viral disease (such as the HIV virus, or hepatitis B and C) to allow them to conceive children without the risk of contamination of the woman and/or the fœtus inherent in conception by natural means.

12. According to the information provided by the Government and the first third-party intervener, this operation is done by “sperm washing” prior to *in vitro* fertilisation.

II. RELEVANT DOMESTIC LAW

1. Law no. 40 of 19 February 2004 (“Rules on assisted reproduction technology”)

Section 4(1)
Access to technology

“Access to assisted reproduction technology shall be authorised only where proof is adduced that it is otherwise impossible to eliminate the causes of inability to procreate, and, in any event, [said access] shall be limited to medically certified inexplicable cases of sterility or infertility and to cases of sterility or infertility [deriving] from a medically certified and verified cause. ...”

Section 5(1)
Subjective conditions

“... Adult couples, composed of two persons of opposite sex, who are married or living together as a couple, of potentially fertile age and alive may have access to assisted reproduction technology.”

Section 14(5)
Limits on application of technology to embryos

“Individuals satisfying the conditions provided for in section 5 shall be informed of the number and, at their request, the state of health of the embryos produced and destined to be transferred into the womb.”

2. Ministry of Health decree no. 15165 of 21 July 2004

Measures protective of the embryo

“... Any test regarding the state of health of an embryo created *in vitro*, within the meaning of section 14(5) [of Law no. 40 of 2004], must be for observation purposes alone (*dovrà essere di tipo osservazionale*). ...”

3. Ministry of Health decree no. 31639 of 11 April 2008

13. In this decree the reference to “observation” purposes mentioned in Ministry of Health decree no. 15165 of 21 July 2004 was deleted.

14. Furthermore, the part of this decree concerning certification of infertility or sterility provides that, for the purposes of access to assisted reproduction technology, this must be done

"... having regard also to particular conditions in the presence of which – where the man is a carrier of a sexually transmissible viral disease by infection with HIV, or hepatitis B and C – the high risk of infection for the mother or for the fœtus constitutes *de facto*, in objective terms, an obstacle to procreation, requiring precautions that necessarily result in infertility of a kind comparable to acute male infertility deriving from a verified and medically certified cause such as that referred to in section 4(1) of Law no. 40 of 2004".

4. Judgment of the Lazio Regional Administrative Court no. 398 of 21 January 2008

15. In this judgment the court set aside on grounds of *ultra vires* the part of Ministry of Health decree no. 15165 of 21 July 2004 limiting any test relating to the state of health of embryos created *in vitro* to observation purposes alone. The court found that the power to establish the scope of application of such tests was a matter for the legislature alone and not the ministry, which had purely implementing powers.

5. Order no. 12474/09 (/sites/eng/pages/search.aspx#{"appno":["12474/09"]}) of the Salerno Court, deposited on 13 January 2010

16. In this order, following urgent proceedings, the delegated judge of the Salerno Court granted, for the first time, a couple who were neither sterile nor infertile, and both healthy carriers of muscular atrophy, access to PGD.

17. The judge referred, among other things, to the new provisions introduced by the Ministry of Health decree no. 31639 of 11 April 2008 no longer limiting tests on the state of health of embryos created *in vitro* to observation purposes alone and authorising access to assisted reproduction for couples in which the man carried a sexually transmissible viral disease.

18. He thus considered that PGD had to be regarded as one of the prenatal monitoring techniques for ascertaining an embryo's state of health. Accordingly, prohibiting access to the technique, in the claimants' case, engaged the medical liability of the Health Director of the Centre for Reproductive Medicine, who was the defendant in the proceedings, for failure to provide a health service.

19. The judge also found that since the mother had the right to abort an unhealthy fœtus, it would be unreasonable not to guarantee her the right to know the state of health of the embryo by means of PGD.

20. The judge accordingly ordered the health director to carry out a PGD on the claimants' *in vitro* embryo in order to determine whether it was affected by muscular atrophy.

III. RELEVANT EUROPEAN LAW

1. The Council of Europe Convention on Human Rights and Biomedicine (Oviedo Convention) of 4 April 1997

21. The relevant parts of this Convention read as follows:

Article 12 – Predictive genetic tests

"Tests which are predictive of genetic diseases or which serve either to identify the subject as a carrier of a gene responsible for a disease or to detect a genetic predisposition or susceptibility to a disease may be performed only for health purposes or for scientific research linked to health purposes, and subject to appropriate genetic counselling".

22. Paragraph 83 of the Explanatory Report to the Oviedo Convention provides:

Article 12 as such does not imply any limitation of the right to carry out diagnostic interventions at the embryonic stage to find out whether an embryo carries hereditary traits that will lead to serious diseases in the future child.

23. The Oviedo Convention, signed on 4 April 1997, has not been ratified by the Italian Government.

2. Directive 2004/23/EC of the European Parliament and of the Council of 31 March 2004

24. This directive has established a minimum quality and safety standard for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells, thus providing for harmonisation of national regulations. It also covers embryos transferred following PGD.

3. Background document on preimplantation and prenatal genetic testing published by the Steering Committee on Bioethics (CDBI) of the Council of Europe on 22 November 2010 (CDBI/INF (2010) 6)

25. The CDBI drew up this report with a view to providing information on preimplantation and prenatal diagnosis and the legal and ethical questions arising from their use in various European countries. The relevant extracts of this document are worded as follows:

[a) Context]

"*In vitro* fertilisation has been performed since the late '70s to help couples with fertility problems. Advances in reproductive medicine have opened new possibilities to avoid genetic disease by selective transfer of embryos. At the beginning of the'90s, preimplantation genetic diagnosis (PGD) was introduced as a possible alternative to prenatal genetic diagnosis (PND) for couples at risk of transmitting a particularly severe genetic defect, avoiding the difficult decision of whether or not to terminate a pregnancy."

[b) PGD cycle]

"A "PGD cycle" comprises the following steps: ovarian stimulation, oocyte retrieval, *in vitro* fertilisation of several mature oocytes, by introcytoplasmic sperm injection (ICSI), removal of 1 or 2 embryonic cells, genetic analysis of nuclear material from those cells and lastly selection and transfer of embryos not carrying the abnormal genetic characteristics in question."

[c) PGD uses]

"Use of PGD for medical indications has been offered to couples at high risk of transmitting a specific genetic disease of particular gravity ... and untreatable at the time of diagnosis. The risk was often identified on the basis of family history or the birth of affected children. Numerous monogenic indications currently meet these criteria justifying application of PGD, such as cystic fibrosis, Duchenne Muscular Dystrophy, myotonic dystrophy, Huntington's disease, spinal muscular atrophy in infants and haemophilia."

"In those countries where preimplantation genetic diagnosis (PGD) is performed, it has become an established clinical method to analyse genetic characteristics of embryos created by *in vitro* fertilisation, and to obtain information which is used to select the embryos to be transferred. The use of PGD is mainly requested by couples carrying genetic conditions linked to severe disorder or premature death of their offspring who wish to avoid initiation of a pregnancy that may not come to term or that may entail the difficult question of terminating the pregnancy in case of a detected particularly severe genetic defect."

4. The report "Preimplantation Genetic Diagnosis in Europe" drawn up by the JRC (Joint Research Centre) of the European Commission, published in December 2007 (EUR 22764 EN)

26. This report shows that PGD patients from countries where the practice is prohibited go abroad for the diagnosis. Italian patients generally go to Spain, Belgium, the Czech Republic or Slovakia.

27. The study also points to the inconsistency of legislative provisions which prohibit access to PGD yet authorise access to prenatal diagnosis and medical termination of pregnancy in order to avoid serious genetic diseases in children.

5. Report on the proposal for a Council recommendation on a European action in the field of rare diseases (European Parliament 23 April 2009)

28. The relevant parts of the press release on this report read as follows:

> "Concerted action at EU and national level is needed to tackle this problem, according to a report adopted by Parliament today. The current EU legislative framework is poorly suited to rare diseases and not well defined. Although rare diseases contribute greatly to morbidity and mortality, they are mostly invisible in health care information systems due to the lack of appropriate coding and classification systems. ... Parliament adopted an amendment today which recommends that Member States encourage efforts to avoid rare diseases which are hereditary, through genetic counselling of carrier parents and, where appropriate and "not contrary to existing national laws and always on a voluntary basis, through pre-implantation selection of healthy embryos"."

6. Comparative law

29. The documents in the Court's possession (namely, the reports of the Council of Europe and the European Commission, paragraphs 25 to 27 above) show that PGD is banned, at least for the prevention of transmission of genetic diseases, in the following countries: Austria, Italy and Switzerland.

30. With regard to Switzerland, the Court notes that on 26 May 2010 the Federal Council submitted for consultation a draft amendment to the current ban on PGD contained in the Assisted Reproduction Act, to provide for regulated access. An amendment to Article 119 of the Federal Constitution will be necessary in order to implement the change.

31. It also appears that PGD is authorised in the following countries: Germany, Belgium, Denmark, Spain, Finland, France, Georgia, Greece, Norway, the Netherlands, Portugal, the Czech Republic, the United Kingdom, the Russian Federation, Serbia, Slovenia and Sweden.

32. PGD is not the subject of specific regulations in the following countries: Bulgaria, Cyprus, Malta, Estonia, Ireland, Latvia, Luxembourg, Poland, Romania, Slovakia, Turkey and Ukraine. The Court notes that three of those countries (Cyprus, Turkey and Slovakia allow access to PGD in practice.

33. The Court also observes that in the case of *Roche v. Roche and Others* (*[2009] IESC 82 (2009*)), the Irish Supreme Court established that the concept of the unborn child did not apply to embryos created through *in vitro* insemination, which accordingly did not benefit from the protection provided for in Article 40.3.3. of the Irish Constitution recognizing the right to life of the unborn child. In that case the applicant, who had already had a child following *in vitro* fertilisation, had applied to the Supreme Court for leave to have implanted three other embryos created by the same fertilisation process, despite the lack of consent of her former partner from whom she had separated in the meantime.

7. Relevant information from the "Bill amending the Assisted Reproduction Technology Act of 6 July 2007 ..." – Belgian Senate, session 2010-2011

34. This Bill seeks to extend the use of PGD to precluding the risk of giving birth to a child who is a healthy carrier of a serious genetic disease (access to this technique to avoid giving birth to children affected by genetic diseases being already provided for in Belgian law). The relevant passages of the Bill are set out below:

"Requests for preimplantation testing have increased over time and this is now an option for couples who run a high risk of giving birth to a child with a serious hereditary disorder where mutation can be detected. ...

Future parents generally prefer preimplantation genetic diagnosis (PGD) to prenatal diagnosis. Indeed ... "where the fœtus is affected this will involve terminating the pregnancy from three months onwards, which is generally a source of mental distress for parents who have invested emotionally in the fœtus as their future child ... Moreover, it is possible that several successive pregnancies have to be terminated before a healthy fœtus can be obtained [Source: Bioethics Advisory Committee, opinion no. 49 on the use of PGD]

Accordingly, the main advantage of preimplantation testing is that termination of pregnancy can be avoided. It has been observed that this constitutes the main motivation of the majority of couples seeking the treatment, these couples having often already endured the distressing experience of terminating a pregnancy on medical grounds."

THE LAW

...

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

35. Relying on Article 8 of the Convention, the applicants complained of a violation of their right to respect for their private and family life in that their only means of producing children unaffected by the disease of which they were healthy carriers was to commence a pregnancy by natural means and medically terminate it whenever the prenatal diagnosis showed that the foetus was affected.

36. The relevant parts of Article 8 of the Convention provide:

"1. Everyone has the right to respect for his private and family life ... .

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society ... for the protection of health or morals, or for the protection of the rights and freedoms of others."

...

B. Merits

1. The parties' submissions

a) The Government

37. The Government observed that the applicants were relying in substance on a "right to have a healthy child", which was not protected as such by the Convention. Accordingly, their complaint was inadmissible *ratione materiae*.

38. Were the Court to consider that Article 8 was nonetheless applicable to the present case, the applicants' right to respect for their private and family life had not in any case been infringed because the ban on PGD was a measure in accordance with the law which pursued a legitimate aim – protecting the rights of others and morals – and was necessary in a democratic society.

39. In regulating access to PGD, the State had taken account of the health of the child and the woman, the latter being susceptible to depression on account of ovarian stimulation and oocyte retrieval. Furthermore, the measure in question was designed to protect the dignity and freedom of conscience of the medical professions and precluded the risk of eugenic selection.

40. Lastly, given the lack of a European consensus in this area, the member States enjoyed a wide margin of appreciation since the present application related to moral, ethical and social issues.

b) The applicants

41. The applicants observed that "the right to respect for both the decisions to become and not to become a parent", particularly in the genetic sense, fell within the concept of right to respect for private and family life (see *Evans v. the United Kingdom* [GC], no. 6339/05 (/sites/eng/pages/search.aspx#{"appno":["6339/05"]}), § 71, ECHR 2007−I).

42. In this context the State should refrain from interfering in any way in the individual's choice as to whether or not to procreate. The State also had a duty to put measures in place to allow that choice to be freely made.

c) The third-party interveners

43. The first third-party intervener reiterated the observations of the respondent Government. They also observed that, like the ban on PGD, the possibility of a legal abortion sought to protect the life of the unborn child since the system provided alternatives to abortion by putting in place social measures, for example. Furthermore, PGD involved the elimination of several human beings whereas an abortion eliminated only one.

44. The second third-party intervener submitted that access to artificial insemination followed by PGD would allow the applicants to conceive a child unaffected by the hereditary disease, without having recourse to abortions on medical grounds. This would accordingly also protect the first applicant's health.

2. The Court's assessment

a) The scope of the complaint lodged by the applicants and its compatibility *ratione materiae* with the rights guaranteed by Article 8 of the Convention

45. The Court notes first of all that, in order to establish whether the complaint lodged by the applicants is compatible *ratione materiae* with Article 8 of the Convention, it is essential to determine the scope of the complaint.

46. It observes that the Government and the first third-party intervener have alleged that the applicants complain of a violation of a “right to have a healthy child”. The Court notes, however, that the right relied on by the applicants is confined to the possibility of using ART and subsequently PGD for the purposes of conceiving a child unaffected by cystic fibrosis, a genetic disease of which they are healthy carriers.

47. In the present case PGD cannot exclude other factors capable of compromising the future child’s health, such as, for example, the existence of other genetic disorders or complications arising during pregnancy or birth, since the test in question seeks to diagnose a “specific genetic disease of particular gravity ... and untreatable at the time of diagnosis” (see the report of the CDBI of the Council of Europe, part b. “PGD Cycle”, paragraph 25 above).

48. The Court reiterates that the notion of “private life” within the meaning of Article 8 is a broad concept which includes, among other things, the right to establish and develop relationships with other human beings (see *Niemietz v. Germany*, 16 December 1992, § 29, Series A no. 251−B), the right to “personal development” (see *Bensaïd v. the United Kingdom*, no. 44599/98 (/sites/eng/pages/search.aspx#{"appno":["44599/98"]}), § 47, ECHR 2001-I), or alternatively the right to self-determination (see *Pretty v. the United Kingdom*, no. 2346/02 (/sites/eng/pages/search.aspx#{"appno":["2346/02"]}), § 61, ECHR 2002−III). Factors such as sexual identity, orientation and life also fall within the personal sphere protected by Article 8 (see, for example, *Dudgeon v. the United Kingdom*, 22 October 1981, § 41, Series A no. 45, and *Laskey, Jaggard and Brown v. the United Kingdom*, 19 February 1997, § 36, *Reports of Judgments and Decisions* 1997−I), as does the right to respect for the decisions to become or not to become a parent (see *Evans*, cited above, § 71; *A, B and C v. Ireland* [GC], no. 25579/05 (/sites/eng/pages/search.aspx#{"appno":["25579/05"]}), § 212, ECHR 2010; and *R.R. v. Poland*, no. 27617/04 (/sites/eng/pages/search.aspx#{"appno":["27617/04"]}), § 181, ECHR 2011 (extracts)).

49. Under Article 8 of the Convention, the Court has also acknowledged a right to respect for the decision to become genetic parents (see *Dickson v. the United Kingdom* [GC], no. 44362/04 (/sites/eng/pages/search.aspx#{"appno":["44362/04"]}), § 66, ECHR 2007−V, with the references cited therein) and concluded that Article 8 applies to heterologous insemination techniques for *in vitro* fertilisation (see *S.H. and Others v. Austria* [GC], no. 57813/00 (/sites/eng/pages/search.aspx#{"appno":["57813/00"]}), § 82, ECHR 2011).

50. In the present case the Court considers that the applicants’ desire to conceive a child unaffected by the genetic disease of which they are healthy carriers and to use ART and PGD to this end attracts the protection of Article 8, as this choice is a form of expression of their private and family life. Consequently, this provision is applicable in the present case.

b) Compliance with Article 8 of the Convention

i. Interference “in accordance with the law” and legitimate aim

51. The Court observes that, under Italian law, assisted reproductive technology is available only to sterile or infertile couples and to couples in which the man is a carrier of a sexually transmissible viral disease (HIV, hepatitis B and C) (see section 4(1) of Law no. 40/2004 and Ministry of Health decree no. 31639 of 11 April 2008). As the applicants do not fall into those categories, they have no access to assisted reproductive technology. With regard to PGD, the Government have explicitly acknowledged that the

domestic law imposes a blanket ban on access to this technique ... . The ban in question thus amounts to an interference with the applicants' right to respect for their private and family life.

52. In the Court's view, such interference is certainly "in accordance with the law" and can be regarded as pursuing the legitimate aims of protecting morals and the rights and freedoms of others, which is undisputed by the parties.

ii. Necessary in a democratic society

53. The Court notes at the outset that the applicants' complaint does not concern the question whether, taken alone, the ban on their recourse to PGD is compatible with Article 8 of the Convention. The applicants complain of a lack of proportionality of such a measure given that Italian law does allow them to abort the foetus if it is affected by the disease of which they are carriers.

54. In order to justify this interference, the Government refer to the concern to protect the health of "the child" and the woman, the dignity and freedom of conscience of the medical professions and the interest in precluding a risk of eugenic selection.

55. The Court is not persuaded by those arguments. While stressing that the concept of "child" cannot be put in the same category as that of "embryo", it fails to see how the protection of the interests referred to by the Government can be reconciled with the possibility available to the applicants of having an abortion on medical grounds if the fœtus turns out to be affected by the disease, having regard in particular to the consequences of this both for the fœtus, which is clearly far further developed than an embryo, and for the parents, in particular the woman (see the report of the CDBI of the Council of Europe and the information contained in the Belgian Bill, paragraphs 25 and 34 above).

56. Furthermore, the Government have failed to explain how the risk of eugenic selection and affecting the dignity and freedom of conscience of the medical professions would be averted in the event of an abortion being carried out on medical grounds.

57. The Court cannot but note that the Italian legislation lacks consistency in this area. On the one hand it bans implantation limited to those embryos unaffected by the disease of which the applicants are healthy carriers, while on the other hand it allows the applicants to abort a fœtus affected by the disease (see also the report of the European Commission, paragraph 27 above).

58. The consequences of such legislation for the right to respect for the applicants' private and family life are self-evident. In order to protect their right to have a child unaffected by the disease of which they are healthy carriers, the only possibility available to them is to start a pregnancy by natural means and then terminate it if the prenatal test shows that the fœtus is unhealthy. In the instant case the applicants have already terminated one pregnancy for that reason, in February 2010.

59. In these circumstances the Court should not underestimate either the anxiety experienced by the first applicant, whose only hope of having another child, since she is unable to have recourse to PGD, carries the concomitant risk that the child will be born with the disease or the suffering inherent in the painful decision to undergo, as the case may be, an abortion on medical grounds.

60. The Court also notes that in the case of *S.H.* (cited above, § 96), the Grand Chamber established that, in cases of heterologous insemination, having regard to medical and scientific developments, the State's margin of appreciation could not be decisively narrowed.

61. While acknowledging that the question of access to PGD raises sensitivie moral and ethical questions, the Court notes that the solutions reached by the legislature are not beyond the scrutiny of the Court (see, *mutatis mutandis*, *S.H.*, cited above, § 97).

62. In the present case the Court reiterates that, unlike the case of *S.H.* (cited above), where the Court assessed the compatibility of Austrian law prohibiting heterologous insemination with Article 8 of the Convention, its task in this case, which concerns homologous insemination, is to verify the proportionality of the measure in question in the light of the fact that termination of pregnancy on medical grounds is an option for the applicants (see paragraph 60 above).

63. It is therefore a specific situation which, according to the comparative-law materials in the Court's possession, apart from Italy, concerns only two of the thirty-two States studied, namely, Austria and Switzerland. Moreover, with regard to the latter State, the Court notes that a draft amendment to the current ban on PGD, to provide for regulated access, is now being examined (see paragraph 30 above).

3. Conclusion

64. Having regard to the above-described inconsistency in Italian legislation on PGD, the Court considers that the interference with the applicants' right to respect for their private and family life was disproportionate. Accordingly, there has been a violation of Article 8 of the Convention in the present case.

...

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

...

2. *Holds* that there has been a violation of Article 8 of the Convention;

...

Done in French, and notified in writing on 28 August 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise Elens-Passos Françoise Tulkens
Deputy Registrar President

[1] Mucoviscidosis, or cystic fibrosis, is a hereditary disease characterised by abnormally viscous mucus that is secreted by the pancreatic ducts and bronchial tubes. The disease, which most commonly manifests itself in breathing difficulties, culminates – at varying rates – in severe respiratory failure which is often fatal if not treated by lung transplant. Source: *Larousse Medical Dictionary*.

[2] Preimplanation genetic diagnosis: Identification of genetic abnormalities, by means of molecular biology techniques, in embryos conceived by *in vitro* fertilisation. Source: *Larousse Medical Dictionary*.