

The possibilities for remote participation in court sessions through the use of videoconference links are widely used in the Supreme Court of Cassation and in the other courts, in particular now – in pandemic conditions.

As an example, we present you two minutes from court sessions with remote hearing of parties.

MINUTES

city of Sofia, 26 January 2021

THE SUPREME COURT OF CASSATION of the Republic of Bulgaria, third criminal department, in an open court session on the twenty-seventh of January two thousand twenty-one, composed, as follows:

PRESIDING JUDGE: LADA PAUNOVA
MEMBERS: DANIELA ATANASOVA
MAYA TSONEVA

with the participation of the secretary Iliyana Petkova and public prosecutor Kiril IVANOV, put to hearing criminal case No.499 in the docket for year 2020, reported by judge DANIELA ATANASOVA.

The following persons appeared at the roll-call at 13:30:

The criminal defendant The criminal defendant Slavka Valeva Kirilova-Borizanova appears in person.

Her authorised defence counsels appear – attorney-at-law attorney-at-law Ina LULCHEVA and attorney-at-law Ivan SOTIROV.

The defence counsels attorney-at-law Krasimir Georgiev and Petar Angelov Borizanov do not appear.

The appellants, civil claimants and private prosecutors Yulia Ivanova Dyulgerova and Stanimir Todorov Dyulgerov, validly summoned, do not appear.

For them there appears the authorised proxy attorney-at-law Vaklena KANCHEVA.

The experts prof. Dr Dobrinka Demireva RADOYNOVA, Dr Lilyana Nikolova PETKOVA, Dr Zhivko Atanasov ZHELYAZKOV, ass. prof. Dr Georgi Petkov ILIEV and Dr Elena Aleksandrova Sheytanov appear in person.

The court reports that by a procedural order from an open court session of 27 October 2020 it admit a repeated interrogation of the experts under the complex five-member forensic medical expert examination under appellate publicly prosecutable criminal case No.194/2019 of the Varna Court of Appeal.

The court reports that by an order of the judge-rapporteur of 08 December 2020 it is ordered to carry out the interrogation of the experts via a video conference implemented with the Varna Court of Appeal.

In accordance with the received order, the experts are summoned and are in the courtroom of the Varna Court of Appeal, which has special video-conference connection equipment.

Judge Svetla Daskalova is also in the courtroom in order to verify the identity of the experts before their interrogation.

THE PUBLIC PROSECUTOR: The case should be proceeded with.

Attorney-at-law LULCHEVA: The case should be proceeded with.

Attorney-at-law SOTIROV: The case should be proceeded with.

Attorney-at-law KOLEVA: The case should be proceeded with.

THE COURT, having taken into account the parties' opinion and having found no procedural obstacles to the hearing of the case in the today's session

RULED:

IT HEREBY PROCEEDS WITH THE CASE

A verification of the experts' identity is carried out by judge Svetla Daskalova who is in the courtroom of the Varna Court of Appeal, as follows:

Dobrinka Demireva Radoynova – Yalamova, at the age of 68, Bulgarian, Bulgarian citizen, never convicted, with higher education, with no cases and kinship with the parties.

Georgi Petkov Iliev at the age of 35, Bulgarian, Bulgarian citizen, never convicted, with higher education, with no cases and kinship with the parties.

Elena Aleksandrova Sheytanov – Petrova at the age of 61, Bulgarian, Bulgarian citizen, never convicted, with higher education, with no cases and kinship with the parties.

Lilyana Nikolova Petkova at the age of 60, Bulgarian, Bulgarian citizen, never convicted, with higher education, with no cases and kinship with the parties.

Zhivko Atanasov ZHELYAZKOV at the age of 53, Bulgarian, Bulgarian citizen, never convicted, with higher education, with no cases and kinship with the parties.

The experts are warned about the liability they bear under Article 291 of the Criminal Procedure Code.

The court, having taken into account that the proceedings are conducted under the procedure of Article 354, Paragraph 5 of the Criminal Procedure Code,

RULED:

IT HEREBY PROCEEDS WITH THE COURT INVESTIGATION

IT HEREBY PROCEEDS to interrogation of the experts who drew up the five-member forensic medical expert examination. The interrogation is carried out by the judge-rapporteur.

Question by the court: Do you support the conclusion under the heard and accepted complex five-member forensic medical expert examination prepared by you?

The expert prof. RADOYNOVA: We support the conclusion.

Question by the court: In the reply to the first question you have found that the reason of the death of Aleksandra Dyulgerova is the respiratory and cardiovascular insufficiency caused by the quickly developing epiglottitis, right?

The expert prof. RADOYNOVA: Yes, that is right, as well as the brain oedema. Severe cardiovascular and respiratory insufficiency and the brain oedema that developed on the basis of the severe and quickly progressing additional bacterial infection result in a brain oedema with herniation of the tonsil of cerebellum. These processes are in practice running in parallel.

Question by the court: In the reply to the second question and in the oral explanations you supported the thesis that there is no specific algorithm "how to handle epiglottitis". From a medical point of view what do you mean saying that as at the moment of commission of the offence there is no precise treatment algorithm? How was the treatment carried out then?

The expert Dr SHEYTANOV: There are no general principles of treatment of epiglottitis – what is first, second, third. This means that there is no specific algorithm. In practice, the administrations are made in parallel for the treatment of epiglottitis.

Question by the court: What is administered in parallel for the treatment of epiglottitis?

The expert Dr SHEYTANOV: It is noted. These are corticosteroids, oxygen, infusions, medicines, inhalations, supplying oxygen by a mask in this case.

Question by the court: How about intubation?

The expert Dr SHEYTANOV: Intubation is prescribed at a certain moment, if there is need to do so.

Question by the court: Can all these medical acts be performed at a time or they have to be applied in a certain sequence one after the other?

The expert Dr SHEYTANOV: In practice, they are simultaneous. We attach the oxygen, we put an intravenous line, we conduct inhalations, we make the administrations. In practice there is a difference of a minute or two. In general they are not one after the other. In this case the first thing to start with is the oxygen.

Question by the court: The question is how epiglottitis is generally treated rather than how they started in this case?

The expert Dr SHEYTANOV: I think I answered in general. Oxygen, corticosteroid, appropriate antibiotic, other infusions as may be necessary, inhalations. The oxygen is top priority.

Question by the court: At what point is intubation required?

The expert Dr SHEYTANOV: There is no requirement – initial and post-medicine treatment. It is a matter of discretion of the person who is in charge of the treatment.

Question by the court: You have explained that hospitalisation in the Department of Anaesthesiology and Intensive Care on the basis of documents is made either from the emergency department or the patient is transferred from another department. Does it mean that the patient with a direction from the outpatient card issued by the criminal defendant cannot be directed to the Department of Anaesthesiology and Intensive Care?

The expert Dr SHEYTANOV: It is not possible directly. This is what we meant.

Question by the court: After the criminal defendant diagnosed epiglottitis what had to be done, where was she to direct the child to for medical treatment, to what ward, hospital establishment after the examination made by her, before she was admitted to the children ward?

The expert Dr SHEYTANOV: The child must be admitted somewhere so as to start the manipulations in order to decide whether the child will remain there or will be transferred to the department of intensive care. This is the fastest way to respond.

Question by the court: How is that ward or department chosen, is it possible to accommodate the child, e.g. in a surgery or neurology department? What is the department, to which a child diagnosed by a doctor with epiglottitis should be sent?

The expert Dr SHEYTANOV: Either children's ward or the department of intensive care, as the case may be.

Question by the court: What do you mean saying "as the case may be"?

The expert Dr SHEYTANOV: Depending of the severity of the illness.

Question by the court: In this particular case where should the child have been directed to for admission in view of the set of symptoms found by her when she carried out the examination and reached the Diagnosis

The expert ass. prof. ILIEV: The child is correctly directed to a children's ward, for specialised paediatric aid, where an assessment would be made whether the child would continue its treatment in a children diseases clinic or would be transferred, if need arises, to the department of intensive care.

Question by the court: Is it related to the circumstance that it is about a child or to the diagnosis?

The expert ass. prof. ILIEV: It is relevant. Both things are interrelated and cannot be distinguished from each other. Children are admitted the children's ward and the diagnosis prevails in this case.

Question by the court: So, it is irrelevant whether this department can have the intubation conditions and apparatuses, the assessment criteria are other, right?

The expert ass. prof. ILIEV: The structure of the healthcare system in Bulgaria is, as follows: each of us, of the population, has a family general practitioner, who – when unable to cope or when the illness goes beyond the competence of the respective colleague – issues a direction in order to direct the patient to specialised or hospital aid.

The colleague – general practitioner issued a direction for hospitalisation, in this case an emergency one, and directed the patient to a hospital establishment where the child is quite logically admitted to a children's ward, where a decision is made at a certain moment that the child has to be subjected to intubation and she is subject to intubation. Unfortunately, the child does not respond to the applied medicines.

Question by the court: Why have you written that in the treatment, in the reply to question two on page 20 that in case of doubt of epiglottitis, the child must be directed for admission to a department of intensive care with readiness for intubation. And now you tell us something different.

The expert prof. RADOYNOVA: a resuscitator was called. It is not different. The child must be admitted to a children's ward. When we have a sever child's case, we first act and then fill in the documents. At this time a decision must be made whether to call a resuscitator and when to call him. The first thing to do is to act with respect to the disease and to see if there is any effect of the measures or a resuscitator must be called to make intubation. In purely technical terms it is not possible to admit the child directly to the department of intensive care.

The expert ass. prof. ILIEV: It is not by accident that we wrote in one of the answers in the expert examination that the colleagues in the children's ward considered the option to call a consult with an otorhinolaryngologist for the purpose of discussing the possible diagnosis of an external body in the lower respiratory passages in relation to the fact that the mother shared that on the previous evening the child ate peanuts, which is prohibited and unacceptable at this age but as they concluded that the situation did not allow time to consult an otorhinolaryngologist, they turned to – I think – the second or third application of Urbason and continuation of the supply of oxygen. This shows that the first thing is to act and they everything else.

Question by the court: What is first, if it is possible at all to say that there is a prevailing procedure, intubation or treatment with medicines plus an oxygen mask when epiglottitis is diagnosed? Whether it is about a child or not.

The expert ass. prof. ILIEV: Of course, if the patient, whether a child or adult is influenced by the application of Urbason and the oxygen saturation through a mask, there will be not need of intubation. We do not intubate all patients who come and say they find it difficult to breathe. It is definitely not correct that all patients must be intubated because the intubation itself also poses risks.

Question by the court: What was the child's state on the basis of the medical documentation that you are acquainted with as at the moment of admission to the children's ward, did this state require the immediate calling of a team from the Department of Anaesthesiology and Intensive Care to be available?

The expert prof. RADOYNOVA: I think that it was appropriate for the start of the activities the colleagues applied and they should have consider in about 15 minutes consulting an anaesthesiologist.

Question by the court: The was not whether they had to immediately proceed to intubation but whether it was necessary to immediately call him so as to come and to be ready to act if need arises.

The expert prof. RADOYNOVA: Given the described state I am not convinced that calling him immediately was necessary.

Question by the court: What set of symptoms should be present in order to request such consultation and to subsequently proceed to intubation.

The expert ass. prof. ILIEV: As I have already said, supply of oxygen is the first step, then comes application of corticosteroids and only when we see that there is not any visible result and the patient's state does not improve, only then can we consider intubation, whether независимо the patient is a child or an adult. In this case one of the signs that caused the decision at the given moment to call a team from the Department of Anaesthesiology and Intensive Care was the acidosis and the severe respiratory insufficiency.

Question by the court: Could you provide clarification on your opinion given in the answer to question 4, the second paragraph where you said that the question whether to consult or not earlier the resuscitator is a matter of specific assessment at that very moment, but in the next part of the sentence, what do you mean in medical terms, as well as on the basis of the theory and practice in the medicine, respectively the thinking of every doctor, because the court referred in its motives to this conclusion. Please, explain how does this affect this specific case and the assessment of the necessary medical care and the treatment due.

The expert Dr ZHELYAZKOV: I am based on witness testimonies from Dr Kirilova who said that the child did not improve after the therapy and in the cases she had before, an acute epiglottitis improves after the application of medicines, inhalations and infusions. In this case this did not happen, i.e. respiratory insufficiency developed quickly. Then she referred to the colleagues resuscitators from the Department of Anaesthesiology and Intensive Care, the team on duty of the Department of Anaesthesiology and Intensive Care. She decided on the basis of cases she had treated before that there was no improvement and the state of the respiratory passages had aggravated. This is what we meant in the expert examination.

Question by the court: Considering the specific state of the child as at the moment of admission was everything necessary to render adequate medical aid done?

The expert prof. RADOYNOVA: This question has been answered and we have decided as a whole that the necessary action was taken, with comprehensive considerations, including for the time differences. According to the mother's testimonies that about 14 the child started wheezing at home, we have explained how outpatient cards are generated, created in the computers and this is why from this moment on there are certain differences but, based on the mother's testimonies, we reach the conclusion that after all the child's state aggravated and showed signs of severe and quick aggravation at 14. From that moment there is putting of clothes on, taking a taxi, going to the general practitioner, going again by taxi to children's clinic, admission there, orientation and diagnosis for the commencement of the activities and when the intensive care team came already at 16:10 the child could not in practice be rescued. This is why, on the basis of this, eliminating the other data we conclude that the entire dramatic part of the illness of this development of the bacterial infection added to the viral one was about 2 hours.

Question by the court: In this period, from the moment when the epiglottitis diagnosis was reached, were respective action taken until the team came? At what moment was the intervention of the team of resuscitators due considering the child's state? At what point did a team of resuscitators intervene for intubation?

The expert Dr ZHELYAZKOV: The team of resuscitators intervened as soon as sought, when they were called by the colleagues.

Question by the court: In your opinion, when should they have intervened, at this point of time, earlier or in view of the child's state?

The expert prof. RADOYNOVA: The same doctors have a different view and perceptions as regards the momentary clinical state of a patient – in this case of the child Aleksandra.

On the basis of the fact that we made our commission expert examination on the basis of witness and medical documentation, it is not possible to specify the precise time because, first, things evolve quickly. Second, the thinking of the paediatrician, in this case, Dr Sheytanov or the criminal defendant, is that he cannot immediately – unless there is complete drama and it is again a matter of discretion – call a resuscitator because he would say “what did you do so far?”. This is why the oxygen, the system plus Urbason and this is the expectation of every doctor – that the child will respond to this treatment, to be revitalised a bit, etc. A next stage is already the thought about a resuscitator but I cannot say which exactly is that moment because at that time blood is taken for a test, the child is under monitoring and a part of the documentation is described too.

The expert Dr SHEYTANOV: Inhalations were made, in addition to the corticosteroids and oxygen, a system of glucoses, with bicarbonate in the system, was included, which is against the acidosis, calcium gluconate. The adrenaline was applied twice so everything possible was done. If the child had been in front of me I would have been able to say when I must call a resuscitator but on the basis of documents I could not be answer the question.

Question by the court: You state in the conclusion and in the oral explanations that even an intubation earlier in time and a continuing treatment cannot guarantee a positive outcome of the illness.

Were there chances in case of intubation in the very beginning when the child was admitted to a children's ward for a more favourable outcome and avoiding a lethal outcome, did such a chance exist?

Attorney-at-law LULCHEVA: I object to this question. The chances are a percentage of hypothetical possibilities. I think that the experts should not be engaged with such answers in a criminal proceeding.

New question by the court: What would the result and outcome have been if the child had been intubated at the very moment of her admission to the children's ward?

The expert ass. prof. ILIEV: Our answer is quite accurate. I will cite directly the expert examination report "On the basis of all data, a conclusion should be made that even if the child had been intubated on the first minute of her admission to the children's ward, this would not have guaranteed a favourable outcome of the illness. "Would not have guaranteed" should be understood to mean that we cannot always give a 100 % guarantee. In medicine 100 % guarantee can be given by God only.

This is our conclusion. If the child had been intubated at the first minute, yes, the outcome could have been positive in theory but the outcome could have been lethal again too, because the documents and the witness testimonies show that there were already other organs affected and there was a brain herniation.

The expert prof. RADOYNOVA: I will expand the question a bit. Medicine is not an exact science and forecasts cannot be made objectively because there are not criteria and indicators for this. The same thing applies to the pandemic at this moment, all colleagues who are in the covid wards share the same. In this way we convey this clinical knowledge to the expert examinations too.

An admitted patient with moderate clinical indicators and laboratory test results that are not bad suddenly aggravates and nobody can give an objective answer because all that needs to be done, just like for the other patients, is being done, why the end is fatal. And vice-versa – a patient with side diseases, which aggravate his situation, who is admitted and everyone thinks that this patient most probably will not last long, at a certain moment gets stabilised and healed; and it is not possible to give a firm answer why things happen this way in the first and in the second case.

Forecasts in medicine are something hypothetic and inaccurate, just because we do not have a uniform criterion, a single indicator. It will be a mistake. In this sense, it is not that we do not want but we are not able to give a more precise answer than: if it had been made the child would have had a theoretical chance.

Question by the public prosecutor: In this case were the blood tests made in time and if they had been made earlier would this have confirmed the light-speed infection and would this have given the child a bigger chance?

The expert ass. prof. ILIEV: When they applied a venous system and an intravenous catheter was applied to the child, they immediately took blood for testing, which showed them the state of the child, the blood-gas analysis and they were made immediately; then bicarbonate was added to the measures they had taken so far and immediately took blood for testing, which is mandatory in this case – just as they acted. There was no delay in taking of the blood and in the testing of the blood-gas analysis.

Question by the public prosecutor: Could they have been taken earlier and is it relevant to the treatment?

The expert ass. prof. ILIEV: At what earlier point? If the child had been directed by the general practitioner to a laboratory on duty for blood indicator test, the child would have been delayed even more. So, we are back to the first or second question from the today's hearing, namely – how to act.

We answered that when the patient is a child or an adult with respiratory insufficiency the specific acts taken in the case at hand are to be the first acts and in the meantime tests are made, documentation is filled in because the first and most important thing is to apply oxygen, to apply Urbason in order to ensure the fastest possible and timely shrinking of the mucous membrane and ensuring of a respiratory passage, whether blood indicators contain higher leucocyte content, which is an indicator, e.g. of an inflammation. Yes, this is important for us but the first task is to ensure a respiratory passage, which is what they started. So, we still do not have a specific answer whether the test should have been made 5 or 10 minutes later or earlier.

Attorney-at-law KANCHEVA: I have no questions.

Question by attorney-at-law LULCHEVA: Is Epiglottitis defined as a life-threatening disease?

The expert prof. RADOYNOVA: In general, depending on how it develops, it could a life-threatening disease.

Question by attorney-at-law LULCHEVA: In general, in a normal course of development does it presuppose a treatment applied for a life-threatening disease?

The expert ass. prof. ILIEV: There is no such term in medicine. We sound like those people who say that the covid-19 infection is a simple flue and still we see the cases in the hospitals. So, epiglottitis may in this case be influenced also by the first application of Urbason, the child may get saturated with oxygen from the supply via the mask and no complications and calling of a team from the Department of Anaesthesiology and Intensive Care occur at all, etc.

In this case the things got complicated and the outcome was lethal and I always tell my patients in my practice, because I also work with lots of children, when the parents ask me what the guarantee for the success of the surgery is and the complication percentage is – I answer that the global statistics for, e.g. complications in tonsilectomia because this is my specialty, may be, e.g. bleeding 4 % in a general extract; when this happens to the child these specific parents they do not care the statistics – their statistics is 100%. The same thing applies in this particular case of Aleksandra. Yes, in the global statistics there is a minimum risk of death given the achievements of the modern medicine – it is possible to apply corticosteroids, artificial oxygen respiration, to intubate, and this all was done but you see that in this particular case the end was fatal; for the parents it is 100 %, for medical statistics it is a somewhat percentage. So, we cannot say straight from the moment they enter the room who is at risk and who is not; just like there is no small and big surgery.

Question by attorney-at-law LULCHEVA: In relation to the cause of death. I would like to ask you to additionally clarify: do we correctly understand that it is about a viral infection that subsequently unlocked the bacterial infection, which caused the death?

The expert prof. RADOYNOVA: Yes. An additional bacterial infection, probably haemophilus, which is the most frequent cause, and the child Aleksandra had not been vaccinated under the vaccination calendar. At this moment haemophilus vaccines were not applied.

Question by attorney-at-law LULCHEVA: What are the intubation related risks?

The expert Dr ZHELYAZKOV: The risk is that the child cannot be intubated. This was not the case. The pathoanatomic analys shows signs of erosion of vocal cords.

The expert ass. prof. ILIEV: I would like to add because we – being ENT (ears, nose, throat) specialists – frequently have to assist each other in an intubation; I would like to explain in general what intubation is. This is the insertion of a respiratory tube among the vocal cords in order to ensure the supply of air, oxygen to the trachea and the lower respiratory passages.

In this case we have a patient with inflammation of upper respiratory passages, epiglottitis, which means oedema, inflammation of the entrance of the larynx, which in itself implies hard intubation. Most generally, when intubate scheduled patients, this happens in the surgery room. There we have all the facilities for various intubation techniques, with a video laryngoscope, flexible endoscope drivers, etc. We have the option to immediately resort to a surgical intervention, for the conduction of tracheotomy, etc., but this are already surgical means to ensure a respiratory passage.

Here you are asking what the intubation related risk would be in this particular moment of time. This is already about a patient who is accommodated in a hospital room. The child is not on the operation table where she can be in a position that is most convenient for the anaesthesiologist. She is on a bed. This would cause inconvenience in purely technical terms to visualise the vocal cords. This would cause mechanically additional traumatisation of the surrounding tissues and if the clearance is not found at the first attempt, I mean the remaining clearance of the vocal cords, but only traumatise the respiratory passage, we will – instead of ensuring a respiratory passage – first increase the oedema, secondly – cause a spasms of the vocal cords and third but not last – we may also cause bleeding of the mucous membrane, which blood provided that it pours down to the traches would also cause coughing and the additional aggravation. So, intubation in itself is not a panacea either. Just like the bronchoscopy for removal of external bodies in such little patients, because we perform it as a matter of specialty and this is why I am indignant at the fact that a child at the age of 1 year and 8 months was given peanuts for dinner. The same thing happens that we intubate, insert what is more – a metal tube – which causes more or less an injury to the trachea and bronchia, from where we take the external body. Several days ago I encountered an article from our former teacher from ISUL Sofia. The colleagues describe then a case of successful removal of an external body, the respiratory passage is secured but the case has still has a lethal end and then all these things were discussed again. They reached the conclusion that although there is no longer a mechanical obstruction, jamming, since they removed the external body and unblocked the respiratory passages, the injuries to the respiratory passages caused by the bronchoscope and the sudden oxygen saturation caused a bronchospasm, shrinking of the bronchia and – in fact – impossibility of artificial respiration and blood oxygen saturation and in case of an injured child then there was a fatal end. So, the intubation itself may not always give the desired and expected result. Yes, in most cases it will probable give a chance and the patient would survive but I will take you back to the question at which minute it could have been done and how many per cents would have been the chance – a question that we cannot answer.

Question by attorney-at-law LULCHEVA: Which diagnosis is more accurate for a state, the one given upon an examination by the doctor or the one given upon a lethal outcome after the autopsy and examination of the histological findings.

The expert prof. RADOYNOVA: In practice, there is no difference between the diagnoses given while the child was alive, by the general practitioner, at the children's ward and what the pathologist provides afterwards. A diagnosis in such a child in an emergent state is not a stand-till process or a set of facts, a terminology. It is something that is given and changes over time because the oedema, the entire face with swollen soft tissues and inflammation – whether you will call it as a working diagnosis epiglottitis or laryngotracheitis, the conduct, the thinking is the same. It is pointless to go deeper and make more precise things that have not practical relevance either at this moment for the child Aleksandra and in general. The doctor cannot sit down and think and decide which is the more accurate one; he thinks and acts simultaneously at this point of time.

Question by attorney-at-law LULCHEVA: My question is not about the specific case, I am asking you in general from a medical point of view, which is the accurate diagnosis given to the state and cause of death, possibly, the one given at the examination (ignore the specific case at hand) of the one given in the autopsy and examination of the histology?

THE PUBLIC PROSECUTOR: I object to this question as it is irrelevant to the case. I believe it should not be admitted.

The court, after deliberation finds that the question asked by the defence counsel should be admitted. Although asked in general, it is relevant to the clarification of the circumstances under the case in view of the specific data in the evidence and therefore it

RULED:

IT HEREBY ADMITS the question asked by attorney-at-law Lulcheva.

The expert ass. prof. ILIEV: We do not have to ignore the case at hand. We are working on the expert examination concerning the Aleksandra's case. The diagnosis given in the children's ward, by the general practitioner and the one given after the autopsy do not differ in essence. By the expert examination report we say that the diagnoses supplement each other. We cannot deny the epiglottitis, brain oedema and the inflammation of the tonsils, as presence of an external body in the lower respiratory passages, the laryngotrachea is also denied there. They are not mutually exclusive. Of course, the clinical examination produces a clinical diagnosis. This is written also in the documents of the colleagues, and the pathoanatomic expert examination already examines the morphology. Dr Petkova can explain that there we already look also at the changes in the tissues. In this case the autopsy only supplement, and it does not deny, the clinical diagnoses given before that. An example can be given by the currently topical disease – the coronavirus. The clinical diagnosis is a coronavirus inflammation but in pathoanatomic terms it can be proven that the cause of death is a severe pneumonia. They are not mutually exclusive.

Question by attorney-at-law SOTIROV: You said that in this case there were simultaneously a bacterial infection and a viral infection and there was a resulting brain oedema. Can you tell us which is the virus?

The expert prof. RADOYNOVA: No. Nobody can say. It will be unprofessional.

Question by attorney-at-law SOTIROV: Are there rules of good medical practice for epiglottitis treatment?

The expert prof. RADOYNOVA: The rules of good medical practice are general and they are aspirational rather than specific for a certain disease, in this case epiglottitis. So, we cannot make analogies and adopt them mechanically.

THE PARTIES (each individually): We have no more questions.

The court, having taken into account that in the admitted additional interrogation the experts answered all the questions asked by the parties and the panel of judges, as well as the circumstance that no more questions are asked to this panel of experts, finds that the additional clarifications provided by the experts from the five-member complex forensic medical expert examination must be accepted, as well as that remuneration should be determined for them for the participation in the today's court session.

Guided by the above, the COURT

RULED:

IT HEREBY ACCEPTS the additional clarifications of the experts from the five-member complex forensic medical expert examination deposited in the today's court session.

Each of the experts must be paid remuneration amounting to BGN 200 for the participation in the court session out of the budget of the Supreme Court of Cassation.

IT HEREBY RELEASES the experts from participation in the court session and terminates the videoconference.

Attorney-at-law KANCHEVA: I kindly ask you to allow us to evaluate the expert conclusion and the possible submission of new evidence.

THE DEFENCE (individually): We join the opinion of the private prosecution. The case should be postponed.

THE PUBLIC PROSECUTOR: I have no objections to the postponing of the case.

Considering the parties' statements, the COURT

RULED:

IT HEREBY POSTPONES and SCHEDULES the proceeding for 18 February 2021 at 13.30, of which data the criminal defendant and her defenders attorney-at-law Lulcheva and attorney-at-law Sotirov are notified.

The defenders who did not appear are notified through attorney-at-law Lulcheva.

Attorney-at-law Kancheva is notified. The private prosecutors are notified through attorney-at-law Kancheva.

The minutes were drawn up in a courts session that ended at 14.42.

PRESIDING JUDGE:

SECRETARY:

MINUTES
Sofia, 15 February 2022

The Supreme Court of Cassation of the Republic of Bulgaria, Commercial College, second department, sitting in a court session on 15 February 2022 composed of:

PRESIDING JUDGE: EMILIA VASILEVA
MEMBERS: ANNA BAEVA
LYUDMILA TSOLOVA

with the participation of the secretary SOFIA SIMEONOVA
put to hearing case No.232 in the docket for year 2022,
reported by judge EMILIA VASILEVA

The proceeding is under Article 18 of the Political Parties Act.

After observance of the provisions of Article 142, Paragraph 1 of the Civil Procedure Code and at the roll-call at 10.30 the parties presented themselves, as follows:

The cassation appellant, the political party People's Party the Truth and Only the Truth (политическа партия „Народна партия истината и само истината“) (in a registration procedure), validly summoned through attorney-at-law Mariana Mitova on 04 February 2022 notified by the phone. The cassation appellant is represented by attorney-at-law Mitova and the President Ventsislav Atanasov Angelov. The President Ventsislav Atanasov Angelov appears in the Ruse District Court, in a courtroom in the presence of the Deputy President of the Ruse District Court – judge Svilen Sirmanov.

For the Supreme Cassation Prosecutor's Office, validly notified on 04 February 2022, there appears public prosecutor Taskova.

The court notifies the parties on the grounds of Article 135a, Paragraph 3 of the Civil Procedure Code that the court session is conducted by a videoconference implemented with the assistance of the Sofia Court of Appeal and the Ruse District Court. There is not technical option to record the videoconference. The session is implemented through an audio recording.

Attorney-at-law Mitova: The case should be proceeded with.

The President of political party People's Party the Truth and Only the Truth Ventsislav Angelov: The case should be proceeded with.

THE PUBLIC PROSECUTOR: The case should be proceeded with.

THE SUPREME COURT OF CASSATION, Commercial College, second department finds that there are no procedural obstacles to the proceeding with the case and thereof it:

R U L E D :

IT HEREBY PROCEEDS WITH THE CASE AND REPORTS IT.

The proceeding is initiated on the basis of a cassation appeal lodged by the President of political party People's Party the Truth and Only the Truth (in a registration procedure) Ventsislav Atanasov Angelov, countersigned by attorney-at-law Mariana Mitova, by which decision No.31/06 October 2021 under company file No.36/2021 of the Sofia City Court, commercial department, VI-1 panel is appealed against.

Attorney-at-law Mitova: I support the cassation appeal.

The President of political party People's Party the Truth and Only the Truth Ventsislav Angelov: I support the cassation appeal.

THE PUBLIC PROSECUTOR: I dispute the appeal.

Attorney-at-law Mitova: We do not have other evidence-related requests, except for those made by the appeal by Mr Ventsislav Angelov, we ask you to accept them as proofs under the case, which are described in the appeal – folder No.1 and folders No.2 and No.3.

The President of political party People's Party the Truth and Only the Truth Ventsislav Angelov: The proofs should be accepted.

THE PUBLIC PROSECUTOR: They should be accepted.

THE SUPREME COURT OF CASSATION, Commercial college, second department

R U L E D :

IT HEREBY ACCEPTS the submitted evidence described in the cassation appeal.

Attorney-at-law Mitova: We do not have other evidence-related requests.

THE SUPREME COURT OF CASSATION, Commercial Bench, second department considers the case clarified in terms of facts and it therefore

R U L E D :

DECLARED the court investigation completed.

IT HEREBY PROCEEDS WITH THE ORAL PLEADINGS.

Attorney-at-law Mitova: We have stated detailed consideration in the cassation appeal lodged before you. We have specified that the requirements of Article 10, Paragraph 1 and Article 12, Paragraph 1 of the Political Parties Act were satisfied and that we consider unlawful the conclusion of the Sofia City Court, of the court of first instance that the requirements of Article 11, Paragraph 1 of the Political Parties Act are not satisfied and the declarations submitted by the party registration applications do not in fact meet the requirements of the law. These are considerations that Mr Ventsislav Angelov would like to highlight in his interpretation as to the date, whether such date should be specified in the declarations. **I kindly ask you to allow him to express an opinion on the issue and therefore we requested his admission to participation through a videoconference call for the today's court session.** I consider that a material violation of the rule of judicial procedure is committed as regards the last but one paragraph in our appeal, in which we have specified that the court wrote on sheet 5, in paragraph 3 "to the extent that the requirement of Article 12 is not complied with... it is pointless to discuss whether the other

requirements are complied with”. I consider it a material procedural violation because the court is bound to discuss in its reasoning absolutely all proofs and arguments that are material importance for the resolution of the case. In this particular case we can say that we face a lack of reasoning.

The President of political party People’s Party the Truth and Only the Truth Ventsislav Angelov: I would like to state the following. The declarations we have submitted as proofs in folders 1, 2 and 3 are in line with the requirements. We are discussing in our party whether each and every declaration must contain a date of commencement of the membership because the Political Parties Act does not provided for that the membership in a party must have an initial date of such membership. Membership in a party is a personal act and choice and it should not be appealed against. The initiative committee is created on 24 January 2021, the folder in front of you is the original one, 205 people with membership declarations attended. As at 18 April we are also in line with the other two requirements of the Political Parties Act for 500 people attending on the sport and online the congress, which was conducted at the Monument to the Tsar Liberator. At this moment 500 people had membership declarations and in front of your that are also declarations for 540 and at the same time the founders of People’s Party the Truth and Only the Truth. Then, with these registration documents and observing the three-month time-limit from 18 April 2021, by brother Plamen Angelov copied the declarations and made a copy of all declarations, he thereby interfered without my knowledge with the dates, he wrote a date, which is not my requirement but he saw that there were not dates and started affixing dates. And what is more – he made a mistake, the Initiative Committee was in a separate folder, the founders of the party were in a separate folder, those attending online were in a separate folder but he mixed all the folders and so we submit five folders with about 3000 declarations of members of the People’s Party the Truth and Only the Truth. I was not aware that he had done this because – trust me – I would not have made such a mistake. After all, the only original source of information. This registration is made at our request and we prepared the necessary documents so far and everything is against us. We cannot reach the membership level, as required by the Political Parties Act, of 500 people members of party at the congress and 500 persons founders of the People’s Party the Truth and Only the Truth. I have written comments many times that the Political Parties Act does not contain a condition for the presence of a date of membership in the People’s Party the Truth and Only the Truth. We can receive a declaration but a legal violation “from this date to that date”, e.g. today “I do not want to be a member of the People’s Party the Truth and Only the Truth, there is no condition whatsoever stating that there must be a date of submission of an application for participation in a political party. And our request is in this respect, we provide three folders, this is process time, we are responsible for the formation of the party and if you wish you can ask any member from this folder whether at the moment of the congress at the city of Sofia, next to the Monument to the Tsar Liberator he/she was a member of the People’s Party the Truth and Only the Truth. I would like to note that the dates are very important for the Initiative Committee, when it is created, and for the adoption of a resolution to establish the party. A very important condition is to strictly comply as at 18 April 2021 with the condition of the Political Parties Act and we have submitted three folders because the law is not definite that where must be dates for a membership in the People’s Party the Truth and Only the Truth.

THE PUBLIC PROSECUTOR: I would ask you to reject the deposited cassation appeal because in my opinion the decision rendered by the Sofia City Court is correct, lawful, reasoned and entirely supported by the evidence collected in the course of the proceeding. As noted, when rejecting to constitute the party applied for, the Sofia City Court established the absence of a statutory condition – the presence of declarations from 500 people upon the establishment of a party. Contrary to what the cassation appellant states, Article 11, Paragraph 1 of the Political Parties Act explicitly provides for that the declarations are filled in before the date of the founding meeting. It is not true that there is no requirement to affix a date on them, on the contrary – the requirement is imperative. Exactly the violation of this requirement and the submission of declarations, which cannot be proven to be filled in before the date of conduction of the founding meeting has actually resulted in the refusal of the Sofia City Court to register the party. The submitted many applications and declarations show that only less than 350 are in line with the statutory requirements. Given the above, I kindly ask the court to uphold the decision of the Sofia City Court.

THE SUPREME COURT OF CASSATION, Commercial College, second department considers the case clarified and announces that it will pass judgment after deliberation.

Ventsislav Atanasov Angelov's identity was checked by judge Svilen Sirmanov in the Ruse District Court.

The consideration of the case ended at 11.05.

PRESIDING JUDGE:

SECRETARY: