



The circulation of information containing derogatory and hostile remarks about the applicants' religious movement breached their right to freedom of religion

In today's **Chamber judgment**¹ in the case of **Tonchev and Others v. Bulgaria** (application no. 56862/15) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 9 (right to freedom of thought, conscience and religion) of the European Convention on Human Rights.

In this case, the applicants – three pastors and three religious associations – complained of the circulation to schools in 2008 by the Burgas municipal authority of information about their faith containing remarks which they considered hostile and defamatory.

In view of the pejorative and hostile language used by the public authorities in the letter to describe the religious movement to which the applicants belonged, and the fact that the domestic proceedings brought by the applicants had not afforded appropriate redress for their complaints, the Court held that the Bulgarian State authorities had interfered disproportionately with the applicants' right to freedom of religion, overstepping their margin of appreciation under Article 9 of the Convention.

From the standpoint of Article 46 (binding force and execution of judgments), the Court held that the national authorities, in cooperation with the Committee of Ministers, were best placed to decide on the individual and general measures to be adopted for the execution of the present judgment.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicants are three individuals (Evangelical ministers in Burgas) and three Evangelical religious associations (the Bulgarian Good News Christian Church, the First Evangelical Church and the Evangelical Pentecostal Church of Philadelphia) registered under the Religions Act and based in Burgas (Bulgaria). The three individual applicants applied to the Court on their own behalf and on behalf of the religious associations which they represent.

The applicants complained about the information concerning their faith circulated to schools in Burgas in 2008 by the city's municipal authorities, containing remarks which they considered to be hostile and defamatory. They complained, in particular, about the language used in the circular letter and information notice of 9 April 2008 which described certain religious movements, including the Evangelical movement to which the applicant associations belonged, as "dangerous religious sects" which "contravene[d] Bulgarian legislation, citizens' rights and public order" and whose meetings placed participants at risk of "mental disorders". All the schools in Burgas were asked to bring these documents to pupils' attention and to report back to the municipal authority on how the information had been presented and the children's reactions.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Before the domestic courts the applicants argued, in particular, that the circular letter of 9 April 2008 contained defamatory claims and judgments about their beliefs, such that its distribution among schools had infringed their freedom of religion and breached the principle of separation of Church and State, the State's duty of neutrality and the principle of equal treatment of religions. They also alleged that the circulation of the letter had sparked a hostile media campaign, and requested the Bulgarian courts to find that there had been illegal discrimination, to order the Burgas municipal authority and the regional internal affairs directorate to take restorative action, and to impose a fine on those authorities and order them to pay compensation to the applicants for the alleged non-pecuniary damage. Their claims were dismissed.

Complaints, procedure and composition of the Court

The applicants relied on Article 9 (right to freedom of thought, conscience and religion) taken alone and in conjunction with Article 14 (prohibition of discrimination) of the Convention.

Under Article 46 (binding force and execution of judgments), they also asked the Court to order the Bulgarian authorities to distribute a new circular letter to the same recipients, retracting the impugned remarks contained in the letter of 9 April 2008 and undertaking to ensure that there would be no recurrence of the incident.

The application was lodged with the European Court of Human Rights on 11 November 2015.

Judgment was given by a Chamber of seven judges, composed as follows:

Pere **Pastor Vilanova** (Andorra), *President*,
Georgios A. **Serghides** (Cyprus),
Yonko **Grozev** (Bulgaria),
Darian **Pavli** (Albania),
Peeter **Roosma** (Estonia),
Ioannis **Ktistakis** (Greece),
Andreas **Zünd** (Switzerland),

and also Milan **Blaško**, *Section Registrar*.

Decision of the Court

Striking-out of part of the application concerning two applicants

In a letter of 9 December 2021 one of the applicants, Mr Krastev, informed the Court that he had terminated his pastoral service and wished to withdraw the application lodged on his own behalf and on behalf of the Evangelical Pentecostal Church of Philadelphia. The Court took note of this information and decided to strike the application out of its list of cases in so far as it concerned these two applicants.

Article 9

The Court considered that the language used in the circular letter and the information notice of 9 April 2008 could indeed be perceived as pejorative and hostile. It considered, in the light of its case-law, that the measures in question were liable to have negative repercussions on the exercise of religious freedom by the adherents of the Churches concerned. In the Court's view, the measures complained of by the applicants amounted to interference with their right to freedom of religion.

The Court pointed out that Article 9 of the Convention did not prohibit the public authorities from making critical statements about representatives or members of religious communities. However, in order to be compatible with the Convention, such statements had to be supported by evidence of

specific acts liable to pose a threat to public order or to the interests of others. They also had to avoid casting doubt on the legitimacy of the beliefs in question and must remain proportionate to the circumstances of the case.

In the present case, it did not appear from the circular letter and the information notice distributed to schools that the authors had been mindful of the authorities' duty of neutrality and impartiality. On the contrary, these documents contained unqualified negative judgments, in particular those portraying the Evangelical Churches as "dangerous sects" which "contravene[d] Bulgarian legislation, citizens' rights and public order" and "create[d] divisions and opposition within the Bulgarian nation on religious grounds". They also made unfounded references to certain proven cases of improper proselytising as reflecting the usual practice of those Churches. Lastly, they drew comparisons with the dominant Orthodox religion and made remarks linking, in particular, the lack of veneration of "national saints" with the division of the Bulgarian nation. Those remarks could be interpreted as casting doubt on the legitimacy of the beliefs and practices of the Churches concerned.

While the Court regarded as justifiable the intention to warn pupils against possible abusive practices by certain religious groups by informing them about such practices, it was not persuaded that the use of language such as that referred to in the preceding paragraph was necessary for that purpose.

The Court also noted that the authors of the circular letter, like other public authorities, had attempted to downplay the significance of the incident and expressed their determination to respect the religious freedom of the movements targeted in the letter. However, the remarks regarded by the applicants as offensive or defamatory had not been formally withdrawn. The Court further noted that neither the Commission for Protection against Discrimination nor the administrative courts had seen fit to penalise those remarks.

In sum, in view of the pejorative and hostile language used by the public authorities in the letter in question to describe the religious movement to which the applicants belonged, and the fact that the domestic proceedings brought by the applicants had not afforded appropriate redress for their complaints, the Court held that the Bulgarian State authorities had interfered disproportionately with the applicants' right to freedom of religion, overstepping their margin of appreciation under Article 9. There had therefore been a violation of Article 9 of the Convention.

Article 14

The Court considered that the unequal treatment complained of by the applicants had been duly taken into account in the analysis leading to its finding of a violation of Article 9 taken alone, and that it was therefore unnecessary to examine the same facts separately under Article 14 of the Convention.

Article 46

The Court held that the national authorities, in cooperation with the Committee of Ministers, were best placed to decide on the individual and general measures to be adopted in execution of the present judgment.

Just satisfaction (Article 41)

Non-pecuniary damage: the Court held that Bulgaria was to pay 2,500 euros (EUR) each to Mr Tonchev and Mr Kiryakov, and EUR 3,000 each to the Bulgarian Good News Christian Church and the First Evangelical Church.

Costs and expenses: the Court held that Bulgaria was to pay EUR 4,500 jointly to the four applicants referred to above.

The judgment is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.