



Hearing in four cases concerning freedom of religion

The European Court of Human Rights is holding a public hearing today **Tuesday 4 September 2012 at 9 a.m.** on the admissibility and merits in the following cases:

Chaplin v. the United Kingdom (application no. 59842/10), **Eweida v. the United Kingdom** (no. 48420/10), **Ladele v. the United Kingdom** (no. 51671/10) and **McFarlane v. the United Kingdom** (no. 36516/10), concerning four practising Christians' complaints that UK law did not sufficiently protect their rights to freedom of religion and freedom from discrimination at work.

The hearing will be broadcast from 2.30 p.m. on the Court's Internet site (www.echr.coe.int). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.

The applicants, Nadia Eweida, Shirley Chaplin, Lilian Ladele and Gary McFarlane, are British nationals who were born respectively in 1951, 1955, 1960 and 1961. They live in Twickenham, Exeter, London and Bristol, respectively.

All four applicants are practising Christians who complain that UK law did not sufficiently protect their rights to freedom of religion and freedom from discrimination at work. Ms Eweida, a British Airways employee, and Ms Chaplin, a geriatrics nurse, complain that their employers placed restrictions on their visibly wearing Christian crosses around their necks while at work. Ms Ladele, a Registrar of Births, Deaths and Marriages, and Mr McFarlane, a Relate counsellor¹, complain about their dismissal for refusing to carry out certain of their duties which they considered would condone homosexuality.

Chaplin and Eweida

Both applicants believe that the visible wearing of a cross is an important part of the manifestation of their faith.

From 1999 Ms Eweida worked part-time as a member of check-in staff for British Airways and was required to wear a uniform. British Airways' uniform code required women to wear a high necked shirt and a cravat, with no visible jewellery. Any item which a staff member had to wear for religious reasons was to be covered by the uniform or, if this was not possible, approval had to be sought from local management. Until May 2006, Ms Eweida wore a small silver cross on a chain around her neck concealed under her uniform. As a sign of her commitment to her faith, she then decided to wear the cross openly. In September 2006, she was sent home without pay until she decided to comply with the uniform code. In October 2006 she was offered administrative work without the obligation to wear a uniform or have contact with customers, which she refused. She finally returned to work in February 2007 when the company's policy was changed to permit the display of religious and charity symbols, with the cross and the star of David being given immediate authorisation.

¹ Relate is a national organisation which provides a confidential sex therapy and relationship counselling service.

Ms Chaplin worked as a qualified nurse employed by the Royal Devon and Exeter NHS Foundation Trust from April 1989 to July 2010. At the time of the events in question she worked on a geriatrics ward. The hospital had a uniform policy stating that any jewellery worn had to be discreet and banning necklaces in order to reduce risk of injury when handling patients. In June 2007, when new uniforms with V-necks were introduced in the hospital, Ms Chaplin's manager asked her to remove the crucifix on the chain around her neck. Ms Chaplin sought approval to continue wearing her crucifix which was refused on the ground that it could cause injury if a patient pulled on it. In November 2009 she was moved to a non-nursing temporary position which ceased to exist in July 2010.

Both applicants lodged claims with the Employment Tribunal complaining in particular of discrimination on religious grounds. The Tribunal rejected Ms Eweida's claim, finding that the visible wearing of a cross was not a requirement of the Christian faith but the applicant's personal choice and that she had failed to establish that British Airways' uniform policy had put Christians in general at a disadvantage. Her appeal to the Court of Appeal was also subsequently rejected and the Supreme Court refused her leave to appeal in May 2010. Ms Chaplin's claim was also rejected in May 2010, the Tribunal holding that the hospital's position had been based on health and safety rather than religious grounds and that there was no evidence that anyone other than the applicant had been put at particular disadvantage. Given the Court of Appeal's decision in Ms Eweida's case, Ms Chaplin was advised that an appeal on points of law had no prospect of success.

Ladele and McFarlane

Both Ms Ladele and Mr McFarlane are Christians, who believe that homosexual relationships are contrary to God's law and that it is incompatible with their beliefs to do anything to condone homosexuality.

Ms Ladele was employed as a Registrar by the London Borough of Islington from 1992 to 2009. When the Civil Partnership Act came into force in the United Kingdom in December 2005, she was informed by her employer that she would henceforth be required to officiate at civil partnership ceremonies between homosexual couples. When Ms Ladele refused to sign an amended contract, disciplinary proceedings were brought against her in May 2007 which concluded that, if she failed to include civil partnership ceremonies as part of her duties, she would be in breach of Islington Council's equality and diversity policy and her contract could be terminated.

Mr McFarlane worked for Relate as a Counsellor from May 2003 to March 2008. In 2007 he started a post graduate diploma in psycho sexual therapy which deals in particular with sexual dysfunction and aims to improve a couple's sexual activity by improving the relationship overall. By the end of 2007 Mr McFarlane's superiors as well as other therapists had expressed concern that there was conflict between his religious beliefs and his work with same-sex couples. In January 2008 a disciplinary investigation was opened. In March 2008 Mr McFarlane was dismissed summarily for gross misconduct on the ground that he had stated that he would comply with Relate's Equal Opportunities Policies and provide counselling to same-sex couples without any intention of doing so. A subsequent appeal was rejected.

Both applicants brought proceedings before the Employment Tribunal on grounds of religious discrimination; Mr McFarlane also claimed that he had been unfairly and wrongfully dismissed. Both claims were rejected on appeal on the basis that their employers were not only entitled to require them to carry out their duties but also to refuse to accommodate views which contradicted their fundamental declared principles – and, all the more so, where these principles were required by law, notably under the Equality Act (Sexual Orientation) Regulations 2007. Ultimately, in March 2010 Ms Ladele was refused leave to appeal to the Supreme Court and, in April 2010, Mr McFarlane was

refused permission to appeal again to the Employment Appeal Tribunal as there was no realistic prospect of it succeeding, given that Mr McFarlane's case could not sensibly be distinguished from Ms Ladele's.

Relying in particular on Articles 9 (freedom of religion) and 14 (prohibition of discrimination) of the European Convention on Human Rights, all four applicants complain that domestic law failed to adequately protect their right to manifest their religion.

Procedure

The applications were lodged, respectively, with the European Court of Human Rights on 10 August, 29 September, 27 August and 24 June 2010. The Court communicated² all four applications to the United Kingdom Government on 12 April 2011 and asked both parties to submit their observations. The hearing today concerns both the admissibility and the merits of the cases.

The Court authorised to intervene as third parties in the proceedings and to submit written observations³:

-in all cases: Equality and Human Rights Commission, The National Secular Society, Dr Jan Camogursky and The Alliance Defense Fund;

-in Eweida and Chaplin v. the United Kingdom: Bishop Michael Nazir-Ali, The Premier Christian Media Trust, The Right Reverend Dr Peter Forster, Bishop of Chester, and The Right Reverend Nicholas Reade, Bishop of Blackburn, Associazione "Giuseppi Dossetti: i Valori", Observatory on Intolerance and Discrimination against Christians in Europe;

-in Ladele and McFarlane v. the United Kingdom: Liberty, The Clapham Institute and KLM, The European Centre for Law and Justice, The Right Reverend and Right Honourable The Lord Carey of Clifton, The Fédération Internationale des ligues des Droits de l'Homme (FIDH, ICJ, ILGA-Europe).

Composition of the Court

The case will be heard by a Chamber, composed as follows:

Lech **Garlicki** (Poland), *President*,
 David Thór **Björgvinsson** (Iceland),
 Nicolas **Bratza** (the United Kingdom),
 Päivi **Hirvelä** (Finland),
 Zdravka **Kalaydjieva** (Bulgaria),
 Nebojša **Vučinić** (Montenegro),
 Vincent A. **de Gaetano** (Malta), *judges*,
 Ledi **Bianku** (Albania),
 George **Nicolaou** (Cyprus), *substitute judges*,

and also Lawrence **Early**, *Section Registrar*.

² In accordance with Rule 54 of the Rules of Court, a Chamber of seven judges may decide to bring to the attention of a Convention State's Government that an application against that State is pending before the Court (the so-called "communications procedure").

³ under Article 36 § 2 of the Convention and Rule 44 § 3 of the Rules of Court

Representatives of the parties

Government

Ms Ahila **Sornarajah**, *Agent*,
Mr James **Eadie QC**,
Mr Dan **Squires**, *Counsel*,
Ms Suzanne **Lehrer**,
Mr Hilton **Leslie**,
Mr Wally **Ford**, *Advisers*.

Applicants

For Ms Eweida

Mr James **Dingemans QC**,
Mr Thomas **Ellis**,
Ms Sarah **Moore**, *Counsel*,
Mr Gregor **Puppinck**, *Adviser*.

For Ms Ladele

Ms Dinah **Rose QC**,
Mr Ben **Jaffey**,
Mr Chris **McCrudden**, *Counsel*,
Mr Mark **Jones**,
Mr Sam **Webster**, *Advisers*.

For Ms Chaplin and Mr McFarlane

Mr Paul **Diamond**,
Mr Paul **Coleman**,
Mr Pasha **Hmelik**, *Counsel*,
Ms Andrea **Williams**,
Mr Andrew **Marsh**, *Advisers*.

Shirley **Chaplin**, Nadia **Eweida** and Gary **McFarlane** will also attend the hearing.

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Journalists who would like to be sent a link for downloading high-definition video footage of the hearing should send their request to echrpess@echr.coe.int.

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.