



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

FOURTH SECTION

CASE OF ȚÎMPĂU v. ROMANIA

(Application no. 70267/17)

JUDGMENT

Art 8 • Private life • Automatic termination of employment of lay teacher of Orthodox religion at secondary public school after the withdrawal of her endorsement by a local Archbishop • Art 8 applicable following consequence-based approach • Scope of rights limited to a certain extent by contractual heightened duty of loyalty towards the Orthodox Church and corresponding professional and disciplinary constraints • Consequences of termination of employment, although very serious, not excessive • All relevant factors considered and competing interests weighed up within limits imposed by the need to respect the Church's autonomy • It did not appear that domestic courts' conclusions were unreasonable or Church's autonomy improperly invoked • Interference, having regard to the State's margin of appreciation, proportionate

Art 6 § 1 (civil) • *Ratione materiae* • Refusal of national secular courts to review lawfulness of Archbishop's decision for want of jurisdiction, given overall legal framework and existing domestic case-law, not arbitrary or manifestly unreasonable • Exclusive jurisdiction pertaining to the ecclesiastical courts • No arguable "right" under domestic law

Prepared by the Registry. Does not bind the Court.

STRASBOURG

5 December 2023

FINAL

05/03/2024

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

In the case of Țîmpău v. Romania,

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

Gabriele Kucsko-Stadlmayer, *President*,

Faris Vehabović,

Branko Lubarda,

Anja Seibert-Fohr,

Ana Maria Guerra Martins,

Anne Louise Bormann,

Sebastian Rădulețu, *judges*,

and Andrea Tamietti, *Section Registrar*,

Having regard to:

the application (no. 70267/17) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Romanian national, Ms Doina Țîmpău (“the applicant”), on 14 September 2017;

the decision to give notice to the Romanian Government (“the Government”) of the application;

the observations submitted by the Government and the observations in reply submitted by the applicant;

the comments submitted by the European Centre for Law and Justice (“the ECLJ”) and by the Institute for Legal Culture Ordo Iuris (“Ordo Iuris”), which were granted leave to intervene by the President of the Section;

Having deliberated in private on 17 October 2023,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The applicant complained that the national courts’ refusal to examine her objections to a local Archbishop’s decision to withdraw the endorsement that he had granted to the applicant to work as a teacher of religion, resulting in the termination of her employment, violated her rights of access to court and to respect for her private life. The applicant relied expressly on Articles 6 and 9 of the Convention and in substance on Article 8.

THE FACTS

2. The applicant was born in 1964 and lives in Câmpulung Moldovenesc, Suceava County. She was represented by Mr R.L. Chiriță, a lawyer practising in Cluj-Napoca.

3. The Government were represented by their Agent, Ms O.F. Ezer, of the Ministry of Foreign Affairs.

4. The facts of the case may be summarised as follows.

I. BACKGROUND TO THE CASE

5. The applicant was a laywoman teacher of Orthodox religion at a secondary public school in Câmpulung Moldovenesc (“the school”) for twenty years.

A. Professional report concerning the applicant

6. On 18 February 2015 the applicant was awarded the highest professional grade available for a secondary school teacher and achieved the highest mark possible. She was appraised by a commission consisting of two university professors of theology and G.H., the local Inspector of Schools for religious teaching (“the inspector”). G.H. was both a priest and a professor of theology.

7. The appraisal report produced by the above-mentioned commission on the same date concluded that the applicant had planned and conducted her professional activity by complying with the national curriculum and had proved that she had very good knowledge of the subject she taught. The report stated that the commission had drawn its conclusions from both a review of the school’s documents and the discussions that it had had with the school management and members of the parents’ committee.

8. The report stated further that the head of the school, who spoke on behalf of the school’s management council, had positive things to say about the applicant’s teaching and extracurricular activities.

9. The report also stated that the efficient communication between the applicant and her students reflected the applicant’s affection for and attention to her students. The students’ parents were happy with the applicant’s teaching methods, which raised the students’ interest in the subject and encouraged their active participation during the class.

B. Correspondence between the school, the inspector and the parents’ committee concerning the applicant

10. On 12 and 20 March 2015 the head of the applicant’s school informed the inspector that on 12 November 2014 the Constitutional Court had delivered a decision which had entered into force on 9 March 2015 and which had given parents the choice of whether or not to enrol their children in a religious studies class (see paragraph 96 below). The head of the school stated that after the Constitutional Court’s decision had come into force, only ninety-three out of the school’s 402 students had opted to enrol in the religious studies class. The head also stated that the parents who had declined to enrol their children in the religious studies class had stated that they wanted to enrol their children in that class but only if it was not taught by the applicant.

11. The head of the school stated further that the applicant had marked those students who were not enrolled in the religious studies class as absent in the school register. That practice of the applicant was contested by the parents. At the same time the school had not been provided with any instructions as to what those students who opted out of the religious studies class were supposed to do while the class was going on and what the applicant's prospects within the school would be since her post was a full-time one.

12. The head of the school contended that the applicant had asked the teachers' council to guarantee that she could teach at least half of her classes starting from the academic year 2015/16, but the teachers' council did not have the power to grant such a request.

13. The head stated that the atmosphere at the school had become tense and asked the inspector to appoint a team to visit the school, review the situation and take appropriate measures.

14. On 1 April 2015 a team of three inspectors, which included G.H. (see paragraph 6 above), visited the school and discussed the applicant's situation with some of the students' parents and the head of the school. According to the report of those discussions which was produced on the same day, some of the parents who were present wished to have the applicant replaced with a different teacher of religion because of her allegedly inappropriate and offensive conduct during class.

15. On the same date and again on 7 April 2015 the president of the parents' committee and of the parents' association complained to the inspector on his own and other parents' behalf about the applicant's conduct and actions towards those students who had refused to enrol in the religious studies class.

16. On 6 April 2015 the inspector asked the head of the applicant's school to instruct the school's management council to review whether the conduct of which the applicant had been accused by some of the students' parents (see paragraphs 10-15 above) had violated the school's disciplinary rules and to take appropriate action. The inspector stated that on 12 March 2015 the Suceava School Inspectorate ("the Inspectorate") had received a petition from some of the parents and had notified the head of the school of the petition.

II. THE DECISION BY THE ARCHBISHOP

17. On 15 May 2015 the inspector sent some of the information mentioned in paragraphs 10-15 above, along with other similar information about the applicant's professional activities from 1997 to 2015 (see paragraphs 20-22, 25-26 and 28 below), to the Archdiocese of Suceava and Rădăuți ("the Archdiocese") and asked the Archdiocese to consider whether the endorsement (*binecuvântarea*) that the Orthodox Archbishop of Suceava and

Rădăuți (“the Archbishop”) had given the applicant to work as a teacher of Orthodox religion could be maintained.

18. On 19 May 2015, in response to the above-mentioned correspondence, the Archbishop informed the Inspectorate that he had decided to withdraw the endorsement (*binecuvântarea*) that he had granted to the applicant to work as a teacher of Orthodox religion in the schools of Suceava County. He asked the Inspectorate and the school to enforce his decision.

19. The Archbishop stated that the reasons for his decision were based on the fact that during her twenty years of activity the applicant had failed to conduct her classes professionally, to integrate herself and to confirm that she was a true preacher of the word of God. In addition, her conduct towards and her interactions with parents, students and other teachers had generated only discontent.

20. The Archbishop noted that in July 1997 the applicant had breached education law and a protocol signed between the Orthodox Church and the Ministry of National Education (*Ministerul Educației Naționale* – “the Ministry”) which was then in force. In particular, she had participated in a competitive examination for a tenured position (*concurs de titularizare*) as a teacher of religion even though the Iași Faculty of Orthodox Theology had informed the Inspectorate that the applicant was not authorised to obtain tenure.

21. The Archbishop noted that he had informed the Inspectorate of the breach mentioned in paragraph 20 above, and had asked it to revoke the applicant’s tenure, but he had received no response to his request.

22. The Archbishop also noted that from 2012 to 2014 approximately 100 parents had withdrawn their children from the class taught by the applicant at the beginning of the school year, but that they had subsequently allowed their children to attend the class when the applicant was temporarily substituted by another teacher. In addition, following the Constitutional Court’s decision (see paragraph 10 above) the parents of several students had notified the Inspectorate between 12 March and 7 April 2015 that they would not enrol their children in a class taught by the applicant and had asked for a different teacher.

23. In March 2015 the head of the school had reported to the Inspectorate that only ninety-three students had enrolled in the applicant’s class and that the applicant had registered the children whose parents had not agreed to their attending her class as absent (see paragraphs 10 and 11 above). In addition, she had threatened and insulted the students in question and their parents.

24. The Archbishop noted that he had also received numerous complaints from the children of those parents and from the school management concerning the same issues involving the applicant.

25. On 1 April 2015 a team of inspectors (see paragraph 14 above) had visited the school and had organised meetings with the teachers’ council and

approximately sixty parents. The parents had claimed that the applicant had offended and sometimes humiliated the children and they had asked for the applicant to be replaced by a different teacher.

26. The applicant had attended the above-mentioned meetings and had denied all the accusations made against her by the parents and had threatened to sue them.

27. The Archbishop stated that the applicant's conduct mentioned in paragraph 26 above proved that she was litigious and prone to making accusations.

28. Even though she had consistently denied that she was in any way responsible for the withdrawal of the children from her class both in her correspondence with the Inspectorate and in two press articles that she had published in a local newspaper, she had also agreed to swap schools with other local teachers of Orthodox religion. However, no other local teachers or heads of schools had agreed to a swap.

29. Lastly, the Archbishop noted that on 7 April 2015 the applicant had written to the Minister of Education, the Inspectorate and the inspector and had accused the head of her school of not helping her to encourage the parents to enrol their children in the religious studies class.

III. THE DECISION BY THE HEAD OF THE APPLICANT'S SCHOOL

30. The Archbishop notified the Inspectorate of his decision (see paragraphs 18-29 above).

31. On 10 June 2015 the Inspectorate notified the applicant's school that on 19 May the Archbishop had withdrawn his endorsement of the applicant. In addition, the Inspectorate asked the school to terminate the applicant's employment contract within five working days.

32. By a decision of the same date the head of the applicant's school terminated the applicant's employment contract with effect from 11 June 2015, stating that her employment had been terminated automatically as a consequence of the Archbishop's decision of 19 May 2015 to withdraw his endorsement of the applicant and in accordance with the provisions of Article 18 § 3 of Law no. 1/2011 (see paragraph 88 below), Article 9 § 17 of the Ministry's order no. 4895/2014 (see paragraph 90 below), Article 4 of Protocol no. 9217/5120/2014 (see paragraph 89 below), Article 32 §§ 2 and 3 of Law no. 489/2006 (see paragraph 86 below), Article 56 § 1 (g) of the Labour Code (see paragraph 85 below) and Article 22 of the Ministry's order no. 5115/2014 (see paragraph 92 below).

33. The decision noted that the applicant's degree did not include a specialisation in another field which could have allowed her to continue working for the school in another post.

IV. THE APPLICANT'S CHALLENGE AGAINST THE DECISIONS OF THE ARCHBISHOP AND THE HEAD OF THE SCHOOL

34. On 11 June 2015 the applicant was notified of the decision of the head of her school (see paragraphs 32-33 above).

35. On 17 June 2015 the applicant brought proceedings against the Inspectorate and the Archdiocese in the Suceava County Court ("the County Court") and asked the court to declare the decisions of 19 May (see paragraphs 18-29 above) and 10 June 2015 (see paragraphs 32-33 above) null and void.

36. She argued that the decision of the head of her school was in breach of the provisions of Article 56 § 2 of the Labour Code (see paragraph 85 below). In particular, the head had failed to take the decision in question and to notify her of it within five days from the time at which the reasons for the termination of her employment had become known. Even though the Archbishop had decided to withdraw his endorsement on 19 May 2015, the head's decision to terminate the applicant's employment had not been issued until 10 June.

37. The applicant also argued that she had not been notified of the Archbishop's decision and that the head's decision had not contained the reasons for the withdrawal of the endorsement.

38. According to the relevant protocols concluded between the Ministry and the Orthodox Patriarchy, withdrawal of endorsement was a punishment that could be applied only in exceptional cases involving serious violations of the religious denomination's morals and doctrine. Those conditions had not been met in her case.

39. The applicant argued further that the head's decision had wrongly noted that the applicant was not specialised in other fields which could have allowed her to continue working for the school in another post (see paragraph 33 above). However, her administrative file indicated that she held a master's degree in philosophy.

40. Lastly, the applicant pointed to the fact that she had been a tenured teacher of Orthodox religion since the 1990s and that she was supporting two minor children.

V. FIRST ROUND OF COURT PROCEEDINGS

A. Proceedings before the County Court

41. By an interlocutory judgment of 15 September 2015 the County Court acknowledged that it had jurisdiction to examine the case. By a judgment of 23 February 2016, the said court dismissed the challenge brought by the applicant (see paragraph 35 above).

42. The court held, among other things, that the applicant had not asked the court to examine whether the Archbishop's withdrawal of his endorsement had been lawful.

B. Proceedings before the Suceava Court of Appeal

43. The applicant appealed against the County Court's judgment to the Suceava Court of Appeal ("the Court of Appeal"). She argued that the lower court had been wrong in concluding that she had not contested the withdrawal of the Archbishop's endorsement and that it had failed to examine that issue.

44. On 20 September 2016 the Court of Appeal allowed the applicant's appeal, quashed the judgment of 23 February 2016 and referred the case back to the County Court for re-examination. The court agreed with the applicant's argument exposed in paragraph 43 above.

VI. SECOND ROUND OF COURT PROCEEDINGS

A. Proceedings before the County Court

1. The applicant's and the Inspectorate's submissions

45. On 5 December 2016, apart from reiterating her request to the County Court (see paragraph 35 above), the applicant also asked the court to order that (i) she be reinstated in her post and (ii) the school and the inspectorate pay her wages from the termination of her employment until her reinstatement, together with interest.

46. On the same date the County Court joined the applicant's school in the proceedings as a third party. It also raised of its own motion an objection concerning the jurisdiction of secular courts to examine the applicant's challenge to the Archbishop's decision and allowed the parties to submit observations on that issue and on the merits of the case.

47. The applicant argued that the Archbishop's decision had several deficiencies and the secular courts had jurisdiction to examine them. In particular, the decision was null and void because under the relevant protocols concerning the teaching of religion at pre-university level, it should have been signed by the episcopal council (*consorțiul eparhial*), the only body competent to issue such a decision, and not by the Archbishop and the inspector as had been the case.

48. The above-mentioned protocols also provided that the applicant was entitled to contest the decision. However, she had not been afforded any opportunity to do so because she had not been notified of the decision and, in any event, the decision itself had not contained a statement that it could be contested.

49. The applicant also argued that even though the Constitutional Court had established that only ecclesiastical courts could examine the reasons on

which such a decision rested, she had not been given an opportunity to contest those reasons before those courts. Any conclusion by the County Court that the secular courts lacked jurisdiction to examine the disputed decision therefore constituted a denial of justice because it denied the applicant any opportunity to seek justice before a court.

50. Lastly, the applicant denied the unprofessional conduct imputed to her by the decision and pointed to the mark she had been awarded on 18 February 2015 and the report produced on that date (see paragraphs 6-9 above).

51. The Inspectorate argued that the inspector had signed the Archbishop's decision as a member of the episcopal council and not as an inspector. Also, the fact that the document itself had not stated that the decision could be contested before the ecclesiastical courts could not have deprived the applicant of the opportunity to pursue that remedy.

52. The Inspectorate observed that the applicant had worked for more than twenty years without the Archbishop's endorsement and that she had been granted that endorsement only a year before it had been revoked.

53. The Inspectorate further argued that there was a difference between the applicant's professional abilities and her disciplinary conduct and that there was evidence in the case file of numerous complaints lodged against her by parents and other teachers, which showed that the withdrawal of the endorsement was justified.

54. On 6 December 2016 the applicant submitted written observations to the County Court and argued that the measures taken against her had destroyed her reputation as a teacher, had had a very serious impact on her family and had humiliated her in the eyes of all her family and friends.

2. The County Court's judgment

55. By a judgment of 14 December 2016, the County Court, sitting as a bench of one judge and two judicial assistants, rejected the applicant's challenge to the decision of 19 May 2015 (see paragraphs 18-29 above) as inadmissible and dismissed her challenge against the decision of 10 June 2015 (see paragraphs 32-33 above) as ill-founded.

56. The court held that under Article 32 §§ 2 and 3 of Law no. 489/2006 (see paragraph 86 below) and Article 119 § 5 of the Statute of the Orthodox Church (see paragraph 87 below), an endorsement granted to a teacher of religion could be withdrawn for serious violations of the religious denomination's morals and doctrine. These were disciplinary problems which were resolved under the rules specific to every faith and therefore fell outside the jurisdiction of the secular courts.

57. As indicated also by the Constitutional Court's case-law, whether there had been a breach of disciplinary standards in such circumstances could be determined only by the ecclesiastical courts because only they could assess the compatibility of the acts committed with the religious denomination's spiritual role.

58. The applicant's breach of professional discipline had not arisen from a failure to comply with the conditions of her employment contract but rather was connected to the specific nature of the subject taught by her, which involved compliance with certain religious doctrines. The provisions of the Labour Code that gave jurisdiction to the secular courts which specialised in labour law disputes were therefore inapplicable in that connection.

59. The national courts had no jurisdiction to deliver justice with regard to acts violating the internal disciplinary rules of religious denominations because liability for such violations was not governed by ordinary legal norms but by norms specific to each religious denomination. The courts therefore could not examine whether the withdrawal of the endorsement of the applicant was lawful or justified.

60. The County Court further held that the applicant's assertions to the effect that the Archbishop's decision was null and void because it had not been issued and signed by the episcopal council and had not included the grounds for the withdrawal of the endorsement were ill-founded. Under the Statute of the Orthodox Church, the endorsement in question could also be withdrawn by the Archbishop at his discretion.

61. In any event, the only courts which had jurisdiction to examine the procedure for the withdrawal of the endorsement, or the form and content thereof, were the ecclesiastical courts as these were matters of canon law.

62. The fact that the Archbishop's decision had not itself included the information that it could be contested in the ecclesiastical courts had not prevented the applicant from pursuing that remedy. On 11 June 2015 the applicant had become aware of the fact that the endorsement granted to her had been withdrawn because her employer had notified her of the decision of 10 June 2015 (see paragraphs 32 and 34 above). That latter decision had stated expressly that the Archbishop had withdrawn his endorsement. The applicant had not submitted any evidence to the court that in the meantime the competent authorities had revoked the Archbishop's decision. In any event, the applicant's argument on this issue could not give the County Court jurisdiction to examine the measure imposed on her by the Archbishop.

63. As to the decision of 10 June 2015 (see paragraphs 32-33 above), the County Court held that the Archbishop's endorsement was a mandatory condition for a person to be employed and able to work as a teacher of religion. Once the endorsement was withdrawn the employment contract was automatically terminated pursuant to Article 56 § 1(g) of the Labour Code (see paragraph 85 below).

64. The court held also that the decision of the head of the school had complied with the time-limit provided for by Article 56 § 2 of the Labour Code (see paragraph 85 below). The Archbishop's decision of 19 May 2015 had been notified to the school on 10 June 2015 (see paragraph 31 above). The head of the school had issued her decision on the same date, as soon as

she had become aware of the Archbishop's decision, and she had notified the applicant of it on the following day (see paragraphs 32 and 34 above).

65. The court further held that the applicant's arguments to the effect that she was also qualified in philosophy (see paragraphs 39 above) were irrelevant. Given the relevant provisions of the Labour Code applicable to her case, her employer was not obliged to offer her another post based on her other qualifications.

66. One of the judicial assistants sitting on the bench (see paragraph 55 above) wrote a separate opinion. She stated that the secular courts had jurisdiction to examine the applicant's complaint concerning the Archbishop's decision because on 15 September 2015 the County Court had concluded that it had jurisdiction to examine the case (see paragraph 41 above). The parties had not appealed against the court's interlocutory judgment of that date and it remained final.

67. The judicial assistant also stated that the head's decision of 10 June 2015 was unlawful because the applicant had been employed by the school without the Archbishop's endorsement. There was therefore no endorsement that could have been withdrawn. Moreover, the decision of 19 May 2015 could not have constituted a lawful withdrawal of the endorsement and, in any event, was unlawful because it had been delivered in violation of the rules of the Statute of the Orthodox Church.

B. Proceedings before the Court of Appeal

1. The applicant's appeal

68. The applicant appealed against the County Court's judgment (see paragraphs 55-65 above). She argued that in January 2015 the head of the school had asked her to apply for a transfer to a different school because the school wanted to employ younger staff in her post. Following the decision of the Constitutional Court of 12 November 2014 and its entry into force (see paragraph 10 above), the school management, the Inspectorate and some of her students' parents had initiated a widespread defamatory campaign against her in order to put pressure on her.

69. The applicant argued further that the secular courts had jurisdiction to examine the Archbishop's decision and referred to the separate opinion of the first-instance judicial assistant (see paragraph 66 above). The Constitutional Court's case-law had established that the secular courts could not examine whether a disciplinary punishment for violations of Church doctrine and norms was well-founded. In her opinion, however, that case-law suggested that the secular courts could nevertheless examine whether such punishment was applied in accordance with the required procedure.

70. The applicant reiterated the arguments she had raised before the lower court (see paragraph 47-48 above) and contended that the manner in which

the Archbishop's decision had been delivered had denied her the opportunity to contest it before both the ecclesiastical and the secular courts.

71. The applicant also submitted that her administrative file showed that she had had only good appraisals and had never been disciplined. She also pointed to the report about her produced on 18 February 2015 (see paragraphs 6-9 above). Only three months after the said report was produced both the head of her school and the inspector had changed their mind about her completely. Their change of mind was both suspicious and inexplicable given the available evidence. The alleged complaints against her by some of the students' parents had been lodged by parents who were not of the Orthodox religion.

72. As to the decision of 10 June 2015 by the head of her school, the applicant reiterated her previous arguments (see paragraph 36 above).

73. Lastly the applicant argued that she had suffered both pecuniary and non-pecuniary damage because of the head's decision and had lost her livelihood.

2. The Court of Appeal's judgment

74. By a final judgment of 21 June 2017, the Court of Appeal dismissed the applicant's appeal (see paragraphs 68-73 above). It held that the applicant's arguments concerning the County Court's interlocutory judgment of 15 September 2015 (see paragraphs 66 and 69 above) were ill-founded. The interlocutory judgment could not have produced the effects claimed by the applicant given that during the first round of the proceedings the County Court itself had taken the view that the applicant had not asked it to examine the Archbishop's decision (see paragraph 42 above).

75. As to the applicant's claims concerning the Archbishop's decision, apart from upholding the findings of the County Court set out in paragraph 56 above, the Court of Appeal held also that Article 26 of Law no. 489/2006 (see paragraph 86 below) recognised in effect that religious denominations could have their own courts that could examine problems of internal discipline. Moreover, the relevant provisions of the Labour Code were inapplicable in this connection.

76. In its decision of 10 June 2008 (see paragraphs 93-95 below) the Constitutional Court had acknowledged that Article 26 of Law no. 489/2006 was constitutional. The Constitutional Court had found that the State could not exercise power over the internal activities of religious denominations. The State's legal norms concerning work discipline were therefore inapplicable to the staff of religious denominations. The fact that actions in breach of the rules of internal discipline of religious denominations could not be examined by secular courts did not violate a person's right of access to court because legal liability in this area was governed by legal rules specific to each religious denomination.

77. The Constitutional Court had considered that it was fair for the ecclesiastical courts to examine alleged breaches of discipline by staff of religious denominations who belonged to the clergy because only those courts could assess the compatibility of the actions in issue with the religious denominations' spiritual role. Religious denominations were not administrative bodies but were autonomous and had a spiritual role in society.

78. The Constitutional Court had held that in terms of discipline, the staff of religious denominations who belonged to the clergy were in a different position from that of ordinary people. They were obliged to comply with special ordinary and canon law rules.

79. The Court of Appeal held that the Constitutional Court's case-law had also acknowledged that different situations allowed for different legal treatment as long as the treatment in question could be objectively and reasonably justified.

80. In view of the above, the Court of Appeal was of the opinion that the applicant could not challenge the Archbishop's decision in the secular courts. The withdrawal of the endorsement in the applicant's case concerned disciplinary problems and the secular courts lacked jurisdiction to examine allegations of breaches of the internal disciplinary rules of a religious denomination because legal liability in such matters was governed by laws specific to that religious denomination and not by ordinary law.

81. The Court of Appeal in essence reiterated the County Court's findings as set out in paragraphs 61-56 above. In addition, the Court of Appeal held that the applicant could have brought proceedings in the ecclesiastical courts when she had become aware of the full content of the Archbishop's decision. The court could not accept the applicant's allegations that it would have been impossible to bring such proceedings because in the court's view there were no genuine obstacles preventing her from pursuing that remedy. The Court of Appeal also noted that the Archbishop's decision had been signed by the Archbishop and G.H. (see paragraph 6 above) and therefore complied with the requirements of Article 119 § 5 of the Statute of the Orthodox Church (see paragraph 87 below).

82. Lastly, the Court of Appeal held that in the light of its findings above it did not need to examine the applicant's requests concerning her reinstatement in her post and the wages due to her as from the date when her employment was terminated (see paragraph 45 above).

VII. OTHER INFORMATION

83. On 17 June 2015 the applicant brought criminal proceedings against several employees of the Inspectorate, including the inspector, the head of the school and the president of the parents' association (see paragraph 15 above). The applicant argued that the employees of the Inspectorate, including the inspector, had misled the Archbishop when they had stated in their

correspondence with the Archdiocese that she had participated in the competitive examination for a tenured post without the necessary authorisation or endorsement (see paragraphs 20-21 above). The applicant contended that her participation in the procedure without the necessary endorsement would have been impossible.

84. In addition, she argued that most of the other information that had been provided to the Archbishop was either misleading or false. The case-file does not contain information about the outcome of the applicant's criminal complaint.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW

85. The relevant provisions of the Labour Code, as in force at the relevant time, read as follows:

Article 56

“(1) An existing employment contract shall be terminated automatically (*de drept*):

...

(g) from the moment the appropriate authorities or bodies withdraw the necessary authorisations ... or approvals for practising a profession;

...

(2) In the situations provided for at paragraph 1(c)-(j), the situation leading to the automatic termination of the individual employment contract shall be acknowledged within five working days from the moment it arises, by a decision of the employer in writing, and shall be notified to the persons concerned within five working days.

86. The relevant provisions of Law no. 489/2006 on freedom of religion and the general status of religious denominations, as in force at the relevant time, read as follows:

Article 26

“(1) For matters of internal discipline, religious denominations may have their own ecclesiastical courts, according to their own rules and statutes.

(2) Matters of internal discipline shall be exclusively subject to the provisions of internal regulations and canon law.

(3) Having their own ecclesiastical courts shall not preclude the application of the [ordinary] legislation concerning administrative and criminal offences ...”

Article 32

“(1) For the recognised denominations the teaching of religion in public and private schools shall be protected by law.

ȚÎMPĂU v. ROMANIA JUDGMENT

(2) The teaching staff who teach religion in public schools shall be appointed in accordance with the law with the agreement of the denomination the staff [in question] represent.

(3) In the event that a teacher commits serious violations of the denomination's doctrine and morals, the denomination may withdraw its endorsement [of that person] as a teacher of religion, resulting in the termination of the individual employment contract.

..."

87. The relevant provisions of the Statute on the organisation and management of the Orthodox Church of 16 January 2008, approved by Government Decision no. 53/2008, as in force at the relevant time, read as follows:

Article 119

"...

(3) Teaching staff who teach religion in public and private teaching institutions shall be appointed with the endorsement of the [Archbishop] of each diocese.

...

(5) In the event that a teacher, whether a member of the clergy or a lay person, from amongst those who teach the subject of religion commits violations of a Church's doctrine and morals, after an investigation the [Archbishop] may withdraw the endorsement [of that person] as a teacher of religion, resulting in the termination of the individual employment contract ..."

88. The relevant provisions of Law no. 1/2011 on national education, as in force at the relevant time, read as follows:

Article 18

"...

(3) Religion may be taught only by teaching staff qualified in accordance with the provisions of the present Law and authorised under the protocols concluded between the Ministry of Education ... and the religious denominations officially recognised by the State."

89. The relevant provisions of Protocol no. 9217/5120/2014 of 29 May 2014 on the teaching of Orthodox religion classes at pre-university level and the organisation of pre-university and university level Orthodox theological studies concluded between the Ministry of National Education, the Orthodox Patriarchy and the State Secretariat for Religious Denominations, as in force at the relevant time, read as follows:

Article 4

"(1) Teaching staff shall be employed in the post of teacher of the Orthodox religion in pre-university [level] teaching institutions with the written endorsement of the [Archbishop (*chiriarhului*)].

...

(3) The [Archbishop's] written endorsement shall be withdrawn for serious violations of the denomination's doctrine and morals.

(4) The withdrawal of the [Archbishop's] written endorsement and the reasons [for it] shall be notified in writing to the pre-university [level] teaching institution and shall result in the automatic termination of the individual employment contract, in accordance with [the provisions] of Law no. 489/2006 on freedom of religion ... and the Labour Code. The employer shall be under an obligation to issue the decision terminating the individual employment contract within the lawful time-limit."

Article 24

"The procedure for ... withdrawing the written endorsement of the [Archbishop] shall be drawn up by the ... Patriarchy and shall be approved by a decision of the Holy Council of the ... Orthodox Church. Once approved, the procedure shall be notified to the Ministry of National Education and to the State Secretariat for Religious Denominations."

90. The relevant provisions of Order no. 4895 of 10 November 2014 of the Ministry of National Education on the procedure for the mobility of teaching staff at pre-university level during the academic year 2015-2016, as in force at the relevant time, read as follows:

Article 9

"...

(17) Religion may be taught only by university graduates with [appropriate] majors ... on the basis of an endorsement given by the denominations officially recognised by the State under Article 18 § 3 of Law no. 1/2011...

..."

91. The relevant provisions governing the procedure for the grant and withdrawal of the Archbishop's written endorsement for conducting activities concerning religious and theological teaching, as in force at the relevant time, read as follows:

Article 24

"The [Archbishop's] written endorsement shall be withdrawn for serious violations of the denomination's doctrine and morals (under Article 4 § 3 ... of the Protocol ... [see paragraph 89 above]."

Article 25

"The withdrawal of the [Archbishop's] written endorsement and the reasons [for it] shall be notified in writing to the teaching institution and shall result in the automatic termination of the individual employment contract ... The employer shall be under an obligation to issue the decision terminating the individual employment contract within the lawful time-limit under Article 4 § 4 ... of the Protocol ... [see paragraph 89 above]."

Article 26

“The penalties for serious violations of the denomination’s doctrine and morals for persons who are the subject of the present procedure shall be:

(a) without a right of appeal for the person concerned, [the following penalties,] to be applied by the [Archbishop] at a meeting of the Permanency of the Episcopal Council, based on a lawful investigation [or] on a report ... of the subordinate administrative bodies;

- the Archbishop’s written or verbal rebuke ...;
- withdrawal of the distinctions granted by the [Archbishop];

(b) with a right of appeal for the person concerned, and following a proposal by the Episcopal Council to the competent church authority, the withdrawal of the [Archbishop’s] written endorsement.”

Article 27

“The [Archbishop’s] written endorsement shall be withdrawn for serious violations of the denomination’s doctrine and morals, namely:

A. Violations of doctrine:

- (a) apostasy ...;
- (b) heresy ...;
- (c) schism ...;
- (d) blasphemy ...;
- (e) sacrilege ...

B. Violations of morals:

...

- (h) insult, calumny, defamation and public gossip ...;

...

- (j) provoking unrest, fighting and using offensive language ...;

...”

Article 30

“(1) Violations of a moral or doctrinal nature shall be judged by the following councils:

- (a) [at first instance]: the Episcopal Council;
- (b) on appeal: the Metropolitan Council.

...

(3) The investigation and decision procedure shall be conducted in accordance with the provisions of the Rules on discipline within the Orthodox Church ... (summoning and hearing the parties, adducing evidence, conducting the hearings and so on).

(4) The Episcopal Council’s judgment may be appealed against to the Metropolitan Council within fifteen days from notification ...”

92. The relevant provisions of Order no. 5115 of 15 December 2014 of the Ministry of National Education on the rules concerning the organisation and management of teaching institutions at pre-university level, as in force at the relevant time, read as follows:

Article 22

“(1) In exercising [his or her] executive management functions, the head of a school has the following powers:

(a) managing the teaching institution and acting as its legal representative ...;

...

(c) ensuring, and assuming direct responsibility for, enforcement of the law ... within the teaching institution;

...”

II. DOMESTIC PRACTICE

93. By decision no. 640 of 10 June 2008 the Constitutional Court held that Article 26 of Law no. 489/2006 (see paragraph 86 above) was constitutional. It held that under the relevant domestic law, religious denominations consisted of the totality of their followers, were autonomous in relation to the State and organised themselves according to their own statutes. Religious denominations fulfilled a spiritual role within society, and legally speaking, they were not an entity of the State. A denomination’s internal discipline was governed by specific laws consistent with its spiritual role and with human rights. The State did not exercise public functions within the area of a religious denomination’s internal activities. For that reason, the legal norms adopted by the State on discipline in an employment context were inapplicable to the staff of religious denominations.

94. The Constitutional Court also held that the secular courts had no jurisdiction in relation to breaches of the internal disciplinary rules of religious denominations because legal liability in this area was governed by the denominations’ own laws and not by ordinary law. It was fair for the ecclesiastical courts to determine the disciplinary liability of staff belonging to the clergy because they were the only ones who could assess whether or not the alleged breaches of discipline were compatible with the denomination’s spiritual role. By using the expression “their own ecclesiastical courts” (see paragraph 86 above) the legislature had determined the legal nature of the judicial ecclesiastical authorities. Their role was to re-establish internal discipline within the denomination and not within the legal order governed by the general rules.

95. The Constitutional Court held further that members of staff of religious denominations had free access to the secular courts in respect of

administrative and criminal offences, which were anti-social acts governed by general rules.

96. In its decision of 12 November 2014 (see paragraph 10 above) the Constitutional Court allowed in part and dismissed in part an objection of unconstitutionality raised by a private party with regard to Article 9 §§ 1 and 2 of Law no. 84/1995 on teaching and of Article 18 §§ 1 and 2 of Law no. 1/2011 on national education. The Constitutional Court held, among other things, that the school had to be open for religious ideas and values, because the State guaranteed freedom of conscience, which had to be manifested in a spirit of tolerance and mutual respect. The State was therefore forbidden to adopt legislative solutions that could be interpreted as being disrespectful towards the religious or philosophical beliefs of the parents, which was why the organisation of school activities had to achieve the aim of reconciling the exercise of functions of education and teaching religion with the respect of the parents' right to provide education in accordance with their own religious beliefs. The imperative of tolerance was the supreme value of the entire system of values. This reason excluded, in principle, that activities and conducts arising from a particular manifestation of religious belief or non-religious philosophical beliefs could be subjected to sanctions that the State prescribed for such conducts, regardless of the reasons behind the beliefs of the person concerned. In order to fully respect the Constitutional right to freedom of conscience and religion, which implied the freedom to join or not to join any religion, the legislature was bound by an obligation of neutrality and impartiality. This obligation is complied with when the State supervises the observance of these freedoms by giving the parents and legal representatives of minor students, or adult students for that matter, the possibility to ask for an attendance of classes of religion.

97. By decision no. 403 of 15 June 2016 the Constitutional Court reiterated that Article 26 of Law no. 489/2006 was constitutional and referred to its previous findings (see paragraphs 93-95 above). In addition, it held that if secular courts were allowed to review decisions taken by a church's disciplinary or judicial authority on matters concerning doctrine, morals and discipline, this would violate the principle of the autonomy and unity of denominations.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

98. The applicant complained that the national courts' refusal to review the lawfulness of the Archbishop's decision, even though it concerned a public-school employee and had led to the automatic termination of her employment, had violated her right of access to a court. The restriction of her rights had been unlawful, had failed to pursue a legitimate aim and had denied

her the opportunity to challenge the disputed decision before an independent and impartial tribunal. The applicant relied on Article 6 of the Convention, which, in so far as relevant, reads as follows:

“1. In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal ...
...”

A. The parties’ submissions

1. The Government

99. Concurring with the reasons given by the national courts for their judgments and citing the relevant provisions of national law, the Government argued that Article 6 was inapplicable in the present case.

100. They contended that the applicant had not had a right that could arguably be said to have been recognised under the domestic legal framework to challenge the Archbishop’s decision, and ultimately the automatic termination of her employment, before the secular courts.

101. The contentious issue at hand was not limited to a simple employment dispute between a teacher and a school as it also concerned the special powers afforded by law to the authorities of the Orthodox Church and the additional requirements imposed on the applicant, apart from those also normally applicable to other teachers, because of the special nature of the subject that she taught. The applicant had not been the subject of disciplinary proceedings because she had violated one of the clauses of her employment contract. The relevant provisions of the Labour Code concerning ordinary labour-law disputes were therefore inapplicable in her case.

102. The Government contended that the domestic courts had examined the procedural context surrounding the withdrawal of the applicant’s endorsement and therefore whether the withdrawal in question had complied from a formal perspective with the relevant rules. In addition, they had examined the applicant’s claims that she had allegedly been prevented from challenging the Archbishop’s decision in the ecclesiastical courts, along with all her other claims concerning the termination of her employment.

103. The domestic courts had dismissed the applicant’s arguments and had provided reasons for their conclusions, which were not arbitrary or manifestly unreasonable. There was no compelling justification, therefore, for the Court to substitute its own views for that of the domestic courts.

2. The applicant

104. The applicant submitted that the conclusions of the domestic courts had been arbitrary and manifestly unreasonable.

105. National law recognised the applicant’s right to challenge in the secular courts her employer’s decision to terminate her employment. In

addition, it could be argued that a right of access to court was recognised when the challenge concerned aspects of the relationship between an employer and a religious denomination and the autonomy enjoyed by that religious denomination. This was all the more so in her case given that she was employed by a secular public institution.

106. The applicant argued that the restriction imposed on her right of access to court in respect of the Archbishop's decision had not been provided for by law. Since she was a public-school employee, Article 26 of Law no. 489/2006 (see paragraph 86 above) and the Constitutional Court's conclusions in that connection (see paragraphs 93-97 above) were inapplicable to her case.

107. Law no. 489/2006 permitted religious denominations to establish their own ecclesiastical courts for matters of internal discipline. Nevertheless, the applicant was not a church employee and held no position or capacity in the internal structure of the Orthodox denomination. Also, her employer had no institutional connection either to the Orthodox Church or to the Archdiocese.

108. Even assuming that she could have been accused of certain disciplinary problems, these problems were not of a doctrinal or religious nature and could have concerned the conduct of any employee regardless of the subject he or she taught. They were therefore not problems of the internal discipline of the Church and could not have been resolved by the ecclesiastical courts.

109. Any disciplinary issues connected to her professional activity that she might have been responsible for should have been a matter for the school's and Inspectorate's disciplinary bodies. National law contained no rules giving the ecclesiastical courts jurisdiction to settle employment disputes between the applicant and her school.

110. The applicant's actions in the courts had concerned the lawfulness of the decisions contested by her. The courts' conclusion to the effect that the autonomy of religious denominations prevented them from reviewing whether an act carried out by a religious authority was lawful was excessive. The applicant's position as a teacher of religion could not mean that her entire teaching career could be subordinated to ecclesiastical rules.

111. Relying on the Court's findings in *Lombardi Vallauri v. Italy* (no. 39128/05, 20 October 2009), the applicant argued that while it was acceptable to maintain that the clergy had autonomy in relation to questions of a religious nature, it was unacceptable to hold that a lay teacher's conduct fell outside the realm of labour law in so far as disciplinary and organisational matters were concerned. To accept the latter view could mean that a teacher of religion could be immune to secular disciplinary rules as long as the religious denomination he or she represented maintained its endorsement.

B. Submissions by the third-party interveners

1. The ECLJ

112. The ECLJ submitted that in the light of the Court's case-law, the civil limb of Article 6 was inapplicable to the applicant's case.

113. Under the relevant provisions of domestic law, there was no civil right under domestic law to practise as a teacher of Orthodox religion. This activity was governed by the internal and canon-law provisions of the Orthodox Church. The fact that the decision of the secular employer was closely connected to that of the Archbishop sought to ensure that the secular authorities did not take the place of the Archbishop in exercising the power to manage his Church's internal affairs. The secular courts were therefore free to decide that they lacked jurisdiction to examine decisions of a religious nature in order to avoid becoming ecclesiastical bodies.

2. Ordo Iuris

114. Ordo Iuris submitted that when examining the applicant's complaint the Court had to take account of the principle of autonomy of religious communities in so far as their internal affairs were concerned. Anyone who chose to be a part of a particular religious community implicitly accepted restrictions on his or her freedoms. Religious communities could expect their followers to comply with certain religious and moral rules. Their autonomy afforded them the power to make appointments both to positions within the internal structure of those communities and to religious positions in secular institutions, such as that of a teacher in a public school.

115. Ordo Iuris further submitted that the laws of both the European Union and its member States recognised the right of religious communities to impose a duty of loyalty on their employees. As a result, the employees in question had to comply with the religious and moral standards specified in their employment contracts, in both their professional and private lives. In the event that a Church or other relevant body considered that a certain conduct was in breach of the contractual duty of loyalty, secular courts were prohibited from questioning and examining that view.

116. According to the Court's case-law, limitations of the rights and freedoms of employees of religious universities were permitted if they were necessary to protect the religious identity of the institution. Nevertheless, decisions to dismiss such employees had to be duly justified.

117. Ordo Iuris took the view that an analogous approach also had to be applied to employees holding posts with a religious component in secular institutions. They represented the religious community they belonged to, were given the post on the basis of the endorsement of that community and carried out professional duties which served a religious purpose. As a result, the community was entitled to impose an obligation on such persons to

comply with the community's moral and religious norms in both their professional and private lives.

118. Ordo Iuris contended that the above obligation was of fundamental importance in the case of teachers of religion because their role was not only to teach students about doctrines, beliefs and customs but also to provide a good example of living according to those beliefs. That was why the decision to appoint a teacher of religion resembled to a certain extent the appointment of a priest.

C. The Court's assessment

119. The Court reiterates the general principles set out in its case-law for assessing whether Article 6 under its civil limb is applicable (see *Károly Nagy v. Hungary* [GC], no. 56665/09, §§ 60-63, 14 September 2017).

120. The Court notes that the applicant's complaint and submissions before it (see paragraph 98 above) do not appear to concern an allegation that it was impossible to challenge her employer's decision to terminate her employment as such in the secular courts, or specifically that it was impossible to contest that the decision in question met the formal statutory conditions for its validity. Indeed, the applicant's challenge in relation to those issues was examined and dismissed on the merits by the courts (see paragraph 55 above).

121. The scope of her complaint concerns in effect the alleged impossibility of challenging the Archbishop's decision to withdraw his endorsement of her as a teacher of Orthodox religion and ultimately the automatic termination of her employment stemming from that withdrawal.

122. The question to be answered in the present case, therefore, is whether the applicant had a "right" which could, at least on arguable grounds, be said to be recognised under domestic law to bring the above-mentioned challenge in the national secular courts (see paragraph 105 above).

123. In assessing this question, the Court must take as a starting-point the provisions of domestic law and their interpretation by the domestic courts (see *Károly Nagy*, cited above, § 65, with further references). The Court's review involves an assessment of the content of the national law and, if applicable, an assessment reaching a different conclusion from that reached by the domestic courts. Nevertheless, such an exercise would only be appropriate should the conclusions of the domestic courts be found to be arbitrary or manifestly unreasonable (*ibid.*, § 71).

124. As regards domestic law, the Court notes that under the relevant provisions of Laws nos. 1/2011 and 489/2006, the Statute on the organisation and management of the Orthodox Church, the protocols concluded between the Ministry of National Education and the Orthodox Patriarchy, the Ministry's orders and the Labour Code (see paragraphs 85-90 above), a person could teach Orthodox religion in secondary public schools only with

the endorsement of the local archbishop. The archbishop was free to withdraw his endorsement, however, if he considered that the person in question had committed serious violations of Orthodox doctrine and morals. In that event the teacher's employment contract was terminated automatically.

125. The Court notes further that under the same above-mentioned legal provisions, matters of internal discipline of religious denominations were governed exclusively by their own rules and statutes. In addition, all religious denominations were entitled to have their own ecclesiastical courts with jurisdiction to decide those issues.

126. The main question that arose in the secular domestic courts in the applicant's case therefore revolved around the extent and depth of the jurisdiction of the ecclesiastical courts in matters of religious discipline and of any jurisdiction the secular courts might enjoy in this connection.

127. In its decisions of 2008 and 2016 (see paragraphs 93-97 above), the Constitutional Court explained that the ecclesiastical courts had exclusive jurisdiction in examining alleged violations of a disciplinary nature concerning a religious denomination's doctrine, morals and discipline. The Constitutional Court took the view that secular courts lacked jurisdiction to examine such issues because matters pertaining to internal discipline of denominations were governed by specific laws consistent with the spiritual role of the denominations themselves and that therefore a secular court's intervention in this area would violate the principles of the autonomy and unity of religious denominations.

128. The Court notes that the Constitutional Court's above-mentioned findings seem to have been focused on staff belonging to the clergy. Nevertheless, its findings concerning the secular courts' jurisdiction on matters regarding the internal discipline of religious denominations also appear to have been applied generally to all disputes about such rules, regardless of whether the person accused of violating them was a member of the clergy or a layperson performing religious work under the authority of the church.

129. Indeed, this seems to have been the view shared by the domestic courts examining the applicant's case. Both the County Court and the Court of Appeal held that the findings of the Constitutional Court concerning the jurisdiction of the secular courts in matters pertaining to religious disciplinary issues were fully applicable to the applicant's case. They refused to accept the applicant's argument that the Constitutional Court's case-law suggested that secular courts could examine the lawfulness of the punishment imposed on her by the Archbishop, that is, whether the withdrawal of his endorsement was carried out in accordance with the required procedure (see paragraphs 55-65 and 74-82 above).

130. The Court notes that the applicant has not pointed to any conclusive domestic case-law that could suggest that the national courts' above-mentioned view and their interpretation of the Constitutional Court's

case-law was inconsistent with the domestic practice on this matter. The Court sees no reason to doubt therefore that their assessment was in line with established practice.

131. The Court notes further that instead of turning to the ecclesiastical courts with her challenge against the Archbishop's decision, the applicant challenged that decision in the secular courts.

132. In examining the applicant's case, the County Court concluded that it had no jurisdiction to review the Archbishop's decision or the alleged procedural shortcomings to which the applicant had referred in her challenge. In addition, the County Court found that the Archbishop's endorsement was a mandatory condition for a person to be employed and able to work as a teacher of religion in that denomination, and that in the absence of such an endorsement the applicant's employment was automatically terminated (see paragraphs 55-65 above).

133. This view was confirmed by the Court of Appeal, which held that the withdrawal of the endorsement in the applicant's case concerned disciplinary problems and therefore matters of canon law. As a result, the only courts that had jurisdiction to examine the procedure for the withdrawal of the endorsement or the form and content of that decision were the ecclesiastical courts (see paragraphs 74-82 above).

134. None of the courts accepted the applicant's argument that the absence of any information in the Archbishop's decision as to the procedure that she could follow to challenge it in the ecclesiastical courts, and the failure of the Archdiocese to notify her of the Archbishop's decision, had denied her the opportunity to challenge that decision in the ecclesiastical courts, and reasons were provided for the courts' decision on that issue (see, notably, paragraphs 62 and 81 above).

135. Both of the domestic secular courts which examined the applicant's case concluded that her challenge to the Archbishop's decision was inadmissible after conducting a detailed examination of the issue in dispute. As established in paragraphs 127-130 above, those findings were not inconsistent with the principles established by the relevant constitutional and domestic practice.

136. Given the overall legal framework and case-law existing in Romania when the applicant lodged her challenge, the domestic courts' conclusion that they lacked jurisdiction and their decision to reject the applicant's challenge against the Archbishop's decision as inadmissible cannot be considered arbitrary or manifestly unreasonable.

137. The Court is not persuaded by the applicant's assertion that the disciplinary problems she was accused of were neither of a doctrinal or religious nature nor problems of internal discipline of the Orthodox Church and could therefore not have been resolved by the ecclesiastical courts (see paragraphs 108 and 109 above). Even assuming that the Court could accept the applicant's assertions that the allegations against her could have been

made about the conduct of any public-school employee regardless of the subject he or she taught and that therefore they could also fall within the jurisdiction of the school's and the Inspectorate's disciplinary bodies, the Court notes that they were included by the relevant ecclesiastical rules among the serious violations of the Orthodox denomination's doctrine and morals and were treated as serious disciplinary offences (see Article 27 (j) of the relevant provisions described in paragraph 91 above).

138. In the Court's view, the applicant's reliance on its findings in *Lombardi Vallauri* (see paragraph 111 above) is equally unconvincing, given that the secular courts left no doubt that they had no jurisdiction to hear a challenge by the applicant to the Archbishop's decision (compare *Lombardi Vallauri*, cited above, § 62).

139. Consequently, having regard to the nature of the applicant's complaint, the basis for her service as a teacher of the Orthodox religion and the domestic law as interpreted by the domestic courts both prior to the applicant's dispute and during the proceedings instituted by her, the Court cannot but conclude that the applicant had no "right" which could be said, at least on arguable grounds, to be recognised under domestic law. To conclude otherwise would result in the creation by the Court, by way of interpretation of Article 6 § 1, of a substantive right which had no legal basis in the respondent State (see, *mutatis mutandis*, *Károly Nagy*, cited above, § 77).

140. The Court therefore considers that the civil limb of Article 6 does not apply to the facts of the present case. Consequently, this complaint is incompatible *ratione materiae* with the provisions of the Convention and must be rejected in accordance with Article 35 §§ 3 (a) and 4.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

141. Relying expressly on Article 9 of the Convention and in substance on Article 8, the applicant complained that the withdrawal of the Archbishop's endorsement and the automatic termination of her employment contract after working as a teacher for twenty years had violated her Convention rights.

142. In the light of its case-law and given the applicant's focus in her complaint and submissions on the reasons for the termination of her employment and on the alleged consequences of her dismissal (see paragraph 141 above and 165-170 below), the Court considers that the issues raised in the present case fall more properly to be examined under Article 8 of the Convention (see, *mutatis mutandis*, *Fernández Martínez v. Spain* [GC], no. 56030/07, § 68 and 108, ECHR 2014 (extracts); *Travaš v. Croatia*, no. 75581/13, § 47 and 51, 4 October 2016; and *Pişkin v. Turkey*, no. 33399/18, §§ 65-67 and 154, 15 December 2020). Accordingly, being the master of the characterisation to be given in law to the facts of a case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12,

§§ 114, 124 and 126, 20 March 2018, and *S.M. v. Croatia* [GC], no. 60561/14, § 243, 25 June 2020), the Court will examine this complaint only under Article 8 of the Convention, which, in so far as relevant, reads as follows:

“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 in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

A. Admissibility

1. Applicability of Article 8

(a) The parties’ submissions

(i) The Government

143. The Government did not contest that Article 8 was applicable in the instant case.

(ii) The applicant

144. The applicant did not submit any observations on this point.

(b) Observations by the third-party interveners

(i) The ECLJ

145. The ECLJ submitted that the Court could not proceed to examine the applicant’s case under Article 8 unless it established first that the applicant enjoyed a civil right to teach religion under domestic law. In the absence of such a right, the Court’s role was restricted to reviewing only whether the religious authorities had abused their powers and used them to achieve other purposes than religious purposes.

(ii) Ordo Iuris

146. Ordo Iuris reiterated the submissions it had made in connection with the applicant’s complaint under Article 6 of the Convention (see paragraphs 114-118 above).

(c) The Court’s assessment

147. The Court notes that even though the Government have not contested the applicability of Article 8 of the Convention as such, the present case may nevertheless raise a question as to whether the facts complained of by the

applicant fall within the scope of Article 8 (see paragraphs 145 above and 176 below). The Court will therefore examine this point first.

(i) *Relevant principles*

148. The Court reiterates that no general right to employment or to the renewal of a fixed-term contract can be derived from Article 8 (see *Fernández Martínez*, cited above § 109). Nonetheless, the Court has previously had occasion to address the question of the applicability of Article 8 to the sphere of employment. In that regard, it reiterates that the notion of “private life” is a broad concept, not susceptible to exhaustive definition (see, among other authorities, *Schüth v. Germany*, no. 1620/03, § 53, ECHR 2010). It would be too restrictive to limit the notion of “private life” to an “inner circle” in which the individual may live his or her own personal life as he or she chooses and to exclude entirely from that notion the outside world not encompassed within that circle (see *Niemietz v. Germany*, 16 December 1992, § 29, Series A no. 251-B).

149. According to the Court’s case-law, there is no reason of principle why the notion of “private life” should be taken to exclude professional activities (see *Bigaeva v. Greece*, no. 26713/05, § 23, 28 May 2009, and *Oleksandr Volkov v. Ukraine*, no. 21722/11, §§ 165, ECHR 2013). Restrictions on an individual’s professional life may fall within Article 8 where they have repercussions on the manner in which he or she constructs his or her social identity by developing relationships with others. Moreover, professional life is often intricately linked to private life, especially if factors relating to private life, in the strict sense of the term, are regarded as qualifying criteria for a given profession. Professional life is therefore part of the zone of interaction between a person and others which, even in a public context, may fall within the scope of “private life” (see *Fernández Martínez*, cited above, § 110, and the references therein).

150. Within the employment-related scenarios involving Article 8, the Court has dealt with different types of cases, including cases concerning the dismissal of teachers of Catholic religious education, laymen or ordained, who had been working in public schools or high schools (see *Fernández Martínez*, cited above, §§ 13-14 and 113 and *Travaš*, cited above, §§ 51-56).

151. In cases concerning employment-related disputes, the Court applies the concept of “private life” on the basis of two different approaches: (a) identification of the “private life” issue as the reason for the dispute (reason-based approach) and (b) deriving the “private life” issue from the consequences of the disputed measure (consequence-based approach) (see *Denisov v. Ukraine* [GC], no. 76639/11, § 102, 25 September 2018). Where no reason-based approach justifies the applicability of Article 8, an analysis of the effects of the disputed measure on the aspects of private life is necessary to assess whether the complaint falls within the scope of “private life”. Nevertheless, this division does not preclude cases in which the Court

may find it appropriate to employ both approaches in combination, examining whether there is a private-life issue in the reasons underpinning the impugned measure and, in addition, analysing the consequences of the measure. If the consequence-based approach is at stake, it is for the applicant to show convincingly that the threshold of severity was attained in his or her case. The applicant has to present evidence substantiating consequences of the impugned measure. The Court will only accept that Article 8 is applicable where these consequences are very serious and affect his or her private life to a very significant degree (ibid., §§ 107-109 and 116).

152. The Court also reiterates that the right to protection of one's reputation is a right which is protected by Article 8 of the Convention as part of the right to respect for private life. In order for Article 8 to come into play, however, an attack on a person's reputation must attain a certain level of seriousness and be made in a manner causing prejudice to the person's enjoyment of the right to respect for private life (see *Axel Springer AG v. Germany* [GC], no. 39954/08, § 83, 7 February 2012).

153. Nevertheless, it is important to emphasise that Article 8 cannot be relied on in complaining of a loss of reputation which is the foreseeable consequence of one's own actions such as, for example, the commission of a criminal offence (ibid., § 83). This extended principle should cover not only criminal offences but also other misconduct entailing a measure of legal responsibility with foreseeable negative effects on "private life" (see *Denisov*, cited above, § 98).

(ii) Application of those principles to the present case

154. In the present case the Court must answer the question whether the applicant's dismissal from the post of teacher of Orthodox religious education in a public school, a post on which she was employed and remunerated by the State for twenty years on the basis of a permanent employment contract, affected her private life, thus rendering Article 8 applicable.

155. In the light of the criteria set out in *Denisov* (cited above), the Court will seek to ascertain how a private-life issue can arise in the present employment-related dispute – on account either of the reasons for the termination of the employment contract or of the consequences of such termination for the applicant's private life.

156. The Court notes that the reason explicitly given by the applicant's employer to justify the termination of her contract was the Archbishop's decision to withdraw the endorsement of her. The reasons behind that decision were limited to the applicant's performance in the public arena, namely her alleged professional misconduct, which was said to undermine the proper functioning of the school. Those reasons related only to the applicant's professional tasks in the workplace and had no connection to her private life. In the absence of any such issues in the reasons given for her dismissal, it has to be determined whether, according to the evidence and the

substantiated allegations put forward by the applicant, the measure had serious negative consequences for the aspects constituting her “private life”, namely (i) her “inner circle”, (ii) her opportunities to establish and develop relationships with others, or (iii) her reputation (see *Denisov*, cited above, § 120).

157. With regard to the consequences of the applicant’s dismissal, the first question which arises is whether there is any scope for an issue to be raised under Article 8 in the light of the above-mentioned exclusionary principle (see paragraph 153 above). According to that principle, where the negative effects complained of are limited to the consequences of unlawful conduct which were foreseeable by the applicant, Article 8 cannot be relied upon to allege that such negative effects encroach upon the applicant’s private life (see *Denisov*, cited above, § 121).

158. The Court notes that in the present case before the domestic authorities the applicant has denied the existence of any professional misconduct (see paragraphs 26, 38, 50, 68 and 71 and 108-109 above), thus implying that her dismissal could not have been a foreseeable consequence of her conduct in the position of teacher of the Orthodox religion. In these circumstances the Court cannot apply the exclusionary principle in mentioned paragraph 157 above in the applicant’s case (see, *mutatis mutandis*, *Denisov*, cited above, § 121).

159. As regards the consequences of the disputed dismissal for the applicant’s “inner circle”, the Court reiterates that this point has to be viewed as relating to the worsening of the material well-being of the applicant and her family (see *Denisov*, cited above, § 122). In this connection, it is sufficient to note that the applicant lost her job, that is to say, her livelihood (see paragraph 73 above; see also *Pişkin*, cited above, § 185).

160. As regards the applicant’s ability to forge and maintain relationships with others, the Court observes that the termination of her employment and the reasons behind it made her ineligible to work as a teacher of the Orthodox religion not only in the school she was working for but also in any other public or private school in the county where she lived (see paragraph 18 above).

161. The Court takes note of the applicant’s claim that the measure in dispute had stigmatised and marginalised her in the local society. The applicant stated in particular that the stigma she faced was an important reason why she had been unable to find another job to support herself and had been driven to leave the country in search of work (see paragraphs 169-170 below). While, in view of her qualifications, it would not have been impossible, for the applicant, to seek and obtain another post, in the teaching sector or elsewhere, such an initiative on her part would have probably required some time and its outcome was subjected to a degree of uncertainty. Consequently, the termination of the applicant’s employment did have, at least for some time, repercussions on her ability to forge and maintain relationships, including employment relations.

162. Finally, as regards whether the disputed measure infringed the applicant's reputation so as to seriously diminish the esteem in which she was held and to have a severe impact on her social relations, the Court merely refers to its findings concerning the grounds for the withdrawal of the Archbishop's endorsement which ultimately led to her dismissal, that is, the applicant's alleged professional failings and misconduct, which were said to undermine the proper functioning of the school (see paragraph 156 above). Such an assessment undoubtedly had repercussions for the applicant's professional and social reputation.

163. Accordingly, measuring the applicant's subjective perceptions against the objective background and assessing the pecuniary and non-pecuniary impact of her dismissal on the basis of the evidence presented before the Court (see paragraph 175 below), it has to be concluded that the measure in question had repercussions on the applicant's private life which were serious enough to reach the threshold of severity for an issue to be raised under Article 8. That provision is therefore applicable to the present case.

2. Other grounds of inadmissibility

164. Noting that this complaint is not manifestly ill-founded and is not inadmissible on any other grounds within the meaning of Article 35 of the Convention, the Court declares it admissible.

B. Merits

1. The parties' submissions

(a) The applicant

165. The applicant argued that the termination of her employment because of the Archbishop's decision constituted an interference with her right to respect for her private life.

166. Even though national law provided for the restrictions imposed on the applicant's right, the domestic courts had not actually verified the lawfulness of the measures in question but had simply referred *in abstracto* to the rules allowing for the restrictions to be imposed.

167. The applicant acknowledged that the measures taken against her had pursued a legitimate aim, namely the preservation of the autonomy of religious denominations. Nevertheless, she was of the opinion that the measures were disproportionate to the legitimate aim pursued.

168. Relying on the Court's findings under Article 10 of the Convention in *Lombardi Vallauri* (cited above), the applicant argued that by rendering the principle of the autonomy of religious denominations absolute, by dismissing her challenge to her employer's arbitrary decision and by not reviewing whether the criteria for automatic termination of her contract were met, the national authorities had violated the very essence of her procedural

rights. They had therefore failed to comply with their positive obligations to afford safeguards against arbitrariness and potential discrimination between employees of public education institutions.

169. The applicant contended that the decision to terminate her contract had deprived her of any source of income after working as a teacher for twenty years. Also, the Archbishop's decision to withdraw his endorsement had stigmatised and marginalised her as a member of a small and particularly religious community who had been found unworthy by the local Church leader.

170. The above-mentioned stigma and marginalisation constituted important reasons why she could not find another job to support herself and had been forced to leave the country in search of work.

(b) The Government

171. The Government acknowledged that the termination of the applicant's employment because of the Archbishop's decision had constituted an interference with her right to respect for her private life.

172. The interference in question had been in accordance with the law, and the application of the law in question had been foreseeable and predictable. In addition, the interference had pursued a legitimate aim, namely the protection of religious autonomy and therefore the Orthodox Church's right to choose the persons it considered best suited to teach religious doctrine.

173. The Government argued that the measure imposed on the applicant was proportionate to the legitimate aim pursued. Furthermore, the national authorities had acted within their wide margin of appreciation and had struck a fair balance between the competing rights at stake.

174. The domestic courts had duly examined the applicant's specific situation and had conducted an in-depth assessment of the relevant national law. They had provided reasons for their judgments which were not arbitrary or manifestly unreasonable or in violation of the Court's case-law.

175. The Government acknowledged that the termination of the applicant's employment had entailed serious consequences for her private and family life. Nonetheless, the domestic courts had considered the extent of that interference and had concluded that it was justified given that the Orthodox Church had lawfully exercised its right to religious freedom. The position of the Orthodox Church's authorities was not unreasonable given that they had sought to preserve the integrity of their teachings. It could also not be argued that in deciding to withdraw their endorsement the religious authorities had acted arbitrarily and without any justification or for reasons unconnected with the exercise of the Orthodox Church's sovereignty.

2. *Submissions by the third-party interveners*

(a) **The ECLJ**

176. The ECLJ acknowledged that the Court had established that the loss of employment of a religious nature could constitute an interference with the rights protected by Article 8. Nevertheless, the applicant had lost her position as a teacher of religion because of her professional shortcomings and not because she had exercised rights protected by the Convention. Therefore, the withdrawal of the Archbishop's endorsement had not interfered with her rights as protected by the Convention. To hold otherwise would mean that any measure involving pecuniary consequences constituted an interference with the rights protected by Article 8.

177. The ECLJ submitted that the measures imposed on the applicant were lawful and had pursued a legitimate aim, namely the protection of the rights of her students, of their parents and of the Orthodox Church. In addition, according to the criteria developed in the Court's case-law they were proportionate to the aim pursued.

(b) **Ordo Iuris**

178. Ordo Iuris reiterated the submissions it had made in connection with the applicant's complaint under Article 6 of the Convention (see paragraphs 114-118 above).

3. *The Court's assessment*

(a) **Whether there has been an interference**

179. The Court notes that even though the Government have not disputed that the termination of the applicant's employment because of the Archbishop's decision constituted an interference with her right to respect for her private life (see paragraph 171 above), the present case may nevertheless raise a question as to whether the facts complained of by the applicant constituted an interference with that right as protected under Article 8, given her alleged professional conduct.

180. The elements in its possession do not allow the Court to conclude that the termination of the applicant's employment was the foreseeable consequence of her own actions (see paragraph 158 above).

181. The Court has held that the direct involvement of a public authority, namely a public school, in the decision-making process concerning an applicant's dismissal through the enforcement of a decision by a Church to withdraw his or her authorisation to teach religious education constituted an interference with that applicant's right to respect for his or her private life (see *Fernández Martínez*, cited above, §§ 115-16, and *Travaš*, cited above, §§ 75-77).

182. The Court does not see any reasons to hold otherwise in the circumstances of the present case, and concludes that the conduct of the public authorities constituted an interference with the applicant's right to respect for her private life.

(b) "In accordance with the law"

183. The Court notes that neither the parties nor the third-party interveners have contested that the interference with the applicant's rights was in accordance with the law (see paragraphs 166, 172, 177 and 178 above).

184. Given the circumstances and in view of the Court's findings in connection with the applicant's complaint under Article 6 (see paragraphs 124-139 above), the Court is satisfied that the interference complained of had a legal basis in the relevant provisions of the domestic law and that those provisions satisfied the "lawfulness" requirements established in its case-law (see, *mutatis mutandis*, *Fernández Martínez*, cited above § 120).

185. The disputed interference was therefore in accordance with the law.

(c) Legitimate aim

186. The Court notes that neither the parties nor the third-party interveners have disputed that the interference with the applicant's rights pursued a legitimate aim (see paragraphs 167, 172, 177 and 178 above).

187. The Court agrees with the parties and finds that the applicant's dismissal may be seen as pursuing the legitimate aim of protecting the rights and freedoms of others, namely those of the Orthodox Church, and in particular its autonomy in choosing persons accredited to teach religious doctrine (see *Fernández Martínez*, cited above § 122, and *Travaš*, cited above, § 86). Given some of the facts that gave rise to the applicant's dismissal, the Court is of the view that the interference in question was equally justified by the right of parents to choose their children's religious education, especially since some of the parents of children who attended the applicant's classes appear to have shown disapproval of her (see paragraph 10 and 14 above).

(d) Necessary in a democratic society

188. The Court refers to the general principles set out in *Fernández Martínez* (cited above, §§ 123-32). It notes that the relevant factors to be taken into account when balancing the right to respect for private life with the State's duty to protect the autonomy of a Church, in cases where the employment of a teacher of religion was terminated because the Church deemed that he or she was no longer suitable for that position, include the following: the status of the applicant; the exposure of the applicant's

situation; the State's responsibility as an employer; the severity of the sanction; and the review by the domestic courts (*ibid.*, §§ 133-151).

(α) Status of the applicant

189. The Court notes that it remains somewhat unclear whether the applicant had ever been endorsed by the Archbishop, even though that would have been required for her to participate in the public competitive examination for her permanent post as a teacher of religion and to be employed in that post. From the information provided by the inspector and the Inspectorate to the relevant authorities it appears that the applicant did not hold the relevant endorsement when she took up her permanent post and that she had obtained the endorsement only one year before it was withdrawn (see paragraphs 17-21, 52 and 67 above).

190. The Court notes, however, that the applicant has contested the inspector's and Inspectorate's above-mentioned claims and pointed to the fact that her participation in the competitive examination in question and her subsequent employment in the post would have been impossible without the endorsement in question (see paragraphs 83-84 above).

191. The Court notes also that the applicant remained employed as a teacher of religion in the same public school and continued to be remunerated by the State for twenty years on the basis of the permanent employment contract which she had obtained following the above-mentioned competitive examination. During all this time both the applicant and the school seem to have operated under the assumption that she had obtained and held the requisite endorsement for her employment and work in that post.

192. The Court therefore takes the view that by engaging with the arrangement between the Church and the State concerning Orthodox religious education in schools and by signing her permanent employment contract, the applicant knowingly and voluntarily accepted a heightened duty of loyalty towards the Orthodox Church and the corresponding professional and disciplinary constraints, which limited the scope of her right to respect for her private life to a certain degree. Such contractual limitations are permissible under the Convention where they are freely accepted (see *Fernández Martínez*, cited above, § 135, and *Travaš*, cited above, §§ 92-93) and remain valid regardless of whether the teachers are priests or laypersons (see, *mutatis mutandis*, *Travaš*, cited above, §§ 92-93). Indeed, from the point of view of the Orthodox Church's interest in upholding the coherence of its precepts, teaching religion to adolescents can be considered a crucial function requiring special allegiance and exemplary conduct (see, *mutatis mutandis*, *Fernández Martínez*, cited above § 135).

193. The Court sees no reason to believe that at the time of the events leading to the present case that contractual duty of loyalty and the associated professional and disciplinary constraints had ceased to exist.

(β) Exposure of the applicant's situation

194. The Court notes that, even though the Archbishop had referred in his decision to two press articles published by the applicant about some of the accusations against her (see paragraph 28 above), no issue could be said to arise in the applicant's case with regard to the publicity given by her to her particular situation or her public discussion of her position (contrast *Fernández Martínez*, cited above, §§ 136-42). The Court notes in this connection that when referring to the press articles in question, the Archbishop's decision appears to have been merely seeking to highlight the disruptive professional conduct imputed to the applicant.

195. The question in the present case, therefore, is rather whether a particular religious doctrine could be taught by a person whose professional conduct was seen by the Church as being at odds with the religion in issue.

196. The Court has accepted that in order for a religion to remain credible, it has to be taught by a person whose way of life and public statements are not flagrantly at odds with the religion in question (*ibid.*, § 138).

197. In the Court's view the same holds true in the case of professional conduct. This may be a particularly important issue when the nature of an applicant's professional activity results from an ethos founded in a religious doctrine aimed at governing the private life and personal beliefs of its followers, as was the case with the applicant's post as a teacher of the Orthodox religion and its precepts. In view of the required duty of loyalty aimed at preserving the Church's credibility, it would be a delicate task to make a clear distinction between the applicant's conduct at work and the requirements related to her teaching activities (see, *mutatis mutandis*, *Travaš*, cited above, § 98).

198. Accordingly, the Court considers that the fact that no publicity was given to the conduct that was seen by the Church as being contrary to the precepts of its teachings and doctrine is not a decisive element in the assessment of the consequences of the decision to terminate the applicant's employment (see, *mutatis mutandis*, *Travaš*, cited above, § 99).

(γ) The State's responsibility as an employer

199. As observed above, the applicant was employed and remunerated by the State (see paragraph 191 above).

200. The Court notes that this aspect, however, is not such as to affect the extent of the duty of loyalty imposed on the applicant *vis-à-vis* the Orthodox Church or the measures that the Church was entitled to adopt if that duty was breached. This analysis is confirmed by the fact that, according to a comparative study dating back to 2014, in the majority of Council of Europe member States, the Churches and religious communities concerned had a power of co-decision or even an exclusive role in the appointment and dismissal of teachers of religion, regardless of which institution financed such

teaching, whether directly or indirectly (see *Fernández Martínez*, cited above, § 143).

201. The Courts notes further in this connection that the applicant's employer did not merely enforce the Archbishop's decision. It also considered the possibility of providing the applicant with another post within the school, even though it eventually found that she did not have specialised qualifications in another field which could have allowed her to continue working for the school in another post (see paragraphs 32-33 above).

202. It is true that the applicant's reaction and her arguments in the national courts concerning her employer's above-mentioned efforts (see paragraph 39 above) suggest that in her view those efforts were not genuine.

203. The Court notes, however, that when the applicant raised the question of her employer's above-mentioned findings in the domestic courts, the County Court dismissed her claims and found that in fact her employer had had no legal obligation even to consider the possibility of providing the applicant with another post within the school (see paragraph 65 above).

204. The Court notes also in this connection that the applicant's employer's statement could be read as having more than one meaning. It could suggest not only that the applicant did not have other necessary qualifications to occupy a post within the school, which according to the applicant was erroneous, but also that in fact the school did not have any available posts that it could offer to her on the basis of her qualifications. The applicant has not argued at any stage of the proceedings before the national authorities or the Court, and in any event has not submitted any convincing evidence, that the school had posts available and that she could have taken one of them up simply on the basis of her qualification in philosophy.

205. In any case, the applicant's employer was under no legal obligation to even consider the possibility of providing the applicant with another post within the school. The Court sees no reason therefore to doubt that the efforts made by the head of the school to consider such a possibility were genuine. It is thus not persuaded by the applicant's arguments suggesting otherwise.

206. The Court is of the view that the school's above-mentioned actions were part of an effort by the State to find a balance between the protection of the applicant's private and professional life and the exercise of the Church's autonomy.

(δ) Severity of the sanction

207. The Court has acknowledged that the decision to terminate the applicant's employment constituted a sanction entailing very serious consequences for her private life (see paragraph 163 above).

208. Nevertheless, the Court notes that the sanction was imposed for reasons which, if proven true, as pointed out by the applicant herself (see paragraphs 108-109 above), could have engaged the disciplinary liability of any teacher regardless of the subject he or she taught. Moreover, the Court

has observed that the applicant's employer did not merely enforce the Archbishop's decision but also considered the possibility of providing the applicant with another post within the school (see paragraphs 201-206 above).

209. Furthermore, unlike in other cases where an employee who has been dismissed by an ecclesiastical employer has limited opportunities of finding another job owing, in particular, to the employer's predominant position in a given sector of activity and its having the benefit of derogations from the ordinary law, or where the dismissed employee has specific qualifications that make it difficult, if not impossible, to find a new job outside the employing Church (see *Schüth*, cited above, § 73), this was not the case for the present applicant. It was open to her to seek other suitable employment in the education system on the basis of her qualification in philosophy (see paragraph 39 above), an opportunity completely unrelated to the special arrangement between the State and the Orthodox Church on the teaching of the Orthodox religion.

210. The Court also finds it relevant in this connection that the applicant was not involved in ordinary disciplinary proceedings brought against her by her employer (see paragraph 101 above) and that the termination of her employment was not founded on reasons which concerned an employee's person as they are defined by the relevant labour law rules, which could have ultimately entailed a loss of unemployment benefits for her. Indeed, the applicant has not argued that her termination of employment prevented her from claiming unemployment benefits. Moreover, she has not contended, or submitted any evidence, that any attempts she might have made in that connection were denied by the State.

211. The Court is further mindful of the fact that the Archbishop's decision to withdraw his endorsement and the applicant's subsequent dismissal apparently came after numerous interactions between the applicant, the Inspectorate, the head of her school, the inspector and the Archdiocese (see paragraphs 10-29 above). They appear to have taken place because of concerns about the applicant's professional activities and conduct which created frustration and tension directed towards the applicant both within the school and at the level of the religious authorities. These tensions and frustrations eventually grew in the eyes of the Church into questions concerning the applicant's suitability for her role as a teacher of religion, which in turn led to her dismissal.

212. In the Court's view, it cannot be said, therefore, that the consequences of the decision to terminate the applicant's contract were excessive in the circumstances of the case.

(ε) Review by the domestic courts

213. The Court reiterates that, whilst Article 8 contains no explicit procedural requirements, the Court cannot satisfactorily assess whether the

reasons adduced by the national authorities to justify their decision were “sufficient” for the purposes of Article 8 § 2 without at the same time determining whether the decision-making process, seen as a whole, provided the applicant with the requisite protection of her interests (see *Fernández Martínez*, cited above, § 147, with further references).

214. In the present case, the Court observes (see paragraphs 119-140 above) that the applicant was able to challenge the termination of her employment contract in the County Court and the Court of Appeal and that those courts examined the lawfulness of the disputed measure under ordinary labour law (see, *mutatis mutandis*, *Fernández Martínez*, cited above, § 148, with further references).

215. In their assessment of the applicant’s case the national courts found that, in so far as the reasoning for the decision to terminate the applicant’s employment had been of a strictly religious nature, they had to confine themselves to reviewing whether the formal conditions for that decision had been met. After examining the facts, the national courts pointed to the case-law of the Constitutional Court and took the view that the State’s duty of neutrality precluded them from ruling on the disciplinary matters by which the Archbishop had justified the withdrawal of the applicant’s endorsement, or on the merits or alleged procedural shortcomings of his decision. They viewed these matters as falling within the jurisdiction of the ecclesiastical courts, before which the applicant had the possibility to introduce such claims. They also considered whether the interference with the applicant’s rights had been justified and took the view that it had been neither unfair nor unconstitutional, but that it could have been justified in terms of respect for the lawful exercise by the Orthodox Church of its autonomy and religious freedom in its collective or community dimension.

216. In the light of the foregoing, the Court finds that the domestic courts took all relevant factors into account and that they weighed up the interests at stake within the limits imposed on them by the need to respect the autonomy of the Orthodox Church. The conclusions thus reached do not appear unreasonable to the Court, particularly in the light of the fact that the applicant was or should have been aware, in accepting the task of teaching Orthodox religion, of the potential consequences of the heightened duty of loyalty *vis-à-vis* the Orthodox Church by which she thus became bound, for the purpose, in particular, of preserving the credibility of her teaching (see, *mutatis mutandis*, *Fernández Martínez*, cited above, § 151, with further reference). As to the Church’s autonomy, it does not appear, in the light of the review exercised by the national courts, that it was improperly invoked in the present case (see, *mutatis mutandis*, *Fernández Martínez*, cited above, § 151).

(e) Conclusion

217. In conclusion, having regard to the State's margin of appreciation in the present case, the Court is of the view that the interference with the applicant's right to respect for her private life was proportionate.

218. Accordingly, there has been no violation of Article 8 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 8 admissible and the remainder of the application inadmissible;
2. *Holds* that there has been no violation of Article 8 of the Convention.

Done in English, and notified in writing on 5 December 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti
Registrar

Gabriele Kucsko-Stadlmayer
President