



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

FIFTH SECTION

CASE OF BARSUK AND GYL v. UKRAINE

(Application no. 31582/20)

JUDGMENT

Art 3 (+ Art 14) • Effective investigation • Art 9 (+ Art 14) • Freedom of religion • Manifest religion or belief • Positive obligations • Discrimination • Domestic authorities' failure to conduct an effective investigation into an attack against Jehovah's Witnesses while they were exercising their religious practice • Proceedings protracted by the authorities, without any apparent serious justification, resulting in the expiry of the limitation period and the discontinuance of the proceedings • Unacceptable general characterisation of the defendant's motives through the repetition of the legal formula of "sudden emergence of hostility" • Failure to investigate applicants' substantiated claims that the attack was motivated by religious hatred and the desire to disrupt the exercise of their religious practice by means of violence

Prepared by the Registry. Does not bind the Court.

STRASBOURG

9 July 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Barsuk and Gyl v. Ukraine,

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

Kateřina řimáčková, *President*,
María Elósegui,
Gilberto Felici,
Mykola Gnatovskyy,
Vahe Grigoryan,
Sébastien Biancheri,
Nicholas Emiliou, *judges*,

and Victor Soloveytschik, *Section Registrar*,

Having regard to:

the application (no. 31582/20) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 20 July 2020 by two Ukrainian nationals, Ms Tamara Arkhypivna Barsuk and Ms Vira Ivanivna Gyl (“the applicants”), who were born in 1949 and 1954 respectively and live in Chuguyiv, and were represented by Mr A.V. Perekryostov, a lawyer practicing in Lviv, Ukraine, and Mr P. Muzny, a lawyer residing in Thun, Switzerland;

the decision to give notice of the application to the Ukrainian Government (“the Government”), represented by their Agent, Ms M. Sokorenko, of the Ministry of Justice;

the parties’ observations;

Having deliberated in private on 16 June 2026,

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

INTRODUCTION

1. The applicants complained, under Articles 3, 9, 13 and 14 of the Convention, of the alleged failure of the domestic authorities to carry out an effective investigation into an attack against them which had allegedly been motivated by prejudice against them as Jehovah’s Witnesses.

THE FACTS

2. On 15 March 2016 the applicants were attacked by Mr S., a private individual, around the time they were visiting houses on behalf of Jehovah’s Witnesses, conducting door-to-door preaching and distributing the group’s religious literature.

3. According to the indictment later filed against Mr S., he accosted the applicants and, acting on account of a “sudden emergence of hostility” (*із раптово виниклих неприязних відносин*), kicked the second applicant. The applicants attempted to run away. However, Mr S. repeatedly caught up with

them, one after the other, knocked them to the ground and repeatedly punched and kicked them in the face, head, chest and limbs.

4. According to the applicants' description of events, S. first kicked the second applicant on her buttock. As the applicants fled, he got off his bicycle and ran after them. Catching the second applicant, he kicked and punched her on the head, chest, back and shoulders. She got away three times but fell each time and he continued to beat her. He ultimately struck her so hard on the head that she lost consciousness. He then searched through her bag, threw her Jehovah's Witnesses religious literature on the ground and went in pursuit of the first applicant. When he had caught her, S. kicked her in the leg, hit her in the face, threw her on the ground and tried to pull off her jacket; she lost consciousness. S. then went after the second applicant, who was calling the police. He knocked the phone out of her hand and started to chase her, catching her in a yard, pushing her down and grabbing her hair. He punched her and hit her head against the brick wall until a neighbour intervened. During the beating, S. destroyed her hearing aid.

5. As a result, the applicants suffered injuries (multiple haematomas) and the second applicant also suffered a fracture of the upper jawbone and concussion. Pursuant to forensic classification rules in effect in Ukraine, a forensic medical expert classified those injuries as: (i) "minor injuries which caused short-term damage to health" in respect of the first applicant (on the basis of her loss of ability to work for more than 6 days but fewer than 21 days); and (ii) "injuries of medium severity" for the second applicant (on the basis of her loss of ability to work for more than 21 days). The second applicant was admitted to hospital on the day of the attack and the first applicant on the following day.

6. Police arrived on the scene right after the attack and the applicants pointed to S., who was still on the scene, as the perpetrator. He returned the second applicant's phone.

7. Criminal proceedings were initiated on the same day and on the next day on suspicion of infliction of bodily injuries. The applicants were recognised as victims. The applicants and numerous witnesses were questioned, a reconstruction of events was conducted, medical records were collected and forensic medical expert reports were obtained.

8. On 18 March 2016 the applicants lodged a formal complaint seeking institution of criminal proceedings under Article 161 § 2 of the Criminal Code (violation of the principle of equality of citizens committed with violence – see paragraph 30 below). In their complaint, the applicants stated that S. had attacked them while they had been sharing their religious beliefs with residents of the neighbourhood and distributing Jehovah's Witnesses' religious magazines (which was their right under Article 9 of the Convention). S. had accosted them with the words "I know you are Jehovah's Witnesses". In another statement, the first applicant stated that the attacker's

initial phrase had been “Where are you from, nice girls?”, but she believed that they had been attacked because they were Jehovah’s Witnesses.

9. In a statement to the police on the day of the incident, S. said that he had seen the applicants near his father’s house, he had asked them what they were doing there and afterwards had started dragging one of them away; she had then tried to run away and he had grabbed her by the head, had thrown her to the ground and had hit her on the chest. On 5 April 2016 S. stated to the police that he attended liturgy and took sacraments at Orthodox churches and visited and worked as a guard at a monastery. He stated that on the day of incident he had seen two unknown women in the neighbourhood where his father lived. He had recalled that he had seen a TV report about “fraudsters”. When he had asked a neighbour whether the strangers had been talking to her about some (legal) documents, she had confirmed that that had been the case. He had then yelled to the strangers, who had been walking away, to wait. He had started chasing one of the women on a bicycle and had pushed her with his foot and his bicycle. She had fallen and he had grabbed her by the collar, knocking her wig from her head. He had opened her bag, seeking stolen property, and had found some money and Jehovah’s Witnesses literature. He had also chased the other woman and had knocked her down with his bicycle but had not otherwise hit her.

10. S. was charged with “infliction of minor injuries which caused short-term damage to health” and “infliction of injuries of medium severity” (see the relevant provisions of the Criminal Code in paragraph 29 below).

11. During the ensuing investigation, the police collected information about S.’s prior criminal record, which consisted of a conviction in 2013 for exhibiting malicious disobedience toward and assaulting police officers.

12. The patrol officers, who had responded to the emergency call related to the attack, gave statements as witnesses. They stated that, after they had arrived at the scene, the applicants, who had had visible injuries, had identified S. (who had had long hair and a beard and had been on the scene) as the attacker. He had had the second applicant’s phone, which he had given back, admitting that he had assaulted one of the applicants while trying to restrain her while he had waited for the police to arrive. S. had told the patrol officers that the conflict with the applicants had arisen because he had suspected that they were fraudsters who had been visiting houses in the neighbourhood where S.’s father lived. One of the officers, Ch., stated that the second applicant had told him that S. had attacked them because they were Jehovah’s Witnesses.

13. On 28 April 2016 the applicants asked that the charges be amended and that the offence be reclassified as being motivated by religious prejudice; that the attack on the first applicant be classified under Article 161 § 2 of the Criminal Code (violation of the principle of equality of citizens committed with violence); and that the attack against the second applicant be classified under Article 122 § 2 of the Criminal Code (infliction of injuries of medium

severity for reasons of religious intolerance; see paragraph 29 below). The investigator and the prosecutor rejected the application. The applicants then challenged that decision throughout the proceedings, for example, at the opening of the first trial, at the opening of the retrial and in an appeal which they had lodged against a decision of 22 March 2021 to discontinue the proceedings (see paragraph 25 below). Also, in the course of the trial and retrial, they lodged several unsuccessful applications to have the indictment returned to the prosecutor in order to amend the charges as indicated above.

14. A number of witnesses were questioned. They confirmed that the applicants had been handing out religious literature and had seen the applicants looking as if they had recently been attacked. However, there were no eyewitnesses of the actual attack. None of the witnesses stated that they knew the reasons for it. One of the witnesses, Ms L., stated that she had heard from neighbours that S. had attacked two women who had periodically distributed religious literature in the neighbourhood and that S. had asked her to tell the investigator that the applicants were fraudsters, that they had asked her for documents certifying her title to her house, but she had refused to lie. Ms M., L.'s daughter, gave evidence to the same effect. Those witnesses, as did others, stated that they did not know the reason for which S. had attacked the applicants.

15. On 29 April 2016 the prosecutor filed a bill of indictment against Mr S. with the Chugivskyi District Court ("the trial court").

16. During the trial, S. admitted that he had pushed and grabbed the applicants, as he had stated to the police (see paragraph 9 above). He also stated that he was an Orthodox Christian believer and considered Jehovah's Witnesses' doctrine to be false and dangerous. He said, however, that he had not acted out of religious hate but because he had previously seen on television a news program about some fraudsters going around visiting peoples' houses.

17. Several Jehovah's Witnesses, examined at the applicants' request, testified that on other previous occasions S. had rudely told them off when they had been speaking to people in his neighbourhood, telling them that they belonged to a sect, that they were spreading propaganda and, on some occasions, he had pushed them.

18. On 11 October 2016 the trial court convicted S. as charged and sentenced him to two years' imprisonment. The court also awarded the applicants compensation in respect of pecuniary and non-pecuniary damage.

19. The trial court referred to the evidence given by the applicants, a number of witnesses, residents of the neighbourhood who had seen the applicants immediately after the incident and had seen S. nearby, witnesses to whom S. had admitted that he had attacked the applicants, and medical evidence showing that the applicants' multiple injuries were consistent with their account rather than with S.'s account that he had merely knocked them over, as the injuries on the applicants could not be explained by mere falls.

20. The trial court stated that during the pre-trial investigation and trial, no substantiated data or evidence had been obtained to show that S. had committed the assault on grounds of religious enmity. In particular, none of the witnesses who had been directly present at the scene of the incident had confirmed the existence of a religious motive. The domestic court did not accept the testimony of other Jehovah's Witnesses who had stated that they had had previous conflicts with the defendant on grounds of religion, as those circumstances were irrelevant to the specific circumstances of the case and those witnesses had not witnessed the incident in respect of which S. had been tried.

21. The prosecutor and S. appealed, the former considering the sentence too lenient and the latter arguing that S. had actually attempted, from a subjective point of view, to prevent a crime and detain the applicants whom he had sincerely believed to be fraudsters. He had done so because he had repeatedly heard reports, including in the media, that there had been frequent cases of fraud in which people, introducing themselves as representatives of various associations, including Jehovah's Witnesses, had tricked people out of their property. S.'s own relative had been a victim of such fraud in which some women, pretending to be Jehovah's Witnesses, had tricked or hypnotised his relative into giving them a lot of cash. Seeing what he had believed to be a similar situation, S. had mistakenly believed it to be his duty to intervene and he had, therefore, approached the applicants and asked them whether they were locals. When they had started running away in response to that innocent question, this had only reinforced S.'s honest belief that they were fraudsters. S. had frequently worked at Orthodox monasteries, where fellow believers had told him about examples of cases where people had fallen victim to fraud perpetrated by people masquerading as Jehovah's Witnesses. However, that had had nothing to do with religious hostility. S. had, therefore, acted on the basis of a subjective factual error. However, the consequences of his actions had indeed been criminal. His only disagreement was with the precise number of injuries inflicted. This had to be taken into account in sentencing. With his appeal, S. enclosed references from an Orthodox Christian convent and parish and from neighbours characterising him as a hard-working and kind person and asking for lenience in sentencing.

22. On 12 December 2016 the applicants lodged objections to the appeals, requesting that no retrial be ordered, but that a decision be made whereby the defendant would be held criminally liable on the basis of the motive of religious enmity in respect of the offence.

23. On 27 July 2017 the Kharkiv Regional Court of Appeal quashed the conviction and remitted the case for retrial. The Court of Appeal considered that the trial court had not taken into account the testimony of a witness who, the Court of Appeal considered, had made statements which could be interpreted as supporting the defendant's affirmation that he had not inflicted injuries on the applicants. When delivering its verdict, the trial court had not

taken into account the defendant's character (in particular, it had failed to take into account the character references which S. had provided to the Court of Appeal), which had led to an incomplete trial.

24. On 9 October 2017 the retrial commenced. On 26 February 2018, 25 August and 21 December 2020 the case was reassigned to new retrial judges (because of retirement and illness of the judges). The retrial restarted on 2 October 2019 and 19 January 2021 and, pursuant to domestic law, the examination of all evidence, including evidence of numerous witnesses, was repeated each time.

25. On 22 March 2021, at S.'s request, the court discontinued the proceedings as time-barred, which the prosecutor did not oppose. The court found that the five-year limitation period had expired (see paragraph 28 below). The court observed that, whereas under the Criminal Code the running of the statutory limitation period was suspended while a defendant evaded investigation and trial, in the circumstances there had been no such evasion on the part of S. The court found that although S. had missed the court hearing of 10 March 2021, he could not be considered to be evading trial, since from 9 to 17 March 2021 he had been hospitalised. The court, referring to the Code of Criminal Procedure (see paragraph 32 below), left the civil claim without examination, holding that it could only be granted if S. were convicted, which was not the case.

26. The applicants appealed, again challenging the refusal to reclassify the offence as they had requested (see paragraph 13 above). They argued that S. had missed the court hearing without justification, meaning that he had evaded the proceedings and, therefore, the statutory limitation period had not continued to run. Hypertension, for which he had supposedly been hospitalised, had not required hospitalisation. The applicants also argued that the court had to examine the civil claim on the merits despite the discontinuation of proceedings.

27. On 21 February 2022 the Kharkiv Court of Appeal upheld the discontinuation decision.

RELEVANT LEGAL FRAMEWORK

I. RELEVANT DOMESTIC LAW

A. Criminal Code

28. Under Article 49 of the Criminal Code, the limitation period for offences of "medium gravity" is five years. Article 12 of the Criminal Code classifies offences punishable by more than two years' and up to five years' imprisonment as offences of "medium gravity".

29. Article 125 § 2 of the Criminal Code makes "intentional infliction of minor injuries resulting in short-term damage to health" punishable by

various means, from a fine to confinement in a semi-open institution for up to two years. Article 122 § 1 makes infliction of injuries of medium gravity punishable by up to three years' imprisonment. Paragraph 2 of Article 122 makes infliction of injuries of medium gravity for reasons of racial, ethnic or religious intolerance punishable by three to five years' imprisonment.

30. Article 161 of the Criminal Code makes it an offence to violate the principle of equality of citizens on the grounds of race, ethnicity, religious beliefs, gender or "other characteristics". Paragraph 2 of that Article makes the same acts – if accompanied by violence, deception or threats, or if they are committed by a person exercising official authority – punishable by a fine or by a term of imprisonment of from two to five years.

B. Code of Criminal Procedure

31. Article 9 § 2 of the Code of Criminal Procedure provides that the prosecutor, investigator or head of the investigating body must investigate the circumstances of the criminal proceedings comprehensively, fully and impartially, bringing to light both the circumstances that incriminate and those that exonerate the defendant, as well as circumstances that mitigate or aggravate the punishment; ensure their correct legal assessment; and ensure that lawful and impartial procedural decisions are made. Article 36 of the Code of Criminal Procedure conferred on the prosecutors the power to bring cases for trial through a bill of indictment.

32. Article 129 of the Code of Criminal Procedure provides that a trial court must allow a civil claim lodged in criminal proceedings where the defendant was convicted or where mandatory treatment or educational measures were imposed on him.

II. RELEVANT INTERNATIONAL MATERIAL

33. The relevant part of the resolution of the Parliamentary Assembly of the Council of Europe 1928 (2013) on "Safeguarding human rights in relation to religion and belief, and protecting religious communities from violence" reads:

"11. The Assembly further urges all States in which violence against communities and individuals defined by religion or beliefs has occurred to:

11.1. unequivocally condemn not only attacks on innocent people, but also the use of violence in general, as well as all forms of discrimination and intolerance, including hate speech, based on religion and beliefs;

11.2. pursue and reinforce their efforts to combat and prevent such cases and bring to justice the perpetrators;

11.3. promote correct and objective education about religions and non-religious beliefs, including those of minorities;

11.4. actively support initiatives aimed at promoting the interreligious and intercultural dimension of dialogue;

11.5. ensure the effective protection of communities and individuals defined by religion or beliefs and of their meeting places and places of worship, including those of minorities;

11.6. respect and protect the cultural heritage of the various religions.”

34. On 20 June 2017 the European Commission against Racism and Intolerance (ECRI) adopted its fifth report on Ukraine, in which it stated that in 2015 the authorities had recorded 157 incidents involving hate crime; of those, “31 were motivated by racism and xenophobia, three by bias against Roma and Sinti, 18 by antisemitism, 94 by bias against Christians and members of other religions, 9 by bias against LGBT people, and two by bias against people with disabilities.” ECRI noted that those figures were lower than data gathered by international organisations and civil society, which reported 213 hate-motivated incidents.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 3 AND 14 OF THE CONVENTION

35. The applicants complained, relying on Article 3 taken alone and in conjunction with Article 14 of the Convention and Article 13 taken alone and in conjunction with Article 14 of the Convention, that the authorities had failed to carry out an effective investigation into the assault on them, in particular by failing to uncover the motive of religious prejudice behind it.

36. The Court considers that the applicants’ complaint falls to be examined under Article 3 taken in conjunction with Article 14 of the Convention (see *Karter v. Ukraine*, no. 18179/17, §§ 56-57, 11 April 2024; *Bekos and Koutropoulos v. Greece*, no. 15250/02, § 70, ECHR 2005-XIII (extracts); and, for illustration purposes, *Zagubnya and Tabachkova v. Ukraine* [Committee], no. 60977/14, § 53, 12 November 2020). Those provisions read as follows:

Article 3

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

Article 14

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

A. Admissibility

1. *The parties' submissions*

37. The Government submitted that the applicants had failed to exhaust domestic remedies because they had not: (i) appealed against the conviction judgment of 11 October 2016 or raised, in any such appeal, the issue of reclassifying the offence; (ii) lodged a cassation appeal with the Supreme Court against the decision of the Court of Appeal upholding the decision to discontinue the proceedings as time-barred; (iii) lodged a civil claim for damages against the alleged perpetrator after the criminal proceedings had been discontinued or lodged a civil claim for damages against the State for damage caused by ineffective investigation.

38. The applicants submitted that an appeal against the trial court's conviction judgment could not have secured the reclassification of the offence since the Code of Criminal Procedure prohibited the trial court and the Court of Appeal from considering more severe charges than those stated in the indictment. A cassation appeal lodged in respect of the decision to discontinue would have been futile since the Supreme Court had no jurisdiction to assess questions of fact. Civil claims for damages had not been required, nor had they constituted effective remedies.

2. *The Court's assessment*

39. The Court notes that it has not been disputed by the parties that Article 3 was applicable in the present case. In view of the circumstances of the attack and the injuries suffered (see paragraphs 2 and 5 above), the Court sees no reason to hold otherwise and finds that Article 3 is applicable (see, for example, *İbrahim Demirtaş v. Turkey*, no. 25018/10, § 31, 28 October 2014, and compare *Karter*, cited above, § 64).

40. As to the fact that the applicants did not appeal against the initial conviction judgment, the Court observes that by that judgment, S. was convicted and sentenced to imprisonment and the applicants' civil claim was allowed. Therefore, the Court does not perceive the interest for the applicants in appealing against that decision. Neither does the Court perceive any failure on the applicants' part in respect of the specific legal provisions under which S. was convicted: the applicants repeatedly urged the authorities to pursue the case under the domestic law provisions criminalising violence motivated by religious prejudice (see paragraph 13 above). Under domestic law, it was the investigator and the prosecutor, not the applicants, who had the primary task of conducting the investigation (see paragraph 31 above). The Court considers that the applicants took sufficient steps to bring their concern regarding the prejudice-related motive for the assault to the authorities' attention and to cooperate with the investigation and assist it so that it cannot be said that their uncooperative stance undermined the investigation (contrast,

for example, *Skant v. Ukraine* (dec.), no. 25922/09, §§ 49-50, 6 September 2016).

41. As to the possibility of appealing to the Supreme Court against the discontinuation of proceedings, the Government did not specify on what grounds such an appeal could be lodged. Domestic law provided for a five-year limitation period and that period expired in March 2021, five years after the incident of 15 March 2016. The applicant's position that any further appeal against the decision to discontinue proceedings would have been futile does not appear unfounded.

42. As to the applicants' alleged opportunity to lodge a separate civil claim for damages, the Court observes that such an action, which could lead to payment of compensation but not to the prosecution of those responsible, would not fulfil the State's procedural obligations under Article 3 in a case of assault (see, for example, *Abdu v. Bulgaria*, no. 26827/08, § 51, 11 March 2014, and *Škorjanec v. Croatia*, no. 25536/14, § 47, 28 March 2017). Accordingly, the claim for damages was not a remedy to be used.

43. The Court, therefore, dismisses the Government's objection as to non-exhaustion of domestic remedies.

44. The Court notes that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

45. The applicants submitted that there had existed multiple, converging bias indicators, including: (i) anti-Jehovah's Witness slurs uttered by S. and the fact that the attack had taken place when the applicants had been going door-to-door (which was a core manifestation of that religion); (ii) police testimony reiterating the perpetrator's description of his own conduct as "protecting" people from Jehovah's Witnesses; (iii) testimony of seven other Jehovah's Witnesses describing previous assaults by the accused under similar circumstances; (iv) S.'s statements in court criticising Jehovah's Witnesses' teachings; (v) M.'s evidence to the effect that S. was Orthodox and did not like Jehovah's Witnesses; and (vi) the applicants' detailed accounts. The applicants submitted that S.'s self-serving denials of religious prejudice could not be given credence and that, to him, the applicants were "fraudsters" precisely because they were Jehovah's Witnesses. The authorities had failed to ask specific questions about S.'s motivation, and for this reason, the fact that eyewitnesses to the incident had not spontaneously volunteered information about religious bias could not be seen as conclusive.

46. The applicants further submitted that the baseless and unlawful return of the case for a new trial in the trial court had marked a turning point in the

delay of the judicial proceedings and had, ultimately, contributed to the accused's avoiding punishment.

47. The Government submitted that there had been no violation of Article 3 taken alone or in conjunction with Article 14. The investigating authorities had reacted promptly: criminal proceedings had been opened on the very day of the incident and the perpetrator had been identified, charged and brought before the courts. Within the framework of the investigation, numerous investigative measures had promptly been undertaken, including the questioning of victims and numerous witnesses and several forensic examinations. The applicants had been granted victim status and had been questioned in that capacity with the participation of their lawyer.

48. The Government further submitted that the fact that the case had ultimately ended on account of the expiry of the limitation period did not automatically render the investigation ineffective, as the Court had consistently held that a procedural obligation was not an obligation of result, but of means only. Regardless of whether the offence had been classified under Article 122 or Article 161 § 2 of the Criminal Code, the limitation period had been the same, that is, five years.

49. The Government also argued that large number of witnesses, who had been directly present during the incident, had been questioned. None of them had pointed to religious hatred as a motive for the assault. The applicants' numerous applications, including one requesting to have the offence reclassified, had been duly examined and rejected because there had been no actual objective data, such as eyewitness statements, to show the existence of a religious motive.

50. The defendant, S., had claimed that he had attacked the applicants because he had believed that they were fraudsters, possibly disguising themselves as religious people, not because they were Jehovah's Witnesses. He had stressed his devotion to the Orthodox faith and had occasionally used harsh words concerning his rejection and disagreement with the Jehovah's Witnesses' religious teachings, but he had asserted that animosity towards Jehovah's Witnesses had not been the motive for the attack.

2. *The Court's assessment*

(a) **Relevant general principles**

51. The requirements of an effective investigation into arguable claims of acts amounting to ill-treatment inflicted by private individuals have been summarised in *X and Others v. Bulgaria* ([GC], no. 22457/16, §§ 184-190, 2 February 2021). In particular, the investigation must be thorough. The authorities must always make a serious attempt to find out what happened. Failing to follow an obvious line of inquiry undermines to a decisive extent the investigation's ability to establish the circumstances of the case and the identity of those responsible (see *Mustafa Tunç and Fecire Tunç*

v. Turkey [GC], no. 24014/05, § 175, 14 April 2015, and *Armani Da Silva v. the United Kingdom* [GC], no. 5878/08, § 234, 30 March 2016). Furthermore, the investigation must be accessible to the victims to the extent necessary to safeguard their legitimate interests. Victims should be able to participate effectively in the investigation in particular, by having access to the materials of the investigation, so they are not left in a complete vacuum as regards its progress (see *B.Ů. v. the Czech Republic*, no. 9264/15, § 92, 6 October 2022).

52. When investigating violent incidents involving plausible information about possible hatred motives, the State authorities have the additional duty to take all reasonable steps to unmask any religious motive and to establish whether or not religious hatred or prejudice might have played a role in the events. The Court concedes that proving such a motive may be difficult in practice. The respondent State's obligation to investigate possible religious overtones to a violent act is thus an obligation to use best endeavours and is not absolute; the authorities must do whatever is reasonable in the circumstances of the case (see *Milanović v. Serbia*, no. 44614/07, § 96, 14 December 2010).

53. The authorities' duty to investigate the existence of a possible link between discriminatory attitudes and any act of violence is an aspect of their procedural obligations arising under Article 3 of the Convention, but may also be seen as implicit in their responsibilities under Article 14. Owing to the interplay between Article 14 and the substantive provisions, issues of discriminatory violence may fall to be examined under only one of the two provisions, with no separate issue arising under the other, or may require examination under both Articles. This is a question to be decided in each case on its facts and depending on the nature of the allegations made (see, *mutatis mutandis*, *Bekos and Koutropoulos*, cited above, § 70).

(b) Application of the above principles to the present case

54. The Court notes that the authorities promptly instituted criminal proceedings, completed the investigation and sent the case for trial.

55. However, the quashing of the initial conviction and delay at the retrial stage resulted in the expiry of the limitation period and the discontinuance of the proceedings (see paragraph 25 above). The Court reiterates that the purpose of providing effective protection against acts of ill-treatment cannot be achieved where the criminal proceedings are discontinued owing to the fact that the prosecution has become time-barred where this has occurred as a result of flaws in the actions of the relevant State authorities (see, for instance, *Dimitar Shopov v. Bulgaria*, no. 17253/07, § 52, 16 April 2013, and *Kosteckas v. Lithuania*, no. 960/13, § 43, 13 June 2017).

56. A prompt response by the authorities in investigating allegations of ill-treatment may generally be regarded as essential in maintaining public confidence in their maintenance of the rule of law and in preventing any

appearance of collusion in or tolerance of unlawful acts. Tolerance by the authorities towards such acts cannot but undermine public confidence in the principle of lawfulness and the State's maintenance of the rule of law (see *Members of the Gldani Congregation of Jehovah's Witnesses and Others v. Georgia*, no. 71156/01, § 97, 3 May 2007).

57. The applicants' case, especially as framed by the prosecutors, who did not seek to prove that the attack had been motivated by religious hatred, was rather simple, given that S., from the very outset of the proceedings, all but admitted to assaulting the applicants (see paragraph 9 above). Nevertheless, the authorities protracted the proceedings, without any apparent serious justification, to the point of letting the limitation period expire. In particular, it is difficult to understand the reasons for the Court of Appeal's decision to remit the case because of the alleged need to reassess the evidence of a witness on a matter essentially admitted to by the defendant (see paragraphs 21 and 23 above).

58. As to the motives for the attack, the Court agrees with the Government that the authorities faced a certain challenge in establishing any possible religious motivation for the attack, given that most of the eyewitnesses were unable or unwilling to identify the motive for the attack and the accused denied that religious hatred had played a role in his actions. The Court is also aware that, in criminal proceedings, the principle of *in dubio pro reo* dictates that doubts should be interpreted in favour of the defendant (see, for example, *Lavents v. Latvia*, no. 58442/00, § 125, 28 November 2002, and *Melich and Beck v. the Czech Republic*, no. 35450/04, § 49, 24 July 2008). This may be particularly so where the matter in dispute, as in the present case, concerns the defendant's state of mind and motives.

59. Nevertheless, the applicants consistently stated from the outset that S. had attacked them for religious motives and, when attacking them, referred to their religion (see paragraph 8 above). Their fellow Jehovah's Witnesses also testified that S. had displayed hostility motivated by religion on other occasions (see paragraph 17 above). Faced with this evidence, the authorities did not explain their decision not to prosecute under provisions of the Criminal Code concerned with violence motivated by religion (specifically, Article 122 § 2 and Article 161 § 2 – see paragraphs 29 and 30 above), beyond stating in general terms that there was a lack of specific evidence of a religious motive.

60. There is no indication in the file that the authorities ever made a determined effort to establish any specific motive for S.'s attack, merely using the legal formula of "sudden emergence of hostility" to describe his motive. The authorities and the courts might have accepted the defendant's explanation that he had taken the applicants for "fraudsters", but they did not state that explicitly and did not explain why they preferred that explanation to the applicants' account, especially given that their account was consistent and specific, as opposed to the defendant's rather vague statements related to

suspicion of fraud. The defendant's account may be viewed with particular suspicion, given that there are indications in the file that he attempted to influence witnesses in order to support that account, which those witnesses stated were false (see paragraph 14 above).

61. The Court considers that, as the applicants raised the substantiated allegation that there existed a motive of religious hatred, a general characterisation of the defendant's motives through the repetition of the legal formula of "sudden emergence of hostility" was not acceptable. The Court has already found a violation of Article 3 taken in conjunction with Article 14 of the Convention owing, in part, to the unexplained use of the "sudden emergence of hostility" formula in the face of substantiated allegations of a motive of religious prejudice (see *Kornilova v. Ukraine* [Committee], no. 47283/14, § 75, 12 November 2020). A similar flaw characterised the proceedings in the present case.

62. Moreover, the Court has held that not only acts based solely on a victim's characteristics can be classified as hate crimes. Perpetrators may have mixed motives, being influenced as much or more by situational factors as by their biased attitude towards the group to which the victim belongs (see *Balázs v. Hungary*, no. 15529/12, § 70, 20 October 2015). In the present case, the authorities also failed to explore the possibility of such a double motive.

63. There has accordingly been a violation of Article 3 taken in conjunction with Article 14 of the Convention.

II. ALLEGED VIOLATION OF ARTICLES 9 AND 14 OF THE CONVENTION

64. The applicants complained that the failure to conduct an effective investigation into a possible religious motive for the attack had been in breach of Article 9 taken in conjunction with Article 14. Article 9 reads as follows:

"1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

65. The Court notes that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

66. The Government submitted that the acts complained of had been carried out by a private individual and had not been directly attributable to the respondent State, and that the Court had to consider the issues in terms of the positive obligation of the State authorities to secure the rights under Article 9 to those within their jurisdiction. The authorities had fulfilled their positive obligation and had carried out an expedient and thorough investigation into the incident.

67. The applicants submitted that the authorities had failed to protect them against the violence that had disrupted their religious exercise and to unmask the religious motive for the attack, despite ample indicators of it.

2. *The Court's assessment*

68. It has not been disputed by the parties that, when they were attacked, the applicants were engaging in dissemination of Jehovah's Witnesses' doctrine and literature (see, for example, paragraphs 8 and 14 above). The Court has already held that Article 9 of the Convention applies to activities of this kind, that is, imparting information about a particular set of beliefs to others who do not hold them (see *Ossewaarde v. Russia*, no. 27227/17, § 39, 7 March 2023, and *Kokkinakis v. Greece*, 25 May 1993, §§ 31 and 36, Series A no. 260-A).

69. The Court observes that, in view of the circumstances of the present case, the domestic authorities were confronted with *prima facie* indications of violent acts motivated by the applicants' religion, which occurred in the context of their religious exercise. The State's positive obligations under Article 9 of the Convention were, therefore, engaged.

70. According to the Court's case-law, compliance with those obligations required an effective application of domestic criminal-law mechanisms, through prompt and effective investigation capable of elucidating the possible hate motive behind the attack (see, for example, *Begheluri v. Georgia*, no. 28490/02, §§ 173 and 176-79, 7 October 2014; *Tsartsidze and Others v. Georgia*, no. 18766/04, §§ 86-87, 17 January 2017; *Georgian Muslim Relations and Others v. Georgia*, no. 24225/19, § 93, 30 November 2023; and, for illustration purposes, *Migoryanu and Religious Community Jehovah's Witnesses of the City of Izmail v. Ukraine* [Committee], no. 36046/15, §§ 57-78, 12 November 2020).

71. However, as the Court has found above in the context of Article 3 of the Convention, no such investigation took place. The authorities failed to carry out an effective investigation into the applicants' complaint that the attack on them had occurred while they had been exercising their religious

practice and had been motivated by hostility towards it and the desire to disrupt it by means of violence.

72. These considerations are sufficient for the Court to find that the respondent State failed to comply with its positive obligations.

73. There has accordingly been a violation of Article 9 taken in conjunction with Article 14 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

74. The first applicant claimed 80 euros (EUR) and the second applicant claimed EUR 105 in respect of pecuniary damage (representing their medical expenses). The applicants claimed EUR 12,000 each in respect of non-pecuniary damage and EUR 5,000 in respect of costs and expenses incurred before the Court, representing Mr Perekryostov's and Mr Muzny's legal fees.

75. The Government contested those claims, arguing that they were unsubstantiated.

76. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it awards the applicants EUR 4,000 each in respect of non-pecuniary damage, plus any tax that may be chargeable.

77. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 4,000 covering costs for the proceedings before the Court, plus any tax that may be chargeable to the applicants.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 3 taken in conjunction with Article 14 of the Convention;
3. *Holds* that there has been a violation of Article 9 taken in conjunction with Article 14 of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 4,000 (four thousand euros) to each applicant, plus any tax that may be chargeable, in respect of non-pecuniary damage;

- (ii) EUR 4,000 (four thousand euros) to the applicants jointly, plus any tax that may be chargeable to the applicants, in respect of costs and expenses;
- (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 9 July 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik
Registrar

Kateřina Šimáčková
President