



Prohibition of a poster campaign for the Raelian Movement did not infringe its freedom of expression

In today's Chamber judgment in the case of [Mouvement Raélien suisse v. Switzerland](#) (application no. 16354/06), which is not final,¹ the European Court of Human Rights held, by a majority, that there had been:

No violation of Article 10 (freedom of expression) of the European Convention on Human Rights.

Principal facts

The applicant association, established in 1977, is a non-profit association registered in Rennaz (Canton of Vaud). It is the national branch of the Raelian Movement, an organisation based in Geneva and founded in 1976 with the stated aim of making initial contact and developing good relations with extraterrestrials. In 2001 it requested permission from the Neuchâtel police to conduct a poster campaign. The poster it intended to put up featured the faces of extraterrestrials and a flying saucer, the Raelian Movement's Internet address and telephone number and the phrases "The Message from the Extraterrestrials" and "At last, science is replacing religion". Permission to put up the posters was denied on the ground that the Raelian Movement ("the Movement") had engaged in activities that were immoral and contrary to public order.

An appeal by the applicant association was dismissed in a decision later upheld by the Neuchâtel Land Management Department. While acknowledging that the poster did not contain anything shocking, the Department highlighted the Movement's promotion of "geniocracy" – a political model based on intellectual coefficient – and of human cloning. It also relied on a finding by the Fribourg Cantonal Court that the Movement also "theoretically" advocated paedophilia and incest, particularly in publications by its founder Rael himself. Lastly, the Clonaid website, accessible from the Movement's site, offered specific services relating to cloning and eugenics. The Department accordingly held that the poster campaign entailed threats to morals and the rights of others and that the Movement had other means available for disseminating its views.

In a judgment of 22 April 2005 the Administrative Court dismissed an application by the applicant association for judicial review, although it accepted that the association was entitled both to freedom to hold opinions and to religious freedom. The court noted that in certain publications on "geniocracy" and "sensual meditation", children were described as a "primary sexual object", and pointed out that the Movement had been the subject of criminal complaints about certain sexual practices involving children. The statements about "geniocracy" and criticisms of contemporary democracies were also, in the court's

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

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

view, capable of undermining public order, safety and morals. On 20 September 2005 an appeal by the applicant association was dismissed by the Federal Court, which held in particular that making public space available for a poster campaign of this kind might have given the impression that the State tolerated or approved of such conduct.

Complaints, procedure and composition of the Court

Relying on Articles 9 (freedom of thought, conscience and religion) and 10 (freedom of expression), the applicant association complained about the Swiss authorities' refusal to allow it to put up its posters.

The application was lodged with the European Court of Human Rights on 10 April 2006.

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

Christos **Rozakis** (Greece), *President*,
Nina **Vajić** (Croatia),
Khanlar **Hajiyev** (Azerbaijan),
Dean **Spielmann** (Luxembourg),
Sverre Erik **Jebens** (Norway),
Giorgio **Malinverni** (Switzerland),
George **Nicolaou** (Cyprus), *Judges*,

and also Søren **Nielsen**, *Section Registrar*.

Decision of the Court

Article 10

The Court noted that this was the first time it had examined whether the domestic authorities should allow an association to impart its ideas through a poster campaign using public space made available to it.

The Court shared the Swiss Government's view that to allow the posters to be displayed might have given the impression that the authorities approved of or tolerated the opinions and conduct in question. It therefore accepted that the authorities had a wide discretion in assessing whether it was necessary to ban the campaign.

Although it was undisputed that the poster in question did not contain anything unlawful or shocking, either in its wording or in the illustrations, it nevertheless featured the association's website address, which linked to the Clonaid site, where specific cloning services were on offer. The Court considered that it had to take into account the overall context in which the poster was to be viewed, in particular the ideas imparted by these websites and by the association's publications. Consideration had to be given to modern means of disseminating information and to the fact that the websites in question were accessible to everyone, including children, and would have amplified the impact of a poster campaign.

The Court further observed that the Swiss authorities had given carefully reasoned decisions, taking into account the cloning services offered by the Clonaid company, the possible existence of sexually deviant practices involving under-age children and the threats to public order, safety and morals posed by "geniocracy" and the criticism of contemporary democracies. It considered that the accusations levelled by the Swiss authorities against certain members of the applicant association, concerning their sexual activities with minors, appeared particularly disturbing, and that the authorities had had sufficient grounds to deem it necessary to refuse permission to put up the posters. They

had also found in good faith that it was essential for the protection of health and morals and for the prevention of crime to ban the poster campaign in the light of the applicant association's views in favour of cloning, an activity prohibited by the Swiss Federal Constitution.

The Court observed that the ban was strictly limited to the display of posters in public places – the Federal Court had emphasised that the applicant association could express its beliefs through the many other means of communication available to it – and that there had never been any question of banning the association itself or its website.

Accordingly, since the Swiss authorities had not overstepped the wide margin of appreciation afforded to them with regard to extended use of public space, and had given sufficient reasons for their decisions, the prohibition of the poster campaign had not impaired the very essence of the applicant association's freedom of expression. The Court concluded that there had been no violation of Article 10.

Article 9

Having regard to its finding that there had been no violation of Article 10, the Court held that it was unnecessary to examine the applicant association's complaint under Article 9.

Separate opinion

Judges Rozakis and Vajić expressed a joint dissenting opinion, which is appended to the judgment.

The judgment is available only in French.

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