



## No breach of Jehovah's Witness' rights in case concerning dispute over his daughter's religious upbringing

In today's **Chamber** judgment<sup>1</sup> in the case of [T.C. v. Italy](#) (application no. 54032/18) the European Court of Human Rights held, by a majority, that there had been:

**no violation of Article 14 (prohibition of discrimination)** of the European Convention on Human Rights in conjunction with **Article 8 (right to respect for private and family life)** of the Convention, read in the light of **Article 9 (freedom of religion)**.

The case concerned a dispute between the applicant and the mother of his daughter from a previous relationship over their child's religious upbringing. The applicant had become a Jehovah's Witness after the split in the relationship. Following proceedings brought by the mother in the courts, the applicant was ordered to refrain from actively involving his daughter in his religion.

The Court found that there had been no difference in treatment between the applicant and the mother based on religion in the decisions leading to that court order. The decisions had solely aimed at resolving the conflict, focussing above all on the child's interest in growing up in an open and peaceful environment, while reconciling as far as possible the rights and convictions of both parents.

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

### Principal facts

The applicant, Mr T.C., is an Italian national who was born in 1973 and lives in Follonica (Italy).

Mr T.C. started a relationship with S.G. in 2004 and they had a daughter in 2006.

Following the breakup in their relationship in 2008, the parents had disagreements regarding their daughter's custody and visiting arrangements. The matter was brought before the courts and in March 2014 joint custody was granted. The parents agreed that the child would reside at the mother's home, spending at least 12 days per month with the father.

During those proceedings the mother argued that the applicant, who in the meantime had become a member of the Jehovah's Witnesses, was taking their daughter to religious services, without her mother's consent. She also complained that he was preventing the child from attending ballet classes and taking her along with him when distributing religious magazines in the street. The courts did not decide on this issue, asking the social services to assess the impact on the child of both parents' religious activities.

In January 2015 the Livorno District Court ordered the applicant to refrain from involving his daughter in his religion. The court, basing its ruling on an expert report, and primarily focussing on the child's best interests, found that the applicant's intensive efforts to involve his daughter in his religious activities was destabilising and stressful for her. It also had regard to the fact that the applicant had tried to hide his daughter's participation in the religion from her mother.

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](http://www.coe.int/t/dghl/monitoring/execution).

In February 2016 the Florence Court of Appeal dismissed the applicant's appeal. It did, however, clarify that the first-instance judgment did not mean that he could not talk about his beliefs with his daughter, just that he had to refrain from actively involving his daughter in his religious activities.

The Court of Cassation dismissed the applicant's claims on May 2018.

## Complaints, procedure and composition of the Court

Relying in particular on Article 14 (prohibition of discrimination) in conjunction with Article 8 (right to respect for private and family life), read in the light of Article 9 (freedom of religion), the applicant complained about the domestic court decisions ordering him to refrain from actively involving his daughter in his religion, arguing that he had been treated differently to his ex-partner because he was a Jehovah's Witness. He pointed out in particular that the decisions had been biased against his religion, giving the impression that it was dangerous and should be avoided, whereas the mother's beliefs and practices had not been investigated.

Also relying on Article 6 § 1 (right to a fair trial), he complained that he had been denied a fair trial in that the domestic courts had failed to decide on his appeal as a matter of urgency.

The application was lodged with the European Court of Human Rights on 12 November 2018.

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

Péter **Paczolay** (Hungary), *President*,  
Alena **Poláčková** (Slovakia),  
Gilberto **Felici** (San Marino),  
Erik **Wennerström** (Sweden),  
Raffaele **Sabato** (Italy),  
Lorraine **Schembri Orland** (Malta),  
Ksenija **Turković** (Croatia),

and also Renata **Degener**, *Section Registrar*.

## Decision of the Court

The Court considered that the applicant's complaints should be examined under Article 14 in conjunction with Article 8 of the Convention, as interpreted and applied in the light of Article 9 of the Convention. It rejected the remainder of his complaints as inadmissible.

First and foremost, the Court found that the court order had been aimed at resolving the conflict which had arisen because of the parents' diverging views on how to educate their daughter.

The decisions leading to the court order had attempted to reconcile the rights of each party, focussing above all on the child's interest in growing up in an open and peaceful environment. Indeed, the sole purpose of the order had been to preserve the child's freedom of choice, taking into account her father's educational views.

In any event, the order had not banned the applicant from using the educational principles he had chosen in relation to his daughter or prevented him from taking part in Jehovah's Witness activities in a personal capacity. Nor had his custody or visiting rights been restricted.

Moreover, given that the decisions are not final and can be revoked at any time, the applicant could apply for a review of the decision issued in January 2015.

The Court therefore considered that there had been no difference in treatment between the applicant and the mother based on religion in the domestic court decisions with regard to the

dispute and there had been no violation of Article 14 taken in conjunction with Article 8, read in the light of Article 9.

## Separate opinions

Judges Péter Paczolay and Gilberto Felici expressed a joint dissenting opinion, while Judge Raffaele Sabato expressed a concurring opinion. These opinions are annexed to the judgment.

*The judgment is available only in English.*

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