CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 52435/99
by Kalinka Todorova IVANOVA
against Bulgaria

The European Court of Human Rights (First Section), sitting on 14 February 2006 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,
Mrs S. BOTOUCHAROVA,
Mr A. KOVLER,
Mrs E. STEINER,
Mr K. HAJIYEV,
Mr D. SPIELMANN,
Mr S.E. JEBENS, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 27 May 1999,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mrs Kalinka Todorova Ivanova, is a Bulgarian national who was born in 1950 and lives in Rouse. She was represented before the Court by Mr Y. Grozev, a lawyer practising in Sofia.

The respondent Government were represented by their agent, Ms M. Kotzeva, of the Ministry of Justice.

A. The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

1. Background information

(a) General background

In February 1994 the Persons and Family Act was amended to require the registration of non-profit organisations, which had religious or related activities, with the Council of Ministers. Seventy-eight registration requests were submitted, but only twenty-three organisations were registered. Those turned down were primarily protestant groups.

Denial of legal status made it impossible for those organisations to rent public lecture halls or sign contracts in the name of the organization. The unregistered organisations were unable to open bank accounts or publish journals or newspapers in the name of the organisation and were denied certain tax advantages.

Among the organisations whose registrations were turned down was "Word of Life", a Christian Evangelical group that had become active in Bulgaria in the early 1990's.

(b) Word of Life

As a result of the authorities' refusal to register Word of Life, the religious organisation started clandestine activities. Meetings were periodically thwarted by the police followed by media propaganda against the organisation and its members.

On 20 June 1994, acting on a decree from the Sofia's Prosecutor's Office, the police closed a hall used by Word of Life in Sofia and prevented members from using it.

On 22 June 1994 a Swedish citizen was expelled from Bulgaria because of his participation in a Word of Life course (see *Lilja v. Bulgaria* (dec.), no. 41574/98, 20 November 2003).

On 23 June 1994 a force of around thirty policemen turned back members of Word of Life from attending a meeting at a hall, because it had purportedly been cancelled.

On 23 February 1995 the police raided private homes in the town of Veliko Turnovo and a conference hall in the Hotel "Etur". They confiscated religious literature, audio tapes and video cassettes, which they displayed at a press conference on the next day. No charges were brought against any members of Word of Life.

On 20 July and 27 September 1995 the police raided two gatherings of Word of Life followers in private homes. Religious literature was confiscated and the hosts were required to officially declare that they would no longer organise religious gatherings in their homes.

(c) The River Shipbuilding and Navigation School in Rouse

Throughout 1994 and 1995 the local Rouse media reported regularly on "unlawful" gatherings and religious activities by Word of Life followers. The media campaign intensified, with the national press joining in, during the summer and fall of 1995. Press coverage was focused on the River Shipbuilding and Navigation School (Техникум по речно корабостроене и корабоплаване : the "School") in Rouse because several of the non-academic staff were allegedly followers of Word of Life. The media also waged a personal campaign against some of those individuals by naming and condemning them as followers of the religious organisation. It called for their dismissal and named the applicant as one of the individuals whose employment should be terminated.

As a direct result, the Regional Prosecutor's Office and the National Security Service initiated inquiries into the religious activities of the School's staff members.

On 18 September 1995 the Regional Prosecutor's Office, in summarising the findings of the National Security Service, found that there were insufficient grounds for opening a preliminary investigation. At the same time it stated that, *inter alia*, the activities at the School were "not criminally un-culpable", that they were in contravention with the Religious Denominations Act and "probably" the relevant education acts and regulations. Moreover, the allegedly "unlawful" religious activities were considered to have been carried out with the tacit approval of its principal.

Soon thereafter, the Regional Governor (областният управител) and a local Member of Parliament (the "M.P.") called for radical measures to be taken to curb the alleged religious activities at the School and to dismiss the principal. They made public threats that, if such measures were not taken, they would petition the Ministry of Education, Science and Technology (the "Ministry") to dismiss the Chief Educational Inspector for Rouse (the "Educational Inspector").

On 23 October 1995 the principal of the School was dismissed by the Ministry. The dismissal order directly referred to the negative media coverage, the findings of the Regional Prosecutor's Office and accused her of tolerating the activities of Word of Life at the School to the detriment of its staff and pupils. It also inferred that the principal should have dismissed those members of staff which were Word of Life followers. It is unclear whether the principal appealed against her dismissal.

A new principal was appointed soon thereafter.

In a broadcast on "Hristo Botev" radio, aired on 7 December 1995, the M.P. stressed that there were still members of Word of Life working in the School such as the swimming pool manager, which was the applicant's post, and inferred that the Ministry had not conclusively resolved the matter with the dismissal of the former principal.

2. The applicant's career at the School

The applicant was a mechanical engineer and had a second university degree in pedagogical sciences. She had been involved in the religious activities of Word of Life since 1994.

On 14 October 1994 the applicant was appointed by the School to the position of "mechanic" at its swimming pool on a temporary employment contract until 23 February 1995.

On an unspecified date, the Ministry approved a new roster of positions (щатно разписание) for the School effective as of 1 January 1995, which provided for the position of "swimming pool manager" with a requirement that the holder of the post have secondary education. By further amendment of 1 April 1995 the holder of the post was required to have higher education.

On 6 April 1995 the applicant was promoted to the position of "swimming pool manager" and concluded a temporary employment contract with a term up to 31 August 1995.

On 31 August 1995 the applicant's temporary employment contract was extended until 31 August 1996.

On 20 September 1995 the applicant concluded an employment contract of unlimited duration, which provided for her appointment to the position of "swimming pool manager" as of 1 July 1995. Her job description indicated that her responsibilities included, *inter alia*, managing and supervising the staff of the swimming pool, organising their work schedules, monitoring the regular accounting of the proceeds from the swimming pool and organising the swimming lessons. The job description did not expressly refer to any education or professional qualification requirements for the position.

On an unspecified date, the Ministry approved a new roster of positions for the School effective as of 1 October 1995. It provided for the position of "swimming pool manager" with a requirement that the holder of the post have higher education.

On 23 October 1995 the principal of the School was dismissed.

3. The applicant's dismissal from the School

On 2 November 1995 the applicant was summoned to a meeting with the Educational Inspector and his deputy. Another member of staff, Mrs M., was also summoned to the meeting, which took place on the premises of the School. At the meeting, the inspectors asked for their resignations as a means to ease public tensions. The applicant contended, with which the Government disagreed, that the inspectors threatened them that if they did not resign of their own free will or renounce their faith that they would be disciplinarily dismissed. The inspectors claimed that irrespective of their work performance they "could instruct the [new] principal" to dismiss them. Mrs M. denied being a member of Word of Life, while the applicant did not and also refused to resign. No assessment or mention was made during the meeting as to whether the applicant was performing her job well and whether she met the requirements for holding her position.

On 3 November 1995 the applicant informed in writing the new principal of the School of her meeting with the Educational Inspector and his deputy of the previous day. No action was taken in response.

Thereafter, the new principal alienated the applicant – her office phone was removed, the locks to the swimming pool were changed without providing her a set of keys and the supervision of the renovation of the swimming pool was entrusted to a subordinate even though it should have been her responsibility. The new principal also conducted inquiries as to the applicant's work performance.

On 24 November 1995 the human resources department of the School prepared a list of thirty one employees allegedly without job descriptions. The applicant's name and position were among them.

By order of 28 December 1995 the applicant was dismissed, effective immediately, on the grounds of not meeting the education and professional qualification requirements for the position of "swimming pool manager" (Article 328 § 1 (6) of the Labour Code). When she was served with the order, the applicant inquired what the requirements that she did not meet were, but the new principal did not inform her.

4. The proceedings against the dismissal

(a) Proceedings before the Rouse District Court

On 27 May 1996 the applicant initiated proceedings before the Rouse District Court challenging the lawfulness of the dismissal. She also sought reinstatement to her previous position and compensation for loss of income.

The applicant maintained that her dismissal was directly related to her religious beliefs and her refusal to resign on her own accord. Such a reason

for terminating her employment contract, she argued, was a violation of Article 8 § 3 of the Labour Code and Article 37 of the Bulgarian Constitution, which prohibited religious discrimination.

During the trial it was established that in December 1995 there had been a further amendment to the School's roster of positions, which the Ministry had approved by letter of 30 January 1996, but with effect as of 1 January 1996. The amended roster of positions no longer envisaged the position of "swimming pool manager", but provided for the position of "sports complex organiser". On an unspecified date a job description had also been prepared for the new position which set out the requirements for the holder of the post as follows: "university degree in sports, university degree in economics, as an exception – secondary education with a specialisation in the respective sport, qualified lifeguard, certified swimming instructor."

Before the Rouse District Court, the applicant argued that the changes to the School's roster of positions should have taken place in accordance with standard practices and should not have been arbitrary. She claimed that the standard practice was to make changes to the roster of positions before the beginning of the academic year. The applicant also claimed that the changes were arbitrary because there was no objective necessity, stemming from the work being performed, to change the requirements for the position.

A hearing was held on 9 July 1996 at which the respondent party presented the new job description for the position of "sports complex organiser".

At a hearing on 19 November 1996 several witnesses gave testimony. The Educational Inspector testified that the standard practice was to make changes to the roster of positions before the academic year unless an urgent need, usually financial related, required otherwise. He confirmed that he had met with the applicant in early November 1995 in connection with the findings of the Regional Prosecutor's Office and that he had invited her to resign in view of the mounting discontent and public opinion. He stated that he had not inquired as to the activities of Word of Life at the School and that he was not familiar with the applicant's work performance.

Mrs M. also testified and informed the court that the new principal had threatened her with dismissal if she talked about her work at the School. She testified as to the meeting with the Educational Inspector of 2 November 1995 and that faced with the claim of being a follower of Word of Life she had denied it. She stated that she had broken down and cried during the meeting because she had two children to support and did not want to be left without a job. Mrs M. also informed the court that, insofar as she was aware, the applicant had been a good and diligent employee, who had been in good relations with the other members of staff.

A teacher from the School also testified at the hearing. He informed the court that since its construction in 1974 the swimming pool had always had a manager, but that there had never been a requirement for a university

degree in sports for the position. The teacher also testified as to the content of the radio broadcast of 7 December 1995, in which the applicant had been singled out for dismissal by the M.P.

On 25 November 1996 the applicant filed her written submissions with the Rouse District Court contending that the evidence in the case supported her claim. She maintained that the School's roster of positions had been changed in the middle of the academic year with the sole aim of introducing such requirements for her position so as to allow for her dismissal on those grounds.

By judgment of 5 May 1997 the Rouse District Court dismissed the applicant's claims. In its judgment, the Rouse District Court noted that the burden of proof, as to whether the dismissal had been lawful or not, lay with the School. It found, *inter alia*, that the School had complied with the procedure for changing the roster of positions and that the new job description for the position was in conformity with the standard job descriptions for such positions approved by the Ministry. In addition, the court found that with the changes to the requirements for the position the School had envisaged for the possibility that the person appointed to the job would not only manage and organise the activities of the swimming pool but could also act as a lifeguard or swimming instructor, which the court deemed to be of "vital importance". Based on these considerations, the court found that "there really had been preconditions [which entailed] changing the requirements for the position" and that the dismissal was, therefore, lawful. Separately, the Rouse District Court found that the applicant's claims that her dismissal had been because of her religious beliefs were not supported by the evidence in the case, that in fact the applicant had been in very good relations with the other members of staff and that there were no complaints as to her work performance. The court also reasoned that the applicant's assertions in this respect were refuted by the fact that Mrs M. was still employed by the School.

(b) Proceedings before the Rouse Regional Court

The applicant appealed against the judgment of the Rouse District Court on 27 June 1997. She claimed, *inter alia*, that its findings were not based on the evidence established in the case and were, therefore, unfounded. She claimed that the Rouse District Court had failed to properly assess key evidence, such as the testimonies of the Educational Inspector and Mrs M.

The applicant also questioned the grounds of the first-instance court for dismissing her claim and assessed them as frivolous and at odds with the substance of her religious discrimination complaint. Firstly, she had never claimed that her personal relations with her colleagues had suffered as a result of her religious beliefs. Secondly, she considered that the first-instance court's reasoning that there had not been any discrimination against her based on the fact that Mrs M. was still employed by the School was

incorrect as there were various possible reasons for her continued employment, such as that the media had not singled her our for dismissal.

The applicant also claimed that the Rouse District Court never analysed in substance her religious discrimination complaint, but dealt with the matter purely as an issue of unfair dismissal.

Finally, she maintained that the facts of the case clearly showed that following her refusal to resign on 2 November 1995 the School had simply tried to find a legal ground for dismissing her and that the chosen method was to change the requirements for the position she occupied so that she would become ineligible to hold it.

On 22 July 1997 the former principal of the School filed submissions with the Rouse Regional Court attesting to a conversation she had had in June 1995 with the Educational Inspector. At the meeting he had identified four employees in respect of whom there had been "information that they were members of a sect" and whose employment he had insisted be terminated. At the time, the former principal had offered those employees to resign on their own accord, but they had refused and no further action had been taken against them.

On 23 July 1997 the Rouse Regional Court dismissed the applicant's appeal. The court found, *inter alia*, that the School had both the necessity and the right to change the roster of positions, the requirements for the applicant's position and to dismiss her because she did not meet those requirements. It also found that the Rouse District Court had adequately addressed the applicant's allegations of religious discrimination and found them to be "totally and irrefutably ... irrelevant" based on the fact that she had had good relations with her colleagues and had been a good employee. Any subjective reasons or discriminatory grounds for her dismissal were therefore considered unfounded.

(c) Proceedings before the Supreme Court of Cassation

On 18 September 1997 the applicant filed a petition for review, claiming, *inter alia*, that the lower courts had failed to properly evaluate the evidence before them and had never addressed the substance of her religious discrimination complaint. She maintained that they had failed to assess the circumstances surrounding her dismissal and especially the events leading up to it, which clearly demonstrated the real reason why this legal method had been used to terminate her employment.

A hearing was conducted on 16 November 1998, which the applicant and her counsel did not attend. They presented their submission to the court in writing.

By final judgment of 9 December 1998 the Supreme Court of Cassation dismissed the applicant's appeal. The court found, *inter alia*, that the arguments of the applicant were unsubstantiated and upheld the findings of the lower courts. It stressed the right of the School to change the

requirements for the position and that such changes were not subject to judicial review. In addition, it compared the duties and responsibilities of the positions of "swimming pool manager" and "sports complex organiser" and found them to be essentially the same. The Supreme Court of Cassation also noted that the old job description lacked any education or professional qualification requirements for the position, while the new one did. It found, therefore, that the employer had simply filled a gap that had previously existed in that respect.

The court refused to address the remainder of the arguments of the applicant as it found them to be irrelevant to the proceedings and the effected dismissal.

B. Reports on the religious freedoms in the country during the relevant period

1. Country Reports of the European Commission against Racism and Intolerance (ECRI)

The European Commission against Racism and Intolerance ("ECRI"), in its three reports on Bulgaria for the years 1997 – 1999, reported that during the period there had been a high degree of intolerance in the media towards minority religious groups, particularly new religions. It also found the authorities to be somewhat passive in the face of acts of intolerance, which were not sufficiently combated or punished.

ECRI also reported that there had been religious discrimination in the field of education and that there had been cases of dismissal in the public sector for religious beliefs.

2. Reports by NGOs

The Human Rights Watch and the Bulgarian Helsinki Committee, in their annual reports for the years 1994 – 1996, noted that violations of religious freedoms in Bulgaria significantly increased over the period, especially with regard to what had been referred to as "non-traditional" religious denominations. They observed that the authorities had sought to impose restrictions on thought and religion and to restrict religious diversity, such as by introducing the requirement that non-profit organisations, which have religious or related activities or perform religious education, obtain the approval of the Council of Ministers before they register as such.

They also found that there had been cases of dismissal in the public sector for religious beliefs and reported on specific instances involving followers of Word of Life.

C. Relevant domestic law and practice

1. Protection Against Discrimination

The Bulgarian Constitution (Article 38), the Education Act of 1991 (section 4) and the Labour Code (Article 8 § 3) provide for protection against discrimination grounded on, *inter alia*, religious beliefs.

By amendment of the Labour Code (Article 8 § 3 and item 7 of § 1 of its Additional Provisions) of 31 March 2001, the scope of protection against discrimination in the workplace was widened to include indirect discrimination, which was defined as follows:

> " "Indirect" is the discrimination whereby ostensibly admissible by law solutions are used in exercising labour rights and duties, but they are applied in view of the criteria under Art. 8 § 3 in a way which in reality and in fact place some workers and employees in [a] less favourable or privileged position as compared to others. Discrimination [does not exist where] the differences or the preferences [are] based on the qualification requirements for performing a specific job, as well as the special protection of some [types of] workers and employees (juveniles, pregnant and mothers of young children, disabled, labour re-adjusted and other alike), established by normative acts."

On 1 January 2004 the Protection Against Discrimination Act was enacted, which provides a comprehensive framework for protection against discrimination.

2. Termination of employment contract

An employer may terminate a contract of employment by giving notice in writing to an employee in case he or she does not have the necessary education or vocational training for performing the assigned work (Article 328 § 1 (6) of the Labour Code).

In reviewing such terminations, the courts have an established practice that for a dismissal to be lawful (under Article 328 § 1 (6) of the Labour Code) it is sufficient for the courts to establish that there were new requirements for education or vocational training for performing the assigned work, which the employee no longer met, without requiring them to assess the necessity for introducing such requirements (решение на ВС № 77 от 22.II.1995 г. по гр. д. № 1062 от 1994 г., III г. о.).

3. The secular nature of the system of education

The Education Act (1991) in its section 5 proclaims the system of education as secular.

COMPLAINTS

1. The applicant complained under Article 9 of the Convention that she was dismissed from her job because of her religious beliefs and that this constituted a violation of her right to freedom of religion. She further complained under Article 9, in conjunction with Article 1 of the Convention, that the Bulgarian Government failed in its positive obligation to provide clear legal standards and a procedure for enforcement of her right to freedom of religion.

2. The applicant complained under Article 14, in conjunction with Article 9 of the Convention, that her dismissal from the School was inconsistent with the requirement of non-discrimination set forth in the Convention.

3. The applicant complained under Article 6 of the Convention that as a result of the negligent judgments of the Bulgarian courts, she was deprived of her right to a fair trial by an independent tribunal in her appeal against her dismissal. She maintained that the courts failed to consider her argument that the termination of her employment was unlawful, as it was grounded on her religious beliefs, and to properly consider the evidence in that respect.

4. The applicant complained under Article 13 of the Convention that she did not have an effective remedy with respect to her allegations that her dismissal was on religious grounds.

THE LAW

A. The Government's objection of non-exhaustion of domestic remedies

1. The parties' arguments

The Government submitted that the applicant had failed to exhaust the available domestic remedies. They claimed that, insofar as she felt her reputation had been tarnished by the media campaigns against her, she could have petitioned the authorities to prosecute the persons responsible. The Government contended that had the applicant approached the competent authorities, they could have seized or ceased the dissemination of such information against her and compensated her for the damages suffered as a result. The Government referred in this respect to the provisions of the Criminal Code which criminalise defamation (Articles 146-148) and dissemination of religious hatred (Article 164).

The Government further contended that on the basis of the above, the applicant could have initiated an action for damages and sought compensation from the persons responsible.

The applicant replied that the Government's objection was not relevant to the complaints submitted to the Court. The applicant recalled that she had never complained of the negative publicity in the media and stated that her submissions in that respect were only intended to provide the necessary background information to substantiate her assertion that the real reason for her dismissal had been her religious beliefs. Accordingly, the applicant considered that a lawsuit for defamation, as suggested by the Government, could not be considered an effective remedy for her Convention' complaints currently before the Court.

2. The Court's assessment

The Court reiterates that, according to Article 35 § 1 of the Convention, it may only deal with an issue after all domestic remedies have been exhausted. The purpose of Article 35 is to afford the Contracting States the opportunity of preventing or putting right the violations alleged against them before those allegations are submitted to the Court (see, for example, *Hentrich v. France*, judgment of 22 September 1994, Series A no. 296-A, p. 18, § 33, and *Remli v. France*, judgment of 23 April 1996, *Reports of Judgments and Decisions* 1996-II, p. 571, § 33). Thus the complaint submitted to the Court must first have been made to the appropriate national courts, at least in substance, in accordance with the formal requirements of domestic law and within the prescribed time-limits. Nevertheless, the obligation to exhaust domestic remedies only requires that an applicant make normal use of remedies which are effective, sufficient and accessible in respect of his Convention grievances (see *Balogh v. Hungary*, no. 47940/99, § 30, 20 July 2004 and *John Sammut and Visa Investments Limited v. Malta* (dec.), no. 27023/03, 28 June 2005).

In the present case, the Court notes that the applicant never complained of the negative publicity in the media. Accordingly, the domestic remedies indicated by the Government are not directly relevant to her Convention' grievances and, therefore, it cannot be required of her to have exhausted them.

It follows that the application cannot be rejected for non-exhaustion of the domestic remedies indicated by the Government and that the latter's objection should be dismissed.

B. Complaint under Article 9 of the Convention that the applicant's right to freedom of religion was violated as a result of the termination of her employment on allegedly religious grounds

The applicant complained under Article 9 of the Convention that she was dismissed from her job because of her religious beliefs and that this constituted a violation of her right to freedom of religion.

Article 9 of the Convention provides:

> "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."

1. The parties' arguments

The Government contended that the applicant's complaint was unfounded and unsubstantiated as it was grounded on assertions, which were not supported by tangible evidence.

The Government questioned the reliance on various media and other reports in substantiating the applicant's complaints and considered them immaterial to the case. Nevertheless, in respect of the media campaigns, the Government contended that they did not infringe on the applicant's right to freedom of religion. To the contrary, they considered them a legitimate exercise of the media's right of freedom of expression, insofar as they were expressing the reservations of the public towards members of a religious organisation allegedly proselytising among the pupils of the School with the tacit support or approval of the institution's former principal. In any event, the Government considered that the media's singling out of the applicant had not, in itself, infringed on her right to freedom of religion.

In respect of the investigations of the Prosecutor's Office into the activities of Word of Life, the Government argued that they were justified and that they were simply in response to the community's suspicions of its member's activities at the School. Moreover, they submitted that the investigations were initiated in response to credible information that the School's premises were being used for religious activities in apparent violation of the secular nature of the institution. Thus, the Government contended that these investigations could not be considered, in themselves, an infringement of the applicant's right to freedom of religion.

In respect of the termination of the applicant's employment, the Government argued that it was not grounded on her religious beliefs or

activities. They submitted that it was simply the result of the elimination of certain deficiencies in the administration of the School in order to provide all employees with complete job descriptions and, in the case of the applicant, with justified education and professional qualification requirements for her position. The Government further noted that her dismissal was based on the applicable legislation, which provided for termination of an employment agreement if the requirements for a position changed and the employee holding it no longer met those requirements.

Separately, the Government submitted that any limitations imposed on the applicant's right to manifest her religion within the confines of the School were justified. They referred to the secular nature of the system of education in Bulgaria and submitted that this principle applied both to the teaching activities of the School and to its premises, which they contended was a justified limitation on the right to manifest one's religion. They recalled in this respect that one of the grounds for dismissing the School's former principal was her failure to maintain the secular nature of the institution by allegedly allowing proselytisation on the premises by Word of Life, but argued that that had no direct relevance or affect on the applicant.

In her reply, the applicant referred to the sequence of events leading up to her dismissal and considered them clearly indicative of the real reason for her dismissal. In addition, she argued that the new principal of the School was aware of the reasons for the dismissal of her predecessor. Considering the applicant's good working relationship with her colleagues and her satisfactory work performance, she argued that it had not been possible to dismiss her on grounds directly relating to her work. Accordingly, the applicant asserted, that in order to effect the desired dismissal the new principal had settled on the unusual method of changing the roster of positions and the requirements for her position. The use of this legal technique, she contended, did not however change the real reason for her dismissal which had been her religious beliefs.

Finally, the applicant noted that the standard of proof required under Article 9 of the Convention was beyond a reasonable doubt, but recalled that the Court has previously stated that "such proof may follow from the co-existence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of facts" (see *Anguelova v. Bulgaria*, no. 38361/97, § 111, ECHR 2002-IV). The applicant submitted that, considered in its entirety, the evidence in the case clearly met the requisite burden of proof and established beyond a reasonable doubt that the substantive reason for her dismissal had been her religious beliefs.

2. The Court's decision on admissibility

The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court

concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established.

C. Complaint under Article 14 of the Convention

The applicant complained under Article 14, in conjunction with Article 9 of the Convention, that her dismissal from the School was inconsistent with the requirement of non-discrimination set forth in the Convention.

Article 14 of the Convention provides:

> "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."

1. The parties' arguments

The Government contended that the applicant's complaint was unfounded and completely unsubstantiated. They noted that the applicant had had a very good working relationship with the other employees at the School and that she had not had any censures for her work, which they considered could not be reconciled with her complaint of discrimination. The Government reiterated their argument that the applicant's dismissal was the result of the elimination of certain deficiencies in the administration of the School.

The Government also claimed that of the four persons named by the media as members of Word of Life working in the School only the applicant's employment had been terminated. They argued that this lack of any repercussions for the other alleged members of Word of Life indicated that there had not been a concerted effort or intent by the authorities to terminate their employment.

Separately, the Government submitted that in the years preceding the applicant's dismissal more than twenty other employees had been dismissed and inferred that her termination should be considered within the context of ongoing redundancies at the institution. They also found it inappropriate and discriminatory on other employees to be required to grant special protection to religious employees faced with termination of their employment.

In her reply, the applicant reiterated her complaint. She did not submit separate observations on her complaint of discrimination on religious grounds, other than those provided in the context of Article 9 of the Convention, which she consider equally relevant. However, in her submissions under Article 9 of the Convention, the applicant stated that by the time of her meeting on 2 November 1995 with the Educational Inspector, the other members of Word of Life employed at the School, with

the exception of Mrs M., had already left the institution on their own accord due to personal reasons or as a result of the negative publicity.

2. The Court's decision on admissibility

The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established.

D. The remainder of the applicant's complaints

The Court has examined the remainder of the applicant's complaints as submitted by her. However, in the light of all the material in its possession, and in so far as the matters complained of were within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares admissible, without prejudging the merits, the applicant's complaints that her right to freedom of religion was violated because her employment was terminated on account of her religious beliefs (Article 9), which amounted to discrimination on religious grounds (Article 14, in conjunction with Article 9);

Declares the remainder of the application inadmissible.

Søren NIELSEN
Registrar

Christos ROZAKIS
President