



Polish popstar's conviction for blasphemy breached the Convention

In today's **Chamber** judgment¹ in the case of **Rabczewska v. Poland** (application no. 8257/13) the European Court of Human Rights held, by six votes to one, that there had been:

a violation of Article 10 (freedom of expression) of the European Convention on Human Rights.

The case concerned a pop singer in Poland known as Doda and comments she had made in an interview about the Bible which the courts decided were blasphemous.

The Court found in particular that the applicant's statements – suggesting that the Bible's authors had written under the influence of alcohol and narcotics – had been made in reply to questions about her private life, in a frivolous and colourful language with her young audience of fans in mind. They had neither amounted to hate speech nor incited to hatred or religious intolerance and the Court therefore ruled that the domestic courts had failed to provide sufficient reasons to justify the interference with the applicant's freedom of speech.

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

Principal facts

The applicant, Dorota Rabczewska, is a Polish national who was born in 1984 and lives in Ciechanów (Poland). She is a popular singer in Poland, performing under the name Doda.

In August 2009 *Dziennik*, a news website, published an interview with the applicant which was then reprinted in the tabloid *Super Express* with the title "Doda: I don't believe in the Bible."

The interviewing journalist had put questions to her about religion, prompted by the openly anti-religious public stance of her boyfriend at the time. She had replied that she believed in a "higher power" but that she was more convinced by scientific discoveries and not by the "incredible [biblical] stories" written by "someone wasted from drinking wine and smoking weed."

Following a complaint brought by two private individuals, the prosecuting authorities issued a bill of indictment against her for offending their religious feelings, an offence under Article 196 of the Criminal Code.

During the proceedings against her, the applicant maintained that she had not intended to cause any offence. She had simply been answering the journalist's questions in a "sincere, subjective and frivolous manner" with her young audience of music fans in mind.

In January 2012 the Warsaw District Court convicted her as charged and fined her 5,000 Polish zlotys (approximately 1,160 euros). It ruled in particular that her statements suggesting that the Bible's authors had written under the influence of alcohol and narcotics were deliberately insulting and showed contempt for believers.

All her challenges to this judgment were unsuccessful, including ultimately in October 2015 a constitutional complaint.

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.

Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression), the applicant complained that the use of the criminal law in her case had not been necessary as her statements had not amounted to hate speech and that the fine – amounting to 50 times the minimum provided for by law – had been particularly severe.

The application was lodged with the European Court of Human Rights on 21 January 2013.

Article 19 and Ordo Iuris were granted leave to intervene in the proceedings as third parties.

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

Péter **Paczolay** (Hungary), *President*,
Krzysztof **Wojtyczek** (Poland),
Alena **Poláčková** (Slovakia),
Gilberto **Felici** (San Marino),
Lorraine **Schembri Orland** (Malta),
Ioannis **Ktistakis** (Greece),
Ksenija **Turković** (Croatia),

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

Decision of the Court

First, the Court noted that the applicant's interview had contained statements which could shock or disturb some people. It reiterated that such views were protected under the Convention provided that they did not incite to hatred or religious intolerance.

It had not, however, been argued that her statements had amounted to hate speech.

Nor had it been established that her statements had been capable of stirring up or justifying violence, hatred or intolerance and that interfering with her right to freedom expression had been necessary to ensure the peaceful coexistence of religious and non-religious groups and individuals in Poland.

Indeed, the domestic courts had failed to comprehensively assess the wider context of the applicant's statements, which had not meant to contribute to any serious debate on religious matters but had been made in reply to questions about her private life, in a frivolous and colourful language intended to spark her young audience's interest.

Overall, the courts had failed to identify and carefully weigh the competing interests at stake, namely her right to freedom of expression against the rights of others to have their religious feelings protected and religious peace preserved in the society.

The Court found that the domestic courts, despite having wide discretion to decide on matters concerning the interests of society as whole, had failed to provide sufficient reasons to justify the applicant's conviction and interference with her freedom of speech.

Moreover, the sanction imposed on the applicant – a criminal conviction and fine amounting to fifty times the minimum – could not be considered insignificant.

Accordingly, there had been a violation of Article 10 of the Convention.

Just satisfaction (Article 41)

The Court held, by six votes to one, that Poland was to pay the applicant 10,000 euros (EUR) in respect of non-pecuniary damage.

Separate opinions

Judge Wojtyczek expressed a dissenting opinion. Judge Ktistakis, joined by Judge Felici, expressed a concurring opinion. These opinions are annexed to the judgment.

The judgment is available only in English.

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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.