

Dismissal of teacher for photos posted on social media discriminated against her on grounds of her sexual orientation

In today's **Chamber** judgment¹ in the case of [A.K. v. Russia](#) (application no. 49014/16) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights, and

a violation of Article 14 (prohibition of discrimination) in conjunction with Article 8.

The case concerned the dismissal of the applicant, a teacher, from her post owing to images of her appearing on social media which the school had found to be "immoral".

The Court found in particular that dismissing the applicant had been grossly disproportionate and that that reaction from the school management had been a result of discrimination against her sexual orientation.

Principal facts

The applicant, A.K., is a Russian national who was born in 1987 and lives in St Petersburg (Russia).

From 2011 Ms A.K. worked as a music teacher in a State school for children with special needs in St Petersburg. In November 2014 A.K. was brought to a meeting and was informed of a "dossier" on her private life prepared by the Parents of Russia (*Podumenu Poccuu*), a non-governmental organisation (the dossier had been trawled from social media, and included, among other images, pictures of A.K. kissing other women, and of her raising her middle finger to camera). Owing to "her propaganda of non-traditional sexual orientation" and bringing the vocation of a teacher into disrepute, she was asked to resign her position. She refused.

On 8 December 2014 A.K. submitted to the school, among other arguments, that there had been no previous complaints concerning her conduct. She was dismissed from her position the same day because of "immoral acts incompatible with continued performance of teaching activities".

A.K. complained to the courts. In April 2015 the Kirovskiy District Court of St Petersburg dismissed her suit, finding the school's argument that someone in a "child-rearing" position should not engage in immoral activities to be valid.

An appeal and two cassation appeals by her were unsuccessful.

Complaints, procedure and composition of the Court

Relying on Articles 8 (right to respect for private and family life) and Article 14 (prohibition of discrimination) in conjunction with Article 8, the applicant complained of the decision to terminate her contract on the grounds of sexual orientation.

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.

The application was lodged with the European Court of Human Rights on 10 August 2016.

The Court's procedure for processing of applications against Russia can be found [here](#).

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

Pere **Pastor Vilanova** (Andorra), *President*,
Yonko **Grozev** (Bulgaria),
Georgios A. **Serghides** (Cyprus),
Darian **Pavli** (Albania),
Peeter **Roosma** (Estonia),
Andreas **Zünd** (Switzerland),
Oddný Mjöll **Arnardóttir** (Iceland),

and also Milan **Blaško**, *Section Registrar*.

Decision of the Court

The Court established that it had jurisdiction to deal with the case as the facts giving rise to the alleged violations of the Convention had taken place before 16 September 2022, the date on which Russia ceased to be a Party to the European Convention.

Article 8 and Article 14 in conjunction with Article 8

The decision to dismiss A.K. had been an interference with her right to respect for her private life. The question was whether that decision had been proportionate and whether it had discriminated against her.

The Court found that the dismissal on the basis of photos that had not been obscene had been grossly disproportionate to the aim of protecting morals. No other measures, bar resignation, had been considered by the school in this situation.

It stated that, despite the arguments to the contrary, an individual's sexual orientation could not be isolated from the private and public expressions of it, which were evidently protected elements of an individual's private life under Article 8. The posting of photos showing intimacy to partners while travelling or at parties was a staple of social media. The hostile reaction to A.K.'s doing so by her employer had been driven by lack of acceptance of her sexuality. Her dismissal from her workplace had therefore been a disproportionate interference with her Article 8 rights based solely on her sexual orientation.

There had thus been a violation of Article 8, and Article 14 in conjunction with Article 8.

Just satisfaction (Article 41)

The Court held that Russia was to pay the applicant 6,500 euros (EUR) in respect of pecuniary damage, EUR 10,000 in respect of non-pecuniary damage and EUR 6,000 in respect of costs and expenses.

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.