



Refusal to allow Raelian Movement's poster campaign was necessary in a democratic society and did not breach its right to freedom of expression

In today's Grand Chamber judgment in the case of [Mouvement raélien suisse v. Switzerland](#) (application no. 16354/06), which is final¹, 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.

The case concerned the authorities' refusal to allow the association Mouvement raélien suisse (Swiss Raelian Movement) to put up posters featuring extraterrestrials and a flying saucer on the ground that it engaged in activities that were considered immoral.

The Court found that the refusal had met a "pressing social need" and that the authorities had not overstepped the broad margin of appreciation given to them in view of the non-political dimension of the poster campaign. The restriction was, moreover, limited to the display of posters on public facilities, allowing the association to use other means of expression.

Principal facts

The applicant association, established in 1977, is a non-profit association registered in Rennaz (Canton of Vaud, Switzerland) whose aim is to make contact with extraterrestrials. In 2001, the association requested permission from the Neuchâtel police to put up posters featuring the faces of extraterrestrials and a flying saucer, together with its website address and telephone number. The authorities (police, municipal council and the Neuchâtel Land Management Directorate) denied permission to put up the posters on the ground that the organisation engaged in activities that were immoral and contrary to public order. The Movement promoted "geniocracy", a political model based on intellect and human cloning. In addition, a court of the Canton of Fribourg had found that it "theoretically" advocated paedophilia and incest. It had also been the subject of criminal complaints about sexual practices involving children.

The applicant association alleged that this was pure censorship and claimed that the mere defence of "geniocracy", cloning and sensual meditation was by no means shocking. In 2005, the Administrative Court and the Federal Court upheld the authorities' decision. While the administrative court accepted that the organisation was entitled to freedom of opinion and religious freedom, it found that its views on "geniocracy" and its criticism of contemporary democracies were capable of undermining public order and safety, as well as morals. The Federal Court dismissed the organisation's appeal, holding that making public space available for its poster campaign might have given the impression that the State tolerated or approved of such conduct.

Similar posters had been authorised in 1999 in a number of Swiss towns such as Zürich and Lausanne. The applicant association had also conducted other campaigns with different posters between 2004 and 2006, in various Swiss towns. In 2004, however, the

¹ Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

municipal council of Delémont refused to authorise a campaign that the applicant association wished to conduct with a poster stating "God does not exist".

Complaints, procedure and composition of the Court

The applicant association complained that the authorities' refusal to allow its poster campaign had violated its rights under Articles 10 (freedom of expression) and 9 (freedom of thought, conscience and religion).

The application was lodged with the European Court of Human Rights on 10 April 2006. In its [Chamber judgment of 13 January 2011](#), the Court held, by a majority, that there had been no violation of Article 10. On 20 June 2011, the case was referred to the Grand Chamber at the request of the applicant organisation under Article 43 of the Convention². A [hearing](#) was held in the Human Rights Building in Strasbourg on 16 November 2011.

The organisation ARTICLE 19 was authorised to intervene as a third party in the proceedings (under Article 36 of the Convention). In written comments it stressed the importance of freedom of expression on the Internet in terms of international law and recommended that States only be given narrow latitude (margin of appreciation) on such matters.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Nicolas **Bratza** (the United Kingdom), *President*,
Françoise **Tulkens** (Belgium),
Josep **Casadevall** (Andorra),
Corneliu **Bîrsan** (Romania),
Egbert **Myjer** (the Netherlands),
Mark **Villiger** (Liechtenstein),
Päivi **Hirvelä** (Finland),
András **Sajó** (Hungary),
Mirjana **Lazarova Trajkovska** ("the former Yugoslav Republic of Macedonia"),
Ledi **Bianku** (Albania),
Ann **Power-Forde** (Ireland),
Mihai **Poalelungi** (Republic of Moldova),
Nebojša **Vučinić** (Montenegro),
Kristina **Pardalos** (San Marino),
Ganna **Yudkivska** (Ukraine),
Paulo **Pinto de Albuquerque** (Portugal),
Helen **Keller** (Switzerland),

and also Michael **O'Boyle**, *Deputy Registrar*.

Decision of the Court

Article 10

It was not disputed that the refusal issued to the applicant association had a legal basis (Article 19 of the Neuchâtel Administrative Regulations) and that it pursued the legitimate aims of the prevention of crime and the protection of health, morals and the

² Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its Protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

rights of others. Unlike the situation in other cases³ that the Court had examined, the applicant association had not faced a general ban on the disclosure of certain ideas but a ban on the use of regulated and supervised public space. As the Chamber had noted, individuals did not have an unconditional or unlimited right to the extended use of public facilities, especially in the case of advertising or information campaigns.

The Court first reiterated that the latitude (or margin of appreciation) given to States in imposing restrictions on freedom of expression was narrow in political matters but broader in areas where the expression might cause offence as regards ethical or religious convictions, and also in commercial matters and advertising. The applicant association's speech was closer to commercial speech, because through its website it was seeking to attract people to join its movement and not to raise questions falling within political debate in Switzerland. Whilst the poster was not advertising a product, it could nevertheless be compared to commercial speech because it had a certain proselytising function.

Thus, the management of public billboards in the context of campaigns that were not strictly political might vary from one State to another, or even from one region to another within the same State, especially if its organisation was of a federal type. Consequently, the examination of the lawfulness of a poster fell within the margin of appreciation given to States, and it was not for the Court to intervene in this area.

The Court then observed that, unlike other cases, there was no issue here concerning the efficiency of the judicial review by the Swiss courts. Five different authorities had examined the case, looking not only at the poster but also at the content of the website, and had given detailed reasons for the refusal to allow the poster, namely, the applicant association's promotion of human cloning and "geniocracy", together with the possibility that its ideas had led to sexual abuse of minors by some of its members. Whilst some of those reasons taken separately might not be capable of justifying the ban on the poster campaign, the Court took the view that in view of the situation as a whole, the refusal had been indispensable for the protection of health, morals and the rights of others, and for the prevention of crime.

The applicant association had claimed that the ban excessively complicated the dissemination of its ideas. The Court took the view that the limiting of the ban to posters in public space minimised any interference with its rights. As the Raelian Movement had been able to continue to disseminate its ideas, in particular through its website or leaflets, the ban on the poster campaign had not been disproportionate.

The Court therefore found, by nine votes to eight, that there had been no violation of Article 10, finding that the Swiss authorities had not overstepped the broad margin of appreciation given to them in this case, and that the grounds for their decisions had been "relevant and sufficient" and had corresponded to a "pressing social need".

Article 9

The Grand Chamber found, like the Chamber, that it was not necessary to examine the applicant association's complaint separately under Article 9.

Separate opinions

Judge Bratza expressed a concurring opinion; Judges Tulkens, Sajó, Lazarova Trajkovska, Bianku, Power-Forde, Vučinić and Yudkivska expressed a joint dissenting opinion; Judges Sajó, Lazarova Trajkovska and Vučinić expressed a joint dissenting

³ See §§ 57-58 of the judgment

opinion; and Judge Pinto de Albuquerque expressed a dissenting opinion. These opinions are annexed to the judgment.

The judgment is available in English and French.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe to the www.echr.coe.int/RSS/en.

Press contacts

echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Céline Menu-Lange (tel: + 33 3 90 21 58 77)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Kristina Pencheva-Malinowski (tel: + 33 3 88 41 35 70)

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)

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.