



Conviction for offensive comments aimed at the police was not justified

In today's **Chamber** judgment¹ in the case of [Savva Terentyev v. Russia](#) (application no. 10692/09) the European Court of Human Rights held, unanimously, that there had been:

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

The case concerned the applicant's conviction for inciting hatred after making insulting remarks about police officers in a comment under a blog post.

The Court found in particular that while Mr Terentyev's language had been offensive and shocking that alone was not enough to justify interfering with his right to freedom of expression.

The domestic courts should have looked at the overall context of his comments, which had been a provocative attempt to express his anger at what he perceived to be police interference, rather than an actual call to physical violence against the police.

Principal facts

The applicant, Savva Sergeyevich Terentyev, is a Russian national who was born in 1985 and lives in Steiermark (Austria).

In February 2007 the police raided the offices of a newspaper in Russia's Komi Republic. A non-governmental organisation, the Memorial Human Rights Commission in Komi, issued a press release which criticised the police's actions, linking them to a local election campaign. It also noted that the newspaper had supported a politician who was in conflict with the local authorities.

The head of Memorial published the press release on his blog and it attracted three comments the same day. One comment spoke of the police as "the regime's faithful dogs". One of Mr Terentyev's acquaintances, a blogger and journalist, also wrote about the incident on his blog.

The day afterwards, Mr Terentyev read all this material, including the comment about the police as "faithful dogs". He in turn wrote a comment under his acquaintance's blog.

Under the title, "I hate the cops, for fuck's sake", he wrote that police officers were "cops" who were "only lowbrows and hoodlums" and "the dumbest and least educated representatives of the animal world". He added that every Russian town should have an oven "like at Auschwitz" to burn "infidel cops" as a first step to "cleansing society of this cop-hoodlum filth".

An investigation was opened against him in March 2007 under legislation prohibiting incitement to hatred. When the case came to trial, he argued that his comments had been an emotional response to Memorial's press release and the other blog comments. He made a distinction between honest police officers and dishonest "cops" and stated that his reference to Auschwitz had been an exaggeration. He apologised to former prisoners of Nazi concentration camps and to "honest" police officers who had felt insulted by his remarks.

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.

After calling witnesses and carrying out an analysis of Mr Terentyev's comments, the first-instance court convicted him in July 2008 of incitement to hatred and violent acts against police officers. He was given a one-year suspended prison sentence.

The Supreme Court of the Komi Republic dismissed his appeal in August 2008. It rejected the applicant's arguments that the first-instance court had accepted too loose a definition of social groups. It also found that his words had not been aimed at criticism of law-enforcement bodies but at publicly calling for violence against police officers.

Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression), Mr Terentyev complained that his conviction for his comment on the Internet had violated his rights.

The application was lodged with the European Court of Human Rights on 5 January 2009.

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

Helena Jäderblom (Sweden), *President*,
Branko Lubarda (Serbia),
Dmitry Dedov (Russia),
Pere Pastor Vilanova (Andorra),
Alena Poláčková (Slovakia),
Jolien Schukking (the Netherlands),
María Elósegui (Spain),

and also Stephen Phillips, *Section Registrar*.

Decision of the Court

Article 10

The Court noted that it was necessary to carry out a careful examination of the context in which offensive and shocking language was used as that was the only way to distinguish between remarks that were protected by Article 10 and those that forfeited the right to tolerance. In Mr Terentyev's case, the key issue was whether his comments, when read as a whole and in context, could be seen as promoting violence, hatred or intolerance.

His comments had been made on the background of concerns expressed by others about police involvement in suppressing political opposition and had showed his disapproval of what he saw as an abuse of authority. His use of images related to the Auschwitz death camp were particularly hostile and aggressive in tone, however, the Court was not convinced that his words had amounted to a call for the "physical extermination" of police officers, as the domestic courts had found.

The Court stressed that it did not approve of Mr Terentyev's choice of words, which might well have offended Holocaust survivors. At the same time, the domestic courts had never raised that particular issue against him. Neither the Government nor the courts had mentioned why the police in particular would have felt aggrieved about such references.

Viewing his comments on burning "infidel cops" as a provocative metaphor, the Court observed that he had not called for such violence against a particular officer or officers. His comments had rather been aimed at the police as a public institution and had not been made on a background of sensitive social or political issues or amid a general security situation in the region that was tense. Nor had there been any clashes, disturbances, anti-police riots, or atmosphere of hostility and hatred that meant his statements could have caused a real threat of physical violence against officers.

In addition, it was difficult to regard the police as a vulnerable group which needed a heightened level of protection. In fact, the police had to show a particular tolerance to criticism unless they were faced with inflammatory speech that could lead to immediate violence against them.

The applicant's comments had been made to a fairly restricted circle, but the courts had never looked at how many people had actually read his words. More public attention had been paid to him being prosecuted.

The domestic courts had concentrated on the form and tenor of his words and had not looked at the overall context and had not provided any explanation for finding that his actions had been a danger to national security. He had been convicted and given a prison sentence, which should only be used in exceptional circumstances when it came to debates on issues of legitimate public interest.

Overall, the courts had not provided relevant and sufficient reasons for interfering with Mr Terentyev's rights and his conviction had not met a pressing social need. There had therefore been a violation of Article 10.

Just satisfaction (Article 41)

The Court decided that the finding of a violation alone was sufficient just satisfaction for any non-pecuniary damage Mr Terentyev had suffered and ordered Russia to pay him 5,000 euros 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.