



NEWS REPORT

Date: 14 July 2010
Expert: Łukasz Bojarski
Title: ECtHR judgment - *Grzelak v. Poland*
Country: Poland

Context

Issue at stake: Does the lack of factual access to ethics classes in Polish schools constitute a violation by the authorities of the right to cultivate religion beliefs and is it of discriminatory character? Does absence of a mark for “religion/ethics” on school amount to a form of unwarranted stigmatisation of the pupil?

Ground of discrimination: Religion/belief

Source: ECtHR (application no. 7710/02)

Field: Education

Legislative provisions: The Ordinance of the Minister of Education on the organisation of religious instruction in State schools (14.04.1992) (*Rozporządzenie w sprawie warunków i sposobu organizowania nauki religii w szkołach publicznych*)

Content

Case: In Poland religion is taught in schools as compulsory subject. Pupils who do not wish to take part in religious classes may request organising class on ethics (the will of at least 7 pupils should be expressed).

The applicants were U. Grzelak, C. Grzelak, and their son, Mateusz Grzelak. Relying in particular on Article 14 (prohibition of discrimination) in conjunction with Article 9 (freedom of thought, conscience and religion), the applicants alleged that the school authorities failed to organise a class in ethics for Mateusz, failed to give him a mark in his school report in the

place reserved for “religion/ethics”, and that Mateusz was harassed and discriminated against for not following religious education classes. The parents systematically requested the school authorities to organise a class in ethics for their son, as provided for in the relevant Ordinance. However, no such class was organised for the third applicant between the 1998/1999 school year and the 2008/2009 school year, that is to say, throughout his entire schooling at primary and secondary level up to the present day. It appears that the reason was the lack of sufficient numbers of pupils interested in following such a class, in accordance with the requirements set out in the Ordinance.

As no ethics class was provided throughout the third applicant's schooling, his school reports and leaving certificates contained a straight line instead of a mark for “religion/ethics” (para.91 of the ECtHR judgment).

Decision of the Court: On 15 June 2010 the ECtHR ruled that there has been a violation of Article 14 taken in conjunction with Article 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms in respect of one of the applicants – Mateusz Grzelak.

The Court found that the absence of a mark for “religion/ethics” on the successive school reports of the third applicant falls within the ambit of the negative aspect of freedom of thought, conscience and religion protected by Article 9 of the Convention as it may be read as showing his lack of religious affiliation (para. 88).

The Court limited its examination of the alleged difference in treatment between the third applicant, a non-believer who wished to follow ethics classes, and those pupils who followed religion classes to the latter aspect of the complaint, namely the absence of a mark (para. 90).

The Court took the view that the provisions of the Ordinance which provide for a mark to be given for “religion/ethics” on school reports cannot, as such, be considered to infringe Article 14 taken in conjunction with Article 9 of the Convention as long as the mark constitutes neutral information on the fact that a pupil followed one of the optional courses offered at a school. However, a regulation of this kind must also respect the right of pupils not to be compelled, even indirectly, to reveal their religious beliefs or lack thereof (para. 92).

The Court found that the absence of a mark for “religion/ethics” on the third applicant's school certificates throughout the entire period of his schooling amounted to a form of unwarranted stigmatisation of the third applicant (para 99).

In terms of “just satisfaction” the Court ruled that the finding of a violation is sufficient just satisfaction. The judgment will become final unless an appeal is lodged by 15 September 2010.

Internet link source and additional information: (no newspaper links)

The ECHR judgment at HUDOC database:

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Grzelak&sessionid=56462866&skin=hudoc-en>

Press release of the ECHR at:

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Grzelak&sessionid=56462332&skin=hudoc-pr-en>

Press release of the Polish Ministry of Foreign Affairs (in English) at:

<http://www.msz.gov.pl/Judgment,by,the,European,Court,of,Human,Rights,of,15,June,2010,on,the,case,of,Grzelak,v.,Poland,36524.html>