

**Press release issued by the Registrar**

**Chamber judgment**  
Not Final<sup>1</sup>

**[Dimitras and Others v. Greece](#)**

*(applications nos. 42837/06, 3269/07, 35793/07 and 6099/08)*

**OBLIGATION TO REVEAL RELIGIOUS CONVICTIONS TO AVOID TAKING OATH ON  
BIBLE IN COURT CONTRARY TO FREEDOM OF RELIGION**

*Unanimously*

***Violation of Article 13 (right to an effective remedy)***  
***Violation of article 9 (freedom of thought, conscience and religion)***  
*of the European Convention on Human Rights*

**Principal facts**

The applicants are Panayote Dimitras, Theodoros Alexandridis, Nafsika Papanikolatu and Andrea Gilbert. The last applicant is a United States national and the other three are Greek nationals. They were born in 1953, 1976, 1955 and 1947 respectively and live in Athens.

They were summoned to appear in court on various dates between February 2006 and December 2007, as witnesses, complainants or suspects in criminal proceedings. In conformity with Article 218 of the Code of Criminal Procedure, they were asked to take the oath by placing their right hands on the Bible. Each time, they informed the authorities that they were not Orthodox Christians and preferred to make a solemn declaration instead, which they were authorised to do.

In several cases, in the standard wording of the minutes of the proceedings concerned, the words "Orthodox Christian", were crossed out and replaced by the handwritten references "atheist" and "made a solemn declaration", for example. Some records were actually incorrect, stating "Orthodox Christian – took the oath" when in fact the person was an atheist and had made a solemn declaration instead. Even when they appeared in court without being required to take the oath, the applicants had had to reveal their religious convictions in

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<sup>1</sup>Under Article 43 of the Convention, 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.

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](http://www.coe.int/t/dghl/monitoring/execution).

order to request the amendment of the standard reference to "Orthodox Christian" on the form used for the minutes.

### **Complaints, procedure and composition of the Court**

Relying on Articles 9 (right to freedom of thought, conscience and religion), 13 (right to an effective remedy), 8 (right to respect for private and family life and correspondence) and 14 (prohibition of discrimination), the applicants complained that they had been obliged to reveal their "non-Orthodox" religious convictions when taking the oath in court.

They further alleged, relying on Article 6 § 1 (right to a fair trial), that the presence of religious symbols in the courtrooms and the fact that Greek judges were Orthodox Christians raised doubts about their impartiality.

The applications were lodged with the European Court of Human Rights on 16 August 2006, 4 January 2007, 13 July 2007 and 11 January 2008 respectively.

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

Nina **Vajić** (Croatia), **President**,  
Christos **Rozakis** (Greece),  
Khanlar **Hajiyev** (Azerbaijan),  
Dean **Spielmann** (Luxembourg),  
Sverre Erik **Jebens** (Norway),  
Giorgio **Malinverni** (Switzerland),  
George **Nicolaou** (Cyprus), **Judges**,

and also Søren **Nielsen**, **Section Registrar**.

### **Decision of the Court**

#### Article 6 § 1

The Court noted that this complaint was not substantiated and that in most of the incidents referred to the applicants had been heard as witnesses in chambers. Furthermore, the system of individual applications (Article 34 of the Convention) required applications to be lodged by persons claiming to be directly affected by violations of one or more provisions of the Convention, which was not the applicants' case as far as the complaints under Article 6 § 1 were concerned. This part of the application was therefore rejected as manifestly ill-founded.

#### Article 13

The Court noted that the Government had produced no example of a previous judgment showing that an action in damages with the administrative courts under the Civil Code would have been an effective remedy for the applicants to get compensation for the alleged infringement. Nor had they provided any example of a domestic court refusing to apply the rules on oath taking because of their alleged incompatibility with the Greek Constitution and/or the Convention.

The Court accordingly rejected the Government's objection concerning non-exhaustion of domestic remedies and found a violation of Article 13.

### Articles 8, 9 and 14

The Court reiterated that freedom of thought, conscience and religion, which went hand in hand with pluralism, was one of the foundations of a “democratic society” and that in its religious dimension that freedom was an essential part of any believer’s identity, as well as being a precious asset for atheists, agnostics, sceptics and the unconcerned. It had already held that freedom to manifest one’s religious beliefs included an individual’s right not to reveal his faith or his religious beliefs and not to be obliged to act or refrain from acting in such a way that it was possible to conclude that he did or did not have such beliefs – and all the more so when aptitude to exercise certain functions was at stake.

The applicants had been considered as Orthodox Christians as a matter of course, and had been obliged, sometimes in hearings, to point out that they did not subscribe to that faith and, in some cases, to specify that they were atheists or Jews in order to have the standard wording of the minutes amended. In some court records they were expressly described as “atheists” or “of the Jewish faith”.

This interference with their freedom of religion had been based on Articles 218 and 220 of the Code of Criminal Procedure and pursued the legitimate aim of the proper administration of justice. Article 218 regulated the taking of the oath in court, on the Bible. It was thus presumed in the Code of Criminal Procedure that all witnesses were Orthodox and willing to take the oath, as reflected in the standard wording of the records of court proceedings. Indeed, it is only exceptions to the rule that Article 220 provides for, allowing those who were not Orthodox Christians to take the oath in conformity with another religion or to make a solemn declaration if they had no religion or their religion did not permit oath taking.

The wording of Article 220 actually required people to give details of their religious beliefs if they did not want the presumption contained in Article 218 to apply to them. Some of the applicants had had to convince the court officials concerned that they did not subscribe to any religion, failing which they would have had to take a religious oath. The incompatibility of the impugned legal provisions with Article 9 of the Convention was even more evident in Article 217 of the Code of Criminal Procedure, which stipulated that in any event all witnesses were required, amongst other information, to state their religion before testifying in criminal proceedings. The Court further noted that, unlike the Code of Criminal Procedure, the Code of Civil Procedure provided for witnesses, if they so wished and without any other formality, to be able to choose between taking a religious oath and making a solemn declaration.

The Court found that requiring the applicants to reveal their religious convictions in order to be allowed to make a solemn declaration had interfered with their freedom of religion, and that the interference was neither justified nor proportionate to the aim pursued. There had therefore been a violation of Article 9.

Having regard to these findings, the Court did not consider it necessary to examine the complaint under Articles 8 and 14 separately.

Under Article 41 (just satisfaction), the Court held that Greece was to pay the applicants 15,000 euros jointly in respect of non-pecuniary damage.

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The judgment is available only in French. This press release is a document produced by the Registry. It does not bind the Court. The judgments are available on its [website](#).

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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.*