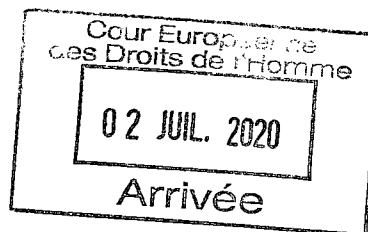


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22604/18 ESP
C/6/1 MMI-MMI
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Prot. No. 208/2020 -2

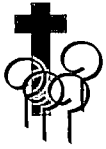
Bratislava, 22 June 2020

Written comments by the third party in the case no. č. 22604/18 ASOCIACIÓN DE ABOGADOS CRISTIANOS against Spain.

June 20, 2019 the European Court of Human Rights communicated to the government of Spain the application no. 22604/18. This case concerns the public display of an outrageous artwork of M. Azcona. During a few months in 2015, this individual had stolen 242 consecrated hosts during masses in Spain. He disposed them on the floor to form the word "Pederastia", took a picture of these consecrated hosts with him naked on the side and organized the exhibition "Amen" to display these photos. The exhibition was subsidized by the city of Pamplona and was followed by other exhibitions in Spain. M. Azcona then sold many of these pictures in printing, earning nearly 300,000 euros. He also posted pictures of him stealing the consecrated hosts on his Twitter account, where he regularly attacks Christians.

Currently, it is estimated that every seventh Christian lives in a country, where his fundamental freedom of thought and belief is violated. Whereas in some countries, Christians are threatened on their lives, in western countries the attacks often take form of hatred or other various forms. Such verbal expressions are also multiplied in the Slovak mass media. Current pending case is one of examples where Christians are victims of hatred and the state legal system of victim protection is ineffective. This might constitute violation of freedom of conscience and belief.

Freedom of speech is a separate right but also a component of other rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms. A conflict arises when it is necessary to protect other rights and interests of others, as referred to in Art. 10 par. 2 of the Convention. In this particular case, it is freedom of religion, where a speech of and individual does not lead to expression of his thoughts and beliefs but is directed at insulting a particular religious group.



In this particular case, we see a number of significant facts which also led us to decide to intervene in this case. Freedom of speech is important because it in itself ensures the freedom of the individual but also the responsibility for his actions and decisions. Freedom is the power, rooted in reason and will, to act or not to act, to do this or that, and so to perform deliberate actions on one's own responsibility. Human freedom is a force for growth and maturity in truth and goodness. The choice to do evil is an abuse of freedom. The Convention guarantees everyone the right to believe or not to believe and to present this publicly, not only in writing but also through art. Discussing and presenting your views is an important part of freedom. It might happen that a particular person may offend the religious feelings of a particular group of people by an unintended effect of his expression of disbelief. *However, if a person directly and deliberately intends to use his speech only to offend others and wants to offend a certain group of people and deliberately chooses the way in which he wants to offend as much as possible, this leads to a serious breach.* It is therefore necessary to consider whether the Convention provides protection for precisely such a form of freedom of expression, where there is no other purpose and intention of a person, only to insult others by its expression.

According to the facts of the case, it appears that the artist Mr. Abel Azcona, considers the repeated insult of Christians to be the sole purpose of his art, as is evident from his profile on the social network Twitter. Likewise, Mr. Abel Azcona stated in a Spanish radio program that he had deliberately chosen the consecrated hosts for his artwork because he intended to offend Christians as much as possible, as stated in the text of the judgment of the Pamplona court submitted to the file by the applicant - the Spanish Bishops' Conference.

Catholic Church believes that from the moment of celebration of the Eucharist the hosts are converted into real body and blood of God. The mode of Christ's presence under the Eucharistic species is unique. It raises the Eucharist above all the sacraments as the perfection of the spiritual life and the end to which all the sacraments tend. In the most blessed sacrament of the Eucharist the body and blood, together with the soul and divinity, of our Lord Jesus Christ and, therefore, the whole Christ is truly, really, and substantially contained. Catholic Church knows tens of cases of Eucharistic miracles all around the world where the traces of blood and human tissue are found in the consecrated hosts based on the scientific research. The last known miracle of such kind is from Poland and happened in 2013. In the Chapel of Eucharist on the



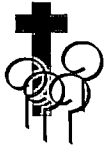
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Church of St. Hyacinth in Legnica the host with clearly visible signs of blood and human tissue is exhibited. It was open to public exhibition in 2016 upon approval of the Congregation of the Doctrine of Faith. The miracle happened 25 December 2013 when the consecrated host fell down. As it is usual in such cases, the priest put the host into the container filled with water to let it dissolve. Instead, the Eucharist did not dissolve and traces of blood and tissue appeared on it. Geneticists said after research that it was human blood of the AB group (as is the case with blood on the Turin canvas or at the Eucharistic miracle in Lanciana, by the way). According to scientists, the tissues are "fragments of the transverse striated muscle", which "is very reminiscent of the heart muscle with changes that often occur during agony.

This mentioned example serve the Court to better understand the awe of Catholics towards the Eucharist and that this very key of the faith was attacked by Mr. Azcona.

Moreover, the relevant circumstance in the case is that, despite the existence of repressive norms in Spain, it was not possible to prosecute Mr. Azcona conduct in practice. The Spanish authorities did not take any account of the fact that Mr. Azcona had taken things not belonging to him; he stole 242 pieces of consecrated hosts. Although these stolen hosts are not of high material value, their moral value is immense to believers and to the Church. The criminal law of many states, such as Slovakia, also regulates theft with a special motive, which is hatred of a group of people for religious purposes or theft in a place that enjoys piety or general respect, which means also churches. Likewise, the defamation of a group of people for their religion is punishable by law. *Spain also appears to have such laws, but the Spanish authorities have judged that Mr. Azcona's conduct did not in any way amount to the administrative offenses or the criminal acts.* However, the rationale for these decisions is not convincing. Therefore it is doubtful if a Spain fulfilled its positive obligation arising out of Art. 9 of the Convention towards ensuring the freedom of religion.

Another important fact is that Spanish municipalities also participated in the organization and financing of the exhibition in question, as representatives of the state power. The Spanish municipalities acted here as public institutions by allowing the organization as well as the direct or indirect financing of Mr. Azcona exhibition. It is questionable whether these municipalities would proceed in the same way if it were an exhibition overtly denying the Holocaust, for example.



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Based on the abovementioned arguments, we can conclude that there might be a violation of Art. 9 of the Convention, which guarantees freedom of religion, which also includes protection against defamation of a group of persons for their faith.


Paragraph 2 of Article 10 of the Convention expressly recognises that the exercise of the freedom of expression carries with it duties and responsibilities. Amongst them, in the context of religious beliefs, is the general requirement to ensure the peaceful enjoyment of the rights guaranteed under Article 9 to the holders of such beliefs including a duty to avoid as far as possible an expression that is, in regard to objects of veneration, gratuitously offensive to others and profane (see *Otto Preminger-Institut v. Austria*, 20 September 1994, § 49, Series A no. 295A; *A. v. Turkey*, no. 42571/98, § 24, ECHR 2005 VIII; *Giniewski v. France*, no. 64016/00, § 43, ECHR 2006 I).

It can be stated that M.r Azcona directly abused his freedom of expression to violate the freedom of religion of others, despite the prohibition set out in Art. 17 of the Convention. It can also be stated that Spain, as an entity, indirectly participated in the violation of freedom of religion by allowing, financing and organizing exhibitions in state-owned premises and thus not leaving the expression of this artist only in his private sphere. Spani thus failed to keep the positive as well as negative obligation arising out of the Art. 9 of the Convention.

We hope that the European Court of Human Rights will take these facts into account during deliberations.

Yours sincerely




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