



## European network of legal experts in gender equality and non-discrimination

### FLASH REPORT

<b>Country:</b>	Bulgaria
<b>Title:</b>	Appeals court ruling denies incitement (instruction) to discrimination against non-traditional faith group
<b>Date:</b>	8 March 2019
<b>Expert:</b>	Margarita Ilieva
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Instruction (incitement) to discrimination
<b>Grounds of discrimination:</b>	Religion or belief
<b>Field of application:</b>	Goods and services
<b>Source:</b>	National court decision
<b>Applicable law:</b>	Article 5 in conjunction with §1.5 of the Protection Against Discrimination Act

### **Content**

**Case law development:** The appeals court in Sofia has ruled in a civil case brought by minority believers against an employee and activist of a Bulgarian Orthodox Church entity. The non-traditional faith group, Shri Chinmoy Centre, had filed a claim against a pro-Orthodox, anti-minority advocate who had successfully instructed various service providers to deny the minority group access to renting premises for faith-related concerts and other in-door gatherings. The advocate had done so by publishing and propagating an article against the minority group and by directly engaging with premises providers, seeking to influence their decisions with regard to renting their venue to the group. The first-instance civil court had ruled in favour of the minority claimants, finding incitement to discrimination on grounds of belief, ordering the respondent to terminate, and abstain from, the impugned conduct, and awarding damages (the equivalent of EUR 175 to each of the two minority believers).

**Decision of the court:** The appeals court found that the same facts, as established by the trial court, did not amount to incitement to discrimination as the respondent had been entitled to publish and propagate her article against the minority group as a part of her right to free expression. Her article had not contained hate speech, therefore, it had not contained incitement (implicitly including instruction) to discriminate. Her article had not mentioned specifically the group's concerts either; it had discussed the minority group's activities in general. In addition, the claimants had not proven that the respondent had treated them less favourably as compared to any third parties.<sup>1</sup>

**Key points of analysis:** This ruling amounts to a declaration that, in order for incitement to discrimination to be at hand (including instruction to discriminate), intent must be established, as well as less favourable treatment in comparison to third parties, and, in terms of content of the impugned expression, hate speech. This ruling contradicts EU law.

**Internet link source:** Unavailable.

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<sup>1</sup> Sofia City Court Decision No. 553 of 24 January 2019 in case No. 16814/ 2017.