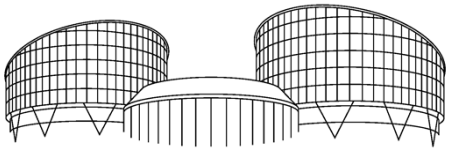

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF STAVROPOULOS AND OTHERS v. GREECE

(Application no. 52484/18)

JUDGMENT

Art 9 • Manifest religion or belief (negative aspect) • Birth certificate revealing parents' choice not to christen their child • Disclosure of religious beliefs in frequently used public documents exposing their bearers to the risk of discriminatory situations in dealings with administrative authorities • Interference, resulting from the widespread practice of domestic registry offices, not prescribed by law

STRASBOURG

25 June 2020

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Stavropoulos and others v. Greece,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Ksenija Turković, *President,*
Krzysztof Wojtyczek,
Linos-Alexandre Sicilianos,
Aleš Pejchal,
Pere Pastor Vilanova,
Jovan Ilievski,
Raffaele Sabato, *judges,*

and Abel Campos, *Section Registrar,*

Having regard to:

the application no. 52484/18 against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by three Greek nationals, Mr Nikolaos Stavropoulos, Ms Ioanna Kravari and Ms Stavroula-Dorothea Stavropoulou ("the applicants"), on 31 October 2018;

the decision to give notice to the Greek Government ("the Government") of the application;

the decision to give priority to the application (Rule 41 of the Rules of Court);

the observations submitted by the respondent Government and the observations in reply submitted by the applicants;

the comments submitted by the Greek Ombudsman, who was invited to intervene by the President of the Section, pursuant to Article 36 § 2 of the Rules of Court;

Having deliberated in private on 2 June 2020,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The application concerns the registration of the third applicant's forename in the birth record. In particular, her forename was entered into the birth record with the addition, contained in brackets, of an abbreviation of the word "naming" (*ονοματοδοσία*). The applicants argued that the law did not require registry offices to specify whether a child was named by a civil or Christian act, and that their doing so had constituted a violation of their right to freedom of religion. They also argued that it revealed sensitive personal data, in breach of Article 8 of the Convention.

THE FACTS

2. The first and second applicants were born in 1961, and the third applicant was born in 2007. The applicants live in Oxford, United Kingdom. They were represented by the first applicant and by Mr S. Skliris, lawyers practising in Oxford and Athens respectively.

3. The Government were represented by their Agent's delegate, Ms O. Patsopoulou, Senior Advisor at the State Legal Council.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

5. On 17 August 2007 the first applicant, in his capacity as father of the third applicant and having been authorised by the second applicant, in her capacity as mother of the third applicant, went to the Amarousio registry office to register the birth of their daughter, the third applicant.

6. The registry office employee entered the third applicant's name in the birth register. Next to her name he included a note in parentheses indicating "naming" in abbreviation.

7. On 19 October 2007, the applicants applied to the Supreme Administrative Court for the annulment of the third applicant's birth registration, in so far as it concerned the note "naming". They argued that it constituted a reference to the fact that their child had not been christened and thereby revealed their religious beliefs. On 6 March 2018 the Supreme Administrative Court, after citing Articles 25 and 26 of Law no. 344/1976 (see paragraph 8 below), rejected the application as inadmissible, holding that the applicants lacked legal interest to act. In particular, Law no. 344/1976 provided that the first name of a child could be registered only by naming, that is to say by the parents or the child's official guardians declaring the name of the child before the competent registry office, irrespective of whether the child would later be christened. Therefore, the note "naming" next to the third applicant's name merely repeated the title of Article 25 of Law no. 344/1976, and was the only legal way of acquiring a name. It could not therefore be claimed that it constituted grounds for discrimination and caused the applicants the alleged harm.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. LAW NO. 344/1976

8. The relevant provisions of Law no. 344/1976, as applicable at the time, read as follows:

Article 8
Registers-and certificates

"1. In order to certify the civil situation of an individual, each registry office has registers of births, weddings, civil unions (of heterosexual couples), deaths, and births of children of unknown parents.

2. Registers are public.

3. The acts certifying the birth, wedding, or death of an individual, the validity of civil unions, as well as modifications of the content or corrections of such acts, shall be recorded in the registers.

4. The registration or correction or modification of the content of certificates shall be made by declaration of the person authorised under the present law ..."

Article 8A
Information Management System for Certificates

"1. The Ministry of the Interior shall create an Information Management System for Certificates and shall keep a central record of it. Only certified users shall have access to it ...

...

4. Certificates shall be printed solely from the Information Management System for Certificates and shall carry a security mark generated automatically by the system".

Article 13
Correction of certificates

"1. In order for a registration to be corrected, a final judicial decision is required.

2. Errors that have been recorded in a register by manifest inadvertence, which do not concern the place, day, month, year and time that the registered event took place, can also be corrected by permission of the Public Prosecutor, or, where there is no Public Prosecutor, of the Magistrate. Permission shall be given following investigation and verification of the real data, at the request of anyone who has legitimate interest ..."

Article 25
Naming

"The name of a newborn child shall be recorded in the register of births following a declaration by his/her parents who exercise parental responsibility, or by one of them provided that he/she has written authorisation from the other parent, whose signature has been certified by a public, municipal or communal authority. If one of the parents does not exist or does not have parental authority, the name shall be registered by the other parent. If neither parent exists or has parental authority, the name shall be registered by the person who has been assigned as guardian of the child. Registration of a name in accordance with the above-mentioned procedure shall not be reversible."

Article 26
Registration of christening in the birth registers

"1. Christening shall be recorded to the side section of the birth registration act within ninety days from its performance by adducing a declaration of the priest who has performed or cooperated to the ceremony.

After the expiry of this deadline, the declaration shall be accepted by the registrar, but shall entail the sanctions provided for by Article 49 of the present law.

2. The persons obliged to file the registration of the christening are:

a) the christened person, if he/she has completed the 14th year of age;

b) the father or the mother or any other who has the custody of that person;

c) the godparent; and

d) the blood relatives of the christened person up to the third degree of relation, in accordance with Article 21 § 2.

3. The recorded christening to the side section of the birth registration act shall include the date of the christening, the name that might have been given to the newborn [and] the names and surnames of the declaring person, the godparent, the priest and any witnesses in accordance with Article 10".

II. MINISTERIAL DECISION F. 1/2013

9. The relevant parts of ministerial decision F 1/2013 read as follows:

"A. Initial registration

1. Registers of births, weddings, civil unions and deaths shall be kept in volumes of 250 pages. Each volume shall consist of printed sheets of certificates of births, weddings, civil unions and deaths respectively, that are printed from the Information Management System for Certificates in A4 format and signed by the individual declaring the event and the registrar.

The printed sheet shall certify the birth, wedding, or death of a person, the validity of the civil union between two individuals, modification of the content, or correction of the respective registration...

C. Copies

Copies and extracts of certificates that are generated from the Information Management System for Certificates shall be signed by the registrar and shall have the same validity as the printed certificates that are signed by the individuals who make the declaration and the registrar."

III. CODE OF CIVIL PROCEDURE

10. The relevant Article of the Code of Civil Procedure reads as follows:

Article 782

"1. When the law requires a judicial decision to certify an event in order to draw up a registration act, that decision shall be issued at the request of anyone who has legal

interest or of the Prosecutor of the region in which the registrar drawing up the registration act is seated.

2. The decision shall certify any other data required by law to be included in the registration act, unless it is impossible to do so.

3. The provisions of paragraph 1 shall apply also to the correction of registration."

IV. OTHER DOMESTIC MATERIAL

A. State Legal Council's opinion no. 431/2006

11. Following interventions by the Greek Ombudsman (see paragraph 14 below), the State Legal Council issued opinion no. 431/2006, the relevant parts of which read as follows:

"... in cases where a [newborn child's] name is not declared simultaneously with, or at an earlier stage than, a christening declaration, parents have an obligation to make a special declaration, as the mere noting of the name when registering the christening does not suffice for the acquisition of a name ... if the parents do not declare a name, the newborn child, even if the christening has been registered, does not acquire a first name and therefore cannot have the name listed in the extracts of the registry issued until the naming process has taken place".

12. Pursuant to Article 7 § 4 of Law no. 3086/2002, opinions issued by the State Legal Council are not mandatory for the public administration, unless they are endorsed by the president of the Hellenic Parliament, the competent minister, the board or other competent organ of a legal person governed by public law, an independent administrative authority, or the general secretary of the prefecture.

B. Circular of the Ministry of the Interior

13. In a circular dated 24 October 2006, the Ministry of the Interior stated the following:

"... a christening declaration cannot be interpreted as a naming declaration, unless it is done under the conditions of Law no. 344/1976, that is, unless it is done by both parents or by one parent with the authorisation of the absent parent".

C. Greek Ombudsman

14. In an intervention of December 2006, following complaints lodged in December 2005 and January 2006, the Greek Ombudsman stated, *inter alia*:

"... the view that only those who are not christened are named, or that there is no need to name those who have been christened ...not only does not comply with the above provisions, but it also results in forcing citizens to inadvertently register a religion".

15. In his 2006 annual report, the Greek Ombudsman stated, *inter alia*:

> "... A large number of issues related to religious freedom in Greece are mainly due to inflexibility and misunderstandings demonstrated by public administration as to the religious neutrality of the State. Although the legislator has, for several decades, decided on total secularisation of the State, public administration, trapped either by inertia or by other obstacles, or simply following societal prejudice, still maintains some active remnants of the power of the Church".

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION

16. The applicants complained that the registration of the word "naming" next to the first name of the third applicant on her birth certificate violated the negative aspect of freedom to manifest their religious beliefs, as provided for in Article 9 of the Convention, which reads as follows:

> "1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
>
> 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

1. The Government's arguments

17. The Government argued that the applicants had failed to exhaust domestic remedies. In particular, they had chosen to lodge an application for annulment before the Supreme Administrative Court. However, given that the inscription of the word "naming" was not provided for by any legislative provision and had been written inadvertently, the applicants could have applied instead for correction of the birth registration, either to the Public Prosecutor or to the Magistrates' Court, pursuant to Article 782 of the Code of Civil Procedure. The procedure provided for by law was simple and a positive decision would have obliged the registrar to proceed with the correction. The Government adduced some domestic judgments by which the correction of errors in birth certificates had been ordered.

18. The Government further argued that the applicants had not suffered any significant disadvantage within the meaning of Article 35 § 3 (b) of the Convention as a result of the alleged violation of the Convention. In particular, they had complained about the handwritten note "naming" next to the third applicant's name on her birth certificate, which merely repeated the title of Article 25 of Law no. 644/1976. However, registers were not accessible to everyone. Moreover, that note did not appear on the extracts of

the birth certificate which the third applicant would be required to submit to schools and other public services. Therefore, there was no chance that she would be subjected to differential treatment owing to her religious beliefs, and the alleged disadvantage caused to the applicants, if any, was insignificant. The fact that they had not referred to any specific incident proved that point. In addition, they complained that their religious beliefs were revealed by the handwritten note "naming", while at the same time parents were required to register their religion when registering a birth, and the first and second applicants had never complained about that. The above-mentioned arguments proved that the applicants had not suffered any significant disadvantage on account of the alleged violation of the Convention, nor was the Court compelled to examine the case out of respect for human rights. Lastly, the applicants' complaint had been thoroughly examined by the Supreme Administrative Court. Therefore, all three criteria under Article 35 § 3 (b) of the Convention had been met and the application should be declared inadmissible.

2. The applicants' arguments

19. The applicants contested the Government's arguments. In their view, they had exhausted all available domestic remedies which were capable of providing redress in respect of their complaint. As regards the application for correction of certain elements of the birth registration pursuant to Article 13 of Law no. 344/1976 and Article 782 of the Code of Civil Procedure, that procedure referred to unintentional mistakes, for example of grammar or spelling, and errors of fact. However, in the circumstances of the present case and contrary to the Government's allegations, the additional note next to the name of the third applicant was not a mistake made inadvertently, but rather an intentional registration of a true piece of information, that is to say that the third applicant had acquired her name by the act of naming. That information, however, should not figure on her birth certificate, as it revealed the applicants' religious beliefs. Therefore, the birth certificate was correct and did not contain any inaccurate information for the applicants to request its correction through the procedure provided for by Article 13 of Law no. 344/1976 and Article 782 of the Code of Civil Procedure. On the contrary, that procedure was not the appropriate one for seeking to have the handwritten note of an employee of the Amarousio registry office declared null and void.

20. As regards the Government's submission that the applicants had not suffered a significant disadvantage, the applicants, referring to the Court's judgments in the cases of *Biržietis v. Lithuania* (no. 49304/09, §§ 34-37, 14 June 2016), and *Vartic v. Romania (no. 2)* (no. 14150/08, §§ 37-41, 17 December 2013), argued that the case raised important matters of principle. The issue that arose was one of general interest in the Greek legal order, because since 1976, the law had provided for "naming" as the only

legal way of acquiring a name. However, registrars continued to consider christening as an alternative way of legally obtaining a name and, therefore, they continued to note next to the first name of a newborn child whose parents declared the child's name by the civil act of naming, the words "naming", as opposed to acquiring the name by christening. Against that background, the fact that some parents chose not to name their child through christening revealed something about their religious beliefs. Therefore, the applicants had suffered significant disadvantage due to the violation of the negative aspect of their rights under Article 9 of the Convention.

21. The first and second applicants also claimed that the fact that their religion was registered on their daughter's birth certificate was not sufficient to mitigate the consequences of the handwritten note "naming" appearing next to her name. When the first and second applicants were born, which was prior to 1976, christening had been the only legal way of acquiring a name. Therefore, anyone born prior to 1976 had had to be christened in order to have a name, irrespective of whether they were true Christians or not. Believers and non-believers alike had had to be christened, as that had been the only way of legally obtaining a name and thus, the indication of Christian Orthodox as their religion had not necessarily revealed their beliefs.

22. In any event, even if the applicants were considered not to have suffered any significant disadvantage, they claimed that the case could not be dismissed as inadmissible as respect for human rights required an examination on the merits and, in addition, the case had not been duly considered by a domestic court. In particular, the indication of the religious beliefs of a person in a public document that was meant to be used in the individual's transactions with many public services was a matter of principle that should be examined by the Court. In addition, the applicants' application for annulment before the Supreme Administrative Court had been rejected as inadmissible; therefore, their application had never been examined on the merits and thus had not been properly examined by a domestic court.

3. The Court's assessment

23. The Court notes that the Government put forward two objections of inadmissibility of the application, namely that the applicants had not exhausted domestic remedies and that they had not suffered any significant disadvantage on account of the alleged violations of the Convention.

(a) Objection concerning the non-exhaustion of domestic remedies

24. As regards the Government's first objection, the Court reiterates that under Article 35 § 1 of the Convention, it may only deal with an application after the exhaustion of those domestic remedies that relate to the breaches

alleged and are also available and sufficient. The Court also reiterates that it is incumbent on the Government pleading non-exhaustion to satisfy it that the remedy was an effective one available in theory and in practice at the relevant time, that is to say that it was accessible, was capable of providing redress in respect of the applicant's complaints and offered reasonable prospects of success (see, in particular, *Selmouni v. France* [GC], no. 25803/94, § 76, ECHR 1999-V; *Sejdovic v. Italy* [GC], no. 56581/00, § 46, ECHR 2006-II; *Vučković and Others v. Serbia* (preliminary objection) [GC], no. 17153/11 and 29 others, § 74, 25 March 2014; and *Gherghina v. Romania* [GC] (dec.), no. 42219/07, § 85, 9 July 2015). Once this burden of proof has been satisfied, it falls to the applicant to establish that the remedy advanced by the Government was in fact used or was for some reason inadequate and ineffective in the particular circumstances of the case, or that there existed special circumstances absolving him or her of the requirement (see *Akdivar and Others v. Turkey*, 16 September 1996, § 68, *Reports of Judgments and Decisions* 1996-IV, and *Prencipe v. Monaco*, no. 43376/06, § 93, 16 July 2009).

25. The Court further reiterates that, where several remedies are available, the applicant is not required to pursue more than one and it is normally that individual's choice as to which remedy to pursue (see *Karakó v. Hungary*, no. 39311/05, § 14, 28 April 2009; *Hilal v. the United Kingdom* (dec.), no. 45276/99, 8 February 2000; and *Airey v. Ireland*, 9 October 1979, § 23, Series A no. 32). Under the established case-law, when a remedy has been pursued, use of another remedy which has essentially the same objective is not required (see, *inter alia*, *Micallef v. Malta* [GC], no. 17056/06, § 58, ECHR 2009, and *Kozacıoğlu v. Turkey* [GC], no. 2334/03, § 40, ECHR 2009).

26. Turning to the circumstances of the present case, the Court notes that the applicants lodged an application for annulment with the Supreme Administrative Court, arguing that the handwritten note "naming" next to the third applicant's name on her birth certificate was an indication of their religious beliefs, as it implied that they had chosen to name their daughter by the civil act of naming rather than by having her christened. The Supreme Administrative Court, after having examined the applicants' arguments, rejected their claim as inadmissible, without considering that it was not competent to rule on the applicants' arguments. That being so, and given that the applicants' complaint is construed as concerning the negative aspect of the right to manifest their religious beliefs, the Court notes that, by lodging an application with the Supreme Administrative Court, the applicants sought to obtain the annulment of the birth certificate in so far as it concerned the handwritten note "naming" next to the name of the third applicant, and not a correction of an inaccurate piece of information or of information that was no longer valid. The Court is not convinced that lodging an application for correction could have provided sufficient redress

for the applicants' complaints. In any event, the Court reiterates that when there is more than one available domestic remedy, the applicant is not required to pursue more than one. In the circumstances of the present case, the Supreme Administrative Court did not consider that it was not competent to examine the matter raised before it; on the contrary, it examined the substance of the request if only to reject it for lack of legal interest (see paragraph 7 above). The Court, therefore, rejects the Government's objection concerning the failure to properly exhaust domestic remedies by not pursuing the avenue of an application for correction.

(b) Objection concerning the applicants' lack of significant disadvantage

27. Turning to the Government's objection that the applicants had not suffered a significant disadvantage, the Court notes that it has considered the rule contained in Article 35 § 3 (b) of the Convention to consist of three criteria. Firstly, whether the applicant has suffered a "significant disadvantage"; secondly, whether respect for human rights compels the Court to examine the case; and thirdly, whether the case has been duly considered by a domestic tribunal (see *Margulev v. Russia*, no. 15449/09, § 39, 8 October 2019).

28. The first question of whether the applicant has suffered any "significant disadvantage" represents the main element. Inspired by the general principle *de minimis non curat praetor*, this first criterion of the rule rests on the premise that a violation of a right, however real from a purely legal point of view, should attain a minimum level of severity to warrant consideration by an international court. The assessment of this minimum level is, in the nature of things, relative and depends on all the circumstances of the case. The severity of a violation should be assessed taking into account both the applicant's subjective perceptions and what is objectively at stake in a particular case. In other words, the absence of any "significant disadvantage" can be based on criteria such as the financial impact of the matter in dispute or the importance of the case for the applicant. However, the applicant's subjective perception cannot alone suffice to conclude that he or she has suffered a significant disadvantage. The subjective perception must be justified on objective grounds (see, with further references, *C.P. v. the United Kingdom* (dec.) no. 300/11, § 42, 6 September 2016). A violation of the Convention may concern important questions of principle and thus cause a significant disadvantage regardless of pecuniary interest (see *Korolev v. Russia* (dec.), no. 25551/05, ECHR 2010-V).

29. The Court reiterates that as enshrined in Article 9 of the Convention, freedom of thought, conscience and religion is one of the foundations of a "democratic society" within the meaning of the Convention (see *Kokkinakis v. Greece*, 25 May 1993, § 31, Series A no. 260-A). As in the case of freedom of expression (see *Margulev*, cited above, § 41), in cases

concerning freedom of thought, conscience and religion, the application of the admissibility criterion contained in Article 35 § 3 (b) of the Convention should take due account of the importance of this freedom and be subject to careful scrutiny by the Court.

30. Applying this principle to the case at hand, the Court notes that the applicants' subjective perception of the alleged violation was that they had experienced an interference with their rights under Article 9 that could subject them to the risk of discrimination in their relations with the administrative authorities. Given the essential role of the rights enshrined in Article 9 in a democratic society, the alleged violation of Article 9 of the Convention in the present case concerns, in the Court's view, "important questions of principle". The Court is thus satisfied that the applicants have suffered a significant disadvantage as a result of the note registered on the third applicant's birth certificate and does not deem it necessary to consider whether respect for human rights compels it to examine the case or whether it has been duly considered by a domestic tribunal (see, *mutatis mutandis*, *M.N. and Others v. San Marino*, no. 28005/12, § 39, 7 July 2015).

31. Accordingly, the Court does not find it appropriate to reject this complaint with reference to Article 35 § 3 (b) of the Convention, and dismisses the Government's objection regarding the alleged lack of a significant disadvantage.

(c) Conclusion

32. The Court finds that this complaint is not manifestly ill‑founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The applicants' arguments

33. The applicants claimed that the handwritten note "naming" next to the third applicant's name on her birth certificate constituted a breach of the negative aspect of their right to manifest their religion. In particular, since 1976 Greek legislation had recognised the civil act of naming as the sole way in which an individual could acquire a name. However, there was a longstanding administrative practice on the part of the registry offices presenting christening as another, alternative way of acquiring a name, and circulars issued by the Ministry of the Interior instructed registrars to accept christening as a declaration of a name. The existence of such a practice was proven from the circumstances of the present case and was corroborated by the Greek Ombudsman's observations. In that context, the inscription of the word "naming" next to the third applicant's name indicated the absence of christening and, as such, the philosophical and religious affiliation of the

first and second applicants, as the parents of the third applicant. On the contrary, when parents declared the christening of their child, the name given was registered without any note next to it, as at the same time a section of the birth certificate concerning christening was completed.

34. The applicants acknowledged that the word "naming" in itself did not have any special connotation or reveal their religious beliefs. However, the use of that keyword next to the name of the third applicant on her birth certificate unmistakably signalled that the applicants had not used the widespread alternative of declaring the name of their child along with her christening, an alternative that most Greeks still believed was valid and available to them. Such misperception was sustained by the administrative practice. The word "naming" was added only when one chose to declare the name of one's child without having christened him or her. On the other hand, if parents when declaring the birth of their child explicitly stated that the child would later be christened, then the name of the child was left blank and filled in once the christening had taken place. In those circumstances, no note was added next to the name of the child.

35. Upon registering the birth of their daughter, the first and second applicants had procured copies and excerpts of their child's birth certificate, on which the note "naming" appeared next to her name. They had been using those documents throughout the years whenever requested by various public services, such as for the registration of the third applicant in school. Even if the copies and excerpts that were now generated by the system did not include that note – as it would appear from those the Government had submitted in support of their observations – that would still not mitigate the consequences of the breach of their rights under Article 9 of the Convention. In any event, the excerpts and copies of the birth certificate which did not include the word "naming" and had been presented by the Government for the first time before the Court should not be considered as valid, given that they omitted material information that existed in the original birth certificate.

2. The Government's arguments

36. The Government contested the applicants' arguments. In the circumstances of the present case, there had been no interference with their rights under the Convention. Based on national legislation, each individual had the right and the obligation to bear a name which permitted his or her identification. The choice of name constituted an element of parental authority, and both parents had the right to participate in that choice. Both parents together, or one of them with authorisation from the other, declared their child's name to the registrar and signed the birth register. While admittedly there was a widespread practice in Greece of declaring the name of the child along with his or her christening, under no circumstances could

it be said that the Greek authorities considered christening as an alternative way of an individual acquiring a name.

37. The law provided for naming as the sole way in which an individual could acquire a name. Therefore, the note "naming" next to the third applicant's name merely repeated the title of Article 25 of Law no. 344/1976 and constituted merely an inadvertent mistake by the registry office employee. Such note could not be taken to mean that the individual would or would not be christened at a later stage, nor could it be argued that it revealed the religious beliefs of the individual or his parents.

38. The Government adduced some copies and extracts of the third applicant's birth certificate, on which the word "naming" did not appear. They argued that, in any event, the word "naming" could not be considered as the basis for discrimination against her, given that it did not appear on the copies and extracts that she or her parents would receive from the registry office and would provide to the relevant services that requested such a document. In addition, the original registers were not accessible to everyone.

39. Lastly, the Government argued that the observations submitted by the Greek Ombudsman were not pertinent, as they were general and did not concern the case of the applicants. Additionally, they disagreed that there was a practice on the part of registry offices of confusing the two processes of naming and christening. In particular, the Ministry of the Interior had given clear instructions to registry offices as regards the validity of and the differences between the two processes by means of its website and by issuing circulars. Lastly, the digitalisation of the system had helped establish a uniform practice of registering births and delivering copies and extracts.

3. The third party intervener's observations

40. The Greek Ombudsman submitted that "naming" was the only possible way of acquiring a name and it was required even where christening was declared simultaneously, as that was meant to state the religion and not the name. Naming required the consent of both parents, whereas christening could be declared without parental authorisation or on the initiative of third persons. The Ombudsman had long been dealing with the confusion between the two processes.

41. In particular, over the past years the Ombudsman had received complaints concerning the practice of some registry offices, which either registered christening as a naming declaration, or misled parents by providing false information about the alleged existence of two alternative procedures, both in force and equally valid, as was the case for civil and religious weddings. Referring to his past interventions and the annual report of 2006 (see paragraphs 14 and 15 respectively), the Ombudsman submitted that the error occurred as a result of a widespread practice on the part of

registry offices, rather than as a result of the law – the latter being clear that an individual could acquire a name only by naming – and could lead to a person revealing his or her religious views.

42. In the Ombudsman's view, the challenges that had arisen due to the misconception of the two processes could have been resolved if the Ministry of the Interior had endorsed legal opinion no. 431/2006, which would have rendered it mandatory (see paragraphs 11 and 12 above). Alternatively, the issue could be solved either by defining a time-limit for registering a name, or by eliminating the requirement to register christenings and to have religious doctrines registered and proven, when necessary, by a certificate issued by the respective religious community.

4. The Court's assessment

(a) General principles

43. The Court reiterates that as enshrined in Article 9, freedom of thought, conscience and religion is one of the foundations of a "democratic society" within the meaning of the Convention. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it. That freedom entails, *inter alia*, freedom to hold or not to hold religious beliefs and to practise or not to practise a religion (see, among other authorities, *Kokkinakis*, cited above, § 31, and *Buscarini and Others v. San Marino* [GC], no. 24645/94, § 34, ECHR 1999-I).

44. While religious freedom is primarily a matter of individual conscience, it also implies freedom to manifest one's religion alone and in private or in community with others, in public and within the circle of those whose faith one shares. Furthermore, the Court has had occasion to point out that Article 9 enshrines negative rights, for example freedom not to hold religious beliefs and not to practise a religion (see, to this effect, *Kokkinakis*, and *Buscarini and Others*, both cited above). In this regard, the Court has also held that the right to manifest one's religion or beliefs also has a negative aspect, namely an individual's right not to be obliged to disclose his or her religion or beliefs and not to be obliged to act in such a way that it is possible to conclude that he or she holds – or does not hold – such beliefs. Consequently, State authorities are not entitled to intervene in the sphere of an individual's freedom of conscience and to seek to discover his or her religious beliefs or oblige him or her to disclose such beliefs (see, *Dimitras and Others v. Greece (no. 2)*, nos. 34207/08 and 6365/09, § 28, 3 November 2011; *Dimitras and Others v. Greece*, nos. 42837/06

and 4 others, § 78, 3 June 2010; *Alexandridis v. Greece*, no. 19516/06, § 38, 21 February 2008, and *Sofianopoulos and Others*, cited above).

(b) Application of the principles in the present case

45. The Court will examine this case from the angle of the negative aspect of freedom of religion and conscience, namely the right of an individual not to be obliged to manifest his or her beliefs.

(i) On the existence of an interference

46. The Court notes that the parties disagree as to whether the handwritten note "naming" inserted next to the third applicant's name on her birth certificate constitutes an interference with the applicants' rights under Article 9 or not. In particular, the applicants argued that that inscription indirectly suggested that the third applicant had acquired her name by the civil act of naming, as opposed to by christening. The Government, on the other hand, submitted that naming constituted the sole way in which an individual could acquire his or her name and, therefore, the word had been written next to the third applicant's name inadvertently. In addition, it merely repeated the title of Article 25 of Law no. 344/1976 and could not be taken to indicate the applicants' religious beliefs or the absence thereof.

47. The Court firstly observes that on the left side of the third applicant's birth certificate submitted before it, there is a section referring to her personal data, such as name, gender, and date and hour of birth, as well as her parents' personal data, that is to say those of the first and second applicants. In parentheses next to her first name there is the word "naming" in abbreviation. On the right side of the document, there is a section concerning christening, including information such as the time, place, priest's name, name given, names of the godparents and religion. That section has not been completed.

48. The Court notes that according to the observations of the Greek Ombudsman filed before the Court, there exists a practice on the part of some registry offices whereby the two procedures are confused. In particular, it appears that some registry offices hold the view that christening and naming are two procedures that can be used alternatively for naming a child, and that only those who are not christened need to be named (see paragraph 41 above). That practice has been recorded at least since 2006, that is to say a year before the first applicant registered the third applicant's birth (see paragraph 14 above).

49. The Court takes note of the Government's argument that the note "naming" had been written inadvertently. However, it does not find it convincing. In particular, that argument is contradicted by a certificate issued by the Amarousio registry office appended to the Government's

observations, which states that such note appears on many birth certificates that were registered during that period. Their argument is further contradicted by the observations of the third-party intervener, who, having received various complaints in his capacity as Ombudsman, had already intervened on the matter in 2006 (see paragraph 14 above).

50. In this regard, the Court observes that the note "naming" as such cannot be considered to have a religious connotation or indicate the absence thereof. However, it is mindful that the context must also be taken into account. In particular, the observations filed by the Greek Ombudsman before the Court demonstrate a widely held belief and subsequent practice on the part of some registries that naming is one of the two available ways in which a child can acquire a name, the other being christening. Moreover, the Court cannot see why it would be necessary to indicate "naming" next to the third applicant's name, thereby repeating the title of Article 25 of Law no. 344/1976, if not in order to distinguish it from something else. That conclusion is further reinforced by the problematic structure of the birth certificate as described in paragraph 47 above (see also see also paragraph 7 concerning the Supreme Administrative Court's considerations and paragraph 8 concerning the content of the birth registration act according to the domestic legislation). In particular, on the right side of the document, there is a section concerning christening, including the name given, which in the third applicant's case has been left blank. Therefore, the registry's note "naming" was not written by inadvertence, but as an indication of the way that the name of the third applicant was obtained.

51. Seen in that context, the Court shares the applicants' view that the note "naming" next to the third applicant's first name carries a connotation, namely that she was not christened and that her name was given by the civil act of naming. That conclusion is further reinforced by the section concerning christening that is included in the birth registration act which in the third applicant's case has been left blank. Such information appearing in a public document issued by the State constitutes an interference with the right of all of the applicants not to be obliged to manifest their beliefs, which is inherent in the notion of freedom of religion and conscience as protected by Article 9 of the Convention. That is because it implies that the first and second applicants, as the parents and legal guardians of the third applicant, chose not to have the third applicant christened.

52. Furthermore, given the frequent use of the birth certificate (for example for school registration), implying one's religious beliefs in it exposes the bearers to the risk of discriminatory situations in their relations with the administrative authorities (see, *mutatis mutandis*, *Sofianopoulos and Others v. Greece* (dec.), nos. 1977/02 and 2 others, ECHR 2002-X)). That risk is even higher if one considers that, under Article 8 of Law no. 344/1976, registers are public (see paragraph 8 above).

53. The Court takes note of the Government's argument that the birth registration system has been digitalised and that specific data can now be inserted in the system. However, such digitalisation does not alter the fact that in the circumstances of the present case, the handwritten note "naming" was registered on the third applicant's birth certificate. As regards the copies and extracts of the third applicant's birth certificate adduced by the Government which do not bear a similar note, it suffices to say that the copies and extracts adduced by the applicants, which according to them are the ones given to them upon registration of their daughter's name, do bear the note "naming".

54. Having regard to the above considerations, the Court concludes that there has been an interference with the applicants' rights under Article 9 of the Convention.

55. The Court reiterates that in order to be compatible with Article 9 § 2 of the Convention, an interference with the right to manifest one's religion or beliefs must be "prescribed by law", pursue one or more of the legitimate aims listed in the second paragraph of that provision and be "necessary in a democratic society" (see, among many other authorities, *Bayatyan v. Armenia* [GC], no. 23459/03, § 112, ECHR 2011). Having established that there has been an interference with the negative aspect of the applicants' right to manifest their religion (see paragraph 54 above), it will now examine whether the above criteria have been met in the circumstances of the present case.

(ii) Prescribed by law

56. The Court will now examine whether the interference as described above was prescribed by law.

57. The parties and the Greek Ombudsman agree that the existing legal framework provides that naming constitutes the sole way in which an individual acquires his or her name. Christening, on the other hand, constitutes a way of indicating the religion, and cannot be considered as a way of registering a child's name on the birth register.

58. Indeed, Article 25 of Law no. 344/1976 provides that an individual acquires his or her first name by naming. However, it does not follow, either from that law or from any other piece of domestic legislation brought to the attention of the Court, that registrars need to write the word "naming" next to the first names of newborn children acquiring their names by the civil act of naming, as opposed to by christening. The interference as described above has resulted from the practice of the Amarousio registry office, which, based on the submissions before the Court, seems to be widespread in other registry offices as well.

59. It follows from the above-mentioned considerations that the interference with the applicants' rights under Article 9 of the Convention was not prescribed by law. In view of that conclusion, the Court does not

deem it necessary to examine whether the interference pursued a legitimate aim and whether it was "necessary in a democratic society".

60. There has accordingly been a violation of Article 9 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

61. The applicants complained that the handwritten note "naming" inserted next to the third applicant's first name on her birth certificate violated their right to private life as provided for in Article 8 of the Convention, which reads as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

62. The applicants argued that the note inserted next to the third applicant's name on her birth certificate revealed their personal data, as it implied that the first and second applicants had chosen to name the third applicant by the civil act of naming, instead of by having her christened.

63. The Government argued that there had been no interference with the applicants' rights under Article 8 of the Convention, given that the collection and processing of personal data included in the birth register was provided for by law and served the legitimate aim of protecting the interests of individuals. In any event, the note "naming" had been written inadvertently, did not reveal any sensitive personal data and did not appear on recent copies and extracts of the birth certificate.

64. The Court finds that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. It must therefore be declared admissible.

65. The Court considers that in the light of the conclusions it has reached with regard to Article 9 of the Convention, it is not necessary to conduct a separate examination of the case from the standpoint of Article 8.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

66. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

67. The first two applicants claimed 3,000 euros (EUR) each in respect of non-pecuniary damage and the third applicant claimed EUR 5,000.

68. The Government submitted that the possible finding of a violation would provide sufficient redress for the applicants. In any event, the amounts that would be awarded by the Court should not exceed the amounts awarded in similar cases.

69. The Court awards the applicants EUR 10,000 jointly in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

70. The applicants also claimed EUR 1,614.99 for the costs and expenses incurred before the domestic courts and EUR 1,240 for those incurred before the Court, attaching in both cases the relevant receipts.

71. The Government urged the Court to reject the amount claimed for the domestic proceedings as unnecessary. As regards the amount claimed for the proceedings before the Court, the Government argued that any award should not exceed the amount usually awarded in similar cases.

72. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 800 for costs and expenses in the domestic proceedings and the sum of EUR 1,000 for the proceedings before the Court, plus any tax that may be chargeable to the applicants.

C. Default interest

73. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 9 of the Convention;

3. *Holds* that there is no need to examine separately the complaint under Article 8 of the Convention;

4. *Holds*

(a) that the respondent State is to pay the applicants jointly, within three months from the date on which the judgment becomes final, in accordance with Article 44 § 2 of the Convention, the following amounts:

(i) EUR 10,000 (ten thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 1,800 (one thousand eight hundred euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement, simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points;

5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 25 June 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Abel Campos
Registrar

Ksenija Turković
President