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## **European Court of Human Rights to determine whether it was legal to worship by COVID**

[ZENIT News](#) (31.07.2023).- Are blanket bans on public worship compatible with the international human right to the communal exercise of religious freedom? This is the question brought by former EU Special Envoy for Freedom of Religion or Belief, Dr. Ján Figel', who has filed a challenge at the European Court of Human Rights (ECtHR) on the 2021 COVID restrictions on public worship. Figel', co-represented by human rights organisation ADF International and local Slovak lawyer Martin Timcsak, now submitted his arguments to the court.

"Religious freedom as a basic human right deserves the highest level of protection. Prohibiting people from worship and communal religious exercise is profoundly illiberal and illegitimate. Worship bans were unfair and disproportionate. Our arguments submitted to the Court demonstrate clearly that blanket bans are violations of religious freedom under international human rights law," stated Dr. Ján Figel'.

Figel's case might be the first where Europe's top human rights court rules on the blanket bans on public worship during the Covid pandemic. The decision would set a precedent for 46 European States with 676 million citizens.

"In times of crisis, fundamental freedoms need to be protected, rather than weakened." In 2021 the Slovak Republic prolonged its COVID restrictions, banning religious services. Dr. Ján Figel' and ADF International lead lawyer Dr. Adina Portaru argue that the restrictions violated both national and international law.

"We are committed to supporting Dr. Ján Figel' and his defence of religious freedom. The international legal framework is very clear in its protection of this right as it benefits everyone – people of faith as well as people of no faith. Fundamental freedoms apply to all, and in times of crisis they must be protected rather than weakened," said Dr. Adina Portaru, Senior Counsel for ADF International.

### ***Individual or digital worship not sufficient***

In the submitted arguments Figel's legal team highlights that religious freedom specifically includes the right to communal worship under the law. The Slovak government previously had argued that spirituality can be lived out individually.

However, as the ECtHR has upheld repeatedly, freedom of religion specifically includes the "freedom to manifest one's religion not only alone and in private but also in community with others, in public and within the circle of those whose faith one shares".

The Slovak government also put forward the option of digital worship as a justification for the blanket ban. Recent court rulings throughout Europe, however, arrive at different conclusions. Scotland's highest civil court ruled on the same issue, holding that digital options "are best viewed as an alternative to worship, rather than worship itself".

### ***Restrictions were not "proportional, appropriate, and necessary"***

The case rests on the fact that the Slovak blanket ban was neither proportional, nor appropriate or necessary.

"Nobody should be prohibited from peacefully exercising his or her convictions, and it was evident that religious worship could be conducted safely during the pandemic. Blanket bans ignore the central role that religion plays in the lives of believers. For people of faith, communal worship, spiritual nourishment, can be as important as bodily nourishment. That's why international and European law and our very own Constitution holds religious freedom so dearly. I expect that the ECtHR will consider this holistically with a keen eye for the role of human rights in a democratic society," said Dr. Ján Figel' upon submitting the arguments.

### ***Former Special Envoy for Freedom of Religion now defends human rights at home***

Ján Figel' served as European Commissioner in various positions between 2004 and 2009. In 2016 he was appointed as Special Envoy for Freedom of Religion or Belief outside the EU, a position he held until 2019.

"As Special Envoy, it was evident to me that the EU cannot credibly advance religious freedom throughout the world if its Member States fail to uphold fundamental freedoms at home," Figel' added.

A newly released video features Dr. Ján Figel' and ADF International lead lawyer Dr. Adina Portaru in Bratislava/Slovakia.

### ***Worldwide advocacy for religious freedom***

Figel's challenge has been backed by a civil society coalition of diverse representatives from the arts, academia, and politics with different faith backgrounds. Bishops and other faith leaders also have welcomed his case.

ADF International has been involved worldwide in cases regarding worship bans and violations of religious freedom in the context of Covid restrictions. In Uganda, the organisation supported a coalition of Christians and Muslims challenging a discriminatory prohibition of religious gatherings. Further, ADF International advocated to open churches for worship in Ireland, Scotland, and Switzerland.

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## **European Court of Human Rights: governments should not call minority religions "cults"**

***The Court ruled in favor of three Bulgarian Evangelical churches, and said its case law has "evolved" since it refused to censor two French report on "cults" in 2001.***

By Massimo Introvigne

Bitter Winter (30.12.2022) - <https://bit.ly/3ZuScJI> - Can a government call a minority religion a "cult" in its official documents? Or "secte," a French expression that should be translated in English as "cult" rather than as "sect," just as parallel words in many other languages derived from the Latin "secta"? No, said the European Court of Human Rights (ECHR) on December 12 in the case of "[Tonchev and Others v. Bulgaria](#)."

The question has a history at the ECHR, marked by two old decisions of 2001 and 2008, which seemed to have solved the question in favor of the governments that use such language. In 2001, the ECHR [declared inadmissible](#) an application by the French Jehovah's Witnesses, who had complained about having been called a "cult" (secte) in two French parliamentary reports of 1995 and 1999. In fact, the ECHR examined only the 1999 report, not the one of 1995 and its notorious "list of cults," since in respect to the latter it concluded that the Jehovah's Witnesses had filed their complaint too late. Rather than examining substantially the question of the term "cult" (secte), the ECHR based its decision on the fact that "a parliamentary report has no legal effect and cannot serve as the basis for any criminal or administrative proceedings." Should they feel discriminate in such proceedings, the French Jehovah's Witnesses were invited to file separate actions—which they did, eventually winning [a landmark case against France](#) about their taxes in 2011.

In 2008, in "[Leela Förderkreis e.V. and Others v. Germany](#)" the ECHR ruled against groups based on the teachings of "Osho" Rajneesh that had been called "destructive" "cults" (sekten) in reports by different German authorities. Unlike the 2001 decision on France, "Förderkreis" did pass judgement on whether the terms used by the government put the religious liberty of the Osho devotees in danger. The ECHR stated that "the terms used to describe the applicant associations' movement may have had negative consequences for them. Without ascertaining the exact extent and nature of such consequences, the Court proceeds on the assumption that the Government's statements in issue constituted an interference with the applicant associations' right to manifest their religion or belief, as guaranteed by Article 9 § 1 of the [European] Convention [on Human Rights.]"

However, the ECHR found that in the specific case the use of the terms "cult" (sekte) and similar, while inappropriate, was justified by provisions existing in the German law at that time that were not prima facie illegitimate. But the ECHR also said that the fact that "the [German] Government undisputedly refrained from further using the term 'sekte' in their information campaign following the recommendation contained in the expert report on 'so-called sects and psycho-cults' issued in 1998" carried a weight in its decision.

However, in 2021, in the case "[Centre of Societies for Krishna Consciousness In Russia and Frolov v. Russia](#)," the ECHR ruled against a Russian brochure that had called the ISKCON, popularly known as the Hare Krishna movement, a "totalitarian cult" and a "destructive cult," and concluded that "by using derogatory language and unsubstantiated allegations for describing the applicant centre's religious beliefs" the Russian government [had violated ISKCON's freedom of religion](#).

On December 13, 2022, the ECHR decided the case "Tonchev and Others v. Bulgaria," resulting from the complaints of three Evangelical and Pentecostal churches from the Bulgarian city of Burgas, the Unified Bulgarian Good News Church, the First Congregational Evangelical Church, and the Evangelical Pentecostal Church Philadelphia. Together with the Jehovah's Witnesses and the Church of Jesus Christ of Latter-day

Saints, popularly known as the “Mormon” Church, they had been targeted in 2008 by a letter sent to all public schools by the City of Burgas. The letter asked the schools to explain to all pupils that the groups mentioned in the text were “cults” (секти, sekti), should not be confused with the legitimate Bulgarian Orthodox Church, were “dangerous,” and exposed their members to “mental health problems.”

In its defense, the Bulgarian government insisted on the ECHR 2001 decision on the French reports, and claimed that no negative consequences had affected the three Evangelical churches because of the letter. It also pretended that “sekti” in Bulgarian had no negative connotations, an argument the ECHR failed to consider.

Quoting the 2021 decision about the Russian Hare Krishna, the ECHR answered that “its case law subsequent to the above-mentioned [2001] decision ‘Fédération chrétienne des témoins de Jéhovah de France’ decision marks an evolution on the question of whether the use of disqualifying terms with regard to a religious community can be analyzed as an infringement of the rights guaranteed by Article 9 of the Convention.” More recently, “the Court has considered that the use of hostile or derogatory terms in referring to a religious community in documents issued by public authorities, insofar as it is likely to have negative consequences on the exercise by its members of their freedom of religion, is sufficient to constitute an infringement of the rights guaranteed by Article 9 of the Convention.”

In the specific case of Burgas, “the Court considers that the terms used in the circular letter and the information note of 9 April 2008, which described certain religious currents, including Evangelicalism to which the applicant associations belonged, as ‘dangerous religious cults’ that ‘contravene Bulgarian legislation, citizens’ rights and public order’ and whose meetings expose their participants to ‘psychological disorders,’ may indeed be perceived as pejorative and hostile. It notes that the documents in question were distributed by the town hall of Burgas, the town in which the applicant associations and pastors were operating, to all the schools in the town, which were invited to bring them to the attention of the pupils and to report on the way in which the information was presented and the way in which the children reacted. In these circumstances, and even if the measures complained of did not directly restrict the right of the applicant pastors or their co-religionists to manifest their religion through worship and practice, the Court considers, in the light of its case law, that these measures may have had negative repercussions on the exercise of religious freedom by the members of the churches in question.”

After “Tonchev,” it would become more difficult for governments to rely on the old 2001 decision about the French reports. “Tonchev” has now established that calling a religious minority a “cult” exposes it to negative consequences, and such slanderous language should be avoided by public authorities.

*Photo: The three pastors who started the “Tonchev” case at the ECHR: from the left, Zhivko Tonchev, of the Unified Bulgarian Good News Church; Stefan Krastev, of the Evangelical Pentecostal Church Philadelphia; and Radoslav Kiryakov, of the First Congregational Evangelical Church. From Facebook.*

