



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

THIRD SECTION

**CASE OF PEROVY v. RUSSIA**

*(Application no. 47429/09)*

JUDGMENT

Art 2 P1 • Art 9 • Respect of parents' religious convictions • Freedom of religion • No effects from mere presence of seven-year-old child at one-off short religious ceremony in municipal school, without indoctrination aims • Involvement of State limited to provision of school premises to a dominant religious group for a minor one-off event • Swift and adequate reaction by domestic authorities • No right not to witness individual or collective manifestations of other religious or non-religious beliefs and convictions

STRASBOURG

20 October 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 Perovy v. Russia,**

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

Paul Lemmens, *President*,  
Georgios A. Serghides,  
Helen Keller,  
Dmitry Dedov,  
Alena Poláčková,  
Lorraine Schembri Orland,  
Ana Maria Guerra Martins, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the application (no. 47429/09) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by three Russian nationals, Ms Galina Anatolyevna Perova, Mr Aleksey Vladimirovich Perov, and Mr David Alekseyevich Perov (“the applicants”), on 26 August 2009;

the decision to give notice to the Russian Government (“the Government”) of the complaints under Article 9 of the Convention and Article 2 of Protocol No. 1 to the Convention and to declare the remainder of the application inadmissible;

the parties’ observations;

Having deliberated in private on 7 July and 22 September 2020,

Delivers the following judgment, which was adopted on the last-mentioned date:

## INTRODUCTION

1. The applicants in the present case are a married couple and their son, a seven-year-old first-year pupil at the time of the relevant events. They all belong to the Church of the Community of Christ and the boy’s father is a priest in that church. The case concerns the Russian Orthodox rite of blessing of a classroom, which was organised by some of the parents of the boy’s classmates and performed in a municipal school at the beginning of the new academic year by an Orthodox priest, the father of one of the pupils. All three applicants alleged a violation of their right to freedom of religion, while the first and second applicants, the pupil’s parents, complained that their right to ensure their son’s education in conformity with their own religious convictions had not been respected.

## THE FACTS

2. The applicants' dates of birth appear in the annexed table. The applicants, who live in the settlement of Gribanovskiy in the Voronezh Region, were represented by Ms O. Gnezdilova, a lawyer practising in Voronezh.

3. The Government were represented by Mr G. Matyushkin, Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

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

### I. BACKGROUND EVENTS

5. The first and second applicants are spouses. They are the parents of the third applicant. The second applicant is a priest (*священник*) of the Church of the Community of Christ.

6. In 2007, having reached the age of seven, the third applicant was enrolled in municipal school no. 3 of the settlement of Gribanovskiy ("the school"). The first applicant informed Ms S., the teacher in charge of the new intake ("the teacher"), that her son was being raised according to the teachings of the Church of the Community of Christ and not of the Russian Orthodox Church.

7. On Saturday 1 September 2007 the applicants attended a "first day of school" ceremony held at the school for the new intake of pupils. No regular classes were scheduled on that day.

8. After the ceremony, most of the parents of the third applicant's classmates stayed for a parent-teacher meeting with Ms S. The first and second applicants had to leave early to tend to their younger children and thus missed the meeting.

9. The participants in the parent-teacher meeting decided to invite Fr M., a priest of the Russian Orthodox Church and the father of one of the new pupils, to perform the rite of blessing (*освящение*) of the classroom. No attempts were made afterwards to notify parents who had been absent from the meeting of the decision.

### II. EVENTS OF 3 SEPTEMBER 2007

10. On the morning of Monday 3 September 2007, the day on which regular schooling was due to begin, the second applicant accompanied the third applicant to the school. Having greeted Ms S., he left at 7.50 a.m.

11. At 8.15 a.m. Fr M. began the rite of blessing in the presence of Ms S., the third applicant and eighteen other pupils, and the parents of some pupils. The teacher told Fr M. that one of the children was of a different

faith, without disclosing the child's identity. Fr M. replied that there was no problem and that the boy could just be present during the rite.

12. Fr M., who was wearing a cassock, distributed small paper icons among the children and sang prayers in Church Slavonic. Candles were lit; Fr M. used a censer to burn incense and sprinkled the classroom with holy water. Certain children and adults made the sign of the cross as per the Russian Orthodox tradition. Fr M. then invited the children to kiss a crucifix; they did so in turns.

13. The rite of blessing lasted for some fifteen to twenty minutes. During the rite the third applicant picked up a small paper icon which the priest had put on his desk, but neither kissed the crucifix nor made the sign of the cross.

14. In the applicants' submission, the third applicant felt very uncomfortable during the rite because other children were putting pressure on him to kiss the crucifix and laughed at him for not knowing how to make the sign of the cross as per the Russian Orthodox tradition. The applicants alleged that some classmates had beaten him up later in the day for his failure to make the sign of the cross "like everyone else". According to the second applicant, when he came to pick up his son after classes at 9.45 a.m., he found the boy hiding under a staircase and crying. According to the first applicant, the third applicant told him that the rite of blessing of the classroom had caused him profound distress.

### III. THE APPLICANTS' COMPLAINTS TO THE AUTHORITIES

15. On 3 September 2007 the second applicant complained of the incident to the prosecutor's office of the Voronezh Region ("the prosecutor's office"), requesting that a criminal investigation be opened into the alleged beating of the third applicant by his classmates.

16. On 4 September 2007 the first applicant complained to the school administration that her son had been beaten up by his classmates. The third applicant was transferred to another class and allowed a week off school. On the same day the first applicant lodged a complaint against the school administration with the local department of education.

17. On 12 September 2007 the prosecutor's office issued a decision (*представление*) finding that the performance of a religious rite without the consent of all the parents had violated the international, constitutional, federal and regional norms and rules, which guarantee the secular character of state educational programmes, religious freedom and the right of parents to raise their children in accordance with their convictions. It further found that the violation had been facilitated by the teacher in the absence of appropriate supervision from the school administration, and ordered that disciplinary proceedings be instituted against the teacher.

18. The prosecutor's office repeatedly dismissed requests by the second applicant for criminal proceedings to be instituted with regard to the beating of the third applicant.

19. On 14 September 2007 the local department of education officially reprimanded the principal of the school for breaching a pupil's constitutional right to freedom of religion.

#### IV. CIVIL PROCEEDINGS FOR COMPENSATION IN RESPECT OF NON-PECUNIARY DAMAGE

20. On 31 October 2007 the applicants lodged a statement of claims with the Gribanovskiy District Court of the Voronezh Region ("the District Court"), seeking compensation in respect of non-pecuniary damage from the school.

21. On 26 December 2007 the District Court suspended the proceedings pending the examination of a concurrent civil dispute. The applicants appealed against the ruling.

22. On 14 February 2008 the Voronezh Regional Court ("the Regional Court") overturned the ruling of 26 December 2007, noting that there were no concurrent civil proceedings pending, but rather a criminal inquiry into the facts following publication of the media account of the events.

23. On 4 December 2008 the District Court, having heard all of the three applicants, the representative of the municipal education authorities, the school representative, the teacher Ms S., the priest Fr M. and other witnesses, and having examined the documentary evidence, dismissed the applicants' claims in full. It pointed out that the rite of blessing had taken place outside of school hours, that it had been the pupils' parents who had volunteered to organise it, and that the allegations concerning the beating of the third applicant had not been substantiated. The District Court reasoned, in particular, as follows:

"...

At the claimants' request the minor D. Perov [the third applicant] was interviewed during the hearing ... [He stated that on the first day of school] he had been greeted by the teacher. In the classroom the boys and girls were behind their desks. A priest in a robe was present. The priest was saying something, but he did not remember specific words. Then the priest lit the incense burner, attached small icons, approached [the children] and put the small icons on the desks. [The third applicant] picked up that icon and put it in his schoolbag. Then the priest invited everyone to kiss the crucifix. All those who wanted to went to kiss it, but he did not. The priest was putting small icons on the desks. [The third applicant] picked his up because he wanted to read it ... When the priest [used the incense burner] he felt uncomfortable. The priest seemed to be a kind person ... During the break the boys had beaten him. He did not know who or why ... Later that day he played with modelling clay at home, did some drawing and played with kids on the street, everything was normal. He did not go to school for a week because his mother told him not to ...

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As was established at the hearing [the rite indeed took place]. [The rite] was not related to the educational process in the school and was performed on the initiative of the Orthodox parents, it was performed before the classes started and was not [a part of the curriculum]. [Of the school employees] only the teacher had been aware of the rite. The initiative to hold it came not from the teacher but from the parents ... she simply agreed to it. The priest Fr M. had not been invited specially to perform the blessing of the classroom, since he himself was one of the parents of the children in the class and had been present at the parent-teacher meeting at which the decision was made.

It was established at the hearing that all the parents had been informed of [the parent-teacher meeting on 1 September 2007] ... but that [the first and second applicants] were absent for unspecified reasons and, naturally, were not informed about the [planned rite]. The specific date for the holding of the rite had not been decided and depended on the availability of Fr M. ... The teacher, who had been aware of [the third applicant's] faith, informed the priest of the fact without identifying the child. The priest did not enquire about the identity of the child and stated that the boy could just stay present ... There was no coercion or violence against any of the children. The existence of the beatings alleged by the claimants was not proven at the hearing.

It was established at the court hearing that [the fact of] holding this rite [of blessing] did not breach [the third applicant's] rights as a child or [the rights] of his parents. The rite of blessing is of a general nature, and according to the [Russian] Orthodox doctrine is not one of the acts connected to a specific individual such as, for example, baptism, confirmation, communion, and confession. Therefore, objectively [speaking], there could be no violation of rights and freedoms [or] offence or damage to dignity. Moreover, in this case holding the rite of blessing of the classroom in the aforementioned circumstances did not breach the requirements of Article 9 of the European Convention on Human Rights or of Article 55 of the Russian Constitution.

...

Holding the rite of blessing of the classroom did not breach the right of [the first applicant] and [the second applicant] as parents to ensure the education and teaching of their children in conformity with their own religious and philosophical beliefs (Article 2 of Protocol No. 1 to the European Convention on Human Rights) because the respondent, municipal school no. 3 in Gribanovskiy, did not in any way prevent the claimants from ensuring the education and teaching of their children in conformity with their own religious and philosophical beliefs; the claimants have not provided the court with any evidence [to the contrary].”

24. On 26 February 2009 the Regional Court dismissed the applicants' appeal and upheld the District Court's judgment in full. It reasoned, in particular, as follows:

“The holding of [the rite] in itself cannot disclose a violation of [the parents' rights to raise their children in accordance with their convictions or the child's religious freedom], since there was no coercion for him to take any action.

[The child, when examined by the court, stated that he had not kissed the crucifix.]

There is no evidence of any actions directed against his beliefs during the rite.

The holding of the rite was a personal initiative on the part of the priest, who happened to be a parent of [the third applicant's] classmate, and was approved at the parents' meeting.

Failure to notify [the third applicant]’s parents of the forthcoming religious rite was an omission on the part of the class teacher but does not disclose any errors in the adopted [first-instance] judgment, because the claimants have not proved that their right to freedom of religion and that of their child was breached by the mere fact of holding the rite of [Russian] Orthodox blessing of the classroom.

Moreover, the teacher in question has already been subjected to disciplinary measures for failing to notify the parents of [the third applicant] of the upcoming rite. However, there was nothing stopping the parents of [the third applicant] from being with their child on the first day of the new school year and, if need be, from following their religious conviction by taking him out [of the classroom] for the duration of the [Russian] Orthodox rite of blessing of the classroom.”

## RELEVANT LEGAL FRAMEWORK

### I. CONSTITUTION OF THE RUSSIAN FEDERATION OF 1993

25. The Russian Federation is a secular State. No religion may acquire the status of a State or compulsory religion (Article 14).

26. Freedom of conscience and religion, including the right to profess, individually or in cooperation with others, any religion or not to profess a religion, and the right to freely choose, hold and disseminate religious or other beliefs and to act in accordance with them, is guaranteed to everyone (Article 28).

### II. EDUCATION ACT OF 1992

27. Section 1(5) of Federal Law no. 3266-1 on Education of 10 July 1992 (“the Education Act”), repealed by Federal Law no. 273-FZ on Education in the Russian Federation of 29 December 2012 which entered into force on 1 September 2013, provided, in particular, that religious movements and organisations were not allowed to be established and/or to act in State-owned and municipal educational institutions.

### III. FREEDOM OF CONSCIENCE ACT OF 1997

28. No one may be obliged to make her or his feelings about religion known and no one may be coerced to define her or his feelings about religion, to profess or refuse to profess a religion, or to participate or refuse to participate in religious ceremonies or religious organisations. It is forbidden to involve minors in religious organisations and to teach religion to minors against their will and without the consent of their parents or guardians (section 3(5) of Federal Law no. 125-FZ on Freedom of Conscience and Religious Associations of 26 September 1997 (“the Freedom of Conscience Act”).

29. The State may not interfere with the education of children by parents or guardians in accordance with their beliefs. The State must ensure the



secular nature of education in State-owned and municipal educational institutions (section 4(2)).

30. Section 5(4), as in force at the material time, provided that the administration of a State-owned or municipal educational institution could, following a request by the parents or guardians of pupils, give a religious organisation an opportunity to teach religion outside of the curriculum framework, provided that the pupils agreed to it and that the executive authority of a municipal unit had given prior approval.

## THE LAW

### ALLEGED VIOLATIONS OF ARTICLE 2 OF PROTOCOL No. 1 AND ARTICLE 9 OF THE CONVENTION

31. The first and second applicants alleged a violation of their right as parents to ensure the education of their son in conformity with their own religious convictions. They relied on Article 2 of Protocol No. 1 to the Convention, which reads as follows:

“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”

32. All of the applicants complained that the third applicant had been forced to participate in the rite of blessing of the classroom on 3 September 2007 against his and his parents’ will. They argued that this had amounted to a violation of their right to freedom of religion guaranteed by 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. Submissions by the parties**

##### *1. The Government*

33. In their observations of 14 September 2016 and further observations of 2 February 2017 the Government maintained that there had been no interference with the applicants’ right to freedom of religion and, accordingly, no violation of Article 9 of the Convention. Article 2 of Protocol No. 1 to the Convention was inapplicable *ratione materiae* because

the events complained of had not concerned the right to education in any manner. Furthermore, the first and second applicants' rights under Article 2 of Protocol No. 1 had not been breached.

34. The District Court had thoroughly examined the applicants' claims and had found that their rights had not been breached, for the following reasons. The Russian Orthodox parents of the children in first year had launched the initiative to perform the rite of blessing of the classroom; Ms S. had merely agreed to their proposal. She had not specifically invited Fr M.: by coincidence, his child had been a pupil in the same class as the third applicant. According to the Russian Orthodox Church, the rite of blessing was a rite of an impersonal nature. The rite performed on 3 September 2007 had had no bearing on the educational process, had not been listed in the curriculum, and had taken place before class hours. The majority of the parents had been in the classroom during the rite. There had been no coercion or violence against any child. The District Court had established that section 1(5) of the Education Act and sections 3(5) and 4 of the Freedom of Conscience Act had not been breached because no religious association had been created at the school and no compulsory religion had been established.

35. The first and second applicants should have attended the parent-teacher meeting of 1 September 2007, an event of particular importance for the parents of a child in first year. The first and second applicants had not exercised due circumspection as they had failed to ask the teacher or other parents about the matters discussed at the parent-teacher meeting and instead had later attempted to shift responsibility onto the teacher and the school. No one had prevented the first and second applicants from staying with their son on the first day of school, as the majority of other parents had done, which would have enabled them to take the child out of the classroom during the rite.

36. Ms S. had not warned the second applicant about the rite when he had brought the third applicant to school on the morning of 3 September 2007, because the exact date and time of the rite had not been known in advance owing to Fr M.'s other engagements. Ms S., knowing that the third applicant was not of the Russian Orthodox faith, had told Fr M. that one of the children was "of another faith", which, in Fr M.'s view, did not exclude the child from being present at the rite. Ms S.'s failure to notify the first and second applicants of the rite in advance had been an omission but she had been subjected to disciplinary measures because of it.

37. The rite of blessing had had no bearing on the first and second applicants' right to educate their child in accordance with their own convictions. It had not breached their rights under Article 2 of Protocol No. 1. The rite had not been a form of indoctrination as no principles contrary to the convictions of the parents had been taught to the

children. In the course of the rite the children, seated at their desks, had not taken any active part, instead just remaining as passive observers.

38. The applicants had not proved that during the rite any actions capable of attacking the third applicant's religious freedom had taken place, or that the rite, as an isolated event, had affected the third applicant's convictions. The third applicant had stated at the court hearing that he had not kissed the crucifix; he had not made the sign of the cross.

39. The allegations of the beating of the third applicant by his fellow classmates had been dismissed as ill-founded in the course of a thorough pre-investigation inquiry. The witness statements before the District Court had confirmed that there had been no fight among the children on 3 September 2007. In the Government's view, the fact that no criminal proceedings had been instituted did not point to any ineffectiveness in the investigation.

40. The Government asserted that the Russian Federation was a secular multi-confessional State in which all religions were separated from the State and equal before the law. They suggested that the rights of other children and their parents should be taken into account when examining the present case and claimed that the application had been contrived with the purpose of discrediting the Russian Orthodox Church and of attracting public attention to the Church of the Community of Christ.

## *2. The applicants*

41. In their observations of 6 December 2016 the applicants stated that the rite of blessing of the classroom held on 3 September 2007 had constituted an interference with the applicants' right to freedom of religion. That interference had not been "prescribed by law" as both the Freedom of Conscience Act and the Education Act had proscribed religious activities at school. The Government in their observations had not referred to any of the legitimate aims listed in Article 9 § 2 of the Convention to justify it. Submitting that respect for the opinion of a minority was a distinctive feature of democracy, the applicants insisted that the interference had not been "necessary in a democratic society".

42. The third applicant had been compelled to take part in a religious activity. In not knowing how to make the sign of the cross in the Russian Orthodox tradition and in refusing to follow Fr M.'s instructions he had unwillingly disclosed his religious beliefs to a classroom full of people. The first and second applicants had also been compelled to disclose their religious beliefs as they had had to ask the school authorities to abstain from performing religious rites involving their child. Moreover, according to the third applicant, he had been beaten by his classmates because he had refused to kiss the crucifix as Fr M. had instructed.

43. The third applicant, then a seven-year-old child, had not yet had the ability to meaningfully exercise his right not to participate in the rite. As he

had been in a new environment, surrounded by new people, he had been ill-equipped to defy the authority of the teacher who had organised the rite. The third applicant had experienced coercion from his classmates, although collecting evidence regarding the alleged beating had been problematic because the parties involved in it had been young children, their parents and teachers.

44. The second applicant had not been informed of the upcoming rite on the morning of 3 September 2007, when he had brought his son to school and asked Ms S. when to pick the boy up after classes. The applicants did not agree with the Government's assertion that at that point Ms S. had not known that the rite would take place shortly. They also contested the Government's claim that they should have attended the parent-teacher meeting on 1 September 2007 and stayed with their son on the morning of 3 September 2007. The first and second applicants had acted in good faith in entrusting their child to the school's care; they had not expected and should not have had to expect any departure from ordinary teaching. Moreover, the couple had had four little children, including an infant, at home on that day and both parents' presence there had been necessary.

45. After the rite every child in the classroom, including the third applicant, had received a paper icon. The rite as a whole and the distribution of paper icons had been intended to proselytise the children, which ran against the principle of secularism. The applicants distinguished the circumstances of their case from those of the case of *Lautsi and Others* ([GC], no. 30814/06, ECHR 2011 (extracts)) on the grounds that the rite of blessing had consisted of numerous actions on the part of the priest and those in attendance and thus, unlike a crucifix on the wall, could not be considered a passive symbol.

## **B. The Court's assessment**

### *1. Scope of the case*

46. The Court observes at the outset that the applicants' grievances in the present case stem from the events of 3 September 2007, when a priest performed a Russian Orthodox rite in a municipal school in the presence of the third applicant, who was being raised in another religious tradition.

47. The first and second applicants raised a twofold complaint alleging violations of their rights under Article 9 of the Convention and Article 2 of Protocol No. 1. In the area of education and teaching Article 2 of Protocol No. 1 to the Convention is in principle the *lex specialis* in relation to Article 9 of the Convention. That is so at least where, as in the present case, the dispute concerns the obligation laid on Contracting States by the second sentence of Article 2 to respect, when exercising the functions they assume in that area, the right of parents to ensure education and teaching in conformity with their own religious and philosophical convictions (see

*Folgerø and Others v. Norway* [GC], no. 15472/02, §§ 54 and 84, ECHR 2007-VIII, and *Lautsi and Others*, cited above, § 59).

48. The Court sees no reason to depart from this approach in the present case and will accordingly examine the first and second applicants' complaints from the standpoint of the second sentence of Article 2 of Protocol No. 1, reading it in the light of the freedom of religion guaranteed by Article 9 of the Convention.

49. The third applicant made a complaint under Article 9 in his own name and no complaint under the first sentence of Article 2 of Protocol No. 1. The Court has previously accepted complaints under this provision, without reservations *ratione personae*, from persons who experienced an alleged violation of Article 9 of the Convention before reaching the age of majority, thus acknowledging the position of children as holders of the right to freedom of religion (see, among other authorities, *Dogru v. France*, no. 27058/05, 4 December 2008; *Kervanci v. France*, no. 31645/04, 4 December 2008; and *Grzelak v. Poland*, no. 7710/02, 15 June 2010).

50. In this connection it must be highlighted that the first sentence of Article 2 of Protocol No. 1, read in the light of the second sentence of that provision and Article 9 of the Convention, guarantees schoolchildren the right to education in a form which respects their right to believe or not to believe (see *Lautsi and Others*, cited above, § 78, and *Papageorgiou and Others v. Greece*, nos. 4762/18 and 6140/18, § 39, 31 October 2019). However, no complaint under this provision was introduced by the third applicant.

51. Accordingly, the Court will examine the third applicant's complaint under Article 9 of the Convention. However, any such examination will be guided by the findings in respect of the first and second applicants' complaints under the second sentence of Article 2 of Protocol No. 1.

2. *The first and second applicants' complaints under Article 2 of Protocol No. 1 and Article 9 of the Convention*

(a) **Admissibility**

52. The Court takes note of the Government's objection that the first and second applicants' complaint under the second sentence of Article 2 of Protocol No. 1 was incompatible *ratione materiae* on the grounds that the rite of blessing had not affected the educational process (see paragraph 33 above). This issue is intrinsically linked to questions of fact and law which are of such complexity that their determination is dependent on an examination of the merits of the application, and should therefore be joined to the merits of the above complaint.

53. The Court further notes that the first and second applicants' complaints under Article 2 of Protocol No. 1 and Article 9 of the

Convention are neither manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor inadmissible on any other grounds. They must therefore be declared admissible.

**(b) Merits**

*(i) General principles*

54. The first sentence of Article 2 of Protocol No. 1 provides that everyone has the right to education (see *Osmanoğlu and Kocabaş v. Switzerland*, no. 29086/12, § 91, 10 January 2017). The right of parents to respect for their religious and philosophical convictions is grafted on to that right. Article 2 of Protocol No. 1 constitutes a whole that is dominated by its first sentence. By binding themselves not to “deny the right to education”, the Contracting States guarantee to anyone within their jurisdiction a right of access to educational institutions existing at a given time and the possibility of drawing, by official recognition of the studies which he or she has completed, profit from the education received (see *Folgerø and Others*, cited above, § 84).

55. The second sentence of Article 2 of Protocol No. 1 should be read in the light not only of the first sentence of the same Article, but also, in particular, of Article 9 of the Convention, which guarantees freedom of thought, conscience and religion, including the freedom not to belong to a religion, and which imposes on Contracting States a “duty of neutrality and impartiality”. States have responsibility for ensuring, neutrally and impartially, the exercise of various religions, faiths and beliefs. Their role is to help maintain public order, religious harmony and tolerance in a democratic society, particularly between opposing groups. That concerns both relations between believers and non-believers and relations between the adherents of various religions, faiths and beliefs (see, with further references, *Lautsi and Others*, cited above, § 60).

56. The second sentence of Article 2 of Protocol No. 1 recognises the role of the State in education as well as the right of parents, who are entitled to respect for their religious and philosophical convictions in the delivery of education and teaching to their children (see, with further references, *Konrad v. Germany* (dec.), no. 35504/03, ECHR 2006-XIII). It is binding upon the Contracting States in the exercise of “each and every function” that they undertake in the sphere of education and teaching (see *Campbell and Cosans v. the United Kingdom*, 25 February 1982, § 33, Series A no. 48). The word “respect” in Article 2 of Protocol No. 1 means more than “acknowledge” or “take into account”; in addition to a primarily negative undertaking, it implies some positive obligation on the part of the State (*ibid.*, § 37; see also *Lautsi and Others*, cited above, § 61).

57. The second sentence of Article 2 of Protocol No. 1 aims at safeguarding the possibility of pluralism in education, which is essential for

the preservation of the “democratic society” as conceived by the Convention (see *Kjeldsen, Busk Madsen and Pedersen v. Denmark*, 7 December 1976, § 50, Series A no. 23). While the second sentence of Article 2 of Protocol No. 1 does not prevent the Contracting States from imparting through teaching or education information or knowledge of a directly or indirectly religious or philosophical kind, as the setting and planning of the curriculum fall within their competence, it requires the State, in exercising its functions with regard to education and teaching, to take care that information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner, enabling pupils to develop a critical mind particularly with regard to religion in a calm atmosphere free of any proselytism. The State is forbidden to pursue an aim of indoctrination that might be considered as not respecting parents’ religious and philosophical convictions. That is the limit that the States must not exceed (see, with further references, *Lautsi and Others*, cited above, § 62).

(ii) *Application of these principles to the present case*

58. The Court must first consider the Government’s objection *ratione materiae* that has been joined to the merits.

59. It should be highlighted in this respect that the obligation on Contracting States to respect the religious and philosophical convictions of parents does not apply only to the content of teaching and the way it is provided, but binds them “in the exercise” of all the “functions” – in the terms of the second sentence of Article 2 of Protocol No. 1 – which they assume in relation to education and teaching (see, with further references, *Lautsi and Others*, cited above, § 63). In general, where the organisation of the school environment is a matter for the public authorities, that task must be seen as a function assumed by the State in relation to education and teaching, within the meaning of the second sentence of Article 2 of Protocol No. 1 (*ibid.*, § 64). Furthermore, it can be assumed that participation in at least some religious activities, especially in the case of young children, would be capable of affecting pupils’ minds in a manner giving rise to an issue under Article 2 of Protocol No. 1 (see *Folgerø and Others*, cited above, § 94).

60. In the present case the rite of blessing took place immediately before the scheduled classes and was performed in the third applicant’s classroom on the first day of the school year. The rite was beyond any doubt of a religious nature and was administered by a priest, who wore his religious garments, chanted prayers and used religious symbols and imagery. The Court is prepared to accept that the rite was an isolated event which took place in response to the wishes and on the initiative of the majority of the schoolchildren’s parents and formed no part of the official curriculum. However, these elements do not outweigh the fact that the blessing of the

classroom took place on the premises of the municipal school and at the very least with the tacit approval of the teacher.

61. In the Court's view this religious activity held within the school environment brought the events within the ambit of Article 2 of Protocol No. 1 and constituted an interference with the right enshrined in the second sentence of that provision. Therefore, the Government's objection must be dismissed.

62. It is now incumbent on the Court to establish whether the right of the first and second applicants to ensure their son's education and teaching in conformity with their religious convictions was respected in the circumstances of the present case.

63. The Contracting States enjoy a margin of appreciation in their efforts to reconcile exercise of the functions they assume in relation to education and teaching with respect for the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions. That applies to organisation of the school environment and to the setting and planning of the curriculum, and the Court has a duty in principle to respect the Contracting States' decisions in these matters, including the place they accord to religion, provided that those decisions do not lead to a form of indoctrination (see *Lautsi*, cited above, §§ 69-70).

64. The rite of blessing is undoubtedly a religious ceremony with great spiritual and symbolic significance in the Russian Orthodox tradition. Understandably for the first and second applicants, who are adherents of another Christian denomination, even the mere presence of their child during such a ceremony without prior notification may subjectively appear to demonstrate a lack of respect on the State's part for their right to ensure education and teaching in conformity with their religious convictions. The fact that the rite was organised and performed by the parents with only tacit approval by the State-employed teacher is in itself of no decisive significance.

65. Similarly to the *Lautsi* case (cited above, § 66), there is no evidence before the Court that the presence during a one-off short ceremony, which lasted no more than twenty minutes, had an influence on the pupils, and so it cannot reasonably be asserted that it had or did not have an effect on the third applicant, whose convictions were still in the process of being formed. Be that as it may, the first and the second applicants' subjective perception is not in itself sufficient to establish a breach of Article 2 of Protocol No. 1.

66. From an objective viewpoint, the Court notes that the rite of blessing was an isolated incident in the third applicant's upbringing, limited in scope and duration. While it is regrettable that on the morning in question the second applicant, a clergyman of another Christian denomination, was not advised of the upcoming Orthodox rite of blessing, there is no evidence, beyond the applicants' claims, that the third applicant's experience of the ceremony was marked by any indoctrination or coercion.



67. Without casting any doubt on the subjective significance of the events for the applicants (see *Lautsi*, cited above, § 66), the Court notes that neither in the present proceedings nor before the domestic courts did the first and second applicants adduce any proof capable of demonstrating any effects of the rite (be it psychological or other effects) on the rearing of their child in accordance with the teachings of their faith. The first and second applicants alleged that the ceremony had caused profound distress to their son (see paragraph 14 above); however, they did not provide any evidence in this regard, such as, for example, a clinical psychological or social assessment report.

68. Lastly and most importantly, the domestic authorities acted swiftly and adequately on the applicants' complaints. The prosecuting authorities instituted an inquiry and found that the first and second applicants' rights had been violated and ordered that disciplinary proceedings be instituted against the teacher (see paragraph 17 above). The local department of education imposed a disciplinary sanction on the school principal for having breached the third applicant's rights (see paragraph 19 above). The authorities thus acknowledged that there had been a breach of the applicants' rights, and made clear that the incident should not be repeated. Moreover, the domestic courts examined carefully the applicants' claims in civil proceedings and heard all of the relevant participants in the events. They accepted that the failure to notify the first and second applicants of the forthcoming rite was an omission on the part of the teacher. They nevertheless dismissed the claims giving detailed and case-specific legal and factual reasons (see paragraphs 23-24 above).

69. Accordingly, the Court, having regard to all the material in its possession and to the submissions of the parties, concludes that there has been no violation of Article 2 of Protocol No. 1 in the present case in respect of the first and second applicants. It further considers that no separate issue arises under Article 9 of the Convention in respect of these two applicants.

### 3. *The third applicant's complaint under Article 9 of the Convention*

70. The third applicant, a minor at the material time, lodged an Article 9 complaint in his own name alleging that the holding of the Orthodox rite of blessing had infringed his freedom of religion.

71. 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. Article 9 lists the various forms which the manifestation of one's religion or beliefs may take, namely worship, teaching, practice and observance (see, *mutatis mutandis*, *Cha'are Shalom Ve Tsedek v. France* [GC], no. 27417/95, § 73 ECHR 2000-VII, and *Leyla Şahin v. Turkey* [GC], no. 44774/98, § 105, ECHR 2005-XI).

72. Turning to the present case, the Court notes that the municipal school in the present case indeed facilitated the collective exercise by the Russian Orthodox believers of their freedom to manifest their religious beliefs by performing the rite of blessing. However, there is no indication that the content of the ceremony was prescribed or monitored by the school authorities, incorporated in the academic programme or made a compulsory educational requirement. The involvement of the State in the present case did not go beyond providing the premises of a municipal school to an admittedly dominant religious group for a minor one-off event without any intention of indoctrination. This event according to the domestic authorities, was essentially an error of assessment by the school teacher and was immediately rectified through specific decisions and sanctions (see paragraphs 17 and 19 above).

73. The values of pluralism and tolerance and the spirit of compromise and dialogue are indispensable in a democratic society and do not provide any religious group or individual with the right not to witness individual or collective manifestations of other religious or non-religious beliefs and convictions. Nothing in the available materials suggests that the third applicant's involvement in the rite of blessing extended beyond his mere presence at the ceremony and being a witness to it.

74. The parties do not dispute that, while everyone in attendance was invited to kiss the crucifix, only those who so wished actually did so and that the third applicant abstained. The small paper icons were deposited by the priest on the desks and there is no indication in the materials that anyone was coerced to accept them. On the contrary, the third applicant indicated that he had put it in his schoolbag out of interest, so that he could study it later (see paragraph 23 above). The priest was notified by the teacher of the presence of an adherent of other religious beliefs, but the third applicant's identity was not disclosed to him (see paragraph 11 above). The parties in their submissions did not allege that there had been any direct attempts by the priest or the teacher to proselytise or to force anyone to participate in the rite.

75. The Court also does not overlook the fact that the national authorities, notably the local department of education, acted swiftly and adequately on the complaints, acknowledged an interference with the third applicant's freedom of religion, imposed reasonable sanctions on the responsible persons and took steps to prevent similar incident (see paragraph 68 above).

76. Having regard to the above considerations and to the available material, the Court concludes that the third applicant was neither forced to participate in the manifestation of the beliefs of another Christian denomination nor discouraged from adherence to his own beliefs. While being a witness to the Orthodox rite of blessing might have aroused some feelings of disagreement in him, this disagreement should be seen in the

broad context of the open-mindedness and tolerance required in a democratic society of competing religious groups, who cannot rely on Article 9 of the Convention to restrict the exercise of other persons' religious freedoms. Besides, the Court is mindful of the above considerations and findings as regards the first and second applicants' rights under Article 2 of Protocol No. 1 (see paragraphs 65-69 above) and of the proper reaction of the local department of education to the isolated event.

77. In view of the above, and assuming that the present complaint is admissible within the meaning of Article 35 of the Convention, the Court, taking into account the finding that there has been no violation of the first and second applicants' rights under Article 2 of Protocol No. 1 (see paragraph 69 above), considers that there has been no violation of the third applicant's rights under Article 9 of the Convention in the present case.

#### FOR THESE REASONS, THE COURT

1. *Joins*, unanimously, the Government's objection *ratione materiae* to the merits of the first and second applicants' complaint under Article 2 of Protocol No. 1 and *dismisses* it;
2. *Declares*, unanimously, the applicants' complaints under Article 2 of Protocol No. 1 and Article 9 of the Convention admissible;
3. *Holds*, by four votes to three, that there has been no violation of the first and second applicants' rights under Article 2 of Protocol No. 1;
4. *Holds*, unanimously, that no separate issue arises as regards the first and second applicants' rights under Article 9 of the Convention;
5. *Holds*, by four votes to three, that there has been no violation of the third applicant's rights under Article 9 of the Convention.

Done in English, and notified in writing on 20 October 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova  
Deputy Registrar

Paul Lemmens  
President

PEROVY v. RUSSIA JUDGMENT

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the following separate opinions are annexed to this judgment:

- (a) Joint concurring opinion of Judges Lemmens, Dedov, Schembri Orland and Guerra Martins;
- (b) Joint dissenting opinion of Judges Keller, Serghides and Poláčeková.

P.L.  
O.C.

JOINT CONCURRING OPINION OF JUDGES LEMMENS,  
DEDOV, SCHEMBRI ORLAND AND GUERRA MARTINS

1. It is rather unusual for the judges forming the majority of the Chamber to add something to the judgment by way of a joint concurring opinion.

We would, however, like to give a short reaction to the joint dissenting opinion of our colleagues Serghides, Keller and Poláčková.

2. We do not want to enter into a discussion of the human-rights principles to which our esteemed colleagues refer. We do not think that there are any fundamental disagreements between us on these principles.

The reason we concluded that there has been no violation of the Convention rights of the parents or the child is because of the specific circumstances of the case. There was an incident in the classroom, on the first real day of the school year. No one denied that this was a real incident, or that what happened was inadmissible.

But one should not exaggerate what went on. This was an initiative by certain parents who had met the previous week at a parent-teacher meeting. The teacher inadvertently agreed to their initiative. This was not an action initiated by the school. And, apart from the mere fact of the Russian Orthodox rite, there was in our opinion no indication of disrespect for the applicants' beliefs (see the teacher's and the priest's attitude, described in paragraph 11 of the judgment).

As soon as the authorities became aware of what had happened, they condemned the fact that a religious rite had been performed without the consent of all the parents (see paragraph 68 of the judgment). That was, in our opinion, a very firm reaction. We do not see how the State could still be held responsible for a violation of the applicants' rights after such a reaction.

3. This is, in our opinion, not a case where the fundamental principles of freedom of religion are at stake. It is a case about an error of judgment, undoubtedly, but one that – in our opinion – could have been better solved by a constructive talk between the parents and the school, rather than through bitter lawsuits brought before the domestic courts and the Strasbourg Court.

JOINT DISSENTING OPINION OF JUDGES KELLER,  
SERGHIDES AND POLÁČKOVÁ

**A. Introduction**

1. The first and second applicants in this case are the parents of the third applicant, who began his education at a publicly-funded school in the settlement of Gribanovskiy in 2007. The family are adherents of the Church of the Community of Christ, of which the second applicant is a priest. Despite this, the child was obliged to participate in a Russian Orthodox rite in his new classroom on his very first day of regular schooling.

2. It is uncontested that the parents were not notified in advance that the rite would be taking place (see paragraph 9 of the judgment). We would uphold their complaint under the second sentence of Article 2 of Protocol No. 1 and so dissent, with respect, from the majority's conclusion to the contrary.

3. On this basis, we agree with the majority that it is unnecessary to examine separately the parents' complaint under Article 9 of the Convention (see *Denisov v. Ukraine* [GC], no. 76639/11, § 139, 25 September 2018). We are conscious of the fact that Article 2 of Protocol No. 1 is in principle the *lex specialis* in relation to that provision (see *Lautsi and Others v. Italy* [GC], no. 30814/06, § 59, ECHR 2011 (extracts)).

4. The majority go on to address Article 9 as regards the child. We agree that focus on his right to freedom of religion is warranted, but the case-law of the Court does not support the majority's approach. In our view, the Grand Chamber should chart the new course which the majority rightly desire in an appropriate future case. In the meantime, as they have seen fit to seize the initiative, we respectfully dissent from their conclusion that Article 9 was not violated in respect of the third applicant.

**B. The violation of the parents' rights**

5. Article 2 of Protocol No. 1 requires the High Contracting Parties to respect, in the exercise of any functions which they assume in this connection, "the right of parents to ensure" that their children's education is "in conformity with their own religious ... convictions". Like the majority, we cannot accept the respondent Government's contention that this provision is inapplicable. The rite, although perhaps an isolated event, took place (i) in a classroom; (ii) shortly before the start of scheduled classes; (iii) with the acquiescence of the school authorities, even if only of the teacher in charge of the new intake of pupils; and (iv) in the presence of schoolchildren of a very young and therefore impressionable age. We would stress that the undertaking freely given by the High Contracting Parties extends not merely to the curriculum that they may choose to prescribe, but

to the whole “organisation of the school environment” where that is a task for the public authorities, as it is in Gribovskiy’s municipal school no. 3 (see *Lautsi and Others*, cited above, § 64).

6. We will therefore turn to the question whether there has been a violation of Article 2 of Protocol No. 1. We observe that the Court has repeatedly held that the lack of a possibility to obtain full exemption from religious education classes within the curriculum gives rise to such a violation (see *Folgerø and Others v. Norway* [GC], no. 15472/02, §§ 96-102, ECHR 2007-III; *Hasan and Eylem Zengin v. Turkey*, no. 1448/04, §§ 72-76, 9 October 2007; and *Mansur Yalçın and Others v. Turkey*, no. 21163/11, §§ 74-77, 16 September 2014). While the violation alleged by the parents does not concern the prescribed curriculum, the undeniably religious character of the rite means that this line of case-law is of direct relevance.

7. It is apparent from paragraphs 6 and 11 of the judgment that the teacher was aware that the parents’ religious faith was not Russian Orthodoxy. The rite was not organised spontaneously; rather, it had been arranged two days beforehand at a meeting at which the third applicant’s parents were no longer present (see paragraphs 8-11 of the judgment). In these circumstances it is unacceptable that they were not informed, in the interval between the meeting and the rite, of the decision to conduct active religious observance in the classroom contrary to their known religious convictions, so that they could decide whether to seek to have their son exempted from attendance.

8. Nothing before the Court suggests that the teacher could not have notified the parents. On the contrary, the second applicant brought his son to school on 3 September 2007, which happened to be the very date of the rite, as detailed in paragraphs 10 and 11 of the judgment. Furthermore, the decision to invite Fr M. to perform the rite of blessing was taken during the parent-teacher meeting on 1 September 2007. Given the importance of such a decision as well as the fact that some parents were absent, the school had an obligation to inform the parents about the rite in advance in order to fulfil its duty of *religious neutrality*. We therefore conclude that there has been a violation of Article 2 of Protocol No. 1.

### **C. The child as a rights-holder**

9. Although the majority reject the child’s complaint under Article 9, in addressing it they affirm that children have the right to freedom of religion (compare *Grzelak v. Poland*, no. 7710/02, 15 June 2010). So much is beyond cavil. However, it must be acknowledged that it has been the Court’s practice to examine cases such as the present one solely in terms of Article 2 of Protocol No. 1, thereby disregarding that right on the part of

children (see *Papageorgiou and Others v. Greece*, nos. 4762/18 and 6140/18, §§ 35-38, 31 October 2019, with further references).

10. This practice is to be deprecated. It seems obvious to us that a child in such a situation should be protected by his or her own rights under Article 9 and should therefore be able to rely on freedom of religion in his or her own name. The Court's practice to date is inconsistent with the special character of the Convention – Article 1 of which obliges the High Contracting Parties to secure the right to freedom of religion to “everyone” within their jurisdiction – as well as with the role it confers on the Court in Article 34, according to which “any person” who “claim[s] to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto” may make an application (compare *Sabeh El Leil v. France* [GC], no. 34869/05, § 48, 29 June 2011).

11. In the present case, since there are no countervailing factors, it is also in the child's “best interests” (in the “flexible and adaptable” sense of this concept recognised by the United Nations Committee on the Rights of the Child in General Comment No. 14 of 2013, CRC/C/GC/14) for the Court to consider his or her individual rights rather than ignoring them in favour of the rights of the parents. The rights asserted are not identical, even if they are to be read in harmony (see *Kjeldsen, Busk Madsen and Pedersen v. Denmark*, 7 December 1976, § 52, Series A no. 23). In any event, it cannot be presumed that the child's interests and those of the parents coincide (see, *mutatis mutandis*, *X v. Latvia* [GC], no. 27853/09, § 100, ECHR 2013). Importantly, General Comment No. 14 emphasises that there is an inextricable link between the “best interests” principle and the right of children to be heard.

12. The Court has often stated that the broad consensus in support of the paramountcy of the best interests of children extends to international law (see, for example, *Strand Lobben and Others v. Norway* [GC], no. 37283/13, § 204, 10 September 2019). It follows that this principle should be understood as a central aspect of the proper administration of justice in international courts and tribunals. Moreover, its centrality must be kept in mind throughout litigation involving children even when, as here, that litigation continues after they have attained majority.

13. In the interests of the proper administration of justice, and to be true to its role in the Convention system, the Court ought to adjust its practice. But Article 30 of the Convention makes it clear that only the Grand Chamber may properly depart from existing case-law. The many years that have passed since this application was lodged make it unreasonable for the Chamber to relinquish jurisdiction and thus incur further delay. We would consequently have preferred to adjudicate this case without deviating from the Court's current practice, that is, solely by reference to Article 2 of Protocol No. 1.



14. Admittedly the Court’s previous approach, seen from the child’s individual perspective, has certain disadvantages. However, the present case also highlights the weaknesses of an individualised approach. It seems quite difficult to establish what the child was feeling and experiencing at the material time of the facts. The child’s recorded statements (see paragraph 23 of the judgment) should also be read with caution. As witnesses, children are in a world of their own which does not correspond to that of adults. Last but not least, it was of course not the child who initiated the domestic proceedings and ultimately brought the case before the Court.

#### **D. The violation of the child’s right to freedom of religion**

15. Nevertheless, in the light of the majority’s decision to rule on the merits of the child’s complaint under Article 9, it is appropriate for us to briefly explain why, even if he was not pressured either to kiss the crucifix or to make the sign of the cross, we are of the opinion that his right to freedom of religion was violated.

16. The third applicant was only seven years old at the time of the rite. At that age, he could be easily influenced (see, *mutatis mutandis*, *Dahlab v. Switzerland* (dec.), no. 42393/98, ECHR 2001-V). In addition, as mentioned in paragraphs 10 and 11 of the judgment, the rite was conducted on his first day of regular schooling, a milestone in one’s life. Owing to these circumstances, he had not yet acquired the necessary experience to identify the rite as exceptional, and hence distinct from the schedule of a normal school day. Further, the child did not have the maturity to dissociate the school authorities from the rite. As a result, he experienced distress as witnessed by his parents (see paragraph 14 of the judgment). We therefore argue that the third applicant was particularly likely to be influenced.

17. This was all the more so given that active religious observance cannot be equated to the presence of an essentially passive symbol (contrast *Lautsi and Others*, cited above, § 72). *In casu*, the rite took on a particularly active dimension: the priest not only sang prayers but also distributed paper icons that were meant to be taken back home by the children. In our humble opinion, this aspect of the ceremony has an arguably more lasting effect on children than a prayer or incense and holy water.

18. Moreover, as mentioned in paragraph 11 of the judgment, the teacher explicitly drew the priest’s attention to the presence of a student “of another faith” (compare *Grzelak*, cited above, § 92). The majority conclude in paragraphs 74 and 75 that the State concerned did not breach its duty of religious neutrality, and justify this on the grounds that the third applicant’s involvement in the rite of blessing was limited to his “mere presence”. We respectfully disagree as regards the following aspects.

19. Firstly, as the majority rightly state, the priest had been informed by the teacher that a pupil was of a different faith. However, the teacher did not

consider it appropriate to explain the situation to the third applicant and to offer him the possibility of leaving if he felt uncomfortable. On the one hand, the behaviour of the priest cannot be attributed to the school. On the other hand, the teacher should not have delegated her responsibility to the priest either. She was primarily responsible for ensuring that the school maintained religious neutrality in this situation.

20. Secondly, we respectfully disagree with the majority’s emphasis on the “mere presence” required of the third applicant. In a similar case, the Supreme Court of the United States ruled that the child’s mere presence during a religious observance, that is to say, being in attendance and remaining silent, signified more than respect in a school context. Indeed, “[w]hat matters is that ... a reasonable dissenter in this milieu could believe that the group exercise signified her own participation or approval of it” (see the judgment of 24 June 1992, *Lee v. Weisman*, 505 U.S. 577, Justice Kennedy writing for the majority, at 593).

21. Thirdly, the majority state in paragraph 73 that there is no right “not to witness individual or collective manifestations of other religious or non-religious beliefs and convictions”. Although we agree on the substance, we find it relevant to temper this statement, given the particular school context in which the facts took place. In our opinion, pupils are particularly likely to be influenced, as they find themselves in a hierarchical relationship with the school authorities and their teachers. Witnessing religious observance in those circumstances therefore has a greater impact on children than in a peer-to-peer relationship. The US Supreme Court rightly stated that “[p]rayer exercises in elementary and secondary schools carry a particular risk of indirect coercion” and that “[w]hat to most believers may seem nothing more than a reasonable request that the nonbeliever respect their religious practices, in a school context may appear to the nonbeliever or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy” (see *Lee v. Weisman*, cited above, 592).

22. Finally, we also disagree with the reference to the blessing as simply an isolated incident (see paragraphs 66 and 76 of the judgment) and therefore of a negligible character. We once again refer to the US Supreme Court: “The injury caused by the government’s action, and the reason why Daniel and Deborah Weisman object to it, is that the State, in a school setting, in effect required participation in a religious exercise. It is, we concede, a brief exercise during which the individual can concentrate on joining its message, meditate on her own religion, or let her mind wander. But the embarrassment and the intrusion of the religious exercise cannot be refuted by arguing that these prayers ... are of a *de minimis* character. To do so would be an affront to the rabbi who offered them and to all those for whom the prayers were an essential and profound recognition of divine authority. And for the same reason, we think that the intrusion is greater

than the two minutes or so of time consumed for prayers like these” (see *Lee v. Weisman*, cited above, at 594).

23. Regard being had to the above, and considering the age of the third applicant, the circumstances of the first day of school, and the fact that he had virtually no possibility of escaping the religious act, the State – in our humble opinion – violated its duty of religious neutrality.

#### **E. Conclusion**

24. This application was lodged as far back as 2009; the then seven-year-old child is now an adult. Although the judgment that has finally emerged reflects his best interests in one narrow respect, which we hope the Grand Chamber will ponder in due course, the majority far too readily dismiss the merits of his complaint and that of his parents. (As regards the former, see, in particular, the very short reasoning in paragraphs 72 et seq. of the judgment; without examining the legal basis for the interference or the public interest, or whether the interference was necessary in a democratic society, the judgment refers essentially to the main arguments already mentioned under Article 2 of Protocol No. 1.) We respectfully dissent.