

to a violation of their right to freedom of religion as guaranteed by Article 9 §1 of the Convention and that the failure to enforce the judgment in their favour had violated their rights under Article 6 §1 and Article 1 of Protocol No 1. The Court concluded that the failure of the Moldovan authorities to register the Church (and therefore give it legal personality) prevented it and its followers from carrying out a number of essential functions. In essence, the refusal of the authorities to comply with the final judgment of the domestic courts and to register the Church had brought about a situation that, from the claimants' point of view, had the same effect as a rejection by the domestic courts of their claims. The Court therefore held that the authorities' inaction constituted an interference with the right of freedom of religion under Article 9 §1. Moreover, since the claimants had not had any effective remedy available to them in respect of their request to have the Church registered, there had also been a violation of Article 13 (right to an effective remedy). It should be noted that this is not the first time that the Court has found against Moldova under Article 9 in a registration case: see *Metropolitan Church of Bessarabia and Others v Moldova* [2001] ECHR (45701/99).

*Case note supplied by Frank Cranmer*

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### **Re All Saints, Burbage**

Salisbury Consistory Court: Wiggs Ch, February 2007

*Re-ordering – no necessity*

The petitioners sought leave to remove all the remaining pews in the church and to replace them with chairs, to lower the pew platforms to the level of the surrounding floor and to relocate the font. The chancellor refused the petition, having concluded, applying the *Bishopsgate* test, that the petitioners had not proved that the re-ordering was necessary. [JG]

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### **R (on the application of Gibbs) v Bishop of Manchester**

High Court, Queen's Bench Division: Munby J, February 2007

*Revocation of licence on notice – reasons – right of appeal*

After a risk assessment of G had been conducted, the bishop revoked G's licence to serve as a Church Army captain within the diocese. In so doing, the bishop

gave G three months' paid notice and advised him to take paid leave of absence during the period of notice. Permission had been granted to G to seek a judicial review of the revocation on the ground that the bishop had acted wholly unreasonably and unfairly in revoking his licence on notice, thereby depriving him of the right of appeal to the archbishop, such appeal lying only in the event of a summary revocation for cause under Canon E 8(5). However, the judge held that the bishop, having made no findings of fact adverse to G, was entitled to revoke the licence on reasonable notice rather than summarily for cause and expressly rejected G's submission that the bishop could only revoke a licence on notice where 'no blame or blemish' attaches to the licensee from the revocation. [RA]

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### **Re Candover Valley; Re Wield**

Church Commissioners, April 2007

*Pastoral Measure 1983 – proposed pastoral scheme – procedural irregularity*

The Church Commissioners decided, on the ground of procedural irregularity, that a pastoral scheme for the union of two benefices proposed under the Pastoral Measure 1983 should not be made. In particular, the commissioners noted that unqualified assurances of a freehold had been made to K, the present incumbent of both existing benefices, at the time of his appointment as priest-in-charge. Such assurances had given rise to legitimate expectations that he would be named in the draft Pastoral Scheme as first incumbent and that the fact of the assurances would be made known to all involved in the decision-making process. Those expectations had not been satisfied, in that the proposals submitted to the commissioners did not name him as first incumbent. Further, the recommendation of the Diocesan Pastoral Committee not to include K as designated first incumbent was flawed in that the DPC had mistakenly been informed that K had not received the above assurances. That constituted a procedural flaw of such seriousness that the proposed Scheme could not go ahead, regardless of its merits. The commissioners expressed regret that the said unqualified assurances had been given. [RA]

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