

EUROPEAN COURT / BULGARIA: Ahmadiyya Muslim Community denied registration

Refusal by authorities to register Ahmadiyya Muslim Community as a religious association breached the Convention

Registrar of the European Court (15.06.2017) – In today's Chamber judgment in the case of **Metodiev and Others v. Bulgaria** (application no. 58088/08) the European Court of Human Rights held, unanimously, that there had been a **violation of Article 9 (freedom of religion)** of the European Convention on Human Rights construed in the light of **Article 11 (freedom of association)**.

The case concerned the refusal by the authorities to register a new religious association called the Ahmadiyya Muslim Community as a denomination.

The Court found that the sole reason given by the Supreme Court of Cassation for the refusal was the lack of a sufficiently precise and clear indication of the beliefs and rites of the Ahmadi religion in the association's constitution. The domestic court had concluded that the constitution did not meet the statutory requirements of the Religions Act, which sought to distinguish between the various religions and to avoid confrontation between religious communities.

The Court noted that the Religions Act did not contain any specific indication as to the degree of precision required when it came to describing beliefs and rites or as to what specific information should be given in the statement accompanying the registration request.

The Court took the view that the approach adopted by the Court

of Cassation would lead in practice to refusing registration of any new religious association having the same doctrine as an existing religion. That approach could result in allowing the existence of only one religious association for each religious movement and in requiring all followers to adhere to it. The Court pointed out that the right to freedom of religion excluded in principle any assessment by the State of the legitimacy of religious beliefs or the forms of expression of those beliefs. In a democratic society, the State did not need to take measures to guarantee that religious communities were placed or remained under a single administration. The State had a duty to remain neutral. The authorities' role was not to take measures capable of giving priority to one religious denomination over another, or to remove the cause of tension by eliminating pluralism, but consisted in ensuring that opposing groups tolerated each other.

The Court concluded that the alleged lack of precision in the description of the beliefs and rites of the religious association in its constitution was not capable of justifying the refusal of registration, which was therefore not "necessary in a democratic society".

Principal facts

The applicants are 31 Bulgarian nationals, who are Ahmadi Muslims, a religious movement aligned with the Sunni tradition.

In February 2007 ten individuals, including nine of the applicants, decided to set up a new religious association called the Ahmadiyya Muslim Community, to be based in the town of Sandanski. The 22 other applicants subsequently became members of the community.

On 26 February 2007 Rumen Metodiev, the first applicant, filed with the district court of Sofia an application for the registration of the new religious association in accordance

with the Religions Act.

The court sought the opinion of the government department for religious affairs. On 31 May 2007 the court denied the application for registration, basing its decision on the report it received from the department, on the grounds that the Ahmadis were to be distinguished from the Muslim religion, were known for their religious intolerance, refusal of modernity, and polygamy, and were regarded as a sect by Muslims. The court noted that the constitution of the religious association did not specify its beliefs but merely copied aims and activities referred to in the law on non-profit legal entities. Lastly, it expressed the view that the registration of this association could provoke a schism within the Muslim community in Bulgaria.

Mr Metodiev appealed against this judgment on behalf of the association, complaining about a breach of its right to freedom of religion. The Sofia Court of Appeal upheld the judgment. The Supreme Court of Cassation dismissed the association's appeal. It pointed out that the Religions Act – requiring a precise statement of the beliefs and rites of religious associations – sought to distinguish clearly between the different religions and to avoid confrontations between religious communities.

Complaints, procedure and composition of the Court

Relying in particular on Articles 9 (freedom of religion) and 14 (prohibition of discrimination), the applicants alleged that the courts' refusal to register their association under the Religions Act breached their right to freedom of religion.

The application was lodged with the European Court of Human Rights on 20 October 2008.

Judgment was given by a Chamber of seven judges, composed as follows:

Angelika **Nußberger** (Germany), *President*,

Erik **Møse** (Norway),

André **Potocki** (France),

Yonko **Grozev** (Bulgaria),

Síofra **O'Leary** (Ireland),

Gabriele **Kucsko-Stadlmayer** (Austria),

Lətif **Hüseynov** (Azerbaijan),

and also Milan **Blaško**, *Deputy Section Registrar*.

Decision of the Court

Article 9

The Court found that the complaints were to be examined under Article 9 which, according to its case-law on similar complaints, was to be interpreted in the light of Article 11.

As regards the lawfulness of the interference, the Court noted that the domestic courts had based their decisions on the relevant provisions of the Religions Act and that their interpretation of it was consistent with the dominant case-law in such matters. The Court thus found that the interference was “prescribed by law”. As regards the aims pursued, the Court was of the view that the interference pursued the legitimate aims of protecting public order and the rights and freedoms of others.

However, the Court noted that the reasons given by the domestic courts had somewhat varied. The Supreme Court of Cassation had adopted as its sole ground the lack of any sufficiently precise and clear indication of the beliefs and rites of the Ahmadi faith in the association’s constitution. It had concluded that the constitution did not meet the requirements of the relevant provisions of the Religions Act,

which sought to distinguish between the different denominations and avoid confrontations between religious communities.

The Court observed that the name of the association clearly indicated that it belonged to the Ahmadiyya Community. The courts had not, at any time, observed that the name of this religious association could be a source of confusion. The association's constitution clearly showed that it belonged to the Ahmadi branch of Islam and set out the beliefs and fundamental values of its followers. The domestic courts had taken the view that this description was insufficient. The Court noted that the Religions Act did not contain any specific indication as to the degree of precision required for that description or as to what specific information should be given in the "statement of beliefs and rites" accompanying the registration request. Nor to the Court's knowledge were there any other regulations or guidelines which would have been accessible to the applicants and could have guided them in that connection. In addition, the applicants were not given the possibility of rectifying the shortcoming by providing additional information to the relevant courts.

The Court observed that the approach adopted by the Court of Cassation required the religious association, as a prerequisite for registration, to show how it was different from denominations already registered and, in particular, from the mainstream Muslim faith. Such an approach would lead in practice to the refusal of registration of any new religious association with the same doctrine as an existing religion. That approach could result in allowing the existence of only one religious association for each religious movement and in requiring all followers to adhere to it. Moreover, the assessment of the nature of beliefs was a matter for the courts and not for the religious communities themselves. The Court pointed out that the right to freedom of religion excluded in principle any assessment by the State of the

legitimacy of religious beliefs or the forms of expression of those beliefs. In a democratic society, the State did not need to take measures to guarantee that religious communities were placed or remained under a single administration. Even where a community was divided, the State had a duty to remain neutral and could not take measures in favour of one leader rather than another, or seek to oblige the religious community to be governed by a single administration. The authorities' role was not to take measures capable of giving priority to one religious denomination over another, or to remove the cause of tension by eliminating pluralism, but consisted in ensuring that opposing groups tolerated each other.

The Court concluded that the alleged lack of precision in the description of the beliefs and rites of the religious association in its constitution was not capable of justifying the refusal of registration, which was therefore not "necessary in a democratic society".

There had thus been a violation of Article 9 of the Convention interpreted in the light of Article 11.

Article 14

The Court found that the inequality of treatment alleged by the applicants had sufficiently been taken into account in its examination of Article 9 and that there was no need for a separate examination of the same facts under Article 14.

Just satisfaction (Article 41)

The Court held that Bulgaria was to pay Mr Metodiev 4,000 euros (EUR) in respect of non-pecuniary damage.

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