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Conscientious objection: Jehovah's Witnesses win a case in Strasbourg

Registrar of the European Court (07.06.2022) - In today's **Chamber** judgment¹ in the case of [Teliatnikov v. Lithuania](#) (application no. 51914/19) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights.

The case concerned Mr Teliatnikov's request for an exemption from military service and application for civilian service owing to his religious beliefs as a Jehovah's Witness minister.

The Court found in particular that the Lithuanian system of conscription failed to strike a balance between the needs of society as a whole and those of conscientious objectors, and that civilian service had merely a veneer of difference, as it remained under the military structures. It ultimately held that that the failure to respect the applicant's conscientious objections had not been "necessary in a democratic society".

Principal facts

The applicant, Stanislav Teliatnikov, is a Lithuanian national who was born in 1994 and lives in Konak (Izmir province, Turkey). He is a member of the Jehovah's Witnesses, a religion which opposes military service for its members. He rose to the status of minister within the faith.

In Lithuania Jehovah's Witnesses are a registered religious community but are not one of the nine State-recognised traditional religions.

In June 2015 Mr Teliatnikov was conscripted for military service. He wrote to the unit, explaining that he had to refuse military service or any supporting civilian service owing to his "Bible-trained conscience", asking for an exemption, or failing that alternative civilian service, citing Article 9 of the Convention and Article 26 of the Constitution. At the time ministers from the nine traditional religions were exempt from military service. In September 2015, the applicant's request for an exemption was denied, with the question of civilian service being left unaddressed.

That decision was upheld by the Ministry of National Defence, with reference to the constitutional duty of all citizens to perform military service.

Mr Teliatnikov began court proceedings, arguing that he should be exempt from military service owing to his status as a minister, alleging discrimination in the relevant law against Jehovah's Witnesses. Awaiting the verdict in a pending and similar Constitutional Court case, the Vilnius Regional Administrative Court suspended proceedings.

The Constitutional Court in the relevant ruling stated, among other things, as follows:

"... convictions, practised religion, or belief may not serve as a justification for ... failure to observe laws ... [E]veryone must observe the Constitution and laws ... Among other things, this means that, on the grounds of his or her convictions, practised religion, or belief, no one may refuse to fulfil constitutionally established duties [such as] the duty of a citizen to perform military or alternative national defence service, or demand exemption from these duties."

Following resumption of proceedings, in April 2019 the Supreme Administrative Court issued a final judgment, holding that that the constitutional duty of a citizen to perform mandatory military service or alternative national defence service applied to ministers of traditional and non-traditional churches or religious organisations in Lithuania. There were no grounds to exempt Mr Teliatnikov from military service, or alternative national defence service under the Constitution.

Complaints, procedure and composition of the Court

Relying on Article 9 (freedom of thought, conscience and religion), the applicant complained that he had been denied the right to refuse military service despite his genuine convictions in that connection with no possibility of civilian service.

The application was lodged with the European Court of Human Rights on 1 October 2019. Judgment was given by a Chamber of seven judges.

Decision of the Court

Under the Court's case-law a refusal to take up military service or alternatives could be a manifestation of an individual's religious beliefs. Although the applicant in this case had not been convicted of any crime in that regard, it nevertheless held that the refusal to grant him conscientious objector status had been an interference with his sincerely held religious beliefs. That interference had had a basis in domestic law and had been a constitutional duty of citizens with the aim of securing public safety.

The Court reiterated that compulsory military service imposed a heavy burden on individual citizens. It was necessary to strike a balance between the need to share the burden of military service and an individual's conscience. The Supreme Administrative Court had failed to examine whether there had indeed been weighty reasons so as not to exempt the applicant from military service. Indeed, that court had consistently promoted the constitutional obligations of individuals to the State above the right to religious freedom. Overall, the Lithuanian system of conscription failed to strike a balance between the needs of society as a whole and those conscientious objectors who were happy to contribute to society in some other way.

Regarding alternative civilian service, the Court held that that was not a real alternative, as it was part of the military superstructure, with draftees referred to as "military conscripts" throughout the regulations. States needed to establish alternatives outside of military command structures.

The Court ultimately found that the State's failure to respect the applicant's conscientious objections had not been "necessary in a democratic society", in violation of Article 9 of the Convention.

Just satisfaction (Article 41)

The Court held that Lithuania was to pay the applicant 3,000 euros (EUR) in respect of costs and expenses.

Orthodox Church of Lithuania seeks greater independence from Moscow Patriarchate

Interfax (30.05.2022) - <https://bit.ly/3m3xTjN> - Metropolitan Innokenty of Vilnius and Lithuania has asked the Moscow Patriarchate to grant his eparchy a special, more independent status.

The press service of the Orthodox Church of Lithuania said in a statement that this would be more like autonomy.

Metropolitan Innokenty described the address to the Moscow Patriarchate as a historic event. The Synod of the Russian Orthodox Church accepted his request for consideration. On May 27, the Synod decided to set up a commission to address the Lithuanian issue.

This would essentially mean bringing the status of the Orthodox Church in Lithuania in line with reality, as its hierarchs actually make all decisions independently today, Metropolitan Innokenty said.

"Our church does not pertain to Moscow or Russia but to Lithuania. All of its administrative decisions are made in Lithuania. In the complete absence of any financial ties with the Moscow Patriarchate, we're preserving the canonical and prayerful connection to the Mother Church and remain devoted to the traditions of Russian Orthodox piety," he said

The Orthodox Church of Lithuania currently enjoys the canonical status of an eparchy. The status of an independent church may be granted under the patriarchal tomos in accordance with a decision of a local council

The Orthodox Church is one of nine traditional religious communities in Lithuania. It has the status of the Moscow Patriarchate's metropolitanate.

Metropolitan Innokenty earlier dismissed several Orthodox priests after they criticized Russia's special military operation in Ukraine and expressed desire to split from the Moscow Patriarchate for this reason. The priests say that they have been persecuted for their dissenting views. However, the Lithuanian Orthodox community's leaders deny this, stating that the Orthodox Church of Lithuania also condemned Russia's actions, saying that those clerics divide the community and neglect their vows and other canons.

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