November 2014
This Factsheet does not bind the Court and is not exhaustive

Freedom of religion

See also the factsheets on "Children's rights", "Conscientious objection", "Health", "Parental rights", "Religious symbols and clothing", "Taxation", "Work-related rights".

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

"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."

General complaint about constitutional provision prohibiting construction of minarets

Ouardiri v. Switzerland and Association Ligue des Musulmans de Suisse and Others v. Switzerland

28 June 2011 (decisions on the admissibility)

The applicants – in the first case, a private individual of the Muslim faith who works for a foundation active in building relations between Islam and the rest of the world and, in the second case, three associations and a foundation whose common focal point is the Muslim faith – submitted that the prohibition on building minarets amounted to a violation of religious freedom and to discrimination on the ground of religion.

The Court declared the applications **inadmissible** (incompatibles *ratione personae*), on the ground that the applicants could not claim to be the victims of a violation of the Convention. As the applications were solely intended to challenge a constitutional provision applicable in a general manner in Switzerland, the Court considered in particular that the applicants had not shown that there were any highly exceptional circumstances capable of conferring victim status on them. On the contrary, their applications resembled an *actio popularis* aimed at having the compatibility of the constitutional provision with the Convention reviewed *in abstracto*. Furthermore, it was clear from a Federal Court judgment of 21 January 2010, concerning the compatibility of a constitutional provision with the Convention, that the Swiss courts would be able to review the compatibility with the Convention of any future refusal to allow the construction of a minaret.

Obligation to disclose religious convictions

On identity cards

Sinan Işık v. Turkey

2 February 2010

The applicant is a member of the Alevi religious community[1]. In 2004 he unsuccessfully applied to a court requesting that his identity card feature the word "Alevi" rather than the word "Islam". Until 2006 it was obligatory for the holder's religion to be indicated on an identity card (but since 2006 he or she has been entitled to request that the entry be left blank). Before the Court, the applicant complained that he was obliged to disclose his beliefs on his identity card, a public document that was used frequently in everyday life. He also complained about the denial of his request to have "Islam" on his identity card replaced by the name of his faith, "Alevi". He argued that the existing indication did not represent the reality and that the proceedings leading to the denial of his request were objectionable, as they involved an assessment of his religion by the State.

The Court held that there had been a **violation of Article 9** of the Convention, which had arisen not from the refusal to indicate the applicant's faith (Alevi) on his identity card but from the fact that his identity card contained an indication of religion, regardless of whether it was obligatory or optional. The Court underlined that the freedom to manifest one's religion had a negative aspect, namely the right not to be obliged to disclose one's religion.

Under **Article 46** (binding force and execution of judgments) of the Convention, the Court further indicated that the deletion of the "religion" box on identity cards could be an appropriate form of reparation to put an end to the breach in question.

On wage-tax cards

Wasmuth v. Germany

17 February 2011

This case concerned the German system of levying religious tax. The applicant was a lawyer in private practice and was also employed as a lector in a publishing house. On his wage-tax cards of the last few years, the entry "--" could be found in the field "Church tax deducted", informing his employer that he did not have to deduct any church tax for the applicant. The applicant complained about the compulsory disclosure on his wage-tax card of his non-affiliation with a religious society authorised to levy religious tax.

The Court held that there had been **no violation of Article 9** and **no violation of Article 8** (right to respect for private and family life) of the Convention. While there had been an interference with the applicant's rights under both Articles, it found that the interference had served the legitimate aim of ensuring the right of churches and religious societies to levy religious tax. It was further proportionate to that aim, as the reference at issue was only of limited informative value concerning the applicant's religious or philosophic conviction: it simply indicated to the fiscal authorities that he did not belong to one of the churches or religious societies which were authorised to levy religious tax and exercised that right in practice.

To avoid having to take religious oath in criminal proceedings

Dimitras and Others v. Greece

3 June 2013

The applicants were summoned to appear in court on various dates, as witnesses, complainants or suspects in criminal proceedings. In conformity with the Code of Criminal Procedure, they were asked to take the oath by placing their right hands on the Bible. Each time, they informed the authorities that they were not Orthodox Christians and preferred to make a solemn declaration instead, which they were authorised to do. The applicants complained in particular that they had been obliged to reveal their "non-Orthodox" religious convictions when taking the oath in court.

[1]. Which is deeply rooted in Turkish society and history. Their faith, which is influenced, in particular, by Sufism and pre-Islamic beliefs, is regarded by some Alevi scholars as a separate religion and by others as a branch of Islam.

The Court reiterated that freedom of thought, conscience and religion, which went hand in hand with pluralism, was one of the foundations of a "democratic society" and that in its religious dimension that freedom was an essential part of any believer's identity, as well as being a precious asset for atheists, agnostics, sceptics and the unconcerned. It had already held that freedom to manifest one's religious beliefs included an individual's right not to reveal his faith or his religious beliefs and not to be obliged to act or refrain from acting in such a way that it was possible to conclude that he did or did not have such beliefs – and all the more so when aptitude to exercise certain functions was at stake. In this case, the Court held that there had been a **violation of Article 9** of the Convention, finding that requiring the applicants to reveal their religious convictions in order to be allowed to make a solemn declaration had interfered with their freedom of religion, and that the interference was neither justified nor proportionate to the aim pursued. The Court also held that there had been a **violation of Article 13** (right to an effective remedy) of the Convention.

See also: ***Dimitras and Others (no. 3) v. Greece***, judgment of 8 January 2013.

When taking the oath of office

Alexandridis v. Greece

21 February 2008

The applicant was admitted to practise as a lawyer at Athens Court of First Instance and took the oath of office in November 2005, which was a precondition to practising as a lawyer. He complained that when taking the oath he had been obliged, in order to be allowed to make a solemn declaration, to reveal that he was not an Orthodox Christian, as there was only a standard form to swear a religious oath.

The Court held that there had been a **violation of Article 9** of the Convention, finding that that obligation had interfered with the applicant's freedom not to have to manifest his religious beliefs.

Obligation to swear a religious oath

Buscarini and Others v. San Marino

18 February 1999 (Grand Chamber)

Elected to the San Marino Parliament in 1993, the applicants complained of the fact that they had been required to swear an oath on the Christian Gospels in order to take their seats in Parliament, which in their view demonstrated that the exercise of a fundamental political right was subject to publicly professing a particular faith.

The Court held that there had been a **violation of Article 9** of the Convention. It found in particular that the obligation to take the oath was not "necessary in a democratic society" for the purpose of Article 9 § 2 of the Convention, as making the exercise of a mandate intended to represent different views of society within Parliament subject to a prior declaration of commitment to a particular set of beliefs was contradictory.

Proselytism

Kokkinakis v. Greece

25 May 1993

A Jehovah's Witness, the applicant complained of his criminal conviction of proselytism by the Greek courts in 1988 after engaging in a conversation about religion with a neighbour, the wife of a cantor at a local Orthodox church.

The Court held that there had been a **violation of Article 9** of the Convention, finding that the conviction had not been shown to have been justified in the circumstances of the case by a pressing social need. It noted in particular that he Greek courts had merely reproduced the wording of the law that made proselytism illegal without sufficiently

specifying in what way the applicant had attempted to convince his neighbour by improper means.

Larissis and Others v. Greece

24 February 1998

Air force officers and followers of the Pentecostal Church, the three applicants were convicted by Greek courts, in judgments which became final in 1992, of proselytism after trying to convert a number of people to their faith, including three airmen who were their subordinates.

The Court held that there had been **no violation of Article 9** of the Convention with regard to the measures taken against the applicants for the proselytising of air force service personnel, as it was necessary for the State to protect junior airmen from being put under undue pressure by senior personnel. However, the Court did find a **violation of Article 9** of the Convention with regard to the measures taken against two of the applicants for the proselytising of civilians, as they were not subject to pressure and constraints as the airmen.

Recognition, organisation and leadership of churches and religious communities

Hasan and Chaush v. Bulgaria

26 October 2000 (Grand Chamber)

The first applicant was the Chief Mufti of the Bulgarian Muslim community as from 1992. The second was a member of the community. Following a dispute in the community in 1994-95 as to who should be its leader, the first applicant was effectively replaced by the Bulgarian Government with another candidate who had previously held the post. The applicants complained in particular that there had been an unlawful and arbitrary interference with their religious liberties and the right of the believers and the religious community to govern their own affairs and to choose their leadership.

The Court considered that facts demonstrating a failure by the authorities to remain neutral in the exercise of their powers in respect of administrative registration of religious communities must lead to the conclusion that the State had interfered with the believers' freedom to manifest their religion within the meaning of Article 9 of the Convention. It found that State action favouring one leader of a divided religious community or undertaken with the purpose of forcing the community to come together under a single leadership against its own wishes would constitute an interference with freedom of religion. In democratic societies the State did not need to take measures to ensure that religious communities are brought under a unified leadership. In the applicants' case, observing that the acts of the Bulgarian authorities had operated, in law and in practice, to deprive the excluded leadership of any possibility of continuing to represent at least part of the Muslim community and of managing its affairs according to the will of that part of the community, the Court found that there had been an interference with the internal organisation of the Muslim religious community and the applicants' freedom of religion. Concluding that this interference had not been prescribed by law in that it had been arbitrary and had been based on legal provisions which allowed an unfettered discretion to the executive and had not met the required standards of clarity and foreseeability, the Court held that there had been a **violation of Article 9** of the Convention. Further finding that the leadership of the faction led by the first applicant had been unable to mount an effective challenge to the unlawful State interference in the internal affairs of the religious community and to assert their right to organisational autonomy, the Court held that there had been a violation of **Article 13** (right to an effective remedy) of the Convention.

Metropolitan Church of Bessarabia and Others v. Moldova

13 December 2001

This case concerned the Moldovan authorities' refusal to recognise the Metropolitan Church of Bessarabia, an Orthodox Christian church, on the ground that it had split up from the Metropolitan Church of Moldova, which was recognised by the State. The applicants, the Metropolitan Church of Bessarabia and a number of individuals holding positions in that Church, complained of that refusal and alleged that under the relevant domestic legislation a religious denomination could not be active inside Moldovan territory unless it had first been recognised by the authorities.

The Court noted in particular that as the applicant church had not been recognised it could not operate. In particular, its priests could not take divine service, its members could not meet to practise their religion and, not having legal personality, it was not entitled to judicial protection of its assets. Accordingly, the Court took the view that the Moldovan Government's refusal to recognise the applicant church had constituted an interference with the right of that church and the other applicants to freedom of religion, as guaranteed by Article 9 § 1 of the Convention. Finding in particular that in taking the view that the applicant church was not a new denomination and in making its recognition depend on the will of a recognised ecclesiastical authority, the Metropolitan Church of Moldova, the Government had failed to discharge their duty of neutrality and impartiality, the Court concluded that the refusal to recognise the applicant church had such consequences for the applicants' freedom of religion that it could not be regarded as proportionate to the legitimate aim pursued. It had not therefore been necessary in a democratic society and there had been a **violation of Article 9** the Convention. The Court further found that the applicants had not been able to obtain redress before a national authority in respect of their complaint concerning their right to freedom of religion and therefore held that there had also been a **violation of Article 13** (right to an effective remedy) of the Convention.

Jehovah's Witnesses of Moscow v. Russia

10 June 2010

The applicants were the religious community of Jehovah's Witnesses of Moscow and four members of the community. They complained in particular about the dissolution of the community and the banning of its activities, and about the refusal of the Russian authorities to re-register their organisation. They also complained of the excessively long dissolution proceedings.

The Court observed in particular that the decision of the Russian courts to dissolve the applicant community and to ban its activities had resulted in its inability to exercise its right to own or rent property, to maintain bank accounts, to hire employees and to ensure judicial protection of the community, its members and its assets. That decision had been based on the Religious Act and had pursued the legitimate aim of the protection of health and the rights of others. However, having examined in detail the arguments of the Russian authorities, including the domestic courts, the Court found that the decision on the applicant community's dissolution had not rested on an appropriate factual basis. The Court consequently held that there had been a **violation of Article 9** of the Convention **read in the light of Article 11** (freedom of assembly and association), finding that the dissolution of the community had been an excessively severe and disproportionate sanction compared to the legitimate aim pursued by the authorities. The Court also held that there had been a **violation of Article 11** of the Convention **read in the light of Article 9**, finding that in denying re-registration to the Jehovah's Witnesses of Moscow, the Moscow authorities had not acted in good faith and had neglected their duty of neutrality and impartiality vis-à-vis the applicant community. Lastly, the Court held that there had been a **violation of Article 6 § 1** (right to a fair trial within a reasonable time) of the Convention, finding that the length in the dissolution proceedings had been excessive.

Magyar Keresztény Mennonita Egyház and Others v. Hungary

8 April 2014

The applicants are various religious communities, some of their ministers and some of their members. Prior to the adoption of a new Church Act, which entered into force in January 2012, the religious communities were registered as churches in Hungary and received State funding. Under the new law only a number of recognised churches continued to receive funding. All other religious communities, including the applicants, lost their status as churches but were free to continue their religious activities as associations. Following a decision of the Constitutional Court, which found certain provisions of the new Church Act unconstitutional, religious communities such as the applicants could continue to function and to refer to themselves as churches. However, the law continued to apply in so far as it required the communities to apply to Parliament to be registered as incorporated churches if they wished to regain access to the monetary and fiscal advantages they had previously enjoyed. The applicants complained in particular of their deregistration under the new law and of the discretionary reregistration of churches.

The Court considered that the deregistration of the applicants as churches had constituted an interference with their rights under Articles 9 and 11 (freedom of assembly and association) of the Convention. It was undisputed that this interference had been prescribed by law, namely the 2011 Church Act. The Court was prepared to accept that the measure could be considered to have served the legitimate aim of preventing disorder and crime for the purpose of Article 11, notably by attempting to combat fraudulent activities by certain churches. It concluded however that the measure imposed by the Church Act had not been "necessary in a democratic society" and therefore held that there had been a **violation of Article 11 read in the light of Article 9** of the Convention. The Court found in particular that the Hungarian Government had not shown that there were not any other, less drastic solutions to problems relating to abuse of State subsidies by certain churches than to de-register the applicant communities. Furthermore, it was inconsistent with the State's duty of neutrality in religious matters that religious groups had to apply to Parliament to obtain re-registration as churches and that they were treated differently from incorporated churches with regard to material benefits without any objective grounds.

Refusal to provide public services in religious matters

Application pending before the Grand Chamber

Doğan and Others v. Turkey (application no. 62649/10)

Application communicated to the Turkish Government on 7 May 2013 – Relinquishment of jurisdiction in favour of the Grand Chamber in November 2014

The applicants, 203 Turkish nationals who are members of the Alevi[2] religious community, complain about the authorities' refusal to provide public services in religious matters to Alevi citizens and consider that they are subjected to discriminatory treatment in comparison to citizens who belong to the Sunni branch of Islam.

In May 2013 the Court gave notice of the application to the Turkish Government and put questions to the parties under Article 9 of the Convention and Article 14 (prohibition of discrimination) of the Convention taken in conjunction with Article 9.

On 25 November 2014 the Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber.

The Court will hold a Grand Chamber hearing in the case on Wednesday 3 June 2015 at 9.15 a.m.

[2]. See footnote 1. above.

Religious holidays

Kosteski v. "The former Yugoslav Republic of Macedonia"

13 April 2006

In April 1998 the applicant was fined for taking a day's holiday without permission to celebrate Bayram, a Muslim religious festival. He appealed. In July 2000 the Constitutional Court noted that the applicant requested rights relating to freedom of religion but that he refused to give any evidence concerning his beliefs. It concluded that the applicant had not been discriminated against by the requirement to establish the objective facts and dismissed his complaint.

The applicant complained that his fine for absence from work when he was celebrating a Muslim holiday was in breach Article 9 (freedom of thought, conscience and religion) taken alone and in conjunction with Article 14 (prohibition of discrimination).

The Court held that there had been **no violation of Article 9** of the Convention and **no violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 9**. Having recalled that Article 9 of the Convention listed a number of forms which manifestation of one's religion or belief may take but that it did not, however, protect every act motivated or inspired by a religion or belief, it was not persuaded that attendance at a Muslim festival was a manifestation of the applicant's beliefs in the sense protected by Article 9 or that the penalty imposed on him for breach of contract in absenting himself without permission was an interference with those rights. Furthermore the Court did not find it unreasonable that an employer might regard absence without permission or apparent justification as a disciplinary matter. It stated that where an employee sought to rely on a particular exemption, it was not oppressive or in fundamental conflict with freedom of conscience to require some level of substantiation.

Francesco Sessa v. Italy

3 April 2012

The applicant was a member of the Jewish faith and a lawyer by profession. In his capacity as representative of one of the complainants in a case, he appeared before an investigating judge at a hearing concerning the production of evidence. As the judge was prevented from sitting, his replacement invited the parties to choose between two dates for the adjourned hearing. The applicant pointed out that both dates corresponded to Jewish religious festivals and that his religious obligations would prevent him from attending. The hearing was set down for one of the two dates in question and the applicant applied for an adjournment. The prosecution and counsel for the defendants objected to the application on the ground that there was no legally recognised reason for granting an adjournment. The applicant alleged that the refusal by the judicial authority to postpone the hearing set down for the date of a religious festival prevented him from taking part in his capacity as the representative of one of the complainants and infringed his right to manifest his religion freely.

The Court held that there had been **no violation of Article 9** of the Convention. It was in particular not convinced that holding the hearing in question on the date of a Jewish holiday and refusing to adjourn it to a later date amounted to a restriction on the applicant's right to freely manifest his faith. Even supposing that there had been an interference with the applicant's right under Article 9 § 1, the Court considered that such interference, prescribed by law, was justified on grounds of the protection of the rights and freedoms of others – and in particular the public's right to the proper administration of justice – and the principle that cases be heard within a reasonable time. The interference had observed a reasonable relationship of proportionality between the means employed and the aim pursued.

Ritual slaughter of animals

Cha'are Shalom ve Tsedek v. France

27 June 2000 (Grand Chamber)

The applicant, a Jewish liturgical association, complained about the French authorities' refusal to grant it the approval necessary for access to slaughterhouses with a view to performing ritual slaughter in accordance with the ultra-orthodox religious prescriptions of its members, for whom meat is not kosher unless it is "glatt"[3]. It maintained in particular that the refusal of its application for approval had infringed its freedom to manifest its religion through observance. It also alleged a violation of Article 14 (prohibition of discrimination) of the Convention in that only the Jewish Consistorial Association of Paris (*Association consistoriale israélite de Paris* – "the ACIP"), to which the large majority of Jews in France belong, had received the approval in question.

The Court held that there had been **no violation of Article 9** of the Convention. In the Court's opinion, there would have been an interference with the applicant association's right to freedom to manifest its religion only if the illegality of performing ritual slaughter had made it impossible for ultra-orthodox Jews to eat meat from animals slaughtered in accordance with the religious prescriptions they considered applicable. But, since it had not been established that Jews belonging to the applicant association could not obtain "glatt" meat, or that the applicant association could not supply them with it by reaching an agreement with the ACIP, in order to be able to engage in ritual slaughter under cover of the approval granted to the ACIP, the Court considered that the refusal of approval complained of did not constitute an interference with the applicant association's right to the freedom to manifest its religion. The Court also held that there had been **no violation of Article 9** of the Convention **taken in conjunction with Article 14** (prohibition of discrimination) in the present case.

Withdrawal of permission to organise religious activities when renewing residence permit

Perry v. Latvia

8 November 2007

The applicant, an American national, was a pastor belonging to *Morning Star International*, a federation of Christian communities of an evangelical protestant tendency based in the United States. In 1997 he settled in Latvia and set up a community affiliated to the federation named *Rīta Zvaigzne* ("Morning Star"). He complained in particular that although the Latvian authorities had issued him with a residence permit they refused to allow him to engage in religious activities.

The Court reiterated that religious freedom implied 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 shared. It also noted that the present case concerned a typical example of interference for the purposes of Article 9 of the Convention. In the applicant's case, the Court held that there had been a **violation of Article 9**, finding that the interference with the applicant's right to freedom of religion had not been prescribed by law. It observed in particular that no provision of Latvian law in force at the material time had entitled the Nationality and Migration Directorate to use the renewal of a residence permit as a pretext for prohibiting a foreign national from performing religious activities in Latvia. In addition, although the applicant had been able to continue taking part in the spiritual life of his parish as an ordinary member, it reiterated that religious communities existed universally in the form of organised structures and abided by rules which were often seen by followers as being of divine origin. Accordingly, religious

[3]. Meat from slaughtered animals cannot be "glatt" if an examination of their lungs reveals the slightest blemish.

ceremonies had sacred value for believers if they were conducted by ministers empowered for that purpose in compliance with such rules.

Further readings

See in particular:

- ***Overview of the European Court of Human Rights' case-law on freedom of religion***, report prepared by the Research Division of the Court, updated on 31 October 2013.

Media Contact:
Tel.: +33 (0)3 90 21 42 08