CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

CASE OF AGGA v. GREECE

(Applications nos. 50776/99 and 52912/99)

JUDGMENT

STRASBOURG

17 October 2002

FINAL

17/01/2003

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 Agga v. Greece,

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

Mrs F. TULKENS, *President*,
Mr C.L. ROZAKIS,
Mr G. BONELLO,
Mr P. LORENZEN,
Mrs N. VAJIĆ,
Mr E. LEVITS,
Mr A. KOVLER, *judges*,
and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 26 September 2002,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in two applications (nos. 50776/99 and 52912/99) against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Greek national, Mr Mehmet Agga ("the applicant"), on 31 August 1999 and 23 November 1999 respectively.

2. The applicant was represented by Mr H. Aga and Mr S. Emin, both lawyers practising in Xanthi and Komotini (northern Greece). The Greek Government ("the Government") were represented by Mr K. Georgiadis and Mr V. Kyriazopoulos of the Legal Council of the State, Acting Agents.

3. The applicant alleged, in particular, that his conviction for usurping the functions of a minister of a "known religion" amounted to a violation of his rights under Articles 9 and 10 of the Convention.

4. The applications were allocated to the Second Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1 of the Rules of Court.

5. The Chamber decided to join the proceedings in the applications (Rule 43 § 1).

6. By a decision of 20 September 2001 Court declared the applications partly admissible.

7. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed First Section.

8. The applicant and the Government each filed observations on the merits (Rule 59 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

9. The applicant was born in 1932 and lives in Xanthi.

10. In 1990 one of the two Muslim religious leaders of Thrace, the Mufti of Xanthi, died. On 15 February 1990 the local Prefect (Νομάρχης) appointed the applicant to act as a deputy (τοποτηρητής).

11. In August 1990 the two independent Muslim Members of Parliament for Xanthi and Rodopi requested the State to organise elections for the post of Mufti of Xanthi. Having received no reply, the two independent MPs decided to organise themselves elections at the mosques on 17 August 1990 after the prayers. On that date the applicant was chosen to be the Mufti of Xanthi by those attending Friday prayers at the mosques.

12. On 24 December 1990 the President of the Republic, on the proposal of the Council of Ministers and under Article 44 § 1 of the Constitution, adopted a Legislative Act (πράξη νομοθετικού περιεχομένου) by which the manner of election of the Muftis was changed. Law no. 1920/1991 retroactively validated the Legislative Act of 24 December 1990.

13. On 20 August 1991, in accordance with the new regulations, the Greek State appointed another Mufti. The applicant refused to step down.

14. Eight sets of criminal proceedings were instituted against the applicant under Articles 175 and 176 of the Criminal Code for having usurped the functions of a minister of a "known religion". The Court of Cassation, considering that there might be disturbances in Xanthi, decided, under Articles 136 and 137 of the Code of Criminal Procedure, that the proceedings should take place in other cities. The applicant was legally represented throughout the proceedings by lawyers of his own choice. The courts heard a number of prosecution and defence witnesses.

A. First set of proceedings

15. On 17 January 1994 criminal proceedings were instituted against the applicant on the ground that on 11 January 1993 and 19 April 1993 he had issued messages in the capacity of the mufti of Xanthi.

16. On 28 June 1996 the single-member first instance criminal court (Μονομελές Πλημμελειοδικείο) of Agrinio found the applicant guilty and sentenced him to ten months' imprisonment (decision no. 2206/1996). The applicant appealed (see below paragraph 19).

B. Second set of proceedings

17. On an unspecified date the applicant was charged for having issued messages in the capacity of the mufti of Xanthi on 3 January 1994, 19 January 1994 and 10 February 1994.

18. On 28 June 1996 the single-member first instance criminal court of Agrinio found the applicant guilty and sentenced him to ten months' imprisonment (decision no. 2207/1996). The applicant appealed.

19. On 29 April 1998 the three-member first instance criminal court (Τριμελές Πλημμελειοδικείο) of Agrinio upheld the applicant's conviction in the first and second sets of proceedings. It imposed a global sentence of six months' imprisonment and converted it into a fine (decision no. 682/1998). The applicant appealed in cassation. He alleged that his conviction amounted to a violation of Articles 6, 9, 10 and 14 of the Convention (see below paragraph 29).

C. Third set of proceedings

20. On 20 January 1996 a third set of proceedings was instituted against the applicant for the same offence on the ground that on 3 May 1995, 11 November 1995, 13 December 1995, 30 December 1995 and 17 January 1996 he had issued messages in the capacity of the mufti of Xanthi.

21. On 3 April 1997 the single-member first instance criminal court of Lamia found the applicant guilty and sentenced him to twelve months' imprisonment (decision no. 1336/1997). The applicant appealed.

22. On 25 February 1998 the three-member first instance criminal court of Lamia upheld the applicant's conviction and imposed a sentence of eight months' imprisonment. The court converted this sentence into a fine (decision no. 641/1998). The applicant appealed in cassation. He alleged that his conviction amounted to a violation of Articles 6, 9, 10 and 14 of the Convention (see below paragraph 29).

D. Fourth set of proceedings

23. On 10 September 1996 a fourth set of proceedings was instituted against the applicant on the ground that on 8 August 1995 he had issued a message in the capacity of the mufti of Xanthi.

24. On 3 April 1997 the single-member first instance criminal court of Lamia found the applicant guilty and imposed on him an eight months' prison sentence (decision no. 1335/1997). The applicant appealed.

25. On 25 February 1998 the three-member first instance criminal court of Lamia upheld the applicant's conviction but reduced the prison sentence to six months and converted it into a fine (decision no. 640/1998). The applicant appealed in cassation. He alleged that his conviction amounted to

a violation of Articles 6, 9, 10 and 14 of the Convention (see below paragraph 29).

E. Fifth set of proceedings

26. On an unspecified date a fifth set of proceedings was instituted against the applicant on the ground that on 6 March 1994, 15 May 1994, 14 August 1994, 22 November 1994, 24 December 1994 and 9 January 1995 he had issued messages in the capacity of the mufti of Xanthi.

27. On 7 May 1996 the single-member first instance criminal court of Thessaloniki found him guilty and sentenced him to ten months' imprisonment (decision no. 23145/1996). The applicant appealed.

28. On 5 November 1998 the three-member first instance criminal court of Thessaloniki upheld the applicant's conviction but reduced the prison sentence to eight months and converted it into a fine (decision no. 14370/1998). The applicant appealed in cassation. He alleged that his conviction amounted to a violation of Articles 6, 9, 10 and 14 of the Convention (see below paragraph 30).

F. The judgments given by the Court of Cassation in the above cases

29. On 12 March 1999 the Court of Cassation rejected the applicant's appeals concerning the first, second, third and fourth sets of proceedings. It considered that the offence in Article 175 of the Criminal Code was committed "when somebody appeared as a minister of a known religion and when he discharged the functions of the minister's office including any of the administrative functions pertaining thereto". The court considered that the applicant had committed this offence because he behaved and appeared as the Mufti of Xanthi. It further considered that the applicant's conviction was not contrary to Articles 9, 10 and 14 of the Convention, because the applicant had not been punished for his religious beliefs or for expressing certain views but for usurping the functions of a Mufti. As regards Article 6 of the Convention, the Court of Cassation considered that the applicant was legally represented by lawyers of his own choice throughout the proceedings and that he had exercised all his defence rights (judgments nos. 592/1999 and 594/1999).

30. On 2 June 1999 the Court of Cassation rejected the applicant's appeal concerning the fifth set of proceedings for the reasons set out in its judgments nos. 592/1999 and 594/1999 (judgment no. 1133/1999).

G. Sixth, seven and eighth sets of proceedings

31. Three more sets of proceedings were instituted against the applicant on the ground that on various dates he had issued messages in the capacity

of the mufti of Xanthi. The applicant was found guilty by the single-member first instance criminal court of Lamia (decisions nos. 4660/1997, 2552/1998 and 4699/1997).

32. On 28 March 2001 the three-member first instance criminal court of Lamia acquitted the applicant in the light of the Court's judgment in the *Serif v. Greece* case (no. 38178/97, ECHR 1999–IX). The court held that, by addressing religious messages to a group of people who voluntarily followed him as their religious leader, the applicant had not usurped the functions of a minister of a "known religion", but had simply exercised his right to manifest his religion, a right guaranteed by Article 9 of the Convention (decisions nos. 1000/2001, 1001/2001 and 1002/2001).

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. International treaties

33. Article 11 of the Treaty of Peace of Athens between Greece and others, on the one hand, and the Ottoman Empire, on the other, which was concluded on 17 May 1913 and ratified by the Greek Parliament by a law published in the Official Gazette on 14 November 1913, provides as follows:

(original)

> « La vie, les biens, l'honneur, la religion et les coutumes de ceux des habitants des localités cédées à la Grèce qui resteront sous l'administration hellénique seront scrupuleusement respectés.
>
> Ils jouiront entièrement des mêmes droits civils et politiques que les sujets hellènes d'origine. La liberté, la pratique extérieure du culte seront assurées aux Musulmans (...)
>
> Aucune atteinte ne pourra être portée à l'autonomie et à l'organisation hiérarchique des communautés musulmanes existantes ou qui pourraient se former, ni à l'administration des fonds et immeubles qui leur appartiennent (...)
>
> Les Muftis, chacun dans sa circonscription, seront élus par les électeurs musulmans (...)
>
> Les Muftis, outre leur compétence sur les affaires purement religieuses et leur surveillance sur l'administration des biens vacoufs, exerceront leur juridiction entre musulmans en matière de mariage, divorce, pensions alimentaires (néfaca), tutelle, curatelle, émancipation de mineurs, testaments islamiques et successions au poste de mutévelli (Tévliét).
>
> Les jugements rendus par les Muftis seront mis à exécution par les autorités helléniques compétentes.

> Quant aux successions, les parties Musulmanes intéressées pourront, après accord préalable, avoir recours au mufti, en qualité d'arbitre. Contre le jugement arbitral ainsi rendu toutes les voies de recours devant les tribunaux du pays seront admises, à moins d'une clause contraire expressément stipulée. »

34. On 10 August 1920 Greece concluded two treaties with the principal Allied Powers in Sèvres. By the first treaty the Allied powers transferred to Greece all the rights and titles which they had acquired over Thrace by virtue of the Peace Treaty they had signed with Bulgaria at Neuilly-sur-Seine on 27 November 1919. The second treaty concerned the protection of minorities in Greece. Article 14 § 1 of the second treaty provides as follows:

> "Greece agrees to take all necessary measures in relation to the Moslems to enable questions of family law and personal status to be regulated in accordance with Moslem usage."

35. On 30 January 1923 Greece and Turkey signed a treaty for the exchange of populations. On 24 July 1923 Greece and others, on the one hand, and Turkey, on the other, signed the Treaty of Peace of Lausanne. Articles 42 and 45 of this treaty give the Moslem minority of Greece the same protection as Article 14 § 1 of the Treaty for the Protection of Minorities of Sèvres. On the same day Greece signed a Protocol with the principal Allied Powers bringing into force the two treaties concluded in Sèvres on 10 August 1920. The Greek Parliament ratified the three above-mentioned treaties by a law published in the Official Gazette on 25 August 1923.

36. In its decision no. 1723/1980 the Court of Cassation considered that it was obliged to apply Islamic law in certain disputes between Moslems by virtue of the Treaty of Peace of Athens of 1913, the Treaty for the Protection of Minorities of Sèvres of 1920 and the Treaty of Peace of Lausanne of 1923.

B. The legislation on the Muftis

37. Law no. 2345/1920 provided that the Muftis, in addition to their religious functions, would have competence to adjudicate on family and inheritance disputes between Moslems in so far as these disputes are governed by Islamic law. It also provided that the Muftis were directly elected by the Moslems who had the right to vote in the national elections and who resided in the Prefectures in which the Muftis would serve. The elections were to be organised by the State and theological school graduates had the right to be candidates. Article 6 § 8 of the law provided for the promulgation of a royal decree to make detailed arrangements for the elections of the Muftis. Such a decree was never promulgated.

38. Under the legislative act of 24 December 1990 the functions and qualifications of the Muftis remain largely unchanged. However, provision is made for the appointment of the Muftis by presidential decree following a

proposal by the Minister of Education who, in his turn, must consult a committee composed of the local Prefect and a number of Moslem dignitaries chosen by the State. The act expressly abrogates Law no. 2345/1920. In the act it is envisaged that it should be ratified by law in accordance with Article 44 § 1 of the Constitution.

39. Law no. 1920/1991 retroactively validated the legislative act of 24 December 1990.

C. Legislative acts under Article 44 § 1 of the Constitution

40. Article 44 § 1 of the Constitution provides as follows:

> "In exceptional circumstances, when an extremely urgent and unforeseeable need arises, the President of the Republic may, on the proposal of the Council of Ministers, adopt legislative acts. These acts must be submitted to Parliament for approval ... within forty days ..."

D. Relevant provisions of the Criminal Code

41. Article 175 of the Criminal Code provides as follows:

> "1. A person who intentionally usurps the functions of a State or municipal official is punished with imprisonment up to a year or a fine.
>
> 2. This provision also applies when a person usurps the functions of a lawyer or a minister of the Greek Orthodox Church or another known religion."

42. The Court of Cassation has considered that this provision applies in the case of a former priest of the Greek Orthodox Church who continues to wear the priest robes (decision no. 378/1980). The priest in question was defrocked after he joined the Old Calendarists, a religious movement formed by Greek Orthodox priests who wanted the Church to maintain the Julian calendar. In decision no. 454/1966 the Court of Cassation considered that the offence in Article 175 of the Criminal Code is also committed by a person who purports to discharge the administrative functions of a priest. In decisions nos. 140/1964 and 476/1971 the Court of Cassation applied Article 175 of the Code to cases of persons who had purported to exercise the religious functions of an Orthodox priest by conducting services, christening children etc.

43. Article 176 of the Criminal Code provides as follows:

> "A person who publicly wears the uniform or the insignia of a State or municipal official or of a religious minister of those referred to in Article 175 § 2 without having the right to do so ... is punished with imprisonment up to six months or a fine."

E. The legislation on ministers of "known religions"

44. Ministers of the Greek Orthodox Church and other "known" religions enjoy a number of privileges under domestic law. *Inter alia*, the religious weddings they celebrate produce the same legal effects as civil weddings and they are exempt from military service.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION

45. The applicant complained that his conviction amounted to a violation of Article 9 of the Convention, which provides 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."

46. The Government argue that there has been no interference with the applicant's right to freedom of religion because Article 9 does not guarantee for the applicant the right to impose on the others his understanding as to Greece's obligations under the Treaty of Peace of Athens.

47. In any event, even if there had been an interference, the Government argue that it would have been justified under the second paragraph of Article 9. It was provided by law, namely Articles 175 and 176 of the Criminal Code. These provisions have been interpreted by the courts in a manner which rendered his conviction foreseeable. Moreover, the interference served a legitimate purpose. By protecting the authority of the lawful Mufti the domestic courts sought to preserve order in the particular religious community and in society at large. They also sought to protect the international relations of the country, an area over which States exercise unlimited discretion.

48. The Government further contend that the interference was necessary in a democratic society. To start with, in many countries, the Muftis are appointed by the State. In Greece, Muftis exercise important judicial functions and judges cannot be elected by the people. This is all the more so that in the instant case the "election" of the applicant had been flawed because it had not been the result of a democratic procedure and the

applicant had been used by the local Muslim MPs for party political purposes. Moreover, given that there were two Muftis in Xanthi at the time and that the applicant had questioned the legality of the acts of the lawful mufti, the courts had to convict the spurious one in order not to create tension among the Moslems, between the Moslems and Christians and between Turkey and Greece. In any event, the State had to protect the office of the mufti and, even if there had not existed a lawfully appointed mufti, the applicant would have had to be punished. In this respect, the Government submit that the Court of Cassation did not convict the applicant simply because he appeared as the Mufti. In fact, the courts considered that the offence in Article 175 is committed when somebody actually discharges the functions of a religious minister and that the acts perpetrated by the applicant fell within the administrative functions of a mufti in the broad sense of the term.

49. Lastly, the Government stress that the judgments of the Court of Cassation were given before the Court's judgment in the *Serif v. Greece* case (op. cit.). In this respect, they point out that the applicant was acquitted in the last three sets of proceedings which were instituted against him.

50. The applicant disagrees with the Government's arguments. He submits that his conviction amounted to an interference with his right to be free to exercise his religion together with all those who turned to him for spiritual guidance. He further considers that his conviction was not prescribed by law. In this respect he affirms that the Treaty of Peace of Athens remains in force. The Greek Prime-Minister accepted that at the Diplomatic Conference leading to the 1923 Treaty of Peace of Lausanne. Moreover, the Court of Cassation has recently confirmed the continued validity of the Treaty of peace of Athens and legal scholars hold the same view. The Muslims had never accepted the abrogation of Law no. 2345/1920. The applicant lastly contends that his conviction was not necessary in a democratic society. He points out that the Christians and Jews in Greece have the right to elect their religious leaders. Depriving the Muslims of this possibility amounts to discriminatory treatment.

51. The Court must consider whether the applicant's Article 9 rights were interfered with and, if so, whether such interference was "prescribed by law", pursued a legitimate aim and was "necessary in a democratic society" within the meaning of Article 9 § 2 of the Convention.

A. Existence of an interference

52. The Court recalls that, while religious freedom is primarily a matter of individual conscience, it also includes, *inter alia*, freedom, in community with others and in public, to manifest one's religion in worship and teaching (see, *mutatis mutandis*, the Kokkinakis v. Greece judgment of 25 May 1993, Series A no. 260-A, p. 17, § 31).

53. The Court further recalls that the applicant was convicted for having usurped the functions of a minister of a "known religion". The facts underlying the applicant's conviction, as they transpire from the relevant domestic court decisions, were issuing messages of a religious content in the capacity of the Mufti of Xanthi. In these circumstances, the Court considers that the applicant's conviction amounts to an interference with his right under Article 9 § 1 of the Convention, "in community with others and in public ..., to manifest his religion ... in worship [and] teaching" (see the *Serif v. Greece* judgement cited above, p. 85, § 39).

B. "Prescribed by law"

54. Despite the parties' disagreement as to whether the interference in issue was "prescribed by law", the Court does not consider it necessary to rule on the question because, in any event, the applicant's conviction is incompatible with Article 9 on other grounds (see the *Serif v. Greece* judgement cited above, p. 86, § 42).

C. Legitimate aim

55. The Court accepts that the interference in question pursued a legitimate aim under Article 9 § 2 of the Convention, namely "to protect public order". It notes in this connection that the applicant was not the only person claiming to be the religious leader of the local Muslim community and that on 20 August 1991 the authorities had appointed another person as Mufti of Xanthi (see the *Serif v. Greece* judgement cited above, p. 86, § 45).

D. "Necessary in a democratic society"

56. The Court recalls that freedom of thought, conscience and religion is one of the foundations of a "democratic society" within the meaning of the Convention. The pluralism inherent in a democratic society, which has been dearly won over the centuries, depends on it. It is true that in a democratic society it may be necessary to place restrictions on freedom of religion to reconcile the interests of the various religious groups (see the Kokkinakis judgment cited above, pp. 17 and 18, §§ 31 and 33). However, any such restriction must correspond to a "pressing social need" and must be "proportionate to the legitimate aim pursued" (see, among others, the Wingrove v. the United Kingdom judgment of 25 November 1996, *Reports of Judgments and Decisions* 1996-V, p. 1956, § 53).

57. The Court also recalls that the applicant was convicted under Articles 175 and 176 of the Criminal Code, which render criminal offences certain acts against ministers of "known religions". The Court notes in this connection that, although Article 9 of the Convention does not require

States to give legal effect to religious weddings and religious courts' decisions, under Greek law weddings celebrated by ministers of "known religions" are assimilated to civil ones and the muftis have competence to adjudicate on certain family and inheritance disputes between Muslims. In such circumstances, it could be argued that it is in the public interest for the State to take special measures to protect from deceit those whose legal relationships can be affected by the acts of religious ministers. However, the Court does not consider it necessary to decide this issue, which does not arise in the applicant's case.

58. The Court notes in this connection that the domestic courts that convicted the applicant did not mention in their decisions any specific acts by the applicant with a view to producing legal effects. The domestic courts convicted the applicant on the mere ground that he had issued messages of religious content and that he had signed them as the Mufti of Xanthi. Moreover, it has not been disputed that the applicant had the support of at least part of the Muslim community in Xanthi. However, in the Court's view, punishing a person for merely presenting himself as the religious leader of a group that willingly followed him can hardly be considered compatible with the demands of religious pluralism in a democratic society.

59. The Court is not oblivious of the fact that in Xanthi there existed, in addition to the applicant, an officially appointed Mufti. Moreover, the Government argued that the applicant's conviction was necessary in a democratic society because his actions undermined the system put in place by the State for the organisation of the religious life of the Muslim community in the region. However, the Court recalls that there is no indication that the applicant attempted at any time to exercise the judicial and administrative functions for which the legislation on the muftis and other ministers of "known religions" makes provision. As for the rest, the Court does not consider that, in democratic societies, the State needs to take measures to ensure that religious communities remain or are brought under a unified leadership.

60. It is true that the Government argued that, in the particular circumstances of the case, the authorities had to intervene in order to avoid the creation of tension among the Muslims in Xanthi and between the Muslims and the Christians of the area as well as Greece and Turkey. Although the Court recognises that it is possible that tension is created in situations where a religious or any other community becomes divided, it considers that this is one of the unavoidable consequences of pluralism. The role of the authorities in such circumstances is not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other (see, *mutatis mutandis*, the Plattform "Ärzte für das Leben" v. Austria judgment of 21 June 1988, Series A no. 139, p. 12, § 32). In this connection, the Court notes that, apart from a general reference to the creation of tension, the Government did not make any allusion to

disturbances among the Muslims in Xanthi that had actually been or could have been caused by the existence of two religious leaders. Moreover, the Court considers that nothing was adduced that could warrant qualifying the risk of tension between the Muslims and Christians or between Greece and Turkey as anything more than a very remote possibility.

61. In the light of all the above, the Court considers that it has not been shown that the applicant's conviction under Articles 175 and 176 of the Criminal Code was justified in the circumstances of the case by "a pressing social need". As a result, the interference with the applicant's right, in community with others and in public, to manifest his religion in worship and teaching was not "necessary in a democratic society ..., for the protection of public order" under Article 9 § 2 of the Convention (see the *Serif v. Greece* judgment cited above, pp. 88-89, §§ 52-54).

There has, therefore, been a violation of Article 9 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

62. The applicant further complained that, since he had been convicted for certain statements that he had made in writing, there had also been a violation of Article 10 of the Convention, which provides as follows:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

63. Given its finding that there has been a violation of Article 9 of the Convention, the Court does not consider it necessary to examine whether Article 10 was also violated, because no separate issue arises under the latter provision.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

64. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

65. The applicant sought one symbolic Greek drachma for non-pecuniary damage.

66. The Court is of the opinion that the applicant suffered some non-pecuniary damage, but, given his request, it considers that the finding of a violation of Article 9 of the Convention constitutes in itself adequate just satisfaction for the purposes of Article 41 of the Convention.

B. Costs and expenses

67. The applicant did not make any claim in respect of costs and expenses.

68. The Court does not consider it appropriate to make an award in this connection of its own motion.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 9 of the Convention;

2. *Holds* that no separate issue arises under Article 10 of the Convention;

3. *Holds* that the preceding findings amount in themselves to adequate just satisfaction for the purposes of Article 41 of the Convention.

Done in English, and notified in writing on 17 October 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Françoise TULKENS
President