

Press release issued by the Registrar

Chamber judgment¹

[Ahmet Arslan and Others v. Turkey](#) (no. 41135/98)

**CRIMINAL CONVICTION OF MEMBERS OF A RELIGIOUS GROUP FOR THEIR
MANNER OF DRESSING IN PUBLIC HELD TO BE UNJUSTIFIED**

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

Principal facts

The applicants are 127 Turkish nationals, including Mr Ahmet Arslan. They belong to a religious group known to its members as *Aczimendi tarikatı*.

In October 1996 they met in Ankara for a religious ceremony held at the Kocatepe mosque. They toured the streets of the city while wearing the distinctive dress of their group, which evoked that of the leading prophets and was made up of a turban, “salvar” (baggy “harem” trousers), a tunic and a stick. Following various incidents on the same day, they were arrested and placed in police custody.

In the context of proceedings brought against them for breach of the anti-terrorism legislation, they appeared before the State Security Court in January 1997, dressed in accordance with their group’s dress code.

Following that hearing, proceedings were brought against them and they were convicted for a breach both of the law on the wearing of headgear and of the rules on the wearing of certain garments, specifically religious garments, in public other than for religious ceremonies. They appealed against their conviction, but without success. In addition, their application to the Ministry of Justice, seeking leave to lodge a reference by written order was also dismissed.

Complaints, procedure and composition of the Court

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

Relying on Article 9, the applicants complained that they had been convicted under criminal law for manifesting their religion through their clothing.

The application was lodged with the European Court of Human Rights on 14 November 1997.

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

Françoise **Tulkens** (Belgium), **President**,
Ireneu **Cabral Barreto** (Portugal),
Vladimiro **Zagrebelky** (Italy),
Danutė **Jočienė** (Lithuania),
Dragoljub **Popović** (Serbia),
András **Sajó** (Hungary),
İşıl **Karakaş** (Turkey), **Judges**,

and also Sally Dollé, **Section Registrar**.

Decision of the Court

It was established that the applicants had not received criminal-law convictions for indiscipline or lack of respect before the State Security Court, but rather for their manner of dressing in public areas that were open to everyone (such as public streets or squares), a manner that was held to be contrary to the legislative provisions.

The applicants' conviction for having worn the clothing in question fell within the ambit of Article 9 – which protected, among other things, the freedom to manifest one's religious beliefs – since the applicants were members of a religious group and considered that their religion required them to dress in that manner. Accordingly, the Turkish courts' decisions had amounted to interference in the applicants' freedom of conscience and religion, the legal basis for which was not contested (the law on the wearing of headgear and regulations on the wearing of certain garments in public).

It could be accepted, particularly given the importance of the principle of secularism for the democratic system in Turkey, that this interference pursued the legitimate aims of protection of public safety, prevention of disorder and protection of the rights and freedoms of others. However, the sole reasoning given by the Turkish courts had consisted in a reference to the legal provisions and, on appeal, a finding that the disputed conviction was in conformity with the law.

The Court further emphasised that this case concerned punishment for the wearing of particular dress in public areas that were open to all, and not, as in other cases that it had had to judge, regulation of the wearing of religious symbols in public establishments, where religious neutrality might take precedence over the right to manifest one's religion.

There was no evidence that the applicants represented a threat for public order or that they had been involved in proselytism by exerting inappropriate pressure on passers-by during their gathering. In the opinion of the Religious Affairs Organisation, their movement was limited in size and amounted to "a curiosity", and the clothing worn by them did not represent any religious power or authority that was recognised by the State.

Accordingly, the Court considered that the necessity for the disputed restriction had not been convincingly established by the Turkish Government, and held that the interference

with the applicants' right of freedom to manifest their convictions had not been based on sufficient reasons. It held, by six votes to one, that there had been a violation of Article 9.

In application of Article 41 (just satisfaction), the Court held, by six votes to one, that the Turkish State was to pay 10 euros (EUR) to each of the applicants for pecuniary damage, and EUR 2,000 jointly for costs and expenses.

Judge Sajó expressed a concurring opinion and Judge Popović a dissenting opinion; the texts of these opinions are annexed to the judgment.

The judgment is available only in French. This press release is a document produced by the Registry. It does not bind the Court. The judgments are available on its website (<http://www.echr.coe.int>).

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.