



Denying the Alevi community exemption from electricity bills – granted to places of worship – was discriminatory

In today's **Chamber** judgment¹ in the case of [Cumhuriyetçi Eğitim Ve Kültür Merkezi Vakfı v. Turkey](#) (application no. 32093/10) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 14 (prohibition of discrimination) taken together with Article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights.

The case concerned the possibility under Turkish law for places of worship to be granted an exemption from paying electricity bills and the refusal to grant this privilege to the applicant foundation.

The Court found in particular that the applicant foundation had sustained a difference in treatment without any objective or reasonable justification, and that the system for granting exemptions from payment of electricity bills for places of worship under Turkish law entailed discrimination on the ground of religion.

Principal facts

The applicant association, Cumhuriyetçi Eğitim Ve Kültür Merkezi Vakfı (Foundation for Republican Education and Culture), is a foundation established under Turkish law, which was set up in 1995 and has public utility status.

This religious foundation runs, throughout Turkey, many *cemevis*, which are premises dedicated to the practice of Alevism, a minority and heterodox branch of Islam. In particular, it runs the Yenibosna Cultural Centre, a complex which houses, among other things, the applicant foundation's headquarters, a restaurant, library, conference hall, classroom, a room for funerals and a *cemevi*.

In August 2006, submitting that the Yenibosna Centre was a place of worship for the Alevi community, its director requested exemption from paying electricity bills, since the legislation provided that the electricity bills for places of worship would be paid from a fund administered by the Directorate of Religious Affairs.

In a judgment of 27 May 2008 the District Court of Beyoğlu dismissed the foundation's claims, basing its decision on the Directorate's opinion that Alevism was not a religion and that the *cemevis* were not places of worship.

That judgment was upheld by the Court of Cassation and an application for rectification lodged by the applicant foundation was dismissed in 2009.

The total amount of the Yenibosna Centre's unpaid bills comes to 668,012.13 Turkish lira (TRY), or EUR 289,182 (as per the exchange rate at the relevant time), interest included.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Complaints, procedure and composition of the Court

Relying on Article 14 (prohibition of discrimination) taken together with Article 9 (right to freedom of thought, conscience and religion), the applicant foundation complained that, although electricity bills of places of worship were usually paid by the Directorate of Religious Affairs, it had been deprived of this privilege on account of the failure in Turkey to recognise the *cemevis* as places of worship. Relying on Article 9, the applicant further complained about the refusal by the Turkish authorities to grant the status of place of worship to the Yenibosna Centre.

The application was lodged with the European Court of Human Rights on 7 May 2010.

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

Guido **Raimondi** (Italy), *President*,
Işıl **Karakaş** (Turkey),
András **Sajó** (Hungary),
Helen **Keller** (Switzerland),
Paul **Lemmens** (Belgium),
Robert **Spano** (Iceland),
Jon Fridrik **Kjølbro** (Denmark),

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

Article 14 taken together with Article 9

The Court first noted that under Turkish law the status of *cemevi* of the Yenibosna Centre was different from that of places of worship recognised as such by the State. It pointed out in this connection that the Alevis' free exercise of the right to freedom of religion was protected under Article 9 of the Convention.

It was established that the Yenibosna Centre included a room for the practice of *cem* (series of liturgical, ceremonial and ritual practices), which was a basic part of the exercise of the Alevi religion, and that it provided a funeral service. The Court further observed that the activities carried out in the *cemevi* were not of a profit-making nature.

It thus concluded that the *cemevis* were, like the other places of worship, premises used for religious worship and that the situation of the applicant foundation was similar to that of other religious communities.

The Court further noted that Turkish law reserved the exemption from payment of electricity bills to recognised places of worship and that, by excluding *cemevis* from the benefit of that status, it introduced a difference in treatment on the ground of religion.

The Court reiterated that States enjoyed a certain room for manoeuvre ("margin of appreciation") in assessing whether and to what extent differences in otherwise similar situations justify a difference in treatment. Nevertheless, if a State introduced a privileged status for places of worship, all religious groups which so wished had to be offered a fair possibility of seeking the benefit of such status and the established criteria had to be applied in a non-discriminatory manner.

In the present case, the Court observed that the refusal of the applicant foundation's request for exemption from payment of electricity bills had been based on an assessment by the Turkish courts on the basis of an opinion issued by the authority for religious affairs to the effect that Alevism was not a religion. The Court took the view, however, that such an assessment could not be used to

justify the exclusion of the *cemevis* from the benefit in question, as they were, like other recognised places of worship, places intended for the practice of religious rituals.

The Court concluded that the difference in treatment sustained by the applicant foundation had no objective or reasonable justification. It observed that the system for granting exemptions from payment of electricity bills for places of worship under Turkish law thus entailed discrimination on the ground of religion.

Accordingly there had been a violation of Article 14 taken together with Article 9.

Article 9

As this complaint and that under Article 14, taken together with Article 9, were connected, the Court found by a majority that it should be declared inadmissible.

Just satisfaction (Article 41)

The Court reserved the question of the application of Article 41 for subsequent decision.

Separate opinion

Judge Sajó expressed a partly dissenting opinion, which is annexed to the judgment.

The judgment is available only in French.

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Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

Céline Menu-Lange (tel: + 33 3 90 21 58 77)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)

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.