EUROPEAN COURT OF HUMAN RIGHTS

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JUDGMENT IN THE CASE OF CHA'ARE SHALOM VE TSEDEK v. FRANCE

In a judgment delivered at Strasbourg on 27 June 2000 in the case of Cha'are Shalom Ve Tsedek v. France, the European Court of Human Rights held by 12 votes to 5 that there had been **no violation of Article 9** of the European Convention on Human Rights (freedom of thought, conscience and religion) taken alone, and by 10 votes to 7 that there had been **no violation of Article 9 taken together with Article 14 (**prohibition of discrimination) of the Convention.

1. Principal facts

In 1987 the applicant association asked the Minister of the Interior to submit a proposal to the Minister of Agriculture recommending that it be given the official approval it needed in order to be able to perform ritual slaughter in accordance with the very strict religious prescriptions of its members, for whom meat is not kosher unless it is "*glatt*". Meat from slaughtered animals cannot be "*glatt*" if an examination of their lungs reveals the slightest blemish. The application was refused at final instance by the *Conseil d'Etat* in a judgment of 25 November 1994 on the ground that the applicant could not be considered a "religious body" within the meaning of Article 10 of the Decree of 1 October 1980, which permits exemption from the obligation to stun animals before they are slaughtered only in the case of ritual slaughter carried out by ritual slaughterers authorised by an approved religious body.

2. Procedure and composition of the Court

The application was lodged with the European Commission of Human Rights on 23 May 1995. Having declared the application admissible, the Commission adopted a report on 20 October 1998 in which it expressed the opinion by fourteen votes to three that there had been a violation of Article 9 read in conjunction with Article 14 of the Convention and by fifteen votes to two that no separate issue arose under Article 9 taken alone. It referred the case to the Court on 6 March 1999. The French Government also brought the case before the Court, on 30 March 1999. A hearing was held on 8 December 1999.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Luzius **Wildhaber** (Swiss), ***President***,
Elisabeth **Palm** (Swedish),
Nicolas **Bratza** (British),
Luigi **Ferrari Bravo**[1] (Italian),
Lucius **Caflisch**[2] (Swiss),
Jean-Paul **Costa** (French),
Willi **Fuhrmann** (Austrian),
Karel **Jungwiert** (Czech),
Marc **Fischbach** (Luxemburger),
Boštjan **Zupančič** (Slovenian),
Nina **Vajić** (Croatian),
John **Hedigan** (Irish),
Wilhelmina **Thomassen** (Dutch),
Margarita **Tsatsa-Nikolovska** (FYROMacedonia),
Tudor **Panţîru** (Moldovan),
Egils **Levits** (Latvian),
Kristaq **Traja** (Albanian), ***judges***,

and also Maud **de Boer-Buquicchio**, ***Deputy Registrar***.

3. Summary of the judgment[3]

Complaints

The applicant association complained that the refusal of its application for approval infringed its freedom to manifest its religion through observance, guaranteed by Article 9 of the European Convention on Human Rights. It further complained, under Article 14 of the Convention, that it was the victim of discrimination contrary to that Article in that the approval it sought, which was needed to obtain access to slaughterhouses, was granted only to the Paris Central Consistory ("the ACIP"), the association which represented the vast majority of Jews in France, whose ritual slaughterers, in the applicant's submission, did not carry out a sufficiently thorough examination of the meat which they certified as kosher.

Decision of the Court

Article 9 of the Convention taken alone

In the Court's opinion, there would have been interference with the freedom to manifest one's 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 that was not the case. It was not contested that the applicant association could easily obtain supplies of "*glatt*" meat in Belgium. Furthermore, it was apparent from the written depositions and bailiffs' official reports produced by the interveners that a number of butcher's shops operating under the control of the ACIP made meat certified "*glatt*" by the Beth Din available to Jews. It emerged from the

1. Judge elected in respect of San Marino.
2. Judge elected in respect of Liechtenstein.
3. This summary by the Registry does not bind the Court.

case file as a whole, and from the oral submissions at the hearing, that Jews who belonged to the applicant association could thus obtain "*glatt*" meat. In particular, the Government had referred, without being contradicted on the point, to negotiations between the applicant and the ACIP with a view to reaching an agreement whereby the applicant could perform ritual slaughter itself under cover of the approval granted to the ACIP, an agreement which had not been reached, for financial reasons.

On those grounds the Court held that the refusal of approval complained of had not constituted an interference with the applicant association's right to freedom to manifest its religion.

Article 9 of the Convention taken together with Article 14

The Court noted that the facts of the present case fell within the ambit of Article 9 of the Convention and that therefore Article 14 was applicable. However, in the light of its findings concerning the limited effect of the measure complained of, findings which had led the Court to conclude that there had been no interference with the applicant association's freedom to manifest its religion, the Court considered that the difference of treatment which had resulted from the measure was limited in scope. The measure complained of had pursued a legitimate aim, and there had been a reasonable relationship of proportionality between the means employed and the aim sought to be realised. Such difference of treatment as there was had therefore had an objective and reasonable justification within the meaning of the Court's consistent case-law.

Judges Bratza, Fischbach, Thomassen, Tsatsa-Nikolovska, Panţîru, Levits and Traja expressed a dissenting opinion, which is annexed to the judgment.

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The Court's judgments are accessible on its Internet site (http://www.echr.coe.int).

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The European Court of Human Rights *was set up in Strasbourg in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights. On 1 November 1998 a full-time Court was established, replacing the original two-tier system of a part-time Commission and Court.*