

APPLICATION/REQUÊTE N° 10491/83

Lena and Anna-Nina ANGELENI v/SWEDEN

Lena et Anna-Nina ANGELENI c/SUÈDE

DECISION of 3 December 1986 on the admissibility of the application

DÉCISION du 3 décembre 1986 sur la recevabilité de la requête

Article 9 of the Convention : *This provision affords protection against religious indoctrination by the State.*

Obligation for an atheist to follow a course in religious knowledge. In concluding that there was no interference with the exercise of freedom of religion the Commission relies on the fact that the instruction is in conformity with domestic law, that the person concerned had in fact been largely exempted from the instruction and had not been subjected to any religious indoctrination.

Article 14 of the Convention : *Conditions of application and notion of discrimination (recap. of jurisprudence).*

Article 14 of the Convention in conjunction with Article 9 of the Convention : *Difference in treatment in education between those claiming to be atheists and the members of religious denominations other than the Swedish Church who benefit from satisfactory religious education, only the latter being exempted from a course in religious knowledge. Objective and reasonable justification.*

Article 25 of the Convention : *The Commission examines only the personal situation of the applicant, and not the general scope of the laws applied to him.*

Article 2 of the First Protocol and Article 64 of the Convention: *By its reservation, Sweden has not granted any exemption from parts of the education in public schools, except in respect of children who belong to a religious faith other than the Swedish Church and for whom other satisfactory religious instruction has been arranged.*

Article 9 de la Convention : *Cette disposition protège contre l'endoctrinement religieux par l'Etat.*

Obligation pour un athée de suivre un cours de « connaissances religieuses ». Pour conclure à l'absence d'ingérence dans l'exercice de la liberté de religion la Commission s'appuie sur le fait que cette instruction est conforme au droit interne, que l'intéressé a été en fait largement dispensé de cette instruction et n'a subi aucun endoctrinement religieux.

Article 14 de la Convention : Conditions d'application et notion de discrimination (rappel de jurisprudence).

Article 14 de la Convention, combiné avec l'article 9 de la Convention : *Différence de traitement dans l'enseignement entre personnes se déclarant athées et membres d'une confession autre que l'Eglise suédoise bénéficiant d'une instruction religieuse satisfaisante, ceux-ci mais non ceux-là étant dispensés du cours de « connaissances religieuses ». Justification objective et raisonnable.*

Article 25 de la Convention : *La Commission n'examine que la situation personnelle du requérant et non la portée générale des lois qui lui sont appliquées.*

Article 2 du Protocole additionnel et article 64 de la Convention : *Par sa réserve la Suède n'a dispensé de certaines parties de l'enseignement public que des enfants élevés dans une confession autre que celle de l'Eglise suédoise et pour lesquels une instruction religieuse satisfaisante est organisée.*

THE FACTS

(français : voir p. 52)

The facts of the case may be summarised as follows.

The applicants, Mrs. Lena Angeleni (the first applicant) and her daughter Anna-Nina (the second applicant), are Swedish citizens. They were born in 1951 and 1975 respectively. They reside at Karlstad. The first applicant is unemployed. The applicants are represented before the Commission by Mr. Rudolf Engström, legal adviser of the Humanist and Ethical Union of Sweden.

The applicants are atheists. They belong neither to the Swedish State Church nor to any other religious congregation.

On her daughter's first day at school the first applicant applied for exemption for her daughter from participation in the teaching of religious knowledge.

On 5 October 1982 the School Board (skolstyrelsen) of Karlstad refused to grant exemption.

The first applicant appealed to the National School Board (skolöverstyrelsen), which on 21 January 1983 rejected the appeal, stating *inter alia* as follows :

“Chapter 5, Section 27 of the School Act (skollagen) provides as follows in respect of exemption from religious knowledge : ‘Upon request from the parents a pupil should be exempted from participation in the teaching of religious knowledge provided that the pupil belongs to a religious community, which has obtained the permission of the Government to arrange for religious education as a substitute for the school.’

From your letter it appears that you and your daughter do not belong to such a religious community.

According to the 1980 Compulsory School Curriculum of the basic school, the teaching should be objective and comprehensive: 'All parents should be able to send their children to school with the same confidence, ensured that they will not be influenced by the school in favour of one or the other of the mutually competing views and opinions.' (p. 18-19). The pupils should receive knowledge of different religions but also of other than religious views of life, for instance marxism and humanism.

With reference to the above the National School Board rejects the appeal."

The first applicant appealed to the Government (Ministry of Education), which on 14 April 1983 rejected the appeal.

It appears from a letter dated 19 January 1983 from the School Board of Karlstad to the National School Board that the headmaster of the school has arranged that the second applicant need not attend those classes when there are morning gatherings of a religious character with singing of hymns. The headmaster has also, upon the first applicant's request, permitted the daughter to change form since the applicant had expressed criticism of the way religious knowledge was taught in the other form.

The principles of freedom of religion and opinion are laid down in Chapter 2, Section 1 of the 1975 Swedish Instrument of Government (regeringsformen) which reads:

"Every citizen shall, in relation to the community, be guaranteed

1. freedom of expression: freedom to communicate information and express ideas, opinions and feelings, either orally, in writing, in pictorial representations, or in any other way,

...

6. freedom of religion: freedom to practise one's religion either alone or together with others."

Chapter 2, Section 2 of the Instrument of Government reads:

"Every citizen is protected in relation to the community from compulsion to disclose his opinion in political, religious, cultural or any other similar matters. He is also protected in relation to the community from compulsion to participate in gatherings for the formation of opinions or in a demonstration or any other way of expressing an opinion or to belong to a political association of opinion within the meaning of the first sentence."

Additional provisions on freedom of religion are laid down in the 1951 Act on Freedom of Religion (religionsfrihetslagen). In accordance with this Act everybody may freely exercise his religion, provided he does not upset the order of society or cause public indignation.

The vast majority of children attend the uniform Public Sector School System which is based on the 1962 School Act and the 1971 Decree on Schools (skolförordningen). The Act and the Decree are supplemented by the 1980 Compulsory School Curriculum which was issued by the Government in accordance with the guidelines on education laid down by the Riksdag (the Swedish Parliament).

It is the Government or authorities subordinate to the Government which determine curricula for compulsory education. However, during the last few decades the principal features of the curricula have been submitted to the Riksdag. If the Riksdag expresses wishes concerning the contents of instruction, the Government are as a general rule obliged to comply with these wishes.

The general goals of Swedish public sector school education have been described in the following manner in the 1980 Compulsory School Curriculum (pages 13 and 15) :

"Compulsory school is a part of society. The curriculum reflects a democratic view of society and its members, the implication being that human beings are active and creative and that they both can and must assume responsibility and seek knowledge in order to co-operate with others in understanding and improving their own living conditions and those of other people. The content and working methods of school must be designed in such a way as to be conducive to this attitude towards people and society. It is the duty of schools to give their pupils increased responsibility and powers of co-determination as they grow older and become increasingly mature.

...

Compulsory schools do not provide any instruction focusing on particular occupations. The fields of knowledge which are to be dealt with must be fundamentally important to all, irrespective of their future activities. This means, for example, that schools must familiarise their pupils with questions of belief, with major issues concerning human relations and survival, with international affairs, with science and technology, with resource conservation, with environmental questions, with economic questions, with questions concerning working life and the labour market, with cultural questions, with family questions, with sexual matters, with immigrant affairs, with law and justice, with questions concerning road traffic, and with the hazards involved in alcohol, drugs and tobacco. All pupils must acquire knowledge of at least one foreign language. A prominent place must be given to knowledge with an important bearing on everyday life."

The 1980 Compulsory School Curriculum moreover states as follows with respect to the teaching of religious knowledge at the lower stage (lågstadiet, 7-10 years) of the basic school (page 127):

“Views on life, beliefs and ethics: The way in which different ethical opinions govern our acts and the positions we take on various views on life, for example on what is right and wrong, good and evil, various ways of looking at the human being and the nature of life. The significance of a religious belief when adopting a position as to different views of life. The views of life may relate to our responsibility for each other and for living beings, questions concerning things, life and death, similarities and differences between human beings, friendships and family relations, the solution of conflicts, loneliness, community, security, comfort, friendship, honesty, justice.

The teaching should emanate from and refer to the pupils' own experiences, events and phenomena of current interest and deal with relevant contemporary personalities. The teaching also comprises studies of:

- the Bible, for example Abraham and the patriarch stories, Joseph and his brothers, Moses, selected events from the life of Jesus Christ;
- some churches and communities in the society;
- songs and hymns connected with the subjects dealt with; and
- personalities and patterns of life in *inter alia* the Jewish religion.”

Exemption from the teaching of religious knowledge may be granted in accordance with Chapter 5, Section 27, para. 2 of the School Act (see above).

On these grounds exemptions have been granted to the Jewish, Roman Catholic and some other communities.

In case a pupil is exempted from participation in the instruction of religious knowledge, Chapter 2, Section 9, sub-para. 1 of the Decree on Schools is applicable. This provision is worded as follows:

“A pupil in the comprehensive school ... who in accordance with Section 27, para. 2 of the School Act (1962:319) has been exempted from instruction in religious knowledge shall receive other religious instruction and furnish a certificate that he has received such instruction.”

COMPLAINTS

The applicants allege that the second applicant is required to participate in the teaching of religious knowledge and that this amounts to a breach of Articles 9, 14 and 17 of the Convention. The applicants have also referred to Article 2 of Protocol No. 1 and the reservation made by Sweden in respect of that Article.

In respect of Article 9 the applicants submit that the freedom of thought is violated when the child is obliged to be brought into the Christian way of thinking, since she does not belong to a so-called accepted religious congregation. The freedom of conscience of the parents is violated when they have other life values than Christian ones. The freedom of religion is violated, as the parent is not guaranteed the right to bring up his or her children in an atheistic manner.

With reference to Article 14 the applicants submit that the Swedish reservation in respect of Article 2 of Protocol No. 1 violates their rights under Article 14.

.....

THE LAW

1. The applicants complain about the fact that the second applicant is not exempted from participation in the teaching of religious knowledge at school. They submit that they do not belong to any religious congregation and that in fact the second applicant is forced to adopt a Christian way of thinking. The applicants have invoked Articles 9, 14 and 17 of the Convention and Article 2 of Protocol No. 1.

2. The Commission has first examined the application in the light of Article 2 of Protocol No. 1 which provides:

“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”

In respect of this provision Sweden has made the following reservation:

“... We do ratify, approve and accept the Protocol (No. 1) with all its Articles and clauses with the reservation in respect of Article 2 of the Protocol, to the effect that Sweden could not grant to parents the right to obtain, by reason of their philosophical convictions, dispensation for their children from the obligation of taking part in certain parts of the education in the public schools, and also to the effect that the dispensation from taking part in the teaching of Christianity in these schools could only be granted for children of another faith than the Swedish Church in respect of whom a satisfactory religious instruction had been arranged. This reservation is based on the provisions of the new rule of 17 March 1933 for the establishment of secondary education within the Kingdom and also on the analogous provisions concerning other educational establishments.”

The Commission finds no indication that the reservation is contrary to Article 64 of the Convention. It must therefore be regarded as a valid reservation.

It is true that the applicants have submitted that the reservation is not applicable in the present case since the case does not concern “teaching of Christianity”. The

Commission notes that it is not in dispute between the parties that the former subject of "knowledge of Christianity" was changed in 1968 to "religious knowledge". In short, the parties disagree on the actual contents of this change. The applicants' line is that it is still knowledge of Christianity while the Government submit that the teaching is now neutral and concerns different religions, although admitting that Christianity takes a major part of the instruction.

The Commission has previously had the occasion to examine the Swedish reservation. In its Report in the case of Kjeldsen, Busk Madsen and Pedersen (Comm. Report, 21.3.75, para. 154, Eur. Court H.R., Series B no. 21, pp. 44 and 45), the Commission stated that the said reservation gives "almost complete freedom to the Swedish Government to organise child education regardless of the religious and philosophical convictions of parents". The Commission continued as follows:

"Only in specific cases of children belonging to a religious faith other than the Swedish Church for whom satisfactory alternative religious instruction can be arranged, on the parents' initiative and responsibility, can exemptions be granted (cf. No. 4733/71). Children of persons holding particular philosophical convictions cannot be granted exemption."

The Commission concludes from the text of the Swedish reservation that Sweden has not undertaken to grant any exemption from parts of the education in the public schools be it for religious, philosophical or other reasons, except in respect of children who belong to a religious faith other than the Swedish Church and for whom other satisfactory religious instruction has been arranged. The applicants do not fall within the category in respect of which exemption is possible.

Accordingly, the Swedish reservation applies in the present case.

It follows that, with respect to Article 2 of Protocol No. 1, the first applicant is seeking a right under that Article which has been excluded by the Swedish reservation.

The first applicant's complaint is therefore incompatible *ratione personae* with the provisions of the Convention, read in conjunction with the Swedish reservation, within the meaning of Article 27 para. 2 of the Convention.

3. The second applicant, represented by the first applicant, has also invoked Article 9 of the Convention which in paragraph 1 provides as follows:

"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."

The Commission first observes that the second applicant's freedom of religion under Article 9 is not restricted by the Swedish reservation concerning parental rights of education under Article 2 of Protocol No. 1. It further observes that the complaints raised by the applicants can in short be said to relate, on the one hand, to the organisation of the instruction of religious knowledge in Sweden and, on the other hand, to protection against religious indoctrination. The first matter falls to be considered under Article 2 of Protocol No. 1 but in this respect the Commission is prevented from examining the applicants' specific complaint as a result of the Swedish reservation.

The Commission is of the opinion that Article 9 of the Convention affords protection against indoctrination of religion by the State, be it in education at school or in any other activity for which the State has assumed responsibility. The main issue to be determined in the present case is, accordingly, whether it has been established that the second applicant has been subjected to indoctrination of religion at school which would involve a disrespect for her right to freedom of religion as guaranteed by Article 9 para. 1 of the Convention.

The legal situation under the School Act of the second applicant, attending a public school, was that she was obliged to take part in the entire instruction given at the school. Chapter 5, Section 27 of the School Act provides for a possibility of exemption from the participation in the instruction of religious knowledge, but a condition for being granted such exemption is that the pupil belongs to another religious community, which arranges satisfactory alternative religious education. This provision was thus not applicable to the second applicant since she was an atheist. Accordingly, under the applicable Swedish law, the second applicant was obliged to take part in the instruction in the subject religious knowledge.

The Commission observes that the applicants have not alleged that there has been a breach of the School Act in the case. They submit, however, that the instruction in religious knowledge is contrary to the Constitution, notably the right to negative freedom of religion protected by Chapter 2, Section 2 of the Instrument of Government.

The Commission recalls that, in the examination of an individual application under Article 25 of the Convention, it must confine itself to the facts of the individual applicants. It will therefore not make a general review of, for instance, the instruction in religious knowledge in Swedish schools. The applicants' submission that the instruction of religious knowledge in Swedish schools is contrary to the Constitution is only material to the examination of the present case insofar as it relates to the question whether the second applicant has herself been subjected to instruction in conflict with the Swedish Constitution. The Commission, while noting that the applicants do not seem to have raised this before the competent domestic authorities, finds no indication that such a submission would be well-founded. It concludes that the obligation on the second applicant to attend the teaching of the subject of religious knowledge was lawful under Swedish law.

The Commission notes, however, that to a considerable extent the second applicant has nevertheless been exempted from participation in the instruction in religious knowledge. It has not been possible to establish the exact extent of such exemption. However, the applicants have submitted that in essence no problems arose during the second applicant's first two school years since the headmaster agreed that the second applicant could be taught in other subjects during the religious lessons. Thereafter there was a change of headmaster and the new headmaster no longer granted exemption. However, the second applicant refused to go to school for a month and subsequently the School Board granted the same conditions as during previous years.

The Commission recalls that the second applicant started the school in the autumn of 1982. It therefore follows that she did not, during the school years 1982/83 and 1983/84, attend any instruction in the subject religious knowledge to which she or the first applicant objects. During the school year 1984/85 problems arose in the beginning but after a month the second applicant was granted a similar arrangement as during the two previous years.

Although the arrangements made for the second applicant may not have been in line with the School Act, the fact remains that she has taken part only in a minor part of the instruction of religious knowledge.

As regards the contents of the instruction in religious knowledge the Government have submitted that the teaching in the subject religious knowledge aims at being a teaching about religion, not in religion. In principle, teaching which provides information only cannot be regarded as being in conflict with the Convention or its Protocols. The applicants contest, however, that the teaching in religious knowledge is neutral. They submit that the instruction is only concerned with Christianity.

The Commission's examination of the present case is confined to the situation of the applicants. It cannot make a general review of the instruction in religious knowledge in Swedish schools.

The Commission does not find it established that the second applicant has been obliged to participate in any form of religious worship or that she has been exposed to any religious indoctrination. The fact that the instruction in religious knowledge focuses on Christianity at junior level at school does not mean that the second applicant has been under religious indoctrination in breach of Article 9 of the Convention.

The Commission concludes that there has been no interference with the second applicant's freedom of religion as guaranteed by Article 9 of the Convention.

It follows that the second applicant's complaint is manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

4. The applicants have also referred to Article 14 of the Convention, which reads as follows :

"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

According to the case-law of the Convention organs, Article 14 of the Convention has no independent existence, but plays an important role by supplementing the other provisions of the Convention and the Protocols. Article 14 safeguards individuals, placed in similar situations, from discrimination in the enjoyment of the rights set forth in those other provisions. A measure which as such could be in conformity with the normative provision may therefore nevertheless violate that provision taken in conjunction with Article 14, if it is applied in a discriminatory manner. It is as if Article 14 formed an integral part of each of the provisions laying down the specific rights and freedoms (cf. *Rasmussen v. Denmark*, Comm. Report 5.7.83, para. 68, Eur. Court H.R., Series A no. 87, p. 22).

The Convention organs have furthermore constantly held that a distinction is discriminatory if it "has no objective and reasonable justification", that is, if it does not pursue a "legitimate aim" or if there is not a "reasonable relationship of proportionality between the means employed and the aim sought to be realised" (see, *inter alia*, Eur. Court H.R., *Belgian Linguistic judgment* of 23 July 1968, Series A no. 6, p. 34, para. 10).

The discriminatory treatment alleged by the applicants is the difference between the treatment of atheists, and of those members of religious denominations who may be granted exemption from the religious education in the public schools.

The Commission recalls that the first applicant's complaint, according to the Commission's reasoning under No. 2 above, falls outside the scope of Article 2 of Protocol No. 1 as modified by the Swedish reservation. It follows that no question of discrimination contrary to Article 14 can arise in this respect.

As regards Article 14 read in conjunction with Article 9 of the Convention, the Commission considers that there is a difference in treatment between the second applicant and pupils who are entitled to be exempted from the teaching in religious knowledge under the School Act, that right of exemption being limited to those pupils who belong to a religious community which arranges satisfactory alternative religious education.

The Government have explained that there is a tradition in Sweden that different denominations give the children their own religious education. Such education aims at cementing faith in the children but it also comprises the teaching of facts

similar to what is taught in the subject religious knowledge in the public schools. Some congregations provide religious education of such a quality that it is believed that the children obtain the same standard of factual knowledge as the children in public schools.

The Swedish policy in respect of education of religion is thus that all children should receive some education in this subject. The result is that exemption from the teaching of religious knowledge in the public schools is only granted to those children who will instead receive satisfactory alternative religious education.

In view of the Swedish reservation under Article 2 of Protocol No. 1 the Commission is not called upon to examine whether this policy is in conformity with that provision. As regards Article 9 of the Convention this policy does not raise any separate issue.

The Commission considers that the aim of the Swedish policy, namely of providing all children with sufficient factual religious knowledge is a legitimate aim for the purpose of Article 14 of the Convention. The difference in treatment under consideration therefore has an objective and reasonable justification, in the sense of the Convention organs' above case-law. The Commission notes that the applicants do not claim that alternative religious knowledge instruction has been arranged for the second applicant.

It follows that the complaint under Article 14 of the Convention is incompatible *ratione materiae* with the provisions of the Convention, within the meaning of Article 27 para. 2, insofar as it relates to Article 2 of Protocol No. 1, and manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention insofar as it relates to Article 9 of the Convention.

5. The applicants have also invoked Article 17 of the Convention, which reads :
"Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any other rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

However, in view of its findings the Commission finds no issue under this provision.

This aspect of the application is therefore manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

For these reasons, the Commission

DECLARES THE APPLICATION INADMISSIBLE.