



Prison should not have denied detainee vegetarian diet he demanded in order to obey religious rules

In today's Chamber judgment in the case [Jakóbski v. Poland](#) (application no. 18429/06), which is not final¹, the European Court of Human Rights held, unanimously, that there had been

A violation of Article 9 (freedom of religion) of the European Convention on Human Rights.

The case concerned the authorities' refusal to provide a detainee with a meat-free diet in prison, contrary to the dietary rules of his faith.

Principal facts

The applicant, Janusz Jakóbski, is a Polish national who was born in 1965 and is currently serving an eight-year prison sentence in Nowogród Prison (Poland) for rape, of which he was convicted in 2003.

A Buddhist, he repeatedly requested to be served meat-free meals in Goleniów Prison where he was held for a number of years, stating that he adhered strictly to the Mahayana Buddhist dietary rules which required refraining from eating meat. His requests were refused. For some time he was granted a diet which did not include pork, but other meats and fish.

In April 2006, Mr Jakóbski brought criminal proceedings against the prison employees, complaining that, despite his requests, he was receiving meals containing meat products and that he could not refuse them as this would have been regarded as a decision to start a hunger strike and would have entailed disciplinary punishment. The criminal proceedings were discontinued. Subsequently, the Buddhist Mission in Poland sent a letter to the prison authorities in support of Mr Jakóbski, and he made another unsuccessful request, addressed to the prison director, noting that the pork-free diet contained meat and thus did not satisfy his needs.

Mr Jakóbski again asked the prosecutor to institute criminal proceedings against the prison employees, arguing that his religious convictions had not been respected. The prosecutor refused to institute proceedings. Mr Jakóbski's appeals against the prosecutor's decisions were dismissed by the District Court in October and December 2006 respectively. In the meantime, in reply to further complaints by Mr Jakóbski, the Regional Prisons Inspector informed him that the only special diet available in the prison was the pork-free diet he had received earlier. The prisons inspector also underlined that the prison authorities were not obliged to provide an individual with special food in order

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

to meet the specific requirements of his or her faith. Mr Jakóbski's subsequent complaint to the Regional Court concerning the matter was dismissed in December 2007. The court held in particular that in view of the technical conditions and understaffing in prison kitchens it was not possible to provide each prisoner individually with food in conformity with his or her religious dietary requirements.

In 2009, Mr Jakóbski was transferred to the Nowogród prison, where his requests for meat-free meals were also refused.

Complaints, procedure and composition of the Court

Mr Jakóbski complained that the refusal to provide him with a meat-free diet in prison, contrary to the rules of his faith, violated his rights under Article 9. Relying on Article 14 (prohibition of discrimination), he also complained that other religious groups in prison were allowed a special diet.

The application was lodged with the European Court of Human Rights on 27 April 2006.

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

Nicolas **Bratza** (the United Kingdom), *President*,
 Lech **Garlicki** (Poland),
 Ljiljana **Mijović** (Bosnia and Herzegovina),
 Ján **Šikuta** (Slovakia),
 Mihai **Poalelungi** (Moldova),
 Nebojša **Vučinić** (Montenegro),
 Vincent A. **de Gaetano** (Malta), *Judges*,

and also Lawrence **Early**, *Section Registrar*.

Decision of the Court

Article 9

In response to the Government's argument that vegetarianism could not be considered an essential aspect of the practice of Mr Jakóbski's religion, the Court underlined that the refusal of the prison authorities to provide him with a vegetarian diet did fall within the scope of Article 9. His decision to adhere to that diet could be regarded as motivated or inspired by a religion. In other cases, the Court had already held that observing dietary rules could be considered a direct expression of beliefs.

While the Court was prepared to accept that a decision to make special arrangements for one prisoner within the system could have financial implications for the custodial institution, it had to consider whether the State had struck a fair balance between the different interests involved. The Court noted that Mr Jakóbski only asked to be granted a diet without meat products; his meals did not have to be prepared, cooked and served in a prescribed manner, nor did he require any special products. The Court was not convinced that the provision of a vegetarian diet would have entailed any disruption to the management of the prison or a decline in the standards of meals served to other prisoners. It further underlined that the Committee of Ministers of the Council of Europe in its recommendation on the European Prison Rules, had advised that prisoners should be provided with food that took into account their religion.

The Court concluded that the authorities failed to strike a fair balance between the interests of the prison authorities and those of Mr Jakóbski, in violation of his rights under Article 9.

Article 14

In view of these findings, the Court did not see the need for a separate examination of the facts from the standpoint of Article 14.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that Poland was to pay Mr Jakóbski 3,000 euros in respect of non-pecuniary damage.

The judgment is available only in English.

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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.