EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

DECISION

Application no. 41334/09
Georgi Georgiev HADZHINEDELCHEV
against Bulgaria

The European Court of Human Rights (Fifth Section), sitting on 29 August 2017 as a Committee composed of:
Nona Tsotsoria, *President,*
Síofra O'Leary,
Lətif Hüseynov, *judges,*
and Anne-Marie Dougin, *Acting Deputy Section Registrar,*
Having regard to the above application lodged on 11 May 2009,
Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Georgi Georgiev Hadzhinedelchev, is a Bulgarian national, who was born in 1969 and lives in Sofia. He was represented before the Court by Ms N. Dobreva, a lawyer practising in Sofia.

The circumstances of the case

2. The facts of the case, as submitted by the applicant, may be summarised as follows.

3. In 2006 the applicant enrolled to study Theology at the Theology Faculty of the State-owned University of Sofia (hereinafter "the Faculty"). The syllabus for the first year included twenty hours of obligatory practical training in religious rites, during which the students were required to take part in liturgical services, usually held at the Faculty's Christian Orthodox chapel. The applicant requested to be exempted from the subject, but was orally informed by the Faculty's Dean that his request was refused. The applicant failed to attend most of the practical classes and did not pass some

of his exams. For these reasons he could not enrol for a second year of studies.

4. In 2007 the applicant brought proceedings against the Faculty before the Commission for Protection from Discrimination (hereinafter "the Commission"). He stated that he was not Orthodox Christian, his religious beliefs being "closer to atheism", and that obliging him to attend Orthodox religious services during his year of study amounted to unlawful discrimination against him. He requested that the Faculty be obliged to discontinue the allegedly discriminative practice.

5. The Faculty's Dean stated before the Commission that the Faculty respected the students' religious beliefs, and that the practice was to allow students from denominations different from Orthodox Christianity to do their practical training in their own places of worship. He argued that practical training in religious rites was an important part of Theology studies. He explained further that during his studies the applicant had demonstrated a "positive attitude" towards Orthodox Christianity, to an extent that had even "disturbed the teachers".

6. In a decision of 18 January 2008 the Commission dismissed the applicant's claims. It pointed out particularly that the applicant had himself chosen to study Theology at the Faculty, thus accepting its requirements, and that the practical training he was refusing to do would not have affected or breached his right to freedom of religion. It observed in addition that the University of Sofia enjoyed academic autonomy and self-governance, in particular when defining the syllabus for its different programmes.

7. The applicant lodged an appeal.

8. In a judgment of 3 June 2008 a three-member panel of the Supreme Administrative Court dismissed the appeal, upholding the Commission's decision. Similarly to the Commission, it observed that the applicant had himself chosen to study Theology, with the requirements imposed by the Faculty. It pointed out in addition that the Faculty allowed students from different denominations to do their practical training in their own places of worship, a possibility which the applicant had not sought to use. It concluded on these grounds that the obligatory practical training of students did not amount to unlawful discrimination.

9. The applicant lodged an appeal on points of law. He stated that the possibility to do his training in another place of worship was of no help to him, because he could not go to any such place at all, and that the obligation to participate in Orthodox religious rites was tantamount to "violence" against him.

10. In a final judgment of 12 November 2008 a five-member panel of the Supreme Administrative Court dismissed the appeal. Reiterating the three-member panel's reasoning, it referred in addition to a university's interest in offering education of certain quality, including practical knowledge and skills. It stated that the obligatory attendance of religious

services was not equivalent to commitment to the religion concerned, and pointed out that it had remained unclear what the applicant's actual religious convictions were, as during the proceedings he had made inconsistent and contradictory statements in that regard.

COMPLAINTS

11. The applicant complained under Article 9 of the Convention that, by obliging him to attend religious services in order to be able to continue his studies, the University of Sofia had breached his right to freedom of religion. He disputed most of all the necessity of the restriction imposed on him. As to his religious convictions and his refusal to attend "an organised religious service in a church", the applicant stated that he was a Christian, believing in "the principles of early Christianity" and in particular that "communion with God should take place outside temples", without the mediation of the clergy.

12. The applicant complained in addition under Article 14 of the Convention, taken in conjunction with Article 9, that the obligatory character of the practical religious training at the Faculty led to indirect discrimination "between different categories of believers and between believers and non-believers", as all of them were treated in the same manner.

13. Lastly, the applicant complained that the impossibility for him to continue his studies in Theology breached his rights under Article 2 of Protocol No. 1.

THE LAW

14. The applicant complained under Articles 9 and 14 of the Convention and Article 2 of Protocol No. 1. These provisions read as follows:

Article 9

"1. 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.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

Article 14

"The enjoyment of the rights and freedoms set forth in [the] 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."

Article 2 of Protocol No. 1

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

15. The Court has held that the right to freedom of thought, conscience and religion under Article 9 of the Convention denotes views and beliefs that must attain a certain level of cogency, seriousness, cohesion and importance (see, for example, *Bayatyan v. Armenia* [GC], no. 23459/03, § 110, ECHR 2011, and *Eweida and Others v. the United Kingdom*, nos. 48420/10 and 3 others, § 81, ECHR 2013 (extracts)). However, in the case at hand the domestic courts made it clear that they had doubts as to whether this threshold was attained, noting the inconsistent statements of the applicant regarding his beliefs, and in particular the motivation behind his refusal to enter any religious temple and attend a religious service. Furthermore, this inconsistency continued in the applicant's submissions at the domestic level and before the Court. Before the national authorities the applicant justified his refusal by claiming that his beliefs were "closer to atheism" (see paragraph 4 above), whereas before the Court, without much more detail, he explained that he was a Christian, believing in "the principles of early Christianity" and communion with God outside temples, without the mediation of the clergy (see paragraph 11 above). At the same time, in the proceedings before the domestic authorities it was claimed that during his one-year study at the Theology Faculty the applicant demonstrated such commitment to Orthodox Christianity that it even "disturbed the teachers" (see paragraph 5 above). The difficulty to understand the applicant's religious views and his motivation for refusing to attend religious services was also noted, during the domestic proceedings, by the five-member panel of the Supreme Administrative Court (see paragraph 10 above).

16. Nevertheless, the Court is prepared to assume, for the purposes of the present analysis, that the applicant's convictions, and in particular those which motivated his refusal to enter a church and attend a religious service as part of his practical training, reached the level of seriousness and cogency required under Article 9 of the Convention.

17. The Court observes, working on this assumption, that the applicant's refusal to enter a church and attend a religious service fell within the ambit of Article 9 of the Convention. The Court is also prepared to accept that the Faculty's requirement that the applicant attend religious services, or

otherwise be unable to continue his studies, amounted to an interference with the applicant's right to manifest his religion.

18. The Court must therefore examine whether the applicant's right to manifest his religion was sufficiently secured within the domestic legal order and whether a fair balance was struck between his rights and those of others (see *Eweida and Others*, cited above, § 91).

19. The applicant has not argued that the provisions of domestic law protecting freedom of religion were defective, or that his right to manifest his religious beliefs was otherwise insufficiently secured within the domestic legal order. Instead, in his application he focused on the necessity and proportionality of the interference with his rights under Article 9 of the Convention (see paragraph 11 above).

20. Turning therefore to that issue, the Court will have regard most of all to the reasons given in the domestic proceedings by the national authorities, who dismissed the applicant's complaint that he was the victim of unlawful discrimination in the exercise of his right to freedom of religion.

21. The authorities pointed out, in the first place, that the applicant had himself chosen to study Theology at the University of Sofia Theology Faculty, thus accepting in principle to follow the programme's syllabus. They noted in addition that the Faculty was prepared to accommodate students who were not Christian Orthodox, by allowing them to do their practical training in religious rites in their own places of worship (see paragraphs 6 and 8 above). The five-member panel of the Supreme Administrative Court pointed out also that attendance at religious services required by the Faculty was not equivalent to commitment to the respective religion (see paragraph 10 above). The authorities referred to the academic autonomy and self-governance enjoyed by the University of Sofia and to its interest in providing quality education which included practical training and experience (see paragraphs 6 and 10 above).

22. The Court finds these considerations relevant and adequate. It notes in addition that the applicant was required to do twenty hours of practical training in religious rites during his first year of study, which is not particular burdensome or excessive. It is also significant that the applicant failed some of his exams during t`he first year (see paragraph 3 above) and has not shown that he would still have been able to continue his studies had this not been the case. Lastly, the Court finds reasonable the argument of the Dean of the Theology Faculty that the practical training at issue, meaning attendance of religious rites carried out in a place of worship, was an important aspect of any Theology studies (see paragraph 5 above).

23. For these reasons, the Court concludes that the domestic authorities, in dismissing the applicant's complaints related to his freedom of religion, struck a fair balance between the different interests involved. Thus, they complied with their positive obligations under Article 9 of the Convention.

24. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

25. As to the applicant's complaint under Article 14 of the Convention, taken in conjunction with Article 9 (see paragraph 12 above), the Court notes that the factors to be weighed when assessing the proportionality of the measure complained of are the same as those already examined above under Article 9 taken alone. Accordingly, there is no basis on which the Court can reach a different conclusion under Article 14.

26. It follows that the complaint under that provision is also manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

27. As regards the applicant's complaint under Article 2 of Protocol No. 1 (see paragraph 13 above), the Court notes that he failed to take some of his exams during his year of study. He has not shown therefore that he would have been able to continue his studies regardless of the question of his compliance with the practical training requirement.

28. Accordingly, this complaint is manifestly ill-founded as well and must be rejected under Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 21 September 2017.

Anne-Marie Dougin
Acting Deputy Registrar

Nona Tsotsoria
President