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

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Turkey must reform religious education in schools to ensure respect for parents' convictions

In today's Chamber judgment in the case of **Mansur Yalçın and Others v. Turkey** (application no. 21163/11), which is not final[1], the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 2 of Protocol No. 1 (right to education) to the European Convention on Human Rights with regard to Mansur Yalçın, Yüksel Polat and Hasan Kılıç.

In this case, the applicants, who are adherents of the Alevi faith, an unorthodox minority branch of Islam, complained that the content of the compulsory classes in religion and ethics in schools was based on the Sunni understanding of Islam.

The Court observed in particular that in the field of religious instruction, the Turkish education system was still inadequately equipped to ensure respect for parents' convictions. The violation of Article 2 of Protocol No. 1 found by the Court on that account had arisen out of a structural problem already identified in the case of *Hasan and Eylem Zengin*[2]. Turkey had to remedy the situation without delay, in particular by introducing a system whereby pupils could be exempted from religion and ethics classes without their parents having to disclose their own religious or philosophical convictions.

Principal facts

The applicants are 14 Turkish nationals: Mr Mansur Yalçın, Mr Namık Sofuoğlu, Ms Serap Topçu, Mr Ali Yüce, Mr Ali Kaplan, Ms Eylem Onat Karataş, Mr Hüseyin Kaya, Ms Sevinç Ilgın, Mr İsmail Ilgın, Mr Cafer Aktan, Mr Hakkı Saygı, Mr Kemal Kuzucu, Mr Yüksel Polat and Mr Hasan Kılıç. Yüksel Polat, Hasan Kılıç and Mansur Yalçın were parents of secondary-school children at the relevant time. Mr Sofuoğlu stated that by the date on which the domestic proceedings were instituted, his son and daughter had completed the second cycle of secondary education and were in higher education. Serap Topçu and Eylem Onat Karataş stated that they had attended "compulsory religion and ethics classes" at school and that their young children – whose age they did not specify – would likewise have to attend these classes when they went to school.

On 22 June 2005 the applicants asked the Ministry of Education to initiate a consultation process with leading members of the Alevi community with a view to overhauling the curriculum of the religion and ethics classes to include Alevi culture and philosophy.

After being notified of the decision to reject their proposal in a letter from the Directorate of Religious Education attached to the Ministry of Education, the applicants and 1,905 other people challenged that decision in the Ankara Administrative Court.

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

2 *Hasan and Eylem Zengin v. Turkey*, no. 1448/04, judgment of 9 October 2007.

An expert report by a professor of Islamic studies and lecturers in education and religious sociology on the textbooks used in religion and ethics classes was included in the case file. It stated, among other things, that the curriculum did not give precedence to any particular faith and adopted a supra-denominational approach. The applicants filed additional observations challenging the report. They argued in particular that the textbooks treated the Alevi faith as a tradition or culture and not as a belief system in its own right.

In a judgment of 1 October 2009 the Ankara Administrative Court found against the applicants, relying on the expert report. Their subsequent appeal on points of law was dismissed by the Supreme Administrative Court in a judgment served on 2 August 2010, which held that the judgment at first instance was in conformity with the relevant procedure and laws.

Complaints, procedure and composition of the Court

Relying on Article 2 of Protocol No. 1 (right to education), the applicants complained that the content of the compulsory classes in religion and ethics in schools was based on the Sunni understanding of Islam. Mansur Yalçın, Yüksel Polat and Hasan Kılıç also relied in this connection on Article 9 (right to freedom of thought, conscience and religion), in conjunction with Article 14 (prohibition of discrimination).

The application was lodged with the European Court of Human Rights on 2 February 2011.

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

Guido **Raimondi** (Italy), *President*,
Işıl **Karakaş** (Turkey),
András **Sajó** (Hungary),
Nebojša **Vučinić** (Montenegro),
Egidijus **Kūris** (Lithuania),
Robert **Spano** (Iceland),
Jon Fridrik **Kjølbro** (Denmark),

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

Decision of the Court

Admissibility

Mansur Yalçın, Yüksel Polat and Hasan Kılıç, whose children were at secondary school at the relevant time, could claim to be the direct "victims" of a violation of their rights under Article 2 of Protocol No. 1 and Articles 9 and 14 of the Convention.

As to the other applicants – Namık Sofuoğlu, Serap Topçu, Ali Yüce, Ali Kaplan, Eylem Onat Karataş, Hüseyin Kaya, Sevinç Ilgın, İsmail Ilgın, Cafer Aktan, Hakkı Saygı and Kemal Kuzucu – the Court noted that they were essentially complaining, under Article 2 of Protocol No. 1 and Articles 9 and 14 of the Convention, that the curriculum of the compulsory religion and ethics classes conflicted with their religious beliefs. It noted that they had not argued that the religious instruction received had had any specific effect on them, but had simply complained in the abstract about the impact of the curriculum on their religious beliefs, without explaining how they had been personally affected. Moreover, the mere prospect that Serap Topçu's and Eylem Onat Karataş's young children might one day have to attend the classes in question was not a sufficient basis for alleging a violation of the Convention, particularly as these applicants would still be able to lodge a fresh application in relation to this issue once their children were actually attending the classes.

Article 2 of Protocol No. 1

The Court examined the case in the light of the curriculum of the compulsory religion and ethics classes taught at the relevant time but also took into account the significant changes that had since been made to the curriculum, particularly in the wake of the *Hasan and Eylem Zengin* judgment. In that connection it observed that these changes had mainly involved the inclusion of information about the various beliefs existing in Turkey, including the Alevi faith, but added that the main aspects of the curriculum had not really been overhauled since it predominantly focused on knowledge of Islam as practised and interpreted by the majority of the Turkish population. Although it was not for the Court to take a stance on a question relating to Islamic theory, it nevertheless emphasised the State's duty of neutrality and impartiality in regulating matters of religion.

The fact that the curriculum of the religion and ethics classes gave greater prominence to Islam as practised and interpreted by the majority of the Turkish population than to other minority interpretations of Islam could not in itself be viewed as a departure from the principles of pluralism and objectivity which would amount to indoctrination. However, bearing in mind the particular features of the Alevi faith as compared with the Sunni understanding of Islam[3], the applicants could legitimately have considered that the approach adopted in the classes was likely to cause their children to face a conflict of allegiance between the school and their own values.

The Court failed to see how such a conflict could be avoided in the absence of an appropriate exemption procedure. The discrepancies complained of by the applicants between the approach adopted in the curriculum and the particular features of their faith as compared with the Sunni understanding of Islam were so great that they would scarcely be alleviated by the mere inclusion in textbooks of information about Alevi beliefs and practice.

In addition, the fact that the Turkish system offered only Christian and Jewish pupils the possibility of being exempted from religion and ethics classes necessarily suggested that the teaching provided in this subject was likely to cause such pupils to face conflicts between the religious instruction given by the school and their parents' religious or philosophical convictions. The Court noted in this connection that almost all of the member States offered at least one route by which pupils could opt out of religious education classes, by providing for an exemption system or the option of studying an alternative subject, or by making attendance at religious studies classes entirely optional.

The Court concluded that the Turkish education system was still inadequately equipped to ensure respect for parents' convictions, and that there had therefore been a violation of Article 2 of Protocol No. 1 with regard to Mansur Yalçın, Yüksel Polat and Hasan Kılıç.

Other articles

Having regard to its finding of Article 2 of Protocol No. 1, the Court considered that it was not necessary to examine the applicants' complaints under Articles 9 and 14.

Articles 46 (binding force and execution of judgments)

Since the violation it had found had arisen out of a structural problem, as in the case of *Hasan and Eylem Zengin*, the Court held that Turkey was to implement appropriate measures to remedy the situation without delay, in particular by introducing a system whereby pupils could be exempted

[3] *Hasan and Eylem Zengin v. Turkey* judgment, cited above, § 8 ("Alevism originated in central Asia but developed largely in Turkey. Two important Sufis had a considerable impact on the emergence of this religious movement: Hoca Ahmet Yesevi (12th century) and Haci Bektaşi Veli (14th century). This belief system, which has deep roots in Turkish society and history, is generally considered as one of the branches of Islam, influenced in particular by Sufism and by certain pre-Islamic beliefs. Its religious practices differ from those of the Sunni schools of law in certain aspects such as prayer, fasting and pilgrimage") and § 66.

from religion and ethics classes without their parents having to disclose their own religious or philosophical convictions.

Just satisfaction (Article 41)

The applicants did not submit a claim for just satisfaction under Article 41.

Separate opinions

Judges Sajó, Vučinić and Kūris expressed a joint partly dissenting opinion. This opinion is annexed to the judgment.

The judgment is available only in French.

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