



The Court declares admissible an application by French Association of Jehovah's Witnesses concerning alleged interference with its freedom of religion

In a decision delivered by a Chamber of seven judges in the case of **Association Les Témoins de Jéhovah v. France** (application no. 8916/05), the European Court of Human Rights has unanimously declared the application **partly admissible**.

Principal facts

The applicant, Association Les Témoins de Jéhovah (Association of Jehovah's Witnesses), is a French association registered in 1947 with its headquarters in Boulogne-Billancourt (France). Its purpose is, in particular, "to contribute to the maintenance and the practice of the Jehovah's Witnesses' religion". The Jehovah's Witnesses claim to have more than 17 million adherents throughout the world, including more than 250,000 in France. They describe themselves as a Christian religion, basing their beliefs entirely on the Bible. The movement is funded by "offerings". In a 1995 parliamentary report entitled "Sects in France", the Jehovah's Witnesses were classified as a sect.

The applicant association alleges that a number of steps were taken to marginalise it in the light of the report. In particular, it was the subject of a tax audit. On the basis of the information gathered during the audit, the association was issued with a formal notice to declare the donations it had received from 1993 to 1996. It refused to do so and asked to be granted the tax exemption applicable for donations and bequests made to liturgical associations, unions of liturgical associations and authorised congregations (Article 795, point (10), of the General Tax Code). Since the applicant association failed to produce the declaration requested by the tax authorities, an automatic taxation procedure was instituted on the basis of the information gathered by the authorities during the audit. In May 1998 a supplementary tax demand for the equivalent of approximately 45 million euros (EUR) was served on it (approximately EUR 23 million as the principal sum and EUR 22 million in penalties and interest for late payment). The association noted that the tax demand affected the "offerings" of more than 250,000 people over a period of four years (an average of EUR 4 per person per month between 1993 and 1996).

In January 1999 the applicant association filed an official objection with the tax authorities. The objection was dismissed in September 1999, on the ground that to qualify for the tax exemption sought, the association had to be recognised by the appropriate authorities (Ministry of the Interior or prefecture) as a religious movement or as having an exclusively liturgical purpose, which was not the case. The applicant association brought proceedings in the Nanterre *tribunal de grande instance* against the tax-office director who had dismissed its objection. On 4 July 2000 the court found against the association, holding in particular that it had no grounds for claiming that it was eligible for the exemptions sought. On 28 February 2002 the Versailles Court of Appeal upheld that judgment. On 5 October 2004 the Court of Cassation dismissed an appeal on points of law by the applicant association. According to the latest information submitted by the French Government, the sum claimed from the Association Les Témoins de Jéhovah amounted to more than EUR 57.5 million.

Complaints, procedure and composition of the Court

Association Les Témoins de Jéhovah submitted that the tax proceedings against it infringed its freedom of religion and amounted to discrimination against it. It relied on Article 9 (freedom of religion), taken alone and in conjunction with Article 14 (prohibition of discrimination) of the Convention.

The application was lodged with the European Court of Human Rights on 24 February 2005 and was declared partly inadmissible on 17 June 2008. The European Association of Jehovah's Christian Witnesses was granted leave to submit observations.

The decision was given on 21 September 2010 by a Chamber of seven judges, composed as follows:

Peer **Lorenzen** (Denmark), *President*,
Jean-Paul **Costa** (France),
Karel **Jungwiert** (Czech Republic),
Mark **Villiger** (Liechtenstein),
Isabelle **Berro-Lefèvre** (Monaco),
Mirjana **Lazarova Trajkovska** ("the former Yugoslav Republic of Macedonia"),
Ganna **Yudkivska** (Ukraine), *Judges*,

and also Claudia **Westerdiek**, *Section Registrar*.

Decision of the Court

Alleged religious discrimination

The applicant association had not argued in the Court of Cassation that it had suffered discrimination of this kind. It had therefore not exhausted the domestic remedies available to it in respect of this complaint. In accordance with Article 35 (admissibility criteria), the Court thus declared the complaint inadmissible, as the French Government had requested it to do.

Alleged infringement of the right to freedom of religion

The applicant association had unsuccessfully complained of a violation of this nature throughout the domestic proceedings. It submitted that by levying the tax in question, on the basis of an unforeseeable interpretation of the relevant provisions of tax law, the French State had interfered with the act of worship itself. In the association's view, the State had in fact been seeking to suppress its activities, but for no legitimate reason, since the association had not breached public order. The applicant association further argued, among other things, that the measure was disproportionate, that it infringed the right of associations to function peacefully, free from arbitrary State intervention, and that it was likely to undermine the autonomy of religious communities.

The Government contended that the offerings affected by the tax were not an integral part of worship or sacred items. Although the measure in question had not previously been applied at national level, it was nevertheless prescribed by law. Gifts from hand to hand were subject to tax under the same conditions as other donations, at identical rates to those applied to inheritances. Furthermore, the size of the amounts being claimed would not jeopardise the existence of the Jehovah's Witnesses, since the proceedings related solely to their French national association and not to regional or international associations, which would continue to operate in any event.

The European Association of Jehovah's Christian Witnesses emphasised the impact which the present case could have in other European countries.

The Court considered, in the light of the parties' submissions, that the complaint concerning the alleged infringement of the right to freedom of religion raised complex issues of fact and law which could not be resolved at this stage in the examination of the application, but required examination on the merits. Since the complaint could accordingly not be declared manifestly ill-founded, the Court declared it admissible. It is not yet known when the Court will deliver its judgment on the merits.

The decision is available only in French.

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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.