

EUROPEAN COMMISSION OF HUMAN RIGHTS

Application No. 28626/95 Khristiansko Sdruzhenie "Svideteli na Iehova" (Christian Association Jehovah's Witnesses) **against** Bulgaria

Report of The Commission (adopted on 9 March 1998)¹

Introduction

1. This Report relates to the application introduced under Article 25 of the European Convention for the Protection of Human Rights and Fundamental Freedoms by Khristiansko Sdruzhenie "Svideteli na Iehova" (Christian Association Jehovah's Witnesses) against Bulgaria on 6 September 1995. The application was registered on 21 September 1995 under file No. 28626/95.

2. The applicant association was represented by MM Alain Garay and Philippe Goni, lawyers practising in Paris.

3. The Government of Bulgaria were represented by their Agent, Mrs Guenka Beleva and, subsequently, by Mr Vladimir Sotirov of the Ministry of Foreign Affairs and by Mrs Violina Djidjeva, co-agent.

4. On 3 July 1997 the Commission declared the application admissible. It then proceeded to carry out its task under Article 28 para. 1 of the Convention which provides as follows:

"In the event of the Commission accepting a petition referred to it:

a. it shall, with a view to ascertaining the facts, undertake together with the representatives of the parties an examination of the petition and, if need be, an investigation, for the effective conduct of which the States concerned shall furnish all necessary facilities, after an exchange of views with the Commission;

b. it shall at the same time place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for Human Rights as defined in this Convention."

5. The Commission found that the parties had reached a friendly settlement of the case and on 9 March 1998 adopted this Report, which, in accordance with Article 28 para. 2 of the Convention, is confined to a brief statement of the facts and of the solution reached.

6. The following members were present when the Report was adopted: Mm S. Trechsel, President J.-C. Geus M.P. Pellonpää(...)

Part I: Statement of The Facts

7. The applicant is a religious association based in Sofia.

¹ Tratto da New Light On Blood, Official site of The Associated Jehovah's Witnesses for Reform on Blood Elders and Hospital Liaison Committee Members: <http://www.info-sectes.org/tj/bulgare.htm>

8. The applicant association was founded and registered in 1991 under the Persons and Family Act. In 1994 the Act was amended to the effect that religious associations were required to re-register subject to the consent of the Council of Ministers. The registration of an association which had not received authorisation to re-register from the Council of Ministers was to be cancelled.

9. The applicant association applied to the Council of Ministers for authorisation to re-register. The Council of Ministers did not react to the applicant's requests for a hearing. On 28 June 1994 the Council of Ministers adopted Decision No. 255 thereby refusing authorisation. The decision stated that it was based on Section 133a and the transitional provision of the Persons and Family Act; no further reasoning was provided.

10. The applicant association did not receive an official copy of this decision. Members of the applicant association first became aware of its contents on 5 August 1994 during a police action in the town of Haskovo. On 9 September 1994 Decision No. 255 was published in the State Gazette, the official organ of the State.

11. On 15 September 1994 the applicant association appealed to the Supreme Court against Decision No. 255. On 13 March 1995 the Supreme Court dismissed the appeal. The Court found that it could only examine whether the Council of Ministers had acted within its competence.

12. Following the adoption of Decision No. 255 various measures were taken against the activities of the applicant association and of its members. These included arrests, dispersal of meetings held in public and private locations and confiscation of religious materials.

13. Before the Commission the applicant association complained under Articles 9, 10, 11 and 14 of the Convention of the suspension of its registration and activities. The applicant association also complained under Article 6 of the Convention that it had no access to a court competent to decide on the merits. The applicant association further complained under Article 10 of the Convention of hostile media reports, including interviews with public officials, and of the alleged impossibility to publish material in response.

Part II: Solution Reached

14. Following the decision on the admissibility of the application, the Commission placed itself at the disposal of the parties with a view to securing a friendly settlement in accordance with Article 28 para. 1 (b) of the Convention and invited the parties to submit any proposals they wished to make.

15. In accordance with the usual practice, the Secretary, acting on the Commission's instructions, contacted the parties to explore the possibilities of reaching a friendly settlement.

16. By letters of 8 and 12 September 1997 the parties indicated their willingness to reach a friendly settlement. The parties exchanged correspondence and proposals for a friendly settlement and held meetings in Sofia on 20 and 21 November 1997. On 17 January 1998, upon the parties' request, the Commission made proposals to the parties with a view to resolving some remaining differences in their positions. The parties again met in Sofia on 10

February 1998.

17. By letters of 10 and 11 February 1998 the parties informed the Commission of the final text of the friendly settlement. This text, compiled on the basis of the correspondence received from the parties, reads as follows:(AJWRB is providing original french text and an english translation).

"I. Concernant la substitution du service militaire par un service alternatif, le Gouvernement Bulgare s'engage à déposer au Parlement un projet de loi, dans les meilleurs délais, instituant un service civil alternatif au service militaire.

I. Concerning the substitution of mandatory military service with alternative service, the Government of Bulgaria is undertaking to submit to Parliament a draft of the legislation, as soon as possible, instituting a civil service as an alternative to military service.

1.1. Le projet, selon l'avis de la requérante, répond aux exigences des objecteurs de conscience, fidèles des Témoins de Jéhovah, qui souhaitent effectuer un service civil alternatif en remplacement du service militaire.

1.1 The draft, according to the judgement of the petitioner, responds to the demands of conscientious objectors, members of Jehovah's Witnesses, who wish to partake of alternative civilian service in lieu of military service.

1.2. Le projet de loi définitif, déposé par le Conseil des Ministres au Parlement, sera soumis immédiatement à la Commission européenne des Droits de l'Homme.

1.2 The final draft of this legislation, introduced by the Council of Parliamentary Ministers, will be submitted immediately to the European Commission on Human Rights.

II. Concernant la position des Témoins de Jéhovah sur le sang, la requérante s'engage à rédiger une déclaration, qui sera annexée de façon intégrante aux statuts des Témoins de Jéhovah de Bulgarie en vue de son immatriculation, stipulant que:

II. Concerning the position of Jehovah's Witnesses on blood, the petitioner undertakes to draft a statement which will become part of the bylaws of Jehovah's Witnesses of Bulgaria, in view of their registration, stipulating that:

2.1. - les patients Témoins de Jéhovah recourent systématiquement aux soins médicaux pour eux-mêmes et leurs enfants ; il appartient à chacun d'entre eux d'utiliser son libre arbitre, sans aucun contrôle et sanction de la part de la requérante ;

2.1 - Jehovah's Witness patients resort to the use of the medical system for themselves and their children; each member having the right to make use of this [medical system] freely at their own discretion, without any controls or sanctions on the part of the petitioner;

2.2. - s'agissant du respect de la législation sanitaire bulgare, l'association chrétienne les Témoins de Jéhovah de Bulgarie s'engage à respecter son application, y compris:

2.2 - acting according to the Bulgarian health legislation, the Christian Association of Jehovah's Witnesses in Bulgaria undertakes to respect the application of said legislation, which

comprises:

2.2.1. - en ne fournissant pas de déclaration préalable de refus de transfusion de sang aux personnes mineures;

2.2.1 - to not furnish an advance medical directive refusing blood transfusions to minor persons;

2.2.2. - en ce qui concerne les personnes majeures, en observant les dispositions de ladite législation et en reconnaissant à chaque individu la liberté de choix.

2.2.2 - concerning persons who have achieved the age of majority, in observing the dispositions of said legislation recognizes that each individual retains the freedom of choice.

III. Concernant la reconnaissance du culte des Témoins de Jéhovah, par l'Etat Bulgare, comme religion officielle :

III. Concerning the recognition of the sect of Jehovah's Witnesses, by the State of Bulgaria, as an official religion:

3.1. L'association chrétienne les Témoins de Jéhovah s'engage à retirer sa requête contre la Bulgarie déposée devant la Commission européenne des Droits de l'Homme;

3.1 The Christian Association of Jehovah's Witnesses will undertake to withdraw its petition against Bulgaria submitted to the European Commission of Human Rights;

3.2. En conséquence, compte tenu du retrait de la requête, le Gouvernement Bulgare, s'engage à immatriculer les Témoins de Jéhovah en Bulgarie, en tant que culte, conformément à la loi sur les confessions religieuses.

3.2 Consequently, having withdrawn said petition, the Government of Bulgaria will undertake to register Jehovah's Witnesses and their way of worship in Bulgaria, conforming to the legislation regarding religious expression.

3.3. En conséquence, compte tenu du retrait de la requête, le Gouvernement Bulgare s'engage également à révoquer le point 16 de l'annexe 2 au point 4 de l'arrêté du Conseil des Ministres n° 255 de 1994.

3.3 Consequently, having withdrawn said petition, the Government of Bulgaria will undertake equally to revoke subsection 16 of annex 2 to section 4 of the arresting of the Council of Ministers #255 of 1994.

IV. Seront appliquées les modalités techniques suivantes, concernant la radiation de la requête, étant donné la décision d'immatriculer les statuts de l'association à Sofia:

IV. Having applied the following technical modalities, concerning the removal of the petition, having passed the decision to register the statutes of the association to Sofia: on à Sofia:

4.1. L'association requérante dépose à la Direction des Affaires religieuses les statuts, conformes aux termes du présent règlement amiable, et les autres documents exigés pour l'immatriculation.

4.1 The petitioning association submits to the Administration of Religious Affairs the statutes conforming to the terms of this present amicable ruling, and all other documentation necessary for its registration.

4.2. Après examen, la Direction des Affaires religieuses constate la conformité des statuts aux termes du présent règlement amiable et se prononce pour l'immatriculation de l'association requérante.

4.2 After examination, the Administration of Religious Affairs will report conformity of the statutes to the terms of this present amicable ruling and will give authorization for the registration of the petitioning association.

4.3. L'association requérante retire sa requête N° 28626/95.

4.3 The petitioning association will withdraw its petition #28626/95.

4.4. La Direction des Affaires religieuses immatricule l'association requérante conformément aux termes du présent règlement amiable.

4.4 The Administration of Religious Affairs will register the petitioning association conforming to the terms of this present amicable ruling."

18. At its session on 9 March 1998, the Commission noted that the parties had reached an agreement regarding the terms of a settlement. It further considered, having regard to Article 28 para. 1 (b) of the Convention, that the friendly settlement of the case had been secured on the basis of respect for Human Rights as defined in the Convention.

For these reasons, the Commission adopted the present Report.

M. De Salvia Secretary to the Commission

S. Trechsel President of the Commission