

# EUROPEAN COURT

## 5 FRIENDLY SETTLEMENTS ON RELIGIOUS ISSUES (1971-2001)

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HRWF International Secretariat (27.06.2002) - Website <http://www.hrwf.net> - E-mail [info@hrwf.net](mailto:info@hrwf.net) - Due to the heavy case burden placed on the European Court, friendly settlements between the parties prior to the actual trial are encouraged and facilitated. Both prior to and following the reorganization of the European Court in 1997, negotiations between willing parties aimed at securing a friendly settlement would commence once a case was declared admissible.

If the parties reach an agreement, they submit it to the Court for approval. The Court, having regard to its responsibilities under Article 19 of the Convention, can decide to proceed with consideration of the case if a reason of public policy appears to necessitate such a course. However if the Court finds that the agreement provides a satisfactory solution to the matter, within the meaning of Rule 49 para. 2 of Rules of Court A, then it strikes the case out of the list of pending cases.

**1971**

### ***Karnell and Hardt v. Sweden***

#### ***Application No. 4733/71***

The applicants, members of the Evangelical Lutheran Church of Sweden, sought permission to provide religious instruction for their children in place of the school's religious instruction. Section 27, paragraph 2 of the Swedish School Act of 1962 provided for the possibility of obtaining permission from the King-in-Council. However, the King-in-Council denied the applicants' application. The Swedish Board of Education upheld this decision, remarking that exemptions should only be given to pupils, "whose parents adhere to a faith and concept of life which essentially belongs to a different civilization than our own." Only 29 of 1,592 students granted exemptions at the time of Karnell and Hardt's application were not Roman Catholic or Jewish.

The applicants appealed to the Europe Court of Human Rights, submitting that their rights under Article 2, Protocol No. 1 ensuring the right of parents to ensure education and teaching in conformity with their religious beliefs had been violated. They opined that the school's religious instruction delivered a hostile view of the Christian religion. The Commission declared the application admissible. Thereinafter, Sweden agreed to amend its law to provide an exemption for Lutheran Evangelicals from the compulsory religious education law.

The European Court of Human Rights decided that this agreement satisfied Article 2, Protocol 1 of the Convention and therefore that it constituted a friendly settlement. Consequently, the case was struck from the list.

*Footnote: Karnell and Hardt v. Sweden follows up the 27 June, 2002 HRWF press release, "4 friendly settlements on religious freedom issues." It is not available on the website of the European Court of Human Rights, but can be accessed in the 1971 Yearbook of the European Convention on Human Rights.*

1997

***Penditis and Others v. Greece – Freedom of Worship***

***Application No. 23238/94***

<http://hudoc.echr.coe.int/hudoc/ViewRoot.asp?Item=4&Action=Html&X=604154928&Notice=0&Noticemode=&RelatedMode=0>

The three applicants, all Jehovah's Witnesses, rented under a private agreement a room in a building for the use of Jehovah's Witnesses in their worship. The public prosecutor's office instituted criminal proceedings under section 1 of Law no. 1363/1938, accusing them of establishing a place of worship without authorization from the recognized ecclesiastical authorities and the Minister of Education and Religious Affairs. They were subsequently convicted for failure to gain proper authorization.

The applicants appealed to the European Court of Human Rights, submitting that the obligation to seek an authorization to establish a place of worship was contrary to Article 9 of the Convention. The European Commission declared the application admissible and expressed the opinion that there had been a violation of Article 9 by a vote of 27 votes to one. Thereinafter the Minister of Education and Religious Affairs granted the authorization to open a place of worship.

The European Court found that the agreement satisfied Article 9 of the Convention and constituted a friendly settlement. Therefore, it unanimously decided to strike the case off the list.

***Khristiansko Sdruzhenie "Svideteli na lehova" (Christian Association Jehovah's Witnesses)v. Bulgaria –Refusal by Bulgaria to register the Jehovah's Witnesses***

***Application No. 28626/95***

<http://hudoc.echr.coe.int/hudoc/ViewRoot.asp?Item=3&Action=Html&X=603161650&Notice=0&Noticemode=&RelatedMode=0>

The Christian Association of Jehovah's Witnesses registered as a religious organization in 1991 under the Persons and Family Act in Bulgaria. In 1994, Bulgaria amended the Act to require religious associations to re-register subject to the consent of the Council of Ministers. The applicant association applied to the Council of Ministers for authorization to re-register. The Council of Ministers refused authorization, providing no reasoning for its decision. Following that decision, the meetings of Jehovah's Witnesses were suppressed, their religious literature seized, members were arrested for proselytizing, and foreign missionaries were expelled from the country.

The applicant appealed to the European Court of Human Rights, submitting that the Council of Ministers' decision had in effect officially prohibited the practice and manifestation of the Jehovah's Witnesses' religion in Bulgaria in violation of Article 9 of the Convention. After the Commission declared the application admissible, the parties reached a settlement wherein Bulgaria agreed to register Jehovah's Witnesses as an official religion according to the amended 1994 Persons and Family Act.

The European Court found the solution reached by the parties satisfactory and unanimously decided to strike the case off the list.

**1999**

### ***Tsavachidis v. Greece – Freedom of Worship***

***Application No. 28802/95***

<http://hudoc.echr.coe.int/hudoc/ViewRoot.asp?Item=1&Action=Html&X=61113334&Notice=0&Noticemode=&RelatedMode=0>

In 1993, Mr. Tsavachidis was indicted for opening a place of worship without the necessary permission from the Minister of Education and Religious Affairs. He learned that an anonymous report contained detailed information about the Jehovah's Witnesses activities and named Mr. Tsavachidis as their leader. While he was acquitted of the criminal charges, Mr. Tsavachidis requested the public prosecutor to conduct an inquiry in order to determine who had written the anonymous report. This request was denied.

Mr. Tsavachidis appealed to the European Court of Human Rights submitting that the Greek intelligence services kept him under surveillance on account of his religious beliefs in violation of Articles 8, 9, and 11 of the Convention. The Commission expressed the opinion that there had been a violation of Article 8. Following this opinion, the Greek government agreed to pay Mr. Tsavachidis damages and promised that Jehovah's Witnesses would never again be subject to similar surveillance in the future.

The European Court of Human Rights found the agreement between the parties to be satisfactory and decided that the case should be struck out of the list.

**2001**

### ***Stefanov v. Bulgaria***

***– Conscientious Objection***

***Application No. 32428/96***

<http://hudoc.echr.coe.int/hudoc/ViewRoot.asp?Item=1&Action=Html&X=606121150&Notice=0&Noticemode=&RelatedMode=0>

In 1995, Mr. Stefanov, a member of the Jehovah's Witness faith, refused military service on account of his religious beliefs. Accordingly, a local District Court convicted and sentenced him to one and a half years' imprisonment. At the time of his conviction, Bulgaria's Military Service Act had no specific provision for substitute civilian service despite the fact that it had a constitutional provision permitting such substitute service. In 1999, the government began to enforce a provision for substitute civilian service but failed to grant amnesty for those convicted prior to January 1, 1999.

Mr. Stefanov applied to the European Court, submitting that his conviction violated his right to freedom of religion and conscience according to Article 9 of the Convention. Following the Commission's declaration of admissibility, the parties agreed that Bulgarian citizens who, from 1991 onward, refused military service but were willing to perform alternative civilian service would be given a total amnesty.

The European Court found the agreement reached between the parties satisfactory as it was based on respect for human rights and therefore struck the case out of the list.