

Cha'are Shalom Ve Tsedek v. France (Application no. 27417/95)

From DADEL

1) Reference Details

Jurisdiction: European Court of Human Rights

Date of decision: 27 June 2000

Link to full case:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&key=32452&portal=hbkm&source=external&table=285953B33D3AF94893DC49EF6600CEBD49>

2) Facts

The Applicant claims to be a victim of violation by France of Article 9 of the Convention, taken alone and in conjunction with Article 14.

The applicant association, Cha'are Shalom Ve Tsedek, is a minority movement which split away from the Jewish Central Consistory of Paris ("the ACIP"). The Consistory includes congregations representing most of the main denominations within Judaism, with the exception of the liberals and the ultra-orthodox, such as Cha'are Shalom Ve Tsedek.

Cha'are Shalom Ve Tsedek now has six hundred subscribing members and approximately forty thousand adherents, some of whom run a total of twenty butcher's shops, nine restaurants and five caterers in the Paris region alone. Its members practice their religion in the strictest orthodoxy. In particular, the Applicant's members wish to perform ritual slaughter according to stricter rules than those followed by the slaughterers authorized by the Paris Central Consistory as regards examination of slaughtered animals for any signs of disease or anomalies. This type of meat is referred to by the Yiddish word "glatt", meaning "smooth". For meat to qualify as "glatt", the slaughtered animal must not have any impurity, or in other words any trace of a previous illness, especially in the lungs.

Ritual slaughter is authorised under French law and by the Council of Europe Convention for the Protection of Animals for Slaughter and the European Directive of 22 December 1993. It is regulated in French law by Decree no. 80-791 of 1 October 1980. This law forbids ritual slaughter save in a slaughterhouse, and requires that it be performed only by slaughterers authorized by religious bodies which have, in turn, been approved by the Minister of Agriculture. If no religious body has been approved, the prefect of the *département* in which the slaughterhouse is situated may grant individual authorizations

According to the Applicant, the ritual slaughterers working under the authority of the only body approved by the Ministry of Agriculture, the Beth Din or the rabbinical court of the ACIP, now no longer make a detailed examination of the lungs. The Applicant submitted that it was therefore obliged, in order to be able to make "glatt" kosher meat available to its adherents, to slaughter illegally and to obtain supplies from Belgium.

On 11 February 1987 the Applicant sought the government's permission to authorize ritual slaughters. This application was refused by a decision of 7 May 1987 on the grounds that the association was not sufficiently representative within the French Jewish community, and was not a religious association within the meaning of Part IV of the Act of 9 December

1905 on the Separation of the Churches and the State. Appeals to the Paris Administrative Court and later to the Conseil d'Etat were dismissed.

Concurrently with this approval process, the Applicant association submitted to the prefect of the *département* of Deux-Sèvres an application on behalf of three ritual slaughterers, who were members of the association, for specific individual authorizations to perform ritual slaughter in an establishment in that *département*. On 29 April 1987 the prefect refused this application on the grounds that Article 10 § 3 of Decree no. 80-791 of 1 October 1980 empowered prefects to authorize individual slaughterers only where no religious body had been approved for the religion in question. The Joint Rabbinical Ritual Slaughter Committee had been given approval already in the area. The appeal to the Poitiers Administrative Court was dismissed, and the *Conseil d'Etat* upheld the judgment.

The Applicant alleged that the Government's refusal to grant it the ability to authorize ritual slaughter, while giving that power to the ACIP, violated its right to manifest its religion through observance of the rites of the Jewish religion. It relied on Article 9 of the Convention, taken alone and in conjunction with Article 14. It further submitted that it was indeed a "religious body" for the purposes of the 1980 decree regulating ritual slaughter, just like the ACIP, since both were liturgical associations within the meaning of the 1905 Act on the separation of the Churches and the State. The only difference lay in the relative size of these two liturgical associations, since the ACIP numbered among its adherents the majority of the Jews from the various branches of Judaism in France, whereas the applicant association had only about 40,000 members. The Applicant emphasized in that connection that the French authorities had freely granted approvals for ritual slaughter by Muslims without endangering public order or public health in any way whatsoever.

3) Admissibility

The Application was found admissible.

4) Merits

The Court noted that ritual slaughter is an essential aspect of practice of the Jewish religion. Thus, Article 9 of the Convention covers ritual slaughter. The Court further noted that unregulated slaughter is not acceptable, and that if there is to be ritual slaughter, it should be regulated by the public authorities. Accordingly, in granting approval to the ACIP, the Government did not in any way infringe the freedom to manifest one's religion.

The Court reasoned that Article 9 would be violated only if ultra-orthodox Jews were prevented from eating meat due to the illegality of ritual slaughter. The Applicant has alternatives here. Its members can easily obtain supplies of "glatt" meat in Belgium, and a number of butcher's shops operating under the control of the ACIP make meat certified "glatt" by the Beth Din. The Court noted that since the facts of the present case fell within the ambit of Article 9 of the Convention, Article 14 was applicable. The Court considered that the difference of treatment between ACIP, and Cha'are Shalom Ve Tsedek was limited in scope. The Government created the difference in pursuit of a legitimate aim, namely protection of public health and order. The Court also emphasized the latitude given to States to negotiate the Church-State relationship. In this case, there was a reasonable relationship of proportionality between the means employed (restrictions on slaughterhouses) and the aim sought.

5) Decision

The Court found no violation of Article 9 of the Convention taken in conjunction with Article 14.