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

SECOND SECTION

CASE OF SERIF v. GREECE

(Application no. 38178/97)

JUDGMENT

STRASBOURG

14 December 1999

FINAL

14/03/2000

In the case of Serif v. Greece,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Mr M. FISCHBACH, *President*,
Mr C.L. ROZAKIS,
Mr B. CONFORTI,
Mr P. LORENZEN,
Mrs M. TSATSA-NIKOLOVSKA,
Mr A.B. BAKA,
Mr E. LEVITS, *judges*,
and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 2 December 1999,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 38178/97) against the Hellenic Republic lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Greek national, Mr Ibraim Serif ("the applicant"), on 29 September 1997. The applicant was represented by his counsel. The Greek Government ("the Government") were represented by their Agent, Mr A. Komissopoulos, President of the State Legal Council.

The applicant complained, *inter alia*, that his conviction for usurping the functions of a minister of a "known religion" and publicly wearing the dress of such a minister amounted to a violation of his rights under Articles 9 and 10 of the Convention.

2. On 12 January 1998 the Commission decided to give notice of the application to the Government and to invite them to submit observations in writing on the merits.

The Government submitted their observations on 30 April 1998, to which the applicant replied on 3 July 1998.

3. Following the entry into force of Protocol No. 11 to the Convention on 1 November 1998, and in accordance with Article 5 § 2 thereof, the application was examined by the Court.

4. In accordance with Rule 52 § 1 of the Rules of Court, the President of the Court, Mr L. Wildhaber, assigned the case to the Second Section. The Chamber constituted within that Section included *ex officio* Mr C.L. Rozakis, the judge elected in respect of Greece (Article 27 § 2 of the Convention and Rule 26 § 1 (a)), and Mr M. Fischbach, Vice-President of the Section (Rules 13 and 26 § 1 (a)). The other members designated by

the latter to complete the Chamber were Mr B. Conforti, Mr P. Lorenzen, Mrs M. Tsatsa-Nikolovska, Mr A.B. Baka and Mr E. Levits (Rule 26 § 1 (b)).

5. On 17 November 1998 the Chamber decided to invite the parties to a hearing on admissibility and merits. The hearing took place on 26 January 1999.

There appeared before the Court:

(a) *for the Government*
Mr G. KANELLOPOULOS, Senior Adviser,
State Legal Council, *Delegate of the Agent*,
Mrs M. TELALIAN, Deputy Legal Adviser,
Ministry of Foreign Affairs,
Mr V. KYRIAZOPOULOS, Legal Assistant,
State Legal Council, *Advisers*;

(b) *for the applicant*
Mr T. AKILLIOGLU,
Mr S. EMIN, *Counsel*.

The applicant was also present.

6. On 26 January 1998 the Chamber declared admissible the applicant's complaints under Articles 9 and 10 of the Convention. It declared the remainder of the application inadmissible[1].

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicant is a Greek citizen, born in 1951. He is a theological school graduate and resides in Komotini.

A. The background of the case

8. In 1985 one of the two Muslim religious leaders of Thrace, the Mufti of Rodopi, died. The State appointed a mufti *ad interim*. When he resigned,

1. *Note by the Registry*. The Court's decision is obtainable from the Registry.

a second mufti *ad interim*, Mr M.T., was appointed. On 6 April 1990 the President of the Republic confirmed M.T. in the post of Mufti of Rodopi.

9. In December 1990 the two independent Muslim Members of Parliament for Xanthi and Rodopi requested the State to organise elections for the post of Mufti of Rodopi, as the law then in force provided. They also requested that elections be organised by the State for the post of the other Muslim religious leader of Thrace, the Mufti of Xanthi. Having received no reply, the two independent MPs decided to organise elections themselves at the mosques on Friday 28 December 1990, after prayers.

10. On 24 December 1990 the President of the Republic, on the proposal of the Council of Ministers and under Article 44 § 1 of the Constitution, adopted a legislative decree by which the manner of selection of the muftis was changed.

11. On 28 December 1990 the applicant was elected Mufti of Rodopi by those attending Friday prayers at the mosques. Together with other Muslims, he challenged the lawfulness of M.T.'s appointment before the Supreme Administrative Court. These proceedings are still pending.

12. On 4 February 1991 Parliament enacted Law no. 1920, thereby retroactively validating the legislative decree of 24 December 1990.

B. The criminal proceedings against the applicant

13. The Rodopi public prosecutor instituted criminal proceedings against the applicant under Articles 175 and 176 of the Criminal Code for having usurped the functions of a minister of a "known religion" and for having publicly worn the dress of such a minister without having the right to do so. On 8 November 1991 the Court of Cassation, considering that there might be disturbances in Rodopi, decided, under Articles 136 and 137 of the Code of Criminal Procedure, that the case should be heard in Salonika.

14. On 5 March 1993 the Salonika public prosecutor summoned the applicant to appear before the Salonika Criminal Court sitting at first instance and composed of a single judge to be tried for the offences provided for under Articles 175 and 176 of the Criminal Code.

15. The applicant was tried by the Salonika Criminal Court on 12 December 1994. He was represented by counsel. The court heard a number of prosecution and defence witnesses. Although one witness attested that the applicant had taken part in religious ceremonies, none of the witnesses stated that the applicant had purported to discharge the judicial functions with which muftis are entrusted in Greek law. Moreover, a number of witnesses attested that no official dress for muftis existed. However, one prosecution witness declared that, although in principle all Muslims were allowed to wear the black gown in which the applicant had been appearing, according to local custom this had become the privilege of muftis.

16. On 12 December 1994 the court found the applicant guilty of the offences provided for under Articles 175 and 176 of the Criminal Code. According to the court, these offences had been committed between 17 January and 28 February 1991, a period during which the applicant had discharged the entirety of the functions of the Mufti of Rodopi by officiating at weddings, "christening" children, preaching and engaging in administrative activities. In particular, the court found that on 17 January 1991 the applicant had issued a message to his fellow Muslims about the religious significance of the Regaib Kandil feast, thanking them at the same time for his election as mufti. On 15 February 1991, in the capacity of a mufti, he had attended the inauguration of the hall of the "Union of the Turkish Youth of Komotini" wearing clothes which, according to Muslim custom, only muftis were allowed to wear. On 27 February 1991 he had issued another message on the occasion of the Berat Kandil feast. Finally, on 28 February 1991 and in the same capacity, he had attended a religious gathering of 2,000 Muslims at Dokos, a village in Rodopi, and had delivered the keynote speech. Moreover, the court found that the applicant had repeatedly worn the official dress of a mufti in public. The court imposed on the applicant a commutable sentence of eight months' imprisonment.

17. The applicant appealed. The hearing before the Salonika Criminal Court sitting on appeal and composed of three judges was adjourned on 24 May 1995 and 30 April 1996 because, *inter alia*, M.T., the appointed mufti, who had been called by the prosecution, did not appear to testify. M.T. was fined. The appeal was heard on 21 October 1996. In a decision issued on the same date the court upheld the applicant's conviction and imposed on him a sentence of six months' imprisonment to be commuted to a fine.

18. The applicant paid the fine and appealed on points of law. He submitted, *inter alia*, that the appellate court had interpreted Article 175 of the Criminal Code erroneously when it considered that the offence was made out even where a person claimed to be a minister of a "known religion" without, however, discharging any of the functions of the minister's office. Moreover, the court had been wrong to disregard expert testimony that no official mufti dress existed. The applicant had the right under Article 10 of the Convention to make the statements for which he had been convicted. "The office of the mufti represented the free manifestation of the Muslim religion", the Muslim community had the right under the Treaty of Peace of Athens of 1913 to elect its muftis and, therefore, his conviction violated Articles 9 and 14 of the Convention.

19. On 2 April 1997 the Court of Cassation dismissed the applicant's appeal. It considered that the offence in Article 175 of the Criminal Code was made out "where somebody appeared in public as a minister of a 'known religion' and discharged the functions of the minister's office, including any

of the administrative functions pertaining thereto". The court considered that the applicant had committed this offence because he had behaved and appeared in public as the Mufti of Rodopi, wearing the dress which, in people's minds, was that of a mufti. In particular, the court referred to the incidents of 17 January and 15, 27 and 28 February 1991. The Court of Cassation did not specifically address the applicant's arguments under Articles 9, 10 and 14 of the Convention.

II. RELEVANT LAW AND PRACTICE

A. International treaties

20. Article 11 of the Treaty of Peace of Athens between Greece and others, on the one hand, and the Ottoman Empire, on the other, which was concluded on 17 May 1913 and ratified by the Greek parliament by a law published in the Official Gazette on 14 November 1913, provides as follows:

(Translation)

> "The life, property, honour, religion and customs of the inhabitants of the districts ceded to Greece who will remain under Greek administration shall be scrupulously respected.
>
> They shall enjoy in full the same civil and political rights as the subjects of Greek origin. Muslims shall be entitled to freedom and to practise their religion openly.
>
> ...
>
> There shall be no interference with the autonomy or hierarchical organisation of existing or future Muslim communities or in the management of their funds or property.
>
> ...
>
> Each mufti shall be elected by Muslim voters in his own constituency.
>
> ...
>
> In addition to their authority in purely religious matters and in the supervision of the management of *vacouf* property, the muftis shall have jurisdiction as between Muslims in the spheres of marriage, divorce, maintenance (*nefaca*), guardianship, administration, capacity of minors, Islamic wills and succession to the office of *mutevelli* (*Tevliét*).
>
> Judgments delivered by the muftis shall be enforced by the competent Greek authorities.
>
> As regards successions, any interested Muslim party may with prior agreement submit a dispute to the mufti as arbitrator. Unless the agreement expressly provides otherwise, all avenues of appeal to the Greek courts shall lie against an arbitral award."

21. On 10 August 1920 Greece concluded two treaties with the principal Allied Powers at Sèvres. By the first treaty the Allied Powers transferred to

Greece all the rights and titles which they had acquired over Thrace by virtue of the peace treaty they had signed with Bulgaria at Neuilly-sur-Seine on 27 November 1919. The second treaty concerned the protection of minorities in Greece. Article 14 § 1 of the second treaty provides as follows:

> "Greece agrees to take all necessary measures in relation to the Muslims to enable questions of family law and personal status to be regulated in accordance with Muslim usage."

22. On 30 January 1923 Greece and Turkey signed a treaty for the exchange of populations. On 24 July 1923 Greece and others, on the one hand, and Turkey, on the other, signed the Treaty of Peace of Lausanne. Articles 42 and 45 of this treaty gave the Muslim minority of Greece the same protection as Article 14 § 1 of the Sèvres Treaty for the Protection of Minorities. On the same day Greece signed a protocol with the principal Allied Powers bringing into force the two treaties concluded at Sèvres on 10 August 1920. The Greek parliament ratified the three above-mentioned treaties by a law published in the Official Gazette on 25 August 1923.

23. In its decision no. 1723/80 the Court of Cassation considered that it was obliged to apply Islamic law in certain disputes between Muslims by virtue of the Treaty of Peace of Athens of 1913, the Treaty for the Protection of Minorities of Sèvres of 1920 and the Treaty of Peace of Lausanne of 1923.

B. The legislation on the muftis

24. Law no. 2345/1920 provided that the muftis, in addition to their religious functions, had competence to adjudicate on family and inheritance disputes between Muslims to the extent that these disputes were governed by Islamic law. It also provided that the muftis were directly elected by the Muslims who had the right to vote in the national elections and who resided in the prefectoral district in which the muftis would serve. The elections were to be organised by the State and theological school graduates had the right to be candidates. Section 6(8) of the Law provided for the promulgation of a royal decree to make detailed arrangements for the elections of the muftis.

25. Such a decree was never promulgated. The State appointed a mufti in Rodopi in 1920 and another one in March 1935. In June 1935 a mufti *ad interim* was appointed by the State. In the course of the same year the State appointed a regular mufti. This mufti was replaced by another in 1941, when Bulgaria occupied Thrace. He was reappointed by the Greek State in 1944. In 1948 the Greek authorities appointed a mufti *ad interim* until 1949, when a regular mufti was appointed. The latter served until 1985, when he died.

26. Under the legislative decree of 24 December 1990 the functions and qualifications of the muftis remain largely unchanged. However, provision is made for the appointment of the muftis by presidential decree following a proposal by the Minister of Education who, in turn, must consult a committee composed of the local prefect and a number of Muslim dignitaries chosen by the State. The legislative decree expressly abrogates Law no. 2345/1920 and provides that it should be ratified by law in accordance with Article 44 § 1 of the Constitution.

27. Law no. 1920/1991 retroactively validated the legislative decree of 24 December 1990.

C. Legislative decrees under Article 44 § 1 of the Constitution

28. Article 44 § 1 of the Constitution provides as follows:

> "In exceptional circumstances, when an extremely urgent and unforeseeable need arises, the President of the Republic may, on the proposal of the Council of Ministers, adopt legislative acts. These acts must be submitted to Parliament for approval ... within forty days …"

D. Articles 175 and 176 of the Criminal Code

29. Article 175 of the Criminal Code provides as follows:

> "1. A person who intentionally usurps the functions of a State or municipal official shall be liable to a term of imprisonment not exceeding one year or a fine.
>
> 2. This provision also applies where a person usurps the functions of a lawyer or a minister of the Greek Orthodox Church or another known religion."

30. The Court of Cassation considered that this provision applied in the case of a former priest of the Greek Orthodox Church who continued to wear the priests' robes (judgment no. 378/80). The priest in question had been defrocked after joining the Old Calendarists, a religious movement formed by Greek Orthodox priests who wanted the Church to maintain the Julian calendar. In judgment no. 454/66 the Court of Cassation considered that the offence in Article 175 of the Criminal Code was also committed by a person who purported to discharge the administrative functions of a priest. In judgments nos. 140/64 and 476/71 the Court of Cassation applied Article 175 of the Code to cases of persons who had purported to exercise the religious functions of an Orthodox priest by conducting services, "christening" children, etc.

31. Article 176 of the Criminal Code provides as follows:

> "A person who publicly wears the dress or the insignia of a State or municipal official or of a minister of a religion referred to in Article 175 § 2 without having the right to do so ... shall be liable to a term of imprisonment not exceeding six months or a fine."

E. The legislation on ministers of “known religions”

32. Ministers of the Greek Orthodox Church and other “known religions” enjoy a number of privileges under domestic law. *Inter alia*, the religious weddings they celebrate produce the same legal effects as civil weddings and they are exempt from military service.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION

33. The applicant complained that his conviction amounted to a violation of Article 9 of the Convention, which provides as follows:

> “1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
>
> 2. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

34. The Government denied that there had been any such breach. In their view, there had been no interference with the applicant’s right to freedom of religion. Even if there had been an interference, the Government argued that it would have been justified under the second paragraph of Article 9 of the Convention.

35. The Court must consider whether the applicant’s Article 9 rights were interfered with and, if so, whether such interference was “prescribed by law”, pursued a legitimate aim and was “necessary in a democratic society” within the meaning of Article 9 § 2 of the Convention.

A. Existence of an interference

36. The applicant argued that his conviction amounted to an interference with his right to be free to exercise his religion together with all those who turned to him for spiritual guidance.

37. The Government submitted that there had been no interference with the applicant’s right to freedom of religion because Article 9 of the Convention did not guarantee for the applicant the right to impose on others his understanding as to Greece’s obligations under the Treaty of Peace of Athens.

38. The Court recalls that, while religious freedom is primarily a matter of individual conscience, it also includes, *inter alia*, freedom, in community with others and in public, to manifest one's religion in worship and teaching (see, *mutatis mutandis*, the Kokkinakis v. Greece judgment of 25 May 1993, Series A no. 260-A, p. 17, § 31).

39. The Court further recalls that the applicant was convicted for having usurped the functions of a minister of a "known religion" and for having publicly worn the dress of such a minister without having the right to do so. The facts underlying the applicant's conviction, as they transpire from the relevant domestic court decisions, were issuing a message about the religious significance of a feast, delivering a speech at a religious gathering, issuing another message on the occasion of a religious holiday and appearing in public wearing the dress of a religious leader. In these circumstances, the Court considers that the applicant's conviction amounts to an interference with his right under Article 9 § 1 of the Convention, "in community with others and in public …, to manifest his religion … in worship [and] teaching".

B. "Prescribed by law"

40. The Government submitted that the applicant's conviction was provided by law, namely Articles 175 and 176 of the Criminal Code. Given the manner in which these provisions had been interpreted by the courts, the outcome of the proceedings against the applicant was foreseeable. In the Government's view, the issue of whether the applicant's conviction was prescribed by law was not related to Law no. 2345 on the election of the muftis or the Treaty of Peace of Athens. In any event, the Government argued that Law no. 2345 had fallen into disuse. Moreover, the provisions of the Treaty of Peace of Athens, which had been concluded when Thrace was not part of Greece, became devoid of purpose after the compulsory exchange of populations in 1923. This was when Greece exchanged all the Muslims who were living on the territories in its possession when the Treaty of Peace of Athens had been concluded. In the alternative, the Government argued that the provisions of the Treaty of Peace of Athens had been superseded by the provisions of the Treaty of Sèvres for the Protection of Minorities in Greece and the Treaty of Peace of Lausanne, and these treaties made no provision for the election of the muftis.

41. The applicant disagreed. He considered that the Treaty of Peace of Athens remained in force. The Greek Prime Minister had accepted that at the Diplomatic Conference leading to the 1923 Treaty of Peace of Lausanne. Moreover, the Court of Cassation had confirmed the continued validity of the Treaty of Peace of Athens and legal scholars held the same view. The Muslims had never accepted the abrogation of Law no. 2345.

42. The Court does not consider it necessary to rule on the question whether the interference in issue was "prescribed by law" because, in any event, it is incompatible with Article 9 on other grounds (see the Manoussakis and Others v. Greece judgment of 26 September 1996, *Reports of Judgments and Decisions* 1996-IV, p. 1362, § 38).

C. Legitimate aim

43. The Government argued that the interference served a legitimate purpose. By protecting the authority of the lawful mufti the domestic courts sought to preserve order in the particular religious community and in society at large. They also sought to protect the international relations of the country, an area over which States exercise unlimited discretion.

44. The applicant disagreed.

45. The Court accepts that the interference in question pursued a legitimate aim under Article 9 § 2 of the Convention, namely "to protect public order". It notes in this connection that the applicant was not the only person claiming to be the religious leader of the local Muslim community. On 6 April 1990 the authorities had appointed another person as Mufti of Rodopi and the relevant decision had been challenged before the Supreme Administrative Court.

D. "Necessary in a democratic society"

46. The Government submitted that the interference was necessary in a democratic society. In many countries, the muftis were appointed by the State. Moreover, muftis exercised important judicial functions in Greece and judges could not be elected by the people. As a result, the appointment of a mufti by the State could not in itself raise an issue under Article 9.

47. Moreover, the Government submitted that the Court of Cassation had not convicted the applicant simply because he had appeared in public as the mufti. The court considered that the offence in Article 175 was made out where somebody actually discharged the functions of a religious minister. The court also considered that the acts that the applicant engaged in fell within the administrative functions of a mufti in the broad sense of the term. Given that there were two muftis in Rodopi at the time, the courts had to convict the spurious one in order to avoid the creation of tension among the Muslims, between the Muslims and Christians and between Turkey and Greece. The applicant had questioned the legality of the acts of the lawful mufti. In any event, the State had to protect the office of the mufti and, even if there had not existed a lawfully appointed mufti, the applicant would have had to be punished. Finally, the "election" of the applicant had been flawed because it had not been the result of a democratic procedure and the

applicant had been used by the local Muslim MP for party political purposes.

48. The applicant considered that his conviction was not necessary in a democratic society. He pointed out that the Christians and Jews in Greece had the right to elect their religious leaders. Depriving the Muslims of this possibility amounted to discriminatory treatment. The applicant further contended that the vast majority of Muslims in Thrace wanted him to be their mufti. Such an interference could not be justified in a democratic society, where the State should not interfere with individual choices in the field of personal conscience. His conviction was just one aspect of the policy of repression applied by the Greek State *vis-à-vis* the Turkish-Muslim minority of western Thrace.

49. The Court recalls that freedom of thought, conscience and religion is one of the foundations of a "democratic society" within the meaning of the Convention. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it. It is true that in a democratic society it may be necessary to place restrictions on freedom of religion to reconcile the interests of the various religious groups (see the Kokkinakis judgment cited above, pp. 17 and 18, §§ 31 and 33). However, any such restriction must correspond to a "pressing social need" and must be "proportionate to the legitimate aim pursued" (see, among others, the Wingrove v. the United Kingdom judgment of 25 November 1996, *Reports* 1996-V, p. 1956, § 53).

50. The Court also recalls that the applicant was convicted under Articles 175 and 176 of the Criminal Code, which render criminal offences certain acts against ministers of "known religions". The Court notes in this connection that, although Article 9 of the Convention does not require States to give legal effect to religious weddings and religious courts' decisions, under Greek law weddings celebrated by ministers of "known religions" are assimilated to civil ones and the muftis have competence to adjudicate on certain family and inheritance disputes between Muslims. In such circumstances, it could be argued that it is in the public interest for the State to take special measures to protect from deceit those whose legal relationships can be affected by the acts of religious ministers. However, the Court does not consider it necessary to decide this issue, which does not arise in the applicant's case.

51. The Court notes in this connection that, despite a vague assertion that the applicant had officiated at wedding ceremonies and engaged in administrative activities, the domestic courts that convicted him did not mention in their decisions any specific acts by the applicant with a view to producing legal effects. The domestic courts convicted the applicant on the following established facts: issuing a message about the religious significance of a feast, delivering a speech at a religious gathering, issuing another message on the occasion of a religious holiday and appearing in

public in the dress of a religious leader. Moreover, it has not been disputed that the applicant had the support of at least part of the Muslim community in Rodopi. However, in the Court's view, punishing a person for merely acting as the religious leader of a group that willingly followed him can hardly be considered compatible with the demands of religious pluralism in a democratic society.

52. The Court is not oblivious of the fact that in Rodopi there existed, in addition to the applicant, an officially appointed mufti. Moreover, the Government argued that the applicant's conviction was necessary in a democratic society because his actions undermined the system put in place by the State for the organisation of the religious life of the Muslim community in the region. However, the Court recalls that there is no indication that the applicant attempted at any time to exercise the judicial and administrative functions for which the legislation on the muftis and other ministers of "known religions" makes provision. As for the rest, the Court does not consider that, in democratic societies, the State needs to take measures to ensure that religious communities remain or are brought under a unified leadership.

53. It is true that the Government argued that, in the particular circumstances of the case, the authorities had to intervene in order to avoid the creation of tension among the Muslims in Rodopi and between the Muslims and the Christians of the area as well as Greece and Turkey. Although the Court recognises that it is possible that tension is created in situations where a religious or any other community becomes divided, it considers that this is one of the unavoidable consequences of pluralism. The role of the authorities in such circumstances is not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other (see, *mutatis mutandis*, the Plattform "Ärzte für das Leben" v. Austria judgment of 21 June 1988, Series A no. 139, p. 12, § 32). In this connection, the Court notes that, apart from a general reference to the creation of tension, the Government did not make any allusion to disturbances among the Muslims in Rodopi that had actually been or could have been caused by the existence of two religious leaders. Moreover, the Court considers that nothing was adduced that could warrant qualifying the risk of tension between the Muslims and Christians or between Greece and Turkey as anything more than a very remote possibility.

54. In the light of all the above, the Court considers that it has not been shown that the applicant's conviction under Articles 175 and 176 of the Criminal Code was justified in the circumstances of the case by "a pressing social need". As a result, the interference with the applicant's right, in community with others and in public, to manifest his religion in worship and teaching was not "necessary in a democratic society …, for the protection of public order" under Article 9 § 2 of the Convention. There has, therefore, been a violation of Article 9 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

55. The applicant complained that, since he had been convicted for certain statements he had made and for wearing certain clothes in public, there had also been a violation of Article 10 of the Convention, which provides as follows:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers …
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

56. The Government argued that there had been no violation because the applicant had not been punished for expressing certain views but for usurping the functions of a mufti.

57. Given its finding that there has been a violation of Article 9 of the Convention, the Court does not consider it necessary to examine whether Article 10 was also violated, because no separate issue arises under the latter provision.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

59. The applicant claimed repayment of the fine he had paid as a result of his conviction, which was approximately 700,000 drachmas (GRD). He also claimed GRD 10,000,000 for non-pecuniary damage.

60. The Government did not accept these claims.

61. The Court recalls its finding that the applicant's conviction amounted to a violation of Article 9 of the Convention. It therefore awards the applicant as compensation for pecuniary damage the equivalent of the fine he had to pay, namely GRD 700,000. The Court further considers that, as a result of the above violation, the applicant has suffered non-pecuniary damage for which the finding in this judgment does not afford sufficient

satisfaction. Making its assessment on an equitable basis, the Court awards the applicant GRD 2,000,000 in this respect.

B. Costs and expenses

62. The applicant did not make any claim in respect of costs and expenses.

63. The Court, having regard to the above and to the fact that the applicant had the benefit of legal aid in the proceedings before it, does not consider it appropriate to make an award in this connection.

C. Default interest

64. According to the information available to the Court, the statutory rate of interest applicable in Greece at the date of adoption of the present judgment is 6% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 9 of the Convention;

2. *Holds* that no separate issue arises under Article 10 of the Convention;

3. *Holds* that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, 2,700,000 (two million seven hundred thousand) drachmas for damage, and that simple interest at an annual rate of 6% shall be payable from the expiry of the above-mentioned three months until settlement;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 14 December 1999.

Erik FRIBERGH
Registrar

Marc FISCHBACH
President