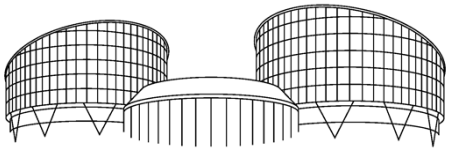

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF HAMZAYAN v. ARMENIA

(Application no. 43082/14)

JUDGMENT

Art 9 • Freedom of religion • Administrative penalty imposed on a Jehovah's Witness for discussing the Bible with a third person in the latter's home • Lack of clear and foreseeable legal basis • Interference not "in accordance with the law"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

6 February 2024

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Hamzayan v. Armenia,

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

Gabriele Kucsko-Stadlmayer*, President*,
Tim Eicke,
Faris Vehabović,
Armen Harutyunyan,
Anja Seibert-Fohr,
Ana Maria Guerra Martins,
Sebastian Răduleţu*, judges*,
and Ilse Freiwirth, *Section Registrar,*

Having regard to:

the application (no. 43082/14) against the Republic of Armenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Armenian national, Ms Marina Hamzayan ("the applicant"), on 10 June 2014;

the decision to give notice to the Armenian Government ("the Government") of the complaints, raised under Articles 9 and 14 of the Convention, concerning administrative proceedings brought against the applicant in the unrecognised "Nagorno Karabakh Republic", and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 16 January 2024,

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

INTRODUCTION

1. The case concerns complaints, raised under Articles 9 and 14 of the Convention, in relation to an administrative penalty imposed on the applicant, a Jehovah's Witness, by the authorities of the unrecognised "Nagorno Karabakh Republic" ("the NKR"), for discussing the Bible with a third person in the latter's home.

THE FACTS

2. The applicant was born in 1980 and lives in Yerevan. She was represented by Mr S.H. Brady and Mr A. Carbonneau, lawyers practising in Strasbourg.

3. The Government were represented by their Agent, Mr Y. Kirakosyan, Representative of the Republic of Armenia on International Legal Matters.

4. The facts of the case may be summarised as follows.

5. The applicant is a Jehovah's Witness. At the material time she lived in the city of Stepanakert, in the "NKR".

6. On 23 February 2013 the applicant and her friend, A.H., visited interested persons in the town of Shushi, also located in the "NKR", to discuss the Bible, including an elderly woman, N., with whom A.H. was acquainted, and who had apparently participated in a couple of religious gatherings with Jehovah's Witnesses.

7. Shortly thereafter the police arrived and searched the applicant's and A.H.'s belongings. A search record was drawn up, which stated that the religious literature found in the applicant's bag had been seized.

8. The applicant and A.H. were then taken to the police station, where they were questioned and their belongings were searched again. They were kept at the police station for about four and a half hours.

9. The applicant was subsequently informed by the Administrative Commission of the Stepanakert Mayor's Office ("the Commission") that she had been charged with an administrative offence under Article 206 § 2 of the Code of Administrative Offences of the "NKR" ("the CAO"; see paragraph 20 below). She was summoned to appear at a hearing to be held on 2 April 2013.

10. On 2 April 2013 the Commission held a hearing and imposed a fine of 1,000 Armenian drams (approximately 2 euros) on the applicant, finding it established that, in breach of Article 206 § 2 of the CAO, she had "breached the rules set out in the legislation on the organising and holding religious gatherings, marches and other rituals of worship".

11. The record of the relevant hearing, in so far as the decision in respect of the applicant is concerned, reads as follows:

> "As a result of the discussion, the [Commission]
>
> ...
>
> Examined – The materials about [the applicant] received from ... the police ... concerning the violation of the legislation on religious association under Article 206 § 2 of the [CAO].
>
> The Chairman stated that the previous session had been adjourned following a request [by the applicant's lawyers] to invite Senior Lieutenant [A.], [the police officer who had visited N.'s house] for questioning.
>
> ...
>
> In reply to [the applicant's lawyer's] questions, [A.] stated:
>
> - Having received a complaint from [N.] ...that Jehovah's Witnesses had come to her house and were disturbing her, I visited her house and saw religious books on the table, but [the Jehovah's Witnesses] stopped talking when they saw me. We have received three complaints from [N.], who stated that she had been invited to gatherings several times but she had refused, after which they had come again to try to persuade her. [The applicant] and [A.H.] had disturbed the peace. According to [N.], [A.H.] and [the applicant] had taken her to gatherings several times but she had then not wished to participate in them and every time they invited her she felt embarrassed and let them into her house.
>
> The members of the [Commission] did not ask the witness any questions.

> [The Commission] proceeded to make a decision concerning the administrative offence.
>
> Decided – to impose a fine of 1,000 (one thousand) drams on [the applicant] under Article 206 § 2 of the [CAO]."

12. The Government submitted to the Court that L.M., a site inspector of the Shushi Regional Department of the "NKR" Police, had received telephone calls and complaints from residents in the area under his supervision that Jehovah's Witnesses had visited their homes, distributing books, religious materials and other items, disturbing the peace and undermining their freedom of religion. They did not submit any documents in that connection.

13. On 13 May 2013 the applicant appealed against the decision of 2 April 2013 (see paragraph 10 above) to the "NKR" Administrative Court ("the Administrative Court"). She argued, amongst other things, that the impugned decision did not contain a description of the underlying facts, did not make it clear what kind of wrongdoing she had committed and, overall, was not based on any reasons.

14. By a judgment of 24 June 2013, the Administrative Court declared the Commission's decision of 2 April 2013 null and void, finding that it was not properly reasoned. The relevant parts of the judgment read as follows:

> "It follows from [the Commission's decision of 2 April 2013] that it was considered established that the applicant had breached the rules for organising and holding religious gatherings, marches and other rituals of worship, whereas it is not clear from the aforementioned decision by which action she had committed [the offence in question].
>
> Since it is not clear from the aforementioned decision ... which rules for organising and holding religious gatherings, marches and other rituals of worship the applicant has specifically violated ... [the Commission's decision] ... has imposed an obviously unlawful obligation on the applicant ..."

15. The Stepanakert Mayor's Office lodged an appeal with reference to, *inter alia*, Article 26 of the "NKR" Constitution (see paragraph 19 below) and sections 6 and 7 of the "NKR" Freedom of Conscience and Religious Organisations Act (see paragraphs 21 and 22 below). The appeal also referred to N.'s statement to the police which stated, among other things, that she was not a Jehovah's Witness; she alleged that she had attended two religious gatherings with Jehovah's Witnesses because she had been manipulated.

16. On 31 October 2013 the "NKR Administrative Court of Appeal" ("the Court of Appeal") quashed the Administrative Court's judgment of 24 June 2013 (see paragraph 14 above) and upheld the Commission's decision of 2 April 2013 (see paragraph 10 above). The relevant parts of its decision read as follows:

> "...
>
> It follows from [Article 26 §§ 2 and 3 of the 'NKR' Constitution] that the right to freedom of thought, conscience and religion is guaranteed in [the 'NKR'] only for the

followers of a religious association which has been legally registered, whereas in all other cases the Constitution does not guarantee the [freedom of thought, conscience and religion] of a group associated with any religion or faith or its existence.

[References to sections 6 and 7(1) of the 'NKR' Freedom of Conscience and Religious Organisations Act; see paragraphs 21 and 22 below] ... That is to say, only legally registered religious organisations benefit from the right to carry out religious activity in [the 'NKR'].

... the case against the applicant...has been examined on the basis of the case material obtained by the Shushi Police ... namely [N.'s] complaint to site inspector [L.M.] ... about the Jehovah's Witnesses' visits to her home ...

The case file does not contain ... a certificate of State registration of a religious entity named 'Jehovah's Witnesses'... Hence, the law does not guarantee the right of a religious association called 'Jehovah's Witnesses' to operate in the 'NKR'.

It follows that [the Commission] ... acted within its powers under the Constitution and the law ...

...

The decision is subject to appeal before the ['NKR'] Supreme Court within a period of one month from the date of delivery ..."

17. The applicant lodged an appeal on points of law.

18. On 13 December 2013 the "NKR" Supreme Court declared the applicant's appeal on points of law inadmissible for lack of merit (that is, it refused the applicant leave to appeal).

RELEVANT LEGAL FRAMEWORK

I. CONSTITUTION

19. Article 26 of the Constitution of the "NKR", as in force at the time of the events at issue in the present case, reads as follows:

"1. Everyone shall have the right to freedom of thought, conscience and religion.

2. The expression of freedom of thought, conscience and religion may be restricted only by law on the grounds set out in Article 52 of the Constitution.

3. The freedom of activity of religious organisations operating in accordance with the law is guaranteed."

II. CODE OF ADMINISTRATIVE OFFENCES

20. Article 206 of the "NKR" Code of Administrative Offences ("the CAO") provides that a violation of the legislation on religious association is punishable by a fine of between 30% and 100% of the minimum monthly wage. The same provision provides that a violation of the legislation on religious association may take the following forms: avoidance by the leaders of a religious association of the requirement to register it with State governance bodies (Article 206 § 1); a breach of the rules set out by the

legislation on organising and holding religious gatherings, marches and other rituals of worship (Article 206 § 2); and the organisation and holding by religious ministers and members of religious associations of special gatherings of children and young people, as well as other groups or gatherings which are not connected with labour, literature and rituals of worship.

III. FREEDOM OF CONSCIENCE AND RELIGIOUS ORGANISATIONS ACT

21. Section 6 of the "NKR" Freedom of Conscience and Religious Organisations Act provides that the following religious organisations operate in the "NKR":

(i) the Armenian Apostolic Holy Church (abbreviated to "the Armenian Church") with its traditional organisations;

(ii) other religious organisations which are established and function within the circle of their respective believers in accordance with their own property and charter.

22. Section 7(1) lists the rights of religious organisations, including, *inter alia*, the right to provide religious services in places of worship and on sites owned by them, acquire objects and materials of religious significance and create religious studies groups.

Section 7(3) states that the rights of religious organisations are granted upon registration in the territory of the "NKR".

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION

23. The applicant complained that the imposition of an administrative penalty on her for a peaceful discussion of a religious text constituted an unlawful and disproportionate interference with her right to freedom of religion as provided in Article 9 of the Convention, which reads 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."

A. Admissibility

1. Jurisdiction

24. The Government submitted that Armenia had no jurisdiction over the matters complained of by the applicant, all of which had occurred in the territory of the "NKR", which had an independent institutional and legal set-up, with its own legal and judicial policies over which the Republic of Armenia did not have any influence. In *Chiragov and Others v. Armenia* ([GC], no. 13216/05, § 186, ECHR 2015) the Court had referred to "effective control" over the territory but not over subjects, that is, the actions of the local authorities were never attributed to Armenia.

25. The applicant argued that the Government's submissions regarding Armenia's lack of responsibility under the Convention for the actions of the "NKR" authorities contradicted the Court's earlier findings on the subject (the applicant notably referred to *Chiragov and Others*, cited above, §§ 169-86; *Zalyan and Others v. Armenia*, nos. 36894/04 and 3521/07, §§ 214-15, 17 March 2016; and *Muradyan v. Armenia* no. 11275/07, § 126, 24 November 2016). She submitted that Armenia had jurisdiction over the matters complained of and was responsible for the violation of her Convention rights by the "NKR" authorities.

26. The Court notes that it has recently examined in another case the issue of Armenia's jurisdiction over the territory in question, including with regard to the decisions of the "NKR" authorities, and found that, at the relevant time (that is, prior to the changes in the situation on the ground as a result of the Nagorno-Karabakh war, which ended on 10 November 2020 with Azerbaijan capturing all the surrounding territories and part of the "NKR" proper and with the deployment of Russian peacekeepers in the area for at least five years (see *Nana Muradyan v. Armenia*, no. 69517/11, § 91, 5 April 2022) and a further change in the situation on the ground in September 2023 as a consequence of the nine-month long blockade of Nagorno-Karabakh, the subsequent actions of Azerbaijan and the exodus of the Armenian population of Nagorno-Karabakh), Armenia had jurisdiction over the matters complained of, namely, in that case, the refusal of requests by the Christian Religious Organisation of Jehovah's Witnesses to be registered as a religious organisation in the "NKR" (see, in particular, *Christian Religious Organization of Jehovah's Witnesses in the NKR v. Armenia*, no. 41817/10, §§ 48 and 49, 22 March 2022; see also *Avanesyan v. Armenia*, no. 12999/15, §§ 31-38, 20 July 2021, with further references, concerning the detention and conviction of a Jehovah's Witness for conscientious objection in the "NKR").

27. The case at hand relates to the "NKR" authorities' decision to impose an administrative penalty on the applicant in 2013 (see paragraph 10 above). The Court finds no particular circumstances in the instant case, all of which similarly took place prior to the hostilities between Armenia and Azerbaijan which ended on 10 November 2020 (see *Avanesyan*, § 37, and *Christian*

Religious Organization of Jehovah's Witnesses in the NKR, § 49, both cited above), that would require it to depart from its findings in those judgments and therefore concludes, that, at the material time, Armenia had jurisdiction over the matters complained of for the purposes of Article 1 of the Convention, including the "NKR" authorities' decision to impose an administrative penalty on the applicant.

28. It follows that the Government's objection of lack of jurisdiction should be dismissed.

2. Compliance with the six-month rule

29. The Government submitted that, in the event that the Court should find that Armenia had jurisdiction over the applicant's complaints, the six-month time-limit should be calculated from 31 October 2013, that is, the date of the decision of the "NKR" Court of Appeal (see paragraph 16 above) which upheld the Commission's decision of 2 April 2013 to impose an administrative penalty on the applicant (see paragraph 10 above). They argued that, in the light of the applicant's submissions that there was an ongoing campaign against the Jehovah's Witnesses in the "NKR", it should have been apparent to the applicant that her appeal on points of law did not have reasonable prospects of success.

30. The applicant insisted that the final domestic decision was that of the "NKR" Supreme Court of 13 December 2013, which had declared her appeal on points of law inadmissible for lack of merit (see paragraph 18 above).

31. As a rule, the six-month period runs from the date of the final decision in the process of the exhaustion of domestic remedies. Article 35 § 1 cannot be interpreted in a manner that would require an applicant to inform the Court of his or her complaint before his or her position in connection with the matter had been finally settled at the domestic level; otherwise, the principle of subsidiarity would be breached. However, this provision allows only remedies that are normal and effective to be taken into account, as an applicant cannot extend the strict time-limit imposed under the Convention by seeking to make inappropriate or misconceived applications to bodies or institutions that have no power or authority to offer effective redress for the complaint in issue under the Convention. It follows that if an applicant has recourse to a remedy that is doomed to fail from the outset, the decision on that appeal cannot be taken into account for the purposes of calculating the six-month period (see *Lekić v. Slovenia* [GC], no. 36480/07, § 65, 11 December 2018, with further references).

32. The Government argued that the six-month period in respect of the applicant's complaint about the imposition of an administrative penalty on her should be calculated from 31 October 2013, the date of the decision of the "NKR" Court of Appeal (see paragraph 16 above).

33. The Court notes, however, that the decision of the Court of Appeal was amenable to appeal before the "NKR" Supreme Court (see paragraph 16

in fine above), a possibility of which the applicant availed herself (see paragraph 17 above). There is nothing in the material before the Court to support the Government's argument that, by lodging an ordinary appeal on points of law against the appellate court's decision, the applicant pursued an apparently ineffective remedy which was doomed to fail from the outset (see the case-law summarised in paragraph 31 above). Furthermore, it remains unclear on what grounds the Government considered that specifically an appeal on points of law submitted before the "NKR" Supreme Court constituted an ineffective remedy as opposed to, for instance, the claim brought by the applicant before the "NKR" Administrative Court to contest the Commission's decision of 2 April 2013 (see paragraph 13 above). In those circumstances, there is no basis for the Court to find that the decision of the "NKR" Court of Appeal dated 31 October 2013, which was amenable to appeal, constituted the "final decision" in the present case within the meaning of Article 35 § 1 of the Convention.

34. The Court observes that the "NKR" Supreme Court declared the applicant's appeal on points of law inadmissible for lack of merit, that is to say, refused to grant her leave for appeal, by its decision of 13 December 2013 (see paragraph 18 above), and that the applicant lodged her application on 10 June 2014, that is, in compliance with the six-month rule. The Court therefore dismisses the Government's objection that the application was lodged out of time.

3. Other grounds for inadmissibility

35. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

36. The applicant asserted that the imposition of an administrative penalty on her for sharing her religious beliefs by preaching had interfered with her rights under Article 9 of the Convention. That interference was not prescribed by law, as demonstrated by the "NKR" Administrative Court's judgment of 24 June 2013 (see paragraph 14 above), which had set aside the Commission's decision on the grounds that the Stepanakert Mayor's Office had failed to indicate which "rules" on "organising and holding religious gatherings, marches and other worship rituals" she was found to have breached. Furthermore, that interference had not pursued a legitimate aim and had not been necessary in a democratic society.

37. The Government submitted that there had been no interference with the applicant's rights guaranteed under Article 9 of the Convention. She was

a member of the community of Jehovah's Witnesses, which *de facto* continued to freely carry out its activities in the territory of the "NKR". In any event, any alleged interference with the applicant's rights was prescribed by the law, had taken place in view of public safety and the interests of the State and the population and had been justified.

38. Referring to section 6 of the "NKR" Freedom of Conscience and Religious Organisations Act (see paragraph 21 above), the Government submitted that the community of Jehovah's Witnesses was not a registered religious organisation in the "NKR", which fact, however, did not constitute an obstacle to the exercise of the right of that community – of which the applicant was a member – to freedom of thought, conscience and religion.

39. The Government further referred to Article 206 of the CAO (see paragraph 20 above) and submitted that at the time when the administrative penalty was imposed on the applicant, martial law had been declared in the "NKR". According to witnesses who gave evidence during the hearing before the Commission, several complaints had been received about the activities of Jehovah's Witnesses in the area, and those activities had been conducted in such a way that disturbed the peace (visiting the residents' homes and distributing religious literature).

2. The Court's assessment

(a) General principles

40. As enshrined in Article 9, freedom of thought, conscience and religion is one of the foundations of a "democratic society" within the meaning of the Convention. This freedom is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it. That freedom entails, *inter alia*, freedom to hold or not to hold religious beliefs and to practise or not to practise a religion (see, among other authorities, *Kokkinakis v. Greece*, 25 May 1993, § 31, Series A no. 260-A; *Buscarini and Others v. San Marino* [GC], no. 24645/94, § 34, ECHR 1999-I; *S.A.S. v. France* [GC], no. 43835/11, § 124, ECHR 2014 (extracts); and *İzzettin Doğan and Others v. Turkey* [GC], no. 62649/10*,* § 103, 26 April 2016).

41. Freedom to manifest one's religion includes in principle the right to express one's religious views by imparting them to others and the right "to try to convince one's neighbour", for example through "teaching", failing which "freedom to change [one's] religion or belief", enshrined in Article 9, would be likely to remain a dead letter. The act of imparting information about a particular set of beliefs to others who do not hold those beliefs – known as missionary work or evangelism in Christianity – is protected under Article 9 alongside other acts of worship, such as the collective study and

discussion of religious texts, which are aspects of the practice of a religion or belief in a generally recognised form (see *Ossewaarde v. Russia*, no. 27227/17, § 39, 7 March 2023, with further references).

42. The right to engage in religious persuasion may nonetheless be legitimately restricted where it involves an element of coercion or violence, such as the exerting of pressure on people in distress or in need or the abuse of a position of authority in the military hierarchy or in an employment relationship. Where, however, no evidence of coercion or improper pressure has been adduced, the Court has affirmed the right to engage in individual evangelism and door-to-door preaching (see *Ossewaarde*, cited above, § 40, with further references).

(b) Application of these principles to the present case

43. The Government maintained that there had been no interference with the applicant's rights under Article 9 of the Convention, claiming that Jehovah's Witnesses were able to operate effectively in the "NKR" (see paragraph 37 above).

44. Contrary to the Government' assertions, the Court observes that the Commission's decision of 2 April 2013, whereby an administrative penalty was imposed on the applicant for having breached the rules for organising and holding religious gatherings, marches and other rituals of worship, was upheld by the "NKR" Court of Appeal precisely on the grounds that the religious community of Jehovah's Witnesses was not a registered religious organisation in the "NKR". What is more, in doing so, the appellate court found that the right to freedom of thought, conscience and religion was guaranteed in the "NKR" only to the followers of registered religious associations, thereby concluding that the "NKR" Constitution did not guarantee the same rights and freedoms to persons associated with any other religion or faith (see paragraph 16 above).

45. The Court notes that the applicant's meeting with N. to discuss the Bible was interrupted by the police, who searched the applicant's belongings and seized her religious literature (see paragraphs 6-7 above). This was not contested by the Government.

46. In the light of the case-law principles summarised in paragraph 41 above, the Court considers that the decision to impose an administrative penalty on the applicant for imparting information about a particular set of beliefs to a person not holding those beliefs amounted to an interference with her right to freedom of religion, as guaranteed by Article 9 § 1 of the Convention. Such interference will infringe the Convention unless it can be shown that it has satisfied the requirements of the second paragraph of that provision, that is, if it was "prescribed by law", pursued a legitimate aim for the purposes of that provision and was "necessary in a democratic society".

47. As regards the legal basis for the interference, the Court reiterates that the expression "prescribed by law" not only refers to a statutory basis in

domestic law, but also requires that the law be formulated with sufficient precision to enable the individual to foresee the consequences which a given action may entail. The law must afford a measure of legal protection against arbitrary interferences by public authorities with the rights safeguarded by the Convention and indicate with sufficient clarity the scope of any discretion conferred on the competent authorities and the manner of its exercise (see *Taganrog LRO and Others v. Russia*, nos. 32401/10 and 19 others, § 214, 7 June 2022, and the case-law references contained therein).

48. In the case at hand, an administrative penalty was imposed on the applicant under Article 206 § 2 of the CAO for having breached "the rules set out in the legislation on organising and holding religious gatherings, marches and other rituals of worship", whereas no such rules were in fact cited (see paragraphs 10 and 20 above).

49. In particular, Article 206 § 2 of the CAO makes it an administrative offence to act in breach of the rules set out by the legislation on organising and holding religious gatherings, marches and other rituals of worship, that is, it makes an express reference to such rules. However, neither the Commission's decision of 2 April 2013 nor the "NKR" Court of Appeal's decision of 31 October 2013 giving effect to that decision (see paragraphs 10 and 16 above) indicated which rule(s) specifically the applicant had breached. The absence of a clear reference to those rules was precisely the reason why the "NKR" Administrative Court invalidated the Commission's decision of 2 April 2013, finding that it had imposed an "obviously unlawful obligation" on the applicant (see paragraph 14 above).

50. The Court notes that the "NKR" Court of Appeal upheld the Commission's decision of 2 April 2013 with reference to Article 26 of the "NKR" Constitution then in force and sections 6 and 7(1) of the "NKR" Freedom of Conscience and Religious Organisations Act (see paragraphs 19, 21 and 22 above), essentially on the grounds that the religious community of Jehovah's Witnesses was not a registered religious organisation in the "NKR" and that followers of a non-registered religion or faith did not benefit from the rights guaranteed under Article 9 of the Convention (see paragraphs 16 and 44 above).

51. The Court firstly observes that, as already stated above, no domestic legal provision prohibiting the applicant's conduct was relied on by the authorities which imposed an administrative penalty on her (see paragraph 49 above). Secondly, and most importantly, the "NKR" Court of Appeal's limitation of the rights guaranteed under Article 9 of the Convention merely to the followers of registered religious organisations (see paragraphs 16, 44 and 50 above) was fundamentally inconsistent with the requirements of that provision and the relevant case-law principles relating thereto (see, in particular, paragraph 40 above).

52. In the light of the above considerations (see, in particular, paragraph 49 above), the Court finds that the interference did not have a clear

and foreseeable legal basis (see, *mutatis mutandis*, *Taganrog LRO and Others*, cited above, § 215).

53. Since the Court has already found that the interference with the applicant's right was not "in accordance with the law", this finding makes it unnecessary to determine whether it pursued a legitimate aim and was necessary in a democratic society (see, *mutatis mutandis*, *Kuznetsov and Others v. Russia*, no. 184/02, § 74, 11 January 2007).

54. There has accordingly been a violation of Article 9 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION

55. The applicant complained that the "NKR" authorities' decision to impose an administrative penalty on her had also been in breach of Article 14 of the Convention, which reads as follows:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

A. The parties' submissions

56. The applicant maintained that she had been discriminated against by the State as she had been treated differently from the followers of officially registered religions.

57. The Government submitted that a difference in the treatment of various religious groups as a result of the official recognition of a certain legal status leading to the granting of privileges was not in itself incompatible with the Convention.

B. The Court's assessment

58. The Court considers that the inequality of treatment of which the applicant claimed to be a victim has been sufficiently taken into account in the above assessment that led to the finding of a violation of a substantive Convention provision (see, in particular, paragraph 51 above). It follows that there is no cause for a separate examination of the same facts from also the standpoint of Article 14 of the Convention. The Court is therefore not required to rule on the admissibility or the merits of the complaint under that provision (see, *mutatis mutandis*, *Kuznetsov and Others*, cited above, § 78; see also *Christian Religious Organization of Jehovah's Witnesses in the NKR*, cited above, § 85).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

59. 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

60. The applicant claimed 5,000 euros (EUR) in respect of non-pecuniary damage.

61. The Government contested this claim.

62. The Court accepts that the applicant has suffered non-pecuniary damage as a consequence of the violation found. Deciding on an equitable basis, the Court awards the applicant EUR 3,000, plus any tax that may be chargeable, in respect of non-pecuniary damage.

B. Costs and expenses

63. The applicant also claimed EUR 2,500 for the costs and expenses incurred before the domestic courts and a further EUR 2,500 for those incurred before the Court. In support of her claims, the applicant submitted two agreements for the provision of legal services signed on 10 December 2019.

64. The Government contested the validity of the contracts for legal assistance produced by the applicant and submitted that the claims had not been actually incurred and were not supported by documentary evidence.

65. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. The Court notes that the applicant supported her claims relating to the legal costs allegedly incurred during the domestic proceedings by submitting a contract signed years after those proceedings had been completed (see paragraphs 18 and 63 above). It therefore rejects this part of the claim.

66. The Court further notes that the contract submitted in support of the applicant's claims for legal costs incurred before the Court was signed after the application was lodged and before the applicant's observations and claims for just satisfaction were submitted on 11 February 2020. The Court therefore considers that the applicant's claims in this respect should be granted in part, that is, in so far as they concern the legal costs related to the preparation of the applicant's reply to the Government's observations and her claims for just satisfaction (a lump-sum amount of EUR 1,000 according to the contract). Regard being had to the documents in its possession and the above criteria, the Court awards the sum of EUR 1,000, covering costs incurred in the proceedings before it, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 9 of the Convention admissible;

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

3. *Holds* that there is no need to examine the admissibility or the merits of the complaint under Article 14 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,000 (one thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 6 February 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth Registrar	Gabriele Kucsko-Stadlmayer President