

Refusal to grant State recognition not a neutral and impartial decision, no effective remedy for Ancient Baltic religious association

In today's **Chamber judgment**¹ in the case of [Ancient Baltic religious association Romuva v. Lithuania](#) (application no. 48329/19) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights, and a violation of Article 13 (right to an effective remedy).

The case concerned the refusal by the Seimas (the Lithuanian Parliament) to grant to the applicant association the status of a State-recognised religious association.

The Court found in particular that the State authorities had not provided a reasonable and objective justification for treating the applicant association differently from other religious associations that had been in a relevantly similar situation, and members of the Seimas had not remained neutral and impartial in exercising their regulatory powers.

The Court also held that the applicant association had not had an effective domestic remedy with respect to the impugned decision of the Seimas, and the Government had not indicated any other remedies that might have satisfied the criteria under Article 13 of the Convention.

Principal facts

The applicant, *Senovės baltų religinė bendrija "Romuva"*, is a religious association registered in Lithuania with its seat in Vilnius. It comprises several religious communities following the old Baltic pagan faith, one of which was officially registered in Lithuania in 1992.

In 2017 the applicant association asked to be granted the status of a State-recognised religious association. That status would entitle it to certain additional privileges, such as the right to provide religious education in schools, and the right to perform religious marriages that have the effect of civil marriages. As provided in the domestic law, the Ministry of Justice assesses whether an association meets the relevant legal requirements and reports to the Seimas, which then makes the decision by passing a resolution. The Ministry of Justice concluded that the applicant association met the criteria for State recognition: it had been operating in Lithuania for more than 25 years; its teachings did not violate the law or public morals; and it had sufficient public support. In April 2018 24 members of the Seimas presented a draft resolution proposing that the applicant association be granted the status of a State-recognised religious association.

On 25 June 2019, the Seimas held a first debate on the draft resolution. The text was approved and the vote on whether to adopt the resolution was scheduled for two days later. In the meantime, on 26 June 2019, a letter from the Lithuanian Bishops' Conference was received by the parliamentary

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

group For the Family, which comprised 81 members of the Seimas. It argued principally that there had never been a universal and uniform “old Baltic faith” as Old Prussians, Lithuanians and Latvians had followed different divinities, rites and customs. It also submitted that it had not been demonstrated that the applicant association enjoyed sufficient public support.

The following day, the Seimas held a debate and a vote on the draft resolution. Arguments made by members of the Seimas against the draft resolution included assertions that the applicant association was a cultural but not a religious organisation, that granting it State recognition would negatively affect Lithuania’s relations with the Christian world, and that weakening Christianity in Lithuania had long been a goal of the KGB and the Kremlin. Some members of the Seimas made references to the letter from the Lithuanian Bishops’ Conference. The draft resolution was not passed, narrowly missing the required simple majority of the votes cast. In accordance with the domestic law, the applicant association would have the possibility to lodge a new request for State recognition after a period of ten years.

Complaints, procedure and composition of the Court

Relying on Article 9 (freedom of thought, conscience and religion) of the Convention taken alone and in conjunction with Article 14 (prohibition of discrimination), the applicant association complained that, although it met all the criteria provided by law for being granted State recognition, the members of the Seimas had not relied on the conclusions of the relevant authorities that had examined its activities, but had based their decision on their own religious convictions and political interests.

The applicant association submitted that it had been the first non-Christian religious association to have sought State recognition in Lithuania, and argued that it had been treated differently from other religious associations that had been granted that status.

Furthermore, relying on Article 13 (right to an effective remedy), the applicant association argued that no effective domestic remedies had been available to it.

The Court considered that the complaint raised by the applicant association did not concern the denial of its legal personality or any restrictions on its ability to operate and to practise its religion and found that it fell to be examined under Article 14 of the Convention read in conjunction with Article 9.

The application was lodged with the European Court of Human Rights on 29 August 2019.

Judgment was given by a Chamber of seven judges, composed as follows:

Jon Fridrik **Kjølbro** (Denmark), *President*,
Marko **Bošnjak** (Slovenia),
Aleš **Pejchal** (the Czech Republic),
Egidijus **Kūris** (Lithuania),
Branko **Lubarda** (Serbia),
Pauliine **Koskelo** (Finland),
Saadet **Yüksel** (Turkey),

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

Article 14 read in conjunction with Article 9

In response to the Government's objection that the applicant association had failed to exhaust the available domestic remedies, the Court considered that it had not been established with a sufficient degree of certainty that the decision of the Seimas fell within the category of acts of public administration and that it could have been examined by the administrative courts. The Court therefore held that the applicant association had not had an effective domestic remedy.

Noting that the old Baltic faith had been included in national censuses as one of the available options for individuals to describe their religious beliefs, and that in 2002 the applicant association had been registered as a religious association after the domestic authorities had examined its statute and the basic tenets of its faith, the Court found no grounds to doubt its religious nature.

The Court reiterated that the State authorities had an obligation to remain neutral and impartial when exercising their regulatory powers in the field of religion. Under domestic law, a religious association was able to apply for State recognition if it had been registered for at least 25 years, if it had sufficient public support, and if its teachings did not contravene the law or public morals. It observed that, on a few occasions, the Seimas had granted State recognition to religious associations which had fewer adherents than the applicant association, considering the public support enjoyed by them to be sufficient. Accordingly, the Court saw no grounds to question the conclusion reached by the Ministry of Justice that the applicant association met the legal requirement for being granted State recognition.

In the absence of any reasons provided by the Seimas, the Court examined the statements made by members of the Seimas during the debates. It found that the members of the Seimas who had voted against the draft resolution had essentially questioned the legitimacy of the applicant association's beliefs, which was incompatible with the State's duty of neutrality and impartiality. Moreover, the Court stated that the existence of a majority religion or the opposition of the authority of that religion was not a reasonable and objective justification for denying State recognition to the applicant association.

The Court therefore held that, when refusing to grant State recognition to the applicant association, the State authorities had not provided a reasonable and objective justification for treating the applicant association differently from other religious associations that had been in a relevantly similar situation, and members of the Seimas had not remained neutral and impartial in exercising their regulatory powers. The Court therefore found that there had been a violation of the applicant association's rights in that connection.

Article 13

Having already held that the applicant association had not had an effective domestic remedy, and with the Government not having indicated any other remedies that might have satisfied the criteria under Article 13 of the Convention, the Court held accordingly that there had been a violation of this provision.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.