

Press release issued by the Registrar

**THE COURT GIVES SEVERAL DECISIONS ON
CONSPICUOUS RELIGIOUS SYMBOLS**

A Chamber of the European Court of Human Rights has **declared inadmissible** the applications lodged in the cases of *Aktas v. France* ([application no. 43563/08](#)), *Bayrak v. France* ([no. 14308/08](#)), *Gamaleddyn v. France* ([no. 18527/08](#)), *Ghazal v. France* ([no. 29134/08](#)), *J. Singh v. France* ([no. 25463/08](#)) and *R. Singh v. France* ([no. 27561/08](#)), concerning the expulsion of pupils from school for wearing conspicuous symbols of religious affiliation. (The decisions are only available in French.)

The applicants are: Mr Seref Bayrak, a Turkish national living in Flers, representing his daughter (a minor); Mr and Mrs Mahmoud Sadek Gamaleddyn, French nationals living in Decines-Charpieu, representing their daughter (a minor); Miss Sara Ghazal, a French national who was born in 1993 and lives in Le Tholy; Miss Tuba Aktas, a French national who was born in 1988 and lives in Mulhouse; Mr Jasvir Singh, a French national who was born in 1989 and lives in Bobigny; and Mr Ranjit Singh, a French national who was born in 1987 and lives in Drancy.

Summary of the facts: Miss Aktas, Miss Bayrak, Miss Gamaleddyn, Miss Ghazal, Mr Jasvir Singh and Mr Ranjit Singh were enrolled in various state schools for the year 2004-2005. On the first day of school, the girls, who are Muslims, arrived wearing a headscarf or kerchief. The boys were wearing a “keski”, an under-turban worn by Sikhs.

The Head Masters of the schools considered that the headwear in question infringed the legislation prohibiting the wearing of dress or other symbols that manifested religious affiliation, and not only during physical education classes but in all classes, in accordance with a French law of 2004. When the pupils refused to remove the offending headwear the Head Masters denied them access to the classroom. Miss Bayrak, Miss Gamaleddyn and Miss Aktas subsequently decided to wear hats instead of their headscarves.

After a period of dialogue with the families, the schools’ disciplinary boards took the decision, on different dates between October and November 2004, to expel the pupils for failure to comply with the provisions of Article L. 141-5-1 of the Education Code.

The chief education officers of the school districts concerned confirmed those decisions, which were challenged before the administrative courts. The challenges were dismissed, both at first instance and on appeal.

In the cases of Bayrak, Gamaleddyn and Aktas, the applicants’ requests to receive legal aid with a view to appealing on points of law to the *Conseil d’Etat* were rejected for a lack of

serious grounds for such an appeal. Miss Aktas nevertheless appealed to the *Conseil d'Etat* in 2008 but was unsuccessful. The fathers of the two boys did the same. The *Conseil d'Etat* dismissed their appeals, taking the view that the Sikh “keski”, even though it was smaller than the traditional turban and dark in colour, could not be described as a “discreet” symbol. It found that the two boys, by wearing that headwear, had displayed conspicuously their religious affiliation in breach of the statutory ban.

Complaints

Relying in particular on **Article 9 (freedom of thought, conscience and religion)** of the European Convention on Human Rights, **taken together with Article 14 (prohibition of discrimination)**, the applicants complained about the ban on headwear imposed by their schools and alleged that they had been the victims of a difference in treatment based on their religion.

Relying on **Article 6 § 1 (right to a fair hearing within a reasonable time)**, Miss Aktas and Miss Bayrak complained about the lack of impartiality in the disciplinary proceedings, and with Miss Gamaleddyn – who also complained about the length of the proceedings –, about the refusal by the French courts to examine the decision of the school disciplinary boards.

Relying on **Article 2 of Protocol No. 1 (right to education)**, Miss Aktas, Miss Bayrak, Miss Ghazal, Mr Jasvir Singh and Mr Ranjit Singh complained that they had been denied access to the schools concerned.

Relying on **Article 4 of Protocol No. 7 (right not to be tried or punished twice)**, Miss Gamaleddyn’s parents complained that their daughter had first been denied access to classes and then punished a second time by the expulsion measure.

Procedure

The applications were lodged with the European Court of Human Rights between March and September 2008.

Decision of the Court¹

Article 9

The Court decided to examine only under Article 9 the various complaints based on the allegations about restriction of religious freedom.

In all these cases, the ban on the wearing by pupils of religious symbols constituted a restriction of their freedom to manifest their religion, that restriction being provided for by the law of 15 March 2004 (and restated in Article L. 141-5-1 of the Education Code), which pursued the legitimate aim of protecting the rights and freedoms of others and public order.

The Court pointed out that the expulsion measure could be explained by the requirements of protecting the rights and freedoms of others and public order rather than by any objections to the pupils’ religious beliefs.

¹ This summary by the Registry does not bind the Court.

The Court again emphasised the importance of the State's role as the neutral and impartial organiser of the exercise of various religions, faiths and beliefs. It also reiterated that a spirit of compromise on the part of individuals was necessary in order to maintain the values of a democratic society.

The ban on all conspicuous religious symbols in all classes of state schools was based on the constitutional principle of secularism, which was consistent with the values protected by the Convention and the Court's case-law.

The Court agreed with the opinion of the French authorities that the permanent wearing of substitute headwear also constituted a manifestation of religious affiliation. It pointed out that the 2004 law had to apply to the appearance of new religious symbols and also to potential attempts to circumvent the law.

As to the punishment of definitive expulsion, it was not disproportionate as the pupils still had the possibility of continuing their schooling by correspondence courses.

The interference by the authorities with the pupils' freedom to manifest their religion was therefore justified and proportionate to the aim pursued. Consequently, their complaints under Article 9 had to be rejected as manifestly ill-founded.

Concerning the complaints of Mr and Mrs Gamaleddyn about the proceedings conducted by the school which had resulted in their daughter's expulsion, the Court took the view that the school authorities, in accordance with the rules in force, had afforded the girl pedagogical supervision during the statutory dialogue period. Such a transitional period had therefore been neither unlawful nor arbitrary. This part of the application in the Gamaleddyn case was therefore manifestly ill-founded and had to be rejected.

The Court also rejected as manifestly ill-founded the part of the applications of Miss Ghazal, Miss Aktas, Mr Jasvir Singh and Mr Ranjit Singh, concerning Article 14, in conjunction with Article 9, as the legislation in question applied to all conspicuous religious symbols.

Article 6 § 1

As regards the complaint, in the Bayrak, Gamaleddyn and Aktas cases, that the proceedings had been unfair, this part of the applications had to be rejected, as the disciplinary board decisions had been subject to review by the administrative tribunal and the administrative court of appeal, which both had the power to deal with all aspects of a given case and to which the applicants had been able to submit their arguments.

In the Gamaleddyn case, the Court found that the refusal to grant legal aid with a view to an appeal before the *Conseil d'Etat* had not constituted a violation of Article 6 § 1, as that refusal had been justified by the legitimate need to allocate public funds only to those requests that were likely to be successful, and that the composition of the legal aid section offered substantial guarantees of fairness. This part of the application was therefore rejected.

In the same case, the complaint concerning the length of the proceedings also had to be rejected for failure to exhaust domestic remedies, as the applicants had not brought an action in damages against the French State for shortcomings in the public justice service.

Complaints under other Articles

As regards the complaints submitted by Miss Ghazal, Miss Aktas, Mr Bayrak, Mr Jasvir Singh and Mr Ranjit Singh under Article 2 of Protocol No. 1, the Court considered that no separate question arose under that head and that it did not need to examine these complaints.

As regards the complaint of Mr and Mrs Gamaleddyn under Article 4 of Protocol No. 7, to the effect that their daughter had been punished twice for the same act, the Court rejected this part of the application on the ground that this Article applied only to criminal offences.

The Court thus found that all six applications had to be rejected.

The decisions will be available today on the Court's Internet site (<http://www.echr.coe.int>).

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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.