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Manzanas Martin v. Spain

Difference between retirement pensions of Catholic priests and Evangelical ministers amounted to discrimination

European Court (03.04.2012) / HRWF (11.04.2012) – In today's Chamber judgment in the case *Manzanas Martin v. Spain* (application no. 17966/10), which is not final, the European Court of Human Rights held, unanimously, that there had been a: Violation of Article 14 (prohibition of discrimination) taken together with Article 1 of Protocol No.1 (protection of property) of the European Convention on Human Rights.

The case concerned a difference in treatment between priests of the Catholic Church and Evangelical ministers regarding the calculation of their pension rights. Whilst priests could have their previous years of religious service taken into account in calculating their retirement pension – by paying the corresponding contributions – Evangelical ministers could not bring into account their years of service prior to joining the social-security scheme.

Principal facts

The applicant, Mr Francisco Manzanas Martin, is a Spanish national who was born in 1926 and lives in Barcelona (Spain).

Mr Manzanas Martin was a minister of the Evangelical Church from 1 November 1952 until 30 June 1991, when he retired. During his years as a minister, he received remuneration from the Evangelical Church. However, the latter did not pay any social security contributions on his behalf. Mr Manzanas Martín had previously worked as an employee before being ordained and had also been in paid employment for part of his time as a minister. When he applied to the National Social Security Agency ("INSS") for a retirement pension, his application was refused on the grounds that he had not completed the minimum period of pensionable service. Mr Manzanas Martín unsuccessfully sought a review of that decision and subsequently brought proceedings against the INSS.

On 12 December 2005 the Barcelona Employment Tribunal upheld Mr Manzanas Martín's claims and ordered the INSS to pay him a pension. The court found that the legislation had given priests preferential treatment as compared with ministers, which went against the Constitution of 1978. It also noted that Article 1 of the Royal Decree of 27 August 1977 had already established that priests and ministers of all churches registered with the Ministry of the Interior should be treated as salaried employees and be covered by the social-security scheme, but this was of immediate application only in respect of Catholic priests. Two decrees of 1998 also allowed the latter to have their previous years of service taken into consideration in calculating their pension on condition that they made the capital payments corresponding to the recognised contribution years. Ministers only started being treated as salaried employees twenty-two years later, also on the basis of a decree, but without any possibility of counting their earlier years of service towards the minimum period of pensionable service.

The court found that the fact that Mr Manzanas Martin had been deprived of access to a retirement pension on the same terms as priests infringed his rights to equal treatment

and to religious freedom recognised by the Constitution. In order to satisfy his fundamental rights, the court applied by analogy to Mr Manzanas Martin the provisions applicable to priests. Accordingly, it declared that from 22 July 2004 onwards he was entitled to a pension on the basis of 398.44 euros per month.

The INSS appealed. The High Court of Justice of Catalonia set the decision aside on the ground that the inability to take into account Mr Manzanas Martin's previous years' pastoral work was not because of negligence or delay on the part of the State, but because of a lack of legislation on account of the absence of a permanent agreement between the State and the Evangelical church authorities. The court held that Mr Manzanas Martin did not satisfy the statutory conditions to qualify for a retirement pension.

Mr Manzanas Martin lodged an amparo appeal with the Constitutional Court which was dismissed on the ground that it lacked the requisite constitutional importance.

Complaints, procedure and composition of the Court

Relying on Article 14 taken in conjunction with Article 1 of Protocol No. 1, Mr Manzanas Martin complained that the decision to refuse him a retirement pension was in breach of the principle of non-discrimination enshrined in the Convention. He submitted that the domestic legislation discriminated against Evangelical ministers compared with Catholic priests, in so far as the latter had been admitted to the general social-security scheme earlier. Lastly, once they had joined the scheme, ministers had not been allowed to count their earlier years of service towards the minimum period of pensionable service.

The application was lodged with the European Court of Human Rights on 26 March 2010.

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

Josep Casadevall (Andorra), President,
Corneliu Bîrsan (Romania),
Alvina Gyulumyan (Armenia),
Ján Šikuta (Slovakia),
Luis López Guerra (Spain),
Nona Tsotsoria (Georgia),
Mihai Poalelungi (Moldova), Judges,
and also Santiago Quesada, Section Registrar.

Decision of the Court

Article 14 taken in conjunction with Article 1 of Protocol No. 1 According to the Court's established case-law, discrimination meant treating differently, without objective and reasonable justification, people in similar situations.

The Court observed that, prior to promulgation of the Constitution of 1978, the Royal Decree of 27 August 1977 had provided that priests and ministers of churches registered with the Ministry of the Interior had to be treated as salaried employees and brought within the general social-security scheme.

In its judgment of 12 December 2005, the Employment Tribunal held that the fact that Mr Manzanas Martin was not entitled to a pension on the same terms as those available to priests infringed his constitutional rights to equal treatment and religious freedom. It considered that the legislation applicable to the present case gave preferential treatment to priests as compared with ministers, which went against the secular nature of the State as established by the Constitution of 1978.

Ministers were brought within the general social-security scheme twenty-two years later, in 1999, following the conclusion of an agreement between the State and the Federation of Evangelical Religious Entities of Spain (the "FEREDE"). According to the Government, it was because Evangelical churches were not particularly deeply rooted in Spain that a certain period of time had been necessary for these negotiations. The Court agreed with the Government that there had been objective and non-discriminatory reasons for integrating religious ministers into the general social-security scheme at different times.

However, the refusal to recognise Mr Manzanas Martin's right to receive a retirement pension and to count his earlier years of service towards the minimum period of pensionable service amounted to a different treatment from that applied, by law, to other situations which appeared to be similar, the only difference here being one of religious faith.

Whilst the reasons for the delay in joining ministers into the general social-security scheme fell within the States' margin of appreciation, the Court considered that the Government had failed to justify the reasons why a difference of treatment between similar situations, based solely on grounds of religious belief, had been maintained.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that the question regarding Mr Manzanas Martin's claim in respect of pecuniary damage was not ready for decision and reserved it in its entirety.

The Court held that Spain was to pay the applicant 3,000 euros (EUR) in respect of nonpecuniary damage and EUR 6,000 in respect of costs and expenses.

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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.
