

Human Rights Court Judgment

Landmark victory for Freemasons

The European Court of Human Rights (ECHR) has handed down a landmark judgment under Article 14 of the European Convention on Human Rights - prohibition of discrimination - in an application involving public appointments brought by the Grand Orient of Italy. The decision was taken by six votes to one. Under Article 41 of the Convention, the court held, unanimously, that the finding of a violation constituted sufficient just satisfaction for non-pecuniary damage. They awarded the Grand Orient of Italy 5,000 euros (£3,400) costs and expenses. The Grand Orient of Italy, which is recognised by the United Grand Lodge of England, had complained about a law laid down by the Region of Friuli-Venezia Giulia regarding rules to be followed for nominations to public offices for which the Region was the appointing authority. European Court of Human Rights - Strasbourg, France In particular, this law, enacted in February 2000, required candidates for such posts to declare whether they were members of a Masonic or, in any event, a secret association. The absence of a declaration constituted a ground for refusing appointment. In a note of 15th September 2005, the regional council showed that only one of the 237 candidates for a post on the executive board of a company in which the Region was a stakeholder, had declared they were a Mason. This individual eventually got the job. Regarding the negative effects that the obligation to declare one's membership of a Masonic Lodge might have on the image and associative life of the Grand Orient of Italy, the court held that it could claim to be a 'victim' of a breach of Article II of the Convention. The ECHR added: "That conclusion meant that there had been an interference with its rights to freedom of association. It followed that the facts in question fell within the ambit of Article II. Article 14 of the Convention was therefore applicable. Furthermore, the court observed that the provision in question distinguished between secret and Masonic associations, membership of which had to be declared, and all other associations. Members of the latter were exempted from any obligation to make such a declaration when seeking nomination for public office. They could not, therefore, incur the statutory penalty for an omission. Accordingly, there was a difference of treatment between members of the Grand Orient of Italy and the members of any other non-secret association. Regarding whether there was an objective and reasonable justification for such a difference, the court reiterated that it had already held that the prohibition on nominating Freemasons to public office, introduced to 'reassure' the public at a time when there had been controversy surrounding their role in the life of the country, had pursued the legitimate aims of protecting national security and preventing disorder. The court considered those requirements remained valid. On Article II, the ECHR found that the prohibition on nominating Masons to certain public offices for which the Region was the appointing authority was not "necessary in a democratic society." Penalising someone for their membership of an association was unjustified, since that fact was not in itself legally reprehensible. The Grand Orient of Italy had previously complained about another Region, in which the court had delivered a judgment in August 2001. In the present case, being a Freemason did not automatically bar a person from nomination for a public office, because the only candidate for a particular job, declaring himself to be a Mason, had nevertheless been appointed to the post. However, the ECHR found that those considerations, which might be relevant under Article II, were not so important where the case was examined – as in this case – from the stand point of the non-discrimination clause. In Friuli- Venezia Giulia, only Masons were under an obligation to declare their membership when they sought nomination to certain public offices for which the Region was the appointing authority. As such "no objective and reasonable justification for this difference in treatment between non-secret associations had been advanced by the government." Accordingly, the court held that there had been a violation of Article 14 taken in conjunction with Article II Convention.

Chamber judgment: Grande Oriente D'Italia di Palazzo Giustiniani v Italy (No. 2)

(Application No. 26740/02)

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