

EUROPEAN COURT OF HUMAN RIGHTS

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INADMISSIBILITY DECISION MANN SINGH v. FRANCE

A Chamber of the European Court of Human Rights has **declared inadmissible** the application lodged in the case of *Mann Singh v. France* (application no. 24479/07). (The decision is available only in French.)

The applicant

The applicant, Shingara Mann Singh, is a 52-year-old French national who was born in 1956 and lives in Sarcelles (France).

Summary of the facts

The case concerns the requirement for photographs intended for use on driving licences to show the subject “bareheaded and facing forward”, and the consequent refusal of permission to a practising Sikh to wear a turban in the identity photographs to be used on his licence.

The applicant is a practising Sikh. The Sikh religion requires its male followers to wear a turban at all times. The applicant, who holds a driving licence for ordinary and heavy-goods vehicles, had his licence for the latter category of vehicles renewed in 1987, 1992 and 1998, after providing photographs which showed him wearing a turban.

Having been the victim of an armed robbery during which his driving licence was stolen, the applicant requested the Val d’Oise prefecture on 30 April 2004 to issue him with a duplicate licence. His request was refused on the ground that the identity photographs he had supplied showed him wearing a turban.

On 25 October 2004 the applicant reiterated his request to the prefecture in writing; on 26 November 2004 the latter refused the request for the same reason.

On 24 January 2005 the applicant applied to the Cergy-Pontoise Administrative Court to have the decision of 26 November 2004 set aside and seeking an order requiring the prefecture to issue the duplicate licence or pay a pecuniary penalty.

On 27 January 2005 he also made an urgent application to the court seeking a stay of execution of the impugned decision.

In an order of 11 February 2005 the urgent-applications judge rejected the application. On 28 February 2005 the applicant appealed against this order on points of law. By judgment of 5 December 2005 the *Conseil d’Etat* quashed the order and stayed execution of the impugned decision. It found that the decision had no legal basis as it had been based on a circular issued by the Ministry of the Interior on 21 June 1999 concerning photographs for use on identity

and travel documents, residence permits and driving licences, whereas the Ministry in question was not competent to lay down such a requirement in respect of driving licences. The *Conseil d'Etat* ordered the Val d'Oise prefecture to re-examine the applicant's request.

On 6 December 2005 the Minister of Transport, Infrastructure, Tourism and Maritime Affairs sent out circular no. 2005-80 to prefects on the subject of photographs for use on driving licences. The circular stipulated that requests for issuance of a licence or duplicate licence had to be accompanied by a photograph showing the person "bareheaded and facing forward".

On 16 January 2006, after re-examining the applicant's case, the Val d'Oise prefecture again refused to issue him with a duplicate licence, basing its decision on the new circular.

On 6 February 2006 the applicant and the United Sikhs association applied to the *Conseil d'Etat* seeking judicial review of the provisions of the circular of 6 December 2005, and lodged an urgent application seeking a stay of execution of its provisions.

In an order of 6 March 2006 the *Conseil d'Etat* rejected the urgent application.

On 15 March 2006 the applicant applied to the Cergy-Pontoise Administrative Court seeking the setting-aside of the decision of 16 January 2006 refusing to issue him with a duplicate driving licence, and an order requiring the prefecture to issue the licence.

By judgment of 14 December 2006 the Administrative Court joined the applications to set aside the decisions of 26 November 2004 and 16 January 2006, set aside the decisions and ordered the prefecture to re-examine the applicant's request. The Minister of Transport, Infrastructure, Tourism and Maritime Affairs appealed against the judgment concerning the decision of 16 January 2006 before the Versailles Administrative Court of Appeal. Meanwhile the applicant, whose request had not been re-examined by the prefecture, applied to the Administrative Court of Appeal for assistance in executing the judgment of 14 December 2006. His application was rejected.

In a judgment of 15 December 2006 the *Conseil d'Etat* rejected the application for judicial review of the provisions of the circular of 6 December 2005, taking the view that the impugned provisions, which were designed to minimise the risk of fraud or falsification of driving licences by enabling the holder to be identified with the maximum degree of certainty, were neither unsuited nor disproportionate to that aim. The *Conseil d'Etat* added that the fact that photographs showing persons wearing head coverings had been tolerated in the past did not prevent a decision being taken to put an end to that policy in view of the increased incidence of falsification. Finally, it ruled that the specific instance of interference complained of with the tenets and rites of the Sikh religion had not been disproportionate to the aim pursued, bearing in mind, in particular, that the requirement for persons to remove head coverings for the purpose of having their photograph taken "bareheaded" was a sporadic one and did not imply that persons of the Sikh faith should be accorded separate treatment.

By judgment of 3 July 2008 the Versailles Administrative Court of Appeal set aside the judgment of 14 December 2006.

Complaints

Relying on Articles 8 (right to respect for private and family life), 9 (right to freedom of thought, conscience and religion) and 14 (prohibition of discrimination) (in conjunction with Articles 8 and 9) of the European Convention on Human Rights, the applicant submitted that the requirement for him to appear bareheaded in the identity photograph on his driving licence amounted to interference with his private life and with his freedom of religion and conscience. He complained of the fact that the regulations in question made no provision for separate treatment for members of the Sikh community.

Procedure

The application was lodged with the European Court of Human Rights on 11 June 2007.

Decision of the Court¹

Article 9

The Court acknowledged that the impugned regulations, which required subjects to be shown “bareheaded” in identity photographs for use on driving licences, amounted to interference with exercise of the right to freedom of religion and conscience, that the interference in question had been prescribed by law and that it had pursued at least one of the legitimate aims listed in the second paragraph of Article 9 of the Convention, namely ensuring public safety.

It reiterated that, as enshrined in Article 9, freedom of thought, conscience and religion was one of the foundations of a “democratic society” within the meaning of the Convention. While religious freedom was primarily a matter of individual conscience, it also implied freedom to manifest one’s religion, alone and in private, or in community with others, in public and within the circle of those whose faith one shared.

However, in the Court’s view, Article 9 did not protect every act motivated or inspired by a religion or belief. Furthermore, it did not always guarantee the right to behave in a manner governed by a religious belief and did not confer on people who did so the right to disregard rules that had proved to be justified.

Thus, the Court reiterated that the fact that a Muslim student was required to provide an identity photograph showing her bareheaded in order to be issued with a degree certificate, or that persons were required to remove a turban or headscarf for the purposes of an airport security check or on consular premises, did not amount to interference with the exercise of their right to freedom of religion.

In the present case the Court noted that identity photographs for use on driving licences which showed the subject bareheaded were needed by the authorities in charge of public safety and law and order, particularly in the context of checks carried out under the road traffic regulations, to enable them to identify the driver and verify that he or she was authorised to drive the vehicle concerned. It stressed that checks of that kind were necessary to ensure public safety within the meaning of Article 9 § 2.

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

The Court considered that the detailed arrangements for implementing such checks fell within the respondent State's margin of appreciation, especially since the requirement for persons to remove their turbans for that purpose or for the initial issuance of the licence was a sporadic one. It therefore held that the impugned interference had been justified in principle and proportionate to the aim pursued.

Articles 8 and 14 in conjunction with Articles 8 and 9

The Court did not find any appearance of a violation of the provisions relied on.

It therefore unanimously declared the application inadmissible.

The decision is 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.