



The state administrator in Oslo & Viken

Our Date:
30.03.2022

Our Ref:
2022/6275

Your Date:
17.02.2022

Your Ref:
WBSYZK

Ministry of Children and Family Affairs
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Case manager, dial-up telephone
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Denial of claim for state subsidy - appeal - Jehovah's Witnesses, org.nr. 879492742

The state administrator denied claims for state subsidies in a decision of 27.01.2022.

In a letter dated 17.02.2022, the religious Society has complained about our decision. Complainants have the right to appeal, and the appeal is submitted within the deadline, cf. the Public Administration Act §§ 28-29.

Background to the case

There have been warnings from former members of Jehovah's Witnesses. The notices have, among other things, been about the religious community's exclusionary practice, including the exclusion of minor members. The Ministry of Children and Family Affairs asked the State Administrator to look more closely at the practice and assess whether there were grounds for refusing grants. Based on what emerged from the statements of Jehovah's Witnesses, we started an investigation on 15.09.2021.

The state administrator has the authority to supervise registered religious and philosophical communities. Jehovah's Witnesses were registered with the State Administrator on 15.10.1985 and are registered until 31.12.2022 according to the transitional rules in the Religious Communities Act § 23 second paragraph. The faith community is subject to our supervision. As part of the supervisory task, we must ensure that the religious community fulfils its obligations under the law.

The reasons for the decision

The Religious Society Act sets several conditions for being able to receive state support. In our investigations, we uncovered several violations of the Religious Communities Act.

1. Right to free withdrawal according to the Religious Communities Act § 2
Persons who voluntarily leave the faith community shall be treated in the same way as excluded members. This means that remaining members, family and friends, will not have contact with the excluded. The preparatory work for the Religious Communities Act § 2 points out that the right to freedom of religion presupposes that withdrawal can take place unconditionally and without obstacles on the part of the religious or philosophical community. By having rules for how the members should relate to excluded members, we found that the religious community prevents withdrawal. We regard the practice as a violation of the Religious Communities Act § 2.

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2. Baptized minors may be excluded

The exclusionary practice applies not only to adults, but also to baptized minors. This means that children can be excluded if they break the rules of the religious community. We have considered this practice to be a negative social control, and that it therefore violates children's rights. The religious Society itself describes the practice as a "strong form of correction". We consider this a violation of the Religious Communities Act § 6.

3. Minor members may be exposed to social isolation

For other children in the congregation who have not yet been baptized but who are considered "unbaptized publishers," there is a similar practice of exclusion. If unbaptized publishers violate community rules, they should be deprived of the status of publisher and congregation members should avoid contact with them. We have considered this treatment as negative social control, and in violation of the child's rights. We also regard this as a violation of the Religious Communities Act § 6.

We considered the offenses to be systematic and intentional, and therefore denied state subsidies for 2021. This is in line with the Religious Community Regulations § 11 third paragraph.

The content of the complaint

In the complaint, it is mainly stated that the religious community does not violate the Religious Communities Act §§ 2 and 6, and that the State Administrator's decision is incorrect. It is also stated that the decision violates sections 16 and 101 of the Constitution and Articles 9 and 11 of the ECHR.

The religious community writes in the complaint that they do not prevent anyone from opting out and that their exclusionary practice is protected under ECHR art. 9. They also write that children in practice are not excluded, and that the State Administrator has in any case not proved that the exclusion harms the children.

Our assessment of the complaint

The denomination writes in section 42 of the complaint that members who withdraw from the denomination are respected for their decision, and it is up to each individual who is affiliated with the congregation to use their personal religious conscience to decide whether they want to limit or completely avoid contact with that person.

As the State Administrator has pointed out in the decision of 27.01.2022, the religious community, in «Organized to do Jehovah's will» page 153, writes on the other hand that "... if a Christian person chooses to withdraw, a brief notice is given to the congregation which reads: '[The person's name] is no longer one of Jehovah's Witnesses.' Such a person is treated in the same way as someone who is excluded." We know that exclusion means that you should not have contact with or associate with the person in question. The religious community here encourages members to avoid contact with the excluded.

In this context, we will also refer to chapter 12 in the book "Shepherd the Flock of God", which deals with typical cases that may lead to the body of elders appointing a judicial committee. Point 17 deals with "shameless behaviour" and points out that unnecessary contact with the excluded or those who have withdrawn can be grounds for appointing a judicial committee. If the Body of Elders concludes that a judicial committee will not be appointed, it may nevertheless have consequences for whether the member is qualified to receive privileges in the congregation. The religious community shows here that defying the call to avoid the excluded can have consequences for members.

The allegations that only the members themselves decide who they want to have contact with do not agree with the religious community's own rules. The religious community in reality has a ban on contact with excluded members.

The consequences of opting out of the religious community may therefore be to lose contact with family and social networks. For the State Administrator, this scheme appears as a form of sanction imposed on society by those who opt out.

We understand that the individual person can decide for themselves how much contact they want to have with people who no longer share the same values as themselves. However, the contact is not something the religious community can sanction without hindering the right to free withdrawal according to ECHR art. 9. Article 9 of the ECHR precisely protects the right to change one's religion or belief.

The Religious Communities Act shall, among other things, ensure that the right to free registration is safeguarded for the members of registered religious communities. We therefore maintain our assessment that the practice entails a breach of the Religious Communities Act § 2.

Furthermore, the religious community states that there is no violation of the Religious Communities Act § 6. In sections 86-87 of the complaint, the religious community points out that the children who are baptized are mature enough to understand the consequences of being a Jehovah's Witness, including that they are aware that Baptism means that you must follow certain rules and that you can be expelled if you break the rules and do not regret it.

In addition, we would like to note that section 6 of the Religious Communities Act is intended to protect all children, even those who are considered by the religious community to be mature teenagers.

In sections 88-89, society states that there can be no violation of § 6 if the State Administrator cannot refer to a specific incident where a child has been excluded and has been harmed by this. Furthermore, the religious community points out that today only one person under the age of 18 is excluded.

Regardless of how many children are excluded from the religious community today, it is problematic that the religious community has a scheme where it is possible to exclude children. The threat of being ostracized and losing contact with family and friends appears to the State Administrator to be serious for a child. As we have referred to in the decision of 27.01.2022, the scheme is in our assessment negative social control.

In section 98, the religious community points out that it is up to the individual to decide whether they want to have contact with an excluded child. To this end, we will show our assessment above, which shows that the religious community has rules that in reality prohibit just such contact.

In section 110, the denomination states that unbaptized minor publishers are in no way socially isolated. However, as we pointed out in the resolution of 27.01.2022, the denomination writes this in "Organized to Do Jehovah's Will," pp. 154-155:

"If an unbaptized offender does not repent after two elders have met with him and tried to help him, it is necessary to inform the congregation. A brief statement is made that reads: '[The person's name] is no longer recognized as an unbaptized publisher.' The congregation will then regard the transgressor as a worldly person. Even if he is not excluded, Christians will be careful to associate with him. (1 Corinthians 15:33) The congregation will not accept any field service reports from him."

We understand the passage as the child being socially isolated from the congregation, and that this is done in response to the child's behaviour. We therefore maintain our assessment that this treatment is also regarded as negative social control on the part of the religious community and that the treatment violates the child's rights, cf. the Religious Society Act § 6.

With regard to the allegations that the decision of 27.01.2022 violates the Constitution §§ 16 and 101, and ECHR art. 9 and 11, we would like to point out that the decision applies to the religious community's requirements for subsidy funds, and not whether the religious community should be able to operate as a religious community in Norway, nor does it limit how the religious community should be able to practice its religion. The decision also does not include or restrict the religious community's freedom of assembly. The Religious Communities Act is a subsidy law, where the state has set certain conditions for religious communities to be able to receive public financial support. The state is free to choose how one wants to support religious communities and has no positive obligations under ECHR art. 9 in the case of government grants. We would also like to remind you that the ECHR has stated that access to financial support does not affect the individual's right to express their religion.

The rules in the Religious Communities Act apply to all registered religious communities in Norway.

Regarding the allegations about the State Administrator's case processing in section 146 of the complaint, we will refer to the letter dated 15.09.2021 with notification of the investigation case and the letter dated 25.10.2021 with answers to the religious community's questions about the prior notice. We announced that we were initiating an investigation on the basis of an inquiry from the Ministry of Children and Family Affairs. The inquiry contained the warnings from Furuli and the statement of Jehovah's Witnesses. In a letter dated 15.09.2021, we explained which inquiries, statements and notices were the background for the investigation case, and which provisions in the Religious Communities Act authorized our right to initiate an investigation case, and which provisions we investigated if the religious community had violated based on the mentioned inquiries, statements and notices. We were also clear that we did not instruct the religious community to answer further questions in this round as the religious community had already commented on several occasions on precisely these inquiries and warnings. The religious community nevertheless had the opportunity to express themselves and chose to do so in a letter dated 19.11.2021. This statement also forms the basis for our decision of 27.01.2022. We will maintain that we have given prior notice in accordance with the Public Administration Act § 16 and that the case was well enough informed before a decision was made, cf. the Public Administration Act § 17.

After a review of the complaint, the State Administrator cannot see that new and significant information has been added to the case. We uphold the decision.

The case is sent to the Ministry of Children and Family Affairs for a final decision.

A copy of the case documents and other relevant attachments is included with the complaint.

Med hilsen

Hege Skaanes Nyhus
Department Director
Legal department

Hege Rasch-Eng
Section Chief

Dokumentet er elektronisk godkjent