



## Expelling to Pakistan a national of that country who had converted to Christianity in Switzerland was liable to infringe his Convention rights

The case of [M.A.M. v. Switzerland](#) (application no. 29836/20) concerned the applicant's possible expulsion to Pakistan. M.A.M. is a Pakistani national who had converted from Islam to Christianity while in Switzerland, where he had arrived in 2015 and where his asylum request had been rejected.

In today's **Chamber** judgment<sup>1</sup> the European Court of Human Rights held, unanimously, that if the decision to expel the applicant to Pakistan were to be executed **there would be a violation of Article 2 (right to life) and Article 3 (prohibition of torture, inhuman or degrading treatment)** of the European Convention on Human Rights, in the absence of an assessment of the risk to which the applicant was exposed on account of the overall situation of Christian converts in Pakistan and of his own personal situation.

The Court ruled that the assessment by the Swiss authorities of the risk facing the applicant on account of his conversion to Christianity if he were expelled to Pakistan had been insufficient to uphold the rejection of his asylum request, also given that he had not been represented by a lawyer at any stage in the national proceedings. It further found that the applicant had demonstrated that his asylum request, which had been based on his religious conversion, should have been examined in greater detail by the national authorities, which should, in particular, have taken into consideration any possible developments in the overall situation of Christian converts in Pakistan and the specific circumstances of the applicant's case.

The Court also decided, pursuant to Rule 39 of its Rules of Court (interim measures), that it was desirable in the interests of the proper conduct of the proceedings, that the applicant should not be expelled until the judgment had become final<sup>2</sup> or until further notice.

### Principal facts

The applicant is a Pakistani national.

On his arrival in Switzerland in 2015 he submitted an asylum request, arguing that his life was in danger on account of a dispute over land between his family and a hostile neighbouring family, who had attempted to kill him. He was accommodated in several refugee centres, where he attended services in various churches, seeking a Christian congregation to join. He ultimately opted for the Salvation Army; he attended services regularly and took part in a range of church activities. In 2016 he was baptised in a Mennonite church in the presence of dozens of members of the Salvation Army.

In 2017 the applicant was interviewed in person by the asylum authorities. He was not represented by a lawyer, but was accompanied by a pastor. At the end of the interview he presented a letter of

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

2. In accordance with Article 44 § 2 of the Convention, the present judgment will not become final until (a) the parties declare that they will not request that the case be referred to the Grand Chamber; or (b) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or (c) the Panel of the Grand Chamber rejects any request to refer under Article 43 of the Convention.

recommendation, dated 27 February 2017, in which Pastor P.D. stated that the applicant was participating regularly in the Salvation Army's activities, including church services.

In 2018 the applicant's asylum request was rejected by the Swiss authorities on the grounds that the conditions had not been fulfilled to grant him asylum. He appealed to the Federal Administrative Court against that decision, followed by an application for a review of his case. Those actions were dismissed in June and July 2020 respectively.

In 2020 the applicant invited the European Court to indicate an interim measure on the basis of Rule 39 of the Rules of Court. The duty judge acceded provisionally to that request, informing the Swiss Government that it was desirable not to expel the applicant to Pakistan.

## Complaints, procedure and composition of the Court

Relying on Article 2 (right to life) and Article 3 (prohibition of torture and inhuman or degrading treatment) of the Convention, the applicant submitted that his expulsion to Pakistan would present him with a real risk of death or ill-treatment.

Furthermore, under Article 9 (right to freedom of thought conscience and religion), he argued that his freedom of religion would be seriously impeded in Pakistan.

The application was lodged with the European Court of Human Rights on 22 July 2020.

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

Georges **Ravarani** (Luxembourg), *President*,  
Georgios A. **Serghides** (Cyprus),  
María **Elósegui** (Spain),  
Darian **Pavli** (Albania),  
Peeter **Roosma** (Estonia),  
Andreas **Zünd** (Switzerland),  
Frédéric **Krenc** (Belgium),

and also Milan **Blaško**, *Section Registrar*.

## Decision of the Court

### Articles 2 and 3

The Court noted that on 28 February 2017 the asylum authorities had been informed that the applicant was participating regularly in the activities of the Salvation Army, including church services. However, they had failed to react and put questions on that matter to the applicant, who, moreover, had not been represented by a lawyer. According to the January 2017 report by the United Nations High Commissioner for refugees, "Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan", individuals who converted from Islam to another religion might be at risk both because they were now members of a religious minority and because they might be perceived as having committed apostasy. The Court therefore considered that the asylum authorities should have assessed the risk to the applicant on taking cognisance of Pastor P.D.'s letter.

In the applicant's particular case, the Swiss authorities were dealing with a conversion to Christianity which had taken place in their own country. The Federal Administrative Court had therefore had to ascertain whether the applicant's conversion had been genuine and had become sufficiently strong, serious, consistent and significant. It had considered the applicant's conversion credible. The Court saw no reason to depart from that appraisal. The superior court in question had also sought to

ascertain whether Christians in Pakistan risked collective persecution and whether the applicant would personally be exposed to the risk of sustaining treatment contrary to Articles 2 and 3 of the Convention in the event of his removal to Pakistan.

**As regards the overall situation of Christians in Pakistan:** in substance, the applicant's case rested on the fact that in recent years Christians, including converts, had been attacked and accused of blasphemy, which was a criminal offence in Pakistan punishable by the death penalty, commutable to a maximum 25-year prison sentence.

The Court observed that the Federal Administrative Court had consulted a large number of international reports and had identified a phenomenon of social intolerance of, and an increased risk of reprisals against, religious minorities, as well as a growing number of acts of religiously motivated violence against Christians by militant Islamist groups, as alleged by the applicant. Those findings had been corroborated, *inter alia*, by the Resolution on the blasphemy laws in Pakistan (2021/2647(RSP)) adopted by the European Parliament on 29 April 2021. Nevertheless, the Federal Administrative Court had considered that Christians in Pakistan did not risk collective persecution; it had not specifically examined the situation of Christian converts in reaching its conclusions on the overall situation of Christians in Pakistan.

The report drawn up by the British Home Office in February 2021, entitled "Country Policy and Information Note Pakistan: Christians and Christian converts", mentioned that persons known to have converted to Christianity were the targets of serious acts of violence, intimidation and discrimination from non-State agents, acts which could, in individual cases, amount to persecution and/or serious harm. That type of ill-treatment was prevalent throughout Pakistan. A person who was known, or was likely to be known, to have converted from Islam to Christianity and was open about their faith and conversion was liable to suffer societal discrimination and harassment that by its nature and repetition amounted to persecution. A person who returned to Pakistan having converted from Islam to Christianity while abroad, who did not actively seek to proselytise or publicly express their faith, and/or considered their religion a personal matter, might be able to continue practising Christianity discreetly.

In the light of the international reports concerning serious human rights violations in Pakistan against Christian converts such as the applicant, the Court considered that the Federal Administrative Court should have taken all those factors into consideration in reaching its conclusions about the overall situation of Christians and Christian converts in Pakistan.

**As regards the applicant's personal situation in the event of removal to his country of origin,** given that the applicant had converted from Islam to Christianity in Switzerland and that he had therefore been liable to belong to a group of persons who, for various reasons, might run a risk of undergoing treatment contrary to Articles 2 and 3 of the Convention should they return to Pakistan, it had been incumbent on the asylum authorities to assess the risk of their own motion.

Yet the Federal Administrative Court had failed to conduct a sufficiently detailed examination of the situation of Christian converts and of the applicant's personal situation concerning his conversion, the seriousness of his beliefs, the way he had manifested his Christian faith in Switzerland, how he had intended to manifest it in Pakistan if the removal order had been executed, whether his family had known about his conversion and whether he would be subject to persecution and accusations of blasphemy. The Swiss authorities had therefore not adequately assessed the risk to which the applicant would have been exposed on account of his conversion if he had been removed to Pakistan in upholding the rejection of his asylum request, also given that he had not been represented by a lawyer at any stage in the domestic proceedings.

The applicant presented the Court with further relevant documents in addition to those already examined by the Federal Administrative Court. In the light of all those factors and the evidence previously submitted to the domestic authorities by the applicant, the Court concluded that the

latter had demonstrated that his asylum request on the grounds of his conversion should have been assessed in greater detail by those authorities. The latter were duty-bound to take those factors into consideration, and also to have regard to any possible change in the overall situation of Christian converts in Pakistan and the specific circumstances of the applicant's case.

It followed that there would have been a violation of Articles 2 and 3 of the Convention if the applicant had been removed to Pakistan without any in-depth and thorough assessment by the Swiss authorities of the overall situation of Christian converts in Pakistan and of the applicant's personal situation as a Christian convert in the event of his removal to that country.

### Article 9

Having regard to its conclusions under Articles 2 and 3 of the Convention, the Court considered that the complaint under Article 9 raised no other separate issues, and that there was therefore no need to examine it separately.

### Just satisfaction (Article 41)

The Court held that the finding of a violation constituted in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant. It further held that Switzerland should pay the applicant 6,885 euros (EUR) in respect of costs and expenses.

*The judgment is available only in French.*

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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.