

Case Summary: Jakobski v Poland (Application no. 18429/06)

Janusz Jakobski, a Polish national, filed an application against the Republic of Poland with the European Court of Human Rights in which he alleged that his right to observe his religious beliefs protected under Article 9 of the Convention had been infringed. The Claimant, who is serving an eight-year prison sentence for rape, complained that custodial authorities had repeatedly refused to provide him with a meat-free diet essential for a practising Mahayana Buddhist.

Submission of the Parties

The Claimant's case was that under Article 9 of the Convention the state is obliged to respect and support the individual's freedom to practice his or her religion. The state would only be allowed to refute this right in the interest of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others. Jakobski asserted that a request for a meat free diet cannot be said to menace such limitations. Lastly, he maintained that a Buddhist who does not follow Buddha's directions stops the self-development and resist Buddha's teachings at the core of this religion. The Claimant referred the Court to the Third Secondary Precept of Shakyamuni Buddha,

which states: "*A disciple of the Buddha must not deliberately eat meat. He should not eat the flesh of any sentient being. The meat-eater forfeits the seed of Great Compassion ... Those who do so are guilty of countless offences.*"

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The government submitted that although under Polish law the state is not obliged to provide special diet in accordance with prisoner's religious beliefs they do not dispute that a diet might be considered to be an essential part of one's religion that falls under the merit of Article 9 of the Convention. However, Jakobski had in the past agreed to a PK diet (a diet that contains no pork and includes very little meat) and as such he cannot claim that vegetarianism is an essential part of his practice. Relying on Wikipedia the state argued that the Mahayana wing of

Buddhism encouraged rather than required its devotees to abstain from eating meat products. Lastly, providing a special meal for one person would not only be too burdensome for the prison staff but also too expensive on the prison system.

Ruling

The court held that Jakobski's wish to follow a vegetarian diet could be regarded as having been motivated or inspired by religion and was therefore not unreasonable. Consequently, his rights under Article 9 of the Convention had been infringed by the state. While the panel of judges recognized that making separate meals could have financial implications and as a result indirect effect on the treatment of other prisoners the Court held that the Claimant had asked for simple meat free meals only that did not require special products, preparation or cooking methods. The court was not convinced that preparation of a vegetarian meal for the applicant would have a substantial effect on the management of the prison or would worsen the quality of meals provided to the other detainees.