



OSLO DISTRICT COURT

JUDGMENT

Said: 04/03/2024 in Oslo district court

Case no.: 22-186588TVI-TOSL/03
23-023178TVI-TOSL/03

Judge: District court judge Ole Kristen Øverberg

Case concerns: The validity of decisions on refusal of state subsidies and
The validity of decisions on loss of registration

Jehova's witnesses

Lawyer Anders Christian Stray Ryssdal
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against

The State v/Ministry of Children and Families Lawyer Liv Inger Gjone Gabrielsen
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1 Presentation of the case

1.1 The dispute in a nutshell

Two lawsuits from the religious community Jehovah's Witnesses against the state at the Ministry of Children and Families have been combined for joint processing, cf. the Disputes Act § 15-6.

The one lawsuit concerns 1) The Ministry of Children and Family's decision in appeals on 30 September 2022 about the refusal of state subsidies for 2021, cf. Act 24 April 2020 no. 31 on faith and belief communities (faith communities act), 2) The State Trustee in Oslo and Viken decision of 7 November 2023 on the refusal of state subsidies for 2022 and 3) The State Administrator's decision of 7 November 2023 on the rejection of claims for state subsidies for 2023. The second lawsuit concerns the State Administrator's decision of 22 December 2022 on the refusal of an application for registration under the same law.

State subsidies and registration are refused on the grounds that Jehovah's Witnesses seriously violate the rights and freedoms of others, cf. Religious Communities Act § 6, cf. §§ 2 and 4. The state claims that Jehovah's Witnesses prevent the right to freedom of expression, and expose baptized children to psychological violence and negative social control. This is said to be the effect of a religiously motivated practice which means that no one in the congregations should have contact with former members who have been excluded (ostracized) or who have withdrawn. In the state's view, children's rights are also violated by another practice that applies to unbaptized minors who have the status of preachers. If they commit a serious sin, as unbaptized, they cannot be ostracized, but they risk exclusion and social isolation from the community in the congregation - because the arrangement is that one must be careful in associating with the child.

Jehovah's Witnesses claim that the state has an incorrect understanding of the religious practice, and that the conditions for refusing state subsidies and registration are not met in any case. Jehovah's Witnesses have submitted a claim that the decisions are invalid, and that they are entitled to be registered as a religious community, as well as compensation or subsequent payment for the years in which state subsidies have not been received.

The state is asking to be acquitted.

1.2 Briefly about Jehovah's Witnesses

Jehovah's Witnesses are an international religious community that was established in the United States in the 1870s. They state that they have approximately 12,000 members distributed among 162 congregations in Norway, and that there are over 8.8 million Jehovah's Witnesses distributed among 118,177 congregations worldwide.

The religious teachings and the organization of congregations are similar all over the world.

It is only at baptism that one becomes a Jehovah's Witness and receives the status of a member. An average congregation has 75 members. In each congregation, there is a council of elders that supervises the congregation. Around 20 congregations make up a circle. Congregations receive periodic visits from traveling elders, who are called circuit overseers. They appoint elders, who in Norway make up about 1,300 men.

Jehovah's Witnesses have open church meetings twice a week, where practically everyone in the church is present. Regular circuit conventions and regional conventions are organized. Baptisms often take place in connection with such conventions. The members spend a lot of time preaching, from house to house and in places where people travel and gather.

The branch office in Holbæk in Denmark oversees Denmark, Iceland, Norway and Sweden.

A governing council of nine men, working from the headquarters in Warwick, New York, provides biblical guidance and instruction. Publications are managed by the council.

Jehovah's Witnesses were registered as a religious community in Norway under the previous Religious Communities Act in 1985 and have had the right to marry since 1986. The number of members is stable. In 2020, Jehovah's Witnesses received state subsidies for 12,648 members, and in 2022 there were 12,639 counting members.

1.3 The decisions on refusal of state subsidies and registration

On 26 February 2021, Jehovah's Witnesses submitted claims for state subsidies for 12,727 members.

Shortly afterwards, the Ministry of Children and Families received a letter from Rolf Johan Furuli, who is a former member of Jehovah's Witnesses. He commented that a letter from Jehovah's Witnesses on March 4, 2021 gives a false picture of two aspects of the religious community; the practice of shunning the excluded and the baptism of children. About the first he wrote:

It is quite right that the Witnesses teach that the family ties within a marriage do not cease if one of the spouses is disfellowshipped. But what is not said is that all family ties outside of marriage cease. If, for example, a young person is excluded, then he must be protected by his entire family, except those who live in the same household. If a grandfather continues to visit his excluded grandchild, the grandfather himself will be excluded. It is so strict that if the excluded person calls his grandfather, and the grandfather sees his number on the screen, he is not allowed to answer the phone.

On the baptism of children, he emphasized that very few are psychologically mature enough to fully understand what they are doing. Because of their immaturity, they may commit serious sins and be disfellowshipped. When they grow up, they may also want to leave the church. He also noted that opting out would mean being treated in the same way as someone who has been excluded. You are protected by all witnesses, except those who live in the same household.

The ministry forwarded the inquiry to the State Administrator in Oslo and Viken, who opened an investigation case. It ended with the State Trustee deciding on 27 January 2022 to deny Jehovah's Witnesses state subsidies for 2021, cf. the Religious Communities Act §§ 6 and 2, cf. the Religious Communities Regulations § 11 first paragraph letters a) and d).

The State Administrator pointed out that Jehovah's Witnesses were clear that members should not have contact with those who are excluded and deregistered from the religious community. The state administrator assumed that the practice could lead to members feeling pressured to stay on

the religious community. It was thus considered to be an obstacle to the members' right to free expression and in breach of the Religious Communities Act § 2 second paragraph.

It was also assumed that the exclusion of baptized minor members was to be regarded as negative social control and a violation of children's rights according to Section 6 first paragraph of the Religious Communities Act. Furthermore, emphasis was placed on the fact that children who have not yet been baptized can be given the status of "unbaptized preacher", and that children with this status risk exclusion from the fellowship of the congregation if they commit a serious sin. The child is not excluded, but the congregation is told that they must be careful about associating with the child. The state administrator considered that this practice should also be considered negative social control, and that the social isolation is a form of punishment against the child. The state administrator considered the conditions to be serious and intentional. The grant was therefore refused in its entirety.

Following a complaint from Jehovah's Witnesses, the Ministry of Children and Families on 30 September 2022 confirmed the decision to refuse state subsidies for 2021. The ministry came to the conclusion that children's rights are violated by the practice of excluding baptized children, and that this alone is enough to refuse subsidies according to section 6 of the Religious Communities Act first paragraph. It was therefore not necessary to assess whether it is also in breach of Section 2, second paragraph, on free notification. The practice of exclusion was considered to be systematic, persistent and intentional, and an integral part of the Jehovah's Witnesses' teachings. Subsidy was therefore refused in full, cf. the religious community regulations § 11 fourth paragraph.

On 22 December 2022, the State Administrator decided to withdraw the registration of Jehovah's Witnesses, cf. Religious Communities Act § 4 third paragraph, cf. § 6, cf. Religious Communities Regulations § 6 first paragraph. The application from Jehovah's Witnesses for registration under the new Religious Communities Act was also refused, cf. Religious Communities Act § 4 third paragraph, cf. Religious Communities Regulations § 4 fourth paragraph. State grants for 2022 were refused in a decision by the State Administrator on 7 November 2023. Like the decision on 27 January 2022, the decisions are based on violations of the right to freedom of expression and children's rights. Claims for grants for 2023 were rejected in another decision by the State Administrator on 7 November 2023. It is shown here that only registered faith and belief communities can claim grants from the state, cf. § 5 of the Religious Communities Act. These decisions have not been appealed to the Ministry of Children and Families.

1.4 The legal process

Jehovah's Witnesses filed a lawsuit for government grants on December 21, 2022 and registration on February 10, 2023.

The case has been widely approached by the parties.

During the case preparation, there have been three planning meetings. Several disputes about evidence have been settled by ruling.

The main hearing was held over nine court days from Monday 8 to Friday 19 January 2024. The European Association of Jehovah's Witnesses appeared as party assistant for Jehovah's Witnesses, cf. Swedish Disputes Act § 15-7. The association held an oral presentation in connection with the proceedings of Jehovah's Witnesses.

The court has heard statements from Kåre Sæterhaug, who was a party representative for Jehovah's Witnesses, and 27 witnesses. Written evidence has been taken from two digital factual extracts comprising 4,000 pages. Five legal extracts amount to 9,400 pages. The dispositions for the case presentations and procedures are a total of 270 pages.

2 **The views of the parties**

2.1 Jehovah's Witnesses

Jehovah's Witnesses have briefly asserted:

The decisions on refusal of state subsidies and registration are invalid

The state's understanding of the religious practice is mainly based on its own interpretation of religious texts. This is exceeding a prohibited limit. Religious issues, such as the relationship with excluded and deregistered people, cannot be made the subject of review by authorities and courts, cf. HR-2022-883-A sections 57 and 58. Otherwise, the state's basis consists of fragmented stories and observations from disgruntled former members .

The exclusion practice is not as the decisions require. It has not been proven that there is a harmful "practice" with the exclusion of minors or a harmful "practice" that prevents the right to freedom of expression.

The individual member decides for himself how, based on biblical principles, he relates to excluded and deregistered acquaintances and family members. Avoiding contact protects against unwanted influence, and it can help the person concerned to regain a good relationship with Jehovah (God). It is equally clear that family ties remain, and that marriage is sacred. It is also a biblical and moral obligation to help family members of all ages if they have challenges in taking care of themselves, financially or physically. The obligation is even clearer towards minors.

The evidence has shown that there is no change in the relationship between parents and excluded children who live at home, or between baptized siblings and excluded children who live at home. Family ties are otherwise not broken - not even for adults.

Furthermore, the decisions rest on an incorrect interpretation of and subsumption under section 6 of the Religious Communities Act, cf. section 2.

Even if it is assumed that the state is right in its understanding of the exclusion practice, and that opting out is difficult, this will still not be able to defend the decisions. Something far more is required to fulfill the conditions of the law.

The state has overlooked the importance of the religious age of authority being 15 and that a religious community itself has the right to set conditions for membership. The terms of § 6 of the Religious Communities Act must be interpreted in the light of the principle of legality – the terms of the legal text cannot be undermined by reference to the term "negative social control".

It has also been disregarded from important aspects related to the baptism practice of Jehovah's Witnesses. Although there is no lower age limit for when children can be baptized, there is a requirement of maturity. This means that very few children can be excluded.

Exclusion is a serious matter, and opting out can lead to isolation and loss of relationships. However, it has not been proven that there are action patterns among Jehovah's Witnesses that give reason to conclude that baptized or unbaptized children are exposed to psychological violence or negative social control, or that free expression is prevented. If individuals have experienced something that goes beyond the teachings of Jehovah's Witnesses, that is not relevant to the question of the religious community's registration and right to grants.

Finally, the decisions are invalid because their effects violate a number of provisions in the European Convention on Human Rights (ECHR) and the Constitution.

Article 9 of the ECHR and § 16 of the Constitution protect the right of individual religious communities to decide on their own religious practice. The European Court of Human Rights (ECHR) has assumed that refusal of registration constitutes an intervention under the convention provision.

The same must apply if a religious community loses its status as a publicly registered religious community, because parts of the community's practices are not viewed positively.

The provisions also protect the individual member's freedom of religion. To participate or not to participate in the religious community lies within the individual's personal autonomy.

Freedom of religion is therefore not infringed by the practice of exclusion. The state has failed to interpret the Religious Communities Act against parents' right to raise their own children in accordance with their beliefs and convictions. Children and young people's freedom of religion has also not been taken into account, including their right to make decisions and participate in matters concerning the exercise of faith and outlook on life.

Article 11 of the ECHR and § 101 of the Constitution protect the freedom of association and assembly. Through the resolutions, guidelines are laid down for which rules a religious community must have. This undermines the right to freely form a religious community.

The conditions for encroaching on freedom of religion and freedom of assembly have not been met. It takes a lot for the state to be able to intervene in a religious community's religious teachings, practices and internal affairs. The decisions do not protect anyone else's rights, nor are they necessary in a democratic society. There is not a sufficiently pressing or societal need for the interventions that have been made, and they are not suitable to achieve the purpose.

Loss of registration and state subsidies will not lead to any change in Jehovah's Witnesses' religious practices.

In addition, the state's actions constitute a breach of the plaintiff's "legitimate expectation" of continuing to receive state subsidies as before, in violation of the ECHR First Additional Protocol, Article 1.

In any case, the decisions constitute unfair discrimination, cf. ECHR article 14, cf. articles 9 and 11 as well as ECHR first additional protocol, article 1. Jehovah's Witnesses and another smaller religious community are the only ones of around 700 registered religious communities in Norway that have been denied state subsidies.

Claims for compensation or subsequent payment, as well as registration

If the court determines that the decisions on refusal of state aid are invalid, compensation is required on an objective basis. It is certain law that state bodies can be liable for damages for invalid decisions where "special considerations" apply. In all cases, compensation constitutes a necessary remedy for a breach of the convention.

Subsidiarily, back payment of state aid is required. It is possible to establish this by judgment if someone undoubtedly has a claim to it, cf. Rt-2000-452.

Jehovah's Witnesses also have the right to be registered, both according to Section 4 of the Religious Communities Act and directly according to the ECHR.

Claim

Jehovah's Witnesses have made the following claim:

1. The State v/Ministry of Children and Families' decision of 30 September 2022 re denial of state grants for 2021 is invalid.
2. The State Administrator in Oslo and Viken's decision of 7 November 2023 on the refusal of state subsidies for 2022 is invalid.
3. The decision of the state administrator in Oslo and Viken on 7 November 2023 to reject claims for state subsidies for 2023 is invalid.
4. Principal:

Jehovah's Witnesses are entitled to compensation from the state for missing state subsidies for the years 2021, 2022 and 2023, including interest.

In the alternative:

Jehovah's Witnesses are entitled to receive state subsidies for the years 2021, 2022 and 2023, including interest, paid in arrears.
5. The State Administrator in Oslo and Viken's decision of 22 December 2022 on refusal of registration is invalid.
6. Jehovah's Witnesses are entitled to be publicly registered as a religious community.
7. Jehovah's Witnesses are awarded the costs of the case.

2.2 The State at the Ministry of Children and Families

In short, the state has asserted:

The decisions are valid

The crux of the matter is that a religiously motivated practice of exclusion and treatment of those who leave the religious community cannot override basic norms in society.

The legal questions are whether the practice is affected by section 6 of the Religious Communities Act and whether it is in conflict with or protected by human rights.

There are two circumstances which provide independent and sufficient grounds for denying Jehovah's Witnesses grants and registration, cf. § 6 of the Religious Organizations Act, cf. § 4.

Firstly, the Jehovah's Witnesses' practice of avoiding contact with former members means that the religious community prevents the right to free expression, in violation of the Religious Communities Act § 2, ECHR Article 9, the Constitution § 16 and the UN Convention on Civil and Political Rights (SP) article 18.

Secondly, the practice also involves a violation of children's rights. Minors who have been baptized can be excluded in the same way as adults, and minors who prior to baptism have the status of "unbaptised preachers" can be excluded from social interaction if the minor commits acts which in the religious community are considered a serious sin. In the preparatory work for the Religious Communities Act, the legislature has expressly mentioned "negative social control aimed at children" and "psychological violence" towards children as conditions to be covered by the Religious Communities Act § 6. That such conditions constitute a violation of children's rights is also supported by the Convention on the Rights of the Child Article 19, which gives children the right to freedom from all forms of violence. In the Children's Committee's general comment on the provision, isolation is mentioned as an example of psychological violence (General comment no. 13 (2011)).

Whether or not Jehovah's Witnesses are registered under the Religious Communities Act has no bearing on the religious community's status as a legal person and independent legal entity or whether Jehovah's Witnesses are to be considered a religious community. It is clear that Jehovah's Witnesses are still a religious community according to the definition in Section 2 of the Religious Communities Act and are thus covered by both Chapter 1 and Chapter 4 of the Act. In other words, there has been no "separation" of the religious community as such. The effect of being refused registration under the Religious Communities Act is only that Jehovah's Witnesses cannot apply for grants from year to year, and that Jehovah's Witnesses cannot be granted the right to marry.

The decisions do not conflict with the ECHR or corresponding constitutional provisions.

Article 9 of the ECHR does not, in principle, impose a positive duty on the state to provide religious or religious communities with state subsidies or the right to marry. If the decisions are nevertheless considered to involve an intervention in freedom of religion, it must be seen that it has occurred in an area which initially enjoys limited protection under the convention.

In any case, the intervention is permitted according to Article 9 second paragraph of the ECHR. The decisions are based on the Religious Communities Act and pursue a legitimate purpose in the form of the protection of "public order" and "the rights and freedoms of others". They also fulfill the requirement of being "necessary in a democratic society", by building on a reasonable balancing of the various interests that apply in the matter.

The decisions are not a breach of the state's duty to act neutrally and impartially in the face of different religions and views of life. The state has neither taken a position on the internal organization of Jehovah's Witnesses, made a statement about what constitutes "right teaching" from a religious perspective, nor taken sides

with possible different directions within Jehovah's Witnesses. The state's duty to act neutrally does not mean that the state is never allowed to react to practices under the auspices of a religious community.

The decisions also do not imply any violation of freedom of association, cf. ECHR Article 11 and the Constitution § 101. Jehovah's Witnesses are still an independent legal entity with the freedom to govern themselves, even if the religious community is not registered. It is not obvious that there is any intervention. In any case, the state believes that the intervention is prescribed by law, justified by a legitimate purpose and necessary in a democratic society, and that the intervention therefore does not constitute an infringement, cf. ECHR Article 11 second paragraph.

The decisions also do not involve discrimination contrary to Article 14 of the ECHR, in conjunction with Article 9 and/or 11.

It follows from the ECtHR's practice that states have the right to establish arrangements where religious communities can apply for a specific status that grants specific privileges. In order for such an arrangement not to violate ECHR Article 14, it also follows from the ECtHR's practice that the state must ensure that all religious communities are given a reasonable opportunity to apply for this status and ensure that the criteria are applied in a non-discriminatory manner. In the state's view, these conditions are met.

The criteria in the Religious Communities Act are objectively designed, and plans are made for equal treatment of religious communities in comparable situations. Any community that commits, incites or supports conditions as mentioned in the Religious Communities Act § 6, first paragraph, will be able to be refused state subsidies. These societies can also be deprived of a previously granted registration or be refused a new registration according to § 4 third paragraph of the Religious Communities Act. The decisions are in any case factual and proportionate.

There is no basis for compensation on an objective basis

The public sector has no objective responsibility for any unauthorized exercise of authority.

Strict liability presupposes that there are special considerations that offset the considerations that may be harmed by strict liability in the area in question. The State does not agree that there are such special considerations in the case.

The demands for late payment and registration must be rejected

If one or more of the decisions in the case are considered invalid, the administration must reassess the case and make new decisions. The aforementioned requirements mean that guidelines are laid down on the content of the new decisions, which means that a judgment is passed on the merits. Claims for judgment on the merits must, as a clear general rule, be rejected.

Claim

The state has submitted the following claim:

1. The claim in Jehovah's Witnesses' claim point 6 and the claim in subsidiary claim point 4 is rejected.
2. In other respects, the State v/Ministry of Children and Families is acquitted.

In the alternative:

1. The State v/Ministry of Children and Families is acquitted.

In both cases:

2. The State v/Ministry of Children and Families is awarded legal costs.

3 The court's assessment

3.1 The practice of exclusion in Jehovah's Witnesses

Store Norske Leksikon is an online encyclopedia owned by an association where all Norwegian universities and several other knowledge organizations are members. The subject responsible for the part of the encyclopedia on Christian denominations is professor (emeritus) of church history Tarald Rasmussen. About Jehovah's Witnesses and Exclusion, of which he is one of the authors, it says:

According to Jehovah's Witnesses, exclusion or "ostracism" is necessary if a member of the congregation distances himself from the Witnesses' teachings or repeatedly breaks God's commandments without repentance. They argue that it was also like this in the first Christian churches. They also refer to 2 John (7–11), which says that those who deceive and teach wrongly should not be welcomed. Those who nevertheless do so become complicit in the evil deeds. Furthermore, they refer to 1 Corinthians (5.9–15), that everyone must defend what is right, and will be brought before God's court.

The practice is controversial and is criticized by those outside the congregation, as exclusion also means that no one in the congregation can have contact with the excluded person. Children, siblings and parents are also encouraged to avoid contact with an ostracized family member who does not live under the same roof as themselves, except in special situations such as inheritance settlements. A family is not directly required to cast out an outcast with whom they lived before, and trivial day-to-day interaction may continue, but all spiritual fellowship is to be avoided. As soon as the outcast possibly moves out, the family members are encouraged to cut contact completely.

A member who is not actively disfellowshipped, but who himself decides to leave Jehovah's Witnesses, is treated in the same way as those who are disfellowshipped because of "sin" and lack of repentance. The practice makes it difficult to break with Jehovah's Witnesses, because you become socially isolated from those you used to be close to. This in itself has a strong disciplinary effect, as those who oppose or take other paths, without showing remorse, risk exclusion with subsequent social isolation. Those who no longer believe, in some cases, try to withdraw gradually and become inactive rather than expressly renounce their membership in Jehovah's Witnesses, so that the members of the congregation will not be required to directly shun them...

The court assumes that this is a correct summary of the main features of what can be described as the exclusionary practice of Jehovah's Witnesses.

It is in line with how the guidelines and practice were understood by the Supreme Court in HR-2022-883-A. In that case, a lawsuit was brought about the validity of an exclusion decision. The plaintiff was a woman born in 1971. She was baptized as a Jehovah's Witness in 1987. Until 2018, she was associated with a congregation in the religious community. Her mother and child

were also members of Jehovah's Witnesses and belonged to the same congregation as her. She was previously married to a member, but separated in 2016 and divorced in 2018.

The Supreme Court described the consequences for her of being excluded from Jehovah's Witnesses as follows:

(49) An account from Jehovah's Witnesses entitled "Why exclusion is a loving arrangement" has been submitted to the Supreme Court. Here it says, among other things:

"Family members can show love to the congregation and the disfellowshipped by respecting the disfellowshipping decision. ...

Everyone in the congregation can show love based on principles by not having contact with and talking to the excluded. ... In this way, the discipline Jehovah has given him through the elders has a greater effect. They can also show the family of the excluded person extra love and attention. The family feels great pain and must not get the feeling that they too are excluded from being with their brothers and sisters."

(50) A form of "love" is thus described which entails that family members, including those closest to them, such as children and parents, should avoid contact with a person who is excluded.

(51) The state administrator in Oslo and Viken decided on 27 January 2022 to deny Jehovah's Witnesses state subsidies for 2021. The decision is based, among other things, on the fact that the religious community has a practice that is an obstacle to the members' right to free expression. In the decision, which is being appealed, the State Administrator states, after reviewing descriptions given by Jehovah's Witnesses, among other things:

"The consequence of leaving the congregation is that the person in question is no longer allowed to have contact with family and friends in the congregation. The religious community is clear that members should not have contact with excluded members. As we see in the section above, this also applies to members who have withdrawn. This practice can mean that members feel pressured to remain in the religious community."

(52) A has explained that she has lost almost all contact with family and friends within the congregation as a result of the exclusion. From what I have pointed out, this is in accordance with the guidelines that Jehovah's Witnesses practice. There is thus no doubt that the exclusion has very large personal consequences for A.

The guidelines also follow from other publications from Jehovah's Witnesses, such as the chapter "How to treat someone who is disfellowshipped" in the book "Keep Yourself in God's Love", published by Jehovah's Witnesses. There it appears that minors can also be excluded. The party representative for Jehovah's Witnesses, Kåre Sæterhaug, confirmed during the main hearing that the text describes the basic guidance.

To the question "What if a relative is excluded?" it is noted:

In such a case, the close bond between family members can be a real test of loyalty. How should we treat an excluded relative? We cannot here go into every imaginable situation, but we will look at two general situations.

In some cases, the excluded person still lives with his immediate family.

As the exclusion does not mean that family ties are broken, the family's normal everyday activities can continue. But by his actions, the excluded person has chosen to break the spiritual bond between him and his believing family. So loyal family members can no longer have any spiritual fellowship with him. For example, if the excluded person is present when the family studies the Bible together, he cannot participate. But if he is a minor, the parents still have the responsibility to teach and discipline him. They can therefore show him love by leading a Bible study with him. *
- Proverbs 6: 20-22; 29: 17.

In other cases, the excluded relative lives somewhere other than his immediate family. Although there may be a need to have limited contact on rare occasions to take care of necessary family matters, such contact should be limited to a minimum.

Loyal Christian family members do not look for excuses to have contact with a disfellowshipped relative who does not live at home. Their loyalty to Jehovah and his organization leads them instead to support the biblical system of exclusion.

Their loyal course of action is for the good of the transgressor and can help him reap the benefits of the discipline he has received. * - Hebrews 12:11.

Another example that illustrates the kind of contact there should be with close family members who leave the religious community is the short film "Loyally support Jehovah's decisions". Like the texts "Why exclusion is a loving arrangement" and "How to treat someone who is excluded", it is published on the website of Jehovah's Witnesses. The film shows a young woman who is excluded after starting an intimate relationship with a male colleague. She is told by her parents that she must move out of the home, and that she has a negative influence on her younger siblings. The parents refuse to answer her phone calls.

At the same time, it is told in the daughter's voice that the parents understood that they had to be loyal: "They really wanted to help her, but knew that if they had only been with her a little, just to hear how she was doing, she would have might have been satisfied with just the small dose. It could have made her think that it was not necessary to return to Jehovah". The film ends with her rejoining the Jehovah's Witnesses, and having contact with her parents, after being excluded for 15 years.

It is agreed that a person who chooses to withdraw from the religious community is treated in the same way as someone who is excluded.

Jehovah's Witnesses have argued that religious texts - from which the court has referred - cannot be used as evidence to refuse state subsidies and registration, because it requires a religious interpretation that lies outside the competence of the state and the court. It must be assumed that they think the same should apply to a film like "Loyally support Jehovah's decisions". Jehovah's Witnesses have specifically pointed to HR-2022-883-A section 58 in support of their view. There, the Supreme Court states that a religious community's assessment of religious issues cannot be tried by the courts.

The State rejects that there is such a prohibition on evidence and believes that such texts are relevant to the extent that they provide guidance for what constitutes practice.

The court agrees with the state.

In the aforementioned judgment, the Supreme Court itself makes an interpretation of the text "Why exclusion is a loving arrangement", cf. sections 49 and 50 (cited above). Section 58 must be read in light of the fact that there was a question of access to judicial review of religious communities' exclusion decisions. There is no doubt that religious communities themselves have full discretion over religious issues connected with the business, cf. section 57. In the case here, the court shall not test the religious community's assessment of religious issues, but take a position on what is practice and assess this against the Religious Communities Act and human rights regulations. Then it must be allowed to emphasize material from the religious community that may have a religious content, cf. the proposition (proposal) to the Storting on the adoption of the Religious Communities Act (Prop. 130 L (2018-2019)) p. 193:

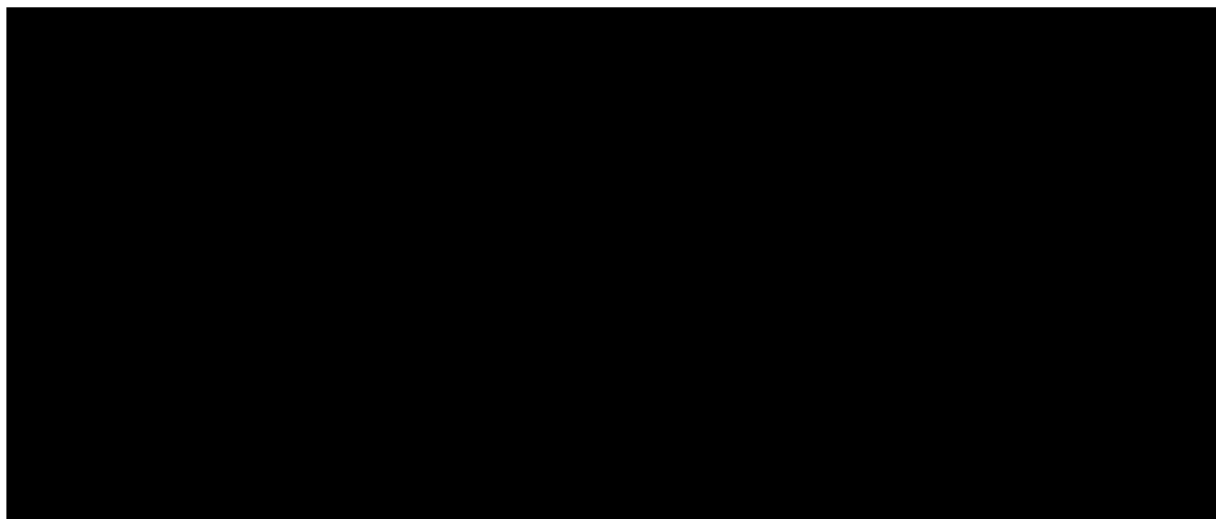
The rules in the bill §§ 4 and 6 presuppose a willingness to be transparent about internal affairs in faith and life-view communities. Faith and belief communities will not be able to keep doctrinal documents, liturgical texts, internal practices, routines and regulations etc. hidden from the administration (and thus also not from the public, cf. the Publicity Act) when the content may be important for the assessment of whether the community fulfills the registration and grant conditions .

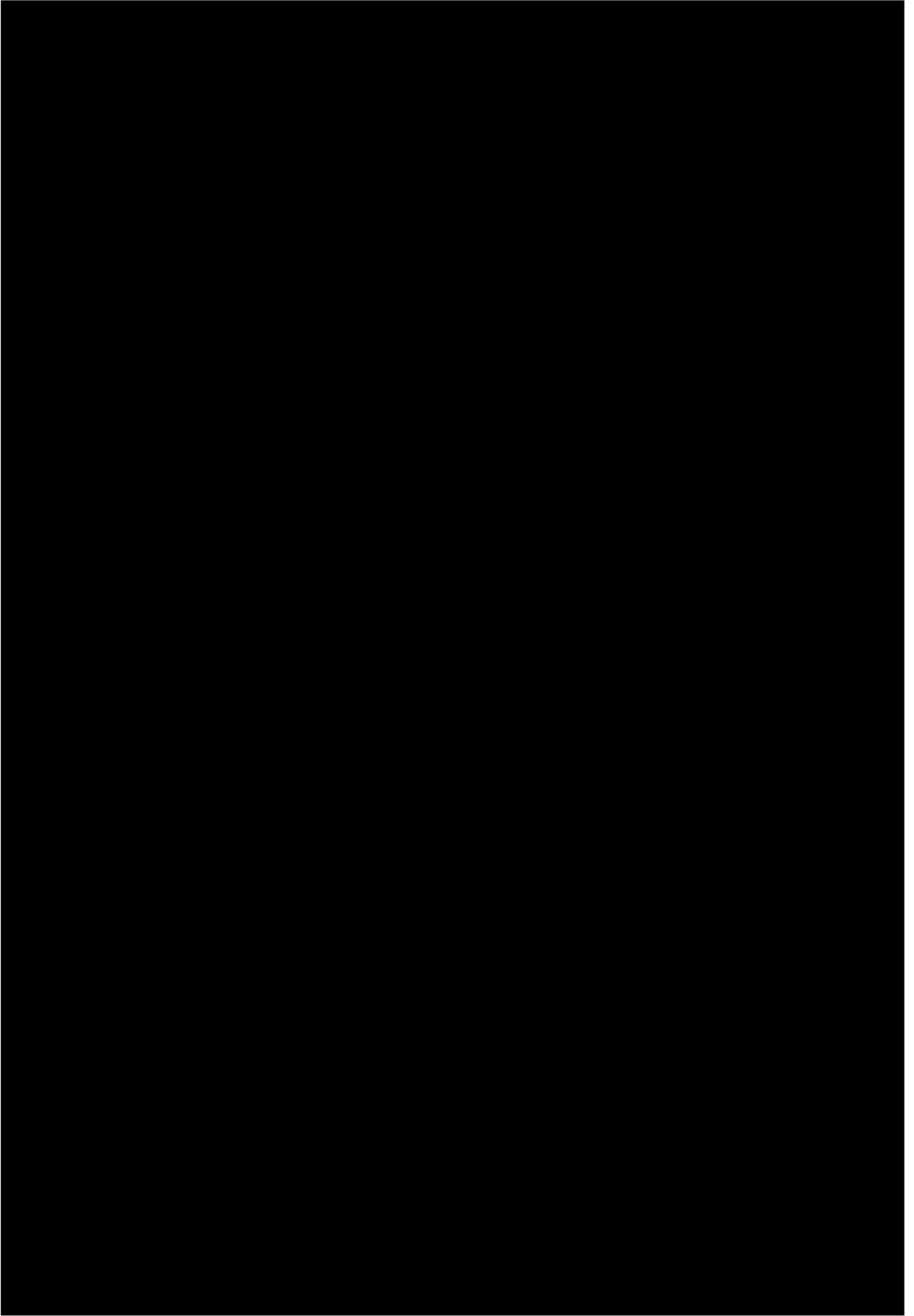
A contrary conclusion would easily make it unreasonably difficult to assess whether the religious community violates the rights and freedoms of others.

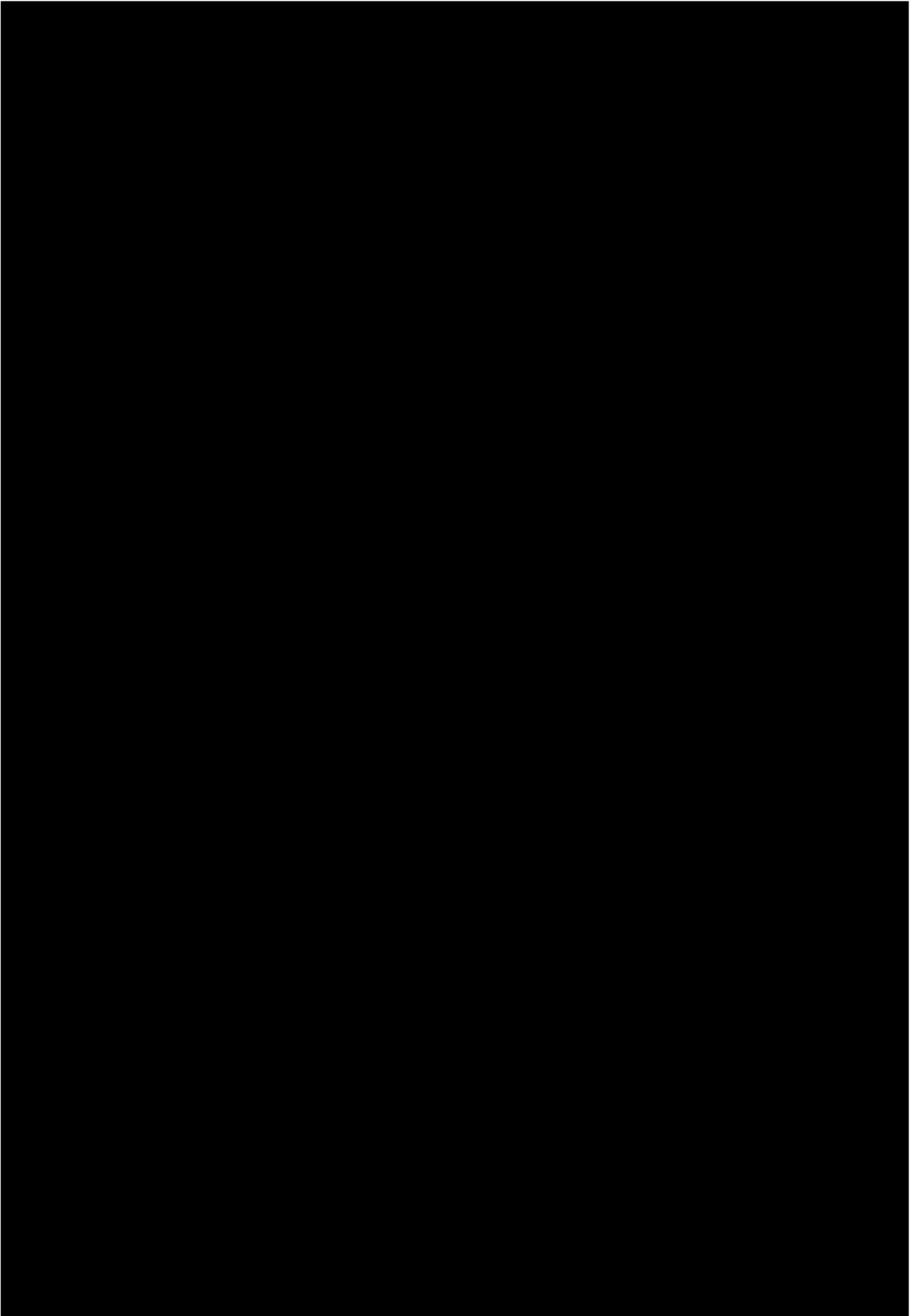
The evidence also otherwise confirms that the state has assumed a correct understanding of the exclusion practice.

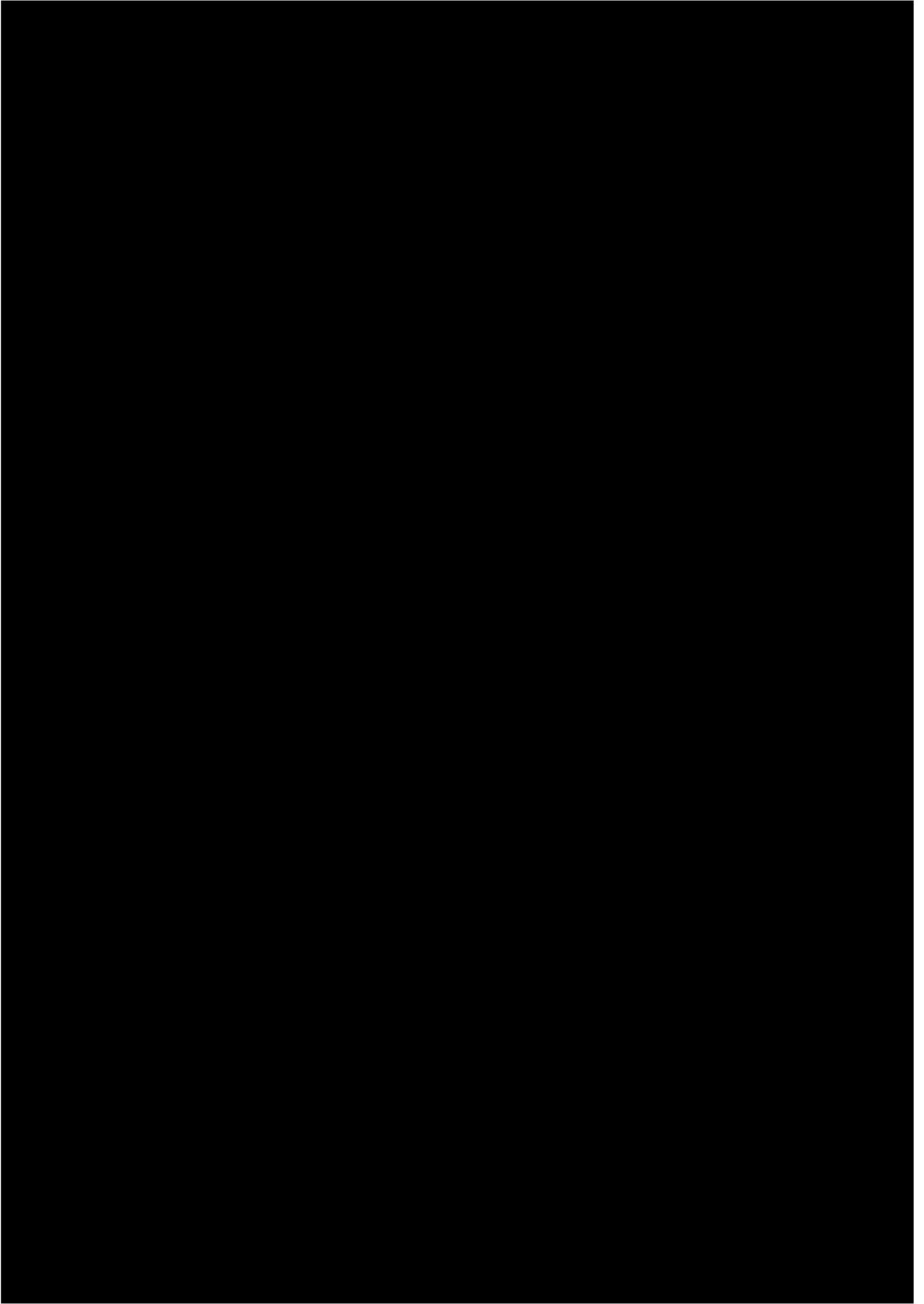
During the main proceedings, testimonies were given from 24 current and former members of Jehovah's Witnesses. It gave a clear picture that the guidelines on avoiding contact with former members are well known in the congregations, that they are interpreted literally and that they are loyally followed up in practice with few exceptions and variations.

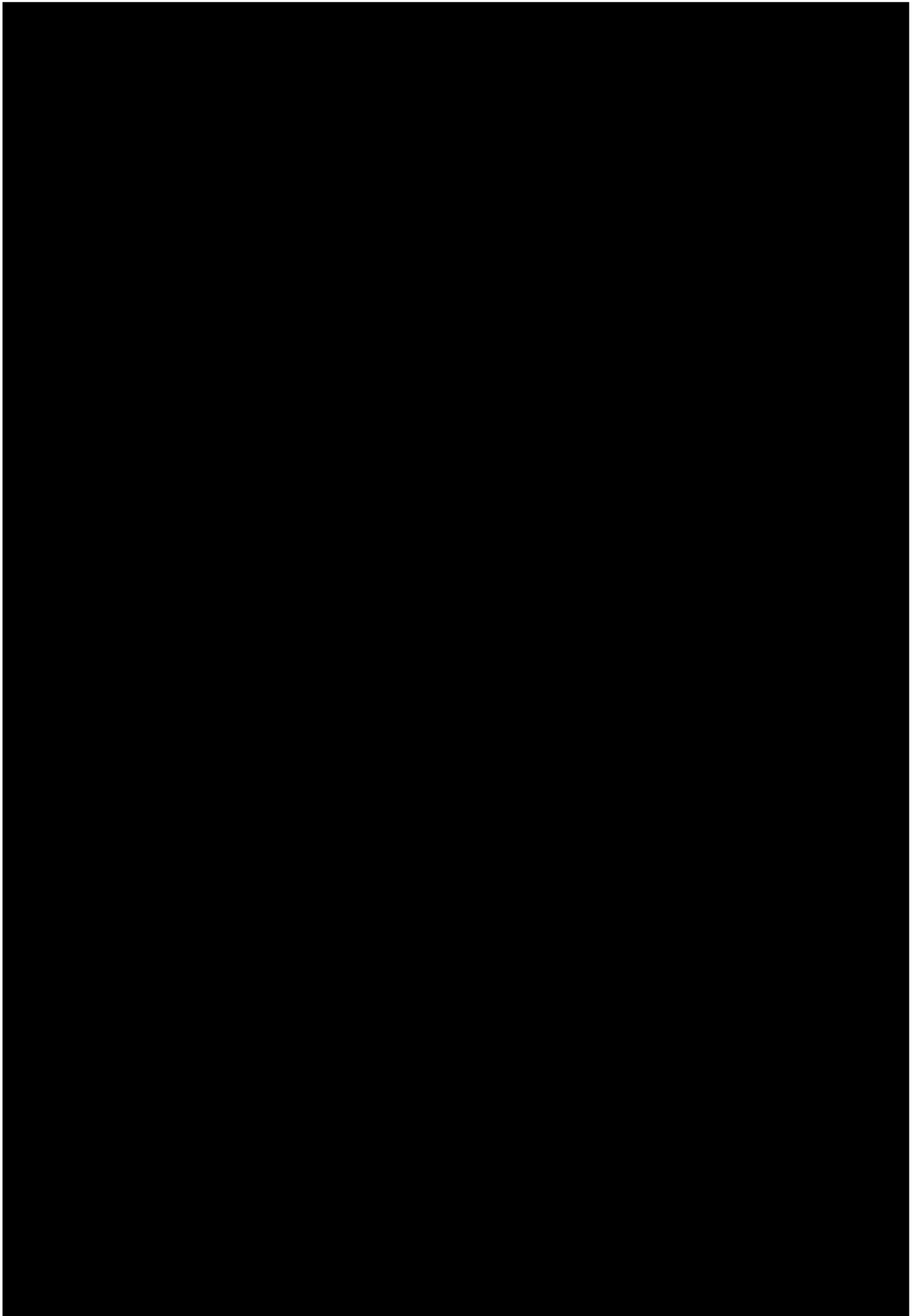
As examples, the court has found it appropriate to give summaries of the statements of 14 witnesses. The focus is on the information that was given about family relationships, baptism and the practice of exclusion. The first seven were brought as witnesses by Jehovah's Witnesses, and the last seven by the state.











parents, she sent the congregation an SMS that had been written in advance, in which she also asked for confirmation of the announcement. She received a reply that the message had been received. A few days later, it was announced in the congregation that she was no longer a member. The family immediately informed them that they cannot have contact with her. She has seen her siblings on a few occasions, and sometimes has contact with her parents via SMS and "dann og vann". She was aware that it would be like this. It was clearly communicated throughout my upbringing that you don't talk to deregistered people. She has a brother who has left Jehovah's Witnesses. They have good contact. She is convinced that her parents are happy with her and sees this as a test of loyalty.

As can be seen from the summaries, the witnesses were largely in agreement about how the guidelines for contact with former members are understood and practiced. This was also the case for the other witnesses. The descriptions of how hard the exclusion practice affects varied. One of the impressions it gave is that it plays a big role if the individual has a network to lean on outside the religious community.

Most people who become Jehovah's Witnesses come from families connected to the religious community. To shed light on socialization processes in religious communities, Jehovah's Witnesses have referred to the expert investigation "The New Inquisitors" (2003), pp. 294 and 295. It states that 33 percent of all Jehovah's Witnesses became members through conversion at a relatively young age, and not through "socialization". Jehovah's Witnesses understand the study to mean that the other two-thirds grew up in homes where the parents are members. Although the basis of the figures appears to be taken from the USA, there is no reason to believe that the distribution is particularly different in Norway.

Socialization is the social processes that lead to individuals taking up or internalising society's norms, practices and behavior patterns. In other words, it is the process that makes individuals become more like others in society, cf. Store Norske Leksikon, Socialisation, last updated 3 November 2020.

A number of the witnesses who grew up with parents in Jehovah's Witnesses expressed that it was in the congregations that they had most of their social relationships. This must be seen in the context of the fact that it is common to use much of their free time for church-related activities. However, it is also a consequence of guidance being given to limit contact with others - to avoid bad influence, for example in the chapter "Choose friends who love God" in the book "Stay in God's love", published by Jehovah's Witnesses in 2018. Pilot said that it was not allowed to have friends outside of Jehovah's Witnesses. Sundberg referred to it as an unwritten rule.

It is agreed that minors in the congregations who are baptized usually do so around the age of 16, but that children who are several years younger are also baptized. The state indicated that 15-16 years seems to be the most common, while Sæterhaug expressed that it is 16-17 years. Nordang, Viste and Pilot stated that they were respectively 11, 12 and 13 years old.

Close connection to the religious community when growing up, the security of having most of one's close network of family and friends there, and the fact that it is common to be baptized at a minor age where one has limited life experience, are factors that it is reasonable to assume make the threshold lower to become a member. At the same time, such factors will be able to amplify and neutralize the effects of

the practice of exclusion. The consequences will be particularly burdensome for young people with little network outside the religious community - either by others avoiding contact or by them themselves having to avoid contact with others. For the same group of young people, it can be difficult to accept the possibility that this could affect them themselves.

The latter is well illustrated by the fact that several witnesses mentioned that they were familiar with the practice before baptism, but that it appeared too remote to be emphasized. Jehovah's Witnesses confirmed that the practice of exclusion is hardly a central issue for most minors who are baptized. Sæterhaug referred to the scheme as a small part of the exercise of faith; exclusion rarely happens, and there are even fewer who withdraw. For both categories, the same notice is given in the congregations that the person is no longer a member, without further details.

Reference is also made to the explanation from the expert witness Kari Halstensen.

Halstensen is a specialist in psychology with a PhD, and works at the specialist outpatient unit, Oslo University Hospital. For a number of years, she has worked on the relationship between religion and mental health. She began by saying that religion is a very important part of people's psychological life, for better or for worse. Regarding baptism at the age of around 15, she emphasized that the commitments can be problematic because the choice to be baptized will not be based on analysis. Children define what they experience as normal and cannot regulate emotions or see the consequences like adults. They still have a developing brain. This includes the part that controls our emotions and the ability to assess different situations and risks. Girls' development is complete at the beginning of their 20s, while for most boys, development is complete around the age of 25. In addition, experimentation is central to the development of identity, which in turn is important for mental health. A good number will break rules, even if they originally thought that this would not happen to them, or find themselves in a situation where they have to hide a significant part of themselves, without being able to lean on relationships for support. One way of looking at it is that the young are overtaken by life, which is difficult and complicated.

Halstensen also emphasized that people have a fundamental need for relationships, and the first ones - especially parents - are very important. Being alone is a huge strain. Breaking up with family is a great loss, and it is amplified if it happens in a demanding situation.

Outside networks make a significant difference. For example, it takes a lot before a child leaves a destructive adult, while as an adult you are not as dependent.

As the court has explained, baptism and membership in Jehovah's Witnesses means that one joins the practice of exclusion as part of the religious teachings and practices of the religious community. When the arrangement is seen in the context of the prominent role that the religious community has as a socialization arena and what we know about children's emotional and cognitive development, in the court's view there is reason to be critical of whether minors in the congregations are mature or experienced enough to take an informed and a sufficiently considered choice about something so invasive for one's own development, health and outlook on life.

In comparison, in Act 13 June 1969 no. 25 on religious communities and other matters, which was repealed in connection with the entry into force of the Religious Communities Act, there was a special age limit of 20 years to give a lifelong promise to belong to a religious order, monastery or

similar association. In the legislative preparations, it was stated that it is clear that a monastic vow is not under any circumstances legally binding in the sense that it prevents the person concerned from leaving the monastery, and that this also applies to the so-called lifelong vow. The special age limit was nevertheless considered to have independent significance, in that it protected young people from assuming the moral and religious duties and exposing themselves to the influence that comes with such promises, cf. Ot.prp. No. 27 (1967-1968) pp. 34 and 35.

3.2 Freedom of religion, protection against discrimination and the Religious Communities Act

Freedom of religion is a fundamental human right that protects people's inner convictions, the freedom to change their religion or convictions, and the freedom to express their religion or convictions, cf. ECHR Article 9, which in the Norwegian translation reads:

1. Everyone has the right to freedom of thought, freedom of conscience and freedom of religion; this right includes freedom to change one's religion or belief, and freedom either alone or together with others and both publicly and privately to express one's religion or belief, through worship, teaching, practice and observance.
2. Freedom to express one's religion or belief shall only be submitted such restrictions as are prescribed by law and are necessary in a democratic society for reasons of public safety, to protect public order, health or morals, or to protect the rights and freedoms of others.

The protection of having an inner conviction and the freedom to change one's religion or belief is absolute and inviolable. The freedom to express one's religion or belief can, however, be limited under the terms of Article 9 No. 2. This is because external manifestation can affect the freedoms or rights of others, cf. EMD, Guide on Article 9 of the European Convention of Human Rights (rev. 31 August 2022), especially section 27.

Article 9 must often be seen in the context of other freedoms and rights.

The prohibition of discrimination in Article 14 prohibits, among other things, discrimination on the basis of religion, cf. EMD, Guide on Article 9 of the European Convention of Human Rights (rev. 31 August 2022), section 4.

If state interference affects the organization of a religious community, Article 9 must be interpreted in light of the freedom of assembly and association in Article 11 of the ECHR.

A third example of a related right is the right to private and family life according to Article 8 of the ECHR.

Freedom of religion is part of a number of other convention texts, such as SP article 18 and the Convention on the Rights of the Child article 14. Like the ECHR, SP and the Convention on the Rights of the Child apply as Norwegian law under the Human Rights Act.

The high degree of protection also follows from the Constitution.

The first sentence of Section 16 of the Constitution gives everyone in the country the right to "free practice of religion", and according to the fourth sentence, all religious and life-view communities must be "supported on an equal basis".

In Section 98 of the Constitution, there is an independent and general prohibition of discrimination, which, like Article 14 of the ECHR, covers discrimination on the basis of religion, cf. Mestad and Michalsen, Grunnloven, Historical commentary edition 1814-2020 (2021) p. 1042.

In addition, the Equality and Discrimination Act applies to all areas of society. Among other things, it must prevent discrimination on the grounds of religion and outlook on life.

Protection against discrimination can be seen from different perspectives. It can be about the individual's or a religious community's freedom of religion, including their right to protection against discrimination by the state or others. Protection against discrimination is also about the right of individuals or religious communities to discriminate against others in order to exercise their freedom of religion.

For those who are affected, it may involve discrimination because of their freedom of religion, or because of their right to non-discrimination, for example because of gender or sexual orientation. In such cases, the religious communities' access to discrimination will have to be resolved on the basis of a balance between consideration of the religious freedom and autonomy of the religious communities, and consideration of other fundamental interests, cf. Prop. 130 L (2018-2019) p. 54.

The ECtHR emphasizes that the authorities can intervene to a small extent in the relationship between a religious community and the individual members. It is, for example, up to a religious community itself to decide who should be a member, including making decisions about exclusion.

At the same time, it is emphasized that the right to free exercise of religion for individuals is secured by the right for the individual to leave a religious community, cf. HR-2022-883-A sections 45-47 and ECtHR, Mirolubovs et al. v. Latvia (2009) section 80 c) and D).

The requirement for equal treatment (non-discrimination) set out in Section 16, fourth sentence of the Constitution, applies both between the Church of Norway and other religious and religious communities, and between the other religious and religious communities. The state's human rights obligations set absolute limits for the state's room for action. Different treatment must pursue legal purposes and have an objective and reasonable justification, cf. Prop. 130 L (2018-2019) p. 53 and Mestad and Michalsen, Grunnloven, Historical comment edition 1814-2020 (2021) pp. 255 and 256.

Section 16 fourth sentence of the Constitution is to be understood as meaning that the state is legally obliged to materially support the activities of faith and belief communities, also with a certain amount of financial support. This imposes more far-reaching duties on the state than what follows from convention obligations, cf. the bill, p. 53.

The Religious Communities Act operationalizes the state's duty to conduct an actively supportive faith and philosophy policy, cf. the bill p. 253. It applies to all faith and philosophy communities, which according to the law are associations for the joint exercise of faith or philosophy.

According to Section 4 of the Religious Communities Act, a faith or belief community can be registered when it is permanently organized and has at least 50 members who a) have registered themselves, or who have been registered by those who have parental responsibility, b) are resident in Norway, and c) is not a member of the Church of Norway or another registered religious or religious community.

Registration gives the right to claim a grant from the state, and people in registered religious and life-view communities can be given the right to be married according to the rules of the Marriage Act. Registration entails obligations related to reporting and accounting. Other provisions in the Act on among different enrollment and deregistration, the right to time off on religious holidays and a separate burial ground also apply to life and faith communities that are not registered.

Section 6 of the Religious Communities Act clarifies the basis for refusing or reducing grants. The first paragraph specifies four groups of conditions that may have consequences for the subsidy. The provision must be understood so that the descriptions can overlap, and a specific situation can therefore be covered by several of the alternatives, cf. the special notes to the provision in the bill on page 258.

The first option includes violence, coercion or threats.

The second option concerns violations of children's rights. It was elaborated as follows by the ministry, cf. the bill p. 258:

It includes such rights as the state is obliged to protect through the Convention on the Rights of the Child (BK), cf. Human Rights Act § 2 no. 4 and § 3. However, the provision must be weighed against children's and parents' freedom of religion and belief, and is also not in principle an obstacle for different views on upbringing or worldview.

Examples of violations that can provide grounds for refusing grants can be negative social control aimed at children, psychological violence, forced marriage, genital mutilation or honor violence.

The third option addresses violations of statutory discrimination prohibitions.

The fourth and last alternative has a broad wording and covers "serious offences" which do not already fall under the description of the offense in the other three alternatives, including the right to free expression which freedom of religion presupposes, and which also follows from the requirement in section 2 second paragraph that that termination must "always" be possible in writing, cf. the proposed law, p. 258:

The wording "others' rights and freedoms" is taken from ECHR article 9 no. 2 on restrictions on religious freedom. On the one hand, this means that the grant administrator cannot or should not make illegal interventions in freedom of religion and belief. On the other hand, the wording shows that the grant administrator can precisely assess, and possibly ascertain and sanction such violations, without this entailing an undue interference with society's freedom of religion. The condition primarily affects violations by people who are not members of the society in question, because members will normally be able to react by opting out. Many religions provide rules that restrict members' rights and freedoms, and which it is common for members to be more or less clearly obliged to follow. If adult members of their own free will follow such rules, they cannot be perceived as violations within the meaning of this provision. As a matter of fact, this applies even if the obligations can be considered harmful. But the condition can affect societies which prevent deregistration, cf. also § 2 second paragraph, or which take advantage of the fact that a member is in an exposed or vulnerable position, for example due to a disability, illness or age.

Various forms of negative social control can also fall under this option. Another example that can be affected is religious communities that do not respect a legally valid person

divorce and actively contributes to so-called "limp marriages", i.e. a situation where a couple is civilly divorced, but is still considered married according to religious rules

The basis for refusing grants is aimed at "communities of faith or beliefs, or individuals who act on behalf of society". It is therefore required that a relationship can be linked in a qualified way to a religious or life-view society in order for the relevant society to be denied a subsidy, for example by it being expressed in established practice in the society, or that it is evident from articles of association or other documents that apply to or have been prepared by society, cf. the bill, p. 257.

Pursuant to section 6, first paragraph, second sentence, religious or religious communities that encourage or provide support for such violations as mentioned in the first sentence may also be denied a grant, cf. the bill, p. 259.

It follows from the third paragraph that grants can be refused if the requirements that follow from the law are not met.

In the draft law, pp. 191 and 192, the ministry stated that the purpose is to describe which special, concrete, conditions should lead to a grant being refused, in principle regardless of whether the condition involves an offense or not. At the same time, it was noted that the right to refuse grants should be reserved for cases where, after a concrete assessment, grants will appear unreasonable, and that it is largely about safeguarding the public's trust that the community's resources are used in an efficient way to achieve socially useful purposes.

In the special comments to § 6, it is stated that the basis for refusing grants has been unclear, and the new provisions may therefore mean a tightening in practice, cf. the bill, p. 257.

If one or more of the conditions for refusing grants in § 6 are met, it follows from § 4 third paragraph of the Religious Communities Act that registration can be refused or withdrawn. Consideration must be given to whether it is a question of withdrawing a registration that a religious community has had, perhaps for several years. Then the conditions must be more serious, cf. the bill, p. 255.

Provisions have been made regarding the implementation in the religious community regulations.

According to § 11 first paragraph, the state administrator can decide to refuse grants, among other things, if the religious or life-view community commits, encourages or supports violations as mentioned in § 6 first paragraph of the Religious Communities Act, or does not comply with the law's rules for registration and de-registration. In Section 4, fourth paragraph, instructions are given that registration must be refused if there are circumstances as mentioned in the Religious Communities Act, Section 6, first paragraph.

Particular emphasis must be placed on measures society has put in place to prevent such conditions, as well as how serious the condition is and whether it appears to be intentional. In the case of systematic, persistent or intentional infringements, the subsidy must be refused in full, and the registration must, as a general rule, be withdrawn, cf. §§ 6 and 11.

3.3 Are the conditions met for denying Jehovah's Witnesses state subsidies and registration?

The conclusion is that the conditions are met for denying Jehovah's Witnesses state subsidies and registration under the Religious Communities Act, and that the decisions are valid.

Through the policies and practices of exclusion, Jehovah's Witnesses encourage members who are ostracized or withdraw, so that with few exceptions they are exposed to social isolation from those remaining in the faith community.

The court agrees with the state that this has effects that are to be regarded as serious violations of the rights and freedoms of others which provide grounds for refusing state subsidies and registration, cf. § 6 of the Religious Communities Act, cf. §§ 2 and 4.

In its decisions, the state administrator has shown that both the right to freedom of expression and children's rights are violated, while the ministry – in the appeal case dealing with state subsidies for 2021 – contented itself with stating that children's rights are violated by the fact that the exclusion practice applies to baptized children.

From the special notes to the provision in the bill, it appears that if adult members of their own free will follow rules that restrict their rights and freedoms, then they cannot be perceived as violations in the sense of this provision. As a matter of fact, it also applies even if the obligations can be considered harmful. Members can normally respond by opting out. The condition can therefore still affect religious communities that prevent denunciation, or that take advantage of the fact that a member is in an exposed or vulnerable position.

The court believes that Jehovah's Witnesses violate children's rights as sufficient grounds for refusing grants and registration. In particular, this applies to their right to freely opt out.

Freedom of religion is protected by, among other things, Article 9 of the ECHR and Section 16 of the Constitution. The right to freely change religion or belief is absolute and inviolable. It provides strong protection against pressure or coercion that stands in the way of being able to exercise this right. The ECtHR has repeatedly emphasized that the convention's purpose is to secure rights that are not theoretical and illusory, but practical and effective, cf. Dogan et al. v. Turkey (2016) section 114 and Demir and Baykara v. Turkey (2008) section 66.

Section 104 third paragraph of the Constitution gives children the right to protection of their personal integrity. The provision takes care of children's special vulnerability, dependence on adults and special need for protection. A suitable synonym for integrity here is "inviolability". The right is not limited to certain situations and applies to everyone, both to parents, other private individuals and the public sector, cf. Michalsen, Grunnloven, Historical Commentary Edition 1814-2020 (2021) p. 1175.

In addition, the best interests of the child are a fundamental consideration, cf. the Constitution § 104 second paragraph and the Convention on the Rights of the Child Article 3 first paragraph.

What is mentioned here must mean that children must be protected against the effects of the exclusionary practice, which seriously infringes on the freedom to change religion or belief.

In Norway, the religious age of majority is 15, cf. § 2 of the Religious Communities Act. For baptized minors at that age, it will be almost impossible to exercise the right to freedom of expression, when the consequence is to lose normal contact with family and friends, and also parents, siblings and others in the household after they move away from home. Even in adulthood it will be very difficult.

Children should not be put in a situation where they bind themselves to rules that in practice will cause major obstacles to their right and freedom to change their religion or belief, both as minors and later in life. It is not sufficient to show that the minor is well acquainted with the practice of exclusion before baptism, or that the religious age of majority is 15. Children are particularly susceptible and vulnerable to socialization and other influences, and in the vast majority of cases will not be equipped to make such a life-long choice. As with younger children, who can be registered in or out of religious communities by those who have parental responsibility, the individual's autonomy is safeguarded by the right to free notification.

Children's rights are also violated by the fact that the social isolation that comes with the practice of exclusion, or the fear of being exposed to it, poses a risk of serious damage to their health and well-being. The treatment then qualifies as psychological violence and a violation of Article 19 of the Convention on the Rights of the Child, cf. General comment no. 13 (2011) and John Tobin, *The UN Convention on the rights of the child* (2019) pp. 694 and 695.

Here it must be emphasized that it is reasonable to expect that some young people in the transition to becoming adults - as part of developing their own identity - will break rules that provide grounds for exclusion, such as by having a sexual relationship with a lover, or by distancing yourself from a view of life or belief that you have come to doubt.

As Tobin highlights, both subjective and objective elements must be taken into account when assessing what the child is exposed to. There is no requirement for an immediate or permanent effect, and it may be sufficient to put the child at risk of harm. There is no threshold that must be reached for an act to be covered, nor is there a requirement that the act has been intentional.

The court does not find it necessary to go into the allegations of negative social control, and whether there is a practice towards unbaptised preachers which also violates children's rights.

The violations in question are persistent, systematic and intentional, cf. the religious community regulations §§ 6 second paragraph and 11 second and fourth paragraphs.

There is no doubt that Jehovah's Witnesses are responsible for the violations in the assessment of whether grants and registration should be refused according to the Religious Communities Act, cf.

It is also clear that the Religious Communities Act §§ 6, cf. 4 meets the requirement for legal authority, cf. Section 113 of the Basic Law. The requirement implies that the law must "be accessible and as precise as the conditions allow", cf. HR-2014-2288-A section 30. The violations are in the core area of the law and the consequences are not unclear.

Refusal of state subsidies and registration implies a differential treatment of Jehovah's Witnesses and other religious and life-view communities that receive subsidies and are registered.

The discrimination is linked to religion.

Discrimination protection means that the discrimination must pursue legal purposes and have an objective and reasonable justification.

The state has met these requirements.

It is quite clear that the purpose of the decisions is to manage public resources (subsidies) and public functions (marriage rights) in a way that serves socially useful purposes, and to protect the rights and freedoms of others. These are legitimate purposes, cf. the bill, pp. 191 and 192.

As the state has stated, it follows from the ECtHR's practice that states have the right to establish arrangements where religious communities can apply for a specific status that grants specific privileges. The criteria in the Religious Communities Act are designed objectively, so that any community that commits, encourages or supports conditions as mentioned in Section 6, first paragraph of the Religious Communities Act, will be able to be denied state funding. These communities can also be deprived of a previously granted registration, or be refused a new registration according to section 4 third paragraph of the Religious Communities Act. In the bill, it is assumed that the new provisions may involve a tightening in practice. Since the law is new, it is nevertheless foreseeable that it will take some time before there is comparable practice of any particular scope.

In assessing whether the differential treatment is reasonable, rights and interests must be balanced. A decision must also be made as to whether the differential treatment is necessary to achieve the legitimate purposes.

There are several points that point in the direction that Jehovah's Witnesses should continue to receive grants and be registered under the Religious Communities Act.

The most important thing is that freedom of religion gives Jehovah's Witnesses the right to express their religion through doctrine and practice, combined with the fact that all communities of faith and philosophy must be supported equally, cf. Section 16 of the Constitution.

The practice of exclusion is common knowledge and it must be assumed that it has been part of the religious community's teachings for all the years Jehovah's Witnesses were registered under the previous Religious Communities Act.

The religious teachings and practices are the same all over the world, and Jehovah's Witnesses have made it clear that the loss of registration and government subsidies will not lead to any change in the religious practices of the faith community. There is no doubt, however, that state subsidies and registration are of great importance to Jehovah's Witnesses and their members.

State grants will constitute a significant proportion of the income base for the religious community in Norway. For the years 2021 to 2023, the annual subsidies would have been between NOK 16 and 18 million.

Registration is also important because it means that the religious community meets set requirements for organization and reporting, and is not considered to seriously violate the rights and freedoms of others. In addition, there is a requirement for the granting of marriage rights, cf. the Religious Communities Act, chapter 2. It must be assumed that such conditions are important for many in the congregations, and in connection with the outreach preaching activity.

Throughout history, Jehovah's Witnesses have been subject to persecution and discrimination. It is easy to understand that the religious community and its members therefore react extra strongly to being associated with serious violations of the rights of others. For them, this is religiously justified, and an arrangement that is loving and makes sense.

As mentioned by Sæterhaug, there are few exclusions and even fewer who withdraw. It must be assumed that the practice of exclusion contributes to stability in the congregations, and that this is felt to be important for the religious community and its members. Several of the witnesses, including those who had had great burdens from leaving the religious community, highlighted the security they have experienced in the congregations. Furuli referred to growing up in Jehovah's Witnesses as the world's best child-rearing and the religious community as an international family.

The court agrees with Jehovah's Witnesses that the refusal of state subsidies and registration has a stigmatizing effect. The witness [REDACTED], who is a member, expressed that [REDACTED] is concerned about what it does to the attitude in society, when Jehovah's Witnesses have lost their status as a registered religious community. Quist explained that it is a shame that her religion is not registered. The members are known as law-abiding all over the world, and it is offensive and hurtful that you are not allowed to marry in your own house of worship. The court understood Ben Elder – who met for the party helper The European Association of Jehovah's Witnesses – so that it is reasons like this that make registration more important than financial grants.

In the court's view, these are not weighty enough reasons to regard the differential treatment as unreasonable.

The practice of exclusion means that children's right to freedom of expression is violated. This is an inviolable part of religious freedom which the state must make an effort to protect. Refusing grants and registration is a reaction that safeguards the legitimate purposes of the decisions.

In order to ensure democratic support for the registration and state subsidy scheme, it is important that the right to free expression is a reality in the religious communities that are given registration and subsidies. In a demanding case, the state has chosen a solution that is balanced and reasonable. The decisions mean that a necessary spotlight has been directed at a practice that is very problematic. It can in itself be a protection mechanism for children who are in a position to become members. The court therefore also sees no reason to distinguish between grants and registration when it comes to the validity of the decisions.

The court does not find it necessary to make a more detailed assessment of whether the decisions constitute interference with the religious community's right to express their religion, or with other freedoms and rights with which it is natural to see this in context. The intervention conditions re

authority in law, necessity and legitimate purpose are fulfilled in any case. Reference is made to the discussion of discrimination protection.

Similarly, the allegation that the decisions infringe property rights according to ECHR Additional Protocol 1 Article 1 also applies, because Jehovah's Witnesses have a legitimate expectation of receiving grants. Any intervention is also proportionate here.

Furthermore, it is clear that Jehovah's Witnesses have no independent claim to be registered as a religious community, either according to the Religious Communities Act or the ECHR.

3.4 Case costs

The cost claim from Jehovah's Witnesses is NOK 4,844,414, of which fees amount to NOK 4,334,850 and miscellaneous expenses NOK 298,064. The state's cost claim is NOK 1,140,505, including NOK 54,555 for expenses for witnesses and experts.

According to § 20-2 subsection 1 of the Danish Disputes Act, a party who has won the case is entitled to full compensation for its legal costs by the other party. The case is won if the party has been fully successful or substantially. If the case concerns several claims between the same parties, the overall outcome is decisive, cf. the provision's second paragraph.

There is no doubt that the state has won the case.

The court finds no basis for applying the exception rules in the provision's third paragraph.

The cost claim from the state is accepted as reasonable and necessary expenses, cf.

Disputes Act § 20-5.

The judgment has not been handed down within the deadline in § 19-4 fifth paragraph of the Disputes Act. This is primarily because the sentencing has been time-consuming due to the scope of the case.

As a result of privacy concerns, the publication of the judgment must take place in anonymized form, in that the names of witnesses must not appear, cf. Rt-2011-570 section 22. It is not necessary to anonymize Kåre Sæterhaug and psychologist Kari Halstensen, who are respectively party representatives for Jehova's witnesses and expert witness.

CONCLUSION OF JUDGMENT

1. The State at the Ministry of Children and Families is acquitted.
2. Jehovah's Witnesses are sentenced to pay the state at the Ministry of Children and Families case costs with 1,140,505 – one million one hundred and forty thousand five hundred and five – NOK.

The court adjourned

Ole Kristen Øverberg

Guidance on appeals in civil cases is attached.

Guidance on appeals in civil cases

In civil cases, the rules in the Disputes Act, Chapters 29 and 30, apply to appeals. The rules for appeals against judgments, appeals against rulings and appeals against decisions are slightly different. Below you will find more information and guidance on the rules.

Appeal period and fee

The deadline for appealing is one month from the day the decision was made known to you, unless the court has set a different deadline.

These periods are not included when the deadline is calculated (legal holiday):

- from and including the last Saturday before Palm Sunday up to and including Easter Monday
- from and including 1 July to and including 15 August
- from and including 24 December to and including 3 January

The person who appeals must pay a processing fee. You can get more information about the fee from the court that has dealt with the case.

What must the statement of appeal contain?

In the statement of appeal, you must mention

- which decision you are appealing
- which court you are appealing to
- name and address of parties, representatives and legal representatives
- what you think is wrong with the decision that has been made
- the factual and legal justification for the existence of an error
- what new facts, evidence or legal justifications you want to present
- whether the appeal concerns the entire decision or only parts of it
 - the claim the appeal applies to, and what result you require
- the basis on which the court can process the appeal, if there has been any doubt about it - how you think the appeal should be processed further

If you want to appeal a district court judgment to the Court of Appeal

Judgments from the District Court can be appealed to the Court of Appeal. You can appeal a judgment if you think it is

- errors in the factual circumstances that the court has described in the judgment
- error in the application of the law (that the law has been interpreted incorrectly)
- error in the proceedings

If you wish to appeal, you must send a written statement of appeal to the district court that heard the case. If you are handling the case yourself without a lawyer, you can appear in the district court and appeal orally. The court can also allow process representatives who are not lawyers to appeal orally.

It is usually an oral hearing in the Court of Appeal that decides an appeal against a judgment. In the appeal proceedings, the Court of Appeal must concentrate on the parts of the District Court's decision which are disputed, and about which there is doubt.

The Court of Appeal can refuse to hear an appeal if it comes to the conclusion that there is a clear preponderance of probability that the judgment from the District Court will not be changed. In addition, the court may refuse to deal with some claims or grounds of appeal, even if the rest of the appeal is dealt with.

The right to appeal is limited in cases involving an asset value of less than NOK 250,000

If the appeal concerns an asset value of less than NOK 250,000, consent from the Court of Appeal is required for the appeal to be processed.

When the Court of Appeal considers whether to grant consent, it emphasizes - the nature of the case

- the parties' need to have the case tried again
- whether there appear to be weaknesses in the decision that has been appealed, or in the processing of the case

If you want to appeal a district court ruling or decision to the Court of Appeal

As a general *rule*, you can appeal a ruling on the grounds of

- errors in the factual circumstances that the court has described in the ruling
- error in the application of the law (that the law has been interpreted incorrectly)
- error in the proceedings

Rulings that apply to the proceedings, and which are taken on the basis of discretion, can only be appealed if you believe that the exercise of discretion is unjustified or clearly unreasonable.

You can only appeal a *decision* if you think so

- that the court was not entitled to make this type of decision on that legal basis, or that the decision is
- obviously unjustified or unreasonable

If the district court has given judgment in the case, the district court's decisions on the proceedings cannot be separately appealed. Then the judgment can instead be appealed on the basis of errors in the proceedings.

You appeal rulings and decisions to the district court that made the decision. The appeal is normally decided by ruling after written consideration in the Court of Appeal.

If you want to appeal the Court of Appeal's decision to the Supreme Court

The Supreme Court is the appeal body for the Court of Appeal's decisions.

Appeals to the Supreme Court against *judgments* always require the consent of the Supreme Court's appeals committee. Consent is only given when the appeal concerns questions that have significance beyond the case in question, or for other reasons it is particularly important to have the case dealt with by the Supreme Court. Appeals against judgments are normally decided after an oral hearing.

The Supreme Court's appeals committee can refuse to take appeals against *rulings* and *decisions* into consideration if the appeal does not raise questions of importance beyond the case in question, nor do other considerations suggest that the appeal should be tried.

The appeal can also be refused if it raises extensive evidentiary issues.

When an appeal against rulings and decisions in the District Court has been decided by ruling in the Court of Appeal, the decision cannot, as a general rule, be further appealed to the Supreme Court.

Appeals against the Court of Appeal's rulings and decisions are normally decided after written consideration by the Supreme Court's appeals committee.