

The Swedish Asylum Case of Gregorian Bivolaru, 2005

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ABSTRACT: An important precedent was established by the Supreme Court of Sweden on October 21, 2005, when it stated that “cult” leaders accused of common crimes not directly related to religion cannot expect a fair trial in countries where an obvious prejudice against their religious beliefs and practices exist. They may thus be eligible for asylum abroad. Extradition was denied in the case of Gregorian Bivolaru, the leader of MISA (Movement for the Spiritual Integration into the Absolute), who was wanted by Romania for sexual abuse and human trafficking. The decision opened the way to asylum in Sweden, which was granted two months thereafter. The article analyzes the Swedish case, and discusses its relevance as a precedent whose principles may be applied in other countries as well.

KEYWORDS: Gregorian Bivolaru, MISA, Movement for the Spiritual Integration into the Absolute, Cult Leaders and Sexual Abuse, Religion-Based Asylum Claims.

Introduction

On December 31, 2005, Gregorian Bivolaru, the founder and leader of MISA, the Movement for the Spiritual Integration into the Absolute, was granted asylum in Sweden. This followed a decision of October 21, 2005, of the Supreme Court of Sweden denying a request of extradition to Romania (Supreme Court of Sweden 2005; I also rely on files on the case made available to me by CESNUR, the Center for Studies on New Religions).

In this paper, I will reconstruct the events of 2005 in Sweden, which are an important precedent for asylum cases involving leaders and members of controversial new religious movements.

Indeed, I have quoted several times the Swedish Bivolaru case during the work I performed some years ago in support of religion-based requests of asylum by

Chinese refugees of The Church of Almighty God, which has been called “the most persecuted religious movement in China” (Introvigne 2020) together with Falun Gong.

Chinese embassies have been increasingly active in writing to courts of law and exerting other forms of pressure in an endeavor to persuade national authorities in democratic countries that such asylum requests should be denied (Introvigne, Richardson, and Šorytè 2021). Their political aim is easy to understand. Each time asylum is granted to Chinese citizens, based on the fact that they are persecuted because of their religion, foreign courts of law confirm that religious persecution is a fact in China.

To prevent this, Chinese embassies insist that members of The Church of Almighty God—and of other persecuted movements, including Falun Gong—are not arrested and sentenced because of their faith, but because they commit crimes indicated as such in the Chinese Criminal Code (Introvigne and Šorytè 2021). These arguments are partially true and partially false.

They are partially true because, once a religious movement is included in the list of those prohibited by the government, any activity on its behalf is a crime punished by Article 300 of the Chinese Criminal Code. China has enacted regulations explaining how Article 300 should be interpreted (see Introvigne, Richardson, and Šorytè 2019). For example, attending prayer meetings of a banned movement, trying to convert friends and relatives to it, and even keeping at home a certain quantity of religious books or videos published by the group, are all activities defined as crimes under Chinese law. Thus, if one follows the logic of the Chinese system, for the mere fact of being active in their religion, these asylum seekers have “committed crimes.” Of course, these would not be crimes in normal democratic countries, and would be regarded as common forms of exercise of religious liberty.

The arguments used by the Chinese embassies are also partially false, however, because in the case of The Church of Almighty God they claim that members of the group also commit common crimes, including even homicides. It is alleged, for example, that in 2014 missionaries of The Church of Almighty God killed a woman in a McDonald’s diner in the city of Zhaoyuan, in the Shandong province, just because she told them she was not interested in their religion. The woman was really killed, but by members of a different religious movement not connected by The Church of Almighty God, as demonstrated by foreign scholars (Dunn

2015, 204; Introvigne 2017; Introvigne and Bromley 2017), and, to their credit, even by Chinese journalists who worked for government-controlled media (*The Beijing News* 2014; Xiao and Zhang 2014). While the McDonald's murder, at any rate, cannot be personally attributed to the asylum seekers—those who committed it were arrested and sentenced, and two of them were executed—, refugees are often accused of lesser crimes, based on the false claim that members of The Church of Almighty God routinely engage in violence against religious opponents. Why they do not do it when they come to Europe, where penalties would be less severe than in China, is never really explained.

It is in supporting the Chinese refugees against these charges that I encountered the Bivolaru decision of 2005. It nicely establishes the principle that, when you are a leader or a member of a persecuted religious movement, accusations of common crimes against you should not be easily believed, and you cannot expect a fair trial.

Background: The Case of M.D.

Some of the teachings of MISA are about sacred eroticism (Introvigne 2022). Teachings putting together eroticism and religion always cause great scandal and opposition, and MISA is no exception. Anti-cultists and the Romanian Orthodox Church launched in the early 2000s a virulent campaign against Bivolaru and MISA (Tanase 2005, 278–79), claiming that underage girls were sexually abused within the group, and students were also exploited and put to work for the movement without salary, which supported an accusation of human trafficking.

On March 18, 2004, heavily armed police officers and military of the special forces, accompanied by the media, entered at the same time, 7 a.m., sixteen MISA ashrams throughout Romania, and private homes of MISA students. The media were told, and repeated, that it was the largest anti-drug operation in the history of Romania, as the authorities expected to find in the MISA ashrams large quantities of drugs, as well as evidence of sexual abuse of minors. Several devotees were detained, and subsequently Bivolaru was also arrested (Introvigne 2022, 31).

Not a single illegal drug was found during the raids, and the accusations of sexual abuse of minors also quickly collapsed. Several years later, in the case of

Amarandei and others v. Romania of April 26, 2016, the European Court of Human Rights castigated Romania for the raid, stating that it was based on insufficient evidence and conducted with disproportionate violence. Romania had to pay damages to the victims (European Court of Human Rights 2016).

In the end, the Romanian prosecutors had to admit that they cannot accuse Bivolaru of improper sexual relationship with minors either—except, they said, in one case. They claimed that one 17-year-old girl, M.D., had admitted to a sexual relation with Bivolaru. In Romania, the legal age of consent was 15, but the law punished sexual relations between teachers and their students, and Bivolaru was regarded as the yoga teacher of M.D.

M.D. claimed that the police had terrorized her and compelled her to sign a deposition accusing Bivolaru that in fact she had never rendered, and the MISA leader was found not guilty in first and second degree. However, in 2013, these verdicts were reversed by the Supreme Court and Bivolaru was sentenced to the unusually heavy jail penalty of six years. Equally unusual was that, because of this comparatively minor crime—M.D. was almost 18, and the alleged relation would at any rate have been consensual—, Bivolaru was placed on the Europol's list of most wanted fugitives, as by that time he was no longer in Romania (Introvigne 2022, 32).

The Hearings at the Sweden Supreme Court, October 11–12, 2005

In 2005, Bivolaru was liberated from jail awaiting trial and moved to Sweden, where he was arrested following a request by the Romanian authorities. On March 24, 2005, he requested asylum in Sweden on the basis of religious persecution in Romania. In April, Romania answered with one or rather two subsequent requests of extradition. The second request was formed in secrecy, and doubts were raised about its legality (see Romanian media quoted in GregorianBivolaru.net 2005a).

The Chief Public Prosecutor of Sweden referred the matter directly to the Supreme Court, which conducted a trial on October 11 and 12, 2005. Gregorian Bivolaru was first heard. He told the Justices that he was the victim of religious and political persecution. He denied even having had a sexual relationship with M.D. He also described the continuous harassment of MISA in Romania by certain media and politicians, and how even his home had been set on fire. He

asked why, if he had become rich by exploiting his followers as the Romanian prosecutors claimed, his properties were modest and there was not much money on his bank accounts. He also insisted that MISA devotees are free to support, or not to support, the ashrams by performing volunteer work there. This is similar to volunteer work performed in many other religious organizations, he said, and has nothing to do with human trafficking.

The first witness introduced by the defense was Karl Erik Nylund, a Lutheran pastor and the author of several books critical of “cults” (called “sekte” in Swedish). Unlike mainline scholars of new religious movements, who do not use the word “cult” (“sekt”), Nylund believes that “cults” exist. His definition of a “manipulative cult” is that it is characterized by “four As”:

Aggression – punishment of the members criticizing the leader or the movement.
Aversion – criticism and persecution of the people outside the group such as parents for instance.

Alienation – closed circuit inside the cult, as a geographical or ideological group. The cult becomes the new family.

Absolute truth – only exists within the cult, and the leader/leaders are entitled to the absolute right of interpreting the truth (Nylund 2005: the English translation has “sect,” which I took the liberty of changing into “cult”).

In fact, Nylund believes that if at least three of the four As are present, the group is a “cult.” Having interviewed several members of MISA, and Bivolaru himself, Nylund concluded that none of the “four As” is found in the movement, which therefore is not a “cult.” In the written report he gave to the Supreme Court, Nylund wrote that in MISA

I found nothing of the first two A-s (Aggression and Aversion). With regard to the ashram life, only a part of the persons live there and the activities are not of the closed-circuit type. The courses are accessible to anyone from the outside. Anyone may attend the courses. Therefore we ARE NOT talking about alienation. Some of those who are more dedicated might have a minimum contact with the outside world; however, leaders actively seek to oppose this form of alienation, by encouraging them to return to their work and family. Gregorian Bivolaru DOES NOT claim to be in undeniable possession of the absolute truth. Together with other people, he is a spiritual guide and is convinced he is a man with a mission in the society... Therefore in the MISA case, we can find none of the criteria defining manipulative cults (Nylund 2005, capitals in the original).

Nylund even added that some features of a “cult” are rather found in the groups opposing MISA and persecuting it in Romania. As a Lutheran critic of “cults”

himself, he expressed understanding for the criticism of MISA by the Romanian Orthodox Church. However, he said, it is an entirely different matter when this criticism escalated into collusion with politicians who have dubious agendas, persecution, and violence.

Nylund then examined the charges of human trafficking and sexual abuse. He noted that in MISA ashrams, “All people take part at the household activities from the ashram, such as cleaning, house and garden maintenance, house shopping, for instance.” He compared the rules of a MISA ashram to those of a student dormitory in a college. The difference with a dormitory, however, is that what in secular term is called “volunteer work” for MISA students is “karma yoga,” a spiritual activity (Nylund 2005).

Accusing Bivolaru of “human trafficking” through compelling students to work without salary, Nylund said,

simply is a misunderstanding of what karma yoga means... The issue at stake here is that of voluntary work, as a manner of self-perfection and attainment of the truth. Many of the people living in an ashram do not have the money to pay for their stay, and through karma yoga they have the opportunity to attend the ashram activities. The MISA followers state that karma yoga is a form of meditation that elevates those practicing it out of doubts and alienation, and this can turn the world we live in into a better place (Nylund 2005).

As for the accusations of sexual abuse, Nylund observed that his review of the Romanian documents demonstrated that the authorities had not grasped the meaning and role of eroticism in MISA’s teachings. They had reduced their lengthy discussions of Tantric yoga to “pornography” only.

Nylund concluded that,

Following the interviews I conducted with several Romanians from the diaspora, I have strong doubts with regard to the fact that Gregorian Bivolaru could be allowed a fair trial in his own country. As I could see by myself, the charges against him are obviously untruthful, and this is why they are the very evidence of the persecutions he is subjected to. Also, I do not believe that Gregorian Bivolaru would stand any chance for survival in a Romanian prison (Nylund 2005).

The next witness was Costel Bîrlădeanu, a MISA student. He was an important witness because, as the Court noted, he had been summoned by the prosecution in the Romanian case about human trafficking. In Sweden, he testified that, “I was never forced to do any work and Gregorian Bivolaru has nothing to do with the ashrams management.” He explained he had a regular job in Romania and had

never considered giving it up to live permanently in the ashram. Bîrlădeanu also described the hostility he experienced from some family members (two uncles), who refused to talk to him as long as he would remain a MISA student, and gave a vivid account of police abuses during the 2004 raids.

The second day of the hearings, October 12, 2005, had at its center the testimony of M.D. As reported in the Supreme Court's decision, she testified that,

She lived in Bucharest in the same house—which was not an ashram—with a female friend who had a relationship with Gregorian Bivolaru. M.D. herself has never had any sexual relationship with him. Gregorian Bivolaru has never been her teacher; she respects him because he has written many books and is a great person. She has participated in a trip abroad together with Gregorian Bivolaru, but this was a group excursion for approx. 18 persons. She has never received any gifts from Gregorian Bivolaru. She has never been exposed to any compulsion within MISA, nor does she know of anybody else who has (Supreme Court of Sweden 2005, 4).

The girl then proceeded to tell what happened on March 18, 2004, the day of the police raid.

In the morning of March 18, 2004, when she was about to leave her bed, some fifteen persons dressed in black broke into the house through a window. She thought they were thieves. She was frightened, and ran thinly dressed into her girlfriend's room where she tried to hide. In a minute, black-dressed men got into the room and aimed weapons at them. They were ordered to lay down on the floor where she was left thinly dressed for half an hour. When she tried to rise she was kicked in her chest. After many hours, during which the search of the premises went on, she was brought to a place unknown to her, which, as she was told later, belonged to the Prosecution Authority. There, she was humiliated and forced—as dictated by the interrogation officers supported by a female psychologist, who pulled her hair from behind when she refused to obey what she was ordered, and with armed guards at the door—to write an accusation against Gregorian Bivolaru. She was also forced to swallow some tablets of an unknown kind (Supreme Court of Sweden 2005, 4–5).

M.D. told the Swedish Justices that her interrogation lasted for 4–5 hours and what she signed under duress “is not in any respect connected with the reality.” The subsequent day, she consulted a lawyer, who accompanied her to the Prosecutor's office where she tried to recant the statement she had been compelled to sign. She signed a new statement that, as far as she knew, “disappeared” from the file or was never included there.

Asked whether she took yoga classes at MISA, M.D. replied that yes, she did, but her teacher was an instructor called C.T. rather than Bivolaru. She was also confronted with the fact that the police had seized in an apartment a notebook where she fantasized about sexual activities with “G.” These were just fantasies, she explained, and at any rate “G.” was a boy of her age she was fond of, not Gregorian Bivolaru.

The Romanian arguments for the extradition were then presented to the Supreme Court. The key point was that, since Sweden had signed a treaty of extradition with Romania, it should trust the Romanian authorities to base their requests of extradition on proved facts. It was also mentioned that Romania was at that time a candidate to membership in the European Union (it will become a member in 2007), and during the process of accession it was acknowledged that the country had an independent and effective enough judicial system.

Gregorian Bivolaru was then interrogated a second time. He confirmed that when he had visited the house where M.D. lived, it was to meet or pick up his girlfriend, who shared the apartment with M.D., rather than M.D. herself. He reiterated that charges against him had been fabricated in an attempt to “destroy me and this yoga school.” He added:

In case I am extradited, the Romanian authorities will be able to say that the Swedish authorities considered me guilty as well, and subsequently they will arrest the other defendants in the case, who are also not guilty (GregorianBivolaru.net 2005b).

Bivolaru’s solicitor, Nicolas Larsson, concluded that the hearings had conclusively proved that the case against Bivolaru was a fabrication, and that he had no chance of receiving a fair trial in Romania. He asked that Bivolaru be immediately released, although the Court explained this was not technically possible until a verdict on the extradition would be rendered.

The Supreme Court Decision, October 21, 2005

The Swedish Supreme Court announced its decision on October 21, 2005. The decision first summarized Bivolaru’s concerns about the risks he would run if extradited to Romania. He told the Court that prominent Romanian politicians had warned him that “unless [he] dissolved MISA, he would be crushed mentally and physically with all means” (Supreme Court of Sweden 2005, 3). On the other hand, the Court noted that a valid treaty of extradition was in force between

Romania and Sweden, and a decision issued in Romania should, as a consequence, be accepted in Sweden “unless it is, in specific cases, evident that the decision is obviously incorrect” (Supreme Court of Sweden 2005, 4), or it can be feared that the defendants will not receive a fair trial in their country of origin or will be at risk of persecution and violence.

Romania, the Court reported, argued that the warrant of arrest of May 31, 2004, against Bivolaru was not “incorrect” because it was based, for the accuse of human trafficking, on the interrogations of students who worked at the ashrams without a salary and, for the case of sexual abuse of M.D., on the girl’s first statement. It is true, the Romanian authorities admitted, that M.D. later tried to withdraw her statement; but they “assumed that this has been done upon pressure from persons around Gregorian Bivolaru” (Supreme Court of Sweden 2005, 4). Romania, the Court added, has also mentioned a third reason why Bivolaru’s arrest was ordered and he should be extradited, i.e., that his liberty “disturb[ed] the public order” in Romania (Supreme Court of Sweden 2005, 8).

On the first point, human trafficking, the Court referred to the expert testimony of Pastor Nylund to state that the activities carried out by MISA students in the ashrams should be interpreted in the context of the movement’s beliefs. One of the students interrogated by the Romanian Prosecutor was Costel Bârlădeanu, and his name was mentioned in the documents filed by Romania in support of the request for extradition. Yet, the same Bârlădeanu appeared as a witness in the Swedish case, and confirmed that the work done by students in the ashram was volunteer and they did not feel exploited. The Swedish Supreme Court concluded that “it appears improbable that Gregorian Bivolaru has been guilty of trafficking in human beings” (Supreme Court of Sweden 2005, 7).

As for the case of M.D., the Justices stated that, when she testified in Sweden, she “has made a trustworthy impression.” They concluded that “the apprehension and questioning of M.D. took place in such forms and ways as to cause serious misgivings” (Supreme Court of Sweden 2005, 5).

The third point made by Romania, that Bivolaru’s liberty was a threat to Romanian “public order,” was regarded by the Swedish Supreme Court as crucial, not for granting extradition, however, but for denying it. The Swedish Court reported that according to Romania the public order argument supporting the extradition of Bivolaru derived from

the fact that the well-known public reaction, when people had become informed that serious criminal acts had been committed against certain under-age individuals, has caused a certain social tension justifying a drastically preventive action [i.e., arrest and detention] to be taken against Gregorian Bivolaru (Supreme Court of Sweden 2005, 8).

The Romanian side had also mentioned

a speech in the Romanian Parliament in which Gregorian Bivolaru was referred to as Satan, psychopath, wretch, terrorist and villain, followed by a request to the public prosecutor to arrest him immediately (Supreme Court of Sweden 2005, 8–9).

Another

important reason for immediate arrest was emphasized [by Romania], that parents of children whose life Gregorian Bivolaru would have destroyed would have had justice done otherwise, for example by lynching him (Supreme Court of Sweden 2005, 9).

These circumstances, the Swedish Justices observed, did not in any way support the request for extradition—but supplied excellent arguments to deny it. Although media campaigns against Bivolaru had started before, the outrage against Bivolaru and the allegations that minors were being abused had been created by the same authorities who were now trying to use them to justify his arrest. After the raid of March 18, 1994,

the immediate TV transmission of the apprehension [of MISA students and Bivolaru] and the subsequent press campaign were based on information from the preliminary investigation intentionally made available by the authorities for the purpose of creating an opinion generally against Gregorian Bivolaru (Supreme Court of Sweden 2005, 8).

In other words, the Romanian authorities first leaked information to the media depicting Bivolaru as a monster, then claimed that, since the public opinion regarded him as a monster, he should be kept in jail to prevent disorders.

The Supreme Court noted that, its doubts notwithstanding, it might have been difficult to prove conclusively that the Romanian arrest warrant was “obviously incorrect” on the two charges of human trafficking and abuse of M.D.

However, these points according to the Swedish Justices were superseded by the fact that Romania’s own argument about the “public order” situation around Gregorian Bivolaru conclusively proved that “due to his religious conception Gregorian Bivolaru runs the risk of being exposed to pursuits of evil character after an extradition” (Supreme Court of Sweden 2005, 9).

The climate described by Romania itself virtually guaranteed that any trial of Bivolaru in that country would not be fair, and the Romanian authorities stated that he might even be lynched.

For this reason, extradition was refused, and Bivolaru was liberated. The Supreme Court's decision opened the way to the grant of asylum to Bivolaru in Sweden, which followed on December 31, 1995 (GregorianBivolaru.net 2006).

Aftermath

As a refugee, Gregorian Bivolaru lived quietly in Sweden from 2005 on, although Romania kept him in the list of Europol's most wanted fugitives. In 2016, he visited France, a country where the anti-cult movement is specially influential, and was arrested and extradited to Romania, against Swedish protests (Introvigne 2022, 33). Although the legal issue remains controversial, the European Court of Human Rights ruled in 2021 that it was in France's power to decide to extradite to Romania a Romanian citizen who had obtained asylum in another European Union country, i.e., Sweden (European Court of Human Rights 2021).

Bivolaru, thus, went from France to a Romanian jail on July 22, 2016, where he started serving his term for the case of M.D. As for the human trafficking issue, Romanian courts will declare him not guilty in first instance in 2020 (Tribunalul Cluj 2020), and on appeal in 2021 (Curtea de Apel Cluj 2021). He was freed on parole and allowed to legally return to Sweden in 2017.

Shortly thereafter, Finland, a country Bivolaru had never visited, issued a warrant for arrest against him for the economic exploitation and sexual abuse abroad of Finnish students who had attended MISA retreats in France. Not having been able to arrest Bivolaru, Finland once again put him in the Europol list of most wanted fugitives.

The facts of the matter in the Finnish case are quite convoluted and obscure, as mentioned in Massimo Introvigne's recent book on MISA (Introvigne 2022, 34–5). Irrespective of subsequent developments, however, the Swedish Supreme Court denial of extradition of October 21, 2005, remains an important precedent and a model decision. It establishes the principle that leaders or members of controversial new religious movements slandered by the authorities

and the media as “cults,” even when they are accused of common crimes, cannot expect a fair trial in their countries. As such, they are entitled to asylum abroad.

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