

Application from the Reformed Congregationalist Church of the Flying Spaghetti Monster as a new religious body for Marriage Solemnisation.

Application Submitted By: Rev. John Hamill.

Section 56 Appeals Officer: Mr. Eoghan Ryan, Principal Officer (Higher)

Date: 09/09/2019

1. Decision under review:

In its letter to Mr. Hamill, dated 25/04/19, the Office of the Registrar General refused the application on the following grounds that –

- It did not consider that the body submitting the application was a religious body within the meaning of the Act.
- The evidence submitted in support of the application was not compelling and cannot be considered to meet the commonly understood criteria for designation as a religious body.

In making the decision, account was taken of the recent submission made by statutory authorities, in particular the Workplace Relations Commission, which found that a complaint brought against the Road Safety Authority, did not come with the definition of religion and/or religious belief and that the case of discrimination on the grounds of religion was not established.

2. Appeal under Section 56.

Mr. Hamill made an appeal on the 29/04/19 and made reference to a Workplace Relations Commission decision, DEC-S2016-018, in favour of the Road Safety Authority. He made the point that that case was taken by a Mr. Noel Mulryan, who did not claim to be a member of any Church, but admitted that his application was explicitly satirical and on that basis the WRC determined that satirical activities do not fall under the definition of religion.

Mr. Hamill made reference to Articles 2(E) and 2(F) of the Constitution of the Reformed Congregationalist Church of the Flying Spaghetti Monster does not tolerate such use of parody or satire. Mr. Hamill distanced himself from any association with Mr. Mulryan and expressed the view that it was not fair or reasonable to evaluate and judge his church, based on the activities of others, which are expressly prohibited by his Church. He expressed the view that his Church met the definition of a religious body within the Act and should be evaluated on its own merits.

A further letter was sent to the Minister in relation to his appeal and this was dated 24/06/19 and that letter, in its essence, repeated the concerns reflected in Mr. Hamill's correspondence dated 29/04/19.

3. Legislation

Section 45 defines a “religious body” to mean ‘*an organised group of people members of which meet regularly for common religious worship.*’

The relevant legislation relating to this Appeal is Section 56 of the Civil Registration Act, 2004.

Section 56 (3) permits submissions as the parties to the appeal may wish to make. I invited the General Register Office to make a submission setting out the rationale and/or grounds for the refusal to register the Reformed Congregationalist Church of the Flying Spaghetti Monster as a religious body. In accordance with the principles of natural justice, I shared this document with Mr. Hamill and invited him to comment on it.

4. Submission from the General Registry Office in advance of this Determination

A submission, dated 12/08/19 was made by An tArd Chláraitheoir and received by me on the 19/08/19. The reasons cited for its decision was that ‘*the evidence submitted in support of the application was not considered to meet the commonly understood criteria for designation as a religious body.*’

It is the view of An tArd Chláraitheoir, that he must ensure the integrity of the civil registration system and associated processes and that the Act imposed a duty to ensure that the registration process is operated effectively (Section 8 of the Act, and in particular, sub-section(1)(f), (h) and (i) and subsections (3), (4) and (5) were cited). Part 6 of the Act, relating to marriage, sets out extensive provisions and processes that are designed to protect and promote the integrity of marriage and the place it holds legally, socially and religiously in the State.

The Civil Registration Service (CRS) also indicated that they had ‘*taken account of previous decisions in respect of this matter and decisions by other statutory bodies in Ireland where they relate to the specific body and person who have made this application.*’ In particular, they referenced a decision of the Workplace Relations Commission with respect to a complaint brought by Mr. Hamill, a Pastafarian, which found that the body referenced did not fall within the definition of religion or religious belief.

The CRS’ submission refers to the statutory definition of ‘religious body’ as per Section 45 of the Act – ‘*an organised group of members of which meet regularly for common religious practice.*’. The submission states that the Civil Registration Service has taken this to mean that the bodies that – ‘*promote a specific system of beliefs and practices rather than a ‘form of belief’, in one of the commonly understood and recognised World religions where the religious belief and practice are positive (this would include Christian, Jewish, Islam, Buddhist, Hindu, pagan and druidism) but excludes religions of a negative nature (for instance Satanism, Witchcraft) and what could be reasonably considered as parody or satirical in nature (Jedi Warriors, Pastafarian).*’

Based on this understanding, I made my decision on adherence to Pastafarianism or membership of RCCoFSM does not constitute such belief as commonly understood as required of religious practice.”

The submission states that Mr. Hamill was previously a member of Atheist Ireland and though he has resigned, it was the view that it is wholly contradictory to be both an adherent to a religious belief whilst being an atheist.

An tArd Chláraitheoir also submits that –

“Article 2F of the RCCoFSM constitution makes reference to the adjudication by the Workplace Relations Commission (WRC). This adjudication has been adopted by RCCoFSM as a canonical text and is deemed by that body to be a divine revelation. I consider that this particular article is indicative of parody and its wording cannot be taken in all seriousness. The adjudication (ADJ000011817) was made following a complaint by Mr. Hamill against Dublin City Council. During the adjudication hearing, Mr. Hamill gave evidence ‘that his church was not interested in solemnising marriages so they were not listed as part of the civil registration service’. Such a view is inconsistent with making an application for the registration of a member of RCCoFSM and consequently I do not consider that their application is a genuine one.

As indicated in our decision, account has been taken of a WRC decision on a complaint taken against the Road Safety Authority. This decision, DEC-S2016-018, found that ‘the complaint did not come within the definition of religion and/or a religious belief...’ I am of the view that it is entirely reasonable to take into consideration findings of other statutory bodies which are of relevance to the current application, and that this Office should remain consistent with previous approaches taken in relation to Pastafarianism.

Given the foregoing, I remain of the view that RCCoFSM is not a religious body on the basis that membership of this church does not constitute a genuinely held belief nor that its belief system is anything other than satirical in nature.”

5. Response and submission from Mr. Hamill

Mr. Hamill’s submission of additional information in response to the additional comments and rationale submitted by the GRO was then considered. (It was dated 21/08/19 and was received by me on the 28/08/2019).

Mr. Hamill noted an error in the GRO’s submission in relation to the definition of a religious body, stating that the correct definition of a ‘religious body’ means ‘*an organised group of people members of which meet regularly for common religious worship*’ [my underline] and that the Act does not refer to ‘religious practice’.

Mr. Hamill found it shocking and outrageous, that An tArd Chláraitheoir would identify different religious beliefs as either positive or negative and believed that he had no legislative basis to do so and was failing to treat each application on its own merits. He expressed the view that this amounted to bigotry and sectarianism and that Mr. Fleming, An tArd Chláraitheoir, was acting ultra vires.

The submission makes reference to the UN General Comment 22 on the right to freedom of thought, conscience and religion, Article 18 of the CCPR, and Mr. Hamill states that ‘*it has been well-established that the privileging of traditional religions as compared to new or less familiar religious beliefs, is to be strictly prohibited*’. He provided an extract of same with his submission.

Mr. Hamill also cited the ECHR judgement on *Manousakakis vs. Greece*, and he provided an extract of that judgement and stated that *'it has been well-established that it is not within the gift of State bodies to examine the content of different religious beliefs, then consider some to be legitimate and others not.'*

Mr. Hamill makes the point that 'several other countries, such as New Zealand, already recognise certain individual Pastafarian groups for the purposes of solemnising marriages; he included an attachment – Marriage (Approval of Organisations) Notice No. 22 – 2015-gov7246 – New Zealand Gazette with his submission.

Mr. Hamill's submission states that the Application forms that are used to seek registration as a religious body by the Civil Registration Service do not require any information about the content of the beliefs held by any group or body.

Mr. Hamill also claims that false and defamatory statements were made about him and his religious body in the CRS' submission. These are summarised as follows:

- A. Mr. Hamill notes that one of the reasons An tArd Cláraitheoir refused his application was because it is *'wholly contradictory to be both an adherent to a religious belief whilst being an atheist'*. He cites the fact that there are many atheist religions across the world, and cited the Dublin Unitarian Church which accommodates atheists, OneSpirit Interfaith Ministries which accommodate those with no faith and Dublin Buddhist Centre (which is registered as a religious body).
- B. Mr. Hamill cites An tArd Cláraitheoir submission which referenced the Constitution of the Reformed Church in relation to divine revelation, which *'cannot be taken in all seriousness'*. Mr. Hamill refers to the divine revelations and specifically to those of a Kathryn Anne Clarke that were recently given Bishop Leo O'Reilly's imprimatur as divine revelations from Jesus Christ. Mr. Hamill posits that it is not the role of *"Mr. Fleming to either endorse, or else single out for opprobrium and ignominy, the views of any religious group as to what it considered serious diving revelation"*.
- C. Mr. Fleming has quoted previous statements of Mr. Hamill's from some years ago, to the effect that he *'was not interested in solemnising marriages'*; Mr. Hamill said that he is entitled to change his mind on this issue and sees no legislative basis on which Mr. Fleming can reject his application because he changed his mind.
- D. Mr. Fleming refers to decisions of the Workplace Relations Commission (WRC) in relation to other entirely separate bodies, as being of relevance to Mr. Hamill's current application. Mr. Hamill states that there is no decision whatsoever by the WRC in relation to *'my Reformed Congregationalist Church'*; and that it is not fair or reasonable to judge his current application, based on decisions about other entirely different and separate bodies. Mr. Hamill also states *'in fact, my current application to the Civil Registration Service in relation to my Reformed Congregationalist Church, differs from a previous body that the WRC expressed concerns about, in that my current Reformed Congregationalist Church has remedied and clarified all of the issues that the WRC referred to'*.
- E. Mr. Hamill refutes the assertion of An tArd Cláraitheoir, that the Reformed Congregationalist Church *'does not constitute a genuinely held belief'* and he states that the Civil Registration Act does not refer in any way to religious beliefs. Furthermore, Mr. Hamill states: *"There is no legislative basis on which Mr. Fleming is entitled to take any view whatsoever about the content of my religious beliefs, and in fact there is no legislative basis for the content of my belief to have any bearing whatsoever on my application. The only consideration of Mr. Fleming should be as to whether the members of my group "meet regularly for common religious workship". What the specific religious beliefs of those members are as they worship, should not be a concern of Mr. Fleming. In fact, while my*

application does indicate that my Church meets regularly for common religious worship, it does not state what the contents of our religious belief is. Mr. Fleming does not know what our religious beliefs are, and he has never demonstrated any interest in finding out.

- F. Mr. Hamill refers to my email dated 20th August, 2019 and a reference I made to the 'Gospel of the Flying Spaghetti Monster'. In response to this he states –
- "This book is not in any way related to my Reformed Congregationalist Church and it was not included in my application. In fact, according to Article 3(F) of our Constitution, any member of my Reformed Congregationalist Church using or promoting this book, must be immediately expelled. The contents of this book should not be used in any way to consider my application."*

In conclusion, Mr. Hamill ends his correspondence by saying that he does not believe that the content of his religious beliefs should be at issue with respect to his application. He said that if I am interested he would be happy to provide a full explanation of those beliefs, but he goes on to qualify this by saying that *"if the content of my religious beliefs is to be considered a pertinent issue, I would also like to understand how many other applications to the Civil Registration Service have involved an interrogation of the religious beliefs held by the adherents of those groups.*

His correspondence ends with – *"Praise be His noodly appendages."*

6. Context/Facts

- The Reformed Congregationalist Church of the Flying Spaghetti Monster is a pastafarian religion/church (Art. 2, A & D; Art. 3, A of its Constitution).
- It's deity is the 'Flying Spaghetti Monster' (Art. 2, B of its Constitution).
- It's theology is deemed to be sophisticated and indescribable, or set out in Art. 2 (I), *'no attempt should be made to abbreviate or abridge this theological sophistication'*/*'an ephemeral description of our religion is by definition a corruption of it'* (Art. 2, I).
- It therefore does not appear to have a gospel, a prayer book or a written doctrine except for its 'Covenant,' however, it accepts the findings of the Workplace Relations Commission in ADJ-00011817 as a canonical text, as a divine revelation and a miracle (the Miracle of Lansdowne House) (Art. 2, F).
- The Covenant of the RCCoFSM is as follows:
 - *'We, this Reformed Congregationalist Church of the Flying Spaghetti Monster, having given ourselves to one another, according to His will, do promise and covenant and dedicate ourselves in the presence of His Noodleness to walk together in love and all His laws and ordinances, through the power of the Flying Spaghetti Monster. R'amen'.*
- I note that while it seeks to differentiate itself from the 'Church of the Flying Spaghetti Monster' (Art. 2 F, G & H), the 'Reformed Congregationalist Church of the Flying Spaghetti Monster' uses the same logo or motif as the former church (The Church of the Flying Spaghetti Monster) that Mr. Hamill applied to have registered as a religious body for the purpose of solemnising marriages.

7. Considerations

I note and accept the correct definition of religious body as expressed in Mr. Hamill's submission.

In relation to previous statements of Mr. Hamill that he was '*not interested in solemnising marriages*', I agree that he is entitled to change his mind.

I note some of Mr. Hamill's reasoned comments and arguments in relation to what may constitute positive or negative religions, and he provided some interesting references (including footnotes and weblinks which I reviewed), however, I do not believe that An tArd Cláraitheoir, is acting *ultra vires* in allocating to himself the role of distinguishing between positive and negative religions. I interpret the powers of Section 8(1)(a) of the Act, which refers to functions to maintain, manage and control the system of registration, as conferring certain rights. If these rights did not exist then it would be open to anyone and everyone to register freely and unrestricted under the Civil Registration Service; or indeed there would be no need for a Civil Registration Service.

I note also that the UN General Comment 22 on the right to freedom of thought, conscience and religion, Article 18 of the CCPR, paragraph 7, states that in accordance with article 20, no manifestation of religion or belief may amount to propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. This implies an evaluation or assessment of positive versus negative religions, though I accept that one could argue as to whether certain religions cited in the submission by the Civil Registration Service were more positive than negative and in essence, An tArd Cláraitheoir has expanded the definition to include religions based on parody or satire. In this regard, it is clear that he was following recent decisions made by other statutory authorities, as cited in the Decision letter.

Having considered whether or not to hold an oral hearing to try to get a better understanding of Mr. Hamill's Reformed Congregational Church and his religious beliefs, it would appear from his closing statement in his submission, that while offering to explain his beliefs he also would want to understand how many other applications to the Civil Registration Service have involved a requirement for such questioning or, as he puts it, interrogation. That is a question that I cannot answer. I don't think much would be gained from conducting an oral hearing with the Appellant and I note that the Office of the High Commissioner for Human Rights' General Comment No. 22: The right to freedom of thought, conscience and religion (Art. 18), states that '*no one can be compelled to reveal his thoughts or adherence to a religion or belief*'.

Mr. Hamill's submission states that Application forms that are used to seek registration as a religious body by the Civil Registration Service do not require any information about the content of the beliefs held by any group or body. I note however, that the Application form states that the application should be accompanied by 5 items, including (second bullet point), '*a brief description of the belief system of the body*'. I note also that this item is missing from Mr. Hamill's Application. The applicant has the responsibility to produce evidence in support of his/her case and the burden of proof is with the Applicant to show and demonstrate that the RCoFSMs is a religious body under the meaning of the Act.

I note the Appellant's comments on the ECHR judgement on Manousakkis vs. Greece, and he provided an extract of that judgement (attachment) and stated that '*it has been well-established that it is not within the gift of State bodies to examine the content of different religious beliefs, then consider some to be legitimate and others not.*' However, I think that this issue has already been raised in the context of the WRC Adjudication – 00011817 and it is one that I will return to as it is, in essence, the substance of the review.

In relation to the alleged 'false and defamatory statements' that were made about Mr. Hamill and his religious body in the Civil Registration Service submission, I think there are a few points to consider.

While Mr. Hamill correctly cites that there are many atheists religions across the world and he cites two in Ireland, the key issue for me as the Appeals Officer, is firstly, whether or not it is likely that Mr. Hamill remains an atheist and secondly, is it reasonable for an atheist to believe in a deity such as the Flying Spaghetti Monster. I understand that Mr, Hamill has stepped down from his role on Atheist Ireland, however, I note that the Reformed Congregationalist Church of the Flying Spaghetti Monster of Ireland Retweeted a post on Twitter on 23rd March, 2019 of the 'High Priestess of Godless Running's "Happy International Atheist Day!!'. In that post there was an image of the Spaghetti Monster that would appear to contradict Art. 2 (H) of its very own Constitution.

I would like to address the issue highlighted in B above, in relation to the views expressed by An tArd Chláraitheoir that that part of the Constitution, namely 2F that makes reference to the adjudication by the Workplace Relations Commission (WRC), ADJ00011817 being adopted as canonical text and being deemed a divine revelation. An tArd Chláraitheoir considered this particular article as indicative of parody and that the wording cannot be taken in all seriousness. Mr. Hamill takes the view that it is his role '*to compare and contrast claims of divine revelation*' and he cites two bodies who accept and/or receive divine revelations. Having considered this matter, it appears to me that An tArd Chláraitheoir has not compared or contrasted any revelations, but has purely assessed this application on its merits and his interpretation of the material before him.

I note that Reformed Congregationalist Church of the Flying Spaghetti Monster is registered on Twitter with its own account. It is clear that Mr. Hamill, is an active participant and leader (or one of the leaders) of this group. I note many inconsistencies and contradictions with the content and material displayed on this Twitter page and the Constitution submitted as part of his application. I am interested in the content posted by Mr. Hamill since the 4th March, 2019 – the date of his application and Constitution submitted as part of that application. It is evident to me that many of the entries and content contradict parts of the very Constitution he submitted with his application and in particular Articles 2 E, G & H.

Specifically, in relation to the Adjudication referred to above by the WRC (ADJ00011817), I note the following Twitter Post: **Twitter Post: RCCoFSM of Ireland @CoFSM_Ireland · Mar 1, 2019**
'The Adjudicator who wrote the legal decision that described why Irish Pastafarianism was a parody (and therefore what Reformations would ensure that it is no longer a parody) shall henceforth be venerated within our Reformed Church as Prophet Kevin Baneham (Parmesan Be Upon Him).'

This is parody and contravenes the Constitution of the RCCoFSM.

In paragraph F above, and a reference I made to Mr. Hamill in relation to the 'Gospel of the Flying Spaghetti Monster', the appellant said it was not related to his religion and '*In fact, according to Article 3(F) of our Constitution, any member of my Reformed Congregationalist Church using or promoting this book, must be immediately expelled*'. I note that there is in fact no reference at all to that Gospel or book in their Constitution, nor is there any reference to anyone being expelled from his Church for using the book. Expulsion only arises in the context of a Church member using the Pastafarian identity, or the Flying Spaghetti Monster, for purposes relating to humour, parody or satire. One must reasonably conclude therefore, whether or not the Church can in fact have any true, Constitution abiding, members at all.

While Mr. Hamill makes some cogent remarks and comments about other religions and religious beliefs, he is weak at disclosing what his religion truly believes in and has constructed a constitution that makes it difficult to understand or disclose what his Church stands for or espouses. The WRC ADJ case is of relevance and I believe that An tArd Chláraitheoir is justified in raising it in its submission, even if it does relate to 'another religion' (i.e. the Church of the Flying Spaghetti Monster), for two reasons. Firstly, it is clearly referred to in the Constitution of the Applicant; and secondly, the Adjudication refers to case law, that I believe is relevant to the decision of the WRC and to this appeal.

If Mr. Hamill genuinely accepts the WRC Adjudication (ADJ00011817) then he has to accept its 'Findings and Conclusions', specifically, it quotes case law findings such as –

- R (Williamson) v Secretary for Education and Employment (House of Lords, paragraph 23)
- Mulyan v RSA
- Dutch Council of State (Case No. 201707148/1, 15/08/2018)
- Cavanaugh v Bartlet (Nebraska District Court).

I do not intend to recite the relevant text from those cases, as the Appellant already has the relevant Adjudication Officer's Decision (it is publicly available at www.workplacerelations.ie), but in keeping with the doctrine of precedent, including persuasive precedent, I find these legal cases more compelling than those cited by the Appellant.

In the 'Findings and Conclusions', and in keeping with the above case law, the Adjudication Decisions Officer stated –

'The complainant has not demonstrated how the belief system addresses fundamental and ultimate questions related to deep and imponderable matters. It was not shown how it reached any level of cogency, seriousness, cohesion or importance. In fact, very little was set out in any belief related to any of the fundamental problems normally considered by majority or minority religions. The complainant is perfectly entitled to assert his adherence to 'His Noodleness'' but this does not mean that this espousal of pastafarianism constitutes religious belief.....the complainant has failed to establish that he has a religious belief or no religious belief....'

In his letter of Appeal, Mr. Hamill states that the Civil Registration Service has rejected his application based on the comments made by the Workplace Relations Commission about a Mr. Noel Mulryan. He states that he has never met with Mr. Mulryan, nor spoken to him and that he would not be welcome as a member of his religion. He requested that his religion should be based on its own merits and not on the characteristic of others.

While the decision letter of the Civil Registration Service did make reference to 'recent decisions by statutory authorities', it did cite the Mulryan case. In its submission, it cites it again (DEC-S2016-018) but it also references the Hamill v Dublin City Council case too (ADJ00011817). I note and accept their relevance and the CRS' position that it should remain consistent with previous approaches of state authorities taken in relation to Pastafarianism.

While on the one hand Mr. Hamill seeks to distance himself from any previous decision, he nonetheless, has explicitly endorsed the Adjudication findings of the Workplace Relations Commission by accepting it as doctrine and as divine intervention in his Church's constitution. He therefore accepts the findings, but has not embraced the findings.

8. Decision:

In accordance with Section 56 (5)(a) of the Civil Registration Act, 2004, I am dismissing this appeal on the ground that the body concerned, the Reformed Congregationalist Church of the Flying Spaghetti Monster, is not a religious body.