

Press release issued by the Registrar

Chamber judgment¹

Jehovah's Witnesses of Moscow v. Russia (application no. 302/02)

**UNJUSTIFIED DISSOLUTION AND REFUSAL TO RE-REGISTER THE JEHOVAH'S
WITNESSES RELIGIOUS COMMUNITY IN MOSCOW**

Unanimously:

Violation of Article 9 (freedom of thought, conscience and religion)
Violation of Article 11 (freedom of assembly and association)
Violation of Article 6 § 1 (right to a fair trial within a reasonable time)
of the European Convention on Human Rights

Principal facts

The applicants are the religious community of Jehovah's Witnesses of Moscow ("the applicant community"), established in 1992, and four individuals who are members of that community and live in Moscow.

Jehovah's Witnesses have been present in Russia since 1891. They were banned after the Russian Revolution in 1917 and persecuted in the Soviet Union. After the adoption of the 1990 law on Freedom of Conscience and Religious Organisations, the applicant community, which is the Moscow branch of the Jehovah's Witnesses, obtained legal-entity status in December 1993 from the Moscow City Justice Department. According to its charter, its purpose was the "joint profession and dissemination of their faith and carrying on religious activity to proclaim the name of God the Jehovah".

Starting in 1995, a non-governmental organisation aligned with the Russian Orthodox Church and called "the Salvation Committee" complained five times of the applicant community's management before the district prosecution office. As a result, criminal investigations were opened and subsequently discontinued upon the recommendation of an investigator to bring a civil action against the applicant community seeking its dissolution and the banning of its activities. In April 1998, the prosecutor brought a civil action to that effect. The relevant district court, having heard over forty witnesses and experts and examined religious literature and documents, found the complaints unfounded. Upon an appeal by the

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

prosecutor, the case was remitted for a fresh examination by a different composition of the court.

In the meantime, a new Law on Freedom of Conscience and Religious Associations (“the Religious Act”) entered into force in October 1997. It required all religious associations that had previously been granted legal-entity status to bring their articles of association into conformity with that Act and to obtain re-registration from the competent justice department. Between 20 October 1999 and 12 January 2001 the applicant community applied for re-registration five times, unsuccessfully. In August 2002, the competent domestic court held that the Moscow Justice Department’s refusals were unlawful but did not order re-registration referring to the need for the applicants to submit a fresh application for re-registration as the documents’ form had changed in the meantime.

A new round of the 1998 civil proceedings against the applicant community ended in March 2004 with a court decision ordering its dissolution and imposing a permanent ban on its activities. The court found the applicant community responsible for, among other things, luring minors into religious associations against their will and without the consent of their parents; coercing believers into destroying the family; infringing the personality, rights and freedoms of citizens; inflicting harm on the health of citizens; encouraging suicide or refusing on religious grounds medical assistance to persons in life- or health-threatening conditions; and inciting citizens to refuse to fulfil their civil duties. The applicant community was ordered to bear the costs of the expert studies used in the proceedings and to pay costs of 102,000 Russian roubles to the State. Their appeal was dismissed.

Complaints, procedure and composition of the Court

Relying on Articles 9, 11 and 14 (prohibition of discrimination), the applicants complained about the dissolution of the community and the banning of its activities, and about the refusal of the Russian authorities to re-register their organisation. Relying further on Article 6, they also complain of the excessively long dissolution proceedings.

The application was lodged with the Court on 26 October 2001.

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

Christos **Rozakis** (Greece), **President**,
Nina **Vajić** (Croatia),
Anatoly **Kovler** (Russia),
Khanlar **Hajiyev** (Azerbaijan),
Dean **Spielmann** (Luxembourg),
Sverre Erik **Jebens** (Norway),
George **Nicolaou** (Cyprus), **judges**,

and Søren **Nielsen**, **Section Registrar**.

Decision of the Court

Dissolution of the applicant community (Article 9 in the light of Article 11)

The Court recalled its settled case law in which it had held that freedom of thought, conscience and religion was one of the foundations of a democratic society. It was also one of the most vital elements for the identity of believers but also a precious asset for the

atheists, agnostics, sceptics and the unconcerned. The pluralism, dearly won over the centuries and not dissociable from a democratic society, depended on it.

The decision of the Russian courts to dissolve the applicant community and to ban its activities had resulted in its inability to exercise its right to own or rent property, to maintain bank accounts, to hire employees and to ensure judicial protection of the community, its members and its assets. That decision had been based on the Religious Act and had pursued the legitimate aim of the protection of health and the rights of others in accordance with Articles 9 and 11.

However, having examined in detail the arguments of the Russian authorities, including the domestic courts, the Court found that the decision on the applicant community's dissolution had not rested on an appropriate factual basis. In particular, the domestic courts had not adduced relevant and sufficient reasons to show that the applicant community had forced families to break up, that it had infringed the rights and freedoms of its members or third parties, that it had incited its followers to commit suicide or refuse medical care, that it had impinged on the rights of non-Witness parents or their children, or that it had encouraged members to refuse to fulfil any duties established by law. The limitations imposed by the applicant community on its members, such as the expectation to pray, preach door-to-door and the regulation of their leisurely activities, had not differed fundamentally from similar limitations imposed by other religions on their followers' private lives. In addition, the domestic courts' conclusion that coercion had been used to force members to join the community had been made without any evidence for it. As regards the fact that the applicant community had preached the abstaining from blood transfusions, even in life-threatening situations, that had been insufficient to trigger such a far-reaching measure as the ban on its activities since Russian law had granted patients the freedom of choice concerning the medical treatment to undergo.

Consequently, the dissolution of the community had been an excessively severe and disproportionate sanction compared to the legitimate aim pursued by the authorities. There had accordingly been a violation of Article 9 of the Convention, read in the light of Article 11.

Refusals to re-register the applicant community (Article 11 in the light of Article 9)

The Court noted that the ability to establish a legal entity is one of the most important aspects of freedom of association without which that right would be deprived of meaning. The applicant community had existed and operated lawfully in Russia since 1992. Following the adoption of the 1997 Religious Act, several applications for re-registration filed by the applicant community had been rejected, which had had the effect of barring the possibility of filing further applications for re-registration. The Moscow Justice Department had acted arbitrarily having consistently omitted to specify why it deemed the applications incomplete. The Court further noted that while the Religions Act had not made re-registration conditional on the use of specific forms, the applicant community had nonetheless been requested to resubmit its re-registration request using new forms. It had done that in its fifth and final application, which had also been rejected. No reference had been made by the authorities, however, to the specific legal provisions which could have been used by the applicant community in order to resubmit an application for re-registration after the expiry of the time-limit allowed by law on 31 December 2000.

The Court concluded that in denying re-registration to the Jehovah's Witnesses of Moscow, the Moscow authorities had not acted in good faith and had neglected their duty of neutrality and impartiality *vis-à-vis* the applicant community.

There had therefore been a violation of Article 11 of the Convention read in the light of Article 9.

Excessive length of dissolution proceedings (Article 6)

The Court noted that the applicant community's actions or inaction had caused a delay of about six months to those proceedings. However, the authorities had been accountable for approximately five and a half years of the duration of the proceedings. Given that States had the duty to organise their judicial system in a way so that courts could decide cases within a reasonable time, the Court found that the length in the dissolution proceedings had been excessive, in violation of Article 6 § 1.

The Court found no reason to examine separately the applicant community's complaints under Article 14 and rejected all other complaints.

Just satisfaction (Article 41)

The Court held that Russia had to pay to the applicants jointly 20,000 euros (EUR) in respect of non-pecuniary damage and EUR 50,000 for costs and expenses.

(The judgment is available only in English.)

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.