



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF ILYIN AND OTHERS v. UKRAINE

(Application no. 74852/14)

JUDGMENT

Art 9 read in light of Art 11 • Manifest religion or belief • Justified refusal to register a Unification Church religious community as a legal entity due to name being liable to mislead believers and the general public

STRASBOURG

17 November 2022

FINAL

03/04/2023

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Ilyin and Others v. Ukraine,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Mārtiņš Mits, President,
Stéphanie Mourou-Vikström,
Lado Chanturia,
Ivana Jelić,
Arnfinn Bårdsen,
Mattias Guyomar,
Mykola Gnatovskyy, judges,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application (no. 74852/14) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by nine Ukrainian nationals (“the applicants”), on 24 November 2014;

the decision to give notice to the Ukrainian Government (“the Government”) of the complaints under Articles 9 and 11 of the Convention;
the parties’ observations;

Having deliberated in private on 11 October 2022,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case, which relies mainly on Articles 9 and 11 of the Convention, concerns a refusal to register a religious community of the Unification Church (“the UC”).

THE FACTS

2. The applicants are Ukrainian nationals who, according to the most recent information made available to the Court (19 December 2021), reside in Kyiv. Their details are set out in the Appendix and they were represented by Mr K.M. Buzadzhy, a lawyer practising in Kyiv.

3. The Government were represented, most recently, by their then Acting Agent, Ms O. Davydchuk.

4. The facts of the case may be summarised as follows.

5. The applicants are followers of the UC, which was founded by the Reverend Sun Myung Moon (“Rev. Moon”). They created a religious community (“the community”) and attempted to have it registered as a legal entity. They made an application to the Kyiv City State Administration (“the Administration”) for this purpose.

I. THE EVENTS OF 2001 TO 2008

6. The first application for registration, lodged by some of the applicants and several other individuals (the exact composition of the community's founders as listed on registration documents varied over the years) was lodged in 2001. The name of the community was "‘Holy Spirit Association for the Unification of World Christianity’ Religious Community in the Kyiv Obolonsky District". The opening provisions of the constitution submitted for registration stated that its faith was based on Christian theology ("no віросповідальній приналежності громада дотримується християнського віровчення"), the Bible, and Rev. Moon's work *Divine Principle*.

7. The Administration requested a report on the UC from the Department of Religious Studies and Analytical Work of the State Committee for Religious Affairs ("the Committee for Religious Affairs"). In its report of 11 November 2001, the Committee informed the Administration about the UC's history and theology, including its foundation by Rev. Moon. It stated that Rev. Moon had attempted, in his book *Divine Principle*, to reinterpret the Bible in the light of Taoism. It described the UC as "one of the most widespread non-traditional synthetic religions", aimed at the unification not only of Christianity, but of all world religions. According to the Committee:

"in [the UC's] theology the problem of 'blood purity' and its intergenerational preservation received particular attention. That purity could be preserved only by people living in 'true families' and in sexual harmony. 'Harmony' could be identified and blessed only by the Reverend Moon or religious leaders who had received his benediction.

According to Moon's religious doctrine, humanity is imperfect in its current form and to accomplish the ideal of a 'renewed humanity – the Kingdom of God on Earth', a particular infrastructure of the new world must be created, uniting all spheres of human activity: business, mass media, scientific research, education, law etc. What this in fact involves is the creation of a material and technical basis for God's Kingdom on Earth through unpaid labour and donations provided by Moon's followers, which taken together are referred to as 'the person's rebirth'.

It must be noted that some authoritative international religious-studies experts adamantly deny that Moon's teachings belong to Christianity and criticise its openly anti-Semitic nature. The controversial reception that the UC's doctrine and actual worship practices and socio-economic activities receive in the countries where it operates, including that associated with the opposition between the Moon's followers' doctrine and traditional Christianity, may complicate inter-confessional relations in Ukraine."

The Committee for Religious Affairs expressed the opinion that before taking a decision on registration, an in-depth study of the community's "socio-religious activities and actual worship practice" should be undertaken.

8. On 26 December 2001 the Administration informed the community founders that, having obtained an opinion from the Committee for Religious Affairs, it would continue its examination of the community's social activities

and worship practices. It appears that a similar communication was made in August 2002.

9. In response to a complaint from Mr Ilyin, on 26 April 2007 the Administration replied, among other things, that it had received complaints about a destructive influence being exercised on participants in seminars organised by the community in the Kyiv region and that the Administration had been prevented from effectively examining the legality of the community's activities by the latter's refusal to let an Administration official observe the seminars.

10. The case file contains copies of three complaints made by:

(i) a mother, who stated that her son had attended a UC seminar which lasted 21 days, during which time she had only had limited contact with him (by mobile phone). She claimed that he had returned a changed man and had become, in her view, overly implicated in UC activities¹;

(ii) a former participant in UC activities, who stated that he had been forced to study UC doctrines for fourteen hours a day, that study sessions during seminars in the Kyiv region had been held in conditions of isolation from participants' families, and that telephone calls and the reading of material not related to the UC had been prohibited. The author had had to sleep on the floor and had often been ill;

(iii) a father, who stated that his son had participated in the activities of a "youth centre" in Kyiv which turned out to be associated with the UC. His son had then been "forced" to attend seminars in Kyiv and the Kyiv Region, after which the father had had difficulties communicating with his son, who abandoned his studies and started "begging in the street" for the UC.

11. In June 2007 the community reapplied for registration.

12. On 30 August 2007 the Department of Religious Affairs and Protection of Freedom of Conscience of the State Committee for Nationalities and Religion ("the Committee for Nationalities and Religion") provided a report on the UC to the Administration. The report repeated basic information about the UC's history and background (see paragraph 7 above) and stated, in particular, that the UC was a new religious trend which combined features of Eastern religions with elements of Christianity. In contrast to Christian denominations, the UC was created not as a branch of Christianity but as a result of the active preaching and evangelising work of Rev. Moon and his followers.

It stated that Rev. Moon's teachings stressed matters to do with family and marriage, and in particular that all UC followers who wished to be married must receive Rev. Moon's blessing. Collective marriage blessing ceremonies were of particular importance. A strong emphasis was put on the strict

¹ The community, in subsequent proceedings (see paragraph 15 below), submitted to the courts a letter from the same mother retracting her previous statements as being based on a misunderstanding and stating that the participation in UC activities had actually improved her son's life.

regulation of relationships, subordination to the leadership, and missionary activities in the course of so-called “leadership seminars” where people were trained for missionary work. According to information published “in the international press”, in a number of countries the UC held business monopolies in the banking, hotel and energy drinks sectors.

According to the information in the Committee’s possession, when visiting Ukraine’s regions UC representatives had considered establishing commercial entities, buying shares in leading Ukrainian companies, and investing in a number of charitable projects in order to create a UC lobby within a number of Ukrainian NGOs and small political parties.

Accordingly, the Committee suggested that any decision as to whether to register the applicant community had to comply with sections 3 and 4 of the Freedom of Conscience and Religious Organisations Act (“the Act”), which, respectively, provide for the principle of freedom of conscience and equality of citizens regardless of their religion; section 5, which provides for the separation of State and religion, requiring religious organisations to comply with the law and prohibiting them from participating in the activities of political parties, or preaching hate and intolerance; and section 6, which sets down the principle of secularism and the separation of religious organisations from public education (see paragraphs 30 to 33 below).

13. Following this Committee report, on 10 October 2007 the Administration refused to register the community. It invoked section 15 of the Act, which stated that registration of a religious organisation could be refused if the constitution of the organisation or its activities contravened the law, and sections 3 and 4 of the Act.

14. The applicants challenged the refusal in court, lodging a claim in the name of the unregistered community. On 9 December 2008 the Kyiv Administrative Court of Appeal (“the Circuit Court”) upheld a lower court decision rejecting the claim without examining the merits on the grounds that the community, not being a legal entity, had no standing to lodge a claim in its own name and the claim had instead to be lodged in the name of individual community members.

II. 2009 APPLICATION AND SUBSEQUENT PROCEEDINGS

15. In 2009 the applicants and three other individual members of the community reapplied for registration, but the Administration refused to examine the new application on the grounds that the Act did not provide for the possibility of examining applications for registration of the same community twice. On 18 December 2009 the Circuit Court set aside that decision as unlawful and ordered the Administration to examine the application.

16. On 8 April 2010 the Administration again refused registration. The decision stated as follows²:

“... having examined [the community’s] application, being guided by section 15 of the Freedom of Conscience and Religious Organisations Act and the [2007 Committee report], within the limits of authority of the local executive authority:

1. To refuse registration of the [community’s] constitution because its activities are contrary to sections 3 and 4 of the Freedom of Conscience and Religious Organisations Act.

2. The Deputy Head of the Administration B. shall make a decision concerning the announcement of this decision in the mass media.”

17. The community’s founders appealed. In particular, they argued that the community’s activities were entirely lawful, as confirmed by the checks conducted by the police and Administration officials, and the fact that UC entities had been registered in Russia, Moldova, Kazakhstan, Lithuania, Estonia, the United States, Germany, France, Great Britain, Italy, Spain, Poland, Hungary, Republic of Korea, Japan, Australia and many other countries.

18. In the course of the proceedings before the Circuit Court the Administration stated as follows.

(i) It had received complaints concerning the alleged destructive influence of the applicant group’s seminars on their participants, and the Administration’s officials had attempted to obtain from the first applicant (Mr Ilyin) permission to attend the seminars as part of the pre-registration enquiry, but to no avail.

This had made it impossible to verify the group’s compliance with relevant legislation and had created a risk that its registration would expose citizens to uncontrolled influence by the group, which would be in breach of the rights and freedom of citizens guaranteed by constitutional provisions and provisions of the Act which guarantee human dignity, freedom of individual development and equality, freedom of conscience and freedom to adopt and change religion as well as equality before the law regardless of religion (see paragraphs 25 to 31 below).

(ii) The Committee’s information about the efforts of UC representatives to obtain influence on businesses and NGOs (see paragraph 12 above) created a risk that Ukrainian law would be broken and the rights of citizens provided for in the Constitution and the Act would be breached.

(iii) The attitudes and practices related to marriage described in the Committee report were, according to the Administration, contrary to Article 5 § 5 of the Family Code (family life was to be free from interference), to Article 7 (relating to the equality of men and women and non-discrimination in family matters), and Article 24 (marriage must be based on free consent).

² References to the relevant provisions of the legislation invoked by the Administration can be found in paragraphs 30, 31 and 37 below.

19. On 26 May 2011 the Circuit Court rejected the applicants' appeal against the Administration's decision. The court quoted sections 5, 7, 8 and 12 of the Act (see paragraphs 32 and 34 to 36 below) and went on to say:

"It follows from the analysis of the above provisions that one of the characteristics of a religious organisation is its confessional affiliation. Only believers belonging to the same sect, confession, persuasion, trend or denomination can voluntarily unite for the purposes of the common satisfaction of their religious needs.

At the same time [the community's] constitution states that it is a local organisation of Christian believers. The aim of the community is the practice and dissemination of the community's Christian religious doctrine and the facilitation of interfaith cooperation between churches.

The plaintiffs' representatives confirmed during the court hearings that the aim of [the community's] activities was the unification of believers of different religious faiths and denominations.

...

Ukrainian legislation does not provide for the registration of interconfessional religious communities, members of which belong to different churches and religious organisations."

The court went on to quote at length from the Administration's submissions set out in paragraph 18 (i) above and concluded that its refusal of registration was justified.

20. The applicants appealed, arguing mainly that the negative assessment made by the Administration and endorsed by the Circuit Court was unsubstantiated. They also argued that the Circuit Court's reasoning that domestic law did not provide for the registration of inter-confessional organisations was tantamount to a rejection of registration on the basis that the applicants did not belong to a "traditional" Christian denomination, which was inconsistent with the case-law of the European Court of Human Rights on Article 9 of the Convention, namely concerning the State's duty of neutrality. Moreover, the unification of different denominations was the UC's ultimate goal, not the basis of its doctrine and identity.

The applicants further argued that the finding that their seminars had a destructive influence on seminar participants and the claim that there was a refusal to allow Administration officials to attend them were not supported by any evidence and were based merely on the Administration's submissions. The applicants claimed that the breaches of the law by the community alleged by the Administration had not in fact been established by any decisions or reports of the law enforcement authorities or expert opinions. The trial court had failed to consider certificates from two Kyiv police departments and from a local court in the Kyiv Region provided to the court and attesting that there were no criminal investigations or suits pending against the community.

21. On 14 February 2012 and 29 May 2014 respectively, the Kyiv Administrative Court of Appeal and the High Administrative Court upheld the Circuit Court's judgment, essentially repeating its reasoning.

III. 2018 APPLICATION AND SUBSEQUENT PROCEEDINGS

22. In 2018 six of the applicants (including Mr Ilyin) and four other individuals reapplied for registration of the community, under the name “Religious Community “Unification Church” in the Kyiv Obolonsky District.”

23. The Administration again refused the application for registration stating mainly that the community founders had allegedly failed to appear for interviews to which they had been invited by the Administration and citing the UC’s attitudes to family and marriage, as they had in previous proceedings.

24. The applicants appealed against that decision and, according to the most recently available information, the proceedings are pending before the Kyiv Shevchenkivsky District Court.

RELEVANT LEGAL FRAMEWORK

I. CONSTITUTION (1996)

25. Article 21 provides that all people are free and equal in their dignity and rights and that human rights and freedoms are inalienable and inviolable.

26. Article 22 provides that the human and citizens’ rights and freedoms affirmed by the Constitution are not exhaustive, are guaranteed and shall not be abolished.

27. Article 23 provides that every person has the right to free development of his or her personality and has duties towards society, in which the free and comprehensive development of his or her personality is ensured.

28. Article 24 provides that citizens have equal constitutional rights and freedoms and are equal before the law, and that there shall be no privileges or restrictions based on race, colour of skin, political, religious or other beliefs, sex, ethnic or social origin, property status, place of residence, linguistic or other characteristics.

29. Article 35 provides that everyone has the right to freedom of personal philosophy and religion. This right includes the freedom to profess or not to profess any religion, to perform alone or collectively and without constraint religious rites and ceremonial rituals, and to conduct religious activity.

II. FREEDOM OF CONSCIENCE AND RELIGIOUS ORGANISATIONS ACT (1991)

30. Section 3 guarantees to every citizen freedom of conscience which includes the freedom to exercise the choice to have, adopt and change religion or convictions and the freedom to practise any religion or to not practise any, and to freely express and disseminate one’s religious or atheistic convictions.

Nobody can establish obligatory convictions or world views. No compulsion shall be permitted in the exercise of citizens' choices in their attitudes to religion, to practise or refuse to practise a religion, to participate or not participate in any worship activities or religious education.

31. Section 4 provides that citizens are equal before the law and have equal rights regardless of their attitude to religion. Subsection 1 of the provision prohibits any limitation of rights or privileges based on religion and provides that incitement to religious hostility or hate shall be punishable by law. Lastly, subsection 3 provides that religious convictions cannot justify the avoidance of one's constitutional obligations.

32. Section 5 proclaims the principle of the separation of State and religion. It requires religious organisations to comply with the law and prohibits them from participating in the activities of political parties and from preaching hate and intolerance.

33. Section 6 proclaims the principle of secularism in public education and its separation from religious organisations. It provides for equal access for all citizens to education regardless of their religion. It also provides that scientific research and general education programmes cannot be restricted or promoted based on an assessment of whether they correspond to the tenets of any religion or of atheism. Finally, the section authorises religious organisations to establish educational establishments and to engage in educational activities but requires them to promote tolerance and respect *vis-à-vis* followers of other religious and the non-religious.

34. Section 7 § 1 provides that "religious organisations in Ukraine shall be created to meet the religious needs of citizens to manifest and disseminate their faith, and shall operate in accordance with their hierarchical and institutional structure..."

Subsection 2 provides that the following types of religious organisations can be recognised in Ukraine under the Act: religious communities (*релігійні громади*), departments (*управління*) and centres, monasteries, religious brotherhoods, missionary societies (missions), religious educational institutions, and also unions (*об'єднання*)³ composed of such bodies. Religious unions shall be represented by their centres (departments). Subsection 3 provides that the Act shall not apply to any other organisations created on the basis of religion.

35. Section 8 § 1 defines a religious community as "a local religious organisation of believers belonging to a sect, confession, persuasion, trend or denomination, who voluntarily unite for the purposes of the common satisfaction of their religious needs". Subsection 2 provides that the State shall recognise the right of a religious community to belong, for canonical or

³ This term is employed mainly to denote churches and other similar hierarchical religious structures uniting many parishes/congregations of the same confession into a single organisation.

organisational purposes, to any religious centre (department) active in Ukraine or abroad, and to freely change their affiliation.

36. Section 12 § 3 provides that the constitution of a religious organisation must contain provisions concerning, notably, the type of the religious organisation, its confessional affiliation and address as well as the place of the organisation in the overall structure of a religious association.

37. Section 15 provides that a religious organisation can be refused registration if the constitution of the organisation or its activities contravene the law. A reasoned decision refusing registration must be notified to the organisation within 10 days.

THE LAW

I. PRELIMINARY ISSUES

38. In their reply to the Government's observations, the applicants submitted new complaints under Article 6 of the Convention (concerning the length of proceedings and an alleged vagueness and inconsistency of court practice) and under Article 1 of Protocol No. 1. The Court is of the opinion that these complaints cannot be considered as an elaboration of the applicants' original complaints, on which the Government have commented. The Court considers, therefore, that it is not appropriate to take up these matters in the context of the present case.

39. After the application was lodged, the applicants informed the Court that contact had been lost with the third applicant (Ms Lyudmyla Komarova), because she had moved abroad. The Court finds (see *V.M. and Others v. Belgium* (striking out) [GC], no. 60125/11, §§ 35-41, 17 November 2016) that the application, in so far as it concerns the third applicant, should be struck out of the list pursuant to Article 37 § 1 (a) of the Convention.

II. ALLEGED VIOLATIONS OF ARTICLES 9 AND 11 OF THE CONVENTION

40. The applicants complained that the refusal to register their community was in violation of Articles 9 and 11 of the Convention, which read as follows:

Article 9

"1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the

interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

Article 11

“1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.”

41. The Court will examine the facts of the present case under Article 9, read in the light of Article 11 of the Convention (see *Kimlya and Others v. Russia*, nos. 76836/01 and 32782/03, § 81, ECHR 2009, and *Metodiev and Others v. Bulgaria*, no. 58088/08, § 26, 15 June 2017).

A. Admissibility

1. *Compliance with the six-month time-limit and the rule of exhaustion of domestic remedies*

42. The Government argued that the application had been lodged outside of the six-month time-limit, as counted from the completion of the proceedings concerning registration in 2007, or was inadmissible for failure to exhaust domestic remedies because the applicants had failed to lodge an appeal complying with the relevant domestic rules against that refusal of registration (see paragraphs 13 and 14 above).

43. The applicants contested that argument.

44. The Court observes that the domestic law did not prevent the applicants from reapplying for registration, which they did on 29 January 2010; that second application was examined on the merits. The domestic courts confirmed that under domestic law new applications for registration from the same religious community had to be examined on the merits and could not be simply left without examination (see paragraph 15 above).

45. The Court considers that in such circumstances the six-month time-limit ran from the date of the final decision in the proceedings concerning that refusal, namely the decision of the High Administrative Court of 29 May 2014 (see paragraph 21 above and, *mutatis mutandis*, *Ramzanova and Others v. Azerbaijan*, no. 44363/02, §§ 8-14 and 30-31, 1 February 2007, and *Ismayilov v. Azerbaijan*, no. 4439/04, §§ 22-25, 17 January 2008). The applicants exhausted all available domestic remedies in that process.

46. Accordingly, the Government’s objections must be rejected.

2. The fifth and ninth applicants

47. After lodging the application, the applicants informed the Court that the fifth and ninth applicants (Ms Lyudmyla Maltseva and Mr Andriy Turchyn respectively) had ceased to be community founders but wished to continue the application. They added, however, that the applicants had had no contact with Ms Maltseva “due to COVID-19”. In view of the lack of clarity in those submissions, notably as to whether these applicants remained members of the community, it has not been demonstrated that they continue to be “victims” of the alleged violation. The part of the application lodged by the fifth and ninth applicants must be declared inadmissible for being incompatible with the Convention *ratione personae*, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

48. As far as the remaining applicants are concerned, this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties’ submissions

(a) The applicants

49. The applicants claimed that their rights had been violated by the continuing reluctance of government bodies to register their community, and by the vagueness and unpredictability of the relevant national legislation and law enforcement practice.

50. Neither the domestic courts nor the Government had provided a clear answer to the question of how the refusal to register would serve the alleged legitimate aims of protecting public order and safety and the rights of others. Nor had it been explained how the continued existence of the community in the form of an unregistered group did not pose a threat to the interests supposedly protected but, by contrast, the group’s registration would pose such a threat.

51. The allegations that the community’s constitution or its activities were contrary to national law were untrue and were not supported by any evidence. No specific unlawful provision or article had been identified in the community’s constitution.

52. The alleged breaches of the law had not been established via the appropriate procedures, namely the decisions of law enforcement authorities or of the courts. The Government’s allegations were instead based on rumours and the opinions of other more traditional religious organisations, to which the Government gave greater weight. The authorities had engaged in an examination of the legitimacy of the applicants’ religious beliefs, which was contrary to the State’s duty to abstain from such an examination.

53. The violation of the applicants' rights had stemmed from deficiencies in the domestic legal framework identified in *Svyato-Mykhaylivska Parafiya v. Ukraine* (no. 77703/01, 14 June 2007), in particular the absence of a detailed list of grounds for a denial of registration of a religious community's constitution.

(b) The Government

54. The Government submitted that there had been no interference with the applicants' rights under Article 9 or 11. It was evident from the facts of the case that the UC had a large number of members who were able to meet freely and perform their religious activities and rites. The applicants had not mentioned any specific examples suggesting that they had in any way been hindered in the exercise of those activities and rites. The UC community was able to create legal entities in the form of foundations and associations, and as such it could – and did in practice – own the buildings necessary for its religious activities, have religious leaders who taught the principles of their religious creed as well as meet and practice their religion unhindered.

55. As to the fulfilment of the State's positive obligations, Article 9 could not be interpreted as imposing an obligation to register a religious community without any examination of its activities or their compliance with the national legislation. The decisions of the authorities and courts had been aimed at the protection of the rights and freedoms of the UC's followers. The reasons had been repeatedly stated by the Administration and the national courts.

56. Even supposing there had been an interference with the rights guaranteed by Articles 9 and 11, it did not amount to a violation of those provisions.

2. The Court's assessment

57. The Court has consistently stated that a refusal by the domestic authorities to grant the status of a legal entity to an association of believers amounts to an interference with the right to freedom of religion under Article 9 of the Convention (see *Svyato-Mykhaylivska Parafiya*, cited above, § 121, with further references). Where the organisation of the religious community is at issue, Article 9 must be interpreted in the light of Article 11, which safeguards associative life against unjustified State interference (see *Hasan and Chaush v. Bulgaria* [GC], no. 30985/96, § 62, ECHR 2000-XI).

58. The Court considers that the refusal to register the community amounted to a "limitation" on the applicants' right to manifest their religion (see *Metodiev and Others*, cited above, § 24). The fact that the religious community's lack of legal personality may be compensated in part by running auxiliary associations and organisations is not decisive and does not solve the problem (see *Religionsgemeinschaft der Zeugen Jehovas and Others*

v. Austria, no. 40825/98, § 67, 31 July 2008, and *İzzettin Doğan and Others v. Turkey* [GC], no. 62649/10, § 130, 26 April 2016).

59. The authorities based the refusal on sections 3-5, 7, 8, 12 and 15 of the Act and provisions of the Family Code (see paragraphs 16 to 19 above).

60. The Court observes that in *Svyato-Mykhaylivska Parafiya* (cited above, §§ 130 and 131), it assessed one of the relevant statutory provisions, section 15 of the Freedom of Conscience and Religious Organisations Act (which was invoked by the domestic authorities in that case as well as in the present one) as follows:

“130. As to ‘foreseeability’ of the law, as applied to the present case, the Court considers that this requirement compelled the respondent State to enact legal provisions that listed in detail all the possible reasons and grounds for refusing to register changes and amendments introduced to the statutes of religious associations... It notes that section 15 of the Act mentioned only one vague reason for refusal to register a religious association or changes to it: if ‘the statute of a religious organisation or its activity contravenes existing legislation’. Moreover, section 15 of the Act required the registering body to give reasons for a refusal to register a religious association or its statute (see paragraph 83 above). However, the Act did not specify how detailed this reasoning should be or whether the reasoning should refer only to the textual incompatibility of the Statute with the provisions of the law or substantive incompatibility of the aim and activities of the religious association with the requirements of the law. Thus, the Court finds it doubtful whether the provision at issue was ‘foreseeable’ and provided sufficient safeguards against arbitrariness, not able to prevent possible abuses by the State registration body, which had unfettered discretionary powers in registration matters.

131. However, the Court further considers that the issue of ‘quality of the law’ should be seen in the context of the circumstances of the present case, being closely linked with legitimate aim of the interference and its ‘necessity in a democratic society’. These elements must therefore be discussed below and a conclusion reached as to whether there had been a violation of the aforementioned provisions.”

61. The Court then went on to examine whether the interference in that case pursued a legitimate aim and was necessary in a democratic society. The Court considers that the same approach is warranted in the present case, especially given that the refusal to register the applicants’ community was based not only on section 15 but also on sections 3-5, 7, 8 and 12 of the Act and provisions of the Family Code (see paragraphs 16, 18 and 30-36 above).

62. The Court does not find that, in the circumstances of the present case, those provisions, when read in combination, lacked the requisite foreseeability. They referred to substantive concerns with the community’s name and activities rather than an abstract non-compliance of its constitution with the law.

63. In any event, the key issue in the case seems rather to stem from the interpretation and application of the relevant provisions by the domestic authorities, which, in the present case, are more appropriately examined in the context of whether the limitation was necessary in a democratic society

(see, *mutatis mutandis*, *Instytut Ekonomichnykh Reform, TOV v. Ukraine*, no. 61561/08, § 39, 2 June 2016).

64. The Court accepts that the “limitation” in question was meant to protect public order and the rights of others (see *Metodiev and Others*, cited above, § 40). The remaining issue is whether it was “necessary in a democratic society”.

65. Turning to this issue the Court observes that the decision of 8 April 2010 to refuse registration (as upheld on 26 May 2011 by the Circuit Court) was based on several key considerations (see paragraphs 18 and 19 above). The Court will examine them in turn.

(a) Complaints alleging the community’s destructive influence and alleged failure to cooperate in investigating them

66. The Court agrees that a religious community’s refusal to allow the authorities to take appropriate measures to investigate any credible complaints of abusive practices occurring at the community’s events, in this case the seminars organised by the community (see paragraphs 9 and 10 above), could in principle be grounds for refusal of registration (see, *mutatis mutandis*, *Cârmuirea Spirituală a Musulmanilor din Republica Moldova v. Moldova* (dec.), no. 12282/02, 14 June 2005).

67. However, the Court considers that compliance with the procedural requirements of Articles 9 and 11 required that a proposal to conduct such an investigation be accompanied by the appropriate safeguards, specifically that it be duly documented and appropriate records of relevant exchanges be held (see, *mutatis mutandis*, *Church of Scientology Moscow v. Russia*, no. 18147/02, § 93, 5 April 2007). This would, in turn, have made possible an effective review of the relevant decisions and actions of the registration authorities at the domestic level.

68. In the circumstances of the present case, the authorities documented only the refusal contained in the letter of 26 April 2007 (see paragraph 9 above). There is no indication that records existed as to when the relevant exchanges occurred or under what circumstances. In their submissions before the domestic courts the community argued that checks had in fact been conducted by the police and Administration officials and that they had not revealed any illegality (see paragraph 17 above) – there is no indication in the domestic decisions of evidence rebutting those submissions.

(b) The UC’s alleged efforts to establish influence within business circles, NGOs and political parties

69. Such alleged efforts were described in the Committee’s 2007 report in rather general terms (see paragraph 12 above). The Committee implied that this created the risk of a breach of rules prohibiting religious organisations from influencing the activities of political parties and public education

institutions. The Administration appeared to agree with this assessment (see paragraph 18 (ii) above).

70. While the Court has no reason to question that these allegations merited the authorities' attention, the Court cannot but reach the same conclusion as in respect of the above-mentioned failure to document investigations aimed at addressing citizens' complaints, namely that there was a lack of specificity in the argumentation presented in support of these findings and that the domestic courts did not subject them to any real scrutiny.

(c) The UC's practices related to marriage

71. Without there being evidence of any actual coercion which might have been exercised on individuals to choose their spouses or enter into marriage a mere requirement of a blessing or religious ceremony (see paragraph 12 above) cannot be grounds for denial of registration.

(d) Community's initial name and supposedly interfaith nature

72. In the Committee's 2007 report, it explained that the UC's teachings were a mixture of features from eastern religions with elements of Christianity and contrasted the UC with Christian denominations (see paragraph 12 above). This appeared to be in some contradiction with the community's original name, which could be interpreted as describing a Christian interfaith entity. On this basis and on the basis of certain provisions in the community's constitution, the domestic courts found that the community declared itself to be an interfaith association and pointed out that the domestic law did not allow for the registration of such interfaith entities as religious communities (see paragraph 19 above).

73. The domestic courts referred, notably, to section 7 of the Act (see paragraph 34 above). It provides for a limited number of types of religious organisations which can be registered under the Act but does not exclude the possibility of establishing different types of organisations based on religion (including self-described interfaith entities), outside of the legal framework of the Act, for example in the form of public associations or Non-Governmental Organisations (NGOs).⁴

74. The applicants did not submit that they were prevented from obtaining registration in that or any different legal form had they indeed wished to establish an interfaith association. The applicants however had no such intention. Instead, they wished to establish a religious community on the basis of a clear religious association: the Unification Church.

75. Nonetheless, as pointed out by the domestic courts, given the way the aims of the community and its name were initially formulated, they could

⁴ At the relevant time such organisations were to be registered under the Associations of Citizens Act (1992), see *Koretsky and Others v. Ukraine* (no. 40269/02, § 24, 3 April 2008), which was later replaced by the Non-Governmental Organisations Act (2012).

create the impression that the applicant community was an oecumenical Christian association.

76. This becomes particularly clear in the light of subsequent events (even though they, as such, do not have any bearing on the assessment of the current complaint). Once the community changed its name and adopted its more commonly used title of “Unification Church” without references to unification of world Christianity, the objections of the authorities to its registration were no longer based on the grounds of its supposedly interfaith nature (see paragraphs 22 and 23 above).

77. In this context, the Court reiterates that the mere fact of a State requiring a religious organisation which is seeking registration to take on a name which is not liable to mislead believers and the general public and which enables it to be distinguished from already existing organisations can in principle be seen as a justified limitation on its right to choose its name freely (see *Genov v. Bulgaria*, no. 40524/08, § 43, 23 March 2017; “*Orthodox Ohrid Archdiocese (Greek-Orthodox Ohrid Archdiocese of the Peć Patriarchy)*” v. *the former Yugoslav Republic of Macedonia*, no. 3532/07, § 111, 16 November 2017; and *Bektashi Community and Others v. the former Yugoslav Republic of Macedonia*, nos. 48044/10 and 2 others, § 71, 12 April 2018).

(e) Conclusion

78. In such circumstances the Court is not convinced that the concerns expressed by the authorities about the community’s initial name were in breach of the Convention requirements.

79. Under domestic law any contravention of the law in a religious organisation’s proposed constitution, including its name, could be grounds for refusal of registration (see paragraph 37 above). Therefore, the concerns about the community’s initial name were apparently sufficient to refuse registration and the authorities were in a position to refuse registration even in the absence of other concerns over the community’s practices.

80. The Court notes that in 2018, after the change in the community’s name which no longer contained references to unification of world Christianity, the authorities again refused registration (see paragraphs 22 and 23 above). However, proceedings in that respect are pending before the domestic courts.

81. Therefore, despite its criticism of the other reasons to refuse registration set out above, the Court is unable to find that the Administration’s decision of 8 April 2011 to refuse registration (as upheld by the Circuit Court on 26 May 2011) was as a whole in breach of the Convention requirements.

82. There has accordingly been no violation of Article 9 read in the light of Article 11 of the Convention.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

83. The applicants also invoked Article 14 in conjunction with Articles 9 and 11 and Article 6, arguing that the domestic decisions in their cases were not sufficiently reasoned. In view of the Court's findings above, it considers that there is no need to examine separately the same facts from the standpoint of Articles 6 and 14 of the Convention (see, for example, *Moscow Branch of the Salvation Army v. Russia*, no. 72881/01, § 101, ECHR 2006-XI, and *Church of Scientology Moscow*, cited above, § 101, with further references).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to strike the application out of its list in so far as it concerns the third applicant;
2. *Declares* the complaints lodged by the fifth and ninth applicants inadmissible;
3. *Declares* the remainder of the application admissible;
4. *Holds* that there has been no violation of Article 9, read in the light of Article 11 of the Convention;
5. *Holds* that there is no need to examine separately the complaints under Articles 6 and 14 of the Convention.

Done in English, and notified in writing on 17 November 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller
Deputy Registrar

Mārtiņš Mits
President

APPENDIX

No.	Applicant's Name	Year of birth
1.	Mykhaylo Viktorovych ILYIN	1972
2.	Volodymyr Mykolayovych BILENKO	1969
3.	Lyudmyla Vasylivna KOMAROVA	1954
4.	Yuriy Viktorovych KAPRANENKO	1969
5.	Lyudmyla Valeriyivna MALTSEVA	1979
6.	Mykola Yuriyovych MAZURENKO	1978
7.	Oleksiy Yuriyovych MAZURENKO	1977
8.	Andriy Valentynovych PANTYUSHENKO	1984
9.	Andriy Petrovych TURCHYN	1986
10.	Nadiya Ivanivna VORONKOVA	1974