CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 10519/03
by Petr BARANKEVICH
against Russia

The European Court of Human Rights (First Section), sitting on 20 October 2005 as a Chamber composed of:

MrC.L. ROZAKIS, *President*,
Mr P. LORENZEN,
Mrs N. VAJIĆ,
Mrs S. BOTOUCHAROVA,
Mr A. KOVLER,
Mrs E. STEINER,
Mr K. HAJIYEV, *judges*,
and Mr S. NIELSEN, *Section Registrar,*

Having regard to the above application lodged on 25 February 2003,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Petr Ivanovich Barankevich, is a Russian national who was born in 1960 and lives in the town of Chekhov in the Moscow region. He is the pastor of the Church of Evangelical Christians "Christ's Grace" (*Церковь евангельских христиан «Благодать Христова»*). He is represented before the Court by Mr S. Sychev, a lawyer practising in Moscow. The respondent Government are represented by Mr P. Laptev,

Representative of the Russian Federation at the European Court of Human Rights.

A. The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

On 9 September 2002 the applicant on behalf of his church applied to the Chekhov Town Administration for permission to hold a public service of worship between 11 a.m. and 1 p.m. on 22 or 29 September 2002.

On 20 September 2002 a deputy head of the Chekhov Town Administration refused permission. In particular, he stated that "the Chekhov Town Administration had on many occasions informed [the applicant] that it was not possible to hold a public service of worship in the town territories of common use... (squares, streets, parks, etc.)". The applicant was advised to hold services and other religious rites at the registered seat of the church or in other premises owned or used by the church members.

On 26 September 2002 the applicant on behalf of the church challenged the refusal of the town administration before a court. He alleged violations of the rights to freedom of religion and assembly.

On 11 October 2002 the Chekhov Town Court of the Moscow Region examined the applicant's claim and dismissed it. The court found that, pursuant to the domestic law, public worship and other religious rites were subject to an authorisation by a municipal authority. It further ruled as follows:

> "The contested refusal is lawful because it is justified. As the Church of Evangelical Christians practices a religion that is different from the religion professed by the majority of the neighbourhood residents, and having regard to the fact that in the Chekhov district there exist more than twenty religious organisations of different denominations, a public service of worship in a public area held by one of them may lead to... the discontent of individuals of other denominations and public disorder.
>
> In these circumstances, it cannot be recognised that the contested acts of the Chekhov district administration impair the rights of the Church of Evangelical Christians 'Christ's Grace' as they do not prevent it from holding services in religious buildings and other premises intended for that purpose".

On 4 November 2002 the Moscow Regional Court upheld, on the applicant's appeal, the judgment of 11 October 2002.

B. Relevant domestic law

Section 16 of the Russian Law on the Freedom of Conscience and Religious Associations (no. 125-FZ of 26 September 1997) provided that public worship and other religious rites and ceremonies were to be

performed in accordance with the procedure established for assemblies, marches and demonstrations.

Decree of the Presidium of the USSR Supreme Council no. 9306-XI of 28 July 1988 (in force at the material time) provided that organisers of an assembly were to serve a written notice on the municipal authorities no later than ten days before the planned assembly (§ 2). The authority was to give its response no later than five days before the assembly (§ 3). An assembly could be banned if its purpose contradicted the Constitution or threatened the public order or security of citizens.

COMPLAINTS

The applicant complained under Articles 9 and 11 of the Convention that the refusal of permission to hold a public service of worship violated his right to freedom of religion and peaceful assembly.

The applicant complained, without invoking specific Convention provisions, that other denominations, such as the Russian Orthodox Church, enjoy unrestricted freedom to hold public services of worship.

THE LAW

The applicant complains under Articles 9 and 11 of the Convention that he was not allowed to hold a public service of worship. He also complains that he was treated differently from other religious denominations. The Court considers that the applicant's complaints fall to be examined under Articles 9 and 11, read alone or in conjunction with Article 14 of the Convention.

Article 9 provides as follows:

> "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 provides as follows:

> "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."

Article 14 reads as follows:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

Arguments by the parties

The Government submitted that the final judgment in the applicant's case had been made on 11 October 2002. The Court received the application form on 26 June 2003. Therefore, the applicant did not comply with the six-month rule.

In the alternative, the Government argued that the applicant had not been prevented from holding worship in religious buildings or other premises intended for that purpose. He was only refused permission to hold a public service of worship in the common use places. At the material time the domestic law provided that a person wishing to hold an assembly or a public service of worship should obtain prior authorisation from the authorities. In the present case, the decision to refuse authorisation was examined by the domestic courts which found it to have been lawful and justified. In any event, in 2004 a new law on assemblies, meetings, demonstrations, marches and picketing was adopted and the requirement of an authorisation was replaced by a simple notification.

The Government further submitted that public services of worship outside religious buildings aimed at influencing the beliefs of others. A majority of the population of the Chekhov district professed other religions and the authorities had to protect their freedom of conscience and religion. The Government referred to the *Kokkinakis* case where the Court held that in democratic societies, in which several religions coexist within one and the same population, it may be necessary to place restrictions on freedom of religion in order to reconcile the interests of the various groups and ensure that everyone's beliefs are respected (see *Kokkinakis v. Greece* case, judgment of 25 May 1993, Series A no. 260-A, § 33). There existed more than twenty religious organisations of different denominations in the Chekhov district and a worship service in a public area held by one of them might have led to the discontent of individuals of other denominations and public disorder. The applicant's argument that other denominations enjoy

unrestricted freedom to hold public services of worship is speculation which is not supported by any evidence.

The applicant argued that he had lodged his application on time. He further submitted that the interference with his freedom of religion and assembly was not prescribed by law because the deputy head of the Chekhov Town Administration had not given reasons for the refusal. If the authorities considered that the assembly in the place proposed by him could disturb public order, they could have suggested another place or time. An unqualified ban on public worships was disproportionate. He further argued that the authority's apprehension that the peaceful assembly could disturb the public order was unsubstantiated. In 1998 the church held public worships in the town of Chekhov which did not cause any disturbances. Other denominations, such as the Russian Orthodox Church, are allowed to hold public services and such worship does not provoke any disorder in the town, either. Finally, the applicant suggested that the Government's argument that there were more than twenty religious organisations of different denominations in the town of Chekhov was hypothetical and not supported by any documents.

The Court's assessment

In accordance with the established practice of the Convention organs and Rule 47 § 5 of the Rules of Court, the date of the introduction of an application is the date of the first letter indicating an intention to lodge an application and setting out, even summarily, its object. However, where a substantial interval follows before an applicant submits further information about his proposed application or before he returns the application form, the Court may examine the particular circumstances of the case to determine what date should be regarded as the date of introduction with a view to calculating the running of the six month period imposed by Article 35 of the Convention (see *Chalkley v. the United Kingdom* (dec.), no. 63831/00, 26 September 2002).

The Court notes that the final judgment in the applicant's case was given on 11 October 2002. On 25 February 2003 the applicant dispatched a first letter to the Court, setting out the pertinent facts and alleging violation of his rights under Articles 9 and 11 of the Convention. He lodged the completed application form on 23 April 2003, that is without undue delay. The Court therefore accepts the date of the applicant's first letter as the date of the introduction of the application. It notes that the application was introduced within six months after the final judgment.

For the above reasons, the Court considers that the application cannot be rejected for non-compliance with the six-month rule. It considers, in the light of the parties' submissions, that the complaints raise serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. It concludes that these complaints are not

manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring them inadmissible has been established.

For these reasons, the Court unanimously

Declares the application admissible, without prejudging the merits.

Søren NIELSEN
Registrar

Christos ROZAKIS
President