



Banning of jingoistic Russian protests did not infringe Convention rights

In today's **Chamber judgment**¹ in the case of [Rodina and Borisova v. Latvia](#) (applications nos. 2623/16 and 2299/16) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 11 (freedom of assembly and association) read in the light of Article 10 (freedom of expression) of the European Convention on Human Rights.

The case concerned the authorities' refusal to allow the applicants to organise public assemblies in Riga – the Rodina association's (on the former Victory Day in the USSR) near the Soviet Victory Monument, and Ms Borisova's in front of the Ukrainian embassy.

The Court found in particular that the protests had had the real aim of either denigrating the Latvian nation and language, or supporting illegal separatist groups in Ukraine, set against a background of tension in Latvia and threat from Russia. Overall, the bans had "met a pressing social need" and been proportionate.

Principal facts

The applicants are, Rodina, an association based in Latvia, and Anda Borisova, a Latvian national who was born in 1972 and lives in Riga.

Rodina ("Motherland" in Russian) is an organisation which campaigns in Latvia for the representation of the Russian-speaking community and the protection of Russian identity. It wanted to organise an assembly and a "Russian march" from the Square of Latvian Rifleman to the Soviet Victory Monument in Riga, ostensibly to express support for Russophone schools, on 9 May 2014. That date was the former Victory Day in the Soviet Union, considered by many in Latvia to symbolise the atrocities which followed its unlawful occupation and annexation by the USSR. Permission to hold these events was, with reference to a report by the Security Police, refused by Riga City Council, which concluded that they were aimed at inciting national hatred, which was prohibited by law.

That decision was upheld by the Latvian courts, which noted how the situation in Ukraine had made the context in Latvia more tense compared with previous Rodina-organised events, and that the war scenes used in their videos was inconsistent with the stated educational aim.

Ms Borisova sought permission to organise an assembly in front of the Ukrainian embassy in Riga on 23 September 2014, allegedly aimed at ending the war in southeastern Ukraine. The request indicated a certain B.A. as responsible for keeping order at the event.

The Security Police issued two reports stating that B.A. had been involved in activities against the independence, sovereignty, and territorial integrity of Ukraine, activities which appeared to be contrary to the stated aim of the demonstration, and that he had been the actual organiser of the event. As a result, Riga City Council refused to authorise the demonstration, stating that it was acceptable to restrict freedom of assembly with a view to ensuring the interests of other persons, public safety and national security. It furthermore pointed out that B.A. presented himself as the

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

organiser of the event publicly online, and had stated that the purpose of the protest was, in particular, to demand the ending of the aggression against “the nation of Donbas” (an area of Ukraine where separatist fighting was taking place).

That decision was upheld by the Latvian courts. The Administrative District Court noted that B.A. had travelled to Ukraine, where he had volunteered to serve in the so-called “self-defence forces of Crimea”; and that criminal proceedings had been instituted against him for public incitement to violently overthrow the Government and to act against the national independence of Latvia, for which he had been detained. It held that “war propaganda” and calls to recognise internationally unrecognised entities could not be protected, as they were contrary to the values of democratic society protected by the Constitution and the European Convention.

Complaints, procedure and composition of the Court

Relying on Articles 10 (freedom of expression) and 11 (freedom of assembly and association), the applicants complained of the refusal to allow them to hold their assemblies.

The applications were lodged with the European Court of Human Rights on 5 January 2016 (no. 2623/16) and 4 January 2016 (no. 2299/16).

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

Ivana Jelić (Montenegro), *President*,
 Erik Wennerström (Sweden),
 Alena Poláčková (Slovakia),
 Frédéric Krenč (Belgium),
 Kateřina Šimáčková (the Czech Republic),
 Alain Chablais (Liechtenstein),
 Artūrs Kučs (Latvia),

and also Ilse Freiwirth, *Section Registrar*.

Decision of the Court

The Court held that the refusal to allow the applicants to hold demonstrations had interfered with their rights to freedom of expression and assembly, as prescribed under the Law on Demonstrations, Marches and Pickets (*Par sapulcēm, gājieniem un piketiem*). It was satisfied that preventing the assemblies had had the legitimate aims of protecting national security, public safety, the prevention of disorder, and the protection of the rights and freedoms of others.

It reiterated that the freedom of assembly as protected in the Convention could not be used to weaken or destroy the ideals and values of a democratic society. In such circumstances, the State might be obliged to take measures to protect itself.

Rodina’s events had been banned as that association had been considered to have in the past promoted the superiority of the Russian nation and the indirect rejection of the Latvian nation and language, causing intolerance, tension and conflict in society. The authorities, confirmed by the courts, saw their actions as a rejection of democratic principles.

The Government drew parallels with the similar provocative discourse that had been used to sow discord in Ukrainian society and to justify the 2014 invasion of that State. The Court stated that it could not overlook Latvia’s position as a neighbour of Russia, which from 2008 onwards had invaded parts of Georgia and had acquired military and political control over parts of Ukraine. There had been a heightened risk of disorder in Latvia when the decisions to prevent Rodina’s events had been taken.

Regarding Ms Borisova's protest, it had been banned because the authorities believed there had been a risk of violence and it had not had the stated aim of ending the war in Ukraine. They had found that B.A., – an individual with a history of activities directed against the territorial integrity and independence of both Ukraine and Latvia – had been the real organiser of the demonstration. The aim had in fact been promotion of provocative "war propaganda" and to express support for unrecognised separatist entities and their paramilitary wings in eastern Ukraine. The Court did not disagree with this assessment.

The Court noted the tense situation in Latvia at that time, in particular the so-called "compatriots policy" pursued by the Russian Federation and its supporters, which had constituted an important threat to Latvia's national security in 2014. The site of the protests – the Soviet Victory Monument and in front of the Ukrainian embassy – had also been provocative.

The Court also noted that Rodina had not been proscribed as an organisation, and a smaller picket had been held in place of Ms Borisova's protest, where posters in support of unrecognised separatist entities in Ukraine and Russia's military activities there had been displayed. They had been able to express their views freely.

The Court considered that calls for expressing the superiority of one nation over another nation or aggressive "war propaganda" messages aimed, in this case, at expressing support for unrecognised separatist entities and their paramilitary wings in eastern Ukraine had no place in a democratic society. Regarding the Rodina protest, it held that the intimidating character of the slogans and videos of war scenes were an overriding consideration, as they had been capable of intimidating others and therefore affecting their rights. Regarding Ms Borisova's protest, the Court could not find justification for aggressive "war propaganda" messages in support for unrecognised separatist entities at the time when an active conflict had been taking place in eastern Ukraine.

Overall, the Court found that the reasons for banning the protests had "met a pressing social need" and had been proportionate. There had been no violation.

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.