



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

FIRST SECTION

Application no. 78116/12
Aleksandr Stepanovich SUKHOV
against Russia
lodged on 10 November 2012

STATEMENT OF FACTS

The applicant, Mr Aleksandr Stepanovich Sukhov, is a Russian national, who was born in 1955 and lives in the Leningrad Region. He is represented before the Court by Mr D. Golubov, a lawyer practising in St Petersburg.

A. The circumstances of the case

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

The applicant is an Orthodox priest in charge of the parish of the Church of the Protection of Most Holy Theotokos located in the Dudachkino village of the Volkhovskiy district in the Leningrad Region. The parish is under the canonical jurisdiction of the “Russian Orthodox Church Abroad - Provisional Supreme Church Authority”, a body composed of parishes from the Russian Orthodox Church Outside of Russia who refused to enter into canonical communion with the Moscow Patriarchate of the Russian Orthodox Church in May 2007.

In the 2000s, with the assistance of parishioners, the applicant installed two engraved plates on the gateposts of the church yard. One of them read “Orthodoxy or death” and the other “To serve God and to destroy enemies of Russia”, a saying attributed to Tsar Ivan the Terrible.

In October 2011, the Volkhov town prosecutor conducted an on-site inspection of the applicant’s church to check its compliance with the Russian law on suppression of extremism. The prosecutor noted the plates on the gateposts which were visible from the motorway that crossed the Dudachkino village. He further observed that the Cheremushkinskiy District Court of Moscow had determined, by judgment of 21 December 2010, that the words “Orthodoxy or death” were an extremist slogan which incited religious hatred and advocated the superiority of citizens professing a particular religion. The slogan was included on the Federal list of extremist material under no. 865.

Relying on the above findings of the inspection, the prosecutor brought a civil claim against the applicant for a court order declaring the statement “Orthodoxy or death” extremist and requiring him to remove the plate. The matter was heard by the Volkhov Town Court of the Leningrad Region.

The applicant explained to the court that the phrase “Orthodoxy or death” originated in the Esphigmenou monastery at the holy site of Mount Athos in Greece. It had a spiritual foundation and was meant to say that Orthodoxy is saving faith, the absence of which leads to spiritual death.

Three parishioners from the Dudachkino village testified before the court that, on one hand, the plate was not readable from the motorway and that, on the other hand, it had a spiritual meaning for them and implied a choice between Orthodox faith and spiritual death.

On 20 February 2012 the Town Court granted the prosecutor’s application. It declared the impugned phrase to be extremist material and ordered that the applicant should remove it.

On 10 May 2012 the Leningrad Regional Court upheld the Town Court’s judgment on appeal. Apart from a restatement of the applicable legal provisions, the Regional Court’s reasoning read as follows:

“The court established, and the respondent did not argue otherwise, that the plate bearing the inscription ‘Orthodoxy or death’ is located on the left gatepost at the entrance into the premises of the Church of the Protection of Most Holy Theotokos... which is a publicly accessible place; hence it is self-evident that the place is visible to an indefinite number of individuals.

Accordingly, the court reached the correct conclusion that by fixing the above plate at the entrance to the Church, the respondent provided access to information encouraging religious hatred, containing propaganda of exceptionality, superiority or inferiority of citizens on the ground of their religion, that is, the superiority of citizens of Orthodox faith in relation to all others which leads to undermining the integrity of the Russian Federation and its national security, incitement of social, racial and religious hatred, provokes hostility to the lifestyle and the culture of citizens of Russian ethnicity, undermines the foundations of the national security of the Russian Federation, breaches constitutional rights of an indefinite number of individuals that they can exercise and protect irrespective of their ethnicity, religion or race.”

On 28 August 2012 a judge of the Leningrad Region Court rejected a cassation appeal by the applicant. A subsequent cassation appeal was dismissed by a judge of the Supreme Court of the Russian Federation on 17 December 2012.

B. Relevant domestic law

The Suppression of Extremism Act (Federal Law no. 114-FZ of 25 July 2002 in force at the material time) defines extremist activities as activities of non-profit, religious or other organisations, the media or individuals consisting in planning, directing, preparing or committing acts aimed at, in particular, encouraging racial, ethnic, religious or social hatred accompanied by violence or calls for violence; or propaganda of exceptionality, superiority or inferiority of citizens on the ground of their religion, social position, race, ethnic origin or language (section 1).

It is prohibited to publish and distribute materials declared extremist by a court or store such materials with the intention of distributing. Publication,

storage or distribution of extremist materials is punishable under Russian law (section 13).

COMPLAINTS

The applicant complains under Articles 9 and 10 of the Convention about an interference with his rights to freedom of religion and freedom of expression. He also complains under Article 6 § 1 of the Convention that the judicial proceedings were not independent or impartial.

QUESTION TO THE PARTIES

Was there a violation of the applicant's right to freedom of expression under Article 10 of the Convention?