



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

FIRST SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 72881/01
by MOSCOW BRANCH OF THE SALVATION ARMY
against Russia

The European Court of Human Rights (First Section), sitting on 24 June 2004 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,

Mr P. LORENZEN,

Mrs S. BOTOCHAROVA,

Mr A. KOVLER,

Mr V. ZAGREBELSKY,

Mrs E. STEINER,

Mr K. HAJIYEV, *judges*,

and Mr S. QUESADA, *Deputy Section Registrar*,

Having regard to the above application lodged on 18 May 2001,

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 is the Moscow branch of the Salvation Army (“the applicant branch” or “the applicant”). It is represented before the Court by Messrs V. Ryakhovskiy and A. Pchelintsev of the Slavic Law Centre, lawyers 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.

1. Background of the case

The Salvation Army officially worked in Russia from 1913 until 1923 when it was dissolved as an “anti-Soviet organisation”.

The Salvation Army resumed its activities in Russia in 1992 when a group of Russian nationals held a meeting and adopted the charter of the Moscow branch of the Salvation Army.

On 6 May 1992 the Justice Department of the Moscow City Council of People’s Deputies (*Управление юстиции Московского городского совета народных депутатов*) registered the applicant branch as a religious organisation having legal entity status.

On 12 September 1997 the Moscow Justice Department (*Управление юстиции г. Москвы*) registered amendments to the charter of the applicant branch.

On 5 May 1998 the Convention entered into force in respect of the Russian Federation.

2. Refusal to grant re-registration to the applicant branch

On 1 October 1997 the new Law on Freedom of Conscience and Religious Associations in 1997 (“the Law”) entered into force. It required, *inter alia*, that all religious associations that had previously been granted legal entity status bring their articles of association in conformity with the Law and apply for re-registration by 31 December 1999.

On 18 February 1999 the applicant branch submitted to the Moscow Justice Department an application for state re-registration as a local religious organisation enclosing the documents required by the Law.

On 16 August 1999 the deputy head of the Moscow Justice Department notified the applicant branch of the refusal of state re-registration. He advanced three grounds for the refusal. First, it was said that at the meeting of the Financial Council (the governing board of the applicant branch) where the amendments to the founding documents were adopted only five (out of six) members were in attendance, while the Law required that a religious organisation should have at least ten founding members. Second, it was alleged that copies of passports of the Financial Council members included in the documents were insufficient because no visas of foreign members, or other documents establishing their legal residence in the Russian territory, were provided. Third, the Moscow Justice Department relied on the fact that the applicant branch was a part of a centralised religious organisation with headquarters abroad, to conclude that the applicant branch was “most likely” a representative office of a foreign

religious organisation and acted on behalf and as an agent of the latter. Registration of representative offices was governed by a special regulation of the Russian Government and such offices could not perform religious activities according to the Law.

On 7 September 1999 the applicant branch challenged the refusal of the Moscow Justice Department before the Presnenskiy District Court of Moscow.

The Moscow Justice Department asked to hear the case in the absence of its representative and submitted its written comments on the applicant branch's complaint. In the comments the Moscow Justice Department advanced the following new argument against the registration of the applicant branch:

“...Article 6 of the Charter provides that members of the Branch shall include supporters, soldiers, local officers and officers headed by the Officer Commanding appointed from London. Members of the Branch wear uniform and perform service, which means that the Branch is a paramilitary organisation.

Pursuant to Decree of the President no. 310 of 23 March 1995 ‘On Measures to Secure Co-ordinated Actions by State Authorities in the Fight against Fascism and Other Forms of Political Extremism in the Russian Federation’ no paramilitary formations may be established in the Russian Federation.

We do not consider the use of the word ‘Army’ in the name of a religious organisation to be legitimate. The Large Encyclopaedic Dictionary defines the meaning of this word as: 1. The totality of a state’s armed forces...”

As to the remainder, the Moscow Justice Department repeated and elaborated on the grounds for refusal set out in the letter of 16 August 1999.

On 5 July 2000 the Presnenskiy District Court gave its judgment. It decided that the applicant branch was a representative office of the international religious organisation of The Salvation Army and therefore it was not eligible for registration as an independent religious organisation. In the court’s opinion, this fact prevented the applicant branch from being granted re-registration. The court further recalled that Article 13 § 5 of the Russian Constitution prohibited the founding and functioning of public associations aiming to change violently the constitutional foundations or to destroy the integrity of the Russian Federation, to undermine the security of the State, to create paramilitary formations or to cause social, racial, ethnic or religious division or conflict. The court continued as follows:

“In the course of the analysis of the Charter, certain of its provisions stood out as being, on one hand, full of barrack-room discipline and the unquestionable subordination of the members of the religious organisation to its management and, on the other hand, relieving the management and the organisation as a whole from any responsibility for the activities of its members. Thus, according to Article 6 § 3 of the Charter, ‘the members of the Branch shall act in compliance with The Salvation Army’s Orders and Regulations and with the instructions of the Officer Commanding’, ... ‘the Branch as a whole is not liable for infringements of the

legislation of the Russian Federation perpetrated by individual members of the Branch'. This wording of the Charter leads one to conclude that the Charter assumes that the members of the organisation will inevitably break Russian law in the process of executing the Salvation Army's Orders and Regulations and the instructions of the Officer Commanding... The Branch excludes its liability for illegal service activity of its members."

The court also pointed to a formal defect of the charter concerning the procedure for liquidation of the organisation. Finally, the court held that the extent of disclosure of the organisation's objectives and purposes in its charter was insufficient.

The court ruled that the refusal of re-registration had been lawful and "critically appraised" the applicant branch's submissions concerning re-registration of similar religious organisation in other Russian regions.

The applicant branch appealed.

On 28 November 2000 the Civil Section of the Moscow City Court upheld the judgment of 5 July 2000. The city court adopted, however, a different approach. The argument was centred around the foreign ties of the applicant branch. The court pointed out that the executive body of the organisation included five foreign nationals who were in possession of multiple-entry visas, but not residence permits. However, the court went on, the Law required the founders of a religious organisation to have Russian nationality (Article 9.1). The court had regard to the existence of The Salvation Army's headquarters abroad and the presence of the word "branch" in the name of the organisation which led it to conclude that the Moscow Justice Department had correctly insisted on registration of the first applicant as a representative office of a foreign religious organisation. The court also noted that the charter contained no reference to the religious denomination of the organisation's founders, although such reference was required by Article 10 § 2 of the Law.

On 12 July 2000 the Ministry of Education of the Russian Federation sent to education departments in Russian regions the instruction "On Activities of Non-traditional Religious Associations in the Territory of the Russian Federation", which stated, *inter alia*:

"...in the Central part of Russia the international religious organisation The Salvation Army is expanding its activities. Its followers attempt to influence the youth and the military. The Salvation Army formally represents the Evangelic Protestant branch of Christianity, however, in essence, it is a quasi-military religious organisation that has a rigid hierarchy of management. The Salvation Army is managed and funded from abroad."

The applicant branch submits that this extract was copied verbatim from an information sheet prepared by the Federal Security Service of the Russian Federation (*Федеральная служба безопасности РФ*) and forwarded to the Ministry of Education on 29 May 2000.

On 31 December 2000 the time-limit for re-registration of religious organisations expired. Pursuant to Article 27 § 4 of the Law, the

organisations who failed to obtain re-registration were liable to liquidation through courts.

On 2 August and 10 September 2001 the Moscow City Court and the Supreme Court of the Russian Federation, respectively, refused the applicant branch's request to lodge an application for supervisory review (*протест в порядке надзора*).

3. Proceedings for liquidation of the applicant branch

On 29 May 2001 the Moscow Justice Department brought an action for liquidation of the applicant branch.

On 12 September 2001 the Taganskiy District Court of Moscow granted the action for liquidation. The court found that the applicant branch had failed to notify the Moscow Justice Department on time about a continuation of its functioning and failed to obtain re-registration before the time-limit set by the Law. The court held that the applicant branch had ceased its functioning and it was to be stripped of the legal entity status and struck out of the State register of legal entities.

On 6 December 2001 the Civil Section of the Moscow City Court upheld, on the applicant branch's appeal, the judgment of 12 September 2001.

On 10 September 2001 the applicant branch brought a complaint before the Constitutional Court challenging the constitutionality of Article 27 § 4 of the Law that required liquidation of religious organisations that had failed to re-register before the time-limit. The applicant branch argued that the contested provision liquidation required liquidation as a form of penalty that could be imposed on a religious organisation on purely formal grounds, in the absence of any violations or offences on the part of the organisation. It maintained that the possibility of no-fault penalty was not compatible with the rule of law and constituted an encroachment on its constitutional rights.

On 7 February 2002 the Constitutional Court of the Russian Federation ruled on the applicant branch's complaint. It held that re-registration of a religious organisation could not be made conditional on the fulfilment of requirements that were introduced by the Law and had not legally existed at the time of the founding of the organisation. A court could only decide on liquidation of an organisation that failed to bring its documents in compliance with the Law, if it was duly established that the organisation had ceased its functioning or engaged in unlawful activities. The court also emphasised that a court decision on liquidation of an organisation that failed to obtain re-registration was to be reasoned beyond a reference to such formal indications for liquidation as the failure to re-register or the failure to provide information on its continuing functioning. The court finally held that the applicant branch's case were to be reheard in the part differing from the interpretation of the Law given by the Constitutional Court.

On 1 August 2002 the Presidium of the Moscow City Court quashed the judgment of 12 September 2001 and remitted the case for a new examination by a differently composed bench.

On 18 February 2003 the Taganskiy District Court of Moscow dismissed the action for liquidation of the applicant branch brought by the Moscow Justice Department. The court based its decision on the reasons given by the Constitutional Court of the Russian Federation. The judgment was not appealed against and became final ten days later.

As of 1 May 2004 the court judgments of 5 July and 28 November 2000 whereby the applicant branch was stripped of the legal entity status remained in force.

4. The effect of the refusal to grant re-registration

The applicant branch submits that the refusal to re-register has had an adverse impact on its activity.

Following the expiration of the deadline for re-registration on 31 December 2000, the assets of the applicant branch had to be transferred to the legal entity re-registered at the federal level in order to avoid seizure. Such transfer required a lot of time and effort: title to three properties; title and registration of fourteen vehicles; opening of a new bank account; replacement of every employee contract; renegotiations of twenty-six rental contracts, etc. Each of these transfers has necessitated complex bureaucratic steps and a diversion of resources from religious activity.

The refusal also resulted in negative publicity which has severely undercut the applicant branch's efforts at charitable fund-raising and generated distrust among landlords who refused to negotiate leases with the applicant branch.

In at least one neighbourhood the applicant branch's mission of delivering hot meals to home-bound elderly persons had to be stopped entirely because an official of the local administration refused to work with the applicant branch having no official registration.

The lack of state registration made it impossible for 25 foreign employees and seven non-Moscow Russian employees to obtain residence registration in Moscow, which is required by law for everyone who stays in the city.

B. Relevant domestic law

1. Constitution of the Russian Federation

Article 29 of the Russian Constitution guarantees the freedom of religion, including the right to profess either alone or in community with others any

religion or to profess no religion at all, to freely choose, have and share religious and other beliefs and manifest them in practice.

Article 30 of the Russian Constitution provides that everyone shall have the right to freedom of association.

2. Law on the Freedom of Conscience and Religious Associations

Introduction

On 1 October 1997 the Federal Law on the Freedom of Conscience and Religious Associations (*Федеральный Закон «О свободе совести и о религиозных объединениях»*, no. 125-FZ of 26 September 1997, “the Law”) entered into force. It replaced the RSFSR Law with the same title of 25 October 1990.

In the preamble the Law acknowledges “the special role of the [Eastern] Orthodoxy in the history of Russia and in the establishment and development of its spiritual and cultural life” and respects “Christianity, Islam, Buddhism, Judaism and other religions constituting an integral part of the historical heritage of the peoples of Russia”.

Religious groups and religious organisations: definitions and scope of rights

Article 6.2 specifies that religious associations may have the form of either a religious group, or a religious organisation. A religious group shall carry out its activity without state registration and without obtaining legal personality (Article 7.1). A religious organisation is defined as a voluntary association of Russian nationals and permanent residents of Russia, formed for profession and dissemination of faith and duly registered as a legal entity (Article 8.1).

The following rights are only conferred on religious organisations: right to obtain tax exemptions and other benefits, financial and other aid for the restoration, maintenance and protection of historically important buildings and religious items and teaching in educational institutions (Article 4.3); right to establish educational institutions and, with consent of the parents and children, teach religion as extracurricular courses (Articles 5.3 and 5.4); right to establish and maintain religious buildings and other places for worship or pilgrimage (Article 16.1); right to carry out, on invitation, religious rites in health centres, hospitals, children’s homes, old people’s homes, facilities for the disabled and prisons (Article 16.3); right to manufacture, acquire, export, import and distribute religious literature, printed, audio and video material and other religious articles (Article 17.1); right to carry out charitable activities on their own or through charitable foundations established by them (Article 18.1); right to create cross-cultural organisations, educational institutions and found mass media (Article 18.2); right to establish and maintain international links and contacts for

pilgrimages, conferences, etc., including the right to invite foreign nationals to the Russian Federation (Article 20.1); right to own buildings, plots of land, other property, financial assets and religious artefacts, including the right to have municipal and state property transferred to them free of charge for religious purposes and the immunity of such property from legal charge (Articles 21.1-21.5); right to use state and other property for religious purposes, such right to be granted free of charge (Article 22); right to establish companies and engage in business activities (Article 23); and right to hire employees (Article 24).

Also, the following rights are explicitly delegated to religious organisations, to the exclusion of all other entities: right to found companies publishing religious literature or producing articles for religious services (Article 17.2); right to establish licensed educational institutions for professional training of clergy and auxiliary religious staff (Article 19.1); and right to invite into the Russian Federation foreign nationals planning to engage into professional religious activity, including preaching (Article 20.2).

Registration of a religious organisation

The regional departments of the Ministry of Justice are in charge of state registration (including re-registration) of religious organisations (Article 11.2 of the Law). For the registration of a religious organisation the founders are required to submit, *inter alia*:

“information on the fundamentals of the doctrines and practices of the religion, including the history of the religion and the particular association, forms and methods of its activity, its attitude toward the family and marriage, toward education, particularities of its attitude toward the health of its followers, restrictions on the organisation’s members and clergy regarding their civic rights and duties;

document showing the location (legal address) of the religious organisation.”

Pursuant to Article 11.8 the application for registration shall be examined within one month. In certain cases this period can be extended for up to six months, if an expert examination in religious studies is required.

If the founders of a religious organisation fail to produce documents required by law, the registration authority may leave their application for registration without examination and send them a notice thereof (Article 11.9).

State registration of a religious organisation may be refused, in particular, if its purposes or activities contradict the Russian Constitution or laws, or if the organisation’s charter or other founding documents do not conform to the requirements of Russian laws (Article 12.1).

A refusal of state registration shall be notified to the applicant(s) in writing with indication of the grounds for the refusal. The refusal of state

registration and the registration authority's attempts to avoid registration are appealable to a court (Article 12.1).

Re-registration of existing religious organisations

Article 27.3 of the Law provides that the founding documents of religious organisations that had been established before the Law came into force shall be amended to conform to the Law. Until so amended, the founding documents shall remain operative in the part which does not contradict the Law.

It is further provided that a religious organisation may not be granted re-registration if there are grounds for its liquidation or banning set out in Article 14.2 of the Law. Where the re-registration has been refused on these grounds, the registration authority shall transmit the materials to a court.

Article 27.4 in the original wording of 1997 specified that the re-registration shall take place no later than 31 December 1999. Subsequently this provision was amended and the deadline was extended until 31 December 2000.

C. Relevant Council of Europe documents

1. The Report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee, doc. 9396, 26 March 2002) on honouring of obligations and commitments by the Russian Federation stated in its relevant part as follows:

“95. The Russian Constitution safeguards freedom of conscience and of religion (article 28); the equality of religious associations before the law and the separation of church and state (article 14), and offers protection against discrimination based on religion (article 19). The law on freedom of religion of December 1990 has led to a considerable renewal of religious activities in Russia. According to religious organisations met in Moscow, this law has opened a new era, and led to a revitalisation of churches. It was replaced on 26 September 1997 by a new federal law on freedom of conscience and religious associations. This legislation has been criticised both at home and abroad on the grounds that it disregards the principle of equality of religions.

96. ...In February 2001, the Ombudsman on Human Rights, Oleg Mironov, also acknowledged that many articles of the 1997 law “On Freedom of Conscience and Religious Associations” do not meet Russia's international obligations on human rights. According to him, some of its clauses have led to discrimination against different religious faiths and should therefore be amended.

97. In its preamble the law recognises "the special role of Orthodoxy in the history of Russia and in the establishment and development of its spiritual and cultural life" and respects "Christianity, Islam, Buddhism, Judaism and other religions constituting an integral part of the historical heritage of the peoples of Russia". ...

98. According to the regulations by the Ministry of Justice, - responsible for the implementation of the law on freedom of conscience and religious associations -, religious organisations established before the law came into force (26 September 1997) had to re-register before 31 December 2000.

99. The registration process was finally completed on 1 January 2001 as the State Duma decided to extend the deadline twice. About 12 000 religious organisations and groups have been registered, and only 200 were refused their registration, most of them because they failed to produce a complete file. Many others have, for a variety of reasons, failed to register. The Minister of Justice, Mr Chaika strongly rejected allegations that the Orthodox Church had exerted pressure on the Ministry to prevent some religious organisations from obtaining their registration. Mr Chaika also indicated that experts of the Ministry had “closely examined” the status of the Salvation Army and the Jehovah’s Witnesses, and had come to the conclusion that nothing prevented the latter’s registration at the federal level.

100. The Salvation Army, which feeds around 6,000 Russians every month in the winter, has had to waste tens of thousands of dollars in legal fights over registration, and the Catholic church (as well as the Jewish community) has had trouble getting visas for its foreign clergy. Some other religious organisations have also been prevented from being registered at the local level: the Adventist Church, the Pentecostal Church, the Baptists, the Evangelist Church and other churches in particular in Tatarstan, in the region of Rostov and in Vladimir oblast. These religious organisations also voiced complaints that they had serious difficulties to settle, to build or buy their places of worship, or to recover confiscated properties. Some among them – e.g. the True Orthodox Church, the Union of Evangelists Pentecotists – have claimed that they suffered from repeated harassment by the authorities.

101. Indeed, there have been cases where, even if a religious organisation had re-registered nationally, local authorities created obstacles...

103. Although on 22 February 2001, the Russian Justice Ministry finally reregistered the Salvation Army in Russia, at federal level, registration had been constantly denied to the Moscow chapter of this religious organisation by the Chief Directorate of the Ministry of Justice in Moscow, and appeals to the various courts in Moscow failed. Moreover, in April 2001, liquidation procedures were put in place to close down Salvation Army Corps and social programs within Moscow, and on 11 September 2001 the Tagansk[iy] intermunicipal court ruled that the Moscow chapter was subject to liquidation on the basis of article 27 of the 1997 federal law. (It provides for the liquidation of the legal entity that did not reregister by the 31 December 2000 deadline.)

104. The co-rapporteurs are very surprised and puzzled by the decision to ban the operations of the Salvation Army in Moscow, and they would highly appreciate the clarification of this matter by the Russian authorities. In this respect, they refer to the Monitoring Committee’s call on Russia of 6 September 2001 to ensure that the Salvation Army enjoys the same rights as it has in other member states of the Council of Europe, including the right to be registered in Moscow. During their fact-finding visit in November 2001, the co-rapporteurs used every opportunity to stress the need for a solution, and the potential embarrassment this problem may cause for Russia.”

2. Resolution 1277 (2002) on honouring of obligations and commitments by the Russian Federation adopted by the Parliamentary

Assembly of the Council of Europe on 23 April 2002, provided, *inter alia*, as follows:

“8. However, the Assembly is concerned about a number of obligations and major commitments with which progress remains insufficient, and the honouring of which requires further action by the Russian authorities: ...

xiv. the Assembly regrets the problems of the Salvation Army and Jehovah’s Witnesses in Moscow, but welcomes the decision of the Russian authorities to ensure that the problem of local discrimination and harassment of these religious communities be brought to an end; ...”

3. Resolution 1278 (2002) on Russia’s law on religion adopted by the Parliamentary Assembly of the Council of Europe on 23 April 2002, noted, *inter alia*, the following:

“1. The new Russian law on religion entered into force on 1 October 1997, abrogating and replacing a 1990 Russian law – generally considered very liberal – on the same subject. The new law caused some concern, both as regards its content and its implementation. Some of these concerns have been addressed, notably through the judgments of the Constitutional Court of the Russian Federation of 23 November 1999, 13 April 2000 and 7 February 2002, and the religious communities’ re-registration exercise at federal level successfully completed by the Ministry of Justice on 1 January 2001. However, other concerns remain. ...

5. Moreover, some regional and local departments of the Ministry of Justice have refused to (re)register certain religious communities, despite their registration at federal level. The federal Ministry of Justice does not seem to be in a position to control these regional and local departments in accordance with the requirements of the rule of law, preferring to force religious communities to fight these local departments over registration in the courts rather than taking remedial action within the ministry. The case of the Moscow branch of the Salvation Army deserves particular attention in this respect, and should lead to an internal disciplinary inquiry by the federal Ministry of Justice into the workings of its Moscow department. The Moscow Department of Justice tried to close down this branch of the Salvation Army (despite federal registration), for allegedly failing to re-register by the law’s deadline. The Constitutional Court ruled in favour of the Salvation Army on 7 February 2002.

6. Therefore, the Assembly recommends to the Russian authorities that:

i. the law on religion be more uniformly applied throughout the Russian Federation, ending unjustified regional and local discrimination against certain religious communities and local officials’ preferential treatment of the Russian Orthodox Church, and in particular their insisting in certain districts that religious organisations obtain prior agreement for their activities from the Russian Orthodox Church;

ii. the federal Ministry of Justice become more proactive in resolving disputes between its local/regional officials and religious organisations before disputes are brought before the courts, by taking remedial action within the ministry in case of corruption and/or incorrect implementation of the law on religion, thus rendering it unnecessary to take such cases to the courts...”

COMPLAINTS

1. The applicant branch complains under Articles 9 and 11 of the Convention that the refusal to grant legal entity status severely curtailed and curtails its ability to manifest its religion in worship and practice. The applicant submits that the classification of the Salvation Army as a paramilitary organisation and the assumption that its members would inevitably break Russian law are not founded on any factual proof and represent an impermissible judgment about the legitimacy of the applicant's religion.

2. The applicant branch complains under Article 6 § 1 of the Convention that the first instance court failed to address two of the three grounds for the refusal of state re-registration. The applicant contends that the court went beyond the complaint lodged and considered the "nature" of the applicant branch, of which the consequence was an inequality of arms between the parties. The applicant also alleges a violation of the reasonable time requirement in that the courts failed to comply with time-limits for examination of cases established in the domestic law.

3. The applicant branch complains under Article 14 in conjunction with Articles 9, 11 and 6 § 1 about discriminatory treatment on the ground of its status as a religious minority in Russia.

THE LAW

1. The applicant branch complains under Articles 9, 11 and 14 of the Convention that it was arbitrarily stripped of its legal entity status as a result of the refusal to re-register it as a religious organisation. 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 submit that a lawful requirement to bring the founding documents of a religious organisation in compliance with the existing law cannot be considered an interference in the meaning of para. 1 of Article 11 or Article 9 of the Convention. They claim that the applicant branch’s complaints are grounded on a theoretical assumption of its imminent liquidation. On 1 October 2002 the applicant branch was included in the Unified State Register of Legal Entities and given the Main State Registration Identifier. The Government consider that in the light of the ruling of the Constitutional Court of 7 February 2002 and the judgment of the Taganskiy District Court of 18 February 2003 there can be no doubts that the applicant branch continues to operate and there are no hindrances to its functioning. Finally, they allege that the applicant branch may still apply for re-registration.

The applicant branch does not dispute that the judgment of the Taganskiy District Court of 18 February 2003 barred its liquidation. However, it believes that the threat of liquidation is not merely hypothetical but rather real as, pursuant to Article 27 § 4 of the Law, religious organisations that failed to obtain re-registration have to be imperatively liquidated by a court order. Furthermore, the time-limit for re-registration set out in that provision expired on 31 December 2000 and no extension was granted. It is therefore legally impossible to file a new application for re-registration, contrary to what the Government suggest. Finally, it points out that it has never argued that the requirement to bring the founding documents in compliance with the existing law interfered with its rights as such. Its rights were violated because of the arbitrary and unlawful application and interpretation of this requirement by the Moscow Justice Department and the domestic courts.

The Court’s assessment

The Court considers, in the light of the parties’ submissions, that the complaint raises serious issues of fact and law under the Convention, the

determination of which requires an examination of the merits. The Court concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established.

2. The applicant branch complains under Article 6 § 1 of the Convention that the first-instance court, in its judgment of 5 July 2000, failed to address all of its arguments, that it undertook at its own initiative the examination of issues that were not related to the substance of the complaint and that the overall length of the proceedings before the domestic courts exceeded the “reasonable time”. The relevant parts of Article 6 § 1 provide as follows:

“In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal...”

The Court recalls at the outset that the proceedings concerning the granting of legal entity status to an association of individuals have been found to determine that association’s “civil rights and obligations” in the meaning of Article 6 § 1 (see *APEH Üldözötteinek Szövetsége and Others v. Hungary*, no. 32367/96, §§ 30-36, ECHR 2000-X). It considers that the same reasoning applies in the case of proceedings concerning re-registration of an association that might potentially result in its being stripped of its legal entity status. Article 6 § 1 was therefore applicable to the proceedings at issue, to which the applicant branch was a party.

Insofar as the applicant branch’s complaints refer to the judgment of the first-instance court of 5 July 2000, the Court finds that the shortcomings complained of in the proceedings at first instance, if any, were remedied in the appellate proceedings in which the first instance judgment was subject to control by a judicial body that had full jurisdiction in the case and provided the guarantees of an impartial and independent tribunal within the meaning of Article 6 (see, *mutatis mutandis*, *De Haan v. the Netherlands*, judgment of 26 August 1997, *Reports of Judgments and Decisions* 1997-IV, § 52, with further references).

To the extent that the applicant branch alleges a violation of its right to a hearing “within a reasonable time”, the Court notes that the proceedings at two levels of jurisdiction lasted from 7 September 1999 (when the complaint was lodged) until 28 November 2000 (the final judgment), i.e. for a total of one year and almost three months. The Court finds that that period was compatible with the “reasonable time” criterion of Article 6 § 1. The remainder of the applicant branch’s complaints under Article 6 is not substantiated.

It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares admissible, without prejudging the merits, the applicant branch's complaint about the domestic authorities' refusal of its application for re-registration as a legal entity;

Declares inadmissible the remainder of the application.

Santiago QUESADA
Deputy Registrar

Christos ROZAKIS
President