



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

FIRST SECTION

**CASE OF BIBLICAL CENTRE OF THE CHUVASH REPUBLIC
v. RUSSIA**

(Application no. 33203/08)

JUDGMENT

STRASBOURG

12 June 2014

FINAL

13/10/2014

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

In the case of Biblical Centre of the Chuvash Republic v. Russia,

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

Isabelle Berro-Lefèvre, *President*,

Elisabeth Steiner,

Khanlar Hajiyeu,

Mirjana Lazarova Trajkovska,

Julia Laffranque,

Paulo Pinto de Albuquerque,

Dmitry Dedov, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 20 May 2014,

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

PROCEDURE

1. The case originated in an application (no. 33203/08) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by the Russian religious organisation Biblical Centre of the Evangelical (Pentecostal) Christians of the Chuvash Republic (“the applicant organisation” or “the Biblical Centre”), on 15 April 2008.

2. The applicant organisation was represented by Mr R. Maranov, a lawyer with the Slavic Centre for Law and Justice in Moscow. The Russian Government (“the Government”) were represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

3. On 30 August 2010 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Founding and activities of the Biblical Centre

4. On 21 November 1991 the Chuvash Christian mission “Voice of Truth” was registered as a religious organisation under the RSFSR Religions Act of 25 October 1990. It belonged to the Pentecostal movement of the Christian faith.

5. On 24 November 1998, in connection with the enactment of a new Religions Act of 26 September 1997, the organisation was renamed the Biblical Centre of the Evangelical (Pentecostal) Christians of the Chuvash Republic (*Библейский Центр Чувашской Республики Христиан веры евангельской (пятидесятников)*).

6. Under paragraph 2.2 of the organisation's articles of association, one of the activities of the Biblical Centre was the establishment of educational institutions for training clergymen, organising conferences and seminars and lecturing. To that end the Biblical Centre had the right to found institutions of professional religious education, spiritual educational institutions, including Sunday schools for youth and children, and to establish non-commercial organisations pursuing educational aims (paragraph 2.3 of the articles).

7. On 20 January 1996 the Biblical Centre founded the Middle Volga Biblical College and a Sunday school, which were not registered as legal entities.

8. The Sunday school did not have any organised structure as such. It was held once a week as a means of keeping the children of parishioners occupied while the adults attended the religious service. Parents took turns to spend time with the children, to read and discuss the Bible with them. The school was free of charge and did not employ any staff.

9. The Biblical College recruited students from religious organisations belonging into the same Pentecostal denomination but located in different regions of Russia. Students were trained as evangelical attendants, pastors, preachers, missionaries, Sunday school teachers, preceptors, biblical signers for the deaf, and youth leaders. The subjects taught at the College included theology (dogma), exegesis (interpretation of religious texts), homiletics (the study of preparation and delivery of sermons), apologetics (defence of the Christian faith), history of Christianity, basics of pedagogy, theory of music, memorisation, and others. Upon completion of a training course, students obtained a document, referred to as a "diploma", which certified training in particular subjects. Education at the College was free of charge.

B. Inspections of the Biblical Centre and administrative proceedings

10. In April and May 2007 the Novocheboksarsk town prosecutor, together with the Novocheboksarsk Fire Inspection Service and the Consumer Protection Service, conducted an inspection of the applicant organisation's premises with the declared aim of verifying its compliance with the requirements of the legislation on education, freedom of conscience and religious associations. The grounds for the inspection were not revealed.

11. On 2 May 2007 the town prosecutor requested the director of the Biblical Centre to provide, within two days, detailed information about the activities of the Sunday school and Biblical College, including a list of

subjects taught and the names of the teachers and all students, both past and present.

12. On 10 May 2007 the State Fire Inspection Service issued a formal note establishing the following violations of fire safety regulations:

- (a) the windows of the premises were equipped with solid metal bars;
- (b) an automatic fire alarm with smoke detectors was not installed;
- (c) fire-safety signs were absent.

13. By letter of 11 May 2007, the Consumer Protection Service reported the following violations to the town prosecutor:

- (a) students were not provided with comfortable work stations adapted to their height, sight and hearing; rudimentary benches were used instead;
- (b) walls were covered with paper-based wallpaper which could not be wiped clean;
- (c) linoleum on the floor did not offer sufficient protection against the cold;
- (d) windows were decorated with flowers in pots;
- (e) doors in the toilets for children of both sexes did not have locks; there was no personal-hygiene room for girls;
- (f) the staff did not have a separate toilet;
- (g) descriptions of course content, methodical literature and timetables did not refer to hygienic requirements;
- (h) the delivery and composition of students' meals had not been agreed upon with the Consumer Protection Service.

14. All the violations were established by reference to the State-approved hygienic standards binding on institutions of public education and vocational training.

15. On 28 May 2007 the town prosecutor instituted administrative proceedings against the director of the Biblical Centre for allowing the Centre to conduct educational activities without authorisation (a licence), an offence under Article 19.20 § 1 of the Code of Administrative Offences. On 10 July 2007 the Justice of the Peace of the 4th Court Circuit of Novocheboksarsk heard the charge and found the director guilty of that offence. The Justice found, in particular, as follows:

“The Novocheboksarsk prosecutor’s office inspected [the Centre] and discovered that the educational process [there] follows a specific educational programme and class schedule and is carried out by staff teachers in exchange for pay. Students’ knowledge of subjects is evaluated on a five-point scale or with pass-fail marks; upon completion of a course students obtain a diploma ... These elements indicate that the Biblical Centre engages in educational activities which are not listed in its articles of association ...

The Education Act (law no. 3266-I of 10 July 1992) defines education as the purposeful process of upbringing and learning in the interests of the individual, society and the State, accompanied by the confirmation of achievement of the educational levels established by the State ... Pursuant to section 17 § 1 of the

Education Act, an educational institution acquires the right to conduct educational activities upon receipt of authorisation (a licence)... As the materials in the case file show, the Centre has no such licence ...”

16. The Justice rejected the director’s argument that the activities of the Centre fell outside the scope of the definition contained in the Education Act, holding that the definition “may not be used to describe educational activities that are carried out in breach of the Education Act”. The director was sentenced to pay a fine of 10,000 Russian roubles.

17. In his statement of appeal, the director pointed out that the Education Act established specific educational levels (basic and intermediate general education, basic, intermediate and higher professional education, and post-graduate professional education), none of which were mentioned in the Centre’s programmes or diplomas. The religious instruction and guidance of followers fell outside the scope of the Education Act and were not subject to any licensing requirements.

18. On 31 July 2007 the Novocheboksarsk Town Court upheld the Justice’s decision in a summary fashion, without addressing the director’s arguments in detail.

19. In concurrent proceedings, on 10 July 2007 the same Town Court found the applicant organisation liable for the administrative offence of violating sanitary rules and hygienic requirements in respect of all the points identified by the State Fire Inspection Service and the Consumer Protection Service. The Town Court issued a warning to the applicant organisation.

20. On 2 August 2007 the Supreme Court of the Chuvash Republic summarily rejected the applicant organisation’s statement of appeal, in which it maintained that the sanitary standards binding on State educational institutions were not applicable to the Sunday school and Biblical college.

C. Dissolution of the Biblical Centre

21. On 28 May 2007 the Novocheboksarsk town prosecutor filed a claim for dissolution of the Biblical Centre. He rested his claim on the findings of the two inspections, as described above, and the allegation of illegality of the educational activities conducted at the Biblical College and Sunday school. In his submission, such activities “violated the right of an indeterminate group of people to receive education in conditions that guarantee security, improvement of health and counter the negative influence of unhealthy factors”.

22. In his comments on the prosecutor’s application, the director of the Biblical Centre submitted that the applicant organisation merely dispensed religious instruction to its followers and did not provide formal education. He invited the court to reject the application and pointed out that the court could issue a separate decision ordering the Biblical Centre to bring its activities into conformity with the requirements of the law. He indicated

that, in response to the prosecutor's claims, the Centre had promptly adopted the Rules on lecture- and seminar-based education, as a result of which it had eliminated the use of ambiguous terminology such as "college", "diploma", and others.

23. The town prosecutor participated in the hearing on 3 August 2007. Responding to questions from the director of the Biblical Centre, he admitted that the initial inspection had purported to uncover elements of extremism in the Centre's activities and that he had filed a claim for dissolution because "it was within his competence".

24. A representative of the Federal Registration Service, the entity in charge of the registration of religious organisations, took part in the proceedings as a third party. She stated that there were 270 registered religious organisations in the Chuvash Republic. When asked by counsel whether those organisations had licences for their Sunday schools, she replied that the majority of them were Orthodox parishes which were entitled to carry out such activities under the provisions of the "standard Orthodox statute".

25. On 3 August 2007 the Supreme Court ordered the dissolution of the applicant organisation and its removal from the State Register of Legal Entities. Having examined documents from the archive of the Middle Volga Biblical College, it acknowledged that some of the College's activities had been one-time seminars and conferences to which the licensing requirement did not apply. However, the organisational chart of the Biblical College, the class schedule, work contracts with teachers, lists of students and diplomas issued to them were held by the Supreme Court to be evidence of ongoing educational activities in the College for which it should have obtained authorisation (a licence). Neither the Biblical Centre nor the Biblical College were registered as an educational institution, nor had they obtained a licence for conducting educational activities. Accordingly, they had acted in breach of the requirements of section 33 of the Education Act and section 19 of the Religions Act.

26. With regard to the Sunday school, the Supreme Court found that the contents and nature of religious education dispensed to children may be determined by the religious organisation providing it. Nevertheless, the material conditions of religious education should be compatible with sanitary and hygienic standards and other requirements applicable to educational institutions. The Supreme Court held that the above-mentioned judgments of 10 and 31 July 2007, which had acquired the force of *res judicata*, were sufficient proof of both the fact that the Biblical College dispensed education without the required licence, and the fact that the conditions in which students were educated at the Sunday school and the Biblical College fell short of the sanitary standards.

27. The Supreme Court held that the educational activities conducted by the applicant organisation without a licence amounted to a "gross and

repeated violation” of the requirements of the Education Act and Religions Act and ordered its dissolution on the basis of Article 61 § 2 of the Civil Code and section 14 § 1 of the Religions Act.

28. On 16 October 2007 the Supreme Court of the Russian Federation, sitting as a three-judge panel composed of Judges Kn. (President), P. and B., dismissed the applicant organisation’s appeal against the dissolution decision, rejecting its arguments in a summary fashion.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Constitution of the Russian Federation

29. Article 28 guarantees 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.

B. Civil Code

30. Article 61 § 2 (2) of the Civil Code establishes that a legal entity may be dissolved by a judicial decision in the following cases:

“... [it] carries out an activity without appropriate authorisation (a licence), or [engages in activity] that is prohibited by law or is in breach of the Russian Constitution, or [has committed] other repeated or gross breaches of law or other regulations ...”

C. Religions Act (no. 125-FZ of 26 September 1997)

31. The relevant provisions of the Religions Act read as follows:

Section 5: Religious education

“1. Everyone has the right to receive religious education as a matter of choice, individually or in community with others.

...

3. Religious organisations may establish educational institutions in accordance with their statutes and the legislation of the Russian Federation.”

Section 14: Suspension of the functioning of a religious association, dissolution of a religious association and banning of the activities of a religious association in the event they [*sic*] committed a breach of law

“1. Religious organisations may be dissolved:

— by a decision of their founders ...

— by a judicial decision in the event of repeated or gross violations of the provisions of the Russian Constitution, of this federal act or of other federal acts ...

2. The grounds for dissolving a religious organisation and banning the activities of a religious organisation or a religious group by judicial decision are:

- breach of public security and public order;
- actions aimed at engaging in extremist activities;
- coercion into destroying the family unit;
- infringement of the personality, rights and freedoms of citizens;
- infliction of harm, established in accordance with the law, on the morals or health of citizens, including by means of narcotic or psychoactive substances, hypnosis, or committing depraved and other disorderly acts in connection with religious activities;
- encouragement of suicide or the refusal on religious grounds of medical assistance to persons in life- or health-threatening conditions;
- hindrance to receiving compulsory education;
- coercion of members and followers of a religious association and other persons into alienating their property for the benefit of the religious association;
- hindering a citizen from leaving a religious association by threatening harm to life, health, or property, if the threat can actually be carried out, or by application of force or commission of other disorderly acts;
- inciting citizens to refuse to fulfil their civil duties established by law or to commit other disorderly acts.

3. Prosecutor's offices of the Russian Federation, the federal registration authority and its regional divisions and local self-government authorities may file an application with a court to have a religious organisation dissolved or the activities of a religious organisation or religious group banned."

Section 19: Institutions of professional religious education

"1. Religious organisations, in accordance with their statutes, have the exclusive right to found institutions of professional religious education (spiritual educational institutions) for the training of clergymen and religious staff.

2. Institutions of professional religious education shall be registered as religious organisations and shall obtain a State licence to conduct educational activities."

D. Education Act (no. 3266-I of 10 July 1992)

32. The preamble to the Act defines education as

"the purposeful process of upbringing and learning in the interests of the individual, society and the State, accompanied by a confirmation of achievement of the educational levels established by the State".

33. Section 15 sets out the general requirements on the organisation of the educational process. It provides, in paragraph 4, that the completion of

the mandatory curriculum of, in particular, all types of vocational training must be accompanied by a mandatory final evaluation of students.

34. Sections 17 and 33 § 6 establish that educational institutions acquire the right to dispense education upon receipt of authorisation (a licence).

E. Prosecutors Act (Federal Law no. 2202-1 of 17 January 1992)

35. Prosecutors oversee compliance with the Russian Constitution and laws by State and municipal authorities and their officials, as well as by the governing bodies and directors of commercial and non-commercial associations (section 21 § 1).

36. Prosecutors have the right to institute administrative or other proceedings and to warn potential offenders that a breach of law is unacceptable (section 22 § 2). Prosecutors may, in particular, issue reports pertaining to the remedying of the violations uncovered (section 22 § 3).

F. Case-law of Russian courts

37. On 20 February 2002 the Federal Commercial Court of the Volga-Vyatka Circuit upheld at final instance a judgment of the Commercial Court of the Yaroslavl Region dated 20 December 2001, which rejected a prosecutor's application for a judicial order requiring the Islamic Religious Organisations of Yaroslavl Muslims to discontinue the unlicensed education of followers at a Sunday school (*madrassa*). The Federal Court pointed out that the education provided at the *madrassa* was not accompanied by a final evaluation and certification and therefore fell outside the scope of the Education Act.

38. Examining the compatibility of Article 61 § 2 of the Civil Code with the Constitution, the Constitutional Court gave the following binding interpretation of this provision (judgment no. 14-P of 18 July 2003):

“The fact that Article 61 § 2 of the Civil Code does not contain a specific list of provisions whose breach may entail dissolution of a legal entity ... does not imply that this sanction can be applied on formal grounds only, in the event of a repeated violation of regulations that are binding on legal entities. Taking into account the generally accepted principles of legal liability (including the presence of *mens rea*) and the criteria for restricting rights and freedoms enunciated in Article 55 § 3 of the Constitution, which are binding both on lawmakers and law enforcement authorities, [Article 61 § 2 of the Civil Code] presupposes that repeated violations of law, taken in their entirety, must be so gross as to allow the commercial court – having regard to all the circumstances of the case, including the nature of violations committed by the legal entity and their consequences – to decide on the dissolution of the legal entity as a measure necessary for the protection of rights and lawful interests of others.”

39. On 10 June 2008 the Supreme Court of the Russian Federation, sitting as a three-judge formation presided over by the same Judge Kn. and including the same Judge P. who had sat in the applicant organisation's case

(see paragraph 28 above), heard an appeal against the Smolensk Regional Court's judgment by which it granted the prosecutor's application to have the Smolensk United Methodist Church dissolved on account of the fact that it taught the Bible to children, aged four to fourteen, at a Sunday school without a licence and in breach of sanitary requirements. The Supreme Court quashed the Regional Court's judgment, finding as follows:

"It follows from the case materials that the teaching of religion to children at the Sunday school ... was not accompanied by a final evaluation and certification, this form of education falls outside the scope of the notion of 'education' which is subject to licensing within the meaning of the Education Act. Accordingly, the [Regional] court did not have grounds to conclude that the teaching of religion to children at the Sunday school amounted to education and the [Supreme] court considers this finding erroneous.

Taking into account that ... the Smolensk United Methodist Church operates in accordance with its Statute, that its Sunday school for children is not a professional religious institution for the training of clergy which is subject to licensing ... but is destined to teach religion and provide a religious upbringing to the [children of the] followers of the United Methodist Church, the identified breaches of sanitary requirements ... cannot be relied upon as a ground for dissolving the religious organisation."

G. Re-opening of the domestic proceedings

40. Article 392 of the Code of Civil Procedure provides as follows:

"2. Judicial decisions that have come into force may be reviewed in the following cases:

...

(2) [on account of] new circumstances listed in paragraph 4 of this Article which emerged after the adoption of the judicial decision and which have significant importance for the correct determination of the matter.

...

4. New circumstances include:

...

(4) the finding of a violation of the European Convention on Human Rights by the European Court of Human Rights with regard to the specific case that was examined by the court, provided that the applicant lodged an application with the European Court of Human Rights in connection with the decision in that case ..."

41. By decision of 23 January 2012, the Supreme Court of the Russian Federation held to re-open the proceedings concerning the dissolution of the Republican Party of Russia in connection with the Court's judgment in the case of *Republican Party of Russia v. Russia* (no. 12976/07, 12 April 2011), in which the Court found in particular a violation of Article 11 of the Convention on account of the applicant party's dissolution.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION INTERPRETED IN THE LIGHT OF ARTICLE 11

42. The applicant organisation complained under Articles 9, 11 and 14 of the Convention about the restriction on its right to teach its followers and the decision on its dissolution. The Court considers that the complaint about the dissolution of a religious organisation must be examined from the standpoint of Article 9 of the Convention, interpreted in the light of Article 11 (see *Jehovah's Witnesses of Moscow v. Russia*, no. 302/02, § 103, 10 June 2010). 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...”

A. Admissibility

43. The Government submitted that the application was inadmissible *ratione temporis* because the Court had only received the application form on 23 May 2008, that is, more than seven months after the final decision was issued at the national level.

44. The applicant organisation replied that the application had been sent by fax and by registered mail on 15 April 2008, and that it had not been belated.

45. The Court reiterates that, in accordance with its established practice and Rule 47 § 5 of the Rules of Court, as in force at the relevant time, it normally considered the date of the introduction of an application to be the date of the first communication indicating an intention to lodge an application and giving some indication of the nature of the application. Such

first communication would in principle have interrupted the running of the six-month time-limit (see *Yartsev v. Russia* (dec.), no. 13776/11, 26 March 2013, and *Kemevuako v. the Netherlands* (dec.), no. 65938/09, § 19, 1 June 2010).

46. In the instant case, the application form was signed on 15 April 2008 and dispatched on the same date, according to the postmark on the envelope. The date of its receipt by the Court was – and still is under the current Rules of Court (see Rule 47 § 6 (a)) – irrelevant for determining the date of introduction and the Government’s argument to that effect is misconceived. The final domestic decision having been given on 16 October 2007, the application can be considered to have been lodged within six months of that decision. It cannot therefore be rejected as belated.

47. The Court considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

48. The Government submitted that the decision to dissolve the applicant organisation in accordance with Article 61 of the Civil Code and section 14 § 1 of the Religions Act was predicated on the gross and repeated violations of the provisions of the Religions Act (section 19 § 2) and the Education Act (section 33 § 6) it had committed. These provisions required that the applicant organisation be registered as an educational institution and possess a licence, and they had been accessible to and foreseeable for the applicant organisation which, nevertheless, had failed to comply with them. The Russian courts had correctly taken as evidence of repeated and gross violations of Russian law the fact that since 1997 the Biblical Centre had educated students without having been registered or having obtained a licence on premises that fell short of sanitary requirements, which created a danger to the life and health of its students. According to the Government, the applicant organisation had been repeatedly reminded that it needed to obtain a licence and that it had previously been found liable in administrative proceedings for that breach of the law.

49. The Government acknowledged that a few of the alleged breaches of sanitary requirements, such as the absence of locks in the toilets or the presence of flowers on the window sills, could be easily fixed with minimal time and resources. They maintained, however, that, as the Biblical Centre was not a registered educational institution possessing an appropriate licence, it could not have been required to bring its premises into conformity with the requirements applicable to the premises of educational institutions.

As to the severity of the sanction, the Government submitted that the dissolution of the applicant organisation was ordered because it was impossible to dissolve the Sunday school and college, which were not separate structural units or legal entities. Irrespective of whether or not there existed other means of ensuring compliance, such as compelling the Biblical Centre to seek a licence for education or to remedy the violations of the sanitary regulations, the decisions of the domestic courts had been correct. The State could not require a religious organisation which was not an educational institution to obtain a licence for education. The Government acknowledged that the dissolution of the applicant organisation had an impact on the rights of believers but claimed that they could join together as a religious group or found a new religious organisation.

50. The applicant organisation contended that the wording of section 14 of the Religions Act allowed any organisation to be dissolved on essentially formal and technical grounds. It denied that it engaged in educational activities within the meaning of the Education Act and pointed out that the Government had failed to indicate the criteria in Russian law according to which a Sunday school could be classified as an educational institution. Besides, since the Biblical Centre was not an educational institution, in the Government's admission, the failure to abide by the sanitary standards binding on educational institutions could not be held against it.

51. On the necessity of the measure in question, the applicant organisation submitted that the true objective of the proceedings had not been to ensure respect for the rights of students but, rather, the dissolution of the Biblical Centre. This was evidenced by the fact that the proceedings had been directed against the Biblical Centre, which was registered as a legal entity, rather than against the Sunday school or college. The prosecutor's office had had the right to require the applicant organisation to cease any activity it considered to be unlawful; instead of using that power, the prosecutor had applied for its dissolution and had persisted with this demand even after the applicant organisation had sought to bring its activities into compliance with the law. The applicant organisation lastly argued that the Government's argument that the believers could still found a new organisation was a disingenuous attempt to claim that the right to freedom of religion would only be violated if all the organisations of that creed were dissolved and banned.

2. The Court's assessment

52. The Court reiterates that the right of believers to freedom of religion, which includes the right to manifest one's religion in community with others, encompasses the expectation that believers will be allowed to associate freely, without arbitrary State intervention. A decision to dissolve a religious community amounts to an interference with the right to freedom of religion under Article 9 of the Convention interpreted in the light of the

right to freedom of association enshrined in Article 11 (see *Jehovah's Witnesses of Moscow*, cited above, §§ 99-103, with further references).

53. It is common ground between the parties that the applicant organisation's dissolution amounted to an interference with its rights under Articles 9 and 11 of the Convention. The domestic courts ordered the dissolution in accordance with Article 61 § 2 of the Civil Code and section 14 § 1 of the Religions Act; these provisions accordingly constituted the legal basis for the interference. Their stated objective in doing so was to put an end to unlicensed education in inadequate sanitary conditions, which may be taken to mean that the interference pursued the aims of the protection of health and the rights of others, both of which are listed as legitimate aims in the second paragraphs of Articles 9 and 11 of the Convention.

54. The Court would observe at the outset that the measure in question consisted in the dissolution of the applicant religious organisation with immediate effect, which was a harsh measure entailing significant consequences for the believers (compare *Jehovah's Witnesses of Moscow*, cited above, § 102). Such a drastic measure requires very serious reasons by way of justification before it can be considered proportionate to the legitimate aim pursued; it would be warranted only in the most serious of cases. The Court must examine whether this measure was, in the present case, exceptionally justified by "relevant and sufficient" reasons and whether the interference was "proportionate to the legitimate aims pursued" (see *Association Rhino and Others v. Switzerland*, no. 48848/07, § 62, 11 October 2011, with further references).

55. The applicant organisation had founded the Biblical college and the Sunday school in 1996 and had operated them for more than eleven years without interruption. Contrary to the Government's claim, no evidence was produced – either in the domestic proceedings or before the Court – that in the period between 1996 and 2007 they had been held liable for any irregularities or officially informed that they needed a licence to operate.

56. The Court further notes that a federal court had already held in 2002 that the teaching of followers at a Sunday school fell outside the scope of the Education Act and did not require a licence (see paragraph 37 above). It was also stated in the domestic proceedings that at the material time other religious organisations in the Chuvash Republic did not possess a licence for running a Sunday school (see paragraph 24 above). In these circumstances, the novel interpretation of the Education Act with regard to the mandatory licensing of Sunday schools adopted by the courts in the present case was not sufficiently foreseeable for the applicant organisation so that it could anticipate its application and adjust its conduct accordingly (see, by contrast, *Kokkinakis v. Greece*, 25 May 1993, § 40, Series A no. 260-A). It is to be noted in this connection that some nine months after it gave judgment upholding the applicant organisation's dissolution, the

Supreme Court of the Russian Federation, sitting in a formation that included two of the three judges who had heard the applicant organisation's case, reversed its stance on the licensing of Sunday schools and held that teaching religion to children in such schools did not amount to education and that alleged breaches of sanitary standards could not justify the dissolution of a religious organisation (see paragraph 39 above). In neither case did the Supreme Court give reasons as to why it considered it necessary to depart from the previous case-law and to adopt a different interpretation of the same legal provisions.

57. It has not therefore been convincingly established that the applicant organisation had received advance notice that its activities were in breach of the law. The Court further notes that, after breaches were uncovered in the framework of a joint inspection by the town prosecutor and the fire safety and sanitary authorities in early May 2007, the applicant organisation was not afforded time or, indeed, the opportunity to remedy the alleged irregularities. The town prosecutor instituted administrative proceedings against the applicant organisation's director for operating an unlicensed educational institution on 28 May 2007, that is the same day on which he filed an application for dissolution (see paragraphs 15 and 21 above). The Supreme Court of the Chuvash Republic ordered the dissolution of the Biblical Centre just one day after the same court had found the applicant organisation liable for a violation of sanitary rules (see paragraphs 20 and 25 above). By filing a claim for dissolution without waiting for the outcome of the administrative proceedings, the domestic authorities revealed their determination in seeking to put an end to the applicant organisation's existence. The Government conceded that some of the defects were technical in nature and could easily have been eliminated. Others could have necessitated more time and resources, but there is nothing to indicate that any of them were irremediable or constituted a clear and imminent danger to the life and limb of the students. Be that as it may, the Court considers that the applicant organisation should have been offered a choice between rectifying the alleged shortcomings and discontinuing the activities related to the instruction of its followers.

58. As to the Government's argument that the question as to whether there were other possibilities apart from the dissolution of the applicant organisation was of no relevance to the present case as long as the domestic courts had had formal grounds to order the applicant organisation's dissolution, the Court would reiterate that, in order for a measure to be considered proportionate and necessary in a democratic society, there must be no other means of achieving the same end that would interfere less seriously with the fundamental right concerned. In the Court's opinion, in order to satisfy the proportionality requirement, the burden is on the authorities to show that no such measures were available (see *Association Rhino and Others*, cited above, § 65).

59. The Court is not convinced by the Government's argument that the dissolution of the applicant, a registered religious organisation, was necessary because the Sunday school or Biblical college were not registered as separate legal entities. As the text of the Prosecutors Act and the federal court's judgment in an earlier case indicate (see paragraphs 36 and 37 above), it was open to the prosecutor to seek discontinuation of any activity that it considered harmful or unlawful. The prosecutor could have asked for the school and college to be reorganised but he did not make use of that power and immediately filed an action for dissolution. The applicant organisation demonstrated goodwill in seeking to remedy the alleged violation by amending its statute, and also reminded the court of its discretion to issue a special ruling directing the defendant to comply with the legal requirements instead of ordering its dissolution (see paragraph 22 above). The courts nevertheless granted the prosecutor's claim without addressing the latter argument. Nor did the courts explain what other, less intrusive means of achieving the declared aim of the protection of the rights of students had been considered and why they had been deemed insufficient. Accordingly, the domestic authorities have not shown that the dissolution, which undermined the very substance of the applicant organisation's rights to freedom of religion and association, was the only option for the fulfilment of the aims they pursued.

60. Finally, the Court reiterates that the nature and severity of the sanction applied are factors to be taken into account when assessing the proportionality of any interference (see *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], nos. 41340/98, 41342/98, 41343/98 and 41344/98, § 133, ECHR 2003-II). Before the decision to dissolve it was made, the applicant organisation of Pentecostals had existed and legally operated in the Chuvash Republic for more than fifteen years, from 1991 to 2007. The decision by the Russian courts to dissolve the applicant organisation had the effect of stripping it of legal personality and prohibiting it from exercising the rights associated with legal-entity status, such as the right to own or rent property, to hold bank accounts, to hire employees and to ensure judicial protection of the community, its members and its assets, which, as the Court has consistently held, are essential for exercising the right to manifest one's religion. Moreover, in addition to the above-mentioned rights normally associated with legal-entity status, the Russian Religions Act reserved a panoply of rights for registered religious organisations and explicitly excluded the possibility of such rights being exercised by either non-registered religious groups or non-religious legal entities. The exclusive rights of religious organisations with legal-entity status included, in particular, such fundamental aspects of religious practice as the right to establish places of worship, the right to hold religious services in places accessible to the public, the right to produce, obtain and distribute religious literature, the right to create educational institutions, and

the right to maintain contacts for international exchanges and conferences (see *Jehovah's Witnesses of Moscow*, cited above, § 102). It follows that, as a result of the Russian courts' decisions, the Biblical Centre ceased to exist as a registered religious organisation and a group of Pentecostal Christians who were its members were divested of the right to manifest their religion in community with others and to engage in the activities which are indispensable to their religious practice.

61. The Court has already found that section 14 of the Religions Act provides that the only sanction which Russian courts can use against religious organisations found to have breached the law is forced dissolution. The Act does not provide for the possibility of issuing a warning or imposing a fine. The sanction of dissolution could be applied indiscriminately without regard to the gravity of the breach in question (see *Jehovah's Witnesses of Moscow*, cited above, § 159), a practice which the Constitutional Court found to be incompatible with the constitutional meaning of the relevant provisions as early as 2003 (see paragraph 38 above). In pronouncing the applicant organisation's dissolution, the Russian courts did not give heed to the case-law of the Constitutional Court or to the relevant Convention standards and their decision-making did not include an analysis of the impact of the applicant organisation's dissolution on the fundamental rights of Pentecostal believers. As it happened, their judgments put an end to the existence of a long-standing religious organisation and constituted a most severe form of interference, which cannot be regarded as proportionate to whatever legitimate aims were pursued.

62. Having regard to the foregoing, the Court is of the view that the dissolution of the applicant organisation was not necessary in a democratic society.

63. There has accordingly been a violation of Article 9 of the Convention interpreted in the light of Article 11.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

64. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

65. The applicant organisation considered that the finding of a violation would be sufficient just satisfaction.

66. The Court holds accordingly that the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant organisation. It further reiterates that, where the Court finds a violation, the respondent State has a legal obligation under Article 46 of the Convention to select, subject to supervision by the

Committee of Ministers, the general and, if appropriate, individual measures to be adopted in their domestic legal order to put an end to the violation found by the Court and to redress, in so far as possible, its effects. In general, it is primarily for the State concerned to choose the means to be used in its domestic legal order to discharge its legal obligation under Article 46 of the Convention. In the instant case the Court found a violation of Article 9 read in the light of Article 11 on account of the dissolution of the applicant organisation that was ordered in the domestic proceedings. It is to be recalled that the Court's judgments are binding on Russia and a finding of a violation of the Convention or its Protocols by the Court is a ground for reopening civil proceedings under Article 392 §§ 2(2) and 4(4) of the Code of Civil Procedure and a review of the domestic judgments in the light of the Convention principles established by the Court (see paragraphs 40 and 41 above). The Court considers that such a review would be the most appropriate means of remedying the violation it has identified in the judgment. Furthermore, the respondent State remains free, subject to monitoring by the Committee of Ministers, to choose any other additional means by which it will discharge its legal obligation under Article 46 of the Convention, provided that such means are compatible with the conclusions set out in the Court's judgment (see *Jehovah's Witnesses of Moscow*, cited above, § 206, with further references).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 9 of the Convention, interpreted in the light of Article 11;
3. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant.

Done in English, and notified in writing on 12 June 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Isabelle Berro-Lefèvre
President