



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

THIRD SECTION

**CASE OF CHURCH OF SCIENTOLOGY MOSCOW AND OTHERS
v. RUSSIA**

(Applications nos. 37508/12 and 2 others – see appended list)

JUDGMENT

STRASBOURG

14 December 2021

This judgment is final but it may be subject to editorial revision.

In the case of Church of Scientology Moscow and Others v. Russia,

The European Court of Human Rights (Third Section), sitting as a Committee composed of:

Peeter Roosma, *President*,

Dmitry Dedov,

Andreas Zünd, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the applications (nos. 37508/12, 61695/13 and 16761/14) 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 non-governmental organisations contributing to the dissemination of Scientology doctrine and their members and directors indicated in the appended table (“the applicants”), on the various dates indicated in the Appendix below;

the decision to give notice of the applications to the Russian Government (“the Government”);

the decision by the Danish Government not to exercise their right to intervene in the proceedings (Article 36 § 1 of the Convention);

the parties’ observations;

Having deliberated in private on 23 November 2021,

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

INTRODUCTION

1. The case concerns the complaints about the banning of Scientology literature, the authorities’ refusal to register the Church of Scientology Moscow as a religious organisation and its forced dissolution.

THE FACTS

2. The applicants are non-governmental organisations and publishers contributing to the dissemination of Scientology doctrine as well as their members and directors indicated in the Appendix. They were represented by Mr D. Holiner and Ms Krylova, lawyers practising in London and Moscow, respectively.

3. The Government were represented by Mr M. Galperin, the then Representative of the Russian Federation to the European Court of Human Rights, and lately by Mr M. Vinogradov, his successor in that office.

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

I. BAN ON SCIENTOLOGY LITERATURE

5. On 16 March 2010 the Shchelkovo prosecutor's office of the Moscow Region searched the premises of the Dianetics and Scientology Centre and seized several books and brochures authored by L. Ron Hubbard.

6. On 22 July 2010 the prosecutor initiated criminal proceedings into incitement of hatred and asked an expert panel to assess the seized books and brochures. The experts, linguist psychologists, Mr T. and Mr V., found that the aim of the publications had been to create an isolated social group – the Church of Scientology (“the Church”) – whose members strived to perform their functions perfectly, including that of fighting against “suppressive persons”. The experts described the ideas contained in the publications as extremist ideology aimed at changing the society that existed outside the Church. They further stated that the authors had used psychological methods to stir up conflicts between those who belonged to the Church and the rest of society and to destroy opposing social groups, and also expressed a negative attitude towards those belonging to other social groups. In that way, the Dianetics and Scientology Centre had publicly incited hatred, hostility and degrading treatment on account of sex, race, nationality, language, origin, religion and social status.

7. Referring to the experts' findings, the prosecutor concluded that the L. Ron Hubbard's ideology was inhuman, caused fragmentation of the society and inter-faith confrontation, was inconsistent with the way of thinking and lifestyle of the Russian people, and was dangerous for Russian society. The learning materials, publications and audio and video materials on Scientology authored by L. Ron Hubbard were to be prohibited as undermining the Russian traditional spiritual values.

8. The prosecutor requested the Shchelkovo Town Court of Moscow to declare Mr Hubbard's publications extremist.

9. On 29 June 2011 the Shchelkovo Town Court allowed the prosecutor's request, basing its decision exclusively on the expert opinions prepared by Mr T. and Mr V. It rejected the expert opinions submitted by the Dianetics and Scientology Centre as inadmissible evidence because its experts had not been appointed by the State in accordance with the established procedure.

10. The Town Court cited the relevant passage of the expert opinions and declared the Scientology materials to be extremist and ordered their confiscation:

“The court has no reason to doubt that the materials by L. R. Hubbard ... are extremist as they incite, and justify, extremist activities – in particular, they promote religious and social intolerance and hatred, [and] superiority on the grounds of social origin and religion ... Furthermore, the author of these books advocates the elimination of social groups which do not belong to the Church of Scientology.”

11. The Scientology churches, the Dianetics and Scientology Centre, book publishers and individual applicants lodged appeals against the decision of 29 June 2011. They alleged that the ban on Scientology literature was unlawful and violated their right to freedom of religion. They further alleged that the Town Court had failed to indicate specific passages that were allegedly extremist.

12. On 20 March 2012 the Moscow Regional Court examined appeals submitted by the Dianetics and Scientology Centre, the book publishers, the Church of Scientology International, and the individual applicants and upheld the decision of 29 June 2011, reiterating verbatim the first-instance court's reasoning.

13. On 17 May 2012 the Ministry of Justice put the Scientology literature on the list of extremist materials. The Church of Scientology International and the Church of Scientology Moscow (the "applicant church") unsuccessfully tried to challenge this decision before the domestic courts.

II. RE-REGISTRATION OF THE APPLICANT CHURCH

A. Background information

14. On 25 January 1994 the applicant church was registered as a religious organisation. In 1997 the applicant church was required to amend its founding documents in order to conform with the newly enacted Religions Act. However, the Ministry of Justice's repeatedly rejected these attempts between 1998 and 2005. The Court held that the refusals to grant re-registration to the applicant church had violated Article 11 of the Convention read in the light of Article 9 (see *Church of Scientology Moscow v. Russia*, no. 18147/02, §§ 71-98, 5 April 2007).

15. After the Court's judgment became final on 24 September 2007, the applicant church lodged further applications for re-registration.

16. On 6 March, 23 August, 26 October and 12 December 2008 the Moscow Justice Department dismissed them on formal grounds.

B. Letter of warning

17. In November 2012 the Moscow Justice Department carried out an inspection of the applicant church and found it in breach of legislation. In particular, the organisation's name in the State register was different from the name used in the articles of association; the name did not contain any reference to its corporate structure and creed; the applicant church had not been re-registered and its articles of association did not comply with the law; the applicant church used an emblem which had not been duly registered; it undertook some of its activities outside Moscow; and some of

the applicant church's expenses did not relate to its aims. Moreover, according to the Justice Department, the applicant church had violated its articles of association by convening a "general meeting of participants" instead of a "general meeting of members" and by using an emblem which was not indicated in its articles of association.

18. On 30 November 2012 the Justice Department issued a warning and ordered the applicant church to remedy the violations found.

19. On 1 March 2013 the applicant church lodged a complaint with the Gagarinskiy District Court of Moscow. On 24 May 2013 the District Court dismissed the complaint; its reasoning reiterated the Justice Department's findings verbatim. On 20 August 2013 the Moscow City Court upheld this decision on appeal.

20. On 14 October 2013 the applicant church asked the Justice Department for instructions as to how to remedy the violations referred to in the warning.

21. 20 November 2013 the Justice Department replied that the violations found had become irreparable, that the applicant church could not obtain the status of a religious organisation and invited it to proceed with voluntary dissolution.

C. Further attempts to register amendments in 2014

22. In 3 July and 5 September 2014 the applicant church re-submitted the amended documents for re-registration.

23. On 31 July and 7 October 2014 the Justice Department rejected the applications for re-registration, giving a number of new reasons. In particular: the articles of association provided for the establishment of branches and subsidiaries (which was prohibited by the Religions Act) and for engaging in activities which were only generally listed; the applicant church did not have an executive body; the minutes of the general meeting of members did not give the time of the meeting or the names of vote-counters; the name on the seal was different from the name given in the articles of association; and the applicant church had not given its name in the document entitled "Information on the Basic Tenets of Creed" or on the list of participants. The Justice Department also referred to an expert opinion of 22 July 2013 prepared by their own expert panel, according to which the applicant church was not a religious organisation.

24. By a decision of 1 July 2015, as upheld on appeal and cassation appeal on 16 October 2015 and 30 May 2016, the Izmaylovskiy District Court of Moscow dismissed the applicant church's challenge of the Justice Department's decisions and stated that its activities were of a social rather than religious nature and were not compatible with the document entitled "Information on the Basic Tenets of Creed".

III. DISSOLUTION

25. On 7 August 2014 the Justice Department asked the Moscow City Court to dissolve the applicant church, referring to the violations found during examination of the documents submitted for re-registration and to the Shchelkovo Town Court's judgment of 29 June 2011, which had ruled certain Scientology materials to be extremist (see paragraphs 9-12 above).

26. On 23 November 2015 the Moscow City Court ordered the dissolution of the applicant church. It reproduced the Justice Department's findings reached in the re-registration proceedings. It held that the applicant church had repeatedly and systematically committed gross violations of the Russian law. Referring to the judgment of 29 June 2011, the City Court reiterated that some of the Scientology literature had been declared extremist. The extremist organisations' activities and, in particular, the distribution of extremist materials, were prohibited in Russia. By being registered as a religious organisation but refusing to practice religion and exercising commercial activities, the applicant church had enjoyed tax and other exemptions without justification. In this situation, the failure to engage in religious activities constituted an irremediable breach of legislation and prevented its re-registration. Its unlawful activities threatened public order and law. The court ordered to dissolve the applicant church in order to protect the rights and interests of others. At the same time, it stated that the applicant church still could enjoy its constitutional right to freedom of association by creating a commercial or non-commercial organisation in another form which was better suited for its functions. Therefore, the dissolution would not result in the prohibition of the activities in which the applicant church had engaged and the balance between public and private interests would be maintained.

27. On 29 June 2016 the Supreme Court of Russia upheld the decision on dissolution, endorsing its findings.

RELEVANT LEGAL FRAMEWORK

28. For a summary of the relevant domestic law regarding fight against extremism, in particular, Suppression of Extremism Act (Law no. 114-FZ of 25 July 2002), see *Ibragim Ibragimov and Others v. Russia*, nos. 1413/08 and 28621/11, §§ 41-47, 28 August 2018.

29. For a summary of the relevant domestic law regarding religious organisations' rights under Religions Act (Law no. 125-FZ of 26 September 1997), re-registration and dissolution, see *Jehovah's Witnesses of Moscow and Others v. Russia*, no. 302/02, §§ 76, 79-80, 10 June 2010.

THE LAW

I. JOINDER OF THE APPLICATIONS

30. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLES 9 AND 10 OF THE CONVENTION ON ACCOUNT OF THE BAN ON SCIENTOLOGY LITERATURE

31. The applicants complained about the ban on certain items of the Scientology literature under Articles 9 and 10 of the Convention, which read as follows:

Article 9

“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 10

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority ...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others ...”

32. Given that the present case concerns a ban on literature used by the applicants in their activities, the Court considers that their complaint falls to be examined under Article 10.

33. At the same time, the issues of freedom of expression and freedom of religion are closely linked in the present case. The domestic courts did not deny in proceedings regarding the ban on the Scientology literature the Scientology’s religious nature. In particular, they stated that it incited religious intolerance and hatred (see paragraph 10 above; and *Church of Scientology Moscow v. Russia*, no. 18147/02, § 64, 5 April 2007, and *Kimlya and Others v. Russia*, nos. 76836/01 and 32782/03, §§ 79-81,

ECHR 2009). The Court will therefore examine the present case under Article 10 read in the light of Article 9 (see *Ibragim Ibragimov and Others*, cited above, nos. 1413/08 and 28621/11, § 78).

A. Admissibility

1. Article 17 of the Convention

34. The Government submitted that statements directed against the Convention's underlying values had been removed from the protection of Article 10 by Article 17. They argued that the application should therefore be rejected under Article 17 of the Convention, which reads:

“Nothing in [the] Convention may be interpreted as implying for any state, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.”

35. Article 17 is only applicable on an exceptional basis and in extreme cases. Its effect is to negate the exercise of the Convention right that the applicant seeks to vindicate in the proceedings before the Court. In cases concerning Article 10 of the Convention, it should only be resorted to if it is immediately clear that the impugned statements sought to deflect this Article from its real purpose by employing the right to freedom of expression for ends clearly contrary to the values of the Convention (see *Perinçek v. Switzerland* [GC], no. 27510/08, § 114, ECHR 2015 (extracts)).

36. Since the decisive point under Article 17 – whether the Scientology literature sought to stir up hatred, violence or intolerance, and whether the applicants attempted to rely on the Convention to engage in an activity or perform acts aimed at the destruction of the rights and freedoms laid down in it – overlaps with the question whether the interference with the applicants' rights to freedom of expression and freedom of religion was “necessary in a democratic society”, the Court finds that the question whether Article 17 is to be applied must be joined to the merits of the applicants' complaint under Articles 9 and 10 of the Convention (see *Ibragim Ibragimov and Others*, cited above, § 63).

2. Jurisdiction ratione loci and ratione personae

37. The Government submitted that the Court did not have jurisdiction *ratione loci* to consider the complaints submitted by the New Era Publications International and International Church of Scientology because they had been registered and were located in Denmark and the United States of America. They further stated that the New Era, New Era Publications International, Church of Scientology Moscow and Ms Lukashina, director of the Dianetics and Scientology Centre, could not be considered victims of the violation alleged as the ban had not had any impact on their rights.

38. The applicants submitted that the New Era Publications International and International Church of Scientology held copy right and exclusive rights to distribute Scientology publications in Russia. The Scientology literature had been banned in the Russian territory. As a result of the ban, all the applicants could not publish or use in other way the Scientology materials, therefore they were all directly affected by the ban and were the victims of the violation of their right to impart the Scientology doctrine in Russia.

39. The Court notes that the ban on Scientology literature was imposed by the Russian authorities and effective in the Russian territory. As a result, the Church itself, its publishing branches and individual members were prohibited from using and distributing the Scientology materials in Russia. Although some of the applicants are entities registered in foreign countries, their publishing activities were exercised in the Russian territory and were subject to Russian law. Therefore, they fell under Russia's territorial jurisdiction and, moreover, all applicants were directly affected by the ban in question. This was confirmed by the domestic courts which accepted that the applicants had standing to engage in proceedings regarding the ban and examined their claims on merits (see paragraphs 12 and 13 above).

40. Therefore, the Court dismisses the Government's objections *ratione loci* and *ratione personae* to the admissibility of the complaint about the ban on the Scientology literature.

3. *No significant disadvantage and exhaustion of domestic remedies*

41. The Government submitted that Mr Kochemarov, Ms Murashkintseva and Ms Kozhanova had not suffered any significant disadvantage due to confiscation of Scientology books belonging to them. Nor had they raised any complaint under Article 9 and 10 of the Convention before the domestic courts.

42. The applicants stated that the present case concerned the impossibility for the applicants to impart Scientology ideas in Russia rather than their property right to the books in question. The applicants raised this issue before the courts in their appeals against the decision ordering the ban.

43. A violation of a right, however real from a purely legal point of view, should attain a minimum level of severity to warrant consideration by an international court (see *Korolev v. Russia* (dec.), no. 25551/05, 1 July 2010). The assessment of this minimum level is relative and depends on all the circumstances of the case. The severity of a violation should be assessed taking account of both the applicant's subjective perceptions and what is objectively at stake in a particular case (see *Gagliano Giorgi v. Italy*, no. 23563/07, § 55, ECHR 2012 (extracts)).

44. As regards exhaustion of domestic remedies, it is not necessary for the Convention right to be explicitly raised in domestic proceedings provided that the complaint is raised "at least in substance" (see *Vučković*

and Others v. Serbia (preliminary objection) [GC], nos. 17153/11 and 29 others, § 72, 25 March 2014).

45. In the instant case, the applicants attached high importance to their complaint that not only were they deprived of their books but, most importantly, they could not disseminate their religious beliefs because of the ban on Scientology literature. They clearly put their grievances before the domestic authorities. The domestic courts examined the merits of their complaints (see paragraphs 12 and 13 above).

46. The subject matter of the issues raised give rise to an important question of principle. Moreover, the applicants in the present case raise an issue under Article 10 that cannot be easily quantified financially.

47. It follows that the Government's objections regarding non-significant disadvantage and non-exhaustion of domestic remedies must be dismissed.

4. Conclusion

48. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

49. The applicants submitted that the Suppression of Extremism Act contained no coherent definition of extremism, but rather listed a wide variety of examples of "extremist activities", many of which were themselves defined in broad terms. Such legislation did not satisfy the "quality of law" requirement and was vague to the point of making the legal rule in question unforeseeable in its application. The domestic courts had failed to provide "relevant and sufficient reasons" for the ban on Scientology literature. They had grounded their decisions on expert opinions provided by the prosecutor and had not taken into account any alternative views.

50. The Government submitted that the interference in question had been in accordance with the Constitution and the Suppression of Extremism Act and that Scientology encouraged the fight against "suppressive persons", opposed the Scientology community to, and incited to destruction of, other social groups. The courts' decisions had been based on independent and comprehensive assessment of evidence and the circumstances of the case.

51. There is no dispute between the parties that declaring Scientology literature as "extremist" and banning it from publication and distribution amounted to "interference by a public authority" with the applicants' right to freedom of expression, interpreted in the light of their right to freedom of religion to take account of the religious nature of the literature and the

applicants' intention to use it for religious purposes. Such interference will infringe the Convention unless it satisfies the requirements of paragraph 2 of Article 10.

52. Although there may be a question as to whether the interference was "prescribed by law" within the meaning of Article 10 (see *Delfi AS v. Estonia* [GC], no. 64569/09, § 120, ECHR 2015, on the quality of the law), the Court does not consider that, in the present case, it is called upon to examine the corresponding provisions of the Suppression of Extremism Act as, in its view, the applicants' grievances fall to be examined from the point of view of the proportionality of the interference. The Court will therefore leave open the question whether the interference with the applicants' right to freedom of expression may be regarded as "prescribed by law", within the meaning of Article 10 § 2 of the Convention (see *Ibragim Ibragimov and Others*, cited above, § 86).

53. The Court is prepared to accept that the contested measure sought to pursue the legitimate aims of preventing disorder and protecting public safety and the rights of others.

54. The general principles regarding freedom of expression and religion have been summarised in the case of *Ibragim Ibragimov and Others* (cited above, §§ 88-99). In its assessment of the interference with freedom of expression in cases concerning expressions alleged to encourage religious hatred or intolerance, the Court has to have regard, in particular, to the context in which the impugned statements were made, their nature and wording, their potential to lead to harmful consequences and the reasons adduced by the national courts to justify the interference in question. It is the interplay between the various factors rather than any of them taken in isolation that determines the outcome of a particular case (*ibid.*, with further references).

55. In the present case the domestic courts' decisions were based essentially on the expert reports which had been obtained by the prosecutor from a panel of experts consisting of linguist psychologists (see paragraph 6 above). The domestic courts limited their analysis to summarising the applicable legal provisions, the parties' submissions and the conclusions of the expert report. They endorsed the experts' conclusions without making any meaningful assessment of them, referring only to their overall findings. However, the expert examinations went far beyond resolving merely language or psychology issues. Rather than restricting themselves to defining the meaning of particular words and expressions or explaining their potential psychological impact, they provided in essence a legal qualification of the texts. The Court has already stressed that all legal matters must be resolved exclusively by the courts (see *Dmitriyevskiy v. Russia*, no. 42168/06, § 113, 3 October 2017).

56. The domestic courts did not specify which passages of the books they considered problematic and in what way they incited religious discord

or proclaimed the superiority of the members of the Church of Scientology over other social groups (see, *mutatis mutandis*, *Kommersant Moldovoy v. Moldova*, no. 41827/02, §§ 36-38, 9 January 2007). They did not assess the effect of the ban on the applicants' rights under Articles 9 and 10 of the Convention or its domestic-law equivalent (see paragraphs 9 and 10 above).

57. The applicants were unable to contest the findings of the expert reports or to effectively put forward arguments in defence of their position. The domestic court summarily rejected all evidence submitted by them, including the alternative expert opinions (see paragraph 9 above).

58. The Court has previously found a violation of Article 10 of the Convention where the domestic courts had dismissed all the arguments in the applicant's defence in a summary manner, thereby stripping him of the procedural protection that he had been entitled to enjoy by virtue of his rights under Article 10 of the Convention and by failing to provide "relevant" and "sufficient" reasons for an interference (see *Dmitriyevskiy*, cited above, § 116). It does not see any reason to reach a different conclusion in the present case.

59. In addition, religious groups cannot reasonably expect to be exempt from all criticism; they must tolerate and accept the denial by others of their religious beliefs and even the propagation by others of doctrines hostile to their faith. The same principle applies to non-religious ideologies, including atheism and agnosticism. There is no evidence before the Court that the impugned texts insulted, held up to ridicule or slandered persons outside the Scientology community; nor that they used abusive terms in respect of them or of matters regarded as sacred by them (see *Ibragim Ibragimov and Others*, cited above, § 117, with further references)

60. Overall, the Court is not persuaded that in their analysis of the Scientology literature the domestic courts have fully taken into account the social and political background against which the statements were made; whether the statements, fairly construed and seen in their immediate or wider context, could be seen as a direct or indirect call to violence or as a justification of violence, hatred or intolerance; the manner in which the statements were made, and their capacity – direct or indirect – to lead to harmful consequences (see *Perinçek v. Switzerland* [GC], no. 27510/08, §§ 205-07, ECHR 2015 (extracts)).

61. The Court therefore finds that there has been a violation of Article 10 of the Convention read in the light of Article 9 and rejects the Government's preliminary objection under Article 17.

III. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION, TAKEN IN CONJUNCTION WITH ARTICLES 9 AND 10, ON ACCOUNT OF THE BANNING OF THE SCIENTOLOGY LITERATURE

62. The applicants also invoked Article 14 of the Convention taken in conjunction with Articles 9 and 10 of the Convention in relation to the ban on Scientology literature.

63. The Court considers that it is not necessary to examine separately this complaint, in view of its above conclusions under Article 10 of the Convention read in the light of Article 9.

IV. ALLEGED VIOLATION OF ARTICLES 9 AND 11 OF THE CONVENTION ON ACCOUNT OF THE REFUSAL TO RE-REGISTER AND SUBSEQUENT FORCED DISSOLUTION OF THE APPLICANT CHURCH

64. The applicant church complained about the denial of its re-registration as a religious organisation and its subsequent dissolution under Articles 9 and 11 of the Convention. Article 9 was cited above, while 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...”

65. The Court has previously examined a similar complaint by the same applicant church from the standpoint of Article 11 of the Convention, read in the light of Article 9 (see *Church of Scientology Moscow*, cited above, § 64). The religious nature of the applicant church at national level had been officially recognised from 1994 until at least 2014. In the light of this, the Court sees no reason to depart from this approach in the present case.

A. Admissibility

66. This complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

67. The applicant church submitted that the sole ground for refusal to re-register was an expert opinion which had confirmed that the applicant church was not a religious organisation. The expert opinion could not be considered as valid evidence in the case because it had not been adopted by a vote of a commission of experts as required by law. The authorities' reference to the applicant church's commercial rather than religious nature was devoid of any substance. As regards forced dissolution, the domestic courts had grounded their decisions on findings in previous judicial proceedings relating to the ban on the Scientology literature and failure to comply with registration requirements. These grounds could not be regarded as serious violations warranting forced dissolution.

68. The Government submitted that the applicant church's requests for re-registration had been dismissed for non-compliance with law and that the court had ordered its dissolution because of serious violations of law. In some other States, the Scientology organisations were considered as sects and were subject to restrictions. The applicant church had not engaged in religious activities and therefore could not function as a religious organisation.

69. The denial of re-registration and involuntary dissolution of the applicant church amounted to an interference with its rights under Article 11 of the Convention, read in the light of Article 9. The Court further reiterates that a decision by the authorities to dissolve an association has been found to affect directly both the targeted association and also its presidents, founders and members (see *Jehovah's Witnesses of Moscow and Others v. Russia*, no. 302/02, §101, 10 June 2010, with further references).

70. The Court is prepared to assume that the interference was based on the provisions of the Religions Act and had the aim of "protecting the rights and freedoms of others". While States are entitled to require organisations to comply with reasonable legal formalities, it is always subject to the condition of proportionality (see *The United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria (no. 2)*, nos. 41561/07 and 20972/08, §§ 40 and 83, 18 October 2011).

71. In the present case, the decisions to refuse re-registration of the applicant church and to order its forced dissolution were grounded on its alleged failure to eliminate numerous defects in the documents found by the Ministry of Justice in the course of re-registration proceedings, an allegedly non-religious nature of the applicant church's activities and the ban of its literature as extremist.

72. As regards the defects in the documents submitted for registration, they mostly concerned omission of some information or incorrect data in the documents. In assessing whether the authorities' decision to apply the sanction of involuntary dissolution was justified and proportionate, it cannot

be overlooked that the applicant church attempted to rectify the defects referred to by the Justice Department. Due account should have been taken of this intention when deciding upon the necessity of the interference with the applicant church's rights. It should have been given a genuine chance to put matters right before being dissolved (see *Tebieti Mühafize Cemiyeti and Israfilov v. Azerbaijan*, no. 37083/03, § 76, ECHR 2009, and *Jehovah's Witnesses of Moscow and Others*, cited above, § 175). In any event, in its latest decisions in 2014 the Justice Department found that the applicant church could not have applied for registration as a religious organisation (see paragraph 21 above). Therefore, any further attempts of the applicant church to re-register were bound to fail.

73. Up until at least 2014 the authorities had not denied the religious nature of the applicant church. The applicant church had been officially recognised as a religious organisation since 1994, its religious nature was not challenged for several years even after initial unsuccessful attempts to re-register between 1998 and 2000s (see *Church of Scientology Moscow*, cited above, § 64). During the entire period of its lawful existence the applicant church and individual members had never been found responsible for any criminal offence or dangerous conduct. There is no evidence that the nature of the applicant church's activities has changed since that time. The authorities grounded their conclusion in this respect on an expert opinion prepared by an expert panel at the Justice Department (see paragraph 23 above, *in fine*). It does not seem that they took into account any alternative expert opinions, in particular, those which could be provided by the applicant church.

74. These findings of the officials of the Justice Department were accepted by the domestic courts at their face value without any critical examination.

75. Moreover, the Court has already held that the decision to ban Scientology materials was not "necessary in a democratic society" (see paragraphs 54-61 above).

76. Finally, the dissolution of an association is an extremely severe measure entailing significant consequences which can only be tolerated in very serious circumstances. In the present case, the forced dissolution of the applicant church in absence of any alternative sanctions constituted a drastic measure disproportionate to the legitimate aim pursued (see *Jehovah's Witnesses of Moscow and Others*, cited above, § 159).

77. Having regard to the findings above, the Court considers that it is not necessary to examine the applicants' complaint about the authorities' refusal to register the applicant church as a religious organisation.

78. There has accordingly been a violation of Article 11 of the Convention read in the light of Article 9.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

79. 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.”

80. The applicants claimed 25,000 euros (EUR) in respect of non-pecuniary damage to be paid to each applicant, and EUR 31,450, 65,540.25 pounds sterling and EUR 322,363.88 in respect of costs and expenses.

81. The Government submitted that these claims were excessive.

82. The Court awards applicants jointly EUR 7,500 in respect of non-pecuniary damage, plus any tax that may be chargeable (see *Church of Scientology of St Petersburg and Others v. Russia*, no. 47191/06, § 52, 2 October 2014). The sum is to be paid to Mr A. Lychkin (former member of the Church of Scientology Moscow and former head of the liquidation commission) who will be responsible for making it available to the applicants.

83. Regard being had to the documents in the Court’s possession and the above criteria, the Court considers it reasonable to award a lump sum of EUR 5,000 covering costs under all heads, to the applicants jointly, to be paid to the Church of Scientology International, as requested by the applicants, plus any tax that may be chargeable.

84. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Decides* to join to the merits the respondent Government’s objection under Article 17 of the Convention in respect of applications nos. 37508/12 and 61695/13, and *dismisses* it;
4. *Holds* that there has been a violation of Article 10 of the Convention, read in the light of Article 9, in applications nos. 37508/12 and 61695/13;
5. *Holds* that there is no need to examine the complaints under Article 14 of the Convention, taken in conjunction with Articles 9 and 10, and

under Article 11 of the Convention, read in the light of Article 9, on account of the refusal to register the applicant church;

6. *Holds* that there has been a violation of Article 11 of the Convention, read in the light of Article 9, in application no. 16761/14, on account of dissolution of the Church of Scientology Moscow;
7. *Holds*
 - (a) that the respondent State is to pay to the applicants jointly, within three months, the following amounts:
 - (i) EUR 7,500 (seven thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 5,000 (five thousand euros), plus any tax that may be chargeable, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
8. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 14 December 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

{signature_p_2}

Olga Chernishova
Deputy Registrar

Peeter Roosma
President

APPENDIX

List of cases

No.	Application no.	Case name	Lodged on	Applicant Year of Incorporation Place of Residence Nationality	Represented by
1.	37508/12	Church of Scientology Moscow and Others v. Russia	13/06/2012	<p>CHURCH OF SCIENTOLOGY MOSCOW 1994 Moscow Russian</p> <p>DIANETICS AND SCIENTOLOGY CENTRE 2002 Moscow Russian</p> <p>NEW ERA PUBLISHING GROUP 1992 Losino Petrovskiy Russian</p> <p>NEW ERA PUBLICATIONS INTERNATIONAL 1976 Glostrup Danish</p> <p>CHURCH OF SCIENTOLOGY INTERNATIONAL USA 1982 Los Angeles American</p> <p>Vladislav Sergeyevich KOCHEMAROV 1976 Moscow Russian</p> <p>Meruert Nazymbekovna KOZHANOVA 1981 Tarusa Russian</p> <p>Natalya Sergeyevna LUKASHKINA 1974 Moscow Russian</p> <p>Olga MURASHKINTSEVA 1957 Moscow Russian</p>	Drew HOLINER

CHURCH OF SCIENTOLOGY MOSCOW AND OTHERS v. RUSSIA JUDGMENT

No.	Application no.	Case name	Lodged on	Applicant Year of Incorporation Place of Residence Nationality	Represented by
2.	61695/13	Church of Scientology Moscow and Others v. Russia	23/09/2013	<p>CHURCH OF SCIENTOLOGY MOSCOW 1994 Moscow Russian</p> <p>DIANETICS AND SCIENTOLOGY CENTRE 2002 Moscow Russian</p> <p>NEW ERA PUBLISHING GROUP 1992 Losino Petrovskiy Russian</p> <p>NEW ERA PUBLICATIONS INTERNATIONAL 1976 Glostrup Danish</p> <p>CHURCH OF SCIENTOLOGY INTERNATIONAL USA 1982 Los Angeles American</p> <p>Vladislav Sergeyevich KOCHEMAROV 1976 Moscow Russian</p> <p>Meruert Nazymbekovna KOZHANOVA 1981 Tarusa Russian</p> <p>Natalya Sergeyevna LUKASHKINA 1974 Moscow Russian</p> <p>Olga MURASHKINTSEVA 1957 Moscow Russian</p>	Drew HOLINER
3.	16761/14	Church of Scientology Moscow v. Russia	20/02/2014	<p>CHURCH OF SCIENTOLOGY MOSCOW 1994 Moscow Russian</p>	Drew HOLINER