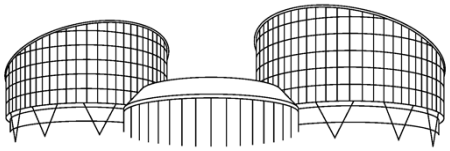

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF BRYANSK-TULA DIOCESE OF THE RUSSIAN ORTHODOX FREE CHURCH v. RUSSIA

(Application no. 32895/13)

JUDGMENT

STRASBOURG

12 July 2022

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

In the case of Bryansk-Tula Diocese of the Russian Orthodox Free Church v. Russia,

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

María Elósegui, *President,*
Andreas Zünd,
Frédéric Krenc, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 32895/13) 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") on 19 April 2013 by Bryansk and Tula Diocese of the Russian Orthodox Free Church, a religious organisation registered in Bryansk Region ("the applicant church"), represented by its bishop, Mr A.L. Nonchin;

the decision to give notice of the application to the Russian Government ("the Government"), initially represented by Mr M. Galperin, former Representative of the Russian Federation to the European Court of Human Rights, and later by his successor in this office, Mr M. Vinogradov;

the parties' observations;

the decision to reject the Government's objection to examination of the application by a Committee;

Having deliberated in private on 21 June 2022,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the dissolution of the Bryansk and Tula Diocese of the Russian Orthodox Free Church (*Брянско-Тульское Епархиальное управление Российской Православной Свободной Церкви*) – a religious organisation registered under Russian law in 1995 in the Bryansk Region ("the applicant church") — for failure to conform to certain new requirements of domestic law.

2. In 2004 the Ministry of Justice brought an action for the dissolution of the applicant church, citing its failure to secure re-registration under the new Religions Act (for relevant provisions, see *Church of Scientology Moscow v. Russia*, no. 18147/02, §§ 55-60, 5 April 2007). On 17 May 2004 the Trubchevskiy District Court in the Bryansk Region rejected the claim, finding that the articles of incorporation complied with the Religions Act. It held that the Ministry of Justice did not produce any evidence showing that the applicant church had committed any repetitive or gross breaches of the legislation or had wound up its operations. It further referred to the Constitutional Court's ruling of 7 February 2002 to the effect that the dissolution was not an automatic sanction for failure to secure re-registration

in the absence of evidence that the religious organisation had ceased its operations or had engaged in unlawful activities. The Ministry of Justice did not appeal against the judgment. Nevertheless, the applicant church asked the Ministry about the conditions and procedure for obtaining re-registration. By letter of 20 September 2004, the Ministry replied that re-registration was no longer possible since the time-limit for applying for it had expired on 31 December 2000.

3. On 30 June 2010 the Ministry of Justice issued a warning notice to the applicant church that it had uncovered a number of irregularities. Among these, there were the failure to bring its articles of incorporation into conformity with the Religions Act, and to specify the aims, purposes and main forms of operations of the religious organisation (whose purpose, according to Articles 6 § 1 and 8 § 1 of the Religions Act, should have been the "joint profession and dissemination of faith" and not the management of the Diocese's activities, as noted in the articles of incorporation). Other omissions concerned the rights and obligations of parishioners, the procedure for electing the Diocesan Assembly and Council, along with the need to change its name from "Russian Orthodox Free Church" to "Russian Orthodox Autonomous Church" to reflect the change in the name of the church to which it was affiliated that occurred in 1998. The applicant church was invited to correct these defects by 20 August 2020.

4. Following an attempt to challenge the warning notice before commercial courts that failed for lack of jurisdiction, on 24 June 2011 the bishop asked the Ministry of Justice for a copy of the articles of incorporation from their archives because the originals had been misplaced and because such a copy was needed to apply for registration of amendments. The Ministry replied that it was not the Ministry's authority to provide copies.

5. In 2012 the Ministry brought a new action for dissolution of the applicant church on the grounds that it had committed gross and repetitive breaches of the law that it had outlined in its letter of 30 June 2010. On 4 July 2012 the Supreme Court of the Russian Federation ordered the applicant church to be dissolved on the grounds put forward by the Ministry. On 23 October 2012 the Appeals Panel of the Supreme Court upheld that judgment.

6. The applicant church complains under Article 9 and 11 of the Convention, taken on their own and in conjunction with Article 14, about its dissolution which was prompted, in its submission, by the Russian authorities' determination to eradicate any competition with the Moscow Patriarchate of the Russian Orthodox Church.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLES 9 AND 11 OF THE CONVENTION

7. According to the Court's well-established practice, dissolution of the applicant church before the lodging of the present application did not deprive it of *locus standi* before the Court (see *AGVPS-Bacău v. Romania*, no. 19750/03, §§ 36-40, 9 November 2010, and *Ayoub and Others v. France*, nos. 77400/14 and 2 others, § 58, 8 October 2020). The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

8. The dissolution of the applicant church amounted to an interference with its rights under Articles 9 and 11 of the Convention.

9. The Court considers that the complaint about this dissolution 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).

10. The Court observes that the dissolution was ordered on the basis of section 14 of the Religions Act and, to that extent, had a legal basis (see *Biblical Centre of the Chuvash Republic v. Russia*, no. 33203/08, § 31, 12 June 2014). The Court does not need to consider whether the interference "pursued a legitimate aim" because, in any event, it was not "necessary in a democratic society" for the reasons set out below.

11. Considering that the issue at stake was the legal existence of the applicant church, the State had only a narrow margin of appreciation in limiting the right to freedom of religion and association, and only convincing and compelling reasons could justify such restriction (see, with further references, *Moscow Branch of the Salvation Army v. Russia*, no. 72881/01, § 76, ECHR 2006-XI, and *Croatian Golf Federation v. Croatia*, no. 66994/14, § 98, 17 December 2020). Against the background of the relevant facts described above, the technical defects in the applicant church's documentation were insufficient to justify the dissolution of a long-standing religious organisation. It constituted the most severe form of interference and cannot be regarded as proportionate to whatever legitimate aims were pursued. In addition, the national courts did not apply the relevant Convention standards in that their decision-making did not include an analysis of the impact of the applicant church's dissolution on the fundamental rights of its parishioners (see, *mutatis mutandis*, *Öğrü and Others v. Turkey*, nos. 60087/10 and 2 others, §§ 69-70, 19 December 2017).

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

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

II. OTHER COMPLAINTS

13. The applicant church also complained under Article 14 of the Convention that it had been discriminated against on account of its position as a religious minority in Russia. Having regard to the findings above, the Court considers that it has examined the main legal questions raised in the present application and that there is no need to give a separate ruling on the above complaint (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. The applicant church claimed 1,000,000 euros (EUR) for the loss suffered as a result of its dissolution.

15. The Government submitted that the applicant's claim was unsubstantiated.

16. Considering the unequivocal claim for compensation, which however does not clearly specify under which head it is made, the Court awards the applicant church EUR 7,500 in respect of non-pecuniary damage it must have suffered, plus any tax that may be chargeable upon it, and rejects the remainder of the claim.

17. The Court further 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. *Declares* the complaint under Articles 9 and 11 of the Convention about the dissolution of the applicant church 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 there is no need to examine the admissibility and merits of the complaint under Article 14 of the Convention;

4. *Holds*

   (a) that the respondent State is to pay the applicant church represented by its bishop Mr Nonchin, within three months, EUR 7,500 (seven thousand five hundred euros), plus any tax that may be chargeable, in

respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the claim for just satisfaction.

Done in English, and notified in writing on 12 July 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	María Elósegui President