

Jehovah's Witnesses of Moscow and Others v. Russia

NO. 302/02, 10 JUNE 2010



Key Judgment of the European Court of
Human Rights Involving Jehovah's Witnesses

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From 1998 to 2004, Jehovah's Witnesses in Moscow, Russia, found it necessary to go to court to defend themselves from numerous false accusations. In 1998 the prosecutor of the Northern Administrative District of Moscow filed a civil action to ban Jehovah's Witnesses in Moscow and dissolve their Christian association. The Russian courts sided with the prosecutor, so an application was made to the European Court of Human Rights (ECHR), which evaluated the evidence in the light of fundamental human rights. On 10 June 2010, the ECHR unanimously concluded that all the accusations made against Jehovah's Witnesses in Moscow were unfounded.

The ECHR ruled that the liquidation of the religious organization of Jehovah's Witnesses in Moscow and the refusal to re-register that religious organization violated the right to freedom of religion and the right to freedom of association guaranteed by Articles 9 and 11 of the European Convention on Human Rights (the Convention). The ECHR also ruled that the court proceedings in Russia violated Article 6 of the Convention, which protects the right to a fair trial.

The following are extracts from the ECHR judgment. The accusations made by the Moscow prosecutor (**bold subheadings**) are followed by the ECHR judgment.

ALLEGED FORCED FAMILY BREAK-UP

“. . . It is a known fact that a religious way of life requires from its followers both abidance by religious rules and self-dedication to religious work that can take up a significant portion of the believer's time . . . , which is common to many Christian denominations . . . Nevertheless, as long as self-dedication to religious matters is the product of the believer's independent and free decision and however unhappy his or her family members may be about that decision, the ensuing estrangement cannot be taken to mean that the religion caused the break-up in the family. Quite often, the opposite is true: it is the resistance and unwillingness of non-religious family members to accept and to respect their religious relative's freedom to manifest and practise his or her religion that is the source of conflict. It is true that friction often exists in marriages where the spouses belong to different religious denominations or one of the spouses is a non-believer. However, this situation is common to all mixed-belief marriages and Jehovah's Witnesses are no exception.” (§ 111)





ALLEGED INTERFERENCE WITH WORK, FREE TIME, AND HOLIDAYS

“. . . [I]t is a common feature of many religions that they determine doctrinal standards of behaviour by which their followers must abide in their private lives. . . . Jehovah’s Witnesses’ regulations on allowing sufficient time for religious activities and abstaining from celebrating non-Witnesses or secular events were in that sense not fundamentally different from similar limitations that other religions impose on their followers’ private lives.” (§ 118)

“Finally, ‘participation in celebrations during State holidays’ is not a civil duty as defined by law. In fact, there is no law compelling celebration of any holidays, whether they are secular or religious, and such compulsory participation in celebrations, had it been elevated to the rank of a legal obligation, could arguably have raised an issue under Articles 9 and 10 of the Convention.” (§ 152)

ALLEGED INTERFERENCE WITH PRIVACY BY EVANGELIZING

“. . . In the Court’s view, this conviction is capable of proving that a member of the applicant community had been a victim of a violent criminal offence but not that she had committed any offence herself. As the Court observed in the *Kokkinakis* case, ‘bearing Christian witness . . . [is] an essential mission and a responsibility of every Christian and every Church.’” (§ 122)

“The Court reiterates that, although the arguments based on religious beliefs may be extremely persuasive and compelling, the right ‘to try to convince one’s neighbour’ is an essential element of religious freedom (see *Kokkinakis*, cited above, § 31, and *Larissis and Others v. Greece*, 24 February 1998, § 45, *Reports of Judgments and Decisions* 1998-I).” (§ 139)

ALLEGED LURING OF MINORS

“[T]he involvement of children in the community’s religious life appears to have been approved and encouraged by one of the parents who had been a Jehovah’s Witness himself or herself. Thus, the situation which had been imputed to the applicant community had not actually been related to the community’s actions, but to the actions of its individual members who were parents of those children.” (§ 124)

“The Court reiterates that Article 2 of Protocol No. 1 requires the State to respect the rights of parents to ensure education and teaching in conformity with their own religious convictions and that Article 5 of Protocol No. 7 establishes that spouses enjoy equality of rights in their relations with their children. . . . Both parents, even in a situation where they adhere to differing doctrines or beliefs, have the same right to raise their children in accordance with their religious or non-religious convictions.” (§ 125)

ON MEDICAL TREATMENT CHOICES

“ . . . In so far as the domestic judgments can be understood to consider that the refusal of a blood transfusion is tantamount to suicide, in the Court’s view, this analogy does not hold, for the situation of a patient seeking a hastening of death through discontinuation of treatment is different from that of patients who—like Jehovah’s Witnesses—just make a choice of medical procedures but still wish to get well and do not exclude treatment altogether.” (§ 132)

“The freedom to accept or refuse specific medical treatment, or to select an alternative form of treatment, is vital to the principles of self-determination and personal autonomy. A competent adult patient is free to decide, for instance, whether or not to undergo surgery or treatment or, by the same token, to have a blood transfusion.” (§ 136)

“ . . . Furthermore, as the Court has found above, the refusal of blood transfusion was an expression of the free will of the individual community members who exercised their right to personal autonomy in the sphere of health care protected both under the Convention and in Russian law.” (§ 144)

ALLEGED INCITEMENT OF CITIZENS TO REFUSE CIVIC DUTIES

“It is a well-known fact that Jehovah’s Witnesses are a religious group committed to pacifism and that their doctrine prevents individual members from performing military service, wearing uniform or taking up weapons [citations to case law omitted]. On the other hand, Jehovah’s Witnesses agree to carry out alternative civilian service on the condition it is not connected with military organisations.” (§ 150)



In view of its violation of the European Convention on Human Rights, Russia was ordered to pay damages and expenses, as noted below.

“FOR THESE REASONS, THE COURT UNANIMOUSLY . . .

6. Holds

- (a) that the respondent State is to pay to the applicants jointly, . . .
 - (i) EUR 20,000 (twenty thousand euros) in respect of non-pecuniary damage, plus any tax that may be chargeable; and
 - (ii) EUR 50,000 (fifty thousand euros) in respect of costs and expenses, plus any tax that may be chargeable to the applicants.”