

RUSSIA/EUROPEAN COURT: Controversial dissolution of the Russian Orthodox Free Church

The Russian Orthodox Free Church argues the authorities take sides with the official Orthodox Church (Application no. 32895/13).

HRWF (23.10.2017) – In the case Bryansk-Tula Diocese of the Russian Orthodox Free Church against Russia lodged on 19 April 2013, the European Court addressed a number of questions to the parties in May of this year. The case concerns the decision of the Russian Supreme Court to dissolve the church for allegedly failing to bring its founding documents into conformity with The Religious Act of 1997. The applicant complained 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.

Excerpt of the Communication of the European Court on 15 May 2017

“On 28 August 1995 the applicant church was officially registered as a religious association having legal-entity status under the RSFSR Religions Act of 25 October 1990.

On 1 October 1997 a new Religions Act entered into force. It required all religious associations that had previously been granted legal-entity status to bring their articles of association into conformity with the Act and obtain re-registration from the competent Justice Department (section

27(4)). The time-limit for doing so expired on 31 December 2000.

In 2004, the Ministry of Justice brought an action for the dissolution of the applicant church, claiming that it had failed, firstly, to submit information demonstrating continuity of its operation and, secondly, to secure re-registration under the new Religions Act.

On 17 May 2004 the Trubchevskiy District Court in the Bryansk Region rejected the claim. 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. In the court's view, its articles of association did not contain any provisions incompatible with the effective revision of the Religions Act. 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 inquired 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 had expired on 31 December 2000.

On 30 June 2010 the Ministry of Justice informed the applicant church that it had studied its file and uncovered a number of irregularities, such as a failure to bring its founding documents into conformity with the Religions Act, a failure to specify "the aims, purposes and main forms of operations" of the religious organisation, the procedure for electing the Diocesan Assembly and Council and the rights and obligations of parishioners, as well as to change its name from "Russian

Orthodox Free Church” to “Russian Orthodox Autonomous Church” to reflect the change in the name of the affiliated church that occurred in 1998. The Ministry listed further failings, including non-inclusion in the State Register of Legal Entities, non-submission of an authority form for the bishop Mr Nonchin, failure to submit annual reports on the continuation of operations and the closing down of local parishes of the Bryansk and Tula region.

The applicant organisation unsuccessfully sought to challenge the Ministry’s demands before a court.

On 24 June 2011 the bishop submitted a proof of his appointment to the Ministry of Justice and asked it to provide a copy of the founding documents from their archives because the originals had been misplaced.

By letter of 8 August 2011, the Ministry replied that the appointment letter had not been properly certified and that the provision of copies of the founding documents was outside the Ministry’s mandate.

The Ministry brought a new action for the dissolution of the applicant church on the ground that it had committed gross and repetitive breaches of the laws it had outlined in its warning letter of 30 June 2010.

The applicant organisation submitted in its defence that all the irregularities could be remedied by way of registering amendments to the founding documents. However, it could not apply for registration of amendments because the procedure required the presentation of the founding documents or their certified copies which it did not have.

On 4 July 2012 the Supreme Court of the Russian Federation allowed the Ministry’s action for the dissolution. It held that the applicant church had failed to bring its founding documents into conformity with the law and that there was “no credible evidence that the Ministry of Justice had prevented

it from obtaining re-registration". The Supreme Court restated the grounds contained in the Ministry's letter of 30 June 2010 and declared them to amount to "gross and repetitive" violations of the law which warranted its dissolution.

On 23 October 2012 the Appeals Panel of the Supreme Court upheld that judgment."

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