

Religious Discrimination: Scientology in Russia

Submission by Church of Scientology

OSCE Supplementary Human Dimension Meeting: Freedom of Religion or Belief

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Scientology Churches and Missions have been refused the right to register as religious organizations under the 1997 Russian Federation law "On Freedom of Conscience and Associations" (Religion Law) and have been subject to never-ending investigations and liquidation proceedings. The Religion Law requires religious groups to have at least a 15-year presence in the country to be eligible to register as religious organizations. Scientology Churches have been refused registration under the 15-year rule of the Religion Law and, in the case of the Moscow Scientology Church, pursuant to arbitrary and discriminatory rulings designed to bar any registration of Scientology religious groups under the Religion Law. The Church has sought relief from this discrimination in the European Human Rights Court.

This memorandum provides a summary of matters relating to Scientology in Russia.

Moscow Church of Scientology Re-Registration Case: European Court of Human Rights

By way of background, the Church of Scientology of Moscow is a religious association and officially registered as such in January 1994. On 1 October 1997, the Religion Law entered into force, requiring all religious associations previously granted the status of a legal entity to bring their articles of association into conformity with the Religion Law and to re-apply for registration with the competent Justice Department before 31 December 2000. Failure to obtain "re-registration" before the expiration of that time limit exposed the Church to the threat of dissolution by judicial decision.

The Church of Scientology of Moscow subsequently applied eleven times for re-registration to the Moscow Justice Department between August 1998 and May 2005. Each application was rejected on arbitrary and discriminatory grounds.

The refusal to re-register the Moscow Church under the Religion Law placed its status as a legal entity in jeopardy. The consequences of non-registration as a religious organization within the meaning of the Law were extreme for the Church and its members. As a result of the arbitrary refusal to re-register, the

rights of the Church and its parishioners essential to the conduct of their religious activities on anything but the most primitive level were seriously jeopardized, including the ability to own and operate educational institutions including theological schools, to own and maintain religious buildings, to conduct charitable activities, the right to acquire, import and distribute religious literature and the right to invite foreign citizens to preach and conduct religious services.

In April 2007, the European Court of Human Rights (ECHR) ruled that Moscow authorities violated the Church's religious freedom and freedom of association rights by refusing to re-register the Moscow Church. The government appealed the decision.

In September 2007, the ECHR rejected the government's appeal and published its final judgment in the case of *Church of Scientology Moscow v. Russia*. The government paid the fine stipulated by the ECHR.

In June 2008, the Unified State Register of Legal Entities recorded the change of address for the Church, appearing to accept, for the first time, the legal existence of the religious organization, Church of Scientology of Moscow. However, the Federal Registration Service continues to refuse to accept registration of the Church's revised charter, rejecting it on numerous occasions since July 2008 for formalistic reasons that are clearly spurious and made in bad faith.

For example, one of the reasons given for the refusal was that the Church used a defined shorthand term ('the Church') in place of its full name throughout the Charter. The Justice Department claimed that this was 'illegal' because the full name "Church of Scientology of Moscow" was not used at every mention of the Church in its Charter.

In light of the government's bad faith in complying with the Church of Scientology Moscow ECHR decision, the Moscow Church has filed two submissions with the Committee of Ministers Subcommittee on Execution of Human Rights Court Decisions in the Council of Europe, requesting that the Council direct Russia to comply with the Moscow Scientology final decision. This request is pending.

By finding a violation of Article 11 read in the light of Article 9 in the present case, the ECHR has established the Government's obligation to take appropriate measures to remedy the applicant's individual situation. The ECHR emphasizes that the Russian Federation must adopt measures compatible with the conclusions set out in the Court's Scientology Church judgment.

After receiving three arbitrary re-registration rejections subsequent to the ECHR decision, the Church applied to Russian courts asking to review earlier court rulings in view of newly discovered facts. However, the national courts refused to

do so, determining that Article 392 of the RF Civil Code does not contain a provision allowing review of final court rulings in view of newly discovered facts concerning a violation of the Human Rights Convention as established by a final judgment of the ECHR.

The Church then filed a complaint in the Constitutional Court that failure to enforce the ECHR judgment and re-register the Moscow Church violated the Church's constitutional rights. In September 2009, the Constitutional Court refused to consider the petition of the Church on the grounds that the issues were outside the competence of the Constitutional Court and therefore inadmissible.

As the Russian Federation continues to refuse to honor its obligations under the Human Rights Convention as reflected in a final and binding order of the Human Rights Court, the Church continues to be subject to violations of its right to freedom of religion and freedom of association and must turn to the Committee of Ministers of the Council of Europe to accomplish enforcement of the Human Rights Court's judgment.

Other Scientology Cases Pending in the European Court of Human Rights

15 Year Rule

The Religion Law requires religious organizations to exist for 15 years in order to register as religious organizations. Three Scientology religious organizations that were refused registration on the grounds that they were not in existence for 15 years now have their cases before the Human Rights Court after losing in Russian Courts.

On 9 June 2005, the European Court of Human Rights issued an important admissibility decision concerning issues relating to the registration of two of these Scientology Churches as a religious organization under Russian national law. In that case, *Kimlya, Aidar Sultanov and Church of Scientology of Nizhnekamsk vs Russia* (Application nos. 76836/01 and 32782/03), the Court considered separate applications regarding the refusal of Russian authorities to register Scientology Churches as religious organizations filed by founding members of two Churches of Scientology, the Church of Scientology of Surgut City in the Khanty-Mansi Autonomous Region of the Russian Federation, and the Church of Scientology of Nizhnekamsk in the Tatarstan Republic of the Russian Federation.

In its admissibility decision, the European Court of Human Rights determined, after examining extensive submissions and arguments by the parties, that the founding members and the Church's complaint regarding the refusal of Russian authorities to re-register it was admissible.

“The Court considers, in the light of the parties’ submissions, that this part of the applications raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits.”

In November 2006, the Church of Scientology of St. Petersburg also filed an action in the European Court of Human Rights in a against the Russian Federation challenging the refusal to register it as a religious organization because of the 15 Year Rule. These cases remain pending before the Court.

Along with the *Church of Scientology Moscow vs Russia* decision, this decision underlines the fact that the Scientology religion and Scientology religious organizations are entitled to the same rights and protections as other religions and religious organizations under international human rights treaties.

Liquidation of Scientology Organizations

Recently, Scientology organizations have been the target of systematic attempts to liquidate the legal entities on specious grounds that the religious groups practice education, or in some cases, medicine without a license. These liquidation investigations and proceedings have no basis in fact and represent government suppression of religion. Numerous other religious organizations are facing similar bad faith investigations.¹

They also have no sound basis in Russian law. Indeed, in June 2008, Russia's Supreme Court overturned a ruling against the Smolensk Methodist Church that it could not conduct Sunday school without a license, holding that a license is needed only “if it is accompanied by confirmation that the student has attained levels of education prescribed by the state”.

Liquidation of St. Petersburg Scientology Church

Once the decision to refuse to allow the St. Petersburg Church to register as a religious organization pursuant to the 15 Year Rule was upheld in Russian courts, authorities initiated actions designed to liquidate the Church, which was forced to register as a social organization due to the refusal. The government claimed that the Church should be liquidated for, among other reasons, engaging in education without a license, practicing medicine without a license, not allowing government

¹ The 2009 Report of the USCIRF notes that the Russian Union of Independent Churches of Evangelical Christian Baptists in Rostov-on-Don, the Theological Seminary of the Siberian Association of Evangelical-Lutheran Missions in Novosibirsk, two Moscow yeshivas, the Presbyterian Christian Theological Academy and the Institute of Contemporary Judaism have also been subject to these attempts.

inspectors to observe confidential minister-penitent sessions during a surprise inspection of the Church and not allowing the government's inspection team to take and to review sacred and confidential priest -penitent files.

The Church litigated the liquidation matter in Russian courts and the trial court's decision to force liquidation of the Church on these spurious grounds was upheld on appeal. In July, 2008, the Church of Scientology of St. Petersburg filed an application with the European Court of Human Rights challenging this forced liquidation. This case remains pending with the ECHR.

Liquidation of Other Scientology Organizations

Because of the refusal of Russian authorities to register Scientology religious groups as religious organizations, individual Scientology Churches in Chelny, Rostov, Ufa, Samara, Barnaul, Vladivostok, Novosibirsk, Surgut, Penza, Ekaterinburg, Omsk and elsewhere have experienced discriminatory treatment by local officials in the form of never-ending investigations and attempts to close down these religious groups. These actions include civil and criminal charges with the initiation of proceedings on the specious grounds that the religious groups are either practicing medicine or education without a license. Authorities in Barnaul, Rostov, Vladivostok, Chelny, Ufa and Samara have filed actions to liquidate the Scientology Missions in those cities, while at the same time refusing to register them.

In March 2009, Missions of Scientology in Rostov and Vladivostok were ordered liquidated by the trial court on the purported grounds that the Missions practiced education without a license because they offered parishioners classes on Scientology Scriptures. Both cases were upheld on appeal (Rostov in April and Vladivostok in May 2009), and the Missions have been ordered to be liquidated.

The Barnaul Mission of Scientology was registered as a social organization (it cannot register as a religious organization under the Religion Law's 15-Year rule). In 2007, the local prosecutor brought an action to liquidate the Mission on the grounds that it practiced medicine and education without a license. These charges were dismissed by the trial court. In August 2008, the trial court's decision was overturned by the Altay Regional Court and the case was sent back for trial.

The Court ordered the prosecutor to obtain an expertise regarding the charges. The expert retained by the government determined that the organizations activities were not educational but religious in nature. In August 2009, the trial court relied on this evidence to order liquidation of the Mission on the grounds that it could not conduct religious activities as a social organization but had to be registered under the Religion Law! An appeal will be filed.

Likewise, in November 2008, the trial court ordered liquidation of the Samara Mission of Scientology (which had registered as a non-commercial organization in order to obtain legal entity status) on the purported grounds that it practiced education without a license. This decision was upheld on appeal in December 2008.

A similar investigation and liquidation proceedings were brought against the Scientology Mission in Ufa and the Mission prevailed in the trial court in March 2009. However, the ruling was overturned in May 2009 and the case is expected to go forward in September 2009.

Other Missions, including Scientology Missions in Penza, Omsk and Novosibirsk, are currently the subject of harassing "investigations" and intrusive inspections designed to form purported grounds for liquidation.

Censorship and Suppression of Religious Freedom under the Extremism Law

Like other targeted faiths in Russia, authorities are also attempting to suppress the religion by seizing upon the June 2002 Extremism Law to justify confiscation and censorship of Scientology religious Scriptures.

The Extremism Law has been typically used against other religions to censor religious literature based on biased expert reports. For example, Forum 18 notes that, in one case, Muslim literature was banned because the expert argued the literature was "extremist" as it "propagandizes the idea of the superiority of Islam - and therefore Muslims - over other religions and the people who adhere to them". Yet a fundamental tenet of religious freedom is the right to say that yours is the only true religion². NGOs and the Russian Human Rights Ombudsman have expressed concern over the use of the Extremism Law to suppress and censor religions.

Over the past year, at the urging of the FSB, authorities in Surgut City, Penza, Ekaterinburg, Novosibirsk and Moscow have initiated investigations seeking to block the importation of and censor Scientology religious materials (books and lectures) on the purported grounds that these materials are somehow "extremist".

In the fall of 2008, the Transport Prosecutor at the Surgut Airport seized and confiscated 6 sets of books and lectures that form part of Scientology's

² "Russia: How the Battle with Extremism was Begun" Geraldine Fagan, 27 April 2009
<http://www.forum18.org>.

Scriptures. These religious materials had mailed to Scientologists in Surgut from a Scientology Church in the United States. The Transport Prosecutor initiated civil proceedings under the Extremism Law, arguing that these materials are "extremist" pursuant to Article 13 of the Extremism Law as they "contain religious books and audio and video materials associated with Scientology teachings".

Neither Scientology organizations nor Scientologists are a party to this proceeding. Scientologists who had ordered the confiscated religious materials filed several requests to intervene in the proceedings but these complaints have not yet been considered by the Court.

In April 2009, the Surgut City Court granted the Prosecutor's motion to assign experts in psychology and linguistic science to review the religious materials and to report back to the Court with their opinion as to whether the Scriptures constitute "extremist" materials under the June 1992 Law.

The psychologist assigned by the Court, Evgeny Volkov, is not a neutral and objective academic. Volkov is a notorious and controversial "anti-cultist". Volkov has translated and authored books and articles attacking New Religious Movements and minority faiths derogatorily referred to as "cults". He maintains a website containing uniformly derogatory and primarily false information on minority faiths, including Scientology. He has authored a number of "expertises" highly critical on Scientology that have been used in other types of proceedings and maintains a website highly critical of such faiths, including Scientology. He is also an active member of FECRIS, an organization that actively engages in lobbying governments and intergovernmental groups against the rights of minority faiths.

The appointment of such this biased individual as a purportedly "neutral and objective expert" makes a mockery of the proceedings and the rule of law.

On 19 and 20 February 2009, the Moscow Scientology Church was subject to inspections to review religious materials in order to determine if they should be confiscated under the Extremism Law. This matter is still pending.

As of April 2009, investigations in Penza and Ekaterinburg had been dismissed as groundless and the religious books originally seized and confiscated were finally released to the parishioners who purchased them. Yet, new seizures and confiscation of Scientology religious materials occurred in Ekaterinburg in July 2009 and Penza in September 2009 under the Extremism Law.

The Extremism Law represents a grave threat to the right to freedom of religion and freedom of expression for Scientology in Russia as the Law is extremely arbitrary and can be applied in a discriminatory manner in contravention of fundamental human rights.

Seizure of Religious Priest-Penitent Files

Another significant case, in terms of its potential impact on the practice of the Scientology religion, involved the seizure of files and confidential parishioner confessional material from the St. Petersburg Church of Scientology.

While the first investigator assigned to the case recommended that it be closed for insufficient evidence, he was replaced by another investigator who tried to get new information to support the case by harassing a number of St. Petersburg Church staff members and parishioners. Several parishioners filed complaints against him and the police for their improper conduct and refusal to return these confessional files.

Conclusion

The Church of Scientology, Scientology parishioners and Scientology organizations have been the target of systematic religious repression and discrimination by Russian authorities in contravention of international human rights law which Russia is obliged to follow.