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Press release issued by the Registrar

Chamber judgment¹

Kimlya and Others v. Russia (application nos. **76836/01** and 32782/03)
**REFUSAL TO REGISTER A RELIGIOUS GROUP IN A PARTICULAR REGION
UNLESS IT HAD EXISTED FOR 15 YEARS**

***Violation of Article 9 (freedom of religion)
in the light of Article 11 (freedom of association)
of the European Convention on Human Rights***

Under Article 41 (just satisfaction) of the Convention, the Court awarded Yevgeniy Kimlya and Aidar Sultanov 5,000 euros (EUR) in respect of non-pecuniary damage. (The judgment is available only in English.)

Principal facts

The three applicants are: Yevgeniy Kimlya, President of Surgut City Church of Scientology, who was born in 1977 and lives in Surgut (Russia); as well as Nizhnekamsk Church of Scientology and one of its co-founders, Aidar Sultanov, who was born in 1965 and lives in Nizhnekamsk (Russia).

Surgut Church of Scientology, initially registered as a non-governmental organisation in 1994, was later dissolved on the ground that its activities were “religious in nature”. Subsequent applications for registration as a non-religious entity were rejected in July and October 1999 for the same reason. In August 2000 in order to obtain the status of a legal entity, the Church’s founding members – including Mr Kimlya – applied to the Justice Department for registration as a local religious organisation.

Nizhnekamsk Church of Scientology, initially set up in 1998 as a religious group, had also applied for state registration as a local religious organisation in December 1999.

Following complex and lengthy proceedings, the Russian courts subsequently upheld at final instance the decisions of the registration authorities by which the two churches of Scientology were refused registration as “religious organisations” by reference to the legal requirement of the Religions Act that any new religious group had to prove that it had existed for at least 15 years in a given Russian territory or that it was affiliated with a centralised religious organisation.

A religious group, as defined in the Religions Act, has no legal personality; as such it cannot own or rent property, have a bank account, hire employees or ensure judicial protection of the community, its members and assets. Its status also rules out the opening of places of worship, the holding of religious services that are accessible to the public, acquisition and distribution of religious literature and creation of educational institutions.

Complaints, procedure and composition of the Court

The applicants complained in particular about the Russian authorities’ decisions, based on the Russian Religions Act, refusing State registration of their religious groups as legal entities. They relied on Articles 9, 10 (freedom of expression) and 11, read alone or in conjunction with Article 14 (prohibition of discrimination).

The applications were lodged with the European Court of Human Rights on 17 August 2001 and 2 October 2003, respectively. They were joined and declared partly admissible on 9 June 2005.

Judgment was given by a Chamber of seven judges, composed as follows:

Christos **Rozakis** (Greece), **President**,
Nina **Vajić** (Croatia),
Anatoly **Kovler** (Russia),
Elisabeth **Steiner** (Austria),
Khanlar **Hajiyev** (Azerbaijan),
Dean **Spielmann** (Luxembourg),
Sverre Erik **Jebens** (Norway), **judges**,

and also André **Wampach**, **Deputy Section Registrar**.

Decision of the Court

The Court noted that the question of whether Scientology could be described as a “religion” was a matter of controversy among the member States. In the absence of any European consensus on the religious nature of Scientology teachings, and being sensitive to the subsidiary nature of its role, the Court considered that it had to rely on the position of the domestic authorities in determining the applicability of Article 9. As the Russian authorities had been convinced of the religious nature of Surgut and Nizhnekamsk Churches of Scientology, the Court therefore decided that Article 9 was applicable in the case. Moreover, given that religious communities traditionally existed in the form of organised structures and that the complaint concerned the alleged restriction on the right to associate freely with fellow believers, Article 9 also had to be examined in the light of Article 11 which safeguarded associative life against unjustified State interference.

The Court found that the lack of legal personality and the restricted scope of rights of religious groups under the Russian Religions Act did not allow their members to effectively enjoy their right to freedom of religion and association. There had therefore been an interference with the applicants’ rights under Article 9 interpreted in the light of Article 11. That interference had been prescribed by law, namely section 9 § 1 of the Religions Act, and pursued the legitimate aim of protecting public order.

However, at no point in the proceedings had it been shown that the applicants – either as individuals or as a religious group – had engaged or intended to engage in any unlawful activities or pursued any aims other than worship, teaching, practice and observance of their beliefs. Indeed, they were denied registration as a religious organisation, not because of any shortcoming on their part or of any specific feature of their religious creed, but rather as a result of the automatic application of a legal provision, the “15-year rule” contained in section 9 § 1 of the Religions Act. The ground for refusing registration had therefore been purely formal and unconnected with their actual functioning. Furthermore, the contested provision of the Religions Act had targeted base-level religious communities that could not prove either their presence in a given Russian region or their affiliation with a centralised religious organisation. Accordingly, only those newly emerging religious groups, such as Scientology groups, that did not form part of a strictly hierarchical church structure had been affected by the “15-year rule”. The Government had not given any justification for such differential treatment.

The Court therefore concluded that the interference with the applicants’ rights to freedom of religion and association had not been “necessary in a democratic society” and held unanimously that there had been a violation of Article 9 of the Convention, interpreted in the light of Article 11. It further held unanimously that it was not necessary to examine separately the applicants’ complaints under Articles 10 and 14 finding that those complaints had been sufficiently taken into account in the above assessment.

This press release is a document produced by the Registry; the summary it contains does not bind the Court. The judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

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