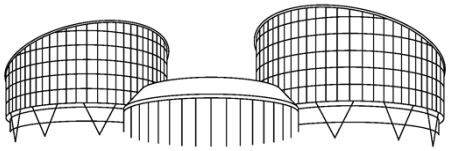

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF CENTRE OF SOCIETIES FOR KRISHNA CONSCIOUSNESS IN RUSSIA AND FROLOV v. RUSSIA

(Application no. 37477/11)

JUDGMENT

Art 9 • Freedom of religion • Failure to protect Krishna religious organisation's beliefs from hostile speech used by regional State authorities in "anti-cult" publication • Use of derogatory language and unsubstantiated allegations for describing applicant's centre's religious beliefs • Margin of appreciation overstepped Art 11 • Freedom of peaceful assembly • Unlawful and arbitrary refusal to allow Vaishnavism follower to hold peaceful public religious events

STRASBOURG

23 November 2021

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Centre of Societies for Krishna Consciousness in Russia and Frolov v. Russia,

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

Georges Ravarani, *President,*
Georgios A. Serghides,
Dmitry Dedov,
María Elósegui,
Anja Seibert-Fohr,
Peeter Roosma,
Frédéric Krenc, *judges,*
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 37477/11) 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") by a religious organisation under Russian law, Centre of Societies for Krishna Consciousness, and a Russian national, Mr Mikhail Aleksandrovich Frolov ("the applicants"), on 29 May 2011;

the decision to give notice of the application to the Russian Government ("the Government");

the parties' observations;

Having deliberated in private on 5 and 19 October 2021,

Delivers the following judgment, which was adopted on the last-mentioned date:

INTRODUCTION

1. The case concerns the applicants' unsuccessful attempts to seek the protection against hostile messaging targeting the Krishna movement and to hold public religious events promoting the teachings of Vaishnavism.

THE FACTS

2. The first applicant is the Centre of Societies for Krishna Consciousness in Russia (*Центр обществ сознания Кришны в России*), a centralised religious organisation established under the Russian law on religious associations in 1992 which has its registered office in Moscow ("the applicant centre"). The second applicant, Mr Frolov, was born in 1975 and lives in the Moscow Region. The applicants were represented before the Court by Mr V. Borisov, vice-president of the applicant centre, and Mr S. Minenkov, a lawyer practising in Moscow.

3. The Government were 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.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

I. HOSTILE STATEMENTS ABOUT THE KRISHNA MOVEMENT

A. Interview with an Orthodox priest

5. On 15 September 2008 Orthodox news agency *Russkaya Liniya* published an interview with A.M., a member of Orthodox clergy. He was quoted as saying that the Krishna Society was a "demonically oriented religion" which "profoundly affected the personality" of its followers.

6. On 23 September 2008 the applicant centre sent a letter of complaint to the St Petersburg office of the media regulator, seeking a declaration that A.M.'s allegations constituted extremist speech. On 28 January 2009 the regulator replied that their experts had found no indications of racial, ethnic or religious hatred. The applicant centre unsuccessfully appealed to the head of the media regulator and later filed an application for judicial review.

7. On 10 November 2009 the Taganskiy District Court in Moscow held that, in so far as the media regulator had acted within its mandate and in accordance with the law, there had been no breach of the claimant's rights. On 30 November 2010 the Moscow City Court upheld the decision.

B. Ulyanovsk Government's "anti-cult" project

8. On 1 November 2008 the official website of Governor and Government of the Ulyanovsk Region announced that the project "Beware: cults!" («Осторожно – секты!») was moving forward. Its chief objective was stated to be the "prevention of negative activities of destructive religious groups in the region". It had begun in April 2008 with a conference co-organised by the Government of the Ulyanovsk Region and the Ulyanovsk State University. An action plan adopted at the conference had included the setting-up of an anti-cult hot line and organisation of roundtables and seminars with the participation of youth organisations, ministers of "traditional denominations", authorities, educators and members of the public. An educational seminar, "Adverse effects of cults on the minds of children and youth", had been held on 31 October 2008. Vice-principals of secondary schools, teaching staff, and religious ministers had discussed the religious situation in the region. Teaching staff had been given pamphlets, posters and brochures to be distributed among their students. The brochure "Watch out for cults!" («Будьте внимательны: секты!») had been compiled in the framework of the project by experts of

the Government of the Ulyanovsk Region together with staff of the Ulyanovsk State University. The first deputy chief of staff of the Government of the Ulyanovsk Region had been quoted as saying: "the Government attaches particular importance to ... the protection of the population from the influence of totalitarian cults".

9. An electronic version of the brochure "Watch out for cults!" was published on the regional Government's website. The cover page listed "Government of the Ulyanovsk Region" and "Ulyanovsk State University" at the top, followed by the names of three authors. The second page gave a summary description of the brochure:

> "The methodical recommendations have been compiled on the basis of works by prominent Russian and international religious scholars and are addressed to administrators of educational institutions and officials in charge of education in the matter of destructive activities of totalitarian cults in the Ulyanovsk Region.
>
> Published by decision of the Government of the Ulyanovsk Region."

10. Chapter 2 provided an overview of "non-traditional religious movements active in the Ulyanovsk Region", including Jehovah's Witnesses, Mormons, Unification Church of Rev. Moon, Scientology, and Krishna Society. The section on the Krishna Society opened:

> "Today, in the streets of our cities, you can see flamboyant groups of mostly young people dressed in white and yellow garments who sing unintelligible hymns to the beat of drums and other musical instruments. It is exciting and exotic, it attracts attention. But you need to know that you are facing members of the 'International Society for Krishna Consciousness', a totalitarian cult".

It went on to describe the life of the founder of the Krishna Societies, the precepts of the faith, rituals and dietary restrictions. It concluded:

> "The goals of Krishnaites are frequently rather materialistic: they seek to obtain money by all means. They beg for money in the street, they sell their literature; in some countries, they have been caught stealing or selling drugs. All of it goes to the leaders of the cult who keep a close watch on that activity.
>
> Even a cursory review of the Krishna teachings can tell us that this religious movement is highly destructive for our society. It has no genetic, historic or geographic connection to our people. It is a peculiar spiritual culture of the East. Zombification and psychological manipulation of our youth constitute a serious threat to our future."

11. On 11 November 2008 the applicant centre complained to the Prosecutor General that the Government of the Ulyanovsk Region's anti-cult project discriminated against the Krishna movement by portraying it as a "totalitarian cult". A printout of the news from the official website, a copy of the brochure and a detailed analysis of untrue or misleading allegations in the brochure were enclosed with the complaint.

12. The complaint was forwarded to the Ulyanovsk regional prosecutor's office which replied, on 29 December 2008, that: the State authorities had carried out the project within their legal authority; the

primary objective of the project had been to discuss the matters relating to an interfaith dialogue and build the best possible framework for a relationship between the State and religious organisations; the brochure had been developed by staff of the Ulyanovsk State University and presented a variety of views on the activities of "non-traditional religious organisations". If the applicant centre believed that their rights had been violated, they should apply to a court for the protection.

13. Further hierarchical appeals having elicited similar responses, the applicant centre turned to a court for substantive review of the prosecutors' decisions. On 27 October 2010 the Tverskoy District Court in Moscow held that the prosecutors had considered all the matters which the applicant centre had complained about and gave sufficient responses. That the applicant centre disagreed with their contents did not constitute a sufficient reason to impugn them. On 16 March 2011 the Moscow City Court upheld that judgment on appeal.

II. Mr FROLOV'S ATTEMPTS TO HOLD A RELIGIOUS MEETING FOR THE PROMOTION OF THE TEACHING OF VAISHNAVISM

A. First notification to hold a religious meeting

14. On 1 April 2013 Mr Frolov submitted a notification to the prefecture of the Severo-Vostochnyy District in Moscow, stating his intention to hold, on 13 April, a "meeting to promote the teaching of Vaishnavism and a healthy lifestyle based on spiritual values", with up to fifteen people participating. The following day the prefecture rejected his notification on the grounds that "the stated purpose – promoting the teaching of Vaishnavism – does not correspond to section 2(1) of the Public Events Act".

15. In his application for judicial review, Mr Frolov contended that the prefecture's refusal had had no basis in law. Section 16(5) of the Religions Act established that religious assemblies outside religious buildings were to be held in accordance with the Public Events Act. The Public Events Act governed the procedure for organising public events without imposing any specific purposes; its section 1(2) expressly provided for a possibility of holding religious events. The authorities had not specified the nature of the alleged contradiction, and the refusal had breached his rights to freedom of expression, assembly and religion.

16. On 12 August 2013 the Meshchanskiy District Court in Moscow pronounced the refusal to have been lawful and justified. It found that the promotion of the teaching of Vaishnavism did not correspond to the purposes of a public event listed in section 2(1) of the Public Events Act. On 16 January 2014 the Moscow City Court dismissed the appeal, finding that "the missionary activities, of which Mr Frolov had informed the

prefecture, did not correspond to the lawful purposes of a public event; they were incompatible with the respect for the religious beliefs of others; the rejection of the notification of a public event was therefore lawful". The City Court added that the refusal did not restrict Mr Frolov's right to freedom of religion because he could promote the teaching of Vaishnavism "by other lawful means and methods".

B. Second notification to hold a religious meeting

17. On 8 April 2013 Mr Frolov submitted a second notification to the prefecture of the Severo-Vostochnyy District, stating his intention to hold, on 20 April, a meeting to promote the teaching of Vaishnavism. On 10 April 2013 the prefecture rejected the notification on the grounds that the promotion of Vaishnavism did not correspond to the purposes of a public event in section 2(1) of the Public Events Act and that the Religions Act did not mention a "meeting" as a form of religious event. Mr Frolov sent a letter of objection to the prefecture, to which he received no reply.

18. On 20 April 2013 a few participants gathered at the designated location of the religious event. A police officer told them to disperse.

19. On 11 June 2013 the Ostankinskiy District Court in Moscow dismissed Mr Frolov's application for judicial review, finding that the prefecture had not actually refused to allow the public event to proceed but merely informed Mr Frolov that its stated purpose had been inconsistent with the law. On 20 August 2013 the Moscow City Court dismissed the appeal. It held that neither the Religions Act nor the Public Events Act made provision for holding a "public event of a religious nature in the form of a meeting". Religious events could take the form of a service of worship, rite or ceremony; a "meeting", "as the term was generally applied", was none of them. It was "evident" for the City Court that "promoting the teaching of Vaishnavism" was not "a service of worship, a rite or a ceremony". It also fell outside the concept of a "public event" in so far as it did not involve "free expression and shaping of opinions [or] making demands on issues related to political, economic, social or cultural life".

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. CRIME PREVENTION PROGRAMME OF THE ULYANOVSK GOVERNMENT

20. The Programme of Comprehensive Measures for Crime Prevention in the Ulyanovsk Region in 2006-2010, approved by Ulyanovsk Regional Law no. 100-ZO of 4 July 2006, provided that the Regional Council for Religions and Ethnicities and the regional offices of the Ministry of the Interior and the Federal Security Service would co-operate with municipal

authorities in the matters relating to "the activities of foreign missionaries and non-traditional religious associations which pose a security risk for the life and health of citizens". "The prevention of extremism and the termination of cultist activities" were listed as the objectives of that co-operation (point 5.3 of Annex 1).

II. PROCEDURE FOR CONDUCTING PUBLIC EVENTS

21. The Religions Act (Law no. 125-FZ of 26 September 1997, as worded at the material time) established that private services of worship, religious rites and ceremonies could be conducted without hindrance in religious buildings or other premises made available to religious organisations for that purpose (section 16, subsection 2). Special rules applied to holding services in hospitals and on military grounds (subsections 3 and 4). In other cases, public services of worship, religious rites and ceremonies were to be conducted in accordance with the procedure established for conducting meetings, marches and demonstrations (subsection 5). See, for details, *Krupko and Others v. Russia* (no. 26587/07, § 21, 26 June 2014).

22. Section 1(2) of the Public Events Act (Law no. 54-FZ of 19 June 2004) establishes that the conduct of "religious rites and ceremonies" is governed by the Religions Act.

23. Section 2(1) defines the terms used throughout the Public Events Act. A "public event" – which is a generic term encompassing all types of public events – is defined as follows:

> "[A]n open, peaceful and publicly accessible event which is conducted in the form of an assembly, meeting, demonstration, march or picket or in various combinations of these forms, at the initiative of Russian nationals, political parties, public associations or religious associations ... The purposes of a public event are free expression and shaping of opinions or making demands on various issues related to political, economic, social or cultural life in the country or its foreign policy ..."

Subsections 2 to 6 describe various types of public events (see, for details, *Krupko and Others*, cited above, § 22, and *Lashmankin and Others v. Russia*, nos. 57818/09 and 14 others, §§ 218-42, 7 February 2017).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION, TAKEN ALONE AND IN CONJUNCTION WITH ARTICLE 14, IN RESPECT OF THE APPLICANT CENTRE

24. The applicant centre complained that the State authorities' failure to suppress hostile speech targeting the Krishna movement breached its duty of neutrality and impartiality under Article 9 of the Convention and

amounted to discrimination on the ground of religion in breach of Article 14. Those provisions, in their relevant parts, read as follows:

Article 9

"1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

Article 14

"The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as ... religion ..."

A. Admissibility

1. *Alleged non-exhaustion of domestic remedies*

25. The Government submitted that the applicant centre had not exhausted the effective domestic remedies. While it had challenged the prosecutors' decisions in court, it had not sought "the judicial protection of its rights and lawful interests".

26. The applicant centre replied that the power to seek a judicial decision pronouncing material to be extremist was vested in prosecutors. It had filed five hierarchical appeals and challenged them before courts at four levels of jurisdiction.

27. The Court reiterates that it is incumbent on the Government claiming non-exhaustion to show that the allegedly effective remedy was capable of providing redress in respect of the applicant's complaints and offered reasonable prospects of success (see *Sejdovic v. Italy* [GC], no. 56581/00, § 46, ECHR 2006-II). In the instant case, the Government neither identified the type of claim which would have been an effective remedy in their view, nor specified the kind of redress it could have provided the applicant centre with. Lacking that essential information about the domestic remedy, the Court rejects the Government's plea of non-exhaustion for being unsubstantiated (see *Popov v. Russia*, no. 26853/04, § 205, 13 July 2006).

2. *Alleged incompatibility* ratione personae

28. The Government advanced a twofold objection of incompatibility *ratione personae*. They submitted, firstly, that the State authorities could not be held responsible for the project "Beware: cults!": officials of the Government of the Ulyanovsk Region had not been involved in the project;

the content of the April conference and October seminar had been supplied by academic researchers who had stated their views on the subject; the brochure "Watch out for cults!" had been compiled by the Ulyanovsk State University on the basis of publicly available research, and the publication had not been financed from the regional budget. Secondly, the Government claimed that the applicant centre could not claim to be a "victim" of the alleged violations. Being an umbrella organisation of local religious associations of Vaishnavism, it had not been directly and immediately affected by the project (they referred to *Fédération chrétienne des témoins de Jéhovah de France v. France* (dec.), no. 53430/99, ECHR 2001-XI). The brochure had been published, and the seminar had been held, in the city of Ulyanovsk located more than 700 kilometres away from Moscow where the seat of the applicant centre had been. The applicant centre had not shown that the brochure had acquired a global circulation beyond the Ulyanovsk Region affecting all seventy local Krishna Societies in other regions of Russia.

29. The applicant centre replied that the Government of the Ulyanovsk Region had been directly involved in the publication of the brochure. It had been listed as the publisher and copyright holder on the first and second pages of the brochure. The news on the Ulyanovsk Government's website had indicated that the brochure had been compiled by the Government's experts. The authors of the brochure had been employed by the Ulyanovsk State University, a State-owned institution offering a public service of higher education under State control and with State funding. A separate decision to allocate funds to the "anti-cult" project had not been necessary, as the funding for "anti-cult" measures had been already available in the multi-year plan for the prevention of crime in the Ulyanovsk Region (see paragraph 20 above). On its status as a "victim" of the alleged violation, the applicant centre submitted that similar publications affected the reputation and activities of the centre as the only centralised religious organisation of the Krishna movement in Russia. Proof of deleterious consequences is not needed for the suppression of extremist speech targeting a religion. The brochure had been made available for download on the website of the Ulyanovsk Government and distributed to all educators in the region.

30. The Court has found that in modern-day societies recourse to collective bodies such as associations is one of the accessible means, sometimes the only means, available to the citizens whereby they can defend their particular interests effectively. The standing of associations to bring legal proceedings in defence of their members' interests has been recognised in the legislation of many member States and upheld by the Court (see *Gorraiz Lizarraga and Others v. Spain*, no. 62543/00, §§ 38-39, ECHR 2004-III, and *Beizaras and Levickas v. Lithuania*, no. 41288/15, § 81, 14 January 2020). The Court has also acknowledged that, even where applicants have not been personally targeted by hostile speech, they may be

considered "victims" in the sense of being affected by remarks and expressions disparaging the religious movement or ethnic group to which they belonged (see *Leela Förderkreis e.V. and Others v. Germany*, no. 58911/00, §§ 8 and 79, 6 November 2008, and *Aksu v. Turkey* [GC], nos. 4149/04 and 41029/04, § 53, ECHR 2012). The Court's findings in the case of *Leela Förderkreis e.V. and Others* – in which it upheld the standing of the applicant associations belonging to the Osho movement to complain about the hostile terms which the State agencies had employed to describe them and to raise accusations of manipulating their members – are applicable in the circumstances of the present case. In fact, the applicant centre's standing to complain about alleged hate speech against the Krishna movement was not disputed in the domestic proceedings (compare *Aksu*, cited above, § 53). Accordingly, the Court rejects the Government's objection to the applicant centre's status as a "victim" of the alleged violation.

31. The applicant centre complained of two instances of hostile speech. A first occurrence of such speech was found in an interview with an Orthodox priest which had been published on the website of an Orthodox news agency (see paragraph 5 above). The priest was a private individual and his views were relayed by a private media outlet. The Court reiterates that the State cannot be held responsible for failure to offer protection against acts by private individuals unless they exercise their right to freedom of expression in a manner causing serious prejudice to the enjoyment by the applicant of another right protected by the Convention (see *Eweida and Others v. the United Kingdom*, nos. 48420/10 and 3 others, § 106, ECHR 2013 (extracts), and *Perovy v. Russia*, no. 47429/09, § 75, 20 October 2020). The applicant centre did not show that the relaying of A.M.'s hostile views on the Krishna movement had reached that level of seriousness. It follows that the State responsibility was not engaged and that this part of the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

32. The second occurrence has to do with a hostile description of the Krishna movement in the brochure "Watch out for cults!" (see paragraph 10 above). The brochure was produced in the framework of the plurennial anti-crime programme of the Government of the Ulyanovsk Region which targeted, under the heading of extremism, "foreign missionaries" and "non-traditional religious associations" (see paragraph 20 above). The Ulyanovsk Government launched an "anti-cult" project to prevent "the negative activities of destructive religious groups in the region". The project received public endorsement from the Government's first deputy chief of staff on the official website of the Ulyanovsk Governor and Government. The website also indicated that the brochure had been compiled by the Government's experts in co-operation with the Ulyanovsk State University (see paragraph 8 above). The cover page of the brochure specified that it was published "by

decision of the Government of the Ulyanovsk Region" and listed the Ulyanovsk Government as the copyright holder (compare with *Aksu*, cited above, § 60, in which the Ministry of Culture returned the copyright to the author of the book). The brochure was uploaded to the Ulyanovsk Government's official website where it has been available for download to the present time (see paragraph 9 above).

33. The Court considers the above elements to constitute conclusive evidence of the State authorities' involvement in, and responsibility for, the publication of the brochure. It also takes note of the applicant centre's argument that the State responsibility was also engaged on account of the Ulyanovsk State University's strong institutional and economic links with the State and its primary function of providing a public service of higher education (see *Pogulyayev v. Russia*, no. 34150/04, § 13, 3 April 2008, and *V.K. v. Russia*, no. 68059/13, §§ 180-82, 7 March 2017).

34. Accordingly, the Court dismisses the Government's objection of incompatibility *ratione personae* in so far as it concerned the publication of the brochure "Watch out for cults!". It also considers that this part of the complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

35. The applicant centre emphasised that the brochure "Watch out for cults!" – a publication which had been prepared and published by State authorities – had given a hostile assessment of the teachings of an officially registered religious organisation. The publication had breached the principles of laicism and non-interference with internal affairs of a religious movement and undermined the dignity of its followers. The prosecutors' review had been confined to establishing that the Ulyanovsk Government had the authority to carry out information campaigns. They had not conducted a substantive analysis of the content of the brochure. The brochure had not merely reflected personal views of religious scholars which would have been acceptable in a democratic society. By giving their public endorsement to its content, the State authorities had breached their duty of neutrality and impartiality. Inasmuch as the brochure had been based on prior research, its neutrality could not be asserted solely because that the research had been available previously. Many extremist materials had remained available for years before being banned by a court. The brochure had been addressed to educators in the Ulyanovsk Region and, even though it had constituted a set of recommendations rather than mandatory guidance, it had reflected a certain view on the Krishna movement, which had been neither neutral nor impartial.

36. The Government submitted that staff of the Government of the Ulyanovsk Region responsible for cooperation with public associations had organised, together with experts of the Ulyanovsk State University, an academic conference in April 2008 and a seminar in October 2008 to discuss the religious situation in the Ulyanovsk Region. The staff had provided assistance for organising those events but had not weighed in on the discussion or shaped the conclusions. Scholars in the Ulyanovsk State University had prepared the brochure "Watch out for cults!" on the basis of previously published research which was listed in the bibliography. The brochure was but one source of information about religious movements and did not constitute mandatory guidance. According to the Government of the Ulyanovsk Region, no decision to publish the brochure had been issued in 2008 and no funds had been allocated for the publication. The Government concluded that there was no breach of the State duty of neutrality and impartiality or discrimination against the applicant centre in any form.

37. The Court reiterates that, as enshrined in Article 9, freedom of thought, conscience and religion is one of the foundations of a "democratic society" within the meaning of the Convention. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it. While religious freedom is primarily a matter of individual conscience, it also implies, *inter alia*, freedom to manifest one's religion, alone and in private, or in community with others, in public and within the circle of those whose faith one shares. Article 9 lists a number of forms which manifestation of one's religion or belief may take, namely, worship, teaching, practice and observance (see *Kokkinakis v. Greece*, 25 May 1993, § 31, Series A no. 260-A).

38. The Court considers that, even where the measures taken by the Government did not actually restrict the applicants' freedom to manifest their beliefs through worship and practice, the hostile terms which the State authorities used to describe their movement may have had negative consequences for them and constitute an interference with their rights under Article 9 § 1 of the Convention (compare *Leela Förderkreis e.V. and Others*, cited above, § 84). In the instant case, a publication by the regional State authorities represented the Society for Krishna Consciousness as a money-greedy "totalitarian cult" "destructive" for Russian society, and also accused it of "psychological manipulation" and "zombification" of the youth (see paragraph 10 above). The publication was distributed to educators for further dissemination among their students and also made available for download from the regional Government's website. There has therefore been interference with the applicant centre's right to freedom of religion. In order to determine whether that interference entailed a violation

of the Convention, the Court must decide whether it satisfied the requirements of Article 9 § 2, that is whether it was "prescribed by law", pursued a legitimate aim for the purposes of that provision and was "necessary in a democratic society".

39. The Court accepts the prosecutors' finding that the Government of the Ulyanovsk Region had had the authority to carry out an information campaign. The interference may therefore be regarded as having been "prescribed by law". It also may have pursued the legitimate aims of the protection of public safety and the rights of others. The Court reiterates that States are entitled to verify whether a movement or association carries on, ostensibly in pursuit of religious aims, activities which are harmful to the population or to public safety (see *Metropolitan Church of Bessarabia and Others v. Moldova*, no. 45701/99, § 113, ECHR 2001-XII).

40. As to whether the interference was "necessary in a democratic society", the Court has to weigh up the conflicting interests of the exercise of the right to respect for freedom of religion and the duty of the national authorities to impart to the public information on matters of general concern (see *Leela Förderkreis e.V. and Others*, cited above, § 96). In a democratic society, in which several religions coexist within one and the same population, it may be necessary to place restrictions on this freedom in order to reconcile the interests of the various groups and ensure that everyone's beliefs are respected. However, but for very exceptional cases, the right to freedom of religion as guaranteed under the Convention excludes any discretion on the part of the State to determine whether religious beliefs or the means used to express such beliefs are legitimate (see *Hasan and Chaush v. Bulgaria* [GC], no. 30985/96, § 78, ECHR 2000-XI, and *Metropolitan Church of Bessarabia and Others*, cited above, § 117).

41. There is no indication that the State authorities in Ulyanovsk had taken into consideration the "need to reconcile the interests of various religious groups and to ensure that everyone's beliefs are respected" at any time before or during the "anti-cult" campaign. It would rather appear that the exclusion of new or minority religious movements had been embedded in the set-up of the project from its inception. The action plan provided for the participation of State officials, educators, and representatives of "traditional denominations" (as listed in the Preamble to the Religions Act, see *Kimlya and Others v. Russia*, nos. 76836/01 and 32782/03, § 49, ECHR 2009). While ministers of majority religions were given a forum for voicing their opinions on new religious movements, adherents of those movements were denied the opportunity to state their concerns and to challenge the preconceived ideas about their teachings.

42. The content of the brochure does not suggest that the officials responsible for its publication had given any consideration to the State's duty to abstain from making an assessment of the legitimacy of religious beliefs or the ways in which those beliefs are expressed. Far from

attempting to present a nuanced and balanced view of a variety of existing religions, the publication painted a starkly negative picture of new religious movements, including the Krishna movement. Emotionally charged and derogatory terms – "totalitarian cult", "destructive [movement]", "zombification" – were used for describing its teachings. There has been no attempt – whether by the domestic authorities prior to releasing the brochure or by the Government in their submissions to the Court – to substantiate the allegations against the applicant centre's beliefs or refer to any facts capable of corroborating the charges against them. It is particularly striking that the regional State authorities had considered themselves at liberty of casting aspersions on the religion of an officially registered and lawfully operating religious organisation which the applicant centre was.

43. Accordingly, the Court finds that, by using derogatory language and unsubstantiated allegations for describing the applicant centre's religious beliefs and the ways in which they are expressed, the Russian authorities have overstepped their margin of appreciation. There has accordingly been a violation of Article 9 of the Convention.

44. The Court also considers that the complaint about discriminatory treatment of which the applicant centre claimed to have been a victim has been sufficiently taken into account in the above assessment that led to the finding of a violation of Article 9. It follows that there is no need for a separate examination of the same facts from the standpoint of Article 14 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION READ IN THE LIGHT OF ARTICLE 9, IN RESPECT OF Mr FROLOV

45. The applicant Mr Frolov complained under Articles 9 and 11 of the Convention that the Russian authorities had prevented him from exercising his rights to freedom of religion and assembly by withholding approval of the public events promoting the teaching of Vaishnavism. Article 9 is cited above and the relevant parts of Article 11 read as follows:

> "1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others ...
>
> 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others ..."

46. The Court notes that under Russian law, religious events in the public space were to be conducted in accordance with the procedure established for public assemblies (see paragraph 21 above). The Court therefore considers that Article 11 takes precedence as the *lex specialis* for

the right to freedom of peaceful assembly and will deal with the case principally under Article 11, whilst interpreting it in the light of Article 9 (see *Barankevich v. Russia*, no. 10519/03, § 15, 26 July 2007).

A. Admissibility

47. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

48. The applicant Mr Frolov submitted that, pursuant to section 16(5) of the Religions Act, public events of a religious nature must be held under the same procedure as political assemblies under the Public Events Act. The Public Events Act requires advance notification of an event. The notification must specify in particular the form of the public event, one of those exhaustively listed in the Act. He chose "meeting", believing that this would be the most appropriate form. The purpose of the event, the promotion of Vaishnavism, was consistent with the constitutional right to freedom of religion which includes the right to disseminate religious views. It was remarkable that the notifications of similar events in the Ulyanovsk Region – which had been identical in text to the notifications in Moscow – had not been met with any objection. Apart from lacking a legal basis, the reference to the alleged incompatibility of Vaishnavism with the religious beliefs of others had no basis in fact. That allegation was neither substantiated nor tested in any judicial proceedings.

49. The Government submitted that the missionary activities, of which Mr Frolov had notified the Moscow authorities, had been inconsistent with the aims of a public event established in the law and also with respect for the religious beliefs of others. The prefecture and the courts had advanced weighty and sufficient reasons for the interference with Mr Frolov's rights. The interference had pursued a legitimate aim and had been necessary for the protection of public order and the rights of others. Moreover, followers of the Krishna movement in Ulyanovsk had been able to hold public religious events without any hindrance.

50. The Court reiterates that the right to freedom of assembly covers both private meetings and meetings in public places, and can be exercised by individual participants and by the persons organising the event. Interference with the right to freedom of assembly does not need to amount to an outright ban, legal or *de facto*, but can consist in various other measures taken by the authorities (see *Lashmankin and Others v. Russia*, nos. 57818/09 and 14 others, §§ 402-04, 7 February 2017). The Court has previously found that the refusal of authorisation to hold a religious service

in the public space constituted interference with the applicant's rights under Article 11 of the Convention, interpreted in the light of Article 9 (see *Barankevich*, cited above, § 20). That finding applies in the circumstances of the present case in which the Moscow authorities rejected Mr Frolov's notifications of a public religious event. The interference will constitute a violation of that provision unless it can be shown that it has been "prescribed by law", has pursued at least one legitimate aim under paragraph 2, and has been "necessary in a democratic society" for the achievement of that aim.

51. The statutory basis for the interference is to be found at the interplay of the provisions of the Religions Act and Public Events Act. The former governs the conduct of worship, rites and ceremonies on private property or inside places of worship. With respect to religious events or ceremonies held in public space, it refers to the rules of the Public Events Act governing political and social public assemblies (see paragraph 21 above). Public events involving more than one person require a prior notification to the authorities which must specify the date, time, location or itinerary and purposes of the event, its type, the expected number of participants, and the name of the organiser (see *Lashmankin and Others*, cited above, § 226). There is no dispute in the instant case that Mr Frolov did send the required notification within the time-limits established by law. The authorities however held that the planned event could not proceed because missionary activities – which the promotion of Vaishnavism was taken to be – were inconsistent with the purposes of a public event as defined in the Public Events Act and also incompatible with the respect for the religious beliefs of others (see paragraphs 14, 16, 17 and 19 above).

52. The Court notes that the domestic authorities did not have any objections to the planned events being held at a specific location or time, the factual matters in respect of which the Contracting State must be allowed a wider margin of appreciation. Rather, their objections related to the religious nature of planned events and accordingly amounted to content-based restrictions on freedom of assembly which should be subjected to the most serious scrutiny by the Court (see *Lashmankin and Others*, cited above, § 417). The situations where a gathering may be legitimately banned in relation to the substance of the message which its participants wish to convey are rare, and the domestic authorities are not at liberty to prohibit a public event from being held simply because they consider that its "message" is wrong (see *Primov and Others v. Russia*, no. 17391/06, § 135, 12 June 2014).

53. As regards the Moscow authorities and courts' finding that the planned events did not pursue a lawful purpose under the Public Events Act, the Court notes that the Act does not contain a list of permissible purposes or, for that matter, a requirement that a public event should pursue only permissible purposes. The Act does not specify how the purpose of the

event should be assessed or provide for the authorities' discretion in determining which purposes are permissible and which are not. The provision to which the domestic courts referred, section 2(1) of the Act, provides a general definition of a "public event" which may be held for the purposes of "free expression and shaping of opinions ... on various issues related to ... social and cultural life" (see paragraph 23 above). The Russian courts gave no reasons whatsoever for their finding that the promotion of Vaishnavism and a healthy lifestyle fell outside the scope of that broad definition. In these circumstances, the Court finds that the rejection of Mr Frolov's notifications on that ground was unforeseeable and not "prescribed by law".

54. In so far the Russian courts held that a "meeting" was not an appropriate type of gathering for the planned religious events, it is significant that they failed to specify what type would have been appropriate in the circumstances. The Moscow City Court's finding that the forms of religious events were limited to "worship, rites and ceremonies" does not sit well with the provisions of the Religions Act which established that religious events outside places of worship were to be conducted under the rules of the Public Events Act and, accordingly, be cast in one of the forms specified in it (see paragraphs 21 and 51 above). Here again, confronted with the domestic courts' failure to specify the nature of the alleged incompatibility of the planned event with the concept of a "meeting", the Court finds that this ground for rejecting the event notifications was unforeseeable and the interference did not meet the "prescribed by law" requirement.

55. Furthermore, the Court is not convinced by the argument that the conduct of a public assembly for the promotion of Vaishnavism was "incompatible with the religious beliefs of others". While the right to freedom of assembly may be restricted for the prevention of disorder and the protection of the rights of others which are both legitimate aims under the Convention and permissible grounds for restrictions in domestic law, the incompatibility with religious beliefs of others as such, as alleged by the Government in the present case, does not pass the test of being "necessary in a democratic society".

56. The Court notes the indisputably peaceful character of the planned religious events. Participants intended to assemble in support of their religion, Vaishnavism, and a particular lifestyle associated with it which in their view offered health benefits. There was no reason to presume a risk of any disturbance of public order or breach of peace on their part. The freedom of assembly as enshrined in Article 11 of the Convention protects a demonstration that may annoy or give offence to persons opposed to the ideas or claims that it is seeking to promote (see *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, § 145, ECHR 2015, and *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and

29225/95, § 97, ECHR 2001-IX). It would be incompatible with the underlying values of the Convention if the exercise of Convention rights by a minority group were made conditional on its being accepted by the majority. Were it so a minority group's rights to freedom of religion, expression and assembly would become merely theoretical rather than practical and effective as required by the Convention (see *Barankevich*, cited above, § 31).

57. As to the allegation that a public event for the promotion of Vaishnavism amounted to missionary work, the Court reiterates that freedom to manifest one's religion includes the right to try to convince one's neighbour, failing which, moreover, "freedom to change one's religion or belief", enshrined in that Article, would be likely to remain a dead letter (see *Kokkinakis*, cited above, § 31). It has not been shown that unlawful means of conversion, infringing the rights of others, have been or were likely to be employed by Mr Frolov or other participants (see *Stankov and the United Macedonian Organisation Ilinden*, cited above, § 105). Accordingly, a restriction on the legitimate exercise of the right to convince other people of the benefits, spiritual or health-related, associated with Vaishnavism was not necessary in a democratic society.

58. Finally, it is also significant that the textually identical notifications filed in another Russian region were not met with any objections. There is no evidence of any disturbances during those events which appear to have been able to proceed peacefully. This reinforces the Court's finding that, in rejecting Mr Frolov's notifications of the planned religious events, the Moscow authorities acted in an arbitrary manner.

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

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

60. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

61. The applicants asked the Court to determine the amount of compensation in respect of non-pecuniary damage. They also claimed 1,500 euros (EUR) and 100,000 Russian roubles (EUR 1,415 on the date of submission of the claims) in respect of the legal costs.

62. The Government submitted that no award in respect of non-pecuniary damage should be made because there had been no violation of the applicants' rights, and that the claim for costs was excessive.

63. The Court awards EUR 7,500 to each applicant in respect of non-pecuniary damage and EUR 2,000 to the applicants jointly in respect of costs and expenses, plus any tax that may be chargeable.

64. The Court 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 complaints concerning the "anti-cult" campaign of the Ulyanovsk Government and the withholding of approval for planned public religious events admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 9 of the Convention in respect of the applicant centre;

3. *Holds* that it is not necessary to examine separately the complaint under Article 14 of the Convention, taken in conjunction with Article 9;

4. *Holds* that there has been a violation of Article 11 of the Convention, interpreted in the light of Article 9, in respect of Mr Frolov;

5. *Holds*
   (a) that the respondent State is to pay, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 7,500 (seven thousand five hundred euros) to each applicant, plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 2,000 (two thousand euros) to the applicants jointly, plus any tax that may be chargeable to them, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

6. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 23 November 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Georges Ravarani President