



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

THIRD SECTION

CASE OF NABOKIKH AND OTHERS v. RUSSIA

(Applications nos. 19428/11 and 6 others – see appended list)

JUDGMENT

STRASBOURG

31 January 2023

This judgment is final but it may be subject to editorial revision.

In the case of Nabokikh and Others v. Russia,

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

Georgios A. Serghides, *President*,

Jolien Schukking,

Darian Pavli, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the seven applications 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 Russian nationals whose details are listed in the appendices (“the applicants”) and who were represented by a team of lawyers led by Mr Petr Muzny, a lawyer practising in Geneva;

the decision to give notice of the applications to the Russian Government (“the Government”), represented by Mr G. Matyushkin, the Representative of the Russian Federation to the European Court of Human Rights, and lately by Mr M. Vinogradov, his successor in that office;

the parties’ observations;

the decision to reject the Government’s objection to the examination of the case by a Committee;

Having deliberated in private on 10 January 2023,

Delivers the following judgment, which was adopted on that date:

SUBJECT-MATTER OF THE CASE

1. The cases concern the disruption of Jehovah’s Witnesses religious meetings. The applicants are Jehovah’s Witnesses who organised or participated in religious assemblies held on the premises – buildings or plots of land – which they owned or rented specifically for that purpose, whether in their own name or on behalf of the Administrative Centre of Jehovah’s Witnesses in Russia, a national organisation of Russian Jehovah’s Witnesses.

2. In all cases, the religious assemblies were disrupted by the police who arrived at the premises during the events. In some cases, the police disrupted the religious meetings on the basis that the meetings were conducted without prior notification. The police ordered the meetings to stop or stayed on the premises to take photos and make video recording of the events, checked the documents and questioned the organisers and participants. The applicants in applications nos. 19428/11 and 73036/11 were found liable for breaching the established procedure for conducting public events, an offence under Article 20.2(1) of the Code of Administrative Offences. They had allegedly failed to notify the authorities of a religious event being held on the premises which were not specifically allocated for holding religious events.

3. In other cases, the police disrupted the religious assemblies in order to search the premises where they were being held. The searches had been ordered in the framework of criminal proceedings against unidentified individuals suspected of involvement in extremist activities. The warrants did not explain why the prayer halls were to be searched and stated that “evidence relevant to the criminal case” might be found there. In the case of Mr Khilyuta and eight other applicants from Dubna, the police searched the premises allegedly because they had received information about missing persons or fugitives from justice who could be present among the attendees.

4. When the police arrived to carry out the searches, the applicants unsuccessfully pleaded with them to postpone the search until after the end of the religious services. During the searches the police seized the religious literature belonging to the applicants and checked their identity documents. The searches lasted for several hours. According to the applicants in applications nos. 44363/11, 78114/11 and 5571/12 the police were violent against some of the applicants and kept them on the premises throughout the night.

5. All applicants complained to the domestic courts about the insufficient grounds and intrusive nature of the searches. The courts dismissed the complaints, finding that the searches were conducted in accordance with the applicable requirements of domestic law (see Appendix I for the dates of final decisions).

6. Relying on Articles 9 and 11, taken alone and in conjunction with Article 14 of the Convention, the applicants complained that the disruption of their religious meetings by the authorities, the investigative measures, and the administrative convictions had had no basis in the Russian law and had not been necessary in a democratic society. Some of the applicants also referred to Articles 3, 8 and 10 of the Convention.

THE COURT’S ASSESSMENT

I. JOINDER OF THE APPLICATIONS

7. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION

8. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

9. The disruption of a religious assembly by the authorities and sanctioning of the applicants for holding “unauthorised” religious events amounts to “interference by a public authority” with the applicants’ right to

manifest their religion. The Court will consider these complaints from the standpoint of Article 9 of the Convention (see *Kuznetsov and Others v. Russia*, no. 184/02, § 53, 11 January 2007, and *Boychev and Others v. Bulgaria*, no. 77185/01, §§ 45-47, 27 January 2011).

10. On the allegedly unlawful nature of events which had not been notified to the authorities, the Court has previously noted the consistent case-law of Russia's Supreme Court that religious meetings, even those conducted on rented premises, did not require any prior authorisation from, or notice to, the authorities (see *Kuznetsov and Others*, cited above, § 70, and *Krupko and Others v. Russia*, no. 26587/07, § 54, 26 June 2014). Accordingly, to the extent that the applicants in applications nos. 19428/11 and 73036/11 were sanctioned for failure to submit such a notification, their conviction did not have a clear and foreseeable legal basis and was not "prescribed by law".

11. Furthermore, it is undisputed that all religious assemblies were peaceful in their nature and were not likely to cause any disturbance or danger to the public order. Their disruption by the police, even if the authorities genuinely believed that lack of advance notice rendered them illegal, did not pursue a "pressing social need" and therefore not "necessary in a democratic society" (see *Krupko and Others*, cited above, § 56).

12. On the second justification relating to the necessity to search the premises where meetings were being held, the Court finds that the search warrants had been couched in extremely broad terms (see, *mutatis mutandis*, *Kruglov and Others v. Russia*, nos. 11264/04 and 15 others, § 127, 4 February 2020, with further references). They did not specify why the particular premises were targeted, what it was that the police expected to find there and what relevant and sufficient reasons justified the need to conduct the search. Similarly, in the Dubna case concerning an alleged fugitive from justice, the police report did not identify the person or persons the police were looking for or the nature of that person's or those persons' connection with the applicants' religious groups and did not give any relevant and sufficient reasons for believing that that person or those persons would be present during the assembly.

13. Furthermore, the excessively broad terms of the search warrants also gave the police unrestricted discretion in scheduling the searches, allowing them to interrupt the religious events. The Government did not explain what considerations of urgency prevented the police from waiting until a service of worship had been finished. The domestic courts considering the applicants' complaints about the intrusive nature of the searches examined solely the authorities' formal compliance with the applicable procedural requirements of the domestic law, without addressing in any way the requirements of necessity and proportionality (see *Boychev and Others*, cited above, §§ 48-53, and, *mutatis mutandis*, *Kruglov and Others*, cited above, § 130).

14. The above considerations are sufficient to conclude that there was no “pressing social need” to disrupt the religious gatherings, and the interference with the applicants’ right to manifest their religion was not “necessary in a democratic society”.

15. There has been a violation of Article 9 of the Convention.

III. OTHER COMPLAINTS

16. The applicants also complained under Articles 8, 10, 11 and 14 of the Convention. Having regard to the facts of the case, the submissions of the parties, and its findings under Article 9 of the Convention, the Court considers that it has examined the main legal questions raised in the present applications and that there is no need to give a separate ruling on the above complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

IV. REMAINING COMPLAINTS

17. Some applicants (applications nos. 44363/11, 78114/11 and 5571/12) also complained, relying on Article 3 of the Convention, that they had been subjected to inhuman treatment during the searches. The Court has examined the complaint and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention. It follows that this part of the applications must be rejected in accordance with Article 35 § 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

18. The applicants claimed the amount of fines they had paid in respect of the pecuniary damage and also various sums in respect of non-pecuniary damage, set out in Appendix II. They claimed a total of 46,266 euros (EUR) for costs and expenses, and additional sums of money in respect of “punitive damages”.

19. The Government submitted that the amounts claimed were excessive.

20. The Court awards the applicants the amounts claimed in respect of pecuniary damage, and also EUR 7,500 or such amounts as were actually claimed to each of the applicants, in respect of non-pecuniary damage, plus any tax that may be chargeable (see Appendix II). As regards costs and expenses, the Court awards EUR 5,000 jointly to all applicants, plus any tax that may be chargeable to them. Lastly, it rejects the claims for punitive damages in accordance with its well-established practice (see the cases cited

in *Greens and M.T. v. the United Kingdom*, nos. 60041/08 and 60054/08, § 97, ECHR 2010 (extracts)).

21. The Court further 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. *Decides* to join the applications;
2. *Declares* the complaints under Article 9 of the Convention about the disruption of religious meetings admissible and the complaints about the alleged ill-treatment inadmissible;
3. *Holds* that there has been a violation of Article 9 of the Convention;
4. *Holds* that there is no need to examine the admissibility and merits of the remaining complaints;
5. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) the amounts as claimed in respect of pecuniary damage, as set out in Appendix II, plus any tax that may be chargeable;
 - (ii) the amounts indicated in Appendix II, plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (iii) EUR 5,000 (five thousand euros) jointly to all applicants, 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' claims for just satisfaction.

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Done in English, and notified in writing on 31 January 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova
Deputy Registrar

Georgios A. Serghides
President

APPENDIX I: LIST OF APPLICANTS, DATE, PLACE AND REASON FOR THE INTERRUPTION OF THE RELIGIOUS MEETINGS

Name	Date and place of the event	Reason for the interruption and final judicial decision
<i>Nabokikh and Others v. Russia</i> , no. 19428/11		
Aleksandr Borisovich NABOKIKH	16/07/2010 Kirov	Meeting conducted without prior notification 04/10/2010 the Oktyabrskiy District Court of Kirov, Kirov Region
Aleksandr Vasilyevich AKHMATOV	05/06/2010 Volgodonsk	Meeting conducted without prior notification 28/09/2010 the Volgodonsk District Court, Rostov Region
Vyacheslav Viktorovich TUMAKOV	23-24/07/2010 Prokhladnyy	Meetings conducted without prior notification 22/09/2010 the Georgiyevsk Town Court, Stavropol Region
Aleksey Georgievich TSARKOV	02-03/07/2010 Vladimir	Meetings conducted without prior notification 26/11/2010 the Leninskiy District Court of Vladimir, Vladimir Region
Vasim Yusupovich ABLAYEV	30/07/2010 Ufa	Meeting conducted without prior notification 17/11/2010 the Sovetskiy District Court of Ufa, Bashkortostan Republic

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<i>Martynenko and Others v. Russia</i> , no. 44363/11		
All the applicants	10/08/2010 Yoshkar-Ola	Police needed to search the flat 26/01/2011 the Supreme Court of the Mariy El Republic
<i>Zinchenko and Others v. Russia</i> , no. 73036/11		
Kirill Andreyevich ZINCHENKO	18/10/2010 26/03/2011 Smolensk	Meetings conducted without prior notification 06/09/2011 the Promyshlenny District Court of Smolensk, Smolensk Region
Viktor Naumovich POKRYVAYLO	22/07/2011 Perm	Meeting conducted without prior notification 27/01/2012 the Dzerzhinskiy District Court of Perm, Perm Region
Rifat Ravilyevich ARTYUSHEVSKIY	20/11/2010 Kazan	Meeting conducted without prior notification 23/05/2011 the Sovetskiy District Court of Kazan, Tatarstan Republic
Sergey Aleksandrovich TYUMENTSEV	17/04/2011 Yaroslavskiy	Meeting conducted without prior notification 28/07/2011 the Khorolskiy District Court, Primorskiy Region
Nikolay Grigoryevich TER-AVANESOV	20/03/2011 Kaliningrad	Meeting conducted without prior notification 17/08/2011 the Leningradskiy District Court of Kaliningrad, Kaliningrad Region

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Adam Mikhaylovich SVARICHEVSKIY	29/07/2011 Blagoveshchensk	Meeting conducted without prior notification 09/09/2011 the Blagoveshchensk Town Court, Amur Region
Aleksandr Ivanovich SCHENDRYGIN	14-15/05/2011 Belgorod	Meetings conducted without prior notification 29/09/2011 the Oktyabrskiy District Court of Belgorod, Belgorod Region
Ramzes Yulianovich KODEU	09-10/06/2011 Voronezh	Meetings conducted without prior notification 19/10/2011 the Levoberezhnyy District Court of Voronezh, Voronezh Region
<i>Burenkov v and Others v. Russia, no. 78114/11</i>		
All the applicants	21/10/2010 Salekhard	Police needed to search the flat 20/06/2011 the Yamalo- Nenets Regional Court
<i>Golovko and Others v. Russia, no. 5571/12</i>		
All the applicants	26/10/2010 Kemerovo	Police needed to search the Kingdom Hall 14/07/2011 the Kemerovo Regional Court
<i>Shaikhiyev and Others v. Russia, no. 65838/12</i>		
Rafail Ravilyevich SHAIKHIYEV Rufat Rashidovich GABAYDULIN Ilnur Rashitovich GAYFULLIN Ilgiz Ravilyevich GALIYEV Nailya Faatovna GALIYEVA Ilyusya Ildusovna SADREYEVA Gulshad Grigoryevna SITDIKOVA Railya Midkhatovna FAKHRUTDINOVA	15/12/2011 Naberezhnyye Chelny	Meeting conducted without prior notification 29/03/2012 the Supreme Court of the Tatarstan Republic

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<p>Aleksandr Vladimirovich KHILYUTA Oksana Pavlovna KHILYUTA Oleg Yevgenyevich IVANOV Nataliya Pavlovna MASHCHENKO Marina Vyacheslavovna TROPINA Roberto ERNANDEZ-AGILAR Galina Vladimirovna RYBAKOVA Viktoria Vladimirovna TISHINA Anna Aleksandrovna MAMONTOVA</p>	<p>16/03/2011 Dubna</p>	<p>Police needed to search the Kingdom Hall 21/06/2012 the Moscow Regional Court</p>
<p><i>Mashinskiy and Others v. Russia</i>, no. 35190/14</p>		
<p>All the applicants</p>	<p>26/03/2013 Primorskiy Region</p>	<p>Meeting conducted without prior notification 24/10/2013 the Primorskiy Regional Court</p>

APPENDIX II: LIST OF APPLICANTS, CLAIMS AND AWARDS UNDER ARTICLE 41 OF THE CONVENTION

Name	Year of birth	Residence	Pecuniary damage awarded (EUR)	Non-pecuniary damage (EUR)	
				Sought by the applicant	Awarded by the Court
<i>Nabokikh and Others v. Russia</i> , no. 19428/11, lodged on 21/03/2011					
Aleksandr Borisovich NABOKIKH	1954	Kirov	37	5,000	5,000
Aleksandr Vasilyevich AKHMATOV	1973	Solnechnyy	25	7,500	7,500
Vyacheslav Viktorovich TUMAKOV	1963	Prokhladnyy	25	30,000	7,500
Aleksey Georgievich TSARKOV	1972	Vladimir	25	7,500	7,500
Vasim Yusupovich ABLAYEV	1979	Ufa	25	5,000	5,000
<i>Martynenko and Others v. Russia</i> , no. 44363/11, lodged on 18/07/2011					
Dmitriy Yevgenyevich MARTYENKO	1980	Yoshkar-Ola		10,000	7,500
Zhanna Sergeevna KALININA	1978	Yoshkar-Ola		10,000	7,500
Alevtina Gennadyevna KAPITONOVA	1970	Yoshkar-Ola		10,000	7,500
Tatyana Ilyinichna GREBNEVA	1952	Yoshkar-Ola		10,000	7,500
Marina Anatolyevna MOLCHANOVA	1971	Yoshkar-Ola		10,000	7,500
Oleg Vladimirovich RUSINOV	1975	Yoshkar-Ola		10,000	7,500
Natalya Anatolyevna RUSINOVA	1978	Yoshkar-Ola		10,000	7,500
<i>Zinchenko and Others v. Russia</i> , no. 73036/11, lodged on 18/11/2011					
Kirill Andreyevich ZINCHENKO	1986	Smolensk	37	7,500	7,500
Viktor Naumovich POKRYVAYLO	1952	Perm	62	5,000	5,000
Rifat Ravilyevich ARTYUSHEVSKIY	1977	Kazan	25	7,500	7,500

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Sergey Aleksandrovich TYUMENTSEV	1952	Yaroslavskiy	25	5,000	5,000
Nikolay Grigoryevich TER-AVANESOV	1962	Kaliningrad	37	7,500	7,500
Adam Mikhaylovich SVARICHEVSKIY	1963	Blagoveshchensk	37	7,500	7,500
Aleksandr Ivanovich SCHENDRYGIN	1953	Belgorod	25	5,000	5,000
Ramzes Yulianovich KODEU	1966	Voronezh	25	5,000	5,000
<i>Burenkov and Others v. Russia</i> , no. 78114/11, lodged on 15/12/2011					
Eduard Aleksandrovich BURENKOV	1974	Salekhard		10,000	7,500
Pavel Vadimovich KORCHAGIN	1987	Salekhard		10,000	7,500
Nataliya Vladimirovna SMETANIK	1987	Salekhard		10,000	7,500
Olga Petrovna BUZKO	1984	Salekhard		10,000	7,500
Olga Aleksandrovna TSYKALOVA	1984	Salekhard		10,000	7,500
Larisa Karlenovna OREKHOVSKAYA	1965	Salekhard		10,000	7,500
Violetta Vladimirovna PLASTININA	1976	Salekhard		10,000	7,500
Yelena Nikolaevna BOZHKOVA	1981	Salekhard		10,000	7,500
Olga Petrovna RASOVA	1981	Salekhard		10,000	7,500
Gennadiy Viktorovich SKUTELETS	1976	Salekhard		10,000	7,500
Inna Ivanovna TERYTYEVA	1979	Salekhard		10,000	7,500
Viktor Viktorovich LEYS	1979	Salekhard		10,000	7,500
Oksana Vladimirovna LEYS	1976	Salekhard		10,000	7,500
<i>Golovko and Others v. Russia</i> , no. 5571/12, lodged on 10/01/2012					
Pavel Konstantinovich GOLOVKO	1980	Kemerovo		7,500	7,500
Vitaliy Faritovich GAREYEV	1982	Kemerovo		7,500	7,500
Eduard Rafaelovich AKHUNZYANOV	1973	Kemerovo		7,500	7,500

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Nadezhda Petrovna MAKSIMISHINA	1946	Kemerovo		5,000	5,000
Nina Gennadyevna AKHUNZYANOVA	1973	Kemerovo		5,000	5,000
Valentina Viktorovna GOLOVKO	1961	Kemerovo		5,000	5,000
Anna Aleksandrovna STOLYAROVA	1976	Kemerovo		5,000	5,000
Margarita Aleksandrovna ANKUDINOVA	1977	Kemerovo		5,000	5,000
Nina Ivanovna VINOGRADOVA	1937	Kemerovo		5,000	5,000
Lyudmila Andreyevna ZHARKOVA	1937	Kemerovo		5,000	5,000
Darya Aleksandrovna KHMYROVA	1979	Kemerovo		5,000	5,000
Lyudmila Ivanovna YASAKOVA	1955	Kemerovo		5,000	5,000
Irina Anatolyevna MAKSIMISHINA	1982	Kemerovo		5,000	5,000
Nina Tarasovna BELYAYEVA	1936	Kemerovo		5,000	5,000
Nadezhda Nikolaevna KAMNEVA	1954	Kemerovo		5,000	5,000
Tatiana Fedorovna VASILITSA	1988	Kemerovo		5,000	5,000
Faina Mikhaylovna PANIKOROVSKAYA	1936	Kemerovo		5,000	5,000
<i>Shaikhiyev and Others v. Russia, no. 65838/12, lodged on 26/09/2012</i>					
Rafail Ravilyevich SHAIKHIYEV	1971	Naberezhnyye Chelny		500	500
Rufat Rashidovich GABAYDULIN	1987	Naberezhnyye Chelny		500	500
Ilnur Rashitovich GAYFULLIN	1980	Zainsk		500	500
Ilgiz Ravilyevich GALIYEV	1988	Naberezhnyye Chelny		500	500
Nailya Faatovna GALIYEVA	1966	Naberezhnyye Chelny		500	500
Ilyusya Ildusovna SADREYEVA	1982	Naberezhnyye Chelny		500	500
Gulshad Grigoryevna SITDIKOVA	1949	Naberezhnyye Chelny		500	500
Railya Midkhatovna FAKHRUTDINOVA	1964	Naberezhnyye Chelny		500	500
Aleksandr Vladimirovich KHILYUTA	1959	Dubna		500	500

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Oksana Pavlovna KHILYUTA	1961	Nevinnomyssk		500	500
Oleg Yevgenyevich IVANOV	1970	Dubna		500	500
Nataliya Pavlovna MASHCHENKO	1968	Mtsensk		500	500
Marina Vyacheslavovna TROPINA	1971	Dubna		500	500
Roberto ERNANDEZ- AGILAR	1988	Klin		500	500
Galina Vladimirovna RYBAKOVA	1964	Dubna		500	500
Viktoria Vladimirovna TISHINA	1965	Dubna		500	500
Anna Aleksandrovna MAMONTOVA	1976	Verbiliki		500	500
<i>Mashinskiy and Others v. Russia</i> , no. 35190/14, lodged on 22/04/2014					
Pavel Vasilyevich MASHINSKIY	1961	Ussuriysk		2,000	2,000
Klavdiya Vladimirovna MASHINSKAYA	1965	Ussuriysk		2,000	2,000
Lyubov Viktorovna VORONINA	1980	Novopokrovka		2,000	2,000
Dmitriy Yuryevich CHERNYUK	1982	Ussuriysk		2,000	2,000
Olesya Fedorovna CHERNYUK	1984	Ussuriysk		2,000	2,000
Anna Germanovna SAVCHENKO	1988	Ussuriysk		2,000	2,000