



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

THIRD SECTION

CASE OF CHEPRUNOVY AND OTHERS v. RUSSIA

(Applications nos. 74320/10 and 4 others – see appended list)

JUDGMENT

STRASBOURG

22 February 2022

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

In the case of Cheprunovy and Others v. Russia,

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

María Elósegui, *President*,

Andreas Zünd,

Frédéric Krenc, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the five 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 Appendix (“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”), initially represented by Mr G. Matyushkin and Mr A. Fedorov, former Representatives of the Russian Federation to the European Court of Human Rights, and later by their successor in that office, Mr M. Vinogradov;

the parties’ observations;

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

Having deliberated in private on 25 January 2022,

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

SUBJECT-MATTER OF THE CASE

1. The case concerns searches in the flats of Jehovah’s Witnesses and in the prayer hall owned by a local religious organisation of Jehovah’s Witnesses.

2. The applicants are individual Jehovah’s Witnesses and the Kostomuksha local religious organisation of Jehovah’s Witnesses (the “Kostomuksha LRO”). On various dates between 2010 and 2012, the Russian courts authorised searches and inspections in the applicants’ flats on the basis that, as Jehovah’s Witnesses, they might be involved in extremist activities and distribution of extremist literature. The Federal Security Service (the “FSB”) also issued an inspection order for the prayer hall owned by the Kostomuksha LRO.

3. The authorities searched the applicants’ flats and seized the religious literature they had found, including Bibles, magazines and books, and other personal items, such as computers, video-recordings, writing pads and notebooks. Domestic courts dismissed the applicants’ complaints about the searches, finding that they had been duly authorised by judicial decisions and carried out in accordance with the law (see the Appendix).

4. Following an inspection in her flat and seizure of religious brochures, Ms Chavychalova (application no. 74329/10) was found guilty of “unlawful possession of extremist material with the aim of mass distributing”, an offence under Article 20.29 of the Code of Administrative Offences (CAO), and fined 1,500 Russian roubles.

5. The applicants complained that the searches in their flats and seizure of their religious literature and personal belongings were neither lawful, nor “necessary in a democratic society”, and thus, violated their rights guaranteed by the Articles 8, 9, 10, and 14 of the Convention. Some of the applicants also relied on Articles 6, 11 and 13 of the Convention, and Article 1 of Protocol No. 1 in this respect.

THE COURT’S ASSESSMENT

I. JOINDER OF THE APPLICATIONS

6. 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

7. The complaints are neither manifestly ill-founded nor inadmissible on any grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

8. The Court will consider the complaints concerning the search of the applicants’ flats and the prayer hall of the applicant organisation, the seizure of their religious literature and the conviction of Ms Chavychalova, from the standpoint of Article 9 of the Convention (see, *mutatis mutandis*, *Boychev and Others v. Bulgaria*, no. 77185/01, §§ 45 and 59, 27 January 2011, and *Dimitrova v. Bulgaria*, no. 15452/07, §§ 28 and 40, 10 February 2015). Those measures, taken as they were in response to a manifestation of the applicants’ religious beliefs, constituted an interference with their right to freedom of religion.

9. Given that the searches in the applicants’ flats and in the prayer hall had been authorised by the domestic courts or subject to *ex post facto* judicial control (see paragraphs 1 and 2 above and the Appendix), the Court will proceed on the assumption that these searches were lawful in domestic terms and pursued the legitimate aim of the prevention of crime. It remains to be ascertained whether the impugned measures were “necessary in a democratic society”, in particular, whether the relationship between the aim sought to be achieved and the means employed can be considered proportionate (see *Yuditskaya and Others v. Russia*, no. 5678/06, § 26, 12 February 2015, and *Kruglov and Others v. Russia*, nos. 11264/04 and 15 others, § 124, 4 February 2020).

10. The Government submitted that the authorities had had sufficient grounds to believe that the applicants could be involved in illegal activities and keep extremist literature on their premises. The Court notes that the search warrants advanced primarily one reason for that suspicion – the fact that the applicants were active members of the local congregations of Jehovah’s Witnesses. Apart from that and operational information from an unidentified source, the judicial decisions authorising the searches gave no reasons for such suspicions or referred to any evidence capable of corroborating them. In the case of Mr and Mrs Cheprunov, search authorisations referred to pending proceedings, in which they were neither suspects nor defendants. In sum, the Court concludes that whether the court search warrants were issued in advance or the applicants appealed such orders to the courts *ex post facto*, the national courts did not carry out a balancing exercise or examine whether there have been relevant and sufficient reasons for the interference, whether the interference with the applicants’ rights had answered a pressing social need and was proportionate to the legitimate aims pursued (see *Kruglov and Others*, cited above, § 129).

11. The Court also finds that the terms of the search warrants were excessively broad and that they gave the police unrestricted discretion in determining which items were relevant for the investigation (see *Avanesyan v. Russia*, no. 41152/06, § 43, 18 September 2014, with further references). This resulted in an extensive search and the seizure of religious literature, including titles which had not been declared extremist, and also of personal computers, video-recordings, writing pads and notebooks. In so far as the search warrants did not impose any meaningful limits on the power exercised by the police, they impinged on the applicants’ rights to an extent that was disproportionate to the legitimate aim pursued (see *Misan v. Russia*, no. 4261/04, §§ 61-63, 2 October 2014).

12. Considering that the searches were carried out without relevant and sufficient grounds and in the absence of safeguards that would confine their impact to reasonable bounds, the Court concludes that the interference with the applicants’ rights was not “necessary in a democratic society”.

13. There has been a violation of Article 9 of the Convention in respect of all applicants.

III. OTHER COMPLAINTS

14. The applicants also complained under Articles 6, 10, 11, 13 and 14 of the Convention and Article 1 of Protocol No. 1 to the Convention. Having regard to the facts of the case, the submissions of the parties, and its findings above, the Court considers that it has examined the main legal questions raised. It thus considers that the applicants’ remaining complaints are admissible but that there is no need to give a separate ruling on them (see

Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania [GC], no. 47848/08, § 156, ECHR 2014).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. Ms Chavychalova claimed 1,837 euros (EUR) in respect of pecuniary damage, representing the amount of fine she had paid and the loss of earnings, as she had allegedly been dismissed because of her conviction. Ms Zharikova and Mr Naumov also jointly claimed EUR 500 for the pecuniary damage they sustained as a result of seizure of their personal items. The applicants claimed various sums in respect of non-pecuniary damage, set out in the Appendix. They further claimed a total of EUR 23,663 euros for costs and expenses, and additional sums of money in respect of “punitive damages”.

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

17. As regards the pecuniary damage, the Court awards EUR 500 jointly to Ms Zharikova and Mr Naumov. The Court also awards Ms Chavychalova EUR 37, and rejects her claim for the loss of earnings. It further awards the sums indicated in the appendix in respect of non-pecuniary damage, plus any tax that may be chargeable. As regards costs and expenses, the Court awards EUR 5,000 jointly to all the 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)).

18. 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 applications admissible;
3. *Holds* that there has been a violation of Article 9 of the Convention;
4. *Holds* that there is no need to examine 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) EUR 37 (thirty-seven euros) to Ms Chavychalova, and EUR 500 (five hundred euros) jointly to Ms Zharikova and Mr Naumov,

- plus any tax that may be chargeable, in respect of pecuniary damage;
- (ii) the amounts indicated in the appended table, plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (iii) EUR 5,000 (five thousand euros) jointly to all the 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' claim for just satisfaction.

Done in English, and notified in writing on 22 February 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova
Deputy Registrar

María Elósegui
President

APPENDIX

Name Year of birth/incorporation Residence/Seat	Type of premises	Dates of search and final judicial decision	Pecuniary damage awarded EUR	Non-pecuniary damage EUR	
				Claimed	Awarded
<i>Cheprunovy v. Russia</i> , no. 74320/10, lodged on 06/12/2010					
Mikhail Yuryevich CHEPRUNOV 1977 Tambov	Flat	17/03/2010			
Larisa Vladimirovna CHEPRUNOVA 1974 Tambov		10/06/2010 the Tambov Regional Court		7,500	7,500
<i>Chavychalova v. Russia</i> , no. 74329/10, lodged on 06/12/2010					
Yelena Aleksandrovna CHAVYCHALOVA 1975 Rybnoye	Flat	1/04/2010 28/06/2010 the Supreme Court of Russia	37	10,000	7,500
<i>Novakovskaya v. Russia</i> , no. 74339/10, lodged on 06/12/2010					
Yelena Vladimirovna NOVAKOVSKAYA 1971 Rybnoye	Flat	1/04/2010 28/09/2010 the Supreme Court of Russia		7,500	7,500
<i>Pekshuyev and Others v. Russia</i> , no. 60771/13, lodged on 11/09/2013					
Andrey Khannesovich PEKSHUYEV 1953 Kostomuksha	Flat	13/07/2012 1/04/2013 the Supreme Court of Karelia		7,500	7,500
Aleksandr Aleksandrovich KOROLKOV 1974 Kalevala	Flat	13/07/2012 14/03/2013 the Supreme Court of Karelia		7,500	7,500

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Galina Alekseyevna ZHARIKOVA 1972 Kalevala	Flat	13/07/2012	500	7,500	7,500
Sergey Shanderivich NAUMOV 1971 Kalevala		11/03/2013 and 21/03/2013 the Supreme Court of Karelia		7,500	
Nadezhda Anatolyevna ZABOLOTNYKH 1956 Kalevala	Flat	13/07/2012 11/03/2013 the Supreme Court of Karelia		7,500	7,500
Lyudmila Stepanovna KOLENEN 1960 Kalevala	Flat	13/07/2012 4/04/2013 the Supreme Court of Karelia		7,500	7,500
<i>Ogorodnikov and Others v. Russia</i> , no. 29295/14, lodged on 11/04/2014					
Local Religious Organisation of Jehovah's Witnesses "Kostomuksha" 1998 Kostomuksha	Prayer hall	23/11/2012 17/10/2013 the Supreme Court of Karelia		10,000	7,500
Andrey Pavlovich OGORODNIKOV 1965 Kostomuksha	Flat			10,000	7,500
Lyudmila Nikolaevna OGORODNIKOVA 1972 Kostomuksha				10,000	
Pavel Ivanovich STEPANOV 1971 Kostomuksha	Flat			10,000	7,500
Olga Mikhaylovna SAMCHENKO 1961 Kostomuksha			10,000		