



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

THIRD SECTION

**CASE OF ZHARINOVA v. RUSSIA**

*(Application no. 17715/12)*

JUDGMENT

STRASBOURG

22 February 2022

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



**In the case of Zharinova 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 application (no. 17715/12) 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”) on 14 March 2012 by a Russian national, Ms Yekaterina Nikolayevna Zharinova, born in 1983 and living in Ivanteyevka (“the applicant”), who was represented by a team of lawyers led by Mr Petr Muzny, a lawyer practising in Geneva;

the decision to give notice of the application to the Russian Government (“the Government”), initially represented by Mr G. Matyushkin and M. Galperin, 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 case 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 the apprehension of the applicant, a Jehovah’s Witness, while preaching door-to-door, her subsequent conveyance to the police station, where she was questioned, searched, and had her religious literature seized.

2. On 17 March 2011 the applicant was preaching door-to-door and talking about the Bible with local residents in her home town. She was approached by two police officers who, after checking her identity documents, took her to a police station. While at the station, the officers photocopied her passport and interviewed her for two hours. They also seized her personal belongings and religious literature. After four and a half hours, she was released.

3. The applicant complained to a court of her unlawful detention and seizure of her possessions. By judgment of 19 August 2011, as upheld on appeal on 20 September 2011, the Ivanteyevka Town Court in the Moscow Region dismissed the complaint, finding that the police had lawfully sought to uncover an administrative offence and stop her unlawful activities.

4. Relying on Articles 9 and 10, taken alone and in conjunction with Article 14, and on Articles 3 and 5 of the Convention, the applicant complains of the disruption of her religious activity, followed by her detention at the police station, and the seizure of her personal belongings.

## THE COURT'S ASSESSMENT

### ALLEGED VIOLATIONS OF ARTICLES 5 AND 9 OF THE CONVENTION

5. The Court rejects the applicant's complaint under Article 3 of the Convention as manifestly ill-founded because there is no indication that her treatment at the police station reached the threshold of severity required to characterise it as inhuman or degrading within the meaning of that provision. The remaining complaints are neither manifestly ill-founded nor inadmissible on any grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

6. Considering that the applicant was taken to the police station against her will and could not leave it until she was allowed to do so by the officers, the four and a half hours' stay at the station constituted a deprivation of liberty within the meaning of Article 5 § 1 of the Convention (see *Salayev v. Azerbaijan*, no. 40900/05, § 43, 9 November 2010). In addition, the disruption of the applicant's door-to-door preaching, followed by her detention and seizure of religious literature amounted to an "interference by a public authority" with her right to manifest her religion. The Court will consider the complaints raised under Articles 9, 10 and 14 from the standpoint of Article 9 of the Convention (compare with *Kuznetsov and Others v. Russia*, no. 184/02, § 53, 11 January 2007).

7. According to the Government, the police officers believed that the applicant was committing an administrative offence. However, the Court observes that no administrative offence report was ever compiled. In any event, this report could have been drawn on the spot, since the applicant had presented her identity documents, and the Government did not indicate any obstacles which required bringing the applicant to the police station (see, for similar reasoning, *Navalnyy and Yashin v. Russia*, no. 76204/11, §§ 68 and 93, 4 December 2014, and *Lashmankin and Others v. Russia*, nos. 57818/09 and 14 others, § 489, 7 February 2017).

8. Secondly, no record of the applicant's detention was drawn up once she had been escorted to the police station. The Court has consistently held that failure to document a person's deprivation of liberty constitutes unrecorded and unacknowledged detention, which is unlawful in itself (see *Nasirov and Others v. Azerbaijan*, no. 58717/10, §§47-51, 20 February 2020, with further references). It follows that there has been a violation of Article 5 § 1 of the Convention.

9. As regards the interference with the applicant's right to manifest her religious beliefs, the Government argued that the applicant had been lawfully arrested and subjected to investigative measures on suspicion that she was carrying and distributing extremist literature. They did not however indicate any elements capable of substantiating that suspicion other than the fact the applicant was one of Jehovah's Witnesses. Since no administrative-offence report was drawn up and since the Government failed to offer any other justification for the investigative measures targeting the applicant and for seizure of her religious literature – none of which was apparently listed as extremist at that time – the Court finds that the interference did not have a legal basis and, in any event, did not pursue any "pressing social need". There has accordingly been a violation of Article 9 of the Convention.

#### APPLICATION OF ARTICLE 41 OF THE CONVENTION

10. The applicant claimed 10,000 euros (EUR) in respect of non-pecuniary damage and EUR 8,000 in respect of costs and expenses incurred before the Court.

11. The Government submitted that the applicant's claim for costs and expenses was excessive.

12. The Court awards the applicant EUR 10,000 in respect of non-pecuniary damage, and EUR 1,000 in respect of the legal costs, plus any tax that may be chargeable to the applicant.

13. 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. *Declares* the complaints concerning the disruption of the applicant's religious activity and her detention at the police station admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 5 § 1 of the Convention;
3. *Holds* that there has been a violation of Article 9 of the Convention;
4. *Holds*
  - (a) that the respondent State is to pay the applicant, 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 10,000 (ten thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

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- (ii) EUR 1,000 (one thousand euros), plus any tax that may be chargeable to the applicant, 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.

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