FIRST SECTION

CASE OF THE MOSCOW BRANCH OF THE SALVATION ARMY v. RUSSIA

(Application no. 72881/01)

JUDGMENT

STRASBOURG

5 October 2006

FINAL

05/01/2007

In the case of Moscow Branch of The Salvation Army v. Russia,
The European Court of Human Rights (First Section), sitting as a Chamber composed of:
Christos Rozakis, *President*,
Nina Vajić,
Anatoly Kovler,
Elisabeth Steiner,
Khanlar Hajiyev,
Dean Spielmann,
Sverre Erik Jebens, *judges*,
and Søren Nielsen, *Section Registrar*,
Having deliberated in private on 14 September 2006,
Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 72881/01) 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 the Moscow branch of The Salvation Army ("the applicant branch" or "the applicant") on 18 May 2001.

2. The applicant branch was represented before the Court by Mr V. Ryakhovskiy and Mr A. Pchelintsev of the Slavic Law Centre, lawyers practising in Moscow. The Russian Government ("the Government") were represented by Mr P. Laptev, Representative of the Russian Federation at the European Court of Human Rights.

3. The applicant complained, in particular, of the domestic authorities' refusal of its application for re-registration as a legal entity.

4. The application was allocated to the First Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. By a decision of 24 June 2004, the Chamber declared the application partly admissible.

6. The Government, but not the applicant, filed further observations (Rule 59 § 1). The Chamber decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*).

7. On 1 November 2004 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed First Section (Rule 52 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Background of the case

8. The Salvation Army worked officially in Russia from 1913 to 1923 when it was dissolved as an "anti-Soviet organisation".

9. The Salvation Army resumed its activities in Russia in 1992 when a group of Russian nationals held a meeting and adopted the articles of association of the Moscow branch of The Salvation Army.

10. On 6 May 1992 the Justice Department of the Moscow City Council of People's Deputies registered the applicant branch as a religious organisation with status as a legal entity.

11. On 12 September 1997 the Moscow Justice Department registered the applicant branch's amended articles of association.

B. Refusal to permit the applicant branch to re-register

12. On 1 October 1997 a new Law on freedom of conscience and religious associations ("the Religions Act") came into force. It required all religious associations which had previously been granted the status of legal entities to bring their articles of association into conformity with the Act and to re-register by 31 December 1999.

13. On 18 February 1999 the applicant submitted to the Moscow Justice Department an application for re-registration as a local religious organisation.

14. On 16 August 1999 the deputy head of the Moscow Justice Department notified the applicant that its request for re-registration was being denied. He advanced three grounds for this refusal. Firstly, it was claimed that, at the meeting of the Financial Council (the governing body of the applicant branch) at which amendments to the founding documents had been adopted, only five members had been in attendance, whereas the Religions Act required that a religious organisation should have at least ten founding members. Secondly, it was alleged that no visas for the applicant branch's foreign members, or other documents establishing their lawful residence in Russian territory, had been provided. Thirdly, the deputy head referred to the fact that the applicant branch was subordinate to a centralised religious organisation in London and

inferred therefrom that the applicant branch was "most probably" a representative office of a foreign religious organisation operating on behalf and by order of the latter. Accordingly, its activities were to be governed by Government Regulation no. 310 (see paragraph 46 below).

15. On 7 September 1999 the applicant challenged the refusal before the Presnenskiy District Court of Moscow. The Moscow Justice Department submitted its written comments, in which it advanced a new ground for the refusal of registration.

> "... Article 6 of the Charter[1] provides that members of the Branch shall include supporters, soldiers, local officers and officers headed by the Officer Commanding, who is appointed from London. Members of the Branch wear a uniform and perform service, which means that the Branch is a paramilitary organisation.
>
> Pursuant to Presidential Decree no. 310 of 23 March 1995 'on measures to secure coordinated actions by State authorities in the fight against fascism and other forms of political extremism in the Russian Federation', no paramilitary formations may be established in the Russian Federation.
>
> We do not consider the use of the word 'army' in the name of a religious organisation to be legitimate. The Large Encyclopaedic Dictionary defines the meaning of this word as: 1. The totality of a State's armed forces ..."

As to the remainder, the Moscow Justice Department repeated and elaborated on the grounds for refusal set out in the letter of 16 August 1999.

16. On 5 July 2000 the Presnenskiy District Court gave judgment. It determined that the applicant branch was a representative office of the international religious organisation "The Salvation Army" and therefore was not eligible for registration as an independent religious organisation. In the court's opinion, this fact also prevented the applicant branch from being granted re-registration. Secondly, it referred to Article 13 § 5 of the Constitution, banning the founding and functioning of public associations which advocated a violent change in the constitutional principles of the Russian Federation or destruction of its integrity, undermined the security of the State, created paramilitary formations, or caused social, racial, ethnic or religious division or conflict. The court continued as follows:

> "In the course of analysis of the Charter, certain provisions stood out, on the one hand, as being imbued with barrack-room discipline, in which members of the religious organisation show unquestionable subordination to its management and, on the other hand, as relieving the management and the organisation as a whole of any responsibility for its members' activities. Thus, according to Article 6 § 3 of the Charter, 'the members of the Branch shall act in compliance with The Salvation Army's Orders and Regulations and with the instructions of the Officer Commanding', ... 'the Branch as a whole shall not be liable for infringements of the legislation of the Russian Federation perpetrated by individual members of the Branch'. This wording of the Charter leads one to conclude that the Charter assumes that the members of the organisation will inevitably break Russian law in the process of executing The Salvation Army's Orders and Regulations and the instructions of the Officer Commanding ... The Branch excludes its liability for illegal service activity by its members."

Thirdly, the court pointed out that the grounds for judicial liquidation of the applicant branch, as set out in its articles of association, were inconsistent with those laid down in Russian law. Lastly, the court held that the applicant branch had not disclosed its objectives, given that the articles of association failed to describe "all the decisions, regulations and traditions of The Salvation Army".

17. On 28 November 2000 the Moscow City Court upheld that judgment on appeal, focusing mainly on the applicant branch's foreign ties. It pointed out that the organisation's executive body included five foreign nationals who had multiple-entry visas, but not residence permits, whereas section 9(1) of the Religions Act required founders to be of Russian nationality. Noting the location of The Salvation Army's headquarters abroad and the presence of the word "branch" in its name, the City Court concluded that the Moscow Justice Department had correctly insisted on registration of the applicant branch as a representative office of a foreign religious organisation. As a subsidiary argument, the City Court endorsed the District Court's finding that the articles of association did not indicate the precise religious affiliation of its members because it was described as "Evangelical Protestant Christian", certain clauses of the articles of association mentioned the

"faith of The Salvation Army", and its objective was the "advancement of the Christian faith". On the allegedly paramilitary nature of the applicant's activities, the City Court noted:

> "The argument that [the applicant] is not a paramilitary organisation does not undermine the [first-instance] court's findings that the Branch is a representative office of a foreign religious organisation, The Salvation Army, and that the documents submitted for re-registration do not conform to the requirements of Russian law."

18. On 12 July 2000 the Ministry of Education of the Russian Federation sent an instruction "on activities of non-traditional religious associations in the territory of the Russian Federation" to Russian regional education departments. The instruction stated, *inter alia*:

> "... the international religious organisation The Salvation Army is expanding its activities in the central part of Russia. Its followers attempt to influence young people and the military. The Salvation Army formally represents the Evangelical Protestant branch of Christianity; in essence, however, it is a quasi-military religious organisation that has a rigid hierarchy of management. The Salvation Army is managed and funded from abroad."

The applicant branch submitted that this extract was copied verbatim from an information sheet prepared by the Federal Security Service of the Russian Federation and forwarded to the Ministry of Education on 29 May 2000.

19. On 31 December 2000 the time-limit for re-registration of religious organisations expired. Organisations that had failed to obtain re-registration were liable for dissolution through the courts.

20. On 2 August and 10 September 2001 the Moscow City Court and the Supreme Court of the Russian Federation, respectively, refused the applicant branch's request to lodge an application for supervisory review.

C. Proceedings for dissolution of the applicant branch

21. On 29 May 2001 the Moscow Justice Department brought an action for dissolution of the applicant branch.

22. On 12 September 2001 the Taganskiy District Court of Moscow granted the action for dissolution. The court found that the applicant branch had failed to notify the Moscow Justice Department on time about the continuation of its activities and had failed to obtain re-registration within the time-limit set by the Religions Act. The court held that the applicant branch had ceased its activities and that it was to be stripped of its status as a legal entity and struck off the Unified State Register of Legal Entities. On 6 December 2001 the Moscow City Court upheld that judgment.

23. On 10 September 2001 the applicant brought a complaint before the Constitutional Court challenging the constitutionality of section 27(4) of the Religions Act, which provided for dissolution of religious organisations that had failed to re-register before the time-limit. The applicant argued that the contested provision imposed dissolution as a form of penalty which could be imposed on a religious organisation on purely formal grounds, in the absence of any violations or offences on the part of the organisation. It maintained that the possibility of no-fault penalty was incompatible with the rule of law and constituted an encroachment on its constitutional rights.

24. On 7 February 2002 the Constitutional Court ruled on the complaint. It held that re-registration of a religious organisation could not be made conditional on the fulfilment of requirements that were introduced by the Religions Act and which had not legally existed when the organisation was founded. A court could only decide on the dissolution of an organisation which had failed to bring its documents into compliance with the Act if it was duly established that the organisation had ceased its activities or had engaged in unlawful activities. The court also emphasised that a judicial decision on dissolution of an organisation that had failed to obtain re-registration was to be reasoned beyond a mere reference to such formal grounds for dissolution as the failure to re-register or the failure to provide information on the continuation of its activities. Finally, the court held that the applicant's case was to be reheard in the part affected by the

Constitutional Court's different interpretation of the Religions Act.

25. On 1 August 2002 the Presidium of the Moscow City Court quashed the judgment of 12 September 2001 and remitted the case for a fresh examination by a differently composed bench.

26. On 18 February 2003 the Taganskiy District Court of Moscow dismissed the action for dissolution of the applicant branch brought by the Moscow Justice Department. The court founded its decision on the Constitutional Court's ruling.

27. On 20 March 2003 the Moscow Justice Department lodged an appeal. It submitted, firstly, that the judicial decisions upholding its refusal of re-registration remained effective and, secondly, that the entering of information on the applicant branch in the Unified State Register of Legal Entities did not constitute re-registration for the purposes of the Religions Act.

28. On 16 April 2003 the Moscow City Court dismissed the appeal and upheld the District Court's judgment of 18 February 2003.

D. The effect of the refusal to grant re-registration

29. The applicant submitted that the refusal to re-register it had had an adverse impact on its activities.

30. Following the expiry of the time-limit for re-registration on 31 December 2000, the applicant branch's assets had had to be transferred, in order to avoid seizure, to the community of The Salvation Army which had been re-registered at federal level. The transfer process had required considerable time and effort, involving: title to three properties; title to and registration of fourteen vehicles; opening of a new bank account; replacement of every employee's contract; renegotiation of twenty-six rental contracts, etc. Each of these transfers had necessitated complex bureaucratic steps and a diversion of resources from religious activities.

31. The refusal had also resulted in negative publicity which severely undermined the applicant branch's efforts at charitable fund-raising and generated distrust among landlords who refused to negotiate leases with the applicant branch.

32. In at least one neighbourhood, the applicant branch's mission of delivering hot meals to house-bound elderly persons had had to be stopped entirely, because an official of the local administration had refused to work with the applicant branch as it had no official registration.

33. The lack of re-registration had made it impossible for twenty-five foreign employees and seven non-Moscow Russian employees to obtain residence registration in Moscow, which was required by law for everyone who stayed in the city for more than three days.

E. Articles of association of the applicant branch

34. The articles of association of the applicant branch, approved on 6 May 1992 and amended on 2 September 1997, read in the relevant parts as follows:

§ 1 – General provisions

"(1) The Religious Association called Moscow Branch of The Salvation Army, a non-commercial charitable organisation, was established by its first members ... with the aim of professing and advancing the Christian religion ...

(2) The first members are parties who uphold the Articles of Faith of The Salvation Army as set out in Schedule I hereto ...

(3) The Branch shall be part of The Salvation Army international religious organisation and shall be subordinate thereto.

...

(5) The religious activities of the Branch shall be determined according to the Articles of Faith of The Salvation Army as an evangelistic Christian church."

§ 2 – Objectives, tasks and forms of activity

"(1) The objectives of the Branch shall be the advancement of the Christian faith, as promulgated in the religious doctrines which are professed, believed and taught by The Salvation Army, the advancement of education, the relief of poverty and other acts of charity ..."

II. RELEVANT DOMESTIC LAW

A. Constitution of the Russian Federation

35. Article 29 guarantees freedom of religion, including the right to profess either alone or in community with others any religion or to profess no religion at all, freely to choose, have and share religious and other beliefs and to manifest them in practice.

36. Article 30 provides that everyone shall have the right to freedom of association.

B. The Religions Act

37. On 1 October 1997 the Federal Law on freedom of conscience and religious associations (no. 125-FZ of 26 September 1997 – "the Religions Act") came into force.

38. The founding documents of religious organisations that had been established before the Religions Act were to be amended to conform to the Act. Until so amended, the founding documents remained operative in the part which did not contradict the terms of the Act (section 27(3)).

39. By a letter of 27 December 1999 (no. 10766-СЮ), the Ministry of Justice informed its departments that the Religions Act did not establish a special procedure for re-registration of religious organisations. Since section 27(3) required them to bring their founding documents into conformity with the Religions Act, the applicable procedure was the same as that for registration of amendments to the founding documents described in section 11(11), which provided that the procedure for registration of amendments was the same as that for registration of a religious organisation.

40. The list of documents submitted for registration was set out in section 11(5). If the governing centre or body to which the religious organisation was subordinate was located outside Russia, the religious organisation was additionally required to submit the certified articles of association of that foreign centre or body (section 11(6)).

41. Section 12(1) stated that registration of a religious organisation could be refused if:

"– the aims and activities of a religious organisation contradict the Russian Constitution or Russian laws – with reference to specific legal provisions;

– the organisation has not been recognised as a religious one;

– the articles of association or other submitted materials do not comply with Russian legislation or contain inaccurate information;

– another religious organisation has already been registered under the same name;

– the founder(s) has (have) no capacity to act."

42. Section 12(2) provided that a reasoned refusal of registration was to be communicated to the interested party in writing. It was prohibited to refuse to register a religious organisation on the ground that its establishment was inexpedient.

43. Re-registration could be denied to a religious organisation if there existed grounds for its dissolution or for the banning of its activities, as set out in section 14(2), which established the following list of grounds for dissolution of a religious organisation and the banning of its activities.

"– breach of public security and public order, the undermining of State security;

– actions aimed at a forcible change in the foundations of the constitutional structure or destruction of the integrity of the

Russian Federation;

– formation of armed units;

– propaganda of war, incitement to social, racial, ethnic or religious discord or hatred between people;

– coercion to destroy the family;

– infringement of the personality, rights and freedoms of citizens;

– infliction of harm, established in accordance with the law, to the morality or health of citizens, including the use of narcotic or psychoactive substances, hypnosis, commission of depraved and other disorderly acts in connection with religious activities;

– encouragement of suicide or the refusal on religious grounds of medical assistance to persons in life or health-threatening conditions;

– interference with the receipt of compulsory education;

– coercion of members and followers of a religious association and other persons to alienate their property for the benefit of the religious association;

– hindering a citizen from leaving a religious association by threatening harm to life, health, property, if the threat can actually be carried out, or by application of force or commission of other disorderly acts;

– inciting citizens to refuse to fulfil their civic duties established by law or to commit other disorderly acts.”

44. Section 27(4) in its original wording specified that the re-registration of religious organisations was to be completed by 31 December 1999. Subsequently the time-limit was extended until 31 December 2000. Following the expiry of the time-limit, religious organisations were liable for dissolution by a judicial decision issued on an application by a registration authority.

C. Procedure for registration of legal entities

45. On 1 July 2002 a new Federal Law on the State registration of legal entities (no. 129-FZ of 8 August 2001) came into force. State registration of legal entities was delegated to the Ministry for Taxes and Duties, which was to receive, within six months, the lists and files of registered legal entities from the bodies that had previously been in charge of their registration, and to enter that information into the Unified State Register of Legal Entities (Government Regulations nos. 319 of 17 May 2002 and 438 and 441 of 19 June 2002).

D. Representative offices of foreign religious organisations

46. By Regulation no. 130 of 2 February 1998, the government approved the procedure for registration of representative offices of foreign religious organisations. The Regulation defines a foreign religious organisation as an organisation established outside Russia under the laws of a foreign State (point 2). A representative office of a foreign religious organisation does not have the status of a legal entity (point 3) and may not engage in ritual and religious activities (point 5).

III. RELEVANT COUNCIL OF EUROPE DOCUMENTS

47. The relevant part of the Report by the Committee on the Honouring of Obligations and Commitments by member States of the Council of Europe (Monitoring Committee, doc. 9396, 26 March 2002) on the honouring of obligations and commitments by the Russian Federation stated:

“95. The Russian Constitution safeguards freedom of conscience and of religion (Article 28); the equality of religious associations before the law and the separation of church and State (Article 14), and offers protection against discrimination based on religion (Article 19). The law on freedom of religion of December 1990 has led to a considerable renewal of religious activities in Russia. According to religious organisations met in Moscow, this law has opened a new era, and led to a

revitalisation of churches. It was replaced on 26 September 1997 by a new Federal Law on freedom of conscience and religious associations. This legislation has been criticised both at home and abroad on the grounds that it disregards the principle of equality of religions.

96. ... In February 2001, the Ombudsman on Human Rights, Oleg Mironov, also acknowledged that many section of the 1997 Law on freedom of conscience and religious associations do not meet Russia's international obligations on human rights. According to him, some of its clauses have led to discrimination against different religious faiths and should therefore be amended.

97. In its preamble the law recognises 'the special role of Orthodoxy in the history of Russia and in the establishment and development of its spiritual and cultural life' and respects 'Christianity, Islam, Buddhism, Judaism and other religions constituting an integral part of the historical heritage of the peoples of Russia'. ...

98. According to the regulations by the Ministry of Justice – responsible for the implementation of the Law on freedom of conscience and religious associations – religious organisations established before the law came into force (26 September 1997) had to re-register before 31 December 2000.

99. The registration process was finally completed on 1 January 2001 as the State Duma decided to extend the deadline twice. About 12,000 religious organisations and groups have been registered, and only 200 were refused their registration, most of them because they failed to produce a complete file. Many others have, for a variety of reasons, failed to register. The Minister of Justice, Mr Chaika, strongly rejected allegations that the Orthodox Church had exerted pressure on the Ministry to prevent some religious organisations from obtaining their registration. Mr Chaika also indicated that experts of the Ministry had 'closely examined' the status of The Salvation Army and the Jehovah's Witnesses, and had come to the conclusion that nothing prevented [their] registration at the federal level.

100. The Salvation Army, which feeds around 6,000 Russians every month in the winter, has had to waste tens of thousands of dollars in legal fights over registration, and the Catholic church (as well as the Jewish community) has had trouble getting visas for its foreign clergy. Some other religious organisations have also been prevented from being registered at the local level: the Adventist Church, the Pentecostal Church, the Baptists, the Evangelist Church and other churches in particular in Tatarstan, in the region of Rostov and in Vladimir *oblast*. These religious organisations also voiced complaints that they had serious difficulties to settle, to build or buy their places of worship, or to recover confiscated properties. Some among them – e.g., the True Orthodox Church, the Union of Evangelists Pentecotists – have claimed that they suffered from repeated harassment by the authorities.

101. Indeed, there have been cases where, even if a religious organisation had re-registered nationally, local authorities created obstacles. ...

...

103. Although on 22 February 2001, the Russian Justice Ministry finally re-registered The Salvation Army in Russia, at federal level, registration had been constantly denied to the Moscow chapter of this religious organisation by the Chief Directorate of the Ministry of Justice in Moscow, and appeals to the various courts in Moscow failed. Moreover, in April 2001, liquidation procedures were put in place to close down Salvation Army Corps and social programmes within Moscow, and on 11 September 2001 the Tagansk[iy] intermunicipal court ruled that the Moscow chapter was subject to liquidation on the basis of section 27 of the 1997 Federal Law. (It provides for the liquidation of the legal entity that did not re-register by the 31 December 2000 deadline.)

104. The co-rapporteurs are very surprised and puzzled by the decision to ban the operations of The Salvation Army in Moscow, and they would highly appreciate the clarification of this matter by the Russian authorities. In this respect, they refer to the Monitoring Committee's call on Russia of 6 September 2001 to ensure that The Salvation Army enjoys the same rights as it has in other member States of the Council of Europe, including the right to be registered in Moscow. During their fact-finding visit in November 2001, the co-rapporteurs used every opportunity to stress the need for a solution, and the potential embarrassment this problem may cause for Russia."

48. Resolution 1277 (2002) on the honouring of obligations and commitments by the Russian Federation, adopted by the Parliamentary Assembly of the Council of Europe on 23 April 2002, noted as follows:

"8. However, the Assembly is concerned about a number of obligations and major commitments with which progress remains

insufficient, and the honouring of which requires further action by the Russian authorities:

...

xiv. the Assembly regrets the problems of The Salvation Army and Jehovah's Witnesses in Moscow, but welcomes the decision of the Russian authorities to ensure that the problem of local discrimination and harassment of these religious communities be brought to an end;

..."

49. Resolution 1278 (2002) on Russia's Law on religion, adopted by the Parliamentary Assembly of the Council of Europe on 23 April 2002, noted, in particular, the following:

"1. The new Russian Law on religion entered into force on 1 October 1997, abrogating and replacing a 1990 Russian law – generally considered very liberal – on the same subject. The new law caused some concern, both as regards its content and its implementation. Some of these concerns have been addressed, notably through the judgments of the Constitutional Court of the Russian Federation of 23 November 1999, 13 April 2000 and 7 February 2002, and the religious communities' re-registration exercise at federal level successfully completed by the Ministry of Justice on 1 January 2001. However, other concerns remain.

...

5. Moreover, some regional and local departments of the Ministry of Justice have refused to (re)register certain religious communities, despite their registration at federal level. The Federal Ministry of Justice does not seem to be in a position to control these regional and local departments in accordance with the requirements of the rule of law, preferring to force religious communities to fight these local departments over registration in the courts rather than taking remedial action within the Ministry. The case of the Moscow branch of The Salvation Army deserves particular attention in this respect, and should lead to an internal disciplinary inquiry by the Federal Ministry of Justice into the workings of its Moscow department. The Moscow Department of Justice tried to close down this branch of The Salvation Army (despite federal registration), for allegedly failing to re-register by the law's deadline. The Constitutional Court ruled in favour of The Salvation Army on 7 February 2002.

6. Therefore, the Assembly recommends to the Russian authorities that:

i. the Law on religion be more uniformly applied throughout the Russian Federation, ending unjustified regional and local discrimination against certain religious communities and local officials' preferential treatment of the Russian Orthodox Church, and in particular their insisting in certain districts that religious organisations obtain prior agreement for their activities from the Russian Orthodox Church;

ii. the Federal Ministry of Justice become more proactive in resolving disputes between its local/regional officials and religious organisations before disputes are brought before the courts, by taking remedial action within the Ministry in case of corruption and/or incorrect implementation of the Law on religion, thus rendering it unnecessary to take such cases to the courts;

..."

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 9 AND 11 OF THE CONVENTION

50. The applicant branch complained under Articles 9 and 11 of the Convention that the refusal to grant it the status of a legal entity had severely curtailed its ability to manifest its religion in worship and practice. Article 9 provides as follows:

"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 11 provides as follows:

"1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

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. ..."

A. The parties' submissions

1. The Government

51. The Government claimed that the applicant branch was not a "victim" of the alleged violations because it had continuously held the status of a legal entity. Regard being had to the Taganskiy District Court's judgment of 18 February 2003, there could be no doubt that the applicant branch had continued to operate without any hindrance.

52. The applicant's claim that refusal of re-registration would lead to its dissolution as a legal entity was mistaken. Even assuming that section 27(4) of the Religions Act provided for dissolution on the ground of refused re-registration, the Constitutional Court's ruling of 7 February 2002 precluded the dissolution of a legal entity that had not been re-registered for formal reasons. Under the Russian Civil Code, a legal entity ceased to exist once an entry to that effect had been made in the Unified State Register of Legal Entities. In the present case, however, the applicant branch was listed in the Register and had full legal capacity; on 1 October 2002 the Moscow Tax Inspection Office no. 39 had assigned a registration number to it.

53. The Government further submitted that the lawful requirement to bring the founding documents of a religious organisation into compliance with the existing law did not amount to an interference within the meaning of paragraph 1 of Articles 11 or 9 of the Convention. In any event, the Russian authorities could not be blamed for the applicant branch's unwillingness to apply for re-registration.

2. The applicant

54. The applicant branch pointed out that it had never claimed that the requirement to bring the founding documents into compliance with the existing law interfered with its rights as such. Its rights had been violated by the arbitrary and unlawful application and interpretation of that requirement by the Moscow Justice Department and the domestic courts. The classification of The Salvation Army as a paramilitary organisation and the assumption that its members would inevitably break the law were not founded on any factual evidence and represented an impermissible judgment about the legitimacy of the religion practised by the applicant branch.

55. The applicant did not dispute that the judgment of the Taganskiy District Court of 18 February 2003 had made its dissolution less likely. However, in its view, the threat of dissolution persisted since religious organisations that failed to obtain re-registration were to be dissolved by a judicial decision in accordance with section 27(4) of the Religions Act.

56. Finally, the applicant emphasised that the legal time-limit for re-registration had expired on 31 December 2000 and no further extension had been granted. It was therefore legally impossible to file a new application for re-registration, contrary to what the Government suggested.

B. The Court's assessment

1. General principles

57. The Court refers to its settled case-law to the effect 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 (see *Metropolitan Church of Bessarabia and Others v. Moldova*, no. 45701/99, § 114, ECHR 2001-XII).

58. 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. Since religious communities traditionally exist in the form of organised structures, Article 9 must be interpreted in the light of Article 11 of the Convention, which safeguards associative life against unjustified State interference. Seen in that perspective, the right of believers to freedom of religion, which includes the right to manifest one's religion in community with others, encompasses the expectation that believers will be allowed to associate freely, without arbitrary State intervention. Indeed, the autonomous existence of religious communities is indispensable for pluralism in a democratic society and is thus an issue at the very heart of the protection which Article 9 affords. The State's duty of neutrality and impartiality, as defined in the Court's case-law, is incompatible with any power on the State's part to assess the legitimacy of religious beliefs (see *Metropolitan Church of Bessarabia and Others*, cited above, §§ 118 and 123, and *Hasan and Chaush v. Bulgaria* [GC], no. 30985/96, § 62, ECHR 2000-XI).

59. The Court further reiterates that the right to form an association is an inherent part of the right set forth in Article 11. That citizens should be able to form a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of the right to freedom of association, without which that right would be deprived of any meaning. The way in which national legislation enshrines this freedom and its practical application by the authorities reveal the state of democracy in the country concerned. Certainly States have a right to satisfy themselves that an association's aim and activities are in conformity with the rules laid down in legislation, but they must do so in a manner compatible with their obligations under the Convention and subject to review by the Convention institutions (see *Sidiropoulos and Others v. Greece*, 10 July 1998, § 40, *Reports of Judgments and Decisions* 1998-IV).

60. As has been stated many times in the Court's judgments, not only is political democracy a fundamental feature of the European public order but the Convention was designed to promote and maintain the ideals and values of a democratic society. Democracy, the Court has stressed, is the only political model contemplated in the Convention and the only one compatible with it. By virtue of the wording of the second paragraph of Article 11, and likewise of Articles 8, 9 and 10 of the Convention, the only necessity capable of justifying an interference with any of the rights enshrined in those Articles is one that may claim to spring from "democratic society" (see *United Communist Party of Turkey and Others v. Turkey*, 30 January 1998, §§ 43-45, *Reports* 1998-I, and *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], nos. 41340/98, 41342/98, 41343/98 and 41344/98, §§ 86-89, ECHR 2003-II).

61. While in the context of Article 11 the Court has often referred to the essential role played by political parties in ensuring pluralism and democracy, associations formed for other purposes, including those proclaiming or teaching religion, are also important to the proper functioning of democracy. For pluralism is also built on the genuine recognition of, and respect for, diversity and the dynamics of cultural traditions, ethnic and cultural identities, religious beliefs, artistic, literary and socio-economic ideas and concepts. The harmonious interaction of persons and groups with varied identities is essential for achieving social cohesion. It is only natural that, where a civil society functions in a healthy manner, the participation of citizens in the democratic process is to a large extent achieved through belonging to associations in which they may integrate with each other and pursue common objectives collectively (see *Gorzelik and Others v. Poland* [GC], no. 44158/98, § 92, ECHR 2004-I).

62. The State's power to protect its institutions and citizens from associations that might jeopardise them must be used sparingly, as exceptions to the rule of freedom of association are to be construed strictly and only convincing and compelling reasons can justify restrictions on that freedom. Any interference must correspond to a "pressing social need"; thus, the notion "necessary" does not have the flexibility of such expressions as "useful" or "desirable" (see *Gorzelik and Others*, cited above, §§ 94-95, with further references).

2. The applicant branch's status as a "victim" of the alleged violations

63. In the Government's submission, so long as the applicant branch had not been dissolved and had retained its status as a legal entity, there had been no interference with its Convention rights and it could not therefore claim to be a "victim" of any violation.

64. The Court does not share the Government's view. According to the Convention organs' constant approach, the word "victim" denotes the person directly affected by the act or omission which is in issue (see *Marckx v. Belgium*, 13 June 1979, § 27, Series A no. 31, and *Dudgeon v. the United Kingdom*, 22 October 1981, § 41, Series A no. 45). In the present case the applicant branch complained that it had been denied re-registration because of the allegedly arbitrary interpretation of the requirements of the Religions Act. It is undisputed that the refusal of re-registration directly affected its legal position.

65. The Government appear to consider that this refusal has not been detrimental to the applicant branch. The Court recalls in this connection that the existence of a violation is conceivable even in the absence of prejudice or damage; the question whether an applicant has actually been placed in an unfavourable position is not a matter for Article 34 of the Convention and the issue of damage becomes relevant only in the context of Article 41 (see, among many other authorities, *Marckx*, loc. cit.; *Eckle v. Germany*, 15 July 1982, § 66, Series A no. 51; and *Wassink v. the Netherlands*, 27 September 1990, § 38, Series A no. 185-A).

66. The Government further appear to claim that the inclusion of the applicant branch in the Unified State Register of Legal Entities in October 2002 effaced the adverse consequences of the previous dissolution proceedings. The Court observes that a decision or measure favourable to an applicant is not in principle sufficient to deprive him of his status as a "victim" unless the national authorities have acknowledged the breach of the Convention, either expressly or in substance, and then afforded redress for that breach (see *Amuur v. France*, 25 June 1996, § 36, *Reports* 1996-III, and *Dalban v. Romania* [GC], no. 28114/95, § 44, ECHR 1999-VI). In the instant case the domestic authorities have not acknowledged that the refusal of re-registration amounted to a violation of the applicant's Convention rights. In fact, the judicial decisions upholding the refusal have not been set aside and have remained in force to date. The rulings by the Constitutional Court and by the Taganskiy District Court, to which the Government referred, only concerned the proceedings for dissolution of the applicant branch and were of no consequence to its claim for re-registration.

67. It transpires from the registration record produced by the Government that the entries concerning the applicant branch had been made "in connection with entering information into the Unified State Register of Legal Entities" (line no. 263) and following "transfer of the registration file from another registration authority" (line no. 289). This means that the inclusion of information on the applicant branch was solely linked to the establishment of a new register (the Unified State Register of Legal Entities) and to the shifting of registration competence from one authority to another following enactment of a new procedure for the registration of legal entities (see paragraph 45 above). In their statement of appeal, the Moscow Justice Department – that is, the authority with responsibility for registering religious associations – expressly confirmed that the entering of such information could not constitute "re-registration" for the purposes of the Religions Act (see paragraph 27 above).

68. The Court also observes that the Government have not commented on the applicant's legal status before 1 October 2002. However, the facts, undisputed by the parties, reveal that the applicant branch's status

as a legal entity was legally discontinued at least from 6 December 2001, when the Moscow City Court ordered its dissolution for failure to comply with the re-registration requirement, to 1 August 2002, when that judgment was quashed by way of supervisory-review proceedings.

69. Finally, the Government's argument that the applicant is not a "victim" because it may still apply for re-registration is self-defeating, for it confirms that the applicant has been denied re-registration to date. In any event, the Government omitted to specify which legal provisions would currently entitle the applicant to apply for re-registration, which would obviously be belated following the expiry of the extended time-limit on 31 December 2000.

70. Having regard to the above considerations, the Court finds that the applicant may "claim" to be a "victim" of the violations complained of. In order to ascertain whether it has actually been a victim, the merits of its contentions have to be examined.

3. Existence of interference with the applicant's rights

71. In the light of the general principles outlined above, the ability to establish a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of freedom of association, without which that right would be deprived of any meaning. The Court has consistently held the view that a refusal by the domestic authorities to grant status as a legal entity to an association of individuals amounts to an interference with the applicants' exercise of their right to freedom of association (see *Gorzelik and Others*, cited above, § 52 *et passim*, and *Sidiropoulos and Others*, cited above, § 31 *et passim*). Where the organisation of the religious community is in issue, a refusal to recognise it also constitutes interference with the applicants' right to freedom of religion under Article 9 of the Convention (see *Metropolitan Church of Bessarabia and Others*, cited above, § 105). The believers' right to freedom of religion encompasses the expectation that the community will be allowed to function peacefully, free from arbitrary State intervention (see *Hasan and Chaush*, cited above, § 62).

72. The Court observes that in 1997 the respondent State enacted a new Religions Act which required all the religious organisations that had been previously granted legal-entity status to amend their articles of association in conformity with the new Act and to have them "re-registered" within a specific time-period (see paragraphs 38 and 44 above). The procedure for "re-registration" was the same as for the initial registration of a religious organisation and the same grounds for refusing a registration application applied (see paragraphs 39 and 41 above). In addition, "re-registration" could be refused if grounds existed for dissolving a religious organisation or for banning its activities (see paragraph 43 above). A failure to obtain "re-registration" for whatever reason before the expiry of the time-limit exposed the religious organisation to a threat of dissolution by judicial decision (see paragraph 44 above).

73. The Court notes that, prior to the enactment of the new Religions Act, the applicant branch had lawfully operated in Russia since 1992. It was unable to obtain "re-registration" as required by the Religions Act and consequently became liable for dissolution by operation of law. After 6 December 2001, when it exhausted ordinary domestic remedies against the judicial decision ordering its dissolution, and until that decision was quashed by way of supervisory review on 1 August 2002, the applicant branch continuously ran the risk of having its accounts frozen and its assets seized (compare *Christian Democratic People's Party v. Moldova* (dec.), no. 28793/02, 22 March 2005). The Court accepts that that situation had an appreciably detrimental effect on its functioning and religious activities (see paragraphs 29-33 above). Even though the Constitutional Court's ruling later removed the immediate threat of dissolution from the applicant branch, it is apparent that its legal capacity is not identical to that of other religious organisations that obtained re-registration certificates. The Court observes that in other cases the absence of re-registration was invoked by the Russian authorities as a ground for refusing registration of amendments to the articles of association or for staying the registration of a religious newspaper (see *Church of Scientology Moscow and Others v. Russia* (dec.), no. 18147/02, 28 October 2004).

74. The Court considers that in the present circumstances, in which the religious organisation was obliged to amend its articles of association and where registration of such amendments was refused by the State authorities, with the result that it lost its legal-entity status, there has been an interference with the organisation's right to freedom of association. As the Religions Act restricts the ability of a religious association without legal-entity status to exercise the full range of religious activities (see *Kimlya and Others v. Russia* (dec.), nos. 76836/01 and 32782/03, 9 June 2005), this situation must also be examined in the light of the organisation's right to freedom of religion.

75. Accordingly, as the Court has found that there has been an interference with the applicant's rights under Article 11 of the Convention read in the light of Article 9, it must determine whether such interference satisfied the requirements of paragraph 2 of those provisions, that is whether it was "prescribed by law", pursued one or more legitimate aims and was "necessary in a democratic society" (see, among many other authorities, *Metropolitan Church of Bessarabia and Others*, cited above, § 106).

4. *Justification for the interference*

(a) General principles applicable to the analysis of justification

76. The Court reiterates that the list of exceptions to freedom of religion and assembly, as contained in Articles 9 and 11 of the Convention, is exhaustive. The exceptions to the rule of freedom of association are to be construed strictly and only convincing and compelling reasons can justify restrictions on that freedom. In determining whether a necessity within the meaning of paragraph 2 of these Convention provisions exists, the States have only a limited margin of appreciation, which goes hand in hand with rigorous European supervision embracing both the law and the decisions applying it, including those given by independent courts (see *Gorzelik and Others*, cited above, § 95; *Sidiropoulos and Others*, cited above, § 40; and *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, § 84, ECHR 2001-IX).

77. When the Court carries out its scrutiny, its task is not to substitute its own view for that of the relevant national authorities but rather to review the decisions they delivered in the exercise of their discretion. This does not mean that it has to confine itself to ascertaining whether the respondent State exercised its discretion reasonably, carefully and in good faith; it must look at the interference complained of in the light of the case as a whole and determine whether it was "proportionate to the legitimate aim pursued" and whether the reasons adduced by the national authorities to justify it are "relevant and sufficient". In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in the Convention and, moreover, that they based their decisions on an acceptable assessment of the relevant facts (see *United Communist Party of Turkey and Others*, cited above, § 47, and *Partidul Comunistilor (Nepeceristi) and Ungureanu v. Romania*, no. 46626/99, § 49, ECHR 2005-I).

(b) Arguments put forward in justification of the interference

78. The Court observes that the grounds for refusing re-registration of the applicant branch were not consistent throughout the domestic proceedings. Although the Moscow Justice Department initially referred to an insufficient number of founding members and the absence of documents showing their lawful residence in Russia, these purported defects found no mention in the subsequent judicial decisions (see paragraphs 14, 16 and 17 above). The allegedly paramilitary nature of the applicant's structure did not form part of the initial decision refusing re-registration and the Department put that argument forward for the first time in its comments on the applicant's claim to a court (see paragraph 15 above). That reason was accepted by the District Court but the City Court did not consider that it required separate examination (see paragraph 17 above). Finally, the argument about inconsistent indication of the applicant's religious affiliation was not relied upon by the Justice Department and appeared for the first time in judicial decisions (ibid.)

79. The Government did not specify the particular grounds for denying re-registration to the applicant branch. They did not advance any justification for the interference.

80. In these circumstances, the Court will examine in turn two groups of arguments that were put forward for refusing the applicant's re-registration: those relating to the applicant branch's "foreign origin" and those relating to its internal structure and religious activities.

(i) The applicant branch's "foreign origin"

81. The Russian authorities held that since the applicant's founders were foreign nationals, in that it was subordinate to the central office in London and had the word "branch" in its name, it must have been a representative office of a foreign religious organisation ineligible for "re-registration" as a religious organisation under Russian law.

82. The Court observes, firstly, that the Religions Act did indeed prohibit foreign nationals from being founders of Russian religious organisations. It finds, however, no reasonable and objective justification for a difference in treatment of Russian and foreign nationals as regards their ability to exercise the right to freedom of religion through participation in the life of organised religious communities.

83. Secondly, it does not appear that the presence of The Salvation Army's headquarters abroad prevented registration of the applicant as a Russian religious organisation. Section 11(6) of the Religions Act concerned precisely the situation where a Russian religious organisation was subordinate to the central governing body located abroad (see paragraph 40 above). The only additional requirement in that case was the production of the certified articles of association of the foreign governing body; that circumstance was not a legal ground for refusing registration or re-registration.

84. Thirdly, under the Religions Act, the only instance in which a religious organisation's name could preclude its registration was where it was identical to the name of another registered organisation. It has not been claimed that this was the case of the applicant branch. By law, the mere presence of the word "branch" in its name was not a circumstance precluding its registration.

85. Finally, the Court notes that, by the time of the events, the applicant branch had existed for seven years as an independent legal entity exercising a broad range of religious rights. The Moscow Justice Department and domestic courts insisted that it should be registered as a representative office of a foreign religious organisation with the consequence that under Russian law it would not be entitled to status as a legal entity or to continue its religious activities (see paragraph 46 above). As noted above, that claim by the domestic authorities had no legal foundation. Accordingly, in the Court's assessment, it amounted to a refusal on the ground that its establishment was inexpedient, which had been expressly prohibited by section 12(2) of the Religions Act (see paragraph 42 above).

86. It follows that the arguments pertaining to the applicant's alleged "foreign origin" were neither "relevant and sufficient" for refusing its re-registration, nor "prescribed by law".

(ii) Religious structure of the applicant branch

87. The District and City Courts held that the applicant branch did not set out its religious affiliation and practices in a precise manner but confusingly referred to the Evangelical faith, the faith of The Salvation Army and the Christian faith and omitted to describe all of its decisions, regulations and traditions.

88. The Court observes that the applicant's articles of association submitted for re-registration clearly designated the applicant branch as a religious organisation adhering to the tenets of the Christian faith. A schedule that formed an integral part of its articles of associations set out the premises on which the religious doctrine of The Salvation Army was founded.

89. The Religions Act did not lay down any guidelines as to the manner in which the religious affiliation or denomination of an organisation should be described in its founding documents. Section 10(2) of the Religions Act, to which the City Court referred, merely required the indication of the organisation's creed

(*вероисповедание*). There was no apparent legal basis for the requirement to describe all "decisions, regulations and traditions".

90. If the applicant's description of its religious affiliation was not deemed complete, it was the national courts' task to elucidate the applicable legal requirements and thus give the applicant clear notice of how to prepare the documents in order to be able to obtain re-registration (see *Tsonev v. Bulgaria*, no. 45963/99, § 55, 13 April 2006). This had not, however, been done. Accordingly, the Court considers that this ground for refusing registration has not been substantiated.

91. Further, the Moscow Justice Department alleged that the applicant branch should be denied registration on the ground that it was a "paramilitary organisation", since its members wore a uniform and performed service, and because the use of the word "army" in its name was not legitimate. The District Court endorsed that argument.

92. The Court points out that, according to its constant case-law, 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*, cited above, § 78, and *Manoussakis and Others v. Greece*, 26 September 1996, § 47, *Reports* 1996-IV). It is indisputable that, for the members of the applicant branch, using ranks similar to those used in the military and wearing uniforms were particular ways of organising the internal life of their religious community and manifesting The Salvation Army's religious beliefs. It could not seriously be maintained that the applicant branch advocated a violent change in the State's constitutional foundations or thereby undermined the State's integrity or security. No evidence to that effect had been produced before the domestic authorities or by the Government in the Convention proceedings. It follows that the domestic findings on this point were devoid of factual basis.

93. The District Court also inferred from the applicant's articles of association that the members of the applicant branch would "inevitably break Russian law in the process of executing The Salvation Army's Orders and Regulations and the instructions of the Officer Commanding".

94. The Court reiterates that an association's programme may in certain cases conceal objectives and intentions different from the ones it proclaims. To verify that it does not, the content of the programme must be compared with the actions of the association's leaders and the positions they embrace (see *Refah Partisi (the Welfare party) and Others*, § 101, and *Partidul Comunistilor (Nepeceristi) and Ungureanu*, § 56, both cited above).

95. There was no evidence before the domestic courts that in seven years of its existence the applicant branch, its members or founders had contravened any Russian law or pursued objectives other than those listed in its articles of associations, notably the advancement of the Christian faith and acts of charity. It follows that this finding by the District Court also lacked evidentiary basis and was therefore arbitrary.

(iii) Further considerations relevant for the Court's assessment

96. As noted above, by the time the re-registration requirement was introduced, the applicant branch had lawfully existed and operated in Russia as an independent religious community for more than seven years. It has not been submitted that the community as a whole or its individual members had been in breach of any domestic law or regulation governing their associative life and religious activities. In these circumstances, the Court considers that the reasons for refusing re-registration should have been particularly weighty and compelling (see the case-law cited in paragraph 76 above). In the present case no such reasons have been put forward by the domestic authorities.

97. It is also relevant for the Court's assessment that, unlike the applicant branch, other religious associations professing the faith of The Salvation Army have successfully obtained re-registration in Russian regions and at federal level (see points 99 and 101-04 of the report on Russia honouring its commitments, cited in paragraph 47 above, and point 5 of the Parliamentary Assembly's Resolution on Russia's Law on

religion, cited in paragraph 49 above). In view of the Court's finding above that the reasons invoked by the Moscow Justice Department and endorsed by the Moscow courts in order to deny re-registration of the applicant branch had no legal or factual basis, it can be inferred that, in denying registration to the Moscow branch of The Salvation Army, the Moscow authorities did not act in good faith and neglected their duty of neutrality and impartiality *vis-à-vis* the applicant's religious community (see *Metropolitan Church of Bessarabia and Others*, § 123, and *Hasan and Chaush*, § 62, both cited above).

(c) Conclusion

98. In the light of the foregoing, the Court considers that the interference with the applicant's right to freedom of religion and association was not justified. There has therefore been a violation of Article 11 of the Convention read in the light of Article 9.

II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION TAKEN IN CONJUNCTION WITH ARTICLES 9 AND 11

99. The applicant branch further complained under Article 14 of the Convention taken in conjunction with Articles 9 and 11 that it had been discriminated against on account of its position as a religious minority in Russia. Article 14 reads as follows:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

100. The Court reiterates that Article 14 has no independent existence, but plays an important role by complementing the other provisions of the Convention and its Protocols, since it protects individuals placed in similar situations from any discrimination in the enjoyment of the rights set forth in those other provisions. Where a substantive Article of the Convention or its Protocols has been relied on both on its own and in conjunction with Article 14 and a separate breach has been found of the substantive Article, it is not generally necessary for the Court to consider the case under Article 14 also, though the position is otherwise if a clear inequality of treatment in the enjoyment of the right in question is a fundamental aspect of the case (see *Chassagnou and Others v. France* [GC], nos. 25088/94, 28331/95 and 28443/95, § 89, ECHR 1999-III, and *Dudgeon*, cited above, § 67).

101. In the circumstances of the present case the Court considers that the inequality of treatment, of which the applicant claimed to be a victim, has been sufficiently taken into account in the above assessment that led to the finding of a violation of substantive Convention provisions (see, in particular, paragraphs 82 and 97 above). It follows that there is no cause for a separate examination of the same facts from the standpoint of Article 14 of the Convention (see *Metropolitan Church of Bessarabia and Others*, § 134, and *Sidiropoulos and Others*, § 52, both cited above).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

102. 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."

A. Damage

103. The applicant claimed 50,000 euros (EUR) in respect of compensation for non-pecuniary damage

resulting from the arbitrary refusal of re-registration and the negative publicity linked to its designation as a "paramilitary organisation".

104. The Government considered the claim excessive and vague. They also claimed that the applicant had failed to seek redress for the alleged non-pecuniary damage before the domestic courts.

105. The Court considers that the violation it has found must have caused the applicant non-pecuniary damage for which, ruling on an equitable basis, it awards EUR 10,000, plus any tax that may be chargeable.

B. Costs and expenses

106. The applicant did not claim costs and expenses. Accordingly, there is no call to make an award under this head.

C. Default interest

107. The Court considers it appropriate that the default interest 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. *Holds* that the applicant may claim to be a "victim" for the purposes of Article 34 of the Convention;

2. *Holds* that there has been a violation of Article 11 of the Convention read in the light of Article 9;

3. *Holds* that no separate examination of the same issues under Article 14 of the Convention is required;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 10,000 (ten thousand euros) in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement, plus any tax that may be chargeable;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 5 October 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen Christos Rozakis
Registrar President

1. That is, the applicant branch's articles of association.