**Supreme Court of the Russian Federation**

Case No AKPI17-238

20 April 2017

**DECISION**

**on behalf of The Russian Federation**

The Supreme Court of the Russian Federation consisting of

Judge Y. G. Ivanenko

Clerk V. A. Stratienko

Having considered in open court hearings the Ministry of Justice’s administrative claim on the administrative case of liquidating the Religious organization “The Administrative Center of Jehovah’s Witnesses in Russia”,

**The Court found**

On 27 March, 1991 the Ministry of Justice of the Russian Soviet Federative Socialist Republic decided to register charter the “Religious Organization of Jehovah’s Witnesses in the Soviet Union”, founded by ten individuals at the establishing meeting on 10 March, 1991. The current version of the Сharter of the Religious Organization “The Administrative Center of Jehovah’s Witnesses in Russia” (hereafter – the Organization) was registered by the Ministry of Justice of the Russian Federation on 29 April 1999. …

The Ministry of Justice applied to the Supreme Court of the Russian Federation with the claim to liquidate the Organization on the grounds that activities of the Organization and the 365 religious organizations of Jehovah’s Witnesses incorporated into the structure of the Organization are carried out in violation of the charter goals, tasks, and legislation of the Russian Federation, including the Federal Law No 114-FZ, of 25 July 2002 on Combating Extremist Activity.

To justify the claim, the administrative claimant indicates that various informational materials spread by the Organization and local religious organizations of Jehovah’s Witnesses in the Russian Federation had been declared extremist by courts due to the fact that they contain information inciting religious discord, that they propagandiz~~e~~ exclusivity, and that they promote the superiority and inferiority of citizens based on their religious affiliation. In particular, 95 printed materials were registered in the Federal Registry of Extremist Materials on the basis of final decisions of courts. These are material published by the Watch Tower Bible and Tract Society of New York, Watch Tower Bible and Tract Society of Pennsylvania, Wachttrum Bibel – und Traktat – Gesellschaft der Zeugen Jehovas, Watch Tower Bible und Traktat – Gesellschaft Deutscher Zwelg (No in the Federal Register 510-543, 556-573, 752-757, 975-978, 1042-1045, 2034, 2170, 2224, 2454-2455, 2493, 2632, 2736, 2823, 2988, 3563, 3565, 3600), several issues of the magazine “Probudites’!” (Awake!) (No 533-536, 557-563, 1045) and the magazine “Storozhevaya bashnya” (The Watchtower) (No 537-543, 564-573, 975-977, 1042-1043).

Among the materials registered in the Federal Registry of Extremist are also the Web-sites <http://www.jw.org> (No 2904) and <http://www.wol.ps8318.com> (No 3718), the materials that were available at <http://coollib.net/b/275560/read> entitled “Vremya dlya istinnoy pokornosti” (Time for True Obedience), as well as materials that were available at <http://www.iw.org/ru/публикации/книги/?contentLanguageFilter=ru&pubFilter=gt&sortBy=1> entitled “Samiy velikiy chelovek, kotoriy kogda-lobo zhil” (The greatest man who ever lived).

From 2014 to 2015, the Organization imported into the Russian Federation 1,194,777 brochures entitled “Kak poyavilas zhizn’?” (How Did Life Begin?) (WATCH TOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA, published in Germany in 2014, 16 pages); 140,719 brochures entitled “Slushays’ Boga” (Obey God) (WATCH TOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA, published in Great Britain in 2006, 32 pages); 14,881 printed materials entitled “Uchimsya v shkole teokraticheskogo sluzhenia” (We are Learning in the School of Theocratic Service) that were all declared extremist (No 3565, 3563, 3600, 2632).

The Organization directly participates in financing local religious organizations of Jehovah’s Witnesses, including those that were declared extremist by the final rulings of the courts of the Russian Federation according to the fourteenth subparagraph of the first paragraph of Art. 1 of the Federal Law on Combating Extremist Activities.

Since 2009 the courts of the Russian Federation have declared extremist, prohibited activities and liquidated eight local religious organizations of Jehovah’s Witnesses associated with the Organization because of signs of a threats to the security of the Russian Federation and signs of targeted extremist activities were found in the activity of the religious organizations.

On 2 March, 2016 the Office of the Prosecutor General of the Russian Federation served a notice to the Organization that extremist activities are prohibited.

The administrative claimant points out that after the notice, new facts of mass dissemination of extremist literature by local religious organizations of Jehovah’s Witnesses were established by the courts in cases of administrative offences. The administrative claimant considers that the established facts present evidence that the Organization is engaged activities that violate the charter goals and tasks, have the characteristics of extremism, and entail violations of human and civil rights and freedoms, public order, and public safety.

Moreover, the administrative claimant maintains that there are signs of extremist activity in the actions of the Organization. The Organization as a centralized religious organization serves as a center that coordinates and directs the activities of incorporated local religious organizations of Jehovah’s Witnesses, imports into the Russian Federation literature either previously declared as extremist or declared as such afterwards, and participates in funding local religious organizations including those that are declared as extremist afterwards. The Organization has not taken any preventative measures aimed at eliminating either the reasons or the conditions facilitating extremist activity, which in turn served as a basis for the systematic violation of legislation on combating the extremist ~~a~~ctivity perpetrated by a number of elements in the structure of the Organization.

The administrative claimant holds that the extremist activities of the structural branches of the Organization, in the absence of any concrete organizational and practical measures from the Organization to prevent violations of the Federal Law on combating extremist activities, threaten to violate the rights and legitimate interest of an undefined range of persons, as well as threatening public order. For that reason, on the basis of the fourth part of Art. 7, Art. 9 of the Federal Law on Combating Extremist Activities, paragraph 4 Art. 6, paragraph 7 Art. 14 of Federal Law No 125-FZ, 26 of September 1997 on the Freedom of Conscience and Religious Associations, the administrative claimant requests the Court to recognize the Organization as extremist, to prohibit its operation, and to liquidate the Organization and its incorporated local organizations of Jehovah’s Witnesses, to exclude them from the Unified State Registry of Legal Entities, to turn the Organization’s property over to the state ownership after satisfying creditors, and to put the ruling on the liquidation of the Organization and its incorporated local branches into effect immediately with respect to suspending their activities.

In its written objections, the Organization asks the Court to dismiss the claim, arguing that the Organization is not currently and was not previously involved in extremist activities, and since its establishment was never prosecuted for violating provisions of either the Federal Law on Freedom of Conscience and Religious Associations, or the Federal Law on Combating Extremist Activities.

The defendant maintains that the Ministry of Justice of the Russian Federation’s claim violates provisions of articles 28, 29, and 20 of the Constitution of the Russian Federation and international treaties, ratified by the Russian Federation, in particular, the constitutionally protected human rights to freedom of religion and freedom of assembly, protected also by articles 9 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as articles 18 and 19 of the International Covenant on Civil and Political Rights.

The defendant claims that liquidating the Organization of Jehovah’s Witnesses and its incorporated local branches will violate their rights, does not serve as a justified measure, does not pursue a legitimate aim, and is not necessary.

The defendant considers the informational materials mentioned in the claim to have been unfairly identified as extremist owing to their incorrect evaluation in the relevant cases, which the Organization was not involved in. The Organization is not an author, publisher or a right-holder of the informational materials registered in the Federal Registry of Extremist Materials, it takes all reasonable measures to comply with requirements of anti-extremism legislation, has never funded extremist activities through the financial support of the charter activities of the local religious organizations, which are not its regional or structural branches.

The Organization assumes that the courts’ decisions in the cases on administrative offences mentioned by the administrative claimant are not relevant because these decisions were delivered against the Organization. The Organization also guesses that the liquidation of its incorporated branches does not comply with the Russian Federation’s legislative demands and its international law obligations and that the claim should therefore be dismissed.

… The Supreme Court of the Russian Federation decided to sustain the claim.

According to Art. 28 of the Constitution of the Russian Federation, everyone shall be guaranteed the freedom of conscience and religion, including the right to manifest individually or collectively any religion or not to manifest any religion, and freely to choose, keep and disseminate religious and other convictions and act in accordance with them.

Recognizing everyone’s right of association and guaranteeing the activities of public associations (Art. 30), the Constitution of the Russian Federation prohibits establishing and operating public associations whose goals and activities are aimed at forcibly changing the foundation of the constitutional order and at violating the integrity of the Russian Federation, at undermining its security, at creating armed units, and at instigating social, racial, national and religious strife (the fifth part of Art. 13), all forms of limitations of human rights on social, racial, national, language or religious grounds (the second part of Art. 19), propaganda or agitation, which arouses social, racial, national or religious hatred and hostility, as well as propaganda of social, racial, national, religious or linguistic supremacy (the second part of Art. 29). The exercise of human and civil rights and freedoms must not violate the rights and freedoms of other people (the third part of Art. 17).

Legal relations in the field of human and civil rights to freedom of conscience and freedom of religion as well as the legal status of religious associations, including the particularities of their civil law status, are regulated by the Federal Law on Freedom of Conscience and Religious Associations, which prescribes that religious associations can be established as religious groups or religious organizations. A religious organization is a voluntary association of citizens of the Russian Federation and other persons legally residing in the Russian Federation established for the shared manifestation and dissemination of their faith and registered as a legal entity in the order prescribed by the law. A centralized religious organization is one consisting of at least three local organizations (the first paragraph of Art. 6, the first and fourth paragraphs of Art. 8).

The “Organization” is the centralized religious organization. Along with the Ruling Committee – the highest management body established by the Organization – its structure includes 395 local religious organizations:

…

[The Court lists the names and numbers of the state registrations of the 395 local organizations of the Jehovah’s Witnesses]

…

Under the defendant’s direction more than 2 500 religious groups were organized.

According to the Charter of the Organization, its primary activities are the coordination of preaching activities of Jehovah’s Witnesses for the purpose of manifesting and disseminating the faith, including preaching in public and in homes, all necessary and possible informational, legal, consulting and other assistance to Jehovah’s Witnesses, the coordination and direction of religious organizations affiliated with the Center, the representation and protection of their interests, providing them with liturgical and religious literature and religious items, assistance in building religious buildings and facilities (objects of religious significance), as well as financial, material, technical, informational, consulting, methodical and other assistance necessary for providing their religious activities, production, purchase, translation, export, import, dissemination of liturgical, religious literature, printed, audio and video materials and other religious items, and the storage and transportation of literature, materials and other religious items (paragraphs 2.2, 2.2.1, 2.2.2., 2.2.6, 2.2.9).

The general grounds for liquidating a religious organization are prescribed by Art. 14 of the Federal Law on Freedom of Conscience and Religious Associations. In particular, one of the grounds is actions directed to extremist activities (subparagraph 3 of the second paragraph). In addition, a religious organization can be liquidated, and a religious association that does not act as a legal person can be prohibited, under the procedure and on the grounds provided in the Federal Law on Combating Extremist Activity (the seventh paragraph).

In order to protect human and civil rights and freedoms, as well as the fundamentals of the constitutional order, and to ensure the integrity and security of the Russian Federation, the Federal Law on Combating Extremist Activity sets the legal and organizational frameworks for combating extremist activity and establishes liability for these activities.

Extremist activities (extremism) is a violent transformation of the foundation of the constitutional order and a violation of the integrity of the Russian Federation; the public justification of terrorism or other terroristic activities; the incitement of social, race, national or religious strife; any propaganda of exclusivity touting the supremacy or inferiority of a person based on his or her social, race, ethnic, religious or linguistic identity or attitude towards religion; the violation of rights, freedoms and lawful interests of man and citizen based on social, race, ethnic, religious or linguistic identity or attitude towards religion; the obstruction of the exercise of electoral rights or the right to participate in a referendum or a violation of the secrecy of the vote combined with violence or the threat of violence; any obstruction of the legal activities of the state or local authorities, election commissions, public and religious associations, or other associations combined with violence or the threat of violence; committing crimes based on motives indicated in paragraph (e) of the first part of Art. 63 of the RF Criminal Code; propaganda and public demonstration of Nazi attributes or symbols, or attributes and symbols similar to Nazi attributes and symbols to the point of confusion, or public demonstration of attributes or symbols of extremists organizations; public appeals to the exercise of the said acts or mass dissemination materials known to be extremist, as well as their production and storage for the purposes of mass dissemination; publicized, knowingly false accusations against a federal or regional official, in their official capacity, alleging that they have committed acts listed in this article and being criminalized; the organization and preparation of ~~the~~ said acts, as well as incitement to committing them; financing the above acts or any other support with their organization, preparation and exercise, inter alia, by providing the following educational, printing, material and technical facilities, phone, and other types of communication or providing informational services (the first paragraph of Art. 1 of the Federal Law on Combating Extremist Activity).

The aforementioned Federal Law prohibits the organization and activities of public and religious associations and other organizations, which goals or activities are aimed at carrying out extremist activities, the dissemination of extremist materials, or their production or storage for the purposes of dissemination (the first part of Art. 9, the first part of Art. 13).

The first part of Art. 7 of the aforementioned Federal Law stipulates that in the event of the disclosure of facts indicating characteristics of extremism within their activities, including in the activities of a single one of their regional or other structural branches, a public or religious organization or other organization shall be served with written notice of the inadmissibility of such activity, with an indication of the concrete grounds for serving the notice, including the violations committed.

On 2 March 2016 the deputy of the Prosecutor General of the Russian Federation served a notice to the Organization of the inadmissibility of extremist activities. It was stated in the notice that as of ~~at~~ 1 March 1, 2016, there are 88 informational materials published by organizations of Jehovah’s Witnesses that have been recognized as extremist by final rulings of the courts. These materials have been registered in the Federal Registry of Extremist Materials (No 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 752, 753, 754, 755, 756, 757, 975, 976, 977, 978, 1042, 1043, 1044, 1045, 2034, 2170, 2444, 2454, 2455, 2455, 2455, 2455, 2493, 2493, 2493, 2493). Prosecutors of the Republic of Kalmykia, the Kabardino-Balkar Republic, the Karachay-Cherkess Republic, the Krasnodar and Primorsky Krais, the Belgorod, the Kemerovo, the Kurgan, the Novosibirsk, the Rostov, the Tyumen Oblasts, the Jewish Autonomous Oblast and the Khanty-Mansi Autonomous Okrug – Yugra, served 18 notices to the management bodies of local organizations of Jehovah’s Witnesses of the inadmissibility of extremist activities and the dissemination of extremist materials. Despite the preventive measures taken, characteristics of extremist activities continue to be identified in activities of the Organization’s branches, which leads to the liquidation of local religious organizations ….

The Organization appealed the above mentioned notice to the Prosecutor General’s Office of the Russian Federation and then to the court. In the decision of 12 October 2016, the Tver district court of Moscow declared the notice lawful and justified. The Judicial Chamber for Administrative Cases of the Moscow City Court confirmed the decision in the ruling of 16 January 2017.

On 27 January 2017, the Ministry of Justice of the Russian Federation received the request of the Prosecutor General’s Office of the Russian Federation No 27/3-237-2016/Nd2686-17 on an unscheduled inspection of the Organization for compliance with the legislation on religious associations and charter goals.

During the inspection it was found that the Organization acted in violation of the charter goals and tasks, as well as of current legislation of the Russian Federation, including the Federal Law on Combating Extremist Activity.

The permission to distribute the foreign printed materials “Probudites’!” (Awake!) and “Storozhevaya bashnya” (The Watchtower) granted to the Organization as an applicant and a distributor 24 July 1997, was canceled by the Order of the Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications of 26 April, 2010, No 268 (in the version of 18 May 2010, No 308).

In the rulings that went into legal effect, the courts declared 95 printed materials to be extremist that were published by the Watch Tower Bible and Tract Society of New York, Watch Tower Bible and Tract Society of Pennsylvania, Wachttrum Bibel – und Traktat – Gesellschaft der Zeugen Jehovas, Watch Tower Bible und Traktat – Gesellschaft Deutscher Zwelg (No in the Federal Registry of Extremist Materials 510-543, 556-573, 752-757, 975-978, 1042-1045, 2034, 2170, 2224, 2454-2455, 2493, 2632, 2736, 2823, 2988, 3563, 3565, 3600), including several issues of the magazine “Probudites’!” (Awake!) (No 533-536, 557-563, 1045) and the magazine “Storozhevaya bashnya” (The Watchtower) (No 537-543, 564-573, 975-977, 1042-1043).

The Web-sites <http://www.jw.org> (No 2904), <http://www.wol.ps8318.com> (No 3718), and materials that were available at <http://coollib.net/b/275560/read> entitled “Vremya dlya istinnoy pokornosti” (Time for True Obedience) along with those available at <http://www.iw.org/ru/публикации/книги/?contentLanguageFilter=ru&pubFilter=gt&sortBy=1> entitled “Samiy velikiy chelovek, kotoriy kogda-libo zhil” (The greatest man who ever lived), have also been registered in the Federal Registry of Extremist Materials.

According to the Organization’s performance report for the year 2014, as approved by the Ruling Committee on 15 February, 2015, the Organization spent 39 046 000 rubles for the delivery of religious literature and liturgical items. In 2015, according to the Organization’s performance report for the year 2015, as approved by the Ruling Committee on 3 February 2015, the Organization spent 8 817 000 rubles on the same items.

According to the information obtained … from the North-West Department of the Federal Custom Service during the inspection period (2014-2017), the Organization completed 85 declarations for goods including 106 718 198 items of printed books and religious brochures (2014-2015).

In 2014 in particular, the Organization imported into the territory of the Russian Federation 1 194 777 brochures “Kak poyavilas zhizn’?” (How Did Life Begin?) (WATCH TOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA, published in Germany in 2014, 16 pages), 140 719 brochures “Slushaysya Boga” (Obey God) (WATCH TOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA, published in Great Britain in 2006, 32 pages), which were declared extremist by the ruling of the Serov District Court of 19 February 2016, and registered in the Federal Registry of Extremist Materials (No 3565, 3563, 3600 respectively).

In 2014-2015 the Organization imported into the territory of the Russian Federation 14 881 printed materials entitled “Uchimsya v shkole teokraticheskogo sluzhenia” (Learning in School of Theocratic Service), which were declared extremist by the ruling of the Stary Oskol City Court of 27 November, 2014 and registered in the Federal Registry of Extremist Materials (No 2632).

According to the materials provided by the administrative claimant, the Local Religious Organization of the Jehovah’s Witnesses, “Taganrog”, was liquidated by the decision of the Rostov Oblast Court of 11 September 2009. The ruling was upheld by the ruling of the Court Chamber for Civil Cases of the Supreme Court of the Russian Federation on 8 December 2009.

The Local Religious Organization of the Jehovah’s Witnesses in Samara was liquidated by the decision of the Samara Oblast Court of 29 May 2014. The ruling was upheld by the ruling of the Court Chamber for Administrative Cases of the Supreme Court of the Russian Federation on 12 November 2014.

The Local Religious Organization of the Jehovah’s Witnesses in Abinsk was liquidated by the decision of the Krasnodar Krai Court of 4 March 2014. The ruling was upheld by the ruling of the Court Chamber for Administrative Cases of the Supreme Court of the Russian Federation on 5 August 2015.

The Local Religious Organization of the Jehovah’s Witnesses in Stary Oskol was liquidated by the decision of the Belgorod Oblast Court of 10 February 2016. The ruling was upheld by the appeal ruling of the Court Chamber for Administrative Cases of the Supreme Court of the Russian Federation on 16 June 2016.

The Local Religious Organization of the Jehovah’s Witnesses in Belgorod was liquidated by the decision of the Belgorod Oblast Court of 11 February 2016. The ruling was upheld by the appeal ruling of the Court Chamber for Administrative Cases of the Supreme Court of the Russian Federation on 9 June 2016.

The Local Religious Organization of the Jehovah’s Witnesses in Elista was liquidated by the decision of the Supreme Court of the Republic of Kalmykia of 10 February 2015. The ruling was upheld by the appeal ruling of the Court Chamber for Administrative Cases of the Supreme Court of the Russian Federation on 7 July 2016.

The Local Religious Organization of the Jehovah’s Witnesses “Oryol” was liquidated by the decision of the Oryol Oblast Court of 14 June 2016. The ruling was upheld by the appeal ruling of the Court Chamber for Administrative Cases of the Supreme Court of the Russian Federation on 18 October 2016.

The Local Religious Organization of the Jehovah’s Witnesses in Birobidzhan was liquidated by the decision of the Court of the Jewish Autonomous Oblast of 3 October 2016. The ruling was upheld by the appeal ruling of the Court Chamber for Administrative Cases of the Supreme Court of the Russian Federation of 9 February 2016.

In the inspection period of 2014 the Organization approved financial aid in the form of donations for its 84 incorporated local religious organizations to carry out their charter goals in the total amount of 630 023 900 rubles; in 2015 – for its 130 local religious organizations to carry out their charter goals in the total amount of 1 280 680 000 rubles respectively; in 2016 – for its 22 structural local religious organizations to carry out their charter goals in the total amount of 72 850 000 rubles respectively; in the inspection period of 2017– for its 3 structural local religious organizations to carry out their charter goals in the total amount of 1 800 000 rubles.

According to the turnover balance report of account 86.06 (earmarked grants – donations) … in the inspection period of 2014 the turnover of credit (funds obtained from local religious organizations) was 6 434 682 rubles and 92 kopeks; in 2015 – 9 173 782 rubles 55 kopeks; in 2016 – 11 609 685 rubles 10 kopeks; in the inspection period of 2017 – 413 000 rubles. According to the turnover balance report of account 76.11 (payments to local religious organizations of Jehovah’s Witnesses) in the inspection period of 2014 the turnover was 214 696 665 rubles 41 kopeks; in 2015 – 410 385 590 rubles 60 kopeks; in 2016 – 103 712 739 rubles 67 kopeks; in the inspection period of 2017 – 717 720 rubles.

The above mentioned documents show that the Local Religious Organization of Jehovah’s Witnesses “Orel”, the Local Religious Organization of Jehovah’s Witnesses in Birobidzhan, the Local Religious Organization of Jehovah’s Witnesses in Belgorod were among the recipients of the funds and were liquidated due to extremist activities. The Organization participated directly in their finding.

The fourth part of Art. 7 of the Federal Law on Combating Extremist Activity prescribes that in the event of a notice not being appealed in court under the established procedure or not being declared unlawful by a court, and where the respective public or religious association or other organization or its regional or other structural branches fails, within the time limit set in the notice, to eliminate the violations committed constituting grounds for the serving of notice, or where, within 12 months following the date on which notice was served, new facts pointing to the presence of characteristics of extremism within its activities are uncovered, the public or religious association or other organization concerned shall be liquidated under the procedure established by the present Federal Law, and the activity of the respective public or religious association that is not a legal entity shall be banned.

The case file shows that after the notice of 2 March 2016, which that had not been found to be unlawful, new facts indicating signs of extremism in the activities of local religious organizations that are chapters of the Organizations came to light.

Art. 20.29 of the Code of the Russian Federation on Administrative Offences establishes liability for the mass dissemination of extremist materials placed on a published federal list of extremist materials, as well as their production or storage for the purpose of mass dissemination.

Court’s rulings that came into force found the following local religious organizations guilty of committing the administrative offence specified in the quoted article:

The Local Religious Organization of Jehovah’s Witnesses, “Nizhny Tagil” (ruling of the Tagilstroevsky District Court of Nizhny Tagil of Sverdlovsk Oblast of 18 July, 2016);

The head of the Local Religious Organization of Jehovah’s Witnesses in Kirov (ruling of the Oktyabrsky District Court of Kirov of 28 July, 2016);

The Local Religious Organization of Jehovah’s Witnesses in Budyonnovsk (ruling of the Budyonnovsk City Court of the Stavropol Krai of 12 October, 2016);

The Local Religious Organization of Jehovah’s Witnesses “Kostomuksha” (ruling of the Kostomuksha City Court of the Republic of Karelia of 7 October, 2016);

The Local Religious Organization of Jehovah’s Witnesses in Petrozavodsk (ruling of the Pertozavodsk City Court of the Republic of Karelia of 12 October, 2016);

The Local Religious Organization of Jehovah’s Witnesses in Chapayevsk (ruling of the Chapayevsk City Court of the Samara Oblast of 17 November 2016);

The Local Religious Organization of Jehovah’s Witnesses in Maysky (ruling of the Maysky District Court of the Kabardino-Balkar Republic of 9 November, 2016);

The Local Religious Organization of Jehovah’s Witnesses “Saransk” (ruling of the Lenin District Court of Saransk of the Republic of Mordovia of 8 December, 2016);

The Local Religious Organization of Jehovah’s Witnesses “Gelendzhik” (ruling of the Gelendzhik City Court of the Krasnodar Krai of 20 January, 2017).

On 11th March of 2016, the Prosecutor’s Office of the Voronezh Oblast served a notice of the inadmissibility of extremist activities to the head of the Local Religious Organization of Jehovah’s Witnesses, “Central, Voronezh”….

On 17 March 2016, the Office of the Murmansk Prosecutor for Supervision over the Execution of Laws at Special Secure Facilities served notice No 8-118в-16, regarding the inadmissibility of extremist activities and the imperative of tak~~i~~ng measures to prevent dissemination of extremist materials, to the head of the Local Religious Organization of Jehovah’s Witnesses, “Snezhnogorsk” ….

On 14 April 2016 the Prosecutor’s Office in Stavropol served a notice of the inadmissibility of extremist activities to the Local Religious Organization of Jehovah’s Witnesses in Russia, “Central, Stavropol City”….

In accordance with the second and the third parts of Art. 9 of the Federal Law on Combating Extremist Activity in the event provided for in the fourth part of Art. 7 of this Federal Law, or in the event of the carrying out by public or religious associations or other organizations or their regional or other structural branches, of extremist activity resulting in a violation of human and civil rights and freedoms, damage to an individual, to citizens' health, the environment, public order, public safety, property, or to the lawful economic interests of individuals and/or legal entities, society and the State, or creating a real threat of causing such damage, the corresponding public or religious association or other organization may be liquidated and the activity of the respective public or religious association that is not a legal entity may be banned by decision of a court on the basis of an application by the Prosecutor General of the Russian Federation or the respective prosecutor subordinate to them, or on the basis of an application by the federal state registration authority or a respective territorial authority thereof.

According to the third part of Art. 55 of the Constitution of the Russian Federation, as well as the second paragraph of Art. 22 of the International Covenant on Civil and Political Rights and the second paragraph of Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, restrictions of the rights of individuals and their associations must be prescribed by federal law for achieving an important public goal (i.e., the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, and for ensuring the defense of the country, security of the State, and public order), that appears to be necessary in a democratic society (relevant and sufficient, proportionate to an important social aim).

Liquidation of a religious association is a measure of public law liability, as applied upon the claim of a competent body or representative official in administrative judicial proceedings (paragraph 1 of the Ruling of the Plenary Session of the RF Supreme Court of 27 December 2016 No 64 “On Certain Issues Arising during Consideration of Cases on the Suspension of Activities or Liquidation of Non-Commercial Organizations, as well as regarding Prohibition of Activities of Public or Religious Associations that Are Not Legal Entities”[[1]](#footnote-1)).

Taking into account the above facts circumstances, the Supreme Court of the Russian Federation recognizes the reasonableness of the request for the liquidation of the centralized religious organization on the basis of the Federal Law on Combating Extremist Activity and considers that the implementation of this exceptional measure will not arbitrarily interfere with and restrict in an unwarranted manner citizens’ right of association and freedom of religion.

The case file shows that the facts attesting to the Organization’s and its structural branches’ extremist activities have been established in the manner prescribed by law annually during the last seven years.

The measures undertaken in this decision to combat extremist activities, including numerous procuratorial actions …, the unscheduled inspection of the defendant’s activities, as well as organizational measures taken by the Organization itself …, did not end the activities showing signs of extremism. Thus the only way to end them is to uphold the claim on liquidating the Organization.

The grounds for this interference are set forth by the federal law to achieve an important public goal – combating extremist activity and, accordingly, protecting human and civil rights and lawful interests, and ensuring the security of the State and public order.

Contrary to the defendant’s arguments, this interference is proportionate and necessary in a democratic, law-governed state, insofar as it eliminates violations of rights, freedoms, and lawful interests of an unspecified group of persons, as well as a real threat of causing damage to individuals, the health of the people, to public order, public safety, society and the state, and insofar as it is the only measure to strike a balance between the rights and lawful interests of parties in public-law relations.

The preventive measures prescribed by the Federal Law on Combating Extremist Activity have been exhausted; the Federal Law provides no minor sanctions for detected extremist activities, inter alia, instigating social, racial, national and religious strife, propaganda of exclusiveness, supremacy or inferiority of a person based on his social, race, ethnic, religious or linguistic identity or attitude towards religion; mass dissemination materials known to be extremist or their storage for the purposes of mass dissemination; organization and preparation of such acts, as well as incitement to committing them; financing such acts or any other support with their organization, preparation and exercise, inter alia, by providing the following educational, printing, material and technical facilities, phone, and other types of communication or providing informational services.

The liquidation of certain local religious organizations that are chapters of the Organization, which undertakes the overall administration, did not end extremist activities carried out by other structural branches. Moreover, as it follows from the Organization’s written objections in defense of its rights, the Organization in fact justifies these activities and does not consider them to be extremist.

Upholding the claim for liquidation meets the requirement of Art. 9-11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which allows for restrictions of the freedom of association in the interests of national security and public order, in the aim of preventing riots and crimes, for protecting health and morals, or for protecting the rights of others.

The Provisions of Art. 18, 19, and the second of paragraph of Art. 29 of the Universal Declaration of Human Rights, along with Art. 19 and 20 of the International Covenant on Civil and Political Rights do not present an obstacle for an imposed by law ban on any advocacy of ethnic, race or religious hatred, which is an incitement to discrimination, hostility and violence, if it is necessary for ensuring due recognition and respect of rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

As indicated by The Constitutional Court of the Russian Federation, the Shanghai Convention on Combating Terrorism, Separatism, and Extremism (ratified on 15 July 2001) does not prevent State Parties from establishing provisions in their legislation for a wide interpretation of extremism, and obliges them to take such measures as can prove necessary, including, as appropriate, in the field of national legislation, in order to ensure that under no circumstances should terrorism, separatism, and extremism be subject to acquittal based upon exclusionary political, philosophical, ideological, racial, ethnic, religious or any other similar considerations, and that they should entail punishment proportionate to their gravity (the second paragraph of Art. 1, Art. 3). The necessity for the legal limitation of freedom of expression, assembly, and associations for the purpose of fighting extremism is articulated in the Resolution of the Parliamentary Assembly of the Council of Europe 1344 (2003), “Threats Posed to Democracy by Extremist Parties and Movements in Europe” (the Ruling of the RF Constitutional Court of 2 July, 2013, No 1053-O).

The State, in protecting the rights, freedoms, and legal interests of person and citizen, as well as public order and public safety, and in uncovering facts associated with activities identified as extremist, is not obligated to wait for a “cumulative negative effect” when the number of violations showing signs of extremism takes a new quality and these violations no longer result in the threat of violating rights or causing damage, but in real damage to individuals, the health of citizens, environment, public order, public safety, property, the lawful economic interests of individuals and legal entities, society and the state.

Not only does a different interpretation fail to correspond with the Federal Law on Combating Extremist Activity, it does not answer to the socially significant aims of combating extremism, which are particularly directed at preventing real damages and, consequently, further considerably more severe consequences of these prohibited activities.

In the event of liquidation of a public or a religious association by the court on the grounds provided by this federal law, an association’s regional and other structural branches must also be liquidated (the fourth part of Art. 9).

Objections that local religious organizations are not structurally affiliated and are therefore not subject to liquidation are based on a misunderstanding of the norm of the law.

In accordance with the legislation of the Russian Federation, including Art. 12326, 12327 of the Civil Code of the Russian Federation, any centralized religious organization is an association of three or more religious organizations and in the field of public law it acts as a unified subject of legal relations when an authoritative administrative demand is addressed to it.

Paragraph 3.4. of the Organization’s charter stipulates that religious associations that are part of the Center of Jehovah’s Witnesses’ structure enjoy the Center’s protection in all regions of Russia when carrying out religious activity and disseminating faith (missionary activity).

A religious association cannot have a civil-law status and function as a centralized religious organization without local religious organizations, which must be a part of its structure, in contrast with religious groups, which are not a compulsory element of the structure of a centralized religious organization.

The Ruling Committee of the Organization is not the centralized religious organization itself, but is rather the ruling (coordinating) body established by the Organization that governs the structure of the centralized religious organization and represents it in relations with the state and other subjects in the sphere of public law.

Specifying the legal grounds of liquidating public and religious associations, and other organizations in the Federal Law on Combating Extremism Activity, the federal legislator clearly defined the subject with respect to whom the decision on liquidation can be taken. In the context of the present administrative proceedings, this subject is the centralized religious organization itself, rather than its incorporated organs defined in the Charter. Consequently, not only its managing organs, but the entire organization is to be liquidated.

In principle, the liquidation of a centralized religious organization excludes any possibility of preserving the existing status of its local religious organizations, which, according to the law, the Charter of the Organization, and the charters of the local religious organizations that were brought forward in court proceedings, were established as separate parts of a single structure.

The Federal Law on Freedom of Conscience and Religious Associations stipulates that a religious organization functions on the basis of a charter which has been approved by its founders or a centralized religious organization. The charter of a religious organization indicates its denomination and any affiliation with an existing centralized religious organization (the first and the second paragraphs of Art. 10). For the state registration of a local religious organization there must be a document confirming that the local religious organization is a part of the centralized religious organization of the same denomination if the local religious organization is subsumed under the structure of the centralized religious organization (the fifth of Art. 11).

Article 3.3. of the Organization’s Charter provides that the charter of a religious organization which is a part of the Center shall be approved by the Center according to the procedure established by the Ruling Committee of the Center. Integration in the Center’s structure is verified by a document issued by the Center.

It is within the responsibility of the Ruling Committee of the Organization ‘to establish the procedure of issuing a document confirming the integration of a religious association in the structure of the Center, to approve the charter of such a religious organization, any changes and amendments to the charter, to appoint and remove members of its permanent ruling body, and facilitate relations between religious associations incorporated into the structure of the Center’ (paragraph 3.8 of the Charter).

The term “regional and other incorporated branches” used in the above provision of the law covers any organs, organizations, and associations that together constitute the unified whole of the liquidated public or religious associations, or other organizations.

The constitutional principles of equality and justice (Art. 17, part. 3, Art. 19, 55 of the Constitution of the Russian Federation) determine that provisions of Art. 7, 9 of the Federal Law on Combating Extremist Activity are equally applicable to all public and religious associations and other organizations, whose structures may have differences established by, e.g., federal laws on Public Associations, on Political Parties, on Freedom of Conscience and Religious Organizations, and on Non-commercial Organizations.

The absence of a definition of an incorporated branch in the Federal Law on Freedom of Conscience and Religious Associations and Articles. 12326, 12327 of the Civil Code of the Russian Federation that define the civil-law status of religious associations, as well as the non-use of this term in the Organization’s Charter in describing its structure, does not mean that these circumstances could entail a different (selective) interpretation of provisions of the Federal Law on Combating Extremist Activity on the basis of an organizational-legal form and corresponding differences in the structure of the religious organization which is to be liquidated.

The fact that every local religious organization has been registered as a separate legal entity under the procedure set forth in the law is not an argument for a different interpretation of the legal rule being applied, because the current legislation allows rather than precludes that regional and other sub-structural branches of certain associations are able to have the status of a legal entity (for example, Art. 10 and the ninth paragraph of Art. 21 of the Federal Law of 19 May 1995 No 82-FZ on Public Associations, paragraph 15 of Art. 15 of the Federal Law of 11 July 2001 No 95-FZ on Political Parties).

However, in case of a claim filled by a responsible official or a public body to liquidate a centralized religious organization, this organization represents in the relevant public-law relations the whole established structure, including its local religious organizations, and it may be liable for their activities, as well as the activities of each in accordance with Art. 7, 9 of the Federal Law on Combating Extremist Activity.

Liquidation of local religious organizations as branches of the Organization is connected with the liability of a centralized religious organization for the legal consequence set forth in the federal law.

The arguments of the Organization’s objection regarding violation of the its constitutional right to freedom of association should be rejected. The establishment of liability for extremist activities cannot be considered as a violation of the constitutional right to association.

Equality before the law and the courts (Art. 19 of the Constitution of the Russian Federation) precludes different approaches to applying the grounds for liability of public or religious associations, or other organizations, or their regional or other structural branches for extremist activities.

These grounds must be applied regardless of characteristics, reputation, and any other features of a certain association (organization). Receiving awards (merit diplomas, letter of thanks etc.) does not exclude a given association from liquidation in the event that signs of extremism are identified in its activity.

The arguments of the defendant’s objections that facts of extremist activities have not been proved should be rejected. These considerations are based on a misinterpretation of the legal rules.

In accordance with the forth part of Art. 7, parts 1-4 of Art. 9 of the Federal Law on Combating Extremist Activity, not only facts about the activities of a ruling or coordinating body of a certain association, but also facts about illegal activities of even one of its regional or other structural branches can serve as grounds for liquidation of this association.

As was already mentioned, these facts have been established by the courts’ decisions in civil and administrative cases and the courts’ rulings in the cases on administrative offences that both came into force.

These court’s decisions are not praejudicialis[[2]](#footnote-2) in accordance with Art. 64 of the Code of Administrative Court Proceedings of the Russian Federation, because the Organization did not participate in the trials. However, these decisions that have come into force are binding (Art. 6 of the Federal Law of 31 December 1996 No 1-ФКЗ on the Judiciary System of the Russian Federation) and, thus, are taken as relevant and admissible evidence of the facts of extremist activities carried out by the persons mentioned in them.

The evidence of the defendant’s witnesses V. M. Zav’yalov, V. M. Kantare, T. L. Kremneva and Ye. N. Skladchikova do not refute the established facts of extremist activities carried out by the branches of the Organization, which, among other things, coordinates the activities of the organized religious groups, but keeps no track of them.

The defendant’s claim that the Organization is not the author, publisher or a right-holder of the information materials and the web-sites indicated by the claimant may not be grounds for releasing the defendants from liability. The printed books and religious brochures placed in the Federal Registry of Extremist Materials were imported to the territory of the Russian Federation directly by the Organization for their further, inter alia illegal, mass dissemination or storage for the purposes of dissemination. The courts’ decisions brought before this court proves that some of the disseminated and confiscated extremist materials contained a link to the web-site <http://www.jw.org> for additional information. The web-site is registered in the Federal Registry of Extremist Materials.

However, Art. 12, part 1 of the Federal Law on Combating Extremist Activity prohibits the use of public communication networks to carry out extremist activity.

According to the evidence brought before the court in this administrative case, all the activities of all local religious organizations integrated into the structure of the Organization were carried out directly under the administration and the control of the Organization.

The defendant’s disagreement with the assessment of the content of certain information and other materials declared extremist that is based on various expert opinions with different conclusions does not refute the facts of extremist activities established by the courts and of [courts’] declaring concrete materials extremist. None of the mentioned materials, including printed matters, were excluded from the Federal Registry of Extremist Materials.

The organizational measures enumerated by the defendant in the objections, in particular studying the Federal Registry of Extremist Materials, informing believers, local religious organizations about this registry and court decisions to declare certain materials extremist, establishing a special commission, appealing actions and decisions of various public bodies and officials, and making a public statement of 24 February 2017 on its non-involvement to extremist activities, cannot serve as legal grounds to dismiss the claim.

Since the decision on liquidation of the Organization is taken on the grounds set forth in the Federal Law on Combating Extremist Activity …, the Religious Organization “Administrative Center of Jehovah’s Witnesses in Russia”, including all local religious organizations integrated into its structure, is declared an extremist organization (second paragraph of Art. 1 of the aforementioned federal law) on the date this decision comes into force.

The legal consequence of finding a centralized religious organization extremist is the prohibition of its operation in the Russian Federation.

In accordance with the Federal Law of 8 August No 129-FZ on State Registration of Legal Entities and Individual Businessmen, exclusion of a legal entity from the Unified State Register of Legal Entities relates to the procedure of state registering in case of liquidation of a legal entity and shall be carried out by the registration body at the location of the legal entity in liquidation by making an entry to the Unified State Register of Legal Entities (paragraphs 1, 6, 7 of Art. 22). The liquidation of a legal entity shall be deemed completed and the legal entity shall be deemed to have suspended its activities after this entry is made.

Under the fifth part of Art. 9 of the Federal Law on Combating Extremist Activity once creditors’ claims have been satisfied the remaining property of a liquidated religious organization shall be turned over to ownership of the Russian Federation.

In accordance with the third part of Art. 264 of the Code of Administrative Court Proceedings of the Russian Federation, in the event the claim on liquidation is upheld, the court’s decision is immediately enforceable with respect to suspension of its activity and the activities of local religious organizations integrated to its structure.

On the grounds of Art. 175-180, 264 of the Code of Administrative Court Proceedings of the Russian Federation, the Supreme Court of the Russian Federation rules to uphold the claim of the Ministry of Justice of the Russian Federation and liquidate the Religious Organization “Administrative Center of Jehovah’s Witnesses in Russia” and the local religious organization integrated into its structure.

The Courts’ decision to uphold the claim on liquidation of the Religious Organization “Administrative Center of Jehovah’s Witnesses in Russia” is immediately enforceable with respect to suspension of its activity and any activities of local religious organizations integrated into its structure.

The decision may be appealed to the Appellate Chamber of the Supreme Court of the Russian Federation within a month of the day the decision takes hold in final form.

The judge of the Supreme Court of the Russian Federation [Signature] Yu. G. Ivanenko

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Translation by Dmytro Vovk, Kennan-Fulbright Fellow, Wilson Center

1. Available in English at: <http://www.supcourt.ru/Ruling/2016-64.pdf> [↑](#footnote-ref-1)
2. In Russian law this term concerns a preceding court judgment that has become final establishing certain facts. Following this judgement such facts are admissible in evidence in later court proceedings and are deemed established. – *Translator’s footnote*. [↑](#footnote-ref-2)