

EUROPEAN COURT OF HUMAN RIGHTS

Case of Ossewaarde v. Russia (Application no. 27227/17) 7 March 2023

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Religious freedom-prohibition of discrimination-missionary activity-unregistered association-presumption of danger of terrorist activity-state approval of the content of the cult- improper methods of proselytism

The European Court of Human Rights has to assess an issue concerning the violation of religious freedom, this time to the detriment of an American citizen, a Baptist Christian, who moved to a Russian town and does not formally belong to any organization duly recognized in Russia, and who is fined by the local authority for having organized Bible study meetings in his home, after having distributed invitations in mailboxes. The charge brought against the applicant, who was even arrested, is that he did not apply for a regular authorization to carry out proselytizing activities (missionary work) as required by the new legislation in force in Russia since 2016, which is part of an anti-terrorism package, the Law on Combating Terrorism and Improving Public Security (Federal Law No. 374-FZ of 6 July 2016), which introduced new administrative offences concerning freedom of conscience and religion and added a new Chapter III.1, 'Missionary work', to the Religions section. The applicant complains that he acted autonomously by exercising his right to disseminate his personal beliefs, not being a member of any religious association and not being obliged to seek any authorization, as his activity did not, in his opinion, fall within the missionary activity referred to in Russia's Religions Act, and his preaching did not constitute "a corruption or deformation of true evangelism" (*Kokkinakis v. Greece*, 25 May 1993, § 48, Series A no. 260-A) or any threat of danger to public order.

In the first place, the Court, on the basis of its own 20 years of established case-law starting from the pioneering judgment *Kokkinakis v. Greece* of 1993, finds a violation of Art. 9 ECHR against the applicant in that the activity of proselytizing, i.e. the spreading of one's religious beliefs, even though door-to-door activities, falls within the protection of that provision, where there is no evidence of the use of improper means likely to violate the free adherence of the persons contacted, or incitement to carry out actions based on hatred or discrimination. The Court points out that the only ground on which the applicant is sanctioned is his failure to comply with the requirements of the 2016 legislation and finds that those requirements are likely to procure only a restriction on proselytizing activity, understood in the present case as the freedom to disclose one's religious convictions in a private form, that is, without being part of any kind of religious organization.

The Court's conviction stems from the Russian Government's failure to demonstrate that the interference with the applicant's religious freedom was justified by reference to the concept of "pressing social need". The infringement of Article 9 is, moreover, held, in the present case, to be an unnecessary measure in a democratic society, so that the Russian Government is not afforded the possibility of resorting to the margin of appreciation under Article 9 § 2.

Secondly, the Court's decision proceeds in the sense of recognizing the invoked violation of Article 14 ECHR, in that the sanction for unlawful missionary activity of a group or individual, of a nationality other than Russian, is six times greater than that applicable to Russian citizens, and for this reason the Strasbourg judges invite the government to adapt the new 2016 legislation to the principles of Russia's Religions Act, which provides for equal treatment in the protection of the exercise of religious freedom between Russian and non-Russian citizens.

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