



Victory in Russia: Slavic Centre for Law & Justice Wins Case at Constitutional Court

Lawyers from the Slavic Centre for Law & Justice (“SCLJ”) recently won another case before the Constitutional Court of Russia. The SCLJ challenged ambiguous language in Russian law that had been interpreted to exempt a prosecutor from having to reimburse legal costs incurred by a respondent when the prosecutor voluntarily waives one or several claims during litigation as unconstitutional.

The SCLJ appealed to the Constitutional Court after a local prosecutor had lodged numerous unsuccessful complaints against the Church of Christians of Evangelical Faith, in Blagoveshchensk town. The local prosecutor in only a few months had brought five different lawsuits against the Church both at the local civil court and the regional commercial court, claiming under one pretext or another that the Church’s activities were banned under law. After two years of defending the Church on frivolous claims, it became clear that a young and ambitious prosecutor recently appointed to his office had decided to establish his career as “a fighter for the freedom of citizens” and choose this religious organization as one of his first “victims,” though the Church had never previously had problems with the law nor had any cases or complaints been filed about its activities.

Each action brought against the Church had to be taken seriously because the law on religious organizations specifies that a religious organization may be dissolved if it “repeatedly or grossly” violated the law. Each of the five lawsuits racked up significant legal fees. The court hearings were scheduled on different dates, which required lawyer the SCLJ attorney, Vladimir Ryakhovsky, to make roughly 15 trips in a single year between Moscow and Blagoveshchensk (a distance equal to a flight from Moscow to New York). When the prosecutor began to lose one case after another, he decided to voluntarily dismiss several of his claims.

When the Church filed for reimbursement of its legal costs, the courts of first and second instance denied its claim, reasoning that by law, the prosecutor is exempt from paying the legal costs. Following the logic of courts, the prosecutor may at its own discretion lodge frivolous and harassing lawsuits, then during the court hearings dismiss claims and remain exempt from paying costs and fees incurred by the defending party. SCLJ’s lawyers Vladimir Ryakhovsky and Sergey Chugunov appealed to the Constitutional Court of Russia, arguing that the exemption was inconsistent with the Russian Constitution’s provisions on equality before the law and the courts (Para. 1 of Article 19); the right to effective judicial protection (Article 46, para. 1); the

right to qualified legal assistance (part 1 of Article 48); the right to state compensation for damages caused by unlawful actions (inaction) of bodies of state authority and their officials (Article 53); and the requirement that judicial proceedings be held on the basis of controversy and equality of the parties (para. 3 of Article 123).

On December 21, 2012, the Constitutional Court of Russia explained that the constitutional right to judicial protection requires not only the right to appeal to the court, but also the real possibility of obtaining relief in the form of an effective remedy. Thus, in cases where the prosecutor voluntarily waives his claim, the respondent shall be reimbursed legal costs incurred at the expense of the State, unless the respondent's voluntary satisfaction caused the prosecutor's waiver.

This victory is important not only for religious organizations, but for all individuals who fall subject to frivolous or harassing lawsuits. Hopefully, this ruling will deter prosecutors from bringing unsubstantiated lawsuits against religious organizations.