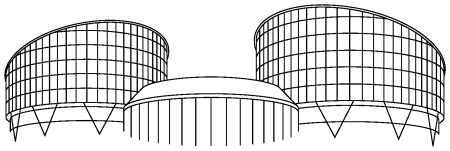

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF IBRAGIM IBRAGIMOV AND OTHERS v. RUSSIA

(Applications nos. 1413/08 and 28621/11)

JUDGMENT

STRASBOURG

28 August 2018

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Ibragim Ibragimov and Others v. Russia,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Helena Jäderblom, *President,*
Dmitry Dedov,
Pere Pastor Vilanova,
Alena Poláčková,
Georgios A. Serghides,
Jolien Schukking,
María Elósegui, *judges,*

and Stephen Phillips, *Section Registrar,*

Having deliberated in private on 10 July 2018,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in two applications (nos. 1413/08 and 28621/11) 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 a Russian national and two Russian non-profit organisations listed in the Appendix, on 3 December 2007 and 4 April 2011 respectively.

2. The applicants were represented by Mr S. Sychev, a lawyer practising in Moscow. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

3. The applicants alleged, in particular, that a ban on publishing and distributing Islamic books had violated their rights to freedom of religion and freedom of expression.

4. On 18 March 2011 and 27 November 2013 the above complaints were communicated to the Government and the remainder of application no. 28621/11 was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Application no. 1413/08 (*Ibragim Ibragimov and Cultural Educational Fund "Nuru Badi" v. Russia*)

5. The first applicant is one of the founders and the chief executive officer of the second applicant, a non-profit organisation.

6. The second applicant is the publisher of the *Risale-I Nur* Collection, an exegesis on the Qur'an written by Muslim Turkish scholar Said Nursi in the first half of the 20th century. The books from that collection were used for religious and educational purposes in Russian mosques and medreses.

7. On 28 March 2005 the prosecutor of the Tatarstan Republic instituted criminal proceedings against members of the religious movement Nurculuk (*Нуржулар*) based on the writings of Said Nursi. They were charged with incitement of hatred or discord, as well as abasement of human dignity, an offence under Article 282 of the Criminal Code, for having distributed Said Nursi's books from the *Risale-I Nur* Collection.

8. On 24 April 2006 the prosecutor of the Tatarstan Republic applied to the Koptevskiy District Court of Moscow, asking that the following books from the *Risale-I Nur* Collection published by the second applicant be declared extremist and banned (see sections 1 and 13 of the Suppression of Extremism Act cited in paragraphs 41 and 42 below):

- "Faith and Man", 2000 edition, translated by M.G. Tamimdarov;
- "The Foundations of Sincerity", 2000 edition, translator not specified;
- "The Truths of an Eternal Soul", 2000 edition, translated by M. Sh. Abdullaev;
- "The Truths of Faith", 2000 edition, translator not specified;
- "The Guide for Women", 2000 edition, translated by M. Sh. Abdullaev;
- "The Fruits of Faith", 2000, translated by M. G. Tamimdarov;
- "Ramadan. Care. Thankfulness", 2000 edition, translator not specified;
- "Munajat (Prayer). The Third Ray", 2002 edition, translated by M. G. Tamimdarov;
- "Thirty-three Windows", 2004 edition, translated by M. Irsala;
- "The Foundations of Brotherhood", 2004 edition, translated by M. G. Tamimdarov;
- "The Path of Truth", 2004 edition, translated by M. Sh. Abdullaev and M. G. Tamimdarov;
- "The Staff of Moses", year of publication not specified, translated by T. N. Galimov and M. G. Tamimdarov;

- “The Short Words”, year of publication not specified, translated by M. G. Tamimdarov; and
- “Book for the Sick”, 2003 edition, translated by M. G. Tamimdarov.

9. The prosecutor enclosed expert opinions prepared in the framework of the criminal cases against the members of Nurculuk by four psychologists and a psychiatrist. The experts found that the above-mentioned texts attempted to subconsciously influence the reader to form irrational values and opinions. The reader was thus deprived of the ability to think critically and independently and to choose his religion freely. The texts led the reader to form a negative opinion about adherents of other faiths and thus encouraged hatred and enmity towards them. They also advocated the idea of people’s superiority or inferiority, depending on their religion. In particular, the texts by Said Nursi incited the reader to look at non-believers with disdain and aversion, and therefore promoted discord between believers and non-believers. Muslims guilty of apostasy from Islam were even denied the right to life. The experts concluded that Said Nursi’s texts formed in the reader feelings of aversion, anger, hatred and enmity towards non-believers.

10. The second applicant and the Council of Mufti of Russia were invited to participate in the proceedings as third parties.

11. On 4 August 2006 the Council of Mufti of Russia submitted an alternative expert opinion by a panel of experts consisting of a doctor of theology and a doctor of religious philosophy. The experts found that in his books, Said Nursi explained the foundations of the Islamic doctrine, and provided a commentary on the Qur’an. His commentary was in conformity with the classical version of Islam. The books did not contain any extremist statements and did not call for violence or ethnic or religious enmity. Although some texts indeed morally condemned sinners and non-believers, blaming them for the immorality of modern society, such discourse was characteristic of all religious texts. A perusal of the texts also revealed that their author promoted the peaceful coexistence of religions and dialogue between them. The experts criticised the conclusions made by the prosecutor’s experts who, in their opinion, were incompetent in religious matters and did not have even a basic knowledge of Islam. The reproaches made by them against Said Nursi’s books could have been made against any theological treatise, be it Muslim, Christian or Judaic, or any other religious text.

12. In his letter of 4 August 2006 the Chief Mufti of Russia endorsed the above-mentioned expert opinion. He said that the prosecutor’s experts had interpreted faith in the righteousness of any religion and the preaching of that faith as propaganda about people’s superiority or inferiority, depending on their religion. The experts’ findings had therefore been based on anti-religion concepts and could be applied to any religious text. Said Nursi’s books did not contain any calls to do harm to non-believers or

adherents to other religions, to infringe their rights or to otherwise violate Russian laws.

13. Counsel for the second applicant submitted the following documents to the Koptevskiy District Court:

- a letter from the president of the Central Spiritual Board of Muslims of Russia, stating that Said Nursi's texts could not be qualified as extremist or fanatical. They did not contain any calls for violence, ethnic or religious hatred or for overthrowing governments. Rather, they promoted Islamic values of goodness, love and belief in God;

- a letter from the president of the Spiritual Board of Muslims of the Tatarstan Republic affirming that Said Nursi was a respected commentator of the Qur'an. He called for love towards all people irrespective of their ethnic origin, race or religion and advocated clemency, compassion, peace, brotherhood and mutual understanding. He encouraged interreligious dialogue and opposed all radical actions and attitudes;

- a letter from the Ombudsman of the Russian Federation arguing against declaring Said Nursi's texts extremist literature as this would violate the rights of Muslims to freedom of religion;

- a letter by Professor J. from the International Islamic University in Malaysia, stating that Said Nursi's texts called for reconciliation, peaceful co-existence and cooperation between different religions and cultures, as well as for justice, tolerance, freedom and love;

- a specialist opinion by the Department of Islamic Studies of the Tatarstan Republic Institute of History, according to which the books by Said Nursi called for self-development and moral perfection, and spoke against violence. For that reason his books were an important tool in the fight against religious extremism. Although he indeed stated that Islam was superior to other religions and to atheism, such statements were inherent in all religious texts;

- a letter from Mr M., a Catholic priest and the Secretary for Interreligious Dialogue of the Society of Jesus, affirming that the texts written by Said Nursi belonged to mainstream Islam and were rooted in the centuries-old Islamic tradition. They did not contain any elements of extremism. On the contrary, they were a moderating force in Islam, proposing to Muslims a way of life that was tolerant and open to others. They explicitly endorsed Muslim-Christian cooperation and unity, and stimulated friendship and positive relations between Muslims and followers of Christianity;

- a copy of the decision of 1984 of the prosecutor's office of Istanbul not to initiate criminal proceedings against the publisher of the *Risale-I Nur* Collection in Turkey. The prosecutor's office referred to an expert opinion which did not find any indications of a criminal offence in Said Nursi's texts;

- copies of expert opinions delivered in 1960 by a group of Turkish experts at the request of several Turkish prosecutors. The experts had found that the books by Said Nursi did not contain any harmful or unlawful statements;

- a letter from the Council on Religious Matters of the Committee of Ministers of the Turkish Republic, stating that Said Nursi's books contained directions on moral and religious issues inspired by the Qur'an and did not touch on politics. Said Nursi had been a respected theologian who had always distanced himself from political, ideological and extremist activities, as well as from radical Islam. He had proclaimed that the truth was to be found through dialogue and had spoken against hatred and all forms of compulsion;

- a letter from the Ministry of Justice of the Arab Republic of Egypt and the Mufti of Egypt, submitting that Said Nursi's texts were beneficial to the reader as they taught love of God and high moral values, and condemned envy, hatred, anger and resentment;

- a letter from the director general of the Research Centre for Islamic History, Art and Culture of the Organisation of Islamic Conference, stating that Said Nursi's texts promoted love of God, the importance of prayer and high moral values. His books did not contain any insulting or hostile statements against adherents of other religions or persons belonging to other races;

- a letter from Dr T., a professor of the Institute of Middle Eastern and Islamic Studies of the University of Durham, submitting that Said Nursi's books did not contain any statements aimed at stirring up religious hatred. Said Nursi had been extremely careful throughout his life to foster a sense of solidarity between followers of different religions and that was reflected in his texts. Nor did his books contain statements promoting the idea of exclusiveness, superiority or inferiority of people based on their religious affiliation or ethnic origin or justifying extremist activities. Said Nursi was one of the few modern Muslim scholars who unequivocally opposed the ideas of extremism, political activism or offensive jihad. His texts provided a welcome antidote to the militancy of the contemporary Islamic discourse as they proscribed military jihad altogether, be it offensive or defensive, and said that Islam was not to be defended by the sword but by the force of reason, progress and civilisation.

14. On 9 November 2006 the Koptevskiy District Court ordered an expert opinion and appointed a panel of experts consisting of a philologist, a linguist psychologist, a social psychologist and a psychologist from the Linguistics and Psychology Departments of the Russian Academy of Science.

15. Counsel for the second applicant appealed, submitting that the appointed experts were incompetent in religious matters. He asked the court to appoint persons with expertise in religious issues. On 26 December 2006

the Moscow City Court rejected the appeal and upheld the decision of 9 November 2006.

16. On 15 February 2007 the experts delivered their joint report, finding that Said Nursi's texts encouraged religious discord between believers and non-believers, contained negative and humiliating statements about non-believers and promoted the notion that believers had superiority over non-believers. Accordingly, they made the following findings:

> "1. The printed texts submitted for expert review contain statements aiming to incite religious discord (between believers and non-believers, that is on grounds of attitude to religion) and also statements substantiating and justifying the necessity of disseminating the above statements and declarations.
>
> 2. The printed texts submitted for expert review contain verbal expressions giving humiliating depictions, an unfavourable emotional assessment and a negative evaluation of people on the basis of their attitude to religion.
>
> 3. The printed texts submitted for expert review contain propaganda about the superiority or inferiority of citizens based on their attitude to religion (believers or non-believers) and contain statements substantiating and justifying the necessity of disseminating such ideas and world-views.
>
> They do not advocate ideas concerning people's superiority or inferiority based on their ethnic origin."

17. Counsel for the second applicant submitted to the Koptevskiy District Court the following specialist opinions, criticising the report of 15 February 2007:

- a specialist opinion by Mr Mu., president of the Russian Islamic University, who found that the court-appointed experts were not competent in religious matters and that they had quoted and analysed Said Nursi's statements out of context. Although in his books Said Nursi indeed criticised the Western way of life and condemned non-believers, he did not promote hatred or enmity towards those who did not share his opinion. Moreover, similar statements were present in all religious texts;
- a specialist opinion by Mr S., a doctor of law specialising in Muslim law, who expressed similar criticisms of the report of 15 February 2007 and found that Said Nursi's texts did not contain any propaganda in favour of discrimination, hatred or religious superiority. On the contrary, they were permeated with ideas of brotherhood, friendship and goodness, while anger and hatred were clearly condemned;
- a specialist opinion by Mr Me., a doctor of philosophy specialising in religious matters, who came to the same conclusions. He found, in particular, that Said Nursi's texts were no different from other religious texts in terms of assuming that their religion was superior to the others and condemning non-believers.

18. Counsel for the second applicant again asked the court to appoint experts in religious matters. On 9 April 2007 the Koptevskiy District Court

rejected his request, finding that only experts in psychology, social psychology and linguistics could analyse the meaning of the texts.

19. On 28 April 2007 the Koptevskiy District Court ordered an additional expert opinion by the same experts.

20. On 15 May 2007 the experts delivered an additional expert report, confirming their previous findings.

21. During a closed hearing before the Koptevskiy District Court, two of the experts who had prepared the expert reports submitted by the prosecutor confirmed their previous findings. They said that the texts had been analysed from the perspective of social psychology. One of them, however, added that the analysed texts did not contain any explicit calls for social, racial, ethnic or religious discord.

22. Two of the court-appointed experts were also questioned and confirmed their findings.

23. A co-president of the Council of Mufti of Russia stated that Said Nursi was a world-renowned Muslim scholar whose texts formed an integral part of the official teachings of Islam. They did not contain any extremist statements. Any religious text would be found irrational and extremist by an atheist. The ban on Said Nursi's books would hinder the religious life of Russian Muslims and unjustifiably restrict their freedom of religion.

24. A specialist called by the applicants, a doctor of philosophy, criticised the experts appointed by the prosecution for taking fragments of text out of context and thereby distorting their meaning. Said Nursi's texts indeed proclaimed the superiority of Islam over other religions, but all religions did that.

25. On 21 May 2007 the Koptevskiy District Court declared the books written by Said Nursi extremist material. After summarising the applicable domestic law, the submissions by the parties and the documents produced by them in support of their positions, it referred to the expert opinions commissioned by it. It held:

> "It follows from [the court-appointed expert reports of 15 February and 15 May 2007] that Said Nursi's books from the *Risale-I Nur* Collection [list of books] contain statements aiming to incite religious discord (between believers and non-believers, that is on grounds of attitude to religion) and also statements substantiating and justifying the necessity of disseminating the above-mentioned statements and declarations.
>
> The books contain verbal expressions giving humiliating depictions, an unfavourable emotional assessment and a negative evaluation of people on the basis of their attitude to religion.
>
> The books contain propaganda about the superiority or deficiency of citizens on the basis of their attitude to religion (believers or non-believers). They also contain statements substantiating and justifying the necessity of disseminating such ideas and world-views.
>
> The court does not have any reason to doubt these expert reports ..."

The court then rejected the specialist opinions submitted by the applicants, finding that only experts in psychology, social psychology and linguistics were competent to establish the meaning of the contested texts. It held that the specialists cited by the applicants did not have such expertise. It also rejected the oral submissions by the co-president of the Council of Mufti of Russia on the grounds that he was an interested party. It continued:

> "In view of the above, the court concludes that the books from the *Risale-I Nur* Collection by Said Nursi are extremist literature. Their content aims to incite religious discord and advocate the idea of the superiority or inferiority of citizens, depending on their religion. They also advocate and justify the necessity of such actions."

26. On 18 September 2007 the Moscow City Court upheld the judgment of 21 May 2007 on appeal, finding that it had been lawful, well-reasoned and justified. It stressed that the subject matter of the case was the specific editions of the books, rather than Said Nursi's teaching as such.

B. Application no. 28621/11 (*United Religious Board of Muslims of the Krasnoyarsk Region v. Russia*)

27. In May 2008, the applicant, a religious association, commissioned the Klass publishing house to print the book "The Tenth Word: The Resurrection and the Hereafter" («*Десятое Слово о воскресении из мертвых*») from the *Risale-I Nur* Collection by Said Nursi.

28. The prosecutor of the Krasnoyarsk Region applied to the Zhelezhnodorozhniy District Court of Krasnoyarsk for protection of the interests of the Russian Federation, asking that the book be declared extremist material and all printed copies be confiscated. He relied on previous decisions by the Russian courts, which had declared other works from the *Risale-I Nur* Collection extremist, and on a report of 24 December 2008 by specialists from the Astafyev Krasnoyarsk State Pedagogical University.

29. The report of 24 December 2008 had been prepared by a panel of "specialists" consisting of a philologist, a psychologist and a doctor of philosophy in religious studies. They had made the following finding:

> "The book 'The Tenth Word: The Resurrection and the Hereafter' by Said Nursi submitted for expert review is ideological literature addressed to a wide audience. The gist of the book is propaganda about the exceptional nature, superiority or deficiency of persons on the basis of their attitude to religion.
>
> The text under review aims to arouse feelings of aversion, anger, enmity and discord against non-believers.
>
> The book substantiates and justifies extremist activity."

That finding was based, among other things, on the fact that the book contained military metaphors which, according to the specialists, could incline the reader to see the reality through the prism of the conditions of a

military camp, a military ground and potential military actions. The specialists also noted that the value of such a world-view was stressed by positive epithets. The specialist report cited the following expressions:

> "Listen, this state is a military ground; an exhibition of wonderful royal art;
>
> The military camp becomes like a lavish colourful blossoming garden on the Earth's surface. The armies of the Eternal King are plentiful, consisting of angels, jinn, people and ignorant animals and plants in a battle for the preservation of their lives. Having received God's order: 'Prepare your weapons and equipment for the defence!', all thorny trees and plants on the Earth link up their little bayonets, resembling a majestic military camp ready for battle ...
>
> The One Wise and Almighty creates anew, from nothing, by a simple order 'Be and it comes true', and places in perfect order, wisely and in balance all parts and minute details of unit-like bodies of all animals and other living creatures who are like an army; every century, every spring He creates on the Earth's surface hundreds of thousands of species and tribes of living creatures who are like an army. How can you doubt that He can ... He says 'He who will resurrect you on the Resurrection Day is He for whom the entire universe is like an obedient soldier. It obeys with perfect submissiveness the order 'Be and it comes true'. It is as easy for Him to create spring as it is to create a single flower'."

30. The applicant organisation was invited to participate in the proceedings as a third party. It submitted, in particular, that the opinion of 24 December 2008 had been made by specialists who had no knowledge of Islam and who had therefore incorrectly interpreted the text.

31. The Zhelezhnodorozhniy District Court ordered an expert opinion and appointed a panel of experts consisting of two psychologists and a doctor of philosophy in religious studies from the Lomonosov Moscow State University.

32. On 28 April 2010 the court-appointed experts delivered their joint report, finding as follows:

> "The book 'The Tenth Word: The Resurrection and the Hereafter' from the Risale-I Nur Collection by Bediüzzaman Said Nursi, 2005 edition, is a popular exposition of the Qur'an. Its aim is to acquaint the reader with Said Nursi's point of view. The main part of the text is devoted to lauding and glorifying God and his wisdom, as is customary for any monotheistic religious tradition. Said Nursi's ideology, or his world-view, is quite traditional for Islam, as well as for any monotheistic religion. The author's objective is to 'show that the truths of Islam are reasonable, solid and interrelated', which is a typical objective of any theologian ...
>
> The verbal means used in the book do not go beyond value judgments used in any religious literature ...
>
> Under a normal perception of the text the book does not contain anything that could have a possible incentive influence on the human consciousness, will, socio-psychological characteristics or conduct. Possible aberrant perceptions of the textual material by emotionally unstable or easily suggestible people cannot be evaluated in the framework of the present review, as they would require an evaluation of the readers rather than of the text itself ...

> The book does not contain any statements, appeals or declarations which could be definitely interpreted as incitement of social, racial, ethnic or religious discord associated with violence or as calls to violence ...
>
> The book does not contain any ideas which could be definitely interpreted as propaganda about the exceptional nature, superiority or deficiency of persons on the basis of their attitude to religion or their social, racial, ethnic, religious or linguistic affiliation ...
>
> The book does not contain any statements which could be definitely interpreted as statements aiming to humiliate persons on the basis of their sex, race, ethnic origin, native language, origin, attitude to religion, affiliation to a social group or on any other basis ...
>
> From a scientific point of view, the book is not different from any other religious text; it does not substantiate, justify or advocate the idea that people have an exceptional nature, superiority or deficiency on the basis of their religious affiliation or attitude to religion ...
>
> Islam, like any other religion as well as atheism, is characterised by a psychologically based belief in the superiority of its world-view over all other world-views, which made it necessary to substantiate the choice of that world-view ..."

33. At the hearing the applicant organisation requested the District Court to secure the attendance and in-court examination of the Moscow State University experts to clarify several of their findings which could be considered ambiguous. The District Court rejected that request, finding that the applicant organisation had not made it at the preliminary hearing and that it was not possible to clarify an expert report by questioning the experts; it would have been necessary to order an additional expert report, which the applicant organisation had not requested. The request to question the experts had therefore been "formal, unjustified" and an attempt "to prevent the court from examining the case and deciding on the matter".

34. The District Court also rejected as irrelevant a request for the examination of additional material about Said Nursi's life and teachings. It also refused to read the text of the book, noting that the book was sufficiently quoted in the report by specialists from the Astafyev Krasnoyarsk State Pedagogical University.

35. On 21 September 2010 the Zhelezhnodorozhniy District Court of Krasnoyarsk granted the prosecutor's application, declared the book "The Tenth Word: The Resurrection and the Hereafter" by Said Nursi extremist and ordered the destruction of the printed copies. After summarising the applicable domestic law and the submissions by the parties, it held as follows:

> "According to the specialists' report of 24 December 2008 by the Astafyev Krasnoyarsk State Pedagogical University, [the specialists] read the book 'The Tenth Word: The Resurrection and the Hereafter' from the Risale-I Nur Collection by Bediüzzaman Said Nursi ...

Having analysed the textual content of the book, its syntax structures, the genre characteristics and the methods of structuring the text and expressions, the panel of specialists came to an unanimous finding that, as a whole, the book 'The Tenth Word: The Resurrection and the Hereafter' from the Risale-I Nur Collection by Bediüzzaman Said Nursi is ideological, and at the same time religious, literature inciting religious discord and containing propaganda about the exceptional nature, superiority or deficiency of persons on the basis of their attitude to religion. In particular, it incites discord between Muslims and non-believers, which term is understood to include adherents of other religions as well as those who do not belong to any religion. The gist of the book is a breach of religious equality consisting in forming in the reader a negative and aggressive attitude towards non-believers and adherents to other religions, which amounts to inciting hatred and discord against them (see [specialist report of 24 December 2008]).

According to the specialists' report mentioned above, the values inspired in the reader by the text are the exceptional nature of the Islamic faith, which is presented to the reader as the ultimate truth. People are divided into two groups: those who do not follow the Islamic faith are described by the author as 'the dissolute', 'the philosophers' and 'the idle talkers'; and those who belong to that religion are described by the author as 'the faithful' and 'the just'. It follows that believers and non-believers are rated differently on the basis of their adherence to the Islamic religion: the unfaithful are rated negatively, while the faithful to Islam are rated positively. The author uses in his text disparaging words and expressions to belittle the European culture, which is understood, in the light of the religious contents of the book, as religious confessions other than Islam. The author uses military metaphors in the text, which inevitably inclines the reader to see the reality through the prism of the conditions of a military camp, a military ground and potential military actions. The value of such a world-view is stressed by positive epithets. Simultaneously, through the use of verbal means and expressions, the author implicitly (that is covertly rather than openly, by influencing the subconscious) forms in the reader's mind the idea of an enemy, the notion of a potential aggressor. Taken together, it creates in the reader's mind an idea that it is necessary to be ready for a fight. The structure of the book is such that in the subsequent text the idea of the necessity to fight, of being ready for a fight, is, on the one hand, attenuated as it is not expressed directly; on the other hand, having been already stated earlier, it may be reinforced in the readers' minds because the text inspires the idea that non-believers commit a crime consisting in the very fact of not believing and which, according to the text under review, does not merit forgiveness. Thereby the author of the book attempts to influence the reader's psyche on a subconscious level and to influence the mechanisms of his faith, that is to form on an irrational basis conscious values and attitudes. It may deprive the reader of the capacity to think critically about changes happening in real life, may undermine his ability to make independent decisions and thereby breach the right to freedom of religion. According to the book, anyone who does not accept Islam, a non-believer, is the most inferior person who is deprived of his rights, is a criminal not deserving forgiveness. The book suggests to the reader corporate norms and a model of society where all people follow the same rules; the actions of all members of such a society are tightly regulated, they are encouraged to comply like obedient soldiers, military officers or civil servants who must unquestioningly carry out orders and commands (see [expert report of 24 December 2008]).

According to the specialists' report mentioned above (see [specialists' report of 24 December 2008]), the book 'The Tenth Word: The Resurrection and the Hereafter' from the Risale-I Nur Collection by Bediüzzaman Said Nursi is potentially addressed to different people.

On the one hand, the text is addressed to non-believers who do not have a developed ability to think critically. If the reader does not have a certain ideology of life, the text may influence him ideologically and form in his mind the ideas described above by methods of emotional induction and on the least rational level.

On the other hand, the text is addressed to readers who have a religious world-view other than Islam, as it calls on them to accept the only true God – Allah. The author suggests to the reader that it is normal to change one's world-view and that the author desires it.

The text is also addressed to people who accept the Islamic religious worldview, revere Allah and are ready to carry out his will and his commandments, which follows from a reconstruction of such an addressee's characteristics: readiness to fight for 'eternal life' and the constant service of Allah and his messengers in such forms as may transpire from respective orders.

The text is also addressed to readers who 'delay' religious activity ... until an undetermined future point, which may however come at the will of someone who has the right to command and give orders.

The text uses the expression 'little man', which may be understood as 'the most common' man who perceives himself as a 'little man'. The author suggests that the essence of such a person, if he is not a follower of Islam, is an 'infinitely big crime'.

In addition, the reader is encouraged to take responsibility for his parents; to save them he must accept the advocated Islamic religious creed. It means that any person who identifies with his parents, who has the slightest feeling of existential guilt for them, may be moved to adopt the view of the world suggested by the author.

To sum up, in the opinion of the panel of specialists, the psychological characteristics of the potential addressees (readers) mentioned above are not essential for understanding the text of the book because the text itself, by its specific structure and its [psychological] methods of holding attention and suggestion, is capable, after a long reading, to transmit the advocated religious ideology to any person who is in search of ideological support for his life, who is inclined to reflection and is in the process of self-development."

36. The court considered the findings of the report by the Astafyev Krasnoyarsk State Pedagogical University to be credible because they had been made by specialists with professional expertise in the spheres of social psychology, psycholinguistics, philosophy and religious studies who had used scientific methods of analysis. The specialists had confirmed their findings when questioned at the hearing.

37. By contrast, the court rejected the expert report of 28 April 2010 by the Lomonosov Moscow State University, prepared at its own request, as "not credible". It held that the report of 28 April 2010 was insufficiently reasoned and was based on assumptions. In particular, the experts had not explained what they understood by "a normal perception" and "possible aberrant perceptions by emotionally unstable or easily suggestible people". It was not clear what the experts meant when saying that "the book [did] not contain any statements which could be definitely interpreted as incitement of social, racial, ethnic or religious discord associated with violence or as calls to violence", that "the book [did] not contain any ideas which could be

definitely interpreted as propaganda about the exceptional nature, superiority or deficiency of persons on the basis of their attitude to religion or their social, racial, ethnic, religious or linguistic affiliation", or that "the book [did] not contain any statements which could be definitely interpreted as statements aiming to humiliate persons on the basis of their sex, race, ethnic origin, native language, origin, attitude to religion, affiliation to a social group or on any other basis". The court considered that the experts' wording gave reason to believe that such interpretations could not be excluded, but that interpretations could in fact differ depending on the reader's individual perceptions. The experts had not cited the statements which, in their opinion, could be subject to different interpretations and had not explained why they had come to that conclusion. The court further found that the comparison of the book with other monotheistic religious texts had been misconceived because it had not asked for a comparative study. If the book contained propaganda about the exceptional nature, superiority or deficiency of persons on the basis of their attitude to religion or their social, racial, ethnic, religious or linguistic affiliation, it was irrelevant that other religious texts also contained such statements. Lastly, the District Court noted the absence of a linguist or a philologist in the panel of experts. In the court's view, that omission undermined the comprehensive nature of the study.

38. The District Court concluded that the book "The Tenth Word: The Resurrection and the Hereafter" by Said Nursi was extremist literature because it was aimed at inciting religious discord and contained propaganda about the exceptional nature, superiority or deficiency of persons on the basis of their attitude to religion. Its contents substantiated and justified the necessity of carrying out such activity. It therefore had to be seized wherever it was found and on whatever information medium it was reproduced.

39. On 29 November 2010 the Krasnoyarsk Regional Court rejected an appeal lodged by the applicant organisation, endorsing the reasoning of the District Court in a summary fashion.

40. According to the Government, only the editor's copy of the book was seized. It proved impossible to seize the other copies as they had already been distributed.

II. RELEVANT DOMESTIC LAW

A. Anti-extremism legislation

1. Suppression of Extremism Act

41. The Suppression of Extremism Act (Federal Law no. 114-FZ of 25 July 2002, as in force at the material time) defines "extremist activities"

as, among others: (i) incitement of social, racial, ethnic or religious discord; (ii) propaganda about the exceptional nature, superiority or deficiency of people on the basis of their social, racial, ethnic, religious or linguistic affiliation or their attitude to religion; (iii) violation of human and civil rights and freedoms, and of lawful interests in connection with a person's social, racial, ethnic, religious or linguistic affiliation or attitude to religion; and (iv) public appeals to commit the above-mentioned acts, or mass dissemination of material known to be extremist, as well as the production or storage of such material with the aim of mass dissemination. The Act further defines "extremist material" as documents intended for publication, or information disseminated via other media, calling for extremist activity to be carried out or substantiating or justifying the necessity of carrying out such activity (section 1).

42. It is prohibited on the territory of the Russian Federation to publish or distribute printed, audio, audiovisual or other material corresponding to at least one of the criteria mentioned in section 1 of the Act. Following an application by the prosecutor, documentary material is to be declared extremist by the federal court that has jurisdiction over the location of the organisation that published the documentary material. The judicial decision declaring documentary material extremist serves as the legal basis for seizing any undistributed copies of the issue. An organisation which has published extremist material twice within twelve months is deprived of the right to publish. A copy of the judicial decision declaring documentary material extremist which has entered into legal force is to be sent to the federal State registration authority. A federal list of extremist material will be published periodically in the media. A decision to include documentary material in the federal list of extremist material may be appealed against in court under the procedure established by Russian Federation legislation. It is prohibited to distribute in the Russian Federation material which has been included in the federal list of extremist material. Anyone guilty of producing, disseminating or storing such material with the aim of dissemination will be held liable under criminal or administrative law (section 13 of the Suppression of Extremism Act).

43. On 23 November 2015 the Suppression of Extremism Act was amended. A new section 3.1 provided that the Bible, the Qur'an, the Tanakh and the Kangyur, as well as their contents and quotations from them, may not be declared extremist material.

2. Case-law of the Constitutional Court

44. On 2 July 2013 the Constitutional Court, in its decision no. 1053-O, dismissed as inadmissible a request for a review of the constitutionality of sections 1 and 13 of the Suppression of Extremism Act – in particular, the parts of section 1 concerning incitement of social, racial, ethnic or religious discord and propaganda about the exceptional nature, superiority or

deficiency of people on the basis of their social, racial, ethnic, religious or linguistic affiliation or their attitude to religion – on the grounds of their alleged vagueness and the consequent lack of foreseeability in their application. The Constitutional Court held, in particular, that the requirement of foreseeability did not prevent the use of value or common terms the meaning of which was understandable directly from the legal provision in question, from a combination of related legal provisions or through interpretation by the courts. When applying section 1 of the Suppression of Extremism Act, the courts had to take into account that the requisite element of that form of extremism was explicit or implicit disrespect for the constitutional prohibition of incitement of social, racial, ethnic or religious discord and of propaganda about the exceptional nature, superiority or deficiency of persons on the basis of their social, racial, ethnic, religious or linguistic affiliation or their attitude to religion. To establish whether there was such disrespect, the courts had to take into account all the relevant circumstances of the case, such as the form and content of the activity or information in question, its addressees, purposes, social and political context and whether there was a real threat to public order arising from, among others, calls to, or substantiation or justification of, unlawful infringements of constitutionally protected values. The Constitutional Court found that anti-extremism legislation did not permit restrictions to be imposed on the right to freedom of conscience, religion and speech on the sole ground that the activity or information did not conform to common views, established traditions and beliefs, or moral and religious preferences. Such restrictions would be contrary to the constitutional requirements of necessity, proportionality and fairness. The wording of section 1 of the Suppression of Extremism Act did not, therefore, allow for its unforeseeable interpretation or arbitrary application.

45. The Constitutional Court further held that the seizure of extremist material under section 13 of the Suppression of Extremism Act was not a sanction for an offence but a measure of combatting extremism and preventing extremist activities. Declaring a piece of material extremist meant that it breached anti-extremism legislation and for that reason alone presented a real danger to human rights and freedoms, to the foundations of the constitutional regime and the safety and security of the Russian Federation. Therefore, each judicial decision on the matter had to be followed by the seizure of the material declared extremist in order to exclude access to such material and thereby prevent the risk of their negative influence on persons, including their owners. The owner of the material was entitled to participate in the respective judicial proceedings. The seizure of extremist material did not therefore contravene the Constitution.

46. On 28 February 2017 the Constitutional Court, in its decision no. 463-O, dismissed as inadmissible a request for a review of the

constitutionality of section 3.1 of the Suppression of Extremism Act. It held, in particular, that the courts' findings on whether material, including religious literature, was extremist should not be arbitrary. They had to be based on a complete, thorough and objective assessment of all the circumstances of the case and be confirmed by experts in philology, linguistics, psychology and religious studies. The courts should not limit their assessment to the literal contents of the text, but should also assess its potential ability, in modern society and in combination with beliefs widespread in society, to acquire characteristics that were inadmissible from the standpoint of constitutionally protected values. The courts could, taking into account the circumstances of the case, declare extremist only a part of the documentary material in question and to prohibit the distribution of that part only.

47. On 20 April 2017 the Constitutional Court, in its decision no. 906-O, dismissed as inadmissible another request for a review of the constitutionality of section 3.1 of the Suppression of Extremism Act. The applicants in that case had complained about a prosecutor's refusal, by reference to section 3.1, to declare extremist a book calling for the murder of Jehovah's Witnesses on the grounds that that book was a commentary on the Bible and contained quotations from it. The Constitutional Court held that documentary material could not be declared extremist on the basis of a subjective perception of that material by certain persons. It further held that classic literary works which were part of the history and culture of a people, had been widely distributed in some historical period, had been subject to voluminous scientific research and widely quoted, and which had never before been banned for calling on its followers to commit extremist activities or for being a source of extremist ideology, could not be declared extremist. The contested section 3.1 provided that religious texts, including their contents and quotes from them, which constituted the source of the major traditional world religions – Christianity, Islam, Judaism and Buddhism – and which played a particularly important role in Russian multiconfessional society, could not be declared extremist.

B. Civil proceedings

48. The Code of Civil Procedure of 2002 provides that evidence is information – obtained in accordance with the procedure prescribed by law – about facts which serve as a basis for the court to establish the circumstances to which the parties refer in support of their claims and submissions and other circumstances relevant for the correct examination of the case. That information may be obtained from the submissions by the parties or third persons, testimony of witnesses, documentary or material evidence and expert reports (Article 55 § 1). Evidence is submitted by the parties and other participants to the proceedings (Article 57 § 1).

49. An expert report should be read out at the hearing. Questions may be put to the expert in order to clarify or supplement the expert report. The expert report is assessed by the court together with other evidence. It does not have any predetermined value for the court. If the court does not agree with the expert report, it must explain why it disagrees in the decision on the merits or in the decision to order an additional expert report (Article 187).

50. If necessary, when examining documentary or material evidence, playing audio or video recordings, ordering an expert report or questioning witnesses, the court may consult a specialist to obtain opinions, explanations or technical assistance (such as taking pictures, drawing plans or diagrams, selecting samples for an expert opinion or evaluating property). A specialist must reply to the court's questions and give oral or written opinions and explanations or provide technical assistance. The specialist's opinions are provided on the basis of his or her professional knowledge without making any expert evaluations. The court and the parties may put questions to the specialist (Article 188).

III. RELEVANT INTERNATIONAL MATERIAL

A. United Nations

1. International Covenant on Civil and Political Rights

51. The relevant provisions of the 1966 International Covenant on Civil and Political Rights (ICCPR) provide:

Article 19

"1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.

2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."

2. Human Rights Council

52. The relevant parts of the Report of the Special Rapporteur on freedom of religion or belief, Ms Asma Jahangir, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Doudou Diène, further to Human Rights Council decision 1/107 on incitement to racial and religious hatred and the promotion of tolerance, A/HRC/2/3, of 20 September 2006 (HRC 2006 Report), read:

> "47. The Special Rapporteur notes that article 20 of the Covenant was drafted against the historical background of the horrors committed by the Nazi regime during the Second World War. The threshold of the acts that are referred to in article 20 is relatively high because they have to constitute advocacy of national, racial or religious hatred. Accordingly, the Special Rapporteur is of the opinion that expressions should only be prohibited under article 20 if they constitute incitement to imminent acts of violence or discrimination against a specific individual or group ...
>
> 50. Domestic and regional judicial bodies - where they exist - have often laboured to strike the delicate balance between competing rights, which is particularly demanding when beliefs and freedom of religion are involved. In situations where there are two competing rights, regional bodies have often extended a margin of appreciation to national authorities and in cases of religious sensitivities, they have generally left a slightly wider margin of appreciation, although any decision to limit a particular human right must comply with the criteria of proportionality. At the global level, there is not sufficient common ground to provide for a margin of appreciation. At the global level, any attempt to lower the threshold of article 20 of the Covenant would not only shrink the frontiers of free expression, but also limit freedom of religion or belief itself. Such an attempt could be counterproductive and may promote an atmosphere of religious intolerance."

53. The relevant parts of the Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr Frank La Rue, submitted in accordance with Human Rights Council resolution 16/4, A/67/357, of 7 September 2012, read:

> "46. While some of the above concepts may overlap, the Special Rapporteur considers the following elements to be essential when determining whether an expression constitutes incitement to hatred: real and imminent danger of violence resulting from the expression; intent of the speaker to incite discrimination, hostility or violence; and careful consideration by the judiciary of the context in which hatred was expressed, given that international law prohibits some forms of speech for their consequences, and not for their content as such, because what is deeply offensive in one community may not be so in another. Accordingly, any contextual assessment must include consideration of various factors, including the existence of patterns of tension between religious or racial communities, discrimination against the targeted group, the tone and content of the speech, the person inciting hatred and the means of disseminating the expression of hate. For example, a statement released by an individual to a small and restricted group of Facebook users does not carry the same weight as a statement published on a mainstream website. Similarly, artistic expression should be considered with reference to its artistic value and context, given that art may be used to provoke strong feelings without the intention of inciting violence, discrimination or hostility.

47. Moreover, while States are required to prohibit by law any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence under article 20 (2) of the Covenant, there is no requirement to criminalize such expression. The Special Rapporteur underscores that only serious and extreme instances of incitement to hatred, which would cross the seven-part threshold, should be criminalized.

48. In other cases, the Special Rapporteur is of the view that States should adopt civil laws, with the application of diverse remedies, including procedural remedies (for example, access to justice and ensuring effectiveness of domestic institutions) and substantive remedies (for example, reparations that are adequate, prompt and proportionate to the gravity of the expression, which may include restoring reputation, preventing recurrence and providing financial compensation).

49. In addition, while some types of expression may raise concerns in terms of tolerance, civility and respect for others, there are instances in which neither criminal nor civil sanctions are justified. The Special Rapporteur wishes to reiterate that the right to freedom of expression includes forms of expression that are offensive, disturbing and shocking. Indeed, since not all types of inflammatory, hateful or offensive speech amount to incitement, the two should not be conflated.

50. In any case, the Special Rapporteur reiterates that all hate speech laws should, at the very least, conform to the following elements outlined in the 2001 joint statement on racism and the media:

(a) No one should be penalized for statements that are true;

(b) No one should be penalized for the dissemination of hate speech unless it has been shown that they did so with the intention of inciting discrimination, hostility or violence;

(c) The right of journalists to decide how best to communicate information and ideas to the public should be respected, in particular when they are reporting on racism and intolerance;

(d) No one should be subject to prior censorship;

(e) Any imposition of sanctions by courts should be in strict conformity with the principle of proportionality ...

53. The Special Rapporteur also reiterates his concern in relation to anti-blasphemy laws, which are inherently vague and leave the entire concept open to abuse. He wishes to underscore once again that international human rights law protects individuals and not abstract concepts such as religion, belief systems or institutions, as also affirmed by the Human Rights Committee (CCPR/C/GC/34, para. 48). Moreover, the right to freedom of religion or belief, as enshrined in relevant international legal standards, does not include the right to have a religion or belief that is free from criticism or ridicule. Indeed, the right to freedom of expression includes the right to scrutinize, debate openly, make statements that offend, shock and disturb, and criticize belief systems, opinions and institutions, including religious ones, provided that they do not advocate hatred that incites hostility, discrimination or violence. The Special Rapporteur thus reiterates his call to all States to repeal anti-blasphemy laws and to initiate legislative and other reforms that protect the rights of individuals in accordance with international human rights standards ...”

3. Human Rights Committee

54. The relevant parts of General Comment No. 34, Article 19: Freedoms of Opinion and Expression, of 12 September 2011, read:

> "48. Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant. Such prohibitions must also comply with the strict requirements of article 19, paragraph 3, as well as such articles as 2, 5, 17, 18 and 26. Thus, for instance, it would be impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers. Nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith ..."

B. Council of Europe

55. The Report of the European Commission for Democracy through Law (the Venice Commission) on the Relationship between Freedom of Expression and Freedom of Religion: the Issue of Regulation and Prosecution of Blasphemy, Religious Insult and Incitement to Religious Hatred (Venice, 17-18 October 2008), states:

> "49. At any rate, the concepts of pluralism, tolerance and broadmindedness on which any democratic society is based mean that the responsibility that is implied in the right to freedom of expression does not, as such, mean that an individual is to be protected from exposure to a religious view simply because it is not his or her own. The purpose of any restriction on freedom of expression must be to protect individuals holding specific beliefs or opinions, rather than to protect belief systems from criticism. The right to freedom of expression implies that it should be allowed to scrutinise, openly debate, and criticise, even harshly and unreasonably, belief systems, opinions, and institutions, as long as this does not amount to advocating hatred against an individual or groups ...
>
> 60. In this respect, it is worth recalling that it is often argued that there is an essential a difference between racist insults and insults on the ground of belonging to a given religion: while race is inherited and unchangeable, religion is not, and is instead based on beliefs and values which the believer will tend to hold as the only truth. This difference has prompted some to conclude that a wider scope of criticism is acceptable in respect of a religion than in respect of a race. This argument presupposes that while ideas of superiority of a race are unacceptable, ideas of superiority of a religion are acceptable, as it is possible for the believer of the "inferior" religion to refuse to follow some ideas and even to switch to the "superior" religion.
>
> 61. In the Commission's opinion, this argument is convincing only insofar as genuine discussion is concerned but it should not be used to stretch unduly the boundaries between genuine 'philosophical' discussion about religious ideas and gratuitous religious insults against a believer of an "inferior" faith ...
>
> 64. The Commission does not consider it necessary or desirable to create an offence of religious insult (that is, insult to religious feelings) *simpliciter*, without the element of incitement to hatred as an essential component. ...

68. It is true that the boundaries between insult to religious feelings (and even blasphemy) and hate speech are easily blurred, so that the dividing line, in an insulting speech, between the expression of ideas and the incitement to hatred is often difficult to identify. This problem however should be solved through an appropriate interpretation of the notion of incitement to hatred rather than through the sanctioning of insult to religious feelings.

69. When it comes to statements, certain elements should be taken into consideration in deciding if a given statement constitutes an insult or amounts to hate speech: the context in which it is made; the public to which it is addressed; whether the statement was made by a person in his or her official capacity, in particular if this person carries out particular functions ...

70. As concerns the context, a factor which is relevant is whether the statement (or work of art) was circulated in a restricted environment or widely accessible to the general public, whether it was made in a closed place accessible with tickets or exposed in a public area. The circumstance that it was, for example, disseminated through the media bears particular importance, in the light of the potential impact of the medium concerned. It is worth noting in this respect that 'it is commonly acknowledged that the audiovisual media have often a much more immediate and powerful effect than the print media; the audiovisual media have means of conveying through images meanings which the print media are not able to impart.'...

72. As concerns the content, the Venice Commission wishes to underline that in a democratic society, religious groups must tolerate, as other groups must, critical public statements and debate about their activities, teachings and beliefs, provided that such criticism does not amount to incitement to hatred and does not constitute incitement to disturb the public peace or to discriminate against adherents of a particular religion.

73. Having said so, the Venice Commission does not support absolute liberalism. While there is no doubt that in a democracy all ideas, even though shocking or disturbing, should in principle be protected (with the exception, as explained above, of those inciting hatred), it is equally true that not all ideas deserve to be circulated. Since the exercise of freedom of expression carries duties and responsibilities, it is legitimate to expect from every member of a democratic society to avoid as far as possible expressions that express scorn or are gratuitously offensive to others and infringe their rights ...

86. In the long term, every component of a democratic society should be able to express in a peaceful manner his or her ideas, no matter how negative, on other faiths or beliefs or dogmas. Constructive debates should take place as opposed to dialogues of the deaf."

56. The Opinion of the Venice Commission on the Federal Law on Combating Extremist Activity, adopted by the Venice Commission at its 91st Plenary Session (Venice, 15-16 June 2012), states:

"... 7. The broad interpretation of the notion of 'extremism' by the enforcement authorities, the increasing application of the Law in recent years and the pressure it exerts on various circles within civil society, as well as alleged human rights violations reported in this connection have raised concerns and drawn criticism both in Russia and on the international level ...

14. According to Article 9 ECHR, any limitations to manifestations of the freedom of thought, conscience and religion may only be motivated by the interests of public

safety, by the protection of public order, health or morals, and by the rights and freedoms of others. Article 18 ICCPR is very similar: the freedom of thought, conscience and religion may be restricted if this is necessary to protect 'public safety, order, health, morals or the fundamental rights and freedoms of others'. It should be noted that both instruments only address limitations regarding 'the freedom to manifest one's religion or beliefs' and not the substance or contents of such religion or beliefs. According to Article 18.2 ICCPR, '*no one shall be subject to coercion which would impair his freedom to adopt a religion or belief of his choice*' ...

A. The definition of 'extremism'

... 28. The only definition of 'extremism' contained in an international treaty binding on the Russian Federation is to be found in the Shanghai Convention [on Combating Terrorism, Separatism and Extremism of 15 June 2001, ratified by Russia on 10 January 2003]. In Article 1.1.1.3) of the Extremism Law, 'extremism' is defined as '*an act aimed at seizing or keeping power through the use of violence or changing violently the constitutional regime of a State, as well as a violent encroachment upon public security, including organization, for the above purposes, of illegal armed formations and participation in them, criminally prosecuted in conformity with the national laws of the Parties*'. The latter clause allows signatory states to prosecute such 'extremist' actions according to their national laws.

a) 'Extremist actions'

... 30. The Venice Commission notes that the definitions in Article 1 of the Law of the 'basic notions' of 'extremism' ('extremist activity/extremism', 'extremist organisation' and 'extremist materials') do not set down general characteristics of extremism as a concept. Instead, the Law lists a very diverse array of actions that are deemed to constitute 'extremist activity' or 'extremism'. This should mean that, according to the Law, only activities defined in Article 1.1 are to be considered extremist activities or fall within the scope of extremism and that only organisations defined in Article 1.2 and materials defined in Article 1.3 should be deemed extremist.

31. The Commission however has strong reservations about the inclusion of certain activities under the list of 'extremist' activities. Indeed, while some of the definitions in Article 1 refer to notions that are relatively well defined in other legislative acts of the Russian Federation, a number of other definitions listed in Article 1 are too broad, lack clarity and may open the way to different interpretations. In addition, while the definition of 'extremism' provided by the Shanghai Convention, as well as the definitions of 'terrorism' and 'separatism', all require violence as an essential element, certain of the activities defined as 'extremist' in the Extremism Law seem not to require an element of violence (see further comments below) ...

Article 1.1 point 3: 'stirring up of social, racial, ethnic or religious discord'

35. Extremist activity under point 3 is defined in a less precise manner than in a previous version of the Law (2002). In the 2002 Law the conduct, in order to fall within the definition, had to be 'associated with violence or calls to violence'. However the current definition ('*stirring up of social, racial, ethnic or religious discord')* does not require violence as the reference to it has been removed. According to non-governmental reports, this has led in practice to severe antiextremism measures under the Extremism Law and/or the Criminal Code. The Venice Commission recalls that, as stated in its Report devoted to the relation between freedom of expression and freedom of religion, hate speech and incitement may not benefit from the protection afforded by Article 10 ECHR and justify criminal sanctions. The Commission notes that such a conduct is criminalized under Article 282 of the Russian Criminal Code

and that, under Article 282.2, the use of violence or the threat of its use in committing this crime is an aggravating circumstance.

36. The Venice Commission is of the opinion that in order to qualify '*stirring up of social, racial, ethnic or religious discord'* as 'extremist activity', the definition should expressly require the element of violence. This would maintain a more consistent approach throughout the various definitions included in article 1.1, bring this definition in line with the Criminal Code, the Guidelines provided by the Plenum of the Supreme Court and more closely follow the general approach of the concept of 'extremism' in the Shanghai Convention.

Article 1.1 point 4: 'propaganda of the exceptional nature, superiority or deficiency of persons on the basis of their social, racial, ethnic, religious or linguistic affiliation or attitude to religion'

37. At first sight, this provision reiterates the usual non-discriminatory clauses in international treaties and national laws, which prohibit a difference in treatment of persons on the basis of their inherent or inherited qualities, such as race, ethnic origin, religion or language. Nevertheless, under the headings contained therein, all kinds of propaganda activities including preaching such difference in treatment, whether or not they are associated with violence or calls to violence, are deemed 'extremism'.

38. In the view of the Venice Commission, to proclaim as extremist any religious teaching or proselytising activity aimed at proving that a certain worldview is a superior explanation of the universe, may affect the freedom of conscience or religion of many persons and could easily be abused in an effort to suppress a certain church thereby affecting not only the freedom of conscience or religion but also the freedom of association. The ECtHR protects proselytism and the freedom of the members of any religious community or church to 'try to convince' other people through 'teachings'. The freedom of conscience and religion is of an intimate nature and is therefore subject to fewer possible limitations in comparison to other human rights: only manifestations of this freedom can be limited, but not the teachings themselves.

39. It therefore appears that under the extremist activity in point 4, not only religious extremism involving violence but also the protected expressions of freedom of conscience and religion may lead to the application of preventive and corrective measures. This seems to be confirmed by worrying reports of extensive scrutiny measures of religious literature having led, in recent years, to the qualification of numerous religious texts as 'extremist material' (see below point (b)).

40. In the Commission's view, the authorities should review the definition under article 1.1 point 4 so as to ensure/provide additional guarantees that peaceful conduct aiming to convince other people to adhere to a specific religion or conception of life, as well as related teachings, in the absence of any direct intent or purpose of inciting enmity or strife19, are not seen as extremist activities and therefore not unduly included in the scope of anti-extremism measures.

Article 1.1 point 5: 'violation of human and civil rights and freedoms and lawful interests in connection with a person's social, racial, ethnic, religious or linguistic affiliation or attitude to religion'

41. Extremist activity under point 5 brings together a collection of criteria, the combination of which may or may not be required before establishing that the Law applies to them. Clarification is required of what is intended here. If violating rights and freedoms 'in connection with a personal's social, racial, ethnic, religious or linguistic affiliation or attitude to religion', in the absence of any violent element is an extremist activity, it is clearly a too broad category.

Article 1.1 point 10: 'public calls inciting the carrying out of the aforementioned actions or mass dissemination of knowingly extremist material, and likewise the production or storage thereof with the aim of mass dissemination'

42. Similarly, under point 10 incitement to extremist activity is in itself an extremist activity. This provision is problematic to the extent that certain of the activities listed, as pointed out above, should not fall into the category of extremist activities at all ...

b) 'Extremist materials'

... 47. This provision defines extremist materials not only as documents which have been published but also as documents intended for publication or information, which call for extremist activity (to be understood, most probably, by reference to the definition of such an activity in Article 1.1) or which justify such activity ...

49. Considering the broad and rather imprecise definition of 'extremist documents' (Article 1.3), the Venice Commission is concerned about the absence of any criteria and any indication in the Law on how documents may be classified as extremist and believes that this has the potential to open the way to arbitrariness and abuse. The Commission is aware from official sources, that the court decision is systematically based on prior expert review of the material under consideration and may be appealed against in court. It nonetheless considers that, in the absence of clear criteria in the Law, too wide a margin of appreciation and subjectivity is left both in terms of the assessment of the material and in relation to the corresponding judicial procedure. According to non-governmental sources, the Federal List of Extremist Materials has in recent years led to the adoption, in the Russian Federation, of disproportionate anti-extremist measures. Information on how this list is composed and amended would be necessary for the Commission to comment fully ...

63. ... The Venice Commission received information in relation to specific cases where a particularly broad interpretation of the notion of 'extremism' has been taken and of reportedly disproportionate measures taken under the Extremism Law, such as ... adding to the Federal List of Extremist Materials literature of religious communities known to be peaceful ...

... Conclusions

73. The Venice Commission is aware of the challenges faced by the Russian authorities in their legitimate efforts to counter extremism and related threats. It recalls that, in its recent recommendation devoted to the fight against extremism, the Parliamentary Assembly of the Council of Europe expressed its concern over the challenge of fighting extremism and its most recent forms and encouraged the member States of the Council of Europe to take resolute action in this field, 'while ensuring the strictest respect for human rights and the rule of law'.

74. However, the manner in which this aim is pursued in the Extremism Law is problematic. In the Commission's view, the Extremism Law, on account of its broad and imprecise wording, particularly insofar as the 'basic notions' defined by the Law - such as the definition of 'extremism', 'extremist actions', 'extremist organisations' or 'extremist materials' – are concerned, gives too wide discretion in its interpretation and application, thus leading to arbitrariness.

75. In the view of the Venice Commission, the activities defined by the Law as extremist and enabling the authorities to issue preventive and corrective measures do not all contain an element of violence and are not all defined with sufficient precision to allow an individual to regulate his or her conduct or the activities of an organisation so as to avoid the application of such measures. Where definitions are lacking the

necessary precision, a law such as the Extremism Law dealing with very sensitive rights and carrying potential dangers to individuals and NGOs can be interpreted in harmful ways ...

77. The Venice Commission recalls that it is of crucial importance that, in a law such as the Extremism Law, which has the capacity of imposing severe restrictions on fundamental freedoms, a consistent and proportionate approach that avoids all arbitrariness be taken. As such, the Extremism Law has the capacity of imposing disproportionate restrictions of fundamental rights and freedoms as enshrined in the European Convention on Human Rights (in particular Articles 6, 9, 10 and 11) and infringe the principles of legality, necessity and proportionality. In the light of the above comments, the Venice Commission recommends that this fundamental shortcoming be addressed in relation to each of the definitions and instruments provided by the Law in order to bring them in line with the European Convention on Human Rights ..."

C. Other international material

1. Joint Declaration on Defamation of Religions, and Anti-Terrorism and Anti-Extremism Legislation

57. On 9 December 2008 the United Nations Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information adopted a joint declaration, which reads, in so far as relevant:

Defamation of Religions

"The concept of 'defamation of religions' does not accord with international standards regarding defamation, which refer to the protection of reputation of individuals, while religions, like all beliefs, cannot be said to have a reputation of their own.

Restrictions on freedom of expression should be limited in scope to the protection of overriding individual rights and social interests, and should never be used to protect particular institutions, or abstract notions, concepts or beliefs, including religious ones.

Restrictions on freedom of expression to prevent intolerance should be limited in scope to advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

International organisations, including the United Nations General Assembly and Human Rights Council, should desist from the further adoption of statements supporting the idea of 'defamation of religions'."

2. The Camden Principles

58. The non-governmental organisation ARTICLE 19: Global Campaign for Free Expression ("ARTICLE 19") prepared the Camden Principles on

Freedom of Expression and Equality on the basis of discussions involving a group of high-level UN and other officials, civil society and academic experts in international human rights law on freedom of expression and equality issues at meetings held in London on 11 December 2008 and 23-24 February 2009 (“the Camden Principles”). They read as follows in so far as relevant:

Principle 12: Incitement to hatred

“12.1. All States should adopt legislation prohibiting any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (hate speech). National legal systems should make it clear, either explicitly or through authoritative interpretation, that:

i. The terms ‘hatred’ and ‘hostility’ refer to intense and irrational emotions of opprobrium, enmity and detestation towards the target group.

ii. The term ‘advocacy’ is to be understood as requiring an intention to promote hatred publicly towards the target group.

iii. The term ‘incitement’ refers to statements about national, racial or religious groups which create an imminent risk of discrimination, hostility or violence against persons belonging to those groups.

iv. The promotion, by different communities, of a positive sense of group identity does not constitute hate speech.

...

12.3. States should not prohibit criticism directed at, or debate about, particular ideas, beliefs or ideologies, or religions or religious institutions, unless such expression constitutes hate speech as defined by Principle 12.1.

...

12.5. States should review their legal framework to ensure that any hate speech regulations conform to the above.”

THE LAW

I. JOINDER OF THE APPLICATIONS

59. In accordance with Rule 42 § 1 of the Rules of Court, the Court decides to join the applications, given their factual and legal similarities.

II. ALLEGED VIOLATION OF ARTICLES 9 AND 10 OF THE CONVENTION

60. The applicants complained that the Russian courts had violated their rights to freedom of religion and freedom of expression, as provided for in Articles 9 and 10 of the Convention, by declaring that Islamic books by

Said Nursi, which they had published and used for religious and educational purposes, were "extremist". Articles 9 and 10 of the Convention read:

Article 9

"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 10

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

A. Admissibility

61. The Government submitted, in respect of application no. 28621/11, that statements directed against the Convention's underlying values had been removed from the protection of Article 10 by Article 17. They argued that the application should therefore be rejected under Article 17 of the Convention, which reads:

"Nothing in [the] Convention may be interpreted as implying for any state, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

62. The Court reiterates that, as recently confirmed by the Court, Article 17 is only applicable on an exceptional basis and in extreme cases. Its effect is to negate the exercise of the Convention right that the applicant seeks to vindicate in the proceedings before the Court. In cases concerning Article 10 of the Convention, it should only be resorted to if it is immediately clear that the impugned statements sought to deflect this Article from its real purpose by employing the right to freedom of

expression for ends clearly contrary to the values of the Convention (see *Perinçek v. Switzerland* [GC], no. 27510/08, § 114, ECHR 2015 (extracts)).

63. Since the decisive point under Article 17 – whether the text in question sought to stir up hatred, violence or intolerance, and whether by publishing it the applicant attempted to rely on the Convention to engage in an activity or perform acts aimed at the destruction of the rights and freedoms laid down in it – overlaps with the question whether the interference with the applicant's rights to freedom of expression and freedom of religion was "necessary in a democratic society", the Court finds that the question whether Article 17 is to be applied must be joined to the merits of the applicant's complaints under Articles 9 and 10 of the Convention (see *Perinçek*, cited above, § 115).

64. The Court notes this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

(a) The Government

65. The Government submitted that in both cases the domestic decisions declaring Said Nursi's books extremist and banning their publication and distribution had been lawful – they had been based on the Suppression of Extremism Act. The domestic law was foreseeable in its application as the Suppression of Extremism Act gave clear definitions of "extremist activity" and "extremist material". In particular, it explicitly mentioned incitement of religious discord and propaganda about superiority on the basis of attitude to religion as extremist activities.

66. The Government further submitted that the author of the books, Said Nursi, had been a preacher and commentator of Islam who had created an international religious movement, Nurculuk (*Нуржулар*). That movement had been declared an extremist organisation and banned by the Supreme Court of the Russian Federation on 10 April 2008. The domestic courts had then found that Said Nursi's books incited religious discord and proclaimed religious superiority. It was not for the Court to question that finding, as it had been reached after a thorough examination of each case through a fair decision-making process.

67. As regards application no. 1413/08, the domestic courts had included in the case file and studied the opinions of authorities on religious matters submitted by the applicants, but had found them unconvincing because the court-appointed experts had established that the books in question contained extremist statements. As regards application no. 28621/11, the judgments of

the domestic courts had also been based on expert reports. The courts had examined the report by specialists from the Astafyev Krasnoyarsk State Pedagogical University and the expert report by the Lomonosov Moscow State University and had found the former more complete and better reasoned; the judge had given extensive reasons for the decision to discard the latter. The Government argued that the report by specialists from the Astafyev Krasnoyarsk State Pedagogical University had been submitted by the prosecutor, who had been a party to the proceedings in accordance with the procedure prescribed by law, and had therefore been admissible as evidence. According to the Government, that report had had no pre-determined value for the judge and had not been the sole evidence in her possession. After examining all the evidence in the case file, the judge had concluded that the book was extremist.

68. The Government submitted that in democratic societies, in which several religions coexisted within one and the same population, it was necessary to place restrictions on the freedom to manifest one's religion or belief in order to reconcile the interests of the various groups and ensure that everyone's beliefs were respected. Rules in this sphere could vary from one country to another in accordance with national traditions and the requirements imposed by the need to protect the rights and freedoms of others and to maintain public order. Accordingly, the choice of the extent and form such regulations took had to be left up to a point to the State concerned, as it depended on the specific domestic context. They referred in this context to *Leyla Şahin v. Turkey* ([GC], no. 44774/98, §§ 106-09, ECHR 2005-XI). The Government interpreted the cases of *Cha'are Shalom Ve Tsedek v. France* ([GC], no. 27417/95, § 84, ECHR 2000-VII) and *Wingrove v. the United Kingdom* (25 November 1996, § 58, *Reports of Judgments and Decisions* 1996-V) to mean that where questions concerning the relationship between State and religions were at stake, on which opinion in a democratic society might differ widely, the role of the national decision-making body had to be given special importance. Given that Said Nursi's books incited religious discord and proclaimed religious superiority and could therefore provoke serious religious clashes with unpredictable negative consequences, the ban on their publication and dissemination had pursued the aims of protecting territorial integrity and public safety in Russia, public order and the rights of others. Moreover, it had been necessary in a democratic society, taking into account the tense ethnic situation in the country and the possible negative impact of those books on non-religious citizens.

69. The Government also referred to the Court's judgment in the case of *Kutlular v. Turkey* (no. 73715/01, 29 April 2008) which they interpreted as holding that a brochure distributed by one of the followers of Said Nursi and quoting some passages from his books encouraged superstition, intolerance and obscurantism and was moreover offensive to non-believers and to the

authorities. They also argued that the present case was similar to the cases of *Sürek v. Turkey (no. 3)* ([GC], no. 24735/94, 8 July 1999) and *Medya FM Reha Radyo ve İletişim Hizmetleri A.Ş v. Turkey* ((dec.), no. 32842/02, 14 November 2006), where the Court had found that the statements published by the applicants amounted to an incitement to violence.

70. Lastly, the Government submitted that the applicants were trying to present the case, which concerned the content of specific books, as a case of religious persecution of the followers of Islam in Russia. They asserted that the applicants' allegations were false.

(b) The applicants

71. The applicants submitted that by banning the books by Said Nursi, the Russian authorities had declared unlawful religious literature explaining the Islamic doctrine and had therefore interfered with the applicants' rights to freedom of religion and freedom of expression. In particular, "The Tenth Word: The Resurrection and the Hereafter" was a commentary on the Qur'an, recognised as such by the Council of Mufti of Russia. It dealt with the topics of resurrection, the judgment day and the afterlife. The applicant organisation in application no. 28621/11 had planned to use it for religious and educational purposes. By declaring it extremist, the domestic authorities had prohibited its use and distribution.

72. All of the applicants argued, firstly, that the provisions of the Suppression of Extremism Act, which had served as the legal basis for the banning of Said Nursi's books, were vague and therefore unforeseeable in their application. The Act did not contain a legal definition of key elements of the term "extremist activity". In particular, it did not explain what was meant by "discord" or "propaganda about the exceptional nature, superiority or deficiency" (they relied in that connection on the Opinion by the Venice Commission, see paragraph 56 above). Those terms could have different meanings and the absence of a clear definition in law or in judicial practice could lead to arbitrary interpretations and abuse. In the present case, the texts had been interpreted by linguists and psychologists from the standpoints of those academic disciplines, rather than on the basis of any legal interpretation established by law or judicial practice. Those expert or specialist opinions were the sole basis for the ensuing judicial decisions.

73. The applicants further submitted that the passages in the books affirming the pre-eminence of Islamic spiritual concepts did not amount to propaganda about the superiority of people on the basis of their attitude to religion. All religions, including Christianity, Judaism and Islam, proclaimed the pre-eminence of their religious teachings and beliefs in their religious texts. In the applicants' opinion, Said Nursi's books did not contain any expressions inciting religious discord, either explicitly or implicitly. The Government had not produced any proof that Said Nursi's books had ever provoked "serious religious clashes with unpredictable

negative consequences" (see paragraph 68 above) or ever caused any other threat to public order. Their statement that there was such a risk was purely hypothetical and was not based on any facts. They had not therefore justified the "necessity in a democratic society" of banning the books.

74. The applicants in application no. 1413/08 submitted that the court-appointed experts had no expertise in religious matters and, in particular, had no knowledge of Islam. They had therefore made a purely secular assessment of the texts, without taking into account their religious purpose and the particularities of religious texts. The recognised authorities on Islam, such as a co-president of the Council of Mufti of Russia, had told the courts that Said Nursi was a world-renowned Muslim scholar whose texts formed an integral part of the official teachings of Islam and did not contain any extremist statements. He had also said that the ban on Said Nursi's books would hinder the religious life of Russian Muslims and unjustifiably restrict their freedom of religion.

75. The applicants in application no. 1413/08 also argued that the court-appointed experts had not explained how they had reached the finding that the texts at issue incited religious discord. They had not cited a single passage from the *Risale-I Nur* Collection calling for any actions against non-believers or advocating restriction of rights on the basis of religious affiliation or attitude to religion.

76. In its turn, the applicant organisation in application no. 28621/11 submitted that the domestic courts' judgments had been based exclusively on the report by specialists from the Astafyev Krasnoyarsk State Pedagogical University. It argued that under domestic law, a specialists' report could not serve as evidence in civil proceedings; only expert reports could do so. Specialists could only give oral or written opinions to the judge in the sphere of their competence (see paragraphs 48 and 50 above). The specialists in the case at hand had not explained how they had reached the finding that the text at issue incited religious discord. They had not cited a single passage from the book that incited hatred or called for violence or indeed for any actions against non-believers or any other persons. The report had not mentioned the use of any scientific methodology (such as focus-group tests or others) to assess the book's impact on readers' minds. It had therefore been no more than a personal interpretation by secular scholars of a highly metaphorical religious text.

77. The applicant organisation also argued that the extracts cited by the specialists had been analysed out of context. For example, the military metaphors used in the book could be explained by the fact that the book had been written as an answer to a colonel. When read in context, it was clear that military terminology had been used purely metaphorically.

2. The Court's assessment

78. At the outset, the Court notes that in relation to the same facts the applicants rely on two separate Convention provisions: Article 9 and Article 10 of the Convention. Given that the present case concerns a ban on the distribution of books published or commissioned for publication by the applicants, the Court considers that their complaints fall be examined under Article 10 (see *Kutlular,* cited above, § 35). That being said, the Court notes that the issues of freedom of expression and freedom of religion are closely linked in the present case. Indeed, the books at issue are a commentary on the Qur'an and the applicants intended to use them for religious purposes, including for religious education. The case must therefore be considered in the light of the Court's case-law on freedom of religion. The Court will therefore examine the present case under Article 10, interpreted where appropriate in the light of Article 9.

(a) Existence of an interference

79. The Court notes that there is no dispute between the parties that declaring Said Nursi's books published or commissioned for publication by the applicants as "extremist" and banning them from publication and distribution amounted to "interference by a public authority" with the applicants' right to freedom of expression, interpreted in the light of their right to freedom of religion to take account of the religious nature of the books and the applicants' intention to use of them for religious purposes. The Court reiterates that such interference will infringe the Convention unless it satisfies the requirements of paragraph 2 of Article 10. It must therefore be determined whether it was "prescribed by law", pursued one or more of the legitimate aims set out in that paragraph and was "necessary in a democratic society" to achieve those aims.

(b) "Prescribed by law"

80. It was not in dispute that the interference had a basis in national law – sections 1 and 13 of the Suppression of Extremism Act – and that the relevant provisions were accessible. Rather, the applicants called into doubt the foreseeability of those provisions, arguing that they were not formulated with sufficient precision.

81. The Court reiterates that the expression "prescribed by law" in the second paragraph of Article 10 not only requires that the impugned measure should have a legal basis in domestic law, but also refers to the quality of the law in question, which should be accessible to the person concerned and foreseeable as to its effects (see, among other authorities, *VgT Verein gegen Tierfabriken v. Switzerland*, no. 24699/94, § 52, ECHR 2001-VI; *Gawęda v. Poland*, no. 26229/95, § 39, ECHR 2002-II; *Maestri v. Italy* [GC],

no. 39748/98, § 30, ECHR 2004-I; and *Delfi AS v. Estonia* [GC], no. 64569/09, § 120, ECHR 2015).

82. One of the requirements flowing from the expression "prescribed by law" is foreseeability. Thus, a norm cannot be regarded as a "law" within the meaning of Article 10 § 2 unless it is formulated with sufficient precision to enable people to regulate their conduct; they must be able – if need be with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail. Those consequences need not be foreseeable with absolute certainty. Whilst certainty is desirable, it may bring in its train excessive rigidity, and the law must be able to keep pace with changing circumstances. Accordingly, many laws are inevitably couched in terms which, to a greater or lesser extent, are vague, and whose interpretation and application are questions of practice (see, for example, *Lindon, Otchakovsky-Laurens and July v. France* [GC], nos. 21279/02 and 36448/02, § 41, ECHR 2007-IV; *Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], no. 38433/09, § 141, ECHR 2012; and *Delfi AS*, cited above, § 121).

83. The level of precision required of domestic legislation – which cannot provide for every eventuality – depends to a considerable degree on the content of the law in question, the field it is designed to cover and the number and status of those to whom it is addressed (see *Centro Europa 7 S.r.l. and Di Stefano*, cited above, § 142, and *Delfi AS*, cited above, § 122).

84. In the present case the applicants argued that the applicable domestic legislation was vague to the point of making the legal rule in question unforeseeable in its application. In particular, the domestic law did not contain a legal definition of the key elements of "extremist activity", such as "discord" or "propaganda about the exceptional nature, superiority or deficiency", creating a risk of arbitrary interpretation and abuse. The Government argued that the Suppression of Extremism Act contained a clear definition of the terms "extremist activity" and "extremist material".

85. The Court notes that the Venice Commission, in its Opinion of 15-16 June 2012 (see paragraph 56 above), considered the definition of "extremist activity" to be too broad, lacking clarity and open to different interpretations (see § 31 of the Opinion of the Venice Commission). Furthermore, it expressed concerns regarding the definition of "extremist documents", which it described as "broad and rather imprecise" (see § 49 of the Opinion of the Venice Commission).

86. Although there may be a question as to whether the interference was "prescribed by law" within the meaning of Article 10, the Court does not consider that, in the present case, it is called upon to examine the corresponding provisions of the Suppression of Extremism Act as, in its view, the applicants' grievances fall to be examined from the point of view of the proportionality of the interference. The Court will therefore leave open the question whether the interference with the applicants' right to

freedom of expression may be regarded as "prescribed by law", within the meaning of Article 10 § 2 of the Convention.

(c) Legitimate aim

87. Having regard to the Government's submissions (see paragraph 68 above), the Court will proceed on the assumption that the contested measures sought to pursue the legitimate aims of preventing disorder and protecting territorial integrity, public safety and the rights of others.

(d) "Necessity in a democratic society"

(i) General principles

(α) Freedom of religion

88. 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. This freedom 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. That freedom entails, *inter alia*, freedom to hold or not to hold religious beliefs and to practise or not to practise a religion (see *Kokkinakis v. Greece*, 25 May 1993, § 31, Series A no. 260-A; *Leyla Şahin*, cited above, § 104; and *S.A.S. v. France* [GC], no. 43835/11, § 124, ECHR 2014 (extracts)).

89. While religious freedom is primarily a matter of individual conscience, it also implies 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. Article 9 lists the various forms which the manifestation of one's religion or beliefs may take, namely worship, teaching, practice and observance (see *Cha'are Shalom Ve Tsedek*, cited above, § 73; *Leyla Şahin*, cited above, § 105; and *S.A.S. v. France*, cited above, § 125).

90. In democratic societies, in which several religions coexist within one and the same population, it may be necessary to place limitations on freedom to manifest one's religion or beliefs in order to reconcile the interests of the various groups and ensure that everyone's beliefs are respected (see *Kokkinakis*, cited above, § 33, and *Leyla Şahin*, cited above, § 106). The Court has frequently emphasised that States have responsibility for ensuring, neutrally and impartially, the exercise of various religions, faiths and beliefs. Their role is to help maintain public order, religious harmony and tolerance in a democratic society, particularly between opposing groups. That concerns both relations between believers and

non-believers and relations between the adherents of various religions, faiths and beliefs (see *Lautsi and Others v. Italy* [GC], no. 30814/06, § 60, ECHR 2011 (extracts)). The Court has also stressed that the State's duty of neutrality and impartiality is incompatible with any power on the State's part to assess the legitimacy of religious beliefs or the ways in which those beliefs are expressed (see *S.A.S. v. France*, cited above, § 127, with further references). Accordingly, the role of the authorities in such circumstances is not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other (see *Serif v. Greece*, no. 38178/97, § 53, ECHR 1999-IX, and *Leyla Şahin*, cited above, § 107).

(β) Freedom of expression

91. The Court has consistently held that freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no "democratic society". As enshrined in Article 10, freedom of expression is subject to exceptions which must, however, be construed strictly, and the need for any restrictions must be established convincingly (see *Handyside v. the United Kingdom*, 7 December 1976, § 49, Series A no. 24; *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, § 101, ECHR 2012; and *Bédat v. Switzerland* [GC], no. 56925/08, § 48, ECHR 2016).

92. As paragraph 2 of Article 10 expressly recognises, the exercise of the freedom of expression carries with it duties and responsibilities. Amongst them, in the context of religious beliefs, is the general requirement to ensure the peaceful enjoyment of the rights guaranteed under Article 9 to the holders of such beliefs, including a duty to avoid as far as possible expressions that are gratuitously offensive to others and thus an infringement of their rights, and which therefore do not contribute to any form of public debate capable of furthering progress in human affairs (see *Otto-Preminger-Institut v. Austria*, 20 September 1994, § 49, Series A no. 295-A; *Wingrove*, cited above, § 52; *Murphy v. Ireland*, no. 44179/98, § 65, ECHR 2003-IX (extracts); *İ.A. v. Turkey*, no. 42571/98, § 24, ECHR 2005-VIII; *Giniewski v. France*, no. 64016/00, § 43, ECHR 2006-I; and *Sekmadienis Ltd. v. Lithuania*, no. 69317/14, § 74, 30 January 2018).

93. At the same time, the Court has also emphasised that those who choose to exercise the freedom to manifest their religion, irrespective of whether they do so as members of a religious majority or a minority, cannot reasonably expect to be exempt from all criticism. They must tolerate and accept the denial by others of their religious beliefs and even the

propagation by others of doctrines hostile to their faith (see *Otto-Preminger-Institut*, cited above, § 47; *İ.A. v. Turkey*, cited above, § 28; and *Sekmadienis Ltd.*, cited above, § 81). The State's responsibility to ensure the peaceful enjoyment of the right guaranteed under Article 9 may therefore be engaged only in extreme cases where the effect of particular methods of opposing or denying religious beliefs is such as to inhibit those who hold such beliefs from exercising their freedom to hold and express them (see *Otto-Preminger-Institut*, loc. cit.).

94. Thus, the Court has held that it may be considered necessary in certain democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance (including religious intolerance), provided that any "formalities", "conditions", "restrictions" or "penalties" imposed are proportionate to the legitimate aim pursued (see *Gündüz v. Turkey*, no. 35071/97, § 40, ECHR 2003-XI; *Nur Radyo Ve Televizyon Yayıncılığı A.Ş. v. Turkey*, no. 6587/03, § 28, 27 November 2007; and *Kutlular*, cited above, § 47). For example, it has been particularly sensitive towards sweeping statements attacking or casting in a negative light entire ethnic, religious or other groups, finding that such statements were in contradiction with the Convention's underlying values, notably tolerance, social peace and non-discrimination (see *Perinçek*, cited above, § 206), and the authorities cited therein). It has also stressed that statements expressing deep-seated and irrational hatred towards identified persons may be interpreted as likely to encourage violence (see, *mutatis mutandis*, *Dilipak v. Turkey*, no. 29680/05, § 62, 15 September 2015, with further references). Inciting hatred does not therefore necessarily involve an explicit call for an act of violence, or other criminal acts. Attacks on persons committed by insulting, holding up to ridicule or slandering specific groups of the population can be sufficient for the authorities to favour combating xenophobic or otherwise discriminatory speech in the face of freedom of expression exercised in an irresponsible manner (see *Dmitriyevskiy v. Russia*, no. 42168/06, § 99, 3 October 2017, with further references).

95. A certain margin of appreciation is generally available to the Contracting States when regulating freedom of expression in relation to matters liable to offend intimate personal convictions within the sphere of religion or to incite religious hatred or intolerance. There is no uniform European conception of the requirements of "the protection of the rights of others" in relation to attacks on religious convictions. What is likely to cause substantial offence to persons of a particular religious persuasion will vary significantly from time to time and from place to place, especially in an era characterised by an ever-growing array of faiths and denominations. By reason of their direct and continuous contact with the vital forces of their countries, State authorities are in principle in a better position than the international judge to give an opinion on the exact content of these

requirements with regard to the rights of others as well as on the "necessity" of a "restriction" intended to protect from such material those whose deepest feelings and convictions would be seriously offended (see *Otto-Preminger-Institut*, cited above, § 50; *Wingrove*, cited above, § 58; and *Murphy*, cited above, § 67).

96. The authorities' margin of appreciation, however, is not unlimited. It goes hand in hand with Convention supervision (see *Otto-Preminger-Institut*, cited above, § 50). It is for the European Court to give a final ruling on the restriction's compatibility with the Convention and it will do so by assessing in the circumstances of a particular case, *inter alia*, whether the interference corresponded to a "pressing social need" and whether it was "proportionate to the legitimate aim pursued". Indeed, such supervision can be considered to be all the more necessary given the rather open-ended notion of respect for the religious beliefs of others and the risks of excessive interference with freedom of expression under the guise of action taken against allegedly offensive material (see *Murphy*, cited above, § 68). Cases which involve prior restraint call for special scrutiny by the Court (see *Wingrove*, cited above, § 58).

97. The Court's task, in exercising its supervisory jurisdiction, is not to take the place of the competent national authorities but rather to review under Article 10 the decisions they delivered pursuant to their power of appreciation. This does not mean that the supervision is limited to ascertaining whether the respondent State exercised its discretion reasonably, carefully and in good faith; what the Court has to do is to 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 doing so, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 10 and, moreover, that they relied on an acceptable assessment of the relevant facts (see *Mouvement raëlien suisse v. Switzerland* [GC], no. 16354/06, § 48, ECHR 2012 (extracts); *Morice v. France* [GC], no. 29369/10, § 124, ECHR 2015; and *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina* [GC], no 17224/11, § 75, ECHR 2017).

98. It is normally not sufficient that the interference was imposed because its subject-matter fell within a particular category or was caught by a legal rule formulated in general terms; what is rather required is that it was necessary in the specific circumstances. The salient issue is therefore not the legal qualification given to the statements by the domestic courts, but whether those statements could, when read as a whole and in their context, be seen as a call for violence, hatred or intolerance (see *Perinçek*, cited above, §§ 240 and 275).

99. In its assessment of the interference with freedom of expression in cases concerning expressions alleged to encourage religious hatred or intolerance, the Court has to take into account a number of factors, which have been summarised in the case of *Perinçek* (cited above, §§ 205-08, with further references). The Court has to have regard, in particular, to the context in which the impugned statements were made, their nature and wording, their potential to lead to harmful consequences and the reasons adduced by the national courts to justify the interference in question. It is the interplay between the various factors rather than any of them taken in isolation that determines the outcome of a particular case (ibid.).

(ii) Application to the present case

100. The Court notes at the outset that the decision to declare Said Nursi's books extremist literature resulted in a ban on their publication and distribution and the consequent seizure of the undistributed copies (see paragraph 42 above). The Court will therefore examine whether such a serious measure as banning a book was compatible with freedom of expression (see *Editions Plon v. France*, no. 58148/00, § 53, ECHR 2004-IV).

101. The Court observes that Said Nursi is a well-known Turkish Muslim theologian and commentator of the Qur'an. Muslim authorities both in Russia and abroad, as well as Islamic studies scholars, all affirm that Said Nursi's texts belong to moderate mainstream Islam, advocate open and tolerant relationships and cooperation between religions, and oppose any use of violence (see paragraphs 11-13, 17 and 23 above). Said Nursi wrote his *Risale-I Nur* Collection in the first half of the 20th century. It has since been translated into about fifty languages and is available in many countries, both on paper and on the Internet. The above facts are relevant for the assessment of whether the interference was "necessary in a democratic society" (see *Akdaş v. Turkey*, no. 41056/04, § 29, 16 February 2010). It is also relevant that the editions of the Russian translation at issue in the present case first became available in Russia in 2000; it was not until 2007 that the collection was banned (see *Aydın Tatlav v. Turkey*, no. 50692/99, § 29, 2 May 2006).

102. It is noteworthy in this connection that although the books have been widely available in many countries for decades, including in Russia for at least seven years, the Government have not submitted any evidence that they have caused interreligious tensions or led to any harmful consequences, let alone violence, in Russia or elsewhere (see, for similar reasoning, *Öztürk v. Turkey* [GC], no. 22479/93, § 69, ECHR 1999-VI).

103. As regards the Government's argument that the States had a wide margin of appreciation in regulating interreligious relationships (see paragraph 68 above), the Court reiterates that a reference to the margin of appreciation afforded to the States to take account of their cultural,

historical and religious background is not enough to justify the denial of access to a universally available important religious text to the population of a single country (see, *mutatis mutandis*, *Akdaş,* cited above, § 30). It will therefore examine whether the domestic courts adduced relevant and sufficient reasons – relating in particular to the wording of the Russian editions at issue, the context in which they were published and their potential to lead to harmful consequences in Russia – to justify banning the books, which were widely available in many countries and had seemingly never before caused any interreligious tensions.

(α) Application no. 1413/08

104. The Court notes that in its judgment of 21 May 2007 declaring fourteen of Said Nursi's books "extremist", the Koptevskiy District Court found that they contained statements substantiating and justifying two types of activities listed in section 1 of the Suppression of Extremism Act: (i) incitement of religious discord; and (ii) propaganda about people's superiority or deficiency on the basis of their attitude to religion (see paragraph 25 above). It is important to note in this connection that the domestic law does not require any element of violence or incitement to violence for such an activity to constitute "extremist activity" (see §§ 31, 35 and 36 of the Opinion of the Venice Commission, paragraph 56 above).

105. The Court observes that the Koptevskiy District Court's judgment was based essentially on the expert reports of 15 February and 15 May 2007 by a panel of experts consisting of a philologist, a linguist psychologist, a social psychologist and a psychologist from the linguistics and psychology departments of the Russian Academy of Science (see paragraphs 16 and 20 above). Indeed, the District Court limited its analysis to summarising the applicable legal provisions, the parties' submissions and the conclusions of the expert reports. In the Court's view, the domestic court's decision in the applicants' case was deficient for the following reasons.

106. The Court notes that the District Court endorsed the experts' conclusions without making any meaningful assessment of them, stating simply that it had no reason to doubt them. The court did not so much as quote the relevant parts of the expert reports, referring only to their overall findings. Moreover, the relevant expert examinations went far beyond resolving merely language or psychology issues. Rather than restricting themselves to defining the meaning of particular words and expressions or explaining their potential psychological impact, they provided in essence a legal qualification of the texts. Indeed, it is evident from the judgment that it was not the court which made the crucial legal findings as to the extremist nature of the books, but the linguistics and psychology experts. The Court stresses that all legal matters must be resolved exclusively by the courts (see *Dmitriyevskiy,* cited above, § 113).

107. It is important to note in this connection that the Koptevskiy District Court made no attempt to conduct its own legal analysis of the texts in question, with the aid of expert technical knowledge where necessary. In particular, it did not specify which passages of the books it considered problematic and in what way they incited religious discord or proclaimed people's superiority or deficiency on the basis of their attitude to religion (see, for similar reasoning, *Kommersant Moldovy v. Moldova*, no. 41827/02, §§ 36-38, 9 January 2007; and compare and contrast *Soulas and Others v. France*, no. 15948/03, § 43, 10 July 2008). Although the court reiterated the experts' finding that the books contained expressions giving "humiliating depictions, an unfavourable assessment and a negative evaluation of persons on the basis of their attitude to religion", it did not quote any such expressions. Nor did it discuss the necessity of banning the books, having regard to the context in which they were published, their nature and wording, and their potential to lead to harmful consequences (see paragraph 99 above). Moreover, the District Court did not even mention, let alone discuss at any length, the effect of the ban on the applicants' rights under Articles and 9 and 10 of the Convention or its domestic-law equivalent (see, for similar reasoning, *Perinçek*, cited above, § 277).

108. It is also significant that the applicants were unable to contest the findings of the expert reports or to effectively put forward arguments in defence of their position. Indeed, the District Court summarily rejected all evidence submitted by them, including the opinions of Muslim authorities and Islamic studies scholars who explained the historical context in which the books had been written, their place in the body of Islamic religious literature, in particular the fact that they belonged to moderate rather than radical Islam, their importance for the Russian Muslim community and their general message of tolerance, interreligious cooperation and opposition to violence (see paragraphs 11-13, 17 and 23 above). Although the above facts were plainly relevant for the assessment of whether banning the books was justified, the Koptevskiy District Court did not make any meaningful analysis of that material, holding that it should be disregarded because the persons cited by the applicants were not linguists or psychologists and were therefore not competent to establish the meaning of the contested texts. The Court notes that it has previously found a violation of Article 10 of the Convention on account of a breach of equality of arms in freedom-of-expression cases, in particular in situations where the applicants had been hindered in adducing evidence in support of their position (see *Castells v. Spain*, 23 April 1992, § 48, Series A no. 236, and *Steel and Morris v. the United Kingdom*, no. 68416/01, § 95, ECHR 2005-II) or where the domestic courts had dismissed all the arguments in the applicant's defence in a summary manner, thereby stripping him of the procedural protection that he had been entitled to enjoy by virtue of his rights under

Article 10 of the Convention (see *Dmitriyevskiy*, cited above, § 116). It does not see any reason to reach a different conclusion in the present case.

109. Lastly, the Court takes note of the appellate court's observation that the ban concerned the specific editions of the *Risale-I Nur* Collection, rather than Said Nursi's teachings as such (see paragraph 26 above). However, the fact that the domestic courts did not indicate what passages they considered "extremist" makes it impossible for the applicants to re-publish the books after editing out the problematic passages. The domestic decisions therefore amounted to an absolute ban on publishing and distributing the books in question.

110. In view of the above considerations, the Court considers that the domestic courts did not apply standards which were in conformity with the principles embodied in Article 10 and did not therefore provide "relevant and sufficient" reasons for the interference.

111. There has therefore been a violation of Article 10 of the Convention.

(β) Application no. 28621/11

112. The Court notes that in its judgment of 21 September 2010 the Zhelezhnodorozhniy District Court declared the book "The Tenth Word: The Resurrection and the Hereafter" by Said Nursi "extremist", finding that it substantiated and justified two types of activities listed in section 1 of the Suppression of Extremism Act: (i) incitement of religious discord; and (ii) propaganda about the exceptional nature, superiority or deficiency of people on the basis of their attitude to religion (see paragraphs 35 to 38 above). It relied in this connection on the specialists' report of 24 December 2008 prepared by a philologist, a psychologist and a doctor of philosophy in religious studies from the Astafyev Krasnoyarsk State Pedagogical University (see paragraph 29 above).

113. The Court finds that that judgment suffered from essentially the same deficiencies as the judgment of 21 May 2007 by the Koptevskiy District Court examined above (see paragraphs 105 and 107 above). Indeed, although it quoted the specialists' report at some length rather than simply reproducing its conclusions, it still endorsed the specialists' findings – which also clearly went beyond resolving merely language or psychology issues and provided a legal qualification of the text instead – without making any meaningful assessment of those findings and without conducting its own legal analysis of the text in question. It is significant that the judge had not even read the book, finding that it had been sufficiently quoted in the specialists' report (see paragraph 34 above).

114. However, by contrast to the Koptevskiy District Court, the Zhelezhnodorozhniy District Court quoted several of the expressions which were considered "extremist" by the specialists and were accordingly declared as such by the court. Relying on the specialists' report, the District

Court noted, in particular, that Muslims were described in the book positively as "the faithful" and "the just", while everyone else was described negatively as "the dissolute", "the philosophers", "the idle talkers" and "little men". The book also proclaimed that not to be a Muslim was an "infinitely big crime". The District Court concluded from those expressions that the book treated non-Muslims as inferior to Muslims.

115. Although the Court accepts that some people might be offended by such statements, it reiterates that merely because a remark may be perceived as offensive or insulting by particular individuals or groups does not mean that it constitutes "hate speech". Whilst such sentiments are understandable, they alone cannot set the limits of freedom of expression (see, for a similar approach, *Vajnai v. Hungary*, no. 33629/06, § 57, ECHR 2008). The key issue in the present case is thus whether the statements in question, when read as a whole and in their context, could be seen as promoting violence, hatred or intolerance (see *Perinçek*, cited above, § 240).

116. The Court notes that the Zhelezhnodorozhniy District Court did not assess the statements in question in the light of the book as a whole; it quoted them out of their immediate textual context and failed to examine which idea they sought to impart. In particular, it did not take into account the fact that they were part of a religious text and that, according to the experts, such statements were common in religious texts because any monotheistic religion was "characterised by a psychologically based belief in the superiority of its world-view over all other world-views, which made it necessary to substantiate the choice of that world-view" (see paragraph 32 above), in particular by claiming that it was better than the others. The District Court found that observation irrelevant, noting that it "had not asked for a comparative study" (see paragraph 37 above).

117. The Court further reiterates that religious groups cannot reasonably expect to be exempt from all criticism; they must tolerate and accept the denial by others of their religious beliefs and even the propagation by others of doctrines hostile to their faith (see the general principles cited in paragraph 93 above). The same principle applies to non-religious ideologies, including atheism and agnosticism. Although the impugned statements clearly promoted the idea that it was better to be a Muslim than a non-Muslim, it is significant that they did not insult, hold up to ridicule or slander non-Muslims; nor did they use abusive terms in respect of them or of matters regarded as sacred by them (see, for a similar reasoning, *Aydın Tatlav*, cited above, § 28; *Nur Radyo Ve Televizyon Yayıncılığı A.Ş.*, cited above; and *Kutlular*, cited above, §§ 48 and 49; see also, by contrast, *İ.A. v. Turkey*, cited above, §§ 29 and 30; *Soulas and Others*, cited above, § 40; *Balsytė-Lideikienė v. Lithuania*, no. 72596/01, § 79, 4 November 2008; *Féret v. Belgium*, no. 15615/07, §§ 69 and 73, 16 July 2009; *Le Pen v. France* (dec.), no. 18788/09, 20 April 2010; and *Vejdeland and Others v. Sweden*, no. 1813/07, §§ 54 and 55, 9 February 2012).

118. Furthermore, there is no indication in the judgment that the District Court perceived those expressions as capable of leading to public disturbances. Neither the domestic courts nor the Government referred to any circumstances indicative of a sensitive background at the material time – such as existence of interreligious tensions or an atmosphere of hostility and hatred between religious communities in Russia – against which the impugned statements could risk unleashing violence, giving rise to serious interreligious frictions or leading to similar harmful consequences.

119. In view of the above, the Court considers that the above-mentioned statements were not shown to be capable of inciting violence, hatred or intolerance.

120. The Zhelezhnodorozhniy District Court did not specify any other passages in the book which it considered problematic. Although it endorsed the specialists' finding that military metaphors used in the text formed in the reader's mind the idea of an enemy and potential military actions, it did not quote any such metaphors, or analyse in which context they were mentioned. In the Court's opinion, the use of military metaphors in the text, in the absence of the other elements mentioned in paragraph 99 above, is insufficient to make that text amount to "hate speech" or calls to violence (compare *Moscow Branch of the Salvation Army v. Russia*, no. 72881/01, § 92, ECHR 2006-XI).

121. The District Court also mentioned the specialists' interpretation of the book as implying that non-Muslims had no rights and did not deserve forgiveness. It did not, however, quote any passages promoting such ideas; it has not therefore been shown that those ideas were indeed expressed in the book. The Court will therefore not examine them (see, for a similar reasoning, *Kommersant Moldovy*, cited above, §§ 36-38)

122. Lastly, the District Court endorsed the experts' finding that the book in question could influence the reader by making him adopt the author's religious ideology and that that was indeed the author's intention. The Court reiterates in this connection that freedom to manifest one's religion includes the right to try to convince one's neighbour, for example through "teaching", failing which "freedom to change [one's] religion or belief", enshrined in Article 9, would be likely to remain a dead letter (see *Kokkinakis*, cited above, § 31). It was never argued in the present case that the content of the book amounted to, or encouraged, improper proselytism, that is attempting to convert people through the use of violence, brainwashing or taking advantage of those in distress or in need (ibid., § 48). Nor was it claimed that the book advocated any activities going beyond promoting religious worship and observance in private life of the requirements of Islam, or sought to reorganise the functioning of society as a whole by imposing on everyone its religious symbols or conception of a society founded on religious precepts (see, for a similar reasoning, *Gündüz*, cited above, § 51, and compare and contrast *Kasymakhunov and Saybatalov*

v. Russia, nos. 26261/05 and 26377/06, § 112, 14 March 2013). The mere fact that the author's intention was to convince the readers to adopt his religious beliefs is insufficient, in the Court's view, to justify banning the book.

123. Having regard to the above considerations and its case-law on the subject, the Court finds that the domestic courts did not apply standards which were in conformity with the principles embodied in Article 10 and did not provide "relevant and sufficient" reasons for the interference. In particular, it is unable to discern any element in the domestic courts' analysis which would allow it to conclude that the book in question incited violence, religious hatred or intolerance, that the context in which it had been published was marked by heightened tensions or special social or historical background in Russia or that its circulation had led or could lead to harmful consequences. The Court concludes that it was not necessary, in a democratic society, to ban the book in question.

124. The Court therefore rejects the Government's preliminary objection under Article 17 and finds that there has been a violation of Article 10 of the Convention.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

125. Lastly, the Court has examined the other complaints submitted by the applicants in application no. 1413/08 and, having regard to all the material in its possession and in so far as the complaints fall within the Court's competence, it finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the applications must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

126. 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

127. Mr Ibragimov claimed 20,000 euros (EUR) in respect of non-pecuniary damage in connection with his complaints under Articles 9, 10 and 14 of the Convention.

128. The Government submitted that Mr Ibragimov's complaints under Article 14 had not been communicated; his claims in connection with that Article should therefore be dismissed. The remaining claims were excessive.

129. The Court awards Mr Ibragimov EUR 7,500 in respect of non-pecuniary damage.

130. The other two applicants did not submit a claim in respect of pecuniary or non-pecuniary damage. Accordingly, the Court considers that there is no call to award them any sum on that account.

B. Costs and expenses

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

C. Default interest

132. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Decides* to join to the merits the respondent Government's objection under Article 17 of the Convention in respect of application no. 28621/11, and *dismisses* it;

3. *Declares* the complaints concerning the ban on publishing and distributing Islamic books admissible and the remainder of application no. 1413/08 inadmissible;

4. *Holds* that there has been a violation of Article 10 of the Convention;

5. *Holds*

(a) that the respondent State is to pay Mr Ibragim Salekh Ogly Ibragimov, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 7,500 (seven thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into

the currency of the respondent State at the rate applicable at the date of settlement;

(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;

6. *Dismisses* the remainder of Mr Ibragimov's claim for just satisfaction.

Done in English, and notified in writing on 28 August 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips	Helena Jäderblom
Registrar	President

APPENDIX

No.	Application no.	Lodged on	Applicant	Date of birth	Place of residence/ registered address
1.	1413/08	03/12/2007	**Mr Ibragim Salekh Ogly IBRAGIMOV** **Cultural Educational Fund "Nuru Badi"** *(Культурно-образовательный фонд 'Нуру-Бади')*	03/01/1968	Moscow Moscow
2.	28621/11	04/04/2011	**United Religious Board of Muslims of the Krasnoyarsk Region** *(Единое Духовное Управление Мусульман Красноярского Края)*		Krasnoyarsk