

***Is access to justice open for Russian  
religious minorities? From Soviet  
past to the present time***

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# Structure:

- Subject matter (Analysis of Russian case law related to the problem of religious minorities);
- Historical background
- Legal perspectives (reflection on different levels of legal reality)

# Subject matter

The Ministry of Justice of the RF claims against:

- religious organizations of Jehovah's Witnesses in Russia;
- separate individuals, believers accused in extremist activities (Jehovah's Witnesses, scientologists) ;

# Historical background

Till now in Russia as elsewhere in Europe Jehovah's Witnesses had the lead in articulating freedoms of religious minorities from the 1993 Kokkinakis case until now. However, it should be noted that Jehovah's Witnesses (as all the others religious minorities in Russia) are constantly on the strict control of the supervisory bodies in all regions of Russia.

# Historical background

- Such an approach to religious organizations is typical for Russia since the Soviet times. In April 1951, 8500 believers of Jehovah's Witnesses (that is, practically all of them) were deprived of their homes, put into wagons and taken to Siberia for an “eternal settlement”. Such a situation was quite common for the Soviet epoch and could be explained by the anti-religious propaganda itself, thus, in the eyes of different Soviet leaders any religion was harmful, and the repressions were spread for all religions – no matter was it Christianity or any other.

# Historical background

Nowadays this tendency could be traced only in regard to other (non-Orthodox) religions, but mostly – to religious groups.

In regard to major religions (Islam, Buddhism, Judaism, Hinduism) we could notice only non-equal attention from the side of the State (ambiguous characteristic).

# Historical background

- all the attention in the mass media - to the Orthodox religion
- Orthodox propaganda is also quite strong

It is the country in which the biggest part of population is Orthodox (2013, Research of the Academy of Sciences: Orthodox – 74 %, non-religious believers – 9%, atheists – 7%, Moslems – 4%, others – 1%).

# Historical background

Throughout history Russia the Orthodox religion forms the important part of social and legal order. Each abuse of orthodox religion in Russia nowadays is strictly punished (more frequently – in terms of criminal law procedure), and it shows the existing tendency to confuse the abuse of religious feelings with the violation of social norms and social order.



# Legal perspectives

Legal spheres on which the situation gets reflection:

1. judicial procedure

2. judicial reasoning

3. changes on the institutional level

- *Expanding the task of formulating state policy*

- *Expanding juridical sphere to non-juridical relations*

# Legal perspectives

## 1. Judicial procedure

In public cases brought before the court by the prosecutor (in administrative or civil procedure) or criminal cases – the parties are unequal from the very beginning, because the party represented by the state authorities is always more powerful and has more procedural opportunities than individuals of private organizations. This feature becomes more strong in relation to minorities, because they have no support on the level of the society, they are not accepted by the public conscience, remain hostile and strange to the biggest part of the population.

# Legal perspectives

## 1. Judicial procedure

Each case of liquidating a religious minority is peculiar, but the analysis of the decision-making practice allows us trace two special trends:

- In cases of small non-influential religious groups (Slavic, profane etc) the latters usually conceived as sects, and there appears and anxiety of their destructive effect on the society.
- In cases of relatively big groups (Scientists, Jehovah's Witnesses) the latters seem as a threat to the major religion and to the public order.

# Legal perspectives

## 2. Judicial reasoning

A big room is left to value judgements. Although, judicial reasoning appeals mostly to the so-called values of “the classical subject” (or “centered”, mythical subject – if we use the term of postmodern philosophy – for ex., average heterosexual white man, representative of dominant political and religious groups). While in the Western countries this classical reasoning is getting replaced step by step by the post-classical rhetoric – a way of reasoning about values of the “de-centered” subject, i.e. the real individual (and after – a minority) with his/her peculiar character, preferences, and special legal guarantees for them.

# Legal perspectives

## **3. Changes on the institutional level**

*Expanding the task of formulating state policy*

Courts are independent state bodies and their task is administering justice. The main task of the court is administering justice in a concrete case and defending rights of a concrete individual. So in the questions of public interests - it is not the judge but the legislator who must take care of it.

# Legal perspectives

## **3. Changes on the institutional level**

*Expanding juridical/judicial sphere to non-juridical/judicial relations (juridification/judicialization)*

- *An increasing reliance upon judicial activities in deciding religious matters*
- *Expansion of a legal definition of “religious freedom”*

Thank you for your attention!