

The Third Section of the European Court of Human Rights (ECHR), with a judgement of November 23rd 2021, ruled against Russia for a violation of art. 9 and 11 of the European Convention on Human Rights which respectively guarantee the freedom of thought, conscience and religion and the freedom of assembly and association.

The first applicant, the Centre of Societies for Krishna Consciousness in Russia (a centralised religious organisation established under Russian law), complained about the State authorities' failure to suppress hostile speech targeting the Krishna movement, resulting from the "anti-cult project" of Ulyanovsk State authorities and the brochure "Watch out for cults!" published by them. The second applicant, a follower of Vaishnavism, alleged a violation of his right to freedom of religion and assembly caused by the ban imposed on him by the Moscow authorities from holding public religious meetings promoting the teachings of Vaishnavism. The proceedings brought by the applicants before the domestic courts were unsuccessful. With regard to the applicant center's complaints, it emerged that the publication by the regional authorities had represented it as a money-greedy "totalitarian cult" "destructive" for Russian society and had accused it of "psychological manipulation" and "zombification" of the youth. It had been distributed to educators for further dissemination among their students and had been made available for download from the regional Government's website. The European Court, first of all, reaffirmed that the principle of freedom of thought, conscience and religion (art. 9 of the ECHR) is one of the foundations of a "democratic society" within the meaning of the Convention. In its religious dimension, it is one of the most vital elements that make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, skeptics and disinterested people. Indeed, the indissociable pluralism of a democratic society depends on it. In the present case, Strasbourg judges found an interference with the applicant center's right to freedom of religion. This interference, although "prescribed by law" and in line with the legitimate aims of the protection of public safety and the rights of others, was certainly not "necessary in a democratic society": in the Court's point of view, the regional authorities had not taken into account the "need to reconcile the interests of various religious groups and to ensure that everyone's beliefs had been respected" at any time before or during the "anti-cult" campaign. Rather it appeared that the exclusion of new or minority religious movements had been embedded in the set-up of the project from its inception. The publication had painted a starkly negative picture of new religious movements, including the Krishna movement, and had used emotionally charged and derogatory terms for describing its teachings. This did not suggest that any consideration had been given to the State's duty to abstain from assessing the legitimacy of religious beliefs or the ways in which those beliefs were expressed. Further, the allegations against the applicant center's beliefs had been unsubstantiated. Indeed, it was particularly striking that the regional State authorities had considered themselves at liberty of casting aspersions on the religion of the applicant center which was an officially registered and lawfully operating religious organisation. Therefore, the ECHR found that, using derogatory language and unsubstantiated accusations to describe the applicant center's religious beliefs and the ways in which they are expressed, the Russian authorities have exceeded their margin of appreciation on the matter, thus violating art. 9 of the Convention.

The Moscow authorities' rejection of the second applicant's notifications of a public religious event constituted an interference not "necessary in a democratic society" with his right to freedom of assembly under art. 11, interpreted in the light of art. 9. The grounds for that rejection had, however, been unforeseeable and not "prescribed by law". The authorities had held that the planned event could not proceed because missionary activities – which the promotion of Vaishnavism was taken to be – were inconsistent with the purposes of a public event as defined in the Public Events Act and also incompatible with the respect for the religious beliefs of others. They did not have any objections to the planned events being held at a specific location or time, but rather to their religious nature. This conduct was in contrast with the provisions of the Public Events Act which did not contain a list of permissible purposes or a requirement that a public event should pursue only permissible purposes. Moreover, the applicant, who filed identical notifications to another Russian region, did not receive any ban on holding the meeting: according to the ECHR, this demonstrated the arbitrariness of the decision of the Moscow authorities, in violation of his right of assembly.

Riferimenti Normativi:

- art. 9 Convenzione Europea dei Diritti dell'Uomo
- art. 11 Convenzione Europea dei Diritti dell'Uomo