



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

THIRD SECTION

CASE OF SAVENKO AND OTHERS v. RUSSIA

(Application no. 13918/06)

JUDGMENT

Art 11 • Freedom of association • Disproportionate dissolution of “National Bolshevik Party” (NBP) association • Insufficiently justified refusal by authorities to register the NBP political party

STRASBOURG

14 September 2021

FINAL

17/01/2022

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Savenko and Others v. Russia,

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

Paul Lemmens, *President*,

Dmitry Dedov,

Georges Ravarani,

María Elósegui,

Darian Pavli,

Anja Seibert-Fohr,

Andreas Zünd, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the application (no. 13918/06) 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 five Russian nationals, listed in the Appendix (“the applicants”), on 15 February 2006;

the decision to give notice to the Russian Government (“the Government”) of the complaints concerning: (i) quashing the judgment of 16 August 2005 by way of supervisory review; (ii) dissolution of the applicants’ association; and (iii) refusal to register the applicants’ political party;

the parties’ observations;

Having deliberated in private on 25 May 2021 and 6 July 2021,

Delivers the following judgment, which was adopted on the last-mentioned date:

INTRODUCTION

1. The case mainly concerns the dissolution of inter-regional public association “National Bolshevik Party” and the authorities’ refusal to register political party “National Bolshevik Party”.

THE FACTS

2. The applicants were initially represented by Mr V. Varivoda and Mr D. Sirozhidinov, lawyers practising respectively in Moscow and the Moscow Region. Mr E. Savenko and Mr A. Averin were later represented by Mr D. Agranovskiy, a lawyer practicing in Moscow.

3. The Russian Government (“the Government”) were initially represented by Ms V. Milinchuk, the Representative of the Russian Federation to the European Court of Human Rights, then by her subsequent successors in that office, Mr M. Galperin, and Mr M. Vinogradov.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

I. BACKGROUND

5. The applicants were members of the executive managing body of the inter-regional public association “National Bolshevik Party” (*межрегиональная общественная организация «Национал-Большевистская Партия»*) (“the NBP association”) which had been registered on 8 September 1993 by the Moscow Regional Department of the Ministry of Justice. Mr Savenko was the chairman of the association. The NBP association was re-registered as a public association on 23 January 1997. Its articles of association mentioned that the NBP association could participate in elections by nominating candidates and arranging their election campaigns.

6. In 2001 the Moscow Regional Department of the Ministry of Justice lodged a court claim against the NBP association seeking it to be struck out from the list of legal entities on the grounds that it had ceased its activity. They referred to the inspection record of 5 July 2001 which had established that the association was absent at the address of its registration.

7. On 27 September 2001 the Moscow Regional Court dismissed the claim. It found that the NBP association had been functioning. It followed from their applications for registration of various changes in their documents lodged with the authorities between 1998 and 2000, and from evidence demonstrating significant increase in the number of its regional branches. By the time they had covered more than forty-five regions of Russia. The court also noted that although the association had not submitted reports on its annual activity, it had submitted various applications to the Russian Ministry of Justice. Those applications contained information relevant for annual reports.

II. DISSOLUTION OF THE NBP ASSOCIATION

A. Warning to the NBP association

8. On 14 July 2003, following entry into force of amendments to the Public Association Act (see paragraph 37 below), the Moscow Regional Justice Department issued a warning to the NBP association, having determined that the use of the word “party” in its name was in breach of section 28 of the Public Associations Act and section 6 of the Political Parties Act (see paragraphs 37 and 41 below). Furthermore, it was not permitted for the articles of associations to provide for participation in elections through nomination of candidates and electoral campaigning, that

being the right reserved to political parties. The Justice Department required the NBP association to rectify the shortcomings within one month.

B. The first attempt to rectify the shortcomings

9. On 2 August 2003 the general congress of the NBP amended the articles of association. The word “party” in the association’s name was replaced with the word “order” (“*porjadok*” in Russian), so the change did not affect the abbreviated name. The reference to participation in elections was removed. The applicants submitted the amended text for State registration to the Moscow Regional Justice Department in August 2003.

10. On 16 September 2003 the Moscow Regional Justice Department refused registration of the amended text, citing the absence of a document confirming the *de facto* presence of the management body at the declared address. According to the authority’s inspection visit, there had been no NBP’s office at that address (see paragraph 8 above).

C. Suspension order

11. In the meantime, on 14 August 2003 the Moscow Regional Justice Department decided to suspend the activities of the NBP association for six months on account of its repeated failure to submit annual activity reports or to bring its articles of associations into conformity with the law. On 3 September 2003 the Zyuzinskiy District Court of Moscow rejected the appeal against that decision.

D. The second and third attempts to rectify the shortcomings

12. At a general congress held on 20 April 2004 the NBP association made again the same amendments to the articles of associations which were submitted for registration on 15 June 2004.

13. On 14 July 2004 the Moscow Regional Justice Department again refused registration of the amendments. This refusal was founded on a typing error in the date of two – out of eighteen – minutes of regional conferences. The applicants unsuccessfully contested the second refusal before the Zyuzinskiy District Court.

14. On 7 June 2005 the NBP association re-submitted the amended articles of association for State registration. From the information in the Court’s possession it appears that no decision had been taken in respect of that application.

E. Application for dissolution of the NBP association

1. The first round of the proceedings

15. On 13 February 2004 the first deputy prosecutor of the Moscow Region lodged with the Moscow Regional Court an application for dissolution of the NBP association. He claimed that from 1998 to 2001 the NBP association had not submitted annual activity reports to the Moscow Regional Justice Department and that it had unlawfully used the word “party” in its name. Those facts amounted to repetitive and gross breaches of Russian law.

16. On 29 June 2005 the Moscow Regional Court granted the prosecutor’s application for dissolution of the NBP association. The Regional Court found that the association had repeatedly and grossly violated federal law.

17. In particular, it failed to submit annual activity reports from July 1998 when the amended version of the articles of association had been last registered to August 2003 when its functioning had been suspended. In so far as the applicants claimed that activity reports had been submitted either directly to the Ministry of Justice or the Moscow Regional Tax Department, the Regional Court pointed out that by law, these bodies were not the intended recipients of the reports.

18. Furthermore, the NBP association had failed to make good the breaches of the law – namely the unlawful use of the word “party” in its name and intention to participate in elections – which had already led to the decision on suspension of its activities in 2003. In the Regional Court’s view, that failure amounted to a gross violation of the law because there existed an explicit legal prohibition on the use of the word “party” by a public association. The fact that the NBP association had unsuccessfully sought registration of the amended text, was of no legal significance. The Regional Court held to dissolve the NBP association and to terminate its legal-entity status by striking it out of the Unified State Register of Legal Entities.

19. The applicants challenged the above decision before the Supreme Court of Russia.

20. On 16 August 2005 the Supreme Court of Russia granted the challenge. It stated that the NBP association had not committed any violations which, according to section 44 of the Public Association Act (see paragraph 40 below) could result in its liquidation. It held that a failure to submit annual reports was not, in itself, a ground for dissolution of a public association. That failure only furnished the registration authority with the right to seek a court declaration that the association had ceased its activities and that its legal-entity status had expired. No such claim had been filed by the Moscow Regional Justice Department against the NBP association. As regards the failure to bring the articles of associations into conformity with

the legal requirements, the Supreme Court found no evidence that the NBP association or its management acted illegally, refusing to make such amendments. On 2 August 2003 and 20 April 2004 two congresses ratified the amended version of the articles of association. In the Supreme Court's view, the two applications for registration were dismissed for "shortcomings of minor importance". The third request had not yet been examined. The absence of registration therefore did not amount to a gross violation of the law. The Supreme Court quashed the Moscow Regional Court's judgment of 29 June 2005 and dismissed the prosecutor's application.

2. The second round of the proceedings

21. On 26 August 2005 a deputy prosecutor general introduced an application for supervisory review of the judgment of 16 August 2005. He claimed, in particular, that a breach of the law would only be made good after the association had obtained State registration of the amended articles of association. The failure to secure registration of the amended version had been entirely imputable to the NBP association who had not complied with formal requirements. He also submitted that the management and members of the NBP association had repeatedly committed crimes and administrative offences of an extremist nature, whereas Mr Savenko had not formally and publicly dissociated himself from those acts.

22. On 21 September 2005 a judge of the Supreme Court of Russia found that "the prosecutor's arguments worth consideration" and decided to reopen the proceedings by way of supervisory review.

23. On 5 October 2005 the Presidium of the Supreme Court of the Russian Federation granted the prosecutor's application and quashed the judgment of 16 August 2005, remitting the matter for a new appeal hearing.

24. On 15 November 2005 the Supreme Court of Russia gave a new appeal judgment, upholding the Regional Court's judgment of 29 June 2005 in its entirety and endorsing its reasoning based on section 44 of the Public Associations Act. According to the court, the dissolution was a legal consequence of the repeated and gross violations of the federal laws imposing on a public association an obligation to submit annual activity reports and banning the use of word "party" in the name of the associations which were not political parties. The judgment entered into legal force and on an unspecified date thereafter the NBP association was struck off the register of legal entities.

III. REFUSAL TO REGISTER THE NBP POLITICAL PARTY

25. On 29 November 2004 the applicants and other persons, in total 171 delegates from 57 Russian regions, held a founding congress of the political party "National Bolshevik Party" (*политическая партия «Национал-Большевистская Партия»*, "the NBP party"). The congress

decided to establish the NBP political party, adopted its articles of association and programme, elected fifteen members of the Political Council and the audit commission, and delegated the power to apply for State registration to the second and fifth applicants. Mr Savenko was elected president, Mr Dmitriyev and Mr Fomchenkov were elected members of the Political Council.

26. The programme of the NBP party read as follows:

“The principal aim of the National Bolsheviks Party is the transformation of Russia into a modern powerful State respected by other countries and peoples and loved by its own citizens. To that purpose it is now necessary:

1. Let civil society freely develop in Russia. Limit the interference by the State with the public and private life of citizens ...
2. Simplify registration of political parties or even abolish it. It should be sufficient to require a party to collect 200,000 signatures for participation in the elections ...
3. Stop interference with functioning of independent media. Allow the television to criticise the actions by the Russian President and other high-ranking officials.
4. Ensure public control over law-enforcement authorities ...
5. Re-instate social benefits for a majority of the people ...
6. Abolish privileges for State officials ...
7. The cause of terrorist attacks on Russian cities is the Chechen war, and not some mythical ‘international terrorism’. The Chechen problem must be resolved in a fair and straightforward manner with the participation of all parties ...
8. Focus the foreign policy on the protection of rights of ethnically Russian (*русскоязычного*) and Russian-speaking population in those countries of the CIS and Baltics where their rights are being violated (Latvia, Estonia, Turkmenistan, etc.) Use all the legitimate means to that end, even economic sanctions and severance of diplomatic ties.”

27. On 19 January 2006 the Federal Registration Service of the Ministry of Justice refused the application for registration of the NBP party on the following grounds:

“[1]¹ Documents required for State registration of a political party have not been submitted; the information in certain submitted documents does not meet the legal requirements.

[2] In breach of section 23 § 3 of the Political Parties Act prohibiting Russian citizens from being members of a political party until the age of 18, the Astrakhan and Tula regional branches have members younger than 18.

[3] Regional conferences held to elect the managing bodies and audit commission of regional branches were not quorate. The submitted documents do not contain information on the electoral quotient or how delegates had been elected or whom they had represented (in the Altay region, Samara region and others).

¹ Paragraphs are not numbered in the original document; numbering has been added by the Court for the ease of referencing.

[4] Persons who were present at regional conferences and voted for management and audit bodies of regional branches were not party members.

[5] The founding congress of the political party was not quorate. In reality, only seventy persons were in attendance.

[6] The programme of the political party contains indications of ethnic affiliation because one of the aims is the protection of rights of ethnically Russian and Russian-speaking population. This is in breach of section 9 of the Political Parties Act.

[7] Besides, the following documents required by section 5 § 1 of the Legal Entities Registration Act have not been submitted: the list of persons who have authority to act on behalf of the party, the information on economic activities.”

28. The applicants contested the refusal before the Taganskiy District Court of Moscow. They pointed out that the set of documents had been submitted in compliance with the exhaustive list in section 16 of the Political Parties Act (point 1 above). The list of persons who may act on behalf of the NBP party and the information on economic activities were incorporated in the articles of association (point 7 above). The allegations that regional conferences had not been quorate or included non-members or that certain members had been below 18 years of age (points 2, 3, 4 and 5 above) were unspecific and untrue. The Registration Service had not identified the persons involved, or referred to any concrete information on which such allegations had been based. Finally, as regards the alleged ethnic affiliation of the NBP party (point 6 above), the applicants drew a distinction between the protection of violated rights advocated in the programme and the protection of ethnic interests prohibited under section 9 of the Political Parties Act.

29. In their written observations on the applicants’ claim, the Registration Service put forward more detailed information on certain grounds for their refusal. They named three party members in regional branches who had not attained the age of eighteen. Relying on a report compiled by a representative of the Registration Service Mr T. who had attended the founding congress of the NBP party, they maintained that the congress had not been quorate as only seventy persons had been in attendance. Finally, they claimed that the information on the electoral quotient and procedure for nomination of delegates to regional conference was lacking in all minutes of regional conferences, making determination of regional membership impossible.

30. The applicants unsuccessfully asked the District Court to obtain attendance and examination of Mr T. It is not clear on what ground their request was refused.

31. On 13 April 2006 the Taganskiy District Court dismissed the applicants’ claim. It found that, in refusing registration of the NBP party, the Federal Registration Service had lawfully acted within its competence. The District Court endorsed some of the grounds for refusal advanced by

the Registration Service. It found that the applicants had not submitted the list of persons authorised to act on behalf of the party and the information on economic activities (point 7 above), that the party programme contained indications of ethnic affiliation, because the aim of the party was the protection of right of ethnically Russian population and Russian-speaking population (point 6 above), and that regional conferences had not been quorate (point 3 above).

32. In addition, the District Court advanced two new grounds for refusing registration. It noted that (i) the applicants had failed to produce documents confirming the party membership of the persons who had voted for the management and audit bodies; and that (ii) the party's articles of association did not describe in sufficient detail the procedure for nomination, election and discharge of elected party officials, or set a time-limit for holding general congresses. In the District Court's view, "the lack of clarity of the articles of associations and the existing contradictions may lead to controversies and difficulties in its application". Overall, the District Court concluded that the claim was ill-founded, because the impugned measure had not breached the rights and freedoms of the claimants enshrined by the domestic law and Article 11 of the Convention.

33. On the day of the District Court hearing, fifteen members of the NBP came to the court's building and participated in a scuffle. At least one of the NBP members was arrested thereafter and charged with participation in mass disorders, involving the use of gas guns, assault and battery (see *Popkov v. Russia*, no. 32327/06, § 11, 15 May 2008).

34. The applicants appealed against the judgment of the Taganskiy District Court of 13 April 2006 to the Moscow City Court. The latter upheld the judgment of 13 April 2006 on 15 June 2006, endorsing in a summary fashion the findings of the District Court.

IV. FURTHER DEVELOPMENTS

35. On 19 April 2007 the Moscow City Court at the request of the Moscow City prosecutor declared that the NBP association was "an extremist organisation" with the effect that any activity aimed at the resumption or restoration of the NBP's association functioning amounted to a criminal offence. The Moscow City Court referred to the crimes of incitement to hatred committed by an organised group, calls to mass disorder, calls to acts of extremism, and acts of extremism committed in 2005-2006, as well as an incident of forced entry into the building of the legislative authority in St. Petersburg during its session on 22 November 2006 and a violent disruption of voting during the elections of 11 March 2007. The court noted that despite the formal dissolution of the NBP association, it continued its activity illegally and that Mr Savenko had publicly acknowledged that fact in his interviews to Russian newspapers.

Relying on the materials of criminal investigations, the court established that the acts of extremism in question had been linked to the NBP's activity. Mr Savenko had not publicly condemned those acts or alleged that the NBP had not been involved therein.

36. On 17 March 2020 Mr Savenko died. On 8 February 2021 Ms Yekaterina Volkova, who was the wife of Mr Savenko from 2006 to 2008, expressed her wish and the wish of their common children with Mr Savenko (Mr Bogdan Savenko born in 2006 and Ms Aleksandra Savenko born in 2008) to pursue the proceedings before the Court in Mr Savenko's stead.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. THE PUBLIC ASSOCIATIONS ACT (NO. 82-FZ OF 19 MAY 1995)

37. According to Federal Law no. 26-FZ of 12 March 2002, which introduced amendments to section 28 of the Public Association Act, public associations, except for political parties, may not use in their names the words "political", "party" and their derivatives. The amendments entered into legal force on 14 July 2003.

38. According to section 29 of the Act, public associations must submit to the registration authority, on an annual basis, a report on continuation of its activities, mentioning the current address of the standing management body, its name and information on its management.

39. Section 42 of the Act provides that if a public association breaches the Constitution, federal constitutional laws, federal laws or other regulations, a competent registration authority or a prosecutor may require rectifying the violations and set out a time-limit for that. If the public association fails to do so within that time-limit, its activity may be suspended for up to six-months.

40. According to section 44, a public association may be dissolved by a judicial decision on an application by a prosecutor if it has (i) breached rights and freedoms of a man and a citizen; or (ii) repeatedly or grossly violated the Constitution, federal constitutional laws, federal laws or other regulations, or systematically engaged in activities contrary to the aims listed in its articles of association. Dissolution of a public association entails a ban on its activities.

II. THE POLITICAL PARTIES ACT (NO. 95-FZ OF 11 JULY 2001)

41. Public associations that are not political parties may not use the word "party" in their names (section 6 § 6).

42. Establishment of political parties based on professional, racial, ethnic or religious affiliation is not allowed. The terms 'professional, racial,

ethnic or religious affiliation' are to be interpreted as inclusion in the articles of association and programme of the political party of the aims of protection of professional, racial, ethnic or religious interests, as well as reference to those aims in the name of the political party (section 9 § 3).

43. Section 16 § 1 contains an exhaustive list of documents to be submitted for State registration of a political party established by the founding congress. Paragraph 2 of the section prohibits State officials from requiring submission of any other documents.

44. According to section 20, the competent authority may refuse to register a political party if: (i) the party's articles of association run counter to the requirements of domestic law; (ii) the party's name and (or) its symbols run counter to the requirements of the Act; (iii) the party failed to submit the documents required by the law for its registration; (iv) the registration authority established that the content of the documents submitted did not comply with the requirements of domestic law; and if (v) the party failed to comply with the time-limits provided for by the Act.

45. The above section states that the refusal to register a political party does not prevent it from applying for registration again, after rectification of the shortcomings indicated by the registration authority.

46. A political party is the only kind of a public association that may nominate candidates in elections to State bodies (section 36 § 1).

III. THE RUSSIAN CODE OF ADMINISTRATIVE OFFENCES (No. 195-FZ OF 30 DECEMBER 2001)

47. The Code of Administrative Offences provides for administrative liability for a failure to comply with a lawful order to rectify violations of domestic law (Article 19.5) or for failure to submit required information to state body (Article 19.7). Those administrative offences are punishable by fines imposed on legal entities or its officials.

IV. THE CONSTITUTIONAL COURT'S RULING (No. 18-P OF 15 DECEMBER 2004)

48. On 15 December 2004 the Russian Constitutional Court examined the issue as to whether section 9 § 3 of the Political Parties Act (see paragraph 42 above) was compatible with the Russian Constitution. In the relevant part the ruling reads as follows:

"The principles of pluralist democracy, a multi-party system and a secular state that form the constitutional basis of the Russian Federation – in so far as they apply to legal regulation of the establishment and functioning of political parties, including conditions for their registration – may not be interpreted or implemented without regard to the particular features of Russia's historic development, the ethnic and religious structure of Russian society and the specific character of interaction between the State, political power, ethnic groups and religious denominations.

... The principle of a secular state cannot be applied in the Russian Federation in the same way as in those countries that have a single-faith and single-nation social structure and boast a well-developed tradition of religious tolerance and pluralism. In particular, some of those countries have permitted the establishment of political parties based on Christian democratic ideology; in these cases, the term ‘Christian’ has moved beyond denominational confines and designates affinity with the European system of values and culture.

In multinational and multi-denominational Russia, owing to the specific *modus operandi* of leading faiths ..., their influence on public life and their invocation in political rhetoric (which has historically been linked to the ethnic question), public consciousness is more likely to identify the terms ‘Christian’, ‘Orthodox’, ‘Muslim’, ‘Russian’, ‘Tatar’, etc. with specific denominations or ethnic groups, rather than with a system of values common to the Russian (*rossiyskiy*) people in its entirety.

Furthermore, contemporary Russian society, including political parties and religious associations, has not yet acquired substantial experience of democratic co-existence. In these circumstances, parties based on ethnic or religious affiliation would inevitably strive to assert principally the rights of their respective ethnic and religious communities. Competition among parties based on ethnic or religious affiliation ... could lead to stratification of the multinational people of Russia instead of the consolidation of society, to the opposition of ethnic and religious values, exaltation of some and belittlement of others and, ultimately, to attributing predominant importance not to those values which are common to the entire nation but to those restricted to one ethnic ideology or religion, a result of which would be contrary to the Russian Constitution (Articles 13 and 14).

The establishment of parties based on religious affiliation would open the door to the politicisation of religion and religious associations, political fundamentalism and the clericalisation of parties ... The establishment of parties based on ethnic affiliation could lead to a situation where representatives of parties advocating the interests of large ethnic groups - to the detriment of those of small ethnic groups -, would predominate in elected governing bodies; a situation which would violate the principle of equal rights irrespective of ethnic origin, established in the Russian Constitution (Article 6 § 2, Article 13 § 4, Article 19 § 2).

Thus, the constitutional principle of a democratic and secular state, as applied in the particular social and historic context existing in the Russian Federation as a multinational and multi-denominational country, does not allow political parties to be established on the basis of ethnic or religious affiliation.

For those reasons, in the face of unrelenting inter-ethnic and interdenominational tension and the ever-growing political demands of modern-day religious fundamentalism, when any religion-based distinction, once brought into the sphere of politics (and therefore, into the struggle for power), may acquire an ethnic dimension and lead to a division of society along ethnic and religious lines (a division, in particular, into Slavic-Christian and Turko-Muslim elements), the introduction into the Political Parties Act of a ban on the establishment of political parties based on ethnic or religious affiliation is compatible with the authentic meaning of Articles 13 and 14 of the Russian Constitution read together with its Articles 19 §§ 1 and 2, 28 and 29 ...”

THE LAW

I. *LOCUS STANDI*

49. The Court observes that after Mr Savenko's death his former wife acting on her behalf and on behalf of their common children, who were minors, wished to pursue the proceedings before the Court instead of Mr Savenko (see paragraph 36 above).

50. The Government submitted that the individuals purporting to pursue the proceedings did not have *locus standi*, because they had failed to provide the Court with documents showing that they had accepted Mr Savenko's succession. Moreover, they had not been the parties to the domestic proceedings related to Mr Savenko's complaints or members of the NBP. The striking out of the relevant part of the application would not prevent the Court from examining the legal issues raised by Mr Savenko, as it may continue the examination of the similar complaints raised by other applicants.

51. The Court reiterates that in a number of cases in which an applicant had died in the course of the proceedings it has taken into account the statements of the applicant's heirs or of close family members expressing the wish to pursue the proceedings before the Court.

52. The Court reiterates that in determining this matter the decisive point is not whether the rights in question are transferable to the heirs wishing to pursue the procedure, but whether the heirs or the next of kin can in principle claim a legitimate interest in requesting the Court to deal with the case on the basis of the applicant's wish to exercise his or her individual and personal right to lodge an application with the Court (see *Ergezen v. Turkey*, no. 73359/10, § 29, 8 April 2014; *Barakhoyev v. Russia*, no. 8516/08, §§ 22-23, 17 January 2017; *Ksenz and Others v. Russia*, nos. 45044/06 and 5 others, §§ 87 and 117, 12 December 2017; and *Karastelev and Others v. Russia*, no. 16435/10, § 51, 6 October 2020). Also, human rights cases before the Court generally have a moral dimension and persons near to an applicant may thus have a legitimate interest in ensuring that justice is done, even after the applicant's death (*ibid.*). In cases involving complaints under Article 11 of the Convention the Court acknowledged *locus standi* of the applicants' close relatives wishing to pursue the proceedings before it instead of the deceased applicants (see *Szerdahelyi v. Hungary*, no. 30385/07, §§ 19-22, 17 January 2012; *Karpyuk and Others v. Ukraine*, nos. 30582/04 and 32152/04, § 90, 6 October 2015; *Tuskia and Others v. Georgia*, no. 14237/07, §§ 48-50, 11 October 2018; *Ryabinina and Others v. Russia* [Committee], no. 50271/06 and 8 Others, §§ 8-11, 2 July 2019; and *Dubrovina and Others v. Russia* [Committee], no. 31333/07, §§ 21-24, 25 February 2020).

53. The Court is satisfied that Mr Savenko's children have a legitimate interest in ensuring that the application is pursued on behalf of the deceased applicant. It has no reason to doubt that they were in a sufficiently close relationship. However, the materials in the Court's possession do not provide it with an opportunity to conclude so in respect of Mr Savenko's former wife, given the relatively short marriage which had come to an end twelve years before Mr Savenko's death and the lack of evidence of their close contact after the divorce. Thus, the Court concludes that Ms A. Savenko and Mr B. Savenko have standing to pursue their late father's complaints before the Court, and that Ms Ye. Volkova does not have that standing.

II. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION ON ACCOUNT OF THE DISSOLUTION OF THE NBP ASSOCIATION

54. The applicants complained that the dissolution of the NBP association was not necessary in a democratic society and was disproportionate to the alleged breaches of the law. They relied on Article 11, which, in the relevant part reads as follows:

“1. Everyone has the right to ... freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others ...”

A. Admissibility

1. *The parties' submissions*

55. The Government claimed that the dissolution of the NBP association was a lawful measure taken within its margin of appreciation. It was a result of the repetitive breaches of reasonable requirements of domestic law, which the NBP association had failed to rectify within six-months' time-limit granted for that purpose by the authorities. The Government also pointed out that several members of that association, including Mr A. Averin had been convicted of various criminal offences, such as vandalism and hooliganism. The extremist activity of the NBP had no bearing on the proceedings which are in question in the present case.

56. The applicants alleged that the dissolution was neither lawful nor “necessary in a democratic society”. They had acted in good faith to comply with the requirements of domestic legislation. They had applied for registration of the amendments for three times, but the authorities dismissed

their applications for no good reason. Their alleged failure to submit annual reports had already been assessed by the domestic courts in separate proceedings (see paragraph 7 above). Owing to the principle of *res judicata* it could not be considered as a serious violation.

2. *The Court's assessment*

57. Decisions by the authorities to refuse to register, or to dissolve a group have been found to affect directly both the group itself and also its presidents, founders or individual members (see *Jehovah's Witnesses of Moscow and Others v. Russia*, no. 302/02, § 101, 10 June 2010, with further references; see also *Islam-Ittihad Association and Others v. Azerbaijan*, no. 5548/05, § 58, 13 November 2014, and *Zhdanov and Others v. Russia*, nos. 12200/08 and 2 others, § 116, 16 July 2019). The applicants may therefore claim to be victims of the alleged violation. Moreover, the complaint at hand is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

58. The parties maintained their submissions summarised in paragraphs 55-56 above.

2. *The Court's assessment*

(a) **General principles**

59. The right to form an association is an inherent part of the right set forth in Article 11. Citizens should be able to form a legal entity in order to act collectively in a field of mutual interest. It is one of the most important aspects of the right to freedom of association, without which that right would be deprived of any meaning. The way in which national legislation enshrines this freedom and its practical application by the authorities reveal the state of democracy in the country concerned. Certainly States have a right to satisfy themselves that an association's aim and activities are in conformity with the rules laid down in legislation, but they must do so in a manner compatible with their obligations under the Convention and subject to review by the Convention institutions (see *Sidiropoulos and Others v. Greece*, 10 July 1998, § 40, *Reports of Judgments and Decisions* 1998-IV).

60. While in the context of Article 11 the Court has often referred to the essential role played by political parties in ensuring pluralism and democracy, associations formed for other purposes are also important to the

proper functioning of democracy. For pluralism is also built on the genuine recognition of, and respect for, diversity and the dynamics of cultural traditions, ethnic and cultural identities, religious beliefs, artistic, literary and socio-economic ideas and concepts. The harmonious interaction of persons and groups with varied identities is essential for achieving social cohesion. It is only natural that, where a civil society functions in a healthy manner, the participation of citizens in the democratic process is to a large extent achieved through belonging to associations in which they may integrate with each other and pursue common objectives collectively (see *Gorzelik and Others v. Poland* [GC], no. 44158/98, § 92, ECHR 2004-I, and *Bączkowski and Others v. Poland*, no. 1543/06, § 62, 3 May 2007).

61. The State's power to protect its institutions and citizens from associations that might jeopardise them must be used sparingly, as exceptions to the rule of freedom of association are to be construed strictly and only convincing and compelling reasons can justify restrictions on that freedom. Any interference must correspond to a "pressing social need"; thus, the notion of "necessary" does not have the flexibility of such expressions as "useful" or "desirable" (see *Gorzelik and Others*, cited above, §§ 94-95, with further references). In determining whether a necessity within the meaning of paragraph 2 of this Convention provision exists, the States have only a limited margin of appreciation, which goes hand in hand with rigorous European supervision embracing both the law and the decisions applying it, including those given by independent courts (see *Sidiropoulos and Others*, cited above, § 40).

62. The dissolution of an association constitutes an extremely severe measure (see *Tunceli Kültür ve Dayanışma Derneği v. Turkey*, no. 61353/00, § 32, 10 October 2006; *Vona v. Hungary*, no. 35943/10, § 58, ECHR 2013; and *Les Authentiks et Supras Auteuil 91 v. France*, nos. 4696/11 and 4703/11, § 80, 27 October 2016) entailing significant consequences for its members, and can only be tolerated in very serious circumstances (see *Adana TAYAD v. Turkey*, no. 59835/10, § 35, 21 July 2020, and, *mutatis mutandis*, *Association Rhino and Others v. Switzerland*, no. 48848/07, § 62, 11 October 2011, with the cited reference). Consequently, Article 11 imposes on the State a high burden of justification for such a measure.

63. States are entitled – subject to the condition of proportionality – to require organisations seeking official registration to comply with reasonable legal formalities (see *Hayvan Yetiştiricileri Sendikası v. Turkey* (dec.), no. 27798/08, 11 January 2011; *Republican Party of Russia v. Russia*, no. 12976/07, § 87, 12 April 2011; *The United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria* (no. 2), nos. 41561/07 and 20972/08, § 83, 18 October 2011; and *Jafarov and Others v. Azerbaijan*, no. 27309/14, § 69, 25 July 2019). The Court's power to review compliance with domestic law is limited, and it is in the first place for the national

authorities, notably the courts, to interpret and apply domestic law, since the national authorities are, in the nature of things, particularly qualified to settle the issues arising in this connection. Unless the interpretation is arbitrary or manifestly unreasonable, the Court's role is confined to ascertaining whether the effects of that interpretation are compatible with the Convention (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 149, 20 March 2018).

(b) Application of the general principles to the present case

(i) Whether there was an interference

64. The domestic courts ordered the NBP association to be dissolved. The effect of that decision was that the association was struck out of the register of legal entities (see paragraph 24 above). In the Court's view that amounted to an interference with the applicants' rights under Article 11 of the Convention.

(ii) Whether the interference was lawful

65. The Supreme Court of Russia when taking the decision on the dissolution of NBP association relied on section 44 of the Public Association Act, which provided that a public association can be dissolved for repetitive or gross violations of the federal laws. The Court is therefore satisfied that the interference had a basis in domestic law.

(iii) Whether the interference pursued a legitimate aim

66. The Government submitted that the NBP association was dissolved for non-compliance with formal requirements of domestic law. Having taken into account the arguments put forward by the Supreme Court of Russia in its judgment on the matter (see paragraph 24 above), the Court finds that the measure in question pursued the legitimate aim of protecting the rights of others (compare *Tebieti Mühafize Cemiyeti and Israfilov v. Azerbaijan*, no. 37083/03, § 66, 8 October 2009; *The United Macedonian Organisation Ilinden – PIRIN and Others*, cited above, §§ 89-90; and *Sverdlovsk Regional Branch of Russian Labour Party v. Russia* [Committee] (dec.), no. 43724/05, §§ 40-41, 3 March 2020).

(iv) Whether the interference was "necessary in a democratic society"

67. The NBP association was dissolved for its failures to submit annual activity reports and to bring its name in conformity with the recently amended Public Association Act.

68. While States are entitled to require organisations to comply with reasonable legal formalities, it is always subject to the condition of proportionality (see *Tebieti Mühafize Cemiyeti and Israfilov*, cited above,

§ 72; *Republican Party of Russia*, cited above, § 87; *The United Macedonian Organisation Ilinden – PIRIN and Others*, cited above, § 40; and *Jafarov and Others*, cited above, § 69).

69. While the Court accepts that the legal formalities with which the NBP association had to comply were reasonable, it is not persuaded that application of such drastic measures as dissolution was proportionate to the legitimate aim of the interference in the particular context of the present case.

70. Although the NBP association failed to submit annual activity reports during several years, as follows from the Moscow Regional Court's finding in the judgment of 27 September 2001, the negative consequences of those failures were mitigated by repeated submission of various applications to the registration authority which contained information relevant to annual activity reports (see paragraph 7 above). The Supreme Court's conclusion that the breach of the domestic law had been serious (see paragraph 24 above) is therefore manifestly unreasonable.

71. As regards the alleged failure to bring the name of the association in compliance with the legislative amendments by removing the word "party", the Court observes that the NBP association amended its articles of association shortly after the legislative amendments requiring it to do so had entered into force (see, by contrast, *Baisan and Liga Apararii Drepturilor Omului Din Romania (League for the Defence of Human Rights in Romania) v. Romania* (dec.), no. 28973/95, 30 October 1997; *APEH Üldözötteinek Szövetsége and Others v. Hungary*, no. 32367/96, ECHR 2000-X; and *Hayvan Yetiştiricileri Sendikası*, cited above, where the applicants' conduct was not cooperative and they did not make efforts to bring the names of the associations in line with the legal requirements). The problem occurred at the registration stage. The NBP attempted to have the change registered three times, but each time to no avail. Even assuming that the association was responsible for unsuccessful outcome of the first two requests, it appears that the registration authority left their third request of 7 June 2005 without examination, while the prosecutor's request for dissolution of the association was still pending before the regional court. The association thus could not possibly comply with the requirements of domestic law in this respect. While the Supreme Court in its initial decision of 16 August 2005 took into account the fact that the association had amended its articles of association and expressed itself on the reasons for refusing the registration of the amendments (see paragraph 20 above), it did not mention these elements in its final decision of 15 November 2005 (see paragraph 24 above). It is therefore not possible to conclude that the Supreme Court has duly examined all the relevant issues, or that the domestic authorities have demonstrated that such an extremely severe measure as dissolution of the NBP association was justified.

72. Lastly, the Court cannot overlook that the dissolution decision was taken following the extraordinary reopening on 21 September 2005 of the proceedings which had ended by the final judgment in the applicants' favour on 16 August 2005 (see paragraphs 20 and 22 above). The Court recalls that quashing of a final judgment is unjustified under the Convention unless there are fundamental defects capable to warrant such a drastic measure. It does not appear that such defects were identified by the Supreme Court in its respective decision (see, *mutatis mutandis*, *Ryabykh v. Russia*, no. 52854/99, §§ 53-58, ECHR 2003-IX).

73. In view of the foregoing, the Court finds that the dissolution of the NBP association was disproportionate to the legitimate aim pursued and therefore it was not "necessary in a democratic society". There has accordingly been a violation of Article 11 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION IN RESPECT OF THE DISSOLUTION PROCEEDINGS

74. The applicants complained that quashing of the Supreme Court's judgment of 16 August 2005 by way of supervisory review violated the principle of legal certainty and Article 6 § 1 of the Convention, which in the relevant part reads as follows:

"In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

75. The Government claimed that the applicants' complaint was manifestly ill-founded, because the reopening had been in accordance with the domestic law.

76. The applicants referred to the case of *Ryabykh* (cited above), where the Court found a violation of Article 6 § 1 of the Convention on account of the quashing of the final and binding judgment by way of supervisory review.

77. Whereas the Court did not accept that members of an association have the requisite standing as "victims" in the case where the association still existed as a legal entity (see, for example, *Church of Scientology Moscow v. Russia* (dec.), no. 18147/02, 28 October 2004), the situation was otherwise in cases where the association had been dissolved or denied registration (see, for example, *Gorzelik and Others*, cited above, §§ 12 and 48). The present case falls into the latter category. The Court's approach to the applicants' standing in respect of the complaint under Article 11 is likewise applicable to their standing in respect of the complaint at hand. Accordingly, the Court finds that the applicants have standing to complain about the unjustified reopening of the proceedings concerning the dissolution of the NBP association.

78. The Court further notes that the applicant's complaint under Article 6 § 1 of the Convention is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It is not inadmissible on any other grounds. It must therefore be declared admissible.

79. Having regard to its finding under Article 11 of the Convention (see paragraphs 72-73 above), the Court decides that there is no need for a separate examination of the merits of the complaint under Article 6 § 1 .

IV. ALLEGED VIOLATION OF ARTICLE 11 ON ACCOUNT OF THE REFUSAL TO REGISTER THE NBP POLITICAL PARTY

80. The applicants complained that the refusal to register the NBP political party was not founded on relevant and sufficient reasons. They relied on Article 11 of the Convention, cited in paragraph 54 above.

A. Admissibility

1. The parties' submissions

81. The Government stated that the complaint was manifestly ill-founded, because the refusal of the registration of the political party did not amount to an interference with the freedom of association. However, even if it did amount to an interference, it was lawful, pursued a legitimate aim "of protection of the society as a whole" and was "necessary in a democratic society" owing to the extremist nature of the party and seriousness of the shortcomings identified by the registration authority. The Government also invoked its margin of appreciation in the relevant field and argued that it was for the domestic courts to interpret and apply legislation concerning the registration of national political parties.

82. The applicants claimed that the NBP party was peaceful and not violent and that the refusal of its registration was unlawful, because all necessary information had been submitted and the required documents had been attached to the application for the party's registration. The registration authority had not been entitled to request additional documents, such as evidence of the party's membership for persons who had elected the party's management. The applicants pointed out that it was disproportionate to refuse registration for the party on the grounds that three members had been minors. They also disagreed with the domestic courts' finding that the programme of the political party contains indications of ethnic affiliation. According to them, the protection of the rights of ethnic groups did not amount to ethnic affiliation and was not forbidden by domestic law as such. Lastly, they noted that the domestic courts for no good reason refused to question an important witness, Mr T.

2. *The Court's assessment*

83. The present complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

84. The parties' submissions are summarised in paragraphs 81-82 above.

2. *The Court's assessment*

(a) **General principles**

85. The Court confirmed on a number of occasions the essential role played in a democratic regime by political parties enjoying the freedoms and rights enshrined in Article 11 and also in Article 10 of the Convention. Political parties are a form of association essential to the proper functioning of democracy. In view of the role played by political parties, any measure taken against them affects both freedom of association and, consequently, democracy in the State concerned (see *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], nos. 41340/98 and 3 others, § 87, ECHR 2003-II, and *Republican Party of Russia*, cited above, § 78).

86. However, a State may be justified under its positive obligations under Article 1 of the Convention in imposing on political parties the duty to respect and safeguard the rights and freedoms guaranteed by the Convention and the obligation not to put forward a political programme in contradiction with the fundamental principles of democracy (see *Refah Partisi (The Welfare Party) and Others*, cited above, § 103).

87. An essential factor to be taken into consideration is whether a party's programme contains a call for the use of violence, an uprising or any other form of rejection of democratic principles (see *Freedom and Democracy Party (ÖZDEP) v. Turkey* [GC], no. 23885/94, § 40, ECHR 1999-VIII, and *Partidul Comunistilor (Nepeceristi) and Ungureanu v. Romania*, no. 46626/99, § 54, ECHR 2005-I (extracts)). The programme of a political party however is not the sole criterion for determining its objectives and intentions; the content of the programme must be compared with the actions of the party's leaders and the positions they defend. Taken together, these acts and stances may be relevant in proceedings for the dissolution of a political party, as they can disclose its aims and intentions (see *Refah Partisi (The Welfare Party) and Others*, cited above, § 101, and *Herri Batasuna and Batasuna v. Spain*, nos. 25803/04 and 25817/04, § 80, ECHR 2009).

88. It must in addition be noted that States are entitled – subject to the condition of proportionality – to require organisations seeking official registration to comply with reasonable legal formalities (see, among other

authorities, *Tebieti Mühafize Cemiyeti and Israfilov*, cited above, § 72; *Hayvan Yetiştiricileri Sendikası*, cited above; and *Republican Party of Russia*, cited above, § 87). However, such requirements should not be used to hinder the freedom of association of groups disliked by the authorities or advocating ideas that the authorities would like to suppress. Therefore, in cases where the circumstances are such as to raise doubts in that regard, the Court must verify whether an apparently neutral measure interfering with a political party's activities in effect seeks to penalise it on account of the views or the policies that it promotes (see *Basque Nationalist Party – Iparralde Regional Organisation v. France*, no. 71251/01, § 33, ECHR 2007-VII, and *The United Macedonian Organisation Ilinden – PIRIN and Others*, cited above, § 83 in fine).

(b) Application of the general principles to the present case

(i) Whether there was an interference

89. The Court considers that the refusal of registration of the NBP political party amounted to an interference by the authorities with the exercise of the applicants' right to freedom of association (see *Partidul Comunistilor (Nepeceristi) and Ungureanu*, cited above, § 27, and *Ignatencu and the Romanian Communist Party v. Romania*, no. 78635/13, § 70, 5 May 2020). This interference will not be justified under the terms of Article 11 unless it was "prescribed by law", pursued one or more of the legitimate aims set out in paragraph 2 of that Article and was "necessary in a democratic society" for achieving those aims.

(ii) Whether the interference was lawful

90. The Court notes that the reasons given by the domestic authorities for the impugned measure were based on the provisions of the Political Parties Act (see paragraphs 42-44 above) which were consonant with the Russian Constitution as interpreted by the Constitutional Court in its ruling of 15 December 2004 (see paragraph 48 above). In these circumstances and recalling that it is primarily for the national courts to interpret and apply domestic law, the Court is prepared to accept that the interference in question was prescribed by law. Insofar as the applicants challenged the soundness of the courts' assessment of the relevant facts and the quality of their reasoning, these issues fall to be examined in the context of the question whether or not the interference was necessary in a democratic society.

(iii) Whether the interference pursued a legitimate aim

91. The Court observes that the domestic authorities refused to register the NBP political party referring to its ethnic affiliation prohibited under

domestic law and the party's failure to comply with formal requirements of domestic law (see paragraphs 27, 31, 32, and 34 above).

92. The Court accepts that those reasons correspond to the legitimate aims of preventing disorder and protecting the rights and freedoms of others (see *The United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria*, no. 59491/00, § 56, 19 January 2006; *Zhechev v. Bulgaria*, no. 57045/00, § 42, 21 June 2007; and *Igor Artyomov v. Russia* (dec.), no. 17582/05, 7 December 2006).

(iv) *Whether the interference was “necessary in a democratic society”*

93. In so far as the national courts based their refusal to register the NBP political party on its alleged ethnic affiliation, the Court notes that the prohibition of ethnic affiliation of a political party as such is not incompatible with the provisions of the Convention (see *Yordanovi v. Bulgaria*, no. 11157/11, § 76, 3 September 2020, and *Igor Artyomov*, cited above). It may therefore serve as a legitimate ground for the refusal of registration of a political party, if the reasons put forward by the national authorities were sufficient to justify the impugned measure.

94. The domestic authorities concluded that the NBP political party was ethnically affiliated referring solely to its political programme, which stipulated the party's objective to ensure that the Russian foreign policy was focused on the protection of rights of ethnically Russian population. Being unable to substitute its own assessment of the situation for that of the domestic courts, the Court will take the political programme of the NBP party and its assessment by the domestic authorities as the basis for its analysis. It notes that the aim proclaimed by that document concerned foreign policy. Moreover, it did not refer exclusively to the protection of rights of ethnically Russian population, but also mentioned protection of rights of all Russian-speaking people, that is to say many other ethnicities. Taking into account the materials before it, the Court concludes that the domestic authorities, including the national courts, failed to demonstrate any appearance of ethnic discrimination or risks to peaceful democratic coexistence of ethnic communities which the NBP political party allegedly represented. It was not shown that the legal ban on ethnic affiliation of political parties as explained in detail by the Constitutional Court (see paragraph 48 above) should have been applied to the case at hand. The decision not to register the NBP political party was not therefore sufficiently justified.

95. The Court notes the Government's argument concerning the violent crimes committed by the NBP's members and the fact that the NBP had been declared an extremist organisation in 2007 (see paragraphs 81 and 35). Those facts, however, fell outside the scope of the examination by domestic courts in the proceedings at hand and they therefore cannot be relied on by the Court, whose task in the present case is merely to review the decisions

delivered by the authorities within their margin of appreciation (see *Dicle for the Democracy Party (DEP) v. Turkey*, no. 25141/94, § 50, 10 December 2002, and *Partidul Comunistilor (Nepeceristi) and Ungureanu*, cited above, § 52; see, by contrast, *Herri Batasuna and Batasuna*, cited above, § 85).

96. In the light of the above, the Court concludes that the authorities failed to demonstrate that such a severe measure as refusal to register the NBP political party in the relevant part was “necessary in a democratic society”.

97. As regards the alleged breaches of the formal requirements related to the registration process, the Court notes that the applicants were not prevented from re-submitting the request for the registration of the NBP political party (see paragraph 45 above). It does not appear, however, that compliance with these formal requirements would in any way change the outcome of the domestic proceedings, given the ban on ethnic affiliation of political parties under the Political Parties Act (see paragraph 42 above).

98. There has therefore been a violation of Article 11 of the Convention on account of the refusal of registration of the NBP political party.

V. ALLEGED VIOLATION OF ARTICLE 14 IN CONJUNCTION WITH ARTICLE 11 OF THE CONVENTION

99. The Court has examined the complaint submitted by the applicants under Article 14 in conjunction with Article 11 of the Convention concerning discrimination of the NBP association and its members. However, having regard to all the material in its possession, and in so far as that complaint falls within the Court’s competence, it finds that it does not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It must therefore be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

VI. APPLICATION OF ARTICLE 46 OF THE CONVENTION

100. Article 46 of the Convention, in so far as relevant, reads as follows:

“1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.

2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution ...”

101. The applicants asked the Court to indicate that the appropriate form of individual redress would be the restoration of the NBP in the form of a political party and quashing of the judgments delivered by the Moscow Regional Court on 29 June 2005, by the Supreme Court of Russia on

5 October 2005 and on 5 November 2005, and by the Taganskiy District Court of Moscow on 15 June 2006.

102. The Government did not make any submissions in that respect.

103. The Court reiterates that, by virtue of Article 46 of the Convention, the Contracting Parties have undertaken to abide by the final judgments of the Court in any case to which they are parties, with execution being supervised by the Committee of Ministers of the Council of Europe. In the present case, given the variety of means available to achieve *restitutio in integrum* and the nature of the issues involved, it should be left to the Committee of Ministers to supervise, on the basis of the information provided by the respondent State and with due regard to the applicants' evolving situation, the adoption of the measures required.

VII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

104. 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

105. The applicants claimed 100,000 euros (EUR) in respect of non-pecuniary damage. They did not specify if the amount should be awarded jointly or to each of them.

106. The Government submitted that the claim was excessive.

107. The Court awards Ms A. Savenko, Mr B. Savenko, Mr A. Averin, Mr A. Dmitriyev, Mr S. Fomchenkov, and Mr A. Volynets EUR 10,000 jointly in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

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

C. Default interest

109. 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* that Ms A. Savenko and Mr B. Savenko have standing to pursue the complaints lodged with the Court by their late father, and that Ms Ye. Volkova does not have that standing;
2. *Declares* the complaints under Article 11 of the Convention concerning the dissolution of the NBP association, the reopening of the dissolution proceedings, and the refusal of registration of the NBP political party admissible and the remainder of the application inadmissible;
3. *Holds* that there has been a violation of Article 11 of the Convention on account of the dissolution of the NBP association;
4. *Holds* that there is no need to examine separately the merits of the applicants' complaint under Article 6 § 1 of the Convention;
5. *Holds* that there has been a violation of Article 11 of the Convention on account of the refusal of registration of the NBP political party;
6. *Holds*
 - (a) that the respondent State is to pay Ms A. Savenko, Mr B. Savenko, Mr A. Averin, Mr A. Dmitriyev, Mr S. Fomchenkov, and Mr A. Volynets, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 10,000 (ten thousand euros) jointly, 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;
7. Dismisses the remainder of the applicants' claim for just satisfaction.

SAVENKO AND OTHERS v. RUSSIA JUDGMENT

Done in English, and notified in writing on 14 September 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

{signature_p_2}

Olga Chernishova
Deputy Registrar

Paul Lemmens
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Elósegui is annexed to this judgment.

P.L.
O.C.

CONCURRING OPINION OF JUDGE ELÓSEGUI

I. THE HISTORY OF THE NATIONAL BOLSHEVIK PARTY

1. The National Bolshevik Party (NBP) was formed in 1992 by the amalgamation of six smaller groups. It was registered as a public association in 1993. Its leader ever since has been Mr Eduard Savenko, a charismatic Russian and American writer and political dissident best known under his pen name Limonov. Having begun as a far-right radical nationalist movement, following Mr Putin's accession to power, the NBP re-invented itself as one of the liveliest opponents of the incumbency with a leftist bent. It is highly critical of Mr Putin's regime, and considers that it is fraught with corruption, inefficiency and authoritarianism. The NBP's preferred political activity has consisted of direct-action stunts carried out by its junior members against prominent political figures in order to protest against political and social issues and gain in popularity. One of its most famous direct actions was to occupy a number of Ministry of Health offices in Moscow in 2004 as a protest against the cancellation of social benefits in Russia. This was followed by an attempt to occupy Mr Putin's office in December. Both incidents were victimless, but the participants received lengthy prison terms. I would like to thank my fellow Judges and the Registry lawyers for our fruitful discussions concerning the case and Russian law in general.

2. In early 2004-2005 the NBP had over fifty thousand members and branches in more than forty-five regions of Russia. In 2005 the domestic courts ordered its dissolution for failure to comply with legal formalities (the submission of annual activity reports and the removal of the Word "party" from its name). Thereafter, in December 2005 the NBP unsuccessfully applied for registration as a political party. Its applications were rejected because of the party's obvious ethnic affiliation, in breach of the legislative ban. Several other, minor procedural violations were also noted. The next year the NBP was declared 'an extremist organisation', with the effect that any attempt to resume its operations would amount to a criminal offence. Anyone continuing to take part in its activities was convicted of involvement in the activities of a prohibited association. In July 2010 the National Bolsheviks founded a new non-registered political party, "The Other Russia". In 2020 the party leader, Mr Savenko (Limonov), died.

II. THE PRESENT CASE

3. The present case solely concerns the proceedings regarding the dissolution of the NBP public association and the refusal to register it as a political party. The subsequent proceedings fall outside the current claim

before the Court. In my concurring opinion, I would like to explain that if the domestic courts had conducted a more substantive analysis of the violent and racist nature of the organisation, the Court might have reached a different conclusion, following a specific, albeit putative, line of reasoning of the Russian courts.

4. However, since the domestic courts adopted a highly formalistic approach incapable of evidencing the ethnic affiliation of the political party, the Strasbourg Court is bound by the evidence on file and was obliged to conclude that the refusal to register the NBP as a political party had fallen short of the high standards set out in case-law for prohibiting a political party¹. Having myself joined in with my colleagues' unanimous vote, I would like to mention, in this concurring opinion, some further aspects to develop the idea that the conclusion might have been different had the Russian courts provided more in-depth reasoning highlighting the racist intentions of the members of the NBP association.

III. CRIMINAL CONVICTIONS OF NBP MEMBERS BY THE RUSSIAN DOMESTIC COURTS BETWEEN 2003 AND 2006

5. It transpires from the material in the Court's possession that a number of NBP members were convicted of various criminal offences between 2003 and 2006. In particular, on 26 September 2003 the Oktyabrskiy District Court of Belgorod convicted the chairman of the NBP association in the town of Belgorod and two other persons of a gross breach of public order for installing a dummy explosive device at the entrance of the Administration of the Belgorod Region.

6. On 20 October 2004 Mr Averin and one other member of the NBP association were convicted of vandalism for having attacked the Embassy of the Republic of Lithuania, causing damage to the building.

7. On 20 December 2004 the Tverskoly District Court of Moscow found seven members of the NBP association guilty of a gross breach of public order committed by an organised group and involving the use of weapons, and international destruction and degradation of other people's property on account of their forced entry into the premises of the Ministry of Health and Social Development.

8. On 8 December 2005 the same court convicted Ms Taranenko together with other members of the NBP association of involvement in mass disorder, when a group of forty members of the NBP association occupied

¹ TARUFFO, Michele. *La prueba de los hechos*, Madrid, Trotta, 2002, 544 pp. Spanish translation by Jordi Ferrer Beltrán. In the same subject, see the books of Jordi Ferrer Beltrán, *Prueba y verdad en el derecho*, Madrid, Marcial Pons, 2002; *La valoración racional de la prueba*, Madrid, Marcial Pons, 2007; *Motivación y racionalidad de la prueba*, Perú, Grijley, 2016.

the reception area of the President’s Administration building in Moscow and locked themselves inside.

9. On 10 May 2006 that court also convicted a member of NBP of a gross breach of public order committed by an organised group. The incident involved the use of weapons and the intentional destruction and degradation of other people’s property.

10. On 8 and 21 November 2006 the Sovetskiy District Court of Chelyabinsk convicted several members of the NBP association of incitement to hatred, calls for mass disorder and acts of extremism which had been committed in 2005-2006.

11. In the case of *Taranenko v. Russia* (no. 19554/05, § 97, 15 May 2014) the Court found a violation of Article 10 interpreted in the light of Article 11 of the Convention on account of the lengthy period of detention pending trial and the long suspended prison sentence imposed on the applicant by the Tverskoy District Court of Moscow.

12. As reported in the case of *Popkov v. Russia*, “[o]n the day of the District Court hearing fifteen members of the NBP came to the court building and participated in a scuffle. At least one of the NBP members was arrested thereafter and charged with participation in mass disorder, involving the use of gas guns, assault and battery” (see *Popkov v. Russia*, no. 32327/06, § 11, 15 May 2008”).

IV. CASE-LAW OF THE COURT CONCERNING NBP MEMBERS

13. Some of these cases concerning NBP members have reached the Court. Even though the Court has found different violations of various articles of the Convention, and primarily Article 5 because of length prison sentences, the Court nonetheless did not approve or condone the concrete behaviour of the NBP members on account of the use of violence and mass disruption.

14. In its *Taranenko* judgment the Court found a violation of Article 10 on account of the lengthy period of detention pending trial and the long suspended prison sentence imposed on the applicant, although it pointed out that a sanction for the applicant’s actions might have been warranted by the demands of public order. Even though the applicant claimed not to be a member of the NBP, the facts of the case showed that the other participants in the event were indeed NBP members : “[t]he Party members, including the applicant, waved placards through the office window, threw out leaflets and chanted slogans calling for the President’s resignation. They stayed in the office for approximately one hour, destroyed office furniture and equipment and damaged the walls and the ceiling” (see *Taranenko*, cited above, § 11).

15. Article 11 of the Convention only protects the right to “peaceful assembly”. That notion does not cover a demonstration where the organisers

and participants have violent intentions (see *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, § 77, ECHR 2001-IX, and *Galstyan v. Armenia*, no. 26986/03, § 101, 15 November 2007).

A. Taranenko v. Russia

16. In the concrete case of Taranenko (cited above), the Court stated the following:

“The applicant in the present case was arrested at the scene of a protest action against the President’s policies. She was part of a group of about forty people who forced their way through identity and security checks into the reception area of the President’s Administration building and locked themselves in one of the offices, where they started to wave placards and to distribute leaflets out of the windows. She was charged with participation in mass disorder in connection with her taking part in the protest action and remanded in custody for a year, at the end of which time she was convicted as charged and sentenced to three years’ imprisonment, suspended for three years. The Court considers that her arrest, detention and conviction constituted interference with the right to freedom of expression” (*Taranenko*, § 71).

17. “That being said, the Court reiterates that, notwithstanding the acknowledged importance of freedom of expression, Article 10 does not bestow any freedom of forum for the exercise of that right. In particular, that provision does not require the automatic creation of rights of entry to private property, or even, necessarily, to all publicly owned property, such as, for instance, government offices and ministries (see *Appleby and Others v. the United Kingdom*, no. 44306/98, § 47, ECHR 2003-VI)” (*Taranenko*, § 78).

18. “In the present case the protest action in which the applicant participated took place in the President’s Administration building. It is significant that the Administration’s mission was to receive citizens and examine their complaints and its premises were therefore open to the public, subject to identity and security checks. The protesters, however, failed to comply with the established admission procedure: they bypassed the identity and security checks, did not register at the reception desk and did not wait in a queue for an available official to receive their petition. Instead, they stormed into the building, pushed one of the guards aside, jumped over furniture and eventually locked themselves in a vacant office. Such behaviour, intensified by the number of protesters, could have frightened the employees and visitors present and disrupted the normal functioning of the President’s Administration. In such circumstances the actions of the police in arresting the protesters, including the applicant, and removing them from the President’s Administration’s premises may be considered as justified by

the demands of the protection of public order (see, for similar reasoning, *Steel and Others*, cited above, §§ 103 and 104, and *Lucas*, cited above)” (*Taranenko*, § 72).

19. “Further, it is true that the protesters were found guilty of damaging the President’s Administration’s property” (*Taranenko*, § 92).

“The above circumstances lead the Court to conclude that the present case is different from *Osmani and Others* because the protesters’ conduct, although involving a certain degree of disturbance and causing some damage, did not amount to violence. It is therefore closer on the facts to *Steel and Others*, *Drieman and Others*, *Lucas* and *Barraco*” (*Taranenko*, § 93).

B. Kudrina v. Russia

20. In a recent judgment concerning another NBP member, Olga Kudrina, the Court found a violation of Article 10 again because of the length of her sentence, but the Court accepted that the applicant’s conviction had been based on relevant and sufficient reasons. The facts accepted as proven by the Court were as follows: “The NBP members were dressed in emergency-services uniforms. They pushed the security guard out of their way and forced entry into the building of the Ministry, ran up to the second and third floors and occupied four offices, telling the employees who were working in them to leave because ‘emergency services training exercises’ were taking place. They then nailed the doors shut from the inside using nail guns and blocked them with office furniture. They subsequently waved NBP flags out of the office windows, threw out leaflets and chanted slogans calling for the resignation of the Minister for Health at that time. They also set off firecrackers and threw a portrait of the President of Russia out of the window. The intruders stayed in the office for about an hour until the police broke through the doors and arrested them” (*Olga Kudrina*, § 6).

21. “Furthermore, the arrest of the applicant initially pursued the legitimate aim, for the purposes of Article 10 § 2, of preventing disorder and protecting the rights of others. In particular, the Court reiterates that notwithstanding the acknowledged importance of freedom of expression, Article 10 does not bestow any freedom of forum for the exercise of that right. In particular, that provision does not require the automatic creation of rights of entry to private property or even, necessarily, to all publicly owned property, such as, for instance, government offices and ministries (see *Taranenko v. Russia*, no. 19554/05, § 78, 15 May 2014). Therefore, as the everyday activities of the Rossiya Hotel were disrupted as a result of the protest, the police were justified in interfering with the expression of political opinions by the applicant with a view to restoring and protecting public order” (*Olga Kudrina*, § 51).

22. “At the same time the Court notes that the District Court condemned the methods employed by them as being proscribed by the law (throwing firecrackers onto the street, attaching rock-climbing equipment in the hotel room in order to climb out of the 11th-floor room onto the exterior wall of the building, waving signal flares from side to side near flammable objects, and damaging the property of others). Seen from this angle, the prosecution and conviction of the applicant were justified by the need to attribute responsibility for committing such acts and to deter similar crime, without regard to the context in which they had been committed. **Therefore, the Court accepts that the applicant’s conviction was based on relevant and sufficient reasons**” (*Olga Kudrina*, § 53; emphasis added).

C. Popkov v. Russia

23. Turning also to the case of *Popkov v. Russia*, which was also assessed by the Court, the later took as proven the facts accounted by the Russian domestic courts as follows:

“The applicant was a member of a public association, the National Bolshevik Party. On 15 November 2005 the Supreme Court of the Russian Federation ordered its dissolution. On 19 January 2006 the Federal Registration Service of the Ministry of Justice refused an application for registration of a political party by the same name. Party members challenged the refusal before the Taganskiy District Court of Moscow. On 13 April 2006 fifteen party members, including the applicant, came to the Taganskiy District Court for a hearing concerning the refusal to register the National Bolshevik Party. The applicant alleged that near the court building they had been attacked by a group of forty people and had had to defend themselves. According to the Government, the party members, including the applicant, had assaulted passers-by with gas guns and rubber truncheons” (*Popkov*, § 7).

Moreover, “[a]lthough the applicant denied having participated in any criminal activity, the Court notes that a witness identified him as one of the perpetrators of the assault” (*Popkov*, § 56).

V. THE PROHIBITION OF THE ETHNIC AFFILIATION OF A POLITICAL PARTY

24. The Court notes that the prohibition of the ethnic affiliation of a political party as such is not incompatible with the provisions of the Convention (see *Yordanovi v. Bulgaria*, no. 11157/11, § 76, 3 September 2020, and *Igor Artyomov v. Russia* (dec.), no. 17582/05, 7 December 2006). However, it may in exceptional cases serve as legitimate grounds for refusing to register a political party.

25. In the present case, whereas the applicants denied the ethnic affiliation of the NBP political party, the domestic courts maintained the contrary (see, *a contrario*, *Artyomov v. Russia*, no. 14146/02, 27 May 2010). The NBP changed its programme in 2004. According to the researcher Rogatchevski, the NBP membership also included Jews, Gypsies and even Blacks: “That is presumably why the NBP’s second programme openly recognises the rights of not merely the Russian but also the Russian-speaking (i.e. ethnically non-Russian) population in neighbouring countries”².

26. The Court observes that the domestic courts’ conclusions regarding the ethnic affiliation of the NBP political party was based principally on the declared aim of ensuring that Russian foreign policy focused on the protection of the rights of the ethnic Russian population abroad or Russian-speakers. It is true that by the time of its adoption several members of the NBP had been convicted, in particular, of gross breaches of public order for installing a dummy explosive device at the Administration of the Belgorod Region, of vandalism for attacking the Embassy of the Republic of Lithuania, in which Mr Averin had participated; of gross breaches of public order involving the use of weapons, and the intentional destruction and degradation of other people’s property in respect of their forced entry into the building of the Ministry of Health and Social Development; and of participation in mass disorder as regards the occupation of the reception area of the President’s Administration building.

27. Despite all these facts, the domestic courts refused the registration on the basis not of the said information but solely of a theoretical analysis of the programme. In other cases the Court has found that decisions to refuse to register a political party were neither arbitrary nor unreasonable. It has noted that the domestic courts are better placed than an international court to interpret the provisions of national law and to apply them, given their advantage of possessing direct knowledge of the situation and having all the evidence before them (see *Gorzelik and Others v. Poland* [GC], no. 44158/98, § 96, ECHR 2004-I, and *Saygılı and Karataş v. Turkey*, no. 6875/05, § 36, 16 January 2018).

28. The Court understands the reasoning of the Russian Constitutional Court that in modern-day Russia it would be perilous to encourage electoral competition between political parties based on ethnic affiliation. It also has regard to the fact that the prohibition of ethnic affiliation was of a limited remit; it applied solely to political parties and not to any other type of public association, which means that the applicants could exercise their right under

² Andrei Rogatchevski, 2019. DOI: 10.1163/9789004366671_005 “Eduard Limonov’s National Bolchevik Party and the Nazi Legacy: Titular Nation vs. Ethnic Minorities”. Brill editorial, 2019. Available at <https://brill.com>, pp. 66 and 73. See also the bibliography in this article.

Article 11 of the Convention had they set up an organisation in any form other than a political party.

29. Nevertheless, the Russian domestic courts failed to provide adequate arguments or sufficient reasoning to explain the ethnical affiliation of the NBP party, even on the basis of its title, the “National Bolshevik Party”, or its stated aim of protecting Russian-speakers not only abroad but also inside Russia. However, none of the applicants have convincingly argued the contrary in their replies to the Russian government.

30. Despite all that, the problem is that on the one hand the position of a judge of an International Court is bound by the arguments afforded by the parties to proceedings, and the judge cannot have regard to evidence which is not on file in order to form her or his interpretation . An attempt to support Russian-speaking population in the countries of the CIS and the Baltic countries is not a clear or naïve goal. Nevertheless, the Russian domestic courts should have looked beyond the literal words and clearly shown that this phrase in the programme involves ethnic discrimination and endangers the peaceful democratic co-existence of ethnic communities in Russia.

VI. USE OF LEGAL AND PEACEFUL MEANS

31. In the observations presented by the applicants before this Court they repeat only that “the programme of the NBP party and its main goal is turning Russia into a strong modern State, respected by other countries and peoples and loved by its own citizens. Among other foreign-policy means are concentrating on the protection of the rights of the Russian and Russian-speaking population in the countries of the CIS and the Baltic countries, where those rights are being violated (Latvia, Estonia, Turkmenia), using all available legal methods, up to and including economic sanctions and breaking off diplomatic relations” (Observations of the applicants).

32. The Court further observes that according to the programme of the NBP political party, it intended to achieve the aforementioned aim by legitimate means. The Court reiterates, however, that a political party’s programme cannot be taken as the sole criterion for determining its objectives and intentions. The political experience of the Contracting States has shown that in the past, political parties with aims contrary to the fundamental principles of democracy have not revealed such aims in their official publications until after taking power. That is why the Court has always pointed out that a party’s political programme may conceal objectives and intentions different from the ones it proclaims. In order to verify that it does not, the content of the programme must be compared with the actions of the party’s leaders and the positions they defend (see *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], nos. 41340/98 and

3 others, § 10 ECHR 2003-II), and *Vona v. Hungary*, no. 35943/10, §§ 54, and 59-61, ECHR 2013).

33. On the other hand, the Court cannot disregard the many disputes concerning Russians in Ukraine, Crimea (see *Ukraine v. Russia (re Crimea)* (dec.) [GC], nos. 20958/14 and 38334/18, 16 December 2020; *Georgia v. Russia (II)* [GC], no. 38263/08, 21 January 2021), Moldova, (*Mozer v. the Republic of Moldova and Russia* [GC], no. 11138/10, 23 February 2016), and the Baltic countries (*Savickis and Others v. Latvia*, no. 49270/11, pending before the GC, which have come before this Court). Many of these cases have concerned inter-ethnic disputes between the Russian majority population and minorities such as the Chechen ethnic group: see, for instance, *Stomakhin v. Russia*, no. 52273/07, 9 May 2018, and *Finogenov and Others v. Russia*, nos. 18299/03 and 27311/03, ECHR 2011 (extracts), the Tatars, or the Asian minorities leaving in Russia such as Tajikis (see *Usmanov v. Russia*, no. 43936/18, 22 December 2020) and Kyrgyz, and so on.

34. However, it is for the domestic courts to show that there is a link between this goal and any racist intent, or to counter the applicants' claims in their observations to our Court that "comparison of the NBP association and political party with organisations openly aiming to destroy the territorial entity or to overthrow the legally elected governments (the Basque national party, the regional department of IPARRALDE and other illegal armed units) is incorrect. The aim of the NBP association and the political party NBP is to legally, peacefully and non-violently participate in the political life of the Russian Federation, as is confirmed by their rules and programme documents. The activities of the activists of the NBP association and the NBP party tally with the international practice of the opposition movements (Greenpeace and other such organisations" (Observations of the applicants).

35. Despite the history of violent events involving the members of the NBP association, which was *de facto* the predecessor of the NBP party, the Russian domestic courts did not use those arguments to challenge the credibility of the proclaimed peaceful intent of the party.

36. Furthermore, the Court must weigh up two different aspects. On the one hand, in the context of Article 11, the Court has often referred to the significant role played by political parties in guaranteeing pluralism and democracy and ensuring the proper functioning of the democratic system. However it should be noted that the Court, having regard to a specific role played by political parties, acknowledges that States have significant leeway to choose the criteria for participation in elections, which can differ **according to historical and political factors, specific or each individual State** (see *Artyomov v. Russia* (dec.), no. 17582/05, ECHR 2006-XV, 2006; *Podkolzina v. Latvia*, no. 46726/99, ECHR 2002-II; and *Gitonas and Others v. Greece*, 1 July 1997, *Reports of Judgments and Decisions* 1997-IV). Thus national legislations can set more stringent requirements on the procedure

for establishing a political party, its statute, as well as other compulsory documents to be submitted for the State registration of public associations.

37. On the other hand, however, the Russian domestic courts ought to have shown that the NBP did not fulfil requirement that political parties must have no ethnical connotations and was incompatible with the case-law of the Russian Constitutional Court. Only if that had been proved could the domestic courts have refused to register a political party for the purposes of Article 11 (2) of the Convention. Only in that case could such interference based Article 11 (1) have been justified as being necessary in a democratic society and as meeting a pressing need to prevent ethnic confrontation and conflict and to protect the constitutional order (see, among other authorities, *Parti nationaliste basque – Organisation régionale d’Iparralde v. France*, no. 71251/01, ECHR 2007-II, and *Herri Batasuna and Batasuna v. Spain*, nos. 25803/04 and 25817/04, ECHR 2009). A formalistic approach was insufficient to achieve this. it would have been necessary to examine the merits of the case and to prove that the NBP was substantively in breach of Article 9 of the Russian law on political parties.

38. Having considered the fundamental nature of the ban on the ethnic affiliation of political parties under the Russian political system, and the States’ margin of appreciation in that sphere (see *the United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria (no. 2)*, nos. 41561/07 and 20972/08, § 92, 18 October 2011), the Court finds that the breach of the principle of ethnic affiliation in the case at hand was not sufficient justification for rejecting the party’s application for registration.

39. However, all things considered, the Court too is liable in the future to be criticised for its highly formalistic approach in this context, ignoring the social, historical and cultural context of the case and forgetting that we are facing a group which is a majority, and not a minority, within Russia.

VII. CONCLUSION

(i) The contention is that Russian domestic courts followed purely formal reasoning to deny the registration of NBP as a political party. This route renders any justification of its possible ethnic nature very difficult.

(ii) Another possibility open to the ECHR might have been to assess the substantive contents of the political programme in question and analyse the context in relation to the members of the NBP association. however, the Russian courts sunned that approach because that kind of test is indubitably more complicated.

(iii) In addition, the Association itself, knowing the legal problems it might face in terms of its legalisation, which referred to the ethnic-based approach of supporting only Russians, including within Russia, changed its programme in 2004 (shortly beforehand) and presented this new second programme which only mentioned supporting Russian-speakers abroad,

even avoiding speaking of Russians as an ethnic group and referring only to the language. This implies that in theory at least there may be people who speak Russian and who are not ethnically Russian.

(iv) Among the many ambiguities and different faces which the NBP has presented, and which date far back in academic literature, is that fickleness which manages to hide behind multiple changes. The domestic courts have also faced the problem of basing a refusal to re-register a political party on the alleged violent conduct of its members, when the party has not yet been approved as such.

(v) In any case, after the rejection of its request for approval, the organisation's partners (even though they were not a political party) have continued to act aggressively, with multiple disruptions to public order, but those facts as such were not the subject matter of the present case.

APPENDIX

No.	Applicant's Name	Birth year	Place of residence
1	Eduard Veniaminovich SAVENKO (died), the application is pursued by Ms Aleksandra Eduardovna SAVENKO and Mr Bogdan Eduardovich SAVENKO	1943	Moscow
2	Aleksandr Aleksandrovich AVERIN	1981	Moscow
3	Andrey Yuryevich DMITRIYEV	1979	St Petersburg
4	Sergey Aleksandrovich FOMCHENKOV	1973	Smolensk
5	Aleksey Nikolayevich VOLYNETS	1975	Yubileynyy