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RUSSIA: Illegal religious literature seizures

By Felix Corley, Forum 18 News Service <<http://www.forum18.org>>

Religious literature is often seized from Russian Jehovah's Witnesses and readers of Muslim theologian Said Nursi in an illegal fashion, Forum 18 News Service notes. No formal record of seizure is given in many cases, and no investigation or court case to rule on whether or not an individual's ownership of the literature is illegal. Two lawyers working on religious freedom cases - Vladimir Ryakhovsky of the Slavic Centre for Law and Justice and Sergei Sychev of Sychevs and Advocates - separately told Forum 18 that this is unlawful. To continue to hold the literature, the authorities must conduct an investigation which either results in criminal or administrative proceedings, or the literature must be handed back. In law, such literature is only definitively "confiscated" by a court ruling. The comments come as all 34 of the Jehovah's Witness publications recently ruled "extremist" were added to the Federal List of Extremist Materials. Distribution, preparation or storage with the aim of distribution of these items could result in a four-year prison term. Forum 18 has been unable to find out what happens to literature on the Federal List once it is seized, whether or not with the support of a court verdict.

Jehovah's Witnesses and readers of Muslim theologian Said Nursi have told Forum 18 News Service that religious literature is often seized from them illegally. In these cases no record or protocol of seizure is given, and there is no investigation or court ruling on whether or not an individual's ownership of the literature is illegal. Two separate Moscow-based lawyers who have worked on freedom of religion or belief cases - Vladimir Ryakhovsky of the Slavic Centre for Law and Justice and Sergei Sychev of Sychevs and Advocates - separately told Forum 18 that it is unlawful for the authorities to take religious literature without formally recording this.

To continue to hold the literature, the lawyers add, the authorities must conduct an investigation which either results in criminal or administrative proceedings, or the literature must be handed back. They say that in law, such literature is only definitively "confiscated" by a court ruling. Forum 18 has been unable to establish whether seized literature is stored or destroyed.

Grigory Martynov of the Jehovah's Witnesses told Forum 18 on 3 March that in many of the large numbers of recent cases of literature seizures in different parts of Russia, police have not given the owners documentation recording the seizures. "They often just tell them they have no right to have the literature." He said many of those who have their personal literature seized without documentation are too afraid to challenge the police seizures in court.

Ilham Merazhov, a Nursi reader in Novosibirsk, told Forum 18 on 5 March that when religious literature was seized from him in 2005, and then again in December 2007, the FSB security service gave him no protocol recording the seizures or the searches. He said that a fellow Nursi reader, whose Novosibirsk home was raided simultaneously in December 2007, was also given no protocol.

Merazhov said the books, computer and personal photos seized from him in 2005 were not returned until 2007. He added that only some of the books seized from him in 2007 were returned in September 2008. "They gave back copies of the Koran, but not the works of Said Nursi," he complained to Forum 18. "Again there was no documentation." He says the only record he has is a statement prepared by the FSB, which he signed, saying he has no complaint against the FSB. "They told me I wouldn't get back any of the books if I didn't sign the statement."

Of the 20 homes of Nursi readers raided by the FSB security service in Krasnoyarsk in mid-February 2010, search protocols listing confiscated literature were drawn up for each individual, two of those raided confirmed to Forum 18 on 5 March. However, both say that in two cases, officers refused to give the victims copies of the protocols as they are required to do by law.

By contrast, Ziyautdin Dapayev, a Nursi reader in the North Caucasus republic of Dagestan, told Forum 18 that a detailed protocol was drawn up and given to him in autumn 2008 when a large quantity of religious literature was seized from him. "They say an expert analysis is still underway and they won't give the literature back," he lamented. He and another local Nursi reader are currently facing criminal charges (see F18News 4 March 2010 <http://www.forum18.org/Archive.php?article_id=1416>).

Sychev of Sychevs and Advocates - who has defended several Nursi suspects - told Forum 18 that in other unrelated cases police officers also sometimes fail to give such protocols unless the person concerned asks for the protocol. However the police are obliged to give a copy of the protocol, irrespective of whether or not this is requested.

Literature seizures increasing

Ryakhovsky's and Sychev's comments on the legality of seizures come as both readers of the late Turkish Muslim theologian Said Nursi's works (see F18News 4 March 2010 <http://www.forum18.org/Archive.php?article_id=1416>) and Jehovah's Witnesses face increasing raids and literature seizures (see F18News 26 February 2010 <http://www.forum18.org/Archive.php?article_id=1415>).

Many works by Nursi (see eg. F18News 27 June 2007 <http://www.forum18.org/Archive.php?article_id=981>) and Jehovah's Witness publications (see eg. F18News 8 December 2009 <http://www.forum18.org/Archive.php?article_id=1385>) have been ruled "extremist" by local courts and subsequently placed on the Federal List of Extremist Materials, which is maintained by the Justice Ministry.

"The [2002] Extremism Law does not impose a total ban on owning works deemed to be extremist," Ryakhovsky of the Slavic Centre told Forum 18 on 3 March. Article 13 bans only the distribution, production and storage of extremist works with the aim of distribution, he noted. "Only a court can decide whether an individual is violating this."

Fellow-lawyer Sychev of Sychevs and Advocates pointed to the additional requirement of a court-approved expert assessment confirming that the work seized is the exact same edition included on the Federal List.

"Police can't just go around seizing literature," Sychev stated. "They don't have the legal right. If literature is confiscated, a protocol of seizure must be drawn up. For them to continue to hold it an investigation must be launched and either criminal or administrative proceedings must be brought. Otherwise they would be acting illegally and anyone affected could take them to court." He said that without a court ruling finding the literature owner guilty, the literature has to be handed back.

On 3 March, Forum 18 sought from the Justice Ministry clarification of the legal basis for seizing literature on the Federal List. The Ministry said a response would follow in about seven days. No response had been received by the middle of the working day in Moscow on 5 March.

Jehovah's Witness works added to Federal List

The latest additions to the Federal List of Extremist Materials - posted on the Justice Ministry website on 1 March - include all 34 of the Jehovah's Witness publications declared "extremist" by Rostov-on-Don Regional Court in September 2009. The ruling was upheld by Russia's Supreme Court on 8 December 2009 (see F18News 8 December 2009 <http://www.forum18.org/Archive.php?article_id=1385>). Along with these publications, many Russian translations of the late Turkish Muslim theologian Said Nursi also feature on the Federal List, making their distribution a criminal offence (see F18News 4 March 2010 <http://www.forum18.org/Archive.php?article_id=1416>).

Mass distribution, preparation or storage with the aim of mass distribution of titles banned as extremist may result in prosecution under Criminal Code Article 282 ("incitement of ethnic, racial or religious hatred"), whose penalties range from a fine to up to five years in prison. However, the authorities may instead choose to prosecute under Article 20.29 of the Administrative Violations Code ("production and distribution of extremist material"), whose penalties range from a fine to up to 15 days' detention.

These are the first Jehovah's Witness titles to be added to the Federal List. "We learnt that our works had been added to the List only when we saw it on the Justice Ministry website," Martynov of the Jehovah's Witnesses told Forum 18.

However, he pointed out that in various parts of Russia, officials and police knew the names of the banned titles soon after the December 2009 Supreme Court decision and did not wait for the Federal List to be updated. "In many places since then, our works - whether on the List or not - have been confiscated," Martynov told Forum 18.

The Jehovah's Witnesses fear that tens of thousands of their publications could now be seized and charges brought against their members. The literature seizures are part of what the Jehovah's Witnesses complain is a suddenly increased large-scale campaign against them, which they say has strong echoes of Soviet-era repression (see F18News 26 February 2010 <http://www.forum18.org/Archive.php?article_id=1415>).

As of 1 March, the Federal List does not yet include a further 17 Jehovah's Witness publications banned by a court ruling in Gorno-Altai in the Siberian republic of Altai and upheld by Altai Republic Supreme Court on 27 January. One of the 18 works banned in Altai had already been banned in Rostov-on-Don (see F18News 28 January 2010 <http://www.forum18.org/Archive.php?article_id=1400>).

Seizures of Jehovah's Witness literature come as, for the first time in Russia to Forum 18's knowledge, formal criminal charges have been brought against readers of the late Turkish Muslim theologian Said Nursi. Four Muslims who read Russian translations of his works are charged with violating Article 282.2 Part 1 of the Criminal Code ("organising activity by a banned religious or other association"), which carries a maximum penalty of three years' imprisonment. Two other Nursi readers in the North Caucasus

republic of Dagestan are being investigated under Article 282.2, Part 2 of the Criminal Code ("participation in a banned religious extremist organisation") (see F18News 4 March 2010 <http://www.forum18.org/Archive.php?article_id=1416>).

Is seized literature destroyed?

Forum 18 has been unable to find out what happens to literature on the Federal List once it is seized, whether or not with the support of a court verdict. "The Extremism Law does not say whether it will be stored or destroyed," the Sychev of Sychevs and Advocates told Forum 18. He has never seen a court verdict ordering such literature to be destroyed. "They all just speak of confiscation."

The Moscow press office of the Justice Ministry - which maintains the Federal List - did not know either. First a spokesperson explained that decisions on this were taken by individual courts. Then she added: "Such literature is destroyed - of course. Because it is extremist." Then she said police and court executors follow their internal instructions. "If the instructions say such literature should be destroyed, they destroy it. Maybe they do it at a rubbish burning facility." She then referred Forum 18 to the Supreme Court. However, Forum 18 was unable to reach anyone prepared to discuss the topic there on 3 March.

Ryakhovsky of the Slavic Centre noted to Forum 18 that as the "extremist" literature must form the evidence of any successful prosecution, it may lawfully be destroyed as no longer needed once the case is over.

Sychev of Sychevs and Advocates also believes that such literature is likely to be destroyed. "The practice of the Prosecutor's Office is to destroy such materials, although this is not made public."

On 3 March Forum 18 asked Rostov-on-Don Regional Court, which ruled the 34 Jehovah's Witness publications "extremist" in September 2009, whether copies ordered confiscated in its verdict remained in storage or had been destroyed. Forum 18 also asked, if they had been destroyed, for the legal basis for doing so. No response was received by the middle of the working day in Rostov on 5 March.

Websites not banned

Both Nursi readers and Jehovah's Witnesses told Forum 18 that access to websites featuring Russian-language texts on the Federal List has not been blocked. "It seems the authorities don't know how to put the List into practice," Martynov of the Jehovah's Witnesses told Forum 18. (END)

For a personal commentary by Irina Budkina, editor of the <<http://www.samstar.ru>> Old Believer website, about continuing denial of equality to Russia's religious minorities, see F18News 26 May 2005 <http://www.forum18.org/Archive.php?article_id=570>.

For more background, see Forum 18's Russia religious freedom survey at <http://www.forum18.org/Archive.php?article_id=1196>.

Analysis of the background to Russian policy on "religious extremism" is available in two articles: 'How the battle with "religious extremism" began' (F18News 27 April 2009 <http://www.forum18.org/Archive.php?article_id=1287> and 'The battle with "religious extremism" - a return to past methods?' (F18News 28 April 2009 <http://www.forum18.org/Archive.php?article_id=1288>).

Reports on freedom of thought, conscience and belief in Russia can be found at <<http://www.forum18.org/Archive.php?query=&religion=all&country=10>>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at <http://www.forum18.org/Archive.php?article_id=1351>.

A printer-friendly map of Russia is available at <<http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=europe&Rootmap=russi>>.

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