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RUSSIA: First post-Soviet criminal trial of Jehovah's Witness "ludicrous"

By Geraldine Fagan, Forum 18 (<https://www.forum18.org>)

The first post-Soviet criminal trial in Russia of a Jehovah's Witness for sharing beliefs with others – which may conclude as soon as 17 December – is causing increasing alarm, Forum 18 News Service notes. Aleksandr Kalistratov is accused under the Criminal Code's Article 282, which the Prosecutor in defending the trial has described as "amorphous and so does not require concretisation". Mikhail Odintsov of the Office of Russia's Ombudsperson for Human Rights said he had read the charges and attentively listened to the evidence presented by the Public Prosecutor, but had "failed to find a single convincing conclusion". He described the trial's expert analysis as "unscientific" and concluded that relying on it "is fraught with further miscarriages of justice and may prove a detonator of mass violations of human rights". Prosecutors in other regions who have launched similar criminal extremism cases against Jehovah's Witnesses are awaiting the outcome of the Gorno-Altai trial before proceeding. Exactly the same extremism-related charges that Kalistratov is facing were used to convict Ilham Islamli, the first reader of the works of the late Muslim theologian Said Nursi to have been convicted under the Criminal Code.

As the first post-Soviet criminal trial in Russia of a Jehovah's Witness for sharing beliefs with others continues in Gorno-Altai (Altai Republic), lawyers and other observers are disturbed that there should be a trial for this 'offence'. This and similar actions against readers of the works of Muslim theologian Said Nursi are causing increasing alarm, Forum 18 News Service notes.

Addressing an 11 November Moscow press conference on the misapplication of the 2002 Extremism Law, Arli Chimirov, one of the lawyers defending Aleksandr Kalistratov in Gorno-Altai, described how he had been glad the situation in Russia was different when defending Jehovah's Witnesses in Uzbekistan six or seven years ago. "But now I have grave doubts."

Kalistratov, who has led Gorno-Altai Jehovah's Witness congregation since 1998, has been charged under Article 282, Part 1 of the Criminal Code (Entitled "Incitement of hatred [nenavist] or enmity [vrazhda], as well as the humiliation of human dignity"). This carries a maximum punishment of two years' imprisonment. His trial – currently in recess – will resume on 13 December, the court website notes. Chimirov told Forum 18 on 26 November that the trial may end as soon as 17 December.

(See the commentary on this Article and the Extremism Law at http://www.forum18.org/Archive.php?article_id=1468).

Signed by Yevgeni Saidutov, an investigator with Altai Republic Public Prosecutor's Office, the charges maintain that 34-year-old Kalistratov ordered religious literature - including 13 titles banned as extremist by Gorno-Altai City Court and 30 by Rostov-on-Don Regional Court - from the Jehovah's Witnesses Russian headquarters in St Petersburg, and organised its distribution by his community between October 2008 and the end of 2009.

Specifically, it claims Kalistratov visited Aleksei Kandarakov at his home in Gorno-Altai during the second half of December 2009 and gave him two copies of "What Does God Require of Us?" while knowing it had been banned by Gorno-Altai City Court on 1 October 2009 (see F18News 26 August 2010 http://www.forum18.org/Archive.php?article_id=1480).

Forum 18 notes that the Gorno-Altai ruling had not in fact entered force by the end of 2009 (see F18News 28 January 2010 http://www.forum18.org/Archive.php?article_id=1400).

Kalistratov earlier encountered local opposition on becoming a Jehovah's Witness in 1994. A school psychologist for two years, he was urged to leave his post after refusing to submit to pressure from his superiors that he become Orthodox, and is now a street sweeper. He was detained for three weeks in 2000 for rejecting compulsory military service, but was later exonerated and offered alternative civilian service.

Larisa Shestak, spokesperson for Altai Republic Prosecutor's Office, told Forum 18 that no Prosecutor's Office official could comment on how the case against Kalistratov had been prepared or about the trial while the case continued. "The Prosecutor's Office does not have the aim to imprison someone," she stated from Gorno-Altai on 30 November, "but to uphold the law of the Russian Federation."

Current trial

As the case began at Gorno-Altai City Court on 20 October, Judge Marina Sokolovskaya refused permission for video recordings - despite Kalistratov's plea that his trial is of public and political significance. Reports of proceedings therefore come from notes made by Jehovah's Witnesses present at the trial and transcripts of audio recordings received by Forum 18.

While all the prosecution witnesses have now testified, none has provided concrete evidence that Kalistratov engaged in extremism as defined by the Law, Jehovah's Witness lawyer Chimirov told Forum 18 on 26 November. Most witnesses are themselves Jehovah's Witnesses, who typically testify that Kalistratov is respected and loved; an upright citizen who has never incited religious hatred. According to one, "if everyone were like Kalistratov, there would be no crime, and courts wouldn't be necessary."

Several witnesses called by Bulat Yaimov, Assistant Public Prosecutor of Altai Republic, testified that they did not know Kalistratov or anything about his activity during the period he is alleged to have engaged in extremism, from October 2008 to the end of 2009. "It's like 'Mimino'- they've been picked up off the street!" Jehovah's Witness lawyer Chimirov joked at the Moscow press conference. (In the 1970s Soviet comedy "Mimino", one of the protagonists attempts to recruit defence 'witnesses' in this way).

Star witness drinks tea with the accused

Even the prosecution's star witness, Aleksei Kandarakov, failed to confirm that he had received extremist literature from Kalistratov when testifying on 21 October, the second day of the trial. According to the charges against Kalistratov, he visited Kandarakov at home during the second half of December 2009 and gave him two copies of a Jehovah's Witness brochure published in 1996, "What Does God Require of Us?" But Kandarakov explained to the court that, since Jehovah's Witness publications freely circulate in Gorno-Altai, he could not confirm that he had received the brochures from Kalistratov personally. Kandarakov also commented that, while he is Orthodox, he is on good terms with and drinks tea with Kalistratov, whom he described as "an honest guy".

Addressing the court on 20 October, Kalistratov similarly stated that, while Kandarakov considers himself Orthodox, "this doesn't prevent us from being on friendly terms. He's interested in the Bible, enjoys reading Jehovah's Witness and other literature. He asks many questions and makes interesting conclusions supporting his religion, while I give conclusions from the Bible. We drink tea and chat, and if I had incited hatred in or humiliated him we would hardly be able to do that."

Kalistratov also explained that the 1996 edition of "What Does God Require of Us?" has not been supplied to or used by Russian Jehovah's Witnesses for some years, as it was republished in 2003. As all his literature was confiscated during a police search of his home on 7 June 2009, continued Kalistratov, he could therefore not possibly have given Kandarakov the 1996 brochure in late December 2009 – and even then would have given only one copy, as he never provides duplicates.

On 21 October, Assistant Public Prosecutor Yaimov defended his lack of firm evidence by stating that Article 282 of the Criminal Code "is amorphous and so does not require concretisation" (see commentary on this loosely worded Article at http://www.forum18.org/Archive.php?article_id=1468).

"An orientation from above"

There are also other procedural issues in Kalistratov's case. On 20 October, Judge Sokolovskaya rejected lawyer Chimirov's complaint that the two copies of "What Does God Require of Us?" taken from Kandarakov's home had not been checked for Kalistratov's fingerprints. On 16 November, the fifth day of the trial, one witness admitted he had signed his statement without reading it after being assured by an investigator that nothing had been added to it.

On 22 October, the third day of the trial, a senior investigating official who confiscated the Jehovah's Witness literature later banned by Gorno-Altai City Court, Amyr Urchimayev, was unable to establish any connection between it and Kalistratov. Asked why he had seized literature before it was declared extremist, Urchimayev said he had received "an orientation from above" in March 2009. Other state witnesses shed further light on the origins of the moves against Jehovah's Witnesses in Altai Republic (see F18News 1 December 2010 http://www.forum18.org/Archive.php?article_id=1516).

Officials have repeatedly refused to explain why and by whom the widespread state actions against Jehovah's Witnesses and readers of the works of Muslim theologian Said Nursi were initiated (see F18News 12 August 2010 http://www.forum18.org/Archive.php?article_id=1478).

"I have serious complaints about the Jehovah's Witnesses"

Two Orthodox priests have also testified at Kalistratov's trial. But Fr Georgy Balakin, head of Barnaul diocese's Gorno-Altai deanery, admitted to the court on 22 October that he did not know Kalistratov or any other Jehovah's Witnesses personally, and of their faith only through the works of prominent anti-cultist Aleksandr Dvorkin. Fr Georgy spoke of the offence caused him by the Jehovah's Witnesses' description of his own faith as "false", but went on to describe their faith in the same terms within minutes. He

declined to answer Jehovah's Witness lawyer Viktor Zhenkov's question: "You said it upsets you when Jehovah's Witnesses say that Jesus Christ is not God, but the Son of God. But doesn't it upset you when atheists say God doesn't exist at all?"

The second priest, Fr Sergi Bashkatov, told the court on 15 November, the fourth day of the trial, that he was testifying at Fr Georgy's suggestion, and similarly knew of the Jehovah's Witness faith only through Dvorkin's works.

Fr Georgy told Forum 18 on 30 November that he had testified in court "as a representative of Gorno-Altai's Orthodox population" at the invitation of the city Prosecutor's Office. "I don't know the defendant, but I have serious complaints about the Jehovah's Witnesses," he told Forum 18. "They say insulting things about the Orthodox clergy, for example." He said that he had "several times" been invited to the Prosecutor's Office some months ago to give testimony for the case against Kalistratov.

Ombudsperson official "failed to find a single convincing conclusion"

Testifying in Kalistratov's defence on 17 November, the sixth day, was Mikhail Odintsov, responsible for freedom of conscience issues at the Office of Russia's Ombudsperson for Human Rights, Vladimir Lukin. Odintsov described Kalistratov's trial as "without precedent", and commented that although he had read the charges and attentively listened to the evidence presented by the Public Prosecutor, he had "failed to find a single convincing conclusion".

He also characterised as "unscientific" the expert analysis which determined the texts Kalistratov is alleged to have distributed extremist. Reliance upon this expert analysis, Odintsov concluded, "is fraught with further miscarriages of justice and may prove a detonator of mass violations of human rights in Russia."

In a 20 September letter seen by Forum 18, Kalistratov wrote to Lukin asking him to send a representative of his Office to the trial.

The charge sheet gives a typical example of the supposedly extremist content of the literature Kalistratov is alleged to have distributed. This example includes the following passage from an April 1998 issue of 'Awake!' magazine: "We attended a church in Seattle (Washington State, USA), but this was purely a formality. Religion did not occupy an important place in our lives until Jamie, a cheerful young pioneer (a full-fledged preacher of the good news) knocked at our door. She was so nice that I agreed to study the Bible. Since Fred also showed an interest, Jamie's parents led the study and a year later, in 1968, Fred and I were baptized. From the very beginning we had a sincere desire to place the interests of God's Kingdom first in our lives."

Viktor Polyakov, who represents the "For Human Rights" human rights organisation in the Siberian city of Novosibirsk, described the expert analysis as "ludicrous". He told the Portal-Credo Russian religious affairs website on 22 October that: "I hope there will not be written another page in the history of Russian justice copied from the 1970s and 80s. The persecution of people's right to believe in God as they wished and the fight against freedom and democracy at that time ended in the collapse of the USSR. The past hasn't taught our rulers anything. Existing on the money of taxpayers – and that means Jehovah's Witnesses – the punitive organs have again sensed they can rock the boat. It seems these organs don't care that everyone will start to drown."

Earlier Nursi extremism conviction upheld

Exactly the same extremism-related charges that Kalistratov is facing were used on 18 August to convict Ilham Islamli, the first reader of the works of the late Muslim theologian Said Nursi to have been convicted under the Criminal Code. Nizhny Novgorod District Court sentenced him to ten months' detention, suspended for one year, the court website noted (see F18News 26 August 2010 http://www.forum18.org/Archive.php?article_id=1480).

Strangely, Islamli's written verdict - seen by Forum 18 - gives the sentence as eight months' detention, suspended for eight months.

On 22 October, Nizhny Novgorod Regional Court upheld Islamli's sentence, the court noted on its website. Nursi readers told Forum 18 that Islamli – who has now left Russia – did not lodge the appeal.

Other criminal cases

Prosecutors in other regions who have launched similar criminal extremism cases centring on distribution of banned Jehovah's Witness literature are awaiting the outcome of the Gorno-Altai trial before proceeding, Jehovah's Witness spokesperson Grigory Martynov suggested to Forum 18 on 11 November.

Such cases are currently pending in Asbest (Sverdlovsk Region), Chelyabinsk, Kemerovo, Omsk, Salekhard (Yamalo-Nenets Autonomous Region), Tambov, Tula and Yoshkar-Ola (Mari-El Republic). While most do not yet concern named individuals, three are against Igor Potapov (Kemerovo), Petr Babilyulka (Tula) and Maksim Kalinin (Mari-El Republic).

Babilyulka - imprisoned as a conscientious objector from 1956-62 - is accused of distributing three copies of the banned Jehovah's Witness book "What Does the Bible Really Teach?" to an undetermined group of persons in a private flat in Tula on 30 June 2010, according to 21 July case materials seen by Forum 18 (see F18News 26 August 2010)

http://www.forum18.org/Archive.php?article_id=1480).

While the Mari-El case against Maksim Kalinin remains open, evidence obtained from body searches during the 10 August raid of his congregation's Kingdom Hall in Yoshkar-Ola was declared inadmissible on 27 September, according to the Jehovah's Witnesses (see F18News 26 August 2010 http://www.forum18.org/Archive.php?article_id=1480).

European Court verdict challenge

On 10 June 2010 the European Court of Human Rights in Strasbourg ruled in favour of the Jehovah's Witnesses of Moscow in response to their October 2001 complaint against a ban on the community (Application No. 302/02 <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=869647&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>) (see F18News 12 July 2010 http://www.forum18.org/Archive.php?article_id=1466).

On 9 September 2010, however, Russia asked for the case to be referred to the Grand Chamber of the European Court, and this request is now pending. (END)

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).

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, is at F18News 26 May 2005 http://www.forum18.org/Archive.php?article_id=570.

A personal commentary by Alexander Verkhovsky, Director of the SOVA Center for Information and Analysis <http://www.sova-center.ru>, about the systemic problems of Russian anti-extremism legislation, is at F18News 19 July 2010 http://www.forum18.org/Archive.php?article_id=1468.

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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