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The right to believe, to worship and witness
The right to change one's belief or religion
The right to join together and express one's belief

19 July 2011

RUSSIA: "Extremism" prosecutions continue, but Supreme Court advises caution

By Felix Corley, Forum 18 (https://www.forum18.org)

Russia continues to prosecute Muslim readers of the works of Said Nursi and Jehovah's Witnesses on "extremism" charges, Forum 18 News Service has found. The Supreme Court on 28 June issued an instruction warning that prosecutions of individuals on "extremism" charges should be carefully and narrowly framed. It warns that it is important to consider the individual's intention in distributing the works. If the intention is not to incite hatred or enmity or to humiliate the human dignity of others, prosecutions should not be brought. Officials have been unwilling to discuss the impact of the Supreme Court's instruction on their prosecutions of Muslims and Jehovah's Witnesses with Forum 18. Anatoly Tskhai of the Investigation Committee, for example, refused to say if he was aware of the Supreme Court decision. "Ring back in mid-August," he said and put the phone down. Currently, cases are known to be either threatened or under way in Gorno-Altaisk, Ulyanovsk, Astrakhan Region, Krasnoyarsk, Chita, Dagestan and Orenburg.

Despite a Supreme Court instruction from 28 June warning that more care should be taken in bringing "extremism"-related criminal prosecutions, such prosecutions and trials against Muslim readers of the works of Said Nursi and Jehovah's Witnesses in various parts of Russia, Forum 18 News Service has found. The second criminal trial of a Jehovah's Witness is due to resume in Gorno-Altaisk on 25 July. The criminal trial of two readers of the works of the late Turkish Muslim theologian Said Nursi is due to begin in Ulyanovsk on 2 August while a third reader, a former imam, is being sought by the authorities. A case against a Jehovah's Witness in Astrakhan Region is due to be taken to court in August, with prosecutors seeking to have her fined. The FSB security service has prepared cases against four Nursi readers in Krasnoyarsk, while a criminal investigation against a Jehovah's Witness husband and wife is underway in Chita. Two Nursi readers – one in Dagestan and one in Orenburg – are appealing against their sentences.

Jehovah's Witnesses and Nursi readers are particular targets of "extremism"-related criminal prosecutions, as works they frequently read have been banned by various courts. They have been placed on Russia's Federal List of Extremist Materials maintained by the Justice Ministry. Anyone distributing works on the list or storing them with the intention of distributing them is liable to criminal prosecution (see eg. F18News 21 June 2011 http://www.forum18.org/Archive.php?article_id=1582).

Supreme Court instruction welcomed

The wide-ranging 28 June Supreme Court Plenum instruction - posted on the Court's website - made clear that cases under "extremism"-related Articles of the Criminal Code should be very carefully and narrowly framed.

The instruction notes that only statements calling for "genocide, mass repressions, deportations, or the carrying out of other illegal actions, including with the use of violence" against categories of people constitute actions inciting hatred or enmity. These are thus the only grounds for prosecution. "Criticism of political organisations, ideological and religious associations, political, ideological or religious convictions, national or religious customs in and of itself should not be considered as actions directed at inciting hatred or enmity."

The Supreme Court instruction states that special care should be used when prosecuting individuals under Criminal Code Article 282 ("Actions directed at the incitement of hatred [nenavist] or enmity [vrazhda], as well as the humiliation of an individual or group of persons on the basis of .. attitude to religion, .. conducted publicly or through the media") or Administrative Code Article 20.29 ("Production or distribution of extremist materials") for distributing works on the Federal List. The instruction warns that it is important to consider the individual's intention in distributing the works. If the intention is not to incite hatred or enmity or to humiliate the human dignity of others, prosecutions should not be brought.

In sending texts for linguistic expert analysis, experts are not to be asked questions which remain the competence of a court. "In particular, questions cannot be asked of experts on whether a text contains calls to extremist activity and whether informational materials are directed at inciting hatred or enmity."

Human rights defenders and members of religious communities particularly targeted by prosecutors, investigators and the courts,

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have welcomed the Supreme Court's intervention.

However, the "anti-extremism" legislation suffers from systemic problems (see the commentary by Alexander Verkhovsky of the SOVA Center at F18News 19 July 2010 http://www.forum18.org/Archive.php?article_id=1468).

Gorno-Altaisk trial continues

Aleksandr Kalistratov, a Jehovah's Witness from the Siberian town of Gorno-Altaisk, is going through a retrial on extremism-related charges, which he denies. His retrial is due to resume under Judge Marina Kulikova at Gorno-Altaisk City Court on 25 July, the court website notes. He is being prosecuted for the second time under Article 282, Part 1 of the Criminal Code ("Incitement of hatred [nenavist] or enmity [vrazhda], as well as the humiliation of human dignity"). Specifically, he is again accused of giving away two copies of "What Does God Require of Us?" without knowing it had been banned (see F18News 21 June 2011 http://www.forum18.org/Archive.php?article_id=1582).

Kalistratov was acquitted at the end of a six-month long trial in April, but this was overturned after prosecutors appealed against the acquittal (see F18News 20 April 2011 http://www.forum18.org/Archive.php?article_id=1565).

Ulyanovsk Nursi trial to begin in August

The trial of two readers of the works of Said Nursi, 34-year-old Rashid Abdulov and 24-year-old Ayrat Akhtyamov, is due to begin under Judge Gelsine Miftakhova at Ulyanovsk's Lenin District Court on 2 August, court official Liliya Bakayeva told Forum 18 from the city (over 900 kilometres (550 miles) south east of Moscow) on 19 July. Abdulov was arrested on 20 January (see F18News 4 February 2011 http://www.forum18.org/Archive.php?article_id=1536).

Abdulov has been in pre-trial detention ever since, fellow Nursi readers told Forum 18 on 19 July. Judge Andrei Bulychev of Lenin District Court ruled on 19 July that he could continue to be held in pre-trial detention beyond six months. However, Akhtyamov has not been detained.

The two are facing charges under Criminal Code Article 282.2, Part 1 ("Organisation of the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity") and Article 282, Part 2 (c) ("Incitement of hatred [nenavist] or enmity [vrazhda], as well as the humiliation of human dignity conducted by an organised group").

The indictments against the two, dated 10 June and seen by Forum 18, were prepared by Major Dmitri Lashin of the Department for Investigating Especially Important Cases at the regional branch of Russian Federation Investigation Committee. They claim that "under the guise of conducting lessons of the study of Islam" the two promoted the ideas of the Nurdzhular movement, which was banned by Russia's Supreme Court in April 2008. Readers of Nursi's work insist that no such movement exists and that they meet to read Nursi's work because they find it helpful to understand their faith better. The indictments also noted that the groups Abdulov and Akhtyamov led studied works by Nursi which have been declared "extremist" and banned by Russian courts.

The indictments allege that Abdulov and Akhtyamov "wilfully conducted anti-Russian and anti-Constitutional activity in the form of propaganda work among the population". They say the two men also worked with the imam of Ulyanovsk's cathedral mosque, Ilkham Khisanutdinov.

Lashin also drew up a separate indictment against Khisanutdinov on 10 June under the same two Criminal Code Articles, also seen by Forum 18. However, Bakayeva of Lenin District Court told Forum 18 that no criminal case against him is scheduled in the court.

Fellow Nursi readers told Forum 18 that Khisanutdinov was pressured by the Muftiate to leave his post of imam when the case against him was launched. They say he has left Ulyanovsk and is now being sought by the authorities.

Forum 18 has not been able to gain comment from officials involved in these cases on the Supreme Court's instruction.

Astrakhan case to reach court in August

The case against Yelena Grigoryeva, a Jehovah's Witness from Akhtubinsk in the southern Astrakhan Region, is due to be completed in August and sent to Akhtubinsk Town Court, said the main investigator in the case Ilya Kamenyukin of the Investigation Committee. She is facing prosecution under Article 282 Part 1. "We're working more towards a fine, not imprisonment," he told Forum 18 on 19 July.

Kamenyukin said he was aware of the Supreme Court decision, but refused absolutely to discuss whether it will have any impact on the case. He also refused to discuss whether Grigoryeva should be facing prosecution at all and whether there were any victims of her activity.

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Grigoryeva's lawyer, Gulfira Zakaryaeva, was earlier pressured by the authorities to quit the case, but refused (see F18News 13 April 2011 http://www.forum18.org/Archive.php?article_id=1562).

Krasnoyarsk cases

Criminal cases against four Nursi readers from the Siberian city of Krasnoyarsk were completed in April. The cases against the four – Andrei Dedkov, Fizuli Askarov, Yevgeny Petry and Aleksei Gerasimov – were prepared under the supervision of Vladimir Ruban of the Investigation Department of the FSB security service Directorate for Krasnoyarsk Region. They were accused under Article 282.2, Part 2 ("Participation in the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity").

The authorities have been working to prosecute the four since FSB raids on 20 flats in Krasnoyarsk in February 2010 (see F18News 29 October 2010 http://www.forum18.org/Archive.php?article_id=1504).

After the four were acquainted with the case files at the beginning of June, they were then sent to Krasnoyarsk Regional Prosecutor's Office according to procedure. However, instead of sending the cases to court, the Prosecutor's Office found the alleged facts in the case files unfounded or not relevant to the case, fellow Nursi readers told Forum 18. It sent the cases back to the FSB Investigation Department for further work.

"It is good that the case has been sent back," one Nursi reader who asked not to be identified told Forum 18. "But we want the cases to be thrown out."

The four men are living at home as the case is being prepared, but have had to sign statements that they will not leave Krasnoyarsk without first gaining permission.

"I am ready to defend them in court if and when a date is set," their lawyer Sergei Sychev told Forum 18 from Moscow on 19 July.

Forum 18 has not been able to gain comment from officials involved in these cases on the Supreme Court's instruction.

Chita case

An investigation under Criminal Code Article 282, Part 1 against a Jehovah's Witness husband and wife from the Siberian city of Chita, Andrei and Lyutsiya Raitin, is continuing, said Anatoly Tskhai of the Investigation Committee. "The case has been handed to the Prosecutor's Office, but is continuing," he told Forum 18 from Chita on 19 July

Tskhai refused to say if he was aware of the Supreme Court decision and refused to answer any further questions on the case. "Ring back in mid-August," he said and put the phone down.

Dagestan appeal

Nursi reader Ziyavdin Dapayev can finally begin facing his appeal hearing against his conviction under Article 282.2, Part 1 in Russia's North Caucasian republic of Dagestan (see F18News 21 June 2011 http://www.forum18.org/Archive.php?article_id=1582). The Magistrate who sentenced him, Vera Ivashkina, has now handed over the transcript of the five-month trial, she and Dapayev's lawyer Murtazali Barkayev confirmed to Forum 18 separately on 19 July. Ivashkina insisted to Forum 18 that she had completed it within the time limit (five days is the limit), but Barkayev claimed it took her nearly a month to complete.

Dapayev's appeal began under Judge Magomed Onzholov at Makhachkala's Lenin District Court on 20 June before being adjourned because of the absence of the transcript. Barkayev told Forum 18 that no date has yet been set for the trial to resume.

Dapayev repeated his earlier insistence that he is innocent of all the accusations. "We will take this appeal right to the end, even to the European Court of Human Rights in Strasbourg if necessary," he told Forum 18 from Makhachkala on 19 July.

Forum 18 has not been able to gain comment from officials involved in this case on the Supreme Court's instruction.

Orenburg appeal

Nursi reader Asylzhan Kelmukhambetov has lodged his appeal against his sentence in the Urals town of Orenburg under Article 282.2, Part 1, his lawyer Raulya Rogacheva told Forum 18 from Orenburg on 19 July (see F18News 30 June 2011 http://www.forum18.org/Archive.php?article_id=1588). She said the city's Lenin District Court has not yet set a date for the appeal to be heard. She too stressed that her client is prepared to keep appealing if necessary "to the end" to have the sentence overturned.

She and Kelmukhambetov lodged appeals to the court to overturn the decision to hold him in custody until the appeal is heard. He was arrested in the courtroom as sentence was handed down and has been held in Orenburg's Investigation Prison. "His health is not

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good and he suffers from diabetes," Rogacheva told Forum 18. "He is being held in the prison hospital, though he is being well treated and has access to me as his lawyer and his family. He is not losing hope that he will be exonerated."

Forum 18 has not been able to gain comment from officials involved in this case on the Supreme Court's instruction. (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://education.nationalgeographic.com/education/mapping/outline-map/?map=Russia.

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