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RUSSIA: Appeal to be freed from jail due, but criminal prosecutions continue

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

After seven months' imprisonment in Russia, Asylzhan Kelmukhambetov is hoping that his second appeal against an 18-month jail term – due on 19 January at Orenburg Regional Court - will see him freed, his lawyer Raulya Rogacheva told Forum 18 News Service on 10 January. She said that: "Asylzhan has been in the prison hospital since his imprisonment suffering from the effects of diabetes. I saw him yesterday and he was the worst I have ever seen him." Although her client does not smoke, he is being held with others "who smoke constantly". She said that as a devout Muslim he only eats halal food, yet the warders bring whatever has been prepared, regardless of whether it meets his religious dietary requirements. The trial of four more Nursi readers on the same "extremism"-related charges resumes in a Krasnoyarsk court on 18 January. Muslim readers of Nursi's works frequently face prosecution under Criminal Code Article 282.2 ("Organisation of the activity of an extremist organisation"). Elsewhere in Russia, other criminal cases are continuing against people for exercising their freedom of religion or belief. These include Jehovah's Witnesses, who are normally prosecuted under Criminal Code Article 282.

After seven months' imprisonment in Russia, Asylzhan Kelmukhambetov is hoping that his second appeal against his 18-month prison term – due on 19 January at Orenburg Regional Court - will see him freed from prison, his lawyer Raulya Rogacheva told Forum 18 News Service on 10 January. She is also very concerned about the state of his health. Like many Muslims who read the works of the late Turkish theologian Said Nursi, Kelmukhambetov was imprisoned on "extremism"-related charges. The trial of four more Nursi readers on the same charges resumes in a Krasnoyarsk court on 18 January.

Muslim readers of Nursi's works frequently face prosecution under Criminal Code Article 282.2 ("Organisation of the activity of an extremist organisation"). The Russian authorities insist they belong to an organisation named Nurdzhular, which was banned as an extremist organisation by Russia's Supreme Court in April 2008. However, Nursi readers insist they belong to no organisation, but simply read his books to help them understand their faith better (see F18News 29 May 2008 http://www.forum18.org/Archive.php?article_id=1136).

"We do not consider justified the ban on the books of the theologian Said Nursi as extremist, nor the ban on the Nurdzhular organisation, as such an organisation does not exist in Russia," notes the Moscow-based Sova Center. The independent human rights centre has long tracked the use of extremism-related laws to punish religious believers and others. "In practice, prosecutors use the mere study of banned books by Nursi as proof of membership in it".

As the number of "extremism" prosecutions continued to rise, in June 2011 Russia's Supreme Court made clear that cases under "extremism"-related Articles of the Criminal Code should be very carefully and narrowly framed. But this has not stopped cases against Muslim readers of Nursi's works and Jehovah's Witnesses (see F18News 19 July 2011 http://www.forum18.org/Archive.php?article_id=1594).

The criminal trial of a Jehovah's Witness married couple, Andrei and Lyutsiya Raitin, on "extremism" charges 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") is due to resume on 23 January. Jehovah's Witnesses describe the accusations as "baseless", and have pointed out to Forum 18 that the same day the Raitins' trial began - 22 December 2011 – fellow Jehovah's Witness Aleksandr Kalistratov was finally acquitted on exactly the same charges. "Unlike Kalistratov, the Raitins held no position of responsibility in their local community," Jehovah's Witness spokesperson Grigory Martynov told Forum 18. "They're just ordinary members of the community". (see F18News 10 January 2012 http://www.forum18.org/Archive.php?article_id=1653).

Article 282.2 "extremism" criminal punishments changed

An extra possibility for punishments under Criminal Code Article 282.2 was added in the Law amending various Articles of the Criminal Code and other Laws. This was approved by the State Duma on 17 November 2011, signed by President Dmitry Medvedev on 7 December 2011, and added a forced labour possibility. At the same time, punishments under Criminal Code Article 282 were

also both increased and added to. Article 282 is the usual choice of prosecutors seeking to punish Jehovah's Witnesses exercising their freedom of religion or belief. However, Article 282.2 is the usual choice of prosecutors seeking to punish Muslim readers of Nursi's works exercising their freedom of religion or belief (see F18News 10 January 2012 http://www.forum18.org/Archive.php?article_id=1653).

Russian "anti-extremism" legislation – including Articles 282 and 282.2 - has systemic problems, as noted in a commentary by Alexander Verkhovsky of the SOVA Center at F18News 19 July 2010 http://www.forum18.org/Archive.php?article_id=1468.

Article 282.2, Part 1 punishes: "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".

Punishments under Article 282.2, Part 1 are now: "by means of a fine of between 100,000 Roubles [19,000 Norwegian Kroner, 2,500 Euros, or 3,170 US Dollars] to 300,000 Roubles [57,000 Norwegian Kroner, 7,500 Euros, or 9,510 US Dollars],

or of the level of pay or other income of the convicted person for a period of between one and two years,

or forced labour for a period of up to three years with or without limitations on freedom for a period of up to two years [a new provision],

or arrest for a period of between four and six months,

or deprivation of freedom for a period of up to three years with or without deprivation of the right to carry out specific duties or to engage in a specific activity for a period of up to ten years and with or without limitations on freedom for a period of up to two years".

Article 282.2, Part 2 punishes: "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".

Punishments under Article 282.2, Part 2 are now: "by means of a fine of up to 200,000 Roubles [38,000 Norwegian Kroner, 5,000 Euros, or 6,340 US Dollars],

or of the level of pay or other income of the convicted person for a period of up to 18 months,

or forced labour for a period of up to two years with or without limitations on freedom for a period of up to one year [a new provision],

or arrest for a period of up to four months,

or deprivation of freedom for a period of up to two years with or without deprivation of the right to carry out specific duties or to engage in a specific activity for a period of up to five years and with or without limitations on freedom for a period of up to one year".

The forced labour penalties come into force at the beginning of 2013.

In decisions linked to "extremism" legislation, numerous lower court decisions have found – on highly questionable grounds – that Russian translations of the Islamic theological works of Said Nursi and Jehovah's Witness publications are "extremist" and so placed them on the Justice Ministry's Federal List of Extremist Materials (see 'The battle with "religious extremism" - a return to past methods?' F18News 28 April 2009 http://www.forum18.org/Archive.php?article_id=1288). Once materials are on the Federal List, it is then illegal to distribute or store them for distribution.

Such lower court decisions are of great help to officials seeking to prosecute Jehovah's Witnesses and Muslim readers of the works of Said Nursi for exercising their freedom of religion or belief. A total of 68 Jehovah's Witness publications, as well as 15 Russian translations of Nursi's works, have already been ruled "extremist" However, a recent attempt to find a key Hare Krishna book, the Bhagavad-Gita As It Is, "extremist" failed in court in Tomsk (see F18News 5 January 2012 http://www.forum18.org/Archive.php?article_id=1652).

Orenburg second appeal

The 42 year-old Kelmukhambetov became the first Muslim reader of Nursi's works in Russia to receive a criminal sentence of imprisonment, when he was sentenced in June 2011. After a trial in the Urals town of Orenburg lasting nearly a year, Magistrate Valeri Vorobyev at Judicial Unit No. 3 of the Lenin District sentenced Kelmukhambetov under Criminal Code Article 282.2, Part 1

to 18 months' imprisonment. He had not been in detention during the trial, so was arrested in the courtroom when the sentence was handed down. Once imprisoned, he was immediately sent to the prison hospital (see F18News 12 September 2011 http://www.forum18.org/Archive.php?article_id=1612).

Kelmukhambetov appealed against his sentence, but Judge Svetlana Shabanova at Orenburg's Lenin District Court rejected his appeal in late 2011. The court website does not appear to list the case and on 12 January the court refused to give Forum 18 the date of the decision.

He then appealed further to Orenburg Regional Court. The court website notes that the case arrived at the court on 10 January and lists the appeal hearing for the morning of 19 January. It gives no name of the judge or judges due to hear the appeal, and the court refused on 12 January to give Forum 18 any further information on the case.

"He was the worst I have ever seen him"

Kelmukhambetov's lawyer Rogacheva insists the case against her client is "unfounded" and that he has been punished merely for his religious activity.

She also told Forum 18 from Orenburg that: "Asylzhan has been in the prison hospital since his imprisonment suffering from the effects of diabetes," she complained. "I saw him yesterday and he was the worst I have ever seen him."

Rogacheva also noted that Kelmukhambetov is not being treated adequately in Orenburg's Investigation Isolation Prison No. 1, where he was taken immediately after his sentencing. "He is being held there illegally. Plus his health is bad – he's in a very bad state, coughing and suffering from dizziness."

Although her client does not smoke, he is being held with others "who smoke constantly". She said that as a devout Muslim he only eats halal food, yet the warders bring whatever has been prepared, regardless of whether it meets his religious dietary requirements.

Krasnoyarsk trial resumes

The trial under Criminal Code Article 282.2 of four more Muslim readers of Nursi's works resumes in a court in the Siberian city of Krasnoyarsk on 18 January. The trial of Andrei Dedkov, Yevgeni Petry, Aleksey Gerasimov and Fizuli Askarov began under Magistrate Natalya Yermolenko at Judicial Unit No. 80 in the city's Soviet District with the first of several preliminary hearings on 31 August 2011. Dedkov and Petry are being tried under Article 282.2, Part 1, while Gerasimov and Askarov under Article 282.2, Part 2 (see F18News 31 August 2011 http://www.forum18.org/Archive.php?article_id=1606).

The Secretary at Judicial Unit No. 80 – who did not give her name – described the trial to Forum 18 on 12 January as a "major case" for Magistrate Yermolenko, the only Magistrate for her Judicial Unit. "She approaches the case with a sense of responsibility." However, the Secretary was reluctant to discuss the trial, including when and how many hearings have already taken place and when the trial is expected to conclude.

Four trial hearings have already taken place, the most recent in early December 2011, Nursi reader Dedkov told Forum 18 on 12 January. "At one hearing an FSB security service officer was questioned, while at two other hearings secretly recorded video of a group of us meeting to drink tea and discuss our faith was shown," he added. "At the final hearing secretly intercepted telephone calls were heard." Dedkov said twelve volumes of evidence still needs to be examined.

"We don't expect the trial to reach a conclusion for another three or four months," his co-defendant Petry complained to Forum 18 from Krasnoyarsk the same day. "This whole case has been going on for two years."

Petry complained that he and his fellow defendants have had to devote so much time to fighting the case. "It is difficult – we can't leave town without the Magistrate's permission, let alone the country, and haven't been able to get proper work," he told Forum 18. "There's also the worry over the case and we have also been publicly insulted on television."

Petry was sceptical that the Magistrate will rule in their favour. "The court is against us and in any case there's been an order from above to sentence us," he claimed. He insisted he not only wants the accusations to be withdrawn, he also wants those who brought the case to be fined for bringing accusations which he claims they know are unfounded.

Chelyabinsk criminal investigation continues

Meanwhile, investigators in Chelyabinsk east of the Urals are continuing to investigate local Muslim readers of Nursi's works under Article 282.2, Part 2, Yuri Vlasov, Head of the Department for Especially Important Cases of the Chelyabinsk Region Investigation Committee, confirmed to Forum 18 from the city on 12 January. The case is led in Vlasov's department by Pavel Derkho. Vlasov refused to say if the case is against any named individuals, when it was likely to be completed or to give any other information.

On 8 August 2011, a summer home in the village of Aznalino in Safakuleev District of Kurgan Region owned by Nursi reader Farida Ulmaskulova was raided. The village is about 90 minutes drive from Chelyabinsk, from where the raid was organised. Ulmaskulova was teaching seven girls between the ages of 11 and 17 the principles of Islam and reading the Koran, using a course devised by the Chelyabinsk Spiritual Union of Muslims. Almost simultaneously, two homes in Chelyabinsk - Ulmaskulova's home and the home of Gulnaz Valeyeva – were raided (see F18News 31 August 2011 http://www.forum18.org/Archive.php?article_id=1606).

Ulmaskulova told Forum 18 from Chelyabinsk on 12 January 2012 that investigators have not told her or Valeyeva who is being investigated or what specific charges they might face. "We have been questioned as witnesses so far, not as suspects." However, she fears that she and Valeyeva will eventually be charged and brought to trial. She said she had not been questioned since September 2011, though other family members were summoned and questioned later in 2011. "Two of the girls I have taught were summoned and questioned this January," she told Forum 18.

Ulmaskulova said the whole experience has been "unpleasant". She also complained that books confiscated from her – including those by Said Nursi – have not been returned. "I read them regularly," she noted. Nor has her mobile phone or computer discs taken from her been returned.

Novosibirsk criminal investigation continues

Two Muslim readers of Nursi's works in the Siberian city of Novosibirsk, Ilham Merazhov and Kamil Odilov, are being investigated under Article 282.2. As part of the investigation, a private home where a group of their friends were meeting was raided in October 2011, followed by a raid on Merazhov's own home (see F18News 14 October 2011 http://www.forum18.org/Archive.php?article_id=1625).

The new investigator in the case at Dzerzhinsky Inter-District Investigation Committee, Stanislav Leiba, told Forum 18 from Novosibirsk on 10 January that the investigation period has just been prolonged and "no court hearings are expected yet". He refused to discuss any other aspect of the case.

Merazhov and Odilov tried to challenge the legality of the search, claiming that the search warrant made no mention of what officers were looking for. However, their suit was rejected on 5 December 2011 by Novosibirsk Regional Court, Merazhov told Forum 18 from Novosibirsk on 12 January.

The two also tried to challenge the opening of the criminal case against them. "The case is completely unfounded," Merazhov insisted. Although the challenge should have been heard within five days, it was "dragged out" for two months. Finally Judge Igor Temirsultanov of Novosibirsk's October District Court rejected the suit on 27 December 2011, Merazhov said. They have now appealed against this ruling to Novosibirsk Regional Court.

Merazhov lamented that he has not been able to get back his books, computer and mobile phone confiscated from him during the raid. "I work at the university and need my computer," he told Forum 18. "The first investigator who has now been removed, Aleksei Los, told me I would get them back in a week. But at the 27 December court hearing, Leiba told me all the confiscated items have been sent to the FSB."

Recent sentences

Among other recent prosecutions of Muslim readers of Nursi's works, Rashid Abdulov was sentenced under Article 282.2 in the Volga city of Ulyanovsk in September 2011 to one-year's compulsory work, but was freed because he had already spent nearly eight months in custody (see F18News 12 September 2011 http://www.forum18.org/Archive.php?article_id=1612).

Six Nursi readers were convicted under Article 282.2 at a two-hour trial in October 2011 in the city of Nizhny Novgorod, on the River Volga east of the capital Moscow. Three received prison terms, with Elshan Gasanov receiving one year's imprisonment (see F18News 14 October 2011 http://www.forum18.org/Archive.php?article_id=1625). (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.ucoz.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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