FORUM 18 NEWS SERVICE, Oslo, Norway
https://www.forum18.org/
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

15 August 2013

RUSSIA: Rise in legal proposals affecting religious freedom

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

Russian legislative initiatives concerning freedom of religion or belief have markedly increased since President Vladimir Putin's return in May 2012, Forum 18 News Service notes. This appears at least partly due to activity by the Duma's Committee on Social Associations and Religious Organisations after its chairship passed to Vladimir Zhirinovsky's Liberal Democratic Party in late 2011. But not all are restrictive, or have proved resistant to revision in the direction of more religious freedom. For example, a government legislative initiative backed by the Committee regulating religious meetings has still to be voted on by the Duma. The amendments, proposed on 7 June 2013 in response to a Constitutional Court ruling, are to some extent positive: meetings for worship in private could not be subject to a need to gain state permission in advance. However, a degree of uncertainty remains over public meetings for worship in rented premises. Some local state officials have continued to obstruct meetings for worship in private or rented premises. But despite a general trend towards harsher restrictions, not all recent proposals negatively affecting religious freedom are being adopted.

The number of Russian legislative initiatives concerning freedom of religion or belief has risen markedly since President Vladimir Putin's return to the Kremlin in May 2012, Forum 18 News Service observes.

More than a month since the most notorious such initiative came into force on 1 July 2013, it remains unclear how far its provisions against "insulting religious feelings" will be used to restrict public expression of religious or other worldviews (see F18News 14 August 2013 http://www.forum18.org/archive.php?article_id=1864).

The similarity of the new amendments to existing laws on "extremism" suggests they could be implemented against disfavoured religious communities whose literature is already outlawed as "extremist". These include Jehovah's Witnesses and many Muslims (see Forum 18's "extremism" Russia religious freedom survey at http://www.forum18.org/archive.php?article_id=1724).

Less prominently, several other initiatives affecting religious freedom have been adopted in recent months, or are in the process of adoption. The "insulting religious feelings" initiative is widely seen as a protectionist measure in favour of the Russian Orthodox Church (Moscow Patriarchate). But not all these initiatives are restrictive, or have proved resistant to revision in the direction of religious freedom, Forum 18 notes.

Forum 18's citation of drafts and related documents follow those on the official website of Russia's Duma (parliament).

The increase in legislative initiatives concerning freedom of religion or belief appears at least partly due to activism by the Duma's Committee on Social Associations and Religious Organisations, after its chairship passed to Vladimir Zhirinovsky's Liberal Democratic Party in December 2011 (see F18News 19 August 2013 http://www.forum18.org/archive.php?article_id=1866).

Telephone numbers for the Committee's chair, Yaroslav Nilov, and adviser, Stepan Medvedko, went unanswered whenever Forum 18 rang on 13 and 14 August.

Regulation of religious gatherings

Backed by the Committee, a government legislative initiative regulating religious gatherings has still to be voted on by the Duma.

Russia's 1997 Religion Law currently states that worship services and religious rites must not be obstructed if they take place at designated houses of worship, cemeteries or crematoria (Article 16.2). This category further includes "other places offered to religious organisations" for worship, and residential premises. By contrast, official permission – as for public demonstrations – is required in "other cases" (Article 16.5).

In practice, however, state officials have sometimes blocked worship at rented premises - insisting this requires state approval - and even private homes. Victims in recent years have included Baptists and Jehovah's Witnesses (see F18News 2 August 2010 http://www.forum18.org/archive.php?article_id=1473 and 28 October 2011 http://www.forum18.org/archive.php?article_id=1631), as well as Hare Krishna devotees (see F18News 29 May 2012 http://www.forum18.org/archive.php?article_id=1707).

Copyright Forum18 News Service 2013

A resolution appeared to have been reached on 5 December 2012. On that date Russia's Constitutional Court responded to a complaint arising from the prosecution of two Jehovah's Witnesses, for meeting for worship without state approval at rented premises in Belgorod Region and Tatarstan Republic.

The Court ruled that religious events taking place outside houses of worship, specially designated places or private homes "might be of a scale that obstructs the normal functioning of transport, state or social organisations". In such cases, it noted, implementation of the regulations for public demonstrations is lawful. Conversely, the Court confirmed that state insistence upon advance notification for religious gatherings not requiring measures to safeguard public order and safety violates constitutional principles (see F18News 3 January 2013 http://www.forum18.org/Archive.php?article_id=1787).

Seen by Forum 18, the ruling also ordered legislators to introduce relevant amendments reflecting its decision.

Uncertainty remains

The government amendments (draft law no. 293364-6), proposed on 7 June 2013 in response to the Constitutional Court's ruling, appears to fall short of religious communities' expectations. Seen by Forum 18, the proposals would alter Article 16 of the 1997 Law to state that worship services and religious rites must not be obstructed if they take place on premises or land belonging to religious organisations or "offered to religious organisations in accordance with property rights other than ownership".

The draft Law also clarifies that "other cases" requiring advance state permission (as for political demonstrations) would include "religious gatherings held openly in conditions requiring measures to safeguard public order and the safety of both participants in the religious event and other citizens".

To some extent, this is a positive development for freedom of religion or belief: meetings for home worship in private could not be subject to such controls. However, a degree of uncertainty remains over public meetings for worship in rented premises.

Lawyer Inna Zagrebina of the Moscow-based Guild of Experts on Religion and Law thinks this could not be obstructed, as it falls into the category of religious rites on premises "offered to religious organisations in accordance with property rights other than ownership". "If premises are offered to a religious organisation for worship on the basis of a rental agreement," she suggested to Forum 18 on 14 August, "the event is not subject to the demands made of public events."

Since public events such as political demonstrations require organisers to notify the authorities in advance, this gives government officials the opportunity to refuse to allow them.

Writing in Novaya Gazeta newspaper on 19 December after the Constitutional Court ruling, Lev Simkin – another Moscow-based lawyer focusing on freedom of religion or belief – was less optimistic, however. He pointed out that, according to the Court's ruling, "a public religious event, if accessible to other citizens (even if it takes place in a building)" could be subject to government approval as "open display of religious convictions may irritate or offend people who profess a different religion or none."

If government officials cite possible "offence" to others' religious convictions as a reason for public order and/or safety measures, they could therefore still block worship at rented premises by claiming the state is unable to provide sufficient measures, Forum 18 notes.

In its most recent update, the Duma's website stated that the draft law was still being prepared for parliamentary consideration by the Duma's Religion Committee as of 31 July.

Restrictions continue

Even after the 2012 Constitutional Court ruling, some local state officials have continued to obstruct meetings for worship in private or rented premises, insisting the meetings require state approval in the same way as political demonstrations. In the southern city of Astrakhan and the Far Eastern settlement of Pogranichny (Primorye Region), two meetings held on 26 March to commemorate the Memorial of Christ's Death - the most important Jehovah's Witness event of the year - were halted by local police and officials on the grounds that they were "illegal", the Jehovah's Witnesses stated.

Separately, an unsigned and undated letter from the Chief of Staff of Tatarstan Republic's Presidential Administration, Yuri Kamaltynov, orders subordinates to block unspecified religious organisations from renting state-owned premises for events involving worship. (Religious organisations making such requests are usually Protestant.)

Seen by Forum 18, the letter asks leaders of Tatarstan's administrative districts to inform directors of sports, educational and cultural institutions that requests to rent their premises for religious events should be rejected as "inexpedient".

On calling the telephone number on the letter on 13 August, Forum 18 was directed to the Chancellery of Tatarstan's Presidential

Copyright Forum18 News Service 2013 - Page 2/4

Administration. On 14 August a spokesperson there either put the phone down or the line was cut off when Forum 18 asked for confirmation of whether the letter was genuine. Immediate calls back to the same number went unanswered.

Forum 18's similar enquiry sent to an email address on the letter on 13 August went unanswered by the end of the working day in Tatarstan on 14 August.

Restrictions on participation in religious organisations

Also backed by the Duma's Religion Committee, a proposal restricting who may participate in religious organisations was signed into law by President Putin on 2 July (draft law no. 247831-6). It amends the 1997 Religion Law to prohibit persons convicted of "extremism"; foreign citizens or stateless persons lawfully barred from the Russian Federation; religious organisations whose activity has been halted due to "extremism"; and persons convicted of money laundering or financing terrorism from being "founders (participants, members) of a religious organisation" (Article 9, Part 3).

Russia's government proposed this draft to the Duma on 23 March. It passed its first Duma reading on 21 May and second and third readings on 21 June.

Here too, some doubts arise. Lawyer Inna Zagrebina pointed out to Forum 18 that the restriction on persons convicted of "extremism" is "somewhat alarming, due to known attempts at unjust criminal prosecution of Jehovah's Witness leaders for extremism" (see F18News 10 January 2012 http://www.forum18.org/archive.php?article_id=1653).

Forum 18 also notes that the 1997 Law variously uses the terms "founder [uchreditel]", "participant [uchastnik]" and "member [chlen]". It states, for example, that ten "founders" are required to form a local religious organisation, and that they must be Russian citizens (Article 9). These "founders" must also approve the organisation's statutes, submit its registration application, and include their names in it (Article 11).

But while the 1997 Law further requires a local religious organisation to have at least 10 adult "participants" in one locality (Article 8) and refers to the various rights of its "members" (Articles 4, 11, 14), it nowhere defines participation or membership.

Even if a religious organisation's leaders make every effort to keep out influences they consider undesirable, the organisation may thus still be targeted by law enforcement agents, if they judge an occasional worshipper – in the agencies view justifiably suspected or prosecuted for "extremism" - to be a "participant". Muslims communities – such as that in the Far Eastern city of Yuzhno-Sakhalinsk (Sakhalin Region) – are particularly susceptible to this (see F18News 29 May 2013 http://www.forum18.org/archive.php?article_id=1842).

Restrictions on religious personnel diluted

Despite a general trend towards harsher restrictions, not all recent proposals negatively affecting religious freedom are being adopted, Forum 18 notes. For example, a draft law proposed by a group of Duma deputies led by Ildar Gilmutdinov (United Russia Party) on 21 December 2012 sought various controls over who could work for religious organisations. The initial text of its proposed amendments to the 1997 Law passed its 22 February first Duma reading (draft law no.195229-6).

That text would have allowed Russia's regions to pass laws prescribing demands concerning the "religious education of clerics and religious personnel". It would also have obliged religious organisations to conclude labour agreements with their employees. The draft couched these restrictions as aimed at "preventing extremist activity".

Russia's Public Chamber declined to support the draft, however. Sent to Duma chair Sergei Naryshkin on 13 May, the Chamber's assessment objected that, "educational demands on clerics and religious personnel are the prerogative of religious organisations", while regional laws prescribing such demands would lead to unlawful state interference.

The Chamber further noted that some religious associations' internal statutes allow for cases in which clerics or similar persons are called to perform their activity on an unpaid, voluntary basis.

Adopted by the Duma following second and third readings on 24 May 2013 and signed into law by President Putin on 7 June, the final, altered text broadly takes into account the Public Chamber's concerns. The 1997 Religion Law thus now obliges religious organisations to conclude labour agreements with their employees only "in cases prescribed by their statutes" (Article 24, Part 1). It also stipulates that religious organisations have the right to place demands, including educational, on their clerics and religious personnel - but not other employees (Article 24, Part 5).

The text's amendment to Article 4 of the 1997 Law continues to affirm that religious associations appoint and change their personnel according to their internal statutes (Part 5). It also stops short of endorsing corresponding regional laws prescribing educational demands on religious personnel. However, the vague phrase "in accordance with corresponding conditions and demands" has been added, introducing potential for formal state influence over the appointment of religious personnel.

Copyright Forum18 News Service 2013

Further proposals

On 9 August 2013 the Justice Ministry announced it is also preparing amendments to the 1997 Law, including abolition of the 15-year wait before religious groups may register with the state if unaffiliated with an umbrella religious organisation. The amendments would reportedly also abolish the requirement for registered religious organisations (and unregistered groups planning to register on completion of the 15-year probationary period) to inform the authorities annually about the continuation of their activities.

While such changes would be welcomed by religious communities, these provisions have in practice had far less impact upon religious freedom than originally feared (see F18News 14 April 2005 http://www.forum18.org/archive.php?article_id=543).

During Putin's first two terms in the Kremlin (2000 to 2008), most attempts to amend the 1997 Law in the direction of restriction stalled. More recently, these have included Justice Ministry proposals to force religious communities to issue licences to anyone wishing to promote their beliefs away from their premises (October 2009), and to make state registration compulsory for all religious communities, possibly rendering unregistered religious activity illegal (October 2011) (see Forum 18's general Russia religious freedom survey at http://www.forum18.org/archive.php?article_id=1722). (END)

For more background, see Forum 18's surveys of the general state of religious freedom in Russia at http://www.forum18.org/Archive.php?article_id=1722, and of the dramatic decline in religious freedom related to Russia's Extremism Law at http://www.forum18.org/Archive.php?article_id=1724.

The Economist's review of Geraldine Fagan's book "Believing in Russia - Religious Policy after Communism" (Routledge, 2013) is available here http://www.economist.com/news/books-and-arts/21571111-new-look-religion-post-1991-russia-question-faith. The book's comprehensive overview of Russian religious policy argues that continuing failure to resolve the question of whether Russia is to be an Orthodox country with religious minorities or a multi-confessional state is destabilising the nation.

An analysis of the way that the Russian authorities have used the Pussy Riot case to intensify restrictions on freedom of religion or belief is at F18News 15 October 2012 http://www.forum18.org/Archive.php?article_id=1754.

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.

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.

More 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.

Follow us on Twitter @Forum_18 (http://twitter.com/forum_18)

Follow us on Facebook @Forum18NewsService (http://www.facebook.com/Forum18NewsService)

All Forum 18 text may be referred to, quoted from, or republished in full, if Forum 18 is credited as the source.

All photographs that are not Forum 18's copyright are attributed to the copyright owner. If you reuse any photographs from Forum 18's website, you must seek permission for any reuse from the copyright owner or abide by the copyright terms the copyright owner has chosen.

© Forum 18 News Service. All rights reserved. ISSN 1504-2855.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY