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RUSSIA: 159 known "anti-missionary" prosecutions in 2018

By Victoria Arnold, Forum 18

At least 56 organisations and 103 individuals faced prosecution in 2018 under the 2016 "anti-missionary" legal changes. Lawyer Mikhail Frolov warns prosecutions have a chilling effect. "Believers don't understand what they can and can't do, and because of heavy fines they don't want to take the risk and therefore significantly reduce their activity, especially in public."

In the calendar year 2018, at least 56 organisations and 103 individuals faced prosecution under the "anti-missionary" changes to the Religion Law and Administrative Code introduced by the July 2016 so-called "Yarovaya laws" of July 2016, Forum 18 has found. In these 159 prosecutions, courts imposed 132 initial convictions, with 129 fines. More than half the regions in Russia saw at least one prosecution.

The changes to the Administrative Code introduced Article 5.26 Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label"), Part 4 ("Russians conducting missionary activity"), and Part 5 ("Foreigners conducting missionary activity") (http://www.forum18.org/archive.php?article_id=2246).

Prosecutions have continued in 2019, including two Baptists punished for offering religious literature at a bus stop and a Buddhist punished for a meditation meeting (see below).

Almost all the individuals prosecuted in 2018 were Russian citizens. Of the 14 foreigners prosecuted (one of them twice), three were ordered deported (although one had the deportation order overturned on appeal) (see below).

(A full list of known 2018 prosecutions, based on court decisions and other information, is [here](#).)

These figures mark an overall decrease on the number of prosecutions found by Forum 18 in the first year of the anti-missionary amendment's implementation, but an increase in the conviction rate. The year 2016-17 saw 193 prosecutions with 143 convictions. (http://www.forum18.org/archive.php?article_id=2305)

The decline in 2018 appears to be primarily explained by the sharp drop in the number of Administrative Code Article 5.26 cases against Jehovah's Witnesses, whose activities were outlawed as "extremist" by Russia's Supreme Court in 2017 (http://www.forum18.org/archive.php?article_id=2474). As a result of the ban there has been a steep rise in Jehovah's Witnesses held in pre-trial detention, under house arrest, and under travel restrictions as many face "extremism"-related criminal charges (http://www.forum18.org/archive.php?article_id=2453). Two have been given criminal convictions (for earlier bans on individual communities) and at least a further 150 are facing criminal prosecution.

State officials across Russia continue to use the "anti-missionary" legislation to control and punish the exercise of freedom of religion or belief in public and even private space. Police and prosecutors continue to interpret a broad spectrum of activity as "missionary", from posting videos on social media to praying with friends in one's own home (see below).

Lawyers involved in these cases say the risk of prosecution has a chilling effect on people's exercise of freedom of religion or belief. "Believers don't understand what they can and can't do," Society for Krishna Consciousness lawyer Mikhail Frolov told Forum 18, "and because of heavy fines they don't want to take the risk and therefore significantly reduce their activity, especially in public" (see below).

Communities of almost every religious affiliation in the country have now faced prosecutions of communities themselves or of individual believers. Protestant churches clearly predominate (see below).

Recent Constitutional Court and Supreme Court rulings have introduced greater clarity to the application of the law and reduced convictions for certain types of case. Nevertheless, "for now", only judges take note of the rulings, Pentecostal Union lawyer Vladimir Ozolin complained to Forum 18. "Police and prosecutors just try to fulfil the plan for the number of prosecutions and send

all cases to court" (see below).

Anyone charged with unlawful "missionary activity" is highly likely to end up with a punishment. The overall initial conviction rate appears to have increased since the amendments came into force, and appeals rarely succeed (see below).

Russia also imposes prosecutions under the "anti-missionary" amendment in Crimea, which it annexed in 2014. (http://www.forum18.org/archive.php?article_id=2441)

Chilling effect?

The July 2016 "anti-missionary" legal changes (http://www.forum18.org/archive.php?article_id=2246) may be deterring some religious communities from public expressions of belief. "Because of the impossibility of clearly distinguishing between religious and missionary activities, the courts often conflate these concepts," Society for Krishna Consciousness lawyer Mikhail Frolov commented to Forum 18 on 9 April.

"Believers don't understand what they can and can't do," Frolov added, "and because of heavy fines they don't want to take the risk and therefore significantly reduce their activity, especially in public."

Pentecostal Union lawyer Vladimir Ozolin agrees that, "to some extent", the "anti-missionary" amendment has had a deterrent effect. "Believers are afraid to carry the Word of God to the masses, because they fear fines," he told Forum 18 on 19 April. "As ever, state officials assume that any church activity is missionary activity, which is certainly not true."

Church members have increasingly sought advice from him on how to hold a particular religious event to try to avoid the risk of prosecution, Ozolin added. The Pentecostal Union has therefore produced additional training courses.

Background

On 6 July 2016, President Vladimir Putin signed amendments to the Religion Law imposing harsh restrictions on the sharing of beliefs, including on where and by whom they may be shared. The amendments ban broadly defined "missionary activity" by anyone without written permission from an officially recognised religious association, and apparently any activity performed by religious organisations not using their full legal names.

The amendments also prohibit "missionary activity" on residential premises, or carried out by anyone who is a former member of an allegedly "extremist" religious organisation, and allow wide scope for arbitrary official actions.

The amendments were introduced as part of an "anti-terrorism" package proposed by United Russia Duma deputy Irina Yarovaya and Senator Viktor Ozerov. Protests against the changes were widespread. (http://www.forum18.org/archive.php?article_id=2246)

A 2015 amendment to the Religion Law required all unregistered religious groups to notify the authorities (usually to local branches of the Justice Ministry) of their existence and activities. This includes providing names and addresses of all their members, and addresses where any meeting takes place. (http://www.forum18.org/archive.php?article_id=2246)

Although no explicit punishment currently exists for not submitting this notification, Forum 18's analysis of prosecutions under Administrative Code Article 5.26, Parts 4 and 5, shows that failure to do is frequently taken as evidence of unlawful "missionary activity".

Punishments

Individuals and legal entities who violate any of the July 2016 restrictions and requirements are subject to punishment under Administrative Code Article 5.26, Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label"), Part 4 ("Russians conducting missionary activity"), or Part 5 ("Foreigners conducting missionary activity").

These were all signed into law at the same time. (http://www.forum18.org/archive.php?article_id=2246)

Under Part 4 ("Russians conducting missionary activity"), Russian citizens are liable for a fine of 5,000 to 50,000 Roubles. For organisations (legal entities), the fine stands at 100,000 to 1 million Roubles. Religious groups, while they may share their beliefs in limited circumstances, are not legal entities – their members are therefore subject to prosecution as individuals.

Foreigners may be fined 30,000 to 50,000 Roubles for the same offence under Part 5 ("Foreigners conducting missionary activity"), with the possibility of expulsion from Russia.

Punishments under Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label") are a fine of 30,000 to 50,000 Roubles and possible confiscation of any materials.

A fine of 50,000 Roubles represents nearly six weeks' average wages for those in work or 16 weeks' average state retirement pension.

Prosecutions continue in 2019

Prosecutions are continuing in 2019. On 15 January 2019, Baptists Sergei Roshchin and Valery Turkin received fines of 5,000 Roubles each under Administrative Code Article 5.26, Part 4 ("Russians conducting missionary activity"). They were punished for offering religious literature at a bus stop in central Ryazan, without the necessary authorising documents from a religious group or organisation. The two men argued that they were not members of the Baptist religious group in Ryazan, and that they had been sharing only their personal beliefs.

The judge at Soviet District Magistrate's Court No. 21 concluded, however, that Roshchin and Turkin had intended to involve new members in a religious association, as they had allegedly given people invitations to a meeting for worship. The two men appealed unsuccessfully at Ryazan's Soviet District Court on 6 March 2019.

On 7 February 2019, Sochi's Khostinsky District Magistrate's Court No. 99 fined Buddhist leader Igor Darayev 5,000 Roubles under Administrative Code Article 5.26, Part 4 ("Russians conducting missionary activity"). It punished him for organising "collective meditation" in a boathouse for "about a dozen" fellow Buddhists, without the necessary authorising documents from his religious association.

2018 statistics

In an analysis of available court records, Forum 18 found a total of 159 prosecutions brought to trial under Administrative Code Article 5.26, Parts 3, 4, and 5 in the calendar year 2018. It is unknown how many other individuals and organisations may have faced charges as cases against Russian citizens and legal entities (which comprise the vast majority) are heard in magistrates' courts, of which there are more than 7,000 across the country, and it is becoming increasingly difficult to establish accurate figures if communities or their members do not themselves make prosecutions known.

The 159 prosecutions found by Forum 18 involved 56 organisations and 103 individuals (some of them charged more than once for different incidents). Fourteen women and 88 men are known to have been brought to court, as well as one person whose gender is unknown.

A number of the prosecutions followed surveillance by the FSB security service of people exercising freedom of religion and belief. The FSB then informed prosecutors office officials or the ordinary police, who then initiated prosecutions against the people or community involved.

In 2018, there were:

- 54 prosecutions (49 of communities, 5 of individuals) under Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label");
- 90 prosecutions (7 of communities, 83 of individuals) under Part 4 ("Russians conducting missionary activity");
- and 15 prosecutions under Part 5 ("Foreigners conducting missionary activity").

The total number of prosecutions has fallen compared with the first year of the anti-missionary legislation's implementation (July 2016 to July 2017, when Forum 18 found 193 cases (http://www.forum18.org/archive.php?article_id=2297)). This appears to be primarily down to the Supreme Court's decision to liquidate the Jehovah's Witnesses' Administrative Centre as an "extremist organisation" and ban all Jehovah's Witness activity nationwide – this came into force in July 2017 (http://www.forum18.org/archive.php?article_id=2297). As a result of the ban there has been a steep rise in Jehovah's Witnesses held in pre-trial detention, under house arrest, and under travel restrictions as over 100 face "extremism"-related criminal charges (http://www.forum18.org/archive.php?article_id=2453).

Between July 2016 and July 2017, Forum 18 noted 43 cases against Jehovah's Witnesses under Administrative Code Article 5.26, Parts 3, 4, and 5 (http://www.forum18.org/archive.php?article_id=2305). In 2018, this had dropped to only two.

The deterrent effect of the "anti-missionary" amendment might also have contributed to the decline in the number of cases initiated.

The Supreme Court's ruling on the application of Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label") has also reduced the number of individuals charged (as opposed to legal entities – see below).

Nevertheless, religious communities themselves do not view the situation as necessarily improving. Pentecostal Union lawyer Vladimir Ozolin believes more cases are in fact being brought against members of his religious association. "Alarming news about prosecutions is now coming more often from remote regions of Russia, such as Yakutiya and the Yamalo-Nenets Autonomous Region."

Hare Krishna lawyer Mikhail Frolov notes an "insignificant increase" in cases against adherents and communities of the Society for Krishna Consciousness.

Increasing rate of conviction?

First instance courts convicted a total of 132 defendants and acquitted only 11, while a further three were freed from administrative liability because of the "insignificance" of their "offences". Judges sent back another 11 cases (six cases under Administrative Code Article 5.26 Part 4 ("Russians conducting missionary activity"), and five cases under Administrative Code Article 5.26 Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label")) to police or prosecutors for the correction of technical errors, and one was transferred to another jurisdiction – but none of these appears to have been resubmitted. The outcome of one prosecution remains unknown.

This gives an initial conviction rate of 90 per cent for cases in which there was a known verdict. In 2016-2017, this figure was 82 per cent. (http://www.forum18.org/archive.php?article_id=2305)

Of those convicted in 2018, all but three received fines. One defendant under Part 4 ("Russians conducting missionary activity") received no punishment because of the "insignificance" of the offence, and two under Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label") were given warnings. Fines for individual Russians under Part 4 ranged from 5,000 Roubles (the minimum punishment available and the most commonly imposed), to 10,000 Roubles. Organisations were fined between 50,000 Roubles (the minimum) and 100,000 Roubles under Part 4.

For the 15 prosecutions of foreigners under Part 5 ("Foreigners conducting missionary activity"), punishments ranged from the minimum of 30,000 Roubles to the maximum of 50,000 Roubles. One American, one South Korean, one German, one Zimbabwean (tried twice for separate "offences"), six Israelis (all charged in the same incident), two Ukrainians, and two Kyrgyz citizens were prosecuted under Part 5.

An additional punishment which may be imposed on foreigners is deportation. This may take the form of forced expulsion, in which the defendant is held in a Federal Migration Service detention facility until he or she can be sent out of Russia, or monitored independent departure, in which an individual remains free and makes his or her own way out of the country by a stipulated date. Three people were sentenced to deportation (all in the form of monitored independent departure) under Part 5 in 2018, although one managed to have this overturned on appeal.

Most appeals fail

Defendants submitted initial appeals in 65 cases (either to district/city courts within ten days of the original verdict, or as supervisory appeals to regional courts after the original ruling comes into force). Of these, 50 were unsuccessful and only ten successful. Three appeals resulted in reductions in punishment (two reduced fines and one rescinded deportation order). Judges rejected two appeals without consideration.

Twenty-three defendants challenged their unsuccessful appeal rulings at the supervisory level in regional courts – 18 of these were again unsuccessful, while another was rejected without consideration. Two defendants (whose cases arose from the same investigation) succeeded in having their appeals sent for re-examination at district court level, at which their convictions were at last overturned. The outcomes of two supervisory appeals are unknown.

Police and prosecutors appealed against only four verdicts (three acquittals and one conviction with no punishment imposed). Three of these challenges were unsuccessful, while one was sent for re-examination but the acquittal was upheld at retrial.

Increasingly broad religious profile

Prosecutions have involved individuals or organisations belonging to the following religious communities: Protestant churches, including Pentecostals – 50; Baptist (Baptist Union, Council of Churches, independent/unknown) – 39; Society for Krishna Consciousness (Hare Krishna) – 19; Muslims – 17; Jews – 8; Seventh-day Adventists – 5; Roman Catholics – 3; unspecified Christians – 3; Presbyterians – 2; Falun Gong – 2; Jehovah's Witness – 2; Church of Jesus Christ of Latter-day Saints – 1; Methodist – 1; Old Believer (Pomorian Old Orthodox) – 1; Russian Orthodox (Moscow Patriarchate) – 1. The religious affiliation of five defendants remains unknown.

In the first year of the anti-missionary legislation's implementation (2016-17), Buddhists, Lutherans, the New Apostolic Church, the Salvation Army, the Ukrainian Reformed Orthodox Church and the Russian Orthodox Church Abroad also faced charges, as well as the Gideons Bible distribution society.

2018 saw the first known cases against Roman Catholic, Methodist, and Old Believer churches under Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label"), and against adherents of the Chinese spiritual movement Falun Gong and a Russian Orthodox (Moscow Patriarchate) priest under Part 4 ("Russians conducting missionary activity").

Moscow Patriarchate priest Fr Roman Tomilov was fined 5,000 Roubles at Nurlat District Magistrate's Court No. 1 (Republic of Tatarstan) on 1 March 2018 for "holding a meeting for worship in the presence of the congregation of a prayer house" and talking to them about "his understanding of Christianity". Fr Roman had been suspended from his priestly duties by his Moscow Patriarchate diocese because he and five other local priests had refused to commemorate Patriarch Kirill in their prayers in protest at the Patriarch's "ecumenism" in meeting Pope Francis in Cuba.

Broad geographical spread

Forty-seven of Russia's 83 federal subjects saw at least one prosecution under Administrative Code Article 5.26, Parts 3, 4, and 5 in 2018 (not counting Russian-occupied Crimea and Sevastopol). The highest figures were found in the Republic of Bashkortostan (13 prosecutions), Moscow (13), Nizhny Novgorod Region (11), Chelyabinsk Region (10), Voronezh Region (7), Khanty-Mansi Autonomous Region (7), Kemerovo Region (6), Orenburg Region (6), and the Republic of North Osetiya-Alaniya (6).

Recent legal changes – any impact?

Only a few defendants have taken their appeals to the highest levels of the Russian court system, but some of these challenges have led to rulings or court statements which have gone some way towards clarifying the application of the "anti-missionary" amendment and the use of Administrative Code Article 5.26, Parts 3, 4, and 5.

Lawyers who have represented individuals and communities in anti-missionary prosecutions have cautiously welcomed these rulings, but they do not appear to have a great impact on prosecution rates so far.

March 2018 Constitutional Court ruling

On 13 March 2018, the Constitutional Court announced its refusal to consider an appeal from Baptist Sergei Stepanov, who was convicted in 2017 for posting an invitation to an Easter meeting for worship on the VKontakte social network. In its statement, the Court issued an interpretation of some of the legal norms in the "anti-missionary" legislation. (http://www.forum18.org/archive.php?article_id=2377)

According to the Constitutional Court, "A defining feature [sistemoobrazuyushchy priznak] of missionary activity is the dissemination by citizens and their associations of information about a specific religious belief among persons who, not being its followers, are involved in their number, including as participants in specific religious associations". Therefore, the distribution of information for example about meetings for worship, ceremonies, or events "falls under the definition of missionary activity as such, only if it contains the said defining feature" (http://www.forum18.org/archive.php?article_id=2377).

The Constitutional Court concluded that establishing whether missionary activity has been carried out requires "the identification of all the signs of missionary activity specified in [the Religion Law]". If any is absent, the religious activity "cannot qualify as missionary activity in the sense of the [Religion Law], and therefore, even if it is committed in violation of the requirements of the [Religion Law], it does not constitute an offence as stipulated in Administrative Code Article 5.26, Part 4 ["Russians conducting missionary activity"]" (http://www.forum18.org/archive.php?article_id=2377).

This appears to be having a noticeable but so far limited effect on cases brought under Administrative Code Article 5.26, Part 4. A few judges acknowledged the definition in 2018. Forum 18 found only four explicit mentions of it in written verdicts, as well as three rulings in which its principles were evidently applied. In two cases – those of Seventh-day Adventist pastor Oleg Korban in the Bryansk Region and Hare Krishna adherent Nikolai Kryukov from Khabarovsk – it was invoked by the defence, but did not prevent judges from reaching guilty verdicts.

The Constitutional Court ruling allowed a further five defendants, however, to escape punishment. For example, Taygib Gadzhiyev was charged under Administrative Code Article 5.26, Part 4 ("Russians conducting missionary activity") for leading Friday prayers for fellow Muslims without the necessary documentation authorising missionary activity on behalf of a religious group or organisation. In acquitting Gadzhiyev on 30 October 2018, the judge at Novosil District Magistrate's Court in Oryol Region referred to the Constitutional Court's definition, and concluded that the police inspection report did not show that any non-Muslims had been present, and that the defendant had therefore not been seeking to involve any non-members in his religious association.

Similarly, on 21 November 2018, Kemerovo Regional Court overturned Rose of Eden Evangelical Church's 50,000 Rouble fine for advertising meetings for worship and youth group activities online and holding meetings for worship and keeping literature on premises "accessible to all". Citing the Constitutional Court, the supervisory appeal judge ruled that the church's actions lacked the "system-defining feature" of missionary activity, ie. the goal of involving non-members.

Despite this apparently minor impact so far (seven cases out of a possible 85 heard after 13 March 2018), lawyers believe that the Constitutional Court's definition will have a positive effect. Courts "are beginning to pay more attention" to it, Pentecostal Union lawyer Vladimir Ozolin told Forum 18. "Its application in judicial practice is being developed and we already have something with which to appeal in judicial processes. Of course it has an important role."

Ozolin added that "for now", only judges take note of it. "Police and prosecutors just try to fulfil the plan for the number of prosecutions and send all cases to court."

November 2017 Supreme Court ruling on Administrative Code Article 5.26, Part 3

Strictly speaking, only legal entities should be subject to prosecution under Administrative Code Article 5.26 Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label"), as the law itself only explicitly mentions religious organisations. Nevertheless, several religious leaders have been tried and fined under this Part, sometimes in addition to their communities. (http://www.forum18.org/archive.php?article_id=2306)

On 7 November 2017, the Supreme Court upheld an appeal by Pentecostal pastor Vitaly Shmidt against his conviction under Administrative Code Article 5.26, Part 3, in which he argued that Part 3, as written, did not apply to private individuals or people employed in an official capacity, only to legal entities.

In his decision, Judge Sergei Nikiforov agreed that "A systematic interpretation of the provisions of Administrative Code Article 5.26 permits the conclusion that only a special entity, which is a religious organisation, is subject to administrative liability in accordance with [Article 5.26, Part 3]", and that Shmidt should therefore be acquitted.

Shmidt had been fined 30,000 Roubles in December 2016 for "allowing the distribution, as part of missionary activity, of literature which was not marked with the full official name" of his Cornerstone Church in Ulyanovsk. His subsequent appeals to district and regional courts were unsuccessful, but the Supreme Court's ruling overturned his fine.

Since this ruling came into force, fewer individuals appear to have been prosecuted and convicted under Administrative Code Article 5.26 Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label"), as judges have taken the Supreme Court's clarification into account.

In the year 2016-17, 12 individuals appeared in court – seven were found guilty, four cases were sent back by judges, and one person was acquitted. In 2018, police and prosecutors lodged only five cases against individuals under Part 3, three of which were sent back. Two cases did, however, lead to convictions and fines, which should not have happened in the light of the Supreme Court's ruling.

Police and prosecutors may also try to use Part 4 ("Russians conducting missionary activity") against individual clergy and congregation members for failure to use a religious community's full official name in some contexts.

For example, a court fined Denis Chuprov, a Pentecostal pastor in Altai Region, 5,000 Roubles on 23 May 2018 because, as lawyer Vladimir Ozolin explained to Forum 18, Chuprov's religious group "was considered a structural subdivision of a religious organisation, and members of the group had [allegedly] carried out missionary activity [by having a Bible lying on a table] while distributing food to the needy". Ozolin stresses that Chuprov was not even present.

"In general, these Supreme Court decisions are positive," Ozolin concludes, "but they are not enough, because the question still remains open over so-called signs and nameplates, as well as the labelling of audio and video files."

In 2017, the Salvation Army in Vladivostok unsuccessfully appealed to the Constitutional Court over its December 2016 conviction for failing to mark Bibles on its premises with its full official name. The Salvation Army argued that this labelling requirement "unreasonably and excessively" restricts freedom of religion in a democratic society and is too vague as to which materials should be labelled.

The Constitutional Court on 7 December 2017 decided that it "could not consider the requirement of marking printed, audio and video materials to be incompatible with constitutionally protected values in a democratic state, bearing in mind that, in modern conditions, missionary activity is often camouflage for the implementation of terrorist and extremist activities, primarily the recruitment of new members of terrorist and extremist organisations".

The Court did, however, also note that "religious organisations have the right to produce, acquire, export, and import without the purpose of distribution in the Russian Federation religious literature, printed, audio and video materials, and other items of religious purpose. In cases of the use of literature, and printed and other materials by a religious organisation with no possibility of missionary activity, the requirement of labelling as set out in the disputed provisions of [Religion Law], does not apply".

The Court also stated that: "materials produced by a religious organisation, as well as those not produced by the religious organisation, but distributed as part of missionary activities on its behalf outside the places specifically designated by [Religion Law] Article 24.1, Paragraph 2, are subject to marking".

"The distribution of religious literature and materials of religious purpose as part of missionary activity should be understood not only as the delivery of these materials to specific individuals, but also as the provision of free access to this literature and these materials to an indefinite number of persons," the Court added.

This suggests that any material placed in the open in premises used by a religious organisation, even if such materials are only ever used by members of the community itself, should be subject to the labelling requirement and could therefore render the organisation liable to prosecution under Administrative Code Article 5.26 Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label"). Proving the absence of "the purpose of distribution" in the context of this provision would be almost impossible.

As the cases found by Forum 18 in 2018 indicate, prosecutions under Part 3 are regularly based on the presence of materials which are not being actively distributed at the time of the alleged offence and which are not intended for any distribution outside a place of worship.

Continued broad interpretation of the law

Despite the Constitutional Court's March 2018 ruling, state officials in 2018 continued to bring to court cases based on a wide range of religious activity, much of it clearly aimed only at people who are already adherents of a particular faith.

The lack of clarity remaining about whether it is possible for private individuals to share beliefs on their own behalf (not that of a religious association) means that people continue to be prosecuted essentially for not having (or not being able to demonstrate) a formal connection to a registered religious organisation or formally constituted religious group.

For example, six Israeli citizens – employees of a Jewish Kabbalah study centre (registered as a company, not a religious organisation) – received fines of 50,000 Roubles each under Administrative Code Article 5.26, Part 5 ("Foreigners conducting missionary activity") for placing Hanukah candles in the windows of their Moscow office. Prosecutors charged them with "the dissemination of information about Kabbalah beliefs among non-members of this religious association, with the aim of involving such people as participants", without having notified the authorities of the existence of a religious group.

Similarly, under Administrative Code Article 5.26, Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label") state officials can interpret virtually any activity, even mere existence, as grounds for prosecution.

The majority of such cases are now based on absent or insufficient signage on buildings, but 2018 also saw prosecutions for failing to use a community's full official name on its website, in YouTube videos of events, on hymn books used in meetings for worship, and in an official stamp on documents submitted for a routine Justice Ministry inspection.

They include cases in which congregation members distributed the material which supposedly should have been marked (for instance, when Catholics in the Perm Region uploaded videos of church activities without their church's knowledge). This raises the

question of whether religious communities can reasonably be expected to police all activities of all members at all times.

Lack of notification leading to more prosecutions

An increasingly common reason behind the prosecution of individuals is an alleged failure to submit notification of the existence of a religious group, even if the defendant is not in fact a member of any religious group. This is a particular problem for both independent Baptists and Council of Churches Baptists. The latter refuse on principle to seek any kind of state registration, and have argued publicly against the restrictions imposed by the introduction of the group notification requirement in 2015.

On many occasions, there appears to be no reason that an individual should have deemed notification necessary, e.g. when no regularly meeting group exists anyway, or meeting for worship involves only casual gatherings of friends at home.

2018 saw 39 prosecutions (including two groups of 6) for such lack of notification, involving primarily Council of Churches Baptists, but also the six Israeli Jews mentioned above, two followers of Falun Gong, four Muslims, four Pentecostal Christians (two lay people, two pastors), one Baptist Union pastor, one independent Protestant pastor, and one Hare Krishna adherent. In 2016-17, there were 24 similar prosecutions.

Prosecutions only for worship

Most cases based on such failure to notify arose from state officials discovery either of collective meetings for prayer being held outside formal places of worship, most usually by groups of acquaintances in someone's home, or of activities (often one-off actions) which an individual might reasonably assume could not be interpreted as "missionary activity".

"State officials do not distinguish between worship and missionary activity," lawyer Vladimir Ozolin told Forum 18. "On the one hand, officers are not competent, but on the other, believers themselves admit guilt and do not defend their rights."

Ozolin also points to a "third factor" – officers "try to achieve high work performance" by compiling reports [sostavleniye protokolov] on administrative violations, ie. charging as many people as possible. "The more there are, the more 'active and productive' the work of state officials – in particular, the police."

Police and prosecutors initiated 11 cases in 2018 specifically for the "offence" of "missionary activity" on residential premises. Nine of these involved meetings for worship, which is legally permitted without restriction on residential premises according to Religion Law Article 16, Paragraph 2. These included a Hare Krishna adherent praying with friends in his own flat; two Kyrgyz Muslims who led Friday prayers for acquaintances; and an unregistered Baptist pastor who held meetings for worship in a house owned by his wife.

The requirement to display a full official name (to avoid prosecution under Administrative Code Article 5.26 Part 3) can result in prosecution under Administrative Code Article Part 4 ("Russians conducting missionary activity") if state officials interpret worship as missionary activity, Forum 18 notes.

Perm Region Baptist pastor G. Gryaznykh's guilty verdict of 22 January 2018 noted that "The placement by [the defendant] at the entrance of a residential building of a sign reading: 'House of Prayer of the International Council of Churches of Evangelical Christian-Baptists, meeting for worship every Sunday from 10am' .. suggests that [the defendant] carries out missionary activity aimed at disseminating information about the beliefs of [the church] among other persons who are not members."

A few defendants convicted for worship on residential premises successfully used the Religion Law's provision to challenge their punishments. Anatoly Chaban, an unregistered Baptist pastor, was fined 5,000 Roubles on 21 April 2018 at Magadan Magistrate's Court No. 7. Police had entered his morning meeting for worship with video cameras, and had later charged him with performing missionary activity on residential premises, as two people who were not members of his religious group had allegedly been present.

On 7 June 2018, however, the appeal judge at Magadan City Court noted the Religion Law's provision for worship on residential premises, as well as citizens' right to freedom of religion and belief under the Russian constitution and international law. The judge concluded that Chaban had simply been leading a prayer meeting, not performing "missionary activity".

The judge also remarked that intent must be established in order to bring a prosecution under Administrative Code Article 5.26, Part 4 ("Russians conducting missionary activity"). The police report had not ascertained whether the pastor was aware of the presence of two non-members at his meeting for worship. (END)

Full reports on freedom of thought, conscience and belief in Russia
(<http://www.forum18.org/archive.php?query=&religion=all&country=10>)

For more background see Forum 18's survey of the general state of freedom of religion and belief in Russia
(http://www.forum18.org/archive.php?article_id=2246), as well as Forum 18's survey of the dramatic decline in this freedom related

to Russia's Extremism Law (http://www.forum18.org/archive.php?article_id=2215).

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 (http://www.forum18.org/archive.php?article_id=1468)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (http://www.forum18.org/archive.php?article_id=1351)

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