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RUSSIA: New registers of "extremist" people and literature

By Victoria Arnold, Forum 18 (<https://www.forum18.org>)

July legal amendments introduce a new register of people allegedly connected to "extremism", apparently to be used in parallel with the existing Rosfinmonitoring "List of Terrorists and Extremists". Individuals liable for inclusion are so broadly defined that it is unclear whether there may be wider implications, including for religious believers whose organisations have been banned as "extremist", such as Jehovah's Witnesses or Muslim Nursi readers. "Anyone could end up [on the new unified register]," says Aleksandr Verkhovsky of the SOVA Center in Moscow.

Human rights defenders and legal specialists have told Forum 18 that a new register of people allegedly connected to "extremism" could include people simply exercising freedom of religion or belief. However, they note that how this new register will be enacted – including its scope and the impact on people being included - remains unclear.

A register of "extremist" materials is due to be launched in summer 2023. This could include materials about religion that do not call for the violation of the human rights of others (see below).

Neither the Justice Ministry in Moscow, nor officials of the State Duma (the lower chamber of Parliament) has responded to Forum 18's questions about the new registers (see below).

Amid hundreds of other laws adopted on 14 July, President Vladimir Putin signed amendments to the Extremism Law which introduce a new "unified register" of people deemed to be "involved in" the activities of organisations which have been banned as "extremist" and a new restricted-access database of "extremist" materials. The register of people is to be set up immediately, while the list of materials is to be created in July 2023 (see below).

The aim of the "unified register" is to aid the election authorities in preventing such people from registering as candidates (as set out in amendments to electoral legislation in 2021, the primary targets of which are associates of opposition politician Aleksey Navalny, whose organisations were liquidated as extremist in 2021) (see below).

The individuals and activities liable for inclusion in the register are so broadly defined, however, that it is unclear whether there may be wider implications, including for religious believers whose organisations have been banned as "extremist" – Jehovah's Witnesses, Muslims who study the works of Said Nursi, adherents of the Muslim missionary movement Tablighi Jamaat, and Falun Gong adherents in Khakassiya (see below).

"Anyone could end up [on the new unified register]," Aleksandr Verkhovsky of the SOVA Center in Moscow told Forum 18. "You could be a member in an organisation that has a membership, a participant – in any organisation (an employee is someone who has a contract of some kind). But there are 'people who are involved [prichastiye]' in the same register, and it's not at all clear who they are. It is not very clear how the register will be formulated with such terms" (see below).

It appears that the new registers will be used in parallel with the existing Rosfinmonitoring "List of Terrorists and Extremists" and the Justice Ministry's Federal List of Extremist Materials (see below).

The Rosfinmonitoring List includes individuals convicted or suspected of extremism simply for exercising their right to freedom of religion or belief, alongside people who have been involved in Islamist or far-right activity. The Federal List of Extremist Materials includes materials on religion which do not call for the human rights of others to be violated, alongside those with racist, anti-semitic, violent nationalist, and Islamist content (see below).

New or newly-amended Criminal Code Articles punish "confidential co-operation" with foreign states or entities, implementing the programmes of "undesirable organisations" (several Falun Gong bodies are listed as such), or calling for activities "directed against the security of the state" (see below).

"The new Criminal Code articles will affect religious organisations to the same extent that they will affect the whole of society," lawyer Sergey Chugunov explained to Forum 18 (see below).

Existing registers of people and literature

Currently, individuals may be added to the Federal Financial Monitoring Service (Rosfinmonitoring) "List of Terrorists and Extremists" (https://www.forum18.org/archive.php?article_id=2687) if they have been convicted of or charged with an extremism-related offence, or even named as suspects in an extremism-related case.

Dozens of Jehovah's Witnesses and Muslims who read Nursi's works have been placed on the Rosfinmonitoring List.

Being on the List entails a range of consequences (https://www.forum18.org/archive.php?article_id=2687), primarily the blocking of bank accounts, but also possible reputational disadvantages (as the initial notice in "Rossiyskaya Gazeta" of a person's inclusion on the List remains accessible even after their name has been removed).

When courts ban literature, videos, websites or other materials as "extremist", the Justice Ministry then adds them to the Federal List of Extremist Materials (https://www.forum18.org/archive.php?article_id=2215). The List contains publications about religion or beliefs which do not call for the human rights of others to be violated, alongside material (both religious and non-religious) which does have violent or racist content.

Addition of works to the List prohibits their production and distribution within Russia. The List's length, complexity, bibliographical shortcomings, and irregular updates make it very difficult or even impossible to check whether a particular item has been banned. This leaves individual people as well as religious communities vulnerable to prosecution and fines under Article 20.29 of the Administrative Code ("Production or mass distribution of extremist materials included in the published Federal List of Extremist Materials, as well as their production or storage for mass distribution").

It appears that the new registers will be used in parallel with the Rosfinmonitoring "List of Terrorists and Extremists" and the Justice Ministry's Federal List of Extremist Materials.

Amendments to Extremism Law: New register of "extremists"

On 14 July 2022, President Vladimir Putin signed a set of amendments to Articles 13 and 15 of the Extremism Law, introducing the new database of extremist materials and the new register of individuals involved in extremist activity. It is unclear how exactly the latter – which is aimed at preventing certain people from standing for election – may affect freedom of religion and belief.

The database of "extremist" materials (due to be created in July 2023) appears to be an internal measure to facilitate the work of investigators and prosecutors, and does not greatly differ from the existing Federal List of Extremist Materials (https://www.forum18.org/archive.php?article_id=2215).

While the new database of extremist materials is called "information of limited access", there is no indication as to whether the register of individuals will be open-access or limited to electoral officials and agencies such as the police, prosecutors' offices, and the FSB security service.

The amendments to Article 15 ("Liability of citizens of the Russian Federation, foreign citizens and stateless persons for carrying out extremist activities") entered legal force immediately. They provide for the creation of a "unified register of information about persons involved in the activities of an extremist or terrorist organisation", against which election officials can check prospective candidates.

This is directly related to changes to electoral legislation in 2021, which barred "extremists" from standing for election (https://www.forum18.org/archive.php?article_id=2667), and introduces the mechanism by which this ban may be implemented.

The Justice Ministry will maintain the register on the basis of information from various state bodies such as the Interior Ministry and Rosfinmonitoring. The register will include the following categories of people:

- founder of a banned organisation,
- member of the governing body,
- leader and deputy leader,
- leader and deputy leader of a subdivision,
- participant [uchastnik],
- member [chlen],

- and employee;

- plus any other person "whose involvement in the activities of an extremist or terrorist organisation has been established by a court decision that has entered into legal force".

Unclear definition of "member" and "participant"

It is uncertain what definition of "member" and "participant" the Justice Ministry will use when deciding whom to place on the unified register. The text itself therefore does not make clear whether or not any person could be added to the new register, even if they have never had a formal relationship with a banned organisation and have never been involved in an extremism-related criminal case.

There is no explicit definition of "member" or "participant" in the Extremism Law or in the Religion Law ("leaders" and members of governing bodies are mentioned in both laws as being barred for ten years from founding a religious or other public organisation). The term "member" [chlen] was removed from the Religion Law in 2021 (https://www.forum18.org/archive.php?article_id=2659), giving rise to some concern that police or prosecutors would regard anyone present at a religious meeting to be a "participant", allowing action against individuals and religious communities for alleged infringements.

Under the Law on Public Associations, the involvement of a "member" is "formalised by appropriate individual statements or documents that permit the reckoning of the number of members of the public association", while a "participant" has "expressed support" for an organisation and "[participated] in its activities without obligatory formalisation".

The 14 July amendments list the same categories of people as the 2021 amendments to electoral legislation, and given their direct relationship, it seems likely that the provisions of the latter – albeit broad – will also be used to formulate the new register.

While still not actually defining "member" and "participant", in a press release of 25 May 2021, the Duma noted that "the involvement of participants, members, employees and other persons in the activities of an extremist or terrorist organisation will have to be established by a court decision. In relation to the founders of such organisations, leaders and their deputies, a court decision on involvement will not be required.

"Within [the definition of] involvement [prichastnost] of participants, members, employees and other persons, the bill proposes including the direct implementation of the goals and forms of activity for which the organisation is recognised as extremist or terrorist, including individual events, as well as the expression of support for such organisations (or their individual events) by statements, including on the Internet, or by other actions: the provision of funds, [or] property, [or] organisational and methodological, advisory or other assistance."

Lawyer Sergey Chugunov points out that there is "no clear definition" of member and participant. "In practice, there may be several options," he commented to Forum 18 on 8 August. "There may be members or participants of organisations recognised as extremist. Or it could be recognised by a court decision that a citizen is carrying out the activities of an extremist organisation. Or they may simply be suspected of this – this is already the basis for inclusion on the corresponding Rosfinmonitoring List."

"Anyone could end up [on the new unified register]," Aleksandr Verkhovsky of the SOVA Center in Moscow noted to Forum 18 on 8 August. "You could be a member in an organisation that has a membership, a participant – in any organisation (an employee is someone who has a contract of some kind). But there are 'people who are involved [prichastiye]' in the same register, and it's not at all clear who they are. It is not very clear how the register will be formulated with such terms."

Verkhovsky pointed out that while the new amendments introduce the register itself, the categories themselves were introduced in 2021 in the electoral legislation. "And on the basis of 'involvement' [prichastnost] they were already distanced from elections, and this was understood very broadly."

Verkhovsky added: "If a person was a member of an organisation before it was recognised as extremist, and was also 'involved' in it [prichasten], this restricts their rights." He said that so far this has been used only in the electoral sphere. "But, of course, there will be a temptation to use the register for other restrictions."

Forum 18 wrote to the Justice Ministry in Moscow on 8 August, asking for clarification of the terms "member" and "participant" and of the consequences of inclusion in the register beyond the electoral sphere. Forum 18 also enquired whether access to the register will be limited or open. Forum 18 received no reply by the end of the working day in Moscow of 15 August.

Forum 18 wrote to the press service of the State Duma (lower chamber of Parliament) in Moscow on 11 August 2022, asking whether the provisions of the 2021 amendments to electoral legislation also apply to the operation of the new register of extremist persons, what definitions of "member" and "participant" will be used, and what the broader consequences of inclusion on the register may be.

Forum 18 put the same questions (as an information request via the Duma's website) to the Duma Committee for State Security and Anti-Corruption, which introduced the amendments to Article 15 of the Extremism Law between the first and second readings of the bill. Forum 18 received no replies by the end of the working day in Moscow of 15 August.

Amendments to Extremism Law: New database of extremist materials

The 14 July amendments to Article 13 of the Extremism Law ("Liability for distributing extremist materials") require the Justice Ministry to maintain a database of all materials declared by courts to be extremist, including copies of the court decisions and the materials themselves. This will come into force in July 2023, one year after the amendments were signed into law.

Unlike the existing Federal List of Extremist Materials (https://www.forum18.org/archive.php?article_id=2215), which is hosted on the Justice Ministry website, access to the new database will be limited to investigators and prosecutors.

The database "will be available to law enforcement officers anywhere in the country", Vasily Piskarev, chair of the Duma Committee for State Security and Anti-Corruption, said in a statement on 5 July, and "will help increase the effectiveness of preventative work, [and] identify regional ties and the methods of work extremists employ to attract new adherents to their organisations".

Other recent laws and amendments

President Putin also signed off on over 100 other new laws on 14 July. These included the introduction to the Criminal Code of the new Article 275.1 ("Confidential co-operation with a foreign state, international or foreign organisation", punishable by up to eight years' imprisonment) and Article 280.4 ("Public calls to implement activities directed against the security of the state" – up to seven years' imprisonment under certain circumstances).

Criminal Code Article 284.1 ("Implementing the activities of a foreign or international non-governmental organisation recognised as undesirable") has been expanded to punish such activities abroad, as well as in Russia. Religious organisations can be declared "undesirable organisations" (https://www.forum18.org/archive.php?article_id=2707); the register currently includes six Falun Gong or Falun Gong-linked organisations.

The new Federal Law No. 255 "On monitoring the activities of persons under foreign influence" broadens the concept of "foreign agent" by removing the requirement to be receiving foreign funding and defining almost any activity as "political" if deemed to contradict Russia's national interests (as defined by presidential decree) or constitutionally protected values.

Religious organisations cannot be declared "foreign agents", but the designation has been used against organisations (https://www.forum18.org/archive.php?article_id=2707) which promote human rights and monitor their violation, including that of freedom of religion and belief, as well as media outlets and journalists who have reported on such violations.

Since April 2022, thirteen people have also been added to the "Register of individuals fulfilling the function of foreign agents", mostly also journalists as well as politicians and cultural figures. As lawyer Sergey Chugunov noted on his Telegram channel on 30 June, "now individuals can also be recognised as [foreign agents], so any citizen, including a member of the clergy, could be awarded this title in a personal capacity".

"The new Criminal Code articles will affect religious organisations to the same extent that they will affect the whole of society," Chugunov explained to Forum 18 on 2 August. "So far, there is no reason to believe that such an impact will be special. In terms of participation in the activities of [undesirable foreign organisations], the impact of the amendments may be greater .. but it's too early to say." (END)

More reports on freedom of thought, conscience and belief in Russia (<https://www.forum18.org/archive.php?country=10>)

For background information, see Forum 18's survey of the general state of freedom of religion and belief in Russia (https://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 (https://www.forum18.org/archive.php?article_id=2215)

A personal commentary by the Director of the SOVA Center for Information and Analysis (<https://www.sova-center.ru>), Alexander Verkhovsky, about the systemic problems of Russian "anti-extremism" laws (https://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 (https://www.forum18.org/archive.php?article_id=1351)

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