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RUSSIA: Supreme Court ban on Jehovah's Witnesses begins to bite

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

Although 34 Jehovah's Witness publications described as extremist have not yet been added to the Federal List of Extremist Materials, public prosecutors in several Russian regions have begun issuing extremism warnings to Jehovah's Witness communities, Forum 18 News Service has learnt. Also, in what is thought to be the first instance in post-Soviet Russia of extended detention in connection with sharing beliefs, two Jehovah's Witnesses informally accused of distributing extremist literature in Bryansk Region were detained for six days for "petty hooliganism". Mikhail Odintsov of the office of Russia's Human Rights Ombudsman told Forum 18 – in what he stressed was his personal view – that there was a realistic chance Jehovah's Witnesses could appeal successfully to President Dmitry Medvedev to defend their rights, if complaints were formulated in purely legal terms. He characterised the overall situation as "threatening", maintaining that "reverse Sovietisation" was taking place. "We are returning to the ideological roots of state dislike of certain religious organisations," he remarked. "These people [Jehovah's Witnesses] have no defence. What defence do they have when a court is negatively predisposed towards them, pro-Orthodox, believes that one religion should be protected from another?"

Even though 34 Jehovah's Witness publications described as extremist have not yet been added to the Federal List of Extremist Materials, public prosecutors in disparate Russian regions have already begun issuing extremism warnings to Jehovah's Witness communities, Forum 18 News Service has learnt. In what is believed to be the first such instance in post-Soviet Russia of extended detention in connection with preaching, two Jehovah's Witnesses informally accused of distributing extremist literature in Bryansk Region were released on appeal yesterday evening (14 January), six days into a ten-day sentence for "petty hooliganism". Pointing to the general shutdown during Russia's lengthy recent holiday period, Grigory Martynov of the Jehovah's Witnesses told Forum 18 on 13 January that it is too early for a comprehensive assessment of the situation, however: "We are waiting to see what the New Year will bring."

The 34 Jehovah's Witness titles – published in Germany and the USA and widely distributed internationally - were described as extremist in a decision of Russia's Supreme Court on 8 December. Under the Extremism Law, mass distribution, preparation or storage with the aim of mass distribution of the titles can result in Criminal Code Article 282 ("incitement of ethnic, racial or religious hatred") being invoked. This carries a penalty of up to five years in prison. The Supreme Court also upheld, as part of the ruling, the liquidation of the Taganrog Jehovah's Witness congregation as extremist. Shortly after the decision, a Court secretary insisted to Forum 18 that Jehovah's Witnesses expound extremist views in Russia. Asked if they had killed anyone, for example, she replied: "To a certain extent, yes" (see F18News 8 December 2009 http://www.forum18.org/Archive.php?article_id=1385).

Protests and official responses

Protesting against the mounting pressure on his community, Vasily Kalin, a prisoner of conscience in 1983 and current head of the Jehovah's Witnesses in Russia, had appealed to President Dmitry Medvedev as guarantor of Russia's 1993 Constitution to defend their rights and freedoms on 11 November: "The basic rights which the Jehovah's Witnesses are fighting for today are critical for the preservation of democratic freedoms in Russia."

The Presidential Administration's 17 November response, however, as seen by Forum 18, stated only that this appeal had been referred to the Justice Ministry. It claimed this was because resolution of the questions it raised lay outside the competency of the President (Article 8, Part 3 of the 2006 Law on the Procedure for Responding to Communications from Russian Citizens). "We have the impression that the Presidential Administration is trying to distance itself from this issue," Grigory Martynov of the Jehovah's Witnesses remarked to Forum 18 on 12 January.

The office of Russia's Human Rights Ombudsman has no legal mandate to intervene in the Jehovah's Witnesses' situation, its top official dealing with religious issues, Mikhail Odintsov, pointed out to Forum 18 on 15 January: "If there is a court decision, it has to be implemented." If a top-level court rules in contravention of human rights, only a political decision by the President as constitutional guarantor can rectify the situation, he also confirmed: "Everyone else will take refuge behind court decisions."

Closely familiar with the Jehovah's Witnesses' plight, Odintsov suggested to Forum 18 – in what he stressed was his personal view – that there was a realistic chance they could still appeal successfully to President Medvedev if they formulated their complaints in purely legal terms – "competently, precisely and clearly (...) not 'our head hurts'." Another avenue, he suggested, would be to appeal to the Constitutional Court, since "the rights of Smith, Jones and Brown – concrete citizens – are being violated."

Characterising the overall situation as "threatening", Odintsov – the author of an archival reader on Soviet policy towards Jehovah's Witnesses – also maintained that "reverse Sovietisation" was taking place. "We are returning to the ideological roots of state dislike of certain religious organisations," he remarked to Forum 18. "These people [Jehovah's Witnesses] have no defence. What defence do they have when a court is negatively predisposed towards them, pro-Orthodox, believes that one religion should be protected from another?"

If the Presidential Administration is so far silent, the Justice Ministry's 11 December response to Kalin – seen by Forum 18 - unequivocally supports state action against the Jehovah's Witnesses. Since Rostov-on-Don Regional Court's 11 September ruling was upheld by the Supreme Court on 8 December, Sergei Milushkin of the Ministry explains, the 34 Jehovah's Witness publications it declared extremist are liable to confiscation and inclusion on the Federal List of Extremist Materials, while the local Jehovah's Witness organisation in Taganrog is banned and its property to be transferred to the state. Having thus entered force, stresses Milushkin, the Rostov-on-Don ruling is "binding for all state authorities, social organisations, authorised persons, citizens and organisations without exception, and is subject to strict application across the territory of the Russian Federation."

The 34 banned Jehovah's Witness publications have to date (15 January) yet to be entered on the Federal List. Once added, their distribution will be formally banned throughout Russia under the 2002 Extremism Law (Article 13). Public distribution of religious literature is an integral part of Jehovah's Witness practice.

According to Martynov of the Jehovah's Witnesses, the Taganrog community is currently still using its property. Seven Russian regions have taken action against Jehovah's Witnesses since the Supreme Court ruling, however.

First Russian post-Soviet detentions for sharing beliefs

In what Jehovah's Witnesses think is the first case in post-Soviet Russia of extended detention of their members in connection with preaching, Mikhail Tomayev and Arif Ibragimov were sentenced to ten days' administrative arrest by a magistrate in Pochep (Bryansk Region) on 9 January. While the pair claim they were initially also accused of distributing extremist literature, the formal charges – also seen by Forum 18 - state that they "violated public order, used foul language in a public place, harassed citizens", or "petty hooliganism" under the Administrative Violations Code (Article 20.1, Part 1).

Tomayev protested that he and Ibragimov were in fact "going from door to door sharing our knowledge of the Bible with people who were interested" when detained on 8 January, and that he does not use foul language "not only in public, but ever, in accordance with my conscience as instructed by the Bible." In his complaint to Pochep District Court, Tomayev also describes how, instead of heeding his plea that "the right to share one's religious convictions is a constitutional right and therefore I had not violated the law," one police officer swore at him and "expressed his dislike of me as a believer in God".

Six days into their detention at Pochep District Police Department, Pochep District Court granted the pair's appeal and they were released at approximately 5pm on the evening of 14 January, according to their lawyer Sergei Palagin. The district court struck down the magistrate's charges primarily because "petty hooliganism" must by definition take place in public, but there were no witnesses, Palagin explained to Forum 18 on 15 January. Police initially claimed Tomayev and Ibragimov were distributing extremist literature but did not pursue this accusation, Palagin confirmed. Nevertheless, Jehovah's Witness magazines, tracts and books confiscated from the pair – he did not know the titles – have not yet been released, the lawyer told Forum 18.

A spokesperson at Pochep District Police Department refused to comment to Forum 18 by telephone on 15 January.

Extremism warnings given to local communities

In Rostov-on-Don Region, Volgodonsk Public Prosecutor's Office issued an extremism warning to its local Jehovah's Witness organisation on 28 December. This pointed out that several US-published titles distributed by the community – "What Does the Bible Really Teach?", "Knowledge That Leads to Everlasting Life", "Worship the One True God", "My Book of Bible Stories" and "Pay Attention to Daniel's Prophecy!" – were recognised as extremist by the 11 September Rostov-on-Don Regional Court ruling, now in force. The titles have been added to the Federal List of Extremist Materials, the warning also claims.

Also on 28 December, the website of Arkhangelsk Regional Public Prosecutor's Office announced that its office in Arkhangelsk's Lomonosov District had issued an extremism warning to that city's central Jehovah's Witness community after conducting a check-up in response to appeals from the regional branch of Russia's Writers' Union and the Anti-Sectarian Information Centre, a social organisation. The check-up found that the Jehovah's Witnesses had violated the 2002 Extremism Law by distributing materials "aimed at inciting hatred towards the Christian and other religions". The tracts "Awake!" and "Watchtower" are mentioned, as is the brochure "Jehovah's Witnesses. Who Are They? What Do They Believe?", a title among those banned by Rostov-on-Don Regional

Court. Investigators are considering whether to open a criminal case, according to the website.

On 23 December the website of Adygeya Republic Public Prosecutor's Office announced that its local officials had issued 11 extremism warnings to local Jehovah's Witnesses following a check-up on their community in the town of Adygeisk which uncovered literature declared extremist by the Rostov-on-Don ruling.

An 18 December document issued by the public prosecutor's office in the town of Dalnerechensk (Primorye Region) warns local Jehovah's Witnesses about the inadmissibility of violating the Extremism Law by failing to possess a copy of the Federal List of Extremist Materials, even though this is not demanded by the Law.

Literature censorship

A letter from a public prosecutor received by local police in the town of Glazov (Udmurtia) on 11 December, whose precise department of origin is obscured, notes the 8 December Supreme Court decision and orders that local Jehovah's Witnesses be checked for extremist literature.

At Vyborg near the Russian-Finnish border, however, customs officers are now admitting all Jehovah's Witness literature except for one title declared extremist by the Rostov-on-Don ruling, the book "Come Be My Follower", according to Martynov of the Jehovah's Witnesses. The customs officers - including from the Department Against Especially Dangerous Types of Contraband - had refused to admit Jehovah's Witness literature altogether in October (see F18News 23 October 2009 http://www.forum18.org/Archive.php?article_id=1366).

Meanwhile, Altai Republic Supreme Court is due to rule in a separate extremism case on Jehovah's Witness literature on 27 January. The hearing, postponed from 23 December, will consider an appeal against a 1 October 2009 ruling by the city court in Gorno-Altai, the republic's capital, that 18 Jehovah's Witness publications are extremist. Three of the titles coincide with those in the Rostov-on-Don ruling.

Future developments?

Among the seven local cases currently seeking to ban Jehovah's Witness literature as extremist, those in Rostov-on-Don and Gorno-Altai have progressed furthest. The deportations of four North American lawyers since March 2009 have damaged their already pressed defence in the trials (see F18News 23 July 2009 http://www.forum18.org/Archive.php?article_id=1331).

The Jehovah's Witnesses think the law enforcement agencies are pursuing a total ban of their organisation. In February 2009, an unprecedented nationwide sweep on Jehovah's Witness communities - resulting in at least 500 check-ups - was ordered by the General Public Prosecutor's Office (see F18News 13 March 2009 http://www.forum18.org/Archive.php?article_id=1267). The Office has insisted to Forum 18 that the check-ups were lawful and uncovered legal violations.

The 473 titles on the Federal List of Extremist Materials as of 15 January typically suggest extreme nationalist or antisemitic content. Most entries relating to religious material - the inclusion of some of which is also disputed - are Islamic (see most recently F18News 28 April 2009 http://www.forum18.org/Archive.php?article_id=1288). (END)

For a personal commentary by Irina Budkina, editor of the <http://www.samstar.ru> Old Believer website, about continuing denial of equality to Russia's religious minorities, see F18News 26 May 2005 http://www.forum18.org/Archive.php?article_id=570.

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).

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://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=europe&Rootmap=russi>.

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