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RUSSIA: Fined for meeting for worship

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

Increasing numbers of people – mainly Protestants and Jehovah's Witnesses without their own permanent buildings - are being fined or threatened with fines in Russia for organising or conducting meetings for worship which has not been specifically approved by the local authorities, Forum 18 News Service has found. Local police and prosecutor's offices insist that such permission is required, and bring cases under Article 20.2 of the Code of Administrative Violations ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket"). The legality of these prosecutions under the Constitution and the Religion Law has been challenged, but it appears that around half of the prosecutions are successful. Inna Zagrebina of the Moscow-based Guild of Experts on Religion and Law told Forum 18 that she regrets that many such prosecutions are not legally challenged. However, one case, Aleksandr Nabokikh and Others v. Russia, was lodged at the European Court of Human Rights in Strasbourg in May. Residents of old people's homes have also occasionally been denied the right to have their co-religionists visit them.

An increasing number of people are being fined or threatened with fines across Russia for organising or conducting meetings for religious worship which has not been specifically approved by the local authorities, Forum 18 News Service has found. Local police and prosecutor's offices insist that such permission is required, a view challenged by many legal specialists, and bring cases under Article 20.2 of the Code of Administrative Violations. Some judges and magistrates throw out such cases, but it appears that about half the prosecutions are successful.

Although fines are relatively small (up to two weeks' official minimum wage), Forum 18 notes that they would be a significant amount to small provincial communities, particularly if frequent.

Religious communities also face the added cost and time of defending themselves in court, as well as the negative publicity that often results from the mere bringing of such cases. Religious communities pointed out to Forum 18 that prosecutor's offices and the local media are quick to report when such cases are launched, as well as fines handed down, but often fail to report acquittals.

Convictions of leading members of local religious organisations also put at risk an organisation's legal status, as a second "violation" – of whatever nature – could put it at risk of liquidation. Article 14, Part 1 of Russia's 1997 Religion Law provides various grounds for liquidation of a religious organisation including "in cases of repeated or crude violations of the Constitution of the Russian Federation, the present Federal law or other federal laws".

Inna Zagrebina of the Moscow-based Guild of Experts on Religion and Law says she began to notice this growing trend of the use of Article 20.2 against religious communities in 2009, when prosecutors brought a case against Baptists in Tomsk. "I think such cases are under-reported, as unfortunately people don't come forward about them," she told Forum 18 from Moscow on 27 October. "Unfortunately they also don't try to challenge them in court – I think they're wrong."

Jehovah's Witnesses also note that such cases against their communities became common from 2009, and are now running at about twenty per year.

The General Prosecutor's Office in Moscow refused to answer any questions by telephone about the way Article 20.2 is deployed to punish individuals for organising or conducting unapproved religious activity. "All questions must be submitted officially in writing," the press officer told Forum 18 on 27 October.

The increasing use of the Administrative Code to punish or try to punish meetings for worship comes as raids on religious communities as they worship also appear to be increasing. September saw coordinated raids on four Jehovah's Witness services in the Chuvash Republic, while Friday prayers attended by several hundred men in a Muslim community in Belgorod were raided in an alleged hunt for illegal immigrants (see F18News 24 October 2011 http://www.forum18.org/Archive.php?article_id=1629).

Is Article 20.2 being correctly used?

Cases under Article 20.2 of the Code of Administrative Violations are generally launched against individual leaders of religious

communities after meetings for worship are visited by the local police officer, prosecutor's office officials or other local officials.

Article 20.2 punishes "violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket". Fines under this Article were increased 100-fold in 2007.

Article 20.2, Part 1, which punishes organising such a meeting without state permission, carries a fine of 1,000 to 2,000 Roubles. (1,000 Roubles, nearly one week's official minimum wage, is equivalent to 181 Norwegian Kroner, 24 Euros, or 33 US Dollars.)

Article 20.2, Part 2, which punishes carrying out such a meeting without state permission, carries a fine on organisers of 1,000 to 2,000 Roubles, and on participants of 500 to 1,000 Roubles.

Some lawyers – such as Zagrebina of the Guild of Experts on Religion and Law – argue that punishing meetings for religious worship in private homes or in rented accommodation is a misuse of the Article. She points to Russia's Constitution, which guarantees in Article 28 the right to meet with others to profess a religion, as well as provisions of the 1997 Religion Law.

The Religion Law's Article 16.2 states that: "Religious services and other religious rites and ceremonies are conducted in places of worship and buildings as well as on territories associated with them, in other places made available to religious organisations for these purposes, in places of pilgrimage, in institutions and in enterprises owned by religious organisations, in cemeteries and in crematoria, as well as in residential premises."

Religious services and other religious activity in other locations are subject to the 2004 Demonstrations Law. But Article 1.2 of the Demonstrations Law states that religious rites are regulated by the Religion Law.

While the 1997 Religion Law is unclear on this issue, local officials have in the past generally understood places rented by religious organisations as premises "made available to religious organisations". This understanding excludes worship in such premises from possible prosecution.

Forum 18 notes that when local officials prosecute communities using rented premises to meet for worship, Protestants and Jehovah's Witnesses are much more likely to be prosecuted. This is because they have fewer buildings designed for worship, such as churches, which are clearly exempt from such prosecutions under the 1997 Religion Law.

Unconstitutional use of Article 20.2?

Zagrebina of the Guild of Experts on Religion and Law also notes that, according to a December 1997 Justice Ministry letter, a religious organisation can be liquidated, if it does not meet for joint worship, the hallmark of a religious organisation. "Thus religious worship is not only the hallmark of a religious organisation, without which the organisation cannot exist, it is also its internal canonical activity," she told Forum 18.

She likewise stressed the ban in Russian law on state interference in religious communities' internal life, as well as repeated similar rulings by the European Court of Human Rights (ECtHR) in Strasbourg.

Zagrebina also notes that the Law on the Prosecutor's Office requires it to ensure that the Constitution is respected in the way laws are enforced. She argues that in such cases, they themselves have become violators of the law, "as they obstruct citizens in exercising their Constitutionally-guaranteed right to freedom of religious confession".

"When a religious community rents premises to hold a religious service and does not inform the local authorities, it is acting perfectly legally," Zagrebina told Forum 18.

Jehovah's Witnesses share this view. "Russian law does not require that the local authorities be notified in advance of holding a religious service or that they grant permission to hold such a service," they insisted to Forum 18.

Both Zagrebina and Jehovah's Witnesses stress that if anyone is to be prosecuted for failing to inform the authorities, in law it should be the owners of rented venues, not those who rent them.

Failure to notify the state authorities is often the reason for prosecution of congregations belonging to the Baptist Council of Churches, who choose not to register with the state on theological grounds. They always argue that their religious gatherings are not the same as political demonstrations, and so do not need to be cleared with officials in advance. However, Forum 18 notes that such congregations generally face attempts to prosecute them when they conduct open-air evangelisation events, not worship in buildings.

Successful challenges

Nikolai Semyonov, a lawyer with the Moscow-based Slavic Centre for Law and Justice, also agrees that prosecutors are mostly

wrong to try to use Article 20.2 to punish religious believers for holding worship services. "Perhaps they hope that the victim won't know or notice that the Article should not be applied to them," he told Forum 18 on 27 October.

Semyonov says he knows of several attempts to launch cases this year against individual Pentecostals, mainly from churches within the Russian Union of Evangelical Christians (Pentecostals). However, he always advises such churches to challenge immediately the record of an offence. "The person against whom the accusation has been made has ten days to challenge the record which says an offence has taken place," he told Forum 18. "In all the Pentecostal cases I have dealt with this year, the individual has asserted that the law has not been properly applied and prosecutors have been forced to abandon the case."

Tomsk fine

In one recent example, Pastor Yury Tsymbalist, who leads the Good News Baptist Church in the Siberian city of Tomsk, was fined 1,000 Roubles (181 Norwegian Kroner, 24 Euros, or 33 US Dollars) by a court in the city for allegedly violating the Demonstrations Law. Prosecutors claimed that he violated the law by failing to inform the city authorities each time he held a service in the rented accommodation where the church met. The church has now moved into its newly-completed building.

On 19 September, Magistrate Tatyana Korneyeva of Judicial Unit No. 4 of the city's Soviet District found him guilty of violating Article 20.2, Part 1 of the Code of Administrative Violations, according to the verdict seen by Forum 18. The court website records that the written verdict was not given out until 7 October.

Igor Yemelyanov, Prosecutor of Tomsk's October District, defended bringing the case. He insisted to Forum 18 from Tomsk on 18 October that Pastor Tsymbalist had violated the Religion Law and the Demonstrations Law and that his officials had a duty to bring the case to court. "If he objects to the verdict, he can always appeal."

Pastor Tsymbalist insists he is innocent of any wrongdoing, pointing out that the Church had a valid contract with the hall owner to use the premises each Sunday for worship. "Although the fine is relatively small, it is not a question of money – this is about freedom of conscience," he told Forum 18 from Tomsk on 18 October. However, his church has decided that he should not challenge the court fine. "Let it be on the conscience of the prosecutors."

The Justice Ministry website notes that the Church has been registered since December 2002.

String of similar punishments

Pastor Tsymbalist's fine is just one in a long series of court decisions fining individuals for holding religious worship without seeking the permission of the authorities, according to numerous court verdicts seen by Forum 18.

Although some – including Protestants, Hare Krishna devotees and Jehovah's Witnesses – have been punished under Article 20.2 of the Code of Administrative Violations for outdoor activities, most such punishments handed down to religious believers appear to be for meetings held indoors, mainly in premises rented by religious communities.

Most are tried under Article 20.2, Part 1, though some are brought to court under Article 20.2, Part 2.

Jehovah's Witnesses alone note 21 cases launched by prosecutors "from Smolensk to Primorsky Region" between January 2011 and mid-October 2011 against individual Jehovah's Witnesses under Article 20.2, Part 1 (one individual faced two cases). Only one of the cases related to activity on the street. In the same period, several further cases were launched under Article 20.2, Part 2.

Eleven cases under Article 20.2, Part 1 have so far gone to court, with fines in each case of between 1,000 and 1,500 Roubles (181 to 271 Norwegian Kroner, 24 to 36 Euros, or 33 to 50 US Dollars), Jehovah's Witness spokesperson Martynov told Forum 18. Appeals continue in some of those cases.

Among many recent cases, on 6 June, a magistrate at Judicial Unit No. 12 in Smolensk fined Jehovah's Witness Kirill Zinchenko 1,500 Roubles under Article 20.2, Part 1, according to the court verdict seen by Forum 18. He had been one of two Jehovah's Witnesses to sign the rental contract for a religious meeting held at a local club in March. On 6 September, Judge Irina Selezneva of Smolensk's Promyshlenny District Court rejected his appeal, according to the decision seen by Forum 18.

A magistrate at Judicial Unit No. 5 in Kazan's Privolzhsky District fined Seventh-day Adventist Yevgeny Sedov 1,000 Roubles on 15 February under Article 20.2, Part 1, according to the verdict seen by Forum 18. The leader of a registered religious organisation, Sedov was accused of holding "public" religious meetings over a 30-month period without informing the authorities. Prosecutors claimed this violated Article 19, Part 2 of Tatarstan's Religion Law, which requires permission from the authorities for religious meetings in cultural and sporting institutions "and other public venues". He was given the minimum fine because, the verdict notes, "he recognised his guilt and repented".

Adventists told Forum 18 from Kazan on 20 October that in early 2009, the leader of another Adventist congregation in the city,

Pastor Anvar Gindullin, had faced a similar 1,000 Rouble fine under the same Article. "Of course it was wrong, but our colleague did not appeal. The fine was not enormous and we regarded it as an advertisement for our activity as it received widespread publicity."

Even repeated challenges to such fines can be unsuccessful. On 18 October 2010, Bashkortostan's Supreme Court rejected the final appeal against a fine of 1,000 Roubles (181 Norwegian Kroner, 24 Euros, or 33 US Dollars) under Article 20.2, Part 1, brought by local Jehovah's Witness Vasim Ablayev.

Not all the cases against religious believers under Article 20.2 have led to fines, according to court verdicts seen by Forum 18. In September 2010, a case against Jehovah's Witness Ivan Poddubny was thrown out by a magistrate in Tula, the Proletarsky District Court notes on its website.

Similarly, in March 2010 a court in Krasnoyarsk rejected a case against Margarita Senokosova. "It was all over in five minutes," her husband Pastor Sergei Senokosov of the city's New Generation Church told Forum 18 on 21 October. "The court accepted that our registered congregation didn't need special permission to use rented accommodation."

What happens when authorities are informed?

Several religious communities insisted to Forum 18 that they have no objection to the authorities knowing about their services. But they think there is and should not be a requirement to inform them of worship services.

"We're not against informing the authorities, but when we do, problems result," Jehovah's Witness Martynov notes. He points out that on many occasions when their communities have informed the authorities of services in rented premises, the authorities then put pressure on the owner of the premises to cancel the event.

Martynov cited the case of two meetings due to be held in mid-July in a sports palace in St Petersburg with an expected combined attendance of 13,000 people. A rental contract had been signed on 15 April, but in late May, FSB security service officers visited the palace to get copies of the rental contract. On 2 June the local authority wrote to the sports palace's owner asking it to rescind the contract because of electricity repair work. The owner cancelled the contract the same day.

ECtHR challenges

Ablayev's unsuccessful challenge in Bashkortostan against being fined for meeting for worship is one of five such instances which Jehovah's Witnesses are challenging in a joint case to the European Court of Human Rights, Jehovah's Witness spokesperson Martynov told Forum 18. The case – Aleksandr Nabokikh and Others v. Russia – was lodged on 20 May (Application No. 19428/11). Nabokikh was fined 1,500 Roubles (362 Norwegian Kroner, 48 Euros, or 66 US Dollars) for organising a three-day meeting in a village in Kirov Region in July 2010.

Do residents of old people's homes have rights?

Article 16.3 of the 1997 Religion Law states that: "Religious organisations have the right to hold ceremonies" in various institutions, including "residential homes for old and disabled people". However, this is not always guaranteed, especially for non-Russian Orthodox residents.

In early August, the administration of an old people's home in the village of Bolshaya Kamenka in Mtsensk District (Orel Region) refused to allow two Baptist residents to invite fellow church members to visit and pray with them, church members told Forum 18 from Mtsensk on 4 October. The administration argued that church members could not visit the two elderly women because they are not relatives. However, the administration said the women could have a visit from an Orthodox priest, who is freely able to visit the home.

The home then told Baptists that the women had to write to the director, naming the specific church members they wanted to have visit them, and the invited church members then needed to undergo special medical examination. The home also insisted that church members sought prior permission from the Orel Regional Administration, which oversees the home.

Access to the women was only achieved when the head of the Regional Baptist Union went to Orel Regional Administration. "This was religious discrimination, but all is normal again now," one church member told Forum 18. "Denial of access ended in September." (END)

For more background, see Forum 18's Russia religious freedom survey at http://www.forum18.org/Archive.php?article_id=1196.

Analysis of the background to Russian policy on "religious extremism" is available in two articles: - 'How the battle with "religious extremism" began' (F18News 27 April 2009 http://www.forum18.org/Archive.php?article_id=1287 - and - 'The battle with "religious extremism" - a return to past methods?' (F18News 28 April 2009 http://www.forum18.org/Archive.php?article_id=1288).

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

A personal commentary by Alexander Verkhovsky, Director of the SOVA Center for Information and Analysis <http://www.sova-center.ru>, about the systemic problems of Russian anti-extremism legislation, is at F18News 19 July 2010 http://www.forum18.org/Archive.php?article_id=1468.

Reports on freedom of thought, conscience and belief in Russia can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=10>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Russia is available at <http://education.nationalgeographic.com/education/mapping/outline-map/?map=Russia>.

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