

5 August 2014

RUSSIA: European Court repeats calls for Religion Law change

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

The European Court of Human Rights (ECtHR) has ruled against Russia in two freedom of religion or belief cases, Forum 18 News Service notes. Jehovah's Witnesses detained during a police raid on a meeting for worship in Moscow, and a Pentecostal centre in Chuvashia liquidated for alleged violations of educational, fire and sanitary regulations both won their cases. Liquidation and loss of legal status as a registered religious organisation should not legally lead to a complete ban on activity, but will make it difficult to continue to do more than privately meet for worship and to study texts. Despite this, people who belonged to forcibly liquidated Jehovah's Witness communities in Samara and Taganrog have found that they are not allowed to even meet together. The ECtHR also ruled that Russia must bring the Religion Law into line with both the country's international obligations and with the case-law of the Russian Supreme and Constitutional Courts. One ECtHR judge stated that "any additional delay would be unforgivable". Current changes to the Religion Law now in the Duma appear to have stalled. The proposed changes removed the 15-year registration waiting period, but human rights defenders have expressed concern about an apparent attempt to make registration of all religious groups compulsory.

The European Court of Human Rights (ECtHR) in Strasbourg has ruled against Russia in two more cases affecting freedom of religion or belief, Forum 18 News Service notes. Jehovah's Witnesses detained during a police raid on their meeting for worship in Moscow, and a Pentecostal centre in Chuvashia which was liquidated for alleged violations of educational, fire and sanitary regulations both won their cases.

The ECtHR also ruled that Russia must bring the Religion Law into line with both the country's international obligations and with the case-law of the Russian Supreme and Constitutional Courts.

These rulings come as changes to the Religion Law are being considered by the Duma, the lower chamber of Russia's Parliament, Forum 18 notes. The government brought the changes in the Law to the Duma in March, following another ECtHR ruling. There has been no progress on them in the Duma since mid-April.

Sources in the Duma have unofficially told Inna Zagrebina of the Guild of Experts on Religion and Law that the proposed amendments will not go through, she told Forum 18 on 4 August. She and Valeriya Akhmeteyeva of the SOVA Center for Information and Analysis were also concerned by the draft's apparent attempt to make the registration of all religious groups compulsory (see below). Russian Jehovah's Witnesses hope that the most recent ECtHR ruling will encourage the government to comprehensively reform the Religion Law.

Liquidated for alleged violation of education, fire and sanitary regulations

ECtHR judges ruled on 12 June that the liquidation of the Biblical Centre of the Chuvash Republic for alleged violation of education, fire and sanitary regulations violated the Pentecostals' right to freedom of thought, conscience, and religion under Article 9, and was "a harsh measure entailing significant consequences for the believers" (Application No. 33203/08 <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-144677>).

Liquidation and consequent loss of legal status as a registered religious organisation should not legally lead to a complete ban on activity, but will make it difficult for a religious body to continue operating if it wants to do anything more than privately meet for worship and to study texts (see F18News 14 April 2005 http://www.forum18.org/archive.php?article_id=543).

But despite this, people who belonged to forcibly liquidated Jehovah's Witness communities in Samara and Taganrog have found that they are not allowed to meet to exercise freedom of religion or belief. Indeed in Taganrog the liquidation was used to justify a complete ban on all Jehovah's Witness activity of any kind – whether formally registered or not (see eg. F18News 19 August 2014 http://www.forum18.org/archive.php?article_id=1986).

The Chuvashia Biblical Centre ceased to exist as a legal entity, losing the ability to as itself own or rent property, hire staff, hold bank accounts. In losing its status as a registered religious organisation, it was also deprived of a number of other rights, including the right to distribute religious literature, to establish educational institutions, and to hold services in publicly accessible places.

The Centre was forced to cease operations in August 2007 after the Novocheboksarsk city prosecutor took it to court over alleged infringements of sanitary and fire regulations on its premises, and providing education without a licence. Assistant Pastor Fyodor Matlash of its associated Pentecostal church told Forum 18 in November 2007 that Bible study courses took place, and that "state representatives saw this and said it was unlicensed – and so illegal – educational activity. We told them that it wasn't that, just discussion about the Holy Scriptures and communal prayer."

The court case followed visits by officials of Novocheboksarsk Public Prosecutor's Office, local police and the FSB security service. Matlash stated that "their first question was whether we were publishing extremist literature! We explained that we don't publish literature of any kind; we don't have the equipment". However, the Supreme Court upheld the liquidation in October 2007 (see F18News 15 November 2007 http://www.forum18.org/archive.php?article_id=1048).

A number of religious organisations have faced liquidation on such grounds in recent years. But there is little consistency in the approach of courts and state agencies (see Forum 18's general Russia religious freedom survey http://www.forum18.org/archive.php?article_id=1722).

In a March 2008 ruling, involving two of the same judges as the Biblical Centre decision, the Supreme Court declared "unlawful and without foundation" Smolensk Regional Court's decision to dissolve a Methodist church for running an unlicensed Sunday school (see F18News 30 June 2008 http://www.forum18.org/archive.php?article_id=1151).

However currently, the Harvest Pentecostal church in St Petersburg is threatened with liquidation despite denying even conducting educational activities (see F18News 26 March 2014 http://www.forum18.org/archive.php?article_id=1943).

In the Biblical Centre case at the ECtHR, the Russian government argued that the Centre had committed "gross and repeated violations" of the Religion Law and the Education Law by failing to obtain a licence and by teaching "on premises that fell short of sanitary requirements, which created a danger to the life and health of its students". The Centre countered that it did not offer education under the terms of the Education Law and so could not be bound by the sanitary standards of a formal educational institution, nor did it need to seek a licence for the bible study it provided.

The ECtHR pointed out that other religious organisations in Chuvashia were freely operating Sunday schools at the time without a licence, and that the Centre should have been given the chance to remedy its alleged transgressions, none of which were "irremediable or constituted a clear and imminent danger to the life and limb of the students".

The ECtHR also found that Article 14 of the Religion Law does not allow for any penalty against religious organisations which contravene it, apart from dissolution, which in this case "put an end to the existence of a long-standing religious organisation and constituted a most severe form of interference, which cannot be regarded as proportionate to whatever legitimate aims were pursued".

The June 2014 ECtHR judgment legally obliges Russia to "put an end to the violation [...] and to redress, in so far as possible, its effects". The ECtHR considered a review of the original liquidation order to be the most appropriate means.

Riot police raid and detentions

On 26 June, the ECtHR ruled that the disruption of a Jehovah's Witness meeting by riot police and the detention of a number of worshippers violated both Article 5 ("Right to liberty and security") and Article 9 ("Freedom of thought, conscience and religion") of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

Law enforcement agents, including an armed unit, interrupted the April 2006 meeting for worship in a college auditorium in Moscow. They seized religious literature and detained 14 men, taking them to a local police station and holding them without charge and without access to a lawyer for more than three hours. Four of the men later unsuccessfully took the authorities to court (see F18News 17 May 2006 http://www.forum18.org/archive.php?article_id=781).

The 26 June 2014 ruling in *Krupko and Others v. Russia* orders Russia to pay the applicants a total of 30,000 Euros (1,432,650 Russian Roubles, 252,580 Norwegian Kroner or 40,150 US Dollars) in compensation and 6,000 Euros (286,530 Russian Roubles, 50,515 Norwegian Kroner or 8,030 US Dollars) legal expenses within three months of the decision becoming final (Application no. 26857/07 <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-145013>).

ECtHR judgments become final three months after being handed down, unless either side challenges them.

Russia maintained to the ECtHR that law enforcement agents had acted in response to a complaint about noise. It also claimed that Jehovah's Witnesses had been using the college auditorium illegally both because it was an educational establishment (where religious associations are not permitted to operate) and because they had not given prior written notification – a requirement, according to the government, under the Religion Law in conjunction with the Demonstrations Law.

The ECtHR, however, found that no evidence existed of a noise complaint and pointed out that the Education Law did not prohibit renting out premises to a third party for use outside normal working hours. As the meeting was "not a tumultuous outdoors event but a solemn religious ceremony in an assembly hall which was not shown to create any disturbance or danger to the public order", the ECtHR concluded that it should have been classed as an "assembly" under the 2004 Demonstrations Law, which does not require advance notice.

The ECtHR also pointed to a 2012 judgment of the Russian Constitutional Court in a case brought by Russia's Human Rights Ombudsperson on behalf of Jehovah's Witnesses, which ruled that regulations obliging organisers to seek advance state approval for religious events should be loosened (see F18News 3 January 2013 http://www.forum18.org/archive.php?article_id=1787).

The Constitutional Court ruled that the Religion Law does not distinguish between events which "may require the public authorities to take measures for the protection of public order and security" and those which do not, and so is incompatible with several articles of the Constitution.

Earlier ECtHR case

In its 26 June verdict, the ECtHR cited the similar case of *Kuznetsov and Others v. Russia* (Application No. 184/02). This followed the disruption by police and other officials of a meeting in Chelyabinsk attended by over 100 mainly deaf worshippers (see F18News 17 January 2007 http://www.forum18.org/archive.php?article_id=900). That ECtHR ruling rejected the idea that religious meetings are prohibited in educational establishments and that written notification of religious assemblies is always required in advance (see <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=812677&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>).

"Additional delay would be unforgivable"

In his Concurring Opinion annexed to the 26 June verdict, one of the ECtHR Judges hearing the case, Paulo Pinto de Albuquerque, explicitly criticised the Religion Law and called for its reform: "It is high time for the respondent State to assume its legislative responsibility and to comply with both the *Kuznetsov and Others* judgment of 2007 and the Russian Constitutional Court judgment of 2012, thus providing a legal basis for less constrained exercise of freedom of religion, fairer treatment of religious minorities and, ultimately, genuine inter-faith dialogue in Russia."

The Judge stated that: "While the failure to implement *Kuznetsov and Others* for such a long period can hardly be justified, any additional delay would be unforgivable in the light of the present judgment, and would leave the door open for the award of punitive damages in the event of new similar violations."

Religion Law change?

The Religion Law is currently under review in the Duma. The Justice Ministry formulated the amendments in August 2013 to implement an April 2007 ECtHR ruling (Application No. 18147/02 <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-80038>) that Russia's 15-year waiting period required before the registration of a religious organisation can happen violated the ECHR.

The amendments were submitted to the Duma in late March 2014 and remain under consideration by its Committee on Social Associations and Religious Organisations.

The amendments focus on the registration procedure and the rights and responsibilities of religious organisations. The points made by the ECtHR in its June verdicts are not addressed. Also not addressed are June 2013 recommendations by the European Commission against Racism and Intolerance (ECRI) the Religion Law should be changed: to permit less severe punishments for organisations found to have broken the Law than liquidation; and to allow for re-registration of "non-traditional religions" (see <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Russia/RUS-CbC-IV-2013-040-ENG.pdf>).

Concerns

There has been no progress in the Duma on the amendments since mid-April, and they may not become law. "Sources in the Duma told us unofficially that the draft law won't go through," Zagrebina of the Moscow-based Guild of Experts on Religion and Law told Forum 18. "Besides this, judging by the delays it appears to have been buried. However, anything is possible here."

The draft's major change is that, unlike the current Religion Law, the proposed amendments would require a religious group that does not want to seek registration to provide detailed information to the authorities about "the date of its creation, its religious affiliation, the places at which it carries out worship and other rites and ceremonies, and the leaders and citizens who have formed the religious group, with their full names, patronymics, and places of residence". No such notification or information is required under the current Law (see F18News 14 April 2005 http://www.forum18.org/archive.php?article_id=543).

Zagreбина also noted that this provision making it illegal for religious groups to function without notifying the authorities of their existence would violate commitments to freedom of religion or belief in the Constitution. "If adopted, they would have to catch every such group and punish them for unapproved meetings," she told Forum 18. "That would be too much."

Her concerns are shared by Akhmeteyeva of Moscow's SOVA Center for Information and Analysis, who also told Forum 18 on 1 August that "nobody can say when it [consideration of the amendments] will resume or how quickly it will go". She noted that the proposed changes would "violate the rights of unregistered religious groups. Their activities may be repressed because of a failure to fulfil the provisions of the law on giving notice of the establishment of a religious group and the commencement of its activities".

Previous attempts to make the Religion Law more restrictive have also stalled (see F18News 15 August 2013 http://www.forum18.org/archive.php?article_id=1865). These have included attempts to make registration compulsory for all religious groups (see Forum 18's general Russia religious freedom survey http://www.forum18.org/archive.php?article_id=1722).

Other proposed changes

The current draft's explanatory notes state that its basic goals are:

"1) the elimination of the requirement of proof of a 15-year period of existence of a religious group on this territory for state registration in the capacity of a religious organisation, which violates the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms;

2) the improvement of legal regulation of the procedure for creating and state registration of religious organisations;

3) the elimination of the requirement that religious organisations give annual notification of the continuation of their activity".

It is also proposed that registered religious organisations may be set up by any 10 Russian adults who are members of a religious group, and will be considered active from the moment of notifying the Justice Ministry of its existence. However, if a newly-established local religious organisation is not part of a centralised religious organisation, it would not be allowed for 10 years to open educational institutions, publish newspapers, or operate in hospitals and prisons.

Under the current Religion Law, despite its claim to uphold the Constitution's guarantee of equality before the law for religious associations (obyedineniya), such associations are divided into organisations (organizatsii) and groups (gruppy). A religious group has significantly fewer legal rights than a religious organisation (see F18News 14 April 2005 http://www.forum18.org/archive.php?article_id=543). (END)

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

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

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

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

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

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

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

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

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

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY