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RUSSIA: More literature, website and video bans, but one partially overturned

By Victoria Arnold, Forum 18

A Russian court's 2012 ban of 65 Islamic books, one issue of the Muslim journal Novie Grani (New Boundaries), and two short articles as allegedly "extremist" has been partially overturned, Forum 18 News Service notes. However, 18 of the 68 texts in the original ruling remain banned. Appeals are being prepared against these bans. However, courts continue to rule literature "extremist", opening the way for more prosecutions for their possession or "mass distribution". These include the Google Translate Russian version of a collection of sayings of the Islamic prophet Mohammed, and a video commenting on the attempted seizure by bailiffs of saints' relics from the Russian Orthodox Autonomous Church. Also banned as "extremist" have been two Jehovah's Witness texts, with the community being forced to pay for the state's "expert analysis" which contributed to the ban. Analyses and testimony by Jehovah's Witnesses themselves were refused. Despite the term "mass distribution", prosecutors have often brought charges even if only one copy of a text is discovered. No state agency has answered Forum 18's questions on whether it is right that people should be punished for their possession and whether such prosecutions are a sensible use of police and prosecutors' time.

A Russian court's 2012 ban of 65 Islamic books, one issue of the Muslim journal Novie Grani (New Boundaries), and two short articles as allegedly "extremist", which subsequently led to many fines, has been partially overturned by an appeal court in Orenburg. The verdict means that individuals, booksellers, and Muslim religious communities should no longer be prosecuted for "mass distribution of extremist material" for possessing copies of 50 of the formerly banned texts. However, 18 of the 68 texts in the original ruling remain banned.

Texts relating to religion or belief - and other topics - continue to be declared "extremist" by low-level courts across Russia, thereby becoming prohibited from distribution within the country. The text is then added to the Justice Ministry's Federal List of Extremist Materials, banning its distribution throughout Russia. Possession of a banned text renders the possessor liable to criminal prosecution. Banned texts include a sermon given in 1900 by Metropolitan Andrey Sheptytsky, a candidate for sainthood in the Catholic Church who at the risk of his own life saved Jews from the Holocaust. Officials have refused to tell Forum 18 why the sermon was ruled "extremist" (see F18News 25 November 2013 http://www.forum18.org/archive.php?article_id=1899).

Courts continue to rule Islamic and Jehovah's Witness literature "extremist", opening the way for yet more prosecutions for their possession or distribution under Article 20.29 ("Production or mass distribution of extremist materials") of the Code of Administrative Offences. This can lead to the banning of entire communities and the prosecution of their former members with the risk of being jailed if they continue to meet together. This has been the experience of Jehovah's Witnesses in Samara, Taganrog, and Abinsk (see eg. F18News 6 March 2015 http://www.forum18.org/archive.php?article_id=2046), and a Muslim community in Borovsky village in Tyumen Region (see F18News 3 December 2014 http://www.forum18.org/archive.php?article_id=2020).

"Mass distribution" ?

Despite the term "mass distribution", prosecutors have often brought charges even if only one copy of a text is discovered. Court decisions usually order "extremist" materials to be confiscated and often destroyed (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/Archive.php?article_id=1724).

Forum 18 wrote to the Justice Ministry (2 September 2014 and again on 22 January 2015), the General Prosecutor's Office (17 March 2015), and the Human Rights Ombudsperson's Office (17 March 2015), pointing out that many texts on the Justice Ministry's Federal List of Extremist Materials do not encourage the violation of human rights and asking whether it is right that people should be punished for their possession and whether such prosecutions are a sensible use of police and prosecutors' time. The Justice Ministry replied on 22 January 2015, advising Forum 18 to contact the General Prosecutor.

No other reply to the question has been received from any state agency.

Orenburg ban partially overturned

After repeated delays since June 2012, repeated "expert analysis", and the destruction of their own evidence by law enforcement agencies, on 27 February 2015 Orenburg Regional Court overturned a widely condemned "extremism" ban on 50 texts from a total of 65 Islamic books, one issue of the Muslim journal *Novie Grani* (New Boundaries), and two short articles. However, 18 Islamic books from the 68 texts continue to be deemed "extremist" and prohibited from distribution. Lawyers are preparing further appeals. No written verdict is yet available.

Orenburg's Lenin District Court banned the publications as "extremist" in March 2012 in a hearing lasting only 20 minutes. The decision remains the biggest single known banning of religious literature by a Russian court. However, the banning decision only became public in June 2012 - after the period for appeals had passed. The overt attempt to ban the texts began in February 2010, when the FSB security service commissioned an "expert analysis" of the texts (see F18News 19 June 2012 http://www.forum18.org/archive.php?article_id=1713).

All the texts had been confiscated during raids in March 2009 on several Orenburg homes, including that of Asylzhan Kelmukhambetov who was in June 2011 sentenced to 18 months' imprisonment. After months in a prison hospital, this prisoner of conscience was freed in January 2012 (see F18News 20 January 2012 http://www.forum18.org/Archive.php?article_id=1658).

Although the Regional Court accepted five appeals by authors and publishers, the delay meant that the District Court ruling could come into force in the meantime. This led to numerous prosecutions across Russia for distribution of the banned texts under Administrative Code Article 20.29 (see F18News 22 January 2015 http://www.forum18.org/archive.php?article_id=2031).

The appeal process was further delayed in 2013 when 26 of the books in the case were destroyed, leaving experts with no material to examine (see F18News 15 July 2013 http://www.forum18.org/archive.php?article_id=1858).

When will the 50 texts be taken off the Federal List?

Judge Kira Annenkova's February 2015 decision came into force immediately. This means any attempt to prosecute individuals or organisations under Administrative Code Article 20.29 for distribution of any of the 50 texts would now be illegal, appeal lawyer Nurzhigit Dolubayev told Forum 18 on 13 March.

The 50 unbanned titles are at present still on the Federal List of Extremist Materials, despite their reprieve. Paperwork for the case is still being processed and the verdict would be communicated to the Justice Ministry in up to two weeks' time, a spokeswoman for the Civil Cases Department of Orenburg Regional Court told Forum 18 on 17 March.

On the day of the verdict (27 February) lawyers in the case thought the entire process of removing the 50 texts from the Federal List could take up to two months, Muslim news website ansar.ru reported.

Many of the 50 texts also appear on the Federal List in different editions, having been banned by other courts. For example, the 2008 "Ummah" edition of Azerbaijani scholar Elmur Kuliyyev's "The Path to the Koran" is no longer deemed "extremist". But its 2001 edition, published by Abilov, Zeylanov, and Sons and banned by Kuibyshev District Court in Omsk in July 2012, remains on the Federal List. Like the Orenburg ban, the Omsk ban was also at the initiative of the FSB security service (see F18News 30 July 2012 http://www.forum18.org/archive.php?article_id=1726). Other works by Kuliyyev have also been banned as allegedly "extremist" (see F18News 27 September 2013 http://www.forum18.org/archive.php?article_id=1879).

A precedent?

"Just as it was possible to call the banning of 68 texts a precedent for Russia, we can probably call the overturning of the ban on 50 books a precedent too", lawyer Timur Zaripov told ansar.ru on 27 February.

Nurzhigit Dolubayev, who represented publisher Aslambek Ezhayev, told Forum 18 on 13 March that it was "shameful" for the court not to overturn the ban on his client's books. Ezhayev and other lawyers for authors and publishers whose books remain banned now have six months to submit a cassational appeal to Orenburg Regional Court.

Clarification of ban on sayings of Mohammed – Tatarstan

On 5 February, with the termination of appeal hearings at Tatarstan's Supreme Court, it became clear that a controversial ban on an online collection of hadith (sayings of the prophet Mohammed) applies only to a Google Translate rendering of the text in Russian, and not to any other translation.

Apastovo District Court had on 9 October 2014 ruled "extremist" the 52nd Book of the *Sahih-al Bukhari*. This is a 9th century collection of hadiths (sayings) of the Islamic prophet Muhammad, which Sunni Muslims regard as the most authentic compilation and second only to the Koran itself in terms of importance and authenticity. The Apastovo District prosecutor initiated the case "in the interests of the Russian Federation" after finding the text online on an American website (in Russian) during monitoring of the internet for "extremist" material (see F18News 3 December 2014 http://www.forum18.org/archive.php?article_id=2020).

Under Article 15.1 of the Information Technologies and Protection of Information Law, entire domain names, IP addresses, and specific webpages can be banned. They are then added to the Unified Register of Banned Sites, maintained by the Federal Service for Supervision of Communications, Information Technology, and Mass Media (Roskomnadzor). Once a ruling has come into force, the court communicates its decision to Roskomnadzor, which then informs the hosting provider. Within 24 hours, the hosting provider gives notice that the site owner must remove the webpage within a further 24 hours or access to the site will be restricted. If this action is not taken, the IP address (as well as the domain name and website address) will be included in the registry. Site owners, hosting providers, network operators and telecoms providers may appeal against court decisions within three months. If action is taken to remove the banned information, the website or page is removed from the registry within three days.

Judge Elvira Nigmatzyanova's decision quotes the material the prosecutor and judge found objectionable, but makes no reference to historical context, textual interpretation by Muslim scholars, or any legally-provable effects on people's behaviour (see F18News 3 December 2014 http://www.forum18.org/archive.php?article_id=2020).

"Randomly selected phrases taken out of context"

Muslims in Russia reacted to the ban with alarm and several appeals were filed against the ruling. These caused Apastovo District Court and prosecutors to state unequivocally that the text ruled "extremist" consisted of "randomly selected phrases taken out of context, [which] dramatically distort the true meaning of the source", according to a statement by the Republic Prosecutor, and that all printed translations may continue to be freely used and distributed.

Ravil Tugushev, one of the appeal lawyers, suspected from the start that the banned text was an inaccurate machine translation. He explained on Facebook on 8 February that the appeals did not assume that an official translation of Bukhari had been deemed "extremist", but that that site which hosted the material was "not related to Islam or Muslims" and that the translation was "automatic and distorted".

He added, "We really appealed against the violations which in our view the first court committed in its decision, and the appeals were filed so that similar violations would not occur in the future". These violations, Tugushev told Forum 18, included the fact that not a single representative of a Muslim organisation was invited to or even informed of the court hearing, no expert analysis of the text was carried out, and no comparison made with the original Arabic or with other translations.

On 5 February 2015, Tatarstan's Prosecutor's Office released a statement clarifying its "official position" on the al-Bukhari hadith. It acknowledged "the indisputable religious, scientific and historical authority of Imam al-Bukhari for all Muslims". It stresses that "none of the available printed translations of Hadith of Imam al-Bukhari is prohibited from distribution in the Russian Federation" and may be freely used by the Muslim community, in both the Tatar and Russian languages.

A spokesman for Tatarstan's Prosecutor's Office emphasised to Forum 18 on 17 March that the District Court ruling applies only to the automatic Google Translate version of the text.

It was not clear from the original verdict that possession of other translations of the text would remain unaffected, Forum 18 notes. Although the Prosecutor's Office spokesman was keen to stress that the concept of precedent does not exist in Russian law, "extremism" rulings on one version or edition of a text are frequently cited as evidence in attempts by prosecutors to have other versions banned.

Despite the cessation of appeal proceedings, Tugushev has cautiously welcomed the outcome of the case. "In some ways, it is [a positive result]", he said on Facebook on 7 February, "especially considering the comments of the prosecutors, who confirmed that nobody is calling into question the official translations of Sahih al-Bukhari". He remarked, "I hope in the future this never happens".

The way quotations were used as evidence by prosecutors in the District Court hearing highlights the problems which can be posed by religious texts from particular times and places, which can contain views opposed to present-day understandings of the rights of others, gender equality, freedom of religion or belief and other human rights (see F18News 3 December 2014 http://www.forum18.org/archive.php?article_id=2020).

Ban on biography of 7th century caliph, Kurgan region

The recent ban on Ali Mohammed al-Salabi's "Abu Bakr al-Siddiq: the first righteous caliph" provides another example of prosecutors evaluating a text in isolation from its historical context. Kurgan Regional and Petukhovo District Prosecutors brought the suit "in defence of the rights, freedom, and legal interests of an unspecified group of people". Judge Irina Mokina of Petukhovo District Court upheld the suit in a ruling of 16 December 2014. There was no appeal, and the decision entered legal force on 20 January 2015.

The FSB security service discovered a copy of the book during an inspection of a train in Kurgan Region at a border crossing with Kazakhstan. Prosecutors sent it for "linguistic analysis", which concluded that it contained "information aimed at inciting hatred and

animosity towards people who do not profess Islam, and towards Muslims who depart from the principles of strict monotheism", as well as "information aimed at justifying suicidal terrorism and armed struggle (jihad) in the path of Allah under the guise of religious ideology". This kind of language is frequently used by prosecutors in attempts to ban Islamic literature and prosecute those who possess such texts (see eg. F18News 28 February 2013 http://www.forum18.org/archive.php?article_id=1808).

There is no further explanation in the verdict, seen by Forum 18, of how exactly the book may be considered "extremist". A spokesman for Petukhovo District Prosecutor's Office would not elaborate on this when Forum 18 telephoned on 18 March. He said that requests for information could be sent in writing to the Regional Prosecutor. Forum 18 sent an email before the end of the Kurgan working day on 18 March, asking exactly what was found objectionable in the book, but has received no response.

Abu Bakr al-Siddiq was the prophet Mohammed's father-in-law and immediate successor as leader of the early Muslims in Arabia. He engaged in holy war (presented in the text as both positive and obligatory) with surrounding non-Muslim peoples and advocated harsh punishments for apostates and for a group of Yemeni women who celebrated the death of Mohammed (cutting off their hands). Al-Salabi, a Libyan Islamic scholar and politician, also portrays him as "gentle and generous with conquered peoples", giving them the freedom to choose their own religion. He describes Abu Bakr's example as providing "nourishment for the soul and crucial life lessons for each and every Muslim".

More Jehovah's Witness texts banned – and community forced to pay for "expertise"

Belgorod's October District Court ruled two further Jehovah's Witness brochures "extremist" on 4 March. Judge Viktoriya Yampolskaya agreed that "The Son Will Reveal The Father" contained "propaganda of exclusivity and calls for inciting religious hatred", while "Was life created?" was found to include references to the "Book For All", a Jehovah's Witness text already banned by Rostov Regional Court in 2009.

Allegations (often unsupported by evidence) by officials of "propaganda of exclusivity" and "calls for inciting religious hatred" have long been used to justify banning texts (see eg. F18News 14 July 2008 http://www.forum18.org/archive.php?article_id=1159).

The judge decided that a third brochure, "Is Your Food Dangerous?", was not "extremist".

The court also ordered the Administrative Centre of Jehovah's Witnesses in Russia to pay 15,000 Roubles to cover the cost of "expert analysis" of the texts, which was carried out by Belgorod State University. Jehovah's Witness chair Aleksandr Filin requested further analysis and testimony from members of the Jehovah's Witnesses themselves, but the court refused, he told local news website belpressa.ru on 5 March.

Jehovah's Witnesses have appealed against the ruling to Belgorod Regional Court, Jehovah's Witness spokesman Ivan Belenko told Forum 18 on 13 March.

A spokeswoman for Belgorod City Prosecutor's Office directed Forum 18 to their Press Service, but this number went unanswered whenever Forum 18 called on 19 March.

Jehovah's Witness website ban

Jehovah's Witnesses are challenging the block on their main international website jw.org. The site was ruled "extremist" and banned on 2 December 2014 by Russia's Supreme Court. Jehovah's Witnesses submitted a supervisory appeal in early February, spokesman Belenko told Forum 18.

The Jehovah's Witnesses main international site had been blocked by Tver's Central District Court in August 2013 after FSB investigators found it to contain seven items from the Federal List. But Jehovah's Witnesses successfully appealed against the ban at Tver Regional Court in January 2014 (see F18News 27 January 2014 http://www.forum18.org/archive.php?article_id=1920). But on 2 December 2014 the Supreme Court upheld the prosecutors' appeal against the January judgment (see F18News 3 December 2014 http://www.forum18.org/archive.php?article_id=2020).

The Supreme Court notified the site's American owners (The Watch Tower Society) of the hearing, but only in Russian, Jehovah's Witness spokesman Belenko told Forum 18. By the time the letter had been translated, the hearing had passed without Jehovah's Witness involvement and the decision had already come into force. "There was no letter from the Supreme Court to the local Witness administration, for some reason," he commented.

The website was added to the Unified Register of Banned Sites on 26 January 2015 and within Russia is now inaccessible in all languages, not only Russian, Forum 18 notes. The Unified Register is maintained by the Federal Service for Supervision of Communications, Information Technology, and Mass Media (Roskomnadzor).

Muslims who read theologian Said Nursi's works are, like Jehovah's Witnesses, a major target of the authorities for alleged "extremism". The principal Russian-language resource for the study of Nursi's works, nurru.com, was added to the Unified Register

on 11 July 2014 as the result of a 9 April court decision (see F18News 28 August 2014 http://www.forum18.org/archive.php?article_id=1990).

Blocking starting in 2010

Blocking of access in Russia to Jehovah's Witness websites began in July 2010, when internet service provider Technodesign in Komsomolsk-na-Amure blocked its customers' access to an official Jehovah's Witness international website [watchtower.org](http://www.watchtower.org), which contains information and publications in English, Russian and many other languages. The banning followed a court order initiated by the town's Prosecutor Vitaly Pakhomov (see F18News 7 September 2010 http://www.forum18.org/Archive.php?article_id=1485).

Prosecutors in a variety of Russian regions then gained court decisions ordering local internet companies to block access to several Jehovah's Witness websites in both Russian and English, after investigations by the FSB security service (see F18News 2 December 2011 http://www.forum18.org/Archive.php?article_id=1642).

Since April 2010 Jehovah's Witnesses have not been able to import copies of their two main printed magazines, *Watchtower* and *Awake!* after a Roskomnadzor decision (see F18News 27 July 2010 http://www.forum18.org/Archive.php?article_id=1470). Attempts ending in February 2012 to challenge this ban have failed (see F18News 21 March 2012 http://www.forum18.org/Archive.php?article_id=1682).

"Extremist" Russian Orthodox video

On 17 February 2015, Judges Rimma Sudakova, Yury Samylov and Lyudmila Ogudina of Vladimir Regional Court upheld an "extremism" ruling against a video showing the attempted seizure by bailiffs of saints' relics from a parish of the Russian Orthodox Autonomous Church (ROAC) in October 2012.

The video is critical of the Moscow Patriarchate (from which the ROAC separated in the early 1990s) and the far-right Liberal Democratic Party (LDPR) of Vladimir Zhirinovskiy and posted on Russian religious news website portal-credo.ru in January 2013 by the site's editor Aleksandr Soldatov. It was described by prosecutors as having a "hostile, aggressive character" On 21 November 2014 October District Court declare the video "extremist". The Moscow Helsinki Group submitted an appeal to Vladimir Regional Court, originally due to heard on 18 December (see F18News 3 December 2014 http://www.forum18.org/archive.php?article_id=2020).

In comments to portal-credo.ru on 19 February 2015 after the appeal hearing, Aleksandr Verkhovskiy of Moscow's SOVA Center for Information and Analysis noted that "in the overwhelming majority of cases of the banning of material, there is no criminal prosecution of the author, distributor, or editor".

Sakhalin "theatre of sheer absurdity"

Sakhalin prosecutors' attempt to have a Koranic commentary banned as "extremist" is now on hold while the text undergoes further "expert analysis", Forum 18 has learned.

Judge Natalya Perchenko ordered the repeat analysis at a hearing on 28 January, and the case remains adjourned, according to lawyer Tugushev, who is not involved but is following the case. When Forum 18 called the civil cases department of Yuzhno-Sakhalinsk City Court on 19 March and asked when proceedings would resume, the phone was immediately put down. In comments on his blog on 31 January, Tugushev called the case "a theatre of sheer absurdity".

The initial examination of the book, which consists of selected verses from the Koran with accompanying comments, was performed by Yelena Korolyova, a linguistic analyst at the Sakhalin police Expert Criminology Centre. In her report of 14 April 2014, seen by Forum 18, she claimed that the book contains statements promoting the superiority of a particular group of people on the basis of religion (see F18News 3 December 2014 http://www.forum18.org/archive.php?article_id=2020).

Nafigulla Ashirov, Mufti of Asiatic Russia, lodged an objection to the court (which Forum 18 has seen) expressing concern that the "extremism" case was based on verses from the Koran and asking that the prosecutors' suit be refused. He points out that the statements of monotheism highlighted in Korolyova's analysis are similar to certain Biblical verses, and that all Russia's so-called "traditional religions" claim an inherent superiority of their beliefs over those of other faiths. Ashirov on 26 October had described the case as "complete insanity" (see F18News 3 December 2014 http://www.forum18.org/archive.php?article_id=2020).

The freedom to make claims about the relative merits or demerits of religious or non-religious views is a central part of the internationally-recognised right to freedom of religion or belief. However, Russian prosecutors frequently view exercising the freedom to make these claims as grounds for prosecution (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/Archive.php?article_id=1724). (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.

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