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RUSSIA: Jailings "equate peaceful believers with dangerous criminals"

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

The jailing of six Jehovah's Witnesses in Saratov for up to three and a half years "equates peaceful believers with dangerous criminals", Jehovah's Witnesses complain. The Prosecutor's Office did not respond as to why it considered these men dangerous and should be jailed. A Khabarovsk court sentenced another man to assigned labour for discussing Jesus' Sermon on the Mount.

Six men in Saratov have become the first Russian citizens to receive jail sentences after the Supreme Court's 2017 ban on all Jehovah's Witness activity. Konstantin Bazhenov, Aleksey Budenchuk, Feliks Makhmadiyev, Roman Gridasov, Gennady German, and Aleksey Miretsky were jailed on 19 September for between two and three and a half years in a general-regime labour camp (correctional colony). They intend to appeal.

The court "ignored" the fact that the case materials identified "not a single victim and not a single negative consequence of the alleged extremist activity", Jehovah's Witnesses complained. The verdict "equates peaceful believers with dangerous criminals" (see below).

Neither the Prosecutor's Office nor the Court responded to Forum 18's question as to why they considered these men dangerous and should be jailed (see below).

A court in Khabarovsk in the Far East ordered on 2 September that another man, Valery Moskalenko, should carry out over two years of assigned labour followed by six months' probation, also for allegedly "continuing the activities of a banned extremist organisation" (see below).

The prosecution based its argument on a ten-minute recording of Moskalenko reading and commenting on Jesus' Sermon on the Mount at a Jehovah's Witness gathering. A prosecution "expert" claimed that his preaching contained evidence of "the promotion of exclusivity" and "calls for the continuation of the activities of the banned organisation" (see below).

Moskalenko "was convicted for his faith and the defence will seek acquittal by all legal means, up to an appeal to the European Court of Human Rights", his lawyer Svetlana Gnilokostova told Forum 18 (see below).

The Prosecutor's Office did not respond to Forum 18's question as to why it had sought to jail Moskalenko and whether it intends to appeal (see below).

In Perm on 5 September, Jehovah's Witness Aleksandr Solovyov failed to overturn his conviction and fine of about 11 months' average local wages (see below).

Raids, arrests, trials continue

In 2017, Russia's Supreme Court banned all Jehovah's Witness activity throughout the country with its decision to declare the Jehovah's Witness Administrative Centre and all 395 local communities "extremist organisations".

(http://www.forum18.org/archive.php?article_id=2297)

In addition to the September 2019 convictions in Saratov and Khabarovsk, a further 25 Jehovah's Witnesses are currently known to be on trial in eight different locations. In a ninth case, a court in Kostroma sent the case back to prosecutors. Over 200 more people are the subjects of criminal investigation, with many in pre-trial detention or under house arrest

(http://www.forum18.org/archive.php?article_id=2512).

Becoming the subject of a criminal case under the Extremism Law can have far-reaching effects on an individual's life, even before conviction. Investigators may have suspects placed on the Federal Financial Monitoring (Rosfinmonitoring) "List of Terrorists and Extremists", whose assets banks are obliged to freeze (http://www.forum18.org/archive.php?article_id=2215), with the exception of

small transactions of up to 10,000 Roubles.

On 26 July 2019, President Vladimir Putin also signed into law amendments to the Railway Transport Law which bar anyone "in relation to whom there is information about their involvement in extremist activities or terrorism" from driving trains. This will come into force after 180 days.

FSB, police, National Guard, Investigative Committee, and other officials continue to arrest, interrogate, and detain Jehovah's Witnesses for allegedly "organising" or "participating in the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity" (Criminal Code Article 282.2, Parts 1 and 2), as well as for the alleged "financing of extremist activity" (Criminal Code Article 282.3, Part 1).

"The officers often treat the Witnesses as if they were hardened criminals," Jehovah's Witnesses complained in their report to the Organisation for Security and Co-operation in Europe (OSCE) Human Dimension Implementation Meeting in Warsaw in September 2019.

"Russia is grossly misapplying its own laws to criminally charge the Witnesses with participating in, organising, or financing 'extremist activity'. In reality, the Witnesses are merely peacefully meeting together for worship, reading the Bible or talking to others about their beliefs."

In addition to criminal prosecutions and the associated detentions and harsh treatment by police and other investigators, the report also notes the prohibition of Jehovah's Witness literature (including their New World version of the Bible (http://www.forum18.org/archive.php?article_id=2319)), the state confiscation of property, and "at least five cases" of Jehovah's Witness men of military call-up age being denied the right to perform alternative civilian service.

Earlier convictions

The first Jehovah's Witness in post-Soviet Russia to be imprisoned for exercising his freedom of religion or belief was Danish citizen Dennis Ole Christensen. An Oryol court handed him a six-year sentence in February 2019. (http://www.forum18.org/archive.php?article_id=2450) He was accused of "continuing the activities" of the local Jehovah's Witness community in Oryol, which was banned and liquidated in 2016 (http://www.forum18.org/archive.php?article_id=2228), before the Supreme Court ruling.

Another Oryol Jehovah's Witness, Sergey Vladimirovich Skrynnikov, was charged with the same offence and given a 350,000 Rouble fine in April 2019 (http://www.forum18.org/archive.php?article_id=2480). This represents about 18 months' average wages in Oryol for those in formal work.

The first Jehovah's Witness to be convicted as a result of the 2017 ban was Aleksandr Vasilyevich Solovyov from Perm, who received a fine of 300,000 Roubles in July 2019 (see below).

Muslims also jailed under Extremism Law

Muslims who meet to read the works of late theologian Said Nursi are also subject to prosecution, fines, and jailing under Criminal Code Article 282.2 ("organisation of" or "participation in the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity").

Two are known to be serving jail sentences. A Makhachkala court jailed Artur Abdulgamidovich Kaltuyev for three years in November 2017 (http://www.forum18.org/archive.php?article_id=2339). A court in Izberbash jailed Ilgar Vagif-ogly Aliyev for eight years in June 2018 (http://www.forum18.org/archive.php?article_id=2391).

Yevgeny Lvovich Kim, who was released after a year and ten months' imprisonment in April 2019, was deprived of his Russian citizenship and ordered to be deported to Uzbekistan (http://www.forum18.org/archive.php?article_id=2478), his country of birth. At present, he remains in a detention centre for foreign nationals in Khabarovsk. It is not known when he will be expelled from Russia, as Uzbekistan is currently refusing to accept him.

Two more prosecutions of Nursi readers are underway – those of Denis Vladimirovich Zhukov in Krasnoyarsk (http://www.forum18.org/archive.php?article_id=2493) and Yevgeny Igoryevich Sukharev in the Krasnoyarsk Region town of Sharypovo (http://www.forum18.org/archive.php?article_id=2478). It is unknown when they will come to trial.

Saratov: Six Jehovah's Witnesses sentenced to imprisonment

On 19 September 2019, after 12 hearings over nearly three months, Judge Dmitry Larin of Saratov's Lenin District Court found six

Jehovah's Witnesses guilty under Criminal Code Article 282.2, Part 1 ("organisation of extremist activity"). He jailed all six for up to three and a half years. They were taken into custody directly from the courtroom.

Judge Larin handed down these sentences:

- 1) Konstantin Viktorovich Bazhenov (born 10 May 1975), three years and six months' imprisonment
- 2) Aleksey Vladimirovich Budenchuk (born 27 July 1982), three years and six months' imprisonment
- 3) Feliks Khasanovich Makhammadiyev (born 14 December 1984), three years' imprisonment
- 4) Roman Aleksandrovich Gridasov (born 16 September 1978), two years' imprisonment
- 5) Gennady Vasilyevich German (born 12 June 1969), two years' imprisonment
- 6) Aleksey Petrovich Miretsky (born 14 December 1975), two years' imprisonment.

The judge also imposed a five-year ban on holding leadership positions in public organisations and one year of restrictions on freedom. According to Jehovah's Witnesses, all six defendants insist that they "have nothing to do with extremism" and are intending to challenge the guilty verdict.

These are the first jail sentences for Russian citizens under either the Supreme Court's 2017 ruling which outlawed Jehovah's Witness activities nationwide, or the local bans which preceded it, as well as the first conviction under Criminal Code Article 282.2, Part 1 ("organisation of extremist activity") as a result of the 2017 ban.

The court "ignored" the fact that the case materials identified "not a single victim and not a single negative consequence of the alleged extremist activity", Jehovah's Witnesses commented on 19 September 2019. The charges against the men were based on the assumption that "faith in God is 'continuation of the activities of an extremist organisation'," the Association claimed.

"Instead of searching for and proving the guilt of the defendants, the prosecutor's office was busy 'proving' their confession of a particular religion, while no religion has been banned in Russia," the Association added. "[The verdict] equates peaceful believers with dangerous criminals."

In court, the defendants argued that "collective meetings and religious practices of individuals are not related to the activities of local religious organisations, but are the exercise of their constitutional right to freedom of religion", Jehovah's Witnesses stated on 11 September. They also explained that were they somehow connected with extremism, they "could not be considered followers of Jesus Christ".

In their final statements on 18 September, the defendants expressed their confusion as to why they were accused of "believing in God, reading the Bible, [and] singing spiritual songs and prayers", and insisted that they did no harm to anyone.

Prosecutors had asked for prison terms of seven years each for Bazhenov, Budenchuk, and Makhammadiyev, and six years each for Gridasov, German, and Miretsky.

Bazhenov, Budenchuk, and Makhammadiyev were in detention for 343 days before being released under specific restrictions for the duration of their trial. Under amendments to the Criminal Code signed into law in July 2018, one day in detention is taken as equivalent to a day and half in a labour camp. Should their sentence enter legal force, it is therefore likely that Bazhenov and Budenchuk will serve about two years and one month, and Makhammadiyev about one year and seven months.

Gridasov, German, and Miretsky spent the time since their initial arrest under travel restrictions. Should the verdict enter legal force, the length of their terms of imprisonment will therefore be unchanged.

Forum 18 wrote to Lenin District Court on 25 September, asking why it had decided that jail sentences were necessary and in what way the six men could be considered dangerous. Forum 18 had received no reply by the afternoon of the working day in Saratov on 4 October. Forum 18 called Judge Larin's office on 4 October, but the telephone went unanswered.

Forum 18 submitted the same questions to Saratov Regional Prosecutor's Office on 26 September, also asking whether prosecutors were intending to challenge the sentences imposed. Forum 18 had received no reply by the afternoon of the working day in Saratov on 4 October. When Forum 18 called the Prosecutor's Office press service on 4 October, the telephone went unanswered.

Khabarovsk: Jehovah's Witness sentenced to assigned labour

After seven hearings across nine weeks and over a year in detention, Jehovah's Witness Valery Vasilyevich Moskalenko (born 15

April 1967) was found guilty under Criminal Code Article 282.2, Part 2 on 2 September. He received a sentence of two years and two months of assigned labour (prinuditelniye raboty) followed by six months of probation.

Judge Ivan Belykh of Khabarovsk's Railway District Court also imposed a ban on Moskalenko leaving the city for this period and a requirement to report to probation authorities once a month. Prosecutors had requested a three-year prison term.

The verdict has not yet entered legal force. Moskalenko denies committing any offence and is challenging his conviction. Khabarovsk Regional Court registered his appeal on 16 September 2019, according to the court website; Judge Natalya Bondareva is due to consider it on 10 October 2019.

"In the actions of Valery Vasilyevich Moskalenko, there was no crime under Article 282.2, Part 1 of the Criminal Code," his lawyer Svetlana Gnilokostova told Forum 18 on 4 October. "He was convicted for his faith and the defence will seek acquittal by all legal means, up to an appeal to the European Court of Human Rights."

Moskalenko was released directly from the courtroom, having spent 396 days in detention in Khabarovsk's Investigation Prison No. 1. Under the July 2018 amendments to the Criminal Code, one day in pre-trial detention is taken as equivalent to two days of assigned labour. Moskalenko was therefore deemed to have served his sentence.

If his appeal is unsuccessful, however, he will still be left with a criminal conviction, and will still have to spend six months on probation.

The judge took account of extenuating circumstances, Moskalenko's lawyer Svetlana Gnilokostova told Forum 18 on 3 October: the defendant's age, the fact he has a heart condition, his role as carer for his ill and elderly mother (with whom he lived prior to his arrest), positive character references, and the lack of a previous criminal record.

Officers initially arrested Moskalenko on 2 August 2018 during a series of raids on Jehovah's Witness homes in the city (http://www.forum18.org/archive.php?article_id=2412). His name does not appear among the founder members of either of the two local Jehovah's Witness communities active in Khabarovsk at the time of the Supreme Court's 2017 ruling, but he was a founder member of the "Oblachnaya" congregation, which was dissolved in 2012 and apparently re-registered under a different name ("Northern") the same year.

The prosecution based its argument on a 10n-minute recording of Moskalenko reading and commenting on Jesus' Sermon on the Mount at a Jehovah's Witness gathering in a conference hall on 21 April 2018, according to Jehovah's Witnesses.

An "expert witness" for the prosecution, psychologist Alyona Payevshchik from the Emergencies Ministry, claimed that his preaching contained evidence of "the promotion of exclusivity" and "calls for the continuation of the activities of the banned organisation".

In his testimony, Moskalenko insisted that his sermon had been peaceful. "In my opinion, this specialist [Payevshchik] is not competent in religious matters," his lawyer Svetlana Gnilokostova told Forum 18. "Giving answers to the investigator's questions, she went beyond psychology and was guided by her personal opinion, which is not legal".

Forum 18 wrote to Khabarovsk Regional Prosecutor's Office before the start of the Khabarovsk working day of 26 September, asking why prosecutors had sought to jail Moskalenko and whether they intended to appeal. Forum 18 had received no reply by the end of the working day in Khabarovsk on 4 October.

Forum 18 also contacted Khabarovsk's Railway District Court to ask why Moskalenko had received a assigned labour sentence and whether prosecutors had lodged an appeal. A spokeswoman for the court responded on 3 October, saying only that the verdict had not yet entered legal force and that Moskalenko's lawyer had lodged an appeal, which the district court had passed on to Khabarovsk Regional Court.

According to Article 53.1 of the Criminal Code and Article 16 of the Criminal Procedural Code, judges impose sentences of assigned labour (prinuditelniye raboty) instead of imprisonment, if they decide that the former will have a sufficient "correctional" effect on the convicted person but find that a suspended sentence is unsuitable. Assigned labour is used as a punishment only for minor or mid-level offences, or for a first-time serious offence (as in Moskalenko's case).

Where assigned labour is carried out is decided by the prison service – it should be at a correctional centre in the region in which the convicted person lives or was on trial, but people can be sent elsewhere if this is not possible.

Assigned labour may take the form of any job in any organisation, as determined by the correctional centre administering the sentence. According to the Criminal Procedural Code, this takes into account an individual's age, gender, health, ability to work, and occupational speciality, but the assigned work depends on availability and the convicted person has no right to refuse. Officials check on convicted persons' locations at least once a day.

Assigned labour sentences can last anywhere from two months to five years (one to four years under Criminal Code Article 282.2, Part 2; it is not a possible punishment under Part 1). The work is paid, but, if specified in the sentence, deductions of 5 to 20 per cent may be made from wages and paid to the relevant regional body of the prison service.

Should a convicted person abscond or break the rules, the sentence will be replaced by imprisonment for the same duration.

Perm: Appeal unsuccessful

On 5 September, Perm Regional Court upheld the conviction of the first Jehovah's Witness to be found guilty under the Supreme Court's nationwide ban.

On 4 July, Ordzhonikidze District Court fined Aleksandr Vasilyevich Solovyov (born 13 February 1970) 300,000 Roubles under Criminal Code Article 282.2, Part 2 (http://www.forum18.org/archive.php?article_id=2493). This represents about 11 months' average wages in Perm for those in formal work. (END)

Full reports on freedom of thought, conscience and belief in Russia
(<http://www.forum18.org/archive.php?query=&religion=all&country=10>)

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

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 (http://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 (http://www.forum18.org/archive.php?article_id=1351)

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