

24 August 2021

RUSSIA: Post-sentence: Curfews, regular registration, movement restrictions, job bans

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Jehovah's Witnesses and Muslims jailed on "extremism"-related charges for exercising freedom of religion or belief face years of restrictions once the sentence ends. With sudimost (the state of being a convicted person with an active criminal record), they risk harsher punishment if prosecuted again. Courts can impose post-sentence restrictions on freedom and administrative supervision, entailing curfews, movement restrictions, and regular registration with police or probation authorities. Individuals are barred from certain jobs. Many have bank accounts blocked for years. Jehovah's Witnesses have also been banned from leading or participating in religious organisations. Those fined or given suspended sentences face shorter restrictions.

Jehovah's Witnesses and Muslims who have been convicted of "extremism" for exercising their right to freedom of religion and belief may continue to feel the impact of conviction long after they have completed their sentences, in the form of sudimost (the state of being a convicted person with an active criminal record) and other sets of legal restrictions and requirements.

In combination with lengthy investigations and trials (during which individuals may have been in detention or under house arrest), and sentences themselves, this means that the lives, ability to exercise human rights, health, reputations, and finances of people whose only "crime" is to exercise their freedom of religion or belief are adversely affected for well over 10 years.

After release, former prisoners are subject to overlapping measures affecting their legal status and everyday lives. These include:

- sudimost, which applies to everyone found guilty of a crime;
- restrictions on freedom, an additional punishment decided on by the judge at sentencing;
- administrative supervision, sought by prison authorities shortly before release and imposed by a court;
- and for those convicted under Criminal Code Article 282.2 additional bans on holding particular positions or undertaking particular activities (see below).

Former prisoners also face penalties and obstacles to their daily lives due to being placed on the Rosfinmonitoring "List of Terrorists and Extremists" (https://www.forum18.org/archive.php?article_id=2687). This normally happens during an investigation before any trial (see below).

For those who have served jail sentences for "extremism"-related crimes, sudimost is currently eight years, during which formal employment opportunities may be curtailed, and any further crime incurs a harsher penalty. People who are handed suspended sentences and fines must also serve periods of sudimost. Those given suspended sentences are usually also subject to restrictions on freedom (see below).

Both restrictions on freedom and administrative supervision entail a range of measures including curfews, restrictions on movement, and an obligation to register with police or probation authorities at specified intervals. People convicted for exercising their freedom of religion and belief have also been subject to bans on leadership of or participation in religious organisations, which are not part of the standard range of restrictions (see below).

The degree to which everyday life may be affected depends on individuals' own circumstances. These include whether they previously worked in occupations off limits to those with criminal records, and whether they regularly travelled outside their own regions for work or personal reasons. The burden of regular registration and police checks, and the general effect a criminal record may have on employment prospects, nevertheless applies to all (see below).

"Even lenient punishment is punishment"

"When a person is found guilty, it affects their future," Jehovah's Witness lawyers commented to Forum 18 on 9 November 2020. "With regard to Jehovah's Witnesses, practice in Russia is still new. The distant consequences are not yet visible."

The lawyers noted, however, the difficulties faced by Jehovah's Witnesses in other countries, such as South Korea, after conviction for conscientious objection to military service. While the majority of prosecuted Jehovah's Witnesses in Russia have received suspended sentences, meaning that they are unlikely to spend time behind bars, they still have a criminal record which may be active for a long time.

"Even lenient punishment is punishment, the consequences of which will be felt for years," the lawyers added (https://www.forum18.org/archive.php?article_id=2619).

Consequences

There are eight interlocking consequences related to "extremism" investigations and convictions for exercising freedom of religion and belief:

- 1) during investigation and even if no trial takes place, inclusion on the Rosfinmonitoring "List of Terrorists and Extremists" (https://www.forum18.org/archive.php?article_id=2687). This blocks bank accounts, and causes for problems in finding formal employment, obtaining insurance, buying and selling property, and a range of other financial activities;
- 2) if convicted the prison or suspended prison sentence itself, or possible fines;
- 3) for suspended sentences, the probationary period, which is the time during which any other conviction would send the defendant to prison (see below);
- 4) for those not given prison or suspended sentences, or fines, a possible period of assigned or correctional work. This may take the form of a paid job in any organisation, as determined by the correctional centre administering the sentence. Correctional work may be one's own job. 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 (see below);
- 5) a possible period of restrictions on freedom. This normally includes a curfew between particular hours, a ban on visiting certain places, a ban on leaving one's home town, a ban on attendance at or participation in particular events, a ban on changing one's place of residence, work, or study without the probation authorities' permission, and an obligation to register with probation authorities one to four times per month (see below);
- 6) sudimost, or the state of having an active criminal record. Individuals may face a harsher sentence if prosecuted and convicted again. Individuals are also barred from holding certain jobs in sectors such as education, finance, the police and similar agencies, and the civil service, and from standing for election. Although there is no legal bar on employment in other sectors, many people find it hard to secure formal work after criminal convictions (see below);
- 7) for those given prison sentences, administrative supervision for all of their period of sudimost. Administrative supervision consists of a set of restrictions on movements and activities, and a requirement to register regularly with the police (see below);
- 8) and for those convicted under Criminal Code Article 282.2 Parts 1 or 2 (https://www.forum18.org/archive.php?article_id=2215) either compulsory or discretionary bans on holding particular positions or undertaking particular activities (https://www.forum18.org/archive.php?article_id=2681) (see below).

Charges, sentences

Jehovah's Witnesses have been liable to criminal prosecution since the 2017 Supreme Court ruling which liquidated their Administrative Centre (and its subsidiary structures) as an "extremist organisation" (https://www.forum18.org/archive.php?article_id=2297) and outlawed their activities nationwide.

Muslims who meet to study the writings of theologian Said Nursi may also be prosecuted under the Extremism Law for organising or participating in the activities of "Nurdzhular". Muslims in Russia deny any such formal organisation exists, but the Supreme Court banned it as "extremist" in 2008 (https://www.forum18.org/archive.php?article_id=2215). Typically, such Muslims meet in homes to study Islam, with one or more expounding on Nursi's works. They also pray, eat, and drink tea together, and do not seek state permission to meet.

After being kept under FSB security service or police surveillance for some months (https://www.forum18.org/archive.php?article_id=2578), Muslims who meet to study the works of the late Turkish theologian Said Nursi and Jehovah's Witnesses tend to be prosecuted (https://www.forum18.org/archive.php?article_id=2215) under Criminal Code (https://www.forum18.org/archive.php?article_id=2215) Article 282.2 for "organising" (Part 1), or "participating in" (Part 2), "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". The majority of convictions have been under this Article.

Most of those prosecuted are placed on the Rosfinmonitoring "List of Terrorists and Extremists" (https://www.forum18.org/archive.php?article_id=2687) (see below).

The activities for which individuals are prosecuted under both parts of Criminal Code Article 282.2 are very similar, including meeting in each other's homes to pray and sing together, study sacred texts, and discuss shared beliefs.

Possible punishments are:

Part 1 ("organising")

– six to 10 years' imprisonment and compulsory restrictions on freedom for one to two years after release, plus a compulsory ban on holding certain positions and/or carrying out certain activities for up to 10 years (see below);

- or a 400,000 to 800,000 Rouble fine;

Part 2 ("participation")

– two to six years' imprisonment, plus a possible ban on holding certain positions and/or carrying out certain activities for up to five years, and compulsory restrictions on freedom for up to one year after release (see below);

- or a 300,000 to 600,000 Rouble fine;

- or one to four years' assigned work and compulsory restrictions on freedom for up to one year, plus a possible ban on holding certain positions and/or carrying out certain activities for up to three years (see below).

Several Jehovah's Witnesses have also been charged under Criminal Code Article 282.3, Part 1 ("Financing extremist activity"), apparently for continuing to collect donations for activities from other Jehovah's Witnesses after the 2017 ban on Jehovah's Witness activity. Possible punishments are:

- three to eight years' imprisonment;

- or a 300,000 to 700,000 Rouble fine;

- or one to four years' assigned work, plus a possible ban on holding certain positions and/or carrying out certain activities for up to three years (see below).

Other charges have been brought against Jehovah's Witnesses and Muslims under Criminal Code Article 282.2, Part 1.1 ("Inclination, recruitment or other involvement of a person in an extremist organisation"). Possible punishments are:

- four to eight years' imprisonment;

- or a 300,000 to 700,000 Rouble fine;

- or two to five years' assigned work, plus a possible ban on holding certain positions and/or carrying out certain activities for up to three years (see below).

A fine of 300,000 Roubles represents about six months' wages for those in formal work at the average rate of pay across Russia. However, levels of pay vary widely from region to region. Such a fine represents about 20 months' pension for those on the average level of pension.

All the above prison terms may also be suspended. This means that the convicted person does not have to serve the time in prison unless they are found guilty of another crime or repeated administrative offence. This includes offences unrelated to the activity which led to their original conviction. Judges can also impose a range of restrictions on freedom both during suspended sentences, and for certain periods after a person's release from imprisonment.

Suspended sentences are now the most common form of punishment handed down to Jehovah's Witnesses found guilty of "organising" or "participating" in allegedly "extremist" activity such as continuing to meet for worship (https://www.forum18.org/archive.php?article_id=2667). Since the Supreme Court's 2017 ban on the Jehovah's Witnesses, up to 25 June 2021 70 Jehovah's Witnesses received suspended sentences of up to seven years either in first-instance courts or on appeal. One

Muslim who met other Muslims to study theologian Said Nursi's works was given a two-year suspended sentence in 2018 (https://www.forum18.org/archive.php?article_id=2668).

Although those sentenced remain free, they must live under restrictions imposed by the courts and report regularly to probation authorities. If they are found guilty of another crime or repeated administrative offences – including any unrelated to their earlier convictions – they risk being sent to prison.

Rosfinmonitoring "List of Terrorists and Extremists"

Many Jehovah's Witnesses and Muslims who have been prosecuted under the Extremism Law have been added to the Federal Financial Monitoring Service (Rosfinmonitoring) "List of Terrorists and Extremists" (https://www.forum18.org/archive.php?article_id=2687). Banks are obliged to block the accounts of all those on this List although small transactions of up to 10,000 Roubles are permitted.

The List is publicly accessible via the Rosfinmonitoring website, and updates to it are published in the government newspaper "Rossiyskaya Gazeta".

Being added to the Rosfinmonitoring List is a consequence not of conviction but of prosecution, as investigators add many people to the list before they are convicted, or in some cases, even before they are charged. If a criminal case is closed before reaching court, a person's name may remain on the List for several months before investigators or prosecutors have it removed.

Being added to the List leads to a variety of problems in everyday life, e.g. being unable to receive salaries, pensions, or benefits, renew insurance policies, or even purchase a phone SIM card.

Assigned work and correctional work

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

Correctional work - a lesser category of punishment - involves payment to the state of 5 to 20 per cent of wages, either from one's own job or, if unemployed, from a job allocated by the local authority in cooperation with the prison service.

Assigned work sentences can last anywhere from two months to five years. Under Criminal Code articles 282.2, Part 2 ("Participation" in a banned alleged "extremist" organisation) and 282.3, Part 1 ("Financing extremist activity"), sentences last between one to four years. Under Criminal Code Article 282.2, Part 1.1 ("Inclination, recruitment or other involvement of a person in an extremist organisation"), sentences last between two to five years. Assigned work is not a possible punishment under Criminal Code Article 282.2, Part 2 ("Organising" a banned alleged "extremist" organisation).

Where assigned work is carried out is decided by the FSIN federal 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 work 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 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 as the assigned work sentence.

Restrictions on freedom

Restrictions on freedom (ogranicheniya svobody) are not a post-sentence measure, but an integral part of sentencing, imposed either as an additional penalty when a person receives a real or suspended prison term, or as a primary punishment for some lesser crimes.

Periods of judicial and administrative supervision (see below) are calculated from the date that restrictions on freedom come to an end, as a convicted person is not deemed to have completed their sentence until this point.

Standard restrictions, as set out in Criminal Code Article 53, include:

- a curfew between particular hours;
- a ban on visiting certain places;
- a ban on leaving one's home town;
- a ban on attendance at/participation in particular events;
- a ban on changing one's place of residence, work, or study without the consent of probation authorities;
- and an obligation to register with probation authorities one to four times per month.

The probation authorities may later apply to court to overturn or add particular measures.

As a primary punishment for minor and medium-severity crimes, restrictions on freedom last from two months to four years. If restrictions are violated, a court may replace restrictions on freedom with imprisonment or assigned work at a rate of two days to one.

For those convicted of serious crimes when restrictions on freedom are an additional punishment after imprisonment or assigned work – as in the case of Jehovah's Witnesses who have been convicted under the Extremism Law – restrictions on freedom last from six months up to a maximum of two years.

According to Chapter 8 of the Criminal Enforcement Code, the Penal Enforcement Inspectorate (which is part of the FSIN federal prison service) is responsible for monitoring people who are under restrictions on freedom, as well as those in the probationary periods of suspended sentences.

If a person has also been made subject to administrative supervision (see below), the Inspectorate must inform the local branch of the Interior Ministry of the impending expiry of the term of restrictions, no more than two months before responsibility for the convicted person is transferred to the police.

The Inspectorate registers, photographs, and fingerprints the convicted person, checks that they are complying with the restrictions, and punishes them if they are not. Punishments are firstly at warning, then an official caution, then a possible return to prison. The Inspectorate may temporarily waive restrictions in special circumstances, such as the death or illness of a close relative or the need to travel for a job interview.

Most Jehovah's Witnesses who have received prison terms or suspended sentences have also been handed periods of restrictions on freedom, ranging from six months to three years. None are known to exceed the probationary periods handed down.

None of the Muslims sentenced to imprisonment since 2017 is known to have received a period of restrictions on freedom, apart from Yevgeny Kim, who received one year of restrictions (https://www.forum18.org/archive.php?article_id=2290). According to his lawyer Lyubov Tatarets, this was not valid as he was later deprived of his Russian citizenship (https://www.forum18.org/archive.php?article_id=2478) and such restrictions cannot by law apply to foreign or stateless persons.

Jehovah's Witnesses and Muslims subject to sudimost

A total of 63 Jehovah's Witnesses and four Muslims who read Nursi's works are known to have active criminal records and to be still living in Russia (and not in prison). These include people who have been released from prison, people serving the probationary periods of suspended sentences, and people who paid a fine less than one year ago.

So far, only six Jehovah's Witnesses have completed prison terms. Two of them – Konstantin Viktorovich Bazhenov (born 10 May 1975) and Feliks Khasanovich Makhmadiyev (born 14 December 1984) – had been stripped of their Russian citizenship and were deported shortly after their release (https://www.forum18.org/archive.php?article_id=2633) (to Ukraine and Uzbekistan respectively). They are therefore no longer subject to any post-sentence restrictions under Russian law, but are unable to re-enter the country for the eight-year length of their sudimost period.

Four other Jehovah's Witnesses from Saratov, who were convicted in September 2019 (https://www.forum18.org/archive.php?article_id=2510) in the same trial as Bazhenov and Makhmadiyev, have also recently been released from Orenburg's Labour Camp No. 1: Aleksey Vladimirovich Budenchuk (born 27 July 1982) on 6 July, Gennady Vasilyevich German (born 12 June 1969) and Roman Aleksandrovich Gridasov (born 16 September 1978) on 29 July, and Aleksey Petrovich Miretsky (born 14 December 1975) on 3 August. They will carry the legal status of convicted persons until 2030, taking into account the one year they must spend under restrictions on freedom (see above).

All of the 56 Jehovah's Witnesses with suspended sentences which have entered legal force also have the legal status of convicted persons, as none of their probationary periods has yet ended. These periods range from eight months – for Vasily Pavlovich Reznichenko (born 18 August 1942), who received a two-year suspended sentence on 2 June 2021 – to five years – for Yury Alekseyevich Krutyakov (born 16 July 1952), given a six-year suspended sentence on 24 May 2021; Grigory Gennadyevich Bubnov (born 4 September 1965), given a six-year suspended sentence on 21 January 2020 (https://www.forum18.org/archive.php?article_id=2536); and Ruslan Nikolayevich Korolyov (born 8 August 1982) and Valery Anatolyevich Shalev (born 23 September 1977), who received suspended sentences of six years and six months on 23 April 2021.

Three Jehovah's Witnesses who have paid fines in the last year also remain subject to sudimost. Fines must be paid within 30 days of a court verdict entering legal force (either 10 days after the trial ends, or when an appeal verdict is issued).

As well as Jehovah's Witnesses, four Muslims who were convicted of "continuing the activities" of "Nurdzhular" are known still to have active criminal records. In Dagestan, Ziyavdin Badirsoltanovich Dapayev (born 12 May 1982) and Artur Abdulgamidovich Kaltuyev (born 15 June 1986) were convicted together on 7 November 2017 under Criminal Code Article 282.2, Part 1 ("Organising 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"), and given prison terms of four years and three years respectively (https://www.forum18.org/archive.php?article_id=2339).

Dapayev (who had spent 20 months in detention before and during the trial) was released in summer 2019, and Kaltuyev in summer 2020. (Kaltuyev's brother, Sukhrab Abdulgamidovich Kaltuyev (born 13 November 1981), was also sentenced to three years' imprisonment, but left Russia after his release in summer 2019.) They will retain the legal status of convicted persons until summer 2027 and summer 2028 respectively.

In Novosibirsk, Komil Odilovich Odilov (born 18 August 1975) was sentenced to two years' imprisonment (https://www.forum18.org/archive.php?article_id=2391) under Criminal Code Article 282.2, Part 1 ("Organising 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") on 29 June 2018, and was released on 25 March 2019 (taking into account the time he had spent in detention). His legal status as a convicted person will remain until March 2027 (https://www.forum18.org/archive.php?article_id=2478).

Yevgeny Lvovich Kim (born 5 October 1974), from Blagoveshchensk in the Amur Region, received a prison sentence of three years and nine months (https://www.forum18.org/archive.php?article_id=2290) on 19 June 2017. Taking into account his time in detention, he was released on 10 April 2019, but was immediately taken to an immigration detention centre (https://www.forum18.org/archive.php?article_id=2478), having earlier been stripped of his Russian citizenship and left stateless. After his birthplace of Uzbekistan refused to accept him (as he had never held Uzbek citizenship), he spent more than two years in Khabarovsk's detention centre for foreign and stateless persons. He was released on 31 May 2021 (https://www.forum18.org/archive.php?article_id=2663), but his legal position remains uncertain.

Kim was convicted under Criminal Code Article 282, Part 1 ("Actions directed at the incitement of hatred [nenavist] or enmity [vrazhda], as well as the humiliation of an individual or group of persons on the basis of sex, race, nationality, language, origin, attitude to religion, or social group"), as well as Criminal Code Article 282.2, Part 1 ("Organising 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"). Sudimost for multiple crimes runs concurrently, so Kim's criminal record is due to expire in April 2027.

Sudimost: the legal state of being a convicted person

"Sudimost", governed by Criminal Code Article 86, is the legal state of being a convicted person with an active criminal record. A person acquires this status when their conviction enters legal force (either 10 days after the guilty verdict is issued, or upon an unsuccessful appeal). The status lasts for a given period after they have served their sentence or discharged the punishment the judge imposed – this length of this period depends on the type of penalty received and the category of crime.

After this period is over, sudimost is considered to be spent (pogashennaya) and all its legal consequences removed. Sudimost may also be annulled (snyata) early upon application to a court.

The length of a convicted person's sudimost may directly affect the length of any administrative supervision they may be under after release from prison (see below). It also governs how long someone may remain on the Rosfinmonitoring "List of Terrorists and Extremists" (https://www.forum18.org/archive.php?article_id=2687) (although individuals may apply to have their names removed).

Moscow lawyer Valery Sarkisov describes sudimost as "At its core, a continuation of punishment", in remarks on his Sudebny Advokat law firm's website on 17 May 2021. As such, an active criminal record (tekushchaya sudimost) carries both legal and practical consequences for a convicted person, including the risk of harsher punishment should they be prosecuted again, and a bar on working in certain fields (see below).

How long does sudimost last?

The length of sudimost is governed by the legislation in force at the moment of sentencing. For people who receive lesser non-custodial sentences, sudimost expires one year after the punishment is discharged, ie. after a fine is paid or after community service is completed.

- Suspended sentences

When a person receives a suspended sentence, the judge sets out three periods of time:

- 1) the sentence itself, which is the time the defendant would serve if sent to prison;
- 2) the probationary period (ispytatelnyy srok), which is the time during which any other conviction would send the defendant to prison. It is counted from the day the verdict comes into force and may be longer or shorter than the sentence itself, or of the same length;
- 3) and a possible period of restrictions on freedom (ogranicheniya svobody), which runs concurrently with the probationary period but is not necessarily of the same length (see above).

Sudimost for people with suspended sentences expires at the same time as the probationary period, unless the judge at sentencing has imposed a period of restrictions on freedom which ends later, in which case sudimost will expire one year after that date.

- Prison sentences

For people with prison sentences, sudimost depends on the category of crime (as set out in Criminal Code Article 15) of which they have been convicted. This depends on the maximum possible prison terms for the crime the person has been convicted of.

Those found guilty of minor and medium-severity crimes have an active criminal record for three years after their punishment is served.

For serious crimes sudimost lasts for eight years, and for especially serious crimes sudimost last for 10 years.

Criminal Code Article 282.2, Parts 1 and 2 (https://www.forum18.org/archive.php?article_id=2215) - "Organising" (Part 1), or "Participating in" (Part 2), "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" are both categorised as serious crimes. Criminal Code Article 282.3, Part 1 ("Financing extremist activity") is also categorised as a serious crime.

Muslim Yevgeny Kim was (alongside Criminal Code Article 282.2, Part 1) convicted (https://www.forum18.org/archive.php?article_id=2290) under Criminal Code Article 282, Part 1 ("Actions directed at the incitement of hatred [nenavist] or enmity [vrazhda], as well as the humiliation of an individual or group of persons on the basis of sex, race, nationality, language, origin, attitude to religion, or social group"), which is categorised as medium-severity.

If a person is found guilty of more than one crime in the same court process – as in the cases of Kim and several Jehovah's Witnesses – the judge will decide on separate punishments for each, then add them together partially or in their entirety to form an aggregate sentence (governed by Criminal Code Article 69).

Kim, for instance, on 29 June 2018 received 3 years and 6 months under Criminal Code Article 282.2, Part 1 and one year under Criminal Code Article 282, Part 1, but was given a total prison term of three years and nine months (https://www.forum18.org/archive.php?article_id=2290). (His sentence ended on 10 April 2019 (https://www.forum18.org/archive.php?article_id=2478) taking into account the time he had spent in pre-trial detention.)

In such cases, the sudimost for each crime is calculated separately; the individual retains the status of a convicted person until the last and longest period of sudimost has expired.

If a judge decides to impose an additional penalty in the form of restrictions on freedom after release from prison, the sudimost expiry date is calculated from the date at which the period of restrictions is over, not from the date of release.

For those aged under 18, sudimost ranges from six months to three years. No Jehovah's Witnesses or Muslims under 18 are known to have been prosecuted under the Extremism Law.

- Applying to cancel sudimost early

Individuals can seek to have their sudimost cancelled early. The law does not stipulate when this is permitted, but in practice, courts usually require that half the sudimost period should have passed.

To apply to have their sudimost cancelled early, the convicted person must not have committed any further crimes, and must apply to a magistrate's or district court with evidence of good behaviour, such as character references from their employer and neighbours, a copy of any employment contract, or bank statements showing that any necessary compensation has been paid. They may also present evidence of the negative impact the state of being a convicted person is having on their life (for example, difficulty in finding work). If the application is unsuccessful, the convicted person must wait a year before trying again.

In October 2020, Yevgeny Kim applied unsuccessfully to have his sudimost annulled (https://www.forum18.org/archive.php?article_id=2633). He is the only Muslim who reads Nursi's works or Jehovah's Witness convicted under the Extremism Law known to have attempted this.

According to the appeal verdict of 29 December 2020 from Khabarovsk Regional Court, despite the positive character reference submitted by the immigration detention centre, "the information provided does not allow [the court] to draw conclusions about the impeccable behaviour of the convict Ye. L. Kim, or that the length of time which has elapsed since his release from prison is sufficient to decide that it is possible to annul his sudimost early".

Consequences of sudimost

The primary effect of sudimost is on a person's legal position if they are prosecuted again – a further conviction during this period may incur a harsher punishment. Having an active criminal record (or in some cases, having had a criminal record at all) prevents an individual from holding certain jobs in sectors such as education, finance, the police and similar agencies, and the civil service, and from standing for election (see below). Although there is no legal bar on employment in other sectors, many individuals find it hard to secure formal work after criminal convictions.

Sudimost also may also affect the length of administrative supervision of a prisoner after release, and the length of time an individual may remain on the Rosfinmonitoring "List of Terrorists and Extremists" (https://www.forum18.org/archive.php?article_id=2687).

Legal consequences: Recidivism

Under Criminal Code Article 18, sudimost is taken into account when determining if an individual convicted a second time is considered a recidivist, ie. whether or not they are considered a first-time or repeat offender. If a person has committed a crime within the sudimost period of a previous crime, they will receive (unless there are mitigating circumstances) a more severe punishment, and will be less likely to be given a suspended sentence (as opposed to an actual prison term).

Recidivism can also affect the type of institution to which a prisoner is sent – whether an open-, general-, strict-, or special-regime labour camp ("correctional colony", ispravitel'naya koloniya, where most people with prison sentences serve their terms, as outlined in Article 74 of the Criminal Enforcement Code), or prison (tyurma, reserved for those convicted of especially serious crimes and for "particularly dangerous" repeat offenders). ("Prison" is nevertheless used colloquially to refer to all places of incarceration.)

All women, as well as male first-time serious offenders (like all the male Jehovah's Witnesses and Muslims who read Nursi's works sentenced so far) are sent to general-regime labour camps. Were a man to be found guilty a second time of "continuing the activities" of Jehovah's Witnesses or "Nurdzhular" within the period of sudimost for his first conviction, he may be sent to a strict-regime labour camp (dependent on his earlier sentence and the type of recidivist he was considered to be).

Under Criminal Code Article 18, individuals convicted for a second time during a period of sudimost are not considered recidivists if their first convictions are for: a) minor crimes; b) crimes committed by under-18-year-olds; or c) for crimes which resulted in a suspended sentence or deferred sentence, as long as this was not overturned and the person was never sent to prison; or d) if the conviction has expired or been annulled.

A person is considered a "dangerous" recidivist, if:

a) they have committed a serious crime resulting in an actual prison sentence (osuzhdaetsya k realnomu lisheniyu svobody), and have previously been twice sentenced to imprisonment (bylo osuzhdeno .. k lisheniyu svobody) for medium-severity crimes;

or b) they have committed a serious crime (not necessarily resulting in imprisonment), and have previously received a prison sentence for a serious or especially serious crime (bylo osuzhdeno .. k realnomu lisheniyu svobody).

A person is considered an "especially dangerous" recidivist if:

a) they have committed a serious crime resulting in an actual prison sentence (osuzhdaetsya k realnomu lisheniyu svobody), and have previously twice received prison sentences (bylo osuzhdeno .. k realnomu lisheniyu svobody) for serious crime;

or b) they have committed an especially serious crime, and have previously been convicted of an especially serious crime or twice convicted of a serious crime.

Criminal Code Article 282.2, Parts 1 and 2 (https://www.forum18.org/archive.php?article_id=2215) - "Organising" (Part 1), or "Participating in" (Part 2), "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" are both categorised as serious crimes.

Among Jehovah's Witnesses currently on trial is Dmitry Sergeyevich Terebilov (born 2 January 1980), who has been imprisoned four times for drugs-related crimes and was released from his final sentence in 2013. He joined Jehovah's Witnesses in 2014. If Kostroma's Sverdlovsk District Court finds him guilty under Criminal Code Article 282.2, Part 2, the judge may decide to impose a longer sentence or send him to a strict-regime labour camp (https://www.forum18.org/archive.php?article_id=2684), because of his previous convictions.

Being considered a "dangerous" or "especially dangerous" recidivist affects the length of administrative supervision a prisoner will be under after release (see below).

Legal consequences for "release from criminal liability" and early release from imprisonment

Sudimost also means that convicted people being prosecuted for a second time have no right to "release from criminal liability".

"Release from criminal liability" – at the request of investigators and the discretion of a court – leaves a person who has been charged for the first time with a minor or medium-severity crime with no criminal record if they pay a judicial fine to compensate for damages caused (Criminal Code Article 76).

This cannot now apply in any case against any Jehovah's Witnesses or Muslims who read Nursi's works, as Criminal Code Article 282.2, Parts 1 and 2 (https://www.forum18.org/archive.php?article_id=2215) - "Organising" (Part 1), or "Participating in" (Part 2), "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" - are now both categorised as serious crimes.

Three Novosibirsk Muslims charged with "participation" in the activities of "Nurdzhular" were, however, released from criminal liability in 2017 and 2018 (https://www.forum18.org/archive.php?article_id=2373), as Criminal Code Article 282.2, Part 2 was a medium-severity crime at the time they were charged.

Under Criminal Code Article 80, after serving a certain length of time, prisoners may apply for early release and the replacement of their remaining term with a lesser punishment.

Having an active criminal record for certain crimes, however, means that a person convicted for a second time must stay in prison for longer before such an application is permitted. Crimes which carry this restriction include drug trafficking, sexual activity with a minor under 14, and terrorism and "extremism" crimes.

Six Jehovah's Witnesses have so far applied for early release from imprisonment for first convictions under "extremism"-related Criminal Code articles, after serving half their sentences; all were refused (https://www.forum18.org/archive.php?article_id=2638). If they or others are convicted and imprisoned again before their periods of sudimost have expired, they will have to wait longer before being allowed to apply.

Social and economic consequences

People with active sudimost are banned from working in a wide range of occupations, many of which are governed by their own specific federal laws or legal codes. Below is a non-exhaustive list:

- transport security (2007 Law on Transport Security);
- security of energy facilities (2011 Law on the Security of the Fuel-Energy Complex);
- aviation (Aviation Code Article 53 Part 3);
- the civil service (including, for instance, as a firefighter) (2004 Law on the Civil Service of the Russian Federation Article 16);

- the armed forces (1998 Law on Conscription and Military Service Article 23)
- the law (2002 Law on Advocacy);
- various roles in the financial sector (e.g. trading in company shares, debt collection), if convicted of a economic crime or a crime against the state (protiv gosudarstvennoy vlasti, which includes "extremism"-related crimes) (1996 Law on Securities Markets; 2016 Law on Debt Collection);
- the customs service (2001 Law on Service in the Customs Authorities).

Technically, once sudimost has expired or been cancelled, a previously convicted person should be able to be considered for a job in these sectors, but employers may still ask about criminal records and make decisions accordingly.

A criminal record, even if expired or annulled (pogashennaya, snyata), will bar a person from employment in the following sectors:

- teaching or any other work with children, if the conviction was for an crime "against life and health; against the freedom, honour and dignity of the individual; against the sexual inviolability and sexual freedom of the individual, against family and minors; against public health and public morality, the foundations of the constitutional order and state security, peace and the safety of mankind, as well as against public safety" (Labour Code Article 331 and Article 351.1).

All of the "extremism"-related crimes for which Jehovah's Witnesses and Muslims who met to read Nursi's works have been prosecuted fall under the Criminal Code's definition of crimes against "the constitutional order and state security";

- as a prosecutor (1992 Law on the Prosecutor's Office of the Russian Federation Article 40.1);
- for the FSB security service (1995 Law on the FSB Article 16);
- for the Interior Ministry, which includes the police (2011 Law on Police Article 29; 2011 Law on Service in Internal Affairs Bodies Article 14);
- as a judge (1992 Law on the Status of Judges of the Russian Federation).

Apart from these occupations, sudimost – strictly speaking – presents no legal barrier to employment, but employers almost always ask about active criminal records in job applications. With the exception of the jobs listed above, it is unlawful to refuse employment to (or to sack) a person with expired or annulled sudimost. It is also against the law for a candidate to give false information or false documents in a job application.

Employers (apart from the police and similar agencies themselves) have no access to criminal records, and legally have no right to insist upon the provision of proof that a person has no active sudimost (unless they operate in the sectors listed above and are therefore obliged to check job applicants' status under Article 65 of the Labour Code).

Jehovah's Witness Sergey Rayman, who has a suspended sentence, told Forum 18 that he and his wife Valeriya have found it "impossible" to secure formal employment since their convictions. After an appeal, the Raymans are serving two-year probationary periods on suspended sentences of three years (plus 9 months' restrictions on freedom) for Sergey and two years (plus six months' restrictions on freedom) for Valeriya (https://www.forum18.org/archive.php?article_id=2667).

"A person answers honestly on the [employer's] application form, and for many, that is enough," the Raymans' lawyer Yevgeniya Shemberger told Forum 18 on 18 June 2021. She emphasised that nothing in law should prevent a convicted person from getting most jobs. "After all, they should be able to support themselves financially."

On the other hand, another Jehovah's Witness with a suspended sentence has been able to keep the factory job he has had for the last 10 years. "When he was released [from detention], the director himself telephoned and asked him to come back to work," the man's wife told Forum 18. "He is very much valued there – therefore, they have arranged a schedule for him without a second shift, so that he can be at home at night [during his curfew]."

An individual or their legal representative may apply to the Interior Ministry's Main Information and Analytics Centre for a certificate (spravka) stating that they do or do not have a criminal record (no payment is required for this and there are no grounds for refusal other than an applicant's failure to provide the necessary documents or complete the application correctly).

Such certificates also state whether a person has ever been subject to criminal prosecution and how this concluded (if not in court). Some jobs – such as any which involve working with children – are also off limits to people who have ever been prosecuted, unless the case against them was closed on exonerating grounds (po reabilitiruyushchim osnovaniyam), or they were acquitted in court.

If a person has been convicted of a crime, the certificate sets out the charge, the date of conviction and the court which convicted them, the punishment imposed, and whether or not sudimost has expired or been annulled.

People with sudimost, even if they serve no prison time, may find it more difficult to get another job if they lost their previous job before conviction, if pre-trial detention, house arrest, travel restrictions, or the need to appear in court prevented them from working as normal, or if they were sacked for being subject to criminal prosecution.

Jehovah's Witness Vitaly Popov (https://www.forum18.org/archive.php?article_id=2668), an electrician and welder who worked at a school in Novosibirsk, lost his job months before his case came to court. "They called my workplace and forced my employer to fire me of his own free will, although the director clearly did not want to let me go," he commented to the jw-russia.org news website on 21 May 2021. "As a result, I lost my job, and cannot get work because of the criminal case. At first I tried to earn extra money, but when hearings began to be held about twice a week, I could no longer take care of the material needs of my family."

Sudimost also carries certain social or civic consequences. A person cannot stand for election if they have active sudimost for a serious or especially serious crime for which they were imprisoned, or if they are within 10 (serious) or 15 years (especially serious) of its expiry or annulment. In 2020, this ban was extended to those with active sudimost (or within five years of its expiry or annulment) for medium-severity crimes. People with active criminal records for "extremism"-related crimes (regardless of punishment) are also barred if they do not already fall into one of these categories.

Criminal Code Article 282.2, Parts 1 and 2 (https://www.forum18.org/archive.php?article_id=2215) - "Organising" (Part 1), or "Participating in" (Part 2), "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" are both categorised as serious crimes.

On 4 June 2021, President Vladimir Putin signed into law amendments to the laws on electoral rights and elections to the State Duma. These bar virtually anyone recently involved in an organisation which has been banned as an "extremist" or terrorist organisation from standing for election.

For people who were founder members, members of the governing body, leaders or deputy leaders, or heads or deputy heads of structural subdivisions in the three years before their organisation was banned, the prohibition on standing for election will last for five years.

For people who were participants, members, employees or otherwise "involved in the activities" of the organisation in the year before it was banned, the prohibition on standing for election lasts for three years.

Unlike Muslims, Jehovah's Witnesses do not in any country stand for election or vote in elections.

Active sudimost (or expired/annulled sudimost for a serious or especially serious crime) is also grounds for denial of a gun licence, Moscow lawyer Valery Sarkisov also notes.

A current criminal record for a crime against the life or health of others bars a person from becoming a guardian or trustee for another person, Sarkisov added.

Administrative supervision

People who have been released from prison may also be placed under administrative supervision (*administrativny nadzor*) for all or part of their period of sudimost. This consists of a set of restrictions on movements and activities and a requirement to register regularly with the police. Its length depends largely on the crime for which an individual was convicted, and in some cases, how they are deemed to have behaved in prison. Its implementation is governed by the 2011 Federal Law on administrative supervision of persons released from places of detention.

People imprisoned under the Extremism Law for exercising their freedom of religion and belief - such as Jehovah's Witnesses and Muslims who met to study Nursi's works - are automatically placed under administrative supervision for the full eight years of their sudimost.

In most instances, administrative supervision is initially sought by prison authorities, who apply to a court about six months before a prisoner's release. The police may also go to court after a person's release to request administrative supervision. Once the period of supervision is over, the person's name is removed from the local Interior Ministry register of individuals under supervision, but a court may reimpose supervision at any time within the period of sudimost.

Everyone under administrative supervision must go to a local branch of the Interior Ministry to register from one to four times per month. At the discretion of the judge, other restrictions may include:

- a ban on going to certain locations;
- a ban on attendance at/participation in particular events;
- a curfew between particular hours;
- and a ban on travel outside a specified area.

Police or the convicted person themselves may later apply to court for these to be changed. A person under supervision may apply to the police for a permit to travel outside restricted areas for exceptional personal reasons (e.g. death or illness of a close relative, medical treatment, college entrance examinations, job interviews).

Six months before Jehovah's Witness Aleksey Budenchuk was due to be released (https://www.forum18.org/archive.php?article_id=2510) (on 6 July 2021), the administration of his labour camp applied to Orenburg's Central District Court with a request to impose administrative supervision. According to the court decision of 17 February 2021, seen by Forum 18, Budenchuk must register twice a month, and cannot travel outside Saratov Region, leave his home between the hours of 10pm and 6am, or go to "places of mass and other events or participate in such events".

Three other Saratov Jehovah's Witnesses – convicted at the same time as Budenchuk (https://www.forum18.org/archive.php?article_id=2510) and released shortly after he was – will also be subject to the same "very strict" measures after their release, Jehovah's Witness spokesperson Yaroslav Sivulsky confirmed to Forum 18 on 24 May 2021.

If a former prisoner with active sudimost was designated during their prison term as a "malicious violator" of the prison regime, or the person commits two or more public order, public safety, or public morality-related administrative offences within a year of release from prison, a court will impose administrative supervision for:

- serious or especially serious crimes;
- repeat crimes;
- intentional crimes against under-18-year-olds;
- and certain drug-related crimes,

Under this category of reasons for supervision, the measures last from one to three years, not exceeding the length of the sudimost period.

Regardless of the above provisos, a person will be subject to administrative supervision if they were convicted of:

- a) a sexual crime against a minor;
- b) a crime with "dangerous or especially dangerous recidivism";
- c) particular other serious or especially serious crimes. These include
 - Criminal Code Article 282.2 - "Organising" (Part 1), or "Participating in" (Part 2), "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". Both are categorised as serious crimes.
 - Criminal Code Article 150, Part 4 ("Involving a minor in a criminal group or in the commission of a serious or especially serious crime")
 - and Criminal Code Article 282.3, Part 1 ("Financing extremist activity");
- or d) a crime committed during an earlier period of administrative supervision.

For those who fall into this second category of people given administrative supervision, supervision lasts for the entire period of sudimost. Jehovah's Witnesses and Muslims who met to study Nursi's works are prosecuted under Criminal Code Article 282.2 and are therefore subject to administration supervision for the full eight years of their sudimost, regardless of their conduct during their sentences.

If an individual was originally sentenced to post-prison release restrictions on freedom as an additional punishment, any administrative supervision begins after the period of these restrictions is over. This means that the four Saratov Jehovah's Witnesses

convicted in September 2019 (https://www.forum18.org/archive.php?article_id=2519) who remain in Russia (https://www.forum18.org/archive.php?article_id=2633) will be under some form of restriction until summer 2030.

If an individual manages to have a court annul their sudimost early, administrative supervision ends automatically. An individual may also apply for early termination of administrative supervision itself (which would have no effect on sudimost) after at least half the originally stipulated period. They may do this by presenting positive character references and evidence of observance of all restrictions and obligations. The police may also request that a court extend or shorten the period of supervision.

An individual under administrative supervision is obliged:

- to arrive at their place of residence from prison at a time specified by the prison authorities;
- to register with the police within three days of initial arrival and within three days of any change of residence or specially permitted travel;
- to notify the police of any change of address no later than three working days before the move;
- to notify police within three days of any change of job, workplace, or employment status;
- to allow police officers into their place of residence during curfew hours to carry out checks;
- and to appear whenever summoned to give verbal or written explanations of their observance of restrictions.

The police have the right to ask employers for information about supervised people's behaviour.

Bans on holding positions or undertaking specified activities

As part of sentences, there are additional punishments for individuals convicted under "extremism"-related Criminal Code (https://www.forum18.org/archive.php?article_id=2215) articles. These additional punishments are bans on holding particular positions or undertaking particular activities (lisheniye prava zanimat opredelyonnyye dolzhnosti ili zanimatsya opredelyonnoy deyatelnostyu).

Depending on whether an individual has been convicted under Criminal Code Article 282.2 for "organising" (Part 1), or "participating in" (Part 2), "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", and also whether they have been given a prison or suspended sentence, such bans are either compulsory or at the discretion of the judge.

Although Criminal Code Article 282.2 does not identify specific bans, under this provision individuals punished for exercising their freedom of religion or belief have been banned from:

- leading, participating in, or holding positions of responsibility in religious or public organisations. This would ban an individual from any participation in any registered religious organisation – even a religious community with no connection to their conviction;
- speaking publicly and publishing in the media and on the internet;
- and "engaging in educational activity in all types of educational institution" (zanimat obrazovatelnoy deyatelnostyu v vsex tipakh obrazovatelnykh uchrezhdeniy). It is legally unclear exactly what educational activity is covered by this phrase.

If a prison sentence is under Part 1, such bans are compulsory and may be for up to 10 years. The judge has discretion to decide what should be banned.

If a prison sentence is under Part 2, such bans are not compulsory, but a judge may choose to impose them for up to five years.

If a person is given a suspended sentence such bans are not compulsory. If a judge chooses to impose such bans they run concurrently with the probationary period (ispytatelnyy srok). The length of the probationary period is set out by the judge as part of the sentence (see above).

These bans are not part of the standard restrictions on freedom (ogranicheniya svobody) governed by Criminal Code Article 53, and so do not affect the calculation of the sudimost period (see above) or an individual's time on the Rosfinmonitoring "List of Terrorists and Extremists" (https://www.forum18.org/archive.php?article_id=2687).

If an individual has been given an assigned work sentence under either Criminal Code Article 282.3, Part 1 ("Financing extremist activity") or Criminal Code Article 282.2, Part 1.1 ("Inclination, recruitment or other involvement of a person in an extremist

organisation") (see above), a judge may choose to impose a ban on holding certain positions and/or carrying out certain activities for up to three years.

(END)

Full reports on freedom of thought, conscience and belief in Russia
(<https://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
(https://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 (https://www.forum18.org/archive.php?article_id=2215)

A personal commentary by Alexander Verkhovsky, Director of the SOVA Center for Information and Analysis
<https://www.sova-center.ru>, about the systemic problems of Russian anti-extremism legislation
(https://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
(https://www.forum18.org/archive.php?article_id=1351)

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