

19 August 2014

RUSSIA: Suspended prison terms and fines and criminal records for meeting for worship

By Victoria Arnold, Forum 18

Seven Jehovah's Witnesses in Taganrog in southern European Russia will have criminal records unless their appeals against their 30 July convictions for "extremism" are upheld. They may not change their places of work, study or residence without notifying the authorities and must also show that they have "corrected" their behaviour, Forum 18 News Service notes. Four of the seven were given suspended prison terms of at least five years, while all seven were fined (though these were waived). The defendants - all members of the community declared "extremist" in 2009 - were punished for continuing to meet for prayer and Bible study. Jehovah's Witnesses told Forum 18 they fear that "their determination to continue religious activity means that they might be subject to more severe punishments as recidivists". Samara's Jehovah's Witness community has similarly been ruled "extremist" and dissolved. The criminal trial of two Muslims, Yelena Gerasimova and Tatyana Guzenko, in the Siberian city of Krasnoyarsk on "extremism"-related charges is expected to begin soon.

The long-running criminal trial of Jehovah's Witnesses in Taganrog in southern European Russia has ended in seven convictions for "extremism", raising fears of further prosecutions "simply for coming together for worship and sharing their faith with others", Jehovah's Witness spokesman Grigory Martynov told Forum 18 News Service. Another Jehovah's Witness community, this time in Samara on the Volga River, has been ruled "extremist" and dissolved.

Both the Taganrog and the Samara Jehovah's Witness communities are included on the Federal Financial Monitoring Service (Rosfinmonitoring) list of "terrorist and extremist" organisations, Forum 18 notes. The Samara community has not yet been added to the list of banned "extremist" organisations on the Justice Ministry website.

The Taganrog community is also included in a 9 December 2010 list of "organisations recognised as terrorist or extremist in the member states of the Collective Security Treaty Organization". In addition to Russia, the CSTO includes five other former Soviet republics (Armenia, Belarus, Kazakhstan, Kyrgyzstan and Tajikistan).

The criminal trial of two Muslim women in the Siberian city of Krasnoyarsk on "extremism"-related charges is expected to begin soon. The women are accused of involvement in the banned "extremist" organisation "Nurdzhular" (which readers of the works of Turkish theologian Said Nursi deny exists). The case is still being passed around the court system as the issue of where it should be heard is decided (see below).

Meanwhile, law enforcement agents in Naberezhnyye Chelny, the second largest city in Tatarstan, have defied a court order by failing to return confiscated books to Muslims convicted of "extremism" for reading Nursi's works (see F18News 28 August 2014 http://www.forum18.org/archive.php?article_id=1990).

Seven found guilty, nine acquitted

After 15 months and nearly 70 court hearings, Taganrog City Court at last passed sentence on 30 July on 16 Jehovah's Witnesses charged with "extremism" offences for holding prayer meetings and studying the Bible together.

Judge Oleg Kubantsev handed down four suspended custodial sentences of five to five and half years alongside fines of 100,000 Roubles, and a further three fines of 50,000 to 60,000 Roubles. All fines have been waived as the statute of limitations had expired. Nine defendants were acquitted for lack of evidence. Both the defence and the prosecution have submitted appeals against the verdict at Rostov-on-Don Regional Court.

During the trial, the 16 reiterated their commitment to the practice of their faith. Jehovah's Witnesses fear that "their determination to continue religious activity means that they might be subject to more severe punishments as recidivists", spokesperson Martynov noted immediately after the verdict was announced.

Criminal records

Despite the waiving or suspension of sentences, the seven convicted will still have criminal records if the verdict comes into force. According to Articles 73 and 74 of the Criminal Code, those who received custodial sentences will be on probation for several years, during which time they may not change their places of work, study or residence without notifying the authorities. They must also show that they have "corrected" their behaviour.

If they refuse to abide by any part of the court decision or are subsequently charged with another offence, the probation period may be extended, or the court may decide to implement the original custodial sentence.

The defendants were all members of the now-dissolved community declared "extremist" by Rostov-on-Don Regional Court in September 2009. They were accused of continuing the banned organisation's activities after the ruling came into force (see F18News 19 June 2014 http://www.forum18.org/archive.php?article_id=1971).

"In Taganrog Jehovah's Witnesses are forbidden"

When a registered religious organisation is liquidated, it loses its status as a legal entity and the rights that flow from it, such as the ability to own or rent property, employ staff and hold a bank account. Such a community could continue to operate as a religious group, which does not require registration, and meet privately for worship and study (see F18News 14 April 2005 http://www.forum18.org/archive.php?article_id=543).

What the Taganrog verdict suggests, however, is that such activities conducted by members of a community liquidated as "extremist", even in a private home, can now be considered criminal offences.

Jehovah's Witnesses have noted that although the 2009 Taganrog court decision was directed only against the legal entity, "the judge considered that it banned all religious activities of Jehovah's Witnesses in Taganrog and surrounding areas".

After the 2009 liquidation decision, "I simply remained a Jehovah's Witness", defendant Koptev told the Taganrog court in his statement, seen by Forum 18. He claimed that an investigator had told him that "If you were a Jehovah's Witness in another city, there would be no complaints against you, but in Taganrog Jehovah's Witnesses are forbidden".

The case reached the two-year deadline for prosecutions on 5 August 2013, but continued at the request of the defendants. "If the case were closed because time ran out, it would look as if that was the only reason - the accusations would remain, they would still be watched," Jehovah's Witness spokesman Martynov explained to Forum 18 in October 2013 (see F18News 21 October 2013 http://www.forum18.org/archive.php?article_id=1888).

"An evil omen"

Martynov describes the guilty verdicts as creating "a threatening precedent, restricting the religious freedom of Jehovah's Witnesses throughout Russia".

Three Jehovah's Witness communities in Russia have so far been dissolved – in Taganrog, in Moscow (now in the process of re-registration after a European Court of Human Rights ruling), and in Samara (see below).

Prosecutors have made some unsuccessful attempts to dissolve others – for example, in Tolyatti and Kaliningrad (see F18News 23 October 2009 http://www.forum18.org/archive.php?article_id=1366). The Taganrog trial is the only instance to date of the prosecution of former members of a liquidated organisation, and believers fear that it will influence police and prosecutors elsewhere in dealing with Jehovah's Witnesses.

"I am afraid that the sentence is an evil omen for all Jehovah's Witnesses in Russia," said Viktor Zhenkov, the lawyer for some of the defendants. "Law enforcement agencies in Taganrog and throughout Russia can use this decision in a propaganda campaign to continue to oppress the Jehovah's Witnesses, threatening them with real criminal punishment for practicing their faith."

The sentences

Four of the 16 were convicted under Criminal Code Article 282.2, Part 1 ("Organisation of 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 Article 150, Part 4 ("Involving a minor in a criminal group .. or crimes motivated by political, ideological, racial, ethnic or religious hatred or enmity or hatred or enmity against a social group"). The four were punished with fines of 100,000 Roubles each for the former and prison terms for the latter (suspended, with five years' probation each): Yury Baklushin – 5 years 6 months' imprisonment; Aleksandr Skvortsov – 5 years 6 months' imprisonment; Aleksei Koptev – 5 years' imprisonment; Nikolai Trotsyuk – 5 years' imprisonment.

Three of the 16 were convicted under Criminal Code Article 282.2, Part 2 ("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"). They were fined: Sergei Trotsyuk – 60,000 Roubles; Andrei Goncharov – 50,000 Roubles; and Karen Minasyan – 50,000 Roubles. However, the fines were waived.

The other nine defendants were all acquitted: Oksana Goncharova (on grounds that the crime had been committed too long ago), Tatyana Kravchenko, Kirill Kravchenko, Vladislav Kruglikov, Roman Voloshchuk, Vladimir Moiseyenko, Vyacheslav Shchekalev, Kirill Chetverikov and Vladimir Kozhukhov.

For Nikolai Trotsyuk this was the second criminal conviction for exercising his right to freedom of religion or belief. As a young man, he received a three-year prison term in 1973 for refusing compulsory military service on grounds of religious conscience. He served a year in labour camp before being transferred for good conduct to a work project (see F18News 19 June 2014 http://www.forum18.org/archive.php?article_id=1971).

Defence and prosecution challenge verdict

All 16 defendants are appealing against the court's decision, including those who were acquitted, Jehovah's Witnesses said. The nine who escaped conviction still see the ruling as religious persecution, as the court concluded that they had engaged in criminal activity but had not known it was prohibited.

"The essence of the judgment," lawyer Zhenkov told the Caucasian Knot news website on 30 July, "is that to be a Jehovah's Witness in Taganrog is to have no rights. [...] If a person has committed theft and for some reason escaped punishment, he could rejoice and say that he would not steal any more. But people cannot say that they will no longer believe in God or read the Bible with their fellow believers."

The prosecution also submitted an appeal on 8 August, asking for the case to be returned to court, according to Caucasian Knot.

A spokeswoman for Taganrog City Prosecutor's Office refused to answer any questions when Forum 18 called on 13 August. When Forum 18 rang the Rostov Regional Prosecutor's Office on 14 August and asked to discuss the case, the phone was immediately put down. Forum 18 sent written requests for details of the appeal to both Prosecutors' Offices in the early afternoon of 14 August. No response had arrived by the end of Rostov Region's working day on 19 August.

Dissolution of Samara Jehovah's Witnesses

While their fellow believers in Taganrog were still on trial, the Jehovah's Witnesses of Samara faced liquidation as the result of a 26 June ruling by Samara Regional Court. The community is "seriously concerned" by the decision, Jehovah's Witness spokesperson Martynov told Forum 18. It has submitted an appeal to Russia's Supreme Court in Moscow.

The community received an official warning over the distribution of allegedly "extremist" literature in summer 2013. In spring 2014, the presence of single copies of prohibited texts at the Jehovah's Witnesses' rented premises was sufficient evidence for prosecutors to bring "mass distribution" charges under the Code of Administrative Offences' Article 20.29 ("Production or distribution of extremist materials").

On 6 March, Samara's Soviet District Court fined the community 50,000 Roubles and ordered the two "extremist" books destroyed. An appeal at Samara Regional Court on 17 April, in which the community's chair Andrei Bobkov argued that the books did not belong to his congregation, was unsuccessful (see F18News 1 May 2014 http://www.forum18.org/archive.php?article_id=1953).

Samara Regional Prosecutor's Office decided that this conviction was evidence of a breach of the terms of the warning and successfully sought to have the religious organisation liquidated.

The Regional Court also dismissed a further appeal against the Article 20.29 ruling on 14 July. The prohibited materials found on the Jehovah's Witness premises were among 34 texts ruled "extremist" by Rostov Regional Court in September 2009, at the hearing which also dissolved the Taganrog community. This decision was later upheld by Russia's Supreme Court (see F18News 8 December 2009 http://www.forum18.org/archive.php?article_id=1385).

Seizures of religious literature from both Muslims and Jehovah's Witnesses, mostly during raids or detentions, frequently result in prosecutions under Administrative Code Article 20.29. This punishes "Production or distribution of extremist materials" recorded on the Federal List of Extremist Materials with a fine or imprisonment of up to 15 days and confiscation of the banned literature. Under this Article, the "mass distribution" of items on the Federal List, as well as their "production or possession for the purposes of mass distribution" is banned. 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).

Samara to follow Taganrog?

The Taganrog case began with a similar liquidation of a registered religious organisation, partly for "extremist" activities. While Samara's Jehovah's Witnesses could now operate as an unregistered religious group, the "extremism" convictions in Taganrog point to the danger that continuing to meet for worship could incur similar penalties.

Telephones at Samara Regional Prosecutor's Office went unanswered whenever Forum 18 rang on 13 and 14 August. By email, the prosecutor's press office told Forum 18 to submit an official request for information in writing. Forum 18 sent this before the start of the working day of 15 August, and has received no response as of the end of Samara's working day on 19 August.

Krasnoyarsk Muslims still awaiting trial

The case against Yelena Gerasimova and Tatyana Guzenko has reached its third court with no hearings yet being held. The women were indicted for "organisation of an extremist organisation" under Article 282.2 part 1 of the Criminal Code, having allegedly set up a women's cell of "Nurdzhular" in Krasnoyarsk (see F18News 19 June 2014 http://www.forum18.org/archive.php?article_id=1971).

Russia's Supreme Court banned "the international religious organisation Nurdzhular" as "extremist" in April 2008. Nursi readers deny they form part of any organisation (see F18News 29 May 2008 http://www.forum18.org/Archive.php?article_id=1136).

The regional prosecutor originally brought the case to Krasnoyarsk's Soviet District Court in May, but it was then handed to Magistrates' Court No. 79. However, in June the case was transferred to Krasnoyarsk Regional Court as the question continued as to where the case should be heard, the secretary at Magistrates' Court No. 79 told Forum 18 on 19 August. "Under Russian law, the issue of where cases should be heard is very complicated," she added.

Krasnoyarsk Region's Deputy Prosecutor Oleg Narkovsky challenged the 25 May Soviet District Court decision to hand the case to a magistrate's court. The suit was due to be heard at Krasnoyarsk Regional Court on the afternoon of 19 August, according to the court website.

When Forum 18 called the Krasnoyarsk Regional Prosecutor's Office on 15 August, a spokeswoman said that they were no longer handling Gerasimova and Guzenko's case, and directed Forum 18 to Russia's General Prosecutor's Office in Moscow. Forum 18 sent a written request for information before the beginning of the working day in Moscow on 18 August, and has received no response by the end of the working day on 19 August.

It is common for "extremism" cases against religious believers to spend a long time being transferred between different parts of the court system. In the meantime, defendants are left in uncertainty of what may happen, often with restrictions on their movements and activities.

The criminal case against Ramil Latypov, an Orenburg-based Muslim who reads Nursi's works, was repeatedly transferred from court to court before the trial eventually began. It was halted in December 2012 because no conviction had been obtained within the two-year period (see F18News 2 January 2013 http://www.forum18.org/archive.php?article_id=1786). (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.

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

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

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY