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RUSSIA: 23 known prosecutions for religious literature in four months

By Victoria Arnold, Forum 18

Among the 23 known prosecutions across Russia between May and August for religious literature which does not appear to incite violence, hatred or other crime, a mosque in Tomsk Region of Siberia was fined in July. This was the first known fine on an organisation for religious literature the government deems "extremist" since fines under Administrative Code Article 20.29 ("Production or mass distribution of extremist materials") were increased for organisations in May, Forum 18 News Service notes. Among the 22 individuals punished, two were given short-term jail terms and the rest were fined. Russia's Justice Ministry has not yet responded to Forum 18's question of whether it is right that people should be prosecuted for distribution of texts which do not advocate violence, hatred, or the violation of human rights in other ways.

Between the beginning of May and the end of August 2015, at least 22 individuals and one religious community (a mosque) were prosecuted across Russia under Administrative Code Article 20.29 ("Production or mass distribution of extremist materials") for religious literature which does not appear to incite violence, hatred or other crime, Forum 18 News Service has found. Almost all were fined (the mosque under the higher new penalties introduced in May), though two individuals received short jail terms.

Many religious works placed on the Justice Ministry's Federal List of Extremist Materials do not appear to contain incitement to violence, hatred or other crime. Confiscations of such religious texts officially regarded as "extremist" from both Muslims and Jehovah's Witnesses, mostly during raids or detentions, frequently result in prosecutions under Article 20.29.

During the same period, many other individuals were prosecuted under Article 20.29 for material that did appear to be violent or racist.

In addition to these 23 prosecutions for religious literature in Russia, similar prosecutions have occurred in Russian-annexed Crimea. The most recent known case was of an imam of a mosque fined on 14 August (see F18News 16 September 2015 http://www.forum18.org/archive.php?article_id=2100).

The 23 known prosecutions across Russia are up slightly on the 19 known prosecutions for religious literature under Article 20.29 between the beginning of January and the end of April (see F18News 15 May 2015 http://www.forum18.org/archive.php?article_id=2062).

Article 20.29 punishes "production or mass distribution of extremist materials included in the published Federal List of Extremist Materials, as well as their production or storage for mass distribution".

If an item is on the Federal List, possession of it carries the risk of a fine or imprisonment for up to 15 days, and confiscation of the banned literature. The Federal List now runs to over 3,000 items, often does not include full bibliographical details, and is irregularly updated. This makes it difficult for anyone to keep abreast of recent bans (see F18News 27 July 2015 http://www.forum18.org/archive.php?article_id=2084).

Why the prosecutions?

Forum 18 wrote to the Justice Ministry on 9 October, asking whether it is right that people should be prosecuted for distribution of texts which do not advocate violence or hatred or the violation of human rights in other ways, whether such prosecutions are a sensible use of police and prosecutors' time, and why cases are initiated when only one copy of an item has been found. No reply had been received by the end of the working day in Moscow on 14 October.

Currently, any court, including those at the district and municipal level, may rule that a text, slogan, song, or website is extremist, thus prohibiting it from distribution in the Russian Federation. Following the outcry over the 12 August banning of a Koranic commentary on Sakhalin, the Duma's Committee on Public Affairs and Religious Organisations issued a statement "on the inadmissibility of prosecution of the sacred texts of the traditional religions of the Russian Federation and the need to adopt a

number of legislative and other measures" (see F18News 21 September 2015 http://www.forum18.org/archive.php?article_id=2103).

On 30 September, a group of deputies submitted a bill to the Duma – the lower house of Parliament - proposing that only higher courts (at the regional or republic level) should be permitted to issue extremism rulings. As of 14 October, no date had yet been set for consideration of the bill to begin.

Despite Article 20.29 using the term "mass distribution", prosecutors have often brought charges even if only one copy of a text is discovered. Such cases are inconsistently interpreted by judges, with some imposing fines and others correctly deeming possession of a single copy not to be evidence of "mass distribution".

On 9 October, Forum 18 wrote to the Human Rights Ombudsperson's Office in Moscow, asking why possession of a single copy is considered sufficient grounds for prosecution, as well as whether the Ombudsperson considers it difficult for religious believers and communities to keep up with the lengthy, ever-growing, and often inconsistent Federal List. Forum 18 had received no reply by the end of the working day in Moscow on 14 October.

Liquidation or threats of liquidation against religious communities

Convictions of individuals under Article 20.29 have led to liquidation or threats of liquidation against the religious communities to which they belong. This has been the experience of Jehovah's Witness congregations in Taganrog, Samara and Abinsk, and of the Muslim community of Borovsky village in the Tyumen region.

If members of "liquidated" communities continue to meet to exercise the right to freedom of religion or belief they can be prosecuted. The re-trial of 16 Jehovah's Witnesses accused of "continuing the activities of a banned extremist organisation" continues in Taganrog (see F18News 24 August 2015 http://www.forum18.org/archive.php?article_id=2093).

A fourth Jehovah's Witness community, in Cherkessk in the North Caucasus Republic of Karachay-Cherkessiya, is also under threat of dissolution. Proceedings are currently suspended "pending clarification of issues related to the religious organisation's property, probably with a view to its eventual confiscation", Jehovah's Witness spokesperson Ivan Belenko told Forum 18 in August (see F18News 28 August 2015 http://www.forum18.org/archive.php?article_id=2095).

The Cherkessk attempted liquidation is based on the conviction in March of both the community and two of its members, Dmitry Metelin and Andrei Volovikov, under Article 20.29. The community appealed unsuccessfully against its 50,000 Rouble fine at Karachay-Cherkessiya's Supreme Court on 27 April. Metelin and Volovikov's convictions were overturned by the same court on 30 April and sent back for re-examination at Cherkessk City Court. However, Judge Yury Kotsubin of Cherkessk City Court again fined the two men 1,000 Roubles each on 13 May. They appealed again, this time unsuccessfully, on 11 June.

Each 1,000 Roubles is equivalent to 130 Norwegian Kroner, 14 Euros or 16 US Dollars.

Fines

Since May, "juridical persons" (ie. religious organisations, media outlets, commercial concerns) have been subject to increased fines under Article 20.29, with a new minimum of 100,000 Roubles and maximum of 1 million Roubles (see F18News 15 May 2015 http://www.forum18.org/archive.php?article_id=2062). Punishment for individuals remains a fine of 1,000 to 3,000 Roubles or up to 15 days' imprisonment, and for people in an official capacity, fines of 2,000 to 5,000 Roubles. Court decisions usually order "extremist" materials to be confiscated and often destroyed.

Forum 18 has found only one religious organisation which has so far been fined under the new regulations. Muslim community Makhalla No. 1371 received a penalty of 150,000 Roubles at Strezhevoy City Court in Tomsk Region of Siberia on 24 July. According to the written verdict, seen by Forum 18, prosecutor's office staff and FSB security service officers inspected the mosque and found banned Islamic books on an open shelf in the men's prayer hall. The community's chairman denied knowing that the books were on the Federal List, but Tomsk Regional Court rejected their appeal on 1 October, according to the court website.

23 known prosecutions for religious literature in four months

Between the beginning of May and the end of August 2015, Forum 18 found 23 prosecutions under Article 20.29 for religious literature which does not appear to incite violence, hatred or other crime. Judges issued fines in 21 of these cases, while two defendants were detained (see below). None was acquitted. Two convictions resulted from the retrials of Jehovah's Witnesses originally sentenced in Cherkessk in March.

Six convictions have so far been appealed – one was fully overturned and another partially overturned, both because the three-month statute of limitations had expired before prosecutors brought the cases to court.

Out of the 23 prosecutions, 17 involved Islamic materials, and six Jehovah's Witness texts. There was one case in each of Ivanovo,

Kirov, Krasnodar, Tomsk, Vladimir and Volgograd Regions, while Astrakhan and Tyumen Regions and the Republics of Karachay-Cherkessiya and Yakutia each saw two cases. There were three prosecutions in the Mari-El Republic and six in Perm Region.

Detentions

Two cases resulted in periods of administrative arrest, one of which was overturned on appeal. In the first four months of 2015, one such jailing took place. None occurred in 2014.

Judge Dmitry Mospan sentenced Jehovah's Witness Vladimir Yeltavsky to 12 days' detention at Bryukhovetskaya District Court in Krasnodar Region on 2 July. Yeltavsky learned of the hearing only when bailiffs arrived to take him to court, less than an hour in advance, Jehovah's Witnesses complained on 3 July. He was therefore unable to engage a lawyer or even familiarise himself with the case materials.

"It is shocking that in assigning such a disproportionately severe punishment, the district court judge .. violated a number of legal norms, including the right to a legal defence", Yaroslav Sivulsky, chair of the Jehovah's Witnesses Administrative Centre, complained.

According to the appeal verdict, seen by Forum 18, prosecutors accused the 58-year-old elder of giving copies of "What does the Bible really teach?", "Is it true that God takes care of us?", and other Jehovah's Witness literature to a local resident at her home in March 2015. These titles were banned by Rostov Regional Court in 2009 in a ruling which outlawed 34 Jehovah's Witness texts at once.

At an appeal hearing at Krasnodar Regional Court the day after Yeltavsky was sentenced, Judge Yevgeny Smirnov ruled that the three-month statute of limitations for administrative offences had in fact expired before the case was heard at the District Court, and proceedings should therefore be terminated. Yeltavsky was released after 32 hours in police detention, Jehovah's Witnesses announced on 9 July.

When Forum 18 reached Judge Mospan on 13 October and asked to discuss the case, he replied that "We do not give consultations by telephone" and immediately ended the call. An assistant to District Prosecutor Aleksandr Fomenko, who initiated the case, directed Forum 18 to a general enquiries number where, similarly, a spokeswoman refused to answer any questions either over the phone or by email.

In Astrakhan, Turkish citizen Metin Karakoc was detained for two days after being found guilty of distributing "extremist" material on a local internet forum. In the written verdict of 27 May, Judge Irina Kostyukina of Soviet District Court also ordered that his computer equipment should be confiscated.

Karakoc, the director of Astrakhan State University's Turkish language centre, allegedly wrote on an Astrakhan-based forum about Turkish scholar Fethullah Gulen, posting links to his works and encouraging other users to read them. The court verdict does not specify which of Gulen's books he recommended. Several were among the 68 Islamic texts banned in Orenburg in 2012 – some were removed from the Federal List on appeal, while others remain prohibited (see F18News 27 July 2015 http://www.forum18.org/archive.php?article_id=2084).

After his release, Karakoc left Russia to return to Turkey, according to local news websites. A spokeswoman for Soviet District Court would not explain by telephone why Karakoc had been sentenced to detention. Forum 18 sent a written request for this information in the afternoon of the Astrakhan working day of 13 October but had received no response by the end of the working day on 14 October.

Online materials

Many prosecutions under Article 20.29 are now based on the posting and sharing of "extremist" material online, usually on social networks (especially the Russian VKontakte) but also on internet forums and dedicated file-sharing sites. Such cases can involve audio and video material, text files, or links to websites containing banned items. Ten of the 23 cases found by Forum 18 between May and August involved online materials, detected by law enforcement during regular internet monitoring.

In seven of these 10 cases, defendants were prosecuted for posting on their social-network profile pages the video "The Wonders of the Koran", which was banned by Nefteyugansk City Court in Tyumen Region on 7 April 2011. Most denied knowing that the video was deemed "extremist", but received fines of 1,000 or 1,500 Roubles.

Effects of Orenburg ruling

None of the 23 cases found by Forum 18 involved any of the Islamic texts deleted from the Federal List in July 2015 after appeal lawyers gained a removal order from a court in Orenburg. These 50 titles spent at least four months on the Federal List after they

should have been removed, because the appeal judge did not explicitly reverse the original "extremism" designation. In the meantime, religious believers, mosque communities and booksellers remained vulnerable to prosecution for "mass distribution" of any of these texts, even though the ruling which declared them "extremist" had been overturned in February (see F18News 27 July 2015 http://www.forum18.org/archive.php?article_id=2084).

The other 18 items banned by the original controversial court ruling in March 2012 remain on the Federal List.

A further effect of the Orenburg decision has been a decline in the number of prosecutions of booksellers, who suffered particularly from the mass ban. Several of the texts outlawed in Orenburg were popular prayer books, such as al-Qahtani's Fortress of a Muslim. They were frequently on sale at second-hand bookstores, mosque shops and market stalls (see F18News 31 March 2015 http://www.forum18.org/archive.php?article_id=2052).

In the first four months of 2015, there were no known prosecutions of booksellers, with only one known to have been fined between May and August. For comparison, four booksellers are known to have received fines between August and December 2014; for 2014 as a whole, this figure was 14 out of a total of 56 individuals known to have been charged.

Nevertheless, of the 50 items reprieved in Orenburg, 11 remain on the Federal List in different editions, outlawed under "extremism" rulings by courts in different parts of Russia. Individuals therefore need to check the edition of a book carefully in order to avoid prosecution under Article 20.29.

On 8 May, for example, E. Musina was fined 1,000 Roubles at Ordzhonikidze District Court in Perm for posting the 2003 edition of Elmīr Kuliyeŷ's book "The Way to the Koran" on her VKontakte page. This edition was banned by Kuybyshev District Court in Omsk in July 2012 and remains on the Federal List.

The 2008 edition, however, which was issued by a different publisher, may now be freely distributed, after the prohibition on this version was lifted by the Orenburg rulings. (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 Verkhovskiy, 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>.

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