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The right to believe, to worship and witness
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The right to join together and express one's belief

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RUSSIA: Sharing belief restrictions, increased "extremism" punishments?

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

President Putin may sign amendments imposing strict limits on sharing beliefs, including where and who may share them, as well as increased "extremism" punishments, introduced with alleged "anti-terrorism" changes. There are widespread Russian protests against the suddenly-introduced changes, though some fear consequences for protesting.

Russia's President Vladimir Putin may soon sign into law legislation on so-called "missionary activity", which will further curtail the public expression of freedom of religion and belief, including in the media and online, Forum 18 notes. The amendment – which has been rapidly introduced – has caused widespread protests. Against international human rights obligations, the amendments restrict those who can share beliefs to people with permission from members of state-registered religious groups and organisations. This excludes people from groups which have chosen to operate without state permission, such as certain Baptist congregations. The amendments also bars even the most informal sharing of beliefs, for example responding to questions or comments, by individuals acting on their own behalf.

It also restricts the beliefs that can be shared, specifies a restricted list of places where beliefs may be shared, and explicitly bans any beliefs from being shared in residential buildings, or on another association's property without permission. An allegedly "anti-terrorist" part of the amendments bars the conversion of residential property to religious use (see below).

There will be heavy financial penalties of up to 50,000 Roubles for individuals and up to 1 million Roubles for organisations who violate the amendments. A fine of 50,000 Roubles (about 6,500 Norwegian Kroner, 700 Euros, or 780 US Dollars) represents about six weeks' average wages for those in work. Maximum fines for organisations would be up to 20 times as much.

Another part of the package of laws sharply increases Criminal Code Article 282.2 punishments for those convicted of allegedly "extremist" activity, who are often Jehovah's Witnesses and Muslims who study the works of theologian Said Nursi. These punishments were last increased in February 2014 (see below).

Parliament's upper chamber approved the bill on 29 June and it now only remains for President Putin to sign it into law. He has two weeks to sign the law or send it back to be reconsidered (see below).

Appearing and disappearing texts

The 1997 Religion Law previously contained no definition of or explicit limitations on sharing beliefs publicly. This led some regions to adopt their own local laws to restrict sharing beliefs within their jurisdictions (see Forum 18's general Russia religious freedom survey http://www.forum18.org/archive.php?article_id=1722). Most of those introduced in the 1990s were repealed by the end of the decade, but an increasing number of regions have passed new versions over the last two to three years. It is likely that these will either have to be withdrawn or adapted to bring them into line with updated federal legislation.

Also affecting the sharing of religious ideas, since a vaguely-worded law criminalising "offending religious feelings" (not blasphemy as often described) came into force on 1 July 2012 few if any prosecutions followed. Critics noted that the amendments to the Criminal Code and Code of Administrative Offences are so poorly defined that they could be used by anyone to prosecute actions they simply dislike. While understood as a concession to the Russian Orthodox Church (Moscow Patriarchate), there is considerable disagreement over the criminalisation of "offence to religious feelings" in both the Moscow Patriarchate and Russian society (see F18News 14 August 2013 http://www.forum18.org/archive.php?article_id=1864).

The current amendment restricting sharing beliefs was proposed between 13 and 20 June 2016 by Igor Zotov, a Just Russia deputy from the Tula Region (which was the first to adopt a regional law restricting sharing beliefs in 1994, revoked in 2000) and member of the Duma's Defence Committee. The Duma's Security and Anti-Corruption Committee was responsible for the package of laws as a whole. The Duma's Religious Organisations and Public Associations Committee was not involved.

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Two earlier bills on "missionary" activity appear to have stalled before even reaching a first reading in the Duma. These bills proposed by the Arkhangelsk Regional Assembly and Federation Council member Igor Chernyshenko in February 2016 and April 2016 respectively, were not supported by the Government. Deputy Prime Minister Sergei Prikhodko stated on 5 February and 18 May that sufficient regulation of the dissemination of beliefs was already in place and that the proposed legislation would violate citizens' constitutional right to freedom to disseminate their beliefs.

The current amendment restricting sharing beliefs, which introduces an entire new section to the Religion Law, was added to United Russia deputy Irina Yarovaya and Senator Viktor Ozerov's controversial package of proposed laws allegedly on public security and anti-terrorism measures (see http://www.hrw.org/news/2016/06/23/draconian-law-rammed-through-russian-parliament). The addition was made just days before its 24 June second and third readings in the State Duma, the lower chamber of parliament.

Deputy Zotov's proposed text for the current amendment first appeared on the State Duma's website on 20 June, but disappeared shortly afterwards. When the package of laws reached its second and third readings (postponed from 22 June to 24 June), the proposed definition of "missionary activity" had been altered, having previously named specific activities such as public worship and the collection of donations.

Clergy and leaders of religious associations are in the latest changes to the amendment permitted to share beliefs without carrying authorisation documents, but a ban on sharing beliefs on the property of another religious association has been added.

Why?

Forum 18 asked Deputy Zotov on 22 June why restrictions on sharing beliefs were deemed necessary and, if so, why the amendment had not therefore been introduced earlier. His office had not responded to the request as of the end of the Moscow working day of 4 July.

"A clever move"

"An anti-terrorism package is almost certainly one that will pass", SOVA Center for Information and Analysis Director Aleksandr Verkhovsky commented to Forum 18 from Moscow on 22 June. So adding the sharing belief restrictions to such a package was "a clever move", because little if any Duma opposition could be raised at this stage.

The Federation Council, parliament's upper chamber, approved the bill on 29 June at its final session before the summer break. It now only remains for President Putin to sign it into law. Once it reaches him, he has two weeks to sign or send back the law under Article 107 of the Constitution. Should Putin refuse to sign, the bill must be returned to the State Duma and Federation Council to be reconsidered.

Appeal by Presidential Council

On 30 June, President Putin's spokesperson Dmitry Peskov told a press conference that the President had not yet made a decision about the package of laws, RIA Novosti news agency reported. He added on 1 July that the appeal by the Presidential Council on Civil Society Development and Human Rights had been received. "Of course, all this will be taken into account."

Mikhail Fedotov, chair of the Presidential Council on Civil Society Development and Human Rights, fruitlessly appealed to the Federation Council not to pass the bill. On 1 July, he protested directly to Putin, arguing that several of the Human Rights Council's 20 April recommendations on other parts of the package had not been taken into consideration, and that the amendments restricting sharing beliefs "create unjustified and excessive restrictions on the freedom of conscience of believers of all religions, and encroach upon the fundamental constitutional principle of non-interference by the state in the internal arrangements of religious associations".

This part of the "package", in the opinion of the Council, "should be separated from it and go through the full debate procedure as a separate bill".

In line with international human rights obligations?

Forum 18 also contacted the Duma's Legal and Linguistic Analysis Department on 23 June to ask:

- whether the Department thinks the proposed amendment is in line with Russia's Constitution and international human rights obligations, such as the International Covenant on Civil and Political Rights and Organisation for Security and Co-operation in Europe (OSCE) human dimension commitments;

- and why the amendment was included in a law to counter terrorism and ensure public safety when "national security" is not a permissible reason in international human rights law to restrict freedom of religion and belief.

However, on hearing Forum 18 introduce itself, Department Head Andrei Dubrovsky immediately put the phone down.

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The content of the amendments, such as the ban on sharing beliefs in residential premises, directly contravenes Russia's international human rights obligations (see the outline of these in the Organisation for Security and Co-operation in Europe (OSCE)/Council of Europe Venice Commission Guidelines for Review of Legislation Pertaining to Religion or Belief http://www.osce.org/odihr/13993). Russia is a participating State in the OSCE and a member of the Venice Commission.

"Severe penalties for both individuals and legal entities"

Yaroslav Nilov, Chair of the Duma Public Affairs and Religious Organisations Committee and a deputy of the Liberal Democratic Party, directed Forum 18 to Svetlana Tsiulina, a consultant to the Committee. When Forum 18 reached her on 4 July, however, she was reluctant to answer questions about the bill. She said only that the bill was not the responsibility of her Committee and members had not been involved in its development because it had originated with the Security Committee.

In comments to the BBC Russian Service on 29 June, Nilov confirmed that "Nobody consulted us, nobody consulted religious organisations", despite the fact that the Religion Law is "our core law, for which we are responsible". He acknowledged that the law imposes "severe penalties for both individuals and legal entities. That is why the representatives of many confessions, including traditional denominations, are very concerned."

Protests

The bill awaiting presidential signature has attracted criticism from religious organisations, lawyers and human rights defenders. "Nobody expected this," Hare Krishna lawyer Mikhail Frolov remarked to Forum 18 from Moscow on 24 June. "The entry into force of this law would mean that the Russian political system has shifted ever further towards a totalitarian regime."

As well as those who have publicly protested, Forum 18 is aware of other Russian belief communities who are seriously alarmed by the amendment. However, they do not wish to make any public comment as they fear the possible consequences of publicising their opposition.

Some belief communities - such as Jehovah's Witnesses, Hare Krishna devotees, some Muslims, Baptists and various other Protestants - may be particularly vulnerable to prosecution. This is because public sharing of their beliefs is either a specific religious obligation, or seen as a key part of their faith.

"Spreading faith is a statutory objective of almost every religious association, organisations and groups alike, as well as a way to practice their religion for believers, who until recently had a constitutional right to share their creed with others, be publicly baptised, read prayers, offer literature, and just talk heart to heart", Mukaddas Bibarsov, Co-chair of the Council of Muftis and head of the Spiritual Administration of Muslims of the Volga Region said in a 29 June article for Muslim news website ansar.ru.

"It remains unclear what the legislators want to achieve," Bibarsov added. "If by regulation of missionary activity they plan to solve other problems, such as control of foreign preachers, then we have corresponding branches of law, such as migration and anti-extremist legislation, the law on freedom of conscience, and so on."

On 23 June, just before the amendment was considered in the Duma, the Consultative Council of Leaders of Protestant Churches, led by Pentecostal Bishop Sergei Ryakhovsky, appealed publicly to President Putin not to sign a law which they see as both unconstitutional and impractical.

"It is not possible to forbid believers to pray, to share with others their religious experiences, to quote lines of scripture in conversation with people, or to perform certain religious rituals outside of religious buildings – or to prohibit them from doing it all in residential premises," their letter points out. They also stress that both the Constitution and international legal norms guarantee the right to disseminate beliefs as an integral part of the right to freedom of religion and belief.

Igor Yanshin, a lawyer and member of a Pentecostal church in Siberia, set up a change.org petition on his own initiative, also in an attempt to persuade the President to halt the bill. After 25,000 people had signed it in the first three days, he sent it to Putin on 29 June via the Kremlin website. The petition remains active and reached 37,000 signatures by the evening of 4 July in Moscow. "When I learned that the bill had passed on the second and third reading and read the text, I decided to collect signatures, aware that the proposed amendments violate my rights as a citizen of Russia," Yanshin told Forum 18 on 30 June.

On 26 June, the Baptist Council of Churches published an open letter of protest to President Putin, reminding him that the government itself refused to support earlier attempts to restrict sharing beliefs. It also complains that legislators responsible for the bill did not seek the views of competent experts or the opinions of believers, "who are the most affected by the new amendments", and that the bill violates Russian citizens' constitutional right "freely to choose, hold, and disseminate religious and other beliefs" (Article 28) to all other citizens, regardless of whether or not they belong to the same or any religious association.

The Baptists fear that the law will "create conditions for the repression of all Christians" and that "Any person who mentions their

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religious views or reflections out loud or puts them in writing, without the relevant documents, could be accused of 'illegal missionary activity' and subjected to a heavy fine".

What is sharing beliefs – and what beliefs?

The new Chapter 24 of the Religion Law states: "For the purposes of this federal law, missionary activity is recognised as the activity of a religious association, aimed at disseminating information about its beliefs among people who are not participants (members, followers) in that religious association, with the purpose of involving these people as participants (members, followers). It is carried out directly by religious associations or by citizens and/or legal entities authorised by them, publicly, with the help of the media, the internet or other lawful means."

Lawyer Yanshin argues in his change.org petition that this definition means that "now any conversation about God with a non-believer is missionary activity and subject to regulation".

The definition appears to exclude the possibility of punishment for promoting atheist views, since, as Verkhovsky of the SOVA Center pointed out to Forum 18 on 4 July, atheists have no "religious association" in which to involve other people.

However, the expression of atheist views and criticism of the Russian Orthodox Church has led to prosecution under existing articles of both the Criminal and Administrative Codes, Forum 18 notes. An atheist blogger is currently on trial in Stavropol for making disparaging comments about Christianity (see F18News 29 June 2016 http://www.forum18.org/archive.php?article_id=2193). Also, a video associated with the Russian Orthodox Autonomous Church was declared "extremist" in 2014 for its critical view of the Moscow Patriarchate (see F18News 3 December 2014 http://www.forum18.org/archive.php?article_id=2020).

Limited places beliefs can be shared in

The amendment also specifies that sharing beliefs may be carried out "without hindrance" only in the following places:

- in religious premises, buildings and structures, as well as on land on which such buildings and structures are located;

- in buildings and structures belonging to religious organisations or provided to them in order to carry out their statutory activities, as well as on land on which such buildings and structures are located;

- in premises belonging to religious organisations or provided to them in order to carry out their statutory activities, as well as on land on which the buildings containing the relevant premises are located, by agreement with the owners of such buildings;

- in premises, buildings, and structures and on land owned by or provided to institutions established by religious organisations;

- on land owned by or provided to religious organisations;

- in places of pilgrimage;

- cemeteries and crematoria;

- in the premises of educational institutions historically used for religious ceremonies.

Specific bans on sharing beliefs in some places

As well as limiting the places where sharing beliefs can happen, the amendment also explicitly bans sharing beliefs in some places.

- Residential buildings

Sharing beliefs is not permitted in residential buildings, "except as provided for by Article 16, Part 2 of [the Religion Law]". Article 16, Part 2, states that worship services and other religious rites and ceremonies may be freely held in residential premises, as well as in premises owned or rented by religious organisations. It is therefore unclear what this part of the amendment will mean in practice.

"I fear even the authors of the law don't understand this," Yanshin remarked to Forum 18 from Nizhnevartovsk on 1 July. Sharing beliefs door-to-door would appear to be banned by the amendment, but it is unclear how far other forms of sharing beliefs in residential buildings will be affected.

Bishop Konstantin Bendas of the Union of Evangelical Christians suggested in a church press release on 24 June that residential premises owned or rented by a religious organisation would be exempted. But he pointed out that "We follow the common biblical practice of house churches, in which parishioners not only come to church on Sundays, but gather in each other's flats or houses during the week, when small services may be held, to which may be invited, among others, even people who are not members of the

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church. By my reckoning, in Moscow alone more than a thousand of these house churches gather every week."

As Yanshin indicated to Forum 18, while religious services are legally permitted in residential buildings, the presence of non-believers or members of other faiths may lead such events to be considered "missionary activity".

- "Anti-terrorism" ban on religious buildings

A corresponding amendment to the federal Housing Code in the same "anti-terrorism" package prevents the conversion of residential premises to non-residential use for the purposes of religious activity.

- Not on another association's property

Sharing beliefs is also not permitted on the property of another religious association without written permission.

What beliefs can be shared?

The amendment also contains a list of aims which sharing beliefs is not permitted to pursue. Some are general, such as "the violation of public safety and public order", which may be broadly applied across activities and religious associations. Loose interpretation of "public safety" violations by police and prosecutors is already apparent in cases brought against religious believers under the Administrative Code's Article 20.2 ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket") (see F18News 18 May 2016 http://www.forum18.org/archive.php?article_id=2179).

Other prohibited aims are more specific, including "the encouragement of suicide or the refusal on religious grounds of medical assistance to persons in a life- or health-endangering condition" and "the motivation of citizens to refuse to fulfil their civic duties as established by law and to commit other illegal acts".

These accusations have been made against Jehovah's Witness communities in suits to have them liquidated as "extremist" (alongside more specific allegations of distribution of "extremist" literature), based on their refusal of blood transfusions and conscientious objection to military service (see eg. F18News 24 May 2016 http://www.forum18.org/archive.php?article_id=2181).

Other communities may also be affected. The Theravada Buddhist community has failed in an appeal against an order to remove from a Buddhist website a verse of the Theravada Pali Canon giving an allegedly "detailed description of suicide" (see F18News 5 May 2016 http://www.forum18.org/archive.php?article_id=2174).

Who can share beliefs?

- Only those with state permission from state-permitted groups

If acting on behalf of a religious group, individuals sharing belief must carry with them a document indicating that they have been granted authorisation by a general meeting of the group. The authorisation must also show that the group has "registered", ie. notified the appropriate federal organ of its creation and the commencement of its activities.

Such notification is a requirement introduced by a 2015 change to the Religion Law, required all religious communities that do not have legal status to notify the authorities of their existence and activity. This includes names and addresses of all their members and addresses where any meeting takes place. Previously, an unregistered community was legally able to operate as a religious group, without informing the state or registration (see F18News 17 September 2015 http://www.forum18.org/archive.php?article_id=2101).

The 2015 change – like the sharing beliefs restrictions – directly contravenes Russia's human rights obligation not to require state permission for the exercise of the freedom of religion and belief (see the Organisation for Security and Co-operation in Europe (OSCE)/Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities http://www.osce.org/odihr/139046).

- Only some without written authorisation

Under the sharing beliefs amendments, sharing beliefs on behalf of a religious organisation may be freely carried out by its director, members of its governing body, and its clergy. Other individuals must carry with them a document from the organisation's governing body granting them the authority to share beliefs in its name. This document must also contain details of the organisation's state registration and entry in the Unified State Register of Legal Entities.

The law stresses that religious associations (both organisations and groups) bear full responsibility for sharing beliefs carried out in their name by individuals whom they have approved.

- Not groups without state permission

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These regulations restrict the dissemination of beliefs in public to registered groups and organisations. Religious communities which have chosen on principle not to register, which include large numbers of Baptist churches across the country, will therefore by definition be breaking the law should they engage in any action outside their own places of worship aimed at informing others of their faith. Baptists have already faced prosecution under Administrative Code Article 20.2 ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket") for holding prayer services in courtyards, and distributing literature from "mobile libraries" without notifying the authorities (see F18News 18 May 2016 http://www.forum18.org/archive.php?article_id=2179).

The Protestant leaders' 23 June appeal to Putin calls the requirement to carry authorising documents "not only absurd and insulting, but also .. the basis for mass persecution of believers for the violation of such provisions".

- Foreigners and stateless persons only with state permission

Foreign citizens (and stateless persons) may share beliefs only in the regions or other federal subjects in which the religious group or organisation they are representing is registered to operate.

- Not allegedly "extremist organisations"

The law also states that sharing beliefs may not be carried out on behalf of organisations which have been liquidated by court order or whose activities have been blocked or banned on grounds of "extremism" or terrorism. Since such organisations are legally no longer in existence and therefore unable to authorise individuals to share beliefs as required by the amendment, it is unclear why this stipulation is necessary. It may nevertheless cause problems for some individuals.

Several Jehovah's Witness congregations and one Muslim community have been dissolved because of alleged "extremist" activity. If prosecutors proceed with their threat to liquidate the Jehovah's Witness headquarters near St Petersburg, thousands of local congregations across Russia could also face prohibition of their activities and individuals could be vulnerable to criminal charges for expressing their beliefs (see F18News 24 May 2016 http://www.forum18.org/archive.php?article_id=2181).

Such cases are usually based on earlier convictions of the organisations or their members for distributing literature deemed to be "extremist". Jehovah's Witnesses have been keen to stress that such liquidations do not mean a ban on Jehovah's Witness activity in the areas where these communities were based. However, police and prosecutors may now be able to use the new restrictions on sharing beliefs against former members who continue to do so.

- Not individuals acting on their own or informally

By confining sharing beliefs to authorised representatives of registered groups and organisations, the amendment also effectively outlaws the sharing of beliefs by individuals purely on their own initiative, or who informally respond to the questions or comments of others.

The amendments exert a chilling effect on even the most informal interactions. As Yanshin remarks in his petition, "Travelling by train and want to tell a neighbour about God? Forget it! After all, you do not have/have forgotten/have not received the relevant documents, and you could spend the rest of the trip in the nearest police station. Want to repost a beautiful picture with a quote from a preacher on VKontakte? Think twice! Double-check the validity of the authorising document! Sent a message to a friend with an invitation to a service? Wait for the police to visit!"

Punishments

Individual citizens who violate any of these restrictions and requirements will be liable to a fine of 5,000 to 50,000 Roubles. For organisations (legal entities), the fine stands at 100,000 to 1 million Roubles. Religious groups, while they may share beliefs in limited circumstances if registered (see above), are not legal entities – their members would therefore be subject to prosecution as individuals.

Foreigners may be fined 30,000 to 50,000 Roubles with the possibility of expulsion from Russia.

Heavier penalties for "extremism" crimes

The package of laws also includes amendments to the Criminal Code which will increase punishments for offences under 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 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").

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Article 282.2 is often used to convict Muslims who read Said Nursi's works (see eg. F18News 29 June 2016 http://www.forum18.org/archive.php?article_id=2193) and Jehovah's Witnesses (see eg. F18News 3 December 2015 http://www.forum18.org/archive.php?article_id=2128) for exercising freedom of religion and belief.

Punishments under Article 282.2 were last increased in February 2014, having previously been raised in 2011 (see F18News 11 February 2014 http://www.forum18.org/archive.php?article_id=1927).

The proposed new penalties are:

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"): a fine of 400,000 to 800,000 Roubles or 2 to 4 years' income; or 6 to 10 years' imprisonment with a ban on working in one's profession of up to 10 years and restrictions on freedom for 1 to 2 years.

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"): a fine of 300,000 to 600,000 Roubles or 2 to 3 years' income; or compulsory labour for 1 to 4 years with a ban on working in one's profession for up to 3 years or with restrictions on freedom for up to 1 year; or 2 to 6 years' imprisonment with a ban on working in one's profession for up to 5 years or with restrictions on freedom for up to 1 year.

The current penalties are:

Part 1: a fine of 300,000 to 500,000 Roubles or 2 to 3 years' income; or compulsory labour for up to 5 years, with or without restrictions on freedom for up to 2 years; or 2 to 8 years' imprisonment, with or without a ban on holding certain positions or engaging in certain activities for up to 10 years or without it and with or without restrictions ob freedom for up to 2 years.

Part 2: a fine of up to 300,000 Roubles or up to 2 years' income; compulsory labour for up to 3 years with or without restrictions on freedom for up to one year; or imprisonment for up to 4 years, with or without a ban on holding certain positions or engaging in certain activities for up to 5 years and with or without restrictions on freedom for up to one year. (END)

For more background, see Forum 18's surveys of the general state of freedom of religion or belief in Russia at http://www.forum18.org/Archive.php?article_id=1722, and of the dramatic decline in religious freedom related to Russia's Extremism Law at http://www.forum18.org/Archive.php?article_id=1724.

A personal commentary by Alexander Verkhovsky, Director of the SOVA Center for Information and Analysis http://www.sova-center.ru, about the systemic problems of Russian anti-extremism legislation, is at F18News 19 July 2010 http://www.forum18.org/Archive.php?article_id=1468.

A personal commentary by Irina Budkina, Editor of the http://www.samstar.ucoz.ru Old Believer website, about continuing denial of equality to Russia's religious minorities, is at F18News 26 May 2005 http://www.forum18.org/Archive.php?article_id=570.

More reports on freedom of thought, conscience and belief in Russia can be found at http://www.forum18.org/Archive.php?query=&religion=all&country=10.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

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