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RUSSIA: Alleged "missionary activity" prosecutions continue

By Victoria Arnold, Forum 18

Prosecutions continue under "missionary activity" restrictions, and have led to the first known deportation of a foreigner, Indian Victor-Immanuel Mani. This separates him from his Russian wife and young child. Separately, appeals have been made against two court orders to destroy Bibles, the Bhagavad Gita, and other texts.

Prosecutions are continuing across Russia under severe restrictions on sharing beliefs (commonly and misleadingly called the "law on missionary activity") which came into force in July 2016. The first known deportation of a foreigner for allegedly violating the new Religion Law and Code of Administrative Offences restrictions on sharing beliefs took place in February 2017, Forum 18 has learned.

Judges in at least three cases have ordered confiscated religious literature to be destroyed, although one of these rulings was later overturned. This occurred despite courts having no legal right to do this if the confiscated materials have not previously been formally legally classified as "extremist", pornographic, or drugs-related. Also, religious organisations are receiving large fines for not displaying their "official full names" on publications, on websites, or on buildings.

More than seven months after the July 2016 restrictions were introduced, confusion still surrounds their implementation. This confusion and inconsistency marking decisions on whether to prosecute individuals and religious organisations for sharing beliefs has been present from the day the restrictions came into force (see eg. F18News 20 December 2016 <http://forum18.org/archive.php?article_id=2242>). The current persisting confusion is primarily to do with whether and how people may share their private beliefs as private individuals, rather than as representatives of registered religious associations.

Indian Protestant pastor Victor-Immanuel Mani is the first known case of a foreigner being deported under Administrative Code Article 5.26, Part 5 ("Foreigners conducting missionary activity"). He is planning to appeal further, and his lawyers argue that the deportation order is in contradiction of a 2013 Supreme Court ruling that "expulsion from the country, which is home to members of [the defendant's] family, may violate the right to respect for family life" (see below).

Nizhny Tagil Evangelical Christian Church is appealing against its conviction under Administrative Code Article 5.26, Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label"), and Part 4 ("Russians conducting missionary activity"). It is particularly concerned about an order that confiscated Bibles (including an edition used by the Moscow Patriarchate Russian Orthodox Church) be destroyed. Separately, in the Yamalo-Nenets Autonomous Region, a court has ordered Hindu texts including the Bhagavad Gita to be destroyed. An appeal has been submitted but a hearing date has not been set (see below).

Police are separately appealing against the acquittal of Hare Krishna devotee and yoga teacher Dmitry Ugai. They based their charges on an "expert report" compiled before the alleged offence and so which could not have based on witnesses. The hearing is due on 13 March (see below).

Hare Krishna devotee Andrei Puchkov was found guilty under Administrative Code Article 5.26, Part 4 ("Russians conducting missionary activity") after law enforcement investigations decided that "all Krishnaite events", regardless of what they are, are to be considered to be "missionary acts". His trial under Administrative Code Article 20.2, Part 1 ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket") continues, and he will appeal against both his Article 5.26 convictions.

The first known Supreme Court appeal against a conviction under the July 2016 changes to the Religion Law and Administrative Code was unsuccessful on 20 January 2017. But independent Baptist preacher Donald Ossewaarde has also appealed to the Constitutional Court (see below).

July 2016 - March 2017 prosecutions

In an analysis of available court verdicts, Forum 18 has found a total of 53 prosecutions (12 of organisations, 41 of individuals) since the new parts of Administrative Code Article 5.26 came into force on 20 July 2016. Only three women are known to have been charged (as well as two people whose gender is unknown), all other prosecutions being of men.

There were: 11 prosecutions (nine of organisations, two of community leaders) under Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label"); 35 prosecutions (three of organisations, 32 of individuals) under Part 4 ("Russians conducting missionary activity"); and seven prosecutions of individuals under Part 5 ("Foreigners conducting missionary activity").

Prosecutions have involved individuals or communities belonging to the following religious communities: independent Protestants - 18; Jehovah's Witnesses - 13; the Society of Krishna Consciousness (Hare Krishna devotees) - 7; Baptists - 5; Seventh-Day Adventists - 4; Buddhists - 2; New Apostolic Church - 1; Ukrainian Reformed Orthodox Church - 1; and Salvation Army - 1. One village elder who permitted an independent Protestant church to display a banner at a village festival in the Mari-El Republic was also charged.

The Tver and Kaliningrad Regions have seen five prosecutions each. Three prosecutions each have been brought in Moscow, Krasnoyarsk, Kemerovo, and Kamchatka Regions, and the Republic of Bashkortostan. Two prosecutions each have been brought in St Petersburg, Ulyanovsk, Chita, and Sverdlovsk Regions, the Yamalo-Nenets Autonomous Region, and the Republics of Tuva, Mari-El and Tatarstan. There was one prosecution in each of the Khabarovsk, Samara, Primorye, Oryol, Kirov, Zabaikalsk, and Altai Regions, and the Republics of Altai and Adygea.

Three cases were dropped before reaching court, and two more were sent back to police or prosecutors for technical reasons and not resubmitted within the stipulated three-day period. One trial is still underway as of 1 March. Of the 47 cases which have been completed, 34 ended in convictions and 13 in acquittals.

Defendants have submitted appeals in 20 cases, six of which have not yet been heard. Of the rest, all were unsuccessful except one, which was sent back for re-examination but was dropped as the statute of limitations had expired. Police and prosecutors have also attempted to challenge four court rulings - two of these appeals have not yet been heard, one was unsuccessful and the acquittal was upheld, and one aimed to change (rather than overturn) the verdict (see Salvation Army case below).

Background

On 6 July 2016 President Vladimir Putin signed amendments to the Religion Law imposing harsh restrictions on the sharing of beliefs, including on where and by whom they may be shared. There were widespread Russian protests against the changes, which ban among other things extremely broadly and imprecisely defined so-called "missionary activity" by anyone without written permission from an officially recognised religious organisation, and by religious organisations using material without their full legal name. The changes also ban anyone who is a former member of allegedly "extremist" religious organisations carrying out so-called "missionary activity", and allow very wide scope for arbitrary official actions. The allegedly "anti-terrorism" changes broaden the range of possibilities to prosecute people who publicly share their beliefs with additions to Administrative Code Article 5.26 ("Conducting missionary activity") (see Forum 18's general Russia religious freedom survey <http://www.forum18.org/archive.php?article_id=2246>).

There was an initial lack of consensus among judges over whether the absence of written authorisation from a registered religious organisation is itself evidence of an offence or proof of innocence (see Forum 18's general Russia religious freedom survey <http://www.forum18.org/archive.php?article_id=2246>). But it now appears that judges are increasingly seeing grounds for conviction as being if there is a lack of formal written authorisation, or in the case of religious groups failure to notify the Justice Ministry of its existence, activities, places of meetings, and names of people who attend.

A 2015 amendment to the Religion Law for the first time and against international human rights law required all unregistered religious groups to notify the authorities of their existence and activities. This includes providing names and addresses of all their members, and addresses where any meeting takes place. A draft law making failure to do this a specific offence subject to fines has been accepted for a first reading in the State Duma, although no date has yet been announced for this (see Forum 18's general Russia religious freedom survey <http://www.forum18.org/archive.php?article_id=2246>).

First known deportation

Indian Protestant pastor Victor-Immanuel Mani has left Russia after losing his appeal against a deportation order imposed under Administrative Code Article 5.26, Part 5 ("Foreigners conducting missionary activity"), he told Forum 18 on 22 February. He is planning to appeal further. Mani also received a fine of 30,000 Roubles for the "offence" of advertising religious gatherings on social media, and allegedly giving religious literature to a non-member of his church.

Prosecutors accused Mani of advertising meetings for worship in his church's group on the VKontakte social network, which was

openly accessible to all users, and engaging in "missionary activity" at these events without the necessary written authorisation from his religious organisation. (Its VKontakte group has since become a closed group, Forum 18 notes.) As the Church does not have its own building, it rents space to meet for worship at the "Fort Dialogue" business centre in Naberezhnyye Chelny. Court verdicts, seen by Forum 18, note that these premises were freely accessible to non-members of the Church. The charges against Mani centred on the presence at a service on 4 December 2016 of non-members who testified that they had learned of the event from the VKontakte page. One of them later complained to law enforcement that Mani had given him printed information about the Church, and encouraged him to bring his friends to the next service. Mani told Forum 18 on 22 February 2017 that the man, of his own accord, "bought books and stole our flyers". Mani also denied having told the man to invite anyone to the meetings.

Mani's lawyer Denis Litvinov and fellow lawyer Yevgeny Shestakov assert in a report for the SOVA Centre for Information and Analysis, dated 27 February, that the meeting notices in the Church's VKontakte group were not aimed at non-members. They had a purely informational character and were not aiming to share beliefs. Litvinov and Shestakov also make the point that the Religion Law defines "missionary activity" as the dissemination of information about beliefs "among people [plural] who are not participants (members, followers) in the religious association", not as merely the transfer of information to another individual, and that Mani's case therefore "cannot, according to the letter of the law, be considered [missionary activity]".

The lawyers also state that Judge Saitgareyev did not permit the participation in court of a defence witness. They would have testified that Mani had not given the complainant any material, and that the man who complained had attended meetings for worship several times already. It is also unclear, according to Litvinov and Shestakov, why the pastor himself was charged rather than the Church. They suggest that this was "perhaps because he is a foreigner, despite his right of residency".

Judge Mansur Saitgareyev found Mani guilty on 20 December 2016 at Naberezhnyye Chelny City Court in Tatarstan, only two hours after prosecutors submitted his case to the court, Litvinov complained in his report. Litvinov pointed out that this rapid turnover of the case did not allow for legal representation to be arranged at the hearing, so violating Mani's constitutional right to proper legal support. Nevertheless, the Supreme Court of Tatarstan upheld the initial ruling on 25 January 2017, and Mani left the country shortly afterwards. His lawyers and the Love of God Evangelical church in Naberezhnyye Chelny are now preparing a cassational appeal to the Supreme Court of Tatarstan.

Mani's primary concern, he told Forum 18, is "why they deported me, when I had Russian residency, a Russian wife, and my twelve-month-old baby". The deportation order is in contradiction of a Supreme Court ruling of 19 December 2013, which stated that "expulsion from the country, which is home to members of [the defendant's] family, may violate the right to respect for family life", Mani's lawyer Denis Litvinov stated to the SOVA Center.

Forum 18 telephoned Judge Saitgareyev's office on 28 February 2017 and asked why Mani had been punished with deportation. But a spokesperson refused to comment on the case.

Books to be burned?

Nizhny Tagil Evangelical Christian Church in the Sverdlovsk Region was convicted twice on 8 February 2017. It was fined 30,000 Roubles under Administrative Code Article 5.26, Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label"), and also fined 50,000 Roubles under Part 4 ("Russians conducting missionary activity"). Judge Oksana Savina of Prigorodny District Magistrate's Court No. 2 also ordered confiscated Bibles and other literature to be destroyed.

Prosecutors accused Church members of distributing religious books and CDs among the clients of a drug and alcohol rehabilitation centre while the Church members carried incomplete and invalid written authorisation. Their materials also allegedly lacked labels showing the Church's full official name. The Church had a written agreement dated 1 January 2017 with the rehabilitation centre to carry out this activity on its property, but prosecutors claimed that Church members had been handing out literature before this date.

Among the items ordered to be destroyed are various editions of the Bible published by the Gideons, the Russian Bible Society, and Bible League International. The editions ordered destroyed include the 19th century Russian Synodal translation also used by the Moscow Patriarchate. According to the court verdict, seen by Forum 18, the destruction would be the responsibility of bailiffs. The means of destruction is not specified, but it is likely it would take the form of burning. This happened in the 2014 case of so-called "extremist" literature confiscated from Muslims who read the works of theologian Said Nursi, who were prosecuted in Naberezhnyye Chelny in Tatarstan (see F18News 28 August 2014 <http://forum18.org/archive.php?article_id=1990>).

A spokeswoman for the Magistrate's Court confirmed to Forum 18 on 28 February that the Church has lodged an appeal against the decision, but would not explain why the Bibles and other materials had been ordered to be destroyed.

In 2015 the Extremism Law was changed to prohibit "extremism" bans on some but not all the major sacred texts of so-called "traditional religions", including the Bible (see Forum 18's "extremism" Russia religious freedom survey <http://www.forum18.org/Archive.php?article_id=2215>).

Bhagavad Gita also to be destroyed?

On 9 January Hare Krishna devotee Andrei Sysolyatin was convicted for alleged unlawful "missionary activity" in the Yamalo-Nenets Autonomous Region. The verdict seen by Forum 18 states that Sysolyatin offered religious literature to one person in a street, who then reported him to the police. Judge Yelena Pryadko of Noyabrsk Magistrate's Court No. 1 fined Sysolyatin 5,000 Roubles and ordered the destruction of six books. These include a copy of the Bhagavad Gita, a Hindu sacred text. Four copies of 'The Vedas: Mysteries from the East', and one copy of 'One More Chance' were also ordered to be destroyed.

The fine and the destruction order have not yet come into force. An appeal has been submitted, Sysolyatin's lawyer Mikhail Frolov told Forum 18 on 1 March. Noyabrsk City Court has not yet set a hearing date.

This should be "impossible" in administrative cases involving literature which has not been ruled "extremist", Frolov told Forum 18. If the destruction order is carried out, bailiffs would "just throw [the books] in the rubbish bin", he thinks. He also thought they might be sold if bailiffs think the books are financially valuable.

When Forum 18 called Noyabrsk Magistrate's Court No. 1 to ask why the books had been ordered destroyed, consultant Severina Magomedova said she could not give out information over the phone. She directed Forum 18 to the office of Judge Pryadko. When Forum 18 called this number and introduced itself, the phone was immediately put down.

In 2012 prosecutors in Tomsk tried to ban 'The Bhagavad Gita As It Is', a key text for Hare Krishna devotees which is not the same as the Bhagavad Gita, as "extremist". The attempt failed after a public outcry in both Russia and India (see F18News 21 March 2012 <http://www.forum18.org/Archive.php?article_id=1682>). After a controversial attempt to outlaw a Koranic commentary as "extremist", the Extremism Law was changed on 23 November 2015 to prohibit "extremism" bans on some but not all the major sacred texts of so-called "traditional religions" (see Forum 18's "extremism" Russia religious freedom survey <http://www.forum18.org/Archive.php?article_id=2215>).

Book destruction order overturned

One known court decision ordering religious literature to be destroyed under the July 2016 changes to the Religion Law and Administrative Code has been overturned, Forum 18 notes. A Vladivostok Prosecutor's Office inspection of Salvation Army premises found books and magazines which allegedly were not labelled with the organisation's full official name. The Salvation Army branch was then convicted under Administrative Code Article 5.26, Part 3 ("Implementation of activities by a religious organisation without indicating its official full name, including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label") on 20 December 2016 at Lenin District Magistrate's Court No.4.

Judge Aleksandr Badeyev imposed a fine of 30,000 Roubles, and ruled that the materials in question should be confiscated and destroyed. These included Russian and English Bibles, copies of the Gospels, and hymn books and music.

The court decision attracted considerable media interest and disapproval from many in Russia, including Hegumena Kseniya Chernega, head of the Moscow Patriarchate's Legal Department. She called it "great and harmful excess" and pointed out that the Administrative Code only allows the destruction of confiscated literature which is deemed extremist, pornographic, and narcotics-related. "The court went beyond its powers by ordering the destruction of confiscated objects", lawyer Mikhail Frolov commented to Vedomosti newspaper on 28 December 2016, "because after confiscation their fate is decided not by the court, but by the Russian Federal Property Fund".

Lenin District Prosecutor's Office itself asked for the destruction order to be overturned. Judge Irina Novozhilova of Lenin District Court lifted the order on 30 December 2016, deeming it outside the competence of a Magistrate's Court. But she decided that the books and magazines should remain confiscated.

Police to appeal after St Petersburg yoga lecturer acquitted

Police are appealing against the acquittal of Hare Krishna devotee and yoga teacher Dmitry Ugai, who was found not guilty on 18 January 2017 of carrying out unlawful "missionary activity" in the form of a lecture about yoga. The appeal is "weak and toothless", Hare Krishna lawyer Frolov commented to Forum 18 on 24 February.

On 22 October 2016, police "inspecting" the "Vedalife" cultural festival in St Petersburg interrupted Ugai's public talk on the ethical and spiritual bases of yoga. "At first, they wanted to take me away without a coat, and acted roughly and rudely, obviously trying to intimidate", Ugai wrote in his Facebook page account of the incident published on 12 January 2017. The police "silently ignored" repeated requests from a lawyer friend of Ugai's to see their authorisation and be told what Ugai was accused of, with only one officer finally showing his ID.

At Central District Police Station No 76 officers asked Ugai to sign a blank sheet of paper for them to complete later. Ugai states they said: "â€"Sign it, and go home quietly - if not, we'll put you in jail for two days. We have the right'. The police threatened me with court, arguing that in any case I would be found guilty".

Ugai also that he was "asked what my religious beliefs were, what my attitude was to the Orthodox Church, if I had a spiritual name, whether I lived in a house or at a temple".

Central District Magistrate's Court No. 211 accepted the case based on a report of the alleged offence made several days before the lecture, and on witness statements from two women who apparently had not attended the event. The Magistrate's Court was not answering their phones on 1 March, so Forum 18 could not ask them about the case.

Because of the level of public interest in the case, the trial was held at Smolny District Court, where Judge Darya Ten agreed that Ugai had committed no offence. The District Court registered the police appeal against her decision on 20 February, and the hearing is due on 13 March.

In his 12 January outline of the case, Ugai describes it as "the height of absurdity..By [the police's] logic, any lecture on Indian philosophy in any university must be recognised as missionary activity. After all, I was only talking about the basics of yoga! ..The level of delusion is clearly off the scale".

Forum 18 has been unable to ask the ask the police why they based charges on an "expert report" compiled before the alleged offence and so which could not have based on witnesses. As soon as Forum 18 mentioned Ugai's name when calling Police Station No 76 on 1 March, the police put the phone down.

Hare Krishna prosecutions in Tver

On 10 January 2017 at Tver's Proletarian District Magistrate's Court No. 5, Hare Krishna devotee Andrei Puchkov was found guilty under Administrative Code Article 5.26, Part 4 ("Russians conducting missionary activity"), and fined 5,000 Roubles for organising a concert of Vedic music and chanting at an entertainment centre. Prosecutors based their charges against him on an "expert report" produced three days before the concert actually took place and which was based solely on social media posts. He has been taken to court three times in relation to Hare Krishna events he has organised, after law enforcement investigations decided that "all Krishnaite events", regardless of what they are, are to be considered to be "missionary acts" (see F18News 20 December 2016 <http://forum18.org/archive.php?article_id=2242>).

Puchkov is still on trial under Administrative Code Article 20.2, Part 1 ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket"). This time he is being tried for violating the "established order" of a public event by carrying out alleged "missionary activity" rather than the "festival of Indian culture" about which he had notified the local authorities. The period of proceedings against him for this alleged offence were extended by Central District Court on 23 December 2016, and hearings have since taken place on 13 January, 2 February, and 22 February 2017.

Spokespersons for both Central District Prosecutor's Office who brought the charges, as well as Magistrate's Court No. 5, refused to answer questions about the case when Forum 18 called them on 1 March.

Puchkov will soon submit appeals in both his Administrative Code Article 5.26, Part 4 ("Russians conducting missionary activity") cases, his lawyer Frolov told Forum 18 on 24 February.

Oryol Baptist preacher

The first known Supreme Court appeal against a conviction under the July 2016 changes to the Religion Law and Administrative Code was unsuccessful on 20 January 2017.

Independent Baptist preacher Donald Ossewaarde was fined 40,000 Roubles in August 2016 for holding meetings for worship in his home in Oryol, and allegedly advertising them on the notice boards of nearby blocks of flats (see F18News 26 August 2016 <http://www.forum18.org/archive.php?article_id=2211>). His multiple subsequent appeals have failed to have the ruling overturned.

The Supreme Court's 20 January 2017 decision, seen by Forum 18, offers no fresh evaluation of the case. It simply repeats the lower courts' conclusion that Ossewaarde had been acting "on behalf of a religious group which is not registered in the manner prescribed by law", and had used the bulletin boards to distribute "information about [his] beliefs among people who are not participants (members, followers) of the religious association".

On 29 December 2016, Ossewaarde's lawyers also lodged an appeal with the Constitutional Court, which has not yet given a date for its consideration. This is the first attempt to challenge the July 2016 changes to the Religion Law and Administrative Code as being against the Constitution. Ossewaarde thinks there may be a decision by Spring 2017, he wrote on his website on 14 February. (END)

For more background see Forum 18's surveys of the general state of freedom of religion and belief in Russia at <http://www.forum18.org/Archive.php?article_id=2246>, and of the dramatic decline in this freedom related to Russia's Extremism Law at <http://www.forum18.org/Archive.php?article_id=2215>.

A personal commentary by Alexander Verkhovsky, Director of the SOVA Center for Information and Analysis <<http://www.sova-center.ru>>, about the systemic problems of Russian anti-extremism legislation, 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://nationalgeographic.org/education/mapping/outline-map/?map=Russia>>.

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