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RUSSIA: Will Duma approve "anti-Constitutional" religious literature restrictions?

By Felix Corley, Forum 18 (<https://www.forum18.org>)

Proposed Russian legal amendments that would ban anyone except registered religious organisations from distributing religious literature have received initial backing from the Duma's Committee on Social and Religious Organisations, Forum 18 News Service has learned. The Committee has set 30 April as the deadline for comments on the amendments, which also impose fines for this "offence", and are an initiative of the Duma of Belgorod Region. In May the Committee will review the draft in the light of comments and either pass it to the full Duma or reject it. Some do not think the draft will be adopted, but it has aroused concern from human rights defenders and some religious communities. Similar proposals have regularly been made, but this is the first time to Forum 18's knowledge that such a proposal has had initial Committee backing. It is unclear how much support this proposal has among senior Russian political figures.

Proposed amendments to Russia's 1997 Religion Law that would ban everyone except for registered religious organisations from distributing religious literature - and amend the Administrative Violations Code to fine those distributing religious literature without a registered religious organisation's approval - received the initial backing of the Committee on Social and Religious Organisations of the State Duma in Moscow on 18 March, Forum 18 News Service has learned. The Committee has set 30 April as the deadline for comments on the amendments and aims for their consideration by the State Duma in June 2011.

The proposals – which are available on the website of the State Duma - came at the initiative of the Duma of Belgorod Region. Some do not think the amendments will be adopted, but they have aroused concern from religious freedom defenders and some religious communities.

"Sergei Popov, our Committee chair, did not endorse this draft Law on 18 March, merely approved it for further distribution and consideration," a staff member of the Duma's Committee on Social and Religious Organisations told Forum 18 from Moscow on 24 March. "All is being done according to parliamentary procedure."

Stepan Medvedko, a Committee aide who is handling work on the amendments, told Forum 18 the same day that the next stage is a meeting of the Committee's Expert Council on 4 April to discuss the draft amendments. He said government agencies have until 30 April to provide their comments. In May the Committee will review the draft in the light of comments and either pass it to the full Duma or reject it.

If approved by the State Duma, the amendments would also need to be then approved by parliament's upper house, the Federation Council, and signed by President Dmitry Medvedev before becoming law.

Stressing that he was speaking personally "as an expert", Committee aide Medvedko told Forum 18 the draft will not be adopted "because it restricts the rights of citizens and the formulation is not correct". He pointed out that were it to be adopted, not only would distribution of religious materials by unregistered religious communities be banned and punishable, so would sale of religious books in commercial bookshops and personal gifts of religious books.

Medvedko repeatedly stressed, however, that not he but State Duma deputies will be taking the decision to approve or reject the amendment.

Forum 18 notes that amendments to the Religion Law and other laws to increase restrictions on religious activity are regularly proposed. However, few ever reach the stage of being approved by a State Duma Committee, let alone reach the full chamber. Yet this is the first time to Forum 18's knowledge that such a proposal has had initial Committee backing. It is unclear how strong backing for the proposal is among senior Russian political figures.

"They are so stupid"

One Moscow-based religious freedom advocate is sceptical that the amendments will be adopted. "They are so stupid and clearly

violate the Constitution," the individual who asked not to be identified told Forum 18 on 24 March. "I doubt they will be adopted. How can they be?"

Alexander Verkhovsky, director of the Moscow-based Sova Center, which monitors religious freedom violations, says that the proposal clearly restricts the free distribution of religious literature and violates Russia's Constitution. "It also widens the restrictions on the activity of unregistered religious groups already set out in the Religion Law," he told Forum 18 on 23 March. He added that if adopted, it would also harm commercial bookshops which sell religious literature.

Verkhovsky says the ideas in the proposal have many backers, including the Duma's Committee on Social and Religious Organisations and its Chair Popov. "But the formulation of this draft is such that simple common sense should not allow deputies to adopt it," he told Forum 18. He believes that even if it does pass its first reading in the Duma, it is likely that it will be rejected on the second reading, or be effectively halted by being indefinitely postponed.

Draft Law "clearly violates" Constitution

Some religious communities are highly critical of the proposals. For example, about 80 members of an independent Baptist congregation in Moscow led by Pyotr Peters complained that the draft Law "clearly violates" the Constitution, the Religion Law and the International Covenant on Civil and Political Rights, according to the religious news website Portal-credo.ru. "Every individual has the right to profess and spread their religious convictions, and in no way can this right be conditional on their membership of a [registered] religious organisation."

Mikhail Frolov, the lawyer for the Hare Krishna Centre of Russia, similarly points out that the amendment would restrict individuals' rights under Article 28 of the Constitution not only to hold religious beliefs but to spread them. "It seems to me that the authors of this draft are following a very concrete aim: to limit the spreading of religious beliefs, which is usually done through literature and recordings, to religious organisations only," he told Forum 18 from Moscow on 24 March. "Religious organisations are much easier to control and restrict."

Frolov points out that local religion laws in different regions of Russia already impose "arbitrary extra demands" on people spreading their faith.

Aleksandr Filin, a lawyer who has often defended Jehovah's Witnesses, told Forum 18 that his personal view is that Russian law – including Article 28 of the Constitution - and the country's international human rights commitments guarantee the right to spread religious views, including through the use of literature and other materials.

"The rights set out in Article 28 of the Constitution cannot be restricted, even for example during martial law or other emergencies", Filin stressed to Forum 18 on 24 March. "I see the aim in this – and similar earlier proposals – is to link individuals closely to registered religious organisations. Any individual's activity – whether preaching, distributing literature or giving education – would have to be done in the name of the religious organisation, which would allow the authorities to exercise control. This would also allow bans on their activity, liquidation or other legal punishments."

Other legislative proposals

Similar proposals to those of Belgorod Region's Duma have regularly been made, such as a currently proposed amendment to Article 5 of the Religion Law. This would require religious communities to have the written permission of both parents before a child under the age of 18 can take part in religious activity, and came from the parliament of the North Caucasus republic of Kabardino-Balkaria. It reached the State Duma on 22 January, its website notes. The Committee on Social and Religious Organisations initially approved the proposal on 8 February and set the deadline for comments of 1 April. This proposal too is due to be discussed by the Expert Council on 4 April.

Article 104 of Russia's Constitution names Regional Dumas as one of the types of state bodies able to initiate new federal legislation.

In 2009, proposed Justice Ministry amendments to the 1997 Religion Law and the Administrative Violations Code proposed draconian controls on religious activity. However, they were removed from the Ministry's website within a month of being proposed after protests from religious communities (see F18News 23 November 2009 http://www.forum18.org/Archive.php?article_id=1378).

Increased controls

The proposed new restrictions on literature distribution follow increased controls on religious activity, focussing on restricting the free publication and distribution of religious literature. Citing the need to crack down on alleged "extremism", a growing number of religious publications by Jehovah's Witnesses and Muslims (especially works by the Muslim theologian Said Nursi) have been banned by local courts. In 2007 the Federal List of Extremist Materials was created to centralise records of works that are banned. Those caught distributing works on the list face heavy penalties (see F18News 28 April 2009).

http://www.forum18.org/Archive.php?article_id=1288).

Facing possible imprisonment for alleged distribution of works on the Federal List is Jehovah's Witness Aleksandr Kalistratov, who insists he has done nothing wrong. He went on trial in Gorno-Altai in October 2010 (see F18News 11 February 2011 http://www.forum18.org/Archive.php?article_id=1539). A verdict in the long-running trial is due on 14 April, Jehovah's Witnesses told Forum 18.

Belgorod's proposed restrictions

The proposed amendments to the Federal Religion Law and Administrative Violations Code would add one clause to Article 17 of the Religion Law: "The distribution of religious literature, printed, audio and video materials and other objects of religious designation can be carried out only by those people who are participants in religious organisations or by other persons authorised by religious organisations."

"Religious organisations" are in Russian law the higher-level registered religious communities, meaning that if adopted, rights to distribute religious materials would no longer extend to "groups", who are unregistered.

The amendments would also add a new point to the Administrative Violations Code, Article 5.26 Part 3: "The distribution of religious literature, printed, audio and video materials and other objects of religious designation by people who are not participants in religious organisations or by persons not authorised by religious organisations attracts the imposition of an administrative fine on citizens of between 500 and 1,000 Roubles."

The wording of the amendments does not make clear if specific authorisation would be needed for participants of a religious organisation, from the organisation itself, or whether such authorisation is needed only by those who are not participants - such as commercial entities. The 1997 Religion Law does not define the term "participants".

Why?

On 24 February, deputies of Belgorod Regional Duma voted unanimously to submit these proposed amendments to the State Duma in Moscow for nationwide adoption, the Region Duma website noted. The Regional Duma assigned to its First Deputy Chair Aleksandr Sklyarov the responsibility to liaise with the State Duma in Moscow over the amendments. The Chair of the Regional Duma, Ivan Kulabukhov, urged that the amendments be adopted.

In its three-page note explaining why it believes the amendment is "necessary", the Regional Duma claimed that the number of religious communities "actively propagandising their religious views" – including through the use of publications - has grown. It claims, wrongly, that the 1997 Religion Law gives "only" registered religious organisations the right to distribute such materials. In fact, the Religion Law contains no restrictions on distributing religious publications.

Belgorod's note claims that cases occur "everywhere" where people not authorised by religious organisations distribute such literature. It accuses many of them of working "not in good conscience" by for example claiming the "superiority" of one faith over others. It claimed that some people "deliberately distort the bases of the faith they are spreading, leading citizens into error".

Regional Duma Chair Kulabukhov sent the proposed amendments on 3 March to the State Duma in Moscow, which registered them on 4 March, documentation on the Regional and State Duma websites reveal.

Neither Kulabukhov nor Sklyarov were available when Forum 18 tried to reach them on 24 March.

Belgorod's track record of religious restrictions

Verkhovsky of the Sova Center is not surprised that the initiative came from deputies of the southern Russian region of Belgorod, which borders Ukraine. "The Belgorod authorities are the constant source of initiatives undermining the constitutional principle of the secularity of the Russian state," he told Forum 18.

Belgorod Region has long had more restrictive laws governing religious activity than federal laws. Its restrictive 2001 Law on Missionary Activity encouraged several other regions to produce their own anti-missionary laws (see F18News 12 July 2004 http://www.forum18.org/Archive.php?article_id=360).

In July 2002 the regional Administrative Violations Code introduced Article 6.8 to punish "harassment with the aim of imposing religious convictions". Fines under this Article were initially small, but were sharply increased in 2007 and 2009 (when the use of "printed publications of missionary content" was added). Also introduced in July 2002 was Article 5.5 (later renumbered 5.1.12), "violation of the procedure for carrying out missionary activity". In 2010, Jehovah's Witness Sergei Ishchenko was fined 1,000 Roubles under Article 6.8 and a further 500 Roubles under Article 5.1.12 for not having missionary accreditation (see F18News 4 August 2010 http://www.forum18.org/Archive.php?article_id=1475).

Imposition of the controversial Foundations of Orthodox Culture course in state schools has gone furthest in Belgorod Region, where it was introduced as a compulsory subject for all pupils in 2006 (see Forum 18's Russia religious freedom survey at http://www.forum18.org/Archive.php?article_id=1196).

Verkhovsky of the Sova Center told Forum 18 that if the proposed amendments fail in the State Duma, "this should be a signal to the Prosecutor's Office" to check the legality of Belgorod Region's own Missionary Law. (END)

For more background, see Forum 18's Russia religious freedom survey at http://www.forum18.org/Archive.php?article_id=1196.

Analysis of the background to Russian policy on "religious extremism" is available in two articles: - 'How the battle with "religious extremism" began' (F18News 27 April 2009 http://www.forum18.org/Archive.php?article_id=1287 - and - 'The battle with "religious extremism" - a return to past methods?' (F18News 28 April 2009 http://www.forum18.org/Archive.php?article_id=1288).

A personal commentary by Irina Budkina, Editor of the <http://www.samstar.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.

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.

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://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=europe&Rootmap=russi>.

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