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RUSSIA: Prisoner of conscience freed but not exonerated

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

Seven months after being imprisoned in the Russian city of Orenburg, Muslim prisoner of conscience Asylzhan Kelmukhambetov was freed on 19 January at the end of his second appeal against his 18-month prison term, his lawyer Rauila Rogacheva and family members told Forum 18 News Service. A reader of the works of the late Turkish theologian Said Nursi, Kelmukhambetov had been imprisoned on "extremism"-related charges which he rejected. The Regional Court changed his punishment from imprisonment into a fine, which he is not required to pay due to changes in the Criminal Code. Rogacheva told Forum 18 that "I don't agree with the verdict as Asylzhan has not been exonerated." She said she will continue to challenge Kelmukhambetov's conviction when she gets the written verdict, which generally takes a week to issue. Elsewhere, cases continue on "extremism"-related criminal charges against other Muslims who read Nursi's works and Jehovah's Witnesses, who are also subject to raids on their meetings by officials. However, a magistrate in Udmurtia has upheld the rights of a local Jehovah's Witness community to meet for worship without notifying the authorities first.

Seven months after being imprisoned, Asylzhan Kelmukhambetov was freed on 19 January at the end of his second appeal against his 18-month prison term, his lawyer Rauila Rogacheva and family members told Forum 18 News Service from Orenburg. However, Rogacheva complains her client has not been exonerated. A Muslim who reads the works of the late Turkish theologian Said Nursi, Kelmukhambetov had been imprisoned on "extremism"-related charges which he rejected. The Regional Court has changed his punishment from imprisonment into a fine, which he is not required to pay. Meanwhile, elsewhere in Russia cases continue on "extremism"-related criminal charges against other Muslims who read Nursi's works and Jehovah's Witnesses.

On 19 January, three judges led by Judge Svetlana Chernova at Orenburg Regional Court rejected Kelmukhambetov's appeal to have his conviction overturned. However, they reduced his punishment to a fine of 100,000 Roubles (18,918 Norwegian Kroner, 2,470 Euros or 3,190 US Dollars), Rogacheva told Forum 18. She said her client did not have to pay the fine because of recent amendments to the Criminal Code.

"Of course I am happy that my client has been freed," Rogacheva told Forum 18, "but I don't agree with the verdict as Asylzhan has not been exonerated." She said she will continue to challenge Kelmukhambetov's conviction when she gets the written verdict, which generally takes a week to issue. She plans to lodge a supervisory appeal to the Presidium of Orenburg Regional Court.

Kelmukhambetov was not present in court on 19 January, but participated in the proceedings by video link from Orenburg's Investigation Prison No. 1, where he has been held since his imprisonment. He was freed at 8 pm and returned to his wife and two children at his Orenburg home.

"He was a lot thinner after all the months in prison," one of his relatives told Forum 18 from the city on 20 January. "He spent much of his imprisonment in the Investigation Prison in the hospital because of his diabetes." The relative added that prison warders had failed to respond to his request to be served halal food in line with his religious diet.

Kelmukhambetov's lawyer, Rogacheva, had earlier complained to Forum 18 about the state of his health in the prison hospital. She complained particularly that although her client does not smoke, he was being held with others "who smoke constantly" and that he was denied halal food (see F18News 12 January 2012 http://www.forum18.org/Archive.php?article_id=1654).

Jailed for reading books with students in a private home

The 42 year-old prisoner of conscience became the first Muslim reader of Nursi's works in Russia to receive a criminal sentence of imprisonment, having been accused of running a "home medrassah [Islamic college]" for 15 local students in a private home between 2008 and 2009 (see F18News 30 June 2011 http://www.forum18.org/Archive.php?article_id=1588).

Kelmukhambetov was sentenced in June 2011 to 18 months' imprisonment, after a trial lasting nearly a year, under Criminal Code Article 282.2, Part 1 ("Organisation of the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity"). His first appeal to Orenburg's Lenin District Court was rejected later in 2011.

The case followed raids on students' homes in March 2009 conducted by officers of the regional FSB security service and Police Organised Crime officers. The students reported at the time that Nursi brochures and a leaflet called "How to Join the Nurdzhular Organisation" appeared "miraculously" in their flats during the raid (see F18News 16 July 2009 http://www.forum18.org/Archive.php?article_id=1328).

The FSB security service told Forum 18 that "this man attracted young people to read books and he taught from these books". Asked why reading and studying religious books was a crime, an FSB spokesperson insisted this was because many of Nursi's works had been ruled extremist by the courts and placed on the Federal List of Extremist Materials (see F18News 30 June 2011 http://www.forum18.org/Archive.php?article_id=1588).

The Federal List

Numerous lower court decisions have found – on highly questionable grounds – that Russian translations of the Islamic theological works of Said Nursi and Jehovah's Witness publications are "extremist" and so placed them on the Justice Ministry's Federal List of Extremist Materials (see "The battle with "religious extremism" - a return to past methods?" F18News 28 April 2009 http://www.forum18.org/Archive.php?article_id=1288). Once materials are on the Federal List, it is then illegal to distribute or store them for distribution.

Such lower court decisions are of great help to officials seeking to prosecute Jehovah's Witnesses and Muslim readers of Nursi's works for exercising their freedom of religion or belief. A total of 68 Jehovah's Witness publications, as well as 15 Russian translations of Nursi's works, have already been ruled "extremist". However, a recent attempt to find a key Hare Krishna book, the Bhagavad-Gita As It Is, "extremist" failed in court in Tomsk (see F18News 5 January 2012 http://www.forum18.org/Archive.php?article_id=1652).

"Incitement" trials continue

Meanwhile, the criminal trial of Jehovah's Witness Maksim Kalinin under Judge Sergei Makarov at Yoshkar-Ola City Court in the Republic of Mari-El has now been set to begin on 25 January, the court told Forum 18 on 20 January.

Like many Jehovah's Witnesses, Kalinin is being prosecuted under Criminal Code Article 282, Part 1 ("Actions directed at the incitement of hatred [nenavist] or enmity [vrazhda], as well as the humiliation of an individual or group of persons on the basis of .. attitude to religion, .. conducted publicly or through the media"). The case against Kalinin followed August 2010 raids on private homes and a Jehovah's Witness worship service in Yoshkar-Ola at which he was present. Evidence rests on FSB security service surveillance "using a hidden camera in his home without his knowledge" (see F18News 10 January 2012 http://www.forum18.org/Archive.php?article_id=1653).

Also due to resume on 23 January is the criminal trial of a Jehovah's Witness married couple, Andrei and Lyutsiya Raitin. They face the same charges at their trial in the Siberian city of Chita (see F18News 10 January 2012 http://www.forum18.org/Archive.php?article_id=1653).

However, Prosecutors in Akhtubinsk in the southern Astrakhan Region appear to be having further difficulties preparing the case under Article 282, Part 1 against local Jehovah's Witness Yelena Grigoryeva. The Investigation Committee has rejected the case prepared by the previous investigator Aleksandr Glushchenko, and handed it to a new investigator Boris Fomenkov, Jehovah's Witnesses told Forum 18 on 20 January. Fomenkov is now the fifth investigator in the case, which was begun in early 2011. It had appeared that it was close to being presented to court (see F18News 10 January 2012 http://www.forum18.org/Archive.php?article_id=1653).

Investigator Fomenkov refused to discuss anything with Forum 18 on 20 January.

Raids by Police

Meanwhile, officials continue to raid Jehovah's Witness meetings and private homes across Russia. Two police officers in the village of Tyazhinsky in Kemerovo Region visited the homes of two female Jehovah's Witnesses on 17 January, fellow Jehovah's Witnesses told Forum 18. Having taken their identity documents, the officers forced them to go to the police station, where they were photographed and subjected to personal questions. The officers threatened to search their homes and drive them out of the village.

Jehovah's Witnesses in Cheboksary, the capital of the Chuvash Republic, have faced what they believe to be a second recent attempt to conduct surveillance on their religious meetings. On 15 January, they noticed that a man who had recently begun to attend meetings was filming with a concealed camera, Jehovah's Witnesses told Forum 18. A different man who had come along earlier pretending to be interested in learning more about the Bible turned out to be a police employee, they added.

Jehovah's Witness meetings in Cheboksary and in other towns in Chuvashia were subjected to coordinated raids by the ordinary

police, officers from the regional police Anti-Extremism Centre, and OMON special police in September 2011 (see F18News 24 October 2011 http://www.forum18.org/Archive.php?article_id=1629).

On 15 December 2011, the Jehovah's Witness weekly service in a rented hall in Naberezhnyye Chelny in Tatarstan was raided by five men in civilian clothes. The men claimed they were there to conduct an identity check. One of them – Jehovah's Witnesses told Forum 18 they identified him later as Police Captain Ilmur Salakhutdinov – went onto the stage and demanded to see the identity document of the leader of the service. When those present complained that the men were interrupting their service, the men summoned police reinforcements and continued to check the identity documents and copy down the identities of those present.

The police then ordered three Jehovah's Witnesses to accompany them to the police station. However, they refused as the police presented no written order or reason. "In the hearing of everyone, the police called them 'clowns' and forcibly put them in a car," Jehovah's Witnesses told Forum 18. At the police station officers photographed and fingerprinted the three men without explaining why they were doing so.

Hidden surveillance, co-ordinated targeting

State agencies, including the FSB security service, have for some years been conducting hidden surveillance of both Jehovah's Witnesses and Muslim readers of Nursi's works (see eg. F18News 27 July 2010 http://www.forum18.org/Archive.php?article_id=1470).

Internal government documents have revealed that moves against Jehovah's Witnesses and Muslim readers of Nursi's works are co-ordinated at a high state level. Both Jehovah's Witnesses and Nursi readers have been targeted in ways that suggest that their believers and communities are closely watched by the police and FSB security service - both within and outside their communities. One Russian Orthodox Church diocese has been involved in this, and private employers and public libraries have also been ordered to co-operate in the campaign.(see F18News 12 August 2010 http://www.forum18.org/Archive.php?article_id=1478).

Raid by prosecutors

Similarly, Prosecutor's Office officials in Ufa raided the weekly Jehovah's Witness meeting on 2 December 2011, held in a rented hall at a house of culture. Two men in civilian clothes, one of whom identified himself as Aleksei Petrov, senior aide to the prosecutor of the city's October District. Citing anonymous reports of a meeting in the building, he summoned the leader of the Jehovah's Witness service. One Jehovah's Witness Ildar Shaimukhametov asked the officials to wait until the end of the service, but Petrov indicated this was not possible. "We're at work," he told them.

Shaimukhametov had to miss the service as he was forced to answer the questions put to him, Jehovah's Witnesses complained. Questions included what literature the Jehovah's Witnesses were studying during the meeting, how many people were present and whether the authorities had been informed about the meeting. The officials wrote down Shaimukhametov's personal details, including his address and telephone number. "The believers were surprised at the visit and the questions posed, as the Law on Meetings does not cover such events," Jehovah's Witnesses told Forum 18.

On 20 January Forum 18 reached a man at the October District Prosecutor's Office who initially identified himself as Petrov. However, when Forum 18 began to ask about the December 2011 raid, the man said that Petrov was out of the office and would be back later. When Forum 18 called back, the phone line had been switched to a fax machine.

Right to meet without notification upheld

A magistrate in Udmurtia has upheld the rights of a local Jehovah's Witness community to meet for worship without notifying the authorities first. On 24 November 2011, Nadezhda Chesnokova, the Magistrate at Judicial Unit No. 4 in the town of Glazov rejected attempts to prosecute community leader Dmitry Semenov under Article 20.2, Part 1 of the Code of Administrative Violations, according to the verdict seen by Forum 18.

Article 20.2 punishes "violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket". Fines under this Article were increased 100-fold in 2007.

Article 20.2, Part 1, which punishes organising such an unapproved meeting, carries a fine of 1,000 to 2,000 Roubles. (1,000 Roubles, nearly one week's official minimum wage, is equivalent to 189 Norwegian Kroner, 25 Euros, or 32 US Dollars.)

Article 20.2, Part 2, which punishes carrying out such an unapproved meeting, carries a fine on organisers of 1,000 to 2,000 Roubles, and on participants of 500 to 1,000 Roubles.

The case against Semenov was instigated by the local FSB security service and the Prosecutor's Office, Jehovah's Witnesses told Forum 18. However, Magistrate Chesnokova ruled that "the event held was a form of religious worship by a religious organisation conducted in the form of a meeting which does not demand notifying the local authority".

An increasing number of people are being fined or threatened with fines under Article 20.2 for organising or conducting meetings for religious worship which has not been specifically approved by the local authorities. Such fines were imposed in 2011 on, among others, Baptist, Seventh-day Adventist and Jehovah's Witness leaders (see F18News 28 October 2011 http://www.forum18.org/Archive.php?article_id=1631).

Police have often raided and searched places of worship - particularly of Jehovah's Witnesses - but not when services and meetings are underway. Raids on religious communities as they meet for worship are rarer, though these have increased in recent years. In February 2010 armed police with dogs raided a Lutheran Sunday morning service in their church in Kaluga. The Lutheran pastor preaching at that service, drawing on the experience of being raided, later wrote an article with advice on "How to behave during raids" (see F18News 23 March 2010 http://www.forum18.org/Archive.php?article_id=1425)

Some lawyers – such as Irina Zagrebina of the Moscow-based Guild of Experts on Religion and Law – argue that punishing meetings for religious worship in private homes or in rented accommodation is a misuse of the Article. She points to Russia's Constitution, which guarantees in Article 28 the right to meet with others to profess a religion, as well as provisions of the 1997 Religion Law (see F18News 28 October 2011 http://www.forum18.org/Archive.php?article_id=1631). (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.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.

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://education.nationalgeographic.com/education/mapping/outline-map/?map=Russia>.

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