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RUSSIA: Religious freedom survey, January 2017

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Russian laws restricting freedom of religion and belief have increased, as have prosecutions of people exercising this freedom. Given intensifying official hostility to independent public activities without state permission, freedom of religion and belief and interlinked human rights may in future be increasingly restricted.

Since Vladimir Putin's re-election as President in May 2012, the Russian federal government has increasingly restricted the possibility of exercising freedom of religion and belief. This is in line with the increasing restrictions on human rights generally after public protests against election fraud in the December 2011 parliamentary election and March 2012 presidential election.

State officials have displayed rising hostility towards independent public activity of all kinds. Since 2012, the authorities have labelled many Russian civil society and human rights groups "foreign agents". State hostility to independent civil society and government assertions of alleged external threats have increased since Russia's March 2014 annexation of Crimea and September 2015 intervention in Syria.

The most serious type of freedom of religion and belief violation is the use of "counter-extremism" measures against people and communities exercising this freedom. These human rights violations are so extensive that they are analysed separately in Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215.

(Russian law is also in force in Crimea, which Russia annexed in March 2014 - see Forum 18's March 2015 Crimea religious freedom survey http://www.forum18.org/archive.php?article_id=2051.)

Background

Many Russians describe themselves as Orthodox, but the numbers attending services are very much smaller as noted by Geraldine Fagan in her 2013 book *Believing in Russia*. There are also centuries-old communities of Buddhists, non-Orthodox Christians, Jews, indigenous pagans and Muslims in the country, as well as atheists and followers of many other beliefs, including Hare Krishna devotees (see http://www.forum18.org/archive.php?article_id=1764).

People and communities exercising freedom of religion and belief may be affected by wide-ranging laws and other measures not primarily aimed at this freedom – for example, laws aimed at political protesters or non-governmental organisations (NGOs). Other measures directly target the exercise of freedom of religion and belief - for example, changes in the 1997 Religion Law. These include a July 2016 amendment restricting ill-defined "missionary activity", and the July 2015 abolition of the possibility of unregistered religious groups operating without informing the state (see below).

While such federal legislation applies nationwide, it is implemented by local police, prosecutors, and courts in a sometimes inconsistent manner, leading to variation in the freedom of religion and belief situation across Russia.

Article 14 of the Constitution states that: "The Russian Federation is a secular state. No religion may be established as a state or obligatory one. Religious associations shall be separated from the state and shall be equal before the law". This is not implemented. The Religion Law's preamble notes that respect should be accorded firstly to Russian Orthodoxy, secondly to Islam, Judaism, Buddhism and Christianity. The Law does not use the phrase "traditional religions", yet some communities within Orthodoxy, Islam, Judaism, Buddhism and [non-Orthodox] Christianity are said by officials to be "traditional religions". This phrase began to be used in 1995 to advocate for discrimination in favour of certain groups within some faiths and discrimination against other groups - for example, for privileges for the Moscow Patriarchate Orthodox but not for the historically more "traditional" Old Believer Orthodox.

Such discrimination takes place, for instance, in education, with the introduction of specific school courses; the armed forces, where chaplains may be appointed only from the Moscow Patriarchate and state-favoured Muslim, Jewish and Buddhist organisations; the prison service, which has signed both federal and local-level cooperation agreements with the state-favoured organisations; and new "extremism" legislation. A 2015 amendment to the Extremism Law purports to protect the sacred texts of alleged "traditional religions" from being ruled "extremist" by courts (see Forum 18's "Extremism" Russia religious freedom survey

July 2015 Religion Law changes

In July 2015, President Putin signed amendments to the Religion Law which require all religious communities without legal status to notify the authorities of their existence and provide the names and addresses of all their members, as well as addresses where any meetings take place. Previously, no such requirement existed. The change breaks Russia's legally-binding obligations under international human rights law, which do not allow the exercise of freedom of religion and belief to be made dependent on state permission.

The demand for personal data is "against our Constitution for sure", Aleksandr Verkhovsky of the SOVA Center for Information and Analysis told Forum 18. Local communities of groups such as Baptists and Seventh-day Adventists frequently operate unregistered, and such communities are concerned about the changes' impact. "The very notion of a religious group has vanished", Adventist spokesperson Vasili Nichik observed on his blog in July 2015.

On 2 December 2016, ruling United Russia party Duma deputy Ramzil Ishsarin and the State Assembly of Bashkortostan introduced a draft law imposing fines for failing to notify the authorities of a group's existence or for giving false information. Proposed fines are 1,000 to 2,500 Roubles for a religious group's leader, and 20,000 to 30,000 Roubles for a group affiliated with a centralised religious organisation (such as an unregistered congregation of Jehovah's Witnesses).

After a 2007 European Court of Human Rights ruling, the amendments also abolished the 15-year waiting period before a religious community could be legally registered. Legal commentators have broadly welcomed this move as simplifying religious life on a local level, making it easier to register and getting rid of some of the associated bureaucracy.

For the first 10 years after registration, however, newly-registered organisations not affiliated with centralised religious organisations cannot create engage in religious education, conduct ceremonies in hospitals, prisons, old people's and children's homes, become part of a foreign religious organisation, or invite foreigners. The Human Rights Ombudsperson's Office has not responded to Forum 18's questions on whether these changes violate Russia's Constitution and the European Convention on Human Rights. Their overall intent appears to be to encourage religious communities to join centralised national-level religious organisations.

In the preamble, Ishsarin claims the proposal targets the "pseudo-religiosity" of some religious groups. He claims they exist for "illegal personal enrichment", "the spread of religious intolerance", and "the use of psychological techniques .. which are harmful to the mental and physical health of citizens, including minors .. and to family and other human values". He commented to "Kommersant" newspaper on 4 December 2016 that the proposal's main target is what he termed "non-traditional Islam".

The draft law was sent for review to the Duma Committee for Public Associations and Religious Organisations (of which Ishsarin himself became a member in October 2016) on 6 December 2016. The Committee has recommended that it be considered by the Duma in a first reading in April 2017.

In December 2016, the pastor of an unregistered Council of Churches Baptist congregation in Zabaikalsk Region became the first known religious leader charged for not notifying the authorities of a group's activities. On 6 December 2016 the regional Prosecutor's Office stated that, after an inspection of "compliance with the legislation on extremist activity, freedom of conscience, and freedom of religion and belief and religious associations", Chernyshevsk District prosecutors were charging the pastor under Administrative Code Article 19.7 ("Failure or late provision of information to a state body"). This carries a fine of 100 to 300 Roubles for private individuals, and 300 to 500 Roubles for people in an official capacity.

Link to "missionary activity" amendments

Failure to notify the authorities of a group's existence may now lead to accusations under the July 2016 "missionary activity" amendments, which severely restrict the sharing of beliefs (see below). In at least three cases, individuals have been fined for so-called "missionary activity" when they had not notified local authorities of a religious group's existence: a Ghanaian Pentecostal leader in Tver in August 2016; an American Baptist pastor in Oryol in August 2016; and a New Generation Protestant pastor in Kemerovo in October 2016.

On 1 December 2016, Pavlovsk District Prosecutor's Office in Voronezh Region "temporarily suspended" an unregistered Baptist congregation which is part of the registered Baptist Union, but had not notified the authorities of its existence. Prosecutors alleged that residents had complained that members were trying to "impose" their beliefs on others. "Failure to take measures to inform the body authorised to make decisions on the state registration of religious organisations is evidence of the illegal activities of this group of Baptists in the district and the impossibility of their carrying out their activities", prosecutors stated.

Prosecutors made no direct mention of "missionary activity", but it appears that the group was suspended because prosecutors thought any sharing of beliefs is illegal without registration or notification and the carrying of formal written authorisation from a

registered group (see below).

"Foreign funding" to be reported

In November 2015, the Religion Law was amended to require religious organisations which receive foreign funding to report this to the Justice Ministry. Reports must detail organisations' activities, leadership, and plans for the foreign funds, and must be published annually online or in the media. The Justice Ministry and its subsidiaries can also inspect religious organisations' financial activities without prior notice if they receive foreign funding, or if there are suspicions of "extremism" or any other legal violation.

This amendment is aimed at imposing "more control over Muslim and other 'suspicious' organisations", Verkhovsky of the SOVA Center commented to Forum 18. Some religious leaders raised concerns that the "foreign funding" requirement would have the same effect as the "Foreign Agent" Law. The Justice Ministry admitted to the "Moscow Times" on 29 April 2015 that the amendment was modelled on that law, but insisted that "it does not make the same provisions".

"Insulting the religious feelings of believers"

In July 2013, Criminal Code Article 148 came into force, penalising "public actions expressing obvious disrespect for society and committed with the intention of insulting the religious feelings of believers" and "illegal obstruction" of religious activities.

"Insulting religious feelings" had previously been punished by the rarely used Administrative Code Article 5.26, Part 2. When the offence was criminalised in July 2013, this article was amended to cover "Deliberate public desecration" of religious literature, objects, or emblems. The associated fine increased from 500-1,000 Roubles to 30,000 to 50,000 Roubles.

These amendments followed the August 2012 imprisonment of three women from feminist punk-rock collective Pussy Riot for "hooliganism motivated by religious hatred", for performing their song "Mother of God, drive Putin away!" in the Moscow Patriarchate Cathedral of Christ the Saviour in Moscow (see F18News 15 October 2012 http://www.forum18.org/archive.php?article_id=1754).

Article 148, Part 1, carries a fine of up to 300,000 Roubles (or up to two years' salary), or a sentence of 240 hours' unpaid community service (obyazatel'naya rabota), one year's assigned work (prinuditel'naya rabota) during which 5 to 20 per cent of wages are deducted by the authorities, or one year's imprisonment. Higher penalties apply under Part 2 (the same offence committed in a place of worship), Part 3 ("Illegal obstruction of the activities of religious organisations or the conduct of worship or other religious rites and ceremonies"), and Part 4 (the same offence as Part 3 when committed by a person using their official position, or accompanied by violence or the threat of violence).

Most Article 148 prosecutions and attempted prosecutions fall into one of three categories: vandalism of a religious structure (for example, of a Buddha statue in Kalmykia in July 2016); online comments or the reposting of "offensive" images; and artistic productions opposed by Moscow Patriarchate activists. In 2015, Novosibirsk Opera and Ballet Theatre's staging of Wagner's Tannhaeuser led to a charge of the alleged "public desecration of the image of Jesus Christ". The charge was later dropped and an Administrative Code prosecution brought. This was dismissed, but the theatre director was sacked.

Article 148 is not, however, normally used to prosecute reasonable criticism of the tenets or practices of beliefs, which is an integral part of freedom of religion and belief. If such prosecutions are brought, police and prosecutors are more likely to use the "extremism"-related Criminal Code articles (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215).

Prosecutions under Article 5.26, Part 2, for "deliberate public desecration" do occasionally take place. In September 2015, for example, a man in Kaluga Region was fined 30,000 Roubles for a social media post "mocking monasticism" and "the institution of the Church".

In 2015, an atheist blogger in Stavropol was charged under Article 148, Part 1, for stating that "there is no God" and calling the Bible "a collection of Jewish fairy tales" on the VKontakte social network. Viktor Krasnov (known on social media as Viktor Kolosov) responded to a comment based on St Paul's first letter to the Corinthians, claiming that "Christ is the head of every man, and the husband is the head of his wife, and God is the head of Christ", saying that this was "rubbish". After 17 hearings, the trial was suspended in June 2016 to allow more "expert analysis" and has not yet resumed.

"Expert analysis"

"Expert analyses" based on allegedly linguistic, psychological, and sometimes religious-studies grounds can be presented to courts. (Judges in "extremism" cases usually base their decisions on such "expert analyses".) They can be carried out by individuals engaged or employed by the police or the FSB security service. However, courts will often suspend proceedings to allow for repeat examination of the material by court-appointed "experts" – sometimes university academics, sometimes employees of dedicated centres for "expert" testimony. Many of these "experts", including those appointed by courts, may not be experts in the particular

belief whose texts are under scrutiny. They may also have a track record of producing biased opinions on material from groups or people the authorities dislike.

"Undesirable organisations", "foreign agents"

Legal amendments came into force in May 2015 banning foreign or international organisations "presenting a threat to the basic constitutional order of the Russian Federation, its defence capability, or its state security". They do not mention religious organisations and appear to be principally aimed at NGOs. Indeed, the Justice Ministry's list of seven American institutions (as of January 2017) includes no religious organisations. The amendments' vague wording nevertheless makes them applicable to both religious and commercial entities (for example, publishers of religious literature). Moscow's SOVA Center commented that the Law is intended to be a "new lever" against civil society and religious organisations.

This complements the 2012 "Foreign Agents" Law (from which religious organisations are excluded), under which any group receiving foreign funding and engaging in ill-defined "political activity" must register with the Justice Ministry and display the phrase "foreign agent" on all publications. In Russia, this phrase is popularly taken to mean "foreign spy". From 30 December 2016, the "foreign agent" list includes the SOVA Center, which researches racism, xenophobia, freedom of religion and belief, and state "anti-extremism".

Exercising freedom of religion and belief in public

Since 2014, there has been a rise in freedom of religion and belief-related prosecutions under Administrative Code Article 20.2 ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket"). People who share their beliefs in public are particularly vulnerable – what they see as "religious service", such as the offering of literature in the street, police and prosecutors frequently interpret as "pickets".

Jehovah's Witnesses make up the majority of freedom of religion and belief-related Article 20.2 prosecutions, for two apparent reasons. Firstly, until recently they often stood in pairs with literature stands in public places. Police and prosecutors regard this as breaking the Demonstrations Law's provisions on picketing, which can be carried out without notifying the authorities only by a single person. However, March 2016 changes to the Demonstrations Law require notification to the authorities of a one-person picket if it uses "prefabricated collapsible structures" – such as portable tables and stands used by people sharing their beliefs for displaying leaflets, magazines, books, etc.

Secondly and more significantly for the rise in Administrative Code Article 20.2 prosecutions, since 2014 state officials have become significantly more hostile towards Jehovah's Witnesses. This is also seen in a rise in "extremism"-related bans and prosecutions (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215).

Administrative Code Article 20.2 ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket") is linked to the Demonstrations Law, which among other things lists sites where religious and other events are never permitted, including on railways, in border zones, near gas pipelines and outside the President's residence. Article 20.2's eight parts punish a variety of offences, but only Parts 1, 2, and 5 are known by Forum 18 to have been used against people exercising their freedom of religion or belief.

Parts 1 and 5 cover general violations of the Law and complement each other. Part 1 focuses on organisers, Part 5 on other participants. Conviction under these Parts brings a fine of 10,000 to 20,000 Roubles or compulsory labour (community service) for up to 40 hours. Officials of organisations may be fined 15,000 to 30,000 Roubles under Part 1, and organisations themselves may be fined 50,000 to 100,000 Roubles.

Part 2 specifically targets the organisation of events without formally notifying the authorities in advance. For individuals, this carries a fine of 20,000 to 30,000 Roubles, community service of up to 40 hours, or imprisonment for up to 10 days. Officials may be fined 20,000 to 40,000 Roubles, and organisations 70,000 to 100,000 Roubles.

An event organiser must notify the local administration in writing no earlier than 15 days and no later than 10 days before the event. The notification must include the aim and form of the event (picket, meeting, march, etc.), its location or route, its date and timings, an estimated number of participants, details of how the organiser will ensure public order and provide any necessary medical care, and the organiser's personal and contact details.

Fines imposed under Article 20.2 ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket") are substantial when compared with the average monthly wage in Russia (36,200 Roubles in 2016) and particularly the average monthly pension (13,700 Roubles in 2016).

Many of those prosecuted under Article 20.2 are elderly Jehovah's Witnesses, who often cannot afford to pay what may be twice their monthly income. In such cases, other members of the community often contribute towards the fine, a Jehovah's Witness told Forum 18. Judges sometimes acknowledge defendants' difficult financial position by reducing penalties for pensioners and the

unemployed.

Increase in prosecutions from 2014

According to available court records, 2014 saw 35 prosecutions of religious believers or their communities (out of nearly 1,000 prosecutions in total) – three under Article 20.2, Part 1, 27 under Part 2, and five under Part 5. These involved 24 Jehovah's Witnesses (including three local religious organisations), two Baptists, one Protestant, one Buddhist, and seven unidentified Christians (five in one case in Barnaul).

Before appeals, these charges resulted in 17 fines and 17 acquittals. One case was sent back by the judge for technical reasons but was never resubmitted.

In 2015, there were 122 freedom of religion and belief-related prosecutions under Article 20.2 ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket") out of a total of 468 cases (26 per cent of the total). Part 2 had the highest proportion of freedom of religion and belief-related cases, with 73 out of 217 or 34 per cent. Police and prosecutors brought charges against 119 individuals and three communities. Before appeals, these resulted in 80 fines, two jail sentences, one community service term, and two convictions with no punishment because of "the insignificance of the violation". There were 33 acquittals.

Prosecutions in 2015 involved: 83 Jehovah's Witnesses (including two communities), nine Baptists, eight members of the Society for Krishna Consciousness and one Hare Krishna community, six Falun Gong adherents, four members of the Church of Jesus Christ of Latter-day Saints (commonly known as Mormons - all part of the same case and all acquitted), three Muslims, three Protestants, one Buddhist, and four people of unknown belief affiliation.

Of the 122 verdicts in 2015, 78 were challenged in higher courts, including 10 prosecution attempts to appeal against acquittals. Ten fines were overturned as a result, and seven of the challenged acquittals were upheld. Appeal judges also returned six cases to their original courts for re-examination, three after appeals by the defence, three after appeals by the prosecution. These led to three fresh convictions (after initial acquittals) and two eventual acquittals (after initial convictions).

Prosecutions under Article 20.2 in 2015 took place in 38 of Russia's 83 federal subjects (not counting Crimea and Sevastopol). The five regions which saw the highest numbers of cases were: Rostov (15), Primorye (11), Voronezh (8), North Ossetia-Alania (8), and Saratov (7).

October 2014 Religion Law amendments

In October 2014, the Religion Law was amended to expand the list of locations in which meetings for worship are allowed without prior notification to local authorities by organisers. It now includes buildings and land rented by a religious community, as well as those belonging to it.

Despite this, prosecutors still bring cases seeking to punish communities or their leaders for failing to submit notification of an event held in rented property. In 2015, there were six known prosecutions (five for Jehovah's Witness events, one for a Protestant event) which should not have been initiated under the new amendment. All six involved religious services or meetings held in loaned or rented properties and all of the defendants were acquitted on the basis of the amendments.

Article 16 of the Religion Law was also expanded in October 2014 to incorporate a 2012 Constitutional Court judgment, which stated that prior notification is not required when safety measures are not necessary – the main ostensible purpose of the authorities being notified. The ruling followed prosecution – not for safety reasons - of two Jehovah's Witnesses in Belgorod Region for meeting for worship without state approval.

The Religion Law neither explicitly permits nor forbids the public exercise of freedom of religion and belief not consisting of "worship rites or ceremonies" (in Article 16's words), such as distributing religious literature or discussing beliefs in public. This puts the onus on communities and individuals themselves to decide whether they should notify the authorities of their event, and what safety measures, if any, may be required.

Inconsistency and confusion

Despite the December 2012 ruling and the October 2014 amendments, police and prosecutors persist in bringing charges against individuals for publicly exercising freedom of religion and belief, often on a very small scale.

Different judges can also apply the amendments inconsistently. This can result in conviction in one court and acquittal in another for identical "offences". This can occur even within the same case at the same court.

Long and complex cases

Cases under Administrative Code Article 20.2 ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket") place a heavy burden on defendants in terms of time, energy, and money, given their potential for large fines, the likelihood that police or prosecutors will challenge acquittals, and the possibility that appeals will result in re-trials. This applies even if defendants are ultimately exonerated, and can amount to a form of punishment without formal sentence.

Defendants can be caught up in a cycle of appeals and re-trials for many months. E. Rogachyov, a Baptist charged with "picketing" in Rostov, endured eight months of proceedings before losing his final appeal in January 2016. After the city's Proletarian District Court initially acquitted him and two companions in June 2015, the police challenged the ruling on the grounds that the judge had not considered the fact that the "picket" had been held near a school. Rostov Regional Court sent Rogachyov's case back for re-trial and he was found guilty on 7 August 2015. At his second appeal, his case was again returned for re-examination at the lower court, where he was convicted again and fined 5,000 Roubles on 20 November 2015.

"Missionary activity"

In July 2016, despite protests from religious leaders, human rights defenders, and his own Presidential Council on Civil Society Development and Human Rights, President Putin signed amendments to the Religion Law imposing regulations and restrictions on the sharing of religious beliefs in public.

These amendments were part of an "anti-terrorism" package proposed by United Russia deputy Irina Yarovaya and Senator Viktor Ozerov, which had been causing unease in Russia for several months because of its requirement for telecoms companies to store metadata about calls and messages and its criminalisation of failure to report possible terrorist activity. The section regulating so-called "missionary activity" was added in mid-June 2016, just before the second and third readings in the Duma. The amendments exert a chilling effect on even the most informal manifestation of freedom of religion and belief, such as casual conversations about beliefs.

These amendments for the first time define "missionary activity" in the Religion Law: "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".

There is also a list of aims which "missionary activity" 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 – as noted above in relation to Administrative Code Article 20.2 ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket"). 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". Prosecutors have levelled these accusations 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. Other communities may also be affected.

The amendments set out a restricted list of places where beliefs may be shared without hindrance, including religious buildings and cemeteries. They explicitly ban "missionary activity" in residential buildings, "except as provided for by Article 16, Part 2 of [the Religion Law]". As noted above, 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 unclear what this part of the amendment means in practice. For example, worship is supposedly permitted in residential buildings, but the presence of non-believers or followers of other beliefs at meetings (for example, for inter-faith dialogue) may be considered illegal "missionary activity".

In all other public spaces, "missionary activity" on behalf of religious associations may only be performed by:

- a religious organisation's director, governing body members, and clergy;
- other people with written authorisation from a religious association, who must carry with them documents attesting to its registration (if an organisation) or notification to the appropriate authorities (if a group);
- foreign citizens (and stateless persons) only in the regions in which the religious group or organisation they are representing is registered to operate.

The law does not comment explicitly on "missionary activity" conducted by individuals on their own behalf (not that of a registered organisation or group) or on that of communities which have chosen neither to register nor to notify the authorities of their existence,

activities and membership (as is their right under international human rights law). Nevertheless, this has not prevented several prosecutions being brought against individuals acting as private citizens (see below).

If an organisation has been ordered to be liquidated on grounds of "extremism" (as has happened to nine Jehovah's Witness congregations and one Muslim community), individuals may not share their beliefs on its behalf.

Individual Russian citizens who violate any of the amendment's restrictions and requirements are liable for a fine of 5,000 to 50,000 Roubles under the new Article 5.26, Part 4 ("Russians conducting missionary activity") of the Administrative Code. For organisations (legal entities), the fine stands at 100,000 to 1 million Roubles. Unregistered religious groups who must notify the authorities of their existence, activities and membership are not legal entities. Their members would therefore be subject to prosecution as individuals.

Foreigners may be fined 30,000 to 50,000 Roubles under Article 5.26, Part 5 ("Foreigners conducting missionary activity"), with the possibility of expulsion from Russia.

Article 5.26, Part 3, punishes the "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". This incurs a fine of 30,000 to 50,000 Roubles and the confiscation of any literature or other material. It is apparent from the few prosecutions so far that "activities" may cover almost anything a religious organisation may do - the Jehovah's Witness community of Khabarovsk was fined in November 2016 for not displaying its name on its building.

How the police, prosecutors and courts would implement the new restrictions was unclear – whether individuals could share their beliefs on their own behalf (not that of a religious association), what exercise of freedom of religion and belief was now permitted in people's homes, and what exactly "missionary activity" means. Some six months later, confusion remains.

In one early case, Hare Krishna adherent Vadim Sibiryev was charged with undertaking illegal "missionary activity" for distributing religious literature in the street in Cherkessk. He was acquitted on 15 August 2016 because the judge agreed that he had been acting as a private person, not as the representative of a religious association, and not with the aim of involving others in a religious association.

American Baptist Donald Ossewaarde, however, was fined 40,000 Roubles on 14 August 2016 for holding prayer meetings in his home and allegedly advertising them on noticeboards in nearby blocks of flats. The local Justice Ministry confirmed that, like Sibiryev, Ossewaarde was not an official representative of any religious organisation or group, but unlike in Sibiryev's case, this was part of the basis for conviction. The judge concluded that Ossewaarde's guilt was "fully proven, since he carried out missionary activity without submitting prior notice in writing [to the relevant authority] of the beginning of the religious group's activity".

Ossewaarde's conviction for holding a service (which consisted of prayers, Bible readings, hymn singing, and a sermon) in his home suggests that almost any private or public exercise of freedom of religion and belief may be seen as "missionary activity".

Between the amendments' coming into force on 20 July 2016 and 13 January 2017, there were 34 known prosecutions of: two Baptists, five Hare Krishna adherents (one prosecuted twice), six Jehovah's Witnesses (involved in four separate cases), one Buddhist, two Adventists, one Reformed Ukrainian Orthodox bishop, five Pentecostals, five other Protestants (one prosecuted twice), and one village elder. One Jehovah's Witness congregation, one Pentecostal church, the New Apostolic Church's Administrative Centre, and a Salvation Army branch, as well as a Jehovah's Witness elder, have been charged under Part 3.

Three cases were dropped before reaching court and two more were returned to police or prosecutors by judges and not resubmitted within the stipulated three-day period. Four trials are still underway as of 13 January. Of the 25 trials which have concluded, 19 resulted in conviction and 6 in acquittal.

Cases have taken place across the country. The city of Tver has seen four prosecutions, with three each in Moscow and Kemerovo. Five occurred in Kaliningrad and two each in Arkhangelsk, Mari-El Republic, and St Petersburg, with one each in Khabarovsk, Krasnoyarsk Region, Vladivostok, Samara, Yamalo-Nenets Autonomous Region (Tyumen), Oryol, Republic of Karachai-Cherkesiya, Tuva Republic, Ulyanovsk, Kamchatka Region, Republic of Tatarstan, Adygea and Altai Region.

Education

Ten-year-old pupils have been obliged since September 2012 to choose one of six religion and ethics modules on: the cultures of [Moscow Patriarchate] Russian Orthodoxy, Judaism, Islam, or Buddhism, Foundations of World Religious Cultures, or Secular Ethics. In reality, such choices are determined by the resources of regional and municipal education departments, the religious composition of the local area, and the attitudes of some local education officials.

In late 2013, Forum 18 found that state schools offer sharply different interpretations of the religion and ethics course (see F18News

20 January 2014 http://www.forum18.org/archive.php?article_id=1917). In one Siberian school, only the Orthodox Culture module was offered (despite some pupils choosing different courses) as the headteacher claimed "we live in an Orthodox country". In another school, a teacher tried to convey to pupils that "we may believe in different religions but we should respect one another". An education official in Krasnoyarsk emphasised that "even if there are just three people [choosing an option], they will still receive separate tuition". This inconsistency could result in violations of freedom of religion or belief anywhere in Russia. Most parents and pupils do not favour instruction in the Russian Orthodoxy of the Patriarchate in state schools, and Orthodox Old Believer churches have recommended either Secular Ethics or Foundations of World Religious Cultures.

An optional course on Moscow Patriarchate Orthodox culture for all school year groups has been under development in the Russian Academy of Education during 2016. If approved by the Education Ministry and introduced throughout Russia, the course would cover topics including "Good and evil in Orthodox tradition", "Latin proselytism in Rus", and "Distorted interpretation of biblical texts in the literature of destructive sects".

On 30 November 2016, new Education Minister Olga Vasilyeva (a prominent former seminary lecturer whose appointment was welcomed by the Patriarchate) decided that the proposed course needed further work and discussion with "experts" before being put to a vote on its introduction nationwide.

Since September 2015, pupils in 62 regions have also followed a compulsory course on "Foundations of the spiritual and moral culture of the peoples of Russia". This is now being introduced across the country. In December 2016, parents at a Moscow school (where the course began this academic year) complained to the General Prosecutor's Office that "religious propaganda" was being imposed in these classes. The textbook "constantly referred to unclean spirits, holy water, and guardian angels, and talked completely seriously about miracles performed by icons", according to one parent's comments to "Kommersant" newspaper on 9 December 2016. Parents thought this inappropriate for a class including children from Muslim, Jewish, Catholic, Adventist, and atheist families.

The military

A 2010 Defence Ministry decree formally introduced chaplains into the armed forces. Official chaplains are permitted only from the so-called "traditional faiths" (the Moscow Patriarchate, and state-favoured Muslim, Jewish and Buddhist organisations), and only if adherents of a religion comprise at least 10 per cent of a unit's personnel.

Yelena Korolyova of the Citizen Army Law human rights group told Forum 18 on 7 October 2016 that worshipping and speaking with clergy in the army is permitted, and practically every army base now has access to Moscow Patriarchate priests and places for prayer. "It is true that this applies only to the Orthodox," she added, "and for representatives of other religions it is in this sense more difficult." Non-Orthodox troops also may have problems "if [they] do not eat particular products or are fasting – in the army this is complicated to implement, since the menu is the same for everyone – or if their day of rest does not fall on a Sunday". To Korolyova's knowledge, soldiers tend not to complain about such things and her organisation is unaware of any serious cases.

Conscription into the armed forces is compulsory for one year for all men aged 18 to 27. Individuals whose beliefs do not allow them to engage in military activity may apply to local military commissariats for permission to perform "alternative civilian service". This lasts 18 months (if carried out as civilian personnel in an armed forces institution) or 21 months (if carried out in any other state institution). Jehovah's Witness spokesperson Ivan Belenko told Forum 18 on 4 October 2016 that this pacifist religious community's young men usually encounter no problems in choosing alternative service. "When there have been some misunderstandings, they have been successfully resolved through the courts."

Prisons

Freedom of conscience and religion in prisons, labour camps, and other places of detention is governed by Article 14 of the Criminal Implementation Code. This states that inmates "have the right to profess any religion or no religion, to freely choose, possess, and disseminate religious beliefs, and to act in accordance with them". It adds: "The exercise of the right to freedom of conscience and freedom of religion is voluntary; at the same time the internal regulations of penal institutions should not be violated, and the rights of others should not be infringed".

Article 14 decrees that prisoners and detainees are entitled to an unlimited number of clergy visits of up to two hours, which may be conducted alone and unobserved in appropriate premises; and that inmates may perform religious rites and ceremonies and use religious objects and religious literature. "In order to ensure freedom of conscience", prison administrations should draw up cooperation agreements with registered religious organisations. Contrary to international human rights standards, such as the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules), no provision is made for visits by clergy from non-state recognised communities. Agreements have been signed with Moscow Patriarchate, Muslim, Jewish, and Buddhist organisations on the federal level. Regional arrangements also exist with local level Moscow Patriarchate dioceses, and in some places with Islamic and Jewish institutions.

Russia's prisons are known for harsh conditions, crumbling infrastructure, and the use of torture by guards. Human rights defenders

note that inmates rarely complain publicly for fear of punishment. It is therefore difficult to establish what the freedom of religion and belief situation is, particularly for those not following allegedly "traditional religions".

Evidence exists, however, that freedom of religion and belief is not being respected. Andrei Dedkov is a Muslim who has been in pre-trial detention in Krasnoyarsk since March 2016 for holding meetings to study the works of theologian Said Nursi (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215). A fellow Muslim reported to Forum 18 that he is "not allowed to perform morning or evening prayers, on the grounds that this is a violation of internal regulations". Two Hare Krishna devotees detained in Magadan in August 2015 after handing out literature in the street were not provided with the vegetarian diet required by their faith, and were not allowed to have food brought in to them, so did not eat for three days.

In August 2016, Liliya Tsimbalistova of the info-islam.ru news website reported on the freedom of religion and belief situation in Tatarstan's prisons. Every prison and detention centre, which all allow clergy visits, has a mosque or Muslim prayer room and some have Moscow Patriarchate places of worship. Some also have dedicated imams. The republic's Public Oversight Commission, which monitors prisoners' rights, has nevertheless noted allegations of forced shaving of Muslim inmates' beards, the confiscation of an Orthodox icon for not being "pocket-sized", and the lack of any religious literature except the Koran in some prison libraries.

In July 2015, the Kurgan Public Oversight Commission found evidence of discrimination against the region's Muslim inmates, with confiscations of Korans and prayer rugs and regular closures of prison mosques, despite Moscow Patriarchate churches being always open. Some prison administrations banned the use of Arabic-language Korans (the only language worldwide for the Koran in Islamic worship), as they claimed they needed to examine them for "extremism".

Property restitution

The return of places of worship confiscated after the 1917 Revolution is governed by a November 2010 law which allows registered religious communities to apply for the return of full ownership (or free use in perpetuity) of structures designed for worship, religious education, monasticism, or pilgrimage if they can demonstrate their rights to them. Transfers can only be made if the property's use would correspond with the aims of that organisation's registered charter, and conservation and public access are properly maintained. The law also introduced time periods for dealing with cases.

On the federal level, however, the same government body that currently administers the property also oversees the arbitration process for those dissatisfied with its decisions. The Federal Agency for State Property Management (Rosimushchestvo) deals with requests for federally owned property. Regional and local property departments deal with buildings and land owned by their administrations.

The Law has not guaranteed that the restitution process will be easy or unchallenged, or that property will be returned. Local administrations may sell religious buildings to developers or dispute their religious significance. In areas of intensive urban development, commercial concerns may take priority.

According to Rosimushchestvo, 1,232 federal-level return requests were made from 2011 to 2015. As both Rosimushchestvo and religious organisations became familiar with the Law, applications were increasingly approved and many transfers were completed within a year. The principal reasons for refusal were that the property was not considered of religious significance or that it had been "withdrawn from normal circulation" (usually, this means it is a prison). In 2015, legislation was passed to enable prison property to be returned.

From 2014 onwards, Rosimushchestvo has approached the Moscow Patriarchate, the Council of Muftis, the Federation of Jewish Communities, the Buddhist Sangha of Russia, and Old Believer Orthodox and Armenian Apostolic Churches to suggest the handover of more than 2,000 properties still in federal ownership. Of these, 120 had been transferred by mid-2015 with the agreement of religious communities, 26 of them into full ownership.

Ascertaining an accurate statistical picture is difficult, as Rosimushchestvo does not give success rates for different communities or cumulative figures for successful, unsuccessful, and ongoing applications. Each case is unique as a result of the age and type of building, the effects of its Soviet-era usage, its current secular purpose, and the local economic climate. Evidence suggests, however, that some religious communities – mainly smaller vulnerable groups – encounter difficulties on the regional or municipal levels (Protestants and Jehovah's Witnesses are often not affected as they rarely had their own permanent buildings).

The Roman Catholic parish of the Immaculate Conception in Smolensk has been trying since 1992 to regain its late nineteenth-century church of the same name, which was confiscated in 1936. In November 2016, despite Smolensk governor Aleksei Ostrovsky's promises to the contrary, the regional government revealed its intent to "repurpose" the building as a concert hall. According to the Archdiocese of Moscow, the parish has made two formal attempts since 2010 to gain free use of the church in perpetuity. Rosimushchestvo sent these back as it claimed that the archival report on "the Catholic church" did not indicate the "religious purpose" of the property.

Such decisions may be challenged in the arbitration courts. The regional government turned down the Oryol Jewish community's September 2011 application to regain ownership of its historic synagogue, but in December 2012, the 19th Arbitration Court ruled this decision illegal. In April 2013, the Central District Arbitration Court rejected the regional government's appeal. Ownership was legally transferred to the Jewish community in January 2016, but it will not regain the building until the technical college presently using it moves to new accommodation in 2018.

Even the Moscow Patriarchate is not automatically successful in regaining historic property. Even when it is, physical transfer may be delayed if a building's current occupier cannot be readily rehoused. In 2005, after many years' lobbying, Perm Diocese signed an agreement with the city authorities to regain the city's cathedral, which became Perm State Art Gallery in 1931. Ownership was finally transferred in December 2011, but the Diocese has been unable to reclaim the building as the gallery has no new premises for its collections, many of which need a carefully regulated environment.

New construction

New construction of highly visible places of worship may mask a shortage of worship space or legal difficulties for others. Moscow's Cathedral Mosque, opened in September 2015 by President Putin and Grand Mufti Ravil Gainutdin, can accommodate up to 10,000 worshippers, but the capital still has only four mosques for an estimated population of two million Muslims, and the city authorities consistently turn down applications to build more.

Even the possession of fully approved written decrees of land allocation and building permission does not mean that a place of worship will be completed. In Kaliningrad, a court halted the construction of a mosque (the city's first) in December 2013 when it was 80 per cent complete. Prosecutors claimed that it encroached on the preservation zone around a cultural heritage site (the nineteenth-century Friedland Gate, now a museum), despite the fact that the cited regional heritage protection law was not in force when building work began. In April 2014, the municipal decrees which had permitted construction were ruled invalid and the Muslim community deprived of its right of ownership. Kaliningrad Regional Court rejected an appeal in June 2014, and the community subsequently appealed to the European Court of Human Rights in Strasbourg (Application no. 75301/14).

Between 1993 and 2005, Kaliningrad city administration allocated a total of eight different sites for a mosque, only to withdraw them after objections from local residents who allegedly feared large crowds on Fridays and Islamic holidays.

In Moscow, the Society for Krishna Consciousness was unable to proceed with building a new temple when the city's Property Department unilaterally terminated its lease on the land in summer 2013. This was one month before the Society was due to be granted a building permit, which was then refused by the Moscow Committee for State Oversight in Construction. The site had already been prepared for construction and consecrated. In court, the Property Department did not explain its reasons for the termination. Hare Krishna lawyer Mikhail Frolov estimated that the Society had spent about 70 million Roubles collected by community members on the project.

Objections from residents – even from those who do not live near the proposed construction – can be among official reasons to deny building permission or suspend or halt construction of a place of worship. This is especially the case with non-state-favoured religious communities. Protestors cite a variety of reasons from objection to the religious community in question to a legitimate desire to protect green space from development (frequently invoked in Moscow). How the authorities respond to such protests varies between religious groups and across regions.

Genuinely local opposition has emerged from essentially non-religious local communities to new Moscow Patriarchate church construction, such as its "Moscow 200" plan to build 200 new churches. This is especially the case if church construction replaces popular public amenities such as kindergartens and parks. Such construction has nevertheless enjoyed political backing, and protests are not known to have resulted in a construction project being cancelled.

Destruction/appropriation

Even when a place of worship has been completed or has been in use for many years, local authorities may decide to confiscate the building or even demand that it be demolished. Even if the authorities are legally in the right, this can leave long-established communities without places of worship, and financially poorer. Attempts by different communities to legalise construction retrospectively can have different outcomes, while local administrations may unilaterally terminate pre-2010 agreements on free use of historical buildings.

At the request of a Kaliningrad parish, an arbitration court in May 2013 legalised a new Moscow Patriarchate church built without a permit, but when the Jewish community began to reconstruct the city's main synagogue (destroyed by the Nazis when Kaliningrad was Königsberg in Germany), a court order halted the process because a building permit had not been issued. This was despite the community waiting for one for over two years. The unfinished structure was ordered to be demolished, but after months of court proceedings, officials finally issued the construction permit in June 2015.

The Kyiv Patriarchate's only church in Russia – in the Moscow Region town of Noginsk – has been ordered to be demolished at the

parish's own expense. (This Patriarchate split from the Moscow Patriarchate in 1992 and is unrecognised by other canonical Orthodox Churches).

On 23 June 2016, Noginsk City Court upheld the district administration's demand to have the church destroyed because it is allegedly an illegal structure. After an unsuccessful appeal in October 2016, the parish must dismantle the building, but intends to appeal to the Supreme Court. Parish priest Fr Adrian Starin claimed that hostility to his community (almost all Russian citizens) has risen with the deterioration in Russian-Ukrainian relations, and that the district administration brought its suit at the request of the Moscow Patriarchate.

Officials have ordered a Russian Orthodox Autonomous Church (ROAC) parish (which split from the Moscow Patriarchate in the early 1990s) to vacate its seventeenth-century Church of the Vladimir Icon of the Mother of God in Yaroslavl. Parishioners have worshipped in the building, which is federal property, under a contract of free use since 1999 and under an earlier agreement since 1992. This is the only historical church building left to the ROAC after a series of confiscations in 2009-10. The Yaroslavl regional branch of Rosimushchestvo unilaterally terminated the agreement on free use in August 2016; Yaroslavl Regional Arbitration Court upheld Rosimushchestvo's claim on 21 November 2016 and has obliged the congregation to leave. The parish appealed to the 2nd Arbitration Court on 11 January 2017.

Seeking redress through the courts can, however, have a positive outcome. After losing its disused and war-damaged church in Grozny in a fabricated property sale, the Baptist Union's revitalised Grozny parish gained recognition of its ownership in June 2015. It is now using the building.

European Court of Human Rights appeals

Once they have exhausted all possibilities within the Russian legal system, individuals and organisations whose freedom of religion and belief has been violated can appeal to the European Court of Human Rights in Strasbourg (ECtHR). The process can be very slow, sometimes taking years before a case is even declared admissible.

If the ECtHR upholds the appeal, the Russian state must pay compensation and ensure that this type of violation cannot occur again. In December 2015, however, President Putin signed legislation allowing Russia's Constitutional Court to decide on whether judgments by international and regional courts, including the ECtHR, should be carried out.

Many freedom of religion and belief cases brought against Russia involve bans or prosecutions under the Extremism Law (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215). Recent appeals on other Russian freedom of religion and belief issues have also been successful.

On 12 June 2014, the ECtHR ruled (Application No. 33203/08) that the liquidation of the Biblical Centre of the Chuvash Republic violated Article 9 ("Freedom of thought, conscience, and religion") of the European Convention on Human Rights and Fundamental Freedoms. The Pentecostal centre had been forced to close in August 2007 after the Novocheboksarsk city prosecutor took it to court over alleged infringements of sanitary and fire regulations, and the provision of education without a licence, which the Centre denied. The ECtHR pointed out that other religious organisations in Chuvashia were freely operating Sunday schools at the time without a licence, and that the Centre should have been given the chance to remedy its alleged transgressions, none of which were "irremediable or constituted a clear and imminent danger to the life and limb of the students". Despite this, the Centre has not re-opened.

In July 2015, the Religion Law was amended to clarify that religious education does not require a licence under the terms of the Education Act. The ECtHR's further concern that any transgression of the Religion Law can result only in liquidation of the organisation, with no lesser punishment possible, has not been addressed.

On 26 June 2014, the ECtHR ruled that the disruption of a Jehovah's Witness meeting by riot police and the detention of a number of worshippers violated both Article 9 and Article 5 ("Right to liberty and security") (Application no. 26857/07). State officials, including armed police, interrupted the worship service in a Moscow college auditorium in April 2006 on the grounds that religious associations are not permitted to operate in educational institutions and no notification to the authorities had been given. Officers detained 14 men without charge and without a lawyer for more than three hours. Four of the men later unsuccessfully took the authorities to court. The ECtHR pointed out that the Education Law did not prohibit renting out premises to a third party for use outside normal working hours, and noted the 2012 Russian Constitutional Court ruling which stated that notification is only necessary for events requiring safety measures (see above).

The ECtHR ordered Russia to pay the applicants a total of 30,000 Euros in compensation and 6,000 Euros in legal expenses. The ruling also called for Russia to provide "a legal basis for less constrained exercise of freedom of religion, fairer treatment of religious minorities and, ultimately, genuine inter-faith dialogue in Russia".

Moscow's Jehovah's Witness community regained its status as a registered organisation in May 2015, nearly five years after this was ordered on 10 June 2010 by the ECtHR (Application No. 302/02). The community was dissolved in 2004 when a judge concluded

that it had engaged in "coercion [of members] into destroying the family, encouragement of the refusal of medical assistance, and incitement of citizens to refuse civic duties". The community submitted six applications to the Justice Ministry after the ECtHR judgment before registration was granted.

North Caucasus

In the North Caucasus republics the freedom of religion and belief situation is complicated by both the ongoing conflict in the region, and various repressive forms of Islam being imposed by both the insurgents and in Chechnya by Kremlin-backed local authorities.

Women in Chechnya continue to be obliged to wear headscarves in public places as part of government campaigns to promote female "virtue". Chechen leader Ramzan Kadyrov has praised the murders of several women for "immodest behaviour". In August 2016, the Russian Justice Initiative reported that female genital mutilation (FGM) is widespread in rural areas of Dagestan. A senior state-backed North Caucasus cleric, Mufti Ismail Berdiyev, claimed that this abusive practice was necessary to "end depravity on Earth and reduce women's sexuality". He later insisted that this had been a "joke", but maintained that FGM was required by shariah law. His initial comments were supported by former Moscow Patriarchate spokesperson Fr Vsevolod Chaplin. Duma deputy Maria Maksakova-Igenbergs submitted a draft law to ban FGM and make it punishable by up to 10 years' imprisonment, but as of January 2017 this has stalled in the Duma at the committee stage.

The authorities' "counter-extremism" strategy fuels local support for Islamists, resulting in a climate of fear in which freedom of religion and belief is severely limited (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215). Protestants are the main non-Muslim religious community in the North Caucasus. Sharing beliefs is extremely hazardous and can result in assassination, particularly of those belonging to "traditionally Muslim" ethnicities.

Restrictions to increase?

Russian laws restricting freedom of religion and belief and other human rights have increased since 2012, as have prosecutions of people exercising this freedom. Court proceedings can be long-running and complex, and so can in effect punish defendants even if they are acquitted. If convicted, the fines imposed are substantial in relation to average salaries and pensions.

The rapid and geographically widespread implementation of July 2016 legal amendments restricting alleged "missionary activity" has made them yet another standard official means of restricting the exercise of freedom of religion and belief. This implementation took place despite widespread protests against the amendments' wide-ranging nature.

Given the increasing official hostility in Russia to independent public activities without state permission, freedom of religion and belief and interlinked human rights (such as the freedoms of expression, association, and assembly) appear likely to be in future increasingly restricted. (END)

For more background, see Forum 18's September 2016 survey of the decline in freedom of religion and belief related to Russia's Extremism Law at http://www.forum18.org/Archive.php?article_id=2215.

Previous Forum 18 Russia religious freedom surveys can be found at <http://www.forum18.org/Analyses.php?region=10>.

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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