

26 January 2017

RUSSIA: Ten years' imprisonment for religious meetings?

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

Prosecutors state Yevgeny Kim faces up to 10 years' imprisonment for studying a Muslim theologian's works with friends. His criminal trial began in Blagoveshchensk on 25 January after a year in prison. Two Jehovah's Witness elders face "inciting religious hatred" criminal charges in Moscow Region.

Thirteen months after his December 2015 arrest by the FSB security service, the trial of 42-year-old Muslim Yevgeny Kim began yesterday (25 January) in Blagoveshchensk in the Far Eastern Amur Region, Forum 18 has learned. Kim is charged with "extremism" offences for meeting with others to study the works of the late Turkish Muslim theologian Said Nursi. The trial is due to resume on 7 February. Amur Regional Prosecutor's Office said in November 2016 that Kim faces up to 10 years' imprisonment.

Kim is among 11 Muslims (all of them men) being prosecuted for meeting to study Nursi's works in four separate cases across Russia. Another case is expected to reach court in the next few months in Novosibirsk, while the FSB security service is still investigating cases in Makhachkala and Krasnoyarsk. Three of the defendants, including Kim, remain in pre-trial detention, while another six are under travel restrictions (see F18News 1 February 2017 http://www.forum18.org/archive.php?article_id=2251).

On 8 December 2016, Forum 18 wrote to all the regional FSB branches responsible for these prosecutions, asking how long those in detention were likely to remain there and when exactly court proceedings would begin. Forum 18 received no reply by 26 January 2017.

Meanwhile, Jehovah's Witnesses are again facing criminal charges under "anti-extremism" legislation for exercising their right to freedom of religion and belief. Vyacheslav Stepanov and Andrei Sivak, both community elders in Moscow Region, are undergoing a re-trial for alleged incitement of religious hatred, of which they were initially fully acquitted in March 2016 (see below).

Kim, Stepanov, Sivak and most of the other Muslims under investigation have had their assets frozen as alleged "terrorists and extremists", even though they have not been convicted of any crime (see below).

Nursi cases

All four ongoing prosecutions of Muslims who study Nursi's works have arisen from circumstances similar to those of previous cases: people who have met to read and discuss Nursi's books are accused of creating "cells" of the banned "extremist" organisation "Nurdzhular", which Muslims in Russia deny exists.

Prosecutors then bring charges under Criminal Code Article 282.2, either under 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") or Part 2 ("Participation in the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity") (see Forum 18's "extremism" Russia religious freedom survey http://www.forum18.org/Archive.php?article_id=2215).

The 11 accused Muslims are being prosecuted under the pre-July 2016 version of Criminal Code Article 282.2. If convicted under Part 1, courts could hand down fines of 300,000 to 500,000 Roubles, compulsory labour of up to five years or prison sentences of up to six years. If convicted under Part 2, courts could hand down fines of up to 300,000 Roubles, compulsory labour of up to three years, or prison sentences of up to four years.

Each 100,000 Roubles is the equivalent of 14,000 Norwegian Kroner, 1,550 Euros, or 1,650 US Dollars.

Increased penalties

So-called "anti-terrorism" changes to the Religion Law and other laws came into force in July 2016, imposing then-new serious restrictions on freedom of religion and belief and other human rights (see Forum 18's "Extremism" Russia religious freedom survey

http://www.forum18.org/Archive.php?article_id=2215). Among the changes introduced were increases in the then-existing Article 282.2 penalties to:

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

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

No prosecutions under these amended terms are known to have begun between 20 July 2016 and late January 2017.

Financial penalties even if not convicted

Officials have placed both Jehovah's Witness defendants and nine of the 11 Muslims currently being prosecuted on the list of "terrorists and extremists" maintained by the Federal Financial Monitoring Service (Rosfinmonitoring). Banks are thereby obliged to freeze their assets. From 30 January 2014 the law has been relaxed to allow small transactions not exceeding 10,000 Roubles per month. (For a detailed description of the impact of the Rosfinmonitoring list, see Forum 18's Russia "Extremism" religious freedom survey http://www.forum18.org/archive.php?article_id=2215).

Blagoveshchensk Nursi

Yevgeny Lvovich Kim (born 5 October 1974) is being prosecuted in a criminal case initiated by the FSB security service. The FSB accuses Kim of having organised religious gatherings in Blagoveshchensk between September and November 2015. At these he allegedly "decided to quote from" and discuss Nursi's collection of writings "Risale-i Nur" ("Messages of Light"), according to a December 2015 court document granting the FSB permission for a property search, seen by Forum 18 (see F18News 21 January 2016 http://www.forum18.org/archive.php?article_id=2141). Law enforcement interpreted this as "disseminating the religious ideas of the international religious association Nurdzhular, [while] fully aware of the fact that .. [it] had been recognised as extremist and its activities prohibited on the territory of the Russian Federation".

Sharing such "extremist" texts, even in private homes, can make those involved liable to criminal and administrative prosecution. Muslims who read Nursi's works deny that the alleged organisation Nurdzhular exists (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/Archive.php?article_id=2215).

FSB-ordered "expert analysis" found that what Kim and others said at these meetings was "aimed at inciting religious hatred", promoted the "superiority of the Turkic peoples", and contained "negative evaluations" of Armenians and Russians. "Expert analyses" can be biased and may be produced by people who are not, in fact, "experts" (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/Archive.php?article_id=2215).

Kim and several friends were detained and interrogated after an armed unit of the FSB raided Kim's flat on 26 December 2015, during a gathering to celebrate the birthday of the Muslim Prophet Mohammed (see F18News 21 January 2016 http://www.forum18.org/archive.php?article_id=2141). All but Kim were later released.

Among those also detained was Kim's friend Anton Pavlovich Starodubtsev (born 4 April 1980). He has since complained of the treatment they received during both arrest and questioning, including threats and attempted blackmail, and has categorically denied any involvement in extremist activity, (see F18News 11 April 2016 http://www.forum18.org/archive.php?article_id=2166).

The FSB arrested Kim initially under Criminal Code Article 282.2, Part 1. A 30 November 2016 statement on the Amur Regional Prosecutor's Office – which did not name Kim – revealed, however, that charges had also been added under Criminal Code Article 282, Part 1. The announcement said Kim denied any wrongdoing. It added that he faces up to 10 years' imprisonment if convicted.

Prosecutors also charged Starodubtsev under Criminal Code Article 282.2, Part 2 ("participation in an extremist organisation"), but his whereabouts remain unknown. FSB investigators have added both Kim and Starodubtsev to the Rosfinmonitoring list of "terrorists and extremists".

Criminal Code Article 282, Part 1, punishes "actions aimed at the incitement of hatred or enmity, as well as humiliation of a person or group", based on "sex, race, nationality, language, origin, attitude to religion, or social group" (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/Archive.php?article_id=2215). Kim's additional charge under Article 282, Part 1, is unusual for a Nursi-related case. Forum 18 knows of only two other individuals who read Nursi's writings who have been taken to court for this alleged offence since the works began to be banned in 2007 – Ilham Islamli was convicted under Article 282, Part 1, alone in August 2010; in September 2011, Rashid Abdulov was convicted under Article 282, Part 2(v), as well as Article 282.2, Part 1 (see F18News 14 October 2011 http://www.forum18.org/archive.php?article_id=1625).

Kim is being prosecuted under the pre-July 2016 Article 282, Part 1, which means he faces the following possible punishments under this Article: a fine of 100,000 to 300,000 Roubles or 1 to 2 years' income; or community service (obyazatel'naya rabota) for up to 360 hours; or correctional labour (ispravitel'naya rabota) for up to 1 year, or compulsory labour (prinuditel'naya rabota) for up to 4 years; or imprisonment of up to 4 years.

Blagoveshchensk trial begins

Kim's trial began at Blagoveshchensk City Court with a preliminary hearing on 13 January. The first full hearing was on 25 January, according to court records. The next hearing is due on 7 February, his lawyer Natalya Terekhova told Forum 18 from Blagoveshchensk on 26 January.

Meanwhile, Kim remains in custody at Blagoveshchensk Investigation Prison No. 1, where he has been held since 26 December 2015.

The address of Blagoveshchensk's Investigation Prison, where Forum 18 believes Kim to be detained, is:

675007 Amurskaya Oblast

Blagoveshchensk

Seryshevsky pereulok 55

Sledstvenny Izolyator No. 1

Russia

Forum 18 telephoned the prison in the evening of 26 January in Blagoveshchensk and asked whether Kim was being allowed to pray and have access to the Koran and other religious literature. The duty officer said he could not answer any questions as it was outside working hours.

Why the campaign against Nursi readers?

Nothing in Nursi's writings appears to advocate hatred, violence, or the violation of any human right. Despite this, numerous Russian lower courts have ruled that various Russian translations of his works (and of some other Islamic and Jehovah's Witness texts) are "extremist", and have had them added to the Justice Ministry's Federal List of Extremist Materials (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/Archive.php?article_id=2215).

The grounds for Russia's ongoing nationwide campaign against readers of Nursi's works are obscure, with quite different reasons offered for banning Nursi writings and "Nurdzhular" in different contexts. The primary cause, however, appears to be state opposition to "foreign" spiritual and cultural influence (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/Archive.php?article_id=2215).

Little or no reasoning is given in the court decisions which have added Nursi's works to the Federal List, Forum 18 notes. Among the few specific instances of "extremism" cited, for example, are Nursi's descriptions of non-Muslims as "frivolous", "philosophers" and "empty-talkers". Yet the freedom to criticise any religious or non-religious belief is a central part of the freedom of religion and belief (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/Archive.php?article_id=2215).

Sergiyev Posad Jehovah's Witnesses

After Moscow Regional Court overturned their original acquittal on 26 May 2016 at the request of prosecutors, Jehovah's Witness elders Vyacheslav Yuryevich Stepanov (born 20 March 1977) and Andrei Petrovich Sivak (born 28 March 1974) are once again due to appear at Sergiyev Posad City Court. Both are charged with inciting religious hatred under Criminal Code Article 282, Part 2. Their re-trial began in August 2016, but most hearings have been postponed. Judge Liliya Baranova ordered further "expert analysis" in November, and the first (twice delayed) hearing of the new year is due to take place on 20 February, according to the court website.

Criminal Code Article 282, Part 2 ("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 sex, race, nationality, language, origin, attitude to religion, or social group"), when committed a) with violence or the threat of violence; b) by a person using their official position; c) by an organised group (of which Stepanov and Sivak are accused).

As their alleged offences took place before amendments to the Criminal Code increased extremism-related sentences in February 2014 and July 2016, Stepanov and Sivak face the following possible punishments:

a fine of 100,000 to 500,000 Roubles or 2 to 3 years' income; or community service for up to 480 hours; or 1 to 2 years' correctional labour (ispravitel'naya rabota); or up to 5 years' compulsory labour (prinutdel'naya rabota); or up to 5 years' imprisonment.

Officials have placed both Stepanov and Sivak under travel restrictions, Jehovah's Witness spokesperson Ivan Belenko told Forum 18 on 19 January.

So-called Yarovaya "anti-terrorism" legal changes came into force on 20 July 2016 (see Forum 18's "Extremism" Russia religious freedom survey http://www.forum18.org/Archive.php?article_id=2215). They increased the then-existing Article 282 penalties to:

Part 1 – a fine of 300,000 to 500,000 Roubles; or 2 to 3 years' income; or compulsory labour (prinutdel'naya rabota) for 1 to 4 years with a ban on working in one's profession for up to 3 years; or 2 to 5 years' imprisonment;

Part 2 – a fine of 300,000 to 600,000 Roubles; or 2 to 3 years' income; or compulsory labour (prinutdel'naya rabota) for 2 to 5 years with a ban on working in one's profession for up to 3 years; or 3 to 6 years' imprisonment.

Sergiyev Posad: earlier prosecution ended in acquittal

The Sergiyev Posad District Prosecutor's Office opened their original case against Stepanov and Sivak in April 2013. This case appears to have been based on covert video surveillance of the defendants and their congregation dating from the autumn of 2010, according to the 4 March 2016 court verdict seen by Forum 18.

Sivak and Stepanov were brought to Sergiyev Posad City Court only in August 2015. The period of the initial investigation was "artificially extended", Jehovah's Witness spokesperson Belenko explained to Forum 18 on 10 January, when Sivak and Stepanov were added to the Interior Ministry wanted persons database on three occasions without any grounds and without their knowledge.

The two men were acquitted at Sergiyev Posad City Court on 4 March 2016 when Judge Yelena Aminova found them not guilty of organising gatherings, "veiled under the guise of 'religious meetings'", with the aim of "inciting hatred and enmity against followers of all religions other than adherents of the 'Jehovah's Witnesses' religious organisation, and humiliating human dignity on the grounds of religion". According to the written verdict, prosecutors also accused them of "contrasting the 'Jehovah's Witnesses' religion to other religions, declaring [the latter] 'false', [and] evaluating them very negatively, as well as appealing to citizens to refuse their civic responsibilities and commit illegal actions" – claims for which the judge concluded there was no evidence in the recordings presented to the court.

The judge dismissed the "expert analysis" performed by Natalya Kryukova, Director of the Centre for Socio-Cultural Analysis in Moscow (which held that Stepanov and Sivak's sermons in the recordings bore signs of "extremism"). The Judge instead agreed with the findings of the Justice Ministry's Legal Expertise Centre, which were that services had "an educational, discursive character" and that "views inherent in the religion are evaluated as true and correct, which is an integral important feature of religious discourse". Judge Aminova concluded that "A different assessment of [Sivak and Stepanov's] speeches defies common sense and logic".

"The court recognised [the defendants'] right to rehabilitation," Belenko told Forum 18 on 10 January, "including compensation for moral damages and the reinstatement of labour, pension, housing, and other rights."

Forum 18 called Sergiyev Posad District Prosecutor's Office on 26 January to ask why the original acquittal was challenged and why the two men are considered dangerous. When Forum 18 mentioned the case against Stepanov and Sivak, the phone was immediately put down. (END)

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

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

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

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

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

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