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RUSSIA: Prosecutions for religious literature continue

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

Individuals and communities face punishment for distributing religious books courts have deemed "extremist". Punishments are mostly fines, but in 2017 a court jailed a Muslim for two days for lending a book to colleagues. 2017 saw fewer prosecutions than earlier, mainly because Jehovah's Witnesses – banned as "extremist" – face potential criminal charges.

Prosecutions of religious communities and their members under Administrative Code Article 20.29 ("Production or mass distribution of extremist materials included in the published Federal List of Extremist Materials, as well as their production or storage for mass distribution") continue across Russia. Those prosecuted in 2018 have included a woman fined for posting a link on social media to the banned Jehovah's Witness website and an online publisher for offering for sale a novel by a nineteenth century Jewish author. The court ordered the seized novels destroyed.

A total of 54 individuals and organisations are known to have been brought to court in 2017 under Article 20.29, Forum 18 has found in a review of available court records. None of the religious literature or other items for which individuals were prosecuted in these cases appears to incite the violation of human rights. Of this total, 47 defendants ended up with punishments.

Punishments were most commonly fines. The largest known fine for a private individual in 2017 was 3,000 Roubles, and for a person in an official capacity – 5,000 Roubles. The largest known fine for a community was 500,000 Roubles (see below).

A fine of 5,000 Roubles (620 Norwegian Kroner, 65 Euros or 75 US Dollars) represents about 5 days' average wage for those in formal work.

In one case, a court ordered a Tajik citizen jailed for two days for lending a Muslim book to colleagues (see below).

Cases showed a significant decrease on previous years. This was largely due to the fall in prosecutions of Jehovah's Witnesses after their activities were outlawed as "extremist" in April 2017. They now risk more serious criminal charges (see below).

(For a listing of the known 2017 cases, see F18News 14 August 2018 http://www.forum18.org/archive.php?article_id=2404.)

In a high proportion of prosecutions, bailiffs destroy the "extremist material" when the verdict enters legal force. Judges ordered destruction to take place in 20 cases in 2017 (14 involving Islamic literature and 6 Jehovah's Witness literature). Materials were subject to confiscation in a further 20 instances.

In most other cases, either judges did not pronounce on the fate of the materials, or the question did not apply as the alleged offence had been committed online. A court returned a seized book to its owner on one occasion in 2017, after he was acquitted.

Out of 54 prosecutions, 33 were of private individuals, 13 of people in an official capacity, and eight of religious organisations. Seven defendants were women and 39 were men.

Prosecutions continue

Prosecutions under Administrative Code Article 20.29 ("Production or mass distribution of extremist materials included in the published Federal List of Extremist Materials, as well as their production or storage for mass distribution") continue in 2018.

In Tolyatti on 22 May, for example, Komsomol District Court fined A. Semyonova 1,000 Roubles for posting a link to the banned Jehovah's Witness website [jw.org](http://www.jw.org) on her social media profile page. She had made the post in February 2015, unaware that the website had been added to the Federal List of Extremist Materials just weeks before, on 16 January 2015.

2018 has also seen the first prosecution for a nineteenth-century historical novel about Jews in medieval Poland-Lithuania (see F18News 29 September 2017 http://www.forum18.org/archive.php?article_id=2319).

Pravdinsk District Court in Kaliningrad Region fined Anastasiya Nikolayeva, director of online bookseller Labyrinth, 2,000 Roubles on 18 January after prosecutors found her shop to be offering for sale 32 copies of Marcus Lehmann's "Forcibly Baptised". The judge ordered the books destroyed.

Forum 18 called the judge's office on 10 August to ask why Nikolayeva had been prosecuted and why the books had been ordered destroyed. As soon as Forum 18 mentioned the title of the novel, the phone was immediately put down.

Decrease in prosecutions of Jehovah's Witnesses – who now face harsher punishments

Forum 18 found fewer prosecutions in 2017 for the "mass distribution" of banned religious materials which do not incite hatred or violence than in any of the previous three years. In 2016, 123 prosecutions led to 103 punishments. In 2015, 89 prosecutions led to 79 punishments. In 2014, 65 prosecutions resulted in 56 punishments.

This may be partly explained by the fall in prosecutions of Jehovah's Witnesses for offences under Administrative Code Article 20.29 ("Production or mass distribution of extremist materials included in the published Federal List of Extremist Materials, as well as their production or storage for mass distribution") – in 2017, there were only 19 such cases, compared with 63 in 2016, 32 in 2015 and 10 in 2014.

Russia's Supreme Court ruled in April 2017 that the Jehovah's Witness Administrative Centre and its subdivisions should be liquidated as "extremist" and their activities banned. This decision came into force in July 2017, but most Jehovah's Witness activities had already been suspended by a Justice Ministry order in March 2017, even before the Supreme Court had begun its consideration of the liquidation suit (see F18News 18 July 2017 http://www.forum18.org/archive.php?article_id=2297).

Since the nationwide ban came into force, law enforcement agencies can use the alleged discovery of prohibited Jehovah's Witness materials as evidence of a criminal (rather than administrative) offence, and prosecute individuals under Criminal Code Article 282.2, Parts 1 or 2 ("Organisation of" or "Participation in the activities of a banned extremist organisation"). This carries far harsher possible punishments than Administrative Code Article 20.29 ("Production or mass distribution of extremist materials included in the published Federal List of Extremist Materials, as well as their production or storage for mass distribution") (see F18News 11 July 2018 http://www.forum18.org/archive.php?article_id=2394).

Figures for 2017 indicate that prosecutions under Administrative Code Article 20.29 for Islamic materials which do not incite hatred or violence also fell, with 33 known cases reaching court that year compared with 60 in 2016 and 55 in 2015 and 2014. Why this decrease occurred is unclear.

There were also two prosecutions in 2017 for literature related to the Chinese spiritual movement Falun Gong.

The Federal List of Extremist Materials

Administrative Code Article 20.29 punishes "production or mass distribution of extremist materials included in the published Federal List of Extremist Materials, as well as their production or storage for mass distribution". Once a court – even a low-level court - has declared a text "extremist" and the verdict has come into force, the ruling must be communicated within three days to the Justice Ministry, which maintains the Federal List. The item will then be added to the List within a further 30 days, banning its distribution throughout Russia.

Religious literature which does not support the violation of human rights is included on the List alongside racist, antisemitic, violent nationalist, and Islamist materials (see Forum 18's "extremism" Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215).

If convicted, "juridical persons" (such as religious organisations, commercial concerns, and media outlets) may receive a fine of 100,000 to 1 million Roubles or have their activities suspended for up to 90 days. Individuals face a fine of 1,000 to 3,000 Roubles or up to 15 days' administrative arrest. For a person acting in an official capacity (dolzhnostnoye litso), the fine stands at 2,000 to 5,000 Roubles. The "extremist" material in question will likely be confiscated and may be ordered destroyed.

The majority of individuals charged under Administrative Code Article 20.29 are accused of the dissemination of material which does appear to incite the violation of human rights, violence or hatred. Forum 18 found a total of at least 954 cases under Article 20.29 in 2017. This figure includes prosecutions for both religious and non-religious texts, images, videos, and songs, and for both material which does appear to be violent or racist and that which does not.

Difficulties of the Federal List

The Federal List now runs to nearly 4,500 items and is irregularly updated. Although it is freely accessible and searchable on the Justice Ministry's website, the lack of full bibliographical details in many entries, delays before banned titles are added, and the List's sheer scale mean that checking whether a particular item has been outlawed can be difficult or even impossible.

Any court may take the decision to ban material at any time, without involving authors, publishers or representatives of religious communities, and the ruling may not become public for several months. The onus is therefore on individuals to keep checking the Federal List on the Justice Ministry website.

In 2017, many defendants claimed in court that they did not know a text had been ruled "extremist", and often that they had owned the item in question for several years, since before any court decision.

The removal of an item from the Federal List is rare and can be short-lived, and in recent years, new entries have appeared at an increasing rate (see Forum 18's "extremism" Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215).

As of 1 January 2017, the List also shows when entries were added, as well as when they were ruled "extremist".

It is evident from several cases found by Forum 18 that people in charge of places of worship and other public or semi-public spaces are held responsible for the actions of others as well as their own. If a visitor leaves a banned item behind (whether knowingly or not, perhaps even before the material was banned), the organisation or its leader may suffer.

On 13 December 2017, Andrei Lyulyukin, owner of the Mystery hostel in Nizhny Novgorod, was fined 2,000 Roubles at the city's Kanavinsky District Court. Police had found a copy of the banned Jehovah's Witness text "What does the Bible really teach?" in the bookcase which served as the hostel's library, where guests could take or leave books as they wished.

When Forum 18 called the regional press service of Nizhny Novgorod police on 10 August to discuss the case, a spokeswoman said all questions should be sent by email. Forum 18 wrote to ask why Lyulyukin had been prosecuted when the book could have belonged to any hostel guest. Major Irina Ustinova, head of the press service, replied on 13 August that she could not answer this question, as Forum 18 does not "belong to the category of entities which have the right to become acquainted with the materials of administrative investigations".

S. Sysoyev, the Protestant director of a drug and alcohol rehabilitation centre in Samara, was nevertheless acquitted in a similar case. A police search of the centre found the Jehovah's Witness book "Worship the only true God" on a table in the hall, but the judge at Volzhsky District Court decided on 22 February 2017 that Sysoyev could not be held legally responsible, as the centre was not a registered legal entity.

Village librarian Elvira Zagidullina, however, was fined an unknown amount by Karmaskaly Inter-district Court in the Republic of Bashkortostan after a prosecutor's office inspection of her library uncovered two Jehovah's Witness books (titles redacted in the court verdict), which had been donated years before.

Despite the term "mass distribution" in Administrative Code Article 20.29, prosecutors often bring charges even if only one copy of a text is discovered. Such cases usually result in conviction, with a few exceptions; there appear to be no explicit guidelines for sentencing in such cases.

There were only two instances of acquittals on this basis in 2017. Sochi's Central District Court acquitted Jehovah's Witness L. Charskaya of the "mass distribution" of "What does the Bible really teach?", a single copy of which she had given to an acquaintance. The judge concluded that Charskaya's actions were of a "one-off nature" and therefore did not constitute an offence.

Salavatsky Inter-district Court fined R. Rakhmangulov 1,000 Roubles on 21 June 2017 after FSB officers found a single copy of Said al-Qahtani's "Fortress of a Muslim" in his home. He was later acquitted on appeal, however, on the explicit grounds that possession of a single copy for personal use did not constitute "mass distribution". The book was still ordered to be destroyed.

"Extremist material"?

The case of "Fortress of a Muslim" illustrates how one ban on a popular work can take on a life of its own, leading to further bans on different editions and resulting in the conviction and punishment of dozens of people, even after a court has decided that the book is not "extremist".

Said bin Ali bin Waqf al-Qahtani's "Fortress of a Muslim" is an exhaustive collection of prayers and greetings for various situations (such as "What to say when entering the home", "Invocations for visiting the sick", and "Invocations for travelling"). In 2017, it was the basis of 17 prosecutions in various editions – this is more than half of the prosecutions for Islamic literature and the highest number of prosecutions for any individual work.

The book currently appears in four entries on the Federal List of Extremist Materials. These include: two editions or imprints identified only by their numbers of pages, banned by Ussuriysk District Court, Primorye, on 31 July 2014; the 2006 Ezhayev edition and the 2009 and 2010 imprints of the 3rd edition published by Umma, all banned by Kurgan City Court on 16 February 2015; an

edition published in Nalchik in 2004 (publisher not stated), banned by Kurgan City Court on 6 April 2015; and the 2011 imprint of the 3rd edition published by Umma, banned by Soviet District Court, Ulan-Ude, on 22 August 2016.

"Fortress of a Muslim" was originally banned in three separate editions on 21 March 2012 by Lenin District Court, Orenburg. These editions (the 5th corrected and extended (publisher and publication date unspecified); the 5th corrected and extended, Said bin Abdulaziz Al-Ibrahim Philanthropic Fund, Kazan, 2001; and the 2007 Umma edition) were among 68 Islamic texts outlawed in a single 20-minute hearing.

After several publishers and authors appealed, these titles were re-examined and fifty of them (including "Fortress of a Muslim") were declared by Orenburg Regional Court on 25 May 2015 not to be "extremist". They were removed from the Federal List in mid-July 2015 (see F18News 27 July 2015 http://www.forum18.org/archive.php?article_id=2084).

Because the original Lenin District Court ruling only became public in June 2012, it entered legal force before any appeals could be submitted (although Orenburg Regional Court later accepted five appeals). Many Muslim communities, booksellers, and ordinary believers were therefore prosecuted in the interim, and prosecutors used the Orenburg ban as grounds for seeking the prohibition of other editions of the 68 works, most frequently "Fortress of a Muslim", which as a popular and wide-ranging prayer book has appeared in multiple Russian translations issued by different publishers.

Despite the lifting of the initial ban on "Fortress of a Muslim", none of the subsequent bans has been overturned, and people continue to be charged under Administrative Code Article 20.29 ("Production or mass distribution of extremist materials included in the published Federal List of Extremist Materials, as well as their production or storage for mass distribution") if suspected of "mass distribution" of any edition other than those reprieved in Orenburg.

In 2017, a judge at Yakutsk City Court in the Sakha Republic acquitted A. Elderov on the grounds that he had been found in possession of the 2007 Umma edition, which has been removed from the Federal List. The judge ordered the book to be returned to its owner.

Consequences

Punishments under Administrative Code Article 20.29 ("Production or mass distribution of extremist materials included in the published Federal List of Extremist Materials, as well as their production or storage for mass distribution") in 2017 were almost invariably fines, apart from one sentence of administrative arrest. After the FSB security service searched the bakery where he worked, Tajik citizen U. Aminov was charged with lending a copy of "Fortress of a Muslim" to two of his colleagues. Because of Aminov's poor financial position, Judge Svetlana Kobyasheva of Artyomovsky District Court (Sverdlovsk Region) ruled on 22 May 2017 that he should be detained for two days rather than fined.

The telephone at Judge Kobyasheva's office went unanswered when Forum 18 called on 10 and 13 August to clarify why Aminov had been jailed merely for possession of a book.

Despite the relatively low fines for private individuals and officials, conviction under Administrative Code Article 20.29 can have serious consequences for religious communities. Fines of 100,000 to 1 million Roubles can be crippling for a small religious organisation. The largest fine recorded by Forum 18 in 2017 was 500,000 Roubles, imposed on Kislovodsk Jehovah's Witness community on 26 January 2017.

Prosecutors also cited convictions under Article 20.29 (both of communities themselves and of their members) as grounds for the liquidation of several local Jehovah's Witness congregations between 2014 and 2016, and for the liquidation of the national-level Jehovah's Witness Administrative Centre and the banning of all Jehovah's Witness activities in 2017. Courts are also known to have banned Muslim communities on this basis, though on a much smaller scale.

How cases begin

The majority of known Administrative Code Article 20.29 ("Production or mass distribution of extremist materials included in the published Federal List of Extremist Materials, as well as their production or storage for mass distribution") cases in 2017 arose from raids or inspections carried out by law enforcement officials, often with the aim of "checking compliance with anti-extremism legislation", according to court verdicts. In a few instances, these are allegedly triggered by a tip-off from a member of the public.

While such searches usually took place at religious communities' premises, officers of the Interior Ministry's Centre for Countering Extremism, FSB security service operatives, and prosecutor's office staff also inspected a variety of other institutions, including a library, a hostel, a bakery and a drug rehabilitation centre. 2017 also saw ten searches of people's homes; court verdicts rarely detail the specific reasons for these.

Searches of religious communities may lead to multiple prosecutions for a single alleged offence, Forum 18 notes – of the community itself (if a legal entity) and its leader. For instance, an FSB search of a Muslim prayer room in Yekaterinburg, "in order

to verify incoming operational information about the storage of extremist literature", found a copy of "Faith and Man" by Said Nursi on a bookshelf. Both the Spiritual Administration of Muslims of Sverdlovsk Region and its chair, Artur Mukhutdinov, were charged under Administrative Code Article 20.29 ("Production or mass distribution of extremist materials included in the published Federal List of Extremist Materials, as well as their production or storage for mass distribution") and fined 50,000 Roubles and 2,000 Roubles respectively on 4 August 2017 at the city's Railway District Court.

Forum 18 telephoned Railway District Prosecutor's Office on 13 August to ask why the possession of a single copy was considered "mass distribution" and where the information about the presence of "extremist" literature had come from. A spokeswoman said that questions would be better submitted by email. Forum 18 did this in the afternoon of the Yekaterinburg working day of 13 August.

Similarly, both the Tula Jehovah's Witness community and its chairman, Gurami Labadze, were prosecuted after a person who allegedly attended a service handed a copy of "What does the Bible really teach?" in to police after "realising [the book] was on the Federal List of Extremist Materials". Labadze received a fine of 3,000 Roubles and his community a fine of 120,000 Roubles, both at Tula's Proletarian District Court on 6 February and 31 January respectively.

In the Tula case and most other Jehovah's Witness prosecutions, defendants argued that law enforcement agents had planted the banned texts.

The origins of cases in 2017 also showed greater variety than in previous years. On 20 April 2017, Grigory Dzhumabayev was fined 1,500 Roubles at Kaluga District Court after officers of the Interior Ministry's Centre for Countering Extremism observed him leaving several Jehovah's Witness books in a free "mini-library" in the street.

Sergei Tuguzhekov voluntarily turned in to police a copy of the Falun Gong text "Chzhuan Falun", which he used for teaching at a Falun Gong school, after he realised it had been banned as "extremist". He was nevertheless charged, found guilty, and fined 2,000 Roubles by Abakan City Court on 5 June 2017.

Telephones at the Abakan police press department went unanswered when Forum 18 called on 10 and 13 August to ask why voluntary surrender of a banned book should have led to prosecution.

No answers

No state agency has answered Forum 18's questions, originally put in October 2015, on: whether it is right that people should be prosecuted for distribution of texts which do not advocate violence, hatred, or the violation of human rights in other ways; whether such prosecutions are a sensible use of police and prosecutors' time; and why cases are initiated when only one copy of an item has been found (see Forum 18's "extremism" Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215).

Crimea too

The Russian authorities began similar prosecutions in Crimea soon after they annexed the territory from Ukraine in March 2014 (see Forum 18's Crimea religious freedom survey http://www.forum18.org/archive.php?article_id=2051). (END)

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

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

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

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

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

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