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The right to believe, to worship and witness
The right to change one's belief or religion
The right to join together and express one's belief

16 June 2020

RUSSIA: 6.5 years' jail for building "world theocratic state" with 700 roubles

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

A Pskov court handed a six and a half year jail term to 61-year-old Jehovah's Witness Gennady Shpakovsky. This is the second-longest jail term yet on "extremism"-related charges for meeting with others to pray and study beliefs. Muslim Ilgar Aliyev received an eight-year prison term in 2018. Prosecutors claimed two jars of small donations Shpakovsky had were to finance building a "world theocratic state".

On 9 June, a court in Pskov in northern European Russia handed 61-year-old Gennady Shpakovsky the longest jail sentence given to a Jehovah's Witness after the 2017 Supreme Court ban on Jehovah's Witness activity - six and a half years' imprisonment in a general-regime labour camp ("correctional colony"). This is the second-longest jail term yet handed down on "extremism"-related charges for meeting with others to pray and study beliefs.

Shpakovsky, from Pskov, will have to serve the full term, should his appeal be unsuccessful, as he has spent no time in pre-trial detention (see below).

After his release, Shpakovsky will also undergo another year of restrictions on freedom, his lawyer explained to Forum 18. These comprise an 11 pm to 6 am curfew, a ban on leaving his home town, and requirements to present himself to probation authorities twice a month and inform them if he wishes to move house. He will also be barred from leading or participating in any exercise of freedom of religion and belief for three years (see below).

Prisoner of conscience Shpakovsky's six-and-a-half-year sentence is the second-longest sentence imposed for meeting with others to pray and study beliefs. Ilgar Vagif-ogly Aliyev, who met with other Muslims to study Islam and theologian Said Nursi's texts, was jailed in June 2018 in Izberbash for eight years (http://www.forum18.org/archive.php?article_id=2386). Aliyev, however, spent a year and three months in detention, meaning that he is due to be released after about six years and 1.5 months, in September 2024.

Shpakovsky is also the first Jehovah's Witness to be convicted of "Financing extremist activity" under Criminal Code Article 282.3, Part 1. "In the flat where there was a search, the FSB found two jars, one containing 200 Roubles, the other 500 Roubles," his lawyer Arly Chimirov told Forum 18. "The jars were labelled 'salt' and 'sugar', [and] they considered this to be conspiracy and financing" (see below).

In court, the FSB security service claimed that Jehovah's Witnesses were building a "world theocratic state" (see below).

500 Roubles is equivalent to about 68 Norwegian Kroner, 6 Euros, or 6 Dollars.

According to the written verdict of 9 June 2020, seen by Forum 18, Shpakovsky "took actions of an organised nature, aimed at continuing the illegal activity of the court-prohibited religious organisation of Jehovah's Witnesses of Pskov, in the form of convening meetings, organising religious sermons and services at these meetings, distributing extremist literature, collecting financial resources In the form of donations, [and] implementing preaching activity, agreeing and coordinating his activities under direction from a superior organisation in the structure of the worldwide organisation of Jehovah's Witnesses on the territory of the Russian Federation – the Administrative Centre of Jehovah’s Witnesses".

"Gennady was morally prepared for such a sentence," Chimirov told Forum 18 on 11 June. "We will certainly appeal." Shpakovsky himself lodged an initial appeal on 15 June, according to the City Court website. His lawyer will file further materials soon, and the appeal hearing will take place at Pskov Regional Court.

"In short, this was not a surprise, judging by what he was charged with," Shpakovsky's wife Tatyana Shpakovskaya told Forum 18 from Pskov. "It was especially painful when my husband gave me his wedding ring when he was handcuffed like a dangerous criminal, although before that the prosecutor and the FSB investigator had shaken hands with him when they arrived in the courtroom."

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Shpakovskaya added: "There was a feeling that we would not see each other again. Of course, my husband also felt the same. We are used to having the whole family together and solving all problems together, and now he knows that we are left without his spiritual, physical and material support" (see below).

In his final speech to the court, Shpakovsky described the effects of his prosecution: "From the time I found myself in the position of 'extremist', my family and I have experienced a constant sense of discouragement and confusion, which includes loss of sleep and disruption of a normal lifestyle. We feel people looking askance at us and hear the words: 'Look, the extremist is coming!' or 'I have nothing to talk about with the extremist!'"

Shpakovsky added that the family had felt "a constant sense of concern and anxiety" in the two years since his arrest on 3 June 2018 (see below).

UN Working Group on Arbitrary Detention

"Court decisions are getting harsher," Jehovah's Witness spokesperson Yaroslav Sivulsky commented on 9 June. "From the point of view of international law, the verdict is an arbitrary deprivation of liberty for the peaceful practice of religion."

Jehovah's Witnesses state that Shpakovsky's conviction and jailing are "in defiance of repeated demands by the United Nations (UN) Working Group on Arbitrary Detention and other prominent international actors to stop arresting, detaining, and prosecuting Jehovah's Witnesses for their peaceful worship".

Shpakovsky's conviction is the first since the UN Working Group on Arbitrary Detention adopted a wide-ranging Opinion (A/HRC/WGAD/2020/10 (http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session87/A_HRC_WGAD_2020_10_Advance_Edited_Version.pdf)) on 1 May condemning the raids, arrests, detention and trials of 18 Jehovah's Witnesses, stating it "wishes to emphasize that none of them should have been arrested and held in pre-trial detention and no trial of any of them should take or should have taken place" (http://www.forum18.org/archive.php?article_id=2573).

The Working Group also noted that the 18 "are part of now ever-growing number of Jehovah's Witnesses in Russia who have been arrested, detained and charged with criminal activity on the basis of mere exercise of freedom of religion, a right protected by article 18 of the Covenant" (see below).

On 2 June, Forum 18 wrote to the Russian Justice Ministry, the Russian Permanent Representative to the United Nations in Geneva, and the Federal Ombudsperson for Human Rights to ask how and when the Russian authorities intend to fulfil the Working Group's requirements.

The Justice Ministry's press office directed Forum 18 to put these questions to the Federal Investigative Committee and the General Prosecutor's Office, which Forum 18 did in writing on 3 June. Forum 18 received no other response by the middle of the working day in Moscow on 16 June.

At a court hearing on 28 May 2020, Shpakovsky requested that his case be closed in light of the UN Working Group's Opinion, but Judge Galina Belik refused this, as she did not deem it to be sufficient grounds.

On 9 June Forum 18 asked Pskov City Court why the judge did not take the UN Working Group's Opinion into account, but has received no response.

Prosecuted for meeting to pray

Prosecutions of Jehovah's Witnesses are happening despite the Supreme Court judges' noting in both their initial (http://www.forum18.org/archive.php?article_id=2274) and appeal rulings (http://www.forum18.org/archive.php?article_id=2297) that the Court "does not give an evaluation of the beliefs of Jehovah's Witnesses".

A 23 March 2018 submission to the European Court of Human Rights (ECtHR) in Strasbourg (seen by Forum 18) from Andrey Fyodorov, the Russian government representative to the Court, stated in Paragraph 91 that the ban "does not contain a restriction or prohibition on individual profession of [Jehovah's Witness] teaching". This was in relation to ECtHR application number 10188/17.

Jehovah's Witnesses therefore argue that the Supreme Court's 2017 ban applies to the activities of legal entities, not to the activities of individual believers. As prisoner of conscience Shpakovsky told Radio Free Europe's Sever.Realii website on 9 June before his sentence: "Jehovah's Witness groups held their gatherings long before the appearance of a legal entity. The legal entity created later solved organisational issues (the renting of premises, etc.), but it did not lead meetings to read the Bible and conversations about God."

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In his final speech to the court, Shpakovsky stated: "As this [Supreme Court] decision exclusively concerned a legal entity, I decided that, as a citizen of the Russian Federation, I have the right to use Article 28 of the Constitution of the Russian Federation, which guarantees the right to freely practise any religion, including the Jehovah's Witness religion, both individually and together with others."

Shpakovsky added that "I have been affirmed in this understanding even more" after the Russian government's March 2018 submission to the ECtHR, in particular Paragraph 91, which he read out to the Pskov court.

Shpakovsky continued: "Your honour, how should I, an ordinary citizen of the Russian Federation, who does not have a special legal education, have understood the essence of the decision of the Supreme Court?"

The written verdict in Shpakovsky's case describes his leadership of "collective religious services", consisting of "the singing of songs from a special collection of Jehovah's Witness religious teachings, prayers to the God Jehovah, [and] the study of articles of religious content under his direction".

The judge decided that the defence argument that the Supreme Court ban applied only to the activities of the registered religious organisation and not to those of a religious group was "based on an incorrect interpretation of this decision and the legal norms analysed therein", and that the liquidation of and ban on activities of "structural subdivisions" should be understood as a ban on all forms of association of Jehovah's Witnesses in Russia.

Prisoners of conscience

Like Muslims who meet to read Nursi's works, Jehovah's Witnesses face prosecution under Criminal Code Article 282.2 ("Organisation of" or "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"). (http://www.forum18.org/archive.php?article_id=2215)

Unlike Muslims who meet to read Nursi's works, some Jehovah's Witnesses - like prisoner of conscience Shpakovsky - are also being prosecuted under Criminal Code Article 282.3 ("Financing of extremist activity") (http://www.forum18.org/archive.php?article_id=2573). Offences under this article also incur large fines or prison terms of up to eight years.

In addition to prisoner of conscience Shpakovsky, seven other Jehovah's Witnesses - from Saratov and Oryol - are currently jailed (http://www.forum18.org/archive.php?article_id=2517) for their exercise of freedom of religion and belief.

Some of the Jehovah's Witnesses have been tortured. (http://www.forum18.org/archive.php?article_id=2554)

Two Muslim men who met with other Muslims to read Nursi's works are currently known to be serving jail sentences:

– Artur Abdulgamidovich Kaltuyev, who sentenced to three years in November 2017 (http://www.forum18.org/archive.php?article_id=2339);

- and Ilgar Vagif-ogly Aliyev, sentenced to eight years in June 2018 (http://www.forum18.org/archive.php?article_id=2386).

In addition, Muslim Yevgeny Lvovich Kim is still in custody despite his release after a three years and nine months' sentence handed down in June 2017 (http://www.forum18.org/archive.php?article_id=2290). On his release on 10 April 2019, in what was the first such case, he was deprived of his Russian citizenship, left stateless, fined, and ordered deported to Uzbekistan (http://www.forum18.org/archive.php?article_id=2478). This is his country of birth (although he is not a citizen of the country) and is itself a serious violator of freedom of religion and belief (http://www.forum18.org/archive.php?country=33).

Prisoner of conscience Kim remains in a temporary detention centre for foreign nationals in Khabarovsk, awaiting deportation to Uzbekistan.

All remain on the Federal Financial Monitoring Service (Rosfinmonitoring) "List of Terrorists and Extremists", whose assets banks are obliged to freeze (although small transactions are permitted). (http://www.forum18.org/archive.php?article_id=2215)

Continuing trials and investigations

Ninety-three Jehovah's Witnesses were known to be defendants in 43 trials as of 21 May. (http://www.forum18.org/archive.php?article_id=2517)

In late March, police raided 20 Muslim women's homes in Naberezhnyye Chelny in Tatarstan (http://www.forum18.org/archive.php?article_id=2563). One woman suffered a heart attack and was placed in intensive care. A

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court ordered two months' house arrest for 62-year-old Nakiya Sharifullina as she is investigated on criminal "extremism" charges for meeting to study theologian Nursi's works. A Dagestan court ordered two months' pre-trial detention for Ibragim Murtazaliyev as he is investigated on similar charges.

Pskov: FSB surveillance, charges

The Pskov Region branch of the FSB security service opened its criminal case against Gennady Valerianovich Shpakovsky (born 6 October 1958) on 31 May 2018. According to federal tax records, he had earlier chaired Pskov's local registered Jehovah's Witness organisation.

It became apparent during court hearings that officers had kept Shpakovsky and fellow Jehovah's Witnesses under surveillance for several months, covertly recording and filming them as they met to pray and read the Bible together, and monitoring their computers.

On 9 June, the local Vesti-Pskov news programme on the Rossiya-1 state TV channel showed clips of surveillance footage of Shpakovsky and another man standing at a computer, then Shpakovsky writing on a piece of paper. It also briefly scrolled through the receipts used as evidence of the charge of "Financing extremist activity", which the report claimed were found on Shpakovsky's computer and detailed the collection of funds for building Kingdom Halls and the expenses of the local congregation.

On 3 June 2018, the FSB security service and OMON riot police carried out five armed raids in Pskov, including on the home of an 80-year-old woman (http://www.forum18.org/archive.php?article_id=2394). Officers arrested Shpakovsky in a friend's flat, "where they were peacefully discussing the Bible", Jehovah's Witnesses stated on 9 June 2018. After breaking down the door and searching the property for six hours, they took him and two others away for questioning, which lasted until late at night. After interrogation, officers released the three.

Investigators had Shpakovsky added to the Federal Financial Monitoring Service (Rosfinmonitoring) "List of Terrorists and Extremists" (http://www.forum18.org/archive.php?article_id=2215) on 6 July 2018. This meant that the bank card Shpakovsky used to access his salary and pension was "immediately blocked", his wife Tatyana told Forum 18 on 11 June, meaning he could no longer use the card or make or receive transfers.

Multiple charges on instructions from Moscow

The FSB security service formally charged Shpakovsky under Criminal Code Article 282.2, Part 1 ("Organisation of the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity") on 19 March 2019, and under Criminal Code Article 282.3 ("Financing of extremist activity") on 21 August 2019.

Investigators had not originally intended to prosecute Shpakovsky under both Criminal Code Articles, lawyer Arly Chimirov told Forum 18 on 11 June 2020, "but when they had already prepared the case for submission to court, the investigator was instructed to increase Shpakovsky's charges with this article. This is happening a lot now." He added that "since this began happening simultaneously across several regions, it is logical that [the instruction] came from Moscow".

According to the written verdict, "In the period 18 August 2017 to 3 June 2018, Shpakovsky's duties as director of the Pskov local Jehovah's Witness religious organisation included: the collection of monetary resources designated for the activities of the extremist organisation, and also the accounting, storage, and disbursement of funds, [and] the preparation of financial statements for the Administrative Centre of Jehovah’s Witnesses". It added that the community collected a total of 180,957 Roubles between 31 August 2017 and 3 June 2018.

According to Chimirov, the Criminal Code Article 282.3, Part 1 charge was based on ordinary donations from members of the community. "In the flat where there was a search, the FSB found two jars, one containing 200 Roubles, the other 500 Roubles," he told Forum 18. "The jars were labelled 'salt' and 'sugar', [and] they considered this to be conspiracy and financing. Plus, Shpakovsky had receipts [showing] how much and when believers had made donations and how they had been spent (helping others, household necessities, and similar), [and] they deemed this to be the financing of extremist activity".

500 Roubles is equivalent to about 68 Norwegian Kroner, 6 Euros, or 6 Dollars.

Shpakovsky himself commented to Sever.Realii on 9 June 2020 that he thought he was charged under the second Criminal Code article to "punish [him] as much as possible". What the FSB called "financing", he said, was the voluntary contributions of believers which were sent to "brothers and sisters".

Prosecutors lodged the case at Pskov City Court on 26 September 2019, according to the court website. The court scheduled seventeen hearings to take place, beginning on 5 November 2019, including the delivery of the verdict on 9 June 2020; two hearings in the spring of 2020 appear to have been postponed because of Covid-19 restrictions, and another took place on 1 June with no

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observers allowed inside the courtroom except Shpakovsky's daughter Mariya.

Asked by Sever.Realii on 9 June 2020 why he had not left the country when prosecutions of Jehovah's Witnesses began, Shpakovsky responded: "I consider myself innocent. Why should I leave the country in which I grew up, in which my family and friends live? I did not commit any crime against people, nor against the government, nor against the state and the existing system. The indictment does not contain any damage or injuries. I am being persecuted for my faith."

Building a "world theocratic state"?

"We believe that correction is possible only in conditions of real isolation from society by imposing the main punishment in the form of imprisonment," Pskov's senior assistant prosecutor Oleg Tsyplakov told the court, according to Sever.Realii on 9 June.

In court, the FSB security service claimed that Jehovah's Witnesses were building a "world theocratic state". Prosecutors noted that the Pskov community was recorded discussing the parable of the sheep and the goats, in which it is said that people will be divided at the Last Judgment into those who will receive "eternal torment", and the righteous who will receive "eternal life".

"We are simply retelling the parable of the sheep and goats that was cited by Jesus Christ," Shpakovsky commented to Sever.Realii. "And only he will have the right to determine, ultimately, who is the sheep and who is the goat."

According to the written verdict, prosecution witness Ivan Kalyta, an FSB security service officer, told the court that the aim of the FSB surveillance operation was to document the fact that the organisation was continuing its activities, not to uncover "extremist" activity. Hymn singing, prayer, discussion of preaching skills, and the collection of donations were taken as evidence of continuing activities.

It appears, therefore, that, after the ban, Jehovah's Witnesses do not have to engage in any activity which is itself considered "extremist" in order to be charged with allagedly "extremism"-related offences. The verdict indicates that charges may be brought if they do anything which was previously part of the activities of a now-prohibited organisation.

Shpakovsky's defence argued that the indictment did not indicate any actions of his which had an "extremist" character, nor any motive for the alleged offences. Judge Belik dismissed this as being "without validity", noting that the wish to continue the activities of the banned "extremist" organisation was his motive.

After the final hearing, Oleg Tsyplakov, Pskov's senior assistant prosecutor, told Vesti-Pskov that "the arguments of the defence about the law-abiding behaviour of the defendant were recognised by the court as invalid."

Forum 18 wrote to the Pskov Regional Prosecutor's Office on 9 June to ask why it had sought a jail sentence, in what way Shpakovsky could be considered dangerous, and why meeting for prayer and Bible reading were considered criminal offences. No reply has been received.

Pskov conviction

On 9 June 2020, Judge Belik of Pskov City Court found Shpakovsky guilty under Criminal Code Article 282.2, Part 1 ("Organisation of the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity") and Criminal Code Article 282.3, Part 1 ("Financing extremist activity").

According to the written verdict, the judge found no aggravating circumstances to Shpakovsky's alleged offences, took into account his age and the positive character reference from his workplace as mitigating factors, and ruled that he should be given a minimal prison term. She decided against a lighter sentence, as this would not "fulfil the objective of preventing the commission of new crimes".

Shpakovsky received six years under Article 282.2, Part 1 (the minimum prison sentence stipulated by the Criminal Code) and three years under Article 282.3, Part 1 (also the minimum), to run almost concurrently to make a total of six and a half years in a general-regime labour camp ("correctional colony"). He was taken into custody directly from the courtroom.

Judge Belik ruled that the cash seized in the FSB raids should go to the state and Shpakovsky's computer and 17 copies of the New World Bible should be destroyed.

That evening, the local Vesti-Pskov news programme showed footage of police officers putting handcuffs on Shpakovsky (who had arrived at court with a bag already packed for prison) and leading him away.

"It was especially painful when my husband gave me his wedding ring when he was handcuffed like a dangerous criminal, although before that the prosecutor and the FSB investigator had shaken hands with him when they arrived in the courtroom," Shpakovsky's

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wife Tatyana Shpakovskaya told Forum 18 from Pskov on 11 June.

"There was a feeling that we would not see each other again," she added. "Of course, my husband also felt the same. We are used to having the whole family together and solving all problems together, and now he knows that we are left without his spiritual, physical, and material support."

Given Shpakovsky's double charge, he could have been imprisoned for up to 15 years. Prosecutors requested a sentence of seven and half years' imprisonment. In addition to imprisonment, Shpakovsky will be subject to another year of restrictions on freedom after his release, his lawyer explained to Forum 18 on 15 June. These include an 11pm-6am curfew, a ban on leaving his home town, and requirements to present himself to probation authorities twice a month and inform them if he wishes to move house. He will also be barred from leading or participating in any exercise of freedom of religion and belief for three years.

Because he spent the duration of the investigation and trial under travel restrictions, rather than in detention or under house arrest, if Shpakovsky's planned appeal is unsuccessful, he will have to serve his full six and half year sentence (although the time he will now spend in detention before his appeal will be deducted at the rate of one day to one and a half days).

On 9 June Forum 18 asked Pskov City Court why Judge Belik had imposed such a long sentence, but has received no response.

This is the first time that a Jehovah's Witness has been convicted of "financing extremist activity" or under multiple articles of the Criminal Code. Many others, however, are currently on trial or under investigation under various combinations of Criminal Code Articles. (http://www.forum18.org/archive.php?article_id=2572)

Verdict "was especially painful"

"In short, this was not a surprise, judging by what he was charged with," Shpakovsky's wife Tatyana Shpakovskaya told Forum 18. "We grasped the fact that if the sentence were milder than the prosecutor requested, then it would not be by much. And so it turned out. Of course, my natural reaction, which I think any normal person would have, is pain at the fact that they are splitting up a family that has been together for 30 years."

In his final speech to the court, Shpakovsky described the effects of his prosecution: "From the time I found myself in the position of 'extremist', my family and I have experienced a constant sense of discouragement and confusion, which includes loss of sleep and disruption of a normal lifestyle. We feel people looking askance at us and hear the words: 'Look, the extremist is coming!' or 'I have nothing to talk about with the extremist!'"

Shpakovsky added that the family felt a "constant sense of concern and anxiety" in the two years since the raid and arrests on 3 June 2018, fearing that they could happen again.

According to Sever.Realii, police filmed Jehovah's Witnesses who had gathered outside the court to await the verdict. Interviewed by a Pskov-Vesti reporter, they denied that they were a "sect" (as "experts" for the prosecution had described them) and noted the ongoing violations of their freedom of religion and belief: "I was born into a family of Jehovah's Witnesses. My parents were exiled to Siberia, and I was born in exile," said one. Another added: "Any decision the court might make will still glorify our God whom we worship."

Shpakovsky is currently being held in Pskov's Investigation Prison (SIZO) No. 1 while his appeal is pending. According to his wife, no visits or phone calls are possible because of restrictions relating to the coronavirus pandemic (http://www.forum18.org/archive.php?article_id=2571), but the family is writing letters.

Shpakovsky's current prison address is:

180000 Pskovskaya Oblast

g. Pskov

ulitsa Nekrasova, 39

FKU SIZO-1

More criminal cases in Pskov Region

Criminal cases are underway in Pskov Region against two other Jehovah's Witnesses, both from the town of Porkhov. Both cases were opened on 28 March 2019 (http://www.forum18.org/archive.php?article_id=2512) and are also being investigated by the FSB security service:

Copyright Forum18 News Service 2020 - Page 6/7

- Sergey Vasilyevich Komissarov (born 5 October 1966) is still a suspect under Criminal Code Article 282.2, Part 1 ("Organisation of the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity");

- Aleksey Nikolayevich Khabarov (born 15 February 1975) has been charged under Article 282.2, 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"). (END)

Full reports on freedom of thought, conscience and belief in Russia (http://www.forum18.org/archive.php?query=&religion=all&country=10)

For more background see Forum 18's survey of the general state of freedom of religion and belief in Russia (http://www.forum18.org/archive.php?article_id=2246), as well as Forum 18's survey of the dramatic decline in this freedom related to Russia's Extremism Law (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 (http://www.forum18.org/archive.php?article_id=1468)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (http://www.forum18.org/archive.php?article_id=1351)

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