

19 October 2020

RUSSIA: 2019-20 prosecutions increase for not showing full official name

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

Religious organisations continue to be prosecuted for not showing their full official names on literature, online, and most frequently on buildings. The conviction rate is 72.5 per cent. A Constitutional Court appeal may clarify the law on how and where names should be displayed. Charges are also sometimes brought against individuals, despite the Supreme Court in 2017 clarifying that this should not happen.

Religious organisations in Russia continue to be prosecuted for not showing their full official names on literature, online, and most frequently of all, on their buildings – despite a lack of clear guidance in law on how and where names should be displayed.

Police and prosecutors also sometimes bring charges against individuals, even though only legal entities can be prosecuted under Administrative Code Article 5.26, Part 3 ("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 was clarified by the Supreme Court, which on 7 November 2017 upheld the appeal of a Pentecostal pastor who argued that Part 3 could not apply either to private citizens or people employed in an official capacity (see below).

A religious organisation's full official name must indicate its religious affiliation and its organisational and legal form. Names therefore tend to be long and complicated, but use of an abbreviated form may incur prosecution (see below).

According to available court records, 98 prosecutions reached court between the beginning of January 2019 and the end of June 2020. These involved 76 registered religious organisations and 22 individuals. Most resulted in guilty verdicts and fines, with a conviction rate across the 18-month period of 72.5 per cent. Most of the eight acquittals were of people who should not have been prosecuted in the first place, and few appeals in any of the cases succeeded (see below).

Compared to 2018, the largest increase in the number of prosecutions by religious community was of Muslims, with 28 throughout 2019 and 6 in 2020 until the end of June (the decrease in 2020 was due to coronavirus restrictions). Throughout 2018 there were five such prosecutions of Muslim religious communities. It is unclear why such a sharp rise should have occurred, though it is also discernible among prosecutions in 2019 under Administrative Code Article 5.26, Parts 4 ("Russians conducting missionary activity") and 5 ("Foreigners conducting missionary activity") (see below).

Forty-one of Russia's 83 federal subjects saw at least one prosecution under Administrative Code Article 5.26 Part 3 in 2019 and the first half of 2020. This is a much wider distribution than the 24 regions in which there were prosecutions in 2018 (see below).

In six cases, judges also ordered the destruction of the religious literature which should have been labelled with religious organisations' full official names. In a further eight cases, items were ordered confiscated. It is unclear how far orders to destroy literature, including Korans and a Seventh-day Adventist newspaper, have been carried out (see below).

Many cases – particularly those based on the alleged absence of appropriate signage – involve very similar circumstances. Nevertheless, their outcomes may differ widely as a result of the law's lack of clarity on the issue and judges' varying interpretations both of the law itself and the seriousness of any violations (see below).

A Pentecostal church in the Moscow Region has appealed to the Constitutional Court in an attempt to clarify the question of where exactly an organisation's full official name should be displayed. (see below).

Lawyers hope that this may go some way towards improving the situation for religious communities. "As a result of [the Court's] consideration of our appeal, it will become clear where the 'plaque' with a name should be placed by religious organisations", lawyer Sergey Chugunov of the Slavic Centre for Law and Justice commented to Forum 18 on 9 October. "Of course, this should lead to a decrease in the number of such cases, since religious organisations will know how to implement the law, and officers will not be

able to apply this law arbitrarily". (see below).

The "anti-missionary" amendments were originally introduced as part of an "anti-terrorism" package of legislation proposed by four Duma deputies from the ruling United Russia Party. Forum 18 wrote to the two still in the Duma, Deputy Speaker Irina Yarovaya and Senator Aleksey Pushkov, asking what they think about the subsequent violation of so many people's right to freedom of religion and belief, and whether they thought the law should be clarified – for example as in the pending appeal to the Constitutional Court. The Federation Council's press relations department replied the same day that Senator Pushkov could not comment because of his heavy workload, but no reply has yet been received from Deputy Speaker Yarovaya's office (see below).

Religious organisations and individuals also continue to face prosecution under Administrative Code Article 5.26 Part 4 ("Russians conducting missionary activity") and Administrative Code Article 5.26, Part 5 ("Foreigners conducting missionary activity") (http://www.forum18.org/archive.php?article_id=2593). State officials across Russia have used the "anti-missionary" legislation to control and punish the exercise of freedom of religion or belief in public and even private space. Lawyers involved in these cases have said that the risk of prosecution has a chilling effect on people's exercise of freedom of religion or belief (http://www.forum18.org/archive.php?article_id=2474). "Believers don't understand what they can and can't do," Society for Krishna Consciousness lawyer Mikhail Frolov told Forum 18 in May 2019, "and because of heavy fines they don't want to take the risk and therefore significantly reduce their activity, especially in public".

Background

Administrative Code Article 5.26 Part 3 ("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") came into force in July 2016, alongside Administrative Code Article 5.26 Parts 4 ("Russians conducting missionary activity") and 5 ("Foreigners conducting missionary activity") (http://www.forum18.org/archive.php?article_id=2246).

Administrative Code Article 5.26 Part 3 introduced punishment for violations of Religion Law Article 8 Paragraph 8, which states that "A religious organisation is obliged to indicate its full name when carrying out activities". This requirement had been in force since the Religion Law's adoption in 1997, but had never before had an associated administrative offence.

A religious organisation's full official name must indicate its religious affiliation and its organisational and legal form ("Centralised Religious Organisation", "Local Religious Organisation", etc.). It therefore tends to be long and complicated, but use of an abbreviated form may incur prosecution.

The "anti-missionary" amendments were introduced as part of an "anti-terrorism" package of legislation (http://www.forum18.org/archive.php?article_id=2246) proposed by Duma deputies Irina Yarovaya, Nadezhda Gerasimova, and Aleksey Pushkov, and Senator Viktor Ozerov. All are from the ruling United Russia Party.

Yarovaya is now Deputy Speaker of the Duma, Pushkov is now a senator, and the others have left the Duma. On 28 September, Forum 18 wrote to Yarovaya's press secretary, and on 29 September to Pushkov, asking them what they think about the subsequent violation of so many people's right to freedom of religion and belief, and whether they thought the law should be clarified, for example with regard to exactly where the religious organisation should display its full official name as in the pending appeal to the Constitutional Court. The Federation Council's press relations department replied the same day that Senator Pushkov could not comment because of his heavy workload. No reply has yet been received from Deputy Speaker Yarovaya's office.

Possible punishments

The Administrative Code specifies that cases under Article 5.26 can be brought by the police, Prosecutor's Offices, or local Justice Departments.

According to the Administrative Code, under Article 5.26 Part 3, religious organisations may be fined 30,000 to 50,000 Roubles with the possible confiscation of any materials involved in the alleged offence. Such materials may later be destroyed (see below). Judges may also decide to issue only a warning, because of the "insignificance of the offence", according to verdicts.

A fine of 30,000 Roubles represents about three weeks' average wages for those in work, or just over two months' average pension. A fine of 50,000 Roubles represents nearly six weeks' average wages for those in work, or 16 weeks' average state retirement pension.

In 2019 and the first half of 2020, 62 of the 71 defendants found guilty received fines (before any appeal), while three were given a warning. One case was closed with oral remarks only, and another closed with no punishment because of the insignificance of the offence, but the defendants were still convicted. In four cases, the punishment imposed remains unknown.

Destruction of religious literature

Forum 18 found 14 cases in 2019-20 in which judges ordered the confiscation of religious literature which had allegedly been "distributed as part of missionary activity" and should therefore have been bearing the religious organisations' full official names. In six of these cases, the books, magazines, CDs, or newspapers were also ordered destroyed.

In May 2020, according to verdicts available on court websites, police confiscated copies of the Koran from two mosques in Nizhnevartovsk (Khanty-Mansi Autonomous Region). Judges at separate magistrate's courts found both religious organisations guilty of not labelling the books with their full official names, fined them 30,000 Roubles each, and decided that the Korans (three in total) should be destroyed, alongside a volume of hadiths (sayings of the Prophet Mohammed) entitled Bulugh al-Maram.

Forum 18 wrote to the Bailiffs' Department for Nizhnevartovsk and Nizhnevartovsk District and the press office of the Khanty-Mansi Autonomous Region's Bailiff Service before the start of the Khanty-Mansi working day of 6 October, asking whether the religious literature confiscated from the mosques had indeed been destroyed and how this had been done.

The press office of the Region's Bailiff Service confirmed on 9 October that the court orders had been carried out, but did not describe how. It added that property which passes into state ownership should be transferred to the Federal Agency for the Administration of State Property (Rosimushchestvo). The Khanty-Mansi Autonomous Region's Rosimushchestvo branch told Forum 18 on 13 October to direct such queries to the Nizhnevartovsk Bailiffs' Department. The precise fate of the Korans therefore remains unclear.

A single visit from a Justice Ministry official led to two separate prosecutions on 20 January 2020 of the Seventh-day Adventist church in Yakutsk (Republic of Sakha-Yakutiya), two fines totalling 60,000 Roubles, and two court orders for the destruction of unlabelled literature seized from the church's premises. This included multiple copies of the Seventh-day Adventist newspaper "Hidden Treasure", which had been on a table in a corridor (and were therefore "freely accessible to visitors", according to the verdict), and a book (its title redacted in the verdict) which had been presented to the pastor during Bible study. This book did display the church's name, but in a different form from the full official version (Local Religious Organisation Church of Seventh-day Adventist Christians, Yakutsk).

Forum 18 has been unable to establish what happened to these materials. The Republic of Sakha-Yakutiya's Bailiff Service told Forum 18 on 16 October that its automated record system had no record of the court orders having been enforced. Forum 18 also wrote to the Republic's Rosimushchestvo branch before the start of its working day on 13 October, but has received no response. The Adventist Church itself has also not replied to Forum 18's 8 October enquiry about whether the literature had been destroyed.

In December 2017, in rejecting a Salvation Army branch's appeal against an Administrative Code Article 5.26 Part 3 conviction, the Constitutional Court clarified the requirement to label religious literature with organisations' full official names (http://www.forum18.org/archive.php?article_id=2474). The Court stated that the labelling requirement does not apply if "there is no possibility of missionary activity", but also that "The distribution of religious literature and materials of religious purpose as part of missionary activity should be understood not only as the delivery of these materials to specific individuals, but also as the provision of free access to this literature and these materials to an indefinite number of persons".

Nineteen of the 24 literature-related cases found by Forum 18 in 2019-20 involved materials found by police or prosecutors on a religious organisation's premises (rather than being actively distributed elsewhere). This suggests that proving that "there is no possibility of missionary activity" is difficult, and that simply leaving books or magazines out in the open inside a place of worship is enough to be prosecuted.

Statistics: January 2019 to June 2020

In an analysis of available court records, Forum 18 found a total of 98 prosecutions brought to court under Administrative Code Article 5.26 Part 3 in the calendar year 2019 and the first six months of 2020 (http://www.forum18.org/archive.php?article_id=2611). It is unknown how many other religious organisations (and individuals) may have faced charges, as cases under Part 3 are heard in magistrates' courts, of which there are more than 7,000 across the country. Establishing accurate figures is therefore difficult if communities do not themselves make prosecutions known.

Eighty of these 98 prosecutions reached court in 2019, and only 18 in the first half of 2020 (as a result of restrictions on court functions imposed during Russia's coronavirus lockdown).

The 2019 figure marks an increase on 2018, which saw 54 prosecutions under Administrative Code Article 5.26 Part 3 (http://www.forum18.org/archive.php?article_id=2474). Lawyer Sergey Chugunov of the Slavic Centre for Law and Justice has also noted this increase, and traces it to a rise in prosecutions for failing to display full official names on buildings (as opposed to on religious literature), he told Forum 18 on 8 October.

The 98 prosecutions found by Forum 18 involved 76 registered religious organisations and 22 individuals (four women, 18 men – one of them twice). Many cases are based on routine "inspections of compliance with the requirements" of the Religion Law and the

Extremism Law, carried out by prosecutors' offices or regional branches of the Justice Ministry. A few arose from police or FSB security service surveillance of a religious organisation's premises (http://www.forum18.org/archive.php?article_id=2611).

The total of 98 prosecutions includes two cases which judges reclassified as Administrative Code Article 5.26 Part 4 ("Russians conducting missionary activity"), which were not included in Forum 18's examination of Part 4 prosecutions. They are counted here because the defendants were originally brought to court under Part 3 (http://www.forum18.org/archive.php?article_id=2611).

One police visit or prosecutor's office inspection may lead to charges under both Part 3 and Part 4 ("Russians conducting missionary activity"). For example, the Local Religious Organisation of Muslims of Khimki, Moscow Region, received a 30,000 Rouble fine on 15 August 2019 (http://www.forum18.org/archive.php?article_id=2594) for not displaying its full official name at the cultural centre where it carries out its activities (according to the verdict, there was an incomplete sign on an internal door). The prosecutors checking the organisation's "compliance with the Religion Law" (http://www.forum18.org/archive.php?article_id=2611) also charged it under Article 5.26 Part 4 for using a corridor and rooms which had not been included in the community's agreement of free use of the cultural centre.

Similarly, Protestant Vladimir Akulov was charged under both Article 5.26 Part 3 (http://www.forum18.org/archive.php?article_id=2611) and Part 4 for distributing unlabelled religious literature at a block of flats in Oymyakon (Republic of Sakha-Yakutiya) and talking to residents about religious topics. A judge fined him 5,000 Roubles under Part 4 for performing "missionary activity" on residential premises (where it is explicitly forbidden in law). However, he was later acquitted of a charge under Part 3 as he could not be prosecuted as an individual.

Most acquittals of people who should not have been prosecuted in the first place

First instance courts convicted a total of 71 defendants and acquitted only eight. This gives an initial conviction rate of 72.5 per cent

Judges sent another six cases back to police or prosecutors on technical grounds and closed a further four for unknown reasons. Six defendants were freed from administrative liability. This means that judges concluded that they had committed an offence, but it was insignificant enough for responsibility to be lifted. Any similar alleged violation in the future will therefore count as a first offence.

One case was dropped because it reached court after the permitted time period for prosecutions had passed. (The statute of limitations on administrative offences examined by a judge is three months.) The outcome of two cases remains unknown.

Six of the eight acquittals found by Forum 18 were of individuals who should not have been charged at all, as Administrative Code Article 5.26 Part 3 is only applicable to legal entities. Only two religious organisations were acquitted.

Wrongful prosecutions of individuals

Forum 18 found that 22 individuals (four women, 18 men) were brought to court in 2019 and the first half of 2020 under Administrative Code Article 5.26 Part 3. One man was charged twice for similar alleged offences.

This is despite the fact that only legal entities are subject to prosecution under Part 3, as the law itself only explicitly mentions religious organisations. Russia's Supreme Court clarified this point in a ruling of 7 November 2017, which upheld the appeal of a Pentecostal pastor who argued that Part 3, as written, could not apply either to private citizens or people employed in an official capacity (http://www.forum18.org/archive.php?article_id=2474).

Police and prosecutors' offices appear to be equally responsible for the misapplication of Part 3, each initiating nine cases against individuals in the 18-month period examined by Forum 18. The Justice Ministry brought charges in one case, while the origins of another three remain unknown.

The Supreme Court's 2017 ruling is having some effect on the outcomes of such cases, as was also the case in 2018 (http://www.forum18.org/archive.php?article_id=2474). Of the 22 people known to have been prosecuted in 2019-20, twelve were convicted in the first instance and six were acquitted. All the judges in the acquittals noted that individuals should not be prosecuted under Part 3. Judges sent a further four cases back to police and prosecutors.

The Justice Ministry's Lipetsk Region branch charged Olga Chernykh, chair of the Religious Organisation of Modern (Progressive) Judaism of the City of Lipetsk, because there was no sign at the organisation's office displaying its full official name. This was because the organisation had stopped using that office and had not yet updated its address on its documents. The judge at Lipetsk's Soviet District Magistrate's Court No. 16 acquitted Chernykh explicitly because only organisations can be charged under Administrative Code Article 5.26 Part 3.

Five convicted individuals lodged appeals and all were successful. Seven people therefore ended up with punishments (one warning, six fines), when they should not even have been charged.

After an inspection of compliance with the Extremism Law, prosecutors took imam Ismail Deberbeyev to court because his mosque had no sign displaying its full official name (Local Muslim Religious Organisation "Makhalla No. 2116", Srednyaya Yelyuzan village, Gorodishche District, Penza Region, Central Spiritual Administration of Muslims of Russia). The judge at Gorodishche District Magistrate's Court No. 2 fined Deberbeyev 30,000 Roubles on 3 October 2019. The appeal judge at Gorodishche District Court, however, acknowledged the Supreme Court ruling and overturned Deberbeyev's conviction on that basis.

In a similar case, after a prosecutor's office inspection, Gulomali Rasulov, chairman of the Local Religious Organisation of Muslims "Mosque" of the City of Usolye-Sibirskoye, Irkutsk Region, received a fine of 30,000 Roubles for not having a sign with the community's full official name on his mosque's façade or fence. The judge at Usolye-Sibirskoye and Usolye District Magistrate's Court No. 92 made no acknowledgement of the Supreme Court ruling and convicted Rasulov despite the fact he should not have been charged at all. Rasulov did not appeal.

Few appeals succeed

Defendants submitted initial appeals in 32 cases. These were either to district or city courts within 10 days of the original verdict, or as supervisory appeals after the original ruling came into force. (Supervisory appeals were heard in regional courts until October 2019, thereafter in one of nine newly established cassational courts which each deals with a number of federal subjects.)

Of these initial appeals, 22 were unsuccessful and only nine successful, while one was rejected without being considered.

Ten defendants challenged their unsuccessful appeal rulings at the supervisory level. Two of these were rejected without consideration and the rest were again unsuccessful. Police, prosecutors, and Justice Ministry branches lodged only five appeals, none of which succeeded.

Religious profile – another shift towards more prosecutions of Muslims?

Prosecutions between 1 January 2019 and the end of June 2020 were brought against individuals or organisations of the following beliefs:

Pentecostal and independent Protestant – 35 (31 in 2019, 4 in January-June 2020)

Muslim – 34 (28, 6)

Baptist (including Baptist Union, Council of Churches, and unknown affiliation) – 6 (6 in 2019, 0 in January-June 2020)

Seventh-day Adventist – 6 (1 in 2019, 5 in January-June 2020)

Methodist – 4 (2 in 2019, 2 in January-June 2020)

Jewish – 3 (3 in 2019, 0 in January-June 2020)

Society for Krishna Consciousness – 3 (3 in 2019, 0 in January-June 2020)

Lutheran – 2 (2 in 2019, 0 in January-June 2020)

Roman Catholic – 1 (1 in 2019, 0 in January-June 2020)

New Apostolic – 1 (1 in 2019, 0 in January-June 2020)

New Age (the syncretistic Church Universal and Triumphant) – 1 (1 in 2019, 0 in January-June 2020))

Old Believer – 1 (1 in 2019, 0 in January-June 2020)

Chuvash pagan – 1 (0 in 2019, 1 in January-June 2020)

This represents a considerable increase on 2018 (http://www.forum18.org/archive.php?article_id=2474) in both the number and proportion of prosecutions relating to Muslim religious organisations (or individuals). In 2018 there were only five such cases under Administrative Code Article 5.26 Part 3 out of a total of 54. It is unclear why such a sharp rise should have occurred, though it is also discernible among prosecutions in 2019 under Administrative Code Article 5.26 Parts 4 ("Russians conducting missionary activity") and 5 ("Foreigners conducting missionary activity") (http://www.forum18.org/archive.php?article_id=2593).

Muslim-related cases show a wide geographical spread across 17 federal subjects – Astrakhan Region, Republic of Bashkortostan,

Republic of Kabardino-Balkariya, Irkutsk Region, Republic of Kalmykiya, Khanty-Mansi Autonomous Region, Kurgan Region, Leningrad Region, Mari El Republic, Moscow, Moscow Region, Penza Region, Primorye Region, Rostov Region, Stavropol Region, St Petersburg, Ulyanovsk Region. These federal subjects have varying proportions of the population who are (at least nominally) Muslim.

Broad geographical spread

Forty-one of Russia's 83 federal subjects saw at least one prosecution under Administrative Code Article 5.26 Part 3 in 2019 and the first half of 2020 (36 in 2019, 12 in 2020). These figures do not include prosecutions in the Russian-occupied and illegally annexed (http://www.forum18.org/archive.php?article_id=2544) Crimean peninsula.

This is a much wider distribution than the 24 regions in which there were prosecutions in 2018 (http://www.forum18.org/archive.php?article_id=2474).

The highest numbers of prosecutions were in the Republic of Sakha-Yakutiya (8), Moscow (7), Penza Region (6), Moscow Region (5), and Primorye Region (5). Two of the Sakha-Yakutiya cases derived from the same inspection of a Seventh-day Adventist church in Yakutsk (see above). Two more involved a Yakutsk Protestant church and its pastor. Similar multiple prosecutions were seen in Moscow.

Continued broad interpretation of the law

Administrative Code Article 5.26 Part 3 refers only to the "activity" of religious organisations, during which they must display their full official names, without further specification. Consequently, religious organisations can be prosecuted for not displaying their full official names while doing a wide range of different things. As noted above, the full official name must indicate the religious affiliation of a religious association and its organisational and legal form ("Centralised Religious Organisation", "Local Religious Organisation", etc.). It therefore tends to be long and complicated, but use of an abbreviated form may incur prosecution.

In 2019 and the first half of 2020, Forum 18 found that most prosecutions were for failing to display full official names on religious organisations' premises (or premises where they were holding events) – a total of 57 cases. There were 24 cases involving unlabelled literature (19 for literature found on an organisation's own premises, five for literature distributed elsewhere). Eight cases involved the failure to use full official names on religious organisations' websites and/or social media, and three were based on the lack of full official names in official documents or correspondence. The basis for prosecution in 18 cases remains unknown.

These figures add up to more than the overall total of prosecutions in 2019-20 because police and prosecutors alleged that some defendants had committed more than one type of violation.

In most cases based on the absence of a sign, written verdicts suggest that the required signage was entirely absent. Nevertheless, there are also many instances in which the law's lack of clarity on where and when such signs should be displayed, and the requirement for so much information in an organisation's formal title – or sheer bad luck – mean that communities can be prosecuted even when they have tried to abide by the law. Forum 18 found examples of signs being present but indoors, present but temporarily obscured, and present but displaying an abbreviated name – as well as signs which were only temporarily absent.

On 15 January 2019, Chebarkul and Chebarkul District Magistrate's Court No. 1 (Chelyabinsk Region) fined the Religious Organisation of Chebarkul "Light of Truth" Church of Christians of Evangelical Faith (Pentecostals) 30,000 Roubles for failing to display a sign with its full official name on the façade of the house where members meet for worship. A church representative pointed out that a sign was hung at the entrance of the prayer room within the house during worship. However, the judge decided that such information should be displayed continuously – despite this not being stated in the law.

The Local Religious Organisation of Muslims of the City of Luga and Luga District was found guilty on 19 September 2019 of not displaying its full official name on its historic mosque building. The mosque chairman pointed out that he had removed the sign at the request of the city's chief architect as it had been too large for a cultural monument, and had not yet put up a new one at the time of the prosecutor's office inspection (though had done so by the day of the court hearing). The judge at Luga District Magistrate's Court No. 81 (Leningrad Region) decided not to impose punishment and closed the case with oral remarks only.

The Local Religious Organisation "Tyumen United Methodist Church 'Salvation'" was fined 45,000 Roubles at Lenin District Magistrate's Court No. 12 on 14 May 2020 for not showing its full official name at the premises where it holds services. Pastor Yekaterina Zubkova was also charged, but the judge returned her case to prosecutors. In court, the defence argued that the church rents only part of the building, at the entrance to which an appropriate sign is displayed before all events, and that the prosecutor's office inspection had taken place outside service times. The regional FSB security service had informed the prosecutors' office about the absence of a sign.

The church's initial appeal to Tyumen's Lenin District Court was unsuccessful on 10 July 2020. On 24 September 2020, its lawyers, Yevgeny Shestakov and Ruslan Yakin, lodged a supervisory appeal at the 7th Cassational Court in Chelyabinsk. It is unknown when

this will be considered.

"How a religious organisation is obliged to indicate its full name when carrying out activities, and what it means for a religious organisation to carry out activities without specifying its official full name is not established by law", Shestakov commented to Forum 18 on 13 October. He noted that the Methodists had posted their religious organisation's full name both in the window at the entrance to the building and on the door of the room where they hold meetings for worship. "In the opinion of the prosecutor's office, and now by the decision of the court (magistrate's and district), this is considered non-fulfilment of [Religion Law] Article 8 Paragraph 8, and is a violation under Administrative Code Article 5.26 Part 3. That is, [the Methodists] were convicted precisely for the absence of a sign on the fence or at the entrance to the building".

Shestakov attributed the size of the fine (close to the maximum permitted) to the fact that the church refused to admit any wrongdoing and argued its case in court. It was a "significant" burden for a small church, he added, but other Protestant churches in Tyumen had assisted in paying it.

Lack of consistency in court rulings

Many cases under Administrative Code Article 5.26 Part 3 – particularly those based on the alleged absence of appropriate signage – involve very similar circumstances. Nevertheless, their outcomes may differ widely as a result of the law's lack of clarity on the issue and judges' varying interpretations both of the law itself and the seriousness of any violations.

For example, the Local Religious Organisation Muslim Religious Centre "Islam", Yashalta District, Republic of Kalmykiya, was charged with carrying out "services, other religious rites, and ceremonies" (considered by police to be missionary activity) without displaying a sign with its full official name on its building. Yashalta District Magistrate's Court found the community guilty on 19 December 2019 and imposed a fine of 30,000 Roubles. The community's appeal – at Yashalta District Court on 19 February 2020 – was unsuccessful, despite its argument that the community exists solely on donations which are "barely enough for the purchase of religious items necessary for the administration of religious rites and for utilities".

In contrast, on 8 November 2019, the judge at Almenyev District Magistrate's Court No. 1 (Kurgan Region) freed two Muslim religious organisations from administrative liability for the lack of signs on their buildings showing their full official names. These are:

- Local Muslim Religious Organisation "Makhalla No. 2073", Maylyk Village, Almenyev District, Kurgan Region;
- and Local Muslim Religious Organisation "Makhalla No. 737", Podyasovo Village, Almenyev District, Regional Spiritual Administration of Muslims of the Kurgan Region, part of the TsDUM [Central Spiritual Administration of Muslims] of Russia.

The judge concluded that offences had been committed, although the first makhalla did have a "homemade sign" in the Tatar language, according to the verdict. However, the judge decided that the offences were so insignificant as not to warrant punishment.

Such inconsistency also appears among cases based on activities outside religious organisations' own premises. A Pentecostal church in the Krasnoyarsk Region was acquitted of failing to display its full official name (Local Religious Organisation Church of Christians of Evangelical Faith (Pentecostals) "Glorification Church", Achinsk) at the holiday camp where it was holding a conference on working with former prisoners – the judge at Achinsk and Achinsk District Magistrate's Court No. 145 decided on 25 February 2019 that there is nothing in the legislation which requires a religious organisation to display its full official name on property which is not its own.

A Baptist church involved in the organisation of a similar event – a conference for children's ministers in Vladivostok – was also charged with failing to display its full official name (Local Religious Organisation Church of Evangelical Christian-Baptists "Transfiguration", Vladivostok) at the sanatorium hired for the event. A magistrate's court in the city's Lenin District found the church guilty in May 2019 under both Part 3 and Part 4 ("Russians conducting missionary activities") of Administrative Code Article 5.26, fined it 100,000 Roubles, and ordered the confiscation of the literature the church had offered for sale.

New appeal to Constitutional Court

The Religion Law's failure to specify exactly where and how a religious organisation's full official name should be displayed is now the subject of an appeal to Russia's Constitutional Court. Lawyers hope a successful appeal will in future mean that there will be fewer prosecutions for the lack of proper signage reaching court.

The Constitutional Court accepted the appeal on 23 June 2020, and is likely to consider it before the end of October (it is currently second on the list). The Court will make its ruling without holding hearings, and has instead sought depositions from the legislative bodies concerned,

The appeal is based on the case of the Local Religious Organisation Church of Christians of Evangelical Faith (Pentecostals) "Word

of Life", which received a fine of 30,000 Roubles on 15 July 2019 at Dolgoprudny Magistrate's Court No. 30 (Moscow Region). Prosecutors charged the church under Administrative Code Article 5.26 Part 3 for not having a sign with its full official name on the external walls of its building or at the entrance to its grounds.

The church argued that the owner of the premises does not permit them to have such a sign, and that, as the law does not specify where the sign should be, it had placed one at the entrance of the room in which meetings for worship are held. The church's appeals to Dolgoprudny City Court on 5 September 2019 and the 1st Cassational Court in Saratov on 19 February 2020 were unsuccessful.

"It is difficult to say what kind of decision the court will make", lawyer Sergey Chugunov, who lodged the appeal on behalf of the church, told Forum 18 on 9 October. "Maybe the [legal] norms will be recognised as inconsistent with the Constitution of the Russian Federation, but maybe not".

If the Constitutional Court decides that Religion Law Article 8 Paragraph 8 is unconstitutional in its current form, legislators will have to make appropriate amendments. Even if the Court concludes otherwise, as Chugunov pointed out to Forum 18, it will still give an "interpretation" of the disputed piece of legislation. "Therefore, as a result of [the Court's] consideration of our appeal, it will become clear where the 'plaque' with the name should be placed by religious organisations. Of course, this should lead to a decrease in the number of such cases, since religious organisations will know how to implement the law, and officers will not be able to apply this law arbitrarily".

"I believe that this is absolutely the right decision [to lodge the appeal]", Yevgeny Shestakov, lawyer for the Tyumen United Methodist Church, told Forum 18 on 13 October. "The clarity and accuracy of the law and its enforcement in practice has long been in need of correction". (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)

Follow us on Twitter @Forum_18 (http://twitter.com/forum_18)

Follow us on Facebook @Forum18NewsService (<http://www.facebook.com/Forum18NewsService>)

All Forum 18 text may be referred to, quoted from, or republished in full, if Forum 18 is credited as the source.

All photographs that are not Forum 18's copyright are attributed to the copyright owner. If you reuse any photographs from Forum 18's website, you must seek permission for any reuse from the copyright owner or abide by the copyright terms the copyright owner has chosen.

© Forum 18 News Service. All rights reserved. ISSN 1504-2855.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY