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RUSSIA: Early release applications denied

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

Six Jehovah's Witnesses jailed on "extremism"-related charges applied for early release after serving half their jail terms, but have been unsuccessful. Prison administrations opposed the applications with what Jehovah's Witnesses describe as "fabricated evidence" of violations of prison rules. Four of the prisoners were accused of smoking in the wrong place, but Jehovah's Witnesses do not smoke. Another Jehovah's Witness jailed since 2018 and a Muslim reader of Nursi's works jailed since 2017 should both become eligible to apply in summer 2021.

Six Jehovah's Witnesses jailed on "extremism"-related charges for exercising their right to freedom of religion or belief have so far failed in their applications for early release. On the fourth attempt, a court commuted the rest of Dennis Christensen's jail term to a fine, but this was overturned after prosecutors appealed and he remains in jail. Four jailed Jehovah's Witnesses from Saratov have similarly failed in their appeals for early release, while a fifth is still awaiting a hearing.

Prison administrations opposed the applications with what Jehovah's Witnesses describe as "fabricated evidence" of violations of prison rules. In the Saratov case, four of the prisoners were accused of breaking prison rules by smoking in the wrong place, but Jehovah's Witnesses do not smoke at all (see below).

Both prosecutors and prison authorities opposed early release in the case of one of the Saratov five, Konstantin Bazhenov, as they claimed he had not been "reformed", but "continues to study, believe, and spread the ideology of Jehovah's Witnesses", a Jehovah's Witness spokesperson told Forum 18 (see below).

Forum 18 asked the administration of Kursk Region Labour Camp ("Correctional Colony") No.3 in Lgov, where Christensen is being held why, he is considered to have violated prison protocol, and why he is considered so dangerous that he must remain jailed. It refused to comment, citing the law on personal privacy. Kursk Region Prosecutor's Office insisted to Forum 18 that Christensen "repeatedly violated the established routine [of the labour camp]" and had been punished for this (see below).

Forum 18 asked the administration of Ulyanovsk Region Labour Camp No. 3 in Dimitrovgrad, where Bazhenov is being held, why Jehovah's Witness beliefs are grounds for refusing early release when it is the activities of legal entities which were banned, not the Jehovah's Witness religion. Forum 18 received no reply (see below).

Forum 18 asked the administration of Orenburg Region Labour Camp No. 1 in the city of Orenburg, where the other four Jehovah's Witnesses from Saratov are being held, how they broke prison regulations, why they were considered so dangerous that they should be behind bars, and why it had claimed in court that they had been smoking when this is forbidden by their beliefs. Forum 18 received no reply (see below).

Between June 2017 and July 2018, six Muslims who met to study the works of the late Turkish theologian Said Nursi have received prison sentences on "extremism"-related charges, of whom one – Ilgar Aliyev - is still in prison. None is known to have applied for early release, but Aliyev should be eligible to apply for early release in April 2021 (see below).

Once a court has rejected an appeal for early release, a prisoner must wait a further six months before lodging a further application (see below).

All the more than 60 Jehovah's Witnesses brought to criminal trial on "extremism"-related charges since the 2017 nationwide ban have been convicted, with several being jailed. Appeals have not overturned any convictions. In a few cases, appeal courts increased or reduced the punishment. Muslims who met to read the works of Said Nursi similarly convicted on "extremism"-related charges have also tended to be unsuccessful at appeal (https://www.forum18.org/archive.php?article_id=2637).

Early release

According to Article 80 of the Criminal Code, people serving jail sentences have the right (after a certain period of time) to apply to be released early and serve a lesser punishment instead of their remaining terms of imprisonment.

The more serious the offence for which a person has been convicted, the longer they must stay imprisoned before applying for a change of punishment. Jehovah's Witnesses and Muslim readers of Nursi's works tend to be prosecuted under Criminal Code Article 282.2 ("Organising" or "Participating 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").

Under this Article, a prisoner may request to be released after serving half their term, as long as they spend at least six months imprisoned. This period is calculated from the day a person is first detained (which is often long before trial), not from when the sentence comes into force.

Six Jehovah's Witnesses have applied for early release, but with no success, largely because prison administrations refused to support them. Between June 2017 (https://www.forum18.org/archive.php?article_id=2290) and July 2018 (https://www.forum18.org/archive.php?article_id=2391), six Muslim men were jailed for periods of between two and eight years for meeting together to study Nursi's works. None is known to have applied for early release.

At present, only one Muslim reader of Nursi's works remains imprisoned – Ilgar Vagif-ogly Aliyev. A Dagestan court sentenced him to eight years' imprisonment in May 2018 (https://www.forum18.org/archive.php?article_id=2386). He was first detained in April 2017; if he decides to request that the remainder of his sentence be replaced with a lesser punishment, he could therefore do so in April 2021 (see below).

Whether inmates in general manage to get early release "all depends on the particular prison", Jehovah's Witness spokesperson Yaroslav Sivulsky commented to Forum 18 on 3 February. "But usually prisons are in no rush to get rid of cheap labour too quickly." He believes that Jehovah's Witnesses are being treated differently, noting that Konstantin Bazhenov (see below) was not released despite positive character references from members of the prison staff.

Christensen: Early release application denied

Danish citizen Dennis Ole Christensen (born 18 December 1972) was sentenced to six years' imprisonment on 6 February 2019 (https://www.forum18.org/archive.php?article_id=2479). Taking into account time spent in pre-trial detention, he was due to serve about a further three years. Prosecutors accused him of "continuing the activities" of the local Jehovah's Witness registered religious organisation in Oryol, which had been declared "extremist" by a local court and liquidated in June 2016 (https://www.forum18.org/archive.php?article_id=2256), before the nationwide ban.

On 23 June 2020, Lgov District Court (Kursk Region) decided that Christensen's remaining prison sentence should be commuted to a fine of 400,000 Roubles (https://www.forum18.org/archive.php?article_id=2581). This was the first time a court changed a Jehovah's Witness prisoner's remaining jail term to a non-custodial punishment. Christensen had previously applied for early release three times, but had been turned down during the application process.

Prosecutors, despite originally supporting Christensen's application, then appealed against the court decision. On 4 September 2020, Kursk Regional Court sent the matter back for re-examination. On 26 October 2020, the district court ruled that Christensen should not be released (https://www.forum18.org/archive.php?article_id=2619), and Kursk Regional Court upheld this decision on 10 February 2021. He may submit a new application only after six months have passed.

Both prosecutors and the prison administration opposed early release, Jehovah's Witness spokesperson Yaroslav Sivulsky told Forum 18 on 15 January 2021, though the prosecutor initially supported it in court. The prison authorities presented "fabricated evidence" of Christensen breaking prison rules – for example, by communicating with people in other cells, which he denies – leading to his being labelled a "malicious violator of prison protocol", Sivulsky stated.

On 22 January, Forum 18 asked the administration of Labour Camp No. 3 in Lgov why Christensen is considered to have violated prison protocol, and why he is considered so dangerous that he must remain jailed. Aleksandr Budantsev, acting head of Kursk Region Prison Service, replied on 1 February that he could not answer the first question because of the Federal Law on Personal Information (which protects individuals' privacy). He noted that a decision on reducing punishment is taken by a court and is not within the competence of the prison administration.

On 25 January, Forum 18 asked Kursk Region Prosecutor's Office why it had first supported and then opposed Christensen's application for early release. In his reply of 9 February, Aleksey Shatunov of the Prosecutor's Office for Overseeing Compliance with the Law in Correctional Institutions did not answer this question. He explained that prosecutors had challenged Lgov District Court's original decision of 23 June 2020 because of "the discrepancy between the court's conclusions, outlined in the ruling, and the actual circumstances [of the case] established during the hearing". He added that Christensen "repeatedly violated" the established routine [of the labour camp] and had been punished for this.

Saratov Jehovah's Witnesses: Four early release applications denied, one still awaiting hearing

Konstantin Viktorovich Bazhenov (born 10 May 1975) was convicted alongside five other Jehovah's Witnesses in Saratov in September 2019 (https://www.forum18.org/archive.php?article_id=2510). They were the first Jehovah's Witnesses to be imprisoned after the 2017 Supreme Court ban on Jehovah's Witness activity.

All six received prison terms ranging from two to three and half years. After unsuccessful appeals at Saratov Regional Court on 20 December 2019, prison authorities sent five of the men to Orenburg's Labour Camp No. 1. Prison guards tortured the five men on arrival at the Labour Camp (https://www.forum18.org/archive.php?article_id=2549), and contrary to international law no suspect prison guards have been arrested, investigated or put on criminal trial for torture (https://www.forum18.org/archive.php?article_id=2633).

The prison authorities sent Bazhenov to Labour Camp No. 3 in Dimitrovgrad (Ulyanovsk Region).

Interior Ministry officials deprived Bazhenov of Russian citizenship in April 2020 (https://www.forum18.org/archive.php?article_id=2583).

Bazhenov's request for early release was unsuccessful on 28 October 2020 at Dimitrovgrad City Court (https://www.forum18.org/archive.php?article_id=2619) (Ulyanovsk Region). He appealed, also unsuccessfully, at Ulyanovsk Regional Court on 16 December 2020. He cannot now try again until June 2021, but is due to be released on 5 July. It is likely that Bazhenov will be expelled to Ukraine on his release (https://www.forum18.org/archive.php?article_id=2633).

Both prosecutors and prison authorities opposed early release in Bazhenov's case as they claimed he had not been "reformed", but "continues to study, believe, and spread the ideology of Jehovah's Witnesses", Jehovah's Witness spokesperson Sivulsky told Forum 18.

He added that "Bazhenov has done everything he can to cooperate with the prison administration".

Forum 18 asked the administration of Labour Camp No. 3 in Dimitrovgrad on 22 January why Jehovah's Witness beliefs are grounds for refusing early release when it is the activities of legal entities which were banned, not the Jehovah's Witness religion. Forum 18 received no reply by the end of the working day on 17 February.

The other four men - Aleksey Budenchuk, Gennady German, Aleksey Miretsky and Roman Gridasov - also unsuccessfully applied for early release from Orenburg Labour Camp No. 1 and the replacement of their remaining sentences with fines. German, Gridasov and Miretsky have been unsuccessful, while Budenchuk's hearing has been postponed to an unknown date.

Prosecutors and prison authorities also opposed early release for these Jehovah's Witnesses, presenting what Jehovah's Witness spokesperson Sivulsky stated was "fabricated evidence" that the four men had all broken prison rules. For example, they were accused of smoking in the wrong place, but Jehovah's Witnesses do not smoke at all.

On 22 January, Forum 18 asked the administration of Labour Camp No. 1 in Orenburg how the Jehovah's Witnesses broke prison regulations and why they were considered so dangerous that they should be behind bars, and on 15 February, why it had claimed in court that they had been smoking when this was forbidden by their beliefs. Forum 18 received no reply by the end of the working day on 17 February.

A sixth Jehovah's Witness from Saratov – Feliks Makhmadiyev – was stripped of Russian citizenship in April 2020 (https://www.forum18.org/archive.php?article_id=2583) while serving his jail term. He did not apply for early release and completed his sentence on 31 December 2020, after which Interior Ministry officials transferred him to a foreigners' detention centre. On 21 January 2021, he was expelled to Uzbekistan (https://www.forum18.org/archive.php?article_id=2633), despite being married to a Russian citizen and having lived in Russia since 2002.

Eligible soon to apply for early release

The one Muslim reader of Nursi's works who remains imprisoned – Ilgar Vagif-ogly Aliyev – should be eligible in April 2021 to request that the remainder of his sentence be replaced with a lesser punishment. He was first detained in April 2017. A Dagestan court sentenced him to eight years' imprisonment in May 2018 (https://www.forum18.org/archive.php?article_id=2386).

One other imprisoned Jehovah's Witness is known to be approaching the point at which he can apply to exchange his remaining term for a lesser punishment. Sergey Gennadyevich Klimov was detained in June 2018 and sentenced to six years' imprisonment in November 2019 (https://www.forum18.org/archive.php?article_id=2536). If he chooses to do so, he could request to be released in June 2021. (END)

Full reports on freedom of thought, conscience and belief in Russia (<https://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 (https://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 (https://www.forum18.org/archive.php?article_id=2215)

A personal commentary by Alexander Verkhovsky, Director of the SOVA Center for Information and Analysis <https://www.sova-center.ru>, about the systemic problems of Russian anti-extremism legislation (https://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 (https://www.forum18.org/archive.php?article_id=1351)

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