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RUSSIA: Moscow court decision - a fair cop?

By Geraldine Fagan, Forum 18 (<https://www.forum18.org>)

The full text, which Forum 18 News Service has seen, of the court decision banning Jehovah's Witness activity in Moscow consistently accepts hostile testimony and rejects favourable testimony, including the conclusions of a previous court decision. Looking at the most recent decision, it is notable that only unproven allegations and not proven court cases are cited in the claims made about the legality of Jehovah's Witness activity in Moscow. Many of the claims made about the Jehovah's Witnesses practices could also be made of other religious communities practices as well.

The full local court decision banning the Jehovah's Witnesses in Moscow does not refer to a single concrete violation of the law by a member of the religious community, its lawyer, John Burns, insisted to Forum 18 on 24 May (see F18News 25 May http://www.forum18.org/Archive.php?article_id=327). "Why ban an entire religious community of ten thousand on the strength of a handful of complaints?" he remarked. "It demonstrates how little you need in the way of so-called evidence to outlaw a well-known religion."

According to Burns, Judge Vera Dubinskaya "completely rejected" the arguments of the defence. While the court decision accepts the testimonies of family members of Jehovah's Witnesses who criticised the influence of the organisation, it indeed dismisses those of three relatives who spoke in defence of the community as being given under duress. "Fearful of losing their relatives," states the verdict, "family members were forced to accept the terms of the organisation." The court similarly rejects the validity of numerous petitions submitted in defence of the Moscow community by its own members, considering them to be "evidence not of the voluntary expression of the will of particular individuals, but of the exertion of pressure by the organisation upon its members."

Testimonies by religious studies experts who maintain either that Jehovah's Witness doctrine strengthens the family or does not contain any elements aimed at its destruction are also rejected by Judge Dubinskaya. According to the court decision, these refer only to "generally available literature and not to the internal documentation or the real activity of the organisation." The verdict similarly dismisses a sociological survey which finds no proof that Jehovah's Witness activity damages family relations as considering attitudes towards the family "rather than actual circumstances" and consisting solely of the views of members of the Moscow community: "The opinion of close friends and relatives was not sought."

Forum 18 notes that, while the court dismisses conclusions favourable to the Jehovah's Witness community for not taking into account the opinions of non-members, it accepts uncritically bodies of evidence consisting solely of non-Jehovah's Witness testimonies. Earlier in the same trial, a 23 February 2001 verdict in the community's favour rejected analogous relatives' testimonies as lacking the facts to prove that the Moscow Jehovah's Witnesses deliberately violate Article 14 of the 1997 law: "The testimonies simply show the stand relatives take when a member of their family becomes a Jehovah's Witness... in broken families, the parents who uphold traditional views have tried to use the different beliefs of their former partners as an argument in disagreements about raising children." The latest verdict certainly does not entertain the possibility that other factors might have contributed to family break-up, or that the destructive behaviour attributed to individual Jehovah's Witnesses might not bear a direct link to the religious organisation as a whole. It also fails to provide evidence for its conclusion that pressure was applied by the Jehovah's Witness leadership both to members of the Moscow community who filled out sociological questionnaires and to their relatives who testified to the court, or for the destructive nature of the "actual activity" of the organisation.

In this regard, Forum 18 notes that the verdict gives very little indication of how the expert conclusions shared by the court were reached. In the 23 February 2001 court decision, Judge Yelena Prokhorycheva rejected analogous expert conclusions as "simply based upon the literature of the religious community. Their perception of the actual influence of the texts of the Jehovah's Witnesses upon the activists of the organisation, those involved in it and individuals subject to its activity was not corroborated by any research." While the latest verdict denies that the court examined the legitimacy of Jehovah's Witness doctrine and insists that its contents "cannot by themselves be the subject of legal opinion," it refers to unspecified "texts" and "literature" as the basis of at least some of the experts' conclusions. The recent court decision also maintains that, as distinct from generally available Jehovah's Witness publications, the internal literature of the community leads to the disintegration of the family, among other legal violations. Countering this allegation, John Burns told Forum 18 that the literature referred to consists of guidelines for pastors which do not contain anything different from the generally available literature of the organisation.

With reference to the charge that the Jehovah's Witnesses refuse medical aid to the critically ill on religious grounds, John Burns pointed to Russian legislation on public health, which grants citizens and their legal representatives the right to refuse medical intervention or demand its suspension. This provision was similarly cited by the 23 February 2001 court decision, which also rejected the allegation that the Moscow Jehovah's Witnesses incite citizens to refuse to fulfil their civil obligations, as Judge Prokhorycheva was unable to establish facts proving that members of the community decline to perform alternative military service.

While accepting the allegation regarding refusal to fulfil civil obligations, the latest verdict similarly does not cite evidence that members have declined military or alternative service. Here as elsewhere in the verdict, the court quotes numerous criticisms of Jehovah's Witness practice – "[Moscow Jehovah's Witnesses'] children do not take part in celebrations on the occasion of state holidays" - many of which could be equally levelled at other religious belief systems. Forum 18 notes, however, that Judge Dubinskaya does not for the most part identify such criticisms as evidence of the allegations against the Moscow community. Since statements in favour of Jehovah's Witness activity are also occasionally cited without comment, they cannot therefore be considered as part of the court's argumentation for the ban.

For more background information see Forum 18's latest religious freedom survey at

http://www.forum18.org/Archive.php?article_id=116

A printer-friendly map of Russia is available at

<http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=europe&Rootmap=russi>

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY