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RUSSIA: Jehovah's Witness ban comes into effect

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

A ban on all organised activity by some 10,000 Jehovah's Witnesses in the city of Moscow went into force yesterday (16 June) with the failure of a court appeal by the community. This is the first time that a religious organisation has been banned outright under Russia's 1997 religion law. One of the Jehovah's Witnesses' lawyers told Forum 18 News Service outside the courtroom that all hope of overturning the ban now lies with the European Court of Human Rights. While the prosecution claims that the Moscow Jehovah's Witness community may continue to function without registration, the ban states clearly that all of its activity must cease, and Jehovah's Witness lawyer John Burns told Forum 18 that this prosecution claim was "like saying that you can be Catholic but you can't have a church - you can hold a belief but you can't do anything about it." Other regions of Russia may well try to copy the Moscow decision.

With the coming into effect yesterday of a ban on the organised activity of some 10,000 Jehovah's Witnesses in the city of Moscow, their hopes now rest upon the European Court of Human Rights, Forum 18 News Service has learnt. On 16 June 2004 Moscow City Court rejected the religious organisation's appeal against a 26 March 2004 lower court decision stripping its legal status and prohibiting its activity in the Russian capital. While the Jehovah's Witnesses' appeal was still pending, that verdict was not in force (see F18News 29 March 2004 http://www.forum18.org/Archive.php?article_id=289).

Speaking to Forum 18 outside the courtroom on 16 June, Jehovah's Witnesses lawyer John Burns said that the European Court would now consider whether the ruling violates the European Convention on Human Rights, to which Russia is a signatory. During the appeal hearing, Burns argued that the ban clearly breaches the Convention's specific guarantees of religious freedom, freedom of association and non-discrimination on religious grounds. Should the European Court indeed find the Moscow Court in violation of the Convention, Burns told Forum 18, Russia will be obliged to reverse the ban on the Jehovah's Witness community or else face penalties ranging from a minimum fine of several thousand Euros to expulsion from the Council of Europe, "although that is not very likely."

Following a six-year trial, the ban on the Moscow Jehovah's Witness community marks the first successful attempt to outlaw the activity of a religious organisation under Russia's 1997 law on religion. Notwithstanding a 2001 verdict in the Jehovah's Witnesses' favour, Moscow courts have found the community guilty of forcing families to disintegrate, infringing the person, rights and freedoms of the citizen, encouraging suicide or the refusal on religious grounds of medical aid to the critically ill, and inciting citizens to refuse to fulfil their civil obligations established by law. Under Article 14 of the 1997 law, a religious organisation may lose its legal status and have its activity banned on these grounds (see F18News 25 May 2004 http://www.forum18.org/Archive.php?article_id=327).

For most of yesterday's four-hour hearing, the Jehovah's Witnesses' three lawyers outlined how the lower court had failed to provide evidence of the allegations against the community in the form required by a court of law, i.e. previous administrative or criminal convictions of named individuals belonging to the organisation. This absence of such evidence was reminiscent of Soviet-era trials against Jehovah's Witnesses in the view of one lawyer, Artur Leontyev. John Burns pointed out that the only legal conviction cited in the lower court's decision – the prosecution of a Muscovite who physically assaulted a female Jehovah's Witness as she tried to give him religious literature – was even used to demonstrate the consequences of the organisation's disregard for citizens' right to privacy: "This is a licence for brutality on the basis of bigotry." (For more on the contents of this verdict, see F18News 25 May 2004 http://www.forum18.org/Archive.php?article_id=328).

The Jehovah's Witnesses' third lawyer, Galina Krylova, maintained that the lower court had been entirely selective in its use of evidence, specifically by ignoring extensive expert testimony favourable to the Jehovah's Witnesses, such as confirmation by the Russian Ministry of Health of the existence of perfectly acceptable medical alternatives to blood transfusions. In her view, this was because the court's decision was "ideologically – maybe even politically – predetermined." She added that Russian law permits citizens to refuse both medical treatment and military service.

John Burns also pointed out to the court that the experts whose analyses were cited in the lower court verdict had acknowledged that they had never attended a Jehovah's Witness meeting. Comparing the Moscow religious community to a village, he suggested that the seven non-Jehovah's Witnesses who testified that the organisation had broken up their families were like seven relatives living

outside this village while being involved in family disputes with several of its inhabitants. "Would you liquidate the entire village on the basis of what those seven told you, as well as the conclusion of a few experts who had never lived there?" he asked the three judges. "Well, that's what the lower court judge did." Burns also cited several European Court judgements protecting Jehovah's Witnesses' rights and recalled that Russia's Supreme Court has twice ordered lower courts to implement European Court decisions.

Representing the public prosecutor's office of Moscow's northern district, Tatyana Kondratyeva responded to the Jehovah's Witnesses' lawyers by acknowledging that "illegal methods were used to influence thought and convictions" in the Soviet Union, but added that the repression of Jehovah's Witnesses during that period had never been one of the prosecution's arguments. She called upon the court to reject the conclusions of "foreign lawyers and experts", as well as decisions by the European Court, since these "are not even indirectly related to the subject of this case." Dismissing as biased the expert analyses "correctly" rejected by the lower court, Kondratyeva insisted that the Jehovah's Witnesses' activity – rather than doctrine – had been under scrutiny and questioned how anyone could not see its negative consequences: "Isn't damage to physical and psychological health negative?"

In support of Kondratyeva's arguments to uphold the ban, a representative of Moscow City public prosecutor's office commented that the Jehovah's Witnesses reject alternative as well as military service "as far as I know". She also noted that Jehovah's Witnesses keep their children away from state programmes aimed at encouraging patriotism at an early age. "And why should I find literature in my letterbox which I never asked for?" this official concluded. "Why do people come up to me on the street? Certain citizens' rights are violated by that!"

As there is no precedent for such a ban under current Russian law, it is not yet clear exactly how it will be enforced. Remarking that it would be easy to close a bank account and destroy an official stamp, Galina Krylova queried how the authorities would stop organised activity: "Will the police check up to see whether or not Jehovah's Witnesses are celebrating their birthdays?" Tatyana Kondratyeva maintained that there was no legal obstacle to prevent the community from reforming as an unregistered religious group, even though the ban states clearly that the Moscow organisation of Jehovah's Witnesses is to terminate its activity in addition to losing its legal status. John Burns told Forum 18 that he did not find Kondratyeva's suggestion credible in view of the nature of the ban: "It's like saying that you can be Catholic but you can't have a church - you can hold a belief but you can't do anything about it." Forum 18 notes that the official commentary to Article 14 of the 1997 religion law refers to prosecution according to Article 239 of the Criminal Code, which punishes the participation in an organisation found to have violated the person and rights of the citizen with penalties ranging from a fine of 100 times the minimum wage (14,670 Norwegian kroner, 1,743 Euros or 2,107 US dollars) to imprisonment for up to two years.

While John Burns told Forum 18 that the Moscow Jehovah's Witness community hosted a stadium congress attended by some 21,000 believers "without incident" as recently 11-13 June, the 26 March lower court decision has already had negative repercussions outside Moscow. Even when technically not in force, it was reportedly used to justify the cancellation of local congregations' rental contracts in several cities (see F18News 13 April 2004 http://www.forum18.org/Archive.php?article_id=297) and cited among the grounds for dismissal of three Jehovah's Witness employees on the Pacific island of Sakhalin (see F18News 4 May 2004 http://www.forum18.org/Archive.php?article_id=312). It thus appears highly likely that the ban's negative consequences for Jehovah's Witnesses will increase across Russia following the latest Moscow court decision.

For more background information see Forum 18's religious freedom survey at http://www.forum18.org/Archive.php?article_id=116

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

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