

17 January 2007

RUSSIA: Jehovah's Witnesses "very glad" about ECtHR victory

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

Russian Jehovah's Witnesses are "very glad" about a recent ruling by the European Court of Human Rights (ECtHR) that Russian authorities unlawfully interrupted the worship of 103 predominately deaf Jehovah's Witnesses in Chelyabinsk. Spokesperson Yaroslav Sivulsky told Forum 18 News Service that the ruling is also important because "deaf people in Russia often feel that they are of inferior worth, outside society, but this has made them feel rehabilitated and aware that their rights are respected." He regretted that the case had not been resolved within Russia. Both parties in the case have three months in which to appeal against the ECtHR decision. The community currently rents premises for worship without obstruction. Following another ECtHR ruling that Russia had violated the rights of the Salvation Army's Moscow branch by refusing to give it legal status and by branding it a "militarised organisation", the judgement became final on 5 January 2007 and so Russia must make its compensation payment to the Salvation Army by 5 April. There is also a pending ECtHR case about a ban on the Jehovah's Witness organisation in Moscow.

Responding to the recent ruling by the European Court of Human Rights (ECtHR) in Strasbourg, in favour of 103 predominately deaf Jehovah's Witnesses in Chelyabinsk (approximately 1,700km [1,050 miles] east of Moscow), their press spokesperson Yaroslav Sivulsky has told Forum 18 News Service that the community's members are "very glad, of course." This, he remarked on 16 January, is not just because the ECtHR has determined that the authorities unlawfully disrupted their worship. "Deaf people in Russia often feel that they are of inferior worth, outside society, but this has made them feel rehabilitated and aware that their rights are respected." Sivulsky regretted, however, that the case could not have been resolved within Russia.

In its 11 January 2007 verdict, the ECtHR ruled unanimously that the Russian state authorities violated Article 9 (freedom of religion) and Article 6 (the right to a fair hearing) of the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms with regard to the Chelyabinsk Jehovah's Witnesses. The Convention entered into force for Russia in 1998.

On behalf of the whole group, the judgment (Application no. 184/02) awards Jehovah's Witness Konstantin Kuznetsov 30,000 Euros [1,029,730 Russian Roubles, 249,860 Norwegian Kroner, or 38,760 US Dollars] non-financial damage and 60,544 Euros [2,077,364 Roubles, 504,201 Norwegian Kroner, or 78,238 US Dollars] in costs. Both parties in the case have three months in which to appeal against the ECtHR decision. The Russian Government must make its compensation payment within three months of the ruling becoming final.

Finding against the Russian state for violating the rights of the Salvation Army's Moscow branch by refusing to give it legal status and by branding it a "militarised organisation", the ECtHR ruled on 5 October 2006 that the state must pay the Church compensation of 10,000 Euros [343,000 Roubles, 83,260 Norwegian Kroner, or 12,900 US Dollars] (see F18News 12 October 2006 http://www.forum18.org/Archive.php?article_id=854). On 15 January an ECtHR press officer confirmed to Forum 18 that the judgment on the Salvation Army case became final on 5 January 2007. This means that the Russian state must make its compensation payment to the Salvation Army by 5 April.

On 17 January a spokeswoman at the Salvation Army's Russian headquarters told Forum 18 that the organisation has not yet received any compensation payment.

The telephone of Pavel Laptev, the Russian Federation Representative at the ECtHR, went unanswered on 16 and 17 January.

As outlined by the ECtHR's 19-page verdict, a group of predominately deaf Jehovah's Witnesses met for worship on Sunday 16 April 2000 at the premises of Vocational Training College No. 85 in Chelyabinsk. A local Jehovah's Witness, acting on behalf of the confession's Administrative Centre in Russia, had concluded a rental contract with the college principal in February 1999, and both parties were operating in accordance with the agreement at the time of the meeting.

During the meeting, Yekaterina Gorina, the chair of Chelyabinsk Regional Human Rights Commission, arrived with two senior police officers and ordered the worship to be stopped. Konstantin Kuznetsov – who is proficient in sign language – relayed this order to the congregation because he found the state representatives' manner intimidating. The following day the college principal terminated the Jehovah's Witnesses' rental contract, "because of certain irregularities committed by the college administration at the time of its signing."

In subsequent hearings at Chelyabinsk's Soviet District Court, the three officials claimed that the Jehovah's Witness event required documented state permission. According to one police officer, "by law I had to stop the activities until documents were produced." The state representatives also maintained that, since the Jehovah's Witness community did not hold local state registration, it had no right to hold religious services and its rental agreement had been null and void. Yekaterina Gorina additionally claimed that children had attended the worship meeting without proof of consent from their parents or legal guardians and that she had been "defending the rights of all the children who study at College No. 85."

On 25 January 2001 Soviet District Court rejected the Jehovah's Witnesses' civil complaint against the three officials' actions after failing to find a connection between their arrival and the early termination of the worship meeting. The court did not consider the testimony of the Jehovah's Witnesses who had heard Gorina ordering the police officers to halt the meeting, or the police's similar instructions to Kuznetsov, as "these individuals are interested in the outcome of the proceedings, and for that reason, the court views their submission critically."

Regarding Article 9 of the Convention (freedom of religion), the ECtHR rejects the Russian state's claim that the Jehovah's Witnesses did not have appropriate documents for the meeting. "The government never specified the nature of the allegedly missing documents," it points out, while Russia's Supreme Court has twice confirmed that "religious assemblies [in premises provided for religious purposes] do not require any prior authorisation from, or notification to, the authorities."

The ECtHR also states that Russia's 1992 Education Law "does not prohibit the physical use of college space by third parties, but rather the clericalisation of schools through the setting up of religious structures involving students and/or staff." If there were a defect in the lease, it adds, this would be a matter of concern only to the two signatory parties. Forum 18 notes that the 1997 Religion Law's official commentary clearly states that premises provided for the use of an unregistered religious group "may be the property of one of the members of the group or rented by one of them."

The ECtHR ruling also points to the lack of evidence that Yekaterina Gorina was following up an official complaint about the unauthorised presence of children. In any case, it adds, she had no authority to issue orders to police officers; "therefore the legal basis for breaking up a religious event conducted on the premises lawfully rented for that purpose was conspicuously lacking."

Regarding Article 6 (the right to a fair hearing), the ECtHR criticises Soviet District Court for remaining silent on the "crucial point" of the Jehovah's Witnesses' testimony confirming that the three officials had ordered their worship meeting to be halted. Whereas "an authority is obliged to justify its activities by giving reasons for its decisions," it declares, Chelyabinsk Regional Court "repeated verbatim the reasoning of the District Court" and "did not address the arguments set out in the statement of appeal." In this way, the ECtHR concludes, "the domestic courts failed in their duty to state the reasons on which their decisions are based and to demonstrate that the parties had been heard in a fair and equitable manner."

The Chelyabinsk Jehovah's Witnesses lodged their case with the ECtHR on 17 December 2001, and it was declared admissible on 9 September 2004. Sivulsky of the Jehovah's Witnesses told Forum 18 that the community currently rents premises for worship without obstruction.

Russian Jehovah's Witnesses lodged another case with the ECtHR on 25 October 2001 due to the excessively drawn-out nature of a trial seeking to ban their Moscow organisation. With the culmination of that trial in a ban in 2004 (see F18News 17 June 2004 http://www.forum18.org/Archive.php?article_id=344), the ECtHR accepted a request for its lawfulness to be considered as part of the Jehovah's Witnesses' pending case.

With some notable exceptions (see F18News 22 June 2005 http://www.forum18.org/Archive.php?article_id=591), the Moscow ban has so far remained largely unenforced. (END)

For a personal commentary by an Old Believer about continuing denial of equality to Russia's religious minorities see F18News http://www.forum18.org/Archive.php?article_id=570

For more background see Forum 18's Russia religious freedom survey at http://www.forum18.org/Archive.php?article_id=509

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