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RUSSIA: Will Moscow Salvation Army's rights be restored?

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

Although the Russian government seems set to pay the Moscow branch of the Salvation Army the compensation due to it by 5 April in the wake of the October 2006 judgment at the European Court of Human Rights (ECtHR), the branch's lawyer Anatoli Pchelintsev says "the problem remains". He told Forum 18 News Service that the government has taken no steps to re-register the branch or to renounce official denigration of the group as a "paramilitary organisation". "If they'd wanted to sort this out, they would have done so already. They had five years while our [ECtHR] application was pending." The official in charge of registration of religious organisations within the Federal Registration Service, Viktor Korolev, told Forum 18 he has yet to read the ECtHR's judgment. "I've only seen what's on the Internet, not an official translation". While acknowledging that governments are required to take action to remove the causes of the human rights violations identified by the ECtHR, Korolev said he has received no instructions of what to do from the Russian Council of Ministers.

The Salvation Army's Moscow branch has yet to receive compensation due from the Russian government in accordance with a 5 October 2006 ruling by the European Court of Human Rights (ECtHR), Forum 18 News Service has learnt. But a recent official letter asking for the Moscow branch's bank details "shows that they absolutely agree with the ECtHR decision," Salvation Army spokesperson Aleksandr Kharkov told Forum 18 in Moscow on 27 March. Kharkov also emphasised that the Russian government still has "a week to ten days" – or until 5 April - to make the payment. However, the Moscow branch's lawyer, Anatoli Pchelintsev, told Forum 18 of his concern that the authorities have taken no steps to re-register the branch or to renounce official denigration of the group as a "paramilitary organisation".

The then Russian government representative to the ECtHR, Pavel Laptev, wrote to ask for the relevant bank details on 5 March. In his letter, seen by Forum 18, he notes simply that, in accordance with the ECtHR's ruling (see F18News 12 October 2006 http://www.forum18.org/Archive.php?article_id=854), "the Russian Federation is obliged to pay your organisation compensation for non-pecuniary damage totalling 10,000 Euros [338,141 Russian Roubles, 84,192 Norwegian Kroner or 12,557 US Dollars]."

"But the problem remains," Pchelintsev told Forum 18 on 20 March, "the money isn't what's important." He maintains that the authorities should also re-register the Salvation Army in the Russian capital and overturn the local court decision that branded it a paramilitary organisation. In the six months since the ECtHR's decision, however, "we haven't heard anything from anyone," Pchelintsev continued. "If they'd wanted to sort this out, they would have done so already. They had five years while our [ECtHR] application was pending. They could have sorted it out within an hour."

In a 13 July 2000 judgment on a different case (Scozzari and Giunta v. Italy), the ECtHR specified at paragraph 249 that "a judgment in which the Court finds a breach imposes on the respondent state a legal obligation not just to pay those concerned the sums awarded by way of just satisfaction, but also to choose (...) the general and/or, if appropriate, individual measures to be adopted in their domestic legal order to put an end to the violation found by the Court and to redress so far as possible the effects." The ECtHR's suggested general measures include the adoption of relevant parliamentary legislation and changes in executive practice. Suggested individual measures include reinstatement of the applicant's rights, official statement on the applicant's innocence or the reopening of domestic proceedings.

Instead of facilitating re-registration or reinstating the Salvation Army's good name, however, Pchelintsev pointed out to Forum 18 that the authorities' only step towards the organisation since it lodged its complaint with the ECtHR in 2001 was the 2002 publication of a Moscow school textbook, "The Basics of Living Safely". Endorsed by Moscow Mayor Yuri Luzhkov, the textbook's chapter on terrorism counts the Salvation Army among "pseudo-religious organisations seeking all possible methods of using the Russian education system to spread their so-called religious teachings". "Posing as an evangelical Protestant Church," it continues, "the Salvation Army is in essence a militarised formation with a strictly hierarchical system, military ranks, uniforms and commands, as well as unflinching subordination of juniors to seniors."

Under Article 46 of the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, a state's Cabinet of Ministers is responsible for supervision of the execution of an ECtHR judgment. The Convention entered force for Russia in 1998.

The official in charge of registration of religious organisations within the Federal Registration Service at the Ministry of Justice, Viktor Korolev, told Forum 18 on 29 March that he has yet to read the ECtHR's 5 October 2006 judgment. "I've only seen what's on the Internet, not an official translation," he remarked, adding that the judgment was "against the Russian Federation, not Korolev!"

Pointing out that while the actual judgment specifies nothing more than financial compensation to the Salvation Army, Forum 18 explained that supervision of its execution by the Russian Council of Ministers could involve re-registration of the organisation in line with the wider implications of the Convention. Korolev acknowledged that supervision of the judgment is the responsibility of the Council of Ministers. "But we haven't received any command from them," he told Forum 18.

On 21 March, President Vladimir Putin appointed Veronika Milinchuk as Russia's representative to the ECtHR in place of Laptev and transferred the position from the Presidential Administration to the Ministry of Justice. Korolev confirmed to Forum 18 that a corresponding department is currently being set up within his Ministry, "but I think the transition will take a long time".

Obligated to re-register in order to retain its legal personality status under Russia's 1997 Religion Law, the application submitted by the Moscow branch of the Salvation Army was rejected in 1999.

Involved in subsequent local court challenges to this ruling – during which the Moscow Justice Department accused the Salvation Army of being a paramilitary organisation – the Moscow branch was unable to file another re-registration application before the 1997 Law's re-registration deadline expired on 31 December 2000.

As a result, a second local court in September 2001 ruled that the Moscow branch should be dissolved. Shortly beforehand, however, the Salvation Army succeeded in lodging a complaint with the Constitutional Court, which on 7 February 2002 ruled that a religious organisation may not be dissolved purely for failing to re-register, but only if "properly proven to have ceased its activities" or to be in violation of its constitutional rights as a legal personality.

This landmark decision also ordered that earlier court decisions on the Moscow branch's case be quashed if at odds with the Constitutional Court's interpretation of Article 27, Part 4 of the 1997 Law, which stipulates that religious organisations must be dissolved if they fail to re-register by 31 December 2000.

During 2003, this took place with respect to rulings made by Moscow's Tagansky District Court, the court which brought proceedings for the Moscow branch's dissolution. However, the 5 July 2000 ruling by Presnensky District Court, which upheld Moscow Justice Department's refusal to re-register the branch and cited Russia's constitutional ban on the creation of paramilitary formations, still stands. Similarly, the Moscow branch has still not been re-registered to date.

While the Russian government argued in its submission to the ECtHR that the Moscow branch was never struck off the State Register of Legal Entities and was even allocated a number on that Register by a local tax inspection office in October 2002, the ECtHR determined that this does not constitute re-registration, which is in any case legally impossible after the 1997 Law's 31 December 2000 deadline. The Court also found that the state authorities did not put forward any weighty or compelling reasons for the re-registration refusal.

The Russian government did not appeal against the ECtHR's ruling in the Salvation Army case before it became final on 5 January 2007 (see F18News 17 January 2007 http://www.forum18.org/Archive.php?article_id=900).

Meanwhile, an 11 January 2007 ECtHR ruling in favour of a group of Jehovah's Witnesses in the Urals town of Chelyabinsk becomes final on 11 April unless either side lodges an appeal. The Jehovah's Witnesses are "very glad" about the verdict (see F18News 17 January 2007 http://www.forum18.org/Archive.php?article_id=900). An official at the ECtHR told Forum 18 on 26 March that no appeal has so far been lodged against the ruling according to the Court's information. (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