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RUSSIA: "The main problem – the Law on Extremism – remains"

By Rosemary Griffin, Forum 18 (<https://www.forum18.org>)

Following the acquittal in Russia of Jehovah's Witness Aleksandr Kalistratov, a Gorno-Altaiisk Court spokesperson would not state if and when the full text of the verdict will be released, when Forum 18 News Service asked for this. It is unclear if the Prosecutor will appeal against the verdict. Aleksandr Verkhovsky of the SOVA Center told Forum 18 that "it's difficult to say what the verdict will mean for other cases. I would like this one to set a precedent but it depends a lot on the formal reasons why he was acquitted". Ziyavdin Dapayev, a Muslim from Dagestan also facing "anti-extremism" charges, told Forum 18 that he is not sure how, if at all, the verdict will affect his case and similar cases. He sees intimidation and prejudice at a local level as a more decisive factor than verdicts in "extremism" cases elsewhere. Jehovah's Witnesses spokesperson Grigory Martynov told Forum 18 that "the main problem – the Law on Extremism – remains in place. Our publications are still banned and people who have committed no crimes continue to be investigated and prosecuted." In a separate development, the European Court of Human Rights has begun considering the admissibility of a case concerning Russian bans on Islamic texts.

Criminal prosecution of followers of Russia's readers of Muslim theologian Said Nursi and Jehovah's Witnesses continue, Forum 18 News Service notes. This is despite the acquittal on 14 April of Jehovah's Witness Aleksandr Kalistratov. Currently, 10 Jehovah's Witnesses and four Muslim readers of Said Nursi's works are facing trial.

Kalistratov faced the first post-Soviet trial of a Jehovah's Witness, which began on 20 October 2010. He was charged under "anti-extremism" legislation, Article 282, Part 1 of the Criminal Code (Entitled "Incitement of hatred [nenavist] or enmity [vrazhda], as well as the humiliation of human dignity"). Specifically, he was accused of giving away two copies of "What Does God Require of Us?" while knowing it had been banned by Gorno-Altaiisk City Court – even though this ruling had not entered into force at the time of the alleged offence (see F18News 30 November 2010 http://www.forum18.org/Archive.php?article_id=1515). The long-running trial included 24 hearings and saw 71 witnesses testify (see F18News 11 February 2011 http://www.forum18.org/Archive.php?article_id=1539).

On 14 April, Judge Marina Sokolovskaya read the Gorno-Altaiisk City Court verdict, in which it was stated that in neither the pre-trial investigation nor the court hearings was it "proven that Aleksandr Kalistratov distributed the banned material in question". Kalistratov was therefore acquitted on the grounds that a crime had not been committed. A Court spokesperson, who would not give their name and refused to put Forum 18 through to Judge Sokolovskaya, refused on 18 April to comment further on why Kalistratov was found not guilty.

The spokesperson also would not state if and when the full text of the verdict will be released.

"The main problem – the Law on Extremism – remains"

"To be honest, the verdict did surprise me," Aleksandr Verkhovsky, director of the SOVA Center for Information and Analysis told Forum 18 on 19 April. "It's difficult to say what the verdict will mean for other cases. I would like this one to set a precedent but it depends a lot on the formal reasons why he was acquitted", he said.

Kalistratov himself, speaking on 14 April after his acquittal, stated that he was "grateful to the judge for finding within herself the courage to take such a decision. I hope that this verdict will be beneficial to my fellow believers, who as before are being persecuted in Russia. It would be sad if other innocent Russian citizens were also exposed to illegal observation just because of religious intolerance."

His Defence Lawyer, Viktor Zhenkov, stated on 14 April that the prosecution "serves as a clear example of the illegal application of the federal law "On Combating Extremist Activity". (See the commentary by Verkhovsky of the SOVA Center on Criminal Code Article 282 and the Extremism Law at http://www.forum18.org/Archive.php?article_id=1468).

Ziyavdin Dapayev, a Muslim from Dagestan also facing "anti-extremism" charges, told Forum 18 on 18 April that he is not sure how, if at all, the verdict in the Kalistratov trial will affect his case and similar cases. He sees intimidation and prejudice at a local level as a more decisive factor than verdicts in "extremism" cases elsewhere. Dapayev said that at each hearing in his trial that he has

attended so far, members of the FSB security service have observed proceedings, which he believes is having "a psychological impact."

He pointed to the conduct of Moscow's Koptevo Court as further example of this. On 21 May 2007, the Court held a closed trial at which it ruled – in a highly controversial judgment – that the works of Said Nursi are extremist (see F18News 27 June 2007 http://www.forum18.org/Archive.php?article_id=981).

Dapayev is facing charges under Article 282.2, Part 1 ("Organisation of 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") of the Criminal Code (see F18News 11 February 2011 http://www.forum18.org/Archive.php?article_id=1539).

"Of course it is a big victory for us", Jehovah's Witnesses spokesperson Grigory Martynov, told Forum 18 on 20 April. "But the main problem – the Law on Extremism – remains in place. Our publications are still banned and people who have committed no crimes continue to be investigated and prosecuted."

Will Prosecutor appeal against verdict?

Martynov also commented that "it is hard to say how this verdict will affect other cases. The first issue is whether the not guilty verdict will stand. The prosecutor may appeal."

The Prosecutor has ten days to formally appeal against the decision, and so will have to lodge the appeal by 25 April. A spokesperson at the Prosecutor's Office would not confirm or deny to Forum 18 on 19 April whether an appeal would be made. Gorno-Altai City Court told Forum 18 on 20 April that it has not yet received a formal appeal from the Prosecutor.

Trials continue

Dapayev continues to face trial in Makhachkala for allegedly belonging to a banned organization – "Nurdzhular" – which he and other Muslims insist does not exist. The group was banned by the Supreme Court in April 2008. Defenders of state action against Nursi followers routinely claim that his works are banned in Turkey, but this is not so (see F18News 28 January 2010 http://www.forum18.org/Archive.php?article_id=1400). Readers of Nursi's works are also being linked in the Russian media with the American Central Intelligence Agency (CIA), which claim Muslims vehemently deny (see F18News 13 April 2011 http://www.forum18.org/Archive.php?article_id=1562).

Dapayev told Forum 18 on 20 April that his legal team expects a verdict within the next month. "From a legal point of view, we have a good case," Dapayev said (see F18News 11 February 2011 http://www.forum18.org/Archive.php?article_id=1539). "But from a political point of view we are not so confident."

The trial has already included 16 hearings and 27 witnesses and is set to resume on 31 April, after a break since 18 April. Court spokespeople contacted on 15, 19 and 20 April refused to comment on Dapayev's case. A case is also being prepared against three Nursi readers in Krasnoyarsk and Rashid Abdulov remains in pre-trial detention in Ulyanovsk (see F18News 4 February 2011 http://www.forum18.org/Archive.php?article_id=1536).

Ten cases against Jehovah's Witnesses are currently being investigated. They are primarily investigations into the activity of individuals, although a case in Kemerovo involves a small group of Jehovah's Witnesses. "All these other cases are at the investigation stage – either law enforcement agencies are gathering evidence or the prosecutor is examining the cases," said Martynov (see F18News 13 April 2011 http://www.forum18.org/Archive.php?article_id=1562).

European Court of Human Rights appeal

Russia's Nursi readers have taken Russia to the European Court of Human Rights (ECtHR) in Strasbourg for banning some Islamic texts. On 4 April the ECtHR began examining the admissibility of two complaints from Russian Muslims (Application number 1413/08) by Ibragim Ibragimov and the Cultural Educational Fund Nuru-Badi, against Russia.

The complaint, which was lodged on 3 December 2007, concerns the banning of 17 Islamic texts in August 2007 by the Buguruslan City Court in Orenburg Region (see F18News 1 February 2008 http://www.forum18.org/Archive.php?article_id=1080); and the banning also in 2007 of Russian translations of some of Said Nursi's works by the Koptevo District Court in Moscow (see F18News 27 June 2007 http://www.forum18.org/Archive.php?article_id=981).

Ibragimov on 14 April sent Forum 18 a document in which the ECtHR asked Russia on 4 April to provide copies of the court verdicts and expert analyses used to prove the texts were extremist. Russia has also been asked to answer the following questions:

1. Did the ban on the distribution of books by Said Nursi pronounced in the judgement of the Koptevo District Court of Moscow of

21 May 2007, as upheld on appeal on 18 September 2007, interfere with the applicants' rights under Article 9 ("Freedom of thought, conscience and religion") of the European Convention on Human Rights and Fundamental Freedoms?

Was the interference prescribed by law?

Was it "necessary in a democratic society" within the meaning of Article 9 Part 2 of the European Convention?

2. Did the ban on the distribution of above-mentioned books interfere with the applicants' freedom of expression guaranteed by Article 10 ("Freedom of expression") of the European Convention?

Was the interference prescribed by law?

Was it "necessary in a democratic society" within the meaning of Article 10 Part 2 of the European Convention?

It is not known when the ECtHR will decide on whether the case is admissible. (END)

For more background, see Forum 18's Russia religious freedom survey at http://www.forum18.org/Archive.php?article_id=1196.

Analysis of the background to Russian policy on "religious extremism" is available in two articles: - 'How the battle with "religious extremism" began' (F18News 27 April 2009 http://www.forum18.org/Archive.php?article_id=1287 - and - 'The battle with "religious extremism" - a return to past methods?' (F18News 28 April 2009 http://www.forum18.org/Archive.php?article_id=1288).

A personal commentary by Irina Budkina, Editor of the <http://www.samstar.ru> Old Believer website, about continuing denial of equality to Russia's religious minorities, is at F18News 26 May 2005 http://www.forum18.org/Archive.php?article_id=570.

A personal commentary by Alexander Verkhovsky, Director of the SOVA Center for Information and Analysis <http://www.sova-center.ru>, about the systemic problems of Russian anti-extremism legislation, is at F18News 19 July 2010 http://www.forum18.org/Archive.php?article_id=1468.

Reports on freedom of thought, conscience and belief in Russia can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=10>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Russia is available at <http://education.nationalgeographic.com/education/mapping/outline-map/?map=Russia>.

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