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RUSSIA: 18-month prison term and heavy fine

By Felix Corley, Forum 18 (<https://www.forum18.org>)

Asylzhan Kelmukhambetov, a Muslim who reads the works of the theologian Said Nursi, is due to appeal against his 18-month prison term on extremism-related charges, his lawyer Rauila Rogacheva told Forum 18 News Service. Kelmukhambetov, who suffers from diabetes, was arrested at the end of the year-long trial on 28 June when the verdict was handed down and is now in prison hospital in Orenburg. An FSB security service spokesperson defended the prosecution to Forum 18. A court in the Siberian city of Krasnoyarsk has heavily fined a Muslim organisation for teaching Islam without an educational licence, although Russia's Supreme Court has ruled in a similar case that such licences are not needed. "People have been deprived of their rights to teach and receive religious education," Mufti Gayaz Fatkullin complained to Forum 18. An official of Russia's Human Rights Ombudsperson's Office described the case to Forum 18 as "stupidity and a violation of the rights of religious believers".

Asylzhan Kelmukhambetov, a reader of the works of the Turkish Muslim theologian Said Nursi from the town of Orenburg in the Urals, was sentenced to 18 months' imprisonment on 28 June after a trial lasting nearly a year. "He is a respected local man who has simply been punished for his faith," his lawyer Rauila Rogacheva told Forum 18 News Service from Orenburg on 30 June. "The prosecutors offered no proof of any extremism." She says her client – now in prison hospital in Orenburg - will "definitely" appeal against the sentence. Forum 18 notes that Kelmukhambetov is the first Nursi reader in Russia to receive a criminal sentence of imprisonment. Meanwhile, a court in the Siberian city of Krasnoyarsk has handed down a heavy fine on a Muslim organisation for teaching Islam without an educational licence, although Russia's Supreme Court has ruled in a similar case that such licences are not needed.

Many of the Russian translations of Nursi's works have been deemed "extremist" by various local courts and have been placed on the Justice Ministry's Federal List of Extremist Materials, making their distribution a criminal offence. The latest of Nursi's works in Russian translation to be added to the Federal List, a further volume of his Risale-i Nur (Messages of Light) collection of sermons, was on 12 May (see F18News 21 June 2011 http://www.forum18.org/Archive.php?article_id=1582).

"Nurdzhular", an alleged organisation based on the teaching of Nursi, was banned by Russia's Supreme Court in April 2008. Russia's Nursi readers insist the organisation does not exist.

In August 2010, Ilham Islamlı became the first Nursi reader in Russia to be convicted under the Criminal Code and punished under extremism-related charges. He was sentenced to ten months' detention, suspended for one year (see F18News 26 August 2010 http://www.forum18.org/Archive.php?article_id=1480).

Other Nursi readers have been tried since then. Ziyavdin Dapayev is appealing against his criminal conviction in Dagestan (see F18News 21 June 2011 http://www.forum18.org/Archive.php?article_id=1582).

Sergei Sychev, the lawyer who will represent three Nursi readers currently under criminal investigation in Krasnoyarsk when the case comes to court, told Forum 18 on 30 June that the case is close to completion. He said he expects the trial to take place in July or August.

Jehovah's Witnesses have also faced accusations of "extremism" after many of their publications were declared "extremist" and placed on the Federal List. The retrial of Aleksandr Kalistratov in the Siberian town of Gorno-Altaysk on charges of distributing "extremist" religious literature continues on 25 July (see F18News 21 June 2011 http://www.forum18.org/Archive.php?article_id=1582).

18 month prison term

The 42-year-old Kelmukhambetov went on trial under Magistrate Valeri Vorobyev at Judicial Unit No. 3 of Orenburg's Lenin District in July 2010, the court website notes. He was tried under Criminal Code 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"). He denied the accusations. Magistrate Vorobyov found him guilty on 28 June and handed down an 18 month term in an open prison. Local television filmed the Magistrate

reading parts of the verdict.

"It is very rare that trials here go on so long," Svetlana Tyunina, Magistrate Vorobyev's assistant, admitted to Forum 18 on 30 June. However, she was unable to explain why this trial had lasted so long with so many hearings. The 91-page verdict took five hours to read. Tyunina said the written verdict has been handed down and Kelmukhambetov has 10 days to lodge an appeal to Lenin District Court. She stressed that the verdict has not yet come into legal force.

Verdict "not a surprise"

Kelmukhambetov was accused during the trial of running a "home medrassah [Islamic college]" for 15 local students in a private home between 2008 and 2009.

The case followed raids on students' homes in March 2009 conducted by officers of the regional FSB security service and Police Organised Crime officers. The students reported at the time that Nursi brochures and a leaflet called "How to Join the Nurdzhular Organisation" appeared "miraculously" in their flats during the raid (see F18News 16 July 2009 http://www.forum18.org/Archive.php?article_id=1328).

While insisting that her client is innocent of any wrongdoing, Rogacheva told Forum 18 that "the way the trial went, the verdict did not come as a surprise".

Yevgeni Slavgorodsky, spokesperson for Orenburg regional FSB security service, defended the prosecution, though he refused to name Kelmukhambetov because no appeal had yet been heard. "This man attracted young people to read books and he taught from these books," he told Forum 18 from Orenburg on 30 June. Asked why reading and studying religious books was a crime, he insisted this was because many of Nursi's works had been ruled extremist by the courts and placed on the Federal List.

Asked why reading and studying Nursi's works necessarily entailed membership of an organisation, Slavgorodsky claimed it did. "The Nurdzhular organisation has been declared extremist and banned by the Supreme Court. This man conducted mass propaganda for the organisation."

Slavgorodsky noted the Regional FSB's involvement in preparing the case. "It was our operational material and our investigators that made the case," he told Forum 18.

Officials of the Lenin District Prosecutor's Office told Forum 18 that Yelena Akimova, the Deputy Prosecutor who had been involved in much of the case, was now on sick leave. The telephone of Aleksandr Karyakin, who took over the case from Akimova and took part in the final hearings, went unanswered on 30 June.

Health concern

Tyunina, the Magistrate's assistant, said Kelmukhambetov had not been in detention as the trial proceeded, but was arrested in the courtroom when the guilty verdict was handed down. She said he is now in Orenburg's Investigation Isolation Prison No. 1.

Rogacheva, Kelmukhambetov's lawyer, complains his detention is illegal, as the verdict has not come into force. She expressed concern over her client's health, as he suffers from diabetes and needs insulin injections, and is being held in the prison hospital. She told Forum 18 she does not know if he is being appropriately treated.

Fined for religious education without a licence

Meanwhile, the United Spiritual Directorate of Muslims of Krasnoyarsk Region has been fined for offering religious education in their central mosque in the Siberian city of Krasnoyarsk without an educational licence. About 200 students, "adults and children, male and female", study at the mosque, Mufti Gayaz Fatkullin, head of the Directorate, told Forum 18 from Krasnoyarsk on 27 June.

The official record of a violation of the Code of Administrative Violations drawn up on 10 May – seen by Forum 18 – shows that the case against the Muslim Directorate was initiated by Krasnoyarsk Regional Service for Control over Education. An official of the Service, Tatyana Kolyada, drew up the record after a 24 March visit to religious lessons at the mosque. Mufti Fatkullin refused to sign the official record.

According to the verdict seen by Forum 18, Judge Polina Yefimenko of Krasnoyarsk's Central District Court on 17 June found the Directorate guilty of violating Article 19.20, Part 1 of the Code of Administrative Violations (Carrying out activity not connected with the attraction of profit, without special permission (licence), if such permission (licence) is obligatory). The Directorate was fined the minimum for legal entities under this provision, 170,000 Roubles (32,700 Norwegian Kroner, 4,200 Euros or 6,100 US Dollars).

"We don't know why the court adopted this decision – it was very unexpected," Mufti Fatkullin told Forum 18. "People have been

deprived of their rights to teach and receive religious education." He described this as a violation of rights to religious freedom enshrined in Russia's Constitution.

Mufti Fatkullin said that the Directorate is appealing against the decision to Krasnoyarsk Regional Court. He said the Directorate is also appealing to Russia's Ombudsperson for Human Rights in Moscow, as well as his Regional representative in Krasnoyarsk. The Mufti added that as the decision has not yet come into legal force the mosque is continuing to offer religious education.

Does religious education need a licence?

Religious organisations do not need educational licences if they do not conduct religious education jointly with the state or to a level accredited by the state, Mikhail Odintsov, the top official dealing with religious issues at the office of Russia's Human Rights Ombudsperson in Moscow, explained to Forum 18 from Moscow on 28 June. "Various court decisions have overturned bans and fines imposed on religious communities for not having such licences."

Odintsov particularly pointed to a June 2008 Russian Supreme Court decision, which made clear that local courts had been wrong to ban a Methodist Church in Smolensk simply because its religious education class (for four children) had been operating without an education licence. Under the 1992 Education Law, the decision explains, educational (obrazovatel'naya) activity is "a goal-oriented process of education (vospitaniye) and study accompanied by confirmation that the student has attained levels of education prescribed by the state" (see F18News 30 June 2008 http://www.forum18.org/Archive.php?article_id=1151).

"The Supreme Court decision is not a precedent," Odintsov added, "but all courts should study it carefully as it explains the position in law."

Odintsov described the Krasnoyarsk Directorate case as "stupidity and a violation of the rights of religious believers". He said he had spoken with the office of the local Ombudsperson Mark Denisov and asked him to get involved. Denisov's office confirmed the call to Forum 18.

"We're governed by the law"

Kolyada of the Regional Service for Control over Education, who initiated the case against the Muslim Directorate, told Forum 18 from Krasnoyarsk on 28 June that her boss, Artem Petenov, who had taken the decisions in the case, was not present. However, she insisted that the prosecution of the Directorate was justified and dismissed the Directorate's complains that this violated their rights. "We're governed by the law, which requires a licence," she told Forum 18. She stressed that not her Service but the court had taken the decision to fine the Directorate.

Kolyada declined to say if she had read the 2008 Supreme Court decision in the case of the Smolensk Methodist Church. But she insisted the Supreme Court decision was "not a precedent".

European Court of Human Rights appeal

Among the many religious communities which have faced official pressure for offering religious education was the Biblical Centre of the Chuvash Republic. It was dissolved by the republic's Supreme Court on 3 August 2007 for following a timetable and issuing diplomas without an education licence. This verdict was upheld by Russia's Supreme Court on 16 October 2007. The Centre lodged a case to the European Court of Human Rights (ECtHR) in Strasbourg on 15 April 2008 (see F18News 30 June 2008 http://www.forum18.org/Archive.php?article_id=1151).

The ECtHR told Forum 18 from Strasbourg on 28 June that the Court has not yet declared on whether the case (application no. 33203/08) is admissible. However, on 30 August 2010 the Court put questions to the Russian Government and the Biblical Centre (see <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=873885&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>).

Government rejects proposed legal restrictions on religious literature

In a critical response posted to the website of Russia's Lower House of Parliament, the State Duma, on 22 June, the government has declared proposed new restrictions on distributing religious literature to be in defiance of the Constitution, the Civil Code and other Articles of the Religion Law.

The proposed amendments to Russia's 1997 Religion Law would have banned everyone except for registered religious organisations from distributing religious literature, and amendments to the Administrative Violations Code would have fined those distributing religious literature without a registered religious organisation's approval.

The proposed amendments - the initiative of the Duma of Belgorod Region - received the initial backing of the State Duma

Committee on Social and Religious Organisations on 18 March. This was the furthest any such restrictive legal amendments have reached in the legislative process and aroused concern from religious freedom defenders and some religious communities (see F18News 24 March 2011 http://www.forum18.org/Archive.php?article_id=1555).

However, the government response – signed by Vyacheslav Volodin, the Head of the Government Administration – was direct. "The Government of the Russian Federation does not support the draft law presented," it concluded. (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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