

17 September 2015

RUSSIA: Have Religion Law amendments rendered unregistered religious activity illegal?

By Victoria Arnold, Forum 18 (<https://www.forum18.org/>)

Changes to Russia's Religion Law which came into force in July appear to require all religious communities that do not have legal status to notify the authorities of their existence and activity. This includes names and addresses of all their members and addresses where any meeting takes place. This is "bad news" and "against the Constitution for sure", Aleksandr Verkhovsky of the Moscow-based SOVA Center for Information and Analysis told Forum 18 News Service. Although no punishments yet exist for those who continue to meet for worship without notifying the authorities, unregistered religious communities and human rights defenders fear these may follow. The changes also deny newly-registered religious organisations not affiliated with centralised religious organisations the right to create religious educational organisations, conduct ceremonies in hospitals, prisons and old people's homes, or invite foreigners for the first ten years after their registration. The Human Rights Ombudsperson's Office has yet to respond to Forum 18 as to whether these provisions violate Russia's Constitution and the European Convention on Human Rights.

Members of religious communities that do not have or choose not to seek state registration fear that changes to Russia's Religion Law, which came into force on 24 July, may expose them to punishment for exercising their right to freedom of religion or belief. Although no specific punishments have been introduced into the Administrative or Criminal Codes for communities which fail to notify the authorities of their existence and activity, unregistered religious communities and human rights defenders fear these may follow.

The Religion Law amendments also deny a range of rights to newly-registered religious organisations which are not part of centralised religious organisations. For the first 10 years after their registration, they cannot: create educational institutions or teach religion in schools; conduct ceremonies in hospitals, prisons, old people's homes, or children's homes; found media outlets; or invite foreign preachers.

Repeated amendments, but no action on ECtHR rulings

The latest round of amendments to the 1997 Religion Law - the principal piece of legislation regulating the rights and responsibilities of religious communities - began in 2014. On 22 October 2014, Article 16 was amended to clarify the types of place in which worship activities are allowed without prior notification. President Vladimir Putin signed into law the most comprehensive set of changes (to Articles 3, 5, 7, 8, 9, 11, 14 and 27) on 13 July 2015, removing the requirement for religious organisations seeking registration for the first time to register annually for 15 years, but also tightening restrictions on unregistered religious groups.

These changes do not put into force European Court of Human Rights (ECtHR) rulings, after Russia lost in June 2014 two freedom of religion or belief cases, that liquidation and loss of legal status as a registered religious organisation should not legally lead to a complete ban on activity, and that Russia must bring the Religion Law into line with both the country's international obligations and with the case-law of the Russian Supreme and Constitutional Courts. One ECtHR judge stated in June 2014 that "any additional delay would be unforgivable" (see F18News 5 August 2014 http://www.forum18.org/archive.php?article_id=1982)

The widely publicised Undesirable Organisations Law, which came into force in early June 2015 and has so far been aimed at politically oriented non-governmental organisations (NGOs), could also be applied to foreign or international religious bodies.

The Duma – the lower house of Parliament - is currently considering a further bill which – if adopted - would oblige religious organisations to report income received from abroad and enable unannounced checks on their finances if suspected of "extremist" activity (this would amend Articles 14 and 25 of the Religion Law).

Religion Law registration amendments, signed 13 July, in force from 24 July 2015:

- Religious organisations

These amendments have removed the 15-year registration requirement. Previously, in order to register permanently as a local

religious organisation, with corresponding rights and responsibilities, a community of believers would have to provide proof of its presence in Russia for the preceding 15 years; if unable to do so, it would have to re-register every year. Only as a religious organisation is a community recognised as a legal entity and is thus able to buy and rent property, employ staff, open a bank account, and engage in certain social activities.

Now, any 10 adult citizens of the Russian Federation, resident in the same locality, may found and register a religious organisation, regardless of their community's longevity. Religious organisations also no longer have to provide a report of their activities to the local branch of the Justice Ministry on a yearly basis.

These moves have been largely welcomed as simplifying life for religious communities on a local level, making it easier to obtain registration if they wish and reducing a little of the bureaucracy involved (Sergei Tarasov, a Jehovah's Witness lawyer, has described the process of registering a non-profit to Forum 18 as "one of the most labour-intensive and lengthy procedures" in Russia). Lawyer Lusiko Adamia observed on her website on 22 July that this is "one of the most positive aspects of the new law, opening up new possibilities for local religious organisations".

In terms of day-to-day operation, however, religious organisations not part of a central body now find themselves facing further restrictions. For a period of ten years after their registration, such local organisations do not have the right: to create educational institutions or teach religion in schools (although they can offer educational programmes to adults); to "attach to [themselves] a representative body of a foreign religious organisation"; to conduct ceremonies in hospitals, prisons, old people's homes, or children's homes; to found media outlets; or to invite foreign preachers.

These are all restrictions which, alongside a handful of others under earlier versions of the Religion Law, had been applied to organisations unable to prove 15 years' standing in Russia. Existing organisations do not, however, have to seek re-registration.

- Religious groups

While bureaucracy may have eased slightly for religious organisations, it has increased for religious groups. A group is defined in the law as "A voluntary association of citizens, formed for the goals of joint confession and dissemination of their faith, carrying out its activities without state registration and without obtaining the legal capabilities of a legal personality" (the most recent amendments recognise the possibility of resident non-citizens also being members).

Previously, a group only had to inform the authorities of its existence if it intended to transform itself eventually into a religious organisation. Now, however, this has become an obligation in all cases – "bad news", Aleksandr Verkhovsky, Director of the Moscow-based SOVA Center for Information and Analysis, told Forum 18 on 13 September.

This change directly contravenes Russia's human rights obligation not to require state permission for the exercise of freedom of religion and belief (see the Organisation for Security and Co-operation in Europe (OSCE)/Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities <http://www.osce.org/odihr/139046>). Russia is a participating State of the OSCE and a member of the Venice Commission.

"The very notion of a religious group has vanished" with this obligation, Vasili Nichik, Seventh-day Adventist spokesperson, lamented on his blog on 5 July. At least once every three years, groups must provide the local Justice Department with details of its creation, the religion to which it belongs, names and addresses of its members, and addresses at which it holds its activities. Verkhovsky points out that the requirement to submit the personal information of all members is "against our Constitution for sure".

Before the latest Religion Law changes an unregistered community was legally able to operate as a religious group, without informing the state or registration, and to meet privately for worship and study (see F18News 14 April 2005 http://www.forum18.org/archive.php?article_id=543). But despite what the Law stated, people who belonged to forcibly liquidated Jehovah's Witness communities in Samara and Taganrog have found that they are not allowed to meet to exercise freedom of religion or belief (see eg. F18News 20 November 2014 http://www.forum18.org/archive.php?article_id=2017).

On 15 September Forum 18 asked the Human Rights Ombudsperson's Office in writing whether the new Religion Law changes conflict with the Russian Federation's commitments under the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Forum 18 had received no reply by the end of the working day in Moscow on 17 September.

In comments for the SOVA Center on 14 July, Inna Zagrebina of Moscow's Guild of Experts on Religion and Law describes as "puzzling" the fact that a group must list all its members, while an organisation needs to list only its founders. She concludes that "this provision has been introduced with the aim of pushing religious groups to acquire the status of a legal entity for subsequent better control and supervision of their activities".

This requirement presents practical difficulties for religious groups. Because they cannot own or rent property in their own right, accommodation for gatherings must be provided by their members, either at their own homes or in privately rented meeting space.

Consequently, a group may meet in many places and find it hard to provide a comprehensive list.

It is unclear whether Justice Departments must be informed of every possible address, or what will happen if a group meets at an undisclosed location. It also remains unclear what exactly may constitute a religious group, as Nichik pointed out on his blog, thus allowing for wide interpretation on the part of the authorities. "There will be court cases sooner or later," Verkhovsky remarked to Forum 18 on 13 September. "And then this amendment will be amended again."

Baptists who meet for worship without state registration fear that the amendments may "outlaw" their churches. In two open letters to President Putin of 26 April and 5 July, members of the Moscow Church of Evangelical Christians-Baptists equate the notification requirement to "mandatory registration", which "makes a citizen's right to freedom of worship and assembly arbitrary", conditional upon informing the authorities. "Where conditions are introduced, freedom is abolished. The introduction of conditions is the first step towards the introduction of bans."

The law does not currently stipulate any specific penalties for not notifying the authorities of a group's creation, though Verkhovsky believes this may be added later. Zagrebina believes that refusal to give notification may come under Administrative Code Article 19.7 (failure to submit or lateness in submitting information stipulated by law and necessary for an official body to perform its lawful function) for which offenders may receive a warning or a fine (for individuals, 100-300 Roubles; for officials, 300-500 Roubles; for organisations, 3,000-5,000 Roubles).

Should specific punishments be introduced, they may provide prosecutors with another charge to use against communities already vulnerable to prosecution under other Articles of the Administrative Code - for example, Article 20.29 ("Production or mass distribution of extremist materials") or Article 20.2 ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession, or picket") - or the Criminal Code (Articles punishing "extremism").

A variety of religious believers – including Muslims and Christians - hold informal gatherings in homes or engage in religious activities in public places (e.g. handing out literature). "Perhaps this is a preparation for subsequent toughening of legislation - it could be a reason for attacks," a member of a religious community which has already suffered persecution under the Extremism Law told Forum 18 on 15 September.

The unregistered Baptists are concerned that the notification requirement "legitimises the persecution of innocent people". The "restrictive direction of the law", they believe, will mean "many Christians" will choose not to fulfil it.

Also in an appeal to President Putin, dated 9 July, 80 pastors of the Council of Churches – a network of Baptist communities which choose not to seek state registration - worried that "locally, laws can be interpreted however they like. An arbitrary interpretation of laws leads to arbitrariness in their application, and as a consequence - to conflict and repression". They point out that their 3,000 communities, comprising some 70,000 members, do not seek state registration "as a matter of absolute principle".

"If the country's laws are in conflict with the Bible and restrict the freedom of the faithful in their service and worship of God," they add, "true Christians always take the biblical position, which inevitably leads to a conflict with the authorities and to subsequent repression."

- Education

An addition to the Religion Law – which Verkhovsky regards as positive – is a statement that religious education does not count as "educational activity". Religious organisations therefore do not need a licence to offer courses and run Sunday schools or their equivalent.

This brings the Religion Law into line with a 2008 Supreme Court decision which ruled that local courts had been wrong to dissolve a Methodist church in Smolensk for providing religious education without a licence (see F18News 30 June 2008 http://www.forum18.org/archive.php?article_id=1151). It also goes some way towards clarifying a murky legal situation which has led to several religious organisations being fined or liquidated for teaching without licences, even after the Supreme Court judgment (see F18News 30 June 2011 http://www.forum18.org/archive.php?article_id=1588).

Religion Law places of worship amendments, signed and in force from 22 October 2014:

These Religion Law amendments expanded the list of locations in which worship activities are allowed without prior notification. It now includes buildings and land rented by a religious community as well as those belonging to it. This should make it impossible to bring charges under Administrative Code Article 20.2, Part 2, if a meeting for worship or ceremony is carried out in premises or on land rented by a religious association for this purpose, Zagrebina commented to the SOVA Center for Information and Analysis on 24 November 2014.

This amendment may have a positive effect on cases such as that of a Sochi Protestant leader, fined for holding prayers in a rented cafe before the amendments were adopted (see F18News 2 March 2015 http://www.forum18.org/archive.php?article_id=2044).

Religion Law Article 16 now also states that: "In other cases, public worship services and other religious rites and ceremonies (including prayer and religious assemblies) carried out in public places, in conditions which require the adoption of measures to ensure public order and the security of the participants of religious rites and ceremonies, as well as those of other citizens, are carried out in the manner prescribed for rallies, marches and demonstrations".

This incorporates a 2012 Constitutional Court judgment, which states that prior notification is not required when safety measures are not necessary - the main ostensible purpose of the authorities being notified. The ruling followed prosecution – not for safety reasons - of two Jehovah's Witnesses in Belgorod Region for meeting for worship without state approval (see F18News 3 January 2013 http://www.forum18.org/archive.php?article_id=1787).

The situation nevertheless remains poorly defined. Article 16 still refers only to "worship services and other religious rites and ceremonies", and not to other activities such as the distribution of literature, and places which fall into the grey area of public space between the freely permitted and the prohibited also remain unspecified.

Possible Religion Law financial amendment:

A bill which would – if adopted – increase financial monitoring of religious organisations and oblige them to declare foreign funding is currently under consideration in the Duma. It passed its first reading on 30 June, but was returned to the Committee on Public Associations and Religious Organisations for modification before a second reading. The Duma reconvened after its summer break on 15 September. No date has been set for the bill's second reading.

The amendments were conceived "to have more control over Muslim and other 'suspicious' organisations", Verkhovsky commented to Forum 18. They have also raised concerns among some religious leaders that the "foreign funding" requirement will have the same effect as the 2012 "Foreign Agent" Law, which targeted NGOs and from which religious organisations were explicitly excluded. The Justice Ministry admitted to the "Moscow Times" on 29 April that the bill is modelled on the 2012 law, but insists that "it does not make the same provisions".

- Foreign funding

If a religious organisation receives "financial resources [or] other property from international and foreign organisations, foreign citizens, or persons without citizenship", it would have to report this to the Justice Ministry or its local branches, separately from other accounts, detailing the amount, the source, and its intended and actual uses, as well as the organisation's activities and membership of its administrative bodies. It would also have to post this information on the internet or in the media.

All these requirements would have to be fulfilled every year. Failure to provide such accounts would render a religious organisation subject to liquidation at the request of the Justice Ministry.

Religious organisations already report their income under the law on non-profits. But this amendment would increase their administrative burden by demanding separate accounts. If adopted, it might also render communities of certain religious traditions more vulnerable than others to increased state oversight and possible liquidation.

"Despite upbeat statements by public figures, we have every reason to believe that there is a hidden danger for religious organisations which in our country are de facto protected far less than the so-called 'preambular' ('traditional') religions," the Society for Krishna Consciousness commented on its krishna.ru news website on 1 July.

- Audits/inspections

The bill would also give the Justice Ministry and its local branches the additional right to audit a religious organisation's finances if it receives foreign funding. It would also give them the right to carry out unannounced inspections if they have received reports of extremist activity, if requested by the President, the government, or a Prosecutor's Office, or if the organisation has not heeded previous official warnings of legal violations.

"The state has introduced into law the principle of 'we'll check whom we want'", the Society for Krishna Consciousness complained. It suggested that reports of extremism, although they are supposed to come from government agencies, may not be "proven and reliable". In comments to krishna.ru, lawyer Mikhail Frolov said that "the state has created a new legal instrument to strengthen control over religious organisations, and has become able, if necessary, to impede quite legitimately the activities of those who are financed from foreign sources".

Undesirable Organisations Law, signed 23 May, in force from 3 June:

The Undesirable Organisations Law can bar foreign or international organisations from the country for "presenting a threat to the basic constitutional order of the Russian Federation, its defence capability, or its state security." It makes no mention of religious

organisations, and appears to be principally aimed at NGOs, an impression borne out by the initial shortlist of 12 US, Ukrainian and Polish institutions (such as the Crimean Human Rights Field Mission and Freedom House) drawn up in July by the Federation Council, the upper chamber of parliament. No religious communities are on the initial list.

Nevertheless, its vague wording means that the Law is applicable to both religious and commercial entities (for example, publishers of religious literature). The SOVA Center asserts that the Law is intended to be a "new lever" against civil society and religious organisations.

If an organisation is deemed to be "undesirable" and banned from Russia, its Russian subsidiaries will be closed and its bank accounts frozen. It will no longer be able to hold public events or distribute literature, and any individual continuing to work for it will be fined up to 15,000 Roubles (up to 50,000 for officials and 100,000 for the organisation itself). A repeat "offence" will bring criminal charges and a possible prison sentence. (END)

For more background, see Forum 18's surveys of the general state of freedom of religion or belief in Russia at http://www.forum18.org/Archive.php?article_id=1722, and of the dramatic decline in religious freedom related to Russia's Extremism Law at http://www.forum18.org/Archive.php?article_id=1724.

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.

A personal commentary by Irina Budkina, Editor of the <http://www.samstar.ucoz.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.

More 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.

Follow us on Twitter @Forum_18 (http://twitter.com/forum_18)

Follow us on Facebook @Forum18NewsService (<http://www.facebook.com/Forum18NewsService>)

All Forum 18 text may be referred to, quoted from, or republished in full, if Forum 18 is credited as the source.

All photographs that are not Forum 18's copyright are attributed to the copyright owner. If you reuse any photographs from Forum 18's website, you must seek permission for any reuse from the copyright owner or abide by the copyright terms the copyright owner has chosen.

© Forum 18 News Service. All rights reserved. ISSN 1504-2855.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY