

23 November 2020

RUSSIA: "Extremist organisation" trial outcomes: jail sentences

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

Eight Jehovah's Witnesses and one Muslim Nursi reader are serving labour camp terms as "extremists". Six more Jehovah's Witnesses received jail terms since July. Sergey Britvin, one of two awaiting appeals, is allowed a "disabled cell" where he can lie down, his wife Natalya told Forum 18. It is so cold he must wear two jumpers and trousers. She takes him fresh colostomy bags and medications "all the time". A further 14 received suspended sentences.

More than 400 Jehovah's Witnesses and Muslim readers of theologian Said Nursi's works have been convicted, are on trial, or remain under investigation, mostly on accusations of "organising" or "participating in the activities of a banned extremist organisation". The vast majority are currently Jehovah's Witnesses, and there have been no recent trials or convictions of readers of Nursi's works.

Courts have found 20 Jehovah's Witnesses guilty since late July 2020, six of whom have received jail sentences. The four defendants in one case in Bryansk Region will not be imprisoned as they had already served the time in pre-trial detention. Two men in another case in Kemerovo Region, however, will spend more than a year in jail if their appeal is unsuccessful.

The period between July and November 2020 has seen both the largest fine and the longest suspended sentence (http://www.forum18.org/archive.php?article_id=2620) imposed since the prosecution of Jehovah's Witnesses began after the 2017 liquidation of their Administrative Centre. Also seen was the first acquittal of a Jehovah's Witness on "extremism" charges in three years, in a case unconnected to the 2017 nationwide ban on Jehovah's Witness activities (http://www.forum18.org/archive.php?article_id=2297).

Eight Jehovah's Witnesses and one Muslim reader of Nursi's works are already serving terms in general-regime labour camps (ispravitelniye kolonii, "correctional colonies"). After the end of his sentence, another Muslim who studied Nursi's writings was stripped of his Russian citizenship, and remains in a detention centre for foreigners and stateless persons (see list at base of this article).

Two Jehovah's Witnesses and one Muslim from Russian-occupied Ukrainian territory in the Crimean peninsula are also in labour camps in Russia (http://www.forum18.org/archive.php?article_id=2616).

Two of the Jehovah's Witnesses convicted within Russia – Danish citizen Dennis Ole Christensen (born 18 December 1972) and Konstantin Viktorovich Bazhenov (born 10 May 1975) – have sought early release, but courts have refused to grant it (http://www.forum18.org/archive.php?article_id=2581).

Bazhenov and Feliks Khasanovich Makhammadiyev (born 14 December 1984), who were convicted together in Saratov in 2019, have been stripped of their Russian citizenship (http://www.forum18.org/archive.php?article_id=2583) (as has Muslim reader of Nursi's works Yevgeny Kim).

Makhammadiyev, four other Saratov Jehovah's Witnesses, and Nursi reader Kim have all been tortured in detention, but no suspect torturer is known to have been arrested or put on criminal trial (http://www.forum18.org/archive.php?article_id=2554), against international human rights law.

One man who met with other Muslims to read Nursi's works (Ilgar Vagif-ogly Aliyev, born 16 February 1977) is currently known to be in prison (http://www.forum18.org/archive.php?article_id=2386), while another (Artur Abdulgamidovich Kaltuyev, born 15 June 1986) (http://www.forum18.org/archive.php?article_id=2339) has recently been released. Three more Muslims who met to read Nursi's works are known to be under investigation in the Tatarstan and Dagestan Republics, one of whom is under house arrest (see forthcoming articles).

The Investigative Committee, police, and FSB security service continue to raid Jehovah's Witness homes, and investigate and detain individuals across the country. Prosecutions are currently underway in 55 out of 83 federal subjects in Russia within its internationally recognised borders.

Varying punishments

After being kept under FSB security service or police surveillance for some months, most targeted Jehovah's Witnesses (like Muslim readers of Nursi's works) are prosecuted for "organising" (Criminal Code Article 282.2, Part 1), or "participating in" (Part 2), "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" (http://www.forum18.org/archive.php?article_id=2215).

The activities prosecuted under both these parts of Criminal Code Article 282.2 are very similar, including meeting in each other's homes to pray and sing together, study sacred texts, and to discuss shared beliefs.

Possible punishments under Criminal Code Article 282.2 are:

Part 1 – six to ten years' imprisonment; or a 400,000 to 800,000 Rouble fine;

Part 2 – two to six years' imprisonment; a 300,000 to 600,000 Rouble fine; or one to four years' assigned work.

Several Jehovah's Witnesses have also been charged under Criminal Code Article 282.3, Part 1 (http://www.forum18.org/archive.php?article_id=2578) ("Financing extremist activity"), apparently by continuing to collect donations for activities from fellow believers after the 2017 ban on Jehovah's Witness activity (http://www.forum18.org/archive.php?article_id=2297).

Possible punishments are: three to eight years' imprisonment; a 300,000 to 700,000 Rouble fine; or one to four years' assigned work.

Other charges have been brought against Jehovah's Witnesses and Muslims under Criminal Code Article 282.2, Part 1.1 (http://www.forum18.org/archive.php?article_id=2386) ("Inclination, recruitment or other involvement of a person in an extremist organisation").

Possible punishments are four to eight years' imprisonment; a 300,000 to 700,000 Rouble fine; or two to five years' assigned work.

Judges can also impose a range of restrictions on freedom both during suspended sentences, and for certain periods after a person's release from imprisonment.

Despite the similarities in the activities being prosecuted, trials have so far ended in a variety of sentences – from prison terms of several years, to suspended sentences of varying lengths, to a range of fines. There has also been one sentence of assigned work (http://www.forum18.org/archive.php?article_id=2510), later changed to a fine (http://www.forum18.org/archive.php?article_id=2581).

No one has been acquitted, though judges have returned some cases to prosecutors who later resubmit them. Defendants have sometimes succeeded in getting sentences reduced, or having cases sent for retrial on appeal, though no conviction has yet been overturned.

It is unclear why similar activities should lead to differing sentences. Jehovah's Witness lawyers attribute it to judges' level of bias. There is also "a second factor", they told Forum 18 on 9 November – that is, "how in this region or by this particular judge it is [deemed acceptable] to act when a judge is convinced of the innocence of the accused". In such cases, judges "pass a guilty verdict, assigning a penalty below the lower limit, a suspended sentence, or a non-custodial penalty, or return the criminal case to the prosecutor". In such cases, even though the judges "understand that the person is innocent", they "also understand that the percentage of acquittals is not high – it is not customary in Russia to make acquittals".

A pattern of varying sentences for similar activities also happens when religious organisations, of a variety of faiths, are prosecuted for not showing their full official names on literature, online, and most frequently on buildings (http://www.forum18.org/archive.php?article_id=2610).

"Even lenient punishment is punishment"

The Jehovah's Witness lawyers also note that it is difficult to say whether it is better to receive a fine or a suspended sentence: "A fine means that you have to suffer materially right now. A suspended sentence means that you need to live under stress for many years, and the sentence can be changed to a real one [i.e. the convicted person could be sent to prison]. Even lenient punishment is punishment, the consequences of which will be felt for years."

Kemerovo Region: sentenced to four years' imprisonment

On 2 September 2020, after a criminal case lasting more than two years, Beryozovsky City Court sentenced Sergey Alekseyevich Britvin (born 18 August 1965) and Vadim Anatolyevich Levchuk (born 6 February 1972) to four years' imprisonment in a general-regime labour camp under Criminal Code Article 282.2, Part 1. Prosecutors had requested prison terms of six and a half years.

Britvin and Levchuk have challenged their conviction, and expect the appeal hearing to take place between late December and mid-January at Kemerovo Regional Court.

FSB security service officers arrested Britvin and Levchuk in July 2018 during a series of raids on Jehovah's Witness homes in the town of Beryozovsky (http://www.forum18.org/archive.php?article_id=2412). Although the FSB originally opened the case under Criminal Code Article 282.2, Part 2 ("Participation in the activities of a banned extremist organisation", investigators later had the two men charged with "organising the activities of a banned extremist organisation" (Part 1) because they had had conversations with friends on religious topics, Jehovah's Witnesses stated.

In December 2019, the 8th Cassational Court in Kemerovo ruled that the last six months of Britvin and Levchuk's pre-trial detention had been unlawful, and ordered that they should be placed under house arrest instead (http://www.forum18.org/archive.php?article_id=2573).

Forum 18 wrote to the Kemerovo Regional Prosecutor's Office before the start of the working day of 10 November 2020, asking why prosecutors had sought a jail sentence, who had been harmed by Britvin and Levchuk's activities, and why meeting for prayer and Bible study should be considered a criminal offence. Forum 18 received no reply by the end of the working day in Kemerovo on 23 November.

"Of course I was upset [at the verdict], since I wanted to believe that the court would sort it out and acquit him," Sergey's wife Natalya Britvina told Forum 18 on 12 November. "After all, he has nothing to do with what he is accused of under that Article. I want to have hope in the appeal court – maybe it will sort it out and come to a just decision."

Britvin and Levchuk had already spent more than 520 days in detention and more than 250 days under house arrest by the time Judge Irina Vorobyova issued her 2 September 2020 decision.

Under amendments to Criminal Code Article 72, signed into law in July 2018, one day in detention is taken as equivalent to a day and a half in a general-regime labour camp, while two days under house arrest equates to one day's imprisonment.

Britvin and Levchuk should therefore serve about a year and a half if their convictions enter legal force, but the exact term remains unclear. After release, they would be subject to a further year of restrictions on freedom, and would also be prohibited from holding certain jobs for three years.

"I had hoped that the court would see my husband's innocence"

"I was upset when I heard the verdict," Vadim's wife Tatyana Levchuk told Forum 18 on 12 November, "since I had hoped that the court would see my husband's innocence and come to a different decision – if not acquittal, then a lighter sentence. The criminal prosecution of my husband is unjust, as he is not guilty." Both she and Natalya Britvina noted, however, that the outcome of the case was not unexpected.

"On the one hand, I understood that Sergey could get a prison term, since other Jehovah's Witnesses in our country in different cities had received jail sentences. On the other hand, there was nothing to pin on him, therefore there was a glimmer of hope," Britvina commented.

"Undeterred even by Covid-19, Russia continues to subject peaceful family men like Sergey and Vadim to the unsanitary and potentially deadly confines of prison," (http://www.forum18.org/archive.php?article_id=2571) Jehovah's Witness spokesperson Jarrod Lopes said in a press statement on 2 September.

Britvin and Levchuk are currently being held in Investigation Prison No. 4 in Anzhero-Sudzhensk, about 75 kms (50 miles) north of Beryozovsky, while their appeal is pending. Levchuk has not complained about conditions there, his wife Tatyana told Forum 18. "Seeing how Vadim conducts himself, fellow detainees and staff treat him with respect." Both Levchuk and Britvin have been able to receive parcels and letters, though with some delays.

As a disabled person, Britvin is allowed a "disabled cell" in which he can lie down, his wife Natalya explained to Forum 18. "I'm very grateful to them for that." It is so cold, however, that he must constantly wear two jumpers and two pairs of trousers. She added that she takes him fresh colostomy bags and medications "all the time".

"My husband is doing well and that makes it easier for me, although I'm very worried for his health," Britvin's wife told Forum 18. "He tries not to lose heart – on the contrary, during visits, he's still supporting me."

Eight days after Britvin and Levchuk's conviction, a third Beryozovsky Jehovah's Witness, Khasan Abduvaitovich Kogut, was found guilty at the same court under Article 282.2, Part 2 and given a suspended sentence.

Britvin and Levchuk have been on the Federal Financial Monitoring Service (Rosfinmonitoring) "List of Terrorists and Extremists" (http://www.forum18.org/archive.php?article_id=2215) since 22 November 2018. Banks are obliged to freeze the assets of people on this list, although small transactions (up to 10,000 Roubles) are permitted.

Bryansk: Convicted, but already served equivalent term

In the Bryansk Region town of Novozybkov on 3 September 2020, judges handed four more Jehovah's Witnesses jail sentences, but those convicted have avoided spending time in prison as they have already served an equivalent term in pre-trial detention.

Prosecutors had requested suspended sentences ranging from three years to seven years and ten months, with varying sets of restrictions. Forum 18 wrote to Bryansk Regional Prosecutor's Office before the start of the working day of 10 November asking who had been harmed by the four Jehovah's Witnesses' activities, and why meeting for prayer and Bible study should be considered a criminal offence. Forum 18 received no reply by the end of the working day in Bryansk Region on 23 November.

On 3 September, Judge Larisa Solovets of Novozybkov City Court sentenced:

- Vladimir Aleksandrovich Khokhlov (born 9 April 1977) and Eduard Vladimirovich Zhinzhirov (born 9 November 1971) (both convicted under Criminal Code Article 282.2, Part 1 and Article 282.3, Part 1) to one year and three months' imprisonment plus one year of restrictions on freedom;

- and Tatyana Viktorovna Shamsheva (born 7 June 1977) and Olga Sergeevna Silayeva (born 11 May 1988) (both convicted under Article 282.2, Part 2) to one year's imprisonment and six months of restrictions on freedom.

It is unclear why the judge imposed a non-suspended jail sentence which would not be served.

Shamsheva and Silayeva (since 10 October 2019) and Khokhlov and Zhinzhirov (since 11 December 2019) all remain on (http://www.forum18.org/archive.php?article_id=2573) the Rosfinmonitoring "List of Terrorists and Extremists" (http://www.forum18.org/archive.php?article_id=2215).

Inclusion on the List imposes numerous difficulties on everyday life. For instance, Shamsheva's car insurance has expired, lawyer Anton Omelchenko told Forum 18 on 12 November. She cannot renew it and therefore cannot drive.

All four are under a night-time curfew (although night shifts at work are allowed) and are barred from changing their places of residence. Khokhlov and Zhinzhirov must report to probation authorities twice a month, Shamsheva and Silayeva once a month. They are also prohibited from participating in any religious organisation – the men for three years (with an additional ban on taking leadership roles), the women for one year.

Defendants have already served time

Khokhlov and Zhinzhirov had spent more than 300 days, and Shamsheva and Silayeva nearly 250 days, in different detention centres in Bryansk Region. All four were therefore freed from the courtroom, but remain under restrictions for the periods stipulated in the court ruling.

"At first glance, the sentence does not appear too harsh, but it is still a guilty verdict," Jehovah's Witness spokesperson Yaroslav Sivulsky commented on 4 September. "People spent many months in jail on the basis of fictitious accusations." The four appealed unsuccessfully against their convictions on 28 October 2020 at Bryansk Regional Court. The prosecution did not challenge the sentence.

The defence is working on possible appeals to the First Cassational Court in Saratov, and if then necessary to the European Court of Human Rights (ECtHR) in Strasbourg, lawyer Anton Omelchenko told Forum 18.

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List of those convicted on "extremism"-related charges for exercising freedom of religion or belief, by category of punishment (regional headings refer to where people were tried, not where they are imprisoned).

CURRENT IMPRISONMENTS

SENTENCES HAVE ENTERED LEGAL FORCE

- Republic of Dagestan

Izberbash City Court

28 May 2018

1) Ilgar Vagif-ogly Aliyev (born 16 February 1977) – 8 years + 2 years' restrictions on freedom (http://www.forum18.org/archive.php?article_id=2386)

Criminal Code Articles: 282.2, Part 1; 282.2, Part 1.1

Appeal: unsuccessful – 25 July 2018, Supreme Court of the Republic of Dagestan

Prison address: 410086, Saratovskaya oblast, g. Saratov, Peschano-Umetsky trakt, p. Yelshanka, FKU Ispravitel'naya koloniya No. 33 UFSIN Rossii po Saratovskoy oblasti

- Oryol Region

Railway District Court, Oryol

6 February 2019

2) Dennis Ole Christensen (born 18 December 1972 – Danish citizen) – 6 years (http://www.forum18.org/archive.php?article_id=2479)

Criminal Code Article: 282.2, Part 1

Appeal: unsuccessful – 23 May 2019, Oryol Regional Court

Prison address: 307754 Kurskaya oblast, g. Lgov, ul. Primakova 23A, FKU Ispravitel'naya koloniya No. 3 UFSIN Rossii po Kurskoy oblasti

Christensen has attempted unsuccessfully to gain early release – a court ruling of 23 June 2020, which replaced his remaining term with a fine, was challenged by prosecutors, and Christensen's request was turned down on re-examination on 23 October 2020.

- Saratov Region

Lenin District Court, Saratov

19 September 2019

3) Konstantin Viktorovich Bazhenov (born 10 May 1975) – 3 years and 6 months

4) Aleksey Vladimirovich Budenchuk (born 27 July 1982) – 3 years and 6 months

5) Gennady Vasilyevich German (born 12 June 1969) – 2 years and 6 months

6) Roman Aleksandrovich Gridasov (16 September 1978) – 2 years and 6 months

7) Feliks Khasanovich Makhammadiyev (born 14 December 1984) – 3 years

8) Aleksey Petrovich Miretsky (born 14 December 1975) – 2 years and 6 months

All six also have 1 year's restrictions on freedom + 5-year ban on holding leadership positions in any public organisation (http://www.forum18.org/archive.php?article_id=2510). Some of the six have been tortured (http://www.forum18.org/archive.php?article_id=2554)

Criminal Code Article: 282.2, Part 1

Appeal: unsuccessful – 20 December 2019, Saratov Regional Court

Prison address: Bazhenov – 433510 Ulyanovskaya oblast, g. Dimitrovgrad, ul. Osipenko 22, FKU Ispravitel'naya koloniya No. 3

UFSIN Rossii po Ulyanovskoy oblasti; others – 460026, g. Orenburg, Krymsky pereulok 119, FKU Ispravitelnaya koloniya No. 1
UFSIN Rossii po Orenburgskoy oblasti

On 28 October 2020, a court refused Bazhenov early release and the replacement of the rest of his term with a fine. Budenchuk and Miretsky have also applied for early release; it is unknown when their cases will be heard in court.

(Bazhenov in Saratov should not be confused with fellow Jehovah's Witness Konstantin Aleksandrovich Bazhenov from Kamchatka, given a two-year suspended sentence in September 2020 (http://www.forum18.org/archive.php?article_id=2620).)

- Tomsk Region

October District Court, Tomsk

5 November 2019

9) Sergey Gennadyevich Klimov (born 26 March 1970) – 6 years + 1 year's restriction on freedom; 5-year ban on any educational activity and posting material on the internet (http://www.forum18.org/archive.php?article_id=2536)

Criminal Code Article: 282.2, Part 1

Appeal: unsuccessful – 20 February 2020, Tomsk Regional Court

Prison address: 414044 Astrakhanskaya oblast, g. Astrakhan, ul. Sovetskoy Gvardii 50, FKU Ispravitelnaya koloniya No. 8 UFSIN Rossii po Astrakhanskoy oblasti

SENTENCED TO IMPRISONMENT – DETAINED AWAITING APPEAL

- Kemerovo Region

Beryozovsky City Court

2 September 2020

1) Sergey Alekseyevich Britvin (born 18 August 1965) – 4 years;

2) Vadim Anatolyevich Levchuk (born 6 February 1972) – 4 years

Criminal Code Article 282.2 Part 1

Appeal due late December 2020/mid-January 2021, Kemerovo Regional Court

Detention centre address: 652470, Kemerovskaya oblast, g. Anzhero-Sudzhensk, ul. Chekistov 1, FKU Sledstvenniy izolyator No. 4 UFSIN Rossii po Kemerovskoy oblasti

DETAINED AWAITING POSSIBLE DEPORTATION

- Khabarovsk Region

Blagoveshchensk City Court

19 June 2017

1) Yevgeny Lvovich Kim (born 5 October 1974) – 3 years and 9 months (http://www.forum18.org/archive.php?article_id=2290)

Criminal Code Articles: 282.2, Part 1, and 282, Part 1

Tortured while in pre-trial detention (http://www.forum18.org/archive.php?article_id=2332) in 2015; no suspect torturer known to have been arrested or put on criminal trial (http://www.forum18.org/archive.php?article_id=2554). Immediately Kim was released deprived of Russian citizenship and left stateless.

Railway District Court, Khabarovsk

10 April 2019

fined under Administrative Code Article 18.8, Part 1 for failing to have documentation and ordered deported (http://www.forum18.org/archive.php?article_id=2478).

Foreigners' detention centre address: 680003 Khabarovskiy kray, g. Khabarovsk, ul. Repina 3, Tsentr vremennogo sodержaniya inostrannikh grazhdan

On 28 October 2020, Kim applied unsuccessfully for cancellation of his criminal record (snyatiye sudimosti). On 10 November, the Institute for Law and Public Policy lodged an appeal on Kim's behalf at the Constitutional Court, questioning the constitutionality of Administrative Code Article 18.8, Part 1.1 ("Violation by a foreign citizen or stateless person of the residence regime of the Russian Federation, expressed in the absence of documents confirming the right to reside in the Russian Federation") and Article 3.10, Part 5, which gives judges the right to detain people before deportation but does not impose any time limit. (END)

Full reports on freedom of thought, conscience and belief in Russia (<http://www.forum18.org/archive.php?query=&religion=all&country=10>)

For more background see Forum 18's survey of the general state of freedom of religion and belief in Russia (http://www.forum18.org/archive.php?article_id=2246), as well as Forum 18's survey of the dramatic decline in this freedom related to Russia's Extremism Law (http://www.forum18.org/archive.php?article_id=2215).

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 (http://www.forum18.org/archive.php?article_id=1468)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (http://www.forum18.org/archive.php?article_id=1351)

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