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RUSSIA: One acquittal, but the same day trial of two more begins

By Felix Corley, Forum 18 News Service <<http://www.forum18.org>>

The criminal trial in Russia of a Jehovah's Witness married couple, Andrei and Lyutsiya Raitin, on "extremism" charges under Criminal Code Article 282 is due to resume on 23 January. Jehovah's Witnesses describe the accusations as "baseless", and have pointed out to Forum 18 News Service that the same day the Raitins' trial began - 22 December 2011 - fellow Jehovah's Witness Aleksandr Kalistratov was finally acquitted on exactly the same charges. "Unlike Kalistratov, the Raitins held no position of responsibility in their local community," Jehovah's Witness spokesperson Grigory Martynov told Forum 18. "They're just ordinary members of the community". Article 282 continues to be used against Jehovah's Witnesses, and punishments under this article were increased in December 2011. Elsewhere in Russia, other criminal cases are continuing against people for exercising their freedom of religion or belief. These include Muslim readers of the works of Said Nursi, who are normally prosecuted under Criminal Code Article 282.2.

The criminal trial in Russia's Siberian city of Chita of a Jehovah's Witness married couple, Andrei and Lyutsiya Raitin, on charges of spreading "enmity and hatred" is due to resume on 23 January. Jehovah's Witnesses dismiss the accusations against the Raitins as "baseless". They pointed out to Forum 18 News Service that the same day the trial began - 22 December 2011 - fellow Jehovah's Witness Aleksandr Kalistratov was finally acquitted on exactly the same charges at Altai Republic Supreme Court, also in Siberia. Unless the Public Prosecutor challenges the decision, Kalistratov's acquittal brings to an end prosecutors' repeated attempts to imprison him on charges which were launched in 2010. Elsewhere in Russia, other criminal cases are continuing against individuals for exercising their freedom of religion or belief.

"Unlike Kalistratov, the Raitins held no position of responsibility in their local community," Jehovah's Witness spokesperson Grigory Martynov told Forum 18 from St Petersburg on 10 January. "They're just ordinary members of the community being punished for carrying out their usual religious activity."

Article 282 "inciting hatred" criminal charges

Kalistratov, the Raitins and several other Jehovah's Witnesses were all accused under Article 282, Part 1 of the Criminal Code ("Actions directed at the incitement of hatred [nenavist] or enmity [vrazhda], as well as the humiliation of an individual or group of persons on the basis of .. attitude to religion, .. conducted publicly or through the media"). This and related "anti-extremism" legislation has systemic problems, as noted in a commentary by Alexander Verkhovsky of the SOVA Center at F18News 19 July 2010 <http://www.forum18.org/Archive.php?article_id=1468>.

Punishments under Article 282, Part 1 were slightly increased in a Law amending various Articles of the Criminal Code and other Laws, approved by the State Duma on 17 November 2011 and signed by President Dmitry Medvedev on 7 December 2011.

Punishments are now: "by means of a fine of 100,000 Roubles [19,000 Norwegian Kroner, 2,500 Euros, or 3,170 US Dollars] to 300,000 Roubles [57,000 Norwegian Kroner, 7,500 Euros, or 9,510 US Dollars] or of the level of pay or other income of the convicted person for a period of between one and two years, or the deprivation of the right to engage in specific duties or to engage in a specific activity for a period of up to three years, or compulsory labour for a period of up to 360 hours [previously up to 180 hours], or corrective labour for a period of up to one year, or forced labour for a period of up to two years [a new provision], or deprivation of freedom for the same period".

The new penalties have mostly already come into force, though not those relating to forced labour, which come into force at the beginning of 2013.

Article 282.2 "extremism" criminal charges

Also slightly amended under the December 2011 Law were the punishments under Criminal Code Article 282.2 ("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") (see forthcoming F18News article).

Article 282.2 is used to prosecute Muslims who read the works of the late Turkish Muslim theologian Said Nursi. Among many recent cases, Asylzhan Kelmukhambetov was sentenced in June 2011 under this Article in the Urals town of Orenburg to 18 months' imprisonment, becoming the first Nursi reader in Russia to receive a criminal sentence of imprisonment. He suffers from diabetes and has been in prison hospital since he was jailed (see F18News 12 September 2011 <http://www.forum18.org/Archive.php?article_id=1612>).

Similarly, Rashid Abdulov was sentenced under this Article in the Volga city of Ulyanovsk in September 2011 to one-year's compulsory work. However, he was freed because he had already spent nearly eight months in custody (see F18News 12 September 2011 <http://www.forum18.org/Archive.php?article_id=1612>).

Numerous lower court decisions have found - on highly questionable grounds - that Russian translations of the Islamic theological works of Said Nursi and Jehovah's Witness publications are "extremist" and so placed them on the Justice Ministry's Federal List of Extremist Materials (see "The battle with "religious extremism" - a return to past methods?" F18News 28 April 2009 <http://www.forum18.org/Archive.php?article_id=1288>). Once materials are on the Federal List, it is then illegal to distribute or store them for distribution.

Such lower court decisions are of great help to officials seeking to prosecute Jehovah's Witnesses and Muslim readers of the works of Said Nursi for exercising their freedom of religion or belief. A total of 68 Jehovah's Witness publications, as well as 15 Russian translations of Nursi's works, have already been ruled "extremist" However, a recent attempt to find a key Hare Krishna book, the Bhagavad-Gita As It Is, "extremist" failed in court in Tomsk (see F18News 5 January 2012 <http://www.forum18.org/Archive.php?article_id=1652>).

Chita trial begins

Prosecutors in Chita have long been seeking to prosecute the Raitins under Criminal Code Article 282, Part 1. The local Investigation Committee alleged that in 2010, the couple, "pursuing the aims of inciting religious and social hatred" and knowing that it had been declared "extremist", distributed Jehovah's Witness literature in the village of Novotroitsk near Chita. Investigators claim they distributed 16 named texts, which were confiscated from them. "The crime was revealed by operational workers of the Regional Department of the FSB security service", the Investigation Committee noted (see F18News 12 September 2011 <http://www.forum18.org/Archive.php?article_id=1612>).

The prosecution followed early-morning raids on 8 February 2011 on the homes of 28 Jehovah's Witnesses in Chita. Police raided three more Jehovah's Witness homes in nearby Balei on 29 March 2011. Among those raided was the home of a couple in their seventies who had been exiled in the Soviet era for their religious beliefs, and rehabilitated in 1993 as victims of political repression (see F18News 13 April 2011 <http://www.forum18.org/Archive.php?article_id=1562>).

The Raitins' trial began under Judge Vera Popova at Chita District Court on 22 December 2011, and continued the following day, Jehovah's Witnesses told Forum 18. At the initial hearing on 10 October 2011, Judge Popova returned the case to prosecutors as it had been prepared "with violations", the court website noted. A new case was then prepared (see F18News 14 October 2011 <http://www.forum18.org/Archive.php?article_id=1625>).

"We never - even in our thoughts - incited hatred!" Andrei Raitin noted. "As Jehovah's Witness, my wife and I respect people of any religious faith and culture." He described the accusation as "invented". "I regard this case in essence as an attack on our religion."

Yoshkar-Ola case handed to court

After nearly a year and a half of investigation, the criminal trial of Jehovah's Witness elder Maksim Kalinin appears imminent at the City Court in Yoshkar-Ola in the Mari El Republic. He too is accused under the same Article 282, Part 1. On 29 December 2011 prosecutors presented an indictment against him, Jehovah's Witnesses told Forum 18. As he was not well enough to go to the Prosecutor's Office, officials brought the indictment to his home that evening. The following day the case was handed to court.

Judge Sergei Makarov has been assigned the case at Yoshkar-Ola City Court, his secretary told Forum 18 on 10 January. However, she said no date for a preliminary hearing has yet been set.

The case against Kalinin followed August 2010 raids on private homes and a Jehovah's Witness worship service in Yoshkar-Ola at which he was present. Evidence rests on FSB security police surveillance "using a hidden camera in his home without his knowledge", according to a 30 March 2010 document issued by the Supreme Court of Mari El Republic (see F18News 26 August 2010 <http://www.forum18.org/Archive.php?article_id=1480>).

Astrakhan case to reach court soon?

The case under Article 282, Part 1 against Yelena Grigoryeva, a Jehovah's Witness from Akhtubinsk in the southern Astrakhan

Region, appears close to reaching court. The investigator in the case, Aleksandr Glushchenko, handed her a new accusation on 20 December 2011, Jehovah's Witnesses told Forum 18.

The case against Grigoryeva began in early 2011 (see F18News 11 February 2011 <http://www.forum18.org/Archive.php?article_id=1539>). During the legal process her defence lawyer has faced pressure from the authorities to drop the case (see F18News 3 April 2011 <http://www.forum18.org/Archive.php?article_id=1562>).

The latest accusation - seen by Forum 18 - claims Grigoryeva "basing herself on the ideas of inciting religious hatred and enmity, as well as of propaganda of the exclusivity and superiority of people on the basis of their [attitude] to religion, having the criminal intention to commit actions directed at the public incitement of hatred and enmity, as well as the propaganda of exclusivity and superiority of people on the basis of their attitude to religion, committed from 2009 to February 2010 a crime of minor gravity against the foundations of the constitutional order and the security of the state".

The accusation then noted numerous occasions when Grigoryeva was alleged to have handed a banned Jehovah's Witness text to a named individual, although in each case Investigator Glushchenko notes "the exact date(s) was not established during the preliminary investigation".

Investigator Glushchenko rejected about ten challenges to the case submitted by Grigoryeva's defence, including one to have the case thrown out, Jehovah's Witnesses told Forum 18.

Glushchenko refused to tell Forum 18 on 10 January if the Prosecutor's Office has approved the accusation and handed it to court for a possible trial. Similarly, the woman who answered the phone at Akhtubinsk District Prosecutor's office the same day declined to discuss whether the Prosecutor has already or is likely to approve the case for court.

Jehovah's Witnesses describe the prosecution accusations as "unfounded". "I fundamentally disagree with the accusations levelled against me," Grigoryeva declared, "as I firmly believe in the benefits of applying biblical principles."

Grigoryeva's lawyer Gulfira Zakaryaeva also rejects the accusations. "Unfortunately I have to declare that the investigators did not try to establish the truth in this case," she declared. "All they did was to try using any means to accuse my client simply because she is a Jehovah's Witness."

Raid reveals "criminal" case

It was only when officers of the Investigation Committee, the police and the FSB security service raided her home early on 8 February 2011 that Grigoryeva learnt that she was being investigated under Article 282, Part 1. Her personal religious books were confiscated during the raid. Several other Jehovah's Witness homes were raided in the coordinated operation (see F18News 11 February 2011 <http://www.forum18.org/Archive.php?article_id=1539>).

Three days later, Grigoryeva was forced to sign a statement to say she was leaving her job providing social care in the town "at her own request". Jehovah's Witnesses told Forum 18 that the local authority which employed her was visited by people who refused to say which government agency they were from, after which she was pressured to resign "to avoid problems" (see F18News 3 April 2011 <http://www.forum18.org/Archive.php?article_id=1562>).

On 17 February 2011 she was handed the official accusation that she had given others religious books which were on the Federal List. However, prosecutors appear to have found it difficult to prepare the case. An investigator told Forum 18 in July 2011 that it was due to be completed in August and handed to Akhtubinsk Town Court (see F18News 19 July 2011 <http://www.forum18.org/Archive.php?article_id=1594>). However, the District Prosecutor refused to approve the case and sent it back for further investigation, Jehovah's Witnesses told Forum 18. Indeed, the investigator admitted to Forum 18 that Grigoryeva had not harmed anyone (see F18News 12 September 2011 <http://www.forum18.org/Archive.php?article_id=1612>).

Kalistratov's court experiences

The 35-year-old Kalistratov has been leader of the Jehovah's Witness community in Gorno-Altai since 1999. He began studying Jehovah's Witness literature in 1993 and was baptised into the faith in 1994. In 2000 Kalistratov spent 21 days in detention after applying for the civilian alternative to military service. However, a court subsequently affirmed his right to conduct alternative service.

In December 2008, prosecutors in Gorno-Altai brought a suit to find 18 Jehovah's Witness publications "extremist". Kalistratov represented the local Jehovah's Witness community in court. Drawing on a June 2009 critical analysis by lecturers at Kemerovo State University, Gorno-Altai city court upheld the suit in October 2009, the first time a Russian court had declared any Jehovah's Witness publications "extremist". The Jehovah's Witness appeal failed and the ruling was confirmed by Altai Republic Supreme Court in January 2010 (see F18News 28 January 2010 <http://www.forum18.org/Archive.php?article_id=1400>).

Gorno-Altai acquittal, appeal, new trial, appeal

Prosecutors then began investigating Kalistratov on accusations of violating Article 282, Part 1 of the Criminal Code. After investigation by the Investigator for Especially Important Cases of the Investigation Committee's Department for Investigating Especially Important Cases, Kalistratov was officially declared a suspect in August 2010. The Investigation Committee prepared an indictment against him the following month and handed the case to Gorno-Altai City Court. The preliminary hearing was held in October 2010.

During 22 subsequent days of court hearings, prosecutors presented no victims. Judge Marina Sokolovskaya finally handed down her verdict exonerating Kalistratov on 14 April 2011 (see F18News 20 April 2011 <http://www.forum18.org/Archive.php?article_id=1565>).

However, prosecutors appealed against the acquittal to Altai Republic Supreme Court. On 28 May 2011, the court annulled the April 2011 verdict and sent the case for a new trial.

Kalistratov's second trial at Gorno-Altai City Court began on 22 June 2011 under a new judge, Marina Kulikova. Despite no new evidence being presented in the subsequent 18 hearings, on 3 November 2011 Kalistratov was found guilty and sentenced to 100 hours' community service (see F18News 2 December 2011 <http://www.forum18.org/Archive.php?article_id=1642>).

Kalistratov appealed against the conviction, and in one hearing on 22 December 2011, a panel of three Judges of Altai Republic Supreme Court chaired by Igor Bobylev overturned the conviction and acquitted him, the court website noted. The written verdict - seen by Forum 18 - rejects many of the "facts" on which the November 2011 conviction was based as "unproven" or not true.

Kalistratov a "victim"

Present in court was Mikhail Odintsov, the official of Russia's Human Rights Ombudsperson's Office covering religious freedom issues, who had joined the appeal against the November 2011 conviction. He told the hearing there was no proof of any crime and no proof that Kalistratov had intended to incite hatred. He called the November 2011 verdict "a mistake of an individual judge who could not hand down an objective ruling, but whose ruling handed down was in contradiction to the totality of the materials presented in the court hearings". He described Kalistratov as a "victim".

In June 2011, Odintsov commented to Forum 18 that many criminal and administrative cases against religious communities "take place with violations of the right to freedom of conscience, violations of the rights of religious organisations and violations of the separation of church and state". He regards the many such cases as "one complex of measures against religious communities" (see F18News 29 June 2011 <http://www.forum18.org/Archive.php?article_id=1587>).

Odintsov took the opportunity in court in December 2011 to refer to the case then underway in Tomsk to find the book the Bhagavad-Gita As It Is "extremist". He pointed out that the "pseudo-experts" of the same Kemerovo State University - which had found some Jehovah's Witness publications "extremist" in an earlier Gorno-Altai case which was used to help prosecute Kalistratov - had turned to "other Scriptures" which were "sacred to the followers of Hare Krishna Vaishnavas". He described their "expert analysis" of the Bhagavad-Gita As It Is as "absurd".

On 28 December 2011, a Tomsk Court rejected the prosecutors' suit to find the Bhagavad-Gita As It Is "extremist" (see F18News 5 January 2012 <http://www.forum18.org/Archive.php?article_id=1652>). (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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f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY