

UNIVERSAL PERIODIC REVIEW 2009

RUSSIAN FEDERATION

NGO: European Centre for Law and Justice
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RELIGIOUS FREEDOM IN THE RUSSIAN FEDERATION

SECTION 1: *Legal Framework*

I. Russian Constitutional Provisions

The Russian Constitution states that the “Russian Federation is a secular state. No religion may be established in the capacity of a state or mandatory [religion].”¹ It further states that religious associations are separate “from the state and equal before the law.”²

Article 28 of the Russian Constitution states that “[t]o each is guaranteed freedom of conscience, freedom of profession of faith, including the right to profess [or ‘confess’] individually or in conjunction with others any religion or to profess none, to freely choose, have and spread religious and other beliefs [or convictions] and to act in concert with them.”³ Article 28 notwithstanding, the Constitution prohibits any sort of “propaganda or agitation” based on, among other things, “religious hatred and enmity” and bars propaganda that advocates any sort of superiority of one group over another, including proclaimed superiority on religious grounds.⁴ Article 55(3) states that human rights may be restricted by federal law where such action is necessary to “protect the fundamentals of the constitutional order, public morals, health, the rights and the legal interests of other persons, to guarantee the defense of the country and the security of the state.”⁵ Russian constitutional expert Nikolas Gvosdev notes that these constitutional provisions do not amount to a clear-cut guarantee of “religious freedom” in the widely-held understanding of the term in that there is no explicit guarantee that religious institutions have an automatic right to exist and operate within Russian society as do corporate institutions.⁶

II. Legislation

While there are no federal laws explicitly restricting religious freedom, the Russian government has enacted several laws that implicate and threaten to adversely affect the ability of religious communities to freely operate within the country. Regional officials

¹ KONSTITUTSIIA ROSSIISKOI FEDERATSII [Konst. RF][Constitution] art. 14.

² *Id.*

³ KONSTITUTSIIA ROSSIISKOI FEDERATSII art. 28.

⁴ *Id.* at art. 29(2).

⁵ *Id.* at art. 55(3).

⁶ Gvosdev, Nikolas K., *Religious freedom: Russian Constitutional principles-historical and contemporary*, BYU L. Rev. (2001) [hereinafter, *Russian Constitutional Principles*].

have used various contradictions between federal and local laws, as well as differing interpretations of the law restricting, in practice, the activities of some religious minorities. Reports indicate that local governments are more susceptible to pressure from the local religious majority and are thus more likely to discriminate against local minority religious communities.⁷ Furthermore, International Christian Concern notes that “[a]s of 1997, about 25% of Russia's 89 regional governments had passed laws which restricted the activities of religious groups.”⁸

A. The 1997 Law on Freedom of Conscience and Religious Organizations

The 1997 Law on Freedom of Conscience and Religious Organizations and Associations (1997 Law) seriously disadvantages some religious groups. Under the 1997 Law, all religions maintain their constitutionally-granted equality before the law, and the constitutional separation of church and state is statutorily codified. The 1997 Law, however, requires religious groups to register with the government based on their membership in one of three categories, each possessing different levels of legal status with attendant privileges or restrictions.⁹

The first category of groups, “religious group,” may hold worship services and instruct their members in religious teaching. A religious group, however, may not register with the government and thus has neither the legal status nor capacity to, *inter alia*, open a bank account, own property, or enjoy tax benefits. Religious groups are legally permitted to rent public spaces to host their worship services and gatherings, but in practice, such groups are often met with substantial resistance when attempting to do so. The second category of groups, “local religious organization,” may register with the government provided they meet several stipulations. Unlike religious groups, local religious organizations do have legal status and may thus open bank accounts, own property, enjoy tax benefits, etc. The third and final category of groups, “centralized religious organizations,” may register with the Government upon merging at least three local organizations within the same denomination. Centralized religious organizations have legal status and may also initiate new local religious organizations. Importantly, the 1997 Law permits the Government to ban various religious groups altogether, thus prohibiting all religious activities of a particular religious community.¹⁰

The National Security Concept of the Russian Federation states that “ensuring national security includes countering the negative influence of foreign religious organizations and missionaries.”¹¹ Foreign religious organizations must register with the government, and they may not conduct any kind of religious activities without first acquiring status as a religious group or organization under the provisions of the 1997 Law.¹² International Christian Concern reports that “[r]eligious workers can only obtain

⁷ U.S. Dep’t of State, Bureau of Democracy, Human Rights and Labor, *Int’l Religious Freedom Report 2007 Russia* (Sept 14, 2007) [hereinafter, *Religious Freedom Report*], available at <http://www.state.gov/g/drl/rls/irf/2007/90196.htm>.

⁸ International Christian Concern, *Russia – Christian Persecution in Russia*, available at <http://www.persecution.org/Countries/russia.html>.

⁹ *Religious Freedom Report*, *supra* note 9.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

three-month visas and renewals of the visas must take place at a Russian Embassy or consulate abroad. Local authorities have, at times, refused to register the passport of missionaries, not allowing the missionaries to operate in the area under their jurisdiction.”¹³

B. The 2006 Law on Public Associations

The 2006 Law on Public Associations (NGO Law) expressly permits the Ministry of Justice to review whether a religious organization complies with its mission statement as originally filed with the Government. Though the Russian Constitution provides for the separation of churches and state, the NGO Law authorizes “government inspections of religious organizations and attendance at some public events.”¹⁴ At the risk of being shut down, religious organizations must also inform the Government of any changes in church leadership or physical address within three days of such changes. The reporting requirements under this law are reportedly quite rigorous and extensive, requiring much time and effort to adequately comply with them. The Federal Registration Service may sue such organizations for failing to comply with the law’s reporting requirements.¹⁵ It appears that Russian authorities have explicitly used the NGO Law to justify investigating the headquarters of various religious organizations.¹⁶

After vigorous lobbying by many religious groups, including the Russian Orthodox Church, the Government relaxed many of the reporting requirements for all religious organizations and even extended the law’s reporting deadlines. Fortunately, reports indicate that the accounting procedures under the NGO Law have also been significantly simplified.¹⁷

III. Judicial Decisions

Registering with the Government appears to be a recurrent legal issue plaguing religious organizations. Since enactment of the 1997 Law, Russian courts have seen numerous complaints of involuntary dissolution brought by churches and various religious organizations. Religious groups, such as the Salvation Army, have had difficulty registering with the Russian government. In 2007 alone, however, the ECHR has “unanimously ruled against the Government on three religious freedom cases involving the registration of the Salvation Army [Moscow Branch of the Salvation Army v. Russia], the Jehovah’s Witnesses [Kuznetsov and Others v. Russia] and the Church of Scientology [Church of Scientology Moscow v. Russia].” In each case, the Strasbourg court specifically found that the Russian government had “violated its international obligations under the European Convention of the Protection of Human Rights and Fundamental Freedoms.”

¹³ International Christian Concern, *supra* note 10.

¹⁴ *Country Report*, *supra* note 3.

¹⁵ *Id.*; see also *Country Report*, *supra* note 3.

¹⁶ *Religious Freedom Report*, *supra* note 9.

¹⁷ *Id.*

SECTION 2: *Recent Religious Persecution or Discrimination*

Each incident referenced is accompanied by a web link to the news story, which can be found in the Appendix.

Selected Recent Incidents of Persecution or Discrimination Against Religious Minorities

1. April 2008 – Church dissolved for having a Sunday school program¹⁸
2. February 2007 - Pentecostal teacher "forced to resign" after raid on house church¹⁹
3. June 2006 – Meeting places for religious minorities slated for demolition²⁰
4. March 2003 – Bible college shut down because it was conducting educational activities without a license; college explained that it was not required to obtain a license since it did not issue certificates of education.²¹
5. March 2003 – Unregistered Baptist church prohibited from renting space for worship services²²
6. September 2002 – Swedish pastor with valid multiple-entry visa expelled from country, visa cancelled²³
7. April 2002 – Government agencies said to be conducting anti-Catholic campaign²⁴

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¹⁸ <http://www.persecution.net/ru-2008-04-02.htm>

¹⁹ http://www.forum18.org/Archive.php?article_id=915

²⁰ http://www.forum18.org/Archive.php?article_id=800

²¹ <http://www.persecution.org/Countries/russia.html>

²² <http://www.persecution.org/Countries/russia.html>

²³ <http://www.persecution.org/Countries/russia.html>

²⁴ http://www.wnd.com/news/article.asp?ARTICLE_ID=27345

RELIGIOUS FREEDOM IN RUSSIAN FEDERATION

APPENDIX

Section 2

1. Church Dissolved for Having a Sunday School

April 2, 2008

<http://www.persecution.net/ru-2008-04-02.htm>

A United Methodist congregation in the city of Smolensk was dissolved by the regional court on March 24 in response to a suit filed by the Regional Public Prosecutor's Office protesting the church having a Sunday school program, according to a March 26 report from Forum 18. The court agreed with the Regional Organized Crime Police's assertion that the Smolensk United Methodist Church was breaking the law by conducting "educational activity in a Sunday school without a corresponding license."

While the court's decision to dissolve the church means loss of legal status rather than a complete ban, it does bar the Methodists from maintaining or developing any form of public profile as an organization.

2. Pentecostal teacher "forced to resign" after raid on house church

February 19, 2007

http://www.forum18.org/Archive.php?article_id=915

Chelyabinsk region's public prosecutor has just opened an investigation into a late December raid on a Pentecostal service at a private house, Forum 18 News Service has learnt. The disruption of Word of God Church's Christmas service in the town of Argayash involved local police and district officials from the Emergencies and Youth departments. According to the church, one of its members was subsequently forced to resign from her kindergarten teaching post or else face "fabricated" charges of maltreating children under the Criminal Code. Word of God's parent church in Chelyabinsk city believes that the Argayash police and officials are the ones who have violated the Criminal Code, however, by impeding their members' religious freedom and acting without proper authorisation. While remarking to Forum 18 that the attack on his church "feels like the 1930s", Pastor Sergei Bortsov stressed that the situation in Argayash is unusual for Chelyabinsk region as a whole. In recent years similar incidents have been reported in Chelyabinsk city, Ivanovo, Udmurtia and Sakhalin, with varying state responses.

Chelyabinsk region's public prosecutor has opened an investigation into state representatives' disruption of Pentecostal worship at a private house late last year, Forum

18 News Service has learnt. This follows a February 2007 complaint from Word of God Pentecostal Church in Chelyabinsk (approximately 1,700km [1,050 miles] east of Moscow) that the state's action against its congregation in the town of Argayash (Chelyabinsk region) violated Articles 148 and 286 of the Criminal Code (impeding the right to freedom of conscience and exceeding official powers). On 14 February, Pastor Sergei Bortsov of Word of God Pentecostal Church in Argayash received a copy of a letter from the regional public prosecutor instructing Argayash district's public prosecutor to examine the case.

Instead of apologising in the wake of the raid, Argayash state representatives have also forced one of the congregation to resign from her kindergarten teaching post, Forum 18 has been told. "It feels like the 1930s!" Pastor Bortsov remarked to Forum 18 from Argayash on 14 February.

The 30-strong congregation was meeting for worship at Pastor Bortsov's home at 11am on Sunday 24 December 2006, when local police and officials from the Emergencies and Youth departments arrived and demanded documents relating to the property and church, including ownership rights to the house and state permission for the prayer house under construction alongside. While police Colonel Ramil Galilullin later told regional newspaper "Chelyabinsky Rabochy" that he and his colleagues had neither entered the room where worship was taking place nor disrupted it, Pastor Bortsov pointed out to Forum 18 that the check-up resulted in church leaders being absent from the service for some 90 minutes. "If they were to summon an Orthodox priest for questioning during a liturgy, wouldn't that mean that worship was being disrupted?"

Pastor Bortsov told Forum 18 that he has also yet to be presented with documentation validating the check-up. While the district administration has cited unspecified complaints about children attending the Pentecostals' services without parental consent, he said, "that is a lie." Legally, he added, fire inspectors would be entitled to check up on a private house in this way if they presented the necessary warrant, "but they didn't have one."

Neither Argayash head of administration Istafil Valishin nor Anna Minayeva of the district's youth department, who took part in the check-up, was available for comment when Forum 18 rang repeatedly on 16 and 19 February.

Quoted by "Chelyabinsky Rabochy" on 26 January, police Colonel Galilullin maintained that the reason for the check-up was a complaint by local citizens that children attended the Pentecostal church without parental permission. Received on 22 December, the complaint had to be addressed within three days in accordance with the law, he explained, and since the church met only on Sundays and Wednesdays, "there was no other opportunity - we checked fire safety precautions while we were at it."

Pastor Bortsov told Forum 18 that he was fined 500 roubles [14 Euros, 117 Norwegian Kroner or 19 US Dollars] due to incorrect use of a traditional Russian stove and sauna and defective electrical wiring, "which we paid as we didn't want to make an issue out of

it." According to the pastor's 26 December 2006 statement published by the Moscow-based Slavic Centre for Law and Justice, neither police nor emergency department representatives inspected his house or stipulated what improvements in fire safety should be made. He also pointed out that the majority of houses in Argayash are of the same, traditional wooden type with similar defects.

Pastor Bortsov also told Forum 18 how in January, a few weeks after the raid, a member of the congregation who works as a kindergarten teacher was forced to hand in her notice or else face charges under Article 156 of the Criminal Code (maltreatment of children), prosecution for which may result in up to three years' imprisonment. While the allegations are "fabricated", he insisted, the teacher concerned is still without work.

"Chelyabinsky Rabochy" cites complaints from several parents maintaining that their children return from the kindergarten upset, nervous and afraid to sleep in the dark or to kill insects, as well as mentioning "the name of God, which is completely absent in family conversations." The teacher who resigned, the newspaper maintains, treated children roughly – slapping them and twisting their arms – and this led to the director of the kindergarten asking her to leave. The 26 January article is accompanied by an extract from the Large Soviet Encyclopaedia, which maintains: "Pentecostals are a Christian sect. Their doctrine comes from the gospel myth about 'the descent of the holy spirit on the apostles' on the fiftieth day after Easter – pentecost."

Pastor Bortsov dismissed the newspaper allegations about the church member's behaviour at the kindergarten as "half made up to discredit the church, half the product of children's imaginations." He also stressed to Forum 18 that the Argayash church's situation is unusual for Chelyabinsk region as a whole, which he described as "tolerant".

While reported incidents of this type are rare in Russia, it was in Chelyabinsk city that state representatives disrupted a Jehovah's Witness worship meeting in 2000. This led to a recent ruling by the European Court of Human Rights in Strasbourg obliging the Russian government to pay the Jehovah's Witnesses compensation of 90,544 Euros [3,107,094 Russian roubles, 754,061 Norwegian Kroner or 116,998 US Dollars] (see F18News 17 January 2007 http://www.forum18.org/Archive.php?article_id=900).

In April 2004 a private firm on the Pacific island of Sakhalin sacked three Jehovah's Witnesses claiming that their religious affiliation might represent a threat to the security of the company (see F18News 4 May 2004 http://www.forum18.org/Archive.php?article_id=312).

In other similar recent cases, 20 masked special and plain-clothes police raided a Pentecostal church in Udmurtia (approximately 1,100km [690 miles] east of Moscow) on 14 April 2005 (see F18News 22 April 2005 http://www.forum18.org/Archive.php?article_id=547). On 14 May 2006 police detained members of Resurrection Baptist Church as they distributed copies of the New Testament during an evangelisation event at a rented cinema in Ivanovo (approximately 300km [188 miles] north-east of Moscow, see F18News 7 June 2006

http://www.forum18.org/Archive.php?article_id=794).

Following high-level complaints in both cases, the state authorities have gone a short way towards making amends for their actions. In a 17 May 2005 response to a query from the US-based Commission on Security and Cooperation in Europe, Udmurtia's Interior Minister Nikolai Arzamastsev maintained that the April raid was occasioned by a murder inquiry. Admitting, however, that police committed "a series of violations of a procedural nature" during that incident, he added that those responsible "have been disciplined".

In a 14 July 2006 letter to Yuri Sipko, the head of Russia's main Baptist Union, regional government vice-chairman Sergei Pakhomov similarly confirmed that state representatives committed procedural violations during the evangelisation event in Ivanovo.

3. Russia: Property struggles of Protestants

June 16, 2006

http://www.forum18.org/Archive.php?article_id=80.

"A negative attitude towards Evangelical churches" is blamed for the Russian city of Krasnodar's demand for the demolition of a private home intended to host worship. Its owner, Aleksei Yeropkin, told Forum 18 News Service that many religious communities, regionally and nationally, meet for worship in the legal residence of a member. No deadline has yet been set for the demolition, as a court appeal is pending. A linked church in Kalmykia complains of slander on local regional state TV, leading to hostility from local people. But a threatened mosque demolition in Astrakhan has not yet been carried out and an appeal has just been lodged with Russia's Supreme Court. In the Russian capital Moscow, there may be progress in a Hare Krishna temple's struggle for land, following an agreement between the city governments of the Indian capital Delhi and Moscow. But there has been no progress in resolving the similar struggle of a Pentecostal congregation to build a church.

4. Russia: Christian Persecution in Russia

March 21, 2003

<http://www.persecution.org/Countries/russia.html>

The Faith in Action Bible College in Primorsky Krai was forced to close down by order of the public prosecutor. A regional court supported the prosecutor by ruling that the Bible college was conducting "educational activity" without a license. Bible college representatives argued that the school is not an educational institution because it does not give certifications of education. Students of the school have been allowed to attend seminars at the adjacent Centre of the Living God Church but cannot reside on school property. Supporters of the school say the authorities have been looking for an excuse to close it down.

5. Russia: Christian Persecution in Russia

March 2003

<http://www.persecution.org/Countries/russia.html>

An unregistered Baptist congregation in Moscow is no longer allowed to rent space at a public library. According to a city official, only legal entities can rent public facilities for religious services. The church is not considered a legal entity because it refuses to register with the government.

6. Russia: Christian Persecution in Russia

September 10, 2002

<http://www.persecution.org/Countries/russia.html>

A Swedish pastor with a valid multiple-entry visa was expelled from the country and the visa was cancelled. Leo Martensson had been working with the Evangelical Christian Missionary Union in Krasnodar krai for the past nine years. The denomination is legally registered with the government and as such is allowed to invite foreign clergy. Officials in the local visa and registration office (OVIR) claimed Martensson had not submitted residency paperwork on time after returning from a trip abroad. Church members believe the local officials may have been bribed by Islamic groups that were opposed to Martensson's work in the area.

9. Religious persecution in Russia? State agencies said to be conducting anti-Catholic campaign

April 23, 2002

http://www.wnd.com/news/article.asp?ARTICLE_ID=27345

"Catholic priests in Russia are 'persona non grata,'" and Russia's domestic intelligence service, the FSB, has compiled a list of priests termed "undesirable," according to an internationally respected news source.

"An authentic anti-Catholic campaign is being conducted not only by the Russian Orthodox Church and nationalist forces, but also by State agencies," stated the Italian news daily La Stampa.

The president of the Conference of Catholic Bishops in the Russian Federation, Archbishop Tadeusz Kondrusiewicz, issued a protest statement declaring "with grave concern" that "an organized campaign is being waged against the Catholic Church in Russia," according to the independent Zenit news agency.

While authorities in the Russian city of Pskov, at the request of the local Russian Orthodox bishop, forbade the construction of a Catholic church, the State Duma, the

Lower House of the Russian legislature, has gone so far as to urge Russian president Vladimir Putin "to ban Catholics from Russian territory," according to La Stampa.

The Catholic Church in Russia, like nearly all other faiths, has no clear legal status. Following the adoption in 1997 of the "Law on Freedom of Conscience and Religious Associations," only four religions – Russian Orthodoxy, Judaism, Islam, and Buddhism – have official recognition in Russia.

Russia's law on religions has received scathing criticism from various quarters, including the International Coalition for Religious Freedom, which describes itself as a "non-profit" and "non-sectarian" defender of religious liberty.

The International Coalition for Religious Freedom condemned Russia's law on religions as a "blatant manifestation of intolerance and religious discrimination toward practically all religious organizations."