

TURKEY/EUROPEAN COURT: Registration of a Seventh-Day Adventist organization rejected

Altınkaynak et autres c. Turquie (no. 12541/06)

Strasbourg Consortium (15.01.2019) – <https://bit.ly/2T1i800> – Applicants are six Turkish nationals who attempted, in September 2004, to register a religious organization, Türkiye Yedincigün Adventisterli Vakfı (Foundation of the Seventh-day Adventists) in Istanbul. The tribunal of the first instance rejected their demand, judging that the objective of the organization was to meet the religious needs of people embracing the faith of Seventh-day Adventists and that this was contrary to provisions of the Turkish Civil Code prohibiting the establishment of foundations whose purpose is to support members of a particular community. The judgment was upheld in further court action.

The applicants brought the case before the European Court of Human Rights alleging violations of Articles 9, 11, 14, 17, and 18 in the abridgment of their rights to freedom on thought/conscience, freedom of peaceful assembly, and in contravention to prohibitions against discrimination, destruction of Convention rights and freedoms, and application of restrictions for unprescribed purposes.

In its judgment of 15 January 2019 the Court decided to

examine the applicants' complaints under Article 11 only and, finding a violation of their right to freedom of (religious) assembly, awarded EUR 2,724 (pecuniary damage), EUR 3,000 (non-pecuniary damage), and EUR 3,000 (costs and expenses) to the applicants jointly.

Court decision and other documents available at:
<https://www.strasbourgconsortium.org/portal.case.php?pageId=10#caseId=597>

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RUSSIA: Muslim prisoner of conscience tortured

By Victoria Arnold

Forum18 (07.11.2017) – <http://bit.ly/2AwoFUs> – Russian prisoner of conscience Yevgeny Lvovich Kim, who was jailed on 19 June for three years, nine months for meeting to study Muslim theologian Said Nursi's works, was in pre-trial detention tortured. No arrest or trials appear to have taken place against those responsible (see below).

There is a pattern within Russia's prisons of localised violations of prisoners' freedom of religion and belief within overall harsh prison conditions nationwide. This pattern – which can include denying access and allowing access to religious literature – affects among others Muslims in Dagestan and Krasanoyarsk, and a Jehovah's Witness in Oryol (see below).

Since 2007 both Jehovah's Witnesses and Muslims who study the works of late Turkish theologian Said Nursi have been particularly targetted by the authorities. A verdict appears to be immanent in in Dagestan in the case of three Muslims accused of organising meetings of Muslims to read the works of Nursi, with prosecutors seeking up to five years' imprisonment (see below).

The pre-trial detention of another Muslim in Dagestan being held for studying theologian Nursi's works has been extended again until late December (see below).

Prosecutors in Novosibirsk have formally charged three Muslims who read Nursi's works and have been under investigation for nearly two years. One Muslim commented that they are "so tired

of this stupidity of the law enforcement system” (see below)

In April the Jehovah's Witnesses were banned nationwide. In Oryol a Danish Jehovah's Witness remains in pre-trial detention. While in Kabardino-Balkariya the trial of a Jehovah's Witness former community leader continues, while another former community leader remains under investigation (see below).

Muslim prisoner of conscience tortured

Russian prisoner of conscience Yevgeny Lvovich Kim (born 5 October 1974) was in the far eastern city of Blagoveshchensk jailed on 19 June for three years, nine months for meeting to study Muslim theologian Said Nursi's works, and allegedly organising other Muslims to do this. He was the first person to receive a (non-suspended) custodial sentence for allegedly continuing the activities of the banned “extremist” organisation “Nurdzhular” for more than two years. Judge Aleksei Salnikov in the Far Eastern city also ordered that, after Kim's prison sentence, he will have a further one year of restrictions on freedom. During that year he will not be allowed to move house or travel outside his place of residence without permission, and may have to report regularly to probation authorities (see F18News 23 June2017 http://forum18.org/archive.php?article_id=2290).

Prisoner of conscience Kim has begun serving his sentence at Correctional Colony No. 3 in Khabarovsk, about 700 kilometres (about 440 miles) from his home in Blagoveshchensk. He lodged a cassation appeal at Amur Regional Court after his initial appeal was unsuccessful on 24 August. No hearing date for the cassation appeal has yet been set.

Since 2007 both Jehovah's Witnesses and Muslims who study the works of the late Turkish theologian Said Nursi have been particularly targetted by the authorities. The Muslims are accused among other things of membership of a banned

organisation “Nurdzhular” (a russification of the Turkish for “Nursi followers”), although they themselves deny such an organisation has ever existed (see Forum 18’s “extremism” Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215).

While in pre-trial detention from December 2015 in Blagoveshchensk’s Investigation Prison No. 1, Kim was tortured, had his ribs broken, and suffered attempted rape. “Thank God, they did not succeed”, a fellow Muslim who wished to remain anonymous told Forum 18 on 31 October 2017.

Immediately after Kim’s December 2015 detention, “they put him in the so-called ‘press hut’, a special room where the necessary testimonies are beaten out [of inmates] by other detainees who are colluding with the prison administration”, the Muslim stated. “They beat Kim very badly, so badly that they themselves were frightened – apparently the perpetrators overdid it. Naturally, he was not taken to hospital, because there everything would have been recorded. After this, he was not beaten so badly again, and was generally only threatened.”

International torture obligations

The United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Russia (as the Soviet Union) ratified in 1987, defines torture as: “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”.

Under Article 6 of the Convention, Russia is obliged to arrest any person suspected on good grounds of having committed torture. Under Article 4, Russia is obliged to try them under criminal law which makes “these offences punishable by appropriate penalties which take into account their grave nature”. No such arrests or prosecutions of prisoner of conscience Kim’s torturers, or those who facilitated this, are known to have happened.

General prison conditions

Prisoner of conscience Kim is being held in the Khabarovsk Correctional Colony’s internal prison for refusing to sign an agreement to carry out particular work. This is because “much of this document contradicts his beliefs and would not allow him to perform prayers freely, which is most important to him”, his fellow Muslim told Forum 18.

But conditions in Correctional Colony No. 3 are “relatively OK – better than the investigation prison in Blagoveshchensk”. However, religious literature is supposedly permitted but none is available, “not even the Koran”. The Muslim has been in contact with the local imam who knows the situation, “but for some reason nothing has so far been done”.

Prison food consists mainly of bread and water “and whatever you have sent to you”. But “in neither the prison nor the investigation prison is there anybody who will prepare food separately according to Islamic norms”.

Prison conditions better in Dagestan...

However in Dagestan in the North Caucasus, another Muslim who wished to remain anonymous told Forum 18 on 30 October that “it is significantly better. There is halal food and the opportunity to read the Koran freely and perform prayers. Moreover, almost 100% of prisoners perform the namaz [Muslim daily prayers]”.

A prisoner of conscience in Dagestan being held for studying theologian Nursi's works is Ilgar Vagif-ogly Aliyev, arrested in April. His lawyer Magomedrasul Zapirov told Forum 18 in May that Aliyev had experienced no restrictions on praying and had access to the Koran in some editions, as well as other religious literature censored by the authorities (see F18News 12 May 2017 http://www.forum18.org/archive.php?article_id=2279). His lawyer Zapirov told Forum 18 on 31 October that his detention has been extended again, for two months, until late December.

..but worse in Krsanoyarsk and Oryol

But in Krasnoyarsk, Muslim reader of Nursi's works Andrei Nikolayevich Dedkov (born 16 June 1979), who was also held in pre-trial detention before being released under travel restrictions, was "not allowed to perform morning or evening prayers, on the grounds that this is a violation of internal regulations" (see F18News 29 June 2016 http://www.forum18.org/archive.php?article_id=2193).

Dedkov and Andrei Gennadyevich Rekst (born 14 March 1994) have been on trial since May at Krasnoyarsk's Soviet District Court and Sverdlovsk District Court respectively (see F18News 12 May 2017 http://www.forum18.org/archive.php?article_id=2279). They are both next due to appear on 13 November. Both Muslims – who have not been found guilty of any crime – are on the Rosfinmonitoring blacklist of "terrorists and extremists", which obliges banks to freeze their assets and put them under financial transaction restrictions (see Forum 18's "extremism" Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215).

In Oryol, Danish prisoner of conscience Dennis Ole Christensen (born 18 December 1972) has not been allowed to see or speak to his wife Irina Christensen since his arrival in jail, has had his Bible confiscated, and has become ill in the cold and damp conditions of his cell as he has not been given warm

clothing. Jehovah's Witness Christensen has been in detention since May 2016 for attending a Bible study group raided by police and the FSB security service, and is being investigated under Criminal Code Article 282.2, Part 1 ("Organisation of the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity")

(see F18News 22 June 2017 http://www.forum18.org/archive.php?article_id=2290).

On 28 September Oryol Regional Court upheld an earlier lower court refusal to put him under house arrest instead, in spite of the Danish Embassy's official guarantee that it would not give him a new passport (his previous one has been confiscated) or otherwise help him to leave Russia. His case has now gone to the European Court of Human Rights in Strasbourg (ECtHR) (Application No. 39417/17), which on 4 September sent questions to the parties involved (see <http://hudoc.echr.coe.int/eng?i=001-177365>). Prisoner of conscience Christensen is being kept in custody until at least 23 November.

International human rights standards

There is a pattern within prisons of localised non-observance of prisoners' freedom of religion and belief within overall harsh prison conditions (see Forum 18's general Russia religious freedom survey (see http://www.forum18.org/archive.php?article_id=2246)). International human rights standards, such as the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules – A/C.3/70/L.3), require governments to respect the freedom of religion or belief and other human rights of prisoners – including those in pre-trial detention

(see http://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf).

Verdict due in one Dagestan Muslim trial?

Ziyavdin Badirsoltanovich Dapayev (born 12 May 1982) and brothers Sukhrab Abdulgamidovich Kaltuyev (born 13 November 1981) and Artur Abdulgamidovich Kaltuyev (born 15 June 1986) are – like prisoners of conscience Kim and Aliyev (see above) – accused of organising meetings of Muslims to read the works of Nursi.

Dapayev has been detained in Makhachkala's Investigation Prison No. 1 in Dagestan since March 2016. The arrests came after 14 Muslims were arrested in a series of raids across Dagestan and the FSB security service confiscated large amounts of allegedly "extremist" material. Most of the Muslims were later released (see F18News 11 April 2016 http://www.forum18.org/archive.php?article_id=2166). The Kaltuyev brothers remain under travel restrictions.

All three Muslims – who have not been found guilty of any crime – are on the Rosfinmonitoring blacklist of "terrorists and extremists", which obliges banks to freeze their assets and put them under financial transaction restrictions (see Forum 18's "extremism" Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215).

Judge Magomed Nasrutdinov has presided over 22 hearings in seven months at Lenin District Court in Makhachkala, the latest on 3 November. Their trial may end on 7 November, lawyer Murtazli Barkayev told Forum 18 on 3 November. Prosecutors are seeking five years' imprisonment for Dapayev and four years for the Kaltuyevs.

All three – like prisoners of conscience Kim, Aliyev and Christensen – have been charged under Criminal Code Article 282.2, Part 1 ("Organisation of the activity of a social or religious association or other organisation in relation to

which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity”). For alleged “crimes” like those allegedly committed by the three Muslims before July 2016 they could be jailed for up to six years or given other penalties. For “crimes” committed after 20 July 2016 harsher punishments came into force (see Forum 18’s “extremism” Russia religious freedom survey http://www.forum18.org/archive.php?article_id=2215).

Prisoner of conscience Kim was also charged with breaking Criminal Code Article 282, Part 1 (“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 sex, race, nationality, language, origin, attitude to religion, or social group”) (see F18News 23 June 2017 http://forum18.org/archive.php?article_id=2290).

Charges now brought in Novosibirsk Muslim case

Prosecutors in Novosibirsk have formally charged three Muslims who read Nursi’s works and have been under investigation for nearly two years. They and their lawyers are now familiarising themselves with the case materials, lawyer Yuliya Zhemchugova told Forum 18, which she believes may take until approximately early December. There is a possibility that two of the men may avoid possible prison sentences upon payment of a fine.

The Novosibirsk FSB security service in December 2015 opened a criminal case against Komil Olimovich Odilov (born 18 August 1975), Uralbek Karaguzinov (born 21 July 1954), Mirsultan Takhir-ogly Nasirov (born 8 October 1997) and Timur Muzafarovich Atadzhanov (born 21 April 1988) (see F18News 21 January 2016 http://www.forum18.org/archive.php?article_id=2141).

Odilov is now accused under Criminal Code Article 282.2, Part 1 of the alleged “organisation of” an alleged “Nurdzhular

cell”, and Karaguzinov, Nasirov and Atadzhanov are accused under Criminal Code Article 282.2, Part 2 of alleged “participation in” an alleged “Nurdzhular cell”. Odilov was held in pre-trial detention for nine months before being released and placed under travel restrictions in September 2016. Karaguzinov and Nasirov are also under travel restrictions. The whereabouts of Atadzhanov remain unknown but he has been placed on the federal wanted list (see F18News 1 February 2017 http://www.forum18.org/archive.php?article_id=2251).

Odilov, Atadzhanov, Karaguzinov, Nasirov are all on the Rosfinmonitoring blacklist of “terrorists and extremists”.

“So tired of this stupidity of the law enforcement system”

Imam Ilhom Merazhov, who has been following the case, told Forum 18 on 30 October that investigators had offered to close the case against Karaguzinov and Nasirov if they paid a fine under Criminal Code Article 76.2. This stipulates that people who have committed a minor or moderate-severity offence for the first time may be “released from criminal liability” by a court if they have paid a fine which compensates for the damages caused.

Merazhov added that he did not know why this had been proposed. “Because guilt has not been proven? Because Karaguzinov is a pensioner and did not commit any crime, and Nasirov is a first-year student? .. There’s no guilt there. And, in general, there’s no evidence relating to Karaguzinov and Nasirov .. We are just so tired of this stupidity of the law enforcement system”.

The FSB security service has also now opened an investigation of Merazhov under Criminal Code Article 282.2, Part 1 (“Organisation of the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban

on the activity in connection with the carrying out of extremist activity”).

In May 2013 both Merazhov and Odilov were under this Article given one-year suspended prison sentences for allegedly organising “Nurdzhular” activity. Sergei Ageyev of Novosibirsk’s October District Prosecutor’s Office admitted in his 14 May 2013 closing arguments that “the deed of which they are incriminated does not envisage any kind of extremist activity”, and no evidence was presented that “Nurdzhular” exists (see F18News 18 June 2013 http://www.forum18.org/archive.php?article_id=1848). But an appeal against the conviction failed (see F18News 6 September 2013 http://www.forum18.org/archive.php?article_id=1872).

Odilov and Merazhov then appealed in January 2014 to the European Court of Human Rights (ECtHR) in Strasbourg (Application No. 6731/14 and Application No. 6738/14) (see F18News 10 April 2014 http://www.forum18.org/archive.php?article_id=1946). On 31 August 2017 the ECtHR sent questions to all the parties involved, including the government (see <http://hudoc.echr.coe.int/eng?i=001-177189>).

Kabardino-Balkariya – Prokhladny trial of Jehovah’s Witness continues

The trial of 69-year-old Arkady Akopovich Akopyan, head of the Prokhladny Jehovah’s Witness community in Kabardino-Balkariya, is continuing before Judge Oleg Golovashko at Prokhladny District Court. The most recent hearing took place on 31 October.

Akopyan has also been charged under Criminal Code Article 282, Part 1 (“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 sex, race,

nationality, language, origin, attitude to religion, or social group"). He is accused of giving sermons in which he "degraded the dignity of adherents of other religions", as well as of distributing banned "extremist" literature among members of his congregation (see F18News 22 June 2017 http://www.forum18.org/archive.php?article_id=2290).

The case is one of a number of cases brought since the Jehovah's Witnesses were banned nationwide and their appeal against the ban failed (see F18News 18 July 2017 http://www.forum18.org/archive.php?article_id=2297).

Kabardino-Balkariya – Maysky investigation of Jehovah's Witness continues

Yury Viktorovich Zalipayev, 54-year-old chair of the now-liquidated local Jehovah's Witness community in Maysky, is apparently still under investigation, for allegedly inciting hatred against Christian clergy by distributing an allegedly "extremist" publication (see F18News 25 August 2017 http://www.forum18.org/archive.php?article_id=2310).

The case has not yet been lodged at Maysky District Court. When Forum 18 rang the Prosecutor's Office, they refused to answer any questions about the case. (END)

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