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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report brings attention to the situation of freedom of religion and expression in the Russian Federation, with particular attention to persons belonging to religious minorities. It highlights the barriers related to the registration and operations of unregistered religious groups, as well as cases of police raids and property closures in this regard. It also expresses concern at the impact of anti-extremism laws on religious minority communities, including the censorship of religious publications, the banning of faith-based organizations and the arrest of hundreds of individuals belonging to affected minority groups. Finally, the report draws attention to a growing trend of targeted threats and arrests of religious leaders for refusing to publicly voice their support for Russia's military attack on Ukraine.

(a) Freedom of Religion and Expression

Overview

3. Article 28 of the Constitution of the Russian Federation guarantees the right to freedom of conscience and religion, including “the right to profess individually or together with other any religion or to profess no religion at all, to freely choose, possess and disseminate religious and other views and act according to them.”¹ Article 59 recognizes a right to conscientious objection to military service.²
4. Article 29 of the Constitution enshrines the right to “freedom of ideas and speech”, along with a prohibition of “propaganda or agitation instigating social, racial, national or religious hatred and strife”, as well as “propaganda of social, racial, national, religious or linguistic supremacy”. Article 29 also explicitly proscribes censorship.³
5. Article 14 affirms that “The Russian Federation is a secular state. No religion may be established as a state or obligatory one.”⁴ While, in practice, the Russian Orthodox Church has a privileged position and is closely tied to the government,⁵ religious minorities face persistent discrimination as well as institutional and legal barriers, including barriers to the establishment or maintenance of religious associations and organizations, and the banning of religious texts and foreign funding under the guise of combatting extremism.

Barriers to Freedom of Religion and Assembly for Unregistered Religious Groups

6. Federal Law No. 125-FZ on Freedom of Conscience and Religious Associations (hereinafter, the “Law”) regulates religious activity in Russia, including the creation and maintenance of religious associations. The Law divides religious associations into either unregistered “religious groups” or registered “religious organizations”. Religious groups are free to associate and carry out religious activities or education, are

¹ The Constitution of the Russian Federation, <http://www.constitution.ru/en/10003000-03.htm>, art. 28.

² *Id.*, art. 59.

³ *Id.*, art. 29.

⁴ *Id.*, art. 14.

⁵ Freedom House ‘Freedom in the World 2022 - Russia’ (2022) <https://freedomhouse.org/country/russia/freedom-world/2022>, Q. D2.

however not allowed to own property. In order to qualify as a registered religious organization, religious groups must be affiliated with an existing centralized religious organization.⁶

7. The Law restricts “missionary activity” to religious organizations and their properties, while proselytism in residential areas or in the space of another religious association is prohibited.⁷
8. The Law also requires all clergy and religious staff who were trained abroad to receive mandatory training on “state-confessional relations in the Russian Federation”.⁸ The exact nature of this training and its impact on unregistered religious groups remains unclear.⁹
9. A 2021 amendment to the Law banned individuals labelled as ‘extremists’ from participating even in unregistered religious groups, having already been barred from membership in registered religious organizations. The Law does not define which conducts amount to ‘participation’, which may well include a person’s mere membership in a church congregation.¹⁰¹¹
10. In July 2019, a residential house in Southern Russia used as a place of worship by an unregistered Christian group was raided by police, interrupting a religious service. This was based on an alleged misuse of land designated for residential purposes, as well as alleged violations of anti-terror laws. The majority of the building has since been sealed off, forcing the group to meet outside. A legal claim was also filed to prohibit the use of the building for religious purposes.¹² According to the Law on Religion, unregistered religious groups cannot own property and therefore must meet in private premises.¹³ The case was brought before to the European Court of Human Rights (ECtHR), with the applicant alleging a violation of his right to freedom of assembly and religion. The case is pending before the ECtHR.
11. In March 2020, a Russian court imposed a total ban on the use of a building by a registered Christian organization, despite the organization’s legal ownership of the property dating back to 2000. This is based on the allegation that modifications made to the building had been conducted without a permit. An application was filed to the ECtHR in October 2020. The community has been forced to resort to worshipping in a tent outside the property.¹⁴

Impact of Counter-extremism Laws on Religious Minorities

⁶ Federal Law No. 125-FZ on Freedom of Conscience and Religious Associations, http://www.consultant.ru/document/cons_doc_LAW_16218/, art. 7.

⁷ Id., art. 24.1.

⁸ Id., art. 24(5).

⁹ V. Arnold ‘Russia: How will extra training of foreign-trained clergy be implemented?’ (12 May 2021) Forum 18, https://www.forum18.org/archive.php?article_id=2657.

¹⁰ V. Arnold ‘Russia: Widened ban on “extremists” exercising religious freedom’ (17 May 2021) Forum 18, https://www.forum18.org/archive.php?article_id=2659.

¹¹ Id., art. 7(1.1), 9(3).

¹² ADF International ‘Facing demolition for hosting a worship service at home’ (2022) <https://adfinternational.org/bak/>.

¹³ Federal Law No. 125-FZ on Freedom of Conscience and Religious Associations (26 December 2022) http://www.consultant.ru/document/cons_doc_LAW_16218/, art. 7(1).

¹⁴ ADF International ‘Challenging a governmental ruling that forces a church to meet outside’ (2022) <https://adfinternational.org/kaluga/>.

12. The 2002 Federal Law No. 114-FZ on Counteracting Extremist Activity defines 'extremist activity' as "Activity of social and religious associations, or other organizations, whether through the mass media or through individuals' premeditated organization, preparation and execution of actions directed at," *inter alia*, "incitation of social, racial, nationalistic or religious animosity" or "debasement of national dignity".¹⁵ The law provides Russian authorities with sweeping powers to suspend the work of, or even liquidate, social or religious associations based on these vague criteria.¹⁶ As such, the law is susceptible of being misused to monitor, restrict or ban entities the government deems problematic, including religious organizations.
13. In 2015, the government enacted Federal Law No. 129-FZ on Undesirable Activities of Foreign and International Non-Governmental Organizations. It amended the Criminal Code to criminalize participation in or funding of foreign or international organizations designated as 'undesirable' by the Federal Prosecutor in cooperation with the Foreign Ministry, and added to the so-called "List of Undesirable Organizations".¹⁷ Throughout the reporting period, this list was expanded from 11 organizations at the start of 2018 to 75 as of March 2023, according to data from the Russian Ministry of Justice.¹⁸ This includes a number of faith-based organizations, including several Evangelical Christian entities deemed to pose a threat to national security.¹⁹
14. The Russian Federation has been called upon to align its counter-terrorism laws with international obligations, including during the previous cycle of the UPR.²⁰ In spite of this, the Criminal Code was amended in June 2021 to further expand the powers of authorities, including by easing prerequisites for the designation of entities 'undesirable organizations'.^{21,22}
15. In July 2022, a new law amending *inter alia* the Law on Counteracting Extremist Activity was passed, creating a "specialized information database of extremist materials." The new system is intended to "improve the efficiency both in carrying out operational search activities and investigative actions, and in preparing preventive measures to counter extremism and terrorism". The database is planned to be launched in July 2023.²³ Materials deemed "extremist" already include publications of Jehovah's Witnesses, the works of Islamic theologian Said Nursi, and other texts used

¹⁵ Federal Law No. 114-FZ On Countering Extremist Activity (25 July 2002) http://melaproject.org/sites/default/files/2019-07/Ru_Ext-2002.pdf, art. 1.

¹⁶ *Id.*, art. 9&10.

¹⁷ Federal Law No. 128-FZ On Amending Certain Legislative Acts of the Russian Federation (May 2015), [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2016\)037-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)037-e).

¹⁸ Ministry of Justice 'List of Undesirable Organizations' (March 2023) <https://minjust.gov.ru/ru/documents/7756/>.

¹⁹ Radio Free Europe 'Russian Prosecutor's Office Deems Four More Religious Groups As Undesirable' (23 August 2021) <https://www.rferl.org/a/russia-undesirable-religious-groups/31424668.html>.

²⁰ See Human Rights Council 'Report of the Working Group on the universal periodic review - Russia' (12 June 2018), 147.62-.67, .183-.193.

²¹ Criminal Code of the Russian Federation (last amended 29 December 2022), http://www.consultant.ru/document/cons_doc_LAW_10699/, art. 284.1.

²² D. Aitkhozhina 'New 'Undesirables' Law Expands Activists' Danger Zone' (17 June 2021) Human Rights Watch, <https://www.hrw.org/news/2021/06/17/new-undesirables-law-expands-activists-danger-zone>.

²³ The State Duma 'A database of extremist materials will be created' (5 July 2022) <http://duma.gov.ru/news/54833/>.

by religious minority groups which are regarded as threats to national security.²⁴

16. In June 2022, the ECtHR delivered a judgement on a collection of 20 applications alleging human rights violations against Jehovah's Witnesses by the Russian government. The Court held that there had been violations of the rights to freedom of thought, conscience and religion, of expression, and of assembly and association, among others, including as a result of the government's use of anti-extremist legislation to progressively ban the activities of churches and affiliated organizations, as well as police raids and the criminal prosecution of hundreds of individual Jehovah's Witnesses.²⁵
17. As of September 2022, an estimated nearly 200 Jehovah's Witnesses are on trial on charges of continuing the activities of 'extremist' organizations, alongside 9 Muslims.²⁶ 33 Jehovah's Witnesses were sentenced to prison terms between January and September 2022.²⁷

Other Violations of Freedom of Religion and Expression

18. In October 2022, Russian Orthodox priest Nikandr Pinchuk became the first person to receive a criminal conviction for opposing the Russian Federation's military attack on Ukraine on religious grounds. A court sentenced him to a fine equivalent to two months average wage for allegedly "discrediting the use of the Armed Forces of the Russian Federation" through a social media post. Another priest, Ioann Kurmoyarov, is also facing trial for posting online videos criticizing the Russian Federation's role in the conflict on religious grounds.²⁸
19. In March 2022, a prominent Lutheran Bishop and the Moscow Chief Rabbi fled the country after reportedly resisting state pressure, including acts of intimidations, to support the war.²⁹
20. In August 2022, church communities affiliated with the 'New Generation' organization, labeled as an 'undesirable organization', were raided and searched by the police for alleged ties to Ukrainian terrorist organizations.³⁰

Freedom of Religion and Expression in International Law

21. Article 18 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of thought, conscience, and religion for everyone.

²⁴ M. Introvigne 'Putin Has a New Great Data Base of Religious (and Non-Religious) "Extremists"' (26 August 2022) Bitter Winter, <https://bitterwinter.org/putin-has-a-new-great-data-base-of-religious-and-non-religious-extremists/>.

²⁵ ECHR 'Multiple violations in case brought by Jehovah's Witnesses in Russia' (7 June 2022) ECHR Press Release 179(2022) <https://hudoc.echr.coe.int/eng-press?i=003-7352983-10042703>.

²⁶ V. Arnold 'Russia: 200 people on criminal trial for exercising freedom of religion or belief' (26 September 2022) Forum 18, https://www.forum18.org/archive.php?article_id=2775.

²⁷ W. Fautré '33 Jehovah's Witnesses sentenced to prison terms since 1 January 2022' (21 September 2022) Human Rights Without Frontiers, <https://hrwf.eu/russia-33-jehovahs-witnesses-sentenced-to-prison-terms-since-1-january-2022/>.

²⁸ V. Arnold 'First criminal conviction for opposing war in Ukraine on religious grounds' (18 October 2022) Forum 18, https://www.forum18.org/archive.php?article_id=2783.

²⁹ V. Arnold 'Russia: Government pressure on religious leaders to support Ukraine war' (5 August 2022) Forum 18, https://www.forum18.org/archive.php?article_id=2763.

³⁰ Siberia Reality 'Searches were held in the cells of the New Generation religious organization' (15 August 2022) Radio Free Europe, <https://www.sibreal.org/a/obyski-proshli-v-yacheykah-religioznoy-organizatsii-novoe-pokolenie-/31988872.html>.

This includes “freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching”. It also establishes that “freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”³¹

22. Furthermore, Article 26 of the ICCPR imposes an obligation upon States to “prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination,” including on the basis of religion.³² Article 27 of the ICCPR further guarantees that “[i]n those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group... to profess and practise their own religion.”³³
23. With regard to the aforementioned barriers related to the registration and operations of unregistered religious groups, the Organization for Security and Cooperation in Europe (OSCE) has provided guidelines about the registration and legal personality of religious associations, clarifying that international human rights law affords protection to religious or belief communities regardless of whether or not they enjoy legal personality. Criminal sanctions for “failure” to register clearly violate freedom of religion or belief and freedom of association. Such registration must be made available on a voluntary basis as opposed to a mandatory one.
24. In order to comply with its international human rights obligations, the Russian Federation must respect the right of all religious individuals and communities, without discrimination of any kind, to freely live and practice their faith in peaceful co-existence with each other. Anti-terrorism concerns must not be cynically utilized to crack down on religious groups which have not demonstrated any propensity to violence or criminality under reasonable and justifiable law.
25. As far as violations of the right to freedom of expression are concerned, Article 19 of the ICCPR makes it clear that limitations on the exercise of this right are permissible only where necessary “for the respect of the rights and reputations of others” or “for the protection of national security, public order or public health or morals,”³⁴ while Article 20(2) calls on States to prohibit “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility, or violence.”³⁵
26. In addition to the permissible grounds listed in Article 19, restrictions on free assembly and association must also be “necessary in a democratic society.”³⁶ As stated in the Human Rights Committee’s General Comment 37, restrictions must be “necessary and proportionate in the context of a society based on democracy, the rule of law, political pluralism and human rights, as opposed to being merely reasonable or expedient.”³⁷

³¹ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 18.

³² *Id.*, art. 26.

³³ *Id.*, art. 27.

³⁴ ICCPR, art. 19.

³⁵ *Id.*, art. 20.

³⁶ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), arts. 21, 22.

³⁷ UN Human Rights Committee, General Comment No. 37 (2020), CCPR/C/GC/37, 40.

27. General Comment No. 34 of the Human Rights Committee makes it clear that restrictions on the right to freedom of expression “should not go beyond what is permitted in paragraph 3 [of Article 19] or required under article 20,” and that relevant laws “must provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expression are properly restricted and what sorts are not.”³⁸

28. In light of the above, the ambiguous definition of what constitute an ‘extremist activity’ or an ‘undesirable organization’ opens the door to arbitrary and unjustified restrictions on the freedoms of expression and association. Relatedly, the intimidation and prosecution of religious leaders simply for peacefully voicing their views is not acceptable and should be.

(b) Recommendations

29. In light of the aforementioned, ADF International suggests the following recommendations be made to the Russian Federation:

- a. Amend Law No. 125-FZ on Freedom of Conscience and Religious Associations in order to guarantee freedom of religion, association, and assembly to religious groups operating on an unregistered basis;
- b. Amend the overly broad definition of “extremism” contained in Federal Law No. 114 FZ on Combating Extremist Activity;
- c. Adopt measures to ensure that measures undertaken pursuant to Federal Law No. 129-FZ on Undesirable Activities of Foreign and International Non-Governmental Organizations complies with the principles of legality, necessity and proportionality;
- d. Remove burdensome registration requirements for religious organizations, and guarantee freedom of religion, association, and assembly for religious groups operating on an unregistered basis;
- e. Revise the law on undesirable organizations to ensure full respect for human rights, including the rights to freedom of assembly and association for persons belonging to religious communities,
- f. Take immediate action to release those wrongfully imprisoned for engaging in alleged ‘extremist activity’, including those convicted because of their affiliation with religious organizations deemed ‘undesirable’;
- g. Cease the ungrounded arrest, detention, and prosecution of individuals peacefully exercising their rights to freedom of religion and expression.

³⁸ UN Human Rights Committee, General Comment No. 34 (2011) CCPR/C/GC/34/Rev.1/Art. 19, 49.



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