

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on minority issues

REFERENCE: AL
RUS 6/2015:

11 November 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on minority issues pursuant to Human Rights Council resolutions 25/2, 24/5, 22/20, and 25/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged violations of the human rights of members of Jehovah's Witnesses** in the Russian Federation.

According to the information received:

Prosecution of Jehovah's Witnesses for holding religious services

On 29 July 2014, a criminal proceeding against sixteen adult male Jehovah's Witnesses in Taganrog, Rostov Region, concluded. The result was the conviction of seven of the defendants, including four ministers, for organizing and participating in religious services, and the acquittal of the nine other defendants. Of the seven convicted, four of them, the Jehovah's Witnesses Ministers, were sentenced to five years imprisonment under article 150.4 of the Russian Criminal Code for involving "a minor in a criminal group or in the commission of grave or especially grave crimes". The court substituted the prison sentences for conditional sentences. The prosecutor in the case reportedly informed the defendants that the charges would be dropped if they renounced their religious activities as Jehovah's Witnesses.

The seven convicts were also sentenced to to pay fines of between 50,000 and 100,000 Russian Rubles under article 282.2 of the Russian Criminal Code: “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” and “Participation in 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”.

On 12 December 2014, the Rostov Regional Court heard the appeal by the Regional Prosecutor and ordered a retrial. The Regional Prosecutor is pursuing the unconditional imprisonment of the four Jehovah’s Witnesses ministers sentenced under article 150.4 and the overturn of the not-guilty verdicts against the nine defendants who were acquitted. On 22 January 2015, the retrial commenced and is currently ongoing.

Forcible Closure of Local groups of Jehovah’s Witnesses

On 29 May 2014, a regional court in Samara forcibly closed the Local Religious Organization of Jehovah’s Witness of the City of Samara on the ground that it was an “extremist organization”. On 12 November 2014, the Supreme Court upheld the court’s decision.

On 4 March 2015, a regional court in Krasnodar forcibly closed the Local Religious Organization of Jehovah’s Witnesses of the City of Abinsk on the same ground. On 5 August 2015, the Supreme Court upheld the court’s decision.

Religious literature produced by Jehovah’s Witnesses banned from online access and importation

On 2 December 2014, the Supreme Court of Russia declared the official international website (www.jw.org) of Jehovah’s Witnesses on the ground that it carried “extremist” contents. This site contains electronic copies of the Bible, religious texts and audio and video recordings on religious topics in over 500 languages. On 21 July 2015, the Ministry of Justice included the website in the “Federal List of Extremist Materials”, therefore obliging internet providers in Russia to block access to it. Another consequence of the website being banned is that advertising it or encouraging others to use it is now a criminal offense under articles 280 and 282 of the Russian Criminal Code.

On 13 August 2015, customs authorities seized a shipment of 2,013 copies of the Bible (in the version known as “New World Translation of the Holy Scriptures”)

that had been imported by Jehovah's Witnesses. Customs authorities justified the decision based on "indicia of being materials containing calls to carry out extremist and terrorist activity or publicly justifying terrorism".

We are concerned that the prosecution of Jehovah's Witnesses for their peaceful religious activities, the forcible closure of their local organizations, the prohibition of their religious literature and its association with extremism and terrorism, constitute violations of the legitimate and peaceful exercise of their rights to freedom of religion, belief, opinion, expression, association and assembly. The fact that four ministers were sentenced to five years' imprisonment for conducting peaceful religious services is a matter of serious concern.

The alleged acts appear to be in contravention of international human rights law to which the Russian Federation is obligated, including the right of every individual to freedom of religion or belief, freedom of opinion and expression, freedom of peaceful assembly and freedom of association, as set forth in articles 18, 19, 20 of the Universal Declaration of Human Rights (UDHR), and articles 18, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), respectively.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned information.
2. Please indicate on which basis the Government considers the activities of Jehovah's Witnesses and the religious literature produced by Jehovah's Witnesses, including copies of the Bible, as "extremist" or of a nature that promotes or otherwise justifies "terrorism".
3. Please indicate all steps taken by the Government to protect the rights to adopt a religion, to teach religious beliefs and to disseminate religious publications, and to ensure the rights of religious minorities particularly in relation to Jehovah's Witnesses and other religious minorities. In this regard, we would welcome information on the policy, legal framework, and regulatory measures currently in force in the Russian Federation with regard to the protection of the rights to freedom of religion, belief opinion, expression, assembly and association.

4. Please indicate what measures are to be taken to ensure that Jehovah's Witnesses can freely exercise their rights to freedom of expression, peaceful assembly and association.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we call for Your Excellency's Government to suspend the decision by the Ministry of Justice on 21 July 2015 to include the official international website of the Jehovah's Witnesses (www.jw.org) in the "Federal List of Extremist Materialist", and to ensure that the rights to religious freedom of the members of this religious community are fully protected under the law.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Rita Izsák
Special Rapporteur on minority issues

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to take this opportunity to draw your attention to applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

The International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian Federation on 16 October 1973, guarantees the rights to freedom of religion or belief, freedom of opinion and expression, freedom of peaceful assembly and freedom of association (articles 18.1, 19, 21 and 22, respectively).

According to article 18.2, “No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.” In its General Comment 22 (par. 3-5) on ICCPR’s article 18, the Human Rights Committee stated that article 18 “does not permit any limitations whatsoever on the freedom of thought and conscience or the freedom to have or adopt a religion or belief of one's choice ", that freedom of religion “necessarily entails the freedom to choose a religion or belief” and “the freedom to prepare and distribute religious texts or publications”. In connection to the decision by the Government to ban the activities and doctrine of Jehovah’s Witnesses, we would like to remind your Excellency’s Government that limitations of freedom of religion or belief are only allowed by the ICCPR as “are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others”.

We would also like to reiterate the principles enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that article 19, paragraph 3 of the ICCPR provides that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on the expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We would like to further refer to Human Rights Council resolution 24/5, and in particular its operative paragraph 2, in which the Council “reminds States of their obligation to respect and fully protect the rights of all individuals to associate and assemble peacefully, ... including persons espousing minority or dissenting views or beliefs... seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

We would like to further refer to your Excellency's Government to the international standards in relation to the protection of the rights to persons belonging to religious minorities, in particular to the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on the Rights of Minorities). Article 1 of the Declaration establishes the obligation of States to protect the existence and identity of religious minorities within their territories and to adopt the appropriate measures to achieve this end, and article 2 states that persons belonging to religious minorities have the right to profess and practise their own religion without discrimination. Furthermore, States are required to ensure that persons belonging to minorities, including religious minorities, may exercise their human rights without discrimination and in full equality before the law (article 4.1).

We also would like to draw your Excellency's Government attention to the recommendations of the sixth session of the Forum on Minority Issues on "Guaranteeing the rights of religious minorities" (2013), in particular to Recommendation number 22, which calls upon States to protect the interdependent freedoms of religion and expression that together encompass the rights to teach, proselytize and criticize any religion, while encouraging a respectful and peaceful coexistence, and Recommendation number 34, requesting States to put in place measures to protect and maintain the cultural heritage of religious minorities, including the documents, records and artefacts belonging to religious minorities.

Finally, , we would like to stress in relation to the need to promote tolerance towards Jehovah's Witnesses in the Russian Federation that ICCPR specifically recognizes the rights of members of religious minorities to "profess and practices his or her own religion" (article 27). In connection to the coexistence of different religious groups, the 1981 United Nations Declaration on Religious Tolerance and Non-Discrimination urges states "to take all appropriate measures to combat intolerance on the grounds of religion" (article 4.2). In 2005, the Commission on Human Rights emphasized the importance of promoting "a continued and strengthened dialogue among and within religions or beliefs, encompassed by the dialogue among civilizations, to promote greater tolerance, respect and mutual understanding" (Resolution 2005/40, paragraph 10).