

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 minority issues; and the Special Rapporteur on freedom of religion or belief

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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 minority issues; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 25/2, 32/32, 25/5, and 31/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the Government's recent lawsuit **to liquidate the Administrative Center of Jehovah's Witnesses in St. Petersburg and to ban the religious activities of Jehovah's Witnesses in the Russian Federation.**

Concerns about violations of the rights to freedom of expression and freedom of peaceful assembly and association of Jehovah's Witnesses in the Russian Federation were raised in a joint communication by several mandate holders on 11 November 2015 (RUS 6/2015). Concerns about several amendments under the Yarovaya Law, including restrictions on religious expression and activities, were raised in a joint communication on 28 July 2016 (RUS 7/2016). We thank your Excellency's Government for the replies to these communications, received on 21 December 2015 and on 12 October 2016, but remain concerned at the recent measures taken against the Jehovah's Witnesses.

According to the information received:

The religious organization, the Administrative Centre of Jehovah's Witnesses in Russia ('Administrative Centre', 'organization'), was registered on 27 March 1991 by the Ministry of Justice of the Russian Soviet Federated Socialist Republic and was re-registered on 29 April 1999 by the Russian Ministry of Justice. There are more than 400 local religious organizations of Jehovah's Witnesses registered in the Russian Federation. They are all part of the structure of the Administrative Centre, are under its protection and conduct their activity in cooperation with it.

In 2007, the Prosecutor General's Office directed all local prosecutors to investigate Jehovah's Witnesses for signs of extremist activities following the 2006 revision of the Law on Counteracting Extremist Activity. The courts had since 2009 declared dozens of the Jehovah's Witnesses publications to be "extremist". Besides, police searched Witnesses' homes and houses of worship for "extremist" literature. Many Jehovah's Witnesses were detained or charged for possessing or distributing banned literature or for continuing activities of a banned

organization. As a result, there were 16 criminal convictions and more than 100 administrative convictions. In at least 35-recorded instances, police were allegedly caught on surveillance cameras for planting banned literature during raids to fake evidence. However, the courts rejected Jehovah's Witnesses' motions to present these video recordings as evidences in all their cases.

In 2010, the permit to distribute the magazines, *Watchtower* and *Awake!*, were also revoked. Subsequently, in 2015, it was forbidden for the Jehovah's Witnesses to import their publications and their website *www.jw.org* was banned. Moreover, eight local religious organizations that used to hold title and facilitate Jehovah's Witnesses' worship were liquidated. Meanwhile, three of Jehovah's Witnesses' local legal entities in Taganrog, Samara and Abinsk declared "extremist" were completely liquidated. Furthermore, eighteen warnings against the conduct of extremist activities and the distribution of non-permitted extremist materials have been issued by the prosecutors of the republics of Kalmykia, Kabardino-Balkaria and Karachayevo-Cherkessia; the Krasnodar and Primorskiy territories; the Belgorod, Kemerovo, Kurgan, Novosibirsk, Rostov, and Tumen regions; the Jewish Autonomous Region; and the Khanty-Mansi Autonomous Area – Yugra to the administrative agencies of local religious organizations of Jehovah's Witnesses. Many houses of worship (Kingdom Halls) of the Jehovah's Witnesses were confiscated as well.

On 2 March 2016, the Jehovah's Witnesses' Administrative Centre in St. Petersburg received a formal warning from the General Prosecutor's Office of the "inadmissibility of extremist activity". The warning referred to the activities of the local communities of Jehovah's Witnesses and their members throughout Russia. As evidence for the allegation of "extremism", the Prosecution has made reference to the liquidation of some of the communities of Jehovah's Witnesses during 2016 and the conviction of local organizations and individual believers under article 20.29 of the Code of Administrative Offences, which prohibits the "production or mass distribution of extremist materials". Prior to this, several Jehovah's Witnesses texts have been placed on the Federal List of Extremist Materials.

Following the General Prosecutor's Office warning of March 2016, two local Jehovah's Witnesses organizations, one in Oryol and another in Birobidzhan, were ruled "extremist" and ordered to be dissolved on 14 June 2016 and 3 October 2016, respectively. Both communities' appeals to the Supreme Court were unsuccessful. Same orders and warnings have been issued against several other local Jehovah's Witness organizations and communities.

On 29 April 2016, an appeal against the March 2016 warning to liquidate the national Administrative Centre of Jehovah's Witnesses was filed with the Prosecutor General's Office. The appeal was rejected on 23 June 2016. A similar appeal was filed to the Tverskoy District Court of Moscow on 1 June 2016. This appeal was rejected on 12 October 2016. Subsequently, another appeal was filed

with the appellate chamber of the Moscow City Court. This last appeal was rejected by the Moscow City Court on 16 January 2017.

On 1 February 2017, the Ministry of Justice reportedly sent a formal demand for inspection of all records of the Administrative Centre of Jehovah's Witnesses, based on the Prosecutor General's order dated 27 January 2017. The Administrative Centre was requested to provide a list of its properties, bank accounts, donations received and documents related to all religious organizations that are part of its structure. The requested documents, totaled up to 73,000 pages in compilation, were delivered to the Ministry of Justice on 15 February 2017.

On 21 February 2017, the Ministry of Justice issued another order to the Administrative Centre of Jehovah's Witnesses, requesting it to provide information on all 2,277 congregations of Jehovah's Witnesses throughout the Russian Federation.

On 15 March 2017, less than two weeks after the expiry of a one-year warning of "the inadmissibility of extremist activity" issued to the Administrative Centre in March 2016, the Justice Ministry lodged a suit at the Supreme Court to declare the Jehovah's Witnesses Administrative Centre "extremist", to liquidate it, and to ban its activity. The 15 March Suspension Order, with immediate effect, reportedly forbids the Administrative Centre and all its local religious organisations from using state and municipal news media, organising and conducting assemblies, rallies, demonstrations, processions, picketing, and other mass actions or public events, and using bank deposits, except for the use of making payments connected with their economic activity, or paying taxes, fees, or fines. The Suspension Order also bans meetings for worship in a mass or public nature. If the Ministry of Justice wins this administrative suit, it will be the first time a court rules a registered centralized religious organization "extremist".

It is alleged that the liquidation of the Administrative Centre would lead to the banning of the worship or activities of more than 175,000 Jehovah's Witnesses throughout the country. This would also pave the way to liquidate the more than 400 local religious organizations of Jehovah's Witnesses and more than 2,500 unregistered religious groups. Moreover, it would allow the authorities to confiscate all existing Kingdom Halls of the Jehovah's Witnesses.

The court hearing is scheduled for 5 April 2017, in Moscow.

We express grave concern at the Government's lawsuit requesting to liquidate the Jehovah's Witnesses Administrative Centre, and to ban the religious activities of Jehovah's Witnesses across Russia through the use of provisions on counteracting extremism. We express equal concern at the vague and overbroad definition of "extremism" and the conflation of religious expression with "extremism", which represents an unlawful restriction on the legitimate exercise of the rights to freedom of expression, freedom of religion and freedoms of peaceful assembly and association. We reiterate our concerns at repressive legislation that significantly restricts the ability of

individuals and organizations to own and disseminate religious materials, maintain their places of worship and engage in other public forms of religious expression. The registration and documentation requirements may also lead religious individuals and organizations to self-censor for fear of criminal prosecution.

The full texts of the human rights instruments and standards recalled are available on www.ohchr.org or can be provided upon request.

As 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 be grateful for your observations on the following matters:

1. Please provide any additional information and comment you may have on the above-mentioned allegations.
2. Please indicate on what legal basis the Government has decided to liquidate the Administrative Centre of Jehovah's Witnesses and designated the activities of local organizations and communities "extremist". Please explain how this complies with Russia's obligations under international human rights law, in particular article 18, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR).
3. Please provide information about the evidence used to justify placing Jehovah's Witnesses texts and literature on the Federal List of Extremist Materials, and explain how this is compatible with articles 18 and 19 of the ICCPR. Please provide illustration of the texts deemed "extremist" in nature.
4. Please indicate if investigation was launched against police who allegedly planted fake evidence during their raids of Jehovah's Witnesses' homes and places of worship. Please provide justification for which the courts rejected Jehovah's Witnesses' motions to present evidence of alleged illegal acts by the police.
5. Please provide justification for the 15 March Suspension Order that bans meetings of worship in mass or public nature and forbids assemblies, demonstrations and other mass actions or public events. Please provide information about measures taken to ensure that Jehovah's Witnesses, as religious minorities, can freely exercise their rights to freedom of religion, freedom of expression and freedom of peaceful assembly and association.
6. Please indicate if the relevant representatives of the Government have met with the representatives of Jehovah's Witnesses in order to address issues of concerns and find mutual solutions.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the

investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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

Rita Izsák-Ndiaye
Special Rapporteur on minority issues

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 18, 19, 21, and 22, of the International Covenant on Civil and Political Rights, ratified by Russia on 16 October 1973, guaranteeing the rights to freedom of religion, freedom of expression, freedom of peaceful assembly and freedom of association, respectively.

The right of the Jehovah's Witnesses to religious practices and manifestations is provided by article 18 (1) of the ICCPR that stresses "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include 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." Human Rights Committee General Comment No. 22 further explains that "The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to [...] the building of places of worship [...] In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications." (CCPR/C/21/Rev.1/Add.4, para. 4)

The 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55) in its Article 6 (d) provided that the right to freedom of thought, conscience, religion or belief includes the freedom, "To write, issue and disseminate relevant publications in these areas".

We moreover refer to article 19 of the ICCPR, which guarantees the right of everyone to freedom of opinion and expression, which includes "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".

With respect to the banning of religious material, we reiterate the principle enunciated by Human Rights Council Resolution 12/16, calling on States to refrain from imposing restrictions which are not consistent with article 19(3), including practices such as the banning or closing of publications and the abuse of administrative measures and censorship. The same Resolution, referring to the right to freedom of thought, conscience or religion as an intrinsically linked right to freedom of opinion and expression, calls on States to take all necessary measures to put an end to violations of these rights and to create conditions to prevent their recurrence.

With respect to the use to counter-terrorism justifications to restrict the legitimate exercise of rights, we would like to underline that any restriction on expression or information that a government seeks to justify on grounds of national security and

counter-terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest. To establish that a restriction on freedom of expression or information is necessary to protect a legitimate national security interest, a government must demonstrate that: (a) the expression or information at issue poses a serious threat to a legitimate national security interest; (b) the restriction imposed is the least restrictive means possible for protecting that interest; and (c) the restriction is compatible with democratic principles.

We would like to further refer to Human Rights Council resolution 24/5 in which the Council “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections and including *persons espousing minority or dissenting views or beliefs*, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions of 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” (OP2, emphasis added).

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. Article 27 of the ICCPR establishes that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities have the right, in community with the other members of their group, “to enjoy their own culture, to profess and practise their own religion, or to use their own language”.

Furthermore, the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on the Rights of Minorities), establishes in article 1 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 in article 2 that persons belonging to religious minorities have the right to profess and practise their own religion without discrimination. Moreover, 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 Recommendation 17, which calls on States to ensure that “there is no discriminatory treatment in regard to the legal and administrative recognition of all religious and belief groups. Any registration and administrative procedures, including those relating to the property and the functioning of places of worship and other religious-based institutions, should be conducted according to non-discrimination standards. International standards do not allow non-recognition of religious or belief groups to result in denial of their rights. Such standards require an inclusive approach to be taken”.