
JEHOVAH'S WITNESSES ON TRIAL IN MOSCOW



Golovinskiy Court



June 2003

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Introduction



Judge Dubinskaya with literature

A civil case aimed at banning the religious activity of Jehovah's Witnesses in Moscow continues five years after the original complaint was filed. The prosecutor attempts to use religious teachings as evidence of the illegality of all their religious activity.

Repeated expert studies have led to 41 months of delay without a final decision.

Yet again, on 22 May 2003, Judge Vera Dubinskaya ordered an expert study into the literature published by Jehovah's Witnesses over the past ten years. The case is suspended indefinitely because the court set no time limit for the study.

The defence has consistently refuted the need for such expert studies, citing a European Court decision involving Jehovah's Witnesses in Greece, "The right to freedom of religion as guaranteed under the Convention excludes any discretion on the part of the State to determine whether religious beliefs or the means used to express such beliefs are legitimate."¹

The City of Moscow has targeted Jehovah's Witnesses in violation of the Russian Constitution, and international agreements.

In April 2002 the Council of Europe adopted a resolution that described the problems Jehovah's Witnesses experience in Moscow as "discrimination and harassment."²

In 1998 Russia's Ministry of Justice assigned the Expert Council for Conducting State Expert Religious Studies to review the same questions as those presented to the Golovinskiy Court. The Expert Council's investigation established that the activities of the Witnesses are benign, lawful, peaceable, and respectful. Consequently, Russia's Ministry of Justice re-registered Jehovah's Witnesses at the Federal level in April 1999, and by extension, its decision exposes the present accusations of the prosecutor as baseless.

The Moscow Community of Jehovah's Witnesses was legally registered in Moscow on 30 December 1993 under the 1990 Russian Law "On Freedom of Religion." However, the Moscow Justice Department refuses to re-register the Moscow Community of Jehovah's Witnesses under the 1997 law On

Freedom of Conscience and Religious Associations because of this never-ending prosecution.

This is in stark contrast to the rest of Russia, where Jehovah's Witnesses are registered in 399 communities in 72 regions.

There are now over 130,000 active Witnesses in Russia, and this year 282,433 persons attended the commemoration of the death of Christ.

This report briefly summarises the case to date, assesses some of the reasons for the prosecution, and draws attention to the implications for religious freedom, not only in Moscow, but throughout the Russian Federation.

"There is no basis whatsoever for the liquidation and banning of the religious community of Jehovah's Witnesses."

—Judge Prokhorycheva



Moscow Community signing Petition

Background

From 1995 to 1998 the activities of Jehovah's Witnesses were investigated five times by various teams of prosecutors and investigators, each investigation concluding that there were no grounds for a case against the community.

First trial

Nevertheless, trial hearings began on 29 September 1998, based on the 1997 law On Freedom of Conscience and Religious Associations. Finally, on 23 February 2001, all charges against Jehovah's Witnesses were dismissed by Judge Yelena Prokhorycheva, who stated in her decision: "There is no basis whatsoever for the liquidation and banning of the religious community of Jehovah's Witnesses."

Second trial

When the prosecution appealed the case to the Moscow City Court, it was remanded for reconsideration by the original court. The re-trial began on 30 October 2001, Judge Vera Dubinskaya presiding.

During the ongoing re-trial, the prosecution has spent much time examining the doctrine of Jehovah's Witnesses. It has repeatedly expressed the view that facts are not required. Consequently, the trial has developed into a theological argument. The prosecution severely criticized Jehovah's Witnesses for allegedly "corrupting the sense of the Bible." It claimed that Jehovah's Witnesses' teachings 'erode the culture and traditions of Russia.'

The prosecutor claimed that the application to ban the legal entity was a means to protect the rights and freedoms of all 10,000 Witnesses in Moscow. In response, 10,000 Jehovah's Witnesses signed a petition asking the Golovinskiy Court and all responsible governmental agencies to reject the prosecutor's false claim of protecting their rights.

During this period, the court heard 32 witnesses. These included Soviet persecution survivors, non-Witness family members content with the religious choice of their Witness relatives, specialists, and religious scholars.

Current Situation

On 4 April 2002, the Court issued a ruling appointing two expert studies. On 22 November 2002 this ruling was overturned on appeal by the Moscow City Court, but only because the department that was asked to carry out the study did not exist.³

The re-trial resumed on 11 February 2003. Due to legislative changes the prosecutor was asked to present an amended claim. It is primarily an attack on religious literature published by Jehovah's Witnesses.

On 22 May 2003, Judge Vera Dubinskaya ordered the Russian government to pay for a philological-psycho/linguistic expert study to be conducted on the literature of Jehovah's Witnesses published in the past ten years.

The Institute of the Russian Language of the Russian Academy of Sciences, and one psycholinguist, Konstantin Igoryevich Alekseyev, will carry out the study. No time limit has been set for the study.

On 6 June 2003, the Moscow City Court rejected an appeal against the expert study. The defence had argued that after five years of unreasonable delays the Court needed to break the vicious cycle of expert studies that have nothing to do with facts.

Expert conclusions

At least 28 different specialists and experts have already reviewed the religious literature of Jehovah's Witnesses. The specialists work in fields as diverse as ethnography, religious studies, theology, psycholinguistics, psychology, psychiatry, literature studies, and medicine. The court or criminal investigators appointed nine experts. The Russian government appointed twelve. There was even a forensic phonoscopic analysis of the musical accompaniment used for songs sung by believers at their religious gatherings in an attempt to find subliminal messages. Expert opinions inevitably varied, but four investigators and the Golovinskiy Court were unanimous in concluding that there were no facts to support allegations of criminal or illegal activity.

Trial-related studies

During both trials the Golovinskiy Court has heard doctrinal disputes and critical assessment of religious beliefs.

On 12 March 1999, the court ordered five experts to study the legitimacy of the religious beliefs of Jehovah's Witnesses. Four of the experts provided a composite 15-page written opinion supporting the prosecution's charges, based only on reading religious literature. The fifth expert, S. I. Ivanenko, dissented in a refutation of 139 pages.

In her written decision Judge Prokhorycheva 20 times used expressions such as there were "no facts" or "basis" to support any of the charges. The trial court did not ignore the expert testimony. It rejected expert opinion not based on facts or lacking credibility.

As of 6 June 2003 the re-trial is suspended indefinitely while a philological-psycho/linguistic study is carried out on the literature of Jehovah's Witnesses published in the past ten years.

Expert Council for Religious Studies

On 29 April 1999, the Ministry of Justice of the Russian Federation re-registered the religious organization of Jehovah's Witnesses after it had received and approved the results of a study of the literature, teachings, and activities of Jehovah's Witnesses conducted by the Ministry's Expert Council for Religious Studies.



Judge orders study of religious literature

Observations from International Bodies

Council of Europe

The prosecution of Jehovah's Witnesses in Moscow threatens all religious minorities in Russia. Members of the Parliamentary Assembly of the Council of Europe warned:

"The case is a cause of concern for other religious groups who also expect to be banned if the Jehovah's Witnesses were to lose."

On 23 April 2002 the Parliamentary Assembly adopted Resolution 1277 of the document, *Honouring of obligations and commitments by the Russian Federation* saying:

"The Assembly regrets the problems of the Salvation Army and Jehovah's Witnesses in Moscow, but welcomes the decision of the Russian authorities to ensure that the problem of local discrimination and harassment of these religious communities be brought to an end."²

The above quote followed a report by co-rapporteurs, Mr. David Atkinson and Mr. Rudolf Bindig, in which they delivered the following recommendation regarding the Moscow civil trial against Jehovah's Witnesses:

"The co-rapporteurs regard the length of the judicial examination in this case as an example of harassment against a religious minority and believe that after six years of criminal and legal proceedings the trial should finally be halted."⁴

Mr. Atkinson told the Parliamentary Assembly on 23 April 2002:

"The banning of the Salvation Army and Jehovah's Witnesses from Moscow is, of course, totally unacceptable."⁵

As noted above, the co-rapporteurs describe Jehovah's Witnesses' problems in Moscow as "discrimination and harassment."

United Nations

The United Nations Human Rights Committee, responsible for investigating violations of the International Covenant on Political and Civil Rights, to which Russia is a signatory, warned against religious discrimination. Article 18 of the International Covenant on Political and Civil Rights states in part:

"The co-rapporteurs regard the length of the judicial examination in this case as an example of harassment against a religious minority . . ."
—Council of Europe

"Everyone shall have the right to freedom of . . . religion. The right shall include freedom to adopt a religion or belief of his choice, either individually or in community with others."

In direct reference to Article 18, the Human Rights Committee at its 48th session in 1993, stated in its official General Comment 22, paragraph 2, the following:

"The Committee therefore views with concern the tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominate religious community."

United States

The United States Commission on International Religious Freedom issued a press release on 14 May 2003, which included the following observation on Russia:

"An attempt is underway on the part of elements with the Russian government, aided or perhaps encouraged by the Russian Orthodox Church, to curb religious freedom further and bring the religious practice of Russian citizens under the closer control and tutelage of the state."

"An attempt is underway . . . to curb religious freedom."

—U.S. Committee on International Religious Freedom
14 May 2003

Moscow

The City of Moscow Department of Justice has refused to register or re-register any community of Jehovah's Witnesses under the 1997 religion law. Applications to lower courts asking for a legal remedy were delayed or dismissed on dubious technical grounds. Moscow officials and courts referred to the yet-to-be-decided Golovinskiy trial as a pretext for postponing or dismissing any attempt at registration by the Moscow religious community of Jehovah's Witnesses. All court procedures within Russia have been exhausted, and so this issue forms part of an application to the European Court of Human Rights.

During the Golovinskiy trial to ban Jehovah's Witnesses, the prosecution under questioning has admitted that one of its goals is to ensure that Jehovah's Witnesses are legally unable to erect or lease a building in Moscow.

Russia

On several occasions, Prosecutor Tatyana Kondratyeva has declared that she wants all regions of Russia to outlaw Jehovah's Witnesses from carrying out a range of activities, including distributing religious literature, holding meetings to discuss the Bible, public preaching, and renting or purchasing property.



Jehovah's Witnesses assemble in Moscow
June 2003

The resurgence of religion has been dramatic in Russia since the Soviet Union was dissolved. Russia has moved a long way from the period when the Soviets tried to eliminate religion.

The Administrative Center for Jehovah's Witnesses in Russia receives reports of Courts upholding religious freedom for Jehovah's Witnesses, ordering registration of local communities. As recently as November 2002 an appeal court in Chelyabinsk ruled that the rights of Jehovah's Witnesses to be registered as a legal entity were protected under the Russian Constitution and the European Convention.

It is anomalous that Jehovah's Witnesses have been successfully registered at a federal level, but is subject to a court case disputing its right to exist in Moscow, a region subject to the Russian Federation.

European Court

On 11 December 2001 an application was submitted to the European Court of Human Rights on behalf of the Religious Community of Jehovah's Witnesses of Moscow. The application appeals to the Court on the basis that the repetitive prosecution under the 1997 Law on Religious Associations violates individual and collective rights of the Applicants as guaranteed under the European Convention.

This action has been taken because the suppression of freedom of worship for a minority can be the thin edge of the wedge that leads to the suppression of other freedoms for all citizens. Clearly, then, it is in the interests not only of Jehovah's Witnesses but also of the Russian government to uphold the law.

Chronology of Moscow Prosecution Key Dates

Criminal and Civil Proceedings

- 15 June 1995* Committee for the Salvation of Youth from Totalitarian Sects (anti-cult Committee) files complaint with Russian Prosecutor General requesting criminal prosecution of Jehovah's Witnesses in Moscow
- 21 April 1997* Prosecutor-criminalist Mutsynov issues ruling to terminate criminal proceedings due to lack of *corpus delicti* in actions of Community's presiding officers
- 15 September 1997* Senior Investigator Andreyeva issues second ruling to terminate proceedings due to lack of *corpus delicti* in actions of any of Community's members, finds that anti-cult Committee's repeated complaints are biased
- 1 October 1997* Russian Federal Law on the Freedom of Conscience and on Religious Associations enters into force
- 28 December 1997* Senior Investigator Andreyeva issues third ruling to terminate proceedings
- 25 February 1998* Moscow City Prosecutor overturns investigator's order and orders resumption of investigation
- 30 March 1998* **Russia ratifies European Convention on Human Rights**
- 13 April 1998* Investigator for Cases of Special Importance Solomatina issues fourth and final ruling to terminate proceedings due to lack of *corpus delicti* in activities of Community and its members. During course of criminal proceedings 22 witnesses were questioned and six forensic expert studies were conducted of the effect of religious literature, teachings, and audiocassettes of religious melodies
- 20 April 1998* NAC Prosecutor files civil action in Golovinskiy District Court seeking liquidation of Community and ban on its activities in Moscow under Article 14 of Russian Federal Law on the Freedom of Conscience and on Religious Associations
- 29 September 1998* Trial in *NAC Prosecutor v. Religious Community of Jehovah's Witnesses* commences at Golovinskiy District Court under chairmanship of Judge Prokhorycheva and two lay judges
- 12 March 1999* After 21 days of court and testimony of 31 witnesses court on prosecutor's motion suspends proceedings and appoints five experts to prepare composite religious studies-linguistic-psychological

- expert study of religious literature of Jehovah's Witnesses. Community filed several objections to expert study
- 6 February 2001* Trial resumes at Golovinskiy District Court under chairmanship of Judge Prokhorycheva.
- 23 February 2001* After 11 days of trial, testimony of nine witnesses and all five court-appointed experts, Golovinskiy District Court dismisses all of prosecutor's claims and orders prosecutor to pay experts' expenses
- 30 May 2001* Moscow City Court grants NAC Prosecutor's protest in cassation and overturns decision of Golovinskiy District Court, sending the case back for a new trial. Moscow City Court cites as basis for decision, *inter alia*, disagreement of experts and need to see if there is any evidence to support expert conclusions against the Community. Moscow City Court directs Golovinskiy District Court to consider appointing a new forensic expert study
- 30 October 2001* New trial begins under chairmanship of Judge Dubinskaya with two lay judges
- 4 April 2002* After 32 days of trial and testimony of 32 witnesses court on its own motion appoints two expert studies
- 22 November 2002* Moscow City Court overturns Golovinskiy District Court ruling appointing expert study on grounds that one of the expert institutions does not exist. Golovinskiy District Court directed to consider the matter anew
- 11 February 2003* Trial resumes at Golovinskiy District Court under Judge Dubinskaya
- 22 May 2003* Golovinskiy District Court under Judge Dubinskaya suspends proceedings for a court-appointed philological-psycholinguistic study of the religious literature of Jehovah's Witnesses, to be conducted at the Institute of the Russian Language of the Russian Academy of Sciences. The study is appointed at the court's own initiative and over the Community's objections; no time limit is set for the study
- 6 June 2003* Judicial Chamber for Civil Disputes of Moscow City Court disallows Community's interlocutory appeal
- Full Chronology available on request*

Chronology of Moscow
Re-registration Efforts
Key Dates

Under the 1997 Law of Religious Associations

***Moscow Community Lawsuit—
Presnya Court System***

- 20 October 1999* first application for re-registration with all required documents
- 28 June 2000* third refusal to consider application, each time with no explanation
- 16 October 2000* civil complaint filed with Presnya Intermunicipal Court of Moscow asking for court order obliging Justice Department to consider third application
- 23 October 2000* Justice Department states Community failed to turn over original charter and registration certificate from 1993 (this is not required by law). Justice Department tells Community it is not obliged to specify which documents are missing with application
- 3 September 2001* After 6 adjournments over one year, Presnya Court refuses to recognize Chaykovskiy's power to act on behalf of Community and refused a hearing on merits
- January 2002* Moscow City Court allows Community's appeal, reversing Presnya Court's order to leave lawsuit without consideration, and orders new hearing
- 16 August 2002* Presnya Court partially grants Community's claim; Justice Department's refusal to consider applications declared illegal, but court refuses to order re-registration due to newly introduced forms
- 2 December 2002* Moscow City Court dismisses appeal, also states that re-registration cannot be processed due to ongoing Golovinskiy trial

***Marchenko Civil Complaint—
Kuzminki Court System***

- 25 October 2000* fourth application filed, including original charter and registration certificate from 1993
- 24 November 2000* first formal denial of re-registration [by Justice Department]; there were two allegedly incorrect wordings in documents (Community had "adopted", rather than "ratified" its charter; "legal address" was used alongside the word "location")
- 11 January 2001* Oleg Marchenko as individual and founding member of Moscow Community files complaint in Kuzminki

	Intermunicipal Court of Moscow against Justice Department's denial of re-registration
<i>14 September 2001</i>	Kuzminki Court dismisses Marchenko's complaint on basis that decision of Justice Department affected only Community's collective rights, not that of individuals
<i>10 December 2001</i>	Moscow City Court rejects appeal of Marchenko against the Kuzminki Court decision
<i>1 February 2003</i>	New Russian Code of Civil Procedure enters into effect
<i>10 February 2003</i>	Judge Ksenofontova of Moscow City Court issues ruling that request for supervisory review must be re-filed under new procedure
	<i>Denisov Civil Complaint— Butyrka Court System</i>
<i>12 January 2001</i>	second formal denial of re-registration and as applied to fifth and final application; <u>denial based on ongoing prosecution in Golovinskiy Court to ban and liquidate Moscow Community of Jehovah's Witnesses</u>
<i>11 April 2001</i>	Igor Denisov as individual and founding member of Moscow Community files complaint in Butyrka Intermunicipal Court of Moscow against Justice Department's second formal denial of re-registration on 12 January and because of ongoing prosecution to ban in Golovinskiy Court
<i>28 August 2001</i>	Butyrka Court begins hearing of Denisov's complaint. Community granted standing as party. <u>Hearing adjourned to 12 October 2001 to obtain official response from Golovinskiy Court on prosecution to ban and liquidate</u>
<i>27 November 2001</i>	Butyrka Court issues reasons relying on Golovinskiy banning trial as grounds for denial of re-registration. Court finds that lack of re-registration restricts Community's rights
<i>20 February 2002</i>	Moscow City Court dismisses the Community's appeal against the lower court's decision, which then entered into legal force
<i>3 March 2003</i>	Judge Tihenko with Moscow City Court denies leave for supervisory review, stating that appeal 'gives no grounds to doubt the legality of the decision'
<i>30 May 2003</i>	Denisov files request with Moscow City Court Chairman Yegororva seeking reconsideration of ruling (this is prerequisite to any further supervisory appeal in the Russian Supreme Court)

Full Chronology available on request

Endnotes

¹ *Manoussakis et al v. Greece*, Application no. 510/26.9/1996 510/26.9/1996 (26 September 1996), para. 47.

² "Honouring of obligations and commitments by the Russian Federation," Resolution 1277 (2002).

³ Ruling, 22 November 2002, The Judicial Chamber for Civil Cases of the Moscow City Court

⁴ "Honouring of obligations and commitments by the Russian Federation" Report, Doc. 9396, 26 March 2002.

⁵ Excerpt, Parliamentary Assembly of the Council of Europe (PACE) "Joint debate on the Report on the Honouring of obligations and commitments by the Russian Federation," 23 April 2002 at 10:00 a.m.