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How Moscow Compiles Its 'Extremist' List Guarantees Absurdities, Russian Lawyer Says

By Paul Goble

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About this blog

Window on Eurasia covers current events in Russia and the nations of the former Soviet Union, with a focus on issues of ethnicity and religion. The issues covered are often not those written about on the front pages of newspapers. Instead, the articles in the Windows series focus on those issues that either have not been much discussed or provide an approach to stories that have been. Frequent topics include civil rights, radicalism, Russian Islam, the Russian Orthodox Church, and events in the North Caucasus, among others.

Author **Paul Goble** is a longtime specialist on ethnic and religious questions in Eurasia. Most recently, he was director of research and publications at the Azerbaijan Diplomatic Academy. He has served in various capacities in the U.S. State Department, the Central Intelligence Agency and the International Broadcasting Bureau as well as at the Voice of America and Radio Free Europe/Radio Liberty and at the Carnegie Endowment for International Peace. He writes frequently on ethnic and religious issues and has edited five volumes on ethnicity and religion in the former Soviet space.

Moscow is unlikely to follow the demand of one Russian churchman and declare Amway an "extremist" organization, but the way the Russian government compiles its ever-lengthening list of "extremist materials" guarantees any number of constitutional and legal absurdities, according to a Russian lawyer.

In an analysis posted online this week, Pavel Protasov describes the way in which the list of extremist materials is currently being compiled and updated &mdash the latest update is available here &mdash in order to show why this should be but isn't an April Fool's joke.

"On April 1, when all progressive humanity was marking a holiday," the Moscow lawyer writes, "the latest updating of the list of extremist materials" &mdash including films, books, articles, and other items that courts in various parts of the country had declared extremist and subject to ban &mdash "appeared on the official website of the [Russian Federation's] justice ministry."

Among the new items is the website www.fank.ru, which a Samara district court has declared extremist. But the site is still up, the lawyer notes, and if you visit it, you will not be able to find "any skinheads or, let us say, Muslim terrorists." Instead, you will see an entertainment site with photographs, music and videos for mobile phones.

The "first thought that comes to mind," Protasov continues, "is that this was an April Fool's joke." But a closer examination shows that the judges in this case took their duties perfectly seriously, although they appear not to be able to distinguish between something posted on a site and the editorial policy of the site itself.

Thus, when the judges found what they believed to be an "extremist" item of some kind on that site, the lawyer continues, they chose to ban the site rather than ban the material in question, an approach with chilling implications not only for the Internet but for media outlets of all kinds.

A consideration of several of the other new items on the banned list shows some more disturbing signs. Not only do the individual courts operate without taking into account the decisions of others, but there appears to be no way in which a finding by one court that something is not extreme can be used to repeal a decision by another that it is.

Thus, the latest additions to the extremist list include three articles that another court had found, on the basis of expert testimony, not to be extreme. On the one hand, that creates a Kafkaesque nightmare for anyone whose work falls on the list, and on the other, it can allow the powers that be to turn to a particular court to get the rulings they want.

That is, Protasov says, officials can get whatever ruling they want not only by selecting the court in which a publication is reviewed but also by ensuring that the "correct" person serves as an "expert" &mdash liberal texts can be handed to those with rightwing conclusions and something written by a fascist can handed to a liberal for review.

Russia's courts need not be in this position, Protasov says. Every district court has its own website where it could publish such decisions and thus inform others. That would simultaneously create precedents that could be used and open the way of voiding decisions if expert testimony in another venue leads to a different conclusion.

But under existing judicial rules, no court is required to post its decisions or even to pay attention to the decisions of others, and that "has created the impression that the authors of those changes in the law by which the extremist list was introduced see such additions to it as an ideal process."

Protasov reviews what he calls the "comic" history of the works of Said Nursi, someone who many in his homeland of Turkey have severely criticized but a man whose works "no one [there] has thought of banning." But Russian courts have done just that, even though most of the rulings suggest that the judges involved know little or nothing about Islam.

And that calls attention to another of "the inherent shortcomings" of such lists: judges are not told "how they ought to describe materials so that they can be identified" by law

enforcement personnel, and consequently they often simply guess at the content of a particular book or article on the basis of a perusal of "its title page."

This system should have been laughed out of existence long before now, Protasov says. Indeed, it should never have been allowed to be put in place. But the list continues to grow. As a result, more comic and at the same time more tragic rulings are likely in the future, with the very real possibility, he concludes, that a Russian court will ban one or more books of the Bible.

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