

## Donald Ossewaarde – A Case Summary

Donald Ossewaarde and his wife Ruth were American Baptist missionaries to Russia who had been living in the city of Oryol (about 300 kilometres south of Moscow) since 2005. For over 10 years, they had hosted regular gatherings at their home where congregants would sing, pray and study the bible.

On 14 August 2016, during a regular Sunday gathering, three policemen arrived at the Ossewaarde home unannounced, entering without knocking or ringing the doorbell. They interrupted the meeting and said that they wanted to ask Donald some questions. Donald said that they would have to wait until the meeting ended, and invited the policemen to stay for the remainder of the meeting, which they did. After the meeting had ended, the officers proceeded to question Donald and those present for about 45 minutes.

After finalising their statements, the policemen said they needed to take Donald to the police station for routine fingerprints. Donald asked whether any complaints had been made against him, to which the officers said no. However on arrival at the police station, after checking Donald's fingerprints against the criminal database, the officers said that there had been a complaint against him, and proceeded to charge him with two administrative offenses contrary to Federal Law No 125-FZ "On the Freedom of Conscience and Religious Associations". These offences were:

1. Disseminating information about his religion among those who are not members of his religious association; and
2. Conducting missionary activity without notification of establishment of a religious group.

Donald contested these charges on the basis that he was not a member of any religious association based in Russia, and therefore could not have conducted unlawful 'missionary activities' within the meaning of the Federal Law. He further submitted that he had the right under the Russian Constitution to practice his faith and to share it with others, particularly within his own home.

After two and a half hours, the officers let Donald leave the police station, but said that he would need to "come for a ride" with them in their police car. Donald asked whether he was under arrest, to which they replied that he was not, but they insisted that Donald come with them. The police officers then took Donald to a courthouse, where a judge reviewed the charges against him. Donald found it strange that the courthouse was open on a Sunday, and the subsequent public records showed that his case was the only one heard that day.

Donald was provided with a court-appointed lawyer, who accompanied him to the hearing. After two hours at the courthouse, the judge found Donald guilty of breaching the Federal Law as charged, and he was fined 40,000 roubles (roughly equivalent to 460 pound sterling).

The following Tuesday, as Donald was discussing an appeal with lawyers in Moscow, his court-appointed lawyer called him to say that it would be best if he dropped the appeal and went back to America. Donald could not establish what motivated the call, but the lawyer said he had heard from his contacts in the police department that people in 'high places' had decided it was time for Donald to leave, and if Donald proceeded to challenge the decision, he and his wife would be in danger. Donald decided that Ruth should return to America, and he would stay on to challenge his conviction.

On 23 August 2017, Donald filed an appeal to the Oryol Regional Court, arguing that the constituent elements of the offences he had been charged with had not been made out, and relying on the Russian constitution's guarantee of freedom of religion. On 30 September 2016, the Oryol Regional Court upheld the findings of the district court and dismissed his appeal.

On 7 October 2016, Donald filed an application for supervisory review to the Chairman of the Oryol Regional Court (which was dismissed on 15 November 2016) and a further application to the Chairman of the Supreme Court of the Russian Federation on 25 November 2016, which was also dismissed on 20 January 2017.

On 29 December 2016 Donald lodged an application with the Constitutional Court of Russia, submitting that his right to freedom of religion had been violated. This final appeal was dismissed on 28 February 2017, exhausting all possibilities of a domestic remedy in Russia. Donald, who had suspended all gatherings at his home during the appeals process, was left with no choice but to pack up all of his belongings in Russia, sell his property, and return to the United States.

In March of 2017, Donald filed an application with the European Court of Human Rights, arguing that Russia had violated Article 9 (the right to freedom of thought, conscience and religion) and Article 11 (the right to freedom of assembly) of the European Convention on Human Rights in upholding the fines against him for 'illegal missionary activity'. He further argued that his detention at the police centre was contrary to Article 5 of the Convention (the right to liberty and security) and that, as a non-national, he was subjected to discriminatory treatment under the Federal Law contrary to Article 14 of the Convention (the prohibition on discrimination).

On moving back to the United States in May of 2017, Donald took up a new position as the dean of men and ministry at Providence Baptist College in Elgin, Illinois.

Donald Ossewaarde's application to the European Court of Human Rights was communicated to the Russian Government on 6 July 2017, which confirmed that the Court would be looking into whether the Russian Federal Law (and its particular application in Donald's case) violated the European Convention on Human Rights. Since Donald's case was communicated, the European Court has communicated two further cases in respect of the treatment of Jehovah's Witnesses and an Indian spiritual teacher under the Russian Federal Law.

- Donald Ossewaarde extensively documented his experiences in Russia [on his personal website](#).
- Last year, [Forum 18 documented 134 known cases](#) of individuals who have been charged with conducting 'illegal missionary activity' contrary to Federal Law No 125-FZ – 25 of these were Baptists.