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TAJIKISTAN: Confiscation and destruction of religious property "with undue cause"?

By Mushfig Bayram, Forum 18 (<https://www.forum18.org>)

Worship for religious communities is becoming more difficult in Tajikistan's capital Dushanbe, Forum 18 News Service has learned. Several mosques were demolished in 2007 and a synagogue and a Protestant church were demolished with no compensation in summer 2008 amid city rebuilding plans. Two other Protestant churches and the Jehovah's Witnesses have been banned. Now the High Economic Court ruled on 29 August in the long-running dispute over the property of a further Protestant church, Grace Sunmin. But Judge Zulfiyya Yusupova – who had barred international observers from the courtroom - refused to tell Forum 18 what the decision was. The authorities want to seize the building back, despite the fact that the church bought it legally ten years ago. "For nine years we have been working on this place and renovation still continues," one church member told Forum 18. "But now the authorities think the time has come for them to take a ready building away from us." The OSCE office in Tajikistan is concerned about the confiscations and destruction, especially over the lack of transparency and the failure to ensure adequate compensation. "If the City of Dushanbe truly needs the said compounds for its civic and public plans, it should compensate the said religious groups accordingly," it told Forum 18. "Sheer confiscation and destruction of property, if done outside of national and international laws and with undue cause, would be contrary to the OSCE commitments of Tajikistan."

A Protestant church in the capital Dushanbe, Grace Sunmin, is being pressured by the city authorities to give up the worship building it bought legally ten years ago, Forum 18 News Service has learned. Tajikistan's High Economic Court held a hearing in the case and apparently handed down a judgment on 29 August, but the judge and court chancellery refused to tell Forum 18 on 1 September what the decision had been. Judge Zulfiyya Yusupova did not allow international observers in the courtroom to monitor the hearing, observers and church members told Forum 18 from Dushanbe. Church members therefore left the courtroom in protest. An active member of Grace Sunmin, who wanted to remain unnamed, told Forum 18 that the congregation has long battled with the Dushanbe city authorities through the courts to try to keep its property.

"For nine years we have been working on this place and renovation still continues," the Grace Sunmin member pointed out. "But now the authorities think the time has come for them to take a ready building away from us." Based on the current market prices, the church has invested the equivalent of more than half a million US dollars in materials and services so far in the building, he explained. "If we added the price for labour – the works were done by church members for free – it would rise to one million dollars."

Other places of worship in Dushanbe have been demolished as part of city redevelopment plans, with no compensation. The worship building of the Nani Hayat (Bread of Life) Protestant church was destroyed in August without any compensation being offered, Forum 18 has learned. The demolition came two months after the nearby synagogue was bulldozed at the same time that demolition threats were issued against the church (see F18News 25 June 2008 http://www.forum18.org/Archive.php?article_id=1149).

Payam Foroughi, Human Dimension Officer of the Office in Tajikistan of the Organisation for Security and Co-operation in Europe (OSCE), told Forum 18 from Dushanbe on 29 August that the OSCE Office in Tajikistan is concerned about the ongoing property disputes between residents and organisations (religious or otherwise) and local governments in Tajikistan, much of it taking place in recent years in Dushanbe. "Among the issues of concern has been the lack of transparency in the process of forced evictions, confiscations, and destruction of properties."

Foroughi points out that the Tajik authorities have committed themselves to full protection of all types of property including private property, as well as the "right to prompt, just and effective compensation in the event private property is taken for public use".

Foroughi complains that Dushanbe's general plan, which appears to be the basis for many such decisions to confiscate and demolish property, "has not been fully revealed to individuals and advocates defending the citizenry". "It is also unfortunate that in nearly all cases where the city government has offered alternative property to residents, the value of such properties has been far less than that of the homes confiscated."

Foroughi insists that in the cases of the synagogue and the Grace Sunmin Church properties, the rule of law and OSCE commitments

should be followed. "If the City of Dushanbe truly needs the said compounds for its civic and public plans, it should compensate the said religious groups accordingly," he insisted to Forum 18. "It could do so by either financial compensation and/or equivalent property (in both size and market value) granted to the said religious groups. Sheer confiscation and destruction of property, if done outside of national and international laws and with undue cause, would be contrary to the OSCE commitments of Tajikistan."

The Grace Sunmin member told Forum 18 that the fact that the High Economic Court made a decision in church members' absence "shows that they already had a ready-made decision". "The court told us that we could only get the verdict on 4 or 5 September," he added.

Judge Yusupova, who presided over the case, confirmed to Forum 18 on 1 September that the court had already made a ruling but refused to make it public. "Please send us an official letter we will inform you then," she said.

In a break in the proceedings on 29 August, Judge Yusupova had refused to tell Forum 18 why the court cancelled its own decision of 4 February in favour of the church. "We cannot give you any information on the case while it is in process," she said, before hanging up the phone.

The building, a former unfinished construction originally intended to become a school building, was included in the list of State property to be sold in auction based on the March 1997 decision of Makhmadsaid Uboydulloev, the Head of the Dushanbe City Executive Authority or Hukumat (who remains in office today). It was sold to the church in July 1997 on a contract, a copy of which Forum 18 has seen, signed by M. Yunusov, the then chairman of the State Property Management Committee.

"When we bought the building it had no communications, electricity or any other systems whatsoever, it only had walls not even a roof," the Grace Sunmin member reported. "Its yard had virtually become a rubbish dump and had no fence around it." He added that at the time the site had a bad reputation in the city, as "killings had happened" there during Tajikistan's bitter civil war of 1992-7.

The Grace Sunmin member reported that the church received its certificate of ownership of the building in July 1998. It then began work to complete construction and interior renovation works. "We also had to clean up the yard - we literally had to remove thirty to forty trucks of dirt and rubbish from it." Then one thousand trucks of good quality soil were brought to the place, he told Forum 18, and trees were planted.

The church moved into the building only in 2000, he said. The church was forced to move in earlier than it had intended and before building work was complete after its earlier church building had been the target of a bombing that year. The bombing killed nine people, injured about fifty and devastated the building (see F18News 12 May 2005 http://www.forum18.org/Archive.php?article_id=559).

In 2002, five years after the church bought the property, the Dushanbe city Prosecutor and the city Department of Education, a structure under the City Executive Authority, began challenging the church's ownership of the building in the courts. After the Dushanbe city Economic Court made decisions in favour of the church between 2002 and 2007, several of which Forum 18 has seen, the case was sent to the High Economic Court.

The High Economic Court at first ruled in favour the church on 4 February 2008 in an appeal brought by the city Executive authority against the city Economic Court's December 2007 decision in favour of the church. However, on 29 July the Presidium of the High Economic Court decided to cancel its own decision and the city court's decision from December 2007, and consider the case again on 29 August at the High Economic Court as the first instance court.

Church members pointed out to Forum 18 that it was after relevant officials from the executive authorities to be questioned by the Dushanbe city Economic Court did not attend any of the court sessions that the court had rejected the Prosecutor's claim.

In May 2004 the city Economic Court chaired by Judge R. Ismatov, considering the new claim brought against the church's property by the Dushanbe city Prosecutor office, again made a decision, a copy of which Forum 18 has seen, in favour of the church.

The court decision reads that it was alleged in the claim that the cost of the construction was not properly evaluated by the State Property Committee, the contract conditions were violated – the church did not put the building into operation and did not use it for the designated purpose as a school. However, as the court indicated in the decision, the church had "even bought the property at a market price, which was higher than its real cost", and the church had been using the building for several years already, and that the contract did not have a condition that the building should be used as a school.

Shakat Saidov, the press secretary of Uboydulloev, Dushanbe's Chief Executive, told Forum 18 that all the authority to deal with this case on behalf of the city authorities was delegated to Shamsullo Isломov, the Head of the city Education Department. "I cannot comment on this case, please, speak to Isломov," he said.

The Dushanbe city Education Department in December 2007 brought a claim signed by Isломov, a copy of which Forum has seen,

against the church's property in the city Economic Court saying that the contract was illegitimate, the church violated the conditions of the contract, and the initial purpose of the building was to be a school. He asked the court to take into account that there is a lack of space for over 65,000 pupils in Dushanbe's schools.

The Grace Sunmin church in its turn brought a counter claim, a copy of which Forum 18 has seen, saying that the case had already been decided by the city Economic Court in 2004, three years earlier. All the sides dissatisfied with the court decision were supposed to appeal against it within a month. The court proceedings also could be reviewed by the court or a higher court within a year. Also the church countered in its claim that the city Education Department was not the former owner nor were ownership rights extended to them, so it could not be a proper plaintiff in this case.

The city court made a decision to invite the City Executive Authority as a third party in the case. The court, then, made a decision to reject the claim of the Department as groundless.

Islomov of the Education Department told Forum 18 that the City Executive Authority "may have made an illegal decision." "In the period the school building was sold to the church there was chaos in the country, and children did not attend schools," he told Forum 18 on 27 August. "That is perhaps why the building was sold."

Islomov insisted that "the government does not have that much money" to build the needed schools. "We have a demand in almost 40 schools to be built immediately," he said. "Which government could build that many schools so fast?" He asked why the church could not give up its building for a school. "Are not they a charity organisation, as they claim?"

Asked whether he thought the original decision of the city Executive Authority in 1997 to sell the building had been illegal, Islomov said perhaps it was. Asked whether anyone from the Executive Authority would be made criminally liable in case the court rules to cancel the contract and take away the building from the church, he said he could not answer that question.

Meanwhile, the building of Nani Hayat Protestant church was demolished on 22 August without the consent of the church, church members told Forum 18 on 1 September. The demolition was part of the plans to clear the area for the construction of the new Presidential Palace and park. Church members told Forum 18 that the church moved out of the building it owned two months earlier.

"We have been renting another place for our church services all this time," one member told Forum 18. "The authorities promised to compensate us," the church member complained, "but we wanted to get the compensation first and then allow the authorities to pull down our building. We don't know now when they will give us compensation."

Also destroyed in June as part of city reconstruction plans that also saw homes and businesses bulldozed was the only synagogue in Tajikistan. No compensation was given to the Jewish community (see F18News 25 June 2008 http://www.forum18.org/Archive.php?article_id=1149).

The leader of Dushanbe's Jewish community, Rabbi Mikhail Abdurakhmanov, told Forum 18 on 1 September that the court's and the city authorities' decision not to award compensation was final. "We have not had any worship services since our building was demolished," he reported. "We do not have a place to hold our services and cannot afford to buy one either." Asked whether the community could rent a place, he responded that it would not be a proper thing to do. "We have to consecrate the place according to our canons - we cannot consecrate a rented space."

Dushanbe city authorities also demolished several mosques in September 2007 because they did not have approval from the Justice Ministry and "spoiled the architecture of the city" (see F18News 10 October 2007 http://www.forum18.org/Archive.php?article_id=1032).

The Jehovah's Witnesses have told Forum 18 they are still challenging through the courts the total ban on their activity across Tajikistan imposed in late 2007. Also banned "temporarily" were two Protestant churches (see F18News 22 May 2008 http://www.forum18.org/Archive.php?article_id=1132).

Jehovah's Witnesses told Forum 18 on 29 August that they have to meet in small groups now, though the authorities have not interfered in such meetings. "They cannot rent premises." They say their legal challenge to the ban is due to resume in court on 12 September. (END)

More coverage of freedom of thought, conscience and belief in Tajikistan is at <http://www.forum18.org/Archive.php?query=&religion=all&country=31>.

For more background see Forum 18's Tajikistan religious freedom survey at http://www.forum18.org/Archive.php?article_id=190.

A survey of the religious freedom decline in the eastern part of the Organisation for Security and Co-operation in Europe (OSCE) area is at http://www.forum18.org/Archive.php?article_id=806, and of religious intolerance in Central Asia is at http://www.forum18.org/Archive.php?article_id=815.

A printer-friendly map of Tajikistan is available at
<http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=tajiki>.

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