

17 September 2019

RUSSIA: Mosque demolished, church to follow?

By Victoria Arnold, Forum 18 (<https://www.forum18.org>)

Officials repeatedly rebuffed attempts to legalise ownership of the land where Good News Pentecostal Church in Samara has worshipped for two decades. Officials want to demolish the church, at the congregation's expense. A court hearing is due on 25 September. In May, officials bulldozed a mosque built on farmland near Chernyakhovsk in Russia's Kaliningrad exclave, claiming it violated planning regulations.

Officials want to demolish Good News Pentecostal Church in Samara, a city on the Volga River in European Russia, claiming that it does not belong to the congregation. Congregation members, who have worshipped in the church for more than twenty years, would have to pay for the demolition. Officials have repeatedly rejected the congregation's attempts to legalise the church's ownership of the land plot, which was allocated to it in 1997.

The suit brought by Samara's Town Planning Department is due to begin at Samara Regional Arbitration Court on 25 September (see below).

The Church again tried to regularise its situation in 2018. "In the end, instead of registration of the land after almost a year and a half of attempts, we got a lawsuit to demolish our prayer house. Now we are attempting to defend our rights in court," Pastor Yury Ivanov told Forum 18 from Samara. "What a mockery of the feelings of believers" (see below).

Officials at Samara's Town Planning Department failed to respond to Forum 18's written questions asking why they wish to demolish the Church and why it cannot be legalised retroactively (see below).

Meanwhile, in May officials sent bulldozers to demolish a mosque built on private farmland near the town of Chernyakhovsk in Russia's Kaliningrad exclave. Officials claimed the mosque and three other buildings on the site violated planning regulations (see below).

Within days of the mosque leader's application to register a religious organisation in November 2017, prosecutors had ordered an inspection, the inspection took place and officials issued a warning that the buildings should be demolished or legalised (see below).

"As soon as we began to conduct services in the storehouse, the FSB and police began to conduct regular raids and provocations," Artur Rusyayev told Forum 18 (see below).

Officials at Chernyakhovsk administration failed to respond to Forum 18's written questions asking why they demolished the mosque and whether they will allocate land to build a new mosque (see below).

Losing places of worship

Many religious communities across Russia continue to face the loss of their places of worship because of alleged violations of planning regulations. Since municipal authorities are usually unwilling to permit the construction of purpose-built churches and mosques, congregations can be obliged to meet in residential, agricultural, or commercial buildings. This leaves them vulnerable to the complexities and contradictions of the legislation which regulates the use of land.

A key feature of many of these cases is that the congregations in question have often worshipped in their buildings for years, even decades, without any problems – two and half years in the case of the destroyed Muslim prayer house in Kaliningrad Region, for instance, and more than twenty years for the Pentecostals in Samara – before somehow drawing the adverse attention of the authorities or falling foul of amendments to local planning laws.

In another recent case, officials have barred a Baptist community in Novorossiysk from using its church "for religious purposes" (http://www.forum18.org/archive.php?article_id=2505), despite the fact that it has worshipped on the same site for two decades.

At the same time, individuals and religious communities are at growing risk of punishment if they exercise their right to freedom of

religion or belief by meeting for worship on land not designated for the purpose, such as in homes.
(http://www.forum18.org/archive.php?article_id=2362)

Amid a contradictory and unclear legal framework, officials have increased the numbers of fines for meeting for worship on land designated for residential or commercial use only. One lawyer commented that the situation "is similar to charging a driver [whose] passengers drink tea, with setting up a cafeteria in an illegal place without obtaining the necessary permits and approvals, and violating the land use laws because the road is not designed [for the purpose]". The numbers of such fines have been increasing sharply from 2016.

Particularly in rural areas, some religious communities meet in homes. They often either do not need or cannot afford a dedicated place of worship, or cannot get the land use designation changed from residential to religious use.

The so-called "anti-missionary" amendment, introduced as part of the Yarovaya package of "anti-terrorism" laws in 2016, has had a chilling effect on religious practice in public and even private space, thanks to its broad definition of "missionary activity" and its ban on performing it on residential premises. Many prosecutions under the associated Administrative Code Article 5.26, Parts 4 and 5 have arisen from state officials' discovery of collective worship being held outside formal places of worship.
(http://www.forum18.org/archive.php?article_id=2474)

Samara: Pentecostal church to be demolished?

Good News Pentecostal Church in the Samara suburb of Mekhzavod, where Pentecostal Christians have worshipped for more than twenty years, may be demolished if the community loses a lawsuit brought against it by the city's Town Planning Department.

The suit's first full hearing is due at Samara Regional Arbitration Court on 25 September. It is difficult to predict the outcome, Pastor Yury Ivanov told Forum 18 from Samara on 16 September, but if successful, the suit would oblige the Pentecostal community to pull down their church at their own expense. "What a mockery of the feelings of believers," Pastor Ivanov added.

The church was built as a temporary worship space in the 1990s, when local government was "constantly changing" and permanent construction was difficult, according to Pastor Ivanov. The building was never formally entered in the cadastral register as the property of the Pentecostal congregation.

The community has tried several times over the years to legalise the situation, only to be passed "from office to office" with no success, Pastor Ivanov told Forum 18. Their most recent application, in 2018, led to a series of inspections and fines by Rosreestr and the city administration, and the Town Planning Department lodging its suit at the arbitration court, asking that the building be declared not to be the community's property.

Asked why he thought the Samara administration wanted to get rid of his church, Pastor Ivanov said only that the authorities "have a different attitude towards the non-Orthodox sector".

On 13 September, Forum 18 wrote separately to Samara's Town Planning Department and to the heads of the Department's legal administration and its offices for the formation and allocation of land plots, and asked: why the Department thinks the church should be demolished; whether it cannot be legalised retroactively; why the Department is seeking to demolish the building now, when it has stood since 1997; and whether the city administration will provide an alternative plot for construction of a new church, should the old one be destroyed. Forum 18 had received no reply by the end of the working day in Samara on 16 September.

Samara: "Sent from office to office"

Good News Church, a single-story building with a cross on its gable wall, stands in a fenced plot on a major road in northern Samara. Its community was founded in 1992 and initially met in temporary locations on the city's outskirts, Pastor Ivanov told Forum 18. The city administration first granted it a land plot in 1996, but soon gave it instead to the Russian Orthodox Church.

The Pentecostals received another plot just 500m (550 yards) away. In 1997, the administration issued (under the legislation of the time) a two-year planning permit, which allowed for the installation of communications and utilities and the planning of the territory, followed by a building permit in 1999.

"But as a rule," explained Pastor Ivanov, "people began to build everything already at the planning stage. Therefore, in our case, we intended to build and use a temporary prayer house until the main one was constructed. But this was not easy, and a decision was made to reconstruct this temporary building in order to strengthen it and use it as a permanent church."

At this point, therefore, the community had a building and a land plot which were not registered as its property (the original land contract expired in 1999). It tried to formalise its ownership of both, without success. In 1999, the community's pastor emigrated to the United States, and "confusion began", according to Pastor Ivanov.

"The documentation was first in one hand, then in another," and local government was "constantly changing". "Then again", he added, "reminding the authorities of our problems was never safe, since they never had any intention of registering (ofornlyat) the land plot".

"Officials simply sent us from office to office, but we ourselves were afraid to spread the information that the land was not registered to us, because there could also be other people who wanted it," Pastor Ivanov added. "So we became hostages of circumstances when, it seems, that they allocated the land, but did not register it." He said this has also happened in many similar cases with other land of no religious significance.

In 2018, the Pentecostals tried again to legalise their property situation, consulting officials, ordering a land survey, and submitting documents to the Town Planning Department, but received only a form response.

This attempt to comply with the law seems to have triggered the round of legal action the church is currently facing. Legal action has included multiple inspections by Rosreestr which resulted in a fine of 100,000 Roubles under Administrative Code Article 7.1 ("unauthorised occupation of a land plot"), and a fine of 15,556 Roubles from the Samara Administration's Department of Property Relations for "unjust enrichment" from their use of the land.

The total fines represent the equivalent of about three months' average local wage for an individual in formal work.

"We have continued to try to formalise our ownership of [the land plot] in spite of this," Pastor Ivanov told Forum 18. "In the end, instead of registration of the land after almost a year and a half of attempts, we got a lawsuit to demolish our prayer house. Now we are attempting to defend our rights in court."

Ivanov lodged an appeal against the Administrative Code Article 7.1 fine on 30 August 2019 at Samara's Krasnoglinsky District Court. The Court has not yet set a date for when this will be considered.

Kaliningrad Region: Still no purpose-built mosque

Nearly six years after the authorities halted the construction of their cathedral mosque in December 2013, Muslims in Russia's western exclave of Kaliningrad still have no purpose-built place of worship of sufficient size in the entire Region.

No other plot of land has been granted in the city of Kaliningrad (where most of the Muslim population lives). In May 2019, bailiffs demolished a prayer house near the town of Chernyakhovsk after the municipal administration decided that it violated planning regulations.

"Discrimination against Muslims has acquired a systemic, consistent character in this region", lawyer Dagir Khasavov commented to Forum 18 on 19 August. "It has been elevated to the level of regional policy."

Khasavov also believes that the May 2019 demolition of the prayer house in Chernyakhovsk District (see below) had an ethnic dimension, that officials wish "to give a lesson to [ethnic] Russians who convert to Islam, like Artur (Abdurahman), that the authorities would not tolerate this".

Khasavov has now added the May 2019 demolition of the prayer house in Chernyakhovsk District to the appeal he lodged with the European Court of Human Rights (ECtHR) in Strasbourg in November 2014 on behalf of the Religious Organisation of Muslims of Kaliningrad (Application No. 75301/14). He intends to request that the ECtHR give the case priority treatment.

In December 2013, a court halted the construction of Kaliningrad city's first mosque when it was more than 60 per cent complete. (http://www.forum18.org/archive.php?article_id=1965) The Muslim community has been seeking to build a mosque since 1993 and city authorities have allocated and taken away eight different sites.

Prosecutors argued that the building encroached on the preservation zone around a cultural heritage site, despite the fact that the cited regional heritage protection law was not in force when work began. In April 2014, the municipal decrees which had permitted construction were ruled invalid and the Muslim community was deprived of its right of ownership of the unfinished mosque. Kaliningrad Regional Court rejected an appeal in June 2014. (http://www.forum18.org/archive.php?article_id=2024)

On 6 December 2017, Kaliningrad's Central District Court ruled that the Muslim community should be paid 66.3 million Roubles in compensation for the costs of cadastral registration, surveying, site preparation, supplies, and the employment of contractors.

As lawyer Khasavov points out, however, in his submission of additional materials to the ECtHR on 30 August 2019, this decision "neither directly nor indirectly states that the authorities violated the [Muslim community's] rights to a fair trial, freedom of thought, conscience and religion, [and] respect for property, and also allowed discrimination. This decision is drawn up in such a way that it does not recognise the existence of a violation of any rights of the [Muslim community]. It mentions only the need to compensate for losses (construction costs)."

Khasavov also notes that more than 22 million Roubles of the compensation remains unpaid as of the end of August 2019.

Also in December 2017, the city administration gave the Religious Organisation of Muslims of Kaliningrad free use of a disused workshop near the unfinished mosque, where prayers are now held.

"We disassembled and carried away the machines, made repairs, changed the windows, put in heating, installed speakers," Imam Irshat Khisamov told the kavpolit.com news website on 26 March 2018. The building can accommodate only 120 worshippers, while about a thousand attend Friday prayers. The rest must pray on wooden pallets in the yard, whatever the weather. "Instead of a spiritual lift and positive emotions, they get illnesses."

Khisamov added that, due to the lack of space, community leaders have asked women to stay home on Fridays (the community follows the practice of gender segregation during worship), "although there are many who want to come to the mosque".

In 2015, the city administration offered a site on Kaliningrad's ring road to a different Muslim organisation, Ikhsan, giving it a year to produce development plans. Ikhsan has sought two extensions to the deadline, and now has until 1 December 2019 to submit the necessary documentation. (http://www.forum18.org/archive.php?article_id=2328)

According to local media, this plot had previously been offered to and rejected as unsuitable by the Religious Organisation of Muslims of Kaliningrad. According to the cadastral register, the land in question still belongs to the Defence Ministry. It is unclear when or if mosque construction might begin there.

Ikhsan was registered to a residential address in Kaliningrad city on 22 April 2015, but is actually based in the village of Bolshoye Isakovo, which lies on the eastern outskirts of Kaliningrad but is formally in the Guryevsk District. Ikhsan is part of the Kaliningrad Regional Muslim Public Organisation "INAM", which in turn is part of the Moscow-based Spiritual Administration of Muslims/Council of Muftis, headed by Ravil Gainutdin.

The Religious Organisation of Muslims of Kaliningrad, on the other hand, is affiliated to the rival Ufa-based Central Spiritual Administration of Muslims of Russia, led by Talgat Tadzhuddinov. Ikhsan already has its own mosque in Bolshoye Isakovo, which was converted from a private house and opened in February 2010.

Chernyakhovsk: Prayer house demolished

Aware of the lack of space for worship, Muslim converts Artur Rusyayev and Irina Rusyayeva offered the Religious Organisation of Muslims of Kaliningrad a building for use as a prayer house. The building was on farmland they owned just south of the town of Chernyakhovsk, about 90km (55 miles) east of Kaliningrad. About 20 people would meet there regularly for Friday prayers and on Islamic holidays.

"As soon as we began to conduct services in the storehouse, the FSB and police began to conduct regular raids and provocations," Artur Rusyayev told Forum 18 on 11 September 2019. Chernyakhovsk's municipal administration decided that the building (and three others on the site) violated planning regulations. In September 2018, Chernyakhovsk City Court ordered that they be demolished.

On 22 May 2019, bulldozers tore down all four buildings. The demolition contractors, accompanied by bailiffs, armed state officials, and the head of the Chernyakhovsk administration, arrived two days before they had been expected, leaving Artur Rusyayev to run inside to rescue the Koran as a bulldozer approached.

Irshat Khisamov, head of the Religious Organisation of Muslims of Kaliningrad, called the demolition "barbarity" in comments to the New Kaliningrad news website.

Three days after the demolition, Rusyayev put up a banner at the site reading "This is what the authorities did to my family for accepting Islam".

Forum 18 wrote to the Chernyakhovsk administration on 25 August to ask why demolition had been deemed necessary, why such measures had been taken now when the building had stood on the site for several years, and whether the administration would allocate a land plot in a different location for the legal construction of a mosque. Forum 18 had received no reply by the end of the working day in Kaliningrad on 16 September.

Services were held in the makeshift prayer house for two and half years before the demolition, Rusyayev explained to Forum 18. "In Kaliningrad Region, even if you have all the [necessary] permissions, it is impossible to be sure that, under one pretext or another, they won't cancel their own permits."

As well as being taken to court over land law violations, Rusyayev was also charged on 15 March 2019 with "unlawful missionary

activity" under Administrative Code Article 5.26, Part 4 ("Russians conducting missionary activity").

Chernyakhovsk District Magistrate's Court No. 2 acquitted him on 11 June 2019 because the police report issued to Rusyayev differed from the one submitted to court (the location of the alleged offence was omitted on Rusyayev's copy, leading the judge to conclude that the copy in the case materials had been unlawfully "corrected" in the defendant's absence).

Chernyakhovsk: Demolition warning days after registration application

The Rusyayevs bought four plots between May 2012 and May 2014, intending to use them for farming, and by the summer of 2015 had constructed four buildings, which they say were "auxiliary structures" for agricultural activities (Rusyayev registered his farming enterprise in July 2016, according to federal tax records). They began inviting fellow Muslims to pray on the site at the end of 2016.

The Chernyakhovsk administration insists that these buildings were not "auxiliary", as the Rusyayevs claim, but "capital construction" (ie. permanent and substantial), for which a building permit must be sought, which the Rusyayevs did not do, and which in any case is not allowed in the land use zone in which the four plots lie ("agricultural land use within the boundaries of a settlement").

In court verdicts seen by Forum 18, the storehouse used for prayer is described as being carpeted, plastered, double glazed, and wired for electricity. The administration insisted that no evidence of agricultural activity was found during inspections, and argued that there was no main building to which the others could be "auxiliary".

Rusyayev claimed to New Kaliningrad news website on 27 May 2019 that the authorities showed no interest in the buildings on his and his wife's land before it became known that Muslims were using one of them as a worship space. He said he attempted to register a local religious organisation (Makhalla Irshad) using an address in Chernyakhovsk on 17 November 2017.

According to court documents, seen by Forum 18, prosecutors asked the Chernyakhovsk administration to carry out an inspection of the Rusyayevs' land plots on 20 November 2017, which the administration did on 22 November 2017. It then issued a warning on 24 November 2017 that the buildings were illegal and should be demolished or legalised.

When the Rusyayevs did not comply, the administration initiated a lawsuit to have the buildings declared "unauthorised structures", which Chernyakhovsk City Court upheld on 10 September 2018. The Rusyayevs unsuccessfully challenged the outcome in Kaliningrad Regional Court on 28 November 2018 and again on 21 February 2019. They then turned to the Supreme Court in Moscow, where their appeal was rejected without consideration on 15 April 2019 and again refused on 3 June 2019, after the buildings had already been demolished.

After Chernyakhovsk City Court upheld the administration's suit, Rusyayev wrote to the city administration asking that land for a new mosque be formally allocated. In his response of 12 November 2018, seen by Forum 18, administration head Sergei Bulychyov said that, according to the city's General Plan and the Rules for Land Use and Construction, the provision of prayer houses was "not foreseen". He added that "the opinion of the majority of citizens" would have to be sought before the building of any "non-Christian temples".

In comments to New Kaliningrad news website on 27 May 2019, Bulychyov explained the authorities' attention to the Rusyayevs' land in terms of Artur Rusyayev's "too active actions" (his earlier request to allow Muslim burials in a local cemetery, then to have a separate Muslim cemetery, "and so on"). This "led us to conclude that we should analyse the whole situation".

From an examination of all available court documents, the cadastral register, and planning documents and maps of the Svobodnenskoye Rural Settlement (within which the land plots lie), it appears that the Rusyayevs built on their land believing that its categorisation permitted certain construction, and later, believed they had the right to permit meetings for worship on their property under Article 16, Part 2 of the Religion Law. This states that "worship services [and] other religious rites and ceremonies" may be held unhindered on residential premises.

According to the cadastral register, three plots (including the one with the prayer house) were designated as being for "personal subsidiary cultivation/private farming/household plots" (lichnoye podsobnoye khozyaystvo), and one for gardening. The former category, according to the official classification of land uses in Russia, permits the construction of a residential house, a garage, and other auxiliary buildings, as well as agricultural activities.

According to the appeal verdict of 28 November 2018, Svobodnenskoye Rural Settlement confirmed this categorisation on 18 July 2014, but this directly contradicted the zoning regulations introduced by the Rules of Land Use and Construction and the General Plan for Svobodnenskoye on 31 January 2014. The appeal court therefore considered this an invalid argument.

According to these Rules, the Rusyayevs' plots lie within a "zone of agricultural land use within the boundaries of a settlement", where the only permitted uses are gardening, beekeeping, and pastoral farming, and no building is allowed apart from those used for

animals and the production and storage of agricultural products.

Chernyakhovsk: Officials' "very close attention" to religious organisations

After the administration lodged their suit at the city court on 24 April 2018, the Rusyayevs attempted to bring their property and the Muslim community's use of it into line with the law. They formally registered their ownership of three of the buildings on 27 April 2018 and had them entered in the cadastral register as "auxiliary structures", based on the conclusions of a cadastral engineer.

On 23 May 2018, a formal agreement of free use was signed by the Religious Organisation of Kaliningrad and Irina Rusyayeva (who owns the plot on which the prayer house stood).

Dismissing the Rusyayevs' claim that the buildings were there to serve and improve the land plots and were therefore "auxiliary", the court ruled that they should be removed from the cadastral register and declared "unauthorised structures", subject to demolition at the Rusyayevs' own expense. The Rusyayevs' right of ownership was annulled.

In arguing that the buildings were not "auxiliary", the administration pointed out in court that the storehouse used for worship was not used for any agricultural purpose. Judge Natalya Kovalchuk agreed that the Religion Law allowed that "Religious services, [and] other religious rites and ceremonies may be freely performed in religious buildings and structures and in the territories belonging to them, [and] in other places [mestakh] provided to religious organisations for these purposes", but concluded that "the non-residential premises built by Rusyayev, which he presents as auxiliary, cannot be used only for religious ceremonies, since they have a different purpose, and are not being used for peasant farming. Moreover, they cannot be transferred to use by third parties."

In comments to the New Kaliningrad news website on 27 May 2019, Kaliningrad lawyer Stanislav Solntsev pointed out the "obviously unpromising route" the Rusyayevs took to attempt to legalise their property. Firstly, construction was in fact barred by the Land Use and Development Plan, and secondly, "even if we assume that the original goal was still the construction of auxiliary buildings for agricultural activities .. then the chance to register buildings as auxiliary, if there is no main building, tends to zero".

That the prosecutor's office requested an inspection just three days after Rusyayev's appointment as chair of Makhalla Irshad "testifies to the very close attention of state officials to religious organisations. On the one hand, we can only rejoice that the prosecutor's office is responding so quickly, and on the other, we are aware that such attention is clearly connected with religious activity, while there are many situations where the prosecutor's office should conduct inspections and intervene more actively in compliance with the rule of law".

The Rusyayevs are now liable for the 194,000-Rouble cost of the demolition. This is equivalent to about eight months' average local wage for an individual in formal work.

They have lodged a lawsuit against the bailiffs' service at Chernyakhovsk City Court, asking that both the demolition and the demand for payment be ruled unlawful. The first hearing took place on 5 September, with the next due on 26 September.

"We have also filed a complaint with the regional investigative committee against [administration head] Sergei Bulychyov for prejudice against people who profess Islam and for inciting religious hatred by demolishing the mosque and creating all kinds of obstacles to the allocation of land for an Islamic cemetery". (END)

Full reports on freedom of thought, conscience and belief in Russia
(<http://www.forum18.org/archive.php?query=&religion=all&country=10>)

For more background see Forum 18's survey of the general state of freedom of religion and belief in Russia (http://www.forum18.org/archive.php?article_id=2246), as well as Forum 18's survey of the dramatic decline in this freedom related to Russia's Extremism Law (http://www.forum18.org/archive.php?article_id=2215).

A personal commentary by Alexander Verkhovsky, Director of the SOVA Center for Information and Analysis
<http://www.sova-center.ru>, about the systemic problems of Russian anti-extremism legislation
(http://www.forum18.org/archive.php?article_id=1468)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments
(http://www.forum18.org/archive.php?article_id=1351)

Follow us on Twitter @Forum_18 (http://twitter.com/forum_18)

Follow us on Facebook @Forum18NewsService (<http://www.facebook.com/Forum18NewsService>)

All Forum 18 text may be referred to, quoted from, or republished in full, if Forum 18 is credited as the source.

All photographs that are not Forum 18's copyright are attributed to the copyright owner. If you reuse any photographs from Forum 18's website, you must seek permission for any reuse from the copyright owner or abide by the copyright terms the copyright owner has chosen.

© Forum 18 News Service. All rights reserved. ISSN 1504-2855.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY