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RUSSIA: Building, retaining places of worship obstructed

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

Problems caused by the authorities for non-state favoured communities attempting to build new places of worship can include demolition if a mining company wants the land, repeated refusal to legalise land claims, and the withdrawal of building permission while construction is underway.

Disputes over religious property – whether over acquisition, retention, or restitution – remain unresolved in many parts of Russia, Forum 18 notes. Problems caused by the authorities for communities attempting to build new places of worship can vary between repeated refusal to legalise claims to land, to the withdrawal of building permission while construction is underway.

This often leaves religious communities with no dedicated space in which to exercise their right to meet for collective worship. Attempts to acquire such a place of worship can also cost communities a great deal of money and effort, which many local religious organisations can ill afford (see below).

Even when a place of worship has been completed or has been in use for many years, local authorities may decide to confiscate the building or even demand that it be demolished. For example, a Buddhist monastery in the Urals founded in 1995 is facing demolition after a large mining concern decided in 2007 that it wanted to mine iron ore on the monastery's land. The demolition is threatened even though the government in 2002 stated that the monastery site is outside the workable iron ore deposit. The Buddhists wrote that: "We, a group of enthusiasts, are up against the huge monetary echelon of the EVRAZ Group .. The money machine is moving, subjugating everyone: people, the state, and the law" (see below).

Even the possession of fully approved written decrees of land allocation and building permission does not mean that a place of worship will be completed. For example, Muslims in Kaliningrad have been struggling since 1993 to build a mosque. They have faced repeated obstruction, including an order in 2013 for them to stop construction of a 60 per cent complete mosque and deprivation of their ownership rights to the site. The community has gone to court to gain compensation for its financial losses, and has appealed to the European Court of Human Rights in Strasbourg against the city administration's blocking of its mosque (see below).

Such problems can lead an entire religious community to decide not to try to build any places of worship anywhere in Russia. The Society for Krishna Consciousness has decided that it will not attempt to build any more Hare Krishna temples in Russia. This follows Moscow city government's unilateral termination of the lease on the Society's former site on which it was building a temple. The Society has also failed in its attempts to gain legal compensation for the multiple problems on several sites and very large financial expenditure the city government has caused it. Hare Krishna devotees are now worshipping in rented accommodation (see below).

Problems may arise at any point in the process of establishing a place of worship – the allocation of a site by the authorities, the securing of planning permission, the construction itself – and even afterwards. Objections from residents – even from those who do not live near the proposed construction – can be among official reasons to deny building permission or suspend or halt construction of a place of worship. This is especially the case with non-state-favoured religious communities (see Forum 18's general Russia religious freedom survey http://forum18.org/archive.php?article_id=2246).

Demolition threat to Shad Tchup Ling Buddhist monastery

Contractors will demolish Shad Tchup Ling Buddhist Monastery near the Urals town of Kachkanar this coming winter, Sverdlovsk Region bailiffs announced in September. The demolition has been delayed on several occasions because of the Buddhists' refusal to move from their mountainside site, and because of a lack of funds in the regional budget.

The community was founded by Afghan War veteran Mikhail Sannikov (also known as Lama Sanya Tenzin Dokshit) on Kachkanar mountain because he believed the site to be a holy place. It has operated since 1995. Since then, the complex has expanded to include living quarters for the eight permanent residents and the many pilgrims and visitors they receive, a kitchen and banya, two stupas (structures used for meditation and prayer), and a statue of the Buddha. Despite the demolition threat, it is still operating.

The demolition threat stems from the wish of the Kachkanar Mining and Processing Combine (KGOK) to mine iron ore on the site. KGOK is part of the EVRAZ Group part-owned by Roman Abramovich, and already operates three large open-cast pits in the area. "We consider this a blatant violation of civil rights", the Buddhists wrote in an open letter to then-President Dmitry Medvedev and then-Prime Minister Vladimir Putin in January 2012. "We, a group of enthusiasts, are up against the huge monetary echelon of the EVRAZ Group .. The money machine is moving, subjugating everyone: people, the state, and the law".

Multiple attempts to legalise use

The authorities consider that the monastery, which was built without formal permission on federally owned land, is illegal, although the Buddhists have tried several times to legalise their use of the site. Buddhists registered a local religious organisation – the Buddhist Centre of the Diamond Way of the Karma Kagyu School – in Kachkanar in 2001. This changed its name to "Abode of the Buddha" in 2003. There followed multiple attempts to transfer the monastery site legally into free use by the community – in 2002, 2004, 2009, and 2011. Russian law does allow such transfers, but all the requests were deflected or ignored (though not explicitly refused) by the local and regional authorities.

As part of the first attempt, the Buddhist Centre requested clarification of the geological situation from the Department of Natural Resources for the Urals Region. The Department's response, dated 14 May 2002 and seen by Forum 18, confirms that the monastery's site "falls outside (200-300m) the contour used to calculate the balance reserves [ie. what is economically mineable] of the Kachkanar iron ore deposit".

But when EVRAZ KGOK began to exhaust nearby ore reserves, it sought permission to mine Kachkanar mountain and was granted a license in 2007. This covered an area "unjustifiably larger" than the actual deposit, the Buddhists told the Nakanune.ru news website on 2 November 2016.

Forum 18 asked the Forestry Department and the Regional Ministry of Natural Resources why the monastery site was considered necessary to EVRAZ KGOK's work, given that it lies outside the bounds of the mineable ore deposit. Forestry Department Director Oleg Sandakov reiterated the conclusions of a court case against Mikhail Sannikov ordering him to clear the site by October 2015 (see below). The question of whether there was ore beneath the monastery, he added on 24 October 2017, came within the competence of the Ministry of Natural Resources. The Ministry responded to Forum 18's request for clarification on 25 October, saying that it had been passed on for consideration by the Urals Department for Subsoil Use and the Sverdlovsk Region Ministry for Industry and Science.

Why the delay in legalising Buddhists' land use?

When the monastery community made its final effort to gain legal free use of the site, in 2011, Kachkanar city administration told them that it had no responsibility for the land, and that they should apply to the Regional Forestry Department. The Forestry Department told the Buddhists they should apply to the city authorities.

Forum 18 asked the Forestry Department why the matter of legalising the Buddhists' claim to the site had been passed backwards and forwards between it and the Kachkanar administration. Legal specialist Yekaterina Druzhinina replied on 25 October that "the organisation was provided with an alternative option", supplying court documents which indicate a formal agreement between the Forestry Department and the "Way of the Buddha" local religious organisation dating from 18 August 2014. This agreement allows 49 years' free use of another site.

It is unclear how "Way of the Buddha" (registered in December 2013 in Nizhny Tagil, over 100 kilometres or 60 miles from Kachkanar) is related to the (unregistered) "Abode of the Buddha" monastery community. Druzhinina told Forum 18 that she did not know the answer to this question.

Buddhists ordered to leave monastery

In December 2011, the Kachkanar Prosecutor's Office and Sverdlovsk Region Forestry Department conducted an inspection of the monastery and concluded that it was illegally occupying the land. The Buddhists were ordered to vacate the site within one year.

The Kachkanar Municipal Inspectorate for Land Use and Protection took the "Abode of the Buddha" local religious organisation to court in January 2013 for not obeying instructions to leave. Kachkanar Magistrate's Court No. 2 issued a fine of 10,000 Roubles under the Code of Administrative Offences' Article 19.5, Part 1 ("Non-fulfilment in due time of the lawful instructions of an official exercising state supervision of the elimination of legal violations"), which was upheld on appeal in February 2013.

When the Buddhists still did not leave the mountain, the Sverdlovsk Regional Arbitration Court upheld a suit by the Forestry Department and ruled on 19 March 2013 that they had to vacate the "illegally occupied plot of land" and demolish the buildings at their own expense. This decision was also upheld on appeal at the 19th Arbitration Court in Perm on 3 June 2013.

On 5 June 2013 the committee of "Abode of the Buddha", which had been the defendant in these court cases, decided to dissolve the organisation.

Agreement, then "mutual understanding" lost

Sverdlovsk Regional Administration held meetings in March and July 2014 between the monastery community, EVRAZ, and the Forestry Department. All parties agreed that a new site should be allocated on the nearby Mokhnatka mountain, and the monastery given help to move. This should include an access road built by EVRAZ.

At the same time the Forestry Department initiated a court case against monastery founder Mikhail Sannikov, as "Abode of the Buddha" had self-liquidated. This case attempted to make him demolish the monastery at his own expense. On 25 August 2014 Kachkanar City Court upheld the suit and the ruling came into force on 2 October 2014, thus obliging Sannikov to clear the site by 2 October 2015.

As a result, "mutual understanding" was lost, the Buddhists told Nakanune.ru on 2 November 2016, and the question of moving became "mired in bureaucratic inconsistencies".

Forum 18 asked the Forestry Department whether the monastery would be expected to pay for its own destruction and whether the community would receive help with moving to a new site. Apart from noting that Sannikov is legally obliged to demolish and clear the monastery, the Forestry Department did not directly answer these questions.

Sverdlovsk Region Bailiffs announced several new deadlines for the demolition throughout 2016 and 2017, all of which have so far been postponed. Monastery founder Sannikov has refused to dismantle the monastery, local tourism experts have pointed out that destruction would damage the region's image, and in February 2016, supporters organised a change.org petition addressed to EVRAZ GOK and President Putin. This gathered more than 4,000 signatures in less than a week. Shortly afterwards, Sverdlovsk Regional Administration ordered demolition postponed for the first time. It also became apparent that the regional budget cannot cover the estimated 1.5 million Rouble cost of the work.

"While there is no road, nobody is moving anywhere"

By October 2017, EVRAZ has still not built the access road to the new site, and the Forestry Department has not granted the right to fell trees. "While there is no road, nobody is moving anywhere", monastery founder Sannikov told the Federal Press news website on 2 October.

Bailiffs are currently awaiting federal funding to cover the costs of dismantling and removing the monastery buildings, senior Sverdlovsk Region bailiff Sergei Pomeshchenko told the TASS-Ural news agency on 15 September. The work will then be put out to tender, with the intention that it be completed over the winter months, when the monastery site, to which there is no road, is more accessible.

When Federal Press asked monastery founder Sannikov what he would do if the bailiffs came to expel him, he replied "Nothing. A person cannot be forced to do what he doesn't want to do. If I left, it would mean that I agree with this. And I do not agree".

In a case with some similarities, Moscow city officials demolished a completed place of worship with no warning on the night of the 5/6 September 2012, when workers with mechanical diggers destroyed the Holy Trinity Pentecostal Church (see F18News 6 September 2012 http://www.forum18.org/archive.php?article_id=1738). The community then had to worship as three separate congregations in different locations. They later obtained another piece of land, and began building again in 2014. The new Holy Trinity Church was opened in November 2015.

Kaliningrad mosque

Even the possession of written decrees of land allocation and building permission does not mean that a place of worship will be completed.

In Kaliningrad in December 2013, a court halted the construction of a mosque (the first in Kaliningrad city) when it was more than 60 per cent complete. The Muslim community has been seeking to build a mosque since 1993 and has had eight different sites allocated and taken away by city authorities (see F18News 5 June 2014 http://www.forum18.org/archive.php?article_id=1965).

Prosecutors claimed in December 2013 that the mosque 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 building work began. In April 2014, the municipal decrees which had permitted construction were ruled invalid and the Muslim community deprived of its right of ownership of the unfinished mosque. Kaliningrad Regional Court rejected an appeal in June 2014, and the community subsequently appealed to the European Court of Human Rights in Strasbourg (Application no. 75301/14) (see F18News 16 December 2014 http://www.forum18.org/archive.php?article_id=2024). As of 26 October 2017 no decision on the admissibility of the case has yet

been made, according to the ECtHR website.

Compensation claim

The Religious Organisation of Muslims of Kaliningrad is now taking the city administration to court in an attempt to recoup some of its costs. According to the compensation claim, seen by Forum 18, the community spent nearly 98 million Roubles on the mosque project – on cadastral registration, planning and surveying work, the preparation of the site, the purchase of building supplies, and the employment of contractors.

At the first full hearing of the suit on 19 September 2017, the city administration recognised the validity of the Muslim community's claims, but disputed the requested sum. Judge Vladimir Elzesser adjourned proceedings for a month so that more documents on the design and cost of the mosque could be submitted.

According to the New Kaliningrad news website's report of the second hearing on 25 October, the Muslim community has revised its claim to 85 million Roubles, while the city administration asserts that the damages amount to only 60 million Roubles. Judge Elzesser will now examine the additional documentation before the next hearing on 16 November at the city's Central District Court.

Another new mosque site?

The Religious Organisation of Muslims' small rented premises do not offer enough space for Islamic celebrations, and so hundreds of men continue to gather in streets and parks for Eid prayers.

The city administration has offered a site for a mosque on the outskirts of Kaliningrad, but to a different Muslim organisation, Ikhsan. According to Federal Tax Authority records, Ikhsan was registered on 22 May 2015 at an address in an apparently residential building in north-west Kaliningrad.

Ikhsan is actually based in the village of Bolshoye Isakovo, which is on the eastern outskirts of Kaliningrad but formally lies in the neighbouring Guryevsk District. The website of the Spiritual Administration of Muslims of the Russian Federation (DUMRF) notes that Ikhsan was registered in 2011 in Guryevsk District. Ikhsan already has its own mosque in Bolshoye Isakovo (the first in the region), which was converted from a private house and opened in February 2010.

The Religious Organisation of Muslims of Kaliningrad was originally registered in 2001, having grown out of a community first established in 1991. It is the oldest registered Muslim organisation in the region, and as noted above has been seeking to build a mosque within the city of Kaliningrad since 1993.

"Ikhsan is a new organisation which has been artificially created by the administration and has nothing to do with the Religious Organisation of Muslims [of Kaliningrad]", the Religious Organisation of Muslims' lawyer Dagir Khasavov commented to Forum 18 on 20 October. "As soon as they were established out of the pockets of officials, they were given land".

Vladimir Abramov, head of the Department for Analytics, Monitoring, and Public Relations, and Galina Varfolomeyeva, chair of the administration's Legal Committee, told Forum 18 on 20 October that the city had granted the land on 6 July 2015 to Ikhsan for the construction of "a building of religious and philanthropic purpose". Under this preliminary agreement, Ikhsan had to survey the site, produce a development plan, and obtain planning permission within a year. Ikhsan requested and was granted two extensions, but did not submit any plans by the latest deadline of 30 August 2017. Nevertheless, the city administration has extended the agreement again to 1 December 2019.

According to local media, the new plot was originally offered to the Religious Organisation of Muslims of Kaliningrad, but Chair Irshat Khisamov thought it unsuitable. "It's a swamp, and there are no utilities. It's also far away – it will be inconvenient for believers to get there", he told the Land of Kaliningrad news website on 15 December 2016. But Ikhsan Chair Yaver Guseynov called the site "not bad" in comments to the same publication, and thought its distance from residential areas will be an advantage as "the mosque will not disturb anybody".

Kaliningrad synagogue under construction

Kaliningrad's Jewish Community was also forced – in March 2014 – to halt construction of a synagogue as the city administration claimed it (like the mosque) lay within the preservation zone of a cultural heritage site (see F18News 16 December 2014 http://www.forum18.org/archive.php?article_id=2024). But in subsequent arbitration court proceedings in January 2015, the judge obliged the city authorities to give the Jewish community a long-delayed building permit. Work on the synagogue is now well underway and it is hoped will be completed in 2018. In May 2017 the city also granted permission for an adjoining hotel.

No more Hare Krishna temples in Russia

The Society for Krishna Consciousness has abandoned plans to build more places of worship in Russia at present, lawyer Mikhail

Frolov told Forum 18 on 14 October. "We are not building temples in the traditional Indian style now, because it is very difficult to get permission. After the fiasco with our temple in Molzhaninovo District [in Moscow], we do not undertake such projects".

Despite having already consecrated the site and prepared it for construction, Hare Krishna devotees were unable to proceed with building their new temple when the Moscow Property Department unilaterally terminated their lease in the summer of 2013. This was the latest obstruction the community faced in its long-running struggle to build a temple (see F18News 16 December 2014 http://www.forum18.org/archive.php?article_id=2024). The Society for Krishna Consciousness was unsuccessful in attempting to have the lease termination and building permit refusal overturned. Its final appeal to the Supreme Court was dismissed without consideration on 25 May 2015.

The Moscow authorities have not offered any alternative site, community lawyer Frolov told Forum 18 on 16 October. When Forum 18 asked the Moscow Mayor's Office on 16 October whether a new plot of land had been allocated for the construction of the temple, and if not, when a decision would be made and where the plot might be located, a press service spokesperson said that the request should be submitted in official written form. Forum 18 sent this by email the same day, but has received no response by the end of the Moscow working day on 26 October.

The Moscow Hare Krishna community is currently renting premises for worship, lawyer Frolov told Forum 18. They have experienced no problems with this, although the space is limited.

No compensation

Hare Krishna devotees have not received any compensation for their significant financial losses. Courts have refused to make the authorities compensate the Society for the approximately 73 million Roubles it had spent on the project to build a temple in Molzhaninovo District. The Supreme Court rejected the final appeal in this suit without consideration on 24 June 2016.

The Society has also unsuccessfully sought compensation of 25.8 million Roubles, plus 1 million Roubles in moral damages, for the loss of its previous temple near the Dinamo metro station. The community had to vacate this building in early 2014 after a court ordered its eviction, and it was later demolished (see F18News 11 September 2013 http://www.forum18.org/archive.php?article_id=1874).

Moscow City Arbitration Court, 9th Arbitration Appeal Court, and the Moscow District Arbitration Court all refused the suit brought against the Government of Moscow and the Northern Administrative District). The Supreme Court eventually dismissed it without consideration on 8 September 2017. (END)

For more background see Forum 18's surveys of the general state of freedom of religion and belief in Russia at http://www.forum18.org/Archive.php?article_id=2246, and of the dramatic decline in this freedom related to Russia's Extremism Law at 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, is at F18News 19 July 2010 http://www.forum18.org/Archive.php?article_id=1468.

A personal commentary by Irina Budkina, Editor of the <http://www.samstar.ucoz.ru> Old Believer website, about continuing denial of equality to Russia's religious minorities, is at F18News 26 May 2005 http://www.forum18.org/Archive.php?article_id=570.

More reports on freedom of thought, conscience and belief in Russia can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=10>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

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