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## RUSSIA: Increasing land use fines "a lottery"

By Victoria Arnold, Forum 18

*The number of fines for meeting for worship on land not designated for religious use (such as in homes) has increased sharply from 2016. One lawyer compared the legal situation to fining a driver whose passengers drink tea because a road is not designated for drinking tea.*

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. 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 who has defended those punished described the inspections and punishments to Forum 18 as "a lottery".

Another 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]" (see below).

So far only a small number of freedom of religion and belief-related fines has been imposed for not using land plots for their designated purpose, but the numbers of such fines have been increasing sharply from 2016 (see below).

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 (see below).

The Federal Service for State Registration, Cadastre, and Cartography (Rosreestr) fines both individuals and religious organisations for conducting or allowing worship on land which has been assigned residential uses and not religious use. This is despite the fact that the Religion Law permits such exercising freedom of religion and belief on residential premises and in buildings owned by religious organisations (see Forum 18's general Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2246](http://www.forum18.org/archive.php?article_id=2246)).

The land use problems religious communities face stem from unclear and sometimes contradictory legal provisions, recent restrictive legal changes such as those in July 2016, and increasing scrutiny of some religious communities by state officials (see Forum 18's general Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2246](http://www.forum18.org/archive.php?article_id=2246)).

Some of those fined manage to overturn the punishments on appeal, if they have access to the necessary legal and financial resources, but others end up paying large sums and facing the possibility of having to stop meeting to exercise their freedom of religion and belief (see below).

Not the only inspections

Rosreestr checks places used for worship for compliance with land legislation, but religious communities also face inspections by the police, the FSB security service, and prosecutors' office officials, often for "extremist activity" and "extremist" literature. These checks may lead to prosecution for a variety of alleged offences (see below).

This can include prosecution under the unclearly worded and wide-ranging "anti-missionary" Administrative Code Article 5.26. For example, Part 3 of this article punishes the "Implementation of activities by a religious organisation without indicating its official full name [e.g. on a building], including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label" (see Forum 18's general Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2246](http://www.forum18.org/archive.php?article_id=2246)).

Prosecutions can also be brought under Administrative Code Article 20.29 ("Production or mass distribution of extremist materials included in the published Federal List of Extremist Materials, as well as their production or storage for mass distribution") (see Forum 18's "extremism" Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2215](http://www.forum18.org/archive.php?article_id=2215)).

Number of fines increasing

Thirty four fines specifically related to land use for religious purposes are known to have been imposed between the beginning of 2012 and the end of 2017. The frequency rose markedly in 2016, with a further increase in 2017, particularly in Rostov Region in southern European Russia.

Such fines are difficult to monitor, as fines under Administrative Code Article 8.8, Part 1 ("The use of a land plot not for its intended purpose in accordance with its belonging to a particular land category and/or authorised use") are imposed not by courts, but by Rosreestr directly. Cases appear in court records only if an individual or community appeals.

Forum 18 asked Rosreestr in writing on 1 February:

- why it fines individuals and communities for meeting for worship in homes when the Religion Law allows such meetings;
- why the number of such fines has increased sharply;
- and whether individuals and communities have to stop meetings for worship in homes to comply with the law.

Rosreestr's Rostov Region branch replied to Forum 18 on 9 February with general observations on land law and a denial that it violates the rights of religious associations. The head of Rosreestr in Moscow has not responded as of the end of the working day in Moscow on 20 March.

In 2017, "something happened in the minds of state structures.."

"Instances of prosecution are growing exponentially," lawyers Vladimir Ozolin and Olga Bratishcheva wrote in an article on the Pentecostal Union's website, cef.ru, on 29 September 2017. They encouraged member churches to seek legal advice whenever Rosreestr carries out an inspection.

Ozolin told Forum 18 on 14 March 2018 that such fines amounted to a "mass wave", and the Pentecostal Union's legal department was receiving ever more requests for help.

"Last year [2017], something happened in the minds of state structures, which began to make claims about the use of houses for worship," Seventh-day Adventist lawyer Vasily Nichik told Forum 18 on 6 February. "I am glad that this has not yet become a large-scale Russia-wide action, but it is causing serious fears." He noted that the security services have initiated inspections and opened administrative investigations "in many regions and cities".

"Since the law gives permission to conduct worship services in residential buildings, officials instead claim the land is being misused," Nichik added. "This 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]."

## Punishments

Administrative Code Article 8.8, Part 1, punishes "The use of a land plot not for its intended purpose in accordance with its belonging to a particular land category and/or authorised use".

If the land has been valued, individuals may be fined between 0.5 and 1 per cent of its value, officials may be fined between 1 and 1.5 per cent of its value, and organisations may be fined between 1.5 and 2 per cent of its value.

If the land has not been valued, the fines stand at 10,000 to 20,000 Roubles for individuals, 20,000 to 50,000 Roubles for officials, and 100,000 to 200,000 Roubles for organisations.

20,000 Roubles is currently (March 2018) about two weeks' average wages for those in formal work. 200,000 Roubles is currently over five months' average salary for those in formal work.

These fines can be a considerable burden, especially for individuals on low incomes (such as pensioners), smaller religious associations with no support from a larger association, or for religious groups. In addition to any fine, an appeal incurs legal costs. Even if a fine is overturned, Rosreestr may challenge the judge's ruling, setting off a chain of re-examinations and further appeals which may take months and still not end in the defendant's favour. This results in increased legal costs for any defendant, with no guarantee that these costs can be reclaimed even if the appeal is successful.

Churches "do not profit from their activities", Pentecostal Union lawyer Ozolin commented to Forum 18 on 14 March. "They exist and develop through donations. The payment of a heavy fine is often overwhelming. Money that could be channelled to the needy

goes to pay fines for administrative offences."

In 2017, after a scheduled inspection, Rosreestr's Udmurt Republic branch fined Lyudmila Ivantsova 10,000 Roubles for allowing Banner of Love Pentecostal Church to hold weekly services in one room of a house she owns in the village of Igra. On 12 July 2017, Judge Anastasiya Kasatkina of Igra District Court agreed with the defence argument that meetings for worship are permitted on residential premises and overturned the fine. Rosreestr, however, appealed to the Supreme Court of the Udmurt Republic on 4 September and won a re-examination of the case, which took place at the district court on 23 October. This time, a different judge upheld Ivantsova's fine. Her subsequent appeal to the Republic's Supreme Court was unsuccessful on 22 November.

Similarly, Oleg Leshchenko, who owns the house in the Rostov Region town of Volgodonsk where the Rebirth of the Don Missionary Society of Evangelical Christians holds its thrice-weekly services, was fined 10,000 Roubles after a scheduled Rosreestr inspection. His initial appeal to Volgodonsk District Court on 20 June 2017 was unsuccessful, but his cassational appeal to Rostov Regional Court on 15 August saw the case returned for re-examination. The district court overturned Leshchenko's fine on 14 September, but Rosreestr then also appealed to the regional court on 21 November. The case was sent back for re-examination a second time, and Leshchenko's fine was eventually upheld on 25 January 2018.

Further consequences vary. "They may just fine and forget," Society for Krishna Consciousness lawyer Mikhail Frolov told Forum 18 on 6 February. "Nobody has forbidden praying as such – only the designation of the land needs to be changed. And whether this is changed, they may never check again."

### Consequences

A prosecutor's office may also formally demand that an individual or community eliminate all violations of the law and provide notification in writing of having done so. "In this case, if [violations] are not eliminated, then there will already be grounds for a charge of non-compliance with the prosecutor's legal requirements," Frolov explained to Forum 18.

"This is much worse. In such cases, believers have no choice but to stop [meeting]. From colleagues, I heard that in Rostov .. where there is no way to change the designation of the land plot, the buildings are going to be sold."

Religious communities are not explicitly obliged to stop worshipping at a particular address, but may feel they have little choice. Hare Krishna lawyer Frolov acknowledged that no Hare Krishna communities had been forced to halt their meetings. "In our case in Rostov, just in case, they got scared and stopped, but everything ended well there," he noted.

Asked by Forum 18 what a religious community must do to "eliminate a violation" under Article 8.8, Part 1 ("The use of a land plot not for its intended purpose in accordance with its belonging to a particular land category and/or authorised use"), Marina Marukhlenko, deputy director of Rosreestr in Rostov Region, responded: "It is necessary to bring the legally established use of the land plot into line with its actual use. This applies to religious associations as it does to any other landowner [right-holder, pravoobladatel]."

The impact of punishment under Article 8.8, Part 1, may not always be tangible. "The consequences for churches and parishioners are very unflattering," Pentecostal Union lawyer Vladimir Ozolin remarked to Forum 18 on 14 March.

"To be found guilty of committing an offence for a Christian means that they committed a misdemeanour that does not correspond to Christian values. They are considered to be a lawbreaker. This is especially important for a pastor, as he preaches Christian values and encourages believers to observe the law, and certain norms and rules, while he himself is an 'offender'."

Ozolin stressed that Pentecostal Union Churches carry out their activities openly. "All services are conducted publicly, nobody is hiding from anyone anywhere," he told Forum 18. "Laws are honoured and respected. Religious services in residential premises located on the corresponding land plots will be terminated only if a direct ban is established by law."

Many religious communities unable to gain land for place of worship

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 (see F18News 26 October 2017 [http://www.forum18.org/archive.php?article\\_id=2328](http://www.forum18.org/archive.php?article_id=2328)).

Many religious communities cannot acquire their own places of worship, which forces them to use residential or commercial property for their meetings. The Land Code and associated articles of the Administrative Code are intended to prevent abuses by landowners, such as exceeding building height regulations or using land for purposes unsuitable to a residential area. When land use restrictions come up against the mass of confusing legislation which regulates where religious communities are allowed to meet for religious purposes, communities' rights to meet for worship can be threatened.

The Land Code allows the authorities to grant religious organisations free use of state-owned land for the construction of places of

worship. Once a religious building is finished, ownership of the land plot may be transferred to the religious organisation. It is rare, however, for this to happen in the case of so-called "non-traditional" religions, such as the Baptists, independent Protestants, and the Society for Krishna Consciousness. It is difficult for such communities to gain designation of land for the construction of a place of worship, and even when this is granted it may be withdrawn in the course of construction (see Forum 18's general Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2246](http://www.forum18.org/archive.php?article_id=2246)).

"Today, religious associations have dozens, if not hundreds, of prayer houses and religious buildings located in private houses and residential complexes and on dacha plots," Igor Yanshin and Yevgeny Shestakov wrote on the Svoboda Verit (Freedom to Believe) website on 1 February.

Many places of worship are built on land designated for residential use, Adventist lawyer Vasily Nichik told Forum 18, including up to 90 per cent of Protestant places of worship. "The houses were built as residential houses, because many combine a residential part, in which the minister of the religious association lives, and a house church," he explained.

"It is precisely because of the majority of religious associations' lack of dedicated religious buildings on specially designated land that legislators introduced the provision, in Article 16, Part 2 of the Religion Law, on the possibility of conducting worship services, rites, and ceremonies unhindered on residential premises."

Religious groups cannot buy or rent property on their own behalf, or have it legally transferred to them, because they are not legal entities. They therefore rely on their members providing space for worship, which is almost invariably in residential or commercial premises. These meetings must be declared to the authorities (see Forum 18's general Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2246](http://www.forum18.org/archive.php?article_id=2246)).

Who imposes penalties?

Local branches of the Federal Service for State Registration, Cadastre, and Cartography (Rosreestr) conduct inspections and issue fines for breaches of land law without having to go to court. Individuals and organisations may then challenge their fines at the district court level. As noted above, however, making such an appeal can impose a considerable burden on individuals and smaller religious communities.

Rosreestr carries out scheduled land inspections throughout the year. Details of such inspections are usually available in advance on its website. They also undertake unscheduled inspections, usually triggered by a request from another state agency. Several of the Article 8.8, Part 1 ("The use of a land plot not for its intended purpose in accordance with its belonging to a particular land category and/or authorised use") cases found by Forum 18 were initiated when prosecutor's office officials contacted Rosreestr after conducting inspections of their own.

Rosreestr does not itself appear to be systematically targeting religious communities. Its scheduled inspections cover land belonging to both private citizens and all types of legal entity (government bodies, NGOs, state enterprises, private businesses, individual entrepreneurs), with religious associations and their members making up only a small percentage. Many religious organisations incur no penalty after such inspections.

"Rosreestr is a state body authorised to conduct this category of case," lawyer Vladimir Ozolin explained to Forum 18 on 15 March. "However, a case may be initiated by the prosecutor and then transferred to Rosreestr. It is obliged to respond to any information regarding violations of land use regulations coming from other government agencies, and therefore, in certain cases, it can be a convenient tool for exerting administrative pressure on religious organisations."

Of the 34 cases examined by Forum 18, 13 were initiated after other agencies, usually prosecutor's offices, alerted Rosreestr to a possible violation. A further five arose from unscheduled Rosreestr inspections for which the reasons are not given in the court verdicts. Nine cases derived from scheduled inspections. The nature of Rosreestr's inspections in the other six cases is unclear.

The use of land not for its designated purpose is "the most widespread violation of land legislation", Marina Marukhlenko, acting director of Rosreestr in the Rostov Region, told Forum 18 on 9 February. "Observance of the land legislation of the Russian Federation is the obligation of every citizen," she insisted. Rosreestr "does not limit religious associations in the carrying out of rites, services, and other ceremonies".

Who is fined?

Individuals may receive fines for allowing religious organisations or religious groups to worship in houses which they own, regardless of whether the whole building is used or just one room.

Registered religious organisations (and their leaders) may also be punished for holding services in residential or commercial property which they own.

Religious groups cannot themselves be the subject of an Article 8.8, Part 1 ("The use of a land plot not for its intended purpose in accordance with its belonging to a particular land category and/or authorised use") case, as they are not legal entities, but their members and leaders can be fined as individuals. Religious groups are under particular pressure because, since July 2015, they have had to inform the state of their existence and provide the names and addresses of all their members, as well as addresses where any meetings take place (see Forum 18's general Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2246](http://www.forum18.org/archive.php?article_id=2246)).

## Statistics

In an analysis of available appeal court records, Forum 18 found 34 fines issued to religious believers and communities under Administrative Code Article 8.8, Part 1, in 13 different regions of Russia. The southern Rostov Region saw the highest number, with 16 cases. The figures show a sharp increase in the imposition of such fines in recent years, with only four between 2012 and 2015, followed by seven in 2016 and 23 in 2017 (see below).

Nine of the cases known to Forum 18 involved registered religious organisations, while a further seven punished official representatives of religious organisations (subject to higher fines than ordinary citizens). The rest involved private individuals, including some leaders of religious groups.

Religious affiliations were as follows: Baptist – 7 cases (from five investigations); Jehovah's Witnesses – 7 (from six investigations – all from before the nationwide ban on their activities); Church of Jesus Christ of Latter-day Saints (commonly known as the Mormons) – 5 (from three investigations); Protestant – 5; Seventh-day Adventist – 2; Hare Krishna – 2; Muslim – 2; Presbyterian – 1; Salvation Army – 1; unknown – 2.

Seven initial appeals were successful, although one fine was later reinstated by a higher court. A further five fines were overturned at the cassational level at regional courts, but again, two of these were upheld at a later stage. In three cases no initial appeal is known to have taken place.

Judges appear to disagree over whether the provisions of the Religion Law free a defendant from responsibility under Administrative Code Article 8.8, Part 1 ("The use of a land plot not for its intended purpose in accordance with its belonging to a particular land category and/or authorised use"). "Obviously, opinions differ," Hare Krishna lawyer Frolov commented to Forum 18 on 6 February. "As long as there is no clarification at the level of the Supreme Court, it will be a lottery."

Pentecostal Union lawyer Vladimir Ozolin added to Forum 18 on 14 March: "As in most cases of state officials' practice, courts have two positions: some acquit, others convict. As for what is behind this – it remains only to make assumptions, but there is no unequivocal answer."

This pattern of legal uncertainty and inconsistent court decisions parallels the pattern of court decisions involving other freedom of religion and belief issues (see Forum 18's general Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2246](http://www.forum18.org/archive.php?article_id=2246)).

## Rapid rise in fines from 2016

Of the 34 cases found by Forum 18, 23 took place in 2017, compared to seven in 2016 and one in each year from 2012 to 2015. The source of much of this sharp increase is the southern Rostov Region, which saw 14 cases in 2017 and two in 2016 (with none found earlier).

Rosreestr issued three fines in the Mari-El Republic (all in 2017), three in Kemerovo Region (2012, 2014, 2016), two in Tula Region (both from the same investigation in 2017), and two in Krasnodar Region (both from the same investigation in 2016). There was one case each in the Republic of Mordovia, the Udmurt Republic, Primorye, and Irkutsk Region (all in 2017); the Republic of Tatarstan and Omsk Region (both in 2016); Vladimir Region (2015); and Moscow Region (2013).

Although a full statistical picture is not available, these figures indicate a rapid recent rise in such fines for religious organisations and individuals.

## Why?

It is not clear why cases under Article 8.8, Part 1 ("The use of a land plot not for its intended purpose in accordance with its belonging to a particular land category and/or authorised use"), should have increased so much in Rostov Region.

"Attention to religious organisations and the intensity of administrative practice regarding them depend on the situation in a particular region," Hare Krishna lawyer Frolov told Forum 18 on 29 January. "For example, Rostov Region is a region bordering Ukraine – increased attention is paid to it. In order not to spend intelligence resources on monitoring the activities of a large number of religious associations, it is easier for the state to freeze their activities."

In other regions, Frolov suggests, there may be other reasons – for example, "the need to implement a plan on countering extremism (and all cases on religious organisations are reported as countering extremism)" (see Forum 18's "extremism" Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2215](http://www.forum18.org/archive.php?article_id=2215)).

Forum 18 wrote on 1 February to both the Rostov Region branch of Rosreestr and Viktoriya Abramchenko, Deputy Minister for Economic Development and head of Rosreestr, asking why cases had increased so rapidly in 2016-17.

Marina Marukhlenko, deputy director of Rosreestr in Rostov Region, replied on 9 February that "From the beginning of 2016 to the present in Rostov Region 1,146 [cases] have been found, which comprise 19 per cent of all recorded violations. Among those offenders brought to administrative responsibility, only six are representatives of religious associations."

Marukhlenko did not address the fact that several more "offenders" were individuals fined for permitting worship on their property, and did not offer any reasons for the increase in fines. Forum 18 has received no reply from the head of Rosreestr as of the end of the working day in Moscow on 20 March.

It is possible that the "anti-missionary" changes to the Religion Law, adopted in July 2016, have increased the frequency of cases brought under Article 8.8, Part 1 ("The use of a land plot not for its intended purpose in accordance with its belonging to a particular land category and/or authorised use").

Administrative Code Article 5.26, Part 3 introduced in July 2016 punishes "Implementation of activities by a religious organisation without indicating its official full name [for example on a building], including the issuing or distribution, within the framework of missionary activity, of literature and printed, audio, and video material without a label bearing this name, or with an incomplete or deliberately false label" (see Forum 18's general Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2246](http://www.forum18.org/archive.php?article_id=2246)). This has led to prosecutions for anything from the distribution of literature to just existing, with many communities fined for not having an adequate notice on their buildings (see F18News 8 August 2017 [http://www.forum18.org/archive.php?article\\_id=2305](http://www.forum18.org/archive.php?article_id=2305)).

Writing on the Svoboda Verit website, lawyers Yanshin and Shestakov observe how this leaves religious organisations caught between two possible punishments: "How to avoid a fine under Article 8.8? Do not advertise that services are held in the house, do not hang up a sign. But then an offence is committed as stipulated in Article 5.26, Part 3 – the performance of activities by a religious organisation without specifying its official full name."

Several of the court verdicts examined by Forum 18 state that Rosreestr representatives noted the presence of signs bearing religious organisations' names as evidence of an offence under Article 8.8, Part 1 ("The use of a land plot not for its intended purpose in accordance with its belonging to a particular land category and/or authorised use").

The July 2016 changes requiring the display of full official names affects only registered religious organisations. The vulnerability of members of unregistered religious groups to fines under Article 8.8, Part 1 ("The use of a land plot not for its intended purpose in accordance with its belonging to a particular land category and/or authorised use") may have been increased by another recent change. In July 2015, an amendment to the Religion Law obliged religious groups to notify the Justice Ministry of their existence and provide both a list of members and details of the addresses where they meet (see Forum 18's Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2246](http://www.forum18.org/archive.php?article_id=2246)).

Fulfilling this requirement draws state officials' attention to private houses used for worship. Not declaring a group's meeting places and attendees' addresses, however, leaves group leaders open to prosecution under Administrative Code Article 19.7 ("Failure to provide or late provision of information to a state body").

For example, on 6 December 2017, Aleksandr Yakimov appealed unsuccessfully against a 10,000 Rouble fine imposed under Article 8.8, Part 1, for hosting services for his New Generation Protestant church in a room of his house. According to the verdict from Sernur District Court in the Mari El Republic, prosecutors used his submission of the religious group's details to the Justice Ministry to establish Yakimov's status as pastor and the land plot in question as the address where services were regularly held.

## Legal contexts

### - Land categories

Under land legislation, all land is classified as belonging to one or more of fifteen categories (e.g. agricultural, recreational, transport). Within each category, a plot is also assigned one of a number of permitted uses – for example, within the residential category, "individual residential construction", "personal part-time cultivation", and "multi-storey construction".

Rosreestr issues fines under Administrative Code Article 8.8, Part 1 ("The use of a land plot not for its intended purpose in accordance with its belonging to a particular land category and/or authorised use"), if its inspectors conclude that a land plot is being used for a purpose other than those stipulated by its category and permitted use. The majority of plots in the cases examined by

Forum 18 belonged to the residential category, with a few designated for commercial use.

"Religious use" belongs to the category of "Public use of objects of capital construction". It covers buildings "intended for the performance of religious rites" (churches, cathedrals, and mosques are named, but also "prayer houses"), as well as those continuously housing clergy, pilgrims, and monks (monasteries, Sunday schools, seminaries, etc.). Rosreestr and prosecutors argue that places of worship should belong to this category and permitted use. Achieving this, however, can be difficult for religious communities, and whether it is always required by law remains unclear.

"Such questions of land use as the designation or changing of the form of permitted use of plots, zoning, and town planning regulations, belong to the jurisdiction of municipal authorities, not even that of federal subjects," Hare Krishna lawyer Frolov explained to Forum 18 on 6 February. "And the situation can differ significantly from city to city."

Changing the use of a land plot thus involves applying to the municipal administration, then undergoing public hearings at which local residents must agree to the change. This enables officials to use the opinions of other residents to refuse permission for a change of land use.

"At the level of tolerance of non-Orthodox denominations in Russia today, this is virtually impossible," Adventist lawyer Nichik told Forum 18 on 6 February. "Today, the whirl of xenophobia, hatred, and aggression towards Protestant denominations is not promoted in the media just to allow [Protestants] to have official prayer houses supported by public opinion."

#### - Religion Law

Several laws govern where and in what circumstances individuals may worship. The main one is the Religion Law. Article 16, Part 2, states that "Services, other religious rites and ceremonies may be performed without hindrance in: religious premises, buildings, and structures, and on the land on which they stand; buildings and structures belonging to religious organisations .. and on the land on which they stand; premises belonging to religious organisations .. and on the land on which the buildings containing those premises stand, with the agreement of the buildings' owners; premises, buildings, and structures, and on land, belonging to organisations created by religious organisations; on land belonging to religious organisations; residential premises". The Religion Law makes no reference to land categories.

Most appeals against fines under Administrative Code Article 8.8, Part 1 cite Religion Law Article 16, Part 2 as a defence, particularly where residential property is concerned. Some judges acquit on this basis, others do not.

The application of Article 16, Part 2, to residential premises is complicated by other legal provisions affecting the use of land and buildings by religious organisations and religious groups.

#### - Religious groups and organisations

Against international human rights law, from July 2015 religious groups have had to inform the state of their existence and provide the names and addresses of all their members, as well as addresses where any meetings take place. Some human rights defenders saw this as an attempt to force religious groups to form state-registered religious associations (see Forum 18's general Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2246](http://www.forum18.org/archive.php?article_id=2246)).

On 24 December 1997, the Justice Ministry issued a letter of instruction to state officials and the judiciary "On the application of legislation on religious organisations". Recommendation No. 14 states that ".. residential premises may be used only for the residence of citizens and it is not allowed to accommodate organisations in them. In accordance with Article 16 Part 2 [of the Religion Law], services, religious rites and ceremonies may be performed in residential premises, but by implication of Article 7 Part 1 [of the Religion Law] the premises may be provided for this purpose only by members of a religious group.

"Use of a residential property as a legal address is not prohibited. But at the same time the religious organisation must notify the registration authority .. of the place of its actual location."

This introduces a barrier to the use for worship of residential property by religious organisations. Judges, however, do not appear to invoke it with any consistency in cases under Administrative Code Article 8.8, Part 1 ("The use of a land plot not for its intended purpose in accordance with its belonging to a particular land category and/or authorised use").

#### - Civil Code and Housing Code

The Justice Ministry's recommendation is based on Article 288, Part 3, of the Civil Code. This states that "Owners are permitted to accommodate enterprises, institutions, or organisations in their residential premises only after changing its status to non-residential" (a process governed by the Housing Code).

In July 2016, however, "anti-missionary" changes to the Religion Law (the so-called "Yarovaya package") introduced a new

restriction into the Housing Code. Article 22 Part 3.2 stipulates that "It is not permitted to change residential premises into non-residential premises for the purpose of carrying out religious activity" (see Forum 18's general Russia religious freedom survey [http://www.forum18.org/archive.php?article\\_id=2246](http://www.forum18.org/archive.php?article_id=2246)).

According to Hare Krishna lawyer Frolov, it is technically possible to change the category and permitted use of a land plot without changing the status (residential/non-residential) of the building on the land. "Everywhere it is different, but in two cities we have managed it".

Nevertheless, as religious use of land does not allow for residential use (except by clergy, monks, and pilgrims), this opens up the possibility of landowners being fined if ordinary residential use continues at the property.

Some appeals succeed, some don't

Appeal cases can be brought if the fined individual or religious community has access to the necessary legal and financial resources. This is not always the case, as noted above. Three typical appeal cases were:

Olga Glamozdinova, Seventh-day Adventist, Rostov Region, was fined 10,000 Roubles for granting free use of a room in her house to her Seventh-day Adventist church when the land is designated for personal part-time crop cultivation. Glamozdinova argued that house is also occupied as a dwelling by an acquaintance who also tends the crops on the plot, and the congregation uses the room for only four hours per week. Bagayevskaya District Court upheld the fine on appeal on 16 October 2017, as did Rostov Regional Court on 21 November 2017.

Don Society for Krishna Consciousness, Rostov, was fined 100,000 Roubles for allowing "religious rites" in a house it owns on land designated for "construction of an individual dwelling house", which the Society was in the process of buying. Defence lawyer Frolov argued that worship is legally permitted in residential premises and explained that the Society permits a citizen of Hindu faith to live in the house and that any rites are performed by him. Bataysk City Court upheld the fine, but on cassational appeal Rostov Regional Court on 15 September 2017 overturned it for lack of evidence.

V.M. Tsarev, unknown religious affiliation, Omsk Region, was fined 10,000 Roubles for allowing a religious group to worship in a house he owns on a plot designated for personal part-time crop cultivation. Tsarev argued that the land was used for grass for local farm animals, and that the Religion Law permits worship on residential premises. On appeal Moskalenki District Court found that use by a religious group, as opposed to a religious organisation, is not a violation of land law and on 6 October 2016 overturned the fine. (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](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](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](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](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](http://www.forum18.org/Archive.php?article_id=1351).

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

Forum 18  
Postboks 6603  
Rodeløkka  
N-0502 Oslo  
NORWAY