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RUSSIA: Pentecostal churches facing possible closure, destruction

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

Kaluga's Word of Life Church and Oryol's Resurrection Church of God are battling, in court, official attempts to destroy their places of worship. "The City Administration received an order from the FSB to shut us down by any means," Oryol Pastor Pavel Abashin insists. Bailiffs closed the building of Nizhny Novgorod's Jesus Embassy Church. A court rejected a suit to demolish Samara's Good News Church.

Three Pentecostal congregations in different regions of Russia may be barred from using their church buildings because of alleged violations of construction, fire safety, or planning regulations. The churches insist that these problems have either been completely eliminated, or were a mistake by the authorities. A fourth won a reprieve in court in December 2019.

For periods ranging from 18 months to well over four years, the communities – in Nizhny Novgorod, Kaluga, Oryol and Samara – have been caught up in Russia's labyrinthine systems of rules regulating the acquisition, alteration, construction and use of buildings.

The communities have had to undergo often multiple court processes in order to assert their rights to property which they purchased entirely legally and have used safely for years. These proceedings, which can include the commissioning of expert analyses by technical specialists, take time and cost money. As a result of the court proceedings, congregations can lose access to their own places of worship for an indefinite period.

Bailiffs closed the building of Jesus Embassy Church in Nizhny Novgorod on 31 December 2019 due to alleged "fire safety" violations (http://www.forum18.org/archive.php?article_id=2541), but the changing number of violations claimed, and the apparent hostility of the FSB security service, raise doubts that officials will allow the Church to reopen its building soon.

For more than a decade, the authorities in Kaluga have tried to confiscate the church building and land from Word of Life Pentecostal Church's Cathedral of Christ the Saviour. Numerous court cases have ensued over whether the Church owns its land, whether it owns its building, whether reconstruction of the building is safe, and whether it should be demolished. "An undisguised leitmotif in the Prosecutor's statements is that if it is impossible to bring [the building] into line with the 2000 technical certificate, then only one solution is possible – to demolish the Church completely," Word of Life complains (see below).

Following an inspection of Oryol's Resurrection Church of God, in which the FSB security service took part, Prosecutors successfully brought a case to court to have the church building closed because the community had not obtained official permission to bring it into commission. The authorities then claimed that the church building encroaches on the neighbouring, municipally-owned plot, which the Church disputes. "The City Administration received an order from the FSB to shut us down by any means," Pastor Pavel Abashin insists (see below).

In Samara, by contrast, an arbitration court ruled in favour of Good News Pentecostal Church in December 2019, rejecting a request from the city's Town Planning Department to have the Church demolished at its own expense. The Department could still challenge the decision in court. Officials have repeatedly rebuffed attempts to legalise ownership of the land where the Church has worshipped for two decades (see below).

Complex, sometimes contradictory, and often inconsistently applied legislation can lead religious communities to lose their places of worship (http://www.forum18.org/archive.php?article_id=2505). Officials in July 2019 barred a Baptist community in Novorossiysk from using its church "for religious purposes", despite the fact that it has worshipped on the same site for two decades. Local authorities are often unwilling to permit the construction of purpose-built churches and mosques.

Alleged "fire safety" violations and other alleged violations such as of sanitation regulations have also been used to target Protestant theological education institutions (http://www.forum18.org/archive.php?article_id=2465), as well as churches and mosques (http://www.forum18.org/archive.php?article_id=908). In one such case, the Pentecostal Chuvash Bible Centre in 2007 lost its legal personality status but after a long and expensive legal struggle won a European Court of Human Rights case in Strasbourg

Kaluga: "Find ways of confiscating that land – any"

The authorities in Kaluga south-west of Moscow have long tried to confiscate the church building and land from Word of Life Pentecostal Church's Cathedral of Christ the Saviour.

In November 2006, the Mayor ordered Word of Life to give up its church building and land, in connection with the adjacent construction of Centrum Park Shopping Complex, but offered no compensation (http://www.forum18.org/archive.php?article_id=908). When the Pentecostals bought the 1,000 square metres [10,800 square feet] unfinished sports complex in 2002, the local authorities had no complaints, Pastor Albert Ratkin told Forum 18 in February 2007. Yet soon after foundations for the shopping centre were laid in early 2006, pressure began in the form of constant fire safety, tax, and other inspections.

At the time, Moscow's Slavic Centre for Law and Justice pointed out that confiscation of private land in this way is possible under the Land Code only for exceptional state or municipal needs, "and the construction of a shopping and entertainment complex is not among them". (http://www.forum18.org/archive.php?article_id=908)

Kaluga Regional Arbitration Court found the Mayor's Decree to be unlawful on 6 June 2007, but on 4 July 2007, police seized documents and a computer during a raid on the church. The City Prosecutor's Office then began questioning church members about the Church's school, and opened criminal investigations into the school four or five times between the raid and October 2007. (http://www.forum18.org/archive.php?article_id=1040)

At a public hearing in the Architecture and Town Planning Department on 15 October 2008, which discussed a possible change of use for Word of Life's land, a local representative of the Swedish firm behind the shopping centre development spoke. He claimed that sales of alcohol from the shopping centre might result in drunken violence against church members if Word of Life remained on its land. (http://www.forum18.org/archive.php?article_id=1223)

Apparently unaware that he was giving a public address, on 9 February 2009 at a local government meeting, Kaluga Region's then Governor Anatoly Artamonov ordered that Word of Life's land be seized by "any" means. (http://www.forum18.org/archive.php?article_id=1261) "Find ways of confiscating that land – any" he said in a meeting that can be seen online (<http://www.youtube.com/watch?v=K-JWFTZN9PQ>) with English subtitles.

Kaluga: Application to have ownership recognised refused

Word of Life Church in Kaluga applied in June 2015 to have its ownership recognised, church representative Yulia Ignatova told Forum 18 on 22 January 2020.

In May 2016, Word of Life applied to the city's Architecture and Town Planning Department for official permission to begin using the buildings and bring them into commission. This was refused as the buildings were said to be to be "unauthorised structures" over which Word of Life allegedly had no rights.

Retroactive legalisation of "unauthorised structures" is not uncommon. It can happen if the applicant owns the land plot (as Word of Life has since 2002) and the structure conforms to town planning and construction regulations. Lack of a reconstruction permit is not in itself grounds for denying recognition of the right of ownership, according to a Supreme Court ruling in 2014.

In 2018, Kaluga City Administration refused the Kaluga Diocese of the Russian Orthodox Church (Moscow Patriarchate) permission to bring a chapel into use as it was claimed to be an "unauthorised structure" because a building permit had not been obtained.

On 21 August 2018, however, Kaluga District Court ruled in favour of the Diocese, stating: "A claim for recognition of ownership of an unauthorised structure shall be satisfied when the court establishes that the only signs of unauthorised construction are the lack of a building permit and/or the absence of a act putting the facility into operation, which the person who created the unauthorised construction took measures to obtain."

Despite this, Kaluga Regional Arbitration Court ruled against Word of Life on 29 March 2019, arguing that the Church had not obtained proper permissions for the reconstruction and that the building had serious defects. Word of Life failed in its appeals against this at the 12th Arbitration Appeal Court on 24 September 2019, and at Central District Arbitration Appeal Court on 23 December 2019.

Kaluga: Prosecutor's case started in 2015, continued to 2019

Kaluga City Prosecutor's Office lodged a case with Kaluga District Court against Word of Life in December 2015, after the latest

Kaluga Regional Arbitration Court case was lodged. This was suspended three times while Arbitration Court proceedings were ongoing, and reopened for the final time on 25 October 2019.

"In the [original, 2015] lawsuit, the Prosecutor's Office refers to an allegedly conducted inspection [of the building]," Ignatova of Word of Life told Forum 18. "However, verbally in Kaluga District Court, the Prosecutor said that there had been no inspection, but that a representative of the Kaluga City Administration had simply gone to the leadership of the Prosecutor's Office and handed over the documents that we had sent them. Our request to submit inspection materials was ignored."

The Prosecutor's Office argued that Word of Life's building should be brought back into line with its technical certificate dating from February 2000 (before Word of Life reconstructed it). Prosecutors also argued that Word of Life should stop using its building in the meantime.

Word of Life argued that the 2000 technical certificate was invalid and had been superseded by a 2016 certificate, which testified to the reconstruction work done since the property was purchased in 2000 (such documents describe the dimensions, materials, and physical features of a building, including any changes and repairs).

"An undisguised leitmotif in the Prosecutor's statements is that if it is impossible to bring [the building] into line with the 2000 technical certificate, then only one solution is possible – to demolish the Church completely," Word of Life said on 6 December 2019.

Word of Life also argued that it should be allowed to continue using its building on the basis of amendments to the Civil Code from 30 March 2016 and 4 August 2018. These give religious organisations the right to use such "unauthorised structures" indefinitely if they conform to legal requirements, and up to 2030 if they do not.

Despite this, on 4 December 2019, Kaluga District Court dismissed Word of Life's arguments as an allegedly "incorrect interpretation of the law".

Prosecutors claimed that the construction company KalugaTIZISProekt, engaged by the city administration to inspect Word of Life's building in August 2018, had found four defects in the building, including: one problem with the load-bearing capacity of a structural element; and a lack of fire retardant coatings in the boiler room and elsewhere.

Word of Life insists that these problems have been resolved, and presented five expert reports to show that the building is safe. These were "ignored" by the court, Ignatova of Word of Life told Forum 18.

Kaluga: Inspections confirm "no defects, damage or deformities"

Two of these five expert reports, both seen by Forum 18, were produced by state institutions, Forum 18 notes. Moscow's Russian Federal Centre for Judicial Analysis at the Justice Ministry carried out its analysis between March and September 2017 by order of Kaluga Regional Arbitration Court. The Federal Centre is the "highest-level expert institution", Ignatova of Word of Life pointed out.

Word of Life itself commissioned the Justice Ministry's Kursk Judicial Analysis Laboratory in September-October 2018.

Both state inspections, which included site visits and examination of technical and legal documents, concluded that the building conformed to all construction, town-planning, and other rules and norms, and did not pose a threat to the life and health of citizens.

Forum 18 wrote on 29 January 2020 to Kaluga City Administration and its Department for Architecture and Town Planning, asking why they thought Word of Life Church ought to be closed if state experts had found it to be safe. The administration sent a form response the same day saying that Forum 18's request would be dealt with within 30 calendar days. Forum 18 received no answer to these questions by the end of the working day in Kaluga on 11 February.

Word of Life also commissioned a private expert, construction engineer Nikolay Pashinin, to ascertain whether it was possible to return the building to its 2000 condition, whether this would incur significant costs, and whether significant costs would arise from eliminating the problems identified by the KalugaTIZISProekt inspection.

Pashinin found that since Word of Life's building was "in working condition and suitable for use for its intended purpose", bringing it back into line with the 2000 technical certificate would be possible only at significant expense. He also concluded that all the problems found by KalugaTIZISProekt had been resolved, that the work on each had been documented, and that there were "no defects, damage or deformities" to the building.

Kaluga: District Court rules against Word of Life

Despite these expert reports, Kaluga District Court decided on 4 December 2019 that no proof existed that all violations identified

by KalugaTIZISProekt had been eliminated. The Court also claimed that Word of Life's arguments "came down to only disagreement with this expert opinion – which the Arbitration Court has already accepted as 'relevant, valid, and reliable evidence'".

The District Court ruled – as Prosecutors had argued - that Word of Life's building should be brought back into line with the February 2000 technical certificate, and that Word of Life should stop using it in the meantime.

Word of Life lodged an appeal at Kaluga Regional Court on 14 January 2020, and the first hearing has been scheduled for 2 March. At present the Church continues to be able to use its building.

"The question remains - who benefits from destroying the temple, and why are believers being deprived of a place where they can practise their faith on the basis of the Constitution of the Russian Federation?" Word of Life commented.

Samara: Reprieve?

The Civil Code amendments of 30 March 2016 and 4 August 2018 – which give religious organisations the right to use "unauthorised structures" indefinitely if they conform to legal requirements, and up to 2030 if they do not – have resulted in a favourable court decision for Good News Pentecostal Church in Samara, a city in south-eastern European Russia on the Volga river.

Officials repeatedly rebuffed attempts to legalise ownership of the land where Good News Church has worshipped for two decades. Officials want to demolish the church, at the congregation's expense. (http://www.forum18.org/archive.php?article_id=2508)

On 5 December 2019, however, Samara Regional Arbitration Court refused a request from the city's Town Planning Department to have the Church demolished at its own expense. The Court found that the Church was an "unauthorised structure", but ruled out demolition because provision for it in the Land Code does not apply to structures of religious significance.

The court decided the Church is a structure of religious significance using the 2010 Law on Restitution of Religious Property (http://www.forum18.org/archive.php?article_id=1961), which the Town Planning Department did not dispute. In such cases, the Judge pointed out, religious communities may continue to use "unauthorised structures" indefinitely if they conform to legal requirements, and up to 2030 if they do not.

The Town Planning Department lodged an appeal against the decision on 13 January 2020. The 11th Arbitration Appeal Court rejected this on 23 January for technical reasons, but the Department now has until 21 February to resubmit its challenge.

Oryol: Church still threatened with demolition

In Oryol, a city south-west of Moscow, the Resurrection Church of God received its land in good faith in 2009 from the Oryol Regional Department of Property, Industrial, and Information Policy. In December 2017, the Church was, according to court documents seen by Forum 18, inspected by the FSB security service, construction inspectors, and fire inspectors from the Emergencies Ministry. The Construction Inspectorate later decided not to take the church to court.

Prosecutors nevertheless lodged a suit at Oryol's Railway District Court to have the church building closed because the community had not obtained official permission to bring it into commission, and had therefore not "passed, in the prescribed manner, a check by state bodies for compliance with technical regulations, construction and sanitary norms and rules, or fire safety requirements".

Railway District Court ruled on 28 May 2018 that the Church's use of the building was unlawful and should be stopped until it had obtained official permission to bring it into use.

The administration had earlier refused this permission because of a dispute over the land plot's boundaries (see below), Pastor Pavel Abashin told afmedia.ru on 14 December 2018. The Church appealed unsuccessfully on 25 July 2018, and its cassational appeal was rejected without consideration on 8 November 2018.

As of 11 February 2020, worship continues in the building. It appears that Arbitration Court proceedings on recognising the ownership of the building and clarifying the plot's boundaries, which have continued since 2018, have delayed the implementation of the District Court decision.

Oryol: Church's struggle to have its ownership recognised

"The City Administration received an order from the FSB to shut us down by any means," Pastor Pavel Abashin wrote on his VKontakte page on 3 December 2019. "They were looking for something to complain about, [and] since the building was new and all requirements of the fire service [and] the Ministry of Emergencies had been met, it was necessary to find some reason why it would stick, and of course they found one - or rather artificially created it."

Alexander Verkhovsky of Moscow's SOVA Center for Information and Analysis commented to Forum 18 on 15 January 2020 that

the initiator of such proceedings may not be the FSB security service. "It could be any official who wants to create difficulties for one organisation or another. And in the main, whether it is possible to 'eliminate violations' .. depends precisely on how much they want this." (http://www.forum18.org/archive.php?article_id=2541)

Pastor Abashin complained that "they came without coordinating it with us, carried out a survey of the municipal land adjacent to our site, and made it so that we allegedly encroached on the municipal land .. and filed a lawsuit against us to have our boiler house demolished. Because of this, the commissioning of the building was rejected and we were closed by the court."

Oryol City Administration claims that parts of the Church's building (of 7.88 and 0.5 square metres respectively) cross one plot's south-eastern boundary, and therefore "unlawfully occupy" municipal land. The Church argues that the land boundaries were incorrectly recorded in the cadastral register, and had a new plan drawn up by a cadastral engineer in March 2019.

In May 2018, the Church lodged a case with Oryol Regional Arbitration Court to have its right of ownership of the building recognised. The City Administration launched a counterclaim to force the church to "vacate the unlawfully occupied land plot", which was attached to the ownership case in July 2018 to be considered simultaneously.

On 16 December 2019, the administration stated that it wanted the Church to demolish those parts of its building which allegedly encroach on municipal land.

On 14 January 2020, Oryol Regional Arbitration Court agreed to the Church's request to suspend proceedings in its case to have its right of ownership recognised. This now awaits the final outcome of the land boundary case.

On 17 February, hearings will begin of the Resurrection Church's suit against the city administration (lodged on 20 December 2019) to determine the correct boundaries of the plots of land on which its building stands. This is the church's second attempt to correct the alleged boundary error through the arbitration courts – its previous suit proved unsuccessful on 28 February 2019, with unsuccessful appeals on 25 June and 15 November 2019.

"The area of our land plot has not changed by one centimetre," Pastor Abashin insisted. "We made several independent examinations, they all prove that the city has encroached on our land, but the courts basically do not want to take into account the conclusions of independent experts."

On 30 January 2020, Forum 18 wrote to Oryol City Administration and its Department for Town Planning, Architecture, and Land Management, asking why they did not agree that a simple cadastral error had been made, and why it wanted the church to vacate the allegedly "unlawfully occupied" land.

On 3 February, the Town Planning Department replied to Forum 18, claiming that the questions "do not fall within the competence of the department".

Responding on 6 February, Igor Kralichev, deputy head of the city administration, pointed out that Oryol Regional Arbitration Court had found no cadastral error in the church's first attempt to have this clarified. He added that "violation of the boundaries of the land plot belonging to the church, and unlawful occupation of part of a municipal land plot, served as grounds for an application to court to request the demolition of part of the church building". (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)

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