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RUSSIA: Two priests on trial for opposing Russia's war in Ukraine

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

Two Russian Orthodox priests are on criminal trial for opposing Russia's war in Ukraine from a religious perspective and could face imprisonment or massive fines. Fr Nikandr Pinchuk's first full trial hearing in Sverdlovsk Region is due on 17 October. Fr Ioann Kurmoyarov's trial in St Petersburg is due to resume on 14 November. He has been in pre-trial detention since early June. Investigative Committee officials in St Petersburg and Yekaterinburg refused to explain why they brought prosecutions for opposing the war on religious grounds.

Two Russian Orthodox priests are on trial on different criminal charges for their opposition to Russia's war in Ukraine. If convicted, they could be imprisoned or have to pay massive fines. They are the first members of the clergy known to be facing criminal prosecution for protesting against the war from a religious perspective, although others have been charged with lesser administrative offences.

Fr Ioann Kurmoyarov is next due to appear at Kalinin District Court in St Petersburg on 14 November (see below).

Fr Nikandr Pinchuk's first full hearing is due to take place at Verkhoturys District Court (Sverdlovsk Region) on 17 October (see below).

Both men are hieromonks (monks who are also priests) and members of a branch of the Russian Orthodox Church Outside Russia (ROCOR) which did not join the Moscow Patriarchate with other parts of ROCOR in 2007.

The Investigative Committee in St Petersburg has charged Fr Ioann under the new Criminal Code Article 207.3 ("Public dissemination, under the guise of credible statements, of knowingly false information about the use of the Armed Forces of the Russian Federation in order to protect the interests of the Russian Federation and its citizens [and] maintain international peace and security") (see below).

Fr Ioann is being prosecuted for videos he posted on his YouTube channel in which he criticises the Moscow Patriarchate's support for the war, suggests the "aggressors" will not go to heaven, and argues that "Every condemnation of this aggression, this war on Ukraine, is a spiritual matter. All Christians should do it on principle" (see below).

Fr Ioann has been in detention in St Petersburg's Kresty-2 Prison since early June and will remain there throughout his trial. On 2 August, Darya Lebedeva, head of the joint court system press service for St Petersburg, insisted to Forum 18 that Fr Ioann had to be held in detention because: "if at liberty and not isolated from society, Kurmoyarov may continue his criminal activity, conceal himself from investigators and the court, destroy evidence and otherwise interfere with the criminal proceedings" (see below).

St Petersburg Investigative Committee did not answer Forum 18's questions as to what material forms the basis for the case against Fr Ioann, why the expression of religious views on war in general and in Ukraine is considered "false information" about the Russian armed forces, and why it was considered necessary to put him in detention. St Petersburg City Prosecutor's Office did not answer Forum 18's questions (see below).

Sverdlovsk Region Investigative Committee has charged Fr Nikandr under the new Criminal Code Article 280.3 ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation in order to protect the interests of the Russian Federation and its citizens, [and] maintain international peace and security") for having written on his VKontakte page about the "violation of the Holy Commandments by those who should preach those commandments" and "demons and antichrists among the Russian authorities", as he told the Baza Telegram channel on 30 June. Investigators have not placed him under any restrictions (see below).

Sverdlovsk Region Investigative Committee refused to answer Forum 18's question on why the expression of religious views on the war is considered "discreditation" of the Russian Armed Forces (see below).

Sverdlovsk Regional Prosecutor's Office did not reply to Forum 18's question asking what sentence prosecutors are seeking for Fr

Nikandr (see below).

Religious-based opposition to war

Russia's government has used a range of tactics to pressure religious leaders into supporting Vladimir Putin's renewed invasion of Ukraine from 24 February. These tactics include warnings to senior and local religious leaders, and prosecuting and fining religious believers and clergy who have publicly opposed the war (https://www.forum18.org/archive.php?article_id=2763). It is unclear what effect this has had on religious believers who may have considered making a public protest against the war.

Similar warnings and prosecutions have been used against many Russians who express opposition to the war for any reason. Lutheran Bishop Dietrich Brauer and Moscow Chief Rabbi Pinchas Goldschmidt left Russia in March after resisting state pressure to support the war. The FSB security service also warned local religious leaders (https://www.forum18.org/archive.php?article_id=2741), including at least three Protestant pastors individually in one region. "Such warnings don't take place now," a pastor told Forum 18 in July (https://www.forum18.org/archive.php?article_id=2763). "Those [March warnings] were enough for everyone."

Many of the religious believers who have opposed the war have been Russian Orthodox (https://www.forum18.org/archive.php?article_id=2763), both of the Moscow Patriarchate and other branches.

Among the many who have been targeted by both the state and the Moscow Patriarchate for their public opposition to the war (https://www.forum18.org/archive.php?article_id=2763), on 10 March a court fined Fr Ioann Burdin of the Moscow Patriarchate's Kostroma Diocese (https://www.forum18.org/archive.php?article_id=2725) one month's average local wages for online remarks and a Sunday sermon in church condemning Russia's invasion of Ukraine and stressing the importance of the commandment, "Thou shalt not kill". The court decision is "a ban not only on expressing one's opinion but also even on professing one's religious beliefs", Fr Ioann told Forum 18. He has appealed against the fine "so that life is not a bed of roses for the authorities and judges" (https://www.forum18.org/archive.php?article_id=2738).

In early April, a court fined Deacon Sergey Shcherbyuk nearly one month's average local wages for allegedly "discrediting the Russian armed forces" in conversations with parishioners and colleagues (https://www.forum18.org/archive.php?article_id=2738). He was accused of talking with one parishioner about Ukrainian civilian deaths and expressing the opinion that everything could have been resolved without military hostilities. He was also accused of asking a church worker edit a post she had made in the parish VKontakte group, which asked people to "pray for the soldiers fighting the Nazis and Bandera".

Nearly 300 Russian Orthodox priests have signed an open letter since March 2022 calling for "reconciliation and an immediate ceasefire" in Ukraine (https://docs.google.com/forms/d/1yOGuXjdFQ1A3BQaEEQr744cwDzmSQ1qePaaBi4z6q3w/viewform?edit_requested=true). The letter criticised the suppression of protests against the war, and stated that "we believe that the people of Ukraine should make their choice on their own, not at gunpoint, without pressure from West or East".

Several priests who opposed the war – including some who signed the letter - have asked the Moscow Patriarchate to be made supernumerary (https://www.forum18.org/archive.php?article_id=2763) (pochislit za shtat, meaning that they remain priests but are not formally employed in a parish, cathedral, or other institution). Fr Nikolay Platonov, a parish priest from Chelyabinsk Metropolitanate (Moscow Patriarchate), requested in early April to be made supernumerary because, as he said in a video explaining his decision, "I can't be silent any longer" (https://www.forum18.org/archive.php?article_id=2741), and because "After [this video], our church hierarchy will inevitably want to get rid of me with some shameful [legal] article. When a priest of the Russian Orthodox Church starts to speak the truth, he immediately automatically becomes a paedophile, or a thief, or a drug addict."

New offences: "False information" and "discreditation"

New penalties for criticising Russia's war in Ukraine (https://www.forum18.org/archive.php?article_id=2737) came into force as soon as President Vladimir Putin signed them into law on 4 March (https://www.forum18.org/archive.php?article_id=2737). Thousands of people have since faced prosecution under one or another of them for a vast range of actions and statements expressing opposition to the invasion.

Criminal Code Article 207.3 (https://www.forum18.org/archive.php?article_id=2737), Part 1 punishes "Public dissemination, under the guise of credible statements, of knowingly false information about the use of the Armed Forces of the Russian Federation in order to protect the interests of the Russian Federation and its citizens [and] maintain international peace and security, as well as about the exercise by state bodies of the Russian Federation of their powers outside the territory of the Russian Federation for those purposes". It carries the following possible punishments:

- a fine of 700,000 to 1.5 million Roubles;
- or up to one year's correctional work;

– or up to three years' assigned work;

– or up to three years' imprisonment.

Criminal Code Article 207.3 (https://www.forum18.org/archive.php?article_id=2737), Part 2 (under which Fr Ioann Kurmoyarov has been charged) punishes the same actions "a) by a person using their official position; b) by a group of persons; v) with the artificial creation of evidence for accusations; g) for selfish motives; or d) for reasons of political, ideological, racial, national or religious hatred or enmity, or for reasons of hatred or enmity against any social group", and carries the following possible punishments:

- a fine of 3 million to 5 million Roubles;

- or up to five years' assigned work "with deprivation of the right to hold certain positions or engage in certain activities for up to five years";

- or five to 10 years' imprisonment "with deprivation of the right to hold certain positions or engage in certain activities for up to five years".

According to the OVD-Info human rights news agency, 103 people had been charged under this Article (<https://data.ovdinfo.org/summary-anti-war-repressions-seven-months-war>) by 24 September. They include Fr Ioann and the first person known to face charges under Criminal Code Article 207.3 for criticising the war from a religious perspective – Nina Belyayeva, a Baptist and Communist municipal deputy from Voronezh (https://www.forum18.org/archive.php?article_id=2737), who now lives outside Russia.

The 4 March amendments also introduced Administrative Code Article 20.3.3 (https://www.forum18.org/archive.php?article_id=2737) ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation in order to protect the interests of the Russian Federation and its citizens, [and] maintain international peace and security, including public calls to prevent the use of the Armed Forces of the Russian Federation for these purposes, or equally, aimed at discrediting the exercise by state bodies of the Russian Federation of their powers outside the territory of the Russian Federation for these purposes, if these actions do not contain signs of a criminal offence").

According to OVD-Info, 4,033 people had been prosecuted under Administrative Code Article 20.3.3 as of 24 September. This figure includes a small number whose protests were religiously inspired (https://www.forum18.org/archive.php?article_id=2758) or used religious imagery (https://www.forum18.org/archive.php?article_id=2787).

A repeated offence under Administrative Code Article 20.3.3 within one year can lead to criminal prosecution under the new corresponding Criminal Code Article 280.3 (https://www.forum18.org/archive.php?article_id=2737) ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation in order to protect the interests of the Russian Federation and its citizens, [and] maintain international peace and security, including public calls to prevent the use of the Armed Forces of the Russian Federation for these purposes, or equally, aimed at discrediting the exercise by state bodies of the Russian Federation of their powers outside the territory of the Russian Federation for these purposes").

Criminal Code Article 280.3, Part 1 (under which Fr Nikandr has been charged) carries the following punishments:

- a fine of 100,000 to 300,000 Roubles;

- or up to three years' assigned work;

- or four to six months' detention in an "arrest house" (arestny dom);

- or up to three years' imprisonment plus deprivation of the right to hold particular positions or engage in particular activities for the same period.

Criminal Code Article 280.3 (https://www.forum18.org/archive.php?article_id=2737), Part 2 punishes the same actions, "resulting in death by negligence and/or causing harm to the health of citizens, [or] property, [or causing] mass violations of public order and/or public safety, or interfering with or stopping the functioning of life support, transport or social infrastructure, credit organisations, energy facilities, industry or communications".

The punishments are:

- a fine of 300,000 to 1 million Roubles;

- or up to five years' imprisonment plus deprivation of the right to hold particular positions or engage in particular activities for the same period.

According to OVD-Info, 17 people had been charged under Article 280.3 as of 24 September. Police and other investigative agencies also use other Criminal Code Articles against people protesting against the war – such as Article 213 ("Hooliganism"), Article 214 ("Vandalism"), and Article 318 ("Violence against the authorities") – but are not yet known to have done so to punish anyone protesting from a religious perspective.

St Petersburg: Trial underway

On 10 October at St Petersburg's Kalinin District Court, in a hearing adjourned from 20 September, prosecutors accused Fr Ioann of 63 separate incidents of disseminating "false information" about the Russian armed forces. They are basing their case on "several videos" from his YouTube channel, as well as social media posts with "calls for anti-war protests", the RusNews Telegram channel reported on 10 October. The next court hearing is due on 14 November.

Fr Ioann (born Dmitry Valeryevich Kurmoyarov, 8 January 1968) is the first member of the clergy to face criminal prosecution for expressing explicitly religious opposition to Russia's invasion of Ukraine (he was defrocked by the Moscow Patriarchate in April, but remains a member of a branch of ROCOR). If convicted, he could be imprisoned for up to 10 years or be fined up to 5 million Roubles.

The court website indicates that Fr Ioann has been charged under Criminal Code Article 207.3, Part 2, Paragraphs G and D. These punish the public dissemination of "false information" about the Russian Armed Forces "for selfish motives" and "for reasons of political, ideological, racial, national or religious hatred or enmity, or for reasons of hatred or enmity towards any social group".

It is not clear exactly why investigators and prosecutors decided on these specific charges or which material from the "Orthodox Virtual Parish" YouTube channel forms the basis of the prosecution. Forum 18 put these questions to St Petersburg Investigative Committee (via its website) and St Petersburg City Prosecutor's Office on 5 October. Forum 18 also asked why the expression of religious views on war in general and in Ukraine is considered "false information" about the Russian armed forces, and why it was considered necessary to put Fr Ioann in detention.

The Investigative Committee responded on 7 October, not answering Forum 18's questions, but stating that all information that it was possible for it to share was posted on its website. Forum 18 received no reply from the Prosecutor's Office by the end of the working day in St Petersburg of 11 October.

RusNews also noted on 10 October that prosecutors have also accused Fr Ioann of recommending "Vakidzasi", an episode of the satirical Russian cartoon Masyanya which was strongly critical of Russia's invasion of Ukraine and suggested that President Putin should kill himself.

At a custody hearing on 12 September, Kalinin District Court extended Fr Ioann's detention in St Petersburg's Kresty-2 prison – where he has been held since early June (https://www.forum18.org/archive.php?article_id=2756) – to 28 February 2023, the Free Ioann Kurmoyarov Telegram channel reported the same day. On 2 August, Darya Lebedeva, head of the joint court system press service for St Petersburg, insisted to Forum 18 (https://www.forum18.org/archive.php?article_id=2763) that Fr Ioann had to be held in detention because: "if at liberty and not isolated from society, Kurmoyarov may continue his criminal activity, conceal himself from investigators and the court, destroy evidence and otherwise interfere with the criminal proceedings."

In court, Fr Ioann requested more lenient restrictive measures because he has to take care of his mother, and stated that he would not seek to flee, the channel added. Nevertheless, prosecutors cited the existence of relatives in the UK and Poland (which Fr Ioann denies) and the possibility that he would flee to Ukraine as grounds for his continued detention (Fr Ioann denies that he would do this because of legal difficulties there).

At an earlier custody hearing on 29 August, Fr Ioann said that he had pleaded guilty. "The investigation is over. I have admitted my guilt. I am not going to continue this activity [apparently his comments on the war], because it will make my situation worse", the zaks.ru news website reported him as saying.

His lawyer, Luiza Magomedova, intends to concentrate on presenting extenuating circumstances, the RusNews Telegram channel reported on 10 October. It noted that she stated in court that Fr Ioann had been "persecuted by the SBU [Ukrainian security service] and Ukrainian nationalists, [and] was also called an agent of the Kremlin" when he lived in Ukraine.

This is a reference to Fr Ioann's prosecution in 2017 for posting on Facebook an image of the orange and black St George's ribbon (which is banned in Ukraine); investigators ran out of time and dropped the case, but Fr Ioann moved to Russia in 2018. He has been critical of the Orthodox Church of Ukraine (recognised as autocephalous by the Ecumenical Patriarch of Constantinople in 2019) as well as of the Moscow Patriarchate.

"Those who have unleashed aggression will not be in heaven"

Fr Ioann Kurmoyarov, who was stripped of his clerical status in the Moscow Patriarchate in April 2022, set up his YouTube channel – the "Orthodox Virtual Parish" – in June 2020 in response to his suspension from Novosibirsk Diocese after he criticised the Cathedral of the Armed Forces (https://www.forum18.org/archive.php?article_id=2756) (which had been completed that summer near Moscow).

Before Russia's invasion of Ukraine, he posted numerous videos which criticised the Moscow Patriarchate and the Russian government, alongside others on more general religious themes. After the war began, the channel became "purely an anti-war project" as Fr Ioann put it in a video entitled "On the spiritual essence of what is happening in Ukraine" (5 April), which remains pinned at the top of the channel's homepage.

Friends and former colleagues of Fr Ioann believe that it is a particular video entitled "Who will be in heaven, and who in hell?", posted on 12 March, which forms the basis of the prosecution, Radio Free Europe's Sibir Realii reported on 12 June.

Early in this video, Fr Ioann states: "'Blessed are the peacemakers' — 'the peacemakers', do you understand the problem? And those who have unleashed aggression will not be in heaven". He later addresses those who believe Russia's attacking Ukraine is justified: "You have yourselves chosen this hell.. For the whole world, you are aggressors who are attacking and destroying civilians of a neighbouring nation, which did not expect it, which does not want you, which should determine its own fate (https://www.forum18.org/archive.php?article_id=2756)."

Many of the channel's other posts express similar views. In a video posted on 24 March, entitled "Is all power from God? Is Putin's power from God?", Fr Ioann says: "The most painful thing is that our army, the Russian army, is committing crimes. That's the trouble – that my beloved country is behaving absolutely not in a Christian, not in a human way, [but] in fact is doing the same thing that Nazi Germany did in the 1930s and 1940s."

In the pinned video of 5 April, Fr Ioann comments: "In the Russian Orthodox Church it seems to me that a demonic spirituality dominates, because the majority of Russian Orthodox priests and bishops support this war. Of course I'm shocked by this. On the one hand I'm glad I left [the Church] right on the eve of war .. but I don't understand how they can be in this state when in principle they should be professing the Gospel of Christ. There it says 'Blessed are the peacemakers', 'Those who live by the sword shall perish by the sword'."

Sverdlovsk Region: Trial imminent

Fr Nikandr (Yevgeny) Igoryevich Pinchuk is due to make his first appearance at Verkhoturys District Court on 17 October on charges of repeatedly "discrediting" the Russian armed forces (Criminal Code Article 280.3, Part 1). He is the first person known to be undergoing prosecution for this alleged offence (https://www.forum18.org/archive.php?article_id=2757) for criticising the war in Ukraine on religious grounds.

Prosecutors submitted the case to court on 6 September. Fr Nikandr has not been placed under any restrictive measures.

If convicted, Fr Nikandr could be fined up to 300,000 Roubles or imprisoned for up to three years. Under the terms of Article 280.3, any prison sentence would be followed by a ban on engaging in particular activities (and holding particular positions, though this applies only to state and local government roles), also for as long as three years.

Fr Nikandr was first found guilty of "discrediting" the armed forces on 14 March, when Verkhoturys District Court fined him 35,000 Roubles (https://www.forum18.org/archive.php?article_id=2757) under Administrative Code Article 20.3.3 for comments he had made in a local VKontakte group.

According to the 14 March court decision, seen by Forum 18, Fr Nikandr had pointed out that "the actions of the Armed Forces of the Russian Federation on the territory of Ukraine are directed against Ukraine's independence, that the Russian Federation has carried out an attack on Ukraine, is shelling cities, purposefully destroying Orthodox churches, etc".

Sverdlovsk Region Investigative Committee opened a criminal case against Fr Nikandr (https://www.forum18.org/archive.php?article_id=2757) under Criminal Code Article 280.3 on 29 June, according to documents seen by Forum 18. This is based on "notes and comments on my news feed, against the arch-heretic Kirill, [and] for photographs from the time of the Great Patriotic War [Second World War]", he explained to Forum 18 on 30 June. Russia's invasion of Ukraine is "a mortal sin", he added.

The Investigative Committee searched Fr Nikandr's home on 1 July and took him in for questioning. There he refused to confess, citing Article 51 of the Constitution (which states that nobody can be obliged to testify against themselves).

"I want to clarify that they are trying to repress me precisely because of my rejection of the 'special operation', which they classify as

'discrediting the Russian Armed Forces'", Fr Nikandr commented to Forum 18 on 4 July (https://www.forum18.org/archive.php?article_id=2757). "But I have committed no crime and do not admit any guilt. I am a priest and have the right to denounce evil, regardless of who is involved and the political situation."

Forum 18 wrote to Sverdlovsk Region Investigative Committee on 5 October to ask why the expression of religious views on the war is considered "discreditation" of the Russian Armed Forces. Its press service responded the same day, refusing to comment on the case.

Forum 18 put the same question to Sverdlovsk Regional Prosecutor's Office on 5 October, also asking what sentence prosecutors are seeking for Fr Nikandr. Forum 18 received no reply by the end of the working day in Yekaterinburg of 11 October. (END)

More reports on freedom of thought, conscience and belief in Russia (<https://www.forum18.org/archive.php?country=10>)

For background information, see Forum 18's survey of the general state of freedom of religion and belief in Russia (https://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 (https://www.forum18.org/archive.php?article_id=2215)

A personal commentary by the Director of the SOVA Center for Information and Analysis (<https://www.sova-center.ru>), Alexander Verkhovsky, about the systemic problems of Russian "anti-extremism" laws (https://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 (https://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