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CRIMEA: UN call to halt Cathedral eviction

By Felix Corley, Forum 18 (<https://www.forum18.org>)

The United Nations Human Rights Committee is considering an appeal by 62 parishioners of the Orthodox Church of Ukraine's Sts Volodymyr and Olga Cathedral in the Crimean capital Simferopol. Russian courts ordered the eviction of the community from the building it has rented since 1995. The UN Committee warned Russia not to evict the community while it considers the appeal.

The United Nations Human Rights Committee has called on the Russian government not to evict the Orthodox Church of Ukraine congregation from its rented accommodation in the Crimean capital Simferopol while it considers an appeal by 62 parishioners. The premises have served since 1995 as the Crimean Diocese's Sts Volodymyr and Olga Cathedral. A court decision to evict the community has now gone into force, though the Diocese is now challenging it in Russia's Supreme Court in Moscow.

"The additional information received from the authors suggests that the State party authorities are still proceeding to the eviction of the authors despite the Committee's request," the UN Human Rights Committee wrote on 20 September in a letter seen by Forum 18.

The Human Rights Committee bluntly repeated its request to the Russian authorities not to evict the community from its Simferopol cathedral while it considered the appeal. "The Committee reminds the State party, that a failure to implement the interim measures is incompatible with the obligation to respect in good faith the procedure of individual communications established under the Optional Protocol [to the International Covenant on Civil and Political Rights]" (see below).

The community's lawyer Sergei Zayets insisted to Forum 18 that Russia should heed the UN request and not evict the community, despite an 18 November Russian arbitration court ruling against it.

Russia's March 2014 annexation of Crimea is not recognised by Ukraine or internationally.

Ukrainian journalist Oleksandra Yefymenko said Sts Volodymyr and Olga Cathedral is still functioning and services are continuing. "But unfortunately this won't last long," she told Forum 18 from Crimea on 3 December. "The Crimean Diocese has lost in all the courts and they will be evicted from the building. This is my prediction."

Following the Russian annexation of Crimea, the new authorities sharply increased the rent the community had to pay for the building in central Simferopol. In court proceedings, the authorities claimed the community owed tiny amounts of unpaid Ukrainian rent and also that – as an unregistered religious organisation under Russian law – the Diocese was not allowed to rent state-owned or municipally-owned property (see below).

The Russian authorities amended the law on renting state property in Crimea in July 2018 to require that any rental contract for state-owned or municipally-owned property with an organisation that had state registration under Ukrainian law but which failed to gain registration under Russian law after the 2014 annexation be cancelled through the courts (see below).

In his explanation presented to the Crimean State Council justifying the amendment, the head of Crimea's Russian-backed government Sergei Aksyonov noted several Ukrainian-owned companies in such a position, but made no mention of the Orthodox congregation in Simferopol.

The Orthodox Church of Ukraine also fears that the authorities in the western Crimean city of Yevpatoriya will demolish a small wooden chapel it built between two blocks of flats in 2013. The city court ruled on 6 November 2019 that the Church is using the site illegally and that the chapel should be demolished. The Church complains it learnt about the court hearing only on that day. Its lawyer said it is challenging the court decision. (http://www.forum18.org/archive.php?article_id=2526)

Ukrainian journalist Yefymenko attended Sunday liturgy at the Yevpatoriya church on 1 December. "Representatives of the Russian special services may come to such liturgies under the guise of parishioners, and record those who visit places of worship of the Orthodox Church of Ukraine," she told Forum 18.

Obstructing, punishing worship

The Russian authorities in Crimea use the wide range of available laws and regulations to punish communities that meet for worship in places or in ways the authorities do not like. (http://www.forum18.org/archive.php?article_id=2051)

On 8 November, a Magistrate's Court in Simferopol District fined Imam Aydar Islyamov one week's average local wages for leading Friday prayers in a home in the village of Ukrainka on 11 October. (http://www.forum18.org/archive.php?article_id=2526)

The Crimean Justice Ministry has rejected the registration application from the Orthodox Church of Ukraine's Simferopol parish, most recently on 20 September. It claimed there were "violations" in the documents presented. A Justice Ministry official insisted to Forum 18 from Simferopol that "nothing in principle" obstructs the registration of communities of the Orthodox Church of Ukraine. (http://www.forum18.org/archive.php?article_id=2526)

Another community which has been repeatedly denied Russian state registration is the Tavrida Muftiate, a body independent of the state-backed Crimean Muftiate. The Justice Ministry has registered ten of its mosque communities independently, but refuses to register the Tavrida Muftiate as a centralised religious organisation. (http://www.forum18.org/archive.php?article_id=2526)

Massively increased rent

The Kyiv Patriarchate Ukrainian Orthodox Church, as it then was, has rented premises that earlier housed the Officers' Club in central Simferopol since 1995. It is there that its Simferopol and Crimea Diocesan Sts Volodymyr and Olga Cathedral and offices are located. The Diocese has three floors of the building, with the sanctuary on the middle floor.

Almost all the Kyiv Patriarchate's dioceses and parishes – including in Crimea – joined the Orthodox Church of Ukraine when it was recognised as canonical by Ecumenical Patriarch Bartholomew in January 2019.

In 1996 ultimate ownership of the Simferopol building was transferred from a disbanded military base to the Crimean Property Fund. In 1997, under a Crimean Supreme Council decree, rent was set at the symbolic level of 1 Ukrainian Hryvnia (0.5 Norwegian Kroner, 0.05 Euros or 0.08 US Dollars) a month.

Five of the Kyiv Patriarchate's churches in Crimea were forced to close within months of the March 2014 Russian annexation of Crimea. (http://www.forum18.org/archive.php?article_id=1972)

The Sts Volodymyr and Olga Cathedral – which is next to the offices of the Property Fund - appears on a list of state-owned property in an attachment to a 15 March 2000 Crimean Supreme Council decree. A 16 May 2001 Supreme Council decree – seen by Forum 18 - governs the Church's use of the building, whose size it gives as 1,475.7 square metres (15,900 square feet).

However, on 18 April 2014, the State Council (which replaced the Supreme Council) adopted a new decree – which remains on the Russian-backed Crimean government website – amending the 2001 decree. It confirmed the Diocese's rental of the premises until 2050 but changed the basis on which rent is levied.

Archbishop Kliment (Kushch), head of the Diocese, told Forum 18 in June 2014 (http://www.forum18.org/archive.php?article_id=1973) that the change would result in the Diocese having to pay about 160 Russian Roubles per square metre per month (236,112 Roubles, then equivalent to 42,990 Norwegian Kroner, 5,145 Euros, or 7,000 US Dollars a month). "We're a non-commercial organisation – how can we pay commercial rates? We live on donations."

No Russian registration, no rental

The Russian-controlled Crimean State Council amended the Crimean Law on the Particulars of Regulating Property and Land Issues in Crimea on 31 July 2018. This required that any rental contract for state-owned or municipally-owned property with an organisation that had state registration under Ukrainian law but which failed to gain registration under Russian law after the 2014 annexation be cancelled through the courts.

In his explanation presented to the Crimean State Council justifying the amendment, the head of Crimea's Russian-backed government Sergei Aksyonov noted several Ukrainian-owned companies in such a position, but made no mention of the Orthodox congregation in Simferopol.

Courts order eviction

On 31 January 2019, the Crimean Property and Land Issues Ministry asked the Federal Tax Service and Justice Ministry in Crimea if the Diocese of the Orthodox Church of Ukraine had brought its documents into line with Russian law (i.e. if it had Russian registration). Finding that it had not, the Ministry wrote to the Diocese on 5 February cancelling the rental agreement and asking when Ministry inspectors could visit the premises to arrange the "return" of the building.

On 14 February the Ministry wrote to the Diocese demanding it pay what it said was unpaid rent and interest of 8.19 Ukrainian Hryvnia (then 2.6 Norwegian Kroner, 0.27 Euros or 0.30 US Dollars). The Ministry received no reply. However, on 26 February, the Diocese paid 40 Russian Roubles (16.50 Ukrainian Hryvnia, 5.25 Norwegian Kroner, 0.55 Euros or 0.60 US Dollars) to meet the rent and interest demanded by the Ministry.

On 20 March, the Ministry brought to Crimea's Arbitration Court a suit against the Diocese to oust it from the Simferopol premises it was renting. Judge Vadim Shkuro, who heard the case, issued an initial decision mostly in favour of the Ministry on 28 June 2019 and a full decision (seen by Forum 18) on 5 July.

The Ministry argued in court that the Diocese owed unpaid rent and interest on the rent for the period November 2016 to February 2019 of 8.19 Ukrainian Hryvnia. It called for the November 2002 rental agreement to be cancelled and for the Diocese to hand back the building to the Ministry.

The Ministry stressed in court that the "motivation" for the suit was the Diocese's failure to bring its documents into accord with Russian law, including the amended Crimean Law on the Particulars of Regulating Property and Land Issues in Crimea (see above).

The Diocese rejected the accusations, insisting that the Ukrainian Crimean Property Fund (which the Russian authorities liquidated in July 2014) was a party to the agreement, not the Russian-controlled Crimean Property and Land Issues Ministry. It also pointed to an April 2014 Crimean State Council awarding the rental of the property to the Diocese until 2050.

The Court ruled that the Ministry was a party to the 2002 rental agreement (even though it did not exist then). It claimed that under Ukrainian law, the Diocese still had to pay the rent in full and on time. However, it noted that the Diocese had made the February 2019 payments to meet this. It also found that the Diocese was using the premises not in accordance with the rental agreement, because as a Ukrainian legal entity but an unregistered Russian entity, the Diocese was since January 2016 restricted in what activity it could perform.

Judge Shkuro ruled to annul the 2002 rental agreement and oblige the Diocese to hand back the premises. He rejected the demand that the Diocese owed unpaid rent. He required the Diocese to pay in procedural fees 12,000 Russian Roubles (4,500 Ukrainian Hryvnia, 1,725 Norwegian Kroner, 170 Euros or 190 US Dollars).

The Diocese appealed against the decision to the 21st Arbitration Appeal Court in Sevastopol. However, in an initial decision on 29 August and a full decision on 5 September, a panel of three Judges chaired by Andrei Tarasenko rejected the appeal, according to the decision seen by Forum 18. The Diocese did not send a representative to the hearing. The court decision came into force on 29 August when the 21st Arbitration Appeal Court handed down its initial decision.

The Diocese appealed further, to the Central Region Arbitration Court, based in the Russian city of Kaluga. However, in an initial decision on 14 November and a full decision on 18 November, a panel of three Judges chaired by Lyudmila Leonova dismissed the appeal, according to the decision seen by Forum 18. Again, the Diocese did not send a representative to the hearing. The Diocese was given two months to make a final appeal to Russia's Supreme Court in Moscow.

The Diocese lodged a Supreme Court appeal on 28 November, Sergei Zayets of the Regional Centre for Human Rights, originally from Crimea but who now works from the Ukrainian capital Kyiv, told Forum 18 on 4 December.

"You are looking at this case from the wrong angle"

Yevgeniya Sheltik of the Property and Land Issues Ministry's Legal Department represented it in court both in Sevastopol and Kaluga.

"The Arbitration Court decision came into force on 29 August," Sheltik told Forum 18 from Simferopol on 2 December. "The court bailiffs are the service that enforces court decisions, not the Ministry."

Asked why the Orthodox Church of Ukraine's Cathedral should be evicted from the building it has been renting since 1995 and for which it had agreement to rent until 2050, Sheltik responded: "You are looking at this case from the wrong angle." She did not explain what she meant. She then added: "My competence is to give policy advice to the Ministry. My job was only to appear in court in the case."

Asked why an agreement made with the Ukrainian authorities before the Russian annexation of Crimea in 2014 was no longer valid, Sheltik got angry, apparently over the reference to the annexation of Crimea. She then put the phone down.

Forum 18 was therefore unable to ask Sheltik if the Russian authorities will abide by the United Nations request that they not take action to evict the community while the Human Rights Committee considers the parishioners' appeal (see below).

UN Human Rights Committee calls to halt eviction

Meanwhile, on 28 August, 62 parishioners lodged an appeal to the United Nations Human Rights Committee. Sergei Zayets of the Regional Centre for Human Rights represents the applicants.

On 6 September the Human Rights Committee asked the Russian government as an interim measure "not to evict [the first applicant] and his congregation from the building of their Church in Simferopol, while their case is under consideration by the Committee", according to the Committee's 6 September letter to Zayets seen by Forum 18.

On 6 September the Human Rights Committee also asked the Russian government to provide its response to the appeal within the next six months.

Because of the court case and the Russian authorities' apparent determination to evict the community, the parishioners submitted further information to the Human Rights Committee.

"The additional information received from the authors suggests that the State party authorities are still proceeding to the eviction of the authors despite the Committee's request," the Committee wrote on 20 September in a letter seen by Forum 18.

The Committee bluntly repeated its request to the Russian authorities not to evict the community from its Simferopol cathedral. "The Committee reminds the State party, that a failure to implement the interim measures is incompatible with the obligation to respect in good faith the procedure of individual communications established under the Optional Protocol [to the International Covenant on Civil and Political Rights]."

The Committee also asked the Russian government not to make public the names of the parishioners who had submitted the appeal. (END)

Full reports on freedom of thought, conscience and belief in Crimea
(<http://www.forum18.org/archive.php?query=&religion=all&country=86>)

For more background, see Forum 18's Crimea religious freedom survey (http://www.forum18.org/archive.php?article_id=2051)

Forum 18's reports and analyses on freedom of thought, conscience and belief in Russia within its internationally-recognised territory (<http://www.forum18.org/archive.php?query=&religion=all&country=10>)

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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