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RUSSIA: First criminal conviction for opposing war in Ukraine on religious grounds

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

Russian Orthodox (ROCOR) priest Nikandr Pinchuk became the first person to receive a criminal conviction for opposing Russia's war in Ukraine on religious grounds. A court in the Urals fined him two months' average local wage for a social media post condemning the "horde of the Antichrist" attacking Ukraine. Neither Verkhoturys District Court nor Prosecutor's Office replied to Forum 18's questions on why expressing religious views on the war in Ukraine should be considered "discreditation" of the Armed Forces and incur such a large fine.

A Russian Orthodox priest from the Urals has become the first person to receive a criminal conviction for opposing Russia's war in Ukraine on religious grounds. A court in Sverdlovsk Region fined Fr Nikandr Pinchuk about two months' average local wage on 17 October for allegedly "discrediting" the Russian Armed Forces for a second time. He was punished for a social media post of under 140 words in length, which condemned the "horde of the Antichrist" attacking Ukraine.

Fr Nikandr is a hieromonk (a monk who is also a priest) and a member 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.

Sverdlovsk Region Investigative Committee opened a case against him under 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") on 29 June. Fr Nikandr had already been fined under the lesser administrative version of this offence in March (see below).

Investigators promised Fr Nikandr that they would lodge a request to have the criminal charge against him dropped upon payment of a compensatory judicial fine, he told Forum 18 on 17 October (see below). This did not happen, however, leaving Fr Nikandr with a criminal record and a fine ten times larger to pay.

Forum 18 asked Verkhoturys District Court and Verkhoturys District Prosecutor's Office:

- why Fr Nikandr had not been released from criminal liability, given that he had pleaded guilty to a first-time minor offence;
- and why the expression of religious views on the war in Ukraine should be considered "discreditation" of the Russian Armed Forces and incur such a large fine.

Forum 18 had received no reply by the end of the working day in Sverdlovsk Region of 18 October (see below).

Sverdlovsk Region Investigative Committee has repeatedly refused to answer Forum 18's questions about the case (see below).

The trial of another ROCOR priest – Fr Ioann Kurmoyarov – is due to resume in St Petersburg on 14 November. Baptist and Communist municipal deputy Nina Belyayeva fled abroad after a criminal case was opened against her (see below).

Opposition on a religious basis to renewed invasion of Ukraine

Russia's government has used a range of tactics to pressure religious leaders into supporting the renewed invasion of Ukraine (https://www.forum18.org/archive.php?article_id=2725) 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. 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.

Among the thousands of Russians detained and taken to court for protesting against the war, a small number have done so from a religious perspective or using explicitly religious imagery (https://www.forum18.org/archive.php?article_id=2758). They have

included Russian Orthodox priest Fr Ioann Burdin of the Moscow Patriarchate's Kostroma Diocese (https://www.forum18.org/archive.php?article_id=2725), who was on 10 March fined 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". Similarly, Moscow Patriarchate Deacon Sergey Shcherbyuk in Samara (https://www.forum18.org/archive.php?article_id=2738) was also fined about one month's average local wages for "discrediting the Russian armed forces" in conversations with parishioners and colleagues. One of them apparently reported him to the Interior Ministry. Other Russian Orthodox priests have resigned from their posts (https://www.forum18.org/archive.php?article_id=2741) after their opposition to the war brought them into conflict with their Moscow Patriarchate dioceses.

Many protestors such as Fr Burdin and Deacon Shcherbyuk have been fined under Administrative Code Article 20.3.3 ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation"), which along with other Administrative and Criminal Code changes (https://www.forum18.org/archive.php?article_id=2737) was signed into law by President Vladimir Putin on 4 March. Other cases under the Administrative Code (https://www.forum18.org/archive.php?article_id=2787) have followed.

Other criminal prosecutions

The Investigative Committee has charged two people under Criminal Code Article 207.3 (https://www.forum18.org/archive.php?article_id=2737) ("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") for their criticism from a religious perspective of Russia's invasion of Ukraine.

Fr Ioann Kurmoyarov – a member of the same ROCOR branch as Fr Nikandr – is on trial in St Petersburg (https://www.forum18.org/archive.php?article_id=2780) for posting videos 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". Fr Ioann's trial is due to resume on 14 November.

Baptist and Communist municipal deputy Nina Belyayeva was the first person known to face criminal prosecution for opposing the war in Ukraine on religious grounds (https://www.forum18.org/archive.php?article_id=2737). She left Russia in early April, shortly after the meeting of Semiluk District Council in which she denounced the invasion of Ukraine as a war crime, stating that "murdering other people" and invading "the territory of another state, which has nothing to do with the goal of self-defence of one's own state" have "nothing in common with Christian beliefs".

"They deceived me"

On 17 October at Verkhoturys District Court, Fr Nikandr (born Yevgeny Igoryevich Pinchuk, 7 December 1971) pleaded guilty to repeatedly "discrediting" the Russian Armed Forces. Judge Aleksey Ladygin handed him a fine of 100,000 Roubles, about two months' average local wage, according to the written verdict seen by Forum 18.

This is the minimum fine under Criminal Code Article 280.3, Part 1 (https://www.forum18.org/archive.php?article_id=2737), and the judge ruled that it could be paid in 10 monthly instalments of 10,000 Roubles each. Nevertheless, "for me, this is an unbearable sum", Fr Nikandr told Forum 18 on 17 October, adding that he earns "barely 15,000 Roubles a month". He noted that he was also paying off his earlier administrative fine in instalments as he was unable to do so in full, "and these creatures have put an even bigger burden on me".

During the investigation, Fr Nikandr was under an obligation to appear when summoned by investigators, but was not detained or put under house arrest.

Fr Nikandr explained to Forum 18 that the investigator in his case and his state-appointed lawyer had "promised" that they would lodge a petition to have the case considered under Criminal Code Article 76.2. This stipulates that people who have committed a minor or moderate-severity offence for the first time may be "released from criminal liability" by a court if they pay a fine which compensates for the damages caused (Criminal Code Article 280.3, Part 1 is considered a minor offence, as it carries a maximum penalty of three years' imprisonment).

Fr Nikandr believes that such a judicial fine should have been between 6,000 and 10,000 Roubles.

Instead, "they deceived me", Fr Nikandr told Forum 18. "In court, it was all different, there was no petition, although the case was considered in a 'special' procedure." Asked why the investigator would have deceived him, he replied "because they have such a job – to torment innocent people".

The court verdict makes no mention of possible release from liability, and instead states that Fr Nikandr, "while familiarising

himself with the materials of the criminal case, lodged a request for the imposition of a sentence in a special procedure without a trial, having recognised his guilt in full under the charge against him".

Such a procedure is governed by Criminal Procedural Code Article 314, and provides for a simplified examination of minor and medium-severity cases, carried out with the consent of the defendant, in which the defendant pleads guilty, the judge is satisfied that the evidence presented in the case file supports the charge, and no questioning of witnesses or examination of the evidence in court takes place.

The verdict notes that defence lawyer Yury Molvinskikh and state prosecutor O. Netyosov (of Verkhoturys District Prosecutor's Office) supported Fr Nikandr's request for the special procedure.

"Recognition of guilt is for them recognition of the fact that I posted the comments," Fr Nikandr told Forum 18, adding that he did not admit guilt in the sense of remorse for supporting Ukraine. He is considering whether or not to appeal.

Forum 18 wrote to Verkhoturys District Court and Verkhoturys District Prosecutor's Office before the start of the working day in Sverdlovsk Region on 18 October, asking:

- why Fr Nikandr had not been released from criminal liability, given that he had pleaded guilty to a first-time minor offence;
- and why the expression of religious views on the war in Ukraine should be considered "discreditation" of the Russian Armed Forces and incur such a large fine.

Forum 18 received no reply by the end of the working day in Sverdlovsk Region of 18 October.

Sverdlovsk Region Investigative Committee has repeatedly refused to answer Forum 18's questions (https://www.forum18.org/archive.php?article_id=2780) about the case.

"God is not mocked"

Sverdlovsk Region Investigative Committee opened the case under Criminal Code Article 280.3, Part 1 (https://www.forum18.org/archive.php?article_id=2780) on the basis of a 134-word post which Fr Nikandr made on his now-deleted VKontakte page on the night of 29/30 March. This post was entitled "God is not mocked", and was "dedicated to evaluating the performance of [the 'special military operation']", according to the court verdict.

The verdict states that Fr Nikandr did this "intentionally, knowing the criminal character of his actions, wishing to express his negative opinion of the special military operation conducted by the Armed Forces of the Russian Federation in Ukraine to an unlimited circle of people and to call for [its] obstruction".

Fr Nikandr's post, now deleted, described how the "horde of the Antichrist" was retreating from northern Ukraine and heading for the south, "but even there, the Christian army is waiting for them, which will meet the demonic force and will not allow it to capture the south of Ukraine. An example of perseverance is one (!) regiment (about a thousand people), which has been holding the city of Mary, Mariupol, for more than a month".

Fr Nikandr wondered what the "devil's work [besovshchina]" would do "against the Cross and the Most Holy Mother of God, who keeps her land from enslavement by adversaries", and concluded with a prayer: "May Our Lord Jesus Christ, through the prayers of His Most Pure Mother, cast down all enemies, visible and invisible. Amen."

Judge Ladygin decided that Fr Nikandr "does not present such a danger that would merit giving him a punishment related to deprivation of liberty, [and his] correction is possible without isolating him from society." This, in addition to his guilty plea, his and his relatives' state of health, and his "active contribution" to the investigation, led the judge to hand down the minimum fine.

Once the fine is paid off, Fr Nikandr's criminal record (sudimost, the state of being a convicted person) will last for another year. Sudimost carries a range of consequences for the convicted person (https://www.forum18.org/archive.php?article_id=2681), from a ban on holding particular jobs to the risk of harsher punishment if convicted again.

"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), before he was formally charged. "I am a priest and have the right to denounce evil, regardless of who is involved and the political situation."

Earlier administrative fine

Criminal Code Article 280.3, Part 1 punishes the same offence of "discrediting" the Russian Armed Forces

(https://www.forum18.org/archive.php?article_id=2737) as Administrative Code Article 20.3.3, if a person commits another offence within one year.

On 14 March, Verkhoturye District Court handed Fr Nikandr a fine of 35,000 Roubles (https://www.forum18.org/archive.php?article_id=2757) under Administrative Code Article 20.3.3 for criticising Russia's war in Ukraine from a Christian perspective in comments in a local VKontakte group. The fine represents about three weeks' average local wage. The court decision entered legal force on 25 March, according to the court website.

Because he was unable to pay the fine within the stipulated period of 60 days, bailiffs took Fr Nikandr to court again under Administrative Code Article 20.25, Part 1 ("Failure to pay an administrative fine on time") and Verkhoturye District Magistrate's Court No. 1 sentenced him on 9 June to 40 hours' community service (obyazatelniye raboty).

The District Court decision of 14 March, seen by Forum 18, does not quote Fr Nikandr's comments directly, but notes that they "point 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."

In court, the decision added, Fr Nikandr stated that he had "expressed his opinion, which he considers correct. He believes that the Armed Forces of the Russian Federation are in Ukraine illegally, that [they] invaded the territory of another independent state in violation of international law. He considers this a crime". (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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