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BELARUS: Minsk Charismatic Church loses property confiscation challenge

By Geraldine Fagan, Forum 18 (https://www.forum18.org)

The embattled charismatic New Life Church in Minsk now looks set to lose its property via the courts, Forum 18 News Service has learnt, the church having failed to overturn the state's decision to confiscate its building and land. New Life has been worshipping at a disused cowshed it owns since September 2004, having repeatedly been denied permission to rent other premises in Minsk. In an appeal against an Economic Court decision to uphold the Minsk City Executive Committee's decision to force the church to sell its cowshed, New Life points out that, amongst the grounds on which the decision can be challenged, the Court ignored the fact that the church cannot use the cowshed as a cowshed as keeping cattle is illegal within city limits, and the Executive Committee has not made any legal case for withholding permission to redesignate the cowshed. Also, in a move related to the church's struggle, the head of a city department – church member Lyudmila Yakimovich – has been told that she will be fired at the end of 2005 and that her November wages will be cut by 30 per cent. New Life has announced that it will begin monthly prayer meetings for victims of injustice on Friday 16 December.

Having failed to overturn the state's decision to confiscate its building and land, the embattled charismatic New Life Church now looks set to lose its property via the courts, Forum 18 News Service has learnt. In late November, New Life announced that it would commence monthly prayer meetings for victims of injustice on Friday 16 December.

The latest developments in the complicated story of New Life's attempts to retain its own property for worship originated in hearings on 17 and 27 October in the Belarusian capital's Economic (Khozyaistvenny) Court. New Life in the hearings attempted to challenge the validity of Minsk City Executive Committee's 17 August instruction curtailing the church's land rights and ordering the sale of its building, a disused cowshed it purchased in 2002 (see F18News 1 September 2005 http://www.forum18.org/Archive.php?article_id=640). The Executive Committee's decision was based on the church's alleged violation of Article 49, Part 4 of the Land Code, which states that rights to land may be curtailed if it is not used in accordance with its designation.

Ruling against New Life, the Economic Court maintained that the 17 August decision was valid because the church had both used the cowshed as a house of worship and modernised it without obtaining state permission to change the designation of either the building or its attached land. According to the Court's 27 October ruling, such "modernisation" legally qualifies as "a form of reconstruction" which, in turn, requires the state's approval under the 2003 Law on Architectural and Construction Activity.

In its appeal against the Economic Court's decision, posted on the church's website on 10 November, New Life points out that the 2003 Architecture Law is no longer in force, and that, since its 2004 replacement does not mention either "modernisation" or "reconstruction," "no legislation exists regulating the procedure for converting or modernising a building." Even if there were evidence that construction legislation had been violated, continues the church, this would not constitute a legal basis for asserting that the land had not been used in accordance with its designation.

Also in its appeal, New Life argues that the Economic Court ignored the fact that the church is unable to use the cowshed in accordance with its designation because keeping cattle is illegal within city limits. The church adds that Minsk City Executive Committee has failed to present any legal grounds for withholding permission to change this designation. In particular, it points to the invalidity of the Committee's reference to its 1999 plan for a new suburb in which there is "no provision for" a church on the site of the cowshed (see F18News 21 February 2005 http://www.forum18.org/Archive.php?article_id=516) since, as a draft, this document "has no legal significance."

Arguably in the church's favour, however, the Economic Court's verdict did note that Article 240 of the Civil Code indicates that confiscation of improperly used land and related property must be pursued via the courts – and thus may not, as in this case, be effected by order of a state department.

In the meantime, the city authorities have already begun carrying out the Executive Committee's 17 August instruction by drawing up an estimate of the building's value. Received by New Life on 22 November, a 5 October evaluation of the modernised cowshed

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claims it is currently worth 35,552,939 Belarusian roubles (107,073 Norwegian Kroner, 13,458 Euros or 15,863 US Dollars). While this is more than twice the original purchase price, a 22 November statement on New Life's website notes that it is equivalent to less than 14 US Dollars per square metre. In its evaluation, Minsk City State Property Territorial Fund expressly states that it has not taken into account "expenditure on reconstruction carried out by the owners of the object in view of their illegal construction work."

Found to have violated Article 65 of the Land Code due to improper land use, New Life's Pastor Vyacheslav Goncharenko was fined three times the minimum wage (72,000 Belarusian roubles, 214 Norwegian Kroner, 27 Euros or 32 US Dollars) in February 2005 under Article 52 of the Administrative Violations Code. The same article sets the maximum penalty for this offence at ten times the minimum wage.

Precisely because of its lack of state-approved worship premises, New Life Church has been unable to obtain compulsory re-registration under the 2002 Religion Law. Some other religious organisations are in the same position (see, for example, F18News 12 May 2005 http://www.forum18.org/Archive.php?article_id=560, 28 July 2005 http://www.forum18.org/Archive.php?article_id=619 and 4 November 2005 < http://www.forum18.org/Archive.php?article_id=682). On 17 November New Life received its third re-registration rejection, in which Minsk city's Moscow district administration noted the church's lack of registered property rights among its grounds for refusal.

The latest re-registration rejection also requested the original of a document which would boost New Life's attempts to legalise its position – a so-called "Technical Passport," issued by the relevant local state department on 21 October 2005. A description of the church's building, this gives its designated usage as a house of worship, whereas the previous Technical Passport, dated 8 February 2002, stipulated the designation of the building as cowshed.

On 7 December Vasily Yurevich, New Life's administrator, told Forum 18 that, unbeknown to Minsk City Executive Committee, New Life requested a new Technical Passport in June 2005, and that the relevant local department – whose employees he described as "normal people" – confirmed that the building was a church following its September survey. Once Minsk City Executive Committee learnt of the existence of the new Technical Passport, however, they ordered its withdrawal, said Yurevich, and the designation of the building is now officially "undetermined." In late November New Life's website reported that the head of the department which issued the 21 October document – church member Lyudmila Yakimovich - had been informed that her employment contract would not be renewed at the end of the year and that her November wages would be reduced by 30 per cent.

In support of New Life, Pentecostal Union leader Sergei Khomich, Baptist Union leader Nikolai Sinkovets, Full Gospel leader Aleksandr Sakovich and Adventist leader Moisei Ostrovsky wrote to presidential administration chairman Viktor Sheiman on 25 October. Their letter asked Sheiman to annul Minsk City Executive Committee's 17 August decision confiscating the church's property and to allot the congregation either the disputed plot of land or another of equal value for the construction of a house of worship, while allowing temporary use of the disused cowshed until such time as a new church could be completed.

New Life has been worshipping at its disused cowshed as a last resort ever since being barred from renting a local house of culture in September 2004. As church administrator Vasily Yurevich told procuracy officials in December 2004, the church was earlier refused requests to rent other public facilities by district administrations throughout Minsk (see F18News 16 December 2004 http://www.forum18.org/Archive.php?article_id=477).

Under the 2002 Religion Law, unregistered religious activity is banned. Unable to comply with the same Law's registration requirements, New Life has now received five official warnings from Minsk City Executive Committee for continuing to hold consequently illegal worship meetings. The fourth and fifth warnings, dated 8 and 17 November, were issued on the basis of large fines handed down on 23 September and 7 October to Vasily Yurevich, as the alleged organiser of "religious gatherings with the reading of prayers and sermons" (see F18News 28 September 2005 and 25 October 2005). Under the 2002 Law, two such warnings are sufficient to liquidate a religious organisation. (END)

For more background information see Forum 18's Belarus religious freedom survey at http://www.forum18.org/Archive.php?article_id=478

A printer-friendly map of Belarus is available at http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=europe&Rootmap=belaru

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