

25 September 2020

KAZAKHSTAN: Courts fail to halt seizure of Churches' property

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

Almaty's New Life Church was not represented when the City Court upheld an earlier court decision to seize two buildings the Church bought in 1993 and uses as a spiritual centre. Almaty Justice Department officials responsible for carrying out the seizure refused to answer questions. A Nur-Sultan court rejected Grace Presbyterian Church's suit to have annulled an order seizing their church, and the half-built place of worship of Agape Pentecostal Church.

On 17 September, the City Court in the commercial capital Almaty again upheld an earlier court decision to seize two buildings owned by New Life Protestant Church, which it uses as a spiritual centre. The Church uses the centre for prayer meetings and other activities, including offering support for those suffering from drug and alcohol dependency. The Church bought the properties in 1993 and the purchase document – seen by Forum 18 – has the official stamp of the Church confirming its status as the purchaser.

Officials of the Territorial Department for the Transfer of Property in Favour of the State of the Justice Department in Almaty, who have responsibility for carrying out the seizure of the Church's two buildings, have refused to answer Forum 18's questions as to why they are intending to seize Church-owned property and when they plan to do so (see below).

The Church itself has not been represented at the hearings and will try to challenge the seizure of its property, its lawyer and its Pastor told Forum 18. Forum 18 was unable to reach the Judge to find out why the Church was not allowed to be represented (see below).

The Church is planning a complaint to Almaty's Prosecutor's Office, both against the planned seizure of its property and the denial of the possibility to take part in the court hearings about its own property. The Church's lawyer said the verdict in the criminal case against the Church's three former Pastors, which ordered the seizure of the two Church-owned properties, can still be challenged to the Supreme Court in Nur-Sultan. A successful appeal could allow the property seizure order to be changed, she added (see below).

"Some of the 15 people being helped live in the houses," the Church's Pastor Ivan Kryukov told Forum 18 from Almaty. "If the authorities seize the houses, they'd be put on the street" (see below).

The Church is also seeking the return of the remaining 11 of the Church's 53 computers seized in a March 2016 raid on their Church building as part of a criminal case against three former Pastors. It appears that the 17 September decision will also release 42 seized computers, as well as money belonging to New Life Church in nearby Talgar, frozen at the same time (see below).

Almaty's New Life Church is one of at least three Protestant churches in Kazakhstan's two largest cities which have in 2020 failed to halt long-running state attempts to seize their property.

On 7 September, a court in Kazakhstan's capital Nur-Sultan (formerly Astana) rejected a suit by Grace Presbyterian Church to have annulled a city order seizing their church, as well as the half-built place of worship of Agape Pentecostal Church being built on the same site. Both Churches are preparing to challenge the rejection in the City Court (see below).

In a separate suit, the Nur-Sultan court ordered an independent evaluation of the value of Grace Church's property to be seized. The Church insists that its property at market rates might be worth four times what the Akimat is offering in compensation, but insists the issue is not about money but about retaining its place of worship that it legally bought in 2001 (see below).

Almaty: Battling to save church property from confiscation

The City Court in the commercial capital Almaty has again upheld an earlier court decision to seize some of New Life Protestant Church's property. The Church itself has not been represented at the hearings and will try to challenge the seizure of its property.

A criminal case was launched in July 2015 against New Life Church's then three Pastors - Maxim Maximov, his wife Larisa Maximova and Sergei Zaikin. It was the third case against the Church or Church leaders brought over the years on a changing range of accusations.

On 25 March 2016, as the Church was commemorating Good Friday, police launched simultaneous raids on five church-owned buildings and the homes of six pastors and church workers (http://www.forum18.org/archive.php?article_id=2163). During the raids, police seized 54 computers, as well as financial documents and 94,650 Tenge of church money.

In July 2019, Almaty's Specialised Inter-District Court for Minors convicted the three by now former pastors, Maximov, Maximova and Zaikin. The Court handed down jail terms of between four and five years on each (http://www.forum18.org/archive.php?article_id=2521). Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law dismissed the case against the three as "complete drivel".

As part of the verdict, the court ordered that among the property to be seized were buildings, money and computers belonging not to them but to the Church.

The three pastors – who live in self-imposed exile in the United States – appealed against their convictions. However, Almaty City Court rejected their appeals on 1 November 2019 (http://www.forum18.org/archive.php?article_id=2521).

New Life Church submitted appeals to Almaty's Specialised Inter-District Court for Minors in November and December 2019, and on 1 July 2020 asking for the Church's property – particularly two adjoining buildings in Almaty's Turksib District - to be removed from the list of property ordered confiscated.

However, the Church – which complains that it was neither a party to the case nor a respondent – was not represented as it has not been deemed a party to the case.

On 2 July, Judge Gulshakhar Chinibekova at Almaty's Specialised Inter-District Court for Minors (who had sentenced the three pastors in July 2019) rejected the suit from the representative of other applicants to have the part of the verdict ordering the seizure of the Church's property revoked. It did order the return to New Life Church of 11 seized computers and ordered the bank account of New Life Church in the nearby town of Talgar to be unfrozen.

The applicants then lodged a further suit to Almaty City Court.

The Church is particularly concerned about the two houses it bought in 1993 and which it uses as a spiritual centre, including to host prayer meetings and other activities, including providing support for people suffering from drug and alcohol dependency.

"In addition, we provided proof that the immovable property had been acquired by New Life Church on a legal basis under a sale/purchase agreement of 4 February 1993," the Church wrote in an appeal it had hoped to lodge to Almaty City Court, seen by Forum 18. It stressed that a general meeting of church members had approved the purchase of the houses in accordance with the law in force at the time. In 1994, another church meeting had approved the transfer of the two houses into Church ownership.

Pastor Maximov signed the 1993 purchase agreement on behalf of the Church, and the purchase document – seen by Forum 18 – has the official stamp of the Church confirming its status as the purchaser.

However, the Church was unable to lodge its appeal to Almaty City Court, and the Court prevented the Church's lawyer, Aiman Umarova, from representing it at the 17 September 2020 hearing, Pastor Kryukov complained to Forum 18.

On 17 September, a panel of judges chaired by Judge Zhanbolat Batyrov at Almaty City Court again rejected the applicants' suit to have annulled the part of the verdict ordering the seizure of the two buildings, according to the decision seen by Forum 18. This decision cannot be appealed.

Forum 18 was unable to find out why the Church had not been allowed to represent itself at the 17 September hearing. The Church's lawyer Umarova told Forum 18 that the Court did not inform the Church about the hearing "in the appropriate way". The telephone for Judge Batyrov's assistant went unanswered each time Forum 18 called on 25 September.

The 17 September decision made one amendment to the decision seizing computers from the Church's main building during the raid in March 2016 (http://www.forum18.org/archive.php?article_id=2163). The Court ordered a further 31 computers to be returned to the Church, making a total of 42.

However, the Church is also seeking the return of all 53 of the Church's computers seized in the criminal case against the Church's then three pastors.

The dismissal of the appeal means the decision now comes into force, which should allow at least the 42 computers to be returned to the Church. This will also apparently bring into force the July decision to unfreeze money which belonged to New Life Church in Talgar, a town in Almaty Region 30 kms (20 miles) east of the city, also frozen at the time of the 2016 raid.

The Church's main bank account, frozen as part of the criminal case, was unfrozen in July 2020, Pastor Kryukov told Forum 18.

Almaty: Church preparing further appeal

Although the 17 September City Court decision declares that no appeal can be lodged, New Life Church is intending to lodge a further complaint both against the planned seizure of its property and the denial of the possibility to take part in the court hearings about its own property.

The Church is planning a complaint to Almaty's Prosecutor's Office, Pastor Kryukov told Forum 18.

The Church's lawyer, Aiman Umarov, said that there are grounds to challenge the July 2019 verdict in the criminal case against the three former Pastors to the Supreme Court in Nur-Sultan. "If a reconsideration of the case takes place and the appeal is satisfied, it will then become possible to address the issue of the property," she told Forum 18 from Almaty on 25 September, "as the confiscations and freezing of property are directly linked to the verdict [in the criminal case]."

Almaty: "They'd be put on the street"

New Life Church's Pastor Ivan Kryukov is concerned not only about the Church-owned houses the authorities can now seize, but about those suffering from drug and alcohol dependency the Church is helping. "Some of the 15 people being helped live in the houses," he told Forum 18. "If the authorities seize the houses, they'd be put on the street."

On 10 December 2019, responsibility to fulfil the court order and seize the two properties owned by the Church – as well as other property belonging to the convicted pastors – was handed to Musalim Mutalipov of the Territorial Department for the Transfer of Property in Favour of the State of the Justice Department in Almaty.

Mutalipov visited the Church-owned houses in December 2019, but the order to implement the court-ordered seizure was then halted when the issue returned to court, Pastor Kryukov told Forum 18.

Mutalipov refused to answer any of Forum 18's questions on 25 September and put the phone down.

Mutalipov's boss, Adilzhan Talgatuly, head of the Territorial Department for the Transfer of Property in Favour of the State, told Forum 18 on 23 September that he would have to look into the issue of the property. Forum 18 sent written questions the same day, asking how Church-owned property can be seized when it was not a party to the case and when they are planning to seize it. Forum 18 received no response by the end of the Almaty working day on 25 September. Talgatuly's telephone went unanswered the same day.

An official of Almaty Akimat's Religious Affairs Department, who gave his name only as Bardavlet, told Forum 18 on 23 September that it is "looking into the issue" but insisted that responsibility lay not with his Department but with the Interior Ministry. He said the Department would contact New Life Church.

The Religious Affairs Department invited Pastor Kryukov to a meeting on 24 September, he told Forum 18.

Nur-Sultan: Court upholds city's confiscation Decree

On 14 February, the Akim (head of administration) of the capital Nur-Sultan (formerly Astana), Altai Kulginov, issued a decree ordering the seizure of the buildings owned by Grace Church, as well as land – some of which the Church owns and some of which it uses on ten-year leases (http://www.forum18.org/archive.php?article_id=2587). The buildings in the city's Baikonur District house the Church's place of worship and accommodation for the pastors and their families. Officials claim the site is needed for a kindergarten.

The Church was given a copy of the decree only on 11 March. The decree would also entail the seizure of the half-built Agape Presbyterian Church on part of the site (http://www.forum18.org/archive.php?article_id=2587).

Responsibility for overseeing implementation of the decree was put on a Deputy Akim, Nurlan Nurkenov. His secretary told Forum 18 on 15 September that he was in a meeting. She referred Forum 18 to his assistant, Akzhol Shumanov. He told Forum 18 the following day that "no decision has yet been taken" as to what future action the Akimat will take. Both telephones went unanswered between 17 and 25 September.

Grace Church first gained state registration, and so the right to exist, on 26 June 1995. It gained re-registration in December 2012, according to the Justice Department certificate seen by Forum 18, following the adoption of the 2011 Religion Law requiring all religious communities to re-apply for state permission to exist.

The Church bought its building in what is now the Baikonur District of the capital on 3 September 2001

(http://www.forum18.org/archive.php?article_id=2587). A former kindergarten, the building was then used as a Continuing Education College. The Church bought the building and the 0.136 hectares (0.336 acres) of land on which the building stands from the college.

Grace Church, backed by Agape Church, went to court to challenge the legality of the Decree. However, on 7 September, Judge Kulimzhan Zhilbayeva of the city's Specialist Inter-District Economic Court rejected the suit, according to the decision seen by Forum 18. The parties to the case have one month from the issue of the decision in writing to lodge an appeal to Nur-Sultan City Court.

"We will carry on and take this further, preparing appeals to higher courts," a church member told Forum 18 from Nur-Sultan on 14 September. Agape Church is also preparing an appeal with its lawyers against this decision, it told Forum 18 in 22 September.

Also on 7 September, the same Judge Zhilbayeva of the city's Specialist Inter-District Economic Court approved a suit by the city Akimat against the Church, ordering the forced seizure of the buildings and land in accordance with the February Decree.

Grace Church argued in court that the city contention that all the property is worth 307,100,709 Tenge (6.9 million Norwegian Kroner, 620,000 Euros or 720,000 US Dollars) undervalues its property, according to the decision seen by Forum 18. Judge Zhilbayeva therefore agreed that valuation of the property at market rates should be undertaken by an official of the Republic Chamber of Judicial Experts, with the costs of the valuation borne by the Church.

Grace Church insists that its property at market rates might be worth four times what the Akimat is offering (http://www.forum18.org/archive.php?article_id=2587), but insists the issue is not about money but about retaining its place of worship that it legally bought in 2001.

The move to confiscate both churches' property appears to have been initiated by the then Construction and Residential Policy Department of the Akimat (city administration). It is unclear if corruption is a factor in the confiscation decision (http://www.forum18.org/archive.php?article_id=2587). Local media reported on 17 July that an unnamed former head of the Department is being investigated over the alleged embezzlement of 200 Million Tenge.

Bauyrzhan Bakirov, a deputy chair of the Religious Affairs Committee of the Information and Social Affairs Ministry, was unable to explain why the city authorities decided to confiscate Grace Church. "It is a complex issue. I must look into it," he told Forum 18 in July (http://www.forum18.org/archive.php?article_id=2587). He insisted that "we have nothing against the Church" when asked why it has repeatedly faced state attempts to confiscate its property.

Both churches have appealed to President Kassym-Zhomart Tokayev (http://www.forum18.org/archive.php?article_id=2587), asking him to have the decree annulled and to allow the churches to continue using their site in central Nur-Sultan. Grace Church told Forum 18 it has received no response.

Nur-Sultan: Earlier harassment of Grace Church

Masked police raided Grace Church in October 2012 (http://www.forum18.org/archive.php?article_id=1756). They seized computers, valuables and religious books they insisted were "extremist", though they could not explain what was "extremist". Police also took blood specimens to see if the Church uses "hallucinogenic" substances for Communion – local media carried the same allegations. The alleged "hallucinogens" were a commonly drunk local red tea used as a non-alcoholic communion wine.

In 2013 the regime put Grace Church's retired Pastor Bakhytzhn Kashkumbayev and atheist writer Aleksandr Kharlamov into a psychiatric hospital (http://www.forum18.org/archive.php?article_id=1939). No official ever produced medical reasons for these incarcerations. A criminal case was brought against Pastor Kashkumbayev, who led Grace Church until his retirement in October 2011, claiming he had harmed the health of a church member who repeatedly insisted that they had not been harmed and that the Pastor was "totally innocent".

Pastor Kashkumbayev was convicted on 17 February 2014 (http://www.forum18.org/archive.php?article_id=1929), despite credible claims of lack of legality and due process throughout the entire investigation and trial.

On 5 November 2014 a previous Akim ordered the confiscation of Grace Church's building and land, also ostensibly to build a kindergarten. The deadline for seizing the site was given as 6 February 2016. Grace Church tried to challenge the decree in court. However, the Akimat's Specialised Inter-District Economic Court rejected the suit on 1 April 2015. However, the Akimat did not confiscate the Church property (http://www.forum18.org/archive.php?article_id=2587). "The parties reached a compromise," Grace Church notes. (END)

Full reports on freedom of thought, conscience and belief in Kazakhstan (<http://www.forum18.org/archive.php?query=&religion=all&country=29>)

For more background, see Forum 18's Kazakhstan religious freedom survey (http://www.forum18.org/archive.php?article_id=2409)

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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If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY