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RUSSIA: Church to be demolished as place where crime "repeatedly committed"?

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

On 18 June, Slavyansk City Court in Krasnodar Region will resume hearing the city administration suit for independent Orthodox Archbishop Viktor Pivovarov to demolish Holy Intercession Tikhonite Church as an "unauthorised structure". The Investigative Department informed the administration he had been charged with "discrediting" the Armed Forces for criticising Russia's war against Ukraine. It said the church was "a public place, with a large number of visitors, where a crime has been repeatedly committed against the basis of the constitutional order and security of the Russian Federation".

An independent Orthodox parish in the southern Krasnodar Region may be forced to demolish its own church, apparently as a direct result of its Archbishop's prosecution for opposing Russia's invasion of Ukraine. The city administration in Slavyansk-na-Kubani has lodged a civil lawsuit against Archbishop Viktor Pivovarov, claiming that the Holy Intercession Tikhonite Church – which has stood for nearly 25 years – is an "unauthorised structure" and must be demolished at his own expense.

Slavyansk City Court began hearing the suit on 23 May, and is due to resume consideration on 18 June (see below).

If the court upholds the Administration's request, Archbishop Viktor would be obliged to have the church demolished within 30 days of the written decision entering legal force. The decision comes into force either one month after the judge issues it in its final form, or upon an unsuccessful appeal. Archbishop Viktor would have one month to lodge an appeal, should he choose to do so.

The Administration argues that holding worship services in the building constitutes misuse of a land plot designated as being for "individual residential construction" only. It appears, however, that the underlying reason is the parish clergy's stance against Russia's war in Ukraine and its leader's criminal prosecution for repeatedly "discrediting" the Russian Armed Forces (see below).

Archbishop Viktor, who has consistently and repeatedly publicly criticised from a religious perspective both the invasion of Ukraine and Russia's conduct in the war, was convicted and fined under Criminal Code Article 280.3, Part 1 (repeat "discreditation" of the Russian Armed Forces) on 8 April (see below).

There have been multiple prosecutions of clergy from the Holy Intercession Tikhonite Church, as well as an armed raid in October 2023, during which Fr Iona Sigida was tortured. He was later prosecuted for writing an anti-war article. There has been no answer to Forum 18's questions about the raid, including why Fr Iona's torturers are not facing criminal prosecution for torture, in line with Russia's obligations under the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see below).

In December 2023, during the investigation of the criminal case against Archbishop Viktor, Slavyansk Inter-District Investigative Department informed the city administration that the Church was "a public place where a crime has been repeatedly committed against the basis of the constitutional order and security of the Russian Federation", suggested that it had not been built in accordance with planning regulations, and demanded that the administration "take measures to eliminate violations" (see below).

Forum 18 wrote to the Administration of Slavyansk Urban Settlement (which brought the suit) and Slavyansk District Municipality (a party to the suit) asking:

- why the city administration wants to demolish the Church when it has existed without causing problems for the administration or local residents for 25 years;
- why the criminal case against Archbishop Viktor, initiated because of his expression of religious views on war in general and the war in Ukraine, should be considered grounds for demolishing a building used by an entire religious community;
- whether the community might be given the opportunity to legalise the Church building retrospectively, if it is found to have been built in violation of planning regulations.

Neither body has answered these questions (see below).

In a statement on its website on 27 May, the parish called the authorities' accusations "ridiculous and godless", and noted that it had undergone many inspections over the thirty years of its existence, "with no claims made against us".

"It is clear that the reason for the decision to demolish our church is not formal violations, but only anger and revenge for the sermons and articles of Archbishop Viktor, for his confession of the Truth of Christ, which they hate so much", the statement concluded (see below).

Two imprisoned, many fined for opposing Russia's war in Ukraine on religious grounds

As well as many Administrative Code convictions and fines for opposing Russia's renewed invasion of Ukraine on religious grounds (https://www.forum18.org/archive.php?article_id=2897), Russian courts have up to now convicted five people on Criminal Code charges for opposing the war on religious grounds. Two have been imprisoned and three fined (https://www.forum18.org/archive.php?article_id=2904) in addition to Archbishop Viktor.

Church building has stood since 2000

Viktor Pivovarov, who is now 87, was ordained a priest in the Russian Orthodox Church Outside Russia (ROCOR), which opened parishes inside Russia in the early 1990s. In 2006 he became an Archbishop in the Russian [Rossiyskaya] Orthodox Church (RosPTs), which was founded after a series of splits within ROCOR. He now leads a rival branch of RosPTs which he established in 2009 after a further split. It is not in communion with either other parts of ROCOR or the Moscow Patriarchate.

The Holy Intercession Tikhonite Church was built in the late 1990s and funded by donations from parishioners, a church member now living outside Russia explained to Forum 18. The first service in the building took place in January 2000. The community was registered as a local religious organisation between 2000 and 2018, and has since existed as an unregistered religious group (https://www.forum18.org/archive.php?article_id=2246).

According to tax records, the local religious organisation took the decision to liquidate itself in June 2017 and ceased its existence in July 2018. In its statement of 27 May, the parish states that its registration was "forcibly taken away" in 2018 after 2015 amendments to the Religion Law (https://www.forum18.org/archive.php?article_id=2246), and that it was subsequently unable to re-register.

"A place where a crime has been repeatedly committed"

In January 2024, shortly after investigators initiated the criminal case against Archbishop Viktor (https://www.forum18.org/archive.php?article_id=2885), the parish became concerned that there could also be a threat to the Church itself (https://www.forum18.org/archive.php?article_id=2904).

"For now, everything is uncertain, because as you understand, this does not depend on us", a church member outside Russia explained to Forum 18 on 8 April.

While investigating the criminal case against Archbishop Viktor, Slavyansk Inter-District Investigative Department (a subdivision of the Krasnodar Region branch of the Investigative Committee) wrote to the Administration of Slavyansk Urban Settlement on 20 December 2023 about "elimination of causes and conditions conducive to the commission of crimes". The Administration appears to have received this in January 2024.

In the letter, seen by Forum 18, Senior Investigator Aleksey Ishchenko of the Investigative Department informs administration head Aleksandr Bersenev that Archbishop Viktor has been charged under Criminal Code Article 280.3 (https://www.forum18.org/archive.php?article_id=2897), Part 1 ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation")

Senior Investigator Ishchenko stated that Archbishop Viktor had committed his alleged offences "in a public place, namely, in the building of the Holy Intercession Tikhonite Church .. foreseeing the inevitability of socially dangerous consequences in the form of destabilisation of the socio-political situation, the exertion of influence on public opinion, the formation in society of a negative mood and disruption of trust in decisions taken by the Supreme Commander in Chief [and] state bodies of the Russian Federation".

Ishchenko of the Investigative Department particularly noted Archbishop Viktor's May 2023 video interview (<https://novayagazeta.eu/articles/2023/05/05/ia-zhdu-chtoby-menia-ubili-ili-posadili>) with Novaya Gazeta Europe.

After the October 2023 raid on the Church (https://www.forum18.org/archive.php?article_id=2822) and "further inspection", the Investigative Committee decided that, despite the land's designated purpose as "individual residential construction", "in actuality

there is a church located on this land plot – the building of the Holy Intercession Tikhonite Church, converted from a private house", in which "church services take place, attended by residents of Slavyansk-na-Kubani and other population centres".

Rather than "individual residential construction", the Church is "actually a public place, with a large number of visitors, where a crime has been repeatedly committed against the basis of the constitutional order and security of the Russian Federation".

"This speaks of the improper execution of their professional obligations by employees of the department for municipal land control of the administration of Slavyansk-na-Kubani", the Investigative Department concluded. It added that the land plot and buildings should be inspected for compliance with their designated use and demanded that the city administration "take immediate measures to eliminate violations and take disciplinary action against the perpetrators".

Administration fulfils Investigative Committee's demand

The Slavyansk Urban Settlement Administration appears to have fulfilled the Investigative Committee's demands. According to an Act of Inspection, also seen by Forum 18, two members of the Settlement Administration's staff visited the Church on 29 March 2024 and noted that its door was open, there was no service in progress, and "Inside the premises were religious objects (icons, an altar, candles)".

The parish claimed in its statement of 27 May that "the inspections carried out took place in secret from us, and no one informed us of this or issued any warnings about violations or asked any questions".

On 10 April 2024, Aleksandr Gopak, head of the Department for Architecture and Town Planning for Slavyansk District Municipality, responded to a request from the Administration, stating that there was no permission for construction of the Church, or for bringing it into commission (vvod v ekspluatatiyu), in the archive of his department.

It is unclear whether officials conducted any search for a permit granted for the construction of a private house, which Archbishop Viktor obtained in 1996, according to the parish statement of 27 May.

In the lawsuit seeking to have the Church demolished, seen by Forum 18, the Administration notes that Archbishop Viktor owns the land plot at 130 Yunykh Kommunarov Street, as well as the red-brick, two-storey house which stands on it, as shown in the cadastral register. The second building on the plot – built of white brick and with an Orthodox cross on the roof – is not entered in the cadastral register.

This second building is "used for carrying out the activities of religious organisations [sic]. There are religious objects installed in the premises, [and] icons hanging up. The premises are accessible to an unlimited circle of persons". The land plot's designated purpose is "individual residential construction".

The Administration then cites Slavyansk Inter-District Investigative Department's communication "On the elimination of the reasons and conditions enabling the commission of a crime", outlining its criminal prosecution of Archbishop Viktor, the Archbishop's "negative attitude to the activities of the state organs of the Russian Federation [and] the use of the Armed Forces of the Russian Federation in the conduct of the special military operation on the territory of the Republic of Ukraine", and the fact that his alleged offences occurred "in a public place – namely in the building of the Holy Intercession Tikhonite Church".

The lawsuit notes that an "unauthorised structure" [samovolnaya postroyka] is one built on a land plot "not designated for these purposes in the manner established by law, or without receiving the necessary permissions, or with significant violations of town-planning and building norms and rules". A person who builds or allows the building of an unauthorised structure does not have right of ownership, and such a structure is subject to demolition at this person's expense.

The Administration therefore asks the court to recognise the Holy Intercession Tikhonite Church as an "unauthorised structure" and to order Archbishop Viktor to demolish the building at his own expense within thirty days of the ruling coming into legal force.

On 18 April 2024, the Administration lodged its civil lawsuit against Archbishop Viktor at Slavyansk City Court. Judge Natalya Kovalchuk accepted the case for consideration on 22 April.

"It is clear that the reason for the decision to demolish our church is not formal violations, but only anger and revenge for the sermons and articles of Archbishop Viktor, for his confession of the Truth of Christ, which they hate so much", the parish wrote on its website on 27 May.

The parish compares the threat of demolition with the destruction of religious buildings in the Soviet era: "Just read the [court] sentences of the New Martyrs or the decrees on the demolition of churches by the communists – how do they differ from [the Administration's lawsuit]? Both of them hide behind a formal law, which they themselves have written and interpreted, and refer to the hostile attitude [of the Churches] towards them."

Administration does not respond as to why it wants to demolish church

The plaintiff in the case to have the Holy Intercession Tikhonite Church demolished is the Administration of Slavyansk Urban Settlement. This is the local government body which runs the town of Slavyansk-na-Kubani.

The Architecture and Town Planning Department of Slavyansk District Municipality is named as a third party; the Municipality administers Slavyansk District, one of the territorial subdivisions of Krasnodar Region. The region lies across the Sea of Azov from Russian-occupied southern Ukraine.

Forum 18 wrote to both local government bodies on 22 May to ask for the reasons behind the lawsuit, and again on 27 May with the following questions:

- why the city administration wants to demolish the Church when it has existed without causing problems for the administration or local residents for 25 years;
- why the criminal case against Archbishop Viktor, initiated because of his expression of religious views on war in general and the war in Ukraine, should be considered grounds for demolishing a building used by an entire religious community;
- whether the community might be given the opportunity to legalise the Church building retrospectively, if it is found to have been built in violation of planning regulations.

The city administration replied on 27 May, directing Forum 18 to contact the Slavyansk District Municipality as there is no department for architecture and town-planning at the city level.

When Forum 18 pointed out that it is the city administration which is the plaintiff in the case (as a third party, the Municipality's town planning department is making no explicit claim of its own), it responded further on 28 May: "We will register your request today and it will go to the head [of the Administration] for consideration. The legal department will provide you with an answer within the period established by law" (this should be no more than 15 days).

What is an "unauthorised structure"?

According to Article 222 of the Civil Code, an "unauthorised structure" is one which has been erected on a land plot whose designated use does not allow for this type of building, or which has been built without the necessary permits or in violation of town-planning and construction regulations, if these regulations and requirements were in force when construction began and when authorities found out about the unauthorised structure.

The person who built an unauthorised structure has no right of ownership to it, and therefore cannot legally sell it, rent it out, or transfer it to another party for their use. If local authorities believe a building is an unauthorised structure, they can apply for a court order to have it demolished at the landowner's expense.

Many religious communities across Russia have faced the loss of their places of worship (https://www.forum18.org/archive.php?article_id=2508) because of alleged violations of planning regulations.

Since municipal authorities are usually unwilling to permit the construction of purpose-built churches and mosques, congregations can be obliged to meet in residential, agricultural, or commercial buildings. This leaves them vulnerable to the complexities and contradictions of the legislation which regulates the use of land.

Individuals and religious communities also risk punishment if they exercise their right to freedom of religion or belief by meeting for worship on land not designated for the purpose (https://www.forum18.org/archive.php?article_id=2362), such as in homes.

Civil Code amendments of 30 March 2016 and 4 August 2018, which give religious organisations the right to use "unauthorised structures" indefinitely if they conform to legal requirements, and up to 2030 if they do not, resulted in the halting on 5 December 2019 of a threat to demolish the Good News Pentecostal Church (https://www.forum18.org/archive.php?article_id=2543) in Samara. The Holy Intercession Tikhonite Church is not, however, a registered religious organisation.

The Administration "wanted to demolish the Church on the quiet"

Judge Natalya Kovalchuk held the first hearing of the civil lawsuit brought by the Administration of Slavyansk Urban Settlement against Archbishop Viktor Pivovarov at Slavyansk City Court on 23 May. Parish representatives attended the first hearing, only shortly after learning of its existence. Judge Kovalchuk adjourned the case with a request for more evidence to be provided. She set the date of the next hearing as 18 June 2024.

"[The Administration] wanted to demolish the church on the quiet, but haven't managed it", a church member told Forum 18 from

outside Russia the same day.

The Church member explained to Forum 18 on 22 May that the Church had been built over several years in the late 1990s, paid for by parishioners' donations. The first service had taken place at Old New Year (14 January) 2000. Before this, the community had worshipped at a house church on Pobeda Street in Slavyansk.

Before the current lawsuit, there had "of course" been no problems with the city administration, the Church member told Forum 18. "[Archbishop Viktor] has always been well known in the town. The gate is always open."

Multiple prosecutions, armed raid on church

Russia's government has from the beginning of its February 2022 renewed invasion of Ukraine used a range of tactics to pressure religious leaders into supporting the war (https://www.forum18.org/archive.php?article_id=2897). 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.

In March 2023, Slavyansk City Court fined Archbishop Viktor Pivovarov (https://www.forum18.org/archive.php?article_id=2822) 40,000 Roubles – one month's average local wage or more than two months' average local pension – under Administrative Code Article 20.3.3 (https://www.forum18.org/archive.php?article_id=2897), Part 1 ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation") for an anti-war sermon he had given in church.

Subsequently, the Archbishop continued openly to oppose Russia's war in Ukraine in his articles, his sermons (many of which are available on his YouTube channel), and in a video made by independent Russian media outlet Novaya Gazeta Europe and published on 5 May 2023 (<https://novayagazeta.eu/articles/2023/05/05/ia-zhdu-chtoby-menia-ubili-ili-posadili>).

On 3 October 2023, Slavyansk Inter-District Investigative Department of the Investigative Committee led a raid on the Holy Intercession Tikhonite Church (https://www.forum18.org/archive.php?article_id=2872) and at least four other places, during which unidentified armed men physically assaulted, tortured, and detained 32-year-old Hieromonk Iona Sigida, the Archbishop's assistant. Officers also searched the premises and seized electronic devices, documents, and money.

"I was amazed by this level of aggression and anger", Fr Iona told Novaya Gazeta Europe. "And the most important thing is that they entered the Church with machine guns. They completely turned everything over .. They scattered everything as if on purpose."

There has been no answer to Forum 18's questions about the raid, including why Fr Iona's torturers are not facing criminal prosecution (https://www.forum18.org/archive.php?article_id=2872) for torture, in line with Russia's obligations under the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In Fr Iona's and Archbishop Viktor's account of the raid (<https://eshatologia.org/dokumenty/opoveshchenie>) on the Church website, they describe the armed men as belonging to "SOBR" (Spetsialny Otryad Bystrogo Reagirovaniya), the Special Rapid Response Unit which has been part of the National Guard (Rosgvardiya) since 2016 and which frequently provides armed support for Investigative Committee operations.

Fr Iona was later charged with "disobeying a police officer" (Administrative Code Article 19.3, Part 1), for which a court gave him two days' short-term imprisonment (https://www.forum18.org/archive.php?article_id=2872) (administrativnyy arest). On 20 November 2023, Slavyansk City Court also fined Fr Iona 30,000 Roubles (about three weeks' average local wage) under Administrative Code Article 20.3.3 (https://www.forum18.org/archive.php?article_id=2897), Part 1 ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation") for his article "The cult of war", which he had published on the Church's website on 28 September 2023.

During the October 2023 raid Fr Iona's torturers directly referred to this article (https://www.forum18.org/archive.php?article_id=2872), in which he discusses how "the cult of war is an integral part of all totalitarian anti-human regimes". He refers to prophecies in the Book of Daniel and the Book of Revelation, and criticises the "militarisation" of the Moscow Patriarchate.

Criminal prosecution

In December 2023, investigators summoned Archbishop Viktor for questioning (https://www.forum18.org/archive.php?article_id=2904) and informed him that they had opened a case against him (https://www.forum18.org/archive.php?article_id=2885) under Criminal Code Article 280.3 (https://www.forum18.org/archive.php?article_id=2897), Part 1 ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation").

The basis for the criminal prosecution appears to be an October 2023 post on Archbishop Viktor's blog, entitled "An answer to the question which concerns everyone today: what is this war?" (<https://alsoaboutchrist.blogspot.com/2023/10/blog-post.html>), the May 2023 Novaya Gazeta Europe video interview, and other articles and sermons.

The investigators did not say for which agency they worked, but it now appears from the court verdict that it was the Slavyansk department of the Investigative Committee which both handled the criminal case and led the October 2023 raid (https://www.forum18.org/archive.php?article_id=2822).

Slavyansk City Court registered the case on 22 January 2024, and three hearings took place on 27 February, 11 March, and 8 April. In court, Archbishop Viktor pleaded not guilty and refused to testify.

The written verdict summarises statements he gave during questioning (https://www.forum18.org/archive.php?article_id=2904) in December 2023, noting that he thinks that the Russian government has "no right" to declare Ukrainians to be enemies or to have invaded Ukraine, and does not recognise the annexation of the Donetsk, Luhansk, Kherson, and Zaporizhzhia Regions, saying that "this decision was imposed and these territories were taken by force by the Russian Federation from the state of Ukraine". The "special military operation" is, for Archbishop Viktor, "lawless and aggressive" and a violation of Ukrainian sovereignty.

On 8 April, the court fined Archbishop Viktor (https://www.forum18.org/archive.php?article_id=2904) 150,000 Roubles - nearly eight times the local average monthly pension – under Criminal Code Article 280.3 (https://www.forum18.org/archive.php?article_id=2897), Part 1 ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation", committed more than once in one year). Archbishop Viktor will have a criminal record (sudimost (https://www.forum18.org/archive.php?article_id=2897) – the state of being a convicted person) for one year after he pays the fine.

Parishioners "scared away by recent events"

After the October 2023 raid on their Church (https://www.forum18.org/archive.php?article_id=2822), the parish community became concerned that investigative agencies were monitoring its activities.

"Officers come to every service (https://www.forum18.org/archive.php?article_id=2904), openly film everything and all the parishioners; others, under the guise of random people or parishioners, also holding their phones, ask intrusive questions", the Church member outside Russia told Forum 18 in January. "This is probably a method of intimidation." Sunday services are continuing to take place, but "of course not as normal", the Church member told Forum 18 on 12 April. "Many people have been scared away by recent events."

Forum 18 has repeatedly asked the Federal Investigative Committee and the Krasnodar Region branches of the FSB security service and Interior Ministry why investigators had placed the Church under surveillance, why they were threatening members of the community with prosecution, and whether any further administrative or criminal cases had been opened against anybody other than Archbishop Viktor. Forum 18 has received no replies.

"Numerous inspections by the Justice Ministry, as well as by local authorities"

"Regarding the ridiculous and godless accusations brought against us in the spirit of Bolshevik materialism and Satanism, we want to respond", the parish wrote in a statement on its website on 27 May. It noted that, since its founding in 1993 under the auspices of the Russian Orthodox Church Outside Russia, the parish has undergone "numerous inspections by the Justice Ministry, as well as by local authorities, [during which] no claims were made against us".

The parish claimed that it had found it impossible in the 1990s to gain permission to construct a church which was actually registered as a religious building, on land explicitly designated for this purpose: "Construction by the book [po dokumentam] of a church not belonging to the Soviet Moscow Patriarchate was blocked by local atheist communists – those in the authorities and the [Russian Orthodox-Moscow Patriarchate] Church – and then [we] decided to build the same as at 61 Pobeda Street, a private house, which would be transferred to the use of the Church community for worship."

The parish understood – both at the time and since – that it could hold services in a private house. Technically, this has continued to be permitted under the 1997 Religion Law, but religious communities have frequently encountered problems in doing so, including fines under Administrative Code Article 8.8, Part 1 ("The use of a land plot not for its intended purpose").

"In 1996, the project was approved and a building permit was obtained", the parish stated on 27 May. The two buildings on the plot – the Church and the house in which Archbishop Viktor lives - were built at the same time, a church member explained to Forum 18. All property rights were always held by the Archbishop, and "he wrote an agreement which transferred [the Church] to the use of the local religious organisation".

After construction was completed, the parish transferred its registered address to the new location, at 130 Yunykh Kommunarov Street: "Here, too, the Justice Ministry did not have any complaints against us", the parish said in its statement. "And as far as we

know, other religious communities of other religious movements and faiths in the town were also forced to operate without officially registering the land for religious use, and registered [it] however they could [kak pridetsya]".

According to the state cadastral register, the land plot on which the Church stands belongs to Archbishop Viktor, as does the house behind the Church in which the Archbishop lives. The church building itself does not appear in the cadastral register – it is unclear why this is the case. The land plot is designated as being for "individual residential construction". (END)

For background information see Forum 18's Russia religious freedom survey (https://www.forum18.org/archive.php?article_id=2897)

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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