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## **Legalize the right to conscientious objection to military service on religious or philosophical grounds.**

***Human Rights Without Frontiers Int'l recommends to Armenia, Azerbaijan, Belarus, Georgia, Turkey and Turkmenistan to legalize the right to conscientious objection to military service on religious or philosophical grounds.***

HRWF (26.09.2013) -

### ***Armenia***

By January 2004 Armenia should have introduced a civilian alternative to compulsory military service. In the last nine and a half years, about 275 JW were imprisoned as objectors, around 30 per year. In 2011, Armenia was condemned by the European Court on Human Rights on this issue. In May of this year, the Armenian has adopted new amendments to the 2003 Alternative Service Law and to the 2003 Law on Implementing the Criminal Code. The young people that are now called up are sent to a civilian service.

Two types of alternative service are now available:

- a.) "Alternative military service" for 30 months which is not connected with bearing, keeping, maintaining or using weapons;
- b.) "Alternative labour service" for 36 months not connected with the armed forces.

However, the conscientious objectors that are currently serving a prison term have still in prison for months.

### ***Azerbaijan***

Azerbaijan's two known imprisoned conscientious objectors sentenced last year to one year imprisonment – both Jehovah's Witnesses - have been freed as part of a prisoner amnesty in June last on the occasion of the late President Heydar Aliiev's 90th birthday.

Both conscientious objectors had been imprisoned under Article 321.1 of the Criminal Code. This states: "Evasion without lawful grounds of call-up to military service or of mobilisation, with the purpose of evading serving in the military, is punishable by imprisonment for up to two years [in peacetime]".

Three former imprisoned conscientious objectors have lodged cases to the European Court of Human Rights in Strasbourg.

Azerbaijan has not adopted a law on alternative civilian service, although this was one of the commitments it made upon accession to the Council of Europe in 2001.

### **Belarus**

While the constitution provides for the right to alternative civilian service, the law makes no provision for conscientious objectors. Persons charged with draft evasion face penalties ranging from fines to five years in prison.

### **Georgia**

In two cases reported this year by the Jehovah's Witnesses involving alternative service for compulsory active military duty, the Ministry of Defense denied initial requests for exemptions, but granted the requests in follow-up appeals. Authorities granted the appeal of one Jehovah's Witness in which the individual was fined for non-fulfillment of military or alternate service, but denied the appeals of three others.

### **Turkey**

In its national law, Turkey fails to recognize the right to conscientious objection and no civilian alternative to military service is available. Conscientious objectors who have publicly stated their refusal to carry out military service have been subjected to criminal prosecution and imprisonment of up to three years. On release, they often receive new call-up papers, and the process is repeated. Turkey has failed to implement the 2006 ruling of the European Court of Human Rights that required Turkey to amend its legislation to prevent the "civil death" of conscientious objectors repeatedly prosecuted and convicted for their refusal to carry out military service, found by the Court to be a violation of Article 3 of the European Convention on Human Rights (prohibition of degrading treatment). Over the last two years, in several cases starting with *Erçep v. Turkey* in November 2011, Turkey was found to have violated Article 9 of the European Convention on Human Rights that guarantees the right to freedom of thought, conscience and religion.

In 2012, the Court applied the Grand Chamber's judgment in the cases *Savda v. Turkey*<sup>19</sup> and *Tarhan v. Turkey*, and found violations of article 9 of the European Convention. These were the first "secular" cases addressed by the Court which did not involve Jehovah's Witnesses. In *Savda v. Turkey*, the applicant, a Kurd, had been subject to repeated call-ups, prosecutions and imprisonment. The Court also found violations of the European Convention's article 3 (inhuman or degrading treatment) and article 6 (right to a fair trial). The judgment also noted that the applicant's case was characterized by an absence of a procedure on the part of the State to examine his request for recognition of conscientious objector status, and consequently his request was never examined by the authorities who made use of criminal law provisions penalizing his refusal to carry out military service.

### **Turkmenistan**

In March of this year, Jehovah's Witness conscientious objector Atamurat Suvkhanov was sentenced to one year in prison for refusing to perform military service on conscientious grounds.

This sentence brings to nine the number of known imprisoned conscientious objectors. A further four are serving suspended prison sentences. Another young Jehovah's Witness in the capital Ashgabad, Danatar Durdyev, was convicted on the same charges in January, but was instead given a heavy fine.

In Turkmenistan, military service for men between the ages of 18 and 27 is compulsory and is generally two years. There is no alternative to compulsory military service.

The refusal to serve in the armed forces in peacetime is punishable by a maximum penalty of two years' imprisonment under Criminal Code Article 219, Part 1.

Turkmenistan's refusal to recognise the right to refuse military service, which is part of the right to freedom of religion or belief, breaks the country's international human rights commitments, and was criticised in March 2012 by the UN Human Rights Committee where 10 objectors had filed a complaint.

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## **Belarusian opposition demands KGB, Prosecutor General's Office release Roman Catholic priest**

Interfax (14.08.2013) - The organizing committee on the establishment of the Belarusian Christian Democracy party has sent an appeal to the Belarusian KGB and Prosecutor General's Office requesting to release Roman Catholic priest Vladislav Lazar.

"Over 1,000 people have signed the text of the petition demanding to release Roman Catholic priest Lazar via an Internet platform for voting," the press office of the Belarusian Christian Democracy party told *Interfax*.

"We think that the priest's arrest is an attempt to blackmail the Catholic Church in Belarus and to intimidate the Belarusian society. Due to this, we demand immediate release of Roman Catholic priest Lazar," the appeal said.

The Belarusian Roman-Catholic Church confirmed in late July 2013 that Roman Catholic priest Vladislav Lazar from Borisov had been detained but did not disclose the reasons behind the detention.

"We are aware of this fact but we have no reliable information why he was detained. We are waiting for an official announcement to arrive," acting spokesman for the Catholic Bishops in Belarus priest Yury Sanko has said.

Sanko said he declined to speculate whether the detention was related to the spy scandal previously referred to by Belarusian President Alexander Lukashenko due to the fact that the official information available was not sufficient.

The Belarusian KGB declined to comment on the detention of the priest. "We do not comment on this information," it said.

Lukashenko announced on July 26 that an employee of the Belarusian special services, who spied for foreign countries through representatives of the Roman Catholic Church, had been detained. "We have recently detained a traitor who served in the special services and was connected with foreign states through representatives of the Roman Catholic Church," Lukashenko told reporters.

This employee of the special services "has not only surrendered information but he also did damage to people working abroad," the Belarusian president said.

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## **Praying in homeless shelter a crime**

Forum 18 News Service (02.07.2013) - A young Catholic layman who turned his home in a western Belarus village into a shelter for homeless people, with its own prayer room, is being accused of leading an unregistered religious organisation, Forum 18 News Service has learnt. Aleksei Shchedrov – who says he has helped about 100 local people since December 2011 – is being investigated on criminal charges which carry a maximum possible sentence of two years' imprisonment.

Shchedrov denies the authorities' accusation of founding an unregistered religious organisation. "I am a Christian and I started to help those who are in need," he insisted to Forum 18 on 24 June from the village of Aleksandrovka, Grodno [Hrodna] Region. "I give them food, a bed, a bath and clothes and I pray together with them. But this is no religious organisation, just charity."

Local police launched the criminal investigation against the 28-year-old Shchedrov following raids on the shelter in February and April. He is being investigated under Criminal Code Article 193-1. This punishes "organisation of or participation in activity by an unregistered political party, foundation, civil or religious organisation" with a fine, or imprisonment for up to two years.

Asked what he was going to do now the criminal investigation has been launched, Shchedrov told Forum 18 that in the past he would have campaigned against such action against him. But nowadays, he said, his faith teaches him to "trust God who teaches me to forgive and love enemies and those who persecute us".

The authorities have been hostile to publicly visible faith-based actions for social justice, and this appears to have been a key factor in decisions on which Catholic priests and nuns to expel.

### ***Homeless shelter "a headache which we don't need"***

Shchedrov set up the shelter in his private home in Aleksandrovka on 1 December 2011. Since then, he estimates that he has provided 97 people with accommodation, food and spiritual support, praying together with them in a special prayer room. Shchedrov pointed out that the prayer room was available to everyone, including local villagers, regardless of their belief.

"There was even a Roman Catholic priest who used to come regularly with the permission and blessing of the Bishop" [of Grodno, Aleksander Kaszkiewicz], Shchedrov told Forum 18. "The priest helped with religious literature, clothes and food." He noted that after talking with the priest, many of the residents applied for a job and left the shelter.

"The authorities knew about my charitable activities and didn't care much, until the number of shelter residents increased to 27 people last winter," Shchedrov complained to Forum 18.

Police came to the shelter during times of prayer in February and in April, photographing and filming everyone present. Shchedrov recalled that Major Serge1 Osovik, Head of the local police Criminal Investigation Department, told him to move to another region of the country and open the shelter there. Major Osovik stated that this was "because it's a headache which we don't need".

### ***Criminal investigation launched***

The order instituting a criminal investigation, dated 11 June and seen by Forum 18, was prepared by Major Osovik and approved by the head of Shchuchin District Police

Aleksandr Shastailo. It claims that since July 2012, Shchedrov "has organised at his place of residence an unregistered religious organisation and secured the condition for its functioning without registration in accordance with the procedure established in law". It says he gathers "a stable group of fellow believers from among local residents and those with no permanent home".

The order notes that "in his private home, Shchedrov specially equipped one room for carrying out religious rituals and fulfilling other religious needs, where icons, religious literature, display material and times of worship services were placed". The order makes no mention of any other activity the authorities did not like at Shchedrov's home.

Shchedrov is not under any travel restrictions while the criminal investigation proceeds, he told Forum 18.

Reached by Forum 18 on 27 June, police Lieutenant-Colonel Shastailo refused to answer any questions on the phone. "We have no materials on the case here at the police, so I can't tell you anything," he claimed.

Church pressured to stop priest's visits?

Roman Catholic priest Fr Aleksandr (who did not want to give his surname) used to visit the shelter regularly. He praised Shchedrov's work, and regretted that the authorities chose to ignore homeless people, alcoholics and drug addicts. Fr Aleksandr confirmed that there was no religious community in Aleksandrovka, but that people came together just for prayer. "So according to the law it's a crime to pray together and one should do it alone hiding under the blanket or under the bed," the priest remarked ironically.

Fr Aleksandr no longer visits the shelter. He insisted that the Catholic Church did not voluntarily turn away from Shchedrov, but bowed to pressure from the authorities not to get involved. "I don't go to the shelter any longer following the Bishop's order," he told Forum 18 on 26 June.

The Vice Chancellor of Grodno Diocese, Fr Antony Gremza, stressed that opening the shelter was a private initiative. "You should understand the difference between official blessing and just words," he told Forum 18 on 28 June. Fr Antony confirmed that a priest had visited the shelter regularly but emphasised that it was just visiting sick and dying people, which is the duty of every priest.

Fr Antony added that since Christmas 2012, the priest has not had the bishop's permission to go there. When Forum 18 pointed out that there are still sick people there who need support, Fr Antony changed the subject. Asked if the Bishop's order was connected with the police raids, Fr Antony said this was possible.

### ***Confiscated literature not returned***

During the February raid, police confiscated three Bibles and about six other religious books from the shelter, Shchedrov complained. Igor Popov, head of the Department of Religious and Ethnic Affairs at Grodno Regional Executive Committee, then sent the books to Minsk for "expert analysis" by the "Expert Council" attached to the Office of the Plenipotentiary for Religious and Ethnic Affairs. The books underwent four such "analyses".

"The Expert Council didn't find anything illegal, but the religious literature - the Bible, prayer and mass books - were not returned," Shchedrov complained.

Forum 18 tried to reach Popov or his assistants at the Department of Religious and Ethnic Affairs in Grodno, but the phones went unanswered between 27 June and 2 July.

The "Expert Council" attached to the Office of the Plenipotentiary for Religious and Ethnic Affairs is the body charged with enforcing the state's censorship of religious literature published in or imported into Belarus. When Jehovah's Witnesses tried to challenge its ban on the import of a May 2012 issue of their magazine "The Watchtower", the Plenipotentiary's Office insisted such bans cannot be challenged.

### ***Criminal Code Article 193-1 condemned***

Article 193-1, under which Shchedrov is being investigated, has been subjected to severe criticism by Belarusian and international human rights defenders as it breaks both the Belarusian Constitution and international human rights standards. Local human rights defenders, such as the Belarusian Helsinki Committee, the Right to Belief, and the Assembly of Non-governmental Democratic Organisations, have campaigned for the Article to be abolished.

The Council of Europe's European Commission for Democracy through Law (known as the Venice Commission) has also condemned Article 193-1. In an 18 October 2011 Opinion, it stated that: "The right to freedom of association is intertwined with the right to freedom of thought, conscience, religion, opinion and expression. It is impossible to defend individual rights if citizens are unable to organize around common needs and interests and speak up for them publicly."

The Venice Commission went on to note that "merely by its existence, Article 193-1 has a chilling effect on the activities of NGOs, its members and its leaders. It is intimidating for social mobilisation and civic activism..". The Venice Commission also condemned "penalizing actions connected with the organization or management of an association on the sole ground that the association concerned has not passed the state registration..".

Human rights defender Aleksei Shein of the Right to Belief, and the Assembly of Non-governmental Democratic Organisations told Forum 18 on 30 June that the application of Article 193-1 is still quite alarming. He noted that, since the 2012 campaign for it to be abolished, nothing has changed.

### ***Earlier threats***

Earlier threats to use Criminal Code Article 193-1 against people manifesting their freedom of religion or belief include:

in February 2011 by police detaining members of a Council of Churches Baptist congregation, who met for worship without state permission in Kostyukovichy, Mogilev [Mahilyow] Region;

in April 2011 by Gomel [Homyel] Regional Prosecutor's Office threatening a Council of Churches Baptist, Nikolai Varushin, with prosecution if he continued to led meetings for worship without state permission;

in November 2011 by a Prosecutor's Office in issuing an official written warning to a leader of a religious community (who did not wish to be identified for fear of state reprisals); and in May and June 2012 by Mozyr District Public Prosecutor's Office, Gomel Region, warning various Pentecostal members of the Suzko family for meetings for worship without state permission. The Suzkos did not get the warnings rescinded, but their church went on to obtain registration in November 2012.

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## **Raids and fines restart, eviction again suspended for now**

Forum 18 (14.06.2013) - Raids and fines against Baptists in Belarus who meet for worship without state permission have re-started. After separate raids on Sunday worship services at both congregations of the Council of Churches Baptists in the south-eastern town of Gomel [Homyel], three local leaders have been fined. These are the first such raids and fines in almost a year. Police told Forum 18 News Service that one of the raids had been initiated by the KGB secret police, with the aim of "revealing criminal groups of the unregistered Baptists". "We [the police] deal with family quarrels and street fights, and are not interested in religion," the police officer told Forum 18. "In this mission we only lent assistance."

And on 13 June, New Life Full Gospel Pentecostal Church in the capital Minsk received a Higher Economic Court order requiring the Church to vacate its building within seven days. However, on the morning of 14 June, the Court suspended the eviction order at the request of the housing authority which had initiated it. These events are similar to the last eviction order and its cancellation in November 2012. Church lawyer Sergei Lukanin thinks the strategy for such cases is deliberate. In his opinion housing authorities and the Higher Economic Court are the pawns in a game and do whatever they are told by the government.

### ***Two Gomel raids, three fines***

Council of Churches Baptists – such as those raided and fined in Gomel - do not seek state registration in any country they operate in, and in Belarus exercising freedom of religion or belief with other people without state registration is illegal.

None of the three fined Baptists are prepared to pay the fines, arguing that they did nothing wrong in leading a meeting for worship.

Police and court officials insisted in both cases that the Baptists' worship services needed the permission of Gomel City Executive Committee. Anna Shidlovskaya, the head of its Ideological Department, put the phone down on 14 June as soon as Forum 18 asked her why the Baptists were raided and fined and why people need the Executive Committee's permission to meet for worship

Council of Churches Baptists noted to Forum 18 that the raids and fines were the first against them in almost a year. They called for the fines to be cancelled, and to be allowed to meet without obstruction, as they hold "peaceful Christian services in private homes and do not disturb public order at all". This was the first raid on the congregation since 13 February 2011, when police also confiscated religious materials.

### ***February raid***

On 24 February, police raided the Baptist congregation in Gomel's Railway District, which meets in a private home. About 20 police officers took part in the raid, claiming to be responding to a complaint from neighbours, Pastor Nikolai Varushin told Forum 18 from Gomel on 31 May. "I asked them why you are coming, you know that we are having a religious meeting and nothing more", Varushin told Forum 18. "But they replied that they had been given instructions and have to follow them."

Police also – against the law - questioned children present without permission from their parents.

## **February fine**

On 10 April, the Railway District Court found Varushin guilty and fined him 4,000,000 Roubles (about 2,600 Norwegian Kroner, 350 Euros, or 460 US Dollars). Local Baptists told Forum 18 that this is equivalent to about one month's local wages. Varushin told Forum 18 that this would be deducted from his salary at a rate of 20 per cent each month.

"This fine is my award, as it's better to be punished for kind deeds than for evil ones," Varushin told Forum 18. "We have our eternal laws which we can't violate. We are ready to take sufferings, fines, and even death, but we'll be faithful to God's law."

Forum 18 asked an official of Railway District Court on 3 June why the fine was so large. But the official who answered the phone, who would not give his name, stated that information on the case could only be disclosed only to those who were involved.

Varushin was convicted under Article 23.34, Part 2 of the Code of Administrative Offences, which punishes organisers who violate regulations for holding demonstrations or other mass public events. This is the first time since April 2012 (when Jehovah's Witnesses were fined) that the authorities have used this Article against people meeting for worship without state permission.

Pastor Varushin's activity broke the Law on Mass Events, as he "organised and conducted a meeting of citizens without appropriate permission from Gomel City Executive Committee". The verdict also records his insistence to the court that leading a meeting for worship "does not constitute a crime".

"Many of us, about 50 people, came to the Court to demonstrate our support for each other," Varushin told Forum 18. He appealed against the fine to Gomel Regional Court, but on 26 April it upheld the lower court's verdict.

## **April raid**

On 14 April the Baptist congregation in Gomel's Soviet District, which also meets for worship in a private home, was raided. About ten police officers broke into the private house where Pastor Pyotr Yashchenko was leading Sunday worship, blocking all the exits. "They stationed a police officer at every gate and every door," Yashchenko told Forum 18 from Gomel on 10 June.

Officers demanded that the Baptists stop worshipping, and then audio recorded the meeting, took photographs, and interrogated those present. They also took down their internal passport details and home addresses.

Yashchenko added that church members were scared, as this was the first raid on their congregation and unexpected. "God knows what their intentions were and what will be the consequences," he told Forum 18. He noted that although many church members were frightened by the raid, most continue to attend meetings for worship regularly.

During the raid and the house search, police confiscated several boxes of religious literature, as well as personal religious literature from a number of those present. It remains unknown why literature was confiscated and where it was taken.

## **"Revealing criminal groups of the unregistered Baptists"**

The duty officer at the police station whose officers participated in the raid – after consulting colleagues – told Forum 18 on 11 June that he remembered the raid. The officer – who would not give his name – said it had been initiated by the KGB secret

police, with the aim of "revealing criminal groups of the unregistered Baptists". "We [the police] deal with family quarrels and street fights, and are not interested in religion," the police officer told Forum 18. "In this mission we only lent assistance."

KGB officers in Gomel refused to discuss why the Baptist service was raided, insisting to Forum 18 on 12 June that the information is "classified".

### ***May fines and June appeal***

On 31 May, Judge Sergei Vlasov of Soviet District Court fined Yashchenko and Valentin Shchedrenok (who was preaching when police broke in) 200,000 Roubles (about 130 Norwegian Kroner, 17 Euros or 23 US Dollars) each. In his verdict, Judge Vlasov noted that "the education of the individuals might be achieved by giving them an administrative punishment in the form of a fine". At least 20 church members came to the court to support their two leaders.

Pastor Yashchenko commented that the fine he received was minimal, compared to the 20 times larger fine imposed on Pastor Varushin in April.

Both Baptists were found guilty of breaking Administrative Code Article 23.34, Part 1. Unlike Part 2, which punishes those like Varushin who are "organisers", Part 1 punishes those who "conduct" illegal demonstrations or other mass public events. "We refused to sign the protocols as we are not guilty," Yashchenko told Forum 18.

Forum 18 was unable to reach Judge Vlasov at the Court on 7 June.

Also on 31 May, the owner of the house where the church meets, Andrei Tupalsky, was summoned to the City Executive Committee, where he was warned that next time he would face criminal prosecution, Baptists told Forum 18.

At the trial no mention was made of the literature confiscated during the raid.

Yashchenko and Shchedrenok have appealed to Gomel Regional Court. The appeals are due to be held on 21 June, the Court Chancellery told Forum 18 on 14 June.

Yashchenko told Forum 18 his appeal argues that it was illegal to disrupt a peaceful meeting and interrogate the participants. "It is unlikely that we'll be acquitted, since the authorities force us to get registered", he commented. "But while there is no freedom of New Testament preaching, registration is out of the question."

### ***Another eviction order, another suspension***

On 13 June New Life Church in Minsk received a Higher Economic Court order requiring the Church to vacate its building within seven days. The order was dated 31 May and has been seen by Forum 18. As soon as the Church received the eviction order, it called a special prayer meeting on the evening of 13 June to pray for the preservation of their building and the speedy recovery of their pastor Viktor Goncharenko, who is in hospital after suffering a stroke.

However, on the morning of 14 June, the Church learned that the housing authority which initiated the eviction had recalled its request from the Court a week earlier.

New Life has been struggling since 2002 to keep control of its private church property. This is a renovated cowshed on the edge of the city, which the authorities claim cannot have its use changed into a church. Worship by a Belarusian Orthodox Church (Moscow Patriarchate) parish in a converted railway carriage 500 metres (yards) away has not faced similar obstruction.

Higher Economic Court executor Olga Shcherbovich, who signed the eviction order, told Forum 18 on 14 May that the recall procedure was underway as the housing authorities had retracted their request. At a hearing at Minsk City Economic Court later in the day, in a decision seen by Forum 18, Judge Andrei Avdeyev formally suspended the eviction order.

"We asked for it to be cancelled, but the judge said this could not be done as the housing authority had asked for it to be suspended, not cancelled," Church lawyer Sergey Lukanin told Forum 18 after the hearing. "The judge said verbally that the maximum such an order can be suspended for is six months, so they could come back to us at any time within this period." He added that the housing authority had asked the court for the suspension on 5 June. He did not know why the eviction order had been delivered to the church on 13 June, a week later the same authority had asked for its suspension.

### **Why?**

Lukanin said that he did not understand the logic of the authorities' actions. "Now they are about to deprive us of our church building, then they recall the order and send it to the archives, later they resume it and then recall it again," he complained to Forum 18 on 14 June.

The last eviction order New Life received was on 27 November 2012. After protests, the authorities cancelled the eviction order too (see F18News 5 December 2012 [http://www.forum18.org/archive.php?article\\_id=1776](http://www.forum18.org/archive.php?article_id=1776)). That eviction order came amid wider moves against the political opposition (see Forum 18's Belarus religious freedom survey at [http://www.forum18.org/archive.php?article\\_id=1796](http://www.forum18.org/archive.php?article_id=1796)).

Lukanin thinks the strategy for such cases is deliberate. In his opinion housing authorities and the Higher Economic Court are the pawns in a game and do whatever they are told. He did not specify who gives the orders. "Both housing authorities and the court executor seemed very happy to announce that the eviction case is over," he commented.

Church administrator Vitaly Antonchikov noted that, when the November 2012 eviction order was cancelled, he brought a letter of gratitude to Dmitry Shashok, the head of the Moscow District Housing Authority which had sought the eviction. Antonchikov had received an "almost friendly reception".

Forum 18 tried to reach Shashok at the Housing Authority on 14 June, but was told that he was on a business trip.

The telephone of Vladimir Lameko, Deputy Plenipotentiary for Religious and Ethnic Affairs, went unanswered on 14 May. His secretary refused to comment to Forum 18 about the New Life eviction order and its sudden revocation.

### **Bureaucratic harassment and civil disobedience**

Minsk officials – backed by the national government - have blocked New Life's every effort to use its building in line with Belarusian law, thereby stripping the church's rights to the property. A hunger strike by New Life members, visits by foreign diplomats, and messages of support from around the world deterred the state from seizing the building in October 2006.

Formally, New Life has not owned its land since 2005, nor its building since 2009. Yet the authorities have largely left the Church alone since mid-2009. They took no action after New Life refused to pay a heavy February 2010 fine for alleged oil pollution. The Church categorically rejected this charge, pointing to numerous irregularities in the state's case.

Visiting in late December 2010, Forum 18 found members able to organise Christmas festivities with the aid of portable generators. The authorities cut off the church's electricity in March 2004. New Life's high-profile civil disobedience campaign so far appears to have frustrated the authorities' moves to close the Church.

In sharp contrast, a small Old Believer community in Minsk has been unable to get state permission to obtain an affordable place of worship. The authorities have refused to allow the Church to move a wooden church from a remote northern village. In behaviour similar to that used against New Life, the city Architecture Department wrote to the Old Believers that "we consider it inexpedient to transfer the wooden church to the urban environment of a big city like Minsk".

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## **Belarusian Baptist preacher fined for conducting service**

International Council of Churches of ECB (09.05.2013) - After a relative lull, on 24 February 2013 a worship service of a church of the International Council of Churches of Evangelical Christians-Baptists (MSTsEKhB) in the city of Gomel in Belarus was disrupted. At approximately 10:00 o'clock about 20 persons in police uniforms came to the house of worship. Some entered the building and the rest guarded the entrance so that nobody would enter or exit.

They immediately began making pictures of everything on a videocamera and, without the consent of parents, questioning the children. After the service they copied the personal information of those present. Afterward a protocol was sent to the presbyter of the church.

A trial was held on 10 April 2013 in Zheleznodorozhnyi district of Gomel, which established: "N.I. Varushin was the organizer of a mass event in violation of the procedure established for organizing and conducting mass events, (Law No. 114-3 of the republic of Belarus of 30 December 1997 "On mass events in RB") and he organized and conducted a meeting of citizens without appropriate permission of the Gomel city executive committee. In court, N.I. Varushin did not acknowledge his guilt and explained that actually on 24 February 2013 he was present in building 14 on 9th Inogorodniaia St. at a meeting of believers in the capacity of a clergyman. He considers that there was no violation of law in his actions."

On the basis of part 2, art. 23,34 of the Code of Administrative Violation of Law of RB, the court subjected Nikolai Ivanovich to an administrative penalty in the form of a fine of 4 million Belarusian rubles (US\$461).

The provincial court confirmed this decision.

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## **Belarus religious freedom survey**

Forum 18 News Service (30.01.2013) - Belarus continues to keep religious communities within an invisible ghetto of regulation, Forum 18 News Service has found. People meeting together to exercise their religious freedom are subject to close state control. Officials are hostile towards followers of faiths they see as a political threat, particularly Protestantism. Forum 18 observes, however, that in recent years the regime has been less inclined to obstruct people exercising their religious freedom.

## **Background**

The recent rarity of dramatic conflict between Belarusian officials and believers – such as arrests of religious leaders – may suggest an absence of restriction. In fact, the state continues to keep religious communities contained within an invisible ghetto of regulation. As one young Pentecostal commented to Forum 18 in the capital, Minsk, in late 2010: "If we have to get permission to hold a service in our own church, this cannot be evidence of religious freedom."

Central to the government's web of restrictions is the 2002 Religion Law. The most repressive such law in Europe, its restrictions include compulsory state registration of all religious communities and geographical limits upon where religious activity may take place. Religious gatherings in private homes must not be either regular or large scale. Houses of worship are designated by the state. All public exercise of freedom of religion or belief must have state permission. For disfavoured religious communities – usually Protestant – such regulations combine to make nothing possible, as they find state permission unobtainable in practice.

Yet Belarus has become more reluctant to target the exercise of freedom of religion or belief in recent years. The regime is apparently concerned that this might push the mass of believers who are still politically neutral into opposition. Since coming to power in 1994, President Aleksandr Lukashenko has crushed independent political, business, media and social organisations. In turn, faith-based political opposition to his regime by Protestant, Catholic and Orthodox Christians has grown (see below).

Lukashenko apparently fears the potential of the largest remaining independent organisations – churches – and is unlikely to act against them while his own position is less than secure. His hardest strikes at freedom of religion or belief have been the adoption of the 2002 Religion Law and a crackdown in 2006-7. These took place when the regime felt most confident, after disputed elections that returned Lukashenko to the presidency in September 2001 and March 2006.

## **Minsk battleground**

The state of religious freedom continues to be encapsulated by the situation of New Life Church, a 1,000-strong charismatic Pentecostal congregation in Minsk.

New Life is famous for its fight since 2002 to keep control of its private church property. This is a renovated cow barn on the edge of the city, which the authorities claim cannot have its use changed into a church. Worship by a Belarusian Orthodox Church (Moscow Patriarchate) parish in a converted railway carriage 500 metres (yards) away has not faced similar obstruction.

Minsk officials – backed by the national government – have blocked New Life's every effort to use its building in line with Belarusian law, thereby stripping the church's rights to the property. A hunger strike by New Life members, visits by foreign diplomats, and messages of support from around the world deterred the state from seizing the building in October 2006.

Formally, New Life has not owned its land since 2005, nor its building since 2009. Yet the authorities have largely left the church alone since mid-2009. They took no action after New Life refused to pay a heavy February 2010 fine for alleged oil pollution; the church categorically rejects this charge.

Visiting in late December 2010, Forum 18 found members able to organise Christmas festivities with the aid of portable generators (the authorities cut off the church's

electricity in 2004). New Life's high-profile civil disobedience campaign appeared to push the authorities back from confrontation. A local Pentecostal pastor has characterised the church to Forum 18 as "the only territory in the country where Belarusian laws don't operate".

On 27 November 2012, however, New Life received a fresh eviction order amid a wider crackdown against political opposition: following the mid-November appointment of new KGB secret police Chief Valery Vakulchyk, prominent human rights organisation Vesna (Spring) was evicted from its Minsk premises on 26 November. Yet the authorities once again stepped back from conflict with the congregation; within days, the local district authority cancelled its eviction order.

### ***Political opposition activism***

Belarusian Christians, including Protestants, have little historical record of confrontation with the state. But as religious freedom restrictions reduce their ability to act on their beliefs in public, opposition to Lukashenko's regime is growing within many churches. Uniquely in the former USSR, some Christians have adopted tactics of organised resistance in their pursuit of freedom of religion or belief that are more usually associated with secular political activism. In 2007, for example, Catholics, Orthodox and Protestants gathered 50,000 signatures in a petition calling for the Religion Law to be changed to comply with international human rights standards. Mainstream political activists are in turn drawing upon religious ideas, and a number of key opposition figures are committed Christians.

The regime continues to target churches and individual Christians associated with opposition activism:

In February 2012 riot police raided a meeting to discuss historical and cultural issues held at the Minsk home of Pentecostal Pastor Antoni Bokun, whose congregation includes several prominent Christian opposition political activists.

In December 2011 Fr Vyacheslav Barok, a Catholic parish priest in Vitebsk [Vitsyebsk] Region, was investigated on suspicion of evading tax on earnings from pilgrimages he helped organise to religious sites in Belarus, other European countries and Israel – allegations which he strongly denies. Fr Vyacheslav's brother Yuri Barok, also a Catholic priest, participated in the revival of the Belarusian Christian Democracy movement. Although not wishing to leave Belarus, he was transferred by his bishop to Israel in 2010.

In September 2010 "Forbidden Christ", a film documenting Soviet persecution of Protestant churches in Belarus, was removed from a Catholic film festival in Vitebsk Region by order of the country's top religious affairs official, Plenipotentiary for Religious and Ethnic Affairs Leonid Gulyako. The film's director, Aleksei Shein, is a leader of the opposition Belarusian Christian Democracy Party.

In January 2010 organisers were forced to cancel a concert at Minsk's SS Simeon and Helen Catholic Church after the city authorities threatened "problems" if it went ahead. The concert was to launch a CD compilation of contemporary Christian music, including by members of the Belarusian Christian Democracy Party.

### ***Political prisoners***

In violation of both Belarusian and international law, prisoners of conscience whose motivation for political opposition is their Christian faith have been denied pastoral visits, communal worship and religious literature while in detention. Ordinary prisoners may be similarly denied freedom of religion or belief (see below).

Andrzej Poczobut, a journalist charged with libelling President Lukashenko, was denied access to a Catholic priest while detained in Grodno [Hrodna] for three months in 2011.

Numerous Christian opposition activists were arrested in connection with a major demonstration on the night of President Lukashenko's most recent re-election, 19 December 2010. These included:

Pavel Severinets, charged for his political activities as a leader of the Belarusian Christian Democracy Party. He was denied a meeting with an Orthodox priest for almost five months while in the KGB secret police detention centre in Minsk in early 2011.

Oleg Korban, a leader of the opposition Young Democrats' Movement, who was detained with Severinets until 7 January 2011. He was similarly denied access to an Orthodox priest.

Severinets was also not allowed to receive a Bible passed from his mother. Detained in the same KGB detention centre for two months, Anastasiya Polozhanko, a Protestant and leader of the Belarusian Youth Front, was not allowed to keep a Bible she was carrying when arrested. Both she and Severinets had to order Bibles from the prison; these were available only in Russian.

Belarusian Christian Democracy Party presidential candidate Vitaly Rymashevsky, held at the same KGB detention centre for two weeks after the December 2010 election, was denied access to religious literature, including the Bible.

### ***Orthodox atheism***

According to official statistics presented by top state religious affairs official Gulyako in early 2012, nearly two-thirds of Belarusian citizens are Orthodox Christians, while just 12 per cent are Catholic. Gulyako did not give statistics for other beliefs. Such polling is rare, but a 2000 Belarusian sociological survey found approximately six per cent adhering to other faiths, the majority likely to be Protestant.

A total of 3,210 local communities had state registration in early 2012. Of these, 1,567 were Orthodox as well as 33 Old Believer, 972 were Protestant, 494 were Catholic, 53 were Jewish, 27 were Jehovah's Witness, 23 were Muslim, and 41 were from a variety of other faiths of which 6 were Hare Krishna and 5 were Baha'i.

In view of the nominal Orthodox majority, government representatives sometimes use pro-Orthodox rhetoric common in neighbouring Russia. In 2010 Gulyako maintained, for example, that "the role of traditional confessions is continuing to grow in Belarus" when announcing the introduction into state schools that September of an optional course on Orthodox Culture, pioneered in Russia.

Despite many cultural similarities between the two nations, however, Forum 18 has found Belarus to be far less inclined than Russia to enact religious policy favouring the Belarusian Orthodox Church (Moscow Patriarchate). No individuals or communities of other confessions have complained to Forum 18 that co-operation between the state and the Orthodox Church has led to religious freedom violations in state institutions.

The Soviet atheist legacy is also far stronger in Belarus, as indicated by its retention of government religious affairs structures (see below) and broad popular identification with atheism, typified by Lukashenko's notorious self-definition as an "Orthodox atheist".

The Belarusian state's lean towards atheism comes despite a significantly higher level of popular religious observance than in Russia. Polled in 2006, around 25 per cent of Belarusians said they attend church at least once a month; the equivalent Russian figure was only 11 per cent.

Close to their Russian counterparts, however, is Belarusian officials' characteristic hostility towards faiths they consider a threat, particularly Protestantism. Accounting for an October 2009 police visit to the Minsk home of a Protestant family, for example, a deputy police chief remarked to Forum 18: "We have Orthodox, Catholics and Muslims – these are the religions. All the others are sects."

Jehovah's Witnesses have reported state obstruction to their exercise of freedom of religion or belief in recent years almost unknown before 2009 (see below).

### ***Controls on foreigners***

In line with this hostility, Belarus strictly controls foreign citizens who conduct religious activity. According to a 1999 decree, foreigners may work only within houses of worship belonging to, or premises continually rented by, the religious organisation that invited them. This must be a state-registered religious association consisting of 10 or more communities, at least one of which must have functioned in Belarus for 20 years. The transfer of a foreign religious worker from one religious organisation to another - such as between parishes of the same denomination - requires permission from a state official dealing with religious affairs, even to conduct a single worship service.

Under a 2008 decree, Belarus' top religious affairs official, Plenipotentiary for Religious and Ethnic Affairs Gulyako, has sole discretion in deciding whether religious work by a foreign citizen is "necessary". He may refuse a foreign religious worker's visit without giving any reason. Foreign citizens must also demonstrate knowledge of Belarus' state languages (Belarusian and Russian) in order to perform religious work.

In May 2009 religious affairs officials warned New Testament Pentecostal Church in Minsk it could be closed down after Ukrainian citizen Pastor Boris Grisenko, visiting from his Messianic Jewish congregation in the Ukrainian capital Kiev, preached at an evening service. Grisenko was fined 105,000 Belarusian Roubles (then 230 Norwegian Kroner, 30 Euros or 40 US Dollars) for religious activity without state permission (Code of Administrative Offences, Article 23.55, Part 1, Point 1).

More than two-thirds of the 33 foreign citizens known to have been barred from conducting religious work in Belarus since 2004 are Catholic (most of the rest are Protestant). Priests and nuns tackling social issues, such as alcoholism, very publicly appear to be particular targets.

Fear of expulsion is acute for the Catholic Church in Belarus, about 40 per cent of whose approximately 430 priests are foreign citizens. Between the end of 2006 and the end of 2008, 12 Polish Catholic priests and eight nuns were forced to leave the country. Far fewer cases were reported before 2006, and the number again fell from June 2009 to January 2013. In late 2009 two village priests from Poland, Fr Jan Bonkowski and Fr Edward Smaga, were refused state permission to continue religious work in Belarus; Fr Bonkowski had been with his parish for 20 years.

Subsequent softer treatment of the Catholic Church appears due to growing state recognition of Catholic influence among the Belarusian population. According to religious affairs official Gulyako's 2012 statistics, a quarter of a million Catholics attended Christmas services in 2011, only 14,000 fewer than Orthodox.

Lukashenko appears keen to keep the Catholic Church at least neutral towards his regime. In April 2009 he and his young son Kolya delivered an open invitation to Pope Benedict XVI to visit Belarus. In July 2009 Gulyako announced that his office and the Foreign Ministry had completed the draft of a Concordat with the Holy See; he repeated this in November 2011, stressing that the Holy See's response was awaited.

The same month Lukashenko declared: "We expect more of the Catholic Church and Pope Benedict XVI in defending our interests, especially in the West."

The Holy See has yet to approve either a papal visit or the Concordat, but Catholic representatives have also declined to criticise the Lukashenko regime. On the contrary, the Holy See's Secretary of State [=Foreign Minister], Cardinal Tarcisio Bertone, conveyed the thanks of Pope Benedict XVI "for the religious liberty that Belarus enjoys" during a June 2008 visit to Minsk. During the same visit, Bertone also told a press conference that the repressive Religion Law was "a good law reflecting the necessary protection and respect for the rights of the five main confessions traditional to Belarus".

Despite such Catholic Church concessions, it is unlikely that a Concordat would halt Belarus' continuing violations of the right to freedom of religion or belief – both against Catholics and others.

### ***Soviet nostalgia***

Belarus retains a Soviet-era network of religious affairs officials charged with the close monitoring of religious communities. In addition to the Minsk office of the most senior, Plenipotentiary for Religious and Ethnic Affairs Gulyako, each of the country's six regions plus Minsk city employs one or two religious affairs officials, with further officials dealing with religious affairs in every district (approximately 20 per region). Local Ideology Departments were revived in 2003; their officials are frequently instrumental in moves to restrict freedom of religion or belief.

The KGB secret police are also often involved. Pointedly retaining its Soviet title, the Belarusian KGB has made no attempt to distance itself from its recent past, instead proudly tracing its history back to the first Soviet secret police, the Cheka. According to the official KGB website, in the 1920s the Cheka fought transport disruption, a typhoid epidemic, and to save starving orphans. The website also suggests that the secret police suffered rather than performed Stalin's purges in the 1930s, with about 20,000 officials as victims.

Defence of this record has led the KGB to discourage commemoration of Christians killed for their faith in Soviet times. KGB officers tried to have icons of them removed from Grodno's Orthodox cathedral in 2006, and continue to monitor visitors to mass graves of Stalinist repression victims at Kuropaty (Kurapaty) outside Minsk. An Orthodox chapel planned for the site has never been built.

### ***Worship meeting restrictions***

Under the Religion Law, religious activity can only take place "unobstructed" in state-approved houses of worship (Article 25). Yet the state obstructs acquisition of such houses of worship by disfavoured religious communities, as the case of New Life Church illustrates. Officials then use various legal tools to limit such communities.

Restrictions begin from the moment a community forms. Under the Religion Law, all religious organisations must be registered with the state (Article 14). The Law is silent on those with fewer than 20 members – the minimum for registration. This creates a Catch-

22 situation for a new community: it cannot publicise its existence before it has 20 committed members, but must do so in order to attract such a membership.

Fledgling communities of disfavoured faiths thus meet under threat of state reprisals, even in private homes. In January 2012 state officials warned the pastors of two such Pentecostal groups for conducting unregistered worship in villages in Brest Region. In late 2011 police raided a Jehovah's Witness house group in Mogilev [Mahilyow] Region.

The state formally learns such communities exist when they attempt to register. In late 2011 police raided two Jehovah's Witness communities repeatedly denied state registration in Brest and Gomel Regions. In October 2009 police and an ideology official raided a village home in Mogilev Region, where about 20 members of a Full Gospel charismatic congregation were singing hymns. Its registration application had earlier been rejected; the KGB secret police questioned those who signed it and claimed to find some less than totally familiar with the church's beliefs.

State registration being compulsory, the Religion Law makes no provision for those who do not wish to register. This primarily concerns the Council of Churches Baptists, who believe registration leads to state interference. (They broke away from the Soviet Union's main Baptist Union in the 1960s over moves to limit evangelism and youth work.) In a leaked 2005 report, Brest Region's top religious affairs official described the frequency of these Baptists' services due to the inaction of junior officials as a "depressing situation".

The Council of Churches Baptists reported 12 fines for unregistered religious activity during 2005-6, on several occasions at least half the average monthly wage. The 11 fines they reported for 2007-8 were at least as high, and on several occasions significantly higher. Forum 18 learnt of only five such fines from June 2009 to January 2013; some were still substantial, however.

### ***Administrative "offence"***

Unregistered religious activity is typically treated as an administrative "offence" under the Administrative Code: "creation or leadership of a religious organisation without state registration or activity by a religious organisation not in accordance with its registered statute" (Article 9.9, Part 1). The only punishment here is a fine of between four and 10 base units. The base unit is used to calculate state benefits and wages, and was raised on 1 April 2012 to 100,000 Belarusian Roubles (then 60 Norwegian Kroner, 9 Euros, or 12 US Dollars).

Eight fines under Article 9.9, Part 1 were reported from June 2009 to January 2013:

A Council of Churches Baptist community was raided by an ideology official and police officer during August 2009 evening prayer at a private home in Brest. The host, Yelena Oktyusyuk, was later fined 175,000 Belarusian Roubles (then 360 Norwegian Kroner, 40 Euros or 60 US Dollars).

Also in August 2009, Yevgeny Bakun, a pensioner, was fined 140,000 Belarusian Roubles (then 280 Norwegian Kroner, 30 Euros or 50 US Dollars). A month earlier, police, ideology and religious affairs officials raided worship by an unregistered Pentecostal congregation in a hut in the yard of his Grodno home. According to the court verdict against Bakun, he gathered up to 30 people "into a stable group of fellow-believers by use of agitation".

In December 2009 Sergei Yevstafyev, Aleksei Ilnitsky and Ivan Mustetsanu of an unregistered Jehovah's Witness community in Mogilev Region were each fined 140,000 Belarusian Roubles. That July about 20 local officials, police and KGB secret police forced

their way into Ilnitsky's village home where - according to the court verdicts against them - "a meeting of citizens was underway, of about 30 people, in the course of which, those present prayed and studied the Bible."

In April 2009 raids on home worship to mark the Memorial of Christ's death, the most important Jehovah's Witness commemoration of the year, led to fines of 140,000 Belarusian Roubles for Andrei Varaksa in Mogilev Region, and 175,000 Belarusian Roubles for Andrei Kuzin in Minsk Region.

Positively, restrictions on unregistered religious activity were relaxed from 23 February 2010, when an amendment came into force removing this as an "offence" from Article 9.9, Part 1. The following month, charges of leading unregistered worship were consequently dropped against Jehovah's Witness Maksim Pyrochkin in Mogilev Region.

Following the change, however, Pastor Yuri Petrevich of an Embassy of God Protestant congregation in Grodno was fined 140,000 Belarusian Roubles in March 2010 after police and KGB secret police raided worship at his home. Forum 18 is not aware of the use of Article 9.9, Part 1 to target unregistered religious activity subsequently.

The remaining part of this Article - punishing "activity by a religious organisation not in accordance with its registered statute" - is rarely used. New Generation Full Gospel Church, in Brest Region, was fined 350,000 Belarusian Roubles (then 790 Norwegian Kroner, 90 Euros or 120 US Dollars) in July 2009 for holding a Sunday worship service that was allegedly not in keeping with its statute. It remains unclear how the service did not comply.

### ***Harsher alternative provision***

Pastor Yuri Petrevich from Grodno (see above) was additionally punished under another, harsher provision of the Administrative Code that allows prosecution of unsanctioned religious activity. Article 23.34, Part 2 punishes organisers who violate regulations for holding demonstrations or other mass public events with fines ranging from 20 to 40 base units; Petrevich was fined 700,000 Belarusian Roubles (then 1,400 Norwegian Kroner, 175 Euros, or 230 US Dollars). He estimated this to be about one month's average wages in Grodno.

Positively, Article 23.34 Part 2 was amended in November 2011 to remove "other public events" from the list of "gathering, meeting, street procession, demonstration, picket" - types of public event requiring advance state approval. Despite this, however, two Jehovah's Witnesses faced prosecution for home worship in November 2011 and April 2012 under Article 23.34, Part 2. Forum 18 is not aware of attempts to use this provision subsequently to prosecute unsanctioned religious activity.

### ***The Article was earlier used repeatedly:***

In September 2011 Pastor Aleksei Abramovich of a Council of Churches Baptist congregation in Minsk Region was fined 700,000 Belarusian Roubles (then 690 Norwegian Kroner, 90 Euros or 120 US Dollars), for leading unregistered worship following a raid by police and an ideology official. Fellow Council of Churches Baptist Pastor Nikolai Varushin was fined 1,050,000 Belarusian Roubles (1,040 Norwegian Kroner, 235 Euros, or 335 US Dollars) after police similarly raided a Sunday worship meeting in February 2011.

In June 2010 Pentecostal Pastor Viktor Novik was fined a combined total of 2,100,000 Roubles (then 4,300 Norwegian Kroner, 540 Euros or 700 US Dollars) for singing and distributing Christian leaflets on three occasions in a village in Brest Region. He noted

that when six church members were detained for spreading their faith in similar circumstances in 2009 they were merely warned verbally.

In September 2009 Pentecostal Yevgeny Bakun was also fined 700,000 Belarusian Roubles (then 1,400 Norwegian Kroner, 175 Euros or 230 US Dollars) under Article 23.34, Part 2, in addition to his fine under Article 9.9, Part 1 (see above). Both Bakun's fines (together worth two and a half times his monthly pension) were automatically deducted from his pension in instalments, as he did not pay them within one month.

In July 2009 approximately 10 police and state officials climbed over a fence and forced entry to a private Gomel home where several dozen Jehovah's Witnesses were meeting. One of the Witnesses, Yuri Reshetnikov, was later found to have violated Article 23.34, Part 2 and fined 1,050,000 Belarusian Roubles (then 2,150 Norwegian Kroner, 260 Euros or 385 US Dollars).

While reports of fines are not common, fear of punishment forces many religious communities to keep out of sight: in principle, they could face criminal prosecution. Introduced in the run-up to the December 2005 presidential elections, Article 193-1 of the Criminal Code punishes "organisation of or participation in activity by an unregistered political party, foundation, civil or religious organisation" with a fine or imprisonment for up to two years.

So far, however, Forum 18 has learnt of only two threats to use Article 193-1 against religious communities. These were by police detaining members of a Council of Churches Baptist congregation in Kostyukovichy village (Mogilev Region) in February 2011 and by Mozyr District Public Prosecutor's Office (Gomel Region) in May and June 2012, when it warned various members of the Suzko family about unregistered Pentecostal worship. While the Suzkos failed to overturn these warnings, their community went on to obtain registration in November 2012.

### ***Religious property***

Under President Lukashenko, Protestant communities have generally found it impossible to get property redesignated so that it can be used for worship in line with the law. If a building is not a designated house of worship, advance state permission is needed for religious activity, and anti-Protestant officials typically refuse to grant it. Orthodox and Catholic communities are rarely affected, partly due to the state's more positive attitude towards them, but also because they are more likely to occupy historically preserved, designated worship buildings.

Reflecting New Life's experience in Minsk, Stepan Lugovsky, the Jehovah's Witness homeowner in the July 2009 Gomel raid (see above), was fined 700,000 Belarusian Roubles (then 1,400 Norwegian Kroner, 170 Euros or 260 US Dollars) for "using living premises not for their purpose" (Administrative Code, Article 21.16, Part 1).

In July 2009 Stepan Paripa and Nikolai Pestak, two "Council of Churches" Baptists, were each fined 700,000 Belarusian Roubles under the same provision because their unregistered congregation in Baranovichy (Brest Region) meets in a private home.

Another element of New Life's situation is a similar sanction involving "misuse" of land for religious worship. In June 2010 two Pentecostal village churches in Minsk Region were each fined 700,000 Belarusian Roubles for using private homes remodelled for worship, thereby allegedly violating the procedure for using a land plot (Administrative Code, Article 15.10, Part 3).

In October 2009 a village Baptist church in Vitebsk Region was fined 700,000 Belarusian Roubles under the same provision.

### ***No right to appeal***

Under the Religion Law, a religious organisation found to have violated Belarusian law must correct the alleged violation within six months and not repeat it in the course of a year. If it fails to do so, the authorities may seek to shut the organisation down (Article 37). No legal provision exists to challenge such warnings.

On 5 April 2007 the Constitutional Court highlighted the Religion Law's failure to give religious organisations the right to challenge warnings in court (Decision R-199). Yet Jehovah's Witness congregations given official warnings since that decision have repeatedly tried, but failed, to establish the legal right to challenge them.

The Jehovah's Witness community in Gomel was warned in September 2009 for offering literature on the street, but Gomel Regional Court and the Supreme Court rejected its attempt to challenge this warning. The Jehovah's Witness community in Mogilev was similarly warned in February 2010, when one of its members offered literature on the street without advance state permission. Again Mogilev Regional Court and the Supreme Court rejected the Jehovah's Witnesses' complaint on the grounds that Belarusian law does not envisage the possibility of challenging such warnings. In October 2010 Belarus' Deputy General Prosecutor rejected their appeal against the courts' refusals, on the same grounds.

Jehovah's Witnesses have also tried but failed to challenge a ban on importing religious literature – a time-consuming and burdensome procedure even when import is permitted. While approving the import from Germany of other Jehovah's Witness texts - including issues of the same magazine - the "Expert Council" attached to Minsk's Office of the Plenipotentiary for Religious and Ethnic Affairs rejected the 1 May 2012 issue of "The Watchtower" for containing allegedly "religious/political" material.

In September 2012 the Jehovah's Witnesses requested a copy of the Council's "expert analysis" from Plenipotentiary Gulyako, pointing out that by law such analyses must be provided to the relevant religious community within 10 days. They also asked how such a decision might be challenged.

In his 22 December 2012 response to the Jehovah's Witnesses, Deputy Plenipotentiary Vladimir Lameko relayed the reasoning behind the Expert Council's rejection. This was that the material "examines issues of the political socialisation of the personality" and "argues for a position of refusing participation in political events on the basis that Satan and 'evil spiritual forces' govern the world". However, continued Lameko, the Religion Law states that religious organisations are formed "to fulfil religious, and not political, needs". He dismissed the possibility of challenging this conclusion: "There is no basis for changing the decision on the given question."

No other individuals or communities have complained to Forum 18 about government censorship of religious literature.

In May 2007 the secretary of a Lutheran Union from Vitebsk identified only as V.S. lodged an appeal to the United Nations Human Rights Committee under the International Covenant on Civil and Political Rights (ICCPR). The Lutheran complained that various Belarusian courts – including the Supreme Court and the Higher Economic Court - had repeatedly rejected suits challenging official warnings from the Plenipotentiary, again citing the Religion Law's failure to set out a procedure for protesting against such decisions.

Although the original warning to the Lutheran community was about their seal and headed paper, the Lutheran noted that it had serious consequences. Once the Plenipotentiary had issued the warning, his Office refused to process any further requests from the community. Thus, it would not consider a request to allow Lutherans from the United States to visit the community in Belarus.

The UN Committee's 30 October 2011 finding noted that the question was repeatedly passed back to the Plenipotentiary whenever the Lutheran appealed to various state agencies to incorporate a procedure for challenging official warnings into the Religion Law. However, while the Committee also recognised that restrictions on a religious community affect individuals, it rejected the Lutheran's complaint because it had been lodged individually, not from the community itself (CCPR/C/103/D/1749/2008).

### ***Conscientious objectors***

In defiance of Belarus' international human rights obligations to respect religious freedom, no mechanism exists for conscientious objectors to compulsory military service to perform a genuinely civilian alternative service.

(Other Organisation for Security and Co-operation in Europe (OSCE) participating States without a civilian alternative service possibility for conscientious objectors and where objectors are imprisoned are Armenia, Azerbaijan, Turkey and Turkmenistan. The unrecognised breakaway entity of Nagorno-Karabakh also imprisons conscientious objectors.)

With a few exceptions, or deferments due to health problems or family circumstances, all Belarusian men aged between 18 and 27 are required to do 12 or 18 months' military service.

This is also despite Belarus' own 1994 Constitution (Article 57), and a requirement for call-up commissions to offer alternative service in the 1992 Law on Military Obligation and Military Service (Article 36). A 2000 Constitutional Court ruling called for "urgent" amendment of the 1992 Law or adoption of an Alternative Service Law.

"On Alternative Service" is among 34 draft laws to be considered in 2013 in line with a 3 January 2013 presidential decree. According to the decree's timetable, completion of the draft law is envisaged in July 2013 and its presentation to the Palace of Representatives (lower house of parliament) in October 2013. According to Vera Chaushnik of the government's National Centre for Legislation and Legal Research, the earliest it could be adopted would be 2014.

Earlier similar proposals have stalled. Draft alternative service laws were rejected by parliament in 2004, and removed from the 2010 legislative programme at the last minute. After President Lukashenko ordered the drafting of such a law in February 2010, a government working group was set up, but it did not meet the September 2012 target for submitting a draft to the Council of Ministers.

Under the Criminal Code, conscientious objectors may be fined or imprisoned for up to two years for "refusal of call-up to military service" (Article 435, Part 1). Those who refuse military service on grounds of conscience are sometimes allowed to serve in the Railway Troops without taking the military oath. But this is not acceptable for some, notably Jehovah's Witnesses.

In the first prosecution since 2000 under Article 435, Part 1, Jehovah's Witness Dmitry Smyk was fined 3,500,000 Belarusian Roubles (then 7,230 Norwegian Kroner, 860 Euros or 1,290 US Dollars) in November 2009, and banned both from leaving Belarus and

travelling within the country without notifying the authorities. However, he was eventually acquitted in May 2010.

Messianic Jew Ivan Mikhailov was sentenced to three months in prison under the same article in February 2010; he served almost all of this term before acquittal.

In 2010 pacifist Yevhen Yakovenko received a one-year sentence of restricted freedom under the same article, but automatically fell under an amnesty to mark the 65th anniversary of the end of the Second World War.

More recent cases failed to reach court. In late 2011 Jehovah's Witness Aleksandr Belous was threatened with criminal prosecution, but the charges were dropped in April 2012. Pacifist Andrei Chernousov was forcibly confined to a psychiatric hospital for five days in May 2012 in order to establish if his convictions leading him to refuse call-up accorded with "norms of psychiatric health".

Young men may also be denied their right to freedom of religion or belief while conscripted. Currently conscripted Youth Front activist Pavel Sergei – whose opposition to both the regime and military service is motivated by his Christian faith – has been prevented from attending church.

### ***Prisoners' religious freedom***

Convicts in ordinary prisons have fewer problems gaining access to religious representatives, worship services and religious literature than inmates of pre-trial detention centres and maximum-security prisons, which usually share a building or complex.

However, this often depends on the prisoner's religious affiliation and the prison's location. The state's concordat-style 2003 Co-operation Agreement with the Belarusian Orthodox Church recognises provision of Orthodox pastoral care to prisoners and detainees among its priorities, and Orthodox priests have access to every prison for visits and religious services. Catholic priests have access to prisons in majority Catholic areas.

Protestant pastors report difficulties in accessing prisons, particularly since 2006. The deputy chief of Minsk's Punishment Implementation Department – which controls pastoral visits – told Forum 18 that it is "very strict at not admitting any random person into prisons. Sometimes they disguise themselves as other religions and have a negative influence over the inmates. For this reason access is only possible for Orthodox and Catholic priests, which means registered religions." He gave no examples of the "negative influence" he alleged.

Imams are never allowed to visit Muslim prisoners. Many convicts and clergy of different religions are unaware that the possibility for such visits exists. Also, "inmates are afraid of exercising their religious freedom rights, as they fear that the prison staff's attitude will be tougher", Protestant Pastor Boris Chernoglaz told Forum 18 in July 2011.

In Belarus' two maximum-security prisons, non-Orthodox Christian inmates are permitted one visit by a cleric each year as long as the prison administration approves it, according to Minsk-based lawyer Vlasta Oleksuk. In Zhodino's maximum-security prison, an Orthodox priest can visit inmates regularly.

### ***Death-row prisoners***

The problem of pastoral visits is acute in the case of death-row prisoners. Belarus is the only country in Europe that carries out the death penalty.

The Criminal Enforcement Code guarantees death-row prisoners the right "to have meetings with a priest" (Article 174). However, prisoners sentenced to death - which sentence is almost never commuted to life imprisonment - may not be granted visits they request.

Prison sources say that death-row prisoners are informed of their executions only minutes beforehand. In 2011 Andrei Burdyka - executed sometime between 13 and 19 July - had arranged for a visit by an Orthodox priest on 20 July. No opportunity was given for this visit to be brought forward.

Andrei Zhuk - convicted of murder and executed on 18 March 2010 - was one of a small number of prisoners known to have been executed in Belarus since 2008. Zhuk's mother told Forum 18 that his lawyer had asked if he wanted a visit from a priest but that he had declined, as he did not expect the death sentence immediately.

The bodies of executed prisoners are not given to their families, the date and place of burial is kept secret, and no opportunity is given for a religious burial service.

The mother and sister of Vladislav Kovalev complained to the UN Human Rights Committee that their right to freedom, thought and conscience (among other rights) was violated by his state execution on 15 March 2012. In refusing to give Kovalev's family his body for an Orthodox burial, the women argued, the state violated their right to religious freedom.

Kovalev was convicted of aiding another defendant in carrying out the April 2011 terrorist attack on the Minsk metro. He, his family and human rights defenders rejected the charges.

On 29 October 2012 the UN Committee concluded that the state's refusal to hand over death-row prisoners' bodies for burial and to disclose the place of burial "have the effect of intimidating or punishing the family by intentionally leaving it in a state of uncertainty and mental distress". Viewing this as amounting to inhuman treatment in violation of the ICCPR (Article 7 - Freedom from torture and cruel, inhuman or degrading treatment or punishment), the Committee did not examine the women's claim that the ICCPR's Article 18 on freedom of religion or belief had also been violated (Communication No. 2120/2011).

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