

The freedom of religion and expression in Belarus

1. Legal basis for freedom of conscience and religious activities, discriminational nature of certain legal provisions

On November, 16, 2002 a new version of the Law on Freedom of Conscience and Religious Organisations (referred to below as The Law on Freedom of Conscience) came into force. In spite of its imperfections the previous law corresponded to a greater extent to international standards in the sphere of freedom of conscience and religion.

It is important to mention that the new law was compiled and passed without general consultation of existing religious organisations. New restrictions to freedom of conscience were motivated only by general phrases like “in connection with changing situation”.

Prior to passing the law many religious organisations and individuals expressed their concern, stating that the use of the new law might lead to restrictions on freedom of religion. Unfortunately today, in practice this law allows the government to “legally” restrict freedom of religion.

I. In practice it is forbidden to carry out any religious activity without prior government registration of the religious organisation as a legal entity.

From 2001 through to the present, religious leaders of different denominations face administrative charges under Article 9.9 of the Administrative Code of the Republic of Belarus (a previous version of Article 193). According to the law, any violation constitutes a breach of responsibility for “establishing a religious organisation and leading it without prior registration of its charter (statute) in the established order”.

II. The Law on Freedom of Conscience and Religious Organisations does not permit foreigners and persons without citizenship, legally residing in Belarus, to be founders (constitutors) and/or members of religious organisations. Registration offices call for a statement in the charter saying that only citizens of the Republic of Belarus can be members of religious organisations.

III. The law creates the necessary prerequisites for restrictions on activity of registered religious organisations.

According to Article 25 of the Law on Freedom of Conscience, religious organisations do not have the right to hold religious meetings (public worship services) in the rented buildings (which are not designated religious buildings) without prior permission from local authorities.

IV. Religious communities do not have the right to develop their own mass media, to establish religious educational institutions and to train religious personnel, nor to invite foreign priests to satisfy religious needs of believers. Only religious unions have such a right.

According to the new law a religious union can be established only if it has no less than ten religious communities and one of these communities has been active on the territory of the Republic of Belarus for no less than twenty years. Many recently emerged religious organisations will not have an opportunity to establish a union in the near future. This limits the right to practice religion.

V. Members of religious organisations do not have the right to share their religious convictions or to carry out any religious activity (to preach, to distribute literature, to hold

public worship services, etc) **beyond the borders of the location where the community is registered.**

According to the new law an activity of a religious union can be carried out only in those places where registered communities are established and they are members of the religious union. Therefore any missionary activity becomes illegal and the sharing of religious convictions is made very difficult.

VI. Recently, government officials have refused, without any legal grounds, to render land to religious organisations for the construction of religious buildings.

VII. The law provides a foundation for restrictions on the production and distribution of religious materials (religious literature, video and audio materials, etc.). Only enterprises established by religious organisations have the right to produce religious materials.

VIII. The government puts restrictions on granting legal entity status to religious organisations.

IX. Over the last couple of years the state mass media has been used to broadcast unproved information about activities of religious organisations. This information has the tendency to insult religious figures. While describing certain religious organisations the word “sect” is used. In many cases these so-called sects are opposed to the Orthodox denomination being called the traditional faith of the Belarusian people. The state mass media is spreading this type of information while sharing numerous positive publications about Orthodoxy.

Therefore legal mechanisms within Belarusian legislation the way they are carried out, testify to the intolerable restrictions on freedom of religion in Belarus. The activities of government institutions and mass media are not based on respect for religious convictions and lead to religious intolerance.

Since the law was passed, amendments and revisions have been introduced to series of norms and regulations such as the Criminal Code (1), the Code of Administrative Offences of the Republic of Belarus (2), the Law On Mass Events in the Republic of Belarus as well as adopting New Regulations on the Order of Inviting Foreign Citizens and Persons Without Citizenship to the Republic of Belarus for Religious Activity.
<http://www.law.by/work/EnglPortal.nsf/NewsReviewForInt/2B6ECAA4FB9B539AC22573EC004E065E?OpenDocument>

The application of the Law on Freedom of Conscience, in conjunction with these regulations, results in restricting religious freedom, imposing penalties for conducting religious group meetings without legal entity registration or without government authorities’ permission, restraining foreign clergy’s activities as well as their deportation. Unclear and contradictory legal mechanisms enable state authorities to impose penalties and restrict activities of followers of several denominations while providing greater opportunities for religious organisations of other “traditional” confessions to perform their religious activities in many different aspects.

2. Religious legislation and the restriction on freedom of conscience, 2008-2009 (main tendencies)

1. Restrictions on religious activities of foreign citizens

In January 2008, the Council of Ministers adopted the Regulations on the Order of Inviting Foreign Citizens and Persons without Citizenship to the Republic of Belarus for Religious Activity. According to these regulations, one of the requirements for foreign citizens or persons without citizenship conducting religious activities (performing clergy's duties, teaching in ecclesiastical institutions) is to provide certified religious education documents, work experience certificate and documentation of Belarusian and Russian language proficiency necessary to perform a religious activity.

Requirements introduced by these regulations cannot always be carried out. As a result, religious organisations, where foreign citizens perform clergy's functions, experience exceptional hardships. For example, according to the June 2008 statistics of the Press Service of the President of the Republic of Belarus, out of 398 priests in the Roman Catholic Church, 180 are foreign citizens, mostly from Poland. Therefore, the possibility for religious organisations to choose for themselves a priest is restricted. Meanwhile, Belarus is still under obligation to fully implement the undertaken commitments according to the agreements within OSCE framework. Under the concluding document of the Vienna meeting in 1989, OSCE participating states resolved to respect the right of religious communities to "organize themselves according to their own hierarchical and institutional structure" (principle 16.4) <http://www.fas.org/nuke/control/osce/text/VIENN89E.htm>

The enactment and enforcement of the above-mentioned regulations in some cases violates this principle.

In 2008-2009 there were still cases of unfounded refusal to renew visas for foreign citizens and deportation of foreigners for their religious activities. Here are some examples we know.

In May 2008 visas were not renewed to a couple, Egbert and Anita Schoone, German citizens. Since 1997 they have been involved in Christian rehabilitation of drug addicts and founded «TOS Weissrussland» Centre in Svetlogorsk region, the leading region in Belarus in drug addiction among young people.

In October 2008, the Protestant bishop Benjamin Brukh, a Ukrainian citizen, the founder and the pastor of the Full Gospel Community Church of Jesus Christ in Minsk, 1991-2002, was banned from entering Belarus and afterwards deported. Official reasons for his deportation and the terms of his entry ban so far remain unknown. Prior to this event, during his permanent residency in Belarus, authorities attempted to impose administrative penalties against Mr. Brukh and restrict his religious activity. This was due to the fact that Mr. Brukh was active in defending the rights of churches and believers during his residency in Belarus, including taking legal actions in the court.

In December 2008, the authorities did not renew the permit for religious activities and visa to a Catholic priest Zbigniew Grygorcewicz. Mr. Grygorcewicz was one of the main organizers of the Christian music festival in Borisov, where the authorities banned the festival on the opening night. The Polish priest publicly criticized the local authorities' actions.

In February 2009, two Danish citizens were deported from Belarus. One of them has, for many years, been helping to carry out various charitable projects for the residents of Gomel and Gomel region, the region most affected by the Chernobyl nuclear power plant. The main reason for deportation was the Danes' participation in a church service of one of the Protestant Churches in Gomel, where they have long term friendships.

2. Restriction on the activities of religious organizations by prohibiting the premises rental or building their own facilities

Amendments introduced to the legislation of Belarus in the late 90's - early 2000's, resulted in many religious communities facing insurmountable difficulties in renting premises for religious meetings and other activities of a religious nature. This is due to the fact that it became necessary to receive local authorities' permission.

State authorities unfoundly have been denying many communities permission to conduct religious meetings in the premises that are not religious in nature. In early 2000's religious communities with hundreds and sometimes a thousand members were forced to leave the previously rented premises.

The construction of religious buildings or renovation of existing public buildings into premises for religious purposes can only be carried out once the issue has received Presidential approval. However, it is virtually impossible for religious organisations to receive such an approval or any other permission from various state authorities, if these organisations are not included in the list of «traditional» organisations. The reasoning of the state authorities to refuse so-called permissions and approvals are generally subjective and non-statutory.

The state in which the Minsk Protestant Community New Life Church found themselves (christened by journalists as the Church in the Cowshed) is a clear illustration of the aforementioned. In 2000 the rental lease was cancelled due to local authorities' refusal to grant corresponding permission in spite of the fact that religious meetings had been held there for the previous six years. The church had continually tried to receive the permission to hold services at other premises, but each time they received unfounded refusal. As a result, in 2002, the church decided to buy the former cowshed building near Minsk with the intention of further reconstruction for religious use. For several years, the church tried unsuccessfully to gain the permission for reconstruction as well as permission to hold religious meetings in the purchased building that had been renovated by church members. The church began to hold religious meetings in the building without the state authorities' permission and as a result the administrator Vasily Yurevich and Pastor Vyacheslav Goncharenko have been repeatedly subjected to administrative fines.

In 2005, the Minsk City Executive Committee decided to confiscate the land plot from the church due to the fact that the building had not been used for its intended purpose (not as a cowshed, but to hold religious services in the building). The church filled an appeal against the decision to the court but the appeal was not granted. Thereafter the verdict of a forced sale of the building was reached. Believers determined to resist the authorities' illegal decision and in October 2006 they initiated a hunger strike for 23 days in excess of 200 believers nationwide participating. As a result, the representative of the Presidential Administration requested that Pastor Vyacheslav Goncharenko, on behalf of the church, would take legal actions in settling the conflict and appeal to the court again.

In November 2006 the Supreme Economic Court took up the church's appeal for further consideration and held it pending until January 13, 2009. However, the appeal was once again denied and as a result, the Minsk City Executive Committee's decision on confiscation of the land plot and forceful sale of the building remains intact and awaits execution. Currently, the community numbers approximately 1000 members.

3. Imposing administrative penalties on citizens for carrying out religious activities without state registration.

In May 2008 Valentin Borovik from Shchuchyn, Grodno region, was found guilty for starting a religious organisation without state registration in established procedure (Article. 9.9, paragraph 1, Code of Administrative Offences of the Republic of Belarus). He was subjected to the administrative penalty of a fine of 315, 000 rubles (approximately 150 U.S. dollars). The church led by Mr. Borovik numbers 15 people and, according to the current law On Freedom of Conscience and Religious Organizations, it can not be registered due to the fact that the registration requires twenty members. The decision of the court was appealed to the Court of Cassation but it remained intact.

On February 18, 2009 an administrative violations case was filed against Lyudmila Batuk from Mogilev (under Article. 9.9, paragraph 1, Code of Administrative Offences of the Republic of Belarus). The authorities found her guilty in rendering assistance in rehabilitating alcoholics and members of their families using methods based on Christian principles, which have been done according to the charter of her charitable organisation. Lyudmila herself is a Christian and a member of a Protestant church.

The existence of the above mentioned procedures in the legislation of Belarus and their application restricts the exercise of the citizens' fundamental rights to freedom of conscience, freedom of association, freedom of expression. These restrictions are not based on the necessity to protect public safety, order, health and morals or fundamental rights and freedoms of other people.

APPENDIX

Article 193-1: Illegal organisation of activities of a non-governmental organisation, a religious organisation or a foundation, or participation in their activities

The organisation of the activities or participation in the activities of a political party, another non-governmental organisation, of a religious organisation or of a foundation against which a competent State body has taken a decision, which has come into force, of dissolution or suspension of its activities, as well as the organisation of or participation in the activities of a political party, another non-governmental organisation, of a religious organisation or of a foundation, which has not undergone the official registration process, is punishable by a fine or by an administrative detention of up to six months, or by a term of imprisonment of up to two years.

Civil Initiative "For Free Denomination"