



This article was published by F18News on: 26 March 2009

BELARUS: "Your reasoning does not correspond with reality"

By Geraldine Fagan, Forum 18 News Service <<http://www.forum18.org>>

Belarus' Supreme Court has dismissed a challenge to the state's requirement that worship must be registered to be legal, Forum 18 News Service has learnt. On 2 March the Court rejected an appeal brought by a Pentecostal pastor against a fine for leading an unregistered religious organisation. Pastor Valentin Borovik had argued that the requirement to register broke both the Belarusian Constitution and the International Covenant on Civil and Political Rights, a position supported by international human-rights lawyers. Dismissing the appeal out of hand, however, the Supreme Court's vice-chairman ruled that Borovik's rights to freedom of conscience "were not violated in any way." Baptist and charismatic communities are the most recent to report state harassment for unregistered religious activity, which increasingly comes from ideology officials.

Belarus' Supreme Court has dismissed a challenge to the state's requirement that worship must be registered to be legal. On 2 March the Supreme Court in the capital Minsk rejected an appeal by Pastor Valentin Borovik, who heads a Pentecostal church in north-western Belarus, against a fine of 315,000 Belarusian roubles (768 Norwegian Kroner, 95 Euros or 149 US Dollars) for leadership of an unregistered religious organisation (Article 9.9, Part 1 of the Administrative Code).

State officials have repeatedly told Forum 18 in recent years that punishment for unregistered religious activity is justified because the law bans unregistered religious activity. They refuse to explain why such a ban is necessary.

Mosty Town Court (Grodno Region) handed down the fine to Borovik on 9 June 2008. Judge Vitali Sinilo's verdict noted that a Sunday, 16 March 2008 check-up found a religious service underway in a private home in the town. "At meetings they read the Gospel, discuss questions of religious faith, sing songs and conduct religious rites," it reported as evidence of wrongdoing.

Grodno Regional Court upheld the fine on 26 June (see F18News 25 July 2008 <http://www.forum18.org/Archive.php?article_id=1163>).

In his 25 December 2008 complaint to the Supreme Court, viewed by Forum 18, Pastor Borovik maintains that the Administrative Code provision is overridden by the 1994 Belarusian Constitution's religious freedom guarantees (Articles 23 and 31). He also points to Article 18, Part 3 of the International Covenant on Civil and Political Rights: "Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others." The International Covenant entered force for Belarus in 1976.

"Registration of a religious organisation as a legal personality cannot be a condition for the realisation of the civil right to the joint profession of religion, because it restricts that right," Pastor Borovik argues. With some 13 adult citizen members, his congregation in any case falls short of the 20 required for registration under the restrictive 2002 Religion Law.

Officials have previously given Forum 18 differing views on whether they consider unregistered religious activity by groups with fewer than 20 members illegal (see F18News 7 October 2003 <http://www.forum18.org/Archive.php?article_id=154>).

Supreme Court Vice-chairman Valeri Kalinkovich's dismissal of Pastor Borovik's complaint was unequivocal, however. "It is evident from the case materials that your rights to freedom of conscience were not violated in any way," he states in the Court's 2 March response, seen by Forum 18.

"As for your reasoning that the administrative legal norm contradicts the present Constitution and the International Covenant," concludes Kalinkovich, "it does not correspond with reality."

Compulsory state registration is rejected by leading international human-rights lawyers, including Professor Malcolm Evans, a member of the Organisation for Security and Co-operation in Europe's (OSCE) Advisory Council of Experts on Freedom of Religion or Belief. "Requiring faith communities to register is almost impossible to reconcile with international and OSCE human-rights standards," Professor Evans has stated. "Unless it is for the purposes of tax benefits or to obtain charitable status, there should be no need for compulsory registration."

In Belarus, unregistered religious communities may encounter state harassment, increasingly by officials in charge of enforcing ideology. In the latest, 20 March incident, an ideology official in Bobruisk (Mogilev Region) told a local Embassy of God pastor who unsuccessfully sought registration that his community would have "big problems" if it continued to meet for worship, according to Natalya Komovskaya, who co-ordinates the Kiev-based charismatic Church's communities in Belarus. As it may not gather publicly, the 30-strong Bobruisk congregation currently meets in a private flat, she told Forum 18 from the south-eastern regional centre of Gomel on 25 March.

While seven Embassy of God churches - including those in Brest, Gomel [Homyel], Minsk, Rechitsa [Rechytsa] (Gomel Region), Slonim and Soligorsk - managed to re-register under the 2002 Law, a further eight formed since the Law came into force have been unable to register (see F18News 28 July 2005 <http://www.forum18.org/Archive.php?article_id=619>).

Embassy of God members in Belarus encounter incidents such as that in Bobruisk from time to time, but there is no predictable pattern, Komovskaya told Forum 18. Her own Gomel congregation was raided by ten armed police officers some three years ago, but managed to avoid repercussions as it is a registered religious organisation, she said.

Komovskaya believes the KGB secret police prefer to monitor congregations through informers. Other religious communities have also suggested to Forum 18 that the KGB keeps a close eye on their activity. In one recent case, two Danish citizens were deported for praying in a separate Gomel charismatic church after a young man never seen in the congregation before filmed them with his mobile phone (see F18News 11 February 2009 <http://www.forum18.org/Archive.php?article_id=1253>).

Refusing compulsory state registration on theological grounds, the Council of Churches Baptists still insist on public activity and so are particularly subject to prosecution. A member who recently operated a Christian street library in Osipovichi (Mogilev [Mahilyow] Region) now plans to appeal a 4 March local court decision to impose a fine and destroy seized literature. "The Bible and New Testament are the word of the Living God, and so the destruction of these books is sacrilege," Nikolai Poleshchuk writes in a 25 March open statement. "The dissemination of my convictions is my lawful right."

On 11 January, Poleshchuk and another Baptist were approached by Anna Zemlyanukhina, the head of Osipovichi District Ideology Department, who told them they had no right to run a Christian street library as their church is unregistered, and called the police (see F18News 26 January 2009 <http://www.forum18.org/Archive.php?article_id=1244>).

Zemlyanukhina has stated that she will not comment to Forum 18. (END)

For a personal commentary by Antoni Bokun, Pastor of a Pentecostal Church in Minsk, on Belarusian citizens' struggle to reclaim their history as a land of religious freedom, see F18News 22 May 2008 <http://www.forum18.org/Archive.php?article_id=1131>.

For more background information see Forum 18's Belarus religious freedom survey at <http://www.forum18.org/Archive.php?article_id=888>.

Full reports on freedom of thought, conscience and belief in Belarus can be found at <<http://www.forum18.org/Archive.php?query=&religion=all&country=16>>.

A survey of the religious freedom decline in the eastern part of the Organisation for Security and Co-operation in Europe (OSCE) area is at <http://www.forum18.org/Archive.php?article_id=806>.

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

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