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BELARUS: Criminal trial of conscientious objector a show trial?

By Olga Glace, Forum 18 (<https://www.forum18.org/>)

Eleven days after the official publication in June of Belarus' first-ever Alternative Service Law, which takes effect from 1 July 2016, an investigator opened a criminal case against Jehovah's Witness conscientious objector Viktor Kalina. He faces punishment of up to two years' imprisonment if convicted of refusing military service on grounds of religious conscience. No court official in Brest was able to explain to Forum 18 News Service why the first hearing in his trial on 17 August was held not at the court but at Brest Military Conscription Office. Kalina likened it to a show trial as five more young men who chose not to go to the army were present at the hearing, and officials "decided to show them the consequences". However, the Head of Kalina's local Conscription Office, Valentin Abramov, insisted to Forum 18 that trials outside courts are "usual practices".

The criminal trial began in Brest in western Belarus on 17 August of Jehovah's Witness conscientious objector Viktor Kalina, just days before his 21st birthday, Forum 18 News Service has learned. He faces punishment of up to two years' imprisonment if convicted of refusing military service on grounds of religious conscience. Unusually, the first hearing took place not at the court but in the auditorium of Brest Military Conscription Office in an apparent bid to deter other young men from refusing military service.

About 50 fellow Jehovah's Witnesses were present for the hearing to support Kalina, one of them told Forum 18 from Brest on 26 August. "Officials were very surprised to see such support."

Kalina has been told he will be summoned when the date is set for the trial to resume. He is not under arrest as the trial proceeds, but remains under travel restrictions.

Kalina – who lives in his native village of Lukovo in Malorita District of Brest Region - repeatedly told the Military Conscription Office of his willingness to perform a civilian instead of a military service, even under punitive conditions. "I can do any job, even sweeping the streets for a low salary, as long as it is in the civilian sector," he told Forum 18 on 21 August.

Prosecution despite new Alternative Civilian Service Law

The criminal case was opened against Kalina on 22 June under Criminal Code Article 435, Part 1 ("Refusal of call-up to military service"), according to case materials seen by Forum 18. This Article carries a fine or up to two years' imprisonment.

Another Jehovah's Witness conscientious objector Dmitry Chorba was also charged under the same article on 11 June, but the criminal case against him was closed on 30 June. However, he fears that he might be called up again in the autumn (see F18News 20 July 2015 http://www.forum18.org/archive.php?article_id=2083).

No other similar cases against Jehovah's Witness conscientious objectors are currently underway, a Jehovah's Witness spokesperson told Forum 18 from the capital Minsk on 26 August.

The criminal case against Kalina was opened 11 days after the official publication in June of the new and first-ever Alternative Service Law, which will take effect from 1 July 2016. This will allow some but not all young men who are conscientious objectors to perform a civilian alternative service instead of compulsory military service. However, only young men with a religious objection will be eligible to apply, not those with non-religious pacifist convictions. It is also unclear whether even all young men with religious objections to military service will be allowed to do civilian alternative service. Moreover, civilian service will be twice the length of military service.

Human rights defenders have stated that they will continue to work to bring the Law into line with international human rights standards (see F18News 18 June 2015 http://www.forum18.org/archive.php?article_id=2074).

Indictment

The 20 July indictment in Kalina's case (seen by Forum 18), which was prepared by Senior Investigator Olga Kosovtseva and sent to the court, stated that "after coming to the assembly station on 20 May he refused to go to the place of military service, explaining his

refusal by his religious belief, which violated the call-up procedure and fulfilling the ruling of the call-up commission of Malorita Military Conscription Office".

"I honestly turned up on every notification they sent and each time declared my wish to conduct an alternative civilian service instead," Kalina explained to Forum 18. "I refused to go with other conscripts to the military base because it is unacceptable to me."

Kalina noted that in the 2014 call-up, the Medical Commission had pronounced him unfit for military service due to heart disease. "It's ridiculous that last year I was unfit for the army and this year I'm in perfect health," he joked bitterly.

Asked about the attitude of the military conscription officer and the senior investigator, Kalina said that both explained to him only their point of view, insisting that civilian service is not possible.

For some years, those who wish to conduct military service without swearing the military oath and/or without bearing weapons have been sent to perform their service in the Railway Troops. However, this unacceptable for Jehovah's Witnesses and other pacifists, as such service is within the armed forces and under military oversight (see F18News 13 January 2013 http://www.forum18.org/archive.php?article_id=1789).

Show trial?

Kalina's trial is being conducted by Judge Yuri Martynyuk of Brest's Moscow District Court at Brest United Military Conscription Office. The Judge's secretary – who did not give her name – told Forum 18 on 26 August that he is not available to comment on the case, especially on the phone. She said she could not find any information on the date and location of the next hearing in her records. She refused to explain why the trial's first hearing on 17 August had taken place not at the court but at the Military Conscription Office.

Human rights defender and Gomel representative of the Belarusian Helsinki Committee, Viktor Odinochenko, attended the first hearing in Brest of Kalina's trial. He acknowledged that it was most unusual that the hearing was held in the Military Conscription Office. "I've never seen anything like that before," he told Forum 18 on 20 August.

By contrast, the Head of the Conscription Office in Malorita, Valentin Abramov, insisted to Forum 18 on 25 August that trials outside courts are "usual practices".

Kalina likened it to a show trial as five more young men who chose not to go to the army were present at the hearing, and officials "decided to show them the consequences".

Another Jehovah's Witness from Brest present at the hearing to show support for Kalina told Forum 18 on 26 August that it seemed to him these five young men "simply didn't want to undergo military service and religious belief has nothing to do with it". One of the five had recounted to him that he enjoys break dancing and fears he will lose his skills during army service.

No comment

The duty officer at Brest United Military Conscription Office, where the court hearing took place, absolutely refused to comment on the trial. "These are questions not for me but for my superior, who is out of the office at the moment," he told Forum 18 on 21 August. He directed Forum 18 to the Conscription Department but the head of the Department, Olga Romanus, told Forum 18 that they have no information as Kalina is registered in Malorita Military Conscription Office.

Abramov, Head of the Conscription Office in Malorita, confirmed to Forum 18 that alternative civilian service exists as a phenomenon, but insisted that Kalina is subject to compulsory military service. "It was explained to him how to lodge an appeal but he didn't do it," he told Forum 18.

Abramov highlighted that Kalina was very disciplined about his obligations and came to the Military Conscription Office every time he was summoned. "What happened to him happened in Brest, which is not my jurisdiction," he explained to Forum 18.

Human rights defender Odinochenko considered that Kalina made a mistake which developed into a criminal case when he submitted his written request for replacing military service by an alternative civilian service only on the conscripts' appointed day of departure to the military base.

Will prosecution be dropped?

Odinochenko is optimistic that the criminal trial will end without Kalina being convicted. He pointed out that Alternative Service is provided for by Article 57 of Belarus' 1994 Constitution, whose legal supremacy was defined by the country's Constitutional Court in 2000.

"I was present at almost every court hearing of Jehovah's Witnesses and in all the cases charges were dropped," Odinochenko maintained to Forum 18. He noted that this is not the first case against conscientious objectors in Brest and such cases usually end with no conviction.

Kalina is waiting for 1 July 2016 when the Alternative Civilian Service Law comes into force. "I hope that the state will understand me and will allow me to exercise my rights," he told 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=1997.

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 compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

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