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BELARUS: Administrative Code changes, but fines continue

By Felix Corley, Forum 18 (<https://www.forum18.org>)

After a 21 February raid on his church's Sunday worship service by the KGB, police and local officials, Pastor Yuri Petrevich was twice fined a total of more than a month's average wages in March to punish him for leading his unregistered church in Grodno in western Belarus, as he told Forum 18 News Service. The first fine – for unregistered religious activity – came despite the abolition of such an "offence" in the Administrative Violations Code. A Jehovah's Witness in Mogilev Region had his case dropped after the change, and books confiscated in a raid were returned. "At first glance it seems that the removal of these 'offences' is a positive move," religious freedom lawyer Dina Shavtsova told Forum 18. "But unfortunately, this change to the Administrative Violations Code doesn't resolve the problem of the legal restrictions on the right to freedom of religion and belief." She fears the authorities might instead bring cases under the Criminal Code, where penalties for unregistered religious activity remain.

Despite the removal in February of punishments from the Administrative Violations Code for unregistered religious activity, Pastor Yuri Petrevich, who leads a Protestant church in Grodno [Hrodna] in western Belarus, was fined on 15 March for this abolished "offence", Forum 18 News Service has learnt. The fine – as well as a second fine on him on 31 March - followed a police and KGB secret police raid on his unregistered church. By contrast, a Jehovah's Witness in the eastern Mogilev [Mahilyow] Region had an administrative case cancelled because of the change to the Code. Other Jehovah's Witnesses have been fined this year.

Amendment to Administrative Violations Code

The removal of punishment for unregistered religious activity under Article 9.9 Part 1 of the Administrative Violations Code came in a law introducing various amendments to the Criminal and Administrative Codes, adopted by the lower house of Parliament on 4 December 2009, the upper house on 11 December 2009 and signed by President Aleksandr Lukashenko on 28 December 2009. It came into force on 23 February 2010.

Article 9.9 Part 1 originally punished "creation or leadership of a religious organisation not registered in accordance with established procedure, or activity by a religious organisation not in accordance with its [registered] statutes". However, lawmakers deleted the "offence" of "creation or leadership of a religious organisation not registered in accordance with established procedure".

The amendment leaves unchanged the other penalties for religious "offences" under Article 9.9, including activity by a religious organisation not specified in its statute and attracting children to religious services. Other penalties in this Article are for religious work with children against their wishes or without their parents' approval.

However, unregistered religious activity is still punishable under Article 193-1 of the Criminal Code, with punishments ranging from a fine to imprisonment of up to two years. Under the harsh 2002 Religion Law, all religious activity must be registered with the state. Forum 18 is not aware of any cases when Article 193-1 has been used to punish unregistered religious activity.

Article 9.9 Part 1 has been widely used in recent years for punishing members of religious communities who meet for worship despite being unwilling or unable to seek state registration.

Punishments under this Article for unregistered religious activity known to Forum 18 since the beginning of August 2009 are: Yevgeny Bakun, fined 140,000 Belarusian Roubles (280 Norwegian Kroner, 34 Euros or 49 US Dollars) on 17 August 2009 by Grodno's Lenin District Court; Yelena Oktysyuk, fined 180,000 Belarusian Roubles (359 Norwegian Kroner, 44 Euros or 63 US Dollars) on 1 September 2009 by Brest's Lenin District Court; Sergei Yevstafyev, Aleksei Ilnitsky and Ivan Mustetsanu, each fined 140,000 Belarusian Roubles on 18 December 2009 by Kostyukovich District Court (see below).

Given how routinely used this Article has been to punish unregistered religious activity, several religious communities have cautiously welcomed the change to Forum 18. However, it remains uncertain whether the authorities will simply seek to punish such activity under the Criminal Code or under other articles of the Administrative Violations Code. Administrative Article 23.34 ("violation of the procedure for organising or conducting a mass event or demonstration") is already frequently used to punish individuals for unapproved religious meetings.

Dina Shavtsova, a lawyer who has taken up religious freedom cases, welcomes the abolition of administrative penalties for both creating and leading an unregistered religious community. She notes that for as long as these provisions existed, lawyers and human rights activists had made clear that they violated Belarus' Constitution and the International Covenant on Civil and Political Rights.

"So at first glance it seems that the removal of these 'offences' is a positive move," Shavtsova told Forum 18 from Minsk on 8 April. "But unfortunately, this change to the Administrative Violations Code doesn't resolve the problem of the legal restrictions on the right to freedom of religion and belief." She fears that the penalties for unregistered religious activity available in Criminal Code Article 193-1 might be used instead.

"Given our reality here in Belarus," Shavtsova adds, "the fear is there that they might immediately go for a criminal case to punish what they would previously have gone for under the Administrative Violations Code."

Legal change halts prosecution

In the first such instance known to Forum 18, the change to the Administrative Violations Code led to the cancellation of a case against Jehovah's Witness Maksim Pyrochkin in the town of Krichev [Krychaw] in Mogilev Region.

Trouble began on 6 February, when Pyrochkin was leading a religious meeting of six people in a private home. The meeting was raided and religious books and other objects were confiscated and taken to the Ideology Department of Krichev District Executive Committee. The head of the Department, Galina Kirpicheva, drew up a record of an "offence", as the Krichev Jehovah's Witness community is unregistered.

Pyrochkin was brought to Krichev District Court on 11 March. According to the verdict seen by Forum 18, his activity constituted an "offence" under Article 9.9 Part 1 of the Administrative Violations Code in its 2003 version. However, Judge Oksana Ratnikova ruled that as the Article had changed as of 23 February 2010, and as the change had retroactive force for those not yet tried, no offence could be prosecuted. She ordered that the case be dropped and the confiscated books be returned to Pyrochkin.

Grodno fines

However, the change to Article 9.9 Part 1 of the Administrative Violations Code and its retroactive impact did not prevent the prosecution and punishment of Pastor Petrevich in Grodno.

Pastor Petrevich leads the Breakthrough Protestant Church, which belongs to the Kiev-based Embassy of God Church. The church, which has some 35 adult members plus children, meets at his home.

Petrevich told Forum 18 from Grodno on 8 March that two KGB officers, two police officers and one official of the regional and one of the city administration raided his congregation's Sunday worship service on 21 February. He complained that they filmed the raid.

The officials told the congregation that they had to have registration before they could meet for worship, adding that they had received complaints from neighbours. However, Pastor Petrevich told them that the church had repeatedly sought registration since 2001 in vain. A record of a "violation" of the law was drawn up.

On 15 March, according to the verdict seen by Forum 18, Judge Lyutsia Zhuk of Grodno's October District Court found Pastor Petrevich guilty of violating Article 9.9 Part 1 of the Administrative Violations Code. She fined him four base units, or 140,000 Belarusian Roubles.

Forum 18 was unable to reach Zhuk on 8 or 9 April to ask why she punished Petrevich for an "offence" which had been abolished in the Administrative Violations Code nearly three weeks before the trial took place. An aide to the head of the court also declined to put Forum 18 through to the head, Valery Kulakovsky.

Despite this punishment, Pastor Petrevich was soon after summoned to the same court for a further case. This time, on 31 March, according to the verdict seen by Forum 18, Judge Tatyana Gergel found him guilty of violating Article 23.34 Part 2 of the Administrative Violations Code, "violation of the procedure for organising or conducting a mass event or demonstration". In addition to his earlier fine, he was this time fined 700,000 Belarusian Roubles (1,400 Norwegian Kroner, 174 Euros or 232 US Dollars). Petrevich estimates this to be about one month's average wages in Grodno.

Pastor Petrevich told Forum 18 that he has not paid either of the fines. However, he said he is not inclined to appeal against them. "I've been given three or four such fines since 2001, and each time I appealed I lost and just wasted the money I spent on the appeal." He said he cannot afford to pay the fines though.

KGB, Religious affairs official won't discuss raid

Pastor Petrevich told Forum 18 he believes the initiative for the raid came from Igor Popov, the regional religious affairs official. He

said that at the Regional Executive Committee he saw a letter from Popov to the mayor urging him to take action against his church.

He points out that similar action and fines occurred in 2009 against Bakun, leader of another unregistered Protestant community, Salvation Pentecostal Church. Bakun's fines were identical to Petrevich's (see F18News 6 January 2010 http://www.forum18.org/Archive.php?article_id=1393).

However, on 8 April Popov absolutely refused to answer any of Forum 18's questions about his involvement in the raid and prosecution in Petrevich's case. "I don't give interviews by phone," he declared, before putting the telephone down.

Pastor Petrevich also believes the KGB is behind the campaign, pointing out that as well as their involvement in the February raid, officers have in recent years tried to question church members about his and the congregation's activity.

Reached on 8 April, the duty officer at the Grodno Regional KGB refused to put Forum 18 through to any officer who might answer Forum 18's questions about its role in the harassment of the church.

Bobruisk fine

On 31 January, in the wake of a request from a local resident, a commission raided a private home in Bobruisk in Mogilev Region to verify whether a Jehovah's Witness conference then underway was legal. Leading the raid was Aleksandr Markachev, head of the Ideology Department of Bobruisk Executive Committee, accompanied by another Ideology Department official and two police officers, according to the court verdict seen by Forum 18.

The 70 or so conference attendees refused to open the door or to identify themselves. However, Markachev concluded that as they were holding religious literature and discussing religious issues, a religious meeting had taken place.

The officials insisted that as the meeting was taking place away from the registered legal address of the Bobruisk Jehovah's Witness community, it was illegal.

The community's leader, Vasili Poluyanov, was brought to Bobruisk Court on 26 March, where Judge Natalya Cherepukho found him guilty of violating Article 9.9 Part 1 of the Administrative Violations Code ("activity by a religious organisation not in accordance with its [registered] statutes"). The verdict records that she fined him 175,000 Belarusian Roubles (349 Norwegian Kroner, 44 Euros or 59 US Dollars).

Markachev's telephone at the Executive Committee went unanswered on 8 and 9 April.

Appeal against fines fails

Yevstafyev, Ilnitsky and Mustetsanu, the Jehovah's Witnesses fined by Kostyukovich District Court in December 2009, have failed in their appeal. On 2 February, Mogilev Regional Court left the original decision unchanged, Jehovah's Witnesses told Forum 18 on 8 April.

The fines followed a July 2009 raid by officials of the local administration, police and KGB secret police on their meeting in Ilnitsky's home in Kostyukovich. The three were punished because the local Jehovah's Witnesses are unregistered (see F18News 18 January 2010 http://www.forum18.org/Archive.php?article_id=1396).

Jehovah's Witnesses told Forum 18 that the three are planning to appeal further to the Supreme Court.

Minsk church fails in challenge to punitive fine

Meanwhile, the New Life Full Gospel Church in Minsk, which has long faced pressure from the authorities, has failed in its court challenge to a punitive fine and compensation for alleged environmental damage the authorities claim the church has caused on its property.

On 26 March, Minsk City Court rejected the church's suit against the fine of 8,750,000 Belarusian Roubles (17,490 Norwegian Kroner, 2,200 Euros or 2,936 US Dollars) imposed by a lower court on 26 February. The church's lawyer, Sergei Lukanin, explained that the ruling means the church is also supposed to pay 262,798,725 Belarusian Roubles (524,917 Norwegian Kroner, 66,020 Euros or 88,128 US Dollars) to compensate for the damage.

Lukanin told Forum 18 from Minsk on 8 April that the church has still not received the latest court decision in writing, but intends to lodge an appeal to the Supreme Court when it does.

The church argues that the Minsk City Natural Resources and Environmental Protection Committee took samples of soil from the car park without proper witnesses and that if, as it alleges, the level of oil pollution is so high it resulted from damage caused by the

previous owner when the church building was a cowshed.

The Environmental Committee refused to tell Forum 18 how many car parks at other places of worship in Minsk it has inspected (see F18News 6 January 2010 http://www.forum18.org/Archive.php?article_id=1393). (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=1311.

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.

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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