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BELARUS: Do individuals have religious freedom or only registered organisations?

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

"In what form does a citizen of Belarus have the right freely to express and spread their religious convictions?" Minsk lawyer Sergei Lukanin asked parliament on 25 November. He also sought clarification as to whether a ban on reading the Bible in public is consistent with the Demonstrations Law and whether it is a right that only registered religious organisations enjoy. He sought clarification after the Deputy Head of Minsk Executive Committee Igor Karpenko refused his application to read the Bible aloud in a park. "The right to carry out religious activities is granted only to religious organisations listed in the State register of religious organisations," Karpenko claimed. A city official refused to clarify his statement to Forum 18. "I can't afford to be fined again as I have three children to support," Lukanin told Forum 18 News Service. "By applying for permission, I simply tried not to be a law breaker." Jehovah's Witness Valery Shirei in Vitebsk Region was prosecuted after police detained him for offering religious literature on the street. However, a judge acquitted him.

A Protestant lawyer in Belarus' capital Minsk, Sergei Lukanin, is seeking legal clarification over whether individuals have rights to freedom of religion or belief, as the country's Constitution affirms, or only registered religious organisations, as a senior Minsk city administration official indicated to him in November. Lukanin has asked parliament for clarification, he told Forum 18 News Service, but as of 10 December has received no response. His move follows the city official's decision to refuse his application to be allowed to read the Bible out loud in a public park.

The official refused him permission as, under the Religion Law, the exercise of freedom of religion or belief can only happen if it is within state-approved premises and carried out by a state-registered religious community.

In defiance of its international human rights obligations, Belarus has imposed strict restrictions on exercising the right to freedom of religion or belief. Lukanin is the lawyer for Minsk's New Life Church, which has long been harassed by the authorities (see Forum 18's Belarus religious freedom survey http://www.forum18.org/archive.php?article_id=1997).

Earlier fine for reading Bible aloud in public

Lukanin has been preaching and reading the Bible aloud in public places since at least 2007. "I don't impose my opinion on anyone," he told Forum 18 from Minsk. "People who are interested stop and listen." Sometimes police have stopped him and detained him for two or three hours, releasing him without bringing any charges.

On 7 November 2014, however, police officers detained him overnight. The following day a Minsk court fined him 20 base units, 3,600,000 Belarusian Roubles (then 1,420 Norwegian Kroner, 150 Euros or 165 US Dollars) under Article 23.34, Part 2 of the Code of Administrative Offences. This punishes the "organiser" of a "violation of the procedure for organising or conducting a mass event or demonstration" with short term arrest or a fine of 20 to 40 base units. (The base unit is used to calculate state benefits and wages. Ten base units is about one week's average wage.)

The judge hearing the case warned Lukanin to obtain the authorities' permission before reading the Bible in public in future, to avoid a subsequent larger fine for committing the same "offence" within one year.

"Right to carry out religious activities granted only to religious organisations"?

In his early November 2015 application to Minsk City Executive Committee, a year after his detention and fine, Lukanin asked for permission to read the Bible. He offered a time and place for public Bible reading and suggested that the authorities themselves recommend a different time and place if his proposal was not thought appropriate.

"I can't afford to be fined again as I have three children to support," Lukanin explained. "By applying for permission, I simply tried not to be a law breaker."

In the Executive Committee's 13 November reply, seen by Forum 18, Deputy Head of Minsk Executive Committee Igor Karpenko states that "defining the date and place of the event is the responsibility of the applicant, which makes the request inconsistent".

Karpenko characterised reading of the Bible as a mass religious event. "The right to carry out religious activities is granted only to religious organisations listed in the State register of religious organisations," he claimed. He noted that, according to the Religion Law, religious events are allowed only in religious buildings, pilgrimage sites, burial grounds and crematoriums.

An Executive Committee official, who refused to identify herself, refused to confirm that Karpenko's response meant that only registered religious organisations and not individuals are allowed to exercise freedom of religion or belief. "We don't give any explanations," she told Forum 18 on 24 November before hanging up.

Against the Constitution

Lukanin noted that the Executive Committee's reply contradicted Article 31 of the Constitution. This states: "Everyone has the right to exercise any religion alone or in community with others, to manifest and disseminate their religious beliefs, to participate in religious rituals and rites not prohibited by law."

Despite the official's denial of permission, Lukanin decided to read the Bible at the time and place he had specified in his application. "No one either stopped me or interrupted me," he told Forum 18.

Appeal

Lukanin insisted that the authorities wrongly interpreted the Religion Law in their official response. "The Law doesn't classify Bible reading aloud as religious activities. Otherwise, anyone who reads the Bible out loud outside a church, burial ground or crematorium would have to apply to the local authority for permission."

Lukanin initially considered challenging the decision to ban his public Bible reading in court, but decided not to pursue that, he told Forum 18. On 25 November, he wrote to parliament asking for an official interpretation of Articles 5 and 25 of the Religion Law. "In what form does a citizen of Belarus have the right freely to express and spread their religious convictions?" he asked. He also sought clarification as to whether a ban on reading the Bible in public is consistent with the Demonstrations Law and whether reading the Bible publicly is a right that only registered religious organisations enjoy.

Lukanin is waiting for a response, he told Forum 18 on 10 December.

Detained, but acquitted

Like Lukanin, members of other non-registered or smaller religious communities throughout Belarus can face official harassment if they publicly share their beliefs or distribute literature.

On 19 September, police detained Jehovah's Witness Valery Shirei in his home town of Glubokoye in the northern Vitebsk [Vitsyebsk] Region as he offered religious literature in the street. Like Lukanin, Shirei was prosecuted under Administrative Code Article 23.34 for violating the procedure for holding a "mass event". While Lukanin was prosecuted under Part 2 as the "organiser" of such an event, Shirei was prosecuted under Part 1 as an alleged participant, with a maximum potential punishment of short term arrest or a fine of up to 30 base units.

Shirei insisted to Forum 18 on 7 December that he was not conducting a "mass event". He explained that he was simply standing in the street with a trolley with religious literature talking to his acquaintance when the police officers invited both of them to go to the town's police station.

"Officers were polite and tolerant in the police station, asking standard questions about my belief and literature," Shirei noted. "It was not the first time I have dealt with the police under such circumstances, but I didn't expect such a turn."

Shirei suspects that a Regional Executive Committee official reported him, as the police officer claimed he had been given two warnings. Shirei denied that any official had given him any warnings. "I respect the authorities and am indifferent to politics," he told Forum 18.

On 21 September he was again invited to the police station, this time to sign the record of an administrative "offence". Jehovah's Witness complained that he was not allowed to consult a lawyer and had to sign the record.

Asked why Shirei was detained and had to sign the record, the duty officer at Glubokoye police station told Forum 18 on 3 December that he had no information on this case.

However, on 25 September the Judge at Glubokoye District Court acquitted Shirei, finding he had not breached the Article because

he had "not publicly expressed a social/political position".

The statement of reasons for the 25 September court decision – issued on 13 October and seen by Forum 18 – notes that in court the police patrol officer explained that they received a call from the police station informing them of a group of people near a shop to whom some literature was offered. He said that Shirei and his acquaintance had been taken to the police station because they had no identity papers.

Shirei told Forum 18 that the judge was "very understanding" and gave him the chance to read all the documents on the case. In his petition, he stressed that offering religious literature had been his own initiative and his "religious activities were inspired not by attracting attention to social problems, but by his conscience educated by the Bible". He intends to continue distributing religious literature.

At present such cases rarely come to court, Jehovah's Witness spokesperson Pavel Yadlovsky told Forum 18 from Minsk on 1 December.

Typical of cases which do come to court is that of two Hare Krishna devotees distributing literature in the street in December 2014 in the northern town of Polotsk. Police falsely accused them of disorderly conduct and using obscenities in public. But as the leader of Minsk's Hare Krishna community, Sergei Malakhovsky, told Forum 18, they normally manage to negotiate with local authorities and their members are not punished (see F18News 4 February 2015 http://forum18.org/archive.php?article_id=2035).

Hare Krishna devotees also note that as no formal procedure exists for dealing with literature distribution and collecting donations, police can classify these as unauthorised selling of literature.

Pastor's appeal against fine refused as "groundless"

On 18 September Judge Oleg Khoroshko of Gomel [Homyel] Regional Court rejected an appeal by Pastor Sergei Nikolaenko, of the city's Reformed Orthodox Transfiguration Church, against a second fine of 20 base units, 3,600,000 Belarusian Roubles. This is more than two weeks' average wages. The fine was imposed for leading a meeting for worship without state permission.

Pastor Nikolaenko said that he reluctantly paid the fine. "I had to pay," he told Forum 18.

Trouble began for the Transfiguration church when OMON riot police raided its Sunday worship in a rented venue on 31 May. Gomel's Central District Administration banned the church in a written order on 22 June. Pastor Nikolaenko was first fined under Administrative Code Article 23.34, Part 2 on 19 June. However, on 24 July Gomel Regional Court overturned the conviction and fine and sent the case back to the lower court for a new consideration. However, on 20 August a lower court re-imposed the fine overturned four weeks earlier (see F18News 2 September 2015 http://www.forum18.org/archive.php?article_id=2096).

Pastor Nikolaenko lodged his appeal against the August re-imposition of the fine on 1 September, he told Forum 18.

In addition to the fine, Pastor Nikolaenko and another church member were given "official warnings" that if they violate the law by holding meetings to worship without state permission they will face criminal prosecution, with possible prison terms of up to three years (see F18News 2 September 2015 http://forum18.org/archive.php?article_id=2096).

In the 18 September verdict, seen by Forum 18, Judge Khoroshko claims that the argument in Pastor Nikolaenko's appeal that the fine "does not comply with the Constitution and international standards norms is groundless". The Judge also claimed that the appeal was based on "a wrong interpretation of their [the Constitution's and international human rights standards'] content".

Forum 18 called Gomel Regional Court on 4 December, wishing to ask Judge Khoroshko why he considered Pastor Nikolaenko's appeal to international human rights standards groundless. However, the secretary refused to transfer the call to the Judge, saying: "He is not available for comments on the phone".

Banning order unchanged

The Head of the Ideology and Culture Department Aleksandr Gorlenko signed the 22 June banning order on the church meetings. Pastor Nikolaenko confirmed to Forum 18 that the order has not been cancelled and that church members are still not allowed to meet officially for worship.

Forum 18 was unable to reach Gorlenko to find out why he banned the church from meeting and whether the ban will ever be cancelled. His phone went unanswered between 4 and 9 December.

The raid, fine and ban came despite Transfiguration Church's state registration as a congregation under the auspices of the Pentecostal Union (see F18News 15 June 2015 http://www.forum18.org/archive.php?article_id=2073).

Asked on 7 December to confirm Transfiguration Church's official registration status, Yelena Barkova, Head of the ideology and youth affairs sector of Gomel Executive Committee which is responsible for monitoring religious communities was unable to find it. She then directed Forum 18 to a specialist of her department.

The same day, a department official who did not give his name told Forum 18 that the specialist is on holiday. He insisted that his department is responsible only for approving and registering religious communities' legal addresses. "The Regional Executive Committee is responsible for registration of religious communities," he told Forum 18. He could give no information on Pastor Nikolaenko's church address. (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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