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BELARUS

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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Co-operation in Europe and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
2. This report investigates the status of freedom of religion or belief and freedom of association in Belarus by examining laws, regulations and practices impairing the full enjoyment or exercise thereof without discrimination. It also calls upon the Belarusian government to cease any such restrictions and amend its laws to ensure that the right to manifest one’s religion, either alone or in community with others and in public or private is fully guaranteed in accordance with existing international human rights standards and instruments.

(a) Freedom of Religion or Belief, Expression and Association

3. Belarus has a dominant religious tradition, with a large majority of believers belonging to Eastern Orthodoxy, a significant Catholic minority and a small percentage of people identifying with other confessions, including particularly Judaism and Islam. According to the Office of the Plenipotentiary Representative for Religious and Nationality Affairs (OPRRNA), which regulates all religious matters in the country, the government of Belarus recognizes 25 religious confessions, and over 3.5 thousand religious communities.
4. The Constitution of Belarus guarantees in its Article 31 that “Everyone shall have the right to determine independently his attitude towards religion, to manifest any religion alone or in community with others, or to manifest none at all, to express and spread beliefs connected with his attitude towards religion, and to participate in the performance of acts of worship and religious rituals and rites, which are not prohibited by law.”¹
5. While religions and faiths are considered equal before the law, the Constitution states that state-religion relations shall be regulated by law “with regard to their influence on formation of spiritual, cultural and state traditions of the Belarusian people.”² In this regard, it prohibits religious activities “that are directed against the sovereignty of the Republic of Belarus, its constitutional system and civic concord, or involve violation of civil rights and freedoms of its citizens as well as impede execution of state, public and family duties by its citizens or are detrimental to their health and morality.”³
6. Law No. 2054-XII of 17 December 1992 on Freedom of Conscience and Religious Organizations recognizes “the determining role of the Orthodox Church,” as well as the historical role of Catholicism, Evangelical Lutheranism, Judaism, and Islam,

¹ Constitution of the Republic of Belarus, Art. 31.

² *Id.*, Art. 16.

³ *Id.*

groups commonly referred to as “traditional faiths.”⁴ To date, the Belarusian Orthodox Church (BOC) is the only denomination to have signed a cooperation agreement with the state authorities, which grants it preferential treatment and financial contributions that are not received by any other religious groups.⁵

7. The abovementioned legislation also provides that religious organizations must seek registration before the competent authorities in order to conduct their activities. However, some non-traditional religious communities face recurrent difficulties when attempting to obtain state registration, both because of the burdensome character of the legal requirements and a perceived government hostility. Notably, Protestant communities and Jehovah's Witnesses complain that their applications have been repeatedly turned down based on specious bureaucratic reasons, the most frequent reportedly being an “unsuitable” legal address. For example, in February 2019 the Minsk-based Pentecostal “Your Will Be Done” Church was denied registration for the sixth time.⁶ As a consequence of such *de facto* bans, some of these groups have been forced underground or dissolved.
8. The organization of, and participation in the activities of unregistered religious organizations has long been a criminal offense, punishable by fine or arrest for up to 6 months, or imprisonment for a term not exceeding 2 years.⁷ Meeting without registration is also a violation of Law No. 114-Z of 30 December 1997 (with amendments and supplementary acts) on Mass Events in the Republic of Belarus, exposing worshipers to police raids and fines under article 23.34 of the Code of Administrative Offences (“Violation of the procedure for organising or conducting a mass event or demonstration”).⁸
9. However in December 2018, the Belarusian Parliament adopted a draft law submitted by the Council of Ministers repealing the relevant criminal code provision and transforming it into an administrative offense.⁹ Albeit the decision to decriminalize unregistered religious activity represents a welcome step forward, the simultaneous replacement of criminal liability with administrative liability resulting from the adoption of Article 23.88 of the Code of Administrative Offences equally impairs the freedom of persons to practice their faith without punishment, and contravenes Belarus’ human rights obligations, in particular the International Covenant on Civil and Political Rights.
10. Indeed, as clarified inter alia by the 2015 Guidelines on the Legal Personality of Religious or Belief Communities published by the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (ODIHR), of which Belarus is a participating State, international human rights law

⁴ Law on Freedom of Conscience and Religious Organizations 2054-XII 1992, Preamble.

⁵ Agreement on cooperation between the Republic of Belarus and the Belarusian Orthodox Church, 2003.

⁶ ‘Registration Refused for Church Activities’ *Voice of the Martyrs* (11 April 2019) <<https://vom.com.au/belarus-registration-refused-for-church-activities/>>.

⁷ Criminal Code of the Republic of Belarus, Art. 193-1 (repealed by Law on amendments and additions to some codes of the Republic of Belarus 171-Z 2018).

⁸ Law on Mass Events in the Republic of Belarus 114-Z 1997, Art. 15.

⁹ Law on amendments and additions to some codes of the Republic of Belarus 171-Z 2018, Art. 4.

affords equal protection to religious or belief communities, regardless of whether or not they enjoy legal personality.¹⁰

11. The Constitution of Belarus guarantees freedom of thought, belief, expression and association, as well as “the freedom to hold assemblies, meetings [...] that do not disturb law and order or violate the rights of other citizens of the Republic of Belarus.”¹¹ However, despite improvements compared to the previous reporting cycle, freedom of expression or assembly in connection with a religion or belief continues to remain restricted in practice, with religious groups reportedly being denied permission from the local authorities for importing and distributing religious literature, as well as for holding religious activities, including proselytizing, outside of their premises.¹² In light of the 2003 concordat, the BOC is able to proselytize freely, collect charitable donations in public, and hold government-sponsored events and rallies without the need to seek prior approval.
12. For example, on 27 October 2018 a Baptist couple was detained and fined for singing Christian songs and offering religious literature at the entrance to a market in Lepel, in the Vitebsk Region.¹³ Similarly on 24 March 2018, two Jehovah’s Witnesses were arrested by the police for sharing their beliefs with others and offering religious publications near a shop in the town of Rogachev.¹⁴ On 10 June 2017, police detained two Witnesses for sharing a Bible message with others near a bus station in Grodno.¹⁵ In all the above cases, the local courts found them guilty of illegal picketing under Administrative Code Article 23.34.
13. Only registered religious organizations are allowed to seek permission to invite foreign clergy and missionaries to conduct religious work in Belarus.¹⁶ The OPRRNA can discretionally grant or withhold the permission without appeal. When a visa is issued for religious reasons, foreign priests and missionaries can operate exclusively in the territorial area where their religious association is registered, unless otherwise authorized by the government. Foreign citizens must also have proven knowledge of Belarus’ national languages (Belarusian and Russian) in order to perform religious work. Holders of visas issued for religious reasons are also unduly discriminated against in comparison to other foreign visitors: notably, the OPRRNA can cancel or to refuse to renew permission for foreign religious workers who have committed two or more administrative offences within a year, while other foreigners can be denied a visa or entry to the country if they commit five or more administrative offences within the same period.
14. In particular, the authorities negatively relate to the appointment of non-Belarusians as Catholic priests in Belarusian parishes. Even priests who are temporarily in the

¹⁰ OSCE/ODIHR, “Guidelines on the Legal Personality of Religious or Belief Communities,” 4th February 2015, available at: <http://www.osce.org/odihr/139046?download=true>.

¹¹ Constitution of the Republic of Belarus, Art. 35.

¹² Olga Glace, “Fined for singing, offering religious literature’ *Forum 18* (12 December 2018) <http://www.forum18.org/archive.php?article_id=2437>.

¹³ *Id.*

¹⁴ European Association of Jehovah’s Witnesses, Religious Freedom Concerns (2018), 5 <<https://www.osce.org/odihr/394640?download=true>>.

¹⁵ *Id.*

¹⁶ Law on Freedom of Conscience and Religious Organizations 2054-XII 1992, Art. 29,

country may serve Mass only with the permission of the authorities. Today in Belarus there are about 500 Catholic priests, of whom about 80 are citizens of other countries. In recent years, the authorities refused to renew permits of several long-term serving foreign Catholic priests, while denying residence and work permits for priests coming to replace them.

15. In 2019, Sobeslav Tomala, a Franciscan priest from Poland who spent about 20 years serving in Soligorsk and participated in the construction of the local church, was denied permission by the OPRRN to continue to conduct his activities in Belarus. Only after the Catholic community protested this decision, and gathered over 300 signatures calling for Fr. Tomala to be allowed to remain, the the priest's permit was extended by six months.¹⁷ In November 2018, Pavel Knurek, a Catholic priest who had been living and working in Belarus for 16 years, was also forced to leave, as he did not receive permission to continue serving in the country.¹⁸
16. Krzysztof Posvyaty, who was serving in the town of Gatovo near Minsk, was not allowed to finish the construction work for the new church that he was building there. Thanks to the efforts of the priest, a pastoral center for children and youth with a chapel and an oratorio was built in Gatovo. The church, which is under construction, was supposed to be the first catholic church there. The renewal of the priest's permit was refused and he was ordered to leave the country by 30 April 2018. He was not allowed to finish the construction work for the church, due to the fact that he exceeded the speed limit three times during the previous year.¹⁹
17. All of the above issues raise serious concerns over the human rights situation in Belarus, and require genuine, redoubled efforts to ensure that the right to freedom of religion or belief is fully respected within the country.

(c) Recommendations

18. In light of the aforementioned, ADF International suggests the following recommendations be made to Belarus:
 - (a) Review and amend all national legislation relevant to freedom of religion or belief to ensure their full conformity with relevant international human rights law.
 - (b) Remove the burdensome religious registration requirements and rescind intrusive governmental practices, including monitoring and raiding, which infringe upon the right to freedom of religion and belief;
 - (c) Streamline, facilitate and increase the transparency of the registration process for religious organizations, including eliminating the obligation for religious groups to seek prior authorization to gather, and removing limitations on the printing, import and distribution of religious materials;

¹⁷ Olga Glace, 'Officials bar priest's return, church's registration' *Forum 18* (11 March 2019) <http://www.forum18.org/archive.php?article_id=2461>.

¹⁸ 'Authorities Banned Ministering In Belarus To Another Pole-Priest' *Charter 97* (21 January 2019) <<https://charter97.org/en/news/2019/1/21/320713/>>.

¹⁹ Olga Glace, 'State official vetoes foreign Orthodox, Catholic priests' *Forum 18* (13 June 2018) <http://www.forum18.org/archive.php?article_id=2387>.

- (d) Consider initiating legislation to repeal Article 23.88 of the Code of Administrative Offences; and
- (e) Enable foreign clergy and missionaries to carry out religious activities in the country without any restrictions.



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