

**ECLJ Legal Petition Addressed to the European Parliament
with regard to breaches by the Republic of Belarus of European
and international law.**

(I) Legal Basis

This petition, submitted procedurally under Title VIII, Rule 191(10) of the Rules of Procedure of the European Parliament¹ and substantively under Rule 191(1)², is made on behalf of a substantial segment of the people of the Republic of Belarus, as represented by the attached 50, 400 signature petition and under the advocacy of the undersigned political leadership; and is made with regard to breaches by the Republic of Belarus of European and international law in the areas of basic democratic human rights, religious freedom, freedom of association, freedom of expression, respect for privacy and the right to be free from discrimination.

Rule 191(10) provides:

The Petitions addressed to Parliament by natural or legal persons who are neither citizens of the European Union nor reside in a Member State nor have their registered office in a Member State shall be registered and filed separately. The President shall send a monthly record of such petitions received during the previous month, indicating their subject matter, to the

¹ 16th Edition, February 2008.

² Id.

committee responsible for considering petitions, which may request those which it wishes to consider.

Rule 191(1) sets the substantive pre-condition that the petition must address, individually or in association with other persons, a matter which comes within the European Union's fields of activity and which affects him, her or it directly.

The instant petition meets the substantive requirement of the Rules of Procedure by addressing violations of European and international law, the texts of which are annexed to the end of this petition, and come within the sphere of activities of the European Parliament's Human Rights Committee, Foreign Affairs Committee, Delegation for Relations with Belarus and Committee on Security and Defense.

This petition shall focus primarily on the 2002 Law on Freedom of Conscience and Religious Organizations and its application against non-Orthodox religious minorities. This petition recalls the role of religious movements at the grass roots level in mobilizing efforts to reign in democratic rule in the former Eastern Bloc. Absent the courageous efforts of organized religious associations with labor trade unions in the former Eastern Bloc nations, the current political landscape of Europe would be far different than it is today.

It is within this historical framework, that the undersigned Petitioners ask both the honourable President of the European Parliament and this esteemed Committee on Petitions, to analyze the instant application. The current restrictions placed on freedom of religion, expression and association greatly impedes the ability of the citizens of Belarus to pursue true and meaningful democratic reform

and has made increasingly difficult the prospects of self-determination. By placing heavy-handed restrictions on the right to freely meet and share matters of faith and to exchange information in an open and safe setting, the people of Belarus are being denied some of their most basic and fundamental of human rights. It is therefore, with a view to change and the hope associated with liberty, that the undersigned ask you President Poettering and the esteemed Committee on Petitions to intervene on our behalf, utilizing all available diplomatic, economic and political means at your disposal, to help restore these most basic of freedoms to the people of Belarus.

(II) Overview

Belarus maintains a key geo-political role within Europe, bordering three European Union Member States and being the Russian Federation's ally and link to Europe. Furthermore, Belarus has the notorious distinction of being the only European nation which is not a member of the Council of Europe. Precisely stated, the people of Belarus are the only Europeans who do not enjoy the protections of the European Convention of Human Rights. This fact alone makes all the more critical the role of the European Union in ensuring diplomatically, the compliance of Belarus to its treaty obligations under both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as prevailing European law and customary international law.

The twin pillars of freedom and democracy are illusory unless supported by the rule of law. The mere fact of having laws and international treaty

obligations is meaningless unless those commitments are honoured. Belarus has through a lack of international transparency, the provision of unfettered discretion to state organs and administrative agencies, and through systematic discrimination of minority and opposition groups in the country, earned from this European Parliament the moniker of being the last dictatorship in Europe.³

Central to democratic rule is the freedom of conscience and religion. Religious freedom is one of the vital elements that go to make up the identity of believers and their conception of life.⁴ This fundamental right has taken the position of a substantive right under European law.⁵ This freedom however has been stifled and greatly abused within Belarus, particularly since the enactment of the 2002 Law on Freedom of Conscience and Religious Organizations; a law which itself comes into direct conflict with both the Belarusian Constitution as relates to freedom of religion and freedom from discrimination and international treaty obligations.

The right to freedom of religion is recognized among the fundamental human rights enumerated in the Universal Declaration of Human Rights⁶, the European Convention of Human Rights⁷ and the Charter of Fundamental Rights

³ European Parliament Resolution on the Situation in Belarus after the Presidential Election of 19 March 2006 (P6_TA(2006)0137), adopted on 6 April 2006.

⁴ Cf. ECtHR, 20 September 1994, Otto-Preminger-Institut v. Austria, Series A, No. 295-A: JDI, 1995, p. 772.

⁵ Cf. ECtHR, 25 May 1993, Kokkinakis v. Greece, Series A, No. 260-A; ECtHR, 23 June 1993, Hoffmann v. Austria, Series A, No. 255-C: JDI, 1994, p. 788; Otto-Preminger-Institut, op. cit.; ECtHR, 26 September 1996, Manoussakis and Others v. Greece, Reports 1996-IV: AFDI, 1996, p. 749.

⁶ United Nations, Universal Declaration of Human Rights, Adopted and Proclaimed by General Assembly Resolution 217 A (III) of 10 December 1948, Art. 18: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

⁷ Article 9 of the European Convention of Human Rights.

of the European Union⁸; and its practice is an essential manifestation of human liberty. This fundamental right, as affirmed by the Preamble of the Universal Declaration of Human Rights, is inalienable and belongs to all members of the human family.

(III) Law on Freedom of Conscience and Religious Organizations

In 2002, among widespread disapproval by people of faith in Belarus and the population in general, Belarus enacted the Law of Freedom of Conscience and Religious Organizations. In essence, the law provides vast amounts of discretionary authority in Belarusian officials with regard to the practice of even the most basic and fundamental rights of freedom of conscience and religious practice. Under the colour of this law, a systematic attempt to restrict and control minority religious practice in the country has taken place. The simple act of public assembly for the purpose of discussing religious scripture without prior permission for example, may be punishable by imprisonment. All acts of religious congregation must take place within premises which have received previous approval for religious meeting by State officials. However, state practice in Belarus has been the mass denial of such registration permits.

The law and its application are critically deficient with regard to international standards in a number of ways: (a) disparate treatment of minority religions; (b) imprisonment of organizers of religious events; (c) deportation of religious workers, no provision in the law allowing for the presence of international religious organizations, and slander of non-traditional religious

⁸ Article 10, Charter of Fundamental Rights of the European Union, (2000/C 364/01).

groups; (d) official warnings for even the most minor violations of the 2002 Law on Religions and fines ; (e) refusal of registration or rent for use of premises as a place of religion; (f) military conscripts questioned on their religious affiliation; (g) other Draconian measures used as a chilling effect on freedom of religion.

(a) Disparate Treatment of Minority Religions

The Belarusian Orthodox Church is delegated a special status within Belarus due in part to the percentage of Belarusian's who identify themselves as Orthodox, almost 80% (of which 50% consider themselves believers), and because of a concordat signed between the church and the Belarusian government in 2003 granting it privileged status. The United Nations Human Rights Council found in its most recent report on Belarus that it continues to be the case that the Orthodox Church in Belarus enjoys rights and privileges denied to other religious organizations in the country. The Special Rapporteur also found that despite ongoing protest from minority religious groups, State textbooks continue to make false and slanderous statements aimed to discredit religious minorities.⁹

Traditional religions in Belarus, which include Roman Catholicism, Judaism and some Protestant denominations, fair slightly better than minority religions due to their long history in Belarus. Roman Catholics for example, make up 14 % of the religious population, stemming from the robust Polish community primarily located in Western Belarus. Nonetheless, these groups also share in the hardships of other non-Orthodox religions. Criticism of the Belarusian

⁹ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights in Belarus, Adrian Severin, 4th Session, A/HRC/4/16, 15 January 2007, ¶ 29.

government by the Roman Catholic Church for example has been met on several occasions by state threats of mass deportation of clergy. Individual parishes are also not immune from State oppression.

A current example is Holy Trinity Catholic Church located in the town of Rechytsa, where the senior parish priest Fr. Gregorz Chudek had to leave Belarus under a deportation order and the annulment of his Belarusian residence permit despite ten years of peaceful service to the church. No official reason was given for cancellation of the Polish priest's visa, and more than 700 Catholics in the country have protested the order. Earlier in 2007, Fr. Chudek had given an interview to a Polish newspaper with a description of the social malaise within Belarus; this being the only plausible explanation of the order as State officials refuse to comment on the case.¹⁰

This instance is not, however, an isolated incident. Refusal to extend visas or the cancellation of visas for Catholic priests is far from rare. In 2006 twelve Polish Catholic priests and nuns were told that their visas were not to be renewed at the end of the year.¹¹

Nor has the Catholic Church in Belarus, despite having a traditional presence in the country, been immune from the registration problems facing minority religious groups. The United Nations Human Rights Council also noted in its most recent in-country human rights report that on 01 December 2006, Catholic members of the Parish of Our Lady of Vostraja Brama began a hunger

¹⁰ Geraldine Fagan, Belarus: Parish to lose “nothing” when veteran priest expelled?, Forum 18 News Service, 7 December 2007.

¹¹ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights in Belarus, Adrian Severin, 4th Session, A/HRC/4/16, 15 January 2007, ¶ 30.

strike demanding the executive committee of Grodno over-turn the decade long refusal to allow them to build a new church.¹²

Of gravest concern is the situation of the non-traditional minority religions within Belarus. For such minority religions, the concept of religious freedoms is greatly limited in expression. Despite organized and resilient opposition to treatment contrary to international law and in violation of United Nations treaty obligations, the situation for these minority religions remains dire. A poignant and very recent example is the mass hunger strike by some 200 Evangelical Christians on behalf of New Life Church, where a building permit to allow for legal religious gatherings had been denied for several years without just cause. The hunger strike lasted 23 days with the later response of the State being that district medical clinic personnel refuse to carry out regular medical examinations on those who fell ill as a result of the hunger strike.¹³

Opposition to the on-going religious freedoms violations happening in Belarus are widespread and not isolated only to the Protestant minority. On 3 June 2007, more than 3000 Christians from across Belarus gathered together in Minsk to protest the on-going violations of religious rights, including the imminent deportation of Polish Christian, Jaroslaw Lukasik, and the police raid on the John the Baptist Church, which resulted in the detentions of Lukasik and Pastor Antony Bokun. More than forty religious leaders expressed their concern regarding the deportation of Lukasik in the form of a public appeal to the Citizenship and

¹² Id., 34.

¹³ See e.g. Id., ¶ 32; see also: Christian Solidarity Worldwide, Briefing: Belarus Religious Freedoms Violations, January 2008.

Migration Department for Interior Affairs and to the administration of President Alexander Lukashenko, asking for the deportation order to be rescinded.¹⁴

Also, a 130 person candle light vigil was held on behalf of the Catholic Church of St. Joseph in Minsk on March 19, 2007 to protest ongoing registration issues with the Minsk City authorities who wish to divest the church of its title and turn the land into a hotel and amusement park. A petition addressed to President of the Republic of Belarus regarding the planned confiscation has already garnered 20, 000 signatures.

Furthermore, a nationwide campaign was begun in April, 2007, known as the “In Defense of the Right to Freedom of Conscience” campaign, to mount a challenge to the rapidly deteriorating religious freedoms situation in Belarus stemming from the 2002 Law on Religions. The campaign spans several religious denominations and political groups and was initially spearheaded by the leaders of the Belarusian Christian Democracy political opposition. The product of this campaign is the 50, 400 person petition submitted in conjunction with this legal petition, which was also be used as the basis for an appeal to the Belarusian Constitutional Court to examine the compliance of the current law with the Constitution of the Republic of Belarus and international norms.¹⁵

(b) Imprisonment of Organizers of Religious Events

One of the most disturbing aspects of the religious freedoms situation in Belarus is the very real possibility of being imprisoned for enjoying even the most basic and fundamental right to congregate with people of the same faith and

¹⁴ Christian Solidarity Worldwide, Briefing: Belarus Religious Freedoms Violations, January 2008.

¹⁵ Id.

exercising the right of belief and religious practice. Anthony Bokun, a Pastor in Minsk and signatory to this petition, summarized the situation succinctly: “Any religious figure can be detained in any situation. My “guilt” was holding a religious meeting, being a pastor and being in the church on Sunday.”¹⁶

The issue of imprisonment for basic acts of religious faith has been well detailed in a briefing published in January 2008 on Belarus drafted for the NGO Christian Solidarity Worldwide. The Criminal Code of the Republic of Belarus mandates a five and a half years term of imprisonment for “discrediting Belarus” by providing “fraudulent representation of the political, economic, social, military or international situation.” In practice law-enforcement institutions may interpret any information given to international organizations and spread abroad as being contrary to the actual situation and therefore false. As such, human rights defenders who have presented the information for both the CSW report and this petition risk being accused of this very crime.

Under the guise of maintaining public order and protecting national security, criminal penalties including imprisonment have been drafted into the law by the Lukashenko government to actively undermine religious activity in the country. The most commonly used statutes are Article 25 of the 2002 Law on Freedom of Conscience and Religious Organizations, and Articles 9.9 and 23.24 of the Administrative Violations Code, the former of which prescribes fines and administrative arrest. Article 23.24 is correlated to Article 25 of the Law on Freedom of Conscience and Religious Organizations which makes obligatory the requirement of receiving previous permission from State officials to hold any

¹⁶ Id.

manifestation of religious activity in any place not considered by the State to be a premises used for religious purposes.¹⁷

Article 25 of the 2002 religious law states that any religious activity in a public place can only be conducted with prior permission of the local authority.¹⁸ However, unlimited discretion is given local officials in denying permits which is done both systematically and on a routine basis. Even private meetings on personal premises are greatly controlled by the State and could lead to fine and imprisonment if deemed to violate the legislation.

Article 23, Part 34 of the Administrative Violations Code entitled: “Violation of the established order of organizing and holding gatherings, meetings, street processions, demonstrations, other mass actions or vigils” is also widely used for the imposition on fines on religious leaders and individual believers.¹⁹

In March 2006, under the provisions of these laws, Pastor Georgi Vyazovsky, of the Minsk-based Christ’s Covenant Reformed Baptist Church, was arrested and imprisoned for a period of 10 days for holding a prayer meeting in a private home without prior permission of the local authorities. Similarly, that same month, human rights lawyer and signatory to this petition Sergei Shavtsov was imprisoned for ten days for organizing a religious meeting among various local religious denominations with an international speaker in a public café

¹⁷ Id.

¹⁸ Id. Article 25 of the Law on Freedom of Conscience and Religious Organizations states that “worships, devotions, rituals and ceremonies as well as other religious events in the open air or in premises that are not specially dedicated for this purpose can be conducted only after a proper decision has been made by a head of a local executive and administrative body or his/her deputy in the order determined by the legislation of the Republic of Belarus.”

¹⁹ Id.

without the permission of the local authorities.²⁰ Mr. Shavtsov, a frequent litigator on behalf of socially active religious leaders within the country, defended himself at the hearing and was told prior to sentencing that the only true religion in Belarus was Orthodoxy and all other religions in Belarus were sects.

In May of last year, during a Sunday morning Pentecostal religious service at a private residence rented by John the Baptist Church, approximately fifteen State officials, including KGB officials, members of the Minsk Executive Committee's Guard Department, and Central Internal Affairs Office's Guard Department personnel raided the service demanding that all foreigners leave, while keeping a police car on duty outside the premises to ensure no Belarusian worshippers were able to leave on their own volition. Agents had apparently infiltrated and videotaped the service and provided no form of process or identification to the church members upon raiding the premises.

The event's organizer, Pastor Anthony Bokun, was placed into custody and formally arrested. Jaroslaw Lukasik was taken into custody simply for being in the church at the time of the service. Pastor Bokun was held overnight prior to the court proceedings the following morning. Mr. Lukasik, a Polish national, escaped formal arrest and imprisonment as a result of the intervention of a Polish diplomat on his behalf. Despite the presence of over 100 Evangelical protesters at the Court, including Pastor Bokun's pregnant wife, and that fact that the religious service had been done in commemoration of a major Christian religious holiday, Pastor Bokun was heavily fined for his role in organizing the religious service. Mr. Lukasik was presented a deportation order and a ban on re-entry into the

²⁰ Id.

country for a term of five years after his permission to stay in the country had been annulled on May 8th, prior to the Pentecost event, when he was asked to leave the country for harming Belarusian national security by taking part in religious activity without prior permission.²¹

One week later, Pastor Bokun was once again arrested and detained for his participation in organizing a religious event without a permit at the Dolginovski Road, 54a building, which is a private house rented under the name of Pastor Bokun. The service was raided during communion, and no warrant or identification documents were shown to substantiate the legality of the arrest. On 4 June 2007, Pastor Bokun was taken and detained for eight hours on a hot and sunny day in the back of a police van, the holding space measuring three square meters which he had to share with six students who were held for taking part in an unsanctioned procession.

Pastor Bokun was subsequently sentenced to three days imprisonment for holding an illegal religious meeting. During the period of his overnight pre-sentencing holding he was denied his medication for high blood pressure and emergency medical services needed to be called in to attend to him as a result of his medical condition. After serving the term, he appealed the sentence and the treatment of his detention as unnecessarily violent; the sitting judge Valeri Ecmán studied the appeal and ruled against it within five minutes.²²

(c) Deportation of Religious Workers, No Provision in the Law Allowing for the Presence of International Religious Organizations; and Slander of Non-traditional Religious Groups

²¹ Id.

²² Id.

Belarus has, under the Lukashenko governance, become an isolated and closed off society. Information leaving the country is tightly censored and Belarusian citizens who speak poorly of the state of affairs in Belarus to international sources are under constant threat of imprisonment. Democracy requires a plurality of ideas, transparency, tolerance and broadmindedness. The people of Belarus are not able to enjoy even these, the most basic of freedoms, as religious workers are frequently deported or denied visas, thus making the import of ideas and philosophies virtually impossible.

In 2006, for example, the permit to perform religious activities of United States citizen Stewart Vinograd, pastor of a Minsk based Messianic Jewish congregation was terminated. That same year, as already noted, twelve Catholic clergy were denied renewal of their permits to perform religious activities. The Full Gospel Union was also denied a visa to allow a Nigerian preacher to come speak to their congregation without due cause.²³

In September of 2007, Belarus' Vice-Premier Aleksandr Kosinets made statements suggesting that Belarus will either cease to renew permits to perform religious activities or deport all foreign religious workers.²⁴ Despite such an open and notorious breach of international norms, Belarus has been actively deporting and keeping outside its borders foreign religious workers under the auspices of the National Security Concept, signed by President Lukashenko on 17 July 2001,

²³ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights in Belarus, Adrian Severin, 4th Session, A/HRC/4/16, 15 January 2007, ¶ 30-31.

²⁴ Geraldine Fagan, Forum 18, Belarus: How serious is official call to phase out foreign clergy?, 1 October 2007.

which includes provisions regarding restrictions on religious missionary activity for the protection of national security.²⁵

Other examples of restrictions on religious missionary activity include the expulsion and ban of ten American workers in Mogilyov in February 2007²⁶; the deportation of religious charity worker and US citizen Travis Decker in March 2007²⁷; and on 17 May 2007 an Israeli rabbi based in Belarus was banned from further religious activity in the country²⁸.

Of equal concern is the fact that no functioning statute in Belarusian law allows for the existence of foreign religious organizations with charitable or missionary aims.²⁹ As such, groups such as the Salvation Army cannot legally exist or function within Belarus. Other popular missionary groups, wishing to remain anonymous for the purposes of this petition as a result of their continued underground presence in the country, also have been formally forbidden to register and legally function in Belarus.

To promote the indoctrination against foreign and minority religions and religious missionary and charitable groups, the Ministry of Education has issued slanderous statements in State sponsored education textbooks.³⁰ It should be noted that the same practices were used in the Russian Federation with regards both the

²⁵ Geraldine Fagan, Forum 18, Belarus: Foreign Protestants expelled for “harming national security”, 17 May 2007.

²⁶ Christian Solidarity Worldwide, Briefing: Belarus Religious Freedoms Violations, January 2008.

²⁷ Id.

²⁸ Geraldine Fagan, Forum 18, Belarus: Foreign Protestants expelled for “harming national security”, 17 May 2007.

²⁹ Interview with Belarusian attorney Sergei Shavtsov, December 2007.

³⁰ United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights in Belarus, Adrian Severin, 4th Session, A/HRC/4/16, 15 January 2007, ¶ 31.

use of government textbooks to defame religious groups as threats to national security and a systematic crack-down on foreign religious institutions. The European Court of Human Rights judged that these activities were clear violations of European law and provided the Applicant group, the Salvation Army, damages in October 2006.³¹

(d) Official Warnings/Fines

Another popular tactic for attacking religious freedom has been the use of official warnings given by the state authorities for taking part in religious activities not previously approved by the local authorities. This measure is used as a scare tactic to dissuade would-be participants in minority religious groups from actively participating in religious events such as prayer meetings and Bible studies. With the constant threat of imprisonment, official warnings act as a strong deterrent against religious activity.

Committees such as the one set up by the regional chairman of the CRNA in Gomel in 2005 to monitor and investigate minority religious groups to ensure compliance with the 2002 Law on Religions is a troubling development. Such committees, made up of local executive government, tax officials, law enforcement, and public representatives are in constant danger of becoming glorified witch-hunts.³²

³¹ ECHR, Case of the Moscow Branch of the Salvation Army v. Russia, Judgment of 5 October 2006, Application No. 72881/01. The case is noteworthy in that it was the first finding of an Article 9 (religious freedoms) violation in the Russian Federation. ECLJ affiliates the Slavic Centre for Law and Justice acted as counsel for the Applicants.

³² See e.g. U.S. Department of State (Released by the Bureau of Democracy, Human Rights and Labor), Belarus: International Religious Freedom Report 2006.

Official warnings ultimately take several forms: (1) Warnings to dissuade public or private religious meetings. Such warnings, for example, were issued against Pastor Georgi Vyzazorsky of Christ's Covenant Reformed Baptist Church several months prior to his arrest, detailed above, for holding worship services in private premises and against Pentecostal bishop Segei Tsvor on similar counts.³³ (2) Warnings for use of premises as an unregistered place of worship. Three warnings were issued against Christ's Covenant Reformed Baptist Church for holding services in an unregistered "legal address."³⁴ The 1000 member Minsk based Hare Krishna community received six warnings for use of an unregistered place of worship in 2004. A complaint regarding Belarus' refusal to register the religious union was made to the United Nations' Commission on Human Rights which in 2005 recommended all rights be restored to the Community.³⁵ As of the writing of this petition, the Belarusian authorities have failed to implement that recommendation and had in January 2006 formally rejected the findings of the Human Rights Committee.³⁶ A total of five warnings were issued against New Life Church for holding services in an unregistered location, despite numerous attempts to register the facility. The denial of registration and threat of forced closure culminated in last year's mass hunger strike.³⁷ (3) General harassment. On January 2007, the State Committee on Nationalities and Religious Commissioner cited the Evangelical Lutheran Churches Union on 10 counts of breaching its

³³ Id.

³⁴ Id.

³⁵ See: CCPR/C/84/D/1207/2003 of 23 August 2005.

³⁶ U.S. Department of State (Released by the Bureau of Democracy, Human Rights and Labor), Belarus: International Religious Freedom Report 2006; United Nations Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights in Belarus, Adrian Severin, 4th Session, A/HRC/4/16, 15 January 2007, ¶ 30.

³⁷ Id.

charter, despite all 10 counts being technicalities such as grammar mistakes and no breaches of law being found.³⁸

Fines are also used as a deterrent against religious activity and are particularly effective because of the poor economic state of the country. Several examples suffice:

- In May 2006, Illya Radkevich, pastor of the Full Gospel Christian Community was fined for leading an unsanctioned religious ceremony.
- In April 2006, Boris Khamaida was fined US \$2, 600 for demonstrating with a sign that contained a gospel of Matthew quotation.
- Separate fines on different occasions were levied against Baptist pastor Yermalitsky and his wife for hosting unsanctioned religious meetings.
- New Life Church administrator Vasily Yurevich has been fined a total of US\$ 5, 800 for unsanctioned religious activities. The pastor of the church, Vyacheslav Goncharenko, has also been fined for holding prayer meetings.
- Council of Churches Baptist pastor Valery Ryzhuk was fined in June 2005 for leading an unlawful religious service.
- Also in 2005, local officials fined leaders of a village parish of the Russian Orthodox Church Abroad in the Brest region for organizing unsanctioned religious meetings and events in their homes totaling US\$ 1, 835.³⁹

(e) Refusal of Registration or Rent for Use of Premises as a Place of Worship

The 81st Plenary Meeting of the 61st Session of the Generally Assembly of the United Nations decried the current harassment and closure of religious organizations and their places of operation and called on increased religious freedom in the country.⁴⁰ The Commission on Human Rights had similar

³⁸ Christian Solidarity Worldwide, Briefing: Belarus Religious Freedoms Violations, January 2008.

³⁹ See: U.S. Department of State (Released by the Bureau of Democracy, Human Rights and Labor), Belarus: International Religious Freedom Report 2006. Forum 18 News service also provides regular updates on the deteriorating situation in Belarus with frequent coverage of the fining of religious minorities. Additionally, the UNHCR Refworld database on Belarus provides a wealth of source material on the issue:
<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&skip=0&publisher=FORUM18&category=COI&coi=BLR>.

⁴⁰ UN General Assembly Resolution, Situation of Human Rights in Belarus, A/61/443/Add.3, 19 December 2006, 1(g), 2(f).

sentiments lamenting the increased restriction on religious freedoms in Belarus in 2004.⁴¹

The 2002 Law on Freedom of Conscience and Religious Organizations makes illegal any religious organization with fewer than 20 persons⁴²; it forbids the invitation of foreign religious workers unless that organization has a registered umbrella group⁴³, and it requires that all religious groups be registered and that their religious activity take place on state registry approved premises.⁴⁴

No limits are placed on the discretion allotted to administrative personal with regard to granting such registration rights. Registration is routinely denied leaving religious groups to meet in private homes and public places like cafes, which under the law is also deemed illegal with administrative sanctions of fines and imprisonment.⁴⁵

The already mentioned New Life Church situation provides perhaps the best example. Despite being a church of some 1000 members, fulfilling all of the registration requirements and making multiple attempts to receive permission for holding religious meetings, New Life received five official warnings and threat of closure with the offer of nominal compensation for the property before the church's organization of its hunger strike.⁴⁶

⁴¹ UN Commission on Human Rights, Commission on Human Rights Resolution 2004/14: Situation of Human Rights in Belarus, 15 April 2004. E/CN.4/RES/2004/14.

⁴² Law on Freedom of Conscience and Religious Organizations (2002), Republic of Belarus, Article 15.

⁴³ Id. The Law requires that in order to have such an umbrella, the religious association in question must have been active in Belarus for a minimum of 20 years.

⁴⁴ Id., Articles 16-18, 25.

⁴⁵ See: Id., 25.

⁴⁶ *Supra* n. 36.

Similarly, a hunger strike was begun by the parishioners of the Roman Catholic parish in Grondo who, during a period of ten years since their initial appeal to State institutions, had still not received land to build a Catholic church.⁴⁷ The Baptist church in Zelva was also denied a permit to reconstruct their building. After two years of filing requests, the church amended their request to make much needed structural repairs on their old building which was also denied. Upon beginning the needed reconstruction anyway, work was immediately halted by state officials.⁴⁸

At the same time, minority groups are frequently denied the ability to legally hold religious events on rented premises. For example, John the Baptist church has had permits rejected on numerous occasions for holding services at the Dolginovski Rd. location where they had been holding meetings peacefully for six years before state officials began intervening. They have also been denied a permit for services at the Minsk Trade Union's Palace.⁴⁹

With regard to state interference into religious worship in the home, such as happened with Pastor Dmitry Ozyko and his Baptist congregation, the state clearly violates its own constitutional protections of the inviolability of the home as guaranteed in Article 29 of Belarus' Constitution. Pastor Ozyko was fined approximately two weeks wages for holding a private worship service in his home.⁵⁰

⁴⁷ Christian Solidarity Worldwide, Briefing: Belarus Religious Freedoms Violations, January 2008.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ Felix Corley, Forum 18, Belarus: "To pray to God they must have a registered place of worship", 17 December 2007.

(f) Military Conscripts Questioned on their Religious Affiliation

In open contradiction to Article 5 of the 2002 Law on Freedom of Conscience and Religious Organizations which states that: “nobody is obliged to give statements about his/her attitude towards religion and can be compelled to do so while determining the attitude towards religion, practicing one or another religion, participation or not participation in activities of religious organizations;” and Article 7 stating that “a citizen is not obliged to give statements about his/her attitude towards religion in official documents unless he/she wishes it himself/herself;” military conscripts are required to answer the following questions upon entry into military service:

1. Do you confess any religion?
2. Do you attend the services of any religious community?
3. Do you belong to any non-traditional religious organisation? (Jehovah’s witnesses, Great White Brotherhood, Satanists, Baptists, Pentecostals...)
4. Do your relatives belong to any sect?⁵¹

The affirmative answer to any of these questions leads to further questioning and the requirement that conscripts provide information regarding their religious leaders to the state.

(g) Other Draconian Measures Used as a Chilling Effect on Freedom of Religion

As detailed well already in this submission, the Belarusian state organs use many measures, both under the colour of law and outside of the law, in effectuating its policy of stifling religious freedom and freedom of assembly. Contravention of privacy by videotaping of religious services and collecting

⁵¹ Christian Solidarity Worldwide, Briefing: Belarus Religious Freedoms Violations, January 2008.

information about religious leaders are just some of the measures used in promoting this agenda.

This petition has also shown what lengths the Belarusian authorities will go to in bringing an end to the activities of religious minorities. One of the more infamous examples given herein, was the refusal of State district medical clinic personnel to provide examination of those suffering ill effects from the New Life Church hunger strike in 2006. The overall effect of the measures of the Lukashenko government with regard to religious freedoms violations shows that the iron curtain has once again fallen around Belarus. The KGB and local authorities continue to do the work they have always done, with utter disregard for fundamental human rights, civil and social rights, and protection of privacy.

(IV) Conclusion

Petitioners herein submit for review to the authority of the European Parliament, it's President Hans-Gert Poettering and the Committee on Petitions, our statements regarding breaches of European and international law in the realm of religious freedoms, freedom of expression and freedom of association. The lack of rule of law and the utter disregard for the political process in Belarus by the Lukashenko government has served to severely diminish the ability of its citizens to stand up for these most basic fundamental rights.

It is therefore, the plea of the undersigned 50, 400 persons and representatives of the political opposition and minority religious leaders of Belarus who are signatory to this petition, that the European Union act in its political, diplomatic and economic capacity to aid the people of Belarus in

bringing an end to the abuses of personal and collective liberties and human rights under the colour of the 2002 Law on Freedom of Conscience and Religious Organizations and that the European Parliament act to monitor continuing abuses of democratic rights both under this law and otherwise with the view to bringing the Republic of Belarus into conformity with its international treaty obligations.

APPENDIX:

SELECTED PROVISIONS OF EUROPEAN AND INTERNATIONAL LAW

(I) United Nations Treaty Obligations

(a) International Covenant on Civil and Political Rights⁵²

Article 18:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. 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. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19:

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 20:

⁵² United Nations General Assembly res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976.

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 27:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

(b) International Covenant on Economic, Social, and Cultural Rights⁵³

Article 1:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

Article 2:

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

⁵³ United Nations General Assembly res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976.

(II) Charter of Fundamental Rights of the European Union⁵⁴

Article 6: Right to liberty and security

Everyone has the right to liberty and security of person.

Article 7: Respect for private and family life

Everyone has the right to respect for his or her private and family life, home and communications.

Article 10: Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.

2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.

Article 11: Freedom of expression and information

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

2. The freedom and pluralism of the media shall be respected.

Article 12: Freedom of assembly and of association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests.

Article 20: Equality before the law

Everyone is equal before the law.

Article 21: Non-discrimination

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

⁵⁴ (2000/C 364/01), Official Journal of the European Communities, 18.12.03.

Article 49: Principles of legality and proportionality of criminal offences and penalties

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than that which was applicable at the time the criminal offence was committed. If, subsequent to the commission of a criminal offence, the law provides for a lighter penalty, that penalty shall be applicable.
2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognized by the community of nations.
3. The severity of penalties must not be disproportionate to the criminal offence.

(III) European Convention of Human Rights⁵⁵

Article 9: Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10: Freedom of expression

1 Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2 The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11: Freedom of assembly and association

1 Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2 No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 14: Prohibition of discrimination

⁵⁵ Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No. 11, Rome, 4 November 1950.

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.