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USCIRF Annual Report 2011 - The Commission's Watch List: Belarus

[Covers April 1, 2010 to March 31, 2011]

FINDINGS: The government of Belarus continues to violate its citizens' freedom of thought, conscience, and religion or belief in law and practice. Belarus is ruled by an authoritarian regime, with political power concentrated largely in the hands of President Aleksandr Lukashenko and his small circle of advisors. Due to its extensive, intrusive structures to control and restrict religious communities, some human rights groups compare the current religious freedom situation in Belarus to that under Soviet rule. The government has also engaged in other human rights abuses, including strict controls on the media and civil society and imprisonment and maltreatment of political opponents and journalists, particularly after the December 2010 presidential election.

In light of these conditions and violations, the Commission maintains Belarus on its Watch List for 2011. Belarus has been on USCIRF's Watch List since 2003.

The Belarusian religion law of 2002 is oppressive by European standards, particularly its ban on unregistered religious activity. Active participation in unregistered religious groups may result in a two-year term of imprisonment or heavy court-imposed fines. The government has an extensive bureaucracy that closely supervises religious life throughout the country, and harasses some religious groups, particularly Protestants and others officially viewed as "foreign" or "political." Conscientious objectors to military service have been detained for terms of several months and fined. Foreign religious workers continue to face many official obstacles, including deportations and visa refusals. Some religious communities were registered under the 2002 law, but many, particularly evangelical Protestant congregations and Orthodox communities that do not accept Moscow Patriarchate jurisdiction, continue to be denied.

PRIORITY RECOMMENDATIONS: U.S. policy on Belarus should give greater priority to the issue of freedom of religion or belief through the democracy-promotion activities envisaged in the Belarus Democracy Reauthorization Act. The United States should stress in bilateral meetings with Belarusian officials that religious oppression contradicts Belarusian policy goals. The National Endowment for Democracy's Belarus civil society programs, and U.S. government-funded radio broadcasts to Belarus, should provide greater focus on freedom of religion or belief and promotion of religious tolerance. The United States should attempt to reinstate the position of UN Special Rapporteur on human rights in Belarus and support that position's efforts to gain unrestricted access to the country. The United States should also work with other states in the Organization for Security and Cooperation in Europe (OSCE) to reopen the OSCE Mission in Minsk, which the Belarusian government closed after the regional body criticized the December 2010 election. Additional recommendations for U.S. policy towards Belarus can be found at the end of this chapter.

Religious Freedom Conditions

Legal Framework

The country's 2002 religion law set up rigorous regulatory obstacles, imposing major bureaucratic and legal restrictions on the activities of religious communities. Essentially, the 2002 law prohibits all religious activity by unregistered groups, limits the activity of religious communities to their areas of official registration, bans foreign citizens from leading religious activities, forbids unapproved religious activity in private homes except for occasional prayer meetings, denies religious communities the right to train clergy, and requires official permission for the printing, importation, or distribution of religious materials.

The law also set up three categories for religious groups: religious communities, religious associations, and national religious associations, each with different legal rights and registration requirements. The complex registration process requires extensive personal information about the members of religious congregations. In addition, the law mandated that all religious communities in Belarus re-register by late 2004. While most groups managed this successfully, some disfavored organizations have had difficulty re-registering.

Unregistered religious activity is punishable under Article 193-1 of the Criminal Code, with punishments ranging from a fine to imprisonment of up to two years. However, Forum 18, which monitors religious freedom conditions in Belarus, is not aware of any cases where Article 193-1 has been used to punish unregistered religious activity. In February 2010, an amendment to the Belarusian Administrative Code removed the administrative "offence" of creating or leading an unregistered religious organization. Nevertheless, it remains an administrative violation to participate in an activity conducted through a religious organization that is not specified in its statute, to attract children to religious services, or to conduct religious work with children against their wishes or without their parents' approval. Most cases in recent years against leaders and members of unregistered religious communities have been under the Administrative Code. Despite the February 2010 amendment, Pastor Yuri Petrevich, who leads a Protestant church in Grodno, was fined in March 2010 for leading an unregistered church, according to Forum 18. By contrast, a Jehovah's Witness in the Mogilev region had an administrative case against him cancelled as a result of the amendment, but reportedly, other Jehovah's Witnesses have been fined during the reporting period.

Restrictions on Religious Activities

Some religious groups, particularly Protestant congregations, have repeatedly been denied registration, and in many cases officials do not provide reasons. Registrations are frequently denied based on failure to provide a valid legal address, although, in some cases, registration is required *before* such an address can be obtained. Moreover, a religious organization cannot be located at a residential address unless that location has been re-designated as nonresidential. In 2010, religious groups continued to have difficulty obtaining local government permission to convert residential property for religious purposes. Another basis for denial can be the religious group's alleged failure to limit activities to a specified location.

In January 2008, a secret government ruling reportedly denied official registration to 12 groups that the government deemed "destructive sects," including Ahmadis.

Without state registration, religious communities are subject to state harassment of and interference with religious activities that sometimes result in fines. Council of Churches Baptist congregations, which refuse to register for doctrinal reasons, have long been targeted. In recent years, the Belarusian courts have increased the fines for unregistered religious activity and expanded the range of religious groups subject to them. As previously mentioned, despite the February 2010 amendment to the Belarusian Administrative Code, the pastor of a Grodno Protestant church was fined in March 2010 for leading an unregistered religious organization, and Jehovah's Witnesses were fined for similar "offences."

Belarusian authorities also interfere in other activities of religious groups. Although the religion law in theory allows people to pray in their private residences, it also requires that individuals obtain permission from local authorities before holding rites, rituals, or

ceremonies in homes. Such permission is usually denied, and police often interfere with private religious meetings, sometimes fining participants. For example, Pastor Nikolai Borichevsky of the Grace of Jesus Pentecostal Church in the small town of Krupki in the Minsk Region paid a fine of US \$230 in August; the fine was imposed by a court for alleged unsanitary conditions of food served at a summer Bible school.

Administrative laws, regulations, and directives also restrict various activities of registered religious communities, such as by limiting their geographic area. In July 2010, Pastor Kochegur of the registered New Generation Full Gospel Church in Novogrudok, in Grodno Region, succeeded in overturning a US \$234 fine imposed on him for holding an allegedly noisy private religious meeting. Religious groups are also not allowed to function outside their geographic area of registration. For example, in July 2010, Pastor Novik of a registered Pentecostal church in one village was fined three times in one day and was ordered by a local court to pay a total of US \$706 for sharing his faith outdoors in a nearby village. Additionally, if a registered religious community does not qualify as a "central association" – if it has not been legally recognized for more than 20 years or if it does not have enough members – it cannot own media outlets or invite people from outside Belarus to work with the community, as in the case of the Greek Catholic Church (also known as the Byzantine Rite or Uniate Catholic Church). The Society for Krishna Consciousness also does not qualify as a central association and therefore cannot rent a hall or produce a publication with a print run exceeding 300.

Restrictions on Houses of Worship and Other Properties

The government also continues to limit the ability of registered groups to own or use property for religious purposes. Authorities reject requests for property registration from many Protestant churches and other groups officially viewed as new to Belarus; these groups also have faced difficulty in renting property from state proprietors. Moreover, Protestants in particular have reported that securing permission to build new churches is nearly impossible. In the capital Minsk, city planners will not grant any such permits until 2030, according to city planning documents. Protestant churches seeking property permits also report that they are treated as commercial organizations and charged fees set by Minsk authorities that sometimes run up to hundreds of thousands of dollars. Reports also indicate that some of the smaller religious communities continue to face great difficulties in rebuilding premises for worship.

In 2009 and 2010, officials threatened to seize the building of the New Life Full Gospel Church in Minsk. Court executors delivered an order to vacate the building by August 2009, but the congregation refused to leave. In January 2010, the government charged the church with polluting the grounds around its building with oil; in June, the community was charged with destroying more than 32,000 square feet of topsoil and of building a parking lot and a road without permission. Massive fines were ordered, but the congregation thus far has refused to pay and stands liable to have the church building seized by the government as compensation.

The 2002 religion law states that religious organizations do not have priority in reclaiming property confiscated in Soviet times if a former worship building is now used for culture or sports activities. As a result, only nine of 92 historic synagogues in Belarus have been returned to the Jewish community since the country gained independence in 1991. Lutheran and Calvinist communities have also had little success in obtaining the return of their historical churches from the Belarusian government.

During an April 2010 meeting with President Lukashenko, Roman Catholic Metropolitan Tadeusz Kondrusiewicz raised the issue of a former Bernardine monastery complex in Minsk and discussed the allocation of land to build Catholic churches in the Minsk area. In August 2010, however, the representative of a private enterprise announced that the former Bernardine monastery complex would be redeveloped into a hotel before the 2014 World Hockey Championship. The remarks came slightly more than a month after the government's commissioner on religious and ethnic affairs said that the complex could be returned to the Joseph Roman Catholic community, which has been seeking the property's return since 2005.

Restrictions on Religious Literature, Film, and Internet

All religious literature is subject to compulsory government censorship. Religious publishing is restricted to religious groups that have 10 registered communities, including at least one that existed in 1982. This legal requirement is onerous, since 1982 was during the Soviet period when few religious groups were allowed to operate. Some members of religious communities, including Unification Church members, Baptists and Hare Krishnas, have been harassed and fined for distributing religious literature. In September 2010, the government prevented a Belarusian film on Soviet-era persecution of Protestant churches from being shown at a Catholic film festival, according to Forum 18. The 52-minute film, "Forbidden Christ," is based on archive footage of trials of Protestant pastors and 20 interviews with victims of Soviet anti-religious policies and historians.

In May 2010, police and two ideology officials detained members of the Council of Churches Baptist in the town of Drahichyn for operating a Christian street library; two were charged with violating regulations for holding demonstrations.

In 2010, the Belarusian government took various measures to control the Internet. In July, it enacted an expansive new law giving regulators broad new powers over on-line content and individual users, including requiring internationally-hosted Web sites to register with the government. In October, the Belarusian government announced that it was compiling lists of both local and international sites that it deemed offensive. In January 2010, a representative of the Minsk Orthodox Eparchial District echoed Belarusian Orthodox Church Metropolitan Filaret's 2009 remarks that referring to government Internet regulation is not political censorship but "moral purification of the internet space."

The Privileged Status of the Belarusian Orthodox Church

The 2002 religion law recognizes the "definitive role" of the Orthodox Church in the development of Belarusian traditions. It also identifies Catholicism, Judaism, Islam, and Evangelical Lutheranism as "traditional faiths," without mentioning the Old Believers and Calvinist Churches, both of which have roots in Belarus dating to the 17th century. Since he assumed power in 1994, President Lukashenko has favored the Belarusian Orthodox Church (BOC), an Exarchate of the Moscow Patriarchate Russian Orthodox Church, to the detriment of other Orthodox churches operating in the country. For example, the Belarusian government continues to deny registration to several Orthodox churches that do not accept the authority of the Moscow Patriarchate, including the Belarusian Autocephalous Orthodox Church and the True Orthodox Church. The Russian Orthodox Church Abroad is also denied registration, and in recent years its members have had to pay numerous fines for private worship services.

In June 2003, the Belarus government and the BOC signed a concordat on the Church's role in public life, thereby further enhancing its privileged position, including by calling for cooperation on education, development, protection of cultural legacies, and security. The concordat also calls for a joint struggle against "pseudoreligious structures that present a danger to individuals and society." Nevertheless, despite the concordat, BOC instruction has not been introduced into the state education system. In March 2004, the Belarusian government granted the BOC the sole right to use the word "Orthodox" in its title.

Despite its privileged status, the BOC has not been immune from government harassment. Belarusian officials have discouraged the BOC from commemorating those Orthodox Christians killed in Belarus during the Soviet period due to their religion. The Belarusian KGB has tried to convince BOC clergy to remove icons of the Orthodox "New Martyrs" from the Grodno cathedral, although the local bishop has refused to do so. In addition, KGB officers often monitor visitors to the town of Kuropaty, where New Martyrs are among those buried in the mass graves; a BOC chapel planned for the site has never been built.

For six years, the registered religious minority community of Pomore Old Believers has tried to relocate a historic dilapidated church from a small village near Lithuania to the city of Minsk. No local Old Believer community remains in the village. Minsk city authorities have refused to allow the church to be relocated, even though Minsk Old Believers now meet in a converted house. They will only permit the church to be moved

to the site of a museum of folk architecture in a village in the Minsk region, at the community's expense. Reportedly, the church could be available for worship, but only during the museum's working hours.

Conscientious Objectors

A decade after the Constitutional Court declared it "urgent" to adopt a law on alternative military service, no action has been taken and a proposal included in the 2010 Legislative Program was removed at the last minute. In July 2010, a coalition of civil society groups provided proposals for an Alternative Service Law to a government working group on the subject, but has not received any acknowledgement.

In November 2009 – nine years after charges against him were first brought – a Jehovah's Witness from Gomel, Zmitser Smyk, was found guilty of refusing military service and assessed a large fine. He was acquitted in May 2010 after multiple appeals. In February 2010, Ivan Mikhailau, a member of a Jewish community, was sentenced to a three-month jail term for refusing compulsory military service; he was released days before his sentence ended.

Muslims have complained that they are unable to observe their religious rites in the Belarusian army, and a Muslim who refused military service for this reason and refused to pay the associated fine was imprisoned for three months in 2009.

Challenges to the Religion Law

The Belarusian government is hostile to civil society campaigns against the religion law. Two NGOs, the Legal Transformation Centre and For Religious Freedom, an unregistered group of Belarusian civil society activists who promote religious tolerance and religious liberty, have drawn up an alternative religion law and in 2010 continued to meet with American diplomats and others in Minsk to discuss their proposals with religious communities and civil society.

Two venues in Minsk rejected their requests for meeting space, allegedly at the urging of Belarusian officials. In 2008, human rights defenders were harassed after organizing the largest non-party political petition in Belarusian history – which garnered 50,000 signatures and was 3,442 pages long – calling for reform of the religion law. The petition was sent to the Constitutional Court, Parliament, and Presidential Administration. The Constitutional Court rejected it on the basis that only the head of state or other government officials can question the constitutionality of laws; parliamentary and presidential authorities also rejected it, claiming that there were no religious freedom violations in Belarus.

Anti-Semitism

Although the 2002 religion law deems Judaism as "traditional" to Belarus, Jews have been the targets of offensive statements by government officials, including President Lukashenko and the state media. The Belarusian government has not taken action to identify or sanction individuals responsible for vandalism against Jewish memorials, cemeteries, or other property. During 2010, anti-Semitic incidents were investigated only sporadically, according to the State Department. For example, on May 9, 2010, during Victory Day celebrations, vandals set fire to a memorial to Holocaust victims in Brest. The memorial has been vandalized many times before since it was erected in 1992, including in three consecutive years since 2008. No perpetrators are known to have been held accountable.

While official periodicals did not attack Jewish groups in the past year, the sale and distribution of anti-Semitic literature continued through state press distributors, government agencies, and stores affiliated with the BOC. Anti-Semitic and ultranationalist Russian newspapers and literature, digital video disks, and videocassettes also continued to be sold at *Pravoslavnaya Kniga* (Orthodox Bookstore), which also sells the literature of the BOC.

Religion and Public Education

The religion and education laws specify that the state education system is secular, and that state education institutions can work with registered religious organizations only outside school hours. The government continued to use textbooks that express intolerance towards religious groups which it views as non-traditional, such as Protestants, Seventh-day Adventists, the Church of Maria, White Brotherhood, Jehovah's Witnesses, and Hare Krishnas, labeling them "sects."

Restrictions on Foreign Religious Workers

In 2008, Belarus further tightened strict government regulations on foreign religious workers. A government official, the Plenipotentiary for Religious and Nationality Affairs, has the sole discretion to decide whether religious activity by foreign citizens is "necessary." If foreign citizens have not explicitly stated in their visa applications that they plan to participate in religious activities in Belarus, they can be reprimanded or expelled. Belarusian authorities continue to question foreign religious workers, humanitarian workers, and local citizens on the sources and uses of their funding. There were also credible reports that foreign religious workers continue to be under surveillance by security personnel in 2010.

Since 2004, a total of 33 foreigners, about two-thirds of whom are Roman Catholics, have been expelled or denied extension of their residence permits due to their religious activities. In January 2010, two Catholic priests who had worked in Belarus for several decades reportedly were ordered by authorities to halt religious activities but were not barred from the country.

U.S. Policy

In October 2004, President Bush signed into law the Belarus Democracy Act (BDA) to promote democratic development, human rights, and the rule of law in Belarus. The BDA prohibits the U.S. government from providing loans, credit guarantees, financing, or other financial assistance for Belarus, excluding humanitarian assistance, until the Belarusian authorities conduct a thorough inquiry into the disappearances of opponents of President Lukashenko, release political prisoners, and end persecution of the independent media and pro-democracy organizations. The BDA was reauthorized in 2007. In January 2011, Representative Chris Smith (R-N.J.) introduced H.R. 515, the Belarus Democracy Reauthorization Act, which would again reauthorize the BDA.

The United States imposed sanctions on Belarus in 2006, and expanded them in 2007 and 2008, targeting government entities and officials responsible for human rights abuses. In March 2008, the Belarusian government requested that the United States withdraw its ambassador and that the U.S. Embassy in Minsk reduce its American diplomatic staff from 35 to five; the highest-ranking U.S. diplomat in Minsk is Charge d'Affaires Michael Scanlan. The Belarusian ambassador was withdrawn from Washington, D.C. in response to a request from the United States.

U.S.-Belarusian relations were further strained by the December 2010 presidential election in Belarus, which was widely condemned as illegitimate. The Belarusian government arrested 700 activists, seven presidential candidates and 25 journalists after the election; 20 leading opposition figures face possible 15-year prison sentences. Following the election and ensuing crackdown, Secretary of State Hillary Clinton and European Union High Representative Catherine Ashton issued a joint statement calling for the immediate release of presidential candidates and others detained, condemned the regime's violence, and recognized "serious problems" in the conduct of the vote. In January 2011, Clinton and Ashton issued another statement condemning Belarus's closure of the OSCE Mission in Minsk, which monitored the human rights situation in that country and had been publicly critical of the election and ensuing abuses.

In January 2011, in a move timed to coincide with a similar EU statement, the United States announced a package of Belarus-related measures, including re-imposing sanctions against two key Belarusian corporate subsidiaries and expanding the list of Belarusian officials (and their families) subject to a visa ban to include those responsible for the fraudulent election in December 2010 and the subsequent repression. Belarusian authorities arbitrarily detained, mistreated, and summarily sentenced hundreds of people, including Belarusian electoral opponents, who protested the fraudulent election

results. The United States will extend asset freezes to include President Lukashenko and increase the number of other persons and entities subject to sanctions.

Also in early 2011, 14 OSCE participating states, including the United States, invoked the OSCE's "Moscow Mechanism" to call for an impartial, international fact-finding mission to investigate particularly serious threats to human rights, fundamental freedoms, democracy, and the rule of law in Belarus after the December election. Their statement said that Belarus was in "flagrant violation" of its OSCE commitments and urged it "to end its campaign of repression against opposition candidates, campaign participants, journalists, lawyers, students and many others." Belarus has rejected the request.

The State Department's 2010 *Annual Report on International Religious Freedom* reported that the government of Belarus "continued to restrict religious freedom during the reporting period using provisions of the religion law to hinder or prevent activities of groups." That report also noted that political officers in the U.S. Embassy discussed religious violations with religious freedom campaigners, religious lawyers, and activists who coordinate the For Freedom of Religion initiative.

For Fiscal Year 2011, the administration requested \$14 million in aid for Belarus, of which just over \$9.6 million was slated for aid for "political competition and consensus-building" and "civil society." Such aid efforts may be hampered, however, by the regime's repression and its limitation of U.S. diplomatic personnel in Belarus to five persons, as well as by U.S. Congressional budget cuts.

Recommendations

In response to the prevailing state of religious freedom and related human rights in Belarus, USCIRF urges the U.S. government to support a number of measures to aid in the fight to end religious freedom violations and to promote religious liberty through bilateral and multilateral diplomacy, as well as through specific U.S. programs and policies.

I. Ending Violations of Religious Freedom in Belarus

The U.S. government should urge the government of Belarus to:

- repeal the highly restrictive 2002 religion law, as several of its provisions violate international norms on freedom of religion or belief, as called for in the 2008 popular petition urging reform of the religion law, which was the largest non-party political petition in Belarusian history;
- end the practice of denying registration to religious groups and then erecting obstacles to religious practice because of that unregistered status;
- ensure that no religious community is given a privileged status that may result in, or be used to justify, discrimination against individuals who are secular or belong to other religious groups;
- provide the right to conduct religious education and distribute religious material;
- adopt effective measures to halt attacks on the persons and property of minority religious groups and prosecute individuals who perpetrate such attacks;
- ensure a greater effort on the part of government officials to find and hold accountable perpetrators of attacks on the persons and property of members of religious minorities;
- publicly condemn, investigate, and prosecute criminal acts targeting Jews and the Jewish community, as well as members of other ethnic and religious communities; and
- provide free access by domestic and international human rights groups and others to sites of religious violence or the destruction of places of worship.

II. Advancing Religious Freedom through Bilateral and Multilateral Diplomacy

The U.S. government should:

- use public and private diplomacy to advance the protection of religious freedom and human rights in Belarus, such as conducting enhanced monitoring and public reporting by the U.S. Department of State, including the Special Envoy on Anti-Semitism and the Ambassador-at-Large for International Religious Freedom, and by the appropriate international organizations, including the Organization for Security and Cooperation in Europe (OSCE) and the UN;
- coordinate with the European Union on the application of financial sanctions and visa bans on high-ranking Belarusian officials, particularly those who are directly responsible for or who have carried out the government's abuses of religious freedom;
- work with international partners to reinstate the position of UN Special Rapporteur on the situation of human rights in Belarus and support that position's efforts to gain unrestricted access to the country, and work to reopen the OSCE Mission in Minsk;
- use diplomatic contact with representatives of the Belarusian government as a forum to discuss the failure of religious oppression tactics to further policy goals of prosperity, international comity, and political stability; and
- urge the Belarusian government to issue invitations to relevant UN Special Procedures, including the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression; the Special Representative of the Secretary-General on the Situation of Human Rights Defenders; the Special Rapporteur on Freedom of Religion or Belief; and the Working Group on Enforced and Involuntary Disappearances.

III. Advancing Religious Freedom through U.S. Programs and Policies

The U.S. government should:

- ensure that the activities to promote democracy authorized by the Belarus Democracy Reauthorization Act, as well as in the Belarus civil society programs of the National Endowment for Democracy, include the right to freedom of religion or belief and the promotion of religious tolerance;
- ensure that U.S. government-funded radio broadcasts to Belarus, including those of RFE/RL, continue at least at their present levels; that efforts are made to secure sufficient transmission capacity to ensure reliable reception throughout that country; and that the programs discuss issues relating to freedom of thought, conscience, and religion or belief;
- use appropriated Internet freedom funds to develop free and secure email access for use in Belarus; facilitate the dissemination of high-speed Internet access via satellite; and immediately distribute proven field-tested counter-censorship programs in order to prevent the arrest and harassment of religious freedom and human rights activists, helping them maintain their freedom of expression and legitimate expectations of privacy;
- award funds appropriated by Congress to counter censorship in Belarus, including those from the FY2010 Consolidated Appropriations Act, through a competitive and merit based process;
- provide increased international travel opportunities – particularly opportunities to attend international conferences – for Belarusian civil society leaders, including representatives of human rights organizations and religious groups, as well as others who defend freedom of religion in that country;
- continue to privately and publicly support those engaged in the struggle against repression in Belarus, including the group of religious and opposition activists who make up the Freedom of Religion Initiative that published the "White Book;"

- organize roundtables inside Belarus between members of registered and unregistered religious communities and international experts on freedom of religion, particularly the OSCE Panel of Experts on Freedom of Religion or Belief; and
 - assist in funding Belarusian NGOs seeking reform of the country's religion law.
-