

12 October 2010

BELARUS: Executed prisoner denied religious burial

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

The mother of executed prisoner Andrei Zhuk has filed a legal case against Belarus' refusal to release her son's body or to tell her where he was buried. Svetlana Zhuk complained, in an appeal seen by Forum 18 News Service, that she was "denied the possibility to bury my son in accordance with the demands of Orthodox Christianity". She insists this was a religious freedom violation under Article 18 of the International Covenant on Civil and Political Rights (ICCPR). "Whatever an individual's crimes, according to church canons relatives have the right to pray for the deceased and bury them with church rites," a Russian Orthodox priest told Forum 18. "We should pray for such individuals deeply, as we pray for all sinners." Human rights defender Raman Kisliak commented to Forum 18 that "such a violation of freedom of conscience is impermissible in a state that is party to the International Covenant on Civil and Political Rights." The Interior Ministry wrote to Svetlana Zhuk, stating that under Belarusian law: "Bodies are not handed over for burial and the location of burial is not communicated." No date has yet been set to hear the case, but officials expect it to be heard within ten days.

The mother of executed prisoner Andrei Zhuk has lodged a suit in court against the Interior Ministry's Department for the Execution of Punishments that the refusal to release her son's body after his 18 March execution or to tell her where he was buried represented a violation of her religious freedom rights. In the wake of the denial, Svetlana Zhuk complained that she was thus "denied the possibility to bury my son in accordance with the demands of Orthodox Christianity", according to the complaint seen by Forum 18 News Service. She insisted this was a violation of her rights under Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to manifest "religion or belief in worship, observance, practice and teaching". Belarus is a party to the ICCPR.

"I would like above all for them to return my son's body for us to hold a funeral," Svetlana Zhuk told Forum 18 on 12 October. "But at the very least they could show us his grave so that we could pray there." The last time she saw her son was on 4 March, not knowing at the time that he would be executed exactly two weeks later.

Refusing absolutely to discuss Svetlana Zhuk's suit – or any other issue – was Valery Neschuk, a lawyer at the Department for the Execution of Punishments in the capital Minsk. "We can't answer any questions by phone," he told Forum 18 on 12 October. "Send us your questions in writing."

Backing Svetlana Zhuk's suit is Brest-based human rights defender Raman Kisliak. "Refusing to give the family the body of the executed man denies them the possibility to hold a funeral in accordance with their religious views," he told Forum 18 on 11 October. "Such a violation of freedom of conscience is impermissible in a state that is party to the International Covenant on Civil and Political Rights."

Forum 18 was unable immediately to reach Fr Vasily Litvinko, head of the Orthodox Church's prison ministry and chaplain to Minsk's Investigation Prison No. 1, where death-row prisoners are held. His colleagues told Forum 18 on 11 October that he is on a pilgrimage to Mount Athos.

"Whatever an individual's crimes, according to church canons relatives have the right to pray for the deceased and bury them with church rites," one Russian Orthodox priest told Forum 18 from Minsk about executed prisoners. "We should pray for such individuals deeply, as we pray for all sinners."

Europe's only executioner

Belarus is the only country in Europe that currently carries out the death penalty. Andrei Zhuk and another prisoner, Vasily Yuzepchuk, who had both been convicted of murder, were executed on 18 March 2010 with a shot to the back of the head. They were the first prisoners known to have been executed in Belarus since 2008.

Two more convicted murderers – Ales Gryshkautsou and Andrei Burdika – were sentenced to death on 14 May 2010. Their appeals were rejected by the Supreme Court on 17 September. They are not known to have been executed yet.

Civil suit

In the wake of her son's execution, Svetlana Zhuk wrote to the Interior Minister on 6 April asking where he had been buried, but received no response. After complaining again to the Council of Ministers and the Interior Ministry in August, she finally received a response from Sergei Protsenko of the Interior Ministry's Department for the Execution of Punishments on 2 September. Dated 30 August, and seen by Forum 18, it informs her that in accordance with the relevant part of Article 175 Part 5 of the Criminal Enforcement Code: "Bodies are not handed over for burial and the location of burial is not communicated."

On 4 October, Svetlana Zhuk lodged a civil suit against the Department for the Execution of Punishments to Lenin District Court in Minsk. As well as complaining about the refusal to release her son's body for a religious burial, she also argues that refusal to say where her son is buried "forces me to suffer harshly". She argues that this provision of Article 175 Part 5 violates the ICCPR and that the ICCPR, as an international human rights convention, overrides provisions of domestic law.

She points out that Article 21 of Belarus' Constitution specifically includes the commitment: "The State shall guarantee the rights and liberties of the citizens of Belarus that are enshrined in the Constitution and the laws, and specified in the state's international obligations."

Officials at Lenin District Court told Forum 18 on 12 October that the suit has been assigned to Judge Tatyana Zhulkovskaya, but that no date has yet been set for the hearing. Officials expected the suit to be heard within ten days.

Svetlana Zhuk told Forum 18 she has heard nothing yet from the court.

Religious access to death-row prisoners

Article 174 of the Criminal Enforcement Code guarantees death-row prisoners the right "to have meetings with a priest".

Before Andrei Zhuk's death sentence in 2009, while he was still held in pre-trial detention in Soligorsk in Minsk Region, he was, at his own request, able to confess to a Russian Orthodox priest, his mother Svetlana told Forum 18. She said he had no meeting with a priest after he was sentenced. Early in 2010, a Bible was passed on to Zhuk in his cell in Minsk Investigation Prison No. 1 from Metropolitan Filaret, the head of the Orthodox Church in Belarus.

Human rights defenders told Forum 18 in March 2010 that Zhuk's lawyer had asked him if he wanted to meet a priest again, but Zhuk replied that as he was not expecting the death sentence immediately, he did not need a visit at that time. Svetlana Zhuk confirmed this to Forum 18. She said she believes her son would have wanted such a visit had he known that his death was imminent.

"We don't know what Andrei Zhuk might have asked for on the eve of or just before his execution," human rights defender Kisliak told Forum 18. "This information is completely closed for us and we are still trying to find out."

Forum 18 is not aware that the other executed prisoner, Yuzepchuk, sought a meeting with a religious representative between his sentencing and his execution.

The duty officer at Investigation Prison No. 1 – where the death-row prisoners are held – insisted to Forum 18 that Orthodox prison chaplain Fr Vasily had visited both Gryshkautsou and Burdyka at their request. "He has visited them," the duty officer – who would not give his name – told Forum 18 on 12 October. Asked how many times such visits had occurred, he would only say: "The number of times they applied for such visits is the number they have had."

Forum 18 has been unable to confirm independently if Gryshkautsou and Burdyka received visits from an Orthodox priest or not.

The duty officer declined absolutely to say if Gryshkautsou and Burdyka have already been executed or not. "We don't give out such information," he told Forum 18.

Prisoners awaiting trial wishing to receive a visit from a religious representative must write to the investigator or prosecutor handling their case to request such a visit, the duty officer told Forum 18. Those who have been sentenced, but whose sentences have not entered into force must seek such permission from the court that sentenced them. He said those whose sentences have come into force must seek such permission from the prison director, Colonel Sergei Kravchenko.

The duty officer declined to give Forum 18 the telephone number of Colonel Kravchenko or his deputy.

Forum 18 has been unable to find out if death-row prisoners are able to have a meeting with any Orthodox priest other than Fr Vasily if they so wish, or with a religious representative of another faith.

No last-minute confession available

In a March 2009 report on the death penalty in Belarus, Amnesty International noted that the process is shrouded in secrecy. Neither the prisoners nor their families are given any advance notice of executions.

As of 2001, according to the then head of the prison Colonel Oleg Alkaev, when death-row prisoners' last appeals for clemency to the president were turned down, they were taken to a cell to be informed of this, and then executed "within minutes". The prisoner "would be taken to a neighbouring room where he would be forced to his knees and shot in the back of the head", Amnesty International noted (report available at <http://www.amnesty.org/en/library/asset/EUR49/001/2009/en/d3b9c42d-a356-4dee-ad16-5b05842ba01a/eur490012009en.pdf>).

Even if a prisoner has requested and obtained an earlier meeting with a religious representative, the swiftness of the execution leaves the prisoner no time to request a meeting – including a final confession if he so wishes - ahead of execution.

The duty officer at Investigation Prison No. 1 refused to answer any of Forum 18's questions about the execution process, including whether prisoners have access to a religious representative immediately before they are shot.

Earlier denials of access

Prisoners in pre-trial detention and those serving prison sentences have on occasion in recent years complained of denial of access to a religious representative of their choice, removal of baptismal crosses, denial of access to religious services, denial of religious literature and enforced working on religious holidays, such as Easter or Christmas. Such denials were particularly common for those serving sentences for political reasons (see F18News 20 March 2008 http://www.forum18.org/Archive.php?article_id=1103). (END)

For a personal commentary by Antoni Bokun, Pastor of a Pentecostal Church in Minsk, on Belarusian citizens' struggle to reclaim their history as a land of religious freedom, see F18News 22 May 2008 http://www.forum18.org/Archive.php?article_id=1131.

For more background information see Forum 18's Belarus religious freedom survey at http://www.forum18.org/Archive.php?article_id=1311.

Full reports on freedom of thought, conscience and belief in Belarus can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=16>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Belarus is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=europe&Rootmap=belaru>.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY