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BELARUS: Will proposed new Alternative Service Law respect conscientious objections?

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

Ivan Mikhailov, Dmitry Smyk and Yevhen Yakovenko - the three young men convicted since late 2009 of refusing compulsory military service on grounds of conscience - separately told Forum 18 News Service that they want the proposed new Alternative Service Law now being drafted to introduce a fully-civilian service, not of punitive length and open to all conscientious objectors, whether religious or not. Mikhail Pashkevich of the group For Alternative Civilian Service insisted to Forum 18 that applicants for alternative civilian service should be able simply to inform the authorities of this decision without having to "prove" their entitlement. President Aleksandr Lukashenko's instruction in February that an Alternative Service Law be drafted came a decade after Belarus' Constitutional Court ruled that introducing an alternative service in line with provisions in the Constitution was "urgent".

All three young men who have been sentenced in Belarus since November 2009 for refusing compulsory military service on conscientious grounds have cautiously welcomed the proposal to draw up an Alternative Service Law. Ivan Mikhailov, Dmitry Smyk and Yevhen Yakovenko separately expressed hope to Forum 18 News Service that a new Law will allow all those with any conscientious objection to military service – whether religiously-based or not – to be able to opt for alternative service. They all separately insisted that such alternative service should be civilian, should not be of punitive length and should be regarded officially with respect.

Preparation of the Law – which was demanded by President Aleksandr Lukashenko in February – is now in the hands of a Working Group led by Marianna Shchetkina, Minister of Labour and Social Protection.

At present, those who refuse military service on grounds of conscience can be prosecuted under Article 435, Part 1 of the Criminal Code, which punishes refusing the compulsory call-up to military service with a fine or imprisonment of up to two years.

Of the three men sentenced on this charge since November 2009, two – Mikhailov and Smyk - have had the sentences overturned after retrials, though the Prosecutor is still challenging Smyk's acquittal. Yakovenko has appealed against his one year sentence of restricted freedom (see F18News 28 June 2010 http://www.forum18.org/Archive.php?article_id=1461).

A May 2000 Constitutional Court ruling called for the "urgent" adoption of an Alternative Service Law or an amendment to the Law on Military Obligation and Military Service. An attempt to adopt an Alternative Service Law was rejected by Parliament in 2004 and a proposed Law was scheduled for inclusion in the 2010 Legislative Programme, but was removed at the last minute (see F18News 18 January 2010 http://www.forum18.org/Archive.php?article_id=1396).

Presidential order to prepare Alternative Service Law

President Lukashenko ordered the drafting of an Alternative Service Law to put into effect the provision for an alternative to the current compulsory military service set out in Article 57 of the country's Constitution in a meeting on 18 February with the Secretary of Belarus' Security Council Leonid Maltsev. The order was mentioned on the presidential website the same day.

"When there is the political will, there won't be strong resistance to adopting such a law," Mikhail Pashkevich, coordinator of the campaign group For Alternative Civilian Service, told Forum 18 from Minsk on 24 June. "Now that the President has given the order, parliamentary deputies will do it – they follow orders."

Working group preparing draft Law

In the wake of the president's order, Prime Minister Sergei Sidorsky issued an instruction on 31 March to set up an Interagency Working Group to draft the proposed Alternative Service Law. The Working Group has thirteen members from different government ministries and agencies, including Vladimir Lameko, assistant to the Plenipotentiary for Religious and Ethnic Affairs. The draft Law is to be submitted to the Council of Ministers by 1 September.

The leader of the Working Group, Labour and Social Protection Minister Shchetkina, told the official Belta news agency on 26 May that representatives of "interested structures", including the Defence and Health Ministries, were also on the working group. She said it was planned that parliamentary deputies and representatives of unnamed "social organisations" would also take part.

Shchetkina added that the working group is open to written proposals from the public to be sent to her Ministry, but said that by the time of the late May interview only one representation had been received.

The Labour Ministry did not respond by noon Minsk-time on 29 June to Forum 18's 25 June written questions on when the Working Group will complete its draft text and whether and when it will be published to allow wide public discussion of its provisions.

Vyacheslav Remenchik, chief spokesperson for the Defence Ministry, told Forum 18 from Minsk on 25 June that the Ministry had presented its views to the working group on the proposed new Law, but refused absolutely to outline what those views were. He insisted the process is being led by the Labour and Social Protection Ministry.

The draft Law is likely to be presented to Parliament in the autumn, Pashkevich of For Alternative Civilian Service told Forum 18.

The government's National Centre of Legislation and Legal Research together with the Minsk Office of the Organisation for Security and Co-operation in Europe (OSCE) are jointly planning a seminar on the subject of alternative service, Jandos Asanov, Deputy Head of the OSCE Office, told Forum 18 from Minsk on 25 June. He said it is being planned for October, though no exact dates have yet been set.

Will proposed new Law respect conscientious objections?

While agreeing that the new Law should be open to all conscientious objectors, be civilian in nature and should not be punitive in length, Mikhailov, Smyk and Yakovenko differ over what type of alternative service they would be prepared to undergo themselves.

Smyk insisted to Forum 18 on 24 June that only an alternative service completely outside military structures would be acceptable to him. He said service in a military hospital would not be acceptable. Yakovenko told Forum 18 on 25 June that he would be prepared to serve in a military hospital, provided he retained the status of a civilian.

Mikhailov too would be prepared to serve in a military hospital provided any such service was civilian in nature. "Don't people there also need help?" he declared to Forum 18 on 24 June. "But I'm not prepared to swear the military oath, or hold or make weapons."

Pashkevich of the group For Alternative Civilian Service, which has long campaigned for the Constitution's provision for an alternative service to be put into practice, insisted to Forum 18 that it wants applicants for alternative civilian service to be able simply to inform the authorities of this decision without having to "prove" their entitlement.

Pavel Yadlovsky of the Jehovah's Witnesses, whose members oppose service on grounds of conscience in any agency connected with the military, says that his organisation has not submitted any proposals over the proposed new Law. "We don't seek to change laws," he told Forum 18 from Minsk on 25 June. "However, we would like any law to secure the rights of our members."

Like the three sentenced conscientious objectors, Yadlovsky insists that, to be acceptable to Jehovah's Witness young men, any alternative service must be fully civilian and not be of punitive length. He adds that service in a civilian institution controlled by a religious community – such as hospitals run by another faith – would not be acceptable. "In such institutions our members might be forced to take part in religious activity against our beliefs."

Can alternative service seminars be held in Gomel?

While civil society seminars have taken place in Minsk and other cities to discuss what activists would like to see in a new Alternative Service Law, a seminar planned in Gomel on 17 April was abruptly cancelled shortly before it was due to go ahead.

"We had invited people from various civic organisations and had made an agreement with a restaurant," one of the organisers, Dmitry Stepanets of Gomel Democratic Forum, told Forum 18 from the town on 28 June. "But when we arrived at the restaurant to pay for the booking we were told a wedding would take place and that our seminar couldn't go ahead."

He added that Russian Orthodox priests, Protestant pastors and other religious representatives who had agreed to attend "one by one, and in a friendly way" told organisers that they could not make it.

"I cannot say 100 per cent that all this was from the state, but it seems likely," Stepanets told Forum 18.

Yakovenko, the Gomel-based conscientious objector and opposition activist who had also been expecting to take part, agreed. "Formally, the restaurant gave the refusal and you can't prove all this was from the authorities," he told Forum 18. "But all such

instructions from the authorities come verbally and indirectly."

Officials at the Ideology Department of Gomel City Executive Committee refused to discuss whether the authorities had ordered the halting of the planned seminar or not. "I don't know what you're talking about," Department head Anna Shidlovskaya told Forum 18 on 29 June. "We don't give consultations by telephone," she added and then put the phone down.

Stepanets told Forum 18 that instead of a dedicated seminar on alternative service, which might or might not face obstruction from the authorities, he and his colleagues held a discussion of the issue within a round table on youth issues in early June in a Gomel hotel. "There was great interest in the theme." He said the authorities did not intervene.

Pashkevich of For Alternative Civilian Service, another would-be 17 April seminar participant, says that Gomel is the most difficult place for holding such events. "But the fact that the trials of Smyk and Yakovenko took place there shows how important it is," he told Forum 18. "We'll keep trying." (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>.

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