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Conscientious objection to military service

Oral statement of the Dutch branch of Human Rights Without Frontiers at the OSCE Warsaw Human Dimension Conference

HRWF (07.10.2024) - *Mensenrechten Zonder Grenzen Nederland* is deeply concerned about the decision of the Lithuanian Parliament on 6 June 2024 rejecting the Jehovah's Witnesses' request for the enhanced status of a State-recognized religion on two grounds. One of them is conscientious objection to military service. We recommend that Lithuania recognizes without delay

- the full right to conscientious objection on the grounds of their religious beliefs and
- the right to perform an alternative civilian service that is not under the authority of the army.

Statement about the facts

The Republic of Lithuania asserts that military service is a constitutional duty of every citizen of the country and that membership of a Jehovah's Witnesses community does not exempt one from this duty, and does not justify non-compliance with laws.

However, on 7 June 2022, the European Court of Human Rights unanimously ruled that in the case *Teliatnikov v. Lithuania* dealing with the conscientious objection of a Jehovah's Witness minister there had been a violation of Article 9 of the European Convention guaranteeing freedom of religion or belief.

The Court ultimately held that that the failure to respect the applicant's conscientious objection had not been "necessary in a democratic society".

Moreover, nearly all Council of Europe Member States have recognised the principle of conscientious objection as part of freedom of religion or belief.

We therefore recommend that Lithuania

- comply with the UN Covenant it has signed and ratified, the standards of the Council of Europe and the judgment of the European Court of Human Rights;
- remove the conscientious objection argument as one of the two reasons for not granting Jehovah's Witnesses the enhanced status of a State-recognized religion.

Deacon Andrey Kuraev was accepted into the clergy of the Exarchate of the Ecumenical Patriarchate of Lithuania

[European Times](#) (22.07.2024) - On July 23, 2024, Archdeacon Andrey Kuraev was admitted to the clergy of the Exarchate of the Ecumenical Patriarchate of Lithuania in response to his request, according to an official announcement of the Exarchate. Specifically, it says:

"Archdeacon Andrei, born in 1963, is a famous theologian and missionary, author of many books and doctor of philosophy and theology. During his more than thirty years of ministry, he has brought many people to Christ. Since 2013, because of his criticism of the activities of the Moscow Patriarchate and against Patriarch Kirill, he has been subject to various repressions by the Church and the Russian state.

For condemning Russian aggression in [Ukraine](#), the cleric was fined twice and declared a "foreign agent". In 2023, Patriarch Kirill deprived him of his holy rank, but in April 2024, the Ecumenical Patriarch accepted his appeal and, after examining the basis of the accusation, decided that Archdeacon Andrey Kuraev was deprived of his holy rank not for religious, but for political reasons, in connection with which Fr. Andrei was restored in the same condition.

He will continue his clerical ministry as Archdeacon of the Lithuanian Exarchate. Archdeacon Andrey Kuraev will continue his church service as a missionary and will not be tied to any parish but will continue to preach the Gospel in different cities and countries, observing church rules."

The Exarchate of the Ecumenical Patriarchate of Lithuania was registered at the beginning of 2024. The establishment of this ecclesiastical jurisdiction came about after Vilnius Metropolitan Innokenty (ROC) removed under pressure from Moscow five priests, until then his close associates, because of their public opposition to the pro-war policy of the Moscow Patriarchate. They were also among the first priests deprived of their rank for this reason, who filed a complaint with the Ecumenical Patriarch and were restored to ministry. Later, they were joined by other priests from Belarus and Russia.

Currently, the Exarchate of the Ecumenical Patriarchate of Lithuania does not have its own bishop, and its exarch is Fr. Justin Kiviloo, who is originally from Estonia.

Lithuania and the Jehovah's Witnesses, what is the matter?

Enhanced state recognition was refused to the religious organizations based on arguments that have already been rejected by the courts, including the European Court of Human Rights.

[Version in Lithuanian](#)

by Massimo Introvigne

[Bitter Winter](#) (05.07.2024) - Last month, on June 6, 2024, the Lithuanian Parliament (Seimas) rejected the Jehovah's Witnesses' request for the enhanced status of a State-recognized religion.

Shortly after the fall of the Soviet Union, Jehovah's Witnesses had already obtained the basic status as a State registered religion. In Lithuania, there are three tiers of official recognition granted to religions. In the case of "[Ancient Baltic Association Romuva v. Lithuania](#)," no. 48329/19, June 8, 2021, the European Court of Human Rights explained that "Lithuanian law distinguishes between three types of religious associations: traditional religious associations, non-traditional religious associations recognized by the State, and other religious associations." It explained that "any religious association may be registered and obtain legal personality, provided it meets certain minimum criteria." State "registration" gives the religious organization the "right to conduct religious services and engage in educational and charitable activities." In contrast, State "recognition" gives the religion "certain additional privileges, such as the right to provide religious education in schools, the right to perform religious marriages that have the effect of civil marriages and the right to be granted airtime by the national broadcaster for the purpose of broadcasting their religious services." Other additional rights afforded to State recognized religions include access to state funds for health insurance and pension of the ministers.

In the case of Jehovah's Witnesses, they applied for State recognition on 15 December 2017. Their request was not considered by the Seimas until more than six years later, on 6 June 2024.

After a discussion where different positions emerged, the majority in the Seimas decided to accept the recommendation not to grant the enhanced state recognition of the Ministry of Justice, which had found two beliefs and practices of the Jehovah's Witnesses to be contrary to the Lithuanian Constitution. Interestingly, the Seimas discussion showed that many MPs agreed that the Jehovah's Witnesses are "decent, good citizens" and even "excellent people." Some MPs also warned that a decision against the Jehovah's

Witnesses may be regarded as discriminatory and expose Lithuania to the risk of being censored again by the European Court of Human Rights, as it already happened after its refusal to grant a higher level of recognition to the “neo-pagan” religious organization [Romuva](#).

Additionally, one of the two reasons on which the decision was based may soon become moot. The Ministry of Justice regarded the Jehovah’s Witnesses’ principle of conscientious objection, i.e., their refusal based on their interpretation of Biblical principles both of armed military service and non-armed alternative service managed by the military authorities, as contrary to the Constitutional obligation to defend the country in case of foreign armed attack. Not surprisingly, some Lithuanian politicians feel even more strongly about this obligation after Russia’s attack against Ukraine.

However, how Lithuania interprets the provision has been declared a violation of Article 9 of the European Convention on Human Rights, protecting freedom of thought, conscience, and religion by the European Court of Human Rights (ECHR) in its decision of June 7, 2022, “[Teliatnikov v. Lithuania](#).” The decision concerned a Jehovah’s Witness minister, Stanislav Teliatnikov, who refused non-armed “alternative national defense service” by claiming that it was still a form of military service. The ECHR found in favor of Teliatnikov, noting that the Lithuanian “alternative national defense service” is “directly under the supervision and control of the military.”

The ECHR ruled in the “Teliatnikov” case that, “1) persons performing alternative national defense service are referred to as ‘military conscripts’ and/or ‘military draftees’ throughout the Law on Conscription and the Regulations; 2) the type of work to be performed is assigned by the military...; 3) if no civilian work assignment is available, ‘the military conscript will be assigned to perform alternative service in the national defence system institutions’...; 4) the ‘military conscript’ is taken to his assigned place of work by the military and is given the same ‘provisions (except for living quarters and clothing)’ as ‘military service soldiers’...; 5) the manager of the institution where the ‘military conscript’ performs his work immediately notifies the military in writing about ‘the [military conscript’s] appointment, specific tasks, conditions and work time,’ and provides the military with a monthly ‘time roster’ for the ‘military conscript’...; 6) a ‘military conscript’ performing alternative national defence service ‘cannot be dismissed’ for disciplinary violations by the manager of the institution where he is working, without the approval of the military... Besides, under Article 26 of the Law on Conscription, in the event of mobilization, the ‘military conscript’ performing ‘alternative national defence service’ may be ‘summoned to perform military service.’ These observations show that alternative national defence service is intrinsically linked to military service, and therefore cannot be seen as separate civilian service” (“Teliatnikov v. Lithuania,” n. 107).

Not to violate its obligations under the European Convention on Human Rights, Lithuania should offer as an alternative to military conscription a genuine civilian service independent from military supervision. The Jehovah’s Witnesses would have no objection in performing this kind of civilian service, as it happens in many other countries. Lithuania has vowed to comply with the obligations imposed by the ECHR and amend its legislation. In this case, the problem concerning the Jehovah’s Witnesses’ conscientious objection will automatically disappear.

The second objection by the Ministry of Justice concerns blood transfusions. It is surely true that the Jehovah’s Witnesses maintain that “we obey Jehovah’s law regarding blood by refusing to accept a blood transfusion, even during a medical emergency” (“[Cherish God’s Gift of Life](#),” “The Watchtower” [Study Edition], February 2023, 20–25 [23]).

Neither the Ministry of Justice nor the Seimas pointed to even one case where the religious objection of Jehovah's Witnesses to blood transfusion, and their request to be treated with available medical strategies that employ alternatives to blood transfusion, has ever caused any problem in Lithuania. To the contrary, the Ministry of Justice had made inquiries at the Prosecutor General's Office, the Ministry of Health, and the State Office for the Protection of Children's Rights and Adoption. Each of those bodies confirmed that throughout the period of existence of Jehovah's Witnesses in Lithuania there was no evidence of any unlawful activities. On the issue of blood transfusion, the Ministry of Health stated in its 3 January 2022 letter to the Ministry of Justice: "Please be informed that the Ministry of Health has not received any complaints from Jehovah's Witnesses in recent years regarding treatment with blood component transfusions... To the best of our knowledge, there have been no cases of minor patients receiving blood transfusions against the wishes of their Jehovah's Witness parents or guardians." Similarly, the State Office for Protection of Children's Rights and Adoption informed the Ministry of Justice in its 10 January 2022 letter: "On the basis of the replies received, please be informed that the Office is not aware of any cases where parents or guardians, only one of whom professes the Jehovah's Witness faith, have disagreed on the application of blood transfusion to a minor."

Further, the Lithuanian Ministry of Justice failed to consider that in most democratic and medically advanced countries the issue is becoming moot as hospitals can "provide high-quality care that does not involve a blood transfusion" ("Cherish God's Gift of Life," 2023, cit., 23). [On their official website](#), Jehovah's Witnesses refer to various medical studies showing that "patients, including children, who do not receive transfusions usually fare as well as or better than those who do accept transfusions." When Jehovah's Witnesses wish to receive assistance in finding doctors who can provide bloodless treatment, they can seek the help of Hospital Liaison Committees, which have been established for this very purpose.

In most democratic countries, courts—including the European Court of Human Rights in 2010 ("[Jehovah's Witnesses of Moscow and Others v. Russia](#)," June 10) and 2022 ("[Taganrog LRO and Others v. Russia](#)," November 22), and the Italian Supreme Court of Cassation in 2020 (3rd Civil Session, decision of 4–23 December 2020, no. 29469)—have ruled that adult patients have a right to refuse any medical treatment and protected the right of the Jehovah's Witnesses to refuse blood transfusions. In several jurisdictions, this also applies to "mature minors."

As for minors who are not "mature," in the rare cases when doctors believe a blood transfusion is absolutely necessary, and parents or guardians would not authorize it, that dispute can be resolved by a court. In such a case, a parent who is one of Jehovah's Witnesses will respect the decision made by the court. In Lithuania, this has never been an issue throughout the many years Jehovah's Witnesses have existed, as confirmed by the January 3, 2022, letter of the Ministry of Health and the January 10, 2022, letter of the State Office for Protection of Children's Rights and Adoption, both of which confirm there have been no such cases.

Courts in democratic countries have also recommended that such measures are adopted only exceptionally. As stated in the Canadian appeal court decision of "M. (J.) v. Alberta (Director of Child Welfare)" (2004 ABQB 512, para. 43), the State "must be careful not to presume that the doctor has always recommended the only acceptable treatment and that Jehovah's Witness parents are always wrong in denying their consent for treatment by way of blood products. Such a paternalistic attitude impairs the parents' [constitutional] rights..." In Italy, one of the countries with the largest per capita population of Jehovah's Witnesses, courts have held that by choosing medical

alternatives to blood transfusions, parents who are Jehovah's Witnesses are not displaying "parental inadequacy," but are instead conscientiously exercising constitutional rights afforded to all parents (Minors Court of Genoa, no. 1109/19, 6 May 2019; Minors Court of Milan, no. 1110/2014, 15 January 2014).

Surely, the Lithuanian government cannot tell the Jehovah's Witnesses how they should interpret the passages of the Bible about the prohibition of blood without grossly violating domestic-constitutional and international legal provision on freedom of religion or belief.

Jehovah's Witnesses have existed in Lithuania for one hundred years and have been registered for thirty years. As good and law-abiding citizens, as many Lithuanian MPs describe them, they deserve an attitude of respect, dialogue, and cooperation, not the hostility and discrimination of the kind prevailing in nearby Russia.

The Patriarchate of Constantinople is finalizing the creation of its own structures for the Orthodox Church in Lithuania

Russia's ongoing invasion of Ukraine has caused reverberations in the world of Orthodox Christianity. While the church in Moscow has fully backed the Kremlin's war, many priests in places such as Lithuania have found adherence to this belief an impossible task.

Nikodem Szczygłowski

[New Eastern Europe](#) (07.02.2024) - Soon a so-called "exarchate" will be created in Lithuania for the Orthodox Church of the Patriarchate of Constantinople. This will act as an alternative to the existing Lithuanian Archdiocese of Vilnius, which is subordinate to the Russian Orthodox Church in Moscow.

According to the priest Gintaras Sungaila, this structure will be created on the basis of conciliar law following the arrival of the head of the new Lithuanian exarchate – the Estonian priest Justinus Kiviloo.

"With his arrival the creation of a church structure belonging to the Patriarchate of Constantinople in Lithuania will be finalized," Sungaila confirmed in a interview with the BNS news agency.

"After completing the canonical procedure we hope to register as a religious community in accordance with the secular laws of the Lithuanian Republic," he added.

The Exarch Kiviloo arrived in Lithuania on January 5th and celebrated his first service on the following Saturday.

Orthodox Christians are considered to be one of the nine traditional Lithuanian religious communities according to the country's laws. This is why the recognition of the Exarchate of Constantinople will not require a motion by the Lithuanian parliament. Its registration depends on the country's justice ministry. The result will be that there will now be two Orthodox communities in the country, one belonging to the Moscow Patriarchate and one under Constantinople.

The recognition of the exarchate by Lithuania would also allow for financial support from the state to be given to the organization, as other traditional religious communities already receive such funds.

At this time, the Lithuanian exarchate, which is now being properly formed, has ten clerics and ten communities in different Lithuanian towns.

Patriarch Bartholomew I of Constantinople first visited Lithuania in March 2022. During his visit, he restored five priests that had previously been affiliated with the Orthodox Archdiocese of Lithuania under the Moscow Patriarchate. He then announced that he would form another institution of his church in Lithuania.

The five priests from the exarchate were expelled by the Lithuanian Orthodox Archdiocese in 2022 for alleged "canonical violations". However, Constantinople argued that it was rather caused by their (including Sungaila's) stance towards the Russian invasion of Ukraine, which was in clear opposition to the views expressed by the Moscow Patriarchate.

Recognizing the Constantinople exarchate in Lithuania will inadvertently cause debate on the issue of who owns the real estate that is in the hands of the Moscow Patriarchate, which has been the only representative of the Orthodox Church in Lithuania thus far. Given this role, it has administered almost all of the country's Orthodox churches, including those that were built before the demise of the Polish-Lithuanian Commonwealth in 1795 – the first time such property was seized by Moscow.

Sungaila also confirmed that those Orthodox Christians who already belong to or have declared interest in becoming a member of the Constantinople exarchate, and have nowhere to pray, will be able to rent or use prayer houses belonging to Catholic and Protestant communities. He also underlined why the exarchate will aspire to achieve the status of a traditional religious community.

"We would like to have the legal status of a traditional religious community because it is exactly here in Lithuania our religious community set up the first official structure of the Orthodox Church in the 14th century – the Metropolis of Lithuania. It was an organization of the Patriarchate of Constantinople," he stressed.

Gintaras Sungaila found himself among the initiators of the process to form an exarchate when he was forced to leave the archdiocese subservient to the Moscow Patriarchate, together with a few other clerics, just before Easter 2022. Sungaila and two others were then released from their duties by the metropolitan "for sharing political views" (not in accordance with the official position of their superiors with regards to the Russian aggression against Ukraine). Another four resigned in a gesture of solidarity.

On September 19th 2022, Patriarch Bartholomew I of Constantinople received a delegation from Lithuania at his residence in the Istanbul district of Fener. It was led by the country's Deputy Foreign Minister Mantas Adomėnas. During the meeting, the head of the patriarchate and the Lithuanian representatives discussed the situation of the Orthodox community and other issues of common interest.

Then, on March 22nd 2023, Bartholomew visited Lithuania. His visit coincided with a conference in the parliament titled "The response of churches and religious communities in the face of war and conflict". The Patriarch took part in this alongside Emmanuel, the Metropolitan of Chalcedon. There was also a meeting between Bartholomew I and Prime Minister Ingrida Šimonytė, as well as the signing of a document that called for closer cooperation between the Constantinople Patriarchate and the Lithuanian Republic. The guest was also received by the Lithuanian President Gitanas Nausėda.

The topic of the creation of an exarchate in Lithuania was discussed both with the prime minister and president.

According to Bartholomew I, the establishment of a new church structure belonging to the Patriarchate of Constantinople would meet the expectations of both the clergy and Lithuanian Orthodox Christians. The Lithuanian prime minister stated that such a plan would help not only Orthodox Lithuanians but also those Ukrainians who have sought refuge in the country following the Russian aggression, as well as Belarusians who have found a safe haven from the repressions in their home country.

Sungaila told the media that "this was a historic event" after he had celebrated his first service as a clergyman of the Constantinople Patriarchate in early March 2023. "The spiritual leader of 300 million Orthodox Christians around the world, the first honorary patriarch of the Orthodox Church and the 270th successor to the apostle Andrew had visited Lithuania for the first time."

Some 77 per cent of Lithuanians declare themselves to be Catholics, although in practice the society remains more secular than that of neighbouring Poland. Four per cent of the population are Orthodox (mostly ethnic Russians and Belarusians, and increasingly more Ukrainians), while six per cent say they do not affiliate with any religion at all. Orthodoxy in Lithuania is unique because it is the only country among those that achieved independence from the Russian Empire after 1918 (the others being Finland, Estonia, Latvia and Poland) that did not establish an autocephalic church. The Eparchy of Vilnius and the Lithuanian Moscow Patriarchate have been responsible for 52 parishes, over 55 churches, two monasteries and several other properties despite relatively few adherents. They are mostly located in Vilnius and the eastern regions of the country.

The Orthodox Archdiocese of Vilnius and Lithuania, currently headed by Archbishop Innocent, is part of the Moscow Patriarchate. Its position on the Russian invasion of Ukraine has naturally caused much controversy in Lithuanian society since spring 2022.

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