FORUM 18 NEWS SERVICE, Oslo, Norway
https://www.forum18.org/
The right to believe, to worship and witness
The right to change one's belief or religion
The right to join together and express one's belief

21 July 2003

BULGARIA: Controversial religion law survives constitutional challenge

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

The controversial religion law adopted last December that allows religious communities to be suspended, banned or fined has survived a constitutional court challenge. "It is the first time in history that six judges have been against the law and only five in favour, but the law has gone through anyway," Lachezar Popov of the Rule of Law Institute, who represented the opposition parliamentary deputies who brought the case, told Forum 18 News Service. "I would say the problems of small religions and the 'alternative' Orthodox Synod have only just begun," Hare Krishna devotee Radha Vinoda dasa told Forum 18.

The lawyer who represented 50 parliamentary deputies in their case at the Constitutional Court to have parts of last year's controversial religion law overturned as unconstitutional has described the court's 15 July ruling as "amazing". "It is the first time in history that six judges have been against the law and only five in favour, but the law has gone through anyway," Lachezar Popov, chair of the Sofia-based Rule of Law Institute, told Forum 18 News Service on 17 July. "It is very strange how the judges acted." However, Ivan Jelev, the head of the Religious Affairs Directorate of the Council of Ministers, said he was "very satisfied" by the court ruling. "I was sure that the law – so vigorously attacked by some political and other factions in Bulgaria – is fine and in accordance with the constitution," he told Forum 18 from Sofia on 21 July.

Members of religious minorities – especially the Alternative Orthodox Synod which broke away from the Bulgarian Orthodox Patriarchate a decade ago, as well as Protestants and Eastern faiths - now fear the authorities will step up action against them.

Jelev told Forum 18 his office could now get on with its work, as it had hesitated to take decisions in case they could have been cancelled in the wake of the court ruling.

The religion law, adopted last December and which came into force on 1 January, was criticised in a June 2003 Council of Europe report by Rick Lawson of the University of Leiden, the Netherlands, and Malcolm Evans of Bristol University in Great Britain. In particular, their report expressed concern about privileges granted to the Bulgarian Orthodox Church; that the Religious Affairs Directorate can exert pressure on the courts that register religious communities; and that the directorate can punish religious leaders.

Under the Constitutional Court procedure, seven of the court's twelve members are required to proclaim a law unconstitutional. The last court member, Judge Georgi Markov, who it is believed would have voted against the religion law, refused to break off his holiday to attend.

In their challenge to the law, the 50 deputies of the opposition Union of Democratic Forces (UDF), which sympathises with the Alternative Orthodox Synod, were concerned about law's granting of official status to the Bulgarian Orthodox Patriarchate in Article 11, as well as the provision which grants the Patriarchate automatic registration, while all other faiths must register in a Sofia court or local courts.

Lachezar Toshev, a UDF parliamentarian and chairman of the parliamentary commission on religion and human rights, said that under Bulgaria's practice he could not comment on the court ruling. "We have to accept it," he told Forum 18 from Sofia on 21 July. But he pointed out that on many of the points the majority of the judges ruled against the law.

However, the Constitutional Court did not consider other elements of the law that have been widely criticised by minority faiths, especially provisions allowing religious groups to be fined and banned. The Sofia-based Tolerance Foundation, headed by Emil Cohen, complains about the rights given to the courts under Article 9 to punish religious organisations for a variety of alleged offences by banning their activities for up to six months, banning the publication or distribution of religious publications or cancelling an organisation's registration. The Foundation believes such blanket punishments could restrict individuals' inherent rights that should not be subject to such limitations.

But, as Hare Krishna devotee Radha Vinoda dasa (Asen Genov) points out, such punishment does not apply to the Patriarchate as its automatic legal status cannot be annulled by a court.

Copyright Forum18 News Service 2003

Many minorities object particularly to the punishments for religious activity prescribed in the law, with fines of up to 5,000 leva (21466 Norwegian kroner, 2570 Euros or 2912 US dollars). Article 38 punishes "any person carrying out religious activity in the name of a religion without representational authority", with second offences attracting a fine of up to 1000 leva. Many are concerned that this article might be interpreted by local religious officials to punish any individual member of a religious community who conducts any public religious activity without specific authorisation from the headquarters of that organisation.

"The fears and claims of many religious organisations have not been taken into consideration," Radha Vinoda dasa told Forum 18 from Sofia on 17 July. "I would say the problems of small religions and the 'alternative' Orthodox Synod have only just begun. The police will probably attack the churches used by the 'alternative' synod." He is also worried that religious communities that automatically get re-registration might still be forced to amend their statutes to meet provisions of the new law.

"All government institutions have been waiting for this ruling," Cohen told Forum 18. "Now they can see which direction the court has taken." However, he believes some of the fears of the Alternative Synod are exaggerated. "The situation at the moment is calm."

Adventist pastor Tsanko Mitev is equally concerned. "The ruling was very sad – it was a political decision," he told Forum 18 from Sofia on 21 July. He said that although his Church has not yet had serious problems as a result of the new law, he feared that with local elections due in September or October religious affairs could become a political football, to the detriment of minority faiths.

He also fears religious believers could be fined. "The authorities are afraid to do this at the moment. But there will be cases." He points out that religious communities already face problems from local authorities, many of which ban outdoor religious activity.

Popov reports that in recent months churches and monasteries in the hands of the Alternative Synod have been attacked and occupied by police, at times in the face of legal orders. He also reports that a Pentecostal church in the Black Sea port of Burgas has been banned from conducting any religious activity on the streets, while city officials have also cancelled bookings to use municipally-owned property for evangelistic meetings.

But Jelev dismisses fears about the law, especially the issue of registration. "All 31 religions that were registered before automatically receive new registration," he declared. "So even though the Orthodox Patriarchate is registered automatically, so is every other registered faith." He pointed out that the Alternative Synod has never had registration, even under the UDF government. "The UDF created the schism in the Orthodox Church, but even they didn't register the Alternative group."

Asked if the Alternative Synod would receive registration if it applied, he declared: "Of course. All they would have to do is change the name, as the Bulgarian Orthodox Church is already registered, and the law does not allow a second faith of the same name to register. Maybe they could call themselves the 'First Bulgarian Orthodox Church', or the 'Private' or 'Schismatic' or 'Alternative' Church."

Yet Jelev seemed uneasy about the question of fines. "Why do you keep mentioning them?" he asked. "They're not important." Asked why they were included if they were not important, he responded: "I didn't vote on the law in the council of ministers. It was parliament that adopted it. I'm just an executive official." Asked whether he expected religious believers to be fined under Article 38 he declared: "I hope there will never be fines."

Jelev also rejected complaints from human rights activists and minority faiths that the Council of Europe should have reviewed the law before it was adopted. "I don't believe that was necessary." He questioned whether any government official had ever promised a Council of Europe review, as some reports had claimed, and denied that he was nervous over the Council of Europe's views. "We should have enough sovereignty to arrange our own law. All denominations in Bulgaria are very satisfied with the new law."

But both religious minorities and UDF deputies say the campaign against the law will continue. "The problem has not been solved, it has been suppressed," Toshev declared. "But it will come to the surface again."

Pastor Mitev told Forum 18 there will be a meeting of religious minorities – including Muslims, Catholics, Protestants and other faiths – in September to decide how to continue the campaign. "There is very good interaction among religious minorities against this law," Radha Vinoda dasa told Forum 18.

Toshev said that now the June 2003 Council of Europe evaluation of the law has been translated into Bulgarian and circulated to members of his commission, he believes parliament will consider amendments to the law in the autumn to bring the text into line with the Council of Europe recommendations. "The UDF is committed to moving amendments in the autumn," he told Forum 18. "The Council of Europe view is our starting point."

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

Forum 18

Copyright Forum18 News Service 2003

Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY

Copyright Forum18 News Service 2003 - Page 3/3