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KOSOVO: "Religious freedom will be seriously hindered" by draft law

By Felix Corley, Forum 18

Religious minorities and the Kosovo office of the Organisation for Security and Cooperation in Europe (OSCE) are seriously concerned by a draft religion law being discussed by Kosovo's government. "I can tell you that we have some concerns with what we've seen," the OSCE has told Forum 18 News Service. The Evangelical Movement of Kosova, representing several Albanian-speaking Protestant churches, said that "We believe the rights of religious freedom within the Protestant community of Kosovo will be seriously hindered." Professor Xhabir Hamiti of the Faculty of Islamic Studies in Pristina also expressed grave concerns to Forum 18. Asked why a draft that seriously contradicts international human rights commitments was sent to the government, he said that "we didn't have any influence. Government people or others changed the text by themselves." One Protestant on the drafting group, Pastor Artur Krasniqi, described the draft as "totalitarianism". Fr Sava of the Orthodox Decani Monastery, the Seventh Day Adventists, and the Jehovah's Witnesses all told Forum 18 that they had neither heard of the draft law, nor been given copies of it.

Some of Kosovo's religious minorities as well as the Kosovo office of the Organisation for Security and Cooperation in Europe (OSCE) have expressed concern over a draft religion law now being discussed by Kosovo's government. They state that many of its provisions – such as an apparent ban on religious activities by communities not registered with a new religious affairs commission, the requirement for new religious communities to have 500 members to gain registration and the ban on foreign leaders – violate international human rights norms. "The draft law was drawn up by a group of experts under the prime minister's office and presented to the government on 17 November," government spokesperson Mimoza Kusari told Forum 18 News Service from the province's capital Pristina on 18 November.

Kusari said some ministers proposed changes and that the draft law is likely to be discussed in the government again at its meeting next week, though this depends on how talks proceed on forming Kosovo's new coalition government in the wake of the 23 October elections.

The unsigned draft received by Forum 18, dated 12 November, is in Albanian, English and Serbian. It bears the United Nations and Kosovo crests at the top.

"Without going into detail (since it is still a draft), I can tell you that we have some concerns with what we've seen," an OSCE spokesperson told Forum 18 from Pristina on 18 November. The spokesperson stressed that the OSCE office's department of human rights and rule of law would examine any law to ensure that it conformed to international standards.

Professor Xhabir Hamiti, a lecturer at the Faculty of Islamic Studies in Pristina, told Forum 18 on 19 November that the main author of the law is Ejup Sahiti, a professor of law at Pristina University. He said a committee to discuss the draft with about 15 members had been meeting regularly at the government offices in the city over the past year to consider successive drafts. He and Jashar Jashari, the secretary of the Islamic community, represented the Muslims, while Fr Shan Zefi of the Apostolic administration of Prizren represented the Catholics and Pastor Artur Krasniqi of the Fellowship of the Lord's People in Pristina represented the Protestants. Hamiti said the Orthodox Church had been invited to send a representative but had refused. He said the United Nations Mission in Kosovo (UNMIK) and the OSCE each had a representative on the drafting group.

"Each time we met there were many changes," he recalled. Asked about why a draft that seriously contradicts international human rights commitments was sent to the government he responded: "We didn't have any influence. Government people or others changed the text by themselves." He told Forum 18 the Muslim community was unhappy that the law included nothing on religion in the school curriculum.

Pastor Artur Krasniqi, of the Fellowship of the Lord's People, a member of the drafting group, declared emphatically that the group had not approved the final text of the draft presented to the government. "It was amazing that it was passed to the government the very day that the government changed," he told Forum 18 from Pristina on 19 November. "Big changes were made that the working committee had not agreed."

He said there were many aspects of the law that needed changing. "This is totalitarianism. We need international pressure," he insisted. "Kosovo must not be allowed to go back to communism or ethno-religion. It is not what Kosovo needs."

Despite declaring in the preamble that the aim is to define "unique legal provisions, which will provide equal rights and obligations to religious communities, without any discrimination", a number of provisions in the draft law appear to violate international human rights norms.

The draft law would appear to require religious communities to gain registration with the Ministry of Public Services to conduct any large-scale activity and denies unregistered religious communities the rights set out in the law. Several articles that speak of performing religious ceremonies or religious publishing speak only of "religious communities" (that is, those that have registered) having this right.

Article 11 allows newly-formed religious communities to apply for registration only after they have existed for five years, while Article 30 requires such communities to prove that they have at least 500 members. Applicants for registration need to supply a document outlining "the content and manner of their religious manifestation, performance of their religious activities, and their organizational and functional structure".

A bizarre clause in Article 14 declares: "Designation of religious communities should contain the word "Kosovo", though communities subject to a larger religious community outside Kosovo would be exempt from that demand. The same article bans new religious communities from using the name of any existing registered community. It remains unclear whether this would prevent, say, more than one branch of Islam, the Baptist Church or any other faith from functioning.

The Ministry will refuse registration if the designation of the community does not meet requirements or if it "deems that the content and form of practicing religious ceremonies and other manifestations are in contravention with the legal order and public moral, or are detrimental to the life and health or to the rights and freedoms of worshiper and other citizens".

In specifying in Article 16 that "religious communities" have the right to conduct religious activities freely in their own or rented facilities, it remains unclear whether unregistered communities enjoy these rights also. Outdoor religious events are permitted under the same article "subject to the applicable conditions and rules for public religious ceremonies", though it is not clear who will draw up such rules. Article 18 allows weddings to be performed only after civil ceremonies, while baptisms can be carried out only after registration in the register of births.

Although Article 8 recognises the right of religious communities to choose their own leaders, Article 9 part 2 declares: "The religious community leader should be a citizen of Kosovo." It remains unclear what constitutes a "citizen of Kosovo". Given that both the Serbian bishops were born outside Kosovo (both Bishop Artemije and Bishop Teodosije were born in central Serbia), would that bar them from leading the Orthodox Raska and Prizren diocese?

Article 15 provides for the government to establish a Committee for Relations with Religious Communities to implement laws and regulations on religion. This committee would consist not only of officials, but of representatives of religious communities, potentially allowing some religious leaders to veto or restrict the activities of rival religious communities.

Article 38 requires all existing religious communities to submit all necessary data within six months of the law entering into force, otherwise they will lose registration and all legal rights. When the law enters into force, all previous laws on religion (presumably those adopted by the authorities in Belgrade) will be declared invalid in Kosovo.

The first religious group to make written comments on the draft was the Evangelical Movement of Kosova, which brings together several Albanian-speaking Protestant churches. "We believe the rights of religious freedom within the Protestant community of Kosovo will be seriously hindered should the existing draft of this Law on Religious Freedom be adopted in its present form," it declared in a 15 November statement received by Forum 18.

Pointing out that in many Protestant traditions each congregation is independent, the statement objects to any attempt to force differing Protestant communities into a single Union and complains about the high numerical threshold for registering an individual congregation. "A single "religious community" in Protestantism cannot be determined by 'at least 500 believers' or any arbitrary number," the Evangelical Movement declares. "We respectfully request that no numerical figure be dictated to any Protestant 'religious community' (church). This is clearly in violation of the rights of religious freedom for Protestant believers."

Pastor Artur Krasniqi also complained about the high threshold of members and the right officials would have to verify that. "They will be able to come into our churches and check up, saying they doubt we have 500 members," he told Forum 18. "One government official already visits our congregations across Kosovo each Sunday."

He also complained of the distinction between existing religious communities (for which he said there was no register, despite claims in the draft law) and new communities. "People in the drafting group complained about religious groups coming in after the

war, saying they didn't like them and trying to obstruct them."

Members of some religious minorities met the newly-appointed prime minister's liaison for religious affairs, Isa Ukella, on 17 November to outline their concerns. Ukella did not respond to Forum 18's questions.

Pastor Skender Hoti of the Evangelical Movement said his church has not met other religious communities to draw up a joint approach to the draft law. "We did not contact or talk with them because they are pushing it to be approved," he told Forum 18 from Pristina on 18 November. "When I say 'they' I mean the Muslims, Orthodox and Catholics, the so-called majority."

Fr Sava (Janjic) from the Orthodox Decani Monastery told Forum 18 on 19 November that he had not heard anything about the draft law and that he had not been informed that the Kosovo parliament would be discussing it.

Miodrag Zivanovic, president of South-East European Union of the Seventh-Day Adventist Church (to which their churches in Kosovo belong) was out of the country. His secretary told Forum 18 that as far as they know the Adventist church had not been given the draft law.

Damir Porobic, a representative of the Jehovah's Witness leadership in Serbia which is also responsible for congregations in Kosovo, told Forum 18 on 18 November that they did not previously know anything about the law.

The Minister of Religion in the Serbian Government, Milan Radulovic, was out of the office on 18 and 19 November, while Forum 18 could not initially reach anyone at the Coordinating Centre for Kosovo and Metohija of the government of Serbia and Montenegro.

UNMIK spokesperson Jeff Bieleley told Forum 18 from Pristina on 19 November that he was not aware of any specific action UNMIK had taken so far on the draft religion law. He said that any draft law once approved by the Kosovo government goes to the assembly, where it is discussed by committees before being presented for both preliminary and final approval by the full assembly. It is then forwarded to UNMIK for approval.

"UNMIK can make changes and promulgate the law, recommend changes to the assembly or refuse to promulgate it," Bieleley explained. "Any law has to meet relevant United Nations human rights conventions, UN security council resolution 1244 which provides our mandate, as well as Council of Europe and European Union provisions." He said Kosovo's legislation must be in harmony with the EU's *acquis communautaire*, the body of common rights and obligations which bind all EU member states. (END)

For more background information, see Forum 18's Kosovo religious freedom

survey at http://www.forum18.org/Archive.php?article_id=137

For a personal commentary by a KFOR military chaplain on the future of Kosovo, see http://www.forum18.org/Archive.php?article_id=449

For consequences of the March violence in Kosovo, see F18News 6 May 2004 http://www.forum18.org/Archive.php?article_id=314 . For reports of the violence at the time, including related violence in Serbia, Montenegro, Macedonia and Bosnia, see F18News 18 March http://www.forum18.org/Archive.php?article_id=280 , 19 March http://www.forum18.org/Archive.php?article_id=282 and 19 March http://www.forum18.org/Archive.php?article_id=283 and 24 March 2004 http://www.forum18.org/Archive.php?article_id=286 .

A printer-friendly map of Kosovo & Serbia (map title Serbia and

Montenegro) is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=europe&Rootmap=yugosl> . The map follows international legal usage in indicating the boundaries of territories. Kosovo is in international law part of Serbia & Montenegro, although administered by the UN.

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