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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

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SERBIA: Are some more equal than others?

By Drasko Djenovic, Forum 18

The Serbian Government, following its discriminatory Religion Law, is planning a law to restore or provide compensation for religious property confiscated after 1945. However, Forum 18 News Service has found that some fear that the Restitution Law will be used to discriminate against all but the seven recognised "traditional" religious communities. Nenad Ilic of the Ministry of International Economic Relations has insisted to Forum 18 that the law covers "all churches that have confiscated property, irrespective of whether they are traditional or are some other kind of church or religion." But the text of the law does not contain an unambiguous statement of this. Vidan Hadzi-Vidanovic of the Belgrade Centre for Human Rights told Forum 18 that "I am almost sure that it will be changed with amendments to make restitution apply only to the seven traditional communities. Restitution should be made to all people affected and not just to some communities."

The day after Serbian President Boris Tadic signed the discriminatory new Serbian Religion Law, on Friday 28 April the Serbian Government sent a draft Law "On the Restitution of Property to Churches and Religious Communities" to the National Assembly. Nenad Ilic – who prepared the draft law in the Ministry of International Economic Relations - told Forum 18 News Service in Belgrade on 9 May that he expects that "hopefully next week" it will be discussed "in general" by the parliament. Many smaller communities have not yet had the opportunity to consider the implications of the law in detail, especially as they are trying to evaluate the effects of the new Religion Law at the same time.

It is believed that, if parliament passes the Restitution Law during May, it will come into force on 1 October 2006. Applications for restitution or compensation are, under the draft, to be made before 30 September 2008.

The Speaker of the National Assembly, Predrag Markovic, has linked the controversial and very rapid passage of the Religion Law with the draft Restitution Law. Smaller religious communities are worried by the implications of the discrimination embedded in the Religion Law, suspecting that they will be discriminated against in the return of property confiscated from them after 1945 (see F18News 21 April http://www.forum18.org/Archive.php?article_id=766 and 28 April 2006 http://www.forum18.org/Archive.php?article_id=771).

The Restitution Law addresses the problem of property confiscated by the communist government after 1945 without compensation. Although the laws passed during the communist period theoretically confiscated most land holdings of more than 10 hectares [25 acres], in practice the main targets of confiscation were churches and religious communities.

The draft Law aims to either restore or provide compensation – to be paid by the state – for confiscated property held by "the Republic of Serbia, a business entity or other legal entity" "at the moment of enactment of this law." It does not force the restoration of property now held by individuals, as the government will in these cases pay compensation. Nenad Ilic of the International Economic Relations Ministry told Forum 18 that this is to avoid individuals who have lived in state-provided apartments on church-owned land for many years having to move out of the apartments.

Exclusions from return (Article 11) include properties whose return would cause "significant hindrance to the work and operation of state authorities, public health, cultural or educational institutions or other public services" or if "there would be significant detriment to the economic and technical sustainability and operation of the business entity to whom it belongs." This will exclude, for example, the Evangelical Christian Church building in Pancevo, near Belgrade, which has been used since 1945 as a secondary school. The Evangelical Christian Church is a Lutheran Church, which is one of the seven registered "traditional" religious communities and has a large number of confiscated properties in Serbia.

Decisions on return, compensation and the value of property are to be made by a "Restitution Board" (article 17), but although article 21 describes this as "an independent organisation," no information is given as to how the Board is to be formed or its independence to be guaranteed. If the state has to pay compensation, the law specifies in article 18 that "reimbursement is paid in bonds of the Republic of Serbia which are used in stock market trading." Claims will not be accepted for loss of income, "nor on the basis of its maintenance in the period from the day of its expropriation to its restitution" (article 19). Article 32 states that: "Decisions of the Board may not be appealed, but an administrative complaints procedure may be initiated."

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The Law does not address the problem of church property which was "sold" to the government for very low or nominal prices under pressure from the state. Properties "sold" under state pressure include the Betanija Methodist Hospital in Novi Sad – now the city's Maternity Hospital – the church building of Belgrade's Baptist Church, and the Seventh-day Adventist Bible School in Rakovica near Belgrade. Nenad Ilic told Forum 18 that this problem should be dealt with by a law or regulation from the Ministry of Finance. He did not indicate whether there are any plans to address this issue.

The part of the draft Restitution Law which causes most concern to religious communities and NGOs is Article 6, which states: "The right to restitution of property belongs to churches and religious communities, or their legal successors, in accordance with the valid regulations of the churches and religious communities."

It is not clear from the text of the law whether this means currently registered communities – in other words only the seven "traditional" communities – the Serbian Orthodox Church, Roman Catholic Church, Slovak Lutheran Church, Reformed Church, Evangelical Christian Church (another Lutheran Church), the Islamic and the Jewish communities (see F18News 17 April 2006 http://www.forum18.org/Archive.php?article_id=760).

Nenad Ilic of the Ministry of International Economic Relations insisted to Forum 18 that the law covers "all churches that have confiscated property, irrespective of whether they are traditional or are some other kind of church or religion. What is important is the status they had at the moment of confiscation." Ilic also went on to note to Forum 18 that "Of course, it is possible that in the parliamentary discussion will this be changed by amendments." However, the draft Law does not contain an unambiguous statement carrying Ilic's intention into law.

Vidan Hadzi-Vidanovic of the Belgrade Centre for Human Rights told Forum 18 on 8 May that "The draft Law should include not just traditional churches and religious communities but other communities as well. I am almost sure that it will be changed with amendments to make restitution apply only to the seven traditional communities. Restitution should be made to all people affected and not just to some communities. For that reason the Law discriminates between some groups against others."

The Serbian Orthodox Church has welcomed the intent to restore property, the Patriarch's office telling Forum 18 on 9 May that "After the Second World War the Church lost 93 per cent of its property, including 1,176 buildings - in Belgrade alone 50 buildings. About 70,000 hectares [270 square miles] of farming land was also confiscated from the Church. With restitution the injustice would be ended."

But some smaller religious communities are far less positive about the draft Law. Jaroslava Dega, a lawyer of the Serbian Baptist Union told Forum 18 on May 8 that the Law "will probably be applied only to those who were recognised as churches and religious communities under the new Serbian religion law. Does the Restitution Law refer only to the seven traditional churches and religious communities or to all?" Dega noted that the Baptists "have all the documents which the Law requires" to claim their property back throughout Serbia.

Miodrag Zivanovic, President of the Adventist Church in Serbia and Montenegro, told Forum 18 on 6 May that the main building they would like to see returned is their headquarters in Belgrade, which also includes a major Adventist church. At present, the state owns the building, but the Adventists are able to use it.

Damir Porobic, a legal representative of the Jehovah's Witnesses in Serbia, said on 8 May that they currently think that they did not have any confiscated property. One of the largest Protestant churches in Serbia, the Apostolic Christian Church - known as the Church of the Nazarene - told Forum 18 on 8 May that they also do not have any confiscated property.

Zdravko Sordjan of the Belgrade-based Centre for Tolerance and Inter-religious Relations is very concerned about the new law. "We have not yet deeply studied the draft Restitution Law, as we are still looking at the Religion Law. I am afraid that political games will be played around the Restitution Law, as happened with the Religion Law," he told Forum 18 on 8 May.

The Belgrade Mission of the Organisation for Security and Co-operation in Europe (OSCE) told Forum 18 on 8 May that they were not involved in or consulted about the Restitution Law, and are not yet planning a public statement. (END)

For more background, see Forum 18's Serbia religious freedom survey at http://www.forum18.org/Archive.php?article_id=387 and survey of attacks on religious minorities in 2004 and early 2005 at http://www.forum18.org/Archive.php?article_id=581 and survey of attacks later in 2005 at http://www.forum18.org/Archive.php?article_id=647

A printer-friendly map of Serbia and Montenegro is available at http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=europe&Rootmap=yugosl

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