

20 September 2006

KOSOVO: Religion law fails to tackle contentious legal status question

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While some Protestants are jubilant that the new religion law approved by the Kosovo Assembly on 13 July has been amended by the United Nations Mission in Kosovo (UNMIK) to specify five of the faiths by name that enjoy rights and freedoms (Muslims, Orthodox, Catholics, Jews and Evangelicals) others are critical. "If it is true that the Evangelical (Pentecostal) church is mentioned it is not right, since all should be mentioned or none," Adventist pastor Nikola Aslimovski complained to Forum 18 News Service. UNMIK promulgated the law on 24 August, but only made this public on 20 September. The law fails to tackle the highly contentious issue of how and which religious communities will get legal status. "Everything should be nailed down in one law," one religious freedom expert told Forum 18. "Nothing should ever be left vague to be returned to later."

Kosovo's politicians and religious communities are yet to respond over the decision by the United Nations Mission in Kosovo (UNMIK) to amend the religion law approved by the Assembly on 13 July to specify by name five of the religious communities. UNMIK made the amendment when it promulgated the law on 24 August, although UNMIK did not publicly announce the promulgation until 20 September. Some Protestant leaders have welcomed to Forum 18 News Service the inclusion of the "Evangelical Church" among the five communities, arguing that this will help prevent any discrimination against them in future, though an Adventist pastor questions why some communities but not others have been singled out for mention.

But with the law's failure to cover the highly contentious issue of how and which religious communities will be able to get legal status, many believe the current law has not guaranteed free religious practice for the future. One religious freedom expert who has advised international organisations on drafting of legal texts argued to Forum 18 that the international community had made a mistake in not insisting that the religion law cover all aspects of religious communities' life – including how they gain legal status – in one text. "Everything should be nailed down in one law," the expert declared. "Nothing should ever be left vague to be returned to later."

Senior Kosovo officials – including Vedat Gashi, chief legal adviser to the prime minister, who has been heavily involved in the drafting of the religion law – are in New York for the United Nations General Assembly, so Forum 18 was unable to find out what further legal measures the government believes are necessary to tackle the issue of legal recognition of religious communities.

Many people have told Forum 18 that they believe the law was adopted in some haste merely to meet the demands of the international community.

Leading figures in various religious communities – including the Islamic Community, the Serbian Orthodox Church, the Catholic Church and some Protestant churches – told Forum 18 on 20 September that they have heard nothing about the new religion law's promulgation and have not seen the final text. Defrim Krasniqi of the Kosovo Assembly's department for legislation also told Forum 18 on 20 September that UNMIK had not yet notified it of the promulgation and the text of the new law has not yet been posted on the Assembly's website.

Ejup Ramadani, an aide to chief mufti Naim Ternava, told Forum 18 on 20 September that the Muslim community will have to study the final text, consult and then give its opinion about it, as well as whether it believes that the legal framework is now complete.

Many provisions have changed in successive versions in the long-drawn-out and often acrimonious preparation of this religion law. It was only in the final stages of its adoption – and with the deadline running out to adopt this law, one of the 13 priority laws required to meet standards on human rights laid down by the international community which currently governs Kosovo – the law was cut down to remove any references to registration of religious communities. What was left mainly covers general principles of religious freedom. However, secrecy and confusion surrounded the law's adoption right up to the end (see F18News 19 June 2006 http://www.forum18.org/Archive.php?article_id=801).

Some have criticised the way UNMIK amended Article 5.4 to specify that the religious communities enjoying rights and freedoms included the Islamic Community, the Serbian Orthodox Church, the Catholic Church, the Jewish community and the Evangelical

Church.

Nikola Aslimovski, a Seventh-day Adventist pastor in Pristina who heads the church in Kosovo as a whole, said he had not seen the final text of the law. "But if it is true that the Evangelical (Pentecostal) church is mentioned it is not right, since all should be mentioned or none," he told Forum 18 on 20 September. "It is mentioned only because some UNMIK people belong to that church." He likened it to the situation in his home country of Macedonia, where he said the Methodist church was named as traditional "just because my late friend Boris Trajkovski [a Methodist] was the country's president".

Privately, UNMIK officials insist to Forum 18 that the naming of the five faiths was not to accord them any special status above other religious communities, but to ensure that pluralism is respected.

"The amendment of Article 5.4 does not add to or limit the rights of other religious communities not being listed, as it says 'including' which implies other communities as well," Alfons Lentze, a legal advisor in a European Union (EU) funded project to support the Assembly, run by the European Agency for Reconstruction, told Forum 18 from Pristina on 20 September. "But I do not know how UNMIK came up with it in its promulgation. Unfortunately that process on the level of UNMIK is not transparent and no dialogue obviously took place with the Assembly. Also, it happened during the summer recess."

However, other Protestant leaders are jubilant. Pastor Artur Krasniqi of the Evangelical Church (KPEC) – which brings together 31 members believed to represent some 85 per cent of Protestant organisations in Kosovo – describes this as "the most important part" of the law.

But Krasniqi concedes that the "big issue" is how the legal status of religious communities will be arranged. "The government is saying that the relevant ministry will draw up regulations governing this, but we don't know which ministry this will be," he told Forum 18. He said the Culture and the Public Services ministries have been mentioned, but added that the Islamic community has asked for a Religion Ministry to be established.

Lentze agrees that legal status of religious communities will be a very difficult issue. "This will be up to the legislative and executive bodies, and will not be considered until after Kosovo's final status is resolved," he told Forum 18. "But this will have to be monitored closely."

Krasniqi and other religious figures still suspect that some politicians intend to try to amend the new religion law once Kosovo's final status has been agreed. "Some people say unofficially they will do this," he maintained.

Confusion surrounds the issue of taxation of religious communities. Protestant churches complain that without legal status as religious communities they cannot claim tax-exempt status from the tax office. Adding to confusion is the Kosovo government's agreement – offered as part of the final status talks in Vienna – to give the Serbian Orthodox Church privileges over taxes and duties not offered to other religious communities.

Religious communities and the international community will also be watching the way religious freedom rights are enshrined in Kosovo's new constitution, which is now being drafted and which is set to replace the current interim constitutional framework approved by UNMIK in 2001.

Nekibe Kelmendi, a co-chair of the committee preparing the draft insists that the text will follow the wording of the Universal Declaration of Human Rights. "We have finished working on the basic principles and they now need to be approved by the Assembly," she told Forum 18 from Pristina on 20 September. "We don't yet know when the final text will be approved." She said she recognises the rights to hold, adopt, change and manifest one's religion, but added that the constitution will probably confine itself to a brief mention as "all the rights are spelled out in full in the separate law on religious freedom". (END)

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 a personal commentary by an Austrian lawyer arguing (in relation to Serbia) that Austria's system of dividing religious communities into different categories with differing legal rights should not be followed, see F18News http://www.forum18.org/Archive.php?article_id=403

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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