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SERBIA: Arbitrary legal status denials continue

By Drasko Djenovic, Forum 18

Although Milan Radulovic has been replaced as Serbian Religion Minister by Radomir Naumov, Radulovic is still responsible for deciding whether legal status should be given to religious communities, Forum 18 News Service has found. Some see Radulovic as still in charge of the Ministry, with new Minister Naumov functioning as a figurehead. Many of Serbia's so-called "non-traditional" religious communities are still being denied legal status, including Baptists, Old Catholics, Pentecostals, Jehovah's Witnesses and Hare Krishna devotees. This means that they are unable to legally carry out activities such as running bank accounts, owning property, or paying tax. Two unregistered communities known to Forum 18 have been able to run a bank account, buy property and publish literature, but it is unclear how long this will continue. Interviewed by Forum 18, ex-Minister Radulovic would not explain how specific problems caused to communities by the Religion Ministry could be resolved.

Serbian religious communities are still being denied legal status, Forum 18 News Service has found. Under the controversial 2006 Religion Law, any "non-traditional" community that previously had legal status lost this unless they submitted a new registration application by 7 May 2007 lost their legal status.

Without legal status, it is legally impossible for religious communities to carry out activities such as running bank accounts, inviting foreign religious workers to work with them, owning property, paying tax, buying or selling anything, publishing literature and having employees (see F18News 26 April 2007 http://www.forum18.org/Archive.php?article_id=948).

At least five religious communities were refused registration in July – Baptists, Pentecostals, Old Catholics, Jehovah's Witnesses and the Seventh-day Adventist Reform Movement (which is separate from the Seventh-day Adventist Church), Forum 18 has learnt. Since the Law came into force, many communities have complained that they are being arbitrarily denied registration by the Religion Ministry (see F18News 26 April 2007 http://www.forum18.org/Archive.php?article_id=948). The only communities exempted from applying for registration were the seven so-called "traditional" communities, which the Law gave automatic legal status to. These are: the Serbian Orthodox Church; the Catholic Church; the Slovak Lutheran Church; the Reformed Church; the Evangelical-Christian Church (another Lutheran Church); and the Islamic and Jewish communities.

The Romanian Orthodox Church in the Banat - under the Serbian Orthodox Church – later gained "automatic" legal status as did both the Greek and Latin-rite Catholic Churches, registered as one church (see F18News 9 August 2006 http://www.forum18.org/Archive.php?article_id=825).

Only six of Serbia's so-called "non-traditional" religious communities have been registered since the Religion Law entered into force over a year ago: These are: the Seventh-day Adventist Church; the United Methodist Church; the Church of Jesus Christ of Latter-day Saints (commonly called the Mormons); the Evangelical Church of Serbia; the Church of Christ's Love; Christ's Spiritual Church (UPC).

The status of the Church of God (Cleveland, Tennessee) is still unclear (see F18News 26 April 2007 http://www.forum18.org/Archive.php?article_id=948). This is because the Ministry is demanding proof of how, internally, the church has designated its leader.

Milan Radulovic was Religion Minister until 15 May 2007, and was responsible for drafting the Religion Law and its implementation. Although no longer Minister, having being replaced by Radomir Naumov, Radulovic is still a special consultant in the Religion Ministry and is still responsible for the registration of communities. Many in Serbia think that Radulovic is still the person with effective power in the Religion Ministry, and that new Religion Minister Naumov has little power over the Ministry's activities.

Questioned in person by Forum 18 on 1 August, Radulovic insisted that "the problems [caused to religious communities by the state] are caused by people by themselves interpreting the Law." Confusingly - and contrary to what the new Law actually says – Radulovic then immediately claimed that "all religious communities who had legal status before the new Religion Law do not need to register under this Law. They can continue to work on the basis of the old regulations, or to work without any registration. If anyone experiences any problem, our doors are always open to them".

Radulovic still insists that smaller communities could register as Citizens Associations, despite the strong refutations of his idea by the State Administration and Local Self Government Ministry (see F18News 1 March 2007 http://www.forum18.org/Archive.php?article_id=924). Refusing to address these legally based refutations, or the problems his attitude has caused religious communities, Radulovic asked Forum 18 "Why shouldn't people be able to associate on religious base? That would be even better for the Hare Krishna and similar communities." Radulovic also insisted to Forum 18 that the Hare Krishna community is "more philosophical than religious," which the State Administration Ministry and the community themselves both dispute (see F18News 26 April 2007 http://www.forum18.org/Archive.php?article_id=948).

The Religion Ministry is still refusing to answer questions from or provide registration for communities such as the Hare Krishna community and Seventh-day Baptists, both of which Radulovic insists should register as Citizens' Associations. Radulovic declined to answer Forum 18's questions on these cases.

Radulovic's other unsupported statements – for example that communities can continue to operate on the basis of the old regulations - do not influence the officials religious communities have contact with. One example is the Evangelical Protestant Church in Leskovac, a Pentecostal church. On 9 July, the church received a final decision refusing registration, signed by Religion Minister Naumov. The church then received a letter from the town council of Vranje, asking the church to prove it has legal status under the 2006 Religion Law – which it cannot legally do under the Religion Law drafted by Milan Radulovic. On 31 July, Stefan Stankovic from the church told Forum 18 that their lawyer is therefore preparing an appeal to the Supreme Court.

When Radulovic was Religion Minister, the Ministry persistently evaded answering questions from Forum 18 about how religious communities could resolve the problems caused them by Radulovic's actions as Minister (see F18News 26 April 2007 http://www.forum18.org/Archive.php?article_id=948). When Forum 18 questioned him in person this month, his only response was to repeat that religious communities should contact the Religion Ministry if they have problems.

One problem that non-registered communities face is that they cannot obtain a tax number, and so cannot legally buy or sell property, run a bank account, or employ anyone. Forum 18 has tried to find out how non-registered communities can therefore run their financial affairs legally. Danijel Apostolovic of the Finance Ministry told Forum 18 on 26 July that this "is a complex question and it is unclear who can answer this, as religious communities are special." Branislav Maricic of the Tax Office told Forum 18 the same day that "only registered entities can obtain a tax number." This is a problem which communities such as the Seventh-day Adventist Reform movement have long complained of, and it also affects whether non-registered communities can receive confiscated property back from the state (see F18News 12 March 2007 http://www.forum18.org/Archive.php?article_id=929).

Forum 18 knows of one community which has managed to convince their bank that their old registration is still valid. But that community is uncertain how long the bank will continue to accept this. Similarly, another community has succeeded in buying a building using their old tax code, but it is yet again unclear whether this will be accepted in other cases.

Radulovic has previously suggested that Seventh-day Adventist Reform movement can solve the legal status and tax problem by uniting with the Seventh-day Adventist Church (see F18News 12 March 2007 http://www.forum18.org/Archive.php?article_id=929). The Religion Law denies legal status to religious communities "whose name contains a name or part of the name expressing the identity of a Church, religious community or religious organization which is already entered into the Register," which is another source of problems for the Adventist Reform movement (see F18News 26 April 2007 http://www.forum18.org/Archive.php?article_id=948).

Confronted with these problems, Radulovic merely repeated his previous suggestion, adding the comment to Forum 18 that "they can unite with the Seventh-day Adventist Church (which is registered) so that the Adventist Reform movement has a separate legal entity but is registered as one church as part of the Adventists." Radulovic was unable to explain how the legal implications of his suggestion, for example for property ownership, can be reconciled with Serbian law.

After the Religion Law was passed, Radulovic illegally increased the number of adult Serbian citizens required for a religious community to be registered, from the "at least 0.001 percent of adult citizens" (i.e. 75 citizens) the Religion Law specifies to 100 citizens. The Ministry repeatedly refused to say why it did this (see F18News 9 August 2006 http://www.forum18.org/Archive.php?article_id=825). Questioned by Forum 18 on 1 August about this, Radulovic claimed that, "it is true that according to the 2002 official census we have about 7.5 million people, but in Kosovo there are between 2 to 2.5 million people. This gives a total of 10 million people who live in Serbia."

Under the Religion Law, if a religious community receives no answer from the Ministry of Religion within the legal deadline of 60 days, this means it is automatically recognised. Smaller religious communities, such as the Hare Krishna community, have frequently complained to Forum 18 that the Religion Ministry has ignored this part of the Law. Like the Evangelical Protestant Church in Leskovac, the Jehovah's Witnesses decided to appeal to the Supreme Court. This was because the Jehovah's Witnesses had neither received a decision nor registration 60 days after they lodged a registration application with the Religion Ministry (see F18News 26 April 2007 http://www.forum18.org/Archive.php?article_id=948).

Damir Porobic of the Jehovah's Witnesses told Forum 18 on 23 July that the Supreme Court asked whether the Witnesses had given the Ministry an extra seven days to reply. This is a common provision of other Serbian laws, and it is common for courts to ask for this, but it does not apply in the case of the Religion Law. Their lawyers wrote to the Supreme Court explaining this on 18 May. No reply has been received.

The Baptist Union have launched a case at the Constitutional Court. They have decided not to apply for registration, but to challenge the Religion Law itself as they argue that it breaks both the Serbian Constitution and international law (see F18News 1 March 2007 http://www.forum18.org/Archive.php?article_id=924). Serbian president Boris Tadic has himself stated that the Law breaks the European Convention on Human Rights and asked that the Law be changed (see F18News 28 April 2006 http://www.forum18.org/Archive.php?article_id=771). If the Supreme Court and Constitutional Court cases fail, appeals will almost certainly be made to the European Court of Human Rights in Strasbourg (see F18News 26 April 2007 http://www.forum18.org/Archive.php?article_id=948).

The Baptist Constitutional Court case has made no progress as the Court has no President. The previous postholder was legally obliged to retire and no successor has been named. Another complicating factor is that a new Serbian Constitution came into force in November 2006, almost six months after the Religion Law was passed by the National Assembly and signed into law by the Serbian President.

The Belgrade Baptist Church has a separate identity from the Baptist Union and decided to apply for legal status. But not even the Supreme Court has been able to persuade the Religion Ministry to grant the church legal status. "The Supreme Court told the Religion Ministry two months ago to legally decide on Belgrade Baptist Church's application," Dane Vidovic of the church (who is also now Secretary of the Serbian Baptist Union) told Forum 18 on 23 July.

Whilst their Supreme Court case is continuing, the Jehovah's Witnesses made a second application for legal status, on 3 May 2007. On 29 June new Religion Minister Naumov refused the second application, claiming in writing that the reason was that "Article 4 of the Jehovah's Witness' Statute is against article 2 of the Religion Law."

Article 4 of the Statutes, to which Minister Naumov objects, outlines the purpose of the Jehovah's Witnesses, that they are part of a worldwide body, and then describes a variety of peaceful religious activities, similar to those carried out by many other religious communities. These include publicly sharing their beliefs, establishing schools and organising meetings, importing and publishing literature, establishing congregations, and selecting training and inviting religious workers. The Article specifically states that sharing beliefs may only take place with those who wish to hear what the Jehovah's Witnesses have to say: "benevolently teaching Bible truths to people who are willing to listen."

Article 2 of the Religion Law states that: "No-one may be subjected to such compulsion as might endanger their freedom of religious expression, nor may they be compelled to make statements expressing their religious orientation and religious convictions or the non-existence thereof. No-one may be disturbed, discriminated against or privileged because of their religious convictions, their affiliation or non-affiliation with a religious community, their participation or non-participation in worship and religious ceremonies and their use or non-use of guaranteed religious liberties or rights. There is no state religion."

Religion Minister Naumov did not explain his reasoning behind the alleged conflict of the Jehovah's Witness Statute with the Law's Article 2, but Radulovic claimed to Forum 18 that the reason is that, in door-to-door sharing of their beliefs, "Jehovah's Witnesses do not identify themselves, so people who do not know who they are and that their magazines are from the Jehovah's Witnesses." Forum 18 is not aware of any Jehovah's Witness publication in Serbia which does not clearly identify in Serbian who the publisher is.

Porobic of the Jehovah's Witnesses was present at a meeting with Radulovic on 18 July. He told Forum 18 on 21 July that Radulovic had stated that "we can continue to work on the basis of the old laws." He also stated that, "if we face any problem we can always contact the Religion Ministry." Reiner Scholz of the Jehovah's Witnesses told a public meeting in Belgrade on 12 August that they "up to now do not face practical problems and have been free to worship and import literature."

In Serbian law, only registered communities have the legal right to apply an official stamp to documents. However, both Vladimir Majersky of the Brethren Church in Serbia and Dusan Bera from the Novi Sad Christian Community told Forum 18 on July 26 that the Religion Ministry asked them to apply an official stamp to their registration applications. Both expressed surprise to the Ministry that they were being asked to commit a technically illegal action. One Religion Ministry official commented to Majersky on the way registration applications are handled in the Ministry that "those who are doing registrations usually have their own standard."

Serbian religious minorities remain "not optimistic" that they can gain legal status, as Bera from the Novi Sad Christian Community put it.

The situation may be changed by a proposed Non-Governmental Organisation (NGO) Law, due to be presented to the National Assembly in Autumn 2007. Former Religion Minister Radulovic told Forum 18 that "Minister Naumov and I will do our best to ensure that religious communities can register under this Law as Citizens Associations." However, current drafts of the proposed

NGO Law strictly forbid religious communities from registering as Citizens Associations.

A Restitution Law governing the return of confiscated property to registered communities was passed in 2006. Only communities with this legal status can reclaim their property, and Radulovic did not comment on whether he thought that Citizen's Associations could reclaim property. Restitution of religious property confiscated in communist times is also plagued by problems of very slow official implementation and the difficulty of communities supplying the legal documents the Law requires (see F18News 12 March 2007 http://www.forum18.org/Archive.php?article_id=929). (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 between September 2005 and September 2006 at http://www.forum18.org/Archive.php?article_id=845.

A personal commentary, by an Austrian lawyer, arguing that Serbia should not follow Austria's system of dividing religious communities into different categories with differing legal rights is at http://www.forum18.org/Archive.php?article_id=403

A survey of the religious freedom decline in the eastern part of the Organisation for Security and Co-operation in Europe (OSCE) area is at http://www.forum18.org/Archive.php?article_id=806.

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

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