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SERBIA: Who can gain legal status?

By Drasko Djenovic, Forum 18

State registration, or legal status, is difficult for "non-traditional" religious communities to gain in Serbia, Forum 18 News Service has found. This can prevent communities from, for example, employing people as clergy or other religious workers. However, although some religious communities known to Forum 18 are without legal status, this has not practically affected them. There does not appear to be a pattern in why some communities are practically affected but not others, and the Religion Ministry itself is not actively harassing unregistered organisations. Several unregistered religious communities are challenging the decision not to register them. These include the Jehovah's Witnesses, the Seventh-day Adventist Reform Movement, and the Montenegrin Orthodox Church, which is not recognised by other Orthodox churches. A number of smaller communities have considered trying to register as non-governmental organisations (NGOs), but as a draft NGO Law has not been passed by Parliament it is unclear when this will be legally possible.

State registration, or legal status, continues to be extremely difficult for religious communities to gain in Serbia, Forum 18 News Service has found. Without legal status, it is not legally possible to – for example – employ people as clergy or other religious workers, run a bank account, buy or sell property or publish literature. So, because it cannot itself legally pay a telephone bill, the Adventist Reform Movement in Novi Sad has lost the telephone line in their church building. However, although some religious communities known to Forum 18 are without legal status, this has not practically affected them. There does not appear to be a pattern in why some communities are practically affected but not others, and the Religion Ministry itself is not actively harassing unregistered organisations.

Currently, the Religion Ministry is refusing to register the Jehovah's Witnesses because it objects to the activities listed in their Statute, the Adventist Reform Movement because it shares a name with the Seventh-day Adventist Church, and the Montenegrin Orthodox Church because Orthodox canon law states that only one Orthodox Church can operate in any one geographical area. Another factor in this case is that the Montenegrin Orthodox Church is not recognised by other Orthodox churches. At least two smaller religious communities have been able to register as religious organisations in 2008 – the Brethren Church of Backi Petrovac and the Protestant Christian Fellowship in Novi Sad. The Novi Sad community's original application to be registered, under the name Christian Fellowship, was rejected as the Serbian Orthodox Church also has a movement called Christian Fellowship.

Serbian law divides religious communities into two basic categories: seven "traditional" religious communities who received automatic registration under the 2006 Religion Law; and "non-traditional" communities who must apply to the Religion Ministry for registration (see F18News 14 August 2007 http://www.forum18.org/Archive.php?article_id=1007). A Constitutional Court case challenging the constitutionality of the Religion Law, launched by the unregistered Serbian Baptist Union, is unlikely to be heard quickly as the court has an extremely large backlog of cases.

Parliament decided on 19 January 2009 that "traditional" religious communities are exempt from paying administrative taxes, unlike registered "non-traditional" religious communities.

One "traditional" community is dissatisfied with its status. The Vicariate of the Romanian Orthodox Church in the Banat - under the Serbian Orthodox Church - eventually gained "automatic" legal status under the Serbian Orthodox Church. Similarly, the Greek and Latin-rite Catholic Churches were registered as one church (see F18News 9 August 2006 http://www.forum18.org/Archive.php?article_id=825). The Romanian Vicariate only gained legal status after the Romanian President Traian Basescu made a special visit to his Serbian counterpart Boris Tadic to resolve the status of the Romanian Orthodox Church in Serbia.

However, on 27 January the Romanian Orthodox Church's Proto-Presbyteria of its Littoral Dacia applied for separate registration to the Religion Ministry. In 1997, the Romanian Orthodox Church upgraded their Vicariate to a Diocese, but Serbia has not recognised this change in status. No answer to the application has yet been received, Fr Bojan Aleksandrovic told Forum 18 on 18 February.

Even when "non-traditional" religious communities fulfil the Law's registration requirements, this does not mean that they will be registered. Tactics used to prevent communities registering have included arbitrarily raising the registration threshold, and claiming that smaller religious communities cannot be registered by the Religion Ministry (see F18News 14 August 2007

http://www.forum18.org/Archive.php?article_id=1007).

No non-monotheist religious community - such as the Hare Krishna community - or non-Christian "non-traditional" community has gained registration. Indeed, the former – not the current - Religion Minister claimed that "some of these groups might become part of the structure in 450-500 years when they pass historical tests" (see F18News 18 January 2008 http://www.forum18.org/Archive.php?article_id=1072). Both the Jewish and Muslim communities are legally "traditional" registered communities.

On 26 January, the Jehovah's Witnesses appealed to the Supreme Court about the Religion Ministry's third refusal, dated 26 December 2008, to register them. This refusal is based on their rejection of blood transfusions and insistence on door to door preaching.

The Seventh-day Adventist Reform Movement, which broke away from the main Adventist Church in 1921, is also challenging the Ministry's registration denial – on the grounds that another community also has the name Adventist - in the Supreme Court. The Movement told Forum 18 on 3 February that they are still awaiting a decision. Two of the "traditional" communities share the name Evangelical-Lutheran, but this did not prevent them gaining legal status.

Forum 18 knows of several other religious communities that have challenged denial of registration at the Supreme Court, including the Evangelical Church in the southern town of Leskovac. However, the Supreme Court has failed to answer Forum 18's repeated questions about when the appeals will be heard.

Under the Religion Law, both the Jehovah's Witnesses and the Adventist Reform Movement should be considered as legally registered. This is because Article 20 of the Law allows the Ministry 60 days to respond to registration applications. If it does not respond in that time, "it will be considered that an application for entry in the Register [of registered religious communities] has been granted". The Ministry did not reject either of these applications within the legal deadline.

Damir Porobic of the Jehovah's Witnesses told Forum 18 on 19 January that the Ministry particularly objected to the community's Statute describing their main activities as preaching from door to door. "The Ministry sees that as disturbing others and breaking the rights of others," he told Forum 18. Porobic is particularly disappointed about the refusal, as it followed a visit by Ministry officials to the Jehovah's Witness' headquarters in the capital Belgrade on 18 December. "We did not expect that they would refuse us after their visit."

Deputy Religion Minister Dragan Novakovic told Forum 18 on 20 January that different points of view – which he would not discuss – are held within the Ministry on the Jehovah's Witness registration application. "As the case is now at the Supreme Court, it would be inconvenient for the Ministry to register them," he said. "What would happen if we registered them and the Supreme Court made a different decision? This would cause big problems."

Asked if the Ministry would register the Jehovah's Witness if they withdrew the Supreme Court case, Novakovic told Forum 18: "I do not have the authority to make that kind of offer. I am just one of the persons involved in the decision making process."

The Montenegrin Orthodox Church in Serbia faces similar problems, as the Religion Ministry has twice refused to register them, the second time following a May 2008 Supreme Court decision that the Religion Ministry should have registered the Church. An appeal against the Religion Ministry's decision at the Supreme Court is being backed by Yucom, the Lawyer's Committee for Human Rights.

The Religion Ministry decision refers to Orthodox canon law, maintaining that it is impossible to register two dioceses (of both the Serbian and Montenegrin Orthodox churches) on the same territory. It points out that Lovcenac, in the province of Vojvodina, where the headquarters of the Montenegrin Orthodox Church in Serbia is located, is part of the Diocese of Backa of the Serbian Orthodox Church.

The decision also cites Article 44 of Serbia's Constitution, which declares that "Churches and religious communities shall be equal and free to organise independently their internal structure", and Article 7 of the Religion Law, which declares: "The state may not hinder the implementation of the autonomous regulations of Churches and religious communities". The Ministry claims that registering the Diocese of the Montenegrin Orthodox Church in Serbia would conflict with these articles.

"We can see that the autonomous regulations of the Serbian Orthodox Church have a higher power than legal state regulations," Yucom's President, Biljana Kovacevic-Vuco, told Forum 18 on 22 January. She said Yucom has appealed to the Supreme Court on this point, but the Supreme Court has not made any decision yet.

Kovacevic-Vuco told Forum 18 that the problem is that the Supreme Court is treating the case as an administrative case - in which case it can merely cancel the decision of the Ministry – whereas Yucom has appealed for the Supreme Court decision to be made in full jurisdiction. This would allow the Court to make the final decision and register the Church. She speculates that the Supreme Court regards registration of the Montenegrin Orthodox Church in Serbia as "political decision", related to the relationship between

Serbia and Montenegro. But Kovacevic-Vuco insists that "legally speaking, the case is clear as the Church has all the elements to register as a religious community".

She also noted that the Ministry's decision had not cited the Religion Law's bar on religious communities sharing the same name.

Kovacevic-Vuco told Forum 18 that Yucom is prepared if necessary to take the case to the European Court of Human Rights (ECtHR) in Strasbourg. She pointed out that, if the Supreme Court or the Religion Ministry bases its argument on Orthodox canon law rather than national law, that would violate principles already set out by the court in a 2007 case from Moldova (see F18News 8 March 2007 http://www.forum18.org/Archive.php?article_id=925).

Given the impossibility for some religious communities of registering as religious communities, a number have considered trying to register as non-governmental organisations (NGOs). Smaller communities that would be willing to take this alternative include the Seventh-day Baptists and the Church of Christ.

However, in December 2008, shortly before a draft NGO Law was to be given a final vote in Parliament, it was withdrawn by the government to allow time for the annual state budget to be voted on. This has left many religious communities unable to gain registration as religious organisations the possibility of registering as NGOs. It remains unclear when the draft NGO Law will again be presented to Parliament.

Meanwhile, the Jehovah's Witnesses have been waiting since mid-2008 for permission from the Religion Ministry to build a Kingdom Hall place of worship in Kovacica, a village with an ethnic Slovak majority 50 kms (35 miles) north of Belgrade. "We have learned that the Serbian Orthodox Church and the Slovak Evangelical Church are waiting for the same document, and so the Kovacica municipal authorities do not know what to do with three pending building requests for three religious buildings," Porobic of the Jehovah's Witnesses told Forum 18.

Permission is necessary from the Religion Ministry for places of worship to be built. Both the Serbian Orthodox Church and the Slovak Evangelical Church are "traditional" communities with legal status. Although the Jehovah's Witnesses do not have legal status, the Religion Ministry has indicated that they can apply for building permission as they were registered when the previous Religion Law was in force. It is unclear while all three communities are still waiting for permission from the Religion Ministry. (END)

More articles on freedom of thought, conscience and belief in Serbia are at <http://www.forum18.org/Archive.php?query=&religion=all&country=53&results=50>. A survey of attacks on religious minorities from September 2007 to October 2008 is at http://www.forum18.org/Archive.php?article_id=1224.

For more background, see Forum 18's Serbia religious freedom survey at http://www.forum18.org/Archive.php?article_id=1260

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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