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SERBIA: No religion law means a "dangerous legal void"?

By Branko Bjelajac, Forum 18

The latest, fourth, draft of a proposed religion law is an "improvement," Baptist and Seventh-day Adventist leaders have told Forum 18 News Service. However, religious minorities are worried that the latest draft, like previous drafts, divides religious communities into "traditional" faiths and other faiths with lesser rights. Baptist Pastor Dane Vidovic told Forum 18 that this division "is critical, because it will affect other laws and areas of life, including rights to religious education in public schools, taxes and property, social security and pension funds." Religion Minister Milan Radovic has recently wrongly claimed that Serbia is the "only country in Europe without a law regulating relations between the state and religious communities", claiming that this is a "dangerous legal void". Some European countries, such as Ireland, have never had a religion law and have no plans to introduce such a law.

Baptist and Seventh-day Adventist leaders have told Forum 18 News Service that the Serbian religion ministry's latest draft of a proposed Law on Religious Organisations is an improvement on earlier versions, but they are among religious minorities worried by the draft's continuing division of religious communities into "traditional" faiths and others with lesser rights. "This division is discriminatory," Pastor Dane Vidovic of the First Baptist Church in Belgrade told Forum 18 on 15 February. "And it is critical, because it will affect other laws and areas of life, including rights to religious education in public schools, taxes and property, social security and pensions." Also widely criticised is the high threshold – 700 adult members – needed to register a new religious organisation.

The religion ministry is attempting to finalise the text after receiving many critical comments from domestic and international non-governmental organisations and religious groups. It is convening a roundtable discussion of the draft – which is the fourth draft so far – with religious organisations and legal specialists, as well as representatives of the Organisation for Security and Cooperation in Europe and the Council of Europe.

The first draft of the religion law was made public in July 2004 and sparked widespread public response and criticism from smaller religious communities (see F18News 30 July 2004 http://www.forum18.org/Archive.php?article_id=380).

"With the proposed version of this law the state is guaranteeing to the churches and religious communities their autonomy, respecting their bylaws, financial assistance and also other necessary aspects in support of their spiritual mission," religion minister Milan Radulovic was quoted by the Belgrade daily Danas on 2 February as declaring at a meeting organised by the Adventist Church with officials from Serbia and Montenegro. Also present were several other minority Protestant churches, the Roman and Greek Catholic churches, and the human rights officer from the United States embassy, Laura Luftig. According to Danas, most participants described the fourth draft of the law as a "great improvement" on previous drafts.

"We haven't measured it, but we reckon more than half our earlier objections have been resolved. The team working on this law has made a significant improvement since the beginning," Miodrag Zivanovic, president of the Adventists' South-East European Union who hosted the last round-table, told Forum 18 in Belgrade on 14 February. But he complains that although the Constitution and the draft law proclaim all religious communities as equal, in some articles and official regulations "the state is making a rift between the seven 'traditional' religious organisations and the rest of us".

The seven religious organisations recognised as "traditional" - and in this draft law also as "historical" - are the Serbian Orthodox Church, the Catholic Church, the Islamic Faith Community, the Jewish Religious Community, the Slovak Lutheran Church and also the Lutheran Church of Serbia, and the Hungarian Reformed Church. All were similarly recognised in the Kingdom of Yugoslavia (1918-1941) with laws that regulated their position. Other religious communities which also had legal status at that time but without individual laws regulating their relations with the state – such as the Baptists, Methodists and the Nazarene Christian Community – are not considered "traditional" or "historical".

Baptist pastor Vidovic, who is also a member of the Religious Freedom Committee of the Baptist World Alliance, agrees that the latest version has "significant improvements" over earlier versions and believes the terminology is better. But he hopes the privileges granted to some religious groups over others will be ended.

Article 59 of the latest draft says that "property intended for performing religious services, administrative, educational and

humanitarian work, accommodation of clergy and clerics, as well as monasteries, museums, libraries and other cultural institutions belonging to religious organisations are not subject to property tax if recorded as property belonging to a religious organisation". However, other laws already in force rule differently in this matter.

The 2001 Law on Property Taxes declares in Article 12, point 3, that property of religious organisations used for religious services is exempt from property tax. But in late 2004 the Serbian government proposed and parliament amended Article 12, point 3 granting such exemption no longer to "religious organisations" but only to the seven "traditional" religious communities. It appears the new religion law will not affect this discrimination in the tax law.

Another example of existing discrimination is the restriction of grants of taxpayers' money to repair or build places of worship in the northern province of Vojvodina to the seven "traditional" religious faiths.

"I still object to the terminology used in this draft," Vidan Hadzi-Vidanovic, a researcher at the Belgrade Centre for Human Rights, told Forum 18 on 21 February in Belgrade. He points to the expression "European Christian culture" in Article 7. He complains that this "archaism in terminology and thinking" appears in Articles 43 and 44, where monasteries are described as "centres of indigenous Christian culture". "But what about citizens to whom monasteries do not represent what is stated? Why was this necessary?"

Hadzi-Vidanovic describes the proposals on taxation of religious property as "not according to European human rights standards". "When the first fiscal order from the tax department reaches a small religious community, it will establish a case against the Serbian state at the European Court of Human Rights. How it is possible that one constitutional right is here divided into two categories?"

Last October the Belgrade Centre for Human Rights commended the Ministry of Religion for the changes it had then incorporated into the draft law. It believes the latest draft represents a return to the earlier terminology.

Hadzi-Vidanovic points out that his organisation objected to the earlier requirement to have 1,000 adult members to gain legal status, but believes the 700 now demanded is still too high – and the demands on those forming the 700 are unwarranted. "They are required to give their personal ID numbers and home addresses, while various international human and religious rights declarations speak of the freedom every person has to believe," he told Forum 18. "No-one should have to tell the state what and why they believe."

His centre also foresees problems with Article 65, which specifies on what grounds a court can order a religious organisation to be deleted from the register. "This might cause problems if not read in a restrictive way. What exactly is 'systematic destruction of the family'? Who is going to evaluate this and who is going to see that this article of the law is properly understood?" He hopes the forthcoming round-table will allow all these issues to be debated openly.

Aleksandar Mitrovic, pastor of the Pentecostal Church in Novi Sad, also questions the high threshold of 700 members needed by communities that were not registered before 1993. "What if 699 individuals meet for some religious purpose? Are they illegal?" he remarked to Forum 18 on 17 February. "To me, this is rather restrictive, and the state can interpret their meetings as illegal and disperse them until they reach 700 members. What if a religious group has a bylaw that they should remain very small and not exceed one hundred people? It is a clear case of discrimination. It seems this law is not giving us rights and freedom of religious expression, but rather is set to restrict us and put us under state control - which could be manipulative."

Pastor Mitrovic recalled his "positive experience" meeting Minister Radulovic as part of a delegation and seeing him follow through earlier comments from those he met. "The only positive issue in this debate is the willingness of the ministry to sit together with the religious communities and further discuss and listen," he told Forum 18. "Let us hope the process will continue."

Other religious communities are not happy with the proposed draft law either. During a February visit to Serbia and Kosovo, a delegation of the Conference of European Churches (CEC) met Radulovic. "The major item in the discussion was the proposed new Religious Law for Serbia, especially as this would affect the Methodist Church, which is not recognised as a 'traditional church' in the present draft, and also such groups as the Baptists," a 16 February CEC statement declared.

In a 21 February statement, Radulovic claimed, wrongly, that Serbia is the "only country in Europe without a law regulating relations between the state and religious communities", describing this as a "dangerous legal void". The minister is apparently unaware that some European countries, such as the Republic of Ireland, have never had a religion law and have no plans to introduce such a law, or to require any form of state registration of religious organisations.

Serbia has not had a law on religious communities since 1993 and attempts to draft a new law have been controversial (see F18News 14 March 2003 http://www.forum18.org/Archive.php?article_id=4). For the last 13 years, religious communities trying to gain legal status in Serbia have had to register as citizens' associations. This is legally problematic, as was illustrated by the 2003 case of the Sanatan Buddhist teaching centre, near Belgrade, which was prosecuted because citizens' associations are not legally permitted to hold religious services. (END)

For more background information see Forum 18's Serbian religious freedom survey at http://www.forum18.org/Archive.php?article_id=387

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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