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KOSOVO: Controversial provisions in latest religion law draft

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Kosovo's latest draft religion law, drawn up in secrecy under Austrian auspices, privileges the Muslim community, Catholics and the Serbian Orthodox Church, Forum 18 News Service has learnt. The draft law has the support of these communities, but others disagree with its provisions. Amongst disputed issues are proposals to give some communities "special status" but effectively bar others from receiving this for at least 10 years. Pastor Artur Krasniqi stressed in general to Forum 18 that Protestants "do not agree in any way with any discrimination whatsoever towards any religious group". He was also concerned by the majority Muslim community's attitude to minorities, and Chief Imam Sabri Bajgora's recent statement that "Muslims will not be responsible for any consequences whatsoever to Protestants if they do not stop their activity in this country." The OSCE Mission noted that it looks at all draft laws "especially when they concern the rights of smaller religious and ethnic communities."

Members of Kosovo's minority Protestant community are concerned about a new draft religion law, initially drawn up in secret under the auspices of the Austrian Government, which they fear will privilege the Muslim community, the Catholics and the Serbian Orthodox Church and will grant fewer rights other communities. "Overall, this draft law is worse than the previous draft law passed in its first reading by the Kosova Assembly," Pastor Bekim Beka of New Hope Baptist Church told Forum 18 News Service from Pristina on 14 February. "This new draft attacks religious freedom."

As well as the content of the latest draft law, the secrecy and lack of openness surrounding its drafting – involving the governments of Austria and Kosovo along with only three of the religious communities - has also drawn strong criticism within Kosovo (see F18News 15 February 2005 http://www.forum18.org/Archive.php?article_id=726).

Pastor Artur Krasniqi of the Fellowship of the Lord's People in Pristina made no comment on reports of the latest proposal, but stressed to Forum 18 from Pristina on 14 February that Protestants "do not agree in any way with any discrimination whatsoever towards any religious group". Pastor Dijana Daka of the Seventh-day Adventist Church, from Gjakova (Djakovica in Serbian) in south-western Kosovo, insisted on 14 February that "no law should make boundaries between churches."

"These are not amendments to the previous draft law passed by the Kosova Assembly, but a completely new law," Pastor Beka told Forum 18. Previous attempts to agree a Kosovo religion law have also been controversial (see F18News 19 November 2004 http://www.forum18.org/Archive.php?article_id=457 and 1 July 2005 http://www.forum18.org/Archive.php?article_id=596).

Amongst the elements of the Austrian-influenced draft causing concern is Proposal E, which states that "the Islamic Community of Kosovo, the Serbian Orthodox Church, the Roman Catholic Church, the Bektashi Community and the Jewish Religious Community and their existing organisational units have, as traditional Religious Communities and Churches, the special status pursuant to Article J." Pastor Beka notes that Protestants are, unlike in previous proposals, excluded from designation as "traditional". He regards this as a particularly strange list of religions, as there is no functioning Jewish religious community in Kosovo.

Article J specifies among other provisions that "public authorities shall cooperate with these Religious Communities by inviting them to render their opinion on measures, decision and draft legislation on important matters of common interest." There is no reference to consultation with other religious communities or groups in civil society.

Pastor Beka notes that the new proposals for registration of religious communities is particularly troublesome, as it specifies that applications must include "the names and surnames, the numbers of identification documents as well as the signatures of .. citizens or habitual residents of Kosovo, having full business capacity." He maintains that in Kosovo society, many people would be afraid to provide their identification numbers, both due to their unwillingness to be identified by Muslim family members as Christian, and also due to people's historic suspicions in Kosovo about the intentions of public authorities. It is unclear how many signatures would be required in such applications.

The number of members needed for religious communities to be registered provoked much discussion at the Pernegg meeting, with the religious communities present demanding a minimum of 500, in contrast to the Austrian proposal of 30 members. It was eventually agreed that the Kosova Assembly will specify the number needed in the Religion Law.

No discussion appears to have taken place about the place of unregistered religious communities, or whether a system of state registration of religious communities is necessary.

Proposal K, which allows communities to obtain "special status" under article J, specifies that the numbers of such communities' members must be "one per thousand of inhabitants of Kosovo according to the last census" In other words, the minimum number of members is 2,000. As Pastor Beka notes, many of the newer communities would find it very difficult to meet this demand, although this would not be a problem for Protestants.

The next census in Kosovo is expected this year, before the religion law is likely to come into force, and this will include a requirement for people to declare their religion. Pastor Beka opposes this, both as he believes that "we should have a secular state" and also because in Muslim households the male heads have traditionally been the ones to fill out all official forms. Therefore people who are non-Muslim may be reluctant to reveal what religion, if any, they choose to belong to. Even if they do publicly state their religious affiliation, the male head of their family may ignore this in completing the census forms. Pastor Beka believes that the census data on religion will therefore be unreliable and thinks that this would lead to some religious communities – especially the Muslim community – gaining unfair advantages in negotiations with the government.

Pastor Krasniqi told Forum 18 that the government minister responsible for the census, the Minister for Public Services Ms Melihate Termkolli, has adamantly refused to meet Protestants to discuss their concerns over the census.

Several Protestant sources completely oppose a proposal that religious instruction take place within school classes.

Protestants are highly concerned about the attitude of the Muslim community towards religious minorities. Pastor Krasniqi pointed to both physical attacks on Protestants and the attitude of Muslim leaders. He noted in particular a 9 January 2006 comment, quoted in the "Epoka e Re" newspaper, by Chief Imam Sabri Bajgora that "Muslims will not be responsible for any consequences whatsoever to Protestants if they do not stop their activity in this country."

Bajgora had been highly critical of the previous draft religion law the Assembly considered, being quoted on 9 June 2005 in the Pristina weekly Java describing it as a "catastrophe" and a "huge anachronism", and complaining that it put all faiths on an equal footing. Some have suggested to Forum 18 that the Muslim community's leadership wants to delay the passage of a religion law until after UN-mediated Final Status Negotiations (due to start on 20 February) are complete, in order to enable the Muslim community to push for other religions to be given less rights.

Curiously, proposal K in the latest Austrian-influenced draft demands that communities must have "been legally established for at least 10 years". As there has been no functioning religion law and no legal religious communities in Kosovo for the past decade, this in practice means that no new communities will be accorded special status for the next 10 years.

Nikçi Bukurija of the LUK Evangelical Movement of Kosova is one of those concerned by the provisions that communities applying for "special status" have to have 2,000 members and would have to wait 10 years to be granted this status. However, she told Forum 18 on 14 February that she thinks there will be "good possibilities to comment on this when the law comes to the Kosova Assembly."

Like the Muslim community, the Serbian Orthodox Church generally backs a law that will give it higher status. "We requested a further special status over and above what is given in the Austrian draft," one priest who preferred not to be named told Forum 18 from Kosovo on 14 February. "Our specific position and vulnerability makes this necessary. We live in very unreasonable conditions."

The priest pointed to the fifth Guiding Principle of the Contact Group which is seeking to resolve Kosovo's status, which declares. "The settlement of Kosovo's status should include specific safeguards for the protection of the cultural and religious heritage in Kosovo. This should include provisions specifying the status of the Serbian Orthodox Church's institutions and sites and other patrimony in Kosovo."

While insisting that any religion law should not include any discrimination, the Orthodox priest backed the Austrian proposal, claiming that there are "no other significant religious communities" in Kosovo apart from the Muslims, Catholics and Orthodox.

The priest stressed that the Orthodox Church is looking for a religion law which will safeguard its rights to function freely in Kosovo as part of the wider Serbian Church. "The law must protect the right of our diocese to function autonomously in full contact with our administrative centre in Belgrade," he declared. "We're not a new community here."

Sven Lindholm, spokesperson for the Organisation for Security and Cooperation in Europe (OSCE) Mission in Kosovo, stressed that the OSCE looks at all draft laws to ensure their compliance with international human rights standards "especially when they concern the rights of smaller religious and ethnic communities". The OSCE maintains a Panel of Experts on Freedom of Religion and Belief, which serves as a consultative body which can be used by states introducing new or amended legislation affecting freedom of religion. If so requested, the Panel would certainly help advise over proposed legislation. (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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