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SERBIA: Almost no one satisfied as religion bill reaches parliament

By Drasko Djenovic, Forum 18

Serbia's National Assembly is today (17 April) due to begin consideration of the long-delayed new religion bill, which many religious communities and human rights activists complain discriminates between five levels of religious community with differing status, grants pre-eminence to the Serbian Orthodox Church at the expense of other faiths, fails to protect non-theistic beliefs adequately, prevents religious communities of similar name from gaining state registration and fails to protect against arbitrary denial of registration. "Our main complaint is that those drafting the law have capitulated under pressure from the national churches," Zarko Djordjevic of Serbia's Baptist Union told Forum 18 News Service. Some question the timing - between Western and Eastern Easter - of parliamentary consideration for this, the sixth draft religion law in thirteen years. "Maybe I sound paranoid, but controversial laws like this were always voted on in the holiday season and I believe the authorities want to do the same now," declared Belgrade professor Ljubisa Rajic.

Serbia's National Assembly is today (17 April) due to begin discussion of a long-delayed religion bill to replace the communist-era religion law revoked by parliament in 1993. Belgrade professor Ljubisa Rajic, who has followed developments on the proposed law, is among those questioning the timing. "From yesterday Western Europe is on holiday, and next week will be Orthodox Easter here, so no one will be at work and they can vote through whatever they want," he declared on 13 April at a Belgrade meeting observed by Forum 18 News Service. "Maybe I sound paranoid, but controversial laws like this were always voted on in the holiday season and I believe the authorities want to do the same now."

The government approved the Draft Law on Churches and Religious Communities (the sixth in thirteen years) on 3 March and sent it to parliament, despite widespread opposition by human rights activists and religious communities. The Belgrade office of the Organisation for Security and Cooperation in Europe, which has been involved in advising on successive drafts, declined to comment to Forum 18 on the draft sent to parliament, saying it had not yet had time to study the latest text.

Belgian law professor Louis-Leon Christians, who in early April prepared an analysis of the latest text for the Council of Europe's Venice Commission, expresses concern that the registration criteria should be spelled out in the law rather than being left to the minister's interpretation and insists that the registration system must be non-discriminatory. He recommends that more safeguards be given to prevent arbitrary denial of registration, that guarantees be introduced to prevent unregistered religious communities being restricted in their rights and that the legal status of religious communities' internal decisions be more precisely defined.

Given his concerns, Professor Christians asked parliament to delay discussion of the bill. The Venice Commission criticised an earlier version of the draft law (see F18News 16 May 2005 http://www.forum18.org/Archive.php?article_id=562).

The Coalition for a Secular State, a grouping of 46 NGOs campaigning against the current draft, organised the public discussion of the bill in Belgrade on 13 April. "We have heard today religion minister Milan Radulovic saying he will not withdraw the draft law and saying specifically in which area of the law he will not accept any change," Vidan Hadzi-Vidanovic of the Belgrade Center for Human Rights told the gathering. He said the coalition has given parliament 40 pages of proposed amendments.

Although most observers believe the latest draft is better than previous versions, many believe it is still not adequate. Vesna Rakic-Vodinovic, a law professor at Belgrade's Union University, believes the latest draft should be scrapped. "This is legally speaking a dangerous text," she told Forum 18 on 13 April. "It's impossible to improve it through amendments and the best would be for the deputies to reject it."

A number of religious communities and civil society activists object to the effective division of religious communities into five categories with differing status: the Serbian Orthodox Church, six other "traditional" religious communities, smaller religious communities which were recognised during the Communist period (dubbed "confessional communities"), newer religious communities seeking registration (dubbed "religious organisations") and those without registration. Many secularists are worried that the draft law if adopted would allow "traditional" religious communities – particularly the Serbian Orthodox Church – to wield excessive influence. Some complain that theistic religious faith is protected while other beliefs are not.

Professor Rajic objects in particular to what he regards as the attempt to give the Serbian Orthodox Church a pre-eminent position. "Making Serbia a state of the Serbian people with the Serbian Orthodox Church as the main church is the clear political goal of this law," he declared.

Professor Vladimir Ilic, director of the Centre for Development of Civil Society, who has been following the bill, has some reservations about the current text. "This draft law shows the tension between traditional churches and European standards," he told Forum 18 on 4 April. "Our government is split between European standards and pressure from powerful groups at home and this sometimes leads to contradictory statements."

Ilic said tension also arises over partnership between churches and what should be a secular state. "In reality the law aims for some churches and religious communities to be in greater partnership with the state than others," he told Forum 18. "The problem is that partnerships cannot exclude positive discrimination towards some which will result in negative discrimination towards non-Orthodox, mainly Protestant or non-Christian religious communities."

Forum 18 has been unable to reach Serbia's religion minister Radulovic since early April to find out why the bill has been framed in the way it has. But Radulovic explained to Belgrade-based B92 television on 6 March that the law's primary goal "is not so much to address religious liberties, since freedom of belief is a constitutional right", but to guarantee collective rights for religious communities. "People have returned churches to public life. 96 percent of the population of Serbia feels it belongs to a church or religious community. That being so, we can no longer claim that faith is a private matter." He said religious communities should be treated as a "social phenomenon" and "part of the public life of society".

In the same interview Radulovic (who in addition to his official position in Serbia also works in an Orthodox theological college in Bosnia) claimed that 85 per cent of the 96 per cent of Serbia's population who describe themselves as believers belong to the Serbian Orthodox Church. Both figures are contested by scholars.

Only Professor Sima Avramovic, a Belgrade University law professor involved in drafting the bill to whom the religion ministry directed Forum 18, was able to reveal how the controversial concept of "traditional church" was reached, drawing on the pre-Second World War legal agreements with individual religious communities. "The term was the only 'clear criterion' we could use," he told Forum 18 on 31 March. "We weren't able to adopt the number of believers as the criterion. So we decided that every church that was recognised by law in the pre-Communist era should get that status."

Asked why no pacifist Christian community (including the Nazarenes, Serbia's oldest small religious community) or any non-Christian religion was named in the list of "confessional communities", Professor Avramovic told Forum 18: "I was not responsible for that part of the law, but probably they didn't complain so were simply not mentioned. I believe it is still possible to amend this."

Although the draft law proclaims the protection of freedom of convictions and belief (Article 1) and that all religious communities are independent of the state and equal before the law (Article 6), by Article 4 they are already divided into "traditional churches and religious communities, confessional communities and other religious organisations".

Article 11 speaks of seven "traditional churches and religious communities" which have "centuries of historical continuity" in Serbia: the Serbian Orthodox Church, Roman Catholic Church, Slovak Lutheran Church, Reformed Church, Evangelical Christian Church (another Lutheran Church), the Islamic and Jewish communities. These are each then treated separately in the articles that follow.

Article 12 describes the Serbian Orthodox Church as having "played an exceptional historical, nation-building role in the shaping, preservation and development of the identity of the Serbian people", a designation which many other religious communities argue gives it an unofficial superior place among the "traditional" religious communities.

Article 17 speaks of "confessional communities", singling out the Baptist Church, Seventh-day Adventist Church, Methodist Church, the Pentecostal Church, evangelical Christian churches and other unnamed religious organisations registered under the communist-era laws of 1953 and 1977.

For religious groups which do not have registration under these Communist-era laws and want to register, Article 20 requires an application to contain the name of the religious organisation, address of its headquarters, and name and capacity of the person authorised to represent it. It must also supply its founding document with the names, identity document numbers and signatures of the founders comprising at least 0.001 per cent of adult resident citizens or foreign citizens with permanent residence according to the last census (this would require 75 people under the 2002 census). The religious organisation must also supply its statute, a summary of its beliefs and information on its sources of funding.

Pastor Zarko Djordjevic, secretary of Serbia's Baptist Union, objects to the division of religious communities into different categories. "Our main complaint is that those drafting the law have capitulated under pressure from the national churches," he told

Forum 18 on 27 March.

Professor Rakic-Vodinovic argues that dividing religious communities into traditional and non-traditional categories violates Article 13 of Serbia's Constitution - which says all citizens are equal irrespective of their religion – as well as the federal Charter on Human and Minority Rights and Civil Liberties of Serbia and Montenegro, which grants equality of all religious communities. "The draft law's definition of religious freedom is theistic and European regulations protect the rights of non-theistic groups as well," she added. "The draft law does not call for regulations that protect citizens' right not to declare their religious affiliation."

But her biggest concern is over what she sees as the pre-eminence the bill gives to protecting collective rights of religious communities at the expense of individual rights. She also calls for greater clarity over the separation of religious communities and the state as guaranteed in Article 41.2 of Serbia's Constitution, complaining that the draft promotes "ideologically speaking, the unity of the church and state". "In this law the authority of the state and religious communities are mixed. It says that the state cannot interfere in religious communities' affairs, but does not say that religious communities cannot interfere in state affairs. The problem is that many politicians including minister Radulovic think that separation of church and state is a child of Communism, and not the heritage of civilisation."

Pastor Aleksandar Mitrovic, recently elected President of Serbia's Evangelical Alliance, shares concerns about the failure to promote the principle of separation of the state and the church while suggesting "cooperation" between the church and the state. "Even speaking about the obligation of the state to the church, we can anticipate which church is being discussed," he told Forum 18, hinting that the Serbian Orthodox Church will gain most from any cooperation. He complains of the differentiated treatment of religious communities, pointing to the separate articles devoted to each of the "traditional" faiths and the "confessional communities". "This shows law-makers' discrimination in treating different religions in different ways," he told Forum 18. "Why do we have this differentiation when this same draft law proclaims that all are equal?"

Pastor Mitrovic also complains about the way new religious organisations register, arguing that the requirement for individual founders to give personal information violates individual privacy and autonomy of each religious community proclaimed in Articles 1, 2 and 6. He also questions the role of the religious affairs ministry, which will probably name a commission to adjudicate on whether an application should be approved. "Who will check that commission members agree to the belief system of the applicant, since belief is a private matter of each individual? Especially when commission members are likely to include Orthodox believers or professors of the Orthodox theological faculty, as happens now? Who will choose and appoint them?"

Another of Professor Rajic's concerns is that Article 21 bans the registration of a religious community using any of the parts of another registered community's name. "This creates in effect a 'trademark' - another church cannot even include Orthodox with a small 'o' in its name," he declared. The religious communities most likely to be affected by this are other Orthodox jurisdictions (though this could also affect Old Catholics and Reform Adventists). Jon Cizmas, the president of the Community of Romanians in Serbia, told Forum 18 on 21 March that they had suggested to parliament an amendment adding the Romanian Orthodox Church as the eighth traditional church, pointing out how long it has existed in the country and that it was recognised during the communist period.

During the long-running consultations over the latest draft, the religious affairs ministry consulted the seven "traditional" faiths, while smaller religious communities also wrote in with their comments, though often these were ignored. "We were not consulted in the drafting of the law," Vladimir Majersky, president of the general representation of the Brethren Church, told Forum 18 on 23 March. "We wrote to Minister Radulovic in January 2006 to point out that we had not been contacted or consulted about it." Another religious group not consulted was the small Hare Krishna community, as Aleksandar Peric complained to Forum 18 on 3 April. Although regarding the latest draft as an improvement on earlier drafts, he questioned why only Christian churches are listed among the "confessional communities". "I believe that if we want to live in a secular society all should have the same rights."

Aca Singer, President of Serbia's Jewish Community, told Forum 18 on 4 April that he is satisfied with the draft as his community is recognised as having equal status with the "traditional churches" and the Muslims. Bishop Istav Cete of the Reformed Church in Serbia told Forum 18 on 31 March that he too is satisfied, adding that the discussions of the draft brought the seven "traditional" faiths closer together. The Evangelical Christian Church, which was consulted although not all of its views were adopted, is "generally" satisfied with the current draft, as Rev. Arpad Dolinski, a superintendent from Subotica, told Forum 18 on 30 March.

Dr Andrija Koprovic, vice-rector of the Catholic theological and catechetical institute in Subotica and a member of the state commission for religious teaching, told Forum 18 on 4 April that the Catholic Bishops' Conference was consulted in the process of drafting the law. "Some of our suggestions were accepted and we should be clear that this draft law was prepared together with other traditional churches and religious communities. We don't have big complaints. Of course, there is no perfect law, but this is probably the best we were able to get."

However, the head of the Catholic Church in Serbia, Archbishop Stanislav Hocevar of Belgrade, objected to the final text of the bill which he said had been changed from the version agreed between the government and the seven "traditional" faiths. He requested on 12 April that parliamentary discussion be delayed until after further consultations.

Even though the new law giving differing status to different religious communities has not been adopted, the differentiation is already in force under other laws, including those on VAT and property taxes, under which "traditional" faiths are exempt from tax, as Dr Zdravko Sordjan, general secretary of the Belgrade-based Centre for Tolerance and Inter-religious Relations, pointed out to Forum 18.

"We have complained to the Constitutional court that laws on property taxes and VAT contradict the Constitution," Damir Porobic, legal representative of the Jehovah's Witnesses, told Forum 18 on 22 March. "The seven traditional churches and religious communities are favoured in comparison to others. If this is what we have now, what should we expect when the new law makes them 'higher' than others?" (END)

For a personal commentary by a religious freedom lawyer arguing that Serbia should not follow Austria's system of dividing religious communities into different categories with differing legal rights, see F18News http://www.forum18.org/Archive.php?article_id=403

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 in 2004 and early 2005 at http://www.forum18.org/Archive.php?article_id=581 and survey of attacks later in 2005 at http://www.forum18.org/Archive.php?article_id=647

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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