



## **Institute on Religion and Public Policy Submission Regarding Religious Freedom and Serbia**

### **Introduction**

(1) The Institute on Religion and Public Policy is an international, inter-religious non-profit organization dedicated to ensuring freedom of religion as the foundation for security, stability, and democracy. The Institute works globally to promote fundamental rights and religious freedom in particular, with government policy-makers, religious leaders, business executives, academics, non-governmental organizations and others. The Institute encourages and assists in the effective and cooperative advancement of religious freedom throughout the world.

(2) On April 20, 2006, the Parliament of Serbia enacted a new law on the Legal Status of Churches and Religious Communities ("Law") which came into force on 7 May 2006. It set forth a number of basic rights and amended the existing regimen of registration of religious communities. This submission provides an analysis of the Law and its implementation by the Serbian authorities to date.

(3) In addition, this submission details human rights concerns regarding violence against minority religious groups in Serbia and the inaction of the government to remedy this situation.

### **I. Analysis of the Law**

#### **Background**

(4) By a letter dated 20 January 2005, Mr. Milan Radulovic, the Minister of Religions of the Republic of Serbia (State Union of Serbia and Montenegro), asked the Council of Europe to provide an expert assessment of the "Draft Law on Religious Organizations in Serbia". The Venice Commission<sup>1</sup> accepted to provide an opinion on this draft law and appointed two experts whose conclusions were endorsed by the Commission on 11-12 March 2005. The draft law was amended pursuant to these conclusions.

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<sup>1</sup> The European Commission for Democracy through Law, better known as the Venice Commission, is the Council of Europe's advisory body on constitutional and legislative matters.

(5) In April 2006, Mr. Ksenija Milivojevic, President of the Committee for European Integration of the National Assembly of Serbia (State Union of Serbia and Montenegro), asked the Council of Europe to provide an expert assessment of the second amended draft of the law entitled "Draft Law on Churches and Religious Organizations in Serbia". The Venice Commission provided an opinion on this draft law and appointed the same expert from Belgium, Mr. Louis-Léon Christians, Rapporteur on this issue. The individual comments made by Mr. Christians were endorsed by the Commission on 9-10 June 2006.

(6) The Council of Europe and the Organization for Security and Co-operation in Europe (OSCE) acknowledged that a number of the suggestions provided by their experts to the Serbian Government in 2005 were reflected in the improved version of the bill presented by the Government to Parliament in March 2006. However, they expressed their concern that a number of shortcomings remained in the approved legislation and some provisions appeared to be inconsistent with standards set by the two organizations, in particular the European Convention on Human Rights, ratified by Serbia and Montenegro in 2004.

(7) The two organizations also noted that the manner in which the legislation was presented by the Government and debated and adopted by Parliament did not allow for a thorough review of the final draft of the law by experts, nor for a full public debate to take into consideration significant concerns raised by various stakeholders in Serbia itself.

(8) Serious objections to the draft bill had been formulated by human rights organizations and minority religious communities in Serbia throughout the whole legislative process. Youth Initiative for Human Rights actively participated in the public discussion by organizing a round table on this topic and formulating amendments to the law. Amendments were also submitted by other NGOs such as the Center for the Development of the Civil Society from Zrenjanin, Belgrade Center for Human Rights, Center for the Improvement of Legal Studies, Women in Black and others. Although the law was partially revised before entering the Parliamentary procedure, many NGO objections were not adopted. These problems which the NGOs warned of occurred after enactment of the Law.

### **Scope of the Rights Conferred by the 2006 Law**

(9) The first main concern regarding the Law is that the rights guaranteed in the text seem to pertain only to religious organizations which are granted entry in the official Register of Churches and Religious Communities.

(10) The Law does not specifically mention that religious organizations which elected not to register or which were denied registration benefit from the rights

conferred by the Law. To the contrary, some specific provisions would indicate that they do not.

(11) Although Articles 1 and 2 have been modified to set some general basic provisions on freedom of religious expression and prohibition of religious discrimination, the Law defines precisely (Article 4) the subjects of the rights conferred:

*"The subjects of religious liberties in regard to this law are traditional churches and religious communities, confessional communities and other religious organisations (hereinafter: churches and religious communities)."*

(12) Article 10 defines "*traditional churches*" as the Serbian Orthodox Church, the Roman Catholic Church, the Slovak Evangelical Church, the Reformed Christian Church and the Evangelical Christian Church and "*traditional religious communities*" as the Islamic religious community and the Jewish religious community.

(13) Article 16 then defines "*confessional communities*" as being those which obtained legal status on the basis of the laws on the legal status of religious communities of the former Republic of Yugoslavia (n° 22/1953 and 44/1977). Religious organizations are not defined in the Law.

(14) Article 9 makes it mandatory for religious organizations to be entered in the official Register of Churches and Religious Communities in order to operate as religious legal entities:

*"Churches and religious communities registered in accordance with this law have the status of legal entity."*

(15) This is of special concern since the system put in place by the 2006 Law is not a system of automatic registration. The authorities keep a discretionary power for granting the entry in the Register of Churches and Religious Communities.

(16) Without the status of legal entities, religious communities are unable to perform basic actions to operate such as acquiring or leasing property and opening bank accounts. This is the reason why, under the previous legislation, some religious groups which were denied registration as religious legal entities registered as associations in order to be able to operate.

(17) The same system applies under the 2006 Law. Article 24 sets forth:

*"For property belonging to churches, religious communities and religious organisations which have been deleted from the Register, the regulations for associations are applicable."*

(18) While the alternative provided is laudable, it should entail that the religious communities unregistered under the Law on Churches and Religious Communities are enabled to pursue religious activities under the regulations on associations. As set forth in the OSCE Office for Democratic Institutions and Human Rights (ODIHR) Background Paper 1999/4 presented at the OSCE Review Conference in September 1999:

*"One of the things that must be born in mind in analyzing religious association laws is that legal systems take rather different views of the question whether religious associations may elect to use secular non-profit entities to carry out their affairs. This is the normal state of affairs in many American states. In Europe there appears to be a much stronger pattern of enacting separate laws addressing religious association law. Most appear to allow religious groups to organize under the auspices of secular association law. Thus, even when the rules governing access to a base-level entity seem fairly restrictive, this may not constitute a human rights violation if a secular non-profit entity is available, **and this vehicle is capable of carrying out the full range of religious activities.**"*

(19) However, the Serbian law does not ensure that religious organizations registered under secular association law can carry out the full range of religious activities. To the contrary, Article 20 of the Law on Churches and Religious Communities provides explicitly:

*"A religious organization registered according to the regulations on associations, which does not submit a request for entry into the Register within one year from the day of this law coming into force will not be considered a religious organisation in accordance with this law."*

(20) Therefore, religious organizations which did not apply for registration as of May 7, 2007 are not considered "religious organizations" under Serbian law and are not encompassed as "*subjects of religious liberties*" pursuant to Article 4 of the Law. They consequently do not benefit from the rights of religious expression and practice guaranteed by the Law.

(21) This is the reason why most religious groups in Serbia filed for registration by May 7, 2007. However, many religious groups were denied entry in the Register due to the discriminatory registration system put in place.<sup>2</sup> Some

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<sup>2</sup> See "Discriminatory Registration" below.

continue to exist as associations but are not supposed to practice religious activities due to the secular nature of their registration (official object of the association). This represents a serious infringement of their right to religious freedom as enshrined in Article 9 of the European Convention on Human Rights (ECHR) and the International Covenant for Civil and Political Rights (ICCPR).<sup>3</sup>

(22) The 2006 Law is flawed by these provisions. According to international standards, the guarantees of freedom of religion are not subordinate to any kind of specific system of registration or religious entities. They must benefit any religious entity without any conditions of affiliation or registration. According to the European Court of Human Rights, the right of believers to freedom of religion, which includes the right to manifest one's religion in community with others, encompasses the expectation that believers will be allowed to associate freely, without arbitrary State intervention.<sup>4</sup>

(23) As the OSCE explained in the above mentioned ODIHR Background Paper 1999/4:

*"A few OSCE participating States, perhaps as a relict of their socialist past, do require registration as a condition for operating as a religion. These constraints appear to be a holdover from an earlier period, and are not consistent with the best contemporary human rights practices. Such requirements may impose limitations on the activity of religious groups, and as explained before, in States that are parties to the above-mentioned instruments these requirements can be justified only if they meet the tests set forth in the relevant limitation clauses (e.g., Article 18(3) of the ICCPR, and Articles 9(2) and 11(2) of the ECHR). Even if a legitimating ground can be found (such as protecting public order), it is difficult to imagine that there is a pressing social need for registration that is compelling enough to make proscribing protected religious conduct a "proportionate" response. Moreover, it is difficult to say that registration of small informal groups is "necessary in a democratic society" when the unanimous experience in most democracies is to the contrary. In most cases, such registration requirements typical operate to penalize law-abiding groups and to drive others underground. Any social gains are at best marginal, but the costs to religious freedom are substantial."*

(24) The provisions of the 2006 Law on Churches and Religious Communities do not ensure the rights of religious groups which elected not to register or were denied registration. For Serbia to comply with its international commitments, it is

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<sup>3</sup> The ECHR was ratified by Serbia in 2004 and the ICCPR was ratified in 2001 by succession to the former Federal Republic of Yugoslavia

<sup>4</sup> *Metropolitan Church of Bessarabia v. Moldova*, 13 December 2001, § 118

the responsibility of the Serbian authorities to interpret the Law as implying the same rights to freedom of religious beliefs and practice for those communities.

### **Discriminatory Registration**

(25) The second main concern about the Law is that the registration system put in place discriminates against minority denominations.

(26) Some amendments were laudably made to the final version of the 2006 Law in an effort to bring it into better compliance with international human rights standards. The earlier 2005 draft provided for automatic recording of "*traditional churches*" and "*traditional religious communities*" in the Register pursuant to the "*recognized continuity of their legal subjectivity*". The final version of the 2006 Law requires all churches, religious communities and religious organizations to register or re-register. However, in spite of the assertion that Churches and religious communities "*are equal before the law*" set forth at Article 6, the registration procedure is discriminatory for minority religions.

(27) The status of "*traditional churches*" and "*traditional religious communities*" are maintained in the new Law based on their "*historical continuity*" (Articles 11 to 15), due to the long standing legal status they obtained under previous laws. This is supposed to justify their submission to a much less demanding procedure of re-registration than "*confessional communities*" or "*other religious organizations*" under Article 18 of the Law.

(28) Article 11 especially acknowledges the preeminence of the Serbian Orthodox Church, which is said to have "*played an exceptional historical, nation-building and civilizing role in the shaping, preservation and development of the identity of the Serbian people*". Articles 12 to 15 recognize the historical continuity of the Roman Catholic Church, the Slovak Evangelical Church, the Reformed Christian Church and Evangelical Christian Church, as well as the Jewish and Islamic Communities. They used to be registered under specific laws granting them legal status.

(29) "*Confessional Communities*" are defined in Article 16 as those which were granted legal registration under the general laws on religious communities of former Yugoslavia (e.g. Baptists, Adventists and Jehovah's Witnesses). Contrary to "*traditional churches*" and "*traditional religious communities*", confessional communities are not recognized as having "historical continuity".

(30) This classification is very arbitrary according to the NGO Youth Initiative for Human Rights in Serbia as noted in its 2007 Report:<sup>5</sup>

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<sup>5</sup> See Report "Youth Initiative for Human Rights, Justice Program, April 25, 2008", p. 40-60.

*"The Ministry of Religion, as the petitioners of the legal text, have never explained the criteria on which such a division was made. Many were left out from the list of traditional religious communities which the law of the Federal Republic of Yugoslavia used to acknowledge.<sup>6</sup> Many of them operated legally even before World War II."*

(31) Based on this arbitrary classification, and even though in principle all Churches and Religious Communities need to re-register under Article 18 of the new Law, "*traditional churches*" and "*traditional religious communities*" need only present a simplified application containing their name, address of their headquarters and names of their representatives.

(32) On the contrary, "*confessional communities*" and "*other religious organizations*" have to provide extensive documentation and requirements:

- A founding memorandum signed by at least 0,001% of adult citizens of Serbia or foreign citizens residing in Serbia;
- A statute containing a description of their organizational structure and methods of governance;
- A summary of the essentials of their religious teachings, ceremonies, goals and basic activities; and
- Information on the sources of their funding.

(33) These provisions pose problems in light of international human rights standards.

### **Restrictive Requirements**

(34) The fact that the Law sets forth more restrictive requirements for the registration of minority denominations is in itself discriminatory.

(35) Both Article 18 ICCPR and Article 9 ECHR enshrine a prohibition of discrimination of minority religious groups. The United Nations Human Rights Committee found in its General Comment 22 on Article 18 ICCR:

*"The fact that a religion is recognized as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents to other religions or non-believers. In particular, certain measures discriminating against the latter, such as measures restricting eligibility for government service to*

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<sup>6</sup> For example, the Adventist Church was registered in 1992, and the Baptist Church in 1927.

*members of the predominant religion or giving economic privileges to them or imposing special restrictions on the practice of other faiths, are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under article 26."*

(36) Submitting minority denominations to more restrictive requirements for registration - when this registration is mandatory for the granting of a legal entity status with all the basic subsequent rights – is in direct violation of the above mentioned principles.

(37) As the OSCE reminded in its Guidelines for the Review of Legislation pertaining to Religion and Beliefs:

*"OSCE commitments have long recognized the importance of the right to acquire and maintain legal personality.<sup>7</sup> Because some religious groups object in principle to State chartering requirements, a State should not impose sanctions or limitations on religious groups that elect not to register. However, in the contemporary legal setting, most religious communities prefer to obtain legal personality in order to carry out the full range of their activities in a convenient and efficient way. Because of the typical importance of legal personality, a series of decisions of the European Court of Human Rights recognized that access to such a status is one of the most important aspects of the right to association,<sup>8</sup> and that the right to association extends to religious associations. Undue restrictions on the right to legal personality are, accordingly, inconsistent with both the right to association and freedom of religion or belief<sup>9</sup>.*

(38) Pursuant to international human rights standards, the non-discrimination requirements are more demanding for the granting of such basic rights as registration than for the granting of "upper tier" support such as financial aid.

(39) The ODIHR Background Paper 1999/4 presented at the OSCE Review Conference in September 1999 explained this issue very clearly:<sup>9</sup>

*"So long as base level entities have the full measure of freedom to carry out their affairs - a vital caveat - it seems unlikely that the differential treatment accorded "upper tier" entities will be held to violate core international religious freedom standards. It is of course important that such "upper tier" schemes be implemented in ways that are sensitive to*

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<sup>7</sup> See, for example, Principle 16(c) of the Vienna Concluding Document.

<sup>8</sup> *Sidiropoulos v. Greece* (1998); *United Communist Party of Turkey v. Turkey* (1998); *Gorzelik v. Poland*, § 55 (2001).

<sup>9</sup> "Freedom of religion or belief: Laws affecting the structuring of religious communities" by Cole Durham



*the rights and equality concerns of smaller religious groups. But given the prevalence of such systems, and the importance of the consensus in OSCE affairs, it is reasonable to expect that the OSCE commitments requiring that "communities of believers [be given] ... recognition of the status provided for them in their respective countries" will be deemed to be satisfied by granting access to "base level" entities."*

(40) Under the Law, the State can provide financial aid to some churches or religious communities (Articles 28 and 36). The Law provides no detail regarding criteria that should be used for financial aid, which impermissibly leaves the matter to the discretion of the Serbian authorities. Even if differential treatment is permitted, allotment should still be done in a fair and objective manner.

(41) On the other hand, registration represents the base level status allowing religious entities to carry out their affairs fairly. No differential treatment should be applied in this regard. This is not the case with the 2006 Law which does not conform to international human rights standards: the restrictive requirements set out in the Law for the registration of certain categories of religious organizations have resulted in hindering their very existence.

(42) Some confessional communities, which had been officially registered for years prior to the new Law, have been refused re-registration on the basis of the discriminatory criteria detailed below.<sup>10</sup>

### **High Minimum Membership**

(43) The 2005 draft of the Law required the signature of 700 adult members for the registration of "*new religious organizations*". As the expert appointed by the Venice Commission reported in his Comments on the draft law of 27 April 2006:<sup>11</sup>

*"The number of believers is lower than previously (1/100.000) and takes into account not only citizens but also permanent residents. But it remains unclear how to conciliate the requirement of individual signatures (Art. 20) with the general freedom of not to be coerced to declare his religion (Art. 2)."*

(44) Indeed, the first concern with this provision relates to the forced disclosure of one's religious beliefs. As Youth Initiative indicated in its 2007 report:

*"Except for putting religious communities into an unequal position, this article also breaches the constitutional stipulation which forbids the*

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<sup>10</sup> See the case of Adventists and Jehovah's Witnesses below.

<sup>11</sup> Opinion no. 379 / 2006 by Mr. Louis-Léon CHRISTIANS (Expert, Belgium)

*forcing of the citizens to declare their religious preferences.<sup>12</sup> This constitutional stipulation has been betrayed, because a large number of people are forced to declare their religious preferences in order for their community to be registered. In addition, the data requested from the citizens look more like police files than a registry of religious communities. Minority religious communities expressed concern that these data would be used for the purposes of the police, having in mind the earlier behavior of police officials."*

(45) This provision entails a violation of the *forum internum* necessary to meet the Law requirements for registration, which is not compatible with international human rights norms.

(46) As the ODIHR Panel of Expert provided in the OSCE Guidelines for the Review of Legislation pertaining to Religion and Beliefs:

*"The key international instruments confirm that "everyone has the right to freedom of thought, conscience and religion." In contrast to manifestations of religion, the right to freedom of thought, conscience and religion within the forum internum is absolute and may not be subjected to limitations of any kind. Thus, for example, legal requirements mandating involuntary disclosure of religious beliefs are impermissible."*

(47) The second concern is that, as stated in the same Guidelines: *"High minimum membership requirements should not be allowed with respect to obtaining legal personality"*.

(48) Although the requirement of 700 signatures has been laudably lowered to the signatures of 1/100.000 of adult citizens of Serbia in the final version of the Law, this still represents the necessity of gathering the signatures of around 100 members for a religious group to be able to apply for registration.<sup>13</sup> Thus, newly-founded religious communities with less than 100 members are deprived of the right to be registered as legal entities: they will not be able to open bank accounts in this quality, to purchase property, build churches, protect their rights in legal proceedings, own assets or have paid staff or ministers. This does not meet international human rights standards.

(49) The ODIHR Panel of Expert stated in the above mentioned Guidelines:

*"Turning to statutory schemes that govern formal grant of entity status, the first issue is the number of individuals required to create a legal entity. In most countries, the number is very small. In a typical American state,*

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<sup>12</sup> Constitution of the Republic of Serbia, article 43 line 2

<sup>13</sup> The population of Serbia is around 10.150.000 inhabitants.

*no more than three founders would be necessary. European countries often require a somewhat larger number of founders for religious associations than for other non-profit organizations. Whereas two to five founders is often sufficient for secular NGOs, religious associations usually require ten or more.(...)*

*More troublesome are countries that require substantially larger numbers. The Czech Republic requires 300 members, as does the 1997 Austrian law. For smaller religious organizations, this is a very substantial number, particularly since it is presumably only adult members who can be counted. It is particularly problematic for religious traditions that take a congregational approach to church polity, and prefer to maintain smaller and more intimate congregations. In such a tradition, it may be impossible as a matter of religious practice to have a religious association that crosses the 300-member threshold."*

(50) The Law, by setting a minimum of 100 signatures for unrecognized minority religions to apply for registration, actually prevents them from obtaining registration and the basic rights that follow from it. Religious communities newly established in Serbia as well as denominations organized in small congregations are therefore deprived of the possibility to become legal entities and to conduct their affairs fairly. The Law thereby contravenes international human rights standards and should be amended accordingly.

### **Violation of the Duty of State Neutrality**

(51) Article 18 of the Law requires Confessional Communities and Other Religious Organizations to provide a summary of the essentials of their religious teachings, religious ceremonies, religious goals and basic activities.

(52) If this information is required so that the authorities can assess the validity of the beliefs or activities of the religious communities, this is not acceptable under international human rights norms. Both the ICCPR (Article 18) and the ECHR (Article 9) imply that legal requirements mandating involuntary disclosure of religious beliefs are impermissible. Also, the OSCE Guidelines for Review of Legislation Pertaining to Religion or Belief provide "*In general, the neutrality requirement means that registration requirements that call for substantive as opposed to formal review of the statute or charter of a religious organization are impermissible.*"

(53) In furtherance of the policy of "true religious pluralism", the European Court of Human Rights has instructed governments "to remain neutral and impartial" and has been loathe to accept any restrictions on religion, viewing any contested

measures with "strict scrutiny".<sup>14</sup> The Court has also criticized and struck down measures that vest officials with "very wide discretion" on matters relating to religion.<sup>15</sup> In criticizing broad discretion in one case, the Court held that:

*"the right to freedom of religion as guaranteed under the Convention excludes any discretion on the part of the State to determine whether religious beliefs or the means used to express such beliefs are legitimate."*<sup>16</sup>

(54) Instead, the Court has determined that officials should be limited to verifying "*whether the formal conditions laid down are satisfied*". The Court has also emphasized:

*"in exercising its regulatory power in this sphere and in its relations with various religions, denominations and beliefs, the State has a duty to remain neutral and impartial"; this duty of neutrality "excludes assessment by the State of the legitimacy of religious beliefs or the ways in which those beliefs are expressed."*<sup>17</sup>

(55) Thus, with respect to religious registration laws, the State may not be vested with the discretion to ban religions based upon the untraditional character of their beliefs.

(56) As the UN Human Rights Committee found in its Comment n° 22 on Article 18 ICCPR:

*"Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms "belief" and "religion" are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community."*

(57) In order to comply with the foregoing human rights standards, Article 18 of the 2006 Serbian Law must be construed very narrowly. The "*summary of the essentials of the religious teachings*" should be interpreted as meaning a mere

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<sup>14</sup> *Manoussakis v. Greece*, § 44.

<sup>15</sup> *Manoussakis*, § 45.

<sup>16</sup> *Manoussakis*, § 47; *Metropolitan Church of Bessarabia v. Moldova*, § 117.

<sup>17</sup> *Metropolitan Church*, § 116-117.

indication of the source of the religious teachings performed. Requiring greater detail on the religious beliefs involved would represent a violation of the *forum internum* allowing improper evaluation of religious teachings or beliefs which States are prohibited to do. In this regard, the construction of these provisions by the Serbian authorities responsible of the process of the applications is decisive.

(58) Unfortunately, practice has shown that the authorities rejected applications on the basis of an evaluation of religious beliefs. Youth Initiative stated in their 2007 report:

*"The Hindu Vishnu Community and Jehovah's Witnesses were referred to the Ministry for State Administration and Local Self Management, where they would be registered as citizens associations. In the conclusion of the denial of registration of the Vishnu community, it is stated that in the submitted statute this religious community is defined as a "citizen's religious community," which "studies the Veda philosophy and culture".<sup>18</sup> The minister concludes that it is "logical because of this formulation for it to be registered according to the Law on Associations, and not the Law on Churches and Religious Communities". In the end, the Minister of Religion Radomir Naumov points to the representatives of the Vishnu community that they do not have to register, and that the Rules on the content and way of leading the Register of churches and religious communities allows this."*

(59) The Ministry for State Administration refused to register these religious communities so they will have to operate unregistered. This represents a serious impairment of their right to practice freely their religion and a worsening of the situation in Serbia since the Jehovah's Witnesses used to be registered under the previous laws of the Federal Republic of Yugoslavia. The Serbian authorities must change their practice in order to comply with the international commitments of Serbia as only a formal review of the statute or charter of the applicant religious organization is permissible.

### **Protection of Registered Communities**

(60) Another issue raised by the 2006 Law is that Article 19 provides:

*"No religious organization may be entered into the Register whose name contains a name or part of a name expressing the identity of a Church, religious community or religious organisation which is already entered in the Register or which has already submitted an application for entry first."*

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<sup>18</sup> Conclusion of the Minister for Religion of 10 July 2007

(61) According to Youth Initiative in their 2007 report, the aim of this stipulation was to prevent the registration of those churches which the Serbian Orthodox Church does not recognize (such as the Montenegrin or Macedonian Orthodox Church). However, adhering strictly to this article, the Ministry has rejected a large number of applications for registration. Youth Initiative noted that:

*"In this way, the Christ's Church of the Baptized and the Union of the Reform Movement of Adventists of the Seventh Day (hereinafter the Union), were rejected because two churches with similar names have already been registered. According to a priest of the Union, it did not help that the Adventist Church had announced that they have nothing against the registration of the Union."*

(62) The European Court of Human Rights has ruled in such instances that the State must remain neutral and impartial. Thus, in *Metropolitan Church of Bessarabia v. Moldova*, 13 December 2001, the Court found the refusal to register the Metropolitan Church of Bessarabia, an Orthodox Church of the Republic of Moldova autonomous from the Moldovan Orthodox Church, violated the State's duty of neutrality:

*"However, in exercising its regulatory power in this sphere and in its relations with the various religions, denominations and beliefs, the State has a duty to remain neutral and impartial (...). What is at stake here is the preservation of pluralism and the proper functioning of democracy, one of the principle characteristics of which is the possibility it offers of resolving a country's problems through dialogue, without recourse to violence, even when they are irksome (...). Accordingly, the role of the authorities in such circumstances is not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other." (§ 116)*

(63) The Court restated these findings in a 16 December 2004 decision about the measures adopted by the Bulgarian authorities to favor a particular leader of the Muslim community (*Case of Supreme Holy Council of the Muslim Community v. Bulgaria*):

*"The Court reiterates, however, that in democratic societies the State does not need in principle to take measures to ensure that religious communities remain or are brought under a unified leadership. (...) State measures favouring a particular leader of a divided religious community or seeking to compel the community, or part of it, to place itself under a single leadership against its will would constitute an infringement of the freedom of religion." (§ 96)*

(64) In the case of the Serbian Law, the prohibition of registration of religious organizations with names having words in common with the names of already registered churches, religious communities or organizations constitutes an interference of the State in Church matters and an infringement of the duty of State neutrality. It violates the freedom of religion of the religious organizations which are denied registration on this basis.

### **Prejudiced Decisions of Denial**

(65) The registration process is also flawed by Article 20 of the Law which states:

*"In making a decision on a request for entry in the Register, the Ministry will also take into account the decision of the European Court of Human Rights, as well as administrative or judicial decisions regarding the registration or activities of a specific religious organisation in one or more member states of the European Union."*

(66) There is a concern that negative decisions on registration from other European countries might not comply with international human rights standards. As Youth Initiative commented in their 2007 report:

*"Such a solution is quite unusual and there is no reason why it should be entered into the law. This especially when it is known that there is no uniform policy of the European Union on this issue, but that it is left to the member states themselves. The practice of the countries of the European Union on the legal position of religious communities very much differs, and there is a justified fear that the Ministry could implement it arbitrarily, and even use the solutions of the most conservative legal orders (such as, for example, that of Greece)."*

(67) Taking into account judicial decisions regarding the activities of a specific organization may also lead to arbitrary denials of registration. It would be entirely disproportionate to deny the most basic rights to an entire denomination on the basis of isolated acts committed in another country by individuals from within another denomination of the same faith.

### **Collusion of the Law with Canon Law**

(68) The final concern with the 2006 Law is that there is a collusion of State law with canon law and ecclesiastical decisions. The Law asserts the autonomy of Churches and religious communities which *"have the right to independently determine and implement their own order and structure and to independently engage in their internal and public affairs"*. (Article 6)

(69) However, Article 7 provides:

*"The state may extend appropriate assistance in the execution of legally-binding decisions and judgments issued by the relevant authorities of churches and religious communities, at their request, in accordance with the law."*

(70) This provision implies that some decisions or judgments adopted by churches or religious communities can have a legally binding effect and that the State can have these enforced. This provision contradicts the assertion of the separation of Church and State set forth at Article 6:

*"Churches and religious communities are independent of the state and are equal before the law."*

(71) As the OSCE stressed, there is a need for a more precise definition of the legal status of canon laws and ecclesiastical decisions. Other concerns are raised by this provision, as noted by the expert of the Venice Commission in his 2006 comments:

*"It is not clear to which extent this provision is compatible with the individual religious freedom of clergy and clerics. In some hypothesis, confirmed by the case law of the European Commission of Human Rights, these individuals must be free to choose apostasy or exit instead of submission to a State enforcement of the canons of a Church."*

*Other issues concern the extent of a State judicial review of these ecclesiastical decisions in order to evaluate their conformity with the European Convention itself. In particular when some Church decisions have to be enforced by the State, the European Court of Human Rights has sometimes considered that the principle of Church autonomy have to be balanced with other human rights (see Pellegrini v. Italy, Appl. N° 30882/96, Judgment, 20 July 2001)."*

(72) In this instance, the Court considered that the Italian courts breached their duty of satisfying themselves, before authorizing enforcement of the Roman judgment, that the applicant had had a fair trial in the proceedings under canon law.

## **II. Violence against Minority Religious Communities in Serbia**

### **Overview**



(73) There are disturbing reports by NGOs regarding the fueling of religious hatred by some Serbian officials and the reluctance of Serbian authorities to take strong action against those who perpetrate religious hate crimes in order to discourage such conduct in the future.

(74) Forum 18 News Service noted in its 2007 annual survey:<sup>19</sup>

*"The number of attacks on Serbia's religious communities appears to continue to be declining. However, the attacks themselves seem to be becoming more violent and, as in previous years, members of religious minorities are especially likely to be attacked. The police continue to be apparently unwilling to protect members of religious minorities or religious sites at risk of attack – even if they have already been attacked. Members of religious minorities have in the past year been beaten and stabbed, and places of worship have been the targets of arson attacks. Places of worship of the Orthodox Church have occasionally been robbed, but the vast majority of attacks have been on Protestant, Catholic, Muslim, Jewish, Jehovah's Witness and other religious minority individuals and property."*

(75) As in previous years<sup>20</sup>, few of those who attack religious minorities are ever identified. Zivota Milanovic, the only Hare Krishna devotee in Jagodina, has been the victim of repeated stabbing attacks from July 2005 without the police taking any effective action to identify and punish the perpetrator. Forum 18 reports that nine months after the Evangelical church in Kraljevo and the Adventist church in Stapari were attacked with Molotov cocktails, police have still not found the attackers, despite calls on the police to do so by Serbia's President Boris Tadic.

(76) Religious minorities have complained that even when perpetrators are identified, charges – if any – are often minimal, especially if the attackers are young people. Police and the courts often respond that "the kids were drunk" and the attackers usually end up with just a small fine.

(77) Muhamed Zukurlic, the Mufti of Sandzak and leader of Serbia's Muslim community, complained, during a program on the Belgrade television station B92 of five death threats between December 2006 and March 2007 which forced him to start using a private bodyguard – since the police did not find it necessary to offer protection.

(78) The President of the main board of the Christian Adventist Church Miodrag Zivanovic stated to Youth Initiative that the attacks had intensified during 2007, and that the most frequent targets were their temples in Sombor, Sivic, Kikinda,

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<sup>19</sup> See their 2007 report: [http://www.forum18.org/Archive.php?article\\_id=1030](http://www.forum18.org/Archive.php?article_id=1030)

<sup>20</sup> See report 25 September 2006: [http://www.forum18.org/Archive.php?article\\_id=845](http://www.forum18.org/Archive.php?article_id=845)

Novi Sad, Backa Palanka, Belgrade and Ruma.<sup>21</sup> The Adventist temple in the village of Stapari in the Sombor municipality was set on fire on 8 January 2007.<sup>22</sup> The Adventist temples in Novi Sad,<sup>23</sup> Kikinda and Sombor were stoned.<sup>24</sup> On the building of the Adventist Church in Belgrade, posters were hanged which stated: *"Sects are death to the Serbian nation"*.<sup>25</sup>

(79) Frequent attacks against Adventists and other religious communities in Serbia were harshly criticized by NGOs. The Center for the Development of Civil Society from Zrenjanin stated: *"If the perpetrators are not apprehended in the shortest possible period of time, it will be clear that the authorities are not willing to protect the equality of citizens before the law, or religious freedoms"*.<sup>26</sup> The police arrested the perpetrators, but they were accused of misdemeanors and no criminal charges were held against them.<sup>27</sup> Youth Initiative notes in its 2007 report:

*"Other minority churches were also targeted. A graffiti saying "Stop the Sects" was written on the Evangelist Church in Kraljevo."*<sup>28</sup> *The church was also targeted in late 2006, when the windows of the church were stoned. Two foreign citizens, the members of the Jehovah's Witnesses, were attacked in Sremska Mitrovica and held against their will in an apartment under the threat of a gun."*<sup>29</sup> *The police filed criminal charges against the perpetrator Miroslav M, but he attacked the same person 12 days later."*<sup>30</sup> *Marija Arsenijevic from Velika Plana was denied custody over her child after her divorce, with the explanation that she was a member of the*

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<sup>21</sup> Interview of Miodrag Zivanovic of 8 November 2007

<sup>22</sup> See transcript of the program *An Adventist church set on fire*, B92 8 January 2007 available at the website: [http://www.b92.net/info/vesti/u\\_fokusu.php?id=26&start=375&nav\\_id=226618](http://www.b92.net/info/vesti/u_fokusu.php?id=26&start=375&nav_id=226618)

<sup>23</sup> *New attack on the Adventists*, B92, 29 March 2007 available at the website: [http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=03&dd=29&nav\\_category=12&nav\\_id=239089](http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=03&dd=29&nav_category=12&nav_id=239089)

<sup>24</sup> *Adventists under attack again*, B92, 19 March 2007 available at the website: [http://www.b92.net/info/vesti/u\\_fokusu.php?id=26&start=300&nav\\_id=237190](http://www.b92.net/info/vesti/u_fokusu.php?id=26&start=300&nav_id=237190)

<sup>25</sup> *Posters on an Adventist church*, B92, 10 July 2007 available at the website: [http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=07&dd=10&nav\\_category=12&nav\\_id=254656](http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=07&dd=10&nav_category=12&nav_id=254656)

<sup>26</sup> *Stop the attacks on the Adventists*, B92, 11 July 2007 available at the website: [http://www.b92.net/info/vesti/u\\_fokusu.php?id=26&nav\\_id=244566&start=210](http://www.b92.net/info/vesti/u_fokusu.php?id=26&nav_id=244566&start=210)

<sup>27</sup> *A window broken on a priest's house*, B92, 20 July 2007 available at the website: [http://www.b92.net/info/vesti/u\\_fokusu.php?id=26&nav\\_id=256178&start=195](http://www.b92.net/info/vesti/u_fokusu.php?id=26&nav_id=256178&start=195)

<sup>28</sup> *Stop sects on a church*, B92, 17 September 2007 available at the website: [http://www.b92.net/info/vesti/u\\_fokusu.php?id=26&start=150&nav\\_id=263845](http://www.b92.net/info/vesti/u_fokusu.php?id=26&start=150&nav_id=263845)

<sup>29</sup> *Attack on Jehovah's witnesses*, B92, 29 March 2007 available at the website: [http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=03&dd=29&nav\\_id=239106&nav\\_category=12](http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=03&dd=29&nav_id=239106&nav_category=12)

<sup>30</sup> *Another attack on a Jehovah's witness*, B92, 11 April 2007 available at the website: [http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=04&dd=11&nav\\_category=12&nav\\_id=241361](http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=04&dd=11&nav_category=12&nav_id=241361)

*Jehovah's Witnesses and therefore unfit for parenting.<sup>31</sup> In Novi Sad, a window was broken in the house where the priests of the Christian Reformation Church live during the night of 18-19 July 2007.<sup>32</sup> The property of the Jewish community are also often under attack.<sup>33</sup> The Council of Jewish Municipalities has addressed a protest letter to the organizers of the Belgrade Book Fair, because anti-Semitic literature was sold on the stands freely."<sup>34</sup>*

(80) The atmosphere of violence and intolerance towards the members of minority religious communities is reflected through the behavior and reactions of some representatives of government institutions. Some state officials openly incite fear of minority religious communities, by denigrating them as "sects" and attributing to them the rituals and behavior of Satanist cults.

(81) One of the most active in making such public statements is the police captain, Chief Inspector of the Police Administration in Belgrade and lecturer at the College of Internal Affairs Zoran Lukovic. Because of the outrageous and unfounded accusations stated in Lukovic's book "Sects — a manual for self-defense" (which is also a textbook in the College of Internal Affairs)<sup>35</sup>, in which members of small religious communities are accused of murder, rape, prostitution, inducing young people to take drugs and alcohol and the like, Youth Initiative brought criminal charges against Lukovic in 2005 for inciting religious hatred. Unfortunately, the District Prosecutors Office dismissed the charges as unfounded.<sup>36</sup>

(82) The murders committed in Novi Banovci in August 2007 are a striking example of the way police and media incite religious hatred. The murders committed by an emotionally disturbed man were used to accuse the minority religious communities in Serbia of being dangerous, and to create an atmosphere of fear within the population.

(83) Youth Initiative commented on the serious consequences for religious minorities in Serbia:

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<sup>31</sup> Slobodan Kostic: *Baby separated from its mother because of religion*, Radio Free Europe, 17 August 2007 available at the website:

<http://www.slobodnaevropa.org/content/None/712499.html>

<sup>32</sup> A window broken on a priest's house, see 291

<sup>33</sup> Insulting graffiti on a Synagogue, B92, 19 April 2007 available at the website:

[http://ds123.xs4all.nl/info/vesti/index.php?yyyy=2007&mm=03&dd=19&nav\\_id=237241](http://ds123.xs4all.nl/info/vesti/index.php?yyyy=2007&mm=03&dd=19&nav_id=237241)

<sup>34</sup> Judgement of anti-Semitic publications, B92, 26 October 2007 available at the website:

[http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=10&dd=26&nav\\_id=269630](http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=10&dd=26&nav_id=269630)

<sup>35</sup> Zoran D. Lukovic: *Religious sects, a manual for self-defence*, Belgrade, 2000

<sup>36</sup> Letter by the District Prosecutors Office in Belgrade on the dismissal of charges from 9 September 2005

*"Such statements caused everyday media texts some of which were titled: "The Satanists ordered him: kill the Serbs"<sup>37</sup>, "Satanists on a rampage in Serbia"<sup>38</sup>, "A Satanist feast takes two lives"<sup>39</sup> and the like.*

*The consequences of such reports of the media on the crime in Novi Banovci are multiple. Mass hysteria and fear ensued, the citizens of Serbia locked themselves in their houses. The heads of the local communities of Novi Banovci, Banovci Kablar, Surduk and Belegis, which belong to the Stara Pazova Municipality, asked for a non-scheduled session of the Municipal Assembly, and special protective measures.<sup>40</sup> The parliamentary party NS asked for the banning of the work of "suspicious religious communities" and the responsibility of the Belgrade authorities for renting the "Pionir" sports hall for the promotion of Jehovah's Witnesses.<sup>41</sup> Changes and amendments of the Law on Churches and Religious Communities were also requested, in order to ban the operation of the mentioned religious communities, which would diminish the achieved level of human rights, especially the right to the freedom of religious confession.<sup>42</sup> Furthermore, fear has entered the lives of the members and priesthood of the minority religious communities, because of the fear that attacks on them will be intensified.<sup>43</sup> A neo-Nazi organization called "Nacionalni stroj" and their leader Goran Davidovic called "The Firer" set for 7 October 2007 in Novi Sad a gathering against sects, autonomism, separatism and divisions."<sup>44</sup>*

(84) No evidence was found in the investigation which ever connected the murderer to so-called "sects".

(85) In 2007, Youth Initiative conducted research on the actions initiated by the prosecution and the courts to sanction the instigating of national, religious and racial hatred or intolerance. Using the right of free access to information, they submitted requests to all the District prosecutors' offices and courts in Serbia. From the answers that they received, they drew the following figures: during 2006 and in the first quarter of 2007, 84 criminal charges were established for instigating racial, religious and national hatred or intolerance. Yet, prosecutors

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<sup>37</sup> Mirjana Stojadinovic: *Satanists ordered him: kill the Serbs*, Pravda, 3 September 2007

<sup>38</sup> *Satanists on a rampage in Serbia*, see 41

<sup>39</sup> *Satanistic feast took two lives*, Dnevnik, 3 September 2007

<sup>40</sup> B. Milic: *Fear locks houses*, Vecernje novosti, 6 September 2007

<sup>41</sup> *NS: Ban the work of suspicious religious organizations*, Pravda, 5 September 2007

<sup>42</sup> *Ibid*

<sup>43</sup> Interviews of representatives of minority religious communities by Youth Initiative's researchers of November 2007

<sup>44</sup> *Ban the gathering of neo-Nazis*, B92, 25 September 2007, available at the website: [http://www.b92.net/info/vesti/u\\_fokusu.php?id=26&start=135&nav\\_id=264986](http://www.b92.net/info/vesti/u_fokusu.php?id=26&start=135&nav_id=264986)

only filed 10 indictments. During 2004 and 2005, 66 criminal charges were established, and eight indictments were filed.

(86) Youth Initiative drew the following conclusions in their 2007 report:

*"Even though the number of processed cases for instigating racial, religious and national hatred is rising, that is still not sufficient for the prevention of this kind of practice in Serbia. The District Prosecutors Offices must pay more attention on instigating hatred, especially because this criminal act is prosecuted ex officio.*

*The punitive policy of the courts in Serbia is too mild. For a criminal act for which a penalty of six months to five years in prison is anticipated (for its basic form), parole sentences and measures of intensified supervision are being prescribed. Such punitive policy degrades the general prevention of such acts.*

*The fact that the prosecutors are not raising indictments for this criminal act is worrying, even when obvious incriminating behaviour is in question. In this manner, setting fire to a mosque in Nis in 2004 was characterized as involvement in a group practicing violence, and other neo-Nazi manifestations have similar treatment. Such behaviour of the prosecution must be changed immediately, because they are sending a message to the public that the authorities do not have the intention to deal with spreading national, religious and racial hatred, nor to obey the law."*

### **Attacks on Human Rights Defenders**

(87) Human rights organizations have been a particular target of extremists in Serbia in 2007. The most targeted ones were the heads of the Humanitarian Law Center, Lawyers Committee for Human Rights — YUCOM and the Helsinki Board for Human Rights: Natasa Kandic, Biljana Kovacevic Vuco and Sonja Biserko. Representatives of these organizations were physically attacked, such as Youth Initiative for Human Rights.

(88) Ms. Hina Jilani, the Special Representative of the Secretary General of the United Nations, has noted the hostile atmosphere towards the defenders of human rights as one of the most dangerous issues regarding the position of civil society in Serbia.<sup>45</sup> Ms. Jilani pointed out that the representatives of the authorities do not wish to deal with this issue, or to give legitimacy to the fighters for human rights through public support. Here is the statement on her visit to Serbia on 17 September 2007:

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<sup>45</sup> The official statement of Hina Jilani from 19 September 2007 is available on the website: <http://www.frontlinedefenders.org/node/1179>

*"The Special Representative takes note of the vibrant and active human rights community in Serbia. Their expertise and knowledge in human rights, including the ability to use the international and regional human rights mechanisms, are unquestioned. She observes that the freedom of human rights defenders to operate has certainly improved since the Milosevic era. However, despite the positive changes pointed out above, the environment for the work of human rights defenders has yet to be improved to an extent where they can carry out their activities with safety and facility. It is regrettable that the very organizations that have been in the forefront of the Serbia's human rights movement are targeted for marginalization and criticism by some quarters of the Government. This core group of NGOs prepared the ground for other human rights organizations which are now functioning in the country and do important human rights work in areas, such as legal aid, discrimination, lesbian, gay, bisexuals, transgender and inter-sexual (LGBTI) rights, women's rights, minority rights, disability, human rights education, etc.*

*One of the major concerns of the Special Representative is the hostile attitude against the core group of human rights NGOs and prominent defenders, mostly women, who are under constant attack, mainly in the media. This acrimony against defenders appears to be linked to their work on transitional justice and minority rights. These are issues that some sectors of the political establishment are not willing to address.*

*This stigmatization of defenders, which portrays them as "enemies" of the country, is not countered by supportive statements of State authorities that would give them legitimacy. Firm stands of State authorities would contribute significantly to give to the defenders' community recognition and protection."*

(89) One of the attacks on Youth Initiative happened on 11 July 2007, during the action of the commemoration of the genocide in Srebrenica. The activists of Youth Initiative were displaying posters in Nis on which it was written: "*Mladic to the Hague*".<sup>46</sup> Two citizens started to swear and provoke the activists. Others joined them. They physically attacked the activists, took the posters away from them and destroyed them. An activist was hit in the head and throughout the entirety of the attack people from the surrounding buildings threw eggs at the activists. The police apprehended one of the attackers but did not bring any charges against him. Youth Initiative reported all the threats they received to the police.<sup>47</sup> They stated that threats appear mostly on websites of neo-fascist

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<sup>46</sup> Interviews of activists Radojica Buncic and Ivana Ilic and report on the incident of 13 July 2007 are available at Youth Initiative

<sup>47</sup> All the threats are filed in the documentation of Youth Initiative. The most prominent in threats is the national-socialistic organization Stormfront. All the materials on this obscure and sparse, but very active organization can be found on the website: [www.stormfront.org](http://www.stormfront.org)



groups registered outside of Serbia, or are sent from e-mail addresses accessible to a large number of people.

(90) For the commemoration of the International day of human rights, on 10 December 2007, a group of NGOs gathered around the Coalition for a Secular State and organized a performance on the Republic Square in Belgrade.<sup>48</sup> Youth Initiative reports the following incident:

*"A group of approximately forty men who gathered on the call by the right-wing organizations Obraz and Stormfront tried to stop the gathering.<sup>49</sup> The bullies were wearing badges with the picture of Ratko Mladic, t-shirts with the symbols of the Obraz organization, and chanted: "Kill, slaughter, let no Albanian live", "Hey chetniks"<sup>50</sup>, prepare the salad, there will be meat, we will slaughter the Croats", "Kill, kill, kill the faggot", "You will get beaten up", "Save Serbia and kill yourself, Boris", and the like. They also sang chetnik and newly composed warrior songs. The two groups were separated by a large number of police forces, which escorted the activists at the end of the performance to the premises of Women in Black.*

*The police did not react to hate speech or the calls to violence during the gathering. Even though the actors' identity was established, no one was apprehended, nor were any proceedings started."*

(91) The General Secretary of the Swedish Helsinki Committee for Human Rights, Robert Hoard, sent an open letter to the President of Serbia, the Prime Minister and the Chairman of the National Assembly of Serbia.<sup>51</sup> The letter, among other things, stated:

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<sup>48</sup> The Coalition for a Secular State is comprised of: Women in Black, Queeria center, Youth Initiative for Human Rights, Belgrade Center for Human Rights, Center for Peace and Democracy, Center for Improving Legal Studies, Helsinki Committee for Human Rights, Lawyers Committee for Human Rights (YUCOM), the newspaper "Republika", Social-democratic union, Urban In and Shkart

<sup>49</sup> *Extremists threatened the activists of NGO-s*, B92, 10 December 2007, available at the website: [http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=12&dd=10&nav\\_category=11&nav\\_id=275907&fs=1](http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=12&dd=10&nav_category=11&nav_id=275907&fs=1)

<sup>50</sup> Chetniks were radical nationalist Serbs during World War II. The term came to be used as an ethnic slur against Serbs during the ethnic cleansing in Croatia and Bosnia-Herzegovina in 1991-1995, but some Serb nationalist and paramilitary organizations self-identified with the term.

<sup>51</sup> Letter of the General Secretary of the Swedish Helsinki Committee for Human Rights to the President, Prime Minister and Chairman of the Parliament of Serbia of 17 December 2007, available at the website: <http://www.pescanik.net/index.php?&p=242&ni=1186&nd=1>

*"Freedom of expression, freedom of assembly, and unobstructed work of human rights defenders and organizations are the basic preconditions for any democratic society. The failure to protect these rights and freedoms in a proper way is in clear breach of e.g. the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms, which Serbia is a state party to.*

*Ongoing Kosovo negotiations and unresolved transitional justice issues cannot justify neglect of these basic human rights and failure to protect human rights defenders. Hate speech cannot be justified as freedom of speech. I respectfully request that you exercise all your authority and use all mechanisms available to adequately protect human rights defenders, freedom of expression, and freedom of assembly in the future. This should include punishing those who propagate hate crime and hate speech while offering unequivocal support to those who work to protect human rights."*

## **Conclusion**

(92) Several provisions of the Law on Churches and Religious Communities do not comply with international human rights standards. The Law should be amended accordingly.

(93) The response of the Serbian authorities to violence committed against minority religious groups does not provide sufficient deterrence to such acts. In order to comply with international human rights instruments that Serbia has ratified, the authorities should ensure that the rights of minority religious groups are respected and that attacks against their members and belongings/property are severely punished.