

Institute on Religion and Public Policy Report: Religious Freedom in 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. Some provisions of the Law do not comply with international human rights norms and have resulted in the denial of basic rights to a number of denominations of Serbia to date.

(3) In addition, violence against minority religious groups in Serbia and the inaction of the government to remedy this situation are of special concern.

I. The 2006 Law

Scope of the Rights Conferred

(4) 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.

(5) 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.

(6) Although Articles 1 and 2 set some general basic provisions on freedom of religious expression and prohibition of religious discrimination, Article 4 defines the subjects of the rights conferred as being "*traditional churches and religious communities, confessional communities and other religious organizations*".

(7) 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. Article 16 defines “*confessional communities*” as those which obtained legal status on the basis of previous laws of the former Republic of Yugoslavia (such as Baptists, Adventists, and Jehovah’s Witnesses). Religious organizations are not defined in the Law.

(8) Article 9 makes it mandatory for religious organizations to be entered in the official Register of Churches and Religious Communities in order to acquire the status of religious legal entities. 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.

(9) 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.

(10) The same system applies under the 2006 Law. Article 24 states that “*the regulations for associations are applicable*” for property belonging to churches, religious communities and religious organizations which have been deleted from the Register. 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. However, the Serbian law does not ensure that religious organizations registered under secular association law can carry out the full range of religious activities.

(11) To the contrary, Article 20 of the Law provides explicitly that 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 the law coming into force “*will not be considered a religious organisation in accordance with this law*”.

(12) 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.

(13) 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. Some 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).

Discriminatory Registration

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

(15) 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. A special status is granted to “*traditional churches*” and “*traditional religious communities*” in the 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.

(16) This classification is very arbitrary according to the NGO Youth Initiative for Human Rights in Serbia: “*Many were left out from the list of traditional religious communities which the law of the Federal Republic of Yugoslavia used to acknowledge.*¹ *Many of them operated legally even before World War II*”.

(17) Based on this arbitrary classification, and even though in principle all Churches and Religious Communities need to re-register under Article 18 of the 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.

(18) On the contrary, “*confessional communities*” and “*other religious organizations*” have to provide extensive documentation and requirements, such as a founding memorandum signed by at least 0,001% of adult citizens of Serbia or foreign citizens residing in Serbia and a summary of the essentials of their religious teachings, ceremonies, goals and basic activities.

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

¹ For example, the Adventist Church was registered in 1992, and the Baptist Church in 1927.

(20) Registration represents the base level status allowing religious entities to carry out their affairs fairly. No differential treatment should be applied in this regard. However, the 2006 Law requires 100 signatures for religious organizations to be able to register.²

(21) The first concern with this provision relates to the forced disclosure of one's religious beliefs. Youth Initiative indicated in its 2007 report:³ *"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"*. This provision entails a violation of the *forum internum* which is not compatible with international human rights norms.

(22) The second concern is that, as stated in the OSCE Guidelines for the Review of Legislation pertaining to Religion and Beliefs: *"High minimum membership requirements should not be allowed with respect to obtaining legal personality"*. Newly-founded religious communities - as well as denominations organized in small congregations - 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, to purchase property, build churches, protect their rights in legal proceedings, own assets or have paid staff or ministers.

(23) The necessity for confessional communities and other religious organizations to provide a summary of the essentials of their religious teachings, religious ceremonies, religious goals and basic activities is equally of concern.

(24) 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. 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 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."*⁴

(25) 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. Unfortunately, in practice, the Serbian authorities rejected applications on the basis of an evaluation of religious beliefs. Youth Initiative stated in their 2007 report that the Hindu Vishnu Community and Jehovah's Witnesses were denied registration as religious entities and referred instead to the Ministry for State Administration and Local Self Management, to be registered as citizens associations. They added that *"In the conclusion of the denial of registration of the Vishnu community, it is stated that in the submitted statute this religious*

² The population of Serbia is around 10.150.000 inhabitants.

³ See Report "Youth Initiative for Human Rights, Justice Program, April 25, 2008", p. 40-60.

⁴ *Manoussakis*, § 47; *Metropolitan Church of Bessarabia v. Moldova*, § 117.

community is defined as a "citizen's religious community," which "studies the Veda philosophy and culture". 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".

(26) 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.⁵

(27) Another issue raised by the 2006 Law is that *"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"* (Article 19).

(28) Adhering strictly to this article, the Ministry has rejected a large number of applications for registration. Youth Initiative noted in their 2007 report that *"the Christ's Church of the Baptized and the Union of the Reform Movement of Adventists of the Seventh Day were rejected because two churches with similar names have already been registered"*. They added that it did not help that the Adventist Church announced that they had nothing against the registration of the Union.

(29) The European Court of Human Rights has ruled in such instances that the State must remain neutral and impartial. Thus, in *Case of Supreme Holy Council of the Muslim Community v. Bulgaria* (16 December 2004), the Court reiterated 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. It ruled in particular that *"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)

(30) 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.

(31) Another concern regarding the Law is that, in making a decision of entry in the Register, the authorities will take into account *"administrative or judicial decisions regarding the registration or activities of a specific religious organisation in one or more member states of the European Union"* (Article 20).

⁵ 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

(32) There is a concern that negative decisions on registration from other European countries might not comply with international human rights standards and, as Youth Initiative commented in their 2007 report, that the authorities adopt *“the solutions of the most conservative legal orders (such as, for example, that of Greece)”*. 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.

(33) The final concern with the 2006 Law is that there is a collusion of State law with canon law and ecclesiastical decisions. In spite of the assertion of the separation of Church and State (Article 6), the Law sets forth that *“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”* (Article 7).

(34) As noted by the expert of the Venice Commission in his April 2006 comments on the draft Law, clergy and clerics in some hypothesis *“must be free to choose apostasy or exit instead of submission to a State enforcement of the canons of a Church”*. And the State has a duty of *“judicial review of these ecclesiastical decisions in order to evaluate their conformity with the European Convention itself”*.

II. Violence against Minority Religious Communities in Serbia

Overview

(35) 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.

(36) Forum 18 reports⁶ that 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. And nine months after the Evangelical church in Kraljevo and the Adventist church in Stapari were attacked with Molotov cocktails, the police have still not found the attackers, despite calls on the police to do so by Serbia's President Boris Tadic.

(37) 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

⁶ See their 2007 report : http://www.forum18.org/Archive.php?article_id=1030

to start using a private bodyguard – since the police did not find it necessary to offer protection.

(38) 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, Svac, Kikinda, Novi Sad, Backa Palanka, Belgrade and Ruma. The Adventist temple in the village of Stapari in the Sombor municipality was set on fire on 8 January 2007. The Adventist temples in Novi Sad, Kikinda and Sombor were stoned. On the building of the Adventist Church in Belgrade, posters were hanged which stated: *“Sects are death to the Serbian nation”*.

(39) 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”*. The police arrested the perpetrators, but they were accused of misdemeanors and no criminal charges were held against them.

(40) 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. 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. The police filed criminal charges against the perpetrator Miroslav M, but he attacked the same person 12 days later. Marija Arsenijevic from Velika Plana was denied custody over her child after her divorce, with the explanation that she was a member of the Jehovah’s Witnesses and therefore unfit for parenting. 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. The property of the Jewish community are also often under attack. 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.”

(41) 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.

(42) 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), 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.

(43) The murders committed in Novi Banovci in August 2007 are a striking example of the way police and media incite religious hatred. Although no evidence was ever found in the investigation which ever connected the murderer to so-called "sects", the murders committed by an emotionally disturbed man were used to allege the involvement of "Satanist practices" and to accuse the minority religious communities in Serbia of being dangerous, and to create an atmosphere of fear within the population.

(44) Youth Initiative commented that *"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. 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. 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."*

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

(46) Youth Initiative concluded that: *"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

(47) 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 and the Helsinki Board for Human Rights. Representatives of these organizations were physically attacked, such as Youth Initiative for Human Rights.

(48) Ms. Hina Jilani, the Special Representative of the Secretary General of the United Nations, has noted after her visit to Serbia on 17 September 2007 the hostile atmosphere towards the defenders of human rights as one of the most dangerous issues regarding the position of civil society in Serbia. 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.

(49) 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. 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. 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"⁷, 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.

⁷ 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.

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."

(50) 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 with those terms: *"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

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

(52) 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.