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ROMANIA: Too much power for the state and recognised communities?

By Felix Corley, Forum 18

Romanian religious minorities have told Forum 18 News Service of their concerns about the undefined powers given to the state by the draft religion law, due to be passed by the end of 2005, and the privileges the law gives the highest status religious communities. Amongst areas of concern Forum 18 has been told of are legal protection being given only to members of 18 state-recognised "religious denominations," and the undefined powers the state is given to decide which communities will be so classified in future. Some have suggested to Forum 18 that the law breaks the Romanian Constitution, and concerns have also been expressed about the lack of legal personality of unrecognised groups, preventing them from buying property, building churches or having paid staff or ministers.

Romania's draft religion law, discussion of which in parliamentary committees is set to resume next week, is intended to become law by the end of 2005. As well as being concerned about the law's three-tier system of state recognition (see F18News 6 October 2005 http://www.forum18.org/Archive.php?article_id=667), religious minorities have told Forum 18 News Service of their concerns about the undefined powers which the law gives the state and the privileges the law gives the highest status religious communities.

Under the new law, all 18 faiths recognised by the government as "religious denominations" will receive the highest level of status. They are: the Romanian Orthodox Church, the Serbian Orthodox diocese, the Roman Catholic Church, the Greek Catholic Church, the Old Rite Christian (Orthodox) Church, the Reformed (Protestant) Church, the Christian Evangelical Church, the Romanian Evangelical Church, the Evangelical Augustinian Church, the Lutheran Evangelical Church-Synod Presbyterian, the Unitarian Church, the Baptist Church, the Pentecostal Church, the Seventh-day Adventist Church, the Armenian Apostolic Church, Judaism, Islam, and Jehovah's Witnesses (whose status as a denomination was confirmed after long legal battles in May 2003).

Under the draft law, only "recognised religious denominations" or "cults" have the right to provide religious education in public schools, establish their own religious schools, or receive financial support from the state. Article 13 paragraph 3 of the draft Article 13 paragraph 3 prescribes punishment only for those who obstruct the religious practice of members of the recognised denominations. Unrecognised communities enjoy no such protection.

In a bizarre proposal, only religious denominations and the lesser category of religious associations will be allowed to call themselves "church". "In our culture it is important to have the title 'church'," pastor Lucian Chis, head of the Federation of Autonomous Christian Churches, told Forum 18 from Timisoara. "If you don't, you're treated not as a church but as a 'sect'. This is a problem, as lots of churches don't have 300 members." But Agafatei of the State Secretariat insists any group can call itself a church, although not in law without legal status.

The River of Revival Pentecostal church thinks that dividing religious communities up in this way "does not respect the Romanian Constitution, which guarantees absolute equality between people, regardless of religion."

The state has great but undefined powers in deciding which religious communities should gain this status. Article 5 states that religious associations can only gain the status of denomination if they guarantee "durability and stability." The Jehovah's Witnesses are concerned that such undefined criteria are open to the "whimsical excesses of the state" and could lead to "discriminatory interpretation." Baptists are among the religious communities which oppose the time limit of 12 years before a community can start to apply for recognition.

River of Revival Pentecostal church also notes that the new law would not allow religious communities with fewer than 300 members to gain legal status. Such newly-founded communities, it complained to Forum 18, "cannot promote their identity, having no right to purchase property, to build churches or to have paid staff or ministers". The church added that the registration system with different categories of religious communities with differing rights "may lead to discrimination and persecution".

The Jehovah's Witnesses agree with this, stating that "it is unconstitutional that citizens who share a certain religious creed and wish to manifest their religious freedom collectively should be obligated to go through an intermediary stage of 'religious association',

which provides few rights and then become a 'religious denomination' after a certain period of time," they told Forum 18.

The River of Revival church has further concerns about the procedure for approval to become a religious association. "In the court the government is represented by a prosecutor and an inspector from the State Secretariat of the Romanian government. We do not consider this to be appropriate." Mihai Agafatei of the State Secretariat for Religious Denominations says that under the law on juridical entities, which also covers religious associations, prosecutors attend all such court sessions, so religious associations are being treated no differently.

The church is asking for a number of changes, including the right for as few as 21 people to begin a religious association and use the name "church" with their group. Such an association, the church stated, should be allowed to have the same rights and freedoms as any religious community.

Agafatei of the State Secretariat defended the three-tier registration system, claiming that the 18 recognised religious denominations themselves want this and that the European experts and the Council of Europe Venice Commission also recommended this. Asked by Forum 18 on 7 October why religious communities which already have the top-level legal status should be allowed to set such a high threshold that other religious communities will be unable to meet he had no answer. (Religious denominations also have to be consulted over any future changes to the religion law.)

Some faiths, including the Baha'is, Reform Adventists and Old Believers, have failed to gain state recognition in recent years. "We have 7,000 members, more than four or five of the denominations currently recognised," Wargha Enayati of the Baha'i community told Forum 18 from Bucharest on 6 October. "We've been here in Romania since 1926, but it's impossible – under the old law and the new – for us to be recognised as a religious denomination. This is not fair." He believes that if a distinction is made between religious communities on the basis of size, it should be set at the lowest membership level among current recognised denominations. The Armenian Apostolic Church is the lowest, with only about 700 members.

In a lengthy analysis signed by its president, Pastor Paul Negrut, the Baptist Union complained that nowhere in the draft is the separation of the state and religious communities explicitly mentioned, a concern shared by the Jehovah's Witnesses. Agafatei of the State Secretariat told Forum 18 such a declaration was unnecessary, as the country's Constitution already specifies that religious communities are autonomous.

Although the Baptist Union welcomed the earlier removal from the draft that the recognised religious denominations were "public property", it regretted that no recognition was inserted that they are "private property". The Baptist Union fears this lack could lead to eventual government attempts to influence religious communities. "The eventual use of such power and influence cannot be accepted by the church since it is contrary to its purpose and its calling," it declared.

The Baptist Union also complains that the draft law continues the practice of state payment of the wages for religious personnel and the upkeep of places of worship, something the Baptists believe "consolidates government control over the denominations". The Baptists have not accepted such financial support although they are currently a recognised denomination. "We believe that the financial support of each denomination ought to come from individuals as well as commercial entities that can decide to support the denomination of their own choosing by receiving from the government a tax deduction in the amount of their donation," it proposes, pointing out that no donations to non-profit entities are currently tax-deductible.

Agafatei of the State Secretariat defended this as a Romanian "tradition". "The state doesn't oblige religious communities to take the money it offers," he told Forum 18.

Religious education in schools is another controversial area. The Baptist Union is worried about Article 39 paragraph 4 of the draft, which appears to require schools set up by religious denominations for their own communities to offer religious education to pupils of another faith who voluntarily choose to attend the school. Another concern was expressed by the Enayati of the Baha'is, who told Forum 18 that without religious denomination status the Baha'is, who he says do not engage in proselytism, cannot even be invited into schools during comparative religion classes to explain what they believe.

Cemeteries are also controversial in a country where the dominant Orthodox Church often allows burials in their cemeteries only under Orthodox rites. Many minorities and human rights activists welcome the requirement in Article 29 paragraph 2 that local authorities provide secular graveyards for all citizens, but fear that without an enforcement mechanism local officials may never provide such facilities.

The Baptists are also worried that religious freedom can be restricted on "national security," grounds, replacing the "public safety" grounds specified in Article 8 (2) of the European Convention on Human Rights (ECHR). Article 5 paragraph 3 and Article 49 paragraph 3 of the religion law replaces the ECHR phrase "public safety" with "national security".

"Keeping in mind the different understanding of the two phrases – the two of them never to be interchangeably used – and in light of past practices where a truly totalitarian state under the pretext of 'national security' persecuted Christians from our denominations for having fellowship with believers in other nations, we believe the texts of the two articles must be modified to respect the text of the

European Convention on Human Rights."

Agafatei of the State Secretariat conceded that the use of the term "national security" was a mistake and that this should be "public safety". He said this will be corrected.

Some remain concerned that the draft law does not spell out the role of the State Secretariat for Religious Denominations, part of the Ministry of Culture and Religion. Minorities already complain that the State Secretariat is staffed by Orthodox believers who believe their role is to defend the rights of their Church. "The current staff is anything but professional or neutral," one human rights activist who has been involved in this area told Forum 18. "Without operational enforcement of the law's provisions and without professional staff, we will be stuck with the Romanian dilemma: reform implemented by dinosaurs."

"You have to look not only at what the law says, but how it will be enacted in its social context," Dorina Nastase of the Bucharest-based think tank the Romanian Centre for Global Studies told Forum 18 on 6 October. "The consensus in the Bucharest elite is that Romania should protect its identity by protecting the Romanian Orthodox Church."

A printer-friendly map of Romania is available at
<http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=europe&Rootmap=romani>

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