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SERBIA: Religion Minister breaks his own law

By Drasko Djenovic, Forum 18

Serbia's Religion Minister, Milan Radulovic, has broken the controversial Religion Law his ministry sponsored, Forum 18 News Service has found. Radulovic's Ministry has published Regulations which illegally increase the number of adult Serbian citizens required for a religious community to be registered, from the 75 the Religion Law specifies to 100. The Ministry has repeatedly refused to say why it did this. What legal rights registered and unregistered communities will have remains unclear, and a legal challenge to the Religion Law has been submitted to the Serbian Constitutional Court, based on contradictions between the Law and the European Convention on Human Rights. Some Evangelical churches are refusing to apply for registration, as they refuse to "voluntarily and peacefully agree with discrimination between the churches." "Justice can only be gained via a court process, or with the help of the international community," two Evangelical leaders have publicly declared.

Serbia's Religion Minister, Milan Radulovic, has issued regulations which break the controversial Religion Law his ministry sponsored, Forum 18 News Service has found. Radulovic published regulations for the "Content and Mode of Maintenance of the Register of Churches and Religious Communities," in State Gazette no. 64 on 26 July, a few days before the end of the 90 day period specified by Article 45 of the Law passed on 20 April. However, the Regulations, implementing the Religion Law, illegally increase the number of adult Serbian citizens necessary for a religious community to be registered.

The Religion Law specifies in Article 18 that religious communities seeking legal status must have founders "comprising at least 0.001 percent of adult citizens" according to the last official census (see F18News 23 May 2006 http://www.forum18.org/Archive.php?article_id=785). The 2002 Serbian census states that Serbia had 7,498,001 citizens, so 75 Serbian citizens are needed to register a religious organisation. The new Regulations have, however, increased this number by 25 to 100 citizens.

Forum 18 has been unable to find out from the Religion Ministry why this illegal change was made. Forum 18 was told on both 7 and 8 August that Minister Radulovic is on holiday, and that he is the only person authorised to answer questions on this.

Some, such as Miroslav Radovanovic of the Church of God (Cleveland, Tennessee), a Pentecostal church which has existed since 1925 in Serbia, have expressed fears to Forum 18 that the Law's requirement for founders to give their identity card numbers "could be very easily misused," as he put it on 7 August. One example of this could be intimidation at work. However, other members of religious minorities have told Forum 18 that they do not think this will be a problem.

Some smaller religious communities find it difficult to obtain even the 75 signatories the Law requires. Miroslav Crvenka, an elder of the Church of God of the Seventh day Christians, told Forum 18 on 6 August that some non-Adventist Protestant churches which observe Saturday, not Sunday, as a holy day are trying to unite as Seventh Day Baptists to obtain registration. Crvenka's church is pursuing a dual approach of both trying to obtain separate registration, and discussing a form of agreement with the Serbian Baptist Union, to formally permit the church to be registered with the name Baptist. This is to try to avoid problems caused by article 19 of the Law's stipulation that "No religious organisation 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 submitted an application for entry first."

Seventh Day Baptists in Europe have not previously joined national Baptist Unions. Article 19 poses particular problems for Baptists, as there are two Baptist unions in Serbia who are full members of the European Baptist Federation – the Serbian Baptist Union and the Union of Evangelical Christians-Baptists.

Problems also face the Church of Christ in Serbia. "With only two churches, we are not sure that we will be able to fulfil the requirement of 100 adult citizens or not," Dusan Stijepcic, a legal representative of the Church, told Forum 18 on 6 August. "We are not sure whether it would be better to work separately, or to join some other church union such as the Plymouth Brethren." Professor Mladen Jovanovic, President of the Council of the Churches of Christ in Croatia, has supplied the Belgrade church with legal documents from the 1980s, when it was a branch of the Zagreb church, in the hope that this will help gain current legal registration.

The Baha'i Community told Forum 18 on 9 August that "we are very small and are not able to fulfil the requirement of 75 or 100 members in Serbia. We will probably need to continue to work as an association of citizens." The Baha'i community registered under the Law on the Association of Citizens – but as a religious community - in the early 1990s. In Serbia, the community is under the auspices of the Austrian Spiritual Assembly of Baha'is because they are not large enough to be an independent Baha'i community.

Article 20 paragraph 3 of the Religion Law states that: "A religious organisation registered according to the regulations on associations, which does not submit an application 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." However, no-one Forum 18 has spoken to is able to give a definitive interpretation of this article. So it remains unclear whether the Baha'i Community will, under this article, be legally a non-religious association.

The Regulations issued by Minister Radulovic also contain other problems for religious communities. The Religion Law itself does not discuss the possibility of religious communities operating without registration. It and the Regulations together apparently allow the Religion Ministry great discretion as to how both should be interpreted.

Article 3 of the Law adds "the interests of public security," encroaching "on the right to life, the right to health, the rights of children, the right to personal and family integrity, the right to personal property," and engendering and encouraging "religious, national or racial intolerance" to the grounds which the European Convention on Human Rights gives for limiting religious freedom legitimately limited. But the Religion Law does not attempt to explain or define any of its additional limitations, thus allowing a wide variety of possible interpretations.

This same lack of definition is also found in Minister Radulovic's Regulations. Article 7 paragraph 6 states: "Religious organisations may practice their activities on the base of their legalisation received by notification according to earlier effectual laws and acts in this area, without obligation to enter the Register, if their activities are not against Article 3 of the Law."

Paragraph 7 of this article of the Regulations states: "Religious communities which have no legalisation and which do not wish to enter the Register have religious freedom on the basis of the Constitution and international conventions on human rights and freedom of faith, in agreement with Articles 1, 2 and 5 of the Law, unless their activities are against Article 3 of the Law."

This leaves it completely unclear what legal rights if any – for example on property (see F18News 20 June 2006 http://www.forum18.org/Archive.php?article_id=802) – the Law combined with the Regulations allows unregistered religious communities, as well as registered communities.

A legal challenge to the Religion Law has already been submitted to the Serbian Constitutional Court on 21 July by Milenko Andjelic, a Belgrade-based lawyer on behalf of the Union of Protestant-Evangelical Churches – the largest union of Pentecostal churches in Serbia.

The legal challenge is based on the contradictions between articles 4, 9, 10, 11, 12, 13, 14, 15, 16 and 18 of the Religion Law and the European Convention on Human Rights, which entered into force in Serbia in 2004. Serbia's President, Boris Tadic, has already admitted that the Religion Law violates the European Convention (see F18News 28 April 2006 http://www.forum18.org/Archive.php?article_id=771).

"Most Pentecostal churches in Serbia will not apply for registration under the new Law," Aleksandar Mitrovic, President of the Evangelical Alliance and Pentecostal Pastor from Novi Sad, told Forum 18 on 7 August. "We recommend that other members of the Evangelical Alliance also do not register their churches. We are not going to accept the discriminatory law that Minister Radulovic offers us."

In an open letter dated 22 July, the lawyer Milenko Andjelic and his brother Slobodan Andjelic, a senior leader of the Evangelical Protestant church, have called on Evangelical churches not to "voluntarily and peacefully agree with discrimination between the churches" and apply for registration. Instead, they recommend that churches which previously had registration should just send notification of the church name, address and legal representative, as well as a document proving previous registration.

The Andjelic brothers argue that applying for registration would mean that churches agree that "they do not exist, even if they were registered under previously laws." In their view, "justice can only be gained via a court process, or with the help of the international community."

Zarko Djordjevic, of the Serbian Baptist Union, told Forum 18 on 7 August that the Union would see how long the legal challenge will take. Religion Minister Radulovic has claimed, Djordjevic reported, that "internationalisation of the problem will not gain anything." The Minister specifically referred at a 17 July meeting to a protest letter sent by the European Baptist Federation after the new Law was passed.

Djordjevic confirmed to Forum 18 that the First Belgrade Baptist Church – which was registered in the 1970s separately from the

Serbian Baptist Union – has already sent the notification that the Andjelic brothers suggest.

The Regulations do refer to the Catholic Church, stating in Article 3 that dioceses of the Roman Catholic and Greek Catholic Churches in Serbia will be entered in the Register "on the basis of notification of the Bishops Conference." Dr Andrija Kopilovic, Prorector of the Institute of Catechism and Theology, told Forum 18 on 9 August that the Bishops Conference would be discussing the Regulations at a meeting on 20-21 August. Fr Kopilovic said that no public statement will be made before then.

The Regulations limit the rights of non-Serbian Orthodox communities to operate. Article 2 of the Regulations state: "Under the name of the Serbian Orthodox Church the Patriarchate and all the dioceses of the Church in Serbia and the world will be entered in the Register. With the agreement of the Serbian Orthodox Church, the proper organisation of the Romanian Orthodox church in Banat will be entered in the Register." It is possible that the Romanian Orthodox Church was named following the request of Romanian President Traian Basescu for this church to be recognised as "traditional" (see F18News 21 April 2006 http://www.forum18.org/Archive.php?article_id=766).

Confusingly, this means that the Romanian Orthodox Church has a separate legal identity in Banat - one part of the northern Serbian province of Vojvodina - but not elsewhere in Serbia. Further confusion is produced by the fact that, legally, only one church or religious community with the same name can be registered in Serbia. It is also unclear what the legal status of the Russian Orthodox Church in Belgrade is, as this church belongs to the Moscow Patriarchate, not the Serbian Patriarchate.

Granting legal status to the Macedonian and Montenegrin Orthodox churches – neither of which is recognised by any other canonical Orthodox Church – has been strongly opposed by Religion Minister Radulovic.

In a text without any legal status published by the state Official Gazette publishing house, "Epilogues on the Law on Churches and Religious Communities," Minister Radulovic writes that "Secular law cannot give rights to, for example, Macedonians to establish their national orthodox church in Serbia, or Montenegrins in Lovcenac or to Vlachs in Timok." Radulovic goes on to attack Macedonia and Montenegro for establishing national churches, claiming that "the only canonical orthodox church on those territories is the Serbian Orthodox Church. The state authorities in Macedonia and Montenegro interfere daily in the life of the Serbian Orthodox Church on their territories."

The Macedonian Orthodox Church has applied for building permission for a church in Novi Sad (see F18News 14 September 2005 http://www.forum18.org/Archive.php?article_id=650), but has so far not received any response to the application.

"Our legal office is in process of preparing registering documentation of the Montenegrin Orthodox Church in Serbia," Nenad Stevovic told Forum 18 on 7 August. "We hope that by the end of this month we will submit all necessary documentation to the Serbian Ministry of Religion. If we do not receive registration at first, we will use all legal instruments up to the European Court of Human Rights in Strasbourg." The church is registered in Croatia and Austria, but faces problems in Serbia (see F18News 14 September 2005 http://www.forum18.org/Archive.php?article_id=650). (END)

For more background, see Forum 18's Serbia religious freedom survey at http://www.forum18.org/Archive.php?article_id=387 and survey of attacks on religious minorities in 2004 and early 2005 at http://www.forum18.org/Archive.php?article_id=581 and survey of attacks later in 2005 at http://www.forum18.org/Archive.php?article_id=647

A personal commentary, by an Austrian lawyer, arguing that Serbia should not follow Austria's system of dividing religious communities into different categories with differing legal rights is at http://www.forum18.org/Archive.php?article_id=403

A survey of the religious freedom decline in the eastern part of the Organisation for Security and Co-operation in Europe (OSCE) area is at http://www.forum18.org/Archive.php?article_id=806.

A printer-friendly map of Serbia is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=europe&Rootmap=yugosl>, under the title 'Serbia and Montenegro'.

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