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SERBIA: Very slow official implementation of Restitution Law

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Serbia's Restitution Law is being implemented only very slowly, Forum 18 News Service has found. Even the "traditional" religious communities, who have automatic legal status, are having problems in making claims, including the Serbia Orthodox Church which suffered more confiscations than other communities. The Jewish community had much property confiscated during the Second World War, but the Law covers only post-1945 confiscations. Slovak Lutheran Church Bishop Samuel Vrbovsky told Forum 18 he is "not too optimistic" about the restitution process. "My only hope is that because the Serbian Orthodox Church has significant property to be returned, we smaller communities will also get our property back as well." The Islamic community has "a long list of confiscated property," but is finding it difficult to exercise its legal rights. Both "traditional" and "non-traditional" communities are finding it difficult to assemble the documentation required to prove ownership. As the state has been extremely slow in implementing the Restitution Law, it is not yet possible to judge the fairness of the process.

Implementation of Serbia's Law on the Restitution of Property to Churches and Religious Communities – which came into force in late 2006 – has been extremely slow, Forum 18 News Service has found. The Law states that a state Directorate for Restitution should be formed by 10 July 2006, but it was formed only on 13 December, primarily due to problems in finding office space and office equipment such as telephones. The Director, Vladimir Todorovic, and some lower-level staff have been appointed, officials told Forum 18 on 5 March, but no further staff appointments are likely to be made by the caretaker government following the January 2007 Serbian elections. For the present, its only activity is receiving restitution applications. Many religious communities are still collecting the documentation to make such applications.

Some parts of the Law are unlikely ever to be implemented. The Law's text explicitly states that it will apply in Kosovo, in an attempt to restate claims to the province, but the course of ongoing United Nations Final Status negotiations make it improbable that this will ever happen. The Serbian Orthodox Church was a major historic landowner in pre-1945 Kosovo and part of the province's full name in Serbian - Kosovo and Metohija – refers to this, as "metoh" in Serbian means "church land" or "church property".

Many in Serbia think that pressure from the Serbian Orthodox Church was a major factor in the government's decision to pass a Restitution Law, as the major beneficiaries are likely to be the seven "traditional" religious communities named in the Religion Law passed just before the Restitution Law (see F18News 20 June 2006 http://www.forum18.org/Archive.php?article_id=802).

A very large amount of property was confiscated from the Serbian Orthodox Church throughout Serbia. Bogoljub Cvetinovic, a lawyer responsible for restitution issues in the Belgrade-Karlovci Archdiocese, told Forum 18 on 8 March that no churches were confiscated in the Archdiocese, but much other property was. In one example, which is not exceptional, the Rakovica Monastery near Belgrade had 360 hectares [890 acres] of land confiscated.

The Belgrade-Karlovci Archdiocese, which is headed by Serbian Patriarch Pavle, has already collected most of the necessary documents for building restitution claims. However, "we still have problems in identifying some of the confiscated land," Cvetinovic told Forum 18. He said that some dioceses, such as Banat, were having far more problems in identifying their confiscated property. One particular problem facing the Belgrade-Karlovci Archdiocese highlighted by Cvetinovic is that the government of former President Slobodan Milosevic forced the Church to sell some flats to "protected users". The Restitution Law will not allow the church to claim the flats back, but it will be able to claim some financial compensation.

Cvetinovic, like some other religious community representatives, is critical of the state's slowness in implementing the Restitution Law. "We have made some applications," he told Forum 18, "but the Restitution Directorate was formed later than it should have been and works at a minimum level." The Directorate "just receives applications but does not make any decisions. Nobody knows when decisions will be made," Cvetinovic commented.

Restitution Directorate staff admit that they face large problems. All the staff, whose numbers are insufficient for the task they face, are currently on temporary appointments, an official who wished to remain anonymous told Forum 18 on 9 March. When a new Serbian government is formed, that government will have to make the necessary staff appointments. Many applications received have been incomplete, due to the difficulties religious communities face in collecting the necessary documents. In these cases, Forum 18 was told, the Directorate tries itself to find the missing documents from state archives and land registries. The Directorate

is also trying to establish a database of confiscated property and land, to enable applications to be processed as smoothly as possible when the Directorate is properly established. Before a new government makes decisions on the Directorate's staffing, Forum 18 was told, it will not be possible to make any restitution decisions.

"Many injustices were committed in the last 50 to 60 years," the Restitution Directorate official told Forum 18, "and it will be very difficult to ensure that restitution decisions are not themselves the cause of fresh injustices."

Other "traditional" communities are also having problems under the Law, which only covers property confiscated by the Communists after 1945. Aca Singer, President of the Federation of Jewish Communities of Serbia told Forum 18 on 2 March that "most Jewish and Roma property was confiscated during the Second World War," by German occupation forces. He complained that, even though the Jewish community had asked the Ministry of International Economic Relations – which prepared the Law - and the then National Assembly President Predrag Markovic to include this confiscated Jewish property. However, the Minister of International Economic Relations, Milan Parivodic, "a few days ago" told Singer by telephone that the Jewish community's property will be included within a forthcoming general restitution law, which will include property confiscated for ethnic or religious reasons during the Second World War.

Even if this happens, the Jewish community will still face problems, as pre-1945 documents for Serbia's 10 current Jewish communities, who total about 3,200 people, do not exist. Post-1945 documents for the "not too many" Jewish properties confiscated in Communist times exist, Singer told Forum 18. The main post-1945 confiscated properties are in the capital Belgrade. The site of the Dorcol Synagogue in Belgrade, which was destroyed in the Second World War, is now occupied by the National Museum's Fresco Museum. The partially-confiscated Jewish community building and Jewish Museum is now partially used by the Jewish community and other users, including the city Fire Brigade. No restitution applications for the post-1945 confiscated properties have yet been made, Singer said, as the official procedures have only been published recently.

Another community described by the Religion Law as "traditional" is the Slovak Lutheran Church. Bishop Samuel Vrbovsky told Forum 18 on 5 March from Novi Sad that he is "not too optimistic" about the restitution process. "My only hope is that because the Serbian Orthodox Church has significant property to be returned, we smaller communities will also get our property back as well." Bishop Vrbovsky told Forum 18 that his church had not had churches confiscated, but did have confiscated school and land "in almost every parish." One example he gave was the small town of Backi Petrovac near Novi Sad, a centre of the Slovak national minority, where the church lost five schools alone. Although the church does not have any central information on its property, Bishop Vrbovsky told Forum 18, "all our parishes are working on collecting the required documentation."

Other "traditional" communities, such as the Catholic Church, the Reformed Church and the Evangelical Christian Church (another Lutheran church), told Forum 18 that they are in a similar situation to the Slovak Lutheran Church. Rev. Marta Dolinski of the Evangelical Christian Church told Forum 18 on 2 March from the northern town of Subotica that Religion Minister Milan Radulovic "has promised that he will help us to recover the Chapel of the so-called 'German Church' in Belgrade." Under the Restitution Law, as the German Church is a theatre, the return of even part of it – such as the Chapel - is forbidden so it may be difficult for the Religion Minister to fulfil this commitment (see F18News 20 June 2006 http://www.forum18.org/Archive.php?article_id=802).

The Islamic Community is also designated as a "traditional" community and would, like other communities, like to recover its properties in several Serbian towns and cities. Eldin Asceric, a Secretary of the Islamic Community of Serbia, told Forum 18 on 7 March that they are particularly interested in recovering mosques in Belgrade, Prokuplje, Nis and Mali Zvornik. Gathering the necessary documentation for claims is proving very difficult. "Without the help of the Islamic community from Kosovo, we would never have been able to find some documentation required by the Restitution Law," Asceric told Forum 18. But he complained that it is impossible to get access to the land registry. "In theory the public should be able to have access, but in practice this is not possible." The Islamic community has already made restitution applications for those properties for which it has documented proof of ownership.

In Belgrade, there are estimated to be more than 20,000 Muslims, yet the Islamic community does not own any mosques with a floor space of more than 100 square meters [120 square yards]. Belgrade's only current mosque is formally owned by the state, and was the target of an arson attack, along with other places of worship in Kosovo and Serbia, in March 2004 (see F18News 18 March 2004 http://www.forum18.org/Archive.php?article_id=280).

"We have a long list of confiscated property," Samir Skrielj, the Secretary of the Islamic Community of Sandzak in Novi Pazar, in southern Serbia, told Forum 18 on 7 March. Much of the Muslim property was confiscated in the first decade of Marshal Tito's rule and little documentation of the buildings' original ownership survives. Exercising its legal rights under the Restitution Law is proving difficult for the Islamic community. For example, even though the Law forbids the selling of property that should be returned to religious communities, the Novi Pazar municipal council recently tried to give a building plot to a medical college that should have been returned to the Islamic community. (When such educational institutions are built, it is normal Serbian practice for the local authority to provide a building plot free of charge.) Only a media campaign, the community thinks, stopped the sale.

One of the major problems with the Restitution Law for the so-called "non-traditional" religious communities or religious-based associations is that to receive their property back (or own any property), they must have legal status – and the Religion Ministry

appears to be using the Religion Law to delay this as much as possible (see F18News 1 March 2007 http://www.forum18.org/Archive.php?article_id=924).

The Adventist Reform movement – which has existed since 1923 as a separate religious community from the just-registered Seventh-day Adventist Church – was in a document dated 1 March denied registration under article 19 of the Religion Law, which denies legal status to religious communities "whose name contains a name or part of the name expressing the identity of a Church, religious community or religious organization which is already entered into the Register." Because of this, as Branko Bosanac pointed out to Forum 18 on 7 March, the Movement is not able to acquire a tax number or pay tax – which it wants to do – so the new owner of a house the Movement has recently sold cannot prove that they are the new legal owner.

However, the Adventist Reform movement – like the Brethren Church, Jehovah's Witnesses, Church of Jesus Christ of Latter-day Saints (the Mormons) and the Baha'i community – are not currently planning any restitution claims as they either did not in communist times own any property which could be confiscated, or only owned very small properties. On 8 March the Mormons told Forum 18 that "we are not aware of any property in Serbia owned by the Church before 1941, so we are currently not in a position to make a comment regarding restitution."

The Seventh-day Adventist Church – which has just received legal status – has applied to legally regain its headquarters building in Belgrade, which they are currently using. Like many such properties, the building's ownership history is complex (see F18News 20 June 2006 http://www.forum18.org/Archive.php?article_id=802). It may be the largest single building that was confiscated from a "non-traditional" Serbian religious community.

The Baptist Union – which is legally contesting the Religion Law – is preparing documents to apply for the return of a retirement home, its General Secretary Zarko Djordjevic told Forum 18 on 2 March. But this will be a slow process as the property was formally registered in the name of private individuals who were mainly ethnic Germans. Yugoslav ethnic German citizens had much property confiscated from them after the Second World War, which is causing delays in assembling the application. "We need to collect statements from the descendants that the property was really owned by the church, and as they are spread all over the world this process will not be quick," Djordjevic said.

The Restitution Directorate knows of several religious communities which face the problem of their property having been held in the names of private individuals. "Apart from formal land ownership documents, other documents such as formal witness statements will be a great help in ensuring that religious communities receive justice in these kinds of restitution cases," the official told Forum 18. "However, every case must be considered on its merits, so no general guarantees can be given."

The registered United Methodist Church is applying for the return of churches, orphanages and schools, Maria Virag, the church's Secretary, told Forum 18 on 2 March from Novi Sad. The situation of their former hospital in Novi Sad – which falls into a category of building barred from return under article 11 of the Restitution Law – is complex, as a Methodist school was also operating within the hospital grounds see F18News 20 June 2006 http://www.forum18.org/Archive.php?article_id=802). Some compensation was paid by the Communist government, apparently for the hospital's contents but not the hospital and school buildings, so it is unlikely that the situation will be resolved quickly.

The Methodists have made restitution applications with the full supporting documentation required by the Law, but before the official forms for restitution applications were produced. "We will definitely need to do some extra paper work," Virag commented.

The legal status of the Holy Trinity Russian Orthodox Church in Belgrade – which comes ecclesiastically under the Moscow Patriarchate, not the Serbian Patriarchate – is secure. Although the Russian Orthodox Church is not a formally recognised religious community, the state regards the building as being under the Serbian Orthodox Church (see F18News 9 August 2006 http://www.forum18.org/Archive.php?article_id=825). Russian Orthodox priest Fr. Vasilij Tarasjev, who is a Serbian citizen, confirmed to Forum 18 on 5 March that this church had never been confiscated and so is not affected by the Restitution Law.

However, it is unclear what the legal status is of the confiscated temple of the Kalmykian Buddhists. This building was built by a community which also originally came from Russia (see F18News 20 June 2006 http://www.forum18.org/Archive.php?article_id=802).

The Salvation Army, which was banned in the early years of Marshal Tito's rule, had property in Belgrade which was confiscated in communist times. It no longer exists in Serbia. "At present, the Salvation Army has no plans to become active in Serbia or to reclaim its building in Belgrade," Commissioner Hasse Kjellgren of the Salvation Army's International Headquarters told Forum 18 on 5 March.

Religious communities have expressed fears that restitution decisions will not be made fairly (see F18News 9 May 2006 http://www.forum18.org/Archive.php?article_id=776). But as the state has been slow in setting up the mechanisms to implement restitution, and therefore in being able to make any decisions, it is not yet possible to judge the fairness of the process. However, the automatic grant of legal status to "traditional" communities does make it easier for them to begin the process of trying to regain their property. (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 between September 2005 and September 2006 at http://www.forum18.org/Archive.php?article_id=845.

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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