

# **CHURCH AND STATE RELATIONS IN PRESENT-DAY SERBIA**

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## **PART II**

### **LEGISLATION REGULATING CHURCH AND STATE RELATIONS**

#### **The Legal Framework**

With the political, economic and social turbulence of the past fifteen years in Serbia's history, the area of church and state relations was one of the neglected issues. It has only recently become a topic commanding considerable attention as the country has entered a phase of much-needed constitutional and overall legal reforms. Old socialist Yugoslav legislation has not been fully replaced, either on the federal or on the republican level. The result has been not only confusion but also a lot of frustration as religious communities have been repeatedly running into legal dead-ends.

The history of legal regulation of church and state relations in Serbia goes back to the Nemanjić dynasty in the Middle Ages but in this article I will deal only with legislation from the end of World War II. Some of these laws and the resulting government policies still have direct consequences on the present situation of religious communities in the country. I will place a special emphasis on the country's constitutions, while also discussing other influential legal sources up to the present day.

#### **Legislation in Yugoslavia after World War II**

Church and state relations in the Federal People's Republic of Yugoslavia, created after World War II under the leadership of Josip Broz Tito (1892-1980), were influenced by the governing ideology of socialism, which tried to shut religion out of

public life. The regime's underlying atheism and the conscious secularization of the country seemed to be accepted by a growing number of the population, many of whom embraced the Yugoslav ideal and identity. Wishing to distance themselves from the atrocities caused by religious extremism in the past, many Yugoslav citizens did not associate themselves with any form of religion. We can observe this from the growth of non-believers in the census results. Whereas in 1948, no significant portion of the population claimed to be explicitly non-religious (although may have considered their religious affiliation as purely "inherited"), by the 1953 census, 12.6% of Yugoslav citizens described themselves as non-believers.<sup>1</sup> Also, none of the religious groups (the largest ones being Orthodoxy, Catholicism and Islam) could claim the allegiance of the absolute majority of the population.

The constitution of the Federal People's Republic of Yugoslavia was proclaimed on 31 January 1946. "As the relation between churches and state is formulated in the 1946 Constitution, it clearly expresses one of the main principles of Marxist-Leninist approach to religious communities: the legal separation of church and state which makes religion the private affair of every citizen."<sup>2</sup> The constitution had several articles addressing religion and the position of religious communities in the country, decreeing the freedom of conscience and religion (article 25 §1)<sup>3</sup> and the separation of church and state (article 25 §2). Furthermore, it stated that "religious communities, whose teaching is not contrary to the Constitution, are free in their religious affairs and in the performance of religious ceremonies" (article 25 §3), but did not provide a definition of what exactly may be considered as "religious affairs." Religious schools for the education of priests were permitted and were placed "under the general supervision of the state," (article 25 §3). "The abuse of the church and of religion for political purposes and the existence of political organizations on a

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<sup>1</sup> Fred Singleton, *Twentieth-Century Yugoslavia* (London: The Macmillan Press, 1976), 194.

<sup>2</sup> Miroslav Volf, 'Church, State, and Society: Reflections on the Life of the Church in Contemporary Yugoslavia,' *Occasional Papers on Religion in Eastern Europe* 10 (1990): 3-4.

<sup>3</sup> "Ustav Federativne Narodne Republike Jugoslavije," *Službeni List FNRJ* 10 (1946): 73. English version: "Constitution of the Federal People's Republic of Yugoslavia," in Amos J. Peaslee, *Constitutions of Nations*, 3 vols. (Concord, New Hampshire: The Rumford Press, 1950), 3: 518-530.

religious basis [were] forbidden,” (article 25 §4), and a stipulation was made saying that “the state may extend material assistance to religious communities” (article 25 §5). The new constitution placed the registration of births, marriages and deaths exclusively with the state (article 26 §4) and made only marriages concluded before competent state organs valid, with the possibility to have a religious wedding afterwards (article 26 §2). On the level of the protection of individual rights, the constitution provided equality for all citizens regardless of their religion in the eyes of the law (article 21 §1) and in the face of standing for elections (article 23 §1), and made the propagation of religious hatred punishable (article 21 §3).

In Yugoslavia, the federal and republican powers had different competencies in the area of church and state relations. The federal constitutions secured general human rights for all citizens. However, “developing the laws to define the legal position of religious communities [came] under the jurisdiction of the republics. These laws ... [were meant to] give more detailed direction as to the application of the constitutional articles without narrowing their meaning.”<sup>4</sup>

Apart from the federal constitution, other laws were promulgated, which directly affected religious communities throughout Yugoslavia. One of these was the 1945 Law on Agrarian Reform and Colonization.<sup>5</sup> Its principle purpose was the reforming of the entire basis of land ownership in the country and established maximum amounts of land that could be owned privately. On the basis of articles 3(v) and 8 a large part of property, including agricultural land owned by churches, monasteries and other religious establishments, passed into the hands of the state. Stella Alexander estimated that around 70,000 hectares were taken from the Serbian Orthodox Church alone.<sup>6</sup> The Law on the Nationalization of Private Economic Enterprises<sup>7</sup> from 1946 (and its amendment in 1948) aimed at establishing state

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<sup>4</sup> Josip Horak, ‘Church, State and Religious Freedom in Yugoslavia: An Ideological and Constitutional Study,’ *Journal of Church and State* 19 (1977): 294.

<sup>5</sup> See „Zakon o agrarnoj reformi i kolonizaciji“, *Službeni List DFJ*, 64 (1945): 621.

<sup>6</sup> See Stella Alexander, *Church and State in Yugoslavia since 1945* (Cambridge: Cambridge University Press, 1979), 213.

<sup>7</sup> See „Zakon o nacionalizaciji privatnih privrednih poduzeća“, *Službeni List FNRJ*, 98 (1946): 1245.

socialist ownership, and declared that no compensation would be received for the nationalization of property serving social, cultural or charitable purposes (article 14), which applied to churches. The law resulted in the nationalization of church-run hospitals and other medical installations, school buildings, apartments, and the printing presses of both the Catholic and the Orthodox churches.<sup>8</sup> The effects of these laws reduced by a great extent the ability for priests and members of monastic communities to support themselves from the income of their institutions and the produce of their lands, and left them financially vulnerable.

Sabrina Ramet noted several different “phases in the revolutionary development of communist states,”<sup>9</sup> which also acted as the motivation behind their religious policies. Yugoslavia also went through these phases, which were undoubtedly influenced by what was taking place in other countries. Ramet identified these phases as:

- 1.) System destruction (1943-53),
- 2.) System building (1953-63),
- 3.) System reform (with several sub-phases between 1963 and 80), and
- 4.) System decay (1980-89/91).

Paul Mojzes, reflecting on these phases from the perspective of the religious communities, used the following descriptions in 1992:

- 1.) Radical restriction of religious liberty (1945-53),
- 2.) Gradual relaxation of restrictions (1953-6),
- 3.) Significant liberalization (1965-71),
- 4.) Selective restrictions re-imposed (1972-82), and
- 5.) On the threshold of full freedom; new opportunities (1982-89).<sup>10</sup>

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<sup>8</sup> See Alexander, *op.cit.*, 218.

<sup>9</sup> Sabrina Petra Ramet, *Nihil Obstat: Religion, Politics and Social Change in East-Central Europe and Russia* (Durham, N.C.: Duke University Press, 1998), 12.

<sup>10</sup> See Paul Mojzes, *Religious Liberty in Eastern Europe and the USSR Before and After the Great Transformation* (Boulder, Colorado: East European Monographs, 1992), 344.

As we shall see, these changes in attitude can be observed in the legislation and religious policies as well as in the general human rights situation in the country during each period.

Ramet also argued in 1989 that “Yugoslav policy toward the various religious groups is, to a significant extent, affected by the relationship that the latter bear toward nationalism.”<sup>11</sup> In other words, when the government perceived that clergy of a certain religion was taking on nationalistic agitation, the laws and treatment got stricter and more discriminatory against religion in general. Sometimes the government actually encouraged the expression of nationalist sentiments, for example in the case of Muslims, who officially became not only an acknowledged religious group, but also a designated nationality. One of the many reasons for such government action may have been the buffer position of Islam in dampening the rivalry between the Catholic and Orthodox churches.

In the first few years of the new Yugoslavia’s existence, as Fred Singleton claims, “the view of the Communist Party at this time was that religion, as an outworn superstition, would wither away and that there was no point in persecuting believers.”<sup>12</sup> He argued, however, that “until the passing of the Basic Law on the Legal Position of Religious Communities, in 1953, which implemented the principles expounded in the constitution of 1946, there was a period of all-out conflict, especially directed against the Roman Catholics of Croatia.”<sup>13</sup> This was a consequence of their war-time actions and continued association with Croat nationalism. The Basic Law on the Legal Position of Religious Communities<sup>14</sup> from 1953 signaled the beginning of a limited change in the government’s religious policy. The law, which was created subsequent to prior consultation with Orthodox and Muslim clergy, nonetheless represented Communist interests and not those of the

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<sup>11</sup> Sabrina Petra Ramet, ‘Religion and Nationalism in Yugoslavia’ in Pedro Ramet (ed.), *Religion and Nationalism in Soviet and East European Politics* (Durham, N.C.: Duke University Press, 1989), 300.

<sup>12</sup> Singleton, *op.cit.*, 202.

<sup>13</sup> Singleton, *op.cit.*

<sup>14</sup> “Zakon o pravnom položaju verskih zajednica“, *Službeni List FNRJ*, 22 (1953): 209.

religious communities.<sup>15</sup> It placed numerous restrictions on the scope of involvement of religious communities in public institutions, for example, by excluding religious education from the public school system (articles 4 §2 and 19 §1). It guaranteed, however, the same legal status to all religious communities (article 2 §2), it allowed the formation of new religious communities (article 2 §1), and the operation of theological seminaries (article 4 §3) and of a religious press (article 3 §2).<sup>16</sup> Paul Mojzes claimed that “while the law formally improved the status of religious communities the Communist Party simultaneously sharpened its ideological attacks against religion.”<sup>17</sup>

The 1946 constitution was amended in 1953 and changed in 1963, before yet another new constitution was created in 1974. Article 174 of this constitution defined the rights and duties of religious communities.<sup>18</sup> It contained the same stipulations as the 1946 Constitution with almost no change made to them. One of the shortcomings of this constitution, as Vojin Dimitrijević claimed, was that it exhibited “a typically ‘socialist’ obsession with the prevention of ‘abuse’ of human rights”<sup>19</sup>; in other words, although it viewed them as guaranteed, this was actually made conditional and dependent upon strict safeguards against possible abuse. The 1992 Constitution of the Federal Republic of Yugoslavia reinforced the freedom of religion and the fact that “no one shall be obliged to publicly express his religious convictions” (article 43). It also underlined the principle of the separation of church and state and the equality of religious communities (article 18).<sup>20</sup>

As far as legislation on the republican level is concerned, the current Constitution of the Republic of Serbia from 28 September 1990 contains general and

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<sup>15</sup> See Sabrina Petra Ramet, *Balkan Babel* (Boulder, Colorado: Westview Press, 1996), 173.

<sup>16</sup> George W. Hoffman and Fred Warner Neal, *Yugoslavia and the New Communism* (New York: Twentieth Century Fund, 1962), 403.

<sup>17</sup> Mojzes, *op.cit.*, 348.

<sup>18</sup> See “Ustav Socijalističke Federativne Republike Jugoslavije,” *Službeni List SFRJ*, 9 (1974): 209.

<sup>19</sup> Vojin Dimitrijević, *The 1974 Constitution as a Factor in the Collapse of Yugoslavia or as a Sign of Decaying Totalitarianism*, EUI Working Papers (San Domenico di Fiesole, Italy: Robert Schuman Centre, 1994), 29.

<sup>20</sup> “Constitution of the Federal Republic of Yugoslavia,” *Službeni List SRJ*, 1 (1992).

rather vague provisions regarding the position of religious communities and their relationship to the state.<sup>21</sup> Needing to revise this constitution in order to reflect the political changes of recent years and to bring it into conformity with international legal instruments has been the topic of much discussion. On 30 March 2004 the deputies of the Serbian National Assembly adopted a decision to begin changes on the Serbian Constitution.<sup>22</sup> On 4 June 2004 the Serbian government presented a draft constitution, which declared Serbia a secular state and prohibited the existence of an obligatory or state religion (article 11).<sup>23</sup> The idea of constitutional reform, however, stirred up a political storm, which resulted in not only opposing opinions from various political parties, but also in several different proposals. As of January 2005, no consensus about the new constitutional draft had been reached.

Particular republican legislation on religious communities had also existed in Yugoslavia, and its role was to refine and specify for the constituent republic the broad strokes that the federal constitutions and laws provided. These laws regulated the legal position of religious communities, such as the one from 1965 (which was a revision of the 1953 law, in order to bring it into harmony with the constitution of 1963), as well as the law of 1977. However, as the government repealed the last of these laws concerning the Republic of Serbia in 1993, the country was left without any specific legal sources regulating the affairs of its religious communities.

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<sup>21</sup> See "Constitution of the Republic of Serbia," *Službeni glasnik Republike Srbije*, 1 (1990). English version: <http://www.cesid.org/english/zakoni/sr/usta.shtml> (accessed 12 March 2004). Article 41: "Freedom of religion, which includes the freedom of belief, confession of faith and performance of religious rites, shall be guaranteed. Religious communities shall be separated from the State and shall be free in the conduct of religious affairs and performance of religious rites. A religious community may establish religious schools and charitable organisations. The State may grant financial assistance to religious communities."

<sup>22</sup> See "Skupština ovlastila Odbor za ustavna pitanja da počne rad na novom ustavu," *B92 News Service*, 30 March 2004, [http://www.b92.net/info/-vesti/index.php?yyyy=2004&mm=03&dd=30&nav\\_id=136832&nav\\_category=11](http://www.b92.net/info/-vesti/index.php?yyyy=2004&mm=03&dd=30&nav_id=136832&nav_category=11) (accessed 8 April 2004).

<sup>23</sup> See "Nacrt ustava Republike Srbije," [http://www.srbija.sr.gov.yu/vesti/dokumenti\\_sekcija.php?id=5592](http://www.srbija.sr.gov.yu/vesti/dokumenti_sekcija.php?id=5592) (accessed 4 June 2004).

## **The Current Legal Framework**

In order to examine the existing legal framework relating to religion and religious communities in Serbia, we first have to look at laws on the federal level. The new state union of Serbia and Montenegro was created on 4 February 2003 by the signing of the Constitutional Charter, which replaced the 1992 Constitution of the Federal People's Republic of Yugoslavia. Article 9 of the charter places the regulation and protection of human and minority rights in their respective territory with the member states, and stipulates that "the attained level of human and minority rights, individual and collective and civil freedoms may not be lowered" (article 9 §2).<sup>24</sup> It further states that the state union will monitor the exercise of human and minority rights, as well as their protection (article 9 §3) and promises that "the provisions of international treaties on human and minority rights and civil freedoms applying to the territory of Serbia and Montenegro shall be directly enforced" (article 10). With the creation of the new state union, the Federal Ministry for Religious Affairs was abolished, and religious affairs in Serbia and Montenegro are now regulated separately by the governments of the constituent republics. In Serbia it is done primarily through the Republican Ministry for Religious Affairs.

Soon after the creation of the new state union, on 28 February 2003 the federal parliament accepted the Charter on Human and Minority Rights and Fundamental Freedoms, which forms an integral part of the Constitutional Charter (article 8, Constitutional Charter of the State Union of Serbia and Montenegro). It proclaims the "freedom of thought, conscience, belief and religion," (article 26 §1) and prohibits discrimination on the ground of religion (article 3 §3) and the instigation of religious hatred (article 51).<sup>25</sup> The charter also reiterates the separation of the state and religious communities (article 27 §1) with reinforcing the freedom of the latter to regulate its own internal affairs (article 27 §2). Article 29 guarantees the

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<sup>24</sup> "Constitutional Charter of the State Union of Serbia and Montenegro," 4 February 2003. English version: <http://www.cesid.org/english/zakoni/scg/ustav.shtml> (accessed 5 April 2004).

<sup>25</sup> "Charter on Human and Minority Rights and Fundamental Freedoms," 28 February, 2003. English version: [http://www.humanrights.gov.yu/files/doc/Povelja\\_Engleski.doc](http://www.humanrights.gov.yu/files/doc/Povelja_Engleski.doc) (accessed 22 May 2004).

freedom of opinion and expression, while articles 31 and 32 guarantee freedom of assembly and association, respectively. The Charter encourages a general spirit of tolerance in society, and emphasizes the right of persons belonging to national minorities “to express, keep, cherish, develop and publicly manifest their national and ethnic, cultural and religious identity” (article 52). The rights enumerated by the charter are supposed to be situated in the legal framework of the constituent republics, as it is up to them to bring specific legislation framing these rights and responsibilities. The Federal Ministry of Human and Minority Rights has been created and is responsible for implementing these stipulations, and has a department that monitors religious rights in the country.

### **The 2001 Draft Law on Religious Freedom**

Although the basic rights and principles relating to religious freedom and religious communities are enshrined in the above mentioned laws, their implementation is not provided by any legal source at the moment on the republican level. It is precisely this legal vacuum that the Draft Act on Religious Freedom (henceforth ‘draft law’) from 2001 aimed to fill. It intended to regulate the legal position of religious communities and their scope of operation in the country, as well as to establish the basis for church and state relations on the respect for human rights, in accord with international legal instruments.<sup>26</sup>

Work on the draft, which was originally meant for the federal level, began in January 2001, only a few months after the fall of the Milošević regime. The Federal Ministry (later Secretariat) for Religious Affairs was involved in an ongoing dialogue with representatives of many different religious communities and non-governmental organizations during the preparation of the law, which had been drawn up by a group of law professors from Belgrade University, in close cooperation with internationally

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<sup>26</sup> The authors of the Charter referred to the Universal Declaration of Human Rights, the European Convention on Human Rights and Fundamental Freedom, the International Covenant on Civil and Political Rights, the Declaration on Abolition of all Forms of Intolerance and Discrimination based on Religion or Convictions, and the Charter of Fundamental Rights of the European Union, in the preamble of the draft law.

recognized experts in the field. The draft law came very close to being accepted by the Federal Parliament, having already passed through the lower house, but never made it through the upper house, where it was brought at the very last session before parliament was dissolved in the face of new elections. For a while the government still hoped to get it voted in on the republican level but this never happened.<sup>27</sup> Boris Milosavljević, who was deputy federal secretary for religious affairs at the time of the writing of the draft law, stated that its aim was to “bring about harmonization of Yugoslav legislation with that of the European Union,”<sup>28</sup> of which the country desires to eventually become a member.

The preamble of the draft law enumerated seven so-called “historical” or “traditional” religious communities: the most important one of these is the Serbian Orthodox Church, followed by the Islamic Community, the Roman Catholic Church, the Jewish Community, the Evangelical Christian Churches of the Augsburg Confession,<sup>29</sup> and the Reformed Christian Church. These religious communities were recognized for their long-standing contribution to society and were selected because each one of them had possessed a special agreement with the state before World War II.

The draft law sought to regulate a wide range of areas of church and state relations. It guaranteed freedom of religion and the privacy of the individual expression of religious affiliation; it proclaimed the equality of all religious communities, non-discrimination, and the separation of church and state. It envisioned the establishment of a central registry and a uniform registration procedure for religious communities, through which to gain legal status. For those religious communities, whom the draft law recognized as “traditional”, it automatically secured their legal position, which means that they would not have to

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<sup>27</sup> Dr. Sima Avramović from Belgrade University, one of the authors of the Draft Law on Religious Freedom, interview by author, Belgrade, 5 January 2004.

<sup>28</sup> Boris Milosavljević, ‘Relations Between the State and Religious Communities in the Federal Republic of Yugoslavia,’ *Brigham Young University Law Review* (2002): 317.

<sup>29</sup> This includes two churches: the Slovak Evangelical Church of the Augsburg Confession (with its bishop’s seat in Novi Sad), and the Evangelical Christian Church of the Augsburg Confession, which operates in the Hungarian language and its superintendent’s office is in Subotica.

go through the foreseen process of registering. Other areas the draft law intended to regulate included the building of religious tolerance in society, religious assistance in public institutions, the financing of religious communities and special tax regulations for them, places of worship, and religious holidays. In spite of the draft law never being passed, its stipulations have already been accepted and used by other laws as a basis. The religious communities listed as “traditional” in its preamble have received special recognition and advantages in the laws regulating religious instruction in public schools.

### **The 2004 Draft Law on Freedom of Belief, Churches, Religious Communities and Religious Associations**

On 6 July 2004 the Republican Ministry for Religious Affairs presented a draft for a new “Law on Freedom of Belief, Churches, Religious Communities and Religious Associations” (henceforth ‘draft bill’). The draft was sent to the “traditional” religious communities for comments, who all supported it. Several human rights organizations (among them the Helsinki Committee for Human Rights), the United States Government and smaller religious communities, including the Baptists, Adventists, Evangelicals and Hare Krishna, criticized the draft heavily and asked for its withdrawal. They alleged that the draft creates a strict hierarchy among religious communities, giving privileges to the six “recognized” ones and allowing lesser rights to others. They also claimed that it lacks clear definitions of the terms it uses, and that it contradicts several stipulations of the draft constitution of the Republic of Serbia, as well as other legal instruments. The issue which proved most explosive, however, was that of the legal immunity for priests and religious ministers. In the view of the critics of the draft, this would have violated the legal separation of church and state, and could have led to various abuses, protecting and benefiting primarily certain members the Serbian Orthodox Church.

The Belgrade Centre for Human Rights stated that compared to previous draft laws on religious freedom the new draft bill was a step backward. It tried to reinstate the legal status of religious communities from almost a century ago, while not taking

into account present circumstances. Accepting the draft bill, in their view, may have given way to violations of the ECHR.<sup>30</sup> Professor Milan Vukomanović pointed out that the six religious communities recognized by the draft bill were essentially mono-ethnic, who view the legal acceptance of multicultural religious groups as a threat to their cultural and national identity. The draft bill was a reflection of these emotions.<sup>31</sup>

### **Freedom of Religion**

Freedom of religion in theory is guaranteed by existing legislation on both the federal and republican levels (article 26 §1 of the Charter on Human and Minority Rights and Fundamental Freedoms, and article 41 §1 of the Constitution of the Republic of Serbia). It is one of the principles, which church and state relations rest upon. The 2001 draft law aimed to secure freedom of religion, conscience and belief on an individual as well as a communal level (articles 1 and 3), protecting right to “have, not to have, retain or change [one’s] religion or belief,” and providing freedom for various ways of expressing one’s religious convictions (article 1 §1).<sup>32</sup> The new draft bill from 2004, however, intended to secure freedom of belief together with its various forms of public expression (article 1).<sup>33</sup>

### **Separation of Church and State**

The separation of church and state is one of the other main principles that legislation lays down on both federal and republican levels (article 27 §1 of the Charter on Human and Minority Rights and Fundamental Freedoms, and article 41 §2 of the Constitution of the Republic of Serbia). The old draft law, while acknowledging the historical contribution and significance of the Serbian Orthodox

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<sup>30</sup> See “Komentar Beogradskog centra za ljudska prava o Prednacrtu zakona o veri Vlade Srbije,” Press release (Belgrade, 21 August 2004).

<sup>31</sup> Dr. Milan Vukomanović, interview by author, Belgrade, 21 August 2004.

<sup>32</sup> “Predlog zakona o verskoj slobodi,” in Goran Bašić, Silvo Devetak, (eds.), *Demokratija i Religija: Izbor tekstova i diskusija* (Belgrade: Altera, 2003). English version: Dr. Sima Avramović.

<sup>33</sup> “Prednacrt zakona o slobodi vere, crkvama, verskim zajednicama i verskim udruženjima,” Ministry for Religious Affairs, Belgrade, 6 July 2004, [www.srbija.sr.gov.yu/dokumenti](http://www.srbija.sr.gov.yu/dokumenti) (accessed 30 August 2004). English translation by Mark Daniels.

Church in its preamble, stated that “there shall be no state religion” (article 2), and that all religious communities are equal (article 4 §1). The law also foresaw freedom for religious communities to regulate their own internal affairs (article 4 §3). The new draft bill from 2004 only referred to the autonomy of religious communities (article 3).

### **The Legal Position of Religious Communities and their Registration**

According to Professor Sima Avramović the current situation regarding the registration of religious communities can be best described as chaotic. Some religious communities are registered on the federal, some on the national, while still others on the local level and a number of them (including a few of the largest religious communities, whose special agreements with the state had been forcibly abolished by the Communist regime) are not registered at all. Certain religious communities have registered with the Ministry of Justice, while others with the police, whether on the federal, national or local level. There is no data available on the number of religious communities registered in the country.<sup>34</sup>

The 2004 draft bill, aiming to establish continuity with the Kingdom of Yugoslavia (1918-41), recognizes the Serbian Orthodox Church as *primus inter pares* (article 5), accepts the legal status of the six “recognized” churches and religious organizations, without the need to re-register (article 4), and refers to them as “Churches and religious communities,” who enjoy a wide range of freedoms. All other presently registered religious communities will be automatically recognized as “religious associations” (article 4) and would function the same way and with the same rights as other citizens’ associations. Although the bill states that “Churches (sic), religious communities and religious associations have the same legal status and equal terms for the realization of their guaranteed rights” (article 5), it is clear from the text that religious associations would not enjoy many of the benefits (including state financing) given to the “recognized” communities and their internal

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<sup>34</sup> Dr. Sima Avramović, interview by author, Belgrade, 5 January 2004.

organization and activities would be under strict scrutiny by the state. The state would even have the right to remove their registration “if the number of members is below the number necessary for the registry of an association” (article 73). The 2001 draft law regulated the minimum number needed for the registration of a new religious community at 10 citizens of Serbia and Montenegro (article 8), but the new draft bill raises this number to 1,000 (article 67).

### **The Financing of Religious Communities**

According to the present Constitution of the Republic of Serbia, “the State may grant financial assistance to religious communities.”<sup>35</sup> This principle of possibility but not obligation was also expressed in article 25 §5 of the 1946 federal constitution, and a certain amount of state financing of the traditional churches became a practice, which lasts up to this day. Under Communism, the constituent republics tended to support their own majority religious communities. Serbia, therefore, provided a considerable amount of financial support primarily for the Orthodox Church. This was usually done on an irregular basis and for special projects such as the renovation or construction of religious buildings. Due to the economic struggles of Serbia in the 1990s, this financial support for religious communities in the republic slowly dwindled. Indicating a new commitment from the government, new Minister of Religious Affairs in Serbia, Milan Radulović, announced in March 2004 that a total of € 2.1 million would be given to religious communities during that year. In contrast with earlier practice, Radulović planned to primarily support religious, cultural, educational and publishing activities by religious communities with this amount.<sup>36</sup>

While the 2001 draft law proposed regular financial assistance by the state but placed no obligation on it to do so (article 18 §3), the new draft bill obliges the state “to materially support the activities of Churches and religious communities” (article

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<sup>35</sup> Article 41 §4, “Constitution of the Republic of Serbia,” *Službeni glasnik Republike Srbije*, 1 (1990).

<sup>36</sup> See J. Tošić, “Verskim zajednicama iz budžeta 2,1 miliona evra“ (*Danas*, 5 May 2004): 9.

47). The financial and taxation benefits that religious communities will obtain after registration can also be seen as an indirect way of state support. The 2004 draft bill allows for tax-free donations to be given to them (articles 46 and 51) but envisions that they will also be supported by the income from their properties, religious services and production activities (articles 46 and 58).

### **Real Estate Ownership and the Return of Confiscated Property**

The issue of real estate ownership and the return of confiscated property to the Serbian Orthodox Church (and to other religious communities) was first raised in the face of the dissolution of Yugoslavia. Although a very important concern, Klaus Buchenau claims that it was precisely one of the main topics the regime at the time continued to avoid.<sup>37</sup> The first draft law for the return of confiscated property to the Serbian Orthodox Church was adopted by the National Assembly of the Republic of Serbia on 18 April 1991, but President Slobodan Milošević vetoed it and the draft was eventually held back from a repeat vote in the Assembly. A similar draft, which included other religious communities, was drawn up and presented to the Federal Assembly in 1993, but it never passed.<sup>38</sup> After the change of government in October 2000, religious communities again hoped that these past injustices would be rectified by law. A new draft law was created in 2001 but so far it has not been put before the National Assembly of the Republic of Serbia, and thus this very important issue remains unresolved. The government has returned only a few individual properties to religious communities so far. Without a comprehensive solution religious communities will continue to be more dependent on the state.

### **Employment Issues**

The employment status, social security and pension payments of religious ministers are issues waiting to be clarified. At the moment, the responsibility to

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<sup>37</sup> See Klaus Buchenau, 'Die Serbische Orthodoxe Kirche seit 1996: Eine Chronik,' *The Journal of Eastern Christian Studies* 1-2 (2003): 96.

<sup>38</sup> See Milosavljević, *op.cit.*, 324.

provide for their ministers and to pay their social security contributions and pension funds rests with the religious communities themselves. According to the laws regulating religious instruction in public schools, the state provides the financial means for religious instructors of the recognized religious communities. The new draft bill, however, obliges the state to pay the health, social and pension contributions of a certain number of clergy of all ranks from each Church and religious community (article 21), as well as of monks and nuns (article 23).

### **Religious Instruction in Public Schools**

Religious instruction in public schools has been perhaps the most hotly debated and controversial issue regarding church and state relations in the last few years in Serbia. The desire to return religious instruction to public schools arose immediately after the fall of Slobodan Milošević from power on 5 October 2000. Both federal and republican Ministries for Religious Affairs began organizing a dialogue about this topic including representatives of various religious communities, legal experts and members of non-governmental organizations at a series of events held between March and July 2001.<sup>39</sup> Eventually, the law was prepared for adoption on the republican level. The intention was to introduce religious instruction in the first grade of primary schools and the first year of secondary schools by the beginning of the 2001/2002 school year. The dialogue with the religious communities came to an abrupt end in July 2001. After meeting with representatives of the Holy Synod of the Serbian Orthodox Church on 4 July, Prime Minister Zoran Djindjić announced the following day to the participants of the ongoing dialogue the decision that religious instruction will be introduced by 1 September 2001.<sup>40</sup> A government directive was issued, which came to power on 4 August 2001, and on 25 April 2002

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<sup>39</sup> See Milosavljević, *op.cit.*, 327.

<sup>40</sup> It is interesting to note that a similar, behind-the-doors agreement seems to have taken place in Croatia about the same issue between President Franjo Tuđman and the Bishops' Conference of the Roman Catholic Church. See Vjekoslav Perica, *Balkan Idols: Religion and Nationalism in Yugoslav States* (Oxford: Oxford University Press, 2002), 190.

the National Assembly of the Republic of Serbia passed the Laws on Changes of the Law on Elementary and High School Education.

Professor Milan Vukomanović from the University of Belgrade, who participated in the discussions in 2001, calls this decision premature and politically motivated. He even questions the constitutionality of the new laws,<sup>41</sup> referring to the six religious communities, which were listed in the preamble of the never accepted Draft Law on Religious Freedom, but which the government directive on religious instruction views as recognized churches and religious communities (article 1 §2). In 2003 Forum Iuris, the Yugoslav Committee of Lawyers for Human Rights and others turned to the Constitutional Court of Serbia, claiming that certain articles of the laws in question were in contradiction with the constitution, as well as with international human rights protection instruments.<sup>42</sup> The Constitutional Court upheld the constitutionality of the laws on 4 November 2003.<sup>43</sup>

The legislation on religious instruction in public schools makes religious instruction an alternative subject taught for one hour per week (article 10): pupils can choose to attend civic education. The decision is made by the parents or legal guardian for pupils in primary schools, while secondary school students decide for themselves, with the obligation to inform their parents about their decision.<sup>44</sup> Article 8 §5 (as well as article 14 §1 of the Draft Law on Religious Freedom) says that the state will provide finances for the religious instruction held by the seven recognized religious communities, regardless of the number of students interested at a particular school. Other religious communities are free to organize their own religious instruction in public schools if there is sufficient interest from the students, but at their own expense. The content of religious instruction will be decided by the minister of education and sport, in agreement with the suggestions of the recognized

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<sup>41</sup> Dr. Milan Vukomanović, interview by author, Belgrade, 5 January 2004.

<sup>42</sup> They referred to the Constitution of the Federal Republic of Yugoslavia, the International Covenant on Civil and Political Rights, and the Declaration on the Rights of Children. "Zapisnik i dnevni red Ustavnog suda sa sednice koja je održana 4. novembra 2003. godine," 4 November 2003.

<sup>43</sup> *Ibid.*

<sup>44</sup> Article 2 §1, 2, "Uredba o organizovanju i ostvarivanju verske nastave i nastave alternativnog predmeta u osnovnoj i srednjoj školi," *Službeni Glasnik Republike Srbije*, 46 (2001).

religious communities (article 5 §2). Apart from covering the catechism of the given religion, about one third of the curriculum will include information on other religions. Teachers of religious instruction will be recommended by the religious communities before being consented to by the minister of education and sport (article 8 §3). The Government Directive establishes a control body, a commission comprising representatives of the religious committees, the Ministry of Education and Sport and the Ministry for Religious Affairs.

### **Education of Clergy**

The Serbian Orthodox Church, being the largest religious community in Serbia, has several different institutions providing theological training for their clergy (as well as lay people), at different levels. The Orthodox Theological Faculty belonged to the University of Belgrade (a state-run institution) until 1952, when the Serbian government decided that the faculty would no longer be part of the university. On 9 January 2004 the Government of the Republic of Serbia decided to annul that decision, and to begin the process of returning the Theological Faculty to form part of the university again.<sup>45</sup>

The Theological-Catechetical Institute of the Roman Catholic Church in Subotica provides training in Croatian and Hungarian for clergy and laymen alike in a four-year program. Catholic leaders in 2004 expressed their desire for the founding of a Catholic university, which will most probably be in Subotica.<sup>46</sup> The Islamic community also has its own Islamic Pedagogical Academy in the town of Novi Pazar, in the Sandžak region, where a high concentration of Muslims can be found. Other religious communities also have institutions providing theological training, including the Adventists (in Belgrade), and Baptists (in Novi Sad). The new draft bill allows

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<sup>45</sup> See "Bogoslovski fakultet vraćen u sastav Beogradskog univerziteta," Statement of the Serbian Ministry of Religious Affairs, 9 January 2004, [www.srbija.sr.gov.yu](http://www.srbija.sr.gov.yu), (accessed 22 January 2004).

<sup>46</sup> See "Katolički nadbiskup propovedao u evangelističkoj crkvi," *B92 News Service*, 25 January 2004, [http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=01&dd=25&nav\\_id=131012&nav\\_category=12](http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=01&dd=25&nav_id=131012&nav_category=12) (accessed 19 April 2004).

religious communities to establish their own schools within the public education system (article 28).

### **Religious Assistance in Public Institutions**

There has been a growing openness to the idea of religious assistance in places such as hospitals only in recent years, and the issue is being regulated now through special laws. Since the army is a federal institution in Serbia and Montenegro, decisions regarding religious assistance in the military fall under the competence of the federal authorities. Federal Minister of Defense Boris Tadić announced in December 2003 that he would form a team to regulate religious issues affecting the army of Serbia and Montenegro, in cooperation with the recognized religious communities. The plans include the introduction of instruction on Serbian Orthodoxy at the Military Academy, and the opening of the Military Medical Academy for religious assistance by priests.<sup>47</sup>

On the republican level, the 2004 draft bill only mentions that “Churches and religious communities may also perform religious ceremonies in schools, state institutions, hospitals, the military, the police, social and child welfare institutions, penal institutions...” (article 13).

### **Conscientious objection**

Military service is obligatory in Serbia and Montenegro. The Charter on Human and Minority Rights and Fundamental Freedoms of the State Union of Serbia and Montenegro allows conscientious objection, with the possibility of a civil service for those who opt out of military service for reasons of religious conviction.<sup>48</sup> This is a sign of progress, as previous laws did not allow the refusal of military service on

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<sup>47</sup> See “Tadić: Normativni akti oko verskih pitanja u Vojsci SCG,” *B92 News Service*, 19 December 2003, [http://www.b92.net/info/vesti/index.php?yyyy=2003&mm=12&dd=19&nav\\_id=127947&nav\\_category=12](http://www.b92.net/info/vesti/index.php?yyyy=2003&mm=12&dd=19&nav_id=127947&nav_category=12) (accessed 20 January 2004).

<sup>48</sup> Article 28 §1 and 2 of the “Charter on Human and Minority Rights and Fundamental Freedoms,” 28 February, 2003. English version: [http://www.humanrights.gov.yu/files/doc/Povelja\\_Engleski.doc](http://www.humanrights.gov.yu/files/doc/Povelja_Engleski.doc) (accessed 22 May 2004).

religious grounds, and punished offenders (who were often Nazarenes or Jehovah's Witnesses) with prison sentences. Since the issue of conscientious objection is under the competence of the federal authorities, it has to be resolved on the federal level. The Council of Ministers enacted a directive to allow civil service in social or humanitarian institutions, which came into force on 15 November 2003. On 22 December, the first conscientious objectors began their civil service.<sup>49</sup> According to information from the Ministry of Defense from November 2004, 13,248 draftees have decided during the previous year to spend their military service this way.<sup>50</sup>

### **Religious Communities and the Media**

The 2004 draft bill states that Churches, religious communities and religious associations all may publish books and other religious material and that this may be a source of income for them. It charges the Ministry for Religious Affairs with allocating "at least 20 percent of total annual subsidies to Churches and religious communities to their cultural and publishing programs" (article 39).

The Broadcasting Act, which the National Assembly of the Republic of Serbia passed on 18 July 2002, allows religious communities with juridical status to hold permits for broadcasting.<sup>51</sup> The Act establishes the Broadcasting Agency Council, a nine-member media regulatory body, to which the religious communities can nominate one representative (article 23 §3). It also states that religious communities are exempt from paying broadcasting fees until the denationalization process is complete (article 67 §3).<sup>52</sup>

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<sup>49</sup> See "Počelo služenje civilnog vojnog roka," *B92 News Service*, 5 January 2004, [http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=01&dd=05&nav\\_id=129278&nav\\_category=12](http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=01&dd=05&nav_id=129278&nav_category=12) (accessed 19 March 2004).

<sup>50</sup> See D. Stevanović, "Humanitarni radnici" (*Politika*, 24. novembar 2004): 10.

<sup>51</sup> Article 41 §1, "Zakon o radiodifuziji" (Broadcasting Act), Serbian text, [http://www.parlament.sr.gov.yu/content/lat/akta\\_detalji.asp](http://www.parlament.sr.gov.yu/content/lat/akta_detalji.asp) (accessed 12 May 2004).

<sup>52</sup> Quoted also in Dušan Rakitić, 'Achievements and Future Goals of the Government of Serbia in the Field of Religious Freedom,' *Brigham Young University Law Review* (2003): 635.

### **The fate of the 2004 draft bill**

The much-criticized draft bill was eventually withdrawn by the government in September 2004, doubtlessly as an answer to the pressure put on it by religious communities, non-governmental organizations and foreign governments. The Ministry for Religious Affairs came out with an even newer draft bill in the autumn of 2004, after having dropped the most controversial articles and reinstating some of the freedoms found in the first draft bill from 2001. Dragan Novaković, advisor to the minister of religion, stated in December 2004 that the Ministry was still in the process of receiving comments from the Serbian Orthodox Church and from other religious communities, and when this process finished, the draft would be ready for parliamentary debate.<sup>53</sup> As of January 2005, the future of the draft was not yet clear.

### **International Legal Instruments**

On 1 November 2000 the Federal Republic of Yugoslavia was admitted as a member of the United Nations, after the Socialist Federal Republic of Yugoslavia had disintegrated. The UN's instruments protecting religious freedom include article 18 of the Universal Declaration of Human Rights, which proclaims the right to freedom of religion.<sup>54</sup>

The State Union of Serbia and Montenegro became a signatory to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) in 2003, which entered into force on the territory of the country on 3 March 2004. This is a very significant step, as Serbia has now also become subject to the control mechanism set up by the Convention and will be bound by any future decisions the European Court of Human Rights may hand down in cases involving Serbia and Montenegro. Article 9 of the ECHR proclaims the freedom of thought,

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<sup>53</sup> See "Potreban verski zakon," (*Politika*, 4 December 2004): 10.

<sup>54</sup> Article 18, "Universal Declaration of Human Rights" (10 December 1948): "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or in private, to manifest his religion or belief in teaching, practice, worship and observance." <http://www.un.org/Overview/rights.html> (accessed 9 April 2004).

conscience and religion, and requires very weighty reasons in order to justify interference with this right by the state.<sup>55</sup> Article 10 protects the freedom of expression and article 11 the freedom of assembly and association, while article 14 prohibits discrimination, including that based on religion. Article 2 of the First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms obliges the state to respect the religious convictions of parents when providing education for their children.<sup>56</sup> One of the most important aspects of the ECHR is its incorporation into the domestic legal systems of the signatory countries. Already at the ratification of the Convention by the Federal Assembly, representatives voiced their concern about the lack of conformity of Serbian laws with the Convention.<sup>57</sup> This also underlines the urgent need for legal reform in the Republic of Serbia. Without an existing legal basis regulating the legal position of religious communities in the country, which is in conformity with the Convention, Serbia may be found violating the religious freedom of certain individuals, which are protected by the ECHR.

The Council of Europe's Framework Convention for the Protection of National Minorities, to which Yugoslavia became party in 2001, extends protection to the practice and expression of religious convictions by persons belonging to a national minority, and encourages governments to create an atmosphere that fosters

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<sup>55</sup> Article 9 – Freedom of thought, conscience and religion, “European Convention for the Protection of Human Rights and Fundamental Freedoms”:

1. “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.”

2. “Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.” <http://conventions.coe.int/treaty/en/Treaties/html/005.doc> (accessed 9 December 2004).

<sup>56</sup> Article 2 of the “First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms”: “No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.” <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=009&CM=8&DF=17/01/05&CL=ENG> (accessed 17 January 2005).

<sup>57</sup> See Lj. Milisavljević, ‘Bez Kredita od 90 Miliona Evra – Usvojena Konvencija o Ljudskim Pravima,’ (*Politika*, 27 December 2003).

tolerance towards different manifestations of cultural, linguistic and religious identity. Furthermore, it recognizes the right of persons belonging to national minorities to establish their religious institutions, organizations and associations.<sup>58</sup> The protection the Framework Convention offers to individuals is important, as many persons from national minorities in Serbia belong to a religious minority.

### **A Brief Overview of the Current Situation in Kosovo**

Although it is not the topic of the present article, the question of Kosovo cannot be ignored, as it continues to be an important issue in the area of church and state relations and in the area of respect for human rights. Kosovo is currently placed under an interim United Nations administration on the basis of Resolution 1244 of the Security Council from 10 June 1999.<sup>59</sup> Although it has no *de facto* jurisdiction over it, Serbian political leadership (together with Serbian society) continue to regard Kosovo as an integral part of the country, as was made clear in the March 2004 decision of the National Assembly of Serbia declaring Kosovo an inalienable part of the Republic of Serbia.<sup>60</sup> The State Union of Serbia and Montenegro signed the European Convention for the Protection of Human Rights and Fundamental Freedoms without a territorial reservation for Kosovo, so as to allow Serbs living in the province to be able to turn to the European Court of Human Rights, if needed.

Boris Milosavljević claims that if laws regulating the return of confiscated church property had been passed in the early 1990s, when the issue was first raised by the Serbian Orthodox Church under the Milošević regime, the current partition of Kosovo may not have taken place in the form as we know it. Had the law been adopted then and had the considerable amount of land and real estate been returned to

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<sup>58</sup> Articles 5, 6, 7 and 8 of the “Framework Convention for the Protection of National Minorities”, [www.coe.int/T/E/human\\_rights/Minorities/2.\\_Framework\\_Convention\\_\(MONITORING\)/1.\\_Texts](http://www.coe.int/T/E/human_rights/Minorities/2._Framework_Convention_(MONITORING)/1._Texts) (accessed 5 May 2004).

<sup>59</sup> See “Security Council Resolution 1244” (1999), <http://www.un.org/Docs/scres/1999/sc99.htm> (accessed 2 June 2003).

<sup>60</sup> See “Skupština Srbije usvojila rezoluciju o Kosovu,” B92 News Service, 26 March 2004, [http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=03&dd=26&nav\\_id=136441&nav\\_category=11](http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=03&dd=26&nav_id=136441&nav_category=11) (accessed 4 April 2004).

the Serbian Orthodox Church, “the legal aspect of property ownership would have had specific weight with regard to the manner of settling the Kosovo-Metohija situation in 2001.”<sup>61</sup>

As it is, many Serbian Orthodox churches and monasteries have been completely destroyed or damaged as a form of revenge by Kosovar Albanians, of whom very few have been arrested or charged with a criminal offense. The Serbian Orthodox Church has continually raised its voice in order to protect the rights of the Serbian minority and to condemn the destruction of Serbian cultural heritage.<sup>62</sup> On 8 December 2004 Bishop Artemije of Raška-Prizren turned to the European Court of Human Rights in Strasbourg, accusing France, Germany, Great Britain and Italy of not protecting Serbian church property during the wave of violence in the province in March 2004.<sup>63</sup> He did this in spite of the recommendation of the Holy Synod of the Serbian Orthodox Church that he drop the charges.<sup>64</sup>

The Serbian Orthodox Church has also been actively involved in fighting against the constant violation of basic human rights of the Serb population in Kosovo. The Serbian minority lives in small enclaves in very difficult physical circumstances, and is frequently the target of violent attacks by the majority Albanian population. On 10 January 2005 the Serbian Government held a fundraising gala in order to raise money for its newly established State Fund for Kosovo and Metohija. Patriarch Pavle gave his blessing to the event and spoke at its opening. Other Orthodox dignitaries, as well as representatives of other religious communities, were also in attendance.<sup>65</sup>

### **Future Perspectives**

The early parliamentary elections in Serbia on 28 December 2003 brought a new coalition government to power. The Serbian Radical Party, which regards

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<sup>61</sup> Milosavljević, *op.cit.*, 324.

<sup>62</sup> Their publication, *Crucified Kosovo*, presents a shocking pictorial survey of the destruction of Serbian religious sites in the province since 1999.

<sup>63</sup> See “Artemije tužio četiri evropske države,” (*Politika*, 9 December 2004): 9.

<sup>64</sup> See “Povući tužbu protiv evropskih zemalja,” (*Politika*, 11 January 2005): 9.

<sup>65</sup> See “Izazov donatorima,” (*Politika*, 12 January 2005): 7.

Orthodoxy as a very important facet of Serbian identity and has embraced a nationalistic rhetoric, won the greatest number of seats but failed to form a governing coalition.<sup>66</sup> Instead, the Democratic Party of Serbia (led by now Prime Minister Vojislav Koštunica), formed a coalition government with three other parties.

Minister for religious affairs in the new government, Milan Radulović, explained his plans in an interview with Tanjug News Agency, stating that the three most important priorities for his first one hundred days in office will be intensive work on the draft law regulating religious freedom and the legal position of religious communities, working out the criteria for the financing of cultural and educational programs of religious communities, and first and foremost, helping the Serbian Orthodox priests and monks in Kosovo.<sup>67</sup> Following the renewed wave of violence between the province's Albanian and Serb population in March 2004, the Serbian government brought some exceptional measures in order to respond to the crisis. Minister Radulović announced at a news conference in Belgrade that the government will provide an average €250 monthly salary to 150 Serbian Orthodox monks and 20 priests, who had been left without any income after the destruction or damaging of their churches and monasteries, and are staying in their now unpopulated parishes in order to protect the remaining religious buildings. Furthermore, Radulović pledged that the Ministry for Religious Affairs will settle the €200,000 outstanding pension and social security payments for Orthodox religious ministers in Kosovo.<sup>68</sup>

To sum up the current legal situation, although many positive steps have been taken, there is still much work to be done. The most urgent need is for the legal regulation of religious communities (which was not resolved during 2004) and the return of confiscated property to them. Harmonization of national law with

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<sup>66</sup> Heading the list of the party's nominations was Vojislav Šešelj, war crimes suspect, who is now awaiting trial at the International Criminal Tribunal for the Former Yugoslavia in The Hague.

<sup>67</sup> See "Interview with Milan Radulović," (*Politika*, 9 March 2004): 9.

<sup>68</sup> See "Ministar najavio državne plate delu sveštenstva na Kosovu," B92 News Service, 29 March 2004, [http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=03&dd=29&nav\\_id=136718&nav\\_category=11](http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=03&dd=29&nav_id=136718&nav_category=11) (accessed 12 April 2004).

international standards, particularly in the case of the Serbian constitution, has also been slow-moving but will be unavoidable.

Legal guarantees, however necessary, are not enough by themselves in order to transform societal values and habits. A lot depends on their implementation – or the lack of it. How far Serbian political leadership and society have come in this area and have been able to make progress, will be the topic of my next article.