

Relations Between the State and Religious Communities in the Federal Republic of Yugoslavia

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I. INTRODUCTION

After the September 2000 elections, the radical state and social changes initiated in October of that year, and the formation of the Federal Republic of Yugoslavia¹ (“FRY”) in November of the same year, the need arose for the state and the various religious communities to establish relations based on new foundations. This necessity resulted from the intention to alter the very bases of the political and economic systems in the FRY. The state was thus required to bring its legal system into line with the legislation in the European Union and with the laws within the country itself. The FRY also had to implement its laws in practice and to create a well-organized and effective administration.

The initial reforms, which mark the start of the process of strategic and radical transformation of society, are aimed at establishing the rule of law, a modern multi-party system, a market economy, and respect for human rights, including the freedom of religion and belief.² The state is bringing about reform in its attitude toward religious communities in two ways. First, the state is making democratic changes within the whole educational system, including the state-run university. Second, the state is making restitution of property and paying compensation for former property owners, making sure that the rights of the minority are protected. For this reason, the Federal Ministry for Religious Affairs (“FMRA”) and later the Federal Secre-

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1. On March 14, 2002, Serbia and Montenegro (the two republics of Federal Republic of Yugoslavia) signed an accord. Under its terms, they agree to restructure their federation, and rename it “Serbia and Montenegro.”

2. The list of the new reforms enumerates changes in trade, the economy, transport, the work of customs authorities, tax policies, telecommunications, the judiciary, the police, and the battle against corruption, and organized crime.

tariat for Religious Affairs (“FSRA”)³ within the framework of the reforms undertaken during the past year, collaborated primarily with the federal and republic organizations of authority, whose activities include human rights, legislative activities, education, and foreign relations.

As a practical matter, the FRY has attempted to incorporate into its own national policy the concepts of religious liberty as adopted by the European Union (“EU”). Although the EU does not exert direct influence on religious matters, as these matters are within the exclusive power of the member countries, the freedom of worship has a significant place in the EU’s legislation. The sphere of religion in EU law is regulated mainly by three basic principles: freedom, equality, and equal rights. The EU laws rely to a large extent upon the Universal Declaration of Human Rights,⁴ and the European

3. These two bodies are really the same federal organization. After the changes within the federal government, some federal ministries (e.g., agriculture, sport, and religious affairs) became federal secretariats, and the ministers became secretaries. The difference between the ministry and the secretariat is that a minister has a right to vote at the meetings of the government, but a secretary has no such right.

Almost all countries in the world claim separation of the state and the church/religious communities, but there are few different approaches to understanding this separation. Sometimes it is only an excuse for state imposed atheism, or state fostered secularism, sometimes just a declaration in countries where we have present state-imposed religion, and sometimes a well balanced relation between the State and religious communities in one country. The separation of the state and the church/religious communities should not mean that the State has nothing to do with the religion, nor that religion is something so private that should not be expressed in public at all. Striving to find the best possible solution for relations between the state and the religious communities, after a long period of state imposed atheism (as it used to be in all Eastern European countries), in the FRY started to study the various ways to structure separation of church and state.

The first step of drafting the new Law on Religious Freedom started more than a year ago, and the process was very challenging because no one knew how the law would ultimately be drafted. Moreover, given the strife in relations between the state and religious communities and the internal strife of the religious communities themselves, it became clear that there was a need for special high ranking organ on federal level that would deal with the divisive church-state matter. Therefore, not already knowing that founding the FMRA was to become one of the expressions of an innovative idea of relations between the state and the church, a new ministry was created on a federal level (there are also the same ministries on the level of republics). The main goal of a new ministry was to establish improved relations between the state and the religious communities by drafting a new Law on Religious Freedom. The ministry also sought to coordinate the relations between the state and the religious communities, as well as between religious communities themselves. During the process of writing the Draft Law, the drafters discovered that the best solution for FRY would be a model of cooperation between the state and the religious communities. According to this model, where there is a mutual interest, the state could give some of its responsibilities to the religious communities.

4. *Universal Declaration of Human Rights*, G.A. Res. 217A (III), U.N. GAOR, 3d

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Convention on the Protection of Human Rights and Basic Freedoms (1950).⁵

The general principles of the legal system of the member countries represent an integral part of the legal order in the EU. Thus, the member countries and regions can and must contribute to the protection of human rights within the EU with their experiences, needs, and vision; human rights at the level of European law are based on the traditions of human rights in the member countries. With the Amsterdam Agreement, European law took a direct step toward religious freedom.⁶ In addition to this, Article 13 of the EU Agreement provides that the European Council can, under certain conditions, adopt relevant means to curb discrimination on the grounds of sex, race or ethnicity, religion, and other convictions as well as on the basis of individuality, age, or sexual orientation.⁷ In the concluding section of the Amsterdam Agreement, the EU member states unanimously agreed that the EU respects the status that the churches, religious societies, or religious communities enjoy and does not jeopardize them.⁸ In the same way, the EU also respects the status of lay communities.

In a way, this agreement is also connected to the Declaration on the Athos Peninsula, which was annexed to the agreement signed when Greece joined the EU.⁹ The Declaration guarantees the maintenance of the special legal status of Mount Athos and respects the

Sess., U.N. Doc. A/810 (1948) [hereinafter *Universal Declaration*].

5. European Convention for the Protection of Human Rights and Fundamental Freedoms, *opened for signature* Nov. 4, 1950, 213 U.N.T.S. 222 [hereinafter *European Convention*]. The text of these declarations is essentially identical to the provisions concerning the freedom of worship in the *Declaration on the Elimination of Intolerance and of Discrimination Based on Religion or Belief*, G.A. Res. 55, U.N. GAOR, 36th Sess., Supp. No. 51, U.N. Doc. A/36/684 (1981); in the International Covenant on Civil and Political Rights, *opened for signature* Dec. 19, 1966, 999 U.N.T.S. 171, *available at* http://www.unhchr.ch/html/menu3/b/a_ccpr.htm [hereinafter *ICCPR*]; as well as in subsequent significant international documents (especially the TREATY OF AMSTERDAM AMENDING THE TREATY ON EUROPEAN UNION, THE TREATIES ESTABLISHING THE EUROPEAN COMMUNITIES AND CERTAIN RELATED ACTS, Oct. 2, 1997, O.J. (C 340) 1 (1997), art. 13 [hereinafter *TREATY OF AMSTERDAM*]).

6. TREATY OF AMSTERDAM, *supra* note 5.

7. European Convention, *supra* note 5.

8. TREATY OF AMSTERDAM, *supra* note 5.

9. The Chilandar Monastery of the Serbian Orthodox Church is located on Mount Athos. *See also* GREECE CONST. art. 105 (1975); *cf.* Bernhard Schloh, *The Accession of Greece to the European Communities*, 10 GA. J. INT'L & COMP. L. 385 (1980).

specific needs and religious traditions of a particular country entering the Union. This is an excellent illustration of the extent to which the Amsterdam Agreement manifests a positive attitude to national and regional structures, particularly taking into account the significant role religion plays in forming, integrating, and preserving a given society.

After October 2000, following sixty years of an aggressively atheistic regime's rule, conditions were created for a new approach to the relations between the state and religious communities regarding not only the harmonization of domestic laws with European law, but also the possibility of developing an awareness of religion as an integral part of the life of a believer-citizen. Prior to October 2000, in all the socialist countries and in Yugoslavia, the educational system advanced the concept that belief in God was a terrible thing—backward and primitive. The state's propagation of such an attitude, including the "ethical" questioning of religion as a mechanism used for manipulation in the context of the class struggle, not only radically restricted the human right to freedom of belief and conviction, but also contributed to the abuse of religious feelings at the time of the breakup of the former Yugoslavia.

In 1918, after Yugoslavia unified into a common state, all the religious communities in any part of the country that had enjoyed legal recognition, as well as those existing after the adoption of the "Vidovdan" Constitution, were recognized by a special law. There was no proclamation of a state church, but the Constitution retained a link between the state and recognized religious communities by ensuring for them the status of legal corporations. Before World War II, Yugoslavia's population was divided among six recognized religious communities: (1) Serbian Orthodox; (2) Roman Catholic; (3) Muslim; (4) Evangelical; (5) Jewish; and (6) Greek Catholic.¹⁰

After World War II, the laws regulating the relations between the state and recognized religious communities were abolished; this was the area which, despite the adoption of several laws (the last of which was the Law on the Legal Position of Religious Communities of 1977, abolished in 1992), remained legally undefined. In the 1990s, with the abolition of these laws at the federal and republic levels because they had become obsolete, relations between the state and re-

10. MIRKO PETROVIC, KONKORDATSKO PITANJE [THE QUESTION OF CONCORDATE] 116 (1997).

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ligious communities remained the least legally defined regulations aside from the Constitution.

Moreover, the abolished laws had not precisely regulated the relations between the state and the religious communities. There was no registry of these communities in the territory of the FRY, nor was there the possibility of determining the exact number of such communities that had registered themselves at various levels and at various times. Thus, certain religious communities received letters informing them that all the existing religious communities in the territory of Yugoslavia at that time (1950) were recognized, others were registered as associations of citizens by police stations run by the Ministry of the Interior, the municipalities, and the republican and federal ministries, while still others were not registered at all and operated entirely outside the legal framework.

Although the Yugoslav Constitution as well as the constitutions of the federal units contain a certain number of principles relating to religious freedom, a significant number of issues remained outside the legal regulations. These include the status of churches and religious communities, the way they are set up and registered, the right to organize religious education in state schools and to provide spiritual aid in the Yugoslav army as well as in hospitals, prisons, and homes for the elderly, the financing of religious communities, the freedom of information on religious issues, the legal protection of the clergy, and the problem of the abuse of religious freedom. Due to all the above-mentioned issues, the FMRA, considering that it had the power to do so, decided to draft a law on religious freedom that would protect and confirm religious freedom, as guaranteed in the FRY Constitution (Article 43), as well as provide legal regulations for church-state relations. The decision advances the realization of human rights and cultural and traditional values through harmonious relations between the state and its religious communities.

As the religious communities registration has not yet begun and will be possible only after the adoption of the Law on Religious Freedom, the term "recognized religious community" is not entirely adequate. For this reason, the FMRA/FSRA has maintained relations with the "large" as well as with the "small" religious communities, regardless of the manner in which they had been registered.

According to the results of the 1991 census of the Yugoslav population (excluding Kosovo and Metohija and the municipalities of Bujanovac and Presevo, where the census was not fully carried

out), the population breaks down into the following categories of belief: 80% Orthodox (6,988,901); 5.36% Muslims (468,713); 6.1% Roman Catholics (533,349); 1.02% Protestants (89,369); 0.01% Jews (1,008); 0.005% pro-Oriental cults (520); 0.16% other religious communities (14,256); 0.09% believers who do not belong to any particular religion (8,468); 1.95% atheists (170,528); and 5.25% (458,820) who did not reply.¹¹ After the census planned for the year 2002 is conducted, more precise data will be available, including the changes in the religious choices of the population. These data will also enable the country, as well as the public abroad, to gain insight into the religious commitments of the population in the FRY.

Religious discussions between various denominations and governmental officials have been underway since November 2000. As Deputy Federal Secretary for Religious Affairs, I have been involved in many discussions with the heads and representatives of religious communities and at joint meetings between heads of religious communities and members of legal expert teams. During the first two months of the work of the FMRA, I also participated in a series of visits with and receptions for the heads and representatives of long-standing religious communities, as well as meetings and talks with a certain number of smaller, new religious communities.¹²

11. 1991 CENSUS (on file with author), *available at* <http://www.szs.sv.gov.yu/homec.htm>.

12. The following is a list of the various meetings: the visit of the Raška-Prizren Eparchy of the Serbian Orthodox Church to His Eminency, Bishop Artemije on November 25, 2000; the visit to the Chilandar Monastery on Mount Athos in Greece by a delegation with the President of the FRY, on December 4, 2000; the visit to the theological faculty of the Serbian Orthodox Church, Prof. Dr. Rev. Radovan Bigovic, dean of the faculty, on December 6, 2000; the reception of the Papal Nuncio in Yugoslavia, His Excellency S. Sbarbara on December 7, 2000; the visit to the Metropolitan of the Montenegro and Hills of the Serbian Orthodox Church by His Eminence Amfilohije on December 11, 2000; the visit to the Žica Eparchy of the Serbian Orthodox Church on December 13, 2000; the reception by the President of the FRY for the Ministers of Religious Affairs of Serbia and Montenegro and the heads of religious communities with seats in the territory of the FRY on December 20, 2000; the visit to the Podvorje ("Church Embassy") of the Moscow Patriarchate in Belgrade by Superintendent Rev. Vitalije Tarasjev on December 21, 2000; the visit to the Zahumska-Herzegovina Eparchy by Bishop Atanasije on January 2, 2001; the reception of the superintendent of the Evangelical Christian Church of the Augsburg Confession, Arpad Dolinsky, on January 17, 2001; the reception of His Eminency Bishop of the Osek-Baranja Eparchy Lukijan; the visit to the Backa Eparchy by Bishop Irinej on January 21, 2001; the visit to the Belgrade Mufti Hadzi Hamdija effendi Jusufspahic on January 23, 2001; the visit to the President of the Federation of Jewish Municipalities, Aca Singer and Rabbi Isaac Asiel on June 24, 2001; as well as other meetings between the Meshihat of the Islamic Community of Sandzak, Mufti Muamer effendi Zukorlic; Bishop of the Slovak Evangelical Church, Jan Valent; President of the Belgrade Jewish Mu-

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The principal topics discussed with the heads of religious communities, and those in which the representatives of the religious communities expressed greatest interest, were the following: (1) the Draft Law on Religious Freedom, (2) the implementation of the Law on Religious Freedom, (3) the Law on the Denationalization and Restitution of Property and Compensation, (4) religious education, (5) the Law on Radio Broadcasting, (6) the census of the FRY's population planned for April 2002, and (7) threats to religious freedom, religious intolerance and attacks on members of churches, religious communities and church sites. This article will discuss each of these issues in turn.

II. THEMES DISCUSSED AT THE MEETINGS AND TALKS
CONDUCTED WITH THE HEADS AND REPRESENTATIVES OF
RELIGIOUS COMMUNITIES IN THE FEDERAL
REPUBLIC OF YUGOSLAVIA

A. The Draft Law on Religious Freedom

In line with the activities of the federal government which are intended to bring about the harmonization of Yugoslav legislation with that of the EU, the FMRA/FSRA began drafting a Law on Religious Freedom in January 2001, creating a working group consisting of lawyers from the Belgrade School of Law was set up to draft a proposal for such a law.¹³ This law ultimately became known as the Draft Law on Religious Freedom ("Draft Law" or "Law").¹⁴

The working group had regular contact and consultations with some of the world's most prominent legal experts on settling relations between the state and religious communities and who for this purpose visited Belgrade several times.¹⁵ The solutions foreseen in

nicipality, Misa Levi; President of the Belgrade Slovak Evangelical Church, Petar Pesic; and others.

13. These lawyers were Avramovic, Parivodic, Ilic, and Mirkovic.

14. Draft Law on Religious Freedom (on file with author and the BYU Law Review) [hereinafter Draft Law]. The federal government of FRY adopted the Draft Law during its April 4, 2002, session. For its representatives in the Federal Parliament appointed Minister of Justice Prof. dr Savo Markovic, Secretary for Religious Affairs Prof. dr Bogoljub Šijakovic and Deputy Secretary for Religious Affairs Boris Milosavljevic.

15. These experts included Charalambos Papastathis, Gerhard Robbers, W. Cole Durham, and Silvio Ferrari.

the final phase of the Draft Law were verified at international conferences.¹⁶

As the suggestions were agreed upon and corrections made in the Draft Law, joint meetings were held with the representatives of religious communities at which the viewpoints of various communities existing and active in the FRY were harmonized.

The Draft Law states that in the FRY there is no state religion and that religious communities, defined as legal persons established to carry out religious duties, are equal and free to determine their religious identities.¹⁷ They are also independent in setting up their internal organization, performing their religious rites, and managing their other religious affairs.¹⁸

The Draft Law Preamble stresses the significance of the “traditionally present churches and religious communities” and points out that the Serbian Orthodox Church, as a traditional church, played a decisive historical role in preserving and developing a national identity and that it exercised powerful social and cultural influence.¹⁹ The Draft Law also stresses the presence, significance, and influence of the religious communities in general and of the Islamic community, the Roman Catholic Church, the Jewish community, the Evangelical Christian churches of the Augsburg Confession, and the Christian Reformist Church in particular.²⁰

The preamble individually cites these five churches and religious communities because a special regulation existed for them in the

16. The following are some of these conferences: (1) “Law and Religion in Post-Communist Europe,” held May 10–11, 2001, and attended by Avramovic; (2) “Relationship Between the State and Church in Serbia,” held in Berlin on June 6–7, 2001, and attended by Sijakovic, Milovanovic, and Avramovic; (3) “Freedom of Religion and Belief in OESCE Region: Challenges to Law and Practice,” held at the Hague on June 26, 2001, and attended by Milosavljevic; (4) “Preparing the FR Yugoslavia for European Integration,” held in Belgrade on July 6, 2001, and attended by Milosavljevic; (5) “Implementation of the 1981 U.S. Declaration on Religious Tolerance and Non-Discrimination: Twenty Years’ Experience,” held in Provo, Utah, USA on October 6–10, 2001, and attended by Milosavljevic; (6) “International Consultative Conference on School Education with Regard to Freedom of Religion and Belief, Tolerance and Non-Discrimination,” held in Madrid on November 23–25, 2001, and attended by Milosavljevic; (7) “Round Table—Contribution of Religious Communities in the FR Yugoslavia to Reconciliation, Respect for Differences, Democracy, Human Rights, Protection of Minorities, Cooperation and Stability in South East Europe,” held in Belgrade on December 14–15, 2001, and attended by Milosavljevic.

17. Draft Law, *supra* note 14, arts. 2 & 4.

18. *Id.*

19. *Id.* pmb1.

20. *Id.*

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former Kingdom of Yugoslavia. The specific acknowledgement of these churches manifests the effort to maintain continuity with respect to earlier provisions that regulated the legal status of religious communities—provisions which had been forcibly annulled during the communist regime.

Representatives of the traditional religious communities presented a number of observations that were adopted during the drafting of the Law. Some comments referred to matters beyond the scope of this Law, such as the restitution of property, tax and customs facilities, and other matters that dealt with the rectification of injustices committed during the socialist revolution. At the outset, there were proposals to reorganize relations between the state and the religious communities in accordance with the model of some neighboring countries. But after discussions with the team of experts and the heads of other religious communities, agreement was reached regarding the legal solutions proposed. In this context, many people emphasized their concern that the religious communities traditionally present in the territory of the FRY were not protected from the new religions. The new religions are well financed and organized and have no qualms about converting those of other religions, while the more traditional religions had not even recuperated yet from their past mistreatment.

Both the smaller and the newer religious communities expressed a concern that discrimination was being introduced between the large traditional religious communities cited in the preamble and the small religious communities. After talks were held with the representatives of the small religious communities, both individually and, later, together with the teams of experts and at conferences, many issues were clarified, beginning with the preamble and including the questions of registration and religious teaching.

The preamble, which is not a normative part of the law, provides that the viewpoints expressed in it need not appear in a descriptive form in the law itself. This manner of defining the religious communities with a long historical presence in the territory of the FRY is primarily of declarative significance and in no way discriminates against the rights of other religious communities whose significance and influence are also emphasized in the preamble.

As to the procedures for the registration of religious communities, after the talks were held it was concluded that various forms of registration do not give rise to discriminatory legal consequences. Af-

ter registration is completed, all the religious communities retain an equal position; the sole difference lies in the manner of registration. The legal status of religious communities cited in the preamble (in view of their exceptionally long historical presence as legal persons in these regions and of the fact that their legal position was regulated by law before World War II, which was abolished after the war) actually derives from the law itself.²¹ Religious registration is accomplished by filling out the data required by the law.²² This procedure does not grant greater rights to the religious communities cited in the preamble by virtue of their long historical presence in relation to the other religious communities which exist or which will be established; there is merely a small procedural difference in the manner and conditions of their registration. Registration is a one-time act and honors the special regulations concerning religious communities predating World War II.

According to the Draft Law, all the religious communities, large or small, cannot lose any of their already acquired rights; they retain their legal status gained before the law comes into force. They can even improve their status because as religious communities (with tax and customs exemptions) they will be guaranteed a series of rights accruing from this law. If these religious communities wish to be re-registered from association-of-citizens status to that of a religious community, they can do so within six months from the day the law comes into force.²³ Such religious communities merely submit applications to the competent ministry when, in contrast to future religious communities, they will be “founded” in keeping with this law. They will not have to go through the whole approval procedure, but need only give proof that they have previously acquired the status of a legal person; that is, they must state when and where they have been registered and submit certified copies of their prior registration.²⁴ In the case of the re-registration of a religious community, the Law specifically provides for the realization of their full legal continuity.²⁵ In this way, the new law does not impinge upon their acquired rights but instead makes possible the improvement of their legal status.

21. *Id.* arts. 6–7.

22. *Id.* arts. 8–10.

23. *Id.* art. 7.

24. *Id.*

25. *Id.*

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After the explication of these provisions, all the representatives of the religious communities who were interested in the question of registration (one of the key issues and main topics at most of the conferences on religious freedom held in the country and abroad) and all participants accepted the solutions offered as being the best possible. Such solutions in fact resolve four issues at the same time: (1) a symbolic honor is given to churches and religious communities that have an exceptionally long existence as legal persons in these regions; (2) the historical injustice committed by abolishing the law that regulated the relations between the state and the religious communities before World War II is rectified; (3) the possibility that some of the major long-standing religious communities will refuse registration for any reason is forestalled because their existing position is recognized²⁶ (i.e., the already existing religious communities listed as associations of citizens are recognized);²⁷ and (4) the free formation of new religious communities is made possible, even with a very small number of members.²⁸

B. Implementation of the Law on Religious Freedom

The members of religious communities both large and small voiced their concern on several occasions regarding the implementation of this law because even though in particular articles it presents certain favorable provisions²⁹ (e.g., those concerning tax facilities and the like), these provisions cannot be implemented solely on

26. *Id.* art. 6. Religious communities referred to specifically in the Preamble of this Law and their existing organizational units have the status of legal person. Their registration is based on data filed by them to the competent Ministry for Religious Affairs.

27. *See id.* art. 7. Existing legal persons with religious objectives (religious communities) maintain their legal personality acquired before enactment of this Law.

The legal persons from Paragraph 1 of this article may, within six months from the day that this Law comes into force, file an application for registration, which need not fulfilling the requirement of Article 8, Paragraph 2, Item 1 of this Law. In addition to an application, authorized rescript of decision of previous registration, or another public document proving the domestic legal personality, has to be presented. If conditions laid out by this Law are fulfilled, legal persons from Paragraph 1 of this article will be erased from the existing evidence of legal persons, but their uninterrupted legal personality shall be recognized. A decision of registration is to be sent ex officio to the state body who registered it previously, to erase it from the evidence.

28. *Id.*, art. 8, para. 2, item 1 (requiring a decision on the founding of a religious community with names, surnames, numbers of identification documents, and signatures of at least ten citizens of the FRY or resident aliens, having full business capacity).

29. *Id.* art. 18.

the basis of this law. The Draft Law provides that the state can offer material aid to religious communities on the precise understanding that such aid is realized through a corresponding taxation policy, which is the subject of separate legal regulations.³⁰ In contrast to a range of other countries, where regular annual state subsidies are given to religious communities from the budget, this law does not provide for such a permanent commitment in view of the objective financial possibilities of the state, but it does imply that one-time material assistance is possible and that when conditions improve, regular annual material assistance will be provided to the religious communities.

The religious communities were also interested in a whole series of other aspects in planning cooperation between the state and religious communities, such as how to use cemeteries, how to define religious objects, and how coordination and subordination of various levels of executive authority will function.

In the talks with representatives of small religious communities, the communities frequently expressed the concern that they would not be registered.³¹ However, the Draft Law precisely enumerates the conditions for registration as well as the reasons why the registration of a religious community may be refused.³²

When an application is incomplete, the applicant will be required to complete it within thirty days.³³ Where another religious community is already in the registry under the same or a similar name, the applicant will be required to rectify this defect on the understanding that the already registered religious community will be asked to give its opinion on the matter.³⁴

An application for registration is necessarily refused if it is confirmed that the doctrine, objectives, and methods of operation of the applicant conflict with the Constitution and public order.³⁵ An application can also be refused if the FMRA/FSRA determines that the doctrine, objectives, and methods of activity are such that they may endanger the rights and freedoms of others, especially the life or physical and mental health of people, the rights of children, and the

30. *Id.*

31. *Id.* art. 8.

32. *Id.* arts. 9–10.

33. *Id.* art. 9.

34. *Id.*

35. *Id.*

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right to the integrity of the family and property.³⁶ In this context, the FMRA/FSRA is particularly guided by the decisions of the European Court of Human Rights as well as by the relevant decisions concerning the registration of religious communities in the various EU member countries.³⁷ These decisions avoid the need to apply restrictive conditions for registration of new religious communities and also avoid defining sects, esoteric societies, and other controversial notions, which are not defined in any law in an adequate way. Instead, in such cases decisions on the registration of religious communities adopted by the European Union countries will be respected.

After the second meeting of the consultative working group concerning the admission of the FRY into the EU, the EU Commission recommended that the FRY harmonize its legislation. Thus, the FRY must carefully evaluate the EU and its legislation concerning the law of religious freedom so as to avoid possible contradictory provisions in various federal and republic laws.

C. Law on Denationalization, Namely, the Restitution of Property and Compensation.

The long-standing religious communities in the FRY were interested in the issue of denationalization because before World War II, they owned property that was nationalized by a series of laws on expropriation through regulations effecting agrarian reforms, including confiscation, sequestration, and nationalization. The term “property of the religious communities” includes the property which other former owners also held, whether those owners were physical or legal persons. This property includes real estate, personal property, and rights such as land ownership, forests, apartments, and business premises; companies, with all their equipment, stocks, valuables, and shares; associations of all types; funds, bonds, and all kinds of payment claims; participation in shops and enterprises; and mining, authorial, and industrial property rights.

The above-mentioned property rights and appeals for help in accelerating the process of denationalization were often the subject of talks with the heads and representatives of religious communities. During the past decade, a number of proposals were presented for

36. *Id.*

37. *Id.*

the denationalization of the property of the Serbian Orthodox Church. The Draft Law on the Restitution to the Orthodox Church of Buildings, Memorial Foundations, Legacies, Housing and Construction Lands was adopted by the National Assembly of the Republic of Serbia on April 18, 1991, which the government then submitted to then-President Milosevic for his signature on April 22, 1991, who in turn vetoed it and sent it back for a repeat vote on April 25, 1991, with the promise to the Serbian Patriarch that the vetoed law would certainly be passed when certain defects in the original text were removed. He listed several defects: (1) the law would return nationalized property only to the Serbian Orthodox Church and not to other religious communities; (2) the construction lands were also to be returned, which violated the 1958 law on the unique status of such lands; and (3) from the standpoint of *nomotechnique*,³⁸ the original text of the adopted law contained significant defects and loopholes. The presidents of the deputy groups of the Serbian Renewal Movement (“SPO”) and the Democratic Party (“DS”), Rakitic and Kostunica, respectively, delivered a new proposal which removed the stated defects and then sent the law back to be voted upon in the Assembly (May 15, 1991). The then-existing government gave a negative opinion (May 23, 1991) and the president of the National Assembly of the Republic of Serbia, A. Bakocevic, refused to put the suspended law up for a repeat vote.

The Draft Law on the Restitution to Churches and Religious Communities of Buildings-Memorial Foundations, Residential and Business Premises, Forests, and Arable Lands, which had been transformed through nationalization or, on some other grounds, to socially owned property, was presented to the Federal Assembly on May 13, 1993, but the law was never passed.

Had the law been passed in 1991 or 1993, the Serbian Church would have been given a part of the property in land and other immovable and movable goods that belonged to it in Kosovo and Metohija (“KiM”), and the legal aspect of property ownership would have had specific weight with regard to the manner of settling the Kosovo-Metohija situation in 2001.

After the September elections and the October governmental changes, which were welcomed by all the heads of religious communities in the FRY, beginning with the Patriarch Pavle, the religious

38. *Nomotechnique* refers to the science of law and lawmaking (i.e., jurisprudence).

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communities expected that the past injustices would be redressed.

At first, the idea was to submit for a revote the drafted laws that the previous National Assembly had rejected. But when the new National Assembly announced that a general law on denationalization would be proposed, the representatives of several religious communities suggested that it would be preferable to wait and see if the new law was adopted. At the level of the Republic, a Draft Law on Restitution and Compensation was drawn up (June 12, 2001), but by the year's end it had not been entered into the Assembly's procedures and was not a priority. However, when the Law on Privatization was adopted,³⁹ the heads and representatives of the religious communities began voicing their concern relating to the protection of their properties that the government had confiscated after World War II and which the religious communities had hoped would be returned to them following the democratic changes in the country. For this reason, in talks and meetings with the representatives of religious communities, it was concluded that it would be necessary to seek out the possibilities for restitution of the confiscated properties through a special law to be adopted before beginning the process of selling the property at issue. For this purpose, a team of legal experts headed by Prof. Dr. Kostacavoški undertook to improve and harmonize the existing Draft Law on the Return to Churches and Religious Communities of Buildings-Memorial Foundations, Houses, Legacies, Residential and Business Buildings, Forests and Arable Lands.

In this connection, several meetings and talks took place with representatives of the religious communities. Taking account of their suggestions and proposals, the new Draft will be ready for the procedural process of the federal government and the Federal Assembly.

*D. The Renewal of Religious Education in Public Schools*⁴⁰

One of the issues most frequently raised by the representatives of religious communities has been the return of religious teaching in the educational system of the FRY. Some have said that this action would rectify the injustice done to the religious communities when,

39. OFFICIAL GAZETTE OF THE REPUBLIC OF SERBIA 38, June 29, 2001, available at http://www.mpriv.sr.gov.yu/eng/zakoni/zakon_o_privatizaciji/printer_friendly.asp.

40. During its April 25, 2002 session, the National Assembly of the Republic of Serbia adopted the Law on Changes of the Law on Elementary and High Education, by which there are two options: religious instruction or civic education.

after World War II, the Ministry of Education excluded from the educational system the Orthodox, Roman Catholic, Evangelical Reformed Christian, Islamic, and Jewish religious communities, even though these religions were to be included by law. Up to the time when the first educational plan for the reformed elementary school came into force on July 8, 1959, several school plans and programs were changed, especially during the first seven years after World War II.⁴¹ The first of these, published in 1945, differed radically from those in use in pre-war Yugoslavia so that in grades one through four, the subject of religion was taught one hour each day. The first plan was used only in the first half of the 1946–1947 school year as the Ministry of Education of the People's Republic of Serbia printed a new second plan and program on February 8, 1947. This plan contained nine (instead of eleven) subjects, leaving out religious instruction and embroidery classes. The subject of embroidery was again introduced in the third plan that came out five months later on September 20, 1947, but the plan continued to exclude religious instruction.

For several reasons, the FMRA met the demands of the religious communities to reinstate religious instruction in the elementary and secondary schools in the FRY. First, the FMRA wanted to give state-run schools the ability to provide religious education. Second, the FMRA's team of legal experts concluded that, in comparing the legal regimes of the various countries in Europe, the dominant standard is that the state guarantees the realization of religious rights and freedoms, and the FMRA wanted to harmonize legislation in the FRY with the legislation in most of the other European countries.⁴² Finally, the FMRA wanted to rectify the injustices imposed during the authoritarian atheist regime.

To this end, in association with the Ministry for Religious Affairs of the Republic of Serbia, the FMRA held a meeting between the representatives of the state and the religious communities and a legal and educational team of the ministry on March 14, 2001. The meeting was held in this fashion because decisions on educational plans and programs are the competence of both the Ministry of Education and the government of the Republic of Serbia (as are other matters

41. In 1947, there were even two such plans and programs.

42. Only four European countries do not teach religion in state schools: France, Slovenia, Albania, and Macedonia.

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linked to the functioning of schools).⁴³

Under Article 14 of the Draft Law on Religious Freedom, the state ensured religious education in state schools, thus fulfilling the right of taxpayers to have such instruction available for their children and leaving parents and children free to decide whether or not they will take advantage of the religious classes, depending on their convictions. This same article provides that the state can organize religious education for those churches and religious communities cited in the Preamble of the Draft Law. Those parents and children who do not opt for religious instruction have the choice of classes in some other corresponding alternative subject that is deemed to develop ethical values, notions of humanism, moral tolerance, and understanding among peoples.⁴⁴ As the state is not in a position to organize religious instruction for all the registered religious communities, it is obligated to do so only for certain members of the religious community, namely, for those who enjoyed this right before World War II.⁴⁵ This solution has been adopted by a large number of countries and is not considered discriminatory vis-à-vis the smaller religious communities. Because religious instruction can be taught by elementary school instructors, teachers, and professors who are already teaching other subjects, Draft Law, Article 14, Paragraph 5 stresses their right to refuse to teach this subject. The same provision guarantees the right of religious communities to propose and approve which teacher in a particular school teaches the class on that community's religion.⁴⁶

The activities geared to the renewal of religious instruction in state schools were gradually joined by the deputies group of the Democratic Opposition of Serbia ("DOS") and the Committee on Education of the National Assembly of the Republic of Serbia. At the same time, in a decision adopted at its fifth session on April 23, 2001, full support was given to the population for the establishment

43. Those attending the meeting include Prof. dr B. Sijakovic, minister for the Federal Ministry for Religious Affairs; V. Milovanovic, minister for the Ministry for Religious Affairs of the Republic of Serbia; V. Majic, deputy minister for the Ministry of Education of the Republic of Serbia; DFMRA Milosevljevic; Prof. dr S. Avramovic; M. Parivodic, Bishop of Sumadija dr Sava; the Branicevo Bishop Ignjatije, and others. The meetings were held regularly (on March 29, April 26, May 9, May 15, May 30, June 26, and July 18), and gradually dilemmas and misinformation relating to the renewal of religious education in the schools were surmounted.

44. Draft Law, *supra* note 14, art. 14.

45. *Id.*

46. *Id.*

of religious education as expressed in the statement by Milovanovic, Minister for Religious Affairs of the Republic of Serbia.

The FMRA participated in the implementation of religious education in the elementary and secondary schools. However, decisions regarding the plans and programs are the competence of the Republic's Ministry of Education, and, thus, of the Republic's government. As a result, the final work in this area—including the formation of a Council of the Ministry of Education, in which the representatives of the religious communities are present, the writing of textbooks, resolving the status of teachers teaching this subject, and, above all, the adoption of rules regarding the plans and programs of religious instruction⁴⁷—has been carried out at the republic level in cooperation with the RMRA and the RME (the educational ministry), representatives of the religious communities, and the participation of the federal team of legal experts.

*E. Law on Radio Broadcasting in the Republic of Serbia as
It Applies to Religion*

Article 41 of the Draft Law on Radio Broadcasting of the Republic of Serbia prohibits a religious community (or other religious organization or legal person whose founder is the religious community) from broadcasting programs, even if the religious community possesses a permit to broadcast. This article contradicts Article 20 of the Draft Law on Religious Freedom, which stresses the right of religious communities, in accordance with the Constitution and law, to publish and distribute texts, and to use media to inform those that are interested in religious matters and activities of religious communities.

The representatives of religious communities, both in individual conversations and in correspondence, as well as jointly at meetings and roundtables, in December 2001, expressed their grave concern regarding the mentioned article of the Draft Law and voiced the hope that the Draft Law would not be enforced to cause such a gross discrimination against religious communities. They pointed out that it was not clear to them why an association of citizens had the right to establish institutions of mass media while religious communities did not. Not only did the heads and representatives of religious

47. OFFICIAL GAZETTE OF THE REPUBLIC OF SERBIA, EDUCATIONAL HERALD, No. 5, Oct. 20, 2001.

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communities consider such a restriction discriminatory and an infringement of human rights, but they also considered a direct violation of the Draft Law because some of the religious communities in the FRY already had radio stations, some of which had received international awards, such as the Radio Caglavica (Kosovo and Metohija) located in the Gračanica Monastery and whose editorial policies are conducted by the Raška-Prizren Bishop Artemije with the clergy and monks of the Monastery.

The FSRA believes that the adoption of the Draft Law on Radio Broadcasting without amendment of the controversial article would disquiet not only the religious communities that have already expressed their concern, but also the FRY's public at large.⁴⁸ Many individuals and institutions outside the FRY would also be concerned. According to information collected so far by the FSRA, in Europe and in the United States religious communities are allowed to establish media for public information.

F. Population Census in the Federal Republic of Yugoslavia

Another area of concern is the possibility that the 2002 census will not include questions to gather data on the breakdown of religious affiliation among the population of the FRY.

Data on religious affiliation in the 1991 census were collected on the basis of freely given declarations of the population. Article 174 of the Constitution of the Socialist Federal Republic of Yugoslavia guaranteed the freedom of religion to its citizens.

According to the guidelines given to the census takers, as part of the methodology to be used in the preparation, organization, and implementation of the census, the census takers were obligated to note exactly the words used by the person questioned about his or her religious belief. Because of this rule, in answers to this question it was not important to note whether the person was registered in a book of membership of a given religion, but rather whether the person considered himself or herself a member of such faith.⁴⁹ After some difficulties with secularist and atheistic tendencies on the re-

48. The Serbian Orthodox Church, the Roman Catholic Church, the Evangelical community, the Reformist Church, the Islamic community, the Jewish community and other, smaller communities such as the Baptists, Adventists, and Evangelical Alliance all have expressed these concerns.

49. A parent, foster parent, or guardian answered this question for children under fifteen years of age.

publican level in the population census, citizens were asked if they belong to any religious community.⁵⁰

Because the census was not wholly carried out in Kosovo and Metohija or in the Bujanovac and Preševo municipalities, population figures were estimated by nationality down to the municipal level. In the municipalities the estimated figure for the Albanian nationality was obtained as the difference between the expected total population (calculated on the basis of the hypotheses of birth rate as well as the mortality and migrational balance by age and sex in the period 1981–1991) and the estimated “non-Albanian” population.

The 1991 census data⁵¹ are used not only by domestic authorities but also by foreign analysts. Keeping in mind that the census data are also used by the heads of religious communities in the FRY as well those throughout the world, it becomes apparent why the religious communities in the FRY were astonished when they learned that in the census planned for 2002 there is no provision relating to the gathering of data on religion. These communities therefore expressed their intention to make public their views on this issue.

When statistics are vague and ambiguous, there is room for manipulation of the number of members of a nation or religious community. To avoid the possibility of the exaggeration or reduction of data concerning the religious groups in the FRY, the census should include questions about religious affiliation. Such questions will yield concrete data that cannot easily be manipulated.

The attitude of the FSRA is that there is no reason to leave out the question of religious affiliation in the data entered in the census forms. The question of religious affiliation should be recorded in a way that complies with the right to free belief and conviction as well as with the Constitution of the FRY. This means that the question should list the following possibilities: (1) naming a specific religion; (2) not belonging to any confession; (3) undecided; and (4) claiming the right not to express his or her views. In this way, it would be possible to obtain precise statistical data for the full protection of the rights guaranteed in the declarations and charter, according to which every person has the right to a freedom of conscience and religion.⁵²

50. After the same trouble concerning the ownership of mass media, the Draft Law on Broadcasting, adopted at the recent session of the Government of the Republic of Serbia, allows religious communities to own mass media.

51. See *supra* Part I for a summary of the 1991 census data.

52. *Universal Declaration*, *supra* note 4, art. 18; ICCPR, *supra* note 5, art. 18; TREATY

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G. Infringement of Religious Freedom, Religious Intolerance, and Assaults on Members of Churches, Religious Communities, and Religious Objects.

Another frequent theme of the talks with the heads and representatives of religious communities was the violation of religious freedom, religious intolerance, and assaults on members of the church, religious communities, and religious objects. As the ethnic and religious affiliations of the population in Yugoslavia are closely linked, it is not possible to distinguish acts of violence against religious communities and religious minorities from similar acts directed against ethnic communities and ethnic minorities. Similarly, some religious groups who are minorities according to the census on the whole territory of the FRY are actually ethnic majorities in smaller areas and municipalities. Thus, the Albanians belonging to the Islamic community are a minority in some areas, but in Kosovo and Metohija they are the majority, while the Serbs, as members of the Orthodox religious community, are the majority population of the FRY but are a minority in Kosovo and Metohija. The same holds true for the members of the Islamic community, who are a minority in Belgrade (where the members of the Serbian Orthodox Church are a majority) but are a majority in Raska/Sandzak, where the Orthodox are a minority.

Likewise, some attacks on the members of a religious community are motivated by reasons which may be of a political nature, a fact that renders allegations of religious intolerance misleading. However, it cannot be ruled out that such attacks could be motivated by religious hatred. During the past year, after the democratic changes in the FRY, there has been a noticeable decrease in the number of violent acts endangering religious freedoms and in the number of attacks on members of religious communities in the FRY, excluding Kosovo and Metohija. This decline has been so significant that in January 2001, the U.S. Secretary of State removed the 1999 and 2000 official identification of the Yugoslav government as a “particularly severe violator” of religious freedom.⁵³ This Part discusses the various problems that several religious communities in the FRY have

OF AMSTERDAM, *supra* note 5, art. 10; European Convention, *supra* note 5.

53. U.S. DEP'T OF STATE, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2001: EXECUTIVE SUMMARY, *available at* <http://www.state.gov/g/drl/rls/irf/2001/5531.htm> (last visited April 10, 2002).

suffered and discusses what has been done to ameliorate or even solve these problems.

The clergy, monks and believers of the Serbian Orthodox Church are exposed to continuous politically and religiously motivated violence in the Republic of Montenegro. Such violence was a frequent topic of the talks, meetings, and proposals for activities aimed at mitigating and overcoming dangers to religious freedom. Frequent visits to the Montenegrin Serbian Orthodox Church and constant activities aimed at removing the causes of violence against particular groups should be regarded in the light of the overall political situation in the FRY and the efforts to preserve a common state. The competent authorities of the Republic of Montenegro tolerate both verbal and physical attacks on the clergy and monks as well as intrusions into the properties of the Serbian Orthodox Church by the adherents of the "Montenegrin Church."⁵⁴

In talks with the representatives of the Serbian Orthodox Church, a persistent theme was the situation in Kosovo and Metohija, where the clergy, monks, and believers of the Orthodox faith were exposed to continual religious and ethnically motivated violence. Given that the Serbs in Kosovo and Metohija belong to the Orthodox Church, it is not possible to distinguish between the ethnic and religious violence perpetrated by the ethnic Albanians upon the Orthodox believers or any other kind of violence that affects the freedom of movement and thereby the freedom of worship. It should also be kept in mind that violence has been reported also against members of other minorities (Turks, Gorans, Roms) in the region of KiM.

The assaults by Albanian extremists on edifices of the Serbian Orthodox Church and the destruction, damage, and desecration of these edifices are an integral component of the violence being pepe-

54. Incidents occurred at Djinovici on September 11 and 13, 2000; at the Church of St. John the Baptist on October 27, 2000; at Miljevici on November 21, 2000; at the Cetinje Vlaška Church on December 15, 2000; at the Bajice Church of St. John the Baptist on January 18 and 19, 2001; at Bajice on February 16, 2001; and at the Cetinje Church of St. George on Cipur on March 11, 2001. The case of parish priest O. Radomir Nikcevic was well-known when he was shut up in a hunger strike in the Vlaska Church and tried to protect a religious object of the Serbian Orthodox Church which members of the self-proclaimed Montenegrin Church tried forcibly to take over on December 15, 2000. This is typical of the four leaders of this group, of which only one was from Montenegro (Lalatovic). All were formerly dissatisfied, defrocked clergymen of the Serbian Orthodox Church (Pavlovic, Cvijic) or of the Ecumenical Patriarchate of Constantinople (Dedeic).

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trated on the Serbs, who are a minority in Kosovo and Metohija. These actions threaten not only ethnic and religious rights, but also the minority rights that are guaranteed by a whole range of international instruments. Because of this constant threat, the oldest and most important monasteries (Pec Patriarchate, Gracanice, Decani) are under the constant protection of KFOR, the NATO-led international peacekeeping force entrusted with the task of protecting the Serbian patrimony sites in Kosovo and Metohija. It has been proposed to UMNİK that this function be taken over by the Kosovo police service.

Had the Law on Denationalization been passed in 1991 or 1993 and had the post-war revolutionary laws been annulled, including the federal law on agrarian reform and colonization of August 23, 1945, the Serbian Orthodox Church would have been given a part of the property belonging to it in the form of land and other property in Kosovo and Metohija. This property ownership aspect would have been extremely significant, regarding both the manner of ordering the KiM territory in 2000 and in ensuring the opportunity for the monasteries of the Serbian Orthodox Church in KiM to survive economically. Thus, after the agrarian reform of 1945, out of 900 hectares of arable and non-arable land, only 60 hectares were left to the Pec Patriarchate. Of the remaining hectares the Albanians usurped fifty-five, so that now the nuns till only five hectares located alongside the walls of the monastery, and they are only able to do so when escorted by the members of KFOR.

From June 1999 to June 2001, sixty-seven churches, monasteries, and shrines were completely destroyed and forty structures were variously damaged by plunder, arson, and desecration.⁵⁵ The destruction of shrines is usually done by mine layers, after which it is possible to use steam shovels and other implements to completely remove all the remnants of the Serbian Orthodox Church sites.⁵⁶

In March of 2001, KFOR called off protection of certain religious sites, after which the sites passed into the hands of the Albanians. Recently, the clergymen in Pristina had to leave a building with

55. For example, the following churches were damaged or destroyed during this period: Musnikovo on September 1, 2000; Priština on December 22, 2001; Gornji Livoc on February 7, 2001; Draganac on February 8, 2001; and Orahovac on March 2, 2001.

56. The Church of St. Jeremija near Kline and the Church of St. Nicholas in Opetruše near Orahovac were destroyed.

three housing units in the center of that city.⁵⁷

The world public and the institutions competent to monitor the state of religious freedoms in the world are better informed about these damaged churches and monasteries, thanks to the talks and meetings with diplomatic and state officials abroad and to the publication entitled "Crucified Kosovo."⁵⁸ The availability of information was also made possible by the fact that it is easy to verify every piece of information conveyed in these talks and in the publication. Moreover, these reports speak increasingly of the violence being perpetrated upon believers and objects of the Serbian Orthodox Church in Kosovo and Metohija.

On a number of occasions, the Islamic community in Belgrade complained of attacks on its religious sites and objects (Bajrakli Mosque in Jevremova Street), anti-Muslim inscriptions on the burial premises in Visnjiceva Street, theft of vehicles owned by the Islamic religious community or the family of the Belgrade Mufti, and television broadcasts in which guest speakers voice anti-Muslim views or misinterpret Muslim teachings.

The FMRA/FSRA has issued a statement condemning such attacks on the Islamic community and expressed regret because of religious intolerance. Since these incidents, the Republic Ministry of the Interior has been providing constant protection of the edifices of the Islamic community in Jevremova Street while the stolen automobiles have been found and returned to their owners.

There were no similar complaints from the Mesihat of the Islamic community of Sandzak (Mufti Moamar effendi Zukorlic), while Mufti Demirovic, head of the Islamic community in Montenegro, did not attend a single meeting.

There were no reports of specific cases of attacks on the clergy and believers or religious objects of the Roman Catholic, Evangeli-

57. The FMRA regularly visited monasteries in Kosovo and Metohija (Pec, Gracanica, Decani) and initiated a number of activities to aid the clergy, the monks, and the Serbian Orthodox believers in Kosovo and Metohija (food and fuel for monasteries in conjunction with the Federal Committee for Kosovo and Metohija and Goods Reserves Office and others). It also drew up reports, made proposals, and submitted them to all the relevant functionaries in efforts to resolve the situation in Kosovo and Metohija (May 2001). It also contributed to the formation of the Coordination Center, especially where the representative of the FMRA/FSRA, Svetomir Stefanovic, played an active role in the recent elections and in constituting the Assembly in Kosovo.

58. See *Crucified Kosovo*, Media & Publishing Center of Raska & Prizren Orthodox Eparchy, at <http://www.ratsko.org.yu/kosovo/crucified/default.htm>.

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cal, or Reformed Churches after the October democratic changes. But at the outset of the year 2000, there were a number of attacks on the religious sites of the Roman Catholic Church in Vojvodina. During the past year, however, there have been no reports of similar incidents. The Roman Catholic Church in Montenegro (Bar Bishopric) does not maintain contact with the FMRA/FSRA, while its representatives on several occasions supported the Montenegrin Church in public statements.

There were a number of anti-Semitic incidents to which the Federation of Jewish Municipalities and the Belgrade Jewish Municipality, as well as the Israeli Embassy, reacted. These incidents included the distribution of anti-Semitic pamphlets in Kikinda in January 2001; the placement of inscriptions on the building of the Jewish Municipality, the synagogue, on monuments in the Jewish cemetery in Belgrade, and on the Jewish cemetery in Novi Pazar on February 13–14, 2001; an attack on the representative of the Jewish religious community in Subotica on May 8, 2001; and several television broadcasts with guest speakers publicly expressing anti-Semitic views. The representatives of the Jewish religious community believe that the perpetrators of such acts are extreme nationalistic groups and organizations. In talks with the representatives of the Jewish religious community it became apparent that the incident in Subotica was probably not rooted in religious intolerance but political motivations, because the victim had been a lawyer for the opposition during the Milosevic regime. However, concern was repeatedly expressed in these talks about the unhampered publication and distribution of anti-Semitic writings and also about the ineffectiveness of the county prosecutor's office. The FMRA condemned these attacks on the sites of the Jewish community and held talks with the Israeli ambassador and other diplomats. The FMRA did its utmost to assist the Belgrade Jewish municipality by condemning acts of religious intolerance.

The smaller religious communities in the FRY, such as the Seventh-Day Adventists, Baptists, Pentecostals, Jehovah's Witnesses, and Hare Krishna, who actively practice and proselytize,⁵⁹ have more than once complained of societal discrimination, attacks on their believers, and graffiti on their buildings. These religions also protest the way their religious communities are portrayed on television and in

59. *See id.*

radio broadcasts and the like.⁶⁰ Jehovah Witnesses filed a number of charges both in the FRY and abroad because they were prevented from obtaining a permit from the Federal Ministry of the Interior to import their religious literature through the “NOLIT” publishing firm. They sent complaints to nearly all the European and world institutions whose jurisdiction includes monitoring human rights situations (OSCE, EU, the U.N., and others) and complained of the unlawful refusal to obtain permits for the importation of literature. Consultations between the FMRA, the Federal Ministry of the Interior, and the representatives of Jehovah Witnesses led to an agreement whereby a part of the literature was imported, and the Jehovah Witnesses withdrew their charges.

Representatives of small religious communities often expressed the opinion that the new Law on Religious Freedoms would jeopardize their rights of freedom of religion and belief. After talks were held on December 18, 2001, with the Federal Secretariat for religious affairs (Šijakovic, Milosavljevic, and chief of the team of experts Professor, S. Avramovic) their doubts and fears were largely dispelled.

The FMRA/FSRA also held a number of meetings with the representatives of smaller religious communities. For example, the FMRA/FSRA held talks with the Adventists on February 2001, the Baptists and the Evangelical Alliance on August 29–30, 2001, and December 18, 2001, the Hare Krishna on August 14, 2001, and the Jehovah’s Witnesses on November 8, 2001.

It has not been unusual for the smaller religious communities that have problems in most European countries and in the world to complain beforehand of being unprotected and harassed and to complain that the laws are inadequate without even having seen such laws. They do this in order to be constantly quoted in the reports of institutions that monitor the situation of religious freedom in the world.

60. Specific examples of such actions include the attack on the Roma members of the Pentecostal church in Leskovac on September 26, 2000, (assumed to have been more ethnic than religious), inscriptions on the building of the Adventists Faculty of Theology in December 2001, and the attacks on the members of the Vaishna religious Veda community in Jagodina after a program on the local Television station on September 26 and 27, 2001.

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III. CONCLUSIONS AND PROPOSALS FOR FUTURE ACTIVITIES IN
PROMOTING RELATIONS AMONG RELIGIOUS COMMUNITIES IN
THE FEDERAL REPUBLIC OF YUGOSLAVIA AND IN THE REGION

Since November 2000, a large number of talks have been held with the heads and representatives of religious communities, during both mutual visits and joint meetings of the heads of religious communities, the members of a team of legal experts, and the representatives of the FMRA/FSRA and the Republic Ministry for Religious Affairs.

The major topics discussed at these meetings and those in which the representatives showed the greatest interest at joint meetings were the following: (1) the Law on Religious Freedom; (2) the implementation of this law; (3) the Law on Denationalization and the Restitution of Property and Compensation; (4) religious education; (5) the Law on Radio Broadcasting; (6) the population census in the FRY that is planned for April 2002; and (7) the violation of religious freedom, religious intolerance, and attacks on members of churches, on religious communities, and on religious landmarks.

In keeping with the process of harmonizing Yugoslav legislation with that of the EU, the FMRA/FSRA in January 2001 undertook to propose a Law on Religious Freedom, at which time a work group was set up to draft a proposal for such a law to regulate relations between the state and the churches and religious communities. After consultations with leading international experts in this field, verification of legal solutions at a series of international conferences, numerous talks, and acceptance of concrete suggestions made by the heads and representatives of religious communities, the Draft Law was completed at the end of 2001.

This Draft Law is harmonized with both European legislation and the legal solutions in place prior to World War II, thus maintaining continuity in the FRY's laws with respect to the legal status of religious communities in the country. Once the law is passed, all issues touching upon the implementation of the law will be resolved and will include the participation of experts and representatives of the religious communities, as was the case when the law was being drafted. The Draft Law will also comply with the suggestions the EU Commission made after the meeting of the Consultative Work Group of the FRY/EU, asking for legislation to be harmonized in the FRY. The adoption of the Law on Religious Freedom will make it possible

to regulate legal matters also in other areas to which this law applies, such as media presence of religious communities, an issue that is closely connected with the Law on Broadcasting in the Republic of Serbia. Concerning this law, religious communities firmly believe that a controversial article should be removed because it restricts religious communities from being founders and owners of media.

The Law on Religious Freedom will also directly affect issues often raised by the representatives of religious communities in connection with the restitution of property and compensation, opening the way for the revival of the draft law on denationalization of the property of religious communities, which was originally considered in 1993. Denationalization would further rectify the injustices caused to religious communities after World War II, injustices which are already being rectified in some ways by reinstating religious education in the state schools.

In this context, it is of vital interest to include an item on religious affiliation in the coming population census so that precise data may be obtained and thus prevent manipulation of figures. This has been one of the conclusions voiced in the meetings with the representatives of religious communities in the FRY.

Adoption of the Law on Religious Freedom will guarantee the freedom of worship and, concomitantly, everything that is guaranteed in the major European and international conventions on religious freedom, including the final document of the International Consultative Conference on School Education Connected with the Freedom of Belief and Conviction, Tolerance and Non-discrimination,⁶¹ which will promote the systematic efforts to curb and prevent all forms of intolerance and discrimination on grounds of religious choice.

Representatives of the religious communities have been the participants most interested in these topics at individual and joint meetings.

A considerable improvement has been recorded in one year in the relations between the state and religious communities, as well as among these communities themselves, as is manifest in the abundant confidence-building and constructive cooperation on joint projects,

61. "International Consultative Conference on School Education Connected with the Freedom of Belief and Conviction, Tolerance and Non-discrimination," a conference held at Madrid, Spain, Nov. 23-25, 2001.

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projects that the FMRA/FSRA should constantly stimulate and nurture.

On the basis of cooperation with religious communities in the FRY and with other countries in the region, the FSRA will take steps to organize an international conference of the heads of religious communities in the Balkan region (i.e., Southeast Europe). The purpose of this conference will be to assemble and build confidence among the religious communities through the authority of religious leaders. This has already been proposed as a project to the work group on human rights of the Stability Pact. The organizers of this conference should enlist the participation of the religious communities from all countries in the region: the FRY (with Kosovo and Metohije), Bosnia-Herzegovina, Macedonia, Albania, Bulgaria, Romania, Croatia, Greece, Turkey, Cyprus, and Hungary.

A proposed final agreement and text of a declaration on confidence building to be signed by the religious heads would be the highest authority in the Balkan region for all religious communities and peoples and would undoubtedly help to place the process of stabilization and reconciliation on a firm and realistic foundation.⁶² This

62. In my opinion, such a conference is organized to have the importance and authority of the heads of religious communities recognized by the respective states, in the context of cooperation of state and religious communities. This also allows religious leaders to assume their share of responsibility for the future stability of the region.

In the Mediterranean and Southeastern Europe, there are several main religious communities present throughout the region. Also, due to historical reasons, countries in this region share the commonality that the majority of religious and ethnic communities are in effect the *same*, inseparable communities. Thus, it is impossible to avoid religious communities, as such. Rather, countries should use the positive potential of religious feelings to support the process of building the trust, confidence, and stability in the region.

There are four main types of religious community relations:

- Relations between the state and religious communities in one country.
- Relations between different religious communities in one state.
- Relations between the same religious communities in the area (e.g., Orthodox, Muslim, and so forth).
- Relations between the states in the region and one or more religious communities.

Relations between the states in the region should include religious communities because they cover the whole region: cooperation between one single state should be extended as model to the level of the region. We could say that there is neither development nor stability without understanding and cooperation between religious communities in our area, and that is the reason why our states should help dialogue and understanding between religious communities in this region.

alone could guarantee security and a progressive path toward the realization of peace in the Balkans and the integration of the region's countries in the EU.