

5-1-2001

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Martin Dojcar

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Recommended Citation

Martin Dojcar, *The Religious Freedom and Legal Status of Churches, Religious Organizations, and New Religious Movements in the Slovak Republic*, 2001 BYU L. Rev. 429 (2001).

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The Religious Freedom and Legal Status of Churches, Religious Organizations, and New Religious Movements in the Slovak Republic

*Martin Dojcar**

This article addresses the current state of legislation governing the relationship between the state and the churches, religious organizations, and new religious movements in the Slovak Republic. In addition, this article highlights the most common objections to the legal norms relating to the official registration of churches in Slovakia.

I. THE BASIC LEGAL PROTECTIONS OF RELIGIOUS LIBERTIES

Religious freedom in the Slovak Republic is guaranteed by the Constitution of the Slovak Republic,¹ the constitutional Bill of Basic Rights and Freedoms,² and the Law on Religious Freedom and the Legal Status of Churches and Religious Organizations.³ These statutes ensure the respect and protection of basic human rights and freedoms and lay out the fundamental conditions of church-state relations. At the same time, they act as an expression of the acceptance and observation of the international obligations and agreements on human rights and freedoms that the Slovak Republic has ratified, which take legal precedence over the Constitution and other laws or enactments of the Slovak Parliament.

The position of the Slovak Republic toward religious freedom, churches, and religious organizations is articulated in general terms in the Constitution of the Slovak Republic. The first article of the Slovak Constitution declares that Slovakia is an autonomous, democratic state, governed by the rule of law, with no ties to any particular

* Magister, Institute for Church-State Relations, Ministry of Culture, Slovakia. Mr. Dojcar has a degree in theology from Universitas Trnaviensis.

1. SLOVK. CONST.

2. Bill of Basic Rights and Freedoms (23/1991 Zb.) (Slovk.).

3. Law on Religious Freedom and the Legal Status of Churches and Religious Organizations (308/1991 Zb.) (Slovk.).

ideology or religion.⁴ Article 24, section 1 of the Constitution of the Slovak Republic guarantees all citizens freedom of thought, conscience, religious affiliation, and faith, along with the right to change religious affiliations or faiths or to be without any religious affiliation whatsoever. Conscience, thought, religious affiliation, and religious faith are, by their very nature, “forum internum,” inviolable, and therefore not subject to any legal restraints. Public expressions of thought, conscience, religious affiliation, or faith (“forum externum”), on the other hand, do not enjoy absolute freedom under the Constitution. Both Article 9, section 2 of the Agreement on the Protection of Human Rights and Fundamental Liberties and Article 24, section 4 of the Constitution of the Slovak Republic, constitutionally protecting and delineating rights of public expression, are subject to the requirements of our democratic society. In other words, the exercise of these rights may not promote conduct in violation of the Constitution, may not threaten or compromise public order and security, health or basic morals, abridge or limit the rights and freedoms of others, or threaten the independence or territorial integrity of the state.

A democratic state is obligated to prevent any violations of its interests or of the rights and freedoms of its citizens. The Slovak Constitution guarantees all citizens the right to freely associate and to organize themselves into various societies, clubs, or interest groups⁵ (Article 29), including, of course, religious societies or churches. Nevertheless, in an official resolution dated February 29, 1996, the European Parliament addressed the growing problem of sect activity in Europe and declared that violations of human rights can no longer be cloaked under the guise of religious freedom.⁶ Any democratic state must reserve the right to limit religious freedoms in the interest of protecting the above-mentioned values.

II. THE STATUS OF STATE-RECOGNIZED CHURCHES OR RELIGIOUS ORGANIZATIONS

The statutory scheme governing the legal status of religious organizations in Slovakia, as in a number of other countries, provides

4. SLOVK. CONST. art. I.

5. *See id.* art. 29.

6. *Recommendation 1178 (1992) on Sects and New Religious Movements* (visited Apr. 12, 2001) <<http://stars.coe.fr/ta/ta99/erec1412.htm>>.

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for the designation of state-recognized churches or religious organizations. According to the Slovak Law on Religious Freedom and the Legal Status of Churches and Religious Organizations,⁷ the state recognizes only those churches and religious organizations registered under this law. Although basic freedoms and liberties are guaranteed and equally granted both to members of registered and nonregistered religious organizations and religious organizations may freely operate regardless of whether or not they are registered, it should be noted that registration offers certain distinct advantages.

*A. Advantages of Registration**1. Status as a legal entity*

The legal existence of religious organizations, like that of public corporations, is linked to the process of registration. Through this process, the state accepts a certain organization as a religious organization, meaning that such organization has an overarching ideological and spiritual foundation (such as a religious mission or the propagation of spiritual and moral principles) that distinguishes it from legal business entities whose activities are primarily commercial in nature.

2. Financial support

The state provides registered churches and religious organizations with financial support in the performance of their various religious and public service activities. Churches and religious organizations may secure funding for their ecclesiastical needs and related activities both through their own initiative by purchasing and selling real property, leasing buildings and other facilities, publishing and printing, or collecting donations from members as well as by obtaining money from the state budget, which allocates a certain amount of funding for covering religious operating costs each year.⁸ The Slovak Republic is one of several European countries in which the state finances a significant share of the costs of registered churches and re-

7. Slovak Law on Religious Freedom and the Legal Status of Churches and Religious Organizations (308/1991 Zb.).

8. NEMEC, M.: *Vybrané kapitoly z cirkevného práva*. Bratislava: MANZ, PF UK, 1997, s. 115.

ligious organizations as a budget item directly from state reserves. The state also covers the salaries of the clergy and any operating deficits of local church administration and contributes to the upkeep and restoration of religious sites and edifices. In addition to these direct subsidies, the state provides churches and religious organizations special status with regard to taxes and import duties.

3. *The right of access to public facilities*

Through registration, churches and religious organizations obtain the right of access to public schools, health care facilities, mental and social care facilities, orphanages and child care facilities, military barracks, detention centers and prisons, and rehabilitation facilities.

B. The Relationship Between the State and Religious Organizations

The state's relationship with churches and religious organizations is primarily guided by its recognition of their unique legal standing as public service corporations. Registered churches and religious organizations are completely independent from state control with respect to their internal activity and the administration of their affairs—subject only to the same restrictions and limits as all other legal entities and legal relations in the Slovak Republic. Registered churches and religious organizations are legal entities with their own structure, governing bodies, internal rules, and ordinances. They may associate among themselves as they wish, form communities and congregations, create monasteries and convents, and form other similar religious orders. They may acquire and own real and personal property and exercise a full range of property rights over real property, chattels, and intellectual property. All of their internal affairs are conducted free from the interference of government. For example, on the basis of their own structures and lines of authority, they may appoint and ordain their own representatives, clergy, teachers for church-operated schools, teachers of religion, and auxiliary leaders. They are free to establish and conduct religious instruction and administer ordinances. They may issue and enforce internal rules and regulations without approval of the state, so long as the organizations' rules do not conflict with applicable legal duties and restrictions. They have the right to establish their own schools, engage in printing and publishing activities, operate special purpose facilities, and own and operate medical and social service facilities. They may

teach and instruct their professional clergy and lay workers in their own schools and facilities. And with considerable latitude, they may foster and maintain contacts with other churches, organizations, and communities abroad.

Individual members of religious organizations whose conscience or religious affiliation does not permit them to serve in the armed forces cannot be compelled to do so against their will, but such individuals have the right and the obligation to perform substitute civil service.

Thus, although religious organizations enjoy a fairly independent existence, the state may work closely with churches and religious organizations, particularly in those areas of mutual activity such as education, family issues (e.g., marriage, divorce), and financial issues. The relationship between church and state might best be described as a partnership.

C. The Requirements for Registration

The registration of churches and religious organizations is governed by the Law on Religious Freedom and the Legal Status of Churches and Religious Organizations⁹ and the Law on the Registration of Churches and Religious Organizations.¹⁰

One of the most important questions of official registration is whether the association of individuals that wishes to operate as a church or religious organization demonstrates the internal structure, signs, and characteristics of a religiously oriented organization as set forth in the law. According to Section 4, paragraph 1 of the Law on Religious Freedom and the Legal Status of Churches and Religious Organizations,¹¹ a church or religious organization is defined as a voluntary association of individuals of the same religious persuasion in an organization with unique administrative organs, structure, internal precepts, and ordinances or rituals. This limitation means that the state considers a church or religious organization to be a public corporation of a unique nature, sharing a uniform dogmatic and

9. Law on Religious Freedom and the Legal Status of Churches and Religious Organizations (308/1991 Zb.) (Slovk.).

10. Law on the Registration of Churches and Religious Organizations (192/1992 Zb.) (Slovk.).

11. Law on Religious Freedom and the Legal Status of Churches and Religious Organizations (308/1991 Zb.) (Slovk.).

spiritual purpose. An organization that does not fulfill these requirements may not be registered as a church or religious organization according to the law and has the status of a *nonrecognized church*. As a result, such an organization may only function as a legal entity on the basis of the Law on Civic Associations,¹² in which case the church lacks the standing of a public corporation like a registered church and has only the standing of a private corporation.

A religious organization can petition for registration if it can certify that it has at least 20,000 adult adherents with permanent residency in the Slovak Republic.¹³ This requirement is waived for those religious organizations that were in existence prior to the enactment of the Law on Religious Freedom and the Legal Status of Churches and Religious Organizations¹⁴ on September 1, 1991, and that functioned under the then-applicable law or operated with the consent of the state.

A petition for registration must contain both the statutorily articulated administrative details as well as binding declarations that the organization will fully respect and uphold all relevant and applicable laws and norms. The organization must also declare that it will be tolerant of all other religious organizations and respect the rights of individuals choosing to profess and practice no religion or faith at all. The application for registration must also contain the articles of establishment of the organization. The Department of Churches of the Ministry of Culture (the registering body) must then determine whether the establishment and activities of the applicant religious organization violate the laws governing public security and order, health, and morals, or fundamental principles of humanity and tolerance. The Department must also determine whether the existence of the organization might pose a threat to other legal entities or individuals. If all of the legal requirements are thus satisfied, the Ministry of Culture will grant official registration to the applicant religious organization. If the conditions are not met, registration will be denied. Within a set statutory period, a denial may be appealed to the Supreme Court of the Slovak Republic with a request for reevaluation.

12. Law on Civic Associations (86/1990 Zb.) (Slovk.).

13. Law on the Registration of Churches and Religious Organizations (§ 2, 192/1992 Zb.) (Slovk.).

14. Law on Religious Freedom and the Legal Status of Churches and Religious Organizations (308/1991 Zb.) (Slovk.).

There are currently fifteen registered churches and religious organizations operating in the Slovak Republic, nine of which do not meet the statutory minimum membership requirement but are allowed to operate because of their presence and activity prior to the enactment of this provision. Among these nine are the Jewish community and the majority of Protestant faiths whose membership rolls contain anywhere from a few hundred to several thousand believers. In the period since 1990, only one religious organization has met the requirements for registration, including the membership requirement—the Jehovah's Witnesses.

D. Unregistered Religious Organizations

An indication of religious freedom is the spectrum of religious practices and lifestyles. The religious scene in Slovakia is diverse and rich in nature. In addition to the new religious or pseudo-religious movements, there are a number of traditional schools of religious thought, some greatly predating traditional Christianity and new only in the sense that they have recently found their way into the Slovak society and culture. Several of these unregistered religious groups are making efforts to establish themselves as churches and obtain legal standing. In light of the applicable requirements for registration, however, especially the relatively high membership minimum, this is a formidable undertaking. As a result, many of these associations attempt to obtain legal standing by registering with the Ministry of the Interior as civic associations on the basis of the Law on Civic Associations,¹⁵ which does not relate to the association of citizens in religious organizations or churches. It is important to note, however, that many of the new religious movements register themselves as civic associations even in those countries where they otherwise have the option of registering as a church. Under the Law on Civic Associations,¹⁶ these organizations obtain neither standing as a public corporation nor official recognition per se, but registration as a civic association and standing as a private corporation permits them to operate publicly through various types of educational, artistic, athletic, and charitable service activities.

The majority of Slovakia's citizens at this point, most of whom are associated with traditional churches, are not very receptive to the

15. Law on Civic Associations (83/1990 Zb.) (Slovk.).

16. *See id.*

legalization of new religious movements, particularly those organizations that are not considered to be Christian.¹⁷ So far, the missionary efforts of these religious groups in Slovakia has not met with much success, and their respective membership bases are small. Nonetheless, if the current legislative scheme is not amended, growing dissatisfaction with the status quo is to be expected as religious organizations become more established and desire to benefit from the advantages of official registration.

E. The Most Common Objections to the Legislation Governing Religious Registration in the Slovak Republic

The most common objection to the legislation governing the registration of churches and religious organizations in the Slovak Republic is the relatively high minimum membership requirement of 20,000 adult members. This criticism has been expressed not only by new religious movements now operating in Slovakia but by international organizations monitoring the state and the development of legislation in the area of human rights and the freedom of conscience.¹⁸

Unregistered religious organizations also point to the legal disparity in the Slovak system created by the difference in the numbers required for the registration of a new church or religious organization under the law 192/1992 Zb. (20,000 adult citizens) and the actual membership of the churches allowed to continue operating under the provisions of the law 308/1991 Zb., which resulted in de facto registration.

III. CONCLUSION

In conclusion, it is clear that religious freedom exists in the Slovak Republic both in theory and in fact. However, like all that is man-made, the legal arrangement governing the relationship between church and state in Slovakia is subject to a number of inadequacies. The question remains then, to what degree do man's attempts to realize his absolute values bear the marks of his imperfections and limitations? The future of this issue depends on

17. JURAN, J.: Podmienky registrácie cirkví a nábož enských spoloč ností v Slovenskej republike. In: *Sekty, kultúry a nová religiozita v pluralitnej spoloč nosti*. Bratislava: Ústav pre vz ť ahy štátu a cirkví, 2000, s. 17.

18. *See id.*

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the state's interest in taking steps to better formulate the nature of church-state relations so that they meet the standards and norms found in mature democratic countries.

