

2. CONCORDATOS Y ACUERDOS. ACUERDO BÁSICO ENTRE LA SANTA SEDE Y BOSNIA Y HERZEGOVINA.

En un país con un 17 % de católicos croatas, el presente Acuerdo Básico cumple un importante papel para la protección de las minorías. El intercambio de los instrumentos de ratificación se produjo el 25 de octubre de 2007 en El Vaticano, con la inmediata entrada en vigor del Acuerdo. Junto con las usuales declaraciones y normas relativas al reconocimiento de la personalidad jurídica de la Iglesia católica y de su autonomía en el campo de la libertad religiosa, el Acuerdo recoge en el artículo 10 y en el Protocolo adicional las normas básicas que rigen la devolución y compensación a la Iglesia católica por los bienes nacionalizados.

Basic Agreement
between the Holy See and Bosnia and Herzegovina

The Holy See and Bosnia and Herzegovina, wishing to establish the juridical framework of relations between the Catholic Church and Bosnia and Herzegovina; with reference on the part of Bosnia-Herzegovina to the constitutional principles by which it was created, and on the part of the Holy See to the documents of the Second Vatican Council and the norms of canon law; mindful of the centuries-old presence of the Catholic Church in Bosnia and Herzegovina and of her current role in social, cultural and educational fields; respecting internationally recognized principles concerning the distinction between religion and the state and concerning freedom of religion; have established by mutual agreement what follows:

Article 1

Bosnia and Herzegovina and the Holy See reaffirm that the state and the Catholic Church, each in its proper sphere, are independent and autonomous, and they commit themselves to total respect for this principle in their relations and to mutual cooperation for integral human development, both spiritual and material, and for the promotion of the common good.

Article 2

1. Bosnia and Herzegovina recognizes the public juridical personality of the Catholic Church.

2. Bosnia and Herzegovina also recognizes the public juridical personality of all ecclesiastical institutions which possess such juridical personality in conformity with the norms of canon law.

3. The competent ecclesiastical authority may establish, modify, abolish or recog-

nize ecclesiastical juridical persons according to the norms of canon law. It informs the competent agency of the civil administration accordingly, in order that registration be made according to the applicable civil norms.

Article 3

Bosnia and Herzegovina guarantees to the Catholic Church and to her juridical and physical persons the freedom to communicate and to maintain contacts with the Holy See, with the Episcopal Conferences of other countries, and also with particular Churches, institutions and persons both within the state and abroad.

Article 4

Respecting the right to freedom of religion, Bosnia and Herzegovina recognizes the free exercise by the Catholic Church, and by her communities of whatever rite, of her apostolic mission, in particular with regard to divine worship, governance, teaching and the activity of the associations indicated in Article 13.

Article 5

The competent ecclesiastical authority has the exclusive right to regulate freely its proper ecclesiastical order, to establish, alter and suppress ecclesiastical provinces, archdioceses, dioceses, apostolic administrations, territorial prelatures, territorial abbas, personal prelatures, parishes, institutes of consecrated life and societies of apostolic life, as well as other ecclesiastical juridical persons.

Article 6

1. The Catholic Church is responsible for all ecclesiastical appointments and the conferring of ecclesiastical offices, in conformity with the norms of canon law.

2. The appointment, transfer and removal of Bishops is the exclusive competence of the Holy See.

Article 7

1. Bosnia and Herzegovina guarantees to the Catholic Church the freedom to conduct worship.

2. Bosnia and Herzegovina guarantees the inviolability of places of worship: churches, chapels and their respective annexes.

3. Only for grave reasons and with the explicit agreement of the ecclesiastical authority may such places be destined for other uses.

4. The competent authority of Bosnia and Herzegovina cannot take security

measures in the aforementioned places without previous authorization from the competent ecclesiastical authority, unless such action is urgently needed for the defence of life or health or to preserve goods of particular artistic or historical value.

5. In the event that public worship is conducted in places other than those indicated in section 2 above (as in the case of processions, pilgrimages or other activities), the ecclesiastical authorities will inform the competent authorities of Bosnia-Herzegovina, who are obliged to guarantee public order and safety.

Article 8

1. In the case of a judicial inquiry into alleged offences against the penal code on the part of a cleric, a religious man or woman, the judicial authorities of Bosnia-Herzegovina will inform the competent ecclesiastical authorities beforehand.

2. In every case, the seal of Confession is inviolable.

Article 9

1. Sundays and the following feast-days will be classed as non-working days for Catholics throughout the country according to the law of Bosnia and Herzegovina:

- a) 6 January, the Epiphany of the Lord;
- b) Corpus Christi;
- c) 15 August, Assumption of the Blessed Virgin Mary;
- d) 1 November, All Saints;
- e) 25 December, Christmas Day.

2. The two interested parties will come to an agreement on any changes to the feast-days, should this prove necessary.

Article 10

1. Ecclesiastical juridical persons may acquire, possess, use and usufruct or alienate moveable and immoveable goods, and may also acquire and alienate patrimonial rights, according to the norms of canon law and the legislation of Bosnia-Herzegovina.

2. The juridical persons indicated in section 1 may institute foundations. Their activity, as far as its civil effects are concerned, is regulated according to the legal norms of Bosnia and Herzegovina.

3. Bosnia and Herzegovina will restore to the Catholic Church within ten years from the entry into effect of this Agreement all immoveable goods nationalized or seized without adequate compensation. For goods which cannot be restored, Bosnia and Herzegovina will give just compensation, to be agreed upon by the authorities and those with legitimate title to the properties.

Article 11

1. The Catholic Church has the right to construct churches and ecclesiastical buildings and to enlarge or alter those already in existence, according to the laws in force in Bosnia and Herzegovina.

2. The diocesan Bishop decides when it is necessary to construct ecclesiastical buildings within the territory of his diocese, by norm of canon law, and he proposes where they are to be located; and the competent authorities of Bosnia and Herzegovina will agree unless there are objective reasons not to do so.

3. The competent authorities in Bosnia and Herzegovina will not consider requests for the construction of Catholic ecclesiastical buildings in the absence of the diocesan Bishop's written approval (cf. section 2 above).

Article 12

1. The Catholic Church is guaranteed the freedom to own, print, publish and distribute books, newspapers, journals, as well as audiovisual material, and also any other activity connected with her mission.

2. The Catholic Church has the right to establish and to administer in her own name radio and television stations, in conformity with the laws of Bosnia and Herzegovina.

3. The Catholic Church also has access to the public communications media (newspapers, radio, television, internet).

Article 13

1. Bosnia-Herzegovina recognizes the right of the Catholic faithful to form associations, in conformity with canonical norms, according to the Church's proper purposes. As far as the civil effects of their activities are concerned, such associations are to be regulated in conformity with the legal norms of Bosnia and Herzegovina.

2. Bosnia and Herzegovina guarantees to Catholics and to their associations and institutions full freedom of action and of public activity, both in speech and in writing.

Article 14

1. The Catholic Church has the right to establish educational institutions at all levels and to administer them according to its own norms, while respecting the legal dispositions of Bosnia and Herzegovina.

2. Bosnia and Herzegovina will accord to such institutions the same rights that are guaranteed to state institutions, including financial treatment and the recognition of academic degrees and any university qualifications obtained.

3. Bosnia and Herzegovina guarantees to the pupils and students of educational

institutions (cf. section 1 above) the same rights as pupils and students of state educational institutions of the equivalent level. The same rule also applies to the teaching and non-teaching staff of such institutes.

Article 15

1. Bosnia and Herzegovina recognizes and guarantees to the Catholic Church the right forces of public order, and of those who are resident in penal institutions, in hospitals, in orphanages and in any institute of medical and social assistance, whether public or private.

2. Pastoral activity in the armed forces and in the forces of public order, and in the public institutions listed in section 1 above, will be regulated by appropriate Agreements between the competent ecclesiastical authorities and Bosnia and Herzegovina.

Article 16

1. Bosnia and Herzegovina, in the light of the principle of freedom of religion, recognizes the fundamental right of parents to see to the religious education of their children; and it guarantees within the framework of the academic programme and in conformity with the wishes of parents or guardians, the teaching of the Catholic religion in all public schools, elementary, middle and higher, and in pre-school centres, as a required subject for those who choose it, under the same conditions as other required subjects.

2. In collaboration with the competent Church authorities, the educational authorities will allow parents and adult students the possibility to avail themselves freely of such teaching at the time of registration for the academic year, in such a way that their decision does not give rise to any form of academic discrimination.

3. The teaching of the Catholic religion will be carried out by teachers who are suitable, with the canonical mandate of the local diocesan Bishop, and in possession of the qualifications required for the particular level of school by the laws in force in Bosnia and Herzegovina, with respect for all the rights and duties pertaining thereto. In the case of withdrawal of the canonical mandate by the diocesan Bishop, the teacher will not be able to continue teaching the Catholic religion.

4. Teachers of religion are full members of the teaching staff of the educational institutions mentioned in section 1 of this Article.

5. The programmes and the content of the teaching of the Catholic religion, as well as the text-books and didactic material must be prepared and approved by the Episcopal Conference of Bosnia and Herzegovina. The ways in which the teaching of the Catholic religion is conducted will be object of a particular agreement between the competent authorities of Bosnia-Herzegovina and the Episcopal Conference.

Article 17

1. The Catholic Church may freely organize institutions intended to provide charitable activity and social assistance, in conformity with the relevant civil norms.

2. Ecclesiastical institutions or institutions dependent on the Church for purposes of charitable assistance are regulated in conformity with their own statutes and they enjoy the same rights and privileges and the same treatment as the state institutions established for the same purpose.

3. The Catholic Church and Bosnia and Herzegovina will reach an agreement about mutual cooperation between their respective institutions for charitable assistance.

4. As far as civil effects are concerned, the institutions listed in section 1 of this Article will be regulated according to the legal norms of Bosnia and Herzegovina.

Article 18

1. Bosnia and Herzegovina and the Holy See will resolve, by common accord, through diplomatic means, any doubts or difficulties which might arise in the interpretation and application of the provisions of the present Agreement.

2. Matters of common interest that require new or additional solutions will be addressed by a Mixed Commission set up for the purpose, composed of representatives of the two parties, which will submit its proposals for the approval of the respective authorities.

Article 19

1. The present Agreement, drawn up in English, will be signed in duplicate, will be ratified according to the proper procedural norms of the contracting Parties and will take effect at the moment of the exchange of instruments of ratification.

2. Should one of the contracting parties consider that the circumstances in which the present Agreement was established have changed radically, in such a way as to necessitate modifications, negotiations to that effect are to be initiated.

Signed in Sarajevo, on 19th April 2006

for the Holy See
Alessandro D'Errico

for Bosnia and Herzegovina
Ivo Miro Jovi

Additional Protocol
to the Basic Agreement between
the Holy See and Bosnia and Herzegovina

The Holy See and Bosnia and Herzegovina, desiring to avoid all difficulties of interpretation of the Basic Agreement signed on 19th April 2006 in Sarajevo and to ensure the precise application of Art. 10 §3 of the same Basic Agreement, declare:

1. The restitution of immoveable or nationalized goods seized without adequate compensation, including the term of their restitution, will be implemented in conformity with the law that shall regulate the matter of restitution in Bosnia and Herzegovina.
2. For the identification of immoveable goods to be transferred to ecclesiastical ownership or to be adequately compensated, a Mixed Commission will be established, composed of representatives of the two parties.
- 3 In conformity with Art. 18 of the Basic Agreement, matters that require new additional solutions will be addressed by common accord through the Mixed Commission, which will submit its proposals for the approval of the respective authorities.

This Additional Protocol forms an integral part of the Basic Agreement between the Holy See and Bosnia and Herzegovina and shall be ratified together with the same Basic Agreement.

The present Protocol, drawn up in English, will be signed in duplicate, and will take effect together with the Basic Agreement between the Holy See and Bosnia and Herzegovina.

Signed in Sarajevo, on twenty-ninth of September, 2006.

for the Holy See
Alessandro D'Errico

for Bosnia and Herzegovina
Ivo Miro Jovi

On the twenty-fifth of October in the year two thousand and seven in the Apostolic Palace in the Vatican, His Eminence Cardinal Tarcisio Bertone, Secretary of State of His Holiness, and His Excellency Mr ?eljko Kom?i?, Chairman of the Presidency of Bosnia and Herzegovina, in conformity with article 19 of the Basic Agreement between the Holy See and Bosnia and Herzegovina, which was signed on 19 April 2006, and with the Additional Protocol to the said Agreement, which was signed on 29 September 2006, proceeded to exchange the corresponding instruments of ratification.