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1. KOSOVO: LEY N. 02/L-31 13 SOBRE LIBERTAD RELIGIOSA DE KOSOVO DE 13 DE JULIO DE 2006.

El pasado 13 de julio la Asamblea Legislativa instituida por el gobierno provisional de Kosovo, sobre la base del derecho a la libertad de pensamiento, conciencia y de religión consagrado en el art. 9 del Convenio Europeo sobre Derechos Humanos de 1950, ha aprobado una Ley general sobre libertad religiosa. Se trata de una norma breve que consta de 14 artículos que, sin embargo, consagra el haz de derechos en que se concreta el contenido esencial de aquella libertad, tanto su dimensión individual como colectiva; sienta los principios informadores de la relación entre el Estado las confesiones religiosas; y, finalmente, delimita el régimen jurídico de algunas de las

materias sobre la que se proyecta la función promocional del gobierno provisional en orden a garantizar el disfrute real y efectivo de las convicciones de los ciudadanos.

Por lo que se refiere al marco jurídico del sistema de relación vigente, el art.1.1 de la Ley consagra, a modo de principio general, la libertad de pensamiento, conciencia y religión que es definida según lo establecido en el art. 9 del Convenio de Roma como “la libertad de cambiar de religión o de convicciones, así como la libertad de manifestar su religión o sus convicciones individual o colectivamente, en público o en privado, por medio del culto, la enseñanza, las prácticas y la observación de los ritos“ y, a tenor del art. 2.2, a ser obligado o forzado a actuar en contra de las propias convicciones. Ahora bien, este derecho no es absoluto sino que, de conformidad con lo dispuesto en el art. 4.1, su ejercicio se halla limitado por el debido respeto a los derechos de los demás y, en singular, de los derechos a la vida, a la salud física o mental y a la intimidad personal y familiar. Sobre estas bases, la Ley dedica varios preceptos a la delimitación del contenido de la libertad ideológica o de conciencia distinguiendo, a tal efecto, entre el haz de derechos que integran las dimensiones individual y colectiva de este derecho.

La dimensión individual de este derecho comprende, según lo establecido en el art. 1.2, las libertades para: 1) Establecer lugares de culto e instituciones caritativas o humanitarias; 2) Adquirir aquellos bienes muebles y recursos materiales que sean necesarios para la práctica de los ritos y ceremonias religiosas; 3) Editar y distribuir todo tipo de publicaciones concernientes al contenido del culto; 4) Adoctrinar a los creyentes en centros y locales destinados expresamente a este fin; 5) Solicitar y obtener financiación económica a través de donaciones voluntarias, tanto de personas físicas como de personas jurídicas e instituciones privadas; y 6) Recibir, en su caso, la educación religiosa de conformidad con las propias convicciones (art. 9.4). Por su parte, la dimensión colectiva de la libertad ideológica aparece

garantizada expresamente en el art. 1.2.a de la Ley mediante el reconocimiento del derecho de los ciudadanos a constituir comunidades y asociaciones religiosas que, por otra parte, pueden adquirir personalidad jurídica privada de conformidad con lo dispuesto en el Derecho común de asociaciones (art. 6). Las comunidades así constituidas, tienen derecho, a tenor de lo dispuesto en el art. 7 de la norma, a determinar libremente su identidad religiosa; a regular y a administrar, sin interferencias estatales, su régimen jurídico interno; a establecer y mantener comunicaciones con otras entidades eclesiásticas kosovares o extranjeras; a formar Federaciones de ámbito nacional o internacional; a restringir el libre acceso a los lugares de culto y demás propiedades eclesiásticas de acuerdo con estándares internacionales en la materia (art. 8.3); y, finalmente, a establecer el régimen jurídico de las relaciones de trabajo de quienes prestan servicios domésticos en la comunidad religiosa (art. 13.2).

En todo caso, el libre ejercicio de todos ellos, tanto en público como en privado, no puede dar lugar a discriminaciones basadas en motivos religiosos, de modo que todos los ciudadanos y los grupos en que se integran sean iguales en el ejercicio y disfrute de los derechos civiles, políticos, sociales y culturales consagrados en el ordenamiento jurídico kosovar (arts. 2 y 3). La realización de la igual libertad de conciencia aparece plasmada en el art. 5 de la Ley mediante el establecimiento de un sistema de laicidad positiva basado: de un lado, en los postulados de que ninguna religión tendrá carácter oficial y de que, consecuentemente, los grupos religiosos se hallan separados del Estado (arts. 5.1 y 2 respectivamente); y, de otro, en el mandato promocional contenido en el art. 5.5 de que “Reconociendo su identidad y su contribución específica a la sociedad, los poderes públicos mantendrán un diálogo abierto, transparente y regular con las asociaciones y las comunidades religiosas en materias de interés común”. Asimismo, la propia Ley contiene algunas normas que son reflejo de la promoción estatal de la libertad ideológica y que, a groso modo, son las relativas a:

La inviolabilidad domiciliaria de los lugares de culto que sólo pueden ser objeto de registros policiales, a menos que sea previamente autorizado mediante orden judicial debido a que existen indicios de que se están llevando a cabo actividades ilegales o que supongan un peligro inminente a la vida o a la salud de las personas (art. 8.1);

La libertad de acceso de peregrinos, clérigos y personas extranjeras que viven permanente o temporalmente en institutos de vida consagrada, sin necesidad de haber obtenido los pertinentes permisos de entrada en el territorio nacional y previa invitación de la entidad religiosa a la que pertenecen (art. 8.2);

El establecimiento de escuelas privadas de titularidad confesional en las mismas condiciones y con los mismos beneficios que los demás centros privados concertados (arts. 9.1 y 3 y 13.3);

El establecimiento de Facultades de Teología en las Universidades públicas de conformidad con lo establecido en la Ley General de Educación Superior de Kosovo (art. 9.2);

El acceso de las comunidades religiosas a los medios públicos de comunicación social (art. 10);

La asistencia espiritual en centros penitenciarios e instituciones sanitarias de titularidad estatal en condiciones de igualdad con otras instituciones sociales (art. 11.1);

El reconocimiento del derecho de los ministros de culto a no prestar declaración como testigos en los procesos judiciales cuyo objeto guarda relación con hechos de los que han tenido conocimiento bajo secreto de confesión (art. 11.2);

El establecimiento de exenciones fiscales a las confesiones religiosas por la adquisición de bienes muebles o inmuebles destinados a fines y actividades de culto, caritativas, educativas o asistenciales (arts. 12.1 y 2), así como desgravaciones fiscales a los fieles por sus aportaciones y donaciones voluntarias a comunidades o asociaciones religiosas (art. 12.3);

El mantenimiento y la conservación del patrimonio eclesiástico con cargos a los fondos presupuestarios estatales (art. 12.4);

Y, finalmente, el reconocimiento a los ministros de culto de las prestaciones sociales y sanitarias reconocidas por el Derecho laboral vigente a los trabajadores por cuenta ajena (art. 13.1).

2. BULGARIA: LEY SOBRE CONFESIONES RELIGIOSAS, DE 20 DE DICIEMBRE DE 2002.

La ley de “Denominaciones Religiosas¹” búlgara tiene un total de cuarenta artículos divididos en siete capítulos. Es de resaltar que bajo el citado título la norma no sólo regula el estatus de las denominaciones y otras entidades religiosas, establece, además el contenido del derecho fundamental de libertad religiosa de los individuos. Realiza una mención especial a la Iglesia ortodoxa búlgara, pero no se queda ahí, la mención pasa por reconocerle la personalidad jurídica y el papel de ésta en Bulgaria. Una regulación pormenorizada del proceso de inscripción y sus derechos dará paso al reflejo penal del incumplimiento de la Ley.

El primero de los capítulos, de disposiciones generales, recoge el régimen del derecho de libertad religiosa. La Ley garantiza el citado derecho a todos aquellos que se encuentren bajo la jurisdicción búlgara y establece el estatus de las Confesiones religiosas y sus relaciones con el Estado. Entiende que ese derecho, ejercido de manera individual, comprende: el derecho de elegir, cambiar y abandonar la religión que se desee y realizar actos de culto, tanto en público, como en privado, y participar en sus ritos a través de la educación religiosa y el proselitismo oral o escrito. Las creencias religiosas no podrán constituir motivo de persecución ni discriminación y, no serán nunca razón suficiente para incumplir la legalidad vigente. Los

¹ La traducción es, en ocasiones, literal, de ahí lo extraño de algunas expresiones que suenan ajenas a nuestro derecho.

poderes públicos serán los encargados de garantizar la libertad religiosa que, además de lo dicho, incluye la vertiente colectiva y por tanto: posibilidad de establecer y mantener confesiones religiosas, establecer lugares de culto, instituciones humanitarias o de caridad y adquirir o usar material necesario para la realización de sus fines además de poder escribir y publicar publicaciones religiosas. Forman también parte del contenido de la libertad religiosa: facilitar y recibir enseñanza religiosa en la lengua que se desee, crear centros educativos con un ideario, el respeto a los días de descanso y festividades religiosas. Los límites establecidos a este derecho son: el orden público y los demás derechos fundamentales.

Además del derecho individual de libertad religiosa la Ley se centra en el estatuto jurídico de las Entidades religiosas. Establece el principio de igualdad de las mismas así como su separación del Estado. Las “Denominaciones” podrán tener lugares dedicados al culto atendiendo a la normativa urbanística búlgara. Las Confesiones, instituciones y creencias religiosas no podrán ser utilizadas con fines políticos. Las relaciones entre las Confesiones y el Estado se realizarán en búlgaro, sin que esto suponga ningún obstáculo al uso de otros idiomas en los distintos ritos. Los derechos de los individuos que pertenecen a una Confesión no podrán ser restringidos por la misma. No se podrá intentar atraer a menores sin el consentimiento de sus padres, los cuales tendrán derecho a elegir la educación religiosa que consideren para sus hijos. Si se incumpliera lo establecido se limitará el ejercicio del derecho de libertad religiosa, incoando tal procedimiento la parte interesada.

El artículo diez, reserva un papel especial a la Iglesia ortodoxa búlgara, alude al papel de la misma desde una perspectiva histórica sin olvidar la política. No sólo realiza esta afirmación sino que le reconoce al patriarcado su condición de representante. Es la misma Ley la que le reconoce la personalidad jurídica y su derecho de autogobierno. Este reconocimiento queda limitado por el párrafo tercero al establecer que ninguna ley podrá

utilizar lo señalado en los dos primeros párrafos para la concesión de beneficios o ventajas a la Iglesia ortodoxa.

El capítulo tercero se encuentra dedicado al proceso de inscripción de las entidades religiosas. El encargado de la inscripción es el Tribunal de la ciudad de Sofía, el cual, registrará a las comunidades religiosas como entidades legales, de conformidad con lo establecido en el Código de procedimiento civil, pudiendo, para ello solicitar la opinión de la Dirección de Denominaciones religiosas. No se permitirá más de una Confesión inscrita con el mismo nombre. La norma recoge el contenido de los Estatutos y, a continuación señala la información que con la que deberá contar el Registro antes de proceder a la inscripción.

Una vez inscritas, las Confesiones podrán crear Órdenes, Congregaciones y otras entidades locales, en función de lo que establezcan sus estatutos. De conformidad con los mismos, las entidades locales podrán proceder a su inscripción en la corte de la localidad a la que pertenezcan. Las entidades religiosas que tengan reconocida la personalidad jurídica tienen reconocido el derecho de poseer bienes, podrán además, utilizar gratuitamente las propiedades de los poderes públicos y, recibir subvenciones para el cumplimiento de sus fines. Las entidades inscritas podrán: producir y enajenar mercancías, actividad que no será considerada mercantil si lo es para el cumplimiento de los fines aludidos, participar y crear entidades comerciales y crear, previo consentimiento, entidades sin ánimo de lucro distintas de las que representan la práctica pública de la religión. Las Denominaciones que disfruten de las ventajas económicas citadas deberán poner sus cuentas a la disposición de una auditoría independiente, al igual que las entidades sin ánimo de lucro.

El estatuto laboral de los ministros de culto quedará determinado por los estatutos de las Entidades religiosas, de conformidad con lo establecido por la legislación laboral búlgara, respecto del clero, queda reconocido el secreto de confesión.

El capítulo quinto dedicado a las Instituciones sociales, médicas y educativas pertenecientes a las entidades religiosas, establece que las mismas podrán: crear instituciones médicas, sociales y educativas conforme a los requisitos que la Ley establece. Las actividades que los citados centros realicen serán objeto de supervisión por parte del Ministro del ramo. La admisión en esas instituciones no se podrá hacer depender de la pertenencia a la Confesión que corresponda.

Bajo el permiso del Ministerio de Educación las Confesiones podrán crear centros propios de formación. Los diplomas y calificaciones que se obtengan en los centros señalados equivaldrán a los de las escuelas seculares de acuerdo con la Ley nacional de Educación. Las Confesiones podrán crear escuelas de secundaria conforme a lo establecido por la ley para las escuelas privadas. El acceso a las mismas requerirá el permiso paterno previo si el alumno fuera menor. También podrán las Confesiones crear instituciones educativas superiores.

El capítulo seis se encarga de la Dirección de Denominaciones Religiosas. Establece que el Consejo de Ministros establecerá la política correspondiente respecto de las Denominaciones religiosas. La Dirección de Denominaciones Religiosas es un órgano administrativo dependiente del Consejo de Ministros encargado de: coordinar las relaciones entre las Confesiones y el Estado, asesorar al Consejo en la política a llevar a cabo, proveer la opinión de expertos en la materia, atender a las peticiones y denuncias de los ciudadanos en la violación de sus derechos en materia religiosa y, en definitiva: velar por el cumplimiento de esta ley.

El capítulo séptimo y último atiende a las medidas a tomar, incluso las penales, en el supuesto de que se vulnere la presente ley. Establece el procedimiento a seguir y el cometido de la Dirección de Denominaciones religiosas en caso de incumplimiento.

Las disposiciones transitorias y finales recogen algunos conceptos que, utiliza la ley y los distintos significados de los mismos. Señala las modificaciones a la norma y las especificaciones respecto de las entidades religiosas que existían con anterioridad a la presente ley, las circunstancias legales de éstas y de los individuos que a ellas pertenecían.

3. RUMANIA: DECRETO 177/1948, SOBRE EL RÉGIMEN JURÍDICO DE LAS CONFESIONES RELIGIOSAS TRAS LA REFORMA DE LA LEY 178/2002.

En el artículo 29 de la Constitución rumana se encuentra reconocida la Libertad de pensamiento, opinión, creencias y conciencia al máximo nivel jurídico. Dentro de su contenido se incluye la garantía de que nadie será obligado a adherirse a un determinado credo contrario a sus convicciones y el derecho de los padres a educar a sus hijos conforme a sus propias convicciones. Además, el constituyente entiende que la libertad de conciencia se concretará en un espíritu de tolerancia y respeto.

A nivel colectivo, se reconoce la capacidad de las comunidades de auto-organizarse y la separación entre el Estado y las confesiones garantizando la asistencia religiosa en los establecimientos públicos².

La norma de desarrollo es el Decreto sobre el régimen jurídico de las religiones³ que fue modificado por la Ley

² Vid artículo 29 de la Constitución rumana. Los textos se pueden obtener de <http://religlaw.org> más concretamente en el caso de Rumania en:

http://religlaw.org/results3.php?search_text=religious&submit=Search&search_country=%28Document.CountryID%3D%27158%27%29&search_region=&search_org=&search_language=&search_afterday=0&search_aftermonth=0&search_fteryear=&search_beforeday=0&search_beforemonth=0&search_beforeyear=&search_orderby=ORDER+BY+Country.CountryName%2C+DocumentType.DocumentTypeOrder%2C+Language.LanguageName%2C+greatestdate+DESC%2C+DocumentTitle

³ Se trata de una norma que data de 1948 pero que tiene su última modificación en el año 2002. La referencia concreta sería: Decree No. 177 (1948), published in the Monitorul Oficial (the Official Gazette) No. 178 on August 4, 1948, as amended

178/2002⁴. El texto se divide en 7 capítulos que serán desarrollados en esta crónica. En el primero aparecen dos secciones con contenidos diversos: la primera sobre la libertad religiosa y la segunda sobre la libertad de organización de las comunidades.

En la primera sección se reitera el reconocimiento de la libertad de conciencia⁵, señalando que nadie puede ser obligado a participar en ritos y actividades religiosas, a contribuir con los gastos de la confesión o a cumplir una decisión judicial eclesíástica⁶. El derecho no sólo incluye la posibilidad de tener o no tener creencias, sino que se completa con la libertad de cambiar de religión⁷. Además, según la norma las creencias no pueden ser motivo de discriminación, la capacidad civil y política no se verá minorada por ellas y el odio religioso se considera un delito⁸. Si bien, los creyentes están obligados a cumplir las leyes del país, a prestar juramento en la forma y en los casos establecidos por la Ley y a registrar en su debido momento todos los documentos relativos a su «status civil»⁹. Como colofón, la

by Decree No. 410/1959, Decree No. 15/1974, and Lege No. 178/2002 (Romania). Optamos por realizar una interpretación literal del título que aparece en la norma, sin embargo creemos que tiene un contenido más colectivo que individual y la Ley se refiere a los grupos religiosos.

⁴ Actualmente existe una propuesta de Ley que engloba el régimen de cultos de las libertades religiosas en Rumania, sobre esta cuestión vid la Opinión 354/2005, de 4 de noviembre de 2005, realizada por la “European Comisión for Democracy Trough Law”, adoptada por la Comisión en su 64 sesión plenaria el 21-22 de octubre de 2005.

El texto puede consultarse en:

[http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)037-e.pdf](http://www.venice.coe.int/docs/2005/CDL-AD(2005)037-e.pdf)

⁵ Vid, artículo 1 de la Ley.

⁶ Vid. artículos 4 y 5 de la Ley.

⁷ Vid. artículo 38 de la Ley.

⁸ Vid. artículos 2 y 3 de la Ley.

⁹ Vid. artículo 10 de la Ley.

Ley contempla que el orden público, la seguridad y la moral se configuran como los límites genéricos de esta libertad¹⁰.

En la segunda sección de este Capítulo se trata de la organización de las confesiones religiosas¹¹. Según sus disposiciones, las comunidades tienen derecho a auto-organizarse, de acuerdo con sus normas internas y tradiciones, pero siempre dentro del marco constitucional, el respeto al orden público y a la seguridad y moral públicas¹². Esa capacidad auto-organizativa incluye la posibilidad de crear órdenes, congregaciones y asociaciones, para lo que se atenderá a sus reglas internas, y de establecer tribunales y órganos sancionadores propios¹³. Así mismo, la competencia de los cementerios se reconduce a las comunidades que conviven en cada localidad. Si bien, debe reservarse lugares de enterramiento para aquellas personas que no pertenecen a ellas¹⁴.

Si embargo, esta inicial apariencia de autonomía se verá mermada por las múltiples injerencias administrativas de los poderes públicos que auspicia la norma, comenzando por el modo en que se produce el reconocimiento de personalidad jurídica.

Se identifica la estructura de las comunidades religiosas en dos tipos: una sede central¹⁵ y entidades locales. De este modo, por ejemplo, las comunidades religiosas para operar en el tráfico jurídico deberán ser reconocidas por la Presidencia de la

¹⁰ Vid. artículo 1 de la Ley.

¹¹ Hemos preferido utilizar este término por ser el más comprensible desde el punto de vista de nuestro ordenamiento jurídico. En la traducción inglesa que hemos consultado se usa el término «religions», en el sentido de «cult» o cultos, tal y como advierte la traductora, lo que muy previsiblemente utilice para referirse al término inglés «denominations» cuya equivalente al término castellano «confesiones».

¹² Vid. artículos 6 y 7 de la Ley.

¹³ Vid. artículos 7 y 8 de la Ley. Aunque no existe privilegio de fuero, es decir, cuando un clérigo comete un delito serán juzgados por los tribunales ordinarios del país, con derecho a recurrir en la Corte suprema, vid. artículo 11.

¹⁴ Vdi. Artículo 9 de la Ley.

¹⁵ Que tendrán todas las comunidades independientemente del número de creyentes de que dispongan, vid. artículo 12 de la Ley.

Asamblea Nacional, a propuesta del Gobierno, y siguiendo las recomendaciones del Ministerio de asuntos religiosos¹⁶. Para que dicho reconocimiento sea válido y conforme con la ley, las entidades deberán remitir al Ministerio sus Estatutos, con expresión de su organización y funcionamiento, órganos de su estructura y administración y su credo¹⁷. Las comunidades reconocidas son consideradas personas jurídicas¹⁸.

Por su parte, las entidades locales de esas confesiones, ya sean parroquias, departamentos o grupos religiosos, etc., deberán inscribirse en un Registro local especial, aportando un listado con la relación de sus dirigentes y el número de creyentes que pertenecen a ese grupo¹⁹. Además, según la norma las asociaciones y fundaciones con fines religiosos, ya sean exclusivos o no, deberán contar con la aprobación del Gobierno para ser reconocidas como personas jurídicas. La aprobación será otorgada por el Ministerio de asuntos religiosos y deberán cumplir las obligaciones específicas determinadas para ellas en la ley²⁰. Dispondrán de personalidad jurídica una vez inscritas cuando cumplan los requisitos establecidos en la Ley sobre personas jurídicas²¹.

Además de la intervención estatal en el reconocimiento de personalidad jurídica, como medidas administrativas intervencionistas también destacamos aquellas que afectan a determinados supuestos de la vida de las comunidades, como son:

a) la obligación de que los cargos eclesiásticos sean ciudadanos rumanos, con plena capacidad civil y política²². Para elegirlos se seguirán las normas establecidas en sus estatutos,

¹⁶ Vid. artículo 13 de la Ley.

¹⁷ Vid. artículo 14 de la Ley.

¹⁸ Vid. artículo 28 de la Ley.

¹⁹ Vid. artículo 17 de la Ley.

²⁰ Vid. artículo 18 de la Ley.

²¹ Vid. artículo 28 de la Ley.

²² Vid. artículo 20 de la Ley.

pero no serán reconocidos hasta que sean aprobados por decreto, a propuesta del Gobierno y por recomendación del Ministerio²³. Y, tal es el nivel de intervención en la elección de cargos eclesiásticos que en la Ley se recoge el texto del juramento que han de prestar los individuos al ocupar el cargo. Como dato a resaltar, se puede observar como en él se contiene una mención expresa a la necesidad de adoptar el compromiso de defender República Popular de Rumania, tanto de enemigos internos y externos, y de respetar el orden público y mantener la integridad de la República²⁴.

b) la necesidad de contar con la autorización del Ministerio de asuntos religiosos para realizar congresos y asambleas generales o de la autoridad local competente para reuniones y conferencias²⁵.

c) la obligación de comunicar al Ministerios de Asuntos religiosos las pastorales, documentos y actos de interés, así como la posibilidad de que este pueda suspender decisiones, instrucciones u ordenanzas que sean contrarias a los estatutos de las comunidades religiosas, al orden público y a la seguridad y moral públicas²⁶.

d) el control sobre la conformidad con el orden público de los textos de rituales religiosos, así como su necesaria aprobación por el Ministerio de Asuntos religiosos especialmente cuando en ellos se invoque a la divinidad y se vincule a la autoridad estatal²⁷.

e) la obligación de que toda inscripción, símbolo religioso, sello, etc. religioso sea aprobado por el Ministerio de asuntos religiosos²⁸.

²³ Vid. artículo 21 de la Ley.

²⁴ Vid. artículo 21.2 de la Ley.

²⁵ Vid. artículo 24 de la Ley.

²⁶ Vid. artículo 25 de la Ley.

²⁷ Vid. artículo 27 de la Ley.

²⁸ Vid. artículo 19 de la Ley.

Además de estas disposiciones intervencionistas que ofrece la norma, destacan la mención explícita a la autonomía y unidad de la iglesia ortodoxa rumana²⁹ y la imposibilidad de mezclar las creencias religiosas con la acción política, prohibiendo la creación de partidos políticos con bases confesionales³⁰.

Más específicas son las disposiciones en las que se recoge diversos derechos y obligaciones de las comunidades religiosas, ya sean patrimoniales, educativas, etc. Pero, antes de desarrollarlas conviene detenerse sobre dos aspectos que regula la Ley: a) el idioma usado por estos grupos y b) sus relaciones, internas y externas.

En cuanto al primer supuesto, la norma recoge la posibilidad de que las comunidades, para el desarrollo de sus prácticas habituales, usen la lengua materna de sus creyentes y, al mismo tiempo, recoge la obligación de comunicarse en rumano con el Ministerio de asuntos religiosos³¹. En el segundo caso, la norma se encarga de regular los supuestos en que los ciudadanos pueden cambiar de adscripción confesional y el cauce por el que han de discurrir las relaciones inter-confesionales. En este último supuesto, las relaciones entre comunidades sólo podrán ser de naturaleza religiosa y cuando sean con entidades extranjeras deberán contar con la aprobación de los Ministerios de asuntos religiosos y de exteriores³². Por su parte, el abandono de una confesión por el creyente debe comunicarse a las autoridades locales que, además de advertirlo a la sección local correspondiente de esa confesión, dará publicidad del hecho³³. Tal es la imperatividad de la comunicación que la confesión que

²⁹ Vid. artículo 15 de la Ley.

³⁰ Vid. artículo 17 de la Ley.

³¹ Vid. artículo 26 de la Ley.

³² Vid. artículo 40 de la Ley.

³³ Vid. artículo 38 de la Ley.

reciba a esos creyentes no podrá registrarlos como adeptos hasta que se haya producido esta³⁴.

No se trata de una cuestión ligera en la norma pues la pérdida de adeptos tiene importantes repercusiones económicas y patrimoniales:

Si una comunidad religiosa local pierde al menos el 10% de sus creyentes en favor de otra comunidad (los adeptos cambian a esa nueva creencia) la comunidad de origen perderá la parte de su patrimonio proporcional al número de miembros que cambiaron de afiliación. Esta parte se incluirá en el patrimonio de la comunidad que recibe a los nuevos creyentes.

Si son la mayoría, el lugar de culto, establecimiento de oración, etc., pasará a pertenecer legalmente a la nueva confesión. El resto del patrimonio corresponderá proporcionalmente a ambas comunidades.

Si abandonan un 75% de los creyentes, el patrimonio completo se transferirá a la otra comunidad, conservando la comunidad abandonada el derecho a resarcirse de daños y perjuicios. Este derecho será proporcional al número de miembros que permanezcan en ella. Una vez establecido el montante por el juez local, será abonado por la nueva confesión en el plazo máximo de tres años³⁵.

Por su parte, la norma contiene disposiciones específicas en materia patrimonial que conviene resaltar. Las comunidades deben realizar un inventario de bienes muebles e inmuebles. Este deberá comunicarse al Ministerio para que el Ministro pueda ejercer su derecho de control³⁶. La entidad central y las locales dispondrán de presupuestos separados que deberán ser aprobados por el Ministerio y estarán controlados por él³⁷. Los gastos de funcionamiento y mantenimiento sólo podrán cubrirse por las

³⁴ Vid. artículo 39 de la Ley.

³⁵ Vid. artículo 37 de la Ley.

³⁶ Vid. artículo 29 de la Ley.

³⁷ Vid. artículo 30 de la Ley.

donaciones de sus creyentes³⁸ y si hubiera subvenciones concedidas por el Estado estarán controladas por la Ley sobre contabilidad pública³⁹. A su vez, la violación de las leyes que protegen el orden democrático de la República Popular de Rumania causará la retirada inmediata de esos subsidios y los ministros de culto que desarrollen actitudes antidemocráticas se verán privados de los salarios⁴⁰ proporcionados por el Estado⁴¹. Cuando una comunidad desaparece o se le retira su reconocimiento jurídico, su patrimonio pasa a ser propiedad del Estado⁴².

Finalmente, en materia de educación se permite la formación religiosa para su personal siempre bajo la supervisión del Estado⁴³. Los encargados de impartir esa formación serán nombrados por la entidad previa aprobación del Ministerio⁴⁴. Las instituciones de enseñanza (seminarios, institutos, etc.) están bajo la supervisión de las autoridades administrativas y el Ministerio asuntos religiosos⁴⁵. Como cuestión específica recogida en la norma se puede decir que la Iglesia ortodoxa dispondrá de dos institutos teológicos, mientras que la iglesia católica y los protestantes sólo tendrán uno⁴⁶. Además la facultad de Teología de Bucarest se transforma en un Instituto teológico y la competencia sobre su personal y presupuesto se transfiere del Ministerio de Educación pública al Ministerio de asuntos religiosos⁴⁷.

³⁸ Vid. artículo 31 de la Ley.

³⁹ Vid. artículo 32 de la Ley.

⁴⁰ Los salarios del personal religioso se conformará de acuerdo con las normas generales, vid. artículo 34 de la Ley.

⁴¹ Vid. artículo 33 de la Ley.

⁴² Vid. artículo 36 de la Ley.

⁴³ Vid. artículo 44 de la Ley.

⁴⁴ Vid. artículo 45 de la Ley.

⁴⁵ Vid. artículo 51 de la Ley.

⁴⁶ Vid. artículo 49 de la Ley.

⁴⁷ Vid. artículo 54 de la Ley.

ANEXOS

**LAW N. 02/L-31 ON FREEDOM OF RELIGION IN
KOSOVO (13 JULY 2006)**

Assembly of Kosovo,

Pursuant to Chapters 3.1, 3.2, 5.7 and 9.1.26(a) on the Constitutional Framework for Provisional Self-Government in Kosovo (UNMIK Regulation No. 2001/9 dated from 15 May 2001), and standards on human rights and liberties covered by international and regional declarations and conventions under the competence of the Council of Europe,

Proceeding from the fact that freedom of religion and belief is a fundamental human right, among other internationally recognized fundamental principals and standards on the freedom of expression, conscience and religion,

Affirming the right of all, without discrimination on any ground and in full equality before the law, to freedom of expression, conscience and religion, regardless of religious conviction or conscience,

Proceeding from the tradition of the common religious life in Kosovo Aware of our heritage and the traditional values of tolerance, common life and the multireligious character of Kosovo,

Endeavoring to define unique legal provisions, which will provide equal rights and obligations to religious communities, without any discrimination,

Recognizing the importance for further progress of mutual understanding, tolerance and awareness, and respect of the freedom of expression, conscience and religion;

Hereby adopts the following:

Law on freedom of religion in Kosovo

Article 1

Freedom of Religion

1.1. Everyone has the right to freedom of thought, conscience and religion. This right includes the freedom to have, not to have, to retain or to change one's religion or belief and the freedom, either alone or in community with others, in public or in private, to manifest one's religion or belief, in worship, teaching, practice and observance.

1.2. The right of freedom, religion or belief shall include, inter alia, the following freedoms:

- a. To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
- b. To establish and govern charitable or humanitarian institutions;
- c. To make, acquire and use the necessary articles and materials related to the rites or customs of a religion or belief;
- d. To write, issue and disseminate relevant publications in these areas;
- e. To teach a religion or belief in places dedicated for these purposes;
- f. To solicit and receive financial contributions and other voluntary contributions from individuals and institutions;
- g. To train, appoint, elect or designate by succession their leaders called for by the requirements and standards of any religion or belief;
- h. To respect days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief; and
- i. To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

1.3. The freedom to express one's religion or belief shall only be subject to limitations as are prescribed by law and are necessary in a democratic society to ensure public order and safety, to protect public health and morals, human rights and fundamental freedoms of others.

Article 2

Protection from Discrimination

2.1. No one shall be discriminated or privileged in any way on the basis of religious convictions, of belonging or not belonging to a religious denomination or of the observance of religious ceremonies and rituals.

2.2. No one shall be hindered or forced to participate in religious ceremonies or in other forms of manifestation of religious conviction.

Article 3

Religious Equality

All persons, regardless of their belief or conviction or affiliation to any religious denomination, or participation in any religious ceremony, are equal before the law and are entitled to the same rights in their civil, political, economic, social and cultural life. All legal and natural persons are entitled to equal protection by law.

Article 4

Protection by Penal Law

4.1. The right to manifest one's religion or belief may not be abused by inciting, provoking or stimulating, religious or racial intolerance or hatred, by impairing the right to life, the right to physical or mental health, the rights to children or the right to respect for private and family integrity.

4.2. The assault of any religious official, the destruction or damage of any religious sites or facilities or other property of religious communities as well as any activities or acts aimed at the instigation, provocation or stimulation of religious hatred

shall be punishable under the Provisional Criminal Code of Kosovo.

Article 5

Religious Neutrality

5.1. There shall be no official religion.

5.2. Religious communities shall be separated from public authorities.

5.3. All public authorities shall recognize tolerance and mutual respect among religions.

5.4. Religious communities in Kosovo enjoy all the rights with this Law.

5.5 Recognizing their identity and their specific contribution to society, the public authorities shall maintain an open, transparent and regular dialogue with religious associations, religious communities in matters of common interest.

Article 6

Freedom of the Religious Association

6.1. The right of association for religious purposes is guaranteed in accordance with the Law in force in Kosovo.

6.2. The formation of a religious association which, by name or statute, purports to be officially linked to or recognized by a specific religious community is prohibited without the consent of the said community.

Article 7

Self-Determination and Self-Regulation

7.1. Religious communities are free in the determination of their religious identity.

7.2. Religious communities shall independently regulate and administer their internal organization.

7.3. Religious communities are free in establishing and maintaining communication with individuals and communities at the national and international level as well as forming associations with other religious communities and groups at the national and international level in accordance with the Law in force.

Article 8

Places of Worship

8.1. Buildings and premises belong to religious communities dedicated to the performance of religious ceremonies are considered inviolable with regard to governmental authorities' intervention, unless a judicial order is issued due to illegal activities or in the case of imminent danger to life or health.

8.2. Unobstructed access by pilgrims, guests and persons who live permanently or temporarily in religious institutions or premises should be guaranteed. This obligation shall be taken into account for the application of the relevant provisions concerning residence and travel.

8.3. The possibility for religious communities to restrict access to their sites within the framework of self-administration shall be guaranteed in accordance with international standards.

Article 9

Religious Education

9.1. Religious communities are free to establish educational institutions for their needs pursuant to the Law in force.

9.2. The Law on Higher Education regulates the matter of theological studies at universities.

9.3. Schools run by religious communities shall be governed by the neutral application of relevant laws as are other private schools.

9.4. Everyone is free to choose or not to choose religious education according to personal convictions and beliefs. Parents or other legal guardians are entitled to determine the religious and

ethic instruction for their children in accordance with their own convictions or beliefs.

9.5. The religious education and upbringing of a minor may not impair his or her physical or mental health or development.

Article 10

Freedom of Information

10.1. Religious communities and their institutions shall have the right, within the boundaries of the Constitution and the law, to publish information by using all forms of media.

10.2. Religious communities shall be obligated to clearly state their full name in any religious publications, periodicals, and other religious materials, correspondence and public announcements of activities.

10.3. Religious communities shall be entitled to equitable access to public media.

Article 11

Spiritual Counseling

11.1. With the aim of realizing religious freedom, public authorities shall take measures to guarantee the availability of spiritual counseling in hospitals, in areas of custody or imprisonment, as well as in social care institutions.

11.2. Religious ministers are exempted from the duty to testify in procedures before public authorities and courts of law with respect to any facts or circumstances which they learned in the course of their spiritual counseling.

Article 12

Financial Matters

12.1. Issues relating to duties, taxes and customs with regard to religious communities shall be governed by the Law in force.

12.2. Institutions of religious communities shall be exempt from the obligation to pay taxes or other general contributions, with regard to the following:

(a) Places of worship, other properties or parts of properties of religious communities that have as their direct purpose the realization of religious convictions or beliefs, including welfare and charitable objectives;

(b) Activities that have as their direct and exclusive purpose the realization of religious convictions or beliefs including welfare and charitable objectives; and

(c) Seminaries or other establishments for the training of religious ministers or teachers of religious education.

12.3. Religious communities shall retain the right to ownership, possession and enjoyment of their institutions, endowments, sacred objects and funds devoted to worship, instruction and welfare.

12.4. Religious communities may receive financing from income from their property, from inheritance and gifts, from charitable and other voluntary contributions, as well as by performing other activities in compliance with the Law in force.

Article 13

Social Benefits

13.1. The clergy of religious communities enjoy the right to pension, health insurance and other rights based on the Law in force.

13.2. For implementation of their religious activities, religious communities may enter into legal relations and conclude contracts with the religious personnel and other employees. The religious personnel and other employees, with whom the religious community has concluded activities, realize their rights pursuant to the work relations and the work performed, similar to other employed persons.

13.3. Regular attendees of religious schools and religious faculties are entitled to their health security rights, child benefits, pension and disability insurance, social assistance rights and public traffic rights, under the same manner and terms realized by attendees of public schools and faculties.

Article 14

The present law shall enter into force after adoption by the Assembly of Kosova on the date of its promulgation by the Special Representative of the Secretary-General.

**RELIGIOUS DENOMINATIONS ACT. (DECEMBER, 20,
2002).**

The National Assembly of the Republic of Bulgaria, Confirming the right of each person to freedom of conscience and religion as well as equality before the law regardless of religious affiliation and conviction, Emphasizing the special and traditional role of the Bulgarian Orthodox Church in the history of Bulgaria to establish and develop its spirituality and culture, Expressing respect towards Christianity, Islam, Judaism, and other religions, Believing in the importance of supporting mutual understanding, tolerance, and respect with regards to freedom of conscience and religion,

Adopts this Religious Denominations Act.

CHAPTER ONE. GENERAL PROVISIONS

Article 1

This Act establishes the right to religious freedom and its protection as guaranteed to all persons under the jurisdiction of the Republic of Bulgaria as well as the legal status of religious communities and institutions and their relations with the State.

Article 2

(1) The right to religious freedom is fundamental, absolute, subjective, personal, and inviolable.

(2) The right to religious freedom shall include the right of every person to freely form his or her religious beliefs and to choose, change, and worship—respectively practice freely his or her religion—individually or collectively, in public or in private, through religious worship, education, rites, and rituals.

Article 3

(1) No one shall be persecuted and no one's rights shall be restricted on the grounds of religious beliefs. It shall not be permitted to restrict rights or grant privileges based on affiliation or nonaffiliation to a religious denomination.

(2) Religious beliefs shall not be grounds upon which one may refuse to fulfill one's obligations established by the Constitution or by law.

Article 4

(1) Religious denominations shall be free and equal. Religious institutions shall be separate from the State.

(2) State interference in the internal organization of self-governed religious institutions shall not be permitted.

(3) The State shall provide conditions for free and unhindered exercise of freedom of religion by assisting to maintain tolerance and respect among the believers of different denominations and among believers and nonbelievers.

(4) It shall not be permitted to discriminate on religious basis.

CHAPTER TWO. RIGHT TO RELIGIOUS FREEDOM

Article 5

(1) The right to religious freedom shall be exercised by forming and expressing religious beliefs, establishing or participating in a religious community, organizing community institutions, providing religious education and mentoring through dissemination of beliefs orally, in print, using electronic media, in the form of lectures, seminars, courses, programs, etc.

(2) Religious beliefs may be expressed by performing rites, rituals, and religious services.

(3) Religious beliefs are expressed in private when they are performed by a member or members of the religious

community or only in the presence of persons belonging to that community, and in public—when their expression may become accessible to people who do not belong to the respective religious community.

Article 6

(1) The right to religious freedom shall also include the following rights:

1) To establish and maintain religious communities and institutions that are structured and represented in a manner that their members find appropriate according to their free beliefs;

2) To establish and maintain places of worship or religious assembly;

3) To establish and maintain appropriate charitable or humanitarian institutions;

4) To produce, acquire, and use, to the extent appropriate with worship purposes, materials necessary for rites and rituals of a religion or faith;

5) To write, publish, and disseminate religious publications;

6) To provide and receive religious education in any language of free choice;

7) To preach or teach religion or beliefs in places that the organizations find appropriate for their purposes as well as to establish and maintain appropriate educational institutions, in compliance with the requirements of law;

8) To collect and receive voluntary financial or other support and donations from individuals and institutions;

9) To observe the days of rest and to respect religious holidays;

10) To establish and maintain, in Bulgaria or abroad, relations with individuals and communities on matters of religion and faith.

(2) Parents and guardians shall have the right to provide religious education to their children according to their own beliefs.

Article 7

(1) The freedom of religion shall not be directed against the national security, public order, public health and morals, or the rights and freedoms of persons under the jurisdiction of the Republic of Bulgaria. Other grounds for restriction of the right to religious freedom—except for those enumerated above—shall not be established.

(2) Religious communities and institutions as well as religious beliefs shall not be used for political purposes.

(3) Rights and freedoms of individuals who belong to a religious community shall not be restricted by the internal rules, rituals, and rites of the community or institution.

(4) Religious communities and institutions shall not attract individuals who are not eighteen years of age if their parents or guardians explicitly disagree.

Article 8

(1) If the requirements of Article 7 are violated, the right to religious freedom may be restricted by:

- 1) Terminating the dissemination of a particular publication;
- 2) Terminating publishing activity;
- 3) Restricting public events;
- 4) Canceling the registration of an educational, health, or social institution;
- 5) Canceling activity for six months;
- 6) Canceling the legal entity status of a religious denomination.

(2) The restriction procedure shall be commenced upon the request of an interested party or the prosecutor. The case shall be examined as a general civil matter before the Sofia City Court.

(3) The decision of the Sofia City Court shall be subject to appeal under the standard rules and procedures for appeal.

Article 9

Each denomination shall be defined by its name and by the religious beliefs of the individuals comprising its religious community.

Article 10

(1) Eastern Orthodox is the traditional denomination in the Republic of Bulgaria. It has played a historic role in Bulgaria's statehood and has current meaning in its political life. Its spokesperson and representative is the autocephalous Bulgarian Orthodox Church, which, under the name Patriarchy, is the successor of Bulgaria's Exarchate and is a member of the United, Holy, Congregational, and Apostolic Church. It is led by the Holy Synod and is represented by the Bulgarian Patriarch who is a Metropolitan of Sofia.

(2) The Bulgarian Orthodox Church is a legal entity. Its structure and management are defined in its bylaws.

(3) No Act or secondary legislature shall use Paragraphs 1 and 2 as grounds to grant privileges or any advantages.

Article 11

(1) Relations between religious institutions and the State shall be carried out in the official Bulgarian language.

(2) A religious community may use another language, according to its traditions, to worship or perform different rituals.

Article 12

(1) Religious denominations may establish places for public religious worship and service in buildings or spaces that the religious institution or its local branch own or lease. Buildings

of religious denominations shall be built in compliance with the Territorial Land Development Act and the secondary legislation for its implementation while taking into account the specific religious symbolism in the architectural design.

(2) Religious denominations may also organize public activities outside of their places of worship.

Article 13

The confidentiality of confession is inviolable. No clergyman shall be forced to testify or disclose information about facts and circumstances that became known during confession.

CHAPTER THREE. REGISTRATION

Article 14

Religious communities may acquire legal entity status in compliance with the conditions and under the procedure of this Act.

Article 15

(1) The Sofia City Court shall register religious communities as legal entities in compliance with Chapter Forty-Six of the Civil Procedure Code.

(2) It shall not be permitted to register more than one legal entity for each religious denomination with the same name and headquarters.

Article 16

In connection with the registration of religious communities, the Sofia City Court may require an expert opinion from the Directorate on Religious Denominations under the Council of Ministers.

Article 17

The bylaws of a religious denomination must include:

(1) The name and headquarters of the religious denomination;

- (2) Exposé of religious beliefs and religious practice;
- (3) Structure and governing bodies of the religious denomination;
- (4) Manner of selecting governing bodies, scope of their authority, and duration of their term;
- (5) Individuals that may represent the religious denomination and methods of their selection;
- (6) Methods of decision-making and procedures for convening meetings of the religious denomination's governing bodies;
- (7) Manner of financing and statement of property ownership;
- (8) Methods of dissolution and liquidation.

Article 18

The Sofia City Court shall maintain a public register of religious institutions, which shall contain the following information:

- (1) Judicial decision for registration;
- (2) Name and headquarters;
- (3) Governing bodies and representation;
- (4) Names of individuals who represent the religious institution.

Article 19

(1) Religious denominations may create local branches according to their bylaws.

(2) Local branches are recorded in a register maintained by the county mayor over the locality where their branch's headquarters is located, under the conditions of a notification regime, within seven days, on the basis of a statement by the central administration of the religious denomination or a person authorized by it according to its bylaws.

(3) The statement under Paragraph 2 shall include:

1) The judicial decision of the Sofia City Court for registration of the religious denomination and its central administration or, respectively, power of attorney to the person authorized by the central administration;

2) A certificate from the central administration indicating the persons who represent it in the respective county as well as the headquarters and address of the local subsection.

4) The mayor shall notify the Directorate on Religious Denominations of the register entry within three days of registration.

5) The county administration shall maintain a register of the religious denominations' local branches.

Article 20

In compliance with the bylaws of a respective religious denomination and upon decision of its central administration, local branches may register themselves as legal entities in the district court where their headquarters are located.

CHAPTER FOUR. PROPERTY AND FINANCES

Article 21

(1) Religious denominations and their local branches that have acquired legal entity status based on this Act shall have the right to own property.

(2) The property of religious organizations may include: right to own real estate and limited real estate property rights; income from real estate management, including rent, profits, or dividends from participation in commercial entities or associations of commercial entities; right to own movables, including securities; copyright and related rights; income from state subsidies, donations, testamentary dispositions, and others.

(3) The State and the counties may gratuitously grant to religious institutions and their local branches the right to use state

or county real estate as well as to support them with subsidies provided for in the state or county budget.

Article 22

Religious denominations may dispose of their property in compliance with their bylaws.

Article 23

(1) To meet their needs, registered religious denominations may produce and sell goods connected with their religious activities, rituals, and rites.

(2) The transactions under Paragraph 1 shall not be considered “commercial” within the meaning of the Commerce Act.

(3) Places of worship, temples, monasteries, objects, and individuals related to worship activity may not be used for advertisement purposes by “merchants,” within the meaning of the Commerce Act, without the express consent of the respective religious denomination.

Article 24

Registered religious denominations shall have the right to own and maintain cemeteries at their own expense.

Article 25

(1) The State may support and encourage religious denominations registered under this Act in their religious, social, educational, and health activities through tax, credit, and interest rate preferences, customs, and other financial and economic relief under the conditions and procedure established in the respective specialized legislation.

(2) When religious denominations use preferences under Paragraph 1, their annual financial statements are subject to an independent financial audit under the conditions established for legal entities with non-profit status, which perform a socially beneficial activity.

(3) Upon violation of this Act, the Ministry of Finance shall notify the prosecutor's office and the state financial control authorities to perform an audit and to take further actions required by law.

Article 26

A religious denomination that has acquired a legal entity status under this Act may establish and participate in commercial entities.

Article 27

(1) After preliminary consent, a religious institution may establish legal entities with non-profit purpose to support and popularize a particular denomination that has acquired a legal entity status.

(2) Legal entities with non-profit purpose under Paragraph 1 shall not be entitled to engage in activities that represent the public practice of religion.

Article 28

The annual State Budget Act shall determine the amount and distribution of the state subsidy for registered religious denominations.

Article 29

Employment rights of clergymen and officers of religious institutions shall be determined by the religious institutions' bylaws as well as by the employment and social legislation.

CHAPTER V. MEDICAL, SOCIAL, AND EDUCATIONAL INSTITUTIONS OF RELIGIOUS DENOMINATIONS

Article 30

(1) Religious denominations registered under this Act may establish medical, social, and educational institutions.

(2) Medical, social, and educational institutions of religious denominations shall be established and shall act in compliance with current legal requirements.

Article 31

The Ministry of Health, the Ministry of Employment and Social Policy, and the Ministry of Education and Science shall oversee the activities of the medical, social, and educational institutions of religious denominations for compliance with state requirements.

Article 32

Admission to a medical or social institution of a religious denomination shall not depend on affiliation with the respective religious community.

Article 33

(1) Upon permission by the Minister of Education and Science, registered religious denominations may establish ecclesiastical schools for their own religious needs in compliance with the National Education Act.

(2) Degrees obtained in ecclesiastical schools shall be equalized to a secular decree in compliance with the National Education Act.

(3) Registered religious denominations may establish secondary schools in compliance with the requirements and procedure for private schools under the National Education Act.

(4) A written application by a parent or guardian is required for admission to schools under Paragraphs 1, 2, and 3 until the student is eighteen years old.

(5) Educational institutions of registered religious denominations shall not prevent attainment of obligatory state educational degrees as provided for in the Constitution and the law.

(6) Registered religious denominations may establish higher education institutions in compliance with the requirements and procedure of the Higher Education Act.

(7) Higher education ecclesiastical institutions shall be established on proposal of a registered denomination's management with the approval of the Council of Ministers.

CHAPTER SIX. DIRECTORATE ON RELIGIOUS DENOMINATIONS

Article 34

The Council of Ministers shall implement the state policy on religious denominations.

Article 35

The Directorate on Religious Denominations is a specialized administration under the Council of Ministers, which shall:

(1) Coordinate the relationship between the executive branch and the religious denominations;

(2) Assist the Council of Ministers in implementing the state policy to maintain tolerance and respect among different religious denominations;

(3) Organize and manage the activity of the expert consulting committee on religious denominations' problems;

(4) Provide expert conclusions and opinions as required by this Act;

(5) Provide opinions on requests for permission to stay in the country submitted by foreign religious ministers who are invited by the central administration of a registered religious denomination;

(6) Upon information or petition by citizens, perform audits for violations of citizens' rights and freedoms or the rights

and freedoms of their relatives that result from abuse of the right to religious freedom by third persons;

(7) Observe the compliance of state officials' activities pertaining to religious rights and freedoms;

(8) Upon information or petition by citizens, perform audits of activities that are a potential violation of Article 7 of this Act, and, if necessary, notify the prosecutor's office;

(9) Make proposals to the state draft budget for distribution of the state subsidy allocated to registered religious denominations and ensure its accountability.

CHAPTER SEVEN. ADMINISTRATIVE-PENAL PROVISIONS

Article 36

(1) An individual who, without representative power, performs activity on behalf of a religious denomination without authorization shall be imposed a fine from BGN 100 to BGN 300.

(2) If the act is a repeated offense, the fine imposed shall be from BGN 500 to BGN 1000.

Article 37

Any individual who, other than on the grounds provided for in this Act, hinders the free formation or expression of religious beliefs, shall be imposed a fine from BGN 100 to BGN 300.

Article 38

(1) Upon violation of provisions of this Act, if the act does not constitute a criminal offense, the culpable individual is imposed a fine from BGN 500 to BGN 1,000. When the act is committed by a legal entity, it is punishable by a property sanction from BGN 500 to BGN 5,000.

(2) When insignificant cases under Paragraph 1 are committed, the offense is punishable by a fine from BGN 100 to BGN 300.

Article 39

(1) Violations of this Act are established by public citation issued by officials of the Directorate on Religious Denominations under the Council of Ministers.

(2) Penal orders that impose sanctions under this Act are issued by the Director of the Directorate on Religious Denominations under the Council of Ministers.

Article 40

Public citations and penal orders under this Act are issued and appealed under the procedure of the Administrative Violations and Penalties Act.

TRANSITIONAL AND FINAL PROVISIONS

§ 1

Under this Act:

(1) “Religious denomination” is a set of religious beliefs upon which religious rites and rituals are performed and upon which religious communities and religious institutions are formed.

(2) “Religious community” is a voluntary union of individuals to profess a particular religion, perform religious worship, religious rites, and service.

(3) “Religious institution” is a religious community registered under the Religious Denominations Act, which has a legal entity status, its own governing bodies, and bylaws.

§ 2

(1) Registered religious denominations under Article 6 of the Religious Denominations Act (repealed by § 8 of this Act) shall preserve their legal entity status.

(2) Within one month from this Act’s entry into force, the Directorate on Religious Denominations shall submit to the Sofia

City Court the register of the registered religious denominations and their bylaws.

(3) The Court shall register *ex officio* and at a closed hearing the religious denominations registered under Paragraph 1 except for religious denominations under Article 10. In this case the Court shall not refuse registration.

(4) Local branches of religious denominations that exist prior to this Act's entry into force, which are legal entities, shall be registered *ex officio* by the respective district court located within their headquarters upon application of the religious denomination's central administration. The application must contain the registration certificate of the religious denomination issued by the Sofia City Court and the power of attorney to the person who represents the local branch issued by the denomination's central administration. Within one month from this Act's entry into force, county mayors shall provide to the district court the register of the religious denominations' local branches.

§ 3

Individuals, who at the time this Act enters into force have seceded from a registered religious institution in violation of its properly adopted bylaws, shall not use an identical name or use or dispose of its property.

§ 4

(1) Upon request by a registered religious denomination, the Director of the Directorate on Religious Denominations under the Council of Ministers shall issue a certificate on the privity and successorship of a religious denomination or a religious, educational, or welfare legal entity that existed before 1949.

(2) Representatives of the respective religious denomination shall file civil action before the Sofia City Court to establish privity and successorship and shall submit the certificate of the Director of the Directorate on Religious Denominations issued under Paragraph 1.

(3) The Court issues a decision, which is registered in the register under Article 18.

(4) The decision may be appealed by other registered religious denominations in compliance with the appeal procedure of the Civil Procedure Code.

§ 5

(1) Property rights of religious denominations shall be restated to the extent that the actual property currently exists and is owned by the State, counties, state organizations, or their companies or sole proprietorships under Article 61 of the Commerce Act and to the extent the property was nationalized, taken, confiscated, or illegally transferred on grounds provided for in the Restitution of Ownership Rights to Nationalized Immovable Properties Act; in Article 21 of the repealed Religious Denominations Act; in the Act on Restitution of Ownership Rights to Some Property Taken under the Territorial and Municipality Building Act; in the Planned Building of Municipalities Act; in the Development of Municipalities Act; in the State Property and Ownership Rights Act; in the Ownership Rights and Use of Agricultural Lands Act; and in the Restitution of Ownership Rights to Forests and Forest Land Act.

(2) The restitution of ownership rights shall be exercised following the procedure of the Restitution of Ownership Rights to Nationalized Immovable Properties Act upon the entry into force of this Act.

(3) The provisions of this Act, which may refer to other restitution acts, shall be applied to pending disputes pertaining to restitution of ownership rights of religious denominations.

(4) The property restated under this Act may not be claimed by adverse possession, and a new period for holding under adverse possession shall begin upon the entry into force of this Act.

(5) When the requirements for restitution of ownership rights under Paragraph 1 through 4 are met, religious denominations shall be compensated under the procedure established in the Compensation of Owners of Nationalized Property Act. Religious denominations shall file claim for compensation within one year of this Act's entry into force.

§ 6

Article 133a of the Individuals and Family Act is repealed.

§ 7

Article 2, para. 2 of the Non-Profit Legal Entities Act is amended by replacing the wording "religious activity" with "activity typical to a religious denomination."

§ 8

This Act repeals the Religious Denominations Act (State Gazette No. 48 of 1949).

This Act was adopted by the XXXIX National Assembly on December 20, 2002 and was sealed with the official stamp of the National Assembly of the Republic of Bulgaria.

**DECREE NO. 177/1948 ON THE REGIME OF THE
RELIGIONS IN ROMANIA, AS AMENDED LAW 178/2002**

[1]

National Assembly

Of the Republic of Romania

CHAPTER 1. GENERAL PROVISIONS

Section 1. On Religious Freedom

Article 1

The State guarantees freedom of conscience and religious freedom on all the territory of the Popular Republic of Romania. Everyone can belong to any religion[2] or can embrace any religious creed if the practice of the creed does not infringe the Constitution, the security and public order and the good morals.

Article 2

Confessional hatred as manifested by activities limiting the practice of a recognized religion is a crime to be punished in conformity with the law.

Article 3

No one can be prosecuted/monitored because of his/her religious belief or for his/her unbelief.

Religious belief cannot be an impediment for anyone in having and enjoying his/her civil and political rights and cannot waive for anyone the obligations established by the laws.

Article 4

No one can be forced to participate in the religious activities of a religion.

Article 5

No one can be coerced by the State, through administrative measures, to contribute to the expenses of a religion or to observe the decisions of religious judicial bodies.

Section 2. On the Liberty of Organizing Religions

Article 6

Religions are free to organize themselves and can freely act if their practices and their ritual are not contrary to the Constitution, to the security and public order and good morals.

Article 7

Religions will be organized in conformity with their own internal regulations, their creed, canons and traditions and they can establish in accordance with these norms, establishments, associations, orders and congregations.

Article 8

Religions may have religious judicial bodies to discipline the personnel in their service.

The disciplinary bodies are organized according to special provisions, in conformity with the canons and the statutory provisions of religions. The regulations are established by the legal bodies of the religion and are approved by decree by the Presidency of the Great National Assembly following the proposal of the Ministry of Religions.

Article 9

The local departments of recognized religions might have and take care of the graveyards on behalf of their community, alone or together with other religions. All villages are under the obligation of establishing cemeteries or reserved locations within the existing cemeteries for those who do not belong to religions that have cemeteries.

CHAPTER 2. THE RELATIONS BETWEEN STATE AND RELIGIONS

Article 10

The believers of all religions have to observe the laws of the country, to take the oath in the form and in the cases

established by the law and to register all documents related to their civil status in due time.

Article 11

The crimes and the misdemeanors perpetrated by the heads or the priests of religions will be judged by the courts of law with the right of appeal at the Supreme Court.

Article 12

Recognized religions must establish a central organization with the purpose of representing the religion, no matter the number of believers.

Article 13

In order to be organized and to function, religions have to be recognized by decree of the Presidency of the Great National Assembly, following the proposal of the Government, after the recommendation of the Ministry of Religions. The recognition will be withdrawn in appropriate cases under the same procedure.

Article 14

In order to be recognized all religions will send to the Ministry of Religions for examination and approval, their statutes for organization and functioning, including the chart with the organization, the structure and the administration and the creed of the religion.

Article 15

The Romanian Orthodox Church is autocephalous and unitary in its organization.

Article 16

The organization of political parties on confessional basis is prohibited.

Article 17

The local departments of the recognized religions, such as communities, parishes, units, groups, will have to be registered in

a special register of the local council, indicating the nominal lists of the leading bodies and the number of believers belonging to the specific group.

Article 18

The civil associations and foundations with religious purposes, be it totally or just partially, must have the approval of the Government through the Ministry of Religions in order to be recognized as legal persons and have to observe the duties determined by the laws due to their religious character.

Article 19

All inscriptions and symbolic signs, as well as the seals and the stamps with the name of the religion, must be approved by the Ministry of Religions.

Article 20

The heads of religions, the priests and the whole personnel in the service of religions must be Romanian citizens with the full enjoyment of civil and political rights.

Article 21

The heads of religions, as well as the metropolitans, archbishops, bishops, superintendents, apostolic administrators, administrative vicars and others with similar responsibilities, elected or appointed in conformity with the statutory regulations of religions, cannot be recognized in their office unless they are approved by the Presidency of the Great National Assembly by decree, following the proposal of the Government after the recommendation of the Ministry of Religions.

Before becoming active, all these will have to take the oath before the Ministry of Religions. The oath is the following: "As a servant of God, as man and as citizen, I swear to be faithful to the People and to defend the Popular Republic of Romania against all enemies from inside and from abroad; I swear to observe and to have all my subalterns observe the laws of the Popular Republic of Romania; I swear that I will not allow my subalterns to

undertake or to participate in any activity that might jeopardize the public order and integrity of the Popular Republic of Romania and that I will not do that myself either. So help me God!” This text is compulsory as well for the heads of civil associations with religious character as provided by Article 18.

Other members of the clergy of various religions, as well as the presidents and the leaders of the local communities, will take the oath before becoming active before their hierarchical superiors, with the following oath: “As a servant of God, as man and as citizen, I swear to be faithful to the People and to defend the Popular Republic of Romania against all enemies from inside and from abroad; I swear to observe the laws of the Popular Republic of Romania and to keep the secret in the service established by the State. So help me God!” Other servants working for the religions will take the oath before the authorities in charge, as provided by Article 8 of Law 363 from December 30, 1947 on the establishment of the Romanian State in the Popular Republic of Romania.

Article 22

The religions with eparchial organizations can have a number of eparchies proportional with the total number of believers. In order to establish an eparchy (diocese, superintendence), an average of 750,000 believers will be taken into consideration for each eparchy. The boundaries for each eparchy and the assignment of the believers in eparchies will be decided by the statutory bodies of the religion and will be confirmed by decree of the Presidency of the Great National Assembly, following the recommendation of the Ministry of Religions.

CHAPTER 3. ON THE ACTIVITY OF RELIGIONS

Article 23

The activity of the recognized religions will be undertaken accordingly to the religious creed, the statute approved and in conformity with the laws of the country and the good morals.

Article 24

Religions may organize congresses and general assemblies with the approval of the Ministry of Religions and the conferences and the eparchial gatherings, with the approval of the local authorities in charge.

Article 25

The Ministry of Religions can suspend any decision, instruction or ordinance, as well as any order of administrative, cultural, educational, philanthropic or foundational character which might not be in conformity with the statutes of the religion, with the documents establishing the religion, and with the security, public order and good morals. Pastoral documents and the acts of general interest will be communicated in due time to the Ministry of Religions.

Article 26

Religions can use in their practices and in their internal activity the mother tongue of the believers. The correspondence with the Ministry of Religions will be in Romanian.

Article 27

When invoking the divinity in relation with the supreme authority of the State, usually during the religious service as well as during the official celebrations established by the laws and other norms, only texts approved in advance by the Ministry of Religions will be used. Religions are also under an obligation not to use in the ritual books any formula or expressions contrary to laws and to good morals.

CHAPTER 4. ON THE PATRIMONY OF THE RELIGIONS

Article 28

The recognized religions are legal persons. Their local departments which have the required number of members established by the law on legal persons have also legal personality, as well as the associations, the establishments, the orders and the congregations provided by the statutes if they are in conformity with the law on legal persons.

Article 29

The mobile goods, the real estate and the land belonging to religions, to various constitutive agencies, establishments, associations, orders and congregations will be catalogued by their statutory bodies. The central bodies of religions will communicate all these inventories to the Ministry of Religions, so that the ministry can exercise its right to check and control.

Article 30

Religions, their departments, establishments, associations, orders and congregations will have separate budgets showing their income and their expenses. These budgets are under the control of the Ministry of Religions. The budgets and the accounting documentation of the central bodies and institutions, of the eparchial centers and of their establishments, are approved, checked and released by the Ministry of Religions.

Article 31

The expenses for the functioning of religions and for their needs can also be covered from donations accepted from the believers.

Article 32

The subventions awarded by the State will be proved by the accounting documentation and controlled in conformity with the law on public accountancy.

Article 33

The deed of violating the laws regarding the democratic order of the Popular Republic of Romania might cause the withdrawal—totally or partially—of the subsidies awarded by the State. The employees of religions having anti-democratic attitudes might be deprived temporarily or completely of the salaries provided by the State.

Article 34

The salaries of the personnel of religions will be in conformity with the general norms.

Article 35

The institution of patronage over the goods provided by private persons or institutions is to remain repealed.

Article 36

The patrimony of religions that disappear or of those whose recognition has been withdrawn belongs to the State.

Article 37

If at least 10% of the believers of a local community belonging to a religion join another religion, the local religious community will lose legally a part of its patrimony, in proportionally with the number of believers that change affiliation. This proportional part is transferred legally into the patrimony of the local community of the religion endorsed by the new believers.

If those who leave the local community are the majority, the church (the place of worship, house of prayer) as well as the correlated real estate belong legally to the local community of the newly adopted religion. The rest of the patrimony belongs to both local communities in the proportion established by the paragraph above.

If those who transferred from one religion to another are at least 75% of the believers in the local community, the whole patrimony will legally be transferred into the patrimony of the

local community belonging to the adopted religion, with a right to damages for the local community which was left. The right to damages is proportionate with the number of those who remained with the religion without taking into consideration the church (the place of worship, house of prayer) and the correlated real estate; the damages shall be paid in a maximum of three years from the time control of the patrimony by the new group is established. The cases provided for in this article will be found and solved by the local court of law.

CHAPTER 5. THE RELATIONS BETWEEN RELIGIONS

Article 38

Changing from one religion to another or leaving a religion is free. The declaration of leaving a religion will be communicated to the local department of the religion left through the local authority of the village. The local authority of the village must issue the proof of this communication upon request.

Article 39

No religion may register new believers unless the person asking for this service proves that he/she announced to the religion to which he or she used to belong that he or she has left the religion.

Article 40

The relations of religions abroad will be only of religious nature. No religion and no representative of any religion can have relations with religions, institutions or official persons outside the territory of the country without the approval of the Ministry of Religions and without doing it through the Ministry of Foreign Affairs.

Article 41

The jurisdiction of religions in the country cannot reach outside the territory of the People's Republic of Romania and

religions from abroad will not have jurisdiction over the believers on the territory of the Romanian State.

Article 42

The charity or the donations received from abroad by religions from within the country or sent by those abroad will be controlled by the State.

Article 43

The goods of the churches located abroad and the religious interests of the Romanian citizens abroad might constitute the object of international agreements on the basis of reciprocity.

CHAPTER 6. ON RELIGIOUS EDUCATION

Article 44

Religions are free to organize education for the training of religious personnel under the supervision of the State. The bodies belonging to religions in charge of this activity may establish schools and the curricula and they will be approved by the Ministry of Religions.

Article 45

The members of the faculty are appointed by the statutory bodies of the religion in conformity with the statute and the norms approved by the Ministry, with the condition of having prior approval by the Ministry of the recognition of those appointed. For those paid by the religion, a confirmation is required in 15 days from the date of the nomination. The Ministry of Religions can annul the nominations for reasons of public order or of state security.

Article 46

The diplomas and the certificates issued by the schools for the training of clergy are valid only within that specific religion. The validation of the diplomas and certificates awarded abroad for religious training will be established by a special commission recognized by the Ministry of Religions.

Article 47

Religions have to communicate to the Ministry of Religions all the data on the organization and functioning of the education for the training of clergy.

Article 48

Religions may organize, given the approval of the ministry, schools for singers and schools for the training of the clergy. The schools for singers must have as a pre-requisite at least a gymnasium or seven grades [primary and secondary schools of seven grades]. The schools for the training of lay and religious personnel may be seminars based on the gymnasium or the seven primary grades, theological institutes based on the graduation of a high school or of a pedagogical school [schools for tutors and primary school teachers]. Any religion may choose one of these types of religious education for the training of the clergy. For the training of monks, religions may organize, with the approval of the ministry, special seminars on the basis of a gymnasium or of a primary school of seven grades.

Article 49

The Orthodox Church may have two theological institutes of academic level for the training of its clergy. The Catholic Church may have only one theological institute of academic level, with the required special sections. Protestant religions may have only one theological institute of academic level, with the required special sections.

Article 50

Religions may have boarding for the pupils and for the students taking up studies in those schools or institutes for the training of the clergy, but only for these categories and only nearby the school or the institute.

Article 51

The canonic jurisdiction and the dogmatic studies within the schools for singers, the seminaries and the institutes are under the supervision of the religion and the didactic and administrative control are under the supervision of the Ministry of Religions, no matter their type.

Article 52

The employment of the ongoing teachers will be done by decree following the proposal of the Ministry of Religions.

CHAPTER 7. FINAL AND TRANSITORY PROVISIONS

Article 53

The ongoing theological seminaries, where the classes taught are also in general studies, are dissolved. The faculty with lay specialization from these seminaries, together with the adjacent budgetary provisions are to be transferred from the Ministry of Religions to the Ministry of Public Education. The teachers under this category will be hired if possible in similar positions or will teach related classes. The graduates with a diploma from the theological seminars, having the diplomas issued before the publication of this law, are entitled to the same rights to undertake graduate theological studies just as the students with a BA degree from theoretical high schools or those having a diploma from a pedagogical school.

Article 54

The Faculty of Theology in Bucharest will be transformed in the Theological Institute of academic level and the faculty and the administrative personnel as well as the budgetary provisions will be transferred from the Ministry of Public Education to the Ministry of Religions.

Article 55

All matters regarding the separation of goods between the various religious communities at the local level, still unresolved,

will be decided in conformity with the provisions of Article 37 of this law.

Article 56

All religions must send their statute, harmonized with the provisions of this law, in three months time from the publication of this law to the Ministry of Religions for approval. The approval of the status is done by decree of the Presidency of the National Assembly following the proposal of the Ministry of Religions.

Article 57

Subsequent amendments of the statutes of the various religions shall be effectuated observing the same procedure.

Article 58

The provisions of Law 68/19-03-1937, on the organization of the military clergy, are repealed. The members of the clergy of all religions have the obligation of providing assistance and religious services to soldiers every time this is required. The refusal of fulfilling this obligation triggers a disciplinary sanction.

Article 59

Churches and the military chapels, with all their inventory, are transferred under the property of the parishes of the same religion located in the same region. The Bishop's cathedral of the military clergy in Alba Iulia, together with all its patrimony, is transferred in the ownership of the Orthodox Bishop of Cluj, Vad and Feleac.

Article 60

The members of the military clergy with at least 20 years of public service of activity at the date of the publication of this law in the Official Gazette, may ask for their retirement in derogation of the provisions of the general law on pensions, having the benefit of another 5 years of activity added to their service.

The members of the military clergy who cannot enjoy the benefits of the first paragraph will be hired as priests, following their individual requests, in the eparchies where they used to work or in other eparchies with vacancies. The current Bishop of the Army can preserve his titles and his current personal rights and will have the tasks established by the Holy Synod, in conformity with his position.

Article 61

The payment of this religious personnel transferred to the Ministry of Religions will be done from an extraordinary credit open by the Ministry of Finances on the benefit of the Ministry of Religions, credit covered by voiding an equal amount of money from the budget of the Ministry of National Defense.

Article 62

Law 54/22-04-1928 on the general regime of religions, as well as any provisions contrary to this law, are repealed.

[1] On the Regime of the Religions in Romania, Decree No. 177 (1948), original Romanian version published in the Monitorul Oficial (the Official Gazette) No. 178 on August 4, 1948, as amended by Decree No. 410/1959, Decree No. 15/1974, and Lege No. 178/2002 (Romania). Translation by Romanita Iordache.

[2] [Translator's Note: The term "religion" is used throughout to translate the Romanian word that is cognate with the English word "cult." This term is the standard term for referring to religion in Romanian, and does not carry the negative connotations associated with the word "cult" in English.]

