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**Title:**

**The Unfinished Odyssey of a New 'Law for the General Regime of Religion' in a  
South East European Country: the Romanian Case**

**Abstract**

Almost fifteen years after the eradication of the communist totalitarian regime, the legal framework for religion and religious affairs in Romania is still mainly the one issued by the communists in 1948 (L177/1948). Alongside a series of amendments to this law, work on a new Law was started in 1991, a draft being finalised but not yet discussed in the Parliament since 1999. The present paper will first look at the issues involved both in the content of the proposed Project of Law (PL341/1999), and in the process of the drafting and the implementation of this Law. Secondly, a comparison with similar legislation in other countries of the region will be conducted. Thirdly, the paper will assess the implications of the implementation of the present proposal of the new Law of Religion both for domestic and for international affairs, including minority rights, human rights, freedom of expression, property rights, etc. Finally, suggestions will be made as to what can be done in order to move forward towards the implementation of a legal framework that would be in tone with a proper human rights regime, the prerequisite for the establishment of genuine democracy.

## **The Unfinished Odyssey of a New ‘Law for the General Regime of Religion’ in a South East European Country: the Romanian Case**

It is a well-known fact that virtually all countries of the former communist block treated religion either as one of the most dangerous ideological enemies or as a potential ally in building a strong nationalist ideology (the Romanian case being the most revealing). This was reflected in the implementation of highly controlling governmental bodies and legislation dealing with religion. Such governmental organisations and laws existed mainly as means of controlling religious life and religious practice; for instance, obligatory state registration was used to tighten state persecution of religion rather than to protect the freedom of religion or belief, religious property was abused, freedom of expression was almost nonexistent, many religious groups were stripped of their rights both to use their own properties and to promote their own faith. With the fall of the iron curtain and the new engagements of post-totalitarian governments in building up credible democratic regimes, it was expected that a new approach to religious freedom would be seen. However, almost fifteen years after the fall of totalitarianism, organisations such as the Religious Freedom World Report or the yearly International Religious Freedom Reports of the U.S. Department of State show that not many countries from the region can claim they successfully passed this fundamental test of democracy. This present study focuses on an assessment of the unfinished odyssey of such an expected change in legislation in Romania. The purpose is both to reveal the difficulty of such an endeavour and to suggest new ways that would assure that the fundamental right to believe is secured and that religious association laws will facilitate religious freedom rather than encumber it.

Since the 1989 revolt which officially ended the totalitarian regime, the legal framework for religion and religious affairs in Romania is still, in the main, the one issued by the communists in 1948 (Decree 177/1948). Work on a new Law was started in 1991 and a controversial draft was finalised but not discussed and/or adopted in the Parliament by the time of this article (July 2003). The present paper will first look at the legal and political issues involved in the process of the drafting and the implementation of this new Law, followed by a presentation of its controversial content. Secondly, a brief comparison with similar legislation in other countries of the region will be conducted. This will reveal a certain pattern of relationships

between the state and religious groups in South-eastern Europe. It will also show the ambiguous and often discriminatory treatment of religious issues in Europe.<sup>1</sup>

Thirdly, the paper will assess the implications of the implementation of the present proposal of the new Law of Religion both for domestic and for international affairs, particularly with respect to minority rights, individual rights, freedom of thought and expression, freedom of association, property rights, etc. This will be conducted mainly against the background offered by the Romanian Constitution and by the European Convention for Human Rights and Fundamental Freedoms adopted and ratified by the Romanian government.

Finally, suggestions will be made as to what can be done in order to move forward towards the implementation of a legal framework that would be in tone with a proper human rights regime, the prerequisite for the establishment of genuine and durable democracy.

## **1. The process of drafting and implementation of the ‘Project of Law for the General Regime of Religious Denominations (*Cults*) and for the Exercise of Religious Freedom’ (PL 341/1999)**

### **1. 1. Legal Background and the Trajectory of the Proposed Law so Far**

Unlike the United States and some Western European countries, virtually all countries in Eastern and South Eastern Europe today deal with religious issues through laborious legislation. In these countries the government sets special offices to deal with religious issues. In Romania, the 1989 revolution against communism forced the transformation of the oppressive State Secretariat for *Cults* (the designated term for all religious denominations) into a new and expectedly democratic organism (see the ‘Governmental Decision regarding the organisation of the *State Secretariat for Cults* HG 63/1998’). Some changes of personnel were instituted and the new overall task set for the Secretariat is now to ‘assure that the legal rights of the religious denominations are respected and secured, to eliminate abuses, to mediate relations between various religious denominations

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<sup>1</sup> Although outside the scope of this paper, see also the highly discriminatory character of the legislation on religion in Western countries such as the French law on religion, or the traditionalist character of the Austrian legislation. Cf. Casino, B., ‘The State vs. Religion in France’, July 2000, [www.lawandfamily.org/articles/Casino3.htm](http://www.lawandfamily.org/articles/Casino3.htm); US Department of State International Religious Freedom Report 2002, [www.state.gov/g/drl/rls/irf/2002/13920pf.htm](http://www.state.gov/g/drl/rls/irf/2002/13920pf.htm); Colvin, A., ‘New Austrian Legislation Creates Formula for Discrimination’, *International Religious Freedom Report*, Spring 1998, [www.religiousfreedom.com/nwsltr/Austria.htm](http://www.religiousfreedom.com/nwsltr/Austria.htm)

and to assist these denominations in their relations with the authorities of local and central public administration.’ (Art. 22 of the newly proposed *Project of Law for the General Regime of Religious Cults*, not yet passed through the Parliament).<sup>2</sup> However, the situation is still highly ambiguous due to the lack of appropriate legislation, the main legal framework still being the one offered by the old communist *Decree no. 177/1948*. To redress this situation a number of steps have already been made.

First of all, the new Constitution of 1991 sets a new legal framework for the way in which the state should deal with religion and religious freedom. This is reflected in the following articles: Article 29 dealing with Freedom of Conscience, Article 30 on Freedom of Expression, Article 32 (7) the freedom of religious education and Article 20, International Human Rights Treaties, particularly paragraph 2 stating the precedence taken by the treaties signed by Romania over the Constitution itself. Secondly, a number of governmental orders have been passed, particularly related to church property issues, production of objects for cultic life, financial support offered to the 15 religious denominations recognised by the state (according to the 1948 law, 14 different religious groups are recognised, and due to an amendment issued in 1989, the Greek Church United with Rome which was abusively outlawed by the communists in 1948 was added).<sup>3</sup> Thirdly, and most importantly from our study’s perspective, is the ongoing process aimed at the promulgation of a new law that would establish the general statutory rules for religious life and religious denominations. The State Secretary for Religious Affairs started the process immediately after the validation of the new Constitution in 1991, inviting all 15 recognised religious denominations to dialogue. With agreement from all groups involved, a first draft was produced as early as 1995 and, according to article 72, paragraph 3, letter n of the Constitution, it was handed over to the Prime Minister to be introduced to the Parliament in order to be discussed and ratified. Following a series of repeated attempts both by the centre-left government and by the centre-right to pass the law through the Parliament due to obscure reasons, the proposed Law not only did not get a chance to be discussed in the Parliament, but to the surprise of all the other religious denominations who participated in the process of elaborating

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<sup>2</sup> Useful but somewhat limited information can be found on the official webpage of the institution at [www.culte.ro](http://www.culte.ro).

<sup>3</sup> Within the time of the reading of this paper and its publication, a new religious denomination received legal recognition. Following over ten years of unsuccessful attempts to register, which included the Chief Prosecutor’s cancellation of a favourable ruling of the Supreme Court, Jehovah’s Witnesses did receive legal status as a result of strong pressure from Western and American Human Rights groups.

the Law, its content was significantly altered without any further consultation.<sup>4</sup> The latest attempt was made by centre-right Prime Minister Radu Vasile in 1999, when he intended to pass the altered version of the law in an emergency regime (see Project of Law PL 341/1999). However, due to high pressure from a significant number of registered religious denominations as well as national and international nongovernmental human rights organisations, the project of law was withdrawn on 16.02.2000 in order to be reassessed. Although not successful, it is worth noting the trajectory the Project of Law nr. 341 1999 had between the various committees for approval: in 14.09.99 registered to be discussed; 15.09.99 presented in the Permanent Bureau; 16.09.99 sent to be approved by the following Committees: Committee for Human Rights, Cults and National Minorities; Committee for Budget and Finances; Committee for Public Administration; Committee for Education, Science, Youth and Sport; Committee for Culture, Arts, Media; Juridical Committee for Discipline and Immunities. Of these, positive replies came as follows: 29.09.99 Juridical Committee; 27.10.99 Committee for Culture; 10.11.99 Committee for Education. The others did not reply. On the 16.02.2000 the legislative procedure ceases following the initiator's withdrawal of the project in order to be reassessed (nr. 53/16.02.2000).

In order to understand why this proposed law had such a complicated and controversial odyssey, we shall look into some of its content and the way in which it relates to fundamental questions of human rights. Before that, however, it is worth also noting that the Legislative Council of the Parliament, who is supposed to verify the constitutionality and the legal quality of the content of any newly proposed law before it enters the debates in the parliament, not only did approve the proposed project but also suggested alterations that would make it even more controversial from the perspective of respect for human rights and fundamental freedoms. We shall come back at this issue later.

## **1.2. Content of the Project of Law for the General Regime of Religious Denominations (Cults) and for the Exercise of Religious Freedom PL 341/1999. Controversial Issues**

It is not possible in this presentation to give an exhaustive account of the full range of legal provisions that affect the ways religious groups structure their affairs in Romania. We shall only

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<sup>4</sup> Undisclosed sources from the Romanian Parliament at that time informed the author of this paper of a private discussion with Prime Minister Radu Vasile who motivated his decision by mentioning pressure from the higher hierarchy of the Romanian Orthodox Church.

concentrate on those issues contained in the latest Project of Law that can be seen as major threats to some of the fundamental rights of the individual as stated either by the Romanian Constitution or by the various international treaties on human rights ratified by Romania (particularly the European Convention for the Protection of Human Rights and Fundamental Freedoms). In this respect, I shall look at the various issues related to the content of the proposed Law from two perspectives: one directly related to the already existing religious denominations that have legal status, and the other related to new religious movements and groups seeking access to legal entity status.

### **1.2.1. Freedom of association and manifestation of the legally recognised religious denominations in Romania according to the Proposed Law PL 341/1999**

Although stipulated in the second article of the proposed law under discussion, the right to freely associate and to manifest one's faith in group is greatly impeded by Art. 15, which deals with the process of legal registration of new places of worship. The right to open a new place of worship and to register it as a legal entity is conditioned by the number of the followers of that particular religious group. Thus, unless a religious group presents a list with a minimum 5% of the local population registered with the local administration at the time of the request, that group can not receive legal status, thus being denied the right to gather and conduct their religious life together. If one considers the map of religious denominations in Romania, what this means in fact is that in practice only the majoritarian Orthodox Church (over 85 % of the total population) and in some areas the Hungarian Reformed can benefit from this freedom of association. In other words, for all the other 13 legally recognised religious groups the possibility of opening and registering new places of worship becomes virtually impossible. This indirectly also denies one's right to change his or her religion, since the new religion will have no right to legally function in that particular location. Thus such a legal provision represents a clear denial of Articles 20, 29, 30 and 32.7 of the Romanian Constitution; it is also a clear breach of Articles 9 and 11 of the European Convention of H R and FF.<sup>5</sup>

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<sup>5</sup> A revealing case in this respect is *Manoussakis vs. Greece*. The Court's ruling was against the state's requirement for the Jehovah's Witnesses to receive a house of prayer permit saying: 'The apparently innocent requirement of an authorization to operate a place of worship had been transformed from a mere formality into a lethal weapon against the right to freedom of religion. ... The Court noted a climate of interference and oppression by the State and the dominant church as a result of which Art. 9 of the Convention had become a dead letter. van Dijk, P./ van Hoof,

### 1.2.2. An analysis of the requirements for gaining legal entity status for new religious communities/groups

I will approach this part of my study from the following perspectives:

- **Organizational requirements: requirement to register; number of founders; foreign/national founders**
- **Document requirements: formal vs. substantive review**
- **Registration authority and the mechanisms involved**

Legal status for a religious community is issued by the State Secretariat for Religion on the basis of a number of requirements that need to be met. The office functions under the authority of the Ministry of Culture, Patrimony and Cults (Religious groups). The requirements for registration are stipulated in Art 23 of the present Project of Law. Virtually all of these requirements can be seen both as considerable intrusions of the state in the religious part of an individual and/or a group's life and as requirements not imposed as legally necessary in a democratic society (the cornerstone of Art. 9 of the European Convention on HR dealing with religious freedom issues). In what follows, I will quote selectively from the Art 23 of the Project of Law such requirements to register as a new religious group, and I shall comment on each one in turn. Thus, in order to register, a new religious group has to:

- present the reasons regarding the basis on which one requires registration.* Although this requirement can be justified, there are no clear principles according to which some would be acceptable whereas others would be unacceptable reasons. Such a stipulation leaves open space for abuses and discretionary decisions which can be seen as substantial rather than formal (functional) assessments.
- provide a nominal list with ID information and signatures of all the adherents to the new religious group. The number of the adherents to the new religious group shall be at least 5% of the total population of Romania according to the latest census.* This I see as the most flagrant limitation to the freedom of association and ultimately freedom of belief. Considering that out of the 15 legally recognised denominations, only two have over 5% of the total population of Romania, it becomes virtually impossible for new religious

movements/groups to register in the next 10 to 15 years if they start their work illegally at the present time;

- c. *provide the statement of faith.* Again, as with point a) above, the law does not provide any clear principles for what is acceptable and what is not, thus leaving the whole issue open for abuses and control. It could become a **substantial** analysis, one that would question the doctrine and the content of the new faith rather than a mere **formal** review aimed at making sure that the state of law and democratic principles are observed and not endangered. This can certainly be seen as censorship, particularly in the case where virtually all of the officers who are called to judge the validity of the application belong to the same majoritarian religious group and some of them received Orthodox theological training.
- d. *A detailed presentation of the organisational charts, including names of the leadership, the leadership structure, the forms taken by their activities and the way religious worship is being conducted, the way in which financial support is secured and the way in which money are spent, etc.* Again, no criteria for evaluation are provided, being left open for misjudgement and abuse. Also, both at individual and at group level, privacy could be seen as violated.

The new religious group is recognised as a legal entity only following recognition finally from the Government, at the proposal issued by the Secretariat of the State for Religious issues.

Also, according to Art. 27. the leaders of the religious communities must be Romanian citizens (double citizenship is not acceptable) and they must be recognised by the Romanian president by a legal decree. Art. 33. requires that all formal correspondence of religious communities should be conducted in the Romanian language. This is yet again an unclear requirement, since there is no definition of what is meant by formal correspondence (thus open for abuses).

None of these potential anticonstitutional aspects of the present legislative proposal was singled out as such by the Legislative Council of the Parliament. To the contrary, in its report which gave approval to this legislative initiative, the Council added the suggestion that, on the basis of history and the special role of the Orthodox Church, the new law should include the nomination of the Romanian Orthodox Church as the national church. This will add to the already preferential status of the Orthodox Church over the other religious groups.

So far we have seen the trajectory and some of the content of the proposed law of religion in Romania. Our next step is to compare this proposal with other similar initiatives in South East Europe, in order to see if the Romanian case is an isolated one or if there is, to the contrary, a certain pattern of state-religion relationships.

## **2. Setting the Romanian Legislative Proposal within the Larger South Eastern European Context**

As is well reflected in all the reports and analysis of the legislation dealing with religious issues in South Eastern Europe presented at this event, very few (if any) of the countries of this region have managed to do justice to the fundamental rights related to religious freedom. I would only point your attention to two revealing cases: Bulgaria and Serbia. Serbia came up with a proposal for a law that was simple, clear and highly compatible with international documents on human rights, yet when it was supposed to pass through the parliament, it was withdrawn due to pressure from the Serbian Orthodox church. Bulgaria already passed a new law through parliament, which, on the one hand can be seen as highly abusive - this since it only recognised the Bulgarian Orthodox Church as a legal entity, declaring it the ‘national church’, with all the other religious groups having to re-register in order to gain legal status. On the other hand, however, it came with an acceptable idea for registration, namely it has passed the issue of registration of new religious groups from the political authority (the government) to the local authority of the various regional councils, followed by a local court decision. However, rather than making the process easier, there are already complaints of abuses at local level, where civil servants perform substantial rather than formal analysis of the requests, often questioning the ‘heresies’ involved vis-à-vis the Orthodox faith.<sup>6</sup>

>From all we have heard at this event and from the research conducted to date, it seems that one can identify a clear pattern of state – religion relationships in South Eastern Europe. Firstly, following the fall of the totalitarian communist atheistic ideology, predominant religions of the various countries combined with nationalism and became the new ideologies of the region. Thus religion was highly politicised and sometimes, like in the former Yugoslavia, with dramatic consequences. Secondly, the newer and expectedly democratic political classes find themselves caught in the dilemma of having to seek at the same time mass support and support from the

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<sup>6</sup> cf. [www.state.gov/g/drl/rls/irf/2002/13925pf.htm](http://www.state.gov/g/drl/rls/irf/2002/13925pf.htm)

democratic institutions of the West. In other words, mass support is often conditioned by a preferential status and treatment offered to majority religions at the expense of minority groups, whereas support from the West is always conditioned by the implementation of a genuine and functional human rights regime which can not accept such preferential treatment. Therefore, regardless of their position on the political spectrum, governments in the region have not yet come up with successful solutions, still having to make compromises in order to please both sides. However, if one wants to enter the larger family of the Western democracies, there can be no excuse for breaching the fundamental human rights. Thus, we shall now turn to an assessment of the various ways in which the proposed legislation on religion in Romania would conflict with the main national and international documents on human rights adopted by the Romanian government.

### **3. The implications of the implementation of the present proposal of Law of Religion both for domestic and for international affairs**

If the present proposal was to pass through the parliament and be accepted as it stands now, it will inevitably become a discordant step that could seriously damage the image of Romania's policy related to respect for human rights - the fundamental condition and guarantee for the implementation of a democratic regime. Internally, it could be contested on constitutional grounds. As seen above, articles like 29, 30 and 32 are endangered and could be breached. Moreover, according to Art. 11 and 20 of the Constitution that give pre-eminence to the international documents and conventions on human rights ratified by Romania, the present proposal could also be seen as abusive and anti-democratic.<sup>7</sup>

At this point I shall only mention the European Convention on Human Rights and Fundamental Freedoms which Romania has recently adopted, mentioning that the Convention becomes the legal standard according to which the European Court of Human Rights judges all cases related to religious freedom in Romania. For all the reasons presented in detail above, the

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<sup>7</sup> Romania ratified the following documents and conventions on Human Rights: The Universal Declaration of Human Rights (Articles 18, 20, 2, 7); the International Covenant on Civil and Political Rights (Art. 18, 20, 26, 2); The UN's Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (1981); the European Convention on Human Rights and Fundamental Freedoms (Art. 9). The articles mentioned above refer to religion and religious freedom.

present proposed Law on religion opens possibilities for decisions that could breach Art. 9 of the Convention. This article stipulates:

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or in private, to manifest his religion or belief, in worship, teaching, practice or observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Although the case law interpreting Article 9 is very extensive,<sup>8</sup> following Cole Durham I will only emphasise two relevant aspects here.<sup>9</sup> First, the starting point in interpreting this article is to realise that the limitations paragraph (#2) refers only to 'manifestations' of religion. In other words, the right to freedom of thought, conscience and religion (#1) is absolute and inalienable. Within such legal provision, the Romanian project of Law discussed in this paper could be perceived as abusive in a number of ways, particularly denying one's right to change and to keep her religious beliefs in private (one request for registration requires detailed personal information about all the members of a new religious group). Second, I would like to bring attention to the permissible limitations on religious freedoms that are stipulated in paragraph 2 of Article 9. There are three such limitations: 1. the limitation must be 'prescribed by law', 2. the limited set of permissible justifications for constraint ('in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others'), 3. the constraint given by the 'necessary in a democratic society' requirement. I will look at them one by one.

The first limitation is often misunderstood as referring back to the domestic law. This is the wrong interpretation. The European Court of Human Rights has held that this phrase 'does not merely refer back to domestic law but also relates to the quality of law, requiring it to be compatible with the rule of law, which is expressly mentioned in the preamble of the

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<sup>8</sup> For comprehensive overviews of case law construing Article 9 and decisions of the Commission see: Gunn, T.J., 'Adjudicating Rights of Conscience Under the European Convention on Human Rights', in Van der Vyver, J.D., and Witte, J. Jr., *Religious Human Rights in Global Perspectives*, The Hague etc., 1996, pp. 305-350; Shaw, M. 'Freedom of Thought, Conscience and Religion', in Macdonald, R.St., Matscher, F and Petzold, H., eds, *The European System for the protection of Human Rights*, Dordrecht etc, 1993, pp. 445-463.

<sup>9</sup> See Durham, C., 'Freedom of Religion or Belief: Laws Affecting the Structuring of Religious Communities', paper prepared under the auspices of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE), published at [www.osce.org/odihr/documents/background/religion](http://www.osce.org/odihr/documents/background/religion)

Convention'.<sup>10</sup> As Durham comments: 'this test can be referred to as the "rule of law constraint". Arbitrary bureaucratic fiat is not sufficient to pass this test. Similarly, rules that are impermissibly vague may fail to meet this test.'<sup>11</sup> Hence, a system of registration like the one presented in the Romanian case above is an obvious candidate for failure. The second constraint is indeed a permissive one: the reasons that a state can invoke to justify overriding religious freedom are quite extensive. It is not surprising, then, as Durham notes, that 'in all cases in which the European Court of Human Rights has found that a limitation violates Article 9, it has been the third constraint – the "necessary in a democratic society" requirement – that has been the critical constraint.' And at this point Durham's comments are worth quoting at some length: 'in the Court's view, democratic society necessarily presupposes religious pluralism. In articulating the importance of freedom of religion or belief, the European Court has noted that it is "one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. *The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it.* Similarly, the Court has acknowledged the significance of the "pluralism, tolerance and broadmindedness without which there is no democratic society." The Court has, of course, recognized the importance of a margin of appreciation of cultural difference in this area. This is vital for the gradual process of European integration while maintaining respect for difference in relation to religious and cultural matters. Nonetheless, the Court has made it clear that in delimiting the margin of appreciation that applies to religious freedom issues, it "must have regard to what is at stake, namely the need to secure true religious pluralism, an inherent feature of the notion of a democratic society". With this background in mind, the Court has construed the "necessary in a democratic society" requirement to mean that the limitation in question must be "justified in the circumstances of the case by a *pressing social need*" and that the contested measure must be "proportionate to the legitimate aim pursued". Moreover, in assessing whether a restriction is proportionate to the legitimate aim pursued, "very strict scrutiny" must be applied.'<sup>12</sup>

What all this means for our study is that such a law of religion as the one proposed by the Romanian government will be highly at odds with the international legal framework to which

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<sup>10</sup> Malone Case, 82 European Court on Human Rights, quoted in Durham *ibid.*, p. 17.

<sup>11</sup> Durham, *ibid.* p. 17.

<sup>12</sup> Durham, *ibid.* pp. 17f.

Romania as a state belongs. Such a law would provide a vast space for complaints from various individuals and religious groups that would certainly be won in the European Court of Human Rights. What is to be done? Without claiming to find the final answers to such a problematic issue, I shall only try to present a few suggestions that could be taken as possible ways towards securing a proper and durable human rights regime in Romania.

#### **4. Possible ways ahead**

Aware of the political delicacy involved in promoting a law of religion in a country which is both seeking acceptance within the larger European and Euroatlantic family, and where over 80 percent of its population belong to one particular traditional religion, I shall still suggest – in the light of the above – that particular steps should be made if one is to see that the road to genuine democracy is an irreversible one. As is obvious from the fact that the government withdrew the project of Law discussed in this paper, its limitations are already acknowledged, and I see this as the first step. The second step should be the re-drafting of a new proposal that would be the result of wide and open dialogue between various religious communities. The government and civil society organisations should enter into dialogue with religious communities in order to have a better understanding of their respective needs and to cultivate a climate of mutual respect and acceptance.

In terms of content, the new proposal for a new law of religion and religious freedom should present an easier registration process for new religious groups and easier ways for operating for the already legally registered groups. Quantitative criteria are totally inadequate for both instances. For the latter, the group has already been registered with the state; therefore to require a certain percentage of the population of a locality to adhere to that particular group before being given legal status is seen as abusive. Regarding new religious groups, quantitative requirements are subjective and very often highly restrictive. What can (and what should certainly) be done in quantitative terms is the support the state offers proportionally to various groups, according to their size and to their involvement in paying taxes and fulfilling duties as Romanian citizens. Furthermore, the process of establishing legal entity should be quick, simple and inexpensive. Another step should be related to the content of the applications for legal recognition. In order to limit possibilities for abuse, clear requirements that would assure a formal rather than substantial study of the documents and creeds should be stated. As mentioned

also in the OSCE recommendations, the review of documents should therefore focus on formal matters, and should be structured to minimize risks of substantive intermeddling in matters of doctrine and ecclesiology.<sup>13</sup> Thus finally but not lastly, the personnel working in the governmental Romanian Secretariat of State for Cults should be secularised and diversified. As it is at the moment, all members of the staff belong to the majority Orthodox Church, most of them (including the State Secretary General) being trained in Orthodox schools of theology and pastoral work. This opens the risk for parti-pris attitudes towards other religious groups, particularly towards those whose doctrines are seen either as highly heretical or as highly endangering the position of the Orthodox church.

As a closing word, I would like to thank dr. Silvo Devetak and the organisers of this event for making this discussion possible, thus contributing to the bettering of the irreversible advancement towards genuine democracy in South Eastern Europe.

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<sup>13</sup> Durham, *ibid.*, p. 33. Durham presents a list with valuable recommendations.