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LEGAL STANDING OF CHURCHES AND RELIGIOUS
COMMUNITIES IN THE KINGDOM OF SERBS,
CROATS AND SLOVENIANS AND
THE KINGDOM OF YUGOSLAVIA

This paper shows how the Kingdom of Serbs, Croats and Slovenians and the Kingdom of Yugoslavia legally regulated the position and organisation of religious communities, which after unification found themselves in a joint and multi-confessional state. Although the concept of complete separation of churches and religious communities from the state was not implemented in the Constitutions of 1921 and 1931, religious communities were very influential in social life and politics, and after several unsuccessful draft laws on religions and interreligious relations, specific laws that regulated the legal position of many churches and religious communities that were represented in the Kingdom of Yugoslavia were adopted. In addition, negotiations with the Holy See were carried out in order to conclude a concordat that would determine the status of the Catholic Church in the Yugoslav state in detail. From the adopted constitutions and the entire religious legislation on individual religions and their communities in the common state, it can be concluded that the principle of the state church was abandoned, as well as that religious communities enjoyed a certain degree of autonomy in regulating their own organisation and internal affairs. Nevertheless, the election of supreme church leaders and dignitaries depended on the king and the government, so the state still exerted a great deal of influence over the church organisation and structure.

Key words: *Kingdom of Serbs, Croats and Slovenians. – Kingdom of Yugoslavia. – Religion. – Religious communities. – Religious legislation. – Legal status of churches.*

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1. RELIGIOUS COMMUNITIES IN THE KINGDOM OF SERBS, CROATS AND SLOVENIANS

1.1 Legal particularism and first regulations regarding religion

Legal particularism in the Kingdom of Serbs, Croats and Slovenians existed in all branches of law,¹ including in the regulations on religions and religious organisations.² At the time of the unification, in terms of the relationship between the state and the church and the position of churches and religious communities, as well as in terms of other branches of law, there were six different areas on the territory of the Kingdom of Serbs, Croats and Slovenians. In addition to the territories of the former Kingdom of Serbia and the Principality of Montenegro, these areas were: Dalmatia and Slovenia, Vojvodina and Međumurje, Croatia and Slavonia, and Bosnia and Herzegovina.³ Churches and religious communities retained the same legal position they had in the countries that became part of the new state, from the creation of the Kingdom of Serbs, Croats and Slovenians on December 1, 1918 until the adoption of the first Constitution on June 28, 1921. The existence of numerous nations and different religions on the territory covered by the state of South Slavs decisively contributed to Regent Alexander issuing a Proclamation on January 6, 1919, guaranteeing equality of all religions in the Kingdom and confirming the elimination of the privileged position and state status of the Orthodox Church in Serbia and Montenegro, as agreed in the Corfu Declaration.⁴ According to the 1921 census, 48% of Orthodox people, 39% of Roman Catholics and 13% of other religious communities lived in the Kingdom of SCS.⁵ The Kingdom of SCS included territories where different systems of relations between the state and religious communities were applied. A common feature in all these areas was that everywhere there was some form of recognised religious organisation.⁶ By the Provisional Law of May 10, 1920, on the Treaty between the Allied Powers and the Kingdom of

1 Zoran Mirković, *Srpska pravna istorija*, Univerzitet u Beogradu, Pravni fakultet, Beograd 2020, 234.

2 Dalibor Đukić, *Interkonfesionalno zakonodavstvo u Jugoslaviji i Srbiji 1919–2006*, Univerzitet u Beogradu, Pravni fakultet, Beograd 2022, 78.

3 Dušan S. Rakitić, *Konkordat Kraljevine Srbije i projekti konkordata Kraljevine SHS i Kraljevine Jugoslavije – pravnoistorijski aspekti odnosa crkve i države* (doktorska disertacija), Univerzitet u Beogradu, Pravni fakultet, Beograd 2016, 271.

4 Radmila Radić, *Verom protiv vere, Država i verske zajednice u Srbiji 1945–1953*, Institut za noviju istoriju Srbije, Beograd 1995, 20.

5 Bojan M. Mitić, *Srpska crkva u Jugoslovenskoj Kraljevini – Patrijarh Varnava i njegovo doba*, Centar za istraživanje pravoslavnog monarhizma, Beograd 2018, 27.

6 D. Đukić, 79.

Serbs, Croats and Slovenians, signed on September 10, 1919, the new state committed itself to the right of all inhabitants to freely perform public and private rites of any religion.

1.2 Principle of religious liberalism and its application in the unified state

According to the principle of moderate liberalism, the churches, in relation to the state, were in the position of a corporation under public law. The liberal state rejected the concept of relations based on the feudal model of the church state or the somewhat more progressive model of the state church, as applied to the Serbian Orthodox Church in the Kingdom of Serbia. The most radical liberal model, according to which the state and the church are completely separated, and the church is reduced to the position of a private association, has also been rejected. Due to the fact that the position of churches and religious communities in the Kingdom of SCS pertained to the domain of public law, the Yugoslav state was obliged to supervise and control the organisation and work of churches and to support them financially.⁷ The activities of various religions in the new state contributed to the formation of the Ministry of Religion of the Kingdom of Serbs, Croats and Slovenians, as decreed by the king on December 7, 1918.⁸ At the beginning of September 1919, the Ministry of Religion began to collect data on recognised religions. A letter was sent to the provincial governments, asking them to inform the Ministry which religions are recognised by law in their area, based on which regulation and whether there was a large number of believers of a religious organisation that is not recognised.⁹ Several provincial governments responded to this letter.

1.2.1 Recognised churches and religious communities in Yugoslav states prior to the unification

The Office of the Commissioner of the Royal Government for Montenegro stated that the Constitution of the Principality of Montenegro from 1905 recognised the Eastern Orthodox, Roman Catholic and Mo-

7 Nikola Žutić, „Srpska i Anglikanska crkva u prvoj polovini 20. veka”, *Istorija 20. veka* 1/2005, 99–115.

8 Branko Gardašević, *Organizaciono ustrojstvo i zakonodavstvo pravoslavne crkve između dva svetska rata*, Beograd 1971, 37–64.

9 Dopis Ministarstva vera Kraljevine SHS, br. 4114/1919. Dokument se čuva u Arhivu Jugoslavije. AJ, Ministarstvo vera Kraljevine SHS, Katoličko odeljenje, br. Fonda 69, br. fascikle 268.

hammedan faiths. This act also states that there are no followers of other religions on the territory of the former Kingdom of Montenegro.¹⁰

Since Slovenia belonged to the Austrian part of the Habsburg Empire before the unification, in the reply of the Commission for Religion and Worship from Ljubljana, recognised religions in Austria were listed. These religions were: Catholic, Greek non-united, Evangelical Church of the Augsburg and Helvetic Confessions, the Old Catholic Church, the Evangelical Brethren Church, the Mennonite religious community, and Islam of the Hanafi rite. Also, the reply states that there are not many members of unrecognised religious communities on the territory of the Provincial Government for Slovenia.¹¹

The National Government for Bosnia and Herzegovina informed the Ministry of Religion that in accordance with Article 8 of the National Constitution of 1910, the following religious associations were recognised in Bosnia and Herzegovina: Serbian Orthodox, Muslim, Roman Catholic and Greek Catholic, Evangelical and Jewish. There were not many members of religions not recognised by law.¹²

In its response, the provincial government for Dalmatia stated that Catholic, Evangelical, Greek non-united, Jewish and Islamic faiths of the Hanafi rite are recognised by law in its territory.¹³

The Ministry of Internal Affairs – Department for Banat, Bačka and Baranja submitted its answer according to which the only recognised religion is Baptist, while the other accepted religions enjoy numerous privileges that are not given to recognised religions. They independently form their own parishes, the material contributions of their believers are compulsorily collected through administrative means, and they are considered corporations under public law. On the other hand, recognised religions must obtain the consent of the civil authorities to establish new parishes, religious levies can only be collected through the courts and they are considered private law corporations.¹⁴

10 Akt Poverenika Kraljevske vlade za Crnu Goru II br. 5606 od 15. septembra 1919. godine, AJ, Ministarstvo vera Kraljevine SHS, Katoličko odeljenje, br. fonda 69, br. fascikle 268.

11 Akt Povjereništva za uk i bogočastvje u Ljubljani br. 4342 od 22. septembra 1919. godine, AJ, Ministarstvo vera Kraljevine SHS, Katoličko odeljenje br. fonda 69, br. fascikle 268.

12 Akt Zemaljske vlade za Bosnu i Hercegovinu br. 175717/19 od 8. oktobra 1919. godine, AJ, Ministarstvo vera Kraljevine SHS, Katoličko odeljenje, br. fonda 69, br. fascikle 268.

13 D. Đukić, 80.

14 Akt Ministarstva unutrašnjih dela, Odeljenje za Banat, Bačku i Baranju, br. 9796/1919 od 15. septembra 1919. godine, AJ, Ministarstvo vera Kraljevine SHS, Katoličko odeljenje, br. fonda 69, br. fascikle 268.

In the Kingdom of Serbia, the Orthodox faith enjoyed the status of the state religion and was to a certain extent privileged in relation to other religions.¹⁵ Based on the Concordat from 1914, the Roman Catholic Church was also recognised.¹⁶ Apart from these two religions, in the Kingdom of Serbia, the Evangelical Church and two religious communities – Muslim and Jewish – have been recognised by various acts.

Overall, it can be concluded that there was a certain number of religions that were recognised in all the territories that became part of the new state. These are the Eastern Orthodox, Roman Catholic, Islamic, Evangelical and Jewish. Other smaller religious organisations were recognised mostly in those areas that belonged to the former Austro-Hungarian Empire. In most areas, the system of legally recognised religions was applied. In the Kingdom of Serbia and the Kingdom of Montenegro, there was a state religion, while the Roman Catholic Church enjoyed certain privileges in the former Austro-Hungarian territory. Therefore, in all areas there were religious organisations that had a dominant position and greater support from the state compared to other recognised religions.¹⁷ Nevertheless, the Corfu Declaration, the Proclamation of Regent Alexander and the Treaty of Saint-Germain indicated the possibility for the Constituent Assembly to accept the principle of separation of church and state.

2. LEGAL STANDING OF CHURCHES IN CONSTITUTIONAL LAW

2.1 The Vidovdan Constitution

The Vidovdan Constitution was adopted by the Constituent Assembly, for which elections were held in November 1920. This Constitution abandoned the system of state churches, but did not implement the principle of the separation of religious communities from the state in a consistent manner. Religious communities have been given the status of “public institutions with a special position in the state and special privileges” and the authority to perform some public-law affairs on behalf of the state.¹⁸ The Kingdom of SCS recognised the status of religions adopted by the Constitution to all religious organisations that, based on

15 Ustav Kraljevine Srbije, *Službene novine Kraljevine Srbije*, 1888.

16 Zakon o konkordatu između Srbije i Svete Stolice, *Srpske novine*, br. 199 od 3. septembra 1914.

17 D. Đukić, 81.

18 Jovan Stefanović, *Odnosi između crkve i države*, Matica hrvatska, Zagreb 1953, 101.

the regulations of the previous states, gained recognition in any part of its territory.¹⁹

Furthermore, this constitution certainly represents progress compared to the Constitution of the Kingdom of Serbia from 1903, as it contains much more precise and extensive provisions, which is understandable, given that the state structure has become much more complicated and that the number of religious communities had increased significantly due to the creation of a common state. In addition to guaranteeing freedom of religion and conscience, the adopted faiths are recognised as independent in regulating religious affairs, and certain funds in the state budget were set aside for religious purposes.²⁰ Moreover, on the subject matter, the Vidovdan Constitution contains a number of important changes compared to previous Serbian constitutions: there is no longer a state religion, the Constitution explicitly stipulates equality in the enjoyment of civil and political freedoms regardless of religion, and the equality of “adopted religions” is strikingly emphasised – both explicitly and in principle,²¹ since the Constitution proclaims that “...those religions, which have already received legal recognition in some part of the Kingdom, shall be adopted.” At the same time, it was emphasised that ties with supreme religious leaders abroad can be maintained, but in the manner prescribed by law.²² Besides Article 12, matters related to religion are regulated only by Article 16, paragraph 7, which proclaims the right to confessional religious education, at the request of the parents.

2.2 The September Constitution

In terms of the position of churches and religious communities and the religious freedom of individuals, the September Constitution of 1931 remained exceedingly similar to the Vidovdan Constitution. There were only a few changes. Firstly, the September Constitution stipulated that “no one is allowed to carry out any kind of political agitation in places of worship or during religious gatherings or manifestations in general”.²³ This prevented the possibility of “religious representatives” allowing third parties to carry out political agitation in places of wor-

19 D. Đukić, 109.

20 Ustav Kraljevine Srba, Hrvata i Slovenaca, član 12, stav 1, 3, 6, *Službene novine Kraljevine Srba, Hrvata i Slovenaca*, Beograd 28. jun 1921.

21 D. Rakitić, 272.

22 Ustav Kraljevine Srba, Hrvata i Slovenaca, član 12, stav 3.

23 Ustav Kraljevine Jugoslavije, član 11, stav 8, *Službene novine br. 200*, 3. septembar 1931.

ship and at religious gatherings and going unpunished for it because they did not do it themselves. Such was not the case with Article 12, paragraph 7 of the Vidovdan Constitution, which only prescribed the responsibility of religious representatives if they themselves used their spiritual authority for party purposes. Secondly, from the article of the Vidovdan Constitution related to education, the guarantee of providing confessional religious instruction was deleted; instead, the September Constitution prescribes that all schools are obliged to provide moral education and develop “civic consciousness in the spirit of national unity and religious tolerance”.²⁴

The position of the adopted religions was given to all religious communities that were legally recognised in any part that became part of the Kingdom. Only the Serbian Orthodox Church, the Catholic Church with the Greek Catholic Church, the Evangelical Church, the Islamic religious community and the Jewish religious community were adopted and recognised.²⁵ Other religious communities, with the exception of Buddhist refugees from Russia and members of the Baptist Church, were banned and their members were persecuted.

If only the constitutional texts are observed, the mentioned differences in relation to the Vidovdan Constitution fully correspond to the general features of the September Constitution which contain increased control over political life and reduction of space for the emergence of any national divisions and conflicts.²⁶

3. SERBIAN ORTHODOX CHURCH

When it comes to Serbia in the period before unification, the first guarantees of freedom of religion appeared in Serbian constitutions and drafts of Serbian constitutions from the 19th century. The Sretenje Constitution of 1835 guaranteed freedom of worship to all religions without exception in its Article 97, and ensured the personal right of each individual to take an oath in accordance with their religious beliefs.²⁷ These provisions were in accordance with the general intention of the Constitution, which adopted the most liberal principles of that era.²⁸

24 Ustav Kraljevine Jugoslavije, član 16, *Službene novine br. 200*, 3. septembar 1931.

25 R. Radić, 21.

26 D. Rakitić, 276, 277.

27 D. Đukić, 43.

28 Sima Avramović, „Sretenjski ustav – 175 godina posle”, *Anali Pravnog fakulteta Univerziteta u Beogradu* 1/2010, 63.

The Sultan's *Hatisherif* from 1838, also known as the Turkish Constitution, did not contain a general guarantee of freedom of religion, although it did proclaim the freedom of Serbs to practice their religious ceremonies and guaranteed them the right to choose their own metropolitans and bishops, but on the condition that these dignitaries be subordinated to the spiritual authority of the Patriarch of Constantinople.²⁹

The law of September 9, 1853 was the first law in the history of Serbia which guaranteed freedom of religion to all non-Orthodox Christians in the Principality of Serbia.³⁰ Moreover, as part of the reforms implemented by Prince Mihailo Obrenović, several constitutional laws were adopted. One of them was the "Structure of the central state administration", the law that established the Ministerial Council, and also the Ministry of Education and Church Affairs. This Ministry was responsible for the execution of laws concerning religion and the church. Furthermore, this law established the system of recognised religions that was applied throughout Serbian territory, with certain modifications in later constitutions and regulations, all the way until 1946.³¹

In the early stages of existence of the Kingdom of SCS, the Serbian Orthodox Church already established its unity, elected a new patriarch, and regulated the scope of its Holy Assembly of Bishops and the Synod. With that, the first phase of creating organisational unity was completed. At its session in 1921, the Holy Assembly of Bishops instructed the Synod of Bishops to draft the Church's Constitution. The Synod entrusted the drafting of the constitution to Metropolitan Eugene of Dabro-Bosnia, who, together with two legal experts and university professors, Živojin Perić and Dimitrije Rošu, quickly completed the work. Dissatisfied with the systematic exclusion of the people from church affairs in this draft, the representatives of the church congregations and the clergy of Bosnia and Herzegovina passed a resolution in 1922 in which they expressed that dissatisfaction. The Holy Assembly of Bishops reacted to this by deciding to entrust the drafting of the constitution to the Metropolitan of Montenegro and the Littoral, dr Gavriilo Dozić, and the Dean of the Faculty of Theology, Stevo Dimitrijević, who was joined by the representative of the people of Bosnia and Herzegovina, dr Savo Ljubibratić. The text of the constitution was submitted to the Synod in 1923. Only with the adoption of the Law on the Serbian Orthodox Church on November 8, 1929, did the conditions for the adoption of the constitution specify that the constitution

29 D. Rakitić, 204.

30 Zakon od 9. septembra 1853. godine, *Sbornik zakona i uredba i uredbeni ukaza izdani u Knjažestvu Srbiji*, knjiga VII, Beograd 1854, 78–79.

31 D. Đukić, 44.

would be proposed to the Minister of Justice. After numerous problems and disagreements related to state interference in the provisions of the constitution, on November 16, 1931, the king signed a decree confirming the Constitution of the Serbian Orthodox Church.³² According to this constitution, the bodies and organs of the Church are represented by: the patriarch, the Holy Assembly of Bishops, the Holy Synod of Bishops, the Great Ecclesiastical Court, the Patriarchal Council, the Patriarchal Board of Directors and other bodies. The supreme head of the Church is the patriarch with the title of archbishop of Peć, metropolitan of Belgrade – Karlovci and patriarch of Serbia.³³ The Serbian Orthodox Church independently regulates religious, charitable and cultural affairs, as well as matters of religious education, and manages goods, funds, endowments and institutions within the Law on the Serbian Orthodox Church and the Constitution. The state aid that the Church was to receive in the future would be determined by a Decree passed by the ministers of justice and finance. The law stipulates that the Serbian Orthodox Church is autocephalous, with the dignity of a patriarchate. Religious teaching is professed publicly, the church freely performs prescribed worship services and independently regulates church-religious affairs. Independent management and disposal of church property, funds and endowments is provided, with the prescribed restriction of performance in accordance with the Law, the church constitution and under the supreme supervision of the state. Church authorities are free to make decisions on accepting endowments intended for the realisation of religious tasks and goals. The control of revenues and expenditures are performed by the Serbian Orthodox Church according to their own accounting, regulated by a special decree. The auditing of overall revenues and expenditures of the Church is performed by the Main Control, which performs inspections as needed, at the request of the Minister of Justice or the church bodies themselves. Property serves the purposes of the Church and may not be confiscated except in the case of expropriation provided by law. Property, endowment and fund affairs are taken care of by the episcopal authority together with the clergy and the people through self-governing bodies, to be regulated in more detail by the church constitution. Church criminal acts and punishments will be defined and prescribed by the church constitution. The church is represented before the state by the patriarch or his deputy, and some dioceses by the competent archbishops.

32 Dragan Novaković, *Srpska pravoslavna crkva u zakonodavstvu Kraljevine Srba, Hrvata i Slovenaca i Kraljevine Jugoslavije*, Institut za teološka istraživanja, Beograd 2015, 116–125.

33 Ustav Srpske pravoslavne crkve, *Službene novine Kraljevine Jugoslavije* broj 275–86/1931.

The election of the patriarch and bishops is confirmed by the king by a decree, on the proposal of the Minister of Justice which is drawn up in agreement with the President of the Council of Ministers. The property and legal interests of the Church before the state are represented by the church bodies determined by the constitution. Church needs are financed by revenues from church goods and funds, funds from the state fee, church taxes, taxes on revenues from monastic and church property, state aid and special surcharges.

Transitional and final provisions regulate the status of church institutions, authorities and clergy, now moved from the state budget to that of the Serbian Orthodox Church, and the position of dioceses abroad. The church constitution is passed by the Holy Synod of Bishops and proposed to the Minister of Justice, who, after its adoption, forwards it to the king for legalisation. The Minister of Justice is authorised to prescribe all the necessary provisions for the execution of the Law by a special decree, passed with the hearing of the proposal of the Holy Synod of Bishops.³⁴

From this law, it can be seen that the position of the Serbian Orthodox Church remained the position of a public-law corporation – a specific entity entrusted with certain powers, and could cooperate with the state in certain matters of public importance, primarily in the implementation of religious education in state schools. It is also evident that the legislator tried to provide as much autonomy as possible to the Orthodox Church, with that autonomy being strictly limited to church affairs and spiritual care and service.³⁵

4. THE ISLAMIC RELIGIOUS COMMUNITY

At the time of the creation of the Kingdom of Serbs, Croats and Slovenians in 1918, the organisation of the Islamic religious community looked like this – Kingdom of Serbia: Muftiluk of Belgrade, Skopje and Niš, headed by muftis; Kingdom of Montenegro: Muftiluk of Podgorica, headed by the Grand Mufti; Bosnia and Herzegovina: The Islamic Community for Bosnia and Herzegovina, headed by the elected reis-ul-ulema.

In accordance with Article 10 of the Saint Germain Peace Agreement of September 10, 1919, between the victorious powers in World War I and Austria, the Kingdom of SCS undertook three obligations towards its citi-

34 Zakon o Srpskoj pravoslavnoj crkvi, čl. 1–5, čl. 7, 8, 9, čl 21–26, *Službene novine Kraljevine Jugoslavije* br. 269–109/1929.

35 D. Rakitić, 284, 285.

zens of the Islamic faith. Firstly, the Kingdom of SCS agreed to make provisions for Muslims that allow the issue of family and personal status to be regulated according to Muslim customs. Secondly, the Government of the Kingdom of SCS was to take steps to appoint a reis-ul-ulema for the territory of the entire country. Lastly, the Government of the Kingdom of SCS was obliged to provide protection to congregations, cemeteries and other Muslim religious institutions, waqfs and charitable Islamic institutions, which already existed.³⁶

The government of the Kingdom of SCS did not fulfill the obligation to appoint a reis-ul-ulema, because that would mean the introduction of a single organisation of the Islamic community for the entire country. The Belgrade mufti also opposed this. The religious affairs of Muslims in the Kingdom of SCS were managed by the Ministry of Religion, and there was a Muslim department in the Ministry of Justice. That was the situation until 1930 and the adoption of the Law on the Islamic religious community.³⁷

According to this Law, all Muslims form one independent Islamic religious community headed by the reis-ul-ulema as the supreme leader. The Islamic religious community publicly professes and teaches its religion, freely performs religious rites and independently regulates religious and waqf affairs, and affairs related to religious education. The following bodies of the Islamic Religious Community have been established: the Jamaat Majlis headed by the Jamaat Imam, the Waqf-Mearif District Commission with the Sharia Judge as chairman, the Mufti's Offices, the Ulema Majlis and the Waqf-Mearif Council in Sarajevo and Skopje. The composition of the mentioned bodies, their scope of work and competencies are provided by the Constitution of the Islamic Religious Community (IRC). The procedure for the election of the reis-ul-ulema, members of the ulema majlis and muftis will be prescribed by a special law. The reis-ul-ulema, members of the Ulema Majlis and the Mufti are appointed by the king's decree, on the proposal of the Minister of Justice which is composed in agreement with the President of the Council of Ministers. The Islamic community independently manages and freely disposes of religious property and endowments within the limits of the Law, its own Constitution and under the supreme supervision of the state. The Islamic Religious Community controls revenues and expenditures independently, through its competent authorities, according to the accounting procedure, to be prescribed by a decree and under the supervision of the Main Control. The Islamic religious community and certain institutions provided by the Constitution

36 *Ibid.*

37 *Ibid.*

have the status of a legal entity, which results in the ability to acquire and dispose of movable and immovable property. The Islamic religious community is represented before the state by the reis-ul-ulema or his deputy, and individual muftis by the mufti or deputies, or sharia judges in places where they are not appointed. The property and legal interests of the IRC are represented before the state bodies by the bodies defined by the constitution.³⁸ The Islamic religious community meets its material needs with revenues from religious and waqf-mearif goods and funds, religious taxes, special cuts to certain independent waqfs, voluntary contributions and visas, permanent state aid and religious surcharges.³⁹

Transitional and final orders stipulate that the king's decree, at the proposal of the Minister of Justice in agreement with the President of the Council of Ministers, would appoint the first reis-ul-ulema in Belgrade, four members of the Ulema Majlis based in Sarajevo and four members of the Ulema Majlis based in Skopje, as well as nine muftis. The Constitution of the Islamic Religious Community was to be adopted at a joint session, chaired by the reis-ul-ulema, all members of the ulema of the Majlis, all muftis and all members of the supreme sharia courts. The tasks performed by the previous waqf-mearif and other religious authorities will be performed by special commissions appointed by the Minister of Justice until the adoption of the Constitution of the IRC and the establishment of the organisation of the new authorities.⁴⁰

It can be noticed that this Law entrusted considerable autonomy to the Islamic religious community. In addition to the precisely regulated organisation and structure, the Islamic community is also recognised as having the right to freely dispose of its property. Relatively large funds were provided to meet the needs of this religious community, among which were taxes and surcharges that were burdened exclusively by members of the Islamic faith.⁴¹ On the basis of all this, it can be concluded that the position of the Islamic religious community was very favourable, providing it with a status that was largely similar to the standing of the Serbian Orthodox Church. This is evidenced by the fact that this religious community was the only one in the Kingdom of Yugoslavia, along with the Serbian Orthodox Church, that had its own constitution. According to the population census from 1921, the results of which were published by 1932, Muslims made up 11.22% of the population of the Kingdom of SCS (next to 46.67%

38 Zakon o Islamskoj verskoj zajednici, čl. 1–6, *Službene novine Kraljevine Jugoslavije* br. 29/1930.

39 *Ibid.*, čl. 12.

40 *Ibid.*, čl. 21, 22.

41 *Ibid.*, čl. 13–15.

Orthodox Christians and 39.29% Catholics), therefore being the members of the third most populous religion in the Kingdom, although largely outnumbered by Orthodox Christians and Catholics. Hence, it is legitimate to raise the question of whether it was justified to entrust the Islamic religious community with such independence and the possibility of adopting their own constitution, and to what extent this could have threatened the status and supremacy of the Serbian Orthodox Church. However, since the king and the Government exerted a great influence on the election of the supreme Islamic dignitaries, it could be said that the state was able to control the broad powers given to the Islamic religious community.

Nearly six years after the adoption of the Law, the Prime Minister of the Kingdom of Yugoslavia, Milan Stojadinović, reached an agreement with the President of the Yugoslav Muslim Organisation, Mehmed Spaho, on his entry into the government and joining the Yugoslav Radical Community. As a condition for the realisation of the agreement, Spaho demanded that the legislation on the Islamic religious community be repealed. A government decree of February 28, 1936, repealed the Law on the Islamic Religious Community and the Constitution of the Islamic Religious Community, and the composition of its main bodies and the scope of their work were to be prescribed the new IRC constitution. With the entry into force of the new IRC law of 1936, all regulations contrary to its basic provisions ceased to apply, and the reis-ul-ulema, all eight members of the ulema of the Majlis and nine muftis were placed at the disposal of the royal government. Until then, the work of the IRC naibi, appointed by the Minister of Justice, was performed by religious and waqf-mearif bodies. The IRC organisation provided for in this Law was to be established within six months from the date of the adoption of the IRC Constitution.⁴²

5. EVANGELICAL CHRISTIAN CHURCHES AND THE REFORMED CHRISTIAN CHURCH

After the establishment of the Kingdom of Serbs, Croats and Slovenians, on the basis of the Treaty on the Protection of Minorities, which was signed between the main powers and the Kingdom of SHS and attached to the Treaty of Saint-Germain, two articles, crucial for the status of religious minorities, were included in the Vidovdan constitution. In Article 4, the Constitution proclaimed the equality of all citizens before the law and guaranteed that the authorities would protect them, while Article 12 of the Constitution guaranteed freedom of religion and conscience. That meant

42 D. Novaković, 36–39.

that practically all religious minorities, such as Evangelists, were placed under the protection of the state, and the obligation of the state was to take care of them.⁴³

King Aleksandar I Karađorđević, although he was faithful to the traditions of the old Serbian rulers and the Serbian Orthodox Church, did not neglect other religions, advocating for complete equality. This is also confirmed by the fact that in 1930, the Parliament of the Kingdom of Yugoslavia adopted a law that confirmed the existence of all three currents within the Evangelical Church – the German, Slovak and Reformed (Calvinist) church organisations, and gave them the freedom to maintain close relations with the Evangelical Church in Germany.⁴⁴

Regarding the Law on Evangelical Christian Churches and the Reformed Christian Church, members of the reformed branch of Protestantism (Calvinists) were allowed to form a special Reformed Christian church in the Kingdom. The Slovak and German Evangelical Churches were allowed to organise an Alliance to promote common church interests. The Evangelical and Reformed Churches had full freedom of public confession of faith and religious rites. The autonomous bodies, authorities and institutions of the Church and their organisation were to be provided by Church constitutions. Churches independently regulate religious, educational, charitable and other cultural affairs and manage property in accordance with established principles, within the limits of state laws and under the supreme supervision of the state. Decisions on receiving endowments intended for church purposes were made independently and managed under the supervision of the state endowment authorities. Churches and their autonomous bodies had the status of legal entities and, accordingly, the possibility of acquiring and using movable and immovable property in accordance with the constitutions and within the limits of the law. The property of self-governing bodies and institutions could only serve the realisation of religious goals and could not be confiscated, except in cases of expropriation provided by law. The inclusion of the Main Control in the business review was possible at the request of the church authorities or the Minister of Justice. The material resources needed by autonomous bodies and institutions to achieve their planned goals were covered by revenues from their property, church taxes and offerings, contributions and gifts, endowments and funds and political-administrative municipalities. Members of these churches were obliged to pay all duties

43 Ljubodrag Dimić, *Kulturna politika Kraljevine Jugoslavije 1918–1941, knjiga III*, Beograd 1997, 5–7.

44 Branko Bjelajac, *Protestantizam u Srbiji: prilozi za istoriju reformacijskog nasleđa u Srbiji, I deo*, Beograd, 2003, 53.

and surcharges to cover the needs of the competent autonomous bodies and institutions. Believers who had property in a certain territory or engaged in trade and other affairs, regardless of where they lived, were also obliged to fulfill certain obligation towards their churches. The church constitution provided the electoral procedures for the supreme spiritual elders (bishop, supreme senior) and the main secular elders. The election of supreme spiritual elders was confirmed by a king's decree, on the proposal of the Minister of Justice, drawn up in agreement with the President of the Council of Ministers; the Minister of Justice approved the election of supreme secular elders. Priests had to be fluent in the language spoken by members of the church community. Correspondence with state authorities and the issuance of documents for official use, as well as written communication with other churches in the state, had to be done exclusively in the state language. Churches were obliged to adopt constitutions on the entire organisation at synods within two years, in accordance with the regulations of the Law. The synods submitted the drafted constitutions to the Minister of Justice, who, after their adoption, submitted them to the king for legalisation. The Minister of Justice was authorised to prescribe provisions for the enforcement of the law.⁴⁵

6. THE JEWISH RELIGIOUS COMMUNITY

Before the 1929 dictatorship, the state hardly interfered at all in the life and work of Jewish religious communities. Each municipality adopted its own statute, so their internal organisation was not uniformly implemented. The most important state intervention was related to limiting the right to bring religious officials of foreign citizenship.

The law related to the religious community of Jews was the first of a set of laws regulating the positions of churches and religious communities in the Kingdom of Yugoslavia. It was adopted on December 14, 1929, by means of a royal decree by King Aleksandar I Karađorđević, which was the only way of adopting laws since the introduction of dictatorship.

The basic characteristic of this law is that it not only determined the relationship between the state and the religious community, but also prescribed the internal organisation of the Jewish religious community and abolished their traditional self-governance.⁴⁶ The religious community of Jews comprised all members of the Jewish religion who lived in the Kingdom of Yugoslavia, and they were guaranteed full freedom of public religion. Jews were organised into smaller religious communities whose

45 D. Novaković, 40, 41.

46 *Ibid.*

task was to take care of the religious and cultural needs of the members. According to the law, religious municipalities were to form the Alliance of Jewish Religious Municipalities, while orthodox Jews had the opportunity to join the Association of Orthodox Jewish Religious Municipalities. The Minister of Justice approved the rules of the Association and the Alliance, as well as individual municipalities. Jewish religious communities and their Association, are self-governing bodies, which independently manage cultural and charitable institutions, including religious property and funds, all under the supreme supervision of the state. The Alliance and the Association represent the central bodies of the Jewish religious communities in the Kingdom. It is their obligation to mediate in official communication between state authorities and individual municipalities and, at the request of the Ministry of Justice, to give opinions on draft laws and regulations concerning the religious community. Jewish organisations enforce their decisions and collect revenues.⁴⁷ Decisions on the establishment, separation, merger and abolition are made by the Minister of Justice on the proposal of the Association in agreement with the interested municipality. Material funds for the needs of certain religious municipalities, and for the Association, are provided with income from property, religious taxes, contributions and gifts, funds from endowments, contributions from political municipalities and permanent state aid. The spiritual leaders of religious municipalities are rabbis and they are virile (appointed) members of municipal boards when resolving religious issues.⁴⁸

According to the 1921 census, Jews made up only 0.89% of the population. Therefore, it should be noted that the state took care of all religious communities in its territory and that the position of the Jewish community depended to a large extent on their own organisation and religious communities, which were largely left to arrange matters of importance by themselves.

7. THE CATHOLIC CHURCH AND THE ADOPTION OF THE CONCORDAT

Since no law regulating the position of the Catholic Church was adopted, the Kingdom turned to regulating relations with this Church through a concordat. The term “concordat” can be defined as a contract between the Holy See and a sovereign state on the organisation of the Roman Catholic Church in that state, which includes both the rights and obligations of its dignitaries who serve on the territory of that state, as well

47 D. Novaković, 40,41.

48 Zakon o verskoj zajednici Jevreja u Kraljevini Jugoslaviji, *Službene novine Kraljevine Jugoslavije*, 24. decembar 1929.

as the rights and jurisdiction of the Holy See in relation to the part of the Roman Catholic Church located on the territory of that country.⁴⁹

The Kingdom honoured the law and customs of the Roman Catholic Church and was willing to regulate its position by virtue of a concordat with the Holy See from the very beginning. The concordat was supposed to regulate the position of the Catholic Church in detail and the negotiations for its conclusion began even before the creation of the Kingdom of Yugoslavia. However, the task was by no means easy.

The concordats that the Holy See had entered into with certain states continued their legal effect within the borders of those territories (included in the Kingdom of SCS after the end of the First World War), but only as internal state laws without the force of an international agreement. The Austro-Hungarian Concordat concluded in Vienna on August 18, 1855, and repealed by the decision of Emperor Francis Joseph on July 30, 1870, was still valid in Croatia. The complex issue of the organisation of the Catholic Church in Bosnia and Herzegovina was defined by the signing of the Convention between the Holy See and Austro-Hungary on June 8, 1881. The position of the Catholic minority in Montenegro was regulated by a Concordat, which in the original is called the “Fundamental Agreement”, signed on August 18, 1886, and ratified by the Montenegrin Assembly on October 7, 1886.⁵⁰ By this Concordat, Montenegro and the Holy See confirmed that the State and the Catholic Church, each in its own area, are independent and autonomous. Montenegro also recognised the public legal subjectivity of the Catholic Church.⁵¹ After many years of negotiations, the Kingdom of Serbia regulated its relations with the Holy See by the Concordat ratified at the session of the Assembly in Niš on July 26, 1914. The Law on the Concordat between Serbia and the Holy See in Rome, as the full title of the act reads, is relatively short and contains only 21 articles.⁵²

The Holy See recognised the Kingdom of Serbs, Croats and Slovenians relatively late in comparison to the other last states, only in November 1919, although the act of notification on the creation of the Kingdom of SCS was submitted in January of the same year. However, it was already in July 1919, at the time of the episcopal conference of the bishops of the Kingdom of SCS, that the leader of the Slovenian People’s Party, Anton

49 D. Rakitić, 12, 13.

50 Ugovor između Svete Stolice i Crnogorske vlade, Izdavačko i knjižarsko preduzeće Gece Kona, Beograd 1934, 30–34.

51 Temeljni ugovor između Svete Stolice i Crnogorske vlade, čl. 1, 2, 1886.

52 Zakon o konkordatu između Srbije i Svete Stolice, *Srpske novine*, br. 199 od 3. septembra 1914.

Korošec, expressed his desire to conclude a new concordat. Also, even then, the Holy See refused to apply the Concordat from 1914 to the entire country.⁵³ After the adoption of the Vidovdan Constitution, in November 1921, the Ministry of Religion organised a survey for the representatives of recognised religions about their principled positions on three topics: the legal position of recognised religion according to the state; regulation of interconfessional relations; and material security of religious officials. The request of the Roman Catholic Church, in case the concordat was not concluded, was aimed, among other things, at freedom of religious education in schools, unhindered traffic between believers and church leaders, including with the Holy See, and freedom in the establishment and operation of church orders and religious societies.⁵⁴

Nikola Pašić and other leading Serbian politicians believed that the concordat would remove all the dissatisfaction with the current state of affairs, as expressed by domestic Roman Catholics. However, a concordat is never an ordinary agreement, but practically an interstate agreement by which a given state always renounces parts of its sovereignty in advance. At the same time, the Kingdom of Serbs, Croats and Slovenians would have recognised the privileged position of the Roman Catholic Church, which would not have happened under general state law. In the meantime, the relations between the Catholic Church and the Kingdom became strained, and in August 1922, the Minister of Foreign Affairs, Momčilo Ninčić, convened a meeting of the commission to study the issue of concluding the concordat. The commission sat in full composition from June 19 to 25, 1923. On February 26, 1925, Nikola Pašić officially submitted the draft of the concordat to the Serbian patriarch, with a request for possible comments.⁵⁵ Patriarch Dimitrije responded the very next day, asking that the final decision of the government be postponed for a few days until he had the opportunity to consult with members of the Synod. In the same letter, the patriarch stated that he saw from the text that the main goal of the Roman Catholic Church had been “for their propaganda to develop as much action as possible for the departure of our people from their religion and their nationality...”⁵⁶ In the spring of 1925, a delegation was

53 D. Rakitić, 346.

54 Mirko Petrović, *Ordeni i kongregacije i pregovori o konkordatu Kraljevine Jugoslavije i Svete Stolice*, Arhiv 1–2/2000, 127–128.

55 Pismo predsednika Ministarskog saveta Nikole Pašića Njegovoj Svetosti Patrijarhu srpskom Dimitriju od 26.02.1925. (prepis), r.1., Arhiv Svetog Arhijerejskog Sinoda Srpske pravoslavne crkve.

56 Odgovor Patrijarha Dimitrija Predsedniku Vlade, od 27. februara 1925. godine, Arhiv Sv. Arh. Sinoda SPC.

appointed, which traveled to Rome for official negotiations. The delegation's report to the foreign minister said that the Yugoslav bishops, who were also in Rome at the time, made negotiations more difficult with unfounded complaints against the government. After that, the negotiations did not continue due to the cooling of relations that ensued after the Roman Curia forcibly took over the Institute of St. Jerome in Rome, contrary to the decision of Mussolini's government which in 1924 recognised the Institute as a "national Yugoslav church". Only in 1929, when the Vatican handed over the building of the Institute to the Government of the Kingdom of Yugoslavia, was it possible to continue with the negotiations on the concordat.⁵⁷ Between 1929 and 1934, the text of the concordat was negotiated and finalised to a great extent, with King Alexander personally overseeing the negotiations. However, the king's assassination in October 1934 left the responsibility for the final conclusion of the concordat with the Government.

The concordat was signed in Rome on July 25, 1935 by Ljudevit Auer, Minister of Justice and Guardian of the State Seal in the Government of Milan Stojadinović, and Secretary of State Eugenio Pacelli (the future Pope Pius XII). The text of the concordat was not published at the time of signing. It contained 38 articles and covered the following issues: general provisions; ecclesiastical provinces; hierarchy, clergy and monasticism; property position; prayer for the ruler; national minorities; marital right; Catholic action and final provisions. The state recognised the legal capacity and all rights of the Catholic Church and its institutions. The state authorities were obliged to provide all kinds of assistance to the Catholic Church in order to execute orders, decisions and judgments issued by the competent church bodies. With the entry into force of the concordat, all acts contrary to its provisions were repealed. Issues not regulated by the concordat, which refer to clergy, would be resolved on the basis of the Code of Canon Law.⁵⁸

After the signing of the concordat, the bishops' assembly of the Serbian Orthodox Church claimed that the Catholic Church received privileges that no other religion in the country has. Stojadinović realised that he would not get the approval of the Patriarchate, so without their blessing, at the end of 1936, he sent the concordat to the National Assembly for ratification. After that statement, the Patriarchate of the Serbian Orthodox Church printed countless leaflets, pamphlets and circulars against the concordat. The most onerous objection was that by ratifying the concordat one religion would be placed above the Constitution. In other words, it

57 B. M. Mitić 47.

58 D. Novaković, 54.

was considered that the Catholic Church would gain precedence over the Serbian Orthodox Church, which for decades was closely linked to every Serbian state leader. At its session in July 1937, the Holy Synod of Bishops drafted a rulebook on punishing members of the Serbian Orthodox Church who voted for the ratification of the concordat with the Vatican. The discussions did not remain in the sphere of democratic disagreement. This will be evidenced by the events of July 19, 1937. Namely, on the same day that the ratification in the National Assembly began, the SOC Patriarchate organised a litany for the healing of Patriarch Varnava, in which citizens could participate. However, despite the announcements about the exclusively religious content of the gathering, a warning appeared outside the church circles that the litany would be more political than religious in nature. It was thought that the Patriarchate would use the gathered crowd for new sermons against the concordat. For this reason, the manager of the city of Belgrade banned choirs and processions of any type. Despite all prohibitions, the priests appeared in liturgical robes. Soon, open chants against the concordat began. On July 21, 1937, members of the opposition and the Patriarchate met and unanimously condemned the Government for the proclamation banning the litany. The arguments also reached Prince Pavle, who looked favorably on the concordat because he was convinced that it would solve the Croatian issue and gain international reputation. He left the decisions to the Government, considering that they do not fall within the domain of the governorship. In such an atmosphere, the concordat was ratified. It happened on July 23, 1937. Despite all the concessions that Stojadinović eventually made, his resignation was demanded. However, nothing could prepare the population of the Kingdom for the horror that would follow with the outbreak of the Second World War. This conflict would mark the final end of the Kingdom and the religious and political conflicts.⁵⁹

8. CONCLUSION

The adoption of numerous laws on religious communities showed that the state acknowledged multi-confessionalism and, to a certain extent, left room for each individual community to regulate issues of importance to its own religion. Besides that, religion exerted considerable influence over society, so it can be said that the state had the obligation to organise religious life and make it accessible to all its citizens. It is therefore commendable that the regulations encompassed more than

59 Marjan Marino Ninčević, Filip Brčić, „Diplomatski odnosi Vatikana i Kraljevine Jugoslavije: konkordat iz 1935. godine”, *Nova prisutnost* 14, Zagreb 2016, 299–307.

the religious communities of the largest religions. By adopting the laws on the religious community of Jews and Evangelical churches, the state showed that it also took into account religions with fewer believers, and that it was ready to give them independence when it came to their internal affairs.

On the other hand, the churches were not beyond the reach of state influence, as the king and the Government decided on the election of the supreme church leaders and dignitaries, as well as on the confirmation of religious laws, which meant that a good part of organisation and structure of religious communities depended on them and that the state had a large indirect influence on religious life. On top of that, the status of the Catholic Church in the unified state remained unresolved throughout the remaining existence of the monarchy, due to the unwillingness of the Serbian Orthodox Church and its believers, as well as some Croatian politicians (the Croatian Peasant Party in particular), and the bishops of the Catholic Church to acknowledge the ratification of the already signed concordat.

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ПРАВНИ ПОЛОЖАЈ ЦРКАВА И ВЕРСКИХ ЗАЈЕДНИЦА У КРАЉЕВИНИ СРБА, ХРВАТА И СЛОВЕНАЦА И КРАЉЕВИНИ ЈУГОСЛАВИЈИ

Сажетак

У овом раду приказано је како су Краљевина Срба, Хрвата и Словенаца и Краљевина Југославија правно регулисале положај и организацију верских заједница које су се након уједињења нашле у заједничкој и у великој мери мултиконфесионалној држави. Иако концепт потпуне одвојености цркава и верских заједница од државе није примењен у уставима из 1921. и 1931. године, верске заједнице су биле веома утицајне у друштвеном животу и политици, те су после неколико неуспешних пројеката закона о верама и међуверским односима донети конкретни закони који су регулисали правни положај многих цркава и верских заједница заступљених у Краљевини Југославији. Поред тога, радило се на преговорима са Светом Столицом како би се закључио конкордат којим би био подробно уређен статус Католичке цркве у југословенској држави. Из донетих устава и целокупног верског законодавства о појединачним религијама и њиховим заједницама у заједничкој држави, може се закључити да је напуштен принцип државне цркве, као и да су верске заједнице уживале изванредан степен аутономије у

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уређивању сопственог устројства и унутрашњих питања. Ипак, избор врховних црквених поглавара и великодостојника зависио је од краља и владе, тако да је држава на тај начин у великој мери утицала на црквену организацију и устројство.

Кључне речи: *Краљевина Срба, Хрватиа и Словенаца. – Краљевина Јујославија. – Релиија. – Верске заједнице. – Верско законодавство. – Правни положај цркава.*

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