

## Religion, Law, and Secular Principles in the Slovak Republic

### I. THE SLOVAK REPUBLIC BRIEF RELIGIOUS DEMOGRAPHIC CHARACTERISTICS

The Slovak Republic is a young, independent state that came into existence on 1 January 1993 after a peaceful division of the Czech and Slovak Federative Republic. Its total number of inhabitants is 5,379,445. In the most recent census, taken in 2001,<sup>1</sup> 84.1 percent of the resident population professed allegiance to a state-recognized church or religious society: 68.9 percent of the population declared their affiliation to the Roman Catholic Church, 4.1 percent to the Byzantine Catholic Church (Greek Catholics), 6.9 percent to the Evangelical (Lutheran) Church of the Augsburg Confession, 2.0 percent to the Reformed Christian Church, and 0.9 percent to the Orthodox Church.

Numerical representation in other small churches could be expressed in hundredths of percents.<sup>2</sup> 12.96 percent of the population declared themselves as being “without confession,” and 2.98 percent of respondents did not answer the religious affiliation question at all. 6,294 persons<sup>3</sup> claimed membership in churches and religious societies not recognized by the state; from this number,<sup>4</sup> 1,212 citizens declared their affiliation to Islam, which statistically represents 0.022 percent of the population of the Slovak Republic. The representatives of the Islamic organizations in Slovakia estimate the number of Muslims at 5,000, among them being about 150<sup>5</sup> converts of Slovak nationality, the rest coming from other countries.<sup>6</sup>

### II. THEORETICAL AND SCHOLARLY CONTEXT

Constitutional state-church relations are part of European history, either maintained or abolished,<sup>7</sup> and this is also true for Slovakia. During the “Velvet Revolution” of 1989, the demonstrating people in the streets demanded, *inter alia*, the separation of church and state. The point was, first of all, to try to eliminate the state supervision over the churches that had been stipulated by law and carefully carried out in practice during the era of the Communist dictatorship. After the state supervision over churches, including *numerous clauses* for the clergy, state consent to the execution of pastoral service, total economical subordination of churches etc., had been abolished, a debate on the position of religion in society began. This debate has been in progress up to the present, however, mainly in the sphere of practical policy and in the media. The legal and political theory is more or less limited to the description and categorization of state-church relations in Slovakia in an

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1. It took place according to the Act 165/1998 Z.z. on Census of Population, Houses and Apartments in 2001. “Zb.” or since 1993 “Z.z.” are abbreviations for “Zbierka zákonov”, i.e., Collection of Acts.

2. From the total number of inhabitants of the Slovak Republic, 5,379,445, there are also 7,347 Methodists, about 20,630 Jehovah’s Witnesses, 3,562 Baptists, 3,217 members of the Brethren Church, 3,429 Seventh Day Adventists, 3,905 members of the Apostolic Church, 1,733 Old Catholics, 6,519 members of the Christian Congregations, 1,696 Hussites, and 2,310 Jews.

3. It is 0.11 percent from the total number of all inhabitants/believers.

4. Cf. Moravčíková, M., Cipár, M. *Religiozita na Slovensku II*. Bratislava: Ústav pre vzťahy štátu a cirkví, 2003, 110.

5. Čikeš, R. Registrácia cirkví a náboženských spoločností verus náboženská sloboda. In Moravčíková, M., Lojda, M. (eds.) *Islam v Európe*. Bratislava: Ústav pre vzťahy štátu a cirkví, 2005, 15.

6. Cf. Moravčíková, M. Religious Education and Denominational Schools in the Slovak Republic. In ASLAN, Ednan.

(Hg.) *Islamische Erziehung in Europa/ Islamic Education in Europe*. Wien-Köln-Weimar: Böhlau Verlag, 2009. p. 457-473.

7. Davie, G. *Vyjímečný případ Evropa. Podoby víry v dnešním světě*. Brno: Centrum pro studium demokracie a kultury, 2009, 15.

international context. The persisting economical connection to the state budget, the contractual state-church relations, and distinguishing between registered and non-registered churches have been sporadically evaluated as a regulation of religious life and anachronistic state policy, primarily by sociologists. E.G. Tížik, when relating to the latest development in Slovakia, speaks not only about desecularization, but also *delaicization*.<sup>8</sup> Also in Slovakia, like in other spheres of modern world, we can perceive the growth of the political impact of religion and the formation of public religion. Reflection of these processes is influenced to a large degree by the Communist “heritage” and the hostile attitude of some scientists, to some degree the non-clarification of terms, mainly mistaking of the state neutrality for state atheism, as well as romantic conceptions of one nation and one religion.

### III. CONSTITUTIONAL CONTEXT

Religion has always played an important role on the territory of the contemporary Slovak Republic. Christianity used to be a welding element in Central Europe and contributed significantly to the spiritual shaping of this geographical area of unusual diversity, in spite of many reprisals, which its (not only) institutionalised forms had gradually experienced in various state formations. The fundamentals of the Slovak law defining the relations of the state towards religion had been laid many centuries ago. Worth mentioning is Methodius’s *Nomocanon*, dating back to the period of the Great Moravian Empire, or *Corpus Iuris Hungarici* from the era of the Kingdom of Hungary, which also comprised *Corpus Iuris Canonici*, applicable both to the state and church; the practice and laws of the Austrian Monarchy must also be considered.

In the 18th century, the ruling Habsburg Dynasty started to exercise its dynastic absolutism as enlightened absolutism. This was also manifested by the change in its approach to the state Catholic Church. The earlier partnership was replaced by absolutist interferences of the State in the life of the Church. Maria Theresa introduced state supervision over the administration of church and monastic property. Revenue of church foundations was predisposed to the benefit of the army and public schools. Joseph II sought to affect the church life as well, and he even issued regulations concerning liturgy matters. He abolished contemplative monasteries and direct effect of canonical regulations on the secular sphere.

The Patents of Tolerance by Joseph II were a notable achievement. They, however, enabled only a partial and limited religious tolerance and preserved the privileged status of the Catholic Church. The Patent of Tolerance of 1781 granted free exercise of religion to the Evangelical Church of the Augsburg and Helvetic Confessions, the Jewish Religious Community and the Orthodox Church.

The emancipation of individual churches was accomplished between 1848 and 1918. The model of absolutist state guardianship of churches was substituted by a system of parity and equality. The Constitution of 1848 guaranteed the freedom of religion and conscience and the autonomy in church and property matters. While, up to then, official registers had been run by Catholic parish offices only, new decrees of the Ministry of Interior enabled non-Catholic churches to also run registers. The process of emancipating the Catholic Church and the Protestant churches began. The process included the Concordat of 1855, by which the Catholic Church gained considerable autonomy in dealing with its own issues, as manifested for example by the sovereignty of the Catholic Church over matrimonial matters of its members. In 1870, the Concordat was, however, denounced by the Austrian State as result of the acceptance of the dogma of Papal infallibility by the First Vatican Council.

In 1874, the Government adopted the law on regulation of external relations of the Catholic Church, which re-organized the relations between the Apostolic See and the

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8. Cf. TÍŽIK, M. Vplyv právnej regulácie na rozvoj náboženského života v SR. In *Sociológia*. No 1/2005, XXXVII, 59- 89.

Austrian Monarchy. The parity relation between the Catholic Church and the State was generally adopted, and the same stand was also taken towards Non-Catholics. Full emancipation and parity of the Protestant evangelical churches followed up the Vienna discussions in 1849–59. Discussions resulted in the so-called “Protestant” Imperial Patent of 1861. The right to receive state subsidies was one of the attributes of this equality. In 1861, temporary constitutions of Protestant churches were endorsed.<sup>9</sup> Orthodox Christians became emancipated in Non-Hungarian countries by the 1781 Tolerance Patent.<sup>10</sup> Gradual emancipation of the Jewish Religious Community was completed by the adoption of the National Basic Law of 1867. The National Law of 1890 “on external relations of the Israelite Religious Community” is also of importance, since it represented a fundamental legal regulation of this community for several decades.<sup>11</sup>

The Austrian Basic Law of 1867 anchored many modern guarantees of freedom of religion and conscience. It also regulated the exercise of religion by churches and religious societies, which were not legally recognized. The Interconfessional Law of 1868 renewed the validity of civil law in matrimonial matters and regulated the relation between churches and schools. This law also regulated the rules of conversion from one church to another and the religious affiliation of children. Every citizen older than fourteen years was granted religious freedom. The Law of 1870 imposed the obligation to run official registers on political bodies and regulated the status of citizens without religious affiliation.

An important milestone was the 1874 Law on Contributions to the Religious Fund and the so-called *congrua laws*. Since the land religious funds were not sufficient to provide priests with the *congrua* (maintenance), according to this law, these funds were subsidised partially from state and partially from church resources. This law was basically in force during the whole period of the Austro-Hungarian Monarchy, and Czechoslovakia, as a successor state, adopted this law too. In 1874, the law regulating the recognition of churches and religious societies was adopted.

The establishment of the independent Czechoslovak Republic was accompanied with dynamic – even dramatic – state-church relations; however, in principle the legal status of churches and religious societies was not affected. The initial scepticism, mainly on the side of the Catholic Church, was followed by *Modus Vivendi* signed with the Holy See in 1928 that in fact preserved the previous state. As for the financing of churches, principles of the period of the Austrian Monarchy were valid, and amended several times. The Bull of Pope Pius XI is noteworthy for defining the borders of the Catholic dioceses in the former Czechoslovakia so as to align them with national borders and to ensure that no part of the territory falls under the religious jurisdiction outside the territory of the Republic. After the Second World War and the re-establishment<sup>12</sup> of the Czechoslovak Republic, the course of events headed towards suppression of the natural influence of churches in the public life, and the whole process culminated in *coup d'état* by the Communist Party in 1948. Hence, the current development of state-church relations was forcibly terminated, and it was restored only after November 1989. Under the communist rule, the religious life – as well as churches themselves – was forcibly and systematically suppressed. This corresponded with the status of churches and religious societies, which existed as subordinate subjects without possibility to freely govern their cult or social and charitable activities. On the other hand, churches at least became a limited area of activities independent of communist power until November 1989.<sup>13</sup>

9. Augsburg and Helvetic Confessions

10. In Kingdom of Hungary, they were recognized in the past already, and that in different ways: In the Directive of 1864 they were called Greek-Eastern Churches.

11. Tretera, J.R., Příbyl, S. *Konfesní právo a církevní právo*. Praha: Nakl. J. Krigl, 1997. <http://www.prf.cuni.cz/spolky>

12. The so-called “War Slovak State” (1939-1945) was established on 14 March 1939 as Hitler's satellite. In the Preamble of its Constitution it defined itself as a Christian state.

13. Moravčíková, M., Cipár, M. *Cisárovo cisárovi. Ekonomické zabezpečenie cirkví a náboženských spoločností*. Bratislava: Ústav pre vzťahy štátu a cirkví, 2001, 57ff.

During the existence of the Czechoslovak Socialist Republic in the years 1948–89, two constitutions were in force. The first was the Constitution of ČSSR from May 9, 1948,<sup>14</sup> and the second was the 1960 Constitution of ČSSR,<sup>15</sup> which was significantly amended by the constitutional Act 143/1968 Zb. on the Czechoslovak Federation. The first one concentrated all the features and contradictions of the period of its origin. First of all, it was due to the press of the Communist Party of Czechoslovakia for Marx-Leninist orientation, thus formally following in the 1920 Constitution of the Czechoslovak Republic in several matters. Particular institutes of the Constitution were, however, assigned class contents. Several postulates of democracy expressed in the Constitution were, however, often violated or not respected in a particular social and political practice. The freedom of conscience and belief was proclaimed in Articles 15-17, and the freedom of assembly and association in Article 24. Churches and religious societies have not been mentioned in the Constitution explicitly.

In the Constitution approved on 11 July 1960, the postulates of Marx-Leninism on state and law were already manifested in all its provisions in full measure. It declaimed the victory of Socialism and the fulfilment of People's Democracy. It stipulated the principle of the leading role of the Communist Party of Czechoslovakia. Thus, the law order also protected *de iure* the state power from the citizens and not *vice versa*. The religious societies were related only by Article 32, which already in its first section provides that "freedom of religion is granted," and in the second section declares that "religious faith or belief cannot be the ground for anybody to refuse his civil duty imposed by the law."<sup>16</sup> The content of the second section referred first of all to the impossibility to refuse the compulsory military service and to replace it by a civilian service.

The 1960 Constitution was radically changed after 1989; it had been in force until the common state ceased to exist on 31 December 1992. On 9 January 1991, the Federal Parliament passed the constitutional Act 23/1991 Zb., which thus declared the Decree of Fundamental Rights and Freedoms a constitutional Law of the Federal Assembly of the Czech and Slovak Federative Republic.<sup>17</sup>

The 1992 Constitution of the Slovak Republic<sup>18</sup> follows the ideas and the spirit of these documents: the Universal Declaration of Human Rights from 10 December 1948, the Charter of Fundamental Rights and Freedoms fifty-nine principles and agreements on the integration process in Europe, principles of cooperation by the spirit of the equality of states, etc. The 1992 Constitution of the Slovak Republic acknowledges in its preamble the spiritual heritage of Cyril and Methodius and the historical legacy of the Great Moravian Empire. In Chapter One of the Constitution of the Slovak Republic (General Provisions) in Article 1 (1) the basic principle is to be found: "The Slovak Republic is a sovereign, democratic state governed by the rule of law. It is not bound by any ideology or religion."<sup>19</sup> Article 24 of the Constitution guarantees freedom of thought, conscience, religion, and faith. This right includes the right to change religion or faith. Everybody has the right to refrain from a religious affiliation. Every person has the right to express freely his or her own religious conviction or faith, either alone or in association with others, privately or publicly, by worship, religious services and ceremonies, or participate in religious instruction.

1. Freedom of thought, conscience, religion and faith shall be guaranteed. This right shall include the right to change religion or faith and the right to refrain

14. No. 150/1948 Zb.

15. The Constitutional Act 100/1960 Zb. – the Constitution of the ČSSR as subsequently amended.

16. Cf. TRETERA, J. R. *Stát a církev v České republice*. Kostelní Vydří: Karmelitánské nakladatelství, 2002. 50-52.

17. POSLUCH, M., CIBULKA, L. *Štátne právo Slovenskej republiky*. Bratislava: Manz, 1994, 34ff.

18. No. 460/1992 Zb. as implemented in Constitutional Act 244/1998 Z. z., Constitutional Act 9/1999 Z. z., Constitutional Act 90/2001 Z. z., Constitutional Act 140/2004 Z. z., Constitutional Act 323/2004 Z. z.

19. See <http://www-8.vlada.gov.sk/index.php?ID=1378>

- from a religious affiliation. Every person shall be entitled to express his or her opinion publicly.
2. Every person shall have the right to express freely his or her own religious conviction or faith alone or in association with others, privately or publicly, by worship, religious services or ceremonies and participation in religious instruction.
  3. Churches and ecclesiastical communities shall administer their own affairs. All ecclesiastic authorities and appointments, religious instruction, establishment of religious orders and other religious institutions shall be separate from the State authorities.
  4. The rights under sections (1) to (3) of this Article can be legally restricted only as a measure taken in a democratic society for the protection of the public order, health, morality, and rights and freedoms of other people.<sup>20</sup>

Article 24 is part of Chapter Two of the Constitution of the Slovak Republic, and it regulates the fundamental rights and freedoms. It contains general provisions, fundamental human rights and freedoms, political rights, rights of national minorities and ethnical groups, economical, social and cultural rights, right to environmental protection and cultural heritage, right to judicial, and other protection. The fundamental rights and freedoms create the most extensive part of the Constitution of the Slovak Republic, which follows from the necessity to enshrine the regulation of these rights in the Constitution directly, and is one of the most characteristic features of constitutions of democratic countries.

#### IV. LEGAL CONTEXT

Principal questions of status and activities of churches and religious societies in the Slovak Republic are regulated by Act 308/1991 Zb. on the freedom of belief and the position of churches and religious societies as subsequently amended. The issue of financing churches and religious societies has been regulated by Act 218/1949 Zb. on the economic security of churches and religious societies by the State as amended by the Act 16/1991.<sup>21</sup>

The Act 308/1991 Zb. on the freedom of belief and the position of churches and religious societies, as amended by the Act 394/2000 Z. z. and the Act 201/2007,<sup>22</sup> assumes the provisions of Article 24 of the Constitution and specifies them. It stipulates that confession of religious belief must not be the reason for restriction of constitutionally guaranteed rights and freedoms of citizens, first of all of the right to education, to work and free choice of employment and access to information. It also stipulates that the believer has the right to celebrate festivals and services according to the requirements of his or her own religious belief, in accordance with generally binding legal rules.

The Act 308/1991 Zb. on the freedom of belief and the position of churches and religious societies considers a voluntary association of persons of the same belief, in an organization with own structure, bodies, internal regulations and services, to be a church or religious society. Churches and religious societies are legal entities and can associate freely. They may create communities, religious orders, associations, and similar institutions.

Churches and religious societies are special types of legal entities taking advantage of a special status (according to Article 24 of the Constitution) and also other rights awarded to legal entities in general. It is a case particularly of inviolability of privacy, of

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20. See <http://www-8.vlada.gov.sk/index.php?ID=1379>

21. Cf. Moravčíková, M., Cipár, M. *Cisárovi cisárovo. Ekonomické zabezpečenie cirkvi a náboženských spoločností*. Bratislava: ÚVŠC, 2001, 57-81.

22. The Act 201 from 29 March 2007, amending and supplementing the Act 308/1991 Zb. on the freedom of belief and the position of churches and religious societies as amended by the Act 394/2000 Z. z.

protection of property, name and inheritance, of inviolability of letters, freedom of movement and residence, freedom of expression and right to information, right to petition, right to assemble and associate, the right to judicial and legal protection etc.

According to the Competency Law regulation, the central state authority in the matters of churches and religious societies is the Ministry of Culture of the Slovak Republic. The State neither interferes in church activities, nor regulates them methodically. The Ministry of Culture, particularly via its Church Department passes generally binding regulations on the position and activities of churches and religious societies, carries out tasks connected with the preparation of the draft budget for churches and religious societies within the State Budget, coordinates the proceeding of churches and religious societies in settling financial relations with the State Budget, allots financial resources of the State Budget that are intended for churches and religious societies and the charity, and oversees their effective and economical use. It also finances geodetical work related to the fulfilment of the law on the reduction of some property damages inflicted on churches and religious societies, carries out church registration and keeps files of legal entities deriving their legal personality from the registered churches.

The Institute for State-Church Relations, a state organization within the establishing authority of the Ministry of Culture of the SR, deals, first of all, with analyses of the church policy, traditional and new religiosity, the issue of religious freedom, statistical survey, and other research subjects related to religiosity and church life.

#### V. BILATERAL FORMAL RELATIONS BETWEEN STATE AND CHURCHES AND RELIGIOUS SOCIETIES

The possibility to conclude agreements with the State was granted to churches and religious societies by the Act 394/2000 Z.z. amending the Act 308/1991 Zb. on the freedom of belief and the position of churches and religious societies. The Catholic Church and eleven other churches made use of this possibility.

An important highlight in the Slovak church policy and the international law was the signing of the Basic Treaty between the Holy See and the Slovak Republic.<sup>23</sup> The National Council (the Parliament) granted its consent to the Basic Treaty on 30 November 2000 (Resolution of the National Council of the Slovak Republic no. 1159). It is a political, international treaty of presidential type. As for the content, it comprehensively regulates the relations between Slovakia and the Holy See. It was signed on 24 November 2000 and came into force upon the exchange of ratification instruments in the Vatican on 18 December 2000.

On 11 April 2002 the President signed the Agreement between the Slovak Republic and the Registered Churches and Religious Societies in the Slovak Republic no. 250/2002 Z. z., which had been granted prior consent by the Government and the National Council. Although of different nature, the wording of this Agreement is almost identical with the Basic Treaty between the Slovak Republic and the Holy See.

The Basic Concordat between the Slovak Republic and the Holy See has settled, *inter alia*, that the parties would conclude four other partial treaties.

The first one, the Treaty between the Slovak Republic and the Holy See on Pastoral Care for Catholic Believers in the Armed Forces and Armed Units of the Slovak Republic no. 648/2002 Z. z., came into force on 27 November 2002.<sup>24</sup> On the basis of this Treaty, the Ordinariate of Armed Forces and Armed Units was established, having the status of a diocese, and the Ordinary was appointed, having the status of a bishop.<sup>25</sup> The Treaty regulates the pastoral care for Catholics in Armed Forces, Police Corps, in the Unit of

23. Published on 23 August 2001, under no. 326/2001 Z. z. (part 136).

24. The President of the Slovak Republic signed the Concordat on 11 October 2002, and the instruments of ratification were exchanged in the Vatican on 28 October 2002.

25. The Ordinariate has both canonical and state legal subjectivity. The Ordinary is appointed by the Holy See, he is member of the Bishops' Conference of Slovakia and organisationally is included in the Armed Forces of the Slovak Republic.

Penitentiary Guard and Railway Guards, and for persons deprived of freedom by a decision of a State authority. Similar is the Agreement between the Slovak Republic and Registered Churches and Religious Societies on Pastoral Care for Believers in Armed Forces and Armed Units of the Slovak Republic no. 270/2005 Z. z. The Central of the Ecumenical Pastoral Care in the Armed Forces and Armed Units of the Slovak Republic was officially opened by a ceremonial service on 10 March 2007. It is the supreme body of the second structure of pastoral care in the armed forces and armed units and a parallel structure of the Ordinariate.

Another important source of confessional law is the Treaty between the Slovak Republic and the Holy See on Catholic Upbringing and Education no. 394/2004 Z. z. The similar Agreement between the Slovak Republic and Registered Churches and Religious Societies on Religious Upbringing and Education no. 395/2004 Z. z. was adopted by the Slovak Government by the resolution no. 794 on 21 August 2003 and subsequently by the National Council. The wording of this Agreement considers the specifics of the eleven registered churches and religious societies and ensures their statuses equal of those of the Roman Catholic Church and the Greek Catholic Church in establishing church schools and in providing religious education.<sup>26</sup>

The Basic Treaty between the Slovak Republic and the Holy See has anticipated the making of two further, so called partial treaties, and we can presume that also the other registered churches would be interested in making analogous agreements. It's a case of the right to exercise objections in conscience according to the doctrinal and ethical principles of the Catholic Church, and the financial support of the Catholic Church, as anticipated by articles 7 and 20 of the Basic Treaty between the SR and the Holy See.<sup>27</sup>

## VI. LEGAL REGULATION OF RELIGION AS A SOCIAL PHENOMENON

The State recognizes only churches and religious societies that are registered. According to the Act 308/1991 Zb. as subsequently amended, the registration body is the Ministry of Culture of the Slovak Republic. The preparatory body of a church or religious society may apply for registration if it can prove that at least 20,000 adult persons – citizens of the SR who are domiciled within the territory of the Slovak Republic – claim membership of the church or religious society.<sup>28</sup> The application for registration must also contain basic documents of the church or religious society to be founded, as well as affirmations of at least 20,000 adult members, who are domiciled within the territory of the SR and are citizens of the Slovak Republic, that they claim allegiance to the church or religious society, support the proposal for its registration, are its members, know its basic articles of faith and its doctrine and are conscious of rights and freedoms following from the church or religious community membership.<sup>29</sup>

In the period between coming into force of the Act 308/1991 Zb. on the freedom of belief and the position of churches and religious societies, and coming into force of the Act 201/2007 Z.z., i.e. until 1 May 2007, only those religious societies were registered that reached the stipulated membership minimum of 20,000. It was expressed by signatures on a petition attached to the basic documents of the church to be founded, which could be signed – according to the then valid legislation, when the details of the registration of churches and religious societies were regulated by the Act 192/ 1992 Zb. on the registration of churches and religious societies – not only by members of the

26. Čepliková, M. *Štát, cirkvi a právo na Slovensku. História a súčasnosť*. Košice: UPJŠ, 2005, 139.

27. Cf. *Moravčíková, M., Riobó Serván, A.* *Acuerdos entre la República Eslovaca y la Santa Sede*. In *Revista General de Derecho Canónico y Derecho Eclesiástico del Estado* 21, 2009.

28. Art. 11 of the Act 201/ 2007 Z. z.: The majority of registered churches and religious societies evidently do not fulfil the relatively high membership condition. These churches and religious societies were registered under the provision of the Law stipulating that churches and religious societies, already pursuing their activities either under the Law or on the basis of State consent by the date of the Law coming into force, are considered as registered. The majority of churches and religious societies in the Slovak Republic work on the basis of deemed registration.

29. Art. 11d of the Act 201/ 2007 Z.z.

church to be grounded, but also by supporters of its registration.<sup>30</sup> In this way, registration was achieved by the Religious Society of Jehovah's Witnesses (registered in 1993), the Church of Jesus Christ of the Latter-day Saints (registered in 2006), the Bahá'í Community in the Slovak Republic (registered in 2007).<sup>31</sup> Besides, in 2001 the New Apostolic Church was registered additionally, after it had submitted relevant documents about the State consent to the performance of its activities on the territory of the Slovak Republic before coming into force of the Act 308/1991 Zb.

At present there are 18 churches registered in the Slovak Republic: the Apostolic Church in Slovakia, the Brother's Unity of Baptists in the Slovak Republic, the Bahá'í Community in the Slovak Republic, the Church of the Seventh-day Adventists, Slovak Association, the Brethren Church in the Slovak Republic, the Church of Jesus Christ of the Latter-day Saints, the Czechoslovak Hussite Church in Slovakia, the Evangelical (Lutheran) Church of the Augsburg Confession in Slovakia, the Evangelical Methodist Church, Slovak Area, the Greek Catholic Church in the Slovak Republic, the Christian Congregations in Slovakia, the Religious Society of Jehovah's Witnesses, the New Apostolic Church in the Slovak Republic, the Orthodox Church in Slovakia, the Reformed Christian Church in Slovakia, the Roman Catholic Church in Slovakia, the Old Catholic Church in Slovakia, the Central Union of Jewish Religious Communities in the Slovak Republic.

Terms of registration of churches and religious societies in the Slovak Republic have been an issue frequently discussed mainly due to the relatively high membership minimum. The reason for a severe polemic and criticism is usually the confrontation of several times lower membership conditions with countries of larger populations. Difference between registered and established or recognized churches represents a significant factor, which is to be found in countries with low or symbolic membership conditions. There is no such division in Slovakia and each registered church or religious society gains, immediately after its registration, access to all the rights and benefits equally to other registered churches, which can be termed "historical churches."

## VII. STATE FINANCIAL SUPPORT FOR RELIGION

After 1989 new legislation enabled churches and religious communities to have full internal self-government, but it did not eliminate their direct financial dependence on the state.

Act no. 218/1949 Zb. on financial provision for churches and religious communities, as much amended, eliminated a discriminatory approach and state control over the churches, but still maintains a paternalistic approach to the churches in the field of finance. By means of the Act the communist state imposed a unified form of direct state subsidy on churches and religious communities. The subsidy should have superseded the whole spectrum of individually differentiated traditional sources of income. In the period between 25 February 1948 and 1 November 1949 when the Act no. 218/1949 Zb. came into force, a crucial part of the churches' productive property was nationalized without redress, particularly by means of a unilateral implementation of the Acts on land and agrarian reforms. Restitution of church property is one of the processes enabling churches to start working towards economic independence.

On the basis of Federal Act no. 298/1990 Zb. on the regulation of some property relations of monastic orders and congregations and the Olomouc archbishopric as spelt out in Act no. 338/1991 Zb., some property of monastic orders and congregations was returned. In the territory of the Slovak Republic, 95 monasteries were involved. Act no.

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30. Cf. Reply of the Ministry of Culture of the SR to the request for information on the basis of the Information Act 211/2000 Z. z. (MK – 65/2001 – IZ from June 7, 2001), according to which "laws regulating the registration of churches and religious societies do not stipulate the motivation of persons when signing the signature sheet declaring their affiliation to a church or religious society, therefore it need not mean their membership according to the internal statutes of the given church or religious society."

31. <http://www.culture.gov.sk/cirkev-nabozenske-spolocnosti/neprehliadnite/spravne-konania>



282/1993 Z.z. on the mitigation of some of the legal injustices to property caused to churches and religious communities enabled some ownership rights to be restored. This related to movable and immovable things of which churches and religious communities were dispossessed on the basis of decisions of state bodies, civil law and administrative Acts issued in the period between 8 May 1945 – 2 November 1938 in the case of Jewish communities – and 1 January 1990. The Act stipulated that proceedings relating to the surrender of immovable things be exempt from administrative and court fees, and compensation for costs connected with the geographical location of surrendered real estate must be provided by the State. Act no. 97/2002 Z.z. amending Act no. 282/1993 Z.z., added to the property to be restored lands that are the part of the forest land in national parks.

At present, on the basis of Act no. 218/1949 Zb. and its amendment by Act no. 522/1992 Zb., the State must provide churches and religious communities with funds for payment of their clergy stipends (including contributions to social and health care funds and the employment fund), if churches and religious communities so request. Churches and religious communities that were provided with personal benefits for their clergy up to 31 December 1989 are not obliged to do this. The classification and levels of clergy stipends are regulated by SR Government decree.<sup>32</sup>

The State contributes to the operation of the headquarters of registered churches and religious communities. The Ministry of Culture SR is the administrator of the financial support assigned in the national budget by the National Council SR for churches and religious communities. Through the church department it remits assigned funds to each church headquarters on a monthly basis.

All proceeds of church collections, income for church activities, and regular contributions of registered churches' and religious communities' members are tax exempt. The value of gifts provided for humanitarian, charitable and religious purposes of the churches and religious communities registered by the State may be deducted from the taxable income of natural persons and legal entities to the amount stipulated by the Act. Lands forming one functional unit with a building or part of a building which is used for the performance of religious ceremonies, and with the whole or part of a building which serves as offices for persons commissioned for church administration, are exempt from land tax. Lands where cemeteries are founded are also exempt from land tax. Buildings and those parts of them used exclusively for the performance of religious ceremonies or as the offices of church administrators are exempt from the tax on buildings. Legacies and gifts earmarked for the development of registered churches and religious communities<sup>33</sup> are exempt from inheritance tax. Under conditions stipulated by Ordinance no. 17/1994 Z.z., religious objects and gifts for churches and religious communities are exempt from import duty.

On the basis of Section 48 of Act no. 366/1999 Z.z. on tax on earnings, as amended by later regulations, each taxpayer is entitled to remit, through the tax administrator, a sum of money equivalent to 2 percent of his or her income tax to one of the specified legal entities<sup>34</sup> among which are agencies of churches and religious communities. In addition to this, churches and religious communities as well as entities with legal personality derived from them, may apply for various grants and subsidies. Churches may apply for grants towards the preservation and recovery of cultural landmarks that are in their ownership as well as for social, charitable, educational and cultural projects.

Since 2000, work has been in progress towards the goal of a new model of financial provision for churches and religious communities. In 2001 the Ministry of Culture submitted a Bill on financial provision for churches and religious communities. The Bill

32. Government Order SR no. 578/1990 Zb. as amended by Government Order no. 187/1997 Z.z.

33. Act no. 366/1999 Z.z. on taxes on earnings, Act no. 317/1992 Zb. on real estate tax, Act no. 318/1992 Zb. on inheritance tax, donation tax and transfer tax and real estate transfer.

34. Apart from the facilities of registered churches and religious communities, these include civic associations, foundations, non-investment funds, non-profitable organisations providing generally beneficial services, organisations with an international element, and the Slovak Red Cross.

preserves the principle of the existing model, but with the difference that financial provision takes into account the number of members of each church and religious community and specific conditions of their activity in relation to their size. The Bill passed through the legislative process up to being discussed by the National Council SR plenary. However, it was removed from the agenda on the proposal of one of the deputies, and up to now it has not been put back. A broad consensus of churches and religious communities, political parties, and other involved society constituents, seems to have foundered again.

#### VIII. CIVIL LEGAL EFFECTS OF RELIGIOUS ACTS

In the Slovak Republic, matrimony is entered into by the declaration of a man and a woman before a State authority or an authority of a church or religious community that they enter the marriage publicly, solemnly, and in the presence of two witnesses. If it is a church ceremony, it must be solemnized by a person authorized to perform ecclesiastical functions or a minister of that religious community, and a church form of service must be used. According to the Act on the Family no. 94/1963 Zb., as implemented in later regulations, the church authority must deliver a certificate of the marriage to a body authorized to administer registration in the district where the wedding was held.

Issues of marriage according to canon law are regulated by Section 10 of the Basic Agreement between the SR and the Holy See. If a marriage fulfils the conditions stipulated in SR law, it has the same legal status and effects as a civil marriage taking place within the territory of the Slovak Republic. The same provision is found in Section 10 of the Agreement between the SR and registered churches and religious communities.

#### IX. RELIGIOUS EDUCATION OF THE YOUTH

According to the Constitution of the Slovak Republic, everyone has the right to education. School attendance is compulsory. Its period and age limit are stipulated by law.<sup>35</sup> Citizens have the right to free education at primary and secondary schools and, based on their abilities and society's resources, also at higher educational establishments. Schools other than state schools may be established, and instruction in them provided, only under conditions defined by law. Such schools may charge a tuition fee.

According to the Article 24 of the Constitution, churches and religious societies "organize the teaching of religion" and, according to Act no. 308/1991 Zb. on the freedom of religious faith and the position of churches and religious societies in wording of later regulations, believers have the right to be educated in a religious spirit and – on fulfilment of conditions established by internal rules of churches and religious societies as well as by generally binding legal regulations – to teach religion.

This issue is amended in more detail by the Basic Treaty between the Slovak Republic and the Holy See,<sup>36</sup> and the Agreement between the Slovak Republic and the Registered Churches and Religious Societies<sup>37</sup>; the contracting parties refer to a more detailed amendment in special agreements. The right to religious education is guaranteed also by Act no. 29/1984 Zb. on the system of primary and secondary schools (the School Act) in the wording of later regulations. Persons appointed by churches and religious societies may teach religion at all schools and educational institutions, which are part of the educational system of the Slovak Republic.

Act no. 596/2003 Z.z. on state administration in education and educational self-government determines the competence, organization and function of administrative bodies of state administration in the educational system, towns, municipalities and self-government bodies in education, and defines their duties in the field of state

35. Currently the compulsory education in Slovakia is 10 years, but at most until completion of the school year in which a student turns 16.

36. Published in the Collection of Acts under no. 326/2001 Z.z.

37. Published in the Collection of Acts under no. 250/2002 Z.z.

administration competencies in education. It determines the network of schools and educational institutions, decides on the location of a school, school facility, or a vocational education center in the network, possible changes, and excluding a school from the network. The Act designates the bodies authorized to establish schools, educational institutions or centers of vocational education. Such bodies are: towns, municipalities, regional boards, registered churches or religious societies, other corporate bodies or individuals.<sup>38</sup> Education provided at denominational or private schools is adequate to the education provided at other schools. The aim of denominational and private schools or educational institutions is to provide, in addition to quality education and training, alternative content, methods, and formats in education and training. Establishment of these schools allows parents to apply their right to choose a school or educational institution for their children according to their belief and conscience, as well as it creates a competitive environment for higher motivation to improve the educational system.<sup>39</sup>

Churches and religious societies have the right, for educational purposes, to establish, administer and employ primary schools, secondary schools, universities and educational institutions in compliance with the provisions of law. These schools and educational institutions have the same position as state schools and educational institutions and they are an important and equal part of the education system of the country. The Slovak Republic gives full recognition to diplomas issued by these schools and institutions and considers them equal to diplomas issued by state schools of the same kind, field or level. Hence, they are acknowledged as equivalent to state diplomas; moreover, the same is true about academic degrees and titles.

Denominational schools started to rise in Slovakia right after the fall of Communism in 1989, and their number at present is rather stable.

Government funding is also provided to private and denominational schools equivalent to funding of state schools. Government funding of educational institutions is established on normative principles.<sup>40</sup> Financing per student/year (norms) is the same for both denominational and state schools. However, state educational institutions (kindergartens, canteens, after-school nurseries, etc.) and state artistic schools still have more financial advantages in comparison to the same kind of schools founded by churches (or other private founders).<sup>41</sup> Financial means for schools and educational institutions from budget chapters of the Ministry of Education are provided to their founders through the Regional Education Offices according to the residence of the founder.<sup>42</sup>

Most state universities include theological faculties. There are also theological institutes and seminaries for future priests in Slovakia. These seminaries are specialized workplaces of public universities or theological faculties where university students are taught the values promoted by the respective church in accordance with the internal policies of the church.<sup>43</sup> Seminaries could also be autonomous legal entities that have an agreement with a university. In that case, the seminary students are taught the values promoted by the respective church in accordance with the internal policies of the church, and the university education is provided by the university or theological faculty.

Missio canonica or authorization of the church is an inevitable condition for any educational activity at these institutions. Internal policies of theological faculties and denominational universities are approved by the academic senate only following the church's or religious community's pronouncement. Act no. 131/2002 Z.z. on higher education and on the change and supplements to some acts stipulates which paragraphs of

38. Section 19 Act no. 596/2003 Z.z. on state administration in education and self-government of schools, and on change and amendments of certain acts

39. <http://www.minedu.sk/index.php?lang=sk&rootId=37>

40. § 10 (5) c), h), j) to m) of Act no. 596/2003 Z.z.

41. The Statutory Order of the Government of the Slovak Republic that amends the Statutory Order no. 668/2004 Z.z. on the distribution of income tax revenues to regional self-governments, as amended by Statutory Order no. 519/2006 Z.z.

42. § 3 (6) of Act no. 597/2003 Z.z. on funding of primary and secondary schools and school institutions

43. § 39 (1) Act no. 131/2002 Z.z. on universities

this Act refer to denominational public universities and theological faculties “adequately.” It concerns 22 paragraphs of the Act on universities, which refer mainly to the academic rights and freedoms, establishments of schools, academic self-government and its field of activity, rectors, deans, acceptance and disciplinary proceedings, rights and responsibilities of students, university teachers, or agencies of the scientific council and executive board of the public university.

The Treaty between the Slovak Republic and the Holy See on Catholic Education and The Agreement between the Slovak Republic and the Registered Churches and Religious Societies on Religious Education were mentioned above. Also these documents introduce religious education into the Slovak educational system as an elective mandatory subject, with students having the option to attend ethics classes as an alternative. The lowest possible number of students in a religious education class is twelve.<sup>44</sup> Registered churches and religious societies may include also students from different classes and of different beliefs in religious education classes with their permission. If the number of students is lower than the required twelve, the principal gives consent to teaching of religious classes during religious lessons of other denominations, ethics lessons, or after school.

One lesson a week is the standard quota for religious or ethics education at state or private primary schools. At primary denominational schools, students have two lessons of religious education per week. At state or private (non-denominational) high schools, there is one lesson of religious or ethics education per week in the first and second classes. In the third and fourth classes students may, if the school offers such a possibility, choose one of these subjects as non-mandatory supplementary subject. At denominational high schools students have two lessons of religious education per week in all four classes.

Teachers of religion have the same status in labour-law relations as teachers of other subjects; however, they have to be appointed by their church or religious society. For Catholics it is the authorisation of *missio canonica*.<sup>45</sup> Parents or guardians decide on the religious education of the child until the age of 15. In both the Treaty and the Agreement, the Slovak Republic guarantees, in accordance with the will of parents or guardians, to enable religious education in pre-school facilities, too. The curriculums of religion and religious education have to be approved by the respective church after the statement of the Ministry of Education of the Slovak Republic. Besides expert qualification, the religious education also requires canonical mission or authorization by the church or religious society according to the legal regulations of the Slovak Republic. This condition applies for university teachers of theological disciplines, too.

The above-mentioned documents also recognize the right of churches and religious societies to establish and to operate their own schools and school institutions of any kind and type. At the same time, the state guarantees not to demand that the denominational schools carry out educational programs inconsistent with the upbringing and education principles of the respective church. Churches pledge to offer both general and special education at denominational schools consistent with the general and special education at state schools of respective degree and type. Both sides also oblige to cooperate in the process of preparation and creation of educational programs and in the sphere of education and upbringing in denominational schools. The schools of churches and religious societies will get the same funding as all the other schools in compliance with the legal order of the Slovak Republic.

The Agreement also enables churches to establish pedagogical and catechetical centers with a nation-wide field of activity, to provide professional and methodical guidance of denominational schools, as well as expert education of pedagogical and non-pedagogical employees of denominational schools. The state pledges to financially support theological faculties as well as not to create obstacles to the founding and activities of university pastoral centers. Article 6 of the Agreement between the Slovak

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44. Maximum number of students is 24 – this is a principle that applies to all “educational” subjects (e.g. ethics education, fine art education, and physical education).

45. Canon 805 CIC and Canon 636 CCEO.

Republic and the Registered Churches and Religious Societies on religious upbringing and education declares that the Agreement is open for accession by other churches and religious societies registered in compliance with the legal order of the Slovak Republic. This accession shall be decided upon by registered churches and religious societies participating in the Agreement, on the basis of a written request. All contracting parties must agree with the accession. In compliance with the legal order of the Slovak Republic, any registered church or religious society, which is not a signatory of the Agreement, can demonstrate a will to sign a similar bilateral agreement with the Slovak Republic.

#### X. RELIGIOUS SYMBOLS IN PUBLIC PLACES AND FREEDOM OF EXPRESSION AND OFFENSES AGAINST RELIGION

At present, there is no law in Slovakia that would regulate the possibility to use religious symbols in public places. The Ministry of Education passed a methodical directive regarding crosses on classroom walls in the state schools. In the case, that the majority of the parents of the pupils in the given class wish to place a cross in the classroom, it is within the school director's authority to allow them to do so. Such cases are, however, scarce.

Offenses/Criminal acts directly or indirectly concerning religious denomination and its manifestations are covered in the Criminal Act no. 140/1961 Zb. The Act defines the facts of criminal acts in accordance with the principle that criminal doings are considered such doings which signs are defined within the act. The criminal Act stipulates that he who by violence, threat of violence or threat of other detriment shall force other person to take part in a religious act, hinder other person without permission in such a participation, or hinder other person in use of freedom of confession in other way, shall be sentenced to deprivation of liberty for up to two years or financial penalty. A religious act is considered any act or ceremony that relates to church or religious community belief confession, e.g., divine service, confession, sacrament reception/Eucharist. Other obstruction in use of freedom of confession can lie for example in violence heading towards means destruction, serving for religious ceremony performance. The Criminal Act stipulates the facts of violence against a group of citizens and against an individual because of their denomination, or because they are undenominational. Denomination implies active or passive relation to a particular religion as a general theory and explanation of the world given by particular church or religious community. The facts fulfilment can arise if threatened to the given effect, or forming alliances or masses for committing the criminal act. The criminal act of religious opinion defamation is based on public defamation – vituperation, belittlement of citizen groups because of their denomination or because they are undenominational.

The act on serving of a deprivation-of-liberty sentence forbids a sentenced person to get and own the press or objects promoting religious intolerance, and stipulates possibilities and conditions of church organisation participation in the sentenced person remedy. The act on imprisonment execution confirms the right of an accused person to provision of spiritual service, while it orders to consider the purpose of the imprisonment, it means that if the accused person is in collusion custody, provision of the accused person with spiritual service must be approved by the relevant body acting in criminal proceedings, if cases of life and health endangerment are not concerned.<sup>46</sup>

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46. Cf. Moravčíková, M. „State and Church in the Slovak Republic,” in Robbers, Gerhard (ed.) *State and Church in the European Union*. (Second edition). Baden-Baden: Nomos, 2005, 491-518.