

National coat of arms

REPUBLIC OF MACEDONIA
Commission for Relations with Religious
Communities and Groups
File No. 16-30/20
In S K O P J E
On 3rd of November, 2004

Pursuant to Articles 202 and 218 of the Law on the Administration Procedure and Articles 8, 9, 11 and 12 of the Law on Religious Communities and Groups (Official Journal of the Republic of Macedonia No. 35/07), proceeding upon the request for reporting of a religious group named in the request as Orthodox Archbishopry of Ohrid, on 3rd of November, 2004 the Commission for Relations with Religious Communities and Groups has promulgated the following :

R U L I N G

The request for registration of the religious group named as the Orthodox Archbishopry of Ohrid IS BEING REJECTED as groundless.

R a t i o n a l e

The request for registration of a religious group named therein as the Orthodox Archbishopry of Ohrid and signed by the person referred to as Chairman of the Holy Archpriests' Synod, His Eminence John, the Metropolitan of Veles and Vardar Valley and Exarch of Ohrid, has been submitted to the Commission for Relations with Religious Communities and Groups and filed under No. 16-30/4 on 6th of September, 2004.

The following documents are being enclosed to the request :

- Application for registration of the Orthodox Archbishopry of Ohrid
- Decision for founding of the religious group named Orthodox Archbishopry of Ohrid
- Rulebook on Regulation of Organisation and Operation of the Orthodox Archbishopry of Ohrid
- List of believers of the Archbishopry of Ohrid
- Ruling U. No. 10/2004 of the Constitutional Court of the Republic of Macedonia.

Proceeding with regard to Articles 12 and 29 of the Law on Organisation and Operation of the Public Administrative Bodies (Official Gazette of the Republic of Macedonia No. 58/2000), the Commission has considered the aforesaid request and established that the documents enclosed are not complete. An additional period of 15 days for submitting additional documents has been determined for the submitter of the request, named as the Chairman of the Holy Archpriests' Synod, His Eminence John, the Metropolitan of Veles and Vardar Valley and Exarch of Ohrid by means of Letter No. 16-30/6 dated on 30th of September, 2004 with regard to Article 137 paragraphs 2 and 3 of the Law on the Administration Procedure, as follows :

- Decision of the founders of the religious group assigning person responsible to submit the application within 30 days as of date of bringing the founding decision and
- Minutes of the Assembly of the founders.

The religious group delivered the Submission No. 16-30/11 dated on 18th of October, 2004 to the Commission for Relations with Religious Communities and Groups, the following documents being enclosed :

- Letter appending the request for registration of the Orthodox Archbishopry of Ohrid,
- Decision of the Assembly of Founders for assigning of a person responsible to submit the application for registration,
- Minutes of the Assembly of the Founder and
- Conclusion No. 2006 dated on 13th of October, 2004 of the Holy Archbishopry Synod of the Serbian Orthodox Church from Belgrade.

The Commission for Relations with Religious Communities and Groups has considered the documents required, being enclosed by the submitter on the 3rd of November, 2004, and established the following factual situation :

Article 3 paragraph 1, Articles 10 and 11 paragraph 2, Articles 13 and 14 and Article 22 paragraph 2 of the Law on Religious Communities and Groups had been repealed by virtue of Ruling No. U. 214/98 dated on 17th of November, 1999 of the Constitutional Court of the Republic of Macedonia.

According to Article 10 of the aforesaid Law, a religious group with a main seat in the Republic of Macedonia may be founded by at least 50 persons of legal age being citizens of the Republic of Macedonia, and according to Article 13 of the aforesaid Law, the religious group being founded in accordance with the said Law had to be registered with the Registry kept by the body competent for questions of religious communities and groups. Due to the fact that the Constitutional Court of the Republic of Macedonia had repealed the aforesaid provisions of the Law on Religious Communities and Groups, the List of Believers of the Archbishopry of Ohrid and the Request for Registration of the religious group are groundless and only reporting thereof may be demanded.

The Commission for Relations with Religious Communities and Groups has established that the request and application have been submitted by Mr. Janko Ninov (father David) which is not in accordance with Article 11 paragraph 1 of the Law on Religious Communities and Groups, due to the fact that he has no active authorization for it, i.e., the Decision brought of by the founders at the Assembly had assigned the named Chairman of the Holy Archbishopry Synod of the Orthodox Archbishopry of Ohrid, His Eminence John (Vranishkovsky), the Metropolitan of Veles and Vardar Valley and Exarch of Ohrid.

In accordance with Article 11 paragraph 1 of the Law on Religious Communities and Groups, the founders of a religious group shall assign a person responsible to submit an application to the body competent for the questions of religious communities and groups within 30 days as of date of bringing the decision for founding. The Commission has established that in the Application for registration of the religious group Orthodox Archbishopry of Ohrid states that establishment of the Holy Archpriests' Synod of the Orthodox Archbishopry of Ohrid took place in December, 2003.

The aforesaid religious group requesting to be reported originates from an already registered and reported religious community : Macedonian Orthodox Church, whose place and role are being determined by virtue of the Constitution of the Republic of Macedonia. The very connection of the request for reporting of the religious group under the name Orthodox Archbishopry of Ohrid undoubtedly refers to pretensions for a parallel religious community

personified as the constitutionally determined Macedonian Orthodox Church, using the aforesaid name by virtue of the Constitution, during the history as well as at present, in continuity of the church, educational and spiritual life thereof during its existence for more than 800 years now.

The Preamble of the Constitution of the Macedonian Orthodox Church states that the renewal of the Archbishopry of Ohrid is personified in the canonical successor thereof : the Macedonian Orthodox Church. The Archbishopry of Ohrid personified in the Macedonian Orthodox Church has been renewed, i.e., proclaimed to be autocephalous by virtue of decision brought by the Archbishop Church's and People's Convention dated on 17th of July, 1967 in Ohrid.

Article 9 of the Constitution of the Macedonian Orthodox Church stipulates that an Archbishop is at the head thereof and paragraph 2 of the aforesaid Article defines the title of the Archbishop as the Archbishop of Ohrid and Macedonia being addressed to as 'Your Beatificity'.

Until passing the Law on Religious Communities and Groups (Official Journal of the Republic of Macedonia No. 35/97), the Macedonian Orthodox Church had been recorded as regularly reported with the Ministry of Internal Affairs in accordance with the former Law on Legal Condition of the Religious Communities (Official Journal of the Socialist Republic of Macedonia No. 39/1977), and after entering into effect of the Law on Religious Communities and Groups, it has harmonized the operation thereof by virtue of Article 35 paragraph 2 of the aforesaid Law before all the other religious communities, and it was the first one registered and reported with the Commission for Relations with Religious Communities and Groups.

Firstly, the Ministry of Internal Affairs had issued a Certificate Up. No. 30-2468/1 dated on 22nd of February, 1983 for registration into the registry thereof to the Macedonian Orthodox Church in accordance with the Law on Religious Communities and Groups, certifying that the Macedonian Orthodox Church, being recorded as reported with the Ministry of Internal Affairs had been transferred to the Registry of Religious Communities and Groups being kept by the Commission for Relations with Religious Communities and Groups under number 1.

The aforesaid refers to the fact that the request for reporting of the religious group 'Orthodox Archbishopry of Ohrid' is a mere formal covering up of the true essence thereof - organization and operation of a parallel orthodox religious community – as for the purpose.

The aforesaid is opposite to Article 8 paragraph 2 of the Law on Religious Communities and Religious Groups stipulating that only one religious community shall be registered for same confession. The Constitution of the Republic of Macedonia has resolved the question of the situation of the religious communities and groups and confession expressing, and Articles 1 and 5 of the Rulebook on Regulating the Organisation and Operation of the Orthodox Archbishopry of Ohrid.

In accordance with Article 9 of the aforesaid Law, a religious group is a voluntary, non-profitable association of believers sharing the same religious belief not belonging to the religious community already registered, and citizens may freely and publicly establish religious groups in accordance with the said Law. Nevertheless, contrary to the aforesaid Article, Articles 7 and 8 of the Rulebook for Regulating of Organisation and Operation of the Orthodox Archbishopry and Article 1 of the Decision for Founding of the Religious Group may acquire and possess church property, funds and foundations freely, and all the legal entities deriving from the Orthodox Archbishopry of Ohrid may have their own bank accounts for foreign currencies and MKD.

Paragraph 1 of the Article 11 of the Law on Religious Communities and Groups stipulates that the founders of the religious group are due to assign a person responsible to

submit an application to the body competent for the questions of religious communities and groups within 30 days as of date of bringing the founding decision.

The Commission for Relations with Religious Communities and Groups, being body competent for the questions of religious communities and groups asked to be delivered also a Decision of the Founders of the Religious Group concerning Assigning a Person Responsible to Submit Application within 30 days as of date for founding among the other documents required. The Decision required and the Minutes from the Assembly of Founders maintained had been delivered to the Commission on 18th of October, 2004 under No. 16-30/11 assigning the Chairman of the Holy Archpriests' Synod, His Eminence John (Vranishkovsky), the Metropolitan of Veles and Vardar Valley and Exarch of Ohrid to be person responsible for submitting of the application. The Request and the application for reporting of the religious group named Orthodox Archbishopry of Ohrid has been submitted on 6th of September, 2004 under No. 15-30/4 by Mr. Janko Ninov (father David), which is contrary to Article 11 paragraph 1 of the Law on Religious Communities and Groups, because he had not any legitimacy for that.

Paragraph 3 of Article 11 of the aforesaid Law stipulates that regulations for organisation and operation shall be submitted with the application as well as other documents and information proving fulfilment of conditions for establishment.

Article 12 of the said Law stipulates that a name of the religious group shall be essentially different with regard to the names of the religious communities registered already, i.e., religious groups.

The name shall indicate the fact that it is a matter of a religious group and refer to the type of expression of faith.

The name of the religious group p Orthodox Archbishopry of Ohrid contains the name of the already existent and registered religious community Macedonian Orthodox Church.

Paragraph 3 of Article 12 of the said Law stipulates that the names of religious communities and groups shall not contain such words as Republic of Macedonia or names of other countries.

Main seat of a religious community or group carrying out religious affairs and ceremonies on the territory of the Republic of Macedonia shall be compulsory situated in the Republic of Macedonia as regulated by paragraph 4 of the Article 14 of the aforesaid Law.

Opposite to the provisions of the Law, it appears that the religious group shall operate formally, i.e., according to the application, reporting is only formal, and in reality shall operate a part of a foreign orthodox church. The Orthodox Archbishopry of Ohrid is an autonomous church operating under canonical jurisdiction of the Patriarchate of Petch and shall be governed autonomously within it, as referred to in Article 1 paragraph 2 of the Rulebook for Regulation of the Organisation and Operation of the Orthodox Archbishopry of Ohrid. The Macedonian Orthodox Church is canonically jurisdictional church for the Republic of Macedonia and not any foreign church, therefore only citizens of the Republic of Macedonia may organise a religious group with regard to Article 9 paragraph 2 of the Law on Religious Communities and Groups and not a foreign church or country.

The Macedonian Orthodox Church has submitted a Request No. 10-2/444 dated on 2nd of July, 2004 to the State Office of Industrial Property aiming retrieval of the international classification of goods and services. The State Statistical Office has retrieved the data bases in the country dated until 1st of July, 2004 and the international data base dated until 21st of May, 2004 and informed the Macedonian Orthodox Church by virtue of Letter No. 10-2/463 dated on 9th of July, 2004 that the retrieval of the databases available to the State Office of Industrial Property had established that the mark 'MACEDONIAN ORTHODOX CHURCH /

ARCHBISHOPRY OF OHRID' had not been reported or registered in the territory of the Republic of Macedonia according the international classification of goods and services, and that any similar reported or registered marks, i.e., trade marks had not been found as well. after the retrieval, the Macedonian Orthodox Church submitted to the State Office of Industrial Property on 6th of August, 2004 a request for recognition of the right an protection of the names being integral part of the Macedonian Orthodox Church, 'Macedonian Orthodox Church / Archbishopry of Ohrid' TM-2004/574 being among them. The Macedonian Orthodox Church has informed the Commission for Relations with Religious Communities and Groups with Letter No. 16-30/19 dated on 22nd of October, 2004 on the aforesaid submitted request.

The Macedonian Orthodox Church has also informed the Commission for Relations with Religious Communities and Groups with Letter No. 08-254/1 dated on 13th of August, 2004 that it seeks protection of names being integral part of the Macedonian Orthodox Church, such as the names of the bishopries and the church institutions. Among the other names for which protection was sought are 'Macedonian Orthodox Church MOC, Macedonian Orthodox Church / Archbishopry of Ohrid' etc. with an aim to make impossible misuse thereof by anybody, and only the Macedonian Orthodox Church has own historical, church, moral and material right to them. The Commission was also requested to respect the historical right and jurisdiction of the Macedonian Orthodox Church in case of possible appearance, operation or attempt for legalisation of subjects being named with names same or similar to the aforesaid ones.

The very name of the religious group Orthodox Archbishopry of Ohrid refers to the fact that it is the matter of an orthodox religious group, and according to Article 1 of the Rulebook on Regulation of Organisation and Operation of the Orthodox Archbishopry of Ohrid, it is a Christian church being in dogmatic, liturgical and canonical unity with the One, Holy, Catholic and Apostolic Church, i.e., with the Eastern Orthodox Church, and Article 2 refers to that it shall be governed autonomously within the canonical jurisdiction of the Patriarchate of Petch.

The Commission has considered also the Conclusion No. 2006 dated n 13th of October, 2004 of the Serbian Orthodox Church signed by the Archbishop of Pethc and Metropolitan of Belgrade and Karlovatz and Patriarch of Serbians, His Holiness Paul, establishing it as irrelevant and opposite to Articles 8 and 9 of the Law on Religious Communities and Groups.

According to Article 9 of the Constitution of the Republic of Macedonian, citizens are equal with regard to freedoms and rights not depending on sex, race, colour of the skin, ethnic and social origin, political and religious beliefs, financial and social status, and according to paragraph 1 of Article 16 of the Constitution, freedom of beliefs, conscious, opinion and public expression of opinions are guaranteed.

In accordance with Article 19 of the Constitution of the Republic of Macedonia, citizens are guarantied with regard to freedom of religion, and paragraph 2 of the aforesaid Article refers to free and public, individual or joint expression of faith.

Paragraph 3 of the said Article stipulates that the Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Roman Catholic Church, the Evangelist Methodist Church, the Jewish Community and other religious communities and groups are separated from the state and equal before the law.

Article 1 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief declares that everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance,

practice and teaching. Paragraph 1 of Article 2 refers to that no one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief.

By virtue of Article 18 of the Universal Declaration of Human Rights, everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

In accordance with Article 29 paragraph 2 of the aforesaid Declaration, in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

According to Article 9 of the European Convention for the Protection of Human Rights, everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others (Official Journal of the Republic of Macedonia No. 11/1997).

By virtue of Ruling U. No. 223/1997 dated on 28th of October, 1998 the Constitutional Court of the Republic of Macedonia has taken the position on the question whether only one religious community shall exist for one confession, standing for the opinion that the aforesaid legal provision of the Law on Religious Communities and Groups does not create inequality in practicing the freedom of religion and that it actually protects the citizens from manipulation with regard to dividing the believers of same confession into several religious communities leading to legalization of a schism of the church.

By virtue of Ruling U. No. 10/2004 dated on 12th of May, 2004 the Constitutional Court of the Republic of Macedonia has taken the position that the believers who have the same religious beliefs, and do not belong (voluntarily) to a registered religious community, may associate in a religious group and carry out religious affairs and ceremonies in an organized manner same as the religious communities. Nevertheless, the Court has found that the aforesaid provision does not create discrimination between the believers and inequality between the religious communities and groups and that the provision with regards that only one religious community for one confession does not create inequality is not inconsistent with the Constitution. In addition, the Court has found that the controversial provision of the Article 8 of the Law on Religious Communities and Groups stipulating only one religious confession for one confession is consistent with the Constitution.

Dealing with the issue, the Commission has taken into consideration also the Declaration for Support of the Autocephalous Status of the Macedonian Orthodox Church stating that the Parliament of the Republic of Macedonia supports the efforts thereof to preserve the unity and for recognition of the name thereof and the autocephalous status thereof with regard to the other orthodox churches, having faith that the process shall progress in a democratic and tolerant spirit, mutual cooperation and respect (Official Journal of the Republic of Macedonia No. 4/2004).

The Commission has found that expression of faith, by an individual or a group may be performed freely, and such activities are guaranteed by the Constitution of the Republic of

Macedonia. Nevertheless, it is undisputable that performing such activities shall not jeopardise the other constitutionally determined values, such as other freedoms and rights referred to by the Universal Declaration for Human Rights and European Convention for Protection of Human Rights and Fundamental Freedoms.

Taking into consideration all the aforesaid, the Commission for Relations with Religious Communities and Groups has established that there are no grounds in the cited legal provisions for the request for reporting of the religious group Orthodox Archbishopry of Ohrid to be accepted.

Pursuant to all the aforesaid, the Commission has brought the decision referred to in the wording of this Ruling.

LEGAL REMEDY PRECEPT : A complaint against this Ruling may be lodged to the Commission for Dealing with Administration Procedure of Second Instance in the Field of Internal Affairs, Judiciary, Public Administration, Local Self-Government and Affairs having Religious Character of the Government of the Republic of Macedonia through the Commission for Religious Communities and Groups within 15 days as of date of receipt of this Ruling.

In Skopje, on the 3rd of November, 2004

Round seal runs :
**REPUBLIC OF
MACEDONIA
Commission for Relations
with Religious
Communities and Groups
SKOPJE**

CHAIRMAN :
**Professor Cane Mojanoski,
Ph. D.**
signature