

RABBINICAL CHANCERY IN ROMANIA-AN ALTERNATIVE TO THE STATE ORGANIZED COURTS IN SOLVING FAMILY MATTERS?

DARIESCU COSMIN

Lecturer L.L.D at the Faculty of Law of
“Alexandru Ioan Cuza” University of Iasi, Romania
Mailing address: A. PANU NR.54, BL.H1,ET.4,AP.3, IASI, 700019, ROMANIA
PHONE: 40-0743457520; Email Address:cdariescu@yahoo.com

DARIESCU NADIA CERASELA

Lecturer L.L.D. at the Faculty of Law of
“Petre Andrei” University of Iasi, Romania
Mailing address: A. PANU NR.54, BL.H1,ET.4,AP.3, IASI, 700019, ROMANIA
E-MAIL ADDRESS: ncerasela@yahoo.com

On August 27, 2008, by *Government Decree no. 999*, the Romanian Government recognized the *Statute of the Federation of Jewish Communities of Romania-The Mosaic Cult*. According to Article 41 of the statute, the Rabbinical Chancery is a body of the Federation entrusted with the fulfillment of the religious needs of the members of the Federation, observing “the rules of the Mosaic law, halaha [i.e. halakhah] and the Mosaic tradition”. Article 41 enumerating the competences of the Rabbinical Chancery, provides under letter h that the Chancery has jurisdiction over “the religious disputes inside Communities”. But in Judaism, because Torah is the blueprint of the entire universe, every aspect of human life is a religious one. As a proof of this fact we can invoke the extraordinarily rich content of the Talmud (the Mishnah with its six orders and Gemarah, 517 chapters in total). The third order of the Talmud deals mainly with laws concerning marriage, the relationship between spouses and divorce. So, disputes concerning marriages concluded between members of the Federation (whether from the same Community or not) are religious disputes, that should be solved by the Rabbinical Chancery.

My paper discusses the legal status in Romania of decisions and writs (especially the kind of writs named *get*) delivered or drawn up by the Rabbinical Chancery in solving the matrimonial disputes of the members of the Federation of Jewish Communities of Romania-The Mosaic Cult. On the one hand, these documents could be recognized as having binding effect on the Romanian authorities on the grounds of Articles 7, 8, 9 and 26 of *Law no.489 of 2006 on the Freedom of Religion and the General Status of Denominations*. On the other hand, there is no hard evidence that Romanian Government intended to allow religious courts to rule in litigation concerning such sensible areas as Family Law or Civil Law. On the contrary, Article 5 of *Law no.489 of 2006* emphasizes that all religious cults have to observe the Constitution and the others Romanian laws. Or neither Article 124 and 126 of the *Constitution* nor Articles 3 or 38 of the *Romanian Family Code* recognize the jurisdiction of a religious authority in concluding or dissolving a matrimonial liaison. Moreover, only the Mosaic Cult and the Catholic Church have in their statutes provisions that enables a religious body to have jurisdiction over *laity* (while the statutes of the Orthodox Church or the Muslim cult don't contain such provisions). Article 9 of *Law no.489 of 2006* provides for the equality of all religious cults before the Romanian authorities. Or Article 41 of *Statute of the Federation of Jewish Communities of Romania-The Mosaic Cult* infringes upon this equality, allowing Jews of Romanian nationality to solve their matrimonial causes before a religious court with the observance of other rules than those provided for by the Romanian Family Law.

The status of the Rabbinical Chancery as a court of justice with jurisdiction in family matters is not sound enough according to the present Romanian Law. Romanian authorities have to confirm it or to explicitly reject it (by demanding the modification of Article 41 of the *Statute of the Federation of Jewish Communities of Romania-The Mosaic Cult*).