

THE RIGHT OF THE CHILD TO RELIGIOUS INSTRUCTION AT PUBLIC SCHOOLS

Professor Dr Marija Draškić
School of Law, University of Belgrade
11000 Beograd, Bulevar kralja Aleksandra 67, Serbia
Tel. (381.11) 3027.664 Fax (381.11) 3221.299
e-mail: maja@ius.bg.ac.yu

Judge of the Constitutional Court of Serbia
11000 Beograd, Nemanjina 26, Serbia
Tel. (381.11) 361.63.74
e-mail: m.draskic@ustavni.sud.sr.gov.yu

The paper will deal with the decree issued by the Government of the Republic of Serbia and the Law on Primary Education, as well as the Law on Secondary Education, which have introduced religious instruction into Serbian public schools. The author expresses the opposition to this legal solution and gives two main reasons to justify this attitude.

Firstly, according to the national law, the constitutional principal of the separation of Church and State which has been in force in the Yugoslav legal history for more than 50 years, and which is also explicitly regulated by the existing Serbian Constitution, does not allow the jurisdictions of the church and the state to overlap. This means that the state cannot interfere in religious issues, nor can the church have jurisdiction in exclusively secular matters, such as curricula in the public school system.

Secondly, according to the international law on human rights governing the right of the child to freedom of religious worship, teaching of certain religion or belief is considered as incompatible with the right to freedom of religion as stipulated in Article 18 (4) of the International Covenant on Civil and Political Rights. The State Parties to this legal instrument are obliged to have respect for the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions.

Lastly, there are also some non-legal arguments against the introduction of religious instruction in public schools. They can be expressed through the notorious fact that every religion is based on dogma, exclusiveness and absolute obedience to authority.

Taking all these reasons into account, the author takes a stand that instead of religious instruction in public schools there should have been introduced a course on general history of religions and religious ethics which should be presented in a neutral, rational and critical way.