

ROMANIA
Submission to the UN Universal Periodic Review
Human Rights Without Frontiers, International
Second Session of the UPR Working Group, May 2008

Human Rights Without Frontiers, International (HRWF) is an international nongovernmental organization defending human rights, democracy, and the rule of law. (For details see Appendix 1)

On 27 December 2006, President Traian Basescu approved a controversial new religion law. It replaces a former law, Decree n° 177 of 1948 on the basis of which only a limited number of religions were officially recognized by the Communist State and all the rest were banished. Unofficial practices have developed since that time. It allows religions to be categorized into three tiers according to length of time in the country and number of adherents. Religions in the top tier must have been in the country at least 12 years and have at least 22,000 members who are Romanian citizens and who are resident in Romania (.1% of the population). Religions in the top tier are recognized as religions. Religions in the next tier are not recognized as religions but as independent associations. To enter this category, a religion must have 300 adherents who are Romanian citizens resident in Romania. If a religion does not have 300 qualified adherents, it is relegated to the bottom tier and has few rights as a religion.

Outline of this Submission:

A. In this submission HRWF provides information under sections B, C, D, and E.

B. Under section B, HRWF raises these concerns:

1. The new religious freedom law in Romania authorizes official discrimination in favor of state religions and against religions that are not fully recognized.
2. The new religious law authorizes restrictions upon unconventional religions.
3. The religious freedom law discriminates against “foreign” religions.
4. The new religious law discriminates against small religions.
5. The religious freedom law inhibits the formation of new religions.
6. Religious minorities are deprived of rights all religions should have.

C. Under section C, HRWF expresses these concerns:

1. These religious inequalities are in violation of EU, UN, and OSCE standards of equality and freedom of religion.
2. Several established religions under Romanian law no longer meet Romanian legal standards for recognition but remain among the recognized religions.

3. Many religious bodies in Romania from all tiers protest against the injustices of this system.
4. The law was passed with undue haste with inadequate time for Senate deliberation and debate.

D. Under section D, HRWF makes recommendations in reference to the concerns raised by NGOs.

B. Normative and institutional framework of the State

1. The new religious law in Romania authorizes official discrimination in favor of state religions and against religions that are not fully recognized. Multiple tiers of religions with different religious rights are inherently unequal and in violation of international law. State support for laws that discriminate among religions lends legitimacy to discrimination on the basis of religion or belief. The new Romanian law favors the Romanian Orthodox Church and other large churches that have been recognized as religions. They have some protection from being spoken against, and their religious symbols have special status. Religions of the second tier are not recognized in their own name but most form independent associations that are under greater control by the government and do not have full rights. Religions of the third tier have almost no rights as religious bodies. This is not a level playing field for religious development and tends to reinforce and perpetuate the status quo. Religious competition is restricted and the incentive to good service of the population is reduced.

2. The new religious law authorizes restrictions upon unconventional religions. Religions that are different tend to fall into the third tier and are disadvantaged in development. This operates against creativity and the ability of religions to develop to meet new needs as the population develops.

3. The religious freedom law discriminates against “foreign” religions. The law discriminates against foreign religions, even those with large numbers of adherents in the world such as Hinduism. Discrimination occurs because they do not have a sufficient number of Romanian resident-citizens to be classified higher than the bottom or third tier. This limits their ability to serve the needs of immigrants and others who belong to foreign religions.

4. The new religious law discriminates against small religions. Just because a religion is small does not mean it is not valuable. Small religions often have a friendly atmosphere and perform services to their members with little or no cost. Their lack of bureaucracy, small size, and community service are punished under the new law.

5. The religious freedom law inhibits the formation of new religions. All new religions begin as small religions. Penalties against small religions logically restrict the formation of new religions. If you believe that religions evolve to take care of particular needs in the society, the new law in restricting the formation of new religions does not serve the emerging needs of the population. The religious institution becomes unchanging, even stagnant. Complacency is often the result and does not serve the public well.

6. Religious minorities are deprived of rights all religions should have. Under the new law religions are required to withhold statements about majority religions. They are forced to tolerate religious symbols from major religions. Religions in the third tier are not able to have paid employees.

They are not able to own property. They are not able to promote their religion. How does a religion become large if it cannot do these things? This is how the status quo is artificially supported. Not only are small religions disadvantaged by these rules but the population as a whole is deprived of hearing about interesting, small religious groups that may have innovative solutions to religious issues. Ignorance is the price the population pays. They are deprived of their right to knowledge. Indignity suffered by members of lower tier religions does not end with death. They have difficulty finding places to be buried. Cemeteries are controlled by recognized religions. On some occasions their burial is permitted if they acquiesce to rites offered by recognized religions.

C. Implementation of Romania's human rights obligations.

1. These religious inequalities are in violation of EU, UN, and OSCE standards of equality and freedom of religion. The Baptist Union – one of the eighteen recognised religions - has been consistently highly critical of many provisions of the Law. The Baptists are determined to try to mitigate what they see as the Law's worst aspects. "I fully support the idea to take further steps to the Constitutional Court and the European Court of Human Rights in Strasbourg," the Union's president Paul Negrut said on 29 December 2006. Ionescu of the Centre for Legal Reforms said that a coalition of human rights groups is planning to undertake strategic litigation to the Constitutional Court to challenge what it regards as some of the more restrictive provisions of the new law.

During their process of accession to the EU, a number of countries were criticized because their religious legislation was not in conformity with international standards. This was recently the case for Romania. The criticisms were justified. The final version that was hurriedly adopted a few days before the entry of Romania into the EU was even more restrictive than expected, and was directly inspired, as in several other countries, by the Austrian legislation: a waiting period of 12 years (versus 10 in Austria) and a membership of 0.1 percent of Romania's population (i.e. more than 22,000 adherents nationwide versus 16,000 in Austria) are now requested from any new applicant to be eligible to gain the highest of three levels of recognition and the same rights as religions previously recognized and maintained in the upper category with far less than 22,000 members.

2. Several established religions under Romanian law no longer meet Romanian legal standards for recognition but remain among the recognized religions. Mr. Enayati of the Baha'is points out that the numerical requirement for recognition does not exist for the eighteen faiths that are already recognised, although several of them would not be able to meet this requirement. They are "grandfathered" into recognition.

3. Many organizations in Romania, religious and otherwise, from all tiers protest against the injustices of this system. As well as opposing the different levels of legal recognition for religious communities, Seventh-day Adventist pastor Adrian Bocaneanu is also very worried about the new ban on "religious defamation" and "public offence to religious symbols." These provisions were introduced into the Law late in the parliamentary process. The essence of religious freedom is to be able to express views on religious beliefs and to compare your religious beliefs with those of others. Pastor Ioan Ceuta, general superintendent of the Assemblies of God Pentecostal Church in Romania said about the law on 3 January 2007. "It is aimed not to benefit the whole of society but selectively to help a few religious communities." Wargha Enayati, a member of the Baha'i National Spiritual Assembly, is equally critical. "The law is totally unjust," he said the same day. "We were hoping our problems – such

as lack of recognition as a faith - would be resolved, but unfortunately this was not the case." Strongly backing the law was the dominant Romanian Orthodox Church and several other faiths. Bishop Christoph Klein of the German-speaking Lutheran Church said from Sibiu on 3 January that he is "pleased" the religion law has finally been adopted after sixteen years of discussion. Echoing government claims, he insisted (wrongly) that all but the Greek Catholic Church among the eighteen recognised religions had backed the law. The Baha'is complain that it is already impossible for their members to respond to invitations from teachers to speak to school children about their faith. They also noted the problems religious minorities are facing to find somewhere to bury their dead according to their own traditions, as most graveyards in Romania are controlled by the Orthodox Church, which often refuses burial to those of other faiths or insists that such burials must be conducted by the Orthodox Church according to Orthodox rites. People are then charged a fee for the service. Pastor Ceuta of the Assemblies of God is also concerned that the law bars religious communities with similar names to existing recognised communities from gaining recognition. "There are more than forty different Pentecostal denominations, but only one – of which we are not a part – has official recognition at the moment. This means that other Pentecostal groups will never be recognised."

4. The law was passed with undue haste with inadequate time for Senate deliberation and debate. After years of consideration, the new religion law completed a hasty passage through parliament. It was given rush treatment because of the coming accession to the European Union by the Romanian state on January 1, 2007.

(15.12.2006) / HRWF Int. (29.12.2006) – - Romania's controversial new Religion Law – which is opposed by many religious minorities and human rights groups – gained final parliamentary approval in the Chamber of Deputies on 13 December. Forum 18 News Service has learned that deputies did not have the required five days to consider the report and amended text from the Chamber's Juridical and Human Rights committees before the text was debated and voted on in plenary session.

D. Introductory Statement: We congratulate Romania on its accession to the European Union 1 January 2007. We are also pleased that Romanian legislators passed a law that they believed would make Romania a country with greater equality of religion. Now that Romania is fully subject to the rules and precedents of religious equality afforded by the European Union, the United Nations, the OSCE, and the Council of Europe, we urge Romania to amend its religious law so as to achieve conformity with these international statutes.

Romania has excellent professionals skilled in the scientific and objective study of religious behaviour, and fully capable of doing so in harmony with international scientific and legal standards. People with these qualifications should lead the effort and be engaged to perform the functions required. They should use the valid research methods common to the international scientific community. They may wish to avail themselves of a few experts in the field of religious law such as Dr. Cole Durham, who assisted in the drafting of the present law but was overridden on many of the human rights provisions, as they embark on the implementation of these recommendations. The work should also be conducted in a transparent and fair fashion, so that those concerned have means to appeal and correct errors of fact. It should not be rushed through parliament. Legislators should have enough time for thorough inspection of provisions and adequate time for debate in both houses.

- 1. HRWF calls upon the Government of Romania to amend the provisions of the new Religion law so that there is a reduced time lag before recognition of religious bodies can be considered. We recommend a change from the current 12 years to a three year period.**
- 2. HRWF further recommends that the Government of Romania amend the population requirement for recognition by religious bodies. Three persons are required for the formation of an NGO. Twenty would be a good number of citizen-members required to recognize a religion.**
- 3. HRWF recommends to the government of Romania to remove the three tiers of religions with different recognition status. All religions recognized should be equal.**
- 4. HRWF recommends to the government of Romania to remove provisions from the religion law on defamation of religion.**
- 5. HRWF recommends to the government of Romania to remove provisions from the religion law on offense against religious symbols.**
- 6. HRWF recommends to the government of Romania that adequate burial grounds be located and put in service for the population that does not adhere to the Romanian Orthodox faith.**

Note: All quotes in the report are from Forum 18 News Service. Email: info@hrwf.net –
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Appendix 1

Human Rights Without Frontiers Int'l

From its inception, the main focus of the activities of Human Rights Without Frontiers Int'l has been monitoring, research, and analysis in the field of human rights as well as promotion of democracy and the rule of law on national and international level. In these endeavours, we have been guided by the understanding that it is not sufficient for international norms and standards in the field of human rights to be approved and adopted by governments. States enjoy different levels of approximation to democratic development and the rule of law and human rights norms do not always have a "taken-for-granted" quality. In many cases, they still need to undergo a long, and sometimes painful, process of socialization in order to become integrated into state policies. The success of this process would be predicated, among other things, on the strength of non-governmental human rights networks to instigate changes towards human rights promotion.

We also work on the assumption that ideas, and not only state interests and positions, matter in international relations. In this respect, international human rights instruments can be seen as representing the ultimate expression of collective ideas of social justice. As such, we consider their implementation to be of utmost importance as an overarching framework for the ideas of liberty, democracy, the rule of law.

Within this context, *HRWF Int.* has adopted an approach to human rights promotion, which is wider in scope than lobbying on a specific human right. Our emphasis is on human rights advocacy, which we understand as a process, through which we bring new ideas, norms and discourses into policy debates and promote norm implementation by pressuring target actors to adopt new policies and by monitoring compliance with international standards.

In pursuit of this overarching objective, the *HRWF Int.* has been using three main strategies: information, communication, and leverage. Gathering trustworthy information of situations of human rights violations is essential in constructing a solid case which merits attention and advocacy. On the level of communication, we try to generate attention to issues at stake, alert policy-makers to long-term implications of specific human rights abuses and open up channels of communication on the international arena as means of gaining attention. New issues can be brought up for public debate through various advocacy techniques: media attention, debates, hearings, and larger conferences. Though information gathering and communication are an important part of our advocacy campaigns, the crucial strategic step is to gain enough influence to induce changes in state positions and policies.

Part of our advocacy cycle is devoted to formulating issues and identifying possible "target" loci of advocacy, which are primarily in the domain of international organisations. The United Nations, the European Union, the Council of Europe and the Organisation for Security and Co-operation in Europe (OSCE) are the main venues for targeted and structured human rights advocacy activities. The European Union is an important international actor and human rights have become an integral and important part of its external relations. The principles of liberty, democracy, the rule of law and the respect for human rights are goals of the foreign and security policy of the European Union and underpin its co-operation with third countries. In this respect, the EU institutions – the European Commission, the European Parliament, and the Council of the European – are crucial to human rights promotion worldwide. **Website:** <http://www.hrwf.net> – **Email:** info@hrwf.net