



ETHNOCULTURAL
DIVERSITY
RESOURCE
CENTER

WITH HALF MEASURES

- Report on the retrocession of property that belonged to religious
cults in Romania -

Author: *Marian Chiriac*

Documentation: *Ambrus Bela, Gabriela Vieru*

Project coordinator: *Rari a Szakats*

March 2004

Ethnocultural Diversity Resource Center

Str. ebei 21, 400310 Cluj-Napoca, Romania

Tel: +40 264 420490, Fax: +40 264 420491

info@edrc.osf.ro

www.edrc.ro

*Project financed by the Royal Netherlands Embassy to Romania
within the Matra-KAP program.*



Ambassade van het

Koninkrijk der Nederlanden

Summary

- I. INTRODUCTION
- II. RELIGIOUS CULTS IN ROMANIA
- III. THE RETROCESSION PROCESS OF ESTATE BELONGING TO RELIGIOUS CULTS
 - Ownership
 - The legal framework and governmental measures
 - Concrete results
- IV. PROBLEMS ENCOUNTERED IN THE RETROCESSION PROCESS
 - Incomplete legal framework
 - Delays due to the lack of a unified legal framework
 - Slow pace of the retrocession process
 - Delays in adopting the implementation norms of Law 501/2002
 - Local authorities opposing the law
 - Irregularities in the legal system
- V. CONCLUSIONS AND RECOMMENDATIONS

INTRODUCTION

For almost 15 years, every significant report of international bodies that evaluate Romania in terms of respect for human rights have been referring to a seemingly minor issue: retrocession of the estate formerly belonging to religious cults.

For most Romanians, who are Orthodox and consider the church the most reliable institution, beside the army, the problems of religious cults are unknown, as if non-existent. This is the case despite the fact that Romania is a country with numerous and important cults.

In fact, the extent to which the issue of religious cults, of minority churches, in general, has been resolved is connected to the larger context of the development of a normal civil society. The manner in which certain systems of institutions belonging to the minorities – and the church has a well-defined place among these – operates allows us to evaluate the extent to which the minorities can live the specificity of the social, economic, cultural and confessional life.

Is this the case of Romania? This report does not intend to answer this question. Of course post-communist Romania grants the freedom of conscience and of association, it recognizes and supports financially not less than 17 cults and religious organizations, and it has promoted a legislation that in general allows for the optimal functioning of cults.

However, there is still a problem that, after December 1989, has hardly found a solution, and this is – in our opinion – only half a solution. We are talking about the retrocession of estate that formerly belonged to religious cults.

This process is an essential part of the wider retrocession of goods and property confiscated during the communist regime (6 March 1945 – 22 December 1989). Only in the case of cults, as we will show below, there are specific situations, even unique cases.

The present reports aims to analyze the stage of retrocession of the property belonging to religious cults, one year after the effective start of the process, more precisely since Law 501/2002 has been in force.

After a short presentation of the religious cults in Romania, we will analyze the type of ownership, the legal framework in the field, and the concrete results so far. Afterwards, based on some sociological interviews with people who have been directly involved (representatives of most of the religious cults, of the authorities), we identified six major problems that affect the optimal progress of the retrocession process. In the closing party, we will provide a list of conclusions and recommendations.

A special mention must be made. Although the existing legal provisions also refer to the retrocession of goods to the Romanian Orthodox Church (BOR), the present report aims to analyze only the situation of minority religious cults (the traditional Hungarian churches, the Greek-Catholic Church, the Mosaic cult, the Armenian Church, etc.). This does not mean that we are not paying proper attention to the Romanian Orthodox Church. On the contrary; only the problems that occurred in the retrocession process were either characteristic of all cults (including BOR), or especially of the minority cults. Hence, the emphasis on the cases of the minority cults in Romania.

Not lastly, we consider that the present report can provide a perspective on the issues that will emerge shortly in connection with another important issue that Romania has to resolve: retrocession of goods belonging to the ethnic communities. On 2 March

2004, the Parliament adopted a law that allows for this, so the process of retrocession should start soon. We consider that if a series of issues connected to the retrocession of property formerly belonging to religious cults pointed out in this report were taken into account, several shortcomings would be avoided. It is yet to see whether this will happen or not.

Ethnocultural Diversity Resource Center
January -March 2004

RELIGIOUS CULTS IN ROMANIA

- a brief history -

Romania is a state in which about 87% of the population declare themselves of Orthodox religion. (1) However, even if they are a minority, in Romania there is a significant diversity of other cults and religious organizations (see below).

Since it was started as a modern state, Romania has granted free religious practice and the right to freely associate. In this respect the Constitutions of 1866 and 1923 are relevant examples.

For instance, the 1923 Constitution declared the Romanian Orthodox Church the "dominating church in the state" (art. 22), while the Greek-Catholic Church (the second as percentage and importance) was named a "national cult", enjoying "primacy over the other cults". The Law regarding the general regime of cults issued in 1928 pointed out that, in addition to the Orthodox and Greek-Catholic Churches, the other cults were "historical cults". The Greek-Catholic cult was "national", but second rate as compared to the Orthodox Church. Among the first historical cults that were recognized at that time were the Roman-Catholic cult, and the Reformed Calvinistic cult of the Hungarian minority, the Evangelic Lutheran cult of the Saxon communities, the Unitarian cult of the Hungarians, the Armenian-Gregorian cult, the Mosaic cult, and the Muslim cult. The other cults, such as the Neo-Protestant ones, were considered religious associations. (2)

In the inter-war period the Jewish minority had an especially negative situation, as its members belonged exclusively to the Mosaic cult. With the dictatorial regimes of Carol II in 1938 and Ion Antonescu in 1940, an official policy of discrimination against the Jews was imposed, and several racist laws were adopted, which introduced the principle of inequality before the law depending on one's confessional or ethnic belonging. Among the numerous measures of anti-Jewish nature we should mention the law regarding the expropriation of urban Jewish property adopted by the Antonescu regime on 21 March 1941. (3)

On 30 December 1942, in full world war period and in an atmosphere in which any foreign creed or influence were considered a potential threat, the regime of Marshall Ion Antonescu issued a decree by which all religious "sects" of Romania were prohibited (Law 927), and their members were threatened with mass deportation to Transdniestria, where in fact some of them did have to go. The term "sect" in contemporary Romania meant "religious associations", more precisely the Neo-Protestant confessions, such as Baptists, Adventists, Pentecostals, Christians after the Gospel, etc. (4)

After 23 August 1944, the new power in Bucharest abolished all the laws imposed during Carol's dictatorship, as well as those of the Antonescu regime, and from that moment on all the cults in Romania were officially recognized again. (5) After a short time, with the abolition of the monarchy and the dawn of the People's Republic, the New Constitution of 1948 brought yet new changes as concerned religion. Although the Constitution and implicitly the Romanian state granted "the freedom of conscience and religious freedom", or the fact that "all cults are free and equal in front of the law", the communist state – through the regime of cults, issue Greek-Catholic Church, Jehovah's Witnesses and some other Neo-Protestant cults were declared illegal. The latter were accused that their "ideology was close to that of the <<theocratic and anti-Christian legions>> or that they would be the spokespersons of the United States of America", according to the official standpoint of the communist regime. (7)

The Law of religious cults, issued on 4 August 1948, allowed for the supremacy of the state – through the Ministry of Cults, which in 1957 was turned into the Department of Cults – on people's religious life. The communist regime mimed religious freedom through its successive constitutions, although in fact it led an atheist policy in a programmatic manner. The authority of the religious cults was limited strictly to the church buildings, and any visible manifestation was prohibited.

As concerns the reduction of the clergy's role in public life, the government issued Decree no. 176 on 2 August 1948 which stipulated passing the property of churches, congregations, communities or even private persons into the ownership of the state to be used by educational institutions of general, technical or vocational nature.

In this context of oppression, the situation of the Roman Catholic and Greek Catholic churches "enjoyed" more attention from the communist authorities. To make the two churches more obedient, Concord with the Vatican was denounced on 17 July 1948, the aim being discontinuation of all connections with foreign countries. "All that is related to the Holy Sea or that does not accept alignment to the party policy risk accusation of being agents of the Anglo-American imperialism, and most of the time of revisionism – as most of the involved people are priests of Hungarian ethnicity. (8)

So gradually the clergy of the minority churches (but especially of the Catholic and Greek-Catholic) were dismissed or arrested. A document with special outcomes was issued by the Steering Committee of the Romanian People's Republic on 1 December 1948, namely Decree no. 358 "for the establishment of the lawful situation of the former Greek-Catholic Church", through which all its goods were taken over by the Romanian state; subsequently a special commission was going to decide what should be done with these goods. The Commission could "give part of it to the Romanian Orthodox Church or to its various components, the decree of the communist regime added". (9) For the division of the patrimonial goods of the United Church, they issued Decision of the Ministers' Council no. 1719 of 27 December 1948 (published in the "*Monitorul Oficial*", Part IB of 29 December 1948) which set up, by the Ministry of Cults, an inter-ministerial commission that was supposed to distribute the goods of the Greek-Catholic Church, its parishes being handed over to the Orthodox Church.

As a result of these forced measures (10), most of the Greek-Catholic congregation and the clergy (431 priests and 87% of the parishes) accepted to "pass on" to the Orthodox Church, while the congregation that did not wish to give up their religious belonging would be clandestine, while the Greek-Catholic Church was to become one of the "catacombs". (11)

A series of other nationalizations also took place in the 50's, and in this way many of the buildings and of the lands were taken over without legal rights to do so.

To conclude, from 1948 to 1989 the communist regime would lead a policy of mitigating the existence of ethnic (a name replaced by the specific term of "co-existing nationalities") or religious minorities, although officially Romania was mentioned as a country where numerous confessions "converged", who live together "in good understanding" and in an atmosphere of tolerance, including religious tolerance. Between the Orthodox Church, the majority, and the other officially recognized cults there would permanently be an "ecumenical dialog", in fact ceremonies of reaffirmation of subjection to the powers of the time. (12)

After the fall of communism, the situation of the churches and of the religious cults improved significantly, at least as concerns acceptance and official recognition. As for the Greek-Catholic Church, this entered into legality immediately after the revolution, when in the basis of Decree 9 of 31 December 1989 it was granted the freedom to exist and to function.

However, as concerns the chapter about religious freedom, in Romania things evolved with some difficulty, if we were to remember in this respect the late (May 2003) recognition by the state of the organization called Jehova's Witnesses.

At present, in Romania the following religious cults and organizations are recognized: the orthodox Church (18.82 million persons declared themselves members of this confession in the 2002 Census), the Roman-catholic Church (1.02 million members); the Greek-Catholic Church (191,556 members); Protestant cults: the Reformed Church (701,077 members), the Evangelical Church of Augustan Confession (8,716 members), the Evangelical Lutheran Synod-Presbyterian Church (27,112 members), the Unitarian Church (66,944 members); the Armenian Church (687 members); the Old Rite Christian Cult (38,147 members); Neo-Protestant Cults: the Christian Baptist Church (126,639 members), the Pentecostal Cult (324,462 members), the seventh Day Adventist Church (93,670 members), the Christian Cult by the Gospel (44,476 members), the Evangelical Cult (18,178 members); the Muslim Cult (67,257 members), the Mosaic Cult (6,057 members); other religions, including the organization Jehova's Witnesses (88,509 persons). At the last census, another about 33 thousand people declared they were without religion, atheists, or they did not wish to make public their religious belonging.

(1) According to official data collected at the last census in 2002.

(2) Olivier Gillet, *Religie și naționalism*, Editura Compania, Bucharest, 2001, p. 46

(3) Victor Neumann, *Istoria evreilor din România*, Editura Amarcord, Timișoara, 1996, pp. 211-215. For all the anti-Jewish legislation in this period, see *Evreii din România între anii 1940-1944*, vol. I, *Legislația antievreiască*, ed. Lya Benjamin, coord. Sergiu Stanciu, Bucharest, Edit. Hasefer, 1993.

(4) For the history of Evangelical churches in Romania there are few studies, and those that do exist have a rather devotional nature, with accentuated, even exaggerated, personal touches. However, there is useful information to be found in Alexa Popovici, *Istoria baptilor din România. Curs predat la seminarul teologic baptist din Bucharest, România*, vol. I, 1856-1919, vol. II, 1919-1944, Chicago, Editura Bisericii Baptiste Române, s.a.; Ioan Bunaciu, *Istoria Răscăltării Credinței Creștine Baptiste în România*, Bucharest, Editura Uniunii Comunităților Creștine Baptiste, 1981; Earl A. Pope, „Protestantism în România”, in vol. Sabrina Petra Ramet, *Protestantism and Politics in Eastern Europe and Russia. The Communist and Postcommunist Eras*, Durham and London, Duke University Press, 1992, pp. 157-208; Ioan Bunaciu, Otniel Bunaciu, *Istoria răscăltării credinței creștine baptiste*, Bucharest, Editura Universității, 1997, especially part II (written exclusively by Ioan Bunaciu), „Bisericele creștine baptiste din România, după 1944. Oameni, fapte, împliniri”, pp. 87-241; Ioan Pop, „Persecuția religioasă între anii 1920-1944”, in *Libertatea religioasă. Contribuția baptilor la dezvoltarea acestui concept*, Oradea, Editura Cartea Creștină, 1995, pp. 101-119; Trandafir Sandru, *Biserica Penticostală în istoria creștinismului*, Bucharest, Editura Bisericii lui Dumnezeu Apostolice Penticostale din România, 1992, pp. 123-168; Eliezer Măcearu, *Adunările Creștine după Evanghelie în*

istoria creștinismului la români (1899–1943), graduation thesis, Institutul Biblic Român, Facultatea de Teologie Pastoral-Didactică, Bucharest, 1997.

(5) After 6 March 1945 the following cults were recognized: Seventh Day Adventist, through the Decree Law no. 407 of 1946 (in "Monitorul Oficial", no.126 of 3 June 1946); the Old Christian Rite Cult (Lipovan), through Decree Law no.722 ("Monitorul Oficial" no. 212 of 15 September 1946); Christian Cult After the Gospel, through Decree Law no. 883 ("Monitorul Oficial" no. 264 of 9 November 1946). Another seven religious associations were also recognized.

(6) Decree no. 177 of the Large National Assembly regulated the general regime of religious cults. The priests started to receive their salary from the state, and the church was controlled by the state. According to Art. 29, the goods and estate of religious cults of the various constitutive parts, endowments, associations, orders and congregations were going to be inventoried by their statutory bodies. The central bodies of the religious cults were going to communicate all data concerning these inventories to the Ministry of Cults, so that it can exert its right to control. In addition, all the cults had their own budgets, and these are subject to the control of the Ministry of Cults.

(7) Olivier Gillet, *Religia în comunism, Ideologia Bisericii Ortodoxe Române sub regimul comunist*, translated into Romanian by Mariana Petrică, Editura Compania, Bucharest, 2001, p. 49

(8) Andreea Andreescu, Lucian Nastasă, Andrea Varga, *Materialuri documentare. Maghiarii din România (1956-1968)*, Ethnocultural Diversity Resource Center, Cluj-Napoca, 2003, p. 34

(9) Decree no. 358 regarding the establishment of the lawful situation of the former Greek-Catholic cult.

Art. 1. Subsequent to the passage of the local communities (parishes) of the Greek-Catholic cult to the Romanian Orthodox cult, and in conformity with Art. 13 of Decree 177 of 1948, the central and statutory organizations of this cult, such as: the *Mitropolia*, the bishoprics, the capital, the orders, the congregations, the monasteries, the foundations, the associations, as well as any other institution and organization, whichever their nature or name, stop existing.

Art. 2. The moving and fixed assets belonging to the organizations and institutions listed in Art. 1 of the present Decree, with the express exception of the goods of the former parishes, shall become the ownership of the Romanian State, which shall take them over immediately.

An interdepartmental commission including delegates of the Ministries of Cults, Finances, Home Affairs, Agriculture and Land, as well as Public Education, shall decide upon the fate of these goods, having the authority to allocate some of them to the Romanian Orthodox Church or its various components. Passed in Bucharest on 1 December 1948.

(10) The dismantling of the Greek-Catholic Church also had a clear economic dimension, besides the political and religious aspects. According to the data presented by Oliver Gillet in the above-mentioned volume (page 196), the Greek-Catholic Church (which represented about 8% of the population of the country in 1948) held 3,130.42 ha of arable land and 3,082.45 ha of forests, while the Orthodox Church (70% of the population) held only 1,713.42 ha of arable land, and 2,519.81 ha of forests.

(11) For these aspects, see Ioan-Marius Bucur, *Din istoria Bisericii Greco-catolice române (1918-1953)*, Cluj, Edit. Accent, 2003, pp.202-261.

(12) The cults were obliged to spread in the world all the major themes of the communist governments. Thus, they denounced the campaigns abroad meant to spread the information that in Romania the co-existing nationalities and the confessional minorities were deprived of freedom. For instance, in an official document dated in 1987, the following was stated: "In reply to the inopportune and unjustified publication of some false data regarding the history of the Romanians in Transylvania, but also to the propaganda carried out in inimical circles abroad connected to the so-called lack of national and religious freedom in Romania (...) we mention the unquestionable historical proofs for the permanence and continuity of the Romanian people in Transylvania, its Christianity, hospitality and tolerance proven to all that came to settle on the land inhabited by it, and describe the relations of good understanding and collaboration that exist between the Romanian people and the co-existing nationalities ". (Cf. Oliver Gillet, *op. cit.*, pp 214-215)

THE RETROCESSION PROCESS OF ESTATE BELONGING TO RELIGIOUS CULTS

Ownership

As mentioned above, the fall of the communist brought along important changes as concerns the freedom of minority churches in Romania. However, one important issue was still unresolved: their right to ownership over their former belongings.

Romania's new Constitution adopted on 21 November 1991 (13), which among others included a new conception about ownership, but also the Constitution revised in 2003 (14) opened the way and allowed for the adoption of some special regulations as concerns ownership, denying in principle the legality of abusive confiscation carried out by the communist state.

Gradually, as a result of international pressure and the commitments made by Romania as concerns accession to the European institutions (Council of Europe, and especially the European Union), the first post-communist governments adopted a series of special normative documents that stipulated the retrocession of estate and goods that were abusively confiscated by the communist state, or the provision of damages to people and organizations that lost their rightful ownership of either estate, constructions, industrial property, or other valuable assets. (15)

Especially because the Greek-Catholic Church was considered a special case, several attempts were made to regulate its patrimonial situation. Thus, on 24 April 1990, Decree Law no. 126 was approved, which stipulated that "the goods confiscated by the state as a result of Decree no. 358/1948, with the exception of lands, to be found at present in the state patrimony, are returned in their current state". In this normative it was also stipulated that where the number of church buildings was insufficient as related to the number of the congregation, the state "shall support the building of new churches through making available the necessary land and financial means. As concerns the goods taken over by the Orthodox Church, Art. 3 of Decree Law no. 126/1990 stipulated, "The legal status of the church buildings and parochial houses that used to belong to the Romanian Church United with Rome, and had been taken over by the Romanian Orthodox Church, shall be established by a mixed commission made up of clergy representing the two cults, bearing in mind the wish of the congregations in the communities that hold

these goods". In the first phase, based on Art. 2 of the Decree, 80 buildings and building land were passed from state ownership to that of the Greek-Catholics, through Governmental Decision no. 466/1992 (16). Later, the Mixed Commission established the retrocession of some buildings to the Church United with Rome, but this process has been very difficult and carried out with numerous disputes with the majority church.

(13) Out of the principles introduced by the Constitution of 1991 we mention: private property is equally protected by the law, regardless of the owner; no-one can be expropriated unless for the sake of a public utility; goods acquired legally cannot be confiscated; the legal nature of the acquisition is presumed.

(14) The Constitution revised in 2003 stipulates, in Art. 44, regarding private ownership:

- (1) The right to ownership, as well as participation in co-ownership with the state, is granted. The content and the limits of these rights are established by the law.
- (2) Private ownership is granted and protected equally by the law, regardless of the owner.
- (3) No-one can be expropriated unless for the sake of a public utility, established in accordance with the law, in the conditions of rightful and previously paid damages.
- (4) Nationalization or any other measures of forced passage into public ownership of goods based on social, ethnic, religious, political or other discriminatory belonging of the owners is prohibited.

(15) Of the numerous critiquing attitudes adopted by the international community, we mention Resolution 1123/24 April 1997 of the Parliamentary Assembly of the Council of Europe which "encouraged Romania to regulate the issue of retrocession of confiscated or expropriated estate ". On 3 December 1998, the European Parliament adopted Resolution no. A4-0428 which asked Romania "to identify a definitive and correct solution that will ensure the integral retrocession of property or, if this is impossible, the payment of a commensurate compensation". Similar standpoints are also found in each Country Report of the European Commission or in those of the USA State Department.

(16) The Governmental Decision 466/1992 was adopted in the context in which Romania wished to obtain the status of member of the Council of Europe. One of the requirements in this sense was retrocession of the assets of churches.

Legal framework and governmental measures

Even if there were previous attempts, more exactly a special governmental decision was passed, the issue of retrocession of estate that used to belong to ethnic communities or religious cults was generally included on the agenda of discussion only in 1996-97, when a reforming coalition came to power, including the Democratic Convention of Romania (CDR), the Democratic Party (PD), and the Democratic Alliance of Hungarians in Romania (UDMR). (17)

In this period, emergency ordinances were passed regarding the retrocession of property confiscated by the communist regime which, in the annexes, contained some estate belonging to various religious cults or ethnic communities. We should point out here the retrocession of some symbolic buildings belonging especially to the Jewish

community, as a consequence of Law 140/1997 regarding the approval of Emergency Ordinance no. 21/1997, and Emergency Ordinance no. 13/1998.

Although these retrocessions were finalized to some extent one could not speak about a general framework of retrocession of church property.

Until Law no.10/2001 was issued, the general legal regime of retrocession of assets that used to belong to religious cults was regulated by the Emergency Ordinance of the Government no. 94/2000. The above-mentioned document treated the problem of retrocession from a limited perspective, in the sense that it allowed for the retrocession of only 10 buildings for each religious cult. (18)

A person that was directly involved in this process states, "When work was being done on the elaboration of Law 10, that is somewhere 1998-99, the draft that was prepared was sent for approval to the Department for the Protection of National Minorities, where Eckstein Kovacs Peter was minister. Seeing that work was done on a general law of estate retrocession, I suggested the inclusion of the religious cults, too. Since from the <<philosophical>> point of view, this referred first of all to private ownership, we reached a compromise and included an article in the law, article 8, paragraph 2, which laid down the requirement to subsequently elaborate and adopt a new special normative in this issue. So we made reference to the future law and added a note which prohibited the estrangement of estate that might be claimed" (19)

Over two more years were to pass from these events until Law 501/2002 appeared (20). These years were marked by negotiations between the party at government at the time, the Social-Democrat Party, and the Democratic Alliance of Hungarians in Romania (UDMR), to close protocols of collaboration at the parliamentary and local levels. In 2001 and in 2002 these protocols included the issue of developing the legal framework that would allow for the retrocession of religious cults. In addition, in all this time, there were several meetings of the heads of the historical Hungarian churches and Prime Minister Adrian N stase, while the Jewish community (both that in Romania and international organizations) lobbied to support the resolution of this issue.

Coming back to an idea mentioned above, we must say that the adoption of Law 501 was not an action of political will, but rather the consequence of pressures, resolved by circumstantial solutions. Thus, for the adoption of the law, advantage was taken of the existence in the parliamentary circuit of the Emergency Ordinance no. 94/2000, which was substantially amended in the parliamentary commissions. Thus, from an ordinance with only a few articles and which aimed at a partial approach of the issue of religious estate retrocession, we ended up with Law 501, which was adopted in a state of emergency by the two chambers of the Legislative power. (21)

In the authorities' opinion Law 501/2002 managed to impose some important issues for the reparation of past injustice and for the more efficient implementation of the retrocession process. Thus:

- the area of retrocession of estate belonging to religious cults was extended through the removal of the initial limitation to maximum 10 estates;
- the possibility of retrocession is granted also in the cases in which the claimed estates are destined to activities of public interest;

- the possibility is granted for retrocession of goods destined to the functioning of the religious cult, provided they were taken over at the same time when the estate was taken over abusively, and if they still exist at the time of retrocession;
- a special commission for retrocessions was set up, including a smaller number (5 as compared to 7) of members, and equipped in order to raise the efficiency of the decision-making process (thanks to the specialists of the Ministry of administration and Home Affairs – the Authority in charge of the monitoring of the unitary implementation of Law no. 10/2001)
- tighter deadlines were set for the analysis and issue of the decision of retrocession (i.e. 60 days from the submission of the request for retrocession and of the evidence of previous ownership). (22)

Governmental Decision no. 1164 of 17 October 2002 approved the Methodology for the application of the Government's Emergency Ordinance no. 94/2000, as well as the Regulations regarding the organization and functioning of the Special Commission for Retrocession, including its composition (Monitorul Oficial al României [Romania's Official Journal], part 1, no. 805/6.11.2002)

The Ministry of Administration and Home Affairs, through the president of the Authority for monitoring the unitary implementation of Law no. 10/2001, ensures the coordination of this activity. In this context, at the head office of the Authority, both the logistics and the specialized personnel were made available to cover work at the technical secretariat of the Special Commission for Retrocession.

At the first deadline for the submission by the religious cults of requests for retrocession, i.e. on 4 March 2003, the situation was as follows:

Total requests for retrocession in the country: 7,568

The structure of the cults submitting requests:

- Romanian Church United with Rome (Greek-Catholic) – 2,207
- Mosaic Cult – 1,809
- Roman-Catholic Church - 992
- Reformed Church - 899
- Orthodox Church – 770
- Evangelical Church – 690
- Other cults - 201

Concrete results

A year after the effective start of the process of estate retrocession to religious cults, the situation is not very good.

Out of the 7,568 requests for retrocession, the Special Commission for the implementation of Law 501 – who state they have analyzed all the requests – approved 631 files of retrocession.

The situation of the approved files, on December 31, 2004, was as follows:

- Orthodox Church – 127
- Roman-Catholic Church – 145
- Romanian Church United with Rome (Greek-Catholic) – 56

- Reformed Church – 169
- Mosaic Cult – 50
- Evangelical Church C.A. (Germans) – 36
- Lutheran Evangelical Church S.P. (Hungarians) – 12
- Unitarian Church – 31
- Armenian Church – 2
- Muslim Cult – 2
- Seventh Day Christian Adventist Church – 1.

Although the major objective of the Commission for this year is to finalize the retrocession process, this target is unrealistic for at least two reasons: 2004 is an electoral year, when politicians and public servants, traditionally, have other priorities.

In addition, the slow pace of the process so far does not leave room for hope that something spectacular will happen from here on. Even though, according to the official estimates of the Special Commission for Retrocession, the number of files likely to be approved is only 2,500, in the pace of retrocessions so far almost ten years would be necessary for them all to be resolved. The files that do not allow for the retrocession of the estate claimed do not fall under the incidence of Law 501 because they either aim at land out of the towns, or for damages concerning demolished buildings, which is beyond what the current legal framework regulates. (23)

(17) It is worth mentioning this because out of the interviews with people directly involved in this process it resulted that the presence of UDMR in the Government was decisive as concerns the elaboration and application of the laws regarding the retrocession of estate confiscated in the communist regime.

(18) Information provided by the Authority for monitoring the unitary application of Law no. 10/2001, concerning the legal status of buildings taken over abusively from 6 March 1945 to 22 December 1989.

(19) Interview with Attila Marko, sub-secretary of state at the department for Interethnic Relations, vice-president of the Inter-Governmental Commission for the application of Law 501.

(20) Published in the *Monitorul Oficial al României* [Romania's Official Journal] no. 561, Part I, of 31 July 2002

(21) Interview with Attila Marko, sub-secretary of state at the department for Interethnic Relations, vice-president of the Inter-Governmental Commission for the application of Law 501.

(22) Information provided by the Authority for monitoring the unitary application of Law no. 10/2001, concerning the legal status of buildings taken over abusively from 6 March 1945 to 22 December 1989.

(23) *Idem*

PROBLEMS ENCOUNTERED IN THE RETROCESSION PROCESS

Although at first sight the process of retrocession of assets belonging to the religious cults in Romania started to be done with certain constancy, since it finally has

the explicit legal framework to be applied, in reality this process is difficult. In addition, the current legislation does not meet the expectations of all religious cults.

After several discussions with representatives of the religious cults in Romania, we have identified several sets of problems, which we will present below.

1. Incomplete legal framework

The entire legislation adopted so far in Romania as concerns retrocession of goods confiscated in the communist regime is not compensatory (since the principle of *restitutio in integrum* was not applied) but only reparatory.

The adoption of a comprehensive legislation in this domain proved difficult and it was the outcome of compromise policies, international pressure or pressure from those directly involved. In other words, **the successive governments of Romania did not lead a coherent and clear policy as concerns the retrocession of goods confiscated by the communist regime.**

Although the representatives of all the religious cults were consulted in the process of elaboration of the law, most of the amendments suggested by them were not taken into account.

Most of the discontent is connected to the fact that only buildings, other than churches, and the land they stand on make the object of retrocession, according to the current legal framework.

From discussions with the representatives of religious cults we have found that they consider legitimate **the retrocession of land within towns that does not hold buildings any longer** (either because they have been demolished or because they were housing estates) or the **reconstitution of ownership elsewhere**. There are numerous cults that have buildings in towns, with a lot of adjacent land which was divided into smaller strips and allocated to various owners, and now the respective cult can only recover the building and the land strictly around it. There is also a large number of cases where buildings were demolished, and now the land that used to belong to the religious cult cannot be claimed. The authorities are anyway very skeptical about this problem and whether they may be solved soon. (24)

There has also been discontent expressed by some religious cults, especially the Mosaic Cult, that **the legislation does not allow for the retrocession of estate confiscated or nationalized before the rise of the communist regime**, more precisely in the period of Carol's dictatorship, or that of Marshall Antonescu's. (1940-1944). (25)

It is, however, worth mentioning here that the recently passed Law concerning retrocession of community property expands this period of time, covering the period demanded by the Mosaic Cult.

Another issue that is not covered by the current legislation is that **there are no legal provisions for the retrocession of nationalized churches**. This issue affects mostly the Greek-Catholic Church. Its representatives are very displeased by this aspect, "Law 501/2002, and Emergency Ordinance 94/2000, represent a step forward, but for the United Church they remain discriminatory laws. The state thus prevents the retrocession of some estate that was abusively confiscated, i.e. around 1,800 buildings belonging to the cult. (...) In fact, it does not only exclude them, but it does not even initiate another

law that would regulate the situation of such estate, which were confiscated from the Greek-Catholic". (26)

The representatives of the United Church consider that the measures taken so far by the Romanian state are insufficient for restoring the church into its lawful rights. Although based on HG no. 466/1992, 80 buildings and lands for construction were passed from the ownership of the State to that of the Church, so far not all of them have been returned to the Greek-Catholics. (27)

The legal situation of buildings belonging to the cults, the parish houses that belonged to the Greek-Catholic Church and were taken over by the Romanian Orthodox Church (BOR) has been established, since 1990, by a mixed commission including clerical representatives of the two religious cults, bearing in mind the wish of the congregations in the communities that own these goods. According to official data, until the end of 2003 BOR returned to the Greek-Catholic Church about 160 churches, including three episcopal cathedrals (Blaj, Cluj and Lugoj). This has been done so far, although the Greek-Catholics claim that about 2,600 buildings were taken away from them (28).

The Romanian state does not want to get involved in the negotiations between the two churches, but it prefers to "mediate directly" when there is misunderstanding. Except for this, it "promotes dialog". (29)

Not lastly, there are estates that belonged to various religious cults and that at present have an **uncertain legal status or a legal status that is difficult to clarify**. This refers to goods that were taken over by the communist state in rather unclear circumstances. Such is the situation of the Ana Melik House in Bucharest, the present host of the Theodor Pallady Museum. The house was originally donated by Ana Melik to the Armenian Church, but later it was taken over by the Romanian State through a forced donation. The Armenian Church has been suing the Romanian state for many years to annihilate the 'donation'. At present, the process is in the phase of recourse at the Supreme Court of Justice. At the same time, they are waiting for a decision of the Special commission for the application of Law 501 regarding the legal status of the building. (30)

(24) Interview with Attila Marko, sub-secretary of state at the department for Interethnic Relations, vice-president of the Inter-Governmental Commission for the application of Law 501. He added that he does not believe that a change of the current legislation is possible, although he agrees that the claims of all religious cults to recover their lands that used to hold buildings (now demolished) are legitimate.

(25) Interview with Tova Ben Nun, executive director of Caritatea Foundation, of the Federation of Jewish Communities in Romania. The Foundation, founded together with the World Jewish Organization for Restitution (WJOR), deals with the issue of retrocession of the estates belonging to the Jewish community.

(26) Interview with Mircea Marian, eparchial councilor on mass media issues at the Greek-Catholic Bishopric of Cluj-Gherla

(27) *Idem*

(28) "The Commission for Dialog is totally inefficient. It has proven to be only a barrier to all processes of normalization in the situation of the Romanian Church United with Rome", it is said in a press release on 26 January 2004 of the General Association of United Romanians (AGRU). Organizations of the Greek-Catholics launched several protests at the

international level petitioning for the restoration of the Church united with Rome in its lawful rights.

(29) Public information communicated by the Minister of Culture and Cults R. Zvan Theodorescu, in December 2003. Theodorescu pointed out that lately the Greek-Catholic Church has received from the budget three times more money than it would have been legal if the results of the 2002 census had been taken into account. Some of these funds were spent on building church property.

(30) Interview with Dolmanian Mahitar, councilor in the Eparchial Council of the Armenian Church.

2. Delays due to the lack of a unified legal framework

Romania did not have from the very beginning a clear approach of the issue of retrocession of goods confiscated from religious communities by the communist regime. In the absence of a unitary legal framework, **the ambiguity and lack of clarity of the normative acts that preceded Law 501 led to a situation in which a series of estates included in its annex could not be returned**, and thus the activity of the Special Retrocession Commissions, set up in the basis of these Emergency Ordinances was prevented by various legal or technical issues. Hence, the numerous delays in the process of retrocession. .

The first decision was the Government's Decision no. 466 / 1992, which helped the retrocession of several estates to the Greek-Catholic Church. We have seen above that not even today has this cult recovered all their buildings, due to the numerous legal actions that contest their right.

The following decisions aimed especially at the Jewish community. Thus, in the basis of Emergency Ordinance no. 21/1997 six estates were returned, out of which one – the Jewish State Theater – has not been officially taken over to this day. In the following year Ordinance 112/1998 was issued, which allowed the Jewish community to recover 3 buildings. Other 12 estates were returned to them through Emergency Ordinance 83/1999, two of which are still in the process of being returned. The last document issued by the Government, HG 1334/ 2000, made it possible to recover 20 estates, whose process of retrocession is being finalized currently. (31)

However, one of the most delicate cases of retrocession is that of the Batthyaneum Library in Alba Iulia. Through Emergency Ordinance no. 13/1998, the Government decided to return this estate to the Roman-Catholic Church. Almost immediately, however, the county branch of the PDSR (the current government party, PSD) attacked the decision demanding the court to remove the building of the library from the list of buildings to be returned. After a process that lasted for about 5 years, the action was rejected, and meanwhile the ordinance was passed through Parliament and became a law. Despite these, the library was still not handed over by the Romanian State, and the Special Retrocession Commission is going to reanalyze the file. (32)

The Ministry of Culture and Cults and the Roman-Catholic Archbishopric are going to sign a protocol for the Batthyaneum Library to operate in the same building in Alba-Iulia, and the collections of the library (over 1,200 manuscripts, 600 incunabula, 50,000 volumes printed in the 16th -18th centuries and 19,000 historical documents) shall not be moved.

(31) Report of the "Caritatea" Foundation, August 2003

(32) Interview with Komaromi Attila, legal councilor of the Roman-Catholic Bishopric of Alba-Iulia. We are listing briefly the major stages of the process: at the beginning, the Alba-Iulia Court declined its competency in favor of the Court of Appeal. The claimants (PDSR, Ministry of Culture and Cults – MCC and the National Library of Romania - BNR) made an appeal to the Alba Tribunal, which passed on the case to be re-judged. Meanwhile, the claimants raised an exception of unconstitutionality which was rejected in 2000 by the Constitutional Court. As a result, the Alba Iulia Court took over the case again, rejecting in March 2002 the action of the claimants, as well as the forced intervention of MCC and BNR. The sentence was subsequently attacked by an appeal, and recourse to the Court of Appeal of Alba Iulia.

3. Slow pace of the retrocession process

Above, we showed that since the effective start of the process of retrocession of the religious estates, based on Law 501/2002, only 346 files (out of a total of 7,568 files submitted) were approved. According to the Special Commission of Retrocession there are only cca. 2,300 files that stand a good chance of being approved.

Why are there so few files that meet the requirements for retrocession? The official answer is that this is due to "insufficient proofs handed in by the cults that claim retrocession of estates". (33)

However, the cults blame the **difficulties encountered in obtaining the necessary documents** when they try to prove the fact that they are the rightful owners. The law is quite flexible as concerns the documents, because it does not explicitly ask for an extract after the estate register or a proof such a contract of purchase. A series of other documents are accepted by the law, starting with the fiscal role (which proves that the taxes for the building have been paid) to simple statements of the neighbors of the building.

However, the difficulties abound. A representative of the Roma-Catholic Church sums it up like this, "There were several problems when the applications for retrocession were elaborated: the lack of extracts from the land register from the courts (some registers simply disappeared); in some cases ownership was unclear. Some apartments or shops had been sold by the town hall, but ownership was not recorded in the register, and in these situations we do not know the current owners. In some cases the structure of the estate has been changed, i.e. some have been extended, others have been demolished, or new ones have been built instead of the old ones, etc. Not lastly, the inventories of the movables in the buildings were taken over at the same time when the buildings were". (34)

There are special problems in Moldova, where the precarious proofs of ownership documents add to the fact that the archives burnt.

However, it is not the proofs of ownership that cause the major problems, but rather the lack of documents which must be submitted not by the cults, but by the local authorities or those that are the current administrators of the estate that is being claimed. These are documents that should prove the current use of the estate, the area of the land, the total area of the building, i.e. the sort of information that makes registration and effective return of ownership impossible.

Lack of cooperation of the local authorities or the current holders of the estates that are claimed has been another type of often mentioned problems. A representative of the Mosaic Cult said, "We have problems with the local authorities as concerns obtaining the legal documents for the estate we claim. According to the law, we are responsible for finding out what is the situation at present from the legal point of view with the claimed building. So we ask the local authorities, but they simply do not reply or they do after a very long time. Even the Commission for the application of Law 501 ask for these pieces of information in parallel, but they don't obtain them because there is no way you can force the local authorities. When some tougher measures can be taken to oblige the local authorities to answer our requests, then we hope something will be done about retrocession". (35)

The conclusion has been drawn by a representative of the Roman-Catholic Church, "Very many of the estates that are in the process of being returned are in the ownership or use of the local authorities, and they have no interest in speeding the process." (36)

When confronted with this situation, the Special Commission for retrocession has tried to show a flexible attitude, at least by the fact that they did not fix deadline for the claimants to produce the documents. "The fact that apparently the Commission works with difficulty is however to the advantage of the cults. Maybe in 2-3 months the mayor who is obliged to provide information about the claimed building will really do so, or maybe new information comes up. Therefore, I say in terms of reparatory laws all these terms that the law establishes – for completing the documentation, for making decisions – are in fact to the advantage of the claimant", says the vice-president of the Commission. (37)

(33) According to the Authority for the monitoring of the unitary application of Law no. 10/2001, concerning the legal status of some estates that were taken away abusively in the period between 6 March 1945 – 22 December 1989.

(34) Interview with Komaromi Attila, legal councilor of the Roman-Catholic Bishopric of Alba-Iulia.

(35) Interview with Tova Ben Nun, executive director of the Caritatea Foundation, of the Federation of Jewish Communities in Romania

(36) Interview with Komaromi Attila, legal councilor of the Roman-Catholic Bishopric of Alba-Iulia

(37) Interview with Marko Attila, sub-secretary of state at the Department for Interethnic Relations, vice-president of the Intergovernmental Commission for the application of law 501.

4. Delays in the adoption of the implementation norms of Law 501/2002

According to the legislation in force, the religious cults have the possibility to receive compensatory payment for the estates that cannot be returned in nature or they can receive a monthly rent for the estates that were taken over without a title, and which house schools, kindergartens, hospitals, placement centers, sanatoriums, asylums, and which stay in the use of the old owners for a period of five years from the issue of the decision for retrocession.

However, the legal norms that establish the quantum of the damages or of the rent have been elaborated with quite some delay, which displeased the representatives

of the religious cults that had already recovered their estates or that are entitled to receive damages. (38)

Out of the numerous cases we will mention just a few: Industrial School "Timpuri Noi", the old secondary school "Ciocanul" (partial), Industrial School "Unirea", in Zborului Street, "Anton Pann" School and a kindergarten that is not used any more in Calea Dudești, all in Bucharest and returned to the Jewish community; the building of the old Roman-Catholic Gymnasium in Țirgu Secuiesc (which currently houses the Nagy Mózes Secondary School), the building of the old Main Catholic Gymnasium in Miercurea Ciuc, (which houses two schools - Márton Áron School and a Roman-Catholic Gymnasium), the headquarters of the old Catholic Girls' Gymnasium in Gheorgheni and the buildings of some smaller confessional schools, etc; the old Armenian School in Roman (which is currently the Children's palace).

The representatives of the cults are discontented because although they have recovered the estates, they don't know yet the quantum of the rent they can claim from the old owners. In addition, many consider that this quantum – which was established by the Government's Decision no. 244/2004, of 20 February 2004, by categories of users – is a symbolic amount, which does not reflect the prices on the free market and which "will not compensate in an acceptable manner the lack of access to the building for the period established in the law". (39)

The authorities state that they know about these problems and they also say that the delays in the adoption of HG 244/2004 were due to the difficult circuit of approvals of the Government's Decision. However, it is good for the cults to know that although the Government's Decision concerning the quantum of the damages and rents was approved only in 20 February 2004, this law will apply retroactively". (40)

(38) Interviews with Komaromi Attila, legal councilor at the Roman-Catholic Bishopric of Alba Iulia, with Tova Ben Nun, executive director of the Caritatea Foundation, of the Federation of Jewish Communities in Romania, and with Dolmanian Mahitar, councilor within the Eparchial Council of the Armenian Church

(39) Interview with Tova Ben Nun, executive director of the Caritatea Foundation, of the Federation of Jewish Communities in Romania

(40) Interview with Marko Attila, sub-secretary of state at the Department for Interethnic Relations, vice-president of the Intergovernmental Commission for the application of law 501

5. Local authorities opposing the law

Although there is a clearly defined legal framework, and the Commission for the application of Law 501 issued decisions of retrocession, in many situations **entering into possession of the estates is delayed by the contestations in court submitted by the local authorities**. In most of the cases the contestations have no legal fundament, and they are simply submitted out of the desire to oppose the law. The champion in this respect is the Town Hall of Cluj-Napoca, where all the decisions of retrocession so far have been contested in court.

The most affected by this situation seems to be the Mosaic Cult. "We have problems in Timișoara, where the Prefect encouraged the School Inspectorate to attack the decision of the Commission of retrocession about the return of a school. This

although the decision of the Commission is final, and the Commission is named by the State. It is therefore outrageous that the state contests its own decisions. In addition, in Cluj, the decision of retrocession of two of the Jewish estates was attacked with no reason by the Mayor of the city. (...) We have tried to discuss with the local authorities, and the Prefect of Timi oara promised that he would retract his contestation. He has not done it yet, but he told us clearly that he has submitted a contestation so that the people would not accuse him of not putting up a fight against retrocession of the claimed buildings. As for Cluj, I met with Mr Funar, who told me that he is ready to cooperate. I hope this will happen." (41)

The representatives of the Commission for retrocession are aware of this state of facts, but they say they cannot do anything. "There is a law which seems to be only for some. The fact that the City Hall of Cluj attacked all our decisions is after all a political case. (...) In most of the cases, the decisions to contest in court are only fueled by the sheer wish to oppose the process of retrocession and to gain a positive image among the local communities. It is obvious that the population that does not belong to those cults will always be against retrocession of estates. This is not a normal situation, because we have a law that should be respected. (42)

(41) Interview with Tova Ben Nun, executive director of the Caritatea Foundation, of the Federation of Jewish Communities in Romania

(42) Interview with Marko Attila, sub-secretary of state at the Department for Interethnic Relations, vice-president of the Intergovernmental Commission for the application of law 501.

6. Irregularities in the legal system

Although the laws of retrocession of the goods confiscated in the communist regime states very clearly that **property that is liable to be returned to the old owners cannot be estranged until the legal status is clarified, there are quite a few cases in which this is done, despite the law.**

The authorities know about such cases, but they cannot do anything to stop them, leaving all that is to be done to justice, and the efforts of the religious cults. "The situation is real, but in these cases the Commission for Retrocession cannot really do anything, because it does not have the authority to attack a sales contract or a contract of estrangement of any type. Here the cults should step in and attack in court the contracts of sales, because they break Article 8 of Law 10/2001, which states that there is an interdiction on the estrangement of the estates that are liable to be returned to the old owners". (43)

The irregularities in the Romanian legal system, generated first of all by corruption and disorder, have led so far to situations that are close to absurd.

In the following, we will present a symptomatic case in this respect, which – though it refers to estrangement prior to the adoption of Law 10/2001 – is relevant for the problems created by the delayed adoption of a reparatory legislation for the estates confiscated in the communist regime.

For over ten years, the Serbian Orthodox Community in Timi oara has been trying to re-enter in the possession of the House with Atlantes, a building in the middle of the city, which they claim as heirs of the "Makry Stojkovici" Foundation, the initial owner of

the building. The community asked the court of justice to partly annul the certificate of ownership issued by the Ministry of Industries for the benefit of the company called SC Termovest SA, as well as to annul the certificate of ownership for a piece of land of 2168 square meters, in the property of the same company. The process, which is still being judged, and which is going to be re-judged at the Alba Iulia Court of Appeal, is complicated by the "maze" generated by the legal situation of the estate. Bankrupt, the company Termovest sold the estate (although the right to ownership over it was being contested in justice) to a controversial local business person, Mujea Marcelini, who then closed several accommodation contracts and sales contracts for the estate. The Romanian State, through the Regional Customs Office, is also involved in this process, as it is interested in recovering some damages from Mujea Marcelini, so it sequestered the building. The case of "Casa cu Atlas I" is far from being closed, and the retrocession of the estate to the legitimate owner is not likely to happen very soon. (44)

On the other hand, an outstanding case which illustrates the poor functioning of Romanian justice is represented by the efforts of the Greek-Catholic Church to recover some of the religious estates. As, according to the statements of the representatives of this church, the negotiations with the Romanian Orthodox Church have been difficult, they have turned to justice to recover some of the estates. Only, in very many situations, the Greek-Catholics complain that the Romanian legal system is not correct. (45) Another symptomatic situation is that of the evacuation of the Greek-Catholic priest from his parish house in the village of Ardud, Satu Mare County. Evacuation was done on the basis of a definitive sentence passed upon the request of the Orthodox priest in the village. However, the sentence is contested by the Greek-Catholics because it was passed based on a document of ownership that was later annulled.

Confronted with this state of facts, the representatives of the Greek-Catholic Church seem determined to internationalize the issue of retrocession of their rightful possession. In this respect, they notified the European Court of Human Rights. They have submitted a file which claims that the act of justice is obstructed in the case of a process that has been lasting for over 12 years, and in which they ask for the retrocession of the Sf. Vasile Polon Church, the only Greek-Catholic Church in Bucharest. (46)

(43) Interview with Marko Attila, sub-secretary of state at the Department for Interethnic Relations, vice-president of the Intergovernmental Commission for the application of law 501.

(44) Information provided by Raico Cornea, a member of the Serbian community in Timișoara

(45) "Our church is still subjected to administrative pressures and discrimination both by the State, and at the local level. From intimidation to acts of injustice, we continuously live under pressure, because we are prevented from getting back what is ours. It is hard to imagine that in a state that respects the right of law decisions of a judge made to our advantage are ignored as they are impossible to apply, whereas the causes where the decisions are made to our advantage are re-opened, and we are disfavored.

Unfortunately, even the Commission for Dialog at the level of the Orthodox and Greek-Catholic hierarchs established to solve this problem is unable to find a solution for this aspect, which is the competency of the Romanian State." Protest that was submitted to the European Commission by the Bishop of Oradea, Virgil Bercea, February 2004, through

which he asks that the resolution of the issue of Greek-Catholic estates be included on the agenda of negotiations between the European Union and Romania.

(46) Information provided by Laurențiu Horia Moisin, president of the General Association of United Romanians in Bucharest.

CONCLUSIONS AND RECOMMENDATIONS

Romania seems to be somewhere at the beginning of the road as concerns retrocession of property that used to belong to religious cults. After several years and circumstantial solutions, at present there is a legal framework – even if incomplete – that could allow for the resolution of this issue.

A resolution is, of course, partial as long as *in integrum* restitution is impossible, but at least it repairs some damage caused by the abusive confiscations and expropriations done by the Romanian state in the communist regime.

So as the retrocession process yields the expected results, it is necessary to respect some very clear **principles of reform**:

- **Effective implementation of the existing laws.** One of the most serious issues of post-communist Romania is the difficult or faulty implementation of the existing laws. This phenomenon is often encountered in the case of retrocession of estate that used to belong to religious cults, and it is either due to bureaucracy or to ignorance of the laws, or simply to the refusal of the local authorities to apply them.

The law states that retrocession should be done in nature, upon the established time, and when this is no longer possible, through the payment of a commensurate compensation. Only, in practice these principles are applied with a lot of difficulty.

On the other hand, the current legal framework regarding the retrocession of community goods must still be completed. The recently adopted Law of retrocession of the property belonging to organizations of the national minorities must be supplemented by a law regarding the retrocession of documents of evidence, abusively taken away from the religious cults.

- **Speeding the process of retrocession.** The delays in the adoption of a legal framework make it less possible to have equitable compensation for the owners, as compared to 10-12 years ago, for instance. The years of delay and a lower amount of compensation than the current prices on the market make the solutions of retrocession less equitable. The urgent nature of retrocession is also justified by that there are many buildings in an advanced state of degradation. A possible solution even if for the partial compensation of the delays in the retrocession process would be the more consistent support provided to the religious cults to build their own churches.

- **Avoiding any interventions in the work of justice.** The existing malfunctions in the legal system in Romania have often allowed for decisions that were contrary to the laws in force to be made. Therefore, the judges must be subject only to the law and rely their judgment on the principles of Romania's Constitution, the Civil Code, and to take into account the jurisprudence of the European Court in issues of ownership and the right to an equitable process.

- **Providing equitable solutions to all the religious cults.** Before, the legislation regarding retrocession of the estates that used to belong to religious cults did not include churches. This affects almost exclusively the activity of the Greek-Catholic Church because in the communist regime the churches of other cults were not generally confiscated. The solution so far, i.e. the negotiations within the Mixed Orthodox – Greek-Catholic Commission, have become difficult and unproductive, and have generated unnecessary tension. Even if in principle the Romanian State should not interfere in confessional issues or administrative issues of the religious cults, it cannot stay indifferent in such an extremely delicate issue.

- **Identification of means of monitoring the process of retrocession.** Although the procedure of attribution of ownership is done in a transparent manner, at present there is no mechanism of control and monitoring of the effective return of ownership. Some religious cults (more precisely the Reformed Eparchy of Piatra Craiului) proposed an international commission in this sense, or the appointment of an Ombudsman with a specific role. Only, these measures are not likely to be implemented. At first sight, it seems much more efficient to call the attention of the public to this subject, and to warn all the stakeholders (religious cults, civic organizations, and human rights organizations, political parties, international bodies).