

# Religion and State

Socialist and Post-socialist Period



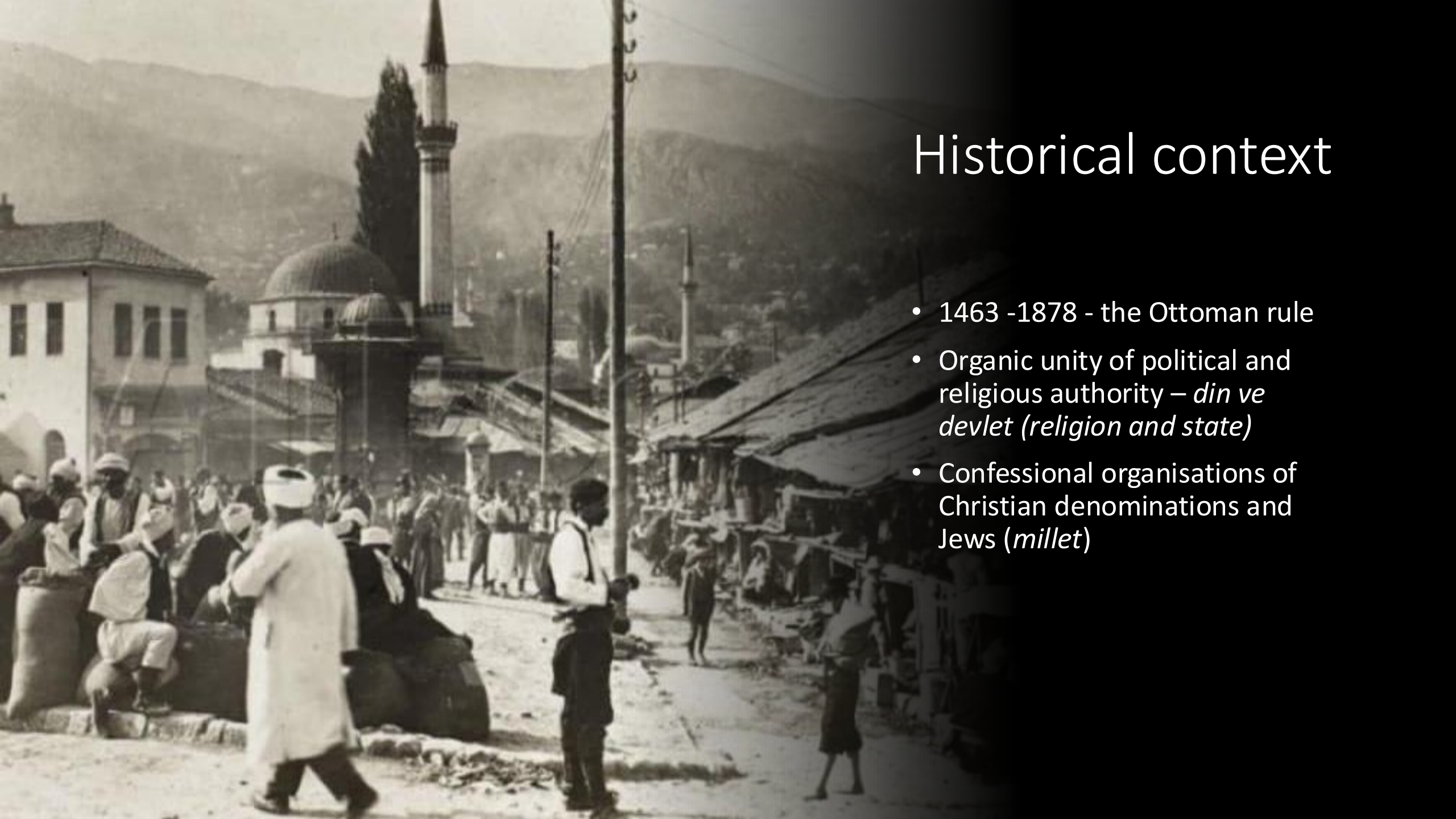






# Historical context

- 1463 -1878 - the Ottoman rule
- Organic unity of political and religious authority – *din ve devlet (religion and state)*
- Confessional organisations of Christian denominations and Jews (*millet*)



Totalansicht von Süd.

# Austro-Hungarian rule

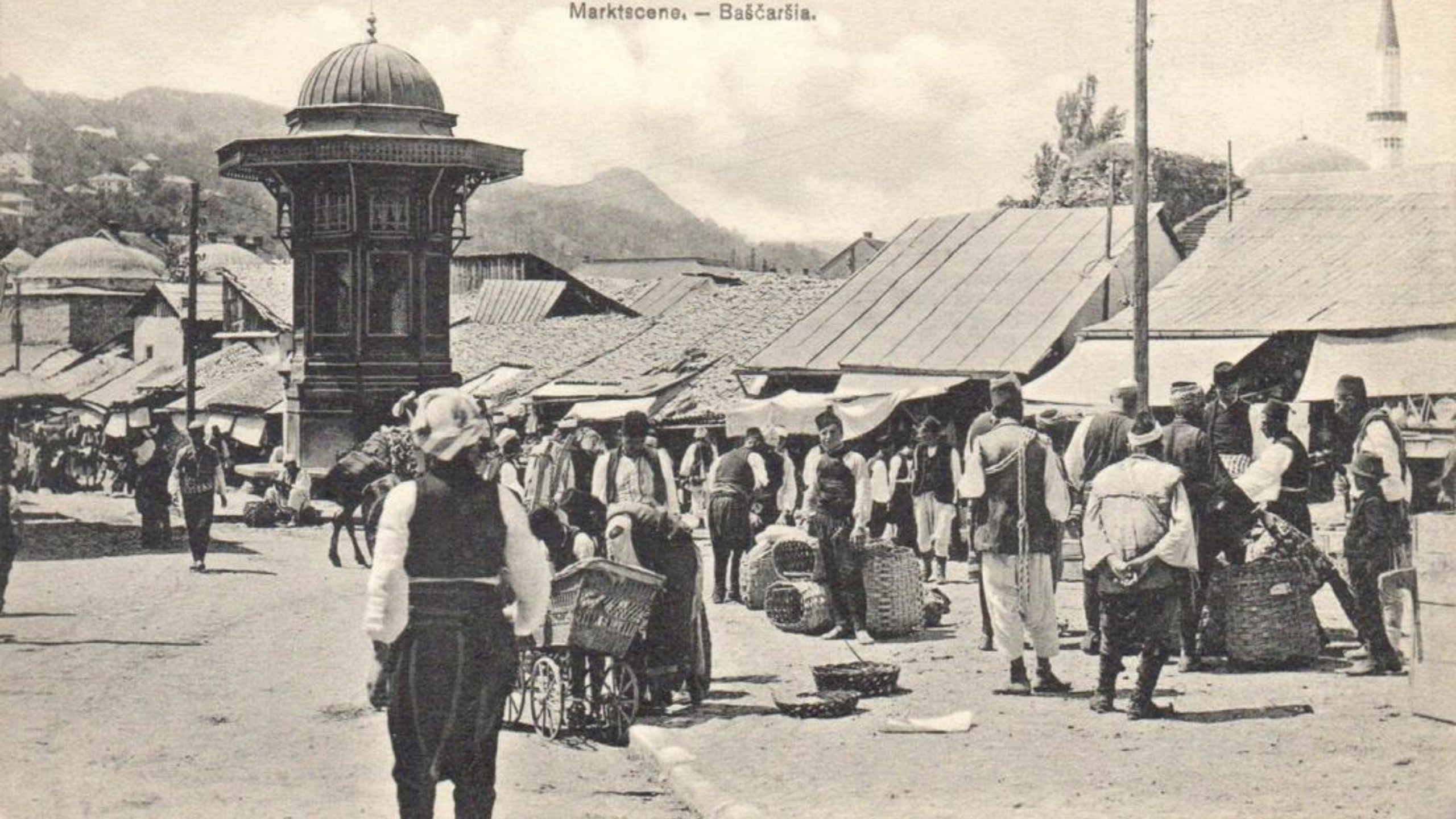
- 1878-1918
- Recognized religious communities

1901 20.5.

Gruss aus Sarajevo.

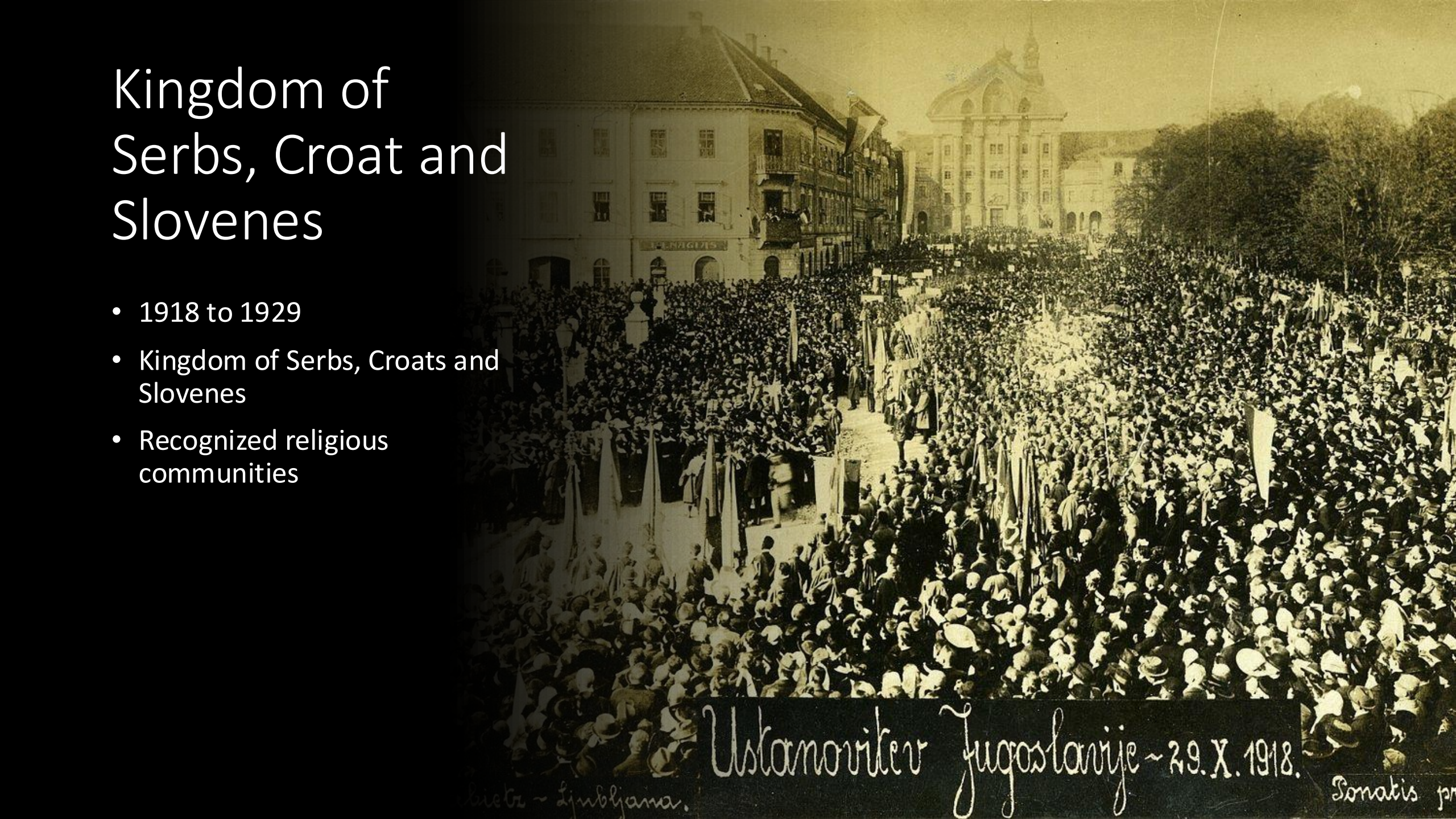
*Grüßen ganz lieben Eltern  
gibt in bester Gesundheit  
dan, wie auch Götter  
H. Buchner*

Marktszene. — Bašcaršia.



# Kingdom of Serbs, Croats and Slovenes

- 1918 to 1929
- Kingdom of Serbs, Croats and Slovenes
- Recognized religious communities



Ustanovitev Jugoslavije ~ 29. X. 1918.  
Ljubljana. Sonatis pr

# Kingdom of Yugoslavia

- 1929-1941
- Kingdom of Yugoslavia/*Kraljevina Jugoslavija*
- Recognized religious communities





## Postwar: Europe since 1945

- Tony Judt – while multicultural Europe had been “smashed into the dust...thanks to war, occupation, boundary adjustments, expulsions and genocide,” a remnant had survived in Yugoslavia, especially Sarajevo.

- “On its restricted scale the Bosnian capital was a genuinely cosmopolitan city: perhaps the last of the multi-ethnic, multi-lingual, ecumenical urban centers that were once the glory of central Europe and the eastern Mediterranean.”
- Tony Judt: *Postwar: Europe since 1945* (New York: Penguin, 2005)



# Socialist period

- Radical changes in terms of the position of religion in a society
- A model separating religion and the state was adopted
- This model was implemented in the conditions of a one-party system and monopoly of a single ideology – Marxism
- “Model of separation with antagonism”





# Socialist period

- No change in the model of relationship between the state and religion
- Area of expressing freedom of religion – private sphere
- The laws remained in force until the beginning of democratisation process in 1990 and dissolution of the Yugoslav Federation (1991-1992).

A dark, desaturated photograph of a destroyed building, likely a school or institutional structure, with large concrete pillars and a partially collapsed roof. The scene is set in a rural, hilly area with sparse vegetation. The text "Post-socialist period" is overlaid in white, centered on the image.

Post-socialist period



# Dissolution of Yugoslavia

- The Socialist Federal Republic of Yugoslavia (SFRY) - Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia (including the regions of Kosovo and Vojvodina) and Slovenia.
- On 25 June 1991, the declarations of independence of Slovenia and Croatia

# Independence of Bosnia and Herzegovina

- Referendum for the independence of Bosnia-Herzegovina
- The Bosnian Serbs decided to boycott the referendum in a bid to make it invalid as a result of the lack of participation.
- Despite all obstacles and difficulties, Bosnia-Herzegovina declared independence from Yugoslavia following the referendum on March 1, 1992.



# Freedom of Religion and Belief





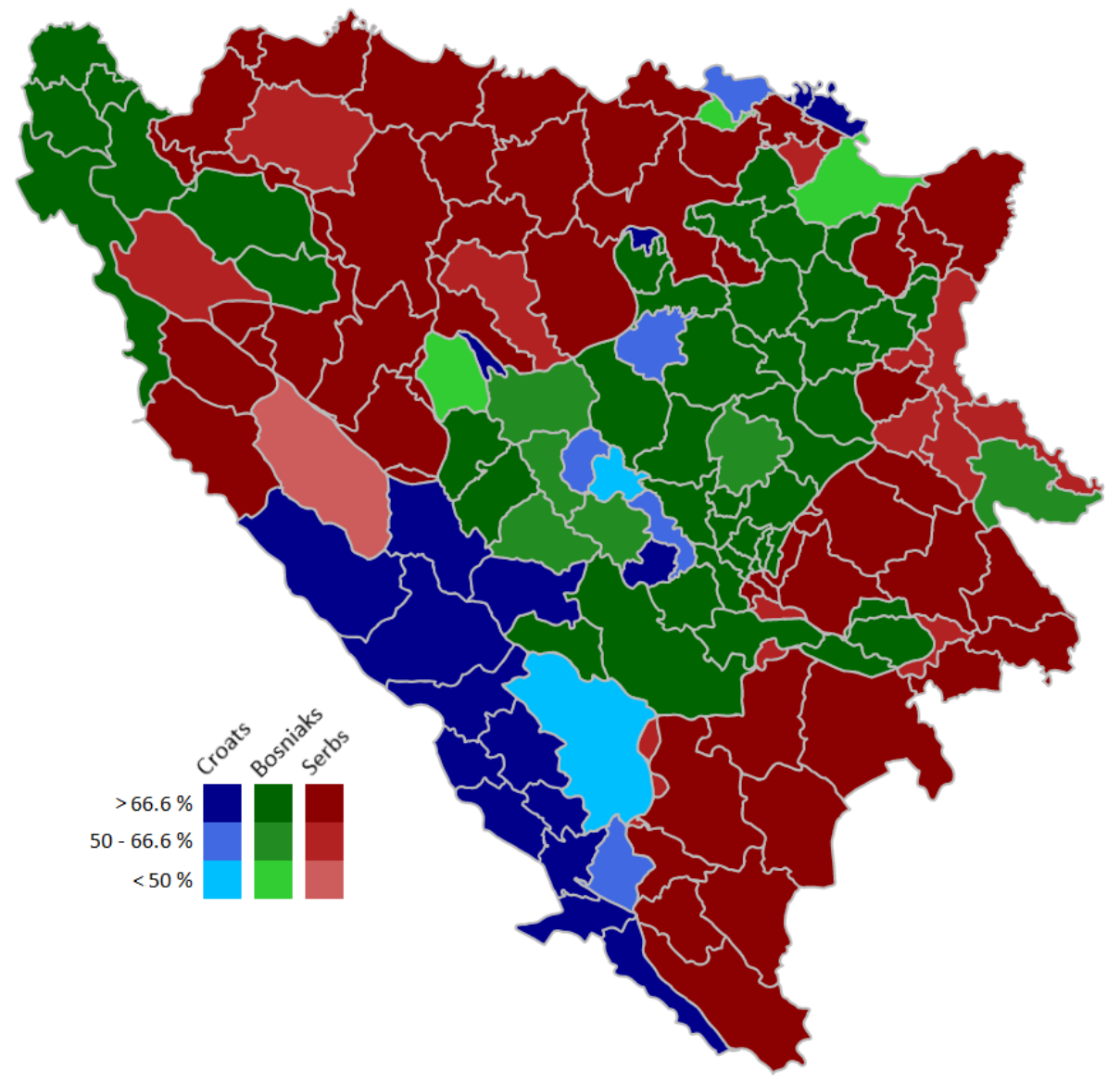
Law on Freedom of Religion and the Legal Status of Churches and Religious Communities

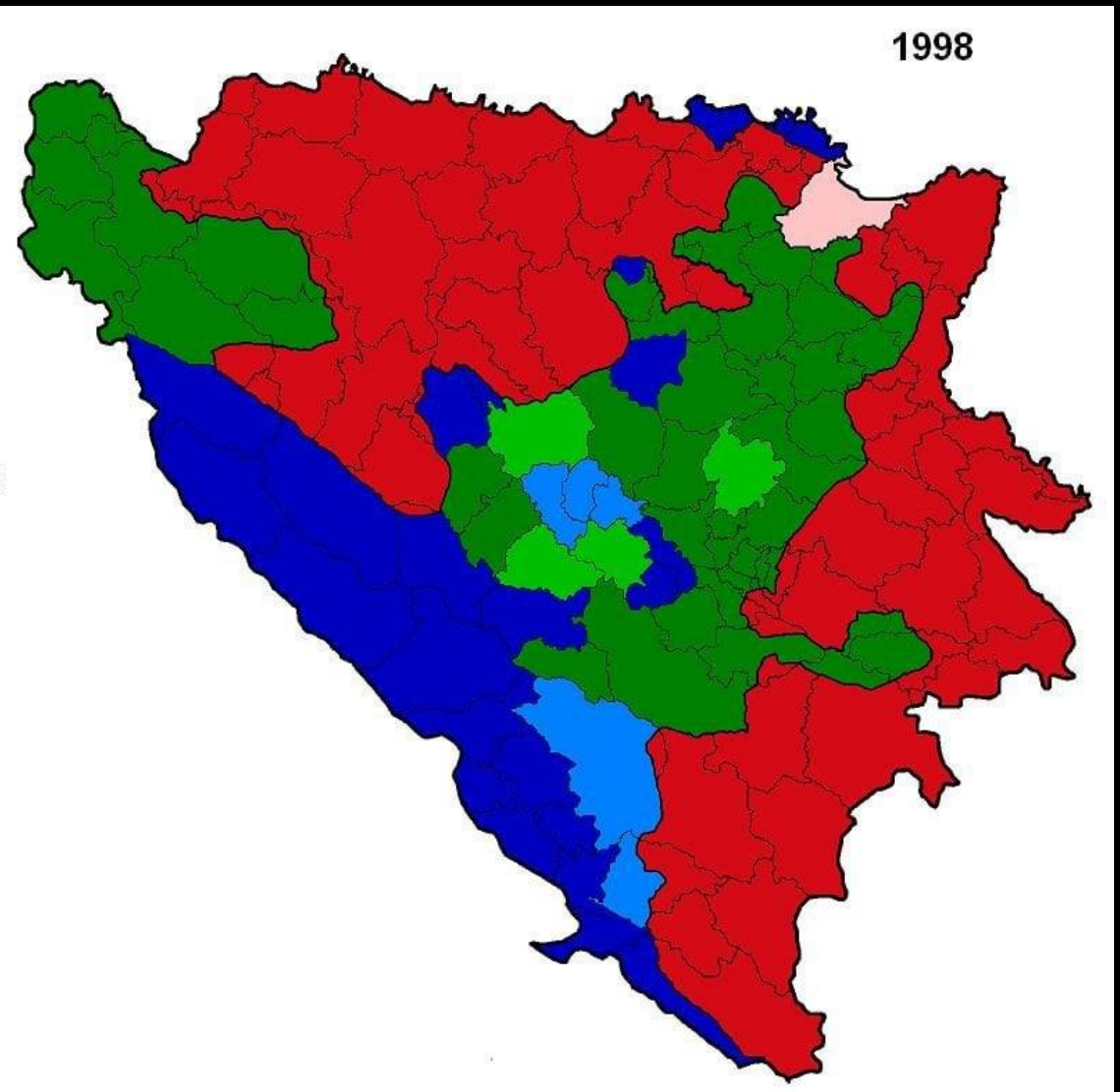
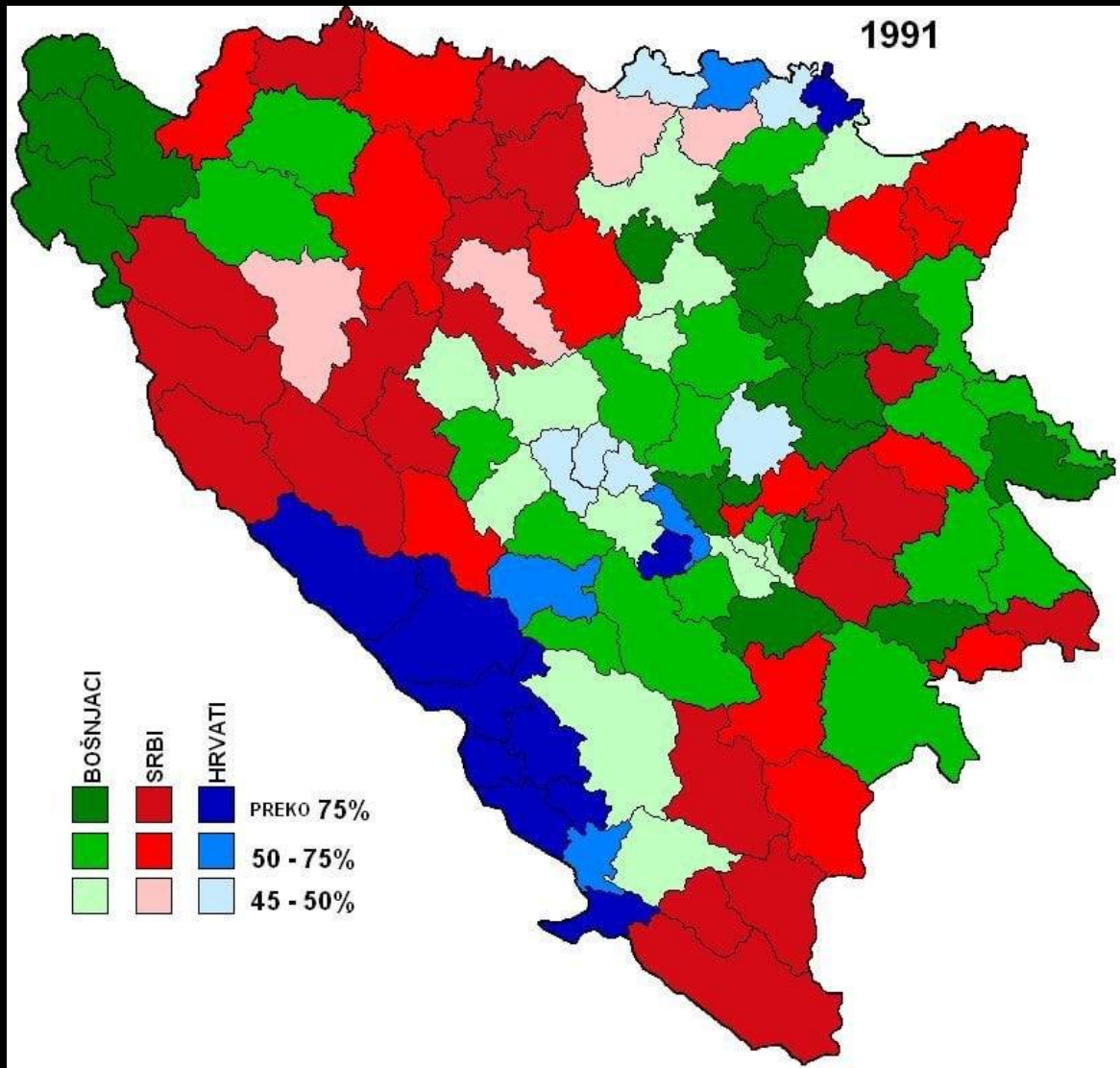
# Legal framework

- Constitution of BiH
- Constitution of the Federation of Bosnia and Herzegovina
- Constitution of Republika Srpska
- The Law on Freedom of Religion and the Legal Status of Churches and Religious Communities – adopted 2004

Dayton Agreement and Cease-Fire Lines, 24 November 1995







# Legal framework

- Agreements between the state and religious communities:
  1. The Basic Agreement between the Holy See and Bosnia and Herzegovina (2007)
  2. The Agreement between Bosnia and Herzegovina and Serb Orthodox Church (2008)



# Freedom of religion and belief

The Constitution of BiH, Article II, regulating human rights and freedoms, guarantees the right to „**freedom of thought, conscience, and religion**“.

The same Article regulates that the rights and freedoms set forth in the European Convention on Human Rights and its Protocols would apply directly in BiH and that they would have priority over all other laws.

This by default includes Article 9 of the European Convention that grants freedom of thought, conscience, and religion.

# Federation of Bosnia and Herzegovina

The Constitution of the Federation of Bosnia and Herzegovina guarantees “freedom of thought, conscience, and convictions” and **“freedom of religion, including private and public worship”**

The same article prohibits discrimination based on “religion or belief”.

It is regulated that no person can be deprived of FBiH citizenship on the ground of religion, and religion is listed as one of elements of „vital national interest“.

# Republika Srpska

The Constitution of the Republika Srpska (RS) guarantees “**freedom of thought and orientation, conscience and conviction**”.

It also guarantees a collective aspect of the right to freedom of religion:

“religious communities shall be equal before the law and shall be free to perform religious affairs and services. They may open religious schools and perform religious education in all schools at all levels of education; they may engage in economic and other activities, receive gifts, establish legacies and manage them, in conformity with law.”

# Freedom of religion or belief

- Law on Freedom of Religion in BiH guarantees each person the **right to the freedom of religion or belief, the freedom to adopt or change religion, as well as the freedom - individually or in community with others, in public or private - to manifest his religion or belief in any manner in worship, practice and observance, cherishing customs and other religious activities.**

# Public manifestation

- Frequent use of term “public” as an area of expression of religion.
- Abandonment of the previous understanding of religion as a “private matter” and limitation of expressing religion to individual's private sphere and places of worship.



# Law on Freedom of Religion

- Law on Freedom of Religion prohibits:
- discrimination based on belief and conviction,
- the disturbance of religious rituals and other religious activities,
- assaults against religious officials,
- assaulting and damaging religious buildings and other property of religious communities,
- activities aimed at stirring up religious hatred to any religious community or its members,
- depreciation or mocking any religion, as well as forcing individuals to express their religion or convictions

# Criminal law protection

- Freedom of religion or convictions is also protected by regulations of criminal codes in Bosnia and Herzegovina, within the following criminal offences;
- infringement of the Equality of individuals and citizens,
- disturbing religious services,
- Violation of the freedom of religion and practice of religion and denial of rights of religious communities to equality and practice of religious rituals in public
- causing, national, racial, and religious hatred, split, and intolerance.



# Challenges

- Attacks on religious facilities, cemeteries and property of religious communities
- Harassment of religious officials
- Challenges to achieving full freedom of religion, especially when it comes to minority groups in a particular area

# Restricted expression of religion or convictions

- The limits of the expression of religion or convictions **are given very broadly and in accordance with relevant international acts and practices.**
- "when it is shown by the competent authorities to be necessary in the **interests of public safety, to protect health, public morals, or for the rights and fundamental freedoms of others.**"

# Restricted expression of religion or convictions

- Human Rights Chamber – a separate body established by the Dayton Agreement – in a several decisions found that:
- destruction and removal of the remains of demolished mosques in the Republika Srpska,
- the refusal to grant permits for their reconstruction,
- the prevention of burial, etc.
- **constitutes an unjustified restriction of the right to freedom of religion** – discrimination against the Muslim population and a violation of the right to peaceful enjoyment of possessions.





## Relationship between the state and religion

- **Separation with cooperation**
- Principle of institutional and functional separation between the state and religious communities was preserved as inherited from the socialist regime



# Religion – state separation

- The Law on Freedom of Religion stipulates that churches and religious communities are separated from the state, which means that:
- (a) the state cannot recognize the status of a state religion to any religion, or the status of a state church or religious community to any church or religious community;
- (b) the state does not have the right to interfere with the internal organization and the affairs of churches or religious communities;

A large, diverse group of people is seated in a well-lit hall or church. In the foreground, several men are visible, some wearing clerical robes (black suits with white collars). The audience is looking towards the front of the room. The background features large windows and a high ceiling.

# Religion – state separation

- (c) no church or religious community can enjoy special state privileges in relation to other churches or religious communities, and religious officials cannot formally participate in the work of political institutions; and
- (d) the state may provide material support to churches and religious communities without discrimination, and in particular without discrimination based on religion or conviction.

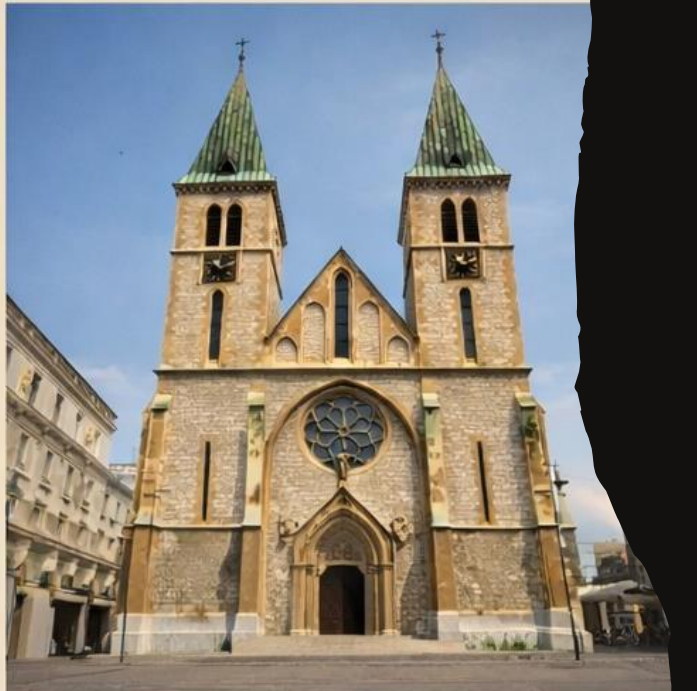


# Socialist vs post-socialist period

- Socialist regime – separation system with ideological hostility towards religion
- Post-socialist period – cooperation between religion and the state
- Legally prescribed possibility of regulating issues of common interest by an agreement between the church or religious community
- Return of religion to the public sphere – many people gain the impression of the domination of religion,



Legal status of churches and religious communities

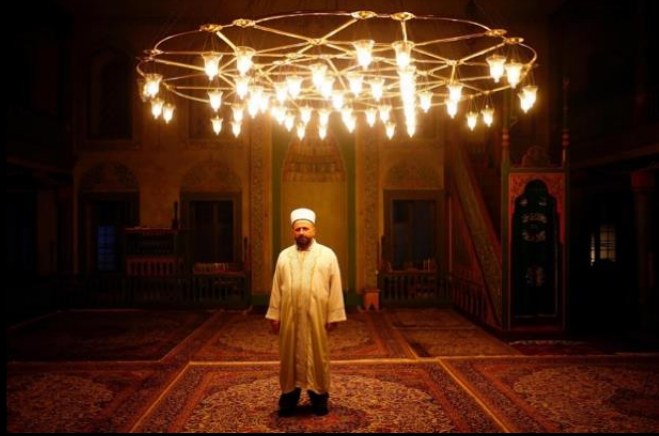


## Legal status of churches and religious communities

- The status of legal persons, acquired by registration with the Ministry of Justice of BiH.
- **The Law differentiates three categories of churches and religious organizations:**
  1. Historically based churches and religious communities (traditional religious communities)
  2. Churches and religious communities that acquired the status of legal entities before the adoption of the law
  3. New churches and religious communities







*Sarajevo* *Evangelische Kirche.*  
*Evangjelska crkva.*



## Registration of the new church or religious community

- The Statute or Bylaws of the church or religious community, with obvious content and method of practice of religion and confession, scope and manner of activities;
- A statement of its official religious doctrines;
- The signatures of at least 300 citizens-adherents
- A resolution on formation adopted by at least 30 founders of the church or religious community

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# Removal from the Register

- a) if the competent body of the church or religious community decides on its termination
- b) if a church or religious community, by its action, invokes or incites religious, national or racial hatred or other forms of intolerance among the citizens of Bosnia and Herzegovina (...) or in any other way violates spiritual integrity and mental health in order to root and spread the doctrine.



# Autonomy of churches and religious communities

- Self-administration in accordance with their own laws and doctrines
- Regulation of their internal organization in accordance with their internal regulations, laws and doctrines.
- Autonomy in the selection, appointment and dismissal of their personnel in accordance with their respective requirements and regulations.

# Autonomy of churches and religious communities

- Churches and religious communities may:
  1. Establish business enterprises, institutions and associations;
  2. Acquire, dispose of and administer property;
  3. Undertake other activities on the basis of resolutions of their bodies and membership, in compliance with the Law;
  4. Produce, publish, import, export and distribute religious literature



# Autonomy of churches and religious communities

- Churches and religious communities may:
  1. Found cultural, charitable, health and educational institutions with rights equal to those enjoyed by institutions *founded by the State or other authorized entities*,
  2. Establish and maintain international relations and contacts with churches and religious communities and all other subjects in conformity with the messages of the church or religious community;
  3. Carry out all such activities as are not prohibited by positive law.







# Financing and property of churches and religious communities

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The right to acquire, own and dispose of their own property and property rights

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The state may provide material support for the “preservation of cultural and historical heritage, healthcare, educational, charity and social services”

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The right to solicit and receive voluntary financial and other contributions

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The right to collect membership fees and receive income from within the country and abroad.

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Donations and income of churches and religious communities shall be treated in accordance with the laws and regulations relating to non-profit educational and charitable organizations

# Restitution

- The right to restitution of expropriated property throughout Bosnia and Herzegovina, without discrimination, in accordance with the law
- The State has the obligation to regulate the pensions, disability and health insurance for religious servants by special regulations



Religious education

# Historical background

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The process of introducing began after the first multiparty elections in 1991/92



In Republika Srpska it was introduced as a mandatory subject in primary schools in 1992



In 1994, the Ministry of Education of the Republic of Bosnia and Herzegovina introduced religious education in *elementary and secondary schools as an elective subject* for which a parental consent was previously required

# Legal foundation

- The Law on Freedom of Religion guarantees the right to religious education in religious, as well as in public and private institutions of pre-school, primary schools and higher levels of education.
- Agreements between the state and religious communities

# Framework Law on Primary and Secondary Education in Bosnia and Herzegovina



Framework Law on Primary and Secondary Education in Bosnia and Herzegovina (2003) provides that:



Schools shall promote and protect religious freedom, tolerance and dialogue in BiH



Pupils shall attend religious classes only if latter match their beliefs or beliefs of their parents.

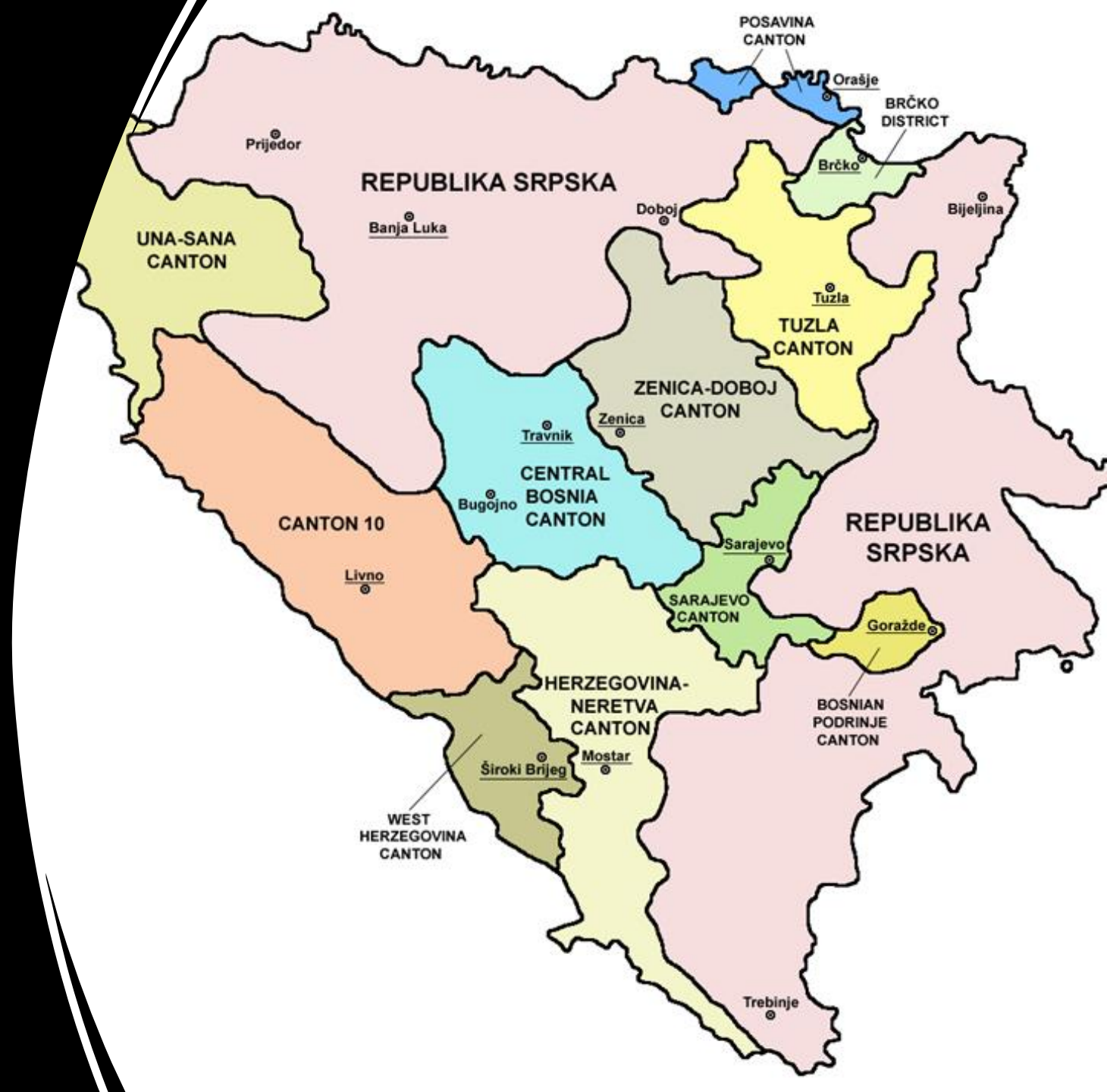


Students who do not wish to attend religious education classes shall not in any way be disadvantaged compared to other students

# Three curriculums

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- Republika Srpska entity
- Federation of Bosnia and Herzegovina – education is in the exclusive jurisdiction of the cantons
- Brčko District - is a self-governing administrative unit in north-eastern Bosnia and Herzegovina.



# Providing religious services in public institutions

- The Law on Service in the Armed Forces of BiH stipulates that military personnel have the right to perform religious activities in accordance with the specifics of each of the religions
- The Law on Execution of Criminal Sanctions of BiH also guarantees the right of prisoners to meet their religious needs, as well as the obligation of penitentiary institutions, in cooperation with religious communities, to create conditions for the realization of this right.