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MONTENEGRO

Submission by:

ADF International
Chemin du Petit-Saconnex 28
1209 Geneva, Switzerland

Web: www.adfinternational.org
Email: mnavarro@adfinternational.org

Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Cooperation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
2. This report explains why Montenegro must protect and promote the right to freedom of religion or belief within its borders.

(a) Religious Freedom

3. The Constitution of Montenegro establishes in Article 14: “Religious communities shall be separated from the state. Religious communities shall be equal and free in the exercise of religious rites and religious affairs.”¹
4. Article 46 of the Constitution also guarantees “the right to freedom of thought, conscience and religion, as well as the right to change the religion or belief and the freedom to, individually or collectively with others, publicly or privately, express the religion or belief by prayer, preaches, customs or rites.”
5. As established per the Constitution, no one shall be obliged to declare own religious and other beliefs, and Freedom to express religious beliefs may be restricted only if so required in order to protect life and health of the people, public peace and order, as well as other rights guaranteed by the Constitution.² The Constitution of Montenegro is in line with Article 18 of the International Covenant on Civil and Political Rights.³
6. Eastern Orthodoxy is the dominant religious affiliation in Montenegro, with around 70% of the population, although that portion of the population is divided between the Serbian Orthodox Church and the Montenegrin Orthodox Church.
7. In 2015, the law regarding the recognition of religious groups required such groups to register with the police within 15 days of establishment in order to be recognized as a legal entity, which would then entitle the religious group to own property, hold bank accounts, and receive certain tax exemptions.
8. In Montenegro there are 19 active religious groups, including the aforementioned Serbian and Montenegrin Orthodox churches, the Roman Catholic Church, the Islamic

¹ Constitution of Montenegro, World Intellectual Property Organization, available at: http://www.wipo.int/wipolex/en/text.jsp?file_id=187544#LinkTarget_1462.

² Ibid.

³ International Covenant on Civil and Political Rights, OHCHR, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.

Community of Montenegro, and a number of Evangelical, Adventist, and Restorationist churches, as well as Buddhist, Bahai, and Jewish groups. Despite being in communion with other mainstream Orthodox churches, unlike the Montenegrin Orthodox Church, the Serbian Orthodox Church remained unregistered, even though it is estimated to be the most populous religious community in the country.

9. The Serbian Orthodox Church argues that it predates both the law and the state, and should therefore be a part of the Montenegrin legal order without seeking registration. The government grants tax benefits to it like it does to registered religions, but has been reported to have denied visas and residency permits to Serbian Orthodox clergy from outside of the country.⁴
10. In July 2015, however, the Montenegrin government proposed a draft law on religious freedom⁵ which provoked controversy and strong opposition from most active religious groups in the country apart from the Montenegrin Orthodox Church and the Jewish community.⁶
11. The Draft Law on Freedom of Religion in Montenegro was claimed by the government to be aimed at regulating religious freedom in accordance with European Union standards, but reportedly would make all churches and monasteries built before 1918 into state property (Article 52), would impose tax requirements on religious communities (Article 30), and would require the government to be “confidentially informed” prior to the appointment of church officials (Article 4).⁷
12. In addition to a number of Evangelical and Protestant minority groups objecting to the idea of only Montenegrin citizens being allowed to establish faith groups and teach religious education classes, the leadership of the Serbian Orthodox Church also opposed the draft legislation, accusing the government of attempting to discriminate against their denomination despite its status as the largest religious community in the country.⁸
13. The fear on the part of the Serbian Orthodox leadership appears to have been that a large portion of their property would be prejudicially appropriated by the government, which would then make it available to denominations preferred by the State. There were also concerns about the consultation process, with the government being

⁴ b92, SPC must be registered in Montenegro, IM says, 18 February 2012, available at: http://www.b92.net/eng/news/region.php?yyyy=2012&mm=02&dd=18&nav_id=78851.

⁵ European Commission for Democracy Through Law (Venice Commission), Council of Europe, Draft Law on Freedom of Religion of Montenegro, 28 August 2015, available at: [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2015\)032-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2015)032-e).

⁶ Dusica Tomovic, Balkan Insight, Montenegro Accused of Threatening Religious Freedom, 16 February 2016, available at: <http://www.balkaninsight.com/en/article/montenegro-s-religion-freedom-law-stirs-controversy-02-15-2016>.

⁷ European Commission for Democracy Through Law (Venice Commission), Council of Europe, Draft Law on Freedom of Religion of Montenegro, 28 August 2015, available at: [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2015\)032-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2015)032-e).

⁸ Ibid.

accused of not providing adequate facilities for religious stakeholders to make submissions.⁹

14. Disputes between members of the Serbian and Montenegrin Orthodox churches have also become heated at times, with conflicts erupting over property ownership of hundreds of Orthodox holy sites, and police have had to provide protection around the church buildings of both factions during important church holidays and break up violent clashes that have occurred between adherents of the two churches.¹⁰
15. In accordance with its treaty obligations under Article 18 and Article 26 of the ICCPR, Montenegro must work to ensure the protection of the right to freedom of religion or belief, as well as ensure that the government does not discriminate based on religion and does not seek to illegitimately and unfairly involve itself in ecclesiastical affairs and the inner workings of church governance. It is also incumbent on the State to ensure that sectarian conflicts and violence between adherents of different denominations and religions are resolved in a peaceful and cooperative manner.

c) Recommendations

16. In light of the aforementioned issues, ADF International recommends that Montenegro:
 - a. Ensure that any system of registration of religious communities is fair and does not discriminate against any individual or group on the basis of their beliefs and religious affiliation;
 - b. Refrain from interfering in the internal workings of church governance and requiring religious bodies to inform and seek approval from the State on the appointment of ecclesiastical officials; and
 - c. Refrain from siding with or unfairly benefiting any religious faction at the expense of another, and instead promote peace and harmony between them.

⁹ Orthodox Metropolitanate of Montenegro and the Littoral, Интервју Митрополита Амфилохија београдској „Политици“: Црногорској власти смета оно „српска“ у називу СПЦ, 13 October 2015, available at: <http://www.mitropolija.com/intervju-mitropolita-amfilohija-beogradskoj-politici/>.

¹⁰ Dusica Tomovic, Balkan Insight, Orthodox Montenegrins Celebrate Christmas Divided, 7 January 2016, available at: <http://www.balkaninsight.com/en/article/orthodox-montenegrins-celebrate-christmas-divided-01-07-2016-1>.



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