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Draft law on the Freedom of Religion in Montenegro raises concern

HRWF (31.08.2015) – *In Montenegro’s enthusiasm for accession to the European Union, it is clear that its government has pulled out of its hat a draft law that is not only ill-conceived but blatantly discriminatory. Instead of strengthening religious freedom, the proposed legislation would seriously limit the activities of the majority Serbian Orthodox Church and introduce repressive measures toward other religious groups. It should be vigorously opposed.*

Press release from the Metropolitanate of Montenegro and the Littoral And the DIOCESE of Budimlje and Niksic (23.08.2015) - The Ministry for Human and Minority Rights, besides the agenda proposed and published on its official website, submitted to the Government a Draft Law on the Freedom of Religion for the 122nd session on 30 July 2015. The Ministry's representative informed the media and public that the "Government [had] approved a Draft Law on the Freedom of Religion". The conclusion on the adoption of this Draft Law has not yet been published on the Government’s official website.

And after an initial read of the Draft Law it is easy to conclude that the Draft Law should be rejected, as much for the non-transparent and discriminatory way it was prepared, as for its many unconstitutional provisions whereby it attacks the freedom of religion and other guaranteed human rights, especially the internal autonomy of the Church and religious communities.

It is our duty to point out the shameless violation of procedure by the Ministry during the preparation of the Draft Law. It is unusual that the Government has adopted the Draft Law because the practice up until now shows that the Government adopts a proposed law after the public discussion on the draft law has been held. We were deprived of an answer as to why in this case a different principle has been applied and why the Ministry has put the Government in the position of violating its own rules of procedure.

The Ministry has for years been announcing the adoption of a new Law, but this obligation is not complete. Minister Numanovic last year formed a working group for the preparation of the Draft Law. Not a single expert representative of the Church or other religious communities was included in the working group, even though the Orthodox Church, on many occasions, officially and in public, requested this. The Ministry never replied to these requests. On the other hand, the same Ministry has always done, and still does, include in the working groups for the preparation of other draft laws in its jurisdiction, via public announcements, representatives of those organizations that this material relates to and whose position is determined in the legal system of Montenegro. Even though Minister Numanovic publicly promised this earlier, during the preparation of the Draft Law, the working group did not carry out a single meeting, not even of an informative nature, with representatives of the Orthodox Church. It is beyond doubt that the Draft Law has been prepared in an inadmissible, discriminatory way – and this by the Ministry responsible for protecting and promoting human rights.

By all accounts, the starting point of the Ministry and the working group is contained in the "Information" and not in a serious study with research and analysis, as is otherwise the case when preparing legal guidelines in Montenegro. The "Information" of the Ministry is replete with a whole series of inaccuracies, arbitrariness and tendentiousness. The Metropolitan of Montenegro and the Littoral, and the Diocese of Budimlje and Niksic have, both officially and publicly, directed their comments on and objections to the "Information". The Ministry has never replied to the stated objections.

The Church, religious communities, believers and the wider public have not to this day received answers to the many questions regarding the way the Draft Law has been prepared. It is still unknown whether foreign experts participated in the preparation of the Draft Law, as well as whether the Draft Law, before its submission to the Government, was sent to the Venetian Commission and other relevant international institutions that follow the method of preparation and adoption of regulations in the field of human rights. By all accounts, the Draft Law has been prepared in a non-transparent way with a shameful disregard of the existence of those whose legal position is thereby determined.

The Ministry announced the Draft Law with the program of public discussion on 3 August and determined that the public discussion should last until 14 September 2015. Without doubt, the issue of religious freedom is one of the fundamental human rights, and 80% of the population of Montenegro are believers. Hence, the question: why did the Ministry announce the Draft Law and program of public discussion during the time of annual leave? This fact ridicules the call of the Ministry, addressed to the wider public at a time of annual leave, that it is included in the public discussion. Why are large cities, such as Niksic, Berane, Pljevlja, Bar, Herceg Novi, Budva, as well as other municipalities in Montenegro excluded from the public discussion?

The Church in Montenegro has been pointing out for years the need for adoption of a new Law and it is not opposed to the adoption of this legal act whereby the legal status of the Church and religious communities in this country would be regulated – on the contrary. For this very reason, we have so far organized many scientific gatherings, round-table discussions and public panel debates in which many eminent legal experts from Montenegro and abroad have participated. Many collections of works from these gatherings have been published, all duly and in a timely manner delivered to the representatives of the Montenegrin state authorities. The Ministry of Human and Minority Rights, judging by the non-transparent and discriminatory way the Draft Law was prepared, has behaved as if all this had not happened in the recent past. The content of the Draft Law, otherwise essentially opposed in its regulations to ratified international legal instruments on human rights, which are directly applied in Montenegro, the Constitution and many valid laws, confirms this unambiguously.

The Metropolitan of Montenegro and the Littoral, and the Dioceses of Budimlje and Niksic, Mileseva and Zahumlje and Herzegovina consider that Montenegro needs a modern, established Law, based on the foundations of civilization and universally acknowledged principles of international conventions, which will affirm the cooperative separation of the Church and religious communities from the state, and in a proper way protect the right to religious freedom.

Bearing in mind the discriminatory and non-transparent way in which this Draft Law has been prepared and adopted, as well its content which grossly interferes in the internal autonomy of the Church, and undermines the constitutional principle of the separation of churches and religious communities from the state, we consider that the Draft Law should be rejected. The Church will defend with all legal and legitimate means its centuries-long rights from the aggressive legal violence, which in this way is being initiated by the Ministry of Minorities and Human Rights.

Official statement of the Serbian Orthodox Church in Montenegro condemns new draft law

Serbian Orthodox Church in Montenegro (31.08.2015) - The Draft Law on Freedom of Religion for the Orthodox believers and citizens of Montenegro is completely unacceptable because its contents rough and directly violate autonomy of the Church and undermines the constitutional principle of separation of the state and churches and religious communities.

The process of preparing Draft law was held without the participation of expert representatives of the Church in the working group. Also, the working group has not included any legal expert on human rights from Montenegro and abroad.

Preparation of the Draft law was made in a discriminatory and non-transparent manner, and was not adopted in accordance with the applicable regulations in Montenegro.

The Draft law does not comply with the Constitution of Montenegro and numerous European and international legal instruments on freedom of religion, and contains provisions that unnecessarily beyond the permitted standards limit freedom of religion. Additionally, it encroaches on the acquired collective rights of the Orthodox Church and other religious communities.

Possibly adoption of this legal act will create additional problems on religious grounds, distort inter-confessional relations and further improve the division in society on religious grounds.

Moreover, the Draft law envisages confiscation of temples and monasteries that are owned by the Church and other religious communities.

For these reasons, it is necessary to withdraw this Draft law from procedure and begin the process of preparing a new draft law in a transparent and non-discriminatory manner.
