

## **Table of Contents**

- ***Freedom of religion: 2021 Report of Aid to the Church in Need***
  - ***At least 20 injured in Serbian church protest in Montenegro***
  - ***Montenegro's President rejects changes to controversial religion law***
- 

## **Freedom of religion: 2021 Report of Aid to the Church in Need**

**HRWF (06.09.2021) - See**

<https://acninternational.org/religiousfreedomreport/reports/me/>

### **Legal framework on freedom of religion and actual application**

The Republic of Montenegro is a secular state. Its constitution<sup>[1]</sup> guarantees freedom of thought, conscience and religion. Pursuant to Article 46, "Everyone shall be guaranteed 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. No one shall be obliged to declare own religious and other beliefs."

The Montenegrin constitution recognises no state religion, nor any traditional religious community. Article 14 states that "religious communities shall be separated from the state" and guarantees equal rights and freedoms in the practice of ceremonies and religious rites and affairs.

Article 48 provides for the right to conscientious objection to military service.

Whilst the constitution, adopted in 2007 and amended in 2013, is in line with the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR), religion and related issues are also governed by other legislation.

When the country became independent in 2006, the 1977 Law on the Legal Position of Religious Communities (LLSRC)<sup>[2]</sup> remained in effect. Adopted when the country was one of the constitutive republics of the former Socialist Federal Republic of Yugoslavia, it is inspired by the then dominant Marxist ideology and atheism.

Eventually, the government recognised the need for a new law that is in line with the ECHR. On 30<sup>th</sup> July 2015, a Draft Law on Freedom of Religion<sup>[3]</sup> was proposed to address this issue. However, it caused great concerns for most Churches and religious communities because it introduced an element of discrimination between Montenegrin citizens and foreign nationals, and ethnic minorities without Montenegrin passports. This is important because according to the last census (2011), Montenegrins represent only

45 percent of the country's population (around 630,000), leaving Serbs (28.7 percent), Bosniaks (8.6 percent), Albanians (4.9 percent) and others seemingly unprotected.[\[4\]](#)

Moreover, the proposed bill contained provisions that undermined the autonomy of Churches and religious communities by opening the possibility of state interference in their internal affairs, such as the appointment of high religious dignitaries. Additionally, there were provisions concerning the nationalisation of religious buildings and properties which were never returned to their legitimate owners after being confiscated by the Communist government post-World War II. The Draft Law also left the legal status of the Serbian Orthodox Church unresolved even though it accounts for 70 percent of the Orthodox population while the Montenegrin Orthodox Church represents only 30 percent.

On 24<sup>th</sup> August 2015, the Ministry for Human and Minority Rights of Montenegro requested the opinion of the Venice Commission (Council of Europe) about the Draft Law.[\[5\]](#) Criticism by the rapporteurs led Montenegrin authorities to abandon it.

In May 2019, the authorities went back to the Venice Commission for an opinion on a new Draft Law on Freedom of Religion or Belief and Legal Status of Religious Communities.[\[6\]](#) Strong recommendations were issued to conform the draft law to international standards. A law was eventually adopted in December 2019 and came into effect in January 2020.[\[7\]](#)

Currently, there are 21 recognised religious groups in the country. The government has signed agreements with some of them. The Basic Agreement between Montenegro and the Holy See, which was signed on 24<sup>th</sup> June 2011 in the Vatican and ratified on 21<sup>st</sup> June 2012, regulates the legal framework of relations between the Roman Catholic Church and the state.[\[8\]](#) In 2012, the government signed similar agreements with the Islamic and Jewish communities, but not with the Serbian Orthodox Church.

All of the recognised groups are registered except for the Serbian Orthodox Church (SOC), which was exempted from registration as it existed before the LLSRC came into force in 1977.

In 1920, following the "Podgorica Assembly" (1918)[\[9\]](#), the Montenegrin Autocephalous Church (MAC) was merged with the Serbian Orthodox Church (SOC), which for decades was considered the sole legitimate Orthodox body in Montenegro.

The Montenegrin Orthodox Church (MOC) was established on 31<sup>st</sup> October 1993, but it was not canonically recognised by other Eastern Orthodox Churches. The new ecclesiastical body now claims the succession to the autocephalous Church which was active until 1920. For the Montenegrin Orthodox Church, the referendum of 12<sup>th</sup> May 2006, which sanctioned Montenegro's independence from Serbia, should be interpreted as nullifying the 1920 royal decree that put an end to the Montenegrin Autocephalous Church. The Serbian Orthodox Church denies that the 1993 Montenegrin Orthodox Church is the rightful successor of the Montenegrin Autocephalous Church. Instead, it claims that the Montenegrin Autocephalous Church participated in the creation of the Serbian Orthodox Church by merging with it in 1920.[\[10\]](#)

In 2001, the Montenegrin Orthodox Church was officially registered as an NGO. The Serbian Orthodox Church is not registered either as an NGO or as a religious community under Article 2 of the 1977 LLSRC, and so formally it is not a legal entity.

On 22<sup>nd</sup> August 2016, the Serbian Orthodox Church obtained a document from the Ministry of the Interior stating that the Metropolitanate of Montenegro and the Littoral and other Orthodox eparchies of the Serbian Orthodox Church do not have to register because they pre-existed the entering into force of the 1977 LLSRC.

In November 2018, the Montenegrin Parliament adopted a resolution on the occasion of the centenary of the Podgorica Assembly. This resolution invalidated the decisions of the Podgorica Assembly of 1918.

## **INCIDENTS AND DEVELOPMENTS**

The aforementioned legal and historical background is the foundation of the three-way dispute between the Serbian Orthodox Church, the Montenegrin Orthodox Church and the Republic of Montenegro over the ownership of religious buildings and other property.

Ignoring the recommendations of the Venice Commission, the Montenegrin Parliament passed a law on 27<sup>th</sup> December 2019 directly impacting the property of the Serbian Orthodox Church. The vote was marred by a confrontation in Parliament that involved 24 people, including 18 MPs from the pro-Serb Democratic Front.[\[11\]](#)

The adoption of the new law triggered daily demonstrations by those who identify as Serbs in Montenegro, heightening tensions between Montenegro and Serbia. Despite strong opposition both inside and outside Parliament, the law came into force on 8<sup>th</sup> January 2020.[\[12\]](#)

Article 62 of the law requires religious communities to prove ownership of the property they used before 1918 when Montenegro became a part of the Kingdom of Serbs, Croats and Slovenes (renamed the 'Kingdom of Yugoslavia' in 1929); otherwise, it becomes state property. For the Serbian Orthodox Church, this meant losing its medieval monasteries and churches, as well as any other property built before 1<sup>st</sup> December 1918, which, for the most part, lack title deeds.[\[13\]](#)

In a statement issued in May 2019, the Serbian Orthodox Church in Montenegro pointed out that the Draft Law on Freedom of Religion would lead to the:

“(1) confiscation (nationalization) of religious property, (2) annihilation of the previously obtained legal status of religious communities, (3) systematic discrimination between the churches and religious communities, (4) narrowing the scope of freedom of religion and belief and disabling the equal status and rights of priests and religious officers, including the prohibition of the religious teaching within the elementary schools, and (5) unilateral drafting procedure cleansed from every kind of public, institutional and/or inclusive dialogue.”[\[14\]](#)

On 31<sup>st</sup> January 2020, the police in Montenegro arrested the mother of Milan Knežević, a leader of the main opposition alliance in Montenegro's Parliament as well as a member of the Parliamentary Assembly of the Council of Europe (PACE), along with another member of his family. The arrests appear to be government retaliation following a conference Knežević held the day before with the European Centre for Law and Justice (ECLJ) at the Council of Europe (Strasbourg). The conference examined the new religion law, exposing its negative impact on the Serbian Orthodox Church (SOC).[\[15\]](#)

In December 2019, Pope Francis[\[16\]](#) and Patriarch Bartholomew I of Constantinople[\[17\]](#) expressed strong concerns about the situation of Orthodoxy in Montenegro and called for interreligious dialogue.

The UN Special Rapporteur on Freedom of Religion or Belief, Ahmed Shaheed, the EU External Action Service (EEAS), and other organisations[\[18\]](#) called for a more inclusive approach, bringing together all relevant stakeholders in line with international and European standards on human rights.

Under pressure from the international community, Montenegro finally decided to temporarily postpone the implementation of the law until its Constitutional Court ruled on its constitutionality, and, in the case of rejection, until the decision of the European Court of Human Rights in Strasbourg.<sup>[19]</sup>

### **Prospects for religious freedom**

The tensions between the Serbian Orthodox Church and the Montenegrin state continue unabated. The political agenda of Montenegro appears to be to upgrade the status of the Montenegrin Orthodox Church and to reduce the role and presence of the Serbian Orthodox Church through nationalisation.

Hope for improvement lies with the international community, particularly the European Union (EU), as Montenegro is a candidate for EU membership. The most recent recommendations of the Venice Commission<sup>[20]</sup> also provide a good roadmap for a peaceful resolution to the crisis. With little headway in the thorny issue to date, the prospect for freedom of religion remains negative.

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## **At least 20 injured in Serbian church protest in Montenegro**

Euronews (05.09.2021) - <https://bit.ly/2Vir1Fz> - At least 20 people were injured Sunday in Montenegro during clashes between police and demonstrators trying to prevent the inauguration of the new head of the Serbian Orthodox Church.

Police also announced eight arrests following the violence that marred the brief enthronement ceremony in Cetinje, the former royal city in the south of the country.

Bishop Joanikije had to be flown by helicopter from the capital Podgorica to the city's monastery to get around the barricades that had been blocking access roads to Cetinje since the previous day.

Riot police used tear gas on protesters who fired gunshots in the air and hurled bottles and stones early Sunday in Montenegro before a planned inauguration of the new head of the Serbian Orthodox Church in the country.

The ceremony scheduled in Cetinje, a former capital of the small Balkan nation, has angered opponents of the Serbian church in Montenegro, which declared independence from neighbouring Serbia in 2006.

On Saturday, hundreds of protesters confronted police in Cetinje around a monastery where the inauguration of Metropolitan Joanikije is supposed to take place. The demonstrators also set up road barriers with trash containers, tires and large rocks to prevent church and state dignitaries from coming to the inauguration.

Chanting "This is Not Serbia!" and "This is Montenegro!," many of the protesters spent the night at the barriers amid reports that police were sending reinforcements to break through the blockade. The protesters, some firing handguns into the air, set fire to car tires at one of the blockades, trying to prevent police from breaking through.

Montenegrins remain deeply divided over their country's ties with neighbouring Serbia and the Serbian Orthodox Church, which is the nation's dominant religious institution. Around 30% of Montenegro's 620,000 people consider themselves Serb.

The situation flared up in Cetinje early Sunday after a relatively calm night that followed Saturday's clashes and a parallel gathering in the capital, Podgorica, where thousands of people greeted Serbian Patriarch Porfirije and Metropolitan Joanikije before the planned inauguration.

In a clear demonstration of the sharp political and social divide in Montenegro, President Milo Djukanovic, the architect of the state's independence from Serbia, visited Cetinje while the current pro-Serb Prime Minister Zdravko Krivokapic went to Podgorica.

Though Djukanovic said he wasn't taking sides as the president of all citizens, he praised the protesters in Cetinje for guarding national interests against the alleged bid by Serbia to impose its influence in Montenegro through the church.

"We need to protect our freedom and sovereignty," Djukanovic told the state television channel RTCG, urging calm and restraint. "Any nationally-responsible individual naturally resists."

Djukanovic has urged that the inauguration be postponed and some media late Saturday reported this would happen, but the information was soon denied by the Serbian church which said the inauguration would take place despite the tensions.

Since Montenegro split from Serbia, pro-independence Montenegrins have advocated for a recognised Orthodox Christian church that is separate from the Serbian one.

Joanikije's predecessor as the church's leader in Montenegro, Amfilohije, died in October after contracting COVID-19.

The Serbian Orthodox Church played a key role in demonstrations last year that helped topple a long-ruling pro-Western government in Montenegro. The new government now includes staunchly pro-Serb and pro-Russian parties.

Montenegro's previous authorities led the country to independence from Serbia and defied Russia to join NATO in 2017. Montenegro also is seeking to become a European Union member.

Photo : People attend the arrival of the head of the Serbian Orthodox Church, in Podgorica, Montenegro, Saturday, Sept. 4, 2021. - Copyright AP Photo/Risto Bozovic

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## **Montenegro's President rejects changes to controversial religion law**

RFE/RL's Balkan Service (02.01.2021) – <https://bit.ly/3bjPq3f> – Montenegrin President Milo Dukanovic has refused to approve amendments to a controversial law on religion that has been sharply criticized by ethnic Serbs and the Serbian Orthodox Church.

Dukanovic sent the amendments back to parliament along with six other laws passed by the ruling coalition, his office said on January 2.

A total of 41 deputies of the ruling coalition, which is composed of pro-Serb parties and is closely aligned with the Serbian Orthodox Church, in the 81-seat legislature backed amendments to the Law on Freedom of Religion in a vote on December 29 that was boycotted by the opposition.

The president's office claimed it was unclear if the required number of lawmakers had been present in parliament during the vote.

Dukanovic heads the long-ruling Democratic Party of Socialists (DPS), which is now in opposition.

If lawmakers vote for the amendments again, the president is obliged to sign them.

Under Montenegro's religion law adopted a year ago, religious communities must prove property ownership from before 1918.

That is the year when predominantly Orthodox Christian Montenegro joined the Kingdom of Serbs, Croats, and Slovenes -- and the Montenegrin Orthodox Church was subsumed by the Serbian Orthodox Church, losing all of its property in the process.

The Serbian Orthodox Church, its supporters, and pro-Serbian parties claimed the law could enable the Montenegrin government to impound church property, though officials deny that they intend to do this.

The new government -- which came to power after elections in August -- said it would rewrite the law to ensure the properties stay in the hands of church, which is based in neighboring Serbia.

Serbia and Montenegro were part of a federation until 2006, when Montenegro declared its independence.

Montenegro is a member of NATO and aspires to join the European Union.

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