

Conclusions from Academic Conference on “Freedom of Religion or Belief in Montenegro, 3 to 4 May 2019, Podgorica

The participants of the international academic conference “Freedom of Religion or Belief in Montenegro“ have carefully examined and considered the drafting process and current material content of the draft “Law on Freedom of Religion”¹, first proposed by the Government of Montenegro on 30 July 2015.

On the basis of these deliberations and convinced, that freedom is endowed on the human person not only as a secular right, but also as an eternal gift from God, and as such integral to human nature, they agreed to emphasize the following:

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1. The right to Freedom of Religion or Belief is a natural and inalienable right, belonging to any person, regardless of where they live;
2. Religion precedes the states and has to be acknowledged, not created or changed by it. However, every government, including the Montenegrin government, has the right to facilitate and regulate existing expressions of religion as an integral part of social reality;
3. In the European context, governments, when exercising these rights in the public interest, are bound by the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)², decisions of the European Court on Human Rights in Strasbourg, the guidelines³ by the Council of Europe (CoE) and the Organisation for Security and Cooperation in Europe (OSCE), and other relevant international and legal acts;
4. Accordingly, the right to Freedom of Religion or Belief shall be subject only to such proportionate limitations as are prescribed by law and are necessary in a democratic society;
5. In particular, a government does not have the right to interfere with the internal affairs of churches and religious communities, nor must it disrupt their corporate autonomy, i.e. their religious law and internal order;
6. Unlawful or insensitive action by government or public bodies in this important and delicate area of legislating or regulating in fields governed by Freedom of Religion or Belief can also lead to the disruption of religious tolerance in the society;

¹ Cf. [https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2015\)032-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2015)032-e)

² Cf. https://www.echr.coe.int/Documents/Convention_ENG.pdf%23page=9

³ OSCE “Guidelines for Review of Legislation Pertaining to Religion or Belief” (2004); “Joint Guidelines on the Legal Personality of Religious or Belief Communities” (2015). Cf. <https://www.osce.org/odihr/freedom-of-religion-or-belief>

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7. The drafting process of the proposed “Law on Freedom of Religion” has thus far been significantly burdened by violations of procedures proscribed for and applicable to all laws enacted in Montenegro on proposal of the Government;
8. Numerous provisions of the draft “Law on Freedom of Religion” are not in compliance with binding international conventions and legal acts, decisions of the European Court of Human Rights in Strasbourg and the above mentioned guidelines by CoE and OSCE;

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9. Having embarked on the path towards accession to the European Union, Montenegro is called to establish an open, regular and transparent institutional dialogue with churches, religious communities and other organisations on issues of common interest;
10. In particular, in order to align the draft law with international fundamental rights legislation and judicature, is it necessary that the entire process of drafting and later enacting a law on the application and exercise of Freedom of Religion or Belief be brought back into a legitimate and participative procedure, including representatives of relevant stakeholders, civil society and legal experts;
11. Likewise, a dialogue and participative legislative process must be opened for removing discrimination of churches and religious communities in other areas, such as adequate regulation and legislation
 - overcoming the years-long blocking of churches and religious communities from being granted, like other legal entities, either restitution of or compensation for property confiscated during the totalitarian communist regime,
 - being fairly represented in public media, including decision making structures and broadcasting content, getting appropriate access to the public education sector in order to be able to conduct religious education according to their respective beliefs.
12. If successful, the implementation of such an inclusive process and a new law reflecting the highest standards of international protection of Freedom of Religion or Belief would not only serve social peace and political reconciliation in Montenegro, but could also set a best practice example for the entire region.