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MONTENEGRO

**DRAFT LAW ON FREEDOM OF RELIGION OR BELIEFS
AND LEGAL STATUS OF RELIGIOUS COMMUNITIES**

DRAFT**LAW ON FREEDOM OF RELIGION OR BELIEFS AND LEGAL STATUS OF RELIGIOUS COMMUNITIES****I BASIC PROVISION****Article 1**

Freedom of thought, conscience and religion, guaranteed by the Constitution and the confirmed and published international agreements, shall be exercised in line with this Law.

The state shall guarantee unimpeded exercise of the freedom of thought, conscience and religion.

Article 2

Freedom of thought is absolute and inviolable.

Article 3

Freedom to manifest one's religion or beliefs shall be subject only to such limitations that are necessary in a democratic society in the interest of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

The degree of this limitation shall be proportionate to the legitimate aim referred to in Paragraph 1 of this Article, and public authority shall ensure not to resort to more restrictive limitation if the same legitimate aim can be achieved with a less restrictive measure.

Article 4

Freedom of religion or belief protects theistic, non-theistic and atheistic beliefs, as well as the right, acting in line with one's own conscience, not to manifest any religion or belief.

Freedom of religion or belief includes the right of a person, acting in line with his own conscience, either alone or in community with others, in public or in private, to manifest his religion or belief in prayer, sermon, customs, practice, or in some other manner, the right to adopt or change religion or belief, freedom to participate in religious teaching and education, or teaching and education that correspond with one's belief, as well as the right to foster and develop religious tradition and tradition in line with one's belief.

Article 5

Freedom of conscience includes the right of an individual to refuse, in line with the law, military service or other obligation involving the use of arms (conscientious objection).

Article 6

Religious community is a voluntary, non-profit association of persons belonging to the same religion, established for the purpose of public or private manifestation of religion, exercise of religious ceremonies and religious affairs, which has its structure, bodies, internal rules and religious teaching.

Article 7

Religious communities are churches, communities of believers and other institutional forms of religious action.

Religious community is free in holding religious service and exercising religious affairs.

Religious community shall decide freely, particularly on the following:

1. Internal organization, education, composition, powers and functioning of the bodies thereof;
2. Appointment and powers of its religious servants and other religious workers;

3. Rights and responsibilities of its believers, on condition that it does not interfere with their religious freedom;
4. Association with or participation in inter-religious organizations with the seat in Montenegro or abroad.

Article 8

Religious community shall act in line with the legal order of Montenegro, public order and morals.

Actions of the religious communities shall not be directed against other religious communities and religions, and shall not harm other rights and freedoms of believers and citizens.

Article 9

In Montenegro, no religion shall have the status of a state religion.

Relations between the state and the religious communities shall be based on mutual understanding and cooperation, particularly in the area of charitable, social and health-related, educational and cultural activities.

The state and religious communities promote tolerance, dialogue and respect between believers from different religious communities, as well as between believers and non-believers.

Article 10

Particular issues of a common interest for Montenegro and for one or more religious communities may be regulated by an agreement concluded between the Government of Montenegro (hereinafter: the Government) and the religious community.

Article 11

Religious community shall manage independently its property based on autonomous regulations, in line with the law.

Article 12

Resources that represent cultural heritage of Montenegro, over which a religious community has ownership or easement rights, shall not be alienated, moved or taken out of the country without the consent of the Government.

Prior to adopting the decision referred to in Paragraph 1 of this Article, the Government shall seek the opinion of the religious community.

Article 13

No one shall be forced to or impeded in any way from becoming or remaining a member of a religious community, or from participating or not participating in the manifestation of religion or belief.

No one shall be impeded, for the reasons of belonging or not belonging to a religious community, in the exercise of rights granted by the law.

Article 14

All forms of indirect or direct discrimination based on religion or beliefs and incitement of religious hate and intolerance shall be prohibited.

Adherence to a certain religious community as a legitimate requirement for employment in a religious community or its organizational form shall not be considered discrimination, in the sense of this Law, if adherence to a religious community represents an irreplaceable requirement and a reasonable justification for posing this requirement for employment.

Article 15

Collection and processing of data regarding religion or beliefs of individuals or groups shall be done in line with the law regulating personal data protection issues.

Article 16

Terms used in this Law to refer to physical persons in masculine gender shall also include the same terms in feminine gender.

Article 17

Supervision over the implementation of this Law shall be exercised by the public administration authority responsible for human rights and freedoms (hereinafter: the Ministry).

II REGISTRATION AND RECORDS OF RELIGIOUS COMMUNITIES**Article 18**

Religious community shall obtain the status of a legal person by being entered into the register of religious communities (hereinafter: the Register), kept by the Ministry.

The Register shall be comprised of a database and a collection of documents.

Contents and manner of keeping of the Register, as a public record, shall be prescribed by the Ministry.

Article 19

Registration of a religious community shall not be mandatory.

Religious communities decide freely whether they will request to be entered into the Register or not.

Article 20

Religious community may be registered if it has minimum 3 adult believers who hold Montenegrin citizenship and have residence in Montenegro, or foreigners whose permanent residence in Montenegro was approved, in line with the law.

Article 21

Application for registration of a religious community shall be submitted to the Ministry by the person authorized to represent the religious community.

Application from Paragraph 1 of this Article shall include:

- 1) Name of the religious community that must differ from the names of other religious communities to the extent that allows for avoiding confusion or mistake in the identification due to resemblance with the name of another registered community;
- 2) Seat and address of the religious community in Montenegro.

The following shall be enclosed with the application referred to in Paragraph 1 of this Article:

- Founding Act if the religious community is newly established, with the data on persons referred to in Article 20 of this Law (personal name, evidence of citizenship and residence, i.e. permanent residence for foreigners), with the original signature thereof;
- Data on the representative of the religious community (personal name, evidence of citizenship and residence, i.e. permanent residence for foreigners), with the original signature thereof.

Article 22

The Ministry shall refuse to register the religious community if the person authorized to represent the religious community fails to submit the application for registration in line with Article 22 of this Law.

A lawsuit may be filed with the Administrative Court of Montenegro against the decision referred to in Paragraph 1 of this Article.

Article 23

Organizational part of the religious community active in Montenegro, with the religious center abroad, which was not previously registered with the competent public authority in Montenegro, shall enclose with the application referred to in Article 21 of this Law the decision of the competent authority of that religious community to be entered into the Register.

Article 24

Religious communities that are reported and registered with the competent public authority in Montenegro, in line with the Law on legal status of religious communities (Official Gazette of SR Montenegro no. 9/77) and are active in Montenegro on the date of coming into force of this Law, shall be entered into the inventory of existing religious communities (hereinafter: the Inventory), kept by the Ministry, by submitting an application for entry into the Inventory by the persons authorized to represent them.

The Ministry shall prescribe the contents of the Inventory.

Article 25

The domain of registration or entry into the Inventory of a religious community in Montenegro shall be within the borders of Montenegro.

The seat of the religious community registered or entered into the Inventory for the territory of Montenegro shall be in Montenegro.

Part of the religious community with the religious center abroad, operating in Montenegro, shall obtain the status of a legal person in Montenegro upon entry into the Register or the Inventory.

Article 26

The Ministry shall establish whether the requirements stipulated in this Law for the entry of the religious community into the Register or the Inventory are met within 30 days from the date of receipt of the complete application and necessary documentation referred to in Articles 21 and 23 of this Law.

If the religious community meets the requirements referred to in Paragraph 1 of this Law, the Ministry shall adopt the decision on entry into the Register or the Inventory.

Article 27

Religious community shall inform the Ministry of any change of data referred to in Article 21 of this Law, within 30 days from the date when the change took place.

Registration of changes shall be done in line with the provisions of this Law regarding registration of a religious community.

Besides the religious communities, their organizational parts may also be entered into the Register, upon request of the religious community, as well as associations of religious communities, under the conditions and in the manner stipulated in this Law regarding registration of religious communities.

Article 28

This Law shall not prevent or limit the establishment or operation of those associations of citizens and other forms of civil society organizations that hold the status of a legal entity or without the status of a legal entity, established for the purpose of exercising freedom of thought, conscience, religion or belief, and it shall not prevent the operation of non-registered religious communities or the ones that are not recorded in the Inventory.

Non-registered religious communities and the ones that are not recorded in the Inventory shall not have the legal status of religious communities that are registered or recorded in line with this Law and shall not acquire and exercise rights that, in line with the legal order of Montenegro, belong exclusively to the registered or recorded religious communities.

Article 29

The manner of establishment, status, bodies, financing and other issues relevant for the operation and activities of the organizations that are not religious communities in the sense of this Law, and that are established for the purpose of expressing the freedom of belief, shall be exercised in line with the law regulating the legal status of non-governmental organizations.

Article 30

Entry into the Register or Inventory may be denied to a religious community or its operation may be prohibited if:

- 1) it incites racial, national, religious or other type of discrimination and violence or encourages or incites racial, national, religious or other type of hate, intolerance, strife or persecution or in some other way harms or offends human dignity;
- 2) the purpose, goals and manner of its religious action are based on violence or use of violence that imperils life, health or other rights and freedoms of persons belonging to that or some other religious community, as well as other persons.

Provisions of this Article shall also apply to the non-registered or non-recorded religious communities, if the reasons referred to in Paragraph 1 of this Article exist.

Article 31

The Ministry shall decide on denying the entry of a religious community into the Register or the Inventory by a Decision.

It is possible to file a lawsuit with the Administrative Court of Montenegro against the Decision referred to in Paragraph 1 of this Article.

Article 32

The State Prosecutor's Office shall instigate the procedure for the prohibition of operation of a religious community, if the reasons referred to in Article 30, Paragraph 1 exist, by filing a motion for the prohibition of operation of a religious community with the relevant court, if the legitimate goal in the interest of public security, protection of public order, health or morals, or the protection of rights and freedoms of others, could not have been achieved effectively by pronouncing a fine, denying tax relieves or some other appropriate restrictive measure in a relevant procedure.

Prior to the adoption of the decision on the prohibition of operation of a religious community, the court may leave an appropriate deadline to the religious community to bring its actions in line with the legal order and public morals.

If within the specific deadline specified by the court the religious community meets the requirement of the court by bringing its actions in line with the legal order and public morals, the competent court may suspend the procedure for the prohibition of operation of the religious community.

Article 33

The Ministry shall delete the religious community from the Register or the Inventory if:

- 1) the religious community itself decides to end its activity;
- 2) the activity of the religious community is prohibited in line with the provisions of this Law, on the basis of a final court decision.

A religious community shall be deleted from the Register or the Inventory based on the decision of the Ministry.

It is possible to file a lawsuit with the Administrative Court of Montenegro against the decision of the Ministry referred to in Paragraph 2 of this Article.

Article 34

The property of the religious community deleted from the Register or the Inventory, upon discharge of liability, shall be decided upon in the manner stipulated in the acts of the religious community.

If the acts of the religious community do not define the manner of action, property of the religious community shall become the property of Montenegro.

III RIGHTS AND RESPONSIBILITIES OF RELIGIOUS COMMUNITIES AND THEIR BELIEVERS

Article 35

Religious community shall ensure resources for the performance of its activity from the revenues based on its own property and religious services, endowments, legacies, funds, donations and other contributions from physical and legal persons, resources from the international religious organizations that it is a members of, resources from the Budget of Montenegro and local self-government units, as well as from other affairs and activities on a non-profit basis, in line with the law.

Religious community shall keep the record of the revenues referred to in Paragraph 1 of this Article, in line with the law and autonomous regulations.

Article 36

Control of legality of acquisition of funds of the religious community and control of legality of earmarked use of resources of the religious community from the state budget and the local self-government budget shall be performed by the competent authorities, in line with the law.

Article 37

Property of the religious community shall be used for the exercise of religious ceremonies and religious affairs, construction and maintenance of religious buildings, as well as for other social, health-related, cultural, charitable, educational purposes, in line with the law and autonomous regulations of the religious community.

Religious community shall be held liable for its obligations with its overall property, in line with the law.

Article 38

Immovable and movable goods owned by the religious community shall be entered, i.e. registered to the name of the religious community or the organizational part of the religious community whose religious center is abroad, but which holds the status of a legal person with the seat in Montenegro.

The right of easement over movable and immovable goods owned by the state that the state has entrusted to the religious community for use shall also be registered to the name of the religious communities and organizational parts referred to in Paragraph 1 of this Article.

Article 39

Religious community may collect voluntary contributions based on its autonomous regulations, in line with the law.

Article 40

Religious community shall pay taxes, contributions and other duties, in line with the law.

Religious community may be fully or partially exempt from tax and other obligations, in line with the law.

Physical and legal persons who give contributions to the religious community may be exempt from relevant fiscal obligations, in line with the law introducing the relevant public revenue.

Article 41

Religious servants shall have the right to health and pension and disability insurance, in line with the law.

Religious community may establish institutions for social, that is, health and pension and disability insurance of the religious servants, in line with the law.

Religious communities shall register religious servants who exercise the rights referred to in Paragraphs 1 and 2 of this Article, in line with the regulations defining payment of contributions.

Religious community referred to in Paragraph 3 of this Article may also have funds secured in the state budget for health and pension and disability insurance of the religious servants, in line with the law.

If the funds for the purpose referred to in Paragraph 4 of this Article are secured in the state budget, the Government shall define the amount of funds, whereas the religious communities with a small number of believers may be subject to the principle of affirmative action.

Article 42

Religious community may have the funds approved from the state budget and the local self-government budget for the activities promoting spiritual, cultural and state tradition of Montenegro, as well as for the support to social, health-related, charitable and humanitarian activities of a particular interest.

Article 43

Religious community shall have the right to build religious structures and engage in building adaptation and reconstruction of existing ones, in line with the law.

Construction, building adaptation and reconstruction of religious structures shall be carried out based on permits and consents stipulated by the law and regulations defining the area of construction of buildings and protection of cultural resources, and with the professional supervision in line with the law.

In the development of spatial plans, the competent public administration authority, i.e. local self-government authority shall also consider the expressed needs of the religious community for the construction of a religious structure.

Public authorities responsible for spatial planning and construction of buildings shall not consider the applications for construction of religious structures that do not have the consent of the responsible authorities of the religious community in Montenegro, in line with the law and the autonomous regulations of the religious community.

Article 44

Religious community shall have access to public broadcasting services and other media, as well as the right to independently perform its own informative and publishing activity on a non-profit basis, in line with the law.

Article 45

Within its social, cultural, charitable and humanitarian activity, the religious community may establish relevant institutions in line with the law.

Article 46

Religious ceremonies and religious affairs shall be executed in the religious structures.

Religious ceremonies and religious affairs may also be executed outside the religious structures in places accessible to the citizens, without approval, with the previous announcement to the public administration authority responsible for internal affairs, in line with the law regulating the right to public assembly.

If the religious ceremonies are executed at the request of the citizens (family saint day, wedding, baptism, confirmation, circumcision, confession, consecration, etc.) it is not necessary to report them as stipulated in Paragraph 2 of this Article, unless these ceremonies are executed in a public place.

Article 47

Religious servant exercising a religious ceremony or religious affair may receive a compensation, that is, reward for the religious affairs and religious ceremonies from the person at whose request the ceremony or the affair is being executed, on the basis of the autonomous regulations of the religious community.

The religious community shall keep a record of the revenues referred to in Paragraph 1 of this Article, in line with the law and the autonomous regulations of the religious community.

Article 48

Religious spiritual care for believers who serve in the Army of Montenegro and the police force shall be exercised in line with the act of the competent public authority that regulates in more detail the rules of service.

Article 49

A person in detention or serving a prison sentence, as well as a person placed in the Institute for juveniles or institutions for placement of children with behavioral problems shall have the right to religious spiritual care, either individual or in community with others, in line with the act of the public authority responsible for the area of judiciary.

Article 50

A person placed in a health institution or social welfare institution shall have the right to receive religious spiritual care, either individual or in community with others, in line with the house rules of that institution.

IV RELIGIOUS TEACHING AND RELIGIOUS SCHOOLS

Article 51

Religious teaching may take place in religious buildings or in other buildings appropriate for that purpose.

In order for juveniles to participate in religious teaching it is necessary to obtain the consent of the parent or guardian, as well as the consent of the juvenile if he is 12 years old or older.

Religious teaching with students may only take place during the period when students do not have classes at school.

Article 52

Parents shall have the right to engage in religious teaching of their own child in line with their own religion or beliefs, while respecting the physical and psychological integrity of the child.

Article 53

Schools and educational institutions shall observe the rights of pupils and students to religious holidays, in line with the law.

Article 54

Religious community may establish religious schools at all levels of education, except for primary school, which is compulsory according to the law, as well as dormitories to accommodate persons studying in those institutions.

Religious community shall independently define the curriculum of the religious school, contents of the textbooks and manuals, and define the requirements for the teaching staff.

The curricula, as well as the contents of the textbooks and manuals in religious schools shall not be contrary to the Constitution and the law.

Article 55

Harmonization of the curricula and contents of the textbooks and manuals of the religious schools with the Constitution and the law shall be exercised by the public administration authority responsible for education.

Responsible person in the religious school shall put at the disposal of the responsible authority referred to in Paragraph 1 of this Article all the necessary data for the purpose of supervision, and correct the noted irregularities within the deadline stipulated by that authority.

Article 56

Religious school established in line with this Law may implement publically applicable curricula, if it obtained the license in line with the regulations in the area of education.

Religious school that is licensed or accredited as an educational institution shall have the right to be financed from the state budget, in proportion to the number of students, in line with the law.

Article 57

Teaching in the religious school may be provided by a person who holds the work permit in line with the law, as well as the accreditation or approval from the religious community that establishes the religious school.

V PUNITIVE PROVISIONS**Article 58**

A fine ranging from 2,000 to 20,000 euro shall be imposed for the misdemeanor offence on a legal entity:

- 1) that forces or impedes in any way another person from becoming or remaining a member of the religious community or from participating or not participating in the manifestation of religion or beliefs (Article 13, Paragraph 1);
- 2) that prevents other person, due to belonging or not belonging to a religious community, from exercising the rights that belong to that person in line with the law (Article 13, Paragraph 2);
- 3) that establishes a religious school for primary education (Article 54, Paragraph 1).

A fine ranging from 200 to 2,000 euro shall be imposed on the physical person and the responsible person in the legal entity for the misdemeanor offence referred to in Paragraph 1 of this Article.

A fine ranging from 300 to 6,000 euro shall be imposed on an entrepreneur for the misdemeanor offence referred to in Paragraph 1, Items 1 and 2 of this Article.

Article 59

A fine ranging from 200 to 2,000 euro shall be imposed for the misdemeanor offense on the physical person:

- 1) parent or guardian engaged in religious teaching contrary to the decision of the child (Article 51, Paragraph 2);
- 2) religious servant who engages in religious teaching contrary to Article 51, Paragraphs 1 and 3 of this Law.

VI TRANSITIONAL AND FINAL PROVISIONS**Article 60**

Secondary legislation for the implementation of this Law shall be adopted within 6 months from the date of coming into force of this Law.

Article 61

The Ministry shall take over from the public administration authority responsible for internal affairs the Inventory and other data on religious communities registered with that authority within 30 days from the date of coming into force of this Law.

Within 30 days from the date of coming into effect of this Law, the Ministry shall take over from the public administration authority responsible for foreign affairs, the data on religious communities that have concluded an agreement with Montenegro by the date of coming into effect of this Law.

A religious community registered in line with the Law on legal status of religious communities (Official Gazette of SR Montenegro no. 9/77) may submit an application for entry into the Inventory in line with this Law, within six months from the date of coming into effect thereof.

The religious community that fails to act in line with Paragraph 3 of this Article shall not be considered a recorded religious community in the sense of this Law.

Article 62

Religious buildings and land used by the religious communities in the territory of Montenegro which were built or obtained from public revenues of the state or were owned by the state until 1 December 1918, and for which there is no evidence of ownership by the religious communities, as cultural heritage of Montenegro, shall constitute state property.

Religious buildings constructed in the territory of Montenegro based on joint investment of the citizens by 1 December 1918, for which there is no evidence of ownership rights, as cultural heritage of Montenegro, shall constitute state property.

Article 63

The public administration authority responsible for property issues shall identify religious buildings and land owned by the state, in the sense of Article 62 of this Law, make an inventory thereof and submit a request for registration of ownership rights of the state over that real estate in the real estate cadaster within one year from the date of coming into force of this Law.

Public administration authority responsible for cadaster affairs shall register the rights referred to in Paragraph 1 of this Article within 60 days from the date of submission of the request.

Article 64

The Law on legal status of religious communities (Official Gazette of SR Montenegro no. 9/77) shall cease to be valid as of the date of coming into force of this Law.

Article 65

This Law shall come into force on the eighth day from the date of being published in the Official Gazette of Montenegro.