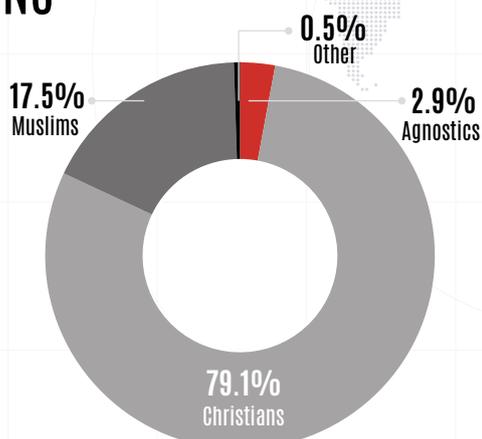




# MONTENEGRO

## RELIGIONS



Population

**629,397**

GDP per capita

**16,409 US\$**

Area

**13,812 Km<sup>2</sup>**

GINI INDEX\*

**39.0**

\*Economic Inequality

## 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 (LL-SRC)<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 30th 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.<sup>4</sup>

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 24th 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.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

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 24th June 2011 in the Vatican and ratified on 21st June 2012, regulates the legal framework of relations between the Roman Catholic Church and the state.<sup>8</sup> 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)<sup>9</sup>, 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 31st 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 12th 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.<sup>10</sup>

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 22nd 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 27th 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.<sup>11</sup>

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 8th January 2020.<sup>12</sup>

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 1st December 1918, which, for the most part, lack title deeds.<sup>13</sup>

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 disempowering 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.”<sup>14</sup>

On 31st 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).<sup>15</sup>

In December 2019, Pope Francis<sup>16</sup> and Patriarch Bartholomew I of Constantinople<sup>17</sup> 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<sup>18</sup> 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 FREEDOM OF RELIGION

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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