



**Submission to the United Nations Special Rapporteur on Freedom of Religion or Belief for his Report to the United Nations General Assembly on Eliminating Intolerance and Discrimination Based on Religion or Belief and the Achievement of Sustainable Development Goal 16 (SDG 16)**

30 May 2020

**Introduction**

This submission is prepared by the International Panel of Parliamentarians for Freedom of Religion (IPPFoRB) or Belief Secretariat in collaboration with Dr Mine Yildirim.

IPPFORB is a network of parliamentarians and legislators from around the world committed to combating religious persecution and advancing Freedom of Religion or Belief (FoRB)<sup>1</sup>.

This submission is based on the study conducted between October 2019 and May 2020 by Dr Mine Yildirim for IPPFoRB aimed at drafting a roadmap for parliamentarians on ways to promote freedom of religion or belief in their contexts. The study focused on 4 Western Balkan countries (Bosnia and Herzegovina, North Macedonia, Kosovo and Serbia), and combined desk research, meetings with key stakeholders during country visits, and online interviews.

**Laws and policies restricting the right to manifest freedom of religion or belief of minority religious communities, including blasphemy, national security and counter-terrorism laws; laws and policies with regard to the registration of faith-based organizations and associations; and those pertaining to religious property, religious educational institutions and places of worship and of burial**

In North Macedonia, smaller religious groups have encountered problems in registering as separate entities. These have been the subject of domestic court cases as well as the European Court of Human Rights judgments as demonstrated below.

Registration of churches and religious groups is regulated by Articles 9 and 10 of the Law on the Legal Status of Churches, Religious Communities and Groups (2007)<sup>2</sup>.

According to the 2007 Law, “A church, religious community or religious group will be entered in the Competent Register, if such a church, religious community or religious group has not been registered already”<sup>3</sup> and “The name and official insignia of each new church, religious community and religious group shall be different from the names and official insignia of already registered churches, religious communities and religious groups.”<sup>4</sup>

The abovementioned restrictions on the registration of the religious communities, together with the concerns over potential fragmentation of the larger community, seem to lay at the basis of the refusal of registration of the Bektashi Community, Orthodox Ohrid Diocese and several smaller religious groups.

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<sup>1</sup> For more information please see: <https://www.ippforb.com/>.

<sup>2</sup> Available at

[https://www.legislationline.org/download/id/4456/file/FYROM\\_Law%20on%20Religious%20Communities\\_2007\\_en.pdf](https://www.legislationline.org/download/id/4456/file/FYROM_Law%20on%20Religious%20Communities_2007_en.pdf)

<sup>3</sup> The Law on the Legal Status of Churches, Religious Communities and Groups (2007), Art. 9(3)

<sup>4</sup> Ibid. Art. 10(1)



The Bektashi Community has been present in the country since XV century and considers itself as a separate religious group. At the same time, the Islamic religious community regards the Bektashi Community as its integral part and their attempts of registering as a separate community illegal and detrimental to the Islamic community. The ECtHR held in 2018 that the non-recognition of the Bektashi Order was not justified and that there has been a violation of Article 11 of the ECHR read in the light of Article 9<sup>5</sup>. Without formal registration, the Sufi Bektashi Community of Macedonia has not been able to claim its property, the Harabati Baba Teke, where the Community's headquarters are located.<sup>6</sup>

The attempt of the Orthodox Ohrid Archdiocese to register as a separate religious group has been dismissed by the domestic registration court because, among other things, the intended name included a term used by an already registered religious community and had doctrinal sources identical with those of that community.<sup>7</sup> The European Court of Human Rights has found that the refusal of the recognition of the Orthodox Ohrid Archdiocese as a religious organisation cannot be accepted as necessary in a democratic society and that there has been a violation of Article 11 of the Convention, interpreted in the light of Article 9.<sup>8</sup>

Following the European Court's respective judgments of April and September 2018, the Skopje registration court accepted to reopen the impugned proceedings in both cases. The renewed registration proceedings seem to be progressing, even if encountering objective obstacles in the Bektashi case (intervening registration of another association with the same name and absence of up-to-date registration documentation submitted by the applicant association)<sup>9</sup>. The registration of the Bektashi and Orthodox Ohrid Archdiocese is, however, yet to be completed at the time of writing this submission.

## Discrimination in law and practice

### · Patterns and examples of discrimination against minority religious or belief communities, in the area of:

#### **a) civil and political rights, including but not limited to participation and representation in the public life, access to justice and effective remedies, liberty and security, freedom of expression, assembly and association;**

##### *The privileged status of some religious communities*

Despite Constitutional protection of freedom of religion or belief and the right to equality representatives of different religious or belief communities express concern over favoured status afforded to the Macedonian Orthodox Church. While the Constitution explicitly names five religious communities, namely, the Macedonian Orthodox Church, the Islamic religious

<sup>5</sup> ECtHR, *Case of Bektashi Community and Others v. The Former Yugoslav Republic of Macedonia*, App. nos. 48044/10 ; 75722/12 and 25176/13, 10 September 2018

<sup>6</sup> D.J., "[The most well-preserved sanctuary of the Islamic mystic monastic order in Europe is on the border of Serbia: The legend says it was founded by Shurak Suleyman the Magnificent](#)", 9 February 2018

<sup>7</sup> ECtHR, *Case of "Orthodox Phrid Archdiocese (Greek Orthodox Ohrid Archdiocese of the Pec Patriarchy) v. The Former Yugoslav Republic of Macedonia*, App. no. 3532/07, 09 April 2018, para. 56

<sup>8</sup> ECtHR, *Case of "Orthodox Phrid Archdiocese (Greek Orthodox Ohrid Archdiocese of the Pec Patriarchy) v. The Former Yugoslav Republic of Macedonia*, App. no. 3532/07, 09 April 2018

<sup>9</sup> 1340th meeting, 12-14 March 2019 (DH), H46-22 "Orthodox Ohrid Archdiocese (Greek-Orthodox Ohrid Archdiocese of the Peć Patriarchy)" v. "the former Yugoslav Republic of Macedonia" (Application No. 3532/07), CM/ Notes/1340/H46-22, 14 March 2019



community, the Catholic Church, the Evangelical Methodist Church, the Jewish community, it also adds that “other religious communities and groups are separate from the State and equal before the law”.<sup>10</sup>

The autocephalous status of the Macedonian Orthodox Church (MOC) has been recognized through a Declaration adopted by the Parliament in 2004.<sup>11</sup> The Declaration stipulates the MOC’s position in the Constitution, its historical role for the Macedonian people and the role of religious communities in ensuring mutual understanding and tolerance between religious confessions. The Declaration also stated Parliament’s commitment to maintaining freedom of religion and encouraging mutual respect among all citizens, regardless of their religious, national or any other affiliation.

Numerous interlocutors from different religious communities as well as none, observed that the Macedonian Orthodox Church enjoyed special privileges, compared to the other religious communities.

Some interlocutors reported that the Islamic community is at times unfavourably treated in connection to return of property and discrimination based on religion or belief, restrictions on participating in Friday prayers for employees in public and private sector continued.<sup>12</sup>

**· Gender-based discrimination: the multiple and intersecting forms of discrimination faced by minority women and girls who are members of minority religions or belief-based communities.**

The Law on the Prevention and Protection against Discrimination, adopted in 2019 and repealed in May 2020 by the Constitutional Court on the basis of procedural omissions<sup>13</sup>, prohibited any discrimination based on race, origin, nationality or ethnicity, sexual orientation, gender identity, religion, political beliefs, or any other grounds.

During the mapping visit, several interlocutors drew attention to longstanding and pervasive suspicion to manifestations of religion or belief in the public sphere.

A number of interlocutors expressed concern over women wearing the headscarf facing discrimination in the context of access to employment. A few women who wear the headscarf are employed in municipalities where the mayor is Muslim. According to the representative of the Islamic community, women who are members of the Islamic community are employed usually as teachers.

According to the rules of conduct in a swimming pool, it is prohibited to use the shorts below the knees, which excludes the possibility for women to wear *burkinis*.<sup>14</sup>

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<sup>10</sup> The Constitution, Article 19.

<sup>11</sup> (Official Gazette no.4/2004)

<sup>12</sup> US Department of State, [2018 Report on International Religious Freedom: North Macedonia](#), accessed on 10 December 2019.

<sup>13</sup> 360 degree, The Constitutional Court overturned the Law on Protection against Deiscrimination because it was not passed by 61 votes, May 14, 2020, available at <https://360stepeni.mk/ustavniot-sud-go-ukina-zakonot-za-zashtita-od-diskriminatsija-zashto-ne-beshe-donesen-so-61-glas/>

<sup>14</sup> Rules of conduct (Swimming pool), point 16, available at <http://www.scboristrajkovski.gov.mk/kapaciteti/en/2-uncategorised/132-pravilnik-plivackibazen>



One of the concerns raised by interlocutors was women's role in the management of the mosques as well as access to suitable space for prayer in mosques. The mosque management bodies mostly consisted of men. A human rights activist, who is also a member of the Islamic community mentioned that often the parts of the mosque reserved to women are not easily accessible, not adequate for prayer, not properly heated, sometimes also used as a deposit for old furniture, etc.

A recent example of discrimination brought to our attention was the case of a girl wearing a headscarf who was refused to entry the restaurant in January 2019 on the pretext that they needed a reservation. When her friend (non-Muslim) came to the same restaurant ten minutes later, she was seated without a problem. The Macedonian Helsinki Committee initiated a procedure before the Commission for the Protection against Discrimination in this specific case. The Commission determined direct discrimination and recommended to the restaurant to remove the practice and to issue a public apology to the discriminated girl<sup>15</sup>. The restaurant's apology was published in a daily newspaper.

Wearing religious symbols, including headscarves, is prohibited in high schools which would disproportionately affect female students.<sup>16</sup>

#### *Effects of discrimination*

Hate crimes and incidents based on religion or belief that have been recorded and reported to the OSCE indicate attacks against Christian Orthodox churches as well as mosques.<sup>17</sup>

The North Macedonian Helsinki Committee reported on hate speech fuelling religious intolerance, hate crimes and discrimination based on religion.<sup>18</sup> From January 1st to December 31st, 2018, the Helsinki Committee registered a total of 123 hate crimes, 64% of the incidents occurred due to the victim's ethnicity, making these incidents the most numerous, followed by incidents committed due to the victim's political affiliation, a quarter of the total number of incidents (25%).<sup>19</sup> A third of the incidents were caused by racial, national and religious intolerance (13.8%), followed by incidents due to refugee/migrant status (4.8%), religion and religious beliefs (3.2%).

Several interlocutors shared their observation that politics influences religious communities and contributes to dividing society on grounds of ethnicity and religion.

A number of interlocutors observed that religious buildings and monuments are used to mark territory. Especially during election periods, politicians utilized political sensitivities, however, it was also observed that there were groups within religious communities that support different political parties.

Overall, statements by religious or belief leaders, NGO leaders and politicians were welcomed and viewed as necessary to counter incitement to hatred or violence, however, it was also remarked that such statements are rare.

<sup>15</sup> <https://www.pravdiko.mk/kzd-utvr-di-direktna-diskriminatsija-vrz-osnova-na-religija-i-versko-uveruvane/>

<sup>16</sup> Law on High Education, Art. 7, available at <http://mon.gov.mk/images/documents/zakoni/zakon-za-sredno-2015.pdf>

<sup>17</sup> [https://mhc.org.mk/wp-content/uploads/2019/05/hkm\\_godishen-izveshtaj\\_eng.pdf](https://mhc.org.mk/wp-content/uploads/2019/05/hkm_godishen-izveshtaj_eng.pdf)

<sup>18</sup> Ibid.

<sup>19</sup> For more information see <http://hatecrime.osce.org/north-macedonia>, 2018.



Many interlocutors mentioned that issues related to religion or religious freedom are not the subject of informed and inclusive debate, rather, such debates either take place online in social media or become politicised and discussed behind closed doors.

**Good Practice:** In 2002, pursuant to the *Law on Denationalization of 2000*, the government set up a Holocaust Fund. The fund is responsible for managing formerly Jewish-owned heirless property (or related compensation), creating a Holocaust Museum and Education Center which opened in 2011, maintaining Jewish heritage sites (including cemeteries), and sponsoring Holocaust-related education programs.<sup>20</sup>

IPPFoRB encourages all legislators to utilize their powerful public position to counter hate speech, the politicization of religion or religious sensitivities with a view to contribute to creating an atmosphere of social harmony and mutual trust by advocating for human rights for all.

The IPPFoRB is also concerned about practices that limit the rights of minority religious communities, which are guaranteed by North Macedonia's international human rights obligations and its Constitution and calls for a follow up on the implementation of the European Court of Human Rights judgments.

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<sup>20</sup> <https://wiro.org.il/our-work/restitution-by-country/macedonia/>