



ADF INTERNATIONAL

*ECOSOC Special Consultative Status (2010)*

UNIVERSAL PERIODIC REVIEW - THIRD CYCLE

**Submission to the 32<sup>nd</sup> session of the Human Rights Council's Universal Periodic Review Working Group**

**January 2019, Geneva, Switzerland**

**MACEDONIA**

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## Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, marriage and family before national and international institutions. ADF International has consultative status within the United Nations in ECOSOC (registered name 'Alliance Defending Freedom'), has accreditation before the EU (European Commission and European Parliament), the Organization for Security and Cooperation in Europe, the Organization of American States, and is participant in the FRA European Union Agency for Fundamental Rights.
2. This report focuses on the status of protection of the right to freedom of religion and belief in Macedonia, with a special attention to the current relationship between religion and the State.

### **(a) The Right to Freedom of Religion and Belief**

3. From a demographic perspective, The Former Yugoslav Republic of Macedonia (hereinafter Macedonia)<sup>1</sup> is a multi-ethnic and multi-religious country, involving numerous political, national and religious interests. This makes the Macedonian society a deeply polarized one.
4. The 2002 official census indicates that 64.8 per cent of the country's population declared themselves to be Eastern Orthodox (mainly members of Macedonian Orthodox Church), 33,3 per cent to be Muslims, while 0,4 per cent of the population belonged to other Christian communities (Catholics, Protestants, Methodists, etc.) and 1,5 per cent of people declared themselves as unaffiliated. The majority of Orthodox believers are ethnic Macedonian, who form the largest ethnic group in Macedonia, and the majority of Muslim believers are ethnic Albanian and Turks, which make the second and the third biggest ethnic group in the country.
5. In 2017, a total of 35 communities were registered as religious entities and were recognized as such by the state.
6. The Serbian Orthodox Church recognized the autonomy of the Macedonian Orthodox Church in 1959. After this, the Macedonian Orthodox Church became self-governing in the internal matters but was still under the leadership of the Serbian Orthodox Church. In 1967 the Macedonian Orthodox Church unilaterally

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<sup>1</sup> On 17 June 2018 Greece and Macedonia signed an agreement on changing the official name of The Former Yugoslav Republic of Macedonia into The Republic of North Macedonia. The new name is still not in the official use.

ally announced its autocephaly—full ecclesiastical and administrative independence from the Serbian Orthodox Church. The decision to announce the autocephaly of the Macedonian Orthodox Church brought a schism within the Orthodox Church. The Macedonian Orthodox Church is currently recognized by the state, but not by the Serbian or any other Orthodox Church, which considered such unilateral announcement as an act of self-excommunication from the unity of the Orthodox Church, and the creation of a schismatic religious organization.

7. On the other hand, there has also been a schism within the Macedonian Orthodox Church, as a consequence of its attempt to regain the canonical status and the recognition from other Orthodox Churches. The result of negotiations between the Macedonian Orthodox Church and the Serbian Orthodox Church culminated with the 2002 Niš Agreement, signed by both delegations but later rejected by Macedonian representatives and by the Synod of the Macedonian Orthodox Church. Only the Metropolitan of Veles and Povardarie, His Eminence Jovan Vraniskovski, responded to the call of the Serbian Orthodox Church and entered in liturgical unity with the Serbian Orthodox Church. He was appointed as the head of the Macedonian Orthodox Church—Ohrid Archbishopric, which is currently the only recognized Eastern Orthodox Church in Macedonia in full communion with all other Eastern Orthodox Churches. Nevertheless, this Church is still not recognized by the state.
8. In 2002, after the canonical and ecclesiastical reunion of Orthodox Ohrid Archbishopric with the Serbian Orthodox Church, the police expelled Archbishop Jovan from his residence in Veles. In 2004, the police expelled the monks from their monasteries after they joined the Orthodox Ohrid Archbishopric.
9. After the abovementioned schism, Archbishop Jovan was detained by the Macedonian national authorities for several times and accused on various charges, including for instigation of ethnic, racial and religious hatred, discord and intolerance, and money laundering. The members of the Ohrid Archbishopric claim that Archbishop Jovan had been prosecuted because of his religious belief, while the Helsinki Committee for Human Rights pointed to political motives<sup>2</sup>.
10. Moreover, there have been various allegations that Archbishop Jovan and other members of the Orthodox Ohrid Archbishopric were physically attacked on a number of occasions, and that Archbishop Jovan himself was tortured in prison in 2014.

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<sup>2</sup> Annual report on the situation in the area of human rights in the Republic of Macedonia for 2014, 2 June 2018, [http://www.mhc.org.mk/system/uploads/redactorassets/documents/1110/Godishen\\_Izvestaj\\_\\_English\\_.pdf](http://www.mhc.org.mk/system/uploads/redactorassets/documents/1110/Godishen_Izvestaj__English_.pdf)

11. Since 2004, the Macedonian State Religion Commission has been continuously denying registration to the Orthodox Ohrid Archbishopric on the basis that it could not adequately prove the difference between its name and symbols and those of the Macedonian Orthodox Church.
12. In November 2017, the European Court for Human Rights (ECtHR) in the case *Orthodox Ohrid Archbishopric v the Former Yugoslav Republic of Macedonia (FYROM)* stated that FYROM violated Art. 11 (freedom of assembly and association), in conjunction with Art. 9 (freedom of Thought, Conscience and Religion), the European Convention on Human Rights, as the authorities refused to register the Orthodox Ohrid Archbishopric (POA) as a special religious community. The decision became final in April 2018, when the Court rejected the appeal filed by the Government of Macedonia before the Grand Chamber of the ECtHR.<sup>3</sup>
13. Macedonia expressly recognizes five religious communities in its Constitution, and allows other religious organizations to obtain equal rights and status by receiving official state recognition. State-recognized religious communities are exempted from taxes, can establish schools and other institutions, have their own media, are eligible to apply for property restitution, government-funded projects and construction permits for building new places of worship or for cultural preservation of shrines and cultural sites etc. However, the guarantee that the failure to register as a religious entity does not prevent a religious community from practicing its faith, or that it does not result in the imposition of any punishment or fines, has been put into question by the above-described climate of tensions within the Orthodox Church in Macedonia and its wider adverse repercussions.
14. The example of the registration of the Orthodox Ohrid Archbishopric shows how the interference by the state in the sphere of freedom of religious belief might lead to human rights violations. While this has been a matter of church autonomy and internal recognition, it must not be overlooked that the State needs to remain neutral and impartial in exercising its regulatory power in the sphere of religious freedom and in its relations with different religions, denominations and beliefs, as confirmed in the case *Magyar Keresztesy Mennonita Egyház and others v Hungary*, among others. The role of the authorities in a multi-ethnic and multi-religious society is indeed not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other (*Serif v Greece*).
15. Also, according to Article 7 of the Law on the Legal Status of Religious Communities, it is the duty of the state to respect the identity of churches, religious

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<sup>3</sup> Decision of ECtHR no 3532/07, 9 April 2018.

communities, religious groups and other forms of religious associations, to establish ongoing dialogue and develop forms of permanent cooperation with them.

16. In accordance with its treaty obligations under Article 18 and Article 26 of the ICCPR, Macedonia must take steps to ensure the protection of the right to freedom of religion or belief, and to eliminate discrimination based on religion or belief. Moreover, Macedonia must refrain from interfering illegitimately and unfairly in internal church governance and other ecclesiastical affairs.

**(b) The Right to Education**

17. According to Article 45 of the Constitution of Macedonia, “[Macedonian] Citizens have a right to establish private schools at all levels of education, with the exception of primary education, under conditions determined by law.” Furthermore, pursuant to Article 22 of the Law on the Legal Status of Religious Communities, “churches, religious communities and religious groups shall have the right to establish religious educational institutions at all levels of education, except for primary education, for education of priests and religious officials [...]. Religious educational institutions shall be equal with other educational institutions and their students shall have the same rights and obligations.”
18. The provisions requiring all primary schools in Macedonia to be public, thus considering all private primary schools and other alternative education options as being outside the formal education system, raise concerns not just in light of the right of parents to educate their children in accordance with their convictions, but also of the right to freedom of religion and the right to freedom of conscience under international human rights law.
19. Article 18(4) of the International Covenant on Civil and Political Rights recognizes “the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.” Article 26(3) of the Universal Declaration of Human Rights also states that “parents have a prior right to choose the kind of education that shall be given to their children.”
20. Article 13(3) of the International Covenant on Economic, Social and Cultural Rights is equally explicit in guaranteeing the right to alternative forms of education, reading:

The States Parties [...] undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those

established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

**(c) Recommendations**

21. In light of the aforementioned, ADF International suggests the following recommendations be made to The Former Yugoslav Republic of Macedonia:
- a) Adjust the regulatory and legal framework to comply with international human rights law and standards in order to guarantee freedom of religion.
  - b) Reform its legal framework on freedom of religion by preventing any form of discrimination or undue obstacles in the registration of religious communities.
  - c) Ensure that religious leaders are able to exercise their right freedom of expression as guaranteed under the International Covenant on Civil and Political Rights without being subject to intimidation, reprisals or harassment.
  - d) Grant to non-registered religious groups the same rights in practice as those enjoyed by other groups and permit their peaceful activities free from government interference.
  - e) Respect the right guaranteed under international law of parents to raise and educate their children in accordance with their moral and religious convictions, and repeal all laws which unjustly deprive individuals of their parental rights.
  - f) Recognize that the State has no legitimate authority under international law to mandatorily prescribe public education for all children, and that individuals have the right to seek alternative forms of education.



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