

Association for the Advancement of political, cultural and economic Cooperation
between Montenegro, the Republic of Serbia and Republika Srpska

Podgorica, Montenegro

Council of Europe
Committee on Legal Affairs and Human Rights

Dear Sir/Madam,

Highly appreciating the important role and outstanding contribution of the Parliamentary Assembly of the Council of Europe to the promotion of human rights, we are free to ack you as a member of the Committee on Legal Affairs and Human Rights to pay your attention on the drastic increase of the scope of discrimination and intolerance against members of the Serbian people in Montenegro and believers of the Serbian Orthodox Church in that country. Discrimination and intolerance against members of the Serbian people in Montenegro and believers of the Serbian Orthodox Church threaten to escalate into open forms of violence and to jeopardize the survival of those communities. Please consider the material attached to this e-mail and, as a member of the Committee, initiate the urgent discussion on the position of the Serbian people and believers of the Serbian Orthodox Church in Montenegro within the Committee and Parliamentary Assembly.

At the very beginning of our contribution, we would like to draw your attention to a few, in our opinion, extremely important facts in the context of which the information we will provide in this text could be considered. During its centuries-long history, Montenegro was a medieval independent state, then as an autonomous region within the Ottoman Empire and as a sovereign and independent state that gained its independence in 1878, was perceived as a Serbian state. The perception of Montenegro as a Serbian state was not a consequence of exclusively international relations and understanding of international factors, but stemmed from the determination and self-understanding of the vast majority of

Montenegrians and holders of the highest authorities in that period. The Kingdom of Montenegro was united with the Kingdom of Serbia in 1918, and thus united, they became part of the Kingdom of Serbs, Croats and Slovenes. From 1918 to 2006, Montenegro and Serbia were always within the same state changing its constitutional structure - while the Kingdom of Serbs, Croats and Slovenes (later called the Kingdom of Yugoslavia) was a unitary state, the post-war Yugoslavia was a federation in which Montenegro had the status of a federal unit until the last state union, Serbia and Montenegro. Given such a historical heritage, it is not surprising that the ties between the Serbian and Montenegrin people are extremely strong and reflected in the overlap of a significant number of elements of identity (common spiritual and cultural heritage, linguistically speaking the same language in which all members of both nations communicate without any problem, the same religion and belonging to the same church - the Serbian Orthodox Church, etc.), so that often belonging to one or another group by their members is understood in the context of regional rather than national or ethnic, religious and linguistic affiliation. As a civil society organisation, with no intention to advocate the denial of the right of any person to belong freely to any national or ethnic, religious or linguistic group and, in that respect, to self-identify, as well as to deny rights to groups whose members consider sharing characteristics of culture, religion or language, we are free to turn your attention to the fact that precisely because of the presented historical heritage in Montenegro, it is extremely difficult to determine which groups of persons who consider sharing common characteristics of culture, religion or language, or a combination of these elements, have minority status. Namely, in the reality of social life, none of such groups makes up the absolute majority, and thus not less than half of the total population in Montenegro.

As an illustration of our position, we provide data on the official results of the last two censuses in Montenegro with regard to the number of persons belonging to the Montenegrin and Serbian people who speak the Montenegrin and Serbian language, respectively, and for whom we have pointed out that there is a significant overlap of identity and essentially identical language.

Table 1: Number of members of the Serbian and Montenegrin nations

Year	Number of members of
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	the Serbian nation	the Montenegrin nation
2003	198,414 (31.99%)	267,669 (43.16%)
2011	178,110 (28.73%)	278,865 (44.98%)

Table 2: number of speakers of Serbian and Montenegrin

Year	Number of speakers of	
	the Serbian language	the Montenegrin language
2003	393,740 (63.49%)	136,208 (21.96%)
2011	265,895 (42.88%)	229,251 (36.97%)

Assimilation and discrimination of the Serbian nation and speakers of the Serbian language, to which we draw your attention on this occasion, have a systemic character and are deeply rooted in deliberately inconsistent legislative regulation of the concept of minorities, and are operationalised through government policy which makes the distinction between different groups not in order to facilitate the exercise of rights, but precisely in order to deny all the rights that members of different groups, especially the Serbian people.

The Constitution of Montenegro, adopted after independence in 2007, points out in the Preamble that the act is adopted, inter alia, based on the determination of members of nations and national minorities living in Montenegro (stating Montenegrins, Serbs, Bosniaks, Albanians, Muslims, Croats and others) that, as free and equal citizens, they are committed to a democratic and civil Montenegro. Such a definition, in addition to affirming democratic and civic values which nothing can be blamed on, still points to the existence of a larger number of *nations who are not stated to be minorities*, as well as the difference between *nations and national minorities* living in Montenegro, where none of the mentioned groups (Montenegrins, Serbs, Bosniaks, Albanians, Muslims, Croats and others) is classified in any of these categories. Such a classification was not made by the Law on Minority Rights and Freedoms either. On the other hand, according to Article 2 of that Law, minority nations and other minority national communities shall mean any group of citizens of Montenegro, numerically smaller than the rest of the predominant population, having common ethnic, religious or

linguistic characteristics, different from those of the rest of the population, being historically tied to Montenegro and motivated by the wish to express and maintain their national, ethnic, cultural, linguistic and religious identity. Mentioning *the predominant population* in the presented wording, which was not specified, actually enabled all groups of non-Montenegrins to be defined as minority nations and other minority national communities (there is a noticeable lack of use of the term national minority), although, as pointed out, some these groups neither really represent a minority (moreover, in terms of the group of speakers of the Serbian language, it is a relative majority!), nor are Montenegrins and speakers of the Montenegrin language a distinctly predominant population. Moreover, despite the constitutional determination arising out of which there is a large number of nations in Montenegro in a legally relevant sense, the wording of the Law on Minority Rights and Freedoms, as well as other provisions of that Law, have equated all such “minority” nations and national minorities in terms of legal status. The presented deliberate inconsistent legislative regulation of the concept of minorities has direct consequence of preventing members of the Serbian nation and speakers of the Serbian language from sharing common characteristics of culture, religion and language, because, just at the expense of the Serbian nation and speakers of the Serbian language, the state creation of the Montenegrin identity and transformation of all other groups into minorities whose legal position is not fully defined is forced by arbitrary, assimilation and discriminatory measures.

First of all, it is noticeable in squeezing the Serbian language from the public sphere, as well as exposing that language spoken not only by members of the Serbian nation in Montenegro, but also by a large number of members of the Montenegrin nation, to incredible systemic assimilation and persecution, and discrimination against its speakers. First of all, in this regard it should be pointed out that with the adoption of the Constitution in 2007, the Montenegrin language, which had never had that name or the character of a special language, was declared an “official language”. However, the very fact of constitutional creation of a special “Montenegrin language” which is basically, linguistically speaking, the same language as Serbian, in the internal legal order of Montenegro created a legal basis for the assimilation forcefully conducted by state institutions and for illegal discrimination against members of the Serbian nation and speakers of the Serbian language, especially in the field of education. Here is how they do it.

The name of the basic subject is Montenegrin-Serbian, Bosnian, Croatian language and literature. The problem of such determinations and their essential discriminatory and assimilative character consists in the following. First, for the purposes of performing the entire instruction, i.e. instruction for all subjects, the Montenegrin language is considered a special language, with reference to its, constitutionally observed, official character, while, on the other hand, only learning that “language”, due to the same linguistic basis, takes place together with Serbian (and Croatian and Bosnian), which prevents the study of these languages and makes their assimilation. This is evident especially based on a publicly valid education curricula for general education in which, except in the name of the subject (Montenegrin, Serbian, Bosnian, Croatian), there is no mention of Serbian, but also of other languages. Also, in the curricula for that subject, as one of its purposes, it is explicitly stated that “through the instruction of Montenegrin language and literature, students shall develop as independent, free, creative and cultural persons, *aware of their personal and national identity*”!!! Therefore, Montenegrin national identity is imposed on all students who attend that subject! Moreover, textbooks for that subject are prepared exclusively on the basis of the Montenegrin variant of the language, more precisely on the basis of the administratively adopted orthography and vocabulary! The official title of the textbook is “Montenegrin language and literature”. Two new letters were added to the orthography of the completely new Montenegrin language in 2009. This letters must be learned by all pupils, including those who identify as Serbs and are speaking Serbian language. That above stated is accurate, is evidenced by the event that took place during the summer of 2019, when the authors of the textbooks for secondary schools, after the announcement of the Institute for Textbooks that on the covers the name of the subject Montenegrin-Serbian, Bosnian, Croatian and Literature would be stated, they clearly stated that they prepared the manuscript under the name Montenegrin language and that they are not giving their consent for it to be printed under the name Montenegrin-Serbian, Bosnian, Croatian!

So, instead of fully respecting the same linguistic basis of the Montenegrin and Serbian languages, really the fact that it is the same language, by administrative means, at the expense of the Serbian language, a new language was created that gained official character, which allowed the entire instruction in public schools took place in that language, and then, referring to the same linguistic basis

with the Serbian language, one of the subjects within the educational process was designated as Montenegrin-Serbian, Bosnian, Croatian language and literature, whereby, through the education curricula for that subject, Montenegrin national identity, culture and language were imposed on those students whose mother tongue was Serbian. In that way, both nurturing the Serbian language and instruction in that language, and thus preserving the national identity of speakers of the Serbian language, were completely disabled!

Moreover, squeezing the Serbian language, and thus the Serbian identity, is present in other spheres of social life as well. Precisely because of the deliberate and tendentious ambiguities that exist in the legal order of Montenegro regarding the distinction and importance of different categories of minorities, the conditions that should enable the use of the Serbian language and Cyrillic alphabet in relations between members of the Serbian nation and speakers of Serbian language and administrative bodies are not provided. Although the Constitution guarantees the equality of Latin and Cyrillic, the use of Cyrillic as the alphabet of the Serbian language is negligible.

Bearing in mind that the Serbian language and the Cyrillic alphabet represent important segments of the cultural heritage of the Serbian nation, it is clear that the Montenegrin authorities deliberately and tendentiously prevent members of the Serbian nation in a discriminatory way from sharing common cultural characteristics. In the field of education, there are no appropriate measures through which to nurture the culture, history and religion of the members of the Serbian nation in Montenegro. Apart from the described squeezing of the Serbian language from the educational process, it should be pointed out that there are no intercultural contents in Montenegro that would appropriately express the culture, language and religion of the Serbian nation in that state, as well as the Serbian nation's contribution to creation of the Montenegrin state. Moreover, not only is there no such content, but the Serbian people are often presented in textbooks as a disruptive and anti-state element. Certain history textbooks for primary and secondary schools are full of fakes and hate speech, and in them the Serbs are presented as centuries-old occupiers of Montenegro - since the medieval Nemanjić period (although then Montenegro most of the time did not exist as an independent state), and Serbia as a centuries-old subversive and disruptive factor in the Balkans, which in 1918 “occupied Montenegro and carried out its annexation”, and

which throughout its history “waged cruel and bloody wars of conquest” against all its neighbors. Almost all Serbian writers have been expelled from textbooks for primary and secondary schools, i.e. from the instruction curricula for the subject Montenegrin-Serbian, Bosnian, Croatian language and literature, thus making the educational system in Montenegro significantly deviates from the recommendations of relevant international bodies according to which that system “should develop and teach a general compulsory instruction curriculum [...] which includes teaching about history, religions, cultures, traditions and contributions of both minority and majority groups within the state”. A special form of confrontation with the tradition and cultural heritage of the Serbian nation in Montenegro is the denial of use of its national symbols. Namely, in Montenegro there were several examples of violent police removal of Serbian national symbols, and even deprivation of liberty of persons who publicly displayed them, without mentioning symbols that are identical to the state symbols of the Republic of Serbia, or symbols of the Republika Srpska within Bosnia and Herzegovina. To make the paradox bigger, which only confirms the intention to assimilate the Serbian nation in Montenegro, in many cases it was about displaying symbols that were identical to the once valid symbols of the independent state of Montenegro.

Deliberate ambiguities and inconsistencies that exist in the legal order of Montenegro regarding distinction of the minorities and their discriminatory abuse have reached their peak in recent months in connection with the adoption of the controversial Law on Freedom of Religion or Belief and the Legal Status of Religious Communities. Namely, the Montenegrin authorities, which, as stated in several places in this text, try to present the Serbian nation and the Serbian language as minority, without a clearly defined legal position, are expanding this abuse with rhetoric according to which the Serbian Orthodox Church dioceses (eparchies) that exist in Montenegro and gather Orthodox believers of different nationalities, whereby Orthodox believers make up the majority of the population of Montenegro, are in fact Serbian in the ethnic sense, and, as such, imposed from outside and essentially anti-state in their activities! It is particularly illustrative in this regard the statement of the President of Montenegro at the congress of the ruling party Democratic Party of Socialists (DPS) at the beginning of June 2019, that the moment for the autocephaly of the Montenegrin church, which should be established *at any cost*, came. Apart from the fact that such state interference with the autonomous position of churches and religious communities is inadmissible

from the standpoint of all international standards of human rights and fundamental freedoms, especially in the state that is secular according to its Constitution and where there is a separation of state and religious organisations, particularly worrying is the fact that the President announced the establishment of such so-called Montenegrin Orthodox Church at the expense of the dioceses of the Serbian Orthodox Church in Montenegro.

The essence of such efforts and attempts to create a new state Orthodox church organisation that would bring together members of the Montenegrin nation, among other things, is reflected in the violent reduction of the Serbian Orthodox Church exclusively to the church organisation of the Serbian nation, and thus the minority church organisation. How decisive the Montenegrin authorities are in that is also evidenced by the discriminatory solution referred to in the newly adopted Law on Freedom of Religion or Belief and the Legal Status of Religious Communities as of 2019, which envisages deprivation of the legal personality of the Serbian Orthodox Church dioceses in Montenegro, some of which have existed for eight centuries, and which prescribes state confiscation of all religious buildings and land for which there is no evidence of the right of ownership of religious communities, which were built or obtained from public revenues or joint investment of citizens before 1918 and the unification of Montenegro with Serbia and the creation of a common South Slavic state. Apart from introducing an exceptional dose of legal uncertainty, because, under the conditions when there were no cadastral books, it is not possible to provide proof of ownership for centuries-old religious buildings, by such a solution the Law directly violates particularly the rights of dioceses of the Serbian Orthodox Church in Montenegro, because other churches and religious communities which traditionally operate in Montenegro, have concluded agreements with the state, so these agreements guarantee ownership of their property. We note that for years the Montenegrin authorities have avoided concluding with the dioceses of the Serbian Orthodox Church in Montenegro, which clearly expressed interest and good will, an agreement of the same content as those concluded with other churches and religious communities. All these have led to mass peaceful festive religious processions of believers (lities), which are currently suspended due to the coronavirus epidemic.

Numerous cases have been recorded in connection with dismissal of teachers who opposed the state's creation of a special language, persons who declare that

their nationality is Serbian have been dismissed en masse from the Montenegrin Army, persecutions and arrests of the Serbian Orthodox Church priests have been carried out, and epidemiological measures established to prevent the spread of coronavirus have been abused in order to prevent the performance of religious rites by the Serbian Orthodox Church priests.

The proportions of institutional prevention of development and preservation of culture of Serbian people in Montenegro are evidenced by the fact that in the last 20 years no scientist or artist belonging to Serbian people has been accepted as a member of Montenegrin Academy of Science and Arts, nor has any member of Serbian people gained a status of a 'prominent cultural creator' awarded by the Ministry of Culture of Montenegro.

For example, in July 2015 the mayor of Podgorica issued a decision on 'free distribution of textbooks for children enrolled in first grades of primary schools on the territory of the city of Podgorica who will be attending classes in Montenegrin or Albanian language.' For children who declared Serbian language a mother tongue and who wanted to attend classes in Serbian language there was none of such free distribution of textbooks, which was a gross discrimination of children based on their speaking language.

It is especially upsetting that the protagonist of such hate speech have been high-ranked state officials, members of the ruling political party, and often the highest-ranking state officials, which was especially intensified exactly during the preparations and announcements of the passing of the discriminatory *Law on freedom of religion or belief and legal status of religious communities*, which in turn led to serious excesses and endangering of safety of Serbian people.

In May 2019 in one primary school in Podgorica, a schoolgirl aged 15 beat her peers of Serbian national origin, put a knife under their throats, distribute fascist leaflets, celebrated NDH and sang Ustasha songs. Competent school authorities did not react and state authorities directed criticisms towards the media that broadcast reports about this incident.

In June 2019 the advisor of the Montenegrin ambassador in Ankara wrote on her Facebook page that the temple in Podgorica should be burned down together with all 'the cattle that gathered over there' during a protest rally against the discriminatory *Law on freedom of religion*. For this act she was fined 600 eu, which was paid by three Montenegrin ambassadors thereby expressing their solidarity with the lady and her hate speech.

In June 2019 an actor of Montenegrin national theater and activist of the ruling party insulted Serbs on his Facebook page, by calling them traitors,

turkanizers, garbage men and adolescents, and spiced it all up with most despicable curses.

In December 2019 an official of Ministry of Interior Affairs, head officer of the Directory for asylum in Directorat for civil affairs and personal documents, posted insults on her Facebook page directed against believers and clergy of Serbian Orthodox Church who gathered at convocation in Niksic. During those same days, the official of the Directory for emergency situations also issued a whole bunch of insults against members of Serbian Orthodox Church.

A son of one prominent functionary of the ruling party from Bijelo Polje posted on his Facebook profile insults against Serbs and orthodox Christians saying that he would 'gladly run them over with his jeep Hammer'. One lawyer from Cetinje and activist of a so called Montenegrin Orthodox Church in his interview to the Daily newspapers called for an urgent banish of the Mitropolit of the Montenegrin-Littoral Archdiocese, Amfilohije, accusing Serbian people and church for anti-state activities.

A very drastic example of a hate speech can also be found in an article of an editor of a daily newspaper 'Pobjeda' of 13 December 2019, titled 'The smell of bones, the breath of hatred' in which he in the most primitive way derides holy remains of Saint Vasilije Ostroski and the cult of Christian saints in general, representing one of the most blasphemous writings ever published in Montenegro. The whole article is directed against the Serbian Orthodox Church and its believers in Montenegro.

Situation regarding the use of Serbian language and participation of Serbian people in media is far from satisfactory and suggests existence of discrimination in this field of social life. Quite a few number of European institutions have assessed that the state of media freedoms in Montenegro is more than concerning, giving many supporting examples, spanning from a murder of the chief editor of 'Dan', Dusko Jovanovic, to recent arrests of the three editors of Montenegrin portals. In that sense, it is important to stress that Serbian script-Cyrillic cannot be found on public service media, and that all representatives of Serbian media in Montenegro complain about their aggravating position.

Having in mind the fact that according to the results of the 2011 Census, the Serbian language is spoken by 265.895 persons or 42.88% of population of Montenegro, the fact that, out of the 86.109 requests for ID issuance in 2018, in only 3.131 cases it has been requested that the name and surname were entered in Serbian language, as well as that out of the 76.616 requests for passport issuance, in the same period, in only 1.784 cases it was requested that the name and surname be entered in Serbian language, is absolutely unbelievable and very concerning.

Moreover, out of the 141 organs that provided data on the total number of employees and on the basis of 13.900 questionnaires, out of which are 11.571 or

67.14% of the total submitted and filled in questionnaires, the national structure of employees indicates a worrying underrepresentation of the persons belonging to the Serbian people (numerically and in percentage) in all 141 organs.

Out of the total number of employees, Serbs make an 11.24% or 1301. There are only 497 or 7.30% of Serb employees in the state and state administration bodies. According to the same survey, in other bodies to which the Law on Civil Servants and State Employees applies, number of employees who declared themselves as Serbs is 45 or 9.74%.

The submitted questionnaire on nationality of 3858 employees of the Police Directorate was answered by 3.377 employees or 87.53%, out of which 223 employees declared themselves as Serbs, which makes an incredibly small percentage of 6.60% police employees.

It is particularly important to note that out of the 24 members of the Government of Montenegro, there are no Serbs, although 8 are members of minority people. Therefore Serbs, although according to official statistics representing the largest people after the Montenegrins, do not have a single representative in the Government, and they are also discriminated against in relation to members of other nations who participate in the executive power in Montenegro.

Thus, there are no Serbs at all among the 15 employees at the Presidential Service. The situation is similar in the Institution of the Protector of Human Rights and Freedoms, in which out of the 18 employees there are also no Serbs. The HR Directorate also has no Serbs at all among the 34 employees. There are also no Serbs among the 21 persons employed at the General Secretariat of the Government of Montenegro. There are no Serbs either in the Ministry of Justice, the Ministry of Labor and Social Welfare, nor in the Ministry of Science. In other ministries, Serb involvement among employees is negligible. Thus, in the Ministry of Culture of 34 employees only one is of Serbian nationality, in the Ministry of Transport of 18 employees one is of Serbian nationality, in the Ministry of Defense among 184 employees, 14 are of Serbian nationality, in the Ministry of Foreign Affairs of 63 employees one is of Serbian nationality, in the Ministry of Human and Minority Rights of 15 employees one person is of Serbian nationality, in the Ministry of Health of 42 employees one person is of Serbian nationality, in the Ministry of Economy, among 89 employees, 4 are Serbs, while at the Ministry of Finance there are 10 Serbs among 125 employees.

Negligible representation of Serbs exists in other important state institutions. At the State Audit Institution, among 44 employees, 3 are Serbs. In the Constitutional Court out of 32 employees one is a Serb. There are no Serbs at all in higher court instances. Thus, there are no Serbs among the 46 employees in the Supreme Court, and the same situation is found among 21 employees in the

Administrative Court, among 27 employees in the Court of Appeal and among 22 employees in the Misdemeanor Panel. Only in the Commercial Court of 39 employed persons is one person of Serbian nationality.

In the meantime, the number of Serbs has decreased further in some authorities since conducting the survey cited by the Third State Report of Montenegro as a source of information. Thus, the dismissal of 22 members of the Montenegrin Army, who were dismissed by the decision of the Minister of Defense, who declared themselves as Serbs, caused particular concern among members of the Serbian people in Montenegro. These persons were dismissed from the service despite the fact that they had the positive opinions of the superiors and were highly rated (among them was the person who was the best in his generation).

On the 26. December, the Protector of Human Rights and Freedoms, on the complaint of a violation of rights, argued that the case involved discrimination. Of particular concern in this regard is the fact that on the occasion of the dismissal of those persons, the Minister of Defense stated that the decision to release these persons was made in coordination with the intelligence structures of Montenegro, while the Human Resources Directorate said that the released "do not deserve to be part of the defense system of Montenegro", which has no basis in the law.

Moreover, some opposition political leaders who are members of the Parliament of Montenegro and who continually point to discrimination against Serbs in Montenegro are exposed to genuine state persecution. On the 28. March of 2019, after two years of trial, the first-instance trial of the alleged attempt of the coup d'état on the day of the parliamentary elections in 2016, was completed. The Trial Chamber of the Higher Court in Podgorica found all the accused of a terroristic act in 2016. election day guilty. Leaders of the opposition Democratic Front Andrija Mandić and Milan Knežević have been sentenced to five years in prison. Over 200 hearings were held during the trial, and the presentation of evidence and the offer to agree to cooperate and testify against the other accused cast a shadow over the legality of the entire process. Moreover, after his escape from Montenegro, the crown witness denied his testimony.

The goal of this extensive address is not exclusively the need for us, as a civil society organisation, to draw your attention to the obvious and disturbing violation of the rights of the Serbian nation and the Serbian Orthodox Church in Montenegro. On the contrary, we have tried to point out that in Montenegro, where it is very difficult to unambiguously determine who makes the majority and who makes the minority, the Serbian Orthodox Church believers are the absolute majority of the population, that speakers of the Serbian language are the relative majority of the population, while members of the Serbian nation are, after ethnic

Montenegrins who are a relative ethnic majority, the most numerous nation. We are of the opinion that consistent respect for national, religious and linguistic rights in a state ensures its democratic character. In our opinion, the examples that we have been free to present to you in this letter, unfortunately and drastically indicate that the Montenegrin authorities do not have such a capacity and that they cannot be considered democratic in any way.

Please accept, the assurances of our highest consideration.

06.07.2020

Podgorica, Montenegro

Vladislav Bojović

President of the Association