

PAÍSES DEL ESTE

CRÓNICA LEGISLATIVA

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1. República de Kazajistán. Ley n. 483-IV sobre actividades y asociaciones religiosas de 11 de octubre de 2011. 2.- Ley de Estonia sobre iglesias y congregaciones, según la modificación realizada el 12 de febrero de 2012. 3.- Acuerdo Básico entre la Santa Sede y Montenegro de 24 de junio de 2011.

1. República de Kazajistán. Ley n. 483-IV sobre actividades y asociaciones religiosas de 11 de octubre de 2011.

El 11 de octubre de 2011, la República de Kazajistán aprobó la Ley n. 483-IV sobre actividades y asociaciones religiosas con la finalidad primordial de garantizar y promover la libertad de conciencia consagrada expresamente como tal en el art. 22 de la Constitución de 30 de agosto de 1995, en su versión modificada el 21 de mayo de 2007. Y, a este respecto, ya en el Preámbulo de la ley reconoce la importancia que tiene el respeto de todas las convicciones de los ciudadanos, que son iguales ante la ley con absoluta independencia de sus creencias religiosas. Ahora bien, excepción hecha de las

referencias contenidas en el art. 3 de la Ley al derecho de los ciudadanos a tener o no unas u otras creencias y a no ser obligado a comportarse en contra de ellas, el resto de artículos¹ tan sólo desarrollan de forma parcial el contenido de aquel derecho fundamental de los ciudadanos, al regular el régimen jurídico de las actividades y/o asociaciones destinadas a satisfacer las necesidades espirituales de carácter religioso de los ciudadanos (art. 1 de la Ley n. 483-IV). Las disposiciones de la Ley en esta materia se basan en las exigencias derivadas del principio de laicidad que se encuentra consagrado expresamente en el art. 1 de la Constitución como uno de los valores superiores del ordenamiento jurídico de Kazajistán².

Según lo dispuesto en el art. 3 de la Ley n. 483-IV, el principio constitucional de laicidad implica que:

- El Estado se encuentra separado de la religión y de las asociaciones religiosas. El principio de separación entre el Estado y las confesiones religiosas comporta, a su vez, que estos grupos: 1) No pueden llevar a cabo funciones públicas y no interferir en su actividad; 2) No pueden participar en la actividad de los partidos políticos, ni apoyarlos financieramente ni, finalmente, desempeñar actividades políticas; 3) Se encuentran sujetos a la legislación de la República de Kazajistán.
- Ninguna religión será profesada como oficial u obligatoria.
- El sistema educativo de la República de Kazajistán es de carácter laico y, por este motivo, ni los centros docentes creados por las asociaciones religiosas pueden formar parte integrante del mismo ni se podrá impartir enseñanza religiosa en las instituciones educativas públicas.
- Los representantes o ministros de culto de las asociaciones religiosas sólo podrán participar en la vida política en igualdad de condiciones con todos los ciudadanos de la República de Kazajistán *sui juris*.

¹ En concreto, la Ley contiene 25 artículos que se encuentran sistematizados, a su vez, en seis capítulos bien diferenciados entre sí.

² El art. 1.1 de la Constitución de 1995, en su versión consolidada de 2007 establece que: "La República de Kazajistán proclama un estado democrático, laico, legal y social cuyos valores son más que un individuo, de su vida, los derechos y las libertades".

- Las asociaciones religiosas no pueden obligar a declarar a sus adeptos sobre sus creencias religiosas ni pueden llevar a cabo actos de proselitismos o cualesquier otro tipo de actividades ilícitas contrarias a la Constitución o las leyes. Asimismo, los líderes de este tipo de colectividades deberán adoptar todas aquellas medidas que sean necesarias para garantizar que los creyentes menores de edad no participen en actividades de culto sin el consentimiento expreso de, al menos, uno de sus padres o representantes legales.
- Y que, finalmente, las asociaciones religiosas no pueden desempeñar actividades mercantiles que interfieran con las competencias propias de los organismos públicos, que perturben su buen funcionamiento operación o que, finalmente, limiten su capacidad de decisión en la materia de que se trate en el país.

Ahora bien, el hecho de que las asociaciones religiosas se encuentren separadas del Estado en los términos que acabamos de ver, ello no implica que los poderes públicos mantengan una actitud de indiferencia ante las convecciones de los ciudadanos. Buna prueba de ello es que el propio Preámbulo de la Ley n. 483-IV reconozca expresamente el papel que han jugado la tradición jurídica islámica Hanafita y el cristianismo ortodoxo en el desarrollo cultural y espiritual del país, así como la importancia del dialogo inter-religioso entre todas las confesiones religiosas sitas en el territorio nacional. Los arts. 4- 6 de la Ley se hacen eco de la importancia que tiene el fenómeno social religioso en la sociedad e imponen a las autoridades locales competentes la obligación de tener en consideración las creencias de los ciudadanos y de colaborar, activa e instrumentalmente, con las confesiones religiosas en que se integran, en el diseño de las políticas legislativas y de las normas reglamentarias que atañen a las actividades religiosas de los ciudadanos que son relevantes para la República con el fin esencial de garantizar el pleno disfrute de la libertad de conciencia de todos ellos. As efectos legales, las actividades religiosas que son considerados de interés público para la República son las siguientes:

- Ritos y ceremonias religiosas, incluyendo las prestaciones de asistencia espiritual de los creyentes que se encuentran internados en centros sanitarios, penitenciarios y, en general, en cualquier tipo de establecimiento público. La práctica de este tipo de actividades por parte de las confesiones religiosas legalmente reconocidas sólo podrán ser llevadas a cabo en el interior de los lugares de culto, los

cementerios o, en su caso, en los locales de las instituciones públicas habilitados a tal efecto y siempre y cuando hayan sido autorizados previamente por la autoridad local competente (art. 7 de Ley n. 483-IV).

- Actividades de culto, esto es, aquellas dirigidas a propagar la doctrina religiosa en el territorio de la República de Kazajstán (art. 1.5 de la Ley n. 483-IV) que nos sean constitutivas de actos de proselitismos contrarios al principio de laicidad estatal. Sólo pueden ser llevadas a cabo por los ministros de culto nacionales o, en su caso, extranjeros que se hayan registrado para llevar a cabo este tipo de actos de culto en la oficina territorial del órgano público competente y una vez que haya transcurrido, como mínimo, 30 días desde que haya tenido lugar la inscripción del interesado como misionero. La inscripción como tal se encuentra supeditada a que el ministro de culto de que se trate aporte la siguiente documentación: 1) Una copia del pasaporte o documento de identidad; 2) documento acreditativo del territorio donde va a llevar a cabo la actividad y la naturaleza de la misma; 3) La certificación expedida por la confesión religiosa a la que pertenezca de que va a llevar a cabo la misión en nombre y por cuenta suya; 4) Una copia del certificado de inscripción de la confesión en el Registro estatal de asociaciones de la República de Kazajstán; y 5) Una copia de los textos u objetos religiosos que va a utilizar en el desempeño de la actividad misionera (art. 8 de Ley n. 483-IV).
- Actividades de propagación de literatura religiosa y/o de objetos destinados al culto. La difusión de literatura religiosa sólo podrá llevarse a cabo en los locales destinados al culto de la confesión religiosa de que se trate, así como en otros locales o instituciones permanentes ubicadas en las capitales territoriales o ciudades de especial relevancia del país que hayan sido debidamente autorizados para ello por la autoridad local competente. En los textos u objetos religiosos difundidos debe constar con claridad el nombre de la confesión religiosa a la que pertenecen (art. 9 de Ley n. 483-IV).
- Actividades de caridad y/o beneficencia que pueden ser llevadas a cabo por las asociaciones religiosas legalmente reconocidas como tales directamente o por las entidades sin ánimo de lucro que hayan sido creadas expresamente por ellas para estos fines. En todo caso

este tipo de actividades benéficas deben ser llevadas a cabo con pleno respeto de la libertad de conciencia de los destinatarios de la ayuda de que se trate y siempre que, además, no sean utilizadas con la finalidad encubierta de propagar el propio culto entre los mismos (art. 10 de Ley n. 483-IV).

Las actividades religiosas que acabamos de describir sólo pueden ser llevadas a cabo, en los términos y condiciones que acabamos de describir por confesiones religiosas legalmente reconocidas como tales. A efectos legales, se consideran asociaciones religiosas aquellas agrupaciones humanas que poseen un credo en común que llevan a cabo ritos y ceremonias de naturaleza espiritual. De conformidad con la legalidad vigente, este tipo de entidades pueden ser de ámbito: 1) Local si ha sido creada por, al menos, cincuenta ciudadanos y desempeñan sus actividades dentro de la circunscripción territorial de un pueblo o una ciudad; 2) Regional si aglutinan a más de quinientos ciudadanos pertenecientes, a su vez, a dos o más asociaciones religiosas locales y llevan a cabo actividades religiosas en dos o más términos provinciales diferentes, ó 3) Nacional cuando ha sido creada a instancia de al menos cinco mil ciudadanos residentes en todas las provincias de la República de Kazajstán y posee subdivisiones estructurales (sub- sedes y oficinas de representación) en todo el territorio nacional (arts. 12 y 13.2 de la Ley n. 483-IV). En cualquier caso, la adquisición de la personalidad jurídica para que una entidad de este tipo pueda llevar a cabo en público actividades religiosas requiere, necesariamente, que se inscriba en una Sección específica del Registro Común de Asociaciones adscrito al Ministerio de Justicia (art. 15.2 de la Ley n. 483-IV)³. A este respecto cabe igualmente destacar que el art. 24 de la Ley prevé que de las asociaciones religiosas que habían adquirido personalidad jurídica al amparo de la legalidad vigente anterior, disponen de un año para adaptar y, en su caso, presentar los documentos exigidos para su legalización conforme a los requisitos contemplados a tal efecto en la misma.

En concreto, el acceso al Registro requiere que la entidad interesada presente la siguiente documentación: 1) Documento acreditativo del carácter religioso de la entidad; 2) Acta constitutiva de la entidad, 3) El listado de los socios fundadores de la entidad; 4) Documento

³ El Registro Común de Asociaciones está contemplado en las disposiciones específicas en esta materia contempladas en el Código Civil de 27 de diciembre de 1994 y que son de aplicación supletoria a las previsiones de la Ley n. 583-IV.

acreditativo del domicilio social de la entidad; 5) Una memoria explicativa del origen y los fundamentos del dogma y de las actividades de culto que van a ser llevados a cabo por la entidad; y 6) Justificante de pago de las tasas fiscales de inscripción en el registro (arts. 15-16 de la Ley n. 483-IV). A tenor de lo dispuesto en el art. 17 de la Ley, la solicitud sólo podrá ser denegada por el encargado del Registro si existen defectos de forma en la documentación aportada por la entidad cuando los fines o las actividades que va a llevar a cabo no sean de naturaleza religiosa. Ahora bien, atendiendo al modelo de laicidad vigente en la república, la calificación de este requisito material de inscripción en el Registro de la asociación es llevada a cabo por el encargado del mismo en base a la opinión emitida a tal efecto por parte de expertos en Teología o en Ciencias de las Religiones (art. 6.1 20 y 21 de la Ley n. 483-IV). Finalmente, cabe reseñar que las confesiones inscritas no sólo organizar en público las actividades religiosas descritas con anterioridad sino que, además, gozan de personalidad jurídica para adquirir propiedades, bienes o parcelas, ya sea a título oneroso o gratuito, y para recibir donaciones o aportaciones económicas voluntarias de los fieles (arts. 20 y 21 de la Ley n. 483-IV).

2.- Ley de Estonia sobre iglesias y congregaciones, según la modificación realizada el 12 de febrero de 2012 (*Churches and Congregations Act of Estonia*. Passed 12.02.2002 RT I 2002, 24, 135 entry into force 01.07.2002)

Desde que entrara en vigor en el año 2002 hasta hoy, la Ley estonia de iglesias y congregaciones ha sido corregida en diversas ocasiones (año 2004, 2006, 2007, 2009, 2010, 2011 y 2012). La modificación más reciente se produce en diciembre del año 2012. A continuación relacionamos los artículos y contenidos que se han visto modificados:

- En el Capítulo 3º, donde se regula el procedimiento de fundación, inscripción, fusión, división y disolución de asociaciones religiosas, artículo 13, se recoge la necesidad de que se acompañe una solicitud notarial, del notario que atestigüe la petición, junto con los documentos necesarios para realizar una entrada en el Registro a través del sistema de información electrónica de los notarios. El notario deberá explicar a la persona qué documentos deben adjuntarse a la solicitud y qué requisitos deben cumplir.

- En el Capítulo 4º, en su artículo 19, se añade como información necesaria que debe incluirse en la hoja de registro, la fecha de adopción de los estatutos y la fecha de entrada en el registro.

- En el Capítulo 5º, sobre la determinación legal de los ministros de culto y de la junta directiva de la confesión, en su artículo 23, cuando determina la necesidad de que toda iglesia, congregación y asociación religiosa tenga una junta directiva, con el número mínimo de miembros que determine sus estatutos, el segundo párrafo señala que el lugar de residencia de al menos la mitad de sus miembros debe ser Estonia, en otro Estado miembro del Área Económica Europea o en Suiza.

3.- Acuerdo Básico entre la Santa Sede y Montenegro de 24 de junio de 2011. AAS (2012)587-598.

El 24 de junio de 2011 la Santa Sede firma con Montenegro, en la Ciudad del Vaticano, un acuerdo de cooperación inspirado, según recoge el propio texto, en el principio de libertad religiosa, reconocido en la constitución montenegrina y en los documentos sobre libertad religiosa del Concilio Vaticano Segundo. El texto consta de 21 artículos que, como señala el preámbulo deberán respetar la separación entre la Iglesia y el Estado. Se mencionan como argumentos para la firma del acuerdo, por un lado, el papel desempeñado por la Iglesia católica en el aspecto social, educativo y cultural y, por otro, su secular presencia en Montenegro.

El artículo primero incide en la separación entre la Iglesia y el Estado y se señala que cada uno, en su propia esfera es independiente y autónomo, esta independencia regirá, en adelante, las relaciones entre las partes. La cooperación se orientará al bien común y el desarrollo integral de los ciudadanos. El reconocimiento de la personalidad jurídica de la Iglesia católica, se realiza de conformidad con los principios constitucionales y según las normas del Derecho canónico (artículo 2). De igual manera queda reconocida la personalidad jurídica de las entidades pertenecientes a la Iglesia. La autoridad competente de la Iglesia católica podrá crear, erigir, suprimir o reconocer entidades de acuerdo con las normas del Derecho canónico, de lo que se dará traslado al órgano competente de la administración civil para que se proceda al registro de las mismas, según quede establecido en la normativa del Estado. Montenegro se compromete a garantizar la libertad de comunicación entre los entes de la Iglesia

católica, con otros entes religiosos, la propia Iglesia católica y cualquiera otra Conferencia Episcopal.

En relación con el ejercicio del derecho fundamental de libertad religiosa, Montenegro reconoce a la Iglesia católica el ejercicio del derecho de culto, la enseñanza religiosa y el ejercicio libre de su misión apostólica. De igual manera reconoce el derecho a poseer, imprimir, publicar y distribuir material audiovisual, establecer y administrar sus propios programas de radio y televisión de conformidad con las leyes de Montenegro. Sin olvidar el acceso a los medios de comunicación de titularidad pública (artículo 14).

La Iglesia católica se organizará libremente. En particular, puede crear, modificar o suprimir diócesis, parroquias y otras circunscripciones territoriales. Podrá, en cualquier caso, promulgar y publicar libremente cualquier disposición referente al gobierno de la Iglesia y comunicar sin impedimento con los Prelados y el clero cuyo nombramiento dependerá, exclusivamente de la Santa Sede, al igual que su traslado y remoción.

Montenegro garantizará la inviolabilidad de los lugares de culto: iglesias, capillas y sus dependencias. Sólo por razones graves y con el acuerdo explícito de la autoridad eclesiástica se podrán dedicar esos lugares a otros fines. Las autoridades competentes de Montenegro no podrán adoptar medidas de seguridad en los lugares mencionados sin previa autorización de la autoridad eclesiástica competente, a menos que ello resultase necesario para la defensa de la vida, salud o para salvar bienes de especial valor artístico o histórico.

Para el ejercicio público del culto en supuestos como procesiones, peregrinaciones o actividades análogas, el acuerdo establece la obligatoriedad de que las autoridades eclesiásticas informen debidamente a las de Montenegro, las cuales tomarán las medidas necesarias para garantizar el orden público protegido por la Ley.

El acuerdo prevé una especial garantía del proceso penal para los clérigos y religiosos y para el ejercicio de sus labores pastorales. En el supuesto de que se abra una investigación a un clérigo o religioso, por los delitos previstos en el Código Penal, las autoridades judiciales de Montenegro deberán informar, con antelación, a las autoridades eclesiásticas competentes. De igual forma salvaguarda el secreto de confesión.

Las festividades religiosas se encuentran recogidas en el texto como días no laborables para los católicos y se señalan las siguientes: en primer lugar, todos los domingos; en segundo Nochebuena; Navidad y el día 26 de diciembre; el Viernes Santo; el Lunes de Pascua y por último la festividad de Todos los Santos (el día primero de noviembre). No obstante, y atendiendo a la necesidad religiosa, se podrán realizar cambios en los días no laborables, siempre que concurra la voluntad de las partes. Es decir, por un lado se fijan unos días concretos que podrán verse ampliados si el gobierno de Montenegro y la Iglesia católica así lo acuerdan.

Las previsiones recogidas respecto de la posesión de bienes inmuebles tienen una clara influencia y parecen una respuesta a lo sucedido en la época en la que Montenegro perteneció a la República Federal Socialista de Yugoslavia. Así puede sorprender que el texto de un acuerdo con la Iglesia católica, cuyo fin es el de garantizar la libertad religiosa de los montenegrinos, recoja disposiciones propias de tiempos pretéritos, pero, a nuestro entender, esto no es más que el intento, por parte de Montenegro, de restablecer, en el aspecto material, a la Iglesia católica por la nacionalización de sus bienes en el régimen anterior. Resultaría, en principio, innecesario el reconocimiento de la plena capacidad de adquirir, poseer y administrar toda clase de bienes a todas las instituciones y asociaciones religiosas, constituidas según el Derecho Canónico y la legislación de Montenegro. Pero como hemos señalado, estas previsiones legales podrían estar ligadas a la situación previa de la Iglesia. En este sentido, se establece la restitución de las propiedades, confiscadas o nacionalizadas sin indemnización adecuada, la cual se hará de acuerdo con la ley que regule la cuestión de en Montenegro, de acuerdo con la autoridad eclesiástica competente. Para la identificación de esos bienes, se constituirá una Comisión Mixta integrada por representantes de las partes.

Se reconoce a la Iglesia católica el derecho a construir iglesias y edificios de la iglesia y ampliar o modificar los ya existentes, de acuerdo con las leyes vigentes en Montenegro. Es competencia del obispo diocesano decidir sobre la necesidad y localización de la construcción de edificios de la iglesia en el territorio de su diócesis, decisión que deberá constar por escrito, de lo contrario las autoridades de Montenegro no tendrán en cuenta las solicitudes planteadas. Esto se llevará a cabo de acuerdo con el Derecho Canónico. Las autoridades competentes de Montenegro aceptarán las propuestas del

obispo diocesano y sólo podrán denegarlas si existen razones objetivas de orden público.

El derecho a crear seminarios y cualquiera otra institución educativa, de nivel superior, para la formación de sacerdotes queda reconocido en el artículo 16 donde, por otro lado, se establece que la cuestión de otras instituciones educativas se regulará por un futuro acuerdo entre las partes, así se anuncia que existirá otro acuerdo, con la Santa Sede, en materia de educación. En cuestión de enseñanza religiosa el acuerdo reconoce el derecho de los padres y, respecto de su inclusión en la escuela, vuelve a remitir a un futuro acuerdo.

El artículo 17 es el encargado de regular la asistencia religiosa en las fuerzas armadas, hospitales, cárceles, orfanatos y en todas las instituciones en las que se preste atención médica, independientemente de que la titularidad sea pública o privada.

La Iglesia podrá llevar a cabo actividades de carácter benéfico o asistencial. Las instituciones encargadas de llevar a cabo las citadas tareas se regirán por sus normas estatutarias y gozarán de los mismos derechos y beneficios que los entes estatales fundados con el mismo propósito. Las partes podrán, de común acuerdo, establecer las bases para una adecuada cooperación entre las actividades de beneficencia o de asistencia, realizadas por sus respectivas instituciones.

Para concluir el texto establece el protocolo que se deberá seguir en los siguientes supuestos: cuando se precise una interpretación del acuerdo, cuando se precisen nuevas soluciones en las materias tratadas y en el caso de que las circunstancias que dieron origen al tratado cambien y hagan necesaria una modificación de la norma. Las dudas que surjan en materia de interpretación deberán ser resueltas de mutuo acuerdo por la vía diplomática. Las cuestiones de interés común que requieren soluciones nuevas o adicionales que serán tratados por un comité especial compuesto por representantes de las partes, que presentarán sus propuestas para la aprobación de las autoridades respectivas. En el caso de que una parte considere que están cambiando radicalmente las circunstancias en las que entró en vigor el presente Acuerdo, así como para requerir algunas modificaciones, se dará inicio a nuevas negociaciones con el fin de actualizarlo.

En definitiva, un acuerdo exhaustivo que anuncia acuerdos venideros y que pretende compensar a la Iglesia católica de la situación en que se encontró en la etapa en que Montenegro pertenecía a la República Federal Socialista de Yugoslavia.

ANEXO I

**THE LAW OF THE REPUBLIC OF KAZAKHSTAN OF
OCTOBER 11, 2011, № 483-IV ON RELIGIOUS ACTIVITY
AND RELIGIOUS ASSOCIATIONS⁴**

The given Law is based on the fact that the Republic of Kazakhstan declares itself to be a democratic, secular state, confirms the right of everybody to the freedom of conscience, guarantees equal rights of every person regardless his/her religious opinion, recognizes historical role of Islam Hanafiyah school and orthodox Christianity in development of culture and spiritual life of people, respects other religions that are in harmony with spiritual heritage of the people of Kazakhstan, recognizes significance of inter-confessional concord, religious tolerance and respect of people's religious convictions.

CHAPTER 1. GENERAL PROVISIONS

Article 1. Basic Concepts Used in the Given Law

The following basic concepts are used in the given Law: 1) religious building (facility) – a place meant for worship services, prayer and religious meetings, religious reverence (pilgrimage); 2) religious activity – activity targeted at meeting religious needs of believers; 3) minister – a person authorized by a respective religious association to perform clerical, preaching service; 4) religious association – a voluntary association of the nationals of the Republic of Kazakhstan, foreigners and stateless persons that have united on the basis of the harmony of their interests to serve their spiritual needs; 5) missionary activity – activity of the nationals of the Republic of Kazakhstan, foreigners, stateless persons on behalf of religious associations registered in the Republic of Kazakhstan aimed at promulgation of religious doctrine on the territory of the Republic of Kazakhstan; 6) authorized body – a public body in charge of religious activity state regulation.

Article 2. Legislation of the Republic of Kazakhstan on Religious Activity and Religious Associations

⁴ Traducción publicada en el dominio Web Legislationline que puede ser consultada a través del link:
<http://legislationline.org/topics/country/21/topic/78>
(Último acceso: 15/10/2013)

1. Legislation of the Republic of Kazakhstan on religious activity and religious associations shall be based on the Constitution of the Republic of Kazakhstan and shall include the given Law and other regulatory legal acts of the Republic of Kazakhstan.
2. In case an international treaty ratified by the Republic of Kazakhstan sets rules other than those stipulated by the given Law norms of international treaty shall be applied.

Article 3. State and Religion

1. The State shall be separate from religion and religious associations.
2. Religious associations and nationals of the Republic of Kazakhstan, foreigners and stateless persons shall be equal before the law regardless their attitude to religion.
3. No religion shall be established as official or mandatory.
4. The system of education and nurturing in the Republic of Kazakhstan except spiritual (religious) educational institutions shall be separate from religion and religious associations and shall be of secular nature.
5. Impeding legal religious activity, violation of civil rights of natural persons on the ground of attitude to religion or insult of their religious sentiments, desecration of objects venerated by the followers of this or that religion, violation of sacred places, structures shall not be allowed.
6. Everybody shall have the right to hold religious or other creed, promulgate it or to participate in the activity of religious associations and carry out missionary activity in compliance with the legislation of the Republic of Kazakhstan.
7. No one shall have the right to refuse waive the duties stipulated by the Constitution and laws of the Republic of Kazakhstan. Nationals of the Republic of Kazakhstan that are ministers of religion, missionaries, leaders or participants (members) of religious associations may participate in political life on equal terms with all the nationals of the Republic of Kazakhstan *sui juris*.
8. In compliance with the principle of separation of religion and religious associations from the state the state: 1) shall not interfere with determination by a national of the Republic of Kazakhstan, a

foreigner and a stateless person of their attitude to religion and religious belonging, with nurturing children by their parents or other legal representatives in line with their belief except cases when such education poses a threat to life and health of a child, impairs his rights and limits responsibility and is also targeted against constitutional order, sovereignty and territorial integrity of the Republic of Kazakhstan; 2) shall not impose the functions of public bodies on religious associations; 3) shall not interfere with the activity of religious associations provided the activity of religious associations does not go contra to the laws of the Republic of Kazakhstan; 4) Shall contribute to the establishment of relations of mutual tolerance and respect between nationals of the Republic of Kazakhstan, foreigners and stateless persons that exercise and do not exercise religion as well as between different religious associations.

9. In accord with the principle of separation of religion and religious associations from the state religious associations: 1) shall not perform the functions of public bodies and shall not interfere with their activity; 2) shall not take part in the activity of political parties, shall not support them financially and shall not carry out political activity; 3) shall have to observe the requirements of legislation of the Republic of Kazakhstan.

10. Activity of parties on religious basis, formation and activity of religious associations, whose goals and activity are aimed at establishment of supremacy of one religion in the country, fomenting of religious strife or discord, including those related to violence and calls for violence and other illegal acts.

11. The activity of religious associations unregistered in line with the procedure set by the laws of the Republic of Kazakhstan as well as forcing the nationals of the Republic of Kazakhstan, foreigners and stateless persons in defining their attitude to religion, to participation or non-participation in the activity of religious associations, in religious a religious ceremonies and (or) in teaching religion shall not be allowed.

12. The activity of religious associations fraught with violence against nationals of the Republic of Kazakhstan, foreigners and stateless persons or other injury to their health or entailing divorce of spouses (family disruption) or cessation kin relations, moral injury, violation of rights and freedoms of a man and a citizen, urging people to refusal

to perform their duties stipulated by the Constitution and laws of the Republic of Kazakhstan and other violation of the legislation of the Republic of Kazakhstan shall not be allowed.

13. The activity of religious associations that forcefully involve nationals of the Republic of Kazakhstan, foreigners and stateless persons into their activity, including by means of charity, and (or) hindering their secession from a religious association, including by exercising blackmail, abuse or the threat of violence with the use of material or other dependence of the nationals of the Republic of Kazakhstan, foreigners and stateless persons or by false pretences shall not be allowed.

14. Coercion of participants (members) of a religious association and religious followers to disposition of the property belonging to them in favor of the religious association, its leader and other participants (members) shall not be allowed.

15. Making decision and undertaking actions with the help of religion and religious views, knowingly able to disarrange the activity of public agencies, to disturb their smooth-running operation, to bring down the controllability in the country shall not be allowed.

16. A leader of a religious association shall have to undertake measures to prevent involvement and (or) participation of minors in the activity of a religious association in case of objection of one of the parents of the minor or his other legal representatives.

CHAPTER 2. STATE REGULATION IN THE SPHERE OF RELIGIOUS ACTIVITY

Article 4. Authority of the Authorized body

Authorized body:

1) shall participate in the formation and implementation of the national policy major directions in the sphere of interaction with religious of associations; 2) shall examine and analyze the activity of religious associations, missionaries, spiritual (religious) educational institutions set up on the territory of the Republic of Kazakhstan; 3) shall ensure explanatory work covering issues within its terms of reference; 4) shall develop proposals on improvement of the legislation of the Republic of Kazakhstan on religious activity and religious associations; 5) shall coordinate the activity of the local executive bodies of oblasts, cities of the republican significance and

the capital on issues of religious activity and interaction with religious associations; 6) shall ensure theological examinations and review the lists of nationals – initiators of setting up a religious associations; 7) shall consider applications of physical and legal entities regarding violations of legislation of the Republic of Kazakhstan on religious activity and religious associations; 8) shall organize and maintain cooperation with authorized bodies of foreign states in the sphere of religious activity; 9) shall coordinate the activity of foreign religious associations on the territory of the Republic, appointment of the leaders of religious associations in the Republic of Kazakhstan by religious centers; 10) shall exercise other authorities stipulated by the given Law, other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Article 5. Authority of Local Executive Bodies of Oblasts, Cities of Republican Significance and the Capital on Issues of Religious Activity and Interaction with Religious Associations

Local executive bodies in oblasts, cities of republican significance and the capital on issues of religious activity and interaction with religious associations: 1) shall review and analyze religious situation in the region; 2) shall submit proposals to the authorized body with regard to perfection of the legislation of the Republic of Kazakhstan on religious activity and religious associations; 3) shall ensure explanatory work at the local level covering issues within their terms of reference; 4) shall endorse the location of special permanent premises designed for dissemination of religious literature and other religious information materials, religious objects and shall also coordinate the location of premises to hold religious ceremonies outside ceremonial facilities (buildings); 5) shall make decisions in coordination with the authorized body concerning construction of religious buildings (structures), their location as well as transformation (change of the functional purpose) of premises (structures) into ceremonial buildings (structures); 6) shall exercise other powers of local executive bodies authorized by the legislation of the Republic of Kazakhstan.

Article 6. Theological Examination

1. Authorized body shall ensure theological examination on the following grounds: 1) applications of physical and (or) legal entities to

the authorized body; 2) delivery of religious literature, other religious information materials to the libraries of organizations in the Republic of Kazakhstan as well as to the authorized body; 3) application of natural persons for registration of them as missionaries and registration of religious associations;

2. Theological examination objects shall include constituent documents as well as other religious documents, spiritual (religious) education programs, religious information materials and religious items.

3. Theological examination shall be performed by persons with special knowledge in theology/ religious studies, with the involvement of representatives of public bodies and other specialists when necessary.

4. The procedure of theological examination shall be determined by the Government of the Republic of Kazakhstan.

CHAPTER 3. RELIGIOUS ACTIVITY IN THE REPUBLIC OF KAZAKHSTAN

Article 7. Religious Rites and Ceremonies

1. Religious associations shall have the right to maintain shrines.

2. Worship services, religious rites, ceremonies and (or) meetings shall be held (performed) without let or hindrance in religious buildings (structures) and on the territories allocated to them, in organizations and premises of religious associations, in the cemetery and in crematories, habitation, catering places in case of necessity and on condition of observance of rights and interests of the people residing nearby. In other cases religious activities shall be exercised in the procedure set by the legislation of the Republic of Kazakhstan.

3. Holding (performance) worship services, religious rites, ceremonies and (or) meetings as well as missionary activity shall not be allowed on the territory and in the premises: 1) of public bodies and organizations except for the cases stipulated by paragraph 2 and 4 of the given Article; 2) within military forces, other troops and military units, judicial and law enforcement agencies in charge of ensuring public security, life protection and health of natural persons; 3) within educational institutions with the exception of spiritual (religious) educational organizations.

4. Clergy of religious associations registered in accord with the procedure set by the legislation of the Republic of Kazakhstan shall be invited at the request of inmates of special institutions ensuring temporary isolation from society, inmates of penitentiary institutions, patients of health facilities providing in-patient care, inmates on social care in rest homes or at the request of their relatives in case of ritual necessity. At this religious rites, ceremonies and (or) meetings shall not hinder the activity of the aforementioned institutions, shall not violate the rights and legal interests of other people.

Article 8. Missionary Activity

1. National of the Republic of Kazakhstan, foreigners and stateless persons shall carry out missionary activity upon registration.

2. Registration of persons carrying out missionary activity shall be done by territorial offices of the authorized body within the time period not exceeding thirty calendar days since the date of the documents submission. The registration term shall be suspended when carrying out theological examination to develop a conclusion with regard to the materials submitted by a missionary.

3. Missionaries on the territory of the Republic of Kazakhstan shall have to annually go through reregistration in territorial offices of the authorized body.

4. To be registered missionaries shall submit to territorial offices of the authorized body the following documents and materials: 1) A copy of the passport or identity card; 2) Application with the indication of the territory and the term of missionary activity; 3) A document issued by a religious association certifying the right to carry out missionary activity on behalf of a religious association; 4) A copy of the certificate of state registration in the Republic of Kazakhstan and Founding Charter of a religious association, of which the missionary is a representative; 5) religious literature, other religious information materials and devotional articles to be used in missionary activity.

To be registered as missionaries foreigners and stateless persons in the Republic of Kazakhstan shall have to submit to territorial offices the following documents: 1) Legalized or apostilled document certifying the fact that the religious association, of which the missionary is a representative, is formally registered in compliance with the

legislation of a foreign state; 2) Invitation of a religious association registered in the Republic of Kazakhstan.

Documents issued by foreign states shall be submitted with the certificate of correct translation into the Kazakh and Russian languages notarized in the Republic of Kazakhstan and certificate of authenticity of signature of the translator that has translated the document also notarized in the Republic of Kazakhstan.

5. Nationals of the Republic of Kazakhstan, foreigners and stateless persons that have submitted documents for registration as missionaries shall be refused registration based on the negative conclusion of theological examination and also in case their missionary activity jeopardizes constitutional and public order, human rights and freedoms, health and morals of the people.

6. Use of religious materials and religious objects by missionaries shall be allowed upon obtaining positive conclusion of theological examination.

7. Unregistered missionary activity shall be prohibited.

Article 9. Religious Objects and Religious Articles

1. Nationals of the Republic of Kazakhstan, foreigners and stateless persons, religious associations shall have the right to acquire and use religious literature, other religious information materials, and religious articles at their discretion

2. Dissemination of religious literature, other religious information materials, and religious articles shall be allowed only in cultic premises (structures), spiritual (religious) educational institutions, as well as in permanent premises specially defined by executive bodies of oblasts, cities of republican significance and capitals.

3. Importation of religious information materials to the territory of the Republic of Kazakhstan with the exception of those for personal use shall be done only by registered religious associations upon obtaining positive conclusion of theological examination.

4. Religious literature and other religious information materials published and (or) disseminated by a religious association shall include full name of the religious association.

Article 10. Charitable Activity

1. Religious associations shall have the right to carry out charitable activity and set up charitable organizations.

2. When carrying out charitable activity the use of material dependence (need) of nationals of the Republic of Kazakhstan, foreigners and stateless persons in order to involve them into religious activity shall be prohibited.

Article 11. International Links and Contacts of Believers and Religious Associations

1. Nationals of the Republic of Kazakhstan, foreigners, stateless persons and religious associations shall have the right to establish and maintain international links and personal contacts, including traveling abroad for pilgrimage, participation in meetings and other religious activities.

2. Religious associations may delegate nationals of the Republic of Kazakhstan abroad for training in spiritual (religious) educational organizations and receive foreigners, stateless persons for training in spiritual (religious) educational organizations on the territory of the Republic of Kazakhstan.

CHAPTER 4. FORMATION, STATE REGISTRATION, REORGANIZATION, LIQUIDATION OF RELIGIOUS ASSOCIATIONS

Article 12. Status of Religious Associations

1. Religious associations with the status of: local, regional and republican associations may be set up and function in the Republic of Kazakhstan

2. Local religious association shall be recognized a religious association set up at the initiative of at least fifty nationals of the Republic of Kazakhstan functioning within the limits of one oblast, city of republican significance and the capital.

3. Regional religious associations shall be recognized a religious association set up at the initiative of at least five hundred nationals of the Republic of Kazakhstan being participants (members) of two and more local religious associations, the size of which shall be at least two hundred and fifty nationals of the Republic of Kazakhstan from each of them and representing at least two oblasts, cities of republican significance and the capital. Regional religious associations shall be

set up and carry out their activity within the limits of the territory of the activity of the given local religious associations.

4. A republican religious association shall be recognized a religious association set up at the initiative of at least five thousand nationals of the Republic of Kazakhstan representing all oblasts, cities of republican significance and the capital in the size not less than three hundred nationals of the Republic of Kazakhstan in each of them and having its own structural subdivisions (sub-offices and representative offices) on the entire territory of the Republic of Kazakhstan.

Article 13. Creation of Religious Associations

1. A religious association shall be set up at the initiative of the nationals of the Republic of Kazakhstan that have attained the age of eighteen, calling a constitutive meeting (congress, conference), which shall make decisions on creation of a religious association, its name, charter and its governing bodies are formed. Nationals shall take personal participation in a constitutive meeting (congress, conference) at their own free will

2. A religious association shall have the following signs: 1) common creed; 2) performance of religious rites, ceremonies and preaching; 3) religious education of its participants (members) and religious followers; 4) spiritual nature of its activity

3. Republican religious associations and regional religious associations shall have the right to set up spiritual (religious) educational organizations in the form of institutions that shall implement professional curricula for training clergy.

4. Formation and activity of legal entities carrying out religious activity in other legal form of organization except religious association shall not be allowed with the exception of spiritual (religious) educational organizations.

5. Formation of organizational structures of religious associations in public bodies, organizations and institutions, educational and health organizations shall not be allowed.

Article 14. Name of a Religious Association

1. Name of a religious association shall have to include confessional belonging and status.

2. Full and abbreviated name and its symbols shall not duplicate in full or in substantial part symbols of state of the Republic of Kazakhstan and other states, name and symbols of public bodies of the Republic of Kazakhstan, religious associations registered in the Republic of Kazakhstan as well as religious associations prohibited and (or) liquidated due to violation of legislation of the Republic of Kazakhstan.

Article 15. State Registration of Religious Associations

1. A religious association shall acquire legal competence of a legal entity since the date of its state registration.

2. State registration of republican religious associations and regional religious associations shall be performed by the Ministry of Justice of the Republic of Kazakhstan. State registration of local religious associations, record registration of sub-offices and representative offices shall be performed by territorial justice agencies.

3. To be registered an application shall be submitted to registration agency within a two-month period since the decision is made on formation of a religious association. Attached to the application shall be:

1) charter of a religious association, signed by the leader of the religious association; 2) minutes of the constitutive meeting (congress, conference); 3) list of the nationals – initiators of the religious association being set up on electronic and paper media, set by the registration agency; 4) document confirming location of religious association; 5) printed religious materials giving the history of origin and basics of religious doctrine and including information on respective religious activity; 6) document confirming the payment of charges for state registration of a legal entity; 7) document on election of the leader of a religious association or in case of appointment of the leader by a foreign religious center – the document certifying coordination with the authorized body.

4. When registering a regional religious association a list of participants of each of local religious association initiating formation of regional religious associations shall be additionally submitted in the form set by the registering authority, as well as notarized copies of charters of their local religious associations.

5. To confirm their status republican religious associations shall have to provide copies of the documents proving the origin of record registration by their structural units (sub-offices and representative offices) to territorial justice agencies within a year since their registration day.

6. Failure to implement requirements of paragraph 5 of the given Article shall entail reorganization or liquidation of a religious association according to the procedure set by the laws of the Republic of Kazakhstan.

7. State registration of religious associations and record registration of the sub offices and representative offices, re-registration, refusal to register religious associations shall be performed according to the procedure and within the term stipulated by the Law of the Republic of Kazakhstan “On State Registration of Legal Entities and Record Registration of Sub-offices and Representative Offices” given special considerations stipulated by the given Law.

8. The term of state registration (re-registration) shall be terminated to carry out theological examination and verification of the list of nationals – initiators of the religious association set up with regard to compliance with the given Law requirements.

9. A registration agency within three working days since the day of making a decision on termination of the state registration (re-registration) term shall forward to the authorized body copies of documents necessary for the arrangement and performance of theological examination and verification of the list of nationals – initiators of the religious association set up.

10. Based on the results of the review of submitted documents for their compliance with the legislation, outcomes of theological examination, verification of the list of national the list of nationals – initiators of a religious association set up the decision on state registration or refusal of state registration of the religious association shall be made.

Article 16. Charter of a Religious Association

1. A religious association shall carry out its activity based on the Charter that has to include: 1) name, subject-matter and activity goals; 2) location area and territory, within the limits of which its shall carry

out its activity; 3) structure, set up procedure and competence of administration agencies; 4) rights and responsibilities of participants (members); 5) confessional belonging, basics of religious doctrine and information on respective religious activity; 6) terms and procedure of admission to membership of a religious association and secession from an association; 7) sources of property formation; 8) procedure of introduction of amendments and additions into constituent documents; 9) terms of reorganization and discontinuation of activities; 10) procedure of the property use in case of liquidation; 11) information on sub-offices and representative offices.

2. The Charter of a religious association may also include other provisions concerning its activity and not contradicting legislation of the Republic of Kazakhstan.

3. Information on the basics of religious doctrine and religious activity shall have to include basic religious ideas, activity forms of a religious association, specifics of attitude to marriage and family, education, health of participants (members) of the given religious association and other persons, attitude to the implementation of constitutional rights and responsibilities of its participants (members) and ministers of religion.

Article 17. Refusal to Register a Religious Association

1. Refusal in state registration of a religious association, record registration of its structural sub-division (sub-office and representative office) shall be performed in compliance with the laws of the Republic of Kazakhstan and also in cases when information included into constituent and other submitted documents is inaccurate and (or) the association being set up is not recognized as a religious association based on the results of theological examination.

2. Refusal to register may be appealed in the court.

Article 18. Reorganization and Liquidation of a Religious Association

1. Reorganization of religious associations may be accomplished in accord with the laws of the Republic of Kazakhstan by way of merger, joining, separation, reorganization and exclusion at the decision of the body authorized by constituent documents of the religious association or by the court judgment. A religious association may be transformed only into another religious association or into a private agency. Organizations set up as a result of reorganization of

religious associations may be registered as religious associations in case of compliance with the requirements of the given Law.

2. Suspension of activity and liquidation of a religious association shall be done according to the procedure established by the laws of the Republic of Kazakhstan.

Article 19. State and Foreign Religious Associations

1. Activity of the leader of a religious association appointed by a foreign religious center without coordination with the authorized body shall not be allowed.

2. To coordinate a nominee for the position of the leader of a religious association a foreign religious center shall submit the following documents to the authorized body: 1) application including information about the nominee, his previous activity in a foreign religious center; 2) decision on the appointment of a nominee as the leader of a religious association functioning on the territory of the Republic of Kazakhstan; 3) a copy of the passport or the certificate of identity of the nominee for the position of the leader of a religious association. The documents shall be submitted with a notarized in the Republic of Kazakhstan translation accuracy into the Kazakh and Russian languages and authenticity of the signature of the translator that has performed the translation notarized in the Republic of Kazakhstan.

3. Documents mentioned in Paragraph 2 of the given article shall be considered by the authorized body within the period of thirty calendar days since the date of their submission.

4. Authorized body shall refuse in coordination of the appointment of the leader of a religious association in the Republic of Kazakhstan by a foreign religious center, in case his activity may create a threat to constitutional order, public order, human rights and freedoms, health and morals of the population.

CHAPTER 5. MATERIAL LEGAL RELATIONSHIP OF RELIGIOUS ASSOCIATIONS

Article 20. Property of Religious Associations

1. Religious associations shall have the right to ownership of property acquired or created by them at the expense of their own means, donated by the nationals of the Republic of Kazakhstan,

foreigners and stateless persons, by organizations or acquired in other ways that do not contradict the laws of the Republic of Kazakhstan.

2. Immovable's and movables beneficially owned by religious associations shall be their ownership.

3. Property outside the Republic of Kazakhstan may also be owned by religious associations.

4. Religious associations shall have the right to request voluntary financial and other donations and take them.

5. Property right of religious associations shall be protected by Law.

Article 21. Use of Property that is the Ownership of the State, Organizations and Natural Persons

1. Religious associations shall have the right to use buildings, territory and property provided to them on contractual basis.

2. Historical and cultural monuments of religious purpose may be chartered to religious associations in accord with the legislation of the Republic of Kazakhstan.

Article 22. Administration of Assets of a Liquidated Religious Association

1. When liquidating or cessation of activity of a religious association disposition of property that has been its ownership shall be done in accordance with its charter and legislation of the Republic of Kazakhstan.

2. In the absence of a legal successor the property shall become the property of the state pursuant to the legislation of the Republic of Kazakhstan on state-owned property.

CHAPTER 6. CONCLUDING PROVISIONS

Article 23. Liability for Violation of Legislation of the Republic of Kazakhstan on Religious Activity and Religious Associations

Violation of legislation of the Republic of Kazakhstan on religious activity and religious associations shall entail responsibility set by the laws of the Republic of Kazakhstan.

Article 24. Transitional Provisions

1. Religious associations shall have to introduce respective amendments into their constituent documents within a year since the

day of enforcement of the given Law in compliance with the requirements of the given Law. At the same time documents confirming the status of a religious association shall be submitted to the registration agency.

2. Legal entities in charge of meeting religious interests and needs and set up prior to enactment of the given Law in a legal form other than religious association shall have to introduce respective amendments into their constituent documents within a year since the day of the given Law enactment.

3. Upon expiration of the indicated period legal entities that have not arranged their constituent documents in line with the given law requirements shall be liquidated through judicial procedures at the request of the agency in charge of the state registration of religious associations.

Article 25. Concluding Provisions

1. The given law shall come in force within ten calendar days since its first formal publication.

2. The Law of the Republic of Kazakhstan of January 15 1992 "On freedom of Conscience and Religious Associations" (Vedomostee/bulletin of the Supreme Soviet of the Republic of Kazakhstan, 1992, № 4, art. 84; 1995, № 20, art. 120, 121; Vedomostee of the Parliament of the Republic of Kazakhstan, 1997, № 13-14, art. 205; 2004, № 23, art 142; 2005, № 5, art. 5; № 13, art. 53; 2007, № 9, art. 67; 2011, № 11, art. 102).

President of the Republic of Kazakhstan N. NAZARBAEV

2. Churches and Congregations Act of Estonia

Passed 12.02.2002 RT I 2002, 24, 135 entry into force 01.07.2002

Amended by the following acts Passing	Publication	Entry into force
19.06.2002	RT I 2002, 61, 375	01.08.2002
25.02.2003	RT I 2004, 14, 91	25.03.2004
28.06.2004	RT I 2004, 54, 391	10.07.2004
15.06.2005	RT I 2005, 39, 308	01.01.2006
06.12.2006	RT I 2006, 61, 456	01.01.2007
19.06.2008	RT I 2008, 35, 213	01.01.2009
10.12.2008	RT I 2008, 59, 330	01.01.2009
29.01.2009	RT I 2009, 13, 78	01.07.2009
29.10.2009	RT I 2009, 54, 363	01.01.2010
20.01.2011	RT I, 02.02.2011, 1	12.02.2011
05.12.2012	RT I, 18.12.2012, 3	19.12.2012

Chapter 3**FOUNDATION, REGISTRATION, MERGER, DIVISION AND DISSOLUTION OF RELIGIOUS ASSOCIATIONS****§ 13. Petition for entry in register**

(1) A congregation with at least 12 adult members with active legal capacity shall be entered in the register.

(2) In order to enter a religious association in the register, the management board of the religious association shall submit a petition which sets out the information specified in subsection 15 (1) of this Act and which is signed by all members of the management board.

(3) The following shall be appended to the petition: 1) the memorandum of association and the statutes approved thereby, or the minutes of the foundation meeting and the statutes approved by the management board of the corresponding church or association of congregations; 2) [repealed - RT I 2009, 13, 78 - entry into force 01.07.2009] 3) telecommunications numbers (telephone, facsimile, etc); 4) proof of payment of the state fee.

(31) In the case of a religious association operating on the basis of an international agreement, the management board of the church

operating on the basis of an international agreement shall submit a petition to the registrar, adding the text of the international agreement to the petition instead of the statutes and the memorandum of association. [RT I, 02.02.2011, 1 - entry into force 12.02.2011]

(4) A monastery which belongs to a church or a congregation which belongs to a church or association of congregations and which is a legal person pursuant to the statutes thereof or the statutes of the church or association of congregations, shall be entered in the register with the same court where the church or association of congregations is entered in the register. The documents concerning the congregation or monastery specified in subsections (2) and (3) of this section shall be submitted to the register by the management board of the corresponding church or association of congregations.

(5) If the congregations or monasteries which belong to a church or association of congregations are not legal persons pursuant to the statutes of the corresponding church or association of congregations, the management board of the church or association of congregations shall submit, together with a petition for the entry thereof in the register and the annexes to the petition, a list of the congregations and monasteries thereof to the register on the basis of the territory of the church or congregations. The list shall set out the name, address and date of first mention or foundation of each congregation or monastery.

(6) Any other petition submitted to the register shall be signed by at least one member of the management board pursuant to the procedure established in the statutes.

(7) Signatures on a petition submitted to the register shall be notarised or a petition shall be signed digitally. [RT I, 02.02.2011, 1 - entry into force 12.02.2011]

(8) A petition shall not be submitted by e-mail if it is possible to submit a digitally signed petition directly into the information system of the non-profit associations and foundations register maintained on computer. Otherwise the registrar shall return the petition submitted by e-mail without entering it in the registry journal and specify the reasons for return of petition. [RT I, 02.02.2011, 1 - entry into force 12.02.2011]

(9) A notarised petition shall be submitted together with the documents necessary for making an entry to the registrar through the electronic information system of notaries through the notary having

attested the petition. With good reason, the petition and the documents necessary for making an entry may be submitted through another notary. The notary shall explain to the person which documents shall be appended to the petition and which requirements apply thereto. [RT I, 18.12.2012, 3 - entry into force 19.12.2012]

(...)

Chapter 4

REGISTER OF RELIGIOUS ASSOCIATIONS

§ 19. Entries of registry card of religious association

(1) The format of registry cards of the card register of religious associations shall be established by a regulation of the Minister of Justice.

(2) The following information shall be entered on a registry card:

- 1) the registry code and consecutive numbers of register entries;
- 2) the name;
- 3) the registered office and address;
- 4) the date of the first mention or foundation;
- 5) the date of adoption of the statutes; [RT I, 18.12.2012, 3 - entry into force 19.12.2012]
- 6) information on the members of the management board;
- 7) the right of representation of the members of the management board and the liquidators if such right differs from the general rule prescribed by law; 8) the merger or division;
- 9) the dissolution;
- 10) information on the liquidators;
- 11) information on the trustee in bankruptcy;
- 12) the declaration of bankruptcy and termination of bankruptcy proceedings;
- 13) the deletion from the register;
- 14) information on the depositary of documents of a liquidated religious association;
- 15) the date of entry; [RT I, 18.12.2012, 3 - entry into force 19.12.2012] 16) references to earlier and later entries, and notations.

(...)

Chapter 5

MINISTER OF RELIGION AND MANAGEMENT BOARD

(...)

§ 23. Management board

(1) A church, congregation and association of congregations shall have a management board. The minimum and maximum number of members of the management board shall be prescribed by the statutes.

(2) The residence of at least one half of the members of the management board must be in Estonia, in another Member State of the European Economic Area or in Switzerland. [RT I, 18.12.2012, 3 - entry into force 19.12.2012]

(...)

ANEXO III

ACCORDO DI BASE tra la Santa Sede e il Montenegro. AAS (2012)587-598.

La Santa Sede e il Montenegro, in seguito le Parti,

- nell'intento di stabilire il quadro giuridico delle relazioni tra la Chiesa cattolica e lo Stato del Montenegro;
 - facendo riferimento, il Montenegro ai suoi principi costituzionali sulla libertà religiosa e la Santa Sede ai documenti del Concilio Vaticano Secondo e alle norme del Diritto Canonico;
 - considerando la plurisecolare presenza della Chiesa cattolica in Montenegro, nonché l'importanza della Convenzione tra Leone XIII e Nicolò I, Principe di Montenegro, del 18 agosto 1886;
 - tenendo presente il ruolo svolto dalla Chiesa cattolica in campo sociale, culturale e pedagogico;
 - richiamandosi ai principi internazionalmente riconosciuti sulla distinzione fra religione e Stato e sulla libertà di religione;
- hanno stabilito di comune accordo quanto segue:

Articolo 1

La Santa Sede e il Montenegro riaffermano che lo Stato e la Chiesa cattolica sono, ciascuno nel proprio ordine, indipendenti e autonomi, impegnandosi al pieno rispetto di tale principio nei loro rapporti e alla reciproca collaborazione per lo sviluppo integrale, cioè spirituale e materiale, dell'uomo e per la promozione del bene comune.

Articolo 2

1. Il Montenegro riconosce la personalità giuridica pubblica della Chiesa cattolica, in conformità ai propri principi costituzionali e al Diritto Canonico della Chiesa cattolica.
2. Il Montenegro riconosce anche la personalità giuridica pubblica di tutte le istituzioni ecclesiastiche che hanno tale personalità giuridica in conformità alle norme del Diritto Canonico della Chiesa cattolica.

3. L'Autorità ecclesiastica competente ha il diritto di erigere, modificare, abolire o riconoscere le persone giuridiche ecclesiastiche, secondo le norme del Diritto Canonico. Essa ne informa il competente organo dell'amministrazione civile, per la relativa registrazione, secondo le norme civili.

Articolo 3

Il Montenegro garantisce alla Chiesa cattolica e alle sue persone giuridiche e fisiche la libertà di comunicare e di mantenere contatti con la Santa Sede, con le Conferenze Episcopali di altri Paesi, come pure con le Chiese particolari, istituzioni e persone sia all'interno dello Stato che all'estero.

Articolo 4

Nel rispetto del diritto alla libertà di religione, il Montenegro riconosce alla Chiesa cattolica il libero esercizio della sua missione apostolica, in particolare per quanto riguarda il culto divino, il governo, l'insegnamento e l'attività delle associazioni di cui all'Articolo 14.

Articolo 5

È diritto esclusivo della competente Autorità ecclesiastica regolare liberamente l'ordinamento ecclesiastico proprio, erigere, mutare e sopprimere province ecclesiastiche, arcidiocesi, diocesi, amministrazioni apostoliche, prelature territoriali, abbazie territoriali, prelature personali, parrocchie, istituti di vita consacrata e società di vita apostolica, nonché altre persone giuridiche ecclesiastiche.

Articolo 6

1. Spettano alla Chiesa cattolica tutte le nomine ecclesiastiche ed il conferimento degli uffici ecclesiastici, in conformità alle norme del Diritto Canonico.

2. La nomina, il trasferimento e la rimozione dei Vescovi competono esclusivamente alla Santa Sede.

Articolo 7

1. Il Montenegro riconosce alla Chiesa cattolica la libertà di esercitare il culto.

2. Il Montenegro garantisce l'inviolabilità dei luoghi di culto: chiese, cappelle e rispettivi annessi.

3. Solo per motivi gravi e con l'esplicito accordo dell'Autorità ecclesiastica, si possono destinare tali luoghi ad altra finalità.
4. Le competenti Autorità del Montenegro non possono prendere provvedimenti di sicurezza nei luoghi menzionati senza previa autorizzazione dell'Autorità ecclesiastica competente, a meno che ciò fosse urgente per la difesa della vita e della salute, o per salvare dei beni di particolare valore artistico o storico.
5. In vista dell'esercizio del culto pubblico in luoghi diversi da quelli indicati al comma 2 (come nel caso di processioni, pellegrinaggi o altre attività), le Autorità ecclesiastiche ne informeranno le competenti Autorità del Montenegro, le quali provvederanno a garantire l'ordine pubblico e la sicurezza.

Articolo 8

Nel caso di una istruttoria su un chierico, un religioso o una religiosa, per eventuali reati contemplati dal Codice penale, le Autorità giudiziarie del Montenegro ne informeranno previamente le Autorità ecclesiastiche competenti.

Articolo 9

Il segreto della Confessione è sempre inviolabile.

Articolo 10

1. Per i cattolici in tutto il Paese, sono giorni liberi dal lavoro le domeniche e le seguenti ricorrenze religiose:

- a) Vigilia di Natale (24 dicembre);
- b) Natale e secondo giorno dell'Ottava di Natale (25 e 26 dicembre);
- c) Venerdì Santo;
- d) Lunedì di Pasqua;
- e) Solennità di Tutti i Santi (1° novembre).

2. Eventuali modifiche dei giorni non lavorativi, qualora se ne presentasse la necessità, saranno regolate di comune accordo tra le Parti.

Articolo 11

1. Le persone giuridiche ecclesiastiche hanno il diritto di acquistare, possedere, usufruire o alienare beni mobili e immobili, così come

acquisire ed alienare diritti patrimoniali, secondo le norme canoniche e quelle della legislazione del Montenegro.

2. Le persone giuridiche di cui al comma 1, hanno il diritto di istituire fondazioni. Le loro attività, per quanto riguarda gli aspetti civili, si regolano secondo le norme legali del Montenegro.

Articolo 12

1. La restituzione dei beni, incamerati o nazionalizzati senza compensazione adeguata, avverrà in conformità con la legge che regolerà la materia della restituzione in Montenegro, previo accordo con l'Autorità ecclesiastica competente.

2. Per l'identificazione dei beni immobili da trasferire in proprietà ecclesiastica o da ricompensare adeguatamente, verrà stabilita una Commissione Mista, composta da rappresentanti delle Parti.

Articolo 13

1. La Chiesa cattolica ha il diritto di costruire chiese ed edifici ecclesiastici e di ampliare o modificare quelli già esistenti, secondo le leggi vigenti in Montenegro.

2. Il Vescovo diocesano decide sulla necessità di costruire edifici ecclesiastici nel territorio della propria Diocesi, a norma del Diritto Canonico, e ne propone il luogo; e le Autorità competenti del Montenegro accetteranno le sue proposte, a meno che non vi siano ragioni obiettive di ordine pubblico contrarie.

3. Le competenti Autorità del Montenegro non prenderanno in considerazione le domande per la costruzione di edifici ecclesiastici cattolici prive di approvazione scritta del Vescovo diocesano, di cui al comma 2.

Articolo 14

1. Alla Chiesa cattolica sono garantite la libertà di possedere, stampare, pubblicare e divulgare libri, giornali, riviste, oltre che materiale audiovisivo, come pure qualsiasi altra attività connessa con la sua missione.

2. La Chiesa cattolica ha il diritto di istituire e di gestire in proprio radio e televisione, secondo le proprie norme e principi, nel rispetto delle leggi del Montenegro.

3. La Chiesa cattolica ha accesso anche ai mezzi di comunicazione pubblici (giornali, radio, televisione, internet).

Articolo 15

1. Il Montenegro riconosce il diritto dei fedeli cattolici di formare associazioni, in conformità alle norme canoniche, secondo gli scopi propri della Chiesa. Per quanto riguarda gli aspetti civili delle loro attività, tali associazioni si regolano in conformità alle norme legali del Montenegro.

2. Il Montenegro garantisce ai cattolici e alle loro associazioni ed istituzioni la piena libertà di azione e di attività pubblica, compresa la libertà di espressione per via orale o per iscritto.

Articolo 16

1. La Chiesa cattolica ha il diritto di erigere Seminari ed istituzioni educative di livello superiore per la formazione dei Sacerdoti e degli operatori di pastorale.

2. La questione delle altre istituzioni educative cattoliche sarà regolata da un futuro Accordo tra le Parti.

Articolo 17

Il Montenegro riconosce alla Chiesa cattolica il diritto alla cura pastorale dei fedeli cattolici membri delle Forze Armate e delle Forze dell'ordine pubblico, come pure di quanti soggiornano negli istituti penitenziari, negli ospedali, negli orfanotrofi ed in ogni istituto di assistenza medica e sociale di carattere pubblico o privato.

Articolo 18

1. Alla luce del principio della libertà di religione, il Montenegro riconosce il diritto fondamentale dei genitori all'educazione religiosa dei figli.

2. Tenendo presenti la configurazione multireligiosa del Paese, nonché il processo attualmente in corso di riforme legislative, la possibilità dell'insegnamento della religione cattolica nelle scuole pubbliche potrà essere regolata da un futuro Accordo tra le Parti.

Articolo 19

1. La Chiesa cattolica ha il diritto di organizzare liberamente istituzioni intese ad assicurare attività caritative ed assistenza sociale, in conformità alle rispettive norme civili.

2. Le istituzioni ecclesiastiche o le istituzioni che dipendono dalla Chiesa a scopo assistenziale-caritativo, si regolano in conformità ai

propri statuti e godono degli stessi diritti e privilegi e dello stesso trattamento delle istituzioni statali fondate per le stesse finalità.

3. La Chiesa cattolica e il Montenegro si accorderanno sulla mutua collaborazione delle proprie istituzioni assistenziali-caritative.

4. Per quanto riguarda gli aspetti civili, le istituzioni di cui al comma 1 del presente Articolo si regoleranno secondo le norme legali del Montenegro.

Articolo 20

1. La Santa Sede e il Montenegro risolveranno di comune accordo, per via diplomatica, dubbi o difficoltà che potrebbero sorgere nell'interpretazione e nell'applicazione delle disposizioni del presente Accordo.

2. Le materie di comune interesse che richiedono soluzioni nuove o supplementari verranno trattate da un'apposita Commissione Mista, composta da rappresentanti delle Parti, la quale sottoporrà le sue proposte all'approvazione delle rispettive Autorità.

3. Nel caso che una delle Parti consideri che siano radicalmente mutate le circostanze nelle quali si è stipulato il presente Accordo, così da rendere necessarie alcune modifiche, sarà dato inizio ai relativi negoziati al fine di aggiornarlo.

Articolo 21

Il presente Accordo, i cui testi italiano e montenegrino fanno medesima fede, è firmato in duplice esemplare e sarà ratificato secondo le norme procedurali proprie delle Parti. Esso entrerà in vigore al momento dello scambio degli strumenti di ratifica.

Firmato in Vaticano, il 24 giugno 2011.