

## **On the Law of Ukraine ‘On the Protection of the Constitutional Order in the Sphere of Religious Organisations’**

On August 20, 2024, the Verkhovna Rada of Ukraine adopted the Law of Ukraine ‘On the Protection of the Constitutional Order in the Sphere of Religious Organisations’ (Reg. No. 3894-IX) (hereinafter - the Law). 265 MPs voted in favour in the second reading.

Given that the Russian Orthodox Church (ROC) is an ideological extension of the aggressor state regime and an accomplice to war crimes and crimes against humanity committed on behalf of the Russian Federation, its activities in Ukraine are prohibited.

Notably, in its Resolution 2540 (2024), the PACE promptly condemned the activities of the ROC, while the Estonian Parliament acknowledged its activities as terrorist.

According to the Law, religious organisations affiliated with the ROC must withdraw from it. To accomplish, the ample opportunity in the form of a clearly defined procedure is given. The State Service of Ukraine for Ethnic Affairs and Freedom of Conscience (DESS) conducts an investigation to determine whether a religious organisation in Ukraine is affiliated with the ROC. If the fact of such affiliation is established, the DESS addresses a prescription to the religious organisation. For instance, the affiliation is determined by whether religious organisation’s representatives are members of the ROC’s governing bodies – Synod, Bishops' Council, Synodal Commissions, and Inter-Council Presence. If so, the prescription will contain a requirement to withdraw from these bodies and provide relevant evidence. Thus, the Law provisions regarding the termination of a religious organisation activity affiliated with the ROC will not be applied to this particular religious organisation.

At the beginning of 2023, DESS completed the examination regarding the UOC affiliation and concluded that it is the part of the ROC. However, does the ban on the ROC activities mean an automatic ban on the UOC (MP) activities?

No, it does not. The law clearly states that Ukraine prohibits the activities of the Russian Orthodox Church as a *foreign* religious organisation with a governing center in the aggressor state and registered in accordance with that state’s laws. The religious organisations affiliated with the ROC will be subject to the above procedure. Thus, having received the prescription, they will have to withdraw from the ROC.

If a religious organisation refuses to comply with the prescription, the DESS will be eligible to refer to court. And the court, and only the court as it should be in a democratic society will issue a judgment on the termination of a religious organisation activity.

Some commentators insist that the Law means a de facto prohibition of the UOC because it will not be able to fulfill at least one of its requirements. In particular, the Law stipulates that the sign of the religious organisation affiliation with the ROC is the reference made within the ROC’s statute of the UOC being part of it. As such commentators emphasize, the ROC’s statute provisions are beyond the UOC’s control, and the Moscow Patriarchate is unlikely to exclude the record about UOC from its statutory documents.

Nevertheless, such comments are the outcome of inattentive reading and uncareful interpretation of the Law. It clearly states that the relevant provision does not apply if individuals who are members of the ROC's governing bodies publicly declare their withdrawal from them and break ties with this Church.

On June 1, 2023, replying to the request of the UOC hierarchs regarding the measures they may take to avoid being considered part of the ROC, the DESS pointed out the following among others in its letter:

- publishing an official document of the church authority or person(s) authorized to speak on behalf of the UOC on the UOC's withdrawal including all its dioceses, synodal institutions, deaneries, monasteries, ecclesiastical educational institutions, fraternities, sisterhoods, parishes and missions from the ROC;
- submitting and publishing statements made by the UOC bishops and clergy, who are members of the ROC episcopate, on their withdrawal from the ROC Synod, synodal institutions, and Inter-Council Presence commissions;
- officially notifying the Local Orthodox Churches around the world of the fact of UOC's withdrawal from the ROC;

Ukraine neither demands from the UOC to betray Orthodox Church's doctrine, nor to change liturgical practices, the language of worship or switch to the other liturgical calendar. The only requirement the Law insists on is to withdraw from the ROC, which is a party to the war against Ukraine.

Moreover, the history provides examples such as the acts adopted in Massachusetts, Pennsylvania and other American colonies where the prayer for the British Parliament and the King of the Great Britain was declared a betrayal of the Motherland. Noteworthy is that the Church of England, having operated in the United States at that time, found it necessary to rename itself as the Protestant Episcopal Church in the USA. By this, it highlighted that it broke the ties with the Church which was the enemy's bastion.

It should be admitted that Ukrainian government has no less reasons to restrict subversive activity of the ROC on the territory of Ukraine than the restriction to wear burqa in public places adopted by the Austria's, Belgium's, the Netherlands', Denmark's, and France's governments or to build minarets in Switzerland.

Thus, the Law 'On the Protection of the Constitutional Order in the Sphere of Religious Organisations' pursues a legitimate aim, in particular preventing subversive activities of the ROC in Ukraine.

The Russian Orthodox Church has emerged as the most fierce enemy not only of Ukrainian statehood but also of religious freedom. Since the Russian invasion of Ukraine starting in 2014, the Russian Church has justified the murder of about 50 priests, theologians, and pastors, some of whom were wearing liturgical vestments while killed. The occupiers have destroyed in whole or in part more than 630 religious buildings and places of worship. They have been closing houses of worship, persecuting believers, and torturing religious

leaders. In fact, only the Russian Orthodox Church can freely operate in the temporarily occupied territories. Many cities, for instance, Melitopol, Berdiansk and others, have faced the ROC seizing religious buildings and houses of worship, having forcibly thrown legal owners out of them.

Additionally, the Law is necessary for a democratic society as it protects the constitutional order, public security and fundamental freedoms, achieves the aim in the least burdensome way, given the fact it follows a democratic procedure, and does not impose a burden on the conscience of believers, since subordination to the Moscow Patriarchate is not part of the Orthodox Church's doctrine.

The law does not stipulate the prohibition of any existing church in Ukraine, however, it still does not allow the subordination of religious organisations in Ukraine with the governing centers targeted to destroy the Ukrainian statehood, culture and identity. It should be noted that such Ukrainian churches as the Old Believer Church and the True Orthodox Church have already severed their ties with the centres in the aggressor state.

Ukraine has always been proud of its accomplishments in the field of religious freedom. Moreover, it has never had either banned or closed churches. The Russian invasion, where the ROC is a pro-active accomplice, has forced our country to defend itself from the abuse and weaponization of religion by the aggressor state.

Thus, on April 11, 2023, the All-Ukrainian Council of Churches and Religious Organisations (AUCCRO) stated that no organisation either secular or religious with the governing center in the aggressor state is able to operate in Ukraine. On August 16, 2024, during a meeting with the President of Ukraine, the AUCCRO members reaffirmed their position and supported the President's course for the country's spiritual independence. Moreover, they stressed that even in the face of the on-going brutal war, the religious freedom is respected and has never been subjected to persecution in Ukraine.

This stance is supported by the opinion polls as well. Thus, according to the researches conducted by Razumkov Centre, the majority of respondents said that there is the freedom of conscience in Ukraine. Also, almost 60% of respondents said that relations between believers of different denominations are normal, and only 4% said that they are conflicting.

Meanwhile, as stated in the last Pew Research Center's last report (released on March 5, 2024), Ukraine's score on government religious restriction index is not only better than those showcased in ex-Soviet countries, but also comparing to 6 Western European democracies.

The law does not impose a ban on the Ukrainian Orthodox Church. It only prevents religious organisations in Ukraine from being subordinated to the Russian Church which has declared a 'holy war' against Ukraine.