



Foreign Law Brief: Russian Federation: Religious Issues in Newly Adopted Legislation

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FOREIGN LAW BRIEF

RUSSIAN FEDERATION

RELIGIOUS ISSUES IN NEWLY ADOPTED LEGISLATION

This overview summarizes recent developments in Russia's legislation on freedom of religion, researched and described in previous Law Library of Congress reports #2000-8578 and #1999-1873. Even though no legislation directly affecting activities of religious organizations in Russia has been passed since March 2000, a number of recently adopted laws on land, taxation, military service, education, and others, address issues of interest to religious organizations. While these laws appear to conform with the provisions of the Federal Law on Freedom of Conscience and Religious Associations and provide legal foundations for existing political situation, additional restrictions to the rights of believers have been added.

Introduction

The State's priorities in its relations with religions are set out in the preamble of the existing Law on Freedom of Conscience and Religious Associations of 1997. The preamble confirms that the Russian Federation is a secular country and recognizes the Orthodox Church's special role in Russian history. It also pays respect to Islam, Buddhism, and Judaism as an integral part of the historical heritage of the peoples of Russia. The Law does not mention any particular tax concessions, but it does state that "the state regulates the provision of tax and other concessions to religious organizations and gives them financial, material, and other assistance." The Law does not provide for the establishment of a special registration body. It also does not provide for a special registration procedure concerning the representatives of foreign religious organizations; however, local authorities continue to impose various restrictions on religious organizations that are not considered traditional.

After the adoption of amendments in March 2000 to the 1997 Law on Freedom of Consciousness and Religious Associations and the establishment of a firm deadline for the re-registration of religious groups and organizations, no new legal acts directly affecting religious institutions have been passed in Russia. Some religion-related issues were addressed by a number of recently adopted laws, such as the Law on Land Use, the Law on Alternative Military Service, the Law on Fighting Extremism, and others; however, these legal acts do not interfere in the activities of religious organizations, they just regulate certain issues in which religious organizations have some interest.

Law on Fighting Extremist Activities

The Law on Fighting Extremist Activities, adopted in July 2002,¹ has become a source of mounting tensions between Russian President Putin and the Patriarchate in Moscow because the Kremlin has not

¹ ROSSIISKAIA GAZETA [official gazette, daily newspaper published by the RF Government, ROSS. GAZETA], July 30, 2002.

consulted with the Patriarch over a draft law that created a new category of extremist religious organizations and made membership in such organizations a criminal offense punishable by imprisonment. The Law allows an entire religious group to be banned if any of its leaders or governing members make extremist statements which are not renounced by the religious group. An accompanying change to the 1997 Religion Law would widen the existing grounds for banning religious organizations. The Russian Orthodox Patriarchate objects to the Law “not on grounds of religious tolerance, nor religious freedom, but because this category shall be determined by state authorities... effectively setting up a rival power center.”²

Following the Law on Fighting Extremist Activities the supplementary law provided for changes to article 14 of the 1997 Law on Religion, removing some of the specific grounds for liquidation but replacing them with the broader definition of “executing extremist activity.” Omitted from article 14 grounds for liquidating or banning the activities of a religious organization are:

- undermining of state security
- violent change to the constitutional order or destroying the unity of the Russian Federation
- the creation of armed units
- propaganda of war, the igniting of social, racial, national, or religious discord or hatred between people

These are superseded and expanded by the insertion of “the carrying out of extremist activity,” which, as stated, includes not only the carrying out of but the planning, organization, and preparation of, as well as, calls for such activity.

Whereas article 14 previously related only to the banning and liquidation of specifically religious organizations (and not unregistered groups), a new paragraph in part 2 of the article 14 now states

the activity of a religious association may be halted, a religious organization may be liquidated, and the activity of a religious association which is not a religious organization (e.g., religious group) may be banned in accordance with the Federal Law on Fighting Extremist Activities.

Land Legislation

The property problem is another acute issue still not resolved in the relationship between the Russian state and religious organizations. Because Russian law does not provide for the restitution of property confiscated by the Government during and after the 1917 revolution, religious organizations in Russia do not own church buildings and land. The Russian Orthodox Church does not claim return of all its property seized after 1917 revolution. Presently, all real estate is being leased by religious organizations or is given to them for free use. The situation is complicated because many church buildings were declared as monuments of historical and/or cultural importance, and they are protected under special legal regime.

² *Religion in Post-Soviet States “Emasculated,”* RFE/RL release, Mar. 8, 2002.

The recently adopted Law on the Usage of Agricultural Land³ states that religious institutions shall buy the land that they use at the present time. A number of Russian parliamentarians proposed to restore the Russian Orthodox Church's ownership of three million hectares of land seized from the clergy as a measure of restoring social and economic justice. If this initiative is ever implemented, the Russian Orthodox Church might become the largest landowner in Russia. A detailed plan of returning church land to its owners is yet to be devised. Probably, a special foundation for the re-distribution of land plots from which churches and monasteries will be returned their chapter-lands will be established. However, so far, the Russian Orthodox Church has not responded to this proposal, primarily because of its inability to assume responsibility for the agriculture and development of this land. Presently, the Church leaders are lobbying to receive the Church's ownership for one-tenth of the confiscated land, which is located in the cities and, the rent of which can bring Orthodox Church institutions the biggest profit.

In July 2002, the Russian Federation Government granted the Russian Orthodox Church possession of 15,000 objects of movable property and 3,000 buildings and installations. The clergy must register their property rights to all these before January 1, 2003. If they fail to do so before the new Tax Code comes into effect, they will either have to lease the state-owned property or purchase it from the state.

Tax Laws

According to the provisions of the Russian Federation (RF) Tax Code, all previously existing tax privileges were eliminated on January 1, 2002, including the tax exemption for religious organizations. Following two meetings between the Metropolitan of Russia and Russian Federation President, amendments to the Tax Code were adopted by the Duma and signed by the President into law.⁴ According to the amendments, all traditional religious organizations (Orthodox, Islamic, Jewish, and Buddhist) are considered non-commercial and non-profit organizations. Income received from production and sale of religious objects and donations to traditional religious organizations are tax exempt. Donations to traditional religious organization are tax deductible under the amendments. All other religious organizations which do not belong to the so-called traditional denominations are not eligible for this exemption.

Alternative Military Service

The Law on Alternative Military Service⁵ grants Russian citizens the right to avoid conscription if the military service contradicts their religious views. However, in order to substitute the military service with an alternative service, an individual shall prove his/her religious beliefs and submit evidence of his/her belonging to the religious organization and profession of the religion to the authorities. Even though the Law states that the alternative military service is based on respect of one's anti-war views, it requires the individual conducting the alternative service to be stationed in the military unit performing non-military duties. Provisions of the Law, which establish longer period of alternative service (42 months instead of 18 months in the military service) are considered by some observers as the violation of the constitutional prohibition of religious discrimination.

The recently renewed agreement between the Ministry of Defense and the Moscow Patriarchate of the Russian Orthodox Church provides for conducting religious services for the military personnel and allows

³ROSS. GAZETA, July 28, 2002.

⁴ SOBRANIE ZAKONODATELSTVA ROSSIJSKOI FEDERATSII [Russian official gazette], No. 18, 2002, Item 1720.

⁵ ROSS. GAZETA, July 30, 2002.

the presence of chaplains in the military units. Orthodox churches and chapels are built on the territory of the military bases, and military units are created at the monasteries with monks serving as military personnel. Regardless the principle of the secularity of Russia's armed forces and equality of all religions, no other religious denominations are involved in serving religious needs of their followers in the Russian military, even if they belong to the so-called traditional religions.

Educational Issues

Religious education is gradually taking its place in Russia's state schools and universities. In a July 2000 letter, the Deputy Education Minister warned schools against the influence of the Unification Church, the Church of Scientology, Jehovah's Witnesses, the Mormons, the New Apostolic Church, and the Salvation Army. According to the Minister's letter, the groups, all identified as United States- or German-funded, use "religious cover" to collect social, political, economic, and military information about Russia, to incite separatist sentiments and to create a generation of Russians who "would be steadily oriented toward Western values." The Education Ministry announced that Russia's law enforcement agencies have evidence that non-traditional religious groups "do damage to the individual, the Russian society, and the state."⁶ Following this letter, the Education Ministry issued an order prohibiting school principals to rent school buildings to non-traditional religious organizations, even for educational purposes.⁷

Since September 2002, classes on religious studies conducted by Orthodox priests are included in the curriculum of all secondary educational institutions in Russia, and Theology classes will substitute for classes in Scientific Atheism in Russian universities as of 2003. On October 10, 2002, Plenipotentiary Representatives of Russia's President in all administrative districts simultaneously made a statement about the introduction of mandatory religious education in public schools. The federal Ministry of Education adopted the state program Orthodox Culture, which includes history and fundamentals of the Orthodox religion.⁸ The length of the course shall be determined by the education departments of Russia's constituent components individually. The Ministry's resolution states that this subject shall be taught by clergy members. In order to justify the clergy's right to teach at the state educational establishments, the federal standard on Theology as a discipline taught at the state universities was prepared. That will make diplomas issued by religious institutions equal to the diplomas of state universities' graduates. As it was reported, the Ministry of Education has submitted to the Government the draft resolution on state recognition of degrees, previously granted by educational institutions of the Russian Orthodox Church.

Being accused of violation of the principle of separation of state and church, the Administration of the President and the Patriarchate of the Russian Orthodox Church issued a joint statement stating that the secularity of the state shall mean only the lack of clerical interference in politics, and the secular school is just a school that is not subordinated to Church authorities.⁹

⁶ ROSS. GAZETA, July 18, 2000.

⁷ *Id.*

⁸ K. Vasilenko, *Zakon Bozhii v Pervom Chtenii*, VREMIA NOVOSTEI, Oct. 18, 2002.

⁹ *Id.*

Proposed Legislation

In March 2002, a draft Law on Traditional Religious Organizations in the Russian Federation was submitted to the State Duma for consideration. The bill, prepared by the Duma's Committee for Public Associations and Religious Organizations, defines four types of traditional religious organizations:

- A traditional religious organization is a denomination that has been in existence at least 50 years and unites at least one million worshipers.
- A traditional religious organization of an ethnic group is a denomination operating for at least 50 years and uniting at least 100,000 followers.
- An historical traditional religious organization is the organization that has been in operation at least 80 years.
- A representative of a foreign traditional religious organization is the foreign denomination recognized in the home country as an inseparable part of the historical, religious, and cultural heritage. The inseparability of the foreign denomination shall be confirmed by a letter of recommendation issued by the embassy of the country concerned.¹⁰

According to the draft, the status of traditional religion would be granted by a federal commission in support of traditional religions, which would include five members appointed by the State Duma, five nominated by the Federation Council, and ten appointed by the President of the Russian Federation. Salaries of the members of the proposed commission shall match those of the federal ministers.

The bill provides for mandatory religious education and that Scripture will be taught as it is interpreted by traditional religions. The draft also orders the government-run television and radio channels to provide free air time to religious organizations. Traditional denominations and their non-commercial structures would be exempt from profit tax and value added tax. The bill suggests that government agencies and traditional religious organizations conclude agreements to make it easier for the Church to fight child homelessness and care for the elderly and the disabled. It also provides for the return of property taken away from traditional religious organizations under court ruling.

Facts of Discrimination Against Non-Traditional Religions

Although Russian law gives no preference to the Orthodox faith, other Christian groups have long complained of discrimination saying that state officials are inclined to carry out the wishes of the Orthodox hierarchy. Especially harsh tensions have developed between the Russian Orthodox Church and the Catholic Church, which is regarded in Russia as a dangerous invader trying to impose the values of Western Christianity on the Slavic population. Tensions increased in February 2002, when the Vatican decided to change what had been called "apostolic administrations" in Russia into four full-fledged dioceses. The Orthodox Church declared the move an invasion of its "canonical territory" even though there are far fewer than one million Catholics among Russia's 144 million population. The Orthodox Patriarch Alexi II labeled the Vatican a "foreign government" bent on setting up "illegal government structures" on Russian soil.¹¹ In the aftermath, Catholic parishes became targets for demonstrations. Some foreign clerics were stripped of visas and denied entry to Russia without an explanation of expulsion or reply for a reinstatement.

¹⁰ P. Korobov, *Litmus Test for Religion*, KOMMERSANT, Mar. 6, 2002, at www.therussianissues.com.

¹¹ J. Daniszewski, *Moscow Catholics Locked Out of Their House of Worship*, LOS ANGELES TIMES, July 2, 2002.

Objections of the Russian Orthodox leaders have kept the Roman Catholic Pope John Paul II from visiting Russia. President Putin recently said he would invite the Pope but with the caveat that relations with the Orthodox Church first find a “firm footing.”¹²

Non-Orthodox religious organizations face more serious problems in Russia’s provinces where the Law is administered at the local level by regional departments of the Justice Ministry. One-third of Russia’s regions have adopted religious laws which are more restrictive than the national law. Even though the Federal Government is slowly working to cancel provincial religious laws, regional authorities are relatively free to deny registration of religious organizations. Denial of registration means a religious group cannot rent or own property, open a bank account, proselytize, publish literature, provide religious training, or invite foreign clergy. A big problem for local religious groups is the entry of foreign clergy into Russia. Two of Russia’s four Catholic bishops have been denied Russian citizenship and residence permits. The majority of Russia’s 215 Catholic priests also lack residence permits. Although the Law on Religions requires such permits, a different law says they cannot be issued for religious work. Answering to the Pope’s enquiry regarding visa restrictions to Catholic priests, President Putin of Russia failed to explain the visa denials and wrote that the removal of visas from two Bishops were not the “result of a campaign against the Catholic Church.” He stated that this was rather a “normal measure taken by a sovereign state against [an] individual foreign citizen” who is accused of using the Japanese name for southern Sakhalin islands, which are part of his diocese.¹³ The Vatican does not recognize this letter as an official explanation for the refusals.

On September 11, 2002, for the second time in two days and the fifth time since April, a Roman Catholic priest was denied permission to enter Russia. Reverend Edvard Mackiewicz, a Polish national, was turned away at the border between Poland and Belarus after being told by immigration officials that his parish in Rostov-na-Donu had been eliminated and his church shut down. However, Associated Press reported that a priest at the church said it was open and functioning as usual, although it had been vandalized on September 7.¹⁴

Regional administrations use their authority to break building leases of religious organizations. Schools were closed in a number of Russian provinces and their contracts to lease school buildings were terminated. In Irkutsk, authorities have closed a Pentecostal church which has missionary leaning and 300 members. In Belgorod, officials have refused to register a Catholic parish as a religious organization. Evangelic and Baptist schools were closed in St. Petersburg and in Saratov. Citing technical errors, Cheliabinsk authorities have refused to register the Church of Jesus Christ of Latter-day Saints as a religious organization since 1997. The region’s human rights commissioner denounced the church in a newspaper article as “a strange neo-religion.”¹⁵

¹² Sharon LaFrontiere, *Orthodox Church Sees Others as Rivals*, WASHINGTON POST, Feb. 8, 2002.

¹³ Keston News Service Report, Sept. 5, 2002.

¹⁴ Radio Free Europe/radio Liberty (RFE/RL Newslines), vol. 6, No. 171, part 1, Sept. 11, 2002.

¹⁵ *Supra* note 8.

The Russian Justice Ministry says that 18,130 religious organizations had registered under the new law by June 2002, which is 1,200 more than were registered under the old law. However, human rights defenders argue that does not prove that the law has not driven out some churches, only that more have opened.¹⁶

Church-State Relations

President Putin has spoken out repeatedly for religious freedom. However, the Administration has strong ties with the Patriarchate of the Russian Orthodox Church and strongly supports interests of the Orthodox Church being actively involved in religious affairs. For example, the Administration determined the outcome of elections of the Chief Rabbi of Russia and shuffled the Presidential Council to replace a Jewish rabbi with ties to former media magnate who has been feuding with Putin since he took office with a rival rabbi.

The state financing of Orthodox religious organizations and church activities continues. In addition to the direct participation in building new churches, the Government allocated recently US\$3.9 million to restore the bells of the prominent Sergiev Posad monastery near Moscow.¹⁷ Also, the usage of state funds by the Orthodox Church is prescribed in the draft law on Social Partnership Between the State and Religious Organizations recently submitted to the State Duma for consideration.

During the summer of 2002, members of the hierarchy of the Russian Orthodox Church conducted a number of meetings with the leaders of NATO and the European Union. Offering its expertise and advisory assistance in the resolution of ethnic and interdenominational problems, the Church demonstrated its intention to enter into European politics as well as its usefulness to the Russian Federation Government as a vehicle to deliver its views regarding some European political issues. The position of the Government and the Church on such issues as NATO enlargement, Kaliningrad visas, and other issues are very close.

As reported by Russian media, the Administration of the RF President is in favor of the creation of a state committee for religious affairs. The creation of the committee has been justified by the necessity of the Administration to be involved in a number of issues, such as religious policy, financial matters, property, conflicts between secular and religious bodies, and religious extremism but the impossibility of the President to give constant attention to these matters. However, the Committee will not have the status of a federal agency. The Russian Orthodox Church strongly opposes the idea.¹⁸

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¹⁶ *Novosti Slavianskogo Pravovogo Tsentra* [News of the Slavic Legal Center], RELIGIA I PRAVO, 2002, No. 3.

¹⁷ A. Zolotov, *Bells Ring in Spiritual Rebirth*, MOSCOW TIMES, Sept. 5, 2002.

¹⁸ Keston News Service Report, Sept. 7, 2001.