



# Latest Developments in Russian Legislation on Religion

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## **LATEST DEVELOPMENTS IN RUSSIAN LEGISLATION ON RELIGION**

The pernicious effects of the 1997 Religious Law have recently been somewhat muted because, like most other legislation in the Russian Federation, the Law is implemented only episodically and halfheartedly. Federal authorities have transferred the responsibility for implementation of the Law and for punishing violations to regional administrations. Often the rhetoric aimed at fighting political and religious extremism is used to suppress religious minorities and to justify violations of the Law.

### **Acts of Religious Intolerance**

The recent wave of religious intolerance is directed against almost all existing denominations and is orchestrated by certain political and religious leaders. Just recently, the Missionary Department of the Moscow Patriarchate published the reference book *NEW RELIGIOUS ORGANIZATIONS IN RUSSIA OF A DESTRUCTIVE AND CULTISH CHARACTER*, which explains that “even the adoption of a law concerning destructive religious organizations will not stop them growing. After a ban is imposed, many destructive cults will form illegally, deepen their conspiracy, and increase their mobility, which will make it more difficult for authorities to control them.” Articles criticizing foreign sects and their followers in Russia are regularly published in Russian newspapers, including the most popular newspapers, such as *MOSKOVSKII KOMSOMOLETS*, *NEZAVISIMAIA GAZETA* and the official newspaper of the Russian Government *ROSSIISKAIA GAZETA*.

The Russian Orthodox Church has also been subjected to attack. Patriarch Alexiy II called the televised “Young Atheist” project at the annual Manezh art exhibition in Moscow last December an attempt to arouse religious enmity against the Church. A group of artists allowed willing visitors to ax Orthodox icons into pieces and to paint fascist swastika over the icons. The Patriarch said that the purpose of that action was to “discredit the Russian Orthodox Church, which remained the last and only barrier preventing the disintegration of Russia.” Arson attacks against Orthodox churches were recently reported in the Midural region. Seven churches were burned down in Sverdlovsk and Cheliabinsk oblast during November-December 1998, and the place where the family of the tsar was murdered has been vandalized. In addition, religious information in the Russian mass media is mostly negative. Reports on crimes committed by clergymen have become very popular, for example. In contrast, criminal proceedings in hate crimes against religious persons or groups are not resolved, and cases usually are not submitted to the court. The famous Makashov case was closed by the Moscow office of the Federal Security Service and reopened only after strong intervention by the Administration of the President and General Procurator’s Office.

### **Persecution of Religious Minorities**

Lack of strong law enforcement opens the door to the persecution of dissident religions and to arbitrary rule. Laws are applied differently to religious organizations depending on the attitude of the state authorities toward them. Elena Panina, a Member of the State Duma and Vice Chairwoman of the World Russian Assembly,<sup>1</sup> stated in her interview with the TV program *PARLAMENTSKII CHAS* on

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<sup>1</sup> A newly created social organization under the auspices of the Patriarchate with the declared goal of saving Russia and Russian statehood from foreign influence. Patriarch Aleksiy is its chairman, and leading Russian political, public, and intellectual figures are members of the

October 26, 1998, that “regional authorities complain to the parliamentarians that they would happily close meetings of all sects in their provinces, but unfortunately cannot do that because there is no such law. We hope [said Panina] that the existing law will become more restrictive, though even the current law allows us to fight against foreign sects.”

In November 1998, Jehovah’s Witnesses were challenged in Moscow Court. Numerous procedural violations were committed during the trial. In contradiction to the existing legal norms, the judge ordered a closed trial and did not allow public and journalists to attend the court session. The court pleaded abatement in regard to the experts and witnesses called by the defendant. Even though no evidence was produced by the plaintiff, the case was not dismissed, but postponed until February 9, 1999. Representatives of the plaintiff, the Public Committee for Rescuing the Youth from the Totalitarian Sects, said that they wanted to “establish a controlling authority under the Russian Federation Ministry of Justice to monitor the distribution of Western funds among foreign religious organizations operating in Russia,” something that would constitute an illegal intervention in internal affairs of the organization. Russian and foreign observers (the newspaper “Segodnia” and the “Moscow Times”) speculate that the Russian Orthodox Church was instrumental in the organization of the trial. On the eve of the trial, the weekly magazine PROFIL’ published an interview with Aleksiy where he said that “foreign churches have destructive and totalitarian features and buy the souls of the Russian people.” In the interview he suggested that legislators introduce additional qualification requirements for foreign religious organizations if they care about the future of the country. Another reason to conclude that the Orthodox Church masterminded this trial is the strong tie between the Patriarchate and the Mayor of Moscow, who totally controls city courts.

Several violations of religious rights were reported during the last months of 1998, which in Russia was officially declared the Year of Human Rights. Among them are the closure of the Evangelic community in Hakassiya, liquidation of the Protestant religious group “Zion” in Reutovo (Moscow oblast), and denial of registration for the Church of the “New Generation” in Yaroslavl. Early in December 1998, Yegor Stroev, the governor and Chairman of the Federation Council ordered that the building belonging to the Catholic Church in Oryol be transferred to the Orthodox Church. Moscow newspapers also reported that after the holiday season the City Prosecution office is ready to initiate a criminal case against the Church of Reverend Moon, charging the organization with encroaching on the identity and rights of citizens (art. 239 of the Russian Criminal Code)<sup>2</sup>.

### **Interference of the Russian Orthodox Church into State Affairs.**

Because of the increasing weakness of the state and pretending that the Church is the only social institution that is connected with the history of Russian civilization the Russian Orthodox Church has raised its profile and interfered with state affairs. After keeping in the background for a long time, Patriarch Aleksiy made several highly publicized public appearances at the Bolshoi theater. He received a large group of Ukrainian high school students, and met with Rem Vyakhirev (CEO Gazprom), accepting his gifts to the Patriarchate and demonstrating the Church’s support of the largest Russian monopoly. In December, the Patriarch made two politically controversial statements. He said that even though the Orthodox Church opposes capital punishment, Russia is not ready to live without it, and asked the Government to stop the moratorium on the death penalty. He also strongly criticized attempts

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Assembly.

<sup>2</sup> See: RADIO FREE EUROPE/RADIO LIBERTY DAILY NEWS MONITOR: Vol. 1, Nos. 179, 194, 211, 247, 1998.

to introduce an alternative military service in Russia and supported currently existing draft and military duty.<sup>3</sup> Chaplains in the Russian Military have also become more active. Chief of the Educational Department of the Defense Ministry, who is simultaneously the Deputy Minister of Defense recommended that chaplains be included on the staff of military units and that they be paid using appropriated funds saved because of vacancies. In November many newspapers noted that a chaplain had baptized the entire staff of a submarine in accordance with the order of the ship's captain.

Another attempt to influence the state authorities is the decision regarding the celebration of the 2000 Anniversary of Christianity. After Yaser Arafat solved the long-standing dispute between the Russian Orthodox Church and Russian Orthodox Church Abroad over the Trinity Monastery in Hebron in favor of the Russian Orthodox Church, the Moscow Patriarchate decided to support the Bethlehem-2000 project proposed by the Palestine authorities and to oppose the Israeli version of festivities, even though the Government of Russia still had not come to a decision on this subject.<sup>4</sup>

One of the most important political events of the last Autumn occurred on October 9, 1998, when Russian Patriarch Aleksiy invited leading politicians and public figures to his residence in the Danilov Monastery with the purpose "not only to discuss how to get out of the old crisis, but, as he said, to discuss variants of a new state and political system." Present were the Mayor of Moscow Yu. Luzhkov, Chairman of the State Duma G. Seleznev, Communist leader G. Zyuganov, Governor A. Tuleev, former Prime Minister V. Chernomyrdin, Deputies of the State Duma V. Zhirinovskiy, S. Baburin, S. Glazyev, Nikita Mikhalkov and others. President Yeltsin personally asked Ye. Stroevev and E. Primakov not to take part in the meeting. The meeting was attended by the all hierarchs of the Russian Orthodox Church and was called as the Russian People's Assembly. The event received very restricted coverage in Russian mass media. The most critical and anti-government speech was made by Yu. Luzhkov, who used the Assembly as an opportunity to appear on national television being "blessed" by national religious leaders. Evaluating the situation in the country, he said that it is an illusion to believe that Russians are law obedient and that the Constitution works. Luzhkov stated that everything that had been done in Russia during the last seven years was one big mistake. This mistake, in his opinion, is radicalism and rejection of national traditions. He predicted popular riots and breakdown of the statehood if the nation does not return to its traditions, Christian values, commandments, and religious laws. In his speech, Luzhkov considered the Assembly to be the first attempt since 1993 to rescue the nation and paid tribute to the Patriarchate for its efforts to consolidate Russian society.

### **Internal Problems of the Russian Orthodox Church**

At the end of the year, Patriarch Aleksiy tried to increase his influence on the Church and his role in the day-to-day operations. A signal of a strong dispute in the Patriarchy was considered to be the fact that E. Primakov upon his appointment as Prime Minister received separate greetings from Patriarch Aleksiy and Metropolitan Kyrill, even though both sent their letters on behalf of the Russian Orthodox Church. Both major trips in Tyumen and Lipetsk undertaken by the Patriarch at the end of the year were related to the division of the existing dioceses and appointment of young and devoted Bishops in the newly established dioceses. Close relations between the Patriarch and Yu. Luzhkov were used for strong criticism of Metropolitan Kyrill through the controlled mass media outlets. The

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<sup>3</sup> Russian Patriarch Opposes Death Penalty, in Theory; REUTERS, Dec. 6, 1998, at <<http://www.russiatoday.com>>, visited Dec. 7, 1998.

<sup>4</sup> N. Gevorkian. Spor o Rodine Christa, KOMMERSANT-VLAST, No. 39, 1998.

newspaper MOSKOVSKII KOMSOMOLETS, which is close to the Mayor's office, did not call Kyrill anything other than *Metropolitan of Tobacco*, recalling his participation in the tax-free sale of humanitarian aid and some other affairs. The newspaper SOVERSHENNO SEKRETNNO, which has ties with the Moscow city government, published a serial of articles on sexual scandals in the Department of Foreign Church Relations. However, Kyrill represented the Patriarchate at the founding congress of the OTECHESTVO (Fatherland) movement, which became Luzhkov's political party. He also delivered a greeting on behalf of the ROC and was elected to the Political Council of the movement.

### **State and Church Relations**

In response to current developments, President Yeltsin of Russia ordered prepared a special Program on Prevention of Political and Religious Extremism in Russia in 1999-2000. The draft of the Program was approved by the Ministry of Justice on January 5, 1999.<sup>5</sup> The draft proposes amendments to the existing legal acts, the establishment of a new federal structure that would combine state and social bodies, the improvement of the managerial effectiveness of the executive authorities in the components of the federation, and use of local resources. The program sounds vague and does not contain specific measures intended to overcome religious extremism in Russia. It is planned that a federal policy aimed at counteracting all kinds of extremism will be elaborated by the Security Council of the Russian Federation, which will have a special session devoted to the problem of national accord later in January 1999.

Even though relations between the Church and the Government during the last months were rather tentative and did not involve any significant events, the establishing of the Russian Organizing Committee on the Celebration of the 2000 Anniversary of Christianity demonstrated a willingness on the part of the state to keep closer ties with the Russian Orthodox Church than with any other denomination. The Committee, which was established under the Administration of the President of Russia, includes members of the federal government, governors, and leaders of the Patriarchate. Prime Minister Primakov and Patriarch Aleksiy are co-Chairmen of the Committee, and President Yeltsin is its Honorary Chairman. The duty of the Committee is to draft the plan of celebration and coordinate the activities of federal and regional executive authorities with the interested religious organizations. The Committee has right to gather necessary information from and issue mandatory resolutions to all related federal and regional authorities.

In November, the Public Committee for the Defense of Freedom of Conscience, a lobby group led by Gleb Yakunin, argued in a letter to Prime Minister Primakov<sup>6</sup> that at a time of "disastrous economic conditions," the Moscow Patriarchate's subsidies and economic privileges should be eliminated. The letter recommended amending current Russian tax legislation and imposing tax duties on religious organizations in order to increase the state budget<sup>7</sup>. The Committee called patriarch Aleksiy

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<sup>5</sup> SEGODNIA, No. 2, January 6, 1999.

<sup>6</sup> The letter was reprinted in the Russian KOMMERSANT-DAILY on November 5, 1998, and published in English in TRANSITION, No. 1, 1999.

<sup>7</sup> The Law on Freedom of Conscience and Religious Associations does not prescribe tax privileges. Tax exemptions may be introduced by tax regulations for particular religious organization individually (art.4.3). Usually religious organizations in Russia are exempt from paying property tax, land tax if the temple building is registered as a landmark, value added tax on provided services, payment for use of the word "Russia" in the title of the religious organization, and income tax from enterprises that belong to religious associations. Since September 1997, a Governmental regulation prohibits religious organizations from reselling foreign humanitarian aid.

If an oligarch who has to share his wealth with the nation and to return state money, already appropriated by religious institutions, to Russians. "Freedom of religious activity, wrote G. Yakunin, should not be substituted with freedom for clergymen to make themselves richer." Because E. Primakov did not respond to this letter, Russian analysts decided that he cares more about his political future and good relations with the Patriarch than about the budget.

A recent influx of newspapers articles on religious subjects may be explained by the holiday season. Even though the Orthodox Christmas religious service was not broadcast by the main state TV channel, ORT, because the Patriarch refused to pay the TV company the requested amount of money, Aleksey appeared numerous times on both state-run TV channels and entertained the government members in the ROSSIA hotel. Recent Russian and foreign publications conclude that the Caesaropapist tradition is not a sufficient explanation for such a close friendship between state and Orthodox leaders.<sup>8</sup> They believe that democracy itself is a problem in Russia because it appears as a foreign implant with shallow national roots. In such a setting, Russian regime uses the Church for two pragmatic reasons: to define the limits of permissible Westernization and to fortify the anemic legitimacy of national politicians.

Different positions on the power of the state and the power of the Orthodox Church were clearly demonstrated in the addresses to the people of Russia celebrating New Year and Christmas delivered by the Russian President and the Patriarch. The Patriarchate uses political aspects more often and makes stronger appeals to its followers than do the state authorities. In his short New Year's address to the citizens of Russia, Yeltsin did not even mention the difficulties of the current situation in Russia. Also, he did not say what the state is going to do in order to improve the life of Russians. He wished that his fellow citizens "have new plans, new dreams and happy children in the new year," and suggested that the lights of the Christmas tree will help "those who are tired and desperate" because "they will melt even the frozen hearts and make life a little bit brighter, happier, and warmer."

The Patriarch's address sounded more political. He reminded the country that the next year should be a step forward on the way to the creation of the Fatherland, increasing spirituality and educating the people. His speech was mostly devoted to the responsibility of Church goes for destiny of Russia and the entire world. Aleksey listed all the major problems that Russian society is facing now and said that all these difficulties can be overcome only by peaceful means. Commentators<sup>9</sup> counted that he repeated the word "Fatherland" in his address seven times, always mentioning that the Fatherland is in danger. The President of the country did not use this very popular Russian word and did not mention any impending danger.

### **New Implementing Acts**

The Government of the Russian Federation is in the process of drafting and adopting new implementing regulation. On December 6, 1998, amendments to the Federal Law on Social Organizations entered into force. The amendments excluded religious organizations from the list of social and noncommercial organizations. These amendments drastically changed the procedure for organization, registration, and management of religious organizations. Previously, religious

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<sup>8</sup> St. Holmes. Church and State in Eastern Europe, *EAST EUROPEAN CONSTITUTIONAL REVIEW*, v.7, No.2, 1998.

<sup>9</sup> See: articles of M. Shevchenko, and I. Rodin in *NEZAVISIMAIA GAZETA*, No. 1, 1999.

organizations in Russia were allowed to be registered as noncommercial organizations. After the new Law was adopted, the registration of religious organizations that were organized in accordance with the Law on Social Organizations became void, and they have to go through the new registration process under the Law on Religious Organizations of 1997.

The Law on Social Organizations prohibits keeping the amount and composition of income of a nonprofit organization secret and requires public control over the budget of the organization. Because they are excluded from the jurisdiction of that law, religious organizations may hide financial information from the members. However, the registering state authorities have access to information on the financial activities of a religious organization (art. 10.2) and may use and disclose such information if is needed in order to supervise religious organizations as is prescribed by Article 25.2 of the Law.

In the second half of 1998, the Government of the Russian Federation continued to pass regulations related to religious problems. They were Regulation on Procedures for Conducting the Scientific Religious Expertise and the Decree on Celebration of the 2000th Anniversary of Christianity. The Ministry of Justice issued several implementing orders. However, that process is not completed, and much of the implementation process depends on regional administrations.

All recently passed regulations do not differ substantially from the already analyzed drafts. Neither of these acts improves the position of a religious group. The only provision that makes the registration of a centralized religious organization easier is the permission to register such organization if it is present in at least two components of the Russian Federation. The Law does not determine the required number of the components. The Rules of Registration set a firm six-month period for the registering authorities when they are obliged to make a decision regarding religious organization. Article 22 of the Rules sounds potentially restrictive because it requires annual submission of information from the religious organization regarding continuation of its activity. Even a one-day delay in these annual submissions may entail a break in the counting of the 15-year period. The vagueness of this provision may result in an unregulated interpretation of this requirement by regional justice departments.

Article 4.6 of the Rules sounds especially uncertain. This article requires that a religious organization inform the registering authorities about the basic principles of its religion and religious practice, the history of the religion and given religious association, the methods and forms of its activity, and its position toward education, family and marriage, health protection of the followers, and realization of members' civil rights and duties. Such undetermined definitions allow registering authorities to request additional information or order so-called scientific religious expertise and to postpone the registration for at least 7 months. Another problem may be found in the prohibition against registering a religious organization if any other religious organization with the same name already exists in the Russian Federation (art. 15). One can suppose that this requirement will be used to deny registration for unwanted religious associations. Knowing that during the recent provincial elections people with the same names as strong candidates were included in the ballots in order to mislead the voters, one cannot exclude the prospect that similar methods will be used in the registration process. Forged organizations may be established anywhere in Russia, and they will give regional authorities a reason to deny registration to a real religious association.

The same concerns regarding the Government Decree on Procedures for Conducting the State Scientific Religious Expertise, which were explained to the Russian delegation headed by Mr. Loginov during their February 1998 visit to Washington, remain now after the Ministry of Justice has issued an



implementation regulation. Being a non-government organization, the Expert Council, which has to be appointed by the federal or regional department of justice, has the right to pass on the decision to deny the registration of a given religious organization. Decisions of the Expert Council are final and cannot be appealed. There is no mandatory requirement that the Council include representatives from different religious organizations. Including them could be a guarantee for less biased decisions. In addition, some other bureaucratic formalities may be used to delay or deny the registration.

It should be noted that neither of the promises issued by Mr. Loginov have been fulfilled. The institution of ombudsman on religious issues was not introduced, and the Russian Human Rights Commissioner, O. Mironov, who was appointed to this position in May 1998, by the State Duma, has officially announced that he is not going to pay attention to religious matters. Article 27 of the Law is still in force also. Moreover, special provisions of the Rules on Registration describe how to deal with that article. The 15-year requirement still has its restrictive feature, requiring that religious organizations be annually re-registered. Despite the fact that the annual re-registration gives religious organizations the rights of a legal entity, they are deprived of the right to produce, obtain, export, import, and distribute religious literature, printed, audio and video materials, and other objects of religious significance. In addition, these newly re-registered legal entities are not able to establish cultural organizations, educational organizations and other institutions, or even to create outlets of mass information. Finally, they do not have the right to “invite foreign citizens who plan to take up professional religious activity, including preaching,” even if they will be working in “the organizations under question.”

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