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## UKRAINE: Law banning Ukrainian Orthodox Church about to enter force

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*Law No. 3894-IX banning the Russian Orthodox Church – Moscow Patriarchate (ROC) and Ukrainian religious organisations affiliated with the ROC comes into force on 23 September. Its main target is the Ukrainian Orthodox Church (UOC). While addressing real security concerns over the ROC's involvement in Russian aggression, the Law does not comply with legally-binding international standards of freedom of religion or belief, and significantly increases State powers to arbitrarily monitor and restrict religious communities and the expression of religious ideas. Government, public and private actors already see it as a signal to attack UOC communities and believers.*

On 24 August, Ukrainian Independence Day, Ukraine's President Volodymyr Zelensky announced that he had signed Law No. 3894-IX banning the Russian Orthodox Church – Moscow Patriarchate (ROC) as well as Ukrainian religious organisations affiliated with the ROC. The Law was officially published the same day and comes into force on 23 September. In his speech the same day he signed the Law, Zelensky stated that Ukrainian Orthodoxy had made a step "towards liberation from Moscow devils".

President Zelensky's signature follows parliamentary debates since March 2022 ([https://www.forum18.org/archive.php?article\\_id=2807](https://www.forum18.org/archive.php?article_id=2807)) about banning the Ukrainian Orthodox Church (UOC), which is historically and ecclesiastically linked to the Moscow Patriarchate. Law No. 3894-IX (<https://zakon.rada.gov.ua/laws/show/3894-20#Text>) gives the Ukrainian government a legal tool to ban religious organisations it thinks are Moscow's collaborators in Ukraine. Although Law No. 3894-IX does not specify these organisations, the Law's main target is clearly the UOC.

The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) did not receive a request from the Ukrainian authorities to review the draft Law (<https://legislationline.org/legal-reviews>). However, "we would be very willing to do so if asked", ODIHR spokesperson Katya Andrusz told Forum 18 from Warsaw on 6 March 2024.

Similarly, the Council of Europe's Venice Commission told Forum 18 that it had not received a request to review the draft Law ([https://www.venice.coe.int/WebForms/pages/?p=01\\_activities&lang=EN](https://www.venice.coe.int/WebForms/pages/?p=01_activities&lang=EN)).

### Main provisions of the Law

The Law bans the Russian Orthodox Church – Moscow Patriarchate (ROC) for its justification and proactive support of Russia's invasion of Ukraine ([https://www.forum18.org/archive.php?article\\_id=2897](https://www.forum18.org/archive.php?article_id=2897)). The Law identifies the ROC as a part of the Russian state and an accomplice, a partner in the war crimes committed by the Russian regime. It also establishes a legal mechanism to liquidate Ukrainian religious organisations which are either affiliated with the ROC, or affiliated with a religious organisation affiliated with the ROC. Affiliations with other Russian religions supporting the Russian aggression against Ukraine are also prohibited. The language of the Law – especially the criteria defining ROC affiliation – makes it clear that the main target is the Ukrainian Orthodox Church (UOC).

While banning the ROC is mostly symbolic, as the ROC could not easily operate in Ukraine even without the ban, the legal consequences for religious organisations affiliated with the ROC such as the UOC are real. After the Law comes into force on 23 September 2024, they will be deprived of the right to use state-owned religious properties and ordered to cut their ties with the ROC by the State Service for Ethnic Policy and Freedom of Conscience (DESS). If they do not cut their connections to the ROC, they will be banned by court order.

In addition, the Law permits the banning of religious organisations whose officials have been convicted of either:

- national security crimes against Ukraine;

- or committing crimes related to public and non-public justification of the Russian aggression, incitement of religious hatred, fraud, money or property laundering, terrorism, propaganda of war, propaganda of Communist and Nazi regimes, genocide, or mercenaries.

This wide-ranging justification allows the banning of UOC communities whose clerics have been sentenced for the above-mentioned crimes, including cases of treason, collaboration and the justification of the Russian aggression, but also cases where Ukraine courts convicted defendants of claims of religious superiority or criticism of state favouritism of a particular religious group. Such statements, which in international law are protected by the right to freedom of speech, have been found by Ukrainian courts to be "spreading religious hatred" ([https://www.forum18.org/archive.php?article\\_id=2929](https://www.forum18.org/archive.php?article_id=2929)).

The Law also prohibits the so-called "Russian world" (Rusky mir) ideology that claims Russia's control, both political and spiritual, over Ukraine. Religious organisations involved in the repeated dissemination of this ideology will also be banned. This institutional involvement is understood broadly. If an individual priest or the head of the parish council is found to have propagated Russian world ideology in any form, the law claims that the whole organisation is involved and can therefore be banned.

Much of the Law's definition of "Russian world" is expressed in such confusing and vague language (eg. "neo-colonial doctrine", "civilisational right to mass murders") that the definition lacks legal precision and so is difficult to legally apply. It is also unclear why such a ban on this concept is necessary when Ukrainian law already bans spreading Russian propaganda and justifying Russia's invasion (see below).

International law and evidence of UOC institutional involvement in illegal activities

Article 18 of the International Covenant on Civil and Political Rights

(<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>) (ICCPR) prohibits the limitation of religious freedom based on national security. Religious organisations that constitute a threat to national security (for example, institutional collaboration with the Russian army) can be banned based on ICCPR Article 22 ("Freedom of association"). However, this ban cannot rest on purely religious grounds such as ecclesiastical connections. The state must provide legally-admissible evidence proving that, due to these connections, a religious organisation is involved in illegal activities.

In its assessment of the draft of the Law (as of February 2023), the United Nations (UN) High Commissioner for Human Rights Volker Türk (among other human rights defenders) expressed concern ([https://www.forum18.org/archive.php?article\\_id=2896](https://www.forum18.org/archive.php?article_id=2896)) about the February 2023 draft of the Law. Among other criticisms is that there is no legally-admissible evidence ([https://www.forum18.org/archive.php?article\\_id=2807](https://www.forum18.org/archive.php?article_id=2807)) that the Russian Orthodox Church – Moscow Patriarchate (ROC) guides or compels the Ukrainian Orthodox Church (UOC) as an institution to commit crimes.

Even were such evidence to exist, a total ban of an entire religious community (which in the case of the UOC has over 8,000 separate legal entities (<https://opendatabot.ua/analytics/sbu-vs-russian-church>) on territory under Ukrainian government control) simply for having historical or ecclesiastical links with the ROC would be a disproportionate punishment. Stripping a religious community of legal status can happen in international law only when less restrictive measures cannot adequately address legally-legitimate security concerns.

This could mean that deprivation of legal status of a religious community can legally happen only when the entire leadership or the majority of members – not just individual leaders or members – are directly involved in illegal activities. "The fact that some individuals engage in such [illegal] acts is not an indication that an entire religious or belief community shares these views or condones these activities," as the Organisation for Security and Co-operation in Europe (OSCE)'s Freedom of Religion or Belief and Security: Policy Guidance (<https://www.osce.org/files/f/documents/e/2/429389.pdf>) notes.

The OSCE Policy Guidance goes on to state: "Denial of legal personality or de-registration of a religious or belief community should not be based on alleged threats to security, but be clearly based on evidence of illegal acts by the religious or belief community in question." It adds that this "can only be contemplated in cases of grave and repeated violations of endangering public order and if lighter sanctions, such as a warning, a fine or withdrawal of tax benefits, cannot be applied effectively".

There is also insufficient evidence that the Ukrainian Orthodox Church (UOC) has been institutionally involved in undermining Ukraine's national security. After almost two years from October 2022 of intensive investigations of UOC activities, there have so far been over 40 court verdicts against UOC clerics and 100+ criminal cases that are either being investigated or being considered by courts. Most of these cases deal with inappropriate speech – religious hatred and justification of Russian aggression ([https://www.forum18.org/archive.php?article\\_id=2929](https://www.forum18.org/archive.php?article_id=2929)). (Similar hate speech prosecutions have not been opened when the speech is directed against the UOC ([https://www.forum18.org/archive.php?article\\_id=2929](https://www.forum18.org/archive.php?article_id=2929))).

While these are significant numbers, it is still difficult to argue that no other way exists to address this issue other than to liquidate the whole Church of 10,000 clerics.

Ukraine's existing criminal and other public law already allows for the prosecution of any individual and entity involved in illegal activities, such as collaboration with the Russian army and secret services. As the OSCE's Freedom of Religion or Belief and Security: Policy Guidance (<https://www.osce.org/files/f/documents/e/2/429389.pdf>) notes: "Any wrongdoings on the part of individuals should, therefore, be addressed through criminal, administrative or civil proceedings against that person, rather than directed at the religious or belief community as a whole."

#### The Law's definition of ROC affiliation

According to the Law, a religious organisation (association) is considered as affiliated with the Russian Orthodox Church – Moscow Patriarchate (ROC) if it fits one of the following seven criteria:

- 1) It is incorporated, directly or indirectly, in the ROC. (Indirect incorporation means incorporation in any entity, religion, non-profit or for-profit established, owned or run by the ROC and organisations affiliated with the ROC);
- 2) Its charter or official documents or decisions of ruling bodies contain provisions regarding its incorporation in the ROC;
- 3) The ROC's charter or official documents or decisions of its ruling bodies contain a provision recognising the Ukrainian organisation (association) as a part of its structure, and the right of ROC charter ruling bodies to adopt binding decisions on organisational or ecclesiastical issues regarding the Ukrainian organisation (association);
- 4) The ROC charter, official documents, or decisions of its ruling bodies contain a provision regarding the mandatory appointment of a Ukrainian organisation's (association's) leaders or representatives to ROC charter ruling bodies. (This criterion does not apply if all these leaders or representatives publicly and in writing decline their appointment and "make all necessary acts, prepare all necessary notifications and other documents for termination of their appointment and breaking ties" with the ROC.)
- 5) The ROC can influence administrative decisions or activities of a Ukrainian organisation (association) due to its ecclesiastical or organisational subordination to the ROC;
- 6) The ROC appoints, elects, confirms, approves, or blesses the head of a Ukrainian religious organisation (association);
- 7) The ROC adopts, confirms, approves, blesses, or permits the charter of a Ukrainian organisation (association).

#### Problematic and burdensome requirements

This list is highly problematic and seems excessively burdensome for the Ukrainian Orthodox Church (UOC) and its local communities.

First, the affiliation criteria do not require the state to prove any illegal behaviour on the part of the UOC as a whole or its communities. The fact of any form of ecclesiastical or documentary connection with the Russian Orthodox Church – Moscow Patriarchate (ROC) is enough for the UOC and its affiliated entities to be prohibited, even if they have as entities committed no crimes.

This contradicts international human rights law, as noted above, which requires a state to punish provable illegal behaviour on the part of individuals, but not religious communities which cannot be proved to have committed crimes. Also as noted above, deprivation of legal status can be used only as a measure of last resort when other measures are not available or ineffective.

Second, the affiliation criteria refer to facts which are beyond the UOC and its communities' control as a ground for the dissolution of the UOC. These include the ROC charter and other documents, its decisions, and actions.

The UOC declared its "full independence" from the ROC ([https://www.forum18.org/archive.php?article\\_id=2807](https://www.forum18.org/archive.php?article_id=2807)) in May 2022, but it is highly unlikely that the ROC will accept this decision. The Ukrainian state seems to prefer to rely on ROC documents instead of UOC documents in defining the current status of the UOC. Under this logic and in the formal accordance with the Law, it is only necessary for Moscow Patriarch Kirill to give his "blessing" to any UOC cleric for the Ukrainian state to initiate the procedure for the UOC's dissolution.

It is hard to see how the Law can recognise any break of affiliation with the ROC as permanent. Even if the UOC decides to somehow self-declare its autocephaly (full ecclesiastical independence), from a legal perspective this will still not be enough for UOC communities to avoid dissolution. As noted already, mere recognition at any time of the UOC by the ROC as a part of the Moscow Patriarchate is enough under the Law for the UOC to be seen as affiliated with the ROC – even if the UOC denies this claimed ROC affiliation and states that it is an autocephalous church.

Third, the requirement for UOC clergy to publicly in writing decline any ROC appointments or membership, and "make all necessary acts, prepare all necessary notifications and other documents for termination of their appointment and breaking ties" with

the ROC is excessive.

If the Ukrainian state has reliable evidence that certain UOC clerics are involved in the operation of ROC bodies and support Russian aggression, the state can apply Ukrainian criminal law to punish these clerics. But if the state has no evidence of UOC clergy's actual participation in ROC bodies and support for Russian aggression, the demand for UOC clergy to publicly and in writing condemn the ROC is legally unenforceable – even if it is politically desirable or morally justified.

It should also be noted that some UOC clergy in Russian-occupied territories have come under pressure from occupation forces not to make such statements and have a reasonable fear of occupation force reprisals.

For example, Fr Kostiantyn Maksimov, a UOC priest, was serving in the Church of the Assumption of the Blessed Virgin Mary in the city of Tokmak in Ukraine's Zaporizhzhia Region. Tokmak has been under Russian occupation since the beginning of the renewed invasion in February 2022. In May 2023 Russian occupation forces disappeared Fr Kostiantyn, apparently because he opposed the occupation forces' forced transfer of the UOC's Berdyansk Diocese to the ROC ([https://www.forum18.org/archive.php?article\\_id=2867](https://www.forum18.org/archive.php?article_id=2867)). In August 2024, at a closed trial held at the Russian-controlled Crimean Supreme Court in Simferopol, he was found guilty of alleged "espionage" and sentenced to 14 years' imprisonment ([https://www.forum18.org/archive.php?article\\_id=2924](https://www.forum18.org/archive.php?article_id=2924)) in a strict regime labour camp.

Russian occupation forces also in 2023 pressured another local UOC priest, Fr Vladimir Saviisky, to accept the forcible transfer of the Berdyansk Diocese from the UOC to the ROC ([https://www.forum18.org/archive.php?article\\_id=2869](https://www.forum18.org/archive.php?article_id=2869)). He refused and was forced to leave Russian-occupied Ukraine.

Fourth, the Law uses terms – such as "influence", "blessing", "all necessary acts", "ecclesiastical issues" – which are too vague and broad for legal certainty – especially in the context of the heavy punishments imposed by the Law. For example, the criteria refer to the ROC's ability to influence or control UOC communities due to their ecclesiastical relationship with the ROC and the ROC charter. This grants the state almost unlimited discretion in deciding which UOC community should be banned and when. This is – again – based on the ROC's view of the UOC rather than the UOC's view of itself.

The Law's criteria also ignore the evidence, noted above, that the ROC has failed to control all UOC priests in Russian-occupied Ukrainian territory – even when the ROC's failed attempts have been backed by Russian occupation forces.

Fifth, even if we agree with the Ukrainian state that the UOC is institutionally subordinated to the ROC, the concept of loss of legal status as a punishment for ecclesiastical or historical links is internally contradictory. The state argues that these links with the ROC make UOC communities dangerous for national security. If UOC communities are not involved in any kind of illegal behaviour and the mere fact of historical or canonical ties make them dangerous enough to be liquidated, formal separation from the ROC (which the UOC announced in May 2022 ([https://www.forum18.org/archive.php?article\\_id=2807](https://www.forum18.org/archive.php?article_id=2807))) will not make UOC communities any less dangerous. Indeed, if a formal declaration condemning the ROC (even if insincere or intentionally false) or departure from the ROC makes UOC communities safe for the Ukrainian state, the communities cannot have been dangerous in the first place.

Finally, the Law also allows the banning of religious organisations affiliated with Russia for any other "violations regarding the establishment and operation" of these organisations. The Law does not clarify whether these violations should be significant or harmful to other or society. This potentially allows almost unlimited room for arbitrary state actions against UOC communities that decide not to leave the UOC after the UOC is, under the Law's questionable criteria, determined to be affiliated with the ROC.

The "Russian world" ideology

The Law defines the "Russia world" ideology as: a Russian neo-colonial doctrine - grounded in chauvinist, Nazi, racist, xenophobic, religious ideas, images and goals - of the destruction of Ukraine, the genocide of the Ukrainian people, and non-recognition of the sovereignty of Ukraine and other countries.

"Russian world" ideology is also defined as aiming at the violent expansion of the Russian supranational imperial space as a tool of the special civilisational right of Russians to mass murder, engage in state terrorism and military interventions in other countries, occupy territories, and expand the canonical territory of the Russian Orthodox Church beyond the territory of the Russian Federation.

Many of the concepts are expressed in such confusing and vague language (eg. "neo-colonial doctrine", "civilisational right to mass murders") that they lack legal precision and so are difficult to legally apply.

According to the Law, a religious organisation involved in multiple counts of dissemination of all or part of the "Russian world" ideology shall be deprived of legal status. The Law states that the dissemination can be committed by the organisation itself, as well as its ruling bodies, or any other person that acts on behalf of this religious organisation and expresses approval for "Russian world" ideology in any form.

The Ukrainian state has a strong legitimate interest in preventing the spreading of Russian propaganda, including the justification of Russia's unprovoked attack on Ukraine. However, it is unclear why the state needs to specifically prohibit the "Russian world" ideology when the Criminal Code already prohibits:

- public denial of the Russian aggression (Article 111-1)
- propaganda for the war (Article 436);
- justification, legitimisation, and non-public denial of Russia's military aggression against Ukraine and glorification of its participants (Article 436-2);
- and spreading ethnic and religious hatred (Article 161).

As criminal cases initiated by the Security Service of Ukraine ([https://www.forum18.org/archive.php?article\\_id=2929](https://www.forum18.org/archive.php?article_id=2929)) (SBU) against Ukrainian Orthodox Church (UOC) clerics and the very much larger number of cases against people not linked to the UOC ([https://www.forum18.org/archive.php?article\\_id=2896](https://www.forum18.org/archive.php?article_id=2896)) indicate, the state already effectively uses the existing Criminal Code to deal with these issues.

Many legal systems contain provisions prohibiting public dissemination of certain ideologies, such as Nazism, Communism, or Holocaust denial. However, such legal prohibitions are usually implemented against ideologies or facts which can be relatively clearly and precisely described and explained. The "Russian world" ideology is not among them.

While it is clear that Putin's regime uses the Russian Orthodox Church – Moscow Patriarchate (ROC) and its Patriarch Kirill's statements ([https://www.forum18.org/archive.php?article\\_id=2897](https://www.forum18.org/archive.php?article_id=2897)) as weapons in its renewed invasion of Ukraine, the content and scope of the "Russian world" ideology remains a matter of much debate. Philosophical, theological, and political opinions on it vary from seeing it as a comprehensive doctrine to seeing it as a superficial construction to provide an excuse for invasion.

As this "Russian world" ideology is vague and imprecise, there is a reasonable chance that the legal application of its prohibition might be too broad and arbitrary. Would an ROC icon of Tsar Nicholas II and his family (canonised by the ROC) on the wall of a church constitute propaganda of the "Russian world"? Would the dedication of a church to a medieval Russian saint be seen as praising the "Russian world"? Would a statement that Ukrainian and Russian Orthodoxy have a shared tradition constitute "Russian world" propaganda?

Even though some speeches and actions might be morally inappropriate in times of war, these examples all constitute in international human rights law legitimate forms of expression and yet might be punished under the Law.

#### Religious "expert" examination

The Law stipulates that State Service for Ethnic Policy and Freedom of Conscience (DESS) conclusions on the affiliation with the ROC, or the dissemination of "Russian world" propaganda, can be based on "religious expert examinations". The Law lays down no requirements for the impartiality and professional competence of the "experts" appointed to conduct an examination of affiliation with the ROC. So there is no legal defence against their opinions being biased or incompetent.

The concept of state religious examinations of ecclesiastical and theological issues is problematic in international human rights law. As the OSCE / Council of Europe Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (<https://www.osce.org/files/f/documents/9/9/139046.pdf>) note: "the state should refrain from a substantive as opposed to a formal review of the statute and character of a religious organisation."

In many post-Soviet states, including in Belarus ([https://www.forum18.org/archive.php?article\\_id=2806](https://www.forum18.org/archive.php?article_id=2806)), Russian-occupied Crimea ([https://www.forum18.org/archive.php?article\\_id=2774](https://www.forum18.org/archive.php?article_id=2774)), and Central Asian states such as Kazakhstan ([https://www.forum18.org/archive.php?article\\_id=2753](https://www.forum18.org/archive.php?article_id=2753)), "expert analyses" are often used to justify freedom of religion or belief and other human rights violations, including jailing prisoners of conscience.

The DESS experts, in their opinion published on 1 February 2023 (<https://dessa.gov.ua/vysnovok-relihiieznavchoi-ekspertyzy-statutu-pro-upravlinnia-ukrainskoi-pravoslavnoi-tserkvy/>), state that the Russian Orthodox Church – Moscow Patriarchate (ROC) does not recognise the Ukrainian Orthodox Church (UOC) as fully independent, and that there is no evidence that UOC leader Metropolitan Onufry (Berezovsky) has left the ROC's Synod. In addition, the group emphasises that no other Orthodox Church recognises the UOC as an independent (autocephalous) Church, and the UOC has not sought this status. The group concludes that the UOC remains a part of the ROC.

The UOC has challenged the impartiality (<https://news.church.ua/2023/01/10/yuridichnij-viddil-upc-oprilyudniv-zayavu-pro-viluchennya-zi-skladu-komisiji-z-ekspertizi-statutu-upc-uperedzhenix-ekspertiv-ta-zaluchennya-jiji-roboti-mizhnarodnix-religijeznavciv/#2024-09-16>) of some members of the

DESS's group, claiming that they have a previous record of hostility to the UOC. The UOC also stated that these members belong to the rival major Orthodox church in Ukraine ([https://www.forum18.org/archive.php?article\\_id=2807](https://www.forum18.org/archive.php?article_id=2807)), the Orthodox Church of Ukraine (OCU).

#### Procedural aspects of dissolution

Once the Law comes into force on 23 September 2024, the DESS can start investigating the affiliation of Ukrainian Orthodox Church (UOC) communities with the Russian Orthodox Church – Moscow Patriarchate (ROC). The DESS can (but is not required to) conduct a religious "expert" examination to prove the affiliation, and is allowed to use any sort of evidence to confirm this affiliation. This can include information provided by other state bodies, private individuals and entities, the media, and any other open sources. As the 2023 DESS examination already stated that the UOC is affiliated with the ROC, it can be expected that a new DESS examination will reach the same conclusion.

While each UOC community (parishes, monasteries, educational institutions etc.) are separate legal entities, the state does not have to prove that each community is affiliated with the ROC. It is enough to prove the affiliation of the UOC ruling centre (the UOC Kyiv Metropolitanate). This means that, under the Law, other UOC entities will automatically be considered as affiliated with the ROC if they are subordinated to the UOC Kyiv Metropolitanate.

If ROC affiliation is stated by the DESS, it will issue an order to UOC entities to cut their ties with the ROC. They will have 30 days to do so (which can be extended by up to 60 days). If UOC communities rent state- or municipally owned properties, these contracts must be terminated after the DESS states the communities are affiliated with the ROC.

If the order to cut ties with the ROC is not fulfilled, or a UOC organisation is suspected to be involved in the dissemination of the Russian world ideology, the DESS will bring a suit to court. The Law establishes a new, simplified procedure for considering these cases. All cases against UOC communities will fall under the jurisdiction of one court – the Kyiv-based Appellate Administrative Court. In addition, the Law allows not only the DESS but also public prosecutors to submit lawsuits about the dissolution of religious organisations affiliated with the ROC.

The court is allowed to notify religious organisations involved in the case without directly contacting them. Under the Law, it is enough for the court to simply place an announcement on the Ukrainian judiciary's official website (<https://court.gov.ua/>) and the DESS website (<https://dess.gov.ua/>), without any other form of notification. Even if religious organisations are not aware from these websites that a case has been brought against them, the court can consider cases even if religious organisations do not come to the court.

This gives the state a relatively effective and fast legal mechanism to either ban all 8,000 UOC communities or at minimum liquidate its ruling bodies (the UOC Kyiv and regional metropolitanates) – even if the religious organisations did not receive a mail notification about the case and did not monitor the websites and so become aware of any case.

The simplified court procedure for this type of case is postponed for nine months from the Law's official publication on 24 August 2024. This means that the first cases against UOC organisations can be submitted to the court in May 2025. However, the DESS can in 2024 start identifying UOC communities as affiliated with the ROC, and start the process of depriving them of rented state- or municipally owned properties, even though any court decisions about the dissolution of UOC communities will not appear before 2025.

If a religious organisation is liquidated, all its property (except religious property) becomes the property of the state.

#### Impact of the Law, does not conform to international human rights obligations

The Law does not comply with international standards of freedom of religion or belief. It bans Ukrainian Orthodox Church (UOC) communities for their ecclesiastical, actual, or state-claimed links to the Russian Orthodox Church – Moscow Patriarchate (ROC), without any obligation for the state to prove that these communities or the whole Church are institutionally involved in crimes.

The Law legitimises the large-scale and relatively fast deprivation of legal status of UOC communities. The law is impossible for the UOC to comply with. Among other reasons for this, the Law requires the ROC to remove UOC-related provisions from the ROC charter. This is beyond the powers of the UOC to do, and the ROC is highly unlikely to do this in the foreseeable future. This impossible demand of the Law allows the Ukrainian government to deregister any UOC community at any time.

Even before the deprivation of legal status, these communities will face a real threat of an extrajudicial deprivation of the right to rent state- and municipally owned properties, which will eventually stop or restrict their operation.

The Law also significantly increases the role of the state in inter-religious relations and expands the DESS's and law enforcement bodies' powers in monitoring and controlling religious communities and the expression of religious ideas. This will potentially contribute to increasing the number of state prosecutions of UOC priests and believers

([https://www.forum18.org/archive.php?article\\_id=2929](https://www.forum18.org/archive.php?article_id=2929)) for criticising state religious policies.

The language of the Law and, especially, the discourse over its adoption, has been vague and more politico-theological (eg. "spiritual independence" of Ukraine) than genuinely evidence-based and in line with international human rights law obligations. This can and is interpreted by government, public and private actors as a signal to attack UOC communities and believers.

After the adoption of the Law on 24 August 2024, this has already been seen in:

- Rivne Regional Council's 28 August call to UOC parishes

(<https://ror.gov.ua/novyny/oblasna-rada-priinyala-zvernennya-shodo-upc-v-chomu-sut-1724672950>) to execute the Law and "wash off the brand mark of Moscow slaves";

- in the 5 September decision

(<https://www.facebook.com/OCUTernopil/posts/pfbid0RoPcXLFiRrUip5My6Bu5CKrxLQ9rRnTvT28JaJiWY1PRdS4qs7NgqypJz8LTiYDBI>) of the Council of Churches and Religious organisations under the Ternopil Regional State Administration to exclude the UOC if they do not immediately "reject [their] church jurisdiction [with the Moscow Patriarchate]";

- and in the 4 September announcement of Cherkasy National University

(<https://cdu.edu.ua/news/zayava-pressluzhbi-cherkaskogo-natsionalnogo-universitetu.html>) that they had on 28 August expelled a student from a journalism course, and on 27 August fired her mother from an Associate Professor post in the Educational-Scientific Institute of International Relations, History and Philosophy.

In the Cherkasy case, the University Rector also announced that the authorities had been asked to investigate both for possible violations of Criminal Code Article 110 "Actions against the territorial integrity and inviolability of Ukraine", Article 111-1 "Public denial of the Russian aggression", and Article 161 "Spreading ethnic and religious hatred". Local media claimed that the daughter had supported the UOC

(<https://novadoba.com.ua/434934-u-cherkasah-zvilnyly-vykladachku-donka-yakoyi-zahyshhala-rosijsku-tserkvu.html>) and criticised the OCU in strong language.

Finally, the law magnifies the state's growing favouritism of the OCU ([https://www.forum18.org/archive.php?article\\_id=2807](https://www.forum18.org/archive.php?article_id=2807)) in inter-Orthodox relations. This favouritism now shows itself in encouraging and on the local level often taking the lead in transferring UOC communities to the UOC, and excluding the UOC from state-religion dialogue at both the central and local levels of government.

State favouritism and bias is also seen in prosecutions of hate speech ([https://www.forum18.org/archive.php?article\\_id=2929](https://www.forum18.org/archive.php?article_id=2929)) by UOC clerics against the OCU, but not prosecuting hate speech and violence against UOC clerics and others. For example, as the UN Human Rights Monitoring Mission in Ukraine (HRMMU) documented after what it described as "a surge in hate speech and several incidents of violence against UOC members in April 2023" ([https://www.forum18.org/archive.php?article\\_id=2929](https://www.forum18.org/archive.php?article_id=2929)), the government "did not effectively address the incidents of hate speech".

Addressing real national security threats, such as the involvement of UOC priests and believers in collaboration with the Russian army or the dissemination of Russian propaganda – as well as the much larger number of such cases involving people not linked to the UOC - is a legitimate concern of the Ukrainian government. However, Law No 3894-IX does not help address those problems and may add to them by prosecuting people exercising their human rights and banning their religious communities. The Law will also not help preserve the religious freedom, tolerance, and pluralism championed by Ukraine since gaining independence in 1991.

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(END)

More reports on freedom of thought, conscience and belief in Russian-occupied Ukraine

(<https://www.forum18.org/archive.php?country=17>)

More reports on freedom of thought, conscience and belief in all Ukraine (<https://www.forum18.org/archive.php?country=88>)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments ([https://www.forum18.org/archive.php?article\\_id=1351](https://www.forum18.org/archive.php?article_id=1351))

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