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Ukraine's Pending Law on Religious Organizations With Russian Headquarters¹

This memorandum counters the claim that, in violation of international legal norms, Ukraine is repressing religious freedom in general and that pending legislation (Law #8371) will immediately close down all parishes of the Ukrainian Orthodox Church—Moscow Patriarchate (UOC-MP), a Ukrainian subsidiary of the Russian Orthodox Church—Moscow Patriarchate (ROC-MP).² The ROC-MP has been a leading proponent of Russia's war of aggression on Ukraine, and Ukraine believes the UOC-MP has and will actively undermine its self-defense unless its ties with the ROC-MP are ended. That is the goal of this law.

We show here that the claimed violations of international standards are untrue, factually and legally. If US lawmakers vote against funding for Ukraine based on a mistaken belief that this will stop religious freedom violations in Ukraine, they are mistaken. Russia has eliminated religious freedom for all faiths in occupied Ukrainian territory. Even the UOC-MP no longer is allowed to operate. Instead, the ROC-MP has taken over former UOC-MP parishes, and closed all Ukrainian religious organizations. This is the fate that awaits Ukrainian believers if Russia prevails in its war on Ukraine.

1. **Ukraine has the most religious freedom of any former Soviet republics.** Its liberal laws enable over 35,000 registered and unregistered religious organizations (RO's) of various faiths to exist, including more than 8 Orthodox denominations, dozens of Protestant Christian denominations, 5 Jewish organizations, 5 Muslim organizations, and a wide assortment of other groups including Buddhist, pagan, and newer religions.³ Religious activities do not require registration of a legal RO. Unregistered religious groups are free to hold religious services, create their own literature and rules, and rent or buy property and qualify their own religious workers.
2. **In Russia occupied Ukraine, in contrast, there is no religious freedom.** All Ukrainian RO's have been forcibly closed, seized, and investigated by Russian intelligence services. Religious leaders and RO members are tortured, killed, imprisoned, and deported. The ROC-MP is the main beneficiary of this situation, absorbing formerly Ukrainian Orthodox congregations as well as buildings of other closed churches. The only option for Ukrainian RO's is to agree to become part of a Russian RO and to align with the Kremlin's views on the war.⁴ Few, if any, chose or are able to do so. As is well documented, Russia is engaged in an effort to erase Ukraine as a nation, a genocide. It has committed unspeakable war crimes and human rights violations and seeks to eliminate every trace of Ukrainian sovereignty and even its history, stealing children,

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² Among others, Robert Amsterdam, a paid lobbyist for the UOC-MP, has been promoting these claims on a dedicated website. <https://robertamsterdam.com/new-white-paper-details-attacks-on-religious-freedom-in-ukraine-urges-washington-to-oppose-controversial-draft-law/>; <https://savetheuoc.com>; <https://savetheuoc.com/wp-content/uploads/2024/01/Save-the-UOC-White-Paper.pdf>.

³ https://risu.ua/en/religious-organizations-in-ukraine-as-of-1-january-2011_n57317

⁴ <https://missioneurasia.org/wp-content/uploads/2023/12/2023.12.15-Mission-Eurasia-report-on-Ukraine-ENG-web-version.pdf>

art, historical relics, household appliances, farmland, and businesses. If Russia succeeds, all of Ukraine's achievements in religious freedom and democratic institutions will be lost.

3. **The ROC-MP is playing a key propaganda role in supporting Russia's war on Ukraine, and the UOC-MP is part of that RO.** The current war continues centuries of bloody Russian efforts to impose political and religious domination over Ukraine, which are well known to Ukrainians if not in the West. The ROC-MP has been an enthusiastic supporter of the war for over 10 years. Its leader Patriarch Kirill has been a KBG agent from the beginning of his career. The ROC-MP clothes aggressive anti-Ukrainian propaganda in religious garb, including the heretical Russian World ("Russkiye Mir") doctrine that argues Ukraine has no spiritual right to exist apart from Russia. In ISIS-like fashion, the ROC-MP tells Russian soldiers that the war on Ukraine is a holy imperative and that they will go to heaven if they die fighting. It blesses Russia's weapons. The huge ROC-MP Cathedral of the Armed Forces was erected 2020 conflating Russian military history and its leaders with the church. The Cathedral expressly honors Russia's seizure of Crimea and other parts of Ukraine, as well as other extra-territorial Russian military aggressions.⁵ UOC-MP leaders failed to distance themselves from the ROC-MP until May, 2022, after eight years of war in which they prayed for blessings on Patriarch Kirill in every service. There are many examples of its clerics being implicated in spreading anti-Ukrainian propaganda, urging acceptance of a Russian takeover, failing to honor fallen Ukrainian soldiers, coddling Russian prisoners of war, and even actively aiding Russia's war effort, storing weapons and acting as spies, with over 100 clerics charged with crimes.⁶ Although the UOC-MP says that it severed ties with the ROC-MP in 2022, it made decisions in a way that Ukrainian specialists believe are not meaningful under its own governing documents and those of the ROC-MP.⁷

4. **While the UOC-MP was once the dominant Orthodox denomination, it has been repudiated decisively by Ukrainian citizens, and they have turned instead to the independent Orthodox Church of Ukraine (OCU).** The OCU was formed in 2018 with over 5,500 congregations when two independent Orthodox Churches that were allowed to register in the early 1990's decided to merge. It has grown rapidly with approximately 2,000 formerly UOC-MP congregations joining the OCU in just the last two years. The OCU and its predecessors have long histories in Ukraine and trace their roots to the original 988 AD baptism of the Kievian Rus'.⁸ The OCU is not a "government created" church as some allege. It is a continuation of Ukrainian Orthodox churches that struggled for independence for centuries despite being suppressed by the Russian Empire and the Soviet Union. The OCU was recognized by the Ecumenical Patriarchate as autocephalous (self-governing) in 2019.⁹ This made the OCU, not the UOC-MP, the only canonical Orthodox church in Ukraine that is part of the worldwide Ecumenical Communion—a decision that infuriated the ROC-MP and caused it to break relations with the Ecumenical Patriarch. The OCU currently has over 7,500 local congregations with more joining, officially and unofficially, every week. Only 4% of Ukrainians surveyed in 2022 considered themselves members of the UOC-MP while 54% considered themselves members of the OCU.¹⁰ In a 2022 survey, 74% of Ukrainians surveyed said the UOC-MP should cut ties with the ROC-MP, and 51% said all activities of the UOC-MP should be banned.¹¹ The UOC-MP has only itself to blame for its fall from favor. It's a denial of Ukrainian reality to suggest that the United States played a role in turning Ukrainians against the UOC-MP or to suggest that closing the national UOC-MP denomination is the end of Orthodoxy in Ukraine.

⁵ The Cathedral of the Armed Forces featured mosaics of Putin, Stalin, Defense Minister Sergei Shogiu, Foreign Minister LAVOROV, and many military luminaries. <https://x.com/AlecLuhn/status/1255420210452062209?s=20>.

⁶ V. Yelesnyi, Letter to Dr. Thomas Bremer. https://risu.ua/en/letter-to-dr-thomas-bremer-professor-em-university-of-munster_n143365

⁷ *Conclusion of the Religious Expert Examination of the Statute on Governance of the Ukrainian Orthodox Church for the presence of ecclesiastical and canonical ties with the Moscow Patriarchate*, February 2, 2023. https://risu.ua/en/conclusion-of-the-religious-expert-examination-of-the-statute-on-governance-of-the-ukrainian-orthodox-church-for-the-presence-of-ecclesiastical-and-canonical-ties-with-the-moscow-patriarchate_n136436. This expertise was conducted under orders of Ukraine's Parliament as implemented by its Department on Ethnic Policy and Freedom of Association (DESS) not the proposed new law.

⁸ https://en.wikipedia.org/wiki/Orthodox_Church_of_Ukraine.

⁹ The ROC first gained authority to control Orthodoxy in Ukraine in a decree of the Ecumenical Patriarch in 1686 in dubious circumstances. This continued through wars and due to the Soviet occupation of Ukraine. This authority was withdrawn by the Ecumenical Patriarch in 2018 before the OCU received a "tomo of autocephaly." https://en.wikipedia.org/wiki/Orthodox_Church_of_Ukraine

¹⁰ <https://carnegieendowment.org/politika/89496>

¹¹ https://risu.ua/en/over-half-of-ukrainians-support-the-ban-of-the-uoc-mp-in-ukraine--rating-opinion-poll_n128165.

5. **Ukraine has the right under international law to enact laws closing RO's affiliated with Russian RO's to protect the rights of Ukrainians and its own national security, democracy and public order.**¹² Tracking the Universal Declaration of Human Rights, religious freedom may be restricted as prescribed by law and necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others—notably preservation of a democratic society. Religious freedom rights do not give anyone the “right to engage in any activity or perform any act aimed at the destruction of the rights and freedoms set forth herein.” (Universal Declaration of Human Rights, Articles 29 and 30). In a time of war, restricting any organizations affiliated with Russian organizations that support Russia's efforts to destroy Ukrainian sovereignty is allowed by international and Ukrainian law, religious or not. Ukraine has been remarkably circumspect in taking only limited steps to reign in activities of the UOC-MP after 10 years of war in which the ROC-MP has provocatively challenged Ukrainian sovereignty and many in the UOC-MP have supported its efforts.¹³
6. **Draft law #8371 is narrowly drawn and limited in its effect on Ukrainian RO's.** It makes small changes to three provisions of Ukraine's well-regarded Law on Freedom of Conscience and Religious Organizations:¹⁴ (1) banning RO's with religious centers (headquarters) in countries engaged in armed aggression against Ukraine—e.g., Russia, (2) creating an administrative procedure for informing such RO's in a written expertise of objectionable provisions in their relationship with Russian RO's, (3) giving them time to correct the situation, and then (4) giving Ukrainian regulators and local prosecutors the right to go to court to close them down if they fail to comply.¹⁵ At this time, the UOC-MP stands alone in having failed to disassociate itself from its Russian center in the opinion of the Ukrainian experts.¹⁶ Other Ukrainian Orthodox denominations and other RO's have cut ties with Russia RO's that formerly controlled them. The law has no impact at all on any other RO's or religious believers, Christian or non-Christian.
7. **Once passed, the law will be implemented by the State Service of Ukraine for Ethnic Policy and Freedom of Conscience and local prosecutors following Ukrainian legal norms, in which the Rule of Law prevails even in wartime. It is not self-executing.** The UOC-MP has over 10,000 independently registered (and unregistered) components, including a national organization, bishoprics, congregations, monasteries and convents, educational organizations, and other affiliated RO's. Even if the national organization is closed, the others will be able to operate unless Ukraine's government takes action to close them down. Each one will have to be given an expertise, time to change its circumstances, and a court hearing. Given resource limitations, only problematic RO's are likely to be targeted, and the process will take a very long time. The experience with a 2018 law intended to force the UOC-MP to formally add the words “Moscow Patriarchate” to its name in order to distinguish it from the OCU is telling. The UOC-MP filed numerous lawsuits challenging its legality, and Ukrainian regulators were generally unsuccessful in implementing the law despite winning court battles.¹⁷ The UOC-MP is reportedly already planning lawsuits to challenge Law #8371 on various grounds including its claim that it has already disassociated itself from

¹² International Covenant on Civil and Political Rights: Art. 5 (1): Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein. Art. 18 (3): Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. Art. 20: 1. Any propaganda for war shall be prohibited by law. 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. There are similar provisions in the European Convention on Human Rights including the right of derogation in times of war threatening the life of a nation. Art. 15.

¹³ It has barred UOC-MP priests from serving as military chaplains, tried (unsuccessfully) to force use of the name Moscow Patriarchate to distinguish UOC-MP churches from OCU churches, and made it easier for local congregations to legally separate from the UOC-MP. It has also arrested specific clerics accused of treason and sabotage of the war effort (around 100 out of more almost 10,000 UOC-MP priests) and canceled its leases of state-owned religious properties including the Kiev Pechersk-Lavra. Maksym Vasin, *New Religious Legislation in Ukraine as a Response to Russian Aggression*, in *Security, Religion, and the Rule of Law, International Perspectives*, Routledge (2024).

¹⁴ <https://zakon.rada.gov.ua/laws/show/en/987-12/print>.

¹⁵ The full text of law #8371 is attached as an appendix.

¹⁶ *Conclusion of the Religious Expert Examination of the Statute on Governance of the Ukrainian Orthodox Church for the presence of ecclesiastical and canonical ties with the Moscow Patriarchate*, February 2, 2023. https://risu.ua/en/conclusion-of-the-religious-expert-examination-of-the-statute-on-governance-of-the-ukrainian-orthodox-church-for-the-presence-of-ecclesiastical-and-canonical-ties-with-the-moscow-patriarchate_n136436. This expertise was conducted under orders of Ukraine's Parliament as implemented by its Department on Ethnic Policy and Freedom of Association (DESS). *Id.*

¹⁷ Maksym Vasin, above.

the ROC-MP.¹⁸ It is an uphill battle given that the ROC-MP resolutely claims the territory of Ukraine as its own exclusive canonical territory, which is part of its justification for the war on Ukraine.¹⁹ It gave the UOC-MP limited self-governance rights in 1990 but not autocephaly, and includes the UOC-MP in its own governance documents as part of its organization.²⁰ The UOC-MP is free to change its legal relationship to the ROC-MP in order to avoid closure. Indeed, the entire dispute will be rendered moot if efforts underway to change the UOC-MP relationship with the ROC-MP, led from within by 380 priests and two bishops, are successful.

8. **Finally, the law applies only to registered RO's. It does not stop unregistered religious activities by UOC-MP clergy or faithful or interfere with their beliefs, liturgical practices, celebration of holidays using the Julian calendar, beliefs, use of the Church Slavonic language, etc.** It only would shut down legal entities that refuse to cut ties with the ROC-MP. Unregistered religious activities are fully legal in Ukraine, and unregistered religious associations can rent or buy real estate, hire employees, and create their own religious literature, etc. Orthodox believers wanting to remain in communion with Moscow will be able to have their religious needs met by UOC-MP clergy in congregations that are registered as independent from Moscow or unregistered.

In conclusion, draft Law #8371 is reasonable, limited, and appropriate in light of the huge role that the UOC-MP's parent organization, the ROC-MP, is playing in the Russian effort to erase Ukraine as a nation and end its democracy under international law that permits limitations on the religious freedom of some in order to preserve the religious freedoms and other rights of citizens and the integrity of the state. The UOC-MP will have many legal options including making a decision to clearly separate its organization from the ROC-MP. Ukrainian believers that wish to be part of churches that follow UOC-MP religious practices and customs will be able to do so regardless of the path followed by UOC-MP leaders.

¹⁸ https://risu.ua/en/procedure-for-prohibiting-the-uoc-mp-explained-by-the-state-service-for-ethnopolitics-and-conscience-freedom_n141818.

¹⁹ Charter of the ROC, Chapter I.3. <http://www.patriarchia.ru/db/text/133115.html>

²⁰ [https://en.wikipedia.org/wiki/Ukrainian_Orthodox_Church_\(Moscow_Patriarchate\)](https://en.wikipedia.org/wiki/Ukrainian_Orthodox_Church_(Moscow_Patriarchate)).