

UKRAINE HAS DECLARED ITS SPIRITUAL INDEPENDENCE FROM RUSSIA. WILL THE UKRAINIAN ORTHODOX CHURCH DO THE SAME?

On August 24, 2024, as Ukraine celebrated its 33rd Independence Day, President Volodymyr Zelenskyy pronounced Ukraine's "spiritual independence" from Russia by signing Law #8371, which bars any activities of the Russian Orthodox Church in Ukraine. Why? The ROC has effectively declared war on the people and nation of Ukraine by creating a quasi-religious concept to justify Russia's invasion: the "Russian World" doctrine. Russian World ideology declares that Ukraine has no right to exist as a sovereign nation and that Ukrainians are not a separate ethnic group. They are only a subcategory of Russians. Therefore, it says Russia is conducting a God-ordained "holy war" when it fights to re-establish Russian dominance over Ukraine, political, spiritual, and military.

ROC Patriarch Kirill has gone so far as to say that all Russians who die in the conflict will have complete remission of their sins and guaranteed entrance to heaven—an idea that is distinctly not Christian and eerily echoes claims of the leaders of ISIS about their "martyrs." ROC and UOC priests bless the soldiers, bombs, and aircraft that kill Ukrainians. The Russian World idea has been vigorously condemned as heretical by the Orthodox world. Even the ROC affiliate in Ukraine, the Ukrainian Orthodox Church, has condemned the declaration that Russia's war on Ukraine is holy. Russia's war, with its abduction of Ukrainian children, rape, torture and murder of Ukrainian men, women, and children, carpet bombing of Ukrainian cities, and closure of non-Russian religious organizations is anything but holy.

The law is much stronger than earlier versions under consideration since 2022. This is likely in response to Russia's outrageous campaign against its passage. Lobbyists for Russia and the UOC publicly and privately threatened, among other things, that if Law 38371 was adopted the entire Ukrainian Verkhovna Rada would come under US Magnitsky Sanctions, and President Zelenskyy would be prosecuted in the International Criminal Court for "crimes against humanity." Earlier versions were criticized for vagueness/failure to define terms like "affiliate." It is very clear now.

The big takeaway: Law #8371 will have absolutely no impact on the Ukrainian Orthodox Church or UOC-affiliated organizations if they fully break ties to the ROC. If they refuse, their registered organizations will be liquidated, but religious activities of UOC believers and staff can continue. Unregistered religious activities are fully legal in Ukraine (unlike in Russia) so those faithful to the UOC can still meet for prayer, worship, teaching, and other religious activities. They do not have to go "underground" as some in the UOC claim. Again, this is not a ban on a faith, it's an action against one or more registered legal entities. Law #8371 specifically provides that "No provision of this Law may be interpreted as a restriction on the freedom of religion or belief, the right to observe religious practices, or perform religious rites and ceremonies."

Law #8371 directly forbids only activities of the Russian Orthodox Church and promulgation of its "Russian World" propaganda. The ROC and the Russian World Foundation, headed by ROC Patriarch Kirill, serve as the propaganda arm of the Russian government justifying its efforts to

eradicate Ukraine and its people.¹ In a hysterical reaction that shows the importance of ROC doctrine to Russia's ambition to subjugate Ukraine, Dmitri Medvedev, its former President and current Deputy head of its Security Council, said the law's passage is supported by the West "in order to inflict maximum damage on Russia." He threatened to destroy Ukraine "like Sodom and Gomorrah," saying the war now has a "sacred meaning." https://risu.ua/en/deputy-chairman-of-the-russian-security-council-reacts-hysterically-to-the-ban-on-the-activities-of-the-russian-orthodox-church-in-ukraine_n150477 This is exactly the point being made by Ukraine's government: a church seeking to overthrow it and subjugate its people in the cruelest possible ways has no right to operate in Ukraine.

Law #8371 will have absolutely no impact on any other domestic or foreign religious organization in Ukraine. The law is not a "ban on Christianity" as some claim. It applies only to religious organizations that are subordinate to a foreign religious organization headquartered in Russia. The UOC and its affiliates are the only Ukrainian religious organizations in that position. Further, the law clarifies that Ukrainian religious organizations can be subservient in canonical and organizational matters to foreign religious organizations as long as their religious centers are not in Russia. All leading Ukrainian religious organizations, except the UOC, support Law #8371, Orthodox, Catholic, Protestant, Jewish, and Muslim, as expressed by the multi-faith Ukrainian Council of Churches and Religious Organizations in a statement on August 17, 2024: https://risu.ua/en/all-ukrainian-council-of-churches-supports-the-ban-on-the-russian-church-in-ukraine_n150300 UCCRO has also emphasized its appreciation for Ukraine's strong record on religious freedom. Ukraine has at least 35,000 registered and unregistered religious organizations (RO's), 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.

Law #8371 provides for extensive procedures and flexible time frames for UOC compliance. Law #8371 allows dissolution of the registered organizations of UOC and its affiliates only after a period of nine months and the following steps: (1) Ukrainian regulators investigate ties to the ROC and provide a written order on what is needed to break them, (2) the organizations fail to do so after a period of one to three months; (2) Ukraine's regulators decide to prosecute them in a civil court action; (3) they lose that civil court action, where they will have all the protections of Ukraine's Constitution and laws and opportunity to raise factual and legal defenses at a trial and on appeal. The law provides a good deal of clarity on what is and what is not determinative of a decision that a particular religious organization is affiliated with the ROC. This follows on past Ukrainian steps to communicate these concepts to the UOC: (1) a detailed examination of UOC documents and actions by a team of religious experts in 2023.

¹ As Law #8371 states: "the ideology of the "Russian world" – [is] a Russian neo-colonial doctrine based on chauvinist, Nazi, racist, xenophobic, religious ideas, images and goals, the destruction of Ukraine, the genocide of the Ukrainian people, non-recognition of the sovereignty of Ukraine and other states, which aims the violent expansion of the Russian supranational imperial space as a way of realizing the special civilizational right of Russians to mass murders, state terrorism, military invasion of other states, occupation of territories, expansion of the canonical territory of the Russian Orthodox Church beyond the territory of the Russian Federation."

<https://dess.gov.ua/vysnovok-relihiieznavchoi-ekspertyzy-statutu-pro-upravlinnia-ukrainskoi-pravoslavnoi-tserkvy/> (2) a meeting and open letter to OCU leaders dated June 26, 2023, from Victor Yelensky, Ukraine's Director of State Service of Ukraine for Ethnopolitics and Freedom of Conscience (DESS), that specified five relatively simple actions that the UOC could take to show it had broken ties with the ROC—to which the UOC never responded. <https://dess.gov.ua/wp-content/uploads/2023/06/Povidomlennia.pdf>

Ukraine is a rule of law based state. The UOC successfully won a case challenging an earlier law that would have required it to add “Moscow Patriarchate” to its name. The UOC already knows what it needs to do to comply with Law 8371. But will it? Past performance indicated the UOC will file numerous challenges to Law #8371. It is free to do so, but it should not be campaigning for an end of Western support for Ukraine's self-defense against Russia in order to pressure Ukraine not to pass legislation restricting the ROC.

Law #8371's Safeguards Stand in Stark Contrast to ROC Religious Persecution in Occupied Ukraine. In occupied Ukraine, armed Russian forces enter churches, arrest pastors, interrogate parishioners, seize buildings, and close churches. They destroy religious buildings with their munitions and loot churches and museums to seize religious artifacts. There are no Catholic or free Orthodox churches in occupied Ukraine. There are only a handful left of the thousands of Protestant churches that previously thrived there. To survive, that handful had to accept subordination to a Kremlin friendly Russian religious organization. Unregistered religious activity is banned. Russia arrested a woman for hosting a bible study in her home with five other people! Russia's official repression of religious freedom in Ukraine is actively endorsed by the ROC which claims all of Ukraine must be Russian Orthodox. It has set up a special division to re-educate the people of occupied Ukraine to accept the Russian World idea.

To suggest that Ukraine is obligated to accept ROC operations on its territory that seek to undermine its sovereignty and the safety and freedom of its citizens goes against the entire purpose of international religious freedom and human rights laws and standards as well as the mandates of Ukraine's own Constitution and laws regulating religious affairs. These rules exist to protect the freedom of conscience of individuals, which Russia seeks to erase in Ukraine. It is well established that governments can restrict speech to protect their nations from armed invasion. The US ban on TikTok is a perfect example: ending its control by Chinese entities is permitted to protect US national security. Would Israel have to give legal entity status to a revived WWII era “German Lutheran Church” preaching that Jews should be annihilated? Should Israel, the US, and the West be required to allow ISIS, Al Qaeda, and Boko Haram to set up religious organizations to promote terror and the overthrow of their governments and forced conversion to their religious beliefs by Christians, Jews, Hindus, and others. I think not.

The ROC and the UOC are now on the losing side of a centuries long campaign to impose Russian control over Ukraine's religious space and Ukraine itself. For 500 years, Russian domination of Orthodoxy in Ukraine has been enforced at gunpoint, by the Czars and the Soviet Union. Ukraine's citizens are well aware of this tragic history and of the pernicious actions and propaganda of the ROC in recent years, even if most Western observers are not. The grant of

freedom, autocephaly, to the Orthodox Church of Ukraine in 2019 by the Ecumenical Patriarchate was a source of great pride and joy to most Ukrainians. Millions of Ukrainians have left the UOC to join the OCU. Fewer than 4% of Ukrainians now consider themselves part of the UOC, regardless of the fact that the UOC and the OCU have roughly equal numbers of affiliated congregations. A May 2024 survey showed that 63% of Ukrainians want the UOC to be completely banned with another 20% supporting greater government control over its activities. Over 100 UOC priests and leaders have been arrested for active support of Russia's invasion, including acting as spotters for Russian aerial bombardment, harboring weapons, etc.

All of Russia's expensive propaganda campaigns and expensive lobbyists fail to see the obvious: the ROC and the UOC have lost the battle for the hearts and minds of Ukrainians. If the UOC wants to remain as a Ukrainian religious organization it must cut its ties to Moscow, something it should have done long ago. It should stop being part of an evil worldwide propaganda campaign to discredit the Ukrainian government for forcing it to do so. Absent a military victory over the Ukrainian people, Ukraine will choose freedom and reject reassertion of heavy-handed Russian control over its religious space. Voters, elected officials, and media outlets in the West should reconsider any support for Russia's Russian World project and support religious freedom loving Ukrainians.

Lauren B. Homer, President, Law and Liberty Trust, all rights reserved, August 28, 2024