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Freedom of thought, conscience and religion in Ukraine

The most controversial norms of the Law “On freedom of conscience and religious organizations” have remained unchanged which led to and indeed continues to provoke numerous complaints, and is frequently a source of conflict. Problems arise over, for example, religious groups having a single structure forced upon them, places of worship needing to be shared by two or more religious organizations, limitations on the rights of foreign nationals, a permission-based system for holding religious gatherings, restrictions on certain types of activities religious organizations may engage in, etc.

Number of religious organizations in Ukraine

	1992	1995	1998	2000	2001	2002	2003	2005	2007
Registered religious organizations	12 962	15 787	19 631	22 518	24 311	25 942	27 286	29 699	31 227
Unregistered religious organizations that have provided notification of their activities		1 197	775	1 025	1 094	1 130	1 101	1 106	1 836
Total	12 962	16 984	20 406	23 543	25 405	27 072	28 387	30 805	33 063

Ukrainian legislation continues to seriously restrict freedom of religion for foreign nationals and stateless individuals. This is manifested in the fact that they cannot found organizations or engage in preaching or other religious activity. These restrictions, moreover, affect people who are permanently resident in Ukraine

Throughout 2006 the local authorities acted in breach of Article 39 of the Constitution by continuing to illegally limit the right to religious gatherings by demanding that permission be obtained to hold them. In practice public religious gatherings confront an even greater number of problems linked with discrimination, intolerance or an arbitrary interpretation of legislation.

Problems remain with exercising the right to alternative military service on the grounds of religious or other convictions.

Among obstructions which religious organizations, as well as individuals, most often encounter in exercising their right to freedom of conscience, one can identify the following:

- 1) obstacles to registration of a legal entity;
- 2) difficulties over receiving land for building places of worship, or the return of religious organizations' property expropriated in Soviet times;
- 3) obstruction of religious activities, public events, the carrying out of social service, in inviting missionaries from abroad, etc.

In Ukraine one needs to receive legal entity status in order to engage in virtually any formal religious activities, for renting premises, holding public services or inviting representatives of foreign religious figures, printing and disseminating literature. In order to have military service changed to alternative service, a person must belong to a registered organization included in the list of "organizations whose teachings do not allow the use of weapons".

We thus see that although the legislators set down that a religious community may exist legally without registration or legal entity status, in practice, registration is a necessary stage for a group of believers who wish in any way to practise their faith publicly. Any unregistered community will encounter difficulties in organization religious events, inviting overseas religious figures, arranging alternative (non-military) service etc. Clearly such restrictions are a violation of religious freedom since the right to organize religious services, study and teach religion, publicize ones own beliefs and other activities have a direct impact on the human right to freedom of religion and should not be contingent upon the legal status of an organization. It is important to stress that for some religious groups it is extremely important to have the possibility of not registering since the lack of any contact with the state authorities is a part of their teaching. This, for example, is the case with Jehovah's Witnesses (of whom at the beginning of 2005 there were 626 registered and 345 unregistered congregations), as well as some groups of followers of certain eastern religions, some pagan teachings and certain Protestant congregations. In addition this is the possibility to legally exist for religious groups who, for varying reasons, have less than 10 members.

In area of property rights one can identify the following problems:

- obstruction in building places of worship - this is seen mainly in cases where a congregation has in some way actually received land but cannot settle on it or cannot complete already started construction;
- obstruction in renting premises – this is largely a problem encountered by Protestant congregations who cannot or do not want to build their own premises and therefore rent them for their own religious purposes from State or municipal authorities. The problems they encounter mainly arise when concluding lease agreements or in extending these;
- delays or reluctance to return religious organizations property or other possessions once used for religious purposes, conflict with the institutions which now own them. This applies in many cases to Roman Catholics, Orthodox and some Protestants.
- inter-denominational conflicts over churches arise due to lack of coordination over alternate use or transfer by the State of certain property to one Church where another has claims to it. These are normally between different Orthodox Churches or in some western regions between Greek Catholics and Orthodox believers;
- attempts to take away (by returning to State or municipal property) land or other possessions from religious organizations which already belongs to them. There are not many such cases. The property may be of interest to businesses due to a good location or high commercial value.

On 9 March 2006 the Ministry of Education moved from its traditional position and at a session of the State Accreditation Commission officially recognized theology as an academic discipline. This placed theology students on an equal footing with other students, for example, with regard to deferment of military service, concessionary fares on public transport, etc. In the light of this

decision, on 4 April 2006 the Verkhovna Rada adopted amendments to the Law on military duty and service which allowed for deferment from being called up or from military training sessions, for day students of theological faculties, as well as their graduates who have taken religious orders. However being included in the register is only the first step towards exercising the declared rights. Heads of such institutes now face licensing and accreditation issues, while graduates of previous years need to have their degrees recognized.

The introduction of a subject “The Foundations of Christian Ethics” (or “Religious ethics”) was more actively discussed in the first half of 2006. In 2005 those initiating such a course gained the support of President Yushchenko. The issue was brought to a nationwide level and actively discussed in the media. The Ministry of Education and Science spoke out against the introduction of such a course.

In June 2006 the same Ministry proposed another new concept for teaching moral and ethical subjects at school. However this concept aroused a wave of indignation among representatives of several leading Christian churches. The latter approached both the President and the Ministry of Education on this matter however this gave no result.

Certain experiments in introducing subjects with a spiritual and moral focus in the system of general secondary education have been tried out in the Lviv, Ternopil, Ivano-Frankivsk, Rivne and other regions. Subjects with a spiritual theme like “Christian Ethics”, “Christian Culture”, “Foundations of the Orthodox Culture of the Crimea”, “Foundations of the Muslim culture of the Crimea”, etc, are studied in a quarter of such general educational institutions. In general in various regions of the country, subjects of Christian ethics and other subjects with a spiritual and moral focus are being introduced with varying degrees of interest from parents, students and the public, as well as different levels of depth and quality in teaching the subjects and training staff.

According to the standard curricula for 12-year schools approved by the Ministry of Education and Science, as well as the relative letters of the Ministry, the study is envisaged in the fifth and sixth grades of general educational institutions, beginning from 1 September 2005, at the choice of students’ parents, the subject “Ethics”, or (/as well as) subjects with a spiritual and moral focus to the number of hours allowed for the study in the fifth and sixth grades of the subject of “Ethics”. From 2006 the conceptual principles envisage that students in the fifth and sixth grades study “Ethics”, Foundations of Christian ethics”, “Foundations of religious ethics”. The choice of one of these is made on the basis of a written application from parents or those replacing parents, bearing in mind the opinion of the student him or herself.

The involvement of religious organizations (forced or voluntary) in political activities is one of the forms of exploiting their public influence for political purposes. Effectively, not one electoral campaign in Ukraine during the years of independence has passed without the involvement of religious figures. This can be seen in use of the altar for political campaigning, clergy on candidate lists, and most often both of these forms together.

Religious intolerance and incitement to enmity between different religions

The overall level of religious tolerance

The most adequate legal mechanism for ensuring an atmosphere of tolerance in society lies in negative legal regulation, that is, the prohibition of discrimination, and specifically “any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis”. However the principle of tolerance and prohibition of discrimination on religious grounds are not clearly enough regulated by legislation thus preventing the legal remedies from being fully effective.

Although the legislators clearly prohibit religious organizations from interfering in the activities of other organizations, in any way propagating enmity and intolerance to believers of other faiths or to non-believers, as well as insisting that teachers of religion and preachers must guide their audience in a spirit of tolerance and respect, there is no mechanism for exercising these bans and requirements.

Legislation stipulates criminal liability for “deliberate acts aimed at inciting ethnic, racial or religious antagonism” (Article 161 of the Criminal Code), “for damaging religious buildings and others linked with religious practice” (Article 178) , “for unlawfully holding, desecrating or destroying religious sacred objects” (Article 179) and “for causing obstruction to religious rites” (Article 180). In fact, however, to a large extent due to the shortcomings of these norms, virtually no one has been convicted under these articles.

A glaring example of religious intolerance was provided in 2006 by some Deputies of the Verkhovna Rada. During addresses on draft laws pertaining to religion, a number of National Deputies made speeches with overt elements of intolerance. Most known for this can be said to be National Deputy from the Party of the Regions Yury Boldyryev who has on many occasions in parliament divided religious organizations into “ours” (here he generally puts UOC (MP) and seldom any others) and “alien” or “non-traditional” with whom he plans to fight on a legislative level. One should in fairness mention that in later speeches he has been more restrained.

Certain court rulings also fail to encourage tolerance. Support in a dispute for the dominating denomination in the region is one example of discrimination. We could cite here the acquittal by a court in the Cherkasy region of a UOC (MP) priest accused of inciting inter-denominational enmity and assault on six Jehovah’s Witnesses whom he actually beat up. This was despite the fact that the priest had publicly admitted to beating them and had stated that he “would do the same again” since the six had trespassed onto his territory and pushed him.

One can identify several “points of tension” and the levels to which they manifest themselves. In general, when characterizing “*points of tension*” (of intolerance) on religious grounds, they can be classified into several groups.

1. *Division into so-called “traditional – non-traditional” religions.* There is no legislative or other formalized classification (definition) of such a distinction. Loosely speaking, one could thus consider as traditional those religious movements which have existed in Ukraine for one hundred or more years, or at least existed in one form or another before the end of the 1980s, while non-traditional movements are those which appeared in Ukraine from the end of the 1980s, or which existed earlier, but with few members. An exception here would be the Jehovah’s Witnesses who have been present in Ukraine since the beginning of the twentieth century, but are generally considered “non-traditional”.

2. *Relations between different religions:* in the main between Christians and Muslims, and between Christians and members of the Jewish religion.

3. *Inter-Church relations:* the relations between different Christian Churches, for example, between Orthodox believers and Catholics, between old and new Protestant movements, and others.

4. *Relations between different Orthodox Churches:* these need to be placed in a separate group since they form a separate topic of attention.

5. *Intolerance to religion:* a negative attitude to religiousness as such and its expression.

Intolerance can be expressed at the following levels:

at the everyday level – not accepting the possibility of co-existence with members of other denominations and faiths, unwillingness to tolerate them;

at the social level - not recognizing the right of communities with other religious views to exist, nor their right to their own missionary or other activities; intolerance in social institutions, for examples, educational or cultural institutions;

at the governmental level – public officials putting obstacles in the way of certain religious organizations from the position of their own religious or denominational views; dividing denominations into “ours” and “alien”, “national” and “not national”, favouring the first and showing prejudice to the others.

The most common problems with intolerance and discrimination on the grounds of religion and other convictions in Ukraine remain:

- disregard for the human right to freely practise any religion or none, to belong to a certain Church or to none;
- procrastination in transferring or allowing the use of property, with building permits, etc;
- obstruction of religious activities;
- preventive measures against new religious movements;
- religious intolerance in education and educational literature;
- dragging out registration and demands for additional documentation;
- lack of recognition of the hierarchical structure of some religious organizations;

During 2006 there were less cases than in the previous year of acts of vandalism or other criminal offences out of anti-Semitism. Several cases were reported where memorial signs (memorial plaques and stones) were daubed in paint in Kyiv and Lviv, and where memorials were damaged at Jewish cemeteries, etc. Not one case was recorded of public incitement of anti-Jewish sentiments by members of other faiths. In general, it should be said, that manifestations of anti-Semitism are rather of an ethnic nature, and not religious.