Analyses OSW

CENTRE FOR EASTERN STUDIES 21.08.2024 www.osw.waw.pl

The Ukrainian parliament votes to ban a Moscow-controlled church

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On 20 August, the Verkhovna Rada of Ukraine passed amendments to laws regulating the activities of religious communities, and thus made it possible to ban the Ukrainian Orthodox Church of the Moscow Patriarchate (UOC MP), the largest religious organisation in the country which is subordinate to the Russian Orthodox Church. 265 deputies voted for the amendments, with 29 voting against, four abstaining, and 24 not participating in the vote (the Verkhovna Rada has 450 seats, but due to vacancies, it currently has 401 members, and not all of them participate in the sessions).

As a result of the adopted amendments, the fact that a religious organisation is subordinate to a body located in a country engaged in an armed invasion of Ukraine now constitutes sufficient legal grounds for banning it. The assessment of the nature of the activities and the structure of a given community will fall under the jurisdiction of the State Service of Ukraine for Ethnic Policy and Freedom of Conscience which reports to the Cabinet of Ministers. According to the new law, if ties to the invader are revealed, the institution will have nine months to sever them; if it fails to comply, the state service may submit a court request to ban its activities.

Commentary

- Although the bill was introduced back in January 2023 and passed its first reading in October 2023, it was not advanced due to resistance from some members of the Servant of the People party (around 60 individuals), including its leader, Davyd Arakhamia. In response to the prolonged delay, opposition deputies twice – once in May and again in July this year – blocked the podium and threatened parliamentary obstruction, unless the matter was put on the Verkhovna Rada's agenda. The enactment of the ban had long been a flagship demand of the opposition (particularly European Solidarity) and served as a convenient point of criticism of the parliamentary majority. This demand is supported by the majority of citizens; according to a public opinion poll conducted by the Kyiv International Institute of Sociology in May this year, 63% of respondents called for the UOC MP to be banned (up from 54% in 2022), and 82% do not trust the institution. By passing the law the parliamentary majority has deprived the opposition of this argument and, additionally, has aligned itself with public sentiment.

- The amendment could have negative consequences for Ukraine as it may be interpreted as restricting freedom of conscience. According to the UN International Covenant on Civil

and Political Rights, this is only permissible in exceptional cases, when it is necessary to protect public safety, order, health, or public morals. It also requires adherence to the principle of proportionality, meaning that any restriction must be proportionate to the potential threat. Since the beginning of the invasion, over 100 criminal proceedings have been initiated against UOC MP clergy in Ukraine on charges of treason, espionage, or spreading Russian propaganda, with 26 resulting in convictions. However, it is important to note that the Church has approximately 11,000 clergy members in the country, so statistically, these cases are marginal, affecting less than 1% of them. The aim of the law, therefore, is not so much to prevent collaboration and protect state security and is more intended to build Ukrainian 'spiritual independence.' The legislation explicitly identifies the UOC MP as the ideological extension of the invader's state regime, complicit in the crimes committed in the name of the 'Russian World' ideology. It is argued that banning this Church would prevent it from supporting the Kremlin's disinformation and propaganda campaigns, which seek to convince the faithful of enduring religious and identity ties between Ukraine and Russia.

- In response to the passage of the law, UOC MP spokesperson Archbishop Kliment stated that any attempts to ban its activities on this basis would violate the constitution. He reiterated the argument made by the institution's hierarchs regarding its autonomy and independence from the Russian Orthodox Church, which was declared at the UOC MP council in May 2022. However, that declaration did not lead to canonical ties with Moscow being severed, nor was it recognised by the Russian leadership. Russian propaganda will likely use the new law as evidence of the alleged oppressiveness of the 'Kyiv regime', accusing the Ukrainian government of discriminating against members of this religious community.

- Even though the ban on UOC MP activities has been announced, banning the Church itself could take several years. In the Ukrainian legal system, each parish or monastery is considered a separate legal entity that must undergo verification. This process will take at least nine months in each case. There are over 8,000 such entities in Ukraine, and given the numerous vacancies in the judiciary, these proceedings may be significantly stalled.