

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is a darker shade of blue. The hourglass is centered on the page.

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February 2, 2009

Congressional Research Service

Report 97-696

*RUSSIA'S RELIGION LAW: ASSESSMENTS AND
IMPLICATIONS*

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Updated April 29, 1999

Abstract. This report provides an overview and assessment of the Russian religion law. The Administration and Congress have raised concerns that the new law may restrict religion and have urged Russia to uphold its international commitments to religious freedom. The FY1998 Foreign Aid Appropriations Act (P.L. 105-118) prohibits Freedom Support Act aid to Russia unless the President determines and certifies that the Russian government has not discriminated against religious groups in violation of its international commitments. The determination was released on May 26, 1998, funding that Russia has not violated such commitments, but that U.S. officials would continue to monitor the situation.

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CRS Report for Congress

Received through the CRS Web

Russia's Religion Law: Assessments and Implications

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Summary

This short report provides an overview and assessment of the Russian religion law. On September 26, 1997, Russian President Boris Yeltsin signed the religion bill into law, and religious groups are endeavoring to register by the December 31, 1999 deadline. The Administration and Congress have urged Russia to uphold its international commitments to religious freedom. Omnibus Appropriations for FY1999 (P.L. 105-277; including foreign operations appropriations) prohibits Freedom Support Act aid to Russia unless the President determines and certifies that the Russian government has not practiced religious discrimination in violation of its international commitments. On April 15, 1999, the President determined that the Russian government had not discriminated, but stated that the issue requires close monitoring. This report may be updated.

Background

Since the collapse of the Soviet Union in 1991, most people in Russia have eschewed atheism and professed at least nominal adherence to a religious faith. Although most Russians profess to be Russian Orthodox, there has been an explosive growth in membership of other faiths, including those relatively new to Russia, and in the work of foreign missionaries. Faced with this activity, the Russian Orthodox Church has been at the forefront in lobbying the Russian government and legislature to impose restrictions on what it widely defines as "false faiths." Many hardliners, ultranationalists, and others in Russia also have argued that many faiths and foreign missionaries threaten Russia's "traditional" cultural and religious values. Elements of the Russian government have been sympathetic to these views.

Passage of the Religion Bill. In the latest of several attempts to amend the existing, relatively liberal, 1990 religious law, Communist deputy Viktor Zorkaltsev and the government co-sponsored a bill "On Freedom of Conscience and Religious Association" which received its "first reading" (introduction) in July 1996. The bill was criticized by Yeltsin at that time as unconstitutional. In June 1997, the bill was reported to the floor for its "second reading" (substantive debate). Zorkaltsev stated that the bill, totally recast

as a replacement to the 1990 law, would introduce state control over “pseudoreligious” and “destructive cults,” which are “tearing the fabric of society.” The bill was quickly and overwhelmingly approved by the legislature, but Yeltsin vetoed it on July 22, 1997, rather than sign it into law. As he explained, the bill did not respect constitutional provisions prohibiting the government from giving preferences to one faith or another, and did not accord with Russia’s international commitments. However, he also agreed that a strong law was needed “to protect the moral and spiritual health of Russian citizens and put up secure barriers against the infiltration of radical religious sects.” Zorkaltsev and some other Duma leaders denounced Yeltsin’s veto as allowing Western influences to “trample on Russia” and “brainwash the younger generation,” alluding to political and generational divisions in Russia which also animated advocacy for the bill.

Advocates of the bill strongly urged Yeltsin to soften his objections. In talks between Yeltsin and Orthodox Church Patriarch Alexey II on August 6, 1997, Yeltsin reportedly agreed to support major provisions of the bill backed by the Patriarch. Andrey Loginov, presidential advisor on domestic affairs and executive secretary of the presidential Council on Relations with Religious Associations, played a primary role in guiding the deliberations within the government. Reportedly, the draft bill that reached Yeltsin did not take into account concerns raised with the Council by emissaries of the Catholic, Pentecostal, Baptist, and Adventist communities. Yeltsin approved the draft, although it was little changed from the version he had vetoed, the State Duma overwhelmingly approved it with few changes, the Federation Council unanimously followed suit, and the bill was signed into law by Yeltsin on September 26, 1997.

Key Features. The main characteristics of the law are as follows. (Some characteristics that raised initial Western concern appear to have been partly addressed during implementation — see below.)

- It affirms the separation of church and state and freedom of religious opinion, including nonbelief. The preamble mentions Islam, Buddhism, Judaism, and “Christianity” as part of Russia’s heritage. However, it also highlights “the special role of Orthodoxy in the history of Russia and in the establishment and development of its spirituality and culture.” Beyond mentioning “Christianity,” the preamble does not cite other faiths long practiced in Russia, such as Roman Catholicism, Baptism, or Pentecostalism.
- The bill requires the registration of all religious associations by December 31, 1999, by local and central offices of the Ministry of Justice. A congregation must register at the local level. A faith that has congregations in two or more regions or republics, which often occurs, must also register with the central Justice Ministry.
- The bill affirms the 1990 law in distinguishing between “religious groups” and “religious organizations,” but changes registration requirements and the rights of the former. “Religious organizations” are those that have been registered by the Russian government. In order to be registered, a group must prove that it has existed in Russia for at least the past 15 years. Groups existing for at least 50 years with congregations registered in at least half of the 89 federal subunits, or if ethnically-based, in at least three subunits, are accorded the special status of “All-Russian religious organizations.”

- If registration is denied, the rights of a religious association are circumscribed to those allowed to “religious groups,” or it may even be banned by court order. “Religious groups” may choose whether to inform the authorities about their “formation and commencement of activity,” depending on whether they seek later to become “religious organizations.” “Religious groups” are forbidden to own property, publish religious literature, host foreign guests, set up schools, or carry out charitable work, among other restrictions.
- A change introduced by Yeltsin (Article 27(3)) permits religious associations that cannot prove through “documentation” that they have existed for 15 years in Russia to appeal for provisional, yearly registration. If granted, they are allowed to conduct charity work, but the law otherwise treats them as “religious groups” prohibited from carrying out many activities.
- Besides the requirement that a “religious organization” show that it has existed for 15 years, registration is dependent on governmental approval of the aims and activities of the group. A group will not be registered if it does not abide by all provisions of the constitution and laws or if its petition “contains information that has not been confirmed” (does not reflect what the government views as the real aims and activities of the group).
- The new law allows a foreign “religious organization” to open offices in Russia upon the approval of the authorities. However, they are forbidden to engage in any “cultural and other religious activity.” If a Russian “religious organization” wishes to sponsor a foreign group, it must provide the government with the charter and confirmation of the group’s legality abroad, spell out the purpose of the group’s activities in Russia, and disclose its beliefs, history, and practices.

Areas of Concern. Some features of the bill appear unobjectionable, including provisions restating a Constitutional provision that alternative service be provided for conscientious objectors, and proclaiming the protected status of the confessor-confessee relationship. The bill also states that, if a religious association is denied registration, it can appeal the decision in court. Once a “religious organization” is registered, it has legal rights to own buildings, hold meetings, publish literature, run schools and businesses, and carry out charitable work within the territory where it is recognized to operate.

On the other hand, religious rights concerns are heightened by vaguely written and contradictory provisions that appear to greatly increase the role of the government in regulating religious practice. All religious associations must report to the authorities, except those groups never intending to seek the full rights accorded by registration. Reports include changes in a “religious organization’s” charter or activities, and a report every two years to renew its registration.

Expert councils composed of representatives of privileged faiths will help judge the registration materials as necessary, furthering the possibility of bias against some faiths. Registration may be denied or revoked, and religious groups may be proscribed, based on a broad but vague list of offenses that some worry will be used to single out some faiths, including violating public order, promoting “religious enmity,” using drugs and “hypnosis” in services, performing lewd and “illegal” actions, and promoting non-medical forms of healing. Offenses are referred to the courts, which may order the “liquidation” or

“prohibition” of the faith and possible prosecution of its members. Other provisions seem to restrict the freedom of a religious association to disseminate its faith to non-members, especially minors, or to set up new congregations where it is not already registered.

Opponents of the law have stated that language seeming to give special status to certain faiths violates the Constitution. Article 14 of the Constitution stipulates that “religious associations are separated from the state and are equal before the law,” and Article 19 prohibits the restriction of citizens’ rights on the grounds of religious affiliation. Article 28 stipulates that “each person is guaranteed freedom ... to choose, hold, and disseminate religious and other convictions and to act in accordance with them.” Opponents of language that seems to give special status to certain faiths also can point to the Constitution’s Article 29, which prohibits propaganda of religious supremacy. Many in Russia and elsewhere have criticized the law’s apparent violation of Russia’s international commitments, including the Helsinki Final Act and Vienna Concluding Document, the European Convention on Human Rights, and the International Covenant on Civil and Political Rights.

The provision requiring that foreign representatives may not engage in religious activities threatens to restrain the over 4,000 foreign missionaries working in Russia. The provision that all “religious organizations” be headed by and composed of Russian citizens or permanent legal residents affects local congregations that are headed by or composed of foreigners or some faiths where the parent church or center is abroad. In the latter cases, a congregation must have the foreign center provide Russian authorities with its charter and a confirmation of its legality by the home government. The provision that “religious groups” may only be composed of citizens seems to restrict religious observance by non-citizens.

In January 1998, regulations for reviewing applications for registration of branches of foreign religious associations were promulgated, followed in March 1998 by regulations for other religious associations. Disappointingly to many in the West, the regulations closely follow the letter of the law. Guidelines for implementation issued by the Justice Ministry provide a more liberal interpretation of the law and regulations, but the guidelines are not legally binding. The guidelines suggest that most religious organizations registered under the 1990 law will be re-registered, that the 15-year rule will not apply to centralized religious organizations and their branches, and that unofficial documents such as news clipping will be used to satisfy the 15-year rule. Several registration decisions made by early 1999 have followed these guidelines, easing some concerns about how harshly the law would be implemented. These registrations include those of Pentecostal, Roman Catholic, Mormon, and Seventh-Day Adventist groups. However, all faiths have not received similar treatment and some localities do not accept the guidelines. Schismatic and independent religious associations that cannot meet the 15-year rule have faced hard choices between affiliating with centralized religious organizations they may not totally agree with doctrinally or risking liquidation. Local religious groups that are awaiting registration face criminal charges if they carry out worship activities in the meantime.

About one-third of Russia’s federal subunits have passed laws restricting certain religious activities. While the new federal law supersedes local laws, it also provides a major role for the localities in judging whether groups should be registered. Some localities have viewed the new law as a “green light” to restrict religious activities of which they disapprove. Foreign missionaries faced an attempt last year to force them to

leave Russia every three months to renew their visas. The authorities reinstated the one-year visa after much protest, but the status of missionaries remains worrisome. Petitions by individuals and groups to Russia's Constitutional Court to examine and overturn objectionable parts of the law (such as Article 27(3)) have not yet been considered.

U.S. Response

Until passage of the new law, the United States generally praised religious freedom in Russia while monitoring Russian behavior and urging it to abide by international human rights commitments. During the April 1996 U.S.-Russia Summit in Moscow, President Clinton stated that "it is a real sign of the health of the Russian democracy that religion is respected and people are free to pursue it and express their honest convictions." In November 1996, the Administration formed an Advisory Committee to the Secretary of State on Religious Freedom Abroad, which has counseled the Administration on the ramifications of the passage of Russia's religion bill. At the September 1998 U.S.-Russia summit, President Clinton called on Russia to uphold religious freedom. Secretary of State Madeleine Albright, National Security Council Director for Russia William Courtney, and Ambassador at Large for the NIS Stephen Sestanovich also have worked with U.S. religious groups to exhort Russian authorities to uphold religious freedom.

Congress has had some long-term concerns about religious freedom in Russia and the former Soviet Union, including those reflected in the Lautenberg amendment in 1989 (P.L. 101-167, Sec. 599D), which established enhanced opportunities for Soviet Jews, Evangelical Christians, Ukrainian Catholics, and Ukrainian Orthodox Church members to qualify for admission to the United States as refugees. The Jackson-Vanik Amendment (P.L. 93-618, tying trade to Soviet emigration standards) has required the President to report on Russian emigration policies, which includes assessments of religious tolerance. The Congressional Commission on Security and Cooperation in Europe has held hearings dealing with religious freedom in Russia and other New Independent States of the former Soviet Union. Congress also has raised concerns about acts of religious intolerance such as Russian government moves in 1996 against Jewish organizations and negative remarks about certain faiths made by then-Security Council head Aleksandr Lebed. The issue of religious persecution worldwide (P.L. 105-292; signed into law on October 27, 1998), has included discussions of possible repercussions of Russia's religion law.

During and after passage of Russia's religion bill, many in Congress sent letters to President Yeltsin and other officials urging Russia to uphold religious freedom. The Senate approved S.Con.Res. 58 on November 8, 1997, condemning the potential restrictiveness of the Russian religion law and calling for Russia to uphold its commitments to religious freedom. Members of Congress also have visited Russia to make their concerns known. Among other proposals, some Members of Congress and others urged Russia to establish an ombudsman office or other means to monitor religious rights violations during implementation of the religion law. While an ombudsman was not appointed, these proposals may have influenced the formation of an Oversight Working Group, chaired by Loginov.

The FY1998 Foreign Aid Appropriations Act (P.L. 105-118) contained a provision prohibiting Freedom Support Act aid to Russia unless the President certified by May 1998 that the Russian government "has implemented no statute, executive order, regulation, or similar government action that would discriminate, or would have as its principal effect

discrimination, against religious groups ... in violation of accepted international agreements on human rights,” to which Russia is a party (de-nuclearization aid is not affected). In introducing the amendment in July 1997, Senator Gordon Smith stated that Congress should send “a strong signal to President Yeltsin that American tax dollars will not find their way to support any country that treats religious freedom in such a manner.”

Omnibus Appropriations for FY1999 (H.R. 4328; including foreign operations; signed into law on October 21, 1998, P.L. 105-277) repeats this provision, again directing an aid cutoff unless the President determines by April 1999 that Russia is not violating its international human rights commitments. In the April 15, 1999 determination and justification, Secretary of State Madeleine Albright (by delegated authority) stated that Russia had applied the religion law “in a manner that is not in conflict with its international obligations on religious freedom. However, this issue requires continued and close monitoring.” She called on the Russian government to ensure that the localities uphold religious freedom and urged the ultimate replacement of the law. A major concern is the slow pace of registrations — by the end of March 1999, only 700 out of over 17,000 associations had been registered — prompting Secretary Albright to urge extending the deadline for registration and ensuring full rights for associations until they are registered.

While Russia’s central government policy is not directly inimical to religious freedom, intolerance by many individuals, groups, and local officials is rising. The State Department was aware of about thirty cases of violations of religious freedom by local officials. Recent cases of concern include prosecution of Jehovah’s Witnesses in Moscow, raids on Scientology groups, harassment of Catholic parishes, and rising overt anti-Semitism. Anti-Americanism among some Russians, heightened by their objections to NATO airstrikes in Yugoslavia, has contributed to some harassment of missionaries and faiths deemed “American”-linked. Both the Administration and Yeltsin have condemned anti-Semitic statements by prominent Communist Party politicians. Hardline Communist Albert Makashov, a Duma deputy and Gorbachev’s former nemesis, stated in October 1998 that Jews were seeking to destroy the Russian “folk” and should be “rounded up,” and in February 1999 that Jews were “impudent and repulsive.” His remarks were echoed by Communist deputy Viktor Ilukhin, head of the Duma Security Committee. Their party leader, Zyuganov, in effect defended such remarks in December 1998, warning that most Russians “see that the Zionization of Russian state power has been one of the reasons behind the current catastrophic state of the country ... and the extinction of its population.” Secretary Albright, during her trip to Moscow in January 1999, repeatedly urged Russians to uphold religious freedom and strongly denounced anti-Semitism.

On December 11, 1998, Members of Congress sent a letter to Russian Communist Party Chairman Gennadiy Zyuganov expressing concern about his “inadequate response” to anti-Semitic remarks by a member of his party. The letter noted that, if the Communist Party expects to be accepted by the international community and have inter-parliamentary ties, it should condemn racist statements by its members. On March 23, 1999, H.Con.Res. 37 (Representative Christopher Smith) was unanimously approved, condemning anti-Semitic statements made by Duma members. A similar S.Con.Res. 19 was introduced by Senator Ben Nighthorse Campbell on March 17, 1999. In supporting the bill, Senator Frank Lautenberg also stated that “recent events in Russia convince me my [1989] legislation remains very necessary.”