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LEGAL REGULATION OF MISSIONARY WORK IN RUSSIA, MISSIONARIES' INFLUENCE ON SOCIAL STABILITY OR INSTABILITY, PROBLEMS AND SOLUTIONS

Russian legislation regulating missionary work is based on democratic principles. In particular individuals are allowed to profess, individually or jointly with others any religion or no religion, to conduct services and other religious rites and ceremonies, to freely choose and change, possess and disseminate religious and other convictions and act in accordance with them. Same rights extended to foreign nationals as well.

In reality, these provisions of the law stumble over some obstacles, even though by law all religious communities are equal. Polls indicate that 70 to 80 percent of the Russian population consider themselves Orthodox. The term "Russian - means Orthodox" is generally accepted. Meanwhile the Christmas service is visited by 7-8 percent, and only 3% of the Russians observe Lent.

Recently I was at a conference dedicated to the 25-th anniversary of the first law on religion in contemporary Russia. In recent years the percentage of those who value freedom of worship reduced by half (according to the polls conducted by Professor Marina Mchedlova). This was evident from the presentations of participants. They said - It is necessary to separate freedom "from what" and freedom "for what". From - it means from a foreign influence on Russian civilization. The only freedom of conscience we need according to them is the one that is "for what" - "for creation of a moral foundation of civil society." I had to remind the participants that in fact the right to freedom of conscience arose as "freedom from" - from the influence of the Catholic Church and the persecution of heretics, and it has long been considered to be one of the natural rights.

All this affects the attitude towards anyone, but especially foreign missionaries. They say - missionary activity does not correspond with the ministry of the priest, so is not subject to protection under Art. 9 of the European Convention.

Meanwhile, religious freedom implies, in particular, the freedom "to profess a religion." The testimony in word and deed is inherent in the very existence of religious beliefs. The European Court has repeatedly pointed out that the application of administrative or criminal penalties for professing religious beliefs or the exercise of the right to freedom of religion is an interference with the rights guaranteed by paragraph 1 of Article 9 of the Convention ("Larissis Kokkinakis cases").

Attempts to restrict their rights started more or less immediately after the proclamation of freedom of conscience, when Protestant pastors both foreign and Russian headed to the Russian regions. The main problems with missionaries appear to be more common on the level of local legislation of the subjects of the Russian Federation rather than federal.

The first local law "On missionary work" was adopted in the Tula region in 1994, its example was followed by many regions. They regulated the activities of foreign religious missions that from that point on - had to obtain a permit in order to conduct preaching work.

However, all these regional laws have worked for a short period of time. In Saratov the law was in effect only six months, in Pskov - a year. Currently laws "On missionary work" continue to be in effect only in six regions of the country (out of 85 in total) and even there they are practically not enforced.

There is, however, one more thing - in the first decade of the 21-st century the Laws of ten regions of the Russian Federation provide for administrative responsibility for activities related to the dissemination of religious beliefs. The 2008 law of the Krasnoyarsk Kray envisions liability for solicitation of citizens in public places expressed in compulsive actions for the purpose of fortune-telling, begging, provision of sexual services, and ... religious propaganda, - punishable by an administrative fine. Somewhere these laws were abolished, but somewhere they still in effect.

Recently (Stavropol Kray) attempts were made to adopt new laws regulating missionary work. But now with a different purpose - to keep away not Protestant pastors, but rather radical islamists who proliferate their extremist views. It is unlikely, however, that the law - would be an effective measure in the fight against the extremism.

This is what concerns the legislation. As for administration of the law – most often these problems appear in the application of immigration legislation.

According to the European Court's position - the right of an alien to enter or remain in the country is not guaranteed by the Convention itself, but if the ban for the applicant's stay in the State is applied in connection with the implementation of the right to freedom of religion, it is a violation. Example of such approach is the Nolan Case - The essence of the complaint is not that he was not allowed to live in Russia, and that his religious views and activities led to the ban.

The applicant has arrived to Russia at the invitation of the Unification Church, received a residence permit, but then the issuance of such permit was refused – the Russian authorities cited the protection of national security as the main legitimate aim of the challenged measure. Although in the proceedings of the European Court they did not specify what was the nature of non-religious activities that were allegedly carried out by the applicant.

The European Court noted - exceptions to freedom of religion (restrictions), listed in paragraph 2 of Article 9 of the Convention is strictly exhaustive. This paragraph does not allow for restrictions on the grounds of national security. Far from being an accidental omission, the exclusion of specific grounds in the number of restrictions of Article 9 of the Convention reflects the high importance of religious pluralism.

Finally, the Court can not disregard the applicant's argument that the concept of national security of the Russian Federation as amended on January 2000 declared that the national security of Russia should be provided, in particular by "countering the negative influence of foreign religious organizations and missionaries." Description of any activities of foreign religious missionaries as harmful to national security is unacceptable.

All this was the basis for concluding that the applicant's ban to stay in Russia was aimed at preventing the exercise of the right to freedom of religion - a violation of Art. 9 of the Convention.

Another problem – related to the international law. There is a 2011 Treaty between the Russian Federation and the United States on the simplification of visa requirements for citizens of the two countries. It allows for US nationals entering Russia on visas issued under this Treaty to stay

in the country 180 days uninterrupted and return for another 180 days after a brief departure from the country. Meanwhile regular visas allow only 90 days of stay out of every 180 days. It applies in all cases with the exception of missionaries. As an alternative Americans may enter Russia on a 3-month visas and then leave and enter again based on a similar 3-month visa. Others may obtain a Russian visa using a simplified procedure but applicants for religious visas are denied. It is a known fact that the issuance of visa to a citizen of another country may be refused in accordance with domestic law without explaining the reasons for the refusal, but in this case, however, such reasons were provided. They say – it does not apply to missionaries

The point here is this. Under the Russian laws a foreign citizen entering the Russian Federation for the implementation of religious relations and contacts is issued an ordinary humanitarian visa. The visa also states the purpose of the trip "religious affairs". The Russian Foreign Ministry says - Treaty applies only to ordinary humanitarian visa, and not the religious ones.

We believe - it's wrong - according to para. 3 of the Treaty it is fully applicable to the conditions for granting humanitarian visas by the Russian Federation. However, it is also true that the American side at the moment preparation of the Agreement have not taken this into account and Russian diplomats formally are entitled to such an interpretation. Legal certainty - it is important not only for the law, but also for international treaties.

All of the above applies to the problems of external obstacles to the missionaries. But there are some legal problems that have roots directly in the missionary work that can put the blame on the missionaries themselves.

I will mention only one. Often they act without taking into account local cultural characteristics of the population. In most cases, there is no trouble. But there are exceptions when the missionary activity concerns of aboriginal peoples of the north.

In the regions of the Russian Far North the Protestant missionaries often succeeded, many of them use non-traditional methods of proselyting, they migrate with the locals who are herding their deer, for example. There are cases of mass conversion to Christianity. But what is next? They are beginning to give up their ethnic customs. It's not just idols. This is also a series of customs and rituals, they live in harmony with the environment. So-called frozen civilization (Arnold Toynbee), which they start to give up. Besides this initiates a conflict - converts despise others as the pagan savages. People lose their mythology, the national ethnic wealth is eradicated. They remain themselves only when living in their culture.

The said, however, in no way implies that the law should not encourage missionary work in every way possible. Furthermore, in light of the current situation in Europe this problem is as pressing as ever. From this prospective I find interesting Angela Merkel's remark where she stated that she supported freedom of religion, but at the same time would have liked to see more individuals who had the courage to declare themselves Christian and capable of dialog.