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# Presidential Documents

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Title 3—

Presidential Determination No. 98-23 of May 23, 1998

The President

## Assistance Program for the Government of the Russian Federation

### Memorandum for the Secretary of State

Pursuant to section 577(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105-118), I hereby determine and certify that the Government of the Russian Federation 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 or religious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party. During the period under review, the Government of Russia has applied the new Russian Law on Religion in a manner that is not in conflict with its international obligations on religious freedom. However, this issue requires continued and close monitoring as the Law on Religion furnishes regional officials with an instrument that can be interpreted and used to restrict the activities of religious minorities.

You are authorized and directed to notify the Congress of this determination and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,  
Washington, May 23, 1998.

**Memorandum of Justification Regarding Determination Under Section 577(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105-118)**

**Summary:** During the period under review, the Government of Russia has applied the new Law on Religion in a manner that is not in conflict with its international obligations on religious freedom. To the extent that violations of internationally recognized rights have occurred, they have been the consequence of actions taken by regional or local officials and do not appear to be a manifestation of federal government policy.

At the same time, the Law on Religion furnishes regional officials with an instrument that can be interpreted and used to restrict the activities of religious minorities. Thus, this issue requires continued and close monitoring.

**1. The New Law on Religion:** On October 1, 1997, the Russian Federation enacted a restrictive and potentially discriminatory law "On Freedom of Conscience and Religious Associations" (Law on Religion). The new law is complex, with many ambiguous and contradictory provisions.

The law accords more favorable legal status and privileges to religions that have been present in Russia for an extended period of time. New religious associations must wait 15 years before acquiring all of the rights of a juridical person, such as the right to own property and open a bank account, as well as the right to engage in a range of religious activities. Article 27(3) of the law is also controversial because it applies certain aspects of the 15-year rule to religious organizations that enjoyed full legal status under prior legislation. Portions of the law appear inconsistent with Russia's constitution and civil code as well as its international commitments. Some Russian officials had indicated that the implementing regulations would clarify ambiguities, but the regulations share the ambiguities of the law.

**2. Key Concern:** Through its acceptance and accession to international human rights instruments, the Government of Russia has committed itself to respecting freedom of association and assembly and, more specifically, freedom of thought, conscience and religion, including freedom to change religion or belief and freedom to manifest religion or belief in worship, teaching, practice and observance. The Law on Religion is of great concern because it could be applied to restrict the ability of communities of believers to establish organizations with full legal rights.

**3. Application:** Over the past year, Russian government officials, including President Yeltsin and then-Prime Minister Chernomyrdin, pledged to Vice President Gore that the new law would not result in any erosion of religious freedom in Russia. Officials in the Presidential Administration and the Cabinet of Ministers have echoed and clarified Yeltsin's promises. In particular, the Ministry of Justice has adopted a permissive approach to registering religious organizations with full legal rights, effectively bypassing elements of the 15-year rule. In addition, Presidential Administration officials have announced the establishment of two consultative mechanisms to facilitate government interaction with religious communities and to monitor application of the new law.

The Presidential Administration and the Ministry of Justice have also promised to support efforts now underway by nongovernmental organizations to challenge the constitutionality of the law's retroactive provisions (article 27(3)) before the Constitutional Court. Officials in these organs have indicated their view that article 27(3) violates Russia's constitution.

Despite the federal government's efforts, however, a number of regional officials continue to violate rights of minority religious organizations, in some cases citing the new federal law. Based on anecdotal, limited information we have to date, we are aware of about 25 cases of harassment between the date of enactment of the Law on Religion and early May 1998.

**4. Evaluation:** Local and regional abuses of religious rights raise serious concerns, especially if the new law is being used by some officials to justify such actions. At the same time, reported incidents represent a relatively small number of problems when viewed against the size of the country and complexity of political and social changes underway. Moreover, we have no evidence to suggest that these local actions result from a deliberate policy of the federal government. Finally, these incidents are, unfortunately, consistent with a pattern of local and regional harassment and restrictions on minority religious communities that was clearly discernible prior to passage of the law.

Regional and local abuses reflect a larger problem in Russia—which is also evidenced in matters ranging from tax collection to elections to law enforcement—of the center exercising weak control over events throughout the regions. We believe local officials have taken advantage of a poorly developed legal tradition and weak oversight to advance intolerant ideas at odds with Russia's constitution and the flexible and fair interpretation of the Law on Religion articulated by the central authorities.

Nevertheless, it remains to be seen how the Law on Religion's restrictions will be interpreted in the longer run, and whether the federal government will respond appropriately over time to cases in which local officials apply the law in a manner at odds with Russia's international commitments. Given the political commitments made and constitutional positions taken by the central government, the fact that the implementing regulations are only now making their way to regional officials and the fact that federal officials are only now establishing mechanisms for addressing differences in interpretation, we believe that the relatively small number of local incidents does not require a finding that the "Government of the Russian Federation" has implemented discriminatory measures. Similarly, we believe it would be premature to conclude that the law's restrictions, as implemented, constitute violations of Russia's international obligations.

**5. U.S. Engagement:** Freedom of conscience has been a central element of the U.S. bilateral agenda with Moscow since the early 1970's, and the Law on Religion has been the subject of numerous high-level communications between the Administration and the Russian Government, involving the President, the Vice President, Secretary Albright, and other senior U.S. officials.

The Department of State and the U.S. Embassy in Moscow will continue to maintain close contact with religious communities and NGOs to assess the effects of the new law and solicit views on appropriate responses. In addition, we will continue to make clear to the Russian Government the requirements of Section 577(a) of the Foreign Operations Appropriations Act for FY 1998 and urge that the federal authorities both reverse discriminatory actions taken at the local level and, when necessary, reprimand the officials at fault. We will also encourage federal action to ensure that regional laws do not contradict Russia's constitutional and international guarantees of religious freedom, and continue to make clear our view that the federal law should ultimately be changed so it cannot be used to justify curtailing religious freedom in Russia.