

**Annotation to the draft law
“Amendments to the Law on the Latvian Orthodox Church”**

1. The necessity for this law

I

1. This draft law fully recognises and corroborates the status of the Latvian Orthodox Church (hereinafter – Church) as a completely self-contained and independent church (an autocephalous church).

2. The Church was established as a completely self-contained and independent church with the Tomos issued to Jānis Pommers, archbishop of Riga and Mītava, on 6(19) July 1921 in accordance with decision No. 1026 of the Holy Synod of the Russian Orthodox Church and the Supreme Church Council. “With the blessing of the holiest patriarch, the Holy Synod and the Supreme Church Council have jointly taken the decision to grant independence to the orthodox church in Latvia in all church-administrative, church-financial, school education and church-state/civil relationship matters.

It has been decided: taking into consideration that the orthodox church in Latvia is located in the territory of an independent state, to allow the aforementioned church to be independent in all church-administrative, church-financial, school education and church-state/civil relationship matters” (see: *Latvijas Pareizticīgas Baznīcas attiecības ar citām pareizticīgām baznīcām. Grām.: Rīgas un visas Latvijas Arhibīskaps Jānis (Pommers). Vol. 2. Svētrunas, raksti un uzstāšanās. Rīga: Labvēsts, 1993, p. 98).*

3. According to Archbishop Jānis Pommers: “We are children, who completely voluntarily and in compliance with strict rules, canonically correct principles have been separated from the Moscow patriarchy” (see: *Kalniņš J. Latvijas Pareizticīgā Baznīca. Vēstures komentārs. Rīga: San Eštera, 2007, p. 11).*

“Unlike the catholic church, the orthodox church always has recognised and recognises the existence of independent churches, if the relevant land has gained independence and it is in compliance with the canons [...] Archbishop Jānis [...] tried to place his emerging diocese on stable canonical foundations and secured the existence of this diocese. [...] In the new statehood circumstances, the Riga diocese became the organisation that united the orthodox community in the state under the new name of “the Latvian Orthodox Church”, holding self-decision and self-determination rights over the internal matters of the church. At the same time, its self-containment and independence from other pastoral powers outside of the territory of the state was also established” (*Zariņš J. Pareizticīgās baznīcas un tās mantas tiesiskais stāvoklis Latvijā. Rīga: Latvijas pareizticīgās baznīcas Sinodes izdevums, 1939, p. 33-34).*

4. This complete self-containment and independence of the Church was also recognised by the Republic of Latvia by establishing the legal status of the Church as

a completely self-contained and independent entity in relation to the state institutions of the independent Latvia (see *Regulation of 8 October 1926 on the Status of the Orthodox Church*). As Hermanis Albats has highlighted in his lectures, the Church “enjoys self-determination and self-governance rights. [...] The primate is the head of the church and is independent from other churches” (*Albats J. Baznīcu tiesības. Rīga: Latvijas Universitāte, 1930, p. 50*).

In turn, Archbishop Jānis Pommers wrote in 1934: “As long as there is a sovereign Latvia, the sovereignty of the Latvian Orthodox Church will also endure” (see: *Kalniņš J. Latvijas Pareizticīgā Baznīca. Vēstures komentārs. Rīga: San Estera, 2007, p. 9*).

5. The Church took its own decisions on its legal status and operations, *inter alia* in 1935 it asked the Byzantine Patriarch to bless the new bishop (see: *ibid, p. 53-55*). The occupation of Latvia in 1940 also brought to an end the sovereignty of the Church (see: *ibid, p. 70*). Archbishop Jānis Pommers had already written with foresight: “[Muscovites] do not have the courage to immediately fell the oak tree of Latvian sovereignty, they wish to chop it down branch by branch, and that is where they have courage. First, they want to cut down the branch of the sovereignty of the Latvian Orthodox Church, to float it off to Moscow, then continue their work” (*ibid, p. 53*).

6. After the restoration of the independence of the Republic of Latvia, the relevant status of the Church was restored based on negotiations between Viktors Skudra, Minister of Justice of the Republic of Latvia, and Metropolitan Yuvenaly, the representative of the Moscow Patriarchate of the Russian Orthodox Church. Their agreement: “To include in the statutes the basis of the self-containment and independence of the Church in accordance with the 1921 decision of Patriarch Tikhon, as well as in regard to the canonical subordination of the Latvian Orthodox Church to the Moscow Patriarchate of the Russian Orthodox Church” (see: *Drēģeris M. Par Latvijas Pareizticīgās Baznīcas tiesisko statusu. Jurista Vārds, 15 October 2019, No.41(1099)*).

7. On 11 August 1992 the Synod of the Moscow Patriarchate took a decision by which the 1921 decision of Patriarch Tikhon on the self-containment and independence of the Church, as well as its former name were restored. On 22 December 1992 Patriarch of Moscow and All Russia Alexy II issued a Tomos to the Church in which he reconfirmed decision No. 1026 of 6(19) July 1921 by which Patriarch Tikhon granted independence to the Church. The Tomos issued by Patriarch Alexy II emphasises that the Church serves within the territory of an independent state, and Point 1 stipulates: “May the Latvian Orthodox Church hereinafter based on its statutes approved by us and the Holy Synod be independent in church-administrative, church-financial, church-educational and church-civil matters, whilst remaining in the canonical jurisdiction of the Moscow Patriarchate” (see: *ibid*).

8. In respect of the self-containment and independence of the Church and to corroborate its status in relation to the state of Latvia, on 13 November 2008 the Law on the Latvian Orthodox Church was adopted.

II

9. On 21 July 2022 the Ministry of Foreign Affairs of the Republic of Latvia received information that on 24 March 2022 the Synod of the Moscow Patriarchate led by Patriarch Kirill established “a council for eparchies located in surrounding areas across the border”, which infringes upon the self-containment and independence of the Church.

National security agencies believe that such an action is to be considered adverse and it may impact national security.

10. Such unilateral action on the part of the Russian Orthodox Church is considered to be incongruous with the historical status of the Church as it was established in the Tomos issued on 6(19) July 1921 by Patriarch Tikhon and the Tomos issued on 22 December 1992 by Patriarch Alexy II.

Taking into consideration the competence granted to this council, there is a significant risk that the leadership of the Russian Orthodox Church has planned to unilaterally liquidate the self-containment and independence of the Latvian Orthodox Church and to alter its *de facto* canonical status. This affects the secular status of the Latvian Orthodox Church within the Republic of Latvia, the determination of which is an issue reserved exclusively for the legislation of Latvia and the statutes of the Church itself.

The leadership of the Russian Orthodox Church has failed to fulfil its obligations towards the state of Latvia and the Church, and has, in effect, taken deliberate action to diminish the status of the Church. Under such circumstances, the issue of the status of the Church cannot be resolved through negotiation with the Russian Orthodox Church.

11. For quite some time already, and especially since 24 February 2022 when the Russian Federation launched its invasion (aggression) of Ukraine, the Russian Orthodox Church both at the level of church leadership, and the level of the clergy has been justifying the war started by the Russian Federation, its aggression and violence against the people of Ukraine, it has been praising and justifying the war crimes perpetrated by Russia within the territory of Ukraine. Furthermore, the rhetoric of the Russian Orthodox Church has reinforced the Kremlin’s narratives and propaganda, which questions the statehood of Ukraine, its independence and sovereignty for quite some time already. A similar opinion is being expressed about other states “in surrounding areas across the border”, which directly affects the national security interests of Latvia.

12. A world order based on international law and peace in the region is in the national interests of Latvia. Latvia has always taken a principled position on compliance with international law and strengthening the rule of law in international relations among states. Latvia has consistently been against any violation of international law and has not recognised the legality of changes made in this manner (e.g., Latvia recognises and will continue to recognise the territorial integrity of Moldova, Georgia and Ukraine).

13. Taking into consideration the influence of the Russian Orthodox Church on orthodox believers also in Latvia, the public support expressed by Patriarch Kirill

for Russia's aggression in Ukraine and the war crimes it has perpetrated precludes any legitimate right of this person to influence the position and decisions of a self-contained and independent Church in the independent and sovereign state of Latvia. The position of Patriarch Kirill requires a strict and fundamental assessment and national action to be taken in the interests of the national security of Latvia.

Having heard the opinion of the National Security Council, I urge the Saeima to corroborate the legal status of the Church by legislative means and preclude any threats to it presented by an aggressor state.

14. Without prejudice to the canonical rights of the orthodox church, the state of Latvia must be able to ensure and protect such a status for the Church as is established in the legislation of Latvia based on the dialogue between the state of Latvia and the Church.

Taking into consideration national security interests and with respect to the freedom of religion of the orthodox community in Latvia, it is necessary for the state of Latvia to *expressis verbis* stipulate that the Church is completely self-contained and independent from any pastoral power outside of Latvia (an autocephalous church). The church of an independent state must be fully self-contained and independent.

With the definition of the legal status of the Church as provided in the draft law, the state of Latvia does not affect or infringe upon matters of religious teaching and canonical rights of the Church.

III

15. In addition, the draft law lays out the procedure by which the state institutions of Latvia and natural persons are informed about the accession to or removal from office of the head of the Church, metropolitans, archbishops and bishops. This demonstrates the attitude of the state of Latvia and respect for the autocephalous status of the Church.

Upon receiving the relevant information from the Church, the Chancery of the President of Latvia shall announce this information in the official publication "Latvijas Vēstnesis". If the Church informs the Chancery of the President of Latvia about the election or removal from office of the acting head of the Church, metropolitans, archbishops and bishops, such information shall also be published in the official publication "Latvijas Vēstnesis".

16. The regulations envisioned in the draft law provide the opportunity to verify whether the person elected to office complies with all legislative requirements and national security interests.

2. Possible impact of the law on social and economic development

1. During Latvia's independence in the interwar period and after the restoration of Latvia's independence, the Church has historically played an important role in uniting and educating society, promoting cultural development, resolving social issues, as well as promoting the sense of belonging to the state. Thus, historically, the Church holds an integral and crucial place among the other

traditional denominations in Latvia. Since its creation, the Church has been an independent and autonomous church, which has been in line with the common interests of the state and society of Latvia (*see: President of Latvia presents Certificate of Merit to Metropolitan of Riga and all Latvia Alexander in honour of His Eminence's 80th birthday.* <https://www.president.lv/en/article/president-latvia-presents-certificate-merit-metropolitan-riga-and-all-latvia-alexander-honour-his-eminenes-80th-birthday>).

The completely self-contained and independent status of the Church (an autocephalous church) as provided in the draft law will reinforce the role of the Church and promote the cohesion of Latvian society based on the values enshrined in the preamble of the Constitution of the Republic of Latvia.

2. The Church is a religious organisation registered in the Republic of Latvia, and it is organisationally autonomous and independent, and its secular status is determined exclusively by the legislation of the Republic of Latvia.

State institutions of Latvia treat the issue of the legal status of the Church exclusively from the perspective of the legislation of the Republic of Latvia, without prejudice to the association of canonical rights and with respect to the freedom of religion enshrined in Article 99 of the Constitution of the Republic of Latvia.

3. The draft law corroborates the complete self-containment and independence of the Church, its status as an autocephalous church and disassociates it from influence exerted by an aggressor state – the Russian Federation – thus protecting the national security interests of Latvia.

3. Possible impact of the law on the state budget and municipal budgets

The draft law does not create additional demands on the state budget or municipal budgets.

4. Possible impact of the law on the existing legal framework

1. The draft law complies with the legal system of the Republic of Latvia and the Constitution of the Republic of Latvia. It respects and ensures the freedom of thought, conscience and religion enshrined in Article 99 of the Constitution (*see Judgement No. 2017-18-01 (26 April 2018) of the Constitutional Court*).

This draft law fully recognises and corroborates the status of the Church as a completely self-contained and independent church (an autocephalous church), as it historically existed *de facto* based on the 6(19) July 1921 Tomos and the Cabinet of Ministers Regulation of 8 October 1926 on the Status of the Orthodox Church.

2. The Regulation on the Status of the Orthodox Church, which were adopted on 8 October 1926 in accordance with Article 81 of the Constitution of the Republic of Latvia provided the following:

1) “The Latvian Orthodox Church enjoys the self-governance and self-determination rights to issue canonical instructions and law, to governance of the church, the church court and church finances as provided for in its canons” (Paragraph 2);

2) “The governing primate elected by the canonical assembly (the council) is the head of the Latvian Orthodox Church. The primate is completely independent from any pastoral power located outside of Latvia. As a representative of the apostolic hierarchical power, the primate shall hold the entirety of rights and spiritual power as set out in holy canon and the rules of the church in regard to the primate leading the independent orthodox church.” (Paragraph 5);

3) “All rights and matters of the local orthodox church which are in compliance with the laws of Latvia and which, under dependence from the All-Russia Orthodox Church were held by the primates, synod, consistories and other institutions, organisations and officials thereof, are recognised as belonging to the Latvian Orthodox Church, its governing primate, synod and other institutions, organisations and officials thereof according to canonical affiliation” (Paragraph 6) (*see: Regulation on the Status of the Orthodox Church. Valdības Vēstnesis, 11 October 1926, No.228*).

This status of the Church enshrined in Latvian legislation was in compliance with the Tomos issued to Jānis Pommers, archbishop of Riga and Mītava, on 6(19) July 1921 in accordance with decision No. 1026 of the Holy Synod of the Russian Orthodox Church and the Supreme Church Council (*see: Latvijas Pareizticīgas Baznīcas attiecības ar citām pareizticīgām baznīcām. Grām.: Rīgas un visas Latvijas Arhibīskaps Jānis (Pommers). Vol. 2. Svētrunas, raksti un uzstāšanās. Rīga: Labvēsts, 1993, p. 97-98*).

4. After the restoration of independence, the status of the Church was restored in negotiations between Viktors Skudra, Minister of Justice of the Republic of Latvia, and Metropolitan Yuvenaly, representative of the Moscow Patriarchate of the Russian Orthodox Church (*see: Drēģeris M. Par Latvijas Pareizticīgās Baznīcas tiesisko statusu. Jurista Vārds, 15 October 2019, No.41(1099)*).

On 11 August 1992 the Synod of the Moscow Patriarchate took a decision by which the 1921 decision of Patriarch Tikhon on the self-containment and independence of the Church, as well as its former name were restored, and on 22 December 1992 Patriarch of Moscow and All Russia Alexy II issued a Tomos to the Church in which he reconfirmed decision No. 1026 of 6(19) July 1921 by which Patriarch Tikhon granted independence to the Church (*see: ibid*).

The legislature of the Republic of Latvia has recognised the Church, which is continuing the operations of the church established in 1921, as a self-contained and independent church (legal entity) with all rights and obligations deriving from this status (*see: ibid*).

5. I attested to the legal position of the state of Latvia on the status of the Church on 4 October 2019 at Riga Castle, stating the following: “A fully functioning and independent Latvian Orthodox Church has been important for independent Latvia right from the moment of the Proclamation of the Republic of Latvia The Latvian Orthodox community of the independent and sovereign Latvia must have its own Orthodox church which functions in line with Latvia’s laws. Shortly after the Proclamation of the Republic of Latvia, Archbishop Jānis Pommers, and, after the restoration of Latvia’s independence, [Metropolitan Alexander] made sure that the Latvian Orthodox Church has full legal status and can be fully a functioning and independent church which is represented in all parts of the independent Latvia and

brings together all members of the Latvian Orthodox community (*President of Latvia presents Certificate of Merit to Metropolitan of Riga and all Latvia Alexander in honour of His Eminence's 80th birthday*. <https://www.president.lv/en/article/president-latvia-presents-certificate-merit-metropolitan-riga-and-all-latvia-alexander-honour-his-eminences-80th-birthday>).

5. Compliance of the draft law to Latvia's international obligations

The draft law is in compliance with Article 9 of the European Convention on Human Rights and Fundamental Freedoms (hereinafter – Convention) and Article 18 of the International Covenant on Civil and Political Rights.

As the European Court of Human Rights has highlighted on several occasions, the autonomy of religious communities is an integral part of pluralism in democratic societies. Thus, Article 9 of the Convention also provides for the personal autonomy of religious organisations and the obligation for the state to avoid any action that may ungroundedly violate this personal autonomy (*see Paragraph 80 of the judgement of 15 September of 2009 of the European Court of Human Rights in case "Miroļubovs and Others v. Latvia" (application No. 798/05)*). Concurrently, Article 1 of the Convention stipulates the obligation to all states to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, therefore in certain cases the obligation of the state to take action in order to ensure unimpeded exercise of the freedom of religion may also derive from Article 9 of the Convention (*see Paragraph 38 of the judgement of 3 February 2011 of the European Court of Human Rights in case Siebenhaar v. Germany (application no. 18136/02)*). Taking into consideration Latvia's obligation to protect the rights of religious organisations as prescribed in law (*see Paragraph 2 of Section 5 of the Law on Religious Organisations*), the draft law aims to corroborate the autocephalous status (full self-containment and independence) of the Church. Thus, by adopting this draft law, Latvia will fulfil its obligation to take action within the meaning of Article 9 of the Convention in order for the Church to be able to exercise its rights without external threats (*see Subpoints 9-10 of Point 1 of the Annotation*). It must be emphasised that the draft law does not affect the canonical rights of the Church and in no way restricts people's right to practice their faith and express their religion, therefore the provisions of the draft law cannot not be considered to be an infringement upon people's rights to freedom of religion.

6. Consultations held during the elaboration of the draft law

During the process of elaborating the draft law, consultations have been held with the Ministry of Foreign Affairs, the Ministry of Justice and national security agencies. In the course of elaborating the draft law, communication with the Church has been implemented and the Church has been informed of the position of the Republic of Latvia regarding its legal status, namely, that it is an autocephalous church.

The draft law has been discussed and supported by the National Security Council. It was discussed on 5 September 2022 in a meeting with the Speaker of the Saeima and the chairpersons of all parliamentary groups of the Saeima.

7. Enforcement of the law

Enforcement of the law shall be performed by the Chancery of the President of Latvia, the Ministry of Justice, the Enterprise Register and the official publication “Latvijas Vēstnesis” within the scope of competence of each respective body. All state and municipal institutions, as well as natural persons in their communication with the Church shall be obliged to respect the information published in the official publication “Latvijas Vēstnesis” regarding the head of the Church, metropolitans, archbishops and bishops.

Following the coming into force of the law, the Church shall by 31 October 2022 harmonize its statutes with this law by making relevant amendments to the statutes, approving the new version of the statutes and submitting it for registration as per the procedure prescribed in the Law on Religious Organisations. Likewise, by 1 October 2022 the Church shall notify the Chancery of the President of Latvia about the incumbent head of the Church, metropolitans, archbishops and bishops in order for this information to be published in the official publication “Latvijas Vēstnesis”.

President of Latvia

Egils Levits