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Technical assistance and capacity-building

Written statement* submitted by Public Organization "Public Advocacy", a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[3 February 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



On the international recognition of the fact of violations of the rights of the Ukrainian Orthodox Church

The NGO Public Advocacy [1] is a human rights organization that protects human rights and freedoms in the field of religion, draws the attention of the UN Human Rights Council, representatives of UN member states to the fact of international recognition of violations of the rights of believers of the Ukrainian Orthodox Church.

In particular, based on the results of the 133rd session, the UN Human Rights Committee) [2] established:

45. The Committee is concerned at reports of violence, intimidation and acts of vandalism of places of worship in connection with the process of transitioning churches and religious communities from the Ukrainian Orthodox Church to the newly established Orthodox Church of Ukraine. The Committee is further concerned at the reported inaction of the police in such incidents and the lack of information on investigations conducted by the State party (art. 18).

46. The State party should:

(a) Guarantee the effective exercise of freedom of religion and belief, including by ensuring protection of places of worship against violence, intimidation and acts of vandalism; and

(b) Ensure that all cases of violence are thoroughly and promptly investigated and sanctioned.

Earlier, on October 30, 2018, 4 UN Special Rapporteurs[3] – the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on freedom of religion or belief addressed the government of Ukraine with a Communication urging to provide explanations about the facts of persecution of journalists of the "Union of Orthodox Journalists" covering the protection of the rights of UOC believers, as well as in view of the numerous facts of forcible seizure of UOC temples, acts of discrimination, incitement to violence during the Cross Procession, held in Kyiv on July 27, 2016.

Unfortunately, we have to state that despite all the above acts of international attention to the problems of violations of the rights of the UOC, there is an ongoing discrimination of this denomination in Ukraine by the authorities, while violations of the rights of believers are getting even more systemic and backed by the authorities.

For example, on December 20, 2018, the Parliament of Ukraine adopted Law No. 2662-VIII, which obliged more than 12,000 legal entities of the UOC to change their names and include in them information about their affiliation to a governing center in a state recognized in Ukraine as an aggressor state – the Russian Federation. In the event the UOC communities do not meet the requirements prescribed by this law, their statutes shall be considered invalid in terms of the name. It means that a legal entity is no longer able to conduct economic activities, since the registration authorities that maintain various state registers of real estate rights, banking institutions, notaries, and other state bodies do not have the right to refer to paragraphs of statutes of religious communities, which are invalid by virtue of the law. This strange and odious construction of the law “on renaming” is explicitly discriminatory, since it is aimed at identifying the believers of the UOC as belonging to the religious denomination of another state, with which Ukraine has more than tense relations. It is actually aimed at inciting enmity towards the believers of the UOC, whom the media, radical groups and offenders try, as much as possible, to link to Moscow, to stir up hatred both via attempted raider seizures of churches and giving reasons for other restrictions on the rights of believers of this denomination.

There is no doubt that, from the point of view of international law, believers cannot be forced to change names of their communities, which were assigned to them decades ago, which are included in statutes and used legally and without obstruction by the registration of rights. However, this law has not yet been repealed and seems to be in line with the political trend

of the Ukrainian authorities at this historical moment. Nevertheless, such a situation runs afoul of both the rule of law and common sense.

Let me furnish one more example of the effect of this law – from the moment of its adoption, not a single religious organization of the UOC can legally replace its leader, even in the event of death of the previous head of the community, since a new leader is considered to have taken office from the moment of entering this information in the State Register of Enterprises and Organizations of Ukraine. However, the administrators of this register – civil servants – massively refuse to carry out such actions, referring to the law on renaming. Moreover, no new religious organization of the UOC can be registered for the same reasons, because its name does not comply with this law, while the believers of the UOC do not want to give up their canonical identity. The situation is similar with the register of real estate: not a single community of the UOC can now secure the right of property or ownership of land, register rights to a temple or other real estate. The use of bank accounts, the conclusion of contracts with contractors for heating and electrification of churches is also questionable, since supplier organizations have the right to refer to the invalidity of the community's statutes due to their names and, as a result, may refuse to conclude service contracts. It should be noted that even if the believers of the UOC wished to comply with the requirements of this law, they would not be able to submit a statute to the registering authority indicating their affiliation with the Russian Orthodox Church, because we know cases when registering authorities require that such statutes should be signed by the Patriarch of Moscow in person. Let me reiterate that the believers of the UOC do not want to give up their names, and have the right to use them in accordance with their canonical identity, freely chosen and exercised by them. The right to freedom of religion includes the right to practice of worship, including the right to use the name of the community, chosen freely and without any coercion. However, there is no such possibility in Ukraine at present.

What kind of equal treatment of religious organizations in Ukraine can be discussed under such laws?

Therefore, I call on the UNHRC and other international structures to immediately respond to this overt and blatant act of discrimination against the multi-million Orthodox denomination in Ukraine with clear-cut criticism and an appeal to abolish this human rights violating act.

Ukrainian Orthodox Church, NGO(s) without consultative status, also share the views expressed in this statement.

[1] www.protiktor.com

[2] CCPR/C/UKR/CO/8

[3] UA UKR 4/2018