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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.

[30 January 2023]

* Issued as received, in the language of submission only.



The Unlawful Deprivation Of The Rights to Churches to The Ukrainian Orthodox Church Monastery Of The Kyiv-Pechersk Lavra

NGO Public Advocacy calls on the international community to respond to the high-profile case of the seizure of the Refectory Church and the Assumption Cathedral of the Holy Dormition Monastery of the Ukrainian Orthodox Church.

Case history: The Holy Dormition Kyiv-Pechersk Lavra (Monastery) of the Ukrainian Orthodox Church is the legal successor of the religious denomination that owned the churches of the Kyiv-Pechersk Lavra at the time of their confiscation by the Soviet authorities. According to the legislation of Ukraine, the state assumed an unconditional obligation to return to religious organizations, to the ownership or perpetual free use, cult property, which was recognized as state property after the establishment of Soviet power.

The regulation of the restitution obligations of Ukraine is provided for by Article 17 of the Law of Ukraine “On Freedom of Conscience and Religious Organizations”. A clarification of the application of this law was given by the arbitration court; in particular, according to the document of this court: “According to this law (Article 17 of the above-mentioned Law), religious buildings and property, which are owned by the state, are transferred by the organizations on whose balance they are for free use or returned into the ownership of religious organizations.

According to paragraph 3 of the Decree of the President of Ukraine dated March 4, 1992, No 125/92, the specified state bodies are obliged during 1992-1993 to transfer to religious communities the ownership or free use of cult buildings that are not used for their intended purpose”.

The Kyiv-Pechersk Lavra is a legal entity registered in Ukraine within the denomination of the Ukrainian Orthodox Church, which is universally recognized in Ukraine as the legal successor of the religious denomination that owned church property at the time of its confiscation by the Soviet authorities. Therefore, the temples of the Kyiv-Pechersk Lavra should have been transferred in a restitution procedure to the Ukrainian Orthodox Church on the basis of appropriate decisions of the state authorities, which were obliged to ensure the legally correct execution of such restitution rights.

Indeed, the authorized state bodies concluded an agreement with the Holy Dormition Kyiv-Pechersk Lavra (monastery) on the free use of the Refectory Church and the Assumption Cathedral; however, at the end of 2022, citing various reasons, the state enterprise National Historical and Cultural Reserve Kyiv-Pechersk Lavra, which had concluded these agreements on behalf of the state, informed the leadership of the monastery that the Ukrainian Orthodox Church could no longer use the Assumption Cathedral and the Refectory Church.

On January 1, 2023, the gates and doors of these shrines were closed to UOC believers, and very soon, on January 7, 2023, a service of another denomination – the Orthodox Church of Ukraine – was held in the Refectory Church of the Kyiv-Pechersk Lavra.

Our human rights organization initiated a public legal audit of this situation with a view to establishing whether the UOC's right to use the Assumption Cathedral and the Refectory Church was terminated, and if so, on what grounds.

In order to get answers to these questions, we initiated a campaign for UOC believers to send legal requests to the authorized state body for religious affairs – the Ministry of Culture and Information Policy of Ukraine, as well as the state organization that manages the property complex of the Kyiv-Pechersk Lavra on behalf of the state – the National Historical and Cultural Reserve Kyiv-Pechersk Lavra.

After analyzing the answers we received, we came to the following conclusions:

1. The legal entity of the Ukrainian Orthodox Church – The Holy Dormition Kyiv-Pechersk Lavra (Monastery) – is part of the confession of the Ukrainian Orthodox Church. From the moment of its foundation, this monastery sought to reclaim its ownership or use of churches historically belonging to the

Orthodox denomination. The state bodies of Ukraine satisfied the petitions of the monastery, transferring to it the churches and buildings that are part of the Kyiv-Pechersk Lavra complex, mainly on the rights of rent and free use. At the same time, the state reserves the owner's rights to these buildings, which actually testifies to the failure to fulfill obligations for the restitution of church property in full scope.

2. Despite the fact that the monastery of the Ukrainian Orthodox Church legally used the Assumption Cathedral and the Refectory Church and had an agreement signed with the National Kyiv-Pechersk Historical and Cultural Reserve "Kyiv-Pechersk Lavra" for the free use of these buildings – the reserve notified the leadership of the monastery that that the contract for the use of the Assumption Cathedral and the Refectory Church would not be extended and the services of the Ukrainian Orthodox Church would be terminated starting from January 1, 2023.
3. On January 1, 2023, the doors of the Assumption Cathedral and the Refectory Church were locked by the administration of the state enterprise and the faithful were not allowed into the temple to perform services.
4. On January 4, 2023, the leadership of the monastery addressed the central state body for religious affairs – the Ministry of Culture and Information Policy of Ukraine with a letter in which it confirmed that the monastery considers its contracts for the use of the Assumption Cathedral and the Refectory Church to be valid, and asks to give the opportunity to further perform worship there.
5. The Ministry of Culture and Information Policy did not provide citizens with any information about what decisions it made upon the monastery's appeal. At the same time, there were reports in the media that on January 7, 2023, a service of another confession, the Orthodox Church of Ukraine (OCU), would take place in the Lavra, since this confession received permission from the Ministry of Culture and Information Policy of Ukraine to conduct such a service.
6. On January 3, 2023, a letter was sent to the Ministry of Culture and Information Policy of Ukraine from the head of another religious denomination – the Orthodox Church of Ukraine with a request to provide the Assumption Cathedral for the Christmas service.
7. On January 7, 2023, a service of the Orthodox Church of Ukraine was held in the Assumption Cathedral of the Kyiv-Pechersk Lavra, which caused a wave of protest among the faithful of the Ukrainian Orthodox Church.
8. The documents obtained as a result of our legal audit – the correspondence of state bodies with various persons made it possible to establish that there was no written permission from the state body for religious affairs, issued in the name of any legal entity of the OCU at the time of the service of the Orthodox Church of Ukraine (January 07, 2023) in the Assumption Cathedral of the Kyiv-Pechersk Lavra.
9. One of the key facts in this case is the position of the state body for religious affairs – the Ministry of Culture and Information Policy of Ukraine and the manager of the Lavra complex – the reserve, which notified the citizens of Ukraine in their letters that they had not terminated the contract with the UOC monastery, but just no longer considered the issue of its extension until the completion of the inspection, carried out allegedly in pursuance of the decision of the National Security and Defense Council of December 01, 2022.
10. According to the correspondence received, substantiating the refusal to renew the contracts for the free use of property (we emphasize, not for rent), the state reserve referred to the fact that sanctions were applied to the head of the legal entity of the Ukrainian Orthodox Church – the party to the contract for the use of temples.

11. On November 23, 2022, the SBU searched the premises of the monastery of the Kyiv-Pechersk Lavra, the results of which were not made public in legal terms. According to publications on the SBU website and in the media as a result of searches, “People without documents, citizens of the Russian Federation, as well as Russian literature and large sums of money in hryvnias, dollars and rubles were found on the territory of the temples.”

Thus, the above evidence suggests that the state authorities of Ukraine have not properly fulfilled their restitution obligations to secure the rights of the Ukrainian Orthodox Church to the temples of the Kyiv-Pechersk Lavra. Moreover, without any significant reasons, the UOC monastery was deprived of the right to use the Refectory Church and the Assumption Cathedral, while at least one of these churches was immediately provided for the use of another religious denomination – the OCU.

We call on the UNHRC, the delegations of the UN member states to help restore the legal rights of the UOC monastery to its buildings and prevent further discriminatory actions against the Ukrainian Orthodox Church.

Please take into account our other statements during this session, which reveal in detail the facts of violations of the rights of the UOC.
