



# General Assembly

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## Human Rights Council

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Agenda item 2

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

### **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.

[28 May 2023]

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



## **Legal Problems of the Ukrainian Orthodox Church Highlighted in the Report of the United Nations Office of the High Commissioner for Human Rights**

Our organization has been informing UNHCHR about the concerns of the Ukrainian Orthodox Church for a long time. We want to thank OHCHR for the substantive information about the problems of the UOC in its latest report “Report on the human rights situation in Ukraine” dated March 24, 2023 [1]. In this report, OHCHR noted in particular:

110. During the reporting period, three draft laws in these areas were registered in Parliament. Draft law no. 8221 bans the Russian Orthodox Church, as well as the operations of religious organizations that are organizationally or canonically linked to it, and prohibits them from renting state or private property in Ukraine. The draft law also foresees banning the use of the term “Orthodox” in names of religious organizations not related to the Orthodox Church of Ukraine. OHCHR notes that due to vague legal terminology and the absence of sufficient justification, the limitations of the freedom to manifest one’s religion contained in the draft law cannot be regarded as “prescribed by law” and “necessary” within the meaning of article 18(3) of the International Covenant on Civil and Political Rights (ICCPR).

111. Draft law no. 8262 simplifies the procedure for the transition of religious communities from one religious organization to another by lifting certain formal requirements. It also includes provisions prohibiting religious organizations affiliated with decision-making centres in the Russian Federation from renting state and municipal property.

112. Draft law no. 8371 establishes a procedure for the dissolution of religious organizations with links to the Russian Federation. It refers to them as “religious organizations affiliated with influence centres, the management of which is located outside Ukraine in the country which carries out armed aggression against Ukraine”.

113. The SBU conducted searches (some of which it referred to as “security measures”) in several monasteries, offices, education facilities and other property of the Ukrainian Orthodox Church (UOC) in Kyiv, Rivne, Zhytomyr, Ivano-Frankivsk, Chernivtsi, Dnipropetrovsk, Khmelnytskyi, Cherkasy, Volyn, Kherson, Ternopil, Poltava and Zakarpattia regions. In some cases, SBU officers questioned several clergymen with the use of a polygraph. The SBU confirmed that at least three notices of suspicion were issued to UOC clergy – two under article 161 of the Criminal Code (violating the equality of citizens based on race, nationality, religious belief, disability or other grounds) and one with multiple charges including trespass against the territorial integrity and inviolability of Ukraine, and denial of the armed aggression of the Russian Federation against Ukraine. At least two suspects are under round-the-clock house arrest. OHCHR is concerned that the State’s activities targeting the UOC could be discriminatory. OHCHR also recalls the need to ensure that all those facing criminal charges enjoy the full spectrum of applicable fair trial rights.

In addition to the information in this report, we would like to inform OHCHR and UNHRC of some additional facts and circumstances:

1. As noted earlier, law enforcement agencies of Ukraine conducted dozens of searches in monasteries, eparchies and churches of the UOC, both as part of open criminal proceedings and as counterintelligence activities. Following these searches, the media reported the discovered literature and money, which may indicate illegal activities. We believe that many publications in the media, including on state resources, were biased and sometimes hostile towards the UOC, and should be qualified as hate speech and attempts to cast the believers of Ukraine as enemies. We are extremely concerned about the fact that posts on official law enforcement websites fuel such rhetoric and lead to new offenses against the UOC believers.

Such a disclosure in the SBU’s report, in our opinion, unequivocally triggers a hostile attitude towards the UOC believers in society. The SBU should have refrained from such public estimations until the judiciary delivers convictions against specific persons guilty of committing certain crimes. In the absence of such verdicts, as well as arrested persons, such rhetoric in official messages of the central security body has no other purpose than to set a public trend to condemn the very fact of the existence of the Ukrainian Orthodox Church.

2. Measures of unjustified criminal procedural coercion have already been applied to some UOC clerics. Moreover, the UOC clerics are accused of statements made in relation to the denomination, which is actually responsible for the seizure of churches, beatings of believers and other illegal actions.

Most of the accused UOC clerics spoke about the non-canoncity of clergy of another confession, and only the court can establish whether these statements exceeded the limit of value judgments, recognized by international law as part of freedom of speech. In other words, the law considers criticism, even harsh criticism, acceptable. Only exceeding the permissible limits involves liability. However, such liability does not always have to be criminal, hence to apply such measures as detention and arrest for value judgments and legitimate criticism is too severe a punishment that does not correspond to the gravity of the offense committed.

As of the day this application was filed, we got to know that within the framework of criminal cases, the abbot of the Kyiv-Pechersk Lavra, Metropolitan of the UOC Pavel (Lebed), was placed under house arrest, while the former head of the Kirovohrad eparchy of the UOC and his secretary had already been convicted by the court under Article 161 of the Criminal Code of Ukraine (incitement to religious hatred) and sentenced to three years in prison with a probationary period of 2 years for each [2].

We believe that placing people under arrest for giving their opinions, whatever they may be, is not an adequate measure of responsibility, even if they are guilty.

However, we want to draw attention to the fact that a huge number of criminal cases for hostile narratives by supporters of the opposite camp remain unpunished. There is not a single response of the authorities to hate speech of radicals, politicians, political experts, hierarchs of other faiths toward the clergy and believers of the UOC despite the fact that since 2015 the law enforcement system has received hundreds of applications to open criminal proceedings under the same article 161 of the Criminal Code of Ukraine!

Here is an example of a statement from the Ukrainian political analysts in relation to the UOC believers-participants in the religious procession: "It must be broadcast through all channels that all participants in the procession will be crucified behind the front line. Secondly, crosses should be placed on the roadsides in advance. The effect will be stunning." [3]

Here is a quote from another media program: "Believing Orthodox, you have little brain if you're members of Kirill's schism and bring money to this 'church', which then returns in bullets. Every person who is a member of this church is a member of Putin's Kremlin organization, which conducts broad anti-Ukrainian activities." [4]

Another example – during one of his sermons, Metropolitan Mykhailo Zinkevych of the OCU said with absolute impunity that "each candle bought in a UOC-MP temple is a bullet, which will then be used to kill a Ukrainian soldier."

We urge and ask the international community to protect the clerics and believers of the UOC from unreasonable prosecution for the rhetoric, whose criminality is controversial, given the more aggressive rhetoric from the opposing camp, which remains completely unpunished.

Additional material to this statement, as well as documents relating to the UOC, can be found at the link in the footnote [5]

[1] <https://www.ohchr.org/sites/default/files/documents/countries/ukraine/2023/23-03-24-Ukraine-35th-periodic-report-ENG.pdf>

[2] <https://www.gp.gov.ua/ua/posts/eksklerivnika-kirovogradskoyi-jeparxiyi-upc-mp-zasudzeno-za-rozpalyuvannya-mizreligijnymi-vorozneci>

[3] [https://antikor.com.ua/articles/112030-romanenko\\_predlohil\\_prigrozitj\\_uchastnikam\\_krestnogo\\_hoda\\_s\\_donbassa\\_raspjatiem\\_na\\_krestah](https://antikor.com.ua/articles/112030-romanenko_predlohil_prigrozitj_uchastnikam_krestnogo_hoda_s_donbassa_raspjatiem_na_krestah)

[4] <https://spzh.news/ru/zashhita-very/30259-lvovskiy-telekanal-zik-my-dolzhen-pokonchit-s-upts-kak-pokonchili-s-kommunistami>