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## Human Rights Council

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Agenda item 10

### 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.

[28 May 2023]

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



## **Discrimination and Unreasonable Sanctions against Believers of the Ukrainian Orthodox Church**

Our organization once again draws the attention of the UNHRC and the UN High Commissioner, who presented oral findings on Ukraine within the framework of this meeting, to the problems of believers of the Ukrainian Orthodox Church (hereinafter referred to as the UOC).

As previously reported in our statements at the 52rd and other UNHRC sessions[1], the UOC continues to suffer from violations of its rights. According to the so-called law “on forced renaming”[2], religious organizations of the UOC are required to change their names so that they include information about their affiliation to the governing center located in the aggressor state, i.e. the Russian Federation. Despite the fact that the UOC amended its Statute, that its bishops seceded from the governing bodies of the Russian Orthodox Church [3], the Ukrainian authorities did not consider these efforts sufficient to end the discriminatory policy towards the UOC. According to the expert opinion of the state body for religion, the UOC still maintains administrative ties with the ROC and is obliged to change its name.

We want to emphasize that the position of the defense of the UOC, given the stand it took after the outbreak of war in Ukraine, is that there are no ways to separate from the ROC other than those implemented by the leadership of the UOC within the possibilities provided by the founding documents of this denomination and canon law.

The dispute about the sufficiency of actions taken by the UOC to separate from the ROC cannot be resolved in legal terms, since this issue belongs to the realm of canon law and is not subject to legal intrusion. Modern law secures the full autonomy of churches by addressing matters of their internal structure and hierarchy, including subordination, - to doctrinal centers.

In terms of human rights, the issues of subordination, governance, and affiliation of religious organizations with each other do not involve legal liability for wrongful ideological influence, which, if even so, in no way relates to dogma and legal statutory activities. Therefore, any propaganda, influence or violation of laws by the clergy of a particular church should be considered through the prism of individual legal responsibility. In other words, UOC believers cannot be collectively responsible or accused of collaborationism for the actions or calls of separate hierarchs, since only those guilty of specific offences should be held accountable.

Hence, it must be underscored that the principle of the canonical or even legal or administrative relationship of the UOC with the ROC forbids any restriction of rights or discrimination against the UOC believers. However, this principle can work only if human rights are respected in Ukraine de facto, not only declaratively.

We believe that the international community should approach the situation of the UOC in Ukraine in terms of human rights violations (rather than its ties with the ROC), such as seizures of churches, beatings of parishioners, hate speech, public threats, persecution of believers, and other offences committed in the wake of the political and media "the UOC is Moscow" mainstream.

One needs to understand that amid the Ukraine-the Russian Federation armed conflict, the implementation by the UOC of the law “on renaming” by including the “ROC in Ukraine” words in the names of its communities will lead to the fact that the believers of this denomination will eventually be identified by the Ukrainian society, already heated by the war, as collaborators. Moreover, the fantasy of such identification is not subject to any legal procedure, but driven by the logic of blind hostility. True though, the UOC believers are offered the only alternative – to join the “Orthodox Church of Ukraine”, created by the Ecumenical Patriarchate, but what kind of religious freedom can we talk about in this case?

Consequently, the law “on renaming” has no legitimate legal purpose; instead, it destroys human rights, forms a hostile attitude towards the UOC believers in Ukraine, forces them to convert to another confession, and undermines the security of the state.

The same logic of pressure on the UOC applies to hundreds of church raids, often disguised as "voluntary transitions to the OCU", as well as the mass adoption of resolutions by state bodies "to ban the UOC" across a particular territorial unit – a district, city, village. It also applies to official decisions on the abolition of rights to previously allocated land plots, including those under already built temples.

For example, the Chernivtsi mayor made the following publication in his Telegram channel, "At the session of the city council, the deputies unanimously voted to deprive the UOC MP of the right to use more than twenty plots of land by the community.

This is a consistent and correct step. I believe that our actions will become an incentive for the transition to Ukrainian churches.

Let's liberate Ukraine from the occupiers on all fronts! Only in this way will we become free."

Local authorities in other regions of Ukraine follow the example of this official, and the seizure of land plots from the UOC has become widespread.

The pressure on the UOC agenda developed further into sanctions against its clergy. Thus, 14 UOC bishops were subjected to sanctions by the decision of the National Security and Defense Council of Ukraine. However, the fact that most of these bishops have Ukrainian citizenship makes it legally impossible to sanction them, since the state is obliged to bring its citizens to criminal, administrative or civil liability, rather than replace it with some "sanctions", which in practice completely abrogate human rights guarantees having been shaped by the modern legal system for decades. Now the state does not bother to start a trial and prove something, there is no longer a presumption of innocence and the right to a lawyer – it is enough to include people on the sanctions list to block whatever activity of the organizations run or founded by them.

One example of the replacement of legal liability mechanisms with actually illegal confiscation under the guise of "sanctions" is the blocking of economic activities of the companies associated with the deacon of the UOC, former MP of Ukraine Vadim Novinsky. For a long time, he acted as a patron of the UOC, actively defended the Church, and initiated a lawsuit on the recognition of the law "on renaming" as unconstitutional. Despite the fact that he was no longer the owner in a number of companies, the state applied simplified procedures bypassing the law to withdraw corporate rights from new foreign owners and forcibly register them for V. Novinsky, who is under sanctions [4]. It is easy to guess this was done to deprive the UOC of financial support from this philanthropist.

Therefore, we call on the UN HRC, the UN High Commissioner for Human Rights, special thematic rapporteurs, as well as other mandate holders and international organizations to conduct an in-depth study of the legislation of Ukraine on sanctions and the practice of its application in relation to the UOC clergy.

We ask the international community as early as possible to start all permissible procedures for protecting the rights of UOC believers within the framework of international law.

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

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[1] A/HRC/52/NGO/44, A/HRC/45/NGO/112,

[2] A/HRC/52/NGO/157, A/HRC/49/NGO/48,

[3] [https://orthodoxreflections.com/8-lies-told-by-enemies-of-the-ukrainian-orthodox-church/?utm\\_source=mailpoet&utm\\_medium=email&utm\\_campaign=the-last-newsletter-total-posts-from-orthodox-reflections\\_2](https://orthodoxreflections.com/8-lies-told-by-enemies-of-the-ukrainian-orthodox-church/?utm_source=mailpoet&utm_medium=email&utm_campaign=the-last-newsletter-total-posts-from-orthodox-reflections_2)

[4] <https://www.smart-holding.com/en/press-centre/news/2721/>

[5] [www.protiktor.com/eng/unhrc53session/](http://www.protiktor.com/eng/unhrc53session/)