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Racism, racial discrimination, xenophobia and related forms of intolerance: follow-up to and implementation of the Durban Declaration and Programme of Action

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.

[29 January 2024]

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



About Violence Against Believers of the Ukrainian Orthodox Church and the Expropriation of their Temples

We call on the UN Human Rights Council, representatives of UN member states, and special thematic rapporteurs to take urgent measures to protect believers of the Ukrainian Orthodox Church.

On November 20, 2023, the Nativity of the Most Holy Theotokos Convent of the Ukrainian Orthodox Church in Cherkasy was violently seized, with four believers brutally beaten and the UOC priest's jaw broken. The seizure of the temple was carried out by individuals in camouflage in the presence of police officers, yet none of the criminals was detained or held accountable (1). To date, several criminal cases have been opened based on complaints from UOC believers, and our human rights organization will monitor the effectiveness of these investigations. This is particularly important given that representatives of the UN OHCHR in Ukraine have already interviewed the victims and met with the leadership of the Cherkasy and Kaniv Eparchy of the UOC and with the lawyers of the believers.

On January 9, 2024, the Kazan Church of the UOC in the city of Ladyzhyn, Vinnytsia Oblast, was stormed, as reported by eyewitnesses: "the raiders used a forklift to break down the door leading to the sexton's room and rushed in... They dragged the believers down the steps, threw them to the ground and then chased them outside the temple grounds, pushing, hitting, and breaking their arms. Archpriest Yevheny Vorobyov's face was covered in blood. Following the men, women parishioners were taken out of the church" (2).

Over the years 2022-2023, we documented hundreds of cases of seizure of UOC temples similar to the cases described above, i.e., those accompanied by violence against the believers of this denomination, including by law enforcement officers (3). However, we could not find any instances of criminal prosecution or bringing charges against the perpetrators of crimes against believers of the UOC to the judicial stage.

It becomes evident that Ukraine is pursuing a systematic policy of destroying the Ukrainian Orthodox Church, the country's largest religious denomination embracing millions of believers.

As repeatedly highlighted in statements by our organization (4), discrimination and other violations of the rights of UOC believers are carried out systematically. This includes discriminatory decisions against religious organizations and believers at various levels of authority, as well as searches, arrests, and criminal charges against bishops, priests, and ordinary believers. It is noteworthy that sanctions were applied to UOC bishops by the decision of the National Security and Defense Council of Ukraine, approved by the President of Ukraine, on unspecified grounds. These sanctions include the inability for religious organizations led by sanctioned bishops (many of whom are de-jure heads of monasteries that own state property on the right of use) to lease or use state property.

Particular concern arises from the trend of authorities at various levels to initiate decisions on revoking the rights of UOC religious organizations to the land plots they own; decisions to terminate leases and grant free use of temples and other buildings; lawsuits to return temples, which were previously transferred to the Church under restitution, to state ownership. Instead, Ukraine has to fulfill its obligation to return confiscated temples, taken during the Communist power, to believers.

As we have previously informed the UN Human Rights Council, there are ongoing legal battles around the buildings of the Kyiv-Pechersk Lavra Monastery. The Ukrainian authorities have already transferred these temples, which were previously owned by UOC believers, to another religious denomination under the jurisdiction of the Ecumenical Patriarchate.

Similar actions are taken in relation to the St. Nicholas Church of the UOC in Kremenets (5). This ancient shrine was returned to the UOC under restitution, and from a legal standpoint, the action should be irreversible, i.e. it cannot be cancelled. However, Ukrainian state agents referred to documentary inaccuracies in their own prepared documents, revoked previous decisions on transferring the temple to the UOC, and expedited the transfer of this building to another denomination, the "OCU," under the jurisdiction of the Ecumenical Patriarchate.

A similar situation is unfolding in the Chernihiv region, where state authorities initiated the termination of the agreement for the free use of the buildings of the Yeletsky Convent of the UOC. This agreement was concluded in 2016 under the restitution procedure to the effect that the state transferred these buildings based on the legal grounds to "return cult property confiscated by Soviet authorities". However, in 2023, the government decided to reverse the previous decision, which is per se unlawful since restitution cannot be undone (cancelled). Nevertheless, hiding behind false legal concepts such as the "right to terminate the agreement" and the "state's ownership title", the Ukrainian state insists on the possibility of reclaiming what was previously returned to the Church.

Undoubtedly, in these cases, the purported grounds of the Ukrainian state authorities claiming ownership of this property should be qualified as fictitious. In reality, the presence of property titles with state authorities in the state registers can be explained by the fact that such titles were not transferred to religious organizations earlier under the restitution process. Likely, the international judicial system will have to consider cases of the Ukrainian Orthodox Church losing temples and other properties due to this massive unlawful expropriation, covered up by judicial decisions, convoluted and untruthful legal concepts promoted by the Ukrainian authorities at various levels. An assessment of these actions from the perspective of international law, in our opinion, should be provided promptly within the frameworks where it is permissible.

We also want to note that concurrently with attempts to deprive the Yeletsky Convent of its buildings, there were also attempts to seize the Holy Trinity and Transfiguration Cathedrals of the UOC in Chernihiv. According to the press service of the UOC, "On 5 October 2023, when the case was still being considered by the Economic Court of the Chernihiv Oblast, unknown persons in camouflage uniforms surrounded the Holy Trinity Cathedral, the Yeletsky Convent, and the Transfiguration Cathedral in Chernihiv and prevented citizens from entering those churches to pray and participate in divine services. After the police arrived, it was found that their actions were related to creating conditions for the sealing up of those cathedrals and premises of the convent by a commission of the Ministry of Culture and Information Policy of Ukraine. In turn, the lawyer who was defending the rights of the Chernihiv Diocese of the UOC was forcibly taken to a territorial centre for recruitment and social support (a military registration and recruitment centre). Without receiving the final decision of the court and the results of the appeal, the preserve 'Ancient Chernihiv' already demands the eviction of the nuns of the Yeletsky Convent and has warned that on 3 November, access to all church premises of the religious communities of the Cathedral of the Holy Transfiguration of the Saviour and the Holy Trinity Cathedral in Chernihiv will be closed" (6).

In light of the aforementioned facts, we express gratitude to Ms. Nazila Ghanea, Special Rapporteur on freedom of religion or belief, Mr. Nicolas Levrat, Special Rapporteur on minority issues, Mr. Clement Nyaletsossi Voule, Special Rapporteur on the rights to freedom of peaceful assembly and of association, for their communication dated November 8, 2023, addressing the issues of the Ukrainian Orthodox Church. The communication justly highlights the concern of UN Special Rapporteurs regarding the violations of the rights of UOC believers (7):

"Without prejudice to the accuracy of the abovementioned allegations, we wish to express our concern about an alleged pattern of harassment against the UOC and its believers, which appears to be related to the legitimate and peaceful exercise of their rights to freedom of religion or belief, to freedom of expression and to freedom of association enshrined in articles 18, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR) ratified by the state of Ukraine in 1973. In particular, we are concerned about this pattern of intimidation depicted by the abovementioned allegations targeting the UOC monastic community and believers to change their religious affiliation. This runs counter to the prohibition of coercion enshrined in article 18 of the ICCPR. We are also concerned about the resultant backlash (due to the calls to violence and administrative sanctions imposed on the UOC in general) that may be faced by UOC believers which effectively restrict their right to manifest their religion."

Given the presented facts, we call upon the UN HRC, Special Rapporteurs, the UN High Commissioner for Human Rights, representatives of diplomatic missions of UN member states, and international organizations to take measures to investigate the systematic violations of the rights of the UOC believers. We urge them to consider the possibility of applying personal sanctions and bringing to justice the Ukrainian officials responsible for implementing a destructive policy towards religious organizations in Ukraine.

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

(1) <https://news.church.ua/2023/11/20/ocu-supporters-brutally-beat-up-a-priest-and-uoc-believers-during-the-seizure-of-a-monastery-in-cherkasy-video/?lang=en#2024-01-27>

(2) <https://spzh.media/en/news/77945-video-of-raiding-uoc-church-in-ladyzhyn-beating-defenders-appears-online>

(4) A/HRC/53/NGO/107, A/HRC/52/NGO/44, A/HRC/53/NGO/135, A/HRC/45/NGO/112, A/HRC/52/NGO/157, A/HRC/49/NGO/48

(5) <https://spzh.media/en/news/77304-supreme-court-obliges-the-uoc-to-give-kremenets-cathedral-to-the-reserve>

(6) <https://news.church.ua/2023/10/29/the-court-could-not-agree-with-the-position-of-the-ministry-of-culture-a-statement-by-the-economic-court-of-the-chernihiv-oblast-on-the-situation-with-the-chernihiv-shrines/?lang=en#2024-01-27>

(7) Ref.: AL UKR 1/2023

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