

1. Applicant's Note

NGO “Public Advocacy”, is a Ukrainian non-governmental organization that defends human rights by means of monitoring and ensuring legal assistance to those who have suffered from violence and offences. In the years of 2015-2016 our organization together with the OSCE SMM conducted monitoring of rights and freedoms of believers of the Ukrainian Orthodox Church¹.

2. Confirmation of evidence of rights violations of the UOC by the OSCE Mission, Office of the UN High Commissioner for Human Rights, US State Department

2.1. Following the questioning of the aggrieved parties, examination of the court proceeding documents, as well as numerous contacts with representatives of the state bodies – heads of regional and district administrations, chiefs and staff members of the police and prosecutor's office, representatives of religious communities and activists – we found out a great deal of facts relating to violations of the UOC rights, namely: aggressive hate mongering with regard to the UOC from mass media and civil servants; public calls to mass murders and violence toward the faithful; bashing and use of force against believers by radicals and members of the “Kiev Patriarchate”; large-scale bashing by the state law enforcement officers with the use of special instruments of force influence; temple seizures; temple arsons; transfers of temples, owned or used by believers, to other entities under compulsion (also from functionaries); use of the church property which belongs to the UOC congregation on a rotational basis (so called “alternate worships”) with members of different denomination under compulsion (also from functionaries); non-compliance with court decisions on the transfer of temples and constructions which belong to the UOC; pressure on judges who consider cases upon the UOC applications; absence of effective police investigations upon applications submitted by the UOC community members; refusing state registration of structural units and religious organizations of the UOC; refusal to introduce changes into charters of the UOC religious organizations; refusing restitution of church buildings which were earlier confiscated from the Church by the Soviet power; refusals to grant property title for land plots; discriminatory repeal of benefits and tax haven (only in relation to the UOC); preparing and submitting to the Verkhovna Rada of Ukraine the bill on granting a special status to the UOC due to its “affiliation to the aggressor state” and in view of this establishing additional obligations to draw up individual agreements with authorities (draft law #4511); preparing and submitting to the Verkhovna Rada of Ukraine the bill which stipulates the right to administer a religious community by third parties (draft law #4128); preparing and submitting to the Verkhovna Rada of Ukraine the bill on compulsory inclusion into the titles of the UOC religious organizations of the information about affiliation of these organizations to the country, recognized by regulatory acts of Ukraine as an aggressor state (draft law #5309).

2.2. The above listed facts were subject to detailed analysis in the report made by NGO “Public Advocacy”². These facts were also verified by:

- A statement on the current stance with human rights in Ukraine over 16 November 2015 – 15 February 2016 by the Office of the UN High Commissioner on Human Rights³ (Para. 119-120);
- A report of the US State Department on religious freedom in the world of 2015⁴;
- Bulletins of the OSCE SMM during the monitoring period⁵.

3. Hate speech and incitement to perpetration of crimes with regard to the UOC believers

¹ www.protiktor.com/english

² The Report on violations of the rights and freedoms of religious organisations: Facts, Evidence and Claims Regarding Violations of the Rights of Believers and Religious Organizations of the Ukrainian Orthodox Church in 2014-2016: www.protiktor.com/english

³ http://www.ohchr.org/Documents/Countries/UA/Ukraine_13th_HRMMU_Report_3March2016_ru.pdf

⁴ http://news.church.ua/2016/08/12/v-gosdepartamente-ssha-soobshhili-o-narusheniyax-prav-veruyushhix-v-ukraine/?lang=ru,https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dynamic_load_id=256253&year=2015#wrapper

⁵ Information message of the OSCE mission on the results of observation of the grips of churches of the UOC and other conflicts in the religious sphere in Ukraine: www.protiktor.com/english

3.1. Hate mongering in relation to the Ukrainian Orthodox Church is regrettably of systemic nature and lacks due assessment by the state power bodies. Even direct calls to committing grievous offences with regard to the UOC believers do not lead to any response on the part of the law enforcement authorities.

3.2. For instance, deputies of Ternopol Regional Council make official and public decisions containing defamatory and discriminatory accusations of the UOC religious organization – the Holy Dormition Pochayev Lavra. In fact, one of the decisions made at the council sessions pointed to the following: “... the focal centre of anti-Ukrainian activity and inter-religious conflict... – the Pochayev Lavra of Holy Dormition. Under the “canonical” guise the Ukrainian Orthodox Church of Moscow Patriarchate actually intends to russify the Ukrainian population assisting the invaders.”

3.3. One cannot but mention the transfer by the government of Ukraine in the person of the Ministry of Culture of Ukraine of the worship building of Small (Warm) Sophia of the National Sanctuary “St. Sophia of Kiev”. Starting from 2010, the UOC has sought for this property transfer in furtherance by the state of Ukraine of its obligations on restitution of the earlier confiscated property; however, in 2016 the building was granted to the denomination of the Kiev Patriarchate without any legal foundation thereto. Herewith Minister of Culture Kirilenko made the following statement during his speech in the Verkhovna Rada of Ukraine: “For the first time in 330 years the Ukrainian Church has come back to St. Sophia of Kiev... We are ready for any public monitoring. As for the Ukrainophobic of all stripes who will raise hubbub around this event, may them calm down,” said the Minister⁶.

3.4. In July 2016 a peaceful procession was held in Ukraine – All-Ukrainian Cross Procession with over 80 thousand believers of the Ukrainian Orthodox Church participating in it. Despite a peaceful character of the religious procession, it was subject not only to discriminatory attacks, hate speech, forceful obstacles and other actions, including those characteristic of criminal offences, but also became a litmus test to reveal the actual attitude of certain civil servants to their citizens, as well as evidence to the inequitable and intolerant behavior.

Speaker of the Parliament Andriy Parubiy also made a statement with negative wordings relating to the Cross Procession’s participants: “Russian intelligence services are pulling in provocateurs in Kyiv under the guise of participants of the peaceful Cross Procession,” he said today in the morning at the Coordination Board. What he means is “so called cossack organizations and young men of athletic build, who were earlier involved in raider attacks and provocations with illegal seizures of churches, whose communities wished to make a voluntary change of jurisdiction and affiliation of their church.”⁷ Ukrainian political expert Yuriy Romanenko offered to broadcast at every Ukrainian TV channel that participants of the Cross Procession wing from Donbass are going to be crucified.⁸ On his Facebook page the following comment was posted: “Moscow priests intend to organize a cross procession from Lugansk and Donetsk People’s Republics to Kiev... How should we act? First of all, all channels must broadcast that beyond the front line all participants of the Cross Procession will be crucified. Secondly, crosses must be set up on the roadsides in advance. The effect will be mind-blowing.”⁹ Greek-Catholic military chaplain Nikolay Medinsky, giving his opinion¹⁰ on All-Ukrainian Cross Procession, called thousands of Orthodox Ukrainians “Russian rotten stuff”. “The nucleus of the “Russian world” in Ukraine is an activity of the Moscow church (the so called UOC)... (the blood of those who died at war and the war itself is on their conscience). And currently the “Russian world” from the East (Donetsk) – and “Russian rotten stuff” from the West (Pochaev) are heading for Kiev to pray for peace in Ukraine,” wrote Medinsky on his FB page¹¹.

4. Temple seizures, arsons and plundering

⁶ <http://uoj.org.ua/novosti/sobytiya/kirilenko-podtverdil-vozmozhnost-peredachi-tyeploy-sofii-kievskomu-patriarkhatu>

⁷ <http://strana.ua/articles/analysis/22182-krestnyj-hod-upc.html>

⁸ <http://news-front.info/2016/07/05/ukrainskij-politolog-prizval-raspyat-na-krestax-uchastnikov-krestnogo-xoda-s-donbassa/>

⁹ <https://www.facebook.com/yuriy.romanenko/posts/1142850369070026?pnref=story>

¹⁰ <http://raskolam.net/уніатський-капелан-назвав-православ/>

¹¹ https://www.facebook.com/permalink.php?story_fbid=1572923333001727&id=100008522259686

4.1. Over the period of 2014-2017 across the territory of Ukraine there have been undertaken over 70 open assaults of worship buildings which belong to the Ukrainian Orthodox Church, mostly in Rovno, Ternopol and Volyn regions. The precise number of conflicts which have not grown into forceful seizures is not known, however, they exceed several hundred incidents. A considerable part of raids ended up with an actual takeover of temples and their further transfer into disposal by religious organizations of the Kiev Patriarchate. Another part of worship buildings remains sealed, including upon the agreement of conflicting parties or by virtue of decisions taken by local authorities.

4.2. Despite numerous facts of filing applications by the UOC communities to the law enforcement authorities on perpetration of criminal offences against these communities such as “Preclusion of religious ceremonies” (Art. 180 of the Criminal Code of Ukraine), “Violation of citizens’ equality based on their race, nationality or religious preferences” (Art. 161 of the Criminal Code of Ukraine), “Illegal detention, desecration or destruction of religious sanctities” (Art. 179 of the Criminal Code of Ukraine), the above offences are not investigated. Although a juridical procedure was commenced to investigate not less than within 20 criminal proceedings, none of the persons has been brought to justice for over 2-year term of investigatory actions, including the cases when the aggrieved parties clearly identified the offenders.

4.3. Hence, the situation at hand enables to conclude the state has de-facto sanctioned impunity for committing the above crime categories in relation to the UOC.

4.4. The current situation of outspoken discrimination of the UOC and failure of the authorities to respond to overt cases of perpetrating crimes with regard to the denomination has led to a criminal upsurge relating to the UOC property. For example, in 2016 only in one Kiev eparchy the unknown persons committed acts of arson and desecration with 5 UOC temples. On 7 November 2016 the unknown trespassers set the church of St. Cyril and Methodius on fire in Pavlograd city of Dnepropetrovsk diocese. Three “Molotov cocktails” were hurled at the church building. In October 2016 Chancellor of Sarny diocese Metropolitan Anatoly of Sarny and Polesye addressed the President of Ukraine with a request to defend UOC temples in Rovno region against desecration and assaults of vandals. In 2015 year over 20 acts of vandalism and looting were committed in Rovno region. In all above mentioned cases culprits were never established and brought to justice¹².

5. Dynamic actions of the state power bodies on discrimination of the UOC rights

5.1. In an array of cases public authorities were openly supportive of the UOC-KP confession adherents in the conflict situations, resorting to a legal and forceful action in favor of the Kiev Patriarchate. In fact, in the wake of attempts to raid a church in Kutuy village of Kremenets district of Ternopol region, Ternopol Regional Council filed a suit to the court on withdrawal of the ownership of the Ukrainian Orthodox Church community in Kutuy village.

5.2. Additionally, after the beginning of the military strife in Ptichya village, Rovno region, a state body – the village council – made a decision to establish an alternate use of the church building together with the community of the Kiev Patriarchate despite the fact the UOC community had the property right to the building. After this decision had been cancelled by the court, law enforcement bodies initiated a criminal proceeding upon the risk of temple destruction by non-identified persons and applied to the court to arrest the temple building as evidence on the case. This request was satisfied by the court, as a consequence of which the temple was sealed by the law enforcement representatives with a view to prohibiting the temple owner – UOC community – to use their property.

5.3. An active position was taken by the state law enforcement bodies in Katerinovka village of Ternopol region, having employed rubber truncheons and physical force toward peaceful believers who had gathered to defend their rights and 14 of whom eventually suffered bodily damage, including fractured limbs and severe head injuries. Among the aggrieved were women, elderly people and

¹² Refer to the Reply of the UOC Chancellor dated 2016: <http://news.church.ua/2016/12/31/zvit-keruyuchogo-spravami-ukrajinskoji-pravoslavnoji-cerkvi-za-2016-rik/>

students. Upon these actions of the law enforcement authorities the prosecutor's office in Ternopol region opened a criminal case, which has not yet resulted in bringing any of the persons involved to justice.

5.4. Besides, an executive committee of Zhitomir city council "with a view to preventing clashes and conflicts between participants of civil assemblies" turned to the court having an intention to change the itinerary of the religious column of All-Ukrainian Cross Procession. The administrative court of Zhitomir resolved to decline the consideration of the legal claim of the executive committee of Zhitomir city council to Zhitomir UOC diocese on restrictions of the Cross Procession.¹³

5.5. 22.07.2016 Borispol city council adopted a decision "On prohibition of the Cross Procession of peace of the Ukrainian Orthodox Church (Moscow Patriarchate) through Borispol city». ¹⁴ Albeit this body is not empowered to restrict peaceful processions, this decision was subsequently used by the UOC opponents to create forced obstacles for the Cross Procession participants.

6. Draft laws restricting rights of religious organizations of the UOC and establishing additional obligations for religious organizations of this denomination

During the year of 2016 three draft laws (## 4128, 4511, and 5309) were submitted to the Verkhovna Rada of Ukraine, which foresee an introduction of a number of additional obligations for religious organizations of the UOC confession. At the same time similar obligations are not envisioned for other confessions. In particular, draft law #4511 stipulates an obligation of the UOC religious communities to draw up individual agreements with state bodies, as well as to receive a permit to elect (appoint) diocesan administrative staff. Bill #5309 binds religious organizations of the UOC to include references on "affiliation to the aggressor state" into their title. Draft law # 4128 unreasonably and in violation of the international law norms establishes the rights of residents of a particular populated area to administer communities within their populated areas irrespective of whether these persons are members of the community's administrative body. The above draft laws are geared at the discriminatory restriction of the UOC in the enjoyment of its rights and if adopted – will bear witness to the ungrounded intrusion of the state into the internal administrative mechanism of religious organization, leading de-facto to a legal obstruction of activities of the UOC religious organizations.¹⁵

7. Persecutions of journalists and human rights defenders

Advisor to the Minister of Internal Affairs of Ukraine Anton Gerashchenko, accused the UOJ of "an attempt to incite interfaith hatred in Ukraine." He published on his Facebook page the following information: "For those who want to clear the issue in question – how, why, and what for the UOC MP decided to arrange such a large-scale event – I recommend to study the background of the public organization "Union of Orthodox Journalists", which sprang up last autumn and which, since March of the current year, according to its most active member Viacheslav Pikhovshek, has affirmed that "a religious war in Ukraine is highly probable. My opinion is that it makes sense for the SBU and Foreign Intelligence Service of Ukraine to monitor the work of this public organization. "Peacekeeper" project has already listed this organization in the plan to scrutinize its role in trying to stir up interreligious hostility in Ukraine." he said.

Responding to A. Gerashchenko's comments, the UOJ declared that "This is a direct threat posed to the UOJ journalists and the freedom of speech they bear. Namely the threat! A lot of Ukrainians know perfectly well what the "Peacekeeper" site, supervised by Mr. Gerashchenko, is all about. Everybody remembers an innocent death of journalist and publicist Oles Buzyna and other people, whose data were published on this particularly "peacekeeping" resource," state the journalists..."¹⁶ Furthermore,

¹³ <http://rian.com.ua/society/20160719/1013361891.html>

¹⁴ https://www.facebook.com/permalink.php?story_fbid=943059639149596&id=715896135199282

¹⁵ <https://www.protiktor.com/english/>

¹⁶ <http://uoj.org.ua/spetsproekty/sobytiya/spzh-opublikoval-zayavlenie-v-svyazi-obvineniyami-v-razzhiganiy-mezhkonfessionalnoy-rozni>

at the beginning of 2017 residential and working premises of activists of All-Ukrainian Cross Procession, journalists, human rights defenders, who provide coverage of the UOC rights violation evidence by law enforcement bodies, were searched with the confiscation of PCs, communication facilities and documentation.

Arising from the aforesaid, we request UNO OHCHR and member-states of the 28th UPR session to take the abovementioned information into consideration, include it into materials of UNO OHCHR and:

- **to urge the state of Ukraine to ensure an objective and impartial investigation of acts of violence committed with regard to believers and religious organizations of the Ukrainian Orthodox Church and bring criminals to justice;**
- **to urge the state of Ukraine to revoke draft laws ## 4128, 4511, 5309. directed at the restriction of rights and establishing new obligations which discriminate religious organizations of the UOC;**
- **to urge the state of Ukraine to publicly condemn hate speech, illegal seizures of temples, damage and destruction of the property of the UOC religious organizations by radicals, members of the UOC Kiev Patriarchate and separate civil servants;**
- **to urge the state of Ukraine to recognize and ensure free exercise of the right of religious organizations and believers of the Ukrainian Orthodox Church to practice their religion, as well as to enjoy a full range of other rights within the existing identity, including with preservation of the canonical link with the Russian Orthodox Church of Moscow Patriarchate without any discrimination or defamation;**
- **to urge the state of Ukraine to ensure free activity, safety and security of human rights defenders, journalists and activists, who carry out the protection of human rights, and to raise awareness of the incidence of offences, including the developments and state of conflicts relevant to the Ukrainian Orthodox Church.**

Supplements (Reports, Legal opinions, relevant videos) are available at the link below:
www.protiktor.com/upr