

RELIGIOUS FREEDOM CONCERNS

STATEMENT BY THE EUROPEAN
ASSOCIATION OF JEHOVAH'S
CHRISTIAN WITNESSES

OFFICE OF GENERAL COUNSEL
WORLD HEADQUARTERS OF JEHOVAH'S WITNESSES

OSCE Human
Dimension
Implementation
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Ukraine

Jehovah's Witnesses are grateful that they enjoy legal registration and freedom of worship in Ukraine. At the same time, they are obligated to mention that there are some persistent human rights abuses that merit the government's action.

↓ **Law enforcement authorities** allow perpetrators of physical assaults and vandalism to victimize Jehovah's Witnesses with impunity.

When the Witnesses report a crime, police may arrive late, do little if any investigation, and minimize the crime. Even when a perpetrator is held liable, prosecutors and courts generally do not recognize the element of a hate crime—lessening the punishment for acts of religious intolerance.

↑ **Agencies of the Prosecutor's Office** initiated internal investigations concerning the Darnytsia, Shpola, and Uman National Police Departments, whose actions delayed the investigations of hate crimes committed against Jehovah's Witnesses.

↓ **Municipal and regional authorities** discriminate against the efforts of Jehovah's Witnesses to build their houses of worship, restricting their freedom of assembly.

↑ **The Ministry of Culture of Ukraine** confirmed that houses of worship of Jehovah's Witnesses are "religious sanctuaries" and "traditional places of worship."

Jehovah's Witnesses remain concerned over the inadequate response by police and prosecutors in some cases of religiously-motivated assaults and vandalism.

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Hate Crimes Perpetrated With Impunity—Physical Assaults

- 1. Uman, Cherkasy Region. On 30 September 2016**, a middle-aged man assaulted Jehovah's Witnesses twice. First, at 12:30 p.m., he smashed a mobile religious literature display of 52-year-old Oksana Matviyets. Twenty minutes later he smashed another display and inflicted one blow with a plastic pipe on the back of 67-year-old Olha Pop. The assailant was detained at the scene. The criminal investigation, conducted by the Uman Police Department, has been ineffective. Until now, the assailant has not been held liable.



Kyiv

Ms. Prypoten was stabbed with a knife by Ms. Kotkova on 21 January 2017

2. Kyiv. Since October 2016, Ms. T. Yu. Kotkova has committed a series¹ of aggressive attacks on Jehovah's Witnesses. She threatened them with murder, damaged property, and inflicted bodily injuries on the believers. The situation reached its climax on **12 January 2017**, when T. Yu. Kotkova, in front of many people, attempted to stab Ms. V. Klenina, who was sharing her religious beliefs with the use of a mobile display. Each time, after receiving crime reports,² the police neither detained the attacker nor conducted any official investigation. They stated that the assailant's actions lacked any element of crime.

On 21 January 2017, Ms. Kotkova attacked another Witness with a knife, while saying: "You irritate me! Sect! I hate you!" This time, aiming at the neck, she stabbed Lilia Prypoten in her shoulder.

Since this incident, Ms. Kotkova has committed 13 more attacks on Jehovah's Witnesses.³ The police have not instituted official investigations regarding any of these incidents. Rather, the Kyiv Local Prosecutor's Office No. 2 provided the following legal assessment of these attacks: "There are no facts indicating that a criminal offence was committed."⁴ The police concluded that Ms. Kotkova only needed "a psychological examination and treatment."⁵ Until now, the assailant has not been held liable.



Baranivka

Mr. Vorobey was beaten by Mr. Oleh Nikitchyn on 21 June 2017

3. Baranivka, Zhytomyr Region. On 21 June 2017, 66-year-old Yuriy Vorobey became a victim of an attempted murder. His coworker, 40-year-old Oleh Oleksandrovych Nikitchyn, in the previous months, repeatedly bullied the victim about his religious affiliation. The assailant hit the victim three times on his head with a wooden club. After that he seized him by his throat and attempted to strangle the victim so strongly that Yuriy Vorobey could not breathe. This continued for a few minutes. Mr. Nikitchyn accompanied his actions with the words: "Stundist!⁶ Saint! Why won't your brothers come to your rescue?" Fortunately, the attacker's objective was hindered by other individuals (coworkers).

That same evening the victim received professional medical help. He was diagnosed with numerous bruises on his head and body, torn wounds of the lips. In addition, all upper front teeth were knocked out; there were also hematomas from the attempts to strangle him. The investigation⁷ was instituted only for the intended minor bodily injuries (Article 125 of the Criminal Code of Ukraine). The motive of hatred was not

¹ The attacks took place on October 24, 25, November 29, December 1 and 5, 2016. Victims: N. S. Lukianova, A. Kozoris, T. Vantuh and V. Vantuh, L. Sevruk, Yu. Ottsevuch and O. Ottsevuch, V. Bilinevych and H. Bilinevych, and others.

² Reports about crime were submitted to three Police Departments in Kyiv City: Pecherskyi, Shevchenkivskyi and Darnytskyi. No official investigation was started in any of these cases.

³ The attacks took place on January 5, 12, 18, 19, 21, 22, 28, March 7, 10, April 24, 25, 29, and May 5, 2017. Victims: D. Chernysh, Yu. Sirozhova, L. Prypoten, V. Yaremchuk, K. Koval, A. Tkachuk, O. Starchevska. Reports of the crimes were submitted to Darnytskyi and Shevchenkivskyi Police Departments in Kyiv City.

⁴ Letter dated 1 March 2017 No. 31-17-17 by D. Verbytskyi, Acting Chief of the Kyiv local Prosecutor's Office No. 2.

⁵ Letter dated 14 February 2017 No. 3060/128/48/04-2017 by S. V. Chernyshev, the Head of the Darnytsia Police Department.

⁶ Since the time of the Soviet Union this word has been used as a derogatory name for believers who belong to so-called "non-traditional religions".

⁷ Unified Register of Pre-Trial Investigations (URPTI) entry No. 12017060110000199 and 12017060110000201; the case is pending under V. B. Blyndiuk, Senior Investigator of the Baranivka Police Department.

taken into account. The assailant, Mr. Oleh Oleksandrovych Nikitchyn, has not been held liable.

4. Khust, Zakarpattia Region. On 19 June 2017, Vasyl Rosenko and two other young men forced their way into the territory of the Kingdom Hall during a religious service. They threatened the group saying that they would blow up this religious building and shoot those in attendance. They also inflicted bodily injuries on 50-year-old Yaroslav Hohidra and 45-year-old Rostyslav Skundzia. The police ignored numerous calls and arrived at the scene only an hour and a half after the first report about the crime. No measures have been taken to search for the offenders. Because of this the offenders calmly and easily left the area unpunished. Until now, no investigation has been started.

5. Drohobych, Lviv Region. On 1 May 2017, a local resident of Mykhail-evychi village, Drohobych District, knocked elderly M.M. Kulynych off her feet with a blow of his fist to her face. The victim was going home after her religious ministry. The assailant accompanied his actions with insults. According to the conclusions of the forensic medical examination, the victim sustained minor bodily harm. However, **on 20 May 2017**, A.P. Zhuk, investigator of the Drohobych Police Department, closed the investigation because the injuries sustained were “insignificant.” The local prosecutor reversed this decision and assigned additional investigation but refused to reclassify it as a hate crime. The investigation continues, with no results.

6. The number of assailants who have not been held liable at all for committing violent assaults on Jehovah’s Witnesses continues to grow each year.

↘ **O. S. Dubenko** (physical assault/Lviv/2016)

↘ **Nekrasov** (physical assault/Pryvillya/2016)

↘ **O. M. Sokolenko** (physical assault/Uman/2016)

↘ **I. L. Vyrvykishka** (physical assault/Kamyanka/2016)

↘ **O. Sevriukov** (physical assault/Melitopol/2014)

↘ **O. P. Greku** (physical assault/Komyshivka/2012-2014)

↘ **D. Kharakoz** (physical assault/Mykolayiv/2014)

↘ **R. Ivanov, A. V. Dovhan, and Ye. V. Ihlinskyi**
(physical assault/Stryzhavka/2013)

Vandalism of Houses of Worship

Shpola, Cherkasy Region. Since September 2016, the local Kingdom Hall has been intentionally attacked seven times.⁸ In January 2017, this religious building was attacked by rock throwing, shots from an air gun, and self-made explosives. One day a note was left by the Kingdom Hall with the words: “HATE JUDE” 88 and a fascist swastika. In this case, damages amounted to UAH 4,000 (170 USD).

The victims were compelled to go to court because the police refused to start any criminal investigation, and the crime remains unsolved.

Denial of Zoning Permits

1. Village of Zavalia, Kirovohrad Region. In July 2015, the local religious community was granted the approval for developing the house of worship design on its own land plot. However, the construction was never started because the Kirovohrad Regional Department of State Architect-Building Inspection (DSABI) five times dismissed the Declaration on the Commencement of Construction. Then, on 23 March 2016, the DSABI revoked the approval for developing the house of worship design, alleging that the “land zoning does not comply with the intended construction.”

On 27 December 2016, the Kirovohrad Circuit Administrative Court reversed the DSABI decision, but on 13 June 2017, the Dnipropetrovsk Administrative Court of Appeal upheld the DSABI decision. A cassation appeal has been filed.

2. Town of Tetiiv, Kyiv Region. As far back as January 2013, the local religious community received the district architect conclusions that building a Kingdom Hall of Jehovah’s Witnesses, a house of worship, on its own land plot at 8 Yaroslava Mudroho (Voroshylova) Street complies with the town’s development plan. The town executive committee also approved the construction. On 16 September 2014, the Kyiv Regional DSABI registered the Declaration on the Commencement of Construction. On 24 December 2014, the construction was completed. However, the Tetiiv Town Council Department of SABC (Tetiiv DSABC) has six times refused to register the building for use.

On 17 March 2017, the Tetiiv DSABC accused the local community of Jehovah’s Witnesses of improper use of the land plot and obligated it to get the rezoning permit by the local authorities. On 11 April 2017, the Tetiiv DSABC fined the community 144,000 hryvnias (5,500 USD) and its head 8,500 hryvnias (330 USD) for “providing untrue information in the declaration.”

⁸ The attacks took place on September 5, December 9, 22, 23, 2016, January 9, 22, 24, 2017.

On 19 June 2017, the Bila Tserkva City-District Court, Kyiv Region, reversed the Tetiiv DSABC accusation and its fines, declaring that the rezoning permit for the land plot by the local authorities was not needed. This decision was appealed by the Tetiiv DSABC and has not become effective.

Jehovah's Witnesses faced similar obstacles in the village of Onufriyivka, Kirovohrad Region (45 Nazarenko St.), in the village of Obuhivka, Dnipropetrovsk Region (116 Lenina St.), and in the village of Magdalynivka, Dnipropetrovsk Region (2 Naberezhna St.). In the above three cases, DSABC reversed the documents permitting the construction after the completion of the construction works. They also accused the religious communities of "unauthorized construction."

3. Local registrars of the State Service of Ukraine for Geodesy, Cartography, and Geokadastr differently apply the law, allowing Jehovah's Witnesses to change the target use of their own land plots within the same land category for residential and communal buildings. While some registrars grant respective applications by the communities of Jehovah's Witness seeking such change, others refuse them and demand that they get the rezoning permit by the local authorities. Refusals were received in:

- ✎ **town of Mykolaiv** (Lviv Region)
- ✎ **village of Velyka Lepekha** (Kherson Region)
- ✎ **village of Babyntsi** (Kyiv Region)
- ✎ **village of Topchyno** (Zakarpattia Region)
- ✎ **village of Rozhniv** (Ivano-Frankivsk Region)
- ✎ **village of Mykulyntsi** (Ternopil Region)
- ✎ **village of Magdalynivka** (Dnipropetrovska Region)
- ✎ **city of Kharkiv**, villages of Zasilia and Vradiivka (Mykolaiv Region)
- ✎ **village of Holovanivsk** (Kirovohrad Region)
- ✎ **village of Vyhoda** (Odesa Region)

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Meetings with State Architect Building Inspection/ Council Departments

1. On 28 March 2017, the branch office representatives met with the Tetiiv DSABC and highlighted the fact that the construction of the Kingdom Hall was authorized and that the alleged errors of the state officials should

not be corrected at the expense of the individuals, who conscientiously relied on the legitimacy of the actions of the officials. The Tetiiv DSABC fined the local community as mentioned above.

On 6 April 2017, the branch office representatives visited the Head Office of the DSABI of Ukraine and filed an application, seeking legislative explanations on demands of the Tetiiv DSABC. **On 20 April 2017**, the Head Office of the DSABI informed them of the internal examination of the actions by the Tetiiv DSABC. Yet, no information on the results of this examination has been received.

On 5 July 2017, Witness representatives visited the Tetiiv Town Mayor, R.V. Mastruk, and acting chief of the Tetiiv DSABC, H.M. Polishchuk, to discuss the **19 June 2017**, Bila Tserkva District court Decision, which states that no rezoning permit for its own land plot was needed. The officials were also provided with the local geokadastr registrar decision, dated 26 June 2017, confirming the right of the community of Jehovah's Witness to change the target use of its own land plot without the permits by the local authorities. Though the Tetiiv Town Mayor promised not to appeal the district court decision, the appeal was filed.

2. **In March 2017**, a representative of the European Association of the Jehovah's Christian Witnesses and a branch office representative visited the Dnipropetrovsk Regional DSABI, Dnipropetrovsk and Kirovohrad State Administrations, and the heads of the villages of Obukhivka and Magdalynivka. The objective of these visits was to overcome the interference with regard to putting into operation the constructed Kingdom Halls in the above villages and in the village of Onufriivka. Though the visits were positive, nothing has changed.

At the same time, on **29 March 2017**, S.M. Bem, the Head of the Kirovohrad Regional DSABI refused to meet regarding the above matter.

3. **In order to discuss** the guaranteed legal right, according to which the communities of Jehovah's Witnesses have the right to change the target use of their own land plots (within the land category for residential and communal buildings) without getting the rezoning permits by local authorities, the branch office representatives visited local registrars of Geokadastr, as well as regional and national Geokadastr officials.

On 16 June 2017, the branch office representative visited the head registrar and the chief of the Legal Department of the Mykolaiv Regional Geokadastr. Both officials confirmed that a community of Jehovah's Witnesses is allowed by law to choose the use of its own land (within the land category for residential and communal buildings) without getting the rezoning permits by local authorities. Despite this, two respective applications submitted by local communities of Jehovah's Witness in Zasilia and Vradiivka have been dismissed.

On 12 May 2017, the branch office representatives visited the Head Geokadastr Office but were not allowed to meet with its principal officials.

On 6 June 2017, in response to the letter of the branch office, acting chief of the Head Geokadastr Office stated that in his opinion, communities of Jehovah's Witnesses are not entitled to change the target use of their own land plots without the permits by local authorities.

Positive Developments

- 1. The Ministry of Culture of Ukraine** has confirmed that religious buildings of Jehovah's Witnesses are "religious sanctuaries." This fact was stated in the Ministry's letter dated **18 May 2017**: "Religious buildings of Jehovah's Witnesses are traditional places of worship where, typical for this religion, ceremonies are conducted and they are viewed by the believers of this religious organisation as sanctuaries." Therefore, unlawful infringements upon the Kingdom Halls, such as placing obscene inscriptions and drawings should be classified under Article 179 of the Criminal Code of Ukraine (Illegal retention, desecration or destruction of religious sanctities).
- 2. Agencies of National Police** and Prosecutor's Office have activated last year pending investigations. The Agencies of the Prosecutor's Office initiated internal investigations concerning the employees of Darnytsia, Shpola, and Uman National Police Departments who procrastinated with the investigations of hate crimes committed against Jehovah's Witnesses. The progress of the pretrial investigation was taken under control, and the investigators received appropriate instructions.
- 3. Once again** the Human Rights Department of the National Police of Ukraine issued direction to the chiefs of the Regional Police Offices that investigation of the hate crimes should be mandatory and conducted in compliance with §11 of the Concluding Observations by the Human Rights Committee of the UN on the seventh periodic report of Ukraine (108 session, 8-26 July 2013).
- 4. The Supreme Administrative Court of Ukraine** supports international standards regarding the cases of refugees expecting religious persecution. **On 30 May 2017**, the Supreme Administrative Court of Ukraine upheld the decision reversing the refusal of the State Migration Service of Ukraine and recognizing citizen Saba Aliasghar Asadzadeh Totonchi as a refugee because of the threat of religious persecution if she returns to Iran. The Court applied the approach stipulated in the EU directives and the Handbook of the United Nations Office of the High Commissioner for Refugees regarding the appropriate and unbiased evaluation of facts in determining whether the applicant's fear of becoming a victim of persecution in the country of origin is "well-founded," without becoming real victims of such persecution.

On two occasions the courts dismissed charges against Jehovah's Witnesses concerning unauthorized religious activity in public places.

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- 5. On 23 September 2016**, the Desnianskyi District Court of Chernihiv City⁹ acquitted Larysa Rudniuk, who had been fined (USD 14) for preaching with a mobile display in a public place. Its ruling stated that the contested decision contradicted Articles 9 and 10 of the European Convention, as “the mobile displays with information about Jehovah’s Witnesses” are not “advertising structures, information-advertising posters, trading stalls, kiosks, pavilions or items of ritual merchandise.” Therefore, no permits are required.
- 6. On 16 November 2016**, the Zolotonosha Town District Court, Cherkasy Region,¹⁰ reversed the decision of the Administrative Commission of the Executive Committee of the Zolotonosha Town Council, dated 15 July 2016, penalizing Yuriy Hynda, one of Jehovah’s Witnesses, with a fine of (USD 14) for preaching in a public area. The Court acquitted the Witness and ruled that his religious activity did not require permission, as it did not constitute commercial activity.

⁹ Case No. 750/8401/16-; Proceedings No. 2-/750/781/16

¹⁰ Case No. 2-/695/68/16.

JEHOVAH'S WITNESSES RESPECTFULLY REQUEST THE GOVERNMENT OF UKRAINE TO:

- Investigate, prosecute, and appropriately punish vandals and hooligans who attack their houses of worship and harass and harm our members during their religious activity
- Eliminate the interference with constructing and occupying houses of worship, as has come from State Architect Building Inspection/Council Departments.

Representatives of Jehovah's Witnesses welcome the opportunity to engage in a constructive dialogue with representatives of the Ukraine government.

For more information: Please contact the Office of General Counsel of Jehovah's Witnesses at generalcounsel@jw.org.



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