

Enclosed information material is submitted by Public Organization "Public Advocacy"

Public Organization "Public Advocacy"



In consultative status with the United Nations Economic and Social Council

To:

HDIM 2019 Session 7

**OSCE
OSCE Member States
State of Ukraine
State of Montenegro
State of the Republic
of North Macedonia
International Organisations**

**ON VIOLATIONS OF THE RIGHTS OF ORTHODOX CHRISTIANS IN UKRAINE, MONTENEGRO,
MACEDONIA, KOSOVO, МЕТОHIЈА**

For full scope of documents and information see here: www.protiktor.com/42hrsession

Esteemed participants of the meeting,

NGO Public Advocacy¹ is a human rights organization that has special consultative status with the UN Economic and Social Council. We monitor the observance of the rights of religious communities and also protect these rights in cases where facts of their violations by states and non-state entities have been established, especially if such violations are systemic or political in nature.

Our statement concerns the situation of Orthodox Christians in Ukraine, Montenegro, Northern Macedonia, Kosovo and Metohija. It is in Ukraine, Montenegro and Northern Macedonia that we are witnessing unjustified interference by states in the religious sphere of life of our citizens, upon that such interference is aimed at discriminating support for religious structures backing the views and ideas, which in fact constitute an ideological foundation of political forces – power holders in the region. In all these countries, namely Ukraine, Montenegro and Northern Macedonia, the top-level state authorities and politicians were openly and publicly supportive of the following religious structures:

¹ www.protiktor.com

- In Ukraine: the Ukrainian Orthodox Church of the Kiev Patriarchate, the Orthodox Church of Ukraine (Holy Church of Ukraine);
- in Montenegro: the Montenegrin Orthodox Church;
- in Northern Macedonia: the Macedonian Orthodox Church.

Furthermore, in all the above countries, we recorded the offences committed with the support of state authorities in relation to believers:

- in Ukraine: the Ukrainian Orthodox Church being in canonical communion with the Moscow Patriarchate;
- in Montenegro: bishoprics of the Serbian Orthodox Church in Montenegro;
- in Northern Macedonia: Archbishopric of Ohrid of the Serbian Orthodox Church.

It should be noted that in Montenegro and Ukraine, bills² were introduced to the parliaments that are openly discriminatory and aimed at explicitly restricting rights and infringing on religious freedoms. These parliamentary initiatives are described in more detail in the relevant sections of this statement.

The facts presented in this statement were derived by us from the in-depth analysis, interviews with victims and representatives of religious organizations of these countries. The facts and conclusions brought to your attention are confirmed by the decisions of the Holy Synods and the official communiqué of the Orthodox Churches, which officially declared violations of their rights and expressed concern about certain key issues.

For ease of presentation, the problems of each region where our organization carried out its activity and where, in our opinion, effective assistance from the OSCE Participating States is required, are set out in the relevant sections of this statement. I also draw your attention to the fact that each section of the statement was included in the package of documents having been submitted to the UN Human Rights Council during 41st and 42nd regular sessions of this body, therefore, a summary of each of our thematic reports on Ukraine, Montenegro and Macedonia was published at the UN Documentation Center under the relevant code indicated in the footnote and each section of this statement³.

At the same time, from this rostrum, I would like to thank Ukraine and the newly elected President, Vladimir Zelensky, for the thaw in the attitude of the state towards the Ukrainian Orthodox Church. Despite the fact that violations of

² <https://www.protiktor.com/eng/opinion2622/> ; www.protiktor.com/MontenegroStatements

³ www.protiktor.com/42hrsession

believers continue, we cannot but note that their intensity has significantly decreased, particularly in cases when state agents appear as offenders. This is undoubtedly a positive trend. However, this is not enough to demonstrate to the world that Ukraine actually respects human rights and is ready to really stop persecutions of the Ukrainian Orthodox Church.

We believe that in order to fulfill international obligations on the protection of rights in its territory, Ukraine needs to cease the criminal prosecution of Archpriest Viktor Zemlianoy, who is accused of his human rights activities; those responsible for seizing the UOC temples and beating the believers in vlg. Katerinovka, Rozvazh, as well as many other villages, should also be held accountable, while the seized temples should be returned to the UOC believers.

The Parliament of Ukraine must immediately repeal the discriminatory law on the renaming of the UOC, which obviously violates the right to freedom of religion and imposes on believers an identity alien to their will.

Finally, it is necessary to show in practice an equal treatment of the state of all faiths and register amendments to the statutes of 14 monasteries and dioceses of the UOC⁴. Let me remind you that for more than 2 years, the UOC has been unable to obtain state registration and had to start legal proceedings in order to merely secure the rights of legal entity.

A few words about the Tomos which was issued by the Patriarchate of Constantinople under strange circumstances, i.e. either full or abridged texts of the decisions of the Holy Synod of the Patriarchate of Constantinople on granting the Tomos⁵ were never published, which raises doubts about the legitimacy of the decisions on granting autocephaly and bestowal of the Tomos to breakaway structures.

However, regardless of the legal assessment of the Tomos-related decisions, it should be noted now that the action of Patriarch Bartholomew to create a new autocephaly in Ukraine has increased tension in the country and exacerbated religious animosity. In fact, today a religious conflict is developing not only in the plane of raider seizures of the UOC temples, but also between the newly created OCU (Holy Church of Ukraine) and the UOC-KP, whose leadership and numerous clergymen have already given up their prior decision to move to the OCU, choosing to retain their previous status. Therefore, the idea of Tomos-granting has failed to win the support not only among the UOC, but also among the UOC-KP – a

⁴ <https://news.church.ua/2016/03/25/minkult-bolee-goda-ne-registriruet-ustavy-upc/?lang=ru>

⁵ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/179/14/pdf/G1917914.pdf>

denomination, whose members previously campaigned actively for the autocephaly and Tomos.

We believe that the above actions, if implemented, will really show that the new government in Ukraine has taken the path of repairing errors and violations.

Let's consider the thematic sections relating to each particular region or specific thematic issues:

Description of the contents of thematic statements of NGO published on the UN site <https://documents-dds-ny.un.org>

<p>Document number under the UN documentation system (just enter the document number in Google to open it)</p>	<p>The scope of documents (full texts of the first four statements are published below)</p>
<p>A/HRC/42/NGO/19</p> <p>ON VIOLATIONS OF THE RIGHTS OF BELIEVERS OF THE UKRAINIAN ORTHODOX CHURCH AND POSSIBILITIES OF ESTABLISHING RELIGIOUS PEACE</p> <p>Published below</p>	<p>The statement describes how the situation in Ukraine has changed since the re-election of the President of Ukraine. The political persecution of the UOC believers by the ex-President of Ukraine P. Poroshenko has abated, yet will the new President of Ukraine V. Zelensky protect democracy and religious freedom in Ukraine? The human rights NGO, which defends the rights of believers in Ukraine, has presented an action plan to the UNHRC on redress for the violation of rights of Christians in Ukraine.</p>
<p>A/HRC/42/NGO/20</p> <p>On tension in World Orthodoxy and official response of the Holy Synod of UOC to the growing violations of the UOC believers' rights in light of granting the Tomos of autocephaly</p> <p>Published below</p>	<p>The document contains references to the decisions of the Holy Synod of UOC, which recognize the facts of violations of the UOC believers' rights by the authorities in Ukraine: seizures of temples, mass non-registration of statutes of religious organizations, criminal prosecution of clergy, acts of discrimination.</p>
<p>A/HRC/42/NGO/21</p> <p>The Threat to the Right to Survival of the Churches</p>	<p>The persecution of the Orthodox in Montenegro and Ukraine has the same roots: the state seeks to illegally intervene in the religious sphere and impose on the</p>

<p>and Religious Communities in Montenegro</p> <p>Published below</p>	<p>believers a religious denomination being politically more “favorable” to the authorities. The statement cites decisions of the Legal Council of the Montenegrin Archdioceses of the SOC on this issue.</p>
<p>A/HRC/42/NGO/23</p> <p>On the positions of the Serbian Orthodox Church on the issue of Kosovo and Metohija as part of a dialogue of reconciliation and consent</p> <p>Published below</p>	<p>The statement contains the text of the communiqué of the Serbian Orthodox Church on Kosovo and Metohija. It highlights sufferings and the need for survival of the believers in Kosovo and Metohija, as well as the evidence of the destruction of Orthodox shrines in this region. The disagreement of the SOC with the separation of Kosovo from Serbia reflects the position of a large Orthodox community around the world supporting the SOC in this respect.</p>
<p>A/HRC/41/NGO/26</p> <p>On the victimization law on forcible renaming of 12,000 communities of the Ukrainian Orthodox Church</p> <p>Available by the link: www.proftiktor.com/41hrsession</p>	<p>The statement contains a legal opinion on the incompatibility with the norms of international law of the so-called “law on renaming” (Law of Ukraine “On Freedom of Conscience and Religious Organizations”). This law obliges all UOC religious organizations (about 12,000 entities) to compulsorily register changes in their statutes and indicate in them that they are affiliated with a religious center, registered in a state being recognized in Ukraine as an aggressor. Consequently, the law illegally stigmatizes Ukrainian citizens, believers of the UOC as members of the organization being hostile to the state. The law actually victimizes people, aims to divide society to create an atmosphere of religious animosity. Religious organizations of the UOC are forced by the authorities to give up historical names, while its believers are hampered to freely practice their religious identity, which is part of the right to freedom of religion.</p>
<p>A/HRC/41/NGO/24</p> <p>On violations of the rights of believers of the Ukrainian Orthodox Church by the actions of the Ecumenical Patriarchate of Constantinople and the responsibility of Patriarch Bartholomew for mass violations of human rights in Ukraine</p> <p>Available by the link: www.proftiktor.com/41hrsession</p>	<p>The statement contains an exclusive legal analysis of the decisions of the Patriarchate of Constantinople on granting the Tomos to Ukraine. In particular, it is established that the Constantinople Patriarchate concealed full texts of the decisions of the CP’s Holy Synod. The statement verifies and describes the relationship between violations of the rights of Christians in Ukraine and the decisions of the Patriarchate of Constantinople, as well as holds the leadership of this denomination to account for the emergence of a new wave of seizure of temples, discrimination and religious hatred.</p>
<p>A/HRC/41/NGO/19</p> <p>Impunity for human rights violations and abuses against human rights activists who defend</p>	<p>The statement describes the facts of violating the rights of human right activists defending the UOC believers. It provides an insight into the facts of their being charged with criminal offences, searched, including in connection with their efforts to protect the rights of believers.</p>

<p>Ukrainian Orthodox Church</p> <p><u>Available by the link:</u> www.protiktor.com/41hrsession</p>	
<p><u>A/HRC/41/NGO/19</u></p> <p>On the seizure and re-arrest of the church building located in the village of Ptichya, Dubno District, Rovno Region, Ukraine</p> <p><u>Available by the link:</u> www.protiktor.com/41hrsession</p>	<p>The statement describes the facts of violating the rights of human right activists defending the UOC believers. It provides an insight into the facts of their being charged with criminal offences, searched, including in connection with their efforts to protect the rights of believers.</p>
<p><u>A/HRC/41/NGO/23</u></p> <p>On the seizure and re-arrest of the church building located in the village of Ptichya, Dubno District, Rovno Region, Ukraine</p> <p><u>Available by the link:</u> www.protiktor.com/41hrsession</p>	<p>The statement describes a high-profile case of arresting and blocking worship services in the temple of the UOC religious community of Ptichya village, Rovno Region, Ukraine. The case is resonant, as the church was arrested by the decision of the authorities in criminal proceedings, despite the fact that the UOC community has ownership of the temple, repeatedly confirmed by the courts of Ukraine. The temple was eventually taken over by armed representatives of radical organizations.</p>
<p><u>A/HRC/41/NGO/22</u></p> <p>On violations of the rights of the Ukrainian Orthodox Church</p> <p><u>Available by the link:</u> www.protiktor.com/41hrsession</p>	<p>The statement describes some evidence of hate speech towards believers of the UOC in the documents of public authorities, high-profile cases of beating believers by the units of the Ministry of Internal Affairs in Katerinovka village, Ternopol Region; the cases of raider seizure of temples in the villages of Ptichya of Rovno Region and Kolomyia of Ivano-Frankovsk Region; facts of violations of the believers' rights during the All-Ukrainian Cross Procession. The text of this statement is regularly re-published in the UN system in order to draw the attention of the international community to these outstanding issues.</p>
<p><u>A/HRC/41/NGO/20</u></p> <p>Intimidation and reprisals of human rights defenders and Christians in Ukraine</p> <p><u>Available by the link:</u></p>	<p>The document contains a legal assessment of the criminal responsibility of the UOC priest, the head of the Human Rights Department of Rivne Eparchy of the UOC, Fr. Viktor Zemlianoy, who was persecuted for the protection of Christians in Ukraine.</p>

<p>www.protiktor.com/41hrsession</p>	
<p>A/HRC/41/NGO/21</p> <p>The need for counter-terrorism measures in Ukraine</p> <p><u>Available by the link:</u> www.protiktor.com/41hrsession</p>	<p>The statement reveals the participation of radical organizations in the persecution of Christian believers in Ukraine, including attacks on monasteries and the media. The State of Ukraine is urged to strengthen counter-terrorism measures in relation to radical structures, while the international community – to render comprehensive support to the State of Ukraine in this matter.</p>
<p>A/HRC/41/NGO/25</p> <p>On violations of the rights of Orthodox Christians in Ukraine, Montenegro, the Republic of North Macedonia</p> <p><u>Available by the link:</u> www.protiktor.com/41hrsession</p>	<p>The statement makes a summary of the trends and causes of violations of the rights of Christians in Ukraine, Montenegro and Northern Macedonia in view of the unequal policies of the authorities in relation to religious organizations. State support for a particular religious group and discriminatory diminution of the rights of believers of other faiths leads to the erosion of the rule of law and destroys the democratic foundations of civil society.</p>
<p>A/HRC/41/NGO/27</p> <p>The six-year anniversary of the Abducted Bishops of Aleppo</p> <p><u>Available by the link:</u> www.protiktor.com/41hrsession</p>	<p>The statement sets out the position of the leaders of the largest religious denominations in the Middle East due to the continued sufferings of the two archbishops, abducted in Aleppo and still held captive. The international community must bear in mind this tragedy.</p>
<p>A/HRC/41/NGO/193</p> <p>Voice from inside and outside of the Syrian civil society: Priority measures to ensure security and restoration in the Syrian Arab Republic</p> <p><u>Available by the link:</u> www.protiktor.com/41hrsession</p>	<p>At the request of Eastern Orthodox Churches and civil society in the SAR – refugees and migrants who want to rebuild an affected region – the NGO draws the attention of the UNHCR and the international community to the voice of Christian Eastern leaders and indigenous people seeking to convey to the international diplomatic audience their pain, hopes and suggestions for the future of the Middle East region.</p>

1. ON VIOLATIONS OF THE RIGHTS OF BELIEVERS OF THE UKRAINIAN ORTHODOX CHURCH AND POSSIBILITIES OF ESTABLISHING RELIGIOUS PEACE

Written statement submitted by Public Organization "Public Advocacy", a non-governmental organization with special consultative status, during 42th session of the UN Human Rights Council - [A/HRC/42/NGO/19](#)⁶

Since 2015 seizures of temples of the Ukrainian Orthodox Church, which is in canonical relation with the Moscow Patriarchate, have been ongoing in Ukraine. Only for the period from 2015 to 2017 years in Ukraine, more than 40 churches of the UOC⁷ were seized by force; in 2016, bills were submitted to the Ukrainian Parliament that substantially infringe on the rights of believers of this denomination⁸; from 2018 to 2019, with the direct support of the authorities and as a result of the influence of ex-president of Ukraine Petro Poroshenko, the persecution of believers of the UOC in Ukraine has become widespread and intense.

Despite mass protests of believers of the UOC, ex-president of Ukraine P. Poroshenko, in the period of 2018-2019, widely used the religious factor both in his election campaign and for the political and administrative support of the project called "Local Orthodox Church", a religious denomination created by the decision of Patriarch Bartholomew of Constantinople contrary to the position of the Russian Orthodox Church, the Serbian Orthodox Church, as well as the position of most hierarchs and leaders of other Local Orthodox Churches.

For instance, according to the *Communique of the Holy Assembly of Bishops of the Serbian Orthodox Church, Belgrade, May 9-18, 2019*⁹:

"The biggest problem of the Orthodox Church today is the Church schism in Ukraine and the failed attempt by the Patriarchate of Constantinople in resolving the problem "knee jerk", on its own initiative, without a dialogue with the canonical Church in Ukraine and with the Russian Orthodox Church as a whole and without pan-Slavic counseling. In this regard, the Assembly's present position remains: our Church does not recognize the newly established false-church structure in Ukraine, led by the citizens of Denysenko and Dumenko, and is only and exclusively in liturgical and canonical communion with the canonical Ukrainian Orthodox Church, led by His Beatitude Metropolitan Onufry, and with all the other canonical Orthodox Churches."

Similar are the positions of the hierarchs of other Local Orthodox Churches.¹⁰ According to the Statement of the Holy Synod of the Ukrainian Orthodox Church on the current situation in Ukrainian and World Orthodoxy dated April 3, 2019¹¹:

"We state that the idea of overcoming the church schism in Ukraine by granting the Tomos of autocephaly to the non-canonical church groups ("UOC-KP" and "UAOC") has turned out to be a grave error. None of the Local Orthodox Churches has recognised this illegal act perpetrated by the Patriarchate of Constantinople and a large part of the Local Churches, notably, the: Antioch, Russian, Serbian, Cypriot, Albanian, Polish, and Orthodox Churches in the Czech Lands and Slovakia, in various forms, have already expressed their disagreement with the decisions made by the Constantinople Patriarchate. Local Churches have also confirmed that they do not recognize

⁶ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/249/33/PDF/G1924933.pdf>

⁷ <https://www.protiktor.com/38hrsession/all-cases/>

⁸ [A/HRC/41/NGO/26](#); <https://news.church.ua/2018/12/20/the-verkhovna-rada-adopts-a-scandalous-draft-bill-regarding-the-renaming-of-religious-organisations/?lang=en>

⁹ http://www.spc.rs/eng/communique_holy_assembly_bishops_2

¹⁰ <https://spzh.news/en/news/63560-mitropolity-kipsrkoj-cerkvi-razyasnili-svoju-poziciju-po-ukraine>

¹¹ <https://news.church.ua/2019/04/03/statement-of-the-holy-synod-of-the-ukrainian-orthodox-church-on-the-current-situation-in-ukrainian-and-world-orthodoxy/?lang=en>

the newly established “Orthodox Church of Ukraine” (“OCU”) and regard the clerical Cheirotonia in this structure as illegitimate and prohibit its own clergy to have any prayerful contacts and liturgical concelebration with its representatives in any form whatsoever.”

An indisputable fact is that following the decision of Patriarch of Bartholomew of Constantinople, the number of seizures of worship buildings of the UOC has only increased; in fact, during the first two months after the signing of the Tomos by the Patriarch of Constantinople, more than 30 temples were seized from the Ukrainian Orthodox Church a month¹². As a result of large-scale violations of the rights of believers, the Holy Synod of the UOC issued several documents that actually hold the state authorities and Patriarch Bartholomew responsible for mass violations of the rights of believers¹³:

- pursuant to the decision of the Holy Synod of the UOC dated December 7, 2018: “To state that on the part of the state authorities, baseless criminal prosecutions are carried out and pressure is exerted on the episcopate, clergy and faithful of the Ukrainian Orthodox Church in order to force them to take part in the so-called unification council [Constituent Assembly on the establishment of a new Local Church]. To consider such actions as violation of the constitutional right of Ukrainian citizens to freedom of religion.”

- pursuant to the decision of the Holy Synod of the UOC dated April 3, 2019:

“We ask the state authorities not to interfere in church affairs, and thereby not contribute to the incitement of religious hatred through their actions, and to also cancel the requirements of the Law of Ukraine No. 2673-VIII of 17.01.2019 on the compulsory renaming of the Ukrainian Orthodox Church; as being unconstitutional and contrary to the norms of Ukrainian and international law and basic principles of human rights and freedoms. We also appeal to the government not to facilitate forcible seizures of our Church parishes by illegal re-registration. The Lord gives rulers power not for the creation of discord in society, but for the cultivation of peace, tranquillity and harmony among all citizens of the country.”¹⁴

- On behalf of the Holy Synod of the UOC, the head of the UOC Representation to European International Organizations, Bishop Victor (Kotsaba), made an open statement to the international community on the need to protect the faithful of the UOC.¹⁵

In addition, since 2015 communities and believers of the UOC have been regularly sending complaints to the UNHRC, as well as the UN Special Rapporteur on freedom of religion or belief, for which the UN Special Rapporteurs sent a Communication to the Government of Ukraine¹⁶.

Today, newly elected President of Ukraine V. Zelensky leaves some hope that the infringement of the rights of believers can be stopped and the new political power of Ukraine will be able to find a way to fight for human rights and ensure religious peace. In fact, the Cross Procession took place in Ukraine – a peaceful event in which over 300,000 believers of the Ukrainian Orthodox Church took part¹⁷. This significant event took place peacefully unlike the Cross Procession of 2016, when a lot of state authorities made legal decisions to prevent the peaceful procession from entering their cities, while believers were threatened with burning the buses which were to deliver them to this event. Numerous acts of public discrimination and defamation of participants in the Cross

¹²<https://vzcz.church.ua/to-human-rights-organisations/newsletter/?lang=en>

¹³<https://news.church.ua/2019/04/03/statement-of-the-holy-synod-of-the-ukrainian-orthodox-church-on-the-current-situation-in-ukrainian-and-world-orthodoxy/?lang=en>

¹⁴ <https://news.church.ua/2019/04/03/statement-of-the-holy-synod-of-the-ukrainian-orthodox-church-on-the-current-situation-in-ukrainian-and-world-orthodoxy/?lang=en>

¹⁵www.hrp.ngo

¹⁶<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24107>

¹⁷<https://spzh.news/en/zashhita-very/64085-velikij-krestnyj-khod-upc-i-khody-raskolnikov-kak-prazdnovali-kreshhenije-rusi>

Procession of 2016 made it clear to the whole world that the Ukrainian government does not respect human rights and is not able to defend democratic values in its society. With the election of a new government, the Ukrainian people are hoping for a change for the better by having given a high vote of confidence to the newly elected President of Ukraine, Vladimir Zelensky, and his party.

On the other hand, the previous actions of the authorities, controlled by the political forces responsible for the mass aggression against the UOC believers, had a significant impact on the behavior patterns of civil servants who got used to covering up crimes against the UOC.

Until now, despite the shift in power as a result of the presidential and parliamentary elections, the seizure of the UOC temples continues, as well as the persecution of human rights defenders protecting the UOC¹⁸. For example, according to paragraph 6 of the Statement of the Holy Synod of UOC:

“Of particular concern is the fact of the criminal prosecution of the cleric, Archpriest Viktor Zemlianoy, of the Rivne Eparchy of the Ukrainian Orthodox Church. For the first time during Ukraine’s independence, a priest who protects the rights of believers and freedom of religion is unreasonably prosecuted and accused of incitement to religious hatred.”¹⁹

Acts of overt and egregious violence toward the UOC believers have not ceased:

- On August 11, 2019, in the village of Galuzintsy of Derazhnia district, Khmelnytsky region, a group of radicals attacked an Orthodox priest and representatives of the local police while trying to seize the church.²⁰

- On Sunday, August 11, 2019, representatives of the Orthodox Church, singing "prayers" and led by their "priests", illegally entered the Holy Protection temple in the village of Bobly of Turiisk district, Volyn region, and began a fight directly in the church, reports the UOC Information and Education Department.²¹

Confrontations are the case in other population centers.

In the present situation, it is possible to put a stop to religious confrontations and ensure stability in the religious life of Ukraine by carrying out the following actions:

- to conduct a fair investigation of criminal cases opened upon statements of believers of the UOC on the facts of the seizure of their temples and other offenses;
- to ensure the return of the seized property to the UOC communities;
- to stop the politically motivated prosecution of the cleric of the UOC, Viktor Zemlianoy, against whom a criminal case has been opened for the implementation of legal human rights activities;
- to repeal the discriminatory amendments to the Law “On Freedom of Conscience and Religious Organizations” (Law No. 2662-VIII) on the forced renaming of the UOC communities;
- to ensure state registration of the statutes of 13 eparchies and monasteries of the UOC, which has not been carried out by the state of Ukraine for more than 2 years and caused the Kiev Metropolis of the UOC to appeal to the court;

¹⁸See our submission: A/HRC/41/NGO/19

¹⁹ <https://news.church.ua/2019/04/03/statement-of-the-holy-synod-of-the-ukrainian-orthodox-church-on-the-current-situation-in-ukrainian-and-world-orthodoxy/?lang=en>

²⁰ <https://spzh.news/en/news/64265-v-galuzincah-vo-vremya-shturma-khrama-radikaly-izbili-svyashhennika-i-policejskih>

²¹ <https://spzh.news/en/news/64267-v-sele-bobly-predstaviteli-pcu-srezali-zamki-na-khrame-i-izbili-verujushhih>

- to prosecute offenders, including radicals, who commit public seizures of the property of the UOC and open acts of violence against its believers.

We draw the attention of the UN Human Rights Council to the need for the international human rights mechanism to respond to the evidence and insistently affirm that the present situation offers a unique opportunity for peacekeeping.

Given that the UN Special Rapporteur on freedom of religion or belief as well as the UN Human Rights Council received numerous complaints filed by the believers and communities of the UOC in connection with specific offenses, the UNHRC has the right and should initiate discussion of the situation with a view to adopting a resolution on the issue of religious peace in Ukraine.

Making decisions on this issue as well as the attention of international structures to the present specific situation of Ukraine can become effective tools for real protection of human rights.

2. On tension in World Orthodoxy and official response of the Holy Synod of UOC to the growing violations of the UOC believers' rights in light of granting the Tomos of autocephaly

Written statement submitted by Public Organization "Public Advocacy", a non-governmental organization with special consultative status, during 42th session of the UN Human Rights Council - [A/HRC/42/NGO/20](#)²²

We draw the attention of the UN Human Rights Council to the statement of the Holy Synod of the UOC on the current situation in Ukraine and World Orthodoxy. The facts set forth in the document provide a realistic picture of the current situation of the UOC being affected by numerous offences, as well as the role of state power in committing acts of discrimination against the believers of this faith.

In particular, according to the statement of the Holy Synod of UOC:

The Holy Synod of the Ukrainian Orthodox Church at its April 3, 2019 session discussed the prevailing situation Ukrainian church life as well as in world Orthodoxy that has eventuated following the anti-canonical granting of the Tomos of Autocephaly to the newly created "Orthodox Church of Ukraine" ("OCU"), and hereby declares the following:

1. We state that the idea of overcoming the church schism in Ukraine by granting the Tomos of autocephaly to the non-canonical church groups ("UOC-KP" and "UAOC") has turned out to be a grave error. None of the Local Orthodox Churches has recognized this illegal act perpetrated by the Patriarchate of Constantinople and a large part of the Local Churches, notably, the: Antioch, Russian, Serbian, Cypriot, Albanian, Polish, and Orthodox Churches in the Czech lands and Slovakia, in various forms, have already expressed their disagreement with the decisions made by the Constantinople Patriarchate. Local Churches have also confirmed that they do not recognize the newly established "Orthodox Church of Ukraine" ("OCU") and regard the clerical Cheirotonia in this structure as illegitimate and prohibit its own clergy to have any prayerful contacts and liturgical concelebration with its representatives in any form whatsoever. Thus, there was neither positive response nor indeed acceptance by World Orthodoxy of the actions perpetrated by the Patriarchate of Constantinople which, in fact, has attempted to legalize the schism. Accordingly, the legalization of the schism is not the way by which church unity can be achieved. We remind you that according to the historical-canonical tradition of the Church, autocephaly is provided only to a single Church within a certain state, but not to any part that has broken away from the Body of the Church.

2. It must be admitted that the historical and canonical arguments presented by the Patriarchate of Constantinople regarding its own right and the possibility of interfering in the affairs of other Local Churches is totally unfounded, artificial, false, and contrary to the Church's

²² <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/249/37/PDF/G1924937.pdf>

canons. Accordingly, the Patriarchate of Constantinople does not have any right whatsoever to interfere in the church life of Ukraine. The actions and arguments of the Patriarchate of Constantinople, which illegally lifted the anathema from the chief culprit of the Ukrainian church schism, Filaret Denysenko and also recognized the hierarchy of the UAOC which does not have apostolic succession at all, testifies to the fact that the Phanar does not fully comprehend the true essence of what is happening in the Orthodox environment of Ukraine. In fact, Filaret Denysenko was not anathematized for seeking autocephaly, as stated by the Patriarchate of Constantinople, but for his immoral personal life, the grievous sinless instigation of a schism in the Church, the creation of a parallel schismatic hierarchy, and a quasi-church structure that, throughout its existence, has resisted and continues its struggle under another name against the canonical Ukrainian Orthodox Church (UOC) and even now threatens to destroy the unity between the Local Orthodox Churches.

3. It should be noted that the actions of the Patriarchate of Constantinople in Ukraine has caused great harm to Ukrainian Orthodoxy, and also became a threat to Pan-Orthodox unity. We believe that the Patriarchate of Constantinople and personally Patriarch Bartholomew must admit their mistake and start working on correcting it. A way to remedy their mistake could be to rescind the granting of the Tomos, call for the schismatics to repent of their sin of schism and convene a Pan-Orthodox Assembly in order to facilitate a conciliar decision which may help resolve the Ukrainian ecclesiastical issue.

4. Ecclesiastic reality in Ukraine illustrates that for Orthodox Christians, the Tomos did not bring along any unity, peace or respite as was promised by the initiators of this idea from church and state circles a year ago. Instead, the fruits of the Tomos became violence, conflict, confrontation, tears and suffering of the faithful of the Ukrainian Orthodox Church (UOC). All these things testify to the fact that the simple legalization of the schism did not change the schismatics themselves who remain hostile and aggressive to the Church. Only repentance and true awareness of their offences before the Church and their return into the bosom of the Church can bring true peace and unity in the church life of Ukraine.

5. Coercion, discrimination and violation of the rights of the faithful of the Ukrainian Orthodox Church have already been noticed by international human rights organizations. In particular, this was reflected in the latest report of the Office of the United Nations High Commissioner for Human Rights (OHCHR). These offenses, often supported by local authorities, discredit our country in the world. Violence, forced seizure of our churches and other unlawful acts will not lead to church unity in Ukraine. This is a false path to take and one needs to have the courage to recognize this mistake. We respectfully request that representatives of the ruling authorities to stop their artificial initiation of the change of jurisdiction of our parishes, since our clergy and parishioners do not have this internal desire. We believe that the campaign to defame the Ukrainian Orthodox Church, to prohibit the clergy of our Church to provide spiritual guidance to the army, to forcibly change the name of our Church and other similar anti-church actions are a strategic mistake of the authorities in the field of internal politics and stability in our country.

6. Of particular concern is the fact of the criminal prosecution of the cleric, Archpriest Viktor Zemlianoy, of the Rivne Eparchy of the Ukrainian Orthodox Church. For the first time during Ukraine's independence, a priest who protects the rights of believers and freedom of religion is unreasonably prosecuted and accused of incitement to religious hatred.

7. We ask the state authorities not to interfere in church affairs, and thereby not contribute to the incitement of religious hatred through their actions, as well as to cancel the provisions of the Law of Ukraine No. 2673-VIII of 17.01.2019 on the compulsory renaming of the Ukrainian Orthodox Church as unconstitutional and contrary to the norms of Ukrainian and international law and basic principles of human rights and freedoms. We also appeal to the government not to facilitate raider seizures of our Church parishes by their illegal re-registration. The Lord gives rulers power not to sow discord in society, but to cultivate peace, tranquility and harmony among all citizens of the country.

8. We appeal to the representatives of the newly formed structure – the “Orthodox Church of Ukraine” (“OCU”) with a request to remember the words of Christ that love for our neighbor is a sign of true Christians (*see* John 13:35). The more violence you show towards our believers today, the more distant the prospect of restoring church unity in Ukraine will be. The fact that you

seize our temples with the involvement of political, state, and sometimes even paramilitary structures, expelling our church communities into the street, forcing them to pray in the open air or in non-adapted premises, we perceive with Christian patience. “We are reviled, and yet we bless: we are persecuted, and suffer it. We are evil spoken of, and we pray” (1 Cor. 4:12-13). In this patience we humbly pray and await the time when Christian love will overcome hatred, malice and hostility, and we will be able to meet you on the threshold of the Church and hug you as brothers and sisters who have returned home.

9. We express our gratitude to those Local Orthodox Churches, which have already supported the canonical ecclesiastical order and did not agree with the legalization of the schism in Ukraine. We also thank those priests and believers who lost their temples which were seized, but still retained their loyalty to the Church. We call upon the clergy and the faithful of the Ukrainian Orthodox Church to help and support the priests and communities whose churches were forcibly seized, bearing in mind the words of St. Paul: “Bear ye one another’s burden and so fulfill the Law of Christ” (Gal. 6:2).

10. During these salvific days of the holy Great Lent, when we have already passed the half way point to the Holy and Bright Feast of the Resurrection of Christ, we ask everyone to pray that the Lord preserve the unity of Holy Orthodoxy, strengthen us to remain steadfast for the sake of the Truth of God, and bestow us peace, tranquility and mutual understanding in our Ukrainian state. May our Lord Almighty bless us all!²³

3. The Threat to the Right to Survival of the Churches and Religious Communities in Montenegro

Written statement submitted by Public Organization "Public Advocacy", a non-governmental organization with special consultative status during 42th session of the UN Human Rights Council - [A/HRC/42/NGO/21](#)²⁴

We draw the attention of the UNHRC to considerable complications by honoring the freedom of religious belief in Montenegro due to the Draft Law on Freedom of Religion or Belief which is being prepared by the Government of Montenegro.

In particular, at its 121st session held on 16 May 2019, the Government of Montenegro has determined the Draft Law on Freedom of Religion or Belief and Legal Status of Religious Communities in Montenegro. The text of the Proposal of the Law on Freedom of Religion or Belief and Legal Status of Religious Communities relies to a great extent on the text of the 2015 Draft Law on the Freedom of Religion, for which the five experts of the Venice Commission and OSCE/ODIHR prepared the Draft Joint Interim Opinion on 27 November 2015. On that occasion the Ministry of Human and Minority Rights of the Government of Montenegro withdrew the Draft Law on the Freedom of Religion from the procedure conducted before by the Venice Commission.

The term belief is mentioned in the title of the Draft Law and even 16 times in its text, but reading the text of the Proposal one can hardly grasp the meaning of belief and the right to freedom of belief. Although it is mentioned in the text that the Law among other things regulates the right to freedom of belief, any organizations that the citizens would establish for the purpose of expressing their freedom of belief would have a status of non-governmental organizations in compliance with the Law of Non-Governmental Organizations (Article 29 of the Draft Law).

Article 3 of the Draft Law contains a provision on legitimate limitations to freedom to manifest one’s religion or belief. The provision in Article 3 is not in compliance with the Venice

²³ <https://news.church.ua/2019/04/03/statement-of-the-holy-synod-of-the-ukrainian-orthodox-church-on-the-current-situation-in-ukrainian-and-world-orthodoxy/?lang=en>

For additional information see our submissions: A/HRC/41/NGO/26, A/HRC/41/NGO/24, A/HRC/41/NGO/19, A/HRC/41/NGO/23, A/HRC/41/NGO/22, A/HRC/41/NGO/20, A/HRC/41/NGO/25, A/HRC/41/NGO/21.

²⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/249/38/PDF/G1924938.pdf?OpenElement>

Commission/OSCE 2014 Guidelines on the Legal Personality of Religious or Belief Communities²⁵ (Part I, paragraph 5, as well as paragraphs 6, 7, 8 and 9), since the limitation of freedom to manifest one's religion or belief must be prescribed by law. Likewise, Article 3 of the Proposal Law does not contain the provision which states explicitly that limitation must not be introduced with the aim of discrimination, and must not be used in a discriminatory manner. The 2014 Guidelines (paragraphs 21, 32, 33 and 36) as well as the Venice Commission/OSCE 2004 Guidelines for Review of Legislation Pertaining to Religion or Belief (Part I and Part II – section G) state more than once that all the obligations and special conditions imposed on the religious communities and their members (primarily in terms of registration and obtaining the status of legal entity) need to be aligned with the universal and regional legal instruments on limitations of human rights.

In Article 6 of the Draft Law a religious community is defined as a non-profit association of persons belonging to the same religion, established for the purpose of public or private manifestation of religion. The word 'establish' implies that the religious communities are the communities to be established, and not those communities that were established in the past and have existed in Montenegro for centuries. The definition of religious communities is included in the 2014 Guidelines (para 1 and 17), in which it is stated precisely that religious communities are the communities that are recognized as autonomous legal entities within the national legal system.

The title of the Second part of the Draft Law (Registration and Records of Religious Communities) draws a distinction between the registration and records of religious communities. It is further stated that the religious community obtains the status of a legal person, i.e. legal entity after a decision is issued on its entry into the register of religious communities (Article 18) and that the active religious community, which already has the status of a legal entity on the date of coming into force of this Law, shall be entered into the Inventory of existing religious communities kept by the Ministry, by submitting an application for entry into the Inventory (Article 24).

In both cases, the Ministry of Human and Minority Rights, as a public authority, issues a decision as a single administrative act upon which a community is entered into the Inventory or Records of religious communities. The same registration procedure applies both to the newly established communities or the re-registration of the religious communities that are already active and already hold the status of a legal person, i.e. legal entity.

It means that this law is primarily aimed at liquidating those religious communities that already hold the status of a legal person and are active in the legal system of Montenegro. The purpose of such a distinction is to enable annihilation of the previously obtained legal status of religious communities. This can be confirmed by the fact that after the new Law enters into force the existing religious communities will be obliged to submit the application for registration, and the competent authority will bring a new decision on legal status which is to be entered into the Records of religious communities. It becomes clear that the communities that meet the criteria for recognition of their status should not be imposed with the obligation to undergo the same procedure again – since the annihilation of their status and obtaining it again interrupts the continuity of the legal personality of religious communities, which is how they actually receive less favorable treatment in comparison to other religious communities from the same group.

Provision contained in Article 25, para 3 of the Draft Law prescribes that a religious community with the religious center abroad, operating in Montenegro, shall obtain the status of a legal person in Montenegro upon entry into the Register or the Inventory. This provision discriminates against the religious communities having their religious center abroad, since their

²⁵www.protiktor.com/MontenegroStatements

status of a legal entity is not recognized the same way it is recognized to other religious communities which have existed and operated in Montenegro.

Article 19 of the Proposal of the Law stipulates that “the registration of a religious community shall not be mandatory” and that “religious communities decide freely whether they will request to be entered into the Register or not”. However, the following provisions of the Draft Law hinder the full realization of the voluntary opting of the religious communities to obtain legal personality. Namely, Article 28 of the Proposal of the Law makes a hard-and-fast division between “non-registered religious communities and the ones that are not recorded”, for which it is stipulated that they “shall not acquire or exercise rights which, in line with the legal order of Montenegro, belong exclusively to the registered or recorded religious communities”, and these are practically all the rights which are guaranteed to the religious communities under this Draft Law (Sic!).

Article 62, paragraph 1 of the Proposal of the Law contains the following provision: “Religious buildings and land used by the religious communities in the territory of Montenegro which were built or obtained from public revenues of the state or were owned by the state until December 1, 1918, and for which there is no evidence of ownership by the religious communities, shall constitute state property as cultural heritage of Montenegro.” Paragraph 2 of the same Article states that religious buildings, constructed in the territory of Montenegro before 1 December 1918 by means of joint investment of the citizens and for which there is no evidence of ownership rights, shall constitute state property as cultural heritage of Montenegro.

This provision, although unprecedented in the modern legislative practice of European states, is a classic example of confiscation of property held by the religious communities.

Provisions mentioned above are not based on any international instrument, nor on the Constitution or on the existing legislation of Montenegro.

It should be borne in mind that the provisions of Articles 62 and 63 of the Draft Law are aimed at depriving the religious communities of exercising their right to restitution and indemnification of assets that were seized from them under the communist rule after the Second World War. At this moment, religious communities are discriminated, because they do not have the right to receive restitution or indemnification for the property that was seized from them after the Second World War.

The Government of Montenegro is undoubtedly also accountable for the failure to fulfill international obligations to protect human rights on its territory due to numerous confrontations around church property, attempts to prevent hierarchs of bishoprics of the SOC in Montenegro from attending public services, attempts to seize church buildings by the non-canonical “Montenegrin Orthodox Church”, supported by the government (See A/HRC/39/NGO/2; A/HRC/39/NGO/1).

Owing to the above facts, we urge the UNHRC to use an international human rights mechanism to prevent violations of the right to freedom of religion or belief.

View also: www.protiktor.com/MontenegroStatements

4. On the positions of the Serbian Orthodox Church on Kosovo and Metohija as part of a dialogue of reconciliation and consent

Written statement submitted by Public Organization "Public Advocacy", a non-governmental organization with special consultative status, during 42th session of the UN Human Rights Council - [A/HRC/42/NGO/23](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/249/45/PDF/G1924945.pdf)²⁶

²⁶ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/249/45/PDF/G1924945.pdf>

We draw the attention of the UNHRC, as well as representatives of the UN member states and international organizations, to the position of the Serbian Orthodox Church (SOC) on the issue of international settlement of the situation in Kosovo and Metohija. The SOC unites millions of Christians and is a part of World Orthodoxy, therefore its voice should be heard by the international community, and the issues raised by this Church should be included in the agenda of bodies and procedures of the international human rights mechanism.

The communiqué of the SOC on Kosovo and Metohija is actually a direct appeal of civil society and its religious leaders to diplomats and international organizations, so let's really make this appeal a dialogue, the need for which is so often stated at all international levels.

We urge the UNHRC, UN special rapporteurs and international organizations to include representatives of the SOC in expert and negotiation groups as well as procedures that address Kosovo and Metohija issues so that their voices could be heard.

In accordance with the **COMMUNIQUE OF THE HOLY ASSEMBLY OF BISHOPS OF THE SERBIAN ORTHODOX CHURCH ON KOSOVO AND METOHIJA**²⁷:

“Gathered at the autumn meeting of the Holy Assembly of Bishops, we, the Bishops of the Serbian Orthodox Church, headed by His Holiness Serbian Patriarch Irinej, in these difficult times which our Church and the faithful are facing in Kosovo and Metohija, first of all, express our support to His Grace Bishop Teodosije of Raška-Prizren, his clergy, monastics and the faithful people of the Diocese of Raška-Prizren in their efforts to persist and remain in Kosovo and Metohija, the heartland of the Serbian Orthodox spirituality and our identity.

Furthermore, we express our concern due to the latest developments, especially many incidents, thefts and other forms of pressure targeted against our people. We remind the international and local political representatives that they are obliged to provide peaceful and dignified life for all citizens and not to allow any violence. We especially emphasize the importance of the presence and active role of the international peace-forces KFOR and the OSCE mission in accordance with the UNSC Resolution 1244, which must continue until normal living conditions have been established for all communities in Kosovo and Metohija.

On this occasion too, we reiterate the firm and unanimous position of all the members of the Assembly of Bishops of our Church, expressed at the annual meeting in May, that the full sovereignty and integrity of Serbia in Kosovo and Metohija cannot be questioned under no circumstances, as it is guaranteed by the Constitution of Serbia and the UNSCR 1244. For our Church, Kosovo and Metohija have never been nor can ever be only a political issue whose solving is under exclusive monopoly of the state authorities. For us, throughout our history and today, Kosovo and Metohija have primarily been a question of the survival of our clergy, monastics and the faithful people and especially of our ancient holy sites without which we would have never become what we are today.

As we cannot discuss the survival of our people, especially of the vulnerable majority of the Serbs living south of the Ibar River, without the preservation of our holy sites, we equally cannot discuss the preservation of our holy sites as cultural and religious monuments only, whose survival is allegedly possible without our congregation. Our holy sites have their deepest meaning solely as places of liturgical gathering of our people, not only of those from Kosovo and Metohija, but from all Serb-inhabited regions and the world.

Our obligations towards Kosovo and Metohija are more profound today, as we have been facing increasingly strong international pressures on our country to agree to renounce Kosovo and Metohija, either by a direct act of recognition of Kosovo or by a tacit approval of Kosovo's membership in the UN and other international organizations. Any signature which would

²⁷http://www.spc.rs/eng/communique_holy_assembly_bishops_serbian_orthodox_church_kosovo_and_metohija

ultimately enable recognition of Kosovo, participation in the UN or Serbia's renouncement of it in any form, would forever deprive Serbia of its historical rights to the area, so fundamentally important for our spirituality and statehood.

We are particularly concerned that under the disguise of the alleged "delimitation between Serbs and Albanians" there is a possibility of separation from Serbia – if not of all Kosovo and Metohija, then of its greatest and most important territory, which would lead to its recognition as a part of either independent Kosovo or even of the so-called Greater Albania. Consequences of such a decision would be tragic for the future of our people and our holy sites. In such a scenario the majority of Serbs, deprived of adequate protection and security, would be forced to flee their historical homeland, where an ethnic clean Albanian society would be established with even greater intensity, and with obliteration of all traces of our historical existence. The idea of the so-called partition or separation of the organic unity between the Serbs south and north of the Ibar River, as well as other Serbs no matter where they live, creates lots of uneasiness and grave concern amongst our people and does not enjoy support of the majority of Serbia's citizens and Serbs all over the world. Territorial partition is especially dangerous because it would inevitably mean the creation of ethnic clean territories, which would have unforeseeable consequences for the region, still painfully recovering from the suffering and destruction inflicted during the 1990s. For this reason, our Church has always supported building of a society in which peoples of different origin can coexist in peace, with full protection and respect of their religious, cultural and ethnic identities.

The Holy Assembly of Bishops is particularly concerned that since 2007, our Church has never been officially invited to express its suggestions on the protection of our holy sites, clergy, monastics and the faithful. For years we have been insisting on adequate protection of our holy sites because we have witnessed not only everyday blatant lack of implementation of the existing legal provisions (related to the elements of the "Ahtisaari plan" which were incorporated in the so-called Kosovo legislation) even in spite of international pressures, but we have also seen that local self-proclaimed Kosovo institutions continue with impunity the process which is aimed at the creation of ethnic clean Albanian Kosovo in which in the long run there would be no place for Serbs and other non-Albanian communities. Systematic non-fulfillment of the accepted obligations of Priština related to the Community of Serbian Municipalities and other obligations from the "Brussels dialogue" only confirms that in the current circumstances and with the existing behavior towards the Serbs it would be very hard to find a long-term solution. This by no means implies that our Church supports "a frozen conflict", on the contrary – we encourage a sustainable but carefully conducted dialogue which would primarily focus on the protection of human and religious rights, improvement of the rule of law, consolidation of the legal security and more efficient protection of the vulnerable spiritual and cultural heritage which would not depend on the self-will of the local Kosovo institutions, but would be regulated in a more comprehensive way with an international supervision and clearly defined mechanisms of implementation of the agreed principles of protection. It is also very hard to talk about any further dialogue without creating conditions for the return of the expelled Serbs, the protection and restitution of their usurped property. Abandoning this request would mean an approval of the post-war ethnic cleansing to be filed as a history. Without these preconditions, it is impossible to talk about a sustainable solution of problems in Kosovo and Metohija. For this reason, imposing hasty deadlines despite extremely unfavorable conditions on the ground and a very complicated situation in the European Union cannot be justified.

We call on the state representatives of the Republic of Serbia that instead of seeking hasty settlement of issues with Priština, they should pay more attention to the building of the state and national platform in the preparation of which all relevant factors of our society would interplay. Only this way would the basic interests of our people be preserved and the confidence of all crucial social counterparts in the land would be reestablished. At the same time, we need to continue to establish a rapport with Kosovo Albanians and all other peoples of good will who live in Kosovo

and Metohija, as well as in other parts of Serbia, because the future of the region primarily depends on the readiness and ability of all of us to live with one another in peace and mutual respect.

With the upcoming 800th anniversary of the Autocephaly of our Holy Church, it is of paramount importance that we all remind ourselves that the statehood of Serbia from its very establishment has been inseparably intertwined with the spiritual tradition of our Church as a crucial factor of our identity throughout the history.”

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Published for the OSCE during the HDIM, Warsaw, 2019.