

Religious Freedom Concerns

Statement by the European Association of Jehovah's Christian Witnesses

OSCE Human Dimension Implementation Meeting, Warsaw

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Recognition of the Right of Conscientious Objection to Military Service

In its 23 June 2015 decision, the High Specialized Court of Ukraine for Civil and Criminal Cases acquitted Mr Vitaliy Shalaiko of the charge of evading mobilization and upheld the right of conscientious objection to military service. State authorities are applying this decision in order to avert prosecutions of other Witnesses for their conscientious refusal of military service.

- For example, the Dnipropetrovsk Regional Department of the Ministry of Internal Affairs (MIA) of Ukraine has explained this decision to its subordinates.

Ministry of Internal Affairs Gives Support to Combating Hate Crimes

In **December 2015**, the Ministry of Internal Affairs (MIA) compelled its subordinate agencies to consider at all times the recommendation of the UN Human Rights Committee (22 August 2013, UN Document CCPR/C/UKR/CO/7, para. 11) regarding hate crimes. The Committee recommended that authorities thoroughly investigate, prosecute, and punish acts of ethnic, racial, and religious hate crimes under Article 161 of the Criminal Code of Ukraine (CCU), not merely treating them as acts of hooliganism. The recommendation specifically mentioned physical assaults and acts of vandalism targeting Jehovah's Witnesses.

In March 2015, the MIA had similarly directed that acts of vandalism must be classified under Article 178 of the CCU ("damage or destruction of a place of worship").

Ombudsman's Office Supports the Right to Freedom of Assembly

The Ombudsman's Office continues to work actively on behalf of religious rights.

- In her annual report for the Ombudsman's Office, Mrs V. V. Lutkovska repeatedly drew attention to the need for effective investigation of hate crimes. (See pages 306-307.)
- On **26 October 2015**, Mrs Lutkovska lodged a constitutional submission with the Constitutional Court of Ukraine concerning the non-conformity of Article 21 of the Law of Ukraine "On Freedom of Conscience and Religious Organizations." State authorities have repeatedly referred to Article 21 in order to restrict the rights of Jehovah's Witnesses to conduct religious services in rented premises.
 - On **16 March 2016**, the Constitutional Court of Ukraine began an examination of the Ombudsman's Office submission (Case no. 1-13/2016).
- On **24 December 2015**, following the intervention of the Ombudsman's Office, the Osytiazhka Village Council of the Kirovohrad Region revoked its decision barring the registration of "any religious organization except the Holy Kazan Icon of the Mother of God Orthodox Church." Jehovah's Witnesses have resumed their religious activity in the village.

Convictions for Hate Crimes

- (1) On **15 March 2016**, the Putyla District Court in Chernivtsi Region convicted I. I. Fedoroshchak, a priest of the Orthodox Moscow Patriarchate Church, under Article 125 of the CCU and obliged him to pay a fine of UAH 1,700 (about EUR 60). Mr Fedoroshchak had physically assaulted two of Jehovah's Witnesses on 7 April 2014. Though the priest was not charged with motives of religious hatred, he was punished for the violent assault.
- (2) On **26 March 2016**, the Supreme Specialized Court of Ukraine for Civil and Criminal Cases upheld the decisions of the trial court convicting O. M. Hahan, a priest of the Orthodox Moscow Patriarchate Church, under Article 161(1, 2) of the CCU for having committed hate crimes. In total, 13 of Jehovah's Witnesses, including elderly ones, suffered from the actions of this priest, who inflicted bodily injuries, threatened them with reprisals, damaged their property, and destroyed religious literature.
- (3) On **25 May 2016**, the Cherkasy Regional Court of Appeal upheld the decision of the trial court convicting P. P. Lehkodukh under Article 161(2) of the CCU for having committed a hate crime against two young female Witnesses on 3 June 2011.

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

Physical Assaults

In 2016, there were again incidents of religiously motivated acts of violence against individual Witnesses in which the perpetrators were permitted to act with impunity.

- (1) **Town of Chuhuiv, Kharkiv Region.** On the afternoon of **15 March 2016**, 67-year-old Tamara Barsuk and 62-year-old Vira Gyl were engaged in their volunteer activity of sharing a Bible message with others. As they were walking down the street, a man approached them and said: "I know that you are Jehovah's Witnesses. You should not be here!" Then he kicked Mrs Gyl in the buttocks. The women started to run, but he caught up to them and repeatedly punched and kicked them. He stopped only when the women lost consciousness. He also crumpled up their religious literature and scattered it on the street. Both women were hospitalized with concussion and suffered numerous injuries requiring intensive medical treatment.

The police apprehended the assailant but charged him only with inflicting bodily injuries, refusing to classify his actions as a hate crime. A criminal trial is pending, and the victims will again request that the assailant face the more serious charge of committing a religiously motivated hate crime.



- (2) **City of Kirovohrad.** On **20 February 2016**, Yevhen Versal was engaged in his peaceful religious activity when police officers ordered him to get into their car. They drove outside the village, where they started to beat him on his hips with a bat. Although he is known as one of Jehovah's Witnesses, the officers wanted to make him confess to committing a burglary. They took him to the Kirovohrad Police Department (Balashovka area) and there continued the brutal treatment. Finally, the police officers admitted that they had detained the wrong person and let Mr Versal go, explaining that they were only doing their job.

Mr Versal was hospitalised and diagnosed with a traumatic brain injury. An investigation was eventually opened for "intended bodily injuries, committed by unknown persons," but the police officers remain unpunished.

- (3) **Village of Kamianka, Trostianets District, Sumy Region.** On **8 July 2016**, a group of six female Witnesses were sharing their religious beliefs on Gagarina Street. An unknown woman ordered them to stop preaching immediately. Then she caught up with them and struck Victoria Diadchenko and Tetiana Ivanova with blows to their face, breaking Victoria Diadchenko's cheekbone. An investigation was initiated only for inflicting minor bodily injuries, without consideration of the motive of religious hatred. The assailant remains unpunished.

Arson and Vandalism of Houses of Worship

- (1) **Town of Krolevets, Sumy Region.** On the nights of **11 and 15 March 2016**, an unidentified person desecrated the local Kingdom Hall by throwing human excrement onto the walls. The Kingdom Hall was desecrated in this way nine times. The last two incidents were classified as petty hooliganism (Article 173 of the Code of Administrative Offenses of Ukraine, or CAO), and no criminal proceedings were initiated.
- (2) **City of Kyiv.** On the night of **24 April 2016** and again on **30 April 2016**, unidentified persons using Molotov cocktails attempted to set fire to the Kingdom Hall at 64 Pozharskoho Street. A married couple were in the building on each occasion but were not injured because the fires were quickly extinguished. The crimes remain unresolved.
- (3) **City of Odesa.** During the night of **1 May 2016**, a group of people, using four Molotov cocktails, tried to set fire to the Kingdom Hall at 45 Orlovska Street. The attempt failed, but the crime remains unresolved.
- (4) **Town of Lozova, Kharkiv Region.** On **17 May 2016**, unidentified individuals drew obscene signs and wrote offensive slogans on the Kingdom Hall at 14B Sevastopolskyi Boulevard. A similar incident took place on 11 August 2014. In both cases the police failed to identify and charge the perpetrators.



Interference With Manifestation of Belief

- (1) **Town of Kremenchuk, Poltava Region.** On **20 May 2016**, Iryna Baldina was charged with an administrative violation for having "willfully set up a publicity stand to distribute religious information." (Article 152 of the CAO) The case remains under examination by the Administrative Commission.

- (2) **Town of Uman, Cherkasy Region.** On **25 May 2016**, 43-year-old Natalia Bezsmertna was charged with having violated Article 152 of the CAO because she did not have authorisation to “set up a publicity cart on the sidewalk.” The Administrative Commission is examining the matter.
- (3) On **1 June 2016**, Ivan Duma was charged with having committed an administrative offense under Article 152 of the CAO by setting up “a construction advertisement” (mobile stand) on public property without authorization. The Administrative Commission is examining the matter.
- (4) **Town of Zolotonosha, Cherkasy Region.** On **15 July 2016**, the Administrative Commission of the Executive Committee of Zolotonosha Town Council penalized 33-year-old Yuri Hynda with a fine of UAH 340 (EUR 12) for setting up an “information stand on the sidewalk, without the Town Council’s permission.” (Article 152 of the CAO) This decision was appealed to the Zolotonosha District Court, and proceedings are ongoing.
- (5) On **25 August 2016**, Oleksandra Hynda was charged with having violated Article 152 of the CAO because she “placed on the street a mobile cart with religious literature.” The Administrative Commission is examining the matter.
- (6) **City of Chernihiv.** On **30 August 2016**, the Administrative Commission of the Executive Committee of Desnianska District Council penalized 47-year-old Larysa Rudniuk with a fine of UAH 340 (EUR 12) for setting up an “information stand on the sidewalk, without permission” (Article 152 of the CAO). This decision will be appealed in court.

Further Positive Developments

- (1) On **26 May 2016**, following the Ombudsman’s intervention, the Otnia Village Council (Ivano-Frankivsk Region) reversed its decision dated **17 June 2015**, which prohibited religious organisations from renting government buildings. Thus, religious organisations again have the possibility to rent government-owned facilities for their religious meetings. (Law of Ukraine, Article 17, “On Freedom of Conscience and Religious Organizations”)
- (2) In **May 2016** the Coordination Centre of the Anti-Terrorist Operation in Kramatorsk gave approval for Jehovah’s Witnesses to deliver religious literature in the war zone. The decision reflects the spirit of international obligations under Article 9 (freedom of religion) of the European Convention on Human Rights and allows local Jehovah’s Witnesses to “collectively study and discuss the Holy Scriptures.” (*Kuznetsov and Others v. Russia*, §57)

Religious Freedom Objectives

Jehovah's Witnesses respectfully request the government of Ukraine to:

- (1) Prosecute vandals and hooligans who attack their houses of worship and harass and harm our members during their religious activity
- (2) Lift the unconstitutional provision of Article 21(5) of the Law of Ukraine "On Freedom of Conscience and Religious Organizations" to allow renting of community facilities for religious meetings

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

Visit the Newsroom at jw.org or scan the QR code to learn about legal developments and human rights affecting Jehovah's Witnesses in Ukraine.

