

HDIM.CS/0119/19/EN
19 September 2019

Enclosed information material is submitted by the European Association of Jehovah's Witnesses

European Association of Jehovah's Witnesses

U K R A I N E

RELIGIOUS FREEDOM ISSUES

STATEMENT BY THE
EUROPEAN ASSOCIATION OF
JEHOVAH'S WITNESSES

**OSCE Human
Dimension
Implementation
Meeting, Warsaw**

16-27 SEPTEMBER 2019

Ukraine

In general, Jehovah's Witnesses practise their faith freely in Ukraine. They are legally registered, and the government does not restrict their religious activity.

During the reporting period, Ukrainian courts upheld the Witnesses' right to worship and assemble in cases where local authorities denied them permission to build Kingdom Halls (houses of worship).

However, the Witnesses continue to be victims of hate crimes.

Although the government has taken some steps to educate authorities, there are numerous cases where police officers do not thoroughly investigate religiously motivated violence. Even when a perpetrator is held liable, prosecutors and courts generally do not recognize the attack as a hate crime and lessen the punishment—thereby creating a climate of impunity for acts of religious intolerance.

Conscientious objection is not uniformly recognized.

Despite laws upholding the rights of conscientious objectors, some military officials have arbitrarily detained young Witnesses who are called up for military service or have denied them the right to alternative civilian service.

Abuses and Restrictions of Religious Freedom

HATE CRIMES—PERPETRATORS MINIMALLY PUNISHED

Authorities in Ukraine often insufficiently investigate and prosecute religiously motivated assaults against the Witnesses. The charge of the “violation of citizens' equality based on their race, nationality or religious preferences” under Article 161 of the Criminal Code of Ukraine (CCU) is not rigorously applied. The assailants often receive light penalties, if any, and the victims receive inadequate compensation.

Authorities in Ukraine often insufficiently investigate and prosecute hate crimes against the Witnesses

The following are two examples of past injustices that remain unresolved:



Mr Tretiak after the attack

1. In 2013, Oleksandr Tretiak was brutally attacked by three men and sustained life-threatening injuries during a 30-minute beating with a wooden bat. The authorities failed to charge the three assailants, one of whom was a police officer, and entirely failed to conduct an effective or prompt investigation. Therefore, on **2 April 2015**, Mr Tretiak filed an application with the European Court of Human Rights (ECHR). On **9 October 2017**, the ECHR communicated the application to the Ukraine authorities. After the case was communicated, the investigator reopened the criminal proceedings—five years after the attack. Only one of the perpetrators was charged and only on the lesser charge of “hooliganism” under Article 296 (1) of the CCU. The police officer who instigated and participated in the violent attack was not charged.

On **7 March 2019**, the Vinnytsia City Court refused to take any measures regarding the disappearance of vital material from the case file, including records of decisions in favour of the victim, procedural decisions of the prosecutor and medical documentation. The one assailant who had been charged was then found guilty of “hooliganism,” leading to his premature release. Mr Tretiak received a fourth of the compensation he requested. The case is currently before the Court of Appeal.

2. On trivial pretexts, a court postponed judicial examination of a criminal case against a man who had violently assaulted Vira Gyl and Tamara Barsuk, two elderly Witnesses, in March 2016. The prosecutor refused to include in his indictment evidence that the assault was religiously motivated, which would have allowed the attack to be classified as a hate crime. Because of the postponements and downgraded qualification of the crime, the limitation period has expired in the case concerning Mrs Barsuk, and the assailant will not be held criminally liable. The case concerning Mrs Gyl is still pending.

The following events occurred during the reporting period:

1. **Kamianka.** On **29 January 2019**, the investigator closed criminal proceedings against a woman who had brutally attacked two Witnesses, V. Diadchenko and T. Ivanova, on 8 July 2016. Mr Diadchenko suffered a fracture of the jaw extending to the base of his skull, and Ms Ivanova sustained facial bruising. The investigator concluded that the four statements by eyewitnesses could not be trusted because they were also Jehovah’s Witnesses. The victims did not receive a copy of the decision until 11 July 2019. The Witnesses filed a complaint with the investigative judge.
2. **Cheremkhiv, Zhydachiv District.** On **6 April 2019**, a man threatened two Witnesses, Yuriy Komenda and Roman Fedchyn, with a gun after they offered him an invitation to a religious meeting. He fired the gun into the air and then pointed it at Mr Fedchyn. The victims fled and later filed a complaint. A gun was found at the assailant’s home, but the investigator refused to recognise that there was a religious motive for the crime. The man was not prosecuted.

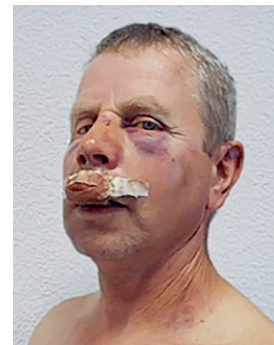


Mrs Gyl after the attack



Mrs Barsuk after the attack

3. **Kyiv.** On **26 June 2019**, a male Witness, Valeriy Derkac, was standing beside a display cart with Bible-based literature in the central square of the city when a man hit him on the arm with a stick. The man then broke the cart. The police apprehended the assailant but let him go almost immediately. A crime report was filed the same day, but no criminal proceedings have been instituted.
4. **Vinnitsia.** On **30 June 2019**, a Witness couple, Ruslan and Kateryna Suprunov, were standing by a display cart with Bible-based literature when a man assaulted them. He punched Mr Suprunov in the face, caused his lip to bleed and damaged the literature display. The police said that they knew the assailant, but they tried to dissuade the victims from filing a crime report. Proceedings were instituted, but the assailant has not yet been prosecuted.
5. **Baranivka, Zhytomyr Region.** On **3 July 2019**, the Supreme Court reached a final decision in the case against a man who viciously beat 56-year-old Yurii Vorobei because he was one of Jehovah's Witnesses. In June 2017, a man attacked Mr Vorobei and inflicted multiple injuries to his head and body. However, the Supreme Court upheld the decisions of the lower courts, which sentenced the attacker to 160 hours of community service under charges of "minor bodily injury" under Article 125 of the CCU and refused to apply Article 161 to the incident. The Court's decision also upheld the refusal to order the attacker to cover Mr Vorobei's medical expenses and the reduction of the victim's requested compensation by a factor of ten.
6. **Kremenchuk, Poltava Region.** On **7 July 2019**, a man assaulted Andriy Kozlov when he was peacefully offering religious literature in a public area. He hit Mr Kozlov twice in the face and stabbed him in the side with a knife. Although Mr Kozlov was cut, he was not injured internally. An investigation was instituted, but the assailant has not yet been prosecuted.



Mr Vorobei after the attack

VANDALISM AND ARSON

1. **Zaporizhia.** On **17 February 2019**, unidentified individuals broke a window in the Kingdom Hall, using an airgun. The police did not institute criminal proceedings.
2. **Mangush, Donetsk Region.** On **30 May 2019**, unidentified individuals climbed over the fence and painted an Orthodox cross on the front door of the Kingdom Hall. The police did not institute criminal proceedings.
3. **Kyiv.** On **6 June 2019**, unidentified individuals climbed over the fence and painted graffiti on the facade of a Kingdom Hall. The police did not institute criminal proceedings.
4. **Kharkiv.** On **31 July 2019**, unidentified individuals painted "SECT" on the facade of a Kingdom Hall. The police did not initiate criminal proceedings.



**Vandalised Kingdom Hall
in the city of Kharkiv**

Military commissars in some regions do not respect the right to conscientious objection, and at times, Witnesses are denied alternative civilian service

LACK OF RESPECT FOR THE RIGHT OF CONSCIENTIOUS OBJECTION

Ukraine recognizes the right to conscientious objection and provides the option of alternative civilian service in lieu of military service. However, military commissars in some regions do not respect this right. At times, Witnesses are denied alternative civilian service by their District State Administration (DSA) or Regional State Administration (RSA). Some are detained for days. A few have been threatened with charges of “draft evasion” under Article 335 of the CCU.

UNLAWFUL DETENTION OF CONSCIENTIOUS OBJECTORS

1. **Petro Myshchyshyn.** On **24 April 2019**, military commissars escorted Mr Myshchyshyn to the Ternopil Regional Enlistment Office and detained him for three days. He was released only after his relatives reported the unlawful detention to the police.
2. **Oleksiy Murzin.** On **15 May 2019**, military commissars apprehended Mr Murzin at the railway station and held him in the Kharkiv Regional Enlistment Office for a day and a half. He was released only after intervention by his lawyer.
3. **Yaroslav Bodnarchuk.** On **12 June 2019**, Mr Bodnarchuk was arbitrarily detained for 31 hours in the Ternopil Regional Enlistment Office. Despite his written and oral statements explaining his religious beliefs and requesting alternative civilian service, the military commissars handcuffed and beat Mr Bodnarchuk, causing injuries that required hospital treatment. The Military Prosecutors’ Office instituted six criminal cases, but none of the commissars have been held responsible.

DENIAL OF THE RIGHT TO CONSCIENTIOUS OBJECTION

1. **Vladyslav Udovik.** On **22 April 2019**, the Donetsk RSA refused Mr Udovik’s application for alternative civilian service on procedural grounds. The case is under consideration by the Donetsk Circuit Administrative Court.
2. **Yaroslav Nohin.** On **4 February 2019**, the Kirovohrad Circuit Administrative Court upheld the Kropyvnytskyi City Call-Up Commission’s refusal of Yaroslav Nohin’s application for postponement of alternative civilian service as an ordained minister. The court did not accept that this refusal is discriminatory, reasoning that Mr Nohin’s ministry in a congregation of Jehovah’s Witnesses is not his professional activity and that therefore, unlike Orthodox or Catholic priests, he is not eligible for postponement. On **28 May 2019**, the appeal court upheld the decision. On **5 August 2019**, Mr Nohin filed a cassation appeal with the Supreme Court of Ukraine, which declared the appeal admissible.

Interference With Manifestation of Religious Belief

THREAT OF MOB VIOLENCE

Perehinske. On **26 March 2019**, Roman Balahura, a local priest, assembled a mob and threatened 10 Witnesses with violence, forcing them to stop their religious activity and to leave the village. Although the police were called to the scene, investigations did not begin until three weeks later. The perpetrator has not been charged. In the past the same priest has assaulted Jehovah's Witnesses, but he has never been charged or punished.

Positive Developments

ECHR ISSUES JUDGMENT IN FAVOUR OF JEHOVAH'S WITNESSES

On **3 September 2019**, the ECHR ruled against Ukraine in a case where deputies of the Kryvyi Rih City Council refused to lease to Jehovah's Witnesses a plot of land for construction of a Kingdom Hall. The ECHR found that the "municipal authorities' conduct was arbitrary and not 'in accordance with the law.'" (para. 57) Consequently, the ECHR found Ukraine in violation of Article 9 (freedom of religion) and Article 1 of Protocol 1 (property rights) of the European Convention on Human Rights and ordered the government to pay EUR 7,000 (USD 7,666) in damages and legal costs to the Witnesses.

COURTS UPHOLD THE RIGHTS OF CONSCIENTIOUS OBJECTORS

During the reporting period, courts upheld the right of Witness conscientious objectors to perform alternative civilian service in lieu of military service:

- 1. Kostiantyn Boiko.** On **13 May 2019**, the Odesa Circuit Administrative Court held that on 19 February 2019, the Lymanskyi DSA had unjustifiably restricted Mr Boiko's right to freedom of religion when they refused to grant his application for alternative civilian service on procedural grounds. The Lymanskyi DSA subsequently granted the application.
- 2. Dmytro Batsman.** On **3 June 2019**, the Luhansk Circuit Administrative Court revoked the 13 March 2019 decision of the Bilovodsk DSA that refused Mr Batsman's application for alternative civilian service on procedural grounds. The Bilovodsk DSA subsequently granted the application.
- 3. Viacheslav Shkreben.** On **7 June 2019**, the Sumy Circuit Administrative Court revoked the 21 March 2019 decision of the Shostka Town Council that refused Mr Shkreben's application for alternative civilian service on procedural grounds. The council complied with the court's direction.

In most cases, courts upheld the right of Witness conscientious objectors to perform alternative civilian service

4. Ruslan Bumba. On **23 May 2019**, the Hola Prystan DSA refused Mr Bumba's application for alternative civilian service on procedural grounds. Mr Bumba informed the enlistment office in writing that he could not accept military service and that he would file a claim in court regarding the Hola Prystan DSA's refusal to assign him to alternative civilian service. Even so, on **14 June 2019**, the Hola Prystan District Enlistment Office informed Mr Bumba that criminal proceedings would be instituted because of his failure to report for duty. However, the proceedings were not instituted.

On **23 June 2019**, the Kherson Circuit Administrative Court revoked the 23 May decision of the Hola Prystan DSA that refused Mr Bumba's application for alternative civilian service on procedural grounds. The Hola Prystan DSA subsequently granted the application.

5. Pavlo Yurchenko. In **May 2019**, the Haivoron Town Police Department instituted criminal proceedings against Mr Yurchenko under charges of "draft evasion" when he did not report to the enlistment office. On **18 April 2019** and on **5 August 2019**, Mr Yurchenko had informed the enlistment office in writing that he could not accept military service and that he would file a claim in court regarding their refusal to assign him to alternative civilian service. Mr Yurchenko was not informed about the status of the pre-trial investigation.

On **28 August 2019**, the Kirovohrad Circuit Administrative Court revoked the 18 April decision of the Haivoron DSA that refused Mr Yurchenko's application for alternative civilian service on procedural grounds. The court decision may still be appealed.

6. Lazar Yasynskyi. On **3 September 2019**, the Donetsk Circuit Administrative Court revoked the 22 April 2019 decision of the Donetsk RSA that refused Mr Yasynskyi's application for alternative civilian service on procedural grounds. However, before the court issued its decision, the Donetsk RSA granted his application.

AUTHORITIES IN UKRAINE UPHELD THE WITNESSES' RIGHT TO WORSHIP AND ASSEMBLE FREELY

1. Myropil, Zhytomyr Region. On **19 January 2019**, the Lviv Circuit Administrative Court obligated the Myropil Village Council to approve the Witnesses' plan for a Kingdom Hall to be built in their village. The council had denied approval four times before the ruling declared their actions unlawful.

2. Oleksandrivka, Kirovohrad Region. On **22 April 2019**, the Odesa Circuit Administrative Court ordered that an occupancy permit be issued for a Kingdom Hall in Oleksandrivka. The Kirovohrad Regional State Architect Building Inspection had refused an occupancy permit in February 2019, alleging violation of the zoning rules.

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- 3. Vatutine, Cherkasy Region.** On **7 July 2019**, the Cherkasy Regional Economic Court ruled that the actions of the council deputies were unlawful. The Vatutine Town Council had demanded three times that Jehovah's Witnesses cease their religious activity and had refused to approve the use of land to build a Kingdom Hall.
 - 4. Tetiiv, Kyiv Region.** On **28 March 2019**, the Tetiiv Town Council Department of State Architect Building Control issued an occupancy permit for a Kingdom Hall. This ended opposition that had continued since the Kingdom Hall was built in 2014, despite a number of court decisions in favour of Jehovah's Witnesses.

Meetings With Officials

In **January 2019**, representatives of Jehovah's Witnesses met with the Regional State Administration officials in Chernihiv and Dnipropetrovsk regarding the refusal to assign conscientious objectors to alternative civilian service. In **April and May 2019**, representatives of the Witnesses met with local town and village officials to resolve issues concerning the Witnesses' religious activity. These meetings led to a positive resolution in most cases.



RELIGIOUS FREEDOM OBJECTIVES

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

- **Instruct officials to thoroughly investigate hate crimes against Jehovah's Witnesses and their places of worship and to prosecute the perpetrators of these religiously motivated attacks; and**
- **Stop the existing practice of refusing alternative service on procedural grounds, which contradicts the Constitution of Ukraine.**

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

For more information:

Please contact the Office of Public Information for Jehovah's Witnesses at OPIGov@jw.org.



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

