

**ON VIOLATIONS OF THE RIGHTS OF ORTHODOX CHRISTIANS IN MONTENEGRO**

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Non-governmental organization  
in special consultative status with UN ECOSOC

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**To: OSCE  
OSCE Member-States  
ODIHR  
State of Montenegro  
International Organizations**

Honorable participants of the meeting, ladies and gentlemen,

We feel obliged to draw the attention of Ukraine and OSCE participating States on violations of the rights of Orthodox Christian believers in Montenegro.

In the year of 2007, Montenegro adopted a new Constitution, which in the Article 14 regulates the separation of the religious communities from the state and stipulates that they are equal and free in performing religious rites and religious affairs. Article 46 of the Constitution regulates the right to the freedom of religion, in the manner which is not completely aligned with the Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Unfortunately, Montenegro is one of the former Yugoslav Republics, where the Law on Legal Status of Religious Communities as of 1977, from the Communist period, is still in force and it is anachronistic.

The Metropolitanate of Montenegro and the Littoral and other eparchies of the Serbian Orthodox Church have been publicly asking for years for the commencement of passing a new Law on Legal Status of Churches and Religious Communities, which would, on the one hand, in the spirit of history and legal-historical tradition of Montenegro and, on the other hand, in the spirit of the mandatory international norms regarding the freedom of religion and social reality, regulate the issue of the realization and efficient protection of the right to the freedom of religion in its individual and collective aspects.

Instead of this, the Government of Montenegro chose to regulate, by means of agreements, in a selective and discriminatory manner, primarily in relation to the Orthodox Church, the relations with the selectively chosen religious communities. Firstly, the Fundamental Agreement between the Holy See and Montenegro was concluded in 2011, which was followed by the Agreement Regulating Mutual Relations between the Government of Montenegro and Islamic Community and Agreement Regulating Mutual Relations between the Government of Montenegro and Jewish Community in 2012.

The stated Agreements are not only different, but also mutually opposed (for example, the public-legal subjectivity has been acknowledged to the Roman Catholic Church, while the civic legal subjectivity has been acknowledged to the Islamic Community and to the Jewish community). The constitutional norm about the equality of the religious communities was violated twice.

The Orthodox Church requested on several occasions that its legal position be regulated by means of an agreement, as well. Unfortunately, this did not take place due to the political, not legal reasons, since the Ministry of Human and Minority Rights tried to condition the conclusion of the agreement with its influence on the internal church organization and autonomous canonical right of the Church.

In the year of 2000, persons that do not have any kind of canonical legitimacy, along with acting of the security and political structures, established a new religious community under the title “Montenegrin Orthodox Church” in Montenegro. Miraš Dedeić, the former priest of the Ecumenical Patriarchate of Constantinople in Rome, who was excommunicated from the Church due to the proven canonical violations by the Patriarch, Mr. Vartolomej, is its Head. The new community is not recognized by any of the Orthodox Churches in the world.

Such a new religious community acquired its legal status by means of a classic abuse of the Article 2 of the Law on Legal Status of Religious Communities. Having in mind the collective aspect of the right to the freedom of religion, the establishment of a new religious community in itself would not be problematic. However, acting of such a new community is not only targeted against the Orthodox Church in Montenegro in a verbal sense, but it is often the case that physical attacks, aggression and violence are used in the attempt to try and perform the seizure (taking away) of the Orthodox temples and monasteries from the Metropolitanate of Montenegro and the Littoral, which represent the church property on the basis of the public documents of Montenegro. Not only do the public authorities not sanction such a criminal behavior, but they also allocate, from the state budget, to such a community, without clear criteria, the highest amounts of financial resources and, in this manner, it appears to be, in spite of the criminal activities, “the Government’s new religious community”.

In the middle of the year of 2015, the Government prepared the Draft Law on Freedom of Religion, and referred it to the public discussion in the period of annual leaves. The representatives of the churches and religious communities did not have their representatives in the Working group that prepared the Draft Law, which represented a serious violation of the obligatory regulations. Only the Government’s officials were represented in the Working group.

The Draft Law caused a considerable disapproval by the public. Legal experts assessed it as retrograde, as compared with the Communist Law from 1977 and as non-aligned with the European Convention. The right to the freedom of religion was significantly reduced in both individual and collective aspects. It was a severe attack from the positions of the state authorities on the internal autonomy and internal organizational establishment of the churches and religious communities, and the Article 52 of the Draft Law is particularly problematic, since it stipulates a new nationalization,

i.e. seizure, in favour of the state, of all sacral facilities that were constructed by believers until the year of 1918.

The Draft Law was opposed, through their objections, by the Orthodox Church, Roman Catholic Church and Islamic Community, along with the significant part of the professional public. The representatives of the Church had a meeting with the representatives of the Venice Commission and OSCE/ODIHR at which they submitted their objections in English language to them. In the end, in March 2016, the Government withdrew the Draft Law on Freedom of Religion from the procedure before the Venice Commission. Even after that, the violation of the prescribed procedure was continued, given that this issue has been on stand-by for almost three years.

Apart from the jeopardization of the identity, dignity; mission and property of the Orthodox Church in Montenegro by the members of the newly formed organization “Montenegrin Orthodox Church”, a particular problem is also reflected in the fact that the state authorities have still not facilitated holding of religious instruction (teaching classes) in the public and private schools, which represents the breach of the rights of children to religious education, guaranteed by the international legal acts on human rights. Also, there is a discriminatory acting in terms of preventing the return or compensation of the sacral property to the Orthodox Church, Roman Catholic Church and Islamic Community, which was taken away from them by the Communist regime. Churches and religious communities have almost no kind of treatment in the public broadcasting service — the Radio and Television Montenegro. The status of priests and religious officers is not adequately regulated, and the Ministry of Interior has been enabling, for years already, the issuance of a temporary residence permit to the priests and monks of the Orthodox Church, Who do not have the Montenegrin citizenship.

**In the light of what has been stated above, we recommend that:**

- **the public authorities of Montenegro comprehend that the right to the freedom of religion is one of the fundamental human rights and that believers cannot be second-class citizens because of their religious convictions;**
- **the public authorities protect the legal order and rights for all, including the Orthodox Church;**
- **the rule of law is applied in cases when attacks on the Orthodox Church are committed;**
- **the OSCE and its Participating States pay careful attention to the above evidence of human rights violations and take effective action for their protection;**

Thank you very much for your attention,

Oleg Denysov  
Head of NGO “Public Advocacy”

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Honorable participants of the meeting, ladies and gentlemen,

We feel obliged to draw the attention of Ukraine and OSCE participating States on violations of the rights of Orthodox Christian believers in Ukraine.

We draw the attention of the the UN Human Rights Council, OSCE, UNHCHR, the Council of Europe, bodies and structures whose mandate includes the protection of human rights, as well as all stakeholders to the fact that in April-May 2018 illegal pressure on the Ukrainian Orthodox Church has grown. First of all, it is caused by the attempts to impose the project of the Single Local Church (hereinafter SLC) and autocephaly on Orthodox believers of Ukraine in a format being rejected by the significant number of Orthodox believers.

The statements of the President of Ukraine and the decisions of the Parliament, numerous visits of diplomatic delegations of Ukraine to Istanbul, meetings of state officials with the Patriarch of Constantinople allow us to conclude that this issue is no longer an internal matter of the Church. The hierarchy and believers of the Ukrainian Orthodox Church are subjected to the intensified political and administrative pressure aimed at forcing them to accept the SLC project in the format which is considered proper by the presidential political circles.

In particular, the President of Ukraine stressed<sup>1</sup> that he is determined to act very decisively towards the creation of the SLC and to oppose all who will stand in the way of "national interests of Ukraine", the website of the President reports. "This is a matter of national security and our defense in a hybrid war, because the Kremlin views the ROC as one of the key instruments of influence on Ukraine," Petro Poroshenko said. "Therefore, I am very determined to act in this matter. And to counteract all those who will stand in the way of Ukraine's national interests and will try to disrupt cooperation with the Ecumenical Patriarchal Throne," he said.

This situation is an unacceptable interference of government officials in the internal affairs of the Church, which is not only separated from the state, but also has the right to maintain its status, including legal and canonical.

In accordance with international legal standards and European practice, the form and method of canonical relations of any Church with religious foreign centers are an internal matter of a religious denomination and constitute the religious identity of believers. Confession of religious beliefs in a particular Church is a subjective right to freedom of religion, and everyone has the right to choose the Church according to their selection criteria, including canonical one.

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<sup>1</sup> <http://spzh.news/en/news/52924-poroshenko-pri-grozil-vsem-kto-popytajetsya-sorvaty-kooperaciju-po-iejc>

Citizens of Ukraine, as well as church hierarchs, are not prohibited from contacting leaders of other religious faiths and expressing to Constantinople Patriarch Bartholomew, as well as others, their views on matters relating to religious life, especially in the situation when the public administration interferes into affairs of the Church, which has the autonomous legal status of an association (corporation) of private, rather than state-public law. The collection of signatures, petitions, appeals, statements alongside organizing meetings, rallies, demonstrations and negotiations appear as forms of expression of the opinion of civil society and guarantees of democratic European freedoms.

Unfortunately, we have to state that the listed rights are currently being restricted by government officials who exert unlawful pressure on believers, forcing them to abandon legitimate forms of expressing their opinions on issues they are concerned with. In a number of cases, there have been documented threats and facts of conducting "preventive" interviews by law enforcement officials in order to block the initiatives of believers in expressing their viewpoint on the establishment of the Single Local Church.

One of the lines of illegal pressure is a requirement on the part of a number of state employees and politicians to change the name of the Ukrainian Orthodox Church by affixing the Moscow Patriarchate to the name and changing the organizational status of the UOC for Exarchate of the Moscow Patriarchate. Such requirements are illegal and unacceptable in a civilized society. Changing the name of the UOC by indicating its affiliation to the Moscow Patriarchate, as well as changing the organizational form for the Exarchate cannot be achieved either by administrative or compulsory legal decisions, since these issues pertain to the sphere of civil law and can only be resolved by the decision of the Ukrainian Orthodox Church. Any administrative resolution in this matter will not only be against democracy and law, but will testify to the total loss by Ukraine of its minimal standards of civilized state administration.

Another unacceptable legal violation is resorting to hate speech that incites religious hatred – in the rhetoric of leaders of religious confessions and civil servants – in relation to the Ukrainian Orthodox Church.

As a matter of fact, leader of the religious confession of the UOC-Kyiv Patriarchate Filaret Denisenko alongside a number of hierarchs of this faith, without any grounds or evidence, publicly accuse<sup>2</sup> the Ukrainian Orthodox Church of propagating the "Russian world", voicing statements that that the status of the UOC can be changed to "exarchate". In a number of cases, the clerics of this denomination initiate power clashes around the UOC temples and openly demonstrate a negative and hostile attitude towards Orthodox believers. Numerous proofs of such actions are contained both in the information space and reports of human rights organizations<sup>3</sup>. All these facts testify not only to the inter-faith tension in the country, but also to the use of the state administrative resource, which publicly and openly supports aggression against the Ukrainian Orthodox Church.

A marker of aggressively hostile propaganda towards Orthodox believers of the UOC is that personal data of the hierarchs of the Ukrainian Orthodox Church – Chancellor of the UOC Metropolitan Anthony (Pakanich), head of the UOC Representation to European Organizations Bishop Victor (Kotsaba), deputy chairman of the Department for External Church Relations of the UOC Prot. Nikolai Danilevich, and priest Aleksei Zoshchuk – were published on "Mirotvorets" ("Peacemaker") site.

As you know, the activity of this site is provocative, as it publishes personal data, the placement of which without the consent of the owner is a criminal offense in accordance with Article 182 of the Criminal Code of Ukraine. Besides, given the nature of the activity of this information resource, publishing personal data of church hierarchs testifies to incitement of religious enmity towards Orthodox believers.

It should be noted that the activities of Metropolitan Anthony (Pakanich) of Borispol and Brovary, Bishop Victor (Kotsaba) of Baryshevka, Protopriest Nikolai Danilevich, as well as priest Aleksei Zoshchuk, are qualified as the work of human rights defenders. According to the standards of the UN, OSCE, the European Union, and the norms of

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2 [www.protiktor.com/38HRCsession](http://www.protiktor.com/38HRCsession)

3 [www.protiktor.com/upr](http://www.protiktor.com/upr)

international law – those who defend rights, including religious ones, are recognized as human rights defenders regardless of their professional status.

States, including Ukraine, have assumed increased obligations to protect the rights of human rights defenders and pledged to provide conditions for their free and unhindered work.

A case in point is information messages about priest of the UOC Aleksei Zoshchuk, posted by the Ukrainian information resource “Obozrevatel” (“Observer”) under the title "For the money of Russia? Scandalous priest of the UOC MP boasts of a luxurious holiday in UAE" and interpreted as a stigmatizing campaign. This publication contains personal photos of the family of Aleksei Zoshchuk, including minor children, showing that in February 2018 he spent an expensive vacation with his family. Additionally, he is alleged "to go to Moscow with his assistant for a meeting with the FSB curator to receive instructions and discuss the strategy of the information and propaganda war against Ukraine and disrupting the establishment of a Single Local Ukrainian Orthodox Church."

Such accusations are an example of the planned slanderous information propaganda against the clergyman who, by the nature of his activities, defends the rights of believers. Earlier, Aleksei Zoshchuk became the victim of an attack by the radicals from S14, who'd broken into the office of the information agency Union of Orthodox Journalists, with which A. Zoshchuk carries out his professional activities. Thus the case of Aleksei Zoshchuk is an example of stigmatization of the priest for his human rights activities to protect his flock.

Of particular attention is the fact that both Metropolitan Anthony (Pakanich) and Bishop Victor (Kotsaba), as well as Prot. Nikolai Danilevich, were stigmatized for their human rights activities related to their public speeches at international venues of the OSCE and the UN. This fact certainly will not go unnoticed by the international community and the state of Ukraine will have to make efforts to eliminate this offense as quickly as possible; otherwise it will serve as an evident proof of the anti-European and anti-legal policies of the ruling politicians in Ukraine.

**In the light of what has been stated above, our recommendations are as follows:**

- **to draw the attention of the OSCE and OSCE participating States to the above facts;**
- **to ensure that actions are taken to protect the rights of Orthodox believers in Ukraine and prevent interreligious clashes and help put an end to political, administrative and power pressure on the religious faith of the Ukrainian Orthodox Church.**

Thank you very much for your attention,

Oleg Denysov  
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Honorable participants of the meeting, ladies and gentlemen,

We urge Ukraine and OSCE participating States to pay careful attention to the issues addressed in this statement and take the under consideration as soon as possible.

1. Summary of violations of the UOC rights

In the period of 2015-2017, 45 churches – religious buildings owned by the UOC religious communities – were subject to raiding, while over 100 temples appeared under threat of such seizures. Officers of the police units, abusing their power, resorted to assault and battery toward our believers in the villages of Ptycha and Katerynivka of Ternopil region, having inflicted severe injuries on elderly people and women. Many religious buildings remain sealed by the authorities up to the present day. Such violent actions are carried out by members of radical organizations with the participation of interested religious confessions, with connivance – and sometimes even direct support – of local authorities”.

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

During the year of 2016, three draft laws (## 4128, 4511, and 5309) were submitted to the Verkhovna Rada of Ukraine, which foresee an introduction of a number of additional obligations for religious organizations of the UOC confession. At the same time similar obligations are not envisioned for other confessions. In particular, draft law #4511 stipulates an obligation of the UOC religious communities to draw up individual agreements with state bodies, as well as to receive a permit to elect (appoint) diocesan administrative staff. Bill #5309 binds religious organizations of the UOC to include references on “affiliation to the aggressor state” into their title. Draft law # 4128 unreasonably and in violation of the international law norms establishes the rights of residents of a particular populated area to administer communities within their populated areas irrespective of whether these persons are members of the community’s administrative body. The above draft laws are geared at the discriminatory restriction of the UOC in the enjoyment of its rights and if adopted – will bear witness to the ungrounded intrusion of the state into the internal administrative mechanism of religious organization, leading de-facto to the legal obstruction of activities of the UOC religious organizations.<sup>1</sup>

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



In particular, as the Head of Representative Office of the Ukrainian Orthodox Church to International Organizations Bishop Victor Kotsaba said at the OSCE meeting: “I want to draw particular attention to the preparation of draft laws Nos. 4128, 4511, 5309, submitted to the Verkhovna Rada of Ukraine, which are discriminatory in relation to the Ukrainian Orthodox Church. Thus, some politicians want to impose a special status on our denomination, oblige it to change the name and sign special agreements with state bodies. The appointment of priests is also supposed to be approved by the relevant state structures. At the same time, the obligation is not prescribed for other confessions. Such rules did not exist even in the times of the USSR, whose authorities used to put a systematic but unofficial pressure on the Church. In view of the above, on May 18, 2017, a prayerful standing, which counted thousands of believers, was held near the Parliament in Kiev against the adoption of these laws. Concerns about the probable adoption of such laws were expressed by the World Council of Churches, several Autocephalous Orthodox Churches (Alexandria, Bulgaria, Czech Lands and Slovakia), as well as the State Secretariat of the Vatican. Nevertheless, these bills are still on the agenda of the Ukrainian Parliament.”

### 3. Non-compliance of draft law 4128 with international law

Bill No. 4128 foresees that persons who were not admitted to the community, but who decided to identify themselves with this community, receive the right to vote at a general meeting of the religious community.

Thus, according to the draft law, the provisions of the statutes of religious organizations that provide for membership in the community being obtained only on the basis of an application and establishing the need for approval of membership by a decision of the general meeting of the community members become invalid.

At the same time, standards of the international law establish an obligation of the state to ensure internal guidelines and norms of the religious right as a part of freedom to the freedom of religion. For this reason individuals who observe their religious guidelines can enjoy an unquestionable right to accept or not accept other persons to become members of their religious group, and independently define if these new comers are in line with the criteria enshrined by whatever religious doctrine.

There are no doubts that the person who does not conform to certain rules of religious life, which are deemed fundamental by the certain religious organization, can be not only non-admitted to membership of this religious group but also excluded from it. In fact, the European Court of Human Rights in the case *Obst vs. Germany* (№ 425/03), by the chamber resolution of 23.09.2010, declined a complaint of the applicant – member of the Mormon religious organization who had been made redundant in this organization and excluded from the community’s membership due to the fact of his conjugal infidelity. The court admitted that the claimant, who had been raised in the Mormon environment, had to be aware of the importance of faithfulness in marriage and inappropriateness of misconduct under the regulations of this organization.

It’s noteworthy, the European Court of Human Rights laid down some legal provisions which are not to be changed even by virtue of adopting the draft law under consideration. In particular, under the ECHR’s decision dated 14.06.2007 in the case “Saint Michael parish against Ukraine”, it is stated (para 146-147): “Contrary to the conclusions of national courts, articles 7 and 8 of the Law, it was not enshrined that a religious group shall consist of all individuals and all believers who attend worship services of a particular church... article 8 of the Law (987-12 ) in no way restricts or hampers a religious organization to determine on its own choice in which way it will decide to enroll new members, define the membership criteria and election procedure for the administrative bodies. From the standpoint of article 9 of the Convention (995\_004), taken together with article 11, these were the decisions being in the private law plane and not being subject to interference from the state power bodies unless they violate rights of other individuals or fall under restrictions specified in para 2 of articles 9 and 11 of the Convention. In other words, the state cannot commit a legally existing private association to accept new members and exclude the elected ones. Intrusion of such kind will definitely enter into collision with the freedom of religious associations to freely regulate their behavior and handle their matters.

Conclusion: the right to self-identification of a person as a ground for his/her being enrolled as a member of the religious community and his/her being invested simultaneously with powers of the administrative body of the religious community appears as a violation of the international legal principle of autonomy of religious organizations and non-interference of the state into internal activity of denominations to be regulated solely by their internal rules and guidelines.

Therefore, the proposal of the draft law makers that persons can become members of the religious community merely by virtue of self-identification does not comply with the provision, defined in the International Law and enshrined in the above mentioned decision of the European Court of Human Rights.

Given the extreme tension as regards the religious situation in Ukraine, which exacerbated in 2018 due to numerous forceful confrontations and acts of violence against the Ukrainian Orthodox Church and its believers, **we recommend:**

- **that the OSCE and its Participating States, as well as international community at large make every effort in order to prevent the Ukrainian Parliament from the adoption of the discriminatory Draft Laws.**

Thank you very much for your attention,

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Honorable participants of the meeting, ladies and gentlemen,

We feel obliged to draw the attention of Ukraine and OSCE participating States on the high responsibility of the Holy Synod of the Ecumenical Patriarchate in terms of possible violations of the rights of Orthodox Christian believers in Ukraine.

We directly represent the interests of Orthodox communities and believers in the courts and law enforcement agencies of Ukraine, supply information on the situation of Orthodoxy in Ukraine to the OSCE and the UN Human Rights Council.

We draw your attention to the fact that since 2015, over 40 temples belonging to the Ukrainian Orthodox Church have been illegally seized; many churches have been subject to arson, whereas believers have been beaten up by representatives of radical organizations and power units of the governmental authorities<sup>1</sup>.

Unfortunately, despite our appeals to state bodies, they fail to ensure legal protection to believers, let criminals go unpunished, and pursue an outspoken discriminatory policy towards Orthodox believers. Senior civil servants often resort to hate speech in relation to the Ukrainian Orthodox Church, accusing it of aiding Moscow.

According to our observations, based on the evidence and testimonies of eyewitnesses, clerics of the religious organization of the "Kyiv Patriarchate", unrecognized by Ecumenical Orthodoxy, as well as members of radical organizations, who are indirectly or directly supported by the authorities, account in many cases for inciting religious animosity towards Orthodox Christians.

The statements of the President of Ukraine and the decisions of the Parliament, numerous visits of diplomatic delegations of Ukraine to Istanbul, meetings of state officials with the Patriarch of Constantinople allow us to conclude that this issue is no longer an internal matter of the Church. The hierarchy and believers of the Ukrainian Orthodox Church are subjected to the intensified political and administrative pressure aimed at forcing them to accept the SLC project in the format which is considered proper by the presidential political circles.

In particular, the President of Ukraine stressed<sup>2</sup> that he is determined to act very decisively towards the creation of the SLC and to oppose all who will stand in the way of "national interests of Ukraine", the website of the President reports. "This is a matter of national security and our defense in a hybrid war, because the Kremlin views the ROC as one of the key instruments of influence on Ukraine," Petro Poroshenko said. "Therefore, I am very determined

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to act in this matter. And to counteract all those who will stand in the way of Ukraine's national interests and will try to disrupt cooperation with the Ecumenical Patriarchal Throne," he said.

Currently, the mass media are engaged in disseminating the information that the Patriarchate of Constantinople can grant the canonical status to the schismatic organization "Kyiv Patriarchate" or bestow autocephaly in another way.

As a matter of fact, leader of the religious confession of the UOC-Kyiv Patriarchate Filaret Denisenko alongside a number of hierarchs of this faith, without any grounds or evidence, publicly accuse the Ukrainian Orthodox Church of propagating the "Russian world", voicing statements that that the status of the UOC can be changed to "exarchate". Furthermore, the Kyiv Patriarchate openly and publicly declares that the Patriarchate of Constantinople practically promised to grant the canonical status to the Kyiv Patriarchate. In particular, head of the Kyiv Patriarchate Filaret (M. Denisenko) made this statement in the European Parliament on May 2, 2018: "We hope that after receiving the Tomos on autocephaly of the Ukrainian Church there will be one Orthodox Church in Ukraine, and the Moscow Church, if refusing to unite with the Ukrainian Church, will be called an Exarchate of the Russian Church in Ukraine rather than the Ukrainian Church ... As for the Lavra, it will belong to the Ukrainian Church, because it is the Church of Ukraine and it cannot belong to the Russian Church ... Now we can see that Patriarch Bartholomew is resolute and determined to solemnly proclaim the Tomos of autocephalous status, to recognize our Church, and enter into communion with it.

In a number of cases, the clerics of this denomination initiate power clashes around the UOC temples and openly demonstrate a negative and hostile attitude towards Orthodox believers. Numerous proofs of such actions are contained both in the information space and reports of human rights organizations. All these facts testify not only to the inter-faith tension in the country, but also to the use of the state administrative resource, which publicly and openly supports aggression against the Ukrainian Orthodox Church.

A marker of aggressively hostile propaganda towards Orthodox believers of the UOC is that personal data of the hierarchs of the Ukrainian Orthodox Church – Chancellor of the UOC Metropolitan Anthony (Pakanich), head of the UOC Representation to European Organizations Bishop Victor (Kotsaba), deputy chairman of the Department for External Church Relations of the UOC Prot. Nikolai Danilevich, and priest Aleksei Zoshchuk – were published on Mirotvorets (Peacemaker) site.

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It should be noted that the activities of Metropolitan Anthony (Pakanich) of Borispol and Brovary, Bishop Victor (Kotsaba) of Baryshevka, Protopriest Nikolai Danilevich, as well as priest Aleksei Zoshchuk, are qualified as the work of human rights defenders. This fact certainly will not go unnoticed by the international community and the state of Ukraine will have to make efforts to eliminate this offense as quickly as possible; otherwise it will serve as an evident proof of the anti-European and anti-legal policies of the ruling politicians in Ukraine.

We are deeply convinced that the discussion of the issue regarding, as well as the adoption of any decisions regarding Orthodoxy in Ukraine, is not possible until conflicts around the temples of the Ukrainian Orthodox Church have been put to an end, and those guilty of crimes against Orthodox Christians have been brought to justice. State bodies of the highest level should provide real guarantees of observance of the rights of the UOC believers and confirm through specific actions that Orthodox Christians can enjoy real protection. Unfortunately, this is not the case at the moment, and any wrong conduct or promise given by the Patriarchate of Constantinople or its representatives can step up the activity of radical structures in Ukraine and entail new clashes.

In fact, since the Holy Synod of the Patriarchate of Constantinople made a decision to consider the issue in relation to the Orthodox Church in Ukraine, radical organizations have immediately increased their activity and started preparations for the capture of the UOC shrines, while politicians of different scales have intensified agitation in all directions.

We draw attention of UN HRC to the fact that the legal and spiritual responsibility for probable clashes, human toll and afflictions of believers will be borne by persons whose actions, rash statements or pledges may provoke new conflicts and clashes on religious grounds in the country.

At the same time, taking advantage of the high rostrum of the United Nations, we urge the Holy Synod of the Patriarchate of Constantinople and His All Holiness Patriarch Bartholomew to refrain from any decisions on the establishment of a Single Local Church, autocephaly or taking religious organizations in Ukraine under omophorion, because such decisions will result in clashes on the religious ground and finally undermine the religious peace in Ukraine.

**In the light of what has been stated above, our recommendations are as follows:**

- **to draw the attention of the OSCE and its participating States, as well as ODIHR and Ukrainian government that any action of the Holy Synod of the Patriarchate of Constantinople, statements of His All Holiness Patriarch Bartholomew on the Ukrainian issue, as well as public demonstration of the consideration of petitions on Ukrainian issues may entail violations of the rights of believers in Ukraine.**

Thank you very much for your attention,

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We feel obliged to draw the attention of Ukraine and OSCE participating States on violations of the rights of Orthodox Christian believers in Ukraine.

Our human rights organization has repeatedly drawn the attention of the OSCE and the UN Human Rights Council to the necessity of restoring the rights of the religious community of the Ukrainian Orthodox Church (UOC) in Ptycha village.

Numerous court rulings confirm that the said religious community is a legal owner of the building of the Holy Virgin Assumption church. At present, the community's ownership right to the church is not contested by anyone.

Since 2015, the adherents of the religious organization of the Kyiv Patriarchate, with the support of some radical organizations, have been recurrently trying to take over the church. For this end, they committed raider seizures, initiated legal actions, and exerted pressure on local authorities, who on their part took various actions to either abolish the community's ownership right to the church or to take hold of it in any other possible way.

For instance, on 17.11.2015, Ptycha village council adopted decision No. 25 to establish the shared use of the church building by the two parties to the conflict. Another decision of the Ptycha village council No. 324 as of 22.03.2017 was, in fact, another attempt to transfer the church to the community of the Kyiv Patriarchate by means of a local referendum, despite the existence of the court ruling confirming the ownership right of the UOC community to temple. The two above-mentioned decisions of Ptycha village council were ultimately canceled after the community of the UOC had filed relevant lawsuits.

It is noteworthy that over the course of 2016-2017 the community of the Kyiv Patriarchate failed to initiate a number of trials to abolish the ownership right of the UOC community to the church building. All their claims were rejected by the court.

As it follows from the foregoing, after the UOC had won the trials, its community was supposed to take the possession of the church and use it without any obstacles, while the local authorities had to facilitate this by every possible means.

Instead, on January 19, 2016, the temple was arrested under article 170 of the Criminal Procedure Code of Ukraine within one of the lawsuits that had been initiated upon the claims of the conflicting parties.

In fact, this article does entitle courts to arrest property, but only in the event, if there is sufficient grounds for the belief that such property has been an object, means, or an instrument of a criminal violation, or has been evidence of a crime, or has been gained as a result of commission of a criminal violation and/or as proceeds from such. Even if the church building is considered by the investigative authorities as evidence to be preserved, all the necessary procedural activities could have been accomplished over a two year period. Moreover, since 2016 the investigative authorities should have already taken a decision to either close the criminal proceedings or remit the case to the court. But neither has been done.

Obviously, the church building in view of the circumstances of this case cannot be attributed to any of the categories of property that can be subject to court arrest. Consequently, the arrest was unreasonable and unlawful. This means that the criminal proceedings along with the court ruling to arrest the church building arise from a political decision of local authorities who fail to prevent flagrant violations of the believers' rights of the Ukrainian Orthodox Church.

The community of the UOC, being a law-abiding legal person, has used its right to challenge the arrest, and since 2016 has filed motions to revoke property arrest with a view to renewing the performance of divine services in the temple.

On April 2, 2018, the court ordered to revoke the arrest. However, on the same day the church building was violently seized by unknown armed persons. The police officers, who arrived at the scene of the crime, protected the seized building preventing the legitimate owner, the UOC community, from entering the territory and the church itself, without taking any action to detain the real offenders.

On April 3, 2018, the temple was arrested again on the basis of the appeal of the law enforcement authorities in a new criminal proceeding.

Simultaneously with the new arrest, the authorities, led by the head of Dubno State Administration, head of the village council, began to coerce the owner of the temple – the UOC community – to transfer the building to the Kyiv Patriarchate for no legal reasons. Arguments that the only legitimate owner of the building, as confirmed by numerous court decisions, is the religious community of the Ukrainian Orthodox Church in Ptycha village are disregarded by civil servants.

For the pressure on the faithful, talks were held in the presence of the chief of the police service and the head of the state administration. A. Yurash, head of the Department for Religion of the Ministry of Culture of Ukraine, also took part in the session. All these civil servants exerted unprecedented unlawful pressure on the believers of the UOC and demanded that the building of the church be transferred to the Kyiv Patriarchate, despite numerous court decisions that came into force in favor

of the UOC community. Ignoring the law and justice by civil servants has taken on a blatant form, as they formalized their demands towards the UOC community on an official letterhead of the state body – the village council of Ptycha village.

In support of their demands, apart from political motives, the civil servants referred to scandalous bills No. 4128, 4511, 5309, which our organization had reported to the Human Rights Council at the 37<sup>th</sup> and the present session. Such actions also indicate that if these bills are adopted, human rights violations and attempts to take away the property of the UOC, as in the case of the community of Ptycha village, will become a mass phenomenon in Ukraine.

All these facts testify not only to the fact that law enforcement officials have committed gross violations of the legislation of Ukraine as well as the norms of international law, but also to the fact that government authorities are reluctant to defend human rights when it comes to believers of the Ukrainian Orthodox Church.

Please follow the link below for more information: [www.protiktor.com/ptichacase](http://www.protiktor.com/ptichacase)

In accordance with the special procedure of the Human Rights Council, we sent a complaint on this matter due to the fact that the community of Ptycha village, Rivne region, has exhausted all available domestic remedies.

**In the light of what has been stated above, our recommendations are as follows:**

- **to draw the attention of the OSCE and its participating States, as well as ODIHR and Ukrainian government to the case of Ptycha village, Rivne region, in an accelerated manner in view of its significance for the religious peace in Ukraine.**

Thank you very much for your attention,

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**To: OSCE  
OSCE Member-States  
ODIHR  
State of Ukraine  
International Organizations**

Honorable participants of the meeting, ladies and gentlemen,

We feel obliged to draw the attention of Ukraine and OSCE participating States on violations of the rights of Orthodox Christian believers in Ukraine.

1. About the Submitting NGO and the sources of evidence of the rights violations.

Since 2015, our organization have been monitoring the observance of the rights and freedoms of believers of the Ukrainian Orthodox Church (UOC) in the Lvov, Rovne, Ternopol, Volyn, Kiev, Zhitomir, Nikolayev, Kherson, Khmelnytsky, Vinnytsia regions. As a result, we have established numerous facts of violations of the rights of the UOC.

The findings of our work are confirmed by the following:

- A statement on current stance with human rights in Ukraine over 16 November 2015 – 15 February 15, 2016 by the Office of the United Nations High Commissioner for Human Rights<sup>1</sup> (Para. 119-120);
- A report of the US State Department on Religious Freedom in the World of 2015<sup>2</sup>;
- Bulletin of the OSCE SMM during the monitoring period<sup>3</sup>;
- Reports of human rights organizations<sup>4</sup>;
- Human Rights Council Working Group on the Universal Periodic Review Twenty-eighth session Geneva, 6-17 November 2017<sup>5</sup>.

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1 [www.ohchr.org/Documents/Countries/UA/Ukraine\\_13th\\_HRMMU\\_Report\\_3March2016\\_ru.pdf](http://www.ohchr.org/Documents/Countries/UA/Ukraine_13th_HRMMU_Report_3March2016_ru.pdf)

2 [https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dynamic\\_load\\_id=256253&year=2015#wrapper](https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dynamic_load_id=256253&year=2015#wrapper),  
<http://news.church.ua/2016/08/12/v-gosdepartamente-ssha-soobshhili-o-narusheniyax-prav-veruyushhix-v-ukraine/?lang=ru>

3 Information message of the OSCE mission on the results of observation of the grips of churches of the UOC and other conflicts in the religious sphere in Ukraine [www.potiktor.com/english](http://www.potiktor.com/english)

4 [https://www.upr-info.org/sites/default/files/document/ukraine/session\\_28\\_-\\_november\\_2017/adf\\_international\\_upr28\\_ukr\\_e\\_main.pdf](https://www.upr-info.org/sites/default/files/document/ukraine/session_28_-_november_2017/adf_international_upr28_ukr_e_main.pdf)

5 [https://www.upr-info.org/sites/default/files/document/ukraine/session\\_28\\_-\\_november\\_2017/a\\_hrc\\_wg.6\\_28\\_1.13.pdf](https://www.upr-info.org/sites/default/files/document/ukraine/session_28_-_november_2017/a_hrc_wg.6_28_1.13.pdf)

2. Hate speeches and incitement to perpetration of crimes with regard to the UOC believers.

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

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

In July 2016 a peaceful procession was held in Ukraine – All-Ukrainian Cross Procession with over 80 thousand believers of the Ukrainian Orthodox Church participating in it. Despite a peaceful character of the religious procession, it was subject to discriminatory attacks, hate speech, forceful obstacles and other actions, including those characteristic of gravest criminal offences. The above listed urges and remarks were not at all condemned or counteracted by the state bodies, which created favorable conditions for committing offences with regard to the Cross Procession participants such as threats to damage property and inflict physical injuries<sup>6</sup>.

3. Church seizures, arsons and plundering

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

Despite numerous facts of filing applications by the UOC communities to the law enforcement authorities on perpetration of criminal offences against these communities are not investigated.

The current situation of outspoken discrimination of the UOC and failure of the authorities to respond to overt cases of perpetrating crimes has led to a criminal upsurge relating to the UOC property. For example, in 2016 only in one Kiev eparchy the unknown persons committed acts of arson and desecration with 5 UOC temples. In October 2016 Chancellor of Sarny diocese Metropolitan Anatoly of Sarny and Polesye addressed the President of Ukraine with a request to

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<sup>6</sup> Refer to the Reply of the UOC Chancellor dated 2016: <http://news.church.ua/2016/12/31/zvit-keruyuchogo-spravami-ukrajinskoji-pravoslavnoji-cerkvi-za-2016-rik/>

defend UOC temples in Rovno region against desecration and assaults of vandals. In 2015 year over 20 acts of vandalism and looting were committed in Rovno region.

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

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

Additionally, after the beginning of the military strife in Ptichya village, Rovno region, a state body – the village council – made a decision to establish an alternate use of the church building together with the community of the Kiev Patriarchate despite the fact the UOC community had the property right to the building. After this decision had been cancelled by the court, law enforcement bodies initiated a criminal proceeding upon the risk of temple destruction by non-identified persons and applied to the court to arrest the temple building as evidence on the case. This request was satisfied by the court, as a consequence of which the temple was sealed by the law enforcement representatives with a view to prohibiting the temple owner – UOC community – to use their property. The described legal strategy was caused by the four court rulings in favor of the UOC community and arose from the local judicial branch using its authorities upon a legal address, which does not foresee the community's right to challenge a decision of local courts within the national legal system. The UOC community of Ptichya village lodged a respective complaint upon the matter with the European Court for Human Rights.

An active position was taken by the state law enforcement bodies in Katerinovka village of Ternopol region, having employed rubber truncheons and physical force toward peaceful believers who had gathered to defend their rights and 14 of whom eventually suffered bodily damage, including fractured limbs and severe head injuries. Among the aggrieved were women, elderly people and students. Upon these actions of the law enforcement authorities the prosecutor's office in Ternopol region opened a criminal case, which has not yet resulted in bringing any of the persons involved to justice.

Besides, an executive committee of Zhitomir city council “with a view to preventing clashes and conflicts between participants of civil assemblies” turned to the court having an intention to change the itinerary of the religious column of All-Ukrainian Cross Procession. The administrative court of Zhitomir resolved to decline the consideration of the legal claim of the executive committee of Zhitomir city council to Zhitomir UOC diocese on restrictions of the Cross Procession<sup>7</sup>.

22.07.2016 Borispol city council adopted a decision “On prohibition of the Cross Procession of peace of the Ukrainian Orthodox Church (Moscow Patriarchate) through Borispol city”<sup>8</sup>. Albeit this body is not empowered to restrict peaceful processions, this decision was subsequently used by the UOC opponents to create forced obstacles for the Cross Procession participants.

#### 5. Overt calls to commit crimes against the UOC

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<sup>7</sup> <http://rian.com.ua/society/20160719/1013361891.html>

<sup>8</sup> [https://www.facebook.com/permalink.php?story\\_fbid=943059639149596&id=715896135199282](https://www.facebook.com/permalink.php?story_fbid=943059639149596&id=715896135199282)

Calls of radical groups to commit crimes against the UOC and seize its churches galvanized at the end of 2017 / early 2018. In particular, during the seizure of a church in Kolomiya village, representatives of radical organizations were calling for the persecution of believers on the basis of their affiliation to the UOC.

In 2018, radical group “C14” has committed a number of overt crimes against the believers of the UOC by:

- organizing a manifestation near the Kiev-Pechersk Lavra, during which the faithful of the UOC were publicly called “agents of the FSB and the Kremlin”. The radicals also demanded to withdraw a building of the monastery from the possession of the UOC. These slogans were publicly demonstrated.
- publicly damaging the property of the Desyatynny Monastery in Kiev, destroying part of the fence of the monastery. Some unknown persons made an attempt to set the church building on fire using an incendiary mixture. The suspects of the arson were detained by the police.
- attacking the office of the Union of Orthodox Journalists, who cover in their publications the facts of human rights violations against the UOC.

In accordance with the established rules of procedure of the UN Human Rights Council, following the above mentioned violations, both individual and collective complaints were submitted by the faithful and religious organizations of the UOC for the period of 2015-2017.

**In the light of what has been stated above, we recommend that:**

- **the OSCE and its Participating States, as well as international community at large immediately intervene into the evolving religious confrontation in Ukraine, which might entail massive grave crimes against the faithful and religious organizations of the UOC in Ukraine.**

Thank you very much for your attention,

Oleg Denysov  
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