

On the International Tendency to Violations of the Right to Freedom of Religion and Canonical Identity in Ukraine, Montenegro and the Former Yugoslav Republic of Macedonia



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

Honorable participants of the meeting, ladies and gentlemen,

We would like to draw attention of the OSCE and its participating States to new types of offenses, committed by politicians having state power in Ukraine, Montenegro and the Former Yugoslav Republic of Macedonia. Such offenses are committed against one and the same group of victims, united by the sign of their belonging to the canonical Orthodox Church. Regretfully, the listed states violate the human right to believe and profess religious beliefs as part of a freely chosen religious organization.

The above mentioned states strive to impose on the church their vision of what church they need to go to and what church is more "appropriate" from the point of view of nationalism and the new state policy. In particular, this is precisely the attitude shown by the state power of Ukraine to the Ukrainian Orthodox Church, being far and wide unreasonably accused of its "links with Moscow", "support of separatism", and "anti-Ukrainian vector". Hate speech and open propaganda of aggression in the media leads to en masse violations of the rights of this denomination.

In fact, since 2015, only in Western Ukraine more than 40 temples of the UOC have been subject to church raiding. The state openly supports the alternative non-canonical so-called Ukrainian Orthodox Church of the Kiev Patriarchate. In a number of cases, the government publicly seeks to protect the interests of the Kiev Patriarchate by exerting pressure on the judiciary.

An example of such a case is the situation in Ptichya village, where the community of the UOC, being the owner of the temple, has lost its ownership and property rights because of the court decision to arrest the temple. Such a decision is political, since the UOC community won all the trials that confirmed its legal title to the property. This case is an example of not respecting Ukraine's legitimate institution of property rights essentially. The use of force against the believers of Katerinovka village of Ternopol region when police structures beat up believers of the UOC with the use of truncheons, who were going to enter their own temple, also blatantly violates human rights.

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Unfortunately, despite the explicit nature of the violation of the UOC rights and numerous appeals of the victims to the police, we do not know any cases of bringing radicals and other offenders, who have committed public crimes against believers in this Church, to justice.

Moreover, in 2018 senior statesmen – the President, the head of Parliament, MPs of different levels, the Minister of Foreign Affairs considered it necessary to openly intervene in ecclesiastic affairs and use the administrative resource to lobby the creation of the Single Local Church in Ukraine. Civil servants, including power structures, such as the Security Service of Ukraine, interfere in church affairs, exerting pressure on the hierarchy of the UOC to force them to support the new ecclesiastical – but in fact – political ideas of the ruling power. More detailed information about the situation in Ukraine is available:

1. in our statements at previous sessions of the UN Human Rights Council:
<http://undocs.org/en/A/HRC/38/NGO/13>, <http://undocs.org/en/A/HRC/38/NGO/14>,
<http://undocs.org/en/A/HRC/38/NGO/15>, <http://undocs.org/en/A/HRC/38/NGO/21>,
<http://undocs.org/en/A/HRC/38/NGO/22>,
2. as well as in the human rights report:
<https://www.protiktor.com/app/download/6756821863/Ukraine+Orthodox+Report+2016.pdf?t=1530605303>
3. and on the information page of our human rights organization: <https://www.protiktor.com/eng/>

In Montenegro, a similar situation arose due to the attitude of the state towards the canonical Archbishops of the Serbian Orthodox Church. Public servants and influential politicians support the non-canonical Montenegrin Orthodox Church, created with the support of the authorities as alternative to canonical Orthodoxy. Nationalist politicians believe there is a more patriotic and less patriotic Church, at the same time presuming to exert an unlawful pressure on the canonical Churches. An example of such pressure is draft law "On Freedom of Religion", submitted to the Parliament by the Government of Montenegro, Article 52 of which provides for the nationalization of historical property, created by believers until 1918, in favor of the state. Despite negative conclusions of the Venice Commission and the OSCE, this bill continues to be pending and may be finally approved. The situation of Orthodox Christians in Montenegro is described in more detail in our separate statement, presented to the attention at the 39th session of the UN Human Rights Council

In Macedonia, the Ohrid Archbishopric of the Serbian Orthodox Church is under tremendous pressure from the state, which supports the non-canonical so-called "Macedonian Orthodox Church". The authorities presume to provide power support to the non-canonical church, as a result of which the monasteries of the Ohrid Archbishopric were illegally seized. The head of the Ohrid Archbishopric, Archbishop John (Vranishkovsky), has been repeatedly subjected to arbitrary arrest and imprisonment, the total term of which in aggregate exceeds 5 years. The authorities of Macedonia refused to provide state registration for the Ohrid Archbishopric of the Serbian Orthodox Church, so this confession was compelled to appeal to the European Court of Human Rights, which decided in favor of the canonical Church, confirming the violation of the believers' rights by the Macedonian state. This situation is described in more detail in our statement for the 38th Session of the UNHRC No. A/HRC/38/NGO/23.

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Consequently, arising from the above facts, we can say that a new type of international offenses is being formed in the world. Victims of such violations are religious organizations and believers of the canonical Orthodox Church of different countries of the world, while offenders are politicians who have received state power and use it contrary to the interests of their people. The party liable for such offenses is both the above politicians, as well as states which fail to fulfill their international obligations to protect human rights in their territory.

In this regard, it is important to protect the right of believers to canonical identity, i.e. the right to profess their faith within the denomination that corresponds to the religious beliefs of a person. It is necessary to affirm the understanding that religion and faith determine a person's relationship with God and regulate human behavior in a wide sphere of life, excluding political aspects. Although religious leaders often interact with such aspects, it is nevertheless necessary to respect international right to profess religion, both internally and through external religious actions, beyond the political context that can be attributed to a particular religious organization or its leaders. The Church unites people of different political views, reconciling them with each other on the basis of the Gospel commandments. States, in turn, must ensure a real and not formal separation of politics from the Church and maintain a neutral and equitable position with regard to the population of their territories, regardless of their religious and political views. This is precisely how the principle of the rule of law and legal order is affirmed and carried out, with real guarantees of human rights being implemented.

It is also necessary to take into account the legal aspect of the autonomy of church organizations as corporations of private law. At present, most states recognize the possibility for any person to create religious organizations. As a rule, legal systems allow registration of religious organizations to small groups of individuals who independently define the name and can include parts of denominations of other faiths, such as "Orthodox", "Catholic", etc. Churches are therefore established, and though they bear the names "Orthodox", they are not recognized as Orthodox by other religious organizations. The reason for this situation is non-compliance of the procedure for the creation of these new structures with canon law, recognized by the world's Orthodox religious centers, which are called Local Churches making part of the World Orthodoxy. The binding force of the norms of canon law as corporate or customary law of a religious organization or associations is recognized by many legal systems.

Therefore, states should respect the right of a religious organization to independently decide on issues of belonging or withdrawing from a particular religious center, the right to determine the membership procedure and the formation of governing bodies in statutes and internal regulations of a religious organization. Unfortunately, in a number of countries, such as Ukraine, this right is also being questioned, which is unacceptable (see the statement of NGO Public Advocacy, no. A/HRC/38/NGO/23). The law and practice of the ECHR have repeatedly asserted the right to ecclesiastical autonomy and the right of religious organizations to independently form their own internal structure of membership and administration, as well as the right to enter or not be part of certain religious centers. We believe that the current situation calls for the intervention of the Human Rights Council and specific actions, aimed at putting an end to the pressure imposed on canonical Orthodoxy by the political authorities of Ukraine, Macedonia and Montenegro.

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 international community at large to the fact that without active implementation of international human rights mechanisms, the states of Ukraine, Montenegro and FYROM are not able to ensure, by their own efforts, the enforcement of the norms of international law and national legislation guaranteeing to the full extent the freedom of religion or belief.**

Thank you very much for your attention,

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**To: OSCE
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International Organization**

Honorable participants of the meeting, ladies and gentlemen,

We feel obliged to draw the attention of OSCE participating States on violations of the rights of Orthodox Christian believers in Ukraine, Montenegro and the Former Yugoslav Republic of Macedonia (FYROM). In these countries, political authorities, by interfering into the freedom of believers to profess their faith within a freely chosen denomination, try to force them to accept and subject themselves either to a so-called “autocephaly” or to any other form of juridical separation from their legitimate spiritual center with which they are linked by virtue of their religious beliefs.

UKRAINE:
The Ukrainian Orthodox Church

Since 2015, more than 40 churches of the Ukrainian Orthodox Church (UOC) have been illegally seized in hostile manner by radical organizations, supported by the police and civil servants. The total number of conflicts during which attempts were made to seize worship buildings exceeds 100 cases. Supporting the illegal seizure of the church in Katerynovka village, the police used exceeding and arbitrary force by bashing the believers with rubber truncheons^{1,2}. As a result, many of the faithful suffered serious injuries, among the victims are the elderly, women and young people. However, the criminals have never been brought to justice.

In Pticha village upon the initiative of the local state body the church building was arrested and sealed³. The arrest was allegedly imposed in order to prevent unrest, which is regularly organized by radicals. Thus, instead of protecting the legal owner of the church (UOC), the responsible government officers prevent the legal owner from worshipping in its own church.

With a view to weakening the organizational structure of the UOC, a number of Draft Laws were introduced to the Parliament of Ukraine, which unequivocally restrict the rights of only one denomination, namely the Ukrainian Orthodox Church. The Draft Laws give the right to vote at the

1 <https://www.osce.org/odihr/186901?download=true>

2 <https://publicadvocacynetwork.org/2018/06/05/mass-bashing-of-civilians-the-uoc-followers-in-katerynivka-village-ternopil-region-latent-war-timeline/>

3 <https://publicadvocacynetwork.org/2018/04/10/ptycha-village-case/>

general meetings of a religious community to persons who are not actually the members of that particular community. They also oblige the UOC to obtain a special permission from the government in order to appoint a new ruling bishop, as well as require that the religious organizations of the UOC (about 12 000 in Ukraine) conclude additional separate agreements with the government to perform its functions. Moreover, the Draft Laws oblige the Ukrainian Orthodox Church to change its unique name by including in it references to the Russian Orthodox Church or Moscow Patriarchate.

In 2018, the President of Ukraine P. Poroshenko started lobbying the creation of an autocephalous church in Ukraine, using for this purpose his administrative, political and media resources.

The violations against the faithful of the UOC were confirmed by reports of the OSCE SMM⁴, the UN High Commissioner for Human Rights⁵, the US State Department on Religious Affairs⁶, as well as by written statements submitted within the UN UPR and HRC procedures by human rights organizations⁷.

So far, our NGO has submitted 25 complaints to the UN Special Rapporteur on Freedom of Religion or Belief. A number of complaints were submitted within the UN HCR regular sessions (available at: www.protiktor.com/38hrsession).

MONTENEGRO:

The Metropolitanate of Montenegro and the Littoral of the Serbian Orthodox Church

The Metropolitanate of Montenegro and the Littoral is a religious organization that is part of the Serbian Orthodox Church.

The Government of Montenegro in order to support the Macedonian Orthodox Church, which is not recognized by the Universal Orthodoxy has countenanced the following violations of the rights of the believers of the Serbian Orthodox Church:

1. Montenegrin government strives 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. Particularly, 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. 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.

4 <https://www.protiktor.com/38hrsession/press-release-upr-un-ukraine-2017/osce-informs/>

5 http://www.ohchr.org/Documents/Countries/UA/Ukraine_13th_HRMMU_Report_3March2016_ru.pdf

6 [http://news.church.ua/2016/08/12/v-gosdepartamente-ssha-soobshhili-o-narusheniyax-prav-veruyushhix-v-ukraine/?lang=ru,](http://news.church.ua/2016/08/12/v-gosdepartamente-ssha-soobshhili-o-narusheniyax-prav-veruyushhix-v-ukraine/?lang=ru)

https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dynamic_load_id=256253&year=2015#wrapper

7 <https://www.protiktor.com/38hrsession/press-release-upr-un-ukraine-2017/>

2. In 2015, the Government prepared the Draft Law on Freedom of Religion. 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 FORMER REPUBLIC OF MOCEDONIA:
The Orthodox Ohrid Archbishopric of the Serbian Orthodox Church

In 2002, after canonical and ecclesiastical reunion of the Ohrid Archbishopric with the Serbian Orthodox Church, police unlawfully, without a court ruling, expelled Archbishop Jovan from his residence and cathedra in Veles.

In 2004, the same illegal actions were committed by the police in terms of the monks of four monasteries, who were immediately expelled from their monasteries after joining the Orthodox Ohrid Archbishopric⁸⁹.

In 2005 Archbishop Jovan was sentenced to 18 months' imprisonment for Instigation of ethnic, racial and religious hatred, discord and intolerance.

After 220 days in prison, the Supreme Court found the last two of the three points to be unconstitutional and the sentence was shortened to 8 months¹⁰.

In 2006, for the second time, Archbishop Jovan was sentenced on charges for embezzlement and was sentenced to a higher prison term of 2 years. After 256 days in prison, he was released¹¹.

The same year, some armed men, looking for Archbishop Joval, illegally broke into Saint John Chrysostom monastery in the village Nižepole. Having failed to find him there, the armed men started harassing and uttering threats to the nuns, cutting their hair and setting the monastery on fire¹². The buildings of the Orthodox Ohrid Archbishopric were raided by the police^{13 14}, the church in the Saint John Chrysostom monastery was demolished by the state authorities¹⁵, the

8 http://forum18.org/archive.php?article_id=228

9 <https://web.archive.org/web/20110722215706/http://mhc.org.mk/default-en.asp?ItemID=996B88AD8CF81C4280D853A6695673E4&arc=1>

10 http://www.poa-info.org/archbishop/testimonies/verdict_supreme_court.html

11 http://www.poa-info.org/archbishop/testimonies/9_third_verdict_convicting.html

12 http://forum18.org/archive.php?article_id=259

13 http://forum18.org/archive.php?article_id=506

14 <https://www.state.gov/j/drl/rls/irf/2006/71394.htm>

15 <https://www.state.gov/j/drl/rls/irf/2006/71394.htm>

chapel St. Nectarios of Aegina was vandalized and then completely demolished as well with the serving priest, father Borjan Vitanov, who was beaten up twice¹⁶.

In 2004, Macedonian Parliament adopted “the Declaration for support of the autocephaly of the MOC” thus legalizing the Government’s identification with a specific religious community – the Macedonian Orthodox Church¹⁷. There were also case when canonical Orthodox clergy were not allowed to enter the country¹⁹.

“Religious groups reported government favoritism toward the Macedonian Orthodox Church – Ohrid Archbishopric (MOC-OA). The retrial of a money laundering case involving the head of the Orthodox Archbishopric of Ohrid (OAO) started in January but was postponed twice. The OAO, which was unable to register as a religious entity, said the government was discriminating against it.

In 2017, the European Court for Human Rights announced its verdict on the case nr. 3532/07: “Orthodox Ohrid Archbishopric against the Former Yugoslav Republic of Macedonia (FYROM)”:

“FYROM violated Art. 11 (freedom of assembly and association), in conjunction with Art. 9 (Freedom of Thought, Conscience and Religion), the European Convention on Human Rights “, as the authorities refused to register the Orthodox Ohrid Archbishopric as a special religious community²¹.

In 2018, officers of the Ministry of Internal Affairs of Macedonia, when Metropolitan John was crossing the border, seized his passport in order to prevent him from participating in the celebration of the 1000th anniversary of the Ohrid Archbishopric.

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 pay attention to this new type of international religion-based crime and prepare a resolution to eliminate its dissemination.**

Thank you very much for your attention,

Oleg Denysov
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¹⁶ <https://www.state.gov/j/drl/rls/irf/2006/71394.htm>

¹⁷ <https://web.archive.org/web/20110725133708/http://www.a1.com.mk/vesti/default.aspx?VestID=28339>

¹⁸ http://forum18.org/archive.php?article_id=579

¹⁹ <https://web.archive.org/web/20160304023935/http://star.dnevnik.com.mk/default.aspx?pbroj=2565&stID=40335&pdate=20040923>

²⁰ <https://web.archive.org/web/20141006101048/http://star.dnevnik.com.mk/default.aspx?pbroj=2564&stID=40267&pdate=20040922>

²¹ <http://www.poa-info.org/synod/announcements/20171117.html>

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