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**Civil Society Submission of the Ukrainian Orthodox Church
In response to General Assembly Resolution 78/214**

16 April 2024

Dear High Commissioner Turk:

I represent the Ukrainian Orthodox Church (UOC) in our effort to ensure the freedom of religion and the rule of law for all Ukrainians. I write in response to the call for contributions from civil society on “combating intolerance against persons based on religion or belief” pursuant to General Assembly Resolution 78/214 (2023). As you prepare your next Report on Combating Intolerance, Negative Stereotyping, Stigmatization, Discrimination, Incitement to Violence and Violence Against Persons, Based on Religion or Belief, it is imperative that you take into consideration the present deterioration of religious freedom in Ukraine, ongoing physical and legislative attacks on the UOC, and the utter failure of the Ukrainian government to advance the action plan laid out in General Assembly Resolution 78/214.

Notwithstanding the General Assembly’s calls through the Action Plan for governments to take a range of affirmative steps to combat religious intolerance and violence against persons based on religion or belief, the Government of Ukraine has instead engaged in a systematic campaign of intolerance, negative stereotyping, stigmatization, discrimination and violence against the UOC and those who worship within the Church. Not only has Ukraine failed to build governmental capacity to protect religious freedom as directed through the Action Plan in Resolution 78/214, but it is also using its legislative powers to discriminate against the UOC through pending legislation which would effectively ban the Church. In addition, Ukrainian government officials have encouraged and directly committed systematic acts of intimidation and violence against the Church, its clergy, its property, and its worshipers.

You personally have already recognized “concerns regarding freedom of religion and belief in

Ukraine, given continuing action by the authorities against the Ukrainian Orthodox Church.”¹ These concerns are very well founded and growing more acute by the day. The UOC has been subjected to a systematic campaign of discrimination by the Ukrainian government as outlined in more detail in our submissions, below. The Ukrainian government has deployed its police and security services to harass, intimidate, arrest, and jail UOC clergy and parishioners. Of particular concern are the arbitrary arrests of numerous senior members of the clergy on spurious charges that call in to question Ukraine’s commitment to the Action Plan, much less the rule of law itself.

Beyond these attacks on the church, draft law 8371, currently pending a second reading before Ukraine’s parliament, threatens the very existence of the UOC. With the final passage of the legislation likely in the coming weeks, the Ukrainian government will destroy a centuries-old religious institution and deprive many Ukrainians of the church that serves as their religious home. These physical and legislative attacks on the Church are a gross violation of the freedom of religion and in breach of Ukraine’s commitments under the European Convention on Human Right, and the International Covenant on Civil and Political Rights. This campaign against the UOC underscores Ukraine’s abject failure to combat religious intolerance as mandated by the General Assembly. For the purposes of your forthcoming report, this campaign against the UOC makes clear Ukraine’s failure to advance the Action Plan as agreed in Resolution 78/214 and shows its active efforts to ferment the very forms of discrimination and religious intolerance that it should be combatting.

We organize our submissions around several of the key themes of the Action Plan endorsed in Resolution 78/214. In each of these areas, the Government of Ukraine has failed to implement the General Assembly’s recommendations and has taken direct government actions to undermine the freedom of religion and encourage acts of religious violence and intolerance.

E. Speaking out against intolerance, including advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence

The Action Plan calls on governments to speak out against intolerance and religious hatred. Unfortunately, the Ukrainian government has become the chief voice of religious intolerance in the country. Today, senior members of the government and leaders within Ukraine’s parliament (the Verkhovna Rada) are vocally advocating for religious hatred against the UOC. These statements have incited actual violence against the church, its clergy, its parishioners and its property. The statements of Ukrainian government officials can in no way be reconciled with the Action Plan’s recommendations.

Deputies of the Verkhovna Rada have sought to unfairly label the UOC and its priests as collaborators with Putin’s regime, completely disregarding the complex historical and canonical relationship between the UOC and the Russian Orthodox Church (ROC). Such inflammatory statements prove that the government is not taking efforts to prevent religious intolerance but in fact fostering such intolerance. For example, in an interview published by *Ukrinform* on 5 March 2024, Mykyta Poturaiev, the Chairman of the Verkhovna Rada Committee on

¹ <https://www.ohchr.org/en/statements-and-speeches/2023/12/russia-should-immediately-cease-its-use-force-against-ukraine-turk>

Humanitarian and Information Policy, attempted to defend draft law 8371 on the basis that the “implementation of the law will help cleanse Ukraine’s religious realm of Russia’s ideology supporters.”² Poturaiev’s use of the language of religious cleansing is deeply troubling. It has placed many thousands of loyal Ukrainian priests at harm by suggesting that the UOC has been infiltrated by traitors of Ukraine. As such, it feeds into a narrative that the UOC is a threat that needs to be systematically removed from Ukraine.

Poturaiev’s statement is just the latest example of the use of hostile language used by deputies of the Verkhovna Rada. In another instance, Inna Sovsun, one of the key instigators of draft law 8371, stated in November 2022 that the UOC needed to be banned as soon as Russia’s full-scale invasion commenced. She also asserted that ‘there is no doubt that representatives of the Russian Orthodox Church are agents of the Kremlin’. This incendiary statement—not based on any factual evidence—was designed to implicate all priests of the UOC as ‘agents’ of Russia and make them the targets of reprisals.³

Beyond the Rada, a wide array of senior Ukrainian government officials have voiced religious hatred toward the UOC. On March 30th, 2023, during a televised interview Ukrainian’s Channel 24, Mykhailo Podolyak, Senior Advisor to the Head Office of the President, called the UOC an “abscess” that has to be removed.⁴ On April 8th, 2023 Oleksiy Danilov, the then State Secretary of the Security Council of Ukraine gave a televised interview on Radio Liberty in which he welcomed the demolition of the UOC temple in Lviv and the seizures of churches in Khmelnytskyi. Danilov stated:

"In addition to the Verkhovna Rada, there are local authorities. I welcome what happened in Khmelnytsky, what is happening in Lviv, in other cities. What concerns Moscovia, it has nothing to do here, they should go to themselves. There should be no ties with Moscow," (...) "These people represent the Moscow diocese and represent the pop Gundyayev, who says that it is necessary to kill citizens of our country, and you go and start praying to them and giving them money. It doesn't fit in my head".⁵

On April 6, 2023, Danilov discussed the priests of the UOC during a televised interview on Ukraine’s Channel 24. Danilov alleged that the priests of the UOC were Russian agents, saying “*if someone wants to communicate with God, please communicate, but if God is represented by the FSB of Russia, then this is about other things*”⁶. During a discussion with the interviewer about Metropolitan Pavel of the Kyiv-Pechersk Lavra, Danilov explained that the process of removing representatives of the UOC from Ukraine had already begun:

² <https://www.ukrinform.net/rubric-politics/3836093-law-banning-russiaaffiliated-churches-set-to-cleanse-ukraines-religious-realm-of-russian-ideology-adherents-mp.html>

³ https://goloszmin.org/news/okrim-kriminalnih-provadzhen-mayemo-jti-do-povnoyi-zaboroni-upc-mp-inna-sovsun?fbclid=IwAR1_E74fjCzGYhHpOiHaHLCats6cfGg6VV8_eCXF4G52TXX7cL7qJ01uFqg

⁴ <https://www.youtube.com/watch?v=a-j7sMP80-0> – at minute 8:33.

⁵ <https://www.youtube.com/watch?v=FBTTUqOjqOs&t=1597s>

⁶ https://24tv.ua/ru/u-putina-edet-krysha-danilov-rasskazal-chego-bolshe-vsego-boitsja-diktator-24-kanal_n2289298

“I can say that this is an exchange fund. We all, citizens, know that representatives of the Moscow patriarchate they gladly exchange for our prisoners of war. And such events have already happened repeatedly, they were not public. If the procedure is organized in an appropriate way, we will gladly exchange them for our prisoners of war, and not only this gentleman you named [Metropolitan Pavel], but representatives of the FSB of the Russian Federation to take them to their homes in exchange for our prisoners of war.”⁷

These statements by a wide range of elected and appointed government officials are words of religious hatred. They are paramount examples of the very incitement to violence and discrimination that has become rampant in Ukraine today.

H. Debate of ideas and interfaith and intercultural dialogue at the local, national, and international levels to combat religious hatred, incitement and violence.

The Action Plan calls on governments to promote debate of ideas and interfaith dialogue. Yet, Ukraine’s systematic attack on the UOC over the past several years has already chilled debate and interfaith dialogue both within Ukraine and internationally. In a context in which the specter of the banishment of the Church is ever-present, attacks on clergy are ongoing, and church property is being seized, there is simply no room for debate or dialogue. The government’s relentless abuse of authority against clergy and parishioners backed by often brutal physical incursions into sacred buildings and monasteries has left no space for the kind of religious dialogue envisioned in the Action Plan.

Passage of draft Law 8371 will further undermine religious dialogue in Ukraine. As explained in detail under Issue I, below, the draft legislation would effectively ban the UOC. Once deprived of legal status in Ukraine, stripped of its property, and forbidden to engage in collective worship, the one of the largest pillars of Orthodoxy in Ukraine will simply be silenced.

In addition, Article 5 of the draft law imposes severe viewpoint limitations on the ideas that a Church may express as part of interfaith dialogue. Specifically, the legislation prohibits “propagating the ideology of the Russian world, including the dissemination of such propaganda.” While the UOC shares Ukraine’s valid national security concerns, this prohibition of speech is particularly antithetical to religious dialogue. The concept of “Russian world ideology” is vague and under-specified, leading to a broad chilling of religious speech. For example, might discussion of historical or canonical aspects of Orthodoxy be considered propaganda of “Russian world ideology”?

It is important to note that the UOC has expressly denounced Russia’s illegal invasion of Ukraine, repeatedly affirmed its support for Ukraine’s self-defense, and does not in any way subscribe to a so-called “Russian world ideology.” Yet, in the current political context in Ukraine, the express prohibition of the poorly defined concept of “Russian world ideology” imposes a severe restraint

⁷ https://24tv.ua/ru/u-putina-edet-krysha-danilov-rasskazal-chego-bolshe-vsego-boitsja-diktator-24-kanal_n2289298

on religious speech and inter-faith dialogue. Without clarity of what dialogue and views are prohibited and, in a context where even canonical or historical religious traditions may be interpreted as serving “Russian world ideology,” this limitation on the freedom of speech and religious practice cannot be reconciled with the Action Plan.

Further, Article 4 of draft law 8371 prohibits contacts with or engagement with certain other religious organizations. More specifically, Article 4 prohibits Ukrainian religious organizations from having “relations and (or) contacts of religious organizations [and] any legal entities of private law with foreign religious organizations located in a state that is recognized by law as having committed military aggression against Ukraine.” This prohibition subjects any interfaith dialogue with religious organizations based in Russia to control and censorship by the Cabinet of Ministers of Ukraine, thereby blocking the kind of open, religious debate and dialogue central to the goals of the Action Plan. Unfortunately, this is the very kind of religious dialogue that is most urgently needed in a time of conflict and has proved invaluable to political settlement and social reconciliation in past conflicts the world over.

I. Ensuring that public functionaries do not discriminate against individuals on the basis of religion or belief

Pursuant to the Action Plan, the government has a responsibility to ensure that its officials do not engage in acts of religious discrimination. Yet, the very highest levels of the Ukrainian government are engaged in a systematic campaign of discrimination against the UOC in an effort to support the government’s preferred branch of Orthodoxy, the Orthodox Church of Ukraine (OCU). While current legislative efforts to ban the UOC are perhaps the most flagrant act of discrimination, they are part of a far larger effort by the government to use its powers to advance the interests of one religious group at the expense of another.

Understanding this campaign of discrimination against the UOC requires historical context. In Ukraine, Orthodox Christianity has a long and contested history, which dates back to the times of Kyivan Rus. For historical reasons, the Orthodox Metropolitanate of Kyiv remained canonically subordinated to the Patriarchate of Moscow until the Revolution of 1917. After the fall of the Soviet Union, the Ukrainian Orthodox Church remained canonically subordinate to the Russian Orthodox Church (ROC) and continued as a dominant force in Ukrainian Orthodoxy. After the Maidan events in 2014 and in light of Russia’s illegal invasion in February 2022, underlying religious divides within Orthodox Christianity in Ukraine have largely been framed in a political context.

Beginning in 2018, the religious debate in Ukraine changed sharply when the Ukrainian government intervened by lobbying Constantinople to grant a new autocephalous Ukrainian Orthodox Church, which subsequently became the OCU. Petro Poroshenko, Ukraine’s president at the time, weaponized and actively instrumentalized religious issues, using the “formation of an autocephalous church in Ukraine as an important component of his election campaign.”⁸ In April 2018, Poroshenko formally requested autocephaly for the new church from the Ecumenical Patriarchate of Constantinople and in January of 2019, autocephaly was granted by

⁸ “Inter-Orthodox crisis in Ukraine: Recent Developments and Reflections,” *Observatoire International Du Religieux* (May 2023).

Bartholomew I. The new OCU quickly became the government's preferred religion and has subsequently received considerable state backing and support at the expense of other religious groups.

Throughout the process of autocephaly and since that time, the Ukrainian government has staunchly backed the OCU, while actively discriminating against the UOC. For the Poroshenko government, the granting of autocephaly appears to have been driven by discriminatory, nationalist aims. Poroshenko has declared his support for the OCU to be part of an "anti-imperialist struggle against Russia."⁹ Now, under the Zelensky government, religion has again been weaponized as an instrument of discrimination against the UOC. This move has been reinforced by a slow but deliberate attempt by the Ukrainian security services, the presidential administration, and local governments to delegitimize, stigmatize, and silence the UOC, strip it of its right to church property, and restrict its activities all in favor of the OCU, which in return has adopted a distinct liturgical and religious practice.

As the attached White Paper of January 2024 (Annex I) demonstrates, since 2018 the Ukrainian government has mounted extraordinary interventions into the religious affairs of the UOC that constitute unjustifiable discrimination. It has gone to extreme lengths to support its preferred branch of Orthodoxy—the OCU—over the UOC. Indeed, former Ukrainian president Poroshenko provided unprecedented political support for the establishment of the OCU. Further Victor Yelensky, current head of the government department responsible for religious affairs (the DESS) has been a long-time critic of the UOC and key supporter of the policy of autocephaly that created the OCU.¹⁰

The Ukrainian government has also deployed the powers of the state – including civil and criminal processes – to discriminate against the UOC and its worshipers. Sanctions have been imposed on senior UOC leaders, including Metropolitan Pavel Lebid, the Superior of the Kyiv-Pechersk Monastery. The Security Service of Ukraine (SBU) has carried out extensive searches of buildings under the UOC's authority. It has opened unfounded criminal investigations of UOC clergy for alleged collaboration or treason. Some of these clerics have even been questioned under polygraph.¹¹

One of the most prominent cases concerns Metropolitan Theodosy of Cherkasy and Kaniv, whose apartment has been repeatedly raided by security officials and who is currently under house arrest for allegedly giving instructions to publish "extremist content."¹² Certain of the charges against Theodosy relate to academic and public speeches given over the last ten years. Theodosy's speeches were not inflammatory, and merely presented an accurate picture of the

⁹ "Russian World and Ukrainian Autocephaly: Religious Narratives in Anti-Colonialist Nationalism of Ukraine," MDPI, Exploring Modern Religious Changes from the Perspective of Narrative Theology (December 4, 2022).

¹⁰ In his extended essay, Yelensky claimed that the establishment of the OCU and its Tomos of autocephaly "created a legitimate ecclesial alternative to the Moscow Patriarchate in terms of the canonical law." Yelensky, "Then What are we Fighting For?" at p. 49

¹¹ Report on the Human Rights Situation in Ukraine, 1 August 2022- 31 January 2023, Office of the High Commissioner for Human Rights, 24 March 2023.

¹² <https://spzh.news/en/news/76373-the-court-denies-the-request-to-take-cherkasy-metropolitan-into-custody>

ecclesiological position of the UOC and the schism in Ukrainian Orthodoxy.¹³ The SBU brought new accusations against Theodosy after he recorded and posted videos on YouTube during his house arrest. These videos detailed the attacks on the UOC and the broader threat to religious freedom in Ukraine. The SBU claimed that Theodosy's criticism of SBU raids on UOC property were criminal and proved that the Metropolitan had "acted in favor of the aggressor country."¹⁴ Following Theodosy's arrest, Anatoliy Bondarenko, the mayor of Cherkasy, declared in a video posted to Facebook in August 2023 that he would "cleanse your Moscow filth from the city of Cherkasy." Bondarenko added: "get ready – in Cherkasy, there will be no Moscow priests, in Cherkasy, people will pray in the Ukrainian language."¹⁵

Since his arrest, Theodosy has continued to publicize the threat to religious freedom. On 8 October 2023, he appeared by video link at a meeting of the UN Human Rights Council.¹⁶ Following this appearance, Theodosy was subject to further investigations by the SBU and was threatened with detention in a pre-trial facility.¹⁷ During my fact-finding mission to Kyiv at the end of February this year, I had the opportunity to meet Metropolitan Theodosy in person. The day after our meeting, his flat was raided again by the SBU, following which Theodosy suffered a heart attack.¹⁸

In other telling examples of discrimination by the government based on religious belief, Nikolai Danilevich, the deputy head of the Department for External Church Relations of the UOC, had his house searched by the SBU on 12 April 2024. This followed his meeting with representatives of the Conference of Churches of Europe, during which Danilevich raised concerns about draft law 8371.¹⁹ This search follows in the wake of the arrest and detention of four journalists working for the Union of Orthodox Journalists on 12 March 2024 for reporting on the degradation of religious freedom in Ukraine.²⁰ It has become apparent that Ukrainian authorities are systematically suppressing the rights of Ukrainian citizens, discriminating against those who worship within or report on the UOC.

The draft legislation now awaiting a final reading before the Verkhovna Rada is the most egregious act of discrimination yet against members of the UOC based on their religious beliefs. In the present political and social context in Ukraine, Draft Law 8371 can only be understood as an act of discrimination against the UOC and those who worship within the Church undertaken by public functionaries at the very highest levels of the Ukrainian government. The legislation is intentionally targeted at a particular religious organization—the UOC based on its canonical and

¹³ <https://spzh.media/en/news/71982-a-criminal-case-opened-against-metropolitan-of-cherkasy>

¹⁴ <https://www.ukrinform.ua/rubric-society/3770604-sbu-povidomila-se-odnu-pidozru-kerivniku-cerkaskoi-eparhii-upc-mp.html>

¹⁵ "Cherkasy mayor: We will cleanse the Moscow filth from the city to the last" *UOJ* (08/08.2023)

<https://spzh.news/en/news/75328-cherkasy-mayor-we-will-cleanse-the-moscow-filth-from-the-city-to-the-last>

¹⁶ <https://spzh.media/ru/news/76374-mitropolit-cherkasskij-vystupil-v-sovete-oon>

¹⁷ <https://spzh.media/ru/news/76938-mitropolita-feodosija-snova-pytajutsja-zakryt-v-sizo>

¹⁸ <https://spzh.media/ru/news/78958-u-mitropolita-cherkasskoho-proizoshel-serdechnyj-pristup-vo-vremja-obyskov-sbu>

¹⁹ <https://spzh.media/ru/news/79686-k-zamhlavy-ovtss-upts-protoiereju-nikolaju-danilevichu-prishli-s-obyskom>

²⁰ <https://spzh.media/ru/zashhita-very/79314-za-cho-to-sudjat-pravoslavnykh-zhurnalistov>

historical ties to the Russian Orthodox Church—and lacks sufficient procedural and safeguards to ensure neutral and impartial application.

Although Draft Law 8371 does not expressly name the UOC, the drafting of the law and the context of its introduction in the Verkhovna Rada make clear its intent to single out the UOC for punitive action. The legislation itself has been formulated in a narrow way that will apply exclusively to the UOC. By first prohibiting the operation of the Russian Orthodox Church in Ukraine (Article 3.1) and then subsequently banning the operation of Ukrainian religious organizations “that are in any way affiliated with a prohibited religious organization” (Article 3.2), the legislation expressly discriminates against the UOC. Despite the UOC’s self-governing status since Russia’s illegal invasion of Ukraine, immutable historical and canonical ties between the UOC and the ROC fall within the legislation’s definition of “affiliation” (Section II, Article 5).

This targeting of the UOC based on “subordination in canonical and/or organizational matters” is unwarranted and, hence, discriminatory. Following Russia’s 2022 illegal invasion of Ukraine, the UOC condemned Russian aggression and confirmed its self-governing status. The UOC found itself in the unenviable position of being spiritually and canonically connected to the ROC while some elements of the ROC supported Russia’s actions in Ukraine. From the start of Russia’s invasion, the UOC took measures to declare its opposition to the position of the Russian government with respect to its actions in Ukraine. The day of the invasion, the UOC’s leader, Metropolitan Onufry, declared the Church’s opposition to the war and called on Putin to reverse course.²¹ The UOC has collected more funds and humanitarian aid in support of Ukraine’s defense than any other Ukrainian religious organization. The UOC has also worked diligently to support Ukrainian refugees abroad, establishing parishes in 32 European cities.

Subsequently, in May 2022, the UOC held an unprecedented meeting at which changes were made to its Charter, confirming its self-governing status, and emphasizing that the center of control of the UOC is Kyiv.²² The amendments to the UOC Charter removed all mention of the ROC except a reference to the October 1990 document which established the UOC. The new Charter removed references to a UOC primate representative in the ROC synod and removed reference to the need for the UOC primate to be blessed by the Russian patriarch.

Despite UOC’s severance of connections with Moscow and clear move to self-governance, draft law 8371 is drafted in a way that makes a finding of “affiliation” with the now-banned ROC unavoidable. As noted above, historical ties and canonical links can be the source of such an affiliation. So too, references to the UOC in the Charter and documents of the ROC—items fully beyond the control of the UOC—are sufficient to establish “affiliation.” Based on this unsubstantiated finding of “affiliation,” the legislation will trigger the banishment of the UOC in an act of unprecedented religious discrimination.

In this context, the narrow targeting of Draft Law 8371 can only be understood as part of a systematic campaign of religious discrimination undertaken by and with the approval of the Government of Ukraine. In promulgating draft law 8371, Ukraine is in contravention of the

²¹ “Metropolitan Onufry of the UOC MP supported the AFU and urged Russia to stop the war,” *Front News*, 24 February 2022.

²² “Moscow-led Ukrainian Orthodox Church breaks ties with Russia,” *Reuters*, 28 May 2022.

guidance of the Venice Commission on refraining from taking sides in religious disputes. Religious discrimination in favor of the OCU and targeted against the UOC has become a core policy of the Ukrainian Government. In fact, the Office of the High Commissioner has already

J. Promoting the ability of members of all religious communities to manifest their religion and to contribute openly and on equal footing to society

Under the Action Plan, governments should play a positive role in promoting the ability of members of religious communities to manifest their religion. The ongoing campaign of both physical and legislative violence against the UOC does the exact opposite. Attacks on OUC clergy and parishioners have limited and, at times, prevented their ability to worship, to manifest their religion and to contribute to society on equal footing with other religions.

For example, on 8 February 2024, a large group of men in military uniform attempted to seize the Church of Peter and Paul in the village of Lenkovtsi, Chernivtsi region.²³ The men barricaded the church, which prevented villagers from entering and worshipping in the building. Those who tried to gain entry were forcefully led away by the armed men. As footage shows, this resulted in an outbreak of violence, during which several lay believers were beaten the men attempting to seize the church.²⁴ The Ukrainian government was either responsible for this attack or, at the very least, was aware of the attack and failed to stop it.

On April 19, 2023, deputies of the Novovolynsk City Council of Volyn region banned the activities of the Ukrainian Orthodox Church on its territory and deprived UOC congregations of the right to use land plots and hence to practice their religion.²⁵ On May 20th, 2023, armed OCU raiders, allegedly supported by men from a private security company, broke into and siezed the Holy Ascension Church of the UOC in the village of Rynghach in Chernivtsi region. The rector of the parish, Archpriest Serafim Dumitrovich, and two parishioners locked themselves in the church while the raiders broke the glass on the front door and began tearing down the bars. While the headman of the temple climbed the bell tower to sound the alarm, the raiders broke into the shrine and attacked Father Seraphim, throwing him to the floor and kicking him in the head. Father Seraphim was treated for his injuries by EMTs at scene.²⁶

On November 11, 2023, in the village of Lug, Rakhiv district in Transcarpathia, men dressed in camouflage and wearing badges from the private security firm Armor, and supported by police and military, cut the locks and seized the Holy Dukhov Church of the UOC in the village of Lug, Rakhiv district, Transcarpathia, ". The Facebook page of the rector

²³ <https://spzh.media/ru/news/78758-v-lenkovtsakh-na-bukovine-ljudi-v-voennoj-forme-i-politsija-zakhvatili-khram-upts>

²⁴ <https://spzh.media/ru/news/78800-v-seti-opublikovali-video-zhestokoho-izbienija-verujushchikh-upts-v-lenkovtsakh>

²⁵ <https://nov-rada.gov.ua/2023/04/19/vidbulasia-pozacherhova-sesiia-novovolynskoi-miskoi-rady-3/>

²⁶ <https://spzh.media/ru/news/73958-stali-izvestny-podrobnosti-zakhvata-khrama-upts-v-rynhache>

of the temple, Archpriest Vladimir Legach, published a video broadcast of the event. The raiders closed the gates and blocked parishioners from accessing the building.²⁷

Communities of UOC parishioners whose churches have been seized often resort to praying outside in the open air next to their sealed houses of worship. For example, on July 13, 2023, congregants and deacons of the cathedral of Bila Tserkva diocese of the UOC gathered in the street to attend services beside the fence of their former temple.²⁸ Similarly, UOC parishioners of the Church of St. Seraphim of Sarov in the village of Bar, Bar district, Vinnitsa region, gather every week to pray outside of the closed doors of their former church.²⁹ In so doing, these UOC worshipers are put at grave risk and, at times, may be blocked from practicing their religion.

In addition to these physical attacks, Draft Law 8371, uses legislative tools and judicial enforcement power to deny members of the UOC the ability to manifest their religion. More specifically, based on a finding of even canonical affiliation between the UOC and the Russian Orthodox Church, the bill would make illegal “activities of religious organizations (associations) that are in any way affiliated with a prohibited religious organization.” (Article 5). The impact of this legislation on the UOC would include termination of the Church as a legal entity, the “liquidation” of its operations and parishes (Article 16), and the confiscation of its property (Article 18). “Public religious events” of the Church, including “worship, rites, marches, ceremonies, etc.,” would be prohibited (Article 18).

In this legal context, it is simply infeasible for the UOC clergy and parishioners to practice *their* faith in *their* church. Where the very practice of a religion in one’s own church is prohibited by law and physical attacks on worshipers have become commonplace, members of the UOC religious community have no ability to either “manifest their religion” or “contribute openly and on equal footing to society.”

M. Measures and policies to promote full respect for and protection of places of worship and religious sites, cemeteries, and shrines

While the Action Plan calls on governments to respect and protect places of worship, in Ukraine the places of worship and religious sites of the UOC are under an extraordinary and unprecedented threat of government seizure. These failures of the Ukrainian government are both matters of omission and commission.

The government has taken no steps and implemented no policies to protect UOC places of worship and religious sites from interference, attacks, and seizure by other actors. Its police and security services—when not undertaking attacks on the Church themselves—simply standby and allow the invasion and desecration of UOC religious sites. In addition to the attack on the Church of Peter and Paul detailed under Issue J, on 28 March 2023, a group of men

²⁷ <https://spzh.media/ru/news/76833-v-sele-luh-chelovek-v-voennoj-forme-napal-na-beremennuju-prikhozhanku-upts>

²⁸ <https://spzh.media/ru/news/74773-v-beloi-tserkvi-prikhozhane-sobora-moljatsja-za-ohradoj>

²⁹ <https://eparhia.vn.ua/2023/08/02/viryani-zahoplenogo-hramu-molilis-prosto-neba-v-den-prestolnogo-svyata/>

forced their way into the Cathedral Church of Ivano-Frankivsk to evacuate UOC priests and worshippers from the Church. The attackers used tear gas in the church and were accompanied by priests and believers of non-UOC denominations.³⁰ On March 28th, 2023, the Church of the Blessed Virgin Mary of the UOC in the village of Kordyshev, Shumskiy district, Ternopil region, was burned down during the night. According to the rector of the temple, Archpriest George Tsezaruk, arsonists threw Molotov cocktails and then later poured gasoline onto the blaze.³¹ Again, the Ukrainian government took no action to stop or investigate these crimes.

Many of these incursions and seizures of UOC property have been undertaken by the OCU, often with government acquiescence. The region of Khmelnytsky has witnessed several forced appropriations of UOC church property by the OCU in the past year. On 5 April 2023, the parish church of the Navity of the Mother of God in Khmelnytsky was seized by the OCU following a vote of local residents, contrary to the wishes of the parishioners of the Church.³² This followed just days after the keys to the Holy Protection Cathedral in Khmelnytsky were handed over to the OCU in circumstances that remain unclear.³³ Meanwhile, on 27 January 2024, the Intercession Church in the village of Pecheski (Khmelnytsky region) was forcibly seized by OCU activists, again in contravention of the wishes of the parishioners.³⁴ This just provides just a snapshot of the seizure of UOC property in the region, which has been replicated in dioceses across Ukraine and to which the Ukrainian government has failed to respond.

The Ukrainian government is also directly responsible for interference with and seizure of UOC property. The government has deployed its own security services, notably the SBU, to invade such sites with increasing frequency. The most prominent example concerns the Kyiv-Pechersk Monastery, considered by worshippers to be one of the most important sites of Orthodox Christianity. The Ukrainian authorities have attempted to seize the complex on the basis that the UOC had breached provisions of a lease agreement, a claim which the UOC strongly contests. Following a court decision, there have been repeated attempts to expel monks living in the community. The monks were informed that if they wanted to remain, they had to agree to join the OCU, in what would essentially amount to a forced religious conversion. Meanwhile, the authorities have restricted access to the monastery's buildings and a significant portion of its territory. Not only has this seriously disrupted the life of the community, but it has prevented believers from being able to worship freely at the monastery. Furthermore, in August 2023, the Kyiv Theological Academy was forced to vacate its premises at the monastery and has had to relocate to a new location. This has proved highly disruptive to its educational activities. To date, the future of the Kyiv-Pechersk Monastery as a holy site of the UOC remains in grave doubt.³⁵

In a statement by the High Church of England, the Synod states that several municipal councils

³⁰ https://www.forum18.org/archive.php?article_id=2823; <https://spzh.media/ru/news/72707-v-ivano-frankovske-tolpa-prishla-izhonjat-verujushchikh-iz-sobora-upts>

³¹ <https://spzh.media/ru/news/72723-v-ternopolskoj-oblasti-sozhhli-khram-upts-koktejljami-molotova>

³² <https://spzh.media/ru/news/73021-v-khmelnitskom-khram-upts-rozhdestva-bohoroditsy-pereveli-v-ptsu>

³³ <https://spzh.media/ru/news/72939-v-khmelnitskom-rejdery-ptsu-zakhvatili-sobor-upts>

³⁴ <https://spzh.media/ru/news/78591-v-pecheskom-aktivisty-ptsu-vytolkali-nastojatelja-i-zakhvatili-khram>

³⁵ https://www.forum18.org/archive.php?article_id=2823

across Ukraine have terminated property rental agreements with the church. Additionally, the Ukrainian Ministry of Culture has terminated a rental agreement with the state-owned Kyiv Perchersk Lavra Monestary.³⁶ The termination of rental contracts has been focused on religious sites, such as the Kyivan Caves' Monastery and the Monestary or Porchaiv in Western Ukraine. The reasons cited for these terminations include "unauthorized building activities on the territory of national monuments."³⁷

Passage of draft law 8371 will create a legal justification for the seizure and expropriation of all UOC property. Again based on an unsubstantiated "affiliation" between the UOC and the ROC, the law would render "null and void" "all transactions related to the use of property (rent, lease, leasing, etc.)" (Article 17). This clause would invalidate any leases of Church facilities and would prevent the provision of public services to Church properties. Even more troubling, the law authorizes outright confiscation of UOC facilities. Specifically, "the property, funds and other assets" of the Church not involved in active religious worship "become the property of the state." (Article 20). Religious property, such as sites of active worship are to be seized by the state and transferred to "other religious organizations," presumably the OCU. (Article 20). This is nothing short of a discriminatory weaponization of law to convert assets and holy places of the UOC into property of the OCU. The net effect of the pending legislation is the total seizure of UOC property and places of worship by the Ukrainian state and the transfer of religious sites to the government's preferred branch of Orthodoxy.

Despite its obligations both under the International Covenant on Civil and Political Rights and the Action Plan to respect and protect places of worship, the Ukrainian government is doing the exact opposite—allocating Church property for itself and steeling the most sacred sites of Ukrainian Orthodoxy through illegal and discriminatory takings.

In conclusion, as the Office of the High Commissioner prepares the next report on combating intolerance against persons based on religion or belief pursuant to General Assembly Resolution 78/214 (2023), it is imperative that the rapid deterioration of the freedom of religion in Ukraine be recognized and condemned. As we document herein, Ukraine has failed in every way to meet the targets outlined in the General Assembly's Action Plan.

The deployment of police, security services, and government officials not to protect worshipers from religious intolerance, but rather to ferment and reinforce that intolerance is unacceptable. Ukraine has failed to speak out against intolerance, including advocacy of religious hatred that constitutes incitement to discrimination, hostility, or violence. Instead, in Ukraine today government officials are the voice of religious intolerance. Ukraine has failed to facilitate debate of ideas and interfaith and intercultural dialogue at the local, national, and international levels to combat religious hatred, incitement, and violence. Instead, Ukraine government officials are using legislative tools to stifle debate and dialogue. Ukraine has failed to ensure that public functionaries do not discriminate against individuals on the basis of religion or belief. Instead, it

³⁶ "The War in Ukraine and the Challenge to International Order," Published by the General Synod of the Church of England, 7 February 2024

³⁷ Ibid.

has engaged in systematic campaign of discrimination against the UOC and created a legislative framework to institutionalize that discrimination. Ukraine has failed to promote the ability of members of all religious communities to manifest their religion and to contribute openly and on equal footing to society. Instead, the Ukrainian government actively prevents members of the UOC from manifesting their religious beliefs. The Ukrainian government has failed to take measures and policies to promote full respect for and protection of places of worship and religious sites, cemeteries, and shrines. Instead, it is engaged in the active theft of places of worship and religious sites from the UOC.

Mr. High Commissioner, considering these developments in Ukraine I ask you to note Ukraine's failures to implement that Action Plan outlined in General Assembly Resolution 78/214 (2023).

Yours sincerely,

Robert Amsterdam