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Written statement* submitted by Public Organization "Public Advocacy", a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 August 2021]

* Issued as received, in the language(s) of submission only.



ON DISCRIMINATORY POLICY TOWARD THE UKRAINIAN ORTHODOX CHURCH

The NGO Public Advocacy draws the attention of the UN Human Rights Council, the UN member states to violations of the rights of believers of the Ukrainian Orthodox Church (hereinafter – the UOC) and the ongoing discriminatory policy towards this confession. We also express our gratitude to the international structures that have shown their concern for the problems of the UOC, in particular, Mr. A. Shaheed, UN Special Rapporteur on Freedom of Religion or Belief, representatives of the Organization for Security and Cooperation in Europe and human rights organizations, highlighting the offences in their reports, speeches and comments. I'd like to note that the Communication on violations of the believers' rights of 4 UN special rapporteurs to the Government of Ukraine on October 30, 2018 is a milestone towards awareness-raising. We hope the UN HRC will further consider individual complaints of UOC believers on violations of their rights, as well as legal opinions regarding the "law on renaming". The data below are taken from the official statement of the Representation of the UOC to European International Organizations, published on the official website of the UOC:¹

1. The Holy Synod of the UOC and the Council of Bishops of the UOC have repeatedly expressed their concern over the facts of violations of the UOC believers' rights, as well as discriminatory policies of authorities at various levels. At the same time, a number of state agents, religious leaders, and the media continue to promote the thesis that UOC communities voluntarily change their canonical jurisdiction. Refuting these false claims, it has to be said that since 2015, about 500 UOC churches have been seized or illegally re-registered. During the seizures of the temples, for example, in Zadubrivka , Katerynivka , Ptycha , lots of grave crimes were committed, which took a severe toll on UOC believers. At the same time, public testimonies and appeals of believers on such grievous acts are so numerous that the fact of en masse human rights violations needs no special inquiry. The church raiding scheme applied in Ukraine is implemented through direct seizure of UOC churches without any supporting documentation and illegal re-registration of the community in favor of the "Orthodox Church of Ukraine" (hereinafter – the OCU) – a new state-supported church, created on the basis of the Tomos granted by the Patriarchate of Constantinople.

In the latter case, re-registration procedure is performed by virtue of a decision of persons who are not part of the community's management bodies, but either residents of the territorial community or outsiders. The documentary forgery under this scheme foresees the submission to the state body of the minutes of a parish assembly meeting on the transfer of the community to another confession, signed by persons having no right to do so. This false protocol is adopted by the regional state administration for re-registration without any insight or consideration of the rights and interests of the real UOC community, which results in confrontation around the church. Eventually, the inaction of the police and ineffectiveness of the courts lead to impunity for the crimes against the UOC believers.

2. International law condemns any form of manifestation of intolerance, discrimination, incitement to hostility towards a group united on racial, ethnic or religious grounds. Political accusations of the UOC of its anti-Ukrainian activities in the rhetoric of state officials and decisions of local authorities testify to hate speech and incitement of intolerance towards the entire confession of the UOC at the state level. Thus, in one of its statements, the central body of state power of Ukraine accused the UOC of supporting separatism and anti-Ukrainian activities , demanding that the multi-million denomination express their standpoint on the geopolitical conflict, Crimea, Donbas, which neither relates to religion nor to statutory tasks of the Church,

¹ <https://news.church.ua/2021/05/31/statement-representation-uoc-european-international-organizations-certain-issues-related-situation-ukrainian-orthodox-church-context-international-law-osce/?lang=en>

but lies in the plane of politics and individual beliefs. It's noteworthy that allegations of high-level civil servants, deputies, government organizations have never been confirmed by the decisions of law enforcement agencies, hence they're slanderous. Nevertheless, this propaganda has a negative impact on the public opinion about the UOC and gives "carte blanche" to radical organizations to commit offenses against UOC believers. It's deplorable that there is a steady trend in Ukraine of targeting and labeling UOC believers as adepts of the "Russian world" ideology. For example, in the publications and studies of the National Institute for Strategic Studies, created by the decision of the President of Ukraine, the "OCU" is called "a symbol of spiritual independence of Ukraine", while the "UOC" – a conductor of the Kremlin propaganda and a mechanism for the destruction of the national unity of Ukraine. This trend not only fails to comply with international law, but is also fosters enmity and challenges the reality, since non-religious ideologies pertain to the sphere of personal convictions and have nothing to do with religious practice. After all, the UOC provides exclusively spiritual guidance to its flock in order to unite believers with the Lord Jesus Christ.

3. In the matter at hand, one should consider a legal procedure on granting the Tomos to the OCU by Patriarch Bartholomew of Constantinople. In particular, there is no full published text of the decision of the Synod of the Patriarchate of Constantinople on the "Ukrainian issue", while judicial acts on the reinstatement of the "UOC-KP" and "UAOC" hierarchs haven't been made public, which gives reason to view all these decisions as controversial, zero or having off-the-record legal errors.

In fact, the Phanar decisions on the "Ukrainian issue" were assessed by the international and national community only through narrow lens of mass media, statements by some politicians, and the text of the Tomos, which is not an initial act on granting autocephaly and controversial reinstatement of the schismatic clerics in their canonical dignity. The publication of the communiqué on the Patriarchate of Constantinople's website as the only media source doesn't enable to establish the compliance of its decisions with mandatory legal and canonical procedures for preparing such documents. Moreover, Patriarch Bartholomew's decision to return the signed and solemnly presented Tomos to reportedly supplement it with the signatures of the members of the Holy Synod also gives rise to doubts and bewilderment. All these facts indicate possible grievous violations of the law while adopting decisions on the "Ukrainian issue", which therefore question their legitimacy.

4. Pursuant to paras. 4 and 5 of the Statement, Orthodox believers-citizens of Ukraine cannot be persecuted and accused of inciting religious hatred if they declare their attitude to the "OCU's hierarchy", questioning their canonicity, and consider Patriarch Bartholomew's actions on the "Ukrainian issue" to be destructive and fraught with a split in Ecumenical Orthodoxy. A similar stance is shared by the entire UOC. Moreover, prohibiting millions of believers to embrace their position is a violation of international law, including Art. 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Art. 19 of the International Covenant on Civil and Political Rights. Consequently, "shutting down" the UOC faithful is an unlawful restriction of freedom of speech and therefore constitutes an offense.
5. Under the so-called "law on renaming", adopted by the Parliament of Ukraine (No. 2662-VIII of 20.12.2018), all religious organizations of the UOC must change their historical name and declare their subordination to the state recognized in Ukraine as the aggressor country. It's a vivid example of discrimination, restriction of freedom of religion, and a way of forcing UOC believers to renounce their canonical and historical identity. The right to choose the name is intrinsically part of religious freedom; hence any narrowing or imposing whatever obligations and restrictions contradicts generally recognized norms of international law. According to the Framework of Analysis, developed by the UN Secretary General's Office, the marking of a group of persons on religious or other grounds alongside discrimination of this

group is a sign of imminent mass crimes in the country and a failure to protect human rights in the region. In this regard, the "law on renaming" of the UOC is an attempt to label the largest confession of Ukraine as "enemies" and "cheerleaders" of Moscow. Such targeting is not only discriminatory, but also encourages further crimes against the people loyal to the UOC.

6. The UOC has a centuries-old historical, canonical and spiritual relation with the Russian Orthodox Church. The UOC is not under the administrative authority of the ROC but is a self-governing Church with its governing center in the capital of Ukraine – Kyiv. The independent status was granted to the UOC by the decision of the Bishops' Council of the ROC on October 25-27, 1990 .

The UOC has reiterated it has sufficient authority to carry out religious activities in Ukraine. Therefore, the idea of changing its status can only be advisory and non-violent. It must be possible that the existing status and name of the UOC be preserved in Ukraine.

Ukrainian Orthodox Church, NGO(s) without consultative status, also share the views expressed in this statement.