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In consultative status with the United Nations Economic and Social Council

Written statement of the Public organization Public Advocacy in the procedure for the 23rd session of the Committee on Enforced Disappearances (CED) (12-23 September 2022) as an input to the List of issues on the State of Ukraine.

Public organization “Public Advocacy” is a non-governmental human rights organization in consultative status with the UN ECOSOC. Since 2017, we have been representing and protecting the interests of Orthodox communities in Ukraine, Israel, Serbia, Montenegro and the Middle East, informing the UN HRC, the UN CHR, UN Special Rapporteurs, as well as other procedures and mechanisms about violations of the rights of believers, as well as possible ways to prevent these violations.

One of the topics of our research and practical work is the position of the Ukrainian Orthodox Church. Until recently, this denomination was deemed as part of the Moscow Patriarchate, which in turn became one of the reasons for en masse violations of the rights of believers of this denomination in Ukraine. It's noteworthy that by its decisions of May 27, 2022, the Ukrainian Orthodox Church excluded any mention of its relation with the Russian Orthodox Church from its Statute. These decisions were supposed to halt hate speech and acts of violence against the UOC, which once again confirmed its organizational independence from the Moscow Patriarchate¹.

At the same time, the adoption of these decisions did not lead to the cessation of offenses against the UOC, since building the image of “supporters of Moscow” from the believers of the UOC is still in the country's political and media mainstream.

In particular, according to the decision of the UOC of May 27, 2022:

“The Council of the Ukrainian Orthodox Church (hereinafter – the Council), held on May 27, 2022 in Kyiv, considered issues of Church life that arose as a result of the military aggression of the Russian Federation in Ukraine. Based on the results of the work, the Council approved the following:

1. The Council condemns war as a violation of God's commandment ‘Thou shalt not kill!’ (Exodus 20:13) and expresses heartfelt condolences to all those who have suffered in the conflict.
2. The Council appeals to the authorities of Ukraine and the authorities of the Russian Federation to continue the negotiation process and to search for a strong and sensible dialogue that could stop the bloodshed.
3. We disagree with the position of His Holiness Patriarch Kirill of Moscow and All Rus on the war in Ukraine.

¹ <https://news.church.ua/2022/05/28/resolutions-council-ukrainian-orthodox-church-may-27-2022/?lang=en>

4. The Council adopted appropriate amendments to the Statute with regard to the Administration of the Ukrainian Orthodox Church (UOC), all of which testify to the full independence and autonomy of the Ukrainian Orthodox Church.
5. The Council approves and confirms the resolutions of the Councils of Bishops of the Ukrainian Orthodox Church and the decisions of the Holy Synods of the Ukrainian Orthodox Church, which met after the last Council of the Ukrainian Orthodox Church (July 8, 2011). The Council approves the activities of the various Departments and Synodal Institutions of the Ukrainian Orthodox Church.
6. The Council considered the restoration of the ritual of confecting Chrism in the Ukrainian Orthodox Church (UOC).
7. During the period of conflict, when means of communication between the eparchies and the ecclesiastical centre are complicated or become absent, the Council considered it expedient to grant eparchial bishops the right to decide on certain issues of eparchial life that is usually within the competence of the Holy Synod or the Primate of the Ukrainian Orthodox Church. Subsequently, when the possibility arises and upon restoration of ties to notify the ruling hierarchs.
8. Recently, a new pastoral challenge that is particularly acute for our Church has presented itself. During the three months of the conflict, more than six million Ukrainian citizens were forced to flee abroad. The Ukrainians mostly hail from the southern, eastern and central regions of Ukraine. Many of them are Ukrainian Orthodox Church (UOC) faithful. That is why the Kyiv Metropolia of the Ukrainian Orthodox Church has received numerous appeals from the Ukrainian refugees currently residing in various countries with requests that Ukrainian Orthodox parishes be established. It is also obvious that many of our compatriots will return to their homeland, but many will become permanent residents in their chosen countries abroad. In this regard, the Council expresses its deep conviction that the Ukrainian Orthodox Church (UOC) cannot leave its faithful without spiritual and pastoral care and must be together with them during their current trials and tribulations, and hence must help organise Ukrainian Church communities in the diaspora. It is necessary to further develop the mission abroad among Orthodox Ukrainians in order to preserve their faith, culture, language, and Orthodox identity.
9. Recognising the special responsibility before Almighty God, the Council expresses its deep regret over the lack of unity in Ukrainian Orthodoxy. The Council perceives the existence of the schism as a deep painful wound on the Church body. It is especially unfortunate that the recent actions of the Patriarch of Constantinople in Ukraine, which resulted in the formation of the 'Orthodox Church of Ukraine' (OCU), only deepened misunderstandings and led to physical confrontation. But even in such crisis situations, the Council does not lose hope of resuming dialogue. In order for the dialogue to take place, the OCU representatives need to:
 - stop the illegal seizure of churches and forced transfers of parishes of the Ukrainian Orthodox Church (UOC),
 - realise that their canonical status, as enshrined in their 'Statute of the Orthodox Church of Ukraine', is in fact non-autocephalous and significantly inferior to the freedoms and opportunities for the implementation of Church activities as compared to those that are provided for in the Statute of the Ukrainian Orthodox Church (UOC),
 - resolve the issue of canonicity of the hierarchy of the OCU, because for the Ukrainian Orthodox Church, as for most Local Orthodox Churches, it is quite obvious that to recognise the canonicity of the hierarchy of the OCU, it is first necessary to restore the apostolic succession of its bishops.

The Council expresses its deep conviction that the key to the success of the dialogue must be not only the desire to restore Church unity, but also the sincere desire to build one's life on the principles of genuine Christian conscience and moral purity.

10. Summing up the results of the work done, the Council offers prayers of thanksgiving to the All-Merciful Lord that opportunities for fraternal communication may arise, and expresses its hope than an end to the conflict and the reconciliation of opposing sides happen soon. According to the holy apostle and evangelist St. John the Theologian, may 'grace, mercy and peace from God the Father and from the Lord Jesus Christ, the Son of the Father, in truth and love, be with us all, especially brothers and sisters in the Risen Christ' (2 John 1: 3)."

In our earlier statements, addressed to various international organizations, we repeatedly noted the enormous difficulties in the existence of this denomination, which was caused by the constant attempts of the Ukrainian authorities to force believers of the UOC to change their confessional affiliation. Attempts to forcibly transfer believers to the denomination of the Ukrainian Orthodox Church of the Kyiv Patriarchate and later to the denomination of the OCU² (which was created by virtue of the Tomos of the Patriarchate of Constantinople) were accompanied by various offenses, including by civil servants, as well as state bodies. Thus, since 2014, more than 90 churches of the UOC have been forcibly seized in Ukraine, mainly in Ternopil, Ivano-Frankivsk, Rivne and Volyn regions. Conflicts and attempts to seize temples number hundreds of cases. These case studies are described in more detail in our statements to the UNHRC during the relevant regular sessions of this body: A/HRC/41/NGO/22, A/HRC/45/NGO/112, A/HRC/41/NGO/20. In the course of such conflicts, there were facts of grave crimes committed against the believers of the UOC. Among them it is worth highlighting the mass beating of believers of the UOC by law enforcement units of the Ministry of Internal Affairs of Ukraine in Katerynivka village, Ternopil region; armed seizures of the temple in Ptycha village, Rivne region³; causing bodily harm to a number of parishioners and clerics of the UOC during other clashes⁴. Of particular note is the fact that since 2015, local governments in different regions have adopted a variety of decisions containing discriminatory rhetoric in relation to the UOC. Those include decisions of regional, district and village councils demanding to ban the activities of the UOC⁵, decisions on the forced transfer of property of the UOC to other persons⁶, as well as a bill, eventually approved by the Parliament of Ukraine, which established an obligation to change the names of all religious organizations of the UOC by indicating in the names their affiliation to the aggressor state – the Russian Federation⁷ (see the statement in the UN system A/HRC/41/NGO/26). It should also be noted that the state authorities at the central level blocked the possibility of making changes to the charters of the monasteries and dioceses of the UOC. As a result, over the past 3 years, the central structures of the UOC have not been able to legally appoint their leaders, even in the event of their death⁸. Thus, even the legal personality of the UOC was actually limited, while a significant part of legal entities of this denomination are still deprived of the opportunity to make civil transactions, acquire and buy property due to the fact that the authorities do not recognize the statutes of the UOC in the old edition and at the same time deny the opportunity to amend them.

² A/HRC/42/NGO/20

³<https://spzh.news/en/news/52460-sud-snova-nalozhil-arest-na-khram-v-ptichyjej--dveri-opechatala-policija>

⁴<https://spzh.news/en/news/78271-izbityj-v-zadubrovke-prihozhanin-upc-rasskazal-podrobnosti-napadenija>

⁵<https://spzh.news/en/news/89025-upravdelami-obratilsya-k-zelenskomu-iz-za-situacii-v-borispolyskoj-jeparkhii>

⁶ A/HRC/45/NGO/129

⁷ A/HRC/41/NGO/26

⁸ A/HRC/45/NGO/112

Representatives of the UOC have repeatedly reported⁹ violations of the rights of believers at various international events – regular sessions of the UN HRC, OSCE meetings¹⁰, as well as within the framework of the UN special procedures for considering individual complaints about violations of rights.

The UOC Representation to European International Organizations published a statement on violations of the rights of believers and distributed it to the international audience¹¹.

These statements evoked an international response, in particular:

- On October 30, 2018, a group of UN special rapporteurs sent a communication statement to the Government of Ukraine about violations of the rights of believers of the UOC¹²;
- On November 22, 2019, the UN Committee on Human Rights, as part of the interim measures procedure, decided that it was inadmissible to evict the UOC community from the temple by a court decision, initiated by the state authorities in Ivano-Frankivsk;
- On November 11, 2021, in its “Concluding observations on the eighth periodic report of Ukraine”, the UN Committee on Human Rights established:

“45. The Committee is concerned at reports of violence, intimidation and acts of vandalism of places of worship in connection with the process of transitioning churches and religious communities from the Ukrainian Orthodox Church to the newly established Orthodox Church of Ukraine. The Committee is further concerned at the reported inaction of the police in such incidents and the lack of information on investigations conducted by the State party (art. 18).

46. The State party should: (a) Guarantee the effective exercise of freedom of religion and belief, including by ensuring protection of places of worship against violence, intimidation and acts of vandalism; and (b) Ensure that all cases of violence are thoroughly and promptly investigated and sanctioned”.

With the outbreak of hostilities and the attack of the Russian Federation on Ukraine, a new wave of aggressive actions was launched in the country against the UOC¹³, whose believers and clergy in previous years were unreasonably labeled as enemies and supporters of the Russian Federation¹⁴. Despite the fact that believers of the UOC in large numbers serve in the Armed Forces of Ukraine and take part in hostilities with the Russian Federation; despite the fact that the structures of the UOC provide humanitarian assistance to the Armed Forces of Ukraine, this confession is still considered by some of the radical elements as an undesirable entity.

In such a situation, the state authorities of Ukraine should ensure the implementation of the legislation of Ukraine and the norms of international law in their territory and guarantee the unhampered functioning of the religious organizations of the UOC – as provided for by law.

However, the situation continues to deteriorate. In the context of the topic of enforced disappearances, we would like to draw attention to the widespread involvement of radical non-state entities, such as the “Right Sector” and similar ones, in committing violent acts against believers of

⁹<https://news.church.ua/2019/02/18/a-video-address-the-head-of-the-uoc-representation-to-european-international-organizations-to-the-officials-of-the-un-osce-eu-and-other-countries-due-to-the-facts-of-large-scale-violations-of-human/?lang=en>

¹⁰<https://spzh.news/en/news/55922-na-soveshhanii-obse-v-varshave-soobshhili-o-faktah-diskriminacii-v-otno-shenii-upc>

¹¹<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>

¹²<https://spcommreports.ohchr.org/TMRResultsBase/DownloadPublicCommunicationFile?gId=24107>

¹³ <https://spzh.news/en/news/89090-v-kolodnom-storonniki-pcu-popytalis-y-zahvatity-khram-upc>

¹⁴<https://spzh.news/en/news/89050-aktivist-pcu-iz-khmelynickogo-zajavil-chto-krestnoje-znamenije--propaganda-rf>

the UOC. In particular, according to media reports: "Members of the Right Sector took part in the seizure of nearly 50 temples of the Ukrainian Orthodox Church, said one of the leaders of the radicals Vasyl Labaychuk in a video posted on his youtube channel. He called the actions of the nationalists "assistance in the transition to the Ukrainian church." "We have achieved quite a success in this regard. About 50 communities received our assistance in one way or another," Labaychuk said.

He also spoke about his direct participation in the seizure of the UOC churches. In particular, back in September 2015, Labaychuk was one of the leaders of the scandalous seizure of the church in the village of Katerynivka, during which a lot of UOC believers were inflicted serious injuries, including fractures. Now a member of the Right Sector is outraged by the fact that the communities affected by the raiders are building new churches in their villages."¹⁵

"In the Ternopil region, Svoboda movement members have begun collecting signatures for the bill "On banning the Moscow Patriarchate on the territory of Ukraine".

Representatives of the All-Ukrainian Union "Svoboda" in the Ternopil region have begun collecting signatures in support of bill No 7204 "On banning the Moscow Patriarchate on the territory of Ukraine", reports the Telegram channel of the Chernivtsi and Bukovyna Eparchy.

Calling for a ban on the Church, the head of the council and leader of "Svoboda" in the Ternopil region, Mikhail Golovko, said, "Spiritual unity is the key to our success and victory! I urge all residents of our region to support the petition and put their signature in support of the demand to ban the UOC-MP in Ukraine!"¹⁶

"Human rights activist from the Khmelnytskyi region Viktoriya Kokhanovska said on her Facebook page that she is preparing a petition to Ukrainian President Vladimir Zelensky to ban the Svoboda party due to its activities in inciting religious conflicts.

Kokhanovska appealed to everyone "who cares about religion and those who are neutral to religion but found themselves in a certain political situation" with a statement that in the Khmelnytskyi region the representatives of the Svoboda party are behind the religious conflicts.

"Not a single deputy from the People's Servant Party, neither from the UTC (Unified Territorial Community – Trans.) nor from the district council, takes part in religious battles. Not a single one has betrayed the President," she stressed. According to Kohanovska, the most active participants in the religious conflicts are representatives of the Svoboda and Eurosolidarity parties, "who consider themselves entitled to usurp power, hiding behind political slogans about patriotism."

According to our observations, the extensive involvement of radical formations in the religious discourse, the existence of the church raiding mainstream, the demand to ban the UOC as a confession, as well as the inaction of law enforcement bodies in cases of gross offenses and crimes against believers of the UOC, lead to the formation of grounds for committing more serious and overt crimes.

In the context of the agenda and mandate of the Committee that will consider the situation in Ukraine, we would like to draw attention to the following facts being directly related to the topic of the Committee on Enforced Disappearances.

In accordance with the requirements of the Committee, this report publishes information with the names of the people whose abduction cases are widely known to the public, which is confirmed by links to relevant media resources. The report does not contain information about the abduction of persons whose names were not previously indicated in public sources.

1. On March 16, 2022, in the village of Ivanivka, Zhytomyr diocese, unidentified persons took Archimandrite Lavr (Berezovsky), rector of the Church of the Icon of the Mother of God "Life-Giving Spring" in an unknown direction. This was announced by priest Igor Kucheruk on his Facebook page.

¹⁵ <https://spzh.news/en/news/82925-v-pravom-sektore-zajavili-ob-uchastii-v-zahvatah-50-khramov-upc>

¹⁶ <https://spzh.news/en/news/88978-v-ternopolyskoj-oblasti-vo-svoboda-sobirajet-podpisi-za-zapret-upc>

“Two days ago in the Zhytomyr region, they seized Archimandrite Lavr (Berezovsky), rector of the church of the Icon of the Mother of God in Ivanivka village, Zhytomyr District Deanery, broke his nose, calling him a Moscow saboteur-priest, and dragged him into the forest,” Fr. Igor wrote. “No one else saw him. He is a true shepherd, a man of prayer, a confessor....”

In the Zhytomyr diocese, the UOJ confirmed this information and reported that they had filed a statement with the police about the abduction of the rector by unknown persons. An investigation is underway.

Source: The Union of Orthodox Journalists
<https://spzh.news/en/news/87123-v-zhitomirskoj-jeparkhii-izbili-i-pohitili-nastojatelya-khrama-upc>

2. On March 16, 2022, in the village of Tomashivka, Fastiv district, Kyiv region, unknown armed men kidnapped the cleric of the Kyiv diocese of the Ukrainian Orthodox Church, Archpriest Gennady Batenko, the [website of the UOC diocese](#) reports.

On Wednesday evening, unknown people broke into the priest's house, forcibly took him out into the yard and took him away in an unknown direction. An appeal to law enforcement officers has not yet yielded any result – the police said they do not have information about Fr. Gennady's whereabouts.

Archpriest Gennady Batenko, a surgeon by profession, is the Deputy Chairman of the Synodal Department of the UOC for Health and Medical and Scientific Work, Dean of the Second Hospital District of Kyiv.

Source: The Union of Orthodox Journalists
<https://spzh.news/en/news/87100-v-kijevskoj-oblasti-vooruzhennyje-lyudi-pohitili-svyashhennika-upc>

According to social media reports, a day after the kidnapping, the cleric was released: “The cleric of the Kyiv diocese of the Ukrainian Orthodox Church, Archpriest Gennady Batenko, who was kidnapped in the village of Tomashivka, Fastiv district, has already been released,” wrote on his Facebook page the vicar of the Kyiv diocese of the UOC, Archbishop Nikolai of Vasykiv.
<https://spzh.news/ru/news/87109-pohishhennogo-v-kijevskoj-oblasti-svyashhennika-upc-osvobodili>

3. As reported by the Ivano-Frankivsk Eparchy of the UOC, on March 8, 2022, a group of armed men seized the Holy Trinity Dukonsky Monastery of the Ivano-Frankivsk Eparchy of the Ukrainian Orthodox Church. The abbot of the monastery, Archimandrite Titus, and the novice Trofim were forcibly deported. According to local residents, they were taken to Verkhovyna and interrogated.

Source: the official website of the Ivano-Frankivsk Eparchy of the UOC
<https://ivano-frankivsk.church.ua/2022/03/10/ivano-frankivska-jeparxiya-povidomlyaje-pro-zaxoplennya-svyato-trojickogo-dukonsko-cholovichogo-monastirya/>

According to numerous media reports, the kidnapping was preceded by attempts to seize the temple:

“The Ivano-Frankivsk Eparchy of the Ukrainian Orthodox Church reported on its website that armed people seized the Holy Trinity Dukonsky Monastery. Meanwhile, the official Telegram channel of the Chernivtsi Eparchy of the UOC, citing local residents, wrote that the monastery's inhabitants are being evicted from the monastery and forbidden to live in the Ivano-Frankivsk region.

This is the end of the 23-year history of the Holy Trinity Dukonsky Monastery. Another monastic place in the Ivano-Frankivsk region is being closed. It turns out that no one needs the unceasing prayer of the monks,” reads the report.

The kidnapped brethren of the Dukonsky Monastery, Archimandrite Titus and novice Trofim, have been found, they are now in the Chernivtsi region, weak and exhausted.

“The first Lent week services are not performed in the churches of the UOC. People are afraid to go to church because they may not come back. Everyone is praying at home, in private,” reports the eparchy’s press service on its official [Facebook page](#).”

Source: The Union of Orthodox Journalists
<https://spzh.news/en/news/86916-dukonskij-monastyry-zakryvajut-jego-naselynikov-vyzhivajut-iz-oblastiu-oc>

After his release, the abducted priest gave a short interview to the media:

"After the interrogation, I voluntarily handed over all the monastery property (church, technical premises, bell tower, monastery car, laptop and telephone) to the use of the Verkhovyna territorial community.

A good point is that armed people allowed me to take away sacred objects, antimins, a chalice, some personal things. It is very unfortunate, but the monastery cat was left to die there at an altitude of 1500 m in the Carpathians. Frightened, it hid in the basement. The armed men did not want to give time to search for it."

As Fr. Titus was prescribed to leave the Ivano-Frankivsk region, he is now passing through Bukovyna. Then the Lord will dispose in which monastic abode he will kneel in prayer."

Source: telegram channel of the Ivano-Frankivsk Eparchy of the Ukrainian Orthodox Church <https://t.me/orthobuk/1365>

4. On March 12, 2022, the Kyiv Metropolis of the UOC issued a statement according to which, after receiving threats, a UOC cleric disappeared in the village of Borodianka: “Due to the fact that some Russian media published a video, in which Archbishop Viktor Talko, rector of the Archangel Michael church in Borodianka, Kyiv region, assesses the political situation in Ukraine, the leadership of the Kyiv Metropolis of the Ukrainian Orthodox Church tried to contact him for clarification immediately after the news. However, there is currently no contact with the said priest and his family members. In addition, Prot. Victor is reported to have been receiving threats in recent days.”

Source:
<https://news.church.ua/2022/03/12/zayava-kijivskoj-mitropoliji-ukrajinskoji-pravoslavnoji-cerkvi-shodo-situaciji-z-nastoyatelem-xramu-u-m-borodyanka/>

Conclusions:

The facts of abductions (arbitrary detentions) listed above indicate that in Ukraine, the practice of kidnapping believers and clerics of the UOC by unidentified armed groups is used in order to force them to stop certain activities, as well as to force them to transfer property – churches – in favor of other confessions or even to territorial communities (for example, the abducted abbot of the Dukonsky monastery “voluntarily” transferred the monastery and all its property to the state local self-government body – the territorial community).

The fate of some clerics – Fr. Viktor Talko (Borodianka), Archimandrite Lavr (Berezovsky) remains unknown to society alongside the names of their kidnappers and the response of the authorities to these and other similar facts.

The dissemination of reports in the media about the facts of abductions, along with their impunity, allows us to conclude that there is a high risk of committing mass violations of rights in relation to believers of the Ukrainian Orthodox Church in Ukraine.

Although we do not have direct evidence of the kidnappers' connection with state services, the widespread involvement of radical formations in activities to suppress dissidence is a common practice in many countries. It seems to us that this conclusion is fully applicable to Ukraine in cases of seizure of churches, forcible coercion of UOC believers to change their confessional affiliation, as well as episodes of other acts of aggression, crimes and hate speech.

Consequently, we propose the following positions to be included in the List of issues for the upcoming 23rd session of the Committee on Enforced Disappearances:

1. To provide explanations and information on the measures taken by the authorities of Ukraine to investigate the facts of enforced disappearances of believers and clergy of the Ukrainian Orthodox Church, which are mentioned in open sources: Archpriest Viktor Talko, Archimandrite Lavr (Berezovsky), Archpriest Gennady Batenko, Archimandrite Titus and novice Trofim (Holy Trinity Dukonsky Monastery).
2. To provide explanations and information on the measures taken by the authorities of Ukraine to forestall and prevent enforced disappearances, so that detentions, interrogations, arrests and other acts of coercion are used exclusively by authorized law enforcement officers and in the manner prescribed by the legislation of Ukraine, with drawing up relevant decisions of investigative and judicial authorities, granting detainees the right to the legal assistance and guarantees of personal immunity.
3. To provide explanations and information on the measures taken by the authorities of Ukraine to protect the believers of the UOC, given overwhelming facts of violations of their rights, as well as facts of the extensive use of violence, including enforced disappearances, threats, psychological pressure and physical violence to coerce believers and communities of the UOC to change their confessional affiliation and move to another religious denomination (in most cases, to the OCU).

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