



**Permanent Mission of Ukraine**  
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The Permanent Mission of Ukraine to the United Nations Office and other International Organizations in Geneva presents its compliments to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights and, with the reference to AL UKR 1/2023 of 8 November 2023, has the honour to transmit the response of the Government of Ukraine to the Joint Communication from the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief.

The Permanent Mission of Ukraine to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Encl.: as stated.



Geneva, 22 January 2024

**Special Procedures Branch of the  
Office of the United Nations  
High Commissioner for Human Rights**

**Geneva**

UKRAINE

in response to the Joint Communication from the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief

the following information was provided by the Ministry of Justice of Ukraine (MJU), the Ministry of Culture and Information Policy of Ukraine (MCIP), the Security Services of Ukraine (SSU), the National Police of Ukraine and the State Service of Ukraine for Ethnic Affairs and Freedom of Conscience (DESS)

**2. *Regarding the legal and factual grounds on which the order of eviction of UOC monks from Kyiv-Pechersk Lavra is based.***

It is worth paying attention to the background of legal issues in order to avoid further manipulations, and most importantly, to establish and confirm the fact of critical importance and necessity of access to the site by the representatives of the National Preserve “Kyiv-Pechersk Lavra” as the only legitimate property management body on which the state of Ukraine assigns responsibility for the protection and preservation of these religious buildings as UNESCO’s heritage site.

The revival of the Monastery on the territory of Kyiv-Pechersk Lavra, which is owned by the state of Ukraine, began with Ukraine's independence.

In 2013, the government made a decision to transfer the facilities of the Lower Lavra, as state-owned property, to the men's monastery of the Holy Dormition Kyiv-Pechersk Lavra (hereinafter referred to as the Monastery) of the Ukrainian Orthodox Church (UOC) for their free use and signed Agreement No. 2 of 19 July 2013.

On 23 December 2022, by its resolution No. 1461 the Cabinet of Ministers of Ukraine established the Interagency Working Group to prepare proposals and recommendations for the organization of certain tasks related to the activities of religious organizations in Ukraine (hereinafter referred to as the IWG).

In the course of its work, the IWG established several violations of the terms of the Agreement No. 2 committed by the Monastery on the use of state property, such as new constructions, extensions and reconstructions without permits; improper maintenance and misuse of property; use of property by other legal entities.

According to such violations the relevant government decision was declared invalid and on 10 March 2023, the National Preserve “Kyiv-Pechersk Lavra” sent the Monastery a notice of unilateral termination of the Agreement No. 2 of 19 July 2013 on the free use of religious buildings and other state-owned property on the basis of clause 8.1 of this document. The notice also contained an appeal to the Monastery to provide their representatives to be further included in the commission and a request to leave the premises and properties of religious buildings by 29 March 2023.

On 29 March 2023 the Ministry of Culture and Information Policy of Ukraine (MCIP) issued an Order No. 144 by which it established the Commission for Acceptance and Transfer of State Property of the National Preserve “Kyiv-Pechersk Lavra”.

In accordance with the paragraph 2 of the above-mentioned Order, in the period from 30 March to 30 June 2023 the Commission ensured the acceptance on a site-by-site basis of the state-owned real estate of the National Preserve “Kyiv-Pechersk Lavra” which was transferred

under the Agreement No.2 and according to the list attached to the Order of the Cabinet of Ministers of Ukraine No. 519-r as of 11 July 2013 "Issues of Transfer of Buildings and Properties for Free Use to the Holy Dormition Kyiv-Pechersk Lavra (Monastery) of the Ukrainian Orthodox Church". The procedure was ensured in accordance with the legislation of Ukraine and the relevant acceptance certificates were drawn up.

At the same time, the Order of the Cabinet of Ministers of Ukraine No. 519 as of 11 July 2013 was declared invalid by another Order of the Cabinet of Ministers of Ukraine No. 262-p as of 30 March 2023. Thus, at the moment, there are no legal grounds for the Monastery to remain on the territory of the Lower Lavra.

However, it should be emphasised once again that it was precisely because of numerous violations in the use of 79 objects of the National Preserve "Kyiv-Pechersk Lavra" that the Agreement on its free use of 2013 was terminated by the National Preserve.

So far, other individuals and legal entities have been found to be staying in the buildings that were transferred for free use to the Monastery, which were not provided for in any agreement.

These buildings were used in violation of the law as hotels, retail outlets, or were illegally transferred to other legal entities: the Metropolitanate of the UOC (MP), the Kyiv Theological Academy and Seminary (which have no certification as educational institutions). In total, the activities of 20 third-party legal entities were recorded. Some of the monuments were used in violation of the law, as industrial facilities or warehouses - these facts were recorded by the additional commission of the National Preserve. The illegal activities of these institutions, which pose a threat to the UNESCO site, have been stopped.

It should also be noted that there have been cases of illegal construction carried out by the Monastery's management on the territory of the national importance monument of "Kyiv-Pechersk Lavra". In total, 46 objects have been built over the past 20 years, 15 of which are capital structures and significantly distort the historical environment of the Preserve. These constructions were carried out in disregard of the laws of Ukraine on the protection of cultural heritage. No archaeological research was carried out on these sites, resulting in significant damage to the archaeological heritage of the Lavra.

During the presidency of Viktor Yanukovich, the Monastery's leaders, using corrupt connections, repeatedly tried to turn the Lavra into the residence of the leaders of the Russian Church and make it an exclusive monopoly of one religious' community. They also aimed to liquidate all museum and monument protection organizations working to protect and preserve the historical and cultural environment of the National Preserve. Over the past decades, the activities of some of the UOC (MP) leadership have been aggressively anti-Ukrainian. According to the Security Service of Ukraine, since the beginning of Russia's full-scale aggression against Ukraine, 65 criminal proceedings have been opened against clergy, including bishops of the UOC (MP), citizens of Ukraine as well as foreign nationals who have committed crimes against the state of Ukraine. So far, the court has already handed down 15 guilty verdicts. The citizenship of Ukraine was also revoked from 19 clergymen of the UOC (MP) who held Russian passports and were actively engaged in pro-Russian propaganda. In addition, more than 250 clerics of the Russian Orthodox Church, including 3 clergymen of the UOC (MP), whose citizenship of Ukraine was revoked, were banned from entering Ukraine.

The head of the Monastery, Pavlo [REDACTED] is under personal sanctions imposed by the National Security and Defence Council of Ukraine. The Metropolitan was served with a notice of suspicion under the following articles of the Criminal Code of Ukraine: Part 2 of Article 161 (violation of the equality of citizens based on their religious beliefs); Part 3 of Article 436-2 (justification, recognition of the legitimacy, denial of the armed aggression

of the Russian Federation against Ukraine).

Currently, the monks who lived in the Monastery under the 2013 Agreement continue to stay in Lavra. Their rights are not restricted; they have free access to church buildings, caves, cells, and refectories. Today, representatives of the UOC (MP) use 9 religious buildings, 3 cave complexes, and more than 30 residential and commercial buildings of the Lower Lavra.

The state authorities are interested in the continuation of the monastic tradition in the Kyiv Cave Monastery. The final format of legal relations with the monks will be determined after the lawsuits are completed, necessarily taking into account an analysis of the damage caused to Ukraine's cultural heritage.

If we summarize the violations committed by the Monastery during the previous period of their use of state property, we can single out the main ones, namely, violations of the requirements of part 14 of Article 5, Article 14, paragraph 1 of Article 24, paragraphs 2, 3 of Article 25, Article 26, Article 32, paragraph 4 of Article 33 of the Law of Ukraine "On Protection of Cultural Heritage", part four of Article 26 of the Law of Ukraine "On Regulation of Urban Development", Article 5 of the Law of Ukraine "On the Fundamentals of Urban Development", Article 28 of the Law of Ukraine "On Architectural Activity", as well as paragraphs 2. 2.3, 2.2.6, 2.2.7 of the Protective Agreements. In other words, the Monastery allowed unauthorized reconstruction, completion, redevelopment of cultural heritage monuments and construction of new buildings on the territory of the Preserve.

It is also worth noting the violation of the terms of subparagraph 4 of paragraph 3.2 of the Agreement No. 2 as of 19 July 2013 regarding the obligation not to transfer property to third parties without the permission of the Preserve, which is a state Institution. The Monastery subleased the buildings to the Metropolis of the UOC and the Kyiv Theological Academy and Seminary, where 20 third-party legal entities are registered.

There have also been a number of violations in relation to the Cell of the Hostynny Dvir (building No. 71), a local architectural monument with a protection certificate No. 893/64-Kv. The construction of an extension (grocery store) was also illegal. In 2016, a one-storey small architectural form (SAF) without a foundation, with an area of 48 m<sup>2</sup> (width - 4 m, length - 12 m), for food trade, was placed close to the cultural heritage site.

The continuation of works on the Economic Building - new building located to the west of building No. 53, on the territory of the economic yard at the Far Caves - is also a violation. The works on the territory of the economic yard started in 2013 under the project "Rehabilitation of the Economic Yard at the Far Caves of the Kyiv-Pechersk Lavra".

The violations also concerned the part 2 of Article 39-1 of the Law of Ukraine "On Regulation of Urban Development" on submission of inaccurate data in the registered declaration regarding the category of complexity of the construction object, and Article 6-1 of the Law of Ukraine "On Protection of Cultural Heritage" on prohibition of the acquisition by a business entity of the right to carry out any actions or economic activities on cultural heritage sites on a declarative basis.

Violations of the Law of Ukraine "On the Protection of Cultural Heritage" (part 1 of Article 26 - "performance of works without the agreed scientific and design documentation"; paragraph 2 of Article 22 - "monuments, their parts, movable and immovable property related to them are prohibited from being demolished, altered, replaced, moved (transferred) to other places"):

- regarding the brick fence with lattice (building No. 111a), an architectural monument of local significance, protection No. 454/4-Kv: in 2021, during the landscaping works adjacent to the architectural monument "Hospital with a Church (building No. 111)", a

part of the wrought-iron fence was dismantled in order to build the entrance to the hospital. On 10 September 2021 the National Preserve have sent the request to the Monastery to suspend the work and provide the necessary project documentation;

- Regarding the Gallery near the Church of the Nativity (building No. 61), an architectural monument of national importance, protection No. 4/23: in 2015-2016, the object was adapted into a refectory (glass blocks with an extension were installed between the columns) and an extension was built near the eastern façade of the monument;
- regarding the extensions near the Brotherhood Cells at the Far Caves (building No. 52), an architectural monument of local significance, protection No. 893/53-Kv: in November 2022, the specialists of the National Preserve recorded the installation of a temporary wooden extension (3x5 m in size) to the northern façade of the monument without the appropriate permits and approvals:
- regarding the “Hospital with Church (building No. 111)”, an architectural monument of local significance with protection No. 454/1-Kv.: the works were carried out in deviation from the agreed documentation. Given that the object is a cultural heritage monument, it was necessary to obtain a construction permit, not a declaration (Article 26 of the Law of Ukraine "On Protection of Cultural Heritage”).

There is no information on the commissioning of the Gate to the territory of the Near Caves, Northern Gate and the modern building (No. 70) - major repairs were carried out. The entrance to the Gallery from the Near to the Far Caves - the configuration of the roof (dome) was changed.

A number of new buildings have been constructed on the territory of the National Preserve without permits and commissioning, including: Vegetable storehouse (Lavra cellar, farmyard of the State Enterprise), Brotherhood building (No. 40, Monastery Garden - building No. 40 with fence and gate, nomenclature No. 04110020), Refectory (extension to sections No. 4 and No. 5 of the monastery walls), two-storey brick building (No. 65, nomenclature No. 04110022), brick outbuilding (on the south side of building No. 60, nomenclature No. 04110021), retaining wall with outbuildings between the buttresses in the southern part of Hostynny Dvir, (nomenclature No. 04110024), garage (on the southern side of building No. 70, nomenclature No. 04110026), outbuilding (on the southern side of buildings No. 70 and No.70a, nomenclature No. 04110027), two-storey brick building (building No. 70a, nomenclature No. 04110023), brick fence with gate and guard post (between buildings No. 64 and No. 64a, nomenclature No. 04110025), retaining wall (behind building No. 43, nomenclature No. 04110031), brick building (retail outlet) on Blizhnepechera Square (nomenclature No. 04110029).

In view of the above facts, the MCIP and the National Preserve are taking legal action to remove obstacles to the use of the property, as it is the duty of the state to protect and preserve sites that have such scale and exceptional historical and cultural value.

On 27 December 2022, the National Preserve “Kyiv-Pechersk Lavra” notified the Monastery of the expiration of the agreements for the temporary free use of the Assumption Cathedral and the Refectory Church and the lack of intention to extend them for 2023 based on the recommendations of the MCIP, which were provided in accordance with the Decree of the President of Ukraine as of 01 December 2022 No. 820/2022 "On the Decision of the National Security and Defence Council of Ukraine of 01 December 2022 "On Certain Aspects of the Activities of Religious Organisations in Ukraine and the Application of Personal Special Economic and Other Restrictive Measures (Sanctions)“.

In this regard, the Monastery filed claims with the Kyiv Economic Court which were dismissed in full by the Court's decisions as of 13 June 2023 and 9 August 2023 in case No. 910/423/23.

After the termination of the Agreement No. 2 on the free use of the property on the territory of the Lower Lavra (79 buildings) by the Monastery from 29 March 2023, the Monastery did not return the property, did not sign the act of return of the property and actually continued to use it, the National Preserve had to file a claim in its turn to remove obstacles to the use of the property (79 buildings on the territory of the Lower Lavra).

By its decision of 10 August 2023 in case No. 910/5094/23 Kyiv Economic Court satisfied the Preserve's claim in full.

Thus, based on the conclusions of the Commission for the Acceptance and Transfer of State Property of the National Preserve "Kyiv-Pechersk Lavra created by MCIP and according to the Kyiv Economic Court's decisions, the Preserve began the gradual return of the state property. At the same time, **religious activities are not restricted and continue to be carried out by the monks. Further stay of the monks on the territory of Lower Lavra is resolved through negotiations. The Preserve does not raise the issue of monks' eviction.**

The systematic reports of the Russian media about the eviction of monks from the territory of Kyiv-Pechersk Lavra are false. Moreover, at the official level the MCIP has constantly stressed the need to preserve monastic life in Lavra. Today, the issue of reformatting the interaction between the Preserve and religious communities is being considered, with the exclusive, priority focus on the protection of cultural values and monuments of the architectural ensemble of the Lavra. Other aspects of management decisions will be made after the approval of the strategic development plan of the National Preserve.

*Information provided by the Ministry of Culture  
and Information Policy of Ukraine (MCIP)*

**3. *Regarding all feasible alternatives to eviction from Kyiv-Pechersk Lavra that have been explored in the alleged case.***

We emphasize that the formulation of requests on the eviction of the monks from the Kyiv-Pechersk Monastery is incorrect, both in terms of the legal justification for the processes currently being carried out by the MCIP and the actual activities of the Preserve. Such messages have a destructive effect and lay down the basis for numerous manipulations instead of providing objective coverage of the situation around this unique complex of monuments, a national shrine of global proportions.

It is worth noting that on 1 February 2020 the new Law of Ukraine "On Lease of State and Municipal Property" came into force, according to which the Procedure for Lease of State and Municipal Property, approved by Resolution of the Cabinet of Ministers of Ukraine as of 3 June 2020 No. 483 provides for the procedure for concluding/extending an agreement.

According to part 2 of Article 9 of this Law, the transfer of state or municipal property for free use or loan is prohibited. If further use of such property is required, it is necessary to conclude a property lease agreement in accordance with the requirements of the new lease legislation. In turn, after the expiration of the free use agreement, neither the Law nor the Procedure provides for a pre-emptive right to enter into a lease agreement for the property that is the subject of such an agreement.

In view of the above, if a religious organization needs to further use real estate, as a potential lessee, it should apply to the relevant regional office of the State Property Fund of Ukraine (the

Lessor) or the balance sheet holder with the intention to enter into a lease agreement.

*Information provided by the Ministry of Culture  
and Information Policy of Ukraine (MCIP)*

**4. Regarding legal procedures and remedies that are available, including notice periods, and access to legal aid and to adjudicative bodies, for the monastery residents to challenge the eviction from the Kyiv-Pechersk Lavra.**

In terms of access to legal aid

The content of the right to free legal aid (FLA), the grounds and procedure for providing FLA are determined by the Law of Ukraine "On Free Legal Aid" (hereinafter- the Law).

According to Article 4 of the Law, in exercising the right to FLA, no privileges or restrictions may be applied to persons on the grounds of race, skin colour, political, religious or other beliefs, gender, ethnic or social origin, place of residence, language or other grounds.

One of the principles on which the state policy in the field of free secondary legal aid in Ukraine is based is the availability of such assistance to all categories of persons entitled to it (Article 5 of the Law).

According to Article 8 of the Law, all persons under the jurisdiction of Ukraine have the right to free primary legal aid, which includes such types of legal services as providing legal information, consultations and explanations on legal issues; drafting applications, complaints and other legal documents (except for documents of a procedural nature); and assistance in ensuring access to secondary legal aid and mediation, in accordance with the Constitution of Ukraine and the Law.

The provision of free secondary legal aid, which includes such types of legal services as defence; representation of the interests of persons entitled to free secondary legal aid in courts, other state bodies, local self-government bodies, and before other persons; and drafting of procedural documents, is provided to the subjects of the relevant right specified in part one of Article 14 of the Law.

As defined in Article 18 of the Law, to receive these legal services, a person must submit to the FLA centre an application for such assistance and documents confirming that he or she belongs to one of the vulnerable categories of persons provided for in part one of Article 14 of the Law.

In terms of access to the judiciary

According to Article 55 of the Constitution of Ukraine, human and civil rights and freedoms are protected by the courts.

Article 7 of the Law of Ukraine "On the Judiciary and the Status of Judges" (hereinafter- the Law) provides that everyone is guaranteed protection of their rights, freedoms and interests within a reasonable time by an independent, impartial and fair court established by law.

Foreigners, stateless persons, and foreign legal entities have the right to judicial protection in Ukraine on an equal footing with Ukrainian citizens and legal entities.

Access to justice for each person shall be ensured in accordance with the Constitution of Ukraine and in accordance with the procedure established by the laws of Ukraine.

No one may be deprived of the right to have his or her case heard by a court within the jurisdiction of which it is referred by the procedural law (Article 8(1) of the Law).

According to Article 9 (1) of the Law, justice in Ukraine is administered on the basis of equality of all participants in the judicial process before the law and the court, regardless of race, skin colour, political, religious or other beliefs, gender, ethnic or social origin, property status, place of residence, language or other characteristics.

No applications or reports regarding the eviction of UOC monks from the Kyiv-Pechersk Lavra were received by the Main Department of the National Police in Kyiv, and no criminal proceedings were registered or investigated on the facts of any unlawful actions during the eviction.

*Information provided by the National*  
*Police of Ukraine (NPU)*

**5. *Regarding measures taken to ensure continuing access to the Kyiv-Pechersk Lavra for all people, including for educational and cultural purposes, and to enjoy their cultural rights in accordance with international standards.***

In accordance with the rules for visiting the territory and exhibition objects of the National Preserve “Kyiv-Pechersk Lavra”, approved by the Order No. 04-07/33 as of 15 March 2021, the entrance to the territory of the National Preserve and its exhibition objects is carried out daily at the designated time of the Preserve, upon presentation of a ticket or document certifying the right to enter the territory (including free of charge). However, due to repeated obstruction of the work of the Commission for sealing the vacated buildings by unidentified persons, the territory of the Lower Lavra was closed to visitors by the Order of the Preserve No. 04-07/91 as of 10 August 2023.

We note that according to Article 24 of the Constitution of Ukraine, citizens have equal constitutional rights and freedoms and are equal before the law. There shall be no privileges or restrictions based on race, skin colour, political, religious or other beliefs, gender, ethnic or social origin, property status, place of residence, language or other characteristics. Article 35 of the Constitution of Ukraine also states that everyone has the right to freedom of thought and religion. This right includes the freedom to profess or not to profess any religion, to freely perform religious cults and rituals individually or collectively, and to conduct religious activities. The church and religious organizations in Ukraine are separated from the state. No religion can be recognized by the state as obligatory.

Ukraine's constitutional position is fully in line with the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and the Framework Convention for the Protection of National Minorities which MCIP stands for as well.

*Information provided by the Ministry of Culture*  
*and Information Policy of Ukraine (MCIP)*

**6. *Regarding measures to be taken in order to ensure the preservation and maintenance of the Kyiv-Pechersk Lavra, and the preservation of its universal value, including fulfilment of the obligations under the UNESCO World Heritage Convention, and rules derived from it.***

In accordance with the UNESCO World Heritage Convention, in order to ensure the preservation and maintenance of the Kyiv-Pechersk Lavra, Ukraine intends to continue:

- a) to pursue a general policy aimed at providing the Kyiv-Pechersk Lavra cultural heritage site with certain functions in public life and at including the protection of this heritage in general planning programmes;

- b) to develop scientific and technical studies and research as well as to improve the methods of work that enable the state to eliminate the danger to the Kyiv-Pechersk Lavra;
- c) to take appropriate legal, administrative and financial measures to identify, protect, preserve, promote and restore the site;
- d) to promote the establishment or development of national or regional training centres in the field of protection, preservation and promotion of cultural and natural heritage, as well as to encourage scientific research in this area.

In order to ensure the identification, protection, preservation, promotion and transmission to future generations of the cultural heritage of Kyiv-Pechersk Lavra site, Ukraine seeks to act both on its own, using its own resources to the maximum extent possible, and, if necessary, to make use of international assistance and cooperation, which it may enjoy, in particular in financial, artistic, scientific and technical terms.

In accordance with Decision 39 COM 11, legislative and regulatory measures at the national and local level should ensure the protection of the property from social, economic and other pressures or changes that may adversely affect its outstanding universal value, including its integrity and/or authenticity. In this regard, Ukraine will ensure the full and effective application of these measures.

Ukraine will continue to carry out effective management of the Kyiv-Pechersk Lavra in close cooperation with the management of the Monastery, authorized bodies and other partners and stakeholders.

Given that Kyiv-Pechersk Lavra was inscribed on UNESCO's World Heritage List in Danger at the 45th Session of UNESCO World Heritage Committee, Ukraine will submit reports on the state of conservation of Kyiv-Pechersk Lavra and cooperate with advisory bodies, which, at the invitation of the Committee, will monitor and report on the status of work carried out to preserve the site.

In addition, in accordance with the UNESCO World Heritage Convention, Ukraine will provide appropriate training for its professionals and specialists at all levels, develop national training strategies, include regional cooperation as part of its strategies, and continue to allocate resources for research. Ukraine will continue to raise awareness of the need to preserve World Heritage.

The State Programme for the Development of the National Preserve "Kyiv-Pechersk Lavra" is currently being drafted, which will provide for the official consolidation of measures to preserve the site and ensure the fulfilment of Ukraine's obligations under the UNESCO World Heritage Convention and its regulations, among other equally important issues.

*Information provided by the Ministry of Culture  
and Information Policy of Ukraine (MCIP)*

***7. Regarding the steps taken to prevent, investigate and prosecute acts of violence perpetrated against persons belonging to UOC in Ivano-Frankivsk.***

No cases of violence committed against persons belonging to the UOC or discrimination on religious grounds were recorded in the territory of the Ivano-Frankivsk region. Disputes between religious opponents were resolved in court.

According to available data, representatives of the Ivano-Frankivsk Eparchy of the UOC appealed

to the court with a demand to initiate criminal proceedings on the grounds that representatives of the religious organization «Religious Community of the Ukrainian Orthodox Church of the Nativity of Christ in Ivano-Frankivsk» forged the minutes of the meeting, believing that the transfer of the religious community took place in violation of the law. In July 2022, following a court decision, the police initiated criminal proceedings over the incident. Following a comprehensive investigation, the criminal proceedings were closed due to the lack of corpus delicti.

In its turn, in March 2023, representatives of the religious community of the OCU also appealed to the court to oblige the Ivano-Frankivsk District Police Department of the Main Department of the National Police in Ivano-Frankivsk region to enter into the Unified Register of Pre-trial Investigations information about the commission of crimes by representatives of the Ivano-Frankivsk Eparchy of the UOC under Articles 191 (misappropriation, embezzlement or conversion of property by malversation) and 366 (forgery of official documents) of the Criminal Code of Ukraine and to initiate a pre-trial investigation, which is still ongoing.

*Information provided by the Security Services of Ukraine (SSU)*

***8-9. Regarding measure taken to ensure that right to freedom of religion or belief of Mr. Andrii Anatoliiovych Vyshnevetskyi, and Mr. Vitaly Alekseienko is being respected. Regarding the status of the investigation of Mr. Yuri Sheliashenko including the factual and legal grounds for his night house arrest.***

The free legal aid (FLA) system ensures the acceptance and processing of all reports of cases of detention, administrative arrest, or application of a preventive measure in the form of custodial detention received from law enforcement agencies throughout the government-controlled territory of Ukraine.

In accordance with the provisions of the Procedure for informing the FLA centres about cases of detention, administrative arrest, or application of a preventive measure in the form of custodial detention, approved by the Cabinet of Ministers of Ukraine as of 28 December 2011 No. 1363 (as amended), immediately after the actual detention of a person on suspicion of committing a criminal offence, the police and other agencies authorised to carry out detention shall inform the regional centre for free secondary legal aid (hereinafter referred to as the regional centre) about the person who was detained by means of telephone or fax.

Within one hour from the moment of registration of such notification, the regional centre appoints an advocate to provide free secondary legal aid to the detained person by issuing a corresponding power of attorney.

The appointed lawyer arrives at the detainee's place of residence within an hour from receiving the order to hold a confidential meeting with him/her.

The FLA system ensures the adoption and implementation of all resolutions and decisions on the engagement of a defence counsel in accordance with the provisions of the Criminal Procedure Code of Ukraine for the purpose of defence by appointment or conducting a separate procedural action, which come from the subjects of such procedural decisions.

At the same time, during 2022 - November 2023, the free legal aid system did not receive any reports of detention of Mr. Vitaly Alekseienko, Mr. Andrii Vyshnevetskyi and Mr. Yuri Sheliashenko, as well as procedural decisions on the engagement of lawyers to provide free secondary legal aid to these persons.

*Information provided by the Ministry of Justice of Ukraine (MJU)*

On 28 June 2022, the Ivano-Frankivsk District Police Department of the Main Directorate of the National Police in Ivano-Frankivsk Region sent an indictment to the Ivano-Frankivsk City Court accusing Mr. Vitaly Alekseienco of committing a criminal offence under Article 336 of the Criminal Code of Ukraine (evasion of conscription for military service during mobilisation, for a special period, for military service by conscription of persons from among reservists during a special period). Pursuant to Article 36 of the Criminal Procedure Code of Ukraine (CPCU), supervision over the observance of laws during the pre-trial investigation is carried out by prosecutors of the prosecutor's office in the form of procedural guidance of the pre-trial investigation. In addition, a person is presumed innocent of committing a criminal offence and may not be subjected to criminal punishment until his or her guilt is proved in accordance with the procedure provided for by the CPCU and established by a court verdict that has entered into force.

*Information provided by the National  
Police of Ukraine (NPU)*

**9. Regarding the status of the investigation of Mr. Yurii Sheliashenko including the factual and legal grounds for his night house arrest.**

A pre-trial investigation in criminal proceedings No. [REDACTED] as of 11 August 2022 under part 2 of Article 436-1 of the Criminal Code of Ukraine (production and distribution of communist, Nazi symbols and propaganda of communist and national socialist (Nazi) totalitarian regimes) is underway in relation to Mr. Yurii Sheliashenko. The restraining measure in the form of night house arrest was imposed on the suspect and subsequently extended by the investigating judge of the Solomyansky District Court of Kyiv.

*Information provided by the Security  
Services of Ukraine (SSU)*

**10. Regarding the decision taken to suspend the implementation of alternative service as provided for through law of Ukraine of 12.12.1991 No.1975 "On alternative (non-military) service".**

Paragraph 11 of the General Comment 22(48) on Article 18 of the ICCPR states, in particular, that *"the ICCPR does not explicitly refer to the right to conscientious objection, that right can be derived from article 18 "inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief."*

According to Article 18(3) of the ICCPR *"Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others."*

Paragraph 8 of the General Comment 22(48) on Article 18 of the ICCPR states that limitations imposed *must be established by law* and must not be applied in a manner that would vitiate the rights guaranteed by article 18.

Article 8 of the Law of Ukraine *"On Legal Regime of Martial Law"* stipulates that in Ukraine or in certain areas *where martial law has been introduced, the military command, together with military administrations (if established), may introduce and implement, within the limits of temporary restrictions on constitutional rights and freedoms of a person and citizen, as well as the rights and legitimate interests of legal entities, provided for by the decree of the President of Ukraine on the introduction of martial law, such measures of the legal regime of martial law as, in particular, restrictions on alternative (non-military) service.*

By the Decree of the President of Ukraine No. 64/2022 as of 24 February 2022, martial law was introduced in Ukraine from 05:30 a.m. on 24 February 2022. This Decree came into force simultaneously with the entry into force of the Law of Ukraine No. 2102-IX as of 24 February 2022 "On Approval of the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine".

Pursuant to Article 2 of the above Presidential Decree, the military command, together with the Ministry of Internal Affairs, other executive authorities, and local self-government bodies, shall introduce and implement measures and powers provided by the Law of Ukraine "On Legal Regime of Martial Law" and necessary to ensure the defence of Ukraine, protection of the security of the population and the interests of the state.

It is worth noting that according to the information contained in the special software of the integrated information and analytical system of free legal aid provision, during 2022 and until November 2023 20 people applied to local free legal aid centres for free primary legal aid on the procedure for obtaining a deferment from military service due to religious beliefs.

During this period, the single contact number of the FLA system 0800 213 103 received 14 telephone calls on the above issue.

*Information provided by the Ministry  
of Justice of Ukraine (MJU)*

According to Articles 17 and 35 of the Constitution of Ukraine, the protection of the sovereignty and territorial integrity of Ukraine are the most important functions of the state and the main cause of the entire Ukrainian people, and no one may be released from their duties to the state or refuse to comply with the law on the grounds of religious beliefs. If the performance of military duty contradicts the religious beliefs of a citizen, the performance of this duty must be replaced by alternative (non-military) service.

Part six of Article 2 of the Law of Ukraine as of 25 March 1992 No. 2232-XII "On Military Duty and Military Service" (hereinafter - Law No. 2232) defines all possible types of military service in Ukraine:

- 1) regular military service
- 2) military service with a call-up during mobilization or for a special period
- 3) military service under a contract for persons holding the rank of private
- 4) military service under a contract for persons holding the rank of sergeant or major
- 5) military service (training) of cadets of higher military educational establishments and higher education establishments that include military institutes, military training faculties, military training departments, military training departments, as well as institutions of professional higher military education
- 6) military service under a contract for officers
- 7) military service by conscription of officers
- 8) military service by conscription of persons from the reserve forces during a special period

The issue of alternative service is regulated by the Law of Ukraine as of 12 December 1991 No. 1975-XII "On Alternative (Non-Military) Service" (hereinafter - Law No. 1975). According to Article 2 of this Law citizens of Ukraine have the right to alternative service if the performance of military duty contradicts their religious beliefs and these citizens belong to religious organizations operating in accordance with the legislation of Ukraine, whose beliefs do not allow the use of weapons.

Resolution of the Cabinet of Ministers of Ukraine as of 10 November 1999 No. 2066 approved the List of Religious Organizations whose beliefs do not allow the use of weapons (hereinafter - the List) and the Regulation on the Procedure for Alternative (Non-military) Service. The latter document defines the procedure, terms, place of alternative (non-military) service by citizens of Ukraine, grounds for refusal to perform it, etc. It should be noted that the List does not include any Orthodox religious organizations (as well as Catholic and Greek Catholic ones), as their doctrines allow for the use of weapons. The only exception is the clergy and monks of these Christian denominations, who, in accordance with the canons and religious instructions, are expressly prohibited from committing violence: they cannot take up arms, instead they take vows of obedience, humility, and prevention of aggression. The only sacrifice that allows such clergy to perform ritual activities is a bloodless sacrifice during the liturgy, the Mass.

However, alternative (non-military) service is introduced only in place of regular military service, which is not subject to conscription during martial law (Article 1(1) of Law No. 1975; Article 181(1) of Law No. 2232).

Decree of the President of Ukraine No. 64/2022 "On the Introduction of Martial Law in Ukraine" as of 24 February 2022, approved by Law of Ukraine No. 2102-IX as of 24 February 2022, introduced martial law in Ukraine. In view of the above, the right to alternative (non-military) service provided for by Ukrainian legislation is not currently being exercised, as martial law has been introduced throughout Ukraine, conscription for regular military service has been suspended and conscription for military service during mobilization is ongoing.

The issue of bringing Law No. 1975 in line with part four of Article 35 of the Constitution of Ukraine is under the close attention of the Ukrainian Parliament Commissioner for Human Rights (hereinafter - the Commissioner). Referring to the numerous cases of citizens whose military duty contradicts their religious beliefs and who belong to active religious organizations whose beliefs do not allow the use of weapons, being called up for military service during mobilization, and referring to the case law of the European Court of Human Rights, the Commissioner considers it necessary to amend the current version of Law No. 1975 or adopt a new version in order to remove obstacles to the implementation of the right to replace military duty with alternative service during mobilization guaranteed by Article 35 of the Constitution of Ukraine.

The possibility for citizens to perform alternative (non-military) service for the period of martial law is also in the focus of the Government of Ukraine. Thus, on 19 October 2023, representatives of the All-Ukrainian Council of Churches and Religious Organizations (hereinafter - AUCCRO) had a meeting with the Prime Minister of Ukraine during which, among other things, this issue was discussed. As a result, the Prime Minister of Ukraine instructed ministries and departments to work on the possibility of regulating the performance of military duty under martial law and replacing it with alternative (non-military) service. This issue is currently under consideration.

In order to effectively address this issue, to ensure everyone's right to freedom of thought and freedom of conscience, as well as to prevent abuse of the right to alternative (non-military) service, to guarantee the defence capability of the state and the number of the Armed Forces of Ukraine, the DESS holds working consultations with the relevant executive authorities and representatives of the AUCCRO.

*Information provided by the State Service of Ukraine  
for Ethnic Affairs and Freedom of Conscience (DESS)*