



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 1/2025 of 14 May 2025, has the honour to transmit the response of the Government of Ukraine to the Joint Communication from the Independent expert on the promotion of a democratic and equitable international order, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on minority issues, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

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, 1 July 2025

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

Geneva

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Comments of the Prosecutor General's Office on the information received by the Special Procedures regarding possible bias and discriminatory measures applied to representatives of the Ukrainian Orthodox Church (UOC)

The statement that the Law of Ukraine "On the Protection of the Constitutional Order in the Area of Activities of Religious Organizations", adopted by the Verkhovna Rada of Ukraine on August 20, 2024, is aimed exclusively at the UOC, is not true.

In particular, there are religious associations in the country that were closely associated with the centers located in Russia - the Russian Old Believer Church (Bila Tserkva Agreement) and the Russian True Orthodox Church. However, both of these churches severed ties with the governing center in Russia and withdrew from their associations.

The adopted law in no way directs to the expropriation of church property and, even more, removes the conflict existing in Ukrainian legislation, which called into question the possibility of transferring religious buildings that are in state or municipal ownership for free use to religious organizations.

Expert reports distort the content of the Law "On the Protection of the Constitutional Order in the Area of Activities of Religious Organizations", as mentioned above, this Law does not mention the UOC and does not provide for the automatic liquidation of religious organizations affiliated with the Russian Orthodox Church, which is banned in Ukraine.

Instead, the Law provides for a clear and predictable procedure that incorporates the purpose of a study on the existence of an affiliation of a religious organization with the Russian Orthodox Church (hereinafter – the ROC). The research should establish whether the religious organization in respect of which the research is being conducted is affiliated with the ROC in accordance with the seven attributes of affiliation that are listed in the Law.

If a religious organization does not meet any of these criteria or if it makes a statement about its withdrawal from the ROC, the Law does not apply to it. If the fact of affiliation is found, then the state body that forms and implements the policy in the field of religion must send an order to the religious organization under study with a requirement to eliminate the violation. This is given 30 days. If more time is needed to eliminate the violation (for example, it is necessary to convene a governing body, local or bishops' council, etc.), then an additional 60 days are given to eliminate the violation. And only if the violation is not eliminated, the state body that forms and implements the policy in the field of religion receives the right to file a lawsuit with the court to terminate the religious organization. And only the court can make a final decision on such termination.

This is completely inconsistent with the spread propaganda narrative about the "ban of the UOC (however, as well as any other religious organization, as well as another narrative about 'collective punishment'). This, by the way, draws the attention of the Council of Churches of Denmark, which emphasizes that it is pointless to talk about "collective punishment" when it comes to the possible consideration of thousands of cases against individual religious communities in adversarial litigation.

The Russian Federation has unleashed and is waging an unprovoked, aggressive, full-scale aggressive war against Ukraine and the Ukrainian people in violation of international law, committing crimes against humanity.

In this regard, it is important to ensure the fulfillment of the constitutional duty to protect the Fatherland, independence and territorial integrity of Ukraine (Article 65 of the Constitution of Ukraine).

According to Article 35 of the Constitution of Ukraine, everyone has the right to freedom of worldview and religion. This right includes the freedom to profess any religion or not to profess any, to freely perform one-person collective religious cults and ritual rites, to conduct religious activities. The exercise of this right may be limited by law only in the interests of protecting public order, health and morals of the population or protecting the right of freedoms of other people.

National standards in the sphere of freedom of conscience and religion in Ukraine are based on the Constitution and the Law of Ukraine "On Freedom of Conscience and Religious Organizations". Thus, in accordance with Article 3 of the Law of Ukraine "On Freedom of Conscience and Religious Organizations", every citizen in Ukraine is guaranteed the right to freedom of conscience. This right includes the freedom to have, adopt and change a religion or belief of one's choice and the freedom to profess or not profess any religion alone or together with others, to practice religious cults, to openly express and freely disseminate one's religious or atheistic beliefs. No one can establish binding beliefs and worldviews. Any coercion is not allowed when a citizen determines his attitude to religion, to confess or refuse to profess religion, to participate or not to participate in divine services, religious rites and ceremonies, and to teach religion.

International standards in the freedom of conscience and religion provide for the right of everyone to freedom of thought, conscience and religion, including the freedom to change religion or belief, to practice it individually or in community, in public or privately, in teaching, worship, rites and observance of religious customs.

The main international documents regulating freedom of conscience and religion:

- Universal Declaration of Human Rights (1948): Article 18 proclaims the right to freedom of thought, conscience and religion;

- International Covenant on Civil and Political Rights (1966): Article 18 details this right and enshrines it as binding on States Parties;

- European Convention for the Protection of Human Rights and Fundamental Freedoms (1950): Article 9 enshrines the right to freedom of thought, conscience and religion;

- Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981): United Nations General Assembly Resolution No. 36/55.

These standards set minimum requirements for the conduct of states to protect human rights, including freedom of religion or belief. They also provide mechanisms for the protection of these rights at the international and regional levels.

At the same time, Article 64 of the Constitution of Ukraine provides for the possibility of restricting certain rights and freedoms under martial law or a state of emergency.

Also, in accordance with Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms, a High Contracting Party in time of war may take measures derogating from its obligations under the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the Convention), and in case of exercising this right, it must inform the Secretary General of the Council of Europe about the measures taken by it.

Ukraine exercised this right back in 2015, the Resolution of the Verkhovna Rada of Ukraine dated 21.05.2015 No. 462-VIII approved the Statement of the Verkhovna Rada of Ukraine "On Ukraine's Withdrawal from Certain Obligations Determined by the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms for the Period until the Complete Cessation of the Armed Aggression of the Russian Federation, namely until the withdrawal of all illegal armed groups, controlled, controlled and financed by the Russian Federation, Russian occupation forces, their military equipment from the territory of Ukraine, restoration of Ukraine's full control over the state border of Ukraine, restoration of constitutional order and order in the occupied territory of Ukraine.

Subsequently, additional applications were submitted regarding derogations from obligations, and on April 4, 2024, Ukraine submitted a clarified application, which revised previous derogations and reduced their number.

Therefore, Ukraine informed the Secretary General of the Council of Europe about the implementation of a derogation from obligations under the Convention, namely Articles 5, 6 and 8, and Articles 1, 2 of the Additional Protocol to the Convention and Article 2 of Protocol No. 4 to the Convention, as well as Articles 2 (para. 3), 9, 14 and 17 of the International Covenant on Civil and Political Rights. The Secretary-General of the United Nations has also been informed about these measures.

As of today, such derogations remain in force and apply to the territory under the control of Ukraine.

It should be noted that in accordance with the provisions of paragraph 6 of Part 1 of Article 3 of the Law of Ukraine "On the Prosecutor's Office", the activities of the

prosecutor's office are based on the principles of political neutrality of the prosecutor's office.

Within the framework of criminal proceedings, the priority for prosecutors is to ensure the implementation of the specified Article 2 of the CPC of Ukraine tasks of criminal proceedings on prompt, complete and impartial investigation and trial so that everyone who has committed a criminal offense is brought to justice to the extent of his guilt.

To this end, the Prosecutor General's Office has instructed subordinate prosecutors on strict compliance with the requirements of international human rights law and international humanitarian law during the organization of pre-trial investigation and procedural guidance in criminal proceedings on the facts of collaborative activities (guidance letter dated 15.05.2024 No. 10/4-1132VYKH-275OKV-24).

On behalf of the Prosecutor General's Office, compliance with the law in criminal proceedings against Mr. Snigirev D.L., Mr. Lebid P.D., Mr. Yakovenko I.F., Mr. Koshelnyk V.F., Mr. Skortsov D.V., Mr. Novitska S.V. We inform that the indictments in these criminal proceedings were sent to the courts for consideration of cases on the merits. At the moment, the trial is ongoing.

According to the information of the leadership of the regional prosecutor's offices, no violation of the current legislation in criminal proceedings against these persons has been established, the right to defense has been ensured.

Thus, criminal proceedings against the abbot of the religious organization of the Holy Dormition Kyiv-Pechersk Lavra (aka Petro Lebid) are carried out not on the basis of his religious views, but in view of specific actions, in particular, the distribution of materials justifying or recognizing as legitimate the armed aggression of the Russian Federation against Ukraine, as well as glorifying its participants (Part 3 of Article 436-2 of the Criminal Code of Ukraine); deliberate actions aimed at inciting religious, national and regional hatred (Part 2 of Article 161 of the Criminal Code of Ukraine).

Mr. P. Lebed's statements were aimed at inciting national, regional, religious hatred, in particular towards Ukrainians in general, residents of western Ukraine, Americans and Catholics represented by the Pope; statements aimed at humiliating the honor and dignity of a confessional group (OCU) in connection with its religious beliefs, as well as statements aimed at hostility to confessional groups (OCU, Ecumenical Patriarchate), and also contained denials of the fact of aggression of the Russian Federation, which was recorded in several forensic examinations.

In the course of criminal proceedings, he is fully guaranteed the right to defense, the interests of the accused are represented by five lawyers.

At present, the trial is ongoing.

The criminal proceedings against the Metropolitan of Cherkasy and Kaniv (aka D. Snigirev) are not related to his religious beliefs or his personal assessment of the canonicity of the OCU.

The trial is carried out in criminal proceedings on the facts of committing specific actions that fall under the elements of crimes provided for in Part 1 of Article 161 of the Criminal Code of Ukraine (deliberate actions aimed at inciting religious enmity or hatred, humiliation of dignity of persons on religious grounds); Part 2 and Part 3 of Article 436-2 of the Criminal Code of Ukraine (justification, recognition as lawful and glorification of the armed aggression of the Russian Federation against Ukraine).

The prosecution is based on the systematic dissemination by Mr. D. Snigirev of publications justifying Russia's aggression against Ukraine, which has been going on since 2014; participants in armed aggression were glorified; rhetoric was used aimed at humiliating the dignity of believers of other faiths, in particular believers of the OCU, in a way that goes beyond the limits of permissible theological discussion and is openly hostile and contemptuous.

Thus, on the official website of the Cherkasy Eparchy of the UOC, created by Mr. D. Snigirev and controlled by him, in the attachment "Common Church" under the link <https://cherkasy.church.ua/ru/obshhecerkovnye-novosti/>, a number of publications were distributed that contain praise of military priests of the Russian Federation: "The priest serves in all 13 Cossack volunteer detachments... risks his life... three died during the NWO", "Father Mikhail Vasiliev died in the performance of pastoral duty... awarded the title of Hero of Russia"; public glorification of Patriarch Kirill, who justifies the war: "Russia is an alternative to the dead-end development of Western civilization... We must do everything to make Russia win"; calls for support for the war: "Our guys on the front line should know that we are fighting for the country together with them..." etc.

The trial of the case is carried out by the Sosnivskyi District Court of Cherkasy. The accused is provided with the full right to defense – three defense lawyers chosen by him take part in the trial, the hearings are held in an open mode in accordance with the requirements of the Criminal Procedure Code of Ukraine.

The proceedings do not concern religious views, but his specific actions, which contain signs of criminal offenses aimed at supporting the aggressor state and inciting hatred.

We would like to inform you that the implementation of the provisions of Article 14 of the International Covenant on Civil and Political Rights and Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms regarding the right to a fair trial is guaranteed by the provisions of Article 55 of the Constitution of Ukraine that the rights and freedoms of a person and a citizen are protected by the court, Article 62 of the Constitution of Ukraine that a person is considered innocent of committing a crime and cannot be subjected to criminal punishment, until her guilt is proven in a legal manner and established by a guilty verdict of the court, and defined in Article 7 of the CPC of Ukraine by the general principles of criminal proceedings, first of all:

- the rule of law;
- Legality;

- equality before the law and the courts;
- presumption of innocence and ensuring proof of guilt;
- ensuring the right to defense;
- access to justice and the binding nature of court decisions;
- the adversarial nature of the parties and the freedom to present their evidence to the court and to prove their persuasiveness to the court;
- the immediacy of the study of testimonies, things and documents;
- ensuring the right to appeal against procedural decisions, actions or inaction;
- Publicity;
- publicity and openness of court proceedings and its full recording by technical means.

At the same time, appeals against actions and decisions of pre-trial investigation bodies against individuals in criminal proceedings may be carried out by authorized persons in compliance with the requirements of the Criminal Procedure Code of Ukraine.

The Prosecutor General's Office would also like to provide comments on the criminal proceedings on the charge of Metropolitan Longin (Zhar) of Banchensky of committing a criminal offense on the grounds of a criminal offense under Part 1 of Article 161 of the Criminal Code of Ukraine.

The pre-trial investigation established that Metropolitan Longin (Zhar) M.V. of Banchensky, acting intentionally, realizing his illegal actions, realizing his illegal intent, being on 04.12.2022 on the territory of the Vvedensky Convent in Chernivtsi of the UOC, and on 11.12.2022 and 25.12.2022 – on the territory of the Ascension Banchensky Monastery of the UOC in the village of Bancheny, Chernivtsi district, Chernivtsi region, committed actions, namely, statements aimed at inciting religious hatred between believers of the Ukrainian Orthodox Church and the Orthodox Church of Ukraine, insulting the feelings of the believers of the OCU because of their religious beliefs, causing harm to three victims.

Video recordings of these statements were distributed on the Internet resource "Facebook" - on the channel called "Chernivtsi-Bukovyna Eparchy of the UOC" and on the Internet resource "YouTube" - on the channel called "Banchensky Monastery Mănăstirea Bănceni".

According to the forensic linguistic (semantic-textual) examination conducted by the Kyiv Scientific Research Institute of Forensic Expertise (KSRIFE), the content of the studied statements in their semantic orientation are offensive to citizens of Ukraine and believers of the Orthodox Church of Ukraine due to religious beliefs, and the speech messages of Longig (Zhar) M.V. contain signs of incitement of religious hatred and intolerance between believers of the UOC and OCU, propaganda of hostile attitude towards of the religious community of the OCU, the speaker's speech activity is propagandistic in nature, forms intolerance and hostility in Ukrainian society to religious and ideological opponents, the current state authorities and law enforcement agencies, contains signs of information influence aimed at undermining religious,

social and political stability, aggravation of religious and ideological conflicts in Ukraine, and therefore his speech messages contain statements aimed at incitement of religious hatred between believers of the UOC and OCU, insult to the feelings of believers of the OCU because of their religious beliefs.

Based on the results of the pre-trial investigation, the prosecutor of the Chernivtsi District Prosecutor's Office approved the indictment on 11.09.2023, which was transferred to the Hertsaiivskyi District Court of the Chernivtsi region for consideration on the merits on the same day.

During the pre-trial investigation, the defense of Mr. Zhar M.V. was carried out by two defense lawyers involved by him independently.

During the court hearings, the defense of Mr. Zhar M.V. was carried out by five lawyers, currently - four. The accused is provided with an interpreter.

The trial is currently ongoing.

It is worth emphasizing that during the prosecution of Longin (Zhar) M.V., national and international standards in the field of freedom of conscience and religion were observed, but he violated them by committing actions aimed at inciting religious hatred.

In addition, taking into account the requested information on the provision of existing guarantees for ensuring the right of access to an independent court, legal assistance, compliance with the presumption of innocence, it is necessary to note the main provisions of the current legislation.

These principles of criminal proceedings in national legislation are key elements of fair trial. Everyone has the right to access an independent and impartial court, as well as to receive qualified legal assistance, in particular, in criminal proceedings.

An important principle of criminal proceedings is the presumption of innocence, which is one of the fundamental components of a democratic, legal state.

A person is considered innocent of committing a crime and cannot be subjected to criminal punishment until his/her guilt is legally proven and established by a guilty verdict of the court (Article 62 of the Constitution of Ukraine).

This constitutional guarantee is also foreseen in Article 17 of the Criminal Procedure Code of Ukraine ("Presumption of innocence and ensuring proof of guilt"), according to the content of which no one is obliged to prove his innocence in committing a criminal offense and must be acquitted if the prosecution does not prove the guilt of a person beyond a reasonable doubt; suspicion, accusations cannot be based on evidence obtained illegally; all doubts about the proven guilt of a person are interpreted in favor of such a person; the treatment of a person whose guilt in committing a criminal offense has not been established by a guilty verdict of a court that has entered into force must correspond to the treatment of an innocent person.

Ensuring the right to defense in accordance with Article 129 of the Constitution of Ukraine is the main principle of judicial proceedings.

The right to defense in criminal proceedings is an inalienable right, in particular, of a suspect or accused, which includes the ability to provide explanations, collect and submit evidence, participate personally in the proceedings, as well as use the legal assistance of a defense attorney.

The current criminal procedural legislation contains a number of provisions to ensure the right to defense (in particular, Article 20, Part 4 of Article 21, Article 54, Part 9 of Article 206, Part 4 of Article 208 of the CPC of Ukraine).

An investigator, prosecutor, investigating judge or court is obliged to ensure the participation of a defense attorney in criminal proceedings in cases where: the participation of a defense lawyer is mandatory (Article 52 of the CPC of Ukraine – minors, persons with mental and physical disabilities, persons who do not speak the language in which criminal proceedings are conducted, etc.), and the suspect, accused did not involve a defense lawyer; the suspect or accused has filed a motion to involve a defense lawyer, but due to lack of funds or for other objective reasons, he/she cannot engage him/her independently; The investigator, prosecutor, investigating judge or court will decide that the circumstances of the criminal proceedings require the participation of a defense lawyer, and the suspect or accused did not involve him.

In addition, the Criminal Procedure Code of Ukraine, the Law of Ukraine "On Free Legal Aid" provides for cases of receiving free assistance of a lawyer engaged in the implementation of defense by appointment, at the expense of the State Budget of Ukraine.

According to Article 124 of the Constitution of Ukraine, justice in Ukraine is administered exclusively by courts. Delegation of functions of courts, as well as appropriation of these functions by other bodies or officials shall not be allowed.

The current Criminal Procedure Code of Ukraine (Article 21) guarantees, in particular, access to justice and provides for the right to a fair trial by an independent and impartial court established on the basis of the law.

Everyone has the right to participate in the consideration of a case in the court of any instance concerning his/her rights and obligations, in the manner provided for by the Criminal Procedure Code of Ukraine.

A component of access to justice is ensuring the right to appeal against procedural decisions.

The procedure and terms of appeal/review of court decisions that can be appealed in appeal and cassation procedures are regulated in Chapter V of the CPC of Ukraine.

In the context of observance of the right to defense, it should also be noted that the conduct of court proceedings in the absence of a defense lawyer, if his/her participation is mandatory, is recognized by the current CPC as a significant violation of the requirements of the criminal procedure law and is an unconditional ground for

canceling the court decision (paragraph 4 of part 2 of Article 412 of the CPC of Ukraine).

Comments of the Ministry of Culture and Strategic Communications of Ukraine on the protection of journalists documenting or challenging processes related to the Ukrainian Orthodox Church, and on measures taken by the Government to ensure that martial law or other emergency measures do not lead to excessive restrictions on freedom of religion or belief

Ukraine, as a democratic state, strictly adheres to international human rights standards, including the right to freedom of thought, conscience, religion, and freedom of expression. Even under martial law, which was introduced in the context of the full-scale Russian Federation's war of aggression against Ukraine, these basic rights remain guaranteed and protected. In particular, for information on the protection of journalists documenting or challenging processes related to the Ukrainian Orthodox Church, as well as on measures taken by the Government to ensure that martial law or other emergency measures do not lead to excessive restrictions on freedom of religion or belief, we would like to provide the following information.

Despite martial law, there is no censorship in Ukraine. This is explicitly prohibited by Article 15 of the Constitution of Ukraine and followed by Article 34, which guarantees everyone the right to freely express their views, beliefs and disseminate information in the manner of their choice. These rights may be restricted only under clearly defined conditions, including in the interests of national security, public order or the protection of the rights of others, and only in a manner that is necessary and appropriate in a democratic society.

Ukraine remains committed to its international obligations under, inter alia, the International Covenant on Civil and Political Rights, ratified by Ukraine in 1973. In accordance with Articles 4, 18 and 19 of the Covenant, freedom of thought, conscience, religion and freedom of expression may not be unreasonably restricted, even in exceptional circumstances.

Since the issue of national security can be subject to a wide range of interpretations, the legal framework of the state provides for appropriate response mechanisms (not limited to ones mentioned below), as well as clear grounds for bringing to justice or appealing decisions, actions, or inaction in this area:

- The Constitution of Ukraine (Article 32) guarantees the right of Ukrainian citizens to refute false information;
- The Law "On Information" (Article 24) guarantees the prohibition of censorship and interference in the professional activity of journalists and media;
- The Civil Code of Ukraine (Article 277) provide a civil law mechanism for protection against disinformation;

- The Criminal Code of Ukraine (Articles 109, 436) establishes liability for public incitement to aggressive war or armed conflict, as well as for the production and distribution of materials promoting such actions. It also criminalizes public calls for the overthrow of the constitutional order, including through the use of organized groups. These provisions align with Article 20(1) of the International Covenant on Civil and Political Rights, which stipulates that any propaganda for war shall be prohibited by law.
- The Law “On Media” (Articles 36, 43, 110, 119) clearly outlines content restrictions, the right to rectification, and the liability for disseminating false or harmful information. It prohibits hate speech, war propaganda, justification of totalitarian regimes, and any content that threatens Ukraine’s national security or territorial integrity, while also ensuring the right to demand correction of inaccurate publications.

We emphasize that it is necessary to clearly differentiate between the right to freedom of religion and belief and subversive activities carried out under the guise of religious rhetoric, especially by the Russian Federation, which uses religious institutions as a tool of hybrid influence (FIMI/RIMI) and information operations. According to researches, including those of the IKAR, an independent, non-profit analytical center, religious structures with obvious ties to the Russian state are part of its strategy of interfering in the internal affairs of other states, in particular through propaganda, disinformation and support for subversive activities, including dividing the society on the church issue: *“The Russian propaganda is trying to replace the church issue itself with a religious issue, talking about the oppression of the Orthodox by the Ukrainian authorities”*.

It is important not to substitute illegal activities, such as undermining the constitutional order, favoring the aggressor, or spreading disinformation, with the concepts of freedom of expression or religion.

At the same time, we would like to inform you that **in Ukraine, all journalists, regardless of the subject matter or religious affiliation of the object of their coverage, have equal rights and equal protection under the law.**

Ukraine takes into account and strives to meet important standards: The recommendations of the European Commission, the Council of Europe. A Coordination Committee and a National Action Plan for the Safety of Journalists were established within the framework of the Council of Europe's “Journalists Matter” campaign. On August 28, 2024, Ukraine approved the Operational Plan for the implementation of this campaign, which provides for measures to monitor, prevent threats, ensure protection, prosecute and promote professional journalism.

In addition, within the framework of the Ministry of Culture and Strategic Communications, Ukraine:

- Joined the Partnership for Information and Democracy in July 2024;
- Is actively working to improve its legislation on countering SLAPP lawsuits in accordance with Directive (EU) 2024/1069;
- Fully implemented Directive (EU) 2010/13/EU on audiovisual media services in the Law of Ukraine “On Media”;
- Recently successfully passed the screening process under the EU negotiating Chapter 23 “Judiciary and Fundamental Rights”, and Chapter 10 “Digital Transformation and Media” within the framework of European integration.

With the initiative of the Ministry of Culture and Strategic Communications of Ukraine, the European Union has approved a €10 million package to support independent media in Ukraine. The funding includes support for local and regional media, as well as the development of investigative journalism. Funds are distributed in the form of subgrants through a number of non-governmental organizations, including Internews Europe, Reporters Without Borders, the Institute of Mass Information, and others. This is evidence of the state's consistent policy of supporting professional journalism, promoting the sustainable development of the media sphere and openness to constructive interaction with the independent journalistic and non-governmental sector community.

It is significant that, despite the war, Ukraine has remarkably improved its position in the Press Freedom Index, according to the international non-profit organization Reporters Without Borders. For comparison: in 2023, Ukraine was ranked 79th, and a year later, in 2024, it moved up 18 positions to 61st place. As of July 2025, Ukraine's interim result is 62nd place.

Please note that Ukraine condemns any negative interference with the profession of journalism and the activities of media entities. All legal mechanisms related to people in the journalism profession and the activities of media entities are not selective or politically biased and are applied equally, regardless of media subject, religious affiliation or editorial policy. The goal is to protect state sovereignty and the fundamental rights of citizens.

Ukraine has clearly demonstrated its commitment to the values of human rights, pluralism, freedom of speech and the rule of law, even in the most difficult times. And that is why we consider unacceptable attempts to interpret legitimate counteraction to subversive activities as discrimination or censorship.

**Comments and remarks
of the State Service of Ukraine for Ethnic Policy and Freedom of Conscience**

Regarding the use of terminology related to the model of state-church relations in Ukraine

The Letter repeatedly uses formulations that do not correspond to the constitutional and legal model of state-church relations in Ukraine. Specifically, terms such as "state-backed Orthodox Church of Ukraine (OCU)" (paras. 2(i), 3(ii), 5), "state-approved religious entity" (paras. 1, 3(iii)), and "denominations recognized by the Government" (para. 1) are used.

In Ukraine, there is no institution of a "state church." Article 35 of the Constitution of Ukraine clearly stipulates that "the Church and religious organizations in Ukraine are separated from the state". This principle means that the state does not grant any religious organization legal or financial advantages, does not interfere in internal canonical and doctrinal matters, and maintains equal distance from all religious associations. This principle is inviolable, as the right to freedom of thought and religion, guaranteed by this article, is not subject to restriction even under martial law.

There is no procedure in Ukraine for "recognition" or "approval" of religious organizations by the Government. Ukrainian legislation, particularly the Law "On Freedom of Conscience and Religious Organizations," provides for a registration-based, rather than a permissive, system for the legalization of religious organizations. Registration is a legal act confirming the legal capacity of a religious organization as a legal entity, and it is carried out by an authorized state body based on submitted documents, not on political expediency or "approval".

In the Ukrainian system of state-church relations, there is no hierarchy of churches and religious organizations in relation to the Law. Furthermore, Ukrainian legislation on freedom of conscience does not provide for a probationary period for religious organizations to acquire the status of a legal entity. All registered religious organizations are equal before the law. The Orthodox Church of Ukraine (OCU), like the Ukrainian Orthodox Church (UOC), and any other registered religious organization, operates on general principles and has the same legal status. The use of the term "state-backed" in relation to the OCU is unfounded and creates a false impression of a discriminatory policy.

Using such terminology ignores the fundamental principles of Ukraine's legal system in the sphere of freedom of religion and creates a false dichotomy of "approved" and "unapproved" churches, which does not exist in Ukrainian legal reality.

Furthermore, the Letter contains a number of assertions that attribute the organization or approval of certain actions to the state without providing relevant evidence. For example, formulations such as "state-orchestrated or state-approved evictions" (p. 2) or "forcibly entered and seized this UOC cathedral, allegedly acting with tacit or explicit state support" (para. 3(i), p. 4) are used.

Such statements are extremely serious and, according to international practice,

require factual substantiation proving the existence of a direct order, directive, official policy, or at least facts of conscious inaction by state bodies leading to violations. However, no such evidence is provided in the Letter. Attributing responsibility to the state for the actions of third parties (e.g., individual parishioners, civic activists, or local initiatives) who have no direct connection with state institutions and did not act on their behalf or under their control is unacceptable within the framework of legal dialogue.

The Letter also shows a tendency to create a false causal link with the adoption of the Law of Ukraine "On Protection of Constitutional Order in the Sphere of Activity of Religious Organizations" No. 3894-IX (hereinafter — Law No. 3894). Specifically, it is stated that Law No. 3894 "provides a legal basis for the dissolution or prohibition" (p. 2), which is allegedly already happening.

Despite this, as of today, no religious organization in Ukraine has been terminated by court order based on the provisions of Law No. 3894 as being affiliated with a foreign religious organization whose activities are prohibited in Ukraine.

The procedure stipulated by this law is lengthy and has not yet reached the final stage of judicial review for any organization. Accordingly, its provisions could not have been used in Ukraine as a basis for persecution. Criminal proceedings against individual clergy or believers are not based on the provisions of this Law. They are investigated under articles of the Criminal Code of Ukraine related to crimes against national security (treason, collaborationism, justification of aggression), which existed long before the adoption of the aforementioned Law No. 3894.

Instead, the letter implicitly states that criminal proceedings against individual representatives of the UOC are "persecution" motivated by their religious affiliation. Such a conclusion is premature and unsubstantiated. The term "persecution" has a clear definition in international law (in particular, in Article 7 of the Rome Statute of the International Criminal Court) and means the intentional and severe deprivation of fundamental rights contrary to international law on the grounds of belonging to a particular group, including a religious one. The fact that a person belongs to a particular religious organization does not, in itself, grant them immunity from criminal liability for committing a crime. In Ukraine, specific actions of a person are investigated, not their religious views or church affiliation. To qualify state actions as "persecution," it would be necessary to prove that the motive for such proceedings is precisely religious affiliation, and not the presence of elements of a crime.

Regarding legislative regulation and "forced dissolution" of religious communities (para. 1 of the Letter)

The statements in paragraphs 1 and 3(iii) regarding "forced dissolution" and intentions to "prohibit thousands of UOC parishes" do not correspond to reality. Law No. 3894-IX prohibits the activities of the Russian Orthodox Church (hereinafter — ROC) in Ukraine for a number of reasons: - as an ideological continuation of the aggressor state's regime; - due to the ROC's support for the armed aggression of the Russian Federation against Ukraine; - for complicity in war crimes and crimes against humanity committed on behalf of the Russian Federation and for promoting the "Russian world" ideology; - for numerous unlawful actions committed by it and its

subordinate religious organizations on the territory of Ukraine; - due to creating a threat to public safety, rights, and freedoms of citizens of Ukraine. This is an absolutely legitimate measure of self-defense in accordance with Article 18(3) of the International Covenant on Civil and Political Rights (hereinafter – ICCPR).

The Parliamentary Assembly of the Council of Europe (PACE) assessed the religious situation in Ukraine in two of its resolutions: 1) No. 2540 of May 17, 2024; 2) No. 2567 of October 1, 2024. PACE noted that the ROC declared the war against Ukraine a "holy war of all Russians," is an "ideological continuation of Vladimir Putin's regime, an accomplice in war crimes and crimes against humanity committed on behalf of the Russian Federation, and a disseminator of the 'Russian world' ideology"; it called the ROC "an instrument of Kremlin propaganda" and urged "to counteract the involvement of religious institutions used to spread Kremlin propaganda in their countries".

The restrictions established by Law No. 3894 comply with the principle of proportionality. Thus, require religious organizations in Ukraine to become part of another church or religious organization, nor to deviate from their doctrine or change religious practices — only to break ties with a religious organization from the aggressor country whose goals are contrary to the interests of the Ukrainian state and society and aimed at their destruction. At the same time, freedom of conscience in Ukraine is guaranteed to every person in accordance with the Constitution, as well as to those believers who are part of religious structures affiliated with the ROC (or another prohibited foreign religious organization). The right of these individuals to freedom of conscience is also protected by the Constitution and, within the framework of the implementation of Law No. 3894, is equally inalienable and inviolable.

Law No. 3894 pursues a legitimate goal and achieves it in the least burdensome way, as it follows a democratic procedure and does not impose a burden on the conscience of believers. Initially, the DESS conducts a study to establish the fact of affiliation. To study the entire religious landscape of Ukraine, the DESS first conducts a study on the presence in Ukraine of religious organizations that are directly part of the structure of a foreign religious organization/founded by a foreign religious organization whose activities are prohibited in Ukraine. Then — a study on the presence in Ukraine of religious associations that may have signs of affiliation with a foreign religious organization whose activities are prohibited in Ukraine, and the centers of such religious associations. And, finally, a study on the presence in Ukraine of religious organizations that are directly part of the structure of an affiliated religious organization/founded by an affiliated religious organization.

Only if signs of affiliation are established will the DESS send a directive to the religious organization that may have signs of affiliation with a prohibited foreign religious organization, instructing it to eliminate the signs of affiliation. And it will provide 30 days for its execution. This religious organization may submit a reasoned request to extend the period for executing the directive by an additional 60 days to eliminate the connection. In case of refusal to eliminate the signs of affiliation and non-compliance with the directive's requirements, the DESS may apply to the court with a lawsuit for the termination of such an organization's activities.

Thus, it is not an arbitrary "prohibition," but a potential court process where

each party will have the right to present evidence and defend its rights. Moreover, as already noted, as of today, no religious organization has been terminated. Therefore, the statement that the Law has already led to the "dissolution" of communities is *a priori* false.

A similar procedure is envisaged for considering the issue of using a religious organization to promote the "Russian world" ideology. The procedure for conducting such a study was approved by Cabinet of Ministers of Ukraine Resolution No. 541 of May 9, 2025, "On Approval of the Procedure for Considering the Issue of Confirming the Facts of Using a Religious Organization to Promote the 'Russian World' Ideology," (hereinafter – the Resolution No. 541), and no decisions have yet been made based on the results of such investigations. Moreover, this Resolution No. 541 requires the formation of a substantial and meticulously collected evidence base to prove that a religious organization was repeatedly used to disseminate this ideology. Furthermore, the grounds for qualifying the dissemination of certain ideas as 'Russian world' propaganda are clearly defined. These grounds do not permit prosecution for judgments concerning the history of Russia, its church, and so on, but instead focus on specific acts, such as: calls for the destruction of Ukrainian statehood, the justification of the inferiority of the Ukrainian nation, and the glorification of the Russian Federation's war of aggression against Ukraine.

Thus, a religious organization will receive information about the initiation of a particular study concerning it from the first day. It will have the opportunity to independently eliminate identified violations, cease their commission, and avoid further procedure, according to which the DESS, in case of non-elimination of violations, must immediately apply to the court with a lawsuit for the termination of the religious organization. Both procedures are: lawful, as they are provided for by law and will be carried out on the basis of resolutions of the Cabinet of Ministers of Ukraine; transparent, as they will be carried out according to clear legally regulated procedures, and their results will be subject to public disclosure (including on the official website of the DESS) and notification to the relevant religious organization.

It should be noted that International law, in particular Article 20 of the ICCPR, obliges states to prohibit any propaganda for war and any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence. When a member of the clergy in their sermon justifies the killing of Ukrainians, calls for cooperation with the occupiers, or disseminates narratives of hostile propaganda — this is not the exercise of the right to freedom of religion, but an act that falls under legal responsibility.

In view of the above-mentioned reasons, all mentions of these provisions in the Letter as grounds for "persecution" do not correspond to reality and could not have been applied for persecution or oppression.

Regarding the exercise of the right of religious communities to change subordination and forced "re-registration"

Legislation, particularly the Law of Ukraine "On Freedom of Conscience and Religious Organizations," clearly guarantees religious communities the right to freely change their subordination to existing or newly created religious centers. This right is

an integral part of freedom of religion and self-governance of religious organizations. Transitions of religious communities (including transitions from the Ukrainian Orthodox Church to the Orthodox Church of Ukraine) are the result of the free will of the members of these communities, expressed at their general meetings in accordance with the community's Statute and the requirements of current legislation. In this process, the state plays a purely administrative role: it merely records and registers decisions made by religious communities by making appropriate changes.

Regarding the confiscation of church property (para. 3 of the Letter)

According to the Law of Ukraine "On Freedom of Conscience and Religious Organizations," individual religious organizations—such as communities, diocesan administrations, monasteries, brotherhoods, etc.—have the status of a legal entity. At the same time, religious associations as unified structures (such as the Ukrainian Orthodox Church (UOC), the Orthodox Church of Ukraine (OCU), the Ukrainian Greek-Catholic Church (UGCC), Evangelical Protestant unions, and others) are not single legal entities. Consequently, property is owned or administered by these individual religious organizations, not by the association as a whole.

A pivotal moment that changed the religious landscape of Ukraine was the granting of the Tomos of Autocephaly to the OCU by the Ecumenical Patriarch in January 2019, which legitimized it within Ecumenical Orthodoxy. Following this, over 1,900 local parishes exercised their right to change their jurisdiction by transitioning from the UOC to the OCU. The primary motivation for parishioners was the inability to remain within the church structure of the Moscow Patriarchate, which, in turn, had broken Eucharistic communion with the Church of Constantinople—the Mother Church for Ukraine.

After the start of the full-scale Russian invasion in 2022, the desire of religious communities to leave the jurisdiction of the Moscow Patriarchate increased significantly. However, in anti-Ukrainian propaganda narratives, these legally and morally justified transitions of communities, along with their property, are systematically portrayed as "confiscation." This assertion is false, as it contradicts both the legislation of Ukraine and the internationally recognized principle of the autonomy of a religious community, which has the right to freely determine its canonical affiliation.

Paragraph 3 of the Letter contains assertions about "confiscation of church property" and "forced state seizure" of cathedrals and monasteries. These formulations do not reflect either the legal nature of relations concerning this property or the actual circumstances of the termination of the right to use it. For an objective understanding of the situation, it is crucial to distinguish between two main types of ownership of property used by religious organizations:

- property owned by religious organizations: These are churches and other structures built or acquired with funds from the religious community itself, or transferred to its ownership by the state or other entities. Such property is the private property of the religious organization. No cases of confiscation, i.e., compulsory gratuitous seizure of such property by the state from UOC religious organizations, have been recorded;

- state or communal property: This typically includes objects that constitute national historical and cultural heritage (for example, the complexes of the Kyiv-Pechersk, Pochaiv, Sviatohirsk Lavras, individual cathedrals, and monasteries). These objects belong to the people of Ukraine and are owned by the state or territorial communities. Religious organizations use this property based on lease agreements or gratuitous use agreements concluded with state or communal bodies that are the balance holders.

Accordingly, the term "confiscation" is used incorrectly. Decisions on non-renewal or termination of such agreements are an exercise of the owner's (state's) right to dispose of its property, especially in the presence of systematic violations of contract terms, expiration of the term, or the emergence of threats to national cultural heritage and security. This is a standard civil law procedure.

Property belonging to parish communities remains the property of these communities. In the event that a community changes its jurisdictional affiliation from the UOC to the OCU, the property remains the property of the same legal entity (religious community), which has simply changed its statute. This is not a "transfer" or "seizure," but an internal corporate process.

Regarding other cases where UOC property is the subject of a legal dispute, it is important to emphasize that the assertions of "forced state seizure through administrative decrees or decisions of local courts," mentioned in the Letter, do not reflect the full scope of circumstances. Each such situation must be analyzed individually, as the emergence of these disputes is often caused by a number of other specific circumstances unrelated to targeted persecution by the state.

Question 2 On the Issue of Potentially Biased Attitudes and Discriminatory Measures Applied Towards Representatives of the Ukrainian Orthodox Church (UOC)

Article 9 of the European Convention on Human Rights guarantees the right to freedom of thought, conscience, and religion. According to the case law of the European Court of Human Rights (hereinafter — the European Court), the legitimate aims that may justify interference with an individual's manifestation of religion or belief are public safety, public order, health or morals, or the protection of the rights and freedoms of others. This list of legitimate aims is strictly exhaustive, and the definition of these exceptions is restrictive. For such interference to be compatible with the Convention, it must pursue one or more of the aims enumerated in this provision (see para. 113 of the judgment in *S.A.S. v. France*, 1 July 2014, application no. 43835/11).

The Court also emphasizes that national authorities enjoy direct democratic legitimacy and, in principle, are better positioned than an international court to evaluate local needs and conditions - particularly in matters concerning the relationship between the State and religions. With regard to Article 9 of the Convention, the State should, in principle, be afforded a wide margin of appreciation in determining whether and to what extent interference with the right to manifest religion or belief is "necessary." In setting the boundaries of this discretion in a given case, the Court must also take into account what is at stake (see para. 129 of *S.A.S. v. France*).

When assessing complaints about violations of rights guaranteed by the Convention, the Court has repeatedly stated that it does not operate in a vacuum. In evaluating whether national authorities have fulfilled their Convention obligations - particularly in assessing the proportionality of an interference - the Court must consider the broader national and international context. In particular, the Court has acknowledged the context of the Russian Federation's aggression, including its 2008 invasion of Georgia and its military and political control over parts of Ukraine. Ultimately, the Court cannot disregard the fact that, on 24 February 2022, the Russian Federation launched a full-scale invasion of Ukraine, leading to the cessation of its Council of Europe membership as of 16 March 2022 under Article 8 of the Statute of the Council of Europe (see para. 55 of *Zdanoka v. Latvia*, 25 July 2024, application no. 42221/18).

In its decision of 19 March 2024 in *Kirkorov v. Lithuania* (application no. 12174/22), the Court underlined the importance of acknowledging and exposing disinformation and propaganda warfare conducted by Russia (see para. 61), referencing, inter alia, the European Parliament Resolution of 23 November 2016 (2016/2030(INI)) on EU strategic communication to counteract third-party propaganda. The resolution noted:

"The Russian government employs a wide array of tools such as think tanks and special foundations (e.g., 'Russkiy Mir'), agencies like 'Rossotrudnichestvo', multilingual television stations (e.g., RT), pseudo-news agencies, cross-border social and religious groups, presenting itself as the sole defender of traditional Christian values... The Kremlin funds political parties and organizations in the EU to undermine political unity and targets specific journalists, politicians, and individuals in the EU."

This jurisprudence supports the view that States may impose restrictive measures in the interest of public safety, particularly in response to the full-scale invasion of Ukraine by the Russian Federation.

On 6 February 2019, the religious community of the Holy Assumption Parish of the Rivne Eparchy of the Ukrainian Orthodox Church (UOC) in Ptycha village, Rivne region, lodged a complaint to the European Court, alleging violations of Article 9 (freedom of thought, conscience, and religion) and Article 1 of Protocol No. 1 (protection of property) to the Convention. The complaint concerned unjustified seizures of the church building in Ptycha amid criminal proceedings relating to a conflict between believers of the UOC-Moscow Patriarchate and the Ukrainian Orthodox Church of the Kyiv Patriarchate over rights to use and manage the property ([https://hudoc.echr.coe.int/#{%22fulltext%22:\[%228906/19%22\],%22itemid%22:\[%22001-224031%22\]}](https://hudoc.echr.coe.int/#{%22fulltext%22:[%228906/19%22],%22itemid%22:[%22001-224031%22]})).

In April 2019, the community legally joined the Orthodox Church of Ukraine. On 18 August 2023, its representative informed the Court of this transition, including changes to the organization's name, statute, and leadership, and requested that application no. 8906/19 be struck out of the Court's list of cases. However, the original applicant contested this transition, claimed continued affiliation with the UOC-MP, and asked the Court to proceed with the case. As of now, application no. 8906/19 remains pending before the Court.

In its Grand Chamber judgment of 9 July 2025 in *Ukraine and the Netherlands v. Russia*, the Court held Russia responsible for a pattern of intimidation, harassment, and persecution of religious groups (other than the UOC-MP) in the occupied territories of Ukraine, in breach of Article 9 of the Convention, during the period from 11 May 2014 to 16 September 2022 - the period of Russian control and the end of its Convention obligations (see paras. 1267-1277, <https://hudoc.echr.coe.int/ukr?i=001-244292>).

The Court found that:

In particular, the European Court noted that "...since May 2014, freedom of religion in the occupied territories of Ukraine has been significantly restricted. The separatists in the 'DNR' and 'LNR' quickly declared the UOC-MP the main religious group in the occupied territory. They persecuted and oppressed religious figures of other religions or Christian churches, as well as civilians who conducted worship in the context of those religions and churches, in violation of international humanitarian law <...> Places of worship were seized by the separatists, and reports indicate a lack of tolerance for what the separatists referred to as 'sects,' in most cases apparently meaning all religious practices outside the context of the UOC-MP <...> There are numerous reports of ill-treatment of religious leaders, their abduction during religious events, and in some cases even killings by separatists in eastern Ukraine. The context of many of these cases makes it clear that these individuals were targeted because of their position as leaders of religious communities and within the broader practice of undermining and obstructing the right of those not affiliated with the UOC-MP to practice their religion...".

"1270. The facts indicate that since 2016, the 'DNR' and 'LNR' began introducing formal requirements for the registration and operation of religious groups. Even where registration was theoretically open to all, in practice it was applied restrictively, with registration denied to a number of religious organizations on undisclosed grounds <...> Some religious organizations were labeled as 'extremist' and banned accordingly, with their religious materials and

publications confiscated, destroyed, and prohibited <...> Real estate was seized by the authorities of the 'DNR' and 'LNR' on the basis that it was 'abandoned property,' belonged to banned or 'extremist' organizations, or without any justification at all <...> Religious leaders and parishioners were prosecuted for allegedly organizing or attending illegal gatherings..."

"1271. The evidence confirms that after 24 February 2022, the practice of abducting religious leaders, seizing and destroying churches and religious property continued in all territories occupied by the respondent State <...> 'Laws' on extremism and other provisions aimed at banning 'sects' were applied in the newly occupied territories to justify the confiscation of religious materials and to prevent religious worship by individuals not belonging to the UOC-MP community <...> In 2022, the Russian occupation administration 'nationalized' the property of religious communities and repurposed it for its own use..."

"1272. The measures described in the testimonies were applied to religious communities not affiliated with the UOC (MP), including other Christian communities, Muslim communities, and, in particular, Jehovah's Witnesses. These measures were intended to-and in many cases did-hinder or prevent members of religious communities from freely associating and practicing their religion and beliefs..."

According to Article 18(3) of the **International Covenant on Civil and Political Rights** (hereinafter – the Covenant), the 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.

According to paragraph 7 of **General Comment No. 22(48)** to Article 18 of the Covenant, **no manifestation of religion or belief may be used as a justification for war propaganda or for any advocacy of national, racial, or religious hatred** that constitutes incitement to discrimination, hostility, or violence. As noted by the Committee in **General Comment No. 11(19)**, States Parties are obliged to adopt legislation prohibiting such acts.

On 17 April 2024, the Parliamentary Assembly of the Council of Europe, in para. 26.14 of Resolution 2540 (2024), called upon member and observer States to recognize that the Russian Orthodox Church is being used as a propaganda tool by the Kremlin and has no relation to the freedom of religion or expression guaranteed by Article 18 of the ICCPR.

In the context of ensuring non-discrimination against any religious community or denomination, the **Roadmap on Rule of Law Issues**, approved by the **Cabinet of Ministers of Ukraine on 14 May 2025, Resolution No. 475**, entitled "*Certain Issues Regarding the Negotiation Process on Ukraine's Accession to the European Union under Cluster 1: Fundamentals of the EU Accession Process*", includes a section titled "**Fundamental Rights**", specifically **Area 3.3: Freedom of Thought, Conscience, and Religion**.

This section provides for the following strategic outcome: "1. The right to freedom of thought, conscience, and religion is guaranteed to everyone in accordance with the law, and the system of state bodies involved in the development and implementation of public policy in the field of religion functions effectively, in accordance with Article 18 of the International Covenant on Civil and Political Rights and Article 9 of the European Convention on Human Rights, as well as taking into account the case law of the European Court of Human Rights in this area, with the aim of preventing violations of freedom of thought, conscience, and religion."

Tasks under area 3.3 include:

1. Assessment of the existence/absence in Ukraine of religious organizations that are directly part of the structure of, or established by, a foreign religious organization whose activities are prohibited in Ukraine.
2. Disclosure of information regarding the assessment of the existence/absence in Ukraine of religious associations that show signs of affiliation with a foreign religious organization whose activities are prohibited in Ukraine, as well as the centers of such religious associations.
3. Disclosure of information regarding the assessment of the existence or absence in Ukraine of religious organizations that are directly part of the structure of, or established by, an affiliated religious organization.
4. Conducting discussions with civil society institutions (including all religious organizations in Ukraine) as well as with international institutions regarding the state of implementation of legislation in the field of religious organizations and the protection of the constitutional order, and informing the Cabinet of Ministers of Ukraine about the results of these discussions.

Question 4 Existing Guarantees Afforded to Persons under Investigation with Respect to Their Right to a Fair Trial, in Particular Access to an Independent Tribunal, Legal Assistance, and the Presumption of Innocence.

Pursuant to the first paragraph of Article 30 of the Criminal Procedure Code of Ukraine (“CPC”), criminal proceedings may only be conducted by a court in accordance with the procedures laid down in the CPC.

Under paragraphs 1, 2, 3, 14 and 17 of the first paragraph of Article 7 CPC, the substance and form of criminal proceedings must comply with the general principles of criminal procedure, including the rule of law; legality; equality before the law and the courts; access to justice; the binding force of judicial decisions; and the right to challenge procedural decisions, acts or omissions.

Paragraph 10 of the first paragraph of Article 7 CPC further requires that criminal proceedings observe, inter alia, the presumption of innocence and the requirement that guilt be proven.

Article 17 CPC provides that a person shall be considered innocent of any criminal charge and shall not be subjected to criminal punishment unless their guilt has been established according to the procedure laid down in the CPC and confirmed by a final, binding conviction. No one is required to prove their innocence, and a person must be acquitted if the prosecution fails to discharge the burden of proving guilt beyond a reasonable doubt.

Detention orders or charges may not be based on evidence obtained unlawfully. Any doubts concerning the proof of guilt must be resolved in favour of the accused. Treatment of an individual whose guilt has not been established by a final conviction must be consistent with that afforded to an innocent person.

The Law of Ukraine “On Free Legal Aid” (the Law) defines the content of the right to free legal aid, the rules for its provision, the beneficiaries, the grounds and procedures for granting such aid, and the State guarantees for its delivery.

Under Article 3 of the Law, any Ukrainian citizen, foreign national or stateless person-including refugees or persons in need of subsidiary protection-is entitled to receive, free of charge, full primary legal aid, and certain categories of persons may receive free secondary legal aid in the cases provided by law.

Article 13 establishes free secondary legal aid as a form of State guarantee designed to ensure equal access to justice. It includes:

- Defence representation;
- Procedural representation of entitled persons before courts, other State bodies or local self-government authorities, and before third parties;
- Drafting of procedural documents.

Article 14 identifies the categories of persons entitled to free secondary legal aid, including:

1. Persons considered detained under the CPC;
2. Persons against whom pre-trial restraint in the form of custody has been imposed;
3. Persons in respect of whom a defence counsel is appointed by the court in a criminal proceeding;
4. Persons in respect of whom a defence counsel is appointed for a specific procedural act.

Article 19 of the Law of Ukraine “On Free Legal Aid” provides, in particular, that in the case of a request by persons referred to, inter alia, in paragraphs 5–6 of part one of Article 14 of this Law for the provision of free secondary legal aid, or upon receipt of information about a detained person from their close relatives or family members as defined by the Criminal Procedure Code of Ukraine, the Free Legal Aid Center is obliged to make a decision to provide free secondary legal aid from the moment of the person's detention.

In the case of receiving a decision by an investigator, inquiry officer, or prosecutor, or a ruling by an investigating judge or court on the appointment of a defense attorney for the purpose of legal defense by assignment or for conducting a specific procedural action in respect of persons referred to in paragraphs 7 and 8 of part one of Article 14 of this Law, the Free Legal Aid **Free Legal Aid Center** shall be obliged to immediately make a decision on the provision of free secondary legal aid.

Question 5. Procedures for the Return of Confiscated Church Property or Award of Compensation, and the Availability of Judicial Remedies to Challenge Forced Transfers or Closures of UOC Religious Sites in Accordance with the Right to an Effective Remedy

Specifics of proceedings in administrative cases on the termination of a religious organization are defined in Article 289-9 of the Code of Administrative Procedure of Ukraine (hereinafter - CAP of Ukraine).

According to this article, such administrative cases are considered by the Administrative Court of Appeal, as a court of first instance within the appellate circuit that includes the city of Kyiv.

Paragraph 8-2 of Part Two of Article 245 of the CAP of Ukraine provides that, if the claim is satisfied, the court may decide to terminate the religious organization as defined in Article 289-

9 of this Code, and transfer its property, funds, and other assets - except for religious (cult) property - to state ownership.

According to Part Six of Article 289-9 of the CAP of Ukraine, an appeal against a court decision in such an administrative case must be filed within twenty days, and an appeal against a court ruling - within ten days from the date of its publication in accordance with Part Five of this article.

The court of appeal in such administrative cases is the Supreme Court of Ukraine, acting through a panel of at least five judges of the Administrative Cassation Court. The decision of the Supreme Court in these cases is final and not subject to cassation appeal.

On 20 August 2024, the Law of Ukraine “On the Protection of the Constitutional Order in the Sphere of Activities of Religious Organizations” No. 3894-IX was adopted with the aim of safeguarding national and public security, protecting human rights and freedoms, and preventing the operation in Ukraine of religious organizations whose governing center (administration) is located in a foreign state that commits armed aggression against Ukraine. This was adopted in light of, in particular, the armed aggression of the Russian Federation against Ukraine, the support of this aggression by the Russian Orthodox Church, and in recognition that numerous unlawful actions by the Russian Orthodox Church and its subordinate religious organizations in Ukraine pose a threat to national and public security and to the rights and freedoms of Ukrainian citizens.

The law provides that foreign religious organizations may operate in Ukraine only if their activities do not threaten national or public security, public order, health, morals, or the rights and freedoms of others.

The activities of foreign religious organizations are prohibited in Ukraine if they simultaneously meet the following criteria:

- are located in a state recognized as one that has committed or is committing armed aggression against Ukraine and/or has temporarily occupied part of Ukrainian territory; and
- directly or indirectly (including through public statements by their leadership or other governing bodies) support the armed aggression against Ukraine.

Given that the Russian Orthodox Church is an ideological extension of the aggressor state’s regime, a complicit actor in war crimes and crimes against humanity committed on behalf of the Russian Federation and its ideology of the so-called “Russian World”, the activities of the Russian Orthodox Church in Ukraine are prohibited.

The activities of religious organizations affiliated with a foreign religious organization, the activities of which are banned in Ukraine – including those directly or as a structural part of another religious organization, or based on other criteria established in Article 5-1 of the Law of Ukraine "On Freedom of Conscience and Religious Organizations" – are not permitted and such religious organizations shall be terminated in accordance with the law.

According to the Regulation on the State Service of Ukraine for Ethnic Affairs and Freedom of Conscience, approved by Resolution № 812 of the Cabinet of Ministers of Ukraine dated 21 August 2019, the State Service of Ukraine for Ethnic Affairs and Freedom of Conscience is

defined as the central executive authority whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine and which is responsible for the formation and implementation of state policy in the field of religion.

Question 6. Measures Adopted to Protect Journalists, Lawyers and Human Rights Defenders Documenting or Challenging Processes Related to the UOC from Persecution, Harassment or Unlawful Arrests

The Criminal Code of Ukraine (“CCU”) provides for criminal liability for offences against journalists, including:

- Threats or violence against a journalist (Art. 345¹ CCU);
- Intentional destruction or damage to a journalist’s property (Art. 347¹ CCU);
- Attempt on a journalist’s life (Art. 348¹ CCU);
- Hostage-taking of a journalist (Art. 349¹ CCU).

It likewise criminalises offences against defence counsel or representatives of persons, including:

- Threats or violence against a counsel or representative (Art. 398 CCU);
- Intentional destruction or damage to a counsel’s or representative’s property (Art. 399 CCU);
- Attempt on a counsel’s or representative’s life in connection with their provision of legal assistance (Art. 400 CCU).