

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; and the Special Rapporteur on freedom of religion or belief

REFERENCE:
UA UKR 4/2018

30 October 2018

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 35/15, 34/18, 32/32 and 31/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **a series of acts of violence which appear to contravene the internationally-recognized right to freedom of religion and belief: they include attacks against and seizure of places of worship belonging to the Ukrainian Orthodox Church (UOC); acts of intimidation and harassment, including death threats made against one priest and editor of the Union Orthodox Church news agency; the disruption of the All-Ukrainian Cross Procession as well as violence against peaceful believers.**

According to the information received:

Use of force by law enforcement officials during demonstration

On 27 July 2016, over 80.000 believers were participating in the All-Ukrainian Cross Procession organized by the UOC. Law enforcement officials used rubber truncheons against the participants. As a result, 14 of them were injured, including fractured limbs and severe head injuries.

Church seizures

Between 2014 and 2017, at least 70 attacks of vandalism against UOC premises were reported, such as breaking doors, damaging of icons, occupying churches and destroying shrines allegedly carried out by unknown assailants. These attacks occurred mostly in the Rivno, Ternopil and Volyn regions. Allegedly, the purpose of these attacks was to seize the targeted religious buildings. Following these

attacks, some of the buildings have remained sealed. It is reported that numerous complaints have been filed with the local authorities but that no investigations have been initiated.

Intimidation and harassment

On 25 January 2018, around 3 p.m., masked members of extreme right-wing groups broke into the office of the Union of Orthodox Journalists news agency in Kiev. The news agency publishes information on the UOC and incidents regarding violations of religious freedom in Ukraine. The assailants searched the premises and seized a hard disk containing confidential information belonging to the news agency. The editor of the news agency, who was present at the time of the attack, Priest Aleksei Zoshchuk, managed to escape from the premises unscathed.

A few days later, Priest Aleksei Zoshchuk received a phone call from an unidentified person indicating that he had been ordered to murder him and warning him that the threat was serious.

On 12 May 2018, a news article described a trip that Priest Aleksei Zoshchuk and his family made to the United Arab Emirates and posted family pictures of his holiday, hacked from his wife's personal phone.

Recently, the priest has continued to receive threats by phone and Facebook and his personal email account has been hacked. On 14 October 2018, a date on which both religious and national celebrations coincide, and which is marked by public assemblies, members of the UOC were subject to threats by extreme right-wing groups.

Numerous complaints have been filed with the police in relation to these events, but no investigations were initiated.

We express grave concern at these allegations, which, if confirmed, would amount to an emerging pattern of officially-sanctioned, directly or by omission, violations of the internationally-recognized rights to life and security of the person, to freedom of expression and of peaceful assembly and to religious freedom and belief, as set forth in articles 6, 9, 18, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR). The ICCPR was ratified by the state of Ukraine in 1973 and constitutes an international legal obligation.

In relation to the reported threats, including death threats, made against Priest Aleksei Zoshchuk and his family, the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (ECOSOC resolution

1989/65 of 24 May 1989), establish the obligation of States to ensure the effective protection to those at risk of being killed through judicial and other means (Principle 4) as well as the protection of their family from violence, threats of violence or any other form of intimidation (Principle 15).

Principle 12 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted in 1990) provides that “everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the UDHR and the ICCPR, and that Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.”. The use of force and firearms must as far as possible be avoided, using non-violent means before resorting to violent means. Force used must be proportionate to the legitimate objective to be achieved.

We also deem it appropriate to refer to the Human Rights Council’s Resolution 12/16 which intrinsically links the right to freedom of thought, conscience or religion with the rights to freedom of opinion and expression, and encourages States to take all necessary measures to refrain from violations of these rights and to create conditions to prevent their reoccurrence. In this regard, any restriction to the right to freedom of expression must meet the threshold established under article 19(3) of the ICCPR, namely the criteria of legality and necessity, (a) for the respect of the rights of others; and (b) for the protection of national security or public order or of public health and morals.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the importance of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any information and comment you may have on the above mentioned allegations.
2. In particular, please provide information on the reasons why law-enforcement personnel resorted to force against the participants to a religious procession on 27 July 2016, which was a seemingly peaceful events; and on the rules of engagement that regulate the conduct of law-enforcement personnel in situations of crowd control. Why did the police

action result in serious injuries (including broken limbs and head wounds) to a number of participants?

3. Please provide information, and where available the results, of any investigations, judicial or otherwise, carried out into the conduct of the police during that religious procession in order to establish the circumstances of the use of force, its legality, necessity and proportionality. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide information, and where available the results, of any investigations, judicial or otherwise, carried out into the allegations of threats, including death threats, made against Priest Aleksei Zoshchuk, and the subsequent harassment of him and his family. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please specify whether, and if so, which measures have been taken to protect both the physical and psychological integrity of Priest Aleksei Zoshchuk and his family, including against any further interference with his privacy. If no measures have been taken, please explain why.
6. Please provide information about how the exercise of the rights to life, security of person, freedom of expression, assembly and belief are upheld in law and practice in Ukraine, so that everyone can exercise them in a peaceful manner without fear of violence.
7. Please provide information on the measures taken by the Government to reign in, and where necessary, prosecute acts of violence against persons and public premises carried by extremist right-wing groups.
8. Please provide information about the measures, in law and practice, to ensure the physical and psychological security of all those in Ukraine peacefully exercising their rights to freedom of opinion, expression, belief and assembly.

While awaiting a reply, we urge that all necessary interim measures be taken to curb the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for them.

We would appreciate a response at your earlier convenience. After 60 days, this communication and any response received from Your Excellency's Government will be made public via the Special Procedures communications reporting [website](#). They will

also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Agnes Callamard

Special Rapporteur on extrajudicial, summary or arbitrary executions

David Kaye

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Clement Nyaletsossi Voule

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Ahmed Shaheed

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