

Mandates of 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

Ref.: AL RUS 25/2023
(Please use this reference in your reply)

8 November 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on minority issues and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 50/17, 52/5 and 49/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the continued restrictions and serious violations of the right to freedom of religion or belief in the Donetsk, Luhansk, Kherson, Zaporizhzhya and Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, occupied by the Russian Federation (hereinafter – Crimea).**¹

Concerns about the destruction of and damage to many sites, institutions and objects of religious, cultural and historical importance in Ukraine since February 2022 was the subject of a previous communication from the Special Procedures mandate holders in RUS 18/2022. We regret that no reply has been received to date.

According to the information received:

Widespread violations of the right to freedom of religion or belief varying from destruction of religious places of worship, seizure of religious places of worship, enforced disappearances of clergy to prosecution of individuals exercising this right, such as Jehovah's witnesses have been reported from the Russian occupied territories in Ukraine, since the escalation of hostilities on 24 February 2022 (including Autonomous Republic of Crimea and the city of Sevastopol, Ukraine). Russian occupied territories in Donetsk, Luhansk, Kherson, and Zaporizhzhya implement laws of the Russian Federation.

Application of Russian laws which restrict the right to freedom of religion or belief in occupied territories.

Prohibition of missionary activity in Crimea

Section 4 of article 5.26 of the Code of Administrative Offences (CAO) is being applied by Russian authorities to individuals residing in Crimea to restrict the right to freedom of religion or belief, in particular affecting Jehovah's witnesses and several Protestant churches. This legal provision of the CAO states that 'missionary work carried out in breach of the legislation on freedom of conscience and religion' may be punishable with a fine of

¹ References to Crimea should be read in accordance with General Assembly resolution 68/262, in which the General Assembly affirmed its commitment "to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognised borders" (para. 1).

between 5,000 and 50,000 Russian rubles. Article 24.2 of the Law on Freedom of Conscience and Religious Associations (1997) describes the requirements regarding missionary activities. These requirements state that individuals who conduct missionary work on behalf of a religious group must carry on them a decision by a general assembly of the religious group granting them authorisation to carry out missionary work. That document must indicate the details of the written confirmation of receipt and registration which the Russian registration body issues in response to a notice of the establishment and start of operations of a religious group (article 24.2(1)).

Believers of different religious authorities are being prosecuted in Crimea due to either failure to register their religious groups or failure to complete related administrative procedures, or due to the group's members conducting worship or gathering without possessing the written decision of the religious group's board. For instance, in 2021, while 23 judicial proceedings were recorded, in 2022, at least 13 judicial proceedings were carried out relating to proselytizing connected offences. Out of this, 10 religious organizations – 6 Protestant, 1 Orthodox, 1 Judaist and 2 Muslim organizations and 13 individuals, the majority belonging to Protestant churches, were prosecuted.

Blanket prohibition towards Jehovah's Witnesses

In April 2017, the Supreme Court of the Russian Federation ruled that Jehovah's Witnesses breached the country's law on combating extremist activity. This decision is regarded as binding precedent by courts in Crimea. Accordingly, Jehovah's Witnesses are subject to criminal prosecution and imprisonment for practising their religion as all congregations of Jehovah's Witnesses in Crimea remained under a blanket prohibition as "extremist organizations" in Crimea. For instance, in February 2022, a man from Kerch was convicted of "extremist activities" for discussing the Bible and religious doctrine. He was handed a two-year suspended sentence along with restrictions on his freedom of movement to the city of Kerch for six months and was also prohibited from participating in religious or civil society organizations for three years. At least five other Jehovah's Witnesses were convicted in 2022. Each were sentenced to 6 years of imprisonment for their religious practice under part 1 of article 282.2 of the Russian Federation Criminal Code (organizing the activities of an extremist organization).

In addition to the above, over 25 Kingdom Halls were seized in the occupied areas of Donetsk, Luhansk, Zaporizhzhya, and Kherson Oblasts in 2022 by Russian authorities.

Prosecution of protestant church activities

Individuals and religious groups belonging to Protestant churches are being prosecuted in Crimea according to article 24.2 of the Law on Freedom of Conscience and Religious Associations, for conducting Bible study groups, discussing religious doctrine, singing religious songs in private dwellings and other premises, and failing to indicate the full name of the registered religious organization on social media. For instance, in 2022 out of 10 religious organizations that were charged with proselytizing related offences, 6 belonged to protestant religious groups. The courts fined individuals between

5,000 and 15,000 rubles and religious organizations 30,000 rubles. The main reasons reported for these convictions were that the religious groups were not registered as per the mentioned law or that worship gatherings were conducted by the religious group members who did not hold a special written authorization from the religious group's board.

Physical attacks against places of religious worship and clergy in the occupied territories

Destruction of places of religious worship

By September 2022, over 270 religious buildings and sacred places had been damaged and destroyed in Ukraine, out of this total, seventy-one places of religious worship were located in the occupied territories of the Donetsk Oblast, while forty places of religious worship were located in the Luhansk Oblast.

Enforced disappearances and attacks towards clergy

Incidents of enforced disappearances and attacks on clergy in the occupied territories are widespread. For instance, in March 2022, several Orthodox Church of Ukraine (OCU) priests were detained and tortured by occupying forces in Kherson. Similar incidents of abductions and torture of clergy were reported earlier in Crimea where the number of parishes in the Crimean OCU diocese decreased from 45 to 7 due to the persecution, while the number of full-time clergypersons decreased from 14 to 4, with a significant decrease in the number of parishioners. Further, clergy members who were perceived for taking a favourable stance towards Ukraine was arbitrarily detained. For instance in August 2022, a priest from the Ukrainian Orthodox Church (UOC) in Kherson was arbitrarily detailed and allegedly subject to torture and ill-treatment. He was later released in mid-2023.

In April 2022, a prominent religious figure associated with a protestant church in the Zaporizhzhya Oblast was taken by occupying authorities. His whereabouts have been unknown since he was taken. In November 2022, two Catholic priests were taken by occupying authorities in the Zaporizhzhya Oblast. Their whereabouts remain unknown.

Without prejudice to the accuracy of the abovementioned allegations, we wish to express our serious concern for the alleged enforced disappearances and torture or ill-treatment of clergy in the occupied territories in violation of international human rights law. We are also expressing grave concern at the destruction and in certain cases seizure of places of religious worship in the occupied territories.

We also wish to express our concern about the continued use of extremism law which contains broad wording relating to 'extremism', 'extremist actions', 'extremist organisations' or 'extremist materials' which has led to a pattern of limitations on the right to freedom of religion or belief and on the right to freedom of association, in particular affecting Jehovah's witnesses and members of Protestant churches, which appears to be related to the legitimate and peaceful exercise of their rights as guaranteed by the International Covenant on Civil and Political Rights (ICCPR) ratified by the Russian Federation on October 1973, including the freedom of thought, conscience and religion (art. 18), freedom of peaceful assembly and of association

(art. 21 and 22), and the rights of members of a religious minority to profess or practice their own religion with other members of their group (art. 27).

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

We are issuing this appeal in order to safeguard the rights of individuals concerned from irreparable harm and without prejudicing any eventual legal determination.

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 additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please urgently provide information on any members of the clergy from the occupied territories currently detained by Russian authorities.
3. Please explain the circumstances surrounding the destruction of places of religious worship, and whether and how attacks resulting in such outcomes were compatible with international human rights law.
4. Please indicate on which basis the Government considers the activities of Jehovah's Witnesses of a nature that promotes or otherwise justifies "extremist" activity and explain how their freedom of religion is upheld.
5. Please indicate all steps taken by the Government to protect the rights to adopt a religion, to teach religious beliefs and to disseminate religious publications, and to ensure the rights of religious minorities particularly in relation to Jehovah's Witnesses, people belonging to Protestant Churches and other religious minorities. In this regard, we would welcome information on the policy, legal framework, and regulatory measures currently in force in the Russian Federation and Crimea with regard to the full protection of the rights to freedom of religion or belief, opinion and expression, assembly and association.
6. Please indicate what measures are to be taken to ensure that Jehovah's Witnesses, people belonging to Protestant Churches other religious minorities can freely exercise their rights to freedom of expression, peaceful assembly and association.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt 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(s) responsible for the alleged violations.

Please note that a copy of this letter will be simultaneously transmitted to the Ukrainian authorities.

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

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

Nicolas Levrat
Special Rapporteur on minority issues

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We refer to the International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian Federation on 16 October 1973, and, in particular, its article 18 which stresses that "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching".

The Human Rights Committee emphasised in General Comment No. 22 (HRI/GEN/1/Rev.1) paragraph 3 that article 18 of ICCPR "distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference in article 19.1; "the freedom to manifest religion or belief may be exercised "either individually or in community with others and in public or private. The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts." (paragraph 4).

We would also like to refer to article 21 of the ICCPR, that states that the right to freedom of peaceful assembly should be enjoyed by everyone, as provided for by article 2 of the Covenant and resolutions 15/21, 21/16 and 24/5 of the Human Rights Council. In its resolution 24/5, the Council reminded States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline. We also recall that article 22 of the ICCPR protects the right to freedom of association, including the rights of everyone to associate with others and to pursue common interests. Freedom of association is closely linked to the rights to freedom of expression and to peaceful assembly and is of fundamental importance to the functioning of democratic societies. These rights can only be restricted in very specific circumstances, where the restrictions serve a legitimate public purpose as recognized by international standards and are necessary and proportionate for achieving that purpose.

Peaceful expression of one's thought and conscience cannot be restricted unless it has fulfilled stringent tests of legality, proportionality and necessity. According to the Human Rights Committee "in interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in articles 2, 3 and 26. Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18. The Committee observes that paragraph 3 of article 18 is to

be strictly interpreted: restrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security. Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner” (see General Comment No. 22 paragraph 8).

Furthermore, the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55) establishes in art. 6 that the right to freedom of thought, conscience, religion or belief shall include, inter alia the freedom to “worship or assemble in connection with a religion or beliefs”. The Commission on Human Rights (resolution 2005/40, paragraph 4d), the Human Rights Council (resolution 6/37) and the General Assembly (resolution 65/211, paragraph 12g) have reiterated the obligation of the States to ensure the right of all persons to worship or assemble in connection with a religion or belief”, including of those not belonging to a religion or belief recognised by a State through a registration procedure.

According to the Special Rapporteur on freedom of religion or belief, the registration should not be compulsory and it should not represent a precondition for practising one's religion, but only for the acquisition of a legal personality and related benefits; in the latter case, registration procedures should be easy and quick and not depend on extensive formal requirements in terms of the number of members or the time a particular religious group has existed; moreover, the registration should not depend on reviews of the substantive content of the belief, the structure, the clergy, etc. (see E/CN.4/2005/61, paras. 56-58). In this regard, registration requirements established by the national law should not constitute an impairment for the peaceful exercise of the right to freedom of religion or belief and the subsequent right to freedom of worship.

We would like to remind your Excellency's Government that according to art. 2 of the 1981 Declaration, “discrimination based on religion or belief means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis”. The 1981 Declaration further states in its article 2 (1): “[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other belief.” In article 4 (1), the General Assembly establishes that: “All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms [...]”

We would also like to stress that ICCPR specifically recognizes the rights of members of religious minorities to “profess and practices his or her own religion” (article 27). In connection to the coexistence of different religious groups, the 1981 United Nations Declaration on Religious Tolerance and Non-Discrimination urges states “to take all appropriate measures to combat intolerance on the grounds of religion” (article 4.2). In 2005, the Commission on Human Rights emphasized the importance of promoting “a continued and strengthened dialogue among and within religions or beliefs, encompassed by the dialogue among civilizations, to promote greater tolerance, respect and mutual understanding” (Resolution 2005/40,

paragraph 10).

We would also like to note that in December 2022, the Human Rights Committee in its concluding observations on the Russian Federation noted its serious concern at the “reports of violations of freedom of religion and belief in Crimea, including intimidation and harassment of religious communities, such as the Orthodox Church of Ukraine” and called for “[r]espect and ensure freedom of religion and belief in Crimea and refrain from any interference contrary to the provisions of the Covenant” (para 38-39, CCPR/C/RUS/CO/8).