

**Mandates of 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**

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(Please use this reference in your reply)

14 May 2025

Excellency,

We have the honour to address you in our capacities as Independent expert on the promotion of a democratic and equitable international order; 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; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on minority issues; Special Rapporteur on freedom of religion or belief and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 57/7, 52/9, 50/17, 53/12, 52/5, 49/5 and 58/14.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged targeting and discrimination against members of the Ukrainian Orthodox Church (UOC).

According to the information received:

The UOC has reportedly been subject to discrimination against religious communities, including criminal prosecution of its clergy, believers, and individuals who seek to document, report on, or legally defend them. These allegations raise serious concerns regarding the rights to freedom of religion or belief, peaceful assembly and freedom of association, the prohibition against arbitrary detention, and the right to freedom of expression for journalists and human rights defenders who have attempted to bring public attention to these matters.

The alleged practices include but are not limited to state-orchestrated or state-approved evictions of UOC clergy and congregations from their churches, monasteries, and other religious properties; and the prosecution of clerics under broadly defined national security or anti-extremism provisions. We have also received reports indicating that this suppression extends to lawyers who represent targeted clergy, journalists who investigate church property seizures, and human rights defenders who publicly condemn restrictive legislation. In some instances, individuals among these groups have reportedly been subjected to intimidation, house arrest, prolonged pretrial detention, or the revocation of citizenship.

## **1. Forced Dissolution of Religious Communities and Legislative Measures.**

On 20 August 2024, the Verkhovna Rada of Ukraine enacted the *Law on the Protection of the Constitutional Order in the Sphere of Religious Organizations' Activities*. This legislation reportedly imposes prohibitions on religious entities deemed to be affiliated—canonically, administratively, or spiritually—with foreign religious centers located in countries designated as “aggressor states.” By classifying canonical or historical ties to the Russian Orthodox Church (ROC) as a threat to national security, the law allegedly provides a legal basis for dissolving or banning thousands of Ukrainian Orthodox Church (UOC) parishes.

*Traditional worship services* have reportedly been disrupted or disbanded, with congregations informed that their continued affiliation with the ROC renders them ineligible to function legally. In certain instances, authorities have allegedly insisted on *re-registration* under a state-approved religious entity, effectively pressuring or compelling parishes to affiliate with the Orthodox Church of Ukraine (OCU) or other denominations recognized by the Government.

Overall, the sweeping nature of these practices raises concerns of a systematic campaign to dismantle or forcibly redirect the religious life of UOC communities. Although Government representatives are said to justify these actions on grounds of national security, those affected by the law maintain that the *criteria for “aggressor-state affiliation”* are applied with insufficient clarity. They further report that no meaningful exemption exists for parishes that disclaim political activities or foreign control, resulting in a *de facto* requirement either to dissociate from the UOC or to face dissolution, eviction, and potential criminal liability for continued religious gatherings under the UOC name.

## **2. Arrests and Criminal Prosecutions of Clergy and Believers.**

According to the information received, it is alleged that multiple senior clergy, priests, and monastics of the Ukrainian Orthodox Church (UOC) have been arrested or placed under restrictive measures on charges such as “justifying aggression,” “inciting religious hatred,” or broader national security offenses. The following cases have been highlighted as particularly concerning:

### **i. Metropolitan Feodosii (Snigiryev) of Cherkasy and Kaniv.**

It is alleged that since November 2022, Metropolitan Feodosiy has faced multiple criminal proceedings brought by the Security Service of Ukraine (SBU) under articles 436-2 (“justification of aggression”) and 161 (“violating the equality of citizens”) of the Ukrainian Criminal Code. These charges allegedly stem from his public defense of the UOC’s canonical independence and his refusal to recognize the state-backed Orthodox Church of Ukraine (OCU). On 17 October 2024, during what is described as a forced seizure of St. Michael’s Cathedral

in Cherkasy, he reportedly suffered a severe head injury after being beaten by unidentified assailants, while authorities subsequently escalated charges against him rather than pursuing those allegedly responsible for the violence.

**ii. Metropolitan Pavlo (Lebid), Abbot of Kyiv-Pechersk Lavra.**

It is claimed that on 1 April 2023, Metropolitan Pavel was charged under articles 161 and 436-2 for “inciting religious hatred” and “justifying aggression,” allegedly based on sermons and private statements supporting the UOC’s traditional ties with the Russian Orthodox Church. Initially placed under round-the-clock house arrest, he was subsequently jailed when the court imposed a high bail, allegedly paid by UOC faithful. Following his release on bail, he was again placed under house arrest, effectively preventing him from attending church services or conducting monastic duties at Kyiv-Pechersk Lavra.

**iii. Metropolitan Arsenii (Yakovenko), Abbot of Sviatohirsk Lavra.**

It is reported that on 24 April 2024, nearly 200 SBU officers raided the Sviatohirsk Lavra, arresting Metropolitan Arseniy under article 114-2 (“disclosure of military positions”). The alleged basis was a sermon in which he asked parishioners to pray for pilgrims encountering hardships at military checkpoints—an act the prosecution recast as undermining state security. Metropolitan Arseniy has since remained in pretrial detention, repeatedly been denied bail despite severe health conditions and the lack of any direct evidence linking his religious remarks to criminal wrongdoing.

**iv. Metropolitan Lonhin (Mykhailo Zhar) of Banchensk.**

Known for his humanitarian work—including the adoption of over 500 orphans, Metropolitan Longin was charged under article 161 for “inciting religious hatred” following sermons that asserted UOC canonical legitimacy and criticized the OCU’s recognition, raising concerns of selective enforcement and retaliatory prosecution.

**v. Father Yevhen Koshelnik.**

On 24 December 2024, the Kalynivskyi District Court of Vinnytsia Region sentenced Father Koshelnik to five years in prison under article 436-2, interpreting his continued use of Old Slavonic liturgical language and canonical references to the Moscow Patriarchate as “glorification of aggression.” Prosecutors argued that these liturgical practices evidenced a “pro-Russian stance,” transforming routine religious expressions into grounds for criminal liability. Court documents reportedly interpret his continued use of Old Slavonic liturgical language and references to the Moscow Patriarchate as evidence of “glorifying aggression” or “pro-Russian views,” rather than

genuine incitement to violence.

In all these instances, the detainees reportedly endured prolonged pretrial detentions or restrictive house-arrest measures, often denied bail and subjected to closed-door hearings. In some cases, courts appear to rely on linguistic “expertise” asserting “pro-Russian sympathies” rather than concrete evidence of criminal intent. The nature of the charges—and the reportedly minimal factual basis beyond theological discussions, sermons, or liturgical practices—suggests that criminal law may be being deployed to curtail the UOC’s influence and those who continue to exercise their faith as aligned with the Russian Orthodox Church.

### **3. Confiscation of Church Properties.**

According to the information received, it is alleged that in multiple regions of Ukraine, UOC cathedrals, monasteries, and parish buildings have been subjected to forced state takeover, often through administrative decrees or local court rulings. The following examples have been particularly noted:

#### **i. St. Michael’s Cathedral in Cherkasy.**

On 17 October 2024, it is reported that approximately one hundred armed individuals forcibly entered and seized this UOC cathedral, allegedly acting with tacit or explicit state support. Witness accounts claim that clergy and worshippers who attempted to resist were physically expelled and subjected to tear gas, resulting in several injuries. Law enforcement officers present at the time reportedly failed to intervene, and, in the aftermath, some UOC believers who defended the cathedral were accused of hooliganism.

#### **ii. Chernihiv’s Yeletsky Monastery.**

It is further alleged that local authorities initiated legal proceedings to terminate the UOC’s rights to use Yeletsky Monastery, ultimately ruling in favor of transferring the property to an alternative state-backed or OCU-affiliated entity. UOC congregants who sought judicial redress for this takeover reportedly encountered significant procedural obstacles, with their appeals dismissed or delayed, thereby limiting their legal remedies.

#### **iii. Other Locations.**

Reports also mention instances where municipal or regional councils revoked long-standing land leases held by UOC communities, purportedly under newly enacted or expanded legal provisions targeting entities deemed to have links with “aggressor states.”

In these and similar episodes, it is alleged that UOC representatives have consistently been denied the opportunity to present counterevidence or challenge the expropriation of their religious properties under fair

judicial processes. Some observers assert that local officials have publicized these seizures as a necessary “reassignment” of ecclesiastical assets to state-approved or “patriotic” religious bodies, raising concerns that the confiscations may be aimed at erasing the UOC’s presence in key historical or symbolic sites.

#### **4. Impact on Journalists, Lawyers, and Human Rights Defenders.**

According to the information received, it is alleged that individuals who have reported on or legally challenged the ongoing measures against the UOC—journalists investigating forced religious closures, lawyers representing UOC clergy, and human rights defenders publicizing the alleged violations—have also faced harassment and prosecution under similar legal provisions. The following cases have been cited as particularly indicative:

##### **i. Journalist Dmytro Skvortsov.**

It is claimed that Mr. Skvortsov was arbitrarily detained for approximately 23 months under charges of “treason,” allegedly linked to his published articles documenting UOC persecution and criticizing certain governmental actions toward religious institutions. According to reports, his detention was repeatedly extended without substantial judicial review, during which he was held in what are described as harsh conditions. Although eventually granted bail in October 2024, he remains subject to ongoing legal proceedings, purportedly facing a potential 15-year sentence.

##### **ii. Human Rights Lawyer Svitlana Novytska.**

It is further alleged that on 29 February 2024, Ms. Novytska was arrested on charges of “high treason,” “inciting religious hatred,” and “justifying aggression,” under articles 111, 161, and 436-2 of the Ukrainian Criminal Code. Sources indicate that her prosecution follows her legal defense of UOC clergy, as well as her public advocacy in international fora, including OSCE conferences, where she reportedly highlighted the forced dissolution of UOC communities and the alleged criminalization of dissenting theological views. Observers claim that she has been detained without bail in Lviv Penitentiary Institution No. 19. Concerns have been raised that her arrest may be intended to discourage other legal professionals from defending UOC clerics or questioning the state’s actions.

##### **iii. Other Human Rights Defenders and Media Outlets.**

It is alleged that additional journalists, bloggers, and activists who published content critical of the state’s approach toward the UOC have been labeled as promoting “Russian influence” or “Russkiy Mir ideology.” In some instances, these individuals reportedly received threats or were placed under surveillance, while others faced legal scrutiny under vaguely worded national security or anti-extremism laws.

Such practices are said to create a chilling effect on public discourse, dissuading open discussion of state-driven religious interventions.

## **5. Use of Vague Ideological Categories.**

According to the information received, it is alleged that Ukrainian authorities have frequently invoked “Russkiy Mir” ideology or canonical ties to the Russian Orthodox Church (ROC) as grounds for suppressing the UOC and individuals who document or defend its activities. Observers state that theological disagreements—including the UOC’s refusal to recognize newly established religious entities—have been categorized as conflict-related charges, in an overbroad application of national security or anti-extremism provisions

It is further alleged that these vague ideological classifications enable criminal or administrative sanctions to be imposed based solely on a particular religious community’s historical affiliation or doctrinal stance. In practice, UOC clergy, believers, or associated individuals have reportedly faced prosecution not for explicit calls to violence, but for sermon references to traditional liturgical language, appeals to canonical unity, or the expression of disagreement with state-backed Orthodox jurisdictions.

While we do not wish to prejudge the accuracy of these allegations, we express concern that the above actions, if confirmed, may contravene Ukraine’s obligations under international human rights law, including the International Covenant on Civil and Political Rights (ICCPR), ratified by Ukraine on 12 November 1973. In particular, these allegations raise questions under article 18 of the ICCPR, which protects freedom of religion or belief and forbids coercion that would impair the freedom to have or adopt a religion or belief of one’s choice; article 9, prohibiting arbitrary arrest or detention; article 14, encompassing fair trial guarantees; article 19, safeguarding freedom of expression; and articles 2 and 26, affirming non-discrimination in the enjoyment of all rights.

We also understand that the current armed conflict may warrant extraordinary measures, related to national interests, for which the ICCPR allows derogations to human rights protections. However, the right to freedom of religion or belief remains non-derogable in all circumstances. Furthermore, and in accordance with the ICCPR, no limitations based on “national security” are foreseen in its article 18(3). The UN Human Rights Committee observed in its general comment No. 22 that restrictions are not allowed on grounds not specified in article 18(3), even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security.

We are also concerned at the allegations of prosecution of individuals, including clerics, journalists, human rights defenders under broadly defined national security or anti-extremism legislation. We have previously expressed concern at the adverse impact of the use of anti-extremism legislation in the context of freedom of thought, conscience and religious belief (A/73/362, paras. 13-14), including by Ukrainian authorities ([UKR 3/2020](#)). We recall that according to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, “the term ‘extremism’ has no purchase in binding international legal

standards and, when operative as a criminal legal category, is irreconcilable with the principle of legal certainty; it is therefore per se incompatible with the exercise of certain fundamental human rights” (A/HRC/43/46, para. 14).

We also draw attention to other pertinent international standards, including the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, as well as jurisprudence under the European Convention on Human Rights, to which Ukraine is a party.

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.

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) regarding the allegations that UOC communities and clergy have been forcibly dissolved, evicted, or prosecuted.
2. Please explain how Your Excellency’s Government ensures that restrictions imposed on the UOC respect the requirements of legality, necessity, and proportionality, and do not result in discrimination against any specific religion or belief denomination.
3. Please clarify the legal and evidentiary basis for prosecuting UOC clergy or believers under charges related to “incitement,” “justifying aggression,” “Russkiy Mir” ideology, or under anti-extremism provisions, particularly where the alleged conduct appears to involve peaceful religious speech or canonical ties. Please indicate whether and how these prosecutions are in line with international human rights law and standards, including freedom of expression and freedom of religion or belief.
4. Please indicate what safeguards exist to ensure that individuals facing charges are afforded fair trial rights under article 14 of the ICCPR, including judicial independence, access to legal counsel, and the presumption of innocence.
5. Please detail any processes through which seized church properties may be returned, or compensation may be sought, and whether judicial recourse is available to challenge forced transfers or closures of UOC religious sites, in conformity with the right to an effective remedy under article 2 of the ICCPR.
6. Please provide information on measures taken to protect journalists, lawyers, and human rights defenders documenting or challenging UOC-related proceedings from prosecution, harassment, or unlawful arrest, in line with articles 19, 21 and 22 of the ICCPR.

7. In instances of citizenship revocation or deportation of UOC hierarchs, please specify the factual and legal grounds, procedures followed, and avenues to appeal or review such decisions, especially in light of obligations under the 1961 Convention on the Reduction of Statelessness.
8. Finally, please indicate the steps Your Excellency's Government is taking to ensure that martial law or similar emergency measures do not unduly restrict the freedom to manifest one's of religion or belief, which remains a non-derogable right pursuant to article 4(2) of the ICCPR.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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.

We respectfully urge Your Excellency's Government to take all necessary interim measures to prevent further reprisals or harm against UOC clergy, believers, and those defending them, ensuring full respect for the rights to freedom of religion or belief, freedom of expression, and due process. We further encourage Your Excellency's Government to establish clear guidelines precluding the misuse of national security or counter-extremism legislation to curtail legitimate religious activity, in line with international human rights standards.

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

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freedoms while countering terrorism

## Annex

### Reference to international human rights law

In addressing the alleged systemic violations committed against the Ukrainian Orthodox Church (UOC), its clergy, believers, journalists, and human rights defenders, it is necessary to consider the fundamental provisions of international and regional human rights law. Ukraine, as a State Party to the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR), bears the obligation to safeguard religious freedom and freedom of expression as well as of peaceful assembly and of association protect against discrimination, ensure due process, and shield individuals from arbitrary detention and unlawful expropriation. However, the information received indicates that the Ukrainian government has reportedly undertaken a campaign of state-led religious persecution that contravenes these legal standards and necessitates urgent international scrutiny and intervention.

Under article 18 of the ICCPR and article 9 of the ECHR, every individual has the right to manifest religious beliefs in worship, observance, practice, and teaching, either alone or in community with others. These provisions further establish that no state may coerce individuals or religious communities into altering their faith or affiliating with a different religious body. The European Court of Human Rights (ECtHR), in cases such as *Metropolitan Church of Bessarabia v. Moldova* (2001), has emphasized that states may not interfere in religious disputes or force religious communities to alter their spiritual affiliations on the basis of political or ideological considerations.

Article 9 of the ICCPR and article 5 of the ECHR prohibit arbitrary arrest and detention, requiring that any deprivation of liberty follow clear and transparent legal procedures. General comment No. 35 of the Human Rights Committee further clarifies that pretrial detention must remain an exceptional measure and must not serve as a mechanism for political or religious persecution (para. 17). We remind your Excellency's Government that in accordance with the jurisprudence of the Working Group on Arbitrary Detention, and general comment No. 35, arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of religion or belief, freedom of expression and freedom of peaceful assembly and of association, is arbitrary.

Article 9(3) of the ICCPR states that pretrial detention should be employed only in exceptional circumstances and must be subject to timely judicial review. In *Idalov v. Russia* (2012), the ECtHR (European Court of Human Rights) ruled that repeatedly extending detention under vaguely worded national security claims violates due process.

The principle of legal certainty enshrined in article 15 of the ICCPR and article 7 of the ECHR (European Convention on Human Rights) safeguard against retroactive or vaguely defined laws that fail to specify prohibited conduct. The ECtHR has consistently ruled in cases such as *Ilascu and Others v. Moldova and Russia* (2004) that politically driven accusations leading to detention violate fundamental due process rights. Similarly, in *Kudrevičius v. Lithuania* (2015) and *Perinçek v. Switzerland* (2015), the Court reaffirmed that ideological or historical narratives—including

contentious ones—cannot be criminalized unless they amount to direct incitement to violence. Consequently, Ukraine’s use of “Russkiy Mir” as a legal pretext to dismantle the UOC raises questions about the compatibility of such measures with established international human rights jurisprudence.

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. This right applies online as well as offline, protects the freedom of the press as one of its core elements and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend.

In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (CCPR/C/GC/34, para. 11). The Committee stated that article 19 also covers the right of a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion and a corresponding right of the public to receive media output. The Committee further asserted that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para. 23).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proving that any such restrictions are compatible with the Covenant and restrictions must be “the least intrusive instrument among those which might achieve their protective function” (CCPR/C/GC/34, para. 34). We recall that any restriction on expression or information that a Government seeks to justify on grounds of national security must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (CCPR/C/GC/34).

Article 20(2) of the ICCPR prescribes that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. This prohibition has a high threshold as it requires the fulfilment of three components: a) advocacy of hatred; b) advocacy which constitutes incitement and c) incitement likely to result in discrimination, hostility or violence (A/67/357, para. 43).

In the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, key terms are defined as follows: “Hatred” and “hostility” refer to intense and irrational emotions of opprobrium, enmity and detestation towards the target group; the term “advocacy” is to be understood as requiring an intention to promote hatred publicly towards the target group; and the term “incitement” refers to statements about national,

racial or religious groups which create an imminent risk of discrimination, hostility or violence against persons belonging to those groups (A/HRC/22/17/Add.4, appendix, footnote 5).

The Rabat Plan of Action identifies a total of six factors to determine the severity necessary to criminalize incitement (ibid, para. 29):

- (a) The “social and political context prevalent at the time the speech was made and disseminated”.
- (b) The status of the speaker, “specifically the individual’s or organization’s standing in the context of the audience to whom the speech is directed”.
- (c) Intent, meaning that “negligence and recklessness are not sufficient for an offence under article 20 of the Covenant”, which provides that mere distribution or circulation does not amount to advocacy or incitement.
- (d) Content and form of the speech, in particular “the degree to which the speech was provocative and direct, as well as the form, style, nature of arguments deployed”.
- (e) Extent or reach of the speech act, such as the “magnitude and size of its audience”, including whether it was “a single leaflet or broadcast in the mainstream media or via the Internet, the frequency, the quantity and the extent of the communications, whether the audience had the means to act on the incitement”.
- (f) Its likelihood, including imminence, meaning that “some degree of risk of harm must be identified”, including through the determination (by courts, as suggested in the Plan of Action) of a “reasonable probability that the speech would succeed in inciting actual action against the target group”.

Additionally, the Rabat Plan of Action notes that prohibited “incitement to hatred must refer to the most severe and deeply felt form of opprobrium. To assess the severity of the hatred, possible elements may include the cruelty or intent of the statement or harm advocated, the frequency, quantity and extent of the communication” (A/HRC/22/17/Add.4, appendix, para. 29). In the 2018 report to the General Assembly, the Special Rapporteur on freedom of religion or belief called upon States to disseminate and implement “the Rabat Plan of Action, the Beirut Declaration on Faith for Rights and the Fez Plan of Action, which provide a chart of specific commitments as well as a number of practical measures to address the related phenomena of incitement to religious hatred, discrimination and violence” (A/73/362, para. 79). The UN Human Rights Committee also referred to the Rabat Plan of Action and Beirut Declaration in its general comment No. 37, noting that participation in assemblies whose dominant message falls within the scope of article 20 must be addressed in conformity with the requirements for restrictions set out in articles 19 and 21 (CCPR/C/GC/37, para. 50 and footnote 60).

In *Osman v. United Kingdom* (1998) and *Kokkinakis v. Greece* (1993), the ECtHR ruled that states must not criminalize religious speech unless it directly incites violence, and the Rabat Plan of Action provides a six-part threshold test considering (1) the context of the statement, (2) status of the speaker, (3) intent to incite the audience against a target group, (4) content of the statement, (5) extent of its dissemination, and (6) likelihood of harm, including imminence.

The report on hate speech by the Special Rapporteur on freedom of expression noted that “the promotion and protection of the right to freedom of expression must, however, go hand in hand with efforts to combat intolerance, discrimination and incitement to hatred” and called on States to carefully construe and apply their laws to combat hate speech, in line with international standards ([A/67/357](#), paras. 75 and 76). Further, in her report on online hate speech, the Special Rapporteur on freedom of opinion and expression urged States to “actively consider and deploy good governance measures, including those recommended in Human Rights Council resolution 16/18 and the Rabat Plan of Action, to tackle hate speech” ([A/74/486](#), para. 57 (c)).

Article 21 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of peaceful assembly. It states that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law, and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”.

Regarding the restrictions that may be imposed under the interest of national security, general comment No. 37 indicated that these need to be necessary to preserve the State’s capacity to protect the “existence of the nation, its territorial integrity or political independence against a credible threat or use of force” (para. 42).

Peaceful assemblies should be guaranteed and protected wherever they take place (outdoors, indoors, online; in public and private spaces; or a combination thereof), and regardless of their forms (demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs, civil disobedience campaigns, etc.), whether they are stationary or mobile, and regardless of their intention, as assemblies may have several different purposes such as “expressing oneself, conveying a position on a particular issue, exchanging ideas (...) assert or affirm group solidarity or identity (...) in addition to having such aims, serve other goals, such as an entertainment, cultural, religious or commercial objective” (para. 12), which includes worship services.

“States are obliged, for example, not to prohibit, restrict, block, disperse or disrupt peaceful assemblies without compelling justification, nor to sanction participants or organizers without legitimate cause.” (para. 23). Therefore, assemblies may be dispersed only in exceptional cases, and if the assembly is no longer peaceful or “if there is clear evidence of an imminent threat of serious violence that cannot be reasonably addressed by more proportionate measures, such as targeted arrests”. (para. 85)

Article 22 of the ICCPR protects the right to freedom of association with others. Human Rights Council Resolution 22/6 calls upon States to ensure that “procedures

governing the registration of civil society organizations exist, that these are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration, in accordance with national legislation, and are in conformity with international human rights law” (A/HRC/RES/22/6, para. 8). Besides, the Special Rapporteur on the rights to freedom of peaceful assembly and of association indicated that:

[t]he suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient (A/HRC/20/27, para. 75).

The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (Resolution 36/55 1981), provides in article 6 that the right to freedom of thought, conscience, religion or belief shall include, inter alia, the freedoms to i) worship or assemble in connection with a religion or belief, ii) to establish and maintain places for these purposes, iii) to make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief. Therefore, it establishes an interdependency with the guarantee of freedom of assembly, and freedom of seek, access and use resources, which is part of the right to freedom of association.

As stated in a report by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards (A/HRC/17/27, para. 66; and A/HRC/29/25/Add.1). This means ensuring that the rights to freedom of peaceful assembly and of association are enjoyed by everyone, without discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (article 2 (1) of the ICCPR).

Elaborating on the obligations of State parties to the Covenant stemming from article 21 of the ICCPR, the Human Rights Committee, in its general comment No. 37, noted that if the conduct of participants in an assembly is peaceful, the fact that certain domestic legal requirements pertaining to an assembly have not been met by its organizers or participants does not, on its own, place the participants outside the scope of the protection of article 21. Furthermore, the Committee clearly stated that there is a presumption in favour of considering assemblies as peaceful.

Article 10 of the ICCPR and article 3 of the ECHR guarantee protection against inhumane or degrading treatment by mandating that detainees must be treated with dignity and respect. The ECtHR, in cases such as *Samoylova v. Russia* (2020), has noted that employing pretrial detention as a coercive measure contravenes the absolute prohibition of inhumane treatment.

The right to a fair trial, as specified in article 14 of ICCPR and article 6 of the ECHR, establishes that each person facing criminal charges is entitled to a fair and

public hearing before an independent and impartial tribunal.

The right to property is guaranteed by article 1 of Protocol No. 1 to the ECHR and article 17 of the Universal Declaration of Human Rights (UDHR). In *Holy Monasteries v. Greece* (1994), the ECtHR held that confiscating religious property without due process infringes property rights.

Furthermore, the right to nationality is protected under article 15 of the UDHR and the 1961 Convention on the Reduction of Statelessness, forbidding arbitrary revocation of nationality. The ECtHR's decision in *Ramadan v. Malta* (2016) requires that revocation of nationality follow clear procedures.

Ukraine's derogation under article 4 of the ICCPR does not exempt it from fundamental human rights obligations. Freedom of religion or belief, as enshrined in article 18 of the ICCPR, remains non-derogable pursuant to article 4(2) of the ICCPR even in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed. In *Lawless v. Ireland* (1961), the ECtHR further clarified that states may not use security concerns to justify large-scale infringements of core rights.

Finally, we emphasize that any measures taken to combat violent extremism must comply with the obligations of States under international law, in particular international human rights law, refugee law and international humanitarian law.<sup>1</sup> States must ensure that measures to preserve national security do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights ([A/HRC/RES/22/6](#), para. 10(a)).

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<sup>1</sup> Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); Human Rights Council resolution 35/34; and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180, among others.