

## RELIGIOUS FREEDOM CONCERNS IN UKRAINE

STATEMENT by the EUROPEAN ASSOCIATION OF JEHOVAH'S CHRISTIAN WITNESSES

For the OSCE Human Dimension Implementation Meeting, Warsaw, 23 September to 4 October 2013

### ***Positive development for the rule of law***

Jehovah's Witnesses are grateful that the Ombudsman of Ukraine has acted to promote respect for their rights. For example in August 2013, the Ombudsman investigated violent physical assaults against the Witnesses and the wave of arson attacks against their houses of worship, particularly in the Donetsk Region and called for thorough investigation of these hate crimes.

The Ombudsman's office also investigated the Mykolaiv City Police Office and found that it had indeed arrested and illegally held in custody two female Jehovah's Witnesses. The Ombudsman's office then forwarded the findings confirming the mistreatment of the victims with a request to the Regional Prosecutor's Office that it bring criminal charges against the police officers incriminated by the investigation.

Sadly, law enforcement agencies in Ukraine often ignore the efforts of the Ombudsman.

### ***Authorities' inaction allows hate crimes to continue and escalate***

In response to certain decisions of the Ministerial Council of the OSCE of 2003 through 2009, Ukraine pledged to: (1) collect and maintain reliable data and statistics in sufficient detail on hate crimes, (2) promptly investigate hate crimes, and (3) ensure that the culprits are punished and the motives of those convicted are publicly condemned.<sup>1</sup>

Law enforcement authorities have not fulfilled these commitments. The inaction of the authorities has emboldened the perpetrators to commit further crimes against the Witnesses.

In the last five years (2008 to 2013), congregations reported **49 separate cases of physical assaults** to the national office of Jehovah's Witnesses in Ukraine, 23 of which occurred within the last two years. During the same period of time, the national office received reports of **136 cases of vandalism** on Witnesses' houses of worship, including arsons and desecration, 71 of which occurred within the last two years.

The majority of these crimes are unresolved and the perpetrators have gone unpunished because the police and prosecutors do not promptly and effectively investigate hate crimes against Jehovah's Witnesses in Ukraine.

- On 2 February 2012, in the town of Dymyrov, Mr N. Nakhmedov assaulted a disabled person suffering from a kidney disease. The accused kicked and punched the victim so severely that the resulting internal bleeding required a three-week hospitalization for recovery. The police and prosecutor's offices refused to conduct a criminal investigation into the attack three times within a year. On 26 May 2013 the victim died but Nakhmedov has not been convicted.
- On 5 April 2012, in the village of Komyshevka, Odesa Region, Mr Greku a local priest, led a violent mob of 20 people inciting violence and threats against Jehovah's Witnesses. The mob disrupted their religious meeting causing those present to flee for their safety. Despite the recorded video footage presented to the police and prosecutor's offices, the authorities failed to initiate a criminal investigation. Having no accountability, the perpetrators have continued their attacks on the Witnesses with impunity. Evidence shows that Mr Greku, with others, committed two physical assaults and two attacks on Witnesses' homes in February 2013 alone.

**Over the last five years, authorities have convicted only five individuals for committing acts of violence against Jehovah's Witnesses.**

<sup>1</sup> Paragraphs 1 and 6 of MC.DEC/9/09, 2 December 2009

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*Generally, law enforcement agencies refuse to admit that the crimes committed against Jehovah's Witnesses are acts of religious hatred, minimizing the true nature of the crimes.*

- Concerning the **49 physical assault cases** mentioned above, authorities investigated **only 4 as hate crimes**, with the remainder of the cases classified as hooliganism or not investigated at all.
- Regarding the **136 cases of vandalism** authorities classified **only 7 as damaging or desecrating houses of worship**.

Provisions of the new Criminal Procedure Code (CPC) of Ukraine make it easy for law enforcement agencies to avoid charging criminals with hate crimes. The new CPC of Ukraine removes from the courts the right to increase criminal charges of its own initiative during a trial. As a result, when law enforcement agencies impose a lesser charge and exclude the more serious charge of "religious hatred," the courts are powerless to rectify the situation.

- On 2 March 2013, in the city of Mariupol, Donetsk Region, a man used a club to physically beat a family of Jehovah's Witnesses—father, mother, and their 22-year-old disabled son—and broke the mother's arm. Law enforcement agencies refused to recognize the son as a victim and charged the perpetrator only with hooliganism and infliction of medium degree of bodily harm. Neither the trial court nor the court of appeal could change the investigator's classification of the crime or declare the disabled son as a victim.

## ***Arsons of the houses of worship***

During 2012 and 2013 there were eight arson attacks in the towns and cities of Zuhres, Donetsk, Yenakieve, Vuhlehirsk, Debaltsevo, Horlivka, and Amvrosievka. In the previous 20 years from 1991 through 2011, we have records of only four arson attacks, marking the recent attacks as unprecedented for Jehovah's Witnesses in Ukraine.

Although the authorities assert that they are conducting investigations, in reality, investigations are assigned to the youngest and least experienced officers and conducted superficially and negligently, with little effort to bring the perpetrators to justice. More than ten court decisions have confirmed inaction by investigators and prosecutors.

## ***Legislative restrictions on the freedom of worship***

According to Article 39 of the Constitution of Ukraine, it is only necessary to inform the local authorities of a peaceful gathering being held. However, according to Article 21(5) of the Law of Ukraine "On Freedom of Conscience and Religious Organizations," religious communities are required to receive approvals from local authorities for holding their meetings in rented facilities, stadiums and streets.

Referring to this provision of the Law, the Executive Committee of the Sumy City Council restricted the holding of religious services by Jehovah's Witnesses in a rented facility twice in 2012 and 2013. As a result, thousands of local Jehovah's Witnesses had to travel to other regions of the Ukraine or even to foreign countries to attend their annual religious conventions. Officials in the cities of Kyiv, Kryvyi Rih, Dnipropetrovsk, and Vinnytsia also demanded that Jehovah's Witnesses obtain approval from local authorities to hold their religious services.

The existence of this legal contradiction and administrative practice significantly restricts the rights of Jehovah's Witnesses and of other citizens to the freedom of religion in Ukraine.

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*Jehovah's Witnesses respectfully request the government of Ukraine to*

- (1) Ensure that law enforcement authorities provide appropriate protection against physical assaults on Jehovah's Witnesses in the Ukraine;*
- (2) Ensure that law enforcement authorities thoroughly investigate reported crimes, acknowledge hate crimes, and institute criminal cases to punish perpetrators;*
- (3) Provide adequate protection for houses of worship and prosecute criminals who desecrate and destroy houses of worship; and*
- (4) Abide by commitments to uphold the fundamental freedoms guaranteed by the Constitution of Ukraine, the European Convention on Human Rights, and the ICCPR for all citizens, including Jehovah's Witnesses.*

A delegation of Jehovah's Witnesses is ready to meet with representatives of Ukraine attending this conference to promote a constructive dialogue.