



THE EUROPEAN ASSOCIATION OF
JEHOVAH'S CHRISTIAN WITNESSES

April 6, 2012

From The European Association
of Jehovah's Christian Witnesses

Contribution to the Report of the U.N. High
Commissioner for Human Rights on the
implementation of the new review mechanism of the
Human Rights Council, established by GA Resolution
60/251 and by the Human Rights Council in Resolution
5/1 of 18 June 2007 for the 14th session 2012 of the UPR
(Dates of the WG: October/November 2012).

UKRAINE

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REGISTERED CHARITY NO. 1085157

BACKGROUND

There have been congregations of Jehovah's Witnesses in Ukraine since the 1920's. Witnesses suffered much oppression while Ukraine was under Nazi and Soviet domination. For example, on April 8, 1951, more than 6,100 Witnesses were exiled from western Ukraine to Siberia; in 1965, an amnesty released them from exile.

The religious organization of Jehovah's Witnesses was officially registered in Ukraine on February 28, 1991. Today, more than 275,000 persons attend their Bible-based meetings.

RECENT ABUSES OF RELIGIOUS FREEDOM

Seizure of Property Threatens Religious Freedom

The Religious Center of Jehovah's Witnesses in Ukraine faces the illegal seizure of a portion of its property through a land grab scam commonly known in Ukraine as a property raid. Such scams involve the illegal sale of a property to a third party without the knowledge of the legitimate owners. The sale is then validated by decisions of the courts, with any appeals by the legitimate owners dismissed by Ukraine's Supreme Economic Court. Below is a brief history of this matter.

On June 4, 1998, the Religious Center ("RC") purchased an extremely dilapidated property complex owned by the Open Joint Stock Company "Kinescope" ("Kinescope") and developed its national headquarters complex. Some nine years later, in a letter dated March 16, 2007, Kinescope offered the RC an opportunity to purchase items that had allegedly been left on the property. The items they described included integral parts of the property such as plumbing systems, electrical and communication networks, sidewalks, etc.

On August 29, 2007, Kinescope filed a lawsuit against the RC claiming that some assets, including demolished and even non-existing ones, were still on the property. On October 2, 2008, the trial court denied the claims of Kinescope. However, this decision was reversed by the court of appeal. The case was terminated on March 30, 2011, with a decision dismissing Kinescope's claim to the RC's property, but for the reason that the disputed property had already been sold to a third party, "The Sport Development Center" LLC ("SDC") in July 2008.

Only in March 2010 did the RC become aware that Kinescope, though having no ownership of the property still subject to litigation, had concluded a sales contract on July 2, 2008 and sold the disputed property to the SDC. In lawsuits between SDC and Kinescope designed to give an appearance of legitimacy to the scam, courts recognized as valid the fraudulent sales contract of July 2, 2008, and confirmed SDC's alleged ownership right to the items of the property claimed by Kinescope from the RC. When the RC learned of these decisions and appealed them to the Supreme Economic Court of Ukraine, the court refused to review them. The Court ruled on July 13, 2010, that since the RC was not a party to the disputes between Kinescope and SDC, the decisions it was appealing could not affect its interests. As a result, SDC lodged an application with the Village Council on allocation of the land plot currently being used by the RC (1.5 - 2 hectares) to service the property it allegedly owned.

On September 8, 2010, the RC filed an application with the ECHR, *The Religious Center of Jehovah's Witnesses in Ukraine v. Ukraine*.

On September 22, 2010, the RC filed claims seeking recognition as invalid the illegal contract concluded between Kinescope and SDC. Both the trial and appellate courts, on December 7, 2010 and February 2, 2011, decided that the sales contract was invalid. However, on April 5, 2011, the Supreme Economic Court of Ukraine reversed the decisions and remanded the case for a new trial. The questionable nature of this decision is revealed also in the criminal proceedings instituted by the Frankivskiy District Police Office in Lviv on November 3, 2010, for having falsified the property appraisal report on which the fraudulent sales contract was concluded.

Again on November 30, 2011, and January 24, 2012, the trial and appellate courts satisfied the claims of the RC. SDC filed cassation appeals to reverse the decisions, and the Supreme Economic Court of Ukraine, which previously refused to recognize the illegality of the fraudulent sales contract, will again review the case on April 3, 2012.

Should these illegal actions succeed, the religious freedom of Jehovah's Witnesses in Ukraine will be severely restricted. The more than 160 volunteer ministers who live and work at the Religious Center support the 275,000 who worship with them in Ukraine in a number of ways: translation into Ukrainian of Bibles and Bible-based literature used during their religious services and distributed to individuals who are interested in their message; oversight of the construction and renovation of their houses of worship throughout Ukraine; planning and coordination of larger religious assemblies that Jehovah's Witnesses hold annually; and the importation and distribution of Bibles and Bible-based publications to their 1,700 congregations throughout Ukraine.

Assault/Police Unresponsiveness/Defective Judicial Process

Jehovah's Witnesses have suffered physical assaults in several towns: Three attacks in the town of Kremenchuk, Poltava Region; one attack in the town of Stryi, Lviv Region; two attacks in Mykulyntsi, Ternopil Region; and one attack in Rokytno, Rivne Region. In each case the police were unresponsive and the perpetrators were not brought to justice.

Vandalism/Arson on Houses of Worship

In 2008 and 2009, 45 attacks caused damage and desecration to houses of worship (Kingdom Halls) of Jehovah's Witnesses in Ukraine. These attacks ranged from graffiti to attempted arson. There were 16 vandalism attacks from October 2010 through December 2011.

Hate Speech/Vandalism/Assault/Defective Judicial Process

The neo-fascist organization "Skhoron ezh Sloven" (Unification of Slavs) has been active in Ukraine the last three years. The head of this organization, Volodymyr Holiakov, and his associates have committed numerous crimes against Jehovah's Witnesses in different regions of Ukraine. Nevertheless, the law enforcement authorities have failed to act, and none of the perpetrators have yet been punished. The following are examples:

1. On July 24, 2008, the legally registered local community of Jehovah's Witnesses in the town of Voznesensk started worship in the Kingdom Hall. Present were some 38 people, including children and elderly ones. A group of about 20 young people, led by Holiakov, unlawfully entered the Kingdom Hall and disrupted the religious service. The group threatened the worshipers and insulted their religion and nationality, and tried to force them to stop their worship. They threatened those present with reprisal if they failed to cease their preaching activity and religious services in the future. This lasted for about 30 minutes and was videotaped by the offenders. The recording was later placed on the Internet and distributed among the people of Voznesensk.
2. During the night of September 4/5, 2009, unidentified persons deliberately desecrated the walls of the Kingdom Hall of Jehovah's Witnesses in the town of Yenakievo with offensive signs and images. The red nitro dye signs and images promoting Nazi ideology offend religious feelings of the Witnesses who were cruelly persecuted by the Nazis, and also incites religious hatred against them.
3. During the night of September 29/30, 2009, a Kingdom Hall of Jehovah's Witnesses was desecrated in Vuhlehirsk, Donetsk Region.
4. On March 2, 2010, Oleksandr Medvedchuk, under the influence of alcohol, attacked a minor girl standing near the house of worship of Jehovah's Witnesses in the town of Yenakievo. With his head he inflicted several blows to her face. He made known that as a "Satanist," his objective was to physically punish all Jehovah's Witnesses.

5. On May 1, 2010, a Kingdom Hall in Yenakievo was desecrated.

The reaction of the law enforcement authorities: None of the Holiakov group members have been punished. The police investigation made some 20 attempts to terminate any criminal proceedings against the Holiakov group members. To date, 16 of these decisions have been reversed. The last one was reversed by the court on October 3, 2011, yet no investigative actions have been made.

Despite the criminal cases started in the towns of Yenakievo and Vuhlehirsk, none of the perpetrators have been found criminally liable. The law enforcement authorities concluded that a Nazi swastika depicted on the Kingdom Halls of Jehovah's Witnesses "exalts their religion." Such a conclusion is offensive. Though identified by the eyewitnesses, none of the perpetrators were called as suspects of the criminal case. Numerous applications regarding the illegal acts of the above-mentioned neo-fascist organization have been filed with the General, Donetsk, and Mykolaiv Regional Prosecutor's Offices and to the Ministry of Internal Affairs of Ukraine, with no positive results.

Assault/Police Unresponsiveness

On April 20, 2009, a local Orthodox priest of the Moscow Patriarchy Church, M.A. Lysenko, approached two women, T. Zahubnia and M. Tabachkova (who has been disabled since childhood), and asked if they were Jehovah's Witnesses. He then started to hit Zahubnia with a meter-long cudgel, striking various parts of her body, particularly her head and back. Lysenko then caught up with Tabachkova, who had tried to run away, and struck her five times with this cudgel in the area of her kidneys. Lysenko continued his assault for about 20 minutes.

The reaction of the law enforcement authorities: For the last two years, the Borzna District Police and Prosecutor's Offices have made six decisions refusing to institute criminal proceedings against Lysenko for violation of the equality of citizens due to their religion and hooliganism. On July 1, 2010, the Borzna District Prosecutor's Office Investigator, V. Chepurko, issued a decision refusing to initiate criminal proceedings against Lysenko because Lysenko inflicted bodily harm to Zahubnia and Tabachkova "to prevent possible violation of citizens' personal rights by Jehovah's Witnesses in the future" and not out of hooliganism. The aforementioned decisions were recognized and reversed as illegal.

The case file contained a preliminary statement by Lysenko acknowledging that he assaulted the women because they belonged to a religion he hated. The Borzna District Court established the fact this preliminary statement disappeared from the case file. The Prosecutor's Office neither investigated nor provided legal assessment of this fact.

On May 19, 2011, Head of the Borzna District Police Investigation Department, Yu.O. Khylyk, instituted criminal proceedings for an act of hooliganism, but not against a specific person.

The investigation of the case has been tardy and ineffective, with the investigator failing to report on examination results of seven motions filed by the victims. It is not clear whether there were any results of the pre-trial investigation, as no procedural decision was sent to the victims by the investigator. All legal domestic remedies have been exhausted.

Assault/Police Unresponsiveness/Defective Judicial Process

On June 21, 2008, Andriy Kapsamun, a Russian Orthodox priest of the Moscow Patriarchy Church, punched Vitaliy Turko, one of Jehovah's Witnesses, in the face several times, fracturing his jaw. He carried out this attack in the presence of Anastasia Petrivna and her minor grandson, Oleksiy Kodzhebash, while they were doing their evangelizing activity. On the same day, Kapsamun approached two other Witnesses performing their ministry in the same village. He punched Hryhoriy Briukl in the face several times.

The reaction of the law enforcement authorities: A criminal case was instituted in response to the crime report submitted on July 14, 2008. It was not initiated against a particular person but against a criminal act—intentional infliction of medium bodily harm. During the three years of pre-trial investigation of this case, four different investigators were commissioned to conduct the case proceedings, one of them twice. The investigators have issued five decisions to suspend the pre-trial investigation alleging that the perpetrator could not be identified, and no charges have been filed against Kapsamun. These decisions were eventually recognized and reversed as unlawful.

Investigators and the District Prosecutor have withheld information from the victims regarding the progress of the investigation, and their applications to conduct investigations have not progressed. For instance, the application to conduct additional forensic medical examination was left unconsidered for over ten months, though law stipulates a period of three days. In fact, the victims have exhausted all legal domestic remedies, as all have proved ineffective.

Refusal to Issue Building Permit for House of Worship/Defective Judicial Process

In 2004 the local religious community of Kryvyi Rih filed a request for a building permit and rental agreement for land in order to build a house of worship. Due to neighbour opposition, the authorities yielded to pressure and refused to rent the land and grant a final building permit. As a result, the more than 450 Jehovah's Witnesses in Kryvyi Rih have been denied a place to worship.

On February 8, 2011, the local religious community of Kryvyi Rih filed a claim with the Dnipropetrovsk Circuit Administrative Court seeking to recognize the actions and decision of the Saksahanskyi District Prosecutor's Office of Kryvyi Rih as illegal. In particular, the religious community contested the prosecutor's examination of the religious meetings of Jehovah's Witnesses. Not only did prosecutor have no adequate reasons for her actions, but in the presence of the claimants she forged the signature of the District Prosecutor on the document requiring the religious community to provide her with all available documents.

The case was considered from March 10 through June 24, 2011. The proceedings were adjourned twice due to defendant's failure to appear before the court. Throughout the consideration of the case, the defendant was unable to produce any lawful basis for the examination under appeal. The defendant denied both the fact of signature forgery and the prohibition to conduct religious services by Jehovah's Witnesses.

On June 24, 2011, Judge V.V. Horbalinskyi issued a decision recognizing that the Saksahanskyi District Prosecutors' Office of Kryvyi Rih committed gross violations of the law while performing the examination under appeal. Nevertheless, the claim of the religious community was dismissed. The religious community has appealed to the Court of Appeal. In the meantime, an application regarding this matter was submitted to the European Court of Human Rights on June 8, 2010.

RELIGIOUS FREEDOM OBJECTIVES

Jehovah's Witnesses in Ukraine and internationally respectfully request the Government of Ukraine to:

- (1) Ensure that law enforcement authorities provide appropriate human rights protection against the physical attacks on Jehovah's Witnesses in Ukraine and acts of violence be properly investigated.
- (2) Provide adequate protection for the Kingdom Halls and prosecute all criminals who vandalize these houses of worship.
- (3) Abide by their commitment to uphold the rule of law and the fundamental freedoms guaranteed by the Constitution of Ukraine and the European Convention for all citizens, including minority religious groups.