



Shadow Report on the 8th Periodic Report of Ukraine on the Implementation of the International Covenant on Civil and Political Rights (CCPR/C/UKR/8)

20 August 2019

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Introduction

The Human Rights Committee considered the seventh periodic report submitted by Ukraine (CCPR/C/UKR/7) at its 2980th and 2981st meetings (CCPR/C/SR.2980 and CCPR/C/SR.2981), held on 8 and 9 July 2013. At its 3002nd meeting (CCPR/C/SR.3002), held on 23 July 2013, Ukraine received 23 recommendations. On 25 July 2018 the Ministry of Justice of Ukraine submitted the 8th periodic report to the HRCttee (CCPR/C/UKR/8).

The HRCttee will adopt list of questions to Ukraine in the 127th session. This submission highlights violations of the provisions of the ICCPR by the state of Ukraine relating to

- **Restriction of the right to freedom of thought, conscience and religion (art. 18)**
- **Restriction of the right to freedom of speech and opinion (art. 19, taking into account recommendation 20 in CCPR / C /UKR/CO/7)**
- **Restriction of the right to freedom of association and peaceful assembly (arts. 21, 22)**
- **Restriction the language rights of national minorities (art. 27)**

This shadow report was prepared by the All-Ukrainian Association "Successful Guards" ("Uspishna Varta"). "Uspishna Varta" is a human rights platform that unites lawyers, public figures, and volunteers to protect the political and civil rights and freedoms of citizens of Ukraine, as well as to provide support for people and organizations that are persecuted for their political beliefs. The Economic and Social Council (ECOSOC) at its coordination and management meeting on 23rd July 2019 adopted the recommendation of the Committee on Non-Governmental Organizations (NGOs) to grant special consultative status to All-Ukrainian Association "Successful Guards".

The report is based on data obtained by the human rights platform "Uspishna varta" through conducting detailed interviews with victims and witnesses of human rights violations and infringements, experts and human rights defenders, as well as through carrying out activities to assist in the protection of human rights in documented cases. Among them - the monitoring of trials, the advocacy of work with the duty bearers on the observance of human rights, non-governmental organizations, and the media.

More information about our initiative can be found on our website <https://uspishna-varta.com/>
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List of abbreviations

CCU - Criminal Code of Ukraine

CoCU - Constitutional Court of Ukraine

ICCPR - International Covenant on Civil and Political Rights

MIA - Ministry of Internal Affairs of Ukraine

MCU - Ministry of Culture of Ukraine

MJU - Ministry of Justice of Ukraine

NSDCU - National Security and Defence Council of Ukraine

NUJU - National Union of Journalists of Ukraine

NTRBC - National Television and Radio Broadcasting Council

SBU - Security Service of Ukraine

OCU - Orthodox Church of Ukraine Constantinople Patriarchate

OSCE ODIHR - OSCE Office for Democratic Institutions and Human Rights

PGU - Prosecutor-General of Ukraine

PTDC - Pre-trial detention center

UAOC - Ukrainian Autocephalous Orthodox Church

UOC - Ukrainian Orthodox Church (canonical)

UOC KP - Ukrainian Orthodox Church Kiev Patriarchate

URPI - Unified Register of Pre-trial Investigations

Restriction of the right to freedom of thought, conscience and religion (Art. 18 of the ICCPR)

Interference of the state in the religious sphere

1. According to the Constitution of Ukraine (Article 35), everyone has the right to freedom of worldview and religion, and the church and religious organisations in Ukraine are separate from the state. No religion can be recognized by the state as mandatory. The Law of Ukraine No. 987 dated April 23rd 1991 on Freedom of Conscience and Religious Organizations does not allow any coercion in determining a citizen's attitude to religion, refusing to practice religion, or participation in worship and religious ceremonies.
2. Contrary to the provisions of the Constitution and this law, during 2014-2019 the government actively interfered in the religious sphere and internal issues of religious organisations. Representatives of the government put active political and administrative pressure on the priesthood and parishioners of the largest Orthodox

religious organisation¹ - the Ukrainian Orthodox Church (*hereinafter - the UOC*), justifying their actions by referring to the armed conflict in the East of the state and the need to create a local church as a counterweight to Russian influence. Pressure on the UOC intensified on the eve of the presidential election in March 2019. Former President Petro Poroshenko (who lost the election in April 2019) and his political power used the religious factor and the creation of a local church as a part of his electoral campaign.

3. **The process of creating a new religious organization - the Orthodox Church of Ukraine (*hereinafter - the OCU*) - was actively lobbied by the president and his political force.** On April 19th 2018 the Ukrainian parliament supported the proposal put forward by President Poroshenko to the Ecumenical Patriarch Bartholomew (Constantinople) about the autocephaly of the Ukrainian Orthodox Church. On December 15th 2018, during the "unification Sobor" of the religious organisations "Ukrainian Orthodox Church of the Kiev Patriarchate" (*hereinafter - the UOC KP*) and "Ukrainian Autocephalous Orthodox Church" (*hereinafter - the UAOC*) in Kiev, the creation of a single local Orthodox church, which received the name "Orthodox Church of Ukraine" (OCU), was announced. The canonical UOC did not participate in this unification. On January 5th 2019 in Istanbul, Patriarch Bartholomew signed Tomos of Autocephaly for the OCU.
4. The process of creating a new religious organisation was carried out with the direct participation of the former President Poroshenko. Back then, as part of his electoral campaign in January-March 2019, he travelled to the regions of Ukraine to present a document on receiving autocephaly and carried out political actions for self-support in the format of church prayers. **This political activity was accompanied by hate speech against the UOC uttered by the President and senior officials of the State.** Poroshenko stated that the creation of a local church is "a matter of national security and our defence in a hybrid war, because the Kremlin views the Russian Orthodox Church as one of the key instruments of influence in Ukraine"². **The active lobbying by President Poroshenko and the authorities under his control for the establishment of the OCU and the hate speech against the UOC are the unacceptable interference by State officials in the internal affairs of the church, which is not only separate from the State, but also has the right to maintain its status, including legal and canonical.**

Adoption of discriminatory legislation

5. In parallel with these processes, the Ukrainian parliament adopted laws that **discriminate against the canonical UOC and violate the equality of faiths before the law.** Thus, on December 20th 2018, Law 2662-VIII³ was adopted. It amends Article 12 of the Law of Ukraine "On Freedom of Conscience and Religious Organisations" *regarding the names of religious organisations (associations) that are a part of the structure of a religious organisation (association), the governing center (control) of which is located outside of Ukraine in a state recognized by law to have carried out military aggression against Ukraine and/or the temporarily occupied part of the territory of Ukraine.* The Russian Federation is recognised in Ukraine as such a state. The new law obliged such religious organisations to indicate this affiliation in their name. According to the law, if a religious organization is not renamed within 3 months, its charter will be repealed in the part of the provisions defining the name.

¹ At the end of 2018, the UOC had 12,000 parishes and the same number of clergy. As of October 2018 (before the unification Sobor), the Ukrainian Orthodox Church of the Kiev Patriarchate (UOC-KP) had 4807 parishes, and the Ukrainian Autocephalous Orthodox Church (UAOC) had 1073 parishes.

² <http://www.president.gov.ua/news/glava-derzhavi-u-gibridnij-vijni-kreml-rozglydaye-rpc-yak-o-47050>

³ <https://zakon.rada.gov.ua/laws/show/2662-viii>

6. On March 22nd 2019, the Ministry of Culture of Ukraine (*hereinafter* - MCU) announced the completion of the examination of the charters of religious organisations. In accordance with the conclusions of the department, the UOC and a number of Old Believer churches were obliged to change their name to the Russian Orthodox Church and make appropriate changes to their charter. The UOC said that the supreme bodies of church authority and administration are the Sobor, the Council of Bishops, and the Holy Synod, headed by the Metropolitan of Kiev and all Ukraine. Accordingly, it does not legally fall under the requirements of the law stipulating the renaming of religious organisations whose control center is located in the "aggressor state" (Russia). The UOC appealed to the court, declaring that the decision of the MCU⁴ is illegal. The court ruled that the implementation of this order before deciding on the merits of the case concerning its cancellation **might lead to unjustified interference by the state in the sphere of activity of a religious organisation as a legal entity.**
7. On January 17th 2019, the second of the so-called "Anti-church" laws - Law No. 2673-VIII "On Amending Certain Laws of Ukraine Regarding the Subordination of Religious Organisations and the Procedure for the State Registration of Religious Organisations with the Status of Legal Entities" - was adopted. The law stipulates a **mechanism for changing the denominational affiliation of churches by amending the charter.** To make a decision on a transition, 2/3 of the votes of members of the religious community are now enough. The law obliges church communities to undergo a re-registration procedure within a year; otherwise their charters will lose their force. After the adoption of this law, religious organisations will be registered only by the state body for religious affairs (MCU) and the corresponding departments of regional state administrations without the participation of the Ministry of Justice of Ukraine (*hereinafter* - the MJU), as was previously stipulated. Since December 2014, the MCU refused to register a number of charters of the religious organisations of the UOC⁵.

Discriminatory policies at the governmental level

8. In the autumn of 2018, after the Synod of the UOC refused to take part in the so-called "Unification Sobor" for the creation of a local church, **the MCU began the process of challenging the registration of the two main UOC temple complexes** - the Kiev Pechersky Lavra (Kiev) and the Svyato-Uspensky Pochayev Lavra (Ternopol region)⁶. In the past the official representatives of the authorities and the UOC-KP have repeatedly stated the need to transfer the Lavras to the local church created under the patronage of President Poroshenko. **Such a governmental policy is direct interference in church affairs and is discriminatory in relation to the UOC.**
9. On October 18th 2018, parliament adopted the urgent law introduced by President Poroshenko on transferring a **monument of architectural national importance to the St. Andrew's Church** (Kiev) for the free and permanent use of the **Ecumenical**

⁴ <https://spzh.news/en/news/60992-upc-obzhalujet-v-sude-reshenije-minkulyta-o-prinuditelynom-pereimenovanii>

⁵ From December 2014 to May 2015, 13 charters of religious organisations of the UOC were submitted to the MCU for registration. Oral comments of MCU representatives concerning the charters were taken into account and problems were resolved by July 15th 2015. In March 2016, representatives of the MCU publicly stated that the statutes of religious organisations of the UOC are not registered, as they do not comply with the law. Repeated requests to submit documents with comments concerning the statutes of the UOC were ignored. Without registering the charters of the UOC, the MCU simultaneously registered charters and other documents filed by other faiths, which is discrimination based on religion. On June 5th 2018, the Kiev District Administrative Court ruled that the MCU was inactive regarding the registration of the UOC charters. On December 4th 2018, the Kiev Administrative Court of Appeal upheld the decisions of the court of first instance.

⁶ In November 2018, the MCU demanded to cancel the decision on state registration of the right to use the UOC real estate of the Pochayev Lavra complex and hold the registrar liable. The UOC said that the monastery is still in the use of this denomination. The right of use acquired before 2013 is not subject to mandatory state registration. On November 28th, the Cabinet of Ministers ordered the inclusion of the Pochayev Svyato-Uspensky Lavra into the Kremenets-Pochayev Reserve. On the same day, MCU representatives began an inventory of the property of the Kiev Pechersky Lavra in Kiev.

Patriarchate for worship, religious rites, ceremonies, and processions. According to lawyers, transferring specific objects owned by the state does not belong to the powers of parliament, as is defined by the Constitution of Ukraine. The management of state property is the constitutional prerogative of the government⁷.

Temple captures and physical violence against believers

10. After the so-called "Unification Sobor" in December 2018, and even before the adoption of Law No. 2673-VIII, the first cases of **UOC communities in the small settlements (villages) of the Zhytomyr, Volyn, Ternopol, and Chernovtsi regions (Western and Central Ukraine) being required to transfer to the OCU** were recorded. These attempts, as a rule, were organised by representatives of the local rural authorities and members of right-wing radical organisations. In a number of cases, attempts were made to capture the temples using physical violence against parishioners. The police did not prevent these incidents and did not prosecute the initiators of temple captures. **The adoption of Law No. 2673-VIII made the capture of temples in the Western and Central regions a mass phenomenon. In January 2019, the second wave of UOC temple captures began**⁸.
11. The human rights activists of "Uspishna Varta" recorded **94 conflict situations during the period January-July 2019** that were related to the forceful capture (attempt to seize) of temples of the UOC with the aim of transferring them to the confessional affiliation of the OCU. In February 2019, the UOC reported that 68 communities from the 12,000 existing in Ukraine voluntarily transferred to the OCU after it received autocephaly. There is still a **conflict in around 250 communities**.
12. Based on the cases that human rights defenders analysed, such "transitions" are accompanied by violent temple captures carried out by radical supporters of the OCU and with administrative pressure exerted by local officials. It was they, and not religious communities, who, as a rule, initiated the holding of meetings to change the confessional affiliation of church parishes. Cases were also recorded where the right-wing groups "C14", "Svoboda", and "Right Sector" **took part in the capture of temples**. Communities whose churches were captured are forced to worship at other premises, in most cases - the private houses of priests. The process of capturing temples is also accompanied by the exertion of administrative pressure and the forcible eviction of priests along with their families from villages⁹.
13. The most acute conflicts over the capture of temples and the forced change of the religious affiliation of religious communities were recorded in the **Western regions of Ukraine - Volyn, Rovno, Chernovtsy, Lviv, Transcarpathian, Khmelnytsky and Ternopol regions**. Thus, in the **Volyn region**, conflicts arose over **more than 30 temples** in villages and small towns. As a rule, the captures took place according to identical scenarios: after a village gathering, activists of the OCU blocked the temple, the locks were cut off, and the UOC abbot and community were not allowed into the temple. An equally tense situation has developed in the **Rovno region**, where supporters of the OCU illegally captured **at least 25 temples**. The most active of these processes took place in the Zdolbunovsky district, where meetings for changing the denominational affiliation

⁷ <https://uspishna-varta.com/en/news/peredacha-andreevskoj-cerkvi-konstantinopskomu-patriarhatu-protivorechit-zakonodatelstvu-i-konstitucii-ukrainy>

⁸ The first wave of captures refers to the period of 2014-2018, when the UOC communities located in Western Ukraine (Rovno, Ternopol, Volyn regions) were repeatedly subjected to mass attacks in order to capture religious buildings (temples) and transfer them to the UOC-KP and UAOC. Ukrainian human rights activists talk about 50 captured UOC temples with a forced change of confession.

⁹ For example, on June 22nd 2019, in the village of Podgaytsy, in the Shumsky district, of the Ternopol region, drunk activists of the OCU came to the church house, where the abbot of the captured church lives with his family and two children, and threatened to evict him. According to the parishioners, supporters of the OCU systematically put pressure on the priest of the UOC and demand to vacate the premises, since they already have their own priest.

of temples and subsequent captures were personally led by the head of the local district administration

14. In the **Chernigov region**, the capture of temples in the village of Olenovka¹⁰ and in the village of Kovpyty¹¹ was carried out **with the support of local representatives of the right-wing radical group "C14"**. The UOC community in Olenovka defends its interests in a court that has already adjourned hearings several times¹². Human rights activists have reason to believe that right-wing radical groups are putting pressure on the court. Since June 2019, the confrontation over the church in the village of Kruty in the Nezhinsky district, which was initiated by a local activist from the radical right-wing party "Svoboda", continues.
15. UOC temples were captured in the **Zhytomyr and Vinnytsia region** according to similar scenarios. In the **Odessa region** temple local officials also initiated captures. Thus, in the village of Puzhaykovo in the Baltsky district, the initiator of the "transfer" of the UOC church to the administration of the newly created OCU was the former chairman of the local district council and a member of the nationalist party "Svoboda"¹³. In the **Kiev region**, conflict situations were recorded in the villages of Pogreby¹⁴, Morozovka¹⁵, and the city of Tarashcha, where supporters of the OCU threatened to capture temples belonging to the religious community of the UOC¹⁶.
16. **Judicial disputes over changing the religious affiliation of churches, which were initiated by the religious communities of the UOC, as a rule, drag out for several years.** Thus, since 2015, the struggle of the religious community of the UOC in the city of Konstantinovka in the Donetsk region for their rights in connection with the capture of the temple by the representatives of the UOC-KP has been ongoing. From 2015 to 2018 the courts of the first and appeal instances affirmed the rights of the UOC community to the temple. On June 19th 2018 the panel of judges of the Supreme Court decided to cancel the decisions of the courts of previous instances and refused to satisfy the claims of the diocese of the UOC for formal reasons (a person appealed whose interests are not violated by the appealed decision of the paraphial assembly). The case again began to be considered in the court of first instance. Court hearings in this case continue in 2019¹⁷.

Exertion of pressure by security bodies on priesthood and believers

17. After the UOC refused to take part in the so-called "Unification Sobor" for the creation of a local church (December 15th 2018 in Kiev), **pressure was exerted on the priesthood of this religious organisation by security bodies.** The Security Service of Ukraine (*hereinafter - SBU*) called for the interrogation of representatives of the diocese of the UOC in Zaporozhye and Vinnytsia (November 19th 2018). Priests of the diocese in Rovno were summoned for repeated interrogations by the SBU (November 20th,

¹⁰ <https://uspishna-varta.com/en/news/na-chernigovshchine-aktivisty-gruppirovki-s14-i-svyashchenniki-ptsu-zakhvatili-khram>

¹¹ <https://spzh.news/ru/news/59580-v-s-kovpyta-vlasti-pomogajut-radikalam-zahvatity-svyato-pokrovskij-khram-upc>

¹² <https://uspishna-varta.com/en/news/sud-po-delu-o-zakhvate-khrama-upts-v-olenovke-perenesen-na-6-marta>

¹³ <https://spzh.news/ru/news/59163-v-sele-puzhajkovo-odesskoj-oblasti-svobodovcy-otobrali-khram-upc>

¹⁴ <https://spzh.news/en/news/60859-v-pogrebah-popytka-zahvata-policija-vyvela-vseh-iz-khrama>

¹⁵ <https://uspishna-varta.com/ru/novyny/v-kiyevskoy-oblasti-aktivisty-ptsu-i-mestnyye-chinovniki-popytalis-opechatat-khram-upts>

¹⁶ <https://spzh.news/ru/news/60645-priverzhency-pcu-ugrozhajut-zahvatity-khram-kanonicheskoy-cerkvi-v-gorode-tarashha>

¹⁷ The "Uspishna Varta" human rights group supports the legal defence of community rights. <https://uspishna-varta.com/en/video/view/51>

December 1st and 5th, 2018). The clergy was charged with criminal cases under Article 111 of the CCU ("state treason") and Article 161 of the CCU ("actions aimed at inciting religious hatred").

18. **Searches were conducted in temples and the houses of clergy.** Thus, on November 30th 2018, SBU officers searched the place of residence of the Namestnik of the Kiev Pechersky Lavra, Metropolitan Pavel. Searches were carried out as a part of a case of inciting religious hatred (Article 161 of the CCU)¹⁸. On December 3rd 2018 the SBU and National Police officers conducted 8 searches in the temples and houses of UOC priests in Kiev, Zhytomyr, Ovruch, and Korosten¹⁹.
19. These actions from the side of security bodies aimed to intimidate the clergy and parishioners of the UOC in order to persuade them to accept the position of the local church. This is evidenced by the fact that no further investigations into public accusations against the clergy of the UOC were conducted. Thus, in January-July 2019, according to open data of the prosecutor's office, 69 offenses were recorded under Article 161 of the CCU "Violation of the equal rights of citizens depending on their race, nationality, religious beliefs". None of these offences were charged with suspicion.

Physical violence and acts of vandalism committed by right-wing radical groups

20. Against the backdrop of representatives of the authorities and a number of media controlled by the authorities inciting hate speech towards the UOC, in 2018-2019 **facts of systematic violence against representatives of the UOC and acts of vandalism against religious buildings and temples were recorded**²⁰. As a rule, representatives of **right-wing parties, groups and volunteer battalions** ("C14", "Azov"/"National Corpus", "Right Sector", "Svoboda", and others) were involved in the attacks. Like in the cases of temple captures, the police did not prevent these acts of violence and did not actually bring the perpetrators to justice. **Representatives of the UOC are forced to seek an investigation of these incidents through the courts.**
21. After the election of a new president of Ukraine in April 2019, the number of incidents involving attacks carried out by right-wing groups decreased significantly. For example, on July 27th 2019, the **UOC procession** dedicated to the 1031th anniversary of the Baptism of Rus' was held in Kiev, which brought together more than 300,000 believers. Unlike the previous year, the **event took place without significant incidents involving representatives of the authorities or radical right-wing groups issuing threats against its participants**²¹. The next day, July 28th, a similar religious procession was held by the newly formed OCU. According to the representatives of this church, about 20,000 people took part in it.

¹⁸ <http://spzh.news/ru/news/57896-namestnik-kijevskoj-lavry-ne-udivlyusy-jesli-budut-obyski-i-pritesnenija>

¹⁹ <https://uspishna-varta.com/en/news/v-chetyrekh-gorodakh-proshli-obyski-u-svyashchennikov-upts>

²⁰ During 2019, temples of the UOC in Uman, the Cherkassy region, in Lvov, and Zhytomyr were desecrated with insulting inscriptions. The right-wing group "C14" claimed responsibility for some of these cases. In Sumy on January 18th 2019, unidentified persons threw an explosive device during an evening service at the Transfiguration Cathedral. None of those present in the cathedral were injured. The UOC church in the village of Zeleny Yar in the Nikolaev region (February 11th) and the Svyato-Voznesensky temple of the UOC in Krivoy Rog in the Dnepropetrovsk region (February 15th) were also set on fire. In Zaporozhye, police detained three people who on February 16th unsuccessfully tried to set fire to the church of St. John the Theologian.

²¹ The procession of the UOC on July 27th 2018 was preceded by a series of actions by representatives of the authorities aimed at disrupting the event. Thus, in the Zhytomyr, Zaporozhye, Sumy, Cherkassy, Kherson, Odessa, Chernovtsi, and Rovno regions, as well as in Ternopol, transport companies denied believers access to the capital on the eve of the procession. In the Chernigov region, representatives of "Svoboda" threatened to burn the buses of local transporters. During the procession of the UOC itself, attempts were made to provoke and discredit the believers. Thus, near the Cabinet of Ministers, two activists of "Bratstvo" tried to carry out a provocation by starting to shout out "Glory to Ukraine!" at the participants of the religious procession. The police quickly detained them.

Restriction of the right to freedom of speech and opinion (Art. 19 of the ICCPR, taking into account recommendation 20 in CCPR/C/UKR/CO/7)

22. According to article 34 of the Constitution of Ukraine, persons are guaranteed the right to freedom of thought and speech, as well as the free expression of their views and beliefs. Everyone has the right to freely collect, store, use, and disseminate information in any way. In CCPR/C/UKR/CO/7, the Committee expressed concern (recommendation 20) with regard to reports of threats, attacks, harassment, and intimidation of journalists and human rights defenders in relation to their professional activities and critical views. The Committee recommended that the State of Ukraine ensure that journalists, human rights defenders, and individuals are free to exercise their right to freedom of expression in accordance with article 19 of the Covenant and general comment No. 34 (2011) of the Committee. **The human rights activists of "Uspishna Varta" are forced to admit that during 2014-2019 the Committee's recommendation was not implemented, and the state created additional restrictions for the expression of alternative opinions and views that were unreasonably justified by the armed conflict in Donbass.**

Restrictive legislative and government measures

23. During 2018, a number of draft laws were introduced into the Ukrainian parliament, which, if adopted, could create additional restrictions on the work of independent media and journalists. These draft laws were introduced by deputies from pro-government factions ("Bloc of Petro Poroshenko", "People's Front") under the guise of combating separatism and were justified by the need to protect the information space in light of the armed conflict in the East of the state. In particular, these legislative initiatives stipulated the possibility of: **extrajudicially blocking online information resources** (draft law No. 6688)²²; **the collection of fines, the cancellation of licenses of TV channels and radio** for "voicing appeals to violently change the constitutional system of Ukraine, the outbreak of an aggressive war or its propaganda, and/or inciting ethnic, racial, and religious hatred and enmity" (Draft law No. 9068)²³; **extrajudicial blocking of the Ukrainian media suspected by law enforcement agencies of promoting "terrorist activities"** (draft law 9725)²⁴. The very fact that these draft laws are put on the agenda of the parliament is an extremely negative signal for freedom of speech and opinion in Ukraine. **The new composition of the Ukrainian parliament, which was elected on July 21st 2019, needs to remove these draft laws from consideration.**

24. **The National Television and Radio Broadcasting Council (hereinafter referred to as the NTRBC), due to its functions of licensing and imposing fines during 2014-2019, remained an instrument for putting pressure on Ukrainian television channels and radio in order to obtain a loyal editorial policy in relation to the authorities.** Thus, pressure through the threat of license revocation was announced to the "Inter", "1+1", "112", and "NewsOne" TV channels, which all broadcast the views and opinions of opposition politicians. In February 2017, the NTRBC refused to renew the license of the audio side of "Radio Vesti", which broadcasts criticism of the authorities. In February 2018, more than 60 media representatives publically called for an end to censorship in

²² Draft Law No. 6688 "On Amending Certain Legislative Acts of Ukraine Regarding Countering Threats to National Security in the Information Sphere". Deputies of "People's Front" and "Bloc of Petro Poroshenko" developed the draft law. It was entered in the agenda of the parliament on June 21st 2018. Already on July 4th the draft law was approved by the Verkhovna Rada Committee on National Security and Defence (headed by a deputy from the "People's Front" faction). http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?id=&pf3516=6688&tskl=9

²³ Draft Law No. 9068 "On Amending the Law of Ukraine 'On Television and Radio Broadcasting' for Strengthening Information Security and Counteracting the Aggressor State in the Information Sphere", registered in the parliament on 07/07/2018. The authors of the draft law are deputies from the "People's Front" faction, "Bloc of Petro Poroshenko", and "Self-Help" http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=64570

²⁴ Deputies from the factions "Bloc of Petro Poroshenko" and "People's Front" submitted draft law No. 9275 "On amending some laws regarding the protection of the information space" on November 7th 2018. http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=64909

the country and an end to the blackmailing of editorial offices by the NTRBC²⁵. On the eve of the presidential election in April 2019, the NTRBC appointed unscheduled inspections of television channels that maintained a position independent of the authorities ("Nash", "112 Ukraine").

Restrictions imposed on freedom of speech and opinion by law enforcement bodies

25. During 2018-2019, law enforcement bodies searched the editorial offices of independent media and carried out covert investigative actions against journalists. Thus, despite the protests and concerns of international organisations, on February 8th 2018 the office of the "Vesti Ukraine" media holding company was forcefully captured with the active participation of government departments, law enforcement bodies, and civilian mercenaries. The exertion of pressure by the SBU was reported by the online publication "Strana.ua" (June 2019), the "Avers" television and radio company (Lutsk, March 2019), and the "Patriot" newspaper (Zhytomyr, July 2019).
26. Despite the appeals of the OSCE and other international organisations, the practice of deporting foreign journalists and not allowing them to enter Ukraine continued in 2018-2019. As was reported by the SBU at the end of 2018, the department banned 83 "Russian propagandists" from entering Ukraine²⁶. In 2019, a ban on entry was imposed on a number of foreign journalists who planned to cover the electoral campaign (Christian Wehrsuetz, Mark Innaro). A number of OSCE/ODIHR observers were also denied access to Ukraine because they had previously visited Crimea and the occupied territories of Donbass. The SBU also maintained the practice of deporting journalists with foreign citizenship from Ukraine (Yusuf Inan, Pavel Kazarnitsky, Rita Bondar).
27. Over the past 5 years, Ukraine has persecuted journalists and public figures for their opinions and beliefs. "Political" cases against journalists, public figures, and politicians were initiated, as a rule, under articles from the section of the Criminal Code "Crimes against the Foundations of National Security of Ukraine" (Articles 110-114¹ of the CCU). In general, according to these articles, between 2015-March 2019 the prosecution authorities registered 2,332 criminal offenses, handed over a suspicion in 738 cases (31%), and 494 cases²⁷ were sent to the court. Most of the charges under these articles that the "Uspishna Varta" legal team had the opportunity to examine²⁸ are based on "formal suspicion", without an appropriate evidence base and with violations of procedural law.
28. During 2014-2019, human rights defenders recorded more than 500 cases in which people were detained on charges of treason, attempts to overthrow the constitutional order, espionage, and other articles for long periods and without a court verdict. As a rule, these charges were made against journalists, politicians, public figures, and users of social networks who expressed alternative views on the political situation in the state.

²⁵ From the major media outlets, it was signed by journalists from the television channels "Inter", "ZIK", "NewsOne", "112 Ukraine", the media holding companies "Vesti Ukraine" and "Era-Media", as well as other media http://eramedia.com.ua/273632-zupiniti_znischennya_svolodi_slova_v_ukran/

²⁶ <https://ssu.gov.ua/ua/news/1/category/2/view/5512#.mHz1rOaj.dpbs>

²⁷ Most often, law enforcement bodies indicted under the following articles:

- Article 110 and Article 110-2 "Infringement on the territorial integrity and inviolability of Ukraine" - a total of 347 suspicions;
- Article 109 "Actions aimed at forcibly changing or overthrowing the constitutional order or seizing state power" - 202 suspicions;
- and Article 111 "State Treason" - 153 suspicions.

²⁸ <https://uspishna-varta.com/en/news/sizo-ili-zalog-pochemu-sudy-ne-naznachayut-zalogi-po-politicheskim-delam>

29. Thus, the **journalist Vasily Muravitsky**, who was detained by the SBU on August 2nd 2017 on charges of treason (Article 111 of the Criminal Code of Ukraine), spent 11 months in a PTDC and for more than a year under house arrest. He is charged with concluding a standard labour contract with the international Russian agency, where he published his analytical column. As of August 2019, the prosecutor's motion seeks to re-examine all the evidence, which will delay the consideration of the case for a few more years. Litigation continues on the cases of the previously arrested **journalists Dmitry Vasilets and Ruslan Kotsaba**, whose sentences were previously appealed in the appeal instances. Kotsaba was imprisoned for 524 days, and Vasilets and his colleague Evgeny Timonin - 820 days
30. On March 27th 2019, the Shevchenkivskyi court of the city of Zaporozhye fully acquitted the **journalist Pavel Volkov**, who spent more than a year in jail. The journalist was arrested on September 27th 2017, he was charged under part 2 of Article 110 of the Criminal Code - encroachment on the territorial integrity of Ukraine (by a group of persons) - and Article 258-3 of the CCU - giving other assistance to terrorists. During the trial, Volkov pleaded not guilty. In the acquittal, the court acknowledged that the prosecution did not provide appropriate, admissible, and sufficient evidence of the journalist's guilt. The Court of Appeal upheld the decision of the trial court. *"We cannot criminally punish someone for a lack of patriotism,"* said the judge²⁹.
31. The "Uspishna Varta" human rights platform welcomes the decision of the **Constitutional Court of Ukraine (hereinafter - the CoCU) from June 25th 2019, which recognised the provision of part 5 of article 176 ("General Provisions on Measures of Restraint") of the Criminal Procedure Code of Ukraine as unconstitutional**. This provision stipulated that with respect to persons suspected under articles on terrorism, crimes against the foundations of national security of Ukraine, or obstruction of the activities of the Armed Forces, a measure of restraint milder than detention should not be applied. Now, under these articles, a measure of restraint in the form of detention is not mandatory. Although the decision of the CoCU determines future law enforcement practices, immediately after its adoption **there has been significant progress in the cases of political prisoners who have been in prison for a long time**³⁰.
32. **At the same time, many political prisoners remain under arrest, including the journalist Kirill Vyshinsky, who has been in a PTDC for more than a year**. Vyshinsky was detained in May 2018 on suspicion of state treason and, as of August 15th 2019, continues to be in jail without a conviction. The journalist is mainly charged for a number of articles published in the "RIA Novosti" Ukraine newspaper in 2014-2018. From March 26th the journalist's case started to be heard in the Podolskyi district court of Kiev. Throughout the entire period, the appeals court consistently dismissed the complaints of the journalist's defence regarding the extension of the measure of restraint³¹.

²⁹ More details about the case of Pavel Volkov can be found here <https://uspishna-varta.com/en/pravozashhitnye-kejsy/99>

³⁰ Thus, on June 26th 2019, the court softened the measure of restraint imposed on General Aleksandr Shchegolev, having changed it to house arrest. He spent almost 4 years in a PTDC on charges of unlawful obstruction of peaceful assembly and abuse of office during the events of February 2014. On July 4th 2019, the court appointed an alternative measure of restraint in the form of a bail for the Ukrainian director Oleg Sagan, who was detained by the SBU in November 2018 on charges of violating the territorial integrity of Ukraine (part 2 of article 110 of the CCU) for filming and posting videos on YouTube with content that is disrespectful towards the authorities. After spending 4 years in jail, the doctor and publicist Igor Dzhadan (Kharkov) was also released on bail. On July 22nd 2019, the Kiev Court of Appeal released from custody the Ukrainian politician Aleksandr Efremov. He had spent 3 years in a PTDC without a conviction on charges of treason and encroaching on territorial integrity. On July 3rd 2019, the court released under house arrest the government official Stanislav Ezhov, who spent a year and a half in jail on charges of treason.

³¹ More details about the case of Kirill Vyshinsky can be found here <https://uspishna-varta.com/en/pravozashhitnye-kejsy/kirill-vyshinskiy>

Restricting freedom of expression and information exchange on the internet

33. **During 2014-2019, the state of Ukraine consistently implemented a policy of restricting freedom of information exchange on the Internet, justifying such measures by referring to the ongoing conflict in the East of the state.** Thus, on May 16th 2017, by the decree of President Poroshenko, access to the **popular Russian social networks "VKontakte" and "Odnoklassniki"**, as well as the "Yandex" search engine, email service, and a number of other online services were blocked. On May 14th 2018, a decree issued by President Poroshenko enacted a decision of the National Security and Defence Council from May 2nd **on sanctions for 3 years against 1748 individuals and 756 legal entities, including a number of media outlets.** The list of resources whose activities were blocked in Ukraine included **a number of popular Russian information sites** (broadcasting of Russian TV channels was blocked back in 2014) and the "WebMoney" payment system, which was used by 4 million³² Ukrainians. In 2018, the SBU blocked access to more than 300 Internet resources, citing the fact that "Russia used them to conduct a hybrid war against Ukraine". The practice of blocking sites continued in 2019.
34. Human rights defenders are also concerned about the so-called **"measures of preventive influence" in relation to users of social networks and administrators of online communities** who, according to security agencies, allegedly distribute anti-Ukrainian materials on the Internet. According to the SBU, such "measures" were taken in 2018 against **220 administrators of online communities** with an audience of more than 10 million Internet users. The SBU reported that 49 administrators of social networks were brought to justice for so-called "anti-Ukrainian propaganda", 29 of which were handed a notice of suspicion, and 20 court sentences had already entered into force. Detainees, as a rule, are charged with intentionally, for political and ideological reasons, disseminating materials that call for deliberate acts to change the territorial boundaries and state border of Ukraine (part 1 of article 110 of the CCU) or deliberate actions aimed at changing the territorial boundaries and state border of Ukraine (Article 109 of the CCU). Neither the names nor the place of residence of the detainees are reported by the SBU, thus human rights activists and lawyers cannot quickly respond to such cases.
35. During January-August 2019 alone, the human rights activists of "Uspishna Varta" recorded 16 cases of social networks user being detained on these charges³³. Most of the detainees agree to reach a deal with the investigation and thus plead guilty in exchange for a suspended sentence. As soon as the plea agreement is submitted to the court, the court terminates the consideration of the case, regardless of the stage of proceedings. It is disturbing that the accused may have entered into such agreements under duress. Cases when users of social networks are sentenced in absentia are also common. **In cases where the accused do not plead guilty and go to court, accusations by the security authorities are deemed to be insufficient**³⁴.

³² Presidential Decree No. 126/2018 <http://www.president.gov.ua/documents/1262018-24150>

³³ For example, in June 2019 law enforcement officers in Zaporozhye, Odessa, and Kiev started legal proceedings against citizens for expressing their own opinions on their pages on social networks. Criminal proceedings against suspects are conducted under article 110 of the Criminal Code of Ukraine. On June 25th 2019, the SBU announced the detention of a resident of Mariupol (Donetsk region) who allegedly called to change the borders of Ukraine on banned social networks, popularised politicians favourable to Russia, and incited protests. As in most cases related to the prosecution of users of social networks, the SBU did not disclose the identity of the detainee, but only published his video confession. On August 2nd 2019, the SBU reported that an "anti-Ukrainian agitator" had been exposed in Sumy who allegedly received information from representatives of the Russian special services and distributed it on the Internet. The ID of the "agitator" was not disclosed by the SBU, and the face in the video is blurred.

³⁴ On May 24th 2019, the Dneprovsky court in Kiev found no reason to detain a volunteer who the SBU suspects of infringing on the territorial integrity of Ukraine for allegedly posting and administering groups on social networks. In 2014, a Kiev resident travelled on a volunteer mission to Donetsk. According to him, the volunteer organization Center for Development of Donbass, on behalf of which he travelled to the non-controlled territories, collaborated with UNICEF Ukraine and People in Need. On May 15th 2019, SBU employees came to the volunteer's apartment to

Physical violence and attacks on journalists and media agencies

36. **Despite the increasing criminal liability for obstructing journalistic activities, journalists in Ukraine continue to be subjected to physical aggression and assault.** According to the National Union of Journalists of Ukraine, in **2017-2018, 175 cases of attacks on journalists were recorded in the country.** Police inaction and the lack of punishment for attacks and even the murders of journalists gave rise to a wave of violence from the side of right-wing radical groups against media outlets and journalists, who the "nationalists" consider to be "separatists"³⁵.
37. **The police are extremely slow and reluctant to investigate such attacks.** Thus, in June 2019 the "Vesti Ukraine" media holding company said that the police were extremely slow to investigate the vandalism, theft, and deliberate destruction of the holding company's property, as well as the obstruction of journalism as a result of the seizure of the editorial office in February 2018. According to the NUJU, **92% of crimes against journalists remain uninvestigated.**
38. **The media community and human rights organisations are seriously concerned about the lack of responsibility for the killing of journalists.** On the night of May 3rd 2019, a local journalist Vadim Komarov was brutally beaten up in Cherkassy. He spent a long time in a coma, and died on June 20th. In his publications he repeatedly raised acute topics, including about theft of budget funds, illegal construction, and corruption in local authorities. The police are investigating the murder, but there is no information about the prosecuted.
39. Law enforcement officers still have not made progress in the investigation into the murder of the **journalist Pavel Sheremet**, who died on July 20th 2016 as a result of a car explosion in the center of Kiev. The person accused of killing the Ukrainian **journalist and writer Oles Buzina**, who was killed on April 16th 2015 in the courtyard of his house in Kiev, was released from custody under a personal obligation in December 2015. The first preparatory hearing on the case began in the Shevchenkovsky court of Kiev only on February 9th 2018. As of August 2019, the courts sessions are continuing, representatives of the right-wing radical group "C14" that is accused of killing Buzina remain at large.

Hate speech. "Mirotvorets" website

40. The murder of Oles Buzina in 2015 happened after his personal information (including the address of his residence) was published on the **"Mirotvorets" website**. This resource positions itself as a "Center for Research of Signs of Crimes against the National Security of Ukraine, Peace, Humanity, and the International Law". Among the partners of the website (from the moment of its opening until May 13th 2016) there were the MIA, the SBU, and other law enforcement bodies. **The website publishes the personal data of people who, according to its creators, have committed crimes against the national security of Ukraine. Human rights activists have reason to believe that such data is**

carry out a search. According to their version, after returning from Donetsk, he allegedly posted provocative information from the group "Our Novorossiia" in one of the groups on the social network Facebook, where he was the administrator. For this he was suspected under Article 110 of the Criminal Code of Ukraine. The volunteer denied any involvement in the suspected crime. SBU officers tried to persuade the suspect to reach a deal, but he refused. The court decided to leave the volunteer free, citing the lack of grounds to take him into custody.

³⁵ Over the past 2 years members of extreme right-wing groups staged riots and blocked the offices of the Union of Orthodox Journalists (associated with the Ukrainian Orthodox Church, January 2018), the "ZIK" TV channel (March 2018), the "Inter" TV channel (May 2018), the "NASH" TV channel (November-December 2018), and the "NewsOne" TV channel (July 2019). On July 13th 2019, unknown persons fired a grenade launcher at the building of the "112 Ukraine" TV channel in Kiev. Representatives of radical right-wing organisations attacked the press centers of "Ukrainskie Novosti" (August 3rd 2018), "Interfax-Ukraine" (November 12th 2018), and "Ukrinform" (July 30th 2019). Also, during 2018 right-wing radical groups attacked individual journalists and representatives of media journalists from "Sharj.net" (February 2018, Kiev), "Gromadske" (July 2018), "NewsOne" (2 incidents in September and October 2018), and others.

illegally provided to the administrators of this website by the law enforcement bodies of Ukraine.

41. Having studied judicial practice, the human rights activists of "Uspishna Varta" found out that the **information on the "Mirotvorets" website was used by the Ukrainian courts as an evidence base for decisions** at all stages, from the start of a pre-trial investigation to the issuance of a guilty verdict³⁶. After the publication of this study, the personal data of the human rights activists of "Uspishna Varta" was also published on the "Mirotvorets" website. Since September 2018, law enforcement bodies have been ignoring the appeals of human rights defenders to investigate the illegal activities of this website. On March 26th 2019, the Shevchenkivsky District Court satisfied the complaint of "Uspishna Varta" and ordered the authorised representatives of the State Bureau of Investigation to enter information about the offense committed by law enforcement officers in conspiracy with the director of the "Mirotvorets" Center into the URPI and to start a pre-trial investigation³⁷.

Restriction of the right to freedom of association and peaceful assembly (arts. 21, 22 of the ICCPR)

42. In CCPR/C/UKR/CO/7 the Committee expressed concern about the lack of a domestic legal framework governing peaceful events and recommended that the State of Ukraine adopt a law regulating freedom of assembly, setting only those restrictions that meet the strict requirements of article 21 of the Covenant (recommendation 21). **Contrary to the recommendations of the Committee, the issue of holding peaceful assemblies remains unresolved at the legislative level in Ukraine**³⁸. In addition, during 2014-2019, other challenges and problems were updated that significantly limit the right to freedom of peaceful assembly and association for citizens of Ukraine.
43. During 2014-2018 a number of opposition political parties in Ukraine reported that **they experienced difficulties in registering their statutory documents with the Ministry of Justice (hereinafter referred to as "MJU")** that are necessary for participating in elections. There are also cases when the MJU, through the court, sought a **ban on the activities of opposition parties**. The most significant precedent was the ban on the activities of the Communist Party of Ukraine in December 2015. Representatives of the party challenged the ban in Ukrainian courts and in the ECHR. On June 20th 2018 the District Administrative Court of Kiev opened proceedings in accordance with the lawsuit of the Ministry of Justice of Ukraine on the ban (forced dissolution) of the "Uspishna Kraina" party. The party regards the process as being politically motivated³⁹. Court hearings in the case continue in 2019.

The exertion of pressure by law enforcement bodies on parties and organizations

44. **The practice of law enforcement conducting searches in the offices and homes of employees of organisations holding ideological positions alternative to the current government remained widespread.** Such investigative actions, as a rule, were carried out on the eve of planned peaceful actions in order to paralyze the organisation. In most cases, the actions of law enforcement bodies were synchronized with acts of aggression

³⁶ <https://uspishna-varta.com/ru/novyny/veb-sajt-mirotvorec-i-sudebnaya-praktika-v-ukraine-1>

³⁷ <https://uspishna-varta.com/en/novyny/uspishna-varta-vyigrala-sud-po-mirotvortsu>

³⁸ Since 2015, 2 relevant draft laws were registered in parliament, but they have caused significant criticism from human rights defenders and international observers. In 2016, the Venice Commission published recommendations for draft laws, but as of January 2019 the law has not been finalised and adopted.

³⁹ The lawsuit was brought forward by the Ministry of Justice at the initiative of the Prosecutor General of Ukraine in the person of the Chief Military Prosecutor Anatoly Matios. Previously, Matios, through his public statements, has repeatedly demonstrated a biased negative attitude towards the party <https://uspishna-varta.com/ru/novyny/zachistka-oppozicii-nakanune-vyborov-minyust-hochet-zapretit-partiyu-usp%D1%96shna-kra%D1%97na>

carried out by right-wing groups against these organisations and their peaceful assemblies. Thus, on the eve of the peaceful rallies dedicated to Victory Day on May 9th 2018, a series of searches were carried out in the offices and at representatives of the Communist Party of Ukraine in Kiev and the organisation "Labour of the Kharkov Region" in Kharkov. A similar situation happened on the eve of the planned peaceful actions for the 75th anniversary of the liberation of Kiev on November 6th 2018. The SBU conducted a series of searches at the homes of political activists, thereby blocking their participation in the event⁴⁰.

45. **Security bodies and right-wing radical groups have also pressured organisations and associations representing the interests of the Russian national community.** Thus, on December 7th 2018 in Poltava SBU officers searched the homes of members of the Coordinating Council of Organisations of Russian Compatriots of Ukraine. They were accused of committing a crime against the foundations of national security of Ukraine under Part 1 of Article 110 of the CCU⁴¹. On May 13th 2019 in Lvov, SBU officers searched the house of the head of the regional community of Russian culture "Rus"⁴².

Attacks by right-wing radical groups against the organizations and peaceful assemblies

46. **Namely representatives of ultra-right factions (such as "National Corpus"/"Azov", "Right Sector", "Svoboda", "C14"/"Sich", "Bratstvo", "Tradition and Order", "Sokol", etc.) were used during 2014-2019 by law enforcement bodies to disperse opposition rallies and to carry out attacks on organisations possessing alternative political views.** For example, during the electoral campaign in January-March 2019, the right-wing group "C14" claimed responsibility for attacking a number of offices of opposition political parties and spoiling the propaganda billboards of a number of presidential candidates⁴³. Representatives of "C14" publicly acknowledged that "during rallies posing possible threats" representatives of the SBU actually ask for their help⁴⁴.
47. **Having informal connections with, and the protection of, the security bodies, such groups almost with impunity attacked their ideological opponents:** events held by the left-wing ideology⁴⁵, rallies against de-communisation and in defence of cultural and historical memory (Soviet holidays)⁴⁶, and events of the women's movement and LGBT

⁴⁰ Thus, on November 6th 2018, SBU officers raided the apartments of the human rights activist and the leader of one of the parties. On November 9th, the SBU also searched the apartments of the leaders of a public organization that co-organised peaceful actions. The SBU announced searches of "members of a pro-Russian public organization" in the framework of criminal proceedings, part 1 of article 109 ("actions aimed at forcibly changing or overthrowing the constitutional order or seizing state power") and part 1 of article 1111 of the Criminal Code ("treason").

⁴¹ <https://uspishna-varta.com/ru/novyny/v-poltave-proshli-obyski-i-dopros-uchastnikov-koordinatsionnogo-soveta-organizatsiy-rossiyskikh-sootechestvennikov-ukrainy>

⁴² <https://uspishna-varta.com/ru/novyny/vladimir-saltykov-svyazyvayet-provedeniye-obyskov-s-redaktorskoy-deyatelnostyu>

⁴³ On February 9th 2019 in Kiev, representatives of "C14" tried to have a brawl at a campaign rally of the presidential candidate Yuliya Tymoshenko, but were detained by law enforcement bodies. After this incident, representatives of the group made no attempts to conduct direct street actions.

⁴⁴ Interview with the leader of "C14" Evgeny Karas
http://news.liga.net/politics/interview/s14_kto_oni_i_pochemu_im_pozvoleno_bit_lyudey

⁴⁵ On January 19th 2018 in Kiev, members of the "C14", "Sokol", and "Tradition and Order" organisations disrupted the annual rally of representatives of the "left-wing" youth, timed to coincide with the anniversary of the tragic death of the human rights activist Stanislav Markelov and the journalist Anastasiya Baburova, who were killed by Russian neo-Nazis in 2009. Eight people were detained at the rally. The organizers of the rally reported that it was not right-wing radicals who were detained, but namely the rally's participants.

⁴⁶ On April 13th 2018, in Kiev, the police actually refused to protect representatives of veteran organisations during a peaceful assembly near the monument to General Vatutin. Representatives of the "C14" group blocked access to the monument, and doused both it and the participants of the event with paint. They also publically threatened and insulted the veterans, and sprayed tear gas at the crowd. An elderly woman was hospitalised with an eye burn. As a result of the incident, one of the "C14" representatives was detained, but was released without charge on the same

community⁴⁷. Representatives of right-wing radical groups do not hide their participation in the attacks and publicly broadcast threats, post videos of the attacks on their social networks. In most cases, the **police do not intervene** in the events or even coordinate their actions with the attackers. The police, as a rule, remove themselves from the investigation into these incidents or, in some cases, begin an investigation under the article "Hooliganism" (Part 1 of Article 294)⁴⁸. Attacks are committed by the same individuals who virtually go unpunished.

48. **The existence of paramilitary right-wing radical groups in Ukraine poses a significant threat to human rights and is a serious challenge to the democratic space as a whole.** *Article 37 of the Constitution of Ukraine* expressly states that political parties and public organisations must not have paramilitary groups. At the same time, armed paramilitary groups are openly operating in a number of ultra-right parties and nationalist organisations. Their activities were not only not suppressed by representatives of law enforcement bodies, but also publicly encouraged by the leadership of the Ministry of Internal Affairs⁴⁹.
49. According to human rights defenders, the **tolerant attitude of the authorities and law enforcement bodies towards members of right-wing radical groups has actually legitimised their aggression against public activists possessing an alternative point of view, religious communities of the UOC, ethnic minorities, and representatives of the LGBT community.** After the defeat of the former president Petro Poroshenko in the election in April 2019, right-wing radical groups noticeably decreased their activity. At the same time, all cases of violence carried out earlier require an investigation and the prosecution of the perpetrators.

Restriction the language rights of national minorities (Art. 27 of the ICCPR)

50. Law of Ukraine No. 2494 on National Minorities in Ukraine from June 25th 1992 stipulates that the state guarantees the right to national and cultural autonomy for all national minorities, in particular to use and study in their native languages, develop national cultural traditions and use national symbols, celebrate national holidays, and practice their religions. However, **during 2014-2019 the language policy of the state of Ukraine was aimed at placing artificial obstacles in front of the functioning of the Russian language, which is used by at least 49% of citizens. The restrictive measures taken by the government were justified by referring to the armed conflict in the Donbass and were discriminatory in relation to Russian-speaking citizens.**

day. "C14" publicly reported about the attack on the peaceful assembly and the subsequent blocking of the police station on their online resources, demanding the release of their representative.

⁴⁷ On November 18th 2018, representatives of right-wing radical groups in Kiev disrupted a transgender march organised by Amnesty International Ukraine. During the event, which lasted only a few minutes, two protesters and three journalists were injured. Despite the presence of the police, the opponents of the march began to throw smoke bombs and spray gas canisters. Among the attackers there were members of the "Bratstvo", "Tradition and Order", "Christian National Front", "Katekhon", "Sisterhood of St. Olga" organisations, as well as several "C14" supporters, were seen. During the rally, unidentified men hit Michael Colborne, a journalist from Canada. The journalist of "NewsOne" and the correspondent of "Sharij.net" also suffered.

⁴⁸ As a rule, representatives of nationalist organizations receive extremely "soft" sanctions for offenses committed. Thus, the Desnyansky district court of Kiev exempted from criminal liability and charged Roman Shevchenko and Pavel Moroz as participants in the market pogrom at the Lesnaya metro station (May 2017). Another offender Yaroslav Tkachenko was sentenced to a minimum sentence of 1 year of probation.

⁴⁹ Thus, the "National Druzhina" unit operates within the framework of the "National Corpus" party (formerly "Azov"), which positions itself as "guardians of public peace", but have all the signs of a militarised formation. On January 29th 2018, the group arranged an oath of representatives in the center of Kiev. 600 "combatants" in grey camouflage "swore allegiance to the Ukrainian nation" and marched in the center of the capital. Right-wing radical groups annually hold the "Ukrainian March of Order" in Odessa on May 2nd (a day of remembrance for the tragedy at Kulikovo Field on May 2nd 2014, where 48 people died). In October, the "March of the Ukrainian Insurgent Army", which during the Second World War was known for its collaboration with the Nazi regime and participation in Jewish pogroms, takes place in Kiev.

51. According to a "Kantar TNS Online Track" poll from May 2019⁵⁰, **most Ukrainians consider that Ukrainian is their native language and support its status as the only state language, although it is bilingual in everyday life.** Thus, for the majority of respondents, the Ukrainian language is their native language (63%), **while one third of respondents consider Russian to be their native language (35%).** At home and in the family circle, **approximately the same proportion of respondents usually communicate in Russian and Ukrainian (49% each).** The Ukrainian language dominates in the field of formal communication - in educational institutions (53%), while **Russian dominates in informal communication - with friends, acquaintances (52%), and on the Internet (56%).** It is expected that the Ukrainian language is more often used in the West and in the Center, as well as in small towns, while Russian is more common in the East and South, as well as in large cities.
52. Despite the fact that at least 35% of Ukrainians consider the Russian language to be native, **after the events of 2014 the state policy was focused on its targeted restriction and exclusion from the public sphere. Such measures were discriminatory in relation to Russian-speaking citizens of Ukraine and were justified by the leadership of the state as a factor of Russian aggression in the East of Ukraine and the situation with Crimea.**
53. In particular, **starting in 2014 Ukraine has also started to gradually displace the Russian language from the media sphere**⁵¹. Between 2016 and 2017 mandatory language quotas for TV and radio were introduced, and Russian television channels, websites, and social networks were blocked. The new language law adopted in April 2019 (No. 2704-VIII) under the auspices of the protection and development of the state language also introduces mandatory language quotas for print media, online media, and their pages on social networks. Such a governmental policy is not only discriminatory in relation to Russian-speaking Ukrainians, but also significantly limits the freedom of entrepreneurship and the development of the media sphere as a business.
54. In addition, **under slogans about the need to confront Russian propaganda, Russian media resources were blocked.** Thus, in 2014, the National Council on Television and Radio Broadcasting banned the broadcasting of Russian television channels in Ukraine. On February 5th 2015, the Verkhovna Rada imposed a **ban on broadcasting films of the Russian Federation** produced after January 1st 2014. During 2017-2018, by decree of President Petro Poroshenko, a number of popular Russian websites and social networks were blocked, including "Odnoklassniki" and "VKontakte"⁵².
55. Law No. 2054-VIII from May 23rd 2017⁵³ introduced **language quotas for television: at least 75% of broadcasts in Ukrainian for national channels and at least 60% for local channels.** For television and radio organisations broadcasting in the languages of the

⁵⁰ "Kantar TNS Online Track" is a project founded in 2014 at the initiative and funding of "Kantar Ukraine" for the monthly measurement and analysis of public opinion regarding the main events of Ukraine. The survey represents the urban population of Ukraine, which uses the Internet, aged 18-55 by gender, age, type of settlement, region (Internet penetration in this group is 84%). The sample size is 1000 respondents. <https://tns.ua.com/news/doslidzhennya-movna-situatsiya-v-ukrayini>

⁵¹ Until 2014, the language policy of the media sphere was not actually regulated by law. The relevant laws suggested that the media could be published both in the state language and in other languages. The language issue in relation to the media was regulated at the discretion of the founders and editorial staff of the media, taking into account consumer demand.

⁵² The policy of blocking Russian Internet resources and social networks, introduced after 2014, proved to be ineffective. Ukrainian users either bypass this blocking through a VPN or continue to consume content through similar Russian-language resources. Thus, in April 2019 visits from Ukraine to the top 10 Russian sites in the News and Media category ranged from 2.2 to 9.1 million hosts each. 15% and 10% of Ukrainians continue to use the social networks "VKontakte" and "Odnoklassniki", respectively, which have been banned in Ukraine since May 2017 on the basis of a decree of President Poroshenko (according to a survey from February 2019).

⁵³ <https://zakon.rada.gov.ua/laws/show/2054-19#n14>

indigenous peoples of Ukraine, a preferential quota of the Ukrainian language was set at 30%⁵⁴.

56. The so-called "**moratoriums on the Russian-language cultural product**" adopted by the regional councils in October-December 2018 in the *Lvov, Zhytomyr, Ternopol, Ivano-Frankovsk*, and *Volyn* regions have a negative impact on freedom of speech and opinion. According to the experts of "Uspishna Varta", these moratoria contradict Article 10 of the Constitution of Ukraine and the Law on Culture⁵⁵.
57. The language issue became one of the key points of the electoral program of the then current President Petro Poroshenko during the 2019 election⁵⁶. As part of this thesis, on the eve of the electoral campaign (in October 2018), the **draft law "On ensuring the functioning of Ukrainian as the state language"** (draft law 5670-d), which was called "**the law on total Ukrainisation**" by experts, was adopted at the first reading. The **new language law**, received after the adoption of Law No. 2704-VIII, **entered into force on July 16th 2019**⁵⁷. The law stipulates the complete Ukrainisation of all spheres of state and public life, except interpersonal communication. Violations of the requirements of the law entail administrative liability in the form of fines. The law stipulates the establishment of the National Commission for State Language Standards, which will be engaged in the approval of language standards, spelling, and methods and procedures for checking the level of proficiency in the state language. The law also introduces the institution of an authorised representative for the protection of the state language, which is appointed by the government and ensures the protection of the Ukrainian language and the rights of citizens in the language sphere (including considering complaints and applying penalties).
58. In accordance with the adopted law, **new requirements are also introduced for the media sector, which will have a significant impact on the Ukrainian media market**. Thus, in the field of television and radio broadcasting, language quotas are maintained at the levels of 75% and 35%, respectively, enacted by the laws of 2016-2017. **Printed media** in other languages (including Russian-language ones) will also be required to appear in Ukrainian, with the same circulation and content in both versions. The law also stipulates that publications in the state language at each place of distribution should comprise at least 50% of the names of print media. There should also be **online media representations** in Ukrainian (including websites, social media web pages). The version of the Internet representation in the official language should be no less in volume and content than the foreign language versions, and should be loaded by default for users in Ukraine. Mobile media applications must also have a state language user interface version. To implement these requirements, the law provides a three-year deferral (July 2022).

⁵⁴ As of 2019, **television and radio** channels voluntarily exceed the language quotas established by law, which took effect from October 2018. The volume of Ukrainian broadcasting on the air of television channels is almost the same in relation to the general broadcast - from 92% to 100% (with a quota of 75%). The overall average share of audio content in Ukrainian on the radio is 57% (the required norm in the law is 35%). At the same time, a significant outflow of the audience for 2018 was observed precisely on those channels that initially focused on the Russian-speaking audience and significantly reduced the share of the Russian-language product in accordance with the requirements of the law ("Inter", TRK "Ukraina"). The viewership of on-air Ukrainian TV channels is expected to continue to decline, and the outflow of the audience to alternative channels (to the Internet and satellite) will increase.

⁵⁵ The initiative of the deputies does not have any legal basis and is, at maximum, of a recommendatory nature. Nevertheless, the regional councils not only recommend by their decision, but also plan to control their unconstitutional decision. For example, an interdepartmental working group is being set up in the Lvov region to carry out "explanatory work" concerning the specified moratorium.

⁵⁶ The key slogan of the presidential campaign of Petro Poroshenko in 2019 was "Army. Language. Faith".

⁵⁷ <https://zakon.rada.gov.ua/laws/show/2704-viii>

59. The new language law preserves the **preferential conditions for the Crimean Tatar language**⁵⁸ (the so-called "indigenous language") and the **official languages of the EU** (Bulgarian, Greek, German, Polish, Romanian, Slovak, and Hungarian)⁵⁹. For media published in their languages, the requirements listed in the law are not mandatory. Based on the wording of the law itself, it can be concluded that, as a result of such legislative policy, **other national minorities, primarily the most numerous, Russian-speaking, are discriminated against in comparison with indigenous peoples or those national minorities whose languages are the official languages of the EU.**
60. After the introduction of language quotas, the crisis trends in the **print press market** are expected to intensify. According to the State Committee for Television and Radio Broadcasting of Ukraine, compared to 2014 the number of publications by Ukraine in 2018 decreased by 20% (from 2169 to 1736), and the number of print runs - by 33% (from 2.7 to 1.8 billion). The requirements for the print media stipulated in the law on the state language will primarily affect large daily Ukrainian newspapers, glossy publications and magazines, as well as the regional press of the South-eastern regions of Ukraine. According to the market players, the requirements of the law on ensuring equal circulation in the Ukrainian and Russian languages will lead to significant financial losses at these publications, a reduction in circulation, and even the possible closure of certain newspapers.
61. The Internet audience is more mobile and free to choose their sources of news and communication. As a result, the **Ukrainian Internet is predominantly Russian-speaking**. Seven of the 10 most popular pages on Facebook and the most popular Ukrainian Telegram channels are Russian-language. Thus, from the top 10 most popular videos in the Ukrainian segment of YouTube in 2018, only 3 are in Ukrainian. Their total share of views was only 9.2% of the total number of views for these 10 videos. The introduction of mandatory requirements for the media to maintain their websites and pages in Ukrainian will only lead to an increase in financial costs for editors, but not to an increase in the share of the audience.
62. Thus, **the mandatory requirements for the language of the media contained in Law 2704-VIII "On Ensuring the Functioning of the Ukrainian Language as the State Language" dated April 25th 2019 do not correspond to the realities of the media market and the demand of the Ukrainian audience. In order to eliminate discriminatory norms and comply with the realities of the media market, the language law adopted in April 2019 requires additional discussion with all interested parties and the subsequent introduction of the corresponding appropriate changes.**

⁵⁸ Accurate statistics on the number of Crimean Tatars living in Ukraine (other than in Crimea) do not exist. According to the 2001 census, in Ukraine there were 248,200 people who classified themselves as Crimean Tatars. From these, 245,291 people (or 98.8%) lived in the Crimea. According to the census in Crimea, conducted by the Russian Federation in 2014, 232,340 Crimean Tatars lived there (4.1% less than in 2001). According to the statements of the Ukrainian Foreign Ministry, after 2014 about 20,000 Crimean Tatars left Crimea. Thus, even taking into account migration and other demographic factors, the number of Crimean Tatars living in Ukraine (excluding the non-controlled Crimea) is about 20,000-25,000 people.

⁵⁹ For the first time, the concept of "indigenous language" was introduced in the Law on Education, adopted in 2017. The Venice Commission, in conclusion to this law, drew attention to the fact that the term "indigenous peoples of Ukraine" is not defined either in the Law "On Education" itself or in any other regulatory legal acts. During a visit to Kiev, delegations of the Venice Commission made it clear that the "indigenous peoples of Ukraine" are those minorities that do not have their own state (a kin-state). A special reference was made to the Crimean Tatar, Karaites, and Crimean minorities, however this category will probably also include the Gagauz and Romani communities.

Recommendations and list of questions (taking into account CCPR/C/UKR/8)

Restriction of the right to freedom of thought, conscience and religion (Art.18 of the ICCPR)

Q1. Recognise that government officials interfering in the internal affairs of the church is unacceptable. Stop exerting political and administrative pressure on the priests and believers of the UOC for the purpose of forcing them to accept the project of creating a local church. Give a proper legal assessment of the hate speech and incitement of sectarian strife that has come from government officials, representatives of local authorities, and the media in the period 2014-2019.

- a. Revise in Parliament laws No. 2662-VIII and No. 2673-VIII, which directly violate Article 35 of the Constitution of Ukraine and the right of citizens to freedom of conscience and worldview.
- b. Oblige the MCU to grant the status of a legal entity within the statutory deadlines and to ensure the registration of amendments to the charters of legal entities, including those founded by the UOC.
- c. Stop the process of challenging the MCU's registration of the Kiev Pechersky Lavra (Kiev) and the Svyato-Uspensky Pochayev Lavra (Ternopol region).
- d. Stop the systematic exertion of pressure by the SBU on the priesthood of the UOC and other religious organisations.
- e. Guarantee security and law and order during religious community meetings convened for the purpose of deciding on the denomination of temples. Protect the parishioners, priesthood, and religious buildings of the UOC, as well as other religious communities, from the acts of vandalism and physical aggression committed by right-wing groups ("C14", "Svoboda", "Right Sector", etc.), and conduct an objective investigation into attacks in previously documented facts.

Restriction of the right to freedom of speech and opinion (Art. 19 of the ICCPR, taking into account recommendation 20 in CCPR/C/UKR/CO/7)

Q2. To ensure the right to freedom of speech and opinion enshrined in Article 34 of the Constitution of Ukraine, as well as Article 19 of the ICCPR, the following measures should be taken by the state of Ukraine

- a. Remove from the agenda of the parliament a number of legislative acts that, if adopted, could become a governmental instrument for putting additional pressure on independent media (draft laws No. 6688, No. 9725, and other similar ones).
- b. Oblige the NTRBC to be guided by objective criteria, rather than political expediency, when making decisions to issue fines and media licenses.
- c. Stop the SBU and other law enforcement bodies' practice of interfering in the work of editorial offices and journalists for the purpose of censoring materials and voiced opinions.
- d. Oblige law enforcement bodies to apply anti-separatism legislation strictly in accordance with the obligations of states under article 19, paragraph 1, of the ICCPR and not use opposition opinions or criticism to stifle or prosecute.
- e. Abandon the practice, which is regulated by the decisions of the NSDC and implemented by the SBU, of deporting foreign journalists and banning them from entering Ukraine.

- f. Recognise the existence of political prisoners in Ukraine and stop persecuting those whose cases are in the courts or at the stage of pre-trial investigation; promote the amnesty and rehabilitation of already convicted political prisoners.
- g. In order to restore freedom of speech and information exchange on the Internet, the prohibitions on access to social networks and online resources that were introduced in May 2017 and May 2018 should also be lifted.
- h. Ensure a transparent, timely, and effective investigation into attacks on media editorial staff, journalists, and bloggers carried out by representatives of right-wing radical groups and others.
- i. Provide an immediate, effective, and impartial investigation into the activities of the "Mirotvorets" website and its leaders.

Restriction of the right to freedom of association and peaceful assembly (arts. 21, 22 of the ICCPR)

Q3. To ensure the right to to freedom of association, as enshrined in Articles 36-37 of the Constitution of Ukraine, as well as Article 22 of the ICCPR, the following measures should be taken:

- a. Consider in parliament and adopt a special law on peaceful assembly, taking into account the recommendations of the Venice Commission. The law should regulate such issues as guarantees of the right to spontaneous, peaceful assembly and counter-assembly; contain an exhaustive list of reasons for limiting gatherings; stipulate the duty of the police to guarantee the safety of participants in peaceful assemblies. An appropriate legal framework should also be created for the courts to consider questions of the prohibition of assemblies and the application of administrative and criminal liability for violations of the procedure for holding peaceful assemblies.
- b. Provide political parties and public associations with a transparent procedure and equal opportunities for registration at the level of the MJU, regardless of their ideological position and attitude towards the current Ukrainian authorities. Discrimination against individual parties and organisations when applying this procedure for political reasons is unacceptable; withdraw the lawsuit of the MJU on the prohibition of a number of political parties as a disproportionate measure that significantly restricts the right to freedom of association.
- c. Apply at the level of security bodies the provisions of the anti-separatism legislation strictly in accordance with the obligations of states in accordance with paragraph 1 of Article 19 of the ICCPR, and not to use them to stifle or persecute opposition parties and organisations, as well as participants of peaceful gatherings and rallies expressing alternative opinions on state political issues and the situation in the country.
- d. Give a proper legal assessment of the actions of right-wing paramilitary groups and ensure an objective and comprehensive investigation into their activities. The existence of any paramilitary formations inside parties and public organisations, in accordance with article 37 of the Constitution of Ukraine, should be prohibited.

Restriction the language rights of national minorities (Art. 27 of the ICCPR)

Q4. While supporting initiatives to improve the legal regulation of issues of state language policy, in order to develop and strengthen the status of the Ukrainian language as the state language, attention should also be paid to the need to improve existing legislation to ensure and respect the language rights of national minorities in Ukraine. The entry into force of new language law will lead to the disproportionate interference of the state in

the existing rights of persons belonging to national minorities as a whole. In this regard, we recommend:

- a. Conduct a wide public discussion about the implementation of the new language law in the media sector with participants of the media market itself, representatives of relevant associations, as well as representatives of national minorities and all interested parties.
- b. Mitigate the requirements for mandatory language quotas on the air of Ukrainian TV and radio organizations as being contrary to Ukraine's international obligations in the field of protection of the rights of national minorities, as well as freedom of speech and media.
- c. Abandon the requirements for compulsory language quotas for print media in Ukrainian and stimulate the development of the Ukrainian-language press by providing tax and other preferences to publishers.
- d. Stop the practice of blocking and restricting access to Russian online resources and social networks and concentrate on increasing the competitiveness of Ukrainian online content.
- e. The issue of language policy for online media outlets (including websites and social networks) is left to the discretion of the publications themselves, based on the editorial policy and audience of the media.