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La Corte Edu sul contrasto tra gruppi religiosi
(CEDU, sez. V, sent. 9 ottobre 2025, ric. n. 8906/19)

Il caso esaminato dalla Corte Edu nella presente decisione concerne la presunta violazione dell'art. 9 della Convenzione in merito all'uso liturgico e al possesso pacifico da parte della comunità ricorrente del suo edificio ecclesiastico nel contesto di una controversia vertente su tale edificio con un altro gruppo religioso.
Più esattamente, la parte ricorrente lamentava che l'ordinanza di congelamento dell'uso dell'edificio ecclesiastico fosse ingiustificata e che fosse stata emessa senza che le autorità nazionali avessero adottato misure efficaci, come era loro dovere, per proteggere la comunità ricorrente e il suo edificio ecclesiastico da attacchi illeciti che le impedivano di utilizzare pacificamente l'immobile.
In generale, a proposito del parametro convenzionale evocato, la Corte ribadisce che la libertà di pensiero, di coscienza e di religione costituisce uno dei fondamenti di una "società democratica" ai sensi della Convenzione. Tale libertà implica, tra l'altro, la libertà di avere o non avere convinzioni religiose e di praticare o non praticare una religione. Sebbene la libertà religiosa sia principalmente una questione di coscienza individuale, essa presuppone anche la libertà di manifestare la propria religione, individualmente e in privato, o in comunità con altri.
Tuttavia, nelle società democratiche, in cui diverse religioni coesistono all'interno di una stessa popolazione, può essere necessario imporre restrizioni alla libertà di un individuo di manifestare la propria religione o il proprio credo al fine di conciliare gli interessi dei vari gruppi e garantire il rispetto delle convinzioni di ciascuno. La Corte ha spesso sottolineato il ruolo dello Stato come organizzatore neutrale e imparziale dell'esercizio delle diverse religioni, fedi e credenze, e ha affermato che tale ruolo favorisce l'ordine pubblico, l'armonia religiosa e la tolleranza reciproca tra gruppi contrapposti in una società democratica.
Ed è proprio il corretto svolgimento di tale ruolo ad essere messo in discussione nel caso di specie: le autorità infatti hanno scelto di vietare completamente, nell'ambito del procedimento penale, l'uso dell'edificio ecclesiastico contestato da due gruppi religiosi. Così facendo, esse non hanno tenuto conto del fatto che la comunità ricorrente, in quanto proprietaria dell'edificio all'epoca, aveva per legge il diritto esclusivo di utilizzarlo; si aggiunga inoltre la mancata adozione di misure efficaci per identificare e perseguire i responsabili dei reati in questione.
A tal riguardo, la Corte ha ripetutamente sostenuto che il ruolo delle autorità in situazioni di conflitto tra più gruppi religiosi non è quello di rimuovere la causa della tensione eliminando il pluralismo, ma di garantire che i gruppi in competizione si tollerino a vicenda; nel caso di specie, invece, le autorità hanno eliminato la fonte di tensione proibendo del tutto l'uso dell'edificio ecclesiastico, senza tuttavia dimostrare che le autorità abbiano adottato misure sufficienti per

garantire il pacifico godimento dei diritti garantiti dall'articolo 9 della Convenzione da parte della comunità ricorrente.
Ciò considerato, la Corte ha ritenuto la fondatezza del ricorso dichiarando che vi è stata una violazione dell'articolo 9 della Convenzione.

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EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF XXX v. UKRAINE
(Application no. 8906/19)

JUDGMENT
STRASBOURG
9 October 2025

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of XXX v. Ukraine,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:
Kateřina Šimáčková, *President*,
María Elósegui,
Georgios A. Serghides,
Gilberto Felici,
Mykola Gnatovskyy,
Vahe Grigoryan,
Sébastien Biancheri, *judges*,
and Victor Soloveytchik, *Section Registrar*,
Having regard to:
the application (no. 8906/19) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by the XXX ("the applicant community") on 6 February 2019;
the decision to give notice of the complaints set out in paragraph 1 below to the Ukrainian Government ("the Government") and to declare the remainder of the application inadmissible;
the parties' observations;
Having deliberated in private on 2 September 2025,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the applicant community's allegation that the domestic authorities failed to comply with their obligations under Article 9 of the Convention and Article 1 of Protocol No. 1 to the Convention in respect of the applicant community's liturgical use and peaceful possession of its church building in the context of a dispute over that building with another religious group.

THE FACTS

2. The applicant community was represented by Ms R. Dmytrenko, a lawyer practising in Rivne.
3. The Government were represented by their Agent, Ms M. Sokorenko.
4. The facts of the case may be summarised as follows.

I. Background information and the events of 2015 and 2016

5. The applicant community was registered in 1991 and, under the version of the charter registered in 2013, had the name Svyato-Uspenskyy Parish of Rivne Eparchy of Ukrainian Orthodox Church in Ptycha Village of Dubensky District (*Релігійна громада Свято-Успенської парафії Рівненської єпархії Української Православної Церкви с. Птича Дубенського району*).
6. On the date the application was lodged the applicant community belonged to the Ukrainian Orthodox Church which was at that time associated with the Moscow Patriarchate and headed by the Metropolitan of Kyiv and All Ukraine, Onufriy (hereinafter "the UOC MP").[1]
7. At the time the application was lodged the applicant community was represented by Ms R. Dmytrenko, who had been authorised to act by Mr G. Stadnik, the community's parson, he himself acting on behalf of the community.
8. The community owned and used a church building dedicated to the Assumption (Dormition) of Virgin Mary (*Свято-Успенська церква*) in the village of Ptycha, in the Dubenskyy District of the Rivne Region.
9. According to publicly available media reports[2], in 2014, against the background of Russia's actions in Crimea and the east of Ukraine (see *Ukraine* v. *Russia (*re *Crimea)* [GC], nos. 20958/14 and 38334/18, 25 June 2024, and *Ukraine and the Netherlands v. Russia* (dec.) [GC], nos. 8019/16 and 2 others, 30 November 2022), tensions rose between parishioners who had remained part of the UOC and the faithful of the Ukrainian Orthodox Church of the Kyiv Patriarchate ("the UOC KP")[3].
10. In a letter of July 2015 to its governing UOC MP Metropolitan Bishop of Rivne, the applicant community described the situation as follows:

"... currently our church building is closed owing to the division of our community and the creation of a new Kyiv Patriarchate community. Schismatics have repeatedly seized our church building. Judicial proceedings are pending and the [church building] is under seal. The question is being raised of shared use of the building with the Kyiv Patriarchate. We are ... categorically opposed to such an action."

11. On 17 November 2015 the Ptycha Village Council "authorised" the shared use of the church building by the applicant community and a UOC KP entity and recommended a schedule to alternate its use. The council made the decision based on "a motion of 512 village residents", in view of the dispute concerning the building which could lead to damage to life and health and taking into account the fact that the church building had fallen into disrepair since it had not been used for a year. The decision was apparently made without the applicant community's consent since, on 14 March 2016, the Rivne Regional Commercial Court set aside that decision after an appeal was lodged by the applicant community, finding that the applicant community – as the owner of the building – had exclusive use it and the local authority had no authority to require its shared use.

12. There appears to have been commercial court proceedings between the applicant community and a UOC KP entity concerning the ownership and use of the church building, which ended in January 2016 and in which the applicant community was apparently successful.

13. In December 2015 the police instituted several sets of criminal proceedings in connection with the dispute (i) in response to the applicant community's complaint that on 15 November 2015 UOC KP members had resisted police and in connection with the fact that on 8 December 2015 an unknown person had deployed a spray canister against a police officer (both under Article 342 § 2 of the Criminal Code: resisting law-enforcement officers) and (ii) following the allegation that the applicant community's members had been unlawfully blocked inside the church (under Article 293 of the Criminal Code: serious disturbance of public order). Those proceedings were subsequently merged into one case[4].

14. On 19 January 2016 the Rivne City Court, within the framework of those criminal proceedings, allowed an application lodged by a prosecutor and issued a freezing order on the church building, prohibiting its use. By way of reasoning, it noted that there was a threat that persons linked to either the Kyiv or the Moscow Patriarchate might destroy the building.

15. According to the Government, on 4 February 2016 the Rivne Regional Court of Appeal upheld the order. However, a copy of that decision was not provided to the Court, therefore it is not known who lodged the appeal.

II. Events of 2018

16. On 2 April 2018 the Rivne City Court lifted the freezing order of 19 January 2016. It found that there was insufficient evidence to show that there was a continued risk of the building being destroyed. It also noted that the maximum period for pre-trial investigation – twelve months – had expired without anyone being charged.

17. Apparently following that decision, there was an intrusion in the church building on 2 April 2018 (see the report of 4 April 2018 of the Organisation for Security and Cooperation in Europe's Special Monitoring Mission to Ukraine, in paragraph 37 below).

18. On 3 and 20 April 2018 the police instituted several sets of criminal proceedings in connection with the events of 2 April 2018. According to those charges "unknown persons" had damaged the entrance, removed the locks of the church, had occupied it without permission and caused a concussion to Ms M.R. while she was on the church premises. Those events were classified under Articles 125 (infliction of minor injuries), 161 (violation of the equality of citizens on the grounds of religious beliefs and other grounds), 179 (unlawful seizure of religious sites or objects), 194

(intentional damage to or destruction of property) and 356 (unlawful actions) of the Criminal Code. The different sets of proceedings were later merged into one case.[5]

19. The investigator asked for the church building to be put under seal again, within the framework of the proceedings initiated in 2018. The Rivne City Court examined the application in the presence of the investigator with no other party being present. In justifying the use of that procedure, the court referred to Article 172 § 2 of the Code of Criminal Procedure which provided that applications for the freezing of property could be examined in the absence of the property's owner if it was necessary to ensure the effective freezing of that property.

20. On 3 April 2018 the Rivne City Court issued a freezing order on the use and disposal of the building.

21. In its reasoning, the Rivne City Court noted the investigator's application for a freezing order, which referred to the institution of proceedings to investigate the events of 2 April 2018. It stated that there had already been a restriction on the use of the building imposed within the framework of the 2015 proceedings and, on the day it had been lifted, there had again been a dispute between the two groups over the use of the building, in the course of which public order had been breached. The investigator needed to conduct an on-site examination of the church building. The investigator had found indications that the UOC KP parishioners might damage or destroy the building to prevent it being used by either of the religious groups, so that no one could hold a liturgy in it. There were grounds to believe that the church building was the object of the criminal offence in question (*є об'єктом посягання*) and that the imposition of restrictions was necessary to prevent its destruction or alienation or to prevent interference with the investigation.

22. The applicant community appealed against that decision, arguing in particular that the freezing order was penalising it for the attacks perpetrated by individuals linked to the UOC KP, with authorities issuing the order instead of fulfilling their obligation to protect the community from such attacks. The freezing order violated the rights of the applicant as a religious community. It could not be justified given that no progress had been made in the criminal proceedings initiated in 2015 and no one had been charged. The first-instance court had failed to examine whether the grounds for the freezing order had really existed, had failed to hear the views of the property's owner and had imposed restrictions on the victim rather than the offender.

23. On 2 May 2018 the Rivne Regional Court of Appeal, having held a hearing and having heard submissions from the prosecutor and the applicant community's lawyer, upheld the freezing order, agreeing with the Rivne City Court's assessment. It held, in particular, that the first-instance court had established that there were reasonable grounds to believe that the church building was the object of criminal offences, since the dispute between the parishioners of Ptycha had been ongoing for several years and had resulted in the commission of continuing crimes (*вчинення продовжуваних злочинів*). There was therefore a real threat of destruction of or damage to the property in question. The first-instance court had thus made a lawful decision which had not deprived the applicant community of its property.

24. The Court of Appeal stated that its decision was final and no further appeal was possible. The applicant community nevertheless lodged an appeal in cassation which was rejected by the Supreme Court on 13 August 2018.

25. The Government informed the Court that, within the framework of the criminal proceedings initiated in 2018, a forensic medical examination of M.R. had been conducted which had established that her injuries had been minor.

III. Events of 2019 and subsequent years

26. In early 2019 the Orthodox Church of Ukraine ("the OCU") was established with the blessing of the Ecumenical Patriarch. Metropolitan Epifaniy was designated as the head of the OCU. The OCU integrated most of the former UOC KP parishes.

27. The Moscow Patriarchate regarded the Ecumenical Patriarch's actions to be illegitimate, an encroachment on its own canonical authority over the territory of Ukraine. That was also a position shared by the UOC MP, led by Metropolitan Onufriy, even though a number of its individual parishes did move to the newly established OCU led by Metropolitan Epifaniy.

28. The Law of 17 January 2019 amended the Freedom of Conscience and Religious Organisations Act of 23 April 1991 and provided that, in order to change the affiliation of a religious community, two-thirds of its members had to vote in favour at the community's general assembly and had to sign the decision.

29. On 24 February 2019 a meeting was held which was identified as the applicant community's general assembly. It voted unanimously (130 votes) to remain with the UOC MP (headed by Metropolitan Onufriy).

30. In March 2019 the UOC KP entity which operated in the village of Ptycha joined the OCU.

31. On 1 April 2019 a meeting was held which was identified as the applicant community's general assembly. It decided, by 409 votes out of 410 present, to "change the community's canonical and organisational subordination", to join the OCU, to change its name to reflect the community's belonging to the OCU and to dismiss Mr G. Stadnik as its parson. On the same day the Rivne Regional State Administration registered those changes.

32. A member of the community, S., attempted to challenge the registration of the community's amended statute. On 25 June 2020 the Administrative Court of Cassation (part of the Supreme Court) upheld the lower administrative courts' rulings, refusing to institute proceedings on the grounds that civil courts rather than administrative courts were competent to examine the case, as it was a dispute between members of a legal entity over who controlled it rather than a dispute with a public authority[6].

33. On 3 April 2019 the police investigator discontinued the criminal proceedings initiated in 2015[7]. The investigator noted that the criminal proceedings had been initiated during the dispute between two religious groups but on 1 April 2019 the applicant community had joined the OCU. Reasoning that, at that moment the dispute between the religious communities was over, the investigator found that there were no constituent elements of an offence in the relevant events. The applicant community stated that it had not been informed of that decision.

34. In May 2022, following the Russian Federation's full-scale military attack on Ukraine on 24 February 2022, the UOC (led by Metropolitan Onufriy) made a number of statements and amendments to its statutes, purporting to dissociate itself from the Moscow Patriarchate[8]. Certain Ukrainian authorities question whether, despite those changes, the UOC can be considered fully independent from the Moscow Patriarchate.[9]

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. Relevant domestic law

35. Article 98 of the Code of Criminal Procedure (2012) defines physical evidence as the following: "Material objects used to commit the crime, objects bearing traces of the crime or containing other information which can be used as evidence of facts or circumstances which are to be established in the criminal proceedings, including things which were the object of the criminal acts, money, valuables and other objects obtained through criminally unlawful means or obtained by a legal entity as a result of a criminal offence."

36. Article 170 of the Code: (i) defined the "freezing of property" (*арешт майна*) as the temporary deprivation of the right to alienate and/or use certain property in respect of which there were reasonable grounds to believe that it could be evidence of a crime, could be subject to confiscation or was needed to secure a civil claim for damages; (ii) stated that the purpose of imposition of restrictions on property was to prevent the property's concealment, damage, deterioration, destruction, transformation or alienation; and (iii) provided that the imposition of such restrictions was authorised where it was necessary to ensure (a) the preservation of material evidence; (b) the confiscation of property; (c) compensation for damage caused by a criminal offence; and (d) the recovery of illegally obtained benefits from a legal entity.

II. Relevant international material

37. The following information on the situation regarding the church building in Ptycha can be found in the daily reports of the Organisation for Security and Cooperation in Europe's Special Monitoring Mission to Ukraine ("the SMM"). The reports were based on information received on the following dates and usually published the following day.

23 December 2015: "The SMM continued to follow up on tensions between parishioners of the Ukrainian Orthodox Church-Kyiv Patriarchate and the Ukrainian Orthodox Church in the village of Ptycha (148km north-east of Lviv, Rivne region), where on 18 December over 250 people, including 20 young men in military-type fatigues bearing Right Sector insignia had gathered in a church yard; some 50 police officers had been also present. Despite media reports that violent clashes took place at the village church on 18 December, whilst at the scene that day the SMM did not observe significant incidents and an interlocutor from the local police did not confirm the occurrence of any serious clashes or injuries. The SMM has since learned that the situation has calmed down."

5 January 2016: "In Ptycha village ... the SMM spoke to representatives of the Ukrainian Orthodox Church of Kyiv Patriarchate, the Ukrainian Orthodox Church as well as the head of the village council, all of whom said that the situation in the village was currently stable. The interlocutors also stated that there were still no religious services at the church and that police officers were present at all times near the church ..."

10 January 2016[10]: "The SMM followed up on tensions between two religious communities in Ptycha village ... On 10 January, a representative of the Ukrainian Orthodox Church told the SMM that on the previous day a bus with approximately 20 pilgrims of the Ukrainian Orthodox Church parked near the church building and started singing religious songs. He said that after that local parishioners of the Ukrainian Orthodox Church of Kyiv Patriarchate started shaking the bus which ended when police intervened. The interlocutor added that the pilgrims were later beaten up by parishioners of the UOC KP when they held a procession through the village. According to the interlocutor, a woman was [admitted] to Dubno district hospital ..."

11 January 2016: "The SMM revisited [Ptycha] and spoke with police officers guarding the Dormition church and the head of the Ptycha village council. Additionally, in Dubno (165km north-east of Lviv, Rivne region), the Mission spoke to representatives of the Dubno district police and the director of the Dubno district hospital. The interlocutors said that on 9 January 30-40 Ukrainian Orthodox Church (UOC) pilgrims had arrived in Ptycha. According to the interlocutors, at [11.00 a.m.] on 9 January, the pilgrims and local UOC parishioners visited the Dormition church and had then held a procession around the village. Local parishioners from the Ukrainian Orthodox Church-Kyiv Patriarchate (UOC-KP) had followed them and verbal confrontations and a scuffle ensued. According to the Dubno police representative, the police had been called around [midday], after a UOC parishioner (woman, 35 years old) had been hit. According to the director of the Dubno hospital, the victim had been brought to the hospital promptly but was released on 11 January because no serious trauma had been diagnosed. The Dubno police representative told the SMM that it had opened an investigation into charges of 'minor bodily injury'. Additionally, the SMM was told by the Dubno police representative that one police officer and one local man, both of whom had refused medical assistance, had been injured on 18 December ... In relation to that incident, the [police] had opened an investigation into charges of hooliganism and resistance to police officers."
14 January 2016: "On 12 January, in Rivne city (211km north-east of Lviv), representatives of the Rivne regional directorate of the Ministry of Internal Affairs told the SMM that 28 complaints and requests for assistance regarding the confrontation in Ptycha had been submitted to the police since April 2015, including eight criminal cases. The interlocutor added that police officers were presently guarding the church in Ptycha on a 24-hour basis until the tension finally subsides. Later the same day, the SMM revisited Ptycha, where it observed a calm situation and several police officers inside two police vehicles parked in front of the church."
4 April 2018: In Rivne region, the SMM followed up on reports of an incident at a church building in Ptycha... on 2 April. On 3 April, a representative of the Ptycha local administration told the SMM that the church had been sealed by police. On 4 April, the SMM saw an administrative seal on the door of the church and at least 20 police officers present. Local officials told the SMM that on 2 April, a group of 10-15 individuals wearing balaclavas, including some in military-style clothing, had broken into the church and evicted two elderly women who were serving on a parishioner-staffed security shift inside the church. The police told the SMM that when they had arrived on the scene one hour after the incident they had seen ten members of the Kozatska Varta self-defence group from Dubno (138 km north-east of Lviv) standing near the church. A priest of the UOC told the SMM that they would co-operate with the UOC KP by sharing Easter ceremonies in shifts in the garden of the church.
5 April 2016: "In Ptycha ... the SMM followed up on media reports about a roadblock that took place on 30 March, when members of the Ukrainian Orthodox Church of the Kyiv Patriarchate (UOC-KP) blocked the road E40 (Kyiv-Chop) for several hours [asking] the police to obstruct UOC members from entering the village church ... Meanwhile, parishioners of UOC-KP had announced that they would again block the road on 5 April, but the SMM did not see a roadblock. In front of the church the SMM saw two police cars and six police officers. In the area of the church the SMM noted a calm situation and saw 20 elderly women divided in two groups (according to a police officer, 15 persons were parishioners of UOC, while five were parishioners of UOC-KP). The head of the village council,

coming to the SMM the roadblock on 30 March, added that around five parishioners of UOC were inside the church at all times."
4 April 2018: "In Rivne region, the SMM followed up on reports of an incident at a church building in Ptycha ... on 2 April. On 3 April, a representative of the Ptycha local administration told the SMM that the church had been sealed by police. On 4 April the SMM saw an administrative seal on the door of the church and at least 20 police officers present. Local officials told the SMM that on 2 April, a group of 10-15 individuals wearing balaclavas, including some in military-style clothing, had broken into the church and evicted two elderly women who were serving on a parishioner-staffed security shift inside the church. The police told the SMM that when they had arrived on the scene one hour after the incident they had seen ten members of the Kozatska Varta self-defence group from Dubno (138 km north-east of Lviv) standing near the church. A priest of the Ukrainian Orthodox Church told the SMM that they would cooperate with the Ukrainian Orthodox Church of Kyiv Patriarchate by sharing Easter ceremonies in shifts in the garden of the church."
10 April 2018: "In Rivne region, the SMM followed up on reports of an incident at a church building in Ptycha ... The SMM observed five police cars parked in front of the church and 20 police officers onsite. Local police onsite told the SMM that no parishioners were inside the building and that all had been calm at the church over the Orthodox Easter weekend [8 April 2018]. While present, the SMM observed a calm situation."
26 April 2018: "In Rivne region, the SMM continued to monitor the situation at a church building in Ptycha ..., following reports of an incident on 2 April ... The SMM observed that the church doors continued to be sealed. It also saw 12 police officers and two police cars nearby. Local police told the SMM that the situation had been calm since the Mission's last visit to the church on 10 April ... While present, the SMM observed a calm situation."

THE LAW

I. PRELIMINARY REMARKS

A. Admissibility of complaints concerning the change of the applicant community's canonical jurisdiction in 2019

38. On 1 February 2023 the applicant community's lawyer (Ms Dmytrenko) informed the Court of the events concerning the change of the applicant community's canonical jurisdiction, which are set out in paragraphs 29 and 31 above and, without invoking any provisions of the Convention, submitted that they represented an unlawful takeover of the applicant community, as a legal entity, by individuals not associated with it.
39. On 6 March 2023 the Court gave notice of the application to the Government. At the same time the complaint presented by the applicant community's lawyer in 2023 in respect of the events of 2019 was rejected as lodged out of time.
40. In replying to the Government's observations, the applicant community's lawyer presented complaints in respect of the same events in 2019 concerning the change of the applicant community's subordination from the UOC to the OCU. She cited those facts as evidence of a violation of the applicant community's rights under Article 9 of the Convention and Article 1 of Protocol No. 1 to the Convention.

41. While both Article 9 and Article 1 of Protocol No. 1 had been invoked in the application lodged on 6 February 2019, the Court reiterates that it is the facts alleged by applicants and not the legal characterisation of the facts proposed by them that characterise a "complaint" (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 113, 20 March 2018). The mere fact that an applicant relied on a Convention provision in an application is not sufficient to constitute the introduction of all subsequent complaints under that provision, where no indication has initially been given of the factual basis of the complaint (see *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], nos. 55391/13 and 2 others, § 103, 6 November 2018).

42. While nothing prevents an applicant from raising a new complaint in the course of the proceedings before the Court, such a complaint must, like any other, comply with the admissibility requirements (see *Radomilja and Others*, cited above, § 135).

43. In the Court's view, these are new complaints which are not an elaboration of the original complaints to the Court submitted on 6 February 2019, which concerned restrictions on the use of the church building imposed in 2016 and 2018.

44. Even assuming that these new complaints are not "substantially the same" as those previously declared inadmissible (see paragraph 39 above and compare *Lazarenko and Others v. Ukraine*, nos. 70329/12 and 5 others, § 26, 27 June 2017) and notwithstanding the question whether domestic remedies could be considered exhausted (see paragraph 32 above), these complaints were submitted outside of the time-limit set in Article 35 § 1 of the Convention.

45. They, therefore, should be declared inadmissible pursuant to Article 35 §§ 1 and 4 of the Convention.

B. The Government's request to strike out the application

1. The parties' submissions

46. The Government submitted that, in view of the applicant community's decision to join the OCU and to dismiss Mr G. Stadnik as its parson, the community which had submitted the application no longer existed. The Government submitted a letter dated 14 July 2023 and signed by Mr P. Baran in the name of the applicant community (as renamed on 1 April 2019). Mr Baran referred to the decisions taken on 1 April 2019 (see paragraph 31 above) and stressed that the renamed community did not support the application.

47. In view of this, the Government asked the Court to strike the application out of the Court's list of cases under Article 37 § 1 (a) of the Convention. Article 37 of the Convention reads as follows:

"1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that

(a) the applicant does not intend to pursue his application; or

(b) the matter has been resolved; or

(c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.

2. The Court may decide to restore an application to its list of cases if it considers that the circumstances justify such a course."

48. The applicant community's lawyer (Ms Dmytrenko) objected on behalf of the applicant community. She argued that the decision to change the subordination of the community had been taken by individuals who were not community members and no community member had attended the general assembly held on 1 April 2019. It had therefore been adopted in breach of the Freedom of Conscience and Religious Organisations Act, which required two-thirds of community members to vote for such a change (see paragraph 28 above).

49. Moreover, the applicant community's lawyer stated that the community's statute (in the version adopted in 2013 and as it read before the 2019 amendments) provided that it could only be amended with the UOC Archbishop of Rivne's consent. However, no such consent had been given. The statute also provided that the parish was a structural unit of the UOC and its Rivne Eparchy and was subordinate to the UOC Archbishop of Rivne; that in the event of cessation of the community's activities its legal successor was the Rivne eparchial administration of the UOC; and that, in the event of its cessation or liquidation, its property reverted to the UOC Rivne Eparchy.

50. The applicant community's lawyer further stated that Mr Baran had no authority to represent the applicant community. The decision of 1 April 2019 and the amendments to the community statute approved by it had been forged. A criminal complaint had been submitted in that regard but there was no information on its progress. In February 2019 the community had voted to remain with the UOC (see paragraph 29 above). In fact, the community still existed and held services in a private house in Ptycha since it had no access to the church building.

51. In support of the above submissions, the applicant community's lawyer submitted a letter from the UOC Archbishop of Rivne giving her power of authority, as well as letters from:

(i) the UOC Archbishop of Rivne in support of the above submissions, who pointed out that, in accordance with the applicant community's charter in its 2013 version – owing to the illegal takeover of the legal entity of the applicant community on 1 April 2019 – the rights to the applicant community's property reverted to the UOC Eparchy and the Eparchy was representing the community before the authorities since the community (which *de facto* still existed and continued to hold religious services) had lost its legal entity status;

(ii) Mr G. Stadnik, as the community's parson, who in his letter endorsed the above submissions and submitted that the community was still functioning and was maintaining its application; and

(iii) the village mayor who stated that a UOC group continued to hold services in a house in the village.

2. *The Court's assessment*

52. It is not in dispute that the application was validly lodged by the applicant community represented by Mr G. Stadnik as its parson, who at the time had legitimate authority to represent the community (compare, for example, *Svyato-Mykhaylivska Parafiya v. Ukraine*, no. 77703/01, §§ 97-103, 14 June 2007, and *Credit and Industrial Bank v. the Czech Republic*, no. 29010/95, §§ 49-52, ECHR 2003-XI (extracts), where such disputes existed at the time the applications were lodged but the Court nevertheless recognised the relevant individuals' standing to lodge applications)[11].

53. According to the Court's established case–law, the concept of "victim" must be interpreted autonomously and irrespective of domestic concepts such as those concerning an interest or capacity to act (see *Gorraiz Lizarraga and Others v. Spain*, no. 62543/00, § 35, ECHR 2004-III, and *Svyato-Mykhaylivska Parafiya*, cited above, § 102).

54. Having official recognition or legal personality are not a pre-condition for exercising rights under Article 9 by a religious group (see *Metropolitan Church of Bessarabia and Others v. Moldova*, no. 45701/99, § 105, ECHR 2001-XII, and *Holy Synod of the Bulgarian Orthodox Church v. Bulgaria* (dec.), nos. 412/03 and 35677/04, 22 May 2007; see also *Miroļubovs and Others v. Latvia*, no. 798/05, § 75, 15 September 2009, concerning the standing of individuals excluded from a community).

55. The original applicant community's representatives submitted evidence showing that it continued to exist *de facto* as a religious group (see paragraph 51 (ii) and (iii) above). The Government did not rebut those arguments.

56. The Court therefore finds that there are no grounds for considering that the applicant community does not intend to pursue the complaint under Article 9 of the Convention, within the meaning of Article 37 § 1 (a) of the Convention.

57. However, the Court cannot reach the same conclusion concerning the examination of the complaint under Article 1 of Protocol No. 1.

58. While initially the applicant community complained about the freezing measures imposed in 2016 and 2018, in the comments submitted in reply to those of the Government the applicant community's lawyer mainly complained about the 2019 events and decisions regarding the contested change of the canonical jurisdiction of the applicant community as a legal entity. According to those submissions, the freezing measures were a mere prelude to the loss of the church building owing to the changes that occurred in 2019.

59. As the Court stated in paragraph 44 above, it is unable to review those 2019 decisions, notably due to the operation of the rule set out in Article 35 § 1 of the Convention, which marks out the temporal limit of the supervision exercised by the Court (see *Sabri Güneş v. Turkey* [GC], no. 27396/06, § 40, 29 June 2012).

60. Moreover, the property rights to the church building belonged to the applicant community as a legal entity. That legal entity, as currently constituted, no longer wishes to pursue the application. As the Court stated above, a religious group may have standing to pursue complaints under Article 9. However, that cannot be said of complaints under Article 1 of Protocol No. 1 since "the possessions" in question, the church building, belong to a legal entity.

61. The applicant community's lawyer affirmed, based on the applicant community's pre-2019 statute, that property reverted to the UOC eparchy following the change in the community's canonical subordination (see paragraph 49 above). However, this affirmation does not appear to be recognised by any domestic authority or decision. The Court has not been informed of any domestic proceedings where that would be determined.

62. In the Court's view the main issue in the present case can be sufficiently addressed under Article 9 of the Convention and, as the Court pointed out above, it would, in any case, be unable to address the gist of the complaint under Article 1 of Protocol No. 1 as it is formulated. For this reason, the Court does not consider that there are special circumstances regarding respect for human rights which would require the examination of that aspect of the case to be continued (Article 37 § 1 *in fine* of the Convention).

63. In conclusion, the part of the application concerning the complaint under Article 1 of Protocol No. 1 should be struck out of the Court's list of cases pursuant to Article 37 § 1 (c) of the Convention.

64. Without prejudice to the domestic status of the applicant community as a legal entity, the Court will continue to refer to the "applicant community" to mean the community as represented by Mr G. Stadnik and Ms R. Dmytrenko.

II. ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION

65. The applicant community complained that the order freezing the use of the church building had been unjustified and had been issued instead of the authorities taking effective steps, as had been their duty, to protect the applicant community and its church building from unlawful attacks which prevented it from using the church building in peace. They relied on Article 9 of the Convention:

"1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

66. The Government submitted that the six-month period for the complaint concerning the freezing order issued in 2016, which had been lifted on 2 April 2018 (see paragraphs 14 and 16 above), expired on 2 October 2018 and that the applicant community had failed to lodge its application within that period.

67. The applicant community argued that the six-month period had to be counted from 13 August 2018, the date on which the Supreme Court had examined its appeal in cassation against the decision of the Rivne Regional Court of Appeal of 2 May 2018 (see paragraphs 23 and 24 above).

68. The Court observes that the 2018 freezing order was triggered by the events which occurred on 2 April 2018 and which were recorded not only by the Ukrainian authorities but also by the Special Monitoring Mission of the Organisation for Security and Cooperation in Europe (see paragraph 37 above).

69. Those events occurred after the domestic courts lifted, at the applicant community's request, the freezing order issued in 2016. The situation, therefore, changed considerably on 2 April 2018, and the situation after that date cannot be considered to have been ongoing since 2016.

70. It follows that this part of the application concerning the events prior to 2 April 2018 was lodged outside of the six-month time-limit and must therefore be rejected as inadmissible in accordance with Article 35 §§ 1 and 4 of the Convention.

71. However, the Court will have to put the proceedings and decisions after 2 April 2018 into context, which inevitably means that it must to some degree have regard to the preceding events and decisions (see, *mutatis mutandis*, *Borshchevskaya v. Ukraine*, no. 9962/05, § 19, 25 October 2007; *Idalov v. Russia* [GC], no. 5826/03, § 135, 22 May 2012; and *Strand Lobben and Others v. Norway* [GC], no. 37283/13, §§ 146-48, 10 September 2019).

72. The Court notes that the complaint under Article 9 of the Convention concerning the events in the period from 3 April 2018 to 1 April 2019 is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

73. The applicant community submitted that the UOC KP individuals who had threatened to destroy the church building and assaulted members of the original applicant community had not been brought to justice, and that the authorities had issued the freezing order on the church building instead of prosecuting the individuals who had attacked the applicant community.

74. The Government submitted that the national authorities had not given preference to one community over another in the use of the church, but had been merely guided by the provisions of the Code of Criminal Procedure to prevent damage to the church building and further offences.

2. *The Court's assessment*

(a) Relevant general principles

75. As enshrined in Article 9, freedom of thought, conscience and religion is one of the foundations of a "democratic society" within the meaning of the Convention. That freedom entails, *inter alia*, freedom to hold or not to hold religious beliefs and to practise or not to practise a religion (see *İzzettin Doğan and Others v. Turkey* [GC], no. 62649/10, § 103, 26 April 2016). While religious freedom is primarily a matter of individual conscience, it also implies freedom to manifest an individual's religion, alone and in private, or in community with others, in public and within the circle of those whose faith he or she shares. Article 9 lists the various forms which the manifestation of an individual's religion or beliefs may take, namely worship, teaching, practice and observance (ibid., § 104).

76. In democratic societies, in which several religions coexist within one and the same population, it may be necessary to place restrictions on an individual's freedom to manifest his or her religion or belief in order to reconcile the interests of the various groups and ensure that everyone's beliefs are respected. This follows both from paragraph 2 of Article 9 and from the State's positive obligations under Article 1 of the Convention to secure to everyone within its jurisdiction the rights and freedoms defined therein (ibid., § 106).

77. The Court has frequently emphasised the State's role as the neutral and impartial organiser of the exercise of various religions, faiths and beliefs, and has stated that this role is conducive to public order, religious harmony and tolerance in a democratic society (ibid., § 107). This duty requires the State to ensure mutual tolerance between opposing groups (see, for example, *Leyla Şahin v. Turkey* [GC], no. 44774/98, § 107, ECHR 2005-XI).

78. Where the acts complained of are carried out by private individuals and were not therefore directly attributable to the respondent State, the Court must consider the issues in terms of the positive obligation on the State authorities to secure the rights under Article 9 to those within their jurisdiction. In this connection, the responsibility of the State may be engaged where religious beliefs are opposed or denied in a manner which inhibits those who hold such beliefs from exercising their freedom to hold or express them. In such cases the State may be called upon to ensure the peaceful enjoyment of the rights guaranteed under Article 9 to the holders of those beliefs (see *Georgian Muslim Relations and Others v. Georgia*, no. 24225/19, § 82, 30 November 2023).

79. Where there is a conflict between Article 9 rights on the one hand, and those protected by Articles 10 and 11 on the other, the Court reiterates that the Convention does not establish any particular hierarchy between these rights: as a matter of principle, they deserve equal respect. They must therefore be balanced against each other in a manner which recognises the importance of these

rights in a society based on pluralism, tolerance and broad-mindedness. Three further principles follow from the above:

1. It is incumbent upon the State to ensure that – in so far as is reasonably possible – both sets of rights are protected. This duty applies equally when acts which may impinge upon one of the two rights are carried out by private individuals.
2. To do so, the State must ensure that a legal framework is put in place to safeguard those rights from third parties and to take effective measures to ensure that they are respected in practice.
3. As is always the case when a Contracting State seeks to protect two values guaranteed by the Convention which may come into conflict with each other the Court's task is to verify whether the authorities struck a fair balance between those two values. In doing so, the Court should not act with the benefit of hindsight. Nor should it simply substitute its view for that of the national authorities which, in any given case, are much better placed to assess where the appropriate balance lay and how best to achieve that balance. This is particularly true when it is the police who must in practice strike that balance, since, as the Court has frequently said, due regard must be had to the difficulties in policing modern societies. Thus, in assessing the response of the police to the impugned events, the positive obligation on them to guarantee the rights of both the demonstrators and worshippers must be interpreted in a way which does not impose an impossible or disproportionate burden on them (see *Georgian Muslim Relations and Others*, cited above, § 83; see also *Karaahmed v. Bulgaria*, no. 30587/13, §§ 93-96, 24 February 2015, with further references).

(b) Application of the above principles to the present case

80. The Court observes that the applicant community complained about the freezing order of 3 April 2018 not in isolation but as part of the overall failure of the State authorities to protect its use of the church.

81. Since the applicable principles are similar, the Court does not find it necessary to determine whether in the present case the impugned decisions constituted an interference with the exercise of the rights under Article 9 of the Convention or is to be seen as one involving an allegation of failure to comply with relevant positive obligations (see, *mutatis mutandis*, *Religious Community of Jehovah's Witnesses of Kryvyi Rih's Ternivsky District v. Ukraine*, no. 21477/10, § 58, 3 September 2019; *R.L. and Others v. Denmark*, no. 52629/11, § 39, 7 March 2017; and *Nunez v. Norway*, no. 55597/09, § 69, 28 June 2011).

82. The Court is aware that the respondent State faced a considerable challenge in complying with its obligations under Article 9 of the Convention in view of the long-lasting and intense dispute over the use of the church building, as attested, for example, by the reports by the SMM. Even though the Government did not provide any detailed information on this point, those same SMM reports bear witness to the fact that considerable police forces were deployed to guard the church building (see paragraph 37 above). The local authorities also attempted mediation (see paragraph 11 above).

83. The Court would like to stress that there is no evidence in the case file that the authorities were prejudiced in their approach to the situation. At the time when the Government were given notice of the application, the Court had already rejected the applicant community's complaint under Article 14 of the Convention and Article 1 of Protocol No. 12 to the Convention.

84. However, the authorities chose to completely prohibit, within the framework of criminal proceedings, the use of the church building which was contested by two religious groups. In doing so, they apparently did not take into account the fact that the applicant community, as the owner of the building at the time, had the exclusive right, by law, to use it. While they initiated the criminal proceedings, there is no indication that any effective steps were made to identify and prosecute whose who had committed the relevant offences (see paragraphs 18 to 25 above).

85. It is notable, in this regard, that the Government identified only one investigative step (the medical examination of the victim) conducted within the framework of the criminal proceedings initiated on account of multiple offences allegedly committed on 2 April 2018 (see paragraph 25 above). This was despite the fact that, according to the statements of the police officers reported by the SMM, the identity of those involved, or at least the group to which they belonged, was known (see paragraph 37 above).

86. It is also relevant in this regard that the attack on the church building on 2 April 2018 involved trespassing on private property rather than demonstrations in the public space (contrast, for example, *Karaahmed*, cited above, §§ 98-111). In such circumstances, there is no indication that the authorities were faced with the challenge of balancing the rights under Article 11 of the Convention with those under Article 9.

87. The Court repeatedly held that the role of the authorities in situations of conflicts between several religious groups is not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other (see *Leyla Şahin,* cited above, § 107).

88. In the present case the authorities eliminated the source of tension by prohibiting the use of the church building altogether. Despite efforts they did undertake (see paragraph 82 above), they did not show that those steps were sufficient and that no other measures had been available to them.

89. The Court concludes that it has not been shown that the authorities took sufficient steps to ensure the peaceful enjoyment of the rights guaranteed by Article 9 of the Convention by the applicant community.

90. There has accordingly been a violation of Article 9 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

91. Article 41 of the Convention provides:

"If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

92. The applicant community claimed 158,770 euros (EUR) in respect of pecuniary damage (comprising EUR 153,605 for the loss of the church building and EUR 5,165 for the loss of church property) and EUR 337,000 in respect of non-pecuniary damage.

93. The Government contested those claims as unsubstantiated and excessive.

94. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim.

95. The Court, having regard to the circumstances of the case and its findings above, considers that it is not necessary to make any award for non-pecuniary damage.

B. Costs and expenses

96. The applicant also claimed EUR 15,000 for the costs and expenses incurred before the Court, including legal fees and translation costs.
97. The Government contested those claims as unsubstantiated and excessive. They stated that the applicant community had failed to provide any documents with details of the legal services provided and that the translation costs had not been "necessarily incurred" since proceedings before the Court had been conducted in English and no leave had been granted for the use of Ukrainian.
98. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. The Court notes that the applicant community's lawyer provided to the Court a copy of her agreement for legal services with the applicant community, which envisaged explicitly that she would provide her services without pay, other than for covering her expenses. The lawyer did not provide any itemised bills or invoices in respect of the services provided or expenses incurred.
99. Regard being had to the documents in its possession and the above criteria, the Court rejects the claim for costs and expenses.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to strike the part of the application concerning the complaint under Article 1 of Protocol No. 1 to the Convention out of its list of cases;
2. *Declares* the complaint under Article 9 of the Convention concerning the events in the period from 3 April 2018 to 1 April 2019 admissible and the remainder of the application inadmissible;
3. *Holds* that there has been a violation of Article 9 of the Convention;
4. *Dismisses* the applicant community's claim for just satisfaction.

Done in English, and notified in writing on 9 October 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik Registrar
Kateřina Šimáčková President