

FRANCE: Nearly 100 French Jewish gravestones vandalized with swastikas on day of marches against anti-Semitism



Some of the 80 gravestones vandalized in a Jewish cemetery in the eastern French village of Quatzenheim, Feb. 19, 2019. (Frederick Florin/AFP/Getty Images)

JTA (19.02.2019) – <https://bit.ly/2GS9RoL> – Almost 100 gravestones at a Jewish cemetery in France were discovered vandalized with swastikas hours before the start of marches

Tuesday against the recent rise in anti-Semitic attacks in the country.

French President Emmanuel Macron visited the cemetery in the eastern French village of Quatzenheim, near the border with Germany, on Tuesday afternoon and promised that his government would take action.

Local Jewish community representatives joined Macron as he stood in front of the graves vandalized with blue spray-painted swastikas and observed several moments of silence, The Associated Press reported.

The French president is scheduled to hold a moment of silence with other French leaders on Tuesday evening at the Holocaust memorial in Paris.

French police reported last week that anti-Semitic acts in France rose by 74 percent in 2018 over the previous year, and a wave of anti-Semitic incidents centered on Paris has swept the country in recent weeks, spurring 14 political parties to urge a protest rally in response. The parties, including Macron's La République En Marche!, and the CRIF Jewish umbrella group called on French citizens to rally Tuesday in Paris and several other French cities in demonstrations under the banner "No to anti-Semitism."

In response to the cemetery vandalism, Israel's immigration minister, Yoav Galant, in a tweet called on French Jews to "come home" and immigrate to Israel.

“The desecration of the graves in the Jewish cemetery in France is reminiscent of dark days in the history of the Jewish people,” he wrote.

Israeli Prime Minister Benjamin Netanyahu in a statement Tuesday called the vandalism “shocking” and said French and European leaders must take a strong stand against the “plague” of anti-Semitism.

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UNITED KINGDOM: Is Holocaust denial a crime in England and Wales? No – but see R v Chabloz

By Frank Cranmer

Law and Religion (15.02.2019) – <https://bit.ly/2T50KF0> – Alison Chabloz is a self-confessed Holocaust denier. She was convicted in 2018 at Westminster Magistrates' Court of three offences contrary to section 127(1) of the Communications Act 2003, which provides that:

“A person is guilty of an offence if he–

(a) sends by means of a public electronic communications network a message or other matter that is grossly offensive or of an indecent, obscene or menacing character; or

(b) causes any such message or matter to be so sent.”

Two of the offences related to a video of her singing two songs, (((Survivors))) and Nemo's Anti-Semitic Universe, to an audience in a central London hotel in September 2016. A video of her performance was subsequently uploaded to YouTube and, though she had not uploaded it herself, she embedded a hyperlink to the YouTube video in her blog. The third related to a video of her singing a song entitled I like the story as it is – SATIRE which she uploaded herself to YouTube in

September 2017. The argument on appeal was whether or not the three songs were “grossly offensive” [2].

On appeal, in R v Alison Chabloz [2019] Southwark Crown Court 13 February, the prosecution argued that the lyrics of each song were no more than a collection of anti-Semitic tropes or motifs, with a particular emphasis on Holocaust denial. Furthermore, two of the songs were in whole or part set to the tunes of well-known Hebrew songs – which, the prosecution alleged, was a deliberate attempt to make them even more insulting. In those circumstances, each song was “grossly offensive” [8]. Ms Chabloz accepted that all three songs were offensive but denied that any of them was “grossly offensive”, describing them as “silly songs”, “parody” and “satire”. She also asserted that the proceedings were an affront to her freedom of speech. On her own admission, she was an adherent of what she described as a revisionist view of history in relation to the Holocaust [9].

The Court (HHJ Hehir and Ms M Rego) said that, whether or not material was “grossly offensive” for the purposes of section 127(1) was an objective question of fact: DPP v Collins [2006] UKHL 40. In short, would reasonable persons find the material grossly offensive? [10]. There was also a mental element: “the appellant is not guilty unless we are also sure either that she intended it to be grossly offensive to Jews, or at the very least was aware that it might be perceived as being grossly offensive to them” [11]. On the matter of free speech, the right under Article 10 ECHR was not unqualified: preventing the use of a public electronic communications network for attacking the reputation and rights of others was legitimate objective [12] and the ECtHR was is clear that Article 17 ECHR removed from the protection of Article 10 “speech or other expression which is contrary to the

fundamental Convention values of tolerance, social peace and non-discrimination: see M'Bala M'Bala v France [No.25239/13] and Norwood v UK(2004) 40 EHRR SE 11" [13].

Though there was "no crime of Holocaust denial in this jurisdiction" [14],

"no tribunal of fact is required to proceed on the basis of absurdity or fiction. The Holocaust ... happened. World War II is surely the best documented and most extensively studied period of modern history, and the Holocaust is one of the best-documented aspects of that conflict, if not the best. A mass of evidence, of various kinds, attests to it. Moreover the Holocaust has been the subject of extensive judicial enquiry, from the Nuremberg Trials onwards, in a number of jurisdictions" [15].

The judgment at first instance of Gray J in David Irving's libel action against Penguin Books Ltd – quoted by the Court of Appeal in Irving v Penguin Books Ltd & Anor [2001] EWCA Civ 1197 at [33] – was particularly pertinent: Gray J had concluded that "no objective, fair-minded historian would have serious cause to doubt that there were gas chambers at Auschwitz and that they were operated on a substantial scale to kill hundreds of thousands of Jews" [16]. That conclusion, together with the enactment by the Westminster Parliament of the War Crimes Act 1997, was sufficient to allow the Court to take judicial notice of the fact that the Holocaust had indeed occurred [17 & 18].

As to the findings of fact, the Court held that all three

songs were “grossly offensive” [24, 25 & 26]. As to the issue of mens rea, the Court was sure that Ms Chabloz positively intended each of the songs to be grossly offensive to Jews [27]. Furthermore:

“... although part of her intended audience on YouTube was persons sharing her own warped outlook, she embedded the hyperlink [Charges 1 and 2] and uploaded the video [Charge 3] in the hope that those who saw and heard the songs would include Jewish people who would be grossly offended by them” [27].

Appeal dismissed [28].

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FRANCE: Statistics: Anti-Muslim, anti-Jewish and anti-Christian incidents in 2018

HRWF (18.02.2019) – After two years of decrease in 2016 and 2017, the number of anti-Jewish incidents in France increased by 74% in 2018: 541 against 311 in 2017. There were 81 acts of violence and homicide attempts, 102 incidents targeting Jewish places and 358 anti-Jewish threats. In 2018, 824 Jewish sites were subjected to security measures by the police and the military.

In 2018, 100 anti-Muslim incidents were recorded against 121 in 2017, 182 in 2016 and 429 in 2015, the year of the jihadist attempts against the journalists of Charlie Hebdo. It is the lowest number since 2010.

A small increase was recorded concerning anti-Christian incidents: 1063 in 2018 against 1038 in 2017.

The number of racist and xenophobic incidents decreased by 4.2%: 496 in 2018 against 518 in 2017.

These statistics were made public on 12 February by the Minister of the Interior, Christoph Castaner.

Source: Press release of Christophe Castaner and Laurant Nunez (Ministry of the Interior): Lutte contre la haine, la discrimination, le racisme et l'antisémitisme (12 February 2019)

<https://www.interieur.gouv.fr/Actualites/Communiqués/Lutte-contre-la-haine-la-discrimination-le-racisme-et-l-antisemitisme>

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UKRAINE: Unknown individuals

attempt to set church in Ukraine's Nikolayev Region on fire

Interfax Religion (12.02.2019) – <https://bit.ly/2TTd7nj> – Kiev: Unidentified persons threw a bottle bomb in the building of the church of St. Elijah the Martyr in the village of Zelenyi Bor, Ukraine's Nikolayev Region on Sunday night, no one has been injured, the information and education department of the Ukrainian Orthodox Church said.

“It emerged that a window was smashed in the church and a bottle bomb was thrown in. It's a miracle that the fire did not engulf the entire church, the fire went out. Windows were broken and smashed in the church, a curtain burned down and two carpet strips on the floor were damaged, the walls are covered in soot, icons and cloths on the icons were blackened with ash,” the Ukrainian Orthodox Church said.

Before setting the church on fire, the wrongdoers cut off electricity thus turning off the alarm and video surveillance in it, it said. They also attempted to pull out the wooden cross installed in front of the church.

The police and firefighters came to the incident scene.

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UKRAINE: Russia moves to crush Orthodox Church of Ukraine in occupied Crimea

By Halya Coynash

Kharkiv Human Rights Protection Group (14.02.2019) – <https://bit.ly/2EiC46n> – The Orthodox Church of Ukraine has been ordered to vacate the Cathedral of Vladimir and Olga in occupied Simferopol by the beginning of March, with this likely to lead to eight parishes in rural areas also being forced to close. Archbishop Kliment of Simferopol and Crimea has appealed to the international community to prevent the effective destruction of the Orthodox Church of Ukraine [OCU] which has long been under attack in Crimea. He has also, however, suggested that if there was a choice between the Church being able to continue and a fully principled stand refusing to register under Russian legislation, he chooses the

Church.

Kliment reported on 8 February that he had received a writ ordering that he leave the Cathedral which was now under the so-called ministry of property and land relations. The occupation authorities were thus terminating the agreement between the Church and the Crimean Property Fund in 2002, and the Church was given 30 days to vacate the building.

Perhaps coincidentally, on 5 February Kliment was appointed the head of the Orthodox Church of Ukraine's Mission to help victims of rights abuses and illegal imprisonment in Russia and occupied territories.

During a press conference in Kyiv on 12 February, Kliment called on the international community, on the ambassadors of European countries, the USA and Canada in Ukraine to take the situation under their personal control. If pressure on the Church intensifies, he said, personal sanctions were crucial against those involved in terminating the Church's lease agreement.

The following day, Anna Anyukhina from the occupation 'government' claimed that they had offered to 'legalize relations', that the Church had not re-registered as a legal entity, under Russian legislation, and that they therefore did not have such a possibility.

The Church has, indeed, refused to re-register under Russian legislation, which would require adding words to its

association papers claiming that Crimea is part of Russia. Lack of such registration has meant that the Church is not considered to be a legal entity at all.

As mentioned, Kliment addressed this question in an interview to Krym.Realii on 13 February, saying the following:

“You know, when the principled position of the Ukrainian government is that “we won’t accept anything from Crimea” and they reject all responsibility for what is happening in Crimea, I don’t know what I should do now, and how. If there is a choice between the Church, religious services and people (and the stand on registration), then I choose the Church”.

This is not the first time that the Archbishop has expressed bitterness that the Ukrainian government is not doing enough to support his Church under siege in occupied Crimea.

It is, in fact, not guaranteed that the occupation regime would not have used other methods to hound out the Church and Kliment has said that he was offered a large amount of money very early on if he vacated the Cathedral.

It was Kliment and the Church that first came under attack following annexation, almost certainly because of its openly pro-Ukrainian position and its public statement on 11 March 2014 condemning Russian occupation of Crimea. It was this opposition that led to its refusal to enter into any agreement with the Russian Defence Ministry (over church premises in Sevastopol ‘handed over’ to that ministry or to re-register

under Russian legislation. There has, however, been an attack on all things Ukrainian since Russia's invasion, and the Church has provided a vital focal point for people wanting to hear Ukrainian and be with Ukrainians. That alone, as well as Kliment's impassioned appeals to the international community in defence of Ukrainian political prisoners, were surely behind the attempts to deprive the Church and believers of their places of worship and of other rights. Other methods included the threat of physical reprisals by the armed paramilitaries, especially in 2014, vulnerability over the lack of Russian citizenship and also economic intimidation. There have been threats, for example, against those businesspeople who provided premises for the Church to use, with this a reason why many religious communities have lost their places of worship.

During the first year after Russia's invasion, 38 out of the 46 parishes under what was then still the Kyiv Patriarchate ceased to exist. In at least three cases, churches were seized by the occupation regime: in Sevastopol; Simferopol and in the village of Perevalne.

At a press conference in October 2018, Kliment reported that only five priests now remained against 25 in 2014. Five had left recently for mainland Ukraine after a number of searches of the homes of members of the Ukrainian Cultural Centre and after it became clear that the lack of a Russian passport was likely to be used against them. The remaining clergy try as far as is possible to continue services, sometimes helped by priests who come for one or two days from mainland Ukraine.

While the Cathedral is not the only remaining church in Crimea, it is the main cathedral and eparchial centre of the

Church. It is also the only Ukrainian Orthodox place of worship in Simferopol and for many believers, it would simply not be possible to travel to other parts of the peninsula for services.

The new moves to drive the Church out of Crimea are probably also retaliation for the creation of the Orthodox Church of Ukraine with autocephaly or independent status. The developments were met with rage by both the Kremlin and the Moscow Patriarchate and Archbishop Kliment had anticipated measures against the Church in Crimea as revenge. He had earlier spoken of how Sergei Aksyonov, the Russian-installed 'leader' of Crimea that the occupation regime's restraint was due to a request from Metropolitan Lazar, head of the Russian Orthodox Church in Crimea who was worried that persecution of the Ukrainian Church in Crimea could lead to a backlash against churches of the Moscow Patriarchate in mainland Ukraine. After Ukraine receives the Tomos of autocephaly on January 6, 2019, there is nothing and nobody, Kliment said, save God, who can restrain the Russian authorities in occupied Crimea.

Tragically, he was right.

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UKRAINE: Patriarch Kirill of Moscow, a Kremlin's Trojan horse in Ukraine's presidential election?

By Willy Fautré, Human Rights Without Frontiers

HRWF (18.02.2019) – Patriarch Kirill of Moscow and All Russia hopes that he will be able to visit Ukraine in the future to meet with the believers of the canonical Ukrainian Orthodox Church, he said in an interview timed to the 10th anniversary of enthronement as reported by Tass News Agency.

He was quoted as saying: “I hope that God would bring about my visit to Ukraine. Political situation[s] and conjuncture are fleeting occurrences. Today we have these political forces, then others... I still retain hope that I would be able to pray in the Kiev-Pechersk Lavra, to meet with my believers, with the hierarchs of the Ukrainian Orthodox Church, which, at the present time, heroically defends canonical Orthodoxy.”

On the eve of the presidential election in Ukraine, Patriarch Kirill should not make such a statement for multiple reasons.

First, his words will be perceived in Ukraine as covert support for candidates oriented towards Russia rather than candidates focused on Kyiv and as an attempt to influence the votes of local populations in predominantly Russian-speaking regions. Hopes for a change at the head of the Ukrainian state are clearly expressed in the Patriarch's words. In the current geopolitical context, it will be viewed as another blatant intrusion of the Kremlin in an electoral process abroad. This comes at a time when Putin uses his political weight to dissuade Orthodox Churches in the European Union from recognizing the autocephaly granted to the Orthodox Church of Ukraine by the Ecumenical Patriarchate of Constantinople.

Second, Patriarch Kirill is bringing water to the mill of those who accuse the Ukrainian Orthodox Church (UOC) in communion with the Moscow Patriarchate, of being a 'foreign agent' of an 'aggressor country' and of being instrumentalised by Moscow. This move of Patriarch Kirill will also put Metropolitan Onufry of the UOC in a very uncomfortable situation, given the tenuous ecclesiastical links to the Russian Orthodox Church. For example, the UOC participates in the election of the Patriarch of the Russian Orthodox Church but this is not reciprocal as the Metropolitan of Kyiv is elected locally.

Surely, the Patriarch's statement will fuel increased social and political hostility towards the UOC. It will also give arguments to those who push or force UOC parishes to switch to the new Orthodox Church recognized by the Patriarchate of Constantinople.

On 17 January, the Ukrainian parliament adopted a bill setting the procedure for changing the affiliation of religious communities in the country. It specifically targets 'those' that are part of "the structure of a religious organization whose governing center is located outside Ukraine", in 'a' state, which is recognized by law as having committed military aggression against Ukraine. Concretely, it is the sole UOC in communion with the Russian Orthodox Church in Moscow that is on the radar. The bill provides for specific limitations of the activities of 'such religious organizations.' Among other things, it restricts access to military units for their clergy and chaplains.

Interreligious conflicts would be highly detrimental for the social, political and regional stability of Ukraine. Neither President Poroshenko, who personally deployed huge efforts to obtain the autocephaly of a 'truly' Ukrainian Orthodox Church before the presidential election, nor the Patriarch of the Russian Orthodox Church should instrumentalise religious divides for political purposes. It is unfortunately the trend that we are witnessing on both sides and the EU should not remain a passive observer of such a situation.

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