

INTERNATIONAL COURT OF JUSTICE

**CASE CONCERNING
APPLICATION OF THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION
OF THE FINANCING OF TERRORISM AND OF THE INTERNATIONAL CONVENTION
ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

(UKRAINE V. RUSSIAN FEDERATION)

**VOLUME XXIV OF THE ANNEXES
TO THE MEMORIAL
SUBMITTED BY UKRAINE**

12 JUNE 2018

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Annex 925

Judgment in an administrative offence case, 11 October 2017, Rostov-on-Don, Case No. 5-438/17

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document

JUDGMENT

in an administrative offence case

October 11, 2017 Rostov-on-Don

Having considered at the Lenin District Court of Rostov-on-Don the case of an administrative offence specified in art. 7.13, part 1 of the Code of the Russian Federation on Administrative Offences received from the Ministry of Culture of Rostov-on-Don against an official, the Chair of the State Committee for Cultural Heritage Preservation <redacted>, Sergei Alekseevich Efimov, DD.MM.YYY of birth, a native of <redacted>, registered at <address>, residing at <address> L.V. ZAKHARENKO, judge of the Lenin District Court of Rostov-on-Don

FOUND:

The Lenin District Court of Rostov-on-Don received from the Ministry of Culture of Rostov Oblast a case of an administrative offence specified in art. 7.13, part 1 of the Code of the Russian Federation on Administrative Offences against an official, the Chair of the State Committee for Cultural Heritage Preservation <redacted>, in the person of the Chair of the State Committee for Cultural Heritage Preservation <redacted>, Sergei Alekseevich Efimov.

Present at the court session were A.A. Vitvitsky, the representative of the Office of the RF Ministry of Culture for the Southern and Northern Caucasus federal districts, acting on the basis of a power of attorney dated DD.MM.YYYY, and I.P. Gurzhieva, acting on the basis of a power of attorney dated DD.MM.YYYY; they asked that the official be held administratively liable for the offence.

S.A. Efimov, Chair of the State Committee for Cultural Heritage Preservation <redacted>, did not appear at the court session; he was duly notified of the time and place of the court session.

Having read the case file and heard the representatives of the Office of the RF Ministry of Culture for the Southern and Northern Caucasus federal circuits, the court concluded as follows.

Pursuant to art. 26.1 of the Code of the Russian Federation on Administrative Offences, the circumstances subject to clarification in an administrative offence case are: the presence of an administrative offence event; the person who committed the unlawful action; the culpability of the person in the commission of the administrative offence; circumstances that mitigate or aggravate the administrative offence, as well as other circumstances relevant to a correct resolution of the case.

According to art. 7.13, part 1 of the Code of the Russian Federation on Administrative Offences (KoAP RF), violation of the law on the preservation of cultural heritage sites (historical and cultural monuments) of the peoples of the Russian Federation, violation of the land use regime within the borders of the territories of cultural heritage sites, or failure to comply with the restrictions

established within the borders of the protection zones of cultural heritage sites, except as otherwise stipulated by parts 2 and 3 hereof, shall be punishable by an administrative fine on citizens in the amount of fifteen thousand to two hundred thousand rubles; on officials – twenty thousand to four hundred thousand rubles; and on legal entities – two hundred thousand to five million rubles.

The relationships that arise in the preservation, use and promotion of cultural heritage sites (historical and cultural monuments) of the peoples of the Russian Federation are regulated by Federal Law No. 73-FZ of June 25, 2002 “On the cultural heritage sites (historical and cultural monuments) of the peoples of the Russian Federation.”

In accordance with articles 33, 47.2, 47.3, and 48 of RF Federal Law No. 73-FZ of 06.25.2002 “On the cultural heritage sites (historical and cultural monuments) of the peoples of the Russian Federation,” the owner (user) shall be responsible for the proper maintenance and preservation of a cultural heritage site.

Based on art. 33, cl. 1 of Federal Law No. 73-FZ, cultural heritage sites shall be subject to state protection to prevent their damage, destruction, or demolition, change of appearance or interior, infraction of their prescribed use, or relocation, and to prevent other actions that could damage the cultural heritage sites, as well as to protect them from adverse environmental impact and other detrimental effects.

According to art. 45, cl. 1 of Law No. 73-FZ, the works to preserve a cultural heritage site shall be performed on the basis of an assignment to perform said works, permits to perform said works issued by the cultural heritage site protection authority, project documentation to perform the works to preserve the cultural heritage site approved by the appropriate cultural heritage site protection authority, as well as on condition that there is technical and design supervision and state cultural heritage site protection supervision over the performance of the works.

Pursuant to art. 47.2, cl. 3, subclause 3 of Federal Law No. 73-FZ, the owners (users) of a cultural heritage site must organize the performance of works to preserve the cultural heritage site as stipulated in art. 45 of Federal Law No. 73-FZ.

Administrative offence protocol No. of DD.MM.YYYY, prepared by A.A. Vitvitsky, chief state inspector of the department for state monitoring and supervision of the preservation, use, promotion and state protection of cultural heritage objects of the Office of the Ministry of Culture of the Russian Federation for the Southern and Northern Caucasus federal districts, established the following circumstances.

On DD.MM.YYYY, the Office of Capital Construction of the Administration of Feodosia of the Republic of Crimea, a municipal public institution, and Corporation ATTA Group Limited Liability Company concluded a municipal contract for 32,637,000 (thirty-two million six hundred and thirty-seven thousand rubles) to perform research, damage prevention, and repair and restoration work at the cultural heritage site that was part of the Socio-Economic Development <redacted> federal special-purpose program at the I.K. Aivazovsky House cultural heritage site (OKN).

On DD.MM.YYYY, A.P. Belyantsev, First Deputy Chair of the State Committee for Cultural Heritage Preservation of the Republic of Crimea, issued to the I.K. Aivazovsky Feodosia Art Gallery of the Municipality of the Feodosia District of the Republic of Crimea, a municipally-funded cultural

institution, an assignment to perform works to preserve the OKN municipally-funded cultural institution (MBUK) of the Republic of Crimea (RK) I.K. Aivazovsky Gallery, cl. 17 of which states that one copy of the project documentation shall be submitted for approval to the Committee along with a state historical-cultural expert report on the research and project documentation for preservation of the OKN. These documents were never submitted to the Committee by Corporation ATTA Group Limited Liability Company.

Instead, on DD.MM.YYYY, Committee Chair S.A. Efimov issued an approval to conduct the works to preserve the cultural heritage site, which is included in the unified state registry of cultural heritage sites (historical and cultural monuments) of the peoples of the Russian Federation (type of works – “damage prevention works”) on the basis of an extract from a meeting of the Scientific Methodology Council for Cultural Heritage Preservation at the State Committee for Cultural Heritage Preservation <redacted>, which is at variance with the contract, whose subject is research, damage prevention, and repair and restoration works, and with the assignment to perform the works to preserve the cultural heritage site. Such a work approval procedure contravenes the legislation on preservation of cultural heritage sites and is essentially unlawful.

In addition to federal laws, at the I.K. Aivazovsky House OKN there was a breach of the requirements as to the composition and contents of the project documentation for the preservation of cultural heritage sites set in RF National Standard GOST R 55528-2013 – “Composition and contents of the research and project documentation for the preservation of cultural heritage sites. Historical and cultural monuments. General requirements” (approved by order No. 593-st of August 28, 2013 of the Federal Agency of Technical Regulation and Metrology). The repair and restoration work procedure for cultural heritage sites includes mandatory steps for the issuance of approvals of assignments and permits immediately preceding OKN preservation works, and includes the following stages:

- approval by the relevant cultural heritage site preservation authority of the assignment to perform the works;
- preparation of the research and project documentation and the conduct of a state historical and cultural review;
- receipt of a permit to perform said works issued by the relevant cultural heritage site preservation authority;
- monitoring of the performance of the repair and restoration works.

One of the documents needed for approval of the research and project documentation is a positive state historical-cultural expert report on the research and project documentation and (or) the project documentation for the preservation of the cultural heritage site. No such review was conducted.

A historical and cultural review was not conducted, and the head of the Committee regarded the works listed in the subject of the contract as damage prevention works, although art. 1.1 of the Contract described them as damage prevention and repair and restoration works. During the works the subject of the contract was changed and only damage prevention works were left in the contract, but restoration works were in fact also performed. Equivocation by S.A. Efimov, Chair of the State

Committee for Cultural Heritage Preservation of the Republic of Crimea, led to damage to the OKN; as a result, the restoration that was actually performed was documented as damage prevention works.

The performance of damage prevention works requires a Technical Condition Report (a technical report on the condition of the cultural heritage site) that confirms its unsafe condition.

An inspection of the cultural heritage [sic] on DD.MM.YYYY showed that the performance of the works to preserve the I.K. Aivazovsky House OKN had changed the original historical appearance of the building, regarding which an appropriate report was prepared which stated that the tiled roof batten [sic], the exterior finish, and the color of the main façade of the building had been replaced; the functional characteristics of the roof joists were changed, the sculptured figures were repainted (the griffons and the sculptured female figures in niches), the marble Venus and Apollo sculptures in niches – the originals adorning the main façade – were restored, which is prohibited in damage prevention works and requires a historical and cultural expert report to confirm the need for said actions. All these works were listed as damage prevention works in the research and project document Book 9 – “Priority damage prevention works on the façade of the cultural heritage site ‘House where the artist I.K. Aivazovsky lived <redacted>’ at <address> Composition and Scope of the Works (façade on axes <redacted>).

The works listed in para. 38 of Book 9, namely: cleaning of the surface per the technique, removal of all old protective layers per the technique, replacement of the loss per the technique, structural stone reinforcement, injection of cracks with fillers, biocidal treatment of the surface and application of a protective-decorative coat require a special license from the Ministry of Culture of the Russian Federation to restore, conserve or recreate sculptures. Such a license was not issued to either KIRAMET LLC, which prepared the project documentation, or Corporation ATTA Group LLC. This circumstance is evidence of gross violation of the law on the protection of RF cultural heritage sites. Yet, having received a notification from KIRAMET LLC, the Committee did not conduct inspections in accordance with the rules for provision of notification regarding the performance of the types of activity listed in article 12, part 1 of the Federal Law “On the licensing of certain types of activity,” whose performance on the territories <redacted> has been allowed since DD.MM.YYYY without a license (approved by RF Government resolution No. 207 of March 9, 2015), and, accordingly, did not take action to allow KIRAMET LLC to engage in research and project activity, and did not establish whether the employees of the organization had the requisite qualification to prepare the research and project documentation.

The decision was therefore taken, without a historical and cultural review, to leave a historically intact <redacted> section of the wall. The explanations of S.A. Efimov, Chair of the State Committee for Cultural Heritage Preservation <redacted> is refuted by the case evidence. When questioned as a witness, T.V. Gaiduk, director of MBUK I.K. Aivazovsky Feodosia Art Gallery of the Feodosia municipality (MO GO) of the RK, explained that she had not given her consent to paint the sculptures and façade of the OKN. This decision was taken unilaterally by S.A. Efimov, Chair of the State Committee for Cultural Heritage Preservation, and representatives of the enterprise.

By the conclusion of the specialist, who explained that the works performed on the OKN were not damage prevention but rather restoration [sic]. The OKN has been disfigured, the historical roof and its construction have been changed, and works have been performed on the site structures without a state construction review, resulting in an administrative offence under art. 7.13, part 1 of the KoAP RF.

The fact of wrongdoing and culpability of the official in the commission of an administrative offence is confirmed by all the evidence examined by the court, whose accuracy and admissibility are incontestable, namely: the administrative offence protocol, the inspection report, photo materials, order, and other case materials on the administrative offence. By the conclusion of the specialist, who explained that the works performed on the OKN were not damage prevention but rather restoration [sic]. The OKN has been disfigured, the historical roof and its construction have been changed, and works have been performed on the site structures without a state construction review, which qualifies as a violation of art. 40, cl. 4 of Federal Law (FZ) No. 73-FZ and art. 6, cl. 5.1 and art. 49, cl. 3.4 of the RF Urban Planning Code; the scope and composition of the research and project documentation do not meet the requirements of art. 40, cl. 1 of FZ No. 73-FZ.

Having evaluated the evidence thoroughly, fully, objectively, and in its totality, in accordance with art. 26.11 of the KoAP RF the court concludes that S.V. Efimov, Chair of the State Committee for Cultural Heritage Preservation <redacted> is guilty of an administrative offence under art. 7.13, part 1 of the KoAP RF.

In accordance with art. 4.1 of the KoAP RF the administrative punishment shall take into consideration the nature of the administrative offence, the material and financial position of the official, and mitigating and aggravating circumstances.

Having established and taking into consideration the above circumstances, the court deems it necessary to impose on the official S.V. Efimov, Chair of the State Committee for Cultural Heritage Preservation <redacted> in the person of the Chair of the State Committee for Cultural Heritage Preservation the minimum administrative punishment within the scope of the penal article of the law in the form of an administrative fine of 20,000 rubles.

Based on the foregoing and governed by articles 29.9 and 29.10 of the KoAP RF, the court

ORDERED:

Find the official S.V. Efimov, Chair of the State Committee for Cultural Heritage Preservation <redacted>, guilty of an administrative offence under article 7.13, part 1 of the Code of the Russian Federation on Administrative Offences, and impose on him administrative punishment in the form of an administrative fine of 20,000 rubles.

Payment details for payment of the fine: settlement account: correspondent account No.: (none), bank: Rostov-on-Don branch, BIC: No., INN [Taxpayer ID Number] No., KPP [Tax Registration Code] No., OKTMO [Russian National Classifier of Municipal Territories] No., recipient – Office of the Federal Treasury for Rostov Oblast (Office of the RF Ministry of Culture for the Southern and Northern Caucasus and Crimean federal districts (current account No.)), KBK [Budget Classification Code]: No., purpose of payment: miscellaneous income from monetary sanctions (fines) and other amounts as recompense for damage paid into the federal budget.

Art. 20.25, part 1 of the RF KoAP are concurrently explained: failure to pay the administrative fine within 60 days shall incur the imposition of an administrative fine of double the amount of the unpaid administrative fine or administrative detention for a period of up to 15 days.

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[logo] Lenin District Court of Rostov-on-Don (Rostov Oblast)
Larisa Valeryevna Zakharenko

The order may be appealed or protested to the Rostov Oblast court through the offices of the Lenin District Court of Rostov-on-Don within 10 days from the date of receipt or delivery of a copy of the order.

Judge L.V. Zakharenko

Annex 926

List of Organizations and Individuals on which There is Information that They are Involved in Extremist Activity or Terrorism, Rosfinmonitoring [16 May 2018], accessed at <http://www.fedsfm.ru/documents/terrorists-catalog-portal-act>.

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Home (/) / List of organizations and individuals... (/documents/terr-list)

LIST OF ORGANIZATIONS AND INDIVIDUALS ON WHICH THERE IS INFORMATION THAT THEY ARE INVOLVED IN EXTREMIST ACTIVITY OR TERRORISM

In accordance with the provisions of the second paragraph of Article 6(2) of Federal Law No. 115-FZ "On Countering the Legalization of Illegal Earnings (Money Laundering) and the Financing of Terrorism" dated August 7, 2001 (hereinafter Federal Law No. 115-FZ) and the Rules for Determining the List of Organizations and Individuals on Which There is Information that They Are Involved in Extremist Activity or Terrorism and making this list available to organizations engaging in transactions with monetary funds or other assets, and sole proprietors, approved by Russian Federation Government Resolution No. 804 dated 08/06/2015 (hereinafter the Rules), the Federal Service for Financial Monitoring shall compile a list of organizations and individuals on which there is information that they are involved in extremist activity or terrorism (hereinafter the List).

In accordance with the first and second paragraphs of Clause 21 of the Rules, Rosfinmonitoring shall make the List available to organizations engaging in transactions with monetary funds or other assets, sole proprietors who are subjects of Article 5 of Federal Law No. 115-FZ, and also lawyers, notaries and persons engaging in business in providing legal or accounting services who are subjects of Article 7.1 of Federal Law No. 115-FZ by providing access to such information only through their **online accounts** (<https://portal.fedsfm.ru/Account/login.aspx>) on the official website.

Search the List of Organizations and Individuals on Which There is Information that They Are Involved in Extremist Activity or Terrorism

827. ANNA DMITRIEVNA ANDRIEVSKAYA, date of birth 10/23/1985, VILLAGE OF PETROVKA [FIND]

Name	Type	Status
827. ANNA DMITRIEVNA ANDRIEVSKAYA, date of birth 10/23/1985, VILLAGE OF PETROVKA, KRASNOGVARDEISKIY DISTRICT, CRIMEA OBLAST, UKRAINE;	Russian individual	Active

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[State coat of arms of Russia]

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Annex 927

Criminal Code of the Russian Federation, art. 275 ("High Treason")

**The Criminal Code
Of The Russian Federation
No. 63-Fz Of June 13, 1996**

(with Amendments and Additions of May 27, June 25, 1998, February 9, 15, March 18, July 9, 1999, March 9, 20, June 19, August 7, November 17, December 29, 2001, March 4, 14, May 7, June 25, July 24, 25, October 31, 2002, March 11, April 8, July 4, 7, December 8, 2003, July 21, 26, December 28, 2004, July 21, December 19, 2005, January 5, July 27, December 4, 30, 2006, April 9, May 10, July 24, November 4, December 1, 6, 2007, February 14, April 8, May 13, July 22, November 25, December 22, 25, 30, 2008, February 13, April 28, June 3, 29, July 24, 27, 29, October 30, November 3, 9, December 17, 27, 29, 2009, February 21, March 29, April 5, 7, May 6, 19, June 17, July 1, 22, 27, October 4, November 29, December 9, 23, 28, 29, 2010, March 7, April 6, May 4, July 11, 20, 21, November 7, 21, December 6, 7, 2011, February 29, March 1, 2012)

**Adopted by the State Duma on May 24, 1996
Adopted by the Federation Council on June 5, 1996**

See Federal Law No. 64-FZ of June 13, 1996 on the Enforcement of the Criminal Code of the Russian Federation

General Part

Section I. Criminal Law

**Chapter 1. The Tasks and Principles of the Criminal Code
of the Russian Federation**

Article 1. The Criminal Law of the Russian Federation

1. The criminal law of the Russian Federation consists of the present Code. New laws providing for criminal liability are subject to inclusion in the present Code.

2. The present Code is based on the **Constitution** of the Russian Federation and the generally recognized principles and norms of international law.

Article 2. The Tasks of the Criminal Code of the Russian Federation

1. The tasks of the present Code are as follows: the protection of the rights and freedoms of man and citizen, property, public order and public security, the environment, and the constitutional system of the Russian Federation against criminal encroachment, the maintenance of peace and security of mankind, and also the prevention of crimes.

2. To accomplish these tasks, the present Code establishes the basis and principles of criminal liability, defines which deeds are recognized as offences dangerous to persons, society, or the State, and establishes the types of punishment and other penal measures for the commission of offences.

Article 3. The Principle of Legality

1. The criminality of a deed, and also its punishability and other legal consequences shall

Article 274. Violating the Rules for Operation of the Facilities for Computer Information Storage, Processing and Transmittance and of Information-Telecommunication Networks

1. Violation of the rules for operation of the facilities for computer information storage, processing and transmittance or of information-telecommunication systems and of terminal equipment, as well as of the rules for access to information-telecommunication networks, that has entailed the destruction, blocking, modification or copying of computer information accompanied by causing a major damage -

shall be punishable by a fine in the amount of up to 500 thousand roubles or in the amount of a wage/salary or other income of the convicted person for a period of up to eighteen months, or by corrective labour for a term of six months to one year, or by restraint of liberty for a term of up to two years, or by compulsory labour for a term of up to two years, or by deprivation of liberty for the same term.

2. The deed provided for by **Part One** of this article, if it has entailed heavy consequences or a threat of their occurrence -

shall be punishable by compulsory labour for a term of up to five years, or by deprivation of liberty for the same term.

Section X. Crimes Against State Power

Chapter 29. Crimes Against the Fundamentals of the Constitutional System and State Security

Article 275. High Treason

High treason, that is espionage, disclosure of state secrets, or any other assistance rendered to a foreign State, a foreign organisation, or their representatives in hostile activities to the detriment of the external security of the Russian Federation, committed by a citizen of the Russian Federation,

shall be punishable by **deprivation of liberty** for a term of 12 to 20 years with or without a fine in an amount of up to 500 thousand roubles or in the amount of the wage or salary, or other income of the convicted person for a period of up to three years and with restriction of liberty for a term of up to two years.

Note: A person who has committed crimes stipulated in this Article, or by **Articles 276** and **278** of this Code, shall be relieved from criminal liability if he has facilitated the prevention of further damage to the interests of the Russian Federation by informing the governmental authorities of his own free will and in due time, or in any other way, if his actions contain no other corpus delicti.

Article 276. Espionage

Transfer, and also collection, theft, or keeping for the purpose of transfer to a foreign state, a foreign organisation, or their representatives of information constituting a state secret, and also transfer or collection of other information under the order of a foreign intelligence service, to the detriment of the external security of the Russian Federation, if these deeds have been committed by a foreign national or a stateless person,

shall be punishable by **deprivation of liberty** for a term of 10 to 20 years.

Article 277. Encroachment on the Life of a Statesman or a Public Figure

Encroachment on the life of a statesman or a public figure, committed for the purpose of terminating his government or any other political activity, or out of revenge for such activity,

Shall be punishable by deprivation of liberty for a term of 12 to 20 years with restriction of liberty for a term of up to two years, or by imprisonment for life, or by capital punishment.

Article 278. Forcible Seizure of Power or Forcible Retention of Power

Actions aimed at the forcible seizure of power or forcible retention of power in contravention of the Constitution of the Russian Federation, or aimed at the forcible change of the constitutional system of the Russian Federation,

Shall be punishable by deprivation of liberty for a term of 12 to 20 years with restriction of liberty for a term of up to two years.

Article 279. Armed Rebellion

Organisation of an armed rebellion or active participation in it for the purpose of overthrowing or forcibly changing the constitutional system of the Russian Federation, or of breaching the territorial integrity of the Russian Federation,

Shall be punishable by **deprivation of liberty** for a term of 12 to 20 years with restriction of liberty for a term of up to two years.

Article 280. Public Appeals for the Performance of Extremist Activity

1. Public appeals for the performance of **extremist activity** -

Shall be punishable with a fine in an amount of up to 300 thousand roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period of up to two years, or by compulsory labour for a term of up to three years, or by arrest for a term of four to six months, or by deprivation of liberty for a term of up to three years with the deprivation of the right to occupy certain posts or to engage in a certain activity for the same time term.

2. The same acts, committed with the use of the mass media,

shall be punishable by compulsory labour for a term of up to five years with deprivation of the right to hold specified offices or to engage in specified activities for a term of up to three years or without such, or by deprivation of freedom for a term of up to five years with deprivation of the right to hold specified offices or to engage in specified activities for a term of up to three years or without such.

Article 281. Sabotage

1. Perpetration of an explosion, arson, or of any other action aimed at the destruction or damage of enterprises, structures, transport infrastructure facilities and transport vehicles, or vital supply facilities for the population, with the aim of subverting the economic security or the defence capacity of the Russian Federation,

Shall be punishable by deprivation of liberty for a term of ten to 15 years.

2. The same acts:

a) committed by an organised group;

b) which have entailed the causing of considerable property damage or the ensuing of other grave consequences -

shall be punishable with deprivation of freedom for a term of twelve to twenty years.

3. Acts stipulated by Parts one or two of this Article if they have entailed intentional causing of death to a person -

shall be punishable with deprivation of freedom for a term of fifteen to twenty years or with deprivation of freedom for life.

Annex 928

Criminal Code of the Russian Federation, article 280.1

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RUSSIAN FEDERATION

THE CRIMINAL CODE OF THE RUSSIAN FEDERATION

Adopted by the State Duma on 24 May, 1996

Approved by the Council of Federation on 5 June 1996

Article 280-1. Public calls for implementation of actions aimed at violation of territorial integrity of the Russian Federation

1. Public calls for implementation of actions aimed at violation of the territorial integrity of the Russian Federation, -

are punishable by a fine in the amount of one hundred thousand to three hundred thousand rubles or in the amount of the salary or other income of the convicted person for a period of one to two years, or by forced labor for a term of up to three years, or by arrest for a period of four to six months, or by imprisonment for up to four years with deprivation of the right to hold certain positions or engage in a certain activities for the same period.

2. The same acts committed with the use of mass media information or electronic or information-telecommunication networks (including the Internet), -

are punishable by compulsory labor for up to four hundred eighty hours with deprivation of the right to hold certain positions or engage in certain activities for up to three years, or deprivation of liberty for a term of up to five years, with deprivation of the right to occupy certain positions or engage in certain activities in the term up to three years.

(Article 280-1 introduced by the Federal Law No. 433-FZ of December 28, 2013 - Collection of the Laws of the Russian Federation, 2013, N 52, art. 6998)

Moscow, Kremlin

13 June 1996

No. 63-FZ

Source: <http://pravo.gov.ru/proxy/ips/?docbody=&nd=102041891>

Annex 929

Interim measures for Civil Suit No. 2-1688/2014 (prohibiting Crimea Foundation from exercising ownership of its properties and sequestering its bank accounts)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document

Issue interim measures for civil suit No. 2-1688/2014

1. Prohibit the charitable organization Crimea Foundation (legal address: 40 Zhilkov Street, Simferopol, Republic of Crimea, actual address: 2 Shmidt Street, Simferopol, Republic of Crimea, registered with the executive committee of the Simferopol City Council in the Autonomous Republic of Crimea, certificate No. 206 dated July 23, 2002) from exercising the powers of owner as they pertain to the use and disposal of property belonging to it (charitable organization Crimea Foundation), including the lease or sale (alienation) of moveable and real property or the making of any contracts by any means concerning the property located at:

- 1) 40 Zhilkov Street/117 Krylov Street, Simferopol, Republic of Crimea;
- 2) 34 March 8th Street, Simferopol, Republic of Crimea;
- 3) 155 Yaltinskaya Street, Apt. 3, Simferopol, Republic of Crimea;
- 4) 23 Krymskiye Partizany Street, Apt. 44, Simferopol, Republic of Crimea;
- 5) 92-a Kievskaya Street, Apt. 34, Simferopol, Republic of Crimea;
- 6) 37/8 Zhelyabov Street, Apt. 88, Simferopol, Republic of Crimea;
- 7) 2 Shmidt Street, Simferopol, Republic of Crimea.

2. Sequester accounts at Vladikombank Commercial Bank CJSC No. 40703810800030100027, located at: 299040, Republic of Crimea, Sevastopol, 69-a Ostryakov Street, 295017, Republic of Crimea, Simferopol, 8 Z. Zhiltsova Street.

3. Prohibit the charitable organization Crimea Foundation from opening new accounts at banks in the Russian Federation.

Entrust the enforcement of this court ruling to the head of the interregional department for enforcement of special proceedings, Federal Bailiff Service of Russia for the Republic of Crimea.

A procedural appeal of this ruling may be filed within fifteen days with the Court of Appeal for the Republic of Crimea via the Central District Court of Simferopol.

Judge

O. N. Andreyeva

JUDGMENT (SENTENCE, RULING,
RESOLUTION) HAS NOT ENTERED [illegible]

Judge [signature]

Secretary [signature]

TRUE COPY

Judge [signature]

Secretary [signature]

[round seal:] Central District Court, Simferopol,
Republic of Crimea

[round seal:] Central District Court, Simferopol,
Republic of Crimea

Annex 930

Zheleznodorozhny District Court of Simferopol of the Republic of Crimea

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document

R U L I N G

On February 21, 2018, having considered the statement of claim of the representative of Elmira Narimanovna Ablyalimova – Nikolai Nikolaevich Polozov, acting on the basis of a power of attorney – against Kiramet Limited Liability Company to compel it not to perform actions, M.V. Kolotsei, judge of the Zheleznodorozhny District Court of Simferopol of the Republic of Crimea,

F O U N D :

N.N. Polozov, acting in the interests of E.N. Ablyalimova on the basis of a power of attorney, filed a statement of claim against Kiramet Limited Liability Company requesting that Kiramet LLC be compelled not to perform actions that damage the 16th-19th century Khan Palace cultural heritage site: 1740-1743 Khan Mosque located at 133 ul. Rechnaya, letter Sh., Bakhchisarai, Republic of Crimea.

Having considered this statement of claim, I conclude that it cannot be accepted for hearing on the following grounds.

As is seen from the contents of the statement of claim, the plaintiff is requesting that the court compel Kiramet LLC not to perform actions that damage the 16th-19th century Khan Palace cultural heritage site: 1740-1743 Khan Mosque located at 133 ul. Rechnaya, letter Sh., Bakhchisarai, Republic of Crimea since the actions of Kiramet LLC damage a cultural heritage site that is protected by the Constitution of the Russian Federation and federal law.

In accordance with clause 134, part 1, clause 1 of the RF Code of Civil Procedure (GPK RF), a judge shall dismiss a statement of claim if the statement is filed to protect the rights, freedoms or lawful interests of another individual by a public authority, local government authority, organization or citizen not granted such right by the Code or other federal law.

Article 2 of the GPK RF states that the objective of civil litigation is to protect the violated or disputed rights, freedoms or lawful interests of citizens and organizations, and the rights and interests of the Russian Federation, territorial entities of the Russian Federation, municipalities, and other persons that are subjects of civil, labor or other legal relationships.

Article 46 of the Constitution of the Russian Federation enshrines a guarantee of legal remedy for the rights and freedoms of the individual and citizen.

In furtherance of said provision, article 3, part 1 of the GPK RF states that an interested person shall have the right, as prescribed by civil litigation law, to petition the court to protect rights, freedoms or lawful interests that have been infringed.

Legal remedy is therefore guaranteed to any individual only if there are grounds for assuming that the rights and freedoms whose protection the individual is requesting reside in the individual, and said rights and freedoms were infringed upon or there is a real threat of their infringement.

Since it does not appear from the filed statement of claim that the rights, freedoms or lawful interests of the petitioner, E.N. Ablyalimova, have been infringed, namely: the petitioner has not specified how its rights have been infringed, there are no grounds for accepting the statement of claim of the representative of Elmira Narimanovna Ablyalimova – Nikolai Nikolaevich Polozov, acting on the basis of a power of attorney, against Kiramet Limited Liability Company to compel it not to perform actions.

On the basis of the foregoing, governed by article 134, part 1, clause 1 of the GPK RF,

R U L E D

dismiss the statement of claim of the representative of Elmira Narimanovna Ablyalimova – Nikolai Nikolaevich Polozov, acting on the basis of a power of attorney – against Kiramet Limited Liability Company to compel it not to perform actions.

Explain to the petitioner the provisions of art. 134 of the GPK RF that state that the dismissal of a statement of claim bars the petitioner from refileing a lawsuit against the same defendant regarding the same matter and on the same grounds.

A private complaint against the ruling may be submitted to the Supreme Court of the Republic of Crimea through the offices of Zheleznodorozhny District Court of Simferopol of the Republic of Crimea within fifteen days from the date of the ruling by the court of first instance.

Judge

[signature]

M.V. Kolotsei

[handwritten:]

The ruling did not take effect. Original filed in civil case No. 9-72/2018

Judge [signature]

Clerk [signature]

[two round stamps:]

ZHELEZNODOROZHNY DISTRICT COURT OF SIMFEROPOL
OF THE REPUBLIC OF CRIMEA, Russian Federation

[rectangular stamp:]

THIS IS A TRUE COPY

Judge [signature]

Clerk [signature]

Annex 931

Letter dated 2 February 2014 from the Ministry of Telecom and Mass Media of the Russian Federation to Meydan

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document

Form of the application for registration of a mass media outlet (renewal of registration of a mass media outlet, update of the certificate of media outlet registration)

FEDERAL SERVICE FOR OVERSIGHT OF TELECOM, INFORMATION TECHNOLOGIES, AND
MASS MEDIA

(in the territory of the Crimean Federal District)

APPLICATION

**for registration of a mass media outlet (renewal of registration of a mass media outlet,
update of the certificate of media outlet registration)**

Registration No. 1901/91-SMI
December 16, 2014

(to be filled in by the registering authority)

1. Founder (co-founders) of the mass media outlet

In the case of legal entities, specify the legal form of organization, full name, place of business address with the zip code, primary state registration number (OGRN), taxpayer identification number (INN), phone and fax numbers.

In the case of individuals, specify the first name, patronymic, and last name, passport details, address of residence with the zip code, and phone number.

Limited Liability Company Atlant-SV Television Company; 14, Mamedi Emir-Useina Street, Simferopol, Republic of Crimea, 295049, Russian Federation; Primary State Registration Number (OGRN): 1149102062317; Taxpayer Identification Number (INN): 9102034975; Phone/fax: (0652) 551301.

2. Name of the mass media outlet: **Meydan**

3. Form of periodical circulation: **radio channel**

4. Address and phone number of the editorial office

(Place of business address of the editorial office, including the zip code)

14, Mamedi Emir-Useina Street, Simferopol, Republic of Crimea, 295049, Russian Federation; Phone: (0652) 551301; Editor-in-Chief: Asan Dzhaferovich Khayretdinov

5. Language(s): **Russian, Crimean Tatar, and Ukrainian**

6. Indicative programming and/or specialization

Informational, entertainment, musical; advertising in keeping with Russian advertising laws

7. Expected periodicity, maximum volume

The maximum volume of printed periodicals includes: number of pages, format, and press run.

The maximum volume of a TV broadcast, radio broadcast, audio recording broadcast, news footage, video recording broadcast, TV channel or radio channel must be specified in units of time.

The maximum volume of online publications must be specified using the relevant units of measurement of data (e.g. bytes).

24 hours a day, daily

8. Expected coverage territory: **Republic of Crimea**

9. Sources of funding: **own and borrowed funds**

10. Information about other mass media outlets in which the applicant is a founder, owner, editor-in-chief (editorial office), publisher, or distributor

None

11. For renewal of registration purposes only:

(Specify which authority registered the mass media outlet, the number and date of issuance of the media outlet registration certificate, and reason for renewal of registration)

Only for purposes of updating the certificate of media outlet registration:

(Specify which authority registered the mass media outlet, the number and date of issuance of the media outlet registration certificate, and reason for updates)

Contact details (for purposes of applicant notification once the media outlet registration certificate is ready and for mailing of the certificate)

Address: **14, Mamedî Emir-Useina Street, Simferopol, Republic of Crimea, 295049, Russian Federation**

Phone: (0652) 551301

I agree to have the media outlet registration certificate mailed to me: _____

(Signature, name spelled out)

I intend to collect the registration certificate in person: ___*_____ [Signature] E.R. Islyamova

(Signature, named spelled out)

****If there is no information to indicate that the applicant intends to collect the certificate of media outlet registration in person or have it mailed, the certificate of media outlet registration will be mailed to the founder's address.***

The application must be submitted along with documents listed in the Administrative Regulations Governing the Provision of the Public Service Involving Mass Media Registration by the Federal Service for Oversight of Telecom, Information Technologies, and Mass Media.

I acknowledge having reviewed the requirements of the Federal Law of the Russian Federation on the Mass Media.

Media Outlet Founder (Co-founder)

Company seal

Signature

CEO of Atlant-SV Television Company, LLC

[Signature]

Elzara Rustemovna Islyamova

In the case of a legal entity: full name and job title of company's chief executive

In the case of an individual: full name

Date: October 29, 2014

[Seal] Limited Liability Company Atlant-SV Television Company * Simferopol, Republic of Crimea, Russian Federation *
Primary State Registration Number (OGRN): 1149102062317; Taxpayer Identification Number (INN): 9102034975

**FEDERAL SERVICE FOR OVERSIGHT OF TELECOM, INFORMATION
TECHNOLOGIES, AND MASS MEDIA (ROSCOMNADZOR)**

**HEADQUARTERS OF THE FEDERAL SERVICE FOR OVERSIGHT OF
TELECOM, INFORMATION TECHNOLOGIES, AND MASS MEDIA IN
THE REPUBLIC OF CRIMEA AND SEVASTOPOL**

HEADQUARTERS OF THE FEDERAL
SERVICE FOR OVERSIGHT OF
TELECOM, INFORMATION
TECHNOLOGIES, AND MASS MEDIA IN
THE REPUBLIC OF CRIMEA AND
SEVASTOPOL
Incoming correspondence No. 1901/91-
SMI
Date: December 16, 2014

NOTIFICATION

**about acceptance of an application for media outlet registration (renewal of
registration, update of media outlet registration certificate, issuance of a duplicate
certificate of media outlet registration)**

Name of media outlet: Meydan radio channel

Media outlet founder (co-founders): Atlant-SV Television Channel LLC

Officer responsible for acceptance of documents: [Signature]
(Signature)

A.N. [illegible]
Full name

Headquarters website: <http://82rkn.gov.ru/>

Number for inquiries about media outlet registration: (+380692) 70-11-92



ROSCOMNADZOR

**HEADQUARTERS OF THE FEDERAL
SERVICE FOR OVERSIGHT OF
TELECOM, INFORMATION
TECHNOLOGIES, AND MASS MEDIA IN
THE REPUBLIC OF CRIMEA AND
SEVASTOPOL
(Roscomnadzor Headquarters in the
Republic of Crimea and Sevastopol)**

Attn: Ms. E.R. Islyamova, Chief Executive
Officer, Atlant-SV Television Channel, LLC

14, Mamed Emir-Useina Street, Simferopol,
Republic of Crimea, 295049, Russian
Federation

4, Vilar Street, Simferopol, 295000, Republic of Crimea
Email: rsockanc82@rkn.gov.ru

No. 149-05/91 of February 2, 2015
Re: (no number) of October 29, 2014
Documents returned without review

Dear Elzara Rustemovna,

Pursuant to Article 13 of the Law of the Russian Federation *on the Mass Media* of December 27, 1991, No. 2124-1 (hereinafter "the Law"), the Roscomnadzor Headquarters in the Republic of Crimea and Sevastopol hereby returns your submission for registration of the Meydan radio channel without review on account of the following:

In light of the fact that the name of the mass media outlet can mislead consumers (the audience) as to the product of the mass media outlet, we suggest that you revise the proposed name of the mass media outlet proposed for registration, taking into account the information contained in the register of registered mass media outlets published on the official website of Roscomnadzor on the Internet at www.rkn.gov.ru in the "Mass Media. Registers" section.

Attachment: 1 copy on 24 pages (incoming correspondence No. 1901/91-SMI of December 16, 2014)

Head

S.N. Khudoley

Document is signed with a digital signature in the
electronic document management system of
Roscomnadzor.

**DETAILS OF THE DIGITAL SIGNATURE
CERTIFICATE**

Issued to: Roscomnadzor Headquarters in the
Republic of Crimea and Sevastopol
Serial No. 469452571411028664930275
Issued by: CA RTK
Validity period: April 14, 2014 – April 14, 2015

Annex 932

Decree for the Initiation of criminal proceeding and Pre-trial Investigation (12 May 2016)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document

[handwritten:] N 1

DESCRIPTION OF
documents in Volume 1 of criminal case No. 2016427026

Item No.	Document name	Pages
1.	Decree for the Initiation of criminal proceedings № 2016427026 and Pre-trial Investigation from 05/12/2016.	1-2
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3.	Decree for the acceptance of a Criminal Case for prosecution from 05/12/2016;	5
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11.	Decree for the acceptance of a Criminal Case for prosecution from 30/09/2016;	13
12.	Accompanying letter from the Department of Federal Security Service of Russia for the Republic of Crimea and the city Sevastopol from /11/2016.	34-15
13.	Report about findings of indications that a crime was committed from 11/05/2016.	16
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17.	Report of the OSA "Investigation of objects and documents" from 03/21/2016	21-26
18.	Accompanying letter to the Crimean Engineering and Pedagogical University from 03/24/2016	27
19.	Explanation of rights, duties and responsibilities of an interpreter report from 03/24/2016.	28

20.	Accompanying letter from the Crimean Engineering and Pedagogical University form 04/21/2016	29
21.	Translated video - word for word	30-37
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23.	Document analysis report from 04/21/2016	40-51
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25.	Accompanying letter to the Department of Federal Security Service of Russia for the Republic of Crimea and the city Sevastopol from 04/21/2016.	58
26.	Accompanying letter to the Department of Federal Security Service of Russia for the Republic of Crimea and the city Sevastopol from 04/21/04.2016.	59
27.	Conclusion of expert witness No. 77 of 04/21/2016.	60-72
28.	Decree on the initiation of an application for the extension of the preliminary investigation period from 07/05/2016.	73-75
29.	Decree on the initiation of an application for the extension of the preliminary investigation period from 09/07/2016.	76-78
30.	Decree on the initiation of an application for the extension of the preliminary investigation period from 07/11/2016.	79-81
31.	Decree on the initiation of an application for the extension of the preliminary investigation period from 12/07/2016.	82-84
32.	Decree on the initiation of an application for the extension of the preliminary investigation period from 02/07/2017.	85-87
33.	A copy of the passport of a citizen of the Russian Federation under the name of Umerov I. R.	88-90
34.	A copy of the passport of a citizen of the Ukraine under the name of Umerov I. R.	91-96
35.	Response to a request from the Military Commissariat of the Republic of Crimea from 06/22/2016 with an annex	97-102
36.	Response to a request from the Bakhchisaray Central Regional Hospital (psychiatrist and narcologist) from 06/14/2016.	103-104
37.	Response to a request from the Department of the Ministry of Internal Affairs of the Russian Federation for Bakhchisaray district from 06/14/2016.	105-106
38.	Request from the Department of Federal Security Service of Russia for the Republic of Crimea and the city Sevastopol from 05/16/2016.	107
39.	Protocol of explanation to the defendant Umerov I. R. of his rights under Art. 46 of the Criminal Procedure Code (CPC) of the RF from 12/05/2016	108-109
40.	Protocol of the explanation to the defendant Umerov I. R. of the right to use the help of a defendant from 05/12/2016	110
41.	Protocol of the explanation to the suspect Umerov I. R. of the rights under Chapter 40.1 of the CPC of the RF from 05/12/2016	111-115
42.	Copy of Kurbedinov, E. M. Attorney certificate.	116
43.	Order No. AS-0099 of the attorney Kurbedinov, E. M. from 05/12/2016.	117
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45.	Order No. 27 of attorney Temisheva, D. M. from 05/12/2016.	119

46.	Copy of Semedlyayev, E. S. Attorney certificate.	120
47.	Order No. AK-0014 of Attorney Semedlyayev, E. S. from 07/22/2016	121
48.	The protocol of interrogation of the defendant Umerov, I. R. from 05/12/2016.	122-125
49.	Decision on Selection of Measures of Detention in the form of Recognizance not to leave and proper conduct of 05/12/2016	126-127
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51.	Decree to prosecute Umerov, I. R. as defendant from 05/19/2016.	129-132
52.	Protocol of the interrogation of the defendant Umerov, I. R. from 05/19/2016.	133-135
53.	Protocol of the additional interrogation of the defendant Umerov, I. R. from 10/20/2016.	136-139
54.	Decree to prosecute Umerov, I. R. as defendant from 11/02/2016.	140-145
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56.	Decree to prosecute Umerov, I. R. as defendant from 01/30/2016.	150-155
57.	Protocol of the additional interrogation of the defendant Umerov, I. R. from 01/30/2016.	156-159
58.	Protocol of the witness interrogation of Avamilev, E. R. from 10/14/2016.	160-165
59.	Protocol of the witness interrogation of Bayramov, L. U. from 10/05/2016.	166-169
60.	Protocol of of the witness interrogation of Bondaruk E.A. from 05/26/2016.	170-173
61.	Protocol of the witness interrogation of Budko K. I. from 05/26/2016.	174-177
62.	Protocol of the witness interrogation of Dzhelyalova N.E. from 10/13/2016.	178-183
63.	Protocol of the witness interrogation of Maushev M. T. from 10/17/2016.	184-189
64.	Protocol of the witness interrogation of Memetov Z. I. from 05/27/2016.	190-192
65.	Potocol of the witness interrogation of Memetov S. Z. from 05/31/2016.	193-197
66.	A copy of the protocol of the witness interrogation of Polozov, N. N. from 01/25/2017 with attached - an envelope with two optical discs.	198-202
67.	Protocol of the witness interrogation of Umerov, M. S. from 05/26/2016.	203-205

68.	Protocol of the witness interrogation of Memetov, S. I. from 05/27/2016.	206-208
69.	Protocol of the witness interrogation of Cherkashinoi, O. N. from 10/05/2016.	209-213
70.	Protocol of the witness interrogation of Shevchenko, V.A. from 11/25/2016	214-220
71.	Protocol of the witness interrogation of Yunusova, L. A. from 10/12/2016	221-226
72.	Protocol of the expert witness interrogation of Alunin D. A. from 06/06/2016.	227-233
73.	Protocol of the expert witness interrogation of Krasnovsky, S. A. from 08/10/2016.	234-238
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74 items on 243 pages

Desdescription prepared by:

Investigator of the Investigation Department of the Department of
Federal Security Service of the Russian Federation for the Rostov
Region, Senior Lieutenant of Justice [signature]

I. A. Skripka

DECREE
for the Initiation of criminal
proceeding and Pre-trial Investigation

City of Simferopol

May 12, 2016
12: 05 PM

The investigator of the Investigation Department of the Department of Federal Security Service (FSB) of Russia in the Republic of Crimea and the city of Sevastopol, Senior Lieutenant of Justice Skripka I. A., having examined the crime report - a report on the indications of evidence of a crime dated 05/11/2016, received from the Department for Protection of the Constitutional System and the Fight against terrorism of the Department of FSB of Russia in the Republic of Crimea and the city of Sevastopol registered in the Registration of crime reports book on May 11, 2016 under No. 181 with attached – operational-investigational materials

DECIDED:

On March 19, 2016, the citizen of the Russian Federation Umerov, I. R., while being present on the territory of Ukraine in the city of Kiev, took part in a live broadcast on the Ukrainian television channel "ATR", where he publicly appealed to an unlimited number of people about the necessity to violate the territorial integrity of the Russian Federation.

Furthermore, under circumstances not specified by the investigators, the video materials of the TV appearance made by Umerov, I. R. were placed and freely accessible on the information and telecommunication network "Internet" of the resource "YouTube" at web address: <https://www.youtube.com/watch?v=CyTuPNPkTUI>, with the title "Ilmi Umerov. Live broadcast from 03/19/2016 ", access to which is granted to unlimited number of persons.

On the basis of the mentioned above, based on the provisions stipulated in art. 140 and 143 of the Criminal Procedure Code of the Russian Federation about the grounds for initiating a criminal case - a report about the findings of indications that a crime was committed provided for in Part 2 of Art. 280.1 of the Criminal Code of the Russian Federation, received on 05/12/ 2016 from the Department for Protection of the Constitutional System and the Fight against terrorism and the Department of Federal Security Service of Russia for the Republic of Crimea and the city Sevastopol with the attachment - the materials of operational-investigational activity and the established in part 2 of Art. 140 of the Criminal Procedure Code about the grounds for initiating a criminal case, and taking into account that there is sufficient data indicating the presence of crime indications in the actions of Umerov, I. R. as provided in part 2 of Art. 280.1 of the Criminal Code of the Russian Federation, guided by. Art. 140, 145, 146 and part 1 of Art. 156 of the CPC of the RF,

I DECIDED:

1. To initiate criminal proceedings on the indications of crime as provided for in Part 2 of Art. 280.1 of the Criminal Procedure Code of the Russian Federation, against a Russian citizen, Umerov Ilmi Rustemovich, D.O.B. 08/03/1957, who was suspected of committing public appeals for the carrying out of actions,

Annex 933

Protocol, Interrogation of the Suspect (12 May 2016)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

PROTOCOL
Interrogation of the suspect

122

Simferopol

The interrogation started at 6: 20 PM

The interrogation was completed at 6: 38 PM

May 12, 2016

Investigator of the Investigation Department of the Federal Security Service of the Russian Federation for the Republic of Crimea and the city of Sevastopol, Senior Lieutenant of Justice Skripka, I. A., in room No. 109 of the Investigation Department of the Department of FSB of Russia for the Republic of Crimea and city of Sevastopol, located at address 13, Ivana Franko boulevard, Republic of Crimea , in accordance with part 2, page 46, page 189 and 190 of the Criminal Procedural Code of the RF, I conducted an interrogation under criminal proceeding No.. 2016427026 of the defendant:

1.	Last Name, First Name, Middle	Umerov Ilmi Rustemovich
2.	Date of birth	08/03/1957
3.	Place of Birth	village of Akhunbabaeva of the Tashlak District, Ferghana Region, Uzbek Soviet Socialist Republic
4.	Place of residence and/or registration, telephone number	Registered at this address: 17 Pushkin str, Bakhchisaray, Republic of Crimea and in fact lives at this address: 67 Lazurnaia str, Bakhchisaray, Republic of Crimea; cellular phone number +7 (978) 701-34-74
5.	Citizenship	Citizen of the Russian Federation
6.	Education	Higher, Andijan Medical Institute of the Uzbek SSR
7.	Marital Status, family composition	Married, no underage children
8.	Place of work or study, Telephone	Retired
9.	Military duty	Not liable for military service
10.	Criminal record	Does not have written record
11.	Passport (another document certifying the identity of the defendant)	Passport of a Russian citizen series 4514 No. 656825, issued on 04/18/2014 by the Federal Migration Service (division code 900-002).
12.	Other data regarding the personality of the defendant	MP is not present, are not available, according to the accounts of expert doctors in narcology and narcology, not a subject

With the participation of the defender - attorney Tmishev Dzhemilia Musayevich, presenting certificate No. 1289 of 12/24/2015, order No. 27 of 05/12/2016 with attorney certificate Kurdedinov Emil Maksudovich, presenting certificate No. 1171 of 11/20/2015, warrant AS-0099 dated 12/05/2016 [signature]

During the interrogation, an office computer and printer were used
 Defendant [signature]
 Defense attorney [signature]

I have been explained that, in accordance with part four of Art. 46 of the Criminal Procedure Code (CPC) of the RF, I have the rights:

1. to know what I am suspected on, and to receive a copy of the decision on the criminal case against me, or a copy of the minutes of the debate, or a copy of the decision to apply to me the measure of detention;

2. to give explanations and testimony about the suspicions involving me or refuse to give explanations and testimony. I am warned that with my consent to provide evidence, my testimony can be used as evidence in the criminal case, including with my subsequent renunciation from the testimony, except for the case provided for in p. 1, Part Two of Art. 75 of the CPC of the RF;

3. to use the assistance of an attorney from the moment provided for in paragraphs 2 to 3 of Part Three of Article 49 of the CPC of the RF and to meet him/her privately and confidentially before my first interrogation;

4. to present evidence;

5. to file petitions and objections;

6. to make depositions and explanations in my native language or in a language that I am proficient in;

7. to use the help of an interpreter free of charge;

8. have access to the records of the investigation conducted with my participation and submit comments about it

9. to take part, provided that the investigator or detective has given his or her permission, in the investigative actions carried out at my request, upon request by my defense attorney or legal representative;

10. file complaints against actions (lack thereof) and court decisions,

11. to rely on other ways and means of defense not prohibited by the CPC of the RF

Furthermore, it has been explained to me that pursuant to Article 51 of the Constitution of the Russian Federation I may refuse to testify against myself, my spouse and other close relatives, who are listed in paragraph 4 of Article 5 of the Criminal Procedure Code of the Russian Federation.

Defendant [signature]
 Defense attorney [signature]

According to p. 18 of the CPC of the RF, the suspect was explained the right to make statements, give explanations and testimony, file petitions, file complaints, get acquainted with the materials of the criminal case, appear in court using his native language or another language, which he knows, and use the help of an interpreter, in accordance with the procedure established by the CPC of the RF.

[signature]

Before the beginning, during or after the interrogation of the suspect from the persons involved, the suspect Umerov, I. R., defenders Temishev, D. M., Kurbedinov, E. M. no statements were received.

Content of statement: none.

Defendant [signature]

Defense attorney [signature]

Defense attorney [signature]

protocol read: on his own

Remarks to the protocol: none

Defendant [signature]

Defense attorney [signature]

Defense attorney [signature]

The protocol is drawn up in accordance with Art. 166 of the CPC of the RF

The protocol was prepared by:

Investigator of the Investigative Department of the Federal Security Service of Russia for the Republic of Crimea and Sevastopol, Senior Lieutenant of Justice

[signature] I. A. Skripka

Annex 934

Decision to Prosecute As Defendant Adopted by I.A. Skripka, Senior Lieutenant of Justice and the Investigator of the Investigation Department of the Department of Federal Security Service (FSB) of Russia in the Republic of Crimea and the city of Sevasto

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document

to prosecute as defendant

city of Simferipol

May 19, 2016

Investigator of the Investigative Department of the Department of Federal Security Service of Russia for the Republic of Crimea and the city Sevastopol, senior lieutenant of justice I.A. Skripka, having examined the materials of the criminal case No. 2016427026,

DECIDED:

Umerov I. R. made public appeals for the implementation of actions aimed at violating the territorial integrity of the Russian Federation, committed using information and telecommunications networks (including the Internet),

This how, on March 19, 2016, being on the territory of Ukraine in Kiev, acting upon existing intent to carry out activities aimed at violating the territorial integrity of the Russian Federation, in circumstances not established by the investigation, participating in the live broadcast television show named after Noman Chelebidzhikhan of the Ukrainian ATR television channel, and, giving an interview to the presenter of the specified television channel, he deliberately and publicly appealed to an unlimited number of persons to carry out actions aimed at returning the Republic of Crimea under the jurisdiction of Ukraine.

Furthermore, under circumstances not specified by the investigators, the video materials of the TV appearance made by Umerov I. R. were placed on the information and telecommunication network "Internet" for free access on the video channel "YouTube" at web address: <https://www.youtube.com/watch?v=CyTuPNPkTUI>, with the title "Ilmi Umerov. Live broadcast from 03/19/2016 ", access to which is granted to unlimited number of persons. In the abovementioned video, the following statements of Umerov I. R. are included:

"We must force Russia to withdraw from the Crimea, the Donbass and Lugansk, if they returned the borders of Ukraine back to their former place" ..., "I repeat, we must force Russia to leave the Crimea and the Donbass."

"Ukraine should not change its opinion, and in a short time should adopt several laws, on indigenous peoples, on the status of the Crimean Tatar people, then to make changes in Ukraine's constitution from territorial autonomies should be translated into national autonomy" ... "It is mandatory, if Crimean Tatar autonomy will be part of Ukraine "... "To help Mejlis of the Crimean Tatar People to expand and deepen, and strengthen the 3 sanctions, and to force Russia to leave the Crimea ...", "... if they returned the borders of Ukraine back to their previous location" ... "I repeat, it is necessary to force Russia to withdraw from the Crimea and Donbas."

Thus, Umerov, I. R, acting deliberately, in violation of Federal Law No. 114-FZ of July 25, 2002, "On Countering Extremist Activities," publicly appealed for the implementation of actions aimed at violating the territorial integrity of the Russian Federation, committed with the use of information-communication networks (including the Internet)

In other words, with his actions Umerov I. R. committed a crime under part 2 of Art. 280.1 of the Criminal Code of the RF

Based on the above and guided by Art. 171,172 CPC of the RF,

I DECIDED:

To indict Umerov Ilmi Rustemovich, D.O. B. 08/03/1957, bon in village if Akhunbabaev of the Tashlak district of the Ferghana region of the UZ of the USSR, as a defendant in criminal case No. 2016427026, having charged him with committing a crime under part 2 of Article 280 1 of the Criminal Code of the Russian Federation, about which he will be indicted.

Investigator of the Investigative Department of the Federal Security Service of Russia for the Republic of Crimea and Sevastopol, Senior Lieutenant of Justice

[signature]

I. A. Skripka

This decision was announced to me on May 19, 2016 at 10.30 AM, its content was read to me in person

(read in person and aloud by the investigator)

The essence of the indictment is explained. At the same time, I was explained the rights provided for under Art. 47 of the CPC of the RF:

1. know what I am accused of;
 2. to obtain a copy of the indictment decree as a defendant, a copy of the decision on the application to me of measures, detention, a copy of the indictment decision, the indictment or the indictment order;
 3. to object to the charges, to testify on the charges brought against me, or to refuse to give testimony.
- If I agree to testify, I am warned that my testimony can be used as evidence in a criminal case, even if I renounce this testimony later, except as provided by paragraph 1 of the second part of Article 75 of the CPC of the RF
4. to present evidence;
 5. to file petitions and objections;
 6. to make depositions and explanations in my native language or in a language that I am proficient in;
 7. to use the help of an interpreter free of charge;
 8. To use the help of a lawyer, including free of charge in cases provided for by the CPC of the RF;
 9. to have meetings with the defender privately and in confidentially, including before the first interrogation, without limiting their number and duration;
 10. to take part, provided that the investigator or detective has given his or her permission, in the investigative actions carried out by my request, upon request by my defense attorney or legal representative;
 11. get acquainted with the decision on the appointment of forensic expertise, raise questions to the expert and get acquainted with the expert's conclusion;
 12. after the conclusion of the preliminary investigation phase, to get acquainted with all the materials of the case and to write down any information from the criminal case without limitations;
 13. to make copies of materials of the criminal case at their own expense, including by using technical means;
 14. to bring complaints against actions (inaction) and decisions of the detective, the investigator, the prosecutor and the court and to participate in their hearing by the court;
 15. to object to the termination of the criminal case on the grounds provided for in part 2 of Article 27 of the CPC of the RF
 16. Participate in the trial of the criminal case in the courts of the first and second, cassation and supervisory instances, as well as in the hearing by the court of the issue of election in respect of the measures of detention and in other instances provided for in clauses 1-3 and 10 of second part of art. 29 of the CPC of the RF
 17. To get acquainted with the record of the court session and to submit comments to it
 18. To appeal the verdict, the ruling, the court decision and receive copies of the decisions, subject to appeal;
 19. To receive copies of the complaints and submissions brought in the criminal case and file an objection for these complaints and submissions
 20. To participate in the consideration of issues related to the execution of the sentence;
 21. To rely on other ways and means of defense not prohibited by the CPC of the RF

I was also explained chapter 40.1 of the CPC of the RF, a special procedure for the adoption of a court decision in the conclusion of a pre-trial cooperation agreement.

Defendant [signature]

Defense attorney [signature]

The decision was announced, the rights were explained, a copy of this decision I was presented to the defendant and his counsel on May 19, 2016

Investigator of the Investigative Department of the Federal Security Service of Russia for the Republic of Crimea and Sevastopol, Senior Lieutenant of Justice

[signature] I. A. Skripka

A copy of this decision was sent to the public prosecutor on May 19, 2016.

Investigator of the Investigative Department of the Federal Security Service of Russia for the Republic of Crimea and Sevastopol, Senior Lieutenant of Justice

[signature] I. A. Skripka

Annex 935

Excerpts of Hearing Transcript of Umerov

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document

[Page 1]

[...]

To summarize the foregoing, the board of linguistic specialists of the Guild of Linguistic Experts on Documentation and Information Disputes (GLEDIS) has reached the following key conclusions.

Opinion No. 110 of August 22, 2016 prepared by expert O.N. Ivanova does not reflect some of the input data at the disposal of the expert at the time of expert examination, which calls into question the objectivity of the document presented as an opinion reflecting the findings of a forensic expert examination.

In conducting the expert examination whose findings are reflected in said opinion, expert O.N. Ivanova grossly violated the principle of completeness of an expert examination prescribed by Article 8 of the Law *On State Forensic Expert Examinations in the Russian Federation*, which obligates the expert to carry out a complete examination of all the available criminal case files.

As a result of this violation of the principle of completeness and the resultant substitution of notions committed by the expert in the wake of investigator I.A. Skripka, the expert answered questions of the investigator posed in respect of the item called "transcript of the video recording titled 'Ilmi Umerov. Live Broadcast. March 19, 2016'," which in reality does not apply to any transcript of any video recording whatsoever, but merely to a translation from the Crimean Tatar language performed by K.U. Salyadinov.

The criminal case files presented for expert examination do not include any information to indicate that the text of the translation performed by K.U. Salyadinov and examined by the expert was in any way disseminated by I.R. Umerov, reproduced by him and/or stored by him for purposes of dissemination. The case files contain only information to the effect that I.R. Umerov disseminated the original text in the Crimean Tatar language, of which he stands accused. Meanwhile, the investigator did not pose questions to expert O.N. Ivanova about this original text; it was not examined by the expert, and the expert did not even find it appropriate to review it despite the fact that it was made available to her.

The significance of this conclusion is extremely high. According to I.R. Umerov's defense attorney, lawyer M.Z. Feygin, the translation performed by K.U. Salyadinov is not semantically equivalent to the original text in the Crimean Tatar language.

The conclusion drawn by expert O.N. Ivanova in response to Question 1 is not justified.

The conclusion drawn by expert O.N. Ivanova in response to Question 4 to the effect that the translation examined by her contains calls to undermine the territorial integrity of the Russian Federation pertains to two statements, the first one of which is not present in the text examined by the expert, and the second one of which has been taken out of context with a considerable distortion of meaning.

Therefore, the conclusion drawn by expert O.N. Ivanova in response to Question 4 is altogether unrelated to the text examined by her and, consequently, cannot be found to be justified.

I request that the original text of the review dated April 6, 2017 and documents proving the experts' qualifications be appended to the case file.

[...]

[Page 3]

[...]

S.A. Kishveyev was asked to enter the courtroom.

The court verified the identity of S.A. Kishveyev. He was born on January 1, 1965 at DVZ No. 1 of Begovatsk District, Tashkent Oblast of the Uzbek Soviet Socialist Republic and graduated from Tashkent People's Friendship Order State Pedagogic University majoring in "Tatar language and literature and Russian language and literature".

[...]

After deliberation in the courtroom, the court decided:

- To allow S.A. Kishveyev to participate in the proceedings in the capacity of an expert and question him pursuant to Part 4 of Article 271 of the Criminal Procedure Code of the Russian Federation.

[...]

Expert S.A. Kishveyev: I acknowledge my understanding of my rights and obligations.

Questions posed by defense attorney E.M. Kurbedinov to expert S.A. Kishveyev:

- What explanation can you offer as an expert regarding the recording of Ilmi Umerov's speech?

Expert: I completely reviewed the translation, translated his speech, and then compared my translation with that of Kurbedinov and performed a comparative analysis. I have listed the translation inaccuracies in the table here. Kurbedinov translated the most important fragment thusly: "In order to help the Mejlis of the Crimean Tatar People, [they] would all together broaden and deepen, toughen those sanctions and force Russia to leave Crimea, Donbas, and Luhansk, would bring back the borders of Ukraine to where they used to be, after which the actions of those international organizations would have an even greater effect. Perhaps now it would be enough to influence those Mejlis members who remain in Crimean territory, and I think the fact is that this influence will not happen. But we need to influence them. I repeat: we have to force Russia to leave Crimea and Donbas". This translation is inaccurate. The actual translation reads thusly: "In order to help the National Mejlis of Crimean Tatars, if everybody broadened and deepened, toughened those sanctions and forced Russia to give up Crimea and leave Donetsk and Luhansk, and the borders of Ukraine returned to the way they had been before, the influence of international organizations would be stronger after this. Presently we may be able to influence those Mejlis members who are in Ukraine and the existing situation. However, I believe they will not be able to influence the situation and events occurring inside Crimea. I repeat: their influence should be so as to force Russia to leave Crimea and Donbas". The words "have to" have not been used here.

- Does the translation contain any mistakes?

Expert: Very many. They are listed here. The translator used the following translation: "after they captured Crimea", while he should have used the translation "on the part of the occupation authorities". He also translated "the case of May 3, 2015 ended", while he should have used the translation: "the case of May 3 ended". Then: "8-10 of our guys are lying in prisons in connection with the Khizb-ut Takhrir case", while he should have used the translation "8-10 of our compatriots are lying (sitting) in prisons in connection with the Khizb-ut Takhrir case".

He used the translation: "One could say they frightened them, one could say they cooled them down", while he should have used the translation: "One could say they intimidated them, one could say they discouraged them". These words are synonyms.

He used the translation: "Freethinking in Russia is prohibited", while he should have used the translation: "It is prohibited to have your own opinion in Russia".

There is a lot of unqualified translation.

- How many mistakes are there in all?

Expert: 17 mistakes. Statements were translated incorrectly.

[...]

[Page 5]

[...]

Questions posed by defense attorney A.P. Podrabinek to expert S.A. Kishveyev:

- Do the translation mistakes made by Kurbedinov change the meaning of what Umerov said?

Expert: Of course. One word can change an entire sentence.

- To what extent do the mistakes he made change the meaning?

Expert: Even this sentence: "We have to force Russia to leave Crimea and Donbas". He did not say those words. He said that influence on the part of international organizations should force Russia to leave Crimea and Donbas. The words "have to" are not here. The words "have to" play the key role here and change the entire meaning of the sentence.

- Am I right in understanding that different conclusions can be drawn from the translation by Salyadinov and your translation?

Expert: Yes, of course.

Questions posed by defense attorney E.S. Semedlyaev to expert S.A. Kishveyev:

- Can a translation fully convey the meaning of what has been said in another language?

Expert: I can do so closely.

- Do you believe it would be more appropriate to perform an expert examination of the Crimean Tatar version or the translation?

Expert: The Crimean Tatar version, naturally.

[...]

[Page 7]

[...]

I can even say that I am grateful to some extent to the judge and even the prosecutor that they insisted on examining the disk in the courtroom. This examination revealed many inaccuracies in the translation by translator K. Salyadinov.

Over the course of the translation, I and my defense attorneys repeatedly corrected him. Meanwhile, the most important part of the translation in the criminal case files states: "we have to force Russia to leave Crimea and Donbas". I spoke out loud, asking the translator how the words "have to" sound in Crimean Tatar. He answered "kerek". After listening to this part of my interview for several times, the court verified that the word "kerek" is not there. Translator Salyadinov also said: "The word 'kerek' is not there."

In reality, in this part of my interview I discussed the assistance of international organizations for the Mejlis of the Crimean Tatar people, which does not extend to Crimean territory. I also discussed sanctions imposed by international organizations (UN, EU) on the Russian Federation.

Let me quote the translation by Prof. Kerimov that was appended to the case file: "In order to help the Mejlis of the Crimean Tatar People – if everybody jointly toughened, broadened and deepened the sanctions and forced Russia to give up Crimea and leave Donetsk and Luhansk, and the borders of Ukraine returned to the way they had been before, the influence of the international organizations would be stronger after this. Presently they may be able to influence Ukraine and those Mejlis members who are in Ukraine. However, I believe they will not be able to influence the existing situation and events occurring inside Crimea. I repeat: their influence should be so as to force Russia to leave Crimea and Donbas."

In other words, Russia will give up Crimea on its own under the influence of sanctions. I did not use the expression "have to force", and this fact has been proven here in the courtroom while we examined the recording and performed the translation.

Previously, while discussing in more detail the inaccuracies and substitutions of notions in the work of the translator and the expert, I emphasized the fact that the words "have to" have been added to the two expressions on which the indictment against me is based (the first one during the expert examination and the other one in the translation).

The so-called expert examination was based on this incorrect translation with the addition of the “right” words. It should be recalled again that this “translation” was called a “transcript” in which the “orthography and spelling of the source have been preserved”. This doctored text underwent an expert examination. According to the findings of the examination, the “examined text of the transcript of the video recording titled ‘Ilmi Umerov. Live Broadcast. March 19, 2016’ contains calls to undermine the territorial integrity of the Russian Federation”.

As a result, neither the investigator nor the prosecutor bothered to question the opinion of the so-called “expert”. After all, experts are always right, aren’t they?

The case files also contain the literal translation of a part of my interview (minutes 20 to 23) performed by Prof. I. Kerimov. It does not contain the words “have to” in the two places based on which the so-called “expert” reached her conclusions.

The case files also contain a review of the opinion of expert O. Ivanova, which was prepared in Moscow. The review was prepared by the Guild of Linguistic Experts on Documentation and Information Disputes (GLEDIS). According to Part 2 of the final conclusions drawn in this review, the expert committed a substitution of notions in the wake of the investigator. In reality, the questions of the investigator apply not apply to any transcript of any video recording whatsoever, but merely to a translation from the Crimean Tatar language performed by the translator. The criminal case files presented for expert examination do not include any information to indicate that the text of the translation performed by K. Salyadinov and examined by the expert was in any way disseminated by Umerov, reproduced by him and/or stored by him for purposes of dissemination. Therefore, the conclusion drawn by expert Ivanova in response to Question 4 is unrelated to the text examined by her and, consequently, cannot be found to be justified.

My attorneys contacted the Ukrainian Bureau of Linguistic Expert Examinations of the National Academy of Sciences of Ukraine, which prepared an expert examination opinion. Presented for examination was an optical disk with a recording of my interview and the text of the translation performed by translator Salyadinov for the Federal Security Service. Experts were asked several questions including this question: “Did the speech by I. Umerov contain calls to carry out acts of terrorism and undermine the territorial integrity of the Russian Federation?”

The Ukrainian experts pointed out the inaccuracies in the translation and conducted an expert examination of my speech in the

Crimean Tatar language (Page 19). The final part of this expert examination contains two statements with the calls worded as follows: "Without succumbing to fear, openly express one's own opinion" and "Without succumbing to fear, come to court hearings of cases involving the Crimean Tatars". Meanwhile, my speech does not contain calls to engage in extremist activity or calls to undermine the territorial integrity of the Russian Federation. Unlike so-called "expert" O.N. Ivanova, the Kyiv-based expert, Prof. Bohdan Mykolayovych Anzhniuk, Ph.D. in philology, director of the Ukrainian Bureau of Linguistic Expert Examinations of the National Academy of Sciences of Ukraine, performed the job entrusted to him in an honest manner and up to a high quality standard.

Unfortunately, the court refused to add this alternative expert examination to the case file.

[...]

[Page 9]

[...]

Accordingly, the investigation went down another erroneous path by ordering an expert examination of the Russian-language version the way it is normally done in other cases where the problem of bilingualism does not exist. Meanwhile, the Crimean Tatar language is also an official language, so the Crimean Tatar version could have also been examined and the findings of the examination translated into Russian. However, they took a different path, the way they usually do. The investigator is not a professional and relies on a translator. Perhaps the investigator had no way of knowing whether or not this translator was professional enough. However, in this case Salyadinov (the translator) discussed not just the different meanings of the translation implied by the Crimean Tatar language, but also mentioned the fact that the investigator imposed on him the specific wording of the translation. We heard him speak about this on 3 or 5 occasions. What he said was inconsistent, but still he said it. He said how he had to go to the investigator himself in the absence of attesting witnesses or other people, and edit this endless translation. We have documented the fact that specific words present in the translation were originally absent in Umerov's speech. We have repeatedly mentioned the words "have to", or "kerek" in the Crimean Tatar language. So the investigator recruited this translator, who wrote down the Russian translation going by his ear straight from the recording, without first deciphering the video recording and writing down

the literal transcript in the Crimean Tatar language using the Crimean Tatar alphabet (he used the Cyrillic alphabet instead). This text was then presented for expert examination. Is this acceptable? In our opinion, in the opinion of the defense attorneys, and from the perspective of the law – it's not. Because it would have been more appropriate to conduct the expert examination in the Crimean Tatar language to ensure a greater accuracy of the expert examination. He could have taken the Crimean Tatar text and perform the expert examination on it and only then translate the findings of the expert examination into Russian. This would not have made much of a difference because the expert findings are not a creative text. They are written in a fairly understandable and dry language of the expert examination in accordance with the Law *On the State Expert Examination Practice*. This did not happen. A Russian-language text was presented and for some reason called a transcript.

The review of the Guild that I have presented discusses this in a fair amount of detail. My hope is that when you write the reasoning part of the verdict you will make sure to use the conclusions drawn not by us, the defense team, but by professionals and not the so-called "expert" Ivanova; by people who perform this work at a very high professional level in Moscow; scholars with degrees, titles, and so forth. The GLEDIS Guild. What conclusions have they drawn? The most important conclusion is that translator Salyadinov submitted for expert examination a creative text, his own rendition. It is completely unrelated, no matter in what details and to what degree it can be correlated with Umerov's speech. He submitted for expert examination his own creative text that, I repeat, has nothing in common with Ilmi Umerov's speech. This expert examination was performed by Ivanova. For this specific reason nobody can say for certain which specific phrases Umerov used that would give one reason to conclude that they contained deliberate calls (and you understand that this is a deliberate act from the subjective perspective) to acts aimed at undermining the territorial integrity of the Russian Federation. For this exact reason, all the remaining conclusions (1 through 4) are essentially meaningless. This is because the expert examination was performed on a text that was not suitable for this kind of examination. Umerov did not say the things pointed out by expert Ivanova. He did not say them at all. It will be recalled that even expert Ivanov, whom you summoned here, when asked "Would the meaning and the wording of the answer to Question 4 asked by the investigator change if the words present in the translation were absent?", replied that this would require conducting a new expert examination. This question could not be answered just like that after being summoned to update or supplement the findings of an expert examination. This calls for a

separate expert examination. And this is not just because of several "have to" words and so forth. This means that a new expert examination is necessary.

Your honor, how are you going to write the verdict if you essentially have exhaustive... because in this case linguist Ivanova serves as comprehensive evidence in the case, whose findings you will use to interpret the severity of the offense? Even she said that a new expert examination is necessary in order to draw a more accurate and definitive conclusion considering the absence of the words in question. You don't have this new expert examination on hand, your honor. In other words, you would engage in guesswork. While you are not a professional linguist, you can only offer a professional legal evaluation. However, you cannot perform a professional evaluation as a philologist, linguist, and expert in this particular field. This brings us to a dead end. Any verdict you reach other than acquittal would not be objective and would not be consistent with the law and be justified, since in this case any doubts of this kind must be interpreted in favor of the defendant.

[...]

Annex 936

Kharkiv Human Rights Protection Group, Crimean Tatars Demand Recognition as Indigenous People (18 September 2013)



 PUBLICATIONS > MONTHLY BULLETIN PRAVA LUDYNY (HUMAN RIGHTS) > 2013 > 09

18.09.2013

Crimean Tatars demand recognition as indigenous people

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Remembrance and Vigil

We will not forget

As tension mounts in the Crimea

Engineering Conflict in the Crimea

Parliamentary Committee call for intervention in Crimean conflict



We are on our land! (photo: Radio Svoboda)

Crimean Tatars want Ukraine's government to recognize them as one of the indigenous peoples of Ukraine. This would comply with the UN Declaration on the Rights of Indigenous Peoples which Ukraine however abstained from voting on in September 2007.

Mustafa Jemilev, Head of the Mejlis of the Crimean Tatar People, explained to Radio Svoboda that the term "indigenous peoples" is used several times in Ukraine's Constitution, but there is no exact legal definition for the term. Nor is it stated which people's can be considered indigenous. Jemilev believes that this is why Ukraine did not support the 2007 UN Declaration.

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The situation could, however, change following adoption by the Cabinet of Ministers of a draft law on a Concept Framework for Ukraine's Ethno-National Policy". This is due to be tabled in parliament shortly. Mustafa Jemilev explains that though there is no direct mention of the Crimean Tatars, the document does contain a clear definition of the term "indigenous peoples".

Natalya Belitser from the Pilyp Orlyk Institute for Democracy believes that three ethnic communities in Ukraine are entitled to be considered indigenous peoples: the Crimean Tatars, the Karaim, and the Krymchaki.

"The Crimean Tatars, Karaim, and the Krymchaki are undoubtedly indigenous peoples, not national minorities. She points out, for example, that they do not have a kin-state and are therefore at a disadvantage to national minorities who may be protected through bilateral agreements and can often receive help in promoting their cultural, educational and linguistic identity. She is convinced that their status as indigenous peoples needs to be regulated through legislation, including through reference to the norms and provisions of the UN Declaration on the Rights of Indigenous Peoples".

Natalya Belitser is convinced that it was a mistake for Ukraine to abstain from the vote back in 2007, and it is time for this to be rectified, with this being supported by the international community.

Ali Khamzin, Head of the Mejlis' International Section, also hopes that Kyiv will change its current policy towards the Crimean Tatars which he calls the most discriminatory in all the years of Ukraine's independence. He says that the situation has worsened, and that they are seeing overt discrimination against the Crimean Tatar people, with further confrontation with the authorities lying ahead.

The UN Declaration does not simply protect indigenous peoples from discrimination and assimilation, but also affirms their right to self-determination, including through autonomy and self-government. Indigenous peoples also have the right to maintain and consolidate their particular political and other institutions.

According to Crimean Tatar activist Nedim Khalilov, it is these last provisions which are not accepted by the Ukrainian government and public. He believes that Ukraine is not willing to acknowledge the Crimean Tatars' right to self-government and autonomy.

One of the key characteristics of indigenous peoples is that regardless of their legal status, they preserve some or all social, economic, cultural and political institutions. An example of these is the Kurultai-Mejlis of the Crimean Tatar People. Also fundamental is an awareness of themselves as being indigenous to that place. Natalya Belitser is adamant that all of this undoubtedly applies to the Crimean Tatars.

Based on a report by Volodymyr Prytula at Radio Svoboda

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Kharkiv Human Rights Protection Group, Menacing FSB Interrogations of Ukrainian Cultural Centre Activists in Russian-Occupied Crimea (23 March 2017), accessed at <http://khpg.org/en/index.php?id=1490184936>.



 FREEDOM OF EXPRESSION



23.03.2017 | Halya Coynash

Menacing FSB interrogations of Ukrainian Cultural Centre activists in Russian-occupied Crimea

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Ukrainian Cultural Centre.png

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Four members of the Ukrainian Cultural Centre have been subjected to FSB interrogation in a move that seems clearly aimed at intimidation and at labelling any pro-Ukrainian activities, however unpolitical, as 'extremist'. One of the original founders of the Centre has been driven out of Crimea and is now facing charges effectively for opposing annexation, while another activist is threatened with possible criminal charges for a photo on her social network page with a Ukrainian flag.

Alyona Popova was questioned on March 21, while UCC founder Leonid Kuzmin, Mykhailo Batrak and Halyna Balaban were summoned earlier. The Crimean Human Rights Group [reports](#) that the four were told by FSB investigator Chumakov that they were being questioned as 'witnesses' in a criminal prosecution launched against another founder of UCC, Veldar Shukurdzhiyev for supposed 'extremism'. The FSB also asked questions about Ukrainian activist Andriy Shchekun who was forced to leave Crimea after being abducted and tortured by armed paramilitaries soon after Russia invaded Crimea, and Crimean journalist Ludmila Shchekun.

All of such questioning was manifestly aimed at putting pressure on the UCC activists, as are the charges against Shukurdzhiyev - seemingly of "public calls to action aimed at violating Russia's territorial integrity". He was basically forced to leave Crimea for mainland Ukraine in February 2016, after receiving constant summonses to the so-called Centre for Countering Extremism and the FSB, and informal warnings of what to expect if he remained.

Two UCC activists – Andriy Vinogradov and Natalya Kharchenko - [were briefly detained](#) on Jan 12, after the FSB turned up at their home, carrying out a search and terrifying their two small daughters. The FSB appears to be preparing 'extremism' charges against Kharchenko, with the pretext this time being a post on the social network VKontakte. The couple's lawyer Edem Semedlyaev was prevented from being present during the 4-hour interrogation or when they forced Kharchenko to sign an undertaking not to divulge any information. It is likely that the uncertainty they have left her in is deliberate. She has still not been charged, though the investigation appears to be under Article 280 § 2 of Russia's criminal code ('public calls to carry out extremist activities carried out with the use of tl media or Internet'). This is what the FSB call a photo of Kharchenko in camouf gear with a Ukrainian flag, against Crimean landscapes. Vinogradov [has since](#) [on top](#)

reported that both he and his mother-in-law lost their jobs after the detention, and that he received an open hint that it would be better for them to leave Crimea. He says they will probably be forced to do so.

If Kharchenko remains and the criminal charges are laid they will mark a sharp escalation in repression against UCC members, however harassment and court proceedings are not new. Kuzmin, Shukurdzhiyev and Oleksandr Kravchenko were first convicted of administrative 'offences' in March 2015 after being detained at a totally peaceful gathering to mark the 201st anniversary of the birth of the Ukrainian poet Taras Shevchenko. All three were sentenced to 40 hours of compulsory labour, effectively for Ukrainian flags, which one police officer in court suggested was a 'prohibited symbol'. Kuzmin also lost his job as a history teacher as a result.

'Applications' to hold the traditional gatherings remembering Shevchenko since then have been rejected. All Ukrainian activists are likely to be summoned and issued with 'warnings about the inadmissibility of extremism' before any Ukrainian anniversaries.

Leonid Kuzmin, together with Shukurdzhiyev and others, created the Ukrainian Cultural Centre in Simferopol on May 7, 2015. It was stressed from the outset that this was a totally apolitical centre, focusing on Ukrainian culture, history and language. Initially, members gathered in people's homes, however in 2016 they opened a very modest office in Simferopol. The survival of this is constantly in question, with a month's rent (around 200 USD) coming to more than individual members earn.

In January 2017, the Centre addressed an open appeal to MPs from Ukraine's Verkhovna Rada, asking for help in paying for this office. They explained that UCC provides an open space for exchanging information and communicating with each other, Ukrainian language lessons as well as a language club, a Ukrainian cinema club and a place to hold lectures on Ukrainian history, literature and culture. It also contains a library of Ukrainian literature. They also asked for individual contributions.

Yuliy Mamchur, the former army colonel best-known for his enormous courage in standing up to the Russian soldiers who had seized his military unit in Crimea in March 2014, was the only MP who responded.

Kuzmin and other UCC activists feel understandably bitter that Kyiv is indifferent to their plight. The situation is not, however, entirely straightforward. Krym.realii spoke with Mamchur and other MPs who said that they would certainly support any way of helping the Centre to survive. Olha Skrypnyk, from the Crimea Human Rights Group, warns that care must be taken since any kind of so-called 'foreign aid' could be deemed to violate Russian legislation which is – illegally – applied in occupied Crimea.

In a recent interview to Novaya Gazeta, Kuzmin explained that there had previously been far more people active in the Ukrainian Cultural Centre with Ukrainians coming to Simferopol from Sevastopol and Yalta. Many had stopped on top

coming, he explained, since they understood that even for attending lectures on Ukrainian themes and film showings, a person will at very least attract the attention of the FSB.

The recent harassment and threats of prosecution from the FSB demonstrate that the fears are not unfounded. They also give the lie to [Russia's claim](#) at the International Court in the Hague that ethnic Ukrainians and Crimean Tatars are not facing discrimination under Russian occupation.

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Annex 938

Human Rights Watch, Crimea: Attacks, 'Disappearances' by Illegal Forces (14 March 2014)

HUMAN
RIGHTS
WATCH**MARCH 14, 2014 5:22PM EDT**

Crimea: Attacks, ‘Disappearances’ by Illegal Forces

Rein in Units Operating Outside Law

(Simferopol) – Self-defense units and paramilitary forces in Crimea are abducting, attacking, and harassing activists and journalists.

These forces operate outside of the law, without insignia, without a clear command structure, and with complete impunity. Local authorities in Crimea have a responsibility to ensure these forces cease their actions, disband, and disarm, Human Rights Watch said.

“Crimean authorities are allowing illegal and unidentified armed units to run the show in the peninsula, and to commit crimes that go uninvestigated and unpunished, as if there is a legal vacuum,” said Rachel Denber, deputy Europe and Central Asia director at Human Rights Watch. “Far from it. The local authorities have clear legal obligations to provide protection and security to those in their jurisdiction.”

Human Rights Watch documented the involvement of self-defense units in the abductions of at least six activists from the Euromaidan movement, which organized the months of protests in Kiev that led to President Viktor Yanukovich’s ouster. These units have also attacked and harassed numerous local and foreign journalists.



Armed self-defence forces in Ukraine.

© 2014 Reuters

Local and international media freedom groups have also documented dozens of attacks against reporters by self-defense groups across Crimea. Ukrainian human rights groups have reported that the units have also been involved in violently dispersing demonstrations, unlawfully searching people and vehicles, especially at the Crimea's administrative borders, and harassing ordinary citizens.

Self-defense units started actively operating throughout Crimea at the end of February 2014. Their "commander," Pavel Sheremet, his official status unclear, said at a news conference on March 4 that the units consist of former policemen, former army officers, Afghan war veterans, and others. Sheremet emphasized that the units do not have the right to conduct searches or arrests, and should operate jointly with the police.

The head of the Crimean Council of Ministers, Sergei Aksenov, said that as of March 4, 11,000 men have signed up as members of self-defense units, and that they are armed with shields, sticks, and "lawfully registered firearms." Aksenov said that the units will be necessary before and during the referendum on the status of Crimea, scheduled for March 16, and until the situation in Ukraine "stabilizes." He denied widespread allegations that Russian security services were among the units.

According to statements by officials in Crimea, these forces have "taken under control" all military installations, law enforcement agencies, and "strategic objects."

However, Human Rights Watch observations on the ground in Crimea and interviews with people who had – or were witnesses to – interactions with self-defense units, suggest that these units operate outside any legal framework. Some wear camouflage clothes without insignia, others are in civilian clothes. Many wear armbands that symbolize loyalty to Russia with the colors of the Russian flag, or the black and orange St. George flag, the symbol of the highest Russian military honor. Units patrolling the streets are usually unarmed and do not wear masks, while those manning checkpoints, or other strategic locations, wear black balaclavas and carry automatic weapons, including AK-47s.

Ukrainian law allows for the "participation of citizens in maintaining law and order," including the creation of self-defense units, but specifies that they are allowed to operate only jointly with regular law enforcement agencies, under clearly identified circumstances, and never with the use of firearms.

Human Rights Watch found that local police appear to have no coordination with or control over the units. In several cases documented below, witnesses and victims of abuses told Human Rights Watch that the police either were not present during the operations conducted by self-defense units, merely stood by, or explicitly refused to intervene, saying that they had no authority over these units.

Based on accounts by witnesses, as well as multiple professional and amateur videos posted on YouTube, the self-defense units are often accompanied by or operate together with Cossacks, as well as large groups of fully uniformed masked men without insignia, widely believed by the locals to be members of Russian armed or special forces. On at least one occasion reported to Human Rights Watch, a member of a self-defense unit admitted to belonging to Russian security forces.

A Ukrainian commander of one of the Ukraine military bases in Simferopol told Human Rights Watch that, as armed men in camouflage without insignia were taking over the base, the Ukrainian officers tried to negotiate with them, stating that Crimea was part of the Ukrainian territory, where Ukrainian laws applied. The commander said that one of the paramilitaries then yelled, "I don't care about Ukrainian laws; I am an officer of the Russian Federation!"

Human Rights Watch is concerned that the presence in the streets and public buildings of armed men in military uniform, as well as self-defense patrols who are not members of regular law enforcement or security forces, pose a threat to the people's liberty and security in Crimea.

The authorities in Crimea should immediately disarm and disband all units operating outside of the law, protect people from their illegal actions, and ensure that all law enforcement activities are carried out by the police, Human Rights Watch said. Authorities should ensure that any self-defense units that are created operate in accordance with the law and that the public is aware of the units' chain of command structure and accountability mechanisms.

The authorities should also open investigations into crimes and human rights abuses allegedly committed by members of self-defense units and hold them to account. Those detained or "disappeared" by the units or paramilitaries should be immediately released, and journalists should be allowed to carry out their work without intimidation and harassment.

Under human rights law, including in particular the European Convention on Human Rights, which is binding on authorities throughout Ukraine, the authorities have an obligation to take appropriate steps to safeguard the lives and security of everyone within their jurisdiction. This obligation entails a duty to enforce an appropriate legal framework to deter the offenses against the person, in particular those that would lead to violations of liberty or security, or cause serious injury or loss of life. Permitting unregulated forces to carry out abusive security operations violates that obligation and basic respect for human rights.

"Crimean authorities have allowed the so-called self-defense units to have free rein in the lead-up to the referendum, and so far these units have focused on silencing critical voices and controlling information,"

Denber said. "A campaign of threats, harassment, attacks, and even 'disappearances,' against activists seems to have no limits."

"Disappearances" of Euromaidan activists

Andriy Schekun and Anatoly Kovalsky

At about 9:30 a.m. on March 9, Euromaidan activists Anatoly Kovalsky and Andriy Schekun went to the Simferopol train station to pick up a parcel from Kiev that contained Ukrainian flags, printed materials, and other items for an anti-war protest in Simferopol planned for that afternoon, Schekun's wife told Human Rights Watch.

Witnesses at the train station later told the men's lawyer and Schekun's wife that Kovalsky stayed at the train station while Schekun went inside the train car to pick up the parcel. Several men in camouflage, some with red "self-defense" armbands, stormed into the train car, pulled Schekun outside, and surrounded Schekun and Kovalsky, who was waiting for him on the platform. The men then searched activists, pushing and hitting them, and led them away on foot.

One of the men's lawyers told Human Rights Watch that while being led away, Schekun made a quick phone call saying he and Kovalsky were being taken away by unknown men. After that, both activists' phones stopped working. The lawyer said:

Police at the train station could not get their story straight. First, a police officer told other activists who came to make inquiries that they had not detained anyone. Later, another police officer said that Schekun and Kovalsky had been in police custody but then representatives of the Crimean pro-Russian political party, "Russian Unity," took them away from the police station.

The police officer later gave the same information to the Crimean TV station ATR, but when another journalist, from the Espresso TV station, contacted him, said that he had never heard of the two men.

There is no question why they were targeted. Both men are well-known activists, who organized local Euromaidan protests in Simferopol from the very beginning. They had received anonymous threats before.

On March 9, Kovalsky's son filed a police report about the "disappearance" of both activists. According to the lawyer, the police investigation is ongoing. On March 10, at the lawyer's request, the European Court of Human Rights sent an urgent communication to the Ukrainian authorities requesting information on the two men's whereabouts.

On March 11, the head of the Crimean Council of Ministers, Sergei Aksenov, said publicly that Schekun and Kovalsky had been detained by Crimean “special forces” for their alleged involvement in “subversive activities” and will remain in custody until the referendum. He did not, however, reveal the men’s whereabouts.

Myhailo Vdovchenko

On March 11, Myhailo Vdovchenko, a resident of Simferopol who posted pro-Ukrainian messages on his Facebook page, participated in a peaceful pro-Ukrainian demonstration in Crimea in the city, his cousin told Human Rights Watch.

He never returned home from the protest and his relatives were unable to reach him by phone.

The next day, Vdovchenko’s cousin filed a police report about his “disappearance,” and posted messages both online and around the city, seeking witnesses. A witness who responded to the message told Vdovchenko’s cousin that at about 3:30 p.m. on March 11, she saw three men in civilian clothing stop Vdovchenko, who was carrying a Ukrainian flag. The men then led Vdovchenko down the street with his hands tied behind his back. According to the cousin, the witness also said that she saw the men beating and pushing Vdovchenko when he tried to break free:

Today [March 14] I went to the police, and the officer in charge of the investigation said that Myhailo and several other missing Euromaidan activists were being held at the regional conscription office in Simferopol.

He said the office was occupied by unknown military forces, and there was nothing the police could do about it. He just said I would just have to wait until the referendum was over, and hope that Myhailo would be released afterward.

The family has not received any official confirmation about Vdovchenko’s fate and whereabouts.

Alexei Grytsenko, Natalia Lukianchenko, and Serhiy Suprun

On March 14, several Euromaidan activists posted in their blogs that Grytsenko, Lukianchenko and Suprun, three activists of AutoMaidan, a part of the Euromaidan protest movement that organizes car rallies and patrols to protect protesters, were missing.

The bloggers wrote that local activists last saw Grytsenko, Lukianchenko, and Suprun – who, by that time, had been in Crimea for a week and a half – at about 11:30 pm on March 13 near a shopping center in Simferopol. The report said that one of the activists later made a call to a friend, saying that three cars were following their own vehicle. The activists have not been heard from since.

A local Euromaidan activist told Human Rights Watch that activists were able to track the signals from the three activists' cell phones to the regional conscription office in Simferopol. In the afternoon of March 14, a number of journalists went to the conscription office asking about the fate of the missing activists but, according to one of the journalists, the men guarding the conscription office building denied having the activists in custody.

Attacks and harassment of journalists

Jacomo Liverani, an Italian freelance photographer, told Human Rights Watch that on March 13 he arrived at the town of Bakhchisarai, 35 kilometers southwest of Simferopol. He took photos around the town, without approaching any military installations, and as he was heading back to the bus station at about 5 p.m., a group of five men in civilian clothes approached him. They wore St. George armbands and were armed with knives:

They surrounded me, said they were self-defense, and demanded my documents. I showed them my press ID, then one of them made a phone call, and a few minutes later a civilian car arrived. They grabbed me and pushed me inside the car, and took me in the direction of the bus station. They took me inside a house, and there were some more self-defense men inside.

They put a knife to my throat, and forced me to hand over my documents, including my passport, my laptop, and camera. I called a friend and asked him to contact the Italian embassy in Kiev. When they called me back, I passed the phone to one of the self-defense guys, but he swore at the embassy official and told him "It's not Ukraine here, it's Crimea, Russia."

Liverani said that the self-defense men then copied the files from his camera and laptop, including contacts, and five hours later released him.

Anton Goloborod'ko, a journalist with the Ukrainian online newspaper *Gazeta po Ukrainski*, told Human Rights Watch that on March 7 at 11 a.m. he arrived with a group of journalists at the regional military conscription office in Simferopol because they had received reports of a shootout there. Outside of the office they saw a large group of men in civilian clothes, without insignia, masked, and armed with AK-47s:

The men asked us to step aside. We moved away and went to the road police office nearby. We asked the policemen there what was going on, but they said they didn't know and that the police were staying "out of politics."

We went back and stopped about 50 to 70 meters away, waiting. A man in camouflage uniform, masked, and with an automatic weapon, approached us, and told us not to film. A few minutes later, a white minivan left the conscription office and drove toward our group.

Five or six men, all masked, some in camouflage and some in civilian clothes, jumped out, and ordered all cameramen and photographers hand over their equipment. When we refused, they started punching and kicking us, and forcibly took away the cameras. They took a memory card from my camera, and asked for my papers. I pointed at him my ID card which was hanging around my neck. He grabbed the string the ID was hanging on, and started strangling me with it, and then tore it off my neck, threw it in their car, and left.

Beloborod'ko said he did not approach the police about the incident, because he believed it was useless and the police were "too afraid to perform their professional duties."

A female foreign journalist told Human Rights Watch that around noon on March 12, she went with her photographer to the Chongar checkpoint, in the northern part of Crimea, near the administrative border. As they approached the checkpoint, they saw a group of men in randomly assembled uniforms (some had camouflage pants and some had jackets), some wearing black balaclavas, and fully armed with AK-47s, knives, and pistols. The journalist, who asked not to be named to protect her security, said that the men had armbands with the colors of Russian flag but no insignia. There were also some Cossacks, in their traditional hats and uniforms, in the group:

The men were taking photos of themselves, and we also asked permission to take their photo. One of them seemed to have nodded "yes," but when the photographer pointed her camera at them, a huge guy from the group jumped on her, grabbed her camera, and walked away with it. He kept trying to get the memory card out, and to delete the photos, but didn't succeed.

We asked them who they were, but they were silent, and just pulled their balaclavas up to cover the slit that showed their eyes.

There were also soldiers at the checkpoint, wearing proper uniforms, but also no insignia. They spoke Russian and wore Russian military uniforms. They had more serious weapons, however: RPGs and sniper rifles. They just walked away while we were trying to negotiate with the self-defense unit.

The journalist said that the self-defense unit at the checkpoint eventually made them delete the photos from the camera and then let them go.

Jan Husar, a freelance journalist from Slovakia, told Human Rights Watch that at about 2 p.m. on March 12, he came to the civilian airport in Simferopol and tried to take pictures of the surroundings. He said that as soon as he took his camera out, a civilian car stopped next to him, and two men, wearing black clothes without insignia and armed with pistols, jumped out of the car:

The two asked me for my documents, and I asked for theirs. They showed me their IDs – I could not see what exactly was written there, but saw that it was in Russian, I can tell the difference between Russian and Ukrainian language. Then, a group of another 15 men, in civilian clothes with red and St. George armbands, approached me, and pulled me to a nearby forest, screaming at me.

They took away my camera bag. Sometime later, an older man appeared, and things calmed down a bit. They let me go, but kept the memory cards from my camera.

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Annex 939

Human Rights Watch, Crimea: Disappeared Man Found Killed (18 March 2014)

March 18, 2014 4:19AM EDT

Available In 简体中文 English Français 日本語 Русский Українська

Crimea: Disappeared Man Found Killed

Urgent Investigation Needed



Armed self-defence forces in Ukraine. © 2014 Reuters

(Simferopol) – Crimean authorities should urgently conduct a thorough investigation into the enforced disappearance and subsequent killing of Reshat Ametov, a Crimean Tatar from the Simferopol region, and bring the perpetrators to justice.

Ametov's relatives told Human Rights Watch that he was last seen during a protest on March 3, 2014, on Lenin Square in Simferopol, [Ukraine](#), where three unidentified men in military-style jackets had led him away. Relatives' efforts to locate him, including through a complaint to the police, were unsuccessful. On March 16, local police informed them that a body bearing marks of violent death had been found outside the town of Belogorsk. On March 17, the family identified the body as Ametov's.

“The disappearance and murder of Reshat Ametov illustrates the climate of lawlessness that has been pervasive in Crimea over the last week,” said [Rachel Denber](#), deputy Europe and Central Asia director at Human Rights Watch. “Crimean authorities have a duty to thoroughly investigate this case and punish those responsible, whoever they are.”

Ametov, a 39-year-old seasonal construction worker and the father of three young children, was well known in the Crimean Tatar community. Ametov had regularly petitioned local authorities regarding problems in his neighborhood and discussed on his Facebook page issues related to the situation of Crimean Tatars and the future of Crimea, a relative told Human Rights Watch.

On the morning of March 3, Ametov went to Lenin Square, where a small peaceful protest was taking place in front of the Crimean Council of Ministers building. He did not return home that night, and his wife contacted other relatives the following morning. They filed a police report and started making inquiries among people who had been at the protest.

Ametov's relative told Human Rights Watch that witnesses who had been at the square said that at around 10 a.m. Ametov had passed through the line of men from self-defense units and approached a group of armed men in green uniforms. Footage from ATR (Crimean television channel) shows two men in green uniforms and one in a black uniform, all without insignias, leading Ametov away from the square.

Ametov's relative submitted a missing person report to the local police, who opened an investigation. But in the two weeks following his enforced disappearance, the family did not receive

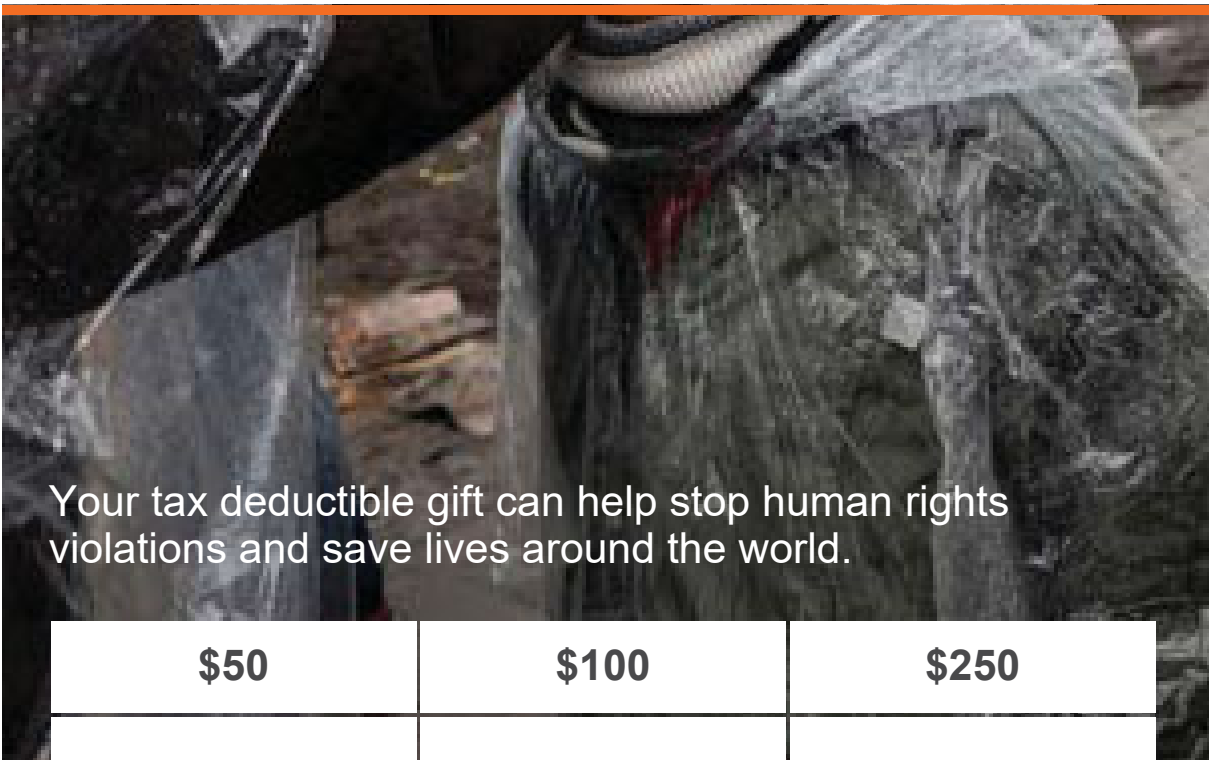
any information about Ametov’s whereabouts or fate.

On March 16, local police in the town of Belogorsk, 45 kilometers east of Simferopol, informed Teifuk Gafarov, a lawyer with the Mejlis, the Crimean Tatar representative body, that local villagers had found a man’s body in a nearby forest. The next day, Ametov’s wife identified the body as her husband’s.

Local media reports suggested that the body bore marks of torture and that there was transparent tape wrapped around Ametov’s head and hands. Human Rights Watch was not able to verify these reports, but Ametov’s relative said the local police told him that the death was registered as “violent.” Ametov’s relatives have not yet been able to retrieve either his body or the death certificate from the mortuary.

Human Rights Watch previously [documented](#) abuses committed by Crimean self-defense forces and unidentified military forces across Crimea, and called on the Crimean authorities to disarm and disband these units and prosecute those responsible for abuses.

“For weeks, armed masked men who refuse to identify themselves have harassed and intimidated people,” Denber said. “Failure to call a halt to this mistreatment and investigate would only embolden the people responsible for the abuse.”



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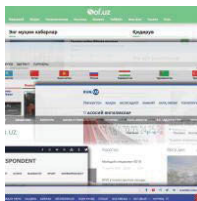
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Annex 940

Human Rights Watch, Ukraine: Activists Detained and Beaten, One Tortured (25 March 2014)



March 25, 2014 12:00AM EDT

Available In English Русский Українська

Ukraine: Activists Detained and Beaten, One Tortured

Investigate Involvement of Self-Defense Units, Special Forces in 'Disappearances'



A member of a pro-Russian self-defense unit (left) watches pro-Ukraine protesters march near the local parliament building in Simferopol on March 8, 2014. © 2014 Reuters

(Berlin) – Armed groups in Crimea abducted two political activists, held them for 11 days in secret detention along with several other detainees, ill-treated both, and badly

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Local authorities in Crimea should fully investigate the abduction of the two men, Andriy Schekun and Anatoly Kovalsky, Schekun's allegations of torture, and other arbitrary detentions by armed groups, Human Rights Watch said. The investigation should include the alleged involvement of officers from Berkut, the Ukrainian riot police force, which was dissolved by Ukraine's Minister of Interior in February 2014 but remains active in Crimea. Russia, as an occupying power in Crimea, should ensure that the investigation is effective, that all forces under its control cooperate fully with the investigation, and that anyone responsible for human rights violations is held to account.

"These horrendous arbitrary detentions and the allegation of torture in Crimea urgently demand a thorough investigation," said **Hugh Williamson**, Europe and Central Asia director at Human Rights Watch. "For weeks irregular armed units have been allowed to run amok on the Crimean peninsula without any apparent legal authority or accountability, and it's led to insecurity, arbitrary detentions, abductions, and torture."

The Crimean authorities and Russia as an occupying power should immediately safeguard respect for the law, Human Rights Watch said. They should ensure that no armed individuals or groups are allowed to operate outside of the existing legal framework and that members of any special forces operating on Crimean territory comply with **international human rights and humanitarian law**.

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The men held them for 11 days, interrogated and beat them, and on March 20 handed them over to Ukrainian military officers at the Chongar checkpoint, on Crimea's northern administrative border. Kovalsky and Schekun said their captors claimed they were members of Crimea's "self-defense" units.

Schekun also alleged that on two separate occasions a group of men in civilian clothing, whom he believed to be Russian security service agents, interrogated him and subjected him to electric shock torture.

On March 11 the head of the Crimean Council of Ministers, Sergei Aksenov, said publicly that Schekun and Kovalsky had been detained by Crimean "special forces" for their alleged involvement in "subversive activities" and would remain in custody until the March 16 referendum. He did not reveal the men's whereabouts or specify who detained them.

"Local police claim to have no coordination with or control over these armed units that commit serious crimes with complete impunity," Williamson said. "Whether these armed units, and those working with them, answer to Crimean authorities, to Moscow, or both, they are acting illegally, and the authorities need to call an immediate halt to their abuses."

One of the men's lawyers told Human Rights Watch that both men are well known activists who organized pro-Euromaidan protests in Crimea and had received anonymous threats before.

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us. Were we POWs? Criminals? Hostages? I still don't understand."

When the "self-defense" forces handed Schekun and Kovalsky over to the Ukrainian military on March 20, the forces did not return the activists' documents, which included passports, driver's licenses, and Kovalsky's pensioner card. The armed men had also taken Schekun's laptop and did not return it. They also took 3,000 UAH (approximately US\$290) in cash from Kovalsky and 6,000 UAH (approximately \$570) from Schekun.

Human Rights Watch **documented the involvement** of "self-defense" units in the abductions in Crimea of at least four other activists from the Euromaidan movement. The Euromaidan movement organized protracted mass protests in Kiev, which led to President Viktor Yanukovich's ouster. All have been released, local human rights groups and media reported. Local media freedom groups **report that at least nine people**, including six military officers and three activists, remain missing and allege that self-defense units and/or paramilitary forces were involved.

Ukrainian human rights groups have reported that the units have also been involved in violently dispersing demonstrations, unlawfully searching people and vehicles, especially at Crimea's administrative borders, and harassing ordinary citizens.

Under international human rights law, binding on both Ukraine and Russia, authorities are obligated to investigate and prosecute allegations of serious human rights violations. The European Court of Human Rights, acting

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civilian population, including putting their life and health at risk, and to comply with their obligations under the Convention, in particular with respect to the right to life and the prohibition of inhuman or degrading treatment.

Under international humanitarian law on occupation, an occupying power has an obligation to ensure public order and safety as far as possible while respecting, unless absolutely prevented from doing so, the occupied country's laws in force. As the occupying party, Russia is ultimately responsible for violations of international humanitarian and human rights law committed by local authorities or proxy forces operating where it has effective control.

“All responsible for these crimes must be held fully accountable, regardless of who they are,” Williamson said. “This is essential for respect of human rights, the security of the civilians in Crimea, and for preventing similar abuses in the future.”

Activists' Accounts

Kovalsky and Schekun told Human Rights Watch that their captors first took them to a police station at the Simferopol train station and stood by the exit, while a policeman on duty took away their passports and made a note in the registry. Schekun said:

They told the police they were waiting for their “superiors” to arrive. I made a quick phone call to a friend to tell them where we were and then two more people came and told the police, “We are going to take them now.” I tried to resist, said they were acting unlawfully,

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on my knees and the policeman said, “Just take them away. Don’t do it here.”

The “self-defense” guys then took us to a car parked outside, took our phones, tied our hands behind our backs using transparent tape, and blindfolded us by wrapping tape around our heads.

The abductors brought Schekun and Kovalsky to an unknown location where they remained for 11 days. The members of the “self-defense” units who guarded them were armed with assault weapons and repeatedly threatened and questioned the men about their alleged ties with the Euromaidan Ukrainian protest movement, Kovalsky said:

They stripped us and tore off crosses we had around our necks. First it was just me and Andriy and then they started bringing more [detainees] in. There was nothing but interrogations and beatings every day. They did not beat me much, maybe because I am from Crimea or because I am 64, but they did torture and beat others. I was blindfolded for most of the time but could hear people moan in pain and several times I heard gunshots.

There was this guy with us, Maxim, whom they brought in at one point. He was only 20, originally from Odessa, and he was at Maidan in Kiev. “Self-defense” guys interrogated him several times. This one man, whom everyone called “Dan,” fired at him and at Andriy [Schekun] from a traumatic [nonlethal] weapon. In the end, we really lost any hope to get out of there alive.”

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security services because the guards referred to them as “Russian investigators.” Schekun said:

First time around four men questioned me, one threatened me with a knife, promised to “cut my liver out” if I didn’t answer their questions. They were not from “self-defense” and not Berkut. We called them “specialists” because they acted like professionals. They stripped me, beat and kicked me, and asked, “What do you know about [the ultranationalist paramilitary group] Right Sector? Do you know [Right Sector leader Dmytro] Yarosh?”

They put me in a chair, attached something to my neck and hands and gave me an electric shock. They wanted me to give them names and contact details of all members of the Right Sector that I knew and to tell them who financed Maidan.

The second time they also beat me and gave me electric shocks, although this time I was fully dressed. They also beat and kicked me and hit me on my back with something hot. And they kept asking same questions over and over.

Kovalsky and Schekun also told Human Rights Watch that at about 10 p.m. on March 16, about six Berkut riot police officers came in and threatened to kill the men in revenge for attacks on the police officers’ colleagues during the Maidan protests in Kiev. Kovalsky and Schekun knew they were from Berkut because the guards had told them Berkut would come to “visit” them, and because the men themselves said they were from Berkut. Schekun said:

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scary. All night long they drank vodka and threatened us. They tormented Maxim until 4 a.m., because they knew he was active at Maidan in Kiev. They questioned him and forced him to wake up every time he drifted off to sleep. They also beat him very badly.

Schekun also said that on March 17, men from a self-defense group shot at his legs and arms from traumatic weapons “for entertainment.” Traumatic weapons are nonlethal, or less lethal, firearms that can be used in self-defense. After he was released, medics at a hospital extracted two small metal pellets from his hand.



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Annex 941

Amnesty International Public Statement, Harassment and Violence Against Crimean Tatars by
State and Non-State Actors (23 May 2014)

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

Date 23 May 2014
Index EUR 50/023/2014

HARASSMENT AND VIOLENCE AGAINST CRIMEAN TATARS BY STATE AND NON-STATE ACTORS

At the time of Russia's military intervention in Crimea, the majority of the Crimean Tatar community expressed its concern and its support for the territorial integrity of Ukraine. Most Crimean Tatars, who comprise 12% of the peninsula's population, boycotted the 'referendum on the status of Crimea' which took place on 16 March 2014. It resulted in the annexation of the peninsula by Russia, a move which was supported by the region's ethnic Russian majority. Consequently, Crimean Tatars are in the awkward position of having opposed those under whose jurisdiction they now find themselves and they are fearful of reprisals.

Since the start of the Russian occupation of Crimea, the *de facto* Crimean authorities and the Russian authorities have engaged in a campaign aimed at co-opting the local Tatars, by means of both persuasion and repression. While publicly declaring full support for the Crimean Tatars and their rights, the authorities are simultaneously targeting their community through arbitrary restrictions on the rights to freedom of expression, assembly and potentially association. For example, on the same day that Vladimir Putin announced to a meeting of Crimean Tatar representatives in Moscow that Russia will do all it can to ensure that Crimean Tatars feel like "fully-fledged masters in their own land," a ban was imposed on all mass meetings in Crimea until 6 June, which directly affected events planned by the community during those days (see below).

There have also been increasing reports of violence and reprisals against Crimean Tatar individuals targeted by both the authorities and self-styled, unofficial "self-defence" groups. Such informal armed groups have emerged across Ukraine on all sides of the political divide during the current crisis. Typically, they are armed, dressed in military outfits with no identifying insignia and have no clear command structure. Many such groups currently patrol areas of Ukraine and are increasingly being accused of carrying out human rights abuses with impunity and, furthermore, with the acquiescence of the local authorities. In Crimea, they are reported to have been behind a number of abductions, beatings and other human rights abuses, including in relation to Crimean Tatars.

Legacy of the deportation

In 1944, the entire Crimean Tatar population was deported from Crimea by the Soviet authorities under Joseph Stalin, predominantly to Central Asia. Crimean Tatars were prohibited from returning to their homeland until the late 1980s, and it was only in the

1990s that significant numbers of ethnic Crimean Tatar families were finally able to come back and settle in Crimea. By then, the peninsula was part of an independent Ukraine. Crimean Tatars have enjoyed a limited degree of protection and recognition from the Ukrainian authorities as a distinct group but they were not able to claim back their homes and other property lost in 1944 and have remained a marginalised group.¹

With the occupation of Crimea by Russia, many Crimean Tatars have feared that they will lose this, albeit limited, degree of recognition and protection against harassment and discrimination. Spokespersons for the community have stated that the current targeting of the Crimean Tatar community is causing many to fear a repetition of the trauma of mass deportation and dispossession. The apparent and anticipated targeting of their community has caused thousands of Crimean Tatars to leave Crimea to go to mainland Ukraine. A speaker for the Crimean Tatar Mejlis (the informal body which is generally recognized as the highest representative body of the Crimean Tatars) referred to estimates that approximately 5,000 have moved out of Crimea. Other reported estimates suggest that in the brief period since occupation, around 7,000 Tatars have left.²

Arbitrary restrictions and harassment of Crimean Tatars

In the two months following Russia's annexation of Crimea, a whole series of incidents of harassment and arbitrary restrictions on the rights of members of the Crimean Tatar community have been reported.

On 22 April, a long-standing informal leader of the Crimean Tatars, Ukrainian MP and Soviet dissident, Mustafa Jemiliev, was reportedly informed by the Russian Federal Migration Service that he was a "*persona non grata*" and banned from entering Crimea, which is his homeland, for five years. The Russian authorities denied the reports, but on 2 May Mustafa Jemiliev was refused entry to Moscow, from where he hoped to fly to Simferopol in Crimea (there are currently no flights to Crimea from mainland Ukraine). He was sent back to Kyiv.

On 3 May, Mustafa Jemiliev made another attempt to gain entry to Crimea, this time by land, through the checkpoint at Armyansk located on the stretch of land between Crimea and mainland Ukraine. At least 3,000 Crimean Tatars in over 800 cars arrived at Armyansk to meet him. They created a human corridor welcoming Mustafa Jemiliev into Crimea, and he was able to walk past the checkpoint, but he was stopped again by law enforcement officers and Crimean "self-defence" members on the Crimean side and refused entry once more. He remains outside of Crimea. A number of shorter, spontaneous protests broke out in other towns the same day against the refusal by the authorities to grant Mustafa Jemiliev entry.

The Russian authorities have failed to give any official explanations to Mustafa Jemiliev concerning the ban. He has also been the focus of a smear campaign. The head of the *de*

¹ Briefing Note UNPO: Recent Developments in Crimea and the Crimean Tatars May 2014

² <http://www.ua-ru.info/news/15549-posle-anneksii-kryma-bolee-semi-tysyach-tatar-pokinuli-poluostrov-postpred-ukrainy-v-oon.html>

facto Crimean administration Sergei Aksionov described Mustafa Jemiliev as an “instigator and provocateur” in an interview on 18 May, and accused him of violating Russian law, inciting ethnic violence and cynicism.³ Mustafa Jemiliev has not been informed of any criminal or other proceedings brought against him that would explain the ban or such accusations.

On 14 May 2014, Mustafa Jemiliev’s house in Crimea was searched by law enforcement officials; due to the ban against him, he was not there. A group of riot police officers arrived in several buses and surrounded the house and forced entry, claiming to be looking for evidence in a case related to his son.

In recent days, there have been a number of other searches of houses belonging to Crimean Tatars by the authorities, reportedly by officers of the Russian Federal Security Services (FSB), including house searches of other members of the Mejlis. Also on 14 May, the authorities searched the home of Mejlis member Edem Mustafaev claiming they were looking for weapons and explosives; none was found. On 15 May, the home of the Head of the Department for External Relations of the Mejlis, Ali Khamzin, was also searched for about two hours. Ali Khamzin later told reporters he believed the searches were linked to the activities of the Mejlis and intended to put pressure on its members.

On 4 May 2014, the Prosecutor of Crimea issued a formal warning to another Crimean Tatar leader, Refat Chubarov, according to which he may face criminal prosecution under Russia’s anti-extremism legislation. Refat Chubarov succeeded Mustafa Jemiliev as the leader of the Mejlis in late 2013. The Prosecutor of Crimea accused him of organizing “unlawful public protest actions” in Armyansk and other places in Crimea.

According to information provided to Amnesty International by a representative of the Crimean Tatar Mejlis, at least three of its members have since been summoned for questioning by the investigation authorities, including Nariman Jelal. It is unclear what the content of the questioning was. Nariman Jelal who was summoned on 12 May, followed his lawyer’s advice and refused to answer the investigator’s questions in accordance with Article 51 of the Russian Constitution which guarantees the right to remain silent. In response, the investigator reportedly claimed that the lawyer had no right to advise his client because he is not licensed to do so under Russian regulations.

The authorities have initiated administrative proceedings against dozens of Crimean Tatars across the peninsula in connection with the events on 3 May in Armyansk and other towns. They have been charged with “public disorder” and “unlawfully crossing the Russian border”. So far, according to information provided to Amnesty International by the Mejlis, there have been at least 55 court hearings on individual cases, which resulted in hefty fines of between RUB 10,000 and RUB 15,000 (USD 290-430) in relation to at least 49 individuals, and RUB 40,000 (USD 1,150) in relation to six individuals. For many who have been prosecuted, such a fine is far beyond anything they can afford to pay.

³ In interview with Krym-Inform, 18 May 2014, available at <http://www.c-inform.info/news/id/5713>.

Reportedly, all the Tatar cars that had arrived at Armyansk to greet Mustafa Jemiliev were filmed by the authorities which facilitated the identification of their owners and others involved.

Other restrictions on the right to freedom of peaceful assembly

The prosecution of those who peacefully tried to welcome Mustafa Jemiliev at Armyansk, or protest against his ban, was the first reported indication of the authorities' intention to restrict the right to freedom of peaceful assembly in Crimea. Such restrictions were unreported prior to the recent occupation of the peninsula by Russia.

On 18 May, which this year marked the seventieth anniversary of the deportation of Crimean Tatars in 1944, the community planned to hold commemorative events across Crimea, as is customary every year. However, on 16 May, Sergei Aksionov, announced that all mass meetings in Crimea were banned until 6 June, in order to "eliminate possible provocations by extremists, who had managed to penetrate the territory of the Republic of Crimea" and to prevent "disruption of the summer holiday season". The ban has been widely interpreted as a blatant obstruction of the Crimean Tatars' plans to commemorate the deportation.

In the event, the Tatars were allowed to hold a common prayer followed by a commemorative rally on 18 May, but only on the outskirts of the Crimean capital, Simferopol, and nowhere else in Crimea.

On 17 May, on the eve of the rally, the authorities organized "crowd control" training of Russian-uniformed riot police in Simferopol's central square. In a clear show of force, the training included hundreds of heavily equipped police officers. On the day of the rally, the riot police maintained a heavy presence in Simferopol, police helicopters were flying above the peaceful gathering, and armoured military vehicles were reportedly parked in the vicinity alongside vehicles intended for transportation of detainees.

Threats to freedom of association

The Crimean Tatar Mejlis has long been recognized as an organization which, along with the Kurultai (general assembly which elects members of the Mejlis) *de facto* represents the Crimean Tatar community, including in its dealings with the governing authorities. It is an association which was founded in 1991, and performs an important representative function, enjoying a degree of recognition with the Ukrainian authorities.

Less than two months after the annexation of Crimea by Russia, the Mejlis' existence was put into question. The formal warning issued by the Prosecutor of Crimea to the head of the Mejlis, Refat Chubarov, on 4 May following the peaceful protest events in Armyansk and across Crimea, also included a threat to dissolve and prohibit the functioning of the Mejlis "on the territory of the Russian Federation" if it proceeds to engage in "extremist activities."

The Special Rapporteur on the rights to freedom of peaceful assembly and association has noted that "the suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of

national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient.”⁴ This threat to dissolve the Crimean Tatar Mejlis constitutes an arbitrary interference in the right to freedom of association.

The Mejlis evolved as a form of association, representative of the Crimean Tatar community, and has been performing this function for years, without having any formal legal status under Ukrainian law. In an interview on 18 May 2014, the head of the *de facto* Crimean administration, Sergei Aksionov, stated that it will have to register under Russian legislation or it will not enjoy any recognition by the authorities.

However, whether it is registered or not, the prosecutor’s threat to ban it under Russian anti-extremism legislation is much more serious, as this will make membership of the Mejlis a criminal offense punishable by up to four years in prison (Article 282.2 of the Russian Criminal Code). The Russian authorities have used anti-extremism legislation to harass and obstruct the normal operation of non-mainstream religious groups and non-governmental organizations (NGOs) in Russia,⁵ and criminally prosecute civil society activists by applying its provisions arbitrarily.

Harassment of media and journalists

There are reports that the local Crimean Tatar TV channel, ATR, received informal instructions from the authorities not to broadcast reports which included members of the Mejlis or leaders of the Crimean Tatar community, unless they were loyal to the *de facto* authorities and Russia. Although the instructions were reportedly issued informally and cannot be verified, the content of the channel’s subsequent broadcasts is consistent with this report.

In the meantime, independent journalists continue to be subjected to intimidation and harassment, particularly by the members of the so-called Crimean “self-defence” forces. Their members are believed to have been behind the disappearances of journalists and activists during the weeks preceding the “referendum”.⁶

During the meeting on 18 May 2014, members of the “self-defence” forces reportedly detained Crimean Tatar journalist Osman Pashayev, his cameraman Cengiz Kizgin (Turkish national), and seven other persons (reportedly, all or most of them media professionals). They have all since been released. In his interviews, Osman Pashayev spoke about his

⁴ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, Human Rights Council, Twentieth session, Agenda item 3, 21 May 2012, available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf

⁵ The Prosecutor’s Office in Russia undertook a series of unannounced “inspections” of independent Russian NGOs in spring 2013, which it explained – at least in some cases – by the need to enforce anti-extremism legislation. See Amnesty International, *Freedom under threat: The clampdown against freedoms of expression, assembly and association in Russia*, report, 24 April 2013 (AI Index: EUR 46/011/2013), page 32, available at <http://www.amnesty.org/en/library/info/EUR46/011/2013/en>.

⁶ <http://www.amnesty.org/en/news/ukraine-clashes-and-abductions-ahead-disputed-crimea-vote-2014-03-14>

unlawful detention and ill-treatment by the “self-defence” forces, who held him for about four hours, most of the time standing with his face to the wall while he was interrogated and beaten on his legs. His equipment was taken away and not returned. According to Osman Pashayev, other persons held captive were ill-treated too. Before his release, Osman Pashayev was handed over by his captors to police and members of the Investigative Committee (a stand-alone official agency in Russia responsible for investigating serious crime), where he was held for a further few hours – some ten hours of captivity in total. The Investigative Committee officials questioned and released him, but they claimed that they could not establish who had originally held him or, implausibly, who had delivered him to them.

The journalist intends to submit official complaints, but holds little hope that those who initially detained him will be effectively investigated. He has left Crimea for fear of further reprisals.

Other incidents of violence and ill-treatment targeting Crimean Tatars

There are increasing concerns that the authorities are failing in their duty to protect the Crimean Tatar community from a reported rise in incidents of harassment and violent attacks by Crimea’s “self-defence” forces.

On 3 March, 39-year old Reshat Ametov, a Crimean Tatar, held a one-man protest in front of the Crimean Council of Ministers building in the region’s capital, Simferopol, which was being guarded by ‘self-defence’ forces. Video footage shows him being led away by three men from the ‘self-defence’ forces. His family claim that when they reported him as missing, there was no subsequent contact from the authorities. His body was found almost two weeks later, showing signs of torture. A criminal case has been opened, but no progress in the investigation has been reported.

Amnesty International has spoken with a member of the Crimean Mejlis who was also beaten by ‘self-defence’ forces in central Simferopol on 6 May. Abduraman Egiz was approached by three or four men and asked to show them his identity documents and the content of his car. When he refused, the men called for reinforcement. Some 15 or 20 other ‘self-defence’ men arrived within minutes. They asked Abduraman Egiz again to show his documents. When he refused again, stating that he would only deal with the police, they handcuffed him and started to beat him. To stop the violence, Abduraman Egiz showed them his passport. At this point they let him go with no apology or explanation. He told Amnesty International, “I understood then that there is no rule of law. These men were drunk, they had guns and they can do anything they want.” He was subsequently diagnosed with concussion. Abduraman Egiz informed the police about the incident, which was filmed by a nearby security camera, and an investigation has been opened. Police came to the site of the incident and took photos, but made no effort to locate and question any members of the ‘self-defence’ forces.

Pressure to give up citizenship

The Russian authorities have given Crimean residents the unenviable choice of having to give up their Ukrainian citizenship for a Russian one or become foreigners in their own land and acquire a “residence permit”. Failure to do either will amount to a violation of Russian immigration regulations and result in severe penalties, including the loss of the

right to continue to reside in Crimea. Crimeans were given a very short period of only one month to make the decision and, should they wish to do so, declare to the authorities their decision to keep their Ukrainian citizenship and receive a residence permit. There were only four centres in the whole of Crimea where this could be done, and although the deadline has been extended, the need to do so promptly or face legal and other consequences remains.

The full implications of rejecting Russian citizenship are as yet unknown, but it is clear that there will be substantial consequences. For example, a “foreign citizen” in Crimea will not be able to vote, hold an official position, such as that of a member of the police force, or own agricultural land – the source of livelihood for many local Tatars. There are also concerns that access to education, employment and healthcare will be hindered.

Recommendations

To the *de facto* Crimean and Russian authorities:

- Ensure that all those living in Crimea are able to exercise and enjoy their human rights, without discrimination;
- Respect and protect the rights of minorities, including Crimean Tatars in particular;
- Respect freedom of movement and freedom to choose one’s place of residence, in accordance with Article 12 of the International Covenant on Civil and Political Rights, with regards to all residents of Crimea, and in particular:
 - Lift the entry ban on Mustafa Jemiliev, giving him immediate and unimpeded access to Crimea, in order that he may exercise his right to enter his own country;
- Ensure that any changes to the institutional and legal framework in Crimea, including those regarding citizenship, do not adversely impact on the enjoyment of the full range of human rights by all persons in Crimea. In particular, fully protect all the rights of those in Crimea who choose to remain citizens of Ukraine, including as regards the rights to residence, work, property, education and health;
- Respect and protect the rights to freedom of assembly, expression and association, and in particular:
 - drop the charges against all those who took part in the peaceful assemblies in Armyansk and in other locations in Crimea on 3 May 2014, and immediately revoke all penalties imposed on peaceful protesters;
 - lift the ban “on mass meetings” announced on 16 May by head of the *de facto* Crimean administration, Sergei Aksionov;
 - immediately end the harassment of members of the Mejlis, and recall the warning in connection with “extremist activities” issued against it by the Prosecutor of Crimea;
 - end the harassment of the media, individual journalists and human rights defenders and investigate effectively and impartially all reported incidents of violence and harassment of journalists in Crimea, including the cases of abduction and unlawful deprivation of freedom of journalists earlier this year;

- Publicly condemn human rights abuses, harassment, torture and other ill-treatment or the arbitrary use of force and unlawful deprivation of freedom, by law enforcement officers or by members of the so-called “self-defence” forces; and ensure that all such cases are promptly, effectively and independently investigated, and that those reasonably suspected of such crimes are prosecuted in proceedings which fully comply with international standards for fair trial;
- Ensure that any arrest or detention of persons in Crimea is carried out strictly in accordance with law, by competent officials or persons authorized to exercise those powers, acting in accordance with their human rights obligations and adhering to international law and standards on the use of force and firearms;
- Grant immediate, full and unimpeded access, and provide all necessary assistance to international monitoring missions.

To the international community:

- Monitor the human rights situation and report human rights violations in Crimea, and raise these at every available opportunity with the Ukrainian and Russian authorities, in the appropriate bilateral and multilateral fora;
- Ensure effective coordination and cooperation between international monitoring mechanisms operating in Ukraine;
- Demand that the *de facto* Crimean and Russian authorities grant full and unimpeded access to international monitors, including the OSCE Special Monitoring Mission in Ukraine and the UN Human Rights Monitoring Mission.

To the OSCE:

Ensure that the OSCE Special Monitoring Mission in Ukraine:

- Strengthens its human rights component;
- Cooperates closely with the Office for Democratic Institutions and Human Rights; and
- Continues to request access to Crimea and report on the situation there.

To the High Commissioner on National Minorities:

Continue to engage with the *de facto* authorities in the Crimea and the Russian authorities, including through visits to the region, and urge them to ensure the respect for the rights of Crimean Tatars and other minorities.

End/

Annex 942

Human Rights Watch, Crimea: Enforced Disappearances (7 October 2014)



October 7, 2014 4:59AM EDT

Available In English Français Русский Українська

Crimea: Enforced Disappearances

Crimean Tatars, Other Pro-Ukraine Figures Among the Missing



LAUNCH GALLERY

Parents holding photograph of Seiran Zinedinov, Crimean Tatar activist, disappeared on May 30 © 2014 Lucy Ash / BBC

(Berlin) – At least seven people have been forcibly disappeared or gone missing in Crimea since May 2014, including two on September 27, Human Rights Watch said today. Five are Crimean Tatars and two are pro-Ukraine activists. Crimean Tatars have generally openly opposed Russia's annexation of Crimea in March. Two other

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Crimea should promptly and thoroughly investigate these cases and bring those responsible to account, Human Rights Watch said.

“The disappearances are contributing to the atmosphere of fear and hostility in Crimea for anyone who is pro-Ukraine, including Crimean Tatars,” said **Yulia Gorbunova**, Europe and Central Asia researcher at Human Rights Watch. “The de-facto authorities need to investigate all potential leads in these disappearances, including whether paramilitary groups or Russian security forces were behind them.”

In the past six months the de-facto authorities have steadily increased pressure on some members of the Crimean Tatar community. The authorities have issued several warnings to Mejlis, the body that represents Crimean Tatars with the authorities and international community, over what were called “extremist” activities, including flying a Ukrainian flag at the Mejlis office.

The authorities threatened to dissolve Mejlis and searched and sealed its office in September. They have banned the former and the current Mejlis leaders from entering Crimea for five years, one in April and the other in July. In August and September, authorities conducted dozens of intrusive searches in mosques, schools, and private homes of Crimean Tatars, claiming to be looking for weapons, drugs, and “prohibited literature.”

On September 27, two young Crimean Tatar cousins disappeared after being seen bundled into a minivan by two men in black uniforms. During the last week of May, three activists with a pro-Ukraine group, one of them a

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Human Rights Watch has previously **documented** other abuses by Crimean “self-defense” and paramilitary forces across Crimea, including attacks on and abductions of pro-Ukrainian activists and said that the Crimean authorities should disarm and disband these units and prosecute those responsible for abuses. Human Rights Watch documented the forced disappearance of seven people in Crimea in March; six were eventually freed, but the body of one, a Crimean Tatar from Simferopol region, was found 13 days after his abduction **bearing marks of violent death.**

“The authorities need to find out what happened to these men,” Gorbunova said. “As one person after another falls out of sight without any resolution of the cases, it sends the message to those responsible that they can continue to act with impunity.”

Crimea: Enforced Disappearances



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Dzhevdet Islyamov, 23, both Crimean Tatars, disappeared from the village of Saryi-Su, near the town of Belogorsk. Dzhepparov's father, Abdureshit, told Human Rights Watch that the young men were last seen on a road near Belogorsk being forced into a minivan.

The father said that on the evening of September 27, the young men went to visit Islyam's uncle, who lives in the area. At around 7 p.m., a family friend told the father that as the friend was driving home on the road outside Saryi-Su, he saw two men in black uniforms frisk the two young men, then push them into a blue minivan with tinted windows and drive off. The witness said that the men had been "fast and professional." The father called the police, who came and questioned him and the witness about the disappearance.

Abdureshit Dzhepparov is a well-known member of the Crimean Tatar community, a former delegate to Kurultai, the elected council of the Crimean Tatar community, and a former member of Mejlis.

He told Human Rights Watch that in the days following his son's disappearance, hundreds of Crimean Tatars from other regions of Crimea came to his house to show support. On October 1, Sergey Aksyonov, the de-facto prime minister of Crimea, visited Saryi-Su and met with him and several other representatives of Crimean Tatar community. Aksyonov assured the relatives that the authorities were doing their best to investigate all the disappearances and denied any involvement of the so-called "self-defense units."

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neighborhood and conducted invasive searches for “prohibited literature,” drugs, and weapons in private homes, mosques, and schools:

Dozens of people in masks with automatic weapons come at the break of dawn, sometimes tell the whole family to lie down facing the floor and turn their houses upside down. It happened to some of my neighbors. I don't know what their motives are. All I know is that today in Crimea it is dangerous to be a Crimean Tatar.

Disappearances of Leonid Korzh, Timur Shaimardanov and Seiran Zinedinov

The Crimean Field Mission, a human rights monitoring group in Simferopol, reported that on May 22, colleagues and relatives lost contact with Leonid Korzh, 24, a member of a pro-Ukraine activist group Ukrainsky Narodny Dom (Ukrainian People's Home). On May 25, one of the leaders of the group, Timur Shaimardanov, spoke about Korzh's disappearance at a meeting with a pastor from the Salvation Army in Simferopol.

The next day, Shaimardanov, a 34 year old entrepreneur, left his house in the morning to go to work and was not seen again. Shaimardanov's wife, Olga Shaimardonova, told Human Rights Watch that her husband told her he was going to the bank and would pick up their eight-year-old son from school at noon. She said that she called her husband at 11 a.m. but that his phone was switched off. She was not able to contact him after that. His relatives' further attempts to locate him, including through a police investigation, were unsuccessful.

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Shaimardanov's sister told Human Rights Watch that when she met with one of the investigators in late July, he asked her questions about Shaimardanov's religious beliefs, whether he could read the Quran and knew how to shoot a gun, and whether she was "familiar with any extremist organizations." When Shaimardanov's sister asked why this was relevant, the investigator implied that Shaimardanov could have gone to eastern Ukraine to fight against insurgents there.

On May 30, another member of the Ukrainian People's Home, Seiran Zinedinov, a 33-year-old Crimean Tatar and father of three, also disappeared. His relatives and other activists told Human Rights Watch that Zinedinov had been trying to locate Shaimardanov.

Zinedinov's mother, Elvira Zinedinova, told Human Rights Watch that on May 30, Zinedinov and his wife were at Zinedinova's home in the village of Stroganovka in the Simferopol region on May 30. At about 7:40 p.m., Seiran said he needed to step outside to speak with Shaimardanova about her husband's disappearance. Zinedinova said her son left the house in just what he had been wearing and did not bring his wallet, passport, or driver's license with him. Half an hour later, Zinedinov called his wife, told her that he was walking back to the house and asked her to start dinner. But he did not return and did not answer his phone when his wife called him later that evening.

Shaimardanova later told Zinedinov's relatives that she and Zinedinov had a brief conversation on the road just outside the entrance to the village, approximately 300 m from Zinedinov's house. She said that Zinedinov told her he had reasons to believe that Crimean "self-defense"

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on foot.

Shaimardanov's family told Human Rights Watch that both Shaimardanov and Zinedinov had hostile encounters with the "self-defense" units in March and that Shaimardanov told his relatives he was being followed several days before he disappeared.

Zinedinov's relatives reported his disappearance to the police on the morning of May 31, but the police started a criminal investigation only two months later. The relatives told Human Rights Watch that before the investigation began, the lead investigator on the case had been replaced 10 times. Zinedinova also said the investigator called Zinedinov's family the first week in October to report that there has been no progress in the investigation:

The investigators asked a lot of questions about my son's activism and how he felt about Russia but did not present a single piece of information about how or why he disappeared. It's been four months and I know nothing. His daughter was born in July and he has never even met her.

Edem Asanov and Eskender Apselyamov

Human Rights Watch documented two cases of young Crimean Tatar men who went missing, although it is not clear whether their disappearance is in any way related to paramilitary, "self-defense," or other groups. Asanov, 25, went missing on his way to work on September 29. Asanov's sister, Feride, said that he was not politically active although he had occasionally discussed on his social network Vkontakte page issues related to the situation of Crimean Tatars. The sister said that Asanov left his home

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His relatives said that an acquaintance saw Asanov later that morning at a bus station in Evpatoria. But his employer said he never arrived at work, and when Asanova's relatives tried calling him during the day, his phone was switched off. His relatives' efforts to locate him were unsuccessful. In the evening of September 29, Asanov's family reported him missing to the local police, who started an investigation.

On October 6, police found Asanov's body hanged in an abandoned building in Evpatoria. The circumstances surrounding his death are unclear.

Eskender Apselyamov, 23, disappeared on October 3. Relatives told Human Rights Watch that Apselyamov left his apartment at around 5:30 p.m. to go to work, but never arrived. He was last seen at around 6 p.m. at a convenience store approximately 400 meters from his work buying cigarettes. His relatives' attempts to locate him were unsuccessful. The police have started an investigation.

Relatives of both men said that neither they nor the young men were politically active, and Human Rights Watch has not found any reason suggesting why they might have been targeted. But given the disturbing trend of abductions of and threats to Crimean Tatars over the last few months, the circumstances under which they went missing should be thoroughly investigated.

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Annex 943

Human Rights Watch, Rights in Retreat: Abuses in Crimea (November 2014)



HUMAN
RIGHTS
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Abuses in Crimea





Rights in Retreat

Abuses in Crimea

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Rights in Retreat Abuses in Crimea

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Map of Crimea



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Summary

Human rights protections in Crimea have been severely curtailed since Russia began its occupation of the peninsula in February 2014. In the past eight months, the de facto authorities in Crimea have limited free expression, restricted peaceful assembly, and intimidated and harassed those who have opposed Russia's actions in Crimea. In particular the authorities have targeted the Crimean Tatar community, a Muslim ethnic minority that is native to the Crimean peninsula and that has openly opposed Russia's occupation. At the same time the authorities have failed to rein in or effectively investigate abuses by paramilitary groups implicated in enforced disappearances and unlawful detention and ill-treatment of Crimean Tatars, activists, journalists, and other individuals who are or perceived to be pro-Ukrainian. By bestowing Russian citizenship on Crimea residents through a coercive process, the authorities have also engaged in discrimination against Ukrainian citizens in Crimea, laid the groundwork for the potential expulsion of some Ukrainian citizens, and violated their obligations as an occupying power under international humanitarian law in relation to protecting civilians' rights.

Following the signing of the Treaty on the Adoption of the Republic of Crimea into Russia between local Crimea authorities and Russia and the Russian Duma passing the law On the Acceptance of the Republic of Crimea into the Russian Federation and the Creation of New Federal Subjects on March 20, 2014, Russian and Crimea's authorities started the process of extending Russian legislation and policy to Crimea. This includes Russian laws relating to citizenship, media registration, and laws on "extremism," including prohibited literature.

In particular, authorities in Crimea have used Russia's vaguely worded and overly broad anti-extremism legislation to issue several "anti-extremist warnings" to the Mejlis, the Crimean Tatar representative body, and have banned mass public gatherings by the Crimean Tatar community. Between August and October, authorities conducted invasive and in some cases unwarranted searches at mosques and Islamic schools and searched dozens of private homes of Crimean Tatars, including members of the Mejlis. The searches, which the authorities say were conducted to look for "drugs, weapons, and prohibited literature," were carried out by both local police and Russia's Federal Security Service (FSB) but also involved dozens of unidentified armed, masked men.

The authorities have harassed pro-Ukraine and Crimean Tatar media outlets, searched their offices, shut down some, and threatened others with closure. The FSB and Crimea prosecutor's office issued formal and informal warnings to leading Crimean Tatar media outlets against publishing "extremist materials" and invited editors to their offices for meetings during which they threatened that the outlets would not be allowed to re-register under Russian legislation unless they changed what they called their anti-Russian editorial policies.

The authorities continue to support so-called self-defense units, armed paramilitary groups which formed in Crimea toward the end of February and were implicated in enforced disappearances, beatings, and in at least one case, the torture of pro-Ukraine activists in March.¹ These units continue to unlawfully detain and beat pro-Ukraine activists in Crimea. The authorities have neither restrained the units from committing abuses nor investigated the abuses themselves. Rather, in June they took steps to regularize the units under the law and give them wider powers. Additionally, in July the de facto prime minister of Crimea, Sergei Aksyonov, introduced a draft law to the parliament of Crimea proposing to grant amnesty to all members of the self-defense units in Crimea for the period between February and April 2014.² At this writing, a similar law is pending in Russia's State Duma, which proposes amnesty for members of the self-defense units for the period between February 2014 and January 2015 with the exception of those "motivated by personal gain."³

¹ See Human Rights Watch news releases, "Crimea: Enforced Disappearances," October 7, 2014, <http://www.hrw.org/news/2014/10/07/crimea-enforced-disappearances>; "Crimea: Attacks, 'Disappearances' by Illegal Forces," March 14, 2014, <http://www.hrw.org/news/2014/03/14/crimea-attacks-disappearances-illegal-forces>; "Crimea: Disappeared Man Found Killed," March 18, 2014, <http://www.hrw.org/news/2014/03/18/crimea-disappeared-man-found-killed>; "Ukraine: Activists Detained and Beaten, One Tortured," March 25, 2014, <http://www.hrw.org/news/2014/03/25/ukraine-activists-detained-and-beaten-one-tortured>.

² Draft law of the Republic of Crimea, "On Preventing Persecution of Persons for Actions Directed at Upholding Public Order and Protecting Interests of the Republic of Crimea [О недопущении преследования лиц за действия, совершенные в целях охраны общественного порядка и защиты интересов Республики Крым]," <http://www.rada.crimea.ua/textdoc/ru/6/project/1664.pdf> (accessed November 3, 2014).

³ Draft of Federal Law "On Introducing Changes to the Federal Constitutional Law of March 21, 2014 No. 6-FKZ 'On the Acceptance of the Republic of Crimea into the Russian Federation and the Creation of New Federal Subjects – the Republic of Crimea and the City of Sevastopol,' [О внесении изменений в Федеральный конституционный закон от 21 марта 2014 года № 6-ФКЗ 'О принятии в Российскую Федерацию Республики Крым и образовании в составе Российской Федерации новых субъектов – Республики Крым и города федерального значения Севастополя']," [http://asozd2c.duma.gov.ru/addwork/scans.nsf/ID/16740DBDDF67CCDF43257D650048D45D/\\$FILE/613379-6.PDF?OpenElement](http://asozd2c.duma.gov.ru/addwork/scans.nsf/ID/16740DBDDF67CCDF43257D650048D45D/$FILE/613379-6.PDF?OpenElement) (accessed November 2, 2014).

This report documents the abuses outlined above. It is based on on-site research in Crimea in October 2014, during which a Human Rights Watch researcher met and spoke with journalists, activists, lawyers, civil society representatives, and members of the Crimean Tatar community, including the leadership of the Mejlis and the Spiritual Directorate of the Muslims of Crimea. Human Rights Watch researchers also conducted telephone interviews with people who have left Crimea for mainland Ukraine. The report also includes previously published material gathered during a research trip to Crimea in March 2014.

On November 6, Human Rights Watch sent a letter summarizing our research findings to the Crimean authorities. We have not yet received a response.

Human Rights Watch considers that as a matter of international law Russia has been an occupying power in Crimea since at least late February 2014 and assesses its actions with respect to the law on occupation under international humanitarian law. Russia is an occupying power as it exercises effective control in Crimea without the consent of the government of Ukraine, and there has been no legally recognized transfer of sovereignty to Russia. The referendum held by the local authorities, without the authorization of the Ukrainian government or any broad-based endorsement by the international community, and Russia's unilateral actions following the referendum cannot be considered to meet the criteria under international law for a transfer of sovereignty that would end the state of belligerent occupation.⁴

International human rights law also remains applicable to Crimea, including all treaties ratified by Russia, such as the European Convention on Human Rights and the International Covenant on Civil and Political Rights. Under the law of occupation, Russia has an obligation to restore and ensure public order and safety as far as possible while respecting, unless absolutely prevented from doing so, Crimea's and Ukraine's laws in force prior to March 2014.⁵ Russia is also responsible for violations of international

⁴ Human Rights Watch Q&A, "Questions and Answers: Russia, Ukraine and International Humanitarian and Human Rights Law, March 22, 2014, <http://www.hrw.org/news/2014/03/21/questions-and-answers-russia-ukraine-and-international-humanitarian-and-human-righ-o>. See also UN General Assembly, A/RES/68/262, on the "Territorial integrity of Ukraine," in which it underscored "that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol."

⁵ Regulations concerning the Laws and Customs of War on Land, annexed to Hague Convention (II) of 1899 and Hague Convention (IV) of 1907, arts. 43 and 64. See also Yoram Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge University Press, 2009), p. 108.

humanitarian and human rights law committed by local authorities or proxy forces and has a duty to prevent and prosecute such violations.⁶

Russia cites the local Crimean authorities' request to be part of Russia, later approved by the Russian parliament, to maintain that it is not an occupying power, even though the local authorities had no authority to make that request, that Crimea requested to be part of Russia, and that this request was approved by the Russian parliament. It therefore acts as though Crimea were a part of Russia and extends Russian federal laws to Crimea notwithstanding the presumption imposed on occupying powers that they will respect, unless absolutely prevented from doing so, the occupied country's laws in force.

In this report Human Rights Watch uses the term "authorities" to refer to those in Crimea who de facto exercise effective control on the peninsula and are de facto responsible for the governance and administration of Crimea, irrespective of the legal status of those agents under Ukrainian or Russian law.

Human Rights Watch, in accordance with its longstanding policy on laws of armed conflict, remains neutral on the decisions of parties to a conflict to use military force or to militarily occupy of another country or region. However, we seek to ensure that international law governing the conduct of war and occupation are respected.

⁶ Ibid.

Recommendations

To the Authorities Exercising Effective Control on the Crimean Peninsula and to the Russian Federation

- Ensure prompt, effective and impartial investigations into all allegations of human rights abuses by the police and other auxiliary forces that have been operating in the region since February 2014.
- Disband all self-defense units; the regular police force should not incorporate into its ranks members of self-defense units who have been implicated in human rights abuses.
- Ensure that any amnesty adopted to benefit members of self-defense units does not cover serious human rights violations such as the ones documented in this report;
- Cease all actions that target members of the Crimean Tatar community under the pretext of combating extremism.
- Cease all unjustified interference with media freedoms and ensure that media can convey a plurality of views, even if they do not support Russia's actions in Crimea; immediately cease and condemn all physical attacks and intimidation against journalists.
- Ensure access to Crimea for human rights monitoring by independent groups and humanitarian and intergovernmental organizations without imposing undue restrictions based on point of entry.
- Reverse the process whereby Ukrainian citizens were required to choose between Russian and Ukrainian citizenship; ensure that no Ukrainian citizen is pressured, directly or indirectly, into accepting Russian citizenship and that there are no adverse, including discriminatory, consequences for those who retain Ukrainian citizenship.
- Ensure that all people can make fully informed choices about citizenship by ensuring availability of clear and accurate information regarding the requirements of Russian citizenship and regarding the consequences of choice of citizenship.
- Take no action that would deprive Crimea residents who retain Ukrainian citizenship of rights they enjoyed prior to March 2014.

To the United Nations, the Organization for Security and Co-operation in Europe, and the Council of Europe and Their Member States

- Press members of the **UN Security Council** to adopt a Chapter VI resolution urging for the full implementation of the recommendations regarding the situation in Crimea contained in the reports on Ukraine by the UN Human Rights Monitoring Mission in Ukraine.
- Press for immediate and unfettered access to Crimea for **dedicated UN mechanisms**, in particular those relevant to enforced disappearances, such as the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture, and also and the Special Representative on Human Rights Defenders
- The **OSCE's Special Monitoring Mission**, whose mandate covers all of Ukraine, should, without further delay, be granted access to establish a permanent presence in Crimea to operate and report freely.
- Urge the **Swiss OSCE chairman-in-office** to organize a public discussion on Crimea during the December 4-5, 2014 OSCE Ministerial Council.
- **OSCE participating states** should urgently consider organizing informal and open Permanent Council briefings on Crimea, inviting representatives from civil society and other international organizations to report on developments and discuss international responses.
- Press for immediate and unfettered access to Crimea for other relevant human rights mechanisms of the OSCE, the UN, and the Council of Europe.
- Raise concerns about the human rights violations documented in this report, as well as in regular reports by the UN Human Rights Monitoring Mission in Ukraine and the October 2014 report by the Council of Europe commissioner for human rights, and urge the de facto authorities of Crimea and the Russian Federation to promptly implement the recommendations addressed to them.
- Urge Ukraine to reconfirm its declaration under article 12(3) of the Rome Statue made on April 17, 2014 accepting jurisdiction for the **International Criminal Court** (ICC) over the territory of Ukraine but removing time constraints on the court's jurisdiction, and move swiftly to ratify the Rome Statue including addressing any obstacles to such ratification.

To the Government of Ukraine

- Reconfirm the declaration made under article 12(3) of the Rome Statue of the ICC on April 17, 2014 accepting the jurisdiction of the ICC with respect to alleged crimes committed on Ukrainian territory but removing the time constraints (for the period November 21, 2013 to February 22, 2014) on the court's jurisdiction. Move swiftly to ratify the Rome Statue, including addressing any obstacles to such ratification.

I. Persecution of Crimean Tatars and Pro-Ukrainian Activists

Background

In 1944, Soviet authorities accused the entire Crimean Tatar population of Crimea of collaborating with the Nazis and, as collective punishment, deported all Crimean Tatars, then estimated to be about 240,000 people, to distant regions of the Soviet Union. More than half reportedly died in the months following deportation from starvation and disease. Although Crimean Tatars were allowed to return to Crimea in the mid-1980s, the authorities did not take meaningful steps to facilitate their return or compensate them for lost property. In April 2014, the Ukrainian parliament recognized Crimean Tatars as an official ethnic group of Ukraine. Also in April, Russian President Vladimir Putin signed a decree on political, cultural, and economic rehabilitation of Crimean Tatars.⁷

According to the last Ukrainian population census data, in 2001 Crimean Tatars comprised about 12 percent of the population of Crimea.⁸

Enforced Disappearances

Human Rights Watch previously documented at least 15 cases in which Crimean Tatars or pro-Ukraine activists were forcibly disappeared, abducted, or went missing in Crimea since March 2014. Six were subsequently released. Two of those who were forcibly disappeared were subsequently found dead. The true number of forced disappearances is likely to be higher.⁹

For example, Human Rights Watch reported on the case of two Crimean Tatar cousins, Islyam Dzhepparov and Dzhevdet Islyamov, who disappeared on September 27 after being

⁷ "Putin: decree on rehabilitation of Crimean Tatars is a basis for moving forward [Путин: указ о реабилитации крымских татар - основа для развития]," *Ria Novosti*, May 16, 2014, <http://ria.ru/politics/20140516/1008042615.html> (accessed October 28, 2014). On June 4, 2014, the parliament of Crimea adopted a decree providing for social guarantees to Crimean Tatars and other ethnic groups who were had been deported.

⁸ Official census of the population by the State Statistics Service of Ukraine, <http://2001.ukrcensus.gov.ua/rus/results/general/nationality/crimea/> (accessed November 4, 2014).

⁹ See Human Rights Watch news releases, "Crimea: Enforced Disappearances," October 7, 2014, <http://www.hrw.org/news/2014/10/07/crimea-enforced-disappearances>; "Crimea: Attacks, 'Disappearances' by Illegal Forces," March 14, 2014, <http://www.hrw.org/news/2014/03/14/crimea-attacks-disappearances-illegal-forces>; "Crimea: Disappeared Man Found Killed," March 18, 2014, <http://www.hrw.org/news/2014/03/18/crimea-disappeared-man-found-killed>.

seen bundled into a minivan by two men in black uniforms. At time of writing, the criminal investigation into their disappearances has not led to results.

During the last week of May, Leonid Korzh, Timur Shaimardanov, and Seiran Zinedinov, activists with a pro-Ukraine group, disappeared within several days of each other. Two of them, according to their families, had hostile encounters with the “self-defense” units in March. Their relatives and lawyers said their whereabouts remain unknown, and there has been no progress in investigations into the circumstances of their disappearances.

Edem Asanov, a Crimean Tatar who was not politically active but had occasionally discussed on his social network VKontakte page issues related to the situation of Crimean Tatars, disappeared on September 29 in Evpatoria, a resort town approximately 60 km from Simferopol, on his way to work. Six days later, police found Asanov’s body hanged in an abandoned building in Evpatoria. The circumstances surrounding his death remain unclear.

Eskender Apselyamov, 23, disappeared on October 3. Relatives told Human Rights Watch that Apselyamov left his apartment to go to work but never arrived. His relatives’ attempts to locate him were unsuccessful. The police have started an investigation.

In March Human Rights Watch documented a case of a disappearance and subsequent killing of a Crimean Tatar activist, Reshat Ametov. Ametov’s case is described in more detail below.

Harassment of the Crimean Tatar Mejlis and Its Affiliates

The Mejlis, a self-governing body comprised of 33 members, is the highest executive body of the Crimean Tatar people and represents them in their dealings with the authorities and international bodies.

The Mejlis has openly criticized Russia’s occupation of Crimea, called on Crimean Tatars to boycott the March referendum on Crimea’s status and the September local elections, and also called on the authorities to disarm and disband the self-defense units in Crimea. On April 22, 2014, the authorities banned Mustafa Dzhemilev, the informal leader of the Crimean Tatars and a previous chair of the Mejlis, from entering Crimea for five years after Russia’s Federal Migration Service (FMS) declared him a *persona non grata* in

Russia.¹⁰ On May 3, when Dzhemilev, a Ukrainian citizen, attempted to enter Crimea from mainland Ukraine through the Armyansk checkpoint in northern Crimea, law enforcement and members of self-defense units refused to allow him to enter. On May 14, the authorities searched Dzhemilev's house in his absence. Dzhemilev has not been charged with any offense.

On May 3, 2014, about 2,000 Crimean Tatars came to greet Dzhemilev at the border. According to media reports, some of those gathered at the Armyansk checkpoint broke through a police cordon while attempting to create a corridor through which Dzhemilev could cross through the checkpoint buffered from law enforcement and border officials.¹¹ Law enforcement stopped the crowd, which at times, according to one eyewitness, became agitated but according to other witnesses, stood down upon Dzhemilev's request. On the same day, groups of Crimean Tatars protested Dzhemilev's ban in several cities in Crimea. While the protests were largely peaceful, in some cases they blocked roads, disrupting traffic. Local authorities initiated administrative proceedings against dozens of Crimean Tatars in connection with the events of May 3, fining at least 140 of them for "public disorders" and "unlawful border crossing" for amounts ranging from 10,000 to 40,000 rubles (approximately US\$290 to \$1,500).

Human Rights Watch was not in a position to independently research the May 3 events and assess whether the administrative charges and fines were proportionate responses to the specific incidents. However, the authorities have subsequently referenced these events to justify extensive searches, warnings, and other measures against Crimean Tatar groups and individuals. The authorities have not produced new, specific evidence to justify such measures. Rather, the measures appear from their scope and frequency and from the vague accusations levelled at those targeted designed to intimidate members of the Crimean Tatar community who are perceived as opponents of Russia's takeover of Crimea, and therefore opponents of Russia.

¹⁰ Dzhemilev learned of the designation when he was crossing the administrative border between Crimea and mainland Ukraine, and local authorities handed him a document stating he was banned from returning to Crimea.

¹¹ "Prosecutor of Crimea saw 'mass riots' during the gathering of Crimean Tatars to meet Dzhemilev at the border [Прокурор Крыма разглядела 'массовые беспорядки' во встрече татар и Джемилева на границе]," *Rosbalt*, May 4, 2014, <http://www.rosbalt.ru/federal/2014/05/04/1264281.html> (accessed October 7, 2014).

On May 5, the prosecutor of Crimea issued a warning to Refat Chubarov, the chair of the Mejlis, that the group was at risk of being accused of “extremist actions” for the May 3 events. Chubarov told Human Rights Watch that the prosecutor read the warning out to him and threatened to dissolve the Mejlis and ban its work should it engage again in such “extremist” activities as the May 3 actions but did not provide him with a copy of the warning.¹² On July 5, authorities banned Chubarov, who at that time was away from Crimea, from entering the peninsula for five years.

Also in May, two days before the 70th anniversary of the deportation of Crimean Tatars (on May 18, 1944), which the Mejlis for years had commemorated by organizing large peaceful gatherings, local authorities banned all mass events on the territory of Crimea through June 6, referring to possible “provocations” and disruption of the summer holiday season. Local authorities eventually allowed a small-scale commemoration event to take place on May 17, although not in the center of Simferopol.

The prosecutor issued several statements warning the Mejlis against “extremist” activities, including after it called for a boycott of the September 14 local elections.¹³ In September, the de facto prime minister of Crimea stated publicly that the Mejlis was not a “legal organization” and that it had “very little authority” among the Crimean Tatar population.¹⁴

Russian authorities have repeatedly stopped and questioned Mejlis members and other Crimean Tartars when they traveled across the border to mainland Ukraine. For instance, between July and September they stopped Eskender Bariev, a Mejlis member, at least seven times. Since March, when Russia introduced a policy whereby all residents of Crimea had to choose between retaining their existing Ukrainian citizenship or accepting Russian citizenship, Bariev had organized several seminars for Crimean Tatars to explain what was at stake in one’s choice of citizenship and taking a Russian passport.

On July 23, eight Russian border guards armed with automatic weapons surrounded Bariev’s car at the Armyansk checkpoint when he and a colleague were returning to Crimea.

¹² Human Rights Watch telephone interview with Refat Chubarov, May 21, 2014.

¹³ “Crimea: Mejlis activities considered extremist [Крым: деятельность межджлиса сочили экстремизмом],” SOVA Center, <http://www.sova-center.ru/misuse/news/persecution/2014/07/d29884/> (accessed November 2, 2014).

¹⁴ “Akseyonov announced that the Mejlis doesn’t exist [Аксенов заявил, что межджлиса не существует],” *ATN*, <http://atn.ua/politika/aksenov-zayavil-cto-medzhliisa-ne-sushchestvuet> (accessed October 14, 2014).

Bariev told Human Rights Watch that after searching his car and looking through his possessions, the border guards took away his passport, camera, and audio recorder and questioned him about his religious beliefs and his Mejlis activities. Three hours later, they returned Bariev's passport and equipment and let him through. Two weeks later, border guards again stopped Bariev as he was leaving Crimea with his family, questioned him, and held him for three hours. Three days later, as Bariev was returning to Crimea, the same border guards again detained him and took his passport. They brought him to their office for a meeting, during which they asked him whether he knew Mustafa Dzhemilev and why Crimean Tatars were distrustful of Russia. Bariev told Human Rights Watch that he has been stopped, searched, and questioned four more times in a similar manner since then.¹⁵

Bariev also said that Russian security services in Crimea invited him several other times for informal conversations. During one such conversation in May, a Federal Security Service (FSB) agent asked Bariev why he had not yet applied for a Russian passport. He also warned Bariev against what the agent called "extremist acts" during a planned public gathering commemorating the 70th anniversary of the deportation of Crimean Tatars.¹⁶

Prosecutions and Detention of Crimean Activists

In October, authorities arrested and charged three Crimean men whom they accuse of carrying out various criminal acts during the protests on May 3. On October 22, police arrested Crimean Tatar activist Tair Smerdlyaev, a member of the Mejlis. Smerdlyaev's brother, Zair, told Human Rights Watch that the law enforcement agents who arrested his brother told him that he was suspected of using violence against a police officer during the mass gathering on May 3.¹⁷ Smerdlyaev was placed in a temporary detention cell and on October 24 a court in Simferopol remanded him to pretrial detention pending a court hearing on the criminal charges against him scheduled for December 22. Smerdlyaev's lawyer, Emil Kurbedinov, told Human Rights Watch that the October 24 court hearing was closed for relatives and the media and that during the hearing the judge rejected all of the defense's motions and ruled to keep Smerdlyaev in custody despite insufficient evidence that would justify lengthy pretrial detention. Kurbedinov said that the judge based his decision to keep Smerdlyaev in custody on "oral accounts of 60 people, mostly

¹⁵ Human Rights Watch interview with Eskender Bariev, October 6, 2014.

¹⁶ Ibid.

¹⁷ Human Rights Watch interview with Zair Smerdlyaev, October 24, 2014.

Smerdlyaev’s neighbors,” who allegedly told police that Smerdlyaev had “extremist and anti-Russian views.” Despite Kurberdinov’s request, none of the witnesses for the defense were brought to court for the hearing. The judge also referenced information by the Interior Ministry’s Center for Combating Extremism alleging that Smerdlyaev “had extremist connections” and was a member of the Right Sector, an ultra-nationalist Ukrainian group.¹⁸

Zair Smerdlyaev told Human Rights Watch that authorities had arrested two other Crimean Tatar men, Musa Apkerimov and Rustam Abdurakhmanov, on October 16 and 17, respectively, on similar charges. A Simferopol court remanded both to pretrial custody pending investigations into criminal charges against them.¹⁹

Human Rights Watch is not aware of evidence—other than the alleged denunciations by neighbors and the allegations by the anti-extremism department—the authorities possess that they have used to justify keeping Smerdlyaev in custody prior to the trial.

Searches of the Mejlis and *Avdet* and Proceedings against the Crimea Foundation

On September 15, police in Simferopol conducted a 17-hour search of the offices of the Mejlis, the Crimea Foundation, the charitable organization that administers the Mejlis, and the Mejlis newspaper *Avdet*.

Riza Shevkiev, the general director of the Crimea Foundation and a Mejlis member, told Human Rights Watch that at 9 a.m. on September 15 the police and unidentified armed, masked men surrounded the building that houses all three offices, blocking the front door.²⁰ The armed men warned journalists to stay away and threatened them when they tried to film, one of the journalists who was at the scene told Human Rights Watch.²¹ When Shevkiev arrived at the office shortly afterwards, law enforcement agents provided him with a copy of a court order requesting that a search be conducted at the Mejlis office “with the purpose of finding weapons, firearms and publications inciting racial, gender or religious discord.” According to Shevkiev, after searching the Mejlis offices and library, law

¹⁸ Human Rights Watch interview with Emil Kurbedinov, October 24, 2014.

¹⁹ Human Rights Watch interview with Zair Smerdlyaev, October 24, 2014.

²⁰ Human Rights Watch interview with Riza Shevkiev, October 13, 2014.

²¹ Human Rights Watch interview with Radio Free Europe journalist N., October 1, 2014.

enforcement agents searched the separate offices of the Crimea Foundation and *Avdet*. When Shevkiev requested a search warrant for those premises, law enforcement agents failed to provide one.

The authorities confiscated all of the Mejlis's equipment, including six computers, two hard drives, several flash drives, and documents, including notes from Mejlis meetings in recent months and several religious brochures. The police also broke into the safe in Mustafa Dzhemilev's office and confiscated the money in it (approximately €3,670, US\$200). The money was reportedly later returned to Dzhemilev's wife at her request.

The next morning, on September 16, several court bailiffs accompanied by a group of approximately 10 unidentified armed, masked men arrived at the Mejlis office and presented Shevkiev with a September decision by Simferopol's Leninsky District Court stating that at the request of the Crimea prosecutor's office the court had initiated administrative proceedings against the Mejlis's charitable entity, the Crimea Foundation. The notification said that the prosecutor's office alleged that Mustafa Dzhemilev was one of the group's founders and that this violated Russian law regulating noncommercial organizations because he had been banned from Russia. The bailiffs also presented Shevkiev with a court order to freeze all of the Crimea Foundation's assets, including seven properties and all bank accounts, pending a court hearing on excluding Dzhemilev from the foundation's list of founders.

The bailiffs told Shevkiev that he had 24 hours to vacate all premises owned or administered by the Crimea Foundation, which include the building that houses the foundation, the Mejlis, and *Avdet*. On September 17, the authorities sealed the Mejlis office and other property of the Foundation and froze all its bank accounts, effectively paralyzing the activities of the Mejlis and *Avdet*.

Shevkiev told Human Rights Watch that the Crimea Foundation's founding documents did not list Dzhemilev as a founder. However, when Shevkiev presented the founding documents at a September 29 court hearing, the judge did not examine them and ordered the foundation to exclude Dzhemilev from the group's list of founders notwithstanding the fact that he was not included. Shevkiev said,

Mustafa [Dzhemilev] was never among the list the founders of the Crimea Foundation. He is the president of the foundation, which is more of a ceremonial position. We have three founders, including me, and Dzhemilev's name is not among us. But considering the absurdity of the situation, I assembled a conference of the board of the foundation and we agreed to "remove" Dzhemilev from the position that he never occupied in the first place.²²

Shevkiev is currently appealing the court's decision to seize the property of the Crimea Foundation. At time of writing, the offices of the Mejlis and *Avdet* remain sealed, and their bank accounts remain frozen.

Searches of Homes, Mosques, and Islamic Schools

Since May, authorities have conducted a number of searches in the homes of Mejlis members and other Crimean Tatars. The searches intensified before significant public events. For example, on the night of May 14, a day before planned public gatherings to commemorate the 70th anniversary of the mass deportation of Crimean Tatars, the authorities searched dozens of homes, including the home of Mustafa Dzhemilev and the Mejlis's press-secretary, Ali Khamzin. Khamzin said in a media interview that he was not at home during the search but that the authorities were reportedly looking for possible links to terrorism.²³ Khamzin also said that several days earlier authorities summoned dozens of Muslims in Crimea to police stations where they took their fingerprints and asked questions about their religious beliefs.²⁴

Searches became more frequent and intrusive in the lead-up to the September 14 local elections. According to the Crimean Field Mission, a rights-monitoring nongovernmental group on the ground in Crimea, in September alone authorities searched at least 15 homes of Crimean Tatars in Simferopol and surrounding areas, mostly homes of Mejlis members,

²² Human Rights Watch interview with Riza Shevkiev, October 13, 2014.

²³ "Mass searches in the homes of Crimean Tatars last night – Mejlis [Сегодня ночью состоялись массовые обыски в домах крымских татар, – Меджлис]," *Censor.net*, May 15, 2014, http://censor.net.ua/news/285457/segodnya_nochyu_sostoyalis_massovye_obyski_v_domah_krymskih_tatar_medjllis (accessed October 15, 2014).

²⁴ *Ibid.*

as well as the home of a pro-Ukraine activist, and several mosques and Islamic schools.²⁵ The searches were conducted by local police and Russian FSB personnel in the presence of dozens of masked, unidentified men armed with automatic weapons. In some cases, law enforcement agents who claimed to be looking for prohibited literature, weapons, and drugs refused to identify themselves, present documents authorizing the search, or allow independent witnesses to observe the search, as required by Russian law. In several cases documented by Human Rights Watch, law enforcement and security personnel detained the inhabitants for several hours, questioned them about their religious beliefs, or berated them for not obtaining Russian passports.

Mejlis member Eskender Bariev told Human Rights Watch that on September 16 at about 6.30 a.m., a group of approximately 15 men— some 10 in camouflage uniforms and masks and the others in civilian clothing—came to his flat. One of the men introduced himself as a Crimea FSB lieutenant but refused to show identification. He showed Bariev a search warrant and said that they needed to search his apartment for weapons, drugs, and prohibited literature. Bariev requested that two outside witnesses be brought in to observe the search, as required by law, but the men told him that they brought their own witnesses. After searching his flat for two hours, the men left, taking Bariev’s laptop and a computer hard drive to conduct what they called “technical expert analysis.” At time of writing, Bariev twice inquired about his seized property but received no answer as to when it might be returned to him. The authorities have neither charged Bariev with any offence nor informed him if he is considered a suspect in an ongoing investigation.²⁶

Also on September 16, authorities searched the home of Mustafa Asaba, chair of the regional Mejlis for the city of Belogorsk. Asaba, 59, told Human Rights Watch that at approximately 6 a.m. a group of 12 men in civilian clothing, presumably FSB agents, accompanied by 20 masked people armed with Kalashnikov assault rifles, came to his home looking for “drugs, weapons and prohibited literature.” One of the men, who introduced himself as an FSB agent, took Asaba’s phone and, after presenting him with a search warrant, asked Asaba for identification. After Asaba showed his Ukrainian passport,

²⁵ “Brief overview of the human rights situation in Crimea [Краткий обзор ситуации с правами человека в Крыму],” Crimea Field Mission, September 2014, http://crimeahr.org/sites/default/files/obzor_krymskoy_polevoy_missii_sentyabr_2014.pdf (accessed October 21, 2014).

²⁶ Human Rights Watch interview with Eskender Bariev, October 6, 2014.

the FSB agent asked him why he did not have a Russian passport. Asaba told Human Rights Watch,

I didn't have Russian passport, only a Ukrainian [passport] and told him that. He responded, "Do you have something against Russia?" He asked me several strange questions, like, "Why do you support Dzhemilev? Did you know that Dzhemilev is an American agent and gets money from the Americans?" and "Why are you watching [pro-Ukraine] Channel 5?"²⁷

The search continued for over three hours. In the end, the security personnel confiscated five brochures, one of them of a religious nature, and left. About 20 minutes after the search ended, police took Asaba to the station, where they held him briefly for questioning before releasing him.

Authorities also conducted intrusive searches in mosques and Islamic schools. In an interview with Human Rights Watch, Asadullah Bairov, the deputy mufti of the Spiritual Directorate of the Muslims of Crimea (*Dukhovnoe Upravlenie Musulman Kryma*, or DUMK) said that between June and September law enforcement agents conducted searches for prohibited literature in 8 out of 10 religious schools in Crimea operating under the auspices of the DUMK. Bairov described a particularly intrusive search at a religious school in the village of Kolchugino in the Simferopol region, details of which he later learned from the director of the school. On June 24, 30 armed men, including police and FSB agents, forcibly entered the school and conducted an extensive search examining, among other things, the school's library and students' personal possessions. According to a DUMK press service statement, law enforcement broke the front door and several windows in the school.²⁸

Bairov said that thirteen children and two teachers were on the school premises at the time. At the end of the search, which lasted about five hours, law enforcement officers confiscated several school computers and memory sticks. On the same day, authorities also searched the home of the school's deputy director, held him at the police station for several hours for questioning, and released him.²⁹

²⁷ Human Rights Watch interview with Mustafa Asaba, October 2, 2014.

²⁸ Human Rights Watch interview with Asadullah Bairov, October 27, 2014.

²⁹ Ibid.

Bairov told Human Rights Watch that in September, authorities conducted more searches in several mosques and Islamic schools, looking for “extremist literature.” On September 17, authorities searched a mosque in Simferopol and on September 2, a mosque in Yalta. The deputy head of the DUMK told the media that the search in Yalta involved police, the FSB, and approximately 30 armed men. The search lasted seven hours and resulted in the authorities confiscating several religious books.³⁰

According to the data gathered by the Crimean Field Mission, on September 9, police and the FSB searched a boarding school in the Bakhchisarai area, confiscating three religious books from the school library. Children were on the school premises at the time of the search. As reported by the Crimean Field Mission, some of the students’ parents said that police asked the children to remove all items with Crimean Tatar symbols on it.³¹

Asadullah Bairov told Human Rights Watch that between June and October, he and other DUMK members had several meetings with the de facto prime minister of Crimea, Sergei Aksyonov, during which they voiced concern about the searches, noting that religious schools, mosques, and the Muslim population in general were not given enough time to dispose of literature prohibited by Russian law.³²

The Federal List of Extremist Materials was introduced by Federal Law No. 114-FZ “On Combating Extremist Activities” in July 2002. The list, which was first published in 2007 and has been updated regularly, currently includes about 2,500 publications, audio and video materials, and images. Alexander Verkhovsky, the director of the SOVA Center, a Russian nongovernmental organization (NGO) which conducts research on nationalism and racism and provides analysis on the government misuse of counter-extremism measures, told Human Rights Watch that approximately 1/3 of the banned items on the list are Islamic literature and that around 25 per cent of those items are widely used by the Islamic community, include no extremist content, and were banned inappropriately. Additionally, Verkhovsky noted that as published, the list is confusing, at times

³⁰ “In the occupied Yalta, armed people conducted a seven-hour search in a mosque [В оккупированной Ялте вооруженные люди семь часов проводили обыск в мечети],” *Black Sea News*, September 24, 2014, <http://www.blackseanews.net/read/87800>, (accessed October 15, 2014).

³¹ “Brief overview of the human rights situation in Crimea [Краткий обзор ситуации с правами человека в Крыму],” Crimean Field Mission, September 2014, http://crimeahr.org/sites/default/files/obzor_krymskoy_polevoy_missii_sentyabr_2014.pdf (accessed October 21, 2014).

³² *Ibid.*

contradictory, and very difficult to comprehend, especially for a layperson.³³ In Crimea the enforcement of this law has had a discriminatory impact on Crimea Tatars who are Muslims.

In a meeting with the grand mufti of Crimea in September, which Asadullah Bairov also attended, Aksyonov acknowledged that law enforcement sometimes “went overboard” in conducting searches and promised to take steps to address the issues raised by the Spiritual Directorate, Bairov told Human Rights Watch.³⁴ In a media statement in October, Aksyonov announced that Crimea residents will be given three additional months to dispose of all literature prohibited by Russian law.³⁵ This does not address the underlying issue that the scope of Russian law and its enforcement in Crimea violates international law on the protection of freedom of expression, as well as the obligations of Russia as an occupying power.

Also in September, the authorities searched the home of Elizaveta Bohutska, who is not a Crimean Tatar but is a well-known pro-Ukraine activist who is openly critical of Russia’s occupation of Crimea and the leader of a movement called Mothers of the World Against the War. In a telephone interview, Bohutska told Human Rights Watch that at around 5:30 a.m. on September 8, a group of men in civilian clothing, some of them armed and masked, came to her backyard in Simferopol and demanded that she come outside. One of the men fired five shots, one of them injuring Bohutska’s dog. One of them told Bohutska that he was from the Center for Combating Extremism and presented a warrant to search Bohutska’s home for weapons, ammunition, drugs, and prohibited literature.³⁶

After the search, which lasted about three hours, the authorities seized three of Bohutska’s computers, including one belonging to her son, a camera, two flash drives, and some personal notes. They took Bohutska to the Center for Combating Extremism in Simferopol and questioned her for seven hours without her lawyer present. The four officials who questioned Bohutska told her that the search was prompted by “complaints from her neighbors that she was inciting separatism by renouncing the ‘return of Crimea to Russia.’” According to Bohutska, the investigators mostly asked her about what they

³³ Human Rights Watch telephone interview with Alexander Verkhovsky, November 7, 2014.

³⁴ Human Rights Watch interview with Asadullah Bairov, October 27, 2014.

³⁵ “Aksyonov gave Crimean residents three months to give up prohibited literature [Аксенов дал жителям Крыма три месяца на сдачу запрещенной литературы],” *Openrussia.org*, <http://openrussia.org/post/view/427/> (accessed November 3, 2014).

³⁶ Human Rights Watch telephone interview with Elizaveta Bohutska, October 3, 2014.

called her “anti-Russian” position and her Facebook posts in which she criticized Russia’s actions in Crimea. The same day, the authorities also searched another of Bohutska’s homes, which she rents out, and attempted to search her art gallery.

After about seven hours of questioning, an investigator told Bohutska that she was a witness in a case connected with the May 3 events. Bohutska’s lawyer arrived at around 4 p.m. and said that Bohutska should stop answering questions in case they alleged she was incriminating herself. The interrogation ended, and Bohutska was allowed to leave at around 7 p.m. She left Crimea the same night and at time of writing has not returned.³⁷

Abuses by Self-Defense Units

Crimea’s so-called self-defense units are armed paramilitary groups that emerged in late February to prevent any opposition to the March referendum on Crimea’s status. They have been involved in unlawful detention, abduction, ill-treatment including torture, and harassment of pro-Ukraine activists and other residents with complete impunity.³⁸ Ukrainian human rights groups have reported that the units have also been involved in unlawful searches of persons and vehicles, violent dispersals of public gatherings, and attacks on journalists.

Human Rights Watch has repeatedly called on the authorities to immediately disarm and disband those units operating outside any legal framework.³⁹

In June, the parliament of Crimea attempted to bring the self-defense units under a legal framework by passing the law “On People’s Uprising,” which authorized self-defense units to, among other things, check identity documents and if necessary, assist police in temporarily detaining people.⁴⁰ While the law clearly states that the self-defense units

³⁷ Ibid.

³⁸ See Human Rights Watch news releases, “Crimea: Enforced Disappearances,” October 7, 2014, <http://www.hrw.org/news/2014/10/07/crimea-enforced-disappearances>; “Crimea: Attacks, ‘Disappearances’ by Illegal Forces,” March 14, 2014, <http://www.hrw.org/news/2014/03/14/crimea-attacks-disappearances-illegal-forces>; “Crimea: Disappeared Man Found Killed,” March 18, 2014, <http://www.hrw.org/news/2014/03/18/crimea-disappeared-man-found-killed>; “Ukraine: Activists Detained and Beaten, One Tortured,” March 25, 2014, <http://www.hrw.org/news/2014/03/25/ukraine-activists-detained-and-beaten-one-tortured>.

³⁹ Ibid.

⁴⁰ “Parliament of Crimea passed on the second reading the law ‘On the national militia – the people’s druzhina’ and a number of other laws in the first reading [Парламент Крыма принял во втором чтении закон ‘О Народном ополчении – народной дружине’ и ряд законов в первом чтении],” Parliament of Crimea press service, June 11, 2014,

may act only in conjunction with police, as described below, they appear to be operating autonomously and regularly harass, question, and sometimes beat people without the presence of police.

In one case Human Rights Watch documented in March, self-defense units appeared to be involved in the enforced disappearance and death of Reshat Ametov, a Crimean Tatar man who disappeared and was subsequently found dead in the Simferopol region in March.⁴¹ Ametov was last seen during a protest in the center of Simferopol on March 3, where three unidentified men in military-style clothing led him away. In October, Ametov's family and his lawyer told Human Rights Watch that the investigation into the enforced disappearance and killing of Ametov has not provided any results.

Human Rights Watch previously reported on several cases of abductions of pro-Ukraine activists by self-defense units, most of whom have been released. In some cases, the police were involved but appeared to have no coordination or control over these units.

For example, in March armed groups abducted two well-known pro-Ukraine political activists, Andriy Shekun and Anatoly Kovalksy, held them for 11 days in secret detention with several other detainees, ill-treated them both, and badly tortured Shekun.⁴² After detaining the activists at a train station in Simferopol, members of a self-defense unit first took both activists to a police station where they were registered in police books. After that, armed men from a self-defense unit again took both activists to an unknown location where they remained for 11 days and were repeatedly questioned, beaten, and shot at with low velocity handguns commonly called traumatic weapons in the former Soviet region. Shekun was subjected to electric shock on two occasions. When Human Rights Watch spoke to Shekun in October, he said that he filed a complaint with the police in March but had not heard anything about the progress of the investigation since June.⁴³

http://www.rada.crimea.ua/news/11_06_2014_1 (accessed October 4, 2014).

⁴¹ Human Rights Watch news release, "Crimea: Disappeared Man Found Killed," March 18, 2014, <http://www.hrw.org/news/2014/03/18/crimea-disappeared-man-found-killed>.

⁴² Human Rights Watch news release, "Ukraine: Activists Detained and Beaten, One Tortured," March 25, 2014, <http://www.hrw.org/news/2014/03/25/ukraine-activists-detained-and-beaten-one-tortured>.

⁴³ Human Rights Watch Skype interview with Andriy Shekun, October 16, 2014.

On June 2, members of a self-defense unit stopped a journalist, Sergey Mokrushin, and his colleague, Vladlen Melnikov, for publicly singing a song featuring profane lyrics about Russian President Vladimir Putin. Mokrushin told Human Rights Watch that at around 8 p.m., as he and Melnikov were returning from a party singing loudly, 10 armed men surrounded them on the street in the center of Simferopol. The men introduced themselves as members of Crimea's self-defense units and said the two were being detained. Despite the journalists' repeated requests to call the police, the men searched Mokrushin and Melnikov and then forced them to come to the self-defense headquarters nearby, where they handcuffed them, searched them once more, and questioned and beat them.⁴⁴

Mokrushin told Human Rights Watch that after handcuffing both him and Melnikov, the armed men made them stand facing the wall, beat Mokrushin with batons on his ribcage and legs, and hit Melnikov's head several times against the plexiglass wall. About an hour later, Melnikov managed to send a text message to his colleagues, who immediately started calling the authorities demanding that the men be released. The police arrived shortly after, questioned Melnikov and Mokrushin in the presence of the armed men who had assaulted them, and later released both without charge. Mokrushin had a bruised ribcage and several hematomas on his body. He reported the assault to the police the next day, and a week later, when he inquired about the progress of his case, police said they would contact him with any updates. At time of writing, four-and-a-half months later, Mokrushin has received no information on whether the police initiated a criminal investigation into the assault.⁴⁵

Human Rights Watch is aware of several other cases in which police dismissed complaints about abuses by self-defense units. For example, on the afternoon of May 6, self-defense units in the center of Simferopol attacked Adburaman Egiz, a 30-year-old Mejlis member. Egiz told Human Rights Watch that seven armed men wearing camouflage approached him as he was getting out of a car and demanded that he show his documents. Egiz refused, explaining that he did not know who the men were and asked that they call the police. The men said they would call the police but instead called in 20 more men in military-style clothing. They surrounded Egiz, handcuffed him, and started beating and kicking him. Egiz repeated loudly several times that he was prepared to show his passport, but they

⁴⁴ Human Rights Watch interview with Sergey Mokrushin, October 4, 2014

⁴⁵ Ibid.

continued to hit him. After approximately three minutes, they stopped hitting him, checked his passport, and let him go.⁴⁶

Egiz told Human Rights Watch that he reported the assault to the local police station the next day. The police officer on duty asked him, “Why didn’t you call the police?” On May 8, the police said that they would not be initiating a criminal investigation into Egiz’s complaint and provided him with a statement, which Egiz showed Human Rights Watch, that confirmed the police refused to initiate a criminal case due to a “lack of criminal actions.”⁴⁷

Self-defense units have also detained and in some cases beaten journalists and media workers as they were carrying out their work. For example, on May 18, self-defense units detained Crimean Tatar journalist Osman Pashayev, his cameraman, and seven other people, most of them media workers, while they were filming a mass gathering in Simferopol. Pashayev told the media that self-defense units forced him and his colleagues to stand facing a wall for several hours and interrogated and beat them before releasing them. The self-defense units also took away the journalists’ equipment, including three iPads, two iPhones, a laptop, and money amounting to 500 Ukrainian hryvnia (approximately US\$100). The equipment and money were never returned to them. After his release, Pashayev left Crimea.⁴⁸

The self-defense units publicly referred to ATR, the main Crimean Tatar channel, as “the enemy channel” and since March attacked and beat several ATR journalists who were filming public events and took away their equipment, the deputy director of the ATR channel told Human Rights Watch.⁴⁹

In researching this report Human Rights Watch did not learn of any cases in which local authorities have effectively investigated unlawful actions by self-defense units. A draft law proposed by the de facto prime minister would grant amnesty to all members of self-defense units in Crimea for the period between February and April 2014, effectively ending any prospect for accountability for abuses during that period.

⁴⁶ Human Rights Watch interview with Adburaman Egiz, October 2, 2014.

⁴⁷ Ibid.

⁴⁸ Osman Pashaev’s video interview, *Crimea Open Channel*, May 18, 2014, <http://www.youtube.com/watch?v=89oE8UTAX2o> (accessed November 2, 2014).

⁴⁹ Human Rights Watch interview with Lilya Budzhurova, October 3, 2014.

II. Harassment of Pro-Ukraine and Crimean Tatar Media Outlets

In accordance with Russia's position of applying its federal laws in Crimea, Russia has set a January 2015 deadline by which media outlets in Crimea must re-register under Russian law. A Human Rights Watch researcher met with several Crimean journalists and editors who spoke of pressure and censorship of media outlets and journalists critical of the authorities and of the impending deadline. This pressure appears to be part of the authorities' efforts to stifle all pro-Ukraine media in Crimea. Many pro-Ukraine journalists have left Crimea for mainland Ukraine, and those journalists and media outlets who remain have found themselves unable to function freely.

Since March, the authorities have been gradually pushing Ukrainian media from Crimea's airwaves. Broadcasts from the six main Ukrainian television channels in Crimea have been blocked and replaced with broadcasts from Russian channels. Since the end of June, cable television providers also stopped airing most leading Ukrainian-language channels in Crimea, including Inter, Channel 5, 1+1, and several others, significantly reducing the amount of televised Ukrainian-language content.⁵⁰

In August, authorities effectively shut down Chernomorska (Black Sea) Television Company, a private independent company, after police seized the station's broadcast equipment and computers and sealed the building. The raid followed a lawsuit filed by the Crimea Radio and Television Transmitting Center, the official body that administers broadcasts in Crimea, alleging that the station owed the center money in fees. During the raid the police also seized without explanation equipment belonging to the Center for Journalistic Investigation, a nonprofit group specializing in investigative journalism that had an office in the same building, a journalist from the Center told Human Rights Watch.⁵¹

In August, a court in Crimea ruled in favor of Chernomorska and requested that the authorities unfreeze its assets, but at time of writing, the station's equipment has not been

⁵⁰ "Media freedom under siege in Crimea, Ukraine, says OSCE representative," OSCE news release, March 8, 2014, <http://www.osce.org/fom/116240> (accessed November 2, 2014).

⁵¹ Human Rights Watch interview with Sergey M., October 4, 2014.

returned, and it has not resumed broadcasting in Crimea. The Center for Investigative Journalism has relocated to Kiev. It has made several inquiries with police about its equipment, but police have not returned the group's equipment, a journalist from the Center told Human Rights Watch.⁵²

Use of Anti-Extremist Legislation to Silence Criticism

The authorities in Crimea have used Russia's vaguely worded and overly broad anti-extremism legislation to pressure Crimean Tatar media outlets into ceasing criticism of Russia's occupation of Crimea.

For instance, the authorities issued official and informal warnings to Shevket Kaibullaev, the editor-in-chief of the Mejlis newspaper, *Avdet*, which was established in 1990 and publishes in Crimean Tatar and Russian. Kaibullaev told Human Rights Watch that in early June the Simferopol prosecutor's office issued him an official warning that some of the newspaper's materials allegedly contained extremist content, for example the call to boycott the September elections in Crimea and use of the terms "annexation," "occupation," and "temporary occupation" of Crimea. The authorities also called Kaibullaev for two informal conversations, he said, during which FSB agents and officials from the prosecutor's office warned him that *Avdet* will not be allowed to re-register under Russian law if it continued to publish such controversial content.⁵³

As noted above, on September 16, law enforcement agents searched the office of *Avdet*, located in the same building as Mejlis's office in Simferopol. Kaibullaev told Human Rights Watch that the authorities did not show a warrant for the search of the newspaper's office and did not let him inside until after the search ended. The authorities seized the newspaper's stationary computer, a hard drive, and several flash drives. Kaibullaev said that because the authorities did not give him relevant procedural documents after they completed the search, he was not able to trace which of the law enforcement agencies conducted the search and seized the equipment. *Avdet's* office has since remained sealed and its bank accounts frozen.

Kaibullaev told Human Rights Watch that the day after the search, on September 17, the Crimean FSB office handed him an official warning that referenced Kaibullaev's "personal

⁵² Ibid.

⁵³ Human Rights Watch interview with Shevket Kaibullaev, October 1, 2014.

responsibility” for publishing materials calling for the September election boycott with “intent to disrupt” the work of state bodies. The document explicitly warned Kaibullaev that such actions qualified as public calls for extremist activities, a crime punishable by up to five years in jail.⁵⁴

In an official response to a September 19 statement by the Organization for Security and Co-operation in Europe (OSCE) expressing concern about the fate of *Avdet*, Russia’s Ministry of Foreign Affairs said that the search was connected with alleged extremist activities of the newspaper, which “refuses to work within the boundaries of the law.”⁵⁵

The authorities also harassed ATR, the only Crimean Tatar television station, which was founded in 2005 and broadcasts in three languages: Crimean Tatar, Ukrainian, and Russian. On May 16, the Crimea prosecutor’s office issued an official warning to ATR’s leadership about its coverage of the mass gathering on May 3, stating that the channel had reported on the gathering’s participants making calls “of an extremist nature.”

ATR’s deputy director, Lilya Budzhurova, told Human Rights Watch that the pressure on independent media in Crimea in general and ATR in particular has been unprecedented in the past six months. She said that ATR had to develop self-censorship in order to survive:

All media outlets in Crimea have until January [the end of the transition period] to re-register under Russian law. After that, Roskomnadzor [the Russian state media oversight body] will have complete freedom to do what they like with “provocateurs” like us. We want to continue working so we started self-censoring where we can: for example, we avoid using certain words and phrases, such as “annexation” or “occupation” of Crimea.”⁵⁶

Budzhurova told Human Rights Watch that since May the FSB and the prosecutor’s office in Crimea visited ATR’s office several times and had conversations with Budzhurova and her

⁵⁴ Ibid.

⁵⁵ “Commentary of the Information and Press Department of the Russian Ministry of Foreign Affairs in response to the statement by the OSCE expressing concern about the fate of *Avdet* [Комментарий Департамента информации и печати МИД России в связи с заявлением Представителя ОБСЕ по вопросам свободы СМИ Д.Миятович о ситуации вокруг газеты ‘Авдет’],” Ministry of Foreign Affairs of the Russian Federation, September 22, 2014, http://www.mid.ru/brp_4.nsf/newslines/2521FB260EFAFE9744257D5B0051A5D2 (accessed November 5, 2014).

⁵⁶ Human Rights Watch interview with Lilya Budzhurova, October 3, 2014.

colleagues about the channel's editorial policies, which the officials said they found to be "aggressive and provocative."⁵⁷

Budzhurova also said that when ATR was reporting on the wave of searches of Crimean Tatars' homes, schools, and mosques in September, FSB agents would call ATR requesting that it refrain from airing the materials. "Almost every morning would start with a call from the authorities, from the FSB," Budzhurova said. "They say something like: we saw there was an ATR crew at the search in a mosque yesterday. There is no need for you to broadcast that story. Or sometimes they would ask us to replace the word 'search' with the word 'inspection.'"

Budzhurova said that after she responded that ATR was not inventing the coverage but showing news that really happened, the FSB agents threatened the television station with imminent closure and repeated that threat several times over the next few days. "They try to force us to not report on controversial subjects by threatening to shut us down," Budzhurova told Human Rights Watch.

Budzhurova also said that since March the authorities have on many occasions and mostly without explanation prevented ATR journalists from reporting on official events, such as local parliamentary sessions. In August, the authorities cancelled ATR journalist Shevket Namatullaev's accreditation to cover local parliament sessions because he did not stand up during the Russian anthem, she said.⁵⁸

A September 24 letter from the Interior Ministry's Center for Combating Extremism to ATR's director, which Human Rights Watch reviewed, stated that the center received information that ATR's editorial policies were directed at creating "anti-Russian" public opinion and inciting "distrust towards authorities among the Crimean Tatar population." The letter further requested that ATR provide the center with copies of its registration documents, documents authorizing ATR's work, and all administrative documents, including the office rental agreement.

"The atmosphere towards media in Crimea is so hostile that it made it practically impossible for us to continue working," Budzhurova told Human Rights Watch.⁵⁹

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

III. Imposition of Russian Citizenship in Crimea

Following the March occupation, the Russian government expressed its intent to move swiftly to bestow Russian citizenship and passports on residents of Crimea. In line with its March 2014 law “On the Acceptance of the Republic of Crimea into the Russian Federation and the Creation of New Federal Subjects – the Republic of Crimea and the City of Federal Significance Sevastopol,” Russia required any permanent resident of Crimea who held Ukrainian citizenship to undergo a process of declaring intent to maintain Ukrainian citizenship. The deadline to complete that process was April 18, after which all Ukrainian passport holders who resided in Crimea were deemed Russian citizens.⁶⁰

After April 18, Russian legislation regulating the rights and entitlements that extend to Russian citizens but not non-Russians went into effect in Crimea. The effect of this law was to discriminate against those residents who chose not to renounce their Ukrainian citizenship, who are now considered by Russia to be foreign migrants with no guaranteed right to remain in Crimea. Ukrainian citizens are not guaranteed the same rights as Russian citizens. For example, only Russian passport holders are allowed to occupy government and municipal jobs.⁶¹

All those who obtained Russian citizenship are also subject to Russia’s military service requirements. Article 3 of the March 23 Russian law on the acceptance of Crimea into Russia states that residents of Crimea conscripted into the Russian armed forces will serve on the territory of Crimea until the end of 2016.

Russia has not simply offered Russian citizenship to residents of Crimea, but rather Russia has compelled residents to choose between Ukrainian and Russian citizenship while imposing adverse consequences, directly and indirectly, on those who chose to retain Ukrainian citizenship. In addition, as documented below, there were serious flaws in the process for Ukrainian citizens who sought to retain Ukrainian citizenship: some Ukrainian

⁶⁰ Federal law no. 6- FKZ from March 21, 2014, *Rossiiskaya Gazeta*, <http://www.rg.ru/2014/03/22/krym-dok.html> (accessed November 6, 2014). See also, “Information for foreign citizens and stateless persons residing on the territory of the Crimean peninsula and the city of Sevastopol [Информация для иностранных граждан и лиц без гражданства, проживающих (пребывающих) на территории Республики Крым и г. Севастополя],” Federal Migration Service of the Russian Federation, http://www.fms.gov.ru/treatment/voprosy/info_dlya_instrn_grzhdn_v_krymu/ (accessed November 1, 2014).

⁶¹ Ibid.

citizens were unable to exercise their choice to retain citizenship and had Russian citizenship imposed on them. Others were subject to harassment and intimidation for not obtaining Russian citizenship. In such circumstances, the imposition of Russian citizenship in Crimea was coercive.

Another impact of the change of citizenship is that men of conscription age who acquired Russian citizenship, whether through choice or default, will be subject to Russian mandatory military service requirements. Article 3 of the March 23 Russian law on the acceptance of Crimea into Russia states that residents of Crimea conscripted into the Russian armed forces will serve on the territory of Crimea until the end of 2016. This raises serious issues under international law discussed below.

Violations of the Law on Occupation

It is a longstanding rule of international law that an occupying power is forbidden from compelling the inhabitants of an occupied territory to swear allegiance to the occupying power, and allegiance to the displaced sovereign, in this case Ukraine, cannot be altered by duress.⁶²

Under the Fourth Geneva Convention, civilians and other protected persons “may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention ...”⁶³ and in particular an occupying power may not compel residents of the occupied territory to serve in its armed or auxiliary forces. The Fourth Geneva Convention explicitly prohibits any “pressure or propaganda which aims at securing voluntary enlistment,” and violation of the prohibition is a grave breach.⁶⁴

It is further prohibited for an occupying power to seek to make a permanent change to the demographics of the occupied territory, for example for an occupying power to deport or forcibly transfer the civilian population of an occupied territory, in whole or in part, unless the security of the civilians involved or imperative military reasons demand it.⁶⁵ Nor can

⁶² Regulations concerning the Laws and Customs of War on Land, annexed to Hague Convention (II) of 1899 and Hague Convention (IV) of 1907, article 45. See also Yoram Dinstein, *The International Law of Belligerent Occupation* (Cambridge: Cambridge University Press, 2009), para. 124.

⁶³ Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, August 12, 1949, art. 8.

⁶⁴ Geneva Convention (IV), arts. 51 and 147.

⁶⁵ Geneva Convention (IV), art. 49.

the occupying power deport or transfer parts of their own civilian population into a territory they occupy.⁶⁶

While Russia is entitled to offer citizenship to whoever qualifies under its national laws, irrespective of where they reside, a policy that seeks to coerce, directly or indirectly, a population in occupied territory to assume Russian citizenship is not permitted under international law.

In addition to introducing policies that would discriminate against citizens of the occupied territory, in this case Ukrainians, Russian migration laws and policies may also lead to a situation where Ukrainian citizens in Crimea are forced out of Crimea. Any deportation or forced expulsions by Russia of Ukrainian citizens, individually or collectively, from Crimea would constitute a war crime.

Discriminatory Treatment of Ukrainian Citizenship Holders

The process of bestowing Russian citizenship on Ukrainians in Crimea was not simply a matter of allowing those who wished to apply for Russian citizenship. The process required all residents of Crimea who were citizens of Ukraine prior to the occupation of Crimea to take proactive steps to confirm their Ukrainian citizenship within a one-month period, or become Russian citizens by default.⁶⁷

While there are no official statistics available at time of writing on the number of people who were able to confirm their Ukrainian citizenship or those who obtained Russian citizenship, in a media interview in September a senior official of the Federal Migration Service (FMS) stated that by September, 98 percent of Crimean residents obtained Russian passports.⁶⁸ There is no way to verify this data, but rights groups and numerous media reports suggest that a significant number of people who wished to retain their Ukrainian citizenship faced difficulties that prevented them from doing so within the one-month

⁶⁶ Ibid.

⁶⁷ For excellent summaries regarding citizenship in Crimea, see reports by the UN Human Rights Monitoring Mission in Ukraine; see especially the report of May 15, 2014: <http://www.ohchr.org/Documents/Countries/UA/HRMMUReport15May2014.pdf> (accessed November 14, 2014) and of June 15, 2014: <http://www.ohchr.org/Documents/Countries/UA/HRMMUReport15June2014.pdf> (accessed November 14, 2014).

⁶⁸ "FMS: 98% of Crimean residents obtained Russian passports [98% жителей Крыма получили российские паспорта]," *BBC Russian Service*, September 11, 2014, http://www.bbc.co.uk/russian/rolling_news/2014/09/140911_rn_crimea_russian_passports (accessed November 10, 2014).

deadline.⁶⁹ Such difficulties included the extraordinary short grace period compounded by lack of publicly available information on the procedure and other obstacles outlined below.

According to local residents and rights monitoring groups on the ground in Crimea, Russia's FMS operated only four offices in Crimea where Crimean residents could confirm Ukrainian citizenship. These offices were not easily accessible to Crimean residents living in the countryside: three were in or around the regional capital of Simferopol and one was in Sevastopol.⁷⁰ Local media reported on long lines exceeding daily capacity of each of four offices, which resulted in some people not being able to get to the top of the queue before the deadline expired.⁷¹ Several more offices were open in Crimea in April, but the timeframe for retaining Ukrainian citizenship, which expired on April 18, was not extended.⁷²

Crimean residents who wanted to receive Russian passports could do so by mail, apply at 160 designated offices around Crimea, or apply at any Russian consulate or embassy in the world. Crimean residents who were Ukrainian citizens but were outside Crimea during that one-month period had no clear recourse for declaring Ukrainian citizenship within the deadline due to conflicting information provided by the authorities on whether Russian embassies and consulates around the world accepted such applications.⁷³ Rights groups, journalists, and bloggers reported cases where people were unable to apply to retain their Ukrainian citizenship abroad because Russian consulates refused to accept such applications citing lack of clear instructions and absence of forms to process such requests.⁷⁴

⁶⁹ "Russian or Else: On How Russia is foisting its citizenship in Crimea," Kharkiv Human Rights Group, September 22, 2014, <http://khhpg.org.ua/en/index.php?id=1411211863> (accessed November 5, 2014).

⁷⁰ Brief overview of the human rights situation in Crimea [Краткий обзор ситуации с правами человека в Крыму], "Crimea Field Mission, July-August 2014, http://crimeahr.org/sites/default/files/otchet_krymskoy_polevoy_missii_-_iyul-avgust_2014.pdf (accessed November 1, 2014).

⁷¹ "Crimeans refuse Russian citizenship [Крымчане отказываются от российского гражданства]," *Krym Reali*, April 4, 2014, <http://ru.krymr.com/content/article/25321899.html> (accessed November 11, 2014).

⁷² Brief overview of the human rights situation in Crimea [Краткий обзор ситуации с правами человека в Крыму], "Crimea Field Mission, July-August 2014, http://crimeahr.org/sites/default/files/otchet_krymskoy_polevoy_missii_-_iyul-avgust_2014.pdf (accessed November 1, 2014).

⁷³ On April 11, Russia's Federal Migration Service in Crimea officially confirmed on its Facebook page that Crimea residents with Ukrainian citizenship could declare their wish to retain Ukrainian citizenship at Russia's consulates and embassies worldwide. However, the same statement also acknowledged problems with applications possibly not arriving to the FMS due to postal services' glitches and encouraged people to apply in person in Crimea.

⁷⁴ "Crimean citizen had to return from Germany to retain Ukrainian citizenship [Крымчанка намеренно вернулась из Германии чтобы сохранить украинское гражданство]," *Fakti*, April 8, 2014, <http://fakty.ictv.ua/ru/index/read-news/id/1511057> (accessed October 15, 2014). See also, "Entry – one ruble, exit – two. To retain Ukrainian citizenship in Crimea is much more difficult than to obtain Russian [Вход – один рубль, выход – два. Сохранить украинское гражданство в Крыму намного сложнее, чем получить российское]," *Radio Liberty*, October 10, 2014, <http://www.svoboda.org/content/article/25319928.html> (accessed November 6, 2014).

According to Russia's FMS, Crimea residents who wished to retain their Ukrainian citizenship did not automatically obtain Russian permanent residence status. They had to present Russian migration authorities with numerous documents, including proof of the fact that they permanently resided in Crimea as of March 2014.⁷⁵

The FMS considers a residence registration as the main proof of one's place of residence. Indeed, this residence stamp in one's passport is required of all permanent or temporary residents of Russia by law. In Ukraine, however, getting a residence stamp is mostly voluntary.⁷⁶ As a result, many people, while in practice residing in Crimea, either did not have the registration stamp in their passport at all or were formally registered in mainland Ukraine. To get a Russian permanent residence permit, they had to demonstrate they were residing in Crimea permanently in March.

Certain categories of residents of Crimea were left with no option but to accept Russian citizenship. This was particularly the case for prisoners, people with disabilities, or others who could not meet the in-person requirements to declare their Ukrainian citizenship by the April 2014 deadline.⁷⁷

The Crimean Field Mission, a monitoring group based in Crimea, reported that some Crimean residents were threatened with dismissal at their workplace if they did not become Russian nationals.⁷⁸

Risk of Expulsion from Crimea

As noted above, under the March 2014 law Crimea residents who did not want Russian citizenship and declared their Ukrainian citizenship ahead of the April 2014 deadline have the right to receive a permanent residence permit to stay in Crimea. Foreigners and

⁷⁵ "Information for foreign citizens and stateless persons residing on the territory of the Crimean peninsula and the city of Sevastopol [Информация для иностранных граждан и лиц без гражданства, проживающих (пребывающих) на территории Республики Крым и г. Севастополя]," Federal Migration Service of the Russian Federation, http://www.fms.gov.ru/treatment/voprosy/info_dlya_instrn_grzhdn_v_krymu/ (accessed November 1, 2014).

⁷⁶ Svetlana Gannushkina, "Заметки о Крыме [Notes on Crimea]," *Novaya Gazeta*, April 24, 2014, <http://www.novayagazeta.ru/comments/63343.html> (accessed November 12, 2014).

⁷⁷ "Russian or Else: On How Russia is foisting its citizenship in Crimea," Kharkiv Human Rights Group, September 22, 2014, <http://khp.org.ua/en/index.php?id=1411211863> (accessed November 5, 2014).

⁷⁸ Brief overview of the human rights situation in Crimea [Краткий обзор ситуации с правами человека в Крыму]," Crimea Field Mission, July-August 2014, http://crimeahr.org/sites/default/files/otchet_krymskoy_polevoy_missii_-_iyul-avgust_2014.pdf (accessed November 1, 2014).

stateless persons who were temporary residents in Crimea as of March 18 have until January 1 to apply to Russian migration services to obtain a new, Russian temporary residence permits for Crimea.⁷⁹

In July, the Russian government introduced a quota system for temporary residence permits for non-Russian citizens in Crimea.⁸⁰ The quota system provides only 5,000 temporary residence permits for non-Russians in Crimea and 400 for Sevastopol. The quota system raised very serious concerns among Russian and Ukrainian migration experts that the quota was set far too low to reasonably accommodate all foreigners who were already in Crimea on residence permits, in addition to Ukrainian citizens who wanted to retain their citizenship but were not able to successfully apply for permanent residency for the reasons stated above.

While there are no official guidelines clarifying the quota, in a late September media interview, an FMS official in Crimea stated it applied only to foreign citizens who were temporarily residing in Crimea and not to Ukrainian citizens who were permanently living there as of March 2014 and chose to keep their Ukrainian citizenship. Those who were living in Crimea permanently, he said, could apply directly for permanent residency and would not be subjected to the quota. The quota, he said, did apply to foreigners with non-Ukrainian passports who were living in Crimea before March and held Ukrainian residence permits.⁸¹

Human Rights Watch came across several reports, which it was not in the position to independently verify, of individuals who had declared their Ukrainian citizenship and applied for permanent residence permits being required to present proof of stable income, including written confirmation from their employer when applying. This implies that

⁷⁹ “Information for foreign citizens and stateless persons residing on the territory of the Crimean peninsula and the city of Sevastopol [Информация для иностранных граждан и лиц без гражданства, проживающих (пребывающих) на территории Республики Крым и г. Севастополя],” Federal Migration Service of the Russian Federation, http://www.fms.gov.ru/treatment/voprosy/info_dlya_instrn_grzhdn_v_krymu/ (accessed November 1, 2014).

⁸⁰ “On the establishment of quotas for issuing temporary residence permits to foreign citizens and stateless persons in the Russian Federation (as amended July 19, 2014) [Об установлении квоты на выдачу иностранным гражданам и лицам без гражданства разрешений на временное проживание в Российской Федерации (с изменениями на 19 июля 2014 года)],” <http://docs.cntd.ru/document/499062521> (accessed November 12, 2014).

⁸¹ “Crimean FMS department explained that more than 5000 foreign citizens can reside in Crimea [В крымском управлении ФМС разъяснили, что на полуострове могут длительно проживать гораздо больше 5 тыс иностранных граждан],” *Krym Inform*, September 23, 2014 (accessed November 2, 2014).

residency will not be automatically granted and that there is a possibility that Ukrainian citizens could be refused residency permits and ultimately deported or expelled.

Travel Between Crimea and Other Parts of Ukraine

Human Rights Watch came across several reports of Crimean residents facing difficulties while traveling to other parts of Ukraine. While Ukraine does not allow dual citizenship, Ukrainian authorities made public pledges not to penalize Ukrainian citizens forced to obtain Russian citizenship in Crimea—as indeed they should, since they should be recognized as continuing their Ukrainian citizenship. Despite that, in the last six months there have been reports of Ukrainian border guards deliberately searching people for Russian passports and refusing permission to Ukrainian citizens who have received Russian passports to enter mainland Ukraine from Crimea. Human Rights Watch has been able to document three such cases.

In one incident on June 4, Ukrainian border guards stopped and searched Risa Veli, technical director of the ATR television channel, and his colleague, both of whom were traveling on a train from Crimea to Kiev on a work assignment, in the town of Melitopol on the administrative border between Crimea and mainland Ukraine. Both Veli and his colleague presented their Ukrainian passports to the border guards, but the border guards insisted on searching their bags where they discovered Russian passports. After that, the border guards refused Veli and his colleague entry into Ukraine and ordered them to leave the train and return to Crimea. Human Rights Watch has been unable to determine whether this and the two other incidents we documented are isolated cases or part of a broader problem.⁸²

⁸² Human Rights Watch interview with Nadjie F., October 1, 2014.

IV. Applicable Legal Framework

As noted above, Human Rights Watch applies the international law of occupation to Russian forces in Crimea. Under the 1949 Geneva Conventions, territory is considered “occupied” when it comes under the control or authority of foreign armed forces, whether partially or entirely, without the consent of the domestic government. This is a factual determination, and the reasons or motives that lead to the occupation or are the basis for continued occupation are irrelevant.

Following the February 2014 ouster of Ukraine’s former president, Viktor Yanukovich, Russian armed personnel and pro-Russian militias in Crimea prevented Ukrainian armed forces from leaving their bases, took control over strategic facilities, and took over Crimea’s administrative borders with the rest of Ukraine.

On March 16, Crimea’s local authorities held a referendum on whether Crimea should secede from Ukraine to join the Russian Federation. The Ukrainian government did not recognize and declared the referendum illegal. After local authorities announced on March 17 that 97 percent of the population had voted to join Russia, President Vladimir Putin of Russia signed a decree recognizing Crimea as an independent state. On March 18, Putin and Crimea’s leadership signed agreements making Crimea and the city of Sevastopol part of the Russian Federation. Russia’s parliament subsequently adopted a law accepting the new regions as parts of the Russian Federation.

As a matter of international law Crimea is considered to be a part of Ukraine. The referendum vote and decisions on sovereignty by local authorities in Crimea took place during military occupation of Crimea by Russia and in face of objection by Ukraine and without any broad-based support of the international community. On April 1, the UN General Assembly adopted Resolution 68/262 on the “Territorial integrity of Ukraine,”⁸³ in which it underscored “that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any

⁸³ UN General Assembly Resolution, “Territorial integrity of Ukraine,” A/RES/68/262, para. 5. Also, para. 6 “*Calls upon* all States, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the above-mentioned referendum and to refrain from any action or dealing that might be interpreted as recognizing any such altered status.”

alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol.” Consequently, under international law neither the referendum nor its endorsement by Russia can be considered to effect a transfer of sovereignty that would end the state of belligerent occupation and do not impact the applicability of the law of occupation to the Crimea situation.

International Humanitarian Law

Russia and Ukraine are both parties to the Hague Regulations of 1907 (Hague), the Fourth Geneva Convention of 1949 (Geneva IV), and certain provisions of the 1977 Protocol Additional to the Geneva Conventions of 1949 (Protocol I), which provide the primary treaty sources for the modern law of occupation. Much of this law is also a matter of customary international law.⁸⁴ For the purposes of the developments documented in this report, Human Rights Watch draws particular attention to the responsibility of the occupying power to ensure that everyone is treated humanely and without discrimination based on ethnicity, religion, or any other basis.⁸⁵ This includes respecting family honor and rights, people’s lives, and private property, as well as religious and customary convictions and practice and adhering to the prohibitions on acts such as arbitrary detention, enforced disappearances, and inhuman and degrading treatment or punishment and torture. Under the Fourth Geneva Convention, the occupying power has the obligation to “facilitate the proper working of all institutions devoted to the care and education of children.”

International Human Rights Law

Both Ukraine and Russia are parties to several international human rights treaties, including the International Covenant on Civil and Political Rights and the European Convention on Human Rights, which continue to be applicable during the occupation. While in a time of war restrictions on and derogations from many of these rights are permitted (e.g. restrictions on freedom of assembly and right to privacy), such restrictions are limited to those that are strictly required by the necessity of the situation and that are compatible with obligations under international humanitarian law. Several rights such as the prohibition on torture, inhuman and degrading treatment, and the obligation of

⁸⁴ Human Rights Watch Q&A, “Questions and Answers: Russia, Ukraine and International Humanitarian and Human Rights Law, March 22, 2014, <http://www.hrw.org/news/2014/03/21/questions-and-answers-russia-ukraine-and-international-humanitarian-and-human-righ-o>.

⁸⁵ See Geneva Conventions, common art. 3; Fourth Geneva Convention, art. 13; Additional Protocol I, art. 75(1).

nondiscrimination cannot be subject to restrictions. The UN Human Rights Committee and the European Court of Human Rights also retain jurisdiction over Crimea.

Ukraine has already filed three cases against Russia for actions in Crimea with the European Court of Human Rights.

The first application, *Ukraine v. Russia I* (no. 20958/14), lodged in March 2014, alleged that the civilian population on the territory of Ukraine was at risk of measures by Russia that might threaten their life and health. The second application, *Ukraine v. Russia II* (no. 43800/14), lodged in June, concerns the alleged transfer of 16 children and 2 teachers from Ukraine to Russia who have since been returned to Ukraine. And in the third application, *Ukraine v. Russia III* (no. 49537/14), lodged in July, a complaint was made on behalf of Hayser Dzhemilov regarding his detention in Simferopol. In all cases the court invoked rule 39 of the Rules of Court and indicated to the governments of Russia and Ukraine that they should ensure respect for convention rights of the civilian population and the particular persons involved.

According to the European Court, by August 12, 2014, 55 individual applications were also lodged with the court against either or both Ukraine and Russia relating to events in Crimea or southeastern regions of Ukraine.



RIGHTS IN RETREAT

Abuses in Crimea

(above) The parents of Seiran Zinedinov, a Crimean Tatar activist who disappeared on May 30, 2014, holding his photograph.

© 2014 Lucy Ash/BBC

(front cover) Army and police officers block the road ahead of a protest by Crimean Tatars (visible in the background) at a Russia-Ukraine border checkpoint outside the town of Armyansk, Crimea on May 3, 2014.

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Annex 944

Ukrainian Center for Independent Political Research, "Annexed" Education in Temporarily Occupied Crimea, Monitoring Report (2015)



Ukrainian Center for Independent Political Research
Integration and Development Center
for Information and Research



Edited by Yulia Tyshchenko, Oleg Smirnov

«Annexed» Education in Temporarily Occupied Crimea

Monitoring Report



Kyiv - 2015

УДК 37.018(477.75)»2014»=161.2=111

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The Monitoring Report presents a brief description of the situation in Crimea after annexation in the area of education in Ukrainian and Crimean Tatar, the content of humanitarian subjects and opportunities of Crimean school graduates for entering Ukrainian HEIs. The Report is based on statistical and actual data, documentary materials on transformations in the system of Crimean education as well as the educational rights of Ukrainians and Crimean Tatars.

The Report will be useful for officials, public activists and a broad circle of people interested in education issues.

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Introduction

The system of secondary education in Russia-annexed and occupied Crimea has experienced radical transformations over the past 9 months of 2014 and 2015. Specifically, this concerns the organization of education in Ukrainian, changes in curriculums and grading system. The monitoring of the situation in the area of Crimea's education provides a detailed analysis of the above changes. The relevant materials are collected and presented under the Project on «**Educational Rights Enjoyment by Minorities in Crimea**».

Within 6 months of the Project, the situation in the area of education in Crimea has been monitored based on public sources and information provided by monitors. In particular, this concerns the following:

- Changes in education in Ukrainian and Crimean Tatar
- Drastic changes in the content of humanitarian subjects
- Challenges of entering Ukrainian higher education institutions for Crimean school graduates
- Changes in the grading system (the transition to the five-point grading system)
- Specificities of out-of-school education (in terms of combating extremism and terrorism).

The monitoring presents statistical and actual data, documentary materials on transformations in the system of education after Crimea's annexation as well as the rights of Ukrainians and Crimean Tatars.

The initial information has been used for 8 monitoring reports providing general description of the situation in different educational areas. In general, transformations in the Crimean education system decreased opportunities for instruction in Ukrainian and Crimean Tatar and resulted in the closure of schools with tuition in Ukrainian, changes in the teaching of humanitarian subjects and substitution of textbooks.

It is possible to make the following conclusions on the basis of monitoring data.

I. GENERAL ASSESSMENT OF THE SITUATION:

1. The Crimean education system was to transfer to Russian standards within a couple of months, from March to August 2014. Since 1 September, 2014, Crimean schools have shifted to Russian standards in accordance with the federal law No. 84-ФЗ «On Specific Features of Legal Regulation of Relations in the Area of Education in Connection with the Accession of Crimea and Sevastopol to Russia and on the Formation of

New Constituent Territories in the Russian Federation – the Republic of Crimea and the Federal City of Sevastopol» dated 5 May, 2014 and amendments to the Federal Law «On Education in the Russian Federation».

This is not officially treated as the problem because of the importance to demonstrate the easiness, logic and naturalness of «Crimea's return» at all levels of government activity. Also, it is possible to state the full confiscation of textbooks and teaching aids published by Ukrainian standards and used in the educational process till recently. They are brought to warehouses or school basements. Some schoolbooks are taken to educational institutions of the Donetsk and Luhansk regions.

2. On 30 December, 2014, the Crimean Council of Ministers has issued the resolution No. 651 «On the Approval of the State Program for the Development of Education and Science in the Republic of Crimea for 2015-2017». Meanwhile, no Program Section is dedicated to the access to education in native (minority) languages or, at least, the exercise of the right to learn them. There are no statistical data on the language of instruction or other characteristics of the existing educational institutions of Crimea.
3. Curriculums and the structure of humanitarian subjects have been radically changed. History of Ukraine and Ukrainian Literature disappeared from the list of humanitarian disciplines in educational establishments. In the context of teaching of humanitarian subjects, of special interest is history as the main form of communicating ideology to new generations. There is a great difference in the teaching of humanitarian disciplines, in particular history and social studies, between Ukraine and Russia by curricular and ideological criteria. Although this subject is studied from the 5th class in both countries, the forms of teaching are totally different. The difference between Russian and Ukrainian curriculums is actually one year, which has caused a lot of problems for teachers and school students.
4. Of special note is the enhancement of the ideological element of historical teaching, which completely destroys ideology of children who studied under the Ukrainian system of education. History is becoming an efficient mechanism for narrowing ideology of schoolchildren, disregard for critical thinking in their work with historical materials, forcible indoctrination on history of native land and Crimea. The study of Ukrainian history is not provided for in the history curriculum.
5. The return to the five-point grading system is one of the important indicators of different approaches that impacts the exercise of the right to effective and competitive education. It means a step back in the process of historical development of the education system. It restricts not only flexibility of the grading system, thus creating additional difficulties for teachers and students, but also opportunities of Crimean school graduates for choosing HEIs for further education.

6. The entry to Russian and Ukrainian higher education institutions for Crimean school graduates poses a serious problem that limits their right to education. On the one hand, authorities believed that one year of study under Russian educational programs will help Crimean school graduates get prepared for the Unified State Exam (USE). However, the difference between Russian and Ukrainian curriculums is so great that it is impossible to overcome it within one year. Therefore, it was decided to admit Crimean senior schoolchildren to higher education institutions of Crimea and other regions by the simplified procedure, i.e. without the mandatory USE. However, applicants to Crimean HEIs may face the problem of recognition of diplomas of newly established or reformed Crimean HEIs in the world. The Ministry of Education and Science of Ukraine takes certain measures aimed to ensure access to the External Independent Testing and entry of Crimean school leavers to Ukrainian HEIs.
7. Teachers also emphasize severe bureaucratic procedures of attestation of academic staff that impacts their salary rate. They have to collect their own «portfolio» consisting of numerous documents confirming involvement in different activities. They have to take part in webinars, create personal websites, teach online lessons and carry out extra-curricular activities. All these are regulated by relevant regulations establishing grades for each type of activity. Hence, teachers' sentiments are changing depending on their load and the level of bureaucratization of the attestation procedure.

II. IN THE AREA OF ENSURING THE RIGHT TO TEACHING IN OR OF THE NATIVE (UKRAINIAN) LANGUAGE:

During the summer vacations of 2014, the structure of educational institutions was completely changed; the number of schools and classes offering tuition in the native language was drastically reduced. The Taurida National V. I. Vernadsky University has closed down the Ukrainian Philology Faculty; most teachers have been fired. The number of hours for the study of Ukrainian has become half as much as that for the study of Russian. 15 hours were given for the Ukrainian Language and Ukrainian Literature in total and 28 hours – for the Russian Language and Russian Literature. It is indicative that 15 hours a week were allocated for the study of foreign language. Such approach actually equalized the mother tongue and a foreign language (by this criterion).

Violations of the language and education rights of the Ukrainian minority in Crimea are characterized by the situation in the area of education in the 2014/2015 academic year. In particular, 177,984 students of 576 Crimean schools study in Russian. Only one school in Yalta remained out of 7 schools with instruction in Ukrainian. The number of students who study in Ukrainian is 1,990 or 1.2% of the total number of schoolchildren (or 184,869, of whom 4,895 students study in Crimean Tatar and 1,990 students are instructed in Ukrainian). Before the annexation, at least 8.2% of Crimean children were taught in Ukrainian.

The closure of the Ukrainian Philology Faculty of the Taurida National V. I. Vernadsky University has resulted in a sharp decrease in the number of teachers of Ukrainian language and literature and their retraining in teachers of Russian language and literature. Under the order of the Ministry of Education of the Republic of Crimea No. 132 as of 29 August, 2014, 276 teachers of Ukrainian language and literature have been sent for retraining in «Philology, Russian Language and Literature» for 10 months (the instruction of the Republican Institute for Post-graduate Pedagogical Education (CRIPPE) No.8 «On Enrollment» dated 1 September, 2014).

Since February 2014, Crimean authorities have created the atmosphere of Ukrainophobia and intolerance to Ukrainian identity, which has influenced the choice of the language of instruction. According to parents, most of them felt uncomfortable and failed to file applications for the language of tuition. Some parents reported special community meetings held by school masters to dissuade them from writing applications and saying that «the study of Ukrainian is a waste of time for your children. The knowledge of Ukrainian will not increase but reduce their opportunities to enter HEIs.» The problem of opposition between parents and school teachers was solved only by means of administrative pressure on teachers and teaching staffs and intimidation of parents through parent committees or individual conversations often attended with threats of violence and physical attack. Parents were pressed to decrease the number of applications for the teaching in the native language.

There are numerous examples of repressions and defamation against school teachers of Ukrainian language and literature, which eventually made them quit and leave Crimea or search for another job. Pressure was also put on children taught in Ukrainian. Almost 80% of them were forced to leave Crimea and enter educational institutions in other Ukrainian regions.

All this happened contrary to principles of the so-called Crimean Constitution governing, «Ukrainian, Russian and Crimean Tatar shall be the national languages of the Republic of Crimea», «the Republic of Crimea shall recognize the principle of diversity of cultures, ensure their equal development and mutual enrichment» (Paragraph 3, Article 1) and «everyone shall have the right to use his/her native language and to freely choose the language of communication, teaching, education and creation» (Paragraph 2, Article 19).

III. IN THE AREA OF ENSURING THE RIGHT TO TEACHING IN OR OF THE NATIVE (CRIMEAN TATAR) LANGUAGE

The development of a system of education in the Crimean Tatar language has always been serious challenges for Crimean Tatars. The above problems remained after the annexation and some of them even deteriorated, e.g. a reduction in the number of hours for study of Crimean Tatar language and literature. Headmasters have chosen curriculums without hours for study of native language and forced many parents not to file relevant applications.

Yet, the power has adjusted the policy for teaching and learning of Crimean Tatar language and literature and submitted for public discussion the State Program on «Preservation, Learning and Development of Languages of Armenian, Bulgarian, Greek, Crimean Tatar and German Peoples for 2015-2020». Among other things, the Program «shall provide a legislative and organizational framework for education in minority languages on a non-discriminatory basis; and expand opportunities to meet the needs of every human being for the study of native language.» Another positive aspect is the task «to exercise the constitutional right to affordable and free pre-school, elementary and secondary education in Crimean Tatar».

Meanwhile, the number of schools with the Crimean Tatar language of teaching as well as that of schoolchildren who learn or are taught in the native (Crimean Tatar) language has not practically changed compared with the previous year. Yet, the number of hours has decreased. According to the «Curriculum Sample for Educational Institutions of the Republic of Crimea with Instruction in the Native (non-Russian) Language (Ukrainian and Crimean Tatar)», the number of hours spent for the native language and Russian was the same in the 4th class, whereas in the 5th class, the difference in the number of hours for the Russian and non-Russian language and literature doubled. In upper school classes, subjects are not taught in the native language. The difference in the education systems also indicates possible deterioration of problems linked to education in Crimean Tatar.

It has also to be stated that the number of classes and schoolchildren has considerably decreased. In the 2014/2015 academic year, the number of schoolchildren taught in Crimean Tatar (from the 1st to the 9th classes) totals 4,975 (331 classes). In the 2013/2014 academic year, this indicator amounted to 5,551 schoolchildren (576 up from the previous year).

Also, the share of Crimean Tatar children who have access to teaching in or of the native language in the total number of children of the school age remains very low (15-20% at different levels) and is not in line with the real needs.

IV. IN THE AREA OF EDUCATIONAL WORK:

It is possible to state that a dominant concept of educational work is the one gradually promoted within the first months of the 2014/2015 academic year based on the need to shape a «defense ideology» by increasing the number of educational actions for combating extremism and terrorism. *The Concept of Patriotic, Spiritual and Moral Education of the Population of the Republic of Crimea of 18 December, 2014* is the fateful document promoting the development of Crimea's education area and focused, among other things, on «military and patriotic upbringing of school students». Many actions and events recommended to be conducted at educational institutions are dedicated to historical «substantiation of Crimea's annexation», which clearly indicates

the formation of further directions of patriotic education. The legal rules have toughened. Teachers report a trend towards Ukrainophobia and celebration of new holidays.

In the opinion of class masters, the number of actions has increased by many times. It all comes to «runaround replies». The real education is absent. It has become impossible to work on a specific problem at schools. The conduct of educational actions is ordered by authorities.

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Research*

1. Problems of education in the Ukrainian language in Crimea: the beginning of the new 2014/2015 academic year

Changes in the area of education and violations of the rights of Ukrainians to education in their mother tongue are particularly evident and gross.

Specifically, before the annexation, Crimea used to have 7 schools providing instruction in Ukrainian. There were 165 schools offering tuition in Ukrainian and in Russian, 1 school with Ukrainian and Crimean Tatar languages of instruction and 333 schools that provided education only in Russian. Anyway, at least 8.2% of Crimean children were taught in Ukrainian.

The situation has dramatically changed since the occupation. Only one group of classes was left for teaching in Ukrainian in the only Ukrainian school-gymnasium in Simferopol (just 9 Ukrainian-language classes compared to 33 Russian-language classes started their academic year on 1 September, 2014.) Other Ukrainian schools in Shchelkino and Kerch were closed. Hence, just 4 schools with tuition in Ukrainian are left in Crimea, however, their destiny is still uncertain. The number of classes with instruction in Ukrainian is being drastically reduced. Unfortunately, no official statistical data are available so far.

The Taurida National V. I. Vernadsky University has closed down the Ukrainian Philology Faculty.

In the opinion of respondents, a silent system of administrative pressure on parents and teachers so as to shrink the Ukrainian-language education space has been built up,

«The Ministry of Education makes pressure on school heads to exclude the Ukrainian language from the system of education as «unnecessary». In turn, teachers press on parents threatening with problems of admission to higher education institutions. As it is difficult to prove anything in this situation, parents usually agree with what they have been proposed.» — Interview materials

Moreover, pollsters have pointed out that repressions against the Ukrainian language in the system of education also limit opportunities for the development of education in the Crimean Tatar language.

«The opposition on the part of republican and local officials is very strong: they are very negative about the Ukrainian language in Crimea. The opening of schools or classes with instruction in Crimean Tatar implies the opening of schools or classes with instruction in Ukrainian. The negative attitude of officials and school administrations to this language makes it impossible to legitimate the Ukrainian and, consequently, Crimean Tatar languages.» – Interview materials

Notwithstanding the declarative articles of Crimean Constitution on state languages, Ukrainian, Russian and Crimean Tatar (Article 10), all documents in Crimea are produced in Russian. It is impossible to receive administrative services in Ukrainian. According to the Explanations No. 01-14/382 of the Ministry of Education of Crimea dated 25 June 2014, «The teaching and learning of state languages in the Republic of Crimea (Ukrainian and Crimean Tatar) shall not be provided to the detriment of the state language of the Russian Federation», i.e. Russian.

As the criteria of the «detriment» have not been set, authorities and local self-government bodies have direct influence on the use of languages in the system of education and are actually forbidding the instruction in Ukrainian.

In compliance with the recommendations of the Crimean Republican Institute of Postgraduate Pedagogical Education (CRIPPE) on the educational process at schools with «the native (non-Russian) language of teaching», the number of hours for the study of Ukrainian is **half as much as that for the study of Russian. 15 hours are given for the Ukrainian Language and Ukrainian Literature in total and 28 hours – for the Russian Language and Russian Literature. It is indicative that 15 hours a week are allocated for the study of foreign language. Such approach actually equalizes the mother tongue and a foreign language.**

History of Ukraine and Ukrainian Literature disappeared from the list of humanitarian disciplines in educational establishments. Analysis of the content of Russian textbooks for Crimea is a topic for another discussion but it has to be mentioned that they contain controversial aspects concerning the rights of Ukrainians and Crimean Tatars.

«Many teachers have lost jobs just because they taught Ukrainian. Many of them have been forced to retrain but could not fulfill themselves. Say, they are told to retrain as teachers of physics and if they fail, they will be fired.»

What is interesting is that due to the lack of schoolbooks on humanitarian subjects, especially history, teachers were unofficially allowed to use Ukrainian textbooks and teaching plans. However, if an inspection finds out that teachers use Ukrainian textbooks, they will be subject to administrative pressure as the whole situation is considered as the demonstration of disloyalty. Many teachers of the Ukrainian language and literature have lost jobs.

2. Changes in the teaching of history in Crimean schools after the annexation (2014/2015)

Drastic changes in the system of education have occurred after Crimea's annexation by Russia. In the context of teaching of humanitarian subjects, of special interest is history as the main form of communicating ideology to new generations.

From the 2014/2015 academic year, socio-humanitarian disciplines in the Republic of Crimea will be taught under curriculums of the Russian Federation... On 16 March, 2014, the national referendum has been held in Crimea. Over 96% of Crimeans have voted for the annexation. President of the RF Vladimir Putin commented on this event as saying, «To understand this choice, it is enough to know Crimea's history and to realize what Russia meant and means for Crimea and what Crimea means for Russia.» Teachers of history are recommended to conduct lessons and educational actions under the motto «We Are Together» dedicated to Crimean history based on the following materials:

- Address of President of the RF Vladimir Putin to the Federation Council of 18 March, 2014,
- Federal constitutional law of 21 March, 2014 «On the Acceptance of the Republic of Crimea into the Russian Federation and the Creation of New Federal Subjects – the Republic of Crimea and the Federal City of Sevastopol»,
- K. A. Kochegarov, Crimea in the Russian History. Teaching aid, M., «Russian Word», 2014.

Under the decree of Russian President Vladimir Putin No. 375 of 22 April, 2013 and for the purpose of drawing public attention to the issue of cultural development, preservation of cultural and historical heritage and the role of Russian culture in the world, 2014 is declared the Year of Culture. (Teaching aids on history and social studies in general education institutions of the Republic of Crimea in the 2014/2015 academic year)

In the Ukrainian and Russian system of education, history is taught from the 5th class **but forms of teaching are completely different. The unusual system of the study of history (as it happened in Crimea) is rather problematic for teachers and schoolchildren.**

The content of school subjects

The first problem is that Ukraine applies the linear model of education, whereas Russia uses the concentric one. **Consequently, the change in the system of education gives a one academic year difference between curriculums. This problem is not officially emphasized since the demonstration of easiness, consistency and naturalness of «Crimea's return» is extremely important at all levels of state activity. Meanwhile, teachers have been unofficially suggested to «repeat» (or, in other words, to learn) material for the missing academic year by Ukrainian textbooks.**

THE DIFFERENCE IN THE HISTORY CURRICULUMS IN RUSSIA AND UKRAINE

Class	5	6	7	8	9	10	11
Ukraine	Intro- duc- tion	His- tory of An- cient World	Medieval history	16-18 cen- turies	1789- 1914	1914- 1939	1939- 2014
Russian Federa- tion	His- tory of An- cient World	Me- dieval history	Medieval history + Modern history the late 15 th – the late 18 th centuries. The history of ancient Russia until the late 16 th century +the history of Russia in 17 th - 18 th centuries	19 cen- tury	The early 20 th – theear- ly 21 st cen- turies	An- cient his- tory – until thelate 19th cen- tury	20 th -21 st cen- turies

The methodological problem

The second problem is that **the history of Russia is not a separate subject but a part of the World History Course studied from the 6th class, whereas the history of Ukraine is a separate subject studied in the context of the world history.**

Besides, of special note is the fact that the study of Ukrainian history is not provided for in the history curriculum. Crimean history is not mentioned in Russian textbooks (apart from the events of March 2014). Hence, Crimean teachers could include Crimean history into a small curricular course, «the Local History», which, of course, is not enough.

The form and context of the coverage of the March events are extremely interesting. The Russian Ministry of Education and Science has developed recommendations for the conduct of thematic lessons in secondary and vocational institutions on the topic «Crimea and Sevastopol: Their Historical Meaning for Russia» (see details on the website of the Ministry of Education and Science of the Russian Federation dated 18 April, 2014). On 6 May, the Ministry of Education and Science of the RF has posted recommendations and methodical materials on this topic.

The brief history of Crimea described in the teaching aid ends with the recent events and presents political observations aimed to «explain» schoolchildren the position of Russian authorities. In particular, the teaching aid reads, «The forcible Ukrainization of Crimea, which encroached on the rights of the Russian majority and other peoples, developed at a quickened pace <...> The power was seized by far-right and Russophobic elements supported by NATO.» Crimean teachers are recommended «to emphasize the feasibility of Crimea's annexation from the viewpoint of international law, moral and ethical norms».

The above excerpt illustrates the ideological and utilitarian function of history in the system of education of Russia. As a result, the history of Crimea's annexation is represented in a predictable manner in the government discourse of glorifying the presidential policy.

The course of social studies is another aspect important for describing the problems of teaching of humanitarian subjects in Crimea. Social studies is the general course taught in Russian schools and referring to the study of various social aspects. (Actually, it is mostly based on the Marxist-Leninist philosophy and the ideological-patriotic upbringing and substitutes the social science course taught under the USSR). The course studies the foundations of social sciences, such as philosophy, sociology and political science. Besides, it focuses on the law, economics, history, culturology and social psychology.

It has to be mentioned that there is no such subject as social studies in the system of Ukrainian education. Consequently, its introduction will pose a problem. This year, it is taught for Crimean schoolchildren of the 6th-11th classes (schoolchildren of the 6th-9th classes – 1 hour a week and schoolchildren of the 10th-11th classes – 2 hours a week). Hence, it is possible to conclude that the majority of schoolchildren will learn the subject from the middle of the course without introduction.

And the last thing that has to be mentioned is a radical difference in the teaching of humanitarian disciplines, in particular history and social studies, between Ukraine and Russia by curricular and ideological criteria. So, a change in the system of education on the territory of annexed Crimea is a rather complicated and «painful» process for teachers and schoolchildren as demonstrated by this Monitoring Report. The media prefer to suppress problems and difficulties faced by Crimean secondary education institutions as a result of the annexation.

3. Entry to Higher Education Institutions for Crimean School Leavers

Entry to Russian HEIs

The Ministry of Education and Science of the Russian Federation has drafted amendments to the federal law No. 84-ФЗ dated 5 May, 2014 «On Specific Features of Legal Regulation of Relations in the Area of Education in Connection with the Accession of Crimea and Sevastopol to Russia and on the Formation of New Constituent Territories in the Russian Federation – the Republic of Crimea and the Federal City of Sevastopol»¹. The new document is designed «to eliminate obstacles to the normal work of education institutions of the Crimean Federal District under Russian educational programs and standards»² (Moscow, 17 October, 2014; RIA News Agency). The law sets norms «aimed to ensure the integration of the education systems of Crimea and Sevastopol into the education space of the Russian Federation». The matter concerns the recognition of education and qualification levels, academic degrees and titles awarded in Ukraine as well as positions of pedagogy and research personnel in state higher education institutions (HEIs) and student rights to be adequate to education and qualification levels, academic degrees and titles awarded in Russia. Besides, the document provides for special procedures for the final assessment of school graduates and their entrance to HEIs. Activities of education organizations in Crimea and Sevastopol will be brought in line with the law of the Russian Federation. In general, this integration had to be carried out within the transition period until 1 September, 2014. Although Russian authorities say that «the number of unsettled issues is getting fewer and fewer» and that teachers have been retrained and provided with tutorials, comprehensive problems of the difference in curriculums still remain. These include final exams, general certificates of secondary education and admission to HEIs, including Ukrainian ones.

¹ The federal law of the Russia Federation No. 84-ФЗ dated 5 May, 2014 «On Specific Features of Legal Regulation of Relations in the Area of Education in Connection with the Accession of Crimea and Sevastopol to Russia and on the Formation of New Constituent Territories in the Russian Federation – the Republic of Crimea and the Federal City of Sevastopol» and amendments to the Federal Law «On Education in the Russian Federation» <http://www.rg.ru/2014/05/07/regulirovanie-dok.html>

² The Future Law to Impede the Development of Education in Crimea, 17 October, 2014 | RIA News Agency <http://law.edu.ru/news/news.asp?newsID=16414>

The amendments mostly concern the following:

1) A change in admission quotas for state-subsidized education in HEIs

The federal law No. 84-Φ3 provided for additional admission quotas for Crimean HEIs but at the same time, there is an order on the establishment of two federal HEIs in Crimea and Sevastopol, the Crimean Federal University³ and the Sevastopol State University.

«Earlier on, Crimean and Sevastopol authorities have established admission quotas for all higher education institutions. Yet, as the rules of the game are different at the federal level and the entry deadline expired, special admission quotas were set for the next academic year. This means that the next year, the Russian Ministry of Education and Science will set admission quotas without entry competition,» explained Maksim Zhivaev, Director of the Department of Law of the Ministry of Education and Science of the Russian Federation⁴.

2) The procedure for the final assessment of Crimean school graduates

The procedure for the final assessment of Crimean secondary school graduates in 2015 will be the same as in 2014, i.e. they will take either the final examinations or the Unified State Exam (USE). The procedure for admission to HEIs for them will be prolonged for one year as well.

The authors of the basic law No. 84-Φ3 believed that the year of study under Russian educational programs will help Crimean school graduates get prepared for the USE. However, the gap between Russian and Ukrainian curriculums is so great that it is impossible to overcome it within one year. Therefore, it was decided to admit Crimean senior schoolchildren to higher education institutions of Crimea and other regions by the simplified procedure, i.e. without the mandatory USE. Several USE centers will be set up in Crimea — in Simferopol, Sevastopol, Kerch and Feodosia.

Entry to Ukrainian HEIs

The recent letter of the Ministry of Education and Science of Ukraine No. 1/9-535 of 14 October, 2014 «On the Organization of Education in General Education Institutions for Persons Living on the Temporarily Occupied Territory of the Autonomous Republic of Crimea, the City of Sevastopol and in Anti-Terrorist Operation Areas of the Luhansk and Donetsk Regions»⁵ explains aspects of

³ The Crimean Federal University named after Vladimir Vernadsky is a Russian federal university in Simferopol set up in 2014 on the basis of 7 HEIs and 7 research centers of Crimea. The Federal University is established under the program of Crimea's integration into the public, economic and legal framework of the Russian Federation.

⁴ <http://www.informio.ru/news/id7805/Budushii-zakon-ustranit-prepjatstvija-dlja-razvitiija-obrazovanija-v-Krymu>

⁵ <http://www.mon.gov.ua/ua/about-ministry/normative/2957->

further education and procedures for getting general education certificates issued in the government-approved format.

The letter clearly states, *«Education certificates issued by occupation organs of the Russian Federation and self-proclaimed Crimean authorities are and will not be recognized legal, nostrified or exchanged by the Ministry of Education and Science of Ukraine, other Ukrainian authorities and foreign countries.»*

Hence, *«Parents of students, first of all those in the final year of secondary school who live on the temporarily occupied territory of the Autonomous Republic of Crimea and in the city of Sevastopol (...) are recommended to take measures enabling their children to pass the External Independent Testing in spring 2015, receive general education certificates issued in the government-approved format and enter vocational schools and higher education institutions of Ukraine.»*

Under the Ukrainian legislation in force, «Senior schoolchildren, who live in the above areas and are willing to receive general education certificates issued in the government-approved format, have the right to continue education in Ukraine in all forms (full-time, evening, online, education without attending classes, individual and group education.»

The Ministry does not actually offer additional assistance to Ukrainian citizens in Crimea and proposes them to become refugees in mainland Ukraine in order to continue education.

On October 20, the Ministry of Education and Science of Ukraine has posted conditions for entrance to HEIs in 2015. It has to be mentioned that the document does not provide privileges or, at least, recommendations for Crimean school leavers. Besides, a Crimean Center is absent on the list of regional branches of the Ukrainian Center for Educational Quality Assessment (CEQA) available on its website (<http://testportal.gov.ua>). All other regions are included, even the Donetsk and Luhansk ones. Specifically, according to the Ukrainian CEQA, the Kherson CEQA is in the process of establishment (in connection with the liquidation of the Simferopol CEQA). Only after that, its service areas will be redistributed. Hence, for the time being, the informational and institutional capacities are weak to ensure the exercise of the right to education of Ukrainians in Crimea.

4. The State of Education in Crimean Tatar in Crimea in the 2014/2015 Academic Year

The development of the system of education in the Crimean Tatar language has always been a serious challenge for Crimean Tatars. The education system of Crimea has not properly secured the constitutional right to education in Crimean Tatar. Factors adversely affecting the development of education in the Crimean Tatar language incorporated:

- Lack of pre-school institutions
- Absence of modern and efficient facilities and equipment at schools with instruction in Crimean Tatar
- Underdeveloped Crimean Tatar terminology in various subjects (mathematics, physics, biology and others), which complicated the development of Crimean Tatar-language textbooks on technical and natural sciences
- Lack of technical school teachers teaching in Crimean Tatar
- Lack of methodical materials and teaching aids in Crimean Tatar.

The above problems retained after the annexation and some of them even deteriorated, e.g. the number of hours spent for the Crimean Tatar language and literature. Specifically, **before the beginning of the 2014/2015 academic year in Crimea**, the Maarifchi Association of Crimean Tatar Educators has pointed out problems in the area of education in the Crimean Tatar language,⁶ «**According to regional data, the number of hours for the Crimean Tatar language and literature at school with instruction in Russian is put in question because of problems with the load of teachers and desires of parents.**» This indicates that school heads have chosen curriculums exclusive of hours to be spent for the learning of the native language.

Teachers have stated, «At schools offering tuition in Russian, hours for the Crimean Tatar language have to be allocated based on the regional and school components, not less than 3 hours a week. The neglect of this rule will result in conflicts between teachers of the Crimean Tatar and Ukrainian languages, parents and school administration. At schools providing education in the Crimean Tatar language and in classes with instruction in Crimean Tatar on the basis of Russian-language schools, the problem with the load of teachers is not that acute. However, to retain and increase the number of hours spent for the native language

⁶ <http://qha.com.ua/v-shkolah-krima-sokraschayut-chasi-na-izuchenie-krimskotatarskogo-yazika-139442.html>

in 5th-9th classes, schools with instruction in Crimean Tatar have to switch to a six-day school week.»⁷

The new realities of educational institutions offering instruction in the Crimean Tatar language are as follows:

In the 2014/2015 academic year, there are 31 groups (836 children) with the Crimean Tatar language of upbringing and instruction in Crimea.

The largest number of such groups is reported in Simferopol (6 groups, 240 children), the Bakhchisarai (5 groups, 144 children), the Belgorod (5 groups, 113 children) and the Dzhankoi districts (5 groups, 105 children).

Groups with the Crimean Tatar language of instruction are absent in the following cities: Alushta, Armyansk, Dzhankoi, Yevpatoriya, Kerch, Krasnoperekopsk, Sudak, Feodosia and Yalta **and districts:** the Kirov, Krasnoperekopsk, Razdolne, Saky and Chernomorsk.

For comparison, in the **2013/2014** academic year, there were **33** pre-school groups for **820** children in Crimea. (This year, the number of groups has decreased by 2, whereas that of children has increased by 16).

THE CURRENT SITUATION IN FIRST CLASSES OF SECONDARY SCHOOLS BY DISTRICTS:

The largest number of first classes with instruction in Crimean Tatar is at the secondary school No. 42 of Simferopol (**5** classes, **110** schoolchildren); at secondary schools of the cities of Bakhchisarai and Yevpatoriya, the Kirov and Sovetske districts – by 2-3 classes (65-36 schoolchildren). The smallest number of classes and schoolchildren is at the Sarybash secondary school of the first–third level of the Pervomaisk district and the Annovsk secondary school of the first level of the Belgorod district – by 1 class and 5 schoolchildren. In total, there are **27** first classes for **534** schoolchildren that provide education in the Crimean Tatar language.

In the 2014/2015 academic year, the number of first classes with instruction in Crimean Tatar at **Russian-language, bilingual and trilingual schools** fluctuates from 0 to 11 and averages 44 classes for 604 schoolchildren. The largest number of first classes (11 classes, 129 schoolchildren) is recorded in the Kirov district, the city of Simferopol (5 classes, 94 schoolchildren) and the Belgorod district (5 classes, 73 schoolchildren). Classes of this type are absent in the following cities: Armyansk, Yevpatoriya, Kerch, Krasnoperekopsk, Saky, Yalta and districts: the Bakhchisarai, Lenin and Nizhnegorsk.

⁷ https://www.facebook.com/permalink.php?story_fbid=690515057703430&id=100002348260445&fref=nf

IN EDUCATIONAL INSTITUTIONS:

In the **2014/2015** academic year, there are **15** schools (**161** classes, **2,793** schoolchildren) with the Crimean Tatar language of teaching in Crimea. The number of schools has not changed compared with **the previous year**, whereas that of classes and schoolchildren has grown by 21 and 299 respectively (**182** classes, **3,092** schoolchildren).

Besides, **170** classes for **2,182** schoolchildren offering tuition in Crimean Tatar have opened **on the basis of 47 Russian-language schools**.

For comparison, in the **2013/2014** academic year, there were **20 bilingual schools** (Crimean Tatar and Russian, **68** classes, **679** schoolchildren), **27 trilingual schools** (Crimean Tatar, Russian and Ukrainian, **109** classes, **1281** schoolchildren) and **1** Crimean Tatar-language school with Ukrainian-language classes (**40** classes, **809** schoolchildren). The number of Crimean Tatar-language classes in **48** schools with instruction in different languages totaled **304** (**2,769** schoolchildren).

It has to be mentioned that the number of classes and schoolchildren has considerably decreased (down from the previous year by **134** classes and **587** schoolchildren).

In the **2014/2015** academic year, the number of schoolchildren taught in Crimean Tatar (from the 1st to the 9th classes) totals **4,975** (**331** classes). In the **2013/2014** academic year, this indicator was higher by **576** and amounted to **5,551** schoolchildren.

In the **2013/2014** academic year, only **12,707** schoolchildren studied the Crimean Tatar language (including **5,773** schoolchildren studied it as a subject, **28** schoolchildren – advanced study and **6,906** schoolchildren – optional study). In the **2014/2015** academic year, the number of schoolchildren has grown to **20,941** (including **12,461** schoolchildren who studied it as a subject, **241** schoolchildren – advanced study and **8,139** schoolchildren – optional study).

According to the «Curriculum Sample for Educational Institutions of the Republic of Crimea with Instruction in the Native (non-Russian) Language (Ukrainian and Crimean Tatar)», the number of hours spent for the native language and Russian is the same in the 4th class, whereas in the 5th class, the difference in the number of hours for the Russian and non-Russian language and literature doubles⁸.

⁸ Methodical recommendations for the teaching the Crimean Tatar language and literature in general secondary institutions of the Republic of Crimea for the 2014/2015 academic year (Annex 3)

**CURRICULUM SAMPLE
FOR EDUCATIONAL INSTITUTIONS OF THE REPUBLIC OF CRIMEA
WITH INSTRUCTION IN THE NATIVE (NON-RUSSIAN) LANGUAGE
BASIC GENERAL EDUCATION**

School subjects	Number of hours per week					Total
	V	VI	VII	VIII	IX	
Russian language	5	5	3	2	2	17
Literature	2	2	2	2	3	11
Native (non-Russian) language and literature	3	3	3	3	3	15

There are problems with the learning of the native language in upper school classes.

The difference in the education systems also indicates a possible deterioration of problems of education in the Crimean Tatar language.

5. The Situation in Education in Respect of the Right to Teaching in or of the Native (Non-Ukrainian) Language

Paragraph 1, Article 10 of the Constitution of the Republic of Crimea of 11 April, 2014 reads, «Russian, Ukrainian and Crimean Tatar shall be the national languages in the Republic of Crimea» (*although the text of the Constitution of the republic of Crimea in Ukrainian and Crimean Tatar is not available on official Crimean websites*). «The Republic of Crimea shall recognize the principle of diversity of cultures, ensure their equal development and mutual enrichment» (Paragraph 3, Article 10) and «The Republic of Crimea shall create and provide equal conditions for the preservation and development of all ethnic cultures» (Paragraph 4, Article 37). Paragraph 2, Article 19 of the Constitution governs, «Everyone shall have the right to use his/her native language and to freely choose the language of communication, teaching, education and creation.»

Yet, since the very beginning of annexation, central and local Crimean authorities have created conditions incompatible with the declared principles.

The problem of choosing the language of instruction

Despite the fact that the ethnic composition of Crimea's population remained the same, the transition to the Russian system of education has entailed changes in curriculums and the number of hours for the learning of the native language (it has to be reminded that under the 2001 Census, 24.3% of Crimeans identified themselves as Ukrainians, while 10.1% recognized Ukrainian as their mother tongue). Hence, the need for teaching in and of the native language is still acute.

Education has become one of the main areas of total ousting of Ukrainian from the use. There are numerous examples of repressions and defamation against school teachers of Ukrainian language and literature, which eventually made them quit and leave Crimea or seek another job. Pressure was also put on children taught in Ukrainian. Almost 80% of them were forced to leave Crimea and enter educational institutions in other Ukrainian regions.

A number of legal documents have been adopted to ensure the observance of constitutional principles. Specifically, the Letter of the Ministry of Education, Science and Youth of the Republic of Crimea No. 01-14/382 «*On the Choice of the Language of Instruction*» dated 25 June, 2014 aims to ensure the right to education in the native language and explains the mechanism of formation of classes with the national (Crimean Tatar and Ukrainian) and native languages of tuition based on the 25 October, 1991 Federal Law No. 1807-1 «*On Languages of Peoples of the Russian Federation*» (amended) and Article 11 of the 29 December, 2012 Federal Law No. 273-ΦЗ «*On Education in the Russian Federation*».

The Letter emphasizes, «Of special note is the task to ensure the free, voluntary and conscious choice of a language of teaching and learning by parents... The choice shall be confirmed by parents' written applications. Officials and employees of educational authorities and institutions shall impact the choice of the language of education on no pretext (convenience for a school/class; absence of opportunities to ensure this choice; absence of experienced teachers, etc.).

However in practice, Crimean authorities created the atmosphere of Ukrainophobia and intolerance to Ukrainian identity over the past months (since February 2014), which, in turn, has influenced the choice of the language of instruction.

According to parents, most of them felt uncomfortable and failed to file the said applications. Some parents have reported special community meetings held by school masters to dissuade them from writing applications and saying, «The study of Ukrainian is a waste of time for your children. The knowledge of Ukrainian will not increase but reduce their opportunities to enter HEIs and is therefore absolutely useless for employment.»

The problem of teachers of Ukrainian language and literature

Taking into account a sharp decrease in the number of hours to learn the Ukrainian language and literature and a decrease in the number of teachers, the Crimean education system has faced the problem of retraining of many of them. They were proposed:

- Take short-term retraining courses for teaching the Russian language and literature and further on-site and off-site training on the basis of the Crimean Republican Institute of Postgraduate Pedagogical Education (CRIPPE) for **10 months**

- Under the 29 August, 2014 order the Ministry of Education of the Republic of Crimea No. 132, **276** teachers of Ukrainian language and literature have been sent for retraining in «Philology, Russian Language and Literature» for 10 months (the CRIPPE instruction No.8 of 1 September, 2014 «On Enrollment»).

The problem of curriculums, textbooks and teaching aids

The attitude to Ukrainian textbooks on Ukrainian language and literature and other subjects has become indicative in the context of perception of the Ukrainian culture, language and literature.

As reported by school teachers, despite the oral permission to use Ukrainian textbooks in case of a shortage of Russian ones, in early September, representatives of the Ministry of Education and regional education authorities have raided Crimean schools to confiscate Ukrainian textbooks and punish teachers for their use. All Ukrainian textbooks were confiscated and brought to basements. *Only on 10 November, the Ministry of Education of Crimea has passed the resolution No. 265 on the transfer of Ukrainian textbooks to educational institutions of the Donetsk and Luhansk regions.*

The teachers have also reported the closure of some educational programs, e.g. the Ukraine's Intellect for the elementary school developed by Kharkiv experts. Conversely, the Recommendations for the Development of the Ukrainian Language and Ukrainian Literature Curriculums and the «Curriculum Sample for Educational Institutions of the Republic of Crimea for the Ukrainian Language in the 5th-9th Classes at Russian-Language Schools» are designed to ensure the study of Ukrainian. On their basis, every teacher has to develop an individual program for every class.

Ukrainian symbols are actually prohibited in educational establishments. Such massive Ukrainophobia and information propaganda have resulted in intolerance of children to Ukrainian symbols (at a children drawing contest, there have been examples when children refused to draw the Ukrainian national flag «because there is no such country as Ukraine»).

As of now, there are no complete statistical data on the number of classes and children who study in Ukrainian or learn the Ukrainian language and literature. The teachers say that at many schools, only one hour per week is allocated for the study of Ukrainian language and literature (**optional study, by 5-6 school-children**); **and only in Ukrainian-languages classes, 3 hours are allocated for this purpose. A group of teachers has been formed to develop adaptive textbooks.**

The absence of protection of the right to education in Ukrainian in educational decisions and documents

The recent decisions of Crimean authorities are indicative in respect of the Ukrainian culture, language and literature. *Specifically, on 23 October, 2014, the Council of Ministers of the Republic of Crimea has passed the resolution No. 235 on measures to restore historical justice and ensure the political, social and spiritual revival of the Armenian, Bulgarian, Greek, Crimean Tatar and German peoples disadvantaged by illegal deportation and political repressions on ethnic and other grounds.* The State Program on «**Preservation, Learning and Development of Languages of Armenian, Bulgarian, Greek, Crimean Tatar and German Peoples for 2015-2020**» has been submitted for discussion. **Among other things, the Program «shall provide legislative and organizational conditions for education in minority languages on a non-discriminatory basis; and expand opportunities to meet the needs of every human being for the study of the native language.»** Another positive aspect is the task «to exercise the constitutional right to affordable and free pre-school, elementary and secondary education in Crimean Tatar».

Yet, no document ensuring the right to education in Ukrainian has been developed and adopted. Perhaps it is because the Program's expected results are as follows, «the share of citizens in the population of the Russian Federation residing in Crimea who positively assess the state of inter-ethnic relation is 85%, while the level of tolerant attitude to citizens who speak their mother tongue is 95%.»

6. Specific Features of Educational Work in the Autonomous Republic of Crimea

In December 2014, two new documents have been issued to promote the development of education and training in Crimea, the decree of the Head of the Republic No. 522-Y «On the Approval of the Concept of Patriotic, Spiritual and Moral Education of the Population of the Republic of Crimea» of 18 December and the resolution of the Crimean Council of Ministers No. 651 «On the Approval of the State Program for the Development of Education and Science in the Republic of Crimea for 2015-2017»⁹ of 30 December prioritizing, among other things, «military and patriotic upbringing of the students».

Meanwhile, no Program Section is dedicated to the access to education in minority languages or, at least, the exercise of the right to learn them. There are no statistical data on the language of instruction or other characteristics of the existing educational institutions of Crimea. Only the beginning of Section 1 reads, «The state provides constitutional guarantees and rights to education in the Russian language, implements comprehensive measures for the retention and development of a network of classes and schools offering tuition in the native (Ukrainian and Crimean Tatar) languages, including maintenance of their facilities and equipment.»

The authors of the Concept stress, «The Concept is based on the all-Russian principles of and methodological approaches to the patriotic upbringing and education.» «It has to ensure the implementation of the state patriotic education policy in the Republic of Crimea as a part of the Russian Federation by means of *accelerated bridging of a historical gap between the Russian and local education system regarding ideology and methodology.*»

Section 2 is dedicated to the historical substantiation of Crimea's annexation that shapes the directions of patriotic education, the main one of which is «to improve military and patriotic upbringing and enhance the motivation for military service, provide citizens of the Republic of Crimea with knowledge of its fundamentals; form the understanding of citizens' place and role in their service to Motherland, high personal responsibility for the fulfillment of military service requirements, the need to acquire skills and abilities needed to serve in the Armed Forces of the Russian Federation, other military formations (perhaps, this implies Crimean Self-Defense units?) and bodies on the territory of the Republic of Crimea.»

⁹ http://rk.gov.ru/rus/file/pub/pub_238010.pdf

The Concept also declares the need «to shape racial, ethnic and religious tolerance and to preserve ethnic identity, tolerant attitude to the language of communication, nationality and religion as well as tolerant attitude to languages, cultures and traditions of Russian peoples» but that is all.

It is possible to state that the Concept has actually prioritized the education directions gradually promoted within the first months of the 2014/2015 academic year based on the need to shape a «defense ideology» by increasing the number of educational actions for combating extremism and terrorism. Terrorism is seen everywhere but there are contractions described in relevant paragraphs of school-books (!) (e. g., L. Bogoliubov and others, *Social Science, textbook for the 10th class, Basic Level, M., 2014. P. 351; Paragraph 9 is fully dedicated to the global threat of international terrorism; history textbooks for 9 and 11 classes also depict terrorism and the search of enemies).*

The (legal) rules have toughened. Teachers report a trend towards «ousting» the Ukrainian language and culture, celebrating new holidays and adopting formalities. According to a class master, «Other people's work style and holidays are being forcibly imposed.» Specifically, the following holidays have to be celebrated together with children: the Russian Constitution Day, the Unknown Soldier Remembrance Day, the Day against Terrorism and Drugs, the Day of the Heroes of the Fatherland and the Day of Russian Elections (each holiday is established by a separate decree). Names of some clubs and optional courses draw attention as well, «I Am a Russian Citizen» or «Russian Action-Oriented Games».¹⁰ (Examples of some contests are given in below.)

In the opinion of class masters, «The number of actions has increased by many times. It all comes to «runaround replies». The real education is absent.» In particular, in November 2014, a Simferopol school held elections of a school president. Children told teachers that a candidacy of an «elected» boy had been approved long before and that elections were just a formality. «Elections were held just to confirm that all formalities were observed.» This is how the respect for democratic control procedures is instilled in Crimean children.

According to teachers, most educational activities are handed down. It has become impossible to work on a specific problem at schools. The conduct of educational actions is ordered by authorities.

Schoolchildren cite other examples of enhanced military and patriotic education through actions against terrorism and extremism. They say that it is partly good and partly bad.

As reported by teachers, some students (about 30%) are fond of Russian history and take an interest in it. Other 10% are interested in nothing, whereas the

¹⁰ <http://chauka.krivedu.com/ru/site/extra-curricular-activities.html>

rest 60% learn what they are taught. Data of the 15 November municipal (district) Academic Competition in history demonstrate that there were no prize winners among students of 10th-11th classes of the Simferopol district. In other words, no one got even 50% of grades because it is difficult for schoolchildren to learn Russian history. The Social Science course (taught from the 6 class) is perceived better than history because it raises socially important issues, which are interesting for children.

Teachers also emphasize severe bureaucratic procedures of attestation of academic staff. They have to collect their own «portfolio». If a teacher fails to be attested, he/she is placed at the lowest level, not a level down. So, teachers refuse to attest for the first category. They have to take part in webinars, create personal websites, teach online lessons, carry out extra-curricular activities etc. All these are regulated by relevant decrees and legal documents establishing grades for each type of activity.

New contests are announced actually each day: on the law, on the war, on history and others. Some of them are free, whereas others are for money. Students unwillingly participate even in free ones. Teachers have to force them as their bonuses depend on these contests.

Hence, teachers' sentiments are changing. Many of them start understanding this «throwback» of education. One pro-Russian deputy head teacher said that the Ukrainian education system was freer. Yet, this changes little.

Examples of some contests

1.

The Education Department of the Simferopol District State Administration in the Republic of Crimea

02 December, 2014,

Simferopol

No. 2945

To the attention of the leadership of comprehensive educational institutions

The Education Department of the Simferopol District State Administration informs the following: According to the letter of the Crimean Prosecutor General's Office No. I-21-4778-14/11538 dated 17 November, 2014 and with the purpose of propagating and promoting healthy living among the students, we recommend organizing and holding the *children drawing contests on «Control of Drugs and Alcohol» and «Combating Extremism and Terrorism* in educational institutions.

Until 15 December, 2014, a registrar of the Education Department shall be presented electronically with information on relevant actions (materials and drawings' photos).

2.

The announcement of the «Crimean Spring» Patriotic Poetry Republican Contest

The contest aims to shape patriotic views, ideals and respect for Crimea's historical and cultural past and present. The contest shall: help the students show their worth in literature, expand creative potential, social activity and civic responsibility by means of creative writing.

Deadline: 1 March, 2015.

Organizers: the Association of Teachers of Russian Language and Literature, the Crimean Republican Institute of Postgraduate Pedagogical Education under the auspices of the Ministry of Education, Science and Youth of the Republic of Crimea.

Timeframe: 15 December, 2014 – 1 March, 2015.

Creative educators, educational workers, teachers, methodologists, teachers of Russian language and literature are invited to take part in the contest.

Participants in the contest are offered the opportunity to assay their abilities in writing essays on Motherland, Crimea's return to Russia and the most sacred human values – homeland and patriotism.

Participants are asked to send their applications and works on data storage devices (CD or DVD) at the following address: the Crimean Republican Institute of Postgraduate Pedagogical Education, 15 Lenin Street, Simferopol, 95001 or email them at: info@krippa.ru.

7. The transition from the twelve- to five-point grading scale in Crimea

After the illegal annexation of Crimea, numerous efforts have been made to transform the Ukrainian system of education in accordance with the Russian rules. Specifically, Crimean schools have actually shifted to the Russian educational standards from 1 September, 2014 in compliance with the federal laws No. 84-ФЗ «On Specific Features of Legal Regulation of Relations in the Area of Education in Connection with the Accession of Crimea and Sevastopol to Russia and on the Formation of New Constituent Territories in the Russian Federation – the Republic of Crimea and the Federal City of Sevastopol» and amendments to the Federal Law «On Education in the Russian Federation» dated 5 May, 2014.¹¹

«Starting from the new academic year, Crimea will definitely adopt the Russian standards, including the five-point grading scale,»¹² said Natalia Goncharova, Minister of Education in the self-proclaimed Crimea government.

On his visit to the Simferopol Special Secondary Boarding School No. 2 on 1 September, Head of the Republic Sergey Aksenov stated that the five-point grading scale «will help more efficiently evaluate academic progress of school students»¹³ compared with the previous 12-point system. «In our case, the Soviet five-point system seems to be more efficient,» he added.

In the Russian Federation, the five-point grading system has not changed since the USSR. In the Soviet Union, this system was introduced by the Ministry of Education in 1937. Annexed Crimea has transited to the five-point grading scale at schools on an instantaneous basis¹⁴:

Ukraine	Russia
«10», «11», «12»	«5»
«9», «8», «7»	«4»
«6», «5», «4»	«3»
«3», «2», «1»	«unsatisfactory»

¹¹ The Republic of Crimea and the City of Sevastopol: Integration of the System of Education and Science: <http://минобрнауки.рф/новости/4092>

¹² Crimean School Students to Return to the Five-Point Grading Scale: <http://nbnews.com.ua/ru/news/116511/>

¹³ Aksenov Welcomes the Five-Point Grading System in Crimea, News of Crimea, Crimean News Agency, 1 August, 2014: <http://news.allcrimea.net/news/2014/9/1/aksenov-rad-chto-v-krymu-budet-pyatibalnoe-otsenivanie-znaniy-20514/>

¹⁴ Based on the letter of the International Department of the Ministry of Education and Science of the Russian Federation No. 16-11204 dated 4 September, 2013

After a few months experience of transiting from the 12- to 5-point grading system, it is possible to state that the attitude to it is ambiguous. By the way, the 100-point grading scale applied at the EIT is discordant to the five-point system.

According to an interview with Crimean teachers, it is possible to conclude that the shift to the Soviet grading system has adversely affected the educational process. It is because, say, Russian «3» («satisfactory») actually equates those who were below their schoolfellows in class and mediocre students. By the way, educators of Russia, where the academic grading at schools has not been reformed since the USSR, put forward similar arguments.

Many head teachers attempt to press students for «2» («unsatisfactory») as academic term grades because under the Russian law, «2» for a subject means the retaking of an exam in fall (several «2s» mean that a student will be held back). Under the 12-point grading system, all the grades were recognized and no students were held back. Teachers say that they are «closed» within the three grades, «3», «4» and «5».

Although children easily accommodate to changes, they are ambiguous about the above process. Most respondents say that the transition was difficult because of a misunderstanding and strangeness of the «limited» grading system. Yet, some pollsters emphasized the insignificance of this change.

The major disadvantage of the new system is its «lesser flexibility». In other words, the transition to the five-point system turned «7», «8» and «9» into «4» («good» grade). Schoolchildren take this ill because no difference is made between those «good» and «middling» students. However, all who got «7» are turning into mediocre students.

In general, the return to the five-point grading scale is a step back in the process of historical development the educational system. The so-called Soviet system is not in line with the Bologna process, which aims to develop a European higher education area by making academic qualifications and quality assurance standards more comparable and compatible. Hence, the return to the five-point grading scale complicates the integration of Crimean students into a European higher education area.

It has to be stated that this seemingly insignificant step, the change of the grading system, actually poses a lot of problems. The shift from the 12- to 5-point grading scale is negative because it restricts not only flexibility of the grading system, thus creating additional difficulties for teachers and students but also opportunities of Crimean school graduates for choosing HEIs for further education.

8. The situation in the area of education regarding instruction in Ukrainian and some aspects of educational work in Crimea

At the beginning of the 2014/2015 academic year, there were 4 out of 7 schools with instruction in Ukrainian, whereas in January 2015, only one school remained (in Yalta). The number of students who study in Ukrainian is 1,990 persons or 1.2% of the total number of schoolchildren (184,869, of whom 4,895 students study in Crimean Tatar, 1,990 students are instructed in Ukrainian, whereas the rest of 177,984 students of 576 Crimean schools study in Russian).

Data on the number of classes are concealed. In October, Natalia Goncharova, Minister of Education in the self-proclaimed Crimea government, stated, «There are classes with tuition in Ukrainian in 20 Crimean schools.» Yet, these speculations contradict the reality. The «Ukrainian language» subject is studied only as an optional course. It means that after lessons, students take a 45-minute rest break and then take additional (optional) course, if their parent filed relevant applications. At the majority of Crimean schools, only 2 hours are allocated for the study of Ukrainian and Crimean Tatar instead 3 hours guaranteed by the law (Article 10 of the Constitution of the Republic of Crimea, Article 14 (Language of Education and Learning) of the Russian Federal Law No. 273 «On Education» of 29 December, 2012). Needless to say, such organization of the study of languages can hardly be called effective and adequate to language needs.

Only 33 students from different classes and schools took part in the Ukrainian language and literature Academic Competition in January 2015, which indicates a sharp reduction in the number of schoolchildren who lean Ukrainian (data are given for the Simferopol district – see Annex 1).

It will be possible to get some statistical data on the number of students learning Ukrainian or Crimean Tatar after processing information on the number of applicants for State Final Certification in the Ukrainian or Crimean Tatar language. Relevant data are to be collected in accordance with the letter by the Ministry of Education and Science of Crimea No. 01-43-01/03 dated 14 January, 2015 (see Annexes 2, 3, 4).

It has to be noted that the CRIPPE website asks the question «Do you believe the study of Ukrainian or Crimean Tatar to be mandatory for Crimean students regardless of their desire?» to be answered «Yes» or «No» (<http://www.krippa.ru/component/acepolls/poll/2-2015-02-02-12-44-57>). As of 8 February, 2015, 1,467 users answered «yes» and 473 users answered «no» out of 1,940 visitors. The above question demonstrates that authorities are studying

the attitude to trilingualism stated in the Crimean Constitution. Yet in practice, everything is different.

The animosity towards Ukrainian language and culture, xenophobia and intolerance towards Ukraine and Ukrainians is currently growing, ranging from the open position of CRIPPE educators «No hours should be given to teachers of Ukrainian language or social science. They are our ideological enemies!» to their strong anti-Ukrainian propaganda in educational institutions.

In this respect, of special note is the letter No. 868/01-04 of 13 November, 2014 of the CRIPPE Rector recommending the leadership of educational authorities to include into the school curriculum a xenophobic piece of poetry of doubtful artistic value (see Annex 5).

Such mass propaganda has already given results. At the January 15 Academic Competitions, there were many essays on history of students of the 10th-11th classes with phrases like «we have always been insulted but we will retaliate», «the West is our enemy», «our great Motherland, our people» and «Russians, Ukrainians, Byelorussians and Jews suffered in the Great Patriotic War but Slavs suffered most».

The same mass propaganda of xenophobia and intolerance is conducted among teachers. In particular, on 3 February, 2015, the CRIPPE has held a meeting with Maksim Grigoriev, Doctor of Political Science, member of the Civic Chamber Council from the Novgorod region, Director of the Non-Commercial Foundation for Democracy Studies, who made a video presentation of the book «Military Crimes of Ukrainian Militants: Tortures and Inhuman Treatment of Donbas Residents».

All of this adversely impacted inter-ethnic relations on the peninsula and created foundations for conflicts and intolerance towards different ethnic and language groups.

**The results of the Ukrainian language and literature Academic
Competition in the 2014/2015 academic year**

Annex 1

No.	School	7 class		8 class		9 class		10 class		11 class		Points, total	Place
		Points	Place	Points	Place	Points	Place	Points	Place	Points	Place		
1.	Vinnitskaya											0	35
2.	State school No. 1	27,5	3			16,5						23	6
3.	Gvardeisk Educational College											-	-
4.	Gvardeisk Educational College No. 3					13		14				13,5	13
5.	Dobrovske Educational College	8,5		12		21		54	1			27	3
6.	Donsk					30	2	21		13		23	6
7.	Denisovka											0	35
8.	Zhuravievka											0	35
9.	Kolchugino No. 1							22				22	7
10.	Kolchugino No. 2	11,5										11,5	15
11.	Konstantinovka											0	35
12.	Kubanka					24	3					25	5
13.	Mazanka	10		12,5		9		17		13		12,3	14
14.	Malenka											0	35
15.	Mirnovо No. 1											-	-
16.	Mirnovо No. 2											0	35
17.	Molodezhnensk No. 1							30	2			32	1
18.	Molodezhnensk No. 2			25	3							26	4

Annexes

Letter by the Ministry of Education and Science of Crimea No. 01-43-01/03 dated 14 January, 2015

The letter of the Ministry of Education and Science of the Republic of Crimea No. 01-43-01/03 «On Clarification of Some Aspects of Registration for the State Final Certification» dated 14 January, 2015 is forwarded to Directors of municipal budgetary general education institution for reading and submission of information to the Children's and Youth Activity Center, Room 5.

A form of application for the state final certification (Annex 1) and information on the number of 2014/2015 school graduates (Annex 2) **shall be submitted until 30 January, 2015.**

Information on each individual subject shall be confirmed on paper and emailed to:

- Crimean Tatar language and literature – A. I. Rustemova (alierustemova@mail.ru);

- Ukrainian language and literature – A. N. Kostikova (shunigka27@yandex.ru)

A form of application for the state final certification in the native language and literature

Chairman State Examination
Commission of the Republic of Crimea
N. G. Goncharova

Application

I,

(Surname)

(Name)

(Patronymic)

Contact number:

Date of birth:

Day/month/year

Identification document _____

(Document name)

Series: Number:

Gender: Male Female

Ask to register me for the State Final Certification in the native language from among languages of peoples of the Russian Federation and literature of peoples of the Russian Federation in the native language from among languages of peoples of the Russian Federation

Native language

Indicate the subject name

Native literature

Indicate the subject name

Consent to personal data processing is enclosed.

Applicant's signature _____ / _____

(Full name))

«____» _____ 2015

Application accepted by: _____ / _____

(Signature)

(Full name)

Date «____» _____ 2015 г.

Registration Number _____

**Information on the number of 2014/2015 school graduates
who applied for the State Final Certification in the native
language and literature**

City/district _____
Subject name _____

№	Name of educational institution	Graduate's full name

Annex 5. Letter No. 868/01-04 of 13 November, 2014 by the CRIPPE Rector recommending the leadership of educational authorities to include into the school curriculum a xenophobic piece of poetry of doubtful artistic value

10.46



МИНИСТЕРСТВО ОБРАЗОВАНИЯ, НАУКИ И МОЛОДЕЖИ РЕСПУБЛИКИ КРЫМ
КРЫМСКИЙ РЕСПУБЛИКАНСКИЙ ИНСТИТУТ ПОСЛЕДИПЛОМНОГО
ПЕДАГОГИЧЕСКОГО ОБРАЗОВАНИЯ

295001, г. Симферополь, ул. Ленина, 15
Тел./факс (0652) 27-45-15, 25-47-31
E-mail: info@krippe.ru, krippe@krippe.ru

«13» ноября 2014 г.
№ 868/01-04

Руководителям органов управления
образованием

С целью выполнения требований Федерального государственного образовательного стандарта среднего (полного) общего образования, ориентированного в том числе на становление личностных характеристик выпускника, любящего свой край и свое Отечество, знающего русский и родной язык, уважающего свой народ, его культуру и духовные традиции, рекомендуем на уроке русской литературы в 11 классе в рамках изучения современной поэзии проанализировать стихотворение Анатолия Пшеничного «Работа над ошибками». Это поможет учащимся воспринимать поэзию как органический элемент жизни современного общества, познакомит с биографией и творчеством современного поэта Анатолия Пшеничного. Текст стихотворения прилагается.

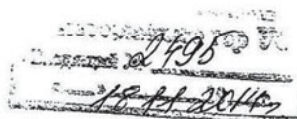
С целью формирования российской гражданской идентичности, патриотизма, уважения к своему народу, гордости за свой край, свою Родину, за прошлое и настоящее многонационального народа России рекомендуем для учащихся 10 – 11 классов провести классный час по теме: «Как в одной букве отражается судьба страны».

Приложение 1 л.

Ректор

А.Н. Рудяков

Бугаева И.С.
87-978-817-4707



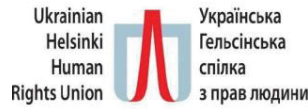
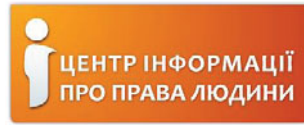
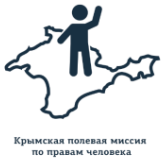
Работа над ошибками

Нам вопрос этот не на засыпку-
За отцов отвечают сыны.
Мы сумели исправить ошибку:
В слове «Крым» снова пишется «Ы»!
Бьют нам в спину глухие проклятья,
Буд-го камни из вражеских рук...
В один миг наречённые братья
Отречёнными сделались вдруг.
Не за вас нам обидно – послушных
Хитрой воле чужих главарей,
А за ваших красивых хохлушек,
За надежных донецких парней,
За медаль, что под Киевом деду
Командир вручал в сороковых,
И за общую нашу Победу,
И за преданных наших святых!..
А сегодня сам Вий бы без дрожи
Не глядел, как ползут меж корней
На свет божий небритые рожи -
Вурдалаков в обличье вождей!
И «пугая ежа голой попой»,
Верещат: «...Сжечь Россию грозой!»...
... «Ще не вмерла?...» - давай же – попробуй –
Погрози нам потешной косою!
Мы себе не творили кумира,
Когда, встав за столом во весь рост,
Поднимали мы: «За командира!»-
Не фальшивый и правильный тост.
И пусть жить нам сегодня не шибко
В мире бешеной лжи и казны,
Мы сумели исправить ошибку-
В слове «Крым» - снова пишется «Ы»!

А. Пшеничный. март 2014 г.

Annex 945

Crimea Human Rights Field Mission - Brief Review of the Situation in Crimea (April 2015)



Crimean Human Rights Field Mission

Brief Review of the Situation in Crimea

(April 2015)

Analytical review

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I. INTRODUCTION

This monitoring review has been prepared by the Crimean Human Rights Field Mission based on the materials collected by the Mission in April 2015 during its work in Crimea, as well as in Russia and Ukraine.

The Crimean Field Mission ("the CFM") commenced its work on 5 March 2014.

The goals of the Mission are as follows:

- providing information about the developments in Crimea;
- reducing the level of threat to all parties to the conflict;
- maintaining a proper legal environment in the region, strengthening and promoting human rights standards and efficient protection mechanisms through the situation monitoring and verification of incoming messages about human rights violations;
- providing comprehensive assistance to the initiatives related to human rights protection towards all participants of the conflict.

Emphasizing that human rights are a direct and legitimate concern of the international civil society and implementing the above-mentioned goals, the Mission:

- performs monitoring of the general situation concerning observance of international humanitarian law and fundamental human rights in the territory of Crimea, as well as of the issues related to protecting human rights defenders, journalists, lawyers, and public figures and ensuring their professional activities;
- pays special attention to the monitoring of inter-ethnic and inter-religious relations;
- observes the activities of law enforcement bodies and public authorities;
- urges all the parties involved in the stand-off to abide by the rules of international humanitarian law and the human rights commitments, and calls on international intergovernmental organizations and their members and participants to supervise the compliance with the commitments.

In its activities, the Mission is guided by the principles of absolute forbearance of violence and discriminatory practices and is committed to political neutrality and adherence to law.

The conclusions in this paper are based on results of the first-hand information collection (observation of the situation and developments in Crimea, interviews with members of key target groups), mass media monitoring, analysis of developments and legal framework, and official statistics.

The review is prepared on a monthly basis and includes sections dealing with the situation with civil, political and socio-economic rights in Crimea and also covers the status of vulnerable groups and xenophobic manifestations in the peninsula.

Besides, the review features the problems faced by the Crimean residents who had to leave the peninsula and move to Ukraine's mainland (involuntarily relocating persons).

The CFM extends its gratitude to everyone who assisted with the preparation of the present review.

The monitoring review was prepared with support from the Federal Department of Foreign Affairs of Switzerland and the Democratization and Human Rights in Ukraine Project implemented by the United Nations Development Programme in Ukraine and financed by the Ministry of Foreign Affairs of Denmark.

The opinions, stands and assessments contained in this report do not necessarily represent the stand of the United Nations Development Programme, other UN agencies, the Ministry of Foreign Affairs of Denmark, or the Federal Department of Foreign Affairs of Switzerland.

II. PROBLEMS OF THE RESIDENTS OF CRIMEA

2.1. CIVIL AND POLITICAL RIGHTS

RIGHT TO LIFE

THE KARACHEVSKY CASE

In the context of the right to life, questions arise to the investigation of the murder of Ukrainian Navy Major **Stanislav Karachevsky**.

He was murdered on 6 April 2014 by a RF military serviceman. The murder occurred in Crimea, in Novofedorovka urban-type settlement, in the dormitory where Ukrainian military personnel was quartered before departure for mainland Ukraine.

The murder charge was served to Yevgenii Zaitsev, Junior Sergeant of the Russian Armed Forces, and on 13 March 2015, the Crimean garrison military court, chaired by R.A. Zubairov, convicted Yevgenii Zaitsev for a murder committed in excess of the measures needed for the detention of a person having committed a crime, i.e. for a crime envisaged by part 2 of Art. 108 RF Criminal Code, and awarded him a punishment in the form of imprisonment for 2 (two) years to be served in a penal settlement.

A civil suit filed by complainant Olha Karachevska, murdered major's wife, for moral damage compensation in the amount of 50,000,000 (fifty million) roubles was compiled with in part. The court ruled to collect 500,000 (fifty thousand) roubles from military unit No. 45764 in Olha Karachevska's favour but to deny payment of the rest, i.e. 49,500,000 (forty-nine million five hundred thousand) roubles. The obligation to pay the awarded sum is assigned to the Financial Provision Department of the Russian Federation Ministry of Defence in Krasnodar Krai (**Appendix 1**).

On 23 March 2015, Olha Karachevska lodged an appeal to the judicial division for criminal cases of North Caucasus district military court, indicating that the court's findings as presented in the verdict did not correspond to factual circumstances of the case established by the first-instance court. Besides, the appeal mentioned a violation of the legislation on criminal procedure, namely the court groundlessly rejected some items of evidence while taking other ones, and wrongly applied a criminal law by mistakenly qualifying Ye. Zaitsev's actions under part 2 of Art. 108 RF CC, which resulted in a groundless and unfair verdict imposing thereon a punishment that does not correspond to the gravity of the offence he had committed.

Based on the above, injured Olha Karachevska asks to *"quash the verdict delivered by the Crimean garrison military court on 13 March 2015 concerning Ye. Zaitsev, deliver a verdict of guilty, qualifying his actions under part 1 of Art. 105 RF CC, change the amount of compensation for moral damage towards substantial increase"* (**Appendix 2**).

The defence team has questions as to selectivity of testimonial evidence recorded in the protocol and stating that Maj. Karachevsky is a criminal who attacked the RF Armed Forces checkpoint while Ye. Zaitsev's actions aimed to detain him. Meanwhile, in the defence's opinion, the question about the involvement and role in the incident of Ye. Zaitsev's fellow servicemen, viewed as witnesses, is

not considered. In the defence's opinion, no proper attention was paid to the versions assuming that the clash had occurred in the context of the conflict between the Ukrainian and Russian military servicemen while the incident itself can be regarded as the Russian servicemen's armed assault on the Ukrainian ones that the latter tried to avoid by hiding in their house.

The court admits that S. Karachevsky had no weapons, that *"he was pursued by several persons, with a duty unit military serviceman running inclose proximity to him"*, that *"it was possible to detain Karachevsky in some other way, without causing him severe bodily injuries that resulted in death"*, that *"the accused's having caused death to Karachevsky is manifestly not proportionate to the character and degree of the public danger of the action believed by the accused to have been committed by the detainee and to circumstances of detention, and that a manifestly excessive harm, not justified by the situation, was caused to the injured without any need"*.

At the same time, some materials in the case reproduced in the verdict, according to the defence, indicate that the pursuers aimed not simply to detain the "disturbers" but, instead, to cause as much physical harm as possible to the unarmed Ukrainian military servicemen. For example, it can be concluded from the testimony by witness Khanmirzaev and the expert opinion dated 19 May 2014 that Stanislav Karachevsky was dying for several minutes, *"a short period of time, amounting to minutes, passed until the moment of death"*, and "anemia of brain and internals" was "a direct cause of death". Meanwhile, none of the pursuers tried to render medical aid. Ramazanov ordered Khanmirzaev to guard Karachevsky and proceeded to chase another pursued Ukrainian military serviceman. What happened to the pursued one was also not mentioned in the verdict but he is a direct participant of the events, a witness and, perhaps, an injured, and circumstances of the incident remain incomplete for the court without his testimony. Media wrote that he was an officer of the Ukrainian Armed Forces, Capt. Artem Yermolaenko, and he was "brutally beaten and arrested by the RF soldiers"¹.

The verdict does not mention what official relations are between the suspect and the witnesses and how it affected the course of events – in particular, on what grounds witness Ramazanov gave orders to others, including the order to guard dying Karachevsky. It has not been established whether he was superior in rank or position, whether Ye. Zaitsev followed him and executed his commands or acting on his own initiative.

For example, according to testimonial evidence, there was no command to pursue and detain S. Karachevsky and two other persons mentioned in the testimony who were running away. Moreover, the testimony states that first shots occurred at the checkpoint and were fired by on-duty Karniak and Semionov while Ramazanov testifies that once Kuteinikov, responsible for security of the military unit facilities, came out to the attackers, "the disturbers started running away to their dormitory". Thus, it remains unclear what was the reason for the actually entire unit on duty, having no command or order, to rush to pursue the disturbers. All the military servicemen unanimously state that they *"followed their fellow servicemen, believing that they did not hear the unit commander's order about the detention"*.

¹<http://news.berdyansk.net/news/15595-pogib-mayor-stanislav-karachevskiy.html>

The verdict does not mention establishment of the circumstances of the sixth shot fired in the dormitory building. It is seen from the testimonial evidence that Titov fired two shots while Zaitsev fired three. According to witnesses, Titov shot one time in a window to frighten the attackers off Zaitsev, then Zaitsev and himself fired one shot each at Karachevsky on a staircase, and then Zaitsev killed Karachevsky with two shots. However, material evidence to be destroyed according to the verdict, include 6 (six) metalcartridge cases, which matches the number of cartridges in eight submachine-gun magazines to be transferred to military unit No. 45765.

Thus, the version of an attack at the checkpoint is taken as a primary lead while Zaitsev was a member of the unit on duty that was performing actions *"to guard and defend the military station based on a relevant order and because of having information about an attack at the checkpoint"*.

The court considered all these data to be sufficient to qualify the incident under part 2 of Art. 108 RF CC as *"a murder committed in excess of the measures needed for the detention of a person having committed a crime"* and insufficient to qualify it under more severe articles envisaging liability for a murder committed by a group of persons or for hatred or enmity. In the defence's opinion, such qualification allows Ye. Zaitsev to be inflicted a minimum penalty and other Russian military servicemen involved to avoid any liability; the killed person is presented as a public order disturber whereas the injured party's interests in appropriate investigation and fair compensation for the infringed right to life are not secured to the proper extent. The defence believes that the court did not sufficiently examine the extent of involvement of the persons acting as witnesses in the case in the crime committed. In this regard, the defence will appeal against the verdict and raises the question about securing the above-mentioned interests.

PROHIBITION OF TORTURE

THE KOSTENKO CASE

In the context of the right to freedom from torture, attention is drawn to the statements of defence of **Oleksandr Kostenko** who is in detention in the Simferopol pre-trial detention facility, on a charge of his involvement in the February 2014 Kyiv Maidan events during which he allegedly caused minor bodily injuries to an officer of the Crimean detachment of Ukrainian MIA's Berkut police, as well as on a charge of illegal possession of weapons which he claims were planted on him (*see previous CFM reviews for details of the Kostenko case*).

As far back as 12 February, Oleksandr Kostenko's father Fedir claimed in his complaint to Crimea Public Prosecutor Natalia Poklonskaya that *"facts of Oleksandr's critical physical condition have emerged: his left hand is broken, his right hand is dislocated, abdominal cavity damaged, heavy signs of beating on his face and head, pain in the liver and kidneys, foot damaged"*. Besides, the complaint describes the 5 February events: *"At about 17.00, near our house entrance, with a large number of people present, several persons in civilian clothes attacked my son, Oleksandr Fedorovych Kostenko. Those unknown persons used brutal physical force, and, without any charges, dragged him into a van and took him to an undisclosed location. They replied with rudeness to neighbours' remarks. On the same day, I wrote an application to Simferopol city Kievsky district department of internal affairs concerning the fact of kidnapping of my son. Later, I applied to police, FSB and other institutions, but no-one ever gave me any answer anywhere. Our*

neighbours remembered the colour and number of the vehicle in which Oleksandr was taken away (AK 3274 CH)" (Appendix 3).

The circumstances described by O. Kostenko's father are in conflict with the investigators' version according to which on February 6 Oleksandr came, allegedly of his own free will, to the FSB Department in the Republic of Crimea and Sevastopol city and declared himself to be "*a person involved in the Maidan events and having caused minor damage to V.V. Poliyenko's health*". It should be pointed out that O. Kostenko's father, Fedir, disappeared on 3 March en route from Kyiv to Crimea.

On 3 April, a Simferopol court, chaired by V.A. Mozheliansky, granted a motion of state prosecutor at law – Prosecutor of the Republic of Crimea N.V. Poklonskaya, and extended the measure of restraint in the form of detention, previously assigned to O.F. Kostenko, for two months, i.e. through 3 June 2015, and simultaneously decided to schedule an open court hearing for 20 April 2015 (**Appendix 4**).

On 11 April, Kostenko's apartment was searched. According to the protocol, the search was conducted by FSB operative agent Artur Shambazov and managed by FSB officer Tishenin. According to Kostenko, the latter person was among those who tortured him after his detention on 5 February (formally he was detained only on 6 February): "*During the period from 5.02.2015 and 6.02.2015, FSB officers Andrei Tishenin, Artur Shambazov and others illegally deprived me of liberty by putting into a basement of an unknown building where they were causing me bodily injuries by beating and torturing me all the time. As a result, I have multiple bodily injuries and a displaced fracture of the left elbow joint*".

During a court hearing on the case on 20 April, lawyer Dmitrii Sotnikov made a motion to terminate the criminal proceedings as regards charging O.F. Kostenko having committed the crime envisaged by Art. 115(2)(6) RF CC, because of no event of the above-mentioned crime in O.F. Kostenko's actions since both the accused and injured persons had been Ukrainian nationals as of the incident while the place of incident had been outside both Russia and Crimea. Ukraine did not charge Russia with conducting criminal prosecution of O. Kostenko.

The lawyer also requested elimination from the criminal case file of any evidence obtained with the use of illegal physical impact (torture) upon O. Kostenko by law enforcement officers. These arguments, as well as the fact that Kostenko had a broken hand and needed medical aid, not provided to him in the pre-trial detention facility (**Appendices 5-6**), were also presented by the lawyer in his appeal to the Supreme Court of Crimea against this ruling issued by judge V.A. Mozheliansky. The complaint also specified that detention was used by investigation bodies and the first-instance court for the purpose of applying torture to O.F. Kostenko to force him to refuse from the arranged lawyer's services and admit his guilt (**Appendix 7**).

The Supreme Court of Crimea held as follows on 15 April: "*The ruling of Kievsky district court, city of Simferopol, Republic of Crimea, dated 3 April 2015 that extended the detention period for Aleksandr Fedorovich Kostenko for two months, i.e. until 3 June 2015, shall be left unchanged, and lawyer Dmitrii Sotnikov's appeal shall be dismissed*" (**Appendix 8**).

Along with searches in Kostenko's apartment, his relatives' apartments were also searched. On 9 April, in Ujutnoye village, Saki district, a search was conducted in the apartment of Olha Ukolova, the detainee's civil-law wife. On 10 April, in Zaozernoje village (Yevpatoria), a search was conducted in the apartment of Oleksandr Kostenko's civil-law wife's brother. The search was formally grounded on an application about a mobile phone theft (*these searches are described in detail in the section on the Right to Liberty and Security of Person*).

Kostenko's lawyer Dmitrii Sotnikov repeatedly approached various instances stating that tortures were applied to his client. The lawyer demanded stopping tortures, securing his client against communication with his torturers, and holding them liable (**Appendix 9**). However, on 18 April 2015, Senior Lieutenant of Justice D.S. Kukasov, senior criminal investigator, military investigation division 534, Military Investigation Department of the RF Investigation Committee for the Black Sea Fleet, denied institution of criminal proceedings against Andrei Tishenin and Artur Shambazov for exceeding official powers with the use or threat of use of violence (**Appendix 10**).

In response to Fedir Kostenko's applications, a reply came as far back as 10 March, signed by S.A. Bogoslavskaya, Deputy Head of the Office of the Human Rights Ombudsman in Crimea, indicating that as a result of the check conducted by the Ombudsman pursuant to the application, *"the facts of your son A.F. Kostenko's having bodily injuries became confirmed. In this regard, the need arose to organize measures for an additional examination of circumstances of causing the injuries"* (**Appendix 11**).

The next letter from the Ombudsman's office informed Kostenko's father that the Ombudsman had sent letters on the need for additional examination of the circumstances in which bodily injuries had been caused to O. Kostenko to various Russian bodies governing Crimea. The document also made known that Oleksandr Kostenko had had a meeting on 31 March with a representative of the Office of the RF Human Rights Ombudsman. The following was communicated on results of the meeting: *"According to your son's information, in Simferopol PTDF-1, possible medical aid envisaged by detention conditions is rendered to him. He has not written any complaint on anyone's actions. He refused to indicate a reason of having sustained a bodily injury. In view of the stated above, the Ombudsman currently has no ground to keep conducting the inspection"* (**Appendix 12**).

There is information that, before the meeting with the representative of the Office of the RF Human Rights Ombudsman, PTDF-1 I.L. Levenets threatened Kostenko with reprisal if he would say anything at the meeting. Levenets personally accompanied Kostenko to the meeting and was present thereat. No lawyer was allowed to attend. At the meeting, they demanded that Kostenko must waive the right to counsel, tried to convince Kostenko that the lawyer had been allegedly detained at an airport with drugs, and demanded to accept a special procedure and admit his guilt.

RIGHT TO LIBERTY AND SECURITY OF PERSON

DISAPPEARANCES

There is no new information available concerning the disappearance cases of **Ivan Bondarets, Valerii Vashchuk, Vasyl Chernysh, Timur Shaimardanov, Seyran Zinedinov, Isliam Dzhepparov, Dzhevdet Isliamov, Eskender Apseliamov, and O.M. Potapov.**

Fedir Kostenko, father of Euromaidan activist Oleksandr Kostenko detained on 5 February in Simferopol, disappeared under unestablished circumstances in March. His son Oleksandr Kostenko is under arrest, accused of having caused minor bodily injuries to an officer of Crimean Berkut unit in February 2014 in Kyiv.

Fedir Stepanovych Kostenko's wife filed an application about his being missing. She points out in her application that Fedir disappeared on 3 March. Besides, she writes that on 2 and 3 March *"some suspicious persons were near our apartment, apparently watching the entrance and the apartment near the door and from a car"*. According to the application, presence of such "observers" can be confirmed also by neighbours (**Appendix 13**). At present, no data concerning Fedir Kostenko's whereabouts is available.

DETENTIONS, ARRESTS, SEARCHES

Between 2 and 10 April, some measures were going on in Crimea, which, according to the RF MIA internal troops, were part of the Cordon 2015 operational and strategic exercise aimed to practice "instructions as regards strengthening border protection and conducting antiterrorist activities".

According to the materials collected by the Contact Group on Human Rights in Crimea², the population was not notified on the scheduled exercise and learned that the activities conducted were an exercise only from press reports.

The Contact Group recorded that the exercise was going on in settlements of Lenino, Kirovskoye, Batalyonnoye, Semisotka, Voikovo, Bagerovo, Yarkoye Pole village, Shchelkino, Yalta and Saki towns, and Simferopol Fontany micro-district.

Except for Yarkoye Pole and Zhuravky, all the 'exercises' were conducted according to the same scenario: about 100-150 MIA employees came to a settlement – enlisted ones, district police officers, special police squad, road police – all armed. On all the roads leading to and from the settlement, sandbags were placed and, in some cases (at least in two settlements), machine-guns and car traps were installed. All the passing cars had to produce documents and undergo inspection, in some cases total, in some – spot checks.

In the streets of some communities, persons with submachine-guns and dogs were checking documents.

In Zhuravky settlement, where about 500 Crimean Tatars live, the exercise was observed to occur as follows. Roadblocks were set on all the three roads leading to the settlement (from Pervomayskoe, Kirovskoye and Privetnoye). Road police and special police squad officers stopped all the passing cars at the roadblocks to examine documents. According to some witnesses, the checks were random and discriminatory: Slavic looking people only had to produce their documents whereas Crimean Tatars were sometimes accompanied to their homes to carry out an 'inspection' of their housing. Some houses were simply entered with no attesting witness or search. A full-scale search was conducted in 10 houses.

²The group was established in autumn 2014 to search for missing Crimean Tatars. It includes relatives of some disappeared persons, lawyers, and members of the Crimean Tatar public.

A similar procedure was followed for the exercise in Yarkoye Pole on 3 April. It began at 9.00 and lasted until 13.30. About 10 houses were researched.

Such kind of 'exercise', when the civilian population is their object, is an unacceptable practice that was never used in Crimea before. It not only restricts fundamental rights (right to liberty of movement, respect for home, right to liberty and security of person, and groundlessly jeopardizes the right to life) but also violates the presumption of innocence principle, thereby resulting in discrimination expressed as searches in people's houses only based on ethnicity and religious affiliation. Settlements and people residing there must not be an object of army and police exercises that lead to unfounded restriction of their rights.

Searches in the Kostenko case

On 9 April, Russian police officers searched the apartment of **Olha Ukolova**, Oleksandr Kostenko's civil-law wife, in Uyutnoye village, Saki district. To conduct the search, they had to break a steel apartment door. The search record indicated that *"the apartment entrance had a metal door with a mortice lock. Because of the refusal to open, the lock was deformed in view of the need to open the door"* (**Appendix 14**). According to O. Kostenko's brother, Yevhen: *"Unknown men came to the apartment in Uyutnoye village, Saki district, where the woman is living, knocked at the door and stated they were going to conduct a search. They claimed to be police officers but the woman asserts that she heard an adolescent's laughter behind the door as well. She was in the apartment with her child and mother. They did not know what to do – let the people in or not"*.

According to the record, began at 21.15 and ended at 23.55. A few phones, a SIM card, and flashcards were withdrawn during the search. Apart from Olha Ukolova, her 7-month-old baby and her mother were in the premises she is living in. A uniformed man who entered the apartment introduced himself as a district police officer Chalabayev. Besides, according to eyewitnesses, the people who entered the house included police officers whose presence is not indicated in the search record: district police officers Dmitrii Aleksandrovich Terekhov and Telman Seydosi Ogly. The total number of people who entered the apartment where Olha Ukolova with her 7-month-old baby and her mother is living, was about 12. The search lasted for more than two hours and ended at 23.55.

On 10 April, police officers conducted a search in the apartment of Oleksandr Kostenko's civil-law wife's brother in Zaozernoje village (Yevpatoria). The formal ground for the search consisted of an application about mobile phone theft. According to **Yuliia Taktasheva**, Olha Ukolova's brother's wife, she was approached at about 12.00 in the street by some persons in uniforms but having no police badges, one of them introduced himself as a police station chief. They started interrogating her asking who she was, what she was engaged in, where she lived, and if she was **Oleksandr Taktashev's** wife. She tried to find out what was the ground for her being interrogated and being demanded to show her documents. In response, the officers started threatening her and saying they would take her and her child to the police station. She was afraid and showed her documents. Late that evening, a search was conducted in her house.

The search was commenced at 21.00 and ended at 22.20. According to Kostenko's relatives, the premises where the family is living, has only 18 sq. m in area. There were 10 people inside, and 10 more were in the street; a search warrant was not given for familiarization. The warrant was

shown to Taktashev's mother (he himself was not at home), but they did not let her read it to the end. The persons conducting the search called it an 'emergency search'. Asked to allow making a photocopy of the record, they refused. It is known that the search was conducted by investigators Denis Viktorovich Monastyrsky and Aleksandr Vyacheslavovich Drochevsky. According to the police officers, a phone theft was a formal ground for the search. They also tried to seize a computer processor unit. During the search, the police officers prohibited making any phone calls.

Both searches took place late in the evening. According to Art. 164 RF Code of Criminal Procedure, no investigative actions can be performed at night except for pressing cases. In both situations above, a great number of police officers were present, violations of many procedural norms occurred, and Kostenko's defence lawyer and family regard these episodes as elements of psychological pressure.

Detentions in the 26 February case

On 14 April, another search was conducted in the house of **Mustafa Asaba**, chairman of Belogorsk regional Mejlis. 13 cartridges wrapped in paper were found during the search. On the same day, Mustafa Asaba was taken to the investigation committee for an interrogation, after which he was allowed to go home. The search was conducted as part of investigation of the 26 February case (*see CFM monitoring reviews for March and February 2015 for details of the case*).

It should be reminded that Mustafa Asaba's house was already searched in September last year. That search was conducted in connection with the 3 May events when Crimean Tatars had been meeting Mejlis ex-head Mustafa Dzhemilev at an administrative border in Armiansk.

On 14 April, Russian law-enforcement officials conducted searches in the houses of Belogorsk businessmen and patrons, brothers **Resul** and **Remzi Veliliyev**. The searches took place as part of investigation of the criminal case concerning the 26 February 2014 events. After the search, Remzi Veliliyev was taken to the Investigation Committee for an interrogation. Sometime later, he was released, the same as Mustafa Asaba. Resul Veliliyev is a member of Belogorsk district council, former member of the Supreme Council of Crimea, Honoured Worker of Services of Crimea and Ukraine.

In the evening of 15 April, Russian law-enforcement officials detained Crimean Tatar **Ali Asanov**, resident of Urozhaynoye village, Sovetsky district. He was delivered to the Simferopol investigation committee on 16 April for an interrogation, and detained there until a trial that was held on the next day. According to his relatives, the detention took place as part of the 26 February criminal case.

On 17 April, Kievsky district court of Simferopol held a session in the case of Ali Asanov, detained in the framework of the 26 February case. The court imposed on him a restraint in the form of two-month detention until the completion of the investigation, namely until 15 June 2015.

The court decision mentions having caused death by recklessness to I.A. Postny and V.D. Korneva. The court ruled to indict Ali Asanov as the defendant for having committed a crime envisaged by part 2 of Art. 212 RF CC (involvement in mass riot, punishable by imprisonment for three to eight years).

In the evening of 20 April, **Eskender Nebiev**, an ATR TV channel cameraman, was detained in Simferopol. According to law-enforcement bodies, the criminal case includes evidence of his having taken part in a mass action as one of the activists, not as a journalist. On 22 April, Kievsky district court of Simferopol imposed on him a restraint in the form of two-month custody.

Eskender Kantemirov, arrested in this case on 8 February, was admitted to bail earlier, on 9 April, and **Eskender Emirvaliev**, arrested on 18 February, was admitted to bail on 17 April.

Abdurahman Egiz and **Diliaver Akiev**, members of the Mejlis of the Crimean Tatar People, were interrogated as part of this criminal case on 27 April; **Zair Smedliayev**, chairman of the Central Election Commission of the Qurultay of the Crimean Tatar People, was re-interrogated on 28 April; **Nariman Dzhelial**, Mejlis 1st Deputy Chairman, and **Diliaver Akiev**, Mejlis Secretariat head, were re-interrogated on 30 April. Also on 30 April, Mejlis members **Ali Hamzin** and **Enver Kurtiev**, and **Zair Smedliayev** and Qurultay Audit Commission chairman **Ali Ozenbash** were interrogated.

Searches and detentions in the Hizb ut-Tahrir case

About 6 a.m. 2 April, FBS officers conducted a search in **Ferat Sayfullaev's** house in Orlinoe village, Balaklava district. Taking part in the search were 6 persons, three of them in masks, an investigator, and two attesting witnesses. They did not allow Sayfullaev to make a phone call and invite a lawyer. On the same day, Ferat Sayfullaev was detained on suspicion of connection with Hizb ut-Tahrir terrorist organization. A computer and 3 Islamic books were seized during the search.

On 3 April, a restraint in the form of two-month custody was imposed on Sayfullaev.

To remind, Sevastopol city court extended the arrest of three Muslims detained in January – **Nuri Primov**, **Ruslan Zeytullaev** and **Rustem Vaitov** – for another two months. Involvement in the activities of Hizb ut-Tahrir organization, officially banned in the territory of Russia, is incriminated to all of them. All they are officially suspected of violation of Art. 205.5 RF CC (Organization of, and participation in, activities of a terrorist organization).

Other detentions and assaults

On 20 April, **Emir-Usein Kuku**, representative of the Contact Group under the Crimean Government Chairman (which was established by parents of kidnapped young persons and lawyers to supervise the progress of kidnapping investigation) in Yalta region, employee of Yalta district administration, was detained in Yalta. Witnesses claim that unknown persons in camouflage uniforms took part in the detention.

On 17 April in Simferopol, pro-Ukrainian activist **Leonid Kuzmin**, organizer of the action on Ukrainian writer Taras Shevchenko's birthday, was assaulted. According to him, his former pupil stopped him in the evening 17 April. The young man's friend, standing beside, recognized the activist and started offending him on the ethnical ground. As Kuzmin said, he tried to avoid a conflict, turned his back on them and was going to go away but was hit on his head with a bottle. Then, the assailants hit him for several times and ran away. At a traumatology centre, Kuzmin was diagnosed with brain concussion. Leonid wrote a police statement.

FREEDOM OF SPEECH AND EXPRESSION

In April, there was a series of searches, interrogations and detentions of journalists and media workers. Importantly, all these cases were connected exactly with professional activities of journalists or media workers as well as with the freedom of expression in web resources.

On 8 April in Simferopol, FSB officials called in for interrogation **Anna Shaidurova**, reporter of the Centre for Investigative Journalism. No summons was served on her when calling in for the interrogation, which is a violation of criminal procedure standards. The interrogation was conducted as part of the criminal proceedings concerning calls to violation of territorial integrity (Art. 280.1 RF CC) initiated against journalist **Anna Andrievska** because of publication of his article about the Krym battalion in the antiterrorist operation area. Anna Shaidurova could not report details of her interrogation because the journalist and her lawyer signed a pledge of non-disclosure.

On 9 April in Yalta, FSB officials conducted a search in the house of **Tetiana Huchakova**, former deputy editor-in-chief of BlackSeaNews media outlet. Huchakova has not been working in the outlet for more than a year because its editorial office moved to Kyiv. According to the outlet workers, the search lasted for about 10 hours and resulted in seizure of all computer equipment. After the search, Tetiana Huchakova was interrogated and late at night released. Grounds for the search and interrogation are being ascertained.

On 11 April in Simferopol, officials of the Counter-Extremism Centre conducted a search in the house of videotape operator **Amet Umerov**. After the search, Umerov was called to the Centre for a conversation. According to him, a ground of the search consisted of his friendship in a social network with a person who committed suicide. However, Umerov himself does not remember that man while his relatives associate the law-enforcement officers' actions with Umerov's critical statements in social media about representatives of the authorities.

On 21 April in Simferopol, officials of the Investigation Committee conducted a search in the house of **Eskeneder Nebiev**, cameraman at Crimean Tatar ATR TV channel. Nebiev was detained and on 22 April arrested on suspicion of involvement in mass riot within the framework of the so-called '26 February case'. Eskeneder Nebiev claims having been there as a cameraman and performing his professional duties to cover the events. However, the investigators state that Nebiev was one of the organizers of the event and was not performing his professional duties on that day. At present, Nebiev is in Simferopol pre-trial detention facility.

On 21 April, blogger and activist **Marlen Muzhdabaev** informed via Facebook that police had come to his parents' house in Simferopol (Muzhdabaev himself is not living in Crimea). Muzhdabaev believes that the police search for him and points out that it was already fourth visit of law-enforcement officers to his relatives' house during the last three months. According to him, testimony was taken from his relatives who were at home.

On 22 April, **Gayana Yuksel**, director of QHA Crimean Tatar news agency, was called to the Counter-Extremism Centre. The ground for the call consisted of the publication at the agency's website of information about the Organization of Ukrainian Nationalists (OUN) and the Ukrainian Insurgent Army (UPA), which had been active during the World War II in the west of Ukraine.

On 17 November 2014, the RF Supreme Court included UPA on the list of non-commercial organizations concerning which a court passed a decision on liquidation or prohibition on the grounds³ envisaged by the Federal Law on Counteraction to Extremist Activities, the decision having taken legal effect. Besides UPA, the list also includes other Ukrainian organizations: Pravy Sektor, Ukrainian National Assembly – Ukrainian People’s Self-Defence, Stepan Bandera Tryzub, Bratstvo. OUN is not on that list.

As Gayana Yuksel explained at the interrogation, the article about UPA had been published before the RF Supreme Court recognized that organization as extremist. However, law-enforcement officials ignored that fact. Concerning Gayana Yuksel, a report was drawn up on the administrative offence envisaged by Art. 13.15(2) RF Administrative Offence Code (AOC) “Abuse of the freedom of media” (**Appendix 15**), namely *“dissemination of information about a public association or other organization, included in the published list of public and religious associations and other organizations concerning which a court passed a decision on liquidation or prohibition, which has taken legal effect, on the grounds envisaged by the Federal Law on Counteraction to Extremist Activities (No. 114-Φ3 dated 25 July 2002), without a note that the respective association or organization has been liquidated or their activity has been prohibited”*. Gayana Yuksel herself did not agree with the content of the report drawn up and refused to sign it.

A serious danger for journalists’ work is posed by the assault on **Iryna Ostashchenko**, production editor of Informer web media outlet. She was assaulted at about 11 a.m. on 9 April in Sevastopol, in the entrance hall of house the journalist is living in. An unidentified person hit her on the head with an unknown item, due to which the victim lost consciousness while the assailant disappeared. Later on, Ostashchenko was delivered to a neurosurgical department where she was diagnosed with a chopped, avulsed and scalping-type wound of the head front and parietal part.

Of special danger is absence of any efficient investigation of the assault. According to witnesses, emergency care and neurosurgical department staff failed to report to the police about a specific character of the wounds that testifies an assault. Subsequently, the investigation accepted as a primary lead the assumption that Ostashchenko had fallen down the stairs. Importantly, the journalist’s area of professional interests covered investigation of corruption in the field of immovable property and land relations.

Apart from the cases described above, problems remain concerning formal restrictions on mass media work according to provisions of the Russian legislation. First of all, it is the need for registration with the Federal Service for Supervision in the Sphere of Communications, Information Technology and Mass Media (Roskomnadzor). According to Roskomnadzor, after the completion of a ‘transient period’ for mass media registration, 232 Crimean mass media are registered with Roskomnadzor as of 2 April: 8 online media, 19 TV channels, 42 radio channels, 163 print media and news agencies⁴.

However, many media have not still managed to re-register themselves and keep working. They include the only Crimean Tatar TV channel, ATR, which has been continuing its efforts to achieve

³ http://minjust.ru/ru/nko/perechen_zapret

⁴ <http://minfo.rk.gov.ru/rus/index.htm/news/299158.htm>

registration. Special anxiety among Crimean Tatar journalists and ATR TV channel staff was caused by S. Aksionov's decree "On the Public Crimean Tatar TV and Radio Company" dated 22 April 2015⁵. The decree assumes the establishment of the Public Crimean Tatar TV and Radio Company and the formation of the Council for that company. Therewith, the Council's membership shall be approved personally by Crimea head Sergey Aksionov from among the candidates nominated by the State Committee for Interethnic Relations and Deported Citizens. Establishment of a Crimean Tatar television, controlled by the local authorities, will result in restrictions on the creation and activity of other Crimean Tatar media.

Accreditation restraints are another problem for journalists' work. For example, the RF Government Head Dmitry Medvedev paid an official visit to Simferopol on 27 April. An accreditation application for coverage of the event had to be filed a week prior thereto. It can be concluded that some Crimean journalists failed to get accredited because of their 'disloyalty'. In particular, one of the female journalists was found to post on her social network page some photos of the Maidan events taken in the course of her professional activity. It became a ground for denial of accreditation for her. The journalist refused to appeal against the denial.

In addition, local journalists report that the Russia Today international news agency opened its press centre in Simferopol, and its administration claims to reserve the right to deny accreditation without giving reasons. The Independent Media Workers Trade Union believes that such press centres are used to provide a possibility of media 'filtering' and create additional instruments for restriction of the freedom of speech.

'STRUGGLEWITHEXTREMISM' ANDRESTRICTIONSOFFREEDOM OF EXPRESSION AND FREEDOM OF SPEECH

A special threat to the freedom of speech and expression is posed by so-called 'struggle with extremism and terrorism'. Main work 'to counter extremism and terrorism' is carried out by the Crimean prosecution office. An interagency working group to combat manifestations of extremism, headed by Crimea Public Prosecutor Natalia Poklonskaya, has been established in Crimea⁶. One of the key areas of such work consists of continuous supervision of internet resources and social networks. Intensification of such activities is also connected with implementation of S. Aksionov's decree "On approval of the Comprehensive Plan for counteraction to the ideology of terrorism in the Republic of Crimea for 2015-2018"⁷.

The above-mentioned plan assumes counteraction not to concrete actions but to "*ideas, concepts, beliefs, dogmas, goals, slogans substantiating the need for terrorist activity as well as other destructive ideas having led or able to lead to such ideology*". However, no clear criteria against which an idea or slogan can be identified as terrorist or destructive is set. The plan fixes a number of measures in relation of not only mass media but also ordinary users of internet resources, for example: monitoring of terrorist and anti-Russian activity on the internet; working to detect and block websites containing terrorist and extremist materials; development of guidelines on the

⁵ http://rk.gov.ru/rus/file/pub/pub_243657.pdf

⁶ <http://rkproc.ru/news/v-prokurature-respubliki-krym-proshlo-zasedanie-mezhvedomstvennoy-rabochey-gruppy>

⁷ http://rk.gov.ru/rus/file/pub/pub_238807.pdf

operating procedure of the Republic of Crimea public authorities, natural and legal persons for documentation of the facts of dissemination of destructive ideas and terrorism ideology on the internet and for submission of such facts to law-enforcement bodies.

As part of 'counteraction to the terrorism ideology', the Crimean prosecutor's office started urging local residents to apply to the prosecution bodies when they find any internet resources containing materials with extremist content⁸. The official website of the Crimean prosecutor's office now has a special option of the 'Notification of extremism'⁹ that allows any user to report, at his/her discretion, about manifestations of extremism.

According to the notification form, key information sources that can contain extremist materials include websites, photo and video repositories, emails, clubs, groups, communities, chats, forums, guest books, newsgroups, bulletin boards, and knowledge banks. The applicant should find in the information source any signs of calls to mass riots, extremist activity or participation in mass (public) events held in violation of the established procedure (**Appendix 16**). Such notifications provide grounds for checking the information source by prosecutor's office officials, for summoning the information authors to prosecution bodies, or for blocking the websites.

FREEDOM OF PEACEFUL ASSEMBLY

EPISODE WITH STUDENTS FILMING A CLIP IN SUPPORT OF ATR

On 1 April, Simferopol Kievsky district court had a session concerning the students who had been going to film a video clip in support of the **Crimean Tatar ATR TV channel** that had had to stop its broadcasting in Crimea. The court issued a ruling concerning one of the students, **Aleksei Yefremov**, according to which he was found guilty of violating the established procedure of organizing or holding an assembly, meeting, demonstration, procession or picketing. The court awarded him a penalty in the form of an administrative fine amounting to 20,000 roubles. Besides, the court found Yefremov guilty of resistance to arrest (defiance of a police official's legitimate order), and awarded a penalty in the form of an administrative fine amounting to 500 roubles. Yefremov himself denies his guilty completely, insisting that he did not resist detention.

On 15 April, the Commission for the Affairs of Minors and Protection of Their Rights, Simferopol city, issued a resolution concerning two minor female students, who were also detained for an attempt of filming a video clip, on imposing an administrative penalty (**Appendix 17**). The Commission found them guilty of violating the established procedure of organizing or holding an assembly, meeting, demonstration, procession or picketing (part 5 of Art. 20.2 RF AOC) and awarded an administrative fine amounting to 10,000 roubles.

The court and the Commission members found the students guilty of violating the established procedure of organizing or holding an assembly, meeting, demonstration, procession or picketing. However, the students' actions (an attempt of filming a video clip in support of the Crimean Tatar ART TV channel) don't come within the definitions of the assembly, meeting, demonstration,

⁸ <https://www.youtube.com/watch?v=kivcFRQp7RM>

⁹ <http://rkproc.ru/node/84>

processing or picketing enshrined in Article 2 RF FL on Assemblies, Meetings, Demonstrations, Processions and Picketing. Hence, it is likely a situation when the judge and the Commission members arbitrarily interpret provisions of the RF legislation by holding persons administratively liable.

Regardless of whether the students' actions come within the rather vague notion of a 'public event' in the Russian legislation, they as such did not threaten public order and carried no damage to public interests or other people's rights. Therefore, rather big fines on doubtful grounds constitute a disproportionate interference with freedom of expression and freedom of assembly, cause an additional deterring effect, and thereby violate these rights.

ACTION BY "PROTECT SEVASTOPOL" MOVEMENT

On 15 April, activists of the "**Protect Sevastopol**" public movement gather on Nakhimov Square in Sevastopol to hold an action "Ask Putin a question" aimed at criticizing the local authorities. Before the start of the public event, a man, who introduced himself as Vladimir Kolesnikov, official of the Government's Domestic Policy Department, demanded to stop the action. He explained his demand by the fact that the meeting was not authorized. The movement's leader **Vasily Fedorin** said that the notice of the meeting had been submitted within a prescribed deadline, on 5 April. There had been no reply concerning endorsement of the meeting by Sevastopol city administration. The meeting participants refused to comply with the demand and continued the action. Then, police officers detained three organizers of the action to draw up administrative reports. After that, they were released. Earlier, on 5 April, a similar action was held in another part of the city, and police officers were demanding to stop it.

ACTION IN ALUSHTA

On 24 April, Alushta city administration refused to satisfy the organizers' application for endorsement and holding of the public event "Protect our native city – preserve squares and parks" that had been scheduled for 10 a.m. on 26 April in front of the city administration building. Moreover, a few hours before the above-mentioned time, a considerable quantity of police and a special police squad as well as two special vehicles (prison trucks) appeared on the square in front of the administration. The organizers and participants of the scheduled event came to the square but, due to presence of police, urged everybody to go away. After that, according to eyewitnesses, some people, including activists with leaflets dedicated to the Victory Day, were detained by the police.

FREEDOM OF ASSOCIATION

On 23 April, the Crimean Court of Appeal had its preliminary hearing of the case concerning the withdrawal, as a 'cultural heritage object', of a building owned by **the Crimea Foundation charitable organization**. Along the Crimea Foundation, the building also hosted **the Mejlis of the Crimean Tatar People** and **the editorial office of Avdet, Crimean Tatar newspaper**.

As a ground for withdrawal, the State Committee regards the Foundation's failure to meet his obligations on maintenance of a cultural heritage object. According to the Committee, re-

equipment of the building in 2003 and 2010 was the main violation. Representatives of the Crimea Foundation repeatedly stated that the alterations had been done long before establishment of the RF jurisdiction in Crimea and had completely met the Ukrainian laws. However, the court ignores these arguments. As a result, the court decided to satisfy the State Committee's demands, namely withdraw the above-mentioned building from the Crimea Foundation ownership to arrange its redemption or sale by public tender, and to charge the Foundation with court costs in the federal budget's favour, amounting to 6000 roubles (**Appendix 18**).

By depriving the Crimea Foundation of its possessions, the court interfered with its right to property in the meaning of the European Convention on Human Rights (ECHR) (Art. 1 of the Protocol No. 1 to ECHR). Such interference was grounded by the RF legislation instead of the Ukrainian legislation that should have been applied to the legal relationships considered by the court.

When withdrawing the Foundation's possessions, the court did not award any compensation for the withdrawn property and did not specify what exactly circumstances exempt the state from its duty of paying the compensation to the owner. Besides, the court decision contains no explanation about how exactly the repair done causes harm to the building (cultural heritage object) and why the owner cannot itself eliminate the repair consequences instead of suffering a disproportionately stringent measure, namely deprivation of his right of ownership to the building.

A special problem for many associations still consists of difficulties in obtaining the legal entity status according to the RF legislative provisions. The organizations encounter formal prevention of registration, delayed replies from registering bodies, need for multiple payment of a state duty for registration, lack of necessary knowledge among the staff of registration bodies, etc.

FREEDOM OF CONSCIENCE AND RELIGION

Application of the Russian counter-extremism legislation in Crimea has resulted in criminal prosecution of participants (or possible participants) of **Hizb ut-Tahrir** international political organization. For example, on 23 January, the court imposed on detained **Nuri Primov, Ruslan Zeytullaev** and **Rustem Vaitov** a restraint in the form of two-month custody, and in March it extended their arrest for another two months. The three detainees are suspected of violation of Art. 205.5 RF CC (Organization of, and participation in, activities of a terrorist organization) because, in the investigators' opinion, they are involved in Hizb ut-Tahrir.

Later on, searches in Muslim homes were conducted on suspicion of involvement in Hizb ut-Tahrir activities in Crimea. For example, on 2 April, FSB officials conducted a search in the house of **Ferat Sayfullaev** in Orlinoe village, Balaklava district (near Sevastopol). His lawyer Emil Kurbedinov said that Sayfullaev had been summoned to an interrogation after the search. A ground for the search and interrogation consisted of his being suspected of connections with Hizb ut-Tahrir that, according to the RF legislation, is found to be a terrorist organization.

Manifestations of intolerance towards the **Muslim umma** are observed from time to time. For example, about 4 a.m. on 26 April, unknown persons threw a few bottles with Molotov cocktail into a mosque building. These actions the building façade was partially damaged. On this fact, criminal proceedings were instituted, and investigation is going on.

On 15 April, Bishop **Anatoly Kaliuzhny**, pastor of the **New Life protestant church**, reported having grounds to believe that purposeful ousting of Protestantism was occurring in Crimea¹⁰. According to him, representatives of the local authorities exert pressure on protestant communities and priests. Formal hindrances for re-registration of protestant communities are one of the forms of the pressure. According to the pastor, none of the protestant communities managed to get re-registered so far. This fact restricts their activities substantially, often deprives them of any possibility of renting necessary premises, etc. As Bishop Anatoly Kaliuzhny said, it became known from the reports of protestants living in Crimea that church leaders are subject to 'individual processing' by the Russian secret services. A special database of church leaders has been created, and their contacts with believers living in mainland Ukraine are being traced.

Kliment, Archbishop of Simferopol and Crimea (**Ukrainian Orthodox Church of Kyiv Patriarchy**), also stated for many times before about FSB staff interferences in the affairs of his church and about 'preventive conversations' of FSB officers with priests and parishioners.

FREEDOM OF MOVEMENT

Between 2 and 10 April, antiterrorist exercises were held in some communities, mainly villages and settlements, during which turnpike-equipped roadblocks were installed at community entrances. Motor vehicles entering and leaving the communities were subject to random inspection. The exercises resulted in substantial limitation of movement, especially of the persons moving in cars. Besides, local residents noticed emergence of new roadblocks, non-existent before, on motor roads. For example, one of such roadblocks was installed in Gaspra settlement (**Appendix 19**).

Earlier, on 10 August 2014, the RF FSB banned **Ismet Yuksel** entry into the RF territory for 5 years, until 30 June 2019. Ismet Yuksel is an advisor to the Chairman of the Mejlis of the Crimean Tatar People, a public figure, a Turkish national; before that, he had lawfully resided in Crimea for 20 years (based on a Ukrainian residence permit). He filed a lawsuit to the court challenging the FSB's on the ban of entry into the territory of the Russian Federation. Complaints on the entry ban decision were lodged in Simferopol and Moscow. Simferopol Kievsky district court refused to consider the complaint, referring to the 'jurisdiction principle'. Moscow Meshchansky court held an initial hearing on 22 January to consider Yuksel's lawsuit but the FSB representatives failed to appear.

The next session to consider Ismet Yuksel's lawsuit against the FSB's entry ban decision was held in Moscow city court on 7 April. That time, a FSB representative attended the hearing. The court session was postponed in order to notify Ismet Yuksel on holding the session and obtain his consent or refusal to considering the case in his absence because he cannot be present in the court for being banned to enter the RF.

Yuksel's lawyer, Illarion Vasiliev, supported by the Strategic Litigations Fund of the Ukrainian Helsinki Human Rights Union, applied to the European Court of Human Rights concerning the RF's violation of some articles of the Convention for the Protection of Human Rights and Fundamental Freedoms, namely: interference with the applicant's private life, restriction on his freedom of

¹⁰ http://risu.org.ua/ru/index/all_news/state/church_state_relations/59732/

movement, unlawful deportation, discrimination, unfair trial, lack of effective remedies, and infringement on property rights. The European Court of Human Rights accepted the appeal and assigned it case number 9117/15 (*Yuksef v. Russia*).

In April, a joint monitoring group of the Crimean Human Rights Field Mission, Lawtrend Legal Transformation Centre, and "Right to Protection" All-Ukrainian Charitable Foundation in partnership with HIAS, supported by the international coalition "Initiative Group for Human Rights in Crimea", conducted monitoring of Crimea entry/exit points¹¹. Preliminary results of the monitoring are presented in the section "Monitoring of Crimea Entry/Exit Points".

RIGHT TO A FAIR TRIAL AND AN EFFECTIVE REMEDY

THE SENTSOV CASE

On 8 April, Yelena Kaneva, judge of Moscow Lefortovsky district court, extended **Oleh Sentsov's** detention period in Lefortovo PTDF to 11 May. Extension of the custody period was requested by Artem Burdin, Major of Justice, senior investigator for major cases of the FSB investigation department.

Lawyer Vadim Samokhin, objecting the arrest extension, drew attention to gross factual contradictions in the case. In particular, according to him, two organizations were found injured in the case but damage suffered by them from the accused persons' actions was not indicated.

On 16 April, the investigation party served a final wording of the charge on Oleh Sentsov. He is accused under part 1 of Art. 205.4 (organization of a terrorist community), in two episodes under part 2(a) of Art. 205 (terrorist attack committed by an organized group), in one episode under part 1 of Art. 30 – part 2(a) of Art. 205 (preparation for a terrorist attack), and part 3 of Art. 30 – part 3 of Art. 222 RF CC (attempted illegal trafficking of weapons and explosives by an organized group). The final charge includes one more episode under part 3 of Art. 222 RF CC (illegal possession of weapons). Sentsov is also accused of managing a sabotage and terrorist group of the Pravy Sektor that, according to the FSB's assertions, was preparing terrorist attacks in Simferopol, Yalta and Sevastopol and, later on, "*extermination of a number of vital facilities, railroad bridges, and power transmission lines*". According to the article about terrorist attacks, Sentsov is threatened with up to 20 years in prison. Film director Oleh Sentsov admits no guilt on any of the imputed accusations.

Sentsov himself stated in the court: "*The federal service of lawlessness in your country is very well able to build big frame-ups*". He has no doubt that he will be sentenced to a 20 years in prison. "*They told me about such sentence already on the first day, before my official detention*", he explained. "*They hint me that I will have a very hard and 'interesting' life in the prison camp if I reach it at all*".

¹¹The Initiative Group for Human Rights in Crimea is a free coalition of organizations of Ukraine, Russia and other countries as well as individual experts, willing to act together to defend human rights in the Crimean peninsula.

THE KOLCHENKO CASE

On 9 April, Yelena Kaneva, judge of Moscow Lefortovsky district court, extended the detention period in Lefortovo PTDF of Crimean activist **Oleksandr Kolchenko** to 16 May. Extension of the custody period was requested by Artem Burdin, Major of Justice, senior investigator for major cases of the FSB investigation department.

As one of the arguments in favour of Kolchenko's further custody in the PTDF, Burdin mentioned the fact of the activist's visit to Kyiv Euromaidan. Kolchenko's lawyer Svetlana Sydorkina gave positive characteristics of her client as counterarguments and referred to the fact that the investigation in the case was already completed. However, the judgesidedwiththeinvestigators.

Oleksandr Kolchenko applied to the ECtHR with an appeal against forced establishment of the Russian citizenship. The activist claims that Russia violated Article 8 of the ECHR (right to respect for private and family life) in relation to him. As mentioned in the appeal, the ECtHR has earlier pointed out for many times that the right to acquire or maintain a certain citizenship is one of the rights guaranteed by the ECHR.

THE CHIRNII CASE

On 15 April, the North Caucasus district military court in Rostov-on-Don scheduled a hearing in the case of **Oleksii Chirni**, one of the persons involved in the Sentsov case, for 21 April. Since the defendant agreed to a plea deal, his case will be considered according to a special procedure – without interrogations of witnesses and analysis of evidence.

As proposed by Ukraine's Consul-General in Moscow Hennadii Breskalenko, since the work of the appointed lawyer, Tamaz Nodia, does not suit Chirni, lawyer Ilya Novikov, defending also Nadiia Savchenko, joined the defence.

On 21 April, proceedings began in the North Caucasus district military court in Rostov-on-Don. The prosecutor requested imprisonment of Oleksii Chirni for 12 years in high-security conditions. This was reported by Chirni's lawyer Ilya Novikov, suspended from the trial. The case is considered according to a special procedure, that is without interrogations of witnesses and analysis of evidence. As Novikov also mentioned, he asked his client to terminate the plea deal but the client refused, expecting to get a relatively short term – between 7 and 10 years in prison.

As a result, Novikov, referring to an official letter from Ukraine's Consul-General in Moscow Hennadii Breskalenko, claimed that Chirni had been tortured so he had had to slander himself and other persons. On that ground, the lawyer presented a motion for returning the case to the prosecutor's office. The defendant himself, however, did not support the motion.

Noting the opinion conflict between Chirni and his lawyer, the court withdrew Novikov from the process. According to him, the law on the legal profession allows a lawyer to take part in the process even if his stand differs from the client's, but the prosecutor insisted on withdrawing Novikov, claiming that Chirni's right to defence was allegedly violated.

On the same day, the North Caucasus district military court in Rostov-on-Don sentenced Crimean resident Oleksii Chirni to seven years of imprisonment in high security conditions. The defendant was found guilty under part 2(a) of Art. 205 (terrorist attack committed by an organized group;

two episodes), part 1 of Art. 30 – part 2(a) of Art. 205 (preparation for a terrorist attack to be committed by an organized group; two episodes), and part 3 of Art. 30 – part 3 of Art. 222 RF CC (attempted procurement of explosives by an organized group; one episode). Part 2 of Art. 205 envisages between 10 and 20 years of imprisonment in a penal colony.

The court considered Oleksii Chirniy to be a member of the Pravy Sektor's sabotage and terrorist group, in which film director Oleh Sentsov, according to investigators, was the leader, and left-wing activist Oleksandr Kolchenko was one of the fighters. The court found proven that the convict had been involved in all the four actions imputed to that non-existent group. They meant arsons of the headquarters of the Russian Community of Crimea and the United Russia in Simferopol, committed on 14 and 18 April 2014, respectively, as well as explosions near the Lenin monument and the Eternal Flame allegedly prepared in the Crimean capital.

Note that another Crimean resident, Hennadii Afanasiev, who agreed to a plea deal as well, was also sentenced to seven years of high-security imprisonment in December 2014.

THE 'CRIMEAN SELF-DEFENCE'

The problem of impunity in the activity of the 'people's militia – voluntary police' of Crimea, better known as the 'Crimean self-defence' is one of the permanent topics in monitoring of human rights in Crimea (*see previous reviews of the Crimean Human Rights Field Mission as well as the analytical paper "On the influence of paramilitary formations upon the human rights situation in Crimea"*¹²).

From this point of view, attention is drawn to a recent verdict by Sevastopol Gagarinsky district court. The court found a **Sevastopol resident** guilty of illegal possession, transportation and bearing of firearms and ammunition as well as of an attempted murder of a member of the 'Crimean self-defence'. According to the investigators, in February 2013¹⁴, the accused person, being in Kyiv, found a Makarov gun lying on the ground and misappropriated it. Later, on 9 March 2014 in Sevastopol, 'pursuing the goal of conducting provocative activities', he fired from that gun at a 'Crimean self-defence' member but missed. The court awarded him a punishment in the form of 10 years of imprisonment in a high-security correctional colony.

Facts of possession and bearing of firearms by the 'Crimean self-defence' members as well as involvement of the 'Crimean self-defence' in abductions, assaults on people, causing bodily injuries, and seizure of properties have been repeatedly recorded. However, there is no data in the information space about investigation of such cases, any criminal proceedings instituted, or guilty verdicts delivered against members of the 'Crimean self-defence'.

Meanwhile, the 'Crimean self-defence' members, in the status of the 'people's militia of the Republic of Crimea' fighters, keep regularly receiving commendations 'for courage and patriotism, active participation in the maintenance of public order, and ensuring public security' from Crimea head S. Aksionov¹³.

¹² <http://crimeahr.org/analiticheskaya-zapiska-3-kryimskoy-pol/>

¹³ http://rk.gov.ru/rus/file/pub/pub_242969.pdf

CITIZENSHIP-RELATED ISSUES

Key problems in the field of citizenship still include obtaining a temporary permission to stay, a residence permit, or the RF citizenship to keep residing permanently in Crimea.

In the cases on establishment of the fact of long-term residence in Crimea as a ground for acquiring the RF citizenship, courts rather often hold their sessions with no prior notice of the hearing date and time, or in absence of the applicant, fail to take account of the evidence presented, or call them in question groundlessly. Such a feature in consideration of civil-law cases has been recently observed in Saki and Simferopol.

The situation of the persons living without registration is difficult. Even if their citizenship is confirmed by a court, relevant bodies deny such persons a stamp on residence registration in their passports. For example, a mother of two children found herself under the threat of eviction from a residential accommodation in the temporary public housing because of having no registration.

Closely connected with citizenship are problems of job placement of the persons who filed an application of citizenship maintenance but who filed no such application but refuse to obtain a RF citizen's passport. Such individuals are substantially restricted in job placement because employers prefer hiring persons having RF citizenship. This can be seen from many job ads in local newspapers. For example, Yalta Kulturnaya I Kommercheskaya newspaper, Issue No. 13 (1096), 3 April 2015, contains job ads with a widespread condition – the RF citizenship. Besides, the issue contains job ads for a cook, cashier, barmen, and cleaner solely subject to having the RF citizenship: "RF citizens only" (**Appendix 20**).

2.2. SOCIAL AND ECONOMIC RIGHTS

PROPERTY RIGHTS

The local authorities keep pursuing a policy of so-called 'nationalization' of property items. For example, the State Council of Crimea transferred some non-residential premises at Managarova Str. in Yalta to municipal ownership¹⁴. Besides, the building of the **boarding house "A.P. Chekhov Creative House of Writers"** was transferred to Yalta city's municipal ownership.

Crimea head Sergey Aksionov came out with a legislative initiative for submitting to the RF Federal Assembly State Duma a draft Federal Constitutional Law assuming a simplified procedure for demolition of illegal structures. The draft entitles local governments to demolish illegal buildings without court orders. It carries substantial risks, first of all, to Crimean Tatars who, in a certain period, had to build so-called 'take-overs' because the issues of property for those returning from the deportation places were not regulated in Ukraine.

Dismantling of buildings at so-called 'protest clearings' is going on in Crimea. Sergey Aksionov stated on 14 April that more than 200 illegal structures at squatted land plots had been dismantled in Simferopol and Simferopol district. Besides, buildings on 7 areas in Sudak were demolished voluntarily by the squatters themselves. The authorities emphasize that all the demolitions are going on voluntarily but some participants of the 'protest clearings' report being exerted pressure on.

The investigation division for major cases of the Chief Investigation Department for Crimea under the RF Investigation Committee instituted two more criminal proceedings for the components of crime envisaged by part 1 of Art. 201 RF CC (abuse of power) based on the fact of abuse of power by the management of Massandra National Production and Agricultural Association¹⁵. However, Massandra NPAA representatives believe that it is a way of exerting pressure on them for transferring ownership of Massandra NPAA to some other person.

INVOLVEMENT OF THE 'CRIMEAN SELF-DEFENCE' IN VIOLATIONS OF PROPERTY RIGHTS

On 1 April in Yalta, representatives of the 'Crimean self-defence' produced a decision on nationalization of Krym hotel to the hotel managers and started making an inventory of its property. The nationalization decision itself was adopted as far back as 24 September 2014 by a session of the State Council members.

On 10 April, unknown persons in camouflage uniforms seized a parking area in front of Skazka zoo and began measurements for subsequent installation of trade kiosks. They refused to show any documents, and the vehicle they arrived in had a 'militia' plate. A few hours later, they went away to an undisclosed location. Meanwhile, representatives of the 'Crimean self-defence' paramilitary formation claimed they were not involved in the offence against other people's property.

In the middle of April, about ten armed men in camouflage and masks broke into the **Massandra boarding house** and took over control of its territory. After that, they began to take inventory of

¹⁴ <http://www.crimea.gov.ru/act/13482>

¹⁵ <http://crim.sledcom.ru/news/item/909472/>

property without any authorization. According to the boarding house staff, the facility was some time ago included in the list of property owned by Ukrainian businessman Ihor Kolomoysky and subject to privatization, but then its owners proved their right to this property in courts for three times.

III.

PROBLEMS OF THE CRIMEAN RESIDENTS WHO WERE FORCED TO LEAVE THE PENINSULA AND MOVE TO MAINLAND UKRAINE (INTERNALLY DISPLACED PERSONS)

GENERAL SITUATION

A review of the general situation of the Crimean residents who had to leave the peninsula and move to mainland Ukraine will be published on a quarterly basis.

ADDITIONAL MATERIALS

MONITORING OF CRIMEA ENTRY/EXIT POINTS

The study was conducted by a joint monitoring group of the Crimean Human Rights Field Mission, Lawtrend Legal Transformation Centre, and "Right to Protection" All-Ukrainian Charitable Foundation in partnership with HIAS, supported by the international coalition "Initiative Group for Human Rights in Crimea", conducted monitoring of Crimea entry/exit points.

Results of the monitoring will be presented as a separate report. Provided below are collected data relating to three Crimea entry/exit points.

According to the Ukrainian legislation, foreigners and Ukrainian citizens can enter the territory of Crimea only from the Ukrainian territory via 3 border crossing points:

- 1) Chaplynka control point (CP) – Perekop two-way automobile border-crossing point (TABCP or BCP) (only for citizens of Ukraine and the Russian Federation);
- 2) Kalanchak control point – Armiansk international automobile border-crossing point (IABCP or BCP);
- 3) Chongar (Salkovo) control point – Chongar international automobile border-crossing point.

There are two routes from the RF side: via Kerch ferry line and by Russian flights to Simferopol. According to Ukrainian laws, both options are a violation of the procedure of crossing of the Ukrainian state border and entail administrative liability (Art. 204-1, 204-2 of the Code of Ukraine on Administrative Offences) or criminal liability (Art. 332, 332-1 of the Criminal Code of Ukraine).

Representation of information about the rules and regime of administrative border crossing on the websites of public authorities

The website of the State Border Guard Service of Ukraine¹⁶ has a specialized section "Passing of persons through the administrative border with the ARC"¹⁷ that presents information about the documents, which Ukrainian citizens, foreigners and children below 14 years of age need to have to cross the administrative border. Besides, it contains information saying that persons can only pass via control points at the administrative border of the AR of Crimea situated on the territory controlled by the Ukrainian authorities, and that the documents issued by the Russian state authorities in Crimea are not recognized by the border guard service. It means that entry into

¹⁶ <http://dpsu.gov.ua/>

¹⁷ http://dpsu.gov.ua/ru/activities/skipping/skipping_31.htm

Crimea via Ukrainian control point is impossible with the RF passports issued by migration bodies in Crimea. The website has no information or references to information from Ukrainian public authorities about possible ways of addressing the issue of execution of travel documents if such documents are absent (expired, lost). Such information is briefly presented at the website of the State Migration Service of Ukraine¹⁸.

The website of the RF FSB border guard service¹⁹ contains no information concerning a special procedure for crossing of the border with Ukraine in Crimea. Such information is absent at the Crimean government's website as well²⁰. This is explained by the fact that the Russian state authorities regard the administrative border of the AR of Crimea in the territory controlled by the Ukrainian authorities as the RF state border.

Transport communication

Regular bus and railway communication with Crimea has been cancelled since 26-27 December 2014, but bus communication, not in full extent, was resumed sometime later. At present, there are some irregular bus runs between the peninsula and mainland Ukraine, for example between Simferopol-Novooalekseevka, Kherson-Alushta, etc. The first option of bus passenger transportation is one bus crossing the border. In this case, passengers have to go out of the bus before an Ukrainian border-crossing point and cross the border as pedestrians. Meanwhile, the driver with the bus empty is passing control on general terms, and then takes the passengers and goes to the Russian border-crossing point. The second option assumes that the passengers ride with a transfer: one bus goes up to the border and puts the people off before the crossing point, and the second one takes the passengers after border crossing. Besides, the border can be crossed in private cars or by feet.

Monitoring of Chaplynka CP – Perekop TABCP

The Ukrainian CP is a set of temporary structures: concrete slabs for restriction of transport traffic and several container units for the work of the staff of border guard and customs services. During execution of documents, the persons crossing the CP are outdoors, there are no shelters protecting against rain and snow.

Pedestrians are let in the CP area in groups of 5; prior to that, the people are also outdoors. In the direction towards Crimea, the CP has no information about the rules of administrative border crossing or excerpts from the Ukrainian migration legislation. On the route towards mainland Ukraine, such information is partly presented on an information stand but it contains misrepresenting data. For example, it has a citation from Art. 10 of the Law of Ukraine on the Legal Regime of Ensuring Citizens' Rights and Freedoms in the Occupied Territories of Ukraine, according to which foreigners must have a special permit to enter Crimea. There is no reservation that such a permit is currently not required because the Cabinet of Ministers of Ukraine has still not adopted a relevant provision.

¹⁸ <http://dmsu.gov.ua/informatsiya-dlya-krimchan>

¹⁹ <http://ps.fsb.ru/>

²⁰ <http://rk.gov.ru/>

Beside the crossing point, there are military units with automatic and large-calibre weapons. Not far from the CP, along the road leading to the Russian crossing point, there are small mine-warning signs. Road guarding from that zone is fragmented and can allow people to get in the danger zone.

During the crossing of the Ukrainian side, an officer of the Ukrainian border guard service, when checking the Ukrainian documents, asks about the goal of the visit, and enters passport data into an electronic database. No other documents were required to cross the administrative border, and no records were made in the passport. The border guard service officer also warned that Belarussian citizens may be prevented from crossing the border because the Russian crossing point is two-way and designed only for citizens of Ukraine and Russia. The point ensures passing of pedestrians and all modes of transport. All the procedures took about 15 minutes to complete.

The buffer zone distance between CP and TABCP is about 2 km. Pedestrian traffic is not regulated, people walk on the roadway because the wayside is not equipped and is used for vehicle parking. A trailer café is situated in the buffer zone near the wayside, selling water and snacks. A great lot of garbage can be seen on both sides of the road.

Perekop TABCP is an area fenced by metal mesh, where container units are situated. In front of the crossing point, there is a stand with information about the procedure of crossing of the RF state border. Pedestrians are let in the area in groups of 10. No seating places or shelters against rain and snow are provided before the entrance. While waiting, people fill out migration cards. Outside the fencing perimeter, some people in camouflage clothes without distinctive marks with automatic weapons were seen. Waiting before the crossing point took about 1 hour. When a sufficient number of pedestrians gathered at the entrance, a border guard service officer took the group for passport control. A female Ukrainian citizen from the group passed all the procedures within about 30 minutes. Since the TABCP is two-way, i.e. designed for Russian and Ukrainian citizens only, two observers being Belarussian citizens were not allowed and went back. At the Ukrainian CP, the observers' passports were checked (without making any records), necessary entries in the electronic database were made, and then the observers were let out without obstacles.

Kalanchak CP – Armiansk IABCP

The Ukrainian CP is a set of temporary structures: concrete slabs for restriction of transport traffic and several container units for the border guard and customs services. During execution of documents, the persons crossing the CP are outdoors, there are no shelters protecting against rain and snow. Crossing the administrative border via this CP is possible by car or by feet. Passengers of regular cars get off at the CP entrance and undergo control as pedestrians.

Observers took about 30 minutes to cross the Ukrainian CP. Pedestrians are let in the CP area in groups of 5. One of them is given a log sheet that should be submitted when a group is leaving the CP area. The group is met by a border guard service officer and taken to passport control. The information stands present, for example, excerpts from Art. 10 of the Law of Ukraine on the Legal Regime of Ensuring Citizens' Rights and Freedoms in the Occupied Territories of Ukraine concerning the procedure of crossing the administrative border. At the passport control, Belarussian citizens were asked about the goal of the visit. No record was made in their passports. Persons passing passport control together with the observers produced their Ukrainian passports; no Russian passports were seen.

A 1-km-long buffer zone is not equipped for pedestrian traffic, and the wayside is occupied by motor cars and trucks. People walk on the road in close vicinity of the vehicles running by. A great lot of garbage was seen along the road.

Armiansk IABCP is an area fenced by metal mesh, where container units for border guard, customs, sanitary and epidemiological and other services are situated. The point is equipped with a mobile scanning unit for trucks. There is a stand with information about the procedure of crossing the RF state border in front of the point. Pedestrians are let in the area in groups of 10. Benches or shelters against rain and snow are provided before the entrance. At a 20 m distance from the entrance, there was an armed man standing in a camouflage uniform without any insignia.

Crossing the Russian CP as pedestrians took about 2 hours. Pedestrian groups were let in the area at about 30 minutes intervals. Standing in the queue was unsafe because of the closeness (less than 0.5 m) of trucks entering the CP. People in the queue repeatedly expressed indignation at the slow work of border guards, regarding it as humiliation.

The car queue for the crossing was no less than 300 m long. The observers recorded the following situation. A motor car approached the CP entrance but a border guard did not let it jump the queue. After that, the car blocked traffic of other vehicles in front of the CP to both sides. Border guard service officers were trying to settle the conflict for about 20 minutes. Then, two persons having stripes of the 'Crimean militia', 6 masked men with rubber truncheons, and two border guard service officers came out to the car from the CP area. They surrounded the car and had talks with driver. Sometime later, the car turned back and went towards the Ukrainian crossing point.

Passport control at the CP was also implemented via a container unit window. Foreigners were asked about the purpose of their visits. Passport control took about 15 minutes, after which a border guard accompanied the group to the CP exit. None of 10 pedestrians in the group produced a Ukrainian passport. Interviews with some Crimean residents indicate a widespread practice: when a person has 2 passports – Ukrainian and Russian issued in Crimea – the person produces the Ukrainian passport at the Ukrainian crossing point and the Russian one at the Russian crossing point.

Chongar IABCP – Chongar (Salkovo) CP

In terms of infrastructure, Chongar IABCP corresponds to other CPs, but from the Crimean side there is no stand with information about crossing the RF state border. Pedestrians are let in the area in groups of 10. Benches or shelters against rain and snow are provided before the entrance.

Distance between the Russian and Ukrainian border-crossing points is about 5 km. A shuttle bus operates in the buffer zone, transporting people from the Russian CP to the bridge where a Russian military roadblock is installed. Behind the bridge, a similar Ukrainian roadblock is situated. The observers recorded no checks at these roadblocks. Waysides are not equipped for pedestrian traffic, and people walk on the roadway.

An officer of the Ukrainian border guard service regulates entry in the CP. There are stands in front of the entrance with information about the rules of administrative border crossing. One poster was prepared by the Ukrainian border guard service, and the second one was made by non-

governmental organizations. These two stands have differences that can be misrepresenting. For example, the border guard service's stand doesn't mention a special permit among necessary documents for foreigners. The poster prepared by non-governmental organizations, agreed upon with the Ukrainian border service, on the other hand, lists the special permit about the required documents.

Crossing the Ukrainian CP also took about 30 minutes.

Kerch – Caucasus ferry line

Kerch ferry line is a sea route connecting Crimea with RF Krasnodar Krai. The ferry line provides transportation of passengers and vehicles across the Kerch Strait. The ferries run between Krym port (Kerch) and Kavkaz port (Krasnodar Krai). The line is situated in the strait's narrowest place (distance between the ports is about 5 km), near the northeastern outskirts of Kerch city, and is operated on the round-the-clock basis throughout the year.

According to the website of Kerch ferry line, Morskaya Direktsiya LLC²¹, there are 12 runs a day at a 45 minutes interval. However, this information did not correspond to the reality as of the moment of observation, 25 April 2015. The ferry line workers reported that a ferry is dispatched as it is filled with vehicles: for example, people going back to Crimea waited for departure of the ferry for about 1.5 hours.

To enter the station, a person must under personal examination via a metal detector. Sanitary and customs control is envisaged for road transport. The cost of a one-way ticket was 162 roubles as of 25 April 2015. To buy a ticket, a person needs to provide an identity document according to the general rules valid in the RF. No passport control is conducted upon arrival to the mainland.

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Vissarion Aseev, analyst of the Almenda Centre of Civic Education;

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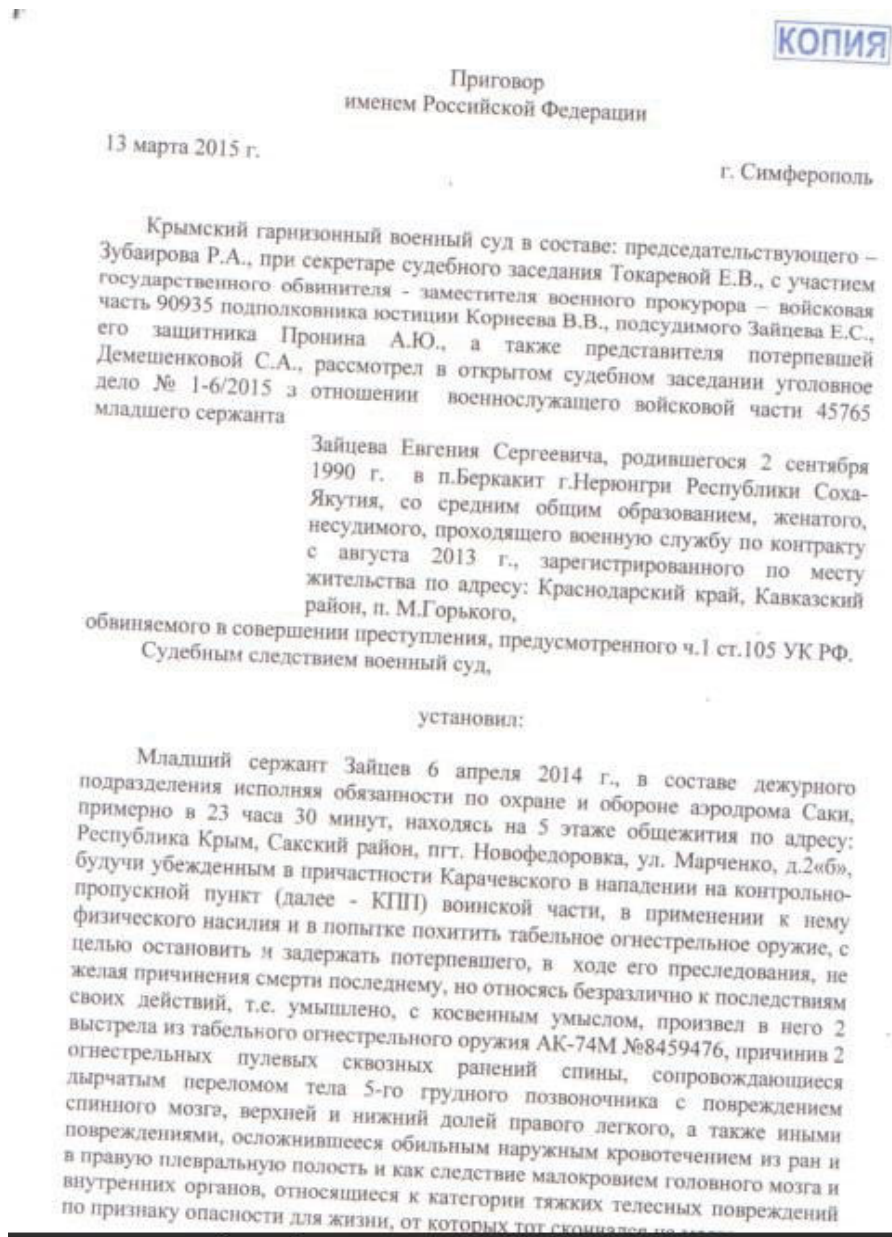
Dmytro Makarov, Deputy Head of the Crimean Human Rights Field Mission;

Tetyana Pechonchyk, Chairman of the Board of the Human Rights Information Centre;

DaryaSvrydova, lawyer, Ukrainian Helsinki Human Rights Union;

Experts of the Lawtrend Legal Transformation Centre.

²¹ <http://www.gosparom.ru/>



Verdict to Ye. Zaitsev in the case on the murder of Ukraine Navy Major S. Karachevsky

Full text of the verdict is available at:

<http://crimeahr.org/wp-content/uploads/2015/05/prigovor-zaytsev.pdf>

Зайцев

В судебное коллегия по уголовным делам
Северо-Кавказского окружного военного суда
(через Крымский гарнизонный военный суд)

от Карачевской Ольги Юрьевны
потерпевшей по уголовному делу в отношении
Зайцева Е.С.

АПЕЛЛЯЦИОННАЯ ЖАЛОБА
по уголовному делу в отношении военнослужащего
войсковой части 45765 младшего сержанта Зайцева Е.С.

Приговором Крымского гарнизонного военного суда от 13 марта 2015 г., военнослужащий войсковой части 45765 Зайцев Евгений Сергеевич, 2 сентября 1990 г.р., осужден по ч. 2 ст. 108 УК РФ - к лишению свободы сроком на 2 года с отбыванием наказания в колонии-поселении.

Иск потерпевшей о компенсации морального вреда суд признал обоснованным и удовлетворил частично, выдвигая с войсковой части 45765 в её пользу 500000 руб.

Считаю данный приговор незаконным, необоснованным, вынесенным с существенными нарушениями уголовного и уголовно-процессуального законодательства и подлежащим отмене по следующим причинам.

Выводы суда, изложенные в приговоре, не соответствуют фактическим обстоятельствам уголовного дела, установленным в судебном заседании, были существенно нарушены нормы уголовно-процессуального закона, неправильно применены нормы уголовного закона, а также несправедливости приговора.

В соответствии со ст. 389.16 УПК РФ приговор подлежит отмене, поскольку выводы суда не подтверждаются доказательствами, рассмотренными в суде; суд не учел обстоятельства, которые могли существенно повлиять на выводы суда; в приговоре не указано, по каким основаниям при наличии противоречивых доказательств имело место существенное значение для выводов суда, суд принял одни из этих доказательств и отверг другие; выводы суда, изложенные в приговоре, содержат существенные противоречия, которые повлекли на решение вопроса о виновности осужденного, на правильность применения уголовного закона и на определение меры наказания.

1. Органами предварительного следствия Зайцев Е.С. обвинялся в совершении преступления, предусмотренного ч. 1 ст. 105 УК РФ. Крымский гарнизонный военный суд не согласился с данной квалификацией и перекавалифицировал действия Зайцева на ч. 2 ст. 108 УК РФ, указав в приговоре, что Зайцев обоснованно подозревал потерпевшего в участии в причинении ему телесных повреждений и попытке хищения вверенного ему огнестрельного оружия.

В постановлении Пленума Верховного Суда Российской Федерации от 27 сентября 2012 г. № 19 «О применении судами законодательства о необходимой обороне и причинении вреда при задержании лица, совершившего преступление» указано, что исходя из положений статьи 38 УК РФ «державное лицо должно быть уверено, что причинит вред именно тому лицу, которое совершило преступление».

Так, в судебном заседании достоверно установлено, что на КПШ находился не менее 8 человек (показания свидетелей Карякя Р.М., Гольдмана А.О. и Семенова В.Ю.), что они находились на несвещенном месте (показания свидетеля Рамазанова, показания Зайцева Е.С., данные им в ходе предварительного следствия и в судебных заседаниях, за исключением показаний свидетеля Титова А.Ю. от 12 марта 2015 г.), что после приезда в КПШ дежурного подразделения лица, нацелив оружие в сторону обидчика, что оружие в руках не установленных лиц, находившихся

возле КПШ никто не видел, что Зайцев до приезда дежурного подразделения с лицами наряда по КПШ не общался (показания свидетелей Карякя Р.М. и Гольдмана А.О.), что в пользу обидчика из-за отсутствия освещения было очень темно (показания свидетелей Титова А.Ю., Рамазанова С.Р., Хаммирзава, показания подсудимого Зайцева за исключением показаний от 12 марта 2015 г.).

Смысла же суда в приговоре на показания свидетеля Семенова В.Ю., о том, что последний видел в руках Карачевского черный и блестящий предмет, безосновательна, поскольку основана на предположении. Показания подсудимого Зайцева данные в ходе судебного заседания 12 марта 2015 года не согласуются с его же показаниями, данными неоднократно в ходе предварительного следствия и в ходе судебного разбирательства, противоречат показаниям вышеуказанных свидетелей.

Вывод суда первой инстанции о подозрении Зайцева в участии потерпевшего в нападении на КПШ не подтверждается доказательствами, рассмотренными в судебном заседании и свидетельствует об отсутствии у Зайцева уверенности при производстве выстрелов, что он причинит вред именно тому лицу, которое совершило преступление.

Таким образом, суд ошибочно квалификации действий Зайцева по ч. 2 ст. 108 УК РФ, тем самым применил не ту статью УК РФ, которая подлежала применению. В результате чего назначил Зайцеву Е.С. наказание, не соответствующее тяжести совершенного им преступления.

2. Постановлением Пленума Верховного Суда Российской Федерации от 20 декабря 1994 года № 10 «Некоторые вопросы применения законодательства о компенсации морального вреда» было разъяснено, что размер компенсации зависит от характера и объема причиненных лицу нравственных или физических страданий, степени вины ответчика в каждом конкретном случае, иных заслуживающих внимания обстоятельств, и не может быть поставлен в зависимость от размера удовлетворенного иска о возмещении материального вреда, убытков и других материальных требований.

В приговоре суд указал, что размер компенсации морального вреда определялся с учетом характера причиненных потерпевшим нравственных страданий, степени вины причинителя вреда, фактических обстоятельств причинения вреда, требований разумности и справедливости.

Однако суд не учел, что вне зависимости от степени вины подсудимого Зайцева и фактических обстоятельств причинения вреда, потерпевшей Карачевской О.Ю. был причинен максимальный вред – смерть близкого, родного человека. Соответственно размер компенсации морального вреда должен быть максимально высоким, с учетом судебной практики по делам о возмещении морального вреда.

Таким образом, несоответствие выводов суда, изложенных в приговоре, фактическим обстоятельствам уголовного дела, установленным судом первой инстанции, неправильное применение уголовного закона, нарушение уголовно-процессуального закона, выразившееся в том, что суд немотивированно отверг одни доказательства и принял другие, привели к постановлению незаконного, необоснованного и несправедливого приговора, что в силу ст. 389.15, п. 3 ч. 1 ст. 389.20 УПК РФ является основанием для отмены приговора.

На основании изложенного и руководствуясь ст.ст. 389.1, 389.3, 389.6, 389.15-389.20, 389.23, 389.24 УПК РФ,

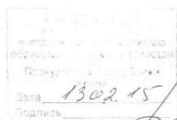
ПРОШУ:

Приговор Крымского гарнизонного военного суда от 13 марта 2015 г. в отношении Зайцева Е.С. отменить, вынести обвинительный приговор, квалифицировав его действия по ч. 1 ст. 105 УК РФ, изменить размер компенсации морального вреда в сторону существенного увеличения.

23 марта 2015 года

Карачевская О.Ю.

Appealin the criminal case concerning Sgt. Ye. Zaitsev



Прокурору Республики Крым
Поклонской Н.В.

Костенко Фёдора Степановича,

ЖАЛОБА.

Прошу помочь мне встретиться с сыном, защитить его, наказать виновных по факту действий к Александру.

05 февраля 2015 года, примерно в 17.00, у входа в подъезд нашего дома, при большом количестве людей, несколько людей в гражданском напали на моего сына – Костенко Александра Фёдоровича. При этом неизвестные применили грубую физическую силу, без предъявления каких-либо обвинений, затаскали его в микроавтобус и увезли в неизвестном направлении. На замечания соседей ответили грубостью. В этот же день я написал заявление в Киевский РОВД города Симферополя по факту похищения сына. В последующем я обращался в полицию, ФСБ, другие учреждения, но никто и нигде ответа мне дал. Наши соседи запомнили цвет и номер автомобиля, в котором увезли Александра (АК3274СН).

06 февраля следователь Следственного комитета Крыма в телефонном разговоре, ок. 19-и часов, сообщил, что Александр находится у них. В этот же день, ок. 12.00 ч. группа полицейских пришла к нам домой с целью ознакомления с нами - взяли несколько личных вещей, а затем, без предъявления ордера на обыск, около пяти часов проводили обыск в квартире с описью всего имущества, что является грубейшим нарушением наших конституционных прав и Уголовно-процессуального Кодекса РФ. К тому же, по завершению обыска, нам не оставили никаких документов по описи изъятого имущества.

Тогда же, 06 февраля, в ночное время, со слов следователя, а затем 08 февраля, со слов адвоката, всплыли факты тяжёлого физического

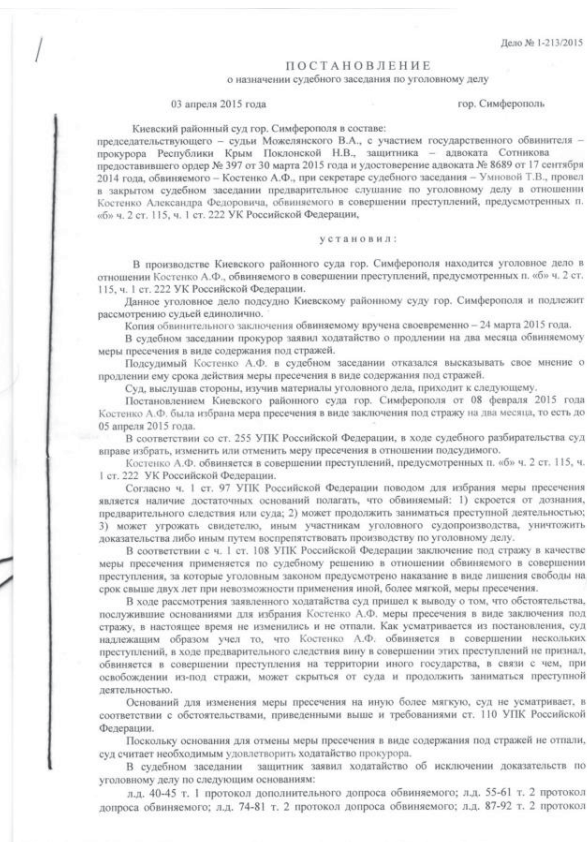
состояния Александра: у него поломанная левая рука, вывих правой руки, повреждения брюшной полости, сильные следы побоев на лице и голове, боли в области печени и почек, повреждение ноги. Без его согласия, в тяжёлом физическом и психическом состоянии проводились допросы. Сыну практически не оказали медицинской помощи. Работники правоохранительных органов не сообщили нам о цели задержания, отказались давать информацию о месте его нахождения, что является грубейшим нарушением его конституционных прав.

08 февраля из интернета мы узнаём, что Костенко Александр задержан на два месяца решением Киевского райсуда города Симферополя по сомнительной и надуманной статье. Мы, наши родственники, знакомые, друзья, возмущены действиями правоохранителей. Мы будем обращаться в средства массовой информации, лично к Президенту РФ с целью защиты нашего сына.

Я считаю, что по отношению к моему сыну допущено беззаконие. Прошу разрешить встречу с сыном, разобраться в так называемом «преступлении», наказать виновных работников правоохранительных органов.

12 февраля 2015 г.

FedirKostenko'scomplainttoCrimeaprosecutorN.V. Poklonskaya



дополнительного допроса обвиняемого; л.д. 38-39 т. 2 протокол явки с повинной – в связи с неправомерным физическим воздействием со стороны работников правоохранительных органов на Костенко А.Ф. и принуждением его к самооговору в совершении инкриминируемых ему преступлений;

л.д. 59-70 т. 1 протокол осмотра места происшествия; л.д. 71-87 т. 1 фототаблица – в связи с запретом использования результатов оперативно розыскной деятельности, поскольку они не соответствуют требованиям, предъявляемым к доказательствам УПК Российской Федерации; л.д. 38-41 т. 3 сведения о выделении материала в отношении Костенко А.Ф. по ч. 1 ст. 322 УК Российской Федерации; л.д. 42-47 т. 3 сведения о выделении материала в отношении Костенко А.Ф. по ч. 4 ст. 223 УК Российской Федерации; л.д. 52-55 т. 3 сведения о выделении материала в отношении Костенко А.Ф. по ст. 116 УК Российской Федерации; л.д. 56-57 т. 3 сведения о выделении материала в отношении Костенко А.Ф. по ст. 318 УК Российской Федерации – как не относящиеся к поступившему в суд уголовному делу и негативно влияющие на формирование мнения суда об обвиняемом.

В судебном заседании прокурор возражал против удовлетворения заявленного ходатайства с исключением доказательств.

Выслушав защитника, прокурора и предоставив возможность высказаться Костенко А.Ф. который отказался что-либо пояснить, суд считает, что заявленное ходатайство не обосновано и не подлежит удовлетворению на данной стадии уголовного процесса.

Заявленное защитником ходатайство предполагает оценку приведенных выше доказательств их совокупности с иными доказательствами и сведениями, которые могут быть получены во время судебного разбирательства, что делает преждевременным их исключение и могло бы повлечь неполноту и односторонность оценки всех доказательств, которые участнику уголовного процесса предполагают представить суду.

В судебном заседании защитник заявил ходатайство о прекращении производства по уголовному делу в части обвинения Костенко А.Ф. в совершении преступления, предусмотренного п. «б» ч. 2 ст. 115 УК Российской Федерации, в действиях Костенко А.Ф. состав указанного преступления.

В судебном заседании прокурор возражал против удовлетворения заявленного ходатайства, прекращения производства по уголовному делу в части обвинения Костенко А.Ф. в совершении преступления, предусмотренного п. «б» ч. 2 ст. 115 УК Российской Федерации.

Выслушав защитника, прокурора и предоставив возможность высказаться Костенко А.Ф. который отказался что-либо пояснить, суд считает, что заявленное ходатайство не обосновано и удовлетворению не подлежит.

Возможность определить наличие либо отсутствие в действиях Костенко А.Ф. состав преступления, предусмотренного п. «б» ч. 2 ст. 115 УК Российской Федерации предполагает оценку доказательств, представленных суду сторонами уголовного процесса, и немедленное прекращение уголовного дела повлекло бы нарушения принципа состязательности сторон, что делегированному и необоснованному немедленное прекращение уголовного дела в отношении Костенко А.Ф. обвиняемого, в том числе, и в совершении преступления, предусмотренного п. «б» ч. 1 ст. 115 УК Российской Федерации, без проведения судебного разбирательства по делу.

В судебном заседании участники не возражали против допуска представителей средств массовой информации для проведения съемочных и трансляции судебного заседания.

На основании изложенного и руководствуясь ст. 110, 227, 229, 231, 255 УПК Российской Федерации, суд.

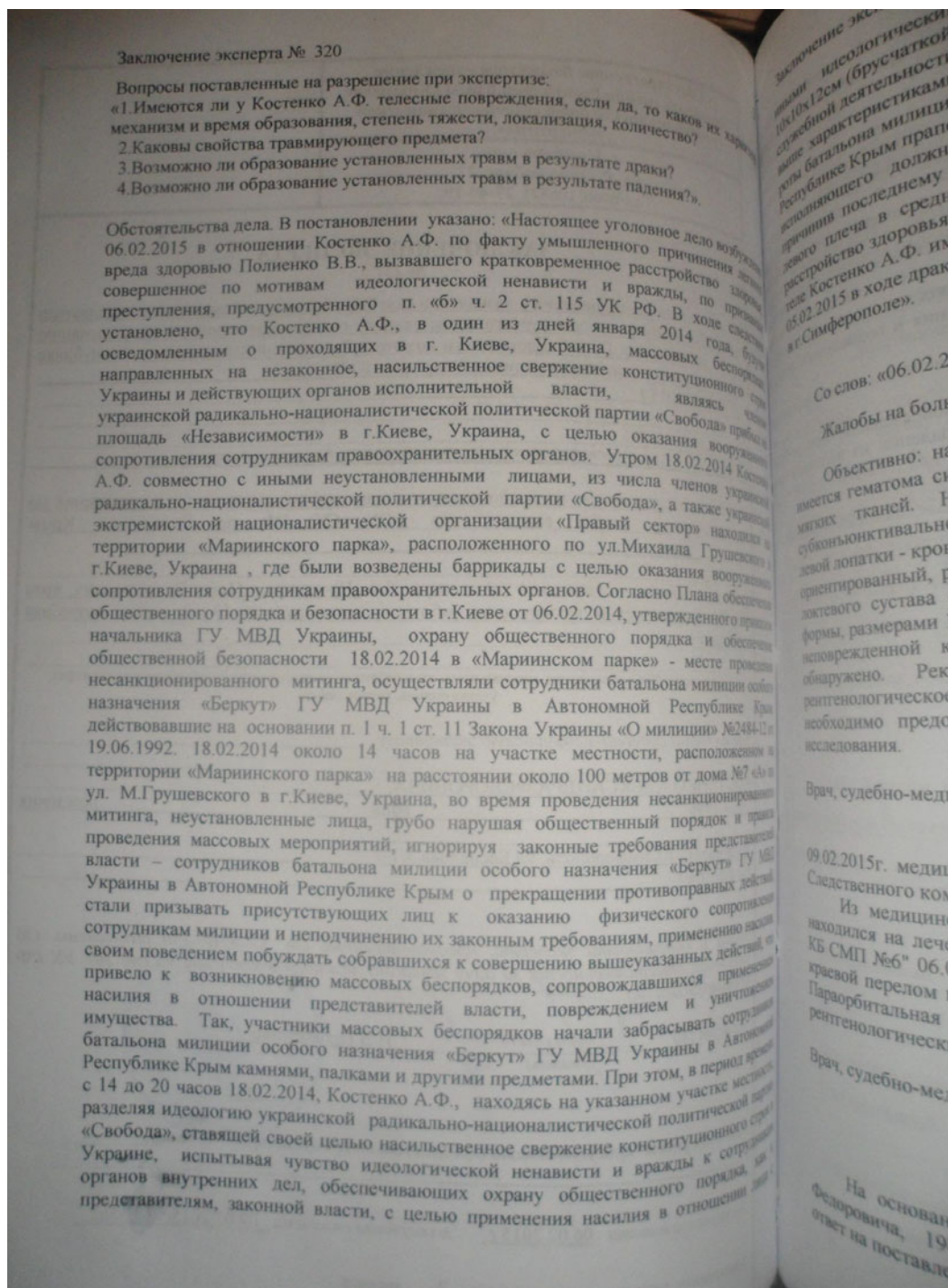
ПОСТАНОВИЛ:

Назначить открытое судебное заседание по уголовному делу по обвинению Костенко Александра Федоровича, в совершении преступлений, предусмотренных п. «б» ч. 2 ст. 115, ч. 1 ст. 222 УК Российской Федерации, которое провести 20 апреля 2015 года в 11 часов в здании Киевского районного суда гор. Симферополя судьей единолично, с участием государственного обвинителя защитника, подсудимого.

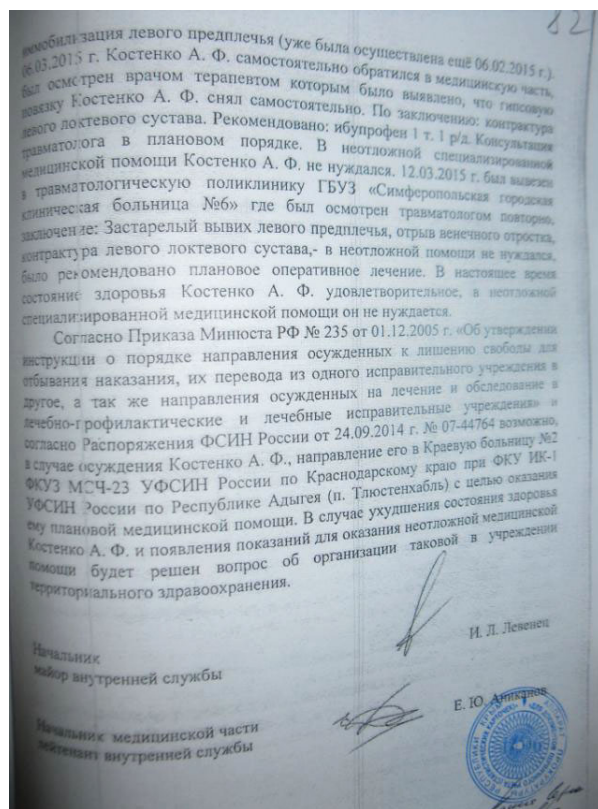
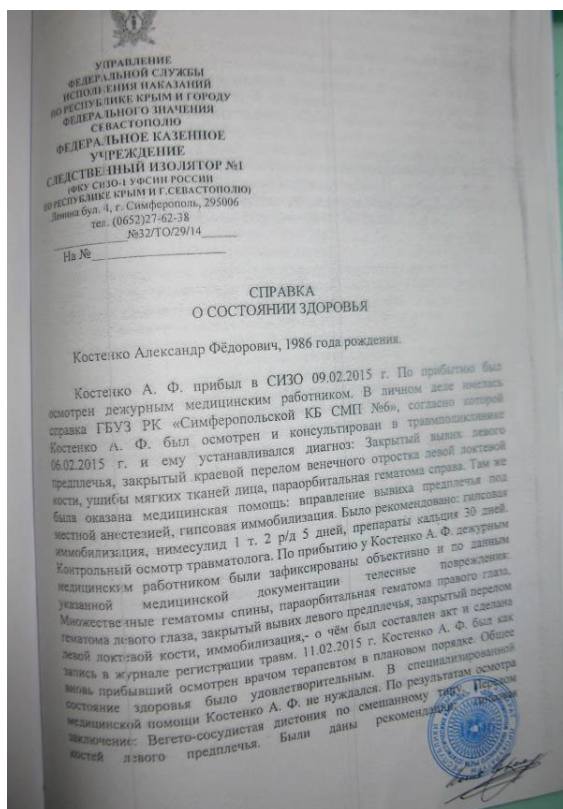
Посудимому Костенко Александру Федоровичу, обвиняемому в совершении преступлений, предусмотренных п. «б» ч. 2 ст. 115, ч. 1 ст. 222 УК Российской Федерации продлить срок действия ранее избранной меры пресечения в виде содержания под стражей на два месяца, то есть до 03 июня 2015 года.

В удовлетворении ходатайства об исключении доказательств – отказать.

The resolution on extending the measure of restraint in the form of detention, previously assigned to O.F. Kostenko, for two months, i.e. through 3 June 2015, and the decision on scheduling an open court hearing for 20 April 2015



Expert opinion on O. Kostenko's state of health dated 9 February



Certificate from the pre-trial detention facility concerning O. Kostenko's state of health

Appendix 7

1-213/2015
с. Мамалинский Врещ. 1

В Верховный суд Республики Крым,

от защитника Сотникова Дмитрия

ВС РК
07.04.15

03.04.2015 Киевским районным судом г. Симферополь Республики Крым было удовлетворено ходатайство прокурора о продлении меры пресечения Костенко А.Ф. в виде заключения под стражу до 03.06.2015

Защита с данным решением суда не согласна по следующим обстоятельствам.

1. В судебном заседании при решении вопроса о мере пресечения суд не выяснил позиции защитника адвоката Сотникова Д.В., чем нарушил ч. 1 ст. 248 УПК РФ.
2. Судом установлено, что Костенко А.Ф. совершил преступление на территории иного государства, однако при этом суд не учел, что Костенко А.Ф. и потерпевший на момент совершения преступления, предусмотренного п. «б» ч. 2 ст. 115 УК РФ, также были гражданами иного государства.
Поскольку состав данного преступления не затрагивает интересов РФ, а также в связи с тем, что наличие обстоятельств, предусмотренных в ст. 72 Конвенции о правовой помощи и правовых отношениях по гражданским, семейным и уголовным делам (Минск, 22.01.1993, ратифицирована Россией 10.12.1994, ратифицирована Украиной 14.04.1995), а именно направления Украиной поручения России о ведении уголовного преследования гражданина России Костенко А.Ф., не выявлено, то сам факт привлечения лица к уголовной ответственности по данному составу, а также учет данного состава при избрании и продлении меры пресечения является неправомерным.
3. Суд не привел оснований, доказывающих намерение подсудимого скрыться от судебных органов.
В материалах уголовного дела не содержится ни одной повестки в следственные органы и суд. Следовательно, нельзя говорить о том, что подсудимый когда-либо собирался скрываться от правосудия или уклоняться от явки в суд.
Подсудимый имеет постоянную регистрацию в г. Симферополь, был задержан по адресу постоянной регистрации. В силу ст. 4 Федерального конституционного закона от 04.04.2013 № 1-ФКЗ «О внесении изменений в Конституцию Российской Федерации в части установления порядка и условий осуществления правосудия по уголовным делам граждан Российской Федерации, совершивших преступления на территории иностранного государства», от

07 АПР 2015
ПОЛУЧЕНО
№ 10541
Подпись: [подпись]

04 АПР 2015

Appeal against the court ruling on extension of the measure of restraint for O. Kostenko

КОПИЯ

ВЕРХОВНЫЙ СУД РЕСПУБЛИКИ КРЫМ

Дело № 22к-1090/15

АПЕЛЛЯЦИОННОЕ ПОСТАНОВЛЕНИЕ

г. Симферополь

15 апреля 2015 года

Верховный Суд Республики Крым в составе:

председательствующего судьи – Федоровой Т.П.
при секретаре – Делибожко Е.В.
с участием прокурора – Филиппенко О.А.
подсудимого – Костенко А.Ф.
адвоката – Сотникова Д.В.,

рассмотрев в судебном заседании апелляционную жалобу адвоката Сотникова Дмитрия Валерьевича на постановление Киевского районного суда г. Симферополя Республики Крым от 3 апреля 2015 года, которым

Костенко Александру Федоровичу, 10 марта 1986 года рождения, уроженцу г. Кривой Рог Днепропетровской области Украины, гражданину Российской Федерации, не работающему, зарегистрированному и проживающему по адресу: Республика Крым, г. Симферополь ул. Беспалова, 3/1 кв.7, ранее не судимому,

продлен срок действия ранее избранной меры пресечения в виде заключения под стражу,

УСТАНОВИЛ:

3 апреля 2015 года Киевским районным судом г. Симферополя Республики Крым проведено предварительное слушание по уголовному делу по обвинению Костенко А.В. по п. «б» ч.2 ст.115, ч.1 ст.222 УК Российской Федерации. Своим постановлением суд назначил открытое судебное заседание на 20 апреля 2015 года и одновременно принял решение о продлении подсудимому ранее избранной меры пресечения в виде заключения под стражу, сроком на 2 месяца, то есть до 3 июня 2015 года.

Не согласившись с постановлением суда в части продления меры пресечения, адвокат Сотников Д.В. подал апелляционную жалобу, в которой просит постановление Киевского районного суда г. Симферополя от 03 апреля 2015 года в части продления срока содержания под стражей на два месяца отменить. Ссылаясь на то, что при решении вопроса о продлении срока содержания под стражей, суд не выяснил позиции защитника, чем нарушил ч.1 ст.248 УПК РФ. Кроме того, судом установлено, что Костенко А.Ф. совершил преступление на территории иного государства, на момент преступления как Костенко А.Ф., так и потерпевший были гражданами иного государства. Состав преступления не затрагивает интересов РФ. По мнению защитника, суд не привел

Судья первой инстанции – Можелянский В.А.
Судья апелляционной инстанции – Федорова Т.П.

Appellateresolutionconcerning the lawyer’s appeal against the court ruling
onextensionofthemeasureofrestraintforO. Kostenko

ТАЛОН-УВЕДОМЛЕНИЕ
 Принято от Сотникова Д.В.
 (фамилия, инициалы заявителя)
 Краткое содержание происшествия
Директор ИУРБ России по РК
И.И. Савельев в отношении
Костенко А.Ф.
 Заявление принято открытым след-
ствием - преступлением 584
 (ФИО, должность сотрудника)
вменяемого обвиняемого
И.И. Савельева по Черноморскому
окружению
г. Севастополь
 (N по книге регистрации сообщений
 о преступлении)
41 от 20.03.15
534 ВСО ВСО СК России по ЧФ, Сим-
ферополь, ул. Карла Маркса, д. 82
 (наименование органа, адрес, номер
 телефона)
 "17" час. "20" мин.
 "20" 03 2015 г.
 Подпись сотрудника
Д.С. Куратов
 (подпись, инициалы, фамилия)

534-ый ВСО СК России
 по ЧФ
 руководителю следственного
 управления Кудряшова М.С.
 от адвоката Сотникова Д.В.

просим
 известить проверку в порядке
 РФ в отношении сотрудников
 "Амбразура" и Андрея Тихони
 международного назначения
 - 02.2015 моего подзащитного
 посетку Александра Федоровича в его интере
 сов, а также проверить приехавшего указан
 ных лиц к помещению Костенко Федора
 Вячеславовича 03.03.2015 при пересечении им
 границы из Украины в Россию.
 20.03.2015 Сотников Д.В.

Приложение:

- 1) Служба
- 2) Копия протокола опроса Костенко Д.Ф.
- 3) Копия протокола опроса Коваловой А.М.
- 4) Копия протокола опроса Радченко Д.И.

The lawyer's message on a crime committed against O. Kostenko

ПОСТАНОВЛЕНИЕ
об отказе в возбуждении уголовного дела

г. Симферополь

«18» апреля 2015 г.

22 ч 30 мин

Старший следователь-криминалист 534 военного следственного отдела военного следственного управления СК России по Черноморскому флоту старший лейтенант юстиции Кукасов Д.С., рассмотрев сообщение о преступлении – заявление Сотникова Д.В. от 20 марта 2015 года по признакам преступления, предусмотренного п. «а» ч. 3 ст. 286 УК РФ, поступившее в 534 военный следственный отдел военного следственного управления СК России по Черноморскому флоту 20 марта 2015 года,

У С Т А Н О В И Л :

20 марта 2015 года в 534 военный следственный отдел ВСУ СК России по Черноморскому флоту от защитника Костенко А.Ф. – адвоката Сотникова Д.В. поступило заявление применения в отношении его подзащитного физического насилие сотрудниками УФСБ России по Республике Крым и г. Севастополю по признакам преступления, предусмотренного п. «а» ч. 3 ст. 286 УК РФ.

Из поступившего заявления усматривается, что 5 февраля 2015 года гражданин Костенко А.Ф. перед входом в подъезд дома расположенного по адресу: Республика Крым, г. Симферополь, ул. Беспалова, д. 3, корп. 1 задержан двумя сотрудниками УФСБ России по Республике Крым и г. Севастополю по подозрению в умышленном причинении легкого вреда здоровью Полиенко В.В., по мотивам идеологической ненависти и вражды, то есть в совершении преступления, предусмотренного п. «б» ч. 2 ст. 115 УК РФ. При задержании сотрудники УФСБ России по Республике Крым и г. Севастополю применили к Костенко А.Ф. физическое насилие, причинив последнему множественные телесные повреждения.

В ходе проведенной доследственной проверки установлено:

Костенко Александр Федорович является бывшим сотрудником Киевского районного отдела милиции г. Симферополя, и в период прохождения им службы в правоохранительных органах Украины являлся активным сторонником националистических организаций Украины и неоднократно попадал в поле зрения сотрудников органов безопасности Украины как активный пропагандист националистических идей и представителей националистических объединений.

Так, в конце 2013 года – начале 2014 года Костенко А.Ф. принимал активное участие во время акций протеста в отношении действующей власти Украины в г. Киеве (далее по тексту события на «Майдане»).

1 февраля 2015 года в отношении Костенко А.Ф. в ГСУ СК России по Республике Крым возбуждено уголовное дело в совершении преступления, предусмотренного п. «б» ч. 2 ст. 115 УК РФ, а именно по подозрению в умышленном причинении легкого вреда здоровью Полиенко В.В., по мотивам идеологической ненависти и вражды.

6 февраля 2015 года Костенко А.Ф. добровольно явился в УФСБ России по Республике Крым и г. Севастополю и заявил о себе как о лице причастном к событиям на «Майдане» и причинившем легкий вред здоровью гражданину Полиенко В.В., после чего Костенко А.Ф., в тот же день направлен в ГСУ СК России по Республике Крым, где был допрошен в качестве подозреваемого и задержан в порядке, установленном ст. 91

подтверждения не нашли, сотрудники УФСБ России по Республике Крым и г. Севастополю майор Тищенко А.В. и капитан Шамбазов А.Р. физическое и психическое насилие к Костенко А.Ф. не применяли, в его задержании участия не принимали. В этой связи событие преступления, предусмотренного п. «а» ч. 3 ст. 286 УК РФ отсутствует поэтому в возбуждении уголовного дела надлежит отказать, на основании п. 1 ч. 1 ст. 24 УПК РФ, т.е. в связи с отсутствием события преступления.

Помимо этого, не образуют уголовно-наказуемого деяния, предусмотренного ст. 306 УК РФ, действия самого Сотникова Д.В., связанные с заявлением о привлечении к уголовной ответственности, поскольку данное заявление не было обусловлено желанием совершить заведомо ложный донос о преступлении, а является средством защиты своего подзащитного Костенко А.Ф., в связи с чем, в возбуждении уголовного дела в отношении Сотникова Д.В. по факту заведомо ложного доноса, т.е. по признакам преступления, предусмотренного ч. 1 ст. 306 УК РФ, надлежит отказать на основании п. 2 ч. 1 ст. 24 УПК РФ, т.е. за отсутствием в деянии состава преступления.

Принимая во внимание, что имеются достаточные данные, указывающие на отсутствие признаков преступления, предусмотренного п. «а» ч. 3 ст. 286 УК РФ, руководствуясь п. 2 ч. 1 ст. 24, ст. 144, 145 и 148 УПК РФ,

П О С Т А Н О В И Л :

1. Отказать в возбуждении уголовного дела в отношении Тищенко Андрея Владимировича по сообщению о совершении преступления, предусмотренного п. «а» ч. 3 ст. 286 УК РФ, по основанию, предусмотренному п. 1 ч. 1 ст. 24 УПК РФ, то есть в связи с отсутствием события указанного преступления.

2. Отказать в возбуждении уголовного дела в отношении Шамбазова Артура Ринатовича по сообщению о совершении преступления, предусмотренного п. «а» ч. 3 ст. 286 УК РФ, по основанию, предусмотренному п. 1 ч. 1 ст. 24 УПК РФ, то есть в связи с отсутствием события указанного преступления.

3. Отказать в возбуждении уголовного дела в отношении Сотникова Дмитрия Валерьевича по признакам преступления, предусмотренного ч. 1 ст. 306 УК РФ, по основанию, предусмотренному п. 2 ч. 1 ст. 24 УПК РФ,¹ то есть в связи с отсутствием в его деянии состава указанного преступления.

4. Копию постановления направить заинтересованным лицам – Тищенко А.В., Шамбазову А.Р., Сотникову Д.В., Костенко А.Ф., а также военному прокурору 309 военной прокуратуры гарнизона.

Настоящее постановление может быть обжаловано руководителю 534 военного следственного отдела ВСУ СК России по Черноморскому флоту, военному прокурору 309 военной прокуратуры гарнизона либо в суд, в порядке, установленном главой 16 УПК РФ.

Старший следователь-криминалист
534 военного следственного отдела
ВСУ СК России по Черноморскому флоту
старший лейтенант юстиции

Д.С. Кукасов

¹ Данная графа заполняется в том случае, когда по результатам проверки сообщения о преступлении не усматриваются признаки преступления и действия лица, сообщившего о совершении преступления конкретным лицом (лицами).

Order to deny initiation of criminal proceedings on the lawyer's statement on a crime committed against O. Kostenko



АПАРАТ
УПОВНОВАЖЕНОГО
З ПРАВ ЛЮДИНИ
В РЕСПУБЛІЦІ КРИМ

АППАРАТ
УПОЛНОМОЧЕННОГО
ПО ПРАВАМ ЧЕЛОВЕКА
В РЕСПУБЛИКЕ КРЫМ

КЪЫРЫМ ДЖУМХУРИЕТИНДЕ
ИНСАН АКЪЛАРЫ БОЮНДЖА
ВЕКЪЛЕТЛИ ШАХЫСЫНЪНЪ
АППАРАТЫ

ул. Набережная, 28, м. Симферополь
Республика Крым, Российская Федерация, 295000
тел.: +38 (0652) 60-11-41, факс: +38 (0652) 60-11-42
www.ombudsman.rk.gov.ru

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10.03.15 № 01-15/252 На № от

Костенко Ф.С.

В ответ на Ваше обращение о нарушении прав и свобод Вашего сына 05.02.2014 г. сотрудниками органов внутренних дел, Уполномоченный по правам человека в Республике Крым сообщает следующее.

По Вашему обращению, Уполномоченным была проведена проверка, в результате которой факты наличия у вашего сына Костенко А.Ф. телесных повреждений нашли свое подтверждение. В связи с этим возникла необходимость в организации мероприятий по проведению дополнительной проверки обстоятельств их причинения. С целью проведения дальнейшей проверки Уполномоченным направлены соответствующие запросы в том числе, в Следственный Комитет РФ по Республике Крым.

Ваша жалоба находится на личном контроле Уполномоченного по правам человека в Республике Крым.


О результатах проведения дополнительной проверки и принятых мерах Вам будет сообщено дополнительно.

Заместитель руководителя аппарата

Уполномоченного по правам человека

С.А. Богославская

Reply by S.A. Bogoslavskaya, Deputy Head of the Office of the Human Rights Ombudsman in Crimea, as regards O. Kostenko's health check results

		
АППАРАТ УПОВМОЧЕННОГО ПО ПРАВАМ ЛЮДИНИ В РЕСПУБЛИКЕ КРЫМ	АППАРАТ УПОВМОЧЕННОГО ПО ПРАВАМ ЧЕЛОВЕКА В РЕСПУБЛИКЕ КРЫМ	КЛАМРАМ ДЕКУМУРВЕТИЦИ ИНСАК АКСЛАРЫ БОЮНДЖА ВЕКЯЕЛЛИ ШАМЪСЫНЪ АППАРАТЫ
<small>Адрес: Симферополь, 29.04. Симферопольский район, Республика Крым, Российская Федерация. 298000. Контактный телефон: +7 (978) 620-10-10. Адрес электронной почты: ombudsman@kr.gov.ru</small>	<small>Адрес: Симферополь, 29.04. Симферопольский район, Республика Крым, Российская Федерация. 298000. Контактный телефон: +7 (978) 620-10-10. Адрес электронной почты: ombudsman@kr.gov.ru</small>	<small>Адрес: Симферополь, 29.04. Симферопольский район, Республика Крым, Российская Федерация. 298000. Контактный телефон: +7 (978) 620-10-10. Адрес электронной почты: ombudsman@kr.gov.ru</small>

№ 004/0076 № 01-16/424 На № 000

Костенко Ф.С.

В ответ на Ваше обращение о нарушении прав и свобод Вашего сына 05.02.2014 г. сотрудниками органов внутренних дел, Уполномоченный по правам человека в Республике Крым сообщает следующее.

Ранее в Ваш адрес было направлено письмо о необходимости проведения дополнительной проверки обстоятельств причинения телесных повреждений вашему сыну Костенко А.Ф. В настоящее время, ГСУ СК России по Республике Крым письмом от 14.04.15, поступившем в адрес Уполномоченного 20.04.15 уведомило, что процессуальные действия проводились 534 военным следственным отделом СК России по Черноморскому флоту. В связи с чем копии ходатайств о проверке данных действий направлены руководителю указанного следственного отдела.

Также, Уполномоченным направлено письмо о проведении проверки по фактам причинения телесных повреждений Вашему сыну в адрес Прокурора Республики Крым. Ответ в настоящее время не получен.

Кроме того, 31.03.2015 года с вашим сыном была проведена повторная встреча совместно с представителем аппарата Уполномоченного по правам человека в Российской Федерации.

По сообщениям Вашего сына в условиях СИЗО-1 г. Симферополя, ему оказывается возможная медицинская помощь, предусмотренная условиями содержания. Жалоб на чьи-либо действия он не писал. Указывать причину получения телесных повреждений отказался.

Исходя из вышеизложенных обстоятельств, в настоящее время, оснований продолжать проводить проверку у Уполномоченного не имеется.

В случае поступления информации, касающейся нарушений прав вашего сына вам будет сообщено дополнительно.


Полагаю, также необходимым разъяснить Вам, что в соответствии с требованиями ст.75 УПК РФ, доказательства, полученные с нарушением

требований Уголовно-процессуального закона, являются не допустимыми, не имеют юридической силы и не могут быть положены в основу обвинения. Из содержания ч.4 ст.88 УПК РФ следует, что ходатайство о признании доказательства недопустимым может быть подано так же и подсудимым.

При таких обстоятельствах, ваш сын имеет возможность заявить соответствующее ходатайство суду, если считает, что-то какое-либо из доказательств его вины добыто с нарушением закона.

В настоящее время уголовное дело в отношении Вашего сына находится на рассмотрении в суде Киевского района г. Симферополь. В соответствии с требованиями ст.120 Конституции РФ, а также, ст.8-1 УПК РФ, судьи независимы и подчиняются только Конституции РФ и федеральному закону. Указанное является дополнительным основанием для окончания проверки по вашему обращению.

С уважением,
Заместитель руководителя аппарата
Уполномоченного по правам человека
в Республике Крым

 С.А.Богославская

Reply by S.A. Bogoslavskaya, Deputy Head of the Office of the Human Rights Ombudsman in Crimea, to the effect that there is no ground to continue O. Kostenko's health check

Начальнику 2-го отдела полиции
«Киевский» Управления МВД
России по г. Симферополю
п-ку полиции Плахову И.И.
Костенко Елены Петровны,

заявление.

Прошу начать поиск моего мужа Костенко Федора Степановича, 1960 г.р., который исчез в Крыму 03.03.2015 г.

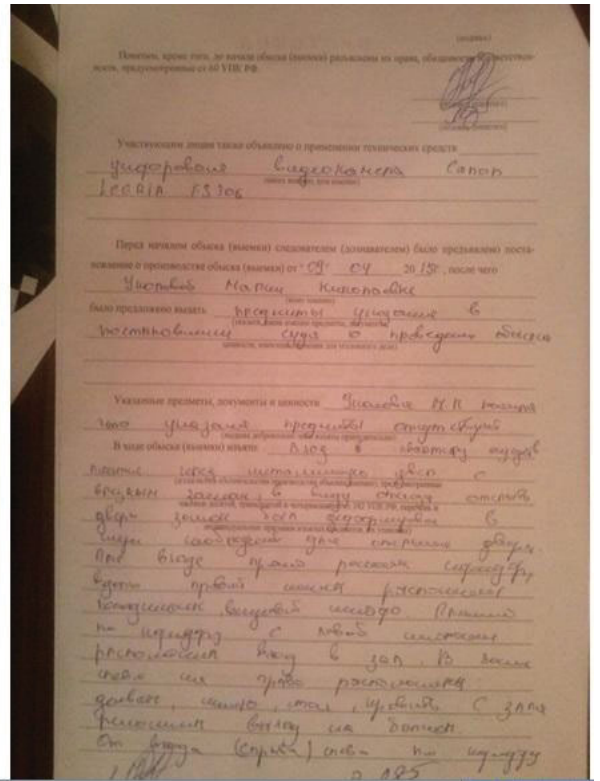
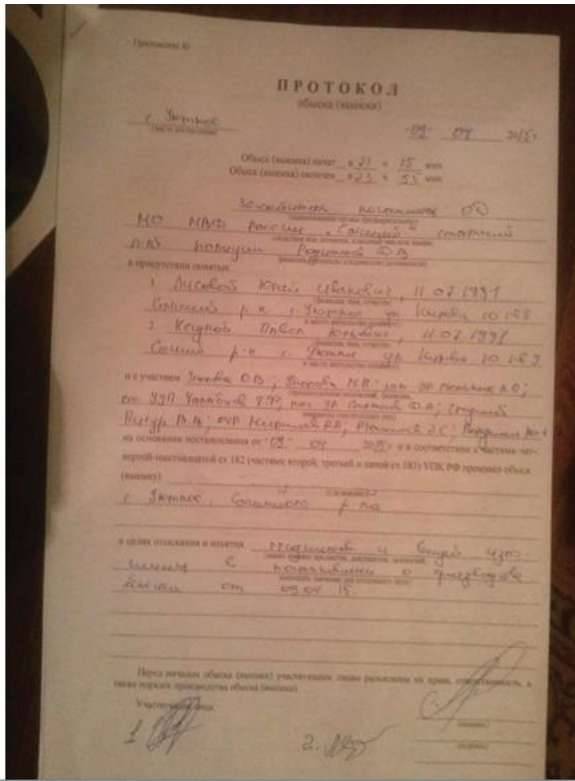
До 06 марта 2015 г. я находилась на лечении в 7-ой горбольнице. Последний раз разговаривала с ним по телефону 02 марта. Со слов младшего сына, который тоже с ним общался по телефону 02 и 03 марта, в эти дни возле нашей квартиры находились подозрительные люди, которые явно следили за подъездом и квартирой у двери и из автомобиля. При чем смена «наблюдателей» неоднократно замечена нашими соседями.

В настоящее время телефоны мужа не отвечают, его ищут на работе, в медицинских учреждениях Крыма Федора Степановича нет.

07.03.2015 г.



Application on the loss of Fedir Kostenko



Record of search in the apartment of O. Kostenko's common-law wife

КОПИЯ ПРОТОКОЛА № РК 029493
об административном правонарушении

"22" 04 2015 г. "11" час. "40" мин. г. Сургут
(дата составления) (время составления) (место составления)

Я, Владимир Александрович Юксель, Ильинский ул. д. 2 Сургутского района
(должность, наименование подразделения, звание, фамилия, инициалы лица, составившего протокол, руководствуясь статьей 28.2 Кодекса Российской Федерации об административных правонарушениях, составил настоящий протокол о том, что лицо (юридическое, должностное, физическое)

Юксель	Владимир	Александрович	Юксель
фамилия	имя	отчество	

Число, месяц, год рождения 25.05 Место рождения _____
Место жительства(фактическое), регистрации _____
Тел. _____

Место работы (учебы) и должность _____
Семейное положение _____ на иждивении _____
(несовершеннолетние и иные лица в соответствии с законодательством Российской Федерации)

Представитель (представители) Владимир Владимирович Шибанов _____
(лица в отношении которого ведется производство по делу об административном правонарушении)

Подвергался административным наказаниям, имеется ли судимость _____
(указывается каким органом, когда наложено наказание, статья Кодекса или нормативного акта, вид и размер взыскания, кто наводил справки)

Документ, удостоверяющий личность _____
(серия, номер, где, когда и кем выдан документ)

Гражданство РФ

В целях составления адм. протокола был (а) доставлен (а), кем _____

"11" 04 2015 г. 09 ч. 00 мин. г. Сургут
(дата составления) (время составления) (место составления)

т.е. совершил (а) правонарушение, что предусматривает административную ответственность, _____
(пункт, часть, статья, наименование нормативного акта)

Свидетели, понятые, потерпевшие и иные лица:

1) Владимир Сергеевич Богословский _____ подпись _____
(фамилия, имя, отчество, число, месяц, год рождения, место жительства, телефон)

2) Владимир Владимирович Шибанов _____ подпись _____
(фамилия, имя, отчество, число, месяц, год рождения, место жительства, телефон)

Кроме этого, я, как свидетель, предупрежден (а) об административной ответственности за заведомо ложные показания по ст. 17.9 КоАП РФ

Защитник Владимир Владимирович Шибанов _____
(фамилия, имя, отчество, число, месяц, год рождения, место работы, данные ордера или доверенности, серия, номер документа, удостоверяющего личность, кем и когда выдан)

права и обязанности, предусмотренные ст. 25.5 КоАП РФ, разъяснены и понятны _____
Лицу Юксель права и обязанности, предусмотренные ст. 51 Конституции Российской Федерации и ст.ст. 24.2, 24.4, 25.1-25.7, 28.2 КоАП РФ, разъяснены и понятны _____

(подпись лица, в отношении которого ведется производство по делу об административном правонарушении)

Место и время рассмотрения дела об административном правонарушении _____
мне объявлены _____ (подпись)

ОБЪЯСНЕНИЕ
(физического лица или законного представителя юридического лица)

Я переводчик на иврита _____
подпись Александрович Юксель _____

Замечания и дополнения _____
К протоколу прилагаются _____
(перечень прилагаемых к протоколу документов и вещей)

С протоколом ознакомлен _____
(подпись лица, в отношении которого ведется производство по делу об административном правонарушении (его представителя))

(свидетели, потерпевшие, понятые и иные лица, участвующие в производстве по делу об административном правонарушении)

Подпись лица, составившего протокол _____
Копию протокола получил Владимир Владимирович Шибанов "11" апреля 2015 г.
(подпись, инициалы и фамилия)

В случае отказа подписать протокол делается об этом запись _____
Подписи понятых, свидетелей _____

Report on the administrative offence envisaged by Art. 13.15(2) RF AOC "Abuse of the freedom of media" concerning G. Yuksel

Прокуратура Республики Крым
официальный сайт

Поиск

Руководство Структура Документы Взаимодействие со СМИ Вакансии История Контакты

Уведомления об экстремизме

Поля, отмеченные звездочкой (*) обязательны для заполнения.

Указатель страницы сайта в сети "Интернет" *

Источник информации

- веб-сайт
- фото - видео хранилище
- электронное письмо
- клуб, группа, сообщество, чат, форум, гостевая книга
- новостные группы, доски объявлений
- банки знаний

Тип информации *

- признаки призыва к массовым беспорядкам
- признаки призыва к осуществлению экстремистской деятельности
- признаки призыва к участию в массовых (публичных) мероприятиях, проводимых с нарушением установленного порядка

Вид информации *

- видео изображения
- фото изображения
- текст
- online-трансляция
- другая информация

Доступ к информации

- свободный
- ограниченный
- платный

Дополнительная информация

(в том числе описание запрещенной информации, позволяющее ее идентифицировать, код доступа к интернет-ресурсу и др.)

The form of "Notification of extremism" on the web-site of the Crimean prosecutor's office

**КОМИССИЯ ПО ДЕЛАМ НЕСОВЕРШЕННОЛЕТНИХ И ЗАЩИТЕ ИХ ПРАВ
МУНИЦИПАЛЬНОГО ОБРАЗОВАНИЯ
ГОРОДСКОЙ ОКРУГ СИМФЕРОПОЛЬ РЕСПУБЛИКИ КРЫМ**

бул. Франко, 25, г. Симферополь, Республика Крым, 295034, тел.: (0652) 27-04-82

ПОСТАНОВЛЕНИЕ
о назначении административного наказания
(вступительная и резолютивная часть)

15.04.2015 г. г. Симферополь

Комиссия по делам несовершеннолетних и защите их прав муниципального образования городской округ Симферополь Республики Крым в составе:
Председательствующего, председателя комиссии – Крушока С.П.,
Заместителя председателя комиссии - Щербактовой С.И.,
ответственного секретаря – Омельченко А.А.,
членов комиссии: Бажана И.Г., Бояркиной Г.И., Галинского В.Н., Дервянко Е.В., Дильдиной Е.И., Дрибной А.В., Захаровой Н.Н., Игнатъева Г.Н., Корнивецкой-Коротченко С.В., Руевой Е.А., Сивак И.В., Скурихиной К.В.

При участии прокурора Степанова О.Т.
рассмотрев дело в отношении Валюшковой Зельвины Михайловны
02.08.1987 года рождения, уроженца(ки) г. Симферополь,
проживающим(ей) по адресу: г. Симферополь, _____ кв. _____, о
совершении правонарушения, предусмотренного ч. 5 ст. 20.8 КРФоАП, и изучив материалы,
В присутствии Зельвины З.М.

ПОСТАНОВИЛА:

Признать Валюшкову Зельвину Михайловну виновным(ой)
в совершении правонарушения, предусмотренного ч. 5 ст. 20.8 КРФоАП и назначить наказание
в виде административного штрафа в размере 10.000 (десять тысяч) рублей.
Уплата штрафа производится по следующим реквизитам:
Полное наименование администратора доходов по субвенциям Администрация города
Симферополя Республики Крым, сокращенное наименование (по уставу) администраторов доходов
Администрация города Симферополя Республики Крым Номер лицевого счета 04753206260, ИНН 9102048470, КПП 910201001, ОГРН 1149102098749, ОКТМО 35701000001, БИК банка 043510001.
Наименование банка Управление Федерального казначейства по Республике Крым, код по БК 902.
Код бюджетной классификации администратора доходов (прочие поступления от денежных
высказаний (штрафов) и иных сумм в возмещение ущерба, зачисляемые в бюджеты городских
округов) 9021 16 90040 04 0000 140.



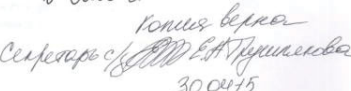
Административный штраф должен быть уплачен лицом, привлеченным к административной
ответственности, не позднее 60 дней со дня вступления постановления о наложении
административного штрафа в законную силу либо со дня отсрочки или рассрочки,
предусмотренных ст. 31.5 КРФоАП.

Неуплата административного штрафа в срок, предусмотренный КРФоАП, влечет наложение
административного штрафа в двукратном размере суммы неуплаченного административного
штрафа, но не менее одной тысячи рублей, либо административный арест на срок до пятнадцати
суток, либо обязательные работы на срок до пятидесяти часов.

Постановление может быть обжаловано в Киевский районный суд г. Симферополя в течение
10 суток со дня вручения или получения копии постановления в порядке ст. 30.2 КРФоАП.

Председательствующий С.П. Крушок

Resolution of the Commission for the Affairs of Minors and Protection of Their Rights, Simferopol city, on imposing an administrative penalty upon a participant of filming of a video clip in support of the ATR TV channel

<p style="text-align: center;">1084_58742</p> <p style="text-align: center;"></p> <p style="text-align: center;">АРБИТРАЖНЫЙ СУД РЕСПУБЛИКИ КРЫМ 295003, г. Симферополь, ул. Александра Невского, 29/11 http://www.crimca.arbitr.ru E-mail: info@crimea.arbitr.ru</p> <p style="text-align: center;">Именем Российской Федерации РЕШЕНИЕ</p> <p>г. Симферополь 30 апреля 2015 года Резолютивная часть решения объявлена «24» апреля 2014 года Полный текст решения изготовлен «30» апреля 2014 года Судья Арбитражного суда Республики Крым Соколова И.А., при ведении протокола судебного заседания и его аудиозаписи секретарем судебного заседания Трушляковой Е.А., рассмотрев в открытом судебном заседании материалы дела: по иску Государственного комитета по охране культурного наследия Республики Крым, г. Симферополь к ответчику – Благотворительной организации «Фонд Крым», г. Симферополь С участием третьих лиц, не заявляющих самостоятельных требований относительно предмета спора на стороне истца, Министерства имущественных и земельных отношений Республики Крым, г. Симферополь, Государственного комитета по государственной регистрации и кадастру Республики Крым, г. Симферополь об изъятии объекта культурного наследия. с участием представителей сторон: от истца – Чихрадзе Д.Э. по доверенности от ответчика – Тейтшев Д.М. по доверенности, Исманлов А.Р. по доверенности от Министерства имущественных и земельных отношений Республики Крым, г. Симферополь – Кучин Р.И. по доверенности за № 91-Д от 01.04.2015 г. от Государственного комитета по государственной регистрации и кадастру Республики Крым, г. Симферополь – не явился, извещен.</p>	<p style="text-align: center;">2</p> <p style="text-align: center;">1084_58742</p> <p style="text-align: center;">УСТАНОВИЛ:</p> <p>Государственный комитет по охране культурного наследия Республики Крым, г. Симферополь обратился в Арбитражный суд Республики Крым с иском заявлением к ответчику – Благотворительной организации «Фонд Крым», г. Симферополь, в котором просил суд изъять у Благотворительной организации «Фонд Крым», г. Симферополь принадлежащее ей на праве собственности здание «Бывшего особняка 1952 г.», расположенное в г. Симферополе по ул. Шмидта, 2/ул. Набережной, 27 лит. «А», для последующего выкупа данного объекта или продажи с публичных торгов в соответствии с требованиями статьи 54 Федерального Закона от 25.06.2010 года №73-ФЗ «Об объектах культурного наследия (памятниках истории и культуры) народов Российской Федерации».</p> <p>Основанием для предъявления указанного иска послужило невыполнение ответчиком обязанностей по содержанию принадлежащего ему объекта культурного наследия. В частности истец ссылается на то, что объект культурного наследия был изменен (переоборудован) ответчиком, а потому не соответствует характеристикам, зафиксированным в актах технического состояния объекта от 02.12.2003 года, от 29.12.2010, являющихся приложениями к охранному договору от 13.04.2004 и от 24.12.2010.</p> <p>Указанные обстоятельства подтверждаются Актом осмотра памятника архитектуры и градостроительства – здания бывшего особняка, 1952 года, расположенного по адресу: город Симферополь, ул. Шмидта/Набережная, 27 литера «А», охранный №4760-АР.</p> <p>Определением от 04.03.2015 года суд принял данное исковое заявление к производству, возбудил производство по делу, назначил проведение предварительного судебного заседания на 19.03.2015 года в 11 часов 50 минут, а также привлек к участию в деле третьих лиц, не заявляющих самостоятельных требований относительно предмета спора на стороне истца – Министерство имущественных и земельных отношений Республики Крым, г. Симферополь и Государственный комитет по государственной регистрации и кадастру Республики Крым, г. Симферополь.</p> <p>Определением от 19.03.2015 года суд отложил рассмотрение данного дела на 23.04.2015 на 11 часов 40 минут, в связи с истребованием у сторон дополнительных документов.</p> <p>В предварительное судебное заседания 23.04.2015 года явку обеспечили представители истца и ответчика.</p>
	<p style="text-align: center;">17</p> <p style="text-align: center;">1084_58742</p> <p>Так как истец в соответствии с Налоговым кодексом Российской Федерации освобожден от уплаты государственной пошлины, судебные расходы по исковому заявлению подлежат возложению на ответчика.</p> <p>На основании изложенного, руководствуясь ст. ст. 110, 167 – 170, Арбитражного процессуального кодекса Российской Федерации, суд -</p> <p style="text-align: center;">РЕШИЛ:</p> <p>1. Исковые требования Государственного комитета по охране культурного наследия Республики Крым, г. Симферополь к Благотворительной организации «Фонд «Крым», г. Симферополь – удовлетворить.</p> <p>2. Изъять из собственности Благотворительной организации «Фонд «Крым», г. Симферополь объект культурного наследия здание (бывший особняк) 1952 г постройки, находящийся по адресу: г. Симферополе по ул. Шмидта, 2/ул. Набережной, 27 лит. «А», для организации выкупа данного объекта или продажи с публичных торгов в соответствии с требованиями статьи 54 Федерального Закона РФ от 25.06.2010 года №73-ФЗ «Об объектах культурного наследия (памятниках истории и культуры) народов Российской Федерации».</p> <p>3. Высказать с Благотворительной организации «Фонд «Крым», г. Симферополь в доход федерального бюджета судебные расходы - государственную пошлину в размере 6000,00 руб.</p> <p>Исполнительный лист выдать после вступления решения в законную силу.</p> <p>Настоящее решение вступает в законную силу по истечении одного месяца со дня его изготовления в полном объеме, если не будет подана апелляционная жалоба. В случае подачи апелляционной жалобы решение, если оно не отменено и не изменено, вступает в законную силу со дня принятия постановления арбитражного суда апелляционной инстанции.</p> <p>Решение может быть обжаловано в Двадцать первый арбитражный апелляционный суд через Арбитражный суд Республики Крым в соответствии с нормами Арбитражного процессуального кодекса российской Федерации.</p> <p>Судья  И.А.Соколова Секретарь  Е.А.Трушлякова 30.04.15</p>

Court decision on withdrawing the building (where the Majlis was situated) from the Crimea Foundation ownership to arrange its redemption or sale by public tender



Roadblock in Gaspra settlement (8 April 2015)

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Yalta Kulturnaya I Kommercheskaya newspaper, Issue No. 13 (1096), 3 April 2015

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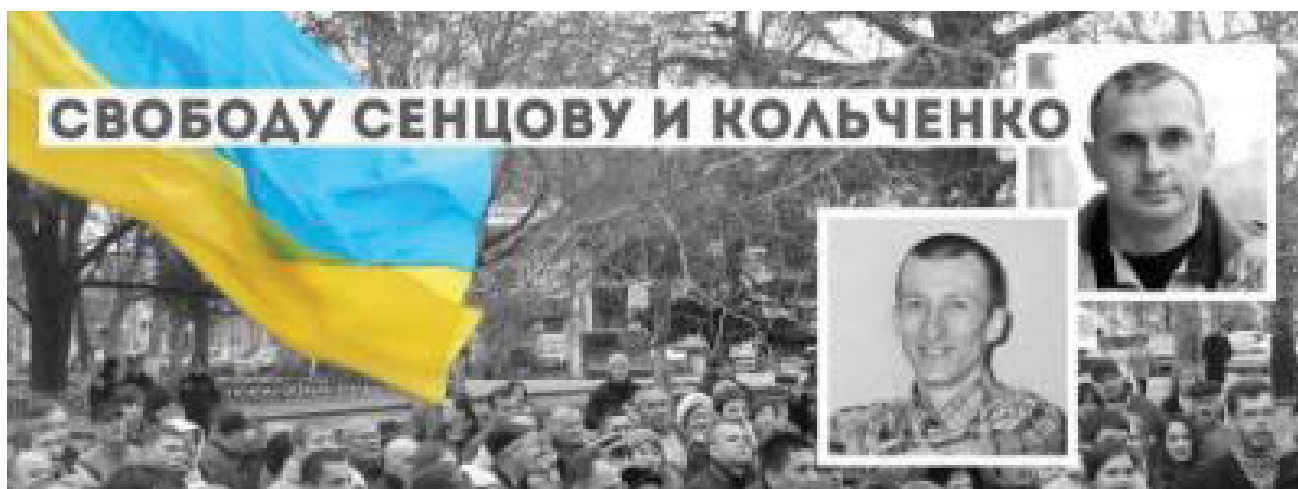
Kharkiv Human Rights Group, Sentsov-Kolchenko Trial, Crimea and What Russia Has to Hide
(10 July 2015)



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10.07.2015 | Halya Coynash

Sentsov-Kolchenko trial, Crimea and what Russia has to hide



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As the trial begins of Oleg Sentsov and Oleksandr Kolchenko on absurd 'terrorism' charges, journalist Maria Tomak probes one of the 'offices' in Crimea which figure in the charges and finds not only a place of torture and imprisonment, but also a military base with people who later played a prominent role in the war in Donbas.

The first hearing on the actual charges against renowned film director Oleg Sentsov and civic activist Oleksandr Kolchenko is due to take place on July 21. At the preliminary hearing on July 9, Judge Sergei Mikhayuk extended the two Crimeans' detention until Dec 16 and rejected two applications from the defence, including permission to video the trial. Russia certainly has a lot to hide in this case, and even with the hearings from July 21 open, the undertaking forced upon the lawyers to not divulge any details will still extend to any information deemed 'state secret'. Since this would always be the case, it remains to be seen how broadly the term 'state secret' is applied in this case. Certainly charges of

'terrorism' have been used extremely loosely in the prosecution of four Ukrainian opponents of Russia's annexation of Crimea.

Both Sentsov and Kolchenko reject all charges of terrorism. Kolchenko fully admits to hurling a Molotov cocktail at a building housing pro-Russian organizations, but denies, quite correctly, that this was terrorism. Importantly, Kolchenko also rejects the claims made by the other two men arrested which constitute the sole 'evidence' that the 'case' against Sentsov is based on. Gennady Afanasyev and Oleksy Chirniy were also arrested in May 2014 and held without access to lawyers or contact with their families for some time. While Sentsov and Kolchenko have both insisted that they were tortured during that period and threatened if they didn't 'confess', the other two men did provide 'confessions' and later chose to cooperate with the prosecution, for which they received 7 year sentences against the 17-20 years which Sentsov and Kolchenko face. See also: [Trial begins of Sentsov and Kolchenko as OSCE demands their release](#)

Despite the grandiose claims made by Russia's FSB in announcing the charges against the 4 men on May 30, 2014, the only incidents in the case are two arson attacks on pro-Russian offices on April 14, and 18. Kolchenko's lawyer Svetlana Sidorchikina is as adamant as her client that the attack he admits to can, at most, be classified as hooliganism.

In legal terms this is doubtless correct, but there are some important things to understand about the specific targets chosen, with direct relevance both to the annexation of Crimea and the conflict in eastern Ukraine.

In her article "[The Story of one 'Russian Unity' Office](#)", Maria Tomak writes that the building at 11 Karl Libknekht St in Simferopol contained one of the footholds for Russia's military aggression in Crimea.

Tomak spoke with Mykhailo Vdovchenko, one of the many pro-Ukrainian activists who in the spring of 2014 tried, through peaceful means, to prevent Russia's annexation of Crimea and also helped Ukrainian military servicemen who were basically under siege on the peninsula. Like others he suffered at the hands of the so-called 'self-defence' armed paramilitaries who helped Russian soldiers establish control in Crimea, and others helping them. He was abducted on March 9 by a group who called themselves the 'Rostov guys' and who, from the way they spoke, were clearly not locals. They took him to the office of 'Russian Unity' – the building which Kolchenko is supposed to have taken part in the attack on.

From the account given by Vdovchenko, the author writes, it is clear that this office was used as a transit point for abducted pro-Ukrainian activists. "*Here the first beatings took place and interrogations on the way to the basements. That, at least, was what it was like with Mykhailo,*" Tomak writes.

Judging by the treatment he received, hostages taken there were subjected to both physical and mental torture. Indirect confirmation of this is seen in the fact that there was a doctor on the premises who saw to Vdovchenko's injuries after he was beaten. Tomak notes that even in the basements of the so-called 'Donetsk' [on top](#)

and Luhansk people's republics', where people are also tortured, it is common to have a medically trained person present.

The so-called 'office', Vdovchenko reports, was teeming with armed men, including people who gave off the impression of being soldiers and who had serious weapons on them. He was held there for a few days and saw lots of people coming and going, most of whom, he says, were military men with weapons – machine guns and pistols. Two military guys in blue camouflage gear without insignia appeared, obviously with authority, and gave specific instructions.

Most importantly, Vdovchenko saw at least three figures who later became known for their active role in the Donbas conflict: Igor Girkin [Strelkov] believed to be or to have recently been a Russian military intelligence officer; 'Bes' or Igor Bezler, accused of involvement in the horrific murder of Horlivka Deputy Volodymyr Rybak, and of particular brutality to hostages, and another militant commander Samvel

The 'office' was thus essentially a military base, a command point for 'Crimean coordinators'; an illegal prison and place of torture. And the first phase in externally organized aggression directly linking Crimea and eastern Ukraine.

None of these details have any direct bearing on the spurious charges of terrorism against Kolchenko and Sentsov. They do, however, indicate just how much Russia has to hide.

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Annex 947

Ridvan Bari Urcosta, New Eastern Europe, Crimean Tatar World Congress: Fear and Expectations (4 August 2015), accessed at <http://www.neweasterneurope.eu/interviews/1680-crimean-tatar-world-congress-fears-and-expectations>.

Crimean Tatar World Congress: Fears and expectations

neweasterneurope.eu/old_site/articles-and-commentary/1680-crimean-tatar-world-congress-fears-and-expectations

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Published on Tuesday, 04 August 2015 11:50

Category: [Articles and Commentary](#)

Written by [Ridvan Bari Urcosta](#)

The first World Crimean Tatars Congress was held in May 2009 in Simferopol, Crimea, with the active participation of Turkish governmental officials. From the Turkish side, the Congress was attended by the official delegation headed by the Turkish Minister of State Faruk Çelik and the vice-speaker of the parliament, Meral Akşener. Overall, it was attended by more than 800 delegates from 12 states and 160 NGOs.



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For the Crimean Tatars, the congress has played a crucial role as it has allowed all Crimean Tatars organisations from all around the world to gather and discuss strategic problems and steps for the near future. Refat Chubarov, deputy chairman of the Mejlis (council) of the Crimean Tatar People became the chairman of the Congress.

A key message of the congress was written in the final resolution. Three most important conclusions of the address were the following:

First, the Crimean Tatars are under threat and they may completely disappear as a distinctive ethnic group from the world map. In response to that, the congress requires the adoption of an urgent and effective measures to restore Tatars' political, economic, spiritual and cultural rights on the Crimean peninsula.

Second, the Congress acknowledged that the remaining discriminatory policy towards Crimean Tatars is a consequence of straightforwardly ignoring the strategy by the state of Ukraine, which has not introduced necessary legislation in order to eliminate the

consequences of the genocide committed against the Crimean Tatars people on May 18th 1944 by the Soviet Union.

Third, the Mejlis recognised that the elimination of the consequences of genocide cannot be overcome only by the effort of the Ukrainian state and delegates presumed that the process of restoring the rights of the Crimean Tatar people should be the subject of the special care and attention of the United Nations, the Council of Europe, the EU and other international institutions.

The document, however, did not mention independence or special exclusive rights for Crimean Tatars. The question is only in restoring sufficient rights to the people to have a chance to live in their homeland and to not disappear. The main aim of the congress was to attract the attention of the international community, raise awareness of the Crimean Tatar issue and gain a stronger bargaining chip in negotiations with the Ukrainian government.

All things in the document were very softly and diplomatically worded, which confirms the immanent nature of the Mejlis as a national institution that is ready to use nonviolent means to achieve the strategic goal of national autonomy within Ukraine.

The decision to hold a second congress was made in February 2015 in Ankara as a result of consultations between 43 Crimean Tatar organisations. The event was held between August 1st and 2nd 2015.

If the holding of the first Congress was partially motivated by the necessity of elaborating a common Crimean Tatar policy for new realities after the collapse of Soviet Union, the organisation of the second one is motivated by much more substantive reasons. Far-reaching persecutions of Crimean Tatars under new geopolitical circumstances is one of them. Since the annexation of Crimea took place in March 2014, Russia has been consequently pursuing a policy of penalising Tatar organisations operating in Crimea. Since the annexation of Crimea, Moscow made several attempts to negotiate with Crimean Tatar leaders to win their support for the Kremlin's stance. After all these attempts failed, it introduced policy of persecution and oppression against Crimean Tatars.

Mejlis and its members soon became a major target of Russian repressions. The First step was to cut the links between Tatar leaders and people when the entrance to Russia for Mustafa Dzhemilev and Refat Chubarov was forbidden. In spring 2014, the Mejlis office in Simferopol was closed and blocked by Russian Special Forces. Finally, the Kremlin launched repercussions against political and civil activists who openly supported Ukrainian sovereignty and defended Tatar organisations.

One of the most effective methods the FSB has been using to fight against Tatar activists is to threaten a person who is leaving Crimea that once he leaves, he may not have a chance to return. The Russian security service pursues so far rather smooth methods of persecution of Tatars instead of hijacking or deporting Tatars from the peninsula. They would rather monitor Crimean Tatar activities and, if "needed", show up suddenly for "antiterrorist" activities or searches of homes of activists. People have been living under such conditions for almost a

year and a half, so the consequences from the upcoming Crimean Tatars World Congress are quite predictable. A person who decides to go to Ankara from Crimea is risking imprisonment or a ban from entrance to Crimea for many years.

The system Kurultai-Mejlis is a self-organised Crimean Tatar self-governing-national institution which was created in the late 1980s within the Crimean Tatar community. The Ukrainian government did not recognize the Crimean Tatars' self-government until the spring of 2014 when Russia's occupation had already taken place. In the end, Kyiv accepted the Mejlis as a representative organ of the Crimean Tatars. On the other hand, Russia, after giving up the idea of a win-win concept in its talks with Tatars, has started putting strong pressure on the Mejlis and refused to recognise it.

It is incorrect to think that the Congress as a real tool in the development of a common strategy for all Crimean Tatar people because it is only the Kurultai that has legitimate power of parliament. Nevertheless, under the conditions of occupation, it becomes simply impossible to organise the Kurultai because the vast part of Kurultai delegates are based in Crimea and are separated from the Tatar leaders who currently live in Kyiv. As Mustafa Dzhemilev fears, delegates to the congress in Ankara may face problems after coming back to Crimea. It has now become one of the greatest concerns for the congress organisers. The consequences are unfortunately unpredictable.

At the same time that preparations for the congress were going on, representatives of pro-Russian Crimean Tatars started active anti-Mejlis and anti-Congress ideological work among the local population. They warned those who were interested in attending the congress in Turkey that it would be considered a "dangerous activity".

On July 28th 2015, the Russian Investigation Committee in Crimea banned travel to Ankara for the World Congress of the Crimean Tatar people for the head of the Kurultai Election Committee, Zair Smedlyaev and the First Deputy Chairman of the Majlis Nariman Jelal. They will be questioned on August 1st by the FSB as witnesses in the "case on February 26" 2014. Interrogation on August 1st means they will not be able to take part in the congress. In order to frighten the rest of the civil and political Crimean Tatars activists, on July 28th the Simferopol district court extended the terms of custody for the detained Ahtem Chygoz (the deputy head of Mejlis).

The Russian Government created a zone of intimidation in Crimea specific for the Crimean Tatar people. Under such conditions, some of the representatives of Mejlis and Kurultai decided to stay in Crimea and make a video call to the congressional delegates where they would explain the challenges and fears their own families would experience in case they would decide to go to Ankara. Consequently, the Crimean Tatar leaders on July 29th met with US Ambassador to Ukraine Geoffrey Pyatt. Pyatt "reaffirmed his unwavering support for their community". Additionally the Turkish government allowed the Mejlis to conduct the Congress in Ankara, but it is expected that a high level official from the Turkish Government will attend.

Having in mind the current political situation in Crimea and ongoing persecutions, the congress in Ankara is expected to bring following actions:

- the adoption of an appeal to the European Union, UN, OSCE on the recognition of the Crimean Tatars as Indigenous Peoples of Crimea,
- the selection of the new head of the congress. The new head should be selected very carefully as he or she is going to become an international lobbyist. It is most desirable that this time the man or woman will be a representative of the people amongst the diaspora. The candidate must be from Turkey or the United States,
- the adoption of an appeal to the European Union, UN, OSCE to recognise the Mejlis-Kurultai system as the sole authority of the Crimean Tatar people,
- to call upon the international community to continue to not recognise Russian sovereignty over Crimea and to continue economic sanctions against that government,
- to call upon the Turkish government to create a special body that would monitor the human rights situation in Crimea and coordinate the activity of the Crimean Tatar diaspora in Turkey. The special body should ideally be an advisory unit to the Prime Minister of Turkey and be under his direct control,
- to call the EU, OSCE and UN to condemn the human rights abuses in Crimea,
- to combine the efforts of all representatives of the Crimean Tatar diaspora to lobby their interests in the countries where the diaspora lives.

The congress in Ankara stands before two major issues. The first one is the choice of the new head of the Congress who would be entrusted with diplomatic and lobbying functions. The second one is the mobilisation of the diaspora with the aim of its effective and systematic activity in order to adequately answer the historical challenges from 2014.

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Partners

Annex 948

Andrii Klymenko, Human Rights Abuses in Russian-Occupied Crimea, Atlantic Council (5 August 2015)



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HUMAN RIGHTS ABUSES IN RUSSIAN-OCCUPIED CRIMEA

by Andrii Klymenko

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Photo credit: Anton Holoborodko

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March 2015

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FOREWORD

The “green men” who fanned out across Crimea in early 2014, establishing control over key infrastructure and clearing the way for once-marginal political actors to seize the reins of power, were the vanguard of a forced political change that has led to grave human rights abuses across the Crimean peninsula.

Firmly in control of the executive and law enforcement bodies, the so-called Crimean authorities ostensibly implemented the law of the Russian Federation but in reality created a hybrid system where Russian law is subsidiary to the whims of “self-defense forces” and “republican authorities.” Those forces derive their power from their weapons rather than from the support of the local population.

In an environment where brute force rules the day, the international community has lost access to basic information about political, economic, and social developments on the Crimean peninsula. As a result, human rights abuses, now a regular part of life in Crimea, are left unreported or poorly understood.

Freedom House and the Atlantic Council’s Dinu Patriciu Eurasia Center are proud to present Andrii Klymenko’s report, *Human Rights Abuses in Russian-Occupied Crimea*. His work makes an important contribution to our understanding of what has happened in Crimea since the Kremlin forcibly seized the peninsula in February 2014, setting off a crisis that is transforming security calculations in Europe and Eurasia.

Russian President Vladimir Putin has attempted to justify the intervention in Crimea by claiming that ethnic Russians and Russian speakers were under threat by Ukrainian authorities and nationalists. What Klymenko’s research makes clear, in a dispassionate parade of facts, is that the Russian invasion

introduced extensive repression on the peninsula. Under the laws and policies instituted by the Kremlin, any resident of Crimea who refuses to take Russian citizenship and a Russian passport, or who tries to retain Ukrainian citizenship, forfeits his/her right to live, to work in, or even to visit the peninsula.

These actions violate fundamental international human rights, including basic civil, political, and social rights. If for no other reason than this, events in Crimea deserve greater attention, and authorities there should be held accountable for compromising fundamental freedoms.

This report is part of the Atlantic Council’s Ukraine in Europe Initiative. This initiative was designed in early 2014 to help the Ukrainian people choose their own future in the face of increasingly autocratic leadership at home (under then-President Viktor Yanukovich) and aggression from Russia. As Ukraine elected a reform-minded president in May 2014, Petro Poroshenko, and a new parliament in October of that year, the Ukraine in Europe Initiative has focused on helping Ukraine implement democratic and market reforms at home and to withstand and deter further Russian aggression.

The Dinu Patriciu Eurasia Center would like to thank the generous supporters of our initiative. They include the Ukrainian World Congress, the Smith Richardson Foundation, the George Chopivsky Foundation, Chevron USA, US State Department, and the Espirito Santo Financial Group.

The Eurasia Center also wishes to pay respect to the memory of Dinu Patriciu, its visionary founding sponsor, whose untimely passing in August 2014 saddened all at the Atlantic Council. Freedom House wishes to acknowledge the dedication of David Kramer to the issues confronting Ukraine and its neighbors.

Frederick Kempe, *President and CEO*, Atlantic Council

Mark P. Lagon, *President*, Freedom House

EXECUTIVE SUMMARY

In March 2014, Russia forcefully and illegally annexed the Crimean peninsula from the territory of Ukraine. This first land grab on European soil since World War II exposed the Kremlin's imperialist ambitions and posed a serious threat to the post-Cold War international order.

Since the onset of Russian occupation, Crimea's residents have faced increasingly grave civic, political, and human rights violations. These include discriminatory policies against Crimea's ethnic Tatar minority, infringement of property rights, and intimidation of independent voices through selective use of the law and physical force. The Kremlin has sought to suppress reporting of many such abuses by creating a so-called "information ghetto" on the peninsula through a crackdown on local and foreign media. As Western media shifted its attention to the war in Ukraine's east, the human rights abuses in Crimea have gone underreported.

This report documents the alarming deterioration of human rights in Crimea under Russian occupation. Through a careful chronicling of evidence, Andrii Klymenko, Chief Editor of Black Sea News and Chairman of the Supervisory Board of Maidan of Foreign Affairs, exposes the Kremlin's repressive and discriminatory policies against three groups: ethnic, religious, or national groups that opposed the annexation, especially members of the indigenous Crimean Tatar community, independent voices seeking to report on the situation in Crimea (journalists, civil society activists, and members of nongovernmental organizations), and holders of Ukrainian passports.

The Crimean Tatars, estimated at three hundred thousand, have endured especially harsh treatment since the annexation. For their refusal to recognize the authority of the de facto government, Tatar leaders have been exiled or banned from public life, their public commemorations prohibited, and their media muzzled.

Activists and journalists who simply speak up for human rights have been subjected to torture, intimidated into emigration, and have had their property illegally confiscated. Some have gone missing, with authorities offering little to no evidence that they are investigating the disappearances.

Today, holding a Ukrainian passport as a Crimean resident is tantamount to treason. Crimean residents who hold Ukrainian passports are de facto disenfranchised from exercising their political and civic rights. They are blocked from accessing social services, including public healthcare, owning property, or finding legal employment.

The report is not a complete account of the many human rights violations in Crimea, but it makes clear that physical harassment, criminal prosecution, and forced emigration of potentially "disloyal" groups is part and parcel of Russia's control strategy for the peninsula. By documenting a small portion of such abuses, Klymenko provides a window into the "information ghetto" of the peninsula and the everyday lives of its residents in the year since Russian occupation.

HUMAN RIGHTS ABUSES IN RUSSIAN-OCCUPIED CRIMEA

BY ANDRII KLYMENKO

This report seeks to chronicle the deteriorating human rights situation in Crimea since the occupation and annexation of the previously autonomous Ukrainian region by the Russian Federation. The crisis, which began in February 2014, continues to intensify due to Russian legislation and a series of oppressive measures carried out by the region's de facto authorities.

These actions, which are not widely reported abroad, include the imposition of Russian citizenship, restrictions on freedom of speech and assembly, takeover of private and Ukrainian state property, clampdowns on independent media outlets, persecution of annexation critics and proponents of Ukrainian unity, and harassment of ethnic and religious groups perceived as disloyal to the new order. They represent violations of basic human rights and, in some cases, contravene international law.

The report is based on the information available from Ukrainian and international media outlets, including official Russian sources and Ukrainian journalists working undercover in Crimea, human rights groups, and the author's own interviews with Crimean residents.¹

Before Crimea's annexation by the Russian Federation in March 2014, the human rights situation in Crimea differed little from that in the rest of Ukraine. For the most part, residents of the peninsula enjoyed freedom of speech and assembly and had an active civil society. Numerous independent print, broadcast, and online media outlets operated. Nongovernmental organizations (NGOs) and grassroots groups regularly

organized assemblies, rallies, and pickets on political, social, and environmental issues. Protests against corruption or illegal construction were commonplace, and Crimean Tatar organizations were particularly active.

Throughout the EuroMaidan period of mass protests from November 2013 to February 2014, this situation did not materially change.² However, the occupation and annexation of Crimea in early 2014 initiated a string of serious and ongoing human rights violations. This put the peninsula and its residents in an entirely new position—one predicated by Russia's need to quash unsanctioned political activity and pro-Ukrainian sentiment while presenting a picture of its actions as legal and locally supported.

To understand this crackdown it is important to recognize that, contrary to the Russian narrative, the annexation of the region was not the result of natural sociopolitical processes, nor did it grow from the aspirations of the Crimean population. In fact, residents of Crimea have actually grown more "Ukrainian" in their outlook in recent years. According to a 2011 survey by the Razumkov Center, an independent policy institute in Kyiv, 71.3 percent of respondents said they considered Ukraine their homeland—up from 39.3 percent in a 2008 poll.³ Among ethnic Russian residents, 66.8 percent viewed Ukraine as their homeland; among ethnic Ukrainians and Crimean Tatars, that

1 Interviews with residents of Crimea took place during the author's visits to mainland Ukraine.

2 The day President Viktor Yanukovich rejected the Association Agreement with the EU, tens of thousands of protesters appeared on the Maidan, Kyiv's main square. When the authorities tried to disband the protesters by force, the demonstrations became much larger protests against Yanukovich's authoritarian policies.

3 http://razumkov.org.ua/ukr/files/category_journal/NSD122_ukr_3.pdf (in Ukrainian).

Andrii Klymenko is Chief Editor of Black Sea News and Chairman of the Supervisory Board of Maidan of Foreign Affairs.



Pro-Russia forces patrol Simferopol International Airport on February 28, 2014. Source: Elizabeth Arrott/VOA.

figure was above 80 percent. Only 18.6 percent of respondents said they did not think of Ukraine as their homeland, while 10 percent said they could not answer the question.

In preparing to annex the peninsula, Russian state media launched a campaign to counter Ukrainian sentiments and inflame fears of impending repression by “Ukrainian fascists” among Crimea’s ethnic Russian population. This echoed similar rhetoric used by former Ukrainian President Viktor Yanukovich’s Party of Regions toward the EuroMaidan movement.

Misinformation was followed in short order by infiltration and occupation (see appendix for a timeline of the occupation). The days immediately surrounding the start of the Russian occupation of Crimea on February 26 ushered in a series of escalating events: the arrival of Kuban Cossack fighters from Russia’s Krasnodar region, the covert deployment of Russian troops with military equipment and special-purpose airborne units, the seizure of Crimean airports, office buildings, and harbors, and a Russian military blockade of Ukrainian army and navy bases and law-enforcement facilities.⁴

4 Cossacks are an official paramilitary formation of the Russian Federation. They are divided into regional territorial armies and Military Cossack Societies; the smallest of these is known as a “hundred” and derives from the World War I Cossack cavalry squadrons consisting of one hundred soldiers.

The Kuban Cossack Army (from Russia’s Krasnodar region) officially announced its support for the Russian population of Crimea on February 28. See Simon Shuster, “Armed Cossacks Flock to Crimea to Help

These blockades involved armed Crimean “self-defense” units, formed from the ranks of the Cossacks who had infiltrated the region and ex-members of the Berkut (the special Ukrainian police force that disbanded over the shooting of EuroMaidan protesters).⁵ The executive branches of the Crimean regional and Sevastopol municipal governments were replaced, paving the way for the supposed legitimization of the occupation via a March 16 referendum, the legality and results of which

Russian Annexation Bid,” *Time*, March 12, 2014, <http://time.com/22125/ukraine-crimea-cossacks-russia/>; Roland Oliphant, “Ukraine Crisis: On the New Crimea Border the Russian Army Waits,” *Telegraph*, March 3, 2014, <http://www.telegraph.co.uk/news/worldnews/europe/ukraine/10674305/Ukraine-crisis-On-Crimeas-new-border-the-Russian-Army-waits.html>). However, the first fifty-person Kuban Cossack Army group arrived in Crimea at the invitation of the Crimean Cossack Union on February 26, the day before the occupation began. Cossacks were urgently summoned in just two hours. Ukrainian border guards tried to prevent the passage of the delegation to the territory of Crimea. Russian media reported one thousand Kuban Cossacks arriving in Crimea at the end of February. According to unofficial information, however, there were about six thousand. Unofficial sources in the Cossack army reported that each Cossack was paid one thousand rubles per day for being in Crimea.

The Cossack grouping was dispersed throughout the peninsula. Together with alleged Berkut soldiers, the Cossacks took control of the checkpoints on all transportation routes and points of entry into Crimea (Chonhar and Turetskiy Val), as well as train stations and office buildings. The Cossacks set up camps, blocked entrances, and dug trenches and bunkers.

5 On January 24, 2014, a congress of the Taurus “hundred” of the Tersk Military Cossack Society (from the Stavropol region of Russia) took place in Sevastopol. The congress demanded that the city administration create “people’s units” for protecting order in Sevastopol.

were overwhelmingly rejected by the international community.

This referendum was held under occupation conditions marked by the presence of Russian military troops, including Cossacks, and “self-defense” units sealing off border crossings, airfields, and military bases, and guarding polling stations and election commission offices. Such conditions persist in Crimea, with quasi-military, bureaucratic, and ostensibly legal mechanisms used to maintain an environment of misinformation and intimidation toward those who would question the legitimacy of Russia’s takeover.

CHANGING THE GUARD, REPLACING THE POPULATION

Maintaining this semblance of legitimacy requires establishing a new bureaucracy in Crimea and cultivating a “loyal” population incapable of organized protest or any other unsanctioned political activity. This is being accomplished in part by coercing Crimeans into obtaining Russian citizenship and supplanting key Crimean officials with Russian replacements.

In the year since the occupation began, Russia has removed Crimean professionals from strategically important posts throughout the peninsula. Major law enforcement officials, such as judges, prosecutors, investigators, police, and members of the security services, were steadily being replaced by personnel imported from different regions of Russia.

A partial sample shows the systematic nature of these replacements:

- March 25: After signing the treaty annexing Crimea, Russian President Vladimir Putin appoints Russian navy Vice Admiral Oleg Belaventsev as his official representative to the new Crimean Federal District.
- April 16: The port city of Feodosiia is assigned a new prosecutor from the Krasnoyarsk region of Russia.
- April 22: One hundred fifty employees from various Russian regions are detailed to the new investigative offices of Crimea and Sevastopol.

- April 25: A prosecutor from Orsk in the Orenburg region of Russia is appointed to a similar post in the Crimean city of Alushta.

ON MARCH 18, ALL CITIZENS OF UKRAINE LEGALLY RESIDING ON THE TERRITORY OF THE AUTONOMOUS REPUBLIC OF CRIMEA AND SEVASTOPOL WERE AUTOMATICALLY DECLARED CITIZENS OF RUSSIA.

- May 16: A new head of the Crimean gas-producing company Chernomorneftegaz, a subsidiary of Ukrainian state energy company Naftogaz, is appointed from the Krasnodar region.
- May 18: Yevpatoriia in western Crimea gets a prosecutor from Russia’s Sverdlovsk.
- May 31: The Crimea and Sevastopol traffic police forces receive new management from the Russian Federation.
- July 28: Three regions of Crimea are assigned new prosecutors from the Russian Federation.
- August 25: Seventy-three staff members of thirteen territorial bodies of the Russian Federal Penitentiary Service arrive in Crimea for placements.

Among the general population of Crimea, the Kremlin is seeking to ensure loyalty—or force emigration—by insisting that all residents take Russian citizenship. Those who refuse are subject to losing their jobs, property, and the right to reside in Crimea.

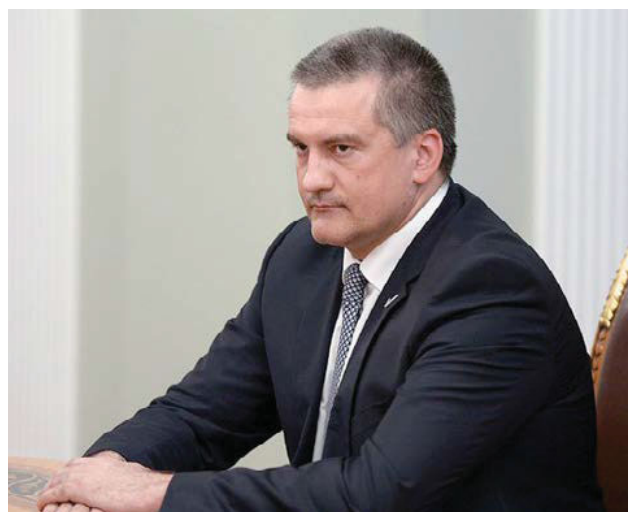
On March 18, all citizens of Ukraine legally residing on the territory of the Autonomous Republic of Crimea and Sevastopol were automatically declared citizens of Russia. Those who wished to keep their Ukrainian citizenship had one month to inform the Russian occupation authorities.

This procedure violated all norms of international law related to citizenship. Moreover, it was purposely complicated. In all of Crimea, an area of 10,000 square miles, only four offices—in Sevastopol, Bakhchysarai, Simferopol, and Bilohirsk—were designated to receive the paperwork for those wishing to retain Ukrainian citizenship. Applications by mail or proxy were not accepted. Some people had to travel as far as 150 miles to get to the nearest office. (Due to enormous lines, three additional offices, in Alushta, Yalta, and Kerch, were opened on April 12, five days before the deadline.) Those who rejected Russian citizenship, or have not yet received their Russian passports, are required to obtain a residence permit. In a territory with a population of 2.4 million, the issuance of residence permits is limited to 5,000 per year.⁶

People not granted residence permits are considered foreign nationals with no right to be on the “territory of the Russian Federation” for more than 180 days per year. Natives of Crimea with family, jobs, and property in the region will have to regularly travel outside the peninsula for long periods of time, without guarantees that they will be allowed back in. They will not be able to work without a residence permit and will be subject to employment quotas for foreigners.⁷

In response, Ukraine’s parliament passed a law on April 15 suspending the country’s dual citizenship prohibition for Crimeans who had Russian citizenship forced upon them.⁸ In a tit-for-tat measure, Russia’s Duma then passed legislation on May 28 setting criminal penalties for Russian citizens who hold dual nationality but have not disclosed that fact to the Russian authorities. Penalties include fines of up to 200,000 rubles (about \$5,200) and up to 400 hours of community service. The law comes into force on January 2016.⁹

Public servants in Crimea, such as judges, police officers, and government officials, are required by the Russian Federation to turn in their Ukrainian passports.¹⁰ According to numerous personal accounts from Crimean residents, all employees of state



In April 2014, Sergei Aksyonov was appointed acting “Governor of Crimea” by Russian President Vladimir Putin. Source: www.kremlin.ru.

institutions, including hospitals and schools, are unofficially required to do the same.

The authorities of occupied Crimea declared that Ukrainian passports would only be permitted until January 1, 2015, after which citizens with Ukrainian passports residing in Crimea would be considered aliens. As such, they would not be able to obtain free treatment at state health-care facilities, purchase mobile phone starter kits, register property, pay utilities, or be admitted to a university or work. Since the law came into effect, Ukrainian passports are de facto useless for everyday life.

By effectively coercing Crimeans into getting Russian citizenship, the Kremlin indirectly restricts Crimeans’ freedom of movement to the territory of the Russian Federation. Ukrainian law does not recognize documents issued by the occupation authorities; therefore, holders of Russian passports issued in Crimea will not be able to use them to enter other parts of Ukraine. And because Ukraine has notified other states that it considers such passports illegal, Crimeans will likely encounter problems when traveling abroad, especially in countries that require visas. This will also affect those who were under eighteen years of age on March 18, 2014, and had not yet been required to obtain a passport for foreign travel.¹¹

6 <http://www.blackseanews.net/read/85896> (in Russian); <http://www.blackseanews.net/read/87562> (in Russian); <http://www.c-inform.info/news/id/10994> (in Russian).

7 <http://www.blackseanews.net/read/85239> (in Russian); <http://www.blackseanews.net/read/81225> (in Russian).

8 <http://zakon4.rada.gov.ua/laws/show/1207-18> (in Ukrainian).

9 <http://www.blackseanews.net/read/80869> (in Russian); <http://www.blackseanews.net/read/80309> (in Russian).

10 <http://investigator.org.ua/news/124274/> (in Russian).

11 At the age of sixteen, every Ukrainian citizen must obtain a do-



Council of Ministers of Crimea “Chairman” Sergei Aksyonov, State Council of the Republic of Crimea “President” Vladimir Konstantinov, Russian President Vladimir Putin, and “Mayor” of Sevastopol Alexey Chaly sign a treaty making Crimea part of the Russian Federation on March 18, 2014. Source: www.kremlin.ru.

RESTRICTING COMMUNICATION AND MEDIA: AN “INFORMATION GHETTO”

Russia is working to turn the Crimean peninsula into an information ghetto, where citizens are denied the opportunity to receive news and communication from the rest of Ukraine. On the heels of the annexation treaty, Russia took steps to replace Ukrainian Internet service providers on the peninsula. Access to Ukrainian television has been virtually eliminated, and major Ukrainian mobile phone services have been disconnected, with occupation authorities openly touting a new Russian provider.

An amendment to Russia’s criminal code was passed in the Russian Federation on December 25, 2013, before the Crimean annexation. The law took effect in the territory of the Russian Federation on

mestic passport, which becomes his or her primary official identification document. However, to travel internationally, adults must obtain a foreign travel passport. Those under eighteen can travel internationally by having their name included in their parents’ foreign travel passport or by obtaining a child travel passport.

May 9, 2014, which at that point included the Crimean peninsula, and made it illegal to publicly call for “actions aimed at violating the territorial integrity of the Russian Federation.”¹² Public calls to action are defined as oral or written suggestions or requests to act addressed to a particular person or persons, or to the general public. Neither the context in which those calls are made nor whether they generate actual action matters from the perspective of the law.

Crimean media outlets were forced to re-register in accordance with Russian law, and, as a result, independent media essentially ceased to exist on the peninsula. Online publications were particularly affected; under Ukrainian law they were not required to register with state authorities, but under Russian law both online and print outlets must do so.

Today, challenging Crimea’s status as part of Russia or supporting its return to Ukraine—in the media, on social networks, or in a public place—is a prosecutable offense. The law also carries a potential three-year prison term and fines of up to three hundred thousand rubles or two years of the convicted person’s wages. Harsher penalties, including up to five years in prison,

¹² <http://www.blackseanews.net/read/80195> (in Russian); <http://www.blackseanews.net/read/80100> (in Russian).

are reserved for making such calls “with the use of media, including information and telecommunications networks, including Internet.”¹³

As with Russian laws on “instigating extremism,” determining what constitutes such a call and the intent of the speaker or writer is up to law-enforcement bodies. Lawyers, therefore, recommend that Crimeans choose words carefully and even watch their intonation when addressing topics related to Crimea, Ukraine, and Russia in public—be it online, in a store, or on public transport—to avoid their comments being interpreted as a “call” or “appeal.”

In such an environment, numerous independent media outlets and NGOs that do not agree with the annexation of Crimea have left the peninsula for mainland Ukraine, including the Center for Investigative Journalism, Black Sea News, Crimean Events, the Black Sea TV and Radio Company, the Information Press Center, and the Taurus Institute of Regional Development. The result is that Crimea now has only pro-Russian media.

Since the occupation began, all broadcasts of Ukrainian TV networks have been shut down. On cable systems, the situation ranges from the complete elimination of Ukrainian outlets in some places to the airing of a few, mostly entertainment channels in others.

Internet traffic from elsewhere in Ukraine was also swiftly cut. Within days of the annexation, Russian Prime Minister Dmitry Medvedev ordered state-owned communications company Rostelecom to provide Internet service to Crimea as soon as possible. Over the next month, the firm laid a submarine cable across the Kerch Strait from Russia. In May, Rostelecom acquired three Crimean fiber-optic-cable owners.¹⁴ It began providing service to Crimea in late July.¹⁵ Private Internet service providers are now required to operate in accordance with Russian law, under which they must store information on users for six months and disable access to any site if so ordered by Russia’s Federal Security Service (FSB).

13 <http://www.blackseanews.net/read/80195> (in Russian).

14 Ilya Kharennikov, “Rostelecom Wins \$4.7 Billion Internet Job, Buys Crimea Operators,” Bloomberg, May 13, 2014, <http://www.bloomberg.com/news/2014-05-13/rostelecom-wins-4-7-billion-internet-job-buys-crimea-operators.html>.

15 Doug Madory, “No Turning Back: Russia Activates Crimean Cable,” Dyn Research, July 31, 2014, <http://www.renesys.com/2014/07/no-turning-back-russia-crimea/>.

De facto authorities in the Crimea and Sevastopol administrations declared that they could disconnect mobile phone users in the region from the Ukrainian providers that held most of the market before the occupation.¹⁶ Before annexation, mobile users in Crimea were mainly served by the three largest Ukrainian operators: MTS Ukraine (57 percent), Kyivstar (21 percent), and Astelit (16 percent).¹⁷

SINCE THE OCCUPATION
BEGAN, ALL BROADCASTS OF
UKRAINIAN TV NETWORKS
HAVE BEEN SHUT DOWN.

In early August, connection in Crimea to both MTS Ukraine and Kyivstar was stopped. Both companies said they were not responsible for the disruption of service.

On August 4, Russian operator K-Telekom announced the launch of service on the peninsula to replace MTS Ukraine.¹⁸ The following day, MTS Ukraine said it was unable to control an important node responsible for communications in Crimea. Then, on August 8, the Ukrainian firm began roaming service in Crimea, using K-Telecom’s network, making it much more expensive to use MTS Ukraine in the region. Dmitry Polonsky, Crimea’s “Deputy Prime Minister,” said the move indicated that MTS Ukraine now recognized it was operating in a foreign country.¹⁹

Kyivstar’s press office said that on August 11, unidentified armed men entered the company’s

16 <http://www.blackseanews.net/read/87640> (in Russian); <http://www.blackseanews.net/read/87181> (in Russian); <http://www.blackseanews.net/read/84999> (in Russian); <http://www.blackseanews.net/read/84927> (in Russian); <http://www.blackseanews.net/read/84876> (in Russian); <http://www.blackseanews.net/read/84724> (in Russian).

17 <http://ria.ru/economy/20140401/1002141618.html> (in Russian).

18 James Barton, “MTS Ends Ukraine Services as Russia Reviews Crimea Telecom Options,” Developing Telecoms, August 6, 2014, <http://www.developingtelecoms.com/business/deals/121-operators/5392-mts-ends-ukraine-services-as-russia-reviews-crimea-telecom-options.html>.

19 Ibid.

Simferopol office and began installing alternative equipment. Its service remains disabled in Crimea. The de facto authorities say these mobile operators have been kicked out because Ukrainian legislation supposedly prohibits them from paying for property leases, electricity, and equipment maintenance in Russian rubles. As of the time of this writing, there are no longer any Ukrainian mobile operators in Crimea.

As of August 25, Ukrainian fixed-line operators had also been shut down in Sevastopol and their customers switched to Rostelecom. According to Black Sea News and the Maidan of Foreign Affairs think tank, Ukrtelecom, the main fixed-line operator in Crimea, will likely have to either register its business in Crimea in accordance with Russian legislation or sell its assets to Russian operators.²⁰

TARGETING ANNEXATION CRITICS AND “DISLOYAL” GROUPS

From the first days of the occupation, the Russian Federation organized a large-scale campaign of physical harassment and criminal prosecution of potentially disloyal groups and anyone who opposed the annexation of Crimea. On the pretext of ensuring security, the peninsula’s de facto authorities have limited the locations where mass gatherings can be held. They have also changed the school curriculum, harried certain religious groups, and persecuted individuals through detentions, property seizures, and police raids.

At first, these actions were carried out largely by the so-called “self-defense” forces, but they have since evolved into a systematic campaign conducted in concert with police and the FSB. The chief targets can be divided roughly into three groups (with some overlap):

- ethnic Ukrainians and other ethnic, religious, or national groups viewed as favoring Ukraine’s position

²⁰ Maidan of Foreign Affairs is a Kyiv-based nonprofit organization that aims to formulate an independent vision of Ukrainian foreign policy. The Black Sea News is a Crimean media outlet forced to flee the peninsula in March 2014 and is now based in Kyiv.

in the conflict, including members of the Ukrainian Orthodox Church of the Kyiv Patriarchate; Catholics; Jews; and immigrants from Poland, Belarus, and the Baltic states

FROM THE FIRST DAYS OF THE OCCUPATION, THE RUSSIAN FEDERATION ORGANIZED A LARGE-SCALE CAMPAIGN OF PHYSICAL HARASSMENT AND CRIMINAL PROSECUTION OF ANYONE WHO OPPOSED THE ANNEXATION OF CRIMEA.

- the Crimean Tatar community, particularly officials of its self-governing body, the Mejlis, and other Muslim organizations, including the Spiritual Administration of Crimea Muslims and groups designated as extremist by Russia but not by Ukraine
- journalists, civil society activists, and members of NGOs existing prior to the occupation

Ukrainians

The communal targeting of ethnic Ukrainians has often involved religious institutions and schools, where the Ukrainian curriculum is being curtailed through both official and unofficial means. In April and May 2014, Crimean departments of education announced that Ukrainian language and literature would be studied only as an elective.²¹ At the same time, the number of Russian language and literature lessons doubled; Russian history and geography lessons also increased. This, and the general anti-Ukrainian political climate, dissuaded most parents and students from electing to take Ukrainian classes. On October 9, the de facto Crimean Minister of Education, Science, and Youth, Nataliya Goncharova, said that the demand

²¹ <http://crimea.vgorode.ua/news/sobytyia/224277-ukraynskyi-yazyk-v-krymskykh-shkolakh-budut-yzuchat-po-zhelanyui> (in Russian).

for Ukrainian instruction in Crimea was rapidly declining.²² Consequently, there is no longer a single one of the six hundred schools in Crimea offering instruction fully in Ukrainian, and only twenty have separate Ukrainian classes. This has led to massive job losses among teachers of Ukrainian, who now have to choose another source of income or retrain at their own expense.²³ In addition, high school students planning to take the External Independent Evaluation (the Ukrainian equivalent to the United States' Scholastic Aptitude Test) in order to enter universities in Ukraine are thus deprived of an opportunity to study in accordance with the Ukrainian curriculum.

Many children in Crimea now face additional obstacles outside of the classroom. As of January 1, 2014, the Child Services Registry of the Autonomous Republic of Crimea included 4,323 orphans and children deprived of parental care;²⁴ some were living in special boarding schools on the peninsula. After the annexation, they were automatically recognized as Russian citizens and thus deprived of the option to choose their citizenship and place of residence.²⁵

The recognition of these children as citizens of the Russian Federation significantly complicates the procedure of adoption or guardianship by citizens of Ukraine or elsewhere, given Russia's increasing restrictions on foreign adoptions. Full information on how the rights and interests of these children are being protected is not available. This situation potentially violates the United Nations Convention on the Rights of the Child by interfering with the exercise of a child's right to preserve his or her identity, including citizenship, name, and family relations.

Religious Groups

Members and leaders of Ukraine's indigenous religious groups, who stood with EuroMaidan protesters against Yanukovich's presidency and have spoken out against Russia's annexation of Crimea, have been intimidated and harassed by the authorities or unknown attackers.²⁶ Shortly after expressing support

for besieged Ukrainian military units in February and March, members of Crimea's five parishes of the Ukrainian Greek-Catholic Church (UGCC) began receiving threats that they would be prosecuted and their parishes eliminated.

THERE IS NO LONGER A SINGLE ONE OF THE SIX HUNDRED SCHOOLS IN CRIMEA OFFERING INSTRUCTION FULLY IN UKRAINIAN.

In March, three of its priests—from Sevastopol, Yalta, and Yevpatoriia—were kidnapped and later released. One of them, Mykolai Kwich, said he was questioned by members of the Crimean "self-defense" force and Russian intelligence officers and charged with extremism.²⁷ The priests refused to talk about any further details of their detention or release. Later in the spring, the three priests left Crimea, but they returned to their parishes in late August. On September 2, the priest from Yevpatoriia, Bohdan Kostetsky, and twelve parishioners were detained on the way to Yalta, placed in a basement, interrogated, and released the following day without charge. These actions were likely acts of intimidation related to the pro-Ukrainian and pro-Maidan position of the Greek Catholic Church in Ukraine.²⁸ The Greek Catholic priests remaining in the peninsula await clarification of the church's legal status.

Parishioners and the priest of St. Clement of Rome, a Ukrainian Orthodox church in Sevastopol that sits

22 <http://ria.ru/education/20141009/1027621414.html> (in Russian).

23 http://ipc-bigyalta.org/new_big_yalta/14463.html (in Russian).

24 Crime Field Mission on Human Rights, *Brief Review of the Situation in Crimea* (June 2014), http://crimeahr.org/sites/default/files/crimea_field_mission_report_june_2014_eng.pdf, p. 18.

25 *Ibid.*, p. 18.

26 "Battle of Orthodox Christian Patriarchs as Ukraine's Filaret

Denounces Russia's Kirill," *Kyiv Post*, January 8, 2014, <http://www.kyivpost.com/content/politics/battle-of-orthodox-christian-patriarchs-as-ukraines-filaret-denounces-russias-kirill-334763.html>.

27 Sonya Bilocerkowycz and Sofia Kochmar, "Ukrainian Catholics Experiencing 'Total Persecution' in Crimea," Catholic News Agency, March 18, 2014, <http://www.catholicnewsagency.com/news/ukrainian-catholics-experiencing-total-persecution-in-crimea/>; <http://investigator.org.ua/news/122162/> (in Russian); <http://investigator.org.ua/news/122277/> (in Russian).

28 <http://ru.krymr.com/content/article/26565233.html> (in Russian); <http://www.unian.net/society/958567-v-kryimu-zaderjali-svyaschenni-ka-ugkts-i-gruppu-prihojan-iz-epatorii.html> (in Russian).

on the grounds of a Ukrainian Naval Academy facility, have been barred from using the building.²⁹ On July 1, a group of armed men in Russian Cossack dress broke into a Ukrainian Orthodox church in Perevalnoye village, in the Simferopol district, and destroyed religious relics. During the attack, a pregnant parishioner and a priest's daughter who suffers from cerebral palsy were hurt, and the priest's car was broken into. Archbishop Klyment of Simferopol and Crimea reported that the police took the invaders' side and refused to register a complaint.³⁰

FOR THEIR REFUSAL TO RECOGNIZE THE AUTHORITY OF THE DE FACTO GOVERNMENT, TATAR LEADERS HAVE BEEN EXILED OR BANNED FROM PUBLIC LIFE, THEIR PUBLIC COMMEMORATIONS PROHIBITED, AND THEIR MEDIA MUZZLED.

The pastor of the Salvation Army's Crimean branch, Ruslan Zuyev, who had reported on the pressure applied to representatives of Protestant religious groups in Crimea, was forced to leave Crimea with his family in June. He had been repeatedly summoned by the FSB for airing "pro-Ukrainian" views.³¹ In early March, Rabbi Mikhail Kapustin of the Communities of Reform Judaism of Simferopol and Ukraine fled Crimea with his family. Kapustin had denounced Russian aggression in Crimea. In late February, someone painted a swastika and anti-Semitic graffiti on his Ner Tamid synagogue.³² In April, vandals

defaced Sevastopol's monument to the 4,200 Jews, including Crymchaks (a small and separate indigenous group of Tatar-speaking Crimean Jews), who were murdered by the Nazi occupiers on July 12, 1942.³³

On June 13, the façade of the Chukurcha Jami mosque in Simferopol was damaged when someone threw a Molotov cocktail at it. A surveillance camera recorded the attack, but a perpetrator has yet to be identified or arrested. In addition, the fence next to the mosque was painted with a black swastika and the arson date.³⁴

Crimean Tatars

The Tatars of Crimea have endured especially harsh treatment since the annexation. Although there are no recent official statistics, it is estimated the Tatars number at approximately three hundred thousand.³⁵ For their refusal to recognize the authority of the de facto government, Tatar leaders have been exiled or banned from public life, their public commemorations prohibited, and their media muzzled.

One of the earliest signs that Tatars would receive brutal treatment came on March 15, when the body of Reshat Ametov, a Crimean Tatar activist, was found roughly two weeks after he attended a peaceful protest in front of the occupied Crimean parliament.³⁶ Witnesses reported seeing men in military uniforms leading Ametov away from the protest. His relatives later told Human Rights Watch that police had classified his death as violent.³⁷ Prosecutors have released no information on the progress of the investigation into his death.

About three weeks later, on April 8, a monument to the renowned twentieth-century Crimean Tatar choreographer Akim Dzhemilev was demolished in the village of Malorechenske. In the same village, a red

29 <http://www.segodnya.ua/regions/krym/v-krymu-otbirayut-hramy-kievskogo-patriarhata-516020.html> (in Russian).

30 <http://ru.krymr.com/archive/news-ru/20140701/16898/16898.html?id=25408930> (in Russian).

31 "Crimea: Enforced Departure of Turkish Imams; FSB Surveillance," Forum 18 News Service, September 3, 2014, http://www.forum18.org/archive.php?article_id=1992.

32 <http://rus.newsru.ua/ukraine/21mar2014/kapustin.html> (in Rus-

sian).

33 <http://www.newsru.com/russia/22apr2014/ussr.html> (in Russian).

34 http://zn.ua/UKRAINE/mechet-v-simferopole-zabrosali-kokteyly-ami-molotova-146989_.html (in Russian).

35 "Russia's Annexation of Crimea Upends Lives of Tatar Minority," Associated Press, December 10, 2014, <http://www.themoscowtimes.com/news/article/russia-s-annexation-of-crimea-upends-lives-of-tatar-minority/513093.html>.

36 <http://www.pravda.com.ua/rus/news/2014/04/8/7021747/> (in Russian).

37 Human Rights Watch, "Crimea: Disappeared Man Found Killed," March 18, 2014, <http://www.hrw.org/news/2014/03/18/crimea-disappeared-man-found-killed>.



Russian servicemen attempt to block the way for Crimean Tatars crossing a checkpoint connecting Crimea and the Kherson region in May 2014. Source: Reuters.

swastika was painted on the windows of a school whose headmaster is a Crimean Tatar.³⁸

On April 21, members of “self-defense” units arrived at the office of the Crimean Tatar Mejlis in Simferopol and removed a Ukrainian flag that had been raised on the building two days earlier. A similar event played out in mid-September, followed by a Russian security service search of a Mejlis member’s home and a raid on the Mejlis and a Tatar newspaper.³⁹ In the following days, the Tatars were evicted outright from the Mejlis building.⁴⁰

In late April, the press secretary to Mustafa Dzhemilev, a Crimean Tatar and Soviet-era dissident who formerly led the Mejlis, said he and another Tatar leader had been banned from broadcasts of the Crimea State TV and Radio network.⁴¹ Two weeks later, Dzhemilev was barred from the territory of Russia and Crimea, although Russian authorities denied it at the time.

38 <http://investigator.org.ua/news/124075/> (in Russian).

39 “Crimean Tatar Mejlis Raided, Searched by Police,” Radio Free Europe/Radio Liberty, September 16, 2014, <http://www.rferl.org/content/crimean-tatar-mejlis-raided-police-search-avdet-simferopol/26587038.html>.

40 “Russian Officials Impound Crimean Tatars’ Assembly,” Radio Free Europe/Radio Liberty, September 18, 2014, <http://www.rferl.org/content/crimean-tatar-mejlis-russia-impounded/26592606.html>.

41 “Crimean Tatar Leaders Banned on Crimean State TV,” Crimean News Agency, April 22, 2014, <http://qha.com.ua/crimean-tatar-leaders-banned-on-crimean-state-tv-131226en.html>.

He was returning to Crimea through the Turetskiy Val checkpoint in Armiansk, northern Crimea, and was blocked by Russian special forces and Crimean “self-defense” forces. In response, Tatars broke through the security line at the checkpoint to meet Dzhemilev. For that, the prosecutor of Crimea, Natalya Poklonskaya, ordered the Russian Investigative Committee and the FSB to investigate the protesters on charges of mass rioting, using force against officials, and illegally crossing the state border.⁴² Poklonskaya also threatened to dissolve the Mejlis because of “extremist” actions by Tatars.⁴³ The prosecutor’s office refused to provide Tatar leaders with a copy of the warning, which would have allowed them to appeal it.

In June, Dzhemilev’s son, Khaizer, was taken into custody and charged with murder in connection with the May 2013 shooting of a security guard who worked for his family. Khaizer Dzhemilev’s case was being reviewed for a possible downgrade from murder to manslaughter when Crimea was annexed. The de facto authorities now say he is subject to Russian justice. At a July 16 press conference, Dzhemilev and his lawyer said that the European Court of

42 <http://www.blackseanews.net/read/79292> (in Russian); <http://www.blackseanews.net/read/79825> (in Russian).

43 “Protestors Warn Crimean Tatars Over ‘Extremism’ Amid Protests,” Radio Free Europe/Radio Liberty, May 4, 2014, <http://www.rferl.org/content/ukraine-crimea-tatars-warned-extremism/25372706.html>.

Human Rights had ordered his son's release, but in late September he reported that his son had been transferred to a prison in Russia's Krasnodar region.⁴⁴

On May 15, FSB officers raided the home of Ali Khamzin, head of the Mejlis' Foreign Relations Department, on allegations that they had found Khamzin's business card in the possession of members of Pravyi Sektor, a Ukrainian political group demonized by the Russian authorities. As Khamzin was in Kyiv at the time, his son, who also lived in the house, was summoned by the FSB the following day.⁴⁵

IN THE DAYS LEADING UP TO MAY 18, THE ANNUAL DAY OF REMEMBRANCE FOR TATARS WHO WERE EXPELLED FROM CRIMEA IN 1944, THE DE FACTO AUTHORITIES SOUGHT TO PREEMPT OPPORTUNITIES FOR PUBLIC GATHERINGS.

In the days leading up to May 18, the annual day of remembrance for Tatars who were expelled from Crimea in 1944, the de facto authorities sought to preempt opportunities for public gatherings. On May 16, Sergey Aksyonov, Crimea's de facto Prime Minister, issued a decree prohibiting mass events until June 6.

In mid-June, the Simferopol City Council denied a request by Tatar officials to hold their annual Flag Day celebrations on June 26 in a city center park that had hosted the event in previous years. The council refused, saying that a "mass gathering in an area not intended to accommodate the expected number of the event participants can create conditions for

44 <http://www.kmu.gov.ua/control/en/videogallery/gallery?galleryId=247461056&> (in Russian); "Dzhemilev's Son Transferred in Custody from Crimea to Krasnodar," Radio Free Europe/Radio Liberty, September 29, 2014, <http://www.rferl.org/content/khaiser-dzhemilev-son-custody-crimea-arrest-transfer-krasnodar-tatar/26611103.html>.

45 <http://www.blackseanews.net/read/80412> (in Russian).

violating the public order and the rights and lawful interests of other citizens."⁴⁶

On June 24, masked men unlawfully entered the house of Eider Osmanov, the Deputy Director of a madrasa in the Simferopol village of Kolchugino, while he was at home with his wife and two young children.⁴⁷ Later that day, a group of masked men invaded the school itself when students were present, according to Eider Adzhimambetov, Press Secretary of the Spiritual Administration of Muslims of Crimea and Deputy Chairman of the Mejlis. The invaders searched the school and took the Deputy Director with them. He was released several hours later without any charges.

On July 5, Mejlis Chairman Refat Chubarov was banned from Crimea and Russia for five years on the grounds that he and the Mejlis had engaged in extremist activity. Chubarov had been traveling back to Crimea from a neighboring part of Ukraine when he was stopped at a checkpoint and barred from entering the peninsula.⁴⁸

Journalists and Political Activists

The list of abuses against journalists and activists since the Russian takeover of Crimea could comprise an entire report in itself. However, this abridged version highlights the severity of the current situation. The tone was set in early March, when armed men cut Ukrainian radio and television signals and Russian channels took over the airwaves.⁴⁹ Since then, journalists have been subject to an ongoing campaign of harassment, violence, and threats.

On March 1, several members of the Crimean "self-defense" forces entered the editorial office of the Center for Investigative Journalism in Simferopol.⁵⁰ According to center director Valentina Samar, the

46 <http://www.blackseanews.net/read/82155> (in Russian).

47 <http://www.blackseanews.net/read/82533> (in Russian); <http://www.blackseanews.net/read/82539> (in Russian); <http://www.blackseanews.net/read/82564> (in Russian).

48 Amnesty International, "Document-Ukraine: Crimean Tatar Leader Banned from Homeland," July 9, 2014, <http://www.amnesty.org/en/library/asset/EUR50/035/2014/en/82d8d901-6885-4bd3-81a0-e9752db-cff03/eur500352014en.html>.

49 Reporters Without Borders, "Freedom of Information in Dire Straits in Crimea," March 7, 2014, <http://en.rsf.org/ukraine-freedom-of-information-in-dire-07-03-2014,45960.html>.

50 David E. Caplan, "Masked Gunmen Seize Crimean Investigative Journalism Center," Global Investigative Journalism Network, March 2, 2014, <http://gijn.org/2014/03/02/masked-gunmen-seize-crimean-investigative-journalism-center/>.

paramilitaries demanded to see the organization's media registration documents and office lease agreement. Samar said that shortly afterward the Federation of Crimean Trade Unions, which owns the building, asked the center to vacate the premises by the end of the month.⁵¹ On May 17, FSB officers detained and interrogated Waclav Radziwinowicz, a Moscow-based reporter for the Polish newspaper *Gazeta Wyborcza*, for several hours. Various reports say he was accused of misrepresenting his identity or crossing the border illegally.⁵² Nikolai Semena, a Crimea-based reporter for the Ukrainian newspaper *Dien* and photographer Lenyara Abibulayeva were also detained.

Those attempting to cover the cancellation of the commemoration of the Tatar deportation, and reporters in the Tatar community itself, have been especially visible targets. On the eve of the Tatar deportation anniversary, a photographer from the *Crimean Telegraph* newspaper was detained by "self-defense" forces while recording a story about the maneuvers of police special units.⁵³ On May 18, the deportation anniversary, "self-defense" forces detained Crimean Tatar journalist Osman Pashayev and Turkish cameraman Cengiz Kizgin for several hours at the paramilitary group's headquarters in Simferopol. Pashayev stated on his Facebook page after their release that the two journalists were threatened with physical violence and subjected to psychological abuse.⁵⁴ They were also robbed of equipment and personal belongings valued at seventy thousand hryvnya (approximately six thousand dollars at the time). Afterward, they were transferred to police custody and interrogated with no attorney present.

On the same day, a journalist for Russia's Dozhd TV was shooting a video in the central square of Simferopol when "self-defense" forces told him to delete the footage. He complied but still was brought to the "self-defense" office, where his equipment was damaged.⁵⁵

51 <http://investigator.org.ua/news/120460/> (in Russian).

52 Organization for Security and Cooperation in Europe, "Conflicting Sides Should Stop Targeting Media Professionals Covering Ukraine Crisis, Says OSCE Representative," May 19, 2014, <http://www.osce.org/fom/118686>; Reporters Without Borders, "Ukrainian and Russian Authorities Step Up Arrests of Journalists," May 21, 2014, <http://en.rsf.org/ukraine-ukrainian-and-russian-authorities-21-05-2014,46320.html>.

53 <http://investigator.org.ua/news/127662/> (in Russian).

54 <http://investigator.org.ua/news/127425/> (in Russian).

55 Reporters Without Borders, "Ukrainian and Russian Authorities Step Up Arrests of Journalists," May 21, 2014.

On June 2, "self-defense" forces detained journalist Sergei Mokrushin and producer Vladlen Melnikov of the Center for Investigative Journalism for making "inappropriate remarks" about top Russian officials.⁵⁶ They were handcuffed and taken to the headquarters of the "self-defense" forces, where their telephones and social media accounts were inspected. Both men say they were beaten and Mokrushin appeared to have bruising around the ribcage and possibly broken ribs.⁵⁷

JOURNALISTS HAVE BEEN SUBJECT TO AN ONGOING CAMPAIGN OF HARASSMENT, VIOLENCE, AND THREATS.

On June 3, the Editor-in-Chief of the Crimean Tatar newspaper *Avdet*, Shevket Kaybullaev, was summoned to the Prosecutor's Office of Simferopol, where he received notice that the newspaper was being investigated for extremist activity because it referred to "Russia's annexation of Crimea" and to Crimea as an "occupied territory."⁵⁸ Two days later, a founder of the Events of Crimea website, Ruslan Yugosh, reported on attempts by Crimean police to put pressure on him by interrogating his seventy-three-year-old mother. According to Yugosh, representatives of the police came to his house and summoned his mother to testify in the district police station; no summons papers were served.⁵⁹

On June 22, Sevastopol occupation police detained reporter Tatiana Kozyreva and cameraman Karen Arzumanyan of independent Ukrainian channel Hromadske TV, who were broadcasting from a rally at a city square.⁶⁰ The journalists said they were interrogated by staff members of the Leninsky district

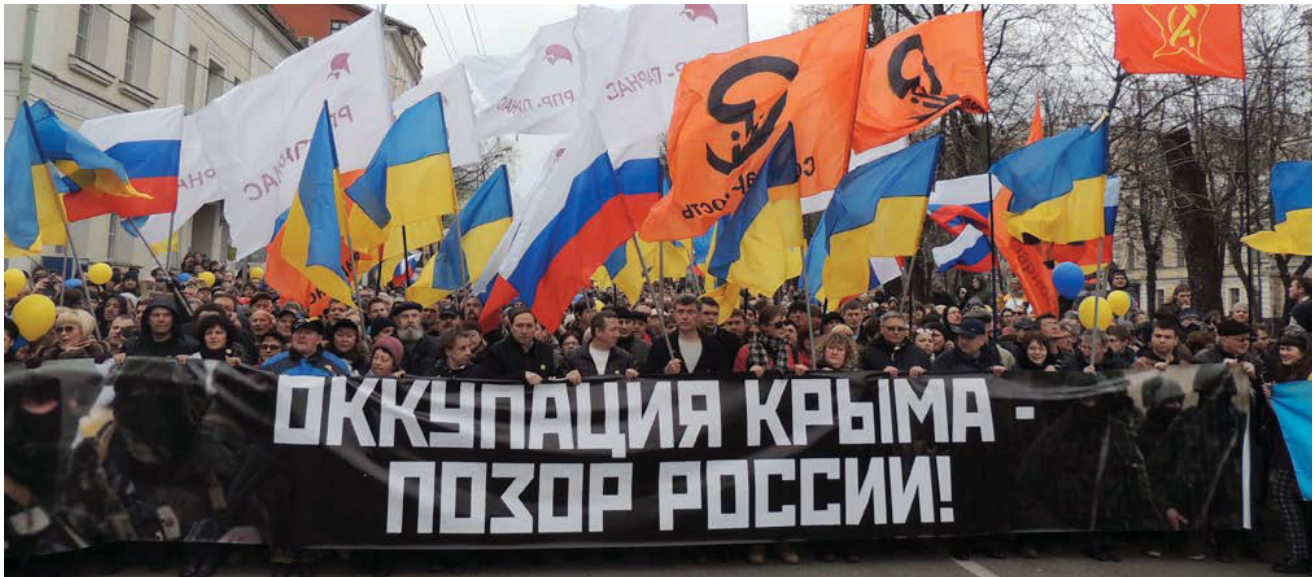
56 Crimea Field Mission on Human Rights, *Brief Review of the Situation in Crimea*, p. 5.

57 Reporters Without Borders, "More Journalists Abducted in Eastern Ukraine and Crimea," June 4, 2014, <http://en.rsf.org/ukraine-more-journalists-abducted-in-04-06-2014,46399.html>.

58 Crimea Field Mission on Human Rights, *Brief Review of the Situation in Crimea*, p. 6.

59 *Ibid.*, p. 6.

60 *Ibid.*, p. 6.



Protesters in Moscow carry a banner reading "Occupation of Crimea Is the Shame of Russia" during a peace march in March 2014.
Source: Bogomolov.PL.

police department and the Department for Combating Extremism.

Similarly, activists who oppose Russia's annexation of Crimea or simply speak up for human rights have been subjected to torture or hounded out of the peninsula, losing their property in the process. Some have gone missing, with authorities offering little to no evidence they are investigating the disappearances.

Andrey Schekun, a EuroMaidan activist and representative of the education and culture center Ukrainian House,⁶¹ fled to Kyiv with his family after being abducted by "self-defense" forces on March 9, tortured, and eventually released on March 20. His apartment in Bakhchysarai, Crimea, was sealed by unidentified men on June 7.⁶²

On May 10 (by some accounts, May 11) Crimea-born filmmaker Oleg Sentsov was detained by the FSB. Sentsov had participated in the AutoMaidan protests and helped bring food and supplies to Ukrainian soldiers trapped in Crimean bases during the early days of Russia's occupation. He was charged with plotting to destroy key infrastructure in Simferopol, Yalta, and

Sevastopol.⁶³ Along with Sentsov, activists Gennady Afanasiev, Alexei Chirni, and Alexander Kolchenko were also detained. The FSB claims they belong to Pravyi Sektor, but that organization and the detainees both denied their membership. On June 4, Sentsov's lawyer, Dmitry Dinse, said his client had been tortured in an attempt to coerce him into confessing. Dinse has filed a complaint with Russia's Investigative Committee. Sentsov and Kolchenko's requests to see the Ukrainian Consul were denied.⁶⁴ A court has ordered Sentsov and his co-defendants to be held in pretrial detention until mid-January.⁶⁵

The fate of Vasyl Chernysh, a resident of Sevastopol and an AutoMaidan activist who was reported missing on March 15, the eve of the Crimean referendum, remains unknown. His family fears he is no longer alive.⁶⁶

61 The Ukrainian House Crimean Center for Business and Cultural Cooperation is an NGO engaged in educational and cultural activity. It supported the EuroMaidan, and during the 2013-2014 "Revolution of Dignity" organized pro-EuroMaidan meetings in Crimea.

62 Crimea Field Mission on Human Rights, *Brief Review of the Situation in Crimea*, p. 17.

63 *Ibid.*, p. 17.

64 Amnesty International, "Ukrainian Detainee Threatened with Rape," June 24, 2014, <http://www.amnesty.org/fr/library/asset/EUR50/027/2014/fr/740a7dff-12c4-4685-8e57-159c923fa4ac/eur-500272014en.html>.

65 "Moscow Court Prolongs Detention for Ukrainian Director," Radio Free Europe/Radio Liberty, September 29, 2014, <http://www.rferl.org/content/sentsov-crimea-terror-pretrial-detention-prolongation-lefortovo/26611965.html>.

66 Crimea Field Mission on Human Rights, *Brief Review of the Situation in Crimea*, p. 4.

The Prosecutor's Office and law enforcement agencies of Crimea have not provided information on the progress of investigations into the late-May disappearances of three other activists: Leonid Korzh, a member of Ukrainian House, reported missing on May 22; Timur Shaimardanov, reported missing on May 26; and Seiran Zinedinov, kidnapped on May 30. All were active in the movement for Ukraine's territorial integrity and provided aid to Ukrainian military units trapped by the initial Russian takeover in February and March. Their relatives and friends believe their disappearances were connected and politically motivated.⁶⁷

On June 29, houses in Simferopol were pasted with leaflets calling on residents to inform the Crimean Department of the FSB—anonymously, if necessary—of people who were “against the return of Crimea to the Russian Federation or participated in the regional Maidan.”⁶⁸

Not all victims of violence or abuse since the annexation belong to the above groups. Still unsolved, for instance, are the April 6 murders of Ukrainian Navy Major Stanislav Karachevskyi and sixteen-year-old Mark Ivaniuk, who witnesses said was beaten by a police officer after being heard speaking Ukrainian. The boy later died of his injuries.⁶⁹

PROPERTY RIGHTS

Since the annexation, property rights in Crimea have been violated on a massive scale. All Ukrainian state property on the peninsula is now being expropriated under the rubric of “nationalization” by the Republic of Crimea. Private companies have also been effectively confiscated through hostile takeovers and forced management changes carried out by “self-defense” forces. Crimean authorities decreed on July 30 that all lease contracts on property dated before the annexation could be terminated prematurely and

unilaterally. So far, four hundred public companies have been “nationalized” and the list is constantly growing. It includes all seaports, airports, railroads, wineries, grain elevators, agricultural enterprises, water and energy supply infrastructures, and some two hundred health resorts. The famous Nikitskyi Botanical Gardens, the Artek Children's Center, the oil and gas company Chernomorneftegaz, and the More shipyard have also been seized.⁷⁰

ALL UKRAINIAN STATE PROPERTY ON THE PENINSULA IS NOW BEING EXPROPRIATED UNDER THE RUBRIC OF “NATIONALIZATION” BY THE REPUBLIC OF CRIMEA.

The expropriation is not limited to Ukrainian state property. Many “nationalized” entities also include trade unions, higher education institutions, the Academy of Sciences, and civic organizations.

Private companies are not officially expropriated, but are instead subject to hostile takeovers and smear campaigns from the region's de facto authorities. For instance, officials may spread false information that a private enterprise is bankrupt or faulty before seizing it.⁷¹ This has been especially true of property belonging to Ukrainian businessmen who oppose the Russian takeover. In one August 24 incident, “self-defense” henchmen blocked managers of the large Zaliv shipyard in Kerch from entering—supposedly at the request of the workers. The plant belongs to Ukrainian billionaire Konstantyn Zhevago, a member of parliament who supports the democratic changes in the country.⁷²

Russian authorities avoid taking part in these “nationalizations” directly, instead deeming property taken from the Ukrainian government to have been

67 Ibid., p. 4.

68 Ibid., p. 6.

69 “Russian Soldier Kills Ukrainian Officer in Crimea,” Unian Information Agency, April 7, 2014, <http://www.unian.info/politics/904792-russian-soldier-kills-ukrainian-officer-in-crimea.html>; Crimea Field Mission on Human Rights, *Brief Review of the Situation in Crimea*, April 2014, <http://helsinki.org.ua/index.php?id=1400849870>.

70 Monitored by the Black Sea News and Maidan of Foreign Affairs.

71 <http://www.sobytiya.info/public/14/44006> (in Russian).

72 “Zaliv Goes to Court,” *Tradewinds News*, September 18, 2014, <http://www.tradewindsnews.com/shipsales/344853/Zaliv-goes-to-court>.

transferred to the Republic of Crimea. Similarly, Russia's largest state-owned monopolies have not taken direct control of the expropriated enterprises in Crimea, fearing international sanctions. Instead, the occupation authorities created de facto government enterprises to assume control.

The concentration of a vast number of enterprises in the hands of the "Crimean authorities" has worrying economic implications. The authorities of autonomous Crimea have never run so many state businesses at once and have no pool of top state managers to draw from, because Russian personnel has been limited largely to military, law enforcement, and security agencies. This creates a serious management problem that will likely lead to a severe economic crisis in Crimea. The danger is compounded by the inability to attract private foreign investment to occupied Crimea. The expropriated businesses in Crimea have lost old markets and contracts and are in the process of switching to Russian legislation. They are kept afloat only by Russian bank loans that are allocated mostly for salaries.

Russia's approach to economic development in the occupied territory has been opportunistic and chaotic. Plans for the funding and construction of a bridge over the Kerch Strait change every few weeks. There is also a kaleidoscope of ideas on how to supply the peninsula with water, ranging from building desalinization plants to bringing it by tankers, to laying an underwater pipe network across the strait.

Russia will likely have to continue heavily subsidizing Crimea just to keep pensions and public employees' salaries at levels promised before the referendum. To do so, Moscow is already using national retirement savings funds, as well as the budget reserves of some regions of Russia, which increasingly fuels local irritation.⁷³

CONCLUSION

The Russian occupation and annexation of Crimea has unleashed an ongoing chain of human rights violations across the peninsula. The de facto government and so-called "self-defense" units have incapacitated Crimea's military and effectively cut off its citizens from the outside world. This approach has led to the detention and disappearance of dissenters, the persecution of ethnic and religious minorities, the stifling of the media, and the forced nationalization of Ukrainian state property. Many of these abuses are not widely known due to the effectiveness of the occupying forces' media crackdown and a Russian political narrative that masks the stark reality faced by the Crimean people.

73 http://www.ng.ru/economics/2014-06-26/1_pensii.html (in Russian); <http://www.newsru.com/finance/25jun2014/siluanovdenegnet.html> (in Russian); <http://inosmi.info/cctv-moskva-vkladyvaet-v-krym-milliardy-no-ne-vidit-blagodarnosti.html> (in Russian).

APPENDIX: TIMELINE OF THE ANNEXATION

February–March 2014

On February 20, as Vladislav Surkov, an aide to Russian President Vladimir Putin, visited Crimea, social networks reported that a column of armored fighting vehicles was seen leaving the Kazachya Bay, where the Marine Brigade of Russia's Black Sea fleet was based, and was headed toward Sevastopol. The following day Russian authorities said the move was intended to enhance protection of the fleet in light of the difficult political situation in Ukraine. Supposedly, the marines were to step up the protection of the Black Sea fleet military units in other parts of Crimea.

On February 23, the rally in Sevastopol illegally "elected" a so-called "People's Mayor" and on February 24, Russian armored vehicles blocked all entrances to Sevastopol.

On February 25, a Russian Black Sea fleet squadron that had just returned from the Sochi Olympics transported eleven thousand soldiers with assault weapons from Novorossiysk. In Sevastopol, Russian Black Sea fleet servicemen submitted lists of their family members in the event of evacuation. The Marine Brigade was put on high alert. Two military vehicles with Russian license plates and carrying special forces entered Yalta and settled in the Black Sea fleet's resort hotel.

On the night of February 26, a reconnaissance and sabotage group of Russia's airborne special forces arrived from Sevastopol in uniforms without insignia and seized the buildings of the Supreme Council and the Council of Ministers of Crimea in Simferopol. They raised Russian flags and erected barricades in front of the buildings.

On the morning of February 27, the Russian military set up checkpoints on the Isthmus of Perekop and the Chonhar peninsula, which connect Crimea and mainland Ukraine. The Cossacks, who had arrived in advance, guarded them together with the Russian military.

On February 28, at an emergency session of the occupied Crimean parliament, "Chairman" Vladimir Konstantinov instructed the Council of Ministers to ensure the rights and freedoms of Crimeans, and promote law enforcement and public safety by establishing bodies made up partly of former members of the Berkut special police units. These units had been disbanded in Kyiv during the Maidan protests in the winter of 2013/2014 for participating in shooting peaceful Maidan protesters. A vigorous campaign of organizing self-defense groups from ex-Berkut members, the military, veterans' organizations, Cossack organizations, criminal elements, and other Crimean residents, as well as volunteer Russian citizens, ensued.

On February 28, special military forces of the Russian Federation without insignia captured the Simferopol and Belbek (Sevastopol) airports. Eleven Russian MI-24 combat helicopters entered Crimean air space from Russia, and eight Russian IL-76 military-transport aircrafts landed on the Gvardeyskoye airfield in Simferopol. It was announced that planes would land every fifteen minutes without the consent or participation of the State Border

Service of Ukraine. Several dozen Russian-made armored vehicles, among which observers noticed Tigers (Tigr), and other types of equipment and weapons not previously seen at the units of the Russian fleet in Crimea, headed from Sevastopol and Gvardeyskoye in the direction of Simferopol. Unidentified armed men surrounded the State Border Service of Ukraine's Balaklava unit.

On March 1, two large landing ships of the Baltic Fleet, Kaliningrad and Minsk, arrived in Sevastopol harbor from Novorossiysk (Russia) with paratroopers and equipment on board.

On March 2, two large landing ships, Russian Northern Fleet's Olenegorsky Gornyak and Russian Baltic Fleet's Georgiy Pobedonosets, arrived in Sevastopol harbor from Novorossiysk with more paratroopers and equipment.

On March 3, the Russian military began a blockade of all Ukrainian military units and bases in Crimea that continued through March 25.

The commander of the Russian Black Sea Fleet, Admiral Alexander Vitko, ordered the Ukrainian military to surrender by 5 a.m. on March 26 or face attacks on all units and bases in Crimea. This ultimatum was delivered to all Ukrainian military personnel by Russian soldiers. A Russian Black Sea fleet missile boat blocked several exits from Sevastopol bays into the open sea for Ukrainian Border Service vessels, including the Balaklava Bay exit. The Moskva missile cruiser, missile boat Squall, and two other Russian missile boats blocked the Donuzlav Ukrainian naval base north of Yevpatoriia.

On March 4, at a press conference, Putin claimed local self-defense forces and not Russian troops were blockading Ukrainian army facilities.

On March 5, Russian officials continued to deny the presence of Russian servicemen in Crimea, including Defense Minister Sergei Shoigu.

On March 7, before the Russian military in Sevastopol began its assault on the Ukrainian Air Force's Crimea task group command, Cossacks rammed the gates of the base with heavy trucks. And on March 8, one hundred so-called "self-defense" troops equipped with automatic weapons, bulletproof vests, and portable radios arrived in three buses to the military registration and enlistment office in Simferopol and stationed machine-gunners on all the floors. This "self-defense" unit was led by a retired general who identified himself as an adviser to the Crimean government.



Annex 949

Human Rights Group Report (October 2015)



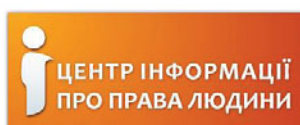
**CRIMEA
HUMAN RIGHTS
GROUP**

Monitoring review of the human rights situation in Crimea

October 2015

Crimean Human Rights Group

in collaboration with



Ukrainian
Helsinki
Human
Rights Union



Українська
Гельсінська
спілка
з прав людини

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1. INTRODUCTION

The monitoring review was prepared by the Crimean Human Rights Group and is based on the materials collected in October 2015.

The Crimean Human Rights Group (CHRG) is an initiative of representatives of human rights organizations, which aims to promote the observance and protection of human rights in Crimea through attracting wide attention to issues related to human rights and international humanitarian law in the territory of the Crimean peninsula.

The Crimean Human Rights Group commenced its work in August 2015.

In its activity the CHRG is guided, first of all, by the provisions of fundamental documents on human rights, namely the Universal Declaration of Human Rights, the Helsinki Final Act, the Convention on the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights etc.

The aims of the CHRG are as follows:

- 1) collection and analysis of information on the human rights situation in Crimea;
- 2) wide provision of information to authorities, international organizations, intergovernmental bodies, non-governmental organizations, the media and other target groups by publishing and disseminating the analytical and informational materials on the human rights situation in Crimea;
- 3) promotion of the protection of human rights and respect for international law in Crimea;
- 4) development of recommendations for the authorities and international organizations in the field of human rights;
- 5) ensuring the presence of the topic "human rights in Crimea" in the information space.

In preparation and dissemination of information the CHRG is guided by the principles of objectivity, reliability and timeliness.

2. CIVIL AND POLITICAL RIGHTS

RIGHT TO LIFE

TORTURE AND INHUMAN TREATMENT

In November 2014, in the Simferopol detention center an **inmate** died.

On October 6th, 2015, the investigation department of the Zheleznodorozhny district of Simferopol of the Main Investigation Department of the Investigative Committee of the Russian Federation in Crimea reported that it charged the officer of the Department of the Federal Service for the Execution of Sentences over the commission of an offense under Part 1 of Art. 286 of the Criminal Code of the RF (abuse of power)¹. The investigation believes that the accused officer knew that the person in the cell of the Detention Center-1 (Simferopol) had suffered injuries, which resulted in his death, but concealed the circumstances of these injuries. The officer shall be held in pretrial detention.

“According to investigators, in November 2014, the accused, knowing that the person in the cell of the detention center had suffered injuries, which resulted in his death, concealed the circumstances of these injuries”— the Investigation Department reported to the ‘Crimean truth’².

Earlier, the Crimean Field Mission on Human Rights has repeatedly reported³ that in the detention center in Simferopol the detainees suffer from tortures and bodily blows. Thus, a convicted Maidan activist Alexander Kostenko was systematically tortured at the detention center in Simferopol.

On October 23, a **43 year-old resident of Simferopol** jumped from the fifth floor window of the Department of the Ministry of Internal Affairs of the Simferopol district. The man died at the scene. The police explained the situation as follows. On October 22, the police dispatch center received a report about the theft of the car VAZ-2101. The police officers suspected the man, but did not name the grounds for suspicion. According to the police, they asked the man to come to the police station to give explanations on the fact of a theft. They reported that *“the man was in the fifth floor hallway of the building of DMIA and waited until he was asked to come in by the security officer, who at the time was in his office. The police officer did not observe the actions of the man. At the time, while the man was alone in the hallway, for unknown reasons, he jumped out of the window, which is not equipped with bars”⁴.*

The reasons which prompted the man to jump out of the window remain unclear. Of particular interest is the fact that the incident happened at 04:30 am, which is not the reception hour. The citizens are asked to come for questioning or provision of explanations during the working hours. This incident is under an internal check.

INVESTIGATION OF HIGH-PROFILE MURDER CASES

On October 10, the Main Investigation Department of the Investigative Committee in Crimea reported that in the forest belt of Simferopol district the body of **Bekir Nebiev** was found. He was suspected of

¹ <http://crim.sledcom.ru/news/item/974642/>

² <http://c-pravda.ru/news/2015/10/07/v-simferopole-rabotnik-sizo--skryl-ubijstvo-odnogo-iz-zaklyuchjonnykh>

³ <http://investigator.org.ua/news/150270/>

⁴ <https://82.mvd.ru/news/item/6659206/>

killing a nursing assistant and a paramedic at the ambulance station in Simferopol⁵. He was charged with an offense under subsection "a" of Part 2 of Art. 105 of the Criminal Code of the RF (murder of two or more persons).

The IC of the RF reported that the body was found by the children⁶, and a representative of the MIA of the RF Elena Alekseeva said that the body was found by the "road policeman"⁷. It should be noted that earlier in the area the search measures were taken in relation to the investigation of the attack on the ambulance station, but neither the suspect nor the instrument of crime was found.

Bekir Nebiev's body was identified by relatives. Later on October 26, the Senior Assistant to the Head of the Main Investigation Department of the Investigative Committee of the Russian Federation in Crimea Evgenya Belikova said that a forensic examination of the Bekir Nebiev's body will continue at least until mid-November⁸. She said that based on the results of the examination the final identification of the body will be carried out, and the time and cause of death will be determined.

However, despite the lack of results of the forensic medical examination, the IC of the RF in Crimea announced that one of the basic versions of the investigation is that it was suicide⁹. The relatives of Bekir Nebiev believe that the investigation will be biased and inefficient. This is also evidenced by the fact that in respect of Bekir Nebiev many media use the phrase "Simferopol shooter"¹⁰, despite the fact that his guilt at this point had not been proved and can only be determined by the court.

FORCED DISAPPEARANCES

A criminal case was opened on the disappearance of **Mukhtar Arislanov** for an offence under Part 1 of Art. 105 of the Criminal Code of the RF (murder)¹¹. Mukhtar Arislanov disappeared on August 27, 2015. The witnesses and relatives reported¹² that the disappearance is related to the acts of violence against him committed by persons in uniform, which resembled the law enforcement officers.

The CHRГ found out that in the Kherson region a pre-trial investigation into the murder of **Reshat Ametov**, born in 1975 is carried out for a criminal offense under Part 1 of Art. 115 of the Criminal Code of Ukraine (murder). Reshat Ametov was abducted on March 3, 2014 in Simferopol, and on March 15, his body was found with the signs of torture.

Also, in the Kherson region, a pre-trial investigation into the disappearance of **Eskender Apselyamov** is carried out for a criminal offense under Part 1 of Art. 115 of the Criminal Code of Ukraine (murder). Eskender Apselyamov went missing in Simferopol on October 3, 2014, and to date there is no information about his whereabouts.

⁵ <http://15minut.org/article/posle-strelby-na-stantsii-skoroj-v-simferopole-vozbudili-ugolovnoe-delo-2015-09-26-22-06-31>

⁶ <http://crim.sledcom.ru/news/item/975938/>

⁷ <http://tass.ru/proisshestiya/2335683>

⁸ <http://crimea.ria.ru/society/20151026/1101329136.html>

⁹ <http://crim.sledcom.ru/news/item/975938/>

¹⁰ <http://www.currenttime.tv/content/article/27299139.html> ; <http://ren.tv/novosti/2015-09-28/rasstrelyannyj-simferopolskim-strelkom-feldsher-vyshel-iz-komy> ; <http://www.tvc.ru/news/show/id/78316>

¹¹ http://crim.sledcom.ru/attention/missing_persons/item/963643/

¹² <http://www.pravda.com.ua/rus/news/2015/09/1/7079809/>

DETENTION

On the night of September 4 – 5, at the border with Crimea the Ukrainian military were detained: troopers of the 79th airmobile brigade the 25-year-old **Alexander Yurov**, 20-year-old **Alexander Orlenko** and the 39-year-old **Konstantin Mekshun**. The General Staff of the Armed Forces of Ukraine confirmed the disappearance of the military. The Speaker of the Presidential Administration of Ukraine for the military operation Andrey Lysenko said that the primary lead with regard to the disappearance of the Ukrainian soldiers is related to their unlawful detention and transportation to the territory of Crimea by the Russian military¹³. Later, the FSS of the RF reported that the Ukrainian military were detained on suspicion of illegal crossing of the border with the Russian Federation¹⁴. The Ukrainian military are in the Crimean city Armyansk.

On October 9, according to CHRGS's information, during the searches in the Plotinnoye village of Bakhchisarai district **nine people**, all of which are the **Crimean Tatars**, were arrested. The police reported that among the detainees there are the ex-convicts. They were taken to the IC of the RF in Crimea for additional check-up as part of the investigative activities related to the attack on the ambulance station on September 26.

On October 14, the police officers detained¹⁵ **three activists of the Ukrainian cultural center** during the laying of flowers in front of the monument to Bogdan Khmel'nitsky in Simferopol. The detained were taken to the Centre for Combating Extremism. One of the detainees, **Leonid Kuzmin**, said that they provided explanations, and officers of the Center demanded the data from their mobile phones. The activists were released two hours later; the protocol was not drawn up.

ARRESTS

On October 6, the Kiev District Court of Simferopol (judge Kuznetsova O.P.) decided on the detention for up to two months of the Chairman of the Mejlis of the Crimean Tatar people, people's deputy of Ukraine **Refat Chubarov**. The calculation of the period is determined by the court as of his extradition to the Russian Federation or the actual detention in Russia. The basis for such a decision was an appeal to the court of the Investigation Division of the Department of the Federal Security Service for Crimea and Sevastopol (**Annex 1**).

Earlier, Refat Chubarov was accused of committing a crime under Part 2 of Art. 280.1 of the Criminal Code of the RF, namely, public calls for action aimed at violating the territorial integrity of the Russian Federation committed with the use of mass media or electronic and information-telecommunication networks (including the Internet).

The court substantiated a decision on the detention as follows: the crime of which Refat Chubarov is accused is punishable with imprisonment for up to five years; the court finds that Refat Chubarov could

¹³ <http://www.segodnya.ua/regions/krym/ap-ozvuchil-glavnuyu-versiyu-ukrainskih-desantnikov-na-granice-s-krymom-pohitili-rossiyskie-voennye-647410.html>

¹⁴ <http://tass.ru/proisshestviya/2242919>

¹⁵ <http://blacksea.tv/news/nezakonnje-cveti-v-krimy-zaderali-aktivistov>

hide from the investigating authorities, threaten the witnesses, destroy the evidence; Refat Chubarov, in the court's opinion, is included in the federal and international wanted list.

However, the Chairman of the Mejlis is not included in the international wanted list, which is also declared by the lawyer appointed for the case. In the appeal, the lawyer stated that the reference to the fact that Refat Chubarov is in the wanted list is "tentative" (**Annex 2**). Moreover, earlier, on July 5, 2014, Refat Chubarov was denied the entry to the territory of the Russian Federation for 5 years, based on which the Russian authorities do not allow him to enter the territory of Crimea. Refat Chubarov is outside of Crimea and considers such actions a deliberate political persecution.

On July 2, a 36-year-old resident of Sevastopol **Yuri Ilchenko**, who, according to media reports, is accused of calling for the violation of the territorial integrity of the Russian Federation, was detained¹⁶. Currently, he is in the detention center in Simferopol. On September 23, the Simferopol court extended his detention for two months. Yuri's father, Gennady Ilchenko reported that the FSS investigator during the questioning showed him the records in which his son urged the Ukrainian authorities to expand the military might. These and other statements of Yuri Ilchenko are considered by the investigation as calls for the violation of the territorial integrity of the Russian Federation. The father Gennady Ilchenko also reported the procedural violations by the investigating authorities. The lawyer of Yuri Ilchenko, Yuri Berdnikov provided no comments on the case.

SEARCHES

In early October, in the Ak-Mechet and Fountains districts of Simferopol, the searches continued within the investigation into the attack on the ambulance station on September 26. The searches were conducted, according to witnesses, in some apartments and houses without the appropriate procedural documents.

On October 9, the OMON Special Forces performed the same actions in the Plotinnoye village of Bakhchisarai district. According to a witness Dilyaver Abduramanov, the search activities and searches were carried out since the early morning. During the searches, there were no witnesses and relevant court orders. The local residents reported that some Crimean Tatars were forcibly taken to fingerprinting.

Previously, in early April, in some Crimean villages and towns there have been massive searches and inspections, as reported in the survey of the Crimean Field Mission for April 2015¹⁷. In connection with these events, a complaint was submitted to the Presidential Council for Civil Society Institutions and Human Rights on the mass searches in Crimea during April 2 - 10 in the framework of strategic exercises "Barrier-2015" of the troops of the Russian Ministry of Internal Relations. The complaint indicated on the searches and inspections in the Zhuravki village of Kirov district, Yarkoe Shchelkovo, Lenino, Battalion, Semisotka, Vojkovo, Bagerovo villages, near Simferopol Fountains and in Saki.

The "strategic exercises" were carried out based on the same scenario: about 100-150 armed MIA officers: interior troops, district police, OMON, traffic police arrived to the village. On all the roads leading to or from the village, they mounted sandbags, and in some cases (in at least two villages) – machine guns, road blocks. The passing cars were asked to show the documents and inspected. In

¹⁶ <http://ru.krymr.com/content/article/27118233.html>

¹⁷ http://crimeahr.org/wp-content/uploads/2015/05/Crimea_Field_Mission_Review_April_2015_RU.pdf

some cases there was total inspection, in some - random. In case of random inspections the law enforcement officers' attention was drawn to the Crimean Tatars (**Annex 3**).

In October, the Crimean Human Rights Group received a response of the Chief Military Prosecutor's Office of the RF to its appeal (**Annex 4**). The Prosecutor's Office confirmed that the exercises were held, but the troops of the Ministry of Internal Affairs of the Russian Federation did not take part in the establishment of checkpoints, documents checking, search of premises and inspection of vehicles.

The Chief Military Prosecutor's Office believes that the information about the violations by officers of the Ministry of Internal Affairs of the Russian Federation during the exercises was not confirmed.

This appeal was also responded by the Prosecutor of Crimea Natalia Poklonskaya. She said that the exercises "Barrier-2015" were carried out according to the order of the MIA of the RF of February 27, 2015 #1/96c On the preparation and carrying out of the strategic exercises of the troops of the MIA of the RF "Barrier-2015". The Prosecutor, unlike the Chief Military Prosecutor's Office did not deny the participation of the MIA of the RF units in the activities related to the establishment of checkpoints, checking of documents, search of premises and inspection of vehicles. The Prosecutor said that the exercises were carried out with respect for human rights, and there is no reason for the Prosecutor's intervention (**Annex 5**).

However, according to the witnesses and Crimean Field Mission¹⁸ monitors, the exercises were carried out with numerous violations of the right to personal immunity and inviolability of the home, the local residents have been intimidated and because of that did not complain to the MIA and the Prosecutor's Office.

PROGRESS OF THE HIGH-PROFILE CRIMINAL CASES

Alexander Kostenko's case

In October, **Alexander Kostenko** was taken from the territory of Crimea and transferred to one of the prisons of the Russian Federation to serve his sentence. The mother and brother of Alexander Kostenko were not allowed to visit him before his transfer. The relatives were not informed in which prison Alexander was transferred. The officers of the Department of the Federal Service for the Execution of Sentences responded to mother's request that the relatives will be notified about the whereabouts of Alexander only after Alexander arrives in prison.

Earlier, on September 23, the lawyer Dmitry Sotnikov submitted to the Supreme Court of Crimea an appeal with regard to Alexander Kostenko's case on the abolition of prosecutorial decisions and the termination of criminal prosecution. On October 7, the criminal case was delivered to the Supreme Court of Crimea from the Kiev District Court in Simferopol. The lawyer noted that the question related to the receipt of the appeal shall be considered until November 23.

'May 3^d case'

On October 14, it became known that the Armyansk Court of Crimea postponed the hearing of **Tahir Smedlyayev** and **Eden Osmanov** cases, who were accused of the use of force against the law

¹⁸ <http://apostrophe.com.ua/news/society/2015-04-06/pravozaschitniki-zayavlyayut-o-massovyih-obyiskah-v-kryimu/20713>

enforcement officers during a meeting of the leader of the Crimean Tatars Mustafa Dzhemilev on May 3, 2014¹⁹. The court session was postponed because of the absence of one of the witnesses²⁰.

'February 26th case'

On October 10, one of the defendants in the 'February 26th case', the cameraman of the TV channel ATR **Eskender Nebiev** was placed into detention until the hearing. The reasons for the sudden decision on the detention were not explained.

The previous day, the body of his father Bekir Nebiyev suspected of committing the attack on the ambulance station and killing two people was found (*for details see section the Right to Life*).

Prior to that Eskender Nebiev was arrested on April 20, 2015 based on charges of involvement in the mass riot, which took place on February 26, 2014 at the Supreme Council of the Autonomous Republic of Crimea, and on April 22, the Kiev district court of Simferopol adopted a decision on the detention for two months. On June 18, Eskender Nebiev was released under surety of the Mufti of Muslims of Crimea Emirali Ablaev. On October 12, the Central District Court of Simferopol found Eskender Nebiev guilty of an offense under Part 2 of Art. 212 of the Criminal Code of the RF and sentenced him to 2 years and 6 months of imprisonment with the probation for 2 years. Nebiev agreed with the accusation, and after the announcement of the verdict, he was released in the courtroom²¹.

On October 14, with regard to the other defendant in the 'February 26th case' **Ali Asanov**, the court extended the detention until November 19. Ali Asanov was arrested on April 16, 2015. The defense filed an appeal against this decision and requested to replace the detention with a more lenient measure - house arrest or the recognizance not to leave. On October 26, the court of Simferopol rejected the appeal. The head of the Central Election Commission of Kurultay of the Crimean Tatar people Zair Smedlyaev said that the court did not consider the defense's argument that the decision of the Kiev District Court was made in violation of the Code of Criminal Procedure of the RF, and that Ali Asanov, having four young children, will not hide from investigation or the court²². The decision on the extension of the term of detention remains in force.

FREEDOM OF SPEECH AND EXPRESSION

In October, the Prosecutor General's Office limited the access to the websites of a number of news agencies, citing the fact that the information they publish contains the calls for extremist or other prohibited activity.

As of October 2, it became known that the Federal Service for Supervision of Communications, Information Technology Mass Communications (Roskomnadzor) restricted the access to the website of the **NA 'Center for Investigative Reporting'** at the request of the Prosecutor General's Office of the RF of September 30, 2015. The notification on the limitation of access to the information resource (**Annex 6**) states that the information "*on the information resource <http://investigator.org.ua> contains calls for riots, extremist activities or participation in mass (public) events held in violation of the established order*".²³

¹⁹ <http://obozrevatel.com/politics/38407-delo-3-maya-kak-indikator-polozheniya-kryimskih-tatar.htm>

²⁰ <http://www.sobytiya.info/news/15/56537>

²¹ <http://investigator.org.ua/news/165606/>

²² <http://ru.krymr.com/content/news/27327472.html>

²³ <http://investigator.org.ua/news/165046/>

Based on the decision of the Prosecutor General's Office of the RF, the access to the information resource <http://investigator.org.ua> is granted only to the communications service providers in the territory of the Russian Federation, which in turn are required, within one day as of the date of receipt of the notification to inform the <http://investigator.org.ua> of the requirement of the Prosecutor General's Office of the RF to without delay remove the information with the relevant calls.

As indicated in the notification, the resumption of access to the information resource shall be possible in the event of removal of such information and reinspection by the Federal Service for Supervision of Communications, Information Technology Mass Communications.

Also, on October 2, it was reported on the restriction of access to the website of the **IA Events of Crimea** at the request of the Prosecutor General's Office of the RF of September 30, 2015. The notification sent to the editorial board of the Events of Crimea stated that the information "*placed on the information resource contains calls for riots, extremist activities or participation in mass (public) events held in violation of the established order*".²⁴

On October 5, it was reported that Roskomnadzor blocked the access to the website of **BlackSeaNews** in Russia and Crimea at the request of the Prosecutor General's Office of the RF. The notification stated that the resource contained "*calls for riots, extremist activities or participation in mass (public) events held in violation of the established order*".²⁵

On October 2, in Armyansk, the journalist of the information channel **Armyansk.info** while performing professional activity was attacked²⁶ by the road workers, who used force and took away his camera. After an appeal to the police the camera was returned, but police officials did not arrest the attackers. The victim refused to appeal against the actions of the law enforcement agency.

In the City Court of Kerch, on October 19, the media representatives could not get to the session on the criminal case against the former mayor of Kerch Oleg Osadchy, who is accused of abuse of office (Part 2 of Art. 286 of the Criminal Code of the RF). The session was to take place openly, the judge Elena Kuzmina did not decide on a closed session. However, the representative of the Prosecutor's Office told the journalists that the session will be closed²⁷.

According to the CHRG sources in Crimea, the session was held in the office of a judge, which cannot contain more than 10 people. The journalists and the public were not allowed to attend the session due to the fact that there is not enough space in the office, and the seats are occupied by the Prosecutor's Office and the FSS officers. However, the journalists reported that at the time, the court room was free and there was no objective necessity to transfer the session to the judge's office. The journalists believe that in this way the court and the Prosecutor's Office ensured the closed trial and hindered the performance of journalistic activities.

The next day, on October 20, the chairman of the court session verbally announced the verdict for Oleg Osadchy as a fine of 200 thousand rubles. The accused was found guilty of committing a crime under Part 2 of Art. 286 of the Criminal Code of the RF (abuse of power committed by a person holding a public position or a public position of the subject of the Russian Federation, as well as the head of the local authority)²⁸. It should be noted that according to local journalists, with whom the CHRG monitors were able to communicate, the use of the judge's office instead of the courtroom to establish a closed process is not the first case.

²⁴ <http://www.sobytiya.info/news/15/56178>

²⁵ <http://investigator.org.ua/news/165234/>

²⁶ <http://armyansk.info/news/news-archive/121-2015/5159-zhurnalistov-dushat-za-reportazhi-o-blagoustrojstve-armyanska>

²⁷ <http://kerch.fm/2015/10/19/v-kerchi-proshel-sud-po-ugolovnomu-delu-osadchego.html>

²⁸ <http://crim.sledcom.ru/news/item/979280/>

On October 21, the **trade union of the news agency Voice of Crimea** established in Kiev a branch of the Committee of the Independent Media Trade Union of Ukraine. According to the Committee, the statutory meeting of the Crimean branch was held on October 16th²⁹. The organization includes 5 journalists from the Voice of Crimea agency. The main purpose of the branch is to ensure the journalists' access to professional legal protection if required.

FREEDOM OF ASSOCIATION

On September 16, the State Council of Crimea adopted a Law On the organization and implementation of public control in the territory of the Republic of Crimea³⁰. Article 4 of this Law refers to the **subjects of public control** in Crimea the Public Chamber of Crimea, the community councils of municipalities, community councils at the government authorities of Crimea. According to the practical application, only the public associations registered as legal entities according to the provisions of the Russian legislation can become members of such subjects.

Thus, the associations without legal registration (including those acting in the territory of Crimea until March 2014, which did not undergo the re-registration) are deprived of the opportunity to be the subjects of public control. However, according to the legislation of the Russian Federation, the public associations have the right to carry out their activities without legal registration.

In addition, Article 4 of the Law states that in order to implement the public control in cases and under the procedure established by the legislation of the Russian Federation the 1) public monitoring commissions; 2) public inspections; 3) public control groups; 4) other organizational structures of public control may be established.

Thus, the Law envisages the establishment of the public monitoring commissions in Crimea. However, Part 2 of Article 10 of the Federal Law of the RF On public control over ensuring human rights in places of forced detention and provision of assistance to persons in places of detention³¹ states that the right to nominate the candidates for the Public Monitoring Commission belongs to a nationwide, inter-regional or regional public association with the state registration, which carries out its activity for **at least five years as of the date of its establishment**, and the statutory purpose or the activity of which is the protection or promotion of human and civil rights and freedoms.

Thus, the public associations of Crimea cannot establish public monitoring commissions, because the maximum duration of their activities as of the date of registration under the legislation of the Russian Federation is two years. This, in turn, denies the opportunity for the associations to exercise public control over the activity of penitentiary authorities and monitor the situation of persons in detention in Crimea.

It should be recalled that until March 2014, in Crimea the Law On the Commissioner for Human Rights of the Verkhovna Rada of Ukraine, which ensured the work for the National Preventive Mechanism³² (NPM) on the model of 'Ombudsman +' (representatives of NGOs and civil society monitors) as the round-the-clock and unimpeded access to all the detention centers in the territory of Crimea. The NPM

²⁹ <http://nmpu.org.ua/2015/10/zhurnalisty-z-krymu-stvoryly-u-kyjevi-profspilkovyj-oseredok-nmpu/>

³⁰ <http://crimea.gov.ru/textdoc/ru/7/act/145z.pdf>

³¹ <http://ombudsman74.ru/xcat/499>

³² <http://npm.org.ua/>

operates in Ukraine since 2012 under the Optional Protocol³³ to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was ratified by Ukraine in 2006.

FREEDOM OF PEACEFUL ASSEMBLY

On October 14, the police officers in Simferopol detained three activists of the Ukrainian cultural center, including **Leonid Kuzmin**, who were laying flowers in front of the monument to Bogdan Khmelnytsky in Simferopol³⁴. The three detainees were brought to the local Centre for Combating Extremism for questioning without drawing up a protocol. It is important to note that this is not the first case of detention³⁵ of the Ukrainian activists during the laying of flowers in front of the monuments to the public and government figures of Ukraine in Crimea.

It should be noted that on September 16, the Article 2 of the Law On ensuring the conditions for the exercise by the citizens of the Russian Federation of the right to hold meetings, rallies, demonstrations and pickets in the Republic of Crimea was amended³⁶. The amendments specify that in case if the deadline for submission of notification of holding the public event fully coincides with non-working days (holidays), the notification may be submitted on the last business day preceding the non-working days (holidays). In practice, this provision leads to a reduction of the time limit envisaged for submission of notifications on holding a peaceful assembly. Moreover, the availability of the notification and authorization procedure is a significant restriction on the freedom of assembly.

FREEDOM OF CONSCIENCE AND RELIGION

The Head of the Committee of the State Council of Crimea on Culture and Cultural Heritage Svetlana Savchenko announced that by the end of the year a draft law On the freedom of conscience and religion will be introduced. The draft law is aimed at regulating the religious worship and the establishment of certain limits for rites and ceremonies, as well as the regulation of the activities of religious associations on the territory of Crimea. She also stressed that the draft law would "terminate the activities of the banned extremist organizations in the Crimean peninsula"³⁷.

The draft law imposes a risk of restricting the freedom of conscience and religion by fixing a number of formal requirements for religious groups. One of the requirements refers to the registration of the religious community and the undergoing of the applicable "extremist" expertise. Many representatives of the religious communities are concerned that the draft law is aimed at strengthening the local authorities' control in the sphere of religion and conscience.

The strengthening of local authorities' control in the sphere of freedom of conscience and religion is demonstrated by the establishment of the Interagency Commission on Combating Extremism in Crimea. The Commission was established on October 7 by the Order of Sergei Aksenov³⁸. The Commission consists mainly of representatives of the law enforcement agencies. One of the directions

³³ http://www.un.org/ru/documents/decl_conv/conventions/torture_prot.shtml

³⁴ <http://ru.krymr.com/content/news/27307324.html>

³⁵ <http://investigator.org.ua/news/166922/>

³⁶ <http://crimea.gov.ru/textdoc/ru/7/act/148z.pdf>

³⁷ http://crimea.gov.ru/news/29_09_15

³⁸ http://rk.gov.ru/rus/file/pub/pub_262176.pdf

of its work is to monitor the activities of religious communities from the point of view of "combating extremism".

CASE OF SENTSOV, KOLCHENKO, AFANASYEV, CHIRNIY

Gennady Afanasyev, one of the defendants in the Sentsov-Kolchenko case, who was sentenced to seven years in prison, was transferred to a penal colony #25 of the Republic of Komi, Syktyvkar. In court, during the trial on Oleg Sentsov and Alexander Kolchenko's case he withdrew his testimony, explaining that it was given under torture. The lawyer Alexander Popkov said that in Syktyvkar Gennady Afanasyev was placed in a punishment cell, he, as his lawyer, was not notified of the transfer of Gennady Afanasyev.

On October 16, the representatives of the Public Oversight Commission (POC) visited Gennady Afanasyev in prison and reported that he was placed in a punishment cell, according to the prison's staff, because he carried the blades. Gennady Afanasyev and his lawyer insist that the blades were planted with the aim to put him in more stringent conditions of imprisonment. A POC member Igor Sazhin visited the prisoner and said that Gennady Afanasyev was brought in Syktyvkar on October 8 and at first he was put in Detention Center-2³⁹. Gennady's mother Olga Afanasyeva said⁴⁰ that the prison administration intends to keep Gennady in stringent conditions of imprisonment, which assume the maximum restrictions in the penal colony.

FREEDOM OF MOVEMENT AND MOVEMENT THROUGH THE CHECK POINTS

In the previous monitoring reviews of the Crimean Field Mission⁴¹ the cases of arbitrary detention and search of personal belongings by the border guards of the Russian Federation have been widely reported. In most cases, these actions were carried out against the activists permanently residing in Crimea, but often traveling outside of Crimea. The activists were arrested for several hours without explanation, were interviewed, and in some cases were required to show the data of the mobile phone (SMS messages, phone book of contacts). During the search of personal belongings there were no witnesses, the rights were not explained, it was prohibited to use a mobile phone, the protocols of arrest or inspection were not drawn up.

On October 31, the activist **Leonid Kuzmin** reported⁴² that he was arrested at the Ukrainian checkpoint by the officers of the Border Guard Service of Ukraine at the entrance to Crimea. After he was released, the protocol, according to Leonid Kuzmin, was not drawn up.

MONITORING OF HUMAN RIGHTS DURING THE "CIVIL BLOCKADE OF CRIMEA"

As of September 20, there is a "Civil Blockade of Crimea" organized by the people's deputy of Ukraine, leader of the Crimean Tatar people Mustafa Dzhemilev, people's deputy, Chairman of the Majlis of the Crimean Tatar people Refat Chubarov and Lenur Islyamov, the Vice President of the World Congress of Crimean Tatars, the owner of the TV channel ATR⁴³. The blockade takes place at the three points of

³⁹ <http://zona.media/news/lezviya-shizo/>

⁴⁰ <http://www.ukrinform.ru/rubric-community/1911875-politzaklyuchennogo-afanaseva-perevodyat-v-polnuyu-izolyatsiyu-mat.html>

⁴¹ <http://crimeahr.org/category/monitoring/>

⁴² <http://www.sobytiya.info/news/15/57069>

⁴³ <https://www.youtube.com/watch?v=RBS9FgXCBtg>

entry and exit to Crimea: Chongar, Kalanchak and Chaplynka. The blockade involves the military unit Pravy Sector and other.

Given the fact that after the start of the blockade the CHRГ regularly receives complaints about the unlawful actions of the protesters, the CHRГ continuously monitors the observance of human rights during the blockade. The monitoring also includes the travels by the CHRГ, in particular, on October 6, Olga Skrypnyk and Vissarion Aseev visited Chongar with the aim to perform monitoring. Currently, the following issues and violations were identified.

1. **Establishment of unlawful checkpoints.** At all three points on the highways the protesters installed the improvised roadblocks (**Annex 7**). The checkpoints are placed in public areas and impede the movement of not only trucks, but of all vehicles without exception, and are used to stop the vehicles. According to the provisions of the Ukrainian legislation, the protesters have no authority and permits for the installation of such roadblocks. It is also contrary to the format of the blockade announced by the organizers when it was reported that "the movement of people and cars will be unobstructed"⁴⁴.

2. **Unlawful checks of identity documents and inspection of vehicles.** A persistent problem is the unlawful checking of identity documents and inspection of vehicles. This is constantly reported by the drivers of motor vehicles, and it was also confirmed by the representatives of the CHRГ, who spent 40 minutes in Chongar and during that time about 20 cars were stopped by members of the Pravy Sector, Azov and other military units (**Annex 8**) acting with the consent of organizers of the blockade.

Both the cars on their way to and from Crimea were stopped. When the car was stopped, the representatives of the military units inspected it, mainly the car trunk. In some cases, they asked the passengers to show the identity documents. Passport documents were also required from the representatives of the CHRГ.

The human rights activists refused to show their documents, arguing that such a requirement by the participants of the blockade is unlawful. After such refusal the human rights activists were taken to the leaders of the military groups in order to "determine their identity".

In addition, the representatives of the military units began to use the so-called "**separatists list**" - a list of the personal data of a number of persons who, according to the military units are "separatists or their accomplices". These lists are printed on the A4-size sheets using a printer, with a volume of about 10 sheets. The representatives of the military units are asking the men going to or from Crimea to tell their names and surnames, and then verify them according to the lists.

These actions of the military units constitute an interference with the right to liberty and personal immunity and violate the legislation of Ukraine, as the documents checkup and the inspections of private vehicles can be carried out only by representatives of the relevant government authorities, presenting a legitimate reason for this. There are cases where such actions take place in the presence of the police officers. In some cases, if the driver refused to show the documents to unidentified persons, the protesters involved the police.

3. **Risks to the safety of passengers and pedestrians.** Some representatives of the military units carry firearms or side arms⁴⁵ (**Annex 9**). It is not possible to determine whether these people have a permit to carry a weapon. The behavior of many representatives of the military units, both according to passengers, drivers and the CHRГ is often aggressive. In the course of communication with the CHRГ human rights activists many protesters mentioned the previous combat experience gained in the ATO

⁴⁴ <http://gordonua.com/news/crimea/CHubarov-Blokada-Kryma-nachnetsya-v-1200-20-sentyabrya-98084.html>

⁴⁵ <http://ru.krymr.mobi/a/27332084.html>

area. This situation creates the risks of the use of violence by such groups in the event of a conflict with the driver or a pedestrian.

According to the response of the Investigation Department of the National Police in the Kherson region, three cases of unlawful handling of arms were entered in the Unified register of pre-trial investigations (Art. 263 of the Criminal Code of Ukraine) (**Annex 11**).

Also, the CHRГ representatives noted that during their stay at Chongar (in the evening after 18.00) at the checkpoint and the headquarters of the blockade there were the representatives of the military units as well as Lenur Islyamov, one of the organizers of the blockade. The law enforcement officers in charge of maintaining the public order and authorized to prevent possible violence were not present at Chongar at the time.

A special danger to passengers, drivers and participants of the blockade is related to the blow-up of the power supply utilities in the areas of the blockade. Thus, on October 6, the deputy chief of the Department of the Ministry of Internal Affairs in the Kherson region Ilya Kiva reported that at night, the unidentified persons blew up the high voltage transmission tower supplying the electricity to Crimea. The investigative group, the representatives of the Department of the Ministry of Emergency Situations, the MIA battalion Kherson arrived at the scene⁴⁶. On October 20, at night, near Chongar, the unidentified persons blew up two transmission towers, which also supplied electricity to Crimea. According to MIA, the explosions were carried out through the use of mines, two of which malfunctioned and were subsequently deactivated by pyrotechnic experts⁴⁷.

4. Cases of unlawful deprivation of liberty. On October 6, the CHRГ human rights activists found out that according to one of the organizers of the blockade Lenur Islyamov, at night on October 5, the protesters detained two men who, according to them, carried drugs and explosives. The Pravy Sector in social networks confirmed that they arrested two men, namely **Kozoriz Nikolay Ivanovich** and **Karfut Sergei Lyubomirovich**⁴⁸ (**Annex 10**).

The human rights activists reported that the protesters should have transferred the detainees to the law enforcement authorities, but this was not done. In this regard, the representatives of the CHRГ submitted an application to the police requiring to deal with the situation and in the case of unlawful detention of people - to take appropriate legal action (the application was received by Lieutenant Romanchuk D.S.). After that, the police arrived at Chongar and took away the detainees.

Later it became known that with regard to this fact the criminal proceedings were initiated. The Investigation Department of the National Police in the Kherson region reported the following.

On October 5, around 17:00 at the 108 km of the Kherson-Armyansk road, the unidentified persons unlawfully stopped the car Gazel and openly took possession of the silver chain and amulet of Kozoriz N.I. On October 8, the Investigation Department of the Kalanchak RD of the Department of MIA registered the criminal proceedings on the grounds of a criminal offense under Part 2 of Article 186 of the Criminal Code of Ukraine (robbery). The pre-trial investigation is ongoing (**Annex 11**).

Another case is related to the detention at Kalanchak of the Crimean resident **Rostislav Stetsenko**. He was detained by the representatives of the civil unit Azov due to the fact that he had a Russian passport issued in Crimea. The relevant video was posted by the representatives of Azov⁴⁹. The video

⁴⁶ <http://www.unian.net/society/1143912-neizvestnyie-povredili-vyisokovoltnuyu-oporu-dlya-podachi-elektroenergii-v-kryim-foto.html>

⁴⁷ <http://www.unian.net/society/1157295-vozle-chongara-neizvestnyie-vzorvali-dve-elektrooporyi-podayuschie-elektrichestvo-v-kryim.html>

⁴⁸ <https://www.facebook.com/ostap.bender.35574/posts/1657122794564063>

⁴⁹ <https://www.youtube.com/watch?v=QsuSjffK8e0>

depicts the face of the detainee with the signs of beatings and blood. He was not transferred to the law enforcement agency. Rostislav, after his release, said that he experienced great difficulty in returning home to Kerch, and that the representatives of the military unit used violence against him, caused bodily harm and threatened with sexual violence. There is no information on the investigation of the fact of unlawful actions of the protesters.

The Ukrainian legislation requires that in the case of detention of a person by civilians such person should be immediately delivered to an authorized officer or the authorized officer should be immediately informed of the detention and whereabouts of the person. The grounds for such detention may only be a reasonable suspicion of commission of a criminal offense. Thus, the actions of the military units may have the signs of a criminal offense - unlawful detention.

5. Breakage and seizure of property. The car drivers complained about the damage caused to their cars by the protesters. Thus, **Andrey Krutsenko** reported⁵⁰ that the representatives of the military units smashed the windows of his car because he refused to unload the vegetables he bought (**Annex 12**). He submitted an application to the police. Andrey Krutsenko also reported that he had met with the representatives of the headquarters of the blockade who promised to compensate the losses incurred.

In addition, the drivers reported that the representatives of the military units demanded to throw away the purchased food products (fruits and vegetables), if the car was on its way to Crimea. In some cases, the drivers, in order to avoid the conflict with the military units, were forced to get rid of food products at the checkpoints of the blockade.

There were cases when the protesters forced the drivers or the passengers to dispose of the purchased goods. Thus, on October 11, at the checkpoint in Kalanchak, the protesters stopped the car with a man and woman who were going back to Crimea from a music festival in Europe. The protesters found alcoholic beverages in the car, which were purchased in Europe. The representatives of the military unit seized alcoholic beverages and destroyed them⁵¹ (**Annex 13**).

On October 18, according to the CHRG information, the Crimean Archbishop Clement said that at the point of exit from Crimea he was stopped at the two checkpoints of the blockade. During the inspection the goods, which he carried with him as a gift were seized.

Currently, the CHRG is informed of the pre-trial investigation conducted with regard to three cases of property damage (Article 194 of the Criminal Code of Ukraine) (**Annex 11**).

6. Interference with the activity of the human rights activists. The representatives of the Crimean Human Rights Group performed the recording of the unlawful actions of the blockade participants (inspections of the private vehicles). However, the representatives of the Pravy Sector rudely forbade the members of the CHRG to do so and to be present at the checkpoint (despite the fact that it is a public place), threatened and behaved aggressively.

The Investigation Department of the National Police in the Kherson region reported that during the "blockade" of Crimea the regional police registered 186 incidents, of which 38 were entered into the Unified register of pre-trial investigations.

These incidents include elements of the following criminal offenses: 1 - under Part 2 of Article 186 of the Criminal Code of Ukraine (robbery), 2 - under Article 279 of the Criminal Code of Ukraine (the blocking of transport communications), 3 - under Article 263 of the Criminal Code of Ukraine (unlawful handling of weapons), 10 - under Article 258 of the Criminal Code of Ukraine (forgery of documents, stamps, seals), 1 - Article 125 of the Criminal Code of Ukraine (minor injuries), 3 - under Article 194 of

⁵⁰ <http://hromadskeradio.org/2015/10/07/na-blokpostu-produktovoyi-blokady-v-moyiy-mashyni-pobyly-vikna-vodiy>

⁵¹ https://www.facebook.com/permalink.php?story_fbid=532392276916814&id=527496024073106&__mref=message_bubble

the Criminal Code of Ukraine (destruction of property), 2 - under Article 205 of the Criminal Code of Ukraine (fictitious business). The Kherson police did not inform on the number of persons prosecuted (**Annex 11**).

It should also be noted that the Assistant to the Chairman of the State Border Guard Service of Ukraine Oleh Slobodian reported that the passenger and traffic flow at the points of entry and exit to Crimea decreased twice during the "blockade of Crimea". This refers not only to trucks carrying commercial goods, but also to other passenger flows⁵².

ISSUES RELATED TO CITIZENSHIP

Currently, for the residents of Crimea it still remains unclear whether they should, as of January 1, 2016, within 60 days notify the Federal Migration Service (FMS) on their other citizenship. This applies to the vast majority of the residents of Crimea, as they have Ukrainian citizenship.

According to Part 5 of Article 6 of the Federal Law of June 4, 2014 #142-FZ On the introduction of amendments to Articles 6 and 30 of the Federal Law On citizenship of the Russian Federation, the residents of Crimea according to the Federal Law of May 31, 2002 #62-FZ On citizenship of the Russian Federation, as of January 1, 2016 should submit a notification in case they have another citizenship in the case its acquiring. However, according to other legal regulations of the Russian Federation the residents of Crimea did not acquire the citizenship of Ukraine, they automatically became the citizens of Ukraine.

Because of this contradiction, it remains unclear whether the residents of Crimea are required to notify of their Ukrainian citizenship. The Department of FMS of Crimea placed a clarification on this issue on the website of the FMS of Crimea. It states "*as of January 1, 2016, the residents of Crimea should submit a notification of other citizenship if they have or re-acquire the citizenship of a foreign state, for example, of Armenia, the USA, Germany and other. If the resident of Crimea acquired the citizenship of the Russian Federation in accordance with the Federal Constitutional Law 6 being a stateless person, and subsequently acquired the citizenship of Ukraine, it is also necessary, within 60 days, to notify the Federal Migration Service of Russia*"⁵³. It should be noted that on the website of the FMS of Sevastopol the similar requirement is lacking and there is a direct indication of the need to notify of a second citizenship by the residents of Sevastopol. Thus, there is still no clear position on the matter.

On October 13, the Department of FMS of Crimea reported that foreign citizens that received in 2014 a residence permit in Crimea valid until the end of 2015 according to the Federal Law of 25.07.2002 #115-FZ On the legal status of foreign citizens in the Russian Federation should submit to the FMS of Russia the notification of confirmation of their residence in the Russian Federation⁵⁴. This provision primarily concerns the citizens of Ukraine, permanently residing in Crimea who renounced the Russian citizenship. In case of violation of this obligation by the foreign citizen, he will be brought to administrative responsibility.

In addition to the notification, the "temporarily residing foreign citizens" should also submit an income statement, a copy of a tax declaration or other document confirming the amount and source of income of a foreign citizen. This requirement for many residents of Crimea, who did not acquire the Russian citizenship, is quite difficult to fulfill as without the Russian passport in Crimea it is extremely difficult to find a job.

Furthermore, in accordance with Article 11 of the Federal Law of 25.07.2002 #115-FZ On the legal status of foreign citizens in the Russian Federation, the temporarily residing in the Russian Federation

⁵² <http://www.depo.ua/rus/life/cherez-blokadu-pasazhirskiy-potik-v-krim-zmenshivsiya-advichi-08102015154000>

⁵³ http://www.92fmsgov.ru/?page_id=10212

⁵⁴ http://www.92fmsgov.ru/?page_id=10080

foreign citizen is not entitled to voluntarily change the place of residence within the subject of the Russian Federation on the territory of which he is allowed to temporarily reside, or to choose the place of residence outside the specified subject of the Russian Federation. Such a provision significantly restricts the right to choose the place of residence.

On October 29, the so-called grace period of stay of the foreign citizens in Crimea, first of all of the citizens of Ukraine who renounced the Russian citizenship expired. Under the Russian legislation, such persons are obliged to leave Crimea for at least 180 days.

It is extremely difficult to obtain a temporary residence permit or a work patent in Crimea. The issuance of the work patent or employment, given the availability of a work patent, is complicated by the fact that the citizens of Ukraine, which have the work patent, are denied employment as the tax and other statements in case of employment of such a person are much more difficult than of a person with a Russian passport.

As a result such provision leads to the fact that persons who permanently resided in Crimea, but refused to obtain the Russian citizenship and have not been able to obtain a temporary residence permit are threatened with deportation from the territory of Crimea, or are forced to leave Crimea for 180 days, leaving their families and property.

For example, in one of the families in Kerch the woman was able to obtain a temporary residence permit, and her husband was not. The man was informed that in that case he was obliged to leave Crimea for 180 days. Subsequently, the man applied to the Chief of the Federal Migration Service and obtained a permit for temporary residence.

A separate provision is envisaged for Ukrainian citizens who moved to Crimea from Ukraine, where currently there is a military conflict. For these individuals the extension of stay is provided. However, there is no clear definition of specific areas of Ukraine, from which a person was displaced, so this provision is difficult to apply in practice.

For example, a citizen of Ukraine has registered residence in the Maryinka village of Donetsk region. According to the maps of the area of the military conflict, this village is on the frontline. However, the FMS replied that this settlement is not included in the FMS list of settlements of Donbas. Thus, the man will have to leave Crimea for 180 days, but he cannot return to the previous place of residence, since there are continuing hostilities.

The review was prepared by:

Olga Skrypnik, coordinator of the analytical activity of the Crimean Human Rights Group;

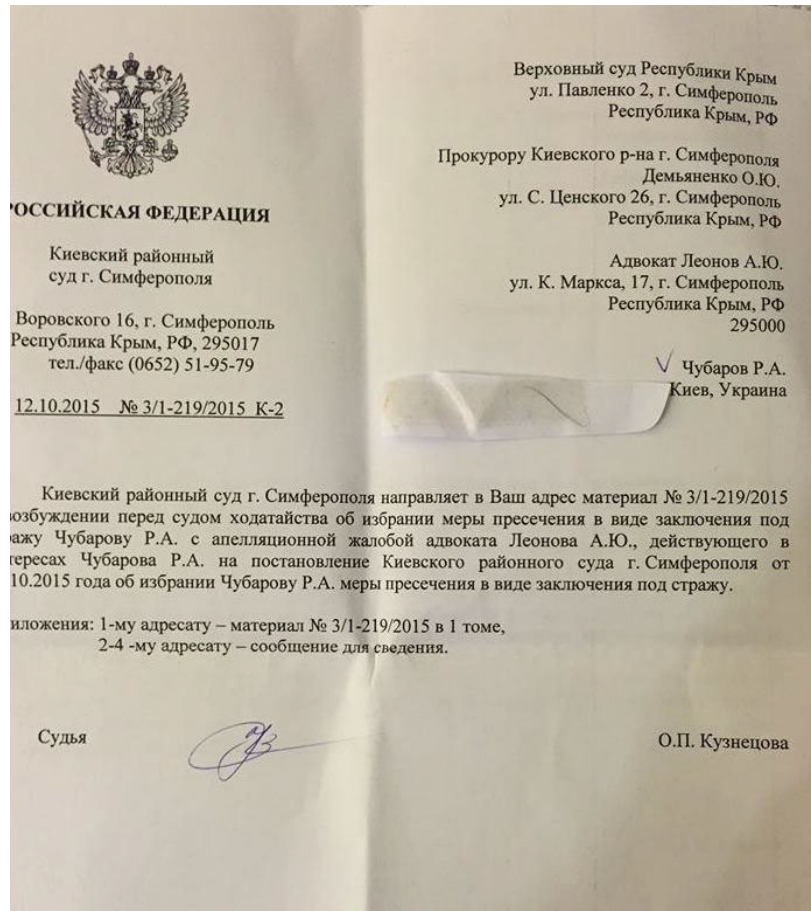
Vissarion Aseev, coordinator of the monitoring activity of the Crimean Human Rights Group;

Dariia Sviridova lawyer, Ukrainian Helsinki Human Rights Union;

Tetiana Pechonchyk, coordinator of the advocacy activity of the Crimean Human Rights Group, Human Rights Information Centre.

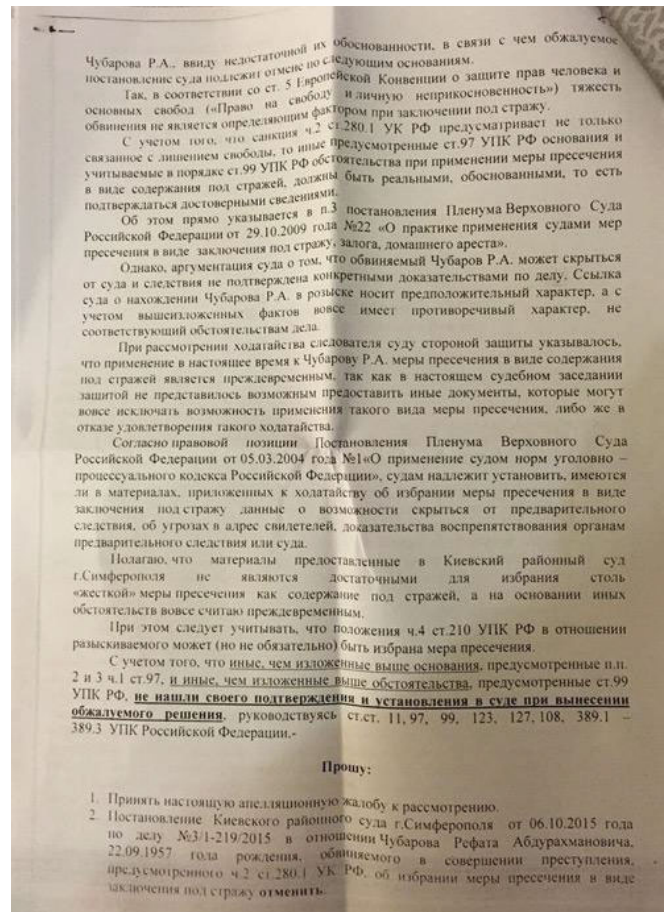
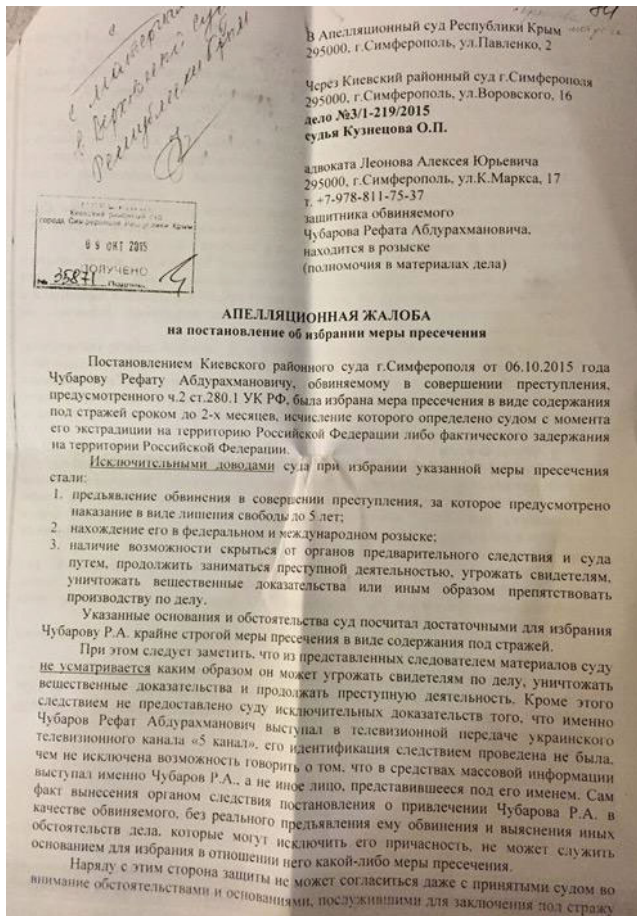
ANNEXES

Annex 1



Notification of the decision on the detention of the Chairman of the Majlis, people's deputy of Ukraine Refat Chubarov

Annex 2



Appeal against the decision with respect to Refat Chubarov

Annex 3

Председателю Совета при Президенте Российской Федерации по развитию гражданского общества и правам человека
Федотову М.А.

Уважаемый Михаил Александрович!

В рабочую группу по правам человека в Крыму Совета при Президенте Российской Федерации по развитию гражданского общества и правам человека поступило и рассмотрено обращение о массовых обысках в отдельных населенных пунктах Крыма в первой половине апреля сего года и нарушениях прав человека, сопровождавших эти события.

Речь идет о мероприятиях, которые прошли на территории Крыма со 2 по 10 апреля в рамках оперативно-стратегических учений "Заслон-2015" внутренних войск МВД РФ.

Определенное беспокойство вызывает то обстоятельство, что учения затронули населенные пункты с преимущественно крымскотатарским населением.

Так в поселке Журавки, Кировского района, в котором проживает около 500 крымских татар 2 апреля в 9:00 были выставлены блок-посты на всех трех дорогах, ведущих в село (со стороны Первомайского, Кировского и Приветного). Сотрудники ГАИ и ОМОНа на блокпостах останавливали все проезжающие машины, у пассажиров проверяли документы. Имеются свидетельства "дифференцированного подхода": у людей славянской внешности только проверяли документы, а крымских татар сопровождали до дома и проводили там так называемые "осмотры" (по сути, обыски в жилище). В общей сложности, в поселке находилось 5 автобусов, 10 легковых полицейских машин и 5 УАЗов. Все они были наполнены с людьми с автоматами, собаками и ОМОНОм. Над поселком летали вертолеты. Полноценные обыски прошли как минимум в 10 домах. По крайней мере, в двух из них изъяли системные блоки компьютеров. Помимо частных домов были обысканы какое-то количество публичных мест — например, спортивный зал, магазины. Все эти действия продолжались примерно до 14:00. При этом никаких объяснений цели и оснований происходящего жителям не давалось.

Подобные действия, включая обыски примерно в 10 домах, прошли также 3 апреля в поселке Яркое поле примерно с 9:00 до 13:30.

Сообщения об аналогичных мероприятиях поступили также из поселков Щелково, Ленино, Батальонное, Семисотка, Войково, Багерovo, в районе Симферополя Фонтаны и в Саках. В этих населенных пунктах «учения» проходили по одному и тому же сценарию. В поселок приезжали около 100-150 сотрудников МВД: военнослужащие внутренних войск, участковые, сотрудники ОМОН, ГИБДД, все они были вооружены. На всех дорогах, ведущих в поселок или из поселка, устанавливались мешки с песком, в некоторых случаях (как минимум, в двух поселках) — пулеметы, автозаградители. У проезжающих машин проверялись документы, проводился досмотр. В некоторых случаях — сплошная проверка, в некоторых — выборочная. В случае выборочной проверки особое внимание правоохранителей привлекали крымские татары.

Жители населенных пунктов Крыма отмечают, что они не были оповещены об «учениях», и узнали о том, что проводимые мероприятия являются учениями лишь из сообщений прессы после начала «учений».

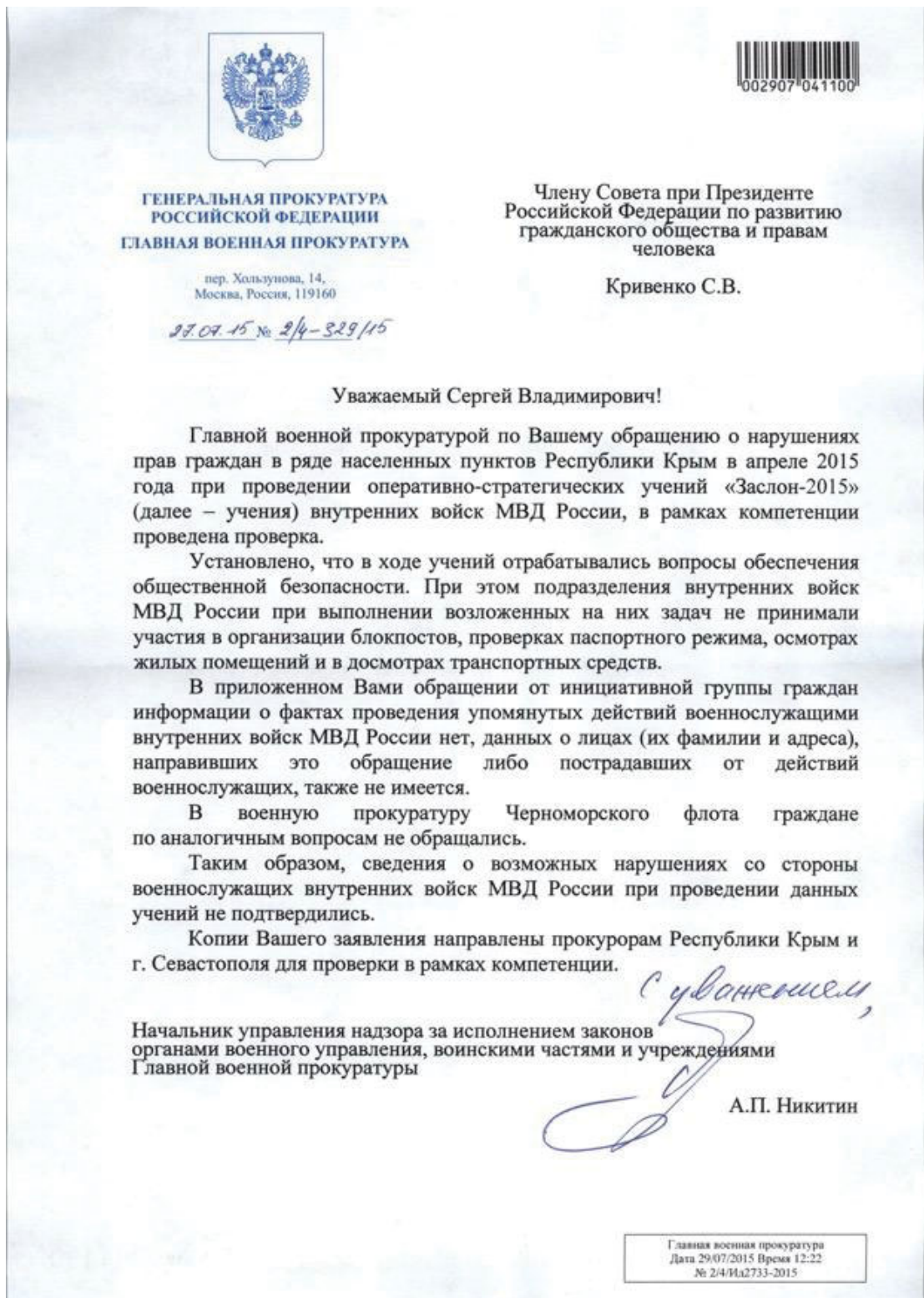
Представляется, что «учения», проводимые подобным образом, не создают у граждан ощущения безопасности, а напротив, способствуют нагнетанию напряженности, страха и чувства незащищенности, что в итоге может привести к обострению межнациональных отношений и роста недоверия граждан к властям Российской Федерации.

Прошу Вас направить обращение в профильные органы государственной власти Российской Федерации с целью прояснить правовой статус данных учений и провести проверку правомерности и обоснованности действий сотрудников органов внутренних дел и военнослужащих внутренних войск при проведении данных учений на территории Крыма.

С уважением,


член Совета при Президенте России по развитию гражданского общества и правам человека
Кривенко С.В.

An appeal to the Presidential Council for Civil Society Institutions Development and Human Rights on the massive searches in Crimea on April 2 – 10, in the framework of strategic exercises "Barrier-2015" of the Russian MIA troops




The answer of the Chief Military Prosecutor's Office of the Russian Federation to the appeal to the Presidential Council for Civil Society Institutions Development and Human Rights on the massive

searches in Crimea on April 2 – 10, in the framework of strategic exercises “Barrier-2015” of the Russian MIA troops



ПРОКУРАТУРА
РОССИЙСКОЙ ФЕДЕРАЦИИ
ПРОКУРАТУРА
РЕСПУБЛИКИ КРЫМ
ПРОКУРАТУРА
РЕСПУБЛИКИ КРИМ
КЪЫРЫМ ДЖУМХУРИЯТИНИНЬ
ПРОКУРАТУРАСЫ
ул. Севастопольская, 21,
г. Симферополь, 295015



56647
09.09.2015 17:48
2 100030 01569 7

Советнику Президента
Российской Федерации,
председателю Совета при Президенте
Российской Федерации
по развитию гражданского общества и
правам человека

Федотову М.А.

Исх. № 15/3-7209-2015
А-4-9-1202 от 25.06.2015

На № _____
(Подпись)

Уважаемый Михаил Александрович!

Прокуратурой Республики Крым рассмотрено Ваше обращение об информировании Совета о законности проведения оперативно-стратегических учений «Заслон-2015», в связи с поступлением обращения члена Совета при Президенте Российской Федерации по развитию гражданского общества и правам человека Кривенко С.В. о нарушении прав граждан.

Установлено, что основанием для проведения МВД России по Республике Крым и внутренними войсками МВД России оперативно-стратегического учения «Заслон-2015» послужило распоряжение МВД России от 27.02.2015 № 1/96с «О подготовке и проведении оперативно-стратегического учения внутренних войск МВД России «Заслон-2015».

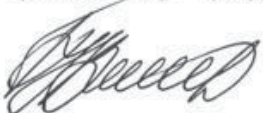
Целью проведения мероприятий явилось дальнейшее освоение внутренними войсками МВД России совместно с иными органами внутренних дел и взаимодействию с другими заинтересованными силовыми структурами федеральных органов исполнительной власти планов оперативного применения межведомственных группировок одновременно в нескольких субъектах Российской Федерации по локализации и пресечению крупномасштабных антиобщественных проявлений.

Указанные учения проводились с соблюдением прав человека, независимо от возраста и национальной принадлежности граждан, условий мест их проживания.

Жалоб от населения на действия сотрудников органов внутренних дел не поступало.

Оснований для принятия мер прокурорского реагирования не усматривается.

Прокурор республики



Н.В. Поклонская

АВ № 021034

Прокуратура Республики Крым
Исх. № 15/3-7209-2015/333

The answer of the Prosecutor of Crimea N. Poklonskaya the appeal to the Presidential Council for Civil Society Institutions Development and Human Rights on the massive searches in Crimea on April 2 – 10, in the framework of strategic exercises "Barrier-2015" of the Russian MIA troops

Уведомление

об ограничении доступа к информационному ресурсу, на котором размещена информация, содержащая призывы к массовым беспорядкам, осуществлению экстремистской деятельности, участию в массовых (публичных) мероприятиях, проводимых с нарушением установленного порядка.

Идентификатор записи 6459-НВ

В соответствии со статьей 15.3 Федерального закона от 27.07.2006 № 149-ФЗ «Об информации, информационных технологиях и о защите информации» уведомляем, что согласно требованию Генеральной прокуратуры Российской Федерации от 30.09.2015 № 27-31-2015/Ид3249-15 информация, размещенная на информационном ресурсе <http://investigator.org.ua>, содержит призывы к массовым беспорядкам, осуществлению экстремистской деятельности или участию в массовых (публичных) мероприятиях, проводимых с нарушением установленного порядка.

На основании требования Генеральной прокуратуры Российской Федерации от 30.09.2015 № 27-31-2015/Ид3249-15 о принятии мер по ограничению доступа к информационным ресурсам, распространяющим информацию, содержащую призывы к массовым беспорядкам, осуществлению экстремистской деятельности или участию в массовых (публичных) мероприятиях, проводимых с нарушением установленного порядка, доступ к информационному ресурсу (страницам) <http://investigator.org.ua> ограничивается операторами связи на территории Российской Федерации.

В течение суток с момента получения настоящего уведомления провайдер хостинга или иное лицо, обеспечивающее размещение в информационно-телекоммуникационной сети, в том числе в сети «Интернет», обязаны проинформировать об этом обслуживаемого ими владельца информационного ресурса и уведомить его о необходимости незамедлительного удаления информации, содержащей призывы к массовым беспорядкам, осуществлению экстремистской деятельности или участию в массовых (публичных) мероприятиях, проводимых с нарушением установленного законом порядка.

В случае, если владелец информационного ресурса удалит информацию, содержащую призывы к массовым беспорядкам, осуществлению экстремистской деятельности, участию в массовых (публичных) мероприятиях, проводимых с нарушением установленного порядка, он направляет уведомление об этом в Федеральную службу по надзору в сфере связи, информационных технологий и массовых коммуникаций, по адресу 398-fz@rkn.gov.ru, указав в теме письма идентификатор записи 6459-НВ, с целью проведения проверки и возобновления доступа при подтверждении факта удаления. Такое уведомление может быть направлено также через веб-форму, размещенную по адресу:

<http://398-fz.rkn.gov.ru/topproviders/7?entrVKey=560e6d4a0a08d#form>

По этой же ссылке можно проверить достоверность информации, указанной в данном уведомлении об ограничении доступа к информационному ресурсу.

Notification of restriction of access to the information resource IA Center for Investigative Journalism

Annex 7



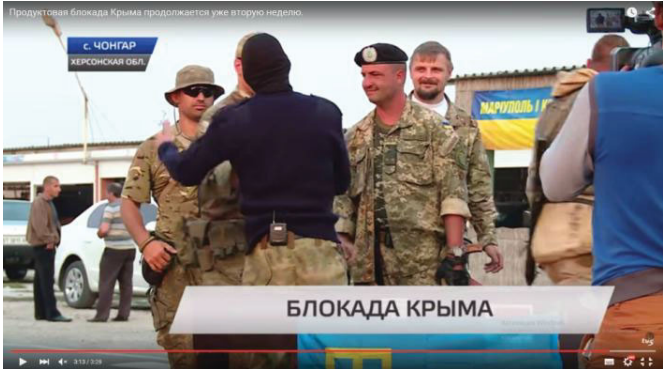
Checkpoint of the participants of the "Civil Blockade of Crimea"

Annex 8



Stopping of cars by the participants of the "Civil Blockade of Crimea"

Annex 9



The presence of weapons at the "Civil Blockade of Crimea"



Detained participants of the "Civil Blockade of Crimea" Nikolay Kozoriz and Sergei Karfut

**ГОЛОВНЕ УПРАВЛІННЯ НАЦІОНАЛЬНОЇ
ПОЛІЦІЇ
В ХЕРСОНСЬКІЙ ОБЛАСТІ
СЛІДЧЕ УПРАВЛІННЯ**
вул. Кірова, 4, м. Херсон, 73014

Голові Центру громадянської
просвіти «Альменда»
Скрипник О.С.
Київ-1, а/с В-55, 01001

09.11.2015

№ 8/С-24зі

На виконання запиту про отримання публічної інформації повідомляємо, що з початку громадської акції з блокування АР Крим, у період часу з 20.09 по 05.11.2015 органами поліції області зареєстровано **186** подій, з яких:

- за **38** повідомленнями інформацію внесено до Єдиного реєстру досудових розслідувань (**10** – за ст.258 КК України – підроблення документів, печаток, штампів та бланків, їх збут, використанні підроблених документів; **1** - за ст. 125 КК України - легкі тілесні ушкодження; **3** - за ст. 194 КК України - пошкодження майна; **1** - за ч.2 ст. 186 КК України – пограбування; **2** - за ст. 205 КК України - фіктивне підприємництво; **2** - за ст. 279 КК України - блокування транспортних комунікацій; **3** - за ст. 263 КК України - незаконне поводження зі зброєю);

- матеріали за **24** повідомленнями передано за належністю;

- **121** повідомлення розглянуто в порядку Закону України «Про звернення громадян» та матеріали списано висновками у справу;

- за **3** повідомленнями рішення не прийняті.

Також повідомляємо, що 05.10.2015 близько 17.00 год. на 108 км. автодороги Херсон-Армянськ, невстановлені особи не законно зупинили автомобіль марки "Газель" та відкрито заволоділи срібним ланцюжком та ладонкой Козоріза М.І.

08.10.2015 СВ Каланчацького РВ УМВС зареєстроване кримінальне провадження за ознаками складу кримінального правопорушення, передбаченого ч.2 ст.186 КК України (Грабіж). Процесуальне рішення у кримінальному провадженні не прийнято, досудове розслідування триває.

Слідчі слідчих підрозділів Головного управління Національної поліції в Херсонській області за період громадської акції з блокування АР Крим осіб за підозрою у вчиненні кримінальних правопорушень, пов'язаних з блокуванням в'їзних шляхів в АР Крим, в порядку ст.208 КПК України не затримували.

Відповідно до запитуваної інформації роз'яснюємо, що згідно ст.4 Конституції України в Україні існує єдине громадянство. Підстави набуття і припинення громадянства України визначаються Законом.

Заступник начальника


Н.Р. Іванюк

Response of the Investigation Department of the National Police of the Kherson region to the inquiry

Annex 12



Car of Andrey Krutsenko damaged by the participants of the "Civil blockade of Crimea"



Seizure of alcoholic beverages by the participants of the "Civil blockade of Crimea" from the citizens entering Crimea

Annex 950

Crimean Human Rights Situation Review, May 2016



CRIMEAN HUMAN RIGHTS GROUP

e-mail: crimeahrg@gmail.com

website: crimeahrg.org

CRIMEAN HUMAN RIGHTS SITUATION REVIEW

Monitoring review of the human rights situation in Crimea

May 2016

This monitoring review was prepared
by the Crimean Human Rights Group
on the basis of materials collected
in May 2016

Go to [link](#), to see
monthly monitoring reviews of the
Crimean Human Rights Group

Go to [link](#), to see
thematic reviews and articles
of the Crimean Human Rights Group



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1. INTRODUCTION

The Crimean Human Rights Group (CHRG) is an organization of the Crimean human rights defenders and journalists, the purpose of which is to promote the observance and protection of human rights in Crimea by attracting widespread attention to the problems of human rights and international humanitarian law in the territory of the Crimean peninsula, as well as the search and development of mechanisms to protect the human rights in Crimea.

The **CHRG** first of all obey the rules of basic documents in the field of human rights, such as: the Universal Declaration of Human Rights, the Helsinki Final Act, the Convention on the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the International Covenant on economic, social and cultural Rights and others.

The main objectives of the **CHRG**:

- 1) Collection and analysis of the information regarding the human rights situation in the Crimea;
- 2) Broad awareness among governments, international organizations, intergovernmental organizations, non-governmental organizations, the media and other target groups through the publication and spreading of analytical and information materials on the human rights situation in Crimea;
- 3) Promote the protection of human rights and respect for international law in Crimea;
- 4) Preparation of recommendations for government authorities and international organizations in the sphere of human rights;
- 5) Providing the presence of «human rights in the Crimea topics» in the information space.

The **CHRG's** team consists of experts, human rights activists and journalists from different countries who are involved in monitoring and documenting human rights violations in Crimea, since February, 2014.

During preparation and spreading of the information the **CHRG** is guided by principles of objectivity, reliability and timeliness.



2. CIVIL AND POLITICAL RIGHTS

THE RIGHT TO LIFE, ENFORCED DISAPPEARANCES

On 24 May, **Erwin Ibragimov** born in 1985 was kidnapped in Bakhchisaray. Previously, in 2011 he was a chief specialist of international relations of Bakhchisaray district administration in the Autonomous Republic of Crimea. He was also the deputy of the 6th convocation of the City Council of Bakhchisaray and a member of the World Congress of the Crimean Tatars.

In the evening on 24 May, unidentified persons in the uniform of the road patrol service of Russia stopped the car of Erwin Ibragimov in Bakhchisarai near the house on 9 Mira Street. After that he was forcibly putted in the car and taken away in an unknown direction. Before he was forced into a car by unknown persons, he called his relatives and asked regarding the documents on his car. It also confirms that he was stopped by security forces. After the kidnapping of Ibragimov his car was left on the road with the doors open and the key in the ignition with no signs of robbery. On the video of the alleged kidnapping of Ibragimov¹ it can be seen as he goes to the car of traffic police. However, after he saw that there are other persons in the car, he is trying to run away from the car. However, he was caught up and placed in the car with the use of force. After that, there was no information about his whereabouts or the people who participated in the kidnapping. On 1 June passport and work record of the kidnapped Ibragimov were found near the bar «Arpat» in Bakhchisarai.

Active political activity of Ibragimov and involvement in the kidnapping of power structures characterize this case as an enforced disappearance.

The criminal case under paragraph «A, B» Part 2, Article 126 of the Criminal Code of the Russian Federation — «Abduction» was opened by the main Investigation Department of the Investigative Committee of Russia in Crimea².

Ukrainian Prosecutor's Office of Crimea (Kiev) has opened criminal proceedings on the fact of kidnapping of Ibragimov Part 1 Article 115 of the Criminal Code of Ukraine — «deliberate murder»³.

RIGHT TO LIBERTY AND SECURITY OF THE PERSON

DETENTIONS

On 6 May, near the mosque at **Molodezhnoe** village Simferopol district security forces, including riot police, conducted a so-called spot-check to verify the documents of the mosque congregation. Police officers demanded identity documents from the local Muslims that were coming out of the mosque. Those Muslims who did not have documents with them were ordered to sit in the police bus and go to the district department of police in Simferopol. People were outraged by such actions and demanded to clarify the reasons for these inspections and detentions⁴. According to Emil Kurbedinov, several dozen Muslims were taken

¹ Video from the place of abduction of Erwin Ibragimov: <https://www.youtube.com/watch?v=FW8bqgsBFaQ>

² Information about Erwin Ibragimov on the Investigative Committee of the Russian Federation website in the «Missing» section: <http://crim.sledcom.ru/news/item/1045425/>

³ Notice regarding the beginning of the criminal procedure by the prosecutor's office of Crimea (Kiev): http://ark.gp.gov.ua/ua/news.html?_m=publications&t=rec&id=184163

⁴ <https://www.youtube.com/watch?v=G9MH3T97sTQ>



to the police station⁵; others were obliged to come to the department on their own⁶. After the identification they were released.

Spiritual Administration of Muslims of Crimea and Sevastopol appealed to law enforcement agencies for an explanation of the grounds of the actions that took place in Molodezhnoe village. Crimea muftiat was given an answer that «the planned raid is carried out by the Federal Migration Service under the verification of compliance with the migration legislation of the Russian Federation»⁷.

On 7 May, during the afternoon time about two dozen people of «non-slavic» appearance were arrested in the central market in Yevpatoriya. They were taken to the police station for fingerprinting. Such actions violate the right to liberty and security. Illegally detained people are not subject to mandatory state fingerprint registration in accordance with the Federal Law of 25.07.1998 N 128-FL (ed. from 07.05.2013) «On State Fingerprinting in the Russian Federation».

Crimean prosecutor called such actions as «enhanced measures to ensure public safety in the cities of Crimea before the celebration of the Victory Day on 9 May». She also said that such raids will take place in other cities, «the migration legislation will be checked everywhere, security measures will be held in places of mass gathering of citizens». She said that eight citizens of Uzbekistan have been identified at the market in Yevpatoriya that were violating migration laws⁸.

On 18 May, the participants of the motor rally dedicated to the Day of memory of victims of deportation of the Crimean Tatars were detained. Kurukch S., R. Yapalahov, U. Fakhriev and E. Berberov were detained in the Lgovskoe village of Kirov district, and Abyakim Abyakimov, Seytmamut Seytumerov, Enver Chavushev and Alim Muslyadinov were detained in Sudak (Read more in «Freedom of Peaceful Assembly» section).

ARRESTS

On 4 May, Zair Smedlyaev reported that the court extended the detention of two suspects (**Muedin Alvapov**, who was arrested on 23 January, 2016, and **Kudryashov**) until 23 July regarding the case of «arson of cars» in Yalta⁹.

On 13 May, Kiev District Court of Simferopol ordered the arrest for a period of two months until 11 July for four Muslims that were arrested on 12 May in Bakhchisarai on the «Case of the Hizb ut-Tahrir» — **Enver Mamutov, Remzi Memetov, Zevri Abseitov** and **Rustem Abiltarov** (Read more in «Resonant cases progress» section).

SEARCHES

On 12 May, searches took place in Bahchisarai, during which four Muslims were arrested. Two buses with armed officers of security agencies arrived in Bakhchisarai. The searches took place in four private households of **Mamutov Enver, Abeltarov Rustem, Abseitov Zevri** and **Remzi Memetov**. The search was also conducted in «Salachyk» cafe. Locals were reordering the events on video cameras, some of the videos show by the presence and people in masks and camouflage uniforms without relying marks. CHRГ has published a selection of videos

⁵ <https://www.facebook.com/emil.kurbedinov/posts/1106311846100078?pnref=story>

⁶ <https://www.facebook.com/emil.kurbedinov/posts/1106321809432415>

⁷ <http://qmdi.org/index.php/ru/glavnye-novosti/2563-zayavlenie-dukhovnogo-upravleniya-musulman-kryma-i-g-sevastopol-v-svyazi-s-sobytyami-proizoshedshimi-v-mecheti-sela-molodezhnoe-simferopolskogo-rajona>

⁸ <http://tass.ru/obschestvo/3266024>

⁹ <http://ru.krymr.com/archive/news-ru/20160504/16898/16898.html?id=27715991>



on 12 May¹⁰. After the search, the four Muslims were detained and taken for questioning, after which they were taken into custody (*Read more in «Resonant cases progress» section*).

Regarding the facts of searches and arrests that took place on 12 May in Crimea, Ukrainian Prosecutor's Office of Crimea (Kiev) opened several criminal proceedings on the grounds of criminal offenses under Part 2 Article 146 of the Criminal Code of Ukraine (illegal deprivation of liberty) and Part 2 Article 162 of the Criminal Code of Ukraine (violation of the inviolability of the home)¹¹.

On 13 May, Zair Smedlyaev reported that according to the chairman of Karasuvbazarsk (Belogorsk) regional mejlis **Asab Mustafa**, the search is conducted in the mosque in Mushash (Vishnevoe) village¹².

On 14 May, Zair Smedlyaev reported that the search took place in the house of **Abdul Yudashev** in Pionerskoe village of Simferopol area, after which he was taken to the Central administration of the Ministry of Internal Affairs. According to Zair Smedlyaev, Yudashev was released two hours later without charges and he was informed that an error occurred during the investigation¹³.

On 26 May, the search took place in the houses of **Timur Osmanov, Khalilov Hayser** and **Arthur Haltaev** in Simferopol, during which, according to witnesses, the property was damaged. After the search, all three of them were taken to the Extremism Combating Centre, where they stayed, according to relatives, from 7 a.m. until 2 a.m. In addition, the relatives reported that the lawyer was not allowed for detainees. As the reason for the search and detention representatives of law enforcement agencies called a violation of the migration legislation of the Russian Federation — the employment of foreigners and stateless persons in violation of laws of the Russian Federation¹⁴.

On 30 May, late at night armed security forces stormed into the «**Butterfly**» nightclub in Sevastopol made few shots at the ceiling with automatic weapons and demanded the visitors to lie face down on the floor. The owner of the club Samsonova reported that as the reason for such actions and the search was called the assumption that there may be narcotic and psychotropic substances in the club. Samsonova said that shortly before the club was tested by the Federal Service for Drug Control, and did not reveal anything. According to her words, force was used to visitors by law enforcement officers, kicked several times, and approximately 5 people were detained for unknown reasons. The law enforcement officers seized alcoholic drinks, worth more than a million rubles, and the server with the electronic media, which kept recording with video surveillance cameras, without creating a copy, which violates Russian law. The club was refused when they asked to provide a copy in accordance with Article 182 of the Code of Criminal Procedure of the Russian Federation¹⁵.

PROGRESS OF THE HIGH-PROFILE CRIMINAL CASES

PERSECUTION OF THE KIEV MAIDAN MEMBERS:

THE ANDREY KOLOMIETS'S CASE

On 16 May another meeting on the case of the Ukrainian citizen **Andrey Kolomiets**, a resident of the Kiev region, who is accused of attempted murder of two former employees of «Berkut» unit

¹⁰ <https://www.facebook.com/crimeahrg/photos/a.1677121552573479.1073741828.1676669515952016/1722731228012511/?type=3&theater>

¹¹ http://ark.gp.gov.ua/ua/news.html?_m=publications&t=rec&id=183560

¹² <https://www.facebook.com/zair.smedlya/posts/1028579167177251>

¹³ <https://www.facebook.com/zair.smedlya/posts/1028947390473762>

¹⁴ <https://www.facebook.com/namatullaev/posts/1061349137278848>

¹⁵ <https://www.facebook.com/crimeahrg/posts/1729907037294930>



during the events on the Maidan in Kiev (Article 30, Article 105 of the Criminal Code of the Russian Federation «murder of two or more persons (unfinished)» and possession of drugs (Article 228 of the Criminal Code of the Russian Federation) was held in Simferopol. He was detained in Kabardino-Balkar republic of the Russian Federation, and then transported to Crimea.

In court, a lawyer attached to the materials of the criminal case the lawyer's question of witness of detention of Andrei Kolomiets¹⁶. The evidence of the witness refutes the version of the investigation, which is set out in the indictment that Kolomiets allegedly volunteered to come to the police office together with the staff of the Extremism combat centre.

The evidence indicates that the search in the house of the civil wife of Kolomiets was conducted superficially and mainly served as a reason for detaining of Kolomiets, and initially he was treated as a criminal, which violates the presumption of innocence. The search was conducted with procedural irregularities, including the fact that marijuana was found during the search was not included in the protocol. The drug was in a closed vault, and Kolomiets didn't have access to it.

Later, after two days after the search in the house of his civil wife, according to investigators, marijuana was found in the Kolomiets white car, using which he allegedly was returning home after the conversation with the extremism combat centre officers. The court had to question the witnesses and the driver Alim Borchaev, who was in the car, where allegedly drugs were found and Kolomiets was arrested. However, the questioning did not take place, because Nalchik bailiffs did not provided the witnesses presence at the video conference, referring to the fact that «their location was not set».

The court also failed to question Andrei Kolomiets, because he found it difficult to testify because of the illness. Following the defence's request an ambulance was called for Kolomiets because he complained feeling not well and a high temperature. Ambulance employees confirmed that he has a cold. After providing medical care to Kolomiets the judge continued the meeting. The meeting ended around 17.30 and the next meeting is scheduled for 1 June, where the sentence may be proclaimed. The lawyer **Mikhail Kushpel** believes, taking into account that almost all applications were rejected, including the recognition of the validity of documents of the criminal case, judgement of conviction is assumed.

On 27 May, lawyer Mikhail Kushpel reported at a press conference in Kiev¹⁷ that the case of his client is fabricated: «He was arrested for drug possession, but during the hearing the witness of detention gave the information that refutes this fact. There is no evidence regarding the charges in the attack at the time of the events on the Maidan Kiev on «Berkut» employees. These victims say that they did not receive any physical injuries and they were not hospitalized. They cannot show the clothing that was on them on that day and that they allegedly burned it».

The lawyer also confirmed that after the arrest his client was tortured: «Kolomiets reported that the security forces putted a package on his head, attached wires to the fingers using large staples, putted a damp cloth under and passed an electric current. Andrei Kolomiets remember and can identify the employees who participated in the torture. He was forced to confess to the attempted murder of employees of «Berkut» with these tortures.

The right for protection has been also violated with regard to Kolomiets. During the preliminary investigation of the criminal case and first hearings by previous lawyers of Kolomiets, who were there to represent him regarding the appointment of the preliminary investigation no applications

¹⁶ Law question of Davydova, the witness of detention of Andrei Kolomiets, the document: <http://crimeahrg.org/v-dele-ukraintsya-andreya-kolomiytsa-poyavilis-novyye-svidetelstva-falsifikatsii-dokazatelstv-kpg/>

¹⁷ The video of the press conference of Mikhail Kushpel in Kiev: <https://www.facebook.com/crimeahrg/videos/1728690090749958/>



were filed. None of the previous lawyers raised the question regarding that Kolomiets has the right to receive information in a language he understands, he was not provided with an interpreter, and it could also lead to the fact that Kolomiets was signing investigative materials, poorly understanding effects of recognition and what was written in them. Appointed lawyer swayed Kolomiets for the confession, never visited him in prison, did not seek to find and interview witnesses in his favour.

There is a document in the materials of the criminal case that Kolomiets expressed in writing a desire to testify in Russian. However, Kolomiets was born and raised in the Kiev region; the education was delivered in Ukrainian language and he didn't study Russian. Relevant document from the school was added to the case file during the trial (**Annex 1**). Despite of this fact, the court still refers to the written statement of Kolomiets and believes that he knows the Russian language. However, in a fragment of the protocol submitted by the lawyer, it is clear that the top line with the Ukrainian letter «і» and mistakes Kolomiets wrote himself. However, further in the protocol the agreement to testify in Russian has been written by another person. According to Michael Kushpel, it was written by the lawyer, who was provided for Kolomiitsev in Nalchik. Thus, different handwriting in the questioning protocol of Kolomiets indicates to the fact of fundamental procedural violations and intent to falsify the case materials (**Annex 2**).

The lawyer believes that the preliminary investigation, including the investigation of the district court, is held with serious violations of substantive and procedural law. He also insists that the Russian judicial system has no relation to the consideration of the circumstances of the crime, which is accused to Andrey Kolomiets. Imputed to the Kolomiets events took place on the territory of Ukraine, victims and other participants of the event are the citizens of Ukraine and Ukrainian law enforcement authorities have the appropriate investigations regarding these events, which is confirmed by the answer of the General Prosecutor of Ukraine (**Annex 3**).

«CASE OF FEBRUARY 26»

On 13 May, First Deputy Chairman of the Mejlis of the Crimean Tatars **Nariman Dzhelyal** reported that the judge of the Supreme Court of Crimea Pribilova rejected the appeal of the lawyer **Ahtem Chygoz** and **Ali Asanov** regarding the previous decision to extend their detention. Consideration of the appeal of Mustafa Degermendzhi was postponed to 16 May because of the absence of the lawyer¹⁸.

On 17 May, the judge of the Supreme Court of Crimea Plastinina O.V. made a decision to appoint the meeting regarding the extension of the period of detention in relation to Ahtem Chygoz for 19 May (**Annex 4**).

According to the decree, Ahtem Chygoz should take part in the hearing via videoconference from the pre-detention centre 1 in Simferopol, where he is being kept. Lawyer Nikolai Polozov claims that this violates the Criminal Procedure Code of the Russian Federation, as the consideration of the extension of such measure of restraint should be made with the personal participation of the accused.

On 19 May, the hearing regarding the extension of detention of Ahtem Chygoz was held. After the start of the court session Ahtem Chygoz stated that he requires personal presence in the courtroom. The lawyer claimed the protest against the absence of the accused in the courtroom. Ahtem Chygoz asked for time to consult with lawyers and the judge Plastinina announced a break. After the break, the judge decided to postpone the hearing for 20 May with delivering of Ahtem Chygoz to the court¹⁹.

¹⁸ <http://ru.krymr.com/content/news/27732335.html>

¹⁹ <https://www.facebook.com/nikolay.polozov/posts/1046498698748859>



On 20 May, the detention period for Ahtem Chiyyoz was extended till 22 July 2016²⁰. The court explained its decision by the fact that Ahtem Chiyyoz supposedly can escape and put pressure on witnesses²¹.

Currently, Ahtem Chiyyoz, Ali Asanov and Mustafa Degermendzhi are in custody in Crimea on the «26 February case».

On 17 May, the Prosecutor's Office of the Autonomous Republic of Crimea (Kiev) reported that regarding the events of 26 February, 2014 (event, for participation in which the Russian prosecutor's office in Crimea accuses Ahtem Chiyyoz and others) initiated a criminal case under Article 340 of the Criminal Code of Ukraine — illegal obstruction of organization or holding of meetings, rallies, marches and demonstrations.

It was revealed by the Ukrainian Prosecutor's Office of Crimea that on 26 February, 2014 in Simferopol representatives of the pro-Russian organizations with the aim of illegal preventing to conduct the meetings, including the meeting with the participation of the Crimean Tatar activists in support of Ukraine's territorial integrity, committed actions with the use of physical violence aimed to stop these rallies.

As a result of such actions people who were expressing their patriotic position, have got injuries with varying degrees of severity, and two members of the event died in hospital because of injuries. Materials regarding the case were sent to the General Prosecutor Office of Ukraine to determine jurisdiction²².

«CASE OF HIZB UT-TAHRIR»

On 6 May, the Crimean Supreme Court dismissed the appeal regarding the arrest of Arsen Dzhepparov and Refat Alimov²³. On 19 April, Refat Alimov and Arsen Dzhepparov a preventive measure in the form of detention until 18 June was chosen. They are charged under Part 2 Article 205.5 of the Criminal Code of the Russian Federation (participation in the activities of a terrorist organization), namely — participation in the activities of Hizb ut-Tahrir.

On 12 May, four Crimean Muslims were arrested in Bahchisaray in connection with «Hizb ut-Tahrir case» — Enver Mamutov, Remzi Memetov, Zevri Abseitov and Rustem Abiltarov. On 13 May, Kiev District Court of Simferopol granted the request of the inspector and ordered their arrest for a period of two months until 11 July. Crimean prosecutor's office supported the petition of the investigator regarding the election of a preventive measure in the form of detention.

Enver Mamutov is charged with committing an offense under Part 1, Article 205.5 of the Criminal Code of the Russian Federation (organization of activities of a terrorist organization) and Remzi Memetov, Zevri Abseitov and Rustem Abiltarov — Part 2 of Article 205.5 of the Criminal Code of the Russian Federation (participation in a terrorist organization). According to investigators, Enver Mamutov organized «local cell of Hizb ut-Tahrir, carried a hidden anti-Russian, anti-constitutional activities, recruited local people to the ranks of the terrorist organizations» in Bakhchisarai. The investigators believe that Memetov, Abseitov and Abiltarov also participated in these activities²⁴. However, no evidence was provided by the investigation.

²⁰ <https://www.facebook.com/zair.smedlya/posts/1032101063491728>

²¹ <https://www.facebook.com/zair.smedlya/posts/1032083703493464>

²² http://ark.gp.gov.ua/ua/news.html?_m=publications&c=view&t=rec&id=183804

²³ <http://investigator.org.ua/news/179224/>

²⁴ <http://rkproc.ru/ru/news/prokuratura-respubliki-podderzhala-v-sude-hodataystvo-ob-areste-chlenov-bahchisarayskoy>



On 24 May, Crimean Supreme Court dismissed the appeal and upheld the arrest of Enver Mamutov, Remzi Memetov and Zevri Abseitov. Lawyer Emil Kurbedinov reported that the investigation did not provide justification regarding the arrest, that being under house arrest the accused may abscond or exert pressure on witnesses. The court did not take into account the positive personal characteristics and the presence of minor children²⁵. The court also dismissed the appeal on the arrest of Rustem Abiltarov.

On 18 May, the hearing on the «case of Hizb ut-Tahrir» was held in Rostov-on-Don, during which the period of detention was extended until October for Ruslan Zeytullaev, Rustem Vaitov, Nuri Primov and Ferat Sayfullaev. They were arrested on 23 January and 2 April, 2015 (Ferat Sayfullaev). The next hearing was scheduled for 1 June at the North Caucasus District Military Court in Rostov-on-Don (Russia)²⁶. Lawyer Emil Kurbedinov reported that the defence petition regarding the exclusion of the evidence that was obtained with a significant violation of the law, have been rejected. The requests regarding the court hearing in Crimea were also rejected²⁷.

On 27 May Ruslan Zeytullaev, Rustem Vaitov, Nuri Primov and Ferat Sayfullaev were taken to attend the hearing out of Crimea to Russia, in Rostov-on-Don. Defence insisted that the North Caucasus District Military Court in Rostov-on-Don should hold a meeting on the case in Crimea.

As of May, 14 people being contained under detention in Crimea regarding the case of «Hizb ut-Tahrir» — Ruslan Zeytullaev, Rustem Vaitov, Nuri Primov, Ferat Sayfullaev, Enver Bekirov, Vadim Siruk, Muslim Aliev, Emir-Usein Kuku, Refat Alimov, Arsen Dzhepparov, Enver Mamutov, Remzi Memetov, Zevri Abseitov and Rustem Abiltarov (**Annex 5**).

FREEDOM OF SPEECH AND EXPRESSION

On 7 May, Crimean News Agency «Kryminform» reported that the Office of the Investigative Committee of Russia in Sevastopol opened a criminal case regarding the events that took place on 8 April²⁸. On 8 April during the opening meeting of the Public Expert Council, where the Governor of Sevastopol was presented, distorted version of the anthem of Russia²⁹ was played. Harsh and critical remarks about Russia and distorted music were used in the anthem. After the incident, the Federal Security Service of Russia reported that they will conduct a check on this fact³⁰.

Kryminform refers to a source in law enforcement bodies of Sevastopol that reported that the case was opened under Part 1 Article 282 of the Criminal Code of the Russian Federation — «inciting of hatred or hostility, and humiliation of human dignity». Maximum punishment for that is imprisonment for a term that does not exceed four years. At the moment there is no information regarding the persons who may be held accountable for this fact.

On 11 May, the prosecutor's office of Feodosia city reported that the city prosecutor opened a case against a local resident of an administrative offense under Part 1, Article 20.3 of the Administrative Code of the Russian Federation (public display of Nazi symbols and symbols similar to the Nazi to the point of confusion)³¹. The reason for this was that the user of social networks

²⁵ <https://www.facebook.com/emil.kurbedinov/posts/1117815334949729>

²⁶ <https://www.facebook.com/zair.smedlya/posts/1031299360238565>

²⁷ <http://ru.krymr.com/content/news/27744396.html>

²⁸ <http://www.c-inform.info/news/id/38411>

²⁹ The distorted version of the anthem of Russia: <https://www.youtube.com/watch?v=y19nzlmcQCE>

³⁰ <https://lenta.ru/news/2016/04/09/gimn/>

³¹ <http://rkproc.ru/ru/news/po-postanovleniyu-prokurora-feodosiec-privlechen-k-otvetstvennosti-za-ekstremistskiy-post-v>



posted a picture of the German military plane with drawing on Nazi symbols in the comments to the news article on a news site. The prosecutor's office regarded that fact as propaganda of Nazi paraphernalia or symbols, as well as the extremist activities. Having reviewed the submitted materials the prosecutor's office of Feodosia City Court sentenced the guilty to a fine of one thousand rubles. However, the context in which the image was used, says that the author intended to use it to illustrate his views, rather than to propagandize Nazi or extremist activities. Such images can be used in historical, semiotic, and other discussions without the purpose of propaganda of Nazi symbols. However, the court and the prosecutor did not seek to find the purpose and motive of the use of the image, which could eliminate the fact of the offense.

On 12 May, Crimean prosecutor Natalia Poklonskaya informed the Russian news agency TASS that «according to data compiled by the Prosecutor's Office of Crimea, Federal Supervision Agency for Information Technologies and Communications conducts procedures for blocking access to the site of the project «Crimea.Realities» («Radio Liberty» project)³². In April Crimean prosecutor N. Poklonskaya stated that the publication of the project «contains a justification for acts of sabotage, extremism and discredit the authorities in Crimea, inciting of ethnic hatred» and transferred materials to the Office of the Prosecutor General of the Russian Federation.

After this statement, monitors of the Crimean human rights group documented the restriction of access to the site «Crimea.Realities» from the computers in Crimea.

On 13 May, press-secretary of the Federal Supervision Agency for Information Technologies and Communications Vadim Ampelonsky announced that the Federal Supervision Agency for Information Technologies and Communications unblocked site «Crimea.Realities». According to his words, the restrictions were removed due to the fact that the site met the requirements and removed material that was regarded as illegal by the Federal Supervision Agency for Information Technologies and Communications. However, Natalia Poklonskaya stated that she will insist on the complete blocking of access to the site³³. Crimean residents do have the access to the site «Crimea.Realities» at this time.

Crimean prosecutor's office continues to use the rules of anti-extremist and anti-terrorist legislation of the Russian Federation to limit access to information. Thus, on 17 May Natalia Poklonskaya stated that «with the purpose to stop the spreading of the information of radical ideologies the access was limited to more than 80 resources on the Internet»³⁴.

On 12 May, Crimean prosecutor's office announced that it recognized the initiation of criminal proceedings against the deputy chairman of the Mejlis of the Crimean Tatar people Ilmi Umerov on the fact of committing acts of an extremist activity as legitimate and justified. Crimean prosecutor N. Poklonskaya took personal control of the investigation of this case³⁵.

On 12 May, two officers of the Federal Security Service of Russia accompanied by riot policemen came to the house of Ilmi Umerov and summoned him for questioning. He agreed to go with them in Simferopol office of the Federal Security Service of Russia for questioning. During the questioning, Ilmi Umerov refused to answer most of the questions of investigators. His lawyers were present during the questioning³⁶. After the questioning, the investigator of the Federal Security Service of Russia gave Ilmi Umerov the notice regarding the recognisance not to leave and

³² <http://tass.ru/politika/3274509>

³³ <http://ria.ru/society/20160513/1432463496.html>

³⁴ <http://www.c-inform.info/news/id/38773>

³⁵ <http://rkproc.ru/ru/news/prokuror-respubliki-vzyala-na-lichnyy-kontrol-ugolovnoe-delo-o-publicnyh-prizyvah-k>

³⁶ <http://15minut.org/news/159629-umerov-o-svoem-areste-video>



appropriate behaviour³⁷ (according to Article 102 of the Criminal Procedure Code of the Russian Federation). The recognisance not to leave obliges Umerov not to leave Crimea without the permission of the investigator or the court, and also obliges him to be present at the appointed time when he is summoned by the investigator or the court and not to interfere with the criminal proceedings.

After the questioning, the officers of police and the Federal Security Service of Russia raided the house of Ilmi Umerov. According to his words, nothing was found during the search.

On 19 May, Skripka I.A. the investigator of the investigation department of the Federal Security Service of Russia in Crimea and Sevastopol ordered the indictment to Ilmi Umerov according to the criminal case № 2016427026. Ilmi Umerov was charged with an offense under Part 2 Article 280.1 of the Criminal Code of the Russian Federation «Public calls for the implementation of actions aimed for violation of the territorial integrity of the Russian Federation, committed by using information and telecommunications networks (including the Internet)» (**Annex 6**).

The Federal Security Service of Russia imputes guilt on Ilmi Umerov for his participation in live show on ATR TV channel. The investigator considers that Umerov was saying phrases such as «it is necessary to force Russia to leave Crimea, Donbass and Lugansk», «if the borders of Ukraine were returned back in its place» and others during the broadcast. These phrases are classified as a criminal offense under Part 2 Article 280.1 of the Criminal Code of the Russian Federation.

On 26 May, the first Deputy Chairman of the Mejlis of the Crimean Tatars Nariman Dgelialov reported that Ilmi Umerov has signed a personal recognizance regarding nondisclosure of the case file. Close relatives of Umerov who refused to give evidence were invited for the questioning by the Federal Security Service of Russia.

On 27 May, parents of children that study in school № 15 in Blizhnee village (Feodosia) reported that Federal Security Service of Russia officers conduct interviews with the pupils of 9th class. These interviews were held in the office of the school principal, in the presence of parents and school psychologist. Federal Security Service of Russia officers questioned the children about whether they have met with such definitions as «annexation», «occupation», «vatnik» (stands for insulting name of the person with pro-Russian views), as well as regarding wearing of St. George's ribbons during the events dedicated to the victory day on 9 May. Elmira Gazieva, the mother of one of the pupils, reported that Crimean Tatars boys were summoned for the conversation. Suleiman Kadyrov, the member of Feodosia regional Mejlis reported that, according to the Federal Security Service of Russia, such conversations will be continued with other children³⁸.

OBSTRUCTION OF JOURNALISTS' WORK

On 11 May, Ukrainian journalist Igor Burdyga entered Crimea to prepare the material for the RBC-Ukraine about the holding of the anniversary of deportation of the Crimean Tatars. He attended one of the meetings in the «supreme» court of Crimea. During the break in the meeting, the journalist went out, where he was approached by two men in civilian clothes, and presented documents of police officers. They asked the journalist to follow them to the Zheleznodorozhnyi district police department for identification in connection with allegedly recent robbery of the store because the offender looks like a journalist. Igor Burdyga agreed to follow them.

³⁷ https://www.facebook.com/nariman.dzhelalov/posts/1103585353038657?pnref=story&_mref=message_bubble

³⁸ <http://hromadskeradio.org/2016/05/27/fsbshnyky-provely-v-krymu-besedy-so-shkolnykamy-yz-za-georgiyevskiyh-lent>



However, officer of The Federal Security Service of Russia was waiting for him in the police department who, according to the journalist, knew that Burdyga is a Ukrainian journalist, and began to threaten him with the criminal case due to the lack of accreditation.

The Federal Security Service of Russia officer stated that he has reasons to detain the journalist on suspicion of membership in the «Right sector» organization that is banned in Russia on the basis of his report regarding the activities of the «Right Sector» on the Maidan in Kiev in February 2014, which was published in «Vesti.Reporter» magazine. Also the Federal Security Service of Russia officer promised journalist to reject such accusations, if he would agree to «voluntary interview». Journalist was scared of prosecution and agreed to such a conversation. He was questioned about his travels to other countries, whether he is familiar with Oleg Sentsov and Alexander Kol'chenko, as well as with other Crimean journalists and activists.

Under the threat of criminal proceedings Igor Burdyga was forced to testify in a criminal case that was opened in Crimea on the fact of explosions of pylons in the Kherson region during the «blockade of Crimea». Testimony was taken by the senior investigator of the Federal Security Service of Russia Mikhail Golyshev, who previously, according to the journalist, served in the Security Service of Ukraine. The journalist also reported that the police conducted a fingerprint registration, took his fingerprints, the prints of his shoes and saliva sample for the DNA analysis.

The journalist was released around 8 pm, after 7 hours of questioning by different investigators. He immediately left Crimea after that. A more detailed report regarding the interrogation of the journalist was published in the article on RBC-Ukraine site «About me being a spy: RBC-Ukraine reporter spent a day at the Federal Security Service of Russia office in Crimea»³⁹.

On 27 May, a warning about «inadmissibility of violation of countering extremist activities and media legislation» was issued to Crimean Tatar journalist Lilia Bujurova (former Deputy General Director of TV channel ATR). The warning was issued by the deputy prosecutor of the city of Simferopol Shkitovoy A.F.

The document indicates that the prosecutor's office employers monitor the information in social networks on personal accounts. In its warning prosecutor's office refers to the information published by Lilia Bujurova on «Facebook» social network and on the Centre for Investigative Reporting site. According to the prosecutor's office, the information of Lilia Bujurova may contain «signs of extremist statements», also the prosecutor's office considers that the journalist calls on people to protests.

Also in this warning deputy prosecutor of Simferopol recalled that earlier, in 2014, Bujurova was given a similar warning. She was warned about the possible subsequent prosecution (**Annex 7**).

By using such warnings and other norms of the Russian legislation, the de facto authorities are preventing the journalistic activity (such warning is a threat of possible prosecution for journalistic activities) and seek to limit the freedom of expression not only in the media but also in the personal accounts at social networks.

FREEDOM OF ASSOCIATION

On 4 May, the representative of the Mejlis of the Crimean Tatar people Nariman Djelyalov received a decision of the Supreme Court of Crimea from 26 April for the review regarding the ban the activities of the Mejlis of the Crimean Tatar people on the territory of the Russian Federation. The decision was rendered by a court composed of following judges: Terentyeva N.A., Yusupova L. A. and Pawlowskiy E.G.

³⁹ <https://www.rbc.ua/rus/opinion/poldnya-fsb-eshche-odna-istoriya-akkreditatsiyu-1463131347.html>



The prosecutor of Crimea N. Poklonskaya justifies her demand about the ban of the Mejlis by the fact that the Mejlis doesn't have the state registration in accordance with the Russian legislation, was the organizer, from her point of view, of a few unauthorized and extremist acts, members of the Mejlis were issued 17 warnings regarding the inadmissibility of extremist activity and Refat Chubarov, Chairman of the Mejlis, according to the prosecutor, has repeatedly expressed extremist slogans that Crimea is part of Ukraine. The prosecutor was blaming the Mejlis regarding the events in 2004 and 2008, which occurred prior to the establishment of Russian control in Crimea, the «Crimea blockade» and explosions of transmission towers in the territory of Ukraine in Kherson region.

In response to the arguments of the Mejlis representative that the Mejlis is not a public organization, but is a representative body of the Crimean Tatar people, the court responded that, according to the norms of the Russian legislation, the court considers the Mejlis as public organization that doesn't have the legal identity and does not consider it as a representative body because the Mejlis doesn't refer to the local authorities in accordance with Russian law.

The representative of the Committee for international relations and deported citizens of Crimea believes that there are enough other non-governmental organizations in Crimea that work with issues of Crimean Tatars, and who work in collaboration with government agencies but the Mejlis is not cooperating with the authorities. The official stated that, in his opinion, Mejlis does not provide protection of the Crimean Tatars. However, the presence of other Tatar organizations in Crimea in no way is connected with the prosecution of the Mejlis on extremist activity.

The court decided that the prosecution arguments regarding the extremist nature of the activity of the Mejlis are sufficient. As a fact of the Extremist Activity the court took the event on 3 May, 2014 near Armyansk, when Crimean Tatars come out against a ban on the entry to Crimea for Mustafa Dzhemilev. As the main evidence of extremist activity of the Mejlis court considered «Crimea blockade» action that was organized with the participation of Refat Chubarov, Mustafa Dzhemilev and Lenur Islyamov due to which the supply of electric power in Crimea from the mainland Ukraine was interrupted. The court also pointed out a number of public appearances of Refat Chubarov in the Ukrainian media about the illegal actions of Russia in Crimea and the need for the return of the Crimea to Ukraine. Most of the evidences taken by the court are the links to various resources on the Internet and judgemental view about the work of the Mejlis.

Despite the fact that the Mejlis is the only representative and executive body of the Crimean Tatar people, the court decided that the Mejlis ban will not entail violations of the rights of the Crimean Tatar people for development and self-determination.

A member of the Mejlis Lemmar Yunusov and the lawyer Dzhemil Temishev brought the appeal before the Supreme Court against the court's decision to ban the activities of the Mejlis⁴⁰.

Ruslan Balbec, the Deputy Chairman of the Crimean Council of Ministers, despite the fact that the court's decision to ban the activities of the Mejlis has not entered into force, sent the letter to the heads of administrations of cities and villages, in which he not only calls the Mejlis an extremist organization, but also accused the Mejlis members in participation in «international terrorist groups». Moreover, Balbec stated that the Mejlis «does not have any connection to the Crimea and Crimean Tatars anymore». He also lists a number of restrictions for members of the Mejlis and obliges officials to report to the Crimean prosecutor's office regarding the violations of these prohibitions by the Mejlis members (**Annex 8**).

⁴⁰ https://vs--krm.sudrf.ru/modules.php?name=sud_delo&sv_num=1&name_op=case&case_id=127462053&result=1&dello_id=1540005&new=



Thus, using the administrative resource, the Crimean Council of Ministers is trying to create extremely negative attitude to the Mejlis in the society and is stigmatizing the Mejlis members on the basis of their belonging to this association.

On 18 May, Kerch city administration held a seminar regarding countering extremist activity complicity with the representatives of the prosecutor's office and the police. Participants reported about the responsibility of citizens for aiding organizations that are engaged in extremist activities. Deputy of the head of the city administration Dilyaver Melgaziev, despite the fact that the judgment has not entered into force, reported that the activities of the Mejlis is prohibited on the territory of the Russian Federation. The employee of the Centre for counteraction to extremism in Crimea Anatoly Shuklin urged everyone to inform the law enforcement agencies regarding persons «whose activities have signs of extremism»⁴¹.

FREEDOM OF PEACEFUL ASSEMBLY

In majority of previously reported cases of unjustified restrictions on freedom of assembly — prohibition of peaceful assembly, dispersals of peaceful assembly, administrative penalties against the organizers and participants of the meetings — were applied to the Ukrainian and Crimean Tatar activists. However, recently there is an increase in meetings restrictions in respect of the supporters of the Russian leadership, which actively supported the actions of Russia in Crimea in 2014.

On 6 May, representatives of Crimean Cossacks came out to protest against the closure of the Crimean Cossack Cadet Corpus in Simferopol. Organizers of the event gave a notice regarding the action, but they were denied in holding of the public event due to the fact that at the same time and in the same place there will be another event. However, there were no other events carried out. In connection with this fact the protesters have decided to hold the planned event. The police officer demanded the event to be stopped because it wasn't agreed with the city administration. The organizer was warned that the report on administrative offense will be drawn up.

Protesters refused to stop the action, motivating its refusal by the fact that they do not violate public order, do not interfere with the movement of pedestrians and there are no other events in this place. However, the police officers, using force, began to disperse the protesters. It is reordered on the video⁴² that at least two protesters were detained and placed in the paddy wagon. The force and non-lethal weapons were used to one of them.

Local entrepreneurs protest arose spontaneously in Sevastopol on Istoricheskiy Boulevard. The protest was a reaction of small trade stands owners on an attempt to evacuate one of the pavilions by local authorities. State unitary enterprise's «Sevavtodor» loading car loaded one of the kiosks, but entrepreneurs — owners of the stalls blocked the movement of the car, requiring a court decision to demolish the stall⁴³.

This situation lasted until the evening. Later in the evening the attempt of violent disperses of entrepreneurs and unblocking of the car with the stall took place. According to entrepreneurs and witnesses, police, local authorities and local self-defence took part in the attempt to disperse the protest. Finally it was decided to remove the stall from the truck and put it in its previous place. After that entrepreneurs have unblocked the truck and it left Istoricheskiy Boulevard⁴⁴.

⁴¹ <http://gorsovetkerch.ru/news/18-05-2016/sostoyalsya-seminar-o-merah-po-protivodejstviyu-posobnichestvu-ekstremistskoj-deyatelnosti.html>

⁴² The video of the Crimean Cossacks's protest against the closure of the Crimean Cossack Cadet Corpus, May 6, 2016, Simferopol: <https://www.youtube.com/watch?v=qdMleM5EeFU>

⁴³ <http://sevastopol.su/news.php?id=87075>

⁴⁴ <http://sevastopol.su/news.php?id=87104>



An attempt of local authorities to attract self-defence (paramilitary forces) for disperse of local entrepreneurs is a threat of the use of unjustified violence, which can result in injuries or property damages. It also indicates the intentions of the local authorities to use illegal methods to resolve the conflict.

FREEDOM OF ASSEMBLY VIOLATIONS IN CONNECTION WITH REMEMBRANCE DAY OF THE VICTIMS OF CRIMEAN TATARS DEPORTATION

On 13 May, administration of Voinka village Krasnoperekopsky area represented by the chairman of the village council and the head of the village administration Maximov E.V. refused the regional representative of the Mejlis of the Crimean Tatar people Saniye Ametova to hold a rally on 18 May in connection with the Remembrance Day of the deportation of the Crimean Tatars. The reason for rejection: the local authorities are carrying out landscaping works in the park, where it was planned to hold the event. In this regard, the administration banned the conduction of any events on 18 May except of the laying of flowers at the memorial sign to those killed during the deportation, which was organized by the local authorities (**Annex 9**).

On 17 May, three police officers of Bakhchisarai intended to give a warning about the inadmissibility of violation of the legislation of the Russian Federation on the Day of Remembrance of the deportation of the Crimean Tatars to the deputy chairman of the Mejlis of the Crimean Tatar people Ilmi Umerov. Ilmi Umerov refused to sign the warning, because he is not an organizer of any public events on 18 May. He reported that on 18 May he plans to take part in laying flowers at the memorial plaque and during the prayer service at the midday prayer in memory of the victims of the deportation. These activities are not subject to the norms of the Russian legislation on public events⁴⁵.

Days before 18 May, the message regarding the ban on missing of the classes by students or teachers on May 18 was spread in number of educational institutions of Crimea as well as the requirement to inform the school management about the number and reasons of absence on 18 May «separately for Crimean Tatar children» (**Annex 10**).

On 18 May, motor rallies dedicated to the Day of memory of victims of deportation took place in several cities in Crimea. Motor rallies did not create any accidents on the roads, did not interfere with traffic. However, several members of motor rallies were detained.

17-year-old Eskender Ganiev was detained on the way to Bakhchisarai. The protocol was drawn on him about administrative offense and administrative fine in the amount of 4,000 rubles. He was released afterwards⁴⁶.

Four participants of the motor rally were detained in Lgovskoe village Kirovskiy district: Kurukch S., Yapalahov R., Fakhriev U. and Berberov E. The protocols were drawn up for committing an administrative offense under Part 2, Article 20.2 of the Administrative Code of the Russian Federation «Violation of the order of organizing or holding of meetings, rallies, demonstrations, marches and pickets». On 19 May the judge of the Kirov district court Mikhailov Roman adjudged the four participants of the rally guilty of committing an administrative offense under Part 6.1 Article 20.2 of the Administrative Code of the Russian Federation — participation in unsanctioned rallies, meetings, demonstrations, processions and picketing, which caused interference with the functioning of critical infrastructure, transport and social infrastructure, communication, movement

⁴⁵ https://www.facebook.com/permalink.php?story_fbid=1768632480048284&id=100007046477228

⁴⁶ <http://avdet.org/node/19198>



of pedestrians and (or) the vehicles or citizens access to premises or facilities of transport or social infrastructure⁴⁷. In respect of each of them the judge ruled on administrative punishment in the form of 20 hours of compulsory work⁴⁸. The decree came into force on 31 May.

Four Crimean Tatars Ablyakim Ablyakimov, Seytmamut Seytumerov, Enver Chavushev and Alim Muslyadinov were arrested in Sudak. On 18 May, they drove through Sudak on cars with Crimean Tatar symbols. They stopped near the monument to the victims of deportation to take part in the «Light a Candle» event. They were detained by police near the monument, and taken to the city police station, where they were drawn up protocols for committing an administrative offense under Part 2 Article 20.2 of the Administrative Code of the Russian Federation «Violation of the order of organizing or holding of the meetings, rallies, demonstrations, marches and pickets».

Administrative proceedings in respect of all four members were appointed to run at Sudak City Court on 25, 30 and 31 May. Each time the meeting was postponed by the judge Haraman Helena Petrovna. The next meeting is scheduled for 7 June⁴⁹.

OTHER CASES OF VIOLATIONS OF FREEDOM OF ASSEMBLY

Yalta city administration refused to local residents in organising of the event on the occasion of the Crimean Tatar celebration Hydyrlez on 3 May in the Koreiz village. The reason for the refusal was «lack of security measures». The inability to ensure the safety was explained by the local authorities that their powers will be used to ensure safety at the event at «Scheherazade» cultural and entertainment centre. This event was organized by the local authorities and in their refusal Yalta authorities offer local residents of Koreiz to visit exactly this event, rather than to organise their own (*Annex 11*). Local residents consider the refusal in holding of the local holidays of Hydyrlez as a way to increase the number of people at the event that is organized by the Crimean authorities.

FREEDOM OF MOVEMENT AND ISSUES RELATED TO CHECKPOINTS PASSING

On 25 May, Ilham Shakirov, a resident of Yalta, Ukrainian citizen was denied in entry to Crimea by Russian border guards. Earlier, about six months ago, officer of the Interior Ministry of the Russian Federation found out during the checking of his documents that he was checked on entry to Turkey, but there is no mark regarding his return. The court found Ilham Shakirov guilty of violating the immigration laws of the Russian Federation, namely, in his words, in fact of providing of void migration card with missed period of validity, as well as the availability of dual citizenship in Ukraine and Turkey. The court appointed Shakirov a penalty of a fine of 2,000 rubles and ordered to leave Russia within 10 days. Shakirov left Crimea, hoping to extend the migration card, but the Russian border guards informed him about the ban of the entrance to Crimea and the Russian Federation for 5 years. His wife and minor children are in Yalta. He doesn't have an opportunity to see them as well as he has no means of living outside of Crimea⁵⁰.

⁴⁷ https://kirovskiy--krm.sudrf.ru/modules.php?name=sud_delo&srv_num=1&H_date=19.05.2016

⁴⁸ <https://www.facebook.com/nariman.dzhelalov/posts/1107699962627196>

⁴⁹ https://sudak--krm.sudrf.ru/modules.php?name=sud_delo&srv_num=1&H_date=31.05.2016

⁵⁰ <http://15minut.org/news/160126-grazhdanina-ukrainy-ne-puskayut-v-krym-k-zhene-i-dochke>



On 30 May, the officer of border department of the Federal Security Service of Russia in Crimea Shalukin A.V. conducted the searches and questioning of Ali Ozenbash who is the head of the Audit Commission of the Kurultai, the executive board member of the World Congress of Crimean Tatars at the Russian checkpoint with Crimea Dzhankoy (**Annex 12**). Ali Ozenbash reported that the officer of the Federal Security Service of Russia refused to present himself during the interrogation and did not give reasons for a personal inspection⁵¹.

It is important to note that using the language of hatred and administrative resources, local authorities are trying to restrict the movement of Crimea citizens to the Ukrainian mainland. Thus on 31 May the head of the city administration of Sudak Serov V.N. sent the letter to all heads of state and municipal enterprises. The letter states that «the sphere of influence of the Crimean Tatar extremists in the Ukrainian checkpoints expanded» so the city administration recommends residents «not to travel to Ukraine through the Crimean land border» (**Annex 13**).

THE REVIEW WAS PREPARED BY:

Olga Skrypnyk, *coordinator of the Crimean Human Rights Group;*

Vissarion Aseev, *coordinator of the monitoring direction of the Crimean Human Rights Group;*

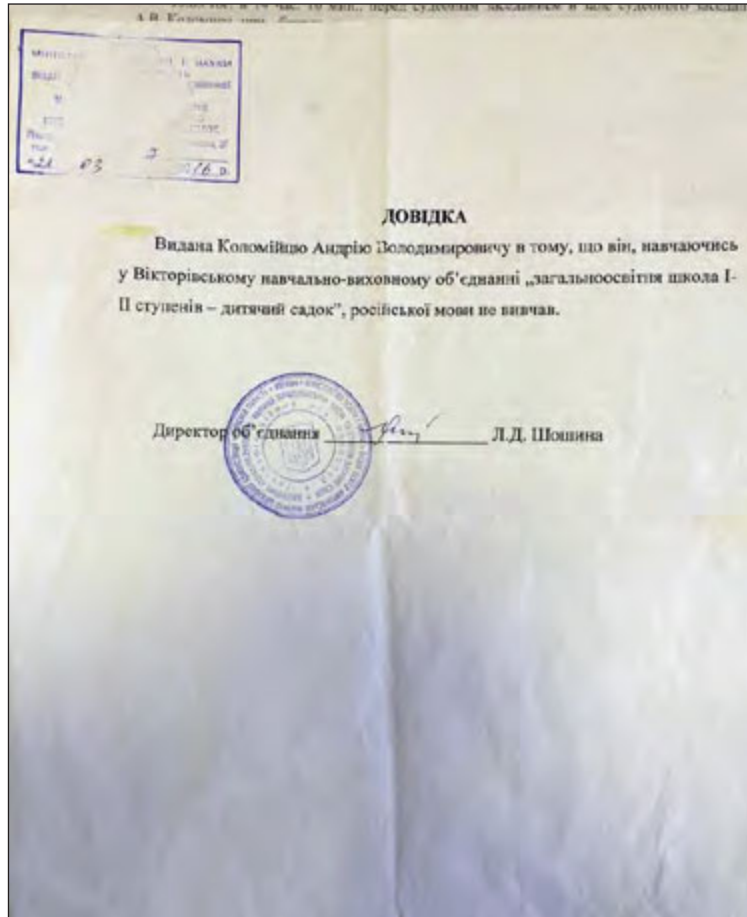
Alexander Sedov, *analyst of the Crimean Human Rights Group.*

⁵¹ <http://ru.krymr.com/content/news/27769368.html>



ANNEXES

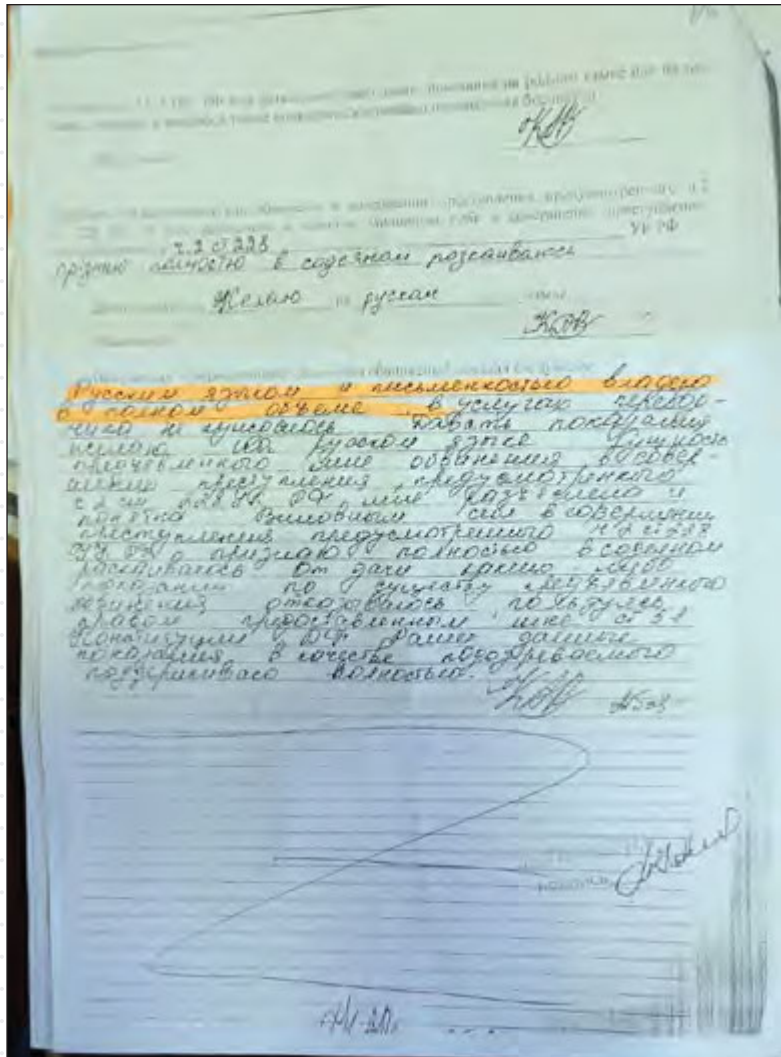
ANNEX 1



The certificate from the school in Viktorivka village in which Andrew Kolomiets studied in Ukrainian



ANNEX 2



The fragment of the protocol of interrogation of Andrei Kolomiets, in which falsification signs appear. The protocol filled by different people on behalf of the interviewee



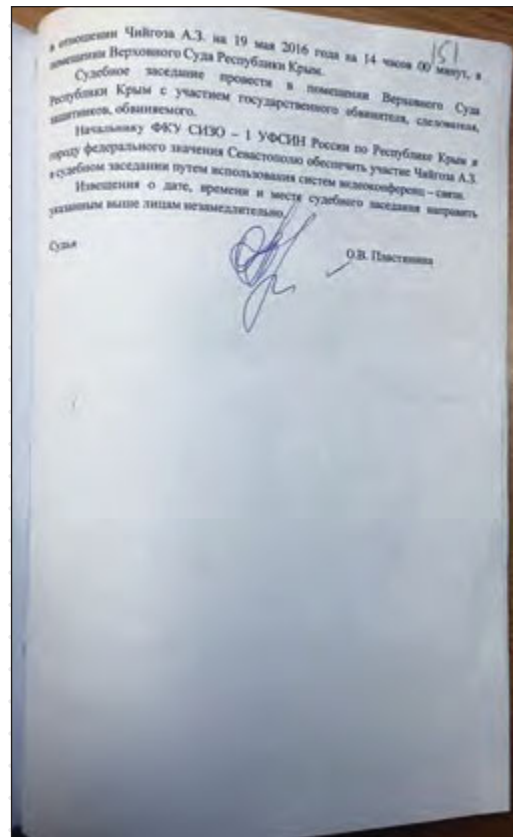
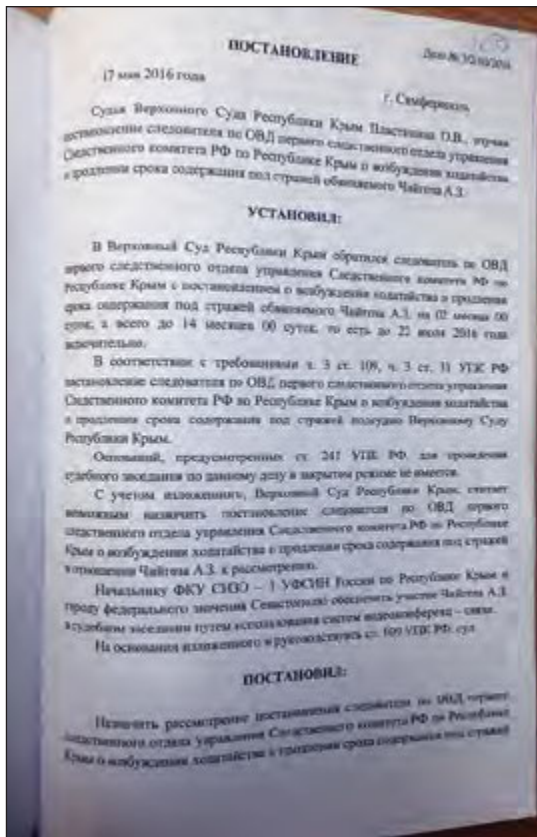
ANNEX 3



The answer of the General Prosecutor's Office of Ukraine regarding the request of Michael Kushpel, lawyer of Andrei Kolomiets



ANNEX 4



The decree of the judge of the Supreme Court of Crimea Plastinina O.V. regarding the appointment of the meeting for 19 May about the extending of the period of detention of Ahtem Chiyyoz, 17 May, 2016



ANNEX 5



КРЫМСКАЯ ПРАВООЗАЩИТНАЯ ГРУППА

e-mail: crimeahrg@gmail.com website: crimeahrg.org

«ДЕЛО ХИЗЬ УТ-ТАХРИР»: для преследования мусульман в Крыму де-факто власти используют нормы «антитеррористического» законодательства РФ. Уголовное преследование основывается на решении Верховного Суда РФ от 14 февраля 2003 года о признании Хизб ут-Тахрир террористической организацией и запрете её деятельности в РФ. Под предлогом поиска членов Хизб ут-Тахрир проводятся массовые обыски в домах крымских татар и регулярные допросы и аресты.

Согласно украинскому законодательству, Хизб ут-Тахрир действовала в Крыму легально и свободно. На данный момент в Крыму по «делу Хизб ут-Тахрир» — по обвинению в нарушении ст. 205.5 УК РФ «Организация деятельности террористической организации и участие в деятельности такой организации» — **под стражей содержится 14 человек**. Им грозит лишение свободы сроком до 10 лет (ч. 2 ст. 205.5 УК РФ) или до 20 лет (ч. 1 ст. 205.5 УК РФ). Доказательства их причастности к террористической деятельности нет, при обысках были найдены только книги и фильмы религиозного содержания.

14 МУСУЛЬМАН ПОД АРЕСТОМ ПО ДЕЛУ «ХИЗЬ УТ-ТАХРИР»

23 ЯНВАРЯ 2016 г.				2 ФЕВРАЛЯ 2016 г.	
 <small>Ильхам Шахмуров</small>	 <small>Кирилл Зайцев</small>	 <small>Арсен Шахмуров</small>	 <small>Шериф Абдураимов</small>		
12 ФЕВРАЛЯ 2016 г.			12 АПРЕЛЯ 2016 г.		
 <small>Руслан Бекмурзаев</small>	 <small>Тимур Ахмедов</small>	 <small>Руслан Бекмурзаев</small>	 <small>Руслан Бекмурзаев</small>	 <small>Руслан Бекмурзаев</small>	 <small>Руслан Бекмурзаев</small>
19 МАЯ 2016 г.					
 <small>Руслан Бекмурзаев</small>	 <small>Руслан Бекмурзаев</small>	 <small>Руслан Бекмурзаев</small>	 <small>Руслан Бекмурзаев</small>		

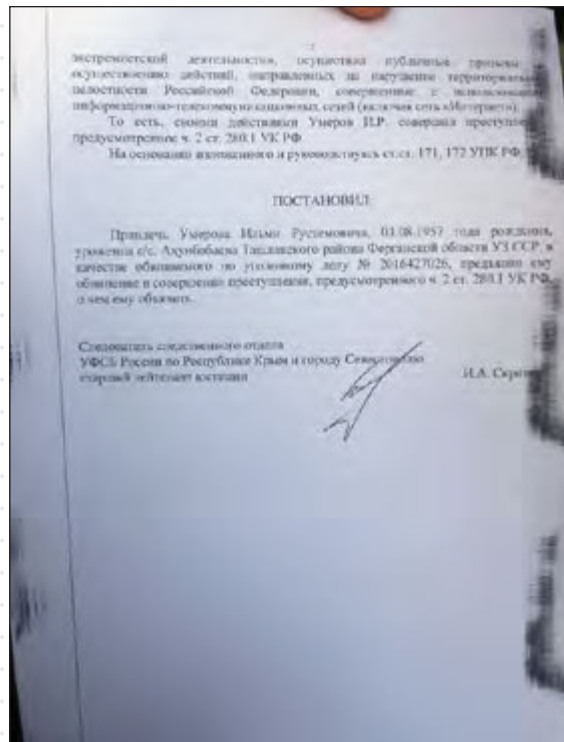
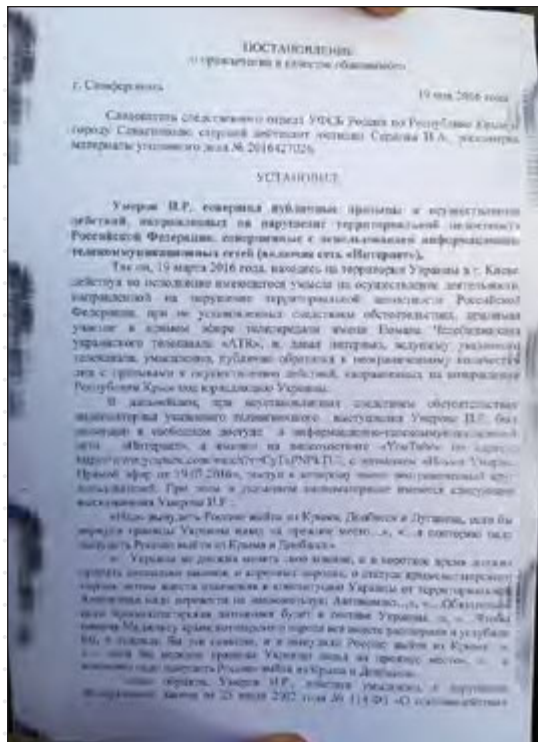
Обыски и задержания по этому делу продолжаются.

Более подробная информация о задержаниях, обысках и судебных заседаниях по «делу Хизб ут-Тахрир» в обзоре Крымской правозащитной группы: <http://crimeahrg.org/obsledeniya/>

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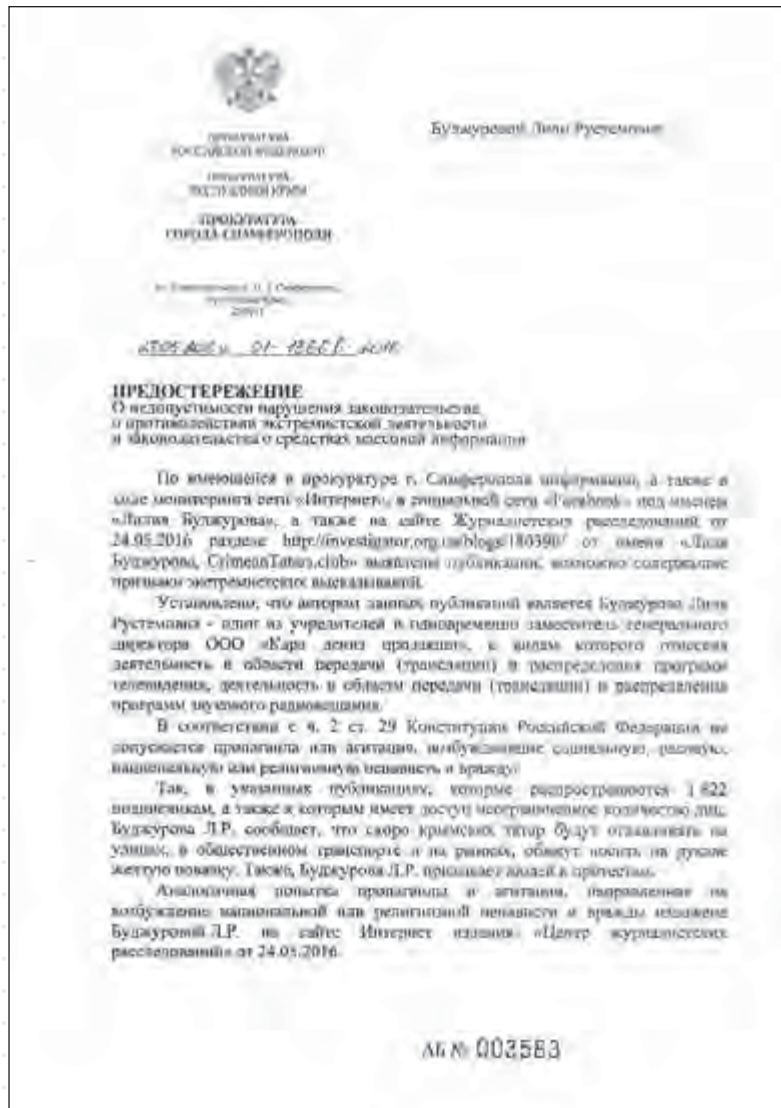
ANNEX 6



Resolution of the investigator of the investigation department of Federal Security Service in Crimea and Sevastopol Skrypka I.A. to prosecute an accused Ilii Umerov in a criminal case under Part 2 Article 280.1 of the Criminal Code of the Russian federation, 19 May 2016



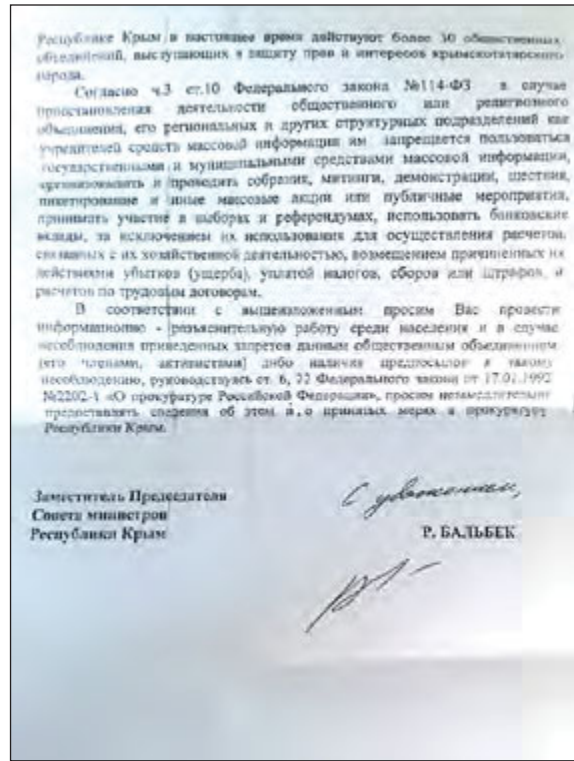
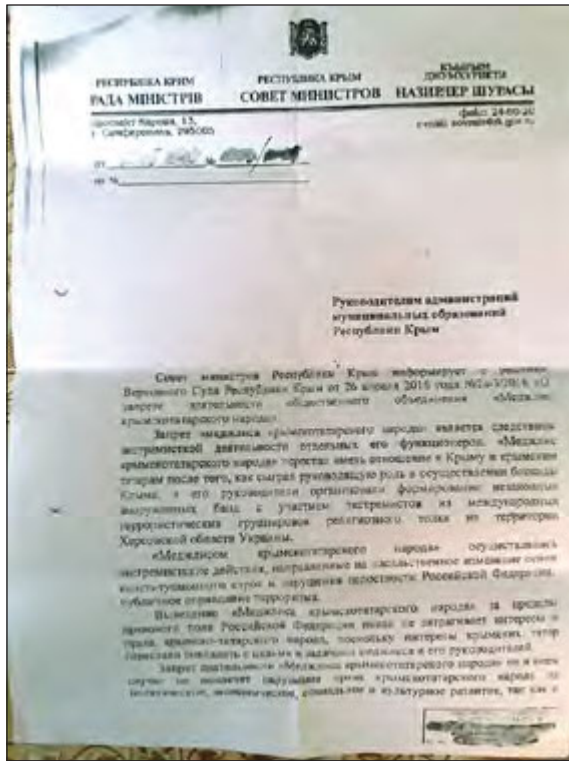
ANNEX 7



The fragment of the warning to Lilia Bujurova regarding the «inadmissibility of violating the law on combating extremist activities and media legislation» May 27, 2016



ANNEX 8



The letter of Ruslan Balbek, deputy chairman of the Council of Ministers of Crimea addressed to the heads of administrations of cities and villages of Crimea regarding the prosecution of the Mejlis because of involvement in «international terrorist groups»



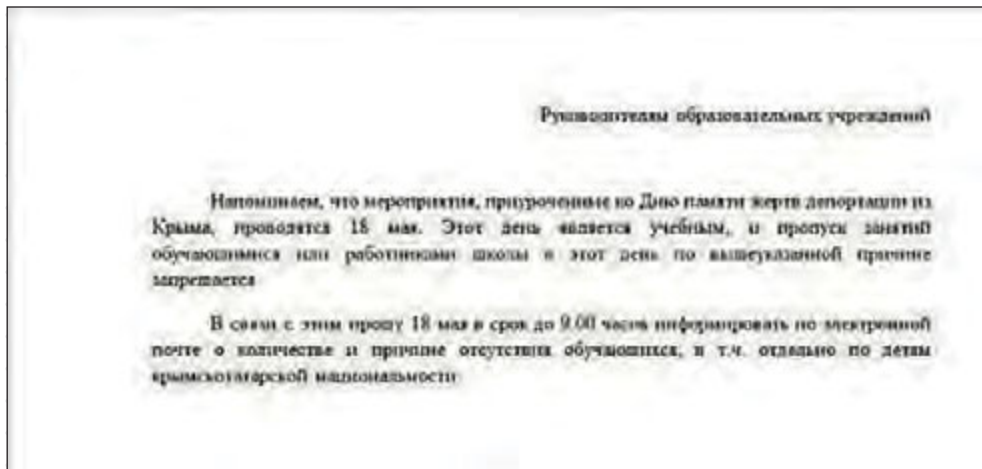
ANNEX 9



The refusal of the Voinka village administration of Krasnoperekopsky district to hold a rally on 18 May dedicated to the Day of memory of victims of deportation of the Crimean Tatars, 13 May, 2016



ANNEX 10



The notice about mandatory reporting about the number and reasons of the absence on 18 May, including «children of Crimean Tatars in particular»



ANNEX 11



The refusal of Yalta city administration to hold the event on the occasion of the Hydyrlez celebration of the Crimean Tatars on 3 May in Koreiz village



ANNEX 12



The act about the conduction of a personal search of Ali Ozenbash, Dzhankoi, 30 May, 2016



ANNEX 13



The letter of the Head of the city administration of Sudak Serov V.N. to the heads of state and municipal companies with a warning «not to travel to Ukraine through the Crimean land border», 31 May, 2016

Annex 951

Amnesty International, URGENT ACTION: Crimean Tatar Activist Forcibly Disappeared (26 May 2016).

URGENT ACTION

CRIMEAN TATAR ACTIVIST FORCIBLY DISAPPEARED

Crimean Tatar activist Ervin Ibragimov went missing on 24 May near his house in Bakhchysarai, a town in central Crimea. Footage from a CCTV camera shows a group of men forcing him into a van and driving away. Ervin Ibragimov has not been heard from since and there are serious concerns for his safety.

Activist **Ervin Ibragimov** (30-years-old) is an ethnic Crimean Tatar from the town of Bakhchysarai, in central Crimea. He is a former member of the local Bakhchysarai Town Council and a member of the World Congress of Crimean Tatars, an international organisation aimed at promoting the rights of Crimean Tatars and their cultural heritage which was set up after the peninsula's annexation by Russia in 2014.

Ervin Ibragimov told his friends that on 17 May he noticed a car waiting outside his house, which later followed him during the day. He did not report further incidents. On 25 May, he was due to travel to the town of Sudak to attend a court hearing on the case of a group of Crimean Tatars arrested by the de facto Crimean authorities for holding an "unauthorized" gathering on 18 May to mark the Crimean Tatar Deportation Remembrance Day.

Ervin Ibragimov last spoke to his father on the phone at around 11 pm on 24 May. His father later found his car abandoned outside their home, with the doors open and the key left in the ignition. CCTV footage from a camera at a nearby shop shows a group of men stopping Ervin Ibragimov's car. He is seen briefly speaking to the men before trying to escape. The men are seen apprehending and forcing him into their van and immediately driving away.

On 25 May, Ervin Ibragimov's father went to the offices of the Russian Federal Security Services (FSB) in the Crimean city of Simferopol to file a complaint and provide the CCTV footage. FSB officers refused to file the complaint and told him to send it by post. Police in Bakhchysarai opened an investigation into the incident and inspected the car.

There have been several enforced disappearances of ethnic Crimean Tatars since the peninsula's occupation and annexation by Russia in 2014, none of which has been effectively investigated.

Please write immediately in Ukrainian, Russian or your own language:

- Urging the de facto authorities to immediately establish and reveal Ervin Ibragimov's whereabouts and inform his family accordingly;
- Call for his immediate release, unless he is charged with a recognisable offence, in which case he should have an immediate access to a lawyer.

PLEASE SEND APPEALS BEFORE 7 JULY 2016 TO:

Prosecutor of Crimea

Nataliya Poklonskaya

Simferopol

Crimea

Fax: +7 3652 550 310

Salutation: Dear Prosecutor

And copies to:

Head of Crimea

Sergey Aksyonov

Simferopol

Crimea

Email: sovmin@rk.gov.ru

Fax: + 7 3652 248 020

And copies to:

Human Rights Commissioner in Crimea

Lyudmila Lyubina

Simferopol

Crimea

Email: upchvrk@mail.ru

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

CRIMEAN TATAR ACTIVIST FORCIBLY DISAPPEARED

ADDITIONAL INFORMATION

There have been at least six confirmed and suspected enforced disappearances of ethnic Crimean Tatars in Crimea since its occupation and annexation by Russia in 2014, none of which has been effectively investigated.

While families of the missing have received assurances from the de facto authorities that the disappearances would be effectively investigated, there have been no signs of any genuine inquiries. This was despite a plethora of evidence, including video footage, strongly suggesting that pro-Russian paramilitaries from the so-called Crimean self-defense force had been behind at least some of these cases.

Name: Ervin Ibragimov

Gender m/f: m

UA: 130/16 Index: EUR 50/4121/2016 Issue Date: 26 May 2016

Annex 952

Crimean Human Rights Group, The Victims of Enforced Disappearance in Crimea as a Result of the Illegal Establishment of the Russian Federation Control (2014-2016) (June 2016)



CRIMEAN HUMAN RIGHTS GROUP

e-mail: crimeahrg@gmail.com

website: crimeahrg.org

THE VICTIMS OF ENFORCED DISAPPEARANCE IN CRIMEA AS A RESULT OF THE ILLEGAL ESTABLISHMENT OF THE RUSSIAN FEDERATION CONTROL (2014 – 2016)

The report prepared by
the Crimean Human Rights Group
as of June 2016

Follow the <http://crimeahrg.org/category/monitor>,
to read monthly monitoring reviews of the
Crimean Human Rights Group

Follow the <http://crimeahrg.org/category/analytic>,
to read thematic reviews and articles of the
Crimean Human Rights Group

The Crimean Human Rights Group (CHRG) is the NGO of the Crimean human rights defenders and journalists, aimed at promoting the observance and protection of human rights in Crimea by attracting wide attention to problems of human rights and international humanitarian law in the territory of the Crimean peninsula, and the search for and development of mechanisms for the protection of human rights in Crimea.

The CHRG is guided by principles of objectivity, reliability and timeliness while preparing and spreading information. The CHRG's team consists of experts, human rights activists and journalists from different countries who are involved in monitoring and documenting human rights violations in Crimea, since February, 2014. CHRG focuses on human rights violations in connection with the illegal actions of the Russian Federation in Crimea.



During the preparation of the review CHRГ follows the next definition that is regulated by the International Convention for the Protection of All Persons from Enforced Disappearance:

«enforced disappearance» is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

According to the Crimean Human Rights Group 9 people became victims of enforced disappearances among civilians as a result of the illegal establishment of the Russian Federation control in Crimea. CHRГ considers victims of disappearances, which have next elements:

/// Politically motivated abductions in connection with the social activities or an ethnic / religious affiliation of the vanished person;

/// The involvement of representatives of the de facto authorities or members of paramilitary groups, controlled by the de facto authority, in the enforced disappearance;

/// The lack of effective investigation by the de facto authorities of Crimea.

In addition, the CHRГ tracks information about other cases of disappearance, which may have signs of enforced disappearance, but there are no sufficient reason to consider them as such at the moment.

It is important to note that members of paramilitary formations, in the first place, the so-called «Crimean self-defence» were involved in the majority of enforced disappearances in 2014. «Crimean self-defence» is one of the main systemic violations of human rights in Crimea. «Crimean self-defence» has emerged as an illegal armed group on February 20, 2014 and has been extensively involved in the storming of the Ukrainian military units, the squad of assemblies in support of the «Maidan» and territorial integrity of Ukraine, the capture of administrative buildings.

The «self-defence» included former personnel of the special force «Bercut» of the Ministry of Internal Affairs of Ukraine, the representatives of sports clubs and associations, as well as criminal organizations, including Russian citizens and local residents. In March there were numerous contacts of the «Crimean self-defence» with the Russian servicemen in joint actions. There is evidence of the involvement of representatives of the «Crimean self-defence» in the most serious violations of human rights, namely, the abduction and murder of *Reshat Ametov* (the body was found on March 15); the abduction and torture of more than 20 Ukrainian activists (among them *Andrey Schekun*, *Anatolij Kovalskiy* and others).

After March 18, the «Crimean self-defence» was not disbanded, vice versa — the process of its establishment as a force structure to support the Crimean government (especially of S.Aksenov) and suppress any attempts to oppose the new government commenced. On June 11, the Crimean de-facto authorities adopted a Law On the People's Militia — the people's guard of the Republic of Crimea. This Law has put the «Crimean self-defence» under the control of the Head of Crimea S. Aksenov and of the Council of Ministers of Crimea, and assigned to the paramilitary formation the status of people's guards.¹

Also there is a particularity of law enforcement officials, that have been created by the de facto authorities in Crimea after the Crimean occupation, that the employees are those individuals who have

¹ Legalization of «CRIMEAN SELF-DEFENSE», web-site of the Crimean Human Rights Group: <http://crimeahrg.org/en/legalization-of-crimean-self-defense/>



supported the illegal actions of Russia in Crimea, and many of them contributed to the occupation of Ukrainian military units and office buildings by the Russian military or paramilitary units during February and March, 2014.

In addition, many senior positions in the Crimean force authorities since 2014 are taken by officials, who are citizens of Russia and who were transferred to Crimea. For example, Victor Palagin is the head of the Federal Security Service of Russia in Crimea and Sevastopol. Previously, from 2008 to 2013 he was a head of the Federal Security Service of Russia in the Republic of Bashkortostan. In Bashkiria Victor Palagin was known for having initiated a series of criminal cases regarding extremist crimes, defendants in which were participants of religious and national non-governmental organizations. Palagin reported that other Federal Security Service of Russia colleagues were transferred with him in Crimea.

Thus, this situation creates a risk of biased investigation or sabotaging of the investigations regarding the disappearances, the victims of which are individuals who belong to groups that are opposed to the annexation of Crimea (Ukrainian and Crimean Tatars, the protesters on Independence Square in Kiev).

It is necessary to note that Ukrainian legislation accredits authorizes of the Prosecutor's Office and the police authorities of Ukraine to make the appropriate legal proceedings on the fact of abduction or disappearances of citizens of Ukraine in Crimea. Furthermore, for the purpose of recording the violations of human rights in Crimea and investigation of crimes that were committed by the de facto authorities in Crimea, the individual law enforcement agencies were created (restored) in Ukraine: The Prosecutor's Office of the Autonomous Republic of Crimea (Kiev), the main national police headquarters in the Autonomous Republic of Crimea and Sevastopol (Odessa), the Office of the security Service of the Autonomous Republic of Crimea and Sevastopol (Kherson). In this regard, the CHRG also monitors the activities of Ukrainian law enforcement agencies in matters of recording and investigation of human rights violations in Crimea.



Reshat Ametov

Date of Birth: 01/24/1975

Occupation: activist

Ethnic / religious affiliation: Crimean Tatar

Disappearance date: March 03, 2014

Settlement in which he was seen before disappearing: Simferopol

Circumstances of the disappearance:

He was abducted by men in camouflage uniforms in the centre of Simferopol on 3 March, 2014 during a single picket against the occupation of Crimea by Russia on Lenin Square next to the Crimean Council of Ministers building. His body with signs of torture was found in the Zemlyanichnoe village of Belogorsk district. Handcuffs were found next to the body and the head of the killed was bound up with tape. The cause of death — a penetrating stab wound to the eye with a sharp object.

Investigation:

<i>De facto authorities in Crimea</i>	<i>Law enforcement bodies of Ukraine</i>
<p>The Investigative Committee of the Investigation Department of Russia in Crimea has opened a criminal case under part 1 of article 105 of the Criminal Code of the Russian Federation — «Murder».</p> <p>On 4 November, 2014 a criminal investigation regarding the murder of Reshat Ametov been suspended, the official reason: «The person liable to be charged, is not determined». Members of the «Crimean self-defence», which are involved in the abduction of Ametov are determined, but are considered as witnesses in the case.</p>	<p>In the Kherson region of Ukraine (the region that borders on Crimea) pre-trial investigation regarding the killing of Reshat Ametov is taking place on the grounds of a criminal offense under the Part 1 of Article 115 of the Criminal Code of Ukraine — «premeditated murder».</p>

Links to additional materials:

1. *The Brief Reviews of Crimean Field Mission in April, May, June 2014:* <http://cfmission.crimeahr.org/en/category/monitoring-en/>
2. *The Crimean Human Rights Group, the Review of the Situation with Human Rights in Crimea in October 2015:* <http://crimeahrg.org/en/review-of-the-situation-with-human-rights-in-crimea-in-october-2015/>
3. *The Peninsula of Fear: Chronicle of Occupation and Violation of Human Rights in Crimea / Under the general editorship of O. Skrypnyk and T. Pechonchyk. Second edition, revised and corrected, Kyiv, 2016 / Point 4.1. The First Victims of the Occupation:* http://crimeahrg.org/wp-content/uploads/2016/05/PeninsulaFear_Book_ENG_v04.indd_.pdf
4. *The Video recording of Reshat Ametov's abduction on March 3, 2014, in the central square of Simferopol:* <https://www.youtube.com/watch?v=2gwhzl7dbj0>



Timur Shaimardanov

Date of Birth: 09/13/1980

Occupation: activist of the public initiative «Ukrainian People's House», participated in humanitarian assistance to Ukrainian military in Crimea in March 2014

Ethnic / religious affiliation: Kazan Tatar

Disappearance date: May 26, 2014

Settlement in which he was seen before disappearing: Simferopol

Circumstances of the disappearance:

On 25 May, 2014 the activist reported to his colleagues in the social activities regarding the disappearance of Leonid Korzh (who later returned home). On 26 May, 2014 Shaimardanov left the house and never returned home. The connection with him was lost on the same day. Witnesses and relatives informed about the involvement of members of the «Crimean self-defence» in the abduction of activist.

Investigation:

<i>De facto authorities in Crimea</i>	<i>Law enforcement bodies of Ukraine</i>
<p>Russia's Investigative Committee opened a criminal case under the Article 105 of the Criminal Code of the Russian Federation — «Murder». In November 2015 the lawyer reported that the case is suspended in Crimea.</p> <p>The investigator in the case denied the access to the case file for the lawyer. The lawyer appealed against this refusal of the investigator and did not receive a response to his application for a long time.</p> <p>Witnesses reported that the investigation in the case of the abduction of Timur Shaimardanov is considering versions of extinction due to commercial activity or his voluntary departure from Crimea, but does not consider the version of the abduction because of his social activities and involvement of the persons from the «Crimean self-defence».</p>	<p>In connection with the abduction of Timur Shaimardanov a criminal case under the Article 146 of the Criminal Code of Ukraine — «Illegal imprisonment or kidnapping», which is being investigated by the Main Department of the Interior Ministry of Ukraine in the Kherson region was opened. Later, the case was transferred to the General Office of the National Police in the Kherson region.</p> <p>Representatives of the relatives of Timur Shaimardanov filed a complaint to the ECHR against Russia and Ukraine due to the inaction of law enforcement agencies in the investigation of this fact.</p>

Links to additional materials:

1. *The Brief Reviews of Crimean Field Mission in May 2014:* http://cfmission.crimea.hr.org/wp-content/uploads/2015/01/otchet_krymskoy_polevoy_missii_-_may_2014.pdf
2. *Information about Timur Shaimardanov on the Investigative Committee of the Russian Federation website in the «Missing» section:* http://crim.sledcom.ru/attention/missing_persons/item/873128/
3. *Information about Timur Shaimardanov on the Interior Ministry of Ukraine website in the «Disappeared Citizens» section:* <http://wanted.mvs.gov.ua/searchbezvesti/>
4. *The Peninsula of Fear: Chronicle of Occupation and Violation of Human Rights in Crimea / Under the general editorship of O. Skrypnyk and T. Pechonchyk. Second edition, revised and corrected, Kyiv, 2016 / Point 4.2. Abductions and Tortures of Activists During the Occupation of Crimea:* http://crimeahrg.org/wp-content/uploads/2016/05/PeninsulaFear_Book_ENG_v04.indd_.pdf



Seyran Zinedinov

Date of Birth: 07/04/1981

Occupation: Activist of «Ukrainian People's House» public initiative, the participant of actions against Russia's actions in Crimea

Ethnic / religious affiliation: Crimean Tatar

Disappearance date: May 30, 2014

Settlement in which he was seen before disappearing: Simferopol

Circumstances of the disappearance:

Seyran Zinedinov was engaged in the search for the missing colleague in social activities Timur Shaimardanov on 26 May. In the evening on 30 May, 2014 Seyran Zinedinov met with the wife of Shaimardanov, but after the meeting did not return home. After the disappearance the signal of his mobile phone was detected next to the «Dolphin» pensionate near the town of Yevpatoria. In addition, relatives of Seyran Zinedinov reported about the existence of a video from the surveillance camera, which is detected as the activist was putted in the car against his will. Witnesses also reported about the involvement of members of the «Crimean self-defence» in the abduction.

Investigation:

<i>De facto authorities in Crimea</i>	<i>Law enforcement bodies of Ukraine</i>
<p>Russia's Investigative Committee opened a criminal case under the Article 105 of the Criminal Code of the Russian Federation — «Murder». In November 2015 the lawyer reported that the case is suspended in Crimea.</p> <p>In the case of the abduction of Seyran Zinedinov the investigation considering versions of disappearance due to commercial activity or voluntary departure from the Crimea, but does not consider the version of the abduction because of social activities and involvement of persons from the «Crimean self-defence», as reported by witnesses.</p>	<p>In connection with the abduction Seyran Zinedinov a criminal case under the Article 146 of the Criminal Code of Ukraine — «Illegal imprisonment or kidnapping», which is being investigated by the Main Department of the Interior Ministry of Ukraine in the Kherson region was opened. Later, the case was transferred to the General Office of the National Police in the Kherson region.</p> <p>However, on the site of the Ministry of Internal Affairs of Ukraine Zinedinov listed as missing not in Crimea, but in the territory of the antiterrorist operation (Luhansk and Donetsk region of Ukraine)</p> <p>Representatives of Zinedinov relatives filed a complaint to the ECHR against Russia and Ukraine due to the inaction of law enforcement agencies in the investigation of this fact.</p>

Links to additional materials:

1. *The Brief Reviews of Crimean Field Mission in May 2014:* http://cfmission.crimeahr.org/wp-content/uploads/2015/01/otchet_krymskoy_polevoy_missii_-_may_2014.pdf
2. *Information about Seyran Zinedinov on the Investigative Committee of the Russian Federation website in the «Missing» section:* http://crim.sledcom.ru/attention/missing_persons/item/873129/
3. *Information about Seyran Zinedinov on the Interior Ministry of Ukraine website in the «Disappeared Citizens» section:* <http://wanted.mvs.gov.ua/searchbezvesti/>
4. *The Peninsula of Fear: Chronicle of Occupation and Violation of Human Rights in Crimea / Under the general editorship of O. Skrypyk and T. Pechonchyk. Second edition, revised and corrected, Kyiv, 2016 / Point 4.2. Abductions and Tortures of Activists During the Occupation of Crimea:* http://crimeahrg.org/wp-content/uploads/2016/05/PeninsulaFear_Book_ENG_v04.indd_.pdf



Vasiliy Chernysh

Date of Birth: 02/01/1978

Occupation: Activist of «automaïdan». Participated in the search of abducted activists in Crimea and was an employee of Security Service of Ukraine in Sevastopol earlier.

Ethnic / religious affiliation: Ukrainian

Disappearance date: March 15, 2014

Settlement in which he was seen before disappearing: Sevastopol

Circumstances of the disappearance:

The last time Vasiliy Chernysh got in touch with the relatives was on 15 March, 2014. Ever since then his location is not known. The activist of «automaïdan» Alexey Gritsenko reported that they were able to find out that Chernysh was taken from his apartment and taken away in an unknown direction by police officers.

Investigation:

<i>De facto authorities in Crimea</i>	<i>Law enforcement bodies of Ukraine</i>
<p>De facto authorities in Crimea are not conducting an investigation regarding the disappearance of Vasiliy Chernysh.</p> <p>He is not listed on the website of the Investigative Committee of Russia in Crimea in the «Missing» section.</p>	<p>Upon the disappearance of Vasiliy Chernysh information was included in the National Register of Pre-Trial Investigations under №121014100010004863 by the Main Department of Internal Affairs of Ukraine in Kiev on 18 June, 2014.</p> <p>However, on the site of MIA of Ukraine in the «Missing Citizens» section it is stated that Chernysh disappeared not in Crimea but in Donetsk, Donetsk region of Ukraine.</p>

Links to additional materials:

1. *The Crimean Human Rights Group, the Review of the Situation with Human Rights in Crimea in July-August 2015: http://crimeahrg.org/wp-content/uploads/2016/02/Crimean_Human_Rights_Group_July_August_2015_ENG.pdf*
2. *The Peninsula of Fear: Chronicle of Occupation and Violation of Human Rights in Crimea / Under the general editorship of O. Skrypnyk and T. Pechonchyk. Second edition, revised and corrected, Kyiv, 2016 / Point 4.2. Abductions and Tortures of Activists During the Occupation of Crimea: http://crimeahrg.org/wp-content/uploads/2016/05/PeninsulaFear_Book_ENG_v04.indd_.pdf*
3. *Crimea: Ukrainian identity banned. Analytical report on politically motivated persecution and discrimination on the ground of pro-Ukrainian opinion. Editor: Olga Skrypnyk — Kyiv, 2016. http://crimeahrg.org/wp-content/uploads/2016/03/Crimea-Ukrainian-identity-banned_EN_CHRG.pdf*
4. *Information about Vasiliy Chernysh on the Interior Ministry of Ukraine website in the «Disappeared Citizens» section: <http://wanted.mvs.gov.ua/searchbezvesti/>*



Ivan Bondarec

Date of Birth: 07/31/1990

Occupation: the participant of the 40th sotnia of Maidan-selfdefence. Protester on Independence Square in Kiev.

Ethnic / religious affiliation: Ukrainian

Disappearance date: March 07, 2014

Settlement in which he was seen before disappearing: Simferopol

Circumstances of the disappearance:

Upon arrival in Simferopol Ivan Bondarec and his public colleague Valeriy Vashchuk called their relatives and said that they were detained by the police in Simferopol. After that, they reported that they were released, and they are going to the meeting of the Ukrainian movement with colleagues. Since then communication with them was lost, and so far nothing is known about their location.

Investigation:

<i>De facto authorities in Crimea</i>	<i>Law enforcement bodies of Ukraine</i>
<p>De facto authorities in Crimea are not conducting an investigation regarding the disappearance of Ivan Bondarec.</p> <p>He is not listed on the website of the Investigative Committee of Russia in Crimea in the «Missing» section.</p>	<p>Upon the disappearance of Ivan Bondarec Prosecutor's Office of the Autonomous Republic of Crimea (Kiev) opened criminal proceedings under the Part 1 of Article 115 of the Criminal Code of Ukraine — «deliberate murder».</p> <p>Also regarding the disappearance of I. Bondarec Rovno Regional Office of the Ministry of Internal Affairs in Rovno region filled in the information in National Register of Pre-Trial Investigations №120141800010001927 on 9 April, 2014.</p> <p>However, at present the information about the disappearance of Bondarec is missing on the website of MIA of Ukraine in the «Disappeared Citizens» section.</p>

Links to additional materials:

1. *The Crimean Human Rights Group, the Review of the Situation with Human Rights in Crimea in July-August 2015: http://crimeahrg.org/wp-content/uploads/2016/02/Crimean_Human_Rights_Group_July_August_2015_ENG.pdf*
2. *The Peninsula of Fear: Chronicle of Occupation and Violation of Human Rights in Crimea / Under the general editorship of O. Skrypyk and T. Pechonchyk. Second edition, revised and corrected, Kyiv, 2016 / Point 4.2. Abductions and Tortures of Activists During the Occupation of Crimea: http://crimeahrg.org/wp-content/uploads/2016/05/PeninsulaFear_Book_ENG_v04.indd_.pdf*
3. *Crimea: Ukrainian identity banned. Analytical report on politically motivated persecution and discrimination on the ground of pro-Ukrainian opinion. Editor: Olga Skrypyk — Kyiv, 2016. http://crimeahrg.org/wp-content/uploads/2016/03/Crimea-Ukrainian-identity-banned_EN_CHRG.pdf*



Valery Vashchuk

Date of Birth: 12/29/1985

Occupation: the participant of the 40th sotnia of Maidan-selfdefence. Protester on Independence Square in Kiev.

Ethnic / religious affiliation: Ukrainian

Disappearance date: March 07, 2014

Settlement in which he was seen before disappearing: Simferopol

Circumstances of the disappearance:

On arrival at the Simferopol Valery Vashchuk and his public colleague Ivan Bondarec called their relatives and said that they were detained by the police in Simferopol. After that, they reported that they were released, and they are going to the meeting with their colleagues to the Ukrainian movement. Since then communication with them was lost, and so far nothing is known about their location.

Investigation:

<i>De facto authorities in Crimea</i>	<i>Law enforcement bodies of Ukraine</i>
<p>De facto authorities in Crimea are not conducting an investigation regarding the disappearance of Ivan Bondarec.</p> <p>He is not listed on the website of the Investigative Committee of Russia in Crimea in the «Missing» section.</p>	<p>On 2 April, 2014 Ostroh Regional Office of the Ministry of Internal Affairs of Ukraine in Rovno region initiated a pre-trial investigation regarding the disappearance of Valeriy Vashchuk №12014180170000136 in criminal proceedings on the grounds of the Part 1 of Article 115 of the Criminal Code of Ukraine — «deliberate murder».</p> <p>However, the case files were sent to the Simferopol State Interior Ministry of Ukraine in the Autonomous Republic of Crimea in Simferopol on 11 April, 2014. During this period the Ukrainian authorities have not acted on the territory of Crimea.</p> <p>Valeriy Vashchuk is listed on the website of MIA of Ukraine in the «Disappeared Citizens» section as missing on the territory of Crimea.</p>

Links to additional materials:

1. *The Crimean Human Rights Group, the Review of the Situation with Human Rights in Crimea in July-August 2015: http://crimeahrg.org/wp-content/uploads/2016/02/Crimean_Human_Rights_Group_July_August_2015_ENG.pdf*
2. *The Peninsula of Fear: Chronicle of Occupation and Violation of Human Rights in Crimea / Under the general editorship of O. Skrypnyk and T. Pechonchyk. Second edition, revised and corrected, Kyiv, 2016 / Point 4.2. Abductions and Tortures of Activists During the Occupation of Crimea: http://crimeahrg.org/wp-content/uploads/2016/05/PeninsulaFear_Book_ENG_v04.indd_.pdf*
3. *Crimea: Ukrainian identity banned. Analytical report on politically motivated persecution and discrimination on the ground of pro-Ukrainian opinion. Editor: Olga Skrypnyk — Kyiv, 2016. http://crimeahrg.org/wp-content/uploads/2016/03/Crimea-Ukrainian-identity-banned_EN_CHRG.pdf*
4. *Information about Valeriy Vashchuk on the Interior Ministry of Ukraine website in the «Disappeared Citizens» section: <http://wanted.mvs.gov.ua/searchbezvesti/>*



Islyam Dzhepparov

Date of Birth: 11/13/1995

Ethnic / religious affiliation: Crimean Tatar

Disappearance date: September 27, 2014

Settlement in which he was seen before disappearing: Belogorsk

The circumstances of the disappearance:

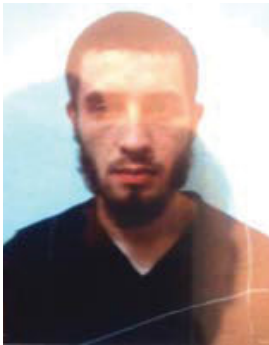
According to witnesses, two masked men dressed in black uniforms, allegedly members of the «Crimean self-defence» searched Islyam Dzhepparov and Dzhavdet Islyamov and then forcibly put them in the blue Volkswagen Transporter minivan with tinted windows (registered sign 755, region 82) and taken in the direction of Feodosia. Islyam Dzhepparov is the son of the Crimean Tatar activist Abdureshit Dzhepparov.

Investigation:

<i>De facto authorities in Crimea</i>	<i>Law enforcement bodies of Ukraine</i>
<p>Russian Investigative Committee opened a criminal case on the grounds of an offense under subsection «A, G» part 2 article 126 of the Criminal Code of the Russian Federation — «abduction of a person by a group of persons with prior agreement in respect of two or more persons».</p> <p>Results of the investigation are unknown.</p> <p>Despite signs of an enforced disappearance, the investigation considers the version of the voluntary departure from Crimea or departure to Syria, ostensibly to participate in armed hostilities.</p>	<p>Prosecutor General of Ukraine opened criminal proceedings in connection with the abduction of Islyam Dzhepparov on the grounds of a criminal offense under the Part 2 of Article 146 of the Criminal Code of Ukraine — «unlawful deprivation of liberty, or kidnapping, committed against two or more persons with prior agreement by a group of persons».</p> <p>However, there is no information about the disappearance on the site of Ministry of Internal Affairs of Ukraine.</p>

Links to additional materials:

1. *The Brief Reviews of Crimean Field Mission in September 2014:* http://cfmission.crimeahr.org/wp-content/uploads/2015/01/crimea_field_mission_septmber_2014_report_eng.pdf
2. *The Peninsula of Fear: Chronicle of Occupation and Violation of Human Rights in Crimea / Under the general editorship of O. Skrypyk and T. Pechonchyk. Second edition, revised and corrected, Kyiv, 2016 / Point 4.2. Abductions and Tortures of Activists During the Occupation of Crimea:* http://crimeahrg.org/wp-content/uploads/2016/05/PeninsulaFear_Book_ENG_v04.indd_.pdf
3. *Information about Islyam Dzhepparov on the Investigative Committee of the Russian Federation website in the «Missing» section:* http://crim.sledcom.ru/attention/missing_persons/item/873126/



Islyamov Dzhavdet Serverovich

Date of Birth: 04/30/1991

Ethnic / religious affiliation: Crimean Tatar

Disappearance date: September 27, 2014

Settlement in which he was seen before disappearing: Belogorsk

The circumstances of the disappearance:

According to witnesses, two masked men dressed in black uniforms, allegedly members of the «Crimean self-defence» searched Dzhavdet Islyamov and Islyam Dzheparov and then forcibly put them in a blue Volkswagen Transporter minivan with tinted windows (registered sign 755, region 82) and taken them in the direction of Feodosia.

Investigation:

<i>De facto authorities in Crimea</i>	<i>Law enforcement bodies of Ukraine</i>
<p>Russian Investigative Committee opened a criminal case on the grounds of an offense under subsection «A, G» part 2 article 126 of the Criminal Code of the Russian Federation — «abduction of a person, a group of persons with prior agreement in respect of two or more persons».</p> <p>Results of the investigation are unknown.</p> <p>Despite signs of an enforced disappearance, the investigation considers the version of the voluntary departure from Crimea or departure to Syria, ostensibly to participate in armed hostilities.</p>	<p>Prosecutor General of Ukraine opened criminal proceedings in connection with the abduction of Dzhavdet Islyamov on the grounds of a criminal offense under the Part 2 of Article 146 of the Criminal Code of Ukraine — «unlawful deprivation of liberty, or kidnapping, committed against two or more persons with prior agreement by a group of persons».</p> <p>However, there is no information about the disappearance on the site of Ministry of Internal Affairs of Ukraine.</p>

Links to additional materials:

1. *The Brief Reviews of Crimean Field Mission in September 2014:* http://cfmission.crimeahr.org/wp-content/uploads/2015/01/crimea_field_mission_septmber_2014_report_eng.pdf
2. *The Peninsula of Fear: Chronicle of Occupation and Violation of Human Rights in Crimea / Under the general editorship of O. Skrypnyk and T. Pechonchyk. Second edition, revised and corrected, Kyiv, 2016 / Point 4.2. Abductions and Tortures of Activists During the Occupation of Crimea:* http://crimeahrg.org/wp-content/uploads/2016/05/PeninsulaFear_Book_ENG_v04.indd_.pdf
3. *Information about Dzhavdet Islyamov on the Investigative Committee of the Russian Federation website in the «Missing» section:* http://crim.sledcom.ru/attention/missing_persons/item/873126/



Erwin Ibragimov

Date of Birth: 07/17/1985

Occupation: from 10.01.2011 was a chief specialist of international relations of Bakhchisaray district administration in the Autonomous Republic of Crimea, Bakhchisaray. He was the deputy of the 6th convocation of the City Council.

Ethnic / religious affiliation: Crimean Tatar

Disappearance date: May 24, 2016

Settlement in which he was seen: Bakhchisaray

Circumstances of the disappearance:

Unidentified persons in the Russia traffic police uniform stopped a passing by car of Ibragimov in Bakhchisarai near the house on the 9 Mira street. After that he was forcibly putted in the car and drove away in an unknown direction. On 1 June near the «Arpat» bar in Bakhchisarai, passport and work record book of the kidnapped Ibragimov were found.

Investigation:

<i>De facto authorities in Crimea</i>	<i>Law enforcement bodies of Ukraine</i>
<p>Main Investigation Department of the Investigative Committee of Russia in Crimea opened a criminal case under subsection «A, B» part 2, Article 126 of the Criminal Code of the Russian Federation — «Abduction».</p> <p>Local community representatives have repeatedly carried out actions with the requirement to provide information about the investigation and the involvement of police officers in the abduction. However, there is no new information on the case.</p>	<p>Prosecutor's Office of Crimea (Kiev) has opened criminal proceedings on the fact of kidnapping of Ibragimov under part 1 article 115 of the Criminal Code of Ukraine — «deliberate murder».</p>

Links to additional materials:

1. Video from the place of abduction of Erwin Ibragimov: <https://www.youtube.com/watch?v=FW8bqgsBFaQ>
2. <https://www.youtube.com/watch?v=YZZh4zFaWKY>
3. Information about Erwin Ibragimov on the Investigative Committee of the Russian Federation website in the «Missing» section: <http://crim.sledcom.ru/news/item/1045425/>
4. Notice regarding the beginning of the criminal procedure by the prosecutor's office of Crimea (Kiev): http://ark.gov.ua/ua/news.html?_m=publications&_t=rec&id=184163
5. The Crimean Human Rights Group, the Review of the Situation with Human Rights in Crimea in May 2016: <http://crimeahrg.org/en/category/monitor-2/>



OTHER CASES OF DISAPPEARANCES WITH POSSIBLE SIGNS OF ENFORCED DISAPPEARANCES:

Edem Asanov, born in 1989, disappeared on his way to work on 29 September, 2014 in the town of Saki. According to his sister Asanova Feride, he left his house in Saki at 8:30 a.m. to take a bus to Yalta, where he worked as a lifeguard at the sanatorium. On 6 October Asanov was found hanged in a abundant building in Yevpatoria. Suicide note was found with him. Relatives insist that the death of Eden Asanov is not connected with the political processes that are taking place in Crimea.

At the same time, the information was spread that the namesake of E. Asanov has been specified in the request of 22 September regarding the extending the arrest for Ukrainian film director Oleg Sentsov regarding the so-called «case of the Crimean terrorists». The document, signed by the senior investigator for particularly important cases of the Investigative Department of the FSB of the Russian Federation, states that Major of Justice Artem Burdin, said: «The specified terrorist community at various times included Asanov E.N., Afanasiev G.S., ..., ..., Kol'chenko A.A.,, Chirniy A.V. and other unidentified persons». This information appeared about a week before the disappearance of E. Asanov. Some experts expressed the view that these circumstances make it impossible to say with certainty about the non-violent nature of E. Asanov death.

Mukhtar Arislanov, born in 1970, is a Crimean Tatar who worked as a physical education teacher at the school in Simferopol district. On 27 August, 2015 went out of the house to buy some products at the «Zaleski» market in Simferopol, and so far has not returned. According to Arislanov sister, a witness saw two men in police uniform that were guiding Arislanov. The silver minivan came down from the side of storey buildings. Arislanov was putted in the bus and drove off in the direction of the city. The Investigative Committee of the Russian Federation opened a criminal case on the grounds of an offense under the Part 1, Article 105 of the Criminal Code of the Russian Federation (murder). There is no information about the disappearance on the site of Ministry of Internal Affairs of Ukraine.

Separately, it must be said about the fact of the disappearance of Fedor Kostenko.

On 3 March, 2015 it became known about the disappearance of Fedor Kostenko who is the father of Ukrainian political prisoner Alexander Kostenko (who is located in prison camp in Kirovo-Chipetsk in Russian). Before his disappearance, Fedor Kostenko came from Crimea to Kiev to communicate with the media on the case of his son. However, he found out about the new search of his apartment in Simferopol and decided to return to Crimea. The last time he got in touch via mobile phone from Kiev, and then there was no connection with him. According to the State Border Service of Ukraine, Fedor Kostenko left the territory of Crimea on 1 March 2015. There is no information about the fact of his return to Crimea after that. Thus, this information suggests that Fedor Kostenko disappeared on the mainland of Ukraine. Ukrainian law enforcement authorities opened a criminal case under Part 1, Article 115 of the Criminal Code of Ukraine «intended murder». Fedor Kostenko is listed on the website of MIA of Ukraine in the «Disappeared Citizens» section.

Other cases of disappearances have been fixed in Crimea (Eskender Apselyamov, Bilyal Bilyalov, Arlen Terekhov, Ruslan Ganiev, Arsen Aliev, Abdurahmon Ayubov and other), but at this moment there are not clearly identified signs of enforced disappearances in these cases.



ABOUT US

The **Crimean Human Rights Group (CHRG)** is an organization of the Crimean human rights defenders and journalists, the purpose of which is to promote the observance and protection of human rights in Crimea by attracting widespread attention to the problems of human rights and international humanitarian law in the territory of the Crimean peninsula, as well as the search and development of mechanisms to protect the human rights in Crimea.

The **CHRG** first of all obey the rules of basic documents in the field of human rights, such as: the Universal Declaration of Human Rights, the Helsinki Final Act, the Convention on the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the International Covenant on economic, social and cultural Rights and others.

The main objectives of the **CHRG**:

- 1) Collection and analysis of the information regarding the human rights situation in the Crimea;
- 2) Broad awareness among governments, international organizations, intergovernmental organizations, non-governmental organizations, the media and other target groups through the publication and spreading of analytical and information materials on the human rights situation in Crimea;
- 3) Promote the protection of human rights and respect for international law in Crimea;
- 4) Preparation of recommendations for government authorities and international organizations in the sphere of human rights;
- 5) Providing the presence of «human rights in the Crimea topics» in the information space.

The **CHRG's** team consists of experts, human rights activists and journalists from different countries who are involved in monitoring and documenting human rights violations in Crimea, since February, 2014.

During preparation and spreading of the information the **CHRG** is guided by principles of objectivity, reliability and timeliness.

Monthly monitoring reviews of the Crimean Human Rights Group

<http://crimeahrg.org/category/monitor>

Thematic reviews and articles of the Crimean Human Rights Group

<http://crimeahrg.org/category/analytic>

Annex 953

Human Rights Watch, Crimean Tatar Activist Confined in Psychiatric Hospital (26 August 2016)

Crimean Tatar Activist Confined in Psychiatric Hospital

 [hrw.org/news/2016/08/26/crimean-tatar-activist-confined-psychiatric-hospital](https://www.hrw.org/news/2016/08/26/crimean-tatar-activist-confined-psychiatric-hospital)

August 26, 2016

August 26, 2016 12:00AM EDT

Drop Separatism Charges, Allow Necessary Medical Care

(Berlin) – A Crimean Tatar activist has been involuntarily confined since August 18, 2016, in a psychiatric hospital, Human Rights Watch said today. The de-facto Russian authorities of Crimea should release the activist, Ilmi Umerov, drop criminal separatism charges against him, and ensure that he receives the medical care he requires.

Umerov, 59, is a former head of the Bakhchisaray district administration in Crimea and a former deputy chairman of Mejlis, the Crimean Tatars' elected representative body. Since Russian forces occupied Crimea in February 2014, Umerov has been an outspoken critic of the occupation and the Russian administration's persecution of Crimean Tatars, an ethnic minority who openly opposed Russia's occupation of Crimea, a part of Ukraine. The Supreme Court of Crimea in April 2016 declared Mejlis an extremist organization, and Crimean Tatar activists appealed the decision.

"Umerov's forced psychiatric confinement is an egregious violation of his rights," said Tanya Cooper, Ukraine researcher at Human Rights Watch. "It's also a shameful attempt to use psychiatry to silence him and tarnish his reputation, a popular practice against dissidents in the Soviet Union."

Expand

Ilmi Umerov, Crimean Tatar activist, July 6, 2015.

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Russia's Federal Security Services (FSB) detained Umerov in May in Bakhchisaray, charged him with separatism under part 2 of Article 280.1 of the Russian criminal code and banned him from leaving Crimea during the investigation. Mark Feygin, one of Umerov's lawyers, told Human Rights Watch that on August 18, FSB officers forcibly moved Umerov from a Simferopol hospital, where he was receiving treatment for high blood pressure, to a psychiatric facility in the same city for an involuntary psychiatric evaluation, which can last up to 28 days or even longer.

Feygin said the charges stem from a March 2016 live interview with the Crimean Tatar TV channel ATR, which was posted on YouTube the next day. Russian authorities shut down the station in April 2015, and it relocated to Kiev.

Feygin said that based on a so-called expert linguistic analysis of the Russian translation of Umerov's Crimean Tatar language interview, the FSB concluded that Umerov had threatened Russia's territorial integrity by making calls to get Crimea back from Russia. "It's important to make Russia leave Crimea, Donbass and Luhansk, if it was only possible to restore Ukraine's former borders..." the transcript says. In July, Umerov went to court to try to halt the criminal investigation, but the court said it could continue.

On August 11, while the Simferopol court considered a petition from an FSB investigator to order the psychiatric evaluation, Umerov became unwell due to a pre-existing high blood pressure condition and was hospitalized. The court approved the psychiatric evaluation and Umerov's lawyers immediately appealed. But on August 18, Umerov was transferred to the psychiatric facility before an appeals court could hear the appeal, in breach of procedural law.

Umerov's daughter, Ayshe Umerova, said she was not allowed to see her father the day he was moved. Umerov was also initially banned from seeing his lawyers, receiving packages, or using a telephone. Later, his other lawyer, Nikolai Polozov, was allowed to see him. Umerov's daughter and his lawyers said they were very concerned about Umerov's health because he was not receiving the medical care he needed for his heart condition. Umerov also has diabetes, Parkinson's disease, and heart disease.

"Umerov should be allowed to continue medical treatment in a hospital, where he can get the care he requires," Cooper said. "The authorities should also drop their trumped up charges of separatism against Umerov for his peaceful exercise of the right to freedom of speech."

Under Russia's occupation of Crimea, the space for free speech and media and freedom of association in Crimea has shrunk dramatically. The authorities also have failed to conduct meaningful investigations into attacks and beatings of Crimean Tatar and pro-Ukraine activists and journalists. Under the pretext of combating extremism or terrorism, the authorities have harassed, intimidated, and taken arbitrary legal action against Crimean Tatars.

Local authorities declared two Crimean Tatar leaders *personae non gratae* and prohibited them from entering Crimea. They also have searched, threatened, or shut down Crimean Tatar media outlets and banned peaceful gatherings to commemorate historic events, such as the anniversary of the deportation of Crimean Tatars during the Soviet years.

Under international law, the Russian Federation is an occupying power in Crimea as it exercises effective control without the consent of the government of Ukraine, and there has been no legally recognized transfer of sovereignty to Russia. A referendum, held without the authorization of the Ukrainian government or any broad-based endorsement by other states, and Russia's unilateral actions afterward cannot be considered to meet the criteria under international law for a transfer of sovereignty that would end the state of belligerent occupation. Human Rights Watch documented a surge of human rights abuses in Crimea after

it was occupied by Russia.

“Russian authorities should stop persecuting people who challenge Russia’s actions in Crimea,” Cooper said. “Umerov should not be punished for speaking his mind about Crimea and its future.”

Annex 954

Crimean Human Rights Group (CHRG), Human Rights Information Centre (HRIC), Regional Centre for Human Rights (RCHR), and Ukrainian Helsinki Human Rights Union (UHHRU),
Joint Submission to the UN Universal Periodic Review: Russian Federation (2017)



CRIMEAN
HUMAN RIGHTS
GROUP



Human Rights
Information
Center

РЕГІОНАЛЬНИЙ ЦЕНТР ПРАВ ЛЮДИНИ
RCHR
РЕГІОНАЛЬНИЙ ЦЕНТР ПРАВ ЧЕЛОВЕКА



UKRAINIAN
HELSINKI
HUMAN RIGHTS
UNION



HUMAN RIGHTS HOUSE
FOUNDATION

Universal Periodic Review of Russia

30th session of the United Nations Human Rights Council
Working Group on the Universal Periodic Review

Submitting NGOs

- Crimean Human Rights Group (CHRG)
- Human Rights Information Centre (HRIC)
- Regional Centre for Human Rights (RCHR)
- Ukrainian Helsinki Human Rights Union (UHHRU)

About the coalition of NGOs

The Crimean Human Rights Group (CHRG)¹, the Ukrainian Helsinki Human Rights Union (UHHRU)², the Regional Centre for Human Rights (RCHR)³, and the Human Rights Information Centre (HRIC)⁴ have been monitoring the human rights situation in Crimea since the beginning of the Russian occupation. These organisations have provided first hand and reliable information on the worsening human rights situation in Crimea in the last three years while also addressing shortcomings in Ukraine's policy towards its occupied territories. The information submitted in this report is mainly based on the observations and calls made by these organisations.

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Introduction

1. This report is a joint contribution to the 30th session of the Universal Periodic Review (UPR) for Russia. It was prepared by a coalition of Ukrainian NGOs with the support of the Human Rights House Foundation (HRHF) and People in Need (PiN).
2. The present report focuses on human rights violations linked to the illegal annexation of Crimea by the Russian Federation. The authors of this report wish to stress that the

¹ Crimean Human Rights Group website: <http://crimeahrg.org/>

² Ukrainian Helsinki Human Rights Union website: <http://helsinki.org.ua>

³ Regional Centre for Human Rights websites: <http://rchr.org.ua> and additional resource found here: <http://precedent.crimea.ua/>

⁴ Human Rights Information Centre website: <http://humanrights.org.ua/>

underlying responsibility for the current dire human rights situation in Crimea lies with the local *de facto* authorities and with the authorities of the Russian Federation that is to be held accountable as occupying power.

General recommendations

- 3. That Russia upholds all obligations under applicable international law as an occupying power;**
- 4. That Crimea be made accessible for international organisations, including, but not limited to the United Nations, OSCE, European Union, Council of Europe structures and independent representatives, representatives of international human rights organisations and human rights organisations of Ukraine, and ombudsmen of the Parliament of Ukraine to monitor the observance of human rights.**

Political prisoners

5. More than 60 people have been prosecuted in politically motivated cases in Crimea since the occupation of the peninsula. 40 of those are currently serving sentences in places of detention, 10 people are under investigation, 10 people were convicted in criminal cases, the judgments for which were conditional or in the form of a fine. The number of political prisoners continues to grow. These cases are characterized by gross falsifications, illegal methods of investigation, torture and psychological pressure.

Recommendation

- 6. Release prisoners who were arrested in Crimea for political activities, including those peacefully protesting against the occupation.**

Torture

7. Politically motivated cases against Ukrainian citizens are closely linked to the use of torture and other cruel, inhuman or degrading treatment or punishment by the Russian authorities in Crimea. It is reliably known that torture was used against Alexander Kostenko, Andrei Kolomiets, and the figurants of the case of "Ukrainian saboteurs" Yevgeny Panov, Andrei Zakhtei and Vladimir Prisich. Volodymyr Balukh was subjected to constant pressure in a pre-trial detention center. At the same time, all attempts made by lawyers to initiate an investigation regarding the use of torture were completely ignored by the Russian authorities.
8. Torture and cruel treatment are used routinely by the police and the Russian Federation's Federal Security Service (FSB). These methods are used for forced confessions, inducing detainees to conclude a deal with the investigation, and forcing them to refuse the services of lawyers under the agreement in favour of court-appointed lawyers that work together with the FSB. To achieve these goals, victims are often beaten, tortured, throttled, threatened with sexual violence, and blackmailed by the fate of their loved ones.

9. For example, nine citizens of Ukraine were detained in Crimea in 2017. The FSB calls them ‘members of the terror sabotage group of Defense of Ukraine’ though without presenting any evidence. There is good evidence they were subject to torture, resulting in forced admission of guilt. Three of them have subsequently, so far, received prison sentences.
10. In another example, during Volodymyr Balukh’s trial, his defence presented evidence of the activist’s innocence, including evidence tampering, serious violations committed during police searches, and other investigative actions. However, the judge did not accept the arguments, called them ‘vicious’ and handed him a three year, seven month sentence and fine of RUR 10,000 on 4 August 2017.
11. In an even more recent example, on 13 September 2017, Renat Paralamov was abducted by FSB officers from his house and taken to an unknown destination. However, after Paralamov signed a testimony against himself and other people being subjected to torture, he was thrown out at a bus station in Simferopol, severely injured.
12. The victims of torture are deprived of standard international mechanisms for protection against torture. In particular, representatives of neither the UN Committee against Torture nor the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment can visit Crimea. The UN monitoring mission in Ukraine also cannot effectively conduct its work without having the opportunity to visit Crimea.
13. Moreover the treatment and conditions of detention of persons in police custody and penitentiary establishments in Crimea are cruel, inhuman and degrading. There is also evidence of convicts who were tortured for refusing Russian citizenship; they were sent to a punishment cell or are put under pressure through other prisoners. Ill treatment is also used during the transportation of people from pre-detention centres to the court hearings. Prisoners continue to be transferred to Russia, where there are already documented cases of denial of medical assistance and death of convicted citizens of Ukraine.

Recommendations

14. **Bring an end to all discriminatory measures and practices, arbitrary detention, torture and other cruel, inhuman or degrading treatment, and revoke all discriminatory legislation;**
15. **Investigate and prosecute all cases of torture in Crimea.**

Enforced disappearance

16. Occupation of Crimea was accompanied by a number of enforced disappearances including the arrests, detention, abduction or any other form of deprivation of liberty by agents of the Russian Federation or by persons or groups of persons acting with the authorization, support or acquiescence of them. A sharp increase in cases occurred in March-May 2014 during the active phase of occupation when occupational authorities were trying to suppress

the resistance from the local population⁵. Ukrainian and Crimean Tatar activists, journalists, documentary filmmakers among others, have been particularly targeted.

17. The first victim of enforced disappearances, Crimean Tatar Reshat activist Ametov, was abducted by men in camouflage uniforms in the centre of Simferopol on 3 March 2014 during a single picket against the occupation of Crimea by Russia. His body was later discovered in the village of Zemlyanichnoe. Handcuffs were found next to the body and his head was bound up with tape. He died from the penetrating stab wound to the eye.
18. At least 10 people who became victims of enforced disappearances among civilians as a result of the occupation are still missing, including an activist of Automaidan, Vasyl Chernysh, participants of Euromaidan Ivan Bondarets and Valeriy Vashchuk (missing since March 2014), activists of Ukrainian People's House, Tymur Shaimardanov and Seyran Zinedinov (missing since May 2014), Crimean Tatars Islyam Dzhepparov and Dzhavdet Islyamov (missing since September 2014), Mukhtar Arislanov (missing since August 2015) and a member of the executive board of the World Congress of Crimean Tatars, the former member of Bakhchisaray district council and a member of the regional Mejlis Ervin Ibragimov (missing since May 2016). None of these cases have been effectively investigated and no perpetrators have been brought to justice.
19. The members of the local paramilitary group, the so-called "Crimean self-defense", was involved in the majority of enforced disappearances in 2014⁶, having emerged as an illegal armed group on 20 February 2014.

Recommendations

20. **Effectively and impartially investigate all alleged and suspected cases of enforced disappearance in Crimea, and immediately disclose the fate and whereabouts of all those arbitrarily deprived of liberty and inform their families accordingly;**
21. **Investigate and prosecute all cases of arbitrary deprivation of liberty, unlawful killing or enforced disappearance.**

Freedom of movement

22. The occupation of Crimea has resulted in serious and unjustified breaches of free movement. This has included the denial of access to the territory of Crimea and denial of permission to leave the territory of Crimea, which is permission based, as well as the seizure of documents needed to enter or leave Crimea.

⁵ See also: The Peninsula of Fear : Chronicle of Occupation and Violation of Human Rights in Crimea / Under the general editorship of O. Skrypnyk and T. Pechonchyk. Second edition, revised and corrected. – Kyiv: KBC, 2016. – P.58. - https://helsinki.org.ua/wp-content/uploads/2016/05/PeninsulaFear_Book_ENG.pdf

⁶ See also: The victims of enforced disappearance in Crimea as a result of the illegal establishment of the Russian Federation control (2014-2016), June 2016. - http://crimeahrg.org/wp-content/uploads/2016/06/CHRG_The-victims-of-enforced-disappearance_Crimea.pdf

23. No provision has been made to leave Crimea in case a passport or any other identity document is lost, including for example, in cases when a citizen of Ukraine or a foreigner temporarily arrives in Crimea and loses their passport.
24. There was considerable unilateral change in residency conditions for citizens of Ukraine, foreigners and stateless persons who were in Crimea at the time of occupation. This included, for example, in relation to Ukrainian citizens who resided in Crimea, but had their place of stay registered in other parts of Ukraine, or foreigners and stateless persons who had a permanent residence permit in Crimea, that was issued by the immigration authorities of Ukraine.
25. Children aged 14 to 16 years cannot leave Crimea without a Russian passport, greatly affecting the rights of those who do not have one.
26. An unlawful transfer of part of the civilian population (deportation) from Crimea has occurred in relation to persons kept in custodial settings. More than 4,700 civilian prisoners, Ukrainian citizens kept in places of detention, were transferred by the Russian authorities from Crimea, and now they are in at least 49 penal colonies located in 23 regions of the Russian Federation.
27. Additionally, the internal displacement of much of the population of Crimea (IDPs) to mainland Ukraine has furthered the atmosphere of fear. The official number of Crimean IDPs in mainland Ukraine, as registered with Ukrainian authorities, is approximately 20,000. However, Ukrainian NGOs working closely with IDPs at the Administrative Boundary Line and throughout Ukraine estimate the real figure to be closer to 40,000 or 50,000.

Recommendations

28. **Reverse changes to the conditions of residency of citizens of Ukraine, foreigners and stateless persons who were in Crimea at the beginning of occupation, including Russian Federation migration legislation which incorporates denial of access to Crimea and denial of permission to leave Crimea;**
29. **Transfer to Ukraine all convicted Ukrainian citizens who express such a wish, so that they may serve the remainder of their sentences in territories controlled by the Ukrainian authorities;**
30. **Bring an end to the displacement from Crimea to the Russian Federation of people that do not have Russian citizenship – including those sentenced to imprisonment – who have, whatever the circumstances, found themselves under the control of the Russian Federation in Crimea.**

Right to nationality

31. According to Article 4 of Russian Federation Constitutional Law 6-FKZ “from the date of the admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities Ukrainian nationals and stateless persons who had been permanently residing in the Republic of Crimea and the City of Federal Importance Sevastopol were recognized as nationals of the Russian Federation, except for

persons who within one month thereafter declared their willingness to retain their and (or) their minor children's other nationality or remain stateless.”

32. Due to a number of objective reasons, (reducing the period for the submission of the application to 18 days; small number of operating offices of the Federal Migrating Service, which received applications); and an unwillingness of the population to live as foreigners within the relevant restrictions (related to employment, the right to social benefits, migration control, prohibition of participation in political activities and to be engaged in public life, etc.), roughly 3,500 persons filed applications “declaring their will to keep their and (or) their minor children's other nationality or remain stateless.”
33. Children in social care have been the most vulnerable to this imposition of citizenship. According to the Office of the Ukrainian Parliament Commissioner for Human Rights, as of 1 August 2014 there were 4,228 such children in Crimea. Since the beginning of the occupation, the Russian Federation took control over the administration of the institutions that provided care for such children. On the grounds of “respecting the best interests of the child” no applications were filed “declaring willingness to keep their existing... other nationality.”
34. Additionally, children born in Crimea since the beginning of the occupation are automatically recognized as citizens of the Russian Federation by the occupying authorities. Thus, in accordance with article 12 of the Federal Law "On the citizenship of the Russian Federation", a child acquires citizenship of the Russian Federation by birth, if at the date of the birth of the child both or the only parent have citizenship of the Russian Federation, (irrespective of the birthplace).
35. Consequently, children of those, who did not apply for retention of Ukrainian citizenship, born after the beginning of the occupation, are recognized as citizens of the Russian Federation. For example, in 2016 alone, 22,944 children were born in Crimea (not including the city of Sevastopol). Thus, the vast majority of them have been made citizens of the Russian Federation.

Recommendations

36. **End the imposition of citizenship of the Russian Federation on the population of Crimea;**
37. **End the discrimination of the population of Crimea on the basis of citizenship of Ukraine, and end the repressive actions by the Russian Federation against people loyal to the Ukrainian authorities in occupied Crimea.**

Right to property

38. The Russian Federation has started a wide-scale nationalisation of private as well as state property located in Crimea and the city of Sevastopol.
39. Subject to data based on official sources and decisions of the occupation power, more than 330 enterprises, institutions and organizations belonging to the state of Ukraine and labor unions, and 280 enterprises in private property have been nationalized. Mass

nationalization happened in Crimea in 2014 and continued in 2015. According to another report, the number of nationalized businesses is as high as 4,000.

40. The wide-spread nature of nationalization of private property as well as instances of unlawful seizure of property are also confirmed in a number of reports by international governmental organization, including the OHCHR, Council of Europe and OSCE.
41. Since the second half of 2016 there has been a steady trend to increase the number of lawsuits for seizure of land and demolition of residential and non-residential buildings in the occupied peninsula. In the overwhelming majority of cases courts deliver decisions in favour of the occupation authorities and the prosecutor's office.

Recommendations

42. **End an extensive appropriation of state and private property in Crimea on the basis of regulations and orders of occupying authorities;**
43. **Provide financial compensation for property rights violations;**
44. **Ensure fairness and objectivity in lawsuits relating to seizure of land plots and demolition of residential and non-residential buildings within the courts.**

Thought, conscience and religion

45. Fines for participation in unsanctioned rallies have been levied on participants of religious events. In 2016, a court in Yalta fined a Krishnaite, because he walked along the Yalta embankment shouting "Hari Krishna". The judge regarded this as an unauthorized procession. In 2015 in the village of Maryanovka, nine members of the "Evangelical Christian Baptists" organization offered Easter-related greetings to people. The court fined each person between ten and twenty thousand rubles.
46. On 6 July 2016, two Federal laws and certain Russian Federation legislative instruments were introduced as additional actions to fight terrorism and ensure the public security. Article 8 of Law No 374-FZ has introduced the concept of 'missionary activity' with provisions on its restriction. The list of persons that may act as missionaries and the list of places where they may act as missionaries were limited.
47. The liability for violation of laws on freedom of conscience, freedom of religion, and faith based organizations (Article 5.26 of Russian Federation CAO) has been stiffened. Article 5.26 of RF CAO now includes Part 3, liability of religious institution for activities without indicating its full name, Part 4, liability for missionary activity with violations of legal provisions on freedom of conscience, freedom of religion, and faith-based organizations.
48. Among the six officially documented cases published online in the first nine months of 2017, a member of the Jehovah's Witnesses organization was fined by a "justice of the peace" in Yalta for worshipping, reading the Bible, singing songs and praying, in June 2017. In May 2017, the "Justice of the Peace of Bakhchisarai" fined a pastor of the local religious organization "Christian Faith Evangelical Church of Revival" for 30,000 rubles for the lack of a sign on the premises where sermons are held. On 27 June 2017 Mr Tulparov, 'justice of

the peace' in Dzhankoy, chaired the court proceedings on the case of Mr Vitaliy Arseniuk accused of the illegal missionary activity. Mr Arseniuk had been a head of the local Jehovah's Witnesses Committee before the ban on this organization in the Russian Federation. The same night, after the 'court' session, Mr Arseniuk passed away due to extensive infarction.⁷

49. On 20 April 2017, the Russian Federation Supreme Court declared the activity of Jehovah's Witnesses organization as extremist and banned it. The ban was extended to the occupied Crimea where 22 organization branches were included.
50. "Anti-terrorist" Russian legislation is used as a tool to oppress Muslims in Crimea. Criminal prosecution is based on the Court decision defining Hizb ut-Tahrir as a terrorist organization and banning its activities in the Russian Federation. This judgment provides justification for massive searches, and regular interrogations and arrests are conducted in the homes of Muslims.

Recommendations

- 51. Stop unjustified criminal prosecution of Muslims on religious grounds;**
- 52. End the unjustifiable restrictions placed on religious associations, including laws that severely restrict freedom of religion or belief such as Law No 374-FZ and Law No 375-FZ.**

Conscientious objection – and rights relating to the military

53. In violation of the Geneva Convention, 'Protection of Civilian Persons in Time of War' and Rome Statute of the International Criminal Court, the Russian Federation drafts citizens of Ukraine in Crimea into its army. It should be noted that a number of the Ukrainian citizens drafted into the Russian Federation Armed Forces are forcibly moved from the territory of Crimea to the territory of Russian Federation.
54. On 1 April 2017, the spring campaign on the call of the residents of Crimea to the armed forces of the Russian Federation started. The Russian government plans to draft 2,400 Crimeans aged 18 to 27 years in the spring of 2017 into the Russian Armed Forces. This year the Crimeans will be distributed not only in the Armed Forces of the Russian Federation in Crimea, but also will be moved to the territory of the Russian Federation, which violates Article 49 and Article 51 of the Geneva Convention IV.
55. On 10 April 2017, the "military commissioner" of Crimea, Anatoly Maloletko reported that a criminal case was started against one citizen of Ukraine living in Crimea for evading military service in the Armed Forces of the Russian Federation, and about 200 citizens are listed as having "not received" the draft notice. He also reported that about 20 people will serve outside Crimea - on the territory of the Russian Federation. "The head of the department of preparation and drafting of citizens for military service of the military

⁷ See also: People in Crimea are being persecuted by court for their religious beliefs. - Crimean Human Rights Group, 05 July, 2017. - <http://crimeahrg.org/en/people-in-crimea-are-being-persecuted-by-court-for-their-religious-beliefs/>

commissariat of Crimea" Vadim Meshalkin and Anatoly Maloletko confirmed that the Crimean citizens that were called for the military service have Ukrainian citizenship.

56. On 18 July, the website of the TV and Radio Company of the Armed Forces of the Russian Federation Zvezda reported that within the framework of the 2017 spring draft campaign, approximately 400 residents of Sevastopol are called to the Armed Forces of the Russian Federation, 10 of them are sent to serve in the territory of the Russian Federation to join the Airborne Forces of the Russian Federation.
57. A significant component of Russia's information and communication includes persistent offers for Crimean residents to be contracted into the Russian Federation Armed Forces to continue the military service. Criminal and administrative laws, as well as information and economic resources, are used by the Russian Federation to force Crimean residents to serve in the Russian Forces armed and auxiliary forces. Article 51 of the Geneva Convention, 'Protection of Civilian Persons in Time of War', states that the Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure or propaganda which aims at securing voluntary enlistment is permitted. But Russia conducts mass propaganda not only among the adult population, but also among children.⁸
58. For example, the representatives of military commissariats deliver dedicated classes for children aimed at preparing for military service. For instance, on 15 February 2016, the Yalta Town Military Commissariat participated in the military patriotic classes in the Livadia educational orphanage as reported on the Crimean 'Government' website. The service in the Russian Federation army was promoted on such lessons.
59. Russian Federation military personnel participate in various children's events promoting service in the Russian army. For instance, a festival dedicated to the Day of Fatherland's Defender was held in Orlyonok Nursery School No 28 on 23 February 2017. Soldiers of Military Unit No 98546 of Russian Federation Armed Forces were invited to the celebrations at the nursery school.

Recommendations

- 60. Stop the illegal call for Ukrainian citizens to enter the Russian army;**
- 61. End the use of military propaganda among underage Crimean residents.**

Opinion and expression

62. Establishment of the Russian Federation's control over the Crimean territory was accompanied by a process of curtailment of freedom of speech and expression of opinions, in part, through the implementation of the law on countering extremist activity, criminal

⁸ See also: Human rights in Crimea militarization context: Situation with Human Rights in the Autonomous Republic of Crimea and Sevastopol City. Adverse Impact of Russian Militarization. Information and Analytical Report (April 2014 – May 2017) / under the general editorship of O.Skrypnyk and I.Sedova – Kyiv, 2017. - Crimean Human Rights Group, July, 2017. - http://crimeahrg.org/wp-content/uploads/2017/09/HUMAN-RIGHTS-IN-CRIMEA-MILITARIZATION-CONTEXT_EN-2017.pdf

liability for "incitement to separatism", reduction of a number of alternative sources of information, harassment of journalists by law enforcement agencies and the "Crimean Self-Defense" and blocking media outlets online. Independent outlets were forcibly shut down, transmissions of Ukrainian stations were replaced with broadcasts from Russia, access to a number of local and Ukrainian media outlets via the internet was blocked for users in Crimea, and many journalists fled Crimea to escape harassment, violence, and arrests.

63. Journalists and media workers in Crimea are subject to obstruction, arbitrary detention, interrogation, and seizure or damage of equipment. In January 2015, before Crimean Tatar TV Channel ATR ceased broadcasting from Crimea, the authorities raided its headquarters and confiscated equipment while ostensibly searching for footage of a 2014 protest.
64. Hundreds of media outlets were unable to obtain registration with Russian authorities by an April 2015 deadline, reducing the number allowed to operate in Crimea from more than 3,000 to just 232. Those barred from re-registering included several outlets—television, radio, print, and online—that served the Crimean Tatar minority⁹. More than 20 online media outlets were also blocked by Roskomnadzor, prosecutor's office and internet providers on the territory of Crimean peninsula in 2015 and 2016.
65. Journalists in Crimea are subject to trumped-up criminal charges for defamation, "extremism," incitement to separatism, and other offenses. A 2014 Russian law against inciting separatism—Article 280.1 of the penal code—was used to persecute Crimean journalists. Criminal cases have been opened against the editor of the BlackSeaNews Andriy Klymenko, journalists with the Center for Investigative Reporting Anna Andriyevska and author of the Radio Liberty Mykola Semena which carry up to five years in prison. While Klymenko and Andriyevska left Crimean peninsula, Semena is under the travel ban. On 22 September 2017 a local court found Mykola Semena guilty on a charge of 'separatism' and handed him a two-and-a-half-year suspended sentence. He was also barred from "public activities" - apparently including journalism - for three years.
66. In general, during 2014-2016 the Human Rights Information Center has documented over 500 single violations of freedom of speech and expression. Independent journalists that expressed dissent with occupational authorities were forced either to leave Crimea or to leave their profession. As a result of intimidation and restrictions, 10 Crimean media outlets moved to the mainland Ukraine (QHA, Radio Meidan, Crimean Tatar TV Channels ART and Children's Television Lale, BlackSeaNews, Radio Leader, 15 minutes, Center for Investigative Journalism, Chornomorska TV and Sobytiya.Info) where they continue to operate and cover Crimean issues from a distance while the majority of them are being blocked online in Crimea.

Recommendations

- 67. Allow and facilitate media outlets that have been unlawfully closed, or forced to close, under the requirement to re-register under the Russian law, to reopen;**

⁹ See also: Crimean Tatar Media in Crimea: situation in 2014 – 2016. – Human Rights Information Center, 10 April 2017. -

https://humanrights.org.ua/en/material/tri_goda_nesvobody_polozhenije_krymskotatarskih_media_v_krymu

68. **Ensure that journalists have unrestricted access to, and the freedom to conduct their professional activities in, Crimea, including those from mainland Ukraine;**
69. **Investigate all reported instances of unlawful detention, intimidation and harassment of journalists in Crimea, and bring those suspected of criminal responsibility to justice in fair trials;**
70. **End the practice of blocking access to online resources on arbitrary grounds and without judicial authorisation;**
71. **Stop using ‘anti-extremists’ and ‘anti-separatist’ legislation to attack journalists and bloggers.**

Peaceful assembly and association

72. The Russian authorities used brutal tactics against participants of peaceful assemblies in the first year of the occupation: attacks of so called ‘Crimean self-defense’ and other ‘non-identified persons’ on the events supporting the territorial integrity of Ukraine, abductions and murders of their participants in spring 2014, mass detentions, arrests of single activists, and the violent dispersal of protests. The occupation authorities represented by the police, the prosecutor’s office, and the courts use administrative and criminal prosecution against participants of peaceful assemblies.
73. On 16 May 2014, ‘Prime Minister’ of Crimea Sergey Aksionov issued Edict No 29 that prohibited peaceful assemblies on the territory of Crimea till 6 June that year. The ban on peaceful assemblies was applied to the mourning events of 18 May 2014 dedicated to the 70th anniversary of the Crimean Tatar deportation. On 22 November 2015, a new moratorium on holding public events was introduced on the territory of Simferopol. Mr G. Bakharev, head of Simferopol Administration, decided ‘to suspend temporarily actions on holding mass, public, cultural and entertainment and other events’ on the territory of Simferopol starting from 22 November 2015 until further notice.
74. On 12 November 2014, the ‘Council of Ministers of Crimea’ issued resolution No 452 ‘On approving the list of places for holding public events on the territory of the Republic of Crimea’, that indicates the places for holding peaceful assemblies. For instance, in Simferopol (a city with 400,000 residents) the peaceful assemblies may only be held in four places. On 4 July 2016, the ‘Council of Ministers of Crimea’ – by resolution no 315 - significantly reduced a list of places allowed for holding peaceful assemblies. For the whole of Crimea the total number of places for holding peaceful assemblies decreased from 717 to 360. The document restricts considerably the possibilities for the Crimean residents to hold a peaceful assembly within the ‘sight and sound’ of the audience they want to address.
75. Crimean human rights group conducted an analysis of judicial decisions that were made in Crimea since the beginning of the occupation. The analysis of the court decisions revealed 256 judgments that included punishment applied to participants for participating in peaceful assemblies. The fines collectively totalled more than RUR 2,700,000. The amount of some individual fines reached RUR 150,000. It should be noted that the average pension in Crimea is less than RUR 9,000.

76. In addition to the penalties, 14 decisions were passed, according to which participants in peaceful assemblies were sentenced to compulsory public works, from twenty to forty hours, and 22 people were arrested for a period from two to fifteen days. The prosecutions are related to the participants in peaceful assemblies, which were held on grounds of national identity, discontent with the actions of local authorities, or in support of Crimean residents who are deprived of their liberty by the Russian authorities.
77. On 18 May 2017 in Bakhchisarai a group of Crimean Tatars including Mr Abdurefeyev, Mr Umerov, Mr Mamutov, Mr Mamutov and Mr Yusupov, were detained after driving cars with Crimean Tatar flags. They were accused of violating Article 20.2-5 of RF CAO (Violation of the peaceful assembly holding procedure). The local court imposed a RUR 10,000 fine on each of them.
78. The 76-year-old Crimean Tatar, Server Karametov, was fined RUR 10,000 fine for holding a single picket in support of political prisoner Akhtem Chyigoz, and was detained for ten days for “nonobservance” of the orders of police officers who detained him.
79. In addition to the administrative persecution, 40 people are currently deprived of their liberty and 9 are under criminal investigation for manifesting their political, national or religious position. Akhtem Chyigoz was sentenced to eight years in prison for organizing a peaceful rally on 26 February 2014, that is, at a time when even the Russian Federation considered Crimea as a part of Ukraine¹⁰.
80. In April 2016 the Crimean Tatars' Mejlis, an assembly representing the ethnic group's interests, was banned by the Russian Federation as an "extremist" organisation. This had followed the *de facto* Prosecutor of Crimea asking the Supreme Court of Crimea to suspend the Mejlis as an extremist organization. The assembly had been seen as a key body for the enjoyment of freedom of assembly, association and expression by the Crimean Tatar People and the move to ban it was roundly criticized by a number of international organisations, including the European Parliament¹¹ and the International Court of Justice¹².

Recommendations

- 81. Stop unjustified administrative and criminal persecutions of organisers and participants of peaceful assemblies;**
- 82. Immediately release persons deprived of liberty due to exercising their right to freedom of peaceful assembly and association and reimburse them the damage caused by the unlawful imprisonment, torture or other inhuman and degraded treatment;**

¹⁰ See also: *Unsanctioned Freedom: Analytical review on violation of right to peaceful assembly in Crimea (March 2014 – March 2017)* / produced by A.Sedov, under the general editorship of O.Skrypnik and literary editorship of M.Budzar. – Kyiv, 2017. – 43 p. - Crimean Human Rights Group, May, 2017. - <http://crimeahrg.org/wp-content/uploads/2017/06/book-EN.pdf>

¹¹ “EU Parliament adopts resolution on Crimean Tatars”, humanrightshouse.org/Articles/21611.html

¹² ICJ Press Release, 19 April 2017, <http://www.icj-cij.org/files/case-related/166/19412.pdf>

- 83. Refrain from maintaining or imposing limitations on the ability of the Crimean Tatar community to conserve its representative institutions, including the Mejlis, and to protect against any attacks upon its members.**

Discrimination in education

84. The number of pupils studying in Ukrainian has reduced 36 times during the three years of occupation. Correspondingly, the number of Ukrainian medium classes reduced 31 times for the same period. In the 2013/2014 academic year 13,589 people in the Autonomous Republic of Crimea were educated in Ukrainian in 875 classes. According to the 'Ministry of Education' of Crimea only 28 classes are reported to be left in Crimea in the academic year 2016/2017, where only 371 children of 188,517 pupils of Crimea (excluding Sevastopol) were educated in the Ukrainian medium, or 0.2 percent of the total number of pupils in Crimea in 2016¹³.
85. The census carried out by the Russian Federation in 2014 states that there were 18,706 children of Ukrainian nationality and 29,140 children of Crimean Tatar nationality in Crimea. So only 3.2 percent of Ukrainian children and 25.2 percent of Crimean Tatar children are educated in the native language. Other children of Ukrainian and Crimean Tatar nationalities are educated in Russian.
86. On 4 May 2017, representatives of the Sevastopol Ukrainian National Cultural Society requested Mr Rodikov, a director of Sevastopol education department, to return to Ukrainian medium education in Sevastopol schools. Mr Rodikov answered that the Ukrainian language was not a state language in Sevastopol, and there were no Russian educational programs in Ukrainian, so there were no legal grounds for teaching in Ukrainian medium in the city secondary schools.

Recommendation:

- 87. Ensure full and unimpeded access to education in the native languages in Crimea, including Ukrainian and Crimean Tatar languages, and halt all discrimination against schools teaching in those mediums.**

¹³ See also: Situation with access to the education in the native language in Crimea. - Crimean Human Rights Group, 21 April, 2017. - <http://crimeahrg.org/en/situation-with-access-to-the-education-in-the-native-language-in-crimea/>

Annex 955

Regional Centre for Human Rights, et al., Crimea Beyond Rules: Thematic Review of the Human Rights Situation under Occupation, Vol. 3, Right to Nationality (citizenship) (2017)

Crimea beyond rules

Issue N° 3

Right to nationality
(citizenship)

Thematic review of the human
rights situation under
occupation



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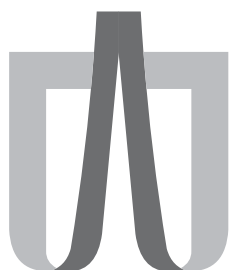
РЕГІОНАЛЬНИЙ ЦЕНТР ПРАВ ЛЮДИНИ

RCHR

REGIONAL CENTRE FOR HUMAN RIGHTS

Regional Centre for Human Rights - NGO, the nucleus of which consists of professional lawyers from Crimea and Sevastopol, specializing in the field of international human rights law.

rchr.org.ua



Ukrainian Helsinki Human

Rights Union

Ukrainian Helsinki Human Rights Union - non-profit and non-political organization. The largest association of human rights organizations in Ukraine, which unites 29 NGOs, the purpose of which is to protect human rights.

helsinki.org.ua



CHROT - expert-analytical group, whose members wish to remain anonymous.

Some results of work of this group are presented at the link below :

precedent.crimea.ua

Dear readers,

Crimean events at the beginning of 2014 have challenged the post-war system of international security. They stirred up the whole range of human emotions - from the loss of vital references to the euphoria, from joyful hope to fear and frustration. Like 160 years ago, Crimea attracted the attention of the whole Europe. In this publication we have tried to turn away from emotions and reconsider the situation rationally through human values and historical experience. We hope that the publication will be interesting to all, regardless of their political views and attitudes towards those events.

S. Zayets

R. Martynovskyy

D. Svyrydova

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Introduction

The periodic review "Crimea beyond rules", prepared by joint efforts of several organizations and invited experts, aims to help the international community, human rights organizations, international and national bodies and structures as well as anyone who wants to better understand the human rights situation in Crimea.

Each review is themed around a specific topic and includes a number of analytical articles, references to international regulations, standards and legislation relating to the chosen themes as well as analysis of prospects for potential complaints or those already filed with the international bodies for the protection of human rights. The series of thematic reviews "Crimea beyond rules" is devoted to the study and description of violations of human rights and rules of international humanitarian law resulting from the continuing aggressive expansion on the side of the Russian Federation in respect of Crimea as a part of the territory of Ukraine.

During the occupation and subsequent annexation of the Crimean peninsula, the Russian Federation announced all Ukrainian nationals living in Crimea its subjects. Residents of the occupied territory faced a difficult choice. On the one hand, by obtaining Russian passports, they formally took the oath of allegiance to the State which had committed an act of aggression against their sovereign-country. On the other hand, during a short period of time (in fact - 18 days) they could try to submit the "declaration about the willingness to retain the nationality of Ukraine" to one of the four offices which accepted such declarations in Crimea. In this case, they suddenly became foreigners at home and were severely limited in their rights.

Using the imperfection of international standards in this ng situations of statelessness and resolving cases of dual nationality. Arbitrary change and imposition of a nationality became a new challenge to which the world was not ready. Having imposed its nationality, the Russian Federation «forced into loyalty» the population of the occupied peninsula under threat of criminal liability (see. Art. 275 of the Criminal Code «High Treason»).

It is important to understand that the situation in Crimea is fundamentally different from the current practice of issuing passports of the Russian Federation nationals on the so-called «unrecognized territories» (Transnistria, Abkhazia and South Ossetia). Thus, residents of the «unrecognized territories» may obtain Russian nationality only on its own initiative, by addressing the competent bodies with the appropriate application. In Crimea, the Russian authorities themselves decided the nationality issue for more than 2.3 million people, declaring them subjects of the Russian Federation.

The situation regarding the nationality which arose from the annexation of Crimea should also be distinguished from cases of secession of territories and the succession of States. In cases of secession or succession there takes place an entirely legitimate transfer of the territory under the control of another State which is in accordance with international law. At the same time, the occupation and subsequent annexation of Crimea by the Russian Federation were carried out with gross violation of these norms, of what the international community has been consistently informing since March 2014 and calling on the authorities of the Russian Federation to return control over Crimea to Ukraine. Because of this, any attempt to apply to Crimea the relevant rules concerning the secession or succession of states are inadmissible.

In the post-war world, a person is more and more recognized as a subject of international law. That is why a change of nationality of Crimean residents can and should be considered in the context of relations of four actors: Ukraine, as the country of existing nationality, Russia, as the country that imposes its nationality, the actual resident of the Crimean peninsula and the third countries.

The existing practice of various international judicial bodies concerns cases of violations related to the deprivation of nationality or refusal in its granting. So, in cases related to the imposition of nationality there can be set new precedents. More information about these and other issues can be found in the current review.

International law assumes that the occupation is a temporary regime. We are also convinced that the need for such reviews is provisional. Being optimistic, we believe that the main task of these materials should be apprehension of what had happened and generalization of experience in order to prevent further human rights violations in Crimea or other regions of the world.

The authors of the review: the team of human rights activists, experts and scholars from *Regional Centre for Human Rights* (rchr.org.ua), *Ukrainian Helsinki Human Rights Union* (helsinki.org.ua), as well as *expert and analytical group CHROT*.

International standards

The Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted and proclaimed by resolution 217 A (III) of the UN General Assembly on 10 December 1949 and is an act of the so-called «soft law». However, compliance with the obligations under the Declaration is the subject of continuous monitoring by the international community, even if its provisions are not reflected in the texts of other, more binding international instruments.

In particular, along with other documents, the Declaration provisions are the foundation of the Universal Periodic Review (UPR), and its violation can be the reason for individual appeals to the United Nations Human Rights Council in accordance with the Human Rights Council Resolution 5/1 of 18 June 2007 (former procedure 1503).

Article 15 of the Universal Declaration of Human Rights guarantees the right of every person to a nationality, and also prohibits the arbitrary deprivation of the nationality or the right to change it.

The full text of the document can be found following the link¹.

International Covenant on Civil and Political Rights

The Covenant was adopted by resolution 220 A (XXI) of the UN General Assembly on 16 December 1966. Ukraine (at that time - the USSR as an independent member of the UN) signed the Covenant on 20 March 1968 and ratified it on 19 October 1973.

Russia, not being an independent member of the UN, has inherited the obligations under the Covenant as the legal successor of the Soviet Union. The Soviet Union signed the document on 18 March 1968. Presidium of the Supreme Council of the USSR ratified it on 18 September 1973.

The document entered into force in Ukraine and the Soviet Union (and respectively in the Russian Federation) simultaneously, on 23 March 1976.

ARTICLE 24

[...]

3. *Every child has the right to acquire a nationality.*

The full text of the document can be found following the link².

Convention relating to the Status of Stateless Persons

The Convention was adopted in New York on 28 September 1954 by the Conference of Plenipotentiaries convened in accordance with resolution 526 A (XVII) of the Economic and Social Council on 26 April 1954. It entered into force on 6 June 1960. It was ratified by Ukraine on 11 January 2013 and entered into force for it on 23 June 2013.

The Russian Federation is not a party to the Convention.

The Convention provides a definition of the concept of a stateless person, declares rights, obligations of persons who are not citizens of any state, by setting that the treatment of such persons can not be worse than that of the citizens of the state in which they find themselves (e.g. in terms of freedom to practice their religion), or to foreign nationals residing in the territory of such state. It also regulates the issues of movable and immovable property, copyrights and industrial rights of stateless persons, their associations and the right to appeal to the courts (Chapter II). In addition, Chapters III and IV regulate the employment and social security, and Chapter V regulates administrative measures (freedom of movement, identity

¹ <http://www.ohchr.org/en/udhr/pages/language.aspx?langid=eng>

² <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

documents, travel documents, taxes, removal of property, deportation, naturalization).

The full text of the document can be found following the link³.

Convention on the Reduction of Statelessness

The Convention was adopted and signed in New York on 30 August 1961 pursuant to resolution 896 (IX), adopted by the General Assembly of the United Nations on 4 December 1954. The Convention entered into force on 13 December 1975. It was ratified by Ukraine on 11 January 2013 and entered into force for it on 23 June 2013.

The Russian Federation is not a party to this Convention.

The Convention requires States to grant their nationality to a stateless person and prohibits to deprive a person of his nationality, if such deprivation would render him stateless. An exception is made in the context of loyalty relations: the demonstration of disloyalty by nationals empowers the State to deprive them of nationality regardless of the consequences.

ARTICLE 8

1. *A Contracting State shall not deprive a person of his nationality if such deprivation would render him stateless.*

2. *Notwithstanding the provisions of paragraph 1 of this article, a person may be deprived of the nationality of a Contracting State:*

(a) In the circumstances in which, under paragraphs 4 and 5 of article 7, it is permissible that a person should lose his nationality;

(b) Where the nationality has been obtained by misrepresentation or fraud.

3. *Notwithstanding the provisions of paragraph 1 of this article, a Contracting State may retain the right to deprive a person of his nationality, if at the time of signature, ratification or accession it specifies its retention of such right on one or more of the following grounds, being grounds existing in its national law at that time:*

(a) That, inconsistently with his duty of loyalty to the Contracting State, the person:

(i) Has, in disregard of an express prohibition by the Contracting State rendered or continued to render services to, or received or continued to receive emoluments from, another State, or

(ii) Has conducted himself in a manner seriously prejudicial to the vital interests of the State;

(b) That the person has taken an oath, or made a formal declaration, of allegiance to another State, or given definite evidence of his determination to repudiate his allegiance to the Contracting State.

The full text of the document can be found following the link⁴.

International Convention on the Elimination of All Forms of Racial Discrimination

The Convention was adopted by resolution 2106 (XX) of the UN General Assembly on 21 December 1965, signed on 7 March 1966 and entered into force on 4 January 1969. The Ukrainian Soviet Socialist Republic signed the Convention on 7 March 1966. The Presidium of the Supreme Soviet of the Ukrainian SSR ratified it on 21 January 1969, and on 7 April 1969 it entered into force for Ukraine.

Russian Federation, not being at that time an independent member of the UN, inherited the obligations of the Convention as the legal successor of the USSR. The Soviet Union signed the document on 7 March 1966. The Presidium of the Supreme Soviet of the USSR ratified it on 22 January 1969, and on 4 March 1969 it entered into force.

³ <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁴ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Statelessness.aspx>

ARTICLE 1

[...]

2. *This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.*

3. *Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.*

[...]

ARTICLE 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

[...]

(d) *Other civil rights, in particular:*

[...]

(iii) *The right to nationality;*

[...]

The full text of the document can be found following the link⁵.

The Convention on the Rights of the Child

Convention was adopted by resolution 44/25 of the UN General Assembly on 20 November 1989 and entered into force on 2 September 1990. The Ukrainian Soviet Socialist Republic signed the Convention on 21 February 1990, and ratified the decision of the Verkhovna Rada of the Ukrainian SSR on 27 February 1991. For Ukraine, the Convention entered into force on 27 September 1991.

The Russian Federation, not being at that time an independent member of the UN, has inherited the obligations of the Convention as the legal successor of the USSR. The Soviet Union signed the document on 26 January 1990, the Supreme Soviet of the USSR ratified it on 13 June 1990 and on 15 September 1990, the Convention entered into force.

The Convention is particularly interesting, because it considers nationality as one of the elements of identity. It is difficult to assume that upon reaching adulthood, a nationality becomes irrelevant. This provision can be used as a key to the consideration of certain issues of nationality in the context of the right to respect for private life.

ARTICLE 7

1. *The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.*

2. *States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.*

ARTICLE 8

1. *States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.*

[...]

The full text of the document can be found following the link⁶.

5 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>

6 <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

The Convention on Certain Questions relating to the Conflict of Nationality Laws

The Convention was signed in the Hague on 12 April 1930. It entered into force on 1 July 1937 from the date of the deposit of instruments of ratification or accession on behalf of ten members of the League of Nations or non-members of the League of Nations states. The Soviet Union at the time did not sign and ratify it; respectively, Ukraine and the Russian Federation are not parties to this international treaty, but its provisions could be used as a source of customary law.

Chapter I of the Convention establishes the general principles applicable to matters relating to the Conflict of Nationality Laws. These include, in particular:

- the right of each State to determine under its own law who are its nationals. At the same time, this law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality (Art. 1);
- the right of each State to determine any question as to whether a person possesses the nationality of a particular State in accordance with the law of that State (Art.2);
- the right of each State to regard as its national a person having two or more nationalities (Art. 3);
- an inability of the State to afford diplomatic protection to one of its nationals against a State whose nationality such person also possesses (Art. 4);
- the right of a third State to treat a person having more than one nationality as if he had only one, the nationality of the country in which he is habitually and principally resident, or the nationality of the country with which in the circumstances he appears to be in fact most closely connected (Art. 5);
- the right of a person to renounce one of two nationalities if this nationality was acquired without any voluntary act on his part (Art. 6).

The full text of the document can be found following the link⁷.

UN General Assembly Resolution 55/153 of 30 January 2001 On nationality of natural persons in relation to the succession of States

Resolution was adopted on the basis of articles on nationality of natural persons in relation to the succession of States prepared by the International Law Commission the Article 3 of that document expressly provides that «the present articles apply only to the effects of a succession of States occurring in conformity with international law and, in particular, with the principles of international law embodied in the Charter of the United Nations.»

The resolutions of the UN General Assembly following the occupation of Crimea recognized that the actions of the Russian Federation violated the principles of international law.

Thus, the Russian Federation has no legal grounds for references to articles on nationality of natural persons in relation to the succession of States in support of their actions in relation to the imposition of nationality of the Russian Federation to all nationals of Ukraine who resided and were registered in the territory of the Crimean peninsula at the time of its annexation and occupation by the Russian Federation.

The full text of the document can be found following the link⁸.

7 <http://eudo-citizenship.eu/InternationalDB/docs/Convention%20on%20certain%20questions%20relaing%20to%20the%20conflict%20of%20nationality%20laws%20FULL%20TEXT.pdf>

8 http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/55/153

Declaration on the human rights of individuals who are not nationals of the country in which they live

The Declaration was adopted by resolution 40/144 of the UN General Assembly on 13 December 1985.

The Declaration proclaims the right of aliens to life and security of person, to protection from interference with privacy and family life, including in respect of home and correspondence; the right to be equal before the courts; the right to choose a spouse, to marry, to found a family; the right to freedom of thought, opinion, conscience and religion, as well as other rights as defined in Part 1 of Article 5 of the Declaration.

Part 2 of the same Article declares the following rights of aliens: the right to leave the country; the right to freedom of expression; the right of peaceful assembly; the right to own property alone as well as in association with others, subject to domestic law.

Article 8 defines the rights of aliens lawfully residing in the territory of a State. They, in particular, have the right to appropriate working conditions, fair wages and equal remuneration for work, the right to join trade unions, the right to health protection, medical care, social security, social services, education and recreation.

The full text of the document can be found following the link⁹.

The European Convention on Nationality

The Convention was signed on 6 November 1997 and entered into force on 1 March 2000. Ukraine signed the Convention on 1 July 2003, ratified it on 20 September 2006. The Convention entered into force for Ukraine on 1 April 2007.

The Russian Federation signed this Convention on 6 November 1997, but has not ratified it.

The Convention establishes guarantee of the right to a nationality for each person as well as a guarantee in order to avoid cases of statelessness, arbitrarily deprivation of nationality, lack of automatic consequences in relation to a nationality of a spouse, regardless of change in marital status or change of the nationality by the other spouse (Art. 4). This can be considered as an element of respect for the will of persons while changing the nationality.

It also sets out the grounds for the acquisition and deprivation of nationality, especially loss of nationality at the initiative of the individual, a simplified procedure for the recovery of nationality by former nationals, procedures relating to nationality, cases of multiple nationality, rights and duties related to multiple nationality.

It should be noted that the ratification of this Convention has been made by Ukraine with reservations. In particular, in the Law of 20 September 2006 N° 163-V «On ratification of the European Convention on Nationality» Ukraine declared that it excludes Chapter VII from the scope of the Convention.

The provisions of this chapter provide that persons possessing the nationality of two or more parties to the Convention shall be required to fulfil their military obligations in relation to one of those States Parties only.

In practice, this may mean that persons who had to obtain a Russian passport in the occupied territory of the Autonomous Republic of Crimea and Sevastopol and were called up for military service in the Armed Forces of the Russian Federation, after the performance of such a service can be conscripted for military service in the Armed Forces of Ukraine. However, this clause does not matter in relation to the Russian Federation, because the Russian Federation is not a party to that Convention. Attention should also be paid to the explanatory report at the end of the text of the Convention on the official website of the Verkhovna Rada of Ukraine.

9 http://www.un.org/ga/search/view_doc.asp?symbol=a/res/40/144

The text of the Law on ratification can be found following the link¹⁰.

The full text of the Convention in English can be found following the link¹¹.

The full text of the Convention in Ukrainian, with the explanatory report mentioned above can be found following the link¹².

The UN General Assembly Resolution the action of Israel in the Syrian Golan

The UN General Assembly has repeatedly assessed the Israeli practices in the occupied territories (see, for example, this resolution). Special attention shall be drawn to the Resolution A/RES/55/134 of 8 December 2000, which urged to refrain from imposing Israeli citizenship and Israeli identity cards on the Syrian citizens in the Syrian Golan occupied by Israel.

Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)

The Convention was signed in Rome on 4 November 1950 and entered into force on 3 September 1953.

Ukraine ratified the Convention on 17 July 1997. The Convention entered into force for Ukraine on 11 September 1997.

Russia ratified the Convention on 30 March 1998. The Convention entered into force for the Russian Federation on 1 August 1998.

The European Court of Human Rights has repeatedly stressed that the Convention does not protect the right to a nationality. Indeed, the Convention does not contain a provision, which would fully or partially reproduce the provisions of Art. 15 of the UDHR. However, the Court has repeatedly considered cases, where it recognized that in some situations, issues related to the deprivation of nationality may affect matters within the scope of Art. 8 of the Convention (right to respect for private and family life) and even discrimination (Art. 14 in conjunction with Art. 8 of the Convention).

In particular, the interest in this aspect is presented in the cases *Genovese v. Malta*, no. 53124/09, § 30, 11 October 2011 and *Kuric and Others v. Slovenia*, no. 26828/06, 26 June 2012.

Nevertheless, it appears that the imposition of Russian nationality as a result of the occupation of Crimea may also raise new issues in the context of Art. 8 of the Convention. In particular, this may be related to issues of national identity and forced loyalty (see, in particular, comments on the Convention on the Rights of the Child and on Art. 275 of the Criminal Code of the Russian Federation).

Judgments of the European Court of Human Rights

A brief summary of the three most typical judgments of the European Court regarding important human rights issues in the context of citizenship, is given below. The Court itself notes in these judgments that initially ECtHR denied the admissibility of cases related to issues of citizenship, given that “the Convention does not guarantee the right to citizenship.” Nevertheless, the case law has evolved whereby the issues of this category have come in view of the Court. These cases are characterised by the fact that

the Court does not evaluate national authorities’ actions or decisions on determination of the applicants’ citizenship as such, but carefully considers consequences of these decisions and their impact on the lives of the applicants in the context of Article 8 of the Convention. In particular, the Court found no violation of Art. 8 of the Convention in cases *RAMADAN v. MALTA* and *GENOVESE v. MALTA*, since the decisions of national authorities were rather formal, and had no real impact on the lives of the applicants. For example, in the case

10 http://www.un.org/ga/search/view_doc.asp?symbol=a/res/40/144

11 <http://www.coe.int/ru/web/conventions/full-list/-/conventions/rms/090000168007f2c8>

12 http://zakon3.rada.gov.ua/laws/show/994_004/

RAMADAN v. MALTA the applicant, even though deprived of his Maltese citizenship, was not expelled from the country, deprived of his job, he had no documents seized and did not suffer any other serious consequences. Similarly, the case GENOVESE v. MALTA concerned only a request of the applicant's mother for her child to be granted Maltese citizenship despite the fact that they resided in Scotland . In contrast, in the case KURIĆ AND OTHERS v. SLOVENIA the consequences of the authorities' decisions were enormous for applicants and affected all their lives.

In the context of the situation of the imposition of Russian citizenship to residents of Crimea the consequences of such decision can be significant for possible lodging of complaints with the European Court. Technically, the attribution of Russian citizenship to Crimean residents looks like granting them additional rights, and not depriving of them. But in fact, these "additional rights" are a heavy burden for many people. Many people perceive the imposed identification of Crimean Ukrainians as citizens of the Russian Federation in the context of the ongoing conflict very painful. But these consequences are not limited to the inner discomfort only: like any other citizens of the Russian Federation (and citizens only!), they are liable under Art. 275 of the Criminal Code of the Russian Federation for treason against the State in the event of demonstrating loyalty to Ukraine. This means that if they are not required to be directly loyal to the Russian authorities, still they must refrain from any active manifestation of disloyalty. However, it should be understood that those of the Crimean people who decided and managed to declare "the desire to keep the existing citizenship of Ukraine" found themselves in the position of the applicants in the case KURIĆ AND OTHERS v. SLOVENIA.

CASE OF RAMADAN v. MALTA
(21 June 2016, Application no. 76136/12)

The case was examined by the European Court of Human Rights upon the complaint about the applicant's deprivation of Maltese citizenship in the context of Art. 8 of the Convention. The applicant was deprived of his citizenship on the grounds that he had obtained it by fraud. As a result, he became an apatriote (a stateless person).

In this regard, the Court emphasized that an arbitrary denial of a citizenship might in certain circumstances raise an issue under Art. 8 of the Convention because of the impact of such denial on the private life of the individual. Although, in this case the Court found no violation of the Convention, the conclusion that the consequences of changes of nationality *ratione materiae* fall within the Art. 8 of the Convention is significant in the context of this review. The Court also underlines that the private life is a concept that is wide enough to embrace aspects of a person's social identity.

In this case, the Court reiterated that the Convention does not guarantee the right to citizenship. However, in this case likewise in others, the Court draws attention not to the fact of deprivation of citizenship, but on the related (derived) changes in the applicant's private life.

The full text of the judgment can be found following the link¹³.

CASE OF GENOVESE v. MALTA
(11 October 2011, Application no. 53124/09)

The case was examined by the European Court of Human Rights upon the complaint about the refusal of the Maltese authorities to recognize the applicant's right to Maltese citizenship. The applicant was an illegitimate son of a citizen of the United Kingdom and a citizen of Malta. The father refused to acknowledge the applicant to be his son and his mother had to prove the paternity in court. Nevertheless, in spite of the fact established in court, that the father of the child was a citizen of Malta, the Maltese authorities refused to recognize the child as its citizen.

On highlighting that the right to citizenship is not as such a Convention right, the Court also noted that its denial in the present case was not such as to give rise to a violation of Article

13 <http://hudoc.echr.coe.int/eng/?i=001-163820>

8 of the Convention. Nevertheless, the Court concluded that the impact of citizenship on social identity was such as to bring it within the general scope and ambit of Article 8 of the Convention in the aspect of the right to respect for private life.

The full text of the judgment can be found following the link¹⁴.

CASE OF KURIĆ AND OTHERS v. SLOVENIA

(12 March 2014, Application no. 26828/06)

This case was examined by the Grand Chamber of the European Court of Human Rights upon the complaint of several former citizens of Yugoslavia against the actions of Slovenia, as a result of which the applicants lost their status of citizens and the formal right to stay in this country. Although the individual situation of each applicant differed, they were all united by the fact that they were living in Slovenia at the time of the proclamation of independence of the Republic (after the dissolution of Yugoslavia) and did not express their will regarding its future status (did not acquire citizenship of Slovenia, and did not apply for a permission to stay). After a while, the Slovenian authorities cleared the records of the applicants as persons legally residing in the country, whereupon they were deprived of many rights, which they enjoyed previously and which were granted to the citizens (the right to work, social benefits, access to health care, the ability to replace lost documents, etc.), and in some cases they even run a risk of expulsion. Thus, the authorities' decision on the applicants' status as citizens or residents of the country had a profound impact on the whole range of their rights.

The Court concluded that the impact of such decision of the authorities on personal and family life of the applicants did not comply with the guarantees of Article 8 of the Convention.

The full text of the judgment can be found following the link¹⁵.

The American Convention on Human Rights

The Convention was adopted at the Inter-American Conference on Human Rights on 22 November 1969 in San Jose. It entered into force on 18 July 1978.

This Convention establishes a regional human rights protection system similar to the European one. The text of the Convention reflects the specific approach to human rights typical for the American continent. At the same time, the right to a nationality was included to the catalog of human rights as a separate item after the Universal Declaration of Human Rights. In this issue American Convention differs from the European Convention on Human Rights, where the European Court with great difficulty recognizes the right to a nationality as a circumstance pertaining to personal or family life (see the relevant section in the analytical materials).

ARTICLE 20. RIGHT TO NATIONALITY

1. Every person has the right to a nationality.

2. Every person has the right to the nationality of the state in whose territory he was born if he does not have the right to any other nationality.

3. No one shall be arbitrarily deprived of his nationality or of the right to change it.

The full text of the Convention can be found following the link¹⁶.

Convention with respect to the laws and customs of war on land (The Hague Convention IV)

This Convention is one of the documents adopted at the Peace Conferences in the Hague in the years 1899 and 1907. The document was adopted on 18 October 1907. For the Russian

14 <http://hudoc.echr.coe.int/eng?i=001-106785>

15 <http://hudoc.echr.coe.int/eng?i=001-111634>

16 http://www.hrcr.org/docs/American_Convention/oashr5.html

Federation the document came into force on 21 November 1909, for Ukraine – on 29 May 2015. Adoption of the Convention was seen as the embodiment of the rules of customary international law. Consequently, they are also binding for states that are not formally parties to the Convention. The rules laid down in the Regulation, have been partially confirmed and developed in the Additional Protocols of 1977 to the Geneva Conventions of 1949.

ARTICLE 45 OF REGULATIONS RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND (THE HAGUE REGULATION).

It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.

The full text of the Convention can be found following the link¹⁷.

The Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War

The Fourth Geneva Convention was adopted on 12 August 1949 under the auspices of the International Committee of the Red Cross. It entered into force on 21 October 1950. The participants of the Convention (as well as the other three Geneva Conventions, adopted on the same day in 1949) are all the nations of the world. The Convention contains provisions on the protection of the civilian population in the context of armed conflict, in particular the occupation.

Article 67 of the GC IV provides that the occupying military courts shall take into consideration the fact the accused is not a national of the Occupying Power. It is customary to interpret this provision in the sense that persons who prior to the occupation had nationality of a State possessing sovereignty over the relevant territory retain it¹⁸.

Forced recruitment of residents of the occupied territory into the armed forces of the occupying Power is a serious violation of international humanitarian law and a war crime (see. Wagner precedent¹⁹, Berger precedent²⁰, Article 147 of the GC IV, Art. 8 (2) (a) (v) of the Rome Statute of the International Criminal Court²¹).

ARTICLE 47

Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

ARTICLE 68

[...]

The death penalty may not be pronounced against a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

[...]

The full text of the Convention can be found following the link²².

17 <https://ihl-databases.icrc.org/ihl/INTRO/195>

18 Dinstein Y. The International Law of Belligerent Occupation. — Cambridge, 2009. — P. 53.

19 http://www.worldcourts.com/ildc/eng/decisions/1946.05.03_France_v_Wagner.pdf

20 http://www.worldcourts.com/imt/eng/decisions/1949.04.13_United_States_v_Weizsaecker.pdf#search=%22weizsaecer%22

21 https://www.icc-cpi.int/nr/rdonlyres/ea9aef7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf

22 <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=AE2D398352C5B028C12563CD002D6B5C&action=openDocument>

Robert Wagner Case

In the summer of 1940, Robert Wagner was appointed by Hitler to be a Gauleiter²³ and at the same time the imperial viceroy in occupied France Alsace for the purpose of germanization and nazification of the region. Prior to that, Wagner served as Gauleiter and the governor of Baden. In the early years of the German occupation he made many attempts to encourage the Alsatians to voluntarily serve in the German army. In general, for the German side the idea of recruiting volunteers failed (only about 2,300 people, mostly Germans of Alsace responded to the call). The solution to this problem was the introduction of conscription.

Conscription was introduced in Alsace by the Order of 25 August 1942. In accordance with section 1 of the Order compulsory military service in the German armed forces for all Alsatians of German nationality was introduced in Alsace. The Order was made public simultaneously with the Decree on acquisition of German nationality by all Alsatians. This Decree was issued by the Minister of Internal Affairs of the Third Reich on 23 August 1942, and also was applied to the population of Lorraine and Luxembourg. These measures were approved by the Supreme Command of the Wehrmacht, in particular, Hitler and Keitel. Consequently, the spread of German citizenship entailed an obligation for the population of these territories to serve in the German army.

On 29 July 1945 Wagner was arrested by US occupation forces and handed over to the French authorities. On 23 April 1946 he was brought before the Permanent Military Tribunal in Strasbourg. The Tribunal charged Wagner, in particular, with the instigation of the French to take up arms against France, as well as with organization of recruitment of the French into the enemy (German) army. As a result, on 3 May 1946 the tribunal sentenced Robert Wagner to death and confiscation of all property in favor of the people.

Gottlob Berger Case

Gottlob Berger was brought to trial by the American Military Tribunal at Nuremberg in the case of «Wilhelmstrasse». On 1 April 1940, Berger was appointed Chief of the SS Main Office, and in July 1942 became Himmler's liaison officer for the Ministry of the Occupied Eastern Territories. Also, at various times he served as commander of the reserve forces, the head of the Service for Prisoners of War in Germany, the chief of staff of the German Volkssturm (People's Volunteer Corps) and General of the Waffen-SS.

Regarding Berger through a judicial process in the clearest possible terms, it was noted that, "the program implemented in Serbia and Croatia was also carried out in Latvia, Lithuania, Poland, Russia, Luxembourg, Alsace and Lorraine. Without a doubt, defendant Berger is guilty of committing crimes against humanity by the fact that he and his departments were involved in forcing the citizens of these countries to the Germanization or other methods for the purpose of recruitment into the German armed forces".

On 11 April 1949 the American Military Tribunal sentenced Gottlob Berger to 25 years in prison.

These precedents again prove the fact that the right to a nationality and violation of this right is closely linked to other human rights violations, right up to international crimes, which is the forced recruitment of inhabitants of the occupied territory into the armed forces of the occupying Power.

Nottebohm Case²⁴

International Court of Justice in its famous judgment in the Nottebohm case of 6 April 1955, said that it is the sovereign right of each State to decide who are its nationals, provided

²³ Gauleiter was the party leader of a regional branch of the National Socialist German Workers' Party

²⁴ <http://www.icj-cij.org/docket/files/18/2674.pdf>

that this process must be properly regulated by international law. International Court of Justice has upheld the principle of «effective nationality», that which accorded with the facts and based on stronger factual ties between the person concerned and one of these States whose nationality is involved. These factors include the habitual residence of the individual concerned but also the centre of his interests, his family ties, his participation in public life, attachment shown by him for a given country and inculcated in his children, etc.

Case of Yean and Bosico v. Dominican Republic²⁵

The Inter-American Court of Human Rights in its judgment in the case of Yean and Bosico v. Dominican Republic acknowledged the ethnic discrimination of citizens of the Dominican Republic of Haitian descent and confirmed, as enshrined in the aforementioned American Convention on Human Rights, the right of every person to citizenship as a prerequisite for equal enjoyment of all rights in the society. Inter-American Court in its decision also noted that the regulation of nationality issues is the responsibility of the state, but international law imposes certain restrictions on the implementation of such powers. The Court upheld this argument in another case of Ivcher-Bronstein v. Peru²⁶, but also noted²⁷ that the right to a nationality is an inalienable right of all people and has an important influence on the legal existence of a natural person.

Joint statement of the participants of the Conference of European Constitutional Courts concerning respect for territorial integrity and international law in administering constitutional justice of 10 September 2015 (Batumi Declaration)

The Constitutional Court of the Russian Federation played its role in the formal recognition of the annexation, having considered the so-called “treaty on the accession of Crimea” in terms of its constitutionality, and spoke in favor of the legality of admitting the so-called “Republic of Crimea” and the “City of Federal Importance Sevastopol” to the Russian Federation (see the relevant section in the Russian legislation). At the same time the Constitutional Court of the Russian Federation also assessed provisions regarding citizenship of the Crimean residents (see below the section in the Russian legislation).

The position of the Constitutional Court of the Russian Federation was condemned by some participants of the Conference of European Constitutional Courts, which was held in Batumi in September 2015. In particular, on 10 September 2015, there was signed the so-called Batumi Declaration, which noted that the Constitutional Court of the Russian Federation formally had a decisive role in the process of annexation of the Crimean Peninsula, and without its judgment the annexation could not be recognized as lawful under national Russian legislation (the illegality of the annexation in the context of international law is not in question in the text of the declaration).

The full text of the document can be read below in this review

JOINT STATEMENT CONCERNING RESPECT FOR TERRITORIAL INTEGRITY
AND INTERNATIONAL LAW IN ADMINISTERING CONSTITUTIONAL JUSTICE

As it is known, on 19 March 2014, the Constitutional Court of the Russian Federation passed the judgment in the case «On the verification of the constitutionality of the

25 <http://www.refworld.org/docid/44e497d94.html>

26 http://www.corteidh.or.cr/docs/casos/articulos/seriec_74_ing.pdf

27 http://www.corteidh.or.cr/docs/opiniones/seriea_04_ing.pdf

international treaty, which has not yet entered into force, between the Russian Federation and the Republic of Crimea on the accession of the Republic of Crimea to the Russian Federation and the formation of new constituent entities within the Russian Federation». By that unprecedented judgment, the Constitutional Court of the Russian Federation recognised that the agreement between the Russian Federation and the so-called «Republic of Crimea», located in the territory of Ukraine, is an international treaty, as well as that the so-called «Republic of Crimea» has the status of an international legal entity.

It is important to note that the Constitutional Court of the Russian Federation formally has a decisive role in the process of the annexation of foreign territories. Under Paragraph 1 of Article 8 of the Federal Constitutional Law of the Russian Federation «On the Procedure of Admission to the Russian Federation and Creation of a New Subject of the Russian Federation in Its Composition», an international treaty on the accession of a new entity to the Russian Federation may be ratified only after the Constitutional Court of the Russian Federation rules such a treaty to be in compliance with the Constitution of the Russian Federation. Thus, under the Russian legislation, the above-mentioned judgment was necessary in order to formally annex part of the territory of Ukraine — Crimea and the City of Sevastopol. Without that judgment, the annexation of Crimea and the City of Sevastopol could not be formally accomplished. Therefore, the Constitutional Court of the Russian Federation, by adopting its judgment of 19 March 2014 within one day after the so-called «Treaty» was signed, performed an instrumental role in accomplishing and justifying the annexation of Crimea.

We recall that, under international law, such annexation of a foreign territory is a manifestation of aggression and cannot be justified by any consideration.

In this context, it should be noted that not a single European state has recognised this annexation and that the general international consensus as to the illegality of the «Crimean referendum» and the annexation of Crimea is, inter alia, expressed in United Nations General Assembly Resolution no. 68/262 «The territorial integrity of Ukraine» (2014), Parliamentary Assembly of the Council of Europe Resolutions no. 1988 «Recent developments in Ukraine: threats to the functioning of democratic institutions» (2014), no. 1990 «Reconsideration on 2

substantive grounds of the previously ratified credentials of the Russian delegation» (2014) and no. 2034 «Challenge, on substantive grounds, of the still unratified credentials of the delegation of the Russian Federation» (2015), European Parliament Resolution no. 2014/2699(RSP) «On Russian pressure on Eastern Partnership countries and in particular destabilisation of eastern Ukraine» and the OSCE Parliamentary Assembly Resolution «The continuation of clear, gross and uncorrected violations of OSCE commitments and international norms by the Russian Federation» (2015). The conclusions concerning the illegality of the «Crimean referendum» were also stated in the Opinion of the European Commission for Democracy through Law (Venice Commission) on «Whether the decision taken by the Supreme Council of the Autonomous Republic of Crimea in Ukraine to organise a referendum on becoming a constituent territory of the Russian Federation or Restoring Crimea's 1992 Constitution is compatible with constitutional principles» (2014).

We consider that the judgment of 19 March 2014 of the Constitutional Court of the Russian Federation amounts to a grave violation of international law (the universally recognised norms of international law, including those consolidated in the 1945 Charter of the United Nations, the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, the 1975 Final Act of the Conference on Security and Cooperation in Europe). Consequently, it may be concluded that this judgment is not in accordance with the fundamental principle of the rule of law, which obliges courts to

comply with the general principles of law, the main principles of international law and the values of democratic constitutional order,

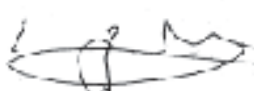
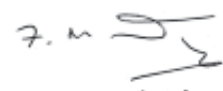
We reiterate that the Statute of the Conference of European Constitutional Courts makes the full membership of European Constitutional Courts in this organisation conditional upon the conduct of judicial activities by its members in accordance with the principle of judicial independence, the fundamental principles of democracy, the rule of law and the duty to respect human rights (Paragraph 1 (a) of Article 6),

We, therefore, invite the members of the Conference of European Constitutional Courts to consider adopting the «Declaration on respect for territorial integrity and international law in administering constitutional justice», which has been proposed by the Constitutional Court of Ukraine.

This Joint Statement is open for signature to the memberS of the Conference of European Constitutional Courts,

Batumi, 10 September 2015

SIGNED BY:

1. On behalf of the Constitutional Court of Ukraine,
Head of Delegation ~~of~~ Stanislav Sherchuk
2. President of the Constitutional Court of
the Republic of Lithuania
Dainius Žalimas
3. Andrzej Łyjak, president of the
Constitutional Court of Poland.
4. George PAPUNASHVILI 
President, Constitutional Court of Georgia
5. On behalf of the Constitutional Court of Moldova
Alexandru Tănase Alexandru Tănase
6. На ім'я представництва правосуддя в Європі
репрезентативного конституційного суду Республіки Молдова,
в особі голови представництва правосуддя в Європі, а саме
в особі судді суду, конституційного правосуддя,
який має статус репрезентативного правосуддя,
судді суду правосуддя в Європі репрезентативного
суду Республіки Молдова на ім'я судді, в особі
представництва правосуддя в Європі
Александр Танає
7.  H.M. NICOLATOS
President Supreme Court of Cyprus.

Laws and regulations of Ukraine

Constitution of Ukraine

Date of approval and number: 28 June 1996, no. 254k/96-VR

Effective date: 28 June 1996

ARTICLE 4.

There is single citizenship in Ukraine. The grounds for the acquisition and termination of Ukrainian citizenship are determined by law.

ARTICLE 25.

A citizen of Ukraine shall not be deprived of citizenship and of the right to change citizenship. A citizen of Ukraine shall not be expelled from Ukraine or surrendered to another state. Ukraine guarantees care and protection to its citizens who are beyond its borders.

ARTICLE 26.

Foreigners and stateless persons who are in Ukraine on legal grounds enjoy the same rights and freedoms and also bear the same duties as citizens of Ukraine, with the exceptions established by the Constitution, laws or international treaties of Ukraine. Foreigners and stateless persons may be granted asylum by the procedure established by law.

ARTICLE 33.

Everyone who is legally present on the territory of Ukraine is guaranteed freedom of movement, free choice of place of residence, and the right to freely leave the territory of Ukraine, with the exception of restrictions established by law.

A citizen of Ukraine may not be deprived of the right to return to Ukraine at any time.

The full text of the Constitution can be found following the link²⁸.

Law of Ukraine “On the Unified state demographic register and the documents confirming citizenship of Ukraine, certifying the identity or its special status”

ARTICLE 13.

Titles and types of documents issued with the application of the Unified state demographic register.

1. Documents, execution of which is provided by this Law with the application of the Register, in accordance with their purpose are divided into:

1) documents certifying the identity and confirming citizenship of Ukraine:

- a) a Ukrainian passport;*
- b) a Ukrainian international passport;*
- c) a diplomatic passport of Ukraine;*
- d) a service passport of Ukraine;*
- e) a seafarers' identity document;*
- f) a crew member certificate;*
- g) an ID card to return to Ukraine;*
- h) a Ukrainian temporary certificate.*

The full text of the Law can be found following the link²⁹.

Law of Ukraine “On Citizenship of Ukraine”

Date of approval and number: 18 January 2001, no. 2235-III

²⁸ http://www.coe.int/t/dghl/cooperation/ccpe/profiles/ukraineConstitution_en.asp

²⁹ <http://zakon2.rada.gov.ua/laws/show/1601-18>

Effective date: 1 March 2001

Contents: the Law regulates the procedure for acquisition of citizenship, defining the grounds for such an acquisition (Art. 6), as well as the procedure for termination of citizenship (Art. 17 voluntary termination of citizenship of Ukraine).

The citizenship of Ukraine is based, in particular, on the principles of a single citizenship, prevention of statelessness, impossibility of deprivation of citizenship, retention of citizenship, regardless of the citizen's place of residence (Art. 2).

The full text of the Law can be found following the link³⁰.

The Law of Ukraine “On Securing the Rights and Freedoms of Citizens and the Legal Regime on the Temporarily Occupied Territory of Ukraine”

Date of approval and number: 15 April 2014, no. 1207-18

Effective date: 27 April 2014

Contents: Part 1 of Art. 6 of the Law secures the rights of citizens residing in the temporarily occupied territory for issuance of documents certifying Ukrainian citizenship.

Part 4 of Art. 5 determines that compulsory automatic enrollment of Ukrainian citizens, who reside in the temporarily occupied territory, to the citizenship of the Russian Federation is not recognized by Ukraine and is not ground for deprivation of Ukraine's citizenship.

The full text of the Law can be found following the link³¹.

The Law of Ukraine «On Creation of the Free Economic Zone «Crimea» and on Peculiarities of Exercising Economic Activity in the Temporarily Occupied Territories of Ukraine»

Date of approval and number: 12 August 2014. no. 1636-VII

Effective date: 27 September 2014

Contents: Art. 8.3. of the Law stipulates that state guarantees concerning benefits and social assistance do not apply to citizens who live in the territory of the FEZ Crimea and are either stateless or have citizenship of a foreign state, as well as to the citizens of Ukraine who also have the citizenship of the occupying state. Transitional provisions of the Law established that foreigners and stateless persons, citizens of Ukraine who live in the temporarily occupied territory of Ukraine or temporarily staying in the other territory of Ukraine are recognized non-residents for the purpose of customs formalities.

The full text of the Law can be found following the link³².

Law of Ukraine “On ensuring the rights and freedoms of internally displaced persons”

Date of approval and number: 20 October 2014, no. 1706-VII

Effective date: 22 November 2014

Contents: IDPs can receive documents certifying their identity, special status and citizenship if they appeal to the central executive body at the place of their factual residence (Art. 6).

The full text of the Law can be found following the link³³.

30 http://www.coe.int/t/dghl/standardsetting/nationality/National%20legislation/Ukraine%20LawCitizenship%20consol%20June05_ENG.pdf

31 <http://mfa.gov.ua/en/news-feeds/foreign-offices-news/23095-law-of-ukraine-no-1207-vii-of-15-april-2014-on-securing-the-rights-and-freedoms-of-citizens-and-the-legal-regimeon-the-temporarily-occupied-territory-of-ukraine-with-changes-set-forth-by-the-law-no-1237-vii-of-6-may-2014>

32 <http://zakon4.rada.gov.ua/laws/show/1636-18>

33 <https://www.brookings.edu/wp-content/uploads/2016/07/Ukraine-IDP-Law-November-2014.pdf>

Laws and regulations of the Russian Federation

Constitution of the Russian Federation

Date of approval: 12 December 1993

Effective date: 01 October 1993

Contents: Art. 6 stipulates that the citizenship of the Russian Federation shall be acquired and terminated according to federal law; it shall be one and equal, irrespective of the grounds of acquisition. Every citizen of the Russian Federation shall enjoy in its territory all the rights and freedoms and bear equal duties provided for by the Constitution of the Russian Federation. A citizen of the Russian Federation may not be deprived of his or her citizenship or of the right to change it.

Art. 62 of the Constitution allows dual citizenship for Russian citizens.

The full text of the Constitution can be found following the link³⁴.

Law of the Russian Federation of 28 November 1991 no. 1948-I “On Citizenship of the Russian Federation”

The Law on Citizenship was adopted in connection with the proclamation of independence by the Russian Federation in 1991. In 2002, the text of the Law was redrafted (see below).

Of a particular interest are the provisions on granting Russian citizenship to former USSR citizens residing in the territory of the Russian Federation on the date of entry into force of this Law. Persons of this category had the right to declare their unwillingness to have citizenship of the Russian Federation during a year after the Law came into force. In comparison, the residents of Crimea were given less than a month to think about this decision, and the period, during which the opportunity to “express the desire to keep the citizenship of Ukraine” existed de facto, was less than 18 days.

ARTICLE 13. RECOGNITION OF CITIZENSHIP OF THE RUSSIAN FEDERATION

1. *All former Soviet citizens permanently residing in the territory of the Russian Federation on the date of entry into force of this Law shall be recognized as citizens of the Russian Federation, unless they declared their unwillingness to have Russian citizenship within one year after that day.*

The full text of the document can be found following the link³⁵.

Federal Constitutional Law “On Admitting to the Russian Federation the Republic of Crimea and Establishing within the Russian Federation the New Constituent Entities of the Republic of Crimea and the City of Federal Importance Sevastopol”

Date of approval and number: 20 March 2014, no. 6-FKZ

Effective date: 21 March 2014

Contents: Art. 4 of the FCL regulates the recognition of citizenship of the Russian Federation for the citizens of Ukraine and stateless persons who permanently reside in the territory of the Republic of Crimea or Sevastopol. Thus, all Ukrainian citizens and stateless persons who reside in the territory of the Republic of Crimea or Sevastopol shall be recognized as citizens of the Russian Federation. Persons willing to retain their nationality or remain stateless must declare this within 1 month after admitting the Republic of Crimea to the Russian Federation. Otherwise, citizens shall be recognized as citizens of the Russian Federation without any second citizenship. In addition, the Law imposes restrictions for holding positions in state

³⁴ <http://www.constitution.ru/en/10003000-01.htm>

³⁵ http://www.democracy.ru/library/laws/federal/1948-I_fz/

and municipal bodies by the Russian citizens who have a second citizenship or the right of permanent residence in a foreign country. Art. 11 of the Law also guarantees the citizens of Ukraine and stateless persons residing in the territory of the Republic of Crimea at the time of admitting the Republic of Crimea to the Russian Federation the right to social assistance only in case they acquire Russian citizenship.

Typical form of declaration that was strictly recommended to fulfill by those Crimeans who wanted to avoid Russian citizenship:

От гражданина _____
Дата рождения _____
Место рождения _____
Проживающего по адресу _____

Паспорт _____

Заявление

Я _____

заявляю о желании сохранить имеющееся у меня гражданство Украины (статус лица без гражданства) для себя и своих несовершеннолетних детей

В связи с чем отказываюсь от признания себя гражданином (своих несовершеннолетних детей) Российской Федерации и в соответствии со статьей 5 Договора Российской Федерации и Республики Крым о принятии в Российскую Федерацию Республики Крым и образования в составе Российской Федерации новых субъектов (Москва, 18 марта, 2014 год) С правовым статусом иностранного гражданина, лица без гражданства и необходимостью оформления соответствующих документов, а также правовыми последствиями принятого мною решения ознакомлен.

(дата)

(подпись)

FMS of Russia
From a citizen _____

Date of birth _____

Place of birth _____

Residing in _____

Passport details _____

Declaration

I _____
declare the willingness to retain my citizenship of Ukraine (status of a stateless person) for
myself and my minor children _____

In light of this, I refuse to be recognized (to recognize my minor children) as a citizen of
the Russian Federation according to the Article 5 of the Agreement between the Russian
Federation and the Republic of Crimea on admitting to the Russian Federation the Republic of
Crimea and establishing within the Russian Federation the new constituent entities (Moscow,
March 18, 2014).

I am aware of a legal status of a foreigner, a stateless person and necessity to make relevant
documents, as well as legal consequences of my decision.

(date)

(signature)

Federal Law “On Citizenship of the Russian Federation”

Date of approval, number: April 19, 2002, no. 62-FZ

Effective date: 1 July, 2002

Contents: Art. 4 of the Law contains the principles concerning the citizenship of the Russian Federation and the rules that regulate relations in the field of the Russian citizenship. In addition, it defines grounds, conditions and procedure for acquisition and termination of citizenship of the Russian Federation. Art. 6 of the FL allows dual citizenship for Russian citizens. The list of grounds for acquisition of citizenship of the Russian Federation is not exhaustive (Art. 11: at birth, on reinstatement in the citizenship, on admission to the citizenship, etc.).

Arts. 18 and 19 of the Law contain grounds and regulate the manner of renunciation of citizenship of the Russian Federation on the basis of free will of a person. Art. 20 provides that renunciation of citizenship shall not be permitted if a person: a) owes an incomplete obligation towards the Russian Federation, established by the federal laws; b) is under indictment in a criminal case in the Russian Federation or under a sentence of conviction which has taken effect and is pending execution; c) possesses no other citizenship and guarantee for the acquisition thereof.

The full text of the Law can be found following the link³⁶.

³⁶ http://www.consultant.ru/document/cons_doc_LAW_36927/

Presidential Decree of the Russian Federation “On approval of the Regulations on the order of consideration of issues of citizenship of the Russian Federation”

Date of adoption and number: 14 November, 2002, no. 1325 (revised on 4 August, 2016).

Contents: It regulates the procedure for submission and review of documents for renunciation of citizenship of the Russian Federation.

The following data must be provided among other things in an application for renunciation of citizenship: series, number, date of issue of a Russian passport and the authority which has issued this document. A copy of passport must be enclosed to this application.

Thus, the exercise of the right to renounce Russian citizenship is impossible for persons who have refused to obtain Russian passports and whom the Russian Federation, nevertheless, considers its citizens.

The full text of the Decree can be found following the link³⁷.

The Agreement between the Russian Federation and the Republic of Crimea on the Admitting of the Republic of Crimea in the Russian Federation and on Establishing New Constituent Entities within the Russian Federation

Date of signature: 18 March 2014

Date of ratification: 21 March 2014

Effective date: 1 April 2014

Contents: the Agreement specifies that the citizens of Ukraine and stateless persons permanently residing on the day the Republic of Crimea was admitted to the Russian Federation are recognized as citizens of the Russian Federation. An exception are persons who, within one month from the date of acceptance of the Republic of Crimea into the Russian Federation declare their desire to maintain their existing citizenship or otherwise remain stateless. Changes regarding the period of notice have been made to the Federal Law «On Amendments to Art. Art. 6 and 30 of the Federal Law «On Citizenship of the Russian Federation” and Certain Legislative Acts of the Russian Federation». The term has been extended to January 1, 2016.

The full text of the Agreement can be found following the link³⁸.

Decision of the Russian Federation Constitutional Court on 19 March 2014 no. 6-II “On the constitutionality of the International Agreement, not yet in force, between the Russian Federation and the Republic of Crimea on admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities”

Date of approval: 19 March 2014

Contents: The Court considered the request of the President of the RF on the constitutionality of the International Agreement concluded between the RF and Crimea. The Court found that the Agreement corresponds to the Constitution of the RF. It was found that the provision on granting citizenship of the RF and the obligation to notify dual citizenship or statelessness is not inconsistent with the Constitution, because it does not compel to renounce another citizenship or remain stateless while ensuring, if desired, the right to acquire Russian citizenship without taking any actions for this purpose.

The full text of the decision can be found following the link³⁹.

37 http://www.consultant.ru/document/cons_doc_LAW_39607/0b46424cde96ea7d9427d2c3d28d0bac40dd8cb4/

38 <http://pravo.gov.ru/proxy/ips/?docbody=&nd=102171897&rdk=&backlink=1>

39 <https://goo.gl/dtHuRw>

Federal Law of the RF “On amendments to Art. 6 and 30 of the Federal Law “On citizenship of the Russian Federation” and certain legislative acts of the Russian Federation”

Date of approval and number: 23 May 2014, no. 142-FZ

Effective date: 4 August 2014

Contents: The Federal Law introduces amendments to some legislative instruments regarding Russian citizens who reside within the boundaries of the Russian Federation and who have another citizenship or the right of permanent residence in another country. These citizens shall be obliged to notify in writing of any other citizenship or the right of permanent residence within 60 days from the date of acquisition of a second citizenship or the right of permanent residence. The procedure for notification of such citizenship is also regulated. Violation of the established procedure for notification shall entail the imposition of an administrative fine (Art.19.8 of the Code of Administrative Offences). The Criminal Code was amended imposing liability in the form of a fine, forced labor for failure to fulfill a notification obligation (Art. 330.2 of the Russian Criminal Code). Citizens who acquire Russian citizenship in accordance with the Agreement on admitting to the RF the Republic of Crimea no. 6-FKZ shall be deemed to have the Russian citizenship only, in case of filing an application for their reluctance to be citizens of a foreign state. The deadline for notification of a second citizenship and punishment for violation of the established procedure for notification, as well as punishment for failure to notify and concealing dual citizenship is effective from 1 January 2016 (Art. 6 of the Federal Law of the RF “On citizenship”).

The full text of the document can be found following the link⁴⁰.

Federal Law “On amendments to Art. 6 of the Federal Law “On citizenship”

Date of approval and number: 19 December 2014, no. 507-FZ

Effective date: 31 December 2014

Contents: Art. 6 of the Federal Law “On citizenship” is supplemented with part 3, which states that citizens who have multiple citizenship and file no notice within 60 days of their foreign citizenship or the right of residence in a foreign state shall be obliged to submit such notification not later than 30 days from the date of entry into the territory of the RF. Citizens who arrive in the Russian Federation in a manner not requiring a visa and on the date of entry into force of this Law are citizens of that foreign state only shall submit a notification of another citizenship or the right of permanent residence in other country prior to January 1, 2016.

The full text of the Law can be found following the link⁴¹.

Federal Law “On amendments to the Federal Law “On the legal status of foreign citizens in the Russian Federation” and certain legislative acts of the Russian Federation”

Date of approval and number: 14 November 2014, no. 357-FZ

Effective date: 24 November 2014

In accordance with this Law, foreign citizens staying lawfully in the territory of the Russian Federation, arriving in the Russian Federation in a manner not requiring a visa and reaching the age of 18 shall be entitled from January 1, 2015 to be employed on the basis of a work permit both by individuals and legal entities. Thus, the Crimean people who are not citizens of the Russian Federation in accordance with the Russian laws shall be obliged to obtain a work

40 <https://rg.ru/2014/06/06/grajdanstvo-dok.html>

41 <https://rg.ru/2015/01/12/grazhdanstvo-dok.html>

permit. Clarifications on the employment can be found following the link⁴².

The full text of the Law can be found following the link⁴³.

Decree of the Russian Government dd. October 29, 2015 no. 2197-r on the establishment of quotas for issuing permits for temporary residence in the Russian Federation to foreign citizens and stateless persons

In accordance with this Decree, in 2016, the Crimean Federal District (including the “Republic of Crimea” and Sevastopol) was provided with 1900 temporary residence permits for foreign citizens and stateless persons (1500 for Crimea and 400 for Sevastopol).

The full text of the document can be found following the link⁴⁴.

Criminal Code of the Russian Federation

The Criminal Code of the Russian Federation contains two articles that are of direct relevance to citizenship.

First of all, it is Art. 275 of the Criminal Code of the Russian Federation, which provides for liability for high treason. The subject of the offense under this Article is a citizen of Russia. This provision, in addition to direct collection of information constituting a state secret, provides for liability for rendering any assistance to a foreign state, an international or foreign organization, or their representatives in activities against the security of the Russian Federation. Obviously, in the context of the conflict between the Russian Federation and Ukraine the imposition of Russian citizenship predetermines the prosecution of Crimean people for any active demonstration of loyalty to Ukraine. Given that the classification of the activities to such that are directed against the security of the Russian Federation is carried out in a quite subjective way, this provision predetermines repressions against the Crimean people.

Moreover, the provisions of Art. 330.2 of the Criminal Code of the Russian Federation provide for liability for failure to notify the Russian authorities of the citizenship (nationality) of another state. In fact, it is a means of control over possible loyalty of citizens to other countries.

ARTICLE 275. HIGH TREASON

High treason, that is act of espionage committed by a citizen of the Russian Federation, disclosure to a foreign state, an international or foreign organization, or their representatives of information constituting a state secret that has been entrusted or has become known to that person through service, work, study or in other cases determined by the legislation of the Russian Federation, or any financial, material and technical, consultative or other assistance to a foreign state, an international or foreign organization, or their representatives in activities against the security of the Russian Federation -

shall be punished by deprivation of liberty for a term of twelve to twenty years with or without a fine in an amount of up to five hundred thousand rubles or in the amount of the wage or salary, or other income of the convicted person for a period of up to three years and with restriction of liberty for a term of up to two years.

Note. A person who has committed crimes stipulated in this Article, or Articles 276 and 278 of this Code, shall be relieved from criminal liability if he has facilitated the prevention of further damage to the interests of the Russian Federation by informing the governmental authorities of his own free will and in due time, or in any other way, if his actions contain no other corpus delicti.

42 <http://mtrud.rk.gov.ru/rus/info.php?id=622731>

43 http://www.consultant.ru/document/cons_doc_LAW_171225/

44 <http://government.ru/media/files/WSuem3sXQhKEsRQIJ4CNsW2M1J94eeup.pdf>

ARTICLE 330.2. FAILURE TO COMPLY WITH THE OBLIGATION TO NOTIFY OF THE CITIZENSHIP (NATIONALITY) OF A FOREIGN STATE OR A RESIDENCE PERMIT OR ANY OTHER VALID DOCUMENT CONFIRMING THE RIGHT TO PERMANENT RESIDENCE IN A FOREIGN COUNTRY (PROVIDED BY THE FEDERAL LAW OF 04.06.2014 NO. 142-FZ)

Failure to comply with the obligation determined by the legislation of the Russian Federation to notify the relevant territorial body within the federal executive body authorized to exercise the functions of control and supervision in the field of migration about the citizenship (nationality) of a foreign state or a residence permit or any other valid document confirming the right to permanent residence in a foreign country - shall be punished by a fine in an amount of up to two hundred thousand rubles or in the amount of the wage or salary, or other income of the convicted person for a period of up to one year or by compulsory labor for a term of up to four hundred hours.

The full text of the document can be found following the link⁴⁵.

Ruling of the Constitutional Court of the Russian Federation of 4 October 2016 no. 18-P in the case regarding the verification of constitutionality of Part 1, Article 4 of the Federal Constitutional Law “On admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities of the Republic of Crimea and the City of Federal Importance Sevastopol” upon A.G. Olenev’s complaint

The reason for this decision was the problem that had arisen with respect to getting a Russian passport by persons who actually lived in Crimea, but were not registered there.

When considering this case, the Constitutional Court of the Russian Federation referred to the principle of respect for the will of certain persons. According to the authors of this review, this position does not fit well with the other part of this decision: the Constitutional Court substantiates its findings with the Russia’s succession to the Crimean Peninsula and considers the connection of “new citizens” with the annexed territory as a ground for granting citizenship (this idea is borrowed from the UN General Assembly Resolution on Nationality of Natural Persons in Relation to the Succession of States). The contradiction in the position of the Constitutional Court is that if the same principles apply to persons who were officially registered in Crimea, then their will to be recognized as Russian citizens was rudely ignored, as they were subjected to mass collective naturalization as something that comes together with the annexed territory.

The full text of the document can be found following the link⁴⁶.

45 http://www.consultant.ru/document/cons_doc_LAW_10699/2ca391674eeaa02069722fa3f13cbb41cce0a95d/

46 <http://doc.ksrf.ru/decision/KSRFDecision247212.pdf>

Laws of the so-called “Republic of Crimea”

Constitution of the Republic of Crimea

Date of ratification: 11 April 2014

Effective date: 12 April 2014

Contents: Part 3 of Art. 62 of the Constitution defines the head of the Republic of Crimea as a citizen of the Russian Federation without citizenship of a foreign state or a residence permit or any other document confirming the right of permanent residence of a Russian citizen in a foreign country.

The full text of the Constitution of the “RC” can be found following the link⁴⁷.

⁴⁷ <https://rg.ru/2014/05/06/krim-konstituciya-reg-dok.html>

German Czechoslovakian treaty relating to citizenship and options of 20 November 1938⁴⁸

This treaty was adopted with the aim to resolve issues of citizenship between Germany and Czechoslovakia as a result of the occupation of the territory of the latter in October 1938. Since the end of World War II, due to the insignificance of the Munich agreement on the division of Czechoslovakia in 1938 all the acts that took the form of an international treaty, in particular, the said contract would be recognized as invalid.

Despite an early invalidation of the Treaty, there is reason to believe that its adoption largely affected the «post-war» fate of many Germans living in the occupied territories of Czechoslovakia. We are talking about the forced eviction of the German minority in Czechoslovakia who acquired German citizenship before the end of World War II. The eviction of the civilian population, being illegal from the point of view of modern international law, was made on the basis of decrees of Czechoslovak president Edvard Beneš.

Thus, in accordance with Beneš Decree of 2 August 1945 regarding the change of the Czechoslovak citizenship for persons of German and Hungarian ethnic origin, citizens of Czechoslovakia of German or Hungarian national origin who acquired German or Hungarian citizenship by the order of the occupation authorities, lost the right to citizenship of Czechoslovakia on the day of acquiring this citizenship.

The text of the treaty of 20 November 1938

The governments of Germany and Czechoslovakia, willing to settle the issues of citizenship and options arising from the reunification of Sudeten German areas with the German Reich, authorized:

on behalf of the German Government – Ministerialdirektor of the Ministry of Foreign Affairs, Mr. Dr. Friedrich Gauss, and Ministerial Adviser in the Reichsministerium, Mr. Dr. Hans Globke.

On behalf of the Government of Czechoslovakia - Mr. Dr. Antonin Koukal, Ministerial Adviser of the Ministry of Justice in Prague,
who agreed on the following provisions:

§1.

Those citizens of Czechoslovakia who as of 10 October 1938 were living in one of the communities reunited with the German Reich, from 10 October 1938 acquire German citizenship while losing Czechoslovak citizenship, if they

a) were born before 1 January 1910 in the territory, reunited with the German Reich,

or

b) lost their German citizenship on 10 January 1920,

or

c) are the children or grandchildren of a person who is subject to the conditions of a) or b)

or

d) are the wives of persons who are subject to the terms of paragraphs a), b) or c)

Citizens of Czechoslovakia of German national origin, who as of 10 October 1938 resided outside the territory of the former state Czechoslovakia from 10 October 1938 receive German citizenship while losing Czechoslovak citizenship, if they as of 10 October 1938 had the right to citizenship in one of the communities reunited with the German Reich.

A wife does not acquire German citizenship if a husband does not acquire it.

§2.

The German Government is entitled up to 10 July 1939 to require persons of not German

48 The translation is made by the NGO “Regional Centre for Human Rights”

national origin who, according to the provisions of this Treaty shall remain citizens of Czechoslovakia and moved to the territory, reunited with the German Reich, since 1 January 1910, as well as their descendants with Czechoslovak citizenship, to leave the German Reich during the three-month period.

The Government of Czechoslovakia takes these persons in its territory.

The Government of Czechoslovakia is entitled up to 10 July 1939 to require persons of German national origin, who by the time this Treaty enters into force are citizens of Czechoslovakia and moved to the territory of the modern Republic of Czechoslovakia since 1 January 1910 as well as their descendants to leave the territory of the Czechoslovak Republic during the three-month period.

At the same time, these persons are deprived of citizenship of Czechoslovakia. The German government takes them into its territory. This provision shall not apply to persons who have received Czechoslovak citizenship after 30 January 1933 and until the date indicated had been citizens of Germany or Austria.

§ 3.

Persons not of German national origin, who under the provisions of § 1 acquire German citizenship, have until 29 March 1939 the right to opt for Czechoslovak citizenship.

§ 4.

Persons of German national origin, who remain citizens of Czechoslovakia, have until 29 March 1939 the right to opt for German citizenship. This provision shall not apply to persons who received Czechoslovak citizenship after 30 January 1933 and until the date indicated had been citizens of Germany or Austria.

§ 5.

One can inform about the willingness to opt:

- a) in favor of Czechoslovak citizenship in the territory of the Czechoslovak Republic in the Ministry of Internal Affairs in Prague,
outside the Czechoslovak Republic in the competent executive authority of Czechoslovakia;
- b) in favor of German citizenship in the territory of the German Reich in the lower competent administrative authority,
outside the German Reich in the authorized German consulate.

§ 6.

The territorial competence of the authorities referred to in § 5 is determined by the place of residence, and in the absence of residence, place of location of an optant.

If the application of option is submitted to the territorially incompetent authority, other than specified in § 5, then the latter passes it to the territorially competent authority. The date of submission of the application shall be the date of its receipt in the first instance.

§ 7.

Application of option is submitted to the authority referred to in § 5 being recorded or in writing. Signature under the application submitted in writing must be certified by the official representative of the State whose citizenship is chosen, by the court or the notary.

Application of option may also be submitted by an authorized representative. The signature under a power of attorney must be certified by any of the instances referred to in the paragraph 1.

Certification is exempt from fees, taxes, stamp duties and other charges.

§ 8.

The competent authority of the state whose citizenship is selected, checks the prerequisites for the option. In the Czechoslovak Republic, this checking is reserved for the Ministry of Interior in Prague.

If the conditions for the option are met, the authority shall immediately issue a certificate of option for an optant, and notify the authority designated by the other Government.

In the certificate of option there should be also specified family members subject to the option.

The option enters into force at the time an application of option is received by the authorities dealing with the choice of citizenship.

The procedure of option does not provide for any fees, taxes, stamp duties and other charges.

§ 9.

Any person having reached the age of 18 may submit the application of option.

The wife does not have the right to opt for their own; option by the husband covers a wife. This rule does not apply if the marriage is dissolved in court.

For persons under 18, for persons over 18 years, for whom there are grounds for depriving them of their legal capacity, as well as for persons who are deprived of legal capacity or over whom a temporary custody (guardianship) is established, option could be made by their legal representatives, even if the latter has no right of option. In order to assess the grounds for the application of option under this paragraph, the date of submission of the application of option to the authorities dealing with the choice of citizenship is fundamental.

§ 10.

The option is irreversible.

However, if persons for whom the legal representative has exercised the right of option, reach the age of 18 years before the expiry of the option period or until the expiration of that period the basis of their legal representation is no longer valid, they can cancel option within the time limit. The abolition of the option is covered by the provisions of §§ 5-7, respectively.

§ 11.

According to this Treaty, a place of residence of a person is the place where the person has settled with the intention of long-term residence.

If a person has more than one place of residence, the place that he indicates as his place of residence, is fundamental.

§ 12.

Persons who are required to leave the territory of the German Reich or the Czechoslovak Republic, as prescribed under § 2, as well as optants that until 3 March 1940 move their place of residence to the State in favor of which they have opted, are permitted to take all movable property, which they had as of the date of this Treaty, and they are exempt from any duties. An exception is cash, securities and collections that are of particular historical or cultural significance to the country of export. Consideration of these issues should be specified by a special agreement.

§ 13.

To check and resolve all issues that arise in the execution of this Treaty, a Mixed Commission is created, to which each of two Governments shall send an equal number of representatives.

This Commission is particularly charged with the responsibility of:

1. the development of proposals to facilitate the exchange of populations, as well as

clarification of fundamental questions that arise in this exchange;

2. the verification of doubt in regard to citizenship.

The Commission may appoint a sub-committees on specific issues if necessary.

§ 14.

This Treaty shall enter into force on 26 November 1938.

Done in duplicate, in the German and Czechoslovak languages.

Berlin, 20 November 1938.

Friedrich Gauss

Antonin Koukal

Hans Globke

[Source: The monthly magazine of Foreign Policy 5 (1938), no. 9, pp 1213-1216].

The Treaty in the original language can be found following the link⁴⁹.

Resolution of the Crimean Supreme Council on legislative initiative for the right of citizens of the Republic of Crimea to dual citizenship

18 December 1992, N° 223-1

1. In accordance with Article 1 of the Law of Ukraine “On citizenship of Ukraine” and Article 21 of the Constitution of the Republic of Crimea to consider it necessary to propose to the Supreme Council of Ukraine and the President of Ukraine to speed up decision-making on the exercise of the right to dual citizenship by the Crimean citizens.

2. To temporarily suspend in the territory of the Republic of Crimea the execution of decisions by the law enforcement bodies on citizenship of Ukraine in relation to the Crimean citizens, who haven't still decided on their belonging to Ukraine.

3. To instruct the Permanent Commission of the Supreme Council of Crimea for legislation, lawfulness and system of justice to prepare proposals on the practical exercise of the right of the Crimean citizens to dual citizenship.

The full text of the document can be found following the link⁵⁰.

49 <http://www.forost.ungarisches-institut.de/pdf/19381120-1.pdf>

50 <http://precedent.crimea.ua/documents/postanovlenye-verhovnoho-soveta-kryima-o-zakonodatelnoj-ynytskyatyve-povoprosu-realyzatsyy-prava-hrazhdan-respublyky-kryim-na-dvojnoe-hrazhdanstvo-ystorycheskye-materyalyi/>

The Russian authorities exploit the “automatic obtaining of nationality” for prosecuting pro-Ukrainian activists. The best-known examples are cases of **Oleg Sentsov** and **Aleksandr Kolchenko** who were arrested and transferred to the territory of the Russian Federation on suspicion of committing criminal offenses. Both are citizens of Ukraine and during the occupation lived in Crimea. The Office of the United Nations High Commissioner for Human Rights highlighted in its report of July 15, 2014 (para. 188):

“It would appear that since Sentsov did not explicitly renounce Russian citizenship within the deadline provided under Russian legislation, he is automatically considered to have become a Russian citizen.”

Particularly, the “Kolchenko’s case” should be mentioned in the context of nationality, as it indicates the compulsory nature of the “automatic nationality” of the Russian Federation, which does not depend on the will of a person. The court denied the retention of the Ukrainian citizenship by Kolchenko, despite the fact that Kolchenko while being in custody in Moscow could not apply for Russian citizenship and obtain a Russian passport. Kolchenko confirms that he has taken no actions to obtain Russian citizenship. The only document that has been certifying his identity since the time of his arrest is his Ukrainian passport. Kolchenko considers himself a citizen of Ukraine, and Ukraine recognizes Kolchenko’s Ukrainian citizenship.

The court decided to deny the retention of the Ukrainian citizenship by Oleksandr Kolchenko. The court’s decision to deny the retention of the Ukrainian citizenship contradicts international law, Russian and Ukrainian legislations. Therefore, Kolchenko is deprived of the right to nationality, despite the fact that no one can be deprived of nationality arbitrarily. In addition, the judgment violates Article 16 of the International Covenant on Civil and Political Rights of 1966, which guarantees that everyone shall have the right to recognition everywhere as a person before the law. Thus, Kolchenko’s legal personality is based on his Ukrainian nationality, and his legal nexus as a national of Ukraine remains unchanged outside Ukraine. In this case, the court, deciding in the name of the Russian Federation, unreasonably refuses to recognize Oleksandr Kolchenko’s legal personality (Report of the Crimean Human Rights Field Mission for January 2015, p. 16).

Eventually, the North Caucasus District Military Court sentenced Oleg Sentsov and Oleksandr Kolchenko to 20 and 10 years of imprisonment in a strict regime penal colony, respectively, as Russian citizens. At the same time, Kolchenko with assistance of his lawyer Svetlana Sidorkina filed a complaint to the European Court of Human Rights about the compulsory imposition of the Russian nationality.

This “automatic” acquisition of Russian nationality by nationals of Ukraine in Crimea is illegal, since the internal procedures of the Russian Federation for its acquisition fail to comply with the applicable international conventions, customary international law and the principles of the nationality law (in particular, see The European Convention on Nationality, Nottebohm case).

Those Crimeans who for one reason or another have not declared their «desire to preserve their existing citizenship of Ukraine», but still do not wish to be considered as citizens of the Russian Federation, faced a “curious” situation. Often in this situation, these people do not apply for the issuance of Russian passports, while continuing to use the passport of citizen of Ukraine.

Some of these people have applied for a residence permit as citizens of Ukraine. Mainly, this situation ends with failure. Denial is usually motivated by the fact that, in accordance with the law of 6-FKZ applicants are considered as citizens of Russia, and a residence permit may be granted only to foreign nationals.

Those Crimeans who try to renounce the imposed citizenship of the Russian Federation also end up in a complicated situation. Russian legislation makes no exception for Crimeans,

and thus they have to undergo the procedure of renouncing the citizenship in a general way. This procedure, among other things, requires a RF passport. Thus, here is a vicious circle: in order to get rid of the imposed citizenship, you must first recognize yourself a citizen of Russia and formally apply for a passport.

If Crimeans do not have a «document confirming the legality of staying in the territory of Russia» (Russian passport or residence permit) this leads to restriction or deprivation of many of their rights. Without Russian passport or a residence permit it is impossible be formal employment, apply for health services, social benefits and pensions.

Imposition of citizenship as a new human rights violation and a way of implementing aggressive expansion by the Russian Federation in the context of the occupation of Crimea

By Serhiy Zayets

Lawyer and expert of the NGO “Regional Centre for Human Rights”

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Introduction

After the occupation of the Crimean Peninsula the Russian Federation collectively naturalized the population of Crimea. This fact raises a number of questions that have no ready answers in today’s environment. Firstly, it is a way of seizing the territory together with the population. Secondly, it is interference in Ukraine’s internal affairs and nationality relationship that existed between the Crimean residents and the Ukrainian state. Finally, Russia has violated international human rights standards, interfering in the internal sphere of an individual. It is this aspect – the violation of human rights by means of imposition of nationality – that is a focus of this study.

It should be realized that the occupation and actions directed at the appropriation of the occupied territory is a phenomenon that happened perhaps for the first time in the European system of human rights protection. The similar situation, which can be compared to Crimea, is the Turkish invasion of Northern Cyprus. However, the current level of economic, legal, information, cultural and other relations rises new issues which did not exist or were not so high-profile during the invasion of Cyprus. Furthermore, Cyprus still remains the so-called unrecognized territory that Turkey has never tried to make a part of its own country.

Crimea also differs from other unrecognized territories, including Transnistria, Abkhazia and South Ossetia⁵¹. The Russian Federation has been carrying out the “passportization” of the population in these territories for quite a long time already. However, the main difference from the Crimean situation is that the expression of individual’s will is needed in order to obtain Russian nationality in these territories and there is no temporal limitation. In other words, those who are unwilling to acquire Russian nationality can avoid it. But in Crimea there was held quick collective passportization, during which there was no possibility to consciously respond to the situation.

In the postwar time contemporary international law addressed the issues of eliminating statelessness⁵² and resolving cases of dual nationality. However, the issue of protection against arbitrary imposition of nationality has so far remained unnoticed by the international community. It is time when these issues must also take their rightful place in international discussions.

Historical background

In early 2014, Russia committed an act of military aggression against sovereign Ukraine and tried to annex part of its territory - the Crimean Peninsula. The beginning of the active phase

51 See, for example, Human Rights in the Occupied Territories of Georgia: Information Note Distributed by the Delegation of Georgia during OSCE Review Conference - Human Dimension Session (Warsaw, 30 September - 8 October 2010). – Access mode: <http://www.osce.org/home/73289?download=true> (date of reference: 01/11/2016).

52 See, for example, materials of the United Nations High Commissioner for Refugees (UNHCR) about the campaign to stop statelessness. – Access mode: <http://www.unhcr.org/pages/53174c306.html> (date of reference: 01/11/2016).

of such actions should be considered the third decade of February⁵³.

The occupation was carried out under the protection the so-called “green men” - armed men without insignia. Later in the documentary “Crimea: The Way Back Home”, Russian President Vladimir Putin recognized that those were the Armed Forces of the Russian Federation⁵⁴. According to numerous press reports, many of the participants of the occupation were awarded with a medal “For the return of Crimea”, but the official list of the medaled persons is not available⁵⁵.

On 27 February 2014, by a decision of the Verkhovna Rada of the Autonomous Republic of Crimea (ARC), captured and controlled at the time by the armed men, there was scheduled an all-Crimean referendum⁵⁶. The initial date of the referendum was set on the day of presidential elections in Ukraine –25 May 2014. Then the referendum was rescheduled for 30 March and finally - for 16 March 2014. The latter was the date when the referendum took place⁵⁷.

Reliable data on the results of voting is not available, and public statements of those involved in its organization and conduct contain contradictory information⁵⁸. Despite that fact, on 18 March 2014, (in two days after the referendum) an agreement “on admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities” (hereinafter - “Agreement”) was signed⁵⁹.

The next day the Constitutional Court of the Russian Federation by its decision dd. 19 March 2014 no. 6-P acknowledged this Agreement as such that corresponds to the Constitution of

53 On 23 February 2014, on the Nakhimov Square in the city of Sevastopol there was held a rally, during which a Russian citizen Oleksiy Chaly was “elected” as the so-called “people’s mayor”. Then the city was surrounded by checkpoints. Later, on 26 February 2014, in front of the building of Verkhovna Rada of Crimea, that was taken over by people unknown at that time, there was held a meeting of pro-Russian and pro-Ukrainian forces (the latter included the Crimean Tatars). However, the medal “For the return of Crimea”, legalized by the Order of the Ministry of Defense of the Russian Federation no. 160 of 21 March 2014 bears the dates 20.02.14 - 18.03.14. The Verkhovna Rada of Ukraine by the Law of 15 September 2015 specified the date of the beginning of the occupation: the beginning of the occupation is officially considered to be 20 February 2014.- Access mode: <http://zakon0.rada.gov.ua/laws/show/1207-vii>.

54 Andriy Kondrashov: Film “Crimea: The Way Back Home” (All-Russian State Television and Radio Broadcasting Company, 2015).- Access mode: https://russia.tv/brand/show/brand_id/59195/ (date of reference: 01/11/2016). The film has English subtitles. Regarding the participation of Russian troops, please, watch from 1:05:00.

55 According to the site life.ru: ca. three hundred Russian citizens were awarded with a medal “For the Return of Crimea”.- Access mode: <https://life.ru/t/новости/151348> (date of reference: 01/01/2016).

56 Resolution of the Autonomous Republic of Crimea “On holding of the all-Crimean referendum”.- Access mode: <http://crimea.gov.ru/act/11689> (date of reference: 01/11/2016).

57 During this short period, not only any public debate was not organized, but also Ukrainian and Crimean Tatar activists were severely persecuted. See, for example, the report of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine dd. 15.04.2014, prepared after the visit of Assistant Secretary General for Human Rights Ivan Šimonović to Crimea: “the presence of paramilitary and so called self-defence groups as well as soldiers in uniform without insignia, widely believed to be from the Russian Federation, was not conducive to an environment in which voters could freely exercise their right to hold opinions and the right to freedom of expression. There have also been credible allegations of harassment, arbitrary arrest, and torture targeting activists and journalists who did not support the referendum. Furthermore, seven persons were reported as missing <...> While the Tatar community was promised numerous concessions, including Government positions as well as the recognized status as indigenous peoples, the majority of the members of the community chose to boycott the referendum. OHCHR was informed by representatives of Crimean Tatars that no more than 1,000, out of a population of 290,000-300,000, participated in the 16 March referendum” (para. 6) .- Access mode: http://www.ohchr.org/Documents/Countries/UA/Ukraine_Report_15April2014.doc (date of reference: 01/11/2016).

58 According to the statement of Mykhaylo Malyshev, the so-called “Head of the Crimean Parliament Commission on organization and holding of the referendum” 1 million 250 thousand 426 people voted in Crimea. This is without Sevastopol <> With Sevastopol the number of people voted made up 1 million 724 thousand 563 people.” (Quoted by the Newspapers: “Crimea has chosen Russia.” – Access mode: https://www.gazeta.ru/politics/2014/03/15_a_5951217.shtml (date of reference: 01/11/2016). According to this statement, more than 474 thousand people voted in Sevastopol, while the total number of population (including children who do not have the right to vote) was a little over 385 thousand people.

59 On the peninsula, in compliance with Article 133 of the Constitution of Ukraine, there were established two administrative units equal in status - the Autonomous Republic of Crimea (hereinafter - ARC) and the city of Sevastopol, which had been existing in that form since declaration of independence of Ukraine in 1991. The two administrative units had the same status, and none of them was subordinate to the other. Nevertheless, the referendum was also conducted in the city of Sevastopol. By tangent rule the terms regarding the city of Sevastopol were included in the “agreement”.- Access mode: <http://kremlin.ru/events/president/news/20605> (date of reference: 01/11/2016).

the Russian Federation⁶⁰.

On 21 March 2014, Russian President Vladimir Putin signed the law on ratification of the Agreement and the Federal Constitutional Law no. 6-FKZ “On admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities of the Republic of Crimea and the City of Federal Importance Sevastopol” (hereinafter - the Law 6-FKZ)⁶¹.

This Law came into force on 1 April 2014. Since that time, its provisions began to be formally applied by the occupation authorities on the Crimean Peninsula. However, it should be noted that according to Article 1 of the “Agreement” the so-called Republic of Crimea deemed to be admitted to the Russian Federation from the date of signing of this Agreement, i.e. from 18 March 2014.

The occupation has been followed by numerous violations of human rights: freedom of movement, property rights, freedom of speech, freedom of religion, the right to a fair trial and so on. At the same time, some of these violations themselves are also international crimes: for example, transfer of the Crimean residents from the occupied territory and vice versa, transfer of the civilian population of the Russian Federation to the occupied territory significantly changes the population profile of the peninsula. Conscripting of residents of the occupied territory into the Russian Armed Forces is another example of such an offense. A prerequisite for this and other offenses is arbitrary imposition of Russian nationality, which is being analyzed below.

International legal qualification of the Russian Federation’s actions in Crimea

The UN General Assembly Resolution 3314 of 14 December 1974 defines aggression as the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State or in any other manner inconsistent with the Charter of the United Nations⁶².

The Ukraine’s territorial integrity is guaranteed by a package of international legal agreements from the UN Charter to the Final Act of the Conference on Security and Cooperation in Europe.

According to the so-called Budapest Memorandum⁶³ signed by the Russian Federation along with Great Britain and the United States, the signatories made a commitment to respect the independence and sovereignty and the existing borders of Ukraine and refrain from the threat or use of force against the territorial integrity or political independence of Ukraine, ensuring that none of their weapons will ever be used against Ukraine except in self-defense or otherwise in accordance with the Charter of the United Nations⁶⁴.

The UN General Assembly Resolution 68/262 on Ukraine’s territorial integrity of 27 March 2014 called upon all States, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the referendum held on 16 March 2014 and to refrain from any

60 See the Judgment of the Constitutional Court of the Russian Federation of 19 March 2014 no. 6-P.- Access mode: <https://rg.ru/2014/03/19/ks-site-dok.html> (date of reference: 01/11/2016). On 10 September 2015, at the Conference of European Constitutional Courts in Batumi there was signed the so-called Batumi Declaration, which noted the crucial role of the Constitutional Court of the Russian Federation in legalizing the occupation and annexation of the Crimean Peninsula.

61 Federal Constitutional Law no. 6-FKZ “On admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities of the Republic of Crimea and the City of Federal Importance Sevastopol”. - Access mode: <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=200047&fld=134&dst=100136,0&rnd=0.46997960940071615#0> (date of reference: 01/11/2016).

62 UN General Assembly Resolution no. 3314 of 14 December 1974.- Access mode: http://www.un.org/ru/documents/decl_conv/conventions/aggression.shtml (date of reference: 01/11/2016).

63 Memorandum on Security Assurances in Connection with Ukraine’s Accession to the Treaty on the Non-proliferation of Nuclear Weapons of 5 December 1994.- Access mode: http://zakon4.rada.gov.ua/laws/show/998_158 (date of reference: 01.11.2016).

64 Memorandum on Security Assurances in Connection with Ukraine’s Accession to the Treaty on the Non-proliferation of Nuclear Weapons.- Access mode: http://zakon2.rada.gov.ua/laws/show/998_158 (date of reference: 01/11/2016).

action or dealing that might be interpreted as recognizing any such altered status⁶⁵.

External conditions in which Crimeans had to choose their citizenship

According to Article 4 of the Federal Constitutional Law no. 6-FKZ “from the date of the admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities Ukrainian nationals and stateless persons who had been permanently residing in the Republic of Crimea and the City of Federal Importance Sevastopol were recognized as nationals of the Russian Federation, except for persons who within one month thereafter declared their willingness to retain their and (or) their minor children’s other nationality or remain stateless.”⁶⁶

As mentioned above, according to the “Agreement” the “Republic of Crimea” is deemed to be admitted to the Russian Federation from the date of signing of the “Agreement”, i.e. from 18 March 2014. Thus, starting exactly from that date the term envisaged by Art. 4 of the Law 6-FKZ was restricted. That term ended on April 18. But since the legislation of the Russian Federation started being applied on the peninsula from 1 April 2014, according to the Law no. 6-FKZ, as mentioned earlier, so the general term for the submission of that application de jure was reduced to 18 days.

As of 4-9 April 2014, in Crimea there were operating only two offices of the Federal Migration Service (FMS) , which received applications, in Sevastopol and Simferopol. As of 10 April, 9 FMS offices were operating in: Sevastopol, Simferopol, Yalta, Bakhchisaray, Bilogorsk, Yevpatoriya, Saki, Kerch and Dzhankoy⁶⁷. It was reported by the Human Rights Monitoring Mission in Ukraine (hereinafter – HRMMU) in its periodic report on the human rights situation in Ukraine of 15 May 2014⁶⁸.

In total, ca. 3500 persons filed applications “declaring their will to keep their and (or) their minor children’s other nationality or remain stateless.”⁶⁹

As indicated in the report of the Commissioner for Human Rights in the Republic of Crimea in 2014, “transitional period”, the time allotted for integration of the <...> region from the established system of law and governance into the system of public institutions of the Russian Federation <...> is characterized by internal contradictions, inconsistency, interchange of progressive development phases, often combined with conflicts in the application of laws. This leads to the fact that an ordinary person is lost in a variety of new rules of life different from those, which he got accustomed to.”⁷⁰

That is not to say that the inhabitants of Crimea were fully deprived of possibility to express their will to acquire Russian nationality. However, the conditions in which they had to choose (instantaneous loss of familiar landmarks in everyday life, lack of adequate information about consequences, extremely short term, infrastructural constraints, etc.) did not enable to make an informed choice⁷¹. Observations show that the majority of Crimeans did not try to make their choices and acquired the status of Russian nationals “with the tacit consent” after the

65 UN General Assembly Resolution of 27 March 2014 no. 68/262 “Territorial integrity of Ukraine”.- Access mode: <http://www.un.org/ru/documents/ods.asp?m=A/RES/68/262> (date of reference: 01/01/2016).

66 Law no. 6-FKZ, ibid.

67 For comparison: offices of the Federal Migration Service in which one could apply for a Russian passport, have been established within the network of similar offices of the State Migration Service of Ukraine. These offices were located, as a rule, within walking distance of the place of residence of citizens in big cities.

68 Para. 27 of the periodic report of the UN Human Rights Monitoring Mission in Ukraine on the situation of human rights in Ukraine of May 15, 2014.- Access mode: http://www.un.org.ua/images/stories/Report_15_May_2014ua.pdf (date of reference: 01/11/2016).

69 See the Report of the Commissioner for Human Rights of the Russian Federation for 2014, p. 99.- Access mode: <http://ombudsmanrf.org/www/upload/files/docs/appeals/doklad2014.pdf> (date of reference: 01/11/2016).

70 Report of the Commissioner for Human Rights in the Republic of Crimea in 2014, p. 4.- Access mode: <http://crimea.gov.ru/textdoc/ru/7/act/393pr.pdf> This document is of great evidentiary value, since the credentials of the author L.E. Lubinaya as the Commissioner for Human Rights are recognized by the Russian Government.

71 The term “informed choice” is used by analogy with the fixed term “informed consent to medical treatment”, which provides for such consent on the basis of sufficient and timely information about the nature of medical treatment, the associated risks and possible consequences.

expiry of the 18-day term⁷².

In the meantime, any option of choice, which had to be made by the Crimeans, led to a deterioration in their situation: they had to choose between a significant restriction of rights (up to a complete loss of legal personality) and the oath of allegiance to the aggressor state.

Consequences of renunciation of Russian nationality

Applying to renounce Russian nationality automatically led to the fact that this person acquired the status of a foreigner with the relevant restrictions (related to employment, the right to social benefits, migration control, prohibition of participation in political activities and to be engaged in public life, etc.). But unlike the common situation when a foreigner deliberately moves to a foreign country and agrees to relevant limitations, this category of Crimean residents found themselves to have a status of foreign nationals at home. The further stay on the peninsula became entirely dependent on the discretion of the occupation authorities as to permission to stay.

The former nationals of Yugoslavia in Slovenia faced similar problems. The European Court of Human Rights in the case *Kurić and Others v Slovenia*⁷³ concluded that such situation entails a loss of legal personality, and declared it incompatible with Article 8 of the European Convention on Human Rights <respect for privacy>. In addition, the Court also held that the applicants had been subjected to discriminatory treatment on the ground of national origin⁷⁴.

At the time of the disintegration of Yugoslavia, all nationals had dual nationality - of Yugoslavia itself (which was used effectively) and one of the republics, it was composed of (before the disintegration that nationality was purely nominal and did not influence the possibility of living in another republic and participating in the elections). After the disintegration of Yugoslavia, the former Yugoslav nationality lost its meaning. Instead Slovenia provided a certain period to all those willing to get their own nationality or a permission to stay. After the deadline, those who did not use the right provided were “erased” from the register of residents. Applicants for various reasons did not use the opportunity to determine their status in the republic and found themselves in the category of “the erased”. This led to the fact that they were in a position that the ECtHR defined as the loss of legal personality when they had the severely limited ability to exercise their rights or even were fully deprived of them.

Consequences of acquiring the status of Russian citizens

It is much harder to understand the situation of the persons who in the period up to 18 April 2014 had not submitted the above said application and thus acquired the status of Russian citizens regardless of subsequent obtaining a passport or avoidance of getting it. “New citizens” avoided the problems associated with the loss of legal personality. In fact, they have received a full range of rights enjoyed by Russian nationals by birth in Russia.

In this aspect it looks as if the Russian Federation has done its best and made the Crimean inhabitants equal to any national of Russia. But in fact this is not true. Since the acquisition of nationality involves not only getting a set of rights but also certain duties and the possibility of imposing restrictions by the state. Therefore, the situation that has signs of external equality, actually has a negative impact on “new nationals” having Ukrainian identity, who are now obliged, for example, to use arms to defend the Russian Federation, which, in turn, is in

72 According to the observations of the NGO “Regional Center for Human Rights” there are recorded a large number of people in Crimea and those who left the occupied territory, who did not submit an application regarding unwillingness to obtain Russian nationality, but also did not apply for obtaining a Russian passport. We should understand that pursuant to the Russian laws such persons are also considered nationals of the Russian Federation, despite the lack of proper documents. See further, for example, O. Kolchenko’s example.

73 Case of KURIĆ and others v. SLOVENIA.- Access mode: <http://hudoc.echr.coe.int/eng?i=001-111634> (date of reference: 01/11/2016)

74 According to the UN Convention on the Elimination of All Forms of Racial Discrimination the discrimination on the ground of national origin is a form of racial discrimination.

conflict with Ukraine.

Nationality also includes the creation of certain loyalty relationship that affects the private life and may cause a serious internal conflict in a person. Such situation may raise the question about violation of the right to respect for private life under Article 8 of the European Convention on Human Rights. It is the analysis of compliance of Russia's actions on imposing nationality with international standards that we are going to focus on.

We should make a reservation: this relates to nationals of Ukraine who were loyal to their homeland and lived in Crimea at the time of occupation (regardless of whether they left the occupied territory thereafter or continue to live there). For those who welcomed the fact of annexation and the status of Russian nationals, the problem does not exist: they have just taken the opportunity.⁷⁵

Arbitrary imposition of nationality as a new challenge

When we talk about imposition of nationality as an entirely new challenge, it should be emphasized that existing precedents are related only to the history of the World War II. The Permanent Military Tribunal at Strasbourg and the U.S. Military Tribunal at Nuremberg sentenced consequently Robert Wagner (1946)⁷⁶ and Gottlob Berger (1949)⁷⁷ for actions related to Germanization of the population in the occupied territories and its mobilization as German nationals. However, these cases concerned the imposition of nationality as one of the objective elements of war crimes or crimes against humanity and related to the violation of international humanitarian law. According to Art. 45 of the Regulations concerning the Laws and Customs of War on Land (1907) it is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power⁷⁸.

Prerequisites for viewing the imposition of nationality in the context of human rights violation arise with the adoption of core international human rights treaties. Due to the development of an international catalogue of human rights standards a person was recognized as international legal personality and ceased to be exclusively a toy in the hands of the sovereign. Hence there arose a need to take into account person's will in matters that previously were only within the scope of interstate politics.

In its Advisory Opinion OC-4/84 of 19 January 1984 regarding the proposed amendments to the naturalization provision of the Constitution of Costa Rica the Inter-American Court of Human Rights noted that, despite the fact that it is traditionally accepted that the conferral and regulation of nationality are matters for each state to decide, contemporary developments indicate that international law does impose certain limits on the broad powers enjoyed by the states in that area. And thus the manners in which states regulate nationality matters cannot today be deemed within their sole jurisdiction; those powers of the state are also circumscribed by their obligations to ensure the full protection of human rights. The classic doctrinal position, which viewed nationality as an attribute granted by the state to its subjects, has gradually evolved to the point that nationality is today perceived as involving the jurisdiction of the state as well as human rights issues (para 32, 33)⁷⁹.

The classic case on nationality is the so-called case of *Nottebohm* reviewed by the International Court of Justice⁸⁰. In this case the Court drew a conclusion that today has

75 This material is devoted to consideration of issues of nationality in terms of human rights and exactly in this context there were made reservations. However, the forced extraterritorial collective naturalization of nationals of the other state also violates international public law in terms of inter-State relations.

76 Access mode: <https://www.phdn.org/archives/www.ess.uwe.ac.uk/WCC/wagner1.htm> (date of reference: 01/11/2016).

77 Access mode: http://www.worldcourts.com/imt/eng/decisions/1949.04.13_United_States_v_Weizsaecker.pdf#search=%22gottlob%20berger%22 (date of reference: 01/11/2016).

78 Access mode: <https://www.icrc.org/rus/resources/documents/misc/hague-convention-iv-181007.htm> (date of reference: 01/11/2016).

79 Access mode: http://www.corteidh.or.cr/docs/opiniones/seriea_04_ing.pdf (date of reference: 01/11/2016).

80 *LIECHTENSTEIN v. GUATEMALA*, International Court of Justice (ICJ), 1955.- Access mode: <http://www.icj-cij.org/docket/files/18/2674.pdf> (date of reference: 01/11/2016).

become classic: “Naturalization is not a matter to be taken lightly. To seek and to obtain it is not something that happens frequently in the life of a human being. It involves his breaking of a bond of allegiance and his establishment of a new bond of allegiance. It may have far-reaching consequences and involve profound changes in the destiny of the individual who obtains it. It concerns him personally, and to consider it only from the point of view of its repercussions with regard to his property would be to misunderstand its profound significance. In order to appraise its international effect, it is impossible to disregard the circumstances in which it was conferred, the serious character which attaches to it, the real and effective, and not merely the verbal preference of the individual seeking it for the country which grants it to him.” (p. 24)

Although, in the above case issues of nationality are considered in the context of international relations, the definition of this phenomenon given by the International Court of Justice enables to consider it through the system of international human rights standards as well.

International standards for nationality as the right included in the international catalogue of human rights

Nationality is viewed as a category contained in the catalogue of human rights in compliance with the Universal Declaration of Human Rights. Under Article 15 of the Declaration everyone has the right to a nationality and no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

The International Covenant on Civil and Political Rights somewhat narrows the context and reads only the child’s right to acquire a nationality (Art. 24).

The right to a nationality is regulated in more details by Article 20 of the American Convention on Human Rights. Its provisions guarantee every person the right to the nationality of the state in whose territory he was born, and prohibits arbitrary deprivation of nationality or of the right to change it.

The European Convention on Human Rights, in contrast to these international instruments, does not at all contain provisions on nationality. The European Court noted that the right to a nationality is not as guaranteed by the Convention, although under certain conditions the issue of violation of Article 8 may arise in the context of nationality.

In particular, in the case *Genovese v. Malta* (Application no. 53124/09, 11 November 2011, § 30) the ECtHR noted: “The Court ... reiterates that the concept “private life” is a broad term not susceptible to exhaustive definition. It covers the physical and psychological integrity of a person. It can therefore embrace multiple aspects of the person’s physical and social identity. <...> The provisions of Article 8 <respect for private life> do not, however, guarantee a right to acquire a particular nationality or citizenship. Nevertheless, the Court has previously stated that it cannot be ruled out that an arbitrary denial of citizenship might in certain circumstances raise an issue under Article 8 of the Convention because of the impact of such a denial (deprivation) on the private life of the individual.”⁸¹ In this judgment, the Court noted that Malta had violated Article 14 <prohibition of discrimination> in conjunction with Article 8 of the Convention <respect for private life>, as its Citizenship Act prevented an illegitimate child to acquire Maltese citizenship even though his father was Maltese, while children born to a married couple could inherit citizenship of one of parents.

It should be emphasized that the whole case-law of international judicial and quasi-judicial bodies, where the issue of human rights violations in the aspects related to nationality was raised, refers first of all to negative actions of states (deprivation of nationality, denial to

⁸¹ Access mode: <http://hudoc.echr.coe.int/eng?i=001-106785> (date of reference: 01/11/2016).

renounce nationality or other similar acts)⁸². The situation of imposition of nationality, as happened in Crimea, has not been the subject of legal assessment to be conducted by international bodies yet⁸³. This new phenomenon has not also been the subject of theoretical study to be carried out by research workers⁸⁴.

And though the European Court of Human Rights addresses nationality issues very carefully, Crimean situation is a favorable opportunity to review the preliminary findings and develop practices in this regard.

Although, as it has been repeatedly noted, the European Convention contains no guarantees on the right to nationality, a status of nationals can be considered as aspect of the right to privacy guaranteed by Article 8 of the Convention. In particular, self-identification is a manifestation of a private life. According to Article 8 of the Convention on the Rights of the Child a nationality is an element of the child's identity. There is no reason to state, especially considering the position of the International Court of Justice in the *Nottebohm's* case regarding the fundamental nature of nationality in the life of each person that nationality loses such meaning for an adult person.

In other words, the fact that the ECtHR does not contain provisions that guarantee a person the right to nationality, in no way excludes that the arbitrary imposition of nationality cannot give rise to circumstances which are incompatible with the guarantees provided by Article 8 of the European Convention on Human Rights <right to respect for private life>.

The arbitrary imposition of nationality on Crimean inhabitants, therefore, on the one hand, is forcing the legal relationship between the inhabitants of Crimea and the Russian Federation, on the other hand represents interference of the Russian Federation in the relationship that emerged earlier and existed between the residents of Crimea and the Ukrainian state. Due to this, actions of the Russian Federation directed at the imposition of nationality are not within its sovereign jurisdiction. Rather the opposite: Russia violated its obligations under the Budapest Memorandum, interfered in the internal affairs of Ukraine and relations between the Ukrainian state and its nationals.

Before the occupation there were no effective relations between the Crimean residents and Russia, which could be the ground for the formalization of nationality relations. It is rather the opposite: the occupation and imposition of nationality became a prerequisite for certain relationship between the Crimean inhabitants and the Russian state. Such relations are undesirable for many Crimean people.

The possibility of reviewing this issue in the context of human rights gives each victim of Russian aggression the opportunity to protect their rights when everybody can directly appeal to international judicial and quasi-judicial bodies (including the ECtHR and the UNCHR). The use of these mechanisms does not depend on the political will inside the state and allows everyone to initiate a dialogue not only in the context of international relations but also in humanitarian dimension.

Situation as viewed by the Constitutional Court of the Russian Federation

By its Judgment no. 18-p of 4 October 2016 the Constitutional Court of the Russian Federation tried to analyze the decision of the Russian Government relating nationality taking

82 See, for example, decisions of the ECtHR in the cases *Riener v. Bulgaria* (no. 46343/99, 23 May 2006), *Petropavlovskis v. Latvia* (no. 44230/06, § 83, ECHR 2015), *Karassev v. Finland* (dec.), no. 31414/96, *Slivenko v. Latvia* (dec.) [GC], no. 48321/99, *Savoia and Bounegru v. Italy* (dec.), no. 8407/05, 11 July 2006; *Dragan and Others v. Germany* (dec.), no. 33743/03, 7 October 2004; *Mennesson v. France*; *Fedorova v. Latvia* (dec.), no. 69405/01, 9 October 2003; *Dadouch v. Malta*; *Slepčik v. the Netherlands and the Czech Republic* (dec.), no. 30913/96, 2 September 1996, and so on.

83 Now specialists of the NGO "Regional Center for Human Rights" are preparing an application to the ECtHR and the United Nations Human Rights Committee regarding discrimination and violation of the right to respect for private life through the Russia's imposition of nationality.

84 For more detailed information⁷⁷ about modern approaches we encourage you to read *The Changing Role of Nationality in International Law* (Routledge Research in International Law) - Access mode: https://www.amazon.com/Changing-Role-Nationality-International-Law/dp/B00EVWK2G0/ref=sr_1_1_twi_kin_2?s=books&ie=UTF8&qid=1466688841&sr=1-1&keywords=The+changing+role+of+nationality+in+international+law&selectObb=rent. (date of reference: 01/11/2016).

into consideration the norms of international law.

In this case, the subject to the proceedings of the Constitutional Court of the Russian Federation was the right of Ukrainian nationals and stateless persons who resided in Crimea without official registration to acquire nationality under the Law no. 6-FKZ.

The Constitutional Court referred to the European Convention on Nationality (Strasbourg, 6 November 1997), the Russia's succession with respect to Crimea and the UN General Assembly Resolution 55/153 of 12 December 2000 "Nationality of natural persons in relation to the succession of States"⁸⁵. Let us try to consider, how the supreme body of constitutional justice of Russia has interpreted them.

First of all, significant is the reference to the European Convention on Nationality, which though is signed by Russia, is not however ratified yet. Since the Convention is not ratified by Russia, the reference to its provisions is essential in terms of recognition of its binding nature at least in the form of customary law. On referring to the Convention, the Constitutional Court cited its preamble, which states that account should be taken both of the legitimate interests of States and those of individuals. However, the Court did not go beyond citing, that is why the issue concerning the way of applying the indicated principle to the Crimean situation remains open.

Nevertheless, the above analysis of Russia's actions in Crimea shows the disregard for the rights and interests of individuals in the occupied territory and the arbitrary imposition of nationality. Thus, Russia has violated provisions of international law which binding nature for the Russian Federation is recognized by the Constitutional Court of the state.

Regarding the reference to the Russia's succession with respect to Crimea, the Constitutional Court of the RF mentioned the UN General Assembly Resolution 55/153 of 12 December 2000 "Nationality of natural persons in relation to the succession of States". Article 3 of the Declaration provides that its provisions apply only to the effects of a succession of States occurring in conformity with international law and, in particular, with the principles of international law embodied in the Charter of the United Nations.

As it has been already noted, the UN General Assembly Resolution of 27 March 2014 called upon all States to refrain from actions aimed at the disruption of the territorial integrity of Ukraine, including any attempts to modify Ukraine's borders and not to recognize any alteration of the status of the Crimean Peninsula. Under such conditions the rules of international law exclude the possibility of Russia's succession to Crimea, and therefore the reference to the UN General Assembly Resolution 55/153 of 12 December 2000 is also irrelevant⁸⁶.

Finally, the Constitutional Court, referring to the Resolution 55/153, has given considerable prominence to the person's connection with a particular territory. However, this approach reduces the status of people to serfs who are captured together with the land.

At the same time, it is necessary to mention again that in Nottebohm's classic case the focus in issues of nationality was put on the effective links of a person not with the territory, but the state itself. A different approach would mean that people could not reside long outside their country of nationality, as it would inevitably result in their naturalization: increase in length of stay in a particular territory would lead to the strengthening of links with this territory and weakening of links with the territory of origin. Author is unaware of origins of the concept of nationality based on a connection with the territory, but its flaws have been demonstrated.

However, if we apply the principle of effective connection with the state itself, not the

85 Access mode: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N00/568/59/PDF/N0056859.pdf?OpenElement>. (date of reference: 01/11/2016).

86 The statement on succession generates many other objections: the capture of Crimea occurred without taking into account the sovereign will of the Ukrainian state; Ukraine, which owns the peninsula, continues to exist; there is no "people of Crimea", who could have the right to self-determination, however, there is a multiethnic population of the peninsula; the Republic of Crimea and especially the city of Sevastopol have never been subjects of international law and were not recognized by anyone to be such during a short period in March 2014, and therefore could not conclude international agreements, etc. This also deprives Russia of the possibility to refer to many other international agreements and principles of international law as they also cannot be applied because of a violation of fundamental obligations under the UN Charter.

territory, it is necessary to stress once again that at the time of the occupation there was no connection between the population of the peninsula and the Russian Federation, sufficient for the nationality relations. At the same time, the imposition of nationality inevitably created such links.

It is worth to mention one more time that the above decision of the Constitutional Court was made in the context of the right of persons, who do not have a registered place of residence in Crimea, to a nationality under the Law no. 6-FKZ. And in fact, following the above logic the Constitutional Court of Russia tried to confirm this right of theirs. However, these principles themselves cannot be applied to the naturalization of other nationals, and that is why they themselves enable to conclude that Russia has violated international law.

Thus, the existing attempts to legitimize the presence of the Russian Federation in Crimea roughly and obviously run against the rules of international law violated during the occupation.

Ukraine's reaction to Russia's actions

According to Art. 5 of the Law of Ukraine "On guaranteeing the rights and freedoms of nationals and on the legal regime in the temporarily occupied territory of Ukraine" the forced automatic acquisition of the nationality of the Russian Federation by the Ukrainian nationals residing in the temporarily occupied territory is not recognized by Ukraine and is not accepted as a ground for loss of nationality of Ukraine⁸⁷.

At the same time, Ukraine's position to some extent is inconsistent. For example, according to the para. 12.7 Art. 12 of the Law of Ukraine "On creation of the free economic zone "Crimea" and peculiarities of economic activities in the temporarily occupied territory of Ukraine" bank savings guarantees are not applicable to nationals of the Russian Federation. This provision was practically extended to Crimean residents who have to submit a declaration of having no nationality of the Occupying Power. There can be also foreseen the issues regarding the access of the Crimean residents to public service, classified information and others related to security and the vulnerable situation in which the residents of Crimea found themselves due to the imposed nationality.

This indicates that Ukraine cannot entirely ignore the actions of the Russian Federation directed at the collective naturalization of the Crimean population and is compelled to take into account this fact, even declaring its legal nullity.

Practical consequences of collective naturalization

The most vulnerable group of nationals of Ukraine who have suffered negative consequences of Russia's actions are children deprived of parental care. According to the Office of the Ukrainian Parliament Commissioner for Human Rights, as of 01.08.2014 there were 4228 of such children in Crimea. Since the beginning of the occupation the authorities of the Russian Federation took control over administration of the institutions that provided care for such children. On the grounds of "respecting the best interests of the child" in favor of these children there was not filed any application "declaring willingness to keep their existing ... other nationality." ⁸⁸

Persons who at the time of the occupation were held in custody belong to another vulnerable group. The administration of places of detention did not properly secure their right to refuse to be recognized Russian citizens as well. Thus they were deprived of consular protection and the right to be transferred to the Ukrainian authorities for serving their sentences. The

87 Law of Ukraine "On guaranteeing the rights and freedoms of nationals and on the legal regime in the temporarily occupied territory of Ukraine."- Access mode: <http://zakon0.rada.gov.ua/laws/show/1207-vii> (date of reference: 01/11/2016).

88 See the statement of Head of the Department on Observance of the Rights of the Child, Non-discrimination and Gender Equality A. Filipyshyna of 05/06/2015 submitted to the Secretariat of the Ukrainian Parliament Commissioner for Human Rights.- Access mode: <http://www.ombudsman.gov.ua/ua/all-news/pr/5615-sm-aksana-filipishina-prava-ditini-v-krimu-pochali-porushuvati-vid-samogo/> ; <http://health.unian.net/country/1085947-ukrainskim-detyam-sirotam-v-kryimu-prinuditelno-prisvaivayut-rossiyskoe-grajdanstvo.html> (date of reference: 01/11/2016).

most famous manifestation of this problem is a situation in which political prisoners Oleh Sentsov and Oleksandr Kolchenko found themselves⁸⁹. Referring to the fact that they have acquired Russian nationality, Russian authorities refused to transfer them to Ukraine under the Convention on the Transfer of Sentenced Persons (1983). Deputy Minister of Justice of Ukraine S. Petukhov published the information about it on his Facebook page⁹⁰. However, this problem actually concerns hundreds of Ukrainian prisoners who as of today are being transferred from Crimea to the territory of the Russian Federation.

The amended Law “On nationality of the Russian Federation” is in force from 04.06.2014⁹¹. According to Art. 6 of the Law nationals of the Russian Federation (except for those permanently residing outside the Russian Federation), who also have another nationality or a permanent residence permit in a foreign country, must notify in writing a territorial body of the Federal Migration Service of these circumstances. Russian nationals permanently residing outside of Russia shall submit such a notification within thirty days after entering the territory of Russia. Russian passport is a prerequisite for such an application. No exceptions are made for Crimean residents who at the time of the occupation had Ukrainian nationality, moreover these provisions became binding upon them from January 1, 2016⁹². Failure to abide by these regulations results in criminal liability under Art. 330.2 of the Criminal Code of the Russian Federation. Violation of notification terms results in administrative liability.

This itself can be viewed as a violation of the right to respect for private life, as these legal provisions are a requirement to report a loyalty relationship with other state. In the context of Crimea such interference cannot have a legitimate purpose. In addition, in this way Russia actually forces the Crimean residents to get passports of the Russian Federation and declare their loyalty to Ukraine.

A number of other provisions of the legislation and administrative practice also force the Crimean residents to obtain Russian passports. As stated in the aforementioned report of the Commissioner for Human Rights in the Republic of Crimea, the absence of a Russian passport “makes it impossible to exercise almost all the rights and freedoms set forth in the Constitution. In particular, these include inability to work, ineligibility for social security...” The cases of social benefits termination in Crimea for Ukrainian nationals who have not received a Russian passport or a residence permit, as well as problems with employment of such nationals started to be recorded by the Regional Center for Human Rights after the so-called “transition period” from January 1, 2015⁹³.

Conclusions

With the occupation of Crimea there emerged a situation when almost all residents of the occupied territory were recognized Russian nationals without the effective links with the country of their “new nationality”. The emergence of such links was not a prerequisite for granting the status of nationals, but on the contrary, its consequence.

Formally having the possibility to choose a nationality, but not actually being able to make an informed choice because of lack of time, information, and other circumstances, the nationals of Ukraine found themselves at a crossroads facing two equally bad options: to lose

89 O. Sentsov and O. Kolchenko were detained in Simferopol in May 2014 on charges of involvement in the terrorist group, brought to Moscow and later sentenced under Articles 205 and 205.4 of the Criminal Code of the Russian Federation to 20 and 10 years of imprisonment respectively. They did not submit the application regarding renunciation of Ukrainian nationality, as well as did not receive Russian passports. They do not recognize themselves as nationals of the Russian Federation. However, the Russian Government refuses to transfer them to the authorities of Ukraine in order to serve their sentence, referring to the fact that they have acquired the status of Russian nationals under the Law no. 6-FKZ.

90 Access mode: <https://www.facebook.com/photo.php?fbid=1796566357285662&set=a.1434318470177121.1073741828.100007969451473&type=3&theater> (date of reference: 01/11/2016).

91 Access mode: http://www.consultant.ru/document/cons_doc_LAW_36927 (date of reference: 01/11/2016).

92 Access mode: <https://web.archive.org/web/20160209125758/http://www.82.fms.gov.ru/press/news/item/51894/> (date of reference: 01/11/2016).

93 Access mode: <http://crimea.gov.ru/textdoc/ru/7/act/393pr.pdf> (date of reference: 01/11/2016).

legal personality and become foreigners at home or to refuse their own Ukrainian identity and swear allegiance to the aggressor state. The given circumstances and in particular the collective nature of naturalization of persons outside the sovereign territory of Russia indicate that the will of the nationals did not have a significant impact on results. The absence of a special status for the inhabitants of the occupied territories and making them equal to ordinary foreigners complicate or make the residence in Crimea impossible for Crimeans without obtaining a Russian passport.

The collective extraterritorial nationalization undermines the value of nationality institute in international law, because it allows to degrade the nationals' legal connection with the state, depriving them of all the privileges they had due to that connection (for example, the right to consular protection). These actions enable to bring the population of a certain territory under control of authorities of the aggressor state, threaten the world order and are a means of aggressive expansion of the Russian Federation.

In Crimea, there was created a dangerous precedent for which contemporary international law appeared unprepared. Mainly addressing the issues of eliminating statelessness, international law has left the issue of arbitrary imposition of nationality almost entirely neglected. This issue today requires attention from the international community and development of new additional principles because it has a significant impact both in the context of foreign policy relations and public international law as well as in the context of human rights.

The possibility of reviewing the situation in the context of international human rights standards gives each victim affected by Russia's actions the opportunity to directly appeal to international judicial and quasi-judicial bodies in order to protect his rights and initiate a dialogue at international level.

Recommendations to the international community:

- With assistance of the institute of special rapporteurs of the international organizations to provide a detailed examination of the situation regarding the imposition of Russian nationality on residents of the occupied territory of the Crimean Peninsula.
- To attract international expert institutions to develop recommendations on resolving the situation resulting from the imposition of Russian nationality on residents of the occupied territory of the Crimean Peninsula.
- To attract international expert institutions to develop universal standards for ensuring the rights of persons subjected to naturalization protecting them against the arbitrary actions of the state, taking into account such nationals' will and protecting their rights.
- With assistance of consular services to ensure control over the non-recognition of the status of Russian nationals obtained by nationals of Ukraine who live in the occupied territory of the Crimean Peninsula (for example, in terms of impermissibility of issuing visas to such people as Russian nationals through the relevant consular institutions, in terms of prohibition for consular institutions of the Russian Federation to provide such nationals with consular assistance, their extradition to the Russian Federation or at the request of Russia, etc.).

Consequences of human rights violations by the Russian Federation in the occupied territories of the Autonomous Republic of Crimea and the city of Sevastopol (the question of citizenship)

International Covenant on Civil and Political Rights (hereinafter - the Covenant) provides an example of the general principle of equality that underlies international human rights law (IHRL) in its relation to non-citizens, and the limited nature of the exceptions to this principle. According to part 1 of Article 2 of the Covenant, each State party:

«undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, **national or social origin**, property, birth or other status”.

Moreover, Article 26 of the Covenant states that:

“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, **national or social origin**, property, birth or other status”.

International Court of Justice, the Human Rights Committee of the United Nations, as well as states in practice believe that the provisions of the Covenant apply also in the occupied territories⁹⁴.

The UN Human Rights Committee explains that:

«The rights enshrined in the Covenant apply to **everyone**, irrespective of reciprocity, and **irrespective of his or her nationality or statelessness**. Thus, the general rule is that each one of the rights of the Covenant must be guaranteed **without discrimination between citizens and aliens**.»

The Human Rights Committee also noted that the right of non-citizens can be accompanied only by such limitations that may be lawfully imposed under the Covenant. More specifically, the Covenant permits to the States to draw distinctions between citizens and non-citizens with respect to two categories of rights: political rights explicitly guaranteed to citizens (participation in public affairs, right to vote and to be elected and to have access to public service), and freedom of movement⁹⁵.

Similar to Part 1 of Article 2 of the Covenant, Part 2 of Article 2 of the International Covenant on Economic, Social and Cultural Rights declares that States parties guarantee the rights enunciated in that Covenant «without any discrimination as to race, color... **national or social origin** ... or other status»⁹⁶.

In its turn, the Committee on the Elimination of Racial Discrimination, in its recommendation XXX on discrimination against non-citizens indicated that⁹⁷:

«States have an obligation to guarantee equality between citizens and non-citizens in the enjoyment of their civil, political, economic, social and cultural rights to the extent recognized under international law and as set out in particular in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on civil and political Rights».

As a result of violations of international law by the Russian Federation in the context of the imposition of Russian citizenship to citizens of Ukraine, those who reside in the occupied territories of Crimea do not enjoy those rights that had to be guaranteed under international law. Moreover, in the context of the occupation of the AR Crimea and Sevastopol they are very often at risk of their own safety and well-being (criminal and administrative liability, discrimination, especially on ethnic grounds, etc.)

1. A passport of a citizen of the Russian Federation is a prerequisite for the realization of a significant number of rights to residents of Crimea. Namely, it is more complicated for him to receive all kinds of social benefits, obtain a driver’s license, register a vehicle, be employed

94 Sassoli, “How Does Law Protect In War”, Volume I, Outline of IHL (3rd Edition), p. 357.

95 See General Comment number 15 (1986) of the Human Rights Committee on the position of aliens under the Covenant.; With regard to freedom of movement, Article 12 (1) provides “the right to liberty of movement and freedom to choose his residence” only to persons who are “lawfully within the territory of a State”, i.e., apparently permitting restrictions against migrants without proper documents.

96 http://www.ohchr.org/Documents/Publications/noncitizensen_ru.pdf

97 <http://www.refworld.org/docid/45139e084.html>

in certain positions (public institutions), obtain of land plots, free medical care, re-registration of ownership⁹⁸. This was openly declared by the official representatives of the authorities of the Russian Federation.

Office of the United Nations High Commissioner for Human Rights in its report of 15 April 2014 on the human rights situation in Ukraine noted⁹⁹:

«Measures such as the introduction of Russian citizenship will complicate the lives of those who want to preserve their Ukrainian citizenship in Crimea and will raise questions about the legality of residence, the loss of social and economic rights, including the right to work.»

Commissioner for Human Rights in the Republic of Crimea (“Ombudsperson”), in his report for 2014 confirmed this fact:

*«It is not necessary to explain the legal consequences of the absence of the passport of the State in which as person resides. This makes for a person impossible to implement **almost all the fundamental rights and freedoms** (emphasis is the author’s note), set forth in the Constitution. In particular, it leads to impossibility to be employed, to receive social security, which could lead to lower standards of living and an increase in the crime rate. Therefore, I believe that immediate measures should be taken to address the problems of citizens related to the possibility of obtaining passports”.*¹⁰⁰

The Ombudsperson in this report also notes that according to information received in the Office of the Federal Migration Service for the Republic of Crimea for the period from March 2014 there were issued 1,560,162 passports of Russian citizens. Given that the approximate population of Crimea is about 2.3 million. That is to say that as of the end of 2014 slightly less than 1 million people are not passportized in Crimea¹⁰¹. Hence, so many people do not enjoy a significant number of their rights, either being opposed to the imposition of Russian passports, or due to objective reasons (mentioned in the first section) being unable to obtain Russian citizenship.

2. Federal Law of the RF no. 142-FZ «On Amendments to Articles 6 and 30 of the Federal Law» On Citizenship of the Russian Federation” and Certain Legislative Acts of the Russian Federation» **was adopted on 04.06.2014**. This law establishes the possibility of criminal liability for concealing the existence of a second citizenship (for Crimeans, this norm of law of the Russian Federation will take effect from 1 January 2016)¹⁰². After that date, all the citizens of Ukraine who are registered and living in Crimea will have to report if they have Ukrainian citizenship. Whereby concealing of information on citizenship entails serious liability up to criminal (art. 330-2 of the Criminal Code)¹⁰³. If the citizens inform about their dual citizenship after the scheduled date or indicate incomplete or obviously inaccurate data, they will face administrative responsibility - a fine of 500 to 1000 rubles. All the internally displaced persons from Crimea can also get under these rules. On 21 September 2015 on the official website of the Federal Migration Service of Russia there was published a clarification on the notification about the other citizenship and renouncing the Ukrainian citizenship by Crimeans¹⁰⁴.

Taking into account the above mentioned, it can be assumed that if the situation does not change in Crimea regarding citizenship the residents of Crimea who have preserved Ukrainian

98 A striking example is the situation with the judges in the territories occupied by the Russian Federation. According to article 4 of the Federal Constitutional Law of the Russian Federation No 6ZH, before the setting up of federal courts in the territory of Crimea, the justice on behalf of the Russian Federation is dispensed in these areas by the courts which were operating at the time of the occupation, and the judges of these courts are receiving the status of persons who replace judges of these courts. The condition for the admission of these persons to justice was obtaining of Russian citizenship, the transfer of passport of Ukraine to the Russian authorities, as well as the submitting to the Russian authorities of a declaration about renunciation of Ukrainian citizenship.

99 http://www.un.org.ua/images/stories/Report_15_April_2014_en.pdf

100 <http://crimea.gov.ru/textdoc/ru/7/act/393pr.pdf> .

101 <http://crimea.gov.ru/textdoc/ru/7/act/393pr.pdf>

102 <http://www.rg.ru/2014/06/06/grajdanstvo-dok.html>

103 http://www.consultant.ru/popular/ukrf/10_45.html

104 <http://www.82.fms.gov.ru/press/news/item/51894/>. Archive: <https://web.archive.org/web/20160209125758/http://www.82.fms.gov.ru/press/news/item/51894/>

passports, may face further problems connected with informing about «dual» citizenship.

3. In accordance with the Decree of the Government of the Russian Federation «On the distribution among the constituent entities of the Russian Federation of quotas for the issuance of temporary residence permits in the Russian Federation for 2015 for foreign citizens and stateless persons» no. 2275-r of 14 November 2014, there was established the quota for residents of Crimea (the citizens of Ukraine and other states) for the issuance of permits for temporary residence in the Russian Federation for 2015. The quota for Crimea is 1500 permits, of them 400 permits for the city of Sevastopol¹⁰⁵ (in 2014 this quota was 5,000 permits for the AR Crimea and 400 for Sevastopol).

Citizens of Ukraine who do not wish to obtain Russian citizenship, but wish to constantly continue to live in Crimea, are limited in their ability to get a temporary residence permit in the territory over which the sovereignty of Ukraine is extended. Thus, those persons who exceed the allocated quota will not be able to get the documents in order to continue to reside permanently in Crimea.

Restrictions and other quotas regarding where non-citizens may live in the state, particularly the restrictions and quotas which may be associated with an element of coercion, can violate their right to freedom of movement¹⁰⁶.

4. In a particularly vulnerable position were orphans and children in the care or custody of state authorities. According to official data as of 08.01.2014, there were 4228 of such children in Crimea. Administration of all the institutions of Crimea began to collaborate with the Russian authorities. Children are effectively deprived of the right to choose citizenship (obtaining of Russian passports is provided upon reaching the age of 14). On **05.06.2015** the Head of the Department for observance of the rights of the child, non-discrimination and gender equality of the Secretariat of the Commissioner for Human Rights of Verkhovna Rada of Ukraine Aksana Filipishina informed about this problem during a press conference on «Violations of children's rights in the occupied Crimea»¹⁰⁷.

105 <http://government.ru/media/files/7CP91bGabOg.pdf>

106 European Commission against Racism and Intolerance, Second report on Denmark (CRI (2001) 4, paras. 18–25).

107 <http://www.ombudsman.gov.ua/ua/all-news/pr/5615-sm-aksana-filipishina-prava-ditini-v-krimu-pochali-porushuvati-vid-samogo/>; <http://health.unian.net/country/1085947-ukrainskim-detyam-sirotam-v-kryimu-prinuditelno-prisvaivayut-rossiyskoe-grajdanstvo.html>

«CRIMEA BEYOND RULES. Thematic review of the human rights situation under occupation.» - Vol. 3 - Right to nationality (citizenship) / Edited by S. Zayets, R. Martynovskyy, D. Svyrydova. – Kyiv, 2017. – 52 p.

The publication is aimed at representatives of international organizations, diplomatic missions, government bodies and professional legal community, who need information on the practical application of international human rights standards under occupation of the Crimea.

Thematic review is published in electronic form and is for free distribution. The materials are available in three languages - Ukrainian, Russian and English. Use of Content is permitted with the obligatory reference to the source and authorship. If the author of the material is not explicitly stated, all rights to the material belong to the expert-analytical group CHROT. The materials included in the publication, as well as other materials on the topic can be found on the website precedent.crimea.ua

CRIMEA BEYOND RULES
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By the time this issue is published, the following issues has already came out or are ready for publication:

Issue 1. The right to liberty of movement and freedom to choose residence.

Issue 2. Right to property.

Special issue. Transfer by the Russian Federation of parts of its own civilian population into the occupied territory of Ukraine.

Issue 3. Right to nationality (citizenship).

Issue 4. Freedom of expression (under preparation).

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Annex 956

Regional Centre for Human Rights, Ukrainian Helsinki Human Rights Union, and CHROT,
Crimea Beyond Rules: Thematic Review of the Human Rights Situation under Occupation
(2017)

Crimea beyond rules

Issue N° 4

Information
occupation

Thematic review of the human
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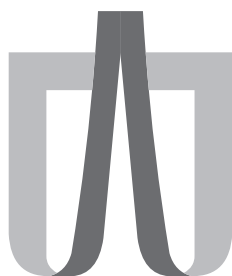
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CHROT - expert-analytical group, whose members wish to remain anonymous.

Some results of work of this group are presented at the link below :

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Dear readers,

Crimean events at the beginning of 2014 have challenged the post-war system of international security. They stirred up the whole range of human emotions - from the loss of directions in life to the euphoria, from joyful hope to fear and frustration. Like 160 years ago, Crimea attracted the attention of the whole Europe. In this publication we have tried to turn away from emotions and reconsider the situation rationally through human values and historical experience. We hope that the publication will be interesting to all, regardless of their political views and attitudes towards these events.

S. Zayets

R. Martynovskyy

D. Svyrydova

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Occupation of the Crimean Peninsula by the Russian Federation has dramatically changed the «rules of the game» in different areas, particularly in freedom of speech and of the media. Mass media, that used to work in Crimea, were all of a sudden and without questions confined within strict limits of Russian legislation, which was furthermore changed taking into account “acquisition of the territory”. In particular, the requirements for re-registration of all Crimean mass media, ban on the establishment of mass media by foreign citizens and many other “innovations” in Russian legislation have driven off a significant part of those not ready or unwilling to adapt to new conditions or openly disloyal to the occupation authorities.

The continuous tightening of Russian legislation on counteracting extremism and separatism, as well as show trials over journalists and activists disagreeing with the occupation, had a chilling or even “freezing” effect on other individuals, having completed the process of cleansing the Crimean information landscape.

It is worth mentioning, that according to human rights organizations, the general situation with freedom of speech in Russia has long ago been unsatisfactory. Yet, the Crimean Peninsula, declared a part of the Russian territory, was subjected to even more severe pressure. While in Russia the process of restriction on freedom of speech has been conducted for years, allowing gradual adapting to the changing situation, in Crimea all happened abruptly.

Straight after the illegal annexation, the Russian Parliament started to adopt laws and articles missing in the Criminal Code, basically restraining the possibility of any discussion on identity of the Crimean Peninsula and legality of its “accession”. The frequency of amendments to the CC of the RF after 2014 has increased about twice. Many of them has affected in particular freedom of speech. Since that time, any open support to the position of the UN and the Council of Europe regarding occupation of the Crimean Peninsula and its affiliation to Ukraine is severely suppressed through criminal charges.

The issue of the “accession” of the Crimean Peninsula to the Russian Federation is of great political importance. Meanwhile, no one can be restricted in the right to openly express their views on this issue, including those differing from the «official» position of the Russian authorities and the occupation authorities of the peninsula. By severe restrictions of freedom of speech in the Crimean Peninsula and isolation of all dissenters, Russian authorities are trying to create for the international community an illusion of overall, strong endorsement and support of its actions by Crimeans. However, if actions of the occupying country are really supported by the majority of the population of the Crimean Peninsula, why, then, would it so violently suppress any disagreements with the Russian politics and any attempts to remind of the Ukrainian status of the peninsula?

At the present stage of social development, the occupation has obtained a new dimension – informational. The openness of the “ideas market”, which can include both useful and harmful messages, is at the same time the strength and the weakness of the democratic organization of society. On the one hand, it develops critical thinking, immunity and ability to counter different challenges. On the other hand, such openness makes the society vulnerable for different kinds of manipulations and promotion of “toxic” information.

Lack of ability to discuss different opinions openly and fairly creates an illusion of power and omnipotence of a totalitarian state. At the same time, the society is unable to understand the moment, when it appears to be poisoned by the state-sponsored propaganda. The history knows tragic examples of how painful such poisoning of the society is, and how difficult the recovery can be. One has only to think about the Nazi Germany of 1930 - 1940 and Rwanda of 1990.

Today’s Crimea under Russian occupation is likely to have become a new challenge to the system of international security and a terrific example of gross human rights violations in modern history.

International standards

In addition to universal standards, relating to freedom of expression, some specific standards are implied in the assessment of the circumstances in the context of occupation. For example, it relates to struggle against so called “hate speech” (Article 20 of the *International Covenant on Civil and Political Rights* and Article 17 together with Article 10 of the *Convention for the Protection of Human Rights and Fundamental Freedoms*)¹. The Human Rights Committee emphasized that restrictions of freedom of expression, admitted in accordance with Article 20 of the Covenant may also be applied in the context of Article 19, establishing the rules of legitimacy of limitations². The European Court of Human Rights has repeatedly emphasized that Article 10 protects not only essence and contents of information and ideas, but also the means of their transmission. In accordance with the practice of the Court, the press enjoys the broadest protection which includes also confidentiality of the journalists’ sources³.

It’s worth remembering the standards of protection of journalists during crisis or conflict. The practice of the European Court of Human Rights, relating to so-called “chilling effect” is essential, because the actions of Russian authorities on the occupied territories are largely aimed at intimidation of dissenters and cultivation of self-censorship⁴.

Universal Declaration of Human Rights of 1948⁵

ARTICLE 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

International Covenant on Civil and Political Rights⁶

ARTICLE 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regard less of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

*(b) For the protection of national security or of public order (*ordre publique*), or of public health or morals.*

ARTICLE 20

1. Any propaganda for war shall be prohibited by law.

2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

¹ For more details see transcript of the public lecture of A. Yudkivska, Judge at ECtHR.

² J.R.T. and the W.G. Party v. Canada: <https://www.article19.org/pages/en/hate-speech-more.html>

³ http://www.echr.coe.int/Documents/FS_Journalistic_sources_ENG.pdf

⁴ For more details see: Sergiy Zayets “The chilling effect” in the practice of the European Court of Human Rights”, pp. 71-74 this review.

⁵ http://www.un.org/ru/documents/decl_conv/declarations/declhr.shtml

⁶ http://www.un.org/ru/documents/decl_conv/conventions/pactpol.shtml

Convention for the Protection of Human Rights and Fundamental Freedoms 1950⁷

ARTICLE 10

Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949 (GC IV)⁸

ARTICLE 70

Protected persons shall not be arrested, prosecuted or convicted by the Occupying Power for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war. Nationals of the occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State, shall not be arrested, prosecuted, convicted or deported from the occupied territory, except for offences committed after the outbreak of hostilities, or for offences under common law committed before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace.

Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I), 8 June 1977⁹

ARTICLE 79

Measures of protection for journalists

1. Journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians within the meaning of Article 50, paragraph 1.

2. They shall be protected as such under the Conventions and this Protocol, provided that they take no action adversely affecting their status as civilians, and without prejudice to the right of war correspondents accredited to the armed forces to the status provided for in Article 4 A (4) of the Third Convention¹⁰.

3. They may obtain an identity card similar to the model in Annex II of this Protocol. This card, which shall be issued by the government of the State of which the journalist is a national or in whose territory he resides or in which the news medium employing him is located, shall attest to his status as a journalist.

7 http://www.echr.coe.int/Documents/Convention_RUS.pdf

8 <https://www.icrc.org/rus/resources/documents/misc/geneva-convention-4.htm>

9 https://www.icrc.org/rus/assets/files/2013/ap_i_rus.pdf

10 Geneva Convention (III) relative to the treatment of prisoners of war.

Declaration¹¹ and Recommendation¹² on the protection of journalists in situation of conflict and tensions of 1996

The Declaration contains the confirmation, that all journalists, working in situation of conflict and tension, are entitled to overall protection under IHL and International human rights law. The Declaration condemns the increasing number of murder, disappearances and other assaults on journalists and considers such actions as attack against freedom of journalist activity.

In its recommendation the Council of Ministers of the Council of Europe offers the governments of the Member States to follow in their activities and policy the fundamental principles in the context of protection of journalists in the situation of conflict and tensions. The named fundamental principles must be applicable to both foreign and local journalists without any discrimination. The governments are also recommended to distribute the text of the recommendation, in particular among mass media, journalists, and professional organizations, state authorities and officials, both military and civilians.

Recommendation No. R (2000) 7 of the Committee of Ministers of the Council of Europe to member states on the right of journalists not to disclose their sources of information¹³

The recommendation contains the list of principles on the protection of the sources of information. The principles enshrined in the recommendation should not apply to cases that comply with the requirements of Article 10, paragraph 2, of the European Convention on Human Rights, and if the prevailing public interest requires this, and if the circumstances are extremely important for society.

Resolution 1438 (2005) of the Parliamentary Assembly of the Council of Europe on the Freedom of the press and the working conditions of journalists in conflict zones¹⁴ and Recommendation 1702 (2005) of the Parliamentary Assembly of the Council of Europe on the Freedom of the press and the working conditions of journalists in conflict zones Parliamentary Assembly¹⁵

These two documents are a timely and necessary response to the current situation, when on the one hand, journalists frequently face the obstacles and constraints in the performance of their professional obligations, crucial for exercising the right to information and, on the other hand, face dangerous conditions which seriously undermine their personal lives, freedom and security.

Resolution 1738 (2006) Adopted by the Security Council at its 5613th meeting, on 23 December 2006¹⁶

The resolution stressed that journalists involved in dangerous missions in armed conflicts are equated with civilians and should be defended as such. The UN Security Council stressed that, in accordance with the provisions of international humanitarian law (IHL), attacks deliberately directed against civilians constitute war crimes, and all parties to the armed conflict called on the UN Security Council to respect professional independence and the rights of journalists, media workers (media) and associated personnel as civilians.

11 <https://goo.gl/ELG6mQ>

12 <https://rm.coe.int/16804ff5a1>

13 https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805e2fd2

14 <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17326&lang=en>

15 https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d920c

16 <http://www.un.org/ru/sc/documents/resolutions/2006.shtml>

Guidelines of the Committee of Ministers of the Council of Europe on protecting freedom of expression and information in times of crisis¹⁷

This document once again stressed the fact that freedom of expression and freedom of mass media are crucial for the existence of a democratic society and its further development. The guidelines enshrined the provisions that should be used by the member states of the Council of Europe in times of crisis in the context of the protection of journalists' rights and freedoms.

These and other documents are available in the Council of Europe¹⁸ and OSCE¹⁹ collections on the security of journalistic activities and its international legal unification.

Concluding observations on the seventh periodic report of the Russian Federation²⁰

1. The Committee considered the seventh periodic report of the Russian Federation (CCPR/C/RUS/7) at its 3136th and 3137th meetings (CCPR/C/SR.3136 and 3137), held on 16 and 17 March 2015. At its 3157th meeting (CCPR/C/SR.3157), held on 31 March 2015, it adopted the following concluding observations.

Freedom of expression

19. The Committee is concerned about a number of developments that separately and jointly create a substantial chilling effect on freedom of speech and expression of dissenting political opinions, including:

(a) The re-criminalization of defamation in 2011;

(b) Federal law No. 190-FZ of November 2012 expanding the definition of treason to include the provision of any financial, material, technical, consultative or other assistance to a foreign State or an international or foreign organization against State security;

(c) Federal law No. 136-FZ ("blasphemy law") of June 2013 and the legal proceedings against members of the Pussy Riot punk band for hooliganism under article 213 of the Criminal Code;

(d) Federal law No. 398-FZ authorizing prosecutors to issue emergency orders, without a court decision, to block any website containing, inter alia, calls to participate in "public events held in violation of the established order" or "extremist" or "terrorist" activities, and also used in order to block news websites (grani.ru and kasparov.ru) and the blog of opposition leader Alexei Navalny;

(e) The law criminalizing, inter alia, distortion of the Soviet Union's role in the Second World War, signed by the President on 5 May 2014;

(f) The law regulating the activities of blogs, signed by the President on 5 May 2014, requiring bloggers with more than 3,000 visitors daily to conform to burdensome legal constraints and responsibilities.

17 https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805ae60e

18 <https://rm.coe.int/16806b596f>

19 <https://www.osce.org/fom/85777?download=true>

20 Adopted by the Committee at its 113th session (16 March – 2 April 2015); <https://goo.gl/Xnb1sG>

The Committee notes that the above laws appear to be incompatible with the Covenant, as the necessity of the imposed restrictions and the proportionality of the response appear not to meet the strict requirements of article 19 (3) of the Covenant.

The State party should consider decriminalizing defamation and, in any case, it should countenance the application of criminal law only in the most serious of cases, bearing in mind that imprisonment is never an appropriate penalty for defamation. It should repeal or revise the other laws mentioned above with a view to bringing them into conformity with its obligations under the Covenant, taking into account the Committee's general comment No. 34 (2011) on freedoms of opinion and expression. In particular, it should clarify the vague, broad and open-ended definition of key terms in these laws and ensure that they are not used as tools to curtail freedom of expression beyond the narrow restrictions permitted in article 19 of the Covenant.

International criminal liability for crimes related to abuse of freedom of speech

Nuremberg Tribunal (14 November 1945 – 1 October 1946)

One of the 24 accused at the Nuremberg Tribunal was a German propagandist, a radio presenter, a high ranking officer of the Joseph Goebbels' Ministry of Public Enlightenment and Propaganda of, also a journalist - Hans Fritzsche.

The verdict of the Tribunal reads that "The Nazi government tried to unite people to get support of its policy through the intensified propaganda. A number of official agencies were established in Germany, in order to control and influence the press, radio, cinema, publishing houses, etc., and oversee the entertainment, art and culture. All these official agencies were subordinated to the Ministry of Public Enlightenment and Propaganda headed by Goebbels, who, together with the relevant organization of the NSDAP and the Reich Chamber of Culture, was fully responsible for this supervision. The defendant Rosenberg played a leading role in spreading the National Socialist doctrines on behalf of the party, and the defendant Fritzsche together with Goebbels did the same on behalf of the state authorities"²¹.



Hans Fritzsche²²

Despite the acquittal at the Nuremberg trial, Fritzsche was soon sentenced to 9 years in prison by the West German denazification court for inciting anti-Semitism. The judges of the court noted that throughout his career in the German broadcasting service, Fritzsche's speeches corresponded to Nazi ideology. In addition, after 1942, when Fritzsche was in charge of political leadership of the German broadcasting service and was appointed as head of the radio department of the Ministry of Propaganda, his influence on the formation of public opinion increased significantly.

Another journalist who was brought before the Nuremberg Tribunal was Julius Streicher, former Gauleiter of Franconia and chief editor of the anti-Semitic and anti-communist newspaper *Der Stürmer*. He was convicted of crimes against humanity, namely, incitement to murder and the destruction of the Jews. The Tribunal sentenced Streicher to death by hanging.



Julius Streicher²³

²¹ https://www.loc.gov/rr/frd/Military_Law/pdf/NT_Vol-I.pdf p. 182 (192)

²² A link to photos: <http://www.nndb.com/people/901/000087640/>

²³ A link to photos: <https://www.britannica.com/biography/Julius-Streicher>

In 1949, the U.S. Nuremberg Military Tribunal sentenced Otto Dietrich, another Nazi statesman occupied with propaganda to 7 years in prison in the so-called “Wilhelmstrasse Case”. The Reich Press Service headed by Dietrich was one of the Head Departments in the system of the Reich leadership of the NSDAP, that carried out public relations of the NSDAP and managed the entire party press, including Nazi non-governmental organizations.



Otto Dietrich²⁵

The Tribunal held Dietrich responsible for committing war crimes, crimes against humanity, as well as for participating in the criminal organization, and noted that the purpose of his propaganda was undoubtedly aimed to set the Germans against the Jews, justify measures taken against them, and also to subdue any doubts that could arise regarding the fairness of measures of racial persecution against the Jews²⁴.

Rwanda Genocide 1994

The mass media played a crucial role in incitement of the conflict in the 1990s in Rwanda. The genocide was organized by a small group of individuals who were trying to keep power over the country in their hands. In addition to the usual system of subordination of the country’s administration through the army, police, administration and military formations, they also used radio programs to spread “hate speech”: encouragement for Rwandans to kill their fellow citizens. “Hate speech” became an integral part of the genocide in Rwanda²⁶.

“Thousand Hills Free Radio and Television” was a Rwandan radio station that incited ethnic hatred and genocide in Rwanda in 1994. The staff of this radio station not only



Ferdinand Nahimana²⁸, co-founder of “Thousand Hills Free Radio and Television”.

spread the propaganda against the Tutsi (the second largest group of people in Rwanda—author’s note), but also explicitly encouraged their extermination, up to naming persons to be murdered with their addresses²⁷.

On 3 December 2003, the International Criminal Tribunal for Rwanda passed a judgment in the well-known “mass media case”. Two of the three convicts, namely Ferdinand Nahimana and Jean-Bosco Barayagwiza, were closely associated with “Thousand Hills Free Radio and Television”.

According to the Tribunal, despite the fact that the weapons of the accused were not machetes but words, the defendants were guilty of committing genocide, conspiracy to commit genocide, public incitement to commit genocide and crimes against humanity²⁹.

24 http://www.worldcourts.com/imt/eng/decisions/1949.04.13_United_States_v_Weizsaecker.pdf#search=%22weizsaecker%22

25 A link to photos: http://spartacus-educational.com/Otto_Dietrich.htm

26 <https://www.duo.uio.no/bitstream/handle/10852/13569/19095.pdf>

27 <http://www.rwandafile.com/rtlm/>

28 A link to photos: <https://goo.gl/LrWQsb>

29 <http://unictr.unmict.org/sites/unictr.org/files/case-documents/ictr-99-52/trial-judgements/en/031203.pdf>

Rome Statute of the International Criminal Court³⁰

The ICC is the first permanent international body of criminal justice with the competence to prosecute individuals responsible for genocide, war crimes and crimes against humanity (as of 2017). The Court has jurisdiction over individuals, establishing individual criminal liability for the above mentioned crimes.

An individual may be charged with a criminal offence even if he is not directly a perpetrator of the crime. Thus, according to Article 25 (3) of the RS of the ICC, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person:

(a) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;

(b) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;

(c) For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;

(d) In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court; or

(ii) Be made in the knowledge of the intention of the group to commit the crime;

(e) In respect of the crime of genocide, directly and publicly incites others to commit genocide;

(f) Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions.

However, a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall not be liable for punishment under this Statute for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose.

In the case *Prosecutor v. Callixte Mbarushimana* the ICC has already dealt with the problem of abuse of freedom of speech. Thus, the ICC Prosecutor argued that the accused, as one of the leaders of the Democratic Forces for the Liberation of Rwanda (in the context of the armed conflict in the territory of the Democratic Republic of the Congo since January 2009), made a significant contribution to the crimes committed by the FDLR. The Office of the Prosecutor of the ICC charged him with *inter alia* the development and dissemination of an international media campaign aimed at concealing the responsibility of FDLR members for crimes committed by them, as well as blaming other armed groups operating in the territory of the DRC in the context of armed conflict.

On 16 December 2011, the ICC Pre-Trial Chamber noted that the evidence provided by the Prosecutor's Office was not sufficient to believe that a suspect could be prosecuted within the meaning of Article 25 (3) (d) RS of the ICC³¹.

It is entirely possible, that the facts and analysis of the events related to the occupation of the Crimean Peninsula, which will be given in this analytical review, may also in the future become the subject of study by the Office of the Prosecutor of the ICC.

30 https://www.icc-cpi.int/nr/rdonlyres/ea9aef7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf

31 https://www.icc-cpi.int/CourtRecords/CR2011_22538.PDF

Review of national legislation and regulation of occupation regime

Since April 2014, in violation of international law, the Russian Federation has extended its legislation to the territory of occupied Crimea. At first view, it is difficult to grasp the differences in the regulation of freedom of expression, media activity and the work of journalists in Ukraine and Russia. In fact, similar declarations in the Constitution, the Civil Code, similar provisions of relevant laws and other normative acts prescribe equal conditions for the realization of the right to hold opinions, receive and impart information and ideas without interference by the State. And only a closer look reveals differences in the laws of the two states. The impact of these differences is enormous.

Below is an analysis of the provisions of Ukrainian legislation, Russian legislation and the regulations of the so-called “Republic of Crimea”, which restrict freedom of speech. It is important to understand that as a result of the occupation, there was a sharp change in the rules of the game in the field of freedom of speech. Even if the provisions of the legislation of the Russian Federation themselves do not violate the international standards of freedom of speech, this change of the rules of the game already constitutes an interference in this sphere which is difficult to justify. However, in addition, the legislation of the Russian Federation contains provisions that are incompatible with the standards of freedom of speech. These factors caused irreparable damage to freedom of speech on the peninsula.

UKRAINE

Constitution of Ukraine

According to Part 3 of Article 15 of the Constitution of Ukraine, censorship is prohibited. According to Article 34 of the Constitution, everyone is guaranteed the right to freedom of thought and speech, and to the free expression of views and beliefs. Everyone has the right to freely collect, store, use and impart information by oral, written, or other means of his or her choice. The exercise of these rights may be restricted by law in the interests of national security, territorial integrity or public order, for the purpose of preventing disturbances or crimes, protecting the health of the population, other persons’ reputation or rights, preventing the publication of information received confidentially, or maintaining the authority and impartiality of the judiciary.

Civil Code of Ukraine

(1) The Code contains a number of provisions that guarantee everyone respect for his or her dignity and honour (Article 297), business reputation (Article 299), individuality (Article 300), and respect for the right to freely collect, store, use and impart information (Article 302). At the same time, the Civil Code contains provisions that allow the restriction of these rights. In particular, this is about the right to privacy of correspondence (Article 306), protection of individual’s interests when being photographed, filmed, televised or videotaped (Article 307), protection of individual’s interests when being portrayed on photographs and other products of fine art (Article 308).

(2) Article 309 stipulates that censorship and results of creative activities shall be inadmissible.

Law of Ukraine “On information” No. 2657-XII³²

(1) Pursuant to Article 5 of Law No. 2657-XII, everyone has the right to information that

32 <http://zakon5.rada.gov.ua/laws/show/2657-12>

provides for the possibility to freely obtain, use, impart, store and protect information necessary to exercise his or her rights, freedoms and legitimate interests. However, the Law prescribes a list of cases when the right to information may be restricted (Part 2 of Article 6).

(2) The law contains general provisions on the prohibition of censorship and interference in professional activities of journalists and the media (Article 24), as well as guarantees for activities of the media and journalists (Article 25), and prescribes the accreditation procedure for journalists and media employees (Article 26).

(3) It is envisaged that the lack of accreditation can not be considered as a relevant ground for non-admission of a journalist, a media employee to public events held by authorities, agencies or public officers. Authorities, agencies or public officers that accredit journalists, media professionals are obligated to facilitate their professional activities; notify them of the venue and time of the sessions, meetings, conferences, briefings and other public events in advance; provide them with information meant for the media; as well as facilitate the creation of conditions for recording and transmitting information, conducting interviews, receiving comments from officials. If an event is held in accordance with international or other special protocols, special conditions for admission of journalists may be established.

(4) The law also contains provisions on responsibility for abuse of the right to information (Article 28). In particular, information shall not be used to incite the overthrow of the constitutional order, violate the territorial integrity of Ukraine, or propagandise for war, violence, cruelty, incite racial, ethnic or religious hatred, or encroach on human rights and freedoms.

The law also prescribes the exemption from responsibility for expressing value judgments (Article 30).

Law of Ukraine “On television and radio broadcasting”³³

The law is aimed at promotion of free speech, the rights of citizens to exhaustive, reliable and up-to-date information and public and free discussion of social issues. The State guarantees the right to information, free and public discussion of socially important problems with the use of television and radio broadcasting (Article 4). Article 5 of the Law reads that censorship of information activities of broadcasting organizations shall be prohibited. Article 6 of the Law establishes the general conditions for abuse of freedom of broadcasting activities.

Law of Ukraine “On print media (press) in Ukraine”³⁴

(1) Article 2 of the Law provides for the right of everyone to freely and independently search for, receive, record, use and impart any information through the print media. According to the Law, it is prohibited to establish and finance state bodies, institutions, organizations or positions to censor mass information.

(2) The right to establish the print media belongs to citizens of Ukraine, citizens of other states not limited in legal capacity and legal capability by legal entities of Ukraine and other states, workers’ associations of enterprises, institutions and organizations on the basis of the relevant decision of the general meeting (conference). A print media outlet can do publications after its state registration. Articles 11-13 of the Law provide for submission of state registration applications to the central executive authorities.

33 <http://zakon3.rada.gov.ua/laws/show/3759-12/>

34 <http://zakon3.rada.gov.ua/laws/show/2782-12/>

State authorities, other state bodies and self-governing authorities can not act as a founder of print media.

The right to establish television- and radio-broadcasting companies as commercial entities in Ukraine belongs to legal entities and citizens of Ukraine, not limited in legal capacity.

(3) In Ukraine it is prohibited to establish and participate in broadcasting organizations or software service providers on behalf of: public authorities and self-governing authorities, legal entities that public authorities and self-governing authorities have established at all levels of the chain of ownership of corporate broadcasting rights, unless the decision to establish them or their statute authorizes to establish television and radio-broadcasting companies; legal entities and individuals - entrepreneurs registered in offshore zones, the list of which is approved by the Cabinet of Ministers of Ukraine, as well as stateless persons; individuals and legal entities that are residents of a state recognized by the Verkhovna Rada of Ukraine as an aggressor or occupying state, as well as legal entities which participants (shareholders) are legal entities or individuals at all levels of the chain of ownership of corporate broadcasting rights and the ultimate beneficiaries; political parties, trade unions, religious organizations and legal entities that they have established at all levels of the chain of ownership of corporate broadcasting rights or a software service provider; citizens who, upon the court's judgment, are serving their sentence in places of detention or held legally incapable by the court. The participation of foreign individuals and/or legal entities in the authorized capital of broadcasting organizations is governed by the Economic Code of Ukraine (Article 12 of the Law).

(4) The right to establish a news agency in Ukraine belongs to citizens and legal entities of Ukraine. Foreigners and foreign legal entities have the right to co-found news agencies of Ukraine. All news agencies and representative offices of news agencies, which are established or operate in Ukraine, are subject to state registration. State registration of representative offices of foreign news agencies as entities of information activities is carried out after the accreditation of their correspondents in the Ministry of Foreign Affairs.

State registration of entities of information activities

The Resolution of the Cabinet of Ministers of Ukraine No. 1287 of 17 November 1997 “On the state registration of print media, news agencies and registration fees”³⁵

According to the Resolution, the state registration of print media as entities of information activities is carried out by the Ministry of Justice. The Order of the Ministry of Justice of Ukraine No. 12/5 of 21 February 2006 “On the approval of the Regulation on the state registration of print media in Ukraine and the Regulation on the state registration of news agencies as entities of information activities”³⁶ details these organizational issues of registration.

According to the provisions of **Article 38 of the Law of Ukraine “On television and radio broadcasting”**, business entities that obtain a broadcasting license and a software service provider's license are subject to state registration as entities of information activities. Persons who do not have broadcasting licenses can be registered as entities of information activities of their own free will.

35 <http://zakon3.rada.gov.ua/laws/show/1287-97-%D0%BF>

36 <http://zakon3.rada.gov.ua/laws/show/z0173-06>

Article 18 of the Law of Ukraine “On print media (press) in Ukraine” provides for the procedure for ceasing the print editions by decision of a founder (co-founders) or upon a court decision.

Article 18 of the Law of Ukraine “On news agencies”³⁷ prescribes that activities of news agencies shall be terminated in the event of their reorganization (merger, consolidation, split-up, spin-off, reconstruction) or liquidation: on the initiative of a founder (co-founders) and upon a court decision.

Activities of journalists

Journalist’s status and guarantees of journalistic activities in Ukraine are regulated by a set of provisions that are prescribed in various laws and regulations.

Law of Ukraine “On state support for the mass media and social protection of journalists”³⁸

As a component of the legislation of Ukraine on freedom of speech and information activities, this law strengthens the system of legal regulation in the information sphere. In accordance with article 4 of the Law, state support for the media is carried out through the protectionist policy of reducing the consumer value of information products, including tax, fee, customs, currency and economic regulation, damages, financial assistance. According to Article 1 of the Law, a journalist is a creative specialist who professionally collects receives, creates and is engaged in preparation of information for mass media, fulfills editorial and official service duties in mass media (in-house or out-of-house staff).

Article 25 of the Law of Ukraine “On print media (press) in Ukraine” defines the notion of a *journalist of print media* who is a creative professional and is professionally involved in collecting, receiving, creating and preparing information for print media and acts under employment or other contractual relationship with its editorial office or is engaged in such activities under his\her authorization, which shall be confirmed by an editorial identity paper or other document issued to the journalist by the editorial office of the print media.

Article 25 of the Law of Ukraine “On information” contains a number of guarantees for activities of the media and journalists. In accordance with para. 7 of the article, the rights and obligations of a journalist, a media employee, as defined in this Law, apply to foreign journalists, foreign media employees working in Ukraine.

Some restrictions on freedom of speech regarding the collection and use of information are prescribed in the **Law of Ukraine “On state support for the mass media and social protection of journalists”**. In accordance with Article 15 of the Law, a journalist, working in places of armed conflicts, terroristic attacks, for liquidation of dangerous criminal groups, must comply with the requirements for non-disclosure of special forces’ plans ,pre-trial investigation data, avoiding propaganda of terrorist and other criminal groups’ activities and statements specially designed for the media, never acting as an arbitrator or intruding into an incident, never creating artificial psychological tensions in the society.

Article 171 of the **Criminal Code of Ukraine** prescribes responsibility for deliberate obstruction of the journalist’s lawful professional activities.

Article 17 of the **Law of Ukraine “On state support for mass media and social protection of journalists”** provides for responsibility for infringement on journalist’s life and health, other actions against him and journalist’s responsibility for moral (non-material) damage caused to him.

37 <http://zakon0.rada.gov.ua/laws/show/74/95-%D0%B2%D1%80>

38 <http://zakon2.rada.gov.ua/laws/show/540/97-ep>

RUSSIAN FEDERATION

Constitution of the Russian Federation³⁹

According to Article 29 of the Constitution, everyone shall be guaranteed the freedom of ideas and speech. The propaganda or agitation instigating social, racial, national or religious hatred and strife shall not be allowed. The propaganda of social, racial, national, religious or linguistic supremacy shall be banned. No one may be forced to express their views and convictions or to renounce them. Everyone shall have the right to freely look for, receive, transmit, produce and distribute information by any legal way. The list of data comprising state secrets shall be determined by a federal law. The freedom of mass communication shall be guaranteed. Censorship shall be banned.

Civil Code of the Russian Federation⁴⁰

In accordance with Part 1 of Article 152 of the Code, a citizen shall have the right to claim before the court to deny the information discrediting his or her honour, dignity or business reputation, unless the person who has spread such information proves that they are true. If the information discrediting citizen's honour, dignity or business reputation is spread by the mass media, it shall be refuted by the same mass media.

The Federal Law No. 149-FZ of the Russian Federation "On information, informational technologies and protection of information"⁴¹

(1) According to Article 8 of the Federal Law, citizens (individuals) and organizations (legal entities) shall have the right to search for and receive any information in any form and from any sources subject to the requirements established by this Federal Law and other federal laws.

(2) Article 9 of the Federal Law prescribes the restriction of access to information for the purposes of protecting the basic fundamentals of the constitutional system, morality, health, rights and legitimate interests of other persons, ensuring the defense and security of the state.

(3) Article 10.1 of the Federal Law provides for the duties of an organizer of dissemination of information on the Internet, which is obliged to notify the relevant body of the commencement of its activities, to store all information about the receipt, transfer, delivery and (or) processing of voice information, written text, images, sounds or other electronic messages of users of the Internet and information about these users within six months from the end of the implementation of such actions, as well as providing this information to authorized state bodies in cases prescribed by law.

(4) Article 10.2 of the Federal Law enshrines the special status of a blogger, who is the owner of the site, and (or) pages of the website on the Internet, where public information is posted, as well as access to which exceeds more than three thousand users within three days. Such sites or pages of the site are included in the special register. The introduction of a separate status for bloggers, due to obligations under the legislation of the Russian Federation on information, is aimed at strengthening censorship on the Internet.

39 <http://www.constitution.ru>

40 http://www.consultant.ru/document/cons_doc_LAW_5142/

41 http://www.consultant.ru/document/cons_doc_LAW_61798/

Decree of the Government of the Russian Federation No. 1101 of 26 October 2012⁴²

The Decree specifies the above-mentioned Federal Law No. 149-FZ, as well as creates a unified register of domain names, site page indexes and network addresses that allow identifying sites containing prohibited information. The Federal Service for Supervision in the Sphere of Communications, Information Technologies and Mass Communications (hereinafter - Roskomnadzor) is engaged in the creation, formation and maintenance of this register. The grounds for inclusion in the unified register of domain names and/or indexes of pages of sites on the Internet, as well as network addresses that allow identifying sites on the Internet that contain prohibited information, are:

1) decisions of the Federal Drug Control Service, the Federal Service for Supervision of Consumer Rights Protection and Human Welfare, the Federal Service for Supervision in the Sphere of Communications, Roskomnadzor, the Federal Tax Service – concerning the distribution through the Internet network information within the competence of one of the specified state bodies of the Russian Federation;

2) effective court decisions on the recognition of information disseminated through the Internet as prohibited one.

Article 15.3 of the **Federal Law No. 149-FZ** also prescribes the procedure in accordance with which the Prosecutor General of the RF or his deputies forward a request to Roskomnadzor to take measures to restrict access to the information disseminated in breach of the law.

Law of the Russian Federation “On mass media” No. 2124-1⁴³

(1) According to Article 2 of the Law, mass media shall be understood to mean a periodical printed publication, a radio, television or video program, a newsreel program, and any other form of periodical dissemination of mass information;

(2) The law established and concretized the fundamentals of freedom of speech in the territory of the Russian Federation. In accordance with Article 3 of the Law, no provision shall be made for the censorship of mass information, that is, the request made by the editor’s office of the mass media to officials, state organs, organizations, institutions or public associations to agree in advance on messages and materials (except for the cases when the official is an auditor or interviewee) as well as the ban on dissemination of messages and materials and parts thereof.

At the same time, Article 4 of the Law contains provisions on the inadmissibility of abuse of freedom of the media. In particular, the Law prohibits the use of the media for the purpose of committing criminally indictable deeds, divulging information making up a state secret or any other law-protective secret, calling for the seizure of power, violently changing the constitutional system and the state integrity, inciting national, class, social and religious intolerance or strife, propagating war, and also for the spreading of broadcasts propagandizing pornography or the cult of violence and cruelty, and materials containing obscene language.

(3) According to Article 7 of the Law, a founder (co-founder) of the media can be a citizen, association of citizens, organization, or state body. A founder (co-founder) of the print media, in accordance with Federal Law No. 131-FZ of 6 October 2003, may be a self-governing authority. The following persons and bodies may not act as founders: a private

42 <https://rg.ru/2012/10/29/reestr-dok.html>

43 http://www.consultant.ru/document/cons_doc_LAW_1511/

citizen who has not reached the age of eighteen, or an individual who serves his sentence in places of detention according to the court's verdict or an insane person recognized as legally incapable by a court of law; an association of private citizens, enterprise, institution and organization which activity is banned by law; a citizen of another State or a stateless person who is not a permanent resident of the Russian Federation.

Federal Law No. 305-FZ “On amending the law of the Russian Federation “On mass media”⁴⁴

(1) On 14 October 2014, the Law of the Russian Federation No. 2124-1 was supplemented with Article 19.1. “Restrictions related to the establishment of the mass media, the broadcasting organization (legal entity)”. According to this rule, unless otherwise provided by an international treaty of the Russian Federation, a foreign state, an international organization, as well as an organization under their control, a foreign legal entity, a foreign invested Russian legal entity, a foreign citizen, a stateless person, a Russian citizen holding foreign citizenship, jointly or individually, are not entitled to act as a founder (participant) of the mass media, to be an editorial board of media, a broadcasting organization (legal entity).

(2) A prohibition is established for a foreign state, an international organization, as well as an organization under their control, a foreign legal entity, a Russian legal entity which share in the authorized capital of the foreign capital is more than 20 percent, a foreign citizen, a stateless person, a Russian citizen holding foreign citizenship, jointly or individually, to exercise possession, management or control directly or indirectly (including through controlled entities or through (shares) in more than 20 percent of the shares of any person) in respect of more than 20 percent of the shares in the authorized capital of the person who is a member (shareholder) of the founder of the mass media, the editorial office of the media, the organization (legal entity).

Thus, the right to be a founder (co-founder) of the mass media in Russia is more limited than in Ukraine, and therefore citizens of Ukraine can not be founders of mass media on the territory of the Russian Federation. The application of this rule in the occupied territory of Crimea has made it impossible for Ukrainian media to function in Crimea or forced their founders to acquire Russian citizenship.

Article 23 of the **RF Law “On mass media”** determines the status of the news agency: the status of the editorial office, publisher, distributor and the legal treatment of mass media shall also extend to the news agencies in the process of applying the present Law.

Prescribing the status of a news agency, the Media Law does not define this term. The current federal legislation does not contain an interpretation of the news agency. Until 2005, the definition of this concept could be found in the Federal Law of 1 December 1995 No. 191-FZ “On State Support for Mass Media and Book Publishing of the Russian Federation”, which implies under the news agency “an organization that collects and disseminates information”. However, according to Federal Law No. 122-FZ of 22 August 2004, aforementioned regulation was declared invalid from 1 January 2005.

The specific nature of news agencies is that they disseminate information not periodically, but as information appears. The main consumers of news agencies are the media. News agencies are established, registered, operated and liquidated according to the general rules provided for all media.

44 http://www.consultant.ru/document/cons_doc_LAW_169740/3d0cac60971a511280cbb229d9b6329c07731f7/#dst100017

State registration of mass media

Law of the Russian Federation “On mass media”

(1) According to Article 8, the media operates after its registration. The website on the Internet can be registered as a network publication in accordance with the Law. The website on the Internet, not registered as the media, is not a mass media outlet.

(2) Article 16 of the Law provides for the procedure for termination and suspension of activities of the media. In addition to general cases, it is envisaged that the mass media can terminate activities by decision of a court on repeatedly abuse of the freedom of mass information during the twelve months of violation by the editors of the requirements of Article 4. The activities of the media can also be suspended in connection with the violation of the rules established by Article 19.1 “Restrictions related to the establishment of a mass medium, broadcasting organization (legal entity).

Federal Law “On counteracting extremist activities”⁴⁵

The activity of the media can be terminated if the mass media carry out extremist activities resulting in violation of the rights and freedoms of persons or citizens, causing damage to personality, health of citizens, environment, social order, national security, property, legal economic interests of physical and (or) legal entities, society and government, or creating a realistic threat of causing such damage, the activity of the respective provider of mass information may be discontinued by court ruling on the basis of the declaration of the authorized government body of executive power in the sphere of print, television or radio broadcasting and means of mass communication, or the General Prosecutor of the Russian Federation or a proper subordinate prosecutor (Articles 8, 11).

Federal Law “On the peculiarities of the legal regulation of relations in the field of the mass media in connection with the admission to the Russian Federation of the Republic of Crimea and the formation in the Russian Federation of new territorial entities - the Republic of Crimea and the Federal City of Sevastopol”⁴⁶ of 01.12.2014

(1) In accordance with the Law, registration of mass media which products are meant for distribution in the entities’ territories of the Russian Federation – the Republic of Crimea and the federal city of Sevastopol, till 1 April 2015 is carried out free of charge.

(2) Distribution of media products, including the implementation of television and radio broadcasting, in the territories of the Republic of Crimea and the federal city of Sevastopol, is allowed before 1 April 2015 on the basis of documents issued by state bodies of Ukraine.

Activities of journalists

Law of the Russian Federation “On mass media”

(1) According to Article 2 of the Law, a journalist shall be understood to mean a person who edits, creates, collects or prepares messages and materials for the editor’s office of a mass medium and is connected with it with labor and other contractual relations or engaged in such activity, being authorized by it. The rights and obligations of journalists are provided in Articles 47, 49 of the aforementioned Law. In general, the status of a journalist

45 <https://rg.ru/2002/07/30/extremizm-dok.html>

46 https://82.rkn.gov.ru/directions/p15378/reg_smi/

in Russia can be exercised by a much wider range of people, in comparison with Ukraine. However, an obligatory condition in this case is the state registration of such media.

(2) Article 51 of this Law provides for the inadmissibility of abusing the rights of journalists, namely: The journalist's rights stipulated by this Law shall not be used for the purpose of the concealment or falsification of publicly important information, the spread of rumors under the guise of authentic reports, the collection of information in favor of an outside person or organization, which is not a mass medium.

(3) It shall be forbidden to use the journalist's right to spread information for the purpose of discrediting private citizens or particular categories of private citizens exclusively on account of sex, age, race, nationality, language, religion, profession, place of residences and work, and also of political convictions.

(4) The status of foreign correspondents in the territory of the Russian Federation is regulated by the Article 55 of the Law. According to Article 55 of the Law, accreditation of foreign correspondents in Russia is carried out by the Ministry of Foreign Affairs of the Russian Federation in accordance with Article 48 of the Law. Foreign correspondents, who are not accredited in the Russian Federation in the established order, enjoy the rights and bear duties as representatives of a foreign legal entity.

Anti-extremist legislation and media activities

In accordance with Article 13 of **the Federal Law of 25 July 2002 No, 114-FZ “On counteracting extremist activity”⁴⁷**, paragraph 7 of **the Regulation on the Ministry of Justice of the Russian Federation**, approved by the Decree of the President of the Russian Federation of 13.10.2004 No. 1313⁴⁸, the Ministry of Justice of Russia is responsible for maintaining, publishing and placing on the Internet a federal list of extremist materials.

Information materials are recognized the extremist materials by the federal court at the place where they are found, distributed or regarding the location of organization that produced such materials, on the basis of the submission of the prosecutor or in the proceedings in the relevant case of an administrative offense, civil or criminal case.

The federal list of extremist materials is formed on the basis of the copies of decisions of the courts that have come into legal force on the recognition of information materials as extremist and have been received by the Ministry of Justice of Russia.

Recognition of organizations as extremist in the Russian Federation is carried out in the order of adjudication on the basis of a statement by the Prosecutor General of the Russian Federation or a relevant prosecutor subordinate to him. The mechanism of attracting individuals and organizations to extremist activities, for today, is one of the most applicable tools to combat dissent in the territory of the Russian Federation.

In accordance with the current legislation of the Russian Federation, citizens are responsible for posting extremist content on the Internet. Depending on the circumstances, those responsible bear administrative or criminal responsibility.

The Code on Administrative Offenses of the Russian Federation⁴⁹ provides for the responsibility for the production and dissemination of extremist materials (Article 20.29).

The Criminal Code of the Russian Federation⁵⁰ provides for responsibility for public appeals to carry out terrorist activities or publicly justifying terrorism (Article 205.2), public calls for the implementation of extremist activities (Article 280), incitement of hatred or enmity, as well as humiliation of human dignity (Article 282).

47 <http://base.garant.ru/12127578/>

48 http://www.consultant.ru/document/cons_doc_LAW_49892/

49 http://www.consultant.ru/document/cons_doc_LAW_34661/

50 http://www.consultant.ru/document/cons_doc_LAW_10699/

Criminal responsibility for separatism and rehabilitation of Nazism in the Russian Federation

Federal Law No. 433-FZ of 28 December 2013 “On amending the Criminal Code of the Russian Federation”, entered into force on 9 May 2014⁵¹

(1) According to the Law, the Criminal Code of the Russian Federation was supplemented with Article 280.1 “Public calls for actions aimed at violating the territorial integrity of the Russian Federation”. According to this provision, criminal responsibility is provided for public appeals to carry out actions aimed at violating the territorial integrity of the Russian Federation – aforementioned acts are punished with a fine in the amount of one hundred thousand to three hundred thousand rubles or in the amount of the wage or other income of the convicted person for a period of one to two years, or correctional labour for a period of up to three years, or by arrest for a term of four to six months, or by deprivation of liberty for a term of up to four years, with deprivation of the right to hold certain positions or occupy certain activities for the same period. Also, responsibility is provided for the same acts committed with the use of mass media or electronic or information-telecommunication networks (including the Internet).

(2) It should be noted that this law was adopted following the legislative initiative of the Head of the Communist Party of the Russian Federation Gennady Zyuganov in 2013. According to the explanatory note to the draft law, the rules introduced should have allowed to prevent possible separatist tendencies and calls for actions to cede parts of Russia to foreign states, as well as to prevent the dissemination of information justifying these actions.

Federal Law of 05.05.2014 No. 128-FZ “On amending certain legislative acts of the Russian Federation” of 5 May 2014⁵²

The Criminal Code of the Russian Federation was supplemented by Article 354.1, which provides for responsibility for the rehabilitation of Nazism.

According to this provision, the denial of the facts established by the sentence of the International Military Tribunal for the trial and punishment of the main war criminals of European Axis countries, the approval of the crimes established by this verdict, as well as the dissemination of knowingly false information about the activities of the USSR during the Second World War, committed in public- are punished with a fine of up to three hundred thousand rubles or in the amount of the salary or other income of the convicted person for a period of up to two years, or by correctional labour for up to three years, or imprisonment for the same period. It also provides for the responsibility for distributing information about the days of military glory and the memorable dates of Russia expressing obvious disrespect to the society related to the defense of the Fatherland, as well as the desecration of the symbols of Russia’s military glory, committed in public.

Other forms of responsibility and restrictions in the field of media activities

Criminal Code of the Russian Federation

(1) Article 128.1. of the Criminal Code of the Russian Federation provides for responsibility for defamation. Previously, this article was decriminalized, but in 2012 the Criminal Code was

51 http://www.consultant.ru/document/cons_doc_LAW_156577/

52 http://www.consultant.ru/document/cons_doc_LAW_162575/

amended again by the Federal Law of 28.07.2012 No. 141-FZ⁵³. At the same time, defamation means the dissemination of knowingly false information discrediting the honor and dignity of another person or undermining his or her reputation. A qualifying characteristic providing for a more severe punishment is defamation contained in a public statement, a publicly displayed work or the media. Also, the article was supplemented by a new composition: defamation that a person suffers from a disease that poses a danger to others, as well as slander, combined with the accusation of a person committing a crime of a sexual nature.

(2) For the commitment of a criminal offense, stipulated by Article 128.1 of the Criminal Code of the Russian Federation, provides for a penalty in the form of a fine or correctional labour. At the same time, the maximum fine is set forth in the amount of 5 million rubles, and correctional labour can be assigned for a period of up to 480 hours.

(3) In addition, Article 319 of the Criminal Code of the Russian Federation provides for responsibility for a public insult to a representative of the government in the performance of his duties or in connection with their performance.

**Federal Law of the Russian Federation “On counteracting terrorism”⁵⁴ No. 35-FZ
(adopted on 6 March 2006, entered into force on 1 January 2007)**

(1) According to the present law, terrorism is the ideology of violence and the practice of influencing the adoption of a decision by state power bodies, local self-government bodies or international organizations connected with frightening the population and (or) other forms of unlawful violent actions. Terrorist activity includes, among other elements, the popularization of terrorist ideas, dissemination of materials or information urging terrorist activities, substantiating or justifying the necessity of the exercise of such activity.

(2) In accordance with the Law, the organization is recognized as terrorist and shall be subject to liquidation (and its activities shall be subject to prohibition) by court decision on the basis of an application of the Prosecutor General of the Russian Federation or of the prosecutor subordinate to him, if on behalf or in the interests of this organization the crimes provided for by Articles 205-206, 208, 211, 277-280, 282.1, 282.2 and 360 of the Criminal Code of the Russian Federation. In the recognition of organizations as terrorist, the Prosecutor’s Office of the Russian Federation also plays the main role. The court takes an appropriate decision on the basis of the appeal of the Prosecutor General’s Office of the Russian Federation.

Federal Law “On non-profit organizations”⁵⁵ No. 7-FZ

(1) The law specifies the features of the civil-legal status of non-profit organizations. At the same time, the concept of a “foreign agent” was introduced by the present law.

A non-profit organization exercising the functions of a foreign agent means in this Federal Law a Russian non-profit organization which receives monetary assets and other property from foreign states, their state bodies, international and foreign organizations, foreign persons, stateless persons or from the persons authorized by them and/or from Russian legal entities receiving monetary assets and other property from the cited sources (except for public joint-stock companies with the state participation and their branch companies) (hereinafter referred to as foreign sources) and which participates, in particular in the interests of foreign sources, in political activities exercised in the territory of the Russian Federation.

(2) In accordance with Part 1 of Article 24 of the Law, the materials issued by a non-profit organization exercising the functions of a foreign agent and/or distributed by it, in particular

53 http://www.consultant.ru/document/cons_doc_LAW_133284/

54 http://www.consultant.ru/document/cons_doc_LAW_58840/

55 <http://base.garant.ru/10105879/>

through mass media and/or with the use of the Internet information-telecommunication system, must have an indication that these materials are issued and/or distributed by a non-profit organization exercising the functions of a foreign agent.

Federal Law “On measures to influence persons involved in violations of fundamental human rights and freedoms, rights and freedoms of citizens of the Russian Federation”⁵⁶ (adopted on 21 December 2012, entered into force on 1 January 2013)

(1) The law regulates the activities of foreign and international non-governmental organizations. In accordance with the Law, the activities of a foreign or international non-governmental organization that threaten the fundamentals of the constitutional system of the Russian Federation, the country’s defense capability or the state’s security can be considered undesirable on the territory of the Russian Federation.

(2) Recognition of activities of a foreign or international non-governmental organization that is undesirable on the territory of the Russian Federation entails a ban on the establishment (opening), termination of the procedure for the operation of previously established (open) in the Russian Federation such structural units, as well as the prohibition on the dissemination of information materials, published and/or disseminated by a foreign or international non-governmental organization, including through the media and (or) “Internet”, and the production or storage of such materials in order to spread. It also prohibits the implementation of programs (projects) in the territory of the Russian Federation for a foreign or international non-governmental organization which activities are deemed undesirable on the territory of the Russian Federation.

(3) The decision on recognizing the activities of a foreign or international non-governmental organization undesirable on the territory of the Russian Federation is taken by the RF Prosecutor General or his deputies in agreement with the federal executive authority that exercises functions to develop and implement state policy and legal regulation within international relations of the Russian Federation.

(4) In accordance with the **Order for the Maintenance of the List of Foreign and International Non-Governmental Organizations which activities are deemed undesirable on the territory of the Russian Federation, the inclusion or exclusion of foreign and international non-governmental organizations from this list⁵⁷**, aforementioned inclusion or exclusion of organizations is carried out by the Ministry of Justice of the Russian Federation on the basis of the received information from the General Prosecutor’s Office of the Russian Federation. Recognition of activities of a foreign or international non-governmental organization on the territory of the Russian Federation as undesirable can occur only on the basis of a decision of the General Prosecutor’s Office of the Russian Federation.

CRIMEA

Constitution of the so-called “Republic of Crimea”⁵⁸

According to the document, everyone is guaranteed the right to freedom of thought and speech. Propaganda or agitation that incites social, racial, national or religious hatred and enmity is prohibited. Propagation of social, racial, national, religious or linguistic superiority is prohibited. No one can be forced to express or reject their opinions and beliefs. Everyone has the right to seek, receive, transmit, produce and disseminate information freely in any

56 http://www.consultant.ru/document/cons_doc_LAW_139994/

57 http://www.consultant.ru/document/cons_doc_LAW_185658/

58 <https://rg.ru/2014/05/06/krim-konstituciya-reg-dok.html>

lawful way. Freedom of the media is guaranteed. Censorship is prohibited.

Decree of the so-called Head of the Republic of Crimea “On the approval of the comprehensive plan to counter the ideology of terrorism in the Republic of Crimea for 2015-2018”⁵⁹

(1) The comprehensive plan developed measures to prevent the radicalization of various groups of the population of the Republic of Crimea, especially young people, and prevent their involvement in extremist and terrorist activities.

(2) According to the provisions of the Comprehensive Plan, the ideology of terrorism (terrorist ideology) is understood to mean a set of ideas, concepts, beliefs, dogmas, goals, slogans that justify the need for terrorist activity, as well as other destructive ideas that led or may lead to such an ideology.

(3) The list of persons, conducting destructive activities, includes “accomplices of participants in armed conflicts in Syria and Ukraine”; “distributors of terrorist, extremist ideology and information discrediting the Russian Federation”; “active members and ideologists of non-traditional religious organizations and sects carrying out their activities in the Republic of Crimea”.

(4) Among the planned activities, it is proposed to introduce measures to protect the Internet space of the Republic of Crimea from the penetration of terrorist and extremist materials, destructive information, instructions for manufacturing explosive devices, calls for the commission of terrorist acts; work on the identification and blocking of Internet sites containing terrorist and extremist materials.

Rules for the accreditation of journalists, media employees, news agencies in the so-called “State Council of the Republic of Crimea”⁶⁰, approved on 25 November 2014 by the Decree of the so-called “Presidium of the State Council of the Republic of Crimea” No. 222-1/14

1) The rules have aggravated the procedure for accrediting journalists and have created a number of restrictions on the coverage of the work of the State Council of Crimea. The list of documents that must be attached to an application for accreditation is expanded. The non-compliance of an application for accreditation with the requirements presented is the basis for refusing accreditation. Accreditation is provided only to media employees who have state registration, quantitative restrictions on accreditation from the same media have been introduced. Various forms of accreditation and differences in rights between journalists of different forms of accreditation have been introduced, as well as the term accreditation “on accreditation lists” has been introduced. A permissive procedure for journalists to use audio and video equipment, film and photography is provided. An application for use of aforementioned equipment must be submitted to the press service not later than a day before the event.

(2) Sanctions in the form of deprivation for a year of the right to receive annual accreditation in case of loss, theft, damage, etc. certificates of accreditation have been introduced. The rules introduced a requirement for journalists to follow the business style of clothing. Failure to comply with the requirements of the Rules is one of the reasons for the termination of accreditation.

59 http://rk.gov.ru/rus/file/pub/pub_238807.pdf

60 <http://www.crimea.gov.ru/app/4201>

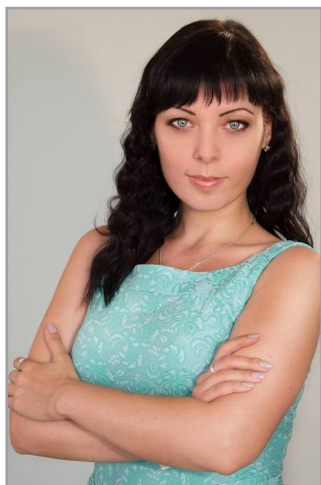
Crimean cases

With the beginning of occupation of Crimea in February 2014 and before the holding of the so-called «referendum», many independent journalists of Crimea and the city of Sevastopol were persecuted and forced to leave the peninsula.

According to Tatiana Kurmanova, the editor of the Center for Investigative Journalism (Crimea), the peak of attacks on journalists in Crimea was in March 2014 (85 cases were recorded). Since April 2014, access to public information has been limited. And by May 2014, the media unwelcome by new «authorities» had practically ceased their activities on the peninsula⁶¹. A detailed overview of the situation related to harassment of journalists in Crimea after the beginning of occupation was also conducted by an international non-governmental organization “Committee to Protect Journalists”⁶².

The initial stage of physical ousting of journalists from Crimea was replaced by a period of systematic intimidation, which concerns also those who found themselves outside the occupied territory. The searches and prosecutions conducted by the occupation authorities aimed not only and not so much to punish those who are directly concerned but rather to force others to be silent. This policy has affected not only professional journalists. Bloggers, human rights lawyers and activists are also exposed to pressure for expressing their opinions. Below are some stories that illustrate the situation with the persecution of journalists and the media on the peninsula.

Ganna ANDRIIEVSKA



Journalist, investigator of the information agency «Center for Investigative Journalism» (Crimea)

Simferopol, AR of Crimea

In May 2014, Crimean journalist Ganna Andriievskaya, fearing persecution by the occupation authorities, left for Kyiv. Nevertheless, she continues to cooperate with the Center for Investigative Journalism.

On 2 February 2015, the investigative department of the Federal Security Service of the Russian Federation in Crimea launched a criminal proceeding under p. 2 of Article 280.1 of the Criminal Code. The basis for the institution of this proceeding was the publication of Ganna Andriievskaya called “Volunteers of the battalion “Crimea” on the website of the Center for Investigative Journalism. In this publication, the occupation authorities saw incitements for actions aimed at violating the territorial integrity of the Russian Federation.

The article mainly dealt with volunteers who were helping Crimean people fighting in the area of the antiterrorist operation and protecting the territorial integrity of Ukraine in Donbas. The text of the article is available following the link: <https://investigator.org.ua/ua/articles/144257/>

On 13 March 2015, officers of the Federal Security Service of the Russian Federation in Crimea conducted a search in the house of Ganna’s parents in Crimea. During the search a computer of the journalist’s father was confiscated⁶³.

The FSS of RF ordered employees of the post office to report about any correspondence addressed to G. Andriievskaya. The journalist claims that all correspondence sent to her registration address in Crimea, including the address of her family members, is censored.

According to the data from the website of the Federal Service for Financial Monitoring

61 More details in Monitoring Review of the Crimean Field Mission: <https://goo.gl/bpTpVh>

62 <https://cpj.org/ru/2015/07/post-94.php>

63 https://lb.ua/news/2015/03/13/298405_fsb_nachala_noviy_vitok_presledovaniya.html

(Rosfinmonitoring), the journalist is put in the List of Terrorists and Extremists⁶⁴.

Today Ganna Andriievskya continues to work as a journalist in mainland Ukraine.

Zair AKADYROV



Editor-in-chief of the online media “Arguments of the Week - Crimea”, freelance journalist since March 2014

Simferopol, AR of Crimea

On 6 March 2014, Crimean journalist Zair Akadyrov resigned from the post of editor-in-chief of the online media “Arguments of the Week - Crimea” referring to the fact that pro-Russian censorship was actually introduced in the aforementioned online media.

On 18 May 2015, as a freelance journalist he covered the motor rally with Crimean Tatar flags, publishing materials in his blog.

On 15 January 2016, the journalist was detained by the police in the hall of the Supreme Court of the Republic of Crimea⁶⁵. The court held a hearing on a resonant politically motivated criminal case. Akadyrov was present in a court room as a blogger and freelancer. The journalist was subjected to physical violence and threats, was taken to the police office, searched and interrogated, including about his professional activities. The intervention of the public stopped further plans of the security services. During the interrogation in the police, the journalist found out that he is on the “FSS lists” as a participant of the “motor rally” of 18 May 2015 as well as the fact that he was subjected to surveillance.

On 27 January 2016, the journalist was summoned to the Prosecutor’s Office of Zheleznodorozhny district of Simferopol for a “conversation”.

On 20 April 2016, the house of Zair Akadyrov was searched. After the search, the journalist was summoned to the FSS of the Russian Federation in Crimea for interrogation.

On 30 May 2016, Russian security services detained Akadyrov during his crossing of the administrative border between occupied Crimea and mainland Ukraine. The journalist was released after the “conversation” with the FSS officers.

According to the journalist’s statement, fear and closeness reign in Crimea nowadays. Many people refuse to meet with journalists from foreign media because they are afraid of the consequences and pressure from law enforcement bodies⁶⁶.

Yelizaveta BOGUTSKAYA



Crimean blogger, public activist

Simferopol, AR of Crimea

With the beginning of occupation of Crimea in 2014 she expressed pro-Ukrainian position on her Facebook page. In her blogs Yelizaveta repeatedly expressed disagreement with occupation of Crimea, imposition of citizenship of the Russian Federation in Crimea, seizure of Ukrainian territories in the Eastern Ukraine, etc.

On 24 August 2014, she participated in a meeting dedicated to the Independence Day of Ukraine near the monument to Taras Shevchenko in Simferopol.

64 <http://www.fedsfm.ru/documents/terrorists-catalog-portal-act>

65 <https://ru.krymr.com/a/news/27489628.html>

66 <https://ru.krymr.com/a/27528188.html>

On 8 September 2014, the police officers made a search in Bogutskaya's house. A computer, a camera, a USB flash drive and other property were seized by the police during the search. After the search, Bogutskaya was transferred to the Center for Countering Extremism for interrogation. The interrogation lasted more than 6 hours. The police explained their actions by the fact that her messages in the social network Facebook incite interethnic hostility and provoke interethnic conflicts.



Photo source - Facebook <https://www.facebook.com/namatullaev/posts/712097372204028>

The next day, fearing for her life, Bogutskaya left the territory of the peninsula⁶⁷.

«I left at night... I decided that writing articles out of prison is better than not writing them behind the bars» (from interview)⁶⁸. At the moment, Yelizaveta Bogutskaya lives in mainland Ukraine.

Lilia BUDZHUROVA



Deputy Director General of the ATR television channel until March 2015. Deputy Director General of QaraDeniz Production

Simferopol, AR of Crimea

In 2014, the occupation authorities announced a warning to journalist Lilia Budzhurova about the inadmissibility of carrying out extremist activities.

The reason was the activity of the television channel ATR, the only Crimean Tatar TV channel on the peninsula, in which the journalist held the position of deputy director general.

On 2 November 2015, the officers of the Russian FSS carried out a search in the house of the journalist in Simferopol. Budzhurova was not allowed to have access to a lawyer. All data storage devices, a laptop, a tablet, mobile phones, USB flash drives, CDs, old video cassettes, personal archive of the journalist were confiscated⁶⁹. The actions of the FSS during the search were appealed by the legal representatives of the journalist.

On 18 November 2015, Kyiv District Court of the city of Simferopol, which is currently under the control of the Russian authorities, dismissed a complaint of Lilia Budzhurova on the actions of FSS officers during the search.

On 30 May 2016, the Russian occupation authorities one more time announced a warning to Lilia Budzhurova about the inadmissibility of violating legislation on countering extremist activities. This time, the reason was the publication on the page in the social network Facebook, where the journalist encouraged to help the children of Crimean Tatars

67 <http://investigator.org.ua/news/136402/>

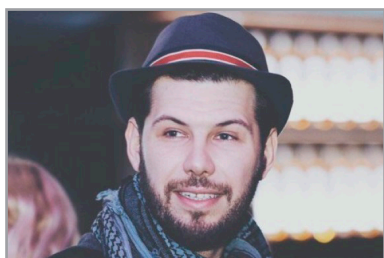
68 <https://www.youtube.com/watch?v=jCtPTR7Dsmw&list=UU2oGvjlJwxn1KeZR3JtE-uQ>

69 <https://ru.krymr.com/a/27342918.html>

who had been arrested by the occupation authorities.

After the closure of the ATR channel in Crimea in March 2015, the journalist actually lost the opportunity to engage in professional activities. Today Budzhurova continues to live on the territory of the occupied peninsula.

Igor BURDYGA



Journalist at hromadske.ua, freelance journalist at Deutsche Welle (DW). In the past, a reporter at RBC-Ukraine

Kyiv

On 11 May 2016, Igor Burdyga arrived in occupied Crimea to attend as a listener a court hearing on the criminal case in the Supreme Court of the Republic of Crimea, as well as to give coverage to the preparations for the anniversary of the deportation of Crimean Tatars and more frequent arrests and detentions on the peninsula.

According to him, during the break in the court hearing, Burdyga was detained by two plain-clothes men. Then Burdyga was taken to the building of the Zheleznodorozhny district Police Department of the city of Simferopol, where he was interrogated by the FSS officers. The interrogation concerned his journalistic activities. In particular, the questions concerned his reporting on the activities of the Right Sector organization in Kyiv's EuroMaidan in February 2014. In addition, he was interrogated about the case of energy towers destruction in November 2015⁷⁰. Moreover, the officers of the FSS illegally took his fingerprints, saliva samples and foot prints of shoes. The interrogation also concerned all recent trips and reports by Igor, his acquaintances with Crimean activists, journalist colleagues who left Crimea after the beginning of occupation. About 8 p.m. on the same day the journalist was released, after which he was forced to leave the peninsula hastily. The journalist wrote about the illegal detention and pressure from the occupation authorities in one of his materials⁷¹.

Tatyana GUCHAKOVA



Journalist, former Deputy Editor-in-chief of the website BlackSeaNews.net

Yalta, AR of Crimea

On 9 April 2015, the officers of the FSS in Crimea conducted a search in the house of Guchakova. The search lasted 10 hours and was conducted in connection with the institution of a criminal proceeding against another journalist of the BlackSeaNews website - Andrey Klimenko. Computer equipment, a telephone, a fax machine, documents, business cards were confiscated during the search. After the search, the FSS officers took the journalist to the interrogation⁷².

The summons to interrogations were repeated after a while. During the interrogations, Guchakova was able to listen to the records of the personal telephone conversations that

⁷⁰ As a result of energy towers destruction in the Kherson region on the night of 20 November 2015, two of the four backbone transmission lines were disrupted. Aforementioned backbone transmission lines supplied the power to the territory of Crimea.

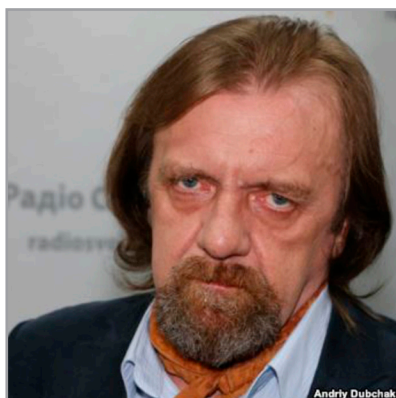
⁷¹ <https://daily.rbc.ua/rus/show/poldnya-fsb-eshche-odna-istoriya-akkreditatsiyu-1463131347.html>

⁷² <https://ru.krymr.com/a/26947411.html>, <https://ru.krymr.com/a/news/26948258.html>

were recorded by the Russian security services. Consequently, they asked questions about the content of the conversations⁷³.

After the third interrogation in the so-called FSS of Crimea Tatyana Guchakova decided to leave the occupied peninsula.

Andrey KLIMENKO



Editor-in-chief of the newspaper “Big Yalta News”, co-founder and editor-in-chief of the website BlackSeaNews.net, Head of the Supervisory Board of the “Maidan of Foreign Affairs” Foundation

Yalta, AR of Crimea

Right after the beginning of occupation, the journalist and editor-in-chief of the website “Blackseanews.net” left the territory of Crimea and continues to report about events in Crimea.

On 10 March 2015, the FSS in Crimea launched the criminal proceeding against Klimenko under Article 2801 of the Criminal Code. According to the data from the website of Rosfinmonitoring, the journalist is included in the list of terrorists and extremists under number 3414. Klimenko associates initiation of the aforementioned criminal prosecution with his professional activities.

According to the journalist, at least 20 journalists were interrogated in connection with this criminal proceeding, searches were carried out, property was confiscated (for example, see the case of a journalist Tatyana Guchakova above).

Andrey Klimenko and all the journalists of the website “Blackseanews.net” left Crimea and continue to work in mainland Ukraine⁷⁴.

Natalia KOKORINA



Editor of the Information Agency “Center for Investigative Journalism” (Crimea)

Simferopol, AR of Crimea

On 13 August 2015, the house of Natalia’s parents was searched by the Russian FSS officers. A lawyer was not allowed to enter the house during the search. Documents, three laptops, including laptops of the journalist’s parents, were confiscated⁷⁵.

After the search Natalia was taken to the interrogation to the FSS of the Russian Federation in Crimea. The interrogation lasted six hours.

The search and interrogation of Kokorina was carried out in connection with the criminal proceeding launched on the fact of publication “Volunteers of the battalion “Crimea” on the resource of the Center for Investigative Journalism. Later, criminal charges in connection with the preparation of this material were filed against a journalist Ganna Andriievaska.

Fearing further persecution, Natalia Kokorina left the occupied territory and moved to

⁷³ <http://qha.com.ua/ru/obschestvo/est-li-svoboda-slova-v-krimu/152932/>

⁷⁴ <http://glavred.info/politika/andrey-klimenko-krym-obhoditsya-rossiyskoy-ekonomiki-tak-zhe-dorogo-kak-chechnya-i-ingushetiya-433407.html>

⁷⁵ <https://www.svoboda.org/a/26900078.html>

mainland Ukraine.

Emil KURBEDINOV



Lawyer and human rights activist, provides legal assistance within many politically motivated cases in Crimea

Simferopol, AR of Crimea

Emil Kurbedinov provides professional legal assistance in many criminal cases that are being conducted by the Russian authorities against Crimeans. Often it concerns cases that have features of political persecution. In particular, he defends a journalist Mykola Semena (see the case of M. Semena), members of the Mejlis of the Crimean Tatar people Ilmi Umerov and Akhtem Chiygoz, Muslims on charges of involvement in Hizb ut-Tahrir and many others Crimeans. The facts of pressure on him on behalf of the de-facto authorities were fixed, in particular, by the international human rights organization Amnesty International⁷⁶.

On 26 January 2017, Kurbedinov was detained by the officers of the Center for Countering Extremism of the Ministry of Internal Affairs of the Russian Federation in the Republic of Crimea near the house of the Crimean Tatar Seyran Saliev, where he was heading to participate in the search. Following that, Kurbedinov was taken to Simferopol for interrogation. Meanwhile, his house was also searched.

In respect of the lawyer a protocol was drawn up on an administrative offense under Article 20.3 of the Administrative Code of the Russian Federation. According to the protocol, the violation consisted of a public video demonstration, which contained the symbols of the Muslim organization Hizb ut-Tahrir. This organization is recognized as extremist in the territory of the Russian Federation.

On the same day, by order of the Zheleznodorozhny District Court of Simferopol, which is currently under the control of the Russian authorities, Kurbedinov was sentenced to 10 days of administrative arrest.

It is noteworthy that the video, whose public demonstration was regarded by the occupation authorities as a violation of Russian law, was published by him in one of the social networks on 5 June 2013, long before the beginning of occupation of Crimea.

Subsequently, in May 2017, the lawyer got an award of an international organization Front Line Defenders for human rights defenders at risk, due to the pressure exerted on him by the Russian authorities⁷⁷.

Base on that, an application was submitted to the European Court of Human Rights in relation to the violation by the Russian authorities of the right to disseminate information without interference of the public authorities (Article 10 of the ECHR).

⁷⁶ <https://www.amnesty.org/en/documents/document/?indexNumber=eur50%2f5595%2f2017&language=en>

⁷⁷ <https://www.frontlinedefenders.org/en/2017-front-line-defenders-award-human-rights-defenders-risk>

Sergey MOKRUSHIN



Correspondent of the Information Agency “Center for Investigative Journalism” (Crimea), journalist at “Gromadske.Krym”, TV host of the project Radio Svoboda “Krym. Realii”

Simferopol, AR of Crimea

Being a correspondent of the Information Agency “Center for Investigative Journalism” Sergey Mokrushin was engaged in investigative journalism, including illegal actions of representatives of the authorities of Crimea.

On 2 June 2014, Mokrushin, along with the film director Vladlen Melnikov, were illegally detained and severely beaten by representatives of the so-called “Crimean self-defense” in Simferopol. According to “self-defenders”, journalists allegedly insulted the honor and dignity of the highest officials of the Russian Federation⁷⁸.

On 13 August 2015, Sergey Mokrushin, along with his colleagues, came to the FSS office in Crimea to support journalist Natalia Kokorina (see N. Kokorina’s case above). During this action, the police copied the passport data from all its participants. The police officers justified aforementioned actions by the order of their supervisors.

Also, the journalist conducted his own investigation on the circumstances related to the institution of the criminal proceeding against Maidan activist Alexander Kostenko by the authorities of Crimea. Kostenko was accused of inflicting bodily harm to a staff member of the Berkut on Maidan in Kyiv. Alexander Kostenko was subsequently illegally sentenced by the occupation authorities, and Ukrainian human rights organizations recognize him as a political prisoner. According to Sergey Mokrushin, by his investigation he interfered with the plans of the officers of the FSS of the Crimea to falsify the case against activist A. Kostenko⁷⁹.

According to the journalist, immediately after the annexation of Crimea, journalists having the pro-Ukrainian position worked almost like guerrillas (they did not discuss important matters over the phone, did not act under their own names), it practically became impossible to work. Fearing persecution, the journalist decided to leave Crimea, and now continues his professional activities in mainland Ukraine.

Valentyna SAMAR and the NGO “Information Press Center”



Editor-in-chief of the Information Agency “Center for Investigative Journalism” (Crimea)

Simferopol, AR of Crimea

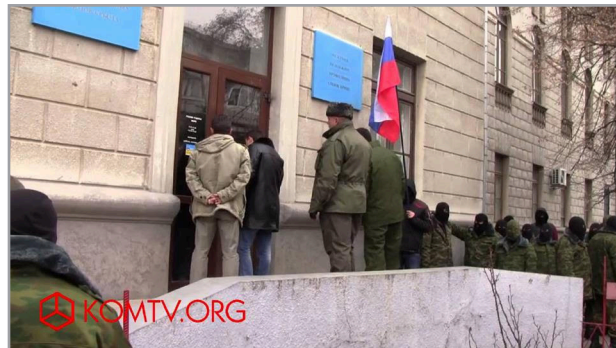
Valentyna Samar is a Crimean journalist, editor-in-chief of the Center for Investigative Journalism, the author of many journalistic investigations, including illegal actions of the Crimean authorities.

At the beginning of March 2014, 20 people in camouflage uniforms without identification signs seized the House of the Federation of

⁷⁸ <https://investigator.org.ua/ua/news/128751/>

⁷⁹ http://www.pravda.com.ua/rus/articles/2015/03/27/7062767/view_print/

Independent Trade Unions of Crimea, where the Public organization “Information Press Center” leased premises for the media center, editorial office and studio for the production of TV programs by the Center for Investigative Journalism. Video which captures the seizure of the building was posted on the YouTube channel⁸⁰. Journalists of the Center for Investigative Journalism, who were preparing to go live on the Chernomorskaya TV and Radio Company, were blocked for three hours in



the premises of the editorial office and the television studio. The cameraman of the ATR television channel M. Murtazaev, who was streaming the seizure of the House of Trade Unions, was beaten by unknown persons. Later, in the seized media center, activists of the Eurasian Youth Union (was banned by a court decision at the time of the occupation of Crimea) held their press conference.

After these events, the editorial staff of the Center was forced to look for a new premises and temporarily settled in the building of the Chernomorskaya TV and Radio Company.

In June 2014, the film director Vladlen Melnikov and the journalist of the Center Sergey Mokrushin were illegally detained by representatives of the so-called “Crimean self-defense” (see the case of S. Mokrushin above).

On 1 August 2014, bailiffs of the Russian Federation and representatives of the Federal Security Service of Crimea, using force, broke into premises of the Chernomorskaya TV and Radio Company, where the editorial office of the Center had to move. Representatives of the occupation authorities confiscated and arrested all television and office property not only of the Chernomorskaya TRC, but also of the Information Press Center, although the court decision was only extended to the property of the Chernomorskaya TRC. The representatives of the occupation authorities asked journalists and employees of the company to leave the building. The information press center lost equipment and premises, a significant amount of information was destroyed (photos and video materials), in fact, the work and broadcasting of TV programs were stopped. It made impossible for journalists to continue their professional activities. Despite the fact that in December 2014 the property was returned, most of the equipment was not subject to recovery and repair.

In September 2014, the editorial mail of the “Center for Investigative Journalism” was hacked, the web-site of the editorial office was subjected to powerful DDos attacks, the website’s functioning was temporarily stopped.

Valentyna Samar and other employees of the Center were summoned for “preventive talks” to the prosecutor’s office of Crimea and the FSS in Simferopol, which is currently under the control of the Russian authorities. In connection with the real threat of further persecution by the occupation authorities and the inability to work in Crimea, a decision was made to evacuate the agency. Valentyna Samar and other employees of the Center were forced to leave the peninsula. In October 2015, Roskomnadzor of the Russian Federation blocked access to the “Center for Investigative Journalism”⁸¹.

At the moment, Samar and other journalists of the NGO “Information Press Center” continue to work with the Crimean topic in mainland Ukraine.

80 www.youtube.com/watch?v=zG2b5fd6AWU

81 <https://ru.krymr.com/a/27288620.html>

Irina SEDOVA



Editor of “Breeze” TRC in Kerch, one of the creators of the website kerch.fm, journalist at “Gromadske radio”, at the moment she is a journalist of the Crimean human rights group

Kerch, AR of Crimea

At the time when occupation of Crimea began, Irina Sedova worked as the editor of the “Breeze” TRC in Kerch, was one of the creators of the website kerch.fm. The edition covered acute social and political issues, and journalists were conducting investigations, including against the authorities of the city. During the Revolution of Dignity in 2013-2014 the journalist published materials about the events in Kyiv, prepared articles in which she discredited the pro-Russian propaganda about the events on Maidan.

On 22 February 2014, during a meeting in support of the territorial integrity of Ukraine in Kerch, pro-Russian activists attacked the journalist⁸². A week later, at a similar meeting, she was attacked again.

After the beginning of the occupation of Crimea, the journalist and her family began to receive threats. Representatives of the so-called “Crimean self-defense” physically interfered in the implementation of journalistic activities (they did not allow to take pictures, footages). Law enforcement bodies of Crimea did not react to these incidents of harassment and did not conduct effective investigations of attacks on the journalist and her colleagues.

In summer 2015, the journalists of the project “Krym. Realii” had at their disposal documents with information on at least 50 individuals, being prosecuted by the Crimean prosecutor’s office controlled by the Russian Federation in connection with the organization and participation in the EuroMaidan on the peninsula⁸³. The name of the journalist Irina Sedova also appeared on the above lists. Occupation authorities didn’t give either official refutation or confirmation of published documents.

Fearing for her life, Irina Sedova and her family left the occupied Crimea in March 2014. At the moment she continues to be engaged in journalistic activities in mainland Ukraine.

Mykola SEMENA



Journalist of the Radio Svoboda “Krym. Realii” project

Simferopol, AR of Crimea

Crimean journalist Mykola Semena started his cooperation with Radio Svoboda in 2014. After a while, the journalist began to notice signs of surveillance, and later a spy program was detected on his computer.

On 19 April 2016, FSS officers searched the journalist’s house, and after several hours of

82 https://www.youtube.com/watch?v=_h_bRyNxYCM

83 <https://ru.krymr.com/a/27052049.html>

interrogation at the FSS office in the Republic of Crimea the journalist was released on a written undertaking not to leave a place of residence⁸⁴. During the search, computer equipment, data storage media, as well as other documents were confiscated in the journalist's house. On the same day, several Crimean journalists were questioned and searched in Simferopol, Sevastopol and Yalta, suspected of collaborating with Radio Svoboda. Later, the prosecutor's office of Crimea, which is currently under the control of the Russian authorities, reported that the searches were conducted within the investigation of the case of separatism, in which the journalist Mykola Semena was accused.

In December 2016, the final charge under part 2 of Article 280.1 of the Criminal Code for calls for violating the territorial integrity of the Russian Federation using the Internet was brought against the journalist⁸⁵. The maximum term of punishment provided by this article is 5 years of imprisonment. Accusations against the journalist were brought in connection with the preparation of the publication "The blockade is the first necessary step towards the liberation of Crimea"⁸⁶.

Being under a written undertaking not to leave a place of residence, Semena can not leave the territory of the peninsula for a long time and can not actually be engaged in professional activities. According to the website of the Federal Service for Financial Monitoring of the Russian Federation, the journalist is included in the List of Terrorists and Extremists. Based on this, the Central Bank of Russia blocked his bank accounts⁸⁷.

Several dozens of human rights organizations spoke in defense of the journalist. The OSCE Representative on Freedom of the Media, Dunja Mijatovic, called for the removal of all charges against him. At the Civil Society Forum of the Eastern Partnership in Brussels, Semena was awarded the Paul Sheremet Prize (the journalist was not allowed to go to Brussels to receive the prize).

On 22 September 2017, the Zheleznodorozhny District Court of the city of Simferopol, which is currently under the control of the Russian authorities, found Semena guilty of separatism, i.e. calls for violation of the territorial integrity of the Russian Federation. The court sentenced him to 2 years and 6 months' of suspended imprisonment and also prohibited him from engaging in any public activity for a period of 3 years. Violation of this prohibition threatens the journalist by sending him to custodial settings for a period determined by the court.

Anastasia RINGIS



Journalist of the online media «Ukrayinska Pravda»

Kyiv

Anastasia Ringis is a Ukrainian journalist. She has been working at the online media "Ukrayinska Pravda" since 2014. She grew up in the town Gurzuf in Crimea where her parents live.

On 25 February 2016, while she was entering occupied territory of Crimea through the "Chongar" check point, the FSS officers in Crimea handed over to the journalist a notice banning her entry to Crimea for four years, namely, until 1 September 2020.

The notice states that the entry into the territory of the Russian Federation is prohibited for Ringis on the basis of subpar. 1 part 1 Article 27 of the Federal Law of 15 August 1996

84 <https://ru.krymr.com/a/28368407.html>

85 <https://memohrc.org/special-projects/semena-nikolay-mihaylovich>

86 <https://ru.krymr.com/a/27240750.html>

87 https://investigator.org.ua/rss_yandex/183216/

No. 114-FZ “On the procedure for leaving the Russian Federation and entry into the Russian Federation”⁸⁸. According to the document, the prohibition of entry is necessary in order to ensure the defense capability or security of the state, or public order, or protection of public health.

According to the journalist, this ban is related to her professional activities. “It could happen because I’m a Ukrainian journalist. Just in order to stop talking in the Ukrainian press about the situation in Crimea. I have a feeling that they just “close” Crimea. The people of Crimea are now like on a submarine, they have access only to Russian media,” the journalist told to one of the media⁸⁹.

Tatyana RIKHTUN



The Media Center “IPC Sevastopol”, the website of investigative journalism “Civil Defense” (911sevastopol.org)

The city of Sevastopol

On 3 March 2014, Rikhtun was attacked by unknown persons during the filming of the siege of the headquarters of the Ukrainian Navy in Sevastopol.

On 9 March 2014, she was present as a journalist at a meeting at the monument to Taras Shevchenko in Sevastopol. This meeting was stopped because of clashes between its participants and pro-Russian activists. Later on that day, unknown people were watching her near her own house and showered her with eggs.

On 13 March 2014, the representatives of the so-called “Crimean self-defense” in camouflage burst to the room that was rented by the media center “IPC Sevastopol”. Together with the Sevastopol police they blocked journalists in a small room, held them there for several hours, during which they conducted an illegal examination of personal belongings and copying of documents. The video of this incident is available on YouTube channel⁹⁰.

Fearing for her life and health, Tatyana Rikhtun was forced to leave the occupied territory of Crimea and at the moment she continues to work in mainland Ukraine. Law enforcement bodies have not carried out an effective investigation of the facts of repeated attacks on Rikhtun and interference in her journalistic activities.

Gayana and Ismet YÜKSEL



Director of the Information Agency, member of the Mejlis of the Crimean Tatar people

Coordinator of the Information Agency, advisor to the head of the Mejlis of the Crimean Tatar people



88 <http://www.pravda.com.ua/news/2016/02/25/7100290/>

89 <https://ru.krymr.com/a/27583611.html>

90 https://www.youtube.com/watch?v=Ts_kgt-PeKw

Since the beginning of the Russian occupation of the peninsula in February 2014, almost all employees of the Information Agency “QHA Crimean News Agency” have been subjected to persecution and pressure for their pro-Ukrainian position by the special services of the Russian Federation.

On 9 August 2014, representatives of the occupation authorities banned Ismet Yuksel from entering Crimea for 5 years with reference to Part 1 of Article 27 of the Federal Law FZ-114. Yet, Ismet Yuksel has never received the text of the decision itself, which could justify the entry ban.

On 21 April 2015, the head of the QHA Information Agency, Gayane Yüksel, was summoned to the Center for Countering Extremism, created in Crimea after the occupation. The reason for the summoning was the publication of information on the agency’s website about the organization, which in November 2014 was recognized extremist in the territory of the Russian Federation. As a result, Gayana Yuksel was brought to administrative responsibility for the publication of 2006-2009.

As a result of systematic persecution, the agency could not continue to work as a mass media in the territory of Crimea and was forced to leave the peninsula. Currently, it continues its activities in Kyiv.

Information Agency “QHA Crimean News Agency” was established in Crimea and registered in accordance with Ukrainian legislation in 2005. The agency aims to provide objective and complete information about Crimea and Crimean Tatars. QHA materials are provided in Russian, Ukrainian, English and Turkish. The agency’s information activities promoted Crimea as a peculiar region of Ukraine, which had its political, economic and ethnic specifics.

Alexander YANKOVSKY



Journalist, TV host and producer of Chernomorskaya TRC, the head of the Radio Svoboda “Krym. Realii” television project

Simferopol, AR of Crimea

Alexander Yankovsky, a journalist and a TV host of the largest television and radio company of Crimea, Chernomorskaya TRC, in early March 2014 joined the national media campaign “Edyna kraina. Edinaya strana”.

The purpose of the campaign was to demonstrate the unity of Ukraine and prevent the destabilization of the situation in the country. Yankovsky became the author and host of the eponymous telethon, held at the Chernomorskaya TRC jointly with the “Center for Investigative Journalism” (Crimea).

After the telethon was released in early March 2014, the “Center for Investigative Journalism” in Simferopol was attacked. A few days later, Alexander Yankovsky received calls from unknown persons who threatened him with reprisal.

Fearing for his life and health, Alexander decided to move with his family to Kyiv, where he continues journalistic activities and works with the Crimean topic.

“I understand clearly one thing. Now it is impossible to work in Crimea as a journalist. Large Ukrainian international TV channels are simply turning off their correspondent posts. It’s scary to stay in Crimea for people of our profession ...”, the journalist told to one of the Ukrainian media after he left the peninsula in March 2014⁹¹.

⁹¹ <http://fakty.ua/179097-aleksandr-yankovskij-posle-togo-kak-proizoshlo-napadenie-na-centr-zhurnalistskih-rassledovanij-v-simferopole-neizvestnyj-pozvonil-mne-i-skazal-gotovsya-ty-budesh-sleduyucshim>

Chernomorskaya TV and Radio Company



Founded in 1993, “Chernomorskaya” TRC was one of the largest television companies of the Crimean Peninsula. The television company created over 140 television projects and TV cycles.

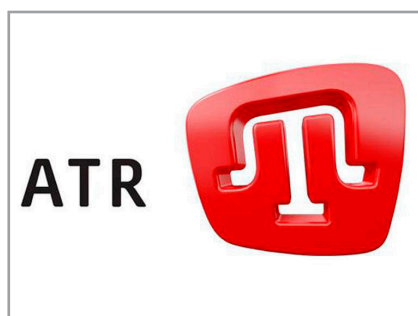
Chernomorskaya TRC broadcasts via satellite and cable networks in other regions of Ukraine since 2011. The broadcaster actively covered the events on Maidan from positions that differed from the coverage of the Ukrainian Revolution of Dignity in the Russian media. From the very beginning of the occupation, the TV company was persecuted by the occupation authorities.

For instance, on 11 April 2014, during the attack on the staff of the television channel, a flash card with video material was destroyed by representatives of the “Crimean self-defense”. On 29 June 2014, Chernomorskaya TRC was disconnected from broadcasting in cable networks⁹².

On 1 August 2014, all property of the Chernomorskaya TRC, located in its building in Simferopol, was arrested and confiscated by the occupation authorities of Crimea. For some time on the territory of the company there were located the representatives of the “Crimean self-defense”, who did not let journalists of the agency “Center for Investigative Journalism” to enter the premises (See the case of V. Samar). Subsequently, the broadcasting of the TV channel was suspended. With the help of 14 transmitters belonging to the Chernomorskaya TRC, the occupation authorities started to illegally provide broadcasting of the Rossiya-24 television channel⁹³.

Chernomorskaya TRC was forced to move to Kyiv. One of the company’s tasks today is to inform citizens of Ukraine about the events in occupied Crimea.

ATR TV Channel



ATR channel was founded in 2005. It was the first Crimean Tatar TV channel to broadcast in Crimea, Turkey and European countries.

ATR is one of the largest television channels in Crimea. Starting from the beginning of the occupation the channel was persecuted by the occupation authorities.

On 11 August 2014, the ATR journalist Sh. Nemattulaev has lost his accreditation in the so-called Crimean State Council. On 24 September, the general director of the ATR channel E. Islyamova received a letter from the Center for Combating Extremism with a request to provide certain documents. The aforementioned document contained a reference to a letter of the Roskomnadzor Office, established on the territory of Crimea, where it was stated that the ATR channel had changed the direction of information content and “stubbornly lays down the idea of possible repressions on the national and religious grounds, contributes to the formation of anti-Russian opinion, deliberately foments Crimean Tatars distrust of power

⁹² https://helsinki.org.ua/wp-content/uploads/2016/05/PeninsulaFear_Book.pdf

⁹³ <http://blacksea.tv/we/>

and its actions, which indirectly carries the threat of extremist activity”⁹⁴.

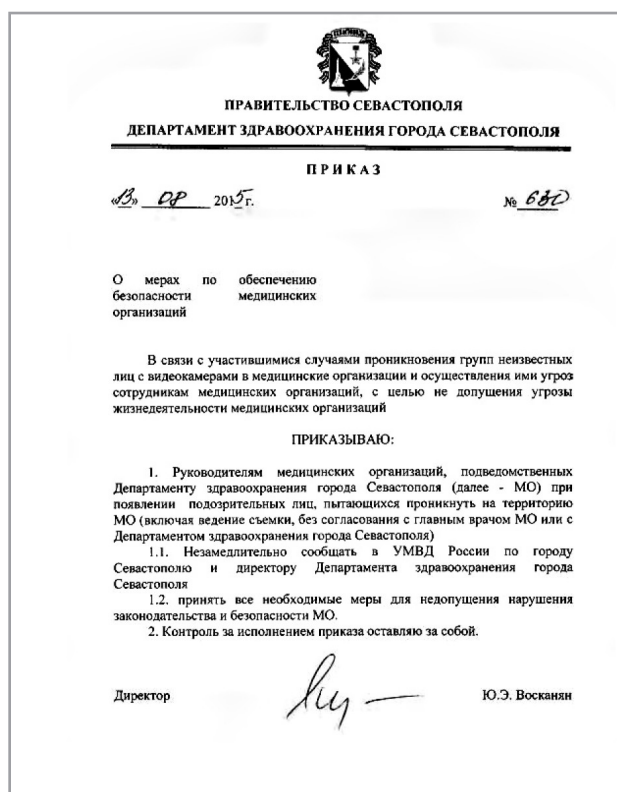
On 26 January 2015, representatives of the Investigative Committee of the Russian Federation and the Center for Countering Extremism, accompanied by OMON officers armed with automatic weapons, searched the editorial office of the ATR channel and confiscated the server, as a result of which the broadcasting process was disrupted.

In February 2015, Roskomnadzor provided broadcast frequencies, used by the ATR channel, to another TV and radio company. The executives of ATR repeatedly appealed to the occupation authorities to preserve the right to broadcast, but has not received permission to continue broadcasting in Crimea⁹⁵.

On the night of 1 April 2015, the ATR channel stopped its broadcasting. In May 2015, the television channel tried to resume work on the Internet, but journalists were prevented from working, systematically denied admission to events, interviews, and filming. In November 2015, searches were conducted in the homes of ex-general director of the ATR E. Islyamova and ex-deputy director L. Budzhurova. In December 2015, a search was conducted in the house of R. Spiridonov, the ex-editor of the news agency “15 Minutes”, which was part of the ATR holding.

In June 2015, due to systematic persecution the TV channel moved to mainland Ukraine where it continues to work, including constantly covering events in Crimea and for Crimeans via satellite television.

In 2015, a copy of the order signed by the director of the health department of Sevastopol leaked to the Internet, by which the territory of medical institutions was in fact closed for the media.



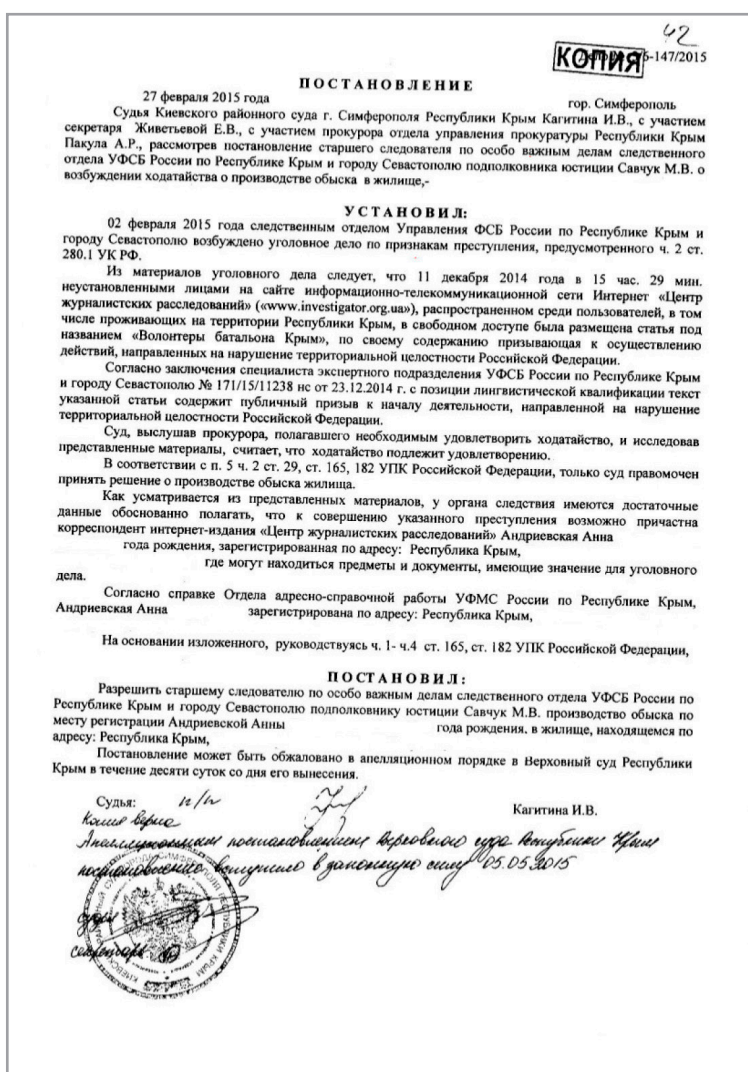
94 https://helsinki.org.ua/wp-content/uploads/2016/05/PeninsulaFear_Book.pdf

95 <http://news.allcrimea.net/allspets/atr/>

According to the ruling of the Kiev district court of the city of Simferopol, which is currently under the control of the Russian authorities, of 27 February 2015, Ganna Andriievaska might have been involved in the dissemination of the article «Volunteers of the battalion «Crimea». In the opinion of the investigative body supported by the court, the content of this article incites for the implementation of actions aimed at violating the territorial integrity of the Russian Federation.

The court allowed a search in the premises where the journalist was registered with the purpose of finding objects and documents relevant to the criminal case.

At the time this ruling was adopted, Ganna Andriievaska had already lived in Kyiv for about a year. Her parents continued to reside at the address indicated.



INFORMATION OCCUPATION – A NEW CONCEPT IN INTERNATIONAL LAW?

Professor Katrin Nyman Metcalf⁹⁶

Introduction

This article discusses the concept “information occupation”, assumed to mean actions to limit or distort media and access to information, undertaken by a hostile power that exercises *de facto* or *de jure* occupation over the information sphere of another state. The discussion is linked to the occupation of Crimea by the Russian Federation as well as the situation in Eastern Ukraine although the article treats the topic in a general manner. The term “*information occupation*” does not have a recognised meaning in legal instruments or among legal authors, but has been used, e.g. in Ukraine in discussions around the draft Information Security Concept first presented in 2015 and finally approved in February 2017⁹⁷ (although not in the concept itself).

The article discusses what the notion “information occupation” could contain, if interpreting it in light of rules on occupation in international law together with provisions on freedom of information. The aim of the analysis is to determine whether the concept would be useful. Would the term help to identify aggressive action in order to better counter it or would it in any other manner add clarity to the new way in which conflicts can be carried out, given the importance of the information space for modern society?

To clarify whether such a notion can add anything to the debate about media in crisis, in a situation like the one in Crimea, the article examines what occupation means in international law and whether rules and cases on this could be used also for the information sphere. As occupation is a violation of sovereignty, we look at the concept “information sovereignty” and what that can mean. Propaganda is a means to interfere in other countries. A short section highlights the situation in Ukraine. Finally, the author makes some concluding remarks which are her personal reflections, based on work with freedom of expression in complicated situations over many years in a multitude of countries.

Occupation under International Law

The term “occupation” has a legally defined meaning in international law since more than 100 years⁹⁸, but nevertheless it is often utilised differently than in accordance with the defined meaning. Article 42 of the 1907 Hague Regulations says “*Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised*”. The common Article 2 of the four Geneva Conventions of 1949 applies to any territory occupied during international hostilities, also in situations where there was no armed resistance⁹⁹. It is relevant to recall that humanitarian law – the law of war, *jus in bello* – does not deal with the legality of a state taking territory from another but with what applies when a situation of occupation has arisen. Legality of taking territory is regulated

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97 <http://www.president.gov.ua/en/news/glava-derzhavi-zatverdiv-doktrinu-informacijnoyi-bezpeki-ukr-40190>

98 The 1907 Hague Regulations (arts 42-56), the Fourth Geneva Convention (GC IV, art. 27-34 and 47-78) and provisions of Additional Protocol I and customary international humanitarian law include duties of occupying powers. Hague Regulations: <https://treatydatabase.overheid.nl/en/Verdrag/Details/003319>. Geneva Conventions: <https://www.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>. Occupation was the legal term for getting sovereignty over territory that did not belong to any state, *terra (or res) nullius*. Such areas do not exist anymore so this is of historical interest. Rebecca M. M. Wallace (1986) *International Law* (Sweet & Maxwell 1986), pp. 81-85.

99 For an overview of humanitarian law provisions on occupation: The International Committee of the Red Cross; <https://www.icrc.org/eng/resources/documents/misc/634kfc.htm>

by the UN Charter and customary law, and in this context is sometimes referred to as *jus ad bellum*, the law about the right to use force (conduct war). Normally, taking territory of another state is illegal, unless it is based on an agreement between states. Use of force is illegal under international law apart from very special circumstances (mainly self-defence) but this issue will not be discussed in this article as it is a very large topic in itself.

If we stick to the question of occupation and what this term means, to see if we can use it also for information space, the first remark is that it is difficult to determine exactly when occupation has arisen – when has control been established? In common speech, people tend to talk about occupation for any situation of foreign-imposed control regardless of how this came about and regardless of whether it is a temporary or a long-term situation. Often the same action is called different things by different people: just like one man's terrorist is another man's freedom fighter, one person's invasion is someone else's liberation. From the legal viewpoint, the level of approval of the occupation does not matter for the application of humanitarian law. If territory comes under the effective control of hostile foreign armed forces, even if there was no armed resistance, an occupation has come into being and relevant humanitarian law provisions apply. The most complex question in this context is often what amounts to "control", for example while an invasion is ongoing. The ICRC's 1958 Commentary to the Fourth Geneva Convention (GC IV)¹⁰⁰ suggests that humanitarian law should apply while other commentators believe that it is only meaningful to talk about occupation when the relevant party can actually exercise sufficient authority over enemy territory to carry out the duties imposed on an occupier by humanitarian law¹⁰¹.

It is almost a norm in practice that occupying states refer to the support of the local population – they come to "liberate" them. Ukraine shows examples of this. From a legal viewpoint, regarding the existing rules on occupation, it is worth to recall that agreements between the occupying power and the local authorities cannot deprive the population of occupied territory of the protection of international humanitarian law (GC IV, Article 47) and protected persons themselves can in no circumstances renounce their rights (GC IV, Article 8). The occupying power is under the obligation to respect the laws in force in the occupied territory with some exceptions (if laws constitute a threat to its security or an obstacle to the application of the international law of occupation). It is the responsibility of the occupying power to ensure public order and safety as well as the well-being of the population in the occupied territory. There are several provisions restricting the occupying power from exercising violence, reprisals or other negative acts.

For the legal conditions of occupation one ingredient is that the occupant does not acquire sovereignty over the territory but occupation is a temporary situation¹⁰². Territorial changes at the end of a war have to be done through some form of agreement or process, to gain legal status. Permanent taking of territory is also called annexation. Such territorial changes are almost always extremely controversial and often masked as popular initiatives, righting of historical wrongs and so on (which sometimes they may be). International law does not easily recognise changes of territory. The so-called annexation of Crimea in 2014 demonstrates how the power annexing a country finds any excuses that suits it to justify the action, rather than explain it in legal terms.

If we consider occupation of the information and communication space, we should think about what such an action could look like in this different context. Media and information are not explicitly mentioned in the list of duties and obligations of occupying powers and has no special protection like cultural property. Some other humanitarian law provisions may affect media matters, like the requirement to protect prisoners of war against insults

100 Oscar Uhler & Henri Coursier (1958) Commentary on the Geneva Conventions of 12 August 1949. Volume IV; <https://www.icrc.org/eng/resources/documents/publication/p0206.htm>

101 <https://www.icrc.org/eng/resources/documents/misc/634kfc.htm>

102 Which has not prevented a number of drawn-out occupations, the Israeli occupation of Palestine is the longest but there is also Namibia, East Timor and several others.

and public curiosity (Article 13 of the Third Geneva Convention of 1949, repeated in GC IV Article 27 for the protection of civilians, particularly those who are in the hands of the opposing side or of an occupying power). Thus, a requirement of respect can be deduced - the obligation not to abuse the possibilities that control gives.

Russian actions in Ukraine show how states do not act in accordance with norms of international law or explain their behaviour in these terms. Russian actions have been condemned by the European Union (EU) and many countries. The clearest example was the annexation of Crimea that led to international sanctions. As for the situation in Eastern Ukraine, Russia has had somewhat more success in claiming that it is not involved or at least that there is no evidence that it is (officially) involved. Most independent observers would claim that there is plenty of evidence of Russian involvement, but in international politics states sometimes seize upon any ambiguities that will allow them to avoid having to take a clear stance. This would fit with the EU policy toward Russia, which has moved away from the value-driven one to a policy dictated by realism, as Jonsson wrote already in 2011¹⁰³. Russia has for some time gone toward being quite explicit about how it regards any actions in the former Soviet area that it objects to and perceives as norm-setting, which it has not been consulted on, as hostile acts against Russia¹⁰⁴.

Information Occupation and Information Sovereignty

As opposed to the well-known - but in practice complex - notion of occupation, the term “information occupation” does not have an accepted meaning. If searching on this term, one tends to fall upon messages about professions dealing with information. This author was faced with the notion in discussions about the draft Information Security Concept of Ukraine in the second half of 2015, which she was asked to analyse by the OSCE Representative on Freedom of the Media¹⁰⁵. The stated aim of the Concept was to create preconditions for developing Ukraine’s information potential to ensure growth and avoid negative external influences. It appeared unsurprisingly that the main reason for drafting the concept was the war and the external aggression Ukraine was facing. A main aim was to prevent propaganda targeted at the country from abroad, in practice from Russia. Even if this was an understandable and legitimate aim, the report was nevertheless critical of the draft Concept. What was brought up was the difficulty in defining propaganda and the risk with setting out limitations on media content in law or regulation, rather than assessing it *ad hoc* based on general rules (like prohibition of incitement to hatred and violence). New rules could lead to undue limitations on freedom of expression, especially as the legal nature of the draft Concept was unclear¹⁰⁶. When the Concept in its amended form was finally adopted as an Information Security Doctrine in February 2017 the statement on the website of the President of Ukraine mentions that the necessity of adoption of the Doctrine was caused by the emergence of topical threats to national security in the information sphere, as well as by the need to determine innovative approaches to formation of the protection system and development of the information space in conditions of globalisation and free flow of information. The destructive information impact of Russia in conditions of the hybrid war unleashed by it are explicitly mentioned. The defence related aspects of the Doctrine are shown by the National Security and Defence Council holding a key role for implementing the Doctrine¹⁰⁷.

Doubtless the information space is becoming all the more important in any warfare just as for any other purpose. However, modern information and communication technologies

103 Anna Jonsson (2011) “Russia and Europe”, pp. 444-453 in G. Gill & J. Young (eds.) Routledge Handbook of Russian Politics and Society (Routledge, London), p. 444.

104 *Ibid.*, p. 448.

105 Katrin Nyman Metcalf (2015) Legal Analysis of the draft Information Security Concept of Ukraine. OSCE Representative on Freedom of the Media, 21 July 2015; <http://www.osce.org/fom/173776>

106 *Ibid.*

107 <http://www.president.gov.ua/en/news/glava-derzhavi-zatverdiv-doktrinu-informacijnoyi-bezpeki-ukr-40190>

(ICT) means that it is difficult to keep apart what is an “information” action and what is something else, using the same technologies. Cyber warfare is indeed a combination of all sorts of acts that only have in common that they use the cyberspace – internet – in some way¹⁰⁸. As words are so important for lawyers, before a new term is taken into use, we need to see what if anything this term adds and if we can define it in an acceptable manner. To see if a notion such as information occupation can add anything to the international legal debate, we have to see if the known aspects of occupation under international law can fit in information space or if there are other, new ways to determine what such occupation could look like. The term is closely linked to the notion of “information sovereignty” that is also a new (or newly revived)¹⁰⁹ and not widely accepted term. This term can be defined as the supreme authority (for a state) to make decisions about and to maintain order in relation to information communication within the state and to have equal and independent right to produce, transmit and use information free from any external interference or control also externally¹¹⁰.

Russia and China have been promoting an understanding of protection of the information space, including internet, that focuses on content. They have stressed concepts such as information security¹¹¹ and information sovereignty, while countries, most notably European and other Western countries, with strong protection of freedom of expression do not use such terms in relation to content of media. It is hard to imagine any real meaning of sovereignty in information in today’s interconnected world, other than an excuse to restrict free movement of information. The extent of sovereignty in any form in the modern, interconnected world is a matter of discussion among academics as well as practitioners. Sovereignty retains an important role in international law as it is the foundation on which ideas such as a ban on interference in the internal affairs of other states rests, but what it means in practice is more challenging as no country can act independently of others in the modern global society. To try to link such a concept to the very interconnected information space is even more complex. Without denying that every country has the right to define its own policies, including on media, in societies with freedom of expression this should not mean limiting possibilities for people to access content from other countries (or distribute it to other countries)¹¹².

Russia has stressed sovereignty in different ways, for example by making it a goal of its foreign policy to be a “sovereign democracy”¹¹³. The stress in that term should definitely be on “sovereign” rather than on “democracy”, as what it appears to mean is that Russia refuses to abide even by commitments it has accepted by joining international organisations and treaties. It shows the ambivalence of reforms in Ukraine that there are proposals in Ukraine to use the information sovereignty concept, even if this is promoted mainly by Russia and rejected by European states and others who favour freedom of expression. International organisations have advised Ukraine against using this concept as it is hard to define what it means and it is likely to be abused to control internet and other modern media content.

The actual Russian attitude to freedom of expression is best shown by its actions, for

108 On cyberattacks against Ukrainian media and electricity systems, allegedly with the same malware. <http://securityaffairs.co/wordpress/43321/hacking/ukraine-attack-caused-power-outage.html>

109 The term has been used for decades but with the spread of electronic information, countries like China have started using it more, applying it to information technologies. Wenxiang Gong (2005) “Information Sovereignty Reviewed” in *Intercultural Communication Studies*, Volume XIV:1; 2005, pp. 119-135 especially, p. 119 and p. 121.

110 *Ibid.*, p. 129.

111 Henry Rõigas (2015) “The Ukraine Crisis as a Test for Proposed Cyber Norms”, pp. 135-144 in Kenneth Geers (ed.) *Cyber War in Perspective: Russian Aggression against Ukraine* (NATO Cooperative Cyber Defence Centre of Excellence, Tallinn), p. 36.

112 Katrin Nyman Metcalf (2015), *Legal Analysis of the draft Information Security Concept of Ukraine*. OSCE Representative on Freedom of the Media, 21 July 2015; <http://www.osce.org/fom/173776>

113 Anna Jonsson (2011), “Russia and Europe” pp. 444-453 in G. Gill & J. Young (eds.) *Routledge Handbook of Russian Politics and Society* (Routledge, London) p. 450.

example in Crimea. Immediately after the annexation, media freedom was severely curtailed either through direct measures such as banning certain media outlets or by other actions like imposing various requirements and limitations, that in practice had the same effect – depriving media outlets of any possibility to operate properly. The situation in Eastern Ukraine is a bit different as the territory, formally, is not under control of Russian authorities, but the intention of Russia and its supporting elements to limit freedom of the media is the same.

International Case Law on Information under Occupation

When looking for ways to interpret what *information occupation* might look like in the legal sense, the tools to use are analysis of case law on information under occupation as well as looking for situations in the world where such information occupation is practiced. In assessing case law, the first issue one is faced with is the problem of what is occupation. It is rare that there is agreement that a certain situation amounts to occupation – at least beyond a limited time during or just after hostilities. If the situation of control by a hostile power remains, this power will most likely seek to justify the situation through different means, like a “voluntary” adherence to the occupying state, maybe after a referendum.

This means that in order to find interesting cases one needs to assume that some situations amount to or resemble occupation at least to the extent relevant for our study – time limited control by a hostile power over territory of another state. In the European Court on Human Rights (ECtHR) there are a few cases on the obligations to protect freedom of expression in all contexts, including disputed territories like Northern Cyprus and Transnistria. The Crimean media and information situation has not yet been examined by the ECtHR in any final ruling.

For situations of occupation, a first question is whether a state that has had its territory occupied by someone else can be responsible for upholding rights if it has no control or at least not full control over the territory. ECtHR has stressed that even in exceptional circumstances, when a State is prevented from exercising authority over part of its territory due to military occupation by the armed forces of another State, acts of war or rebellion or the installation of a separatist regime within its territory, it does not cease to have jurisdiction within the meaning of Article 1 of the European Convention on Human Rights (ECHR). However, the responsibility is limited to discharging positive obligations, related to measures needed to re-establish control over the territory in question, as an expression of its jurisdiction, and to measures to ensure respect for the applicant’s individual rights¹¹⁴. The occupying power will also have obligations and who can actually be in charge of what is an important question. The situation in Ukraine was examined in the case *Khlebik v. Ukraine*¹¹⁵ about a complaint by a man convicted in 2013 of several offences by a court in the Luhansk Region that the domestic courts were unable to examine his appeal, because his case file was blocked in an area that was no longer under the Ukrainian Government’s control. ECtHR did not find that the complainant had suffered negative consequences like extended detention. The Court found that the Ukrainian authorities had done all in their power, under the circumstances of the hostilities in Eastern Ukraine, to address the situation. We can thus see a responsibility for all sides to uphold rights to the extent it is possible for them, or at least do what they may have in their power.

Cases from occupation situations tend to be about property or procedural issues. In the Case of *Cyprus v. Turkey*¹¹⁶ legality of restrictions on media in a disputed territory were discussed. The alleged restrictions were not fully proven, so the pronouncements of the court were limited. Some concrete restrictions on specific information sources (specifically school books) were identified and these were condemned. The occupying power should

¹¹⁴ *Chiragov and others v. Armenia*, Application 13216/05, Judgement on 16 June 2105; *Sargsyan v. Azerbaijan*, Application 40167/06, Judgement on 16 June 2015.

¹¹⁵ Application 2945/16, Judgement 25 July 2017.

¹¹⁶ Application no. 25781/94, Judgment on 10 May 2001, especially paragraphs 248 onwards.

not use its control to undertake such restrictions. As for rules posing restrictions on newspapers, other books or electronic media, there was not enough evidence about what the actual limitations were. In the part that was regarded as proven, on the school books, it can be seen that the court does not allow the authorities in control of a disputed territory to limit freedom of expression because content may be against the views of this power.

In the Case (Grand Chamber) *Catan and others v. Moldova and Russia*¹¹⁷ the occupation of Transnistria was at issue including from a perspective of culture, primarily education. The verdict is interesting in its statement of why Russia denies jurisdiction¹¹⁸. The responsibility for allowing media to operate freely in occupied territories, including minority media, can be deduced from the case even if it is not expressly stated. Another Transnistria case, *Case of Ilascu and others v. Moldova and Russia*¹¹⁹, discusses jurisdiction and responsibility of states for violations of the ECHR in situations of occupation¹²⁰. The need for functioning of media is mentioned¹²¹. The dissenting opinions are also interesting on the treatment of what occupation is and what the responsibility in such cases is. In situations like the ones mentioned, a problem for case law is that de facto occupying powers will often deny that they have such role and thus also deny any responsibility to apply laws and protect rights.

The International Court of Justice (ICJ) has not dealt with the question of information under occupation. There are many cases on right to territory and few cases on what can be done in certain disputed territories but nothing that is close to the issue at hand or that could easily fit if we “move” the occupation to cyberspace. In the case *Certain Activities Carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*¹²² there is a discussion on what actions may be taken in disputed territories. However, it is not easy to make an analogy to the effect on media or other communications from this case as the actions are very practical (dredging, digging etc.) and the main question is about their lasting impact on nature. The findings rely a lot on whether any effects are irreparable or not. The distinctions between movable and immovable property and lasting or repairable effects cannot easily be transferred to the ICT sphere¹²³.

Propaganda

One main issue related to occupation of the information space is the prevalence of propaganda. Propaganda is not only used in occupation (or annexation) situations, but such situations give the occupying hostile power, a possibility to exercise propaganda without there being many effective tools against it. It occupies the media scene with its message. This is seen in Crimea. At the time of the Russian annexation, restrictions on media or other information channels are among the reasons why the so-called referendum did not meet international standards on a democratic process, even should it otherwise have been legitimate (which it was not). Here we can say that Russia knew it had to occupy information space as an early step in the occupation and annexation of the territory. The modern communications landscape is diverse with a multitude of media sources, social media, access to global media and so on, but official media – primarily broadcasting - still remains important as a source of news in many countries. If there is a sufficiently hostile climate in general in the county, self-censorship and fear will limit the impact of alternative voices even it is technically complex to do so.

Propaganda is nothing new – it has existed for centuries. Richter mentions the important role that the desire to stop nationalistic propaganda had in the ultimatum to Serbia, which

117 Applications nos. 43370/04, 8252/05 and 18454/06, Judgement of 19 October 2012.

118 *Ibid.*, paragraph 96.

119 Application no. 48787/99, Judgement 8 July 2004.

120 *Ibid.*, especially paragraphs 312 and 333.

121 *Ibid.*, paragraph 234.

122 Request for the Indication of Provisional Measures, Order of 8 March 2011, ICJ.

123 On this distinction, Jamal L. El-Hindi (1989-90) “The West Bank Aquifer and Conventions regarding Law on Belligerent Occupation”, pp. 405-428 in Victor Kattan (ed.), (2008). *The Palestinian Question in International Law* (British Institute of International and Comparative Law; reprinted from 11 Michigan Journal of International Law, pp. 1400-1423) pp. 416-417.

to a large extent was behind the start of the hostilities that led to the First World War¹²⁴. It was only during this war and in an *ad hoc* manner that politicians became aware of how important it is to deal with issues of information and public opinion¹²⁵.

Propaganda is a value-laden term that we are all guilty of using much more readily about messages we disagree with than about political speech that we agree with. The term is notoriously hard to define. From definitions suggested by authors, we can use the one by Lasswell, who defines propaganda as the technique of influencing human action by the manipulation of representations, in the form of spoken or written words, pictures, films or any other form¹²⁶. In international instruments, the rules on propaganda are specific for certain situations and types of messages. Article 20 of the International Covenant on Civil and Political Rights (ICCPR) prohibits war propaganda and incitement to hatred. The issue is not easy to deal with legally, as there is rarely consensus on the fact that propaganda is being used. Such difficulty in defining propaganda and the risk with setting out limitations on content in law or regulation are the explanation why this author does not recommend making specific bans on propaganda but rather to assess it *ad hoc* based on general rules (like prohibition of incitement to hatred and violence)¹²⁷.

To meet propaganda with propaganda is rarely a good idea. It leads to an escalation, where both sides have to provide more and more propaganda and people in any case end up believing only what comes from “their” side. In addition to it being difficult to maintain a neutral stance and avoid falling into the trap of making own propaganda, such battles nowadays risk being ineffective. As mentioned, there are so many possible sources of information that the people who look out for facts and different opinions can find this, while certain population groups tend to believe certain media. With battles of propaganda versus propaganda, everyone just sticks to their preferred source in any case and only truth and a balanced debate suffers. The fact that people often chose to use only certain media and believe the message they like¹²⁸ should not deflect from the importance of plurality as this at least provides the possibility to check things and makes it that much more difficult for authorities to provide only one truth. Before engaging in propaganda, those behind it should also consider that educated and active people with an interest in a matter will seek alternative information and if they see media outlets engaged in propaganda they will just not believe these outlets any more.

In a situation of occupation, it is in the interest of the occupying power to limit access to alternative sources of information in order to exacerbate the effect of its propaganda. Modern media means that such limitations are more complex than in the pre-internet world, when jamming of broadcasts and restriction on sales of newspapers could be employed. It is more effective to be vigilant against any attempts to limit availability and access to media than to counter propaganda with more propaganda

Censorship is a form of negative propaganda¹²⁹. People do not get access to information so a false impression of reality is built up. Traditionally this has been glorifying war, exaggerating victories and hiding defeat as well as vilifying the enemy, so as not to lose public support. Modern social media with so many people being able to send eyewitness reports, film and pictures has changed this reality where the state can control the image, but states have not yet fully embraced this change. Official media still promotes its sole

124 Andrei Richter (2015) “The Relationship between Freedom of Expression and the Ban on Propaganda for War” in Wolfgang Benedek, Florence Benoit-Rohmer, Matthias C. Kettmann, Benjamin Kneihls & Manfred Nowak (eds.) European Yearbook on Human Rights (Intersentia, Antwerp), pp. 489-505 at p. 489.

125 Cate Haste (1977) “The Machinery of Propaganda”, pp. 105-136 in Robert Jackall (ed.), (1995), Propaganda (New York University Press; reprinted from Cate Haste Keep the Home Fires Burning, Allen Lane 1977), p. 105.

126 Harold D. Laswell (1934) “Propaganda”, pp. 13-25 in Robert Jackall (ed.), (1995); reprinted from Edwin R. A. Seligman, ed., Encyclopaedia of the Social Sciences, Macmillan 1934), p. 13.

127 Also in the context of the proposed Ukrainian Information Security Concept. Nyman Metcalf (2015) *op. cit.*

128 Discussed already by C. Wright Mills (1956) “The Mass Society”, pp. 74-101 in Robert Jackall (ed.), (1995), p. 89.

129 Haste (1977), p. 114. She mentions how even weather reports were banned as they could be useful for the enemy and chess problems (unless sent by perfectly reliable British nationals) as they could be hidden code, *ibid.*, p. 116.

truth in many countries. Russian media has been strongly advocating the official narrative on heroic warfare as well as Russian victimhood in relation to the war in Ukraine¹³⁰. Activities to shape the message in social media started before conflicts on the ground, with creation of extensive trolling networks¹³¹ and other significant on-line presence, to make sure the Russian version of the story would be the dominant one¹³². Preparations to use the term Novorossiya were made before the term was started to be used more widely¹³³.

The more complex and untransparent a war or crisis is, the easier it is to exploit it for propaganda. Observers do not have access to any facts that can refute propagandistic statements. There is a need to fabricate a discourse, to create the criteria by which success is measured¹³⁴. When the popular opinion is ambiguous, as is often especially the case when a conflict has aspects of civil war, it becomes extra important to manipulate the civilian response to war to ensure that there is support for all the different costs of war. The propaganda battle is not just against an external enemy but also against “the enemy in our midst” as Haste explains from the First World War and the hatred against pacifists or other opponents of the official message¹³⁵.

Information Occupation in Ukraine

The impression of the communications landscape in Ukraine is somewhat complex and even contradictory, with moves towards proper respect for freedom of expression and information but occasional backward steps as well. The situation is not as in Russia, where free media is very restricted, but at the same time there are restrictions on freedom of expression also in Ukraine. To some extent this is due to the country going through a period of reform while at the same time dealing with an armed conflict. However, some of the restrictions are due to Ukraine coming from a system without strong guarantees for a free media. In a 2015 survey of Eastern Partnership countries, Ukraine was in the middle of the list, after Georgia and Moldova but ahead of Armenia, Azerbaijan and Belarus, which is not bad for a country at war. The situation in Crimea but also Eastern Ukraine is considerably worse than in the rest of the country, as these areas are outside of the control of Ukrainian authorities.

Many international organisations have stressed the difficult situation for media in Crimea and Eastern Ukraine. There are manipulations as well as direct threats to journalists, closure of media outlets, obstacles to investigative journalism, lack of proper investigation of attacks on media and so on¹³⁶. Ukrainian authorities have tried to take measures to ensure the availability of Ukrainian media in the conflict areas but there have been numerous actions to prevent this over the course of the conflict¹³⁷. From 2014 onwards, Ukrainian channels have been taken off air and made unavailable in cable packages, but also Crimean channels have been denied frequencies or otherwise hindered in their work.

130 Keir Giles (2015) “Russia and its Neighbours: Old Attitudes, New Capabilities”, pp. 19-28 in Kenneth Geers (ed.), p. 21.

131 On “Troll farming” see Elina Lange-Ionatamishvili & Sanda Svetoka (2015) “Strategic Communications and Social Media in the Russia Ukraine Conflict”, pp. 103-111 in Kenneth Geers (ed.), p. 110.

132 James J. Wirtz (2015) “Cyber War and Strategic Culture: the Russian Integration of Cyber Power into Grand Strategy”, pp. 29-37 in Kenneth Geers (ed.), p. 36. Also Lange-Ionatamishvili & Svetoka (2015), p. 106.

133 Margarita Levin Jaitner (2015) “Russian Information Warfare: Lessons from Ukraine”, pp. 87-94 in Kenneth Geers (ed.), p. 92.

134 In literature, the Vietnam war is often mentioned as the first war when it was necessary to pay attention to creating the narrative of success. See David L. Altheide & John M. Johnson (1980) “Bureaucratic Propaganda: The Case of Battle Efficiency Reports”, pp. 299-328 in Robert Jackall (ed.), (1995), p. 300.

135 Haste (1977). She quotes returning British First World War soldiers as shocked at the attitudes in the country, saying that humanity existed more in the trenches than among civilians.

136 For example, the OSCE Representative on Freedom of the Media in many statements and interviews (<http://www.osce.org/fom/297526>; <http://www.osce.org/fom/295336>, <http://www.osce.org/fom/234691>).

137 For example: 5 January 2016 Ministry of Information Policy of Ukraine - MIP: broadcasting of the First channel of Ukrainian radio in Donetsk and Luhansk regions was renewed (<http://mip.gov.ua/en/news/874.html>); 29 December 2015 - MIP: In Starobilsk Luhansk region broadcasting of one more Ukrainian TV channel was renewed (<http://mip.gov.ua/en/news/872.html>); 1 December 2015 - MIP: Latvia will provide three powerful transmitters to restore broadcasting in the east of Ukraine (<http://mip.gov.ua/en/news/821.html>).

Crimean Tartar media is among the media that is being severely restricted¹³⁸. Thus, it has become near enough impossible to provide not just Ukrainian media but any free and pluralistic media in the Crimea. Ukrainian authorities do not exercise control in the conflict area of Eastern Ukraine, while Russia does not admit to being an occupying power and denies any responsibility and the separatists lack legitimacy as well as actual control so in practice there is no rule of law for media¹³⁹.

In the communications landscape there are some anomalies, like dependence on Russia. Giles points out that as far as cyberwar against Ukraine is concerned, Russia is helped as it already controls important assets like telecommunications companies and infrastructure. Until recently even many Ukrainian government officials used Russian e-mail services¹⁴⁰.

For Russia, information has been seen as an important element of power also before the current information dependent era. Instead of seeing cyber security and information security as separate things, as is done by NATO and generally in the West, with one being the technical and the other the content related aspect, Russian discourse sees them as different aspects of the same thing. There is still a great fear of content (just as for the Soviet Union, witnessed e.g. in discussions around direct broadcasting satellites in the 1970s and 1980s) and thus defending information space becomes a major issue¹⁴¹ – and as a corollary also attacking information space. The situation for Russian media was restricted already before the war in Ukraine but state control of media content has increased lately. One aspect of this is to ensure that at least the vast majority of Russian people do not get anything but the official Kremlin version of the Ukraine crisis. The Russian media in Eastern Ukraine uses a method of incitement that has been called accusation in a mirror – meaning that media warns of attacks and asks the audience to prepare themselves for probable imminent attacks, thus permitting them to be ready to commit violent acts as they feel this is justified as self-defence. This was seen in the *Tadic* case by the International Criminal Tribunal for the former Yugoslavia (ICTY)¹⁴².

The impression of the media situation in Crimea is such that it can easily be said that it has been occupied by a hostile power. Communications networks are also controlled and limited by this power. The actions Ukrainian authorities can take are likely to remain ineffective¹⁴³. However, even if we can see something that it may be attractive in the political discourse to call “information occupation”, in order to underline the importance of the restrictions imposed, as a legal term this remains complex and it is questionable if it adds anything to the debate.

Concluding remarks

There is no question that with the importance of information in the modern society, occupation of the information space may be as important or even more important than physical occupation of territory. The term “*information occupation*” appears attractive to draw attention to this. Nevertheless, it is not a good idea to launch this term into the legal debate. Occupation has a determined legal meaning and even if it is often difficult due to the politically charged atmosphere in the individual case to determine if there is occupation

138 <http://www.osce.org/odihr/272816>

139 Putin during his annual press conference at the end of 2015 admitted for the first time that there are Russian advisors in Eastern Ukraine, although still denying official military presence. Unsurprisingly, official Russian media claims that Western journalists who are ignorant about Ukraine twisted his words <https://www.rt.com/op-edge/326334-putin-media-troops-ukraine/> This story is a good example of the Russia propaganda narrative about the issue, filled with images of “trustworthy” Western journalists for example.

140 Keir Giles (2015), “Russia and its Neighbours: Old Attitudes, New Capabilities”, pp. 19-28 in Kenneth Geers (ed.), p. 24.

141 Margarita Levin Jaitner (2015) “Russian Information Warfare: Lessons from Ukraine” p. 88.

142 Prosecutor v Tadic, ICTY 7 May 1997.

143 Even if it is possible to identify individuals who are behind curbing freedom of expression in the Crimea and an Adviser to the Minister of Information Policy, Yuliya Kazdobina, states that the Ministry in partnership with representatives of rights-defence organisations plan to launch criminal proceedings in mainland Ukraine, and work for personalised sanctions like travel bans, freezing of assets, and so on, the impact of such measures may not be great, given the powerful regime that supports such individuals; <http://www.civicsolidarity.org/article/1440/list-people-curbing-freedom-speech-crimea>

in the legal sense, annexation or something else, there are still set criteria. These criteria do not easily transfer to the information space. Instead, introducing a novel concept that is vague from its initiation could entail the risk that it is interpreted as allowing limitations to freedom of information.

There has been an interest in influencing and controlling people's minds and thoughts, ever since humans started interacting. Especially in times of war, hostilities and other crises, the possibility of impacting information flows becomes a priority. What is new in our modern information society is how important ICT is for society – we do so much more through ICT than just exchange messages. Consequently, control over information space in a time of war becomes extremely important. At the same time, modern information systems make such control more difficult. There are so many different ways to communicate, the information market can be global and it is to a large extent privately handled.

Let us not forget the importance of freedom of expression – pushed by international organisations and accepted by more and more states especially since the Second World War. This freedom includes the right to communicate as well as access information. It is not an absolute freedom and it is sadly still violated rather frequently, but for a democratic society to retain credibility as a democracy with respect for human rights, even in times of crisis, any restrictions of freedom of information need to be limited, proportional and carefully considered. It is difficult to convince states to abide by this, especially if one side of a conflict is a state that does not respect such rules (as is the case in the Ukrainian war, as Russia has severely limited freedom of expression). In such a case, the battle of the information space will be fought without equality of arms. However, the option of sacrificing freedom of expression in what should be a fight for freedom and democracy would be a Pyrrhic victory indeed. The only way to maintain real freedom of expression is to stay on the moral high-ground of not doing the same as those one wants to oppose.

Thus, even if “information occupation” does go on and even if the term may be useful to illustrate this, it should not be used as a (quasi) legal term. It is likely to add confusion rather than clarity and give a tool that can be abused – an excuse for restricting free information flows. Ukraine is faced with an enemy that makes information warfare a central part of its activities, underlining concepts like information sovereignty. Ukraine should not fall into the trap of fighting with these same weapons but instead continue its ongoing work to do whatever is possible to ensure plurality of media, prevent forced shut-down of media outlets or domination of cyber space and social media by pro-Kremlin trolls.

THE HATE SPEECH¹⁴⁴

Ganna Yudkivska

Judge of the European Court of Human Rights in respect of Ukraine

The topic of hate speech is extremely relevant for Ukraine — there is so much tense in society today that any careless word can lead to an explosion. My lecture will highlight the opinion of the European Court of Human Rights on this issue.

Let us start with Article 10 of the Convention, which is well known by all practicing lawyers and advocates, working in the field of human rights protection. This article is the only provision of the Convention which envisages that a person has certain duties and responsibilities while exercising his or her guaranteed right.

Unlike this article, for example, the first amendment to the United States Constitution says quite harshly: “Congress shall make no law, abridging the freedom of speech”. Thus, we have to deal with various approaches to the issue of freedom of speech applied in Europe and in the USA.

Despite the fact that in this chapter the main focus will basically lie on the practice of the European Court on this issue, I will also pay attention to the American approach, which still, to some extent, had some influence on European practice, regardless of its differences.

When and how can one restrict the freedom of speech?

The findings of the European Court on this issue were initially expressed in one of its first cases *Handyside v. The United Kingdom*. In this case, the Court determined that “freedom of expression protected by Article 10 of the Convention constitutes one of the essential foundations of a democratic society, one of the basic conditions for its progress and for the development of every man”. In the other case, *Lingens v. Austria*, the Court stated that “freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual’s self-fulfilment”. Subject to paragraph 2 (Article 10-2), it is applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no “democratic society”.

At the same time, in the conclusions of the Supreme Court of the USA in the case of *Bose Corporation v. Consumers Union* it was determined that “The First Amendment presupposes that the freedom to speak one’s mind is not only an aspect of individual liberty - and thus a good unto itself - but also is essential to the common quest for truth and the vitality of society as a whole”.

Thus, it is possible to trace, besides the distinctions, the existence of certain common features in these approaches.

Let’s turn to the American approach. According to Ronald Dworkin, people should be treated by society as conscious individuals, morally capable of assessing the situation, except for those who are incompetent. Mr. Dworkin notes that “(...) neither any official nor majority has the right to conceal from us the opinion on the grounds that we are not able to hear and think about it”. He believes that the Government insult their citizens by deciding that they cannot be trusted to hear certain thoughts, deemed by the Government

¹⁴⁴ The text of the public lecture, which was held on 14 July 2015 at the Academy of Advocacy of Ukraine (Kyiv) supported by the Ukrainian Helsinki Human Rights Union.

as harmful. The concept of moral responsibility of every person who hears an unfavorable opinion is constantly highlighted in the dissenting opinions of various members of the Supreme Court of the United States. For example, Justice William Orville Douglas, in his dissenting opinion on the case of *Dennis v. United States*, expressed the conviction that “the American people can be trusted to hear dangerous Communist propaganda. Our faith should be that our people will never give support to these advocates of revolution, so long as we remain loyal to the purposes for which our Nation was founded”.

A similar approach is proposed by some judges of the European Court, including former ones. Thus, it is worth noting the quotation from the dissenting opinion of the Judge Torkel Opsahl in the *Arrowsmith v. United Kingdom* case: “The goal of influencing others who are themselves responsible for their actions is the key and legitimate aspect of freedom of speech in political and other matters”. In another dissenting opinion on this case, other judge pointed out that “persons who are persuaded to take an expressed opinion should bear their own personal burden of responsibility. In addition, suppression of freedom of speech is ultimately considered more dangerous for national security than tolerance for it, because suppression of unwanted thoughts does not exclude them, it simply drives them underground.»

Returning to the development of the American approach to freedom of speech, it should be mentioned that the first case which inspired this development was *Schenck v. United States* case¹⁴⁵. The applicant, Charles Schenk, a member of the Socialist Party, was arrested for organizing protests against conscription during the World War I. After spreading about 20,000 pamphlets, in which he compared mobilization to slavery, he called on US citizens to protest against mobilization, since, as he claimed, this was their moral duty. As a result of such actions he was detained. The Supreme Court of the United States ruled that the applicant did actually have the freedom of speech, but under conditions of war this freedom could be limited.

Judge Oliver Wendell Holmes in this decision noted: “The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree. When a nation is at war, many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight, and that no Court could regard them as protected by any constitutional right. It seems to be admitted that, if an actual obstruction of the recruiting service were proved, liability for words that produced that effect might be enforced”. He also used his famous metaphor: “The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic”.



145 Schenck v. United States, 249 U.S. 47 (1919).

In this way, the Supreme Court distinguished dangerous statements from dangerous acts by declaring the statements, contained in Shenk's leaflets, as those that could be considered an immediate threat to the security of the country and the welfare of its people. Later, the Supreme Court passed similar sentences against persons who resorted to their freedom of speech during the war.

Subsequently, the approach of the Court has changed in certain way, namely, in the case of *Abrams v. United States*¹⁴⁶. In the above mentioned case, the defendants - Russian immigrants - protested against attempts of the US government to thwart the revolution in Russia by spreading leaflets from a multistoried building in which one of the activists lived.

In that regard, there is a caricature in which the judge tells the defendant: "The First Amendment doesn't protect your pro-communist, anti-US leafleting during war". The defendant, in his turn, replies: "This proves how oppressive the US is. The USSR would never restrict speech".



Judge John Hessin Clarke developed the majority opinion, according to which the case materials contained convincing evidence that the accused were setting up a provocation against the government and an attempt to reduce military-material production. The court used the so-called "bad tendency" test and indicated that if the speech has even the intent of causing a particular harm, it is enough to limit its independence, regardless of how theoretically possible this harm can be. It was contended: "while the immediate occasion for this particular outbreak of lawlessness on the part of the defendant alien anarchists may have been resentment caused by our Government's sending troops into Russia... yet the plain purpose of their propaganda was to excite, at the supreme crisis of the war, disaffection, sedition, riots, and, as they hoped, revolution, in this country for the purpose of embarrassing, and, if possible, defeating the military plans of the Government in Europe". The language of these circulars was obviously intended to provoke and to encourage resistance to the United States in the war.

Judge Holmes, the author of the "clear and present danger" doctrine, dissented from the majority opinion in this case and noted that the "clear and present danger" test should be applied very limitedly: "I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country". In his opinion, the production of some sort of leaflets by absolutely random people and their distribution in a certain area of New York did not create this clear and present danger, which justified restrictions on freedom of speech.

¹⁴⁶ *Abrams v. United States*, 250 U.S. 616 (1919).

This was the approach of the Americans regarding the events during the World War I and the revolution in Russia. Further the era of the Red Terror began in the United States. In the decision on the case *Whitney v. California*¹⁴⁷ the US Supreme Court confirmed the conviction of the applicant for financing the Communist Party, which supposedly had an intention to forcibly overthrow the government. The applicant, in her turn, argued that neither she nor her Party had such intentions. This case is interesting for the dissenting opinion of Luis Dembitz Brandeis, one of the most remarkable former judges of the US Supreme Court. This opinion is considered to be the most powerful speech focused on protecting freedom of speech. He clarified the test of “clear and present” danger. “Fear of serious injury cannot alone justify suppression of free speech and assembly. Men feared witches and burnt women. It is the function of speech to free men from the bondage of irrational fears. To justify suppression of free speech, there must be reasonable ground to fear that serious evil will result if free speech is practiced (...). But even advocacy of violation, however reprehensible morally, is not a justification for denying free speech where the advocacy falls short of incitement and there is nothing to indicate that the advocacy would be immediately acted on. The wide difference between advocacy and incitement, between preparation and attempt, between assembling and conspiracy, must be borne in mind (...).” Further, the judge stated that “those who won our independence by revolution were not cowards. They did not fear political change. They did not exalt order at the cost of liberty...” According to Brandeis, the test for justifying the suppression of freedom of speech is quite tough. There must be quite reasonable grounds for the impendence of the danger as well as grounds to believe that the evil is of a serious extent. With this in mind, he replaced the words the “present danger”, used by Judge Holmes, to the words “imminent danger”, as the intention to impose harder conditions regarding both the possibility of harm and its immediacy in time. The last and very important step in the history of the “clear and imminent danger” test is the case of *Brandenburg v. Ohio*¹⁴⁸. The Court overturned the conviction of the leader of the Ku Klux Klan organization for the praise of the crime and sabotage. The evidence, which was used by the courts, was a record of the meeting of the Ku Klux Klan, in one of the episodes of which the applicant told: “We are the Klan, we’re not a revengent organization, but if our President, our Congress, our Supreme Court, continues to suppress the white, Caucasian race, it’s possible that there might have to be some revengeance taken”. This speech was a clear direct threat. Only the participants and journalists attended the meeting. Without any obvious reference to the “clear and imminent danger” test, the Supreme Court applied the following standard: “Constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action”. That is, the test, which was brought by this case into the future jurisprudence of the United States, established the following distinct criteria: first, the speaker should have a subjective intention to incite, and secondly, the words used in the context are likely to lead to immediate illegal actions. Also in this regard, it is worth recalling the recent case *Snyder v. Phelps*¹⁴⁹, which concerned the burial of an American soldier who died in Iraq. In the cemetery during the burial ceremony, where the family of the deceased was gathered, certain persons appeared, holding posters “Thank God for dead soldiers! Sin and shame, not pride, and you are going to hell!” These posters meant that the death of soldiers in Iraq is a punishment for tolerance of the USA to homosexual relations. The delicacy of the situation was caused by the fact that the father of this deceased soldier was a person of unconventional sexual orientation. The lawsuit was filed against those activists with posters. However, it was not upheld by the US Supreme Court, and the Chief Justice expressed his

147 *Whitney v. California*, 274 U.S. 357 (1927).

148 *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

149 *Snyder v. Phelps*, 580 F. 3d 206 (2011).

vision of freedom of speech as following: “Speech is powerful. It can stir people to action, move them to tears of both joy and sorrow, and—as it did here— inflict great pain. On the facts before us, we cannot react to that pain by punishing the speaker. As a Nation we have chosen a different course—to protect even hurtful speech on public issues to ensure that we do not stifle public debate”.

This is the general US approach to this issue. However, as I have written in one of my special opinions, “looking at numerous known historical and political causes, Europe today cannot afford the luxury of such a vision of the paramount importance of freedom of speech”.

Before turning back to the European Court’s practice on the question of hate speech, we should dwell on two issues: the Nuremberg Trials and the Universal Declaration of Human Rights.

It is known, that the main verdict of the Nuremberg Trials, where all the commanders of the Nazi army were condemned, was delivered on September 30 - October 1, 1946 (overall, 12 trials were conducted). There were two people among the convicts, who did not directly give orders to shoot, and who did not conduct military operations. The first of them was Julius Streicher, the well-known editor-in-chief of the German anti-Semitic newspaper “Der Stürmer” (The Stormtrooper). According to the findings of the Nuremberg Trials, «for his twenty-five years of speaking, writing, and preaching hatred of the Jews, Streicher was widely known as “Jew-Baiter Number One”. In his speeches and articles, week after week, month after month, he infected the German mind with the virus of anti-Semitism and incited the German people to active persecution. Each issue of Der Stürmer, which reached a circulation of 600,000 in 1935, was filled with such articles, often lewd and disgusting... Such was the poison Streicher injected into the minds of thousands of Germans which caused them to follow the National Socialist policy of Jewish persecution and extermination”.

The judgement of the Tribunal stated that the responsibility of Julius Streicher was based, at least in part, on the hate speech, which infused a negative staining to the attitude of the German people towards the Jews, and urged them not only to physical annihilation, but also to the Jew-baiting. That means, the hate speech, which prompts not only to destruction, but also to prosecution, should be punished in a similar way.

Another person, convicted by the abovementioned judgement, is Hans Fritzsche, who was the head of the broadcasting department of the Ministry of Public Enlightenment and Propaganda. Radio, as you know, was the main media in Nazi Germany. Subsequently, he was promoted to the post of the head of newsroom in the relevant ministry. In the Nuremberg Trial judgement, he was charged with conspiracy to commit crimes against peace, war crimes and crimes against humanity. It was noted in the verdict that “the accusation is based on deliberate falsification of news which was aimed at inciting the German people to acts of violence”. Despite the acquittal at the Nuremberg trials due to the lack of proof, Fritzsche was soon sentenced to 9 years in prison by the West German denazification court for inciting anti-Semitism.

Similarly, one can recall the well-known cases of the International Criminal Tribunal for Rwanda, which stated that the reports in the magazine and the related broadcasts of the television channel created a climate of harm and caused the persecution of the Tutsi people. Consequently, it turns out that not only direct appeals to violence are harmful, but also the speeches, generating fear, hatred and, finally, creating conditions for genocide.

As for the Universal Declaration of Human Rights, it should be noted that, according to the researchers, the most fierce argument during the discussion of its text were concentrated around Article 19 and freedom of speech. The question arose: how tolerant

should society be for freedom of speech? In the light of the recent history of fascist propaganda that led to World War II, and while Western states stood for absolute freedom of speech, the states of the communist bloc insisted on limiting particularly the hate speech. In this regard, it is expedient to quote the Soviet diplomat Alexander Bogomolov: «...It cannot be said, that the prohibition of propaganda of racial, national or religious hatred is a violation of the right to freedom of the press or freedom of speech. There is a thin line between Hitler's racial propaganda or any other kind of advocacy that incites racial, national or religious hatred and the one, inciting war. Freedom of the press and freedom of speech cannot serve as an excuse for spreading views that poison public opinion. Propaganda in favor of racial or national exclusiveness or superiority serves only as an ideological mask for imperialistic aggression”.

While the Soviet Union and other socialist states did not succeed during discussion of the Universal Declaration of Human Rights, they won in the discussion of the International Covenant on Civil and Political Rights. The minutes of the meetings show that once again the enormous debate took place between the representatives of Western democracy and representatives of the Communist bloc. However, this time the victory was on the side of the Communist bloc. Thus, Article 20 (2) of the International Covenant stipulates that “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”.

It is interesting to mention that the United States ratified the International Covenant on Civil and Political Rights with a reservation to Article 20 (2) as contradicting the First Amendment to the US Constitution.

Finally, we are moving on to the European Convention on Human Rights.

The European Court, in order to provide an assessment of the issue of hate speech, unfavorable speech or speech, constituting any conflict with the right, guaranteed by the Convention, use the following two approaches. Firstly, the Court may entirely exclude the consideration of such a speech from the scope of protection of Article 10 of the Convention, applying Article 17 of the Convention. Besides that, the Court may consider the case under Article 10 (2) of the Convention, establishing whether the restriction of freedom of speech was necessary in a democratic society, or whether it was committed in accordance with the law and whether it pursued a legitimate aim.

Exceptions under Article 17 of the Convention

First of all, we will examine the application of Article 17 of the Convention, which is often called the “guillotine position”. According to it, “nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention”. The purpose of Article 17 is not to restrict the rights under the Convention, but rather to ensure the system of democratic values laid down in the Convention.

As one of the leaders of the French Revolution, Louis Antoine de Saint-Just, said: “There is no freedom for the enemies of freedom”. Just as the author of “Theory of Justice” John Rawls noted: “Justice does not require that men must stand idly by while others destroy the basis of their existence”.

In this way, Article 17 of the Convention expresses the idea of a militant democracy, i.e. a democracy that is capable of defending itself. The Convention, born from the dark pages of the history of mankind, cannot logically provide opportunities and means for returning back to the past.

On this occasion, there is a brilliant quotation of Nazi ideologist Joseph Goebbels: “one of the most ridiculous aspects of democracy has always been that it supplies its deadly enemies with weapons, through which it can be destroyed».

The European Court of Human Rights in its judgement on *Lawless v. Ireland* case noted that «the purpose of Article 17, insofar as it refers to groups or to individuals, is to make it impossible for them to derive from the Convention a right to engage in any activity or perform any act aimed at destroying any of the rights and freedoms set forth in the Convention; whereas, therefore, no person may be able to take advantage of the provisions of the Convention to perform acts aimed at destroying the aforesaid rights and freedoms”. The fight against racism, anti-Semitism, hatred, or the struggle for freedom of speech – each of those is a struggle for a higher level of the culture of society. No one defends the restrictions on expression of views or opinions that should take place in a pluralistic, democratic society. However, democracy should also have the right to protect itself, before it’s too late. Here it is expedient to quote the philosopher Karl Popper: “We should therefore claim, in the name of tolerance, the right not to tolerate the intolerant”.

In the practice of the European Court, Article 17 of the Convention is applied extremely rare. Realizing that this article itself can be the context of numerous abuses, the Court is very cautious with it. For the first time the Court applied it in the context of the Cold War in the case of the *Communist Party (KPD) v. the Federal Republic of Germany*, noting that the establishment of “the communist social order through the proletarian revolution and the dictatorship of the proletariat” is contrary to the Convention.

Although the political activities of this party were not declared unconstitutional at the time, the Commission concluded that it had not renounced its revolutionary goals (Decision of 20 July 1957, Yearbook 1, p. 222).

In addition, considering the scope of Article 17 of the Convention, we are talking about nihilism (denial). It is clear that the denial of the Holocaust calls for the application of Article 17 of the Convention.

For the first time, such conclusions were contained in the case *Lehideux and Isorni v. France*. It concerned a brochure, released in one of the daily French publications, which goal was to rehabilitate the image of Marshal Petain, the head of the Nazi-controlled Vichy regime. The authors of this brochure noted that Petain was playing a double game, pretending to collaborate with the Nazi but, in fact, he acted in favor of France. The French government, in turn, argued that the sanctions against the publication were justified, since the story of Marshal Petain’s double game was refuted by historians and the publication was intended solely to “whitewash” his image. In these circumstances, the Government insisted on the application of Article 17 of the Convention. The European Court noted that its competence does not include the settlement of issues, that are part of the ongoing debate among historians about these events and their interpretation. This issue does not fall into the category of well-established historical facts, such as the Holocaust, so its denial or revision is deprived of the protection of Article 10 by virtue of Article 17 of the Convention. Consequently, the extension of Article 17 to the denial of the Holocaust was indicated in this case *obiter dictum*.

The next case of the European Court on this matter is *Garaudy v. France* case, related to the condemnation of pseudo-historian Roger Garaudy for a series of excerpts in the book that were interpreted by the French courts as a denial of the Holocaust, racial slander and incitement to racial hatred. In this case, the European Court gave further consideration to the issue covered in the previous case and noted that denying the reality of well-established historical facts such as the Holocaust undermines the values on which the fight against racism and anti-Semitism is based and poses a serious threat to public order. Such

acts are incompatible with democracy and human rights, since they violate the rights of others, respectively, they can be seen as an attempt to renew the Nazi regime. This case demonstrates that in order to apply article 17 of the Convention, in addition to the usual denial of facts, in particular, the denial of the Holocaust as such, it is necessary that the supporters of that denial have intentions for the resumption of Nazism or incitement to racial hatred.

This approach has been changed by the Court in the case of *Witzsch v. Germany* in 2005. It was about a letter containing statements that impugned the responsibility of Hitler and his party for the extermination of Jews. It means that it was not a classic case of a denial of the Holocaust, because the author doubted neither the Holocaust nor the existence of gas chambers. This was the main distinction between this case and the above-mentioned case of *Garaudy v. France*. During the hearing, in order to dismiss the complaint on the basis of Article 17 of the Convention, the Court had to expand the previously established principle, considering that not only the denial of the Holocaust itself, but also a denial of another equally significant and established circumstances connected with it, fall within the scope of Article 17 of the Convention.

Denial of the Holocaust, tolerant attitude towards it, and denial of another historical facts connected with it shouldn't be permitted in a democratic society. I would point out that a base for the Holocaust denial was developed by the Nazis before the fall of the Reich and the destruction of the concentration camps.

The historians point to the stories of the victims-prisoners of concentration camps, according to which German torturers made fun saying the following: "Even if some of you stay alive, and also in the presence of certain evidence, everything you say will be so horrible that nobody will believe you, instead, they will believe us, because we will deny everything". The fascists believed that even at worst, in case of their loss, everything they had done would not be confirmed and would be forgotten.

I want to share a story with you, which I have heard from Cherif Bassiouni, the father of the international criminal law, who had been investigating the acts of genocide in Bosnia for a long period of time, was one of the initiators of the International Criminal Court, the author of the Roman statute, and the leading expert of the United Nations. The international criminal law, as you know, was born at the end of the First World War, when humanity was shocked by meaningless human losses, when it sought to establish the justice and, among other things, punish the perpetrators. As it is known, the First World War ended with the conclusion of a number of peace agreement, which, among other things, concerned the prosecution of those responsible of numerous human losses. From the beginning, the list of guilty persons contained 22 thousands of names. However, afterwards, considering unreality of this number, the list was shortened to a couple of thousands, and later, to several hundreds. As a result, only 22 persons were charged and only 19 of them were sentenced to imprisonment for a term of 3 years maximum. In the first lists of the accused persons there were the key Ottoman empire officials - for the Armenian Genocide in 1915. But it is about 1919, when Turkey occupied an extremely important geopolitical position controlling the Bosphorus, on the other side of which Communist Russia was growing. Thus, nobody wanted to annoy the Turks. The justice was replaced by the considerations of "real politics". The secret protocol, according to which all Turkish generals were amnestied, was concluded in Lausanne in 1923. Bassiouni narrates that in 1939, right before the invasion of Czechoslovakia and Poland, the key Wehrmacht officials were not thrilled with such an idea, because they perfectly remembered all the attempts of prosecution after the First World War. The night before the invasion, Hitler had a conversation with Commander-in-Chief of the Wehrmacht, who explained his considerations in this regard. Hitler's answer was simple: "Listen, who remembers about Armenians now?" Thus, only 20 years passed, and the world

had already forgotten about the tragedy that took lives of 1 million people. The next day, the invasion of German troops happened.

People say that history does not know subjunctive mood. However, there is every reason to believe that if at that moment the Armenian Genocide had been admitted and all those involved had been punished, probably there would be no Holocaust. It is assumed that in case of the absence of recognition of such facts, the presence of doubts on this matter, and the absence of justice, such actions can be repeated again.

That is exactly why such a strict demand to instantly react to the denial of the Holocaust has been worked out. But what about another crimes against humanity, besides the Holocaust?

It is known that there are huge debates about the Armenian Genocide, in which there is more politics than history or law. For example, on the eve of the elections in France, Nicolas Sarkozy forced his political party to vote for the law on criminalization of the denial of the Armenian Genocide. However, this law did not enter into force since the Constitutional Council declared it unconstitutional.

In Ukraine, we also have debates concerning the Holodomor 1932-1933. In 2006, the Law “On the Holodomor in Ukraine in 1932-1933” was passed. The Supreme Council of Ukraine admitted it as the act of genocide and established the punishment for the public denial of it. But this Law has not been applied. As an example, we can remember the claim against Victor Yanukovich, who in April 2010 made a statement that the admitting the Holodomor as the act of Genocide is not right and unfair, because it was the result of the Soviet policy and it was not supposed to destroy the Ukrainians solely. This claim was dismissed by the national courts.

The European Parliament and the Parliamentary Assembly of the Council of Europe avoid any recognition of the Holodomor as genocide. However, they declared it the crime against humanity in their Resolutions. Regarding the Armenian Genocide, it is worth remembering one of the most sensational cases examined by the Court on this matter - *Perinçek v. Switzerland*. Criminal Code of Switzerland punishes the justification and the denial of the acts of genocide or any other crime against humanity. Swiss court was the first in history that found a person guilty of denial of the Armenian Genocide. The accused, Mister Perinçek, did not deny the existence of massacres, deportation, and atrocity, but he reckoned that this atrocity was reciprocal, so he came to conclusion that recognizing these actions as genocide is “international lie”.

During the consideration of this case by the Court, the Government of Switzerland insisted on applying of the Article of 17 of the Convention, which the European Court refused to do. It accepted that some remarks made by the applicant were provocative. Speaking of these events, the applicant referred to the definition of “international lie”. Nevertheless, ideas that offend, shock, or excite are also protected by Article 10 of the Convention. The applicant by no means questioned the existence of the massacres and deportation, he only denied the legal characteristic of these events as the “genocide”. The Court considers that the denial of the legal qualification of the events that took place in 1915 as the genocide does not, as such, incite hatred towards the Armenian people. The applicant has never been accused or convicted of the justification of the genocide or incitement to hatred. He also did not express negative attitude towards the victims of those events. That is why the Court ruled that there are no reason to apply Article 17 of the Convention.

In the Chamber’s judgment, the Court recognized that Switzerland violated Article 10 of the Convention, since the applicant expressed his views on the issue of relations between Turkey and Armenia as a politician. He expressed his vision of the legal qualification of the

events as genocide, that is, his speech had historical, legal, and political character.

In addition, the Court emphasized the lack of the European consensus on this issue. Thus, among the hundred and ninety countries of the world, only twenty officially recognized the Armenian events as genocide. The final judgment in this case was taken after its reconsideration by the Grand Chamber on 15 October 2015.

Nevertheless, this judgment does not mean that the denial of the crimes against humanity cannot trigger the application of Article 17 of the Convention. Although the Court has never applied this Article to this category of cases, the possibility of its application was indicated *obiter dictum*. For example, the case of *Orban and Others v. France* dealt with a book titled “Special Services of Algeria”, published by the applicants, which concerned massacres and tortures committed by the French during the war in Algeria. The applicants were accused of public defence of war crimes. The Court noted that statements unequivocally seeking to justify war crimes, such as torture or mass executions, are an attempt to divert Article 10 of the Convention from its direct purpose. However, in this case the Court did not consider that the book pursued such a goal. This was rather a historical discussion, and that is why the Court refused to apply Article 17 of the Convention, noting however that theoretically it is possible.

Similar conclusions of the Court were stated in the case of *Janowiec and Others v. Russia*, which concerned the execution in Katyn. The Court confirmed its permanent position that denying crimes against humanity such as the Holocaust contradicts the fundamental values of the Convention and democracy, namely, justice and peace. The Chamber of the Court noted that the position of the Russian authorities, which denied the real executions that took place in the Katyn forest, is contrary to the fundamental values of the Convention.

The language of racial and ethnic hatred does not enjoy the protection of the Convention under Article 17. In the case of *Grimmerveen and Hagenbeek v. The Netherlands*, which was examined by the European Commission back in 1979, the applicants were convicted of distributing leaflets to “white” Dutchmen demanding to remove all “non-white” persons from the territory of the Netherlands. In the inadmissibility decision, the European Commission decided that the applicants’ position clearly contained elements of racial discrimination prohibited by the Convention and other international instruments, respectively, they could not enjoy the protection of the Convention.

Similarly, in the case of *Pavel Ivanov v. Russia*, which was declared inadmissible by the Court, the applicant, the owner of the newspaper, was found guilty of inciting ethnic hatred through the media. The Court noted that the applicant accused the entire ethnic group of plotting a conspiracy against the Russian people and ascribed Fascist ideology to the Jewish leadership. “He consistently denied the Jews the right to national dignity, claiming that they did not form a nation. The Court ... has no doubt as to the markedly anti-Semitic tenor of the applicant’s views and it agrees with the assessment made by the domestic courts that he sought through his publications to incite hatred towards the Jewish people. Such a general and vehement attack on one ethnic group is in contradiction with the Convention’s underlying values, notably tolerance, social peace and non-discrimination. Consequently, the Court finds that, by reason of Article 17 of the Convention, the applicant may not benefit from the protection afforded by Article 10 of the Convention”.

In comparison, it is worth remembering the case of a refugee from Rwanda named Leon Mugesera, which was examined by the Supreme Court of Canada in 2005. The Court had to decide whether the prosecution for the crime of hate speech was severe enough to preclude the possibility of granting asylum under Canadian law. Mr. Mugesera, an extremist politician, made a disgraceful speech at a political meeting in 1992, in which

he made an attempt to blacken the *Tutsi* people, calling them “cockroaches”. His speech was so powerful that it have risen the fierce hatred towards the *Tutsi*, which later led to the Rwandan tragedy. Indeed, he found an exact symbol, because in fact nobody likes cockroaches. Therefore, it happened that people who had been neighbors for all their lives instantly imagined that *Tutsi* are cockroaches that must be destroyed.

My colleague, the Judge of the European Court of Human Rights from Norway, Erik Møse, who once served as the chairman of the International Tribunal for Rwanda, told many horrifying stories in this regard. For example, during the interrogation of a *Hutu* woman of a very old age, who could not even kill a fly in her lifetime, or cut plants without regret (they also felt pain!), she explained that she killed *Tutsi* absolutely easy and without any doubts. She said: “Well, yes, of course, but they’re cockroaches”. The image of cockroaches invented by Mugesera was really powerful. In this case, the Supreme Court of Canada noted that “the harm in hate speech lies not only in the injury to the self-dignity of target group members but also in the credence that may be given to the speech, which may promote discrimination and even violence”, which actually happened.

On the question of religious hate speech, it is worth recalling the European Court’s decision on inadmissibility of the application in the case of *Norwood v. The United Kingdom*. The applicant, who was the regional organizer of the British National Party, hung a poster in the window of his apartment with the words: “Islam out of Britain – Protect the British People!” He was accused of displaying, with hostility towards a racial or religious group, any writing, sign or other visible representation which is threatening, abusive or insulting. The Court notes and agrees with the assessment made by the domestic courts, namely that “the words and images on the poster amounted to a public expression of attack on all Muslims in the United Kingdom. Such a general, vehement attack against a religious group, linking the group as a whole with a grave act of terrorism, is incompatible with the values proclaimed and guaranteed by the Convention, notably tolerance, social peace and non-discrimination. The applicant’s display of the poster in his window constituted an act within the meaning of Article 17, which did not, therefore, enjoy the protection of Articles 10 or 14”.

Article 10 § 2 of the Convention

Having examined the position of the European Court on application of Article 17 of the Convention with regard to the topic of hate speech, we turn to situations where it is inapplicable. Therefore, the Court considers the necessity for interference with freedom of speech under Article 10 § 2 of the Convention. How then is it possible to determine the boundaries of freedom of speech, given that freedom of expression, as is known, is applicable not only to the “information” or “ideas” that are favorably received, but also to those which offend, shock, or disturb the state or any part of the population, considering that these are the requirements of pluralism, tolerance, and breadth of views?

Let us try to delineate the boundaries of hate speech. In this regard, the Committee of Ministers of the Council of Europe adopted recommendations which note that “the term ‘incitement to hatred’ is interpreted as a concept covering all forms of expression that include the dissemination, provocation, promotion or justification of racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance in the form of aggressive nationalism or ethnocentrism, discrimination and hostility towards minorities, migrants and persons with emigrant roots”.

In the Court’s practice, there is no clear definition of hate speech, but there are certain parameters by which the Court evaluates such speech. Context and intent are two basic elements that are pragmatically evaluated in terms of their ability to convince, direct an audience, and incite it to the implementation or non-implementation of a particular deed.

The speaker's status, form, and influence of speech are additional elements that should also be kept in mind.

Glorification of violence

In accordance with the Court's practice, glorification of violence includes incitement to violence and hostility, taking into account the intention of the speaker. The test, which is used in such cases, is very similar to the American *clear and present danger* test. In the case of *Arrowsmith v. The United Kingdom*, the applicant was convicted of distributing leaflets in a military camp aimed at keeping the British military from performing their duties in Northern Ireland. Seeing the extreme complexity of the situation in Northern Ireland at that time, the significant number of victims as a result of constant clashes with terrorists, the European Commission first decided to examine the contents of these leaflets. It was found out that they have not just expressed political thought, but they could be interpreted as encouraging soldiers to desertion. Since the desertion of soldiers poses a threat to national security even in times of peace, the Commission concluded that the applicant's conviction by the national courts was in accordance with the legitimate aim. It remained to find out whether it was necessary in a democratic society. In this regard, the applicant insisted that the European Commission applied the above-mentioned *clear and present danger* US Supreme Court doctrine. The Commission, in turn, did not reject it, but on the contrary acknowledged that the notion "necessary in a democratic society", from the point of view of Article 10 of the Convention, implies a "pressing social need", which may include a *present and imminent danger* test, and should be evaluated in the light of the circumstances of a particular case. In this regard, it is worth recalling the aforementioned case of *Schenck v. United States*, which is very similar. The Commission recognized the criminal prosecution a pressing social need. "Given the special characteristics of life in the army, the restrictions on the freedom of expression of the applicant were within the discretion left to the British authorities to determine such restrictions necessary to prevent indiscipline, as well as for the reasons indicated above, and are contained in Article 10".

Two dissenting opinions were added to this case, in particular, Judge Torkel Opsahl believed that "applicant's action remotely threatened public policy, this is not in my opinion a sufficient justification for interference under the system of the European Convention whose claim to credibility it is very important to preserve in the world-wide debate on human rights". That is, he used the element of the test of urgency, and believing that there was no immediate threat, immediate harmful influence from her leaflets, he voted for violation of Article 10 of the Convention. Another judge, Nik Klecker, noted, "at a time in our history, when so many are prepared to either advocate the use of violence to achieve political ends or adopt violent means themselves, a large measure of protection should be afforded to who seek to express their voice of disapproval in moderate non-violent terms. It must be clear that there are alternatives to violence in a society that claims to be democratic".

Subsequently, the Court developed its approach to the issue of glorifying violence in a number of cases against Turkey concerning the situation with Kurdistan.

It is interesting to note that if you replace the words "the Turkish army" with "the Ukrainian army" and "Kurdistan" with "DPR, LPR" in the texts that the European Court assessed at that time, then looking through some of today's news in the media and social networks it can be seen that some sayings and speeches are absolutely identical. Everything, unfortunately, can repeat itself.

The crucial decision in which the Court established the necessary principles was the judgment in the case of *Zana v. Turkey*. The applicant was the former mayor of the Turkish city, and during his stay in prison he gave an interview, noting that he "supports the PKK

(the Kurdistan Worker’s Party) national liberation movement; on the other hand, he was not in favour of massacres. Anyone can make mistakes, and the PKK kill women and children by mistake ...” He was convicted for glorification or defence of a serious crime. The Court did not find a violation of Article 10 of the Convention in the applicant’s conviction.

Interference with Mr. Zana’s freedom of speech had a legitimate aim, namely, protection of national security and public order. The Court took into account the sensitivity of the security situation in South-Eastern Turkey, where there were constant clashes between the PKK forces and the Turkish army, which led to the death of civilians.

Applying the criteria developed in its own case-practice, the Court concluded that the applicant’s allegations were contradictory and ambiguous, as he supported the PKK, which is a terrorist organization and resorts to violence to achieve its goals. At the same time, he declared himself an opponent of violence, and the death of women and children he described as “mistakes”. However, these allegations cannot be assessed outside the context, and the Court attached special importance to the general Turkish context in which these statements were made. Besides, this interview coincided with the PKK’s deadly attacks on civilians in the southeast of Turkey, where there was extreme tension at that time. The Court noted that in this context the words are likely to exacerbate an already explosive situation in the region: “In those circumstances the support given to the PKK – described as a “national liberation movement” – by the former mayor of Diyarbakır, the most important city in south-east Turkey, in an interview published in a major national daily newspaper, had to be regarded as likely to exacerbate an already explosive situation in that region”. This judgment was passed by a small majority - 12 votes in favour, 8 - against.

Some judges disagreed with the majority’s decision, noting that the former mayor was in prison during the interview. Accordingly, the influence of his words was not so significant. Other judges believed that the fact that this interview was printed in Istanbul - far from the site of events - also reduced the impact of this interview on society. In this case, we can see how the Court defined the aforementioned limits of hate speech, in particular, the circumstances of the speech - the security situation in southeast Turkey, the authority of the speaker, and the place of distribution of this text. While examining these aspects, the Court tried to assess the likelihood of damage from Mr. Zana’s statements, and this position – “act and effect” - quite clearly resembles the American *clear and present danger* doctrine, without additional requirements for urgency, which were later introduced into the American jurisprudence.

In another case, *Sürek v. Turkey* (no. 1), the applicant was convicted of disseminating propaganda against the territorial integrity of the state after the publication of the letters of two readers in the newspaper he owned. The letters contained excerpts with the words: “Prior to the intensification of the national liberation war in Kurdistan, the fascist Turkish army continues to carry out bombings”. The Court in this case noted that there was a clear intention to stigmatise the other side to the conflict by the use of labels such as “the fascist Turkish army”, “the Turkish murder gang” and “the hired killers of imperialism” alongside references to “massacres”, “brutalities” and “slaughter”. In the view of the Court the impugned letters amount to an appeal to bloody revenge by stirring up base emotions and hardening already embedded prejudices which have manifested themselves in deadly violence: “Furthermore, it is to be noted that the letters were published in the context of the security situation in south-east Turkey... In such a context the content of the letters must be seen as capable of inciting to further violence...”

“...The Court reiterates that the mere fact that “information” or “ideas” offend, shock or disturb does not suffice to justify that interference. What is in issue in the instant case, however, is hate speech and the glorification of violence”.

By eleven votes to six, the Court found no violation in this case. Judges who disagreed with the majority opinion believed that the applicant's statements were abstract, remote in time and space from the actual place or prepared violence, and in this situation freedom of speech must prevail. Other judges believed that freedom of expression protected by the Convention could only be limited when there was direct incitement to commit serious crimes. Thus, Judge Giovanni Bonello noted: "I believe that punishment by the national authorities of those encouraging violence would be justifiable in a democratic society only if the incitement were such as to create a clear and present danger. When the invitation to the use of force is **intellectualised, abstract, and removed in time and space** from the foci of actual or impending violence, then the fundamental right to freedom of expression should generally prevail".

In another case, *Şener v. Turkey*, the applicant was convicted of publishing an article containing, in the Government's opinion, separatist propaganda. The article was about the situation of the Kurdish people in the southern part of Turkey, and it began with the words: "We are watching the wholesale extermination of a nation. We are watching a genocide on such a scale that it is not a mistake to call it unprecedented". The article contained sharp criticism of the policy of the Turkish government and the armed security forces against the people of Kurdish origin. The author criticized the general approach of experts to the Kurdish problem, noting that Kurdish reality should be recognized, and urged "to hear the Kurds instead of resorting to military action". He expressed regret that blood was pouring between the brotherly nations and his discontent with all kinds of chauvinism. The Government, in turn, insisted that the applicant's statements that "we forget the axiom that the only way to oppose a war is to wage a just war" was a clear incitement and encouragement to violence. The Government also argued that, in the context of the fierce campaign of terrorism, the applicant had to be punished. The European Court disagreed with it, although it stressed that "duties and responsibilities" which accompany the exercise of the right to freedom of expression by media professionals assume special significance in situations of conflict and tension. Particular caution is called for when consideration is being given to the publication of views which contain incitement to violence against the State, lest the media become a vehicle for the dissemination of hate speech and the promotion of violence.

At the same time, where such views cannot be so categorised, Contracting States "cannot, with reference to the protection of territorial integrity or national security or the prevention of crime or disorder, restrict the right of the public to be informed of them by bringing the weight of the criminal law to bear on the media".

The Court noted that although some of the phrases among the applicant's statements had an aggressive purpose, they did not glorify the violence. The Court, by six votes to one, found a violation of Article 10 of the Convention. The only judge who disagreed with the majority and considered that there was no violation was the national judge. He noted that support of the creation of an independent Kurdish state in that special situation was a frank support of terrorists that may be equated with a call for violent actions.

The last case worth mentioning in this context is the case of *Düzgören v. Turkey*, in which the applicant, a journalist, distributed a leaflet about the person who refused to serve in the army on the basis of his religious belief. As a result of this, the applicant was convicted. The leaflet contained the following phrases: "The army, unable to deal with us through judicial methods, think that they can draw the opponents of war away from the public view... I am not a soldier and I never will be. Of course, I am aware that I will be summoned for military service, but until I am summoned, whenever that may be there will be no changes to my lifestyle. They can find me here and take me by force. But I will resist to the end in the barracks, and I am underlining that I will refuse to do military service in any shape or

fashion". The respondent Government stated that compulsory military service in Turkey was necessary in order to protect national and public security. They argued that the applicant committed an offense of incitement to deviation from military service.

The Court distinguished this case from the case of *Arrowsmith v. The United Kingdom*, mentioned above, by pointing out that although the words used in the article endue a negative connotation to military service, they do not promote violence, armed resistance, or insurrection, and cannot be called a hate speech. In addition, while in the case of *Arrowsmith* the applicant handed out leaflets directly to the soldiers who were already supposed to go to war in Northern Ireland, in this case the leaflets were distributed not in the place of congestion of the soldiers who were supposed to go to the south of Turkey for military operations, but in the centre of the state. In the opinion of the European Court, unfavourable leaflets, both in their form and in content, were not intended to cause immediate desertion from the army. That is why in the present case the Court found a violation of the Convention.

It can be seen from the above analysis that when applying Article 10 of the Convention, the Court never uses the test of "clear and present danger", as in American judicial practice. However, the Court uses certain elements of this test. In comparison with American jurisprudence, the European Court does not provide sufficiently clear instructions to the states regarding how they should act. The Court uses a fairly broad standard – "incitement to violence" - in a meaning which ultimately always depends on the discretion of the judges, the nature of the words, and the context in which they were pronounced. That is why the opinions of the judges, as we see, differ significantly in these cases, and it is rather difficult to predict whether any particular statement would be qualified by the Court as *incitement to violence*. Article 10 of the Convention is the absolute sphere of subjective opinions, where personal views of each individual judge matter significantly.

Glorification of terrorism

As an example of the glorification of terrorism, I can recall the case of *Leroy v. France*, which concerned the cartoons drawn by the applicant and published in a local newspaper. One of the caricatures depicted planes that hit the American twin towers and contained the inscription "we all dreamed of it, and Hamas did it".



The Court acknowledged that by publishing such a drawing, the applicant expressed moral support and solidarity with the perpetrators of terrorist attacks in America, demonstrating the approval of violence and humiliating the dignity of the victims. In this case the Court took into account the harmful influence of such an image, and noted that «in order to constitute an offense, provocation does not necessarily have to trigger a reaction. Although in the applicant's case it took the form of satire, ... a person enjoying the freedom

of expression must assume certain duties and responsibilities”. Thus, the Court found no violation of Article 10 of the Convention.

Glorification of totalitarianism

As of today, the question of the glorification of totalitarianism is on the front burner. In this regard, it is worth recalling the case of *Vajnai v. Hungary*, the so-called “red star case”. The Hungarian Criminal Code penalizes the distribution, public use, and display of symbols of a totalitarian regime, including the red star. It is interesting that the constitutionality of this provision of the Criminal Code was confirmed by the decision of the Hungarian Constitutional Court, which stated that “... allowing an unrestricted, open, and public use of the symbols concerned would, in the present historical situation, seriously offend all persons committed to democracy who respect the human dignity of persons and thus condemn the ideologies of hatred and aggression, and would offend in particular those who were persecuted by Nazism and communism. Accordingly, the historical experience of Hungary and the danger to the constitutional values threatening Hungarian society reflected in the potential publicly to demonstrate activities based on the ideologies of former regimes, convincingly, objectively and reasonably justify the prohibition of such activities and the use of the criminal law to combat them ...”

In this case, the applicant, who was the vice-president of the left-wing workers’ party, was convicted of appearing with a red star on his jacket at a public demonstration in which he took part as a speaker. The Court pointed out that it is mindful of the fact that the well-known mass violations of human rights committed under communism discredited the symbolic value of the red star. However, in the Court’s view, this symbol cannot be understood as representing exclusively communist totalitarian rule. The Court therefore considers that the ban in question is too broad in the light of the multiple meanings of the red star.

The Court referred to the fact that the red star is also used by various labor movements and certain legitimate parties in European countries. As regards the goal of preventing offenses, the Court noted that the Government have not referred to any instance where an actual or even remote danger of disorder triggered by the public display of the red star had arisen in Hungary. The containment of a mere speculative danger, as a preventive measure for the protection of democracy, cannot be seen as a “pressing social need”. The court also stressed that “... the potential propagation of that ideology, obnoxious as it may be, cannot be the sole reason to limit [the red star usage] by way of a criminal sanction. A symbol which may have several meanings in the context of the present case, where it was displayed by a leader of a registered political party with no known totalitarian ambitions, cannot be equated with dangerous propaganda...”

The Court is of course aware that the systematic terror applied to consolidate communist rule in several countries, including Hungary, remains a serious scar in the mind and heart of Europe. It accepts that the display of a symbol which was ubiquitous during the reign of those regimes may create uneasiness among past victims and their relatives, who may rightly find such displays disrespectful. It nevertheless considers that such sentiments, however understandable, cannot alone set the limits of freedom of expression”.

Given this, the Court used the altogether untypical phrase: “In the Court’s view, a legal system which applies restrictions on human rights in order to satisfy the dictates of public feeling – real or imaginary – cannot be regarded as meeting the pressing social needs recognised in a democratic society, since that society must remain reasonable in its judgement”.

As a result, the European Court found a violation of Article 10 in this case.

Language of racial hatred

The European Court has repeatedly considered the issue of racial hatred, in particular, anti-migration and anti-Islamic discourse in the media. In the case of *Féret v. Belgium*, the applicant, a member of Parliament, a member of the ultra-right party, was convicted of public incitement to racial discrimination and hatred. A leaflet was distributed with the slogan of his political party - the hand holding the tricolor - with the words: «Let's protect our colors.» On the basis of such slogan, «our colors» could have been understood as, for example, the colors of the flags of Belgium or France. However, in fact, it was about the colors of skin. That is, in reality there was a dirty wordplay. Moreover, in this leaflet, the applicant described non-European, emigrant communities as having a purely criminal mentality and wishing to use social benefits for their own purposes by living in Belgium. That is, he sought to ridicule them and cause a certain negative attitude towards them. The Belgian courts demonstrated a certain sense of humor too: at the national level, the applicant was sentenced to 250 hours of work with migrants. He was also forbidden to be elected to the representative authorities for ten years.

The European Court in this case concluded that there was no violation of Article 10 of the Convention. It is interesting that the Court noted that the influence of such racist and xenophobic statements during the election campaign is stronger than at any other time. The Court recognized the existence of a pressing public need to prevent disorders and protect the rights of others.

The Court emphasized that «incitement to hatred is not limited to calling for specific acts of violence or other crimes. Insults, ridicule, or defamation directed against specific groups of population, or incitement to discrimination, as in this case, are sufficient enough to prioritize combatting hate propaganda, when authorities face irresponsible use of freedom of expression that degrades human dignity and undermines security. Political speech that raises hatred based on religious, ethnic, or cultural prejudices constitutes a threat to social peace and political stability in democratic states ...»

The judgment in this case, which was obvious at first glance, was taken by four votes to three. In his dissenting opinion, Judge András Sajó noted that “content regulation and restriction imposed on speech depending on its content are based on the assumption that some statements are contrary to the “spirit” of the Convention. However, the term “spirit” does not provide clear standards and is open to abuse. People, including judges, are inclined to label statements they disagree with as frankly unacceptable and consequently exclude them from the ambit of protected freedom of speech. However, it is precisely when we are confronted with ideas that provoke our hatred or disgust, that we must be the most cautious in our judgments, insofar as our personal beliefs risk influencing our conclusions about what is truly dangerous”.

Religious Hatred

The matter of religious hatred is the most difficult subject. The Court's judgment in the case of the *Otto-Preminger-Institut v. Austria* may be used as an example. The applicant was a private association that complained about the confiscation of a film called *Council in Heaven*, which they planned to release for public display. The film was based on the play written back in the late 19th century during the spread of the first wave of syphilis. This play was quite satirical, as its author believed that such a disease as syphilis is, to a certain extent, a revenge for blindly following dogmas, while the real meaning of faith remains unapprehended. These statements of the author were condemned even back then, at the end of the XIX century. The mentioned film combines the episodes from this play and from the trial of its author. In the film, the Virgin Mary and Jesus Christ are depicted in an absolutely unattractive manner. The film was confiscated for contempt of religious precepts.

The applicant company, accordingly, complained to the Court of violation of Article 10 of the Convention.

It is worth mentioning that the recent scandal in Russia on the matter of production of the opera *Tannhauser* by Richard Wagner concerned the same issue. The prosecutor's office stated that the author has publicly desecrated the object of religious worship of the Christian faith.

In the above mentioned case against Austria, the Court found no violation of the Convention by pointing out that «whoever exercises the rights and freedoms enshrined in the first paragraph of that Article (Article 10-1) undertakes “duties and responsibilities”. Amongst them - in the context of religious opinions and beliefs - may legitimately be included an obligation to avoid as far as possible expressions that are gratuitously offensive to others and thus an infringement of their rights... In seizing the film, the Austrian authorities acted to ensure religious peace in that region and to prevent that some people should feel the object of attacks on their religious beliefs in an unwarranted and offensive manner». In other words, the Court concluded that when the matter of protection of religious beliefs is at stake, considerations of public order may also be relevant, which include prevention of an open conflict between different religious groups. The minority of judges disagreed, believing that in this case, the film did not imply offending the feelings of others, since the annotation to the film clearly described its plot. In fact, it did so sufficiently clearly to enable the religiously sensitive public to make an informed decision to stay away. A number of judges also noted that “the Convention does not, in terms, guarantee a right to protection of religious feelings. More particularly, such a right cannot be derived from the right to freedom of religion, which in effect includes a right to express views critical of the religious opinions of others».

Subsequently, the Court, in its judgment in the case of *I.A. v. Turkey* assessed not only insulting or shocking comments or “provocative” thoughts, but also “an insulting attack on the Prophet of Islam”: “Notwithstanding the fact that there is a certain tolerance of criticism of religious doctrine within Turkish society, which is deeply attached to the principle of secularity, believers may legitimately feel themselves to be the object of unwarranted and offensive attacks... The Court therefore considers that the measure taken in respect of the statements in issue was intended to provide protection against offensive attacks on matters regarded as sacred by Muslims”. The judgment in this case was taken by four votes to three. The minority of judges indicated that “the time has perhaps come to “revisit” this case-law, which in our view seems to place too much emphasis on conformism or uniformity of thought and to reflect an overcautious and timid conception of freedom of the press”.

Actually, in my opinion, the problem is not that conformism receives too much attention; the problem is much more significant. It is that the Court equates blasphemy, that is, assaults on God, to assaults on believers. It is a rather dangerous trend. I wonder what decision the Court would have taken on this matter today, after the attack on *Charlie Hebdo*¹⁵⁰. After all, it is one thing when the personal dignity of a person or a religious or ethnical group is offended, and quite another thing is when it comes to, as in the above case, “an insulting attack on the Prophet of Islam”.

On this occasion, I would like to quote a remarkable Russian poet Andrei Orlov (Orlusha), who wrote a poem the next day after the attack on the editorial board of *Charlie Hebdo* was committed (in the original language):

150 French satirical weekly.

Клоуны в лужах крови уснули,
Дойдя последней линии до.
Хулили Бога, а Богу – хули?
Бог не читает «Шарли Эбдо».

В мозги, как в масло, входили пули
Текло что-то липкое цвета бордо.
Во имя Бога? А Богу – хули?
Бог не читает «Шарли Эбдо».

Смерть для Бога – дело житейское.
- Журнал бы смешнее делать могли, -
Ворчал Создатель, по Елисейским
Шагая с плакатом Je Suis Charlie.

Его в толпе узнавали люди –
В ночнушке, с нимбом и бородой,
А он гордился, что завтра будет
На новой обложке «Шарли Эбдо»¹⁵¹.

Criminalization of “insulting of religious feelings” is an extremely dangerous approach. It is not about insulting a particular group, a person, or personal dignity, but an image of what a person considers sacred for him/herself.

In this regard, it is worth to mention the Russian feminist punk rock band Pussy Riot and their unauthorized performance in the Russian temple, for which the participants of the band were accused of hooliganism based on religious hatred. Now this case is pending before the Court.

The French law of 1881, which is still in force as of today, clearly demarcates blasphemy that does not constitute a criminal offence from attacking personal dignity of believers. It is possible to imagine how many lawsuits were filed against Charlie Hebdo during the decade of their existence. However, despite of the strictness of the French laws on the protection of the rights of believers, 80% of lawsuits were decided by French courts in favor of the editorial board. According to the conclusion of the national courts, the caricature of the prophet is not a caricature of the believers.

And the last case to be recalled on the issue of religious hatred is the case of *Gündüz v. Turkey*, which deals with the relationship between democracy and sharia. The Court reiterated that “it was difficult to declare one’s respect for democracy and human rights while at the same time supporting a regime based on sharia. It considered that sharia, which faithfully reflected the dogmas and divine rules laid down by religion, was stable and invariable and clearly diverged from Convention values...[T]here is no doubt that, like any other remark directed against the Convention’s underlying values, expressions that seek to spread, incite or justify hatred based on intolerance, including religious intolerance, do not enjoy the protection afforded by Article 10 of the Convention. However, the Court considers that the mere fact of defending sharia, without calling for violence to establish it, cannot be regarded as “hate speech”.

Homophobic language

For the first time, the Court was faced with questions of homophobic speech in the case of *Vejdeland and Others v. Sweden*. In this case, four children were convicted of distributing leaflets at school with the following text: «In the course of a few decades society

¹⁵¹ The “clowns” commit murders in the name of God, who actually does not take into account what the media write about him – “The God does not read ‘Charlie Hebdo’”. Instead, the God laughs at the media satire on him and mourns the victims of the terror attacks.

has swung from rejection of homosexuality and other sexual deviances to embracing this deviant sexual proclivity. Your anti-Swedish teachers know very well that homosexuality has a morally destructive effect on the substance of society and will willingly try to put it forward as something normal and good. Tell them that HIV and AIDS appeared early with the homosexuals and that their promiscuous lifestyle was one of the main reasons for this modern-day plague gaining a foothold. Tell them that homosexual lobby organisations are also trying to play down paedophilia, and ask if this sexual deviation should be legalised».

The Court unanimously found no violation of the provisions of the Convention in this case, but noted that “attacks on persons committed by insulting, holding up to ridicule or slandering specific groups of the population can be sufficient for the authorities to favour combating racist speech in the face of freedom of expression exercised in an irresponsible manner”. The Court also took into consideration that the leaflets were left in the lockers of young people who were at an impressionable and sensitive age and who had no possibility to decline to accept them; and the Court agreed that the statements contained in the leaflets were offensive. This case is unique in that although the decision was taken unanimously, 5 out of 7 judges expressed dissenting opinions.

As noted by Judges Dean Spielmann and Angelika Nußberger in their dissenting opinion, “a real problem of homophobic and transphobic bullying and discrimination in educational settings may justify a restriction of freedom of expression [...]. Indeed, according to studies carried out across member States and supported by some government research, LGBT students suffer from bullying from both peers and teachers”.

Judge Boštjan M. Zupančič compared this case to the above-mentioned case of the US Supreme Court *Snyder v. Phelps*¹⁵², which concerned the burial of a soldier killed in Iraq. He believed that in this case also it might have been possible to establish a violation of the provisions of the Convention: «American Supreme Court takes a very liberal position concerning the contents of the controversial messages. That the statement is arguably of inappropriate or controversial character “... is irrelevant to the question of whether it deals with a matter of public concern”¹⁵³. In other words, freedom of speech in *Snyder* [...] was not to be impeded by considerations of proportionality as long as the statement in question could be “fairly considered as relating to any matter of political, social, or other concern to the community”. “Speech on public issues occupies the highest rank of the hierarchy of First Amendment values, and is entitled to special protection”¹⁵⁴.

My dissenting opinion, joined by Judge Mark Villiger, was somewhat different. In the dissenting opinion, the need for legislation on hate speech and the possible application of Article 17 of the Convention on the existence of a fine line between verbal harassment and incitement to violence was pointed out, since accusing LGBT people of spreading HIV and AIDS may provoke aggression against them. “Statistics on hate crimes show that hate propaganda always inflicts harm, be it immediate or potential...” In the words of the prominent US constitutionalist Alexander Bickel: “... This sort of speech ... may create a climate, an environment in which conduct and actions that were not possible before become possible ... Where nothing is unspeakable, nothing is undoable”.

Another case concerning homophobic speech that should be recalled is the case of *Identoba and Others v. Georgia*, the applicants in which were the victims of a clash that took place during the gay parade in Georgia between the parade participants and the representatives of the Georgian Orthodox Church. The latter “brought down” all the power of “Christian forgiveness, love, and understanding” to this march. There was both physical violence and language of hatred aimed at the parade participants. “That violence”, the

152 *Snyder v. Phelps*, 580 F. 3d 206 (2011)

153 Citing *Rankin v. McPherson*, 483 U.S. 378, 387, pp. 5-7.

154 Citing *Connick v. Myers*, 461 U.S. 138, 145 and 146.

Court pointed out, “which consisted mostly of hate speech and serious threats [...] rendered the fear, anxiety and insecurity [...] severe enough to reach the relevant threshold under Article 3 read in conjunction with Article 14 of the Convention”. That is, hate speech may in certain cases reach the threshold under Article 3.

In a rather similar fashion the Court has examined the issues of hate speech aimed against persons with disabilities (physically handicapped persons) in the case of *Đorđević v. Croatia*. The applicant - teenager with physical and mental disabilities – constantly experienced mockery from other children and adolescents. The Court pointed out that this case concerns State’s positive obligations outside the sphere of the criminal law: where the competent State authorities were aware of a situation of serious harassment and even violence directed against a person with physical and mental disabilities but failed to respond adequately to such a situation in order to properly address acts of violence and harassment that had already occurred and to prevent any such further acts, the Court found a violation of Article 3 of the Convention.

Persecution of a person on the basis of his/her mental and physical disabilities cannot go unpunished. It is worth remembering that the Holocaust arose from that. By the way, the idea of using gas chambers belongs to the Irish writer, Nobel laureate Bernard Shaw. He once expressed an opinion about reasonability of finding a gas with which it would be possible to “humanly” kill persons “unwanted” for the society (people with disabilities, elderly people who are of no use). Adolf Hitler’s team gladly seized on this idea, and the black spot forever fell on the reputation of the writer who tried to “clear himself” stating that he in no way meant any total destruction of certain groups.

Words are weapon. As Lev Tolstoy said, “one can unite people by a word, one can disconnect them by a word, a word can serve love, a word you can serve the enmity and hate”. Hate speech is a delayed-action explosive, but in conditions of extreme public tension it can become a weapon of mass destruction.

“THE CHILLING EFFECT” IN THE PRACTICE OF THE EUROPEAN COURT OF HUMAN RIGHTS

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One of the admissibility criteria of the European Court of Human Rights is violation of individual interests of an applicant (Article 34 of the European Convention on Human Rights). The application “for the protection of personal interests” (*actio popularis*), raising the issue of abstract incompatibility of the legal order of the state with the standards of the Convention is held inadmissible by the Court.

While filing an application, related to violation of freedom of expression, an applicant must meet the required conditions. Nevertheless in the course of the proceeding the general context may be more significant for the Court, than individual circumstances of the applicant.

The specific role of the mass media in the democratic society is that they constitute the arena for discussion of significant issues. Mass media collect information not for conservation in archives or libraries, but for its immediate retransmission. Due to such functions of the mass media, in the cases before the ECtHR on interference in the activity of the mass media regarding the collection and dissemination of information, the consumers of this information are invisible applicants together with journalists and editors. The same as in human body: while the blood circulation between the heart and the lungs and its oxygen enrichment is a significant part of work of the cardiovascular system, no less important is oxygen delivery to the peripheral parts. Failure in any part of the cycle has a bad effect on the entire body, therefore, when treating the heart a doctor should always remember about other organs that depend on blood supply.

In some cases before the ECtHR, such a systematic approach comes into sharp focus. In particular, this relates to cases in which the Court refers to the concept of the so-called “chilling effect”. By “chilling effect” the ECtHR means the negative consequences of state actions that go beyond the scope of the individual case and can influence the freedom of speech in the country as a whole.

Below we will discuss the above mentioned through examples of several decisions of the ECtHR. In these cases, the classical three-step test is the basis for assessing the legitimacy of interference with freedom of expression. This review does not purport to fully cover the topic and is intended to demonstrate some examples of interference with freedom of expression that may be relevant in the context of the topic of this issue.

The first two cases, which we will discuss, relate to protection of journalistic sources.

In the case ***Goodwin v. the United Kingdom*** (Application No. 17488/90; Judgment of 27 March 1996)¹⁵⁵ the ECtHR Grand Chamber found the violation of the Article 10 of the European Convention on Human Rights by 11 votes against 8 in the situation when the British courts imposed a large penalty on the journalist for his denial to disclose the sources of leak of confidential information on the financial status of the company Tetra Ltd.

Specific nature of this case is that the company was able to prevent the dissemination of information by obtaining an injunction to publish it. This ban made it impossible to disseminate information through the majority of the media. Nevertheless, during the proceeding, the national court ordered the applicant to disclose the identity of the person who provided the leak.

The ECtHR noted that the dissemination of information had already been prevented by the order of the national court, so the requirement to disclose the source added nothing to the protection of the interests of the company in this sense. However, the need for

¹⁵⁵ <http://hudoc.echr.coe.int/eng?i=001-57974>

measures taken at the national level was also justified by the fact that Tetra Ltd continued to be under constant threat of disclosure of the commercial information directly to consumers or competitors of the company by the same person, bypassing media. The ECtHR noted that in this case there was an obvious conflict between the company's interest and public concern in the existence of a free press.

The Court stressed that the protection of journalistic sources is one of the main conditions for freedom of the press. The lack of such protection can keep individuals who own information important for society from interacting with the press. Thus, the key role of the press as a “watchdog of democracy” and its ability to provide accurate and reliable information can be undermined. The potential chilling effect of the requirement to disclose the source of information makes such a requirement incompatible with the provisions of Article 10 of the Convention.

In other words, the threat that this or that “source”, fearing for one's safety, may be afraid to cooperate with the press makes such interference unacceptable. The existence of a channel through which the civil society can receive information is more important than protecting a company from the potential threat of this channel to its economic security.

The next case ***Financial Times Ltd and others v. the United Kingdom*** (Application No. 821/03; Judgment of 15 December 2009)¹⁵⁶ generally repeats the conclusions on the case *Goodwin*. The difference between this case and the previous one is that though the information was published, its accuracy and reliability were questioned.

The editorial offices of several media (Financial Times, The Guardian, The Times, Reuters, etc.) received by mail copies of confidential documents relating to the upcoming purchase by the corporation Interbrew of shares of its competitor - South African Breweries plc.). The identity of the person who sent those copies was unknown even to journalists. The material was published by a number of outlets. Presumably, the documents contained some distort information. All this led to a significant change in the stock prices of these companies and caused significant economic damage.

Interbrew filed a lawsuit against several of these media outlets, in which, referring to the interests of investigating into the leakage of information, required a copy of the report and the envelopes in which it was sent to the editorial offices. The national courts satisfied this requirement.

The European Court highlighted that, even though this case is not about the disclosure of the identity of the person who provided confidential information to the media, but only relates to documents that could help establish his/her identity, the coercion of journalists to cooperate in the matter of revealing the source by itself can negatively affect the ability of the media to fulfill its function in society. Notwithstanding that in case of unauthorized information leakage there is a risk of recurrence of such a situation in the future, the interest in suppressing this channel does not exceed the public interest in protecting journalistic sources. Thus, the possible disclosure of the source in this case could also have a chilling effect.

The next case where the Court outlined the possibility of “chilling effect” is ***Mosley v. the United Kingdom*** (Application No. 48009/08; Judgment of 10 May 2011)¹⁵⁷.

In this case, the applicant raised the issue of a violation by the state of its positive obligations under Article 8 of the Convention in connection with the fact that the “News of the World” published information about his personal life. Moreover, a video of the applicant participating in scenes of sexual nature was posted on the web-site of the same newspaper. The court stated that the video was of much greater interest, and had much more influence than the text of the publication itself.

The applicant received compensation at the national level, but argued that such compensation did not fully restore his rights. He insisted on the positive obligations

156 <http://hudoc.echr.coe.int/eng?i=001-96157>

157 <http://hudoc.echr.coe.int/eng?i=001-104712>

of the state to protect personal lives of its citizens. In his opinion, the state should have established the obligation for journalists to inform the person in advance before publishing information relating to their private life.

In spite of the fact that the ECtHR criticized the newspaper's actions, it noted that a possible requirement for prior notification of a person about a planned publication should be considered in the broader context of the role of the press in discussions relating to the general public interest. In this case the ECtHR did not find a violation of Article 8 of the Convention, since the requirement of prior notification could have a chilling effect.

The ECtHR noted, that even though the applicant's arguments in the particular circumstances of a case may be meritorious, the Court must bear in mind the general nature of the pre-notification requirement. In particular, the Court pointed out that its implications for freedom of expression are not limited to the sensationalist reporting at issue in this case but extend to political reporting and serious investigative journalism.

In the case **Altug Taner Akcam v Turkey** (Application No. 27520/07; Judgment of 25 October 2011)¹⁵⁸ the applicant was a professor who lived in Ankara. He was engaged in historical studies of the events of 1915, relating to the policy of the Ottoman Empire concerning the Armenian population and had a large number of publications on this topic.

In 2006, he published a research paper in which he expressed support to colleagues being prosecuted for defamation of the Turkish people. Their fault was to publicly accuse the Turkish people of the Armenian Genocide.

In connection with this publication, the applicant was summoned to the prosecutor's office for interrogation on charges of provoking a crime and inciting ethnic hatred. Subsequently, the criminal proceedings against the applicant were repeatedly stopped and resumed again. In the end, it was terminated due to the expiry of the statute of limitations.

In this case, the Court examined whether there had been interference in the rights guaranteed by Article 10 of the Convention and whether the interference had been prescribed by law.

As for the first paragraph, the Government claimed that the applicant in the case had lost the status of the victim, as the criminal proceedings against him had been terminated. The court did not agree with the Government, as the applicant provided convincing evidence that his scientific work was devoted to the study of Armenian Genocide in the Ottoman Empire, and thus demonstrated that he was directly affected by the threat of criminal liability for such activities.

The Court noted that the provisions of Turkish law had a chilling effect in the aspect of freedom of expression, since they generated the applicant's fear of being punished. Even in the event of the actual termination of the criminal prosecution in connection with specific circumstances, the applicant had reasons to refrain from such statements in the future. Thus, the threat of criminal liability had a chilling effect and was a form of interference with the applicant's freedom of expression.

However, the Court also noted the vagueness of the provisions of the Criminal Code and on that basis found a violation of Article 10 of the Convention by Turkey.

In the case **Kaperzyński v. Poland** (Application No. 43206/07; Judgment of 3 April 2012)¹⁵⁹ the applicant was an editor in a small local newspaper in Poland. He published an article, relating to the situation concerning the sewage system in the municipality and containing the criticism against the authorities. He received an ironic response from the mayor of the municipality, accusing applicant of acting in personal interests when publishing the material. The applicant ignored this letter and as a result was prosecuted for refusing to publish a refutation or reply. He was sentenced to four months of restriction of freedom, public works and deprivation of the right to be engaged in journalistic activities. The execution of the sentence was delayed for two years.

158 <http://hudoc.echr.coe.int/eng?i=001-107206>

159 <http://hudoc.echr.coe.int/eng?i=001-110171>

With reference to the previous case law, the ECtHR once again stressed that the threat of criminal liability has an unconditional chilling effect on the freedom of journalistic activity. Taking into account a severe nature of the punishment, the ECtHR found that the interference in the activities of the journalist in this case had not been “necessary in a democratic society”.

It should be noted, that the chilling effect can take place not only in the situation with the journalists. In the case ***Elçi and Others v. Turkey*** (Application No(s). 23145/93 and 25091/94; Judgment of 13 November 2003)¹⁶⁰ the applicants were lawyers, who carried out legal protection at the national level and handled cases before the ECtHR. In connection with their professional activities, the lawyers were detained by the police, interrogated and subjected to inhuman treatment. The Court agreed that such treatment caused damage to their professional activities, even temporary one. However, in the more general context, the Court expressed concern that this also had a chilling effect on all individuals involved in criminal defense or protection of human rights in Turkey.

The application of these principles to the assessment of the situation in Crimea gives one more argument to applicants when they apply to the European Court. The searches at journalists’ places and the seizure of their property pose a threat to the disclosure of the circle of communication and sources of information. This on its own can keep people from frank conversations with media representatives, even in the case of a promise of confidentiality. Obviously, in such conditions, the fulfillment of such a promise does not always depend on the will of a journalist. In addition, the provisions of the Criminal Code of the Russian Federation also deter journalists from discussing thorny issues related to the occupation of the peninsula. The real nature of the threat of being accused of extremism, of inciting ethnic hatred or appeals to violate the territorial integrity of the Russian Federation leads to the freezing of hot topics and turns Crimea into an information hole.

160 <http://hudoc.echr.coe.int/eng?i=001-61442>

SPECIAL ASPECTS OF THE WORK OF MEDIA IN OCCUPIED CRIMEA

Elena Sokolan

Freedom of forced speech...

Three years of the Russian occupation has fundamentally changed the information environment of Crimea. The journalists had either to adapt to new realities, which are significantly different from Ukrainian ones, or to leave the peninsula. As a last resort, they could abandon their names and observance of many standards in favor of anonymity for their own safety. Both work approaches and methods of collecting information as well as the legal field as a whole have undergone substantial changes. Russian media legislation and law enforcement practices are tougher than Ukrainian ones and to some extent are aimed at restricting the freedom of speech and the rights of journalists. According to human rights defenders, public officials and security agencies of the occupied Crimean Peninsula are disloyal to the members of the press and do not show interest in conducting investigations of the crimes committed against them.

The Crimean Peninsula is essentially in information isolation. Russian and local media demonstrating loyalty to the authorities do not fully reflect the specificities of the life in this gray area. Violations of the rights of media workers are often ignored and sometimes are openly manipulated in order to please officials and security services. Ukrainian and international human rights defenders and journalists have quite limited access to information in Crimea. Thus, the purpose of this article is to reveal the practical difference between the application of Ukrainian and Russian media legislation and to collect as many unique testimonies of Crimean journalists about their work in the occupation as possible.

The article uses interviews, including anonymous of the Crimean media representatives, analyzes the results of human rights monitoring carried out by human rights organizations and compares the application of Russian and Ukrainian legislation with regard to journalists and the mass media.

In February 2014, Vladimir Putin signed the Law on amendments to the Criminal Code of the Russian Federation (hereinafter the CC of RF). From then onwards, for public calls for extremist activities (Article 282.1 of the CC) Russians will face at least 100 000-300 000 RUB penalty (about 1,5 - 4,4 thousand EUR) or as maximum – deprivation of liberty for up to 5 years. The mentioned amendments has also increased responsibility for “incitement to hatred or enmity” (Article 282 of the CC of RF) with penalty raging upwards from 300 000 RUB (about 4,4 thousand EUR) and deprivation of liberty being maximum six years.

The organization of extremist group (Article 282.1 of the CC of RF) provides for the minimal penalty of 400 000 RUB (about 5,8 thousand EUR), the maximum punishment being 10 years of imprisonment.

It is noteworthy that Russian so-called “anti-extremist legislation” is so vague that any organization or group of people openly criticizing the actions of the officials can be optionally brought under the definition of such a community. Moreover, an on-line media that disseminates materials, forbidden in the opinion of law enforcement and judicial authorities, can be considered an extremist community. Currently, in occupied Crimea the following persons have been found guilty for “extremist articles”: Ilmi Umerov, the deputy chairman of the Mejlis of the Crimean Tatar People, who was sentenced to two years in settlement colony by Simferopol Regional Court, and Mykola Semena, a journalist of Radio Svoboda, who was sentenced by Zheleznodorozhny District Court of Simferopol to 2 years and 6 months of suspended sentence, with a 3 year probation and the ban to conduct any public activity throughout the probation period. These proceedings, unlike the all-Russian practice, are directly related to the peculiarities of the Crimean situation in the media sphere. Both defendants were prosecuted for denying in the media the fact that Crimea

inhere to the Russian Federation, which indeed is a reproduction of the official position of the institutions of the Council of Europe and the United Nations, consistently recognizing the AR of Crimea and the city of Sevastopol as the territory of Ukraine. Moreover, Ilmi Umerov was even forcibly sent to a psychiatric examination in the Simferopol psychiatric hospital. Mr. Umerov himself, his family and lawyers regarded this as a way of psychological pressure on him. Thanks to a wide public resonance all over the world, Mr. Umerov was successfully released from the hospital.

Russian legislation provides for a special punishment for the media, considered by the court as distributors of extremist materials. Thus, Article 11 of the Federal Law “On Counteracting Extremist Activities” permits the seizure of materials, or of the whole circulation, audio and video recordings of programs, and even the termination of the activities of the mass media on the basis of a court decision. Article 11 of the Federal Law “On Counteracting Extremist Activities” allows seizing materials or the whole circulation, audio and video of programs and even terminating the work of the media pursuant to the decision of the court.

The human rights defender of the Crimean Field Mission, Dmitry Makarov, explains that particularly the vagueness of the “anti-extremist” amendments make it possible to pressure any media and journalists, since any criticism of the authorities can be tied to this concept (CFM is the joint initiative of Ukrainian and Russian human rights organizations launched on 5 March 2014).

Article 1 of the Federal Law “On Counteracting Extremist Activities” gives the following definition of extremist activities:

- forcible change of the foundations of the constitutional system and violation of the integrity of the Russian Federation;
- public justification of terrorism and other terrorist activities;
- stirring up of social, racial, ethnic or religious discord;
- propaganda of the exceptional nature, superiority or deficiency of persons on the basis of their social, racial, ethnic, religious or linguistic affiliation or attitude to religion;
- violation of rights and freedoms and lawful interests in connection with a person’s social, racial, ethnic, religious or linguistic affiliation or attitude to religion;
- obstruction of the exercise by citizens of their electoral rights and rights to participate in a referendum or violation of voting secrecy, combined with violence or threat of the use thereof;
- obstruction of the lawful activities of state authorities, local authorities, electoral commissions, public and religious associations or other organizations, combined with violence or threat of the use thereof;
- committing of crimes with the motives set out in indent “e” of paragraph 1 of article 63 of the Criminal Code of the Russian Federation;
- propaganda and public show of nazi emblems or symbols or of emblems or symbols similar to nazi emblems or symbols to the point of confusion between the two;
- public calls inciting the carrying out of the aforementioned actions or mass dissemination of knowingly extremist material, and likewise the production or storage thereof with the aim of mass dissemination;
- public, knowingly false accusation of an individual holding state office of the Russian Federation or state office of a Russian Federation constituent entity of having committed actions mentioned in the present Article and that constitute offences while discharging their official duties; organization and preparation of the aforementioned actions and also incitement of others to commit them;
- funding of the aforementioned actions or any assistance for their organization, preparation and carrying out, including by providing training, printing and material/technical support, telephony or other types of communications links or information services.

Part 2 of Article 280 of the CC of RF is a special norm, establishing responsibility for public appeals for the performance of extremist activity “with the use of the mass media”. It provides for more severe punishment specifically for mass media and informational-communicational (including Internet) workers. “In fact, for any statement that Crimea is a part of Ukrainian territory, one is at risk of being imprisoned for up to 4 years; for the same with the use of mass media – for up to 5 years. And we know, that there are already criminal proceedings under these articles against journalists in Crimea,” explains Dmitriy Makarov. He also shows headline figures: as of July 2015, the advocates recorded 25 facts of pressure on journalists by the security officers; 13 times the “unwanted” representatives of the media were forbidden to visit and report on official events. Four documents abridging freedom of speech were adopted on the federal and local levels including the mentioned amendments to the CC. Moreover, in May 2014, criminal responsibility for “public calls for actions, directed on the violation of territorial integrity of the Russian Federation” (separatism), and in July 2014 criminal responsibility for separatism was increased.

Less than in a year – between September 2016 and July 2017 - the Russian register of banned materials was expanded with more than 1500 positions. Currently, the “black list” includes more than 4000 articles, social media posts and entire communities (http://minjust.ru/ru/extremist-materials?field_extremist_content_value=&page=20).

About 60 entities are recognized as extremist organization in the Russian Federation, including those, not banned in Ukraine: Mejlis of the Crimean Tatar People, Hizb ut-Tahrir, Administrative Center of Jehovah’s Witnesses and its 35 regional divisions (http://minjust.ru/nko/perechen_zapret).

Certain individuals, most actively speaking on Crimea-related topics in mass media, are even included in the list of terrorists and extremists (<http://fedsfm.ru/documents/terrorists-catalog-portal-act>). Among them are: deputy chairman of the Mejlis Ilmi Umerov and Ukrainian journalists, Crimeans, Ganna Andriievskaya, Andriy Klimentenko and Oleh Sentsov. As a whole, as for July 2017 this list included more than 75000 individuals.

Ukrainian legislation does not provide for specific liability for mass media and for consequences like closure, liquidation or suspension of a license. The same is for slander, printing or demonstration of prohibited symbols. Only National Council on Television and Radio Broadcasting is authorized to impose sanctions and exclude from the register of permitted foreign mass media. For instance, in 2017, TV channel “Dozhd” was excluded from the list of channels permitted for broadcasting in cable networks. The main reason was demonstration of the Russian map that included Crimea. It was considered by the National Council as a gross violation of Ukrainian legislation. The National Council banned some more channels, including “Nostalgia”, stylized with Soviet symbols, and children’s channel “Karusel” also broadcasting programs, where Crimea was called the Russian territory.

In May 2017, subject to the Order of the National Security and Defense Council of Ukraine, Russian social networks “Vkontakte” and “Odnoklassniki” were banned for reasons of informational security and counteracting extremism.

At the same time, no proceedings against journalists and mass media were opened by Ukrainian law enforcement authorities under articles 109 and 110 of the Criminal Code of Ukraine “Actions aimed at forceful change or overthrow of the constitutional order or takeover of government” and “Trespass against territorial integrity and inviolability of Ukraine”.

In Crimea, social networks are sources of active search for extremists. Thus, the Crimea Field Mission in its September 2015 report informers about several violations of the rights of media workers in Crimea. In particular, on 7 September, the head of the apparatus of the Crimean Antiterrorist Commission, Alexander Bulychev, informed that since the beginning of the year seven bloggers, who were allegedly maintaining two extremist communities in the social network Vkontakte, promoting radical Islam and the ideas of fascism, had been detained on suspicion of extremism. However, human rights lawyers and activists noted that

the official did not cite any particular example of the prohibited statement.

In addition, on 22 September 2015, several leading Crimean mass media received letters from the Ministry of Internal Affairs of the Republic of Crimea, strongly recommending not to use the word “Mejlis” for the reason that according to the Prosecutor’s Office of Crimea, controlled by the RF, such organization is not registered neither in Crimea, nor in the city of Sevastopol. Later these attempts to silence Crimean Tatars led to the complete ban of Mejlis in 2016. According to Kirill Koroteyev, the legal director of the Human Rights Center “Memorial”, that decision has put hundreds, if not thousands of Crimeans, in danger. “As the party that lodged an appeal, we were the first (in the Supreme Court of the Russian Federation), to prove that Mejlis is not a public organization but a body of democratic representation, that an action for recognition as extremist authority cannot be brought against it, and that its activity cannot be considered extremist, etc. However, the decision remained in force. As for the consequences: membership in extremist organization is a crime under Russian law. 33 Mejlis members are in danger and the prosecution may be expanded on the members of regional Mejlis organizations and concern hundreds of people”.

In addition, local occupation authorities are trying to ban media from presenting objective information on the military operations of the RF. According to the CFM, on 29 September 2015, the representatives of Roskomnadzor phoned to the editors of several information editions and forbade to disseminate any information on the presence of Russian troops in Syria.

You can find out more monitoring data on the human rights and freedom of speech in Crimea on the official website of the CFM (<http://crimeahr.org/>).

The editorial office of the Sevastopol edition “Informer” notified the author of this article that they suspected their editor Irina Ostaschenko had been poisoned for her political publications. Five month before her death the woman was assaulted near her flat. The journalist and her colleagues associated the incident with the publication of the article “Does Sevastopol Che Guevara fly forever?”. The article criticized businessman Aleksey Chaly, the so called “peoples mayor” of Sevastopol and owner of the enterprise “Tavrida Electric”.

The personnel of “Informer” on condition of anonymity confessed that after suspicious death of Irina Ostaschenko, the editorial office started to apply self-censorship. Human rights defenders note that such a method, as a rule, becomes the norm in conditions of pressure on freedom of speech, taking into account the lack of activity of the authorities in the investigation of crimes against journalists.

Gradual curtailment of the rights and freedoms of the media professionals affected both the topics and methods of work, chosen by journalists. Sevastopol freelance journalist Vladimir said that such kind of activity as journalist investigation had almost disappeared from Crimean media. The reason is that this type of activity requires constant, including “acute”, contacts not only with public or security officials but also with the representatives of business and criminal structures. Under circumstances, when the journalists feel themselves not merely unprotected but rather vulnerable, such contacts should be avoided.

Special correspondent of Ukrainian TV channel “Inter” Yulia Kryuchkova notes that now it is almost impossible to produce topical TV spots, find characters, receive official and statistic data. Since officials almost do not communicate with Ukrainian journalists, often exclude them from mailings about planned events, and, in general, scarcely invite to or inform about press-conferences and events with the participation of officials. Moreover, Yulia’s film crew has already been detained by law enforcement officers several times despite the fact that “Inter” is the only Ukrainian TV channel permitted in Crimea by the Russian MFA. Yulia Kryuchkova shared the details: “First time the motive was quite strange. The law enforcement officials have allegedly received anonymous message, that

we may possess forbidden items. We were detained and brought to the police office for verification of our identities, where we spent about 5 hours and our car was searched. And this happened despite the fact that we had all documents, including editorial ID cards and permission of the MFA”.

One of the Crimean journalists, the editor of the internet news portal, said in a personal conversation that she was afraid for her life and freedom living in such an environment. Therefore, she flatly refused to publish her name and explained her decision in the following words: “None of the prisoners of the concentration camp will ever tell the truth about their life, they either lie or do not say anything”.

In the spring of 2015, Crimea witnessed a wave of searches and voluntarily-compulsory “conversations” with the most active pro-Ukrainian journalists. Some people were blacklisted by the Federal Security Service as witness and others as participants in the criminal proceeding. According to Human Rights Information Center, by September 2016, 5 criminal proceedings had been instituted against Crimean journalists on extremism in social networks under articles, providing criminal liability for “calls for separatism” (https://humanrights.org.ua/ru/material/aktualna_infografika_pro_stan_svobodni_slova_v_okupovanomu_krimu). These events practically forced the majority of Ukrainian media specialists from the Crimean market. As for April 2016, the experts of the CFM documented decrease of 88% in the number of mass-media in Crimea. Human rights activists associate this inter alia with the fear of press workers to be arrested for political reasons, and with the pressure of government structures on the media, up to and including forceful suspension of a broadcast license for certain opposition mass media.

Thus, since 1 April 2015 the only Crimean Tatar TV channel “ATR” ceased to broadcast. The local web-site Kerch FM cited the Director General of the company Elsar Ilyasov: “The company has submitted documents for reregistration to Roscomnadzor, however, each time they got a refusal”. As a result, ATR together with the whole editorial office had to move to the mainland Ukraine and to continue broadcasting from Kyiv. Only a Facebook community “Crimean reporter”, still preparing videos from the peninsula used by the disgraced TV channel, remained in Crimea.

In November 2015, the Crimean prosecutor’s office controlled by the Russian authorities instituted a criminal proceeding against the owner of the ATR TV channel Lenur Islyamov. The businessman has become one of the initiators of the “trade blockade”, and later of the “energy blockade” of the peninsula. While investigating this case, the security officials visited Lilia Budzhurova, the editor of the Crimean branch of the TV channel, to search her place.

Earlier, the editorial office and some of the equipment of the Ukrainian-language television and radio company of the Ministry of Defense of Ukraine “Breeze” had to be evacuated. As the chief editor of the channel “Breeze” captain Ivan Chmil reported, both military and civil journalists were repeatedly threatened with reprisals and criminal proceedings. The Russian military seized a part of the editorial property and a valuable video archive. Unique shots, made in spring 2014 during the seizure of Crimea by the Russian military officers, were seized and partially destroyed. According to the testimony of the journalists, a part of editorial materials were found on the shelves of the Russian special services, some information was illegally sold to foreign TV channels.

Currently the access of Ukrainian and foreign media to Crimea is drastically restricted. In order to work officially in the occupied peninsula, journalists have to operate on the fringes of Ukrainian law. The position of the official Kyiv is that journalists have no right to request Russia the permission for work in Crimea, because it can be interpreted as an indirect recognition of the Russian authority in the peninsula. Thus, in 2017, the network of Ukrainian media professionals is mainly represented by freelancers working anonymously, having very limited access to information. They do not have any opportunity to attend official

events and make information requests openly.

However, accreditation also does not solve all problems. In February 2017 in Simferopol, there was detained the STB film crew, which, as an experiment, received permission from the Russian MFA to work in Ukrainian Crimea (<https://www.facebook.com/lunkovaalyona/posts/10207079799107821>). Journalists Alyona Lunkova and Irina Romaliyskaya spent several hours being verified by the police, with their documents being confiscated. They believe that the wide publicity of the incident in social networks and in the media prevented the situation from becoming more serious. Journalists were released, but during the visit they felt the special attention of the law enforcement officers.

However, a large number of local Crimean media staff is not worried by such facts of suppression of freedom of speech. My interlocutors from pro-Russian and pro-governmental on-line media in Sevastopol are openly proud of their materials despite the fact that often emotionality prevails over common sense, and the presentation of facts and assessment verge upon poorly concealed manipulation. They explain it by saying they are doing something useful for Russia, i.e. they do not inform but correct public opinion for the needs of the state. Here are just a few examples of the headlines of the Crimean media: “Barack Obama’s plan to establish control over the government of Sevastopol failed miserably!”, “The United States demand that Ukraine hands reins over to gays”, “ISIS militants shave their beards and flee Syria under the guise of women”.

Russian journalists, who had filled vacancies following the outflow of Ukrainian staff, added more ideological “gravy” to local media. So far media researchers have not given exact figures, because the methodology of such calculation is difficult to develop. Since 88% of media were closed and people are still quitting from the functioning TV channels, on-line media and newspapers, both new generation of Crimean journalists and “guests” from the territory of Russia replace them. As my interviewees journalists assume, the media staff was renewed for 50-90% and about a half of them are video operators and editors from Russian regions.

In general, the opposition journalists and entire media organizations in Crimea are under constant pressure from the power structures and the Federal Security Service. According to lawyers, the reason is Russian legislation which allows to interpret of critical statements and disagreement with the position of the Crimean and Russian authorities as extremism and separatism. In addition, the whole situation is exacerbated by the reluctance of officials and investigators to investigate objectively the facts of pressure on the press in Crimea. Such cases are either not investigated at all, or are slowly investigated. Therefore, according to human rights lawyers and activists, media staff feels unprotected on the peninsula and is forced to hide its position under pseudonyms or exercise self-censorship. This idea is proved also by the testimony of my interviewees who continue working in the media under occupation. Moreover, “Inter” channel is the only Ukrainian TV channel that has received the official permission of the MFA of the RF to work in Crimea. The rest of Ukrainian and foreign media on the peninsula are outside the law from the Russian view point. Major informational channels like Reuters, BBC, Radio Svoboda receive information either from their Russian bureaus or from local freelancers. Sometimes Ukrainian and foreign journalists go to Crimea with small cameras or even mobile phones unofficially, under the guise of tourists or guests. They are hiding from security agencies and gather exclusive materials about the life of the peninsula. However, they are not then protected by information legislation and can even be equated with foreign spies.

Basically, access to the media space of Crimea and the city of Sevastopol is limited due to undefined status of this territory. According to the position of Ukraine and the most countries of the world, the Crimean Peninsula is a temporarily occupied part of the territory of Ukraine. According to the position of Russia, the Crimean Peninsula is a part of the Federation, governed by rules and laws of the Russian Federation.

Establishment of independent international monitoring mission, acting under generally recognized standards of journalism and human rights, would improve the situation with freedom of speech in Crimea. Such a mission could work under the patronage of the prominent European or American organizations (such as Reporters without Borders), and could obtain permission from both Ukraine and Russia to work and publish research materials abroad. That would at least partially allow to raise the media sphere of Crimea out of the complete isolation. However, even for such a mission it would be difficult to work in conditions when journalists, bloggers and public figures do not trust the official structures and are afraid for their lives and freedom.

«CRIMEA BEYOND RULES. Thematic review of the human rights situation under occupation.» - Vol. 4 - Information occupation. / Edited by S. Zayets, R. Martynovskyy, D. Svyrydova. – Kyiv, 2017. – 84 p.

The publication is aimed at representatives of international organizations, diplomatic missions, government bodies and professional legal community, who need information on the practical application of international human rights standards under occupation of the Crimea.

Thematic review is published in electronic form and is for free distribution. The materials are available in three languages - Ukrainian, Russian and English. Use of Content is permitted with the obligatory reference to the source and authorship. If the author of the material is not explicitly stated, all rights to the material belong to the expert-analytical group CHROT. The materials included in the publication, as well as other materials on the topic can be found on the website precedent.crimea.ua

CRIMEA BEYOND RULES

Other issues of the series.

By the time this issue is published, the following issues has already came out or are ready for publication:

Issue 1. The right to liberty of movement and freedom to choose residence.

Issue 2. Right to property.

Special issue. Transfer by the Russian Federation of parts of its own civilian population into the occupied territory of Ukraine.

Issue 3. Right to nationality (citizenship).

Issue 4. Information occupation.

Translation from Russian and Ukrainian into English: Olga Androsova, Vitaliy Nabukhotny, Nadiia Franko, Zinaida Kosenko.

These and other materials devoted to the observance of the international standards of human rights by the authorities of both Ukraine and the Russian Federation with reference to the occupation of the Crimean Peninsula could be found on eh website precedent.crimea.ua

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Annex 957

Ukrainian Helsinki Human Rights Union, Crimea Beyond Rules: Right to Nationality
(Citizenship) (2017)

Crimea beyond rules

Issue N° 3

Right to nationality
(citizenship)

Thematic review of the human
rights situation under
occupation



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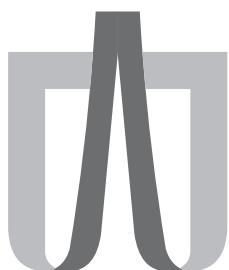
РЕГІОНАЛЬНИЙ ЦЕНТР ПРАВ ЛЮДИНИ

RCHR

REGIONAL CENTRE FOR HUMAN RIGHTS

Regional Centre for Human Rights - NGO, the nucleus of which consists of professional lawyers from Crimea and Sevastopol, specializing in the field of international human rights law.

rchr.org.ua



Ukrainian Helsinki Human

Rights Union

Ukrainian Helsinki Human Rights Union - non-profit and non-political organization. The largest association of human rights organizations in Ukraine, which unites 29 NGOs, the purpose of which is to protect human rights.

helsinki.org.ua



CHROT - expert-analytical group, whose members wish to remain anonymous.

Some results of work of this group are presented at the link below :

precedent.crimea.ua

Dear readers,

Crimean events at the beginning of 2014 have challenged the post-war system of international security. They stirred up the whole range of human emotions - from the loss of vital references to the euphoria, from joyful hope to fear and frustration. Like 160 years ago, Crimea attracted the attention of the whole Europe. In this publication we have tried to turn away from emotions and reconsider the situation rationally through human values and historical experience. We hope that the publication will be interesting to all, regardless of their political views and attitudes towards those events.

S. Zayets

R. Martynovskyy

D. Svyrydova

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Introduction

The periodic review "Crimea beyond rules", prepared by joint efforts of several organizations and invited experts, aims to help the international community, human rights organizations, international and national bodies and structures as well as anyone who wants to better understand the human rights situation in Crimea.

Each review is themed around a specific topic and includes a number of analytical articles, references to international regulations, standards and legislation relating to the chosen themes as well as analysis of prospects for potential complaints or those already filed with the international bodies for the protection of human rights. The series of thematic reviews "Crimea beyond rules" is devoted to the study and description of violations of human rights and rules of international humanitarian law resulting from the continuing aggressive expansion on the side of the Russian Federation in respect of Crimea as a part of the territory of Ukraine.

During the occupation and subsequent annexation of the Crimean peninsula, the Russian Federation announced all Ukrainian nationals living in Crimea its subjects. Residents of the occupied territory faced a difficult choice. On the one hand, by obtaining Russian passports, they formally took the oath of allegiance to the State which had committed an act of aggression against their sovereign-country. On the other hand, during a short period of time (in fact - 18 days) they could try to submit the "declaration about the willingness to retain the nationality of Ukraine" to one of the four offices which accepted such declarations in Crimea. In this case, they suddenly became foreigners at home and were severely limited in their rights.

Using the imperfection of international standards in this ng situations of statelessness and resolving cases of dual nationality. Arbitrary change and imposition of a nationality became a new challenge to which the world was not ready. Having imposed its nationality, the Russian Federation «forced into loyalty» the population of the occupied peninsula under threat of criminal liability (see. Art. 275 of the Criminal Code «High Treason»).

It is important to understand that the situation in Crimea is fundamentally different from the current practice of issuing passports of the Russian Federation nationals on the so-called «unrecognized territories» (Transnistria, Abkhazia and South Ossetia). Thus, residents of the «unrecognized territories» may obtain Russian nationality only on its own initiative, by addressing the competent bodies with the appropriate application. In Crimea, the Russian authorities themselves decided the nationality issue for more than 2.3 million people, declaring them subjects of the Russian Federation.

The situation regarding the nationality which arose from the annexation of Crimea should also be distinguished from cases of secession of territories and the succession of States. In cases of secession or succession there takes place an entirely legitimate transfer of the territory under the control of another State which is in accordance with international law. At the same time, the occupation and subsequent annexation of Crimea by the Russian Federation were carried out with gross violation of these norms, of what the international community has been consistently informing since March 2014 and calling on the authorities of the Russian Federation to return control over Crimea to Ukraine. Because of this, any attempt to apply to Crimea the relevant rules concerning the secession or succession of states are inadmissible.

In the post-war world, a person is more and more recognized as a subject of international law. That is why a change of nationality of Crimean residents can and should be considered in the context of relations of four actors: Ukraine, as the country of existing nationality, Russia, as the country that imposes its nationality, the actual resident of the Crimean peninsula and the third countries.

The existing practice of various international judicial bodies concerns cases of violations related to the deprivation of nationality or refusal in its granting. So, in cases related to the imposition of nationality there can be set new precedents. More information about these and other issues can be found in the current review.

International law assumes that the occupation is a temporary regime. We are also convinced that the need for such reviews is provisional. Being optimistic, we believe that the main task of these materials should be apprehension of what had happened and generalization of experience in order to prevent further human rights violations in Crimea or other regions of the world.

The authors of the review: the team of human rights activists, experts and scholars from *Regional Centre for Human Rights* (rchr.org.ua), *Ukrainian Helsinki Human Rights Union* (helsinki.org.ua), as well as *expert and analytical group CHROT*.

International standards

The Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted and proclaimed by resolution 217 A (III) of the UN General Assembly on 10 December 1949 and is an act of the so-called «soft law». However, compliance with the obligations under the Declaration is the subject of continuous monitoring by the international community, even if its provisions are not reflected in the texts of other, more binding international instruments.

In particular, along with other documents, the Declaration provisions are the foundation of the Universal Periodic Review (UPR), and its violation can be the reason for individual appeals to the United Nations Human Rights Council in accordance with the Human Rights Council Resolution 5/1 of 18 June 2007 (former procedure 1503).

Article 15 of the Universal Declaration of Human Rights guarantees the right of every person to a nationality, and also prohibits the arbitrary deprivation of the nationality or the right to change it.

The full text of the document can be found following the link¹.

International Covenant on Civil and Political Rights

The Covenant was adopted by resolution 220 A (XXI) of the UN General Assembly on 16 December 1966. Ukraine (at that time - the USSR as an independent member of the UN) signed the Covenant on 20 March 1968 and ratified it on 19 October 1973.

Russia, not being an independent member of the UN, has inherited the obligations under the Covenant as the legal successor of the Soviet Union. The Soviet Union signed the document on 18 March 1968. Presidium of the Supreme Council of the USSR ratified it on 18 September 1973.

The document entered into force in Ukraine and the Soviet Union (and respectively in the Russian Federation) simultaneously, on 23 March 1976.

ARTICLE 24

[...]

3. *Every child has the right to acquire a nationality.*

The full text of the document can be found following the link².

Convention relating to the Status of Stateless Persons

The Convention was adopted in New York on 28 September 1954 by the Conference of Plenipotentiaries convened in accordance with resolution 526 A (XVII) of the Economic and Social Council on 26 April 1954. It entered into force on 6 June 1960. It was ratified by Ukraine on 11 January 2013 and entered into force for it on 23 June 2013.

The Russian Federation is not a party to the Convention.

The Convention provides a definition of the concept of a stateless person, declares rights, obligations of persons who are not citizens of any state, by setting that the treatment of such persons can not be worse than that of the citizens of the state in which they find themselves (e.g. in terms of freedom to practice their religion), or to foreign nationals residing in the territory of such state. It also regulates the issues of movable and immovable property, copyrights and industrial rights of stateless persons, their associations and the right to appeal to the courts (Chapter II). In addition, Chapters III and IV regulate the employment and social security, and Chapter V regulates administrative measures (freedom of movement, identity

1 <http://www.ohchr.org/en/udhr/pages/language.aspx?langid=eng>

2 <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

documents, travel documents, taxes, removal of property, deportation, naturalization).

The full text of the document can be found following the link³.

Convention on the Reduction of Statelessness

The Convention was adopted and signed in New York on 30 August 1961 pursuant to resolution 896 (IX), adopted by the General Assembly of the United Nations on 4 December 1954. The Convention entered into force on 13 December 1975. It was ratified by Ukraine on 11 January 2013 and entered into force for it on 23 June 2013.

The Russian Federation is not a party to this Convention.

The Convention requires States to grant their nationality to a stateless person and prohibits to deprive a person of his nationality, if such deprivation would render him stateless. An exception is made in the context of loyalty relations: the demonstration of disloyalty by nationals empowers the State to deprive them of nationality regardless of the consequences.

ARTICLE 8

1. *A Contracting State shall not deprive a person of his nationality if such deprivation would render him stateless.*

2. *Notwithstanding the provisions of paragraph 1 of this article, a person may be deprived of the nationality of a Contracting State:*

(a) In the circumstances in which, under paragraphs 4 and 5 of article 7, it is permissible that a person should lose his nationality;

(b) Where the nationality has been obtained by misrepresentation or fraud.

3. *Notwithstanding the provisions of paragraph 1 of this article, a Contracting State may retain the right to deprive a person of his nationality, if at the time of signature, ratification or accession it specifies its retention of such right on one or more of the following grounds, being grounds existing in its national law at that time:*

(a) That, inconsistently with his duty of loyalty to the Contracting State, the person:

(i) Has, in disregard of an express prohibition by the Contracting State rendered or continued to render services to, or received or continued to receive emoluments from, another State, or

(ii) Has conducted himself in a manner seriously prejudicial to the vital interests of the State;

(b) That the person has taken an oath, or made a formal declaration, of allegiance to another State, or given definite evidence of his determination to repudiate his allegiance to the Contracting State.

The full text of the document can be found following the link⁴.

International Convention on the Elimination of All Forms of Racial Discrimination

The Convention was adopted by resolution 2106 (XX) of the UN General Assembly on 21 December 1965, signed on 7 March 1966 and entered into force on 4 January 1969. The Ukrainian Soviet Socialist Republic signed the Convention on 7 March 1966. The Presidium of the Supreme Soviet of the Ukrainian SSR ratified it on 21 January 1969, and on 7 April 1969 it entered into force for Ukraine.

Russian Federation, not being at that time an independent member of the UN, inherited the obligations of the Convention as the legal successor of the USSR. The Soviet Union signed the document on 7 March 1966. The Presidium of the Supreme Soviet of the USSR ratified it on 22 January 1969, and on 4 March 1969 it entered into force.

³ <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁴ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Statelessness.aspx>

ARTICLE 1

[...]

2. *This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.*

3. *Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.*

[...]

ARTICLE 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

[...]

(d) *Other civil rights, in particular:*

[...]

(iii) *The right to nationality;*

[...]

The full text of the document can be found following the link⁵.

The Convention on the Rights of the Child

Convention was adopted by resolution 44/25 of the UN General Assembly on 20 November 1989 and entered into force on 2 September 1990. The Ukrainian Soviet Socialist Republic signed the Convention on 21 February 1990, and ratified the decision of the Verkhovna Rada of the Ukrainian SSR on 27 February 1991. For Ukraine, the Convention entered into force on 27 September 1991.

The Russian Federation, not being at that time an independent member of the UN, has inherited the obligations of the Convention as the legal successor of the USSR. The Soviet Union signed the document on 26 January 1990, the Supreme Soviet of the USSR ratified it on 13 June 1990 and on 15 September 1990, the Convention entered into force.

The Convention is particularly interesting, because it considers nationality as one of the elements of identity. It is difficult to assume that upon reaching adulthood, a nationality becomes irrelevant. This provision can be used as a key to the consideration of certain issues of nationality in the context of the right to respect for private life.

ARTICLE 7

1. *The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.*

2. *States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.*

ARTICLE 8

1. *States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.*

[...]

The full text of the document can be found following the link⁶.

5 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>

6 <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

The Convention on Certain Questions relating to the Conflict of Nationality Laws

The Convention was signed in the Hague on 12 April 1930. It entered into force on 1 July 1937 from the date of the deposit of instruments of ratification or accession on behalf of ten members of the League of Nations or non-members of the League of Nations states. The Soviet Union at the time did not sign and ratify it; respectively, Ukraine and the Russian Federation are not parties to this international treaty, but its provisions could be used as a source of customary law.

Chapter I of the Convention establishes the general principles applicable to matters relating to the Conflict of Nationality Laws. These include, in particular:

- the right of each State to determine under its own law who are its nationals. At the same time, this law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality (Art. 1);
- the right of each State to determine any question as to whether a person possesses the nationality of a particular State in accordance with the law of that State (Art.2);
- the right of each State to regard as its national a person having two or more nationalities (Art. 3);
- an inability of the State to afford diplomatic protection to one of its nationals against a State whose nationality such person also possesses (Art. 4);
- the right of a third State to treat a person having more than one nationality as if he had only one, the nationality of the country in which he is habitually and principally resident, or the nationality of the country with which in the circumstances he appears to be in fact most closely connected (Art. 5);
- the right of a person to renounce one of two nationalities if this nationality was acquired without any voluntary act on his part (Art. 6).

The full text of the document can be found following the link⁷.

UN General Assembly Resolution 55/153 of 30 January 2001 On nationality of natural persons in relation to the succession of States

Resolution was adopted on the basis of articles on nationality of natural persons in relation to the succession of States prepared by the International Law Commission the Article 3 of that document expressly provides that «the present articles apply only to the effects of a succession of States occurring in conformity with international law and, in particular, with the principles of international law embodied in the Charter of the United Nations.»

The resolutions of the UN General Assembly following the occupation of Crimea recognized that the actions of the Russian Federation violated the principles of international law.

Thus, the Russian Federation has no legal grounds for references to articles on nationality of natural persons in relation to the succession of States in support of their actions in relation to the imposition of nationality of the Russian Federation to all nationals of Ukraine who resided and were registered in the territory of the Crimean peninsula at the time of its annexation and occupation by the Russian Federation.

The full text of the document can be found following the link⁸.

7 <http://eudo-citizenship.eu/InternationalDB/docs/Convention%20on%20certain%20questions%20relaing%20to%20the%20conflict%20of%20nationality%20laws%20FULL%20TEXT.pdf>

8 http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/55/153

Declaration on the human rights of individuals who are not nationals of the country in which they live

The Declaration was adopted by resolution 40/144 of the UN General Assembly on 13 December 1985.

The Declaration proclaims the right of aliens to life and security of person, to protection from interference with privacy and family life, including in respect of home and correspondence; the right to be equal before the courts; the right to choose a spouse, to marry, to found a family; the right to freedom of thought, opinion, conscience and religion, as well as other rights as defined in Part 1 of Article 5 of the Declaration.

Part 2 of the same Article declares the following rights of aliens: the right to leave the country; the right to freedom of expression; the right of peaceful assembly; the right to own property alone as well as in association with others, subject to domestic law.

Article 8 defines the rights of aliens lawfully residing in the territory of a State. They, in particular, have the right to appropriate working conditions, fair wages and equal remuneration for work, the right to join trade unions, the right to health protection, medical care, social security, social services, education and recreation.

The full text of the document can be found following the link⁹.

The European Convention on Nationality

The Convention was signed on 6 November 1997 and entered into force on 1 March 2000. Ukraine signed the Convention on 1 July 2003, ratified it on 20 September 2006. The Convention entered into force for Ukraine on 1 April 2007.

The Russian Federation signed this Convention on 6 November 1997, but has not ratified it.

The Convention establishes guarantee of the right to a nationality for each person as well as a guarantee in order to avoid cases of statelessness, arbitrarily deprivation of nationality, lack of automatic consequences in relation to a nationality of a spouse, regardless of change in marital status or change of the nationality by the other spouse (Art. 4). This can be considered as an element of respect for the will of persons while changing the nationality.

It also sets out the grounds for the acquisition and deprivation of nationality, especially loss of nationality at the initiative of the individual, a simplified procedure for the recovery of nationality by former nationals, procedures relating to nationality, cases of multiple nationality, rights and duties related to multiple nationality.

It should be noted that the ratification of this Convention has been made by Ukraine with reservations. In particular, in the Law of 20 September 2006 N° 163-V «On ratification of the European Convention on Nationality» Ukraine declared that it excludes Chapter VII from the scope of the Convention.

The provisions of this chapter provide that persons possessing the nationality of two or more parties to the Convention shall be required to fulfil their military obligations in relation to one of those States Parties only.

In practice, this may mean that persons who had to obtain a Russian passport in the occupied territory of the Autonomous Republic of Crimea and Sevastopol and were called up for military service in the Armed Forces of the Russian Federation, after the performance of such a service can be conscripted for military service in the Armed Forces of Ukraine. However, this clause does not matter in relation to the Russian Federation, because the Russian Federation is not a party to that Convention. Attention should also be paid to the explanatory report at the end of the text of the Convention on the official website of the Verkhovna Rada of Ukraine.

9 http://www.un.org/ga/search/view_doc.asp?symbol=a/res/40/144

The text of the Law on ratification can be found following the link¹⁰.

The full text of the Convention in English can be found following the link¹¹.

The full text of the Convention in Ukrainian, with the explanatory report mentioned above can be found following the link¹².

The UN General Assembly Resolution the action of Israel in the Syrian Golan

The UN General Assembly has repeatedly assessed the Israeli practices in the occupied territories (see, for example, this resolution). Special attention shall be drawn to the Resolution A/RES/55/134 of 8 December 2000, which urged to refrain from imposing Israeli citizenship and Israeli identity cards on the Syrian citizens in the Syrian Golan occupied by Israel.

Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)

The Convention was signed in Rome on 4 November 1950 and entered into force on 3 September 1953.

Ukraine ratified the Convention on 17 July 1997. The Convention entered into force for Ukraine on 11 September 1997.

Russia ratified the Convention on 30 March 1998. The Convention entered into force for the Russian Federation on 1 August 1998.

The European Court of Human Rights has repeatedly stressed that the Convention does not protect the right to a nationality. Indeed, the Convention does not contain a provision, which would fully or partially reproduce the provisions of Art. 15 of the UDHR. However, the Court has repeatedly considered cases, where it recognized that in some situations, issues related to the deprivation of nationality may affect matters within the scope of Art. 8 of the Convention (right to respect for private and family life) and even discrimination (Art. 14 in conjunction with Art. 8 of the Convention).

In particular, the interest in this aspect is presented in the cases *Genovese v. Malta*, no. 53124/09, § 30, 11 October 2011 and *Kuric and Others v. Slovenia*, no. 26828/06, 26 June 2012.

Nevertheless, it appears that the imposition of Russian nationality as a result of the occupation of Crimea may also raise new issues in the context of Art. 8 of the Convention. In particular, this may be related to issues of national identity and forced loyalty (see, in particular, comments on the Convention on the Rights of the Child and on Art. 275 of the Criminal Code of the Russian Federation).

Judgments of the European Court of Human Rights

A brief summary of the three most typical judgments of the European Court regarding important human rights issues in the context of citizenship, is given below. The Court itself notes in these judgments that initially ECtHR denied the admissibility of cases related to issues of citizenship, given that “the Convention does not guarantee the right to citizenship.” Nevertheless, the case law has evolved whereby the issues of this category have come in view of the Court. These cases are characterised by the fact that

the Court does not evaluate national authorities’ actions or decisions on determination of the applicants’ citizenship as such, but carefully considers consequences of these decisions and their impact on the lives of the applicants in the context of Article 8 of the Convention. In particular, the Court found no violation of Art. 8 of the Convention in cases *RAMADAN v. MALTA* and *GENOVESE v. MALTA*, since the decisions of national authorities were rather formal, and had no real impact on the lives of the applicants. For example, in the case

10 http://www.un.org/ga/search/view_doc.asp?symbol=a/res/40/144

11 <http://www.coe.int/ru/web/conventions/full-list/-/conventions/rms/090000168007f2c8>

12 http://zakon3.rada.gov.ua/laws/show/994_004/

RAMADAN v. MALTA the applicant, even though deprived of his Maltese citizenship, was not expelled from the country, deprived of his job, he had no documents seized and did not suffer any other serious consequences. Similarly, the case GENOVESE v. MALTA concerned only a request of the applicant's mother for her child to be granted Maltese citizenship despite the fact that they resided in Scotland . In contrast, in the case KURIĆ AND OTHERS v. SLOVENIA the consequences of the authorities' decisions were enormous for applicants and affected all their lives.

In the context of the situation of the imposition of Russian citizenship to residents of Crimea the consequences of such decision can be significant for possible lodging of complaints with the European Court. Technically, the attribution of Russian citizenship to Crimean residents looks like granting them additional rights, and not depriving of them. But in fact, these "additional rights" are a heavy burden for many people. Many people perceive the imposed identification of Crimean Ukrainians as citizens of the Russian Federation in the context of the ongoing conflict very painful. But these consequences are not limited to the inner discomfort only: like any other citizens of the Russian Federation (and citizens only!), they are liable under Art. 275 of the Criminal Code of the Russian Federation for treason against the State in the event of demonstrating loyalty to Ukraine. This means that if they are not required to be directly loyal to the Russian authorities, still they must refrain from any active manifestation of disloyalty. However, it should be understood that those of the Crimean people who decided and managed to declare "the desire to keep the existing citizenship of Ukraine" found themselves in the position of the applicants in the case KURIĆ AND OTHERS v. SLOVENIA.

CASE OF RAMADAN v. MALTA
(21 June 2016, Application no. 76136/12)

The case was examined by the European Court of Human Rights upon the complaint about the applicant's deprivation of Maltese citizenship in the context of Art. 8 of the Convention. The applicant was deprived of his citizenship on the grounds that he had obtained it by fraud. As a result, he became an apatriote (a stateless person).

In this regard, the Court emphasized that an arbitrary denial of a citizenship might in certain circumstances raise an issue under Art. 8 of the Convention because of the impact of such denial on the private life of the individual. Although, in this case the Court found no violation of the Convention, the conclusion that the consequences of changes of nationality *ratione materiae* fall within the Art. 8 of the Convention is significant in the context of this review. The Court also underlines that the private life is a concept that is wide enough to embrace aspects of a person's social identity.

In this case, the Court reiterated that the Convention does not guarantee the right to citizenship. However, in this case likewise in others, the Court draws attention not to the fact of deprivation of citizenship, but on the related (derived) changes in the applicant's private life.

The full text of the judgment can be found following the link¹³.

CASE OF GENOVESE v. MALTA
(11 October 2011, Application no. 53124/09)

The case was examined by the European Court of Human Rights upon the complaint about the refusal of the Maltese authorities to recognize the applicant's right to Maltese citizenship. The applicant was an illegitimate son of a citizen of the United Kingdom and a citizen of Malta. The father refused to acknowledge the applicant to be his son and his mother had to prove the paternity in court. Nevertheless, in spite of the fact established in court, that the father of the child was a citizen of Malta, the Maltese authorities refused to recognize the child as its citizen.

On highlighting that the right to citizenship is not as such a Convention right, the Court also noted that its denial in the present case was not such as to give rise to a violation of Article

13 <http://hudoc.echr.coe.int/eng/?i=001-163820>

8 of the Convention. Nevertheless, the Court concluded that the impact of citizenship on social identity was such as to bring it within the general scope and ambit of Article 8 of the Convention in the aspect of the right to respect for private life.

The full text of the judgment can be found following the link¹⁴.

CASE OF KURIĆ AND OTHERS v. SLOVENIA

(12 March 2014, Application no. 26828/06)

This case was examined by the Grand Chamber of the European Court of Human Rights upon the complaint of several former citizens of Yugoslavia against the actions of Slovenia, as a result of which the applicants lost their status of citizens and the formal right to stay in this country. Although the individual situation of each applicant differed, they were all united by the fact that they were living in Slovenia at the time of the proclamation of independence of the Republic (after the dissolution of Yugoslavia) and did not express their will regarding its future status (did not acquire citizenship of Slovenia, and did not apply for a permission to stay). After a while, the Slovenian authorities cleared the records of the applicants as persons legally residing in the country, whereupon they were deprived of many rights, which they enjoyed previously and which were granted to the citizens (the right to work, social benefits, access to health care, the ability to replace lost documents, etc.), and in some cases they even run a risk of expulsion. Thus, the authorities' decision on the applicants' status as citizens or residents of the country had a profound impact on the whole range of their rights.

The Court concluded that the impact of such decision of the authorities on personal and family life of the applicants did not comply with the guarantees of Article 8 of the Convention.

The full text of the judgment can be found following the link¹⁵.

The American Convention on Human Rights

The Convention was adopted at the Inter-American Conference on Human Rights on 22 November 1969 in San Jose. It entered into force on 18 July 1978.

This Convention establishes a regional human rights protection system similar to the European one. The text of the Convention reflects the specific approach to human rights typical for the American continent. At the same time, the right to a nationality was included to the catalog of human rights as a separate item after the Universal Declaration of Human Rights. In this issue American Convention differs from the European Convention on Human Rights, where the European Court with great difficulty recognizes the right to a nationality as a circumstance pertaining to personal or family life (see the relevant section in the analytical materials).

ARTICLE 20. RIGHT TO NATIONALITY

- 1. Every person has the right to a nationality.*
- 2. Every person has the right to the nationality of the state in whose territory he was born if he does not have the right to any other nationality.*
- 3. No one shall be arbitrarily deprived of his nationality or of the right to change it.*

The full text of the Convention can be found following the link¹⁶.

Convention with respect to the laws and customs of war on land (The Hague Convention IV)

This Convention is one of the documents adopted at the Peace Conferences in the Hague in the years 1899 and 1907. The document was adopted on 18 October 1907. For the Russian

14 <http://hudoc.echr.coe.int/eng?i=001-106785>

15 <http://hudoc.echr.coe.int/eng?i=001-111634>

16 http://www.hrcr.org/docs/American_Convention/oashr5.html

Federation the document came into force on 21 November 1909, for Ukraine – on 29 May 2015. Adoption of the Convention was seen as the embodiment of the rules of customary international law. Consequently, they are also binding for states that are not formally parties to the Convention. The rules laid down in the Regulation, have been partially confirmed and developed in the Additional Protocols of 1977 to the Geneva Conventions of 1949.

ARTICLE 45 OF REGULATIONS RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND (THE HAGUE REGULATION).

It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.

The full text of the Convention can be found following the link¹⁷.

The Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War

The Fourth Geneva Convention was adopted on 12 August 1949 under the auspices of the International Committee of the Red Cross. It entered into force on 21 October 1950. The participants of the Convention (as well as the other three Geneva Conventions, adopted on the same day in 1949) are all the nations of the world. The Convention contains provisions on the protection of the civilian population in the context of armed conflict, in particular the occupation.

Article 67 of the GC IV provides that the occupying military courts shall take into consideration the fact the accused is not a national of the Occupying Power. It is customary to interpret this provision in the sense that persons who prior to the occupation had nationality of a State possessing sovereignty over the relevant territory retain it¹⁸.

Forced recruitment of residents of the occupied territory into the armed forces of the occupying Power is a serious violation of international humanitarian law and a war crime (see. Wagner precedent¹⁹, Berger precedent²⁰, Article 147 of the GC IV, Art. 8 (2) (a) (v) of the Rome Statute of the International Criminal Court²¹).

ARTICLE 47

Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

ARTICLE 68

[...]

The death penalty may not be pronounced against a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

[...]

The full text of the Convention can be found following the link²².

17 <https://ihl-databases.icrc.org/ihl/INTRO/195>

18 Dinstein Y. The International Law of Belligerent Occupation. — Cambridge, 2009. — P. 53.

19 http://www.worldcourts.com/ildc/eng/decisions/1946.05.03_France_v_Wagner.pdf

20 http://www.worldcourts.com/imt/eng/decisions/1949.04.13_United_States_v_Weizsaecker.pdf#search=%22weizsaecer%22

21 https://www.icc-cpi.int/nr/rdonlyres/ea9aef7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf

22 <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=AE2D398352C5B028C12563CD002D6B5C&action=openDocument>

Robert Wagner Case

In the summer of 1940, Robert Wagner was appointed by Hitler to be a Gauleiter²³ and at the same time the imperial viceroy in occupied France Alsace for the purpose of germanization and nazification of the region. Prior to that, Wagner served as Gauleiter and the governor of Baden. In the early years of the German occupation he made many attempts to encourage the Alsatians to voluntarily serve in the German army. In general, for the German side the idea of recruiting volunteers failed (only about 2,300 people, mostly Germans of Alsace responded to the call). The solution to this problem was the introduction of conscription.

Conscription was introduced in Alsace by the Order of 25 August 1942. In accordance with section 1 of the Order compulsory military service in the German armed forces for all Alsatians of German nationality was introduced in Alsace. The Order was made public simultaneously with the Decree on acquisition of German nationality by all Alsatians. This Decree was issued by the Minister of Internal Affairs of the Third Reich on 23 August 1942, and also was applied to the population of Lorraine and Luxembourg. These measures were approved by the Supreme Command of the Wehrmacht, in particular, Hitler and Keitel. Consequently, the spread of German citizenship entailed an obligation for the population of these territories to serve in the German army.

On 29 July 1945 Wagner was arrested by US occupation forces and handed over to the French authorities. On 23 April 1946 he was brought before the Permanent Military Tribunal in Strasbourg. The Tribunal charged Wagner, in particular, with the instigation of the French to take up arms against France, as well as with organization of recruitment of the French into the enemy (German) army. As a result, on 3 May 1946 the tribunal sentenced Robert Wagner to death and confiscation of all property in favor of the people.

Gottlob Berger Case

Gottlob Berger was brought to trial by the American Military Tribunal at Nuremberg in the case of «Wilhelmstrasse». On 1 April 1940, Berger was appointed Chief of the SS Main Office, and in July 1942 became Himmler's liaison officer for the Ministry of the Occupied Eastern Territories. Also, at various times he served as commander of the reserve forces, the head of the Service for Prisoners of War in Germany, the chief of staff of the German Volkssturm (People's Volunteer Corps) and General of the Waffen-SS.

Regarding Berger through a judicial process in the clearest possible terms, it was noted that, "the program implemented in Serbia and Croatia was also carried out in Latvia, Lithuania, Poland, Russia, Luxembourg, Alsace and Lorraine. Without a doubt, defendant Berger is guilty of committing crimes against humanity by the fact that he and his departments were involved in forcing the citizens of these countries to the Germanization or other methods for the purpose of recruitment into the German armed forces".

On 11 April 1949 the American Military Tribunal sentenced Gottlob Berger to 25 years in prison.

These precedents again prove the fact that the right to a nationality and violation of this right is closely linked to other human rights violations, right up to international crimes, which is the forced recruitment of inhabitants of the occupied territory into the armed forces of the occupying Power.

Nottebohm Case²⁴

International Court of Justice in its famous judgment in the Nottebohm case of 6 April 1955, said that it is the sovereign right of each State to decide who are its nationals, provided

²³ Gauleiter was the party leader of a regional branch of the National Socialist German Workers' Party

²⁴ <http://www.icj-cij.org/docket/files/18/2674.pdf>

that this process must be properly regulated by international law. International Court of Justice has upheld the principle of «effective nationality», that which accorded with the facts and based on stronger factual ties between the person concerned and one of these States whose nationality is involved. These factors include the habitual residence of the individual concerned but also the centre of his interests, his family ties, his participation in public life, attachment shown by him for a given country and inculcated in his children, etc.

Case of Yean and Bosico v. Dominican Republic²⁵

The Inter-American Court of Human Rights in its judgment in the case of Yean and Bosico v. Dominican Republic acknowledged the ethnic discrimination of citizens of the Dominican Republic of Haitian descent and confirmed, as enshrined in the aforementioned American Convention on Human Rights, the right of every person to citizenship as a prerequisite for equal enjoyment of all rights in the society. Inter-American Court in its decision also noted that the regulation of nationality issues is the responsibility of the state, but international law imposes certain restrictions on the implementation of such powers. The Court upheld this argument in another case of Ivcher-Bronstein v. Peru²⁶, but also noted²⁷ that the right to a nationality is an inalienable right of all people and has an important influence on the legal existence of a natural person.

Joint statement of the participants of the Conference of European Constitutional Courts concerning respect for territorial integrity and international law in administering constitutional justice of 10 September 2015 (Batumi Declaration)

The Constitutional Court of the Russian Federation played its role in the formal recognition of the annexation, having considered the so-called “treaty on the accession of Crimea” in terms of its constitutionality, and spoke in favor of the legality of admitting the so-called “Republic of Crimea” and the “City of Federal Importance Sevastopol” to the Russian Federation (see the relevant section in the Russian legislation). At the same time the Constitutional Court of the Russian Federation also assessed provisions regarding citizenship of the Crimean residents (see below the section in the Russian legislation).

The position of the Constitutional Court of the Russian Federation was condemned by some participants of the Conference of European Constitutional Courts, which was held in Batumi in September 2015. In particular, on 10 September 2015, there was signed the so-called Batumi Declaration, which noted that the Constitutional Court of the Russian Federation formally had a decisive role in the process of annexation of the Crimean Peninsula, and without its judgment the annexation could not be recognized as lawful under national Russian legislation (the illegality of the annexation in the context of international law is not in question in the text of the declaration).

The full text of the document can be read below in this review

JOINT STATEMENT CONCERNING RESPECT FOR TERRITORIAL INTEGRITY
AND INTERNATIONAL LAW IN ADMINISTERING CONSTITUTIONAL JUSTICE

As it is known, on 19 March 2014, the Constitutional Court of the Russian Federation passed the judgment in the case «On the verification of the constitutionality of the

25 <http://www.refworld.org/docid/44e497d94.html>

26 http://www.corteidh.or.cr/docs/casos/articulos/seriec_74_ing.pdf

27 http://www.corteidh.or.cr/docs/opiniones/seriea_04_ing.pdf

international treaty, which has not yet entered into force, between the Russian Federation and the Republic of Crimea on the accession of the Republic of Crimea to the Russian Federation and the formation of new constituent entities within the Russian Federation». By that unprecedented judgment, the Constitutional Court of the Russian Federation recognised that the agreement between the Russian Federation and the so-called «Republic of Crimea», located in the territory of Ukraine, is an international treaty, as well as that the so-called «Republic of Crimea» has the status of an international legal entity.

It is important to note that the Constitutional Court of the Russian Federation formally has a decisive role in the process of the annexation of foreign territories. Under Paragraph 1 of Article 8 of the Federal Constitutional Law of the Russian Federation «On the Procedure of Admission to the Russian Federation and Creation of a New Subject of the Russian Federation in Its Composition», an international treaty on the accession of a new entity to the Russian Federation may be ratified only after the Constitutional Court of the Russian Federation rules such a treaty to be in compliance with the Constitution of the Russian Federation. Thus, under the Russian legislation, the above-mentioned judgment was necessary in order to formally annex part of the territory of Ukraine — Crimea and the City of Sevastopol. Without that judgment, the annexation of Crimea and the City of Sevastopol could not be formally accomplished. Therefore, the Constitutional Court of the Russian Federation, by adopting its judgment of 19 March 2014 within one day after the so-called «Treaty» was signed, performed an instrumental role in accomplishing and justifying the annexation of Crimea.

We recall that, under international law, such annexation of a foreign territory is a manifestation of aggression and cannot be justified by any consideration.

In this context, it should be noted that not a single European state has recognised this annexation and that the general international consensus as to the illegality of the «Crimean referendum» and the annexation of Crimea is, inter alia, expressed in United Nations General Assembly Resolution no. 68/262 «The territorial integrity of Ukraine» (2014), Parliamentary Assembly of the Council of Europe Resolutions no. 1988 «Recent developments in Ukraine: threats to the functioning of democratic institutions» (2014), no. 1990 «Reconsideration on 2

substantive grounds of the previously ratified credentials of the Russian delegation» (2014) and no. 2034 «Challenge, on substantive grounds, of the still unratified credentials of the delegation of the Russian Federation» (2015), European Parliament Resolution no. 2014/2699(RSP) «On Russian pressure on Eastern Partnership countries and in particular destabilisation of eastern Ukraine» and the OSCE Parliamentary Assembly Resolution «The continuation of clear, gross and uncorrected violations of OSCE commitments and international norms by the Russian Federation» (2015). The conclusions concerning the illegality of the «Crimean referendum» were also stated in the Opinion of the European Commission for Democracy through Law (Venice Commission) on «Whether the decision taken by the Supreme Council of the Autonomous Republic of Crimea in Ukraine to organise a referendum on becoming a constituent territory of the Russian Federation or Restoring Crimea's 1992 Constitution is compatible with constitutional principles» (2014).

We consider that the judgment of 19 March 2014 of the Constitutional Court of the Russian Federation amounts to a grave violation of international law (the universally recognised norms of international law, including those consolidated in the 1945 Charter of the United Nations, the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, the 1975 Final Act of the Conference on Security and Cooperation in Europe). Consequently, it may be concluded that this judgment is not in accordance with the fundamental principle of the rule of law, which obliges courts to

comply with the general principles of law, the main principles of international law and the values of democratic constitutional order,

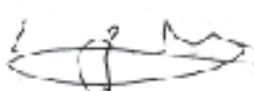
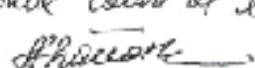

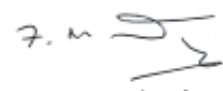
We reiterate that the Statute of the Conference of European Constitutional Courts makes the full membership of European Constitutional Courts in this organisation conditional upon the conduct of judicial activities by its members in accordance with the principle of judicial independence, the fundamental principles of democracy, the rule of law and the duty to respect human rights (Paragraph 1 (a) of Article 6),

We, therefore, invite the members of the Conference of European Constitutional Courts to consider adopting the «Declaration on respect for territorial integrity and international law in administering constitutional justice», which has been proposed by the Constitutional Court of Ukraine.

This Joint Statement is open for signature to the memberS of the Conference of European Constitutional Courts,

Batumi, 10 September 2015

SIGNED BY:

1. On behalf of the Constitutional Court of Ukraine,
Head of Delegation ~~of~~ Stanislav Sherchuk
2. President of the Constitutional Court of
the Republic of Lithuania
Dainius Žalimas
3. Andrzej Łyjak, president of the
Constitutional Court of Poland.
4. George PAPUNASHVILI 
President, Constitutional Court of Georgia
5. On behalf of the Constitutional Court of Moldova
Alexandru Tănase 
6. На ім'я представлення правосуддя в територіальних
репрезентаціях конституційних органів держави, а саме
в особі суддів конституційних органів правосуддя,
які на свій вибачений розпорядилися виконати повноваження,
які належать органам правосуддя відповідно до конституції
України та інших актів законодавства, в тому числі
пункту 10 статті 10 Конституції України 
7.  H.M. NICOLATOS
President Supreme Court of Cyprus.

Laws and regulations of Ukraine

Constitution of Ukraine

Date of approval and number: 28 June 1996, no. 254k/96-VR

Effective date: 28 June 1996

ARTICLE 4.

There is single citizenship in Ukraine. The grounds for the acquisition and termination of Ukrainian citizenship are determined by law.

ARTICLE 25.

A citizen of Ukraine shall not be deprived of citizenship and of the right to change citizenship. A citizen of Ukraine shall not be expelled from Ukraine or surrendered to another state. Ukraine guarantees care and protection to its citizens who are beyond its borders.

ARTICLE 26.

Foreigners and stateless persons who are in Ukraine on legal grounds enjoy the same rights and freedoms and also bear the same duties as citizens of Ukraine, with the exceptions established by the Constitution, laws or international treaties of Ukraine. Foreigners and stateless persons may be granted asylum by the procedure established by law.

ARTICLE 33.

Everyone who is legally present on the territory of Ukraine is guaranteed freedom of movement, free choice of place of residence, and the right to freely leave the territory of Ukraine, with the exception of restrictions established by law.

A citizen of Ukraine may not be deprived of the right to return to Ukraine at any time.

The full text of the Constitution can be found following the link²⁸.

Law of Ukraine “On the Unified state demographic register and the documents confirming citizenship of Ukraine, certifying the identity or its special status”

ARTICLE 13.

Titles and types of documents issued with the application of the Unified state demographic register.

1. Documents, execution of which is provided by this Law with the application of the Register, in accordance with their purpose are divided into:

1) documents certifying the identity and confirming citizenship of Ukraine:

- a) a Ukrainian passport;*
- b) a Ukrainian international passport;*
- c) a diplomatic passport of Ukraine;*
- d) a service passport of Ukraine;*
- e) a seafarers' identity document;*
- f) a crew member certificate;*
- g) an ID card to return to Ukraine;*
- h) a Ukrainian temporary certificate.*

The full text of the Law can be found following the link²⁹.

Law of Ukraine “On Citizenship of Ukraine”

Date of approval and number: 18 January 2001, no. 2235-III

²⁸ http://www.coe.int/t/dghl/cooperation/ccpe/profiles/ukraineConstitution_en.asp

²⁹ <http://zakon2.rada.gov.ua/laws/show/1601-18>

Effective date: 1 March 2001

Contents: the Law regulates the procedure for acquisition of citizenship, defining the grounds for such an acquisition (Art. 6), as well as the procedure for termination of citizenship (Art. 17 voluntary termination of citizenship of Ukraine).

The citizenship of Ukraine is based, in particular, on the principles of a single citizenship, prevention of statelessness, impossibility of deprivation of citizenship, retention of citizenship, regardless of the citizen's place of residence (Art. 2).

The full text of the Law can be found following the link³⁰.

The Law of Ukraine “On Securing the Rights and Freedoms of Citizens and the Legal Regime on the Temporarily Occupied Territory of Ukraine”

Date of approval and number: 15 April 2014, no. 1207-18

Effective date: 27 April 2014

Contents: Part 1 of Art. 6 of the Law secures the rights of citizens residing in the temporarily occupied territory for issuance of documents certifying Ukrainian citizenship.

Part 4 of Art. 5 determines that compulsory automatic enrollment of Ukrainian citizens, who reside in the temporarily occupied territory, to the citizenship of the Russian Federation is not recognized by Ukraine and is not ground for deprivation of Ukraine's citizenship.

The full text of the Law can be found following the link³¹.

The Law of Ukraine «On Creation of the Free Economic Zone «Crimea» and on Peculiarities of Exercising Economic Activity in the Temporarily Occupied Territories of Ukraine»

Date of approval and number: 12 August 2014. no. 1636-VII

Effective date: 27 September 2014

Contents: Art. 8.3. of the Law stipulates that state guarantees concerning benefits and social assistance do not apply to citizens who live in the territory of the FEZ Crimea and are either stateless or have citizenship of a foreign state, as well as to the citizens of Ukraine who also have the citizenship of the occupying state. Transitional provisions of the Law established that foreigners and stateless persons, citizens of Ukraine who live in the temporarily occupied territory of Ukraine or temporarily staying in the other territory of Ukraine are recognized non-residents for the purpose of customs formalities.

The full text of the Law can be found following the link³².

Law of Ukraine “On ensuring the rights and freedoms of internally displaced persons”

Date of approval and number: 20 October 2014, no. 1706-VII

Effective date: 22 November 2014

Contents: IDPs can receive documents certifying their identity, special status and citizenship if they appeal to the central executive body at the place of their factual residence (Art. 6).

The full text of the Law can be found following the link³³.

30 http://www.coe.int/t/dghl/standardsetting/nationality/National%20legislation/Ukraine%20LawCitizenship%20consol%20June05_ENG.pdf

31 <http://mfa.gov.ua/en/news-feeds/foreign-offices-news/23095-law-of-ukraine-no-1207-vii-of-15-april-2014-on-securing-the-rights-and-freedoms-of-citizens-and-the-legal-regimeon-the-temporarily-occupied-territory-of-ukraine-with-changes-set-forth-by-the-law-no-1237-vii-of-6-may-2014>

32 <http://zakon4.rada.gov.ua/laws/show/1636-18>

33 <https://www.brookings.edu/wp-content/uploads/2016/07/Ukraine-IDP-Law-November-2014.pdf>

Laws and regulations of the Russian Federation

Constitution of the Russian Federation

Date of approval: 12 December 1993

Effective date: 01 October 1993

Contents: Art. 6 stipulates that the citizenship of the Russian Federation shall be acquired and terminated according to federal law; it shall be one and equal, irrespective of the grounds of acquisition. Every citizen of the Russian Federation shall enjoy in its territory all the rights and freedoms and bear equal duties provided for by the Constitution of the Russian Federation. A citizen of the Russian Federation may not be deprived of his or her citizenship or of the right to change it.

Art. 62 of the Constitution allows dual citizenship for Russian citizens.

The full text of the Constitution can be found following the link³⁴.

Law of the Russian Federation of 28 November 1991 no. 1948-I “On Citizenship of the Russian Federation”

The Law on Citizenship was adopted in connection with the proclamation of independence by the Russian Federation in 1991. In 2002, the text of the Law was redrafted (see below).

Of a particular interest are the provisions on granting Russian citizenship to former USSR citizens residing in the territory of the Russian Federation on the date of entry into force of this Law. Persons of this category had the right to declare their unwillingness to have citizenship of the Russian Federation during a year after the Law came into force. In comparison, the residents of Crimea were given less than a month to think about this decision, and the period, during which the opportunity to “express the desire to keep the citizenship of Ukraine” existed de facto, was less than 18 days.

ARTICLE 13. RECOGNITION OF CITIZENSHIP OF THE RUSSIAN FEDERATION

1. *All former Soviet citizens permanently residing in the territory of the Russian Federation on the date of entry into force of this Law shall be recognized as citizens of the Russian Federation, unless they declared their unwillingness to have Russian citizenship within one year after that day.*

The full text of the document can be found following the link³⁵.

Federal Constitutional Law “On Admitting to the Russian Federation the Republic of Crimea and Establishing within the Russian Federation the New Constituent Entities of the Republic of Crimea and the City of Federal Importance Sevastopol”

Date of approval and number: 20 March 2014, no. 6-FKZ

Effective date: 21 March 2014

Contents: Art. 4 of the FCL regulates the recognition of citizenship of the Russian Federation for the citizens of Ukraine and stateless persons who permanently reside in the territory of the Republic of Crimea or Sevastopol. Thus, all Ukrainian citizens and stateless persons who reside in the territory of the Republic of Crimea or Sevastopol shall be recognized as citizens of the Russian Federation. Persons willing to retain their nationality or remain stateless must declare this within 1 month after admitting the Republic of Crimea to the Russian Federation. Otherwise, citizens shall be recognized as citizens of the Russian Federation without any second citizenship. In addition, the Law imposes restrictions for holding positions in state

³⁴ <http://www.constitution.ru/en/10003000-01.htm>

³⁵ http://www.democracy.ru/library/laws/federal/1948-I_fz/

and municipal bodies by the Russian citizens who have a second citizenship or the right of permanent residence in a foreign country. Art. 11 of the Law also guarantees the citizens of Ukraine and stateless persons residing in the territory of the Republic of Crimea at the time of admitting the Republic of Crimea to the Russian Federation the right to social assistance only in case they acquire Russian citizenship.

Typical form of declaration that was strictly recommended to fulfill by those Crimeans who wanted to avoid Russian citizenship:

От гражданина _____
Дата рождения _____
Место рождения _____
Проживающего по адресу _____

Паспорт _____

Заявление

Я _____

заявляю о желании сохранить имеющееся у меня гражданство Украины (статус лица без гражданства) для себя и своих несовершеннолетних детей

В связи с чем отказываюсь от признания себя гражданином (своих несовершеннолетних детей) Российской Федерации и в соответствии со статьей 5 Договора Российской Федерации и Республики Крым о принятии в Российскую Федерацию Республики Крым и образования в составе Российской Федерации новых субъектов (Москва, 18 марта, 2014 год) С правовым статусом иностранного гражданина, лица без гражданства и необходимостью оформления соответствующих документов, а также правовыми последствиями принятого мною решения ознакомлен.

(дата)

(подпись)

FMS of Russia
From a citizen _____

Date of birth _____

Place of birth _____

Residing in _____

Passport details _____

Declaration

I _____
declare the willingness to retain my citizenship of Ukraine (status of a stateless person) for
myself and my minor children _____

In light of this, I refuse to be recognized (to recognize my minor children) as a citizen of
the Russian Federation according to the Article 5 of the Agreement between the Russian
Federation and the Republic of Crimea on admitting to the Russian Federation the Republic of
Crimea and establishing within the Russian Federation the new constituent entities (Moscow,
March 18, 2014).

I am aware of a legal status of a foreigner, a stateless person and necessity to make relevant
documents, as well as legal consequences of my decision.

(date)

(signature)

Federal Law “On Citizenship of the Russian Federation”

Date of approval, number: April 19, 2002, no. 62-FZ

Effective date: 1 July, 2002

Contents: Art. 4 of the Law contains the principles concerning the citizenship of the Russian Federation and the rules that regulate relations in the field of the Russian citizenship. In addition, it defines grounds, conditions and procedure for acquisition and termination of citizenship of the Russian Federation. Art. 6 of the FL allows dual citizenship for Russian citizens. The list of grounds for acquisition of citizenship of the Russian Federation is not exhaustive (Art. 11: at birth, on reinstatement in the citizenship, on admission to the citizenship, etc.).

Arts. 18 and 19 of the Law contain grounds and regulate the manner of renunciation of citizenship of the Russian Federation on the basis of free will of a person. Art. 20 provides that renunciation of citizenship shall not be permitted if a person: a) owes an incomplete obligation towards the Russian Federation, established by the federal laws; b) is under indictment in a criminal case in the Russian Federation or under a sentence of conviction which has taken effect and is pending execution; c) possesses no other citizenship and guarantee for the acquisition thereof.

The full text of the Law can be found following the link³⁶.

³⁶ http://www.consultant.ru/document/cons_doc_LAW_36927/

Presidential Decree of the Russian Federation “On approval of the Regulations on the order of consideration of issues of citizenship of the Russian Federation”

Date of adoption and number: 14 November, 2002, no. 1325 (revised on 4 August, 2016).

Contents: It regulates the procedure for submission and review of documents for renunciation of citizenship of the Russian Federation.

The following data must be provided among other things in an application for renunciation of citizenship: series, number, date of issue of a Russian passport and the authority which has issued this document. A copy of passport must be enclosed to this application.

Thus, the exercise of the right to renounce Russian citizenship is impossible for persons who have refused to obtain Russian passports and whom the Russian Federation, nevertheless, considers its citizens.

The full text of the Decree can be found following the link³⁷.

The Agreement between the Russian Federation and the Republic of Crimea on the Admitting of the Republic of Crimea in the Russian Federation and on Establishing New Constituent Entities within the Russian Federation

Date of signature: 18 March 2014

Date of ratification: 21 March 2014

Effective date: 1 April 2014

Contents: the Agreement specifies that the citizens of Ukraine and stateless persons permanently residing on the day the Republic of Crimea was admitted to the Russian Federation are recognized as citizens of the Russian Federation. An exception are persons who, within one month from the date of acceptance of the Republic of Crimea into the Russian Federation declare their desire to maintain their existing citizenship or otherwise remain stateless. Changes regarding the period of notice have been made to the Federal Law «On Amendments to Art. Art. 6 and 30 of the Federal Law «On Citizenship of the Russian Federation” and Certain Legislative Acts of the Russian Federation». The term has been extended to January 1, 2016.

The full text of the Agreement can be found following the link³⁸.

Decision of the Russian Federation Constitutional Court on 19 March 2014 no. 6-II “On the constitutionality of the International Agreement, not yet in force, between the Russian Federation and the Republic of Crimea on admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities”

Date of approval: 19 March 2014

Contents: The Court considered the request of the President of the RF on the constitutionality of the International Agreement concluded between the RF and Crimea. The Court found that the Agreement corresponds to the Constitution of the RF. It was found that the provision on granting citizenship of the RF and the obligation to notify dual citizenship or statelessness is not inconsistent with the Constitution, because it does not compel to renounce another citizenship or remain stateless while ensuring, if desired, the right to acquire Russian citizenship without taking any actions for this purpose.

The full text of the decision can be found following the link³⁹.

37 http://www.consultant.ru/document/cons_doc_LAW_39607/0b46424cde96ea7d9427d2c3d28d0bac40dd8cb4/

38 <http://pravo.gov.ru/proxy/ips/?docbody=&nd=102171897&rdk=&backlink=1>

39 <https://goo.gl/dtHuRw>

Federal Law of the RF “On amendments to Art. 6 and 30 of the Federal Law “On citizenship of the Russian Federation” and certain legislative acts of the Russian Federation”

Date of approval and number: 23 May 2014, no. 142-FZ

Effective date: 4 August 2014

Contents: The Federal Law introduces amendments to some legislative instruments regarding Russian citizens who reside within the boundaries of the Russian Federation and who have another citizenship or the right of permanent residence in another country. These citizens shall be obliged to notify in writing of any other citizenship or the right of permanent residence within 60 days from the date of acquisition of a second citizenship or the right of permanent residence. The procedure for notification of such citizenship is also regulated. Violation of the established procedure for notification shall entail the imposition of an administrative fine (Art.19.8 of the Code of Administrative Offences). The Criminal Code was amended imposing liability in the form of a fine, forced labor for failure to fulfill a notification obligation (Art. 330.2 of the Russian Criminal Code). Citizens who acquire Russian citizenship in accordance with the Agreement on admitting to the RF the Republic of Crimea no. 6-FKZ shall be deemed to have the Russian citizenship only, in case of filing an application for their reluctance to be citizens of a foreign state. The deadline for notification of a second citizenship and punishment for violation of the established procedure for notification, as well as punishment for failure to notify and concealing dual citizenship is effective from 1 January 2016 (Art. 6 of the Federal Law of the RF “On citizenship”).

The full text of the document can be found following the link⁴⁰.

Federal Law “On amendments to Art. 6 of the Federal Law “On citizenship”

Date of approval and number: 19 December 2014, no. 507-FZ

Effective date: 31 December 2014

Contents: Art. 6 of the Federal Law “On citizenship” is supplemented with part 3, which states that citizens who have multiple citizenship and file no notice within 60 days of their foreign citizenship or the right of residence in a foreign state shall be obliged to submit such notification not later than 30 days from the date of entry into the territory of the RF. Citizens who arrive in the Russian Federation in a manner not requiring a visa and on the date of entry into force of this Law are citizens of that foreign state only shall submit a notification of another citizenship or the right of permanent residence in other country prior to January 1, 2016.

The full text of the Law can be found following the link⁴¹.

Federal Law “On amendments to the Federal Law “On the legal status of foreign citizens in the Russian Federation” and certain legislative acts of the Russian Federation”

Date of approval and number: 14 November 2014, no. 357-FZ

Effective date: 24 November 2014

In accordance with this Law, foreign citizens staying lawfully in the territory of the Russian Federation, arriving in the Russian Federation in a manner not requiring a visa and reaching the age of 18 shall be entitled from January 1, 2015 to be employed on the basis of a work permit both by individuals and legal entities. Thus, the Crimean people who are not citizens of the Russian Federation in accordance with the Russian laws shall be obliged to obtain a work

40 <https://rg.ru/2014/06/06/grajdanstvo-dok.html>

41 <https://rg.ru/2015/01/12/grazhdanstvo-dok.html>

permit. Clarifications on the employment can be found following the link⁴².

The full text of the Law can be found following the link⁴³.

Decree of the Russian Government dd. October 29, 2015 no. 2197-r on the establishment of quotas for issuing permits for temporary residence in the Russian Federation to foreign citizens and stateless persons

In accordance with this Decree, in 2016, the Crimean Federal District (including the “Republic of Crimea” and Sevastopol) was provided with 1900 temporary residence permits for foreign citizens and stateless persons (1500 for Crimea and 400 for Sevastopol).

The full text of the document can be found following the link⁴⁴.

Criminal Code of the Russian Federation

The Criminal Code of the Russian Federation contains two articles that are of direct relevance to citizenship.

First of all, it is Art. 275 of the Criminal Code of the Russian Federation, which provides for liability for high treason. The subject of the offense under this Article is a citizen of Russia. This provision, in addition to direct collection of information constituting a state secret, provides for liability for rendering any assistance to a foreign state, an international or foreign organization, or their representatives in activities against the security of the Russian Federation. Obviously, in the context of the conflict between the Russian Federation and Ukraine the imposition of Russian citizenship predetermines the prosecution of Crimean people for any active demonstration of loyalty to Ukraine. Given that the classification of the activities to such that are directed against the security of the Russian Federation is carried out in a quite subjective way, this provision predetermines repressions against the Crimean people.

Moreover, the provisions of Art. 330.2 of the Criminal Code of the Russian Federation provide for liability for failure to notify the Russian authorities of the citizenship (nationality) of another state. In fact, it is a means of control over possible loyalty of citizens to other countries.

ARTICLE 275. HIGH TREASON

High treason, that is act of espionage committed by a citizen of the Russian Federation, disclosure to a foreign state, an international or foreign organization, or their representatives of information constituting a state secret that has been entrusted or has become known to that person through service, work, study or in other cases determined by the legislation of the Russian Federation, or any financial, material and technical, consultative or other assistance to a foreign state, an international or foreign organization, or their representatives in activities against the security of the Russian Federation -

shall be punished by deprivation of liberty for a term of twelve to twenty years with or without a fine in an amount of up to five hundred thousand rubles or in the amount of the wage or salary, or other income of the convicted person for a period of up to three years and with restriction of liberty for a term of up to two years.

Note. A person who has committed crimes stipulated in this Article, or Articles 276 and 278 of this Code, shall be relieved from criminal liability if he has facilitated the prevention of further damage to the interests of the Russian Federation by informing the governmental authorities of his own free will and in due time, or in any other way, if his actions contain no other corpus delicti.

42 <http://mtrud.rk.gov.ru/rus/info.php?id=622731>

43 http://www.consultant.ru/document/cons_doc_LAW_171225/

44 <http://government.ru/media/files/WSuem3sXQhKEsRQIJ4CNsW2M1J94eeup.pdf>

ARTICLE 330.2. FAILURE TO COMPLY WITH THE OBLIGATION TO NOTIFY OF THE CITIZENSHIP (NATIONALITY) OF A FOREIGN STATE OR A RESIDENCE PERMIT OR ANY OTHER VALID DOCUMENT CONFIRMING THE RIGHT TO PERMANENT RESIDENCE IN A FOREIGN COUNTRY (PROVIDED BY THE FEDERAL LAW OF 04.06.2014 NO. 142-FZ)

Failure to comply with the obligation determined by the legislation of the Russian Federation to notify the relevant territorial body within the federal executive body authorized to exercise the functions of control and supervision in the field of migration about the citizenship (nationality) of a foreign state or a residence permit or any other valid document confirming the right to permanent residence in a foreign country - shall be punished by a fine in an amount of up to two hundred thousand rubles or in the amount of the wage or salary, or other income of the convicted person for a period of up to one year or by compulsory labor for a term of up to four hundred hours.

The full text of the document can be found following the link⁴⁵.

Ruling of the Constitutional Court of the Russian Federation of 4 October 2016 no. 18-P in the case regarding the verification of constitutionality of Part 1, Article 4 of the Federal Constitutional Law “On admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities of the Republic of Crimea and the City of Federal Importance Sevastopol” upon A.G. Olenev’s complaint

The reason for this decision was the problem that had arisen with respect to getting a Russian passport by persons who actually lived in Crimea, but were not registered there.

When considering this case, the Constitutional Court of the Russian Federation referred to the principle of respect for the will of certain persons. According to the authors of this review, this position does not fit well with the other part of this decision: the Constitutional Court substantiates its findings with the Russia’s succession to the Crimean Peninsula and considers the connection of “new citizens” with the annexed territory as a ground for granting citizenship (this idea is borrowed from the UN General Assembly Resolution on Nationality of Natural Persons in Relation to the Succession of States). The contradiction in the position of the Constitutional Court is that if the same principles apply to persons who were officially registered in Crimea, then their will to be recognized as Russian citizens was rudely ignored, as they were subjected to mass collective naturalization as something that comes together with the annexed territory.

The full text of the document can be found following the link⁴⁶.

45 http://www.consultant.ru/document/cons_doc_LAW_10699/2ca391674eaaa02069722fa3f13cbb41cce0a95d/

46 <http://doc.ksrf.ru/decision/KSRFDecision247212.pdf>

Laws of the so-called “Republic of Crimea”

Constitution of the Republic of Crimea

Date of ratification: 11 April 2014

Effective date: 12 April 2014

Contents: Part 3 of Art. 62 of the Constitution defines the head of the Republic of Crimea as a citizen of the Russian Federation without citizenship of a foreign state or a residence permit or any other document confirming the right of permanent residence of a Russian citizen in a foreign country.

The full text of the Constitution of the “RC” can be found following the link⁴⁷.

⁴⁷ <https://rg.ru/2014/05/06/krim-konstituciya-reg-dok.html>

German Czechoslovakian treaty relating to citizenship and options of 20 November 1938⁴⁸

This treaty was adopted with the aim to resolve issues of citizenship between Germany and Czechoslovakia as a result of the occupation of the territory of the latter in October 1938. Since the end of World War II, due to the insignificance of the Munich agreement on the division of Czechoslovakia in 1938 all the acts that took the form of an international treaty, in particular, the said contract would be recognized as invalid.

Despite an early invalidation of the Treaty, there is reason to believe that its adoption largely affected the «post-war» fate of many Germans living in the occupied territories of Czechoslovakia. We are talking about the forced eviction of the German minority in Czechoslovakia who acquired German citizenship before the end of World War II. The eviction of the civilian population, being illegal from the point of view of modern international law, was made on the basis of decrees of Czechoslovak president Edvard Beneš.

Thus, in accordance with Beneš Decree of 2 August 1945 regarding the change of the Czechoslovak citizenship for persons of German and Hungarian ethnic origin, citizens of Czechoslovakia of German or Hungarian national origin who acquired German or Hungarian citizenship by the order of the occupation authorities, lost the right to citizenship of Czechoslovakia on the day of acquiring this citizenship.

The text of the treaty of 20 November 1938

The governments of Germany and Czechoslovakia, willing to settle the issues of citizenship and options arising from the reunification of Sudeten German areas with the German Reich, authorized:

on behalf of the German Government – Ministerialdirektor of the Ministry of Foreign Affairs, Mr. Dr. Friedrich Gauss, and Ministerial Adviser in the Reichsministerium, Mr. Dr. Hans Globke.

On behalf of the Government of Czechoslovakia - Mr. Dr. Antonin Koukal, Ministerial Adviser of the Ministry of Justice in Prague,
who agreed on the following provisions:

§1.

Those citizens of Czechoslovakia who as of 10 October 1938 were living in one of the communities reunited with the German Reich, from 10 October 1938 acquire German citizenship while losing Czechoslovak citizenship, if they

a) were born before 1 January 1910 in the territory, reunited with the German Reich,

or

b) lost their German citizenship on 10 January 1920,

or

c) are the children or grandchildren of a person who is subject to the conditions of a) or b)

or

d) are the wives of persons who are subject to the terms of paragraphs a), b) or c)

Citizens of Czechoslovakia of German national origin, who as of 10 October 1938 resided outside the territory of the former state Czechoslovakia from 10 October 1938 receive German citizenship while losing Czechoslovak citizenship, if they as of 10 October 1938 had the right to citizenship in one of the communities reunited with the German Reich.

A wife does not acquire German citizenship if a husband does not acquire it.

§2.

The German Government is entitled up to 10 July 1939 to require persons of not German

⁴⁸ The translation is made by the NGO “Regional Centre for Human Rights”

national origin who, according to the provisions of this Treaty shall remain citizens of Czechoslovakia and moved to the territory, reunited with the German Reich, since 1 January 1910, as well as their descendants with Czechoslovak citizenship, to leave the German Reich during the three-month period.

The Government of Czechoslovakia takes these persons in its territory.

The Government of Czechoslovakia is entitled up to 10 July 1939 to require persons of German national origin, who by the time this Treaty enters into force are citizens of Czechoslovakia and moved to the territory of the modern Republic of Czechoslovakia since 1 January 1910 as well as their descendants to leave the territory of the Czechoslovak Republic during the three-month period.

At the same time, these persons are deprived of citizenship of Czechoslovakia. The German government takes them into its territory. This provision shall not apply to persons who have received Czechoslovak citizenship after 30 January 1933 and until the date indicated had been citizens of Germany or Austria.

§ 3.

Persons not of German national origin, who under the provisions of § 1 acquire German citizenship, have until 29 March 1939 the right to opt for Czechoslovak citizenship.

§ 4.

Persons of German national origin, who remain citizens of Czechoslovakia, have until 29 March 1939 the right to opt for German citizenship. This provision shall not apply to persons who received Czechoslovak citizenship after 30 January 1933 and until the date indicated had been citizens of Germany or Austria.

§ 5.

One can inform about the willingness to opt:

- a) in favor of Czechoslovak citizenship in the territory of the Czechoslovak Republic in the Ministry of Internal Affairs in Prague,
outside the Czechoslovak Republic in the competent executive authority of Czechoslovakia;
- b) in favor of German citizenship in the territory of the German Reich in the lower competent administrative authority,
outside the German Reich in the authorized German consulate.

§ 6.

The territorial competence of the authorities referred to in § 5 is determined by the place of residence, and in the absence of residence, place of location of an optant.

If the application of option is submitted to the territorially incompetent authority, other than specified in § 5, then the latter passes it to the territorially competent authority. The date of submission of the application shall be the date of its receipt in the first instance.

§ 7.

Application of option is submitted to the authority referred to in § 5 being recorded or in writing. Signature under the application submitted in writing must be certified by the official representative of the State whose citizenship is chosen, by the court or the notary.

Application of option may also be submitted by an authorized representative. The signature under a power of attorney must be certified by any of the instances referred to in the paragraph 1.

Certification is exempt from fees, taxes, stamp duties and other charges.

§ 8.

The competent authority of the state whose citizenship is selected, checks the prerequisites for the option. In the Czechoslovak Republic, this checking is reserved for the Ministry of Interior in Prague.

If the conditions for the option are met, the authority shall immediately issue a certificate of option for an optant, and notify the authority designated by the other Government.

In the certificate of option there should be also specified family members subject to the option.

The option enters into force at the time an application of option is received by the authorities dealing with the choice of citizenship.

The procedure of option does not provide for any fees, taxes, stamp duties and other charges.

§ 9.

Any person having reached the age of 18 may submit the application of option.

The wife does not have the right to opt for their own; option by the husband covers a wife. This rule does not apply if the marriage is dissolved in court.

For persons under 18, for persons over 18 years, for whom there are grounds for depriving them of their legal capacity, as well as for persons who are deprived of legal capacity or over whom a temporary custody (guardianship) is established, option could be made by their legal representatives, even if the latter has no right of option. In order to assess the grounds for the application of option under this paragraph, the date of submission of the application of option to the authorities dealing with the choice of citizenship is fundamental.

§ 10.

The option is irreversible.

However, if persons for whom the legal representative has exercised the right of option, reach the age of 18 years before the expiry of the option period or until the expiration of that period the basis of their legal representation is no longer valid, they can cancel option within the time limit. The abolition of the option is covered by the provisions of §§ 5-7, respectively.

§ 11.

According to this Treaty, a place of residence of a person is the place where the person has settled with the intention of long-term residence.

If a person has more than one place of residence, the place that he indicates as his place of residence, is fundamental.

§ 12.

Persons who are required to leave the territory of the German Reich or the Czechoslovak Republic, as prescribed under § 2, as well as optants that until 3 March 1940 move their place of residence to the State in favor of which they have opted, are permitted to take all movable property, which they had as of the date of this Treaty, and they are exempt from any duties. An exception is cash, securities and collections that are of particular historical or cultural significance to the country of export. Consideration of these issues should be specified by a special agreement.

§ 13.

To check and resolve all issues that arise in the execution of this Treaty, a Mixed Commission is created, to which each of two Governments shall send an equal number of representatives.

This Commission is particularly charged with the responsibility of:

1. the development of proposals to facilitate the exchange of populations, as well as

clarification of fundamental questions that arise in this exchange;

2. the verification of doubt in regard to citizenship.

The Commission may appoint a sub-committees on specific issues if necessary.

§ 14.

This Treaty shall enter into force on 26 November 1938.

Done in duplicate, in the German and Czechoslovak languages.

Berlin, 20 November 1938.

Friedrich Gauss

Antonin Koukal

Hans Globke

[Source: The monthly magazine of Foreign Policy 5 (1938), no. 9, pp 1213-1216].

The Treaty in the original language can be found following the link⁴⁹.

Resolution of the Crimean Supreme Council on legislative initiative for the right of citizens of the Republic of Crimea to dual citizenship

18 December 1992, N° 223-1

1. In accordance with Article 1 of the Law of Ukraine “On citizenship of Ukraine” and Article 21 of the Constitution of the Republic of Crimea to consider it necessary to propose to the Supreme Council of Ukraine and the President of Ukraine to speed up decision-making on the exercise of the right to dual citizenship by the Crimean citizens.

2. To temporarily suspend in the territory of the Republic of Crimea the execution of decisions by the law enforcement bodies on citizenship of Ukraine in relation to the Crimean citizens, who haven't still decided on their belonging to Ukraine.

3. To instruct the Permanent Commission of the Supreme Council of Crimea for legislation, lawfulness and system of justice to prepare proposals on the practical exercise of the right of the Crimean citizens to dual citizenship.

The full text of the document can be found following the link⁵⁰.

49 <http://www.forost.ungarisches-institut.de/pdf/19381120-1.pdf>

50 <http://precedent.crimea.ua/documents/postanovlenye-verhovnoho-soveta-kryima-o-zakonodatelnoj-ynytskyatyve-povoprosu-realyzatsyy-prava-hrazhdan-respublyky-kryim-na-dvojnoe-hrazhdanstvo-ystorycheskye-materyalyi/>

The Russian authorities exploit the “automatic obtaining of nationality” for prosecuting pro-Ukrainian activists. The best-known examples are cases of **Oleg Sentsov** and **Aleksandr Kolchenko** who were arrested and transferred to the territory of the Russian Federation on suspicion of committing criminal offenses. Both are citizens of Ukraine and during the occupation lived in Crimea. The Office of the United Nations High Commissioner for Human Rights highlighted in its report of July 15, 2014 (para. 188):

“It would appear that since Sentsov did not explicitly renounce Russian citizenship within the deadline provided under Russian legislation, he is automatically considered to have become a Russian citizen.”

Particularly, the “Kolchenko’s case” should be mentioned in the context of nationality, as it indicates the compulsory nature of the “automatic nationality” of the Russian Federation, which does not depend on the will of a person. The court denied the retention of the Ukrainian citizenship by Kolchenko, despite the fact that Kolchenko while being in custody in Moscow could not apply for Russian citizenship and obtain a Russian passport. Kolchenko confirms that he has taken no actions to obtain Russian citizenship. The only document that has been certifying his identity since the time of his arrest is his Ukrainian passport. Kolchenko considers himself a citizen of Ukraine, and Ukraine recognizes Kolchenko’s Ukrainian citizenship.

The court decided to deny the retention of the Ukrainian citizenship by Oleksandr Kolchenko. The court’s decision to deny the retention of the Ukrainian citizenship contradicts international law, Russian and Ukrainian legislations. Therefore, Kolchenko is deprived of the right to nationality, despite the fact that no one can be deprived of nationality arbitrarily. In addition, the judgment violates Article 16 of the International Covenant on Civil and Political Rights of 1966, which guarantees that everyone shall have the right to recognition everywhere as a person before the law. Thus, Kolchenko’s legal personality is based on his Ukrainian nationality, and his legal nexus as a national of Ukraine remains unchanged outside Ukraine. In this case, the court, deciding in the name of the Russian Federation, unreasonably refuses to recognize Oleksandr Kolchenko’s legal personality (Report of the Crimean Human Rights Field Mission for January 2015, p. 16).

Eventually, the North Caucasus District Military Court sentenced Oleg Sentsov and Oleksandr Kolchenko to 20 and 10 years of imprisonment in a strict regime penal colony, respectively, as Russian citizens. At the same time, Kolchenko with assistance of his lawyer Svetlana Sidorkina filed a complaint to the European Court of Human Rights about the compulsory imposition of the Russian nationality.

This “automatic” acquisition of Russian nationality by nationals of Ukraine in Crimea is illegal, since the internal procedures of the Russian Federation for its acquisition fail to comply with the applicable international conventions, customary international law and the principles of the nationality law (in particular, see The European Convention on Nationality, Nottebohm case).

Those Crimeans who for one reason or another have not declared their «desire to preserve their existing citizenship of Ukraine», but still do not wish to be considered as citizens of the Russian Federation, faced a “curious” situation. Often in this situation, these people do not apply for the issuance of Russian passports, while continuing to use the passport of citizen of Ukraine.

Some of these people have applied for a residence permit as citizens of Ukraine. Mainly, this situation ends with failure. Denial is usually motivated by the fact that, in accordance with the law of 6-FKZ applicants are considered as citizens of Russia, and a residence permit may be granted only to foreign nationals.

Those Crimeans who try to renounce the imposed citizenship of the Russian Federation also end up in a complicated situation. Russian legislation makes no exception for Crimeans,

and thus they have to undergo the procedure of renouncing the citizenship in a general way. This procedure, among other things, requires a RF passport. Thus, here is a vicious circle: in order to get rid of the imposed citizenship, you must first recognize yourself a citizen of Russia and formally apply for a passport.

If Crimeans do not have a «document confirming the legality of staying in the territory of Russia» (Russian passport or residence permit) this leads to restriction or deprivation of many of their rights. Without Russian passport or a residence permit it is impossible be formal employment, apply for health services, social benefits and pensions.

Imposition of citizenship as a new human rights violation and a way of implementing aggressive expansion by the Russian Federation in the context of the occupation of Crimea

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Introduction

After the occupation of the Crimean Peninsula the Russian Federation collectively naturalized the population of Crimea. This fact raises a number of questions that have no ready answers in today’s environment. Firstly, it is a way of seizing the territory together with the population. Secondly, it is interference in Ukraine’s internal affairs and nationality relationship that existed between the Crimean residents and the Ukrainian state. Finally, Russia has violated international human rights standards, interfering in the internal sphere of an individual. It is this aspect – the violation of human rights by means of imposition of nationality – that is a focus of this study.

It should be realized that the occupation and actions directed at the appropriation of the occupied territory is a phenomenon that happened perhaps for the first time in the European system of human rights protection. The similar situation, which can be compared to Crimea, is the Turkish invasion of Northern Cyprus. However, the current level of economic, legal, information, cultural and other relations rises new issues which did not exist or were not so high-profile during the invasion of Cyprus. Furthermore, Cyprus still remains the so-called unrecognized territory that Turkey has never tried to make a part of its own country.

Crimea also differs from other unrecognized territories, including Transnistria, Abkhazia and South Ossetia⁵¹. The Russian Federation has been carrying out the “passportization” of the population in these territories for quite a long time already. However, the main difference from the Crimean situation is that the expression of individual’s will is needed in order to obtain Russian nationality in these territories and there is no temporal limitation. In other words, those who are unwilling to acquire Russian nationality can avoid it. But in Crimea there was held quick collective passportization, during which there was no possibility to consciously respond to the situation.

In the postwar time contemporary international law addressed the issues of eliminating statelessness⁵² and resolving cases of dual nationality. However, the issue of protection against arbitrary imposition of nationality has so far remained unnoticed by the international community. It is time when these issues must also take their rightful place in international discussions.

Historical background

In early 2014, Russia committed an act of military aggression against sovereign Ukraine and tried to annex part of its territory - the Crimean Peninsula. The beginning of the active phase

51 See, for example, Human Rights in the Occupied Territories of Georgia: Information Note Distributed by the Delegation of Georgia during OSCE Review Conference - Human Dimension Session (Warsaw, 30 September - 8 October 2010). – Access mode: <http://www.osce.org/home/73289?download=true> (date of reference: 01/11/2016).

52 See, for example, materials of the United Nations High Commissioner for Refugees (UNHCR) about the campaign to stop statelessness. – Access mode: <http://www.unhcr.org/pages/53174c306.html> (date of reference: 01/11/2016).

of such actions should be considered the third decade of February⁵³.

The occupation was carried out under the protection the so-called “green men” - armed men without insignia. Later in the documentary “Crimea: The Way Back Home”, Russian President Vladimir Putin recognized that those were the Armed Forces of the Russian Federation⁵⁴. According to numerous press reports, many of the participants of the occupation were awarded with a medal “For the return of Crimea”, but the official list of the medaled persons is not available⁵⁵.

On 27 February 2014, by a decision of the Verkhovna Rada of the Autonomous Republic of Crimea (ARC), captured and controlled at the time by the armed men, there was scheduled an all-Crimean referendum⁵⁶. The initial date of the referendum was set on the day of presidential elections in Ukraine –25 May 2014. Then the referendum was rescheduled for 30 March and finally - for 16 March 2014. The latter was the date when the referendum took place⁵⁷.

Reliable data on the results of voting is not available, and public statements of those involved in its organization and conduct contain contradictory information⁵⁸. Despite that fact, on 18 March 2014, (in two days after the referendum) an agreement “on admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities” (hereinafter - “Agreement”) was signed⁵⁹.

The next day the Constitutional Court of the Russian Federation by its decision dd. 19 March 2014 no. 6-P acknowledged this Agreement as such that corresponds to the Constitution of

53 On 23 February 2014, on the Nakhimov Square in the city of Sevastopol there was held a rally, during which a Russian citizen Oleksiy Chaly was “elected” as the so-called “people’s mayor”. Then the city was surrounded by checkpoints. Later, on 26 February 2014, in front of the building of Verkhovna Rada of Crimea, that was taken over by people unknown at that time, there was held a meeting of pro-Russian and pro-Ukrainian forces (the latter included the Crimean Tatars). However, the medal “For the return of Crimea”, legalized by the Order of the Ministry of Defense of the Russian Federation no. 160 of 21 March 2014 bears the dates 20.02.14 - 18.03.14. The Verkhovna Rada of Ukraine by the Law of 15 September 2015 specified the date of the beginning of the occupation: the beginning of the occupation is officially considered to be 20 February 2014.- Access mode: <http://zakon0.rada.gov.ua/laws/show/1207-vii>.

54 Andriy Kondrashov: Film “Crimea: The Way Back Home” (All-Russian State Television and Radio Broadcasting Company, 2015).- Access mode: https://russia.tv/brand/show/brand_id/59195/ (date of reference: 01/11/2016). The film has English subtitles. Regarding the participation of Russian troops, please, watch from 1:05:00.

55 According to the site life.ru: ca. three hundred Russian citizens were awarded with a medal “For the Return of Crimea”.- Access mode: <https://life.ru/t/новости/151348> (date of reference: 01/01/2016).

56 Resolution of the Autonomous Republic of Crimea “On holding of the all-Crimean referendum”.- Access mode: <http://crimea.gov.ru/act/11689> (date of reference: 01/11/2016).

57 During this short period, not only any public debate was not organized, but also Ukrainian and Crimean Tatar activists were severely persecuted. See, for example, the report of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine dd. 15.04.2014, prepared after the visit of Assistant Secretary General for Human Rights Ivan Šimonović to Crimea: “the presence of paramilitary and so called self-defence groups as well as soldiers in uniform without insignia, widely believed to be from the Russian Federation, was not conducive to an environment in which voters could freely exercise their right to hold opinions and the right to freedom of expression. There have also been credible allegations of harassment, arbitrary arrest, and torture targeting activists and journalists who did not support the referendum. Furthermore, seven persons were reported as missing <...> While the Tatar community was promised numerous concessions, including Government positions as well as the recognized status as indigenous peoples, the majority of the members of the community chose to boycott the referendum. OHCHR was informed by representatives of Crimean Tatars that no more than 1,000, out of a population of 290,000-300,000, participated in the 16 March referendum” (para. 6) .- Access mode: http://www.ohchr.org/Documents/Countries/UA/Ukraine_Report_15April2014.doc (date of reference: 01/11/2016).

58 According to the statement of Mykhaylo Malyshev, the so-called “Head of the Crimean Parliament Commission on organization and holding of the referendum” 1 million 250 thousand 426 people voted in Crimea. This is without Sevastopol <> With Sevastopol the number of people voted made up 1 million 724 thousand 563 people.” (Quoted by the Newspapers: “Crimea has chosen Russia.” – Access mode: https://www.gazeta.ru/politics/2014/03/15_a_5951217.shtml (date of reference: 01/11/2016). According to this statement, more than 474 thousand people voted in Sevastopol, while the total number of population (including children who do not have the right to vote) was a little over 385 thousand people.

59 On the peninsula, in compliance with Article 133 of the Constitution of Ukraine, there were established two administrative units equal in status - the Autonomous Republic of Crimea (hereinafter - ARC) and the city of Sevastopol, which had been existing in that form since declaration of independence of Ukraine in 1991. The two administrative units had the same status, and none of them was subordinate to the other. Nevertheless, the referendum was also conducted in the city of Sevastopol. By tangent rule the terms regarding the city of Sevastopol were included in the “agreement”.- Access mode: <http://kremlin.ru/events/president/news/20605> (date of reference: 01/11/2016).

the Russian Federation⁶⁰.

On 21 March 2014, Russian President Vladimir Putin signed the law on ratification of the Agreement and the Federal Constitutional Law no. 6-FKZ “On admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities of the Republic of Crimea and the City of Federal Importance Sevastopol” (hereinafter - the Law 6-FKZ)⁶¹.

This Law came into force on 1 April 2014. Since that time, its provisions began to be formally applied by the occupation authorities on the Crimean Peninsula. However, it should be noted that according to Article 1 of the “Agreement” the so-called Republic of Crimea deemed to be admitted to the Russian Federation from the date of signing of this Agreement, i.e. from 18 March 2014.

The occupation has been followed by numerous violations of human rights: freedom of movement, property rights, freedom of speech, freedom of religion, the right to a fair trial and so on. At the same time, some of these violations themselves are also international crimes: for example, transfer of the Crimean residents from the occupied territory and vice versa, transfer of the civilian population of the Russian Federation to the occupied territory significantly changes the population profile of the peninsula. Conscripting of residents of the occupied territory into the Russian Armed Forces is another example of such an offense. A prerequisite for this and other offenses is arbitrary imposition of Russian nationality, which is being analyzed below.

International legal qualification of the Russian Federation’s actions in Crimea

The UN General Assembly Resolution 3314 of 14 December 1974 defines aggression as the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State or in any other manner inconsistent with the Charter of the United Nations⁶².

The Ukraine’s territorial integrity is guaranteed by a package of international legal agreements from the UN Charter to the Final Act of the Conference on Security and Cooperation in Europe.

According to the so-called Budapest Memorandum⁶³ signed by the Russian Federation along with Great Britain and the United States, the signatories made a commitment to respect the independence and sovereignty and the existing borders of Ukraine and refrain from the threat or use of force against the territorial integrity or political independence of Ukraine, ensuring that none of their weapons will ever be used against Ukraine except in self-defense or otherwise in accordance with the Charter of the United Nations⁶⁴.

The UN General Assembly Resolution 68/262 on Ukraine’s territorial integrity of 27 March 2014 called upon all States, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the referendum held on 16 March 2014 and to refrain from any

60 See the Judgment of the Constitutional Court of the Russian Federation of 19 March 2014 no. 6-P.- Access mode: <https://rg.ru/2014/03/19/ks-site-dok.html> (date of reference: 01/11/2016). On 10 September 2015, at the Conference of European Constitutional Courts in Batumi there was signed the so-called Batumi Declaration, which noted the crucial role of the Constitutional Court of the Russian Federation in legalizing the occupation and annexation of the Crimean Peninsula.

61 Federal Constitutional Law no. 6-FKZ “On admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities of the Republic of Crimea and the City of Federal Importance Sevastopol”. - Access mode: <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=200047&fld=134&dst=100136,0&rnd=0.46997960940071615#0> (date of reference: 01/11/2016).

62 UN General Assembly Resolution no. 3314 of 14 December 1974.- Access mode: http://www.un.org/ru/documents/decl_conv/conventions/aggression.shtml (date of reference: 01/11/2016).

63 Memorandum on Security Assurances in Connection with Ukraine’s Accession to the Treaty on the Non-proliferation of Nuclear Weapons of 5 December 1994.- Access mode: http://zakon4.rada.gov.ua/laws/show/998_158 (date of reference: 01.11.2016).

64 Memorandum on Security Assurances in Connection with Ukraine’s Accession to the Treaty on the Non-proliferation of Nuclear Weapons.- Access mode: http://zakon2.rada.gov.ua/laws/show/998_158 (date of reference: 01/11/2016).

action or dealing that might be interpreted as recognizing any such altered status⁶⁵.

External conditions in which Crimeans had to choose their citizenship

According to Article 4 of the Federal Constitutional Law no. 6-FKZ “from the date of the admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities Ukrainian nationals and stateless persons who had been permanently residing in the Republic of Crimea and the City of Federal Importance Sevastopol were recognized as nationals of the Russian Federation, except for persons who within one month thereafter declared their willingness to retain their and (or) their minor children’s other nationality or remain stateless.”⁶⁶

As mentioned above, according to the “Agreement” the “Republic of Crimea” is deemed to be admitted to the Russian Federation from the date of signing of the “Agreement”, i.e. from 18 March 2014. Thus, starting exactly from that date the term envisaged by Art. 4 of the Law 6-FKZ was restricted. That term ended on April 18. But since the legislation of the Russian Federation started being applied on the peninsula from 1 April 2014, according to the Law no. 6-FKZ, as mentioned earlier, so the general term for the submission of that application de jure was reduced to 18 days.

As of 4-9 April 2014, in Crimea there were operating only two offices of the Federal Migration Service (FMS) , which received applications, in Sevastopol and Simferopol. As of 10 April, 9 FMS offices were operating in: Sevastopol, Simferopol, Yalta, Bakhchisaray, Bilogorsk, Yevpatoriya, Saki, Kerch and Dzhankoy⁶⁷. It was reported by the Human Rights Monitoring Mission in Ukraine (hereinafter – HRMMU) in its periodic report on the human rights situation in Ukraine of 15 May 2014⁶⁸.

In total, ca. 3500 persons filed applications “declaring their will to keep their and (or) their minor children’s other nationality or remain stateless.”⁶⁹

As indicated in the report of the Commissioner for Human Rights in the Republic of Crimea in 2014, “transitional period”, the time allotted for integration of the <...> region from the established system of law and governance into the system of public institutions of the Russian Federation <...> is characterized by internal contradictions, inconsistency, interchange of progressive development phases, often combined with conflicts in the application of laws. This leads to the fact that an ordinary person is lost in a variety of new rules of life different from those, which he got accustomed to.”⁷⁰

That is not to say that the inhabitants of Crimea were fully deprived of possibility to express their will to acquire Russian nationality. However, the conditions in which they had to choose (instantaneous loss of familiar landmarks in everyday life, lack of adequate information about consequences, extremely short term, infrastructural constraints, etc.) did not enable to make an informed choice⁷¹. Observations show that the majority of Crimeans did not try to make their choices and acquired the status of Russian nationals “with the tacit consent” after the

65 UN General Assembly Resolution of 27 March 2014 no. 68/262 “Territorial integrity of Ukraine”.- Access mode: <http://www.un.org/ru/documents/ods.asp?m=A/RES/68/262> (date of reference: 01/01/2016).

66 Law no. 6-FKZ, ibid.

67 For comparison: offices of the Federal Migration Service in which one could apply for a Russian passport, have been established within the network of similar offices of the State Migration Service of Ukraine. These offices were located, as a rule, within walking distance of the place of residence of citizens in big cities.

68 Para. 27 of the periodic report of the UN Human Rights Monitoring Mission in Ukraine on the situation of human rights in Ukraine of May 15, 2014.- Access mode: http://www.un.org.ua/images/stories/Report_15_May_2014ua.pdf (date of reference: 01/11/2016).

69 See the Report of the Commissioner for Human Rights of the Russian Federation for 2014, p. 99.- Access mode: <http://ombudsmanrf.org/www/upload/files/docs/appeals/doklad2014.pdf> (date of reference: 01/11/2016).

70 Report of the Commissioner for Human Rights in the Republic of Crimea in 2014, p. 4.- Access mode: <http://crimea.gov.ru/textdoc/ru/7/act/393pr.pdf> This document is of great evidentiary value, since the credentials of the author L.E. Lubinaya as the Commissioner for Human Rights are recognized by the Russian Government.

71 The term “informed choice” is used by analogy with the fixed term “informed consent to medical treatment”, which provides for such consent on the basis of sufficient and timely information about the nature of medical treatment, the associated risks and possible consequences.

expiry of the 18-day term⁷².

In the meantime, any option of choice, which had to be made by the Crimeans, led to a deterioration in their situation: they had to choose between a significant restriction of rights (up to a complete loss of legal personality) and the oath of allegiance to the aggressor state.

Consequences of renunciation of Russian nationality

Applying to renounce Russian nationality automatically led to the fact that this person acquired the status of a foreigner with the relevant restrictions (related to employment, the right to social benefits, migration control, prohibition of participation in political activities and to be engaged in public life, etc.). But unlike the common situation when a foreigner deliberately moves to a foreign country and agrees to relevant limitations, this category of Crimean residents found themselves to have a status of foreign nationals at home. The further stay on the peninsula became entirely dependent on the discretion of the occupation authorities as to permission to stay.

The former nationals of Yugoslavia in Slovenia faced similar problems. The European Court of Human Rights in the case *Kurić and Others v Slovenia*⁷³ concluded that such situation entails a loss of legal personality, and declared it incompatible with Article 8 of the European Convention on Human Rights <respect for privacy>. In addition, the Court also held that the applicants had been subjected to discriminatory treatment on the ground of national origin⁷⁴.

At the time of the disintegration of Yugoslavia, all nationals had dual nationality - of Yugoslavia itself (which was used effectively) and one of the republics, it was composed of (before the disintegration that nationality was purely nominal and did not influence the possibility of living in another republic and participating in the elections). After the disintegration of Yugoslavia, the former Yugoslav nationality lost its meaning. Instead Slovenia provided a certain period to all those willing to get their own nationality or a permission to stay. After the deadline, those who did not use the right provided were “erased” from the register of residents. Applicants for various reasons did not use the opportunity to determine their status in the republic and found themselves in the category of “the erased”. This led to the fact that they were in a position that the ECtHR defined as the loss of legal personality when they had the severely limited ability to exercise their rights or even were fully deprived of them.

Consequences of acquiring the status of Russian citizens

It is much harder to understand the situation of the persons who in the period up to 18 April 2014 had not submitted the above said application and thus acquired the status of Russian citizens regardless of subsequent obtaining a passport or avoidance of getting it. “New citizens” avoided the problems associated with the loss of legal personality. In fact, they have received a full range of rights enjoyed by Russian nationals by birth in Russia.

In this aspect it looks as if the Russian Federation has done its best and made the Crimean inhabitants equal to any national of Russia. But in fact this is not true. Since the acquisition of nationality involves not only getting a set of rights but also certain duties and the possibility of imposing restrictions by the state. Therefore, the situation that has signs of external equality, actually has a negative impact on “new nationals” having Ukrainian identity, who are now obliged, for example, to use arms to defend the Russian Federation, which, in turn, is in

72 According to the observations of the NGO “Regional Center for Human Rights” there are recorded a large number of people in Crimea and those who left the occupied territory, who did not submit an application regarding unwillingness to obtain Russian nationality, but also did not apply for obtaining a Russian passport. We should understand that pursuant to the Russian laws such persons are also considered nationals of the Russian Federation, despite the lack of proper documents. See further, for example, O. Kolchenko’s example.

73 Case of KURIĆ and others v. SLOVENIA.- Access mode: <http://hudoc.echr.coe.int/eng?i=001-111634> (date of reference: 01/11/2016)

74 According to the UN Convention on the Elimination of All Forms of Racial Discrimination the discrimination on the ground of national origin is a form of racial discrimination.

conflict with Ukraine.

Nationality also includes the creation of certain loyalty relationship that affects the private life and may cause a serious internal conflict in a person. Such situation may raise the question about violation of the right to respect for private life under Article 8 of the European Convention on Human Rights. It is the analysis of compliance of Russia's actions on imposing nationality with international standards that we are going to focus on.

We should make a reservation: this relates to nationals of Ukraine who were loyal to their homeland and lived in Crimea at the time of occupation (regardless of whether they left the occupied territory thereafter or continue to live there). For those who welcomed the fact of annexation and the status of Russian nationals, the problem does not exist: they have just taken the opportunity.⁷⁵

Arbitrary imposition of nationality as a new challenge

When we talk about imposition of nationality as an entirely new challenge, it should be emphasized that existing precedents are related only to the history of the World War II. The Permanent Military Tribunal at Strasbourg and the U.S. Military Tribunal at Nuremberg sentenced consequently Robert Wagner (1946)⁷⁶ and Gottlob Berger (1949)⁷⁷ for actions related to Germanization of the population in the occupied territories and its mobilization as German nationals. However, these cases concerned the imposition of nationality as one of the objective elements of war crimes or crimes against humanity and related to the violation of international humanitarian law. According to Art. 45 of the Regulations concerning the Laws and Customs of War on Land (1907) it is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power⁷⁸.

Prerequisites for viewing the imposition of nationality in the context of human rights violation arise with the adoption of core international human rights treaties. Due to the development of an international catalogue of human rights standards a person was recognized as international legal personality and ceased to be exclusively a toy in the hands of the sovereign. Hence there arose a need to take into account person's will in matters that previously were only within the scope of interstate politics.

In its Advisory Opinion OC-4/84 of 19 January 1984 regarding the proposed amendments to the naturalization provision of the Constitution of Costa Rica the Inter-American Court of Human Rights noted that, despite the fact that it is traditionally accepted that the conferral and regulation of nationality are matters for each state to decide, contemporary developments indicate that international law does impose certain limits on the broad powers enjoyed by the states in that area. And thus the manners in which states regulate nationality matters cannot today be deemed within their sole jurisdiction; those powers of the state are also circumscribed by their obligations to ensure the full protection of human rights. The classic doctrinal position, which viewed nationality as an attribute granted by the state to its subjects, has gradually evolved to the point that nationality is today perceived as involving the jurisdiction of the state as well as human rights issues (para 32, 33)⁷⁹.

The classic case on nationality is the so-called case of *Nottebohm* reviewed by the International Court of Justice⁸⁰. In this case the Court drew a conclusion that today has

75 This material is devoted to consideration of issues of nationality in terms of human rights and exactly in this context there were made reservations. However, the forced extraterritorial collective naturalization of nationals of the other state also violates international public law in terms of inter-State relations.

76 Access mode: <https://www.phdn.org/archives/www.ess.uwe.ac.uk/WCC/wagner1.htm> (date of reference: 01/11/2016).

77 Access mode: http://www.worldcourts.com/imt/eng/decisions/1949.04.13_United_States_v_Weizsaecker.pdf#search=%22gottlob%20berger%22 (date of reference: 01/11/2016).

78 Access mode: <https://www.icrc.org/rus/resources/documents/misc/hague-convention-iv-181007.htm> (date of reference: 01/11/2016).

79 Access mode: http://www.corteidh.or.cr/docs/opiniones/seriea_04_ing.pdf (date of reference: 01/11/2016).

80 *LIECHTENSTEIN v. GUATEMALA*, International Court of Justice (ICJ), 1955.- Access mode: <http://www.icj-cij.org/docket/files/18/2674.pdf> (date of reference: 01/11/2016).

become classic: “Naturalization is not a matter to be taken lightly. To seek and to obtain it is not something that happens frequently in the life of a human being. It involves his breaking of a bond of allegiance and his establishment of a new bond of allegiance. It may have far-reaching consequences and involve profound changes in the destiny of the individual who obtains it. It concerns him personally, and to consider it only from the point of view of its repercussions with regard to his property would be to misunderstand its profound significance. In order to appraise its international effect, it is impossible to disregard the circumstances in which it was conferred, the serious character which attaches to it, the real and effective, and not merely the verbal preference of the individual seeking it for the country which grants it to him.” (p. 24)

Although, in the above case issues of nationality are considered in the context of international relations, the definition of this phenomenon given by the International Court of Justice enables to consider it through the system of international human rights standards as well.

International standards for nationality as the right included in the international catalogue of human rights

Nationality is viewed as a category contained in the catalogue of human rights in compliance with the Universal Declaration of Human Rights. Under Article 15 of the Declaration everyone has the right to a nationality and no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

The International Covenant on Civil and Political Rights somewhat narrows the context and reads only the child’s right to acquire a nationality (Art. 24).

The right to a nationality is regulated in more details by Article 20 of the American Convention on Human Rights. Its provisions guarantee every person the right to the nationality of the state in whose territory he was born, and prohibits arbitrary deprivation of nationality or of the right to change it.

The European Convention on Human Rights, in contrast to these international instruments, does not at all contain provisions on nationality. The European Court noted that the right to a nationality is not as guaranteed by the Convention, although under certain conditions the issue of violation of Article 8 may arise in the context of nationality.

In particular, in the case *Genovese v. Malta* (Application no. 53124/09, 11 November 2011, § 30) the ECtHR noted: “The Court ... reiterates that the concept “private life” is a broad term not susceptible to exhaustive definition. It covers the physical and psychological integrity of a person. It can therefore embrace multiple aspects of the person’s physical and social identity. <...> The provisions of Article 8 <respect for private life> do not, however, guarantee a right to acquire a particular nationality or citizenship. Nevertheless, the Court has previously stated that it cannot be ruled out that an arbitrary denial of citizenship might in certain circumstances raise an issue under Article 8 of the Convention because of the impact of such a denial (deprivation) on the private life of the individual.”⁸¹ In this judgment, the Court noted that Malta had violated Article 14 <prohibition of discrimination> in conjunction with Article 8 of the Convention <respect for private life>, as its Citizenship Act prevented an illegitimate child to acquire Maltese citizenship even though his father was Maltese, while children born to a married couple could inherit citizenship of one of parents.

It should be emphasized that the whole case-law of international judicial and quasi-judicial bodies, where the issue of human rights violations in the aspects related to nationality was raised, refers first of all to negative actions of states (deprivation of nationality, denial to

⁸¹ Access mode: <http://hudoc.echr.coe.int/eng?i=001-106785> (date of reference: 01/11/2016).

renounce nationality or other similar acts)⁸². The situation of imposition of nationality, as happened in Crimea, has not been the subject of legal assessment to be conducted by international bodies yet⁸³. This new phenomenon has not also been the subject of theoretical study to be carried out by research workers⁸⁴.

And though the European Court of Human Rights addresses nationality issues very carefully, Crimean situation is a favorable opportunity to review the preliminary findings and develop practices in this regard.

Although, as it has been repeatedly noted, the European Convention contains no guarantees on the right to nationality, a status of nationals can be considered as aspect of the right to privacy guaranteed by Article 8 of the Convention. In particular, self-identification is a manifestation of a private life. According to Article 8 of the Convention on the Rights of the Child a nationality is an element of the child's identity. There is no reason to state, especially considering the position of the International Court of Justice in the *Nottebohm's* case regarding the fundamental nature of nationality in the life of each person that nationality loses such meaning for an adult person.

In other words, the fact that the ECtHR does not contain provisions that guarantee a person the right to nationality, in no way excludes that the arbitrary imposition of nationality cannot give rise to circumstances which are incompatible with the guarantees provided by Article 8 of the European Convention on Human Rights <right to respect for private life>.

The arbitrary imposition of nationality on Crimean inhabitants, therefore, on the one hand, is forcing the legal relationship between the inhabitants of Crimea and the Russian Federation, on the other hand represents interference of the Russian Federation in the relationship that emerged earlier and existed between the residents of Crimea and the Ukrainian state. Due to this, actions of the Russian Federation directed at the imposition of nationality are not within its sovereign jurisdiction. Rather the opposite: Russia violated its obligations under the Budapest Memorandum, interfered in the internal affairs of Ukraine and relations between the Ukrainian state and its nationals.

Before the occupation there were no effective relations between the Crimean residents and Russia, which could be the ground for the formalization of nationality relations. It is rather the opposite: the occupation and imposition of nationality became a prerequisite for certain relationship between the Crimean inhabitants and the Russian state. Such relations are undesirable for many Crimean people.

The possibility of reviewing this issue in the context of human rights gives each victim of Russian aggression the opportunity to protect their rights when everybody can directly appeal to international judicial and quasi-judicial bodies (including the ECtHR and the UNCHR). The use of these mechanisms does not depend on the political will inside the state and allows everyone to initiate a dialogue not only in the context of international relations but also in humanitarian dimension.

Situation as viewed by the Constitutional Court of the Russian Federation

By its Judgment no. 18-p of 4 October 2016 the Constitutional Court of the Russian Federation tried to analyze the decision of the Russian Government relating nationality taking

82 See, for example, decisions of the ECtHR in the cases *Riener v. Bulgaria* (no. 46343/99, 23 May 2006), *Petropavlovskis v. Latvia* (no. 44230/06, § 83, ECHR 2015), *Karassev v. Finland* (dec.), no. 31414/96, *Slivenko v. Latvia* (dec.) [GC], no. 48321/99, *Savoia and Bounegru v. Italy* (dec.), no. 8407/05, 11 July 2006; *Dragan and Others v. Germany* (dec.), no. 33743/03, 7 October 2004; *Mennesson v. France*; *Fedorova v. Latvia* (dec.), no. 69405/01, 9 October 2003; *Dadouch v. Malta*; *Slepčik v. the Netherlands and the Czech Republic* (dec.), no. 30913/96, 2 September 1996, and so on.

83 Now specialists of the NGO "Regional Center for Human Rights" are preparing an application to the ECtHR and the United Nations Human Rights Committee regarding discrimination and violation of the right to respect for private life through the Russia's imposition of nationality.

84 For more detailed information⁷⁷ about modern approaches we encourage you to read *The Changing Role of Nationality in International Law* (Routledge Research in International Law) - Access mode: https://www.amazon.com/Changing-Role-Nationality-International-Law/dp/B00EVWK2G0/ref=sr_1_1_twi_kin_2?s=books&ie=UTF8&qid=1466688841&sr=1-1&keywords=The+changing+role+of+nationality+in+international+law&selectObb=rent. (date of reference: 01/11/2016).

into consideration the norms of international law.

In this case, the subject to the proceedings of the Constitutional Court of the Russian Federation was the right of Ukrainian nationals and stateless persons who resided in Crimea without official registration to acquire nationality under the Law no. 6-FKZ.

The Constitutional Court referred to the European Convention on Nationality (Strasbourg, 6 November 1997), the Russia's succession with respect to Crimea and the UN General Assembly Resolution 55/153 of 12 December 2000 "Nationality of natural persons in relation to the succession of States"⁸⁵. Let us try to consider, how the supreme body of constitutional justice of Russia has interpreted them.

First of all, significant is the reference to the European Convention on Nationality, which though is signed by Russia, is not however ratified yet. Since the Convention is not ratified by Russia, the reference to its provisions is essential in terms of recognition of its binding nature at least in the form of customary law. On referring to the Convention, the Constitutional Court cited its preamble, which states that account should be taken both of the legitimate interests of States and those of individuals. However, the Court did not go beyond citing, that is why the issue concerning the way of applying the indicated principle to the Crimean situation remains open.

Nevertheless, the above analysis of Russia's actions in Crimea shows the disregard for the rights and interests of individuals in the occupied territory and the arbitrary imposition of nationality. Thus, Russia has violated provisions of international law which binding nature for the Russian Federation is recognized by the Constitutional Court of the state.

Regarding the reference to the Russia's succession with respect to Crimea, the Constitutional Court of the RF mentioned the UN General Assembly Resolution 55/153 of 12 December 2000 "Nationality of natural persons in relation to the succession of States". Article 3 of the Declaration provides that its provisions apply only to the effects of a succession of States occurring in conformity with international law and, in particular, with the principles of international law embodied in the Charter of the United Nations.

As it has been already noted, the UN General Assembly Resolution of 27 March 2014 called upon all States to refrain from actions aimed at the disruption of the territorial integrity of Ukraine, including any attempts to modify Ukraine's borders and not to recognize any alteration of the status of the Crimean Peninsula. Under such conditions the rules of international law exclude the possibility of Russia's succession to Crimea, and therefore the reference to the UN General Assembly Resolution 55/153 of 12 December 2000 is also irrelevant⁸⁶.

Finally, the Constitutional Court, referring to the Resolution 55/153, has given considerable prominence to the person's connection with a particular territory. However, this approach reduces the status of people to serfs who are captured together with the land.

At the same time, it is necessary to mention again that in Nottebohm's classic case the focus in issues of nationality was put on the effective links of a person not with the territory, but the state itself. A different approach would mean that people could not reside long outside their country of nationality, as it would inevitably result in their naturalization: increase in length of stay in a particular territory would lead to the strengthening of links with this territory and weakening of links with the territory of origin. Author is unaware of origins of the concept of nationality based on a connection with the territory, but its flaws have been demonstrated.

However, if we apply the principle of effective connection with the state itself, not the

85 Access mode: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N00/568/59/PDF/N0056859.pdf?OpenElement>. (date of reference: 01/11/2016).

86 The statement on succession generates many other objections: the capture of Crimea occurred without taking into account the sovereign will of the Ukrainian state; Ukraine, which owns the peninsula, continues to exist; there is no "people of Crimea", who could have the right to self-determination, however, there is a multiethnic population of the peninsula; the Republic of Crimea and especially the city of Sevastopol have never been subjects of international law and were not recognized by anyone to be such during a short period in March 2014, and therefore could not conclude international agreements, etc. This also deprives Russia of the possibility to refer to many other international agreements and principles of international law as they also cannot be applied because of a violation of fundamental obligations under the UN Charter.

territory, it is necessary to stress once again that at the time of the occupation there was no connection between the population of the peninsula and the Russian Federation, sufficient for the nationality relations. At the same time, the imposition of nationality inevitably created such links.

It is worth to mention one more time that the above decision of the Constitutional Court was made in the context of the right of persons, who do not have a registered place of residence in Crimea, to a nationality under the Law no. 6-FKZ. And in fact, following the above logic the Constitutional Court of Russia tried to confirm this right of theirs. However, these principles themselves cannot be applied to the naturalization of other nationals, and that is why they themselves enable to conclude that Russia has violated international law.

Thus, the existing attempts to legitimize the presence of the Russian Federation in Crimea roughly and obviously run against the rules of international law violated during the occupation.

Ukraine's reaction to Russia's actions

According to Art. 5 of the Law of Ukraine "On guaranteeing the rights and freedoms of nationals and on the legal regime in the temporarily occupied territory of Ukraine" the forced automatic acquisition of the nationality of the Russian Federation by the Ukrainian nationals residing in the temporarily occupied territory is not recognized by Ukraine and is not accepted as a ground for loss of nationality of Ukraine⁸⁷.

At the same time, Ukraine's position to some extent is inconsistent. For example, according to the para. 12.7 Art. 12 of the Law of Ukraine "On creation of the free economic zone "Crimea" and peculiarities of economic activities in the temporarily occupied territory of Ukraine" bank savings guarantees are not applicable to nationals of the Russian Federation. This provision was practically extended to Crimean residents who have to submit a declaration of having no nationality of the Occupying Power. There can be also foreseen the issues regarding the access of the Crimean residents to public service, classified information and others related to security and the vulnerable situation in which the residents of Crimea found themselves due to the imposed nationality.

This indicates that Ukraine cannot entirely ignore the actions of the Russian Federation directed at the collective naturalization of the Crimean population and is compelled to take into account this fact, even declaring its legal nullity.

Practical consequences of collective naturalization

The most vulnerable group of nationals of Ukraine who have suffered negative consequences of Russia's actions are children deprived of parental care. According to the Office of the Ukrainian Parliament Commissioner for Human Rights, as of 01.08.2014 there were 4228 of such children in Crimea. Since the beginning of the occupation the authorities of the Russian Federation took control over administration of the institutions that provided care for such children. On the grounds of "respecting the best interests of the child" in favor of these children there was not filed any application "declaring willingness to keep their existing ... other nationality." ⁸⁸

Persons who at the time of the occupation were held in custody belong to another vulnerable group. The administration of places of detention did not properly secure their right to refuse to be recognized Russian citizens as well. Thus they were deprived of consular protection and the right to be transferred to the Ukrainian authorities for serving their sentences. The

87 Law of Ukraine "On guaranteeing the rights and freedoms of nationals and on the legal regime in the temporarily occupied territory of Ukraine."- Access mode: <http://zakon0.rada.gov.ua/laws/show/1207-vii> (date of reference: 01/11/2016).

88 See the statement of Head of the Department on Observance of the Rights of the Child, Non-discrimination and Gender Equality A. Filipyshyna of 05/06/2015 submitted to the Secretariat of the Ukrainian Parliament Commissioner for Human Rights.- Access mode: <http://www.ombudsman.gov.ua/ua/all-news/pr/5615-sm-aksana-filipishina-prava-ditini-v-krimu-pochali-porushuvati-vid-samogo/> ; <http://health.unian.net/country/1085947-ukrainskim-detyam-sirotam-v-kryimu-prinuditelno-prisvaivayut-rossiyskoe-grajdanstvo.html> (date of reference: 01/11/2016).

most famous manifestation of this problem is a situation in which political prisoners Oleh Sentsov and Oleksandr Kolchenko found themselves⁸⁹. Referring to the fact that they have acquired Russian nationality, Russian authorities refused to transfer them to Ukraine under the Convention on the Transfer of Sentenced Persons (1983). Deputy Minister of Justice of Ukraine S. Petukhov published the information about it on his Facebook page⁹⁰. However, this problem actually concerns hundreds of Ukrainian prisoners who as of today are being transferred from Crimea to the territory of the Russian Federation.

The amended Law “On nationality of the Russian Federation” is in force from 04.06.2014⁹¹. According to Art. 6 of the Law nationals of the Russian Federation (except for those permanently residing outside the Russian Federation), who also have another nationality or a permanent residence permit in a foreign country, must notify in writing a territorial body of the Federal Migration Service of these circumstances. Russian nationals permanently residing outside of Russia shall submit such a notification within thirty days after entering the territory of Russia. Russian passport is a prerequisite for such an application. No exceptions are made for Crimean residents who at the time of the occupation had Ukrainian nationality, moreover these provisions became binding upon them from January 1, 2016⁹². Failure to abide by these regulations results in criminal liability under Art. 330.2 of the Criminal Code of the Russian Federation. Violation of notification terms results in administrative liability.

This itself can be viewed as a violation of the right to respect for private life, as these legal provisions are a requirement to report a loyalty relationship with other state. In the context of Crimea such interference cannot have a legitimate purpose. In addition, in this way Russia actually forces the Crimean residents to get passports of the Russian Federation and declare their loyalty to Ukraine.

A number of other provisions of the legislation and administrative practice also force the Crimean residents to obtain Russian passports. As stated in the aforementioned report of the Commissioner for Human Rights in the Republic of Crimea, the absence of a Russian passport “makes it impossible to exercise almost all the rights and freedoms set forth in the Constitution. In particular, these include inability to work, ineligibility for social security...” The cases of social benefits termination in Crimea for Ukrainian nationals who have not received a Russian passport or a residence permit, as well as problems with employment of such nationals started to be recorded by the Regional Center for Human Rights after the so-called “transition period” from January 1, 2015⁹³.

Conclusions

With the occupation of Crimea there emerged a situation when almost all residents of the occupied territory were recognized Russian nationals without the effective links with the country of their “new nationality”. The emergence of such links was not a prerequisite for granting the status of nationals, but on the contrary, its consequence.

Formally having the possibility to choose a nationality, but not actually being able to make an informed choice because of lack of time, information, and other circumstances, the nationals of Ukraine found themselves at a crossroads facing two equally bad options: to lose

89 O. Sentsov and O. Kolchenko were detained in Simferopol in May 2014 on charges of involvement in the terrorist group, brought to Moscow and later sentenced under Articles 205 and 205.4 of the Criminal Code of the Russian Federation to 20 and 10 years of imprisonment respectively. They did not submit the application regarding renunciation of Ukrainian nationality, as well as did not receive Russian passports. They do not recognize themselves as nationals of the Russian Federation. However, the Russian Government refuses to transfer them to the authorities of Ukraine in order to serve their sentence, referring to the fact that they have acquired the status of Russian nationals under the Law no. 6-FKZ.

90 Access mode: <https://www.facebook.com/photo.php?fbid=1796566357285662&set=a.1434318470177121.1073741828.100007969451473&type=3&theater> (date of reference: 01/11/2016).

91 Access mode: http://www.consultant.ru/document/cons_doc_LAW_36927 (date of reference: 01/11/2016).

92 Access mode: <https://web.archive.org/web/20160209125758/http://www.82.fms.gov.ru/press/news/item/51894/> (date of reference: 01/11/2016).

93 Access mode: <http://crimea.gov.ru/textdoc/ru/7/act/393pr.pdf> (date of reference: 01/11/2016).

legal personality and become foreigners at home or to refuse their own Ukrainian identity and swear allegiance to the aggressor state. The given circumstances and in particular the collective nature of naturalization of persons outside the sovereign territory of Russia indicate that the will of the nationals did not have a significant impact on results. The absence of a special status for the inhabitants of the occupied territories and making them equal to ordinary foreigners complicate or make the residence in Crimea impossible for Crimeans without obtaining a Russian passport.

The collective extraterritorial nationalization undermines the value of nationality institute in international law, because it allows to degrade the nationals' legal connection with the state, depriving them of all the privileges they had due to that connection (for example, the right to consular protection). These actions enable to bring the population of a certain territory under control of authorities of the aggressor state, threaten the world order and are a means of aggressive expansion of the Russian Federation.

In Crimea, there was created a dangerous precedent for which contemporary international law appeared unprepared. Mainly addressing the issues of eliminating statelessness, international law has left the issue of arbitrary imposition of nationality almost entirely neglected. This issue today requires attention from the international community and development of new additional principles because it has a significant impact both in the context of foreign policy relations and public international law as well as in the context of human rights.

The possibility of reviewing the situation in the context of international human rights standards gives each victim affected by Russia's actions the opportunity to directly appeal to international judicial and quasi-judicial bodies in order to protect his rights and initiate a dialogue at international level.

Recommendations to the international community:

- With assistance of the institute of special rapporteurs of the international organizations to provide a detailed examination of the situation regarding the imposition of Russian nationality on residents of the occupied territory of the Crimean Peninsula.
- To attract international expert institutions to develop recommendations on resolving the situation resulting from the imposition of Russian nationality on residents of the occupied territory of the Crimean Peninsula.
- To attract international expert institutions to develop universal standards for ensuring the rights of persons subjected to naturalization protecting them against the arbitrary actions of the state, taking into account such nationals' will and protecting their rights.
- With assistance of consular services to ensure control over the non-recognition of the status of Russian nationals obtained by nationals of Ukraine who live in the occupied territory of the Crimean Peninsula (for example, in terms of impermissibility of issuing visas to such people as Russian nationals through the relevant consular institutions, in terms of prohibition for consular institutions of the Russian Federation to provide such nationals with consular assistance, their extradition to the Russian Federation or at the request of Russia, etc.).

Consequences of human rights violations by the Russian Federation in the occupied territories of the Autonomous Republic of Crimea and the city of Sevastopol (the question of citizenship)

International Covenant on Civil and Political Rights (hereinafter - the Covenant) provides an example of the general principle of equality that underlies international human rights law (IHRL) in its relation to non-citizens, and the limited nature of the exceptions to this principle. According to part 1 of Article 2 of the Covenant, each State party:

«undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, **national or social origin**, property, birth or other status”.

Moreover, Article 26 of the Covenant states that:

“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, **national or social origin**, property, birth or other status”.

International Court of Justice, the Human Rights Committee of the United Nations, as well as states in practice believe that the provisions of the Covenant apply also in the occupied territories⁹⁴.

The UN Human Rights Committee explains that:

«The rights enshrined in the Covenant apply to **everyone**, irrespective of reciprocity, and **irrespective of his or her nationality or statelessness**. Thus, the general rule is that each one of the rights of the Covenant must be guaranteed **without discrimination between citizens and aliens**.»

The Human Rights Committee also noted that the right of non-citizens can be accompanied only by such limitations that may be lawfully imposed under the Covenant. More specifically, the Covenant permits to the States to draw distinctions between citizens and non-citizens with respect to two categories of rights: political rights explicitly guaranteed to citizens (participation in public affairs, right to vote and to be elected and to have access to public service), and freedom of movement⁹⁵.

Similar to Part 1 of Article 2 of the Covenant, Part 2 of Article 2 of the International Covenant on Economic, Social and Cultural Rights declares that States parties guarantee the rights enunciated in that Covenant «without any discrimination as to race, color... **national or social origin** ... or other status»⁹⁶.

In its turn, the Committee on the Elimination of Racial Discrimination, in its recommendation XXX on discrimination against non-citizens indicated that⁹⁷:

«States have an obligation to guarantee equality between citizens and non-citizens in the enjoyment of their civil, political, economic, social and cultural rights to the extent recognized under international law and as set out in particular in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on civil and political Rights».

As a result of violations of international law by the Russian Federation in the context of the imposition of Russian citizenship to citizens of Ukraine, those who reside in the occupied territories of Crimea do not enjoy those rights that had to be guaranteed under international law. Moreover, in the context of the occupation of the AR Crimea and Sevastopol they are very often at risk of their own safety and well-being (criminal and administrative liability, discrimination, especially on ethnic grounds, etc.)

1. A passport of a citizen of the Russian Federation is a prerequisite for the realization of a significant number of rights to residents of Crimea. Namely, it is more complicated for him to receive all kinds of social benefits, obtain a driver’s license, register a vehicle, be employed

94 Sassoli, “How Does Law Protect In War”, Volume I, Outline of IHL (3rd Edition), p. 357.

95 See General Comment number 15 (1986) of the Human Rights Committee on the position of aliens under the Covenant.; With regard to freedom of movement, Article 12 (1) provides “the right to liberty of movement and freedom to choose his residence” only to persons who are “lawfully within the territory of a State”, i.e., apparently permitting restrictions against migrants without proper documents.

96 http://www.ohchr.org/Documents/Publications/noncitizensen_ru.pdf

97 <http://www.refworld.org/docid/45139e084.html>

in certain positions (public institutions), obtain of land plots, free medical care, re-registration of ownership⁹⁸. This was openly declared by the official representatives of the authorities of the Russian Federation.

Office of the United Nations High Commissioner for Human Rights in its report of 15 April 2014 on the human rights situation in Ukraine noted⁹⁹:

«Measures such as the introduction of Russian citizenship will complicate the lives of those who want to preserve their Ukrainian citizenship in Crimea and will raise questions about the legality of residence, the loss of social and economic rights, including the right to work.»

Commissioner for Human Rights in the Republic of Crimea (“Ombudsperson”), in his report for 2014 confirmed this fact:

*«It is not necessary to explain the legal consequences of the absence of the passport of the State in which as person resides. This makes for a person impossible to implement **almost all the fundamental rights and freedoms** (emphasis is the author’s note), set forth in the Constitution. In particular, it leads to impossibility to be employed, to receive social security, which could lead to lower standards of living and an increase in the crime rate. Therefore, I believe that immediate measures should be taken to address the problems of citizens related to the possibility of obtaining passports”.*¹⁰⁰

The Ombudsperson in this report also notes that according to information received in the Office of the Federal Migration Service for the Republic of Crimea for the period from March 2014 there were issued 1,560,162 passports of Russian citizens. Given that the approximate population of Crimea is about 2.3 million. That is to say that as of the end of 2014 slightly less than 1 million people are not passportized in Crimea¹⁰¹. Hence, so many people do not enjoy a significant number of their rights, either being opposed to the imposition of Russian passports, or due to objective reasons (mentioned in the first section) being unable to obtain Russian citizenship.

2. Federal Law of the RF no. 142-FZ «On Amendments to Articles 6 and 30 of the Federal Law» On Citizenship of the Russian Federation” and Certain Legislative Acts of the Russian Federation» **was adopted on 04.06.2014**. This law establishes the possibility of criminal liability for concealing the existence of a second citizenship (for Crimeans, this norm of law of the Russian Federation will take effect from 1 January 2016)¹⁰². After that date, all the citizens of Ukraine who are registered and living in Crimea will have to report if they have Ukrainian citizenship. Whereby concealing of information on citizenship entails serious liability up to criminal (art. 330-2 of the Criminal Code)¹⁰³. If the citizens inform about their dual citizenship after the scheduled date or indicate incomplete or obviously inaccurate data, they will face administrative responsibility - a fine of 500 to 1000 rubles. All the internally displaced persons from Crimea can also get under these rules. On 21 September 2015 on the official website of the Federal Migration Service of Russia there was published a clarification on the notification about the other citizenship and renouncing the Ukrainian citizenship by Crimeans¹⁰⁴.

Taking into account the above mentioned, it can be assumed that if the situation does not change in Crimea regarding citizenship the residents of Crimea who have preserved Ukrainian

98 A striking example is the situation with the judges in the territories occupied by the Russian Federation. According to article 4 of the Federal Constitutional Law of the Russian Federation No 6ZH, before the setting up of federal courts in the territory of Crimea, the justice on behalf of the Russian Federation is dispensed in these areas by the courts which were operating at the time of the occupation, and the judges of these courts are receiving the status of persons who replace judges of these courts. The condition for the admission of these persons to justice was obtaining of Russian citizenship, the transfer of passport of Ukraine to the Russian authorities, as well as the submitting to the Russian authorities of a declaration about renunciation of Ukrainian citizenship.

99 http://www.un.org.ua/images/stories/Report_15_April_2014_en.pdf

100 <http://crimea.gov.ru/textdoc/ru/7/act/393pr.pdf> .

101 <http://crimea.gov.ru/textdoc/ru/7/act/393pr.pdf>

102 <http://www.rg.ru/2014/06/06/grajdanstvo-dok.html>

103 http://www.consultant.ru/popular/ukrf/10_45.html

104 <http://www.82.fms.gov.ru/press/news/item/51894/>. Archive: <https://web.archive.org/web/20160209125758/http://www.82.fms.gov.ru/press/news/item/51894/>

passports, may face further problems connected with informing about «dual» citizenship.

3. In accordance with the Decree of the Government of the Russian Federation «On the distribution among the constituent entities of the Russian Federation of quotas for the issuance of temporary residence permits in the Russian Federation for 2015 for foreign citizens and stateless persons» no. 2275-r of 14 November 2014, there was established the quota for residents of Crimea (the citizens of Ukraine and other states) for the issuance of permits for temporary residence in the Russian Federation for 2015. The quota for Crimea is 1500 permits, of them 400 permits for the city of Sevastopol¹⁰⁵ (in 2014 this quota was 5,000 permits for the AR Crimea and 400 for Sevastopol).

Citizens of Ukraine who do not wish to obtain Russian citizenship, but wish to constantly continue to live in Crimea, are limited in their ability to get a temporary residence permit in the territory over which the sovereignty of Ukraine is extended. Thus, those persons who exceed the allocated quota will not be able to get the documents in order to continue to reside permanently in Crimea.

Restrictions and other quotas regarding where non-citizens may live in the state, particularly the restrictions and quotas which may be associated with an element of coercion, can violate their right to freedom of movement¹⁰⁶.

4. In a particularly vulnerable position were orphans and children in the care or custody of state authorities. According to official data as of 08.01.2014, there were 4228 of such children in Crimea. Administration of all the institutions of Crimea began to collaborate with the Russian authorities. Children are effectively deprived of the right to choose citizenship (obtaining of Russian passports is provided upon reaching the age of 14). On **05.06.2015** the Head of the Department for observance of the rights of the child, non-discrimination and gender equality of the Secretariat of the Commissioner for Human Rights of Verkhovna Rada of Ukraine Aksana Filipishina informed about this problem during a press conference on «Violations of children's rights in the occupied Crimea»¹⁰⁷.

105 <http://government.ru/media/files/7CP91bGabOg.pdf>

106 European Commission against Racism and Intolerance, Second report on Denmark (CRI (2001) 4, paras. 18–25).

107 <http://www.ombudsman.gov.ua/ua/all-news/pr/5615-sm-aksana-filipishina-prava-ditini-v-krimu-pochali-porushuvati-vid-samogo/>; <http://health.unian.net/country/1085947-ukrainskim-detyam-sirotam-v-kryimu-prinuditelno-prisvaivayut-rossiyskoe-grajdanstvo.html>

«CRIMEA BEYOND RULES. Thematic review of the human rights situation under occupation.» - Vol. 3 - Right to nationality (citizenship) / Edited by S. Zayets, R. Martynovskyy, D. Svyrydova. – Kyiv, 2017. – 52 p.

The publication is aimed at representatives of international organizations, diplomatic missions, government bodies and professional legal community, who need information on the practical application of international human rights standards under occupation of the Crimea.

Thematic review is published in electronic form and is for free distribution. The materials are available in three languages - Ukrainian, Russian and English. Use of Content is permitted with the obligatory reference to the source and authorship. If the author of the material is not explicitly stated, all rights to the material belong to the expert-analytical group CHROT. The materials included in the publication, as well as other materials on the topic can be found on the website precedent.crimea.ua

CRIMEA BEYOND RULES
Other issues of the series.

By the time this issue is published, the following issues has already came out or are ready for publication:

Issue 1. The right to liberty of movement and freedom to choose residence.

Issue 2. Right to property.

Special issue. Transfer by the Russian Federation of parts of its own civilian population into the occupied territory of Ukraine.

Issue 3. Right to nationality (citizenship).

Issue 4. Freedom of expression (under preparation).

These and other materials devoted to the observance of the international standards of human rights by the authorities of both Ukraine and the Russian Federation with reference to the occupation of the Crimean peninsula could be found on eh website precedent.crimea.ua

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Annex 958

Ukrainian Helsinki Human Rights Union, Report of the International Expert Group: 26
February Criminal Case (2017)

26

February

CRIMINAL
CASE

Representatives of 6 organizations from 4 countries worked together on drafting Part 1 of the Report “Reconstruction and legal analysis of the events of 26 February 2014 outside the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol”, namely:

- Kirill Koroteev** – The Human Rights Center “Memorial”, Russia
- Roman Martynovskyy** – Regional Centre for Human Rights, Ukraine
- Sergey Ostaf** – Resource Center for Human Rights (CReDO), Moldova
- Vadim Pivovarov** – Association of Ukrainian Human Rights Monitors on Law Enforcement, Ukraine
- Olga Salomatova** – Helsinki Foundation for Human Rights, Poland
- Daria Svyrydova** – Ukrainian Helsinki Human Rights Union, Ukraine
- Aleksandr Sedov** – Ukrainian Helsinki Human Rights Union, Ukraine
- Sergey Shvets** – Association of Ukrainian Human Rights Monitors on Law Enforcement, Ukraine
- Vladimir Yavorskiy** – independent expert in the field of freedom of peaceful assembly, Ukraine-Belarus

“Report of the International Expert Group. “26 February criminal case”. Part 1. Reconstruction and legal analysis of the events of 26 February 2014 outside the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol”/ Edited by: R. Martynovskyy, D. Svyrydova. - Kiev, 2017. – 100 p.

This Report presents the results of work of the International Expert Group on the so-called “26 February criminal case”, namely: reconstruction and legal analysis of the events that took place on 26 February 2014 outside the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol, and their consequences. On that day, two people perished and several other protesters were injured during two rallies organized by the party “Russian Unity” and the Mejlis of the Crimean Tatar People. The report also contains conclusions and recommendations of the expert group addressed to the authorities of Ukraine and the Russian Federation, non-governmental and international organizations. The report will be useful to all those who are interested in issues related to observance of international human rights standards.

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General conclusions and recommendations

Main conclusions

With regard to reconstruction and analysis of the events of 26 February 2014

(1) Till 15:00 on 26 February 2014, the overall atmosphere of the rallies was peaceful. There were a few isolated cases of skirmishes and conflicts between the participants, changes of locations of participants of the two rallies. The slogans "Crimea is Russia", Russian flags and the flag of the "Right Sector" appeared among the rallyers, which brought to the short-term aggravation of the situation and isolated conflicts.

Police officers held negotiations with the organizers of the rallies on maintenance of public order. Representatives of law enforcement agencies formed a "cordon" for a short period of time separating rallyers in the inner yard in front of the building. Later, the police left the yard and moved to the main entrance of the SC ARC building. Participants and organizers of the rally, using audio equipment, called on the people in the square to stay calm, arrange corridors to remove people, called on police to help with policing.

(2) From 15:00 to 16:00 there was conflict escalation and stampede among the participants of the rallies, isolated skirmishes and fights among rallyers, including the use of different objects (a flagpole, a bottle, etc.). Presumably, it was this hour, when most of the victims in the case were injured and two people perished during the stampede. During this period there were observed no aggravation of the situation in the square in front of the SC ARC, no calls to rallyers for aggressive conduct and disorder. There were also no calls to the rallyers to maintain public order on the part of law enforcement agencies, which in this period of time were mainly passive.

(3) Around 16:00, after the rallyers were informed that the extraordinary session of the SC ARC would not be held, the participants of the "pro-Ukrainian" rally started to leave the square. The pro-Russian rallyers remained outside of the square, but did not demonstrate overt aggression. The overall atmosphere at the SC ARC building after 16:00 was peaceful.

(4) The analysis of the events shows that the major clashes between participants of the assemblies took place when police lifted a cordon separating the rallyers, consisting of police officers. It seems to be impossible to find a true reason for such decisions, however, the responsibility for such actions, definitely, rests with the law enforcement agencies.

(5) On the basis on information sources studied, it can be concluded that in fact the role of organizers and leaders of the rallies was performed by Sergey Aksyonov (on the part of the "pro-Russian" rally), Refat Chubarov and Enver Arpatly (on the part of the "pro-Ukrainian" rally).

(6) Throughout the rally, Ahtem Chiygoz did not manifest himself as a leader or organizer of the rally. His name did not appear in the application for holding the rally, he did not take floor with calls on the participants of the rallies. According to the video available to the group, in one of the episodes A. Chiygoz was standing with other representatives of the Mejlis of the Crimean Tatar People in a "live cordon" separating the pro-Ukrainian activists and the police officers. During the speeches of organizers of the rallies he remained behind them and tried with his gestures to call on the rallyers to keep quiet. These circumstances can not provide a basis for the conclusion about the existence of a causal link between A. Chiygoz's conduct and deaths during the rallies.

With regard to jurisdiction, as well as compliance with the principle of “no punishment without law”

(1) On the territory of the Autonomous Republic of Crimea, the Russian Federation has no right to carry out any proceedings in relation to the events of 26 February 2014 at the SC ARC building, without the consent of the authorized agencies of Ukraine, and otherwise than in the manner prescribed by the international treaty, the parties to which the Russian Federation and Ukraine are.

(2) The extension of Russian criminal law to wrongful acts that were committed prior to the annexation of the Crimean peninsula implies the retroactive effect (*ex post facto*), which is contrary to one of the fundamental principles of criminal procedure recognized in international law – “no punishment without law”.

(3) Application by the Russian Federation of the principle of extraterritorial jurisdiction in the “26 February criminal case” is impossible due to the fact that the crimes, which the citizens of Ukraine (Ahtem Chygoz and others) are charged with, do not relate either to war crimes or crimes against humanity, and do not fall under any of the Conventions on the Suppression and Punishment of the Crime.

(4) The defendants in the “26 February criminal case” are being prosecuted for crimes, the object of which was interests of Ukraine (organization of and participation in mass riots refers to the offences against public order). In fact, the wrongful act, which the citizens of Ukraine are charged with, lacks elements of *corpus delicti*, which constitutes a violation of the provisions of Russian laws and regulations.

(5) The existing legal problems, together with the unmotivated selective approach of the *de facto* authorities of Crimea to the prosecution of the organizers and participants of the two rallies (among the defendants are only “pro-Ukrainian” rallyers) demonstrate the politically motivated nature of the criminal prosecution of A. Chygoz and other persons by the Russian Federation.

With regard to legal regulation of freedom of peaceful assembly

(1) The analysis of the Ukrainian legislation combined with the ECtHR case law in relation to Ukraine proves the lack of predictable and clear legislation that complies with international human rights standards and governs the freedom of peaceful assembly. However, administrative and judicial practices available in Ukraine at the time of the events required from the organizers of the rally only to notify in advance of its purpose, time and venue, as well as the expected number of participants.

(2) The authorities were informed in advance of the planned rallies and had sufficient time for preparation to policing the rallies. The authorities had no formal objections to holding of the peaceful assemblies. The above-said gives reason to assert that the preliminary organization of the assemblies took place in accordance with international law and the laws of Ukraine.

(3) Assessing the events of 26 February 2014, one can state that, in general, the assemblies were peaceful. There is no evidence of violent actions planned by the organizers during their preparation for the rallies. Public statements of the assembly organizers and leaders did not contain incitement to violence or hostility. Participants of the rallies did not use weapons within the meaning of the law of Ukraine. The fact that there were some acts of violence during the rallies cannot itself be sufficient to conclude that their organizers had violent intentions. There is no compelling evidence for accusing the rallyers of organizing mass riot and the existence of violent goals on their part.

With regard to actions and responsibility of the police and other authorities

(1) The authorities, being timely informed about two planned rallies, were supposed to ensure the safety of participants in the framework of the State's positive obligations.

(2) Policing errors at the time of preparation for the peaceful assemblies and further inaction during their holding, especially at the time of clashes, when no measures were taken and no available means to save the life and health of citizens were used, lead to the conclusion about inadequate police conduct. In general, the police tactics was quite passive and mostly confined to monitoring of the developments. These errors and inaction resulted in tragic consequences.

(3) The unpreparedness of the militia to a conflict assembly is striking. It was clear that there could be confrontations among the participants of assemblies due to the heated political situation. Throughout the assembly, the police did not take any adequate response measures on a step-by-step basis. Police officers at the rally had no means of protection; at the same time, fully equipped officers were in the SC ARC building.

(4) The positive obligations of the authorities do not cease with the end of the assemblies, and bind the State to conduct an effective investigation into offences. During the rally two people were killed, and several other participants were injured. Law enforcement agencies of Ukraine were obliged to investigate into all such cases, assess conduct/inaction of law enforcement officers in charge of safety, and do everything possible to bring the perpetrators to justice.

With regard to responsibility of the organizers and participants of the assemblies, qualification of the events of 26 February 2014

(1) The rallies declared by the Mejlis of the Crimean Tatar People and the "Russian Unity" party on 26 February 2014 were, by their nature, two assemblies with opposing objectives and requirements, which partially overlapped in time and place. Reconstruction of the events and detailed legal analysis make it possible to assert that these rallies held in the square in front of the SC ARC did not contain signs of mass riot.

(2) Reconstruction of the events and evaluation of the materials of case No. 2015417109 prove a lack of data about the existence in Ahtem Chiygoz's conduct of elements of *corpus delicti* of the "mass riot" offence (art. 294 of the Criminal Code of Ukraine or art. 212 of the Criminal Code of the Russian Federation), as well as elements of any other punishable acts.

With regard to politically motivated prosecution of A. Chiygoz and other defendants in criminal case No. 2015417109

The selective nature of justice and politically motivated prosecution of A. Chiygoz and other defendants is proved by the following facts:

(1) only participants of the "pro-Ukrainian" rally, representatives of the Crimean Tatar people, are prosecuted in the criminal case No. 2015417109;

(2) Russian Federation is lacking jurisdiction and legal grounds to investigate into the events of 26 February 2014 both pursuant to international law and national legislation.

In addition, the most victims in the criminal case No. 2015417109 belong to the participants of the "pro-Russian" rally, representatives of the SDPU and law enforcement officers. No participant of the "pro-Ukrainian rally" has been identified as a victim.

Recommendations

To the authorities of Ukraine:

- (1) To conduct an effective investigation into:
 - a) the facts of death and bodily harm during the events of 26 February 2014 outside the building of the SC ARC in Simferopol;
 - b) unlawful actions/inaction of the Ukrainian police officers with regard to positive obligations and safeguards during the rallies on 26 February 2014, to bring those responsible to justice.
- (2) To bring national legislation regulating freedom of peaceful assembly in line with international human rights standards, including the issues of the procedure for its holding, policing and adequate reactions in situations requiring special response measures from law enforcement agencies, relying on the best practice summarized in the OSCE/ODIHR Human Rights Handbook on Policing Assemblies.
- (3) To take all necessary steps under international law and national legislation for the protection and restoration of the rights of persons violated as a result of their unmotivated prosecution for their participation in peaceful assemblies on 26 February 2014.

To the authorities of the Russian Federation:

- (1) To cease the politically motivated prosecution of the participants of the events of 26 February 2014, including Ahtem Chiyyoz, Mustafa Degermendzhi, Ali Asanov, Arsen Yunusov, Eskender Kantemirov, Eskender Emirvaliyev.
- (2) With regard to the protection of rights of Ahtem Chiyyoz, Mustafa Degermendzhi, Ali Asanov and others, prosecuted in the case No. 2015417109:
 - to free from detention Ahtem Chiyyoz, Mustafa Degermendzhi, Ali Asanov, who are detained in this criminal case;
 - to restore the rights and provide adequate compensation for unlawful detention to all the accused in the case No. 2015417109, who had a preventive measure in the form of arrest imposed on them for different periods of time;
 - to conduct an effective and public investigation into the facts of unlawful detention and prosecution of persons in this case by the law enforcement agencies of Crimea, established after the annexation of the peninsula.
- (3) To cancel the regulations of the Russian legislation, which allow retrospective application of criminal legislation of the Russian Federation on the territory of Crimea, as inconsistent with the principles and standards of national and international law.

To the international organizations and institutions (UN, Council of Europe, European Union, others):

- (1) To draft and adopt a resolution on the protection of human rights and the restoration of the rights of persons who have suffered politically motivated criminal prosecution in connection with the events of 26 February 2014 in Simferopol.
- (2) To carry out system control and monitoring over the human rights situation, the effective investigation into the events of 26 February 2014 and the prevention of the practice of politically motivated prosecution of participants of these events.

To mass media:

To thoroughly and objectively cover the consequences of the events of 26 February 2014 in Simferopol for the purpose of public control over the course of the investigation on the "26 February criminal case".