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)

PRELIMINARY OBJECTIONS

SUBMITTED BY THE RUSSIAN FEDERATION

Volume II
(ANNEXES)

12 SEPTEMBER 2018

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Translation

No. 610/22-110-1591

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in connection with the incident that occurred on 20 June 2014 in the area of the border-crossing checkpoint "Dolzhansky" on the Ukrainian-Russian state border, has the honor to communicate the following.

The Ministry of Foreign Affairs of Ukraine once again brings to the knowledge of the Ministry of Foreign Affairs of the Russian Federation the fact that in order to prevent the terrorist threat, preserve the territorial integrity and protect civilians of Ukraine, an anti-terrorist operation is conducted in the eastern part of Ukraine. Conducting such an operation is an inalienable right of the Ukrainian State, which is based on its state sovereignty. The decision to conduct the operation was made by the competent state authorities of Ukraine and is implemented within the framework of the current legislation.

Ukraine has commenced an investigation into the circumstances of this incident, which resulted in the injury of an employee of the Federal Customs Service of the Russian Federation.

We express our sympathy and wishes for a speedy recovery to the employee of the Russian customs.

With a view to a peaceful settlement of the situation in the eastern regions of Ukraine and in accordance with the Plan of the President of Ukraine P. Poroshenko on the peaceful settlement of the situation in the eastern regions of Ukraine, from 22.00, 20 June 2014, suspension of the fire in the area of the antiterrorist operation was announced.

In this context, the Ministry of Foreign Affairs of Ukraine in Note No.610/22-110-1446 dated 5 June 2014 announced the suspension of movement across the state border between Ukraine and the Russian Federation in a number of settlements, including "Dolzhansky-Novoshakhtinsk", but no response from Russian Party has been received yet, and no appropriate measures to stop movement across the border have been taken.

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

At the same time, the Russian Federation continues a policy of military, logistic, economic and financial support to terrorist organizations "DPR" and "LPR", the mercenaries from which commit acts of murder, torture and other acts of inhuman treatment of civilian Ukrainian population, capture and destroy infrastructure, engage in looting and robbery. This policy is contrary to the principle proclaimed by the UN General Assembly in its Declaration of 24 October 1970 (2625 (XXV), and of 9 December 1994 (49/60) and confirmed by the UN Security Council in its resolution 1189 (1998) of 13 August 1998, according to which each UN member state is obliged to refrain from organizing, instigating, assisting or participating in terrorist acts in another State, or from indulging in organized activities within its territory aimed at the commission of such acts.

By assisting terrorists of "DPR" and "LPR" the Russian Party violates the obligations undertaken in accordance with the whole set of international legal instruments in the field of preventing and combating international terrorism, in particular, the provisions of the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999, the Council of Europe Convention on the Prevention of Terrorism of 16 May 2005, and damages the position declared by it when adopting the United Nations Security Council resolutions 1269 (1999) of 19 October 1999, 1368 (2001) of 12 September 2001, 1373 (2001) of 28 September 2001, 1377 (2001) of 12 November 2001, 1456 (2003) of 20 January 2003, etc.

The Ministry of Foreign Affairs of Ukraine strongly protests against the actions of the Russian Federation itself, aimed at further destabilization of the situation in the south-east of Ukraine and encouragement of anti-government sentiment in the Donetsk and Lugansk Regions. The Ukrainian Party has abundant evidence of well-trained and armed Russian mercenaries who are directly involved in the terrorist activity of "DPR" and "LPR" being sent to the territory of Ukraine from the territory of the Russian Federation. These actions of the Russian Party can not be qualified otherwise than export of terrorism to the territory of Ukraine. In conjunction with the exhibition maneuvering of combined arms districts of the Russian Federation Armed Forces near the Ukrainian-Russian state border, regular violation of airspace of Ukraine by aircrafts of the Air

Forces of the Russian Federation, mining of the territory of Ukraine with antipersonnel and antitank mines along the line of deployment of the occupying Russian troops in the Autonomous Republic of Crimea, they constitute deliberate and flagrant violations of the principles of prohibition of the use or threat of force, non-interference in internal affairs and respect for the territorial sovereignty established by the UN Charter.

The stated practice is illegal, not only in terms of violations of the universal rules of the UN Charter, but also due to the total disregard by the Russian Federation of the relevant provisions of regional and bilateral instruments, in particular, the CSCE Final Act 1975, Agreement on Establishment of the Commonwealth of Independent States of 8 December 1991, the Memorandum on Security Assurances in connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons of 5 December 1994, the Treaty of Friendship, Cooperation and Partnership between Ukraine and the Russian Federation of 31 May 1997, etc.

The absolute unlawfulness of the military, logistic, economic and financial support, which is provided to irregular forces operating in the territory of another state, and sending by one state of armed groups into the territory of another state has been repeatedly condemned by the UN International Court of Justice.

The Ministry of Foreign Affairs of Ukraine requests that the Russian Federation should immediately cease its support of terrorist activities, incitement and provision of any assistance to terrorist organizations "DPR" and "LPR", other groups and individual terrorists, who carry out terrorist activity in the territory of Ukraine, and to abandon its policy of connivance of organized activities within its territory aimed at the commission of terrorist acts in the territory of Ukraine.

In addition, the Ministry of Foreign Affairs of Ukraine requires the Russian Party to stop the practice of sending armed subversive groups to the territory of Ukraine, carrying out military maneuvers and exercises in the vicinity of the Ukrainian-Russian border, periodically violating the airspace of Ukraine, mining the occupied Ukrainian territory and other actions, which by their scale and dangerous consequences can be classified as an armed attack against Ukraine in the light of the UN General Assembly resolution 3314 (XXIX) "Definition of Aggression".

The use of force or threat of force, interference in internal affairs, disregard of the territorial sovereignty is not only a violation of the UN Charter and customary international law, but it also cannot be used as a means of settlement of international problems. Their resolution is possible only on the basis of the principle of cooperation and compliance, in good faith, with the international obligations undertaken.

Based on the above, the Ministry of Foreign Affairs of Ukraine calls on the Russian Party to abandon the aggressive policy, which is historically untenable, and stresses the critical importance of the Plan of the President of Ukraine on the peaceful settlement of the situation in the eastern regions of Ukraine.

The Ministry of Foreign Affairs of Ukraine avails itself of the opportunity to resume its assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 21 June 2014

Translation

No. 610 / 22-110-1798

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and demands explanations for the functioning of the so-called "military enlistment office for people's militia of Donbass" in the city of Moscow, for recruitment and training by representatives of Cossack organizations in Russia (address: 26/3, Molodogvardeyskaya str., Moscow) and Reserve military patriotic club (address: 20, Drezdenskaya str., St. Petersburg) of mercenaries from among the citizens of the Russian Federation for illegal armed groups engaged in terrorism in the Donetsk and Luhansk regions of Ukraine.

If the above-mentioned is confirmed, the Ukrainian Side will expect full official information on how such actions conform to Article 208 of the Criminal Code of the Russian Federation on Forming or Joining Illegal Armed Group, as well as an appropriate legal response from law enforcement agencies of the Russian Federation.

The Ukrainian Side once again calls on the Russian Side to stop supporting terrorism in the Donetsk and Luhansk regions of Ukraine and contribute to a peaceful resolution of the situation.

The Ministry of Foreign Affairs of Ukraine renews to the Ministry of Foreign Affairs of the Russian Federation the assurances of its consideration.

Kiev, 16 July 2014

(Seal)

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

Translation

No. 610/22-110-1804

The Ministry of Foreign Affairs of Ukraine strongly protests to the Ministry of Foreign Affairs of the Russian Federation over ongoing acts of aggression by the Russian Side against Ukraine. Unceasing shelling of the territory of Ukraine from the territory of the Russian Federation continues involving BM-21 Grad multiple rocket launchers, SP artillery vehicles and mortars. Competent authorities of Ukraine record and duly document such cases, for example – 15 July 2014, 11.50 pm, from the locality of Krasnodarsky village (Russian Federation) in the direction of Amvrosiyevka village (Ukraine); 16 July 2014, 12.15 am, from the locality of Svobodny village (Russian Federation) in the direction of the village of Marinovka (Ukraine); 16 July 2014, 1.25 am – 1.40 am, from the locality of Primiussky village (Russian Federation) in the direction of Marinovka border checkpoint; 17 July 2014, 10.00 am, from the locality of Repeynikovy village (Russian Federation) in the direction of Marinovka border checkpoint.

On 15 July 2014, from 12.25 am till 12.30 am a shelling took place from the locality of Krasnodarsky village (Russian Federation) in the direction of Amvrosiyevka village (Ukraine), killing five Ukrainian citizens and injuring 20 people.

In all the abovementioned cases, at the expense of Ukrainian citizens' lives, the Ukrainian Side did not open fire expecting the Russian Side to adopt appropriate measures to prevent its territory from being used by criminals and illegal armed groups.

On 16 July 2014, at about 7.00 pm a military aircraft of the Armed Forces of the Russian Federation launched a missile attack downing a Su-25 of Ukrainian Armed Forces on a mission in the territory of Ukraine.

The Ukrainian Side lays the blame on the Russian Side for the latest blatant provocations which constitute a gross violation of international law and evidence of deliberate and cynical actions by Russia to escalate the situation and impede the efforts of Ukraine and the international community to restore peace and stability in the Donetsk and Luhansk regions.

The Ministry of Foreign Affairs of Ukraine strongly demands that the Russian Side should put an end to its manifold outrageous provocations against Ukraine, immediately stop its open support for Russian mercenaries and militants, and finally begin to fulfill its commitments in good faith under the Geneva Statement of April 17 and the Berlin Declaration of 2 July 2014.

Kiev, 17 July 2014

(Seal)

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

Translation

No 610/22-110-1805

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and demands that the Russian Federation should give explanations with regard to the assistance provided by the Russian national Eduard Anatolyevich Popov in temporary storage of goods, including those designed for military use, of the Donetsk People's Republic (DPR) terrorist organization at the warehouses belonging to the Directorate of the Ministry of Civil Defense and Emergency Response of the Russian Federation for and in the Rostov region.

According to the information received from the competent authorities of Ukraine, the transport vehicles and warehouse facilities belonging to this state agency of the Russian Federation and situated in the city of Shakhty and the Neklinovsky District of the Rostov region of the Russian Federation are granted for use of the representatives of the DPR terrorist organization.

Besides, we demand that the Russian Federation should provide us with official explanations with regard to the participation of the Russian nationals Andrey Petrovich Kramar, Eduard Anatolyevich Popov and Alexey Valentinovich Muratov (representatives of the MMM company) in financing of terrorist organizations operating in the territories of the Donetsk and Luhansk regions of Ukraine.

The Ukrainian Party reiterates its call on the Russian Party to stop supporting the terrorist activities in the Donetsk and Luhansk regions of Ukraine and facilitate the peaceful resolution of the conflict.

Kiev, 17 July 2014

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

Translation

No 610/22-110-1827

The Ministry of Foreign Affairs of Ukraine expresses strong protest to the Ministry of Foreign Affairs of the Russian Federation with regard to the continuing acts of aggression committed by the Russian Federation against Ukraine.

On 17 July 2014, two Mi-8 and two Mi-24 Russian helicopters violated the Ukrainian airspace near the settlement of Ilievka of the Luhansk region.

On 18 July 2014, Two Mi-8 and one Mi-24 Russian helicopters violated the Ukrainian airspace near the settlement of Aleksandrovka of the Luhansk region.

On 19 July 2014, the units of the Armed Forces of Ukraine deployed near the settlements of Manych and Komyshuvakha of the Donetsk region were subject to a number of artillery strikes with the use of self-propelled artillery mounts and Grad multiple rocket launchers made from the Russian territory near the settlements of Avilo-Uspenka and Leninskiy.

On 20 July 2014, the positions of the Armed Forces of Ukraine deployed in the territory of Ukraine near the settlement of Ilyevka were fired by mortar and artillery shells from the area near the settlement of Manotskiy, Russian Federation.

The Ukrainian Party considers these actions as yet another act of aggression committed by the Russian Federation against the sovereign territory of Ukraine and its nationals, particularly for the purpose of provoking conflicts at the Ukrainian-Russian State border, and supporting and financing the terrorist activities in the territory of Ukraine.

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

In this regard, the Ukrainian Party expresses its strong protest with regard to the Russian Party's groundless accusations against the Armed Forces of Ukraine of shelling the territory of the Russian Federation and places the full responsibility on the Donetsk People's Republic and Luhansk People's Republic terrorist organizations.

The Ministry of Foreign Affairs of Ukraine strongly demands that the Russian Party should end immediately the supply of heavy equipment and weapons across the border to terrorists, as well as support efforts of Ukraine and international community to implement the monitoring of entry points of the Ukrainian-Russian State border guided by the OSCE.

Kiev, 22 July 2014

(Seal)

Translation

No. 610/22-110-1833

The Ministry of Foreign Affairs of Ukraine expresses a strong protest to the Ministry of Foreign Affairs of the Russian Federation in respect of further acts of aggression of the Russian Side against Ukraine.

In particular, on July 22, 2014, an artillery attack was carried out from the territory of the Russian Federation involving the "Grad" multiple rocket launchers and mortar launchers in the direction of settlements located in the territory of Ukraine: Amvrosievka in the Donetsk region, Gerasimovka and Parkhomenko in the Luhansk region, as well as the border checkpoint of Uspenka. The positions of the Armed Forces of Ukraine were also under attack, which resulted in injuries.

The same day competent authorities of the Ukrainian Side documented facts of invasion of the airspace of Ukraine by helicopters of the Russian Armed Forces, in particular, by KA-52 near checkpoint Krasnaya Talivka in the Luhansk region and Mi-8 near Staritsa settlement in the Kharkov region.

We are deeply concerned over the military buildup by the Russian Federation near the state border of Ukraine. In particular, a field camp was established near the settlement of Kruglenkoye, the stow of Krucheny Les in the Kursk region, for units of the 32nd separate motorized rifle brigade, 24th separate task force brigade and the 56th engineering regiment of the Russian Armed Forces.

Moreover, on July 22, 2014, units of the Armed Forces of the Russian Federation demonstratively approached the state border of Ukraine near the checkpoints Girsk and Gremyach of the State Frontier Service of Ukraine in the Chernigov region, deployed in battle order and imitated an attack across the state borderline.

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

The Ukrainian Side urgently demands the Russian Federation to make immediate steps with the purpose of halting fire on the territory of Ukraine from the territory of the Russian Federation and violations of the state border of Ukraine, cease supplies of heavy equipment and weapons to the following terrorist organizations: Donetsk People's Republic and Luhansk People's Republic, as well as to support the efforts taken by Ukraine and the international community related to the monitoring the Russian-Ukrainian state border under the OSCE control.

Kiev, 23 July 2014

(Seal)

Translation

No. 13355/dnv

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and, in reply to the Embassy's note No. 6111/22-012-3682 dated 3 October 2014, has the honor to inform that the Russian Party has accepted for consideration the issues proposed by the Ukrainian Party for discussion in the course of the consultations regarding the interpretation and application of the 1999 International Convention for the Suppression of the Financing of Terrorism ("the Convention").

The Ministry of Foreign Affairs informs the Ukrainian Party of the necessity to provide the Russian Party with evidential materials on the essence of the issues raised in notes of the Ministry of Foreign Affairs of Ukraine No. 72/22-484-1964 dated 28 July 2014, No. 72/22-620-2087 dated 12 August 2014, No. 72/22-620-2185 dated 22 August 2014, No. 72/22-620-2221 dated 29 August 2014, No. 72/22-620-2406 dated 24 September 2014, No. 72/22-620-2443 dated 30 September 2014, No. 72/22-620-2495 dated 7 October 2014 and No. 72/22-620-2529 dated 10 October 2014, as well as on handing over to the Russian Federation the criminal

TO THE EMBASSY OF UKRAINE
Moscow

case files within the criminal proceedings initiated by the law enforcement agencies in respect of Russian nationals and the persons permanently residing in the Russian Federation who are mentioned in the said notes of the Ukrainian Party, in accordance with the procedure envisaged by the CIS Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters of 22 January 1993.

The Russian Party reserves the right to supplement the agenda of the Russian-Ukrainian consultations.

The Russian Party proceeds from the fact that in view of the absence of adequate security conditions in Kiev, as demonstrated by the incident with the attack on the Embassy of the Russian Federation on 14 June of this year, holding consultations in the Ukrainian capital does not appear possible. In view of this fact the Russian Federation proposes to conduct this event in Moscow.

Nothing in this note prejudices the position of the Russian Party in respect of the declarations and statements contained in the aforementioned notes of the Ukrainian Party.

The Ministry avails itself of this opportunity to resume its assurance of its consideration to the Embassy of Ukraine.

Moscow, 14 October 2014

Seal: Ministry of Foreign Affairs * No. 1

Translation

No. 72/23-620-2674

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and has the honor to submit the following in reply to Note of the Ministry of Foreign Affairs of the Russian Federation No. 13355/dnv dated 14 October 2014.

The Ministry of Foreign Affairs of Ukraine declares that the information and factual data provided in the Ukrainian Party's notes constitute proper and admissible evidence based on which the Russian Party is obliged to establish existence or absence of the circumstances, which support the claims of the Ukrainian Party.

In this connection, we draw your attention to the fact that pursuant to Article 9 of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention"), upon receiving information that a person who has committed or who is alleged to have committed an offence set forth in Article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

Therefore, the Ministry of Foreign Affairs of Ukraine does not see the need to submit to the Russian Party the evidential materials as to the essence of the issues raised in the Ukrainian Party's notes and believes the aforementioned information and evidential data sufficient, within the meaning of the Convention, for the relevant measures to be taken by the Russian Party. At the same time, the Ukrainian Party reserves the right to submit additional evidence pointing to commission by nationals, legal entities and state authorities of the Russian Federation of crimes within the meaning of the Convention.

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

The Ministry of Foreign Affairs of Ukraine further does not believe it possible to satisfy the Russian Party's request as to transfer of the criminal cases initiated by the Ukrainian law enforcement against the Russian nationals who reside permanently in the Russian Federation, as this request exceeds the limits of the scope of legal assistance provided for by Article 6 of The 1993 CIS Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (hereinafter - "the CIS Convention on Legal Assistance"), and does not comply with the order and procedures established by the CIS Convention on Legal Assistance.

However, the Ministry of Foreign Affairs of Ukraine declares that the Ukrainian Party is ready to provide the greatest measure of assistance to the Russian Party in investigation of the facts stated in the aforementioned notes of the Ministry of Foreign Affairs of Ukraine, in accordance with the procedure established by treaties on legal assistance, including the CIS Convention on Legal Assistance.

The Ministry of Foreign Affairs of Ukraine believes that the Russian Party's concerns with regard to the situation in the sphere of security in Kiev are unsubstantiated.

At the same time, the Ministry of Foreign Affairs of Ukraine also regards as unacceptable the proposal of the Russian Party on conducting negotiations in Moscow for safety reasons in view of multiple facts of the Russian state authorities' involvement in abductions and use of torture and other inhuman treatment to Ukrainian nationals, as well as possible provocations on the part of aggressively disposed population of the Russian Federation incited by the Russian propaganda in the Media.

In this connection, the Ministry of Foreign Affairs of Ukraine proposes to review the Russian Party's position and conduct negotiations on interpretation and application of the 1999 International Convention for the Suppression of the Financing of Terrorism on 20 November 2014 in Kiev (Ukraine) or in Geneva (the Swiss Confederation), in Vienna (Austria), Strasbourg (France.). The Ukrainian Party has preliminarily examined in detail the possibility of conducting negotiations in the said places.

The Ministry of Foreign Affairs of Ukraine will regard the absence of the Russian Party's reply within a reasonable period and unjustified protraction of the issue on determining the venue and date of negotiations as the Russian Party's unwillingness to resolve the dispute in compliance with the 1999 International Convention for the Suppression of the Financing of Terrorism, by way of negotiations.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to resume its assurances of its high consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 29 October 2014

(Seal)

Translation

No 15642/2dsng

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Ministry of Foreign Affairs of Ukraine and has the honor to communicate the following in response to the note of the Ministry of Foreign Affairs of Ukraine №72/23-620-2673 dated 29 October 2014.

The Russian Side is willing to hold negotiations on the issues of the implementation of the 1966 International Convention on the Elimination of All Forms of Racial Discrimination and proposes to do so in Moscow, Russian Federation, or Minsk, Republic of Belarus.

The Russian Side assumes that in the course of the negotiations the Ukrainian Side will be ready to provide the Russian Side with full and objective information on the implementation by Ukraine of its obligations arising from Part 1 Article 2 para. a, b, c, d, Article 4 para. a, b, c, Article 5 para. b, c, d, e, as well as other Articles of the International Convention on the Elimination of All Forms of Racial Discrimination, in particular in relation to the Russian-speaking population of Ukraine.

With this understanding, the Russian Side is ready to proceed to agreeing on the timeframe and the agenda for the negotiations.

TO THE MINISTRY
OF FOREIGN AFFAIRS
OF UKRAINE
Kiev

Nothing contained in the present note should prejudice the position of the Russian Side concerning the statements and assertions contained in the abovementioned note of the Ukrainian side.

Furthermore, in connection with the aforementioned statements by the Ukrainian Side, the Russian Side notes that under Article 11 of the International Convention on the Elimination of All Forms of Racial Discrimination, if a State Party considers that another State Party is not giving effect to the provisions of the Convention, it may bring the matter to the attention of the Committee on the Elimination of Racial Discrimination.

The Ministry of Foreign Affairs of the Russian Federation avails itself of this opportunity to renew to the Ministry of Foreign Affairs of Ukraine the assurances of its highest consideration.

Moscow, 27 November 2014

Seal: Ministry of Foreign Affairs of the Russian Federation No. 1

Translation

No. 72/22-620-2946

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and in addition to the note No. 72/23-620-2673 of 29 October 2014 has the honour to communicate the following.

The Ministry of Foreign Affairs of Ukraine regards the absence of response from the Russian Side to the above note of the Ministry of Foreign Affairs of Ukraine concerning the organization and conduct of consultations in relation to the existence of the dispute with regard to interpretation and application of the International Convention on Elimination of All Forms of Racial Discrimination of 1965 as an express refusal from resolving the existing dispute through negotiations.

The Ministry of Foreign Affairs of Ukraine believes that such actions of the Russian Side constitute an evidence of impossibility to resolve the dispute through negotiations.

The Ministry of Foreign Affairs of Ukraine proceeds from the premise that the Ukrainian Side in good faith attempted to resolve the existing dispute through negotiations and exhausted all available possibilities of organization and conduct of the said negotiations.

In connection with this, the Ukrainian Side reserves the right to use other means of peaceful resolution of the disputes under the International Convention on the Elimination of All Forms of Racial Discrimination of 1965.

The Ministry of Foreign Affairs of Ukraine avails itself of the opportunity to resume its assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 1 December 2014
(Seal)

To the Ministry
of Foreign Affairs of
the Russian Federation
Moscow

Translation

No. 72/22-620-3008

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and has the honor to submit the following in reply to Note of the Ministry of Foreign Affairs of the Russian Federation No. 14587/dnv dated 24 November 2014.

The Ministry of Foreign Affairs of Ukraine believes that the rhetoric of the Russian Party as regards the need to observe the norms of diplomatic correspondence is unacceptable, especially against the background of the continuing armed aggression of the Russian Federation against Ukraine.

The Ukrainian Party's concern regarding improper safety conditions in the Russian Federation for the purposes of hosting any official Ukrainian-Russian events is fully reasonable and justified. This is evidenced, inter alia, by the publicly known facts of unlawful arrests, transfers and detentions of Ukrainian nationals by the authorities of the Russian Federation, politically motivated prosecution of Ukrainian officials by Russian law enforcement agencies as well as ongoing anti-Ukrainian propaganda in the Russian media.

Thus, the Ministry of Foreign Affairs of Ukraine regards the Russian Party's position stated in the aforementioned note of the Ministry of Foreign Affairs of the Russian Federation as an attempt to avoid discussing the issues related to the facts of violation of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention") by means of shifting the focus of discussion and moving the negotiations to the sphere of solving the issues of safe functioning of diplomatic institutions.

In this connection, the Ministry of Foreign Affairs of Ukraine again reports on the existing dispute regarding interpretation and application of the Convention provisions and urgently requests to adhere to the subject of the negotiations proposed by the Ukrainian Party, to which the Russian Party agreed by its note No. 10471/dnv dated 15 August 2014.

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

The Ministry of Foreign Affairs of Ukraine proceeds from the fact that the beginning of the negotiations proposed by the Ukrainian Party is aimed at discussion of the facts mentioned in the previous notes of the Ministry of Foreign Affairs of Ukraine, that evidence commission by nationals, legal entities and state authorities of the Russian Federation of crimes under the Convention as well as improper fulfillment by the Russian Party of its international commitments.

In connection with this, the Ministry of Foreign Affairs of Ukraine cannot agree with the position of the Russian Party according to which "the fact of discussion of whichever issues in the course of consultations does not predetermine the issue of whether they fall within the scope of application [of the Convention]".

The Ministry of Foreign Affairs of Ukraine is ready to take as the basis the agenda of the bilateral consultations regarding interpretation and application of the Convention, as proposed by the Russian Party. At the same time, the Ukrainian Party proposes to include in the aforementioned negotiations agenda a separate issue regarding interpretation and application of the Convention in the context of Ukrainian-Russian relations, as well as reserves the right to complement it with other issues taking into account the development of the situation.

Taking into account the Ukrainian Party's position as regards the subject of the negotiations, we believe that the issues of safety of the nationals of the Russian Federation in Kiev and safety of Ukrainian nationals in Moscow, proposed by the Russian Federation, as well as issues of safety of diplomatic missions of both countries including diplomatic staff, may not be included in the agenda of these negotiations. Also, nothing in the mentioned note prejudices the position of the Ukrainian Party in respect of the declarations and assurances contained in the relevant notes of the Russian Party.

The Ministry of Foreign Affairs of Ukraine draws the Russian Party's attention to the fact that the reply to note of Ministry of Foreign Affairs of the Russian Federation No. 10471/dnv dated August 15 of this year, was provided by the Ukrainian Party by its note No. 72/22- 620-2443 dated September 30 of this year, within the time periods defined by the note of the Ministry of Foreign Affairs of the Russian Federation. At the same time, the Russian Party only on October 14 of this year (note of the Ministry of Foreign Affairs of the Russian Federation No. 13355/dnv) informed of impossibility of conducting negotiations in Kiev which the Ukrainian party suggested to conduct on October 17 of this year.

Besides, the reply to the next proposal of the Ukrainian Party to conduct the said negotiations on November 20 of this year was provided by the Russian Party, for reasons unknown, only on November 24 of this year, without proper substantiation for changes of the negotiations venue. Such actions by the Russian Party are the evidence of unjustified protraction of resolution of the issues regarding the holding of negotiations and the Russian Party's unwillingness to resolve the Convention dispute by way of negotiations.

Notwithstanding this, and being guided by the urge to solve the dispute on interpretation and application of the Convention by means of negotiations, the Ministry of Foreign Affairs of Ukraine is ready to conduct the aforementioned negotiations on December 22 of this year in Strasbourg (France) in the premises of the Council of Europe, as proposed in the previous notes of the Ukrainian Party.

We also inform that the Ukrainian delegation at the negotiations will be represented at the level of Deputy Minister of Foreign Affairs of Ukraine, and it *will include* representatives from other state authorities of Ukraine.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to resume its assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 8 December 2014

(Seal)

Translation

No. 72/22-620-3069

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and in response to the notes of the Ministry of Foreign Affairs of the Russian Federation No. 15642/2dsng of 27 November 2014 and No. 17004/2dsng of 8 December 2014 has the honor to convey the following.

The Ministry of Foreign Affairs of Ukraine considers that the abovementioned response of the Russian Side constitutes direct evidence of express unwillingness of the Russian Federation to settle the existing dispute with respect to the interpretation and application of the 1966 International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter - "the Convention") through negotiations, of which the Ukrainian Side informed the Russian Side in its note No. 72/22-620-2946 of 1 December 1, 2014.

The position of the Ministry of Foreign Affairs of Ukraine is supported by the fact that the Ukrainian Side proposed to conduct negotiations regarding the interpretation and application of the Convention on 21 November 2014, and the Russian Side responded by the aforementioned note of 27 November 2014 that was received by the Ukrainian Side on December 27, 2014.

Without prejudice to the position of the Ukrainian Side declared previously and driven by the genuine intention to settle the dispute with respect to the interpretation and application of the Convention through negotiations, the Ministry of Foreign Affairs of Ukraine is willing to conduct the mentioned negotiations on 23 January 2016 in Strasbourg (France) in the premises of the Council of Europe, as it was proposed in the previous note of the Ukrainian Side. The Ukrainian Side has preliminarily addressed the arrangements for conducting negotiations at the premises of the Council of Europe.

According to the aforementioned note of the Ministry of Foreign Affairs of the Russian Federation of 27 November 2014, the position of the Russian Side regarding the subject matter of the negotiations is that it is prepared to conduct "negotiations on the issues related to the implementation" of the Convention and "assumes that in the course of the negotiations the Ukrainian Side will be ready to provide the Russian Side with full and objective information on the implementation by Ukraine of its obligations arising from the Convention, in particular in relation to the Russian-speaking population of Ukraine".

To the Ministry
of Foreign Affairs of
the Russian Federation
Moscow

The Ministry of Foreign Affairs of Ukraine regards the position declared by the Russian Side and its understanding of the subject matter of the negotiations as an attempt to avoid discussion of the issues related to its violations of the Convention by shifting the focus of the discussion towards the issues of the Convention's implementation and general matters related to the fulfillment by Ukraine of its obligations under the Convention in relation to the Russian-speaking population of Ukraine.

In this regard, the Ministry of Foreign Affairs of Ukraine once again states that there exists a dispute with respect to the interpretation and application of the Convention and insists on adhering to the subject matter of negotiations proposed by the Ukrainian Side, to which the Russian Side agreed in its note No. 14279/2dsng of 16 October 2014 and to the agenda that saw no objections from the Russian Side.

At the same time, the ungrounded position of the Russian Side that the Ukrainian Side shall provide full and objective information regarding Ukraine's implementation of its obligations under the Convention in relation to the Russian-speaking population, confirms that the Russian Side lacks any specific and convincing facts and evidence of Ukraine's non-compliance with its obligations under the Convention, in particular in relation to the Russian-speaking population of Ukraine.

Regarding the position expressed by the Russian Side, the Ministry of Foreign Affairs of Ukraine states that Ukraine duly fulfills its obligations under the Convention without any discrimination, including that based on language.

Therefore, the position of the Russian Side that the Ukrainian Side shall provide full and objective information on the implementation of its obligations under the Convention cannot become subject for negotiations proposed by the Ukrainian Side in the absence of specific and well-founded facts confirming the violations by Ukraine of its obligations.

The Ministry of Foreign Affairs of Ukraine states that the Ukrainian Side cannot agree with the Russian Side's understanding and interpretation of the provisions contained in Article 11 of the Convention as requiring to bring any dispute concerning the implementation of the Convention obligations by a State Party before the Committee on the Elimination of Racial Discrimination (hereinafter – "the Committee").

The Ministry of Foreign Affairs of Ukraine believes that the provisions of Article 11 optional and that they should be considered together and in the context of Article 22

of the Convention that establishes the procedure for settling disputes with respect to its interpretation and application.

The Ukrainian Side proceeds from the understanding that the provision of Article 11 of the Convention is worded in non-binding terms and imposes no obligation on the Parties to apply to the Committee; namely it stipulates that a State Party "may bring … to the attention of the Committee" its position that another State Party does not give effect to the provisions of the Convention. In addition, the provision of Article 22 of the Convention concerning the procedure for settling disputes "between two or more States Parties with respect to the interpretation or application of this Convention" stipulates that any dispute should be settled "by negotiation or by the procedures expressly provided for in this Convention". Therefore, prior to referring the dispute for judicial resolution the Convention allows States Parties to choose whether to settle a dispute "by negotiation or" by bringing it before the Committee constituting "the procedure […] expressly provided for in this Convention".

The Ministry of Foreign Affairs of Ukraine states that the Ukrainian Side will regard yet another lack of response from the Russian Side within a reasonable period of time or another unjustified delay in agreeing on venue and date for the negotiations as a refusal on the part of the Russian Side to settle the dispute with respect to the interpretation and application of the Convention through negotiations and, therefore, will deem it impossible to settle the dispute by negotiation within the meaning of Article 22 of the Convention.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Russian Federation the assurances of its highest consideration.

Kiev, 15 December 2014

(Seal)

Translation

No. 16599/dnv

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and has the honor to submit the following in reply to note of the Embassy No. 6111/22-012-4506 dated 8 December 2014.

The Ministry perceives with regret the Ukrainian Party's position on inadmissibility of observation of the norms of diplomatic correspondence. The Ukrainian Party's reluctance to follow the generally established procedure of inter-state communications does not favor effective dialogue.

It is exactly in this context that the Ministry emphasizes that irresponsible and unprincipled declarations of the Ukrainian Party about the alleged "armed aggression of the Russian Federation against Ukraine" are aimed at escalation of tension and evidence the absence of the Ukrainian Party's readiness to meaningful dialogue on the Convention.

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The Ukrainian Party's statements as to alleged "protraction" of resolution of the organizational issues by the Russian Party are equally unsubstantiated. The Ministry draws the Ukrainian Party's attention to the following facts: the time periods of sending the replies by the Russian Party were 17, 13 and 24 days (total 54 days); the respective time periods for the Ukrainian Party were 45, 16 and 13 days (total 74 days). Thus, it is the Ukrainian Party that bears responsibility for "protraction" of the correspondence, even though it prefers to accuse the Russian Party thereof.

The Ministry regards the fact that the Ukrainian Party continues to insist on conducting the negotiations solely in the city of Strasbourg, without explaining the reasons therefor, as another evidence of the absence of conscientious intent to conduct consultations on the Convention.

The Ministry emphasizes that the choice of the city of Minsk (Belarus) as the venue for conducting consultations is explained by the absence of visa requirements and substantial economy of the funds for both Parties as compared to the Western European cities proposed by the Ukrainian Party, as well as by the established character of the Minsk negotiation platform, including within the Contact Group on Ukraine. If the Ukrainian Party maintains its attitude of setting forth to the Russian Party the conditions complicating the dialogue, including the conditions related to conducting the event in the venues with additional visa requirements and expenses, at the same time putting rigid time frames, this will evidence the intention

of the Ukrainian Party to complicate the process of organization of dialogue and to finally undermine it.

As far as the agenda is concerned, the Ministry is perplexed by the Ukrainian Party's disagreement to include the issue of safety of diplomatic institutions from terrorist attacks in the event agenda. This issue is directly related to the Convention as it covers financing of actions which constitute crimes in accordance with the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 14 December 1973, indicated in the Annex to the Convention. Such nonconstructive position of the Ukrainian Party that refuses to discuss the flagrant incidents which have occurred in the territory of Ukraine and may be related to financing of terrorism, again points to unproductivity of the approach to discussion of the issue of implementation of the Convention adopted by the Ukrainian Party.

Nevertheless, in the spirit of constructive cooperation within the framework of the Convention, the Russian Party confirms the readiness to conduct the planned consultations with the Ukrainian Party. For the purposes of the most prompt achievement of a mutually acceptable decision on the consultations agenda, the Ministry welcomes the Ukrainian Party's readiness to use as a basis the project proposed by the Russian Party. The Ministry proceeds from the fact that this agenda provides the necessary opportunities for discussion

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of the Ukrainian Party's concerns related to implementation of the Convention.

At the same time the Ministry repeatedly points out that the fact of discussion of any issues in the course of consultations or in note communications between the Parties does not in itself pre-determine the issue of regulation of the issues by the Convention, nor does it pre-determine the existence or absence of a dispute on application and interpretation of the Convention.

The Ministry calls on the Ukrainian Party to display good faith and constructivity in order to make possible the holding of the planned event in the week beginning on 22 December of this year in the city of Minsk.

The Ministry avails itself of this opportunity to resume its assurance of its consideration to the Embassy of Ukraine.

Moscow, 17 December 2014

Seal: Ministry of Foreign Affairs * No. 1

Translation

No. 72/22-620-3114

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and has the honor to submit the following in reply to Note of the Ministry of Foreign Affairs of the Russian Federation No. 16599/dnv dated December 8, 2014.

The Ministry of Foreign Affairs of Ukraine believes that the position of the Russian Party with regard to the alleged non-compliance with the norms of diplomatic correspondence is speculative and unsubstantiated. The Ukrainian Party interprets such position as the Russian Party's attempt to avoid constructive dialogue and discussion of the issues raised by the Ukrainian Party in the spirit of fulfillment of its international legal commitments, in particular with regard to peaceful resolution of international disputes.

The accusations of the Russian Party regarding irresponsibility and bad faith regarding the statements made by the Ukrainian Party are groundless and unsubstantiated. Such allegations by the Russian Party are nothing but an attempt to create the impression of alleged "absence of the Ukrainian Party's readiness for a meaningful dialogue on the Convention".

In this connection and for avoidance of any confusing interpretation of declarations and position of the Ukrainian Party, the Ministry of Foreign Affairs of Ukraine hereby declares the following:

- firstly, the declarations and position of the Ukrainian Party with regard to violation by the Russian Party of the key provisions of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention") stated in the previous notes of the Ministry of Foreign Affairs of Ukraine constitute proper notification to the Russian Party on existence of a dispute, its contents and the subject of legal regulation. At the same time, the Ukrainian Party reserves its right to expand in the future the contents and subject of the dispute taking into account the development of the situation;

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- secondly, the declarations and position of the Ukrainian Party as regards conducting negotiations within the framework of the Convention, stated in the previous notes of the Ministry of Foreign Affairs of Ukraine, constitute a real wish and attempt to resolve the existing dispute between Ukraine and the Russian Federation as regards interpretation and application of the Convention, by means of reaching a mutually acceptable agreement in order to avoid resorting to mandatory international judicial procedures;

- thirdly, the Ukrainian Party has real wish and intention to conduct the aforementioned negotiations and continue them as long as maximally possible to reach a mutually acceptable agreement on resolution of the existing dispute.

In the context of the Ukrainian Party's declarations and position in respect of the Russian Federation's armed aggression against Ukraine, the Ministry of Foreign Affairs of Ukraine hereby declares the following:

- the said position constitutes proper notification to the Russian Party of the existence of the dispute, its contents and the subject of legal regulation;

- the Ukrainian Party's position is justified and supported by specific factual circumstances stated in the relevant notes of the Ministry of Foreign Affairs of Ukraine;

- the Ukrainian Party's position may be regarded as calling upon the Russian Federation to assume responsibility under international law. In addition, the Ukrainian Party believes that the said issues are not related to the subject of the negotiations proposed by the Ukrainian Party.

The Ministry of Foreign Affairs of Ukraine does not regard as justified the position of the Russian Party and its accusations of the Ukrainian Party with regard to "responsibility for "protraction" of correspondence". The Russian Party's formal approach to calculation of the periods for providing replies does not comply with the factual circumstances of the case and does not take into consideration the essence thereof and the objective circumstances. Thus, in its estimates, the Russian Party does not take into account that the first note - the Ukrainian Party's reply to the note of the Ministry of Foreign Affairs of the Russian Federation - was submitted within the time frames suggested by the Russian Party and dealt with a wide range of issues on organization and conducting negotiations, which requires additional time for preparation. Additionally, the Russian Party's approach also ignores the factual time periods when the Ukrainian Party received the replies from the Russian Party, which for unknown reason differ from the date of registration of the reply.

The Ministry of Foreign Affairs of Ukraine believes that such approach of the Russian Party is not constructive and does not contribute to the effective dialogue. Instead, the Ukrainian Party's position with regard to unjustified protraction by the Russian Party of resolution of the issue of holding negotiations was aimed at drawing the attention of the Russian Ministry of Foreign Affairs to the necessity of exchanging

positions within reasonable periods, namely taking into consideration the proposed date for conducting negotiations.

The position of the Ministry of Foreign Affairs of the Russian Federation with regard to conducting the negotiations in Strasbourg (the French Republic) is equally non-constructive. In this connection, the Ministry of Foreign Affairs of Ukraine draws the attention of the Ministry of Foreign Affairs of the Russian Federation to the fact that it was the Russian Party that, for reasons unknown, has ignored the proposal of the Ministry of Foreign Affairs of Ukraine to conduct negotiations in a number of European countries on a neutral platform of the relevant international organizations. In addition, the Ministry of Foreign Affairs of Ukraine proceeds from the fact that the Ukrainian Party as the initiator of the negotiations has all the grounds to propose the platform for negotiations and consider it acceptable until the Russian Party provides specific and grounded objections.

Taking into consideration the unwillingness of the Russian Party to conduct negotiations on a neutral platform in Strasbourg, as well as having good faith intentions and actual will to solve the existing dispute by means of negotiations in the spirit of constructive dialogue, the Ministry of Foreign Affairs of Ukraine is ready to accept the proposal of the Russian Party to conduct negotiations in the city of Minsk (the Republic of Belarus).

The Ministry of Foreign Affairs of Ukraine believes that the position of the Russian Party with regard to allegedly "non-constructive position of the Ukrainian Party" concerning inclusion in the negotiations agenda the issue of "safety of diplomatic institutions from supposedly terrorist attacks" unsupported and not grounded by the factual circumstances of the cases. The Russian Party has never raised the issue of safety of diplomatic institutions precisely in the context of terrorist attacks. The wording of the Russian Party's position on the so-called "incidents, which may be related to financing terrorism" evidences the absence of any concrete facts and proof of commission of the crimes under the Convention. Therefore, the Ukrainian Party may not regard the declared position of the Russian Party as information on the persons who have committed a crime or are suspected of commission of a crime under the Convention.

At the same time, the Ukrainian Party is ready to consider the possibility of including in the agenda the issue of safety of diplomatic institutions in case the Russian Party submits specific facts and evidence proving the concerns of the Ministry of Foreign Affairs of the Russian Federation. Any declarations by the Russian Party must concern the subject of legal regulation and the Convention and must be sufficiently clearly formulated, allowing to determine that the Russian Party is making a claim with regard to existence of a dispute within the scope of the contents of the Convention.

The Ministry of Foreign Affairs of Ukraine once again cannot agree with the position of the Russian Party, in accordance with which "the fact of discussion of any issues in the course of … consultations or note communications between the Parties does not predetermine the issue of whether they fall within the scope of the Convention, nor does it determine the issue of presence or absence of the dispute regarding application and interpretation of the Convention". The Ukrainian Party proceeds from the fact that the issue of forming of an international dispute shall be determined by objective circumstances based on available facts. In this regard, the position of the Ministry of Foreign Affairs of Ukraine is that the Ukrainian Party has duly informed the Russian Party of the existence of the dispute, its contents and the subject of legal regulation.

In the spirit of good faith and constructiveness, the Ministry of Foreign Affairs of Ukraine proposes to conduct the negotiations on interpretation and application of the Convention on January 22, 2015 in the city of Minsk (the Republic of Belarus). The Ukrainian Party calls upon the Russian Party to use all the possible efforts for conducting the proposed negotiations with the aim of mutually acceptable resolution of the existing disputes between the Parties.

Nothing in the mentioned note prejudices the position of the Ukrainian Party in respect of the declarations and assurances contained in the relevant notes of the Russian Party.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to resume its assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 19 December 2014

(Seal)

Translation

No. 610/22-110-43

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and again expresses its strong protest in connection with the ongoing acts of aggression of the Russian Federation against Ukraine, support of terrorist groups of the Donetsk People's Republic and the Luhansk People's Republic, and continued action aimed at further escalation of the situation in Ukraine.

Notwithstanding the Minsk Agreements reached on 5 and 19 September 2014 and the ceasefire introduced at 10:00 a.m. on 9 December 2014, during the period from 7 to 12 January 2015 the continued action of regular units of the Russian armed forces together with illegal armed groups was recorded in certain areas of the Donetsk and Luhansk regions of Ukraine, inter alia:

– over 250 attacks by fire, including artillery and mortar attacks, on the positions of the armed forces of Ukraine on the Donetsk, Luhansk and Mariupol directions;

– concentration and movement of military equipment and personnel of the Russian armed forces in the territory of the Donetsk and Luhansk regions, near Debaltsevo (military equipment), Dokuchayevsk and Starobeshevo (artillery systems, Kamaz and Kraz trucks), Donetsk (tanks, Grad multiple rocket launchers, command vehicles, Kamaz trucks carrying ammunition, and a liaison unit), Metallist (an artillery fire control unit), Luhansk (armored infantry fighting vehicles, Kamaz trucks, including with personnel, soft-skin vehicles, Tigr vehicles and personnel), Mar'inka (combat equipment), Pervomaysk (multiple rocket launchers, self-propelled artillery guns), Petrovskoye (Grad multiple rocket launchers), Prishib (tanks), Sakhanka (airborne assault vehicles), Smeloye (formations of the battalion tactical groups), Torez (military equipment);

– formation of special military units, in particular, establishment of border command posts and border guard stations, in Novoazovsk and Kuznetsovo-Mikhailovka localities of the Donetsk region respectively;

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– equiping positions for tanks, artillery systems, Grad multiple rocket launchers in the area of Dokuchayevsk and Kirovo of the Donetsk region, Prishib and Slavyanoserbsk of the Luhansk region;

– arranging bases to concentrate and recover military equipment, and store ammunition in the areas of Vergulovka and Fashchevka of the Luhansk region;

– conducting sabotage activities in the area of Mariupol of the Donetsk region and Severodonetsk of the Luhansk region;

– conducting aerial intelligence surveillance by unmanned aerial vehicles of the Russian armed forces in the area of Bolshaya Novoselka, Glinka, Kramatorsk, Mariupol, Novoazovsk, Olekseevka, Panteleymonovka, Staromayorsk and Shcherbak of the Donetsk region, and Denezhnikovo, Chmirevka and Schastye of the Luhansk region, as well as by helicopters of the Russian armed forces along the administrative border between the Kherson region and the temporarily occupied Autonomous Republic of Crimea.

The Ministry of Foreign Affairs of Ukraine again draws attention to the above facts of the use of the armed forces of the Russian Federation together with the terrorist groups against the sovereignty, territorial integrity and political independence of Ukraine, which constitutes a gross violation of the UN Charter, rules and principles of international law.

The Ukrainian Side further stresses that the aggression of the Russian Federation against Ukraine, including support of terrorist groups of the Donetsk and Luhansk regions, constitutes a serious crime against international peace and security giving rise to responsibility of the guilty persons under international law.

The Ministry of Foreign Affairs of Ukraine demands that the Russian Federation immediately ceases internationally wrongful acts, in particular, invasion of the armed forces of the Russian Federation, including heavy military equipment, in the territory of Ukraine, withdraws all armed forces of the Russian Federation from the territory of Ukraine, stops violating Ukrainian aerial and land borders with Russia, and supplying mercenaries of the terrorist organization with weapons and military equipment.

The Ukrainian Side also demands that the Russian Federation withdraws its armed forces from the Ukrainian-Russian state border, ensures proper border control on the territory of the Russian Federation along the Ukrainian–Russian state border, investigates all crimes committed from the Russian territory referred to in this note and previous notes of the Ukrainian Side, and punishes perpetrators.

Kiev, 12 January 2015 (Seal)

Translation

No. 72/22-620-48

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and has the honor to submit the following in reply to note of the Ministry of Foreign Affairs of the Russian Federation No. 17131/dnv dated December 29, 2014.

The Ministry of Foreign Affairs of Ukraine once again confirms the Ukrainian Party's readiness to conduct negotiations regarding interpretation and application of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention") on January 22, 2015 in the city of Minsk (the Republic of Belarus).

The Ministry of Foreign Affairs of Ukraine cannot agree to including the issue of safety of diplomatic institutions from terrorist attacks in the agenda of the planned negotiations, as it does not see in the proposed issue the subject of the negotiations within the framework of the Convention. The Ukrainian Party's position is that the key objective of the planned negotiations is resolution of disputable issues as regards the interpretation and application of the Convention. In addition, the Russian Federation has not provided any facts and/or information on the persons who have committed, or are suspected of crimes within the meaning of the Convention.

At the same time, in the case the Russian Party provides facts and information on the persons who by any means, directly or indirectly, unlawfully and willfully provide or collect funds with the intention that these funds shall be used or knowing that they are to be used, in full or in part, for commission of any act constituting a crime within the meaning of the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, the Ukrainian Party is ready to consider the possibility of conducting the negotiations to discuss the issue of safety of diplomatic institutions from terrorist attacks.

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The Ministry of Foreign Affairs of Ukraine cannot agree with the position of the Russian Party regarding the alleged intention of the Ukrainian Party to destabilize the dialogue and bring it beyond the framework of the Convention and unpreparedness of the Ukrainian Party for a meaningful discussion and its unprincipled attitude to the future negotiations. The Ukrainian Party's position with regard to the ongoing armed aggression of the Russian Federation against Ukraine is, inter alia, a statement of the objectively existing circumstances and an urge to the Russian Party to perform in practice its obligations regarding peaceful resolution of international disputes, as envisaged, in particular, by paragraph 4 of Article 2 and paragraph 1 of Article 33 of the UN Charter.

The Ministry of Foreign Affairs of Ukraine once again cannot agree with the position of the Russian Party that "the fact of discussion of any issues in the course of ... consultations or note communications between the Parties does not pre determine the issue of whether they fall within the scope of application [of the Convention], nor does it determine the issue of presence or absence of the dispute regarding application and interpretation of the Convention". The Ukrainian Party's position on this issue is stated in note No. 72/22- 620-3114 dated December 19, 2014 and the previous notes and remains unchanged.

Nothing in the mentioned note prejudices the position of the Ukrainian Party in respect of the declarations and assurances contained in the relevant notes of the Russian Party.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to resume its assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 13 January 2015

(Seal)

Translation

No. 72/22-194/510-2006

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and in connection with the first round of the negotiations between Ukraine and the Russian Federation on the interpretation and implementation of the 1965 Convention on the Elimination of All Forms of Racial Discrimination (hereinafter referred to as "the Convention") held on 8 April 2015 in Minsk, Belarus, has the honor to state the following.

During the first round of the negotiations, the Ukrainian and Russian Sides discussed a wide range of issues of the agreed agenda.

At the beginning of the meeting, the Ukrainian Side explained its principled position that:

- the Autonomous Republic of Crimea and the city of Sevastopol constitute an integral part of the territory of Ukraine, which is subject to the sovereignty of Ukraine, but currently is under the effective control of the Russian Federation as a result of its armed aggression;

- according to the universally accepted norms and principles of international law, the territory of the Autonomous Republic of Crimea and the city of Sevastopol is regarded by Ukraine as occupied territory, and such approach is supported by the international community, which was reflected in the decisions of a number of international organizations;

- Given the fact of occupation, the Russian Federation is bound under international law to implement its international human rights obligations, including those undertaken under the Convention, in the occupied territory, particularly in the Autonomous Republic of Crimea and the city of Sevastopol.

The Russian delegation having noted the differences in the positions of the Parties on this issue pointed out that they should not stand in the way of discussion of certain matters related to the protection of human rights, including in the territory of Crimea and the city of Sevastopol, in the context of the implementation of the provisions of the Convention. At the same time, the Russian Side stated its position that the self-proclaimed independence of the so-called Republic of Crimea fully corresponded to the principle of self-determination of peoples enshrined in the Declaration on Principles of International Law and other instruments adopted within the UN.

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In this regard, during the subsequent discussion, the Ukrainian Side proposed to the Russian Side that this issue should be submitted for consideration to the International Court of Justice.

During the discussion of the *agenda item 1* concerning the implementation of the Convention, the Russian Side reviewed its national legislation and measures to implement the Convention, remedies against acts of racial discrimination, as well as the roles of the courts, the Prosecutor's Offices and other competent authorities of the Russian Federation in this process. Meanwhile, special attention was paid to the procedure of adoption and publication of decisions to recognize non-governmental organizations, documents, materials and publications as extremist.

The Russian Side also reported that the 2013 recommendations of the European Commission against Racism and Intolerance to revise the definition of extremism in the Russian legislation were still, in effect, not fulfilled; the Russian courts had canceled or had not supported the decisions of the authorities to recognize materials and publications as extremist only in around 5 percent of the cases; the Russian delegation lacked information on court decisions recognizing the literature seized from Crimean schools, libraries and mosques as extremist. The Russian Side agreed to provide the Ukrainian Side with additional explanations in this regard during further stages of the negotiation process.

During the discussion of the *agenda item 2* concerning information exchange regarding the acts that occurred or could occur in the territory of the Russian Federation or Ukraine and that could be regarded as acts of racial discrimination, in violation of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, the Russian delegation:

- Stated that the events that took place in Ukraine after 21 February 2014 were directed against the Russian Federation, Russian nationals and/or Russian-speaking population of Ukraine;
- The activities of the law enforcement agencies of Ukraine, in particular the ban that was imposed by the Administration of the State Border Guard Service of Ukraine and prevented 20,000 Russian nationals from crossing the State border in March-May 2014, the cancellation of accreditation for the Russian journalists, the events that occurred in Odessa on 2 May 2014, etc. illustrate the organized persecution on the grounds of language or ethnicity;
- The Russian Federation cannot remain indifferent to the plight of the Russian-speaking nationals living in Eastern Ukraine and that is the reason why the Russian Side sends humanitarian aid convoys to that area and provides other support, while condemning certain appeals to oppose the so-called “militia” and separatist forces in Eastern Ukraine and regarding them as manifestations of racial discrimination;

- The Russian Side stated that it had published the so-called “White Book” containing examples of "violation of human rights standards in the territory of Ukraine".

The Ukrainian Side requested to present this information in written form and noted that in case of receiving a note concerning these issues it would respond in an appropriate manner.

The Russian delegation informed that, in accordance with Article 12 of the Criminal Code of the Russian Federation and the rules of international humanitarian law, in particular the 1949 Geneva Conventions, it had initiated investigations into criminal acts against the Russian nationals, including journalists, as well as into the use of "prohibited methods of warfare against the Russian and Russian-speaking population" in Eastern Ukraine applying its universal jurisdiction to "crimes against peace and security of mankind" on the basis of the norms of international law.

The Russian Side regards these facts as examples of Ukraine's non-compliance with its obligations under the Convention. In this respect, the Investigative Committee of the Russian Federation sent 12 inquiries for legal assistance to the competent authorities of Ukraine, which remain unanswered.

In its turn, the Ukrainian Side made the following statement:

- The information, facts and evidence communicated to the Russian Side through the notes sent by the MFA of Ukraine are to be regarded as acts of racial discrimination constituting violations of the Convention;
- The Ukrainian Side announced additional information on the facts and events that had occurred in the territory of the Autonomous Republic of Crimea and the city of Sevastopol and were regarded by the Ukrainian Side as acts of racial discrimination that constitute violations of the Convention, namely violation of the right to security of person and protection by the State against violence or bodily harm; the political rights; the right to freedom of movement and residence within the border of the State; the right to leave any country, including one's own, and to return to one's country; the right to nationality; the right to own property alone as well as in association with others; the right to freedom of thought, conscience and religion; right to freedom of opinion and expression; and the right to freedom of peaceful assembly and association;
- Facts and evidence that the Ukrainian Side had at its disposal and of which the Russian Side was informed in the course of the negotiations and in the notes previously sent by the MFA of Ukraine demonstrated that the relevant events and acts that had occurred in the territory of the Autonomous Republic of Crimea and the city of Sevastopol were of planned and systemic nature;
- These events and acts are evidently directed against the representatives of the Crimean Tatar and

Ukrainian population of the Crimea, as well as against the pro-Ukrainian Crimean residents;

- The nature of these acts reveals a violation of these persons' rights that are protected by the Convention and the respect for which is the obligation of the Parties to the Convention.

The Ukrainian Side commenting on the statements of the Russian delegation regarding the events in Ukraine and the investigations undertaken by the Russian Federation:

- Objected that the Russian Federation had any grounds to apply universal jurisdiction to crimes committed in that region;
- Informed that the Ukrainian jurisdiction had primacy in the whole territory of Ukraine;
- Informed that, upon request of the Ombudsman of the Verkhovnaya Rada of Ukraine on Human Rights, the Prosecutor General's Office of Ukraine initiated criminal proceedings concerning the violations by the representatives of the Armed Forces of Ukraine;
- Informed of the status of the proceedings for the consideration of the Russian inquiries for legal assistance by the Prosecutor General's Office, as well as of the responses provided;
- Drew attention to multiple evidence and presented the examples of crimes and of the participation of Russian nationals in the conflict, which had also been confirmed by international organizations, and informed that the Ukrainian competent authorities conducted an investigation in this regard.

During the discussion of the *agenda item 3* concerning the discussion of certain facts that revealed or could reveal non-compliance of the Russian Federation or Ukraine with the provisions of the 1965 Convention on the Elimination of All Forms of Racial Discrimination, the Russian delegation:

- Provided information on the progress made by the competent authorities of the Russian Federation in the investigation of certain facts submitted by the Ukrainian Side through the notes of the MFA of Ukraine;
- Informed that the investigating authorities of the Russian Federation did not regard the facts presented in the notes of the Ukrainian Side as constituting acts of racial discrimination within the meaning of the Convention;
- Informed also that the investigation had established that the persons who according to the Ukrainian Side's allegations were victims of racial discrimination, had illegally stored firearms, used drugs and were engaged in other types of antisocial activities and at least one of them had committed suicide;
- Provided statistics on disappearances of representatives of different nationalities in Crimea and pointed out that the statistical data corresponded to the ethnic composition of the population in general;

- Informed of the measures that are followed by the competent authorities when a delay in an investigation was established;
- Commented specifically on the legal requirements for organizing peaceful assemblies in the territory of Crimea, as well as on the grounds for refusing permission to hold a number of Crimean Tatar public events, thereby refuting the position that the ban to conduct public gatherings was applied in a discriminatory way against the Crimean Tatars;
- Expressed its willingness to examine new facts that would be presented by the Ukrainian Side or the victims;
- Refuted the position of the Ukrainian Side that the alleged facts should be regarded as racial discrimination on the basis of nationality, language, religion or political views within the meaning of the Convention.

In response to the information provided, the Ukrainian delegation:

- Stated that there were disagreements with respect to the interpretation of and approaches to the implementation of the Convention;
- Pointed out the obvious difference in the approaches taken by the Russian law enforcement agencies to the classification and investigation of violations against the ethnic Ukrainian and Crimean Tatar population of the Crimea, on the one hand, and of the cases where the representatives of those nationalities were brought to administrative or criminal responsibility, on the other hand;
- Stated that, given the facts set out above such attitude to ethnic Ukrainians and Crimean Tatars was obviously of systemic nature and that there were grounds to regard those facts as discrimination on the basis of nationality and religion;
- Demanded that the Russian Side takes measures in respect of all facts and accounts of discrimination provided by the Ukrainian Side both in written form through the notes of the MFA of Ukraine and orally in the course of the negotiations, as well as that it takes steps to stop racial discrimination and prevent its occurrence in the future;
- Protested against the establishment of the Russian *ex tempore* jurisdiction over events and facts that had occurred before the occupation of Crimea by the Russian Federation.

Following the meeting, the Sides stated that there was no common interpretation of the requirements of the Convention and agreed to continue working on overcoming the differences, including through at least one more round of the negotiations.

Summarizing the results of the first round of the negotiations the Ukrainian Side would like to note the following:

1. The Ukrainian Side stated that there were certain facts and events that had occurred in the occupied territories of the Autonomous Republic of Crimea and the city of Sevastopol, which were regarded by the Ukrainian Side as acts of racial discrimination within

the meaning of the Convention; such acts were systemic and planned, while the actions of the Russian competent authorities regarding their investigation were biased and ineffective;

2. The Russian Side stated that the competent authorities of the Russian Federation did not regard the facts and events presented in the notes of the MFA of Ukraine as acts of racial discrimination within the meaning of the Convention, and denied the existence of any bias on the part of its authorities in adopting decisions related to ethnic Ukrainians and Crimean Tatars and of the elements of violations of the Convention requirements by the Russian Side;

3. The Ukrainian Side stated that the obligations of the Russian Federation to comply with Convention provisions in the territory of the Autonomous Republic of Crimea and the City of Sevastopol were imposed on it by international law due to the occupation of a part of the territory of Ukraine;

4. The Russian Side stated that the self-proclaimed [independence] and the subsequent accession to the Russian Federation of the so-called "Republic of Crimea" was in full conformity with international law and in no way affected the commitment of the Russian Federation to ensure the implementation of the Convention in this territory and should not be an obstacle to further process of negotiations;

5. The Ukrainian Side looks forward to receiving in the nearest future the written information from the Russian Side regarding the court decisions recognizing the literature seized from Crimean schools, libraries and mosques as extremist.

6. If the Ukrainian Side receives written information concerning the events regarded by the Russian Side as acts of racial discrimination as discussed during the negotiations, it will provide a substantiated response;

7. The Parties agreed to continue negotiations on the interpretation and implementation of the Convention.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Russian Federation the assurances of its consideration.

Kiev, 17 August 2015
(Seal)

Translation

No 11812-n/dgpch

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and in response to the note No 72/22-194/510-2006 of the MFA of Ukraine dated 17 August 2015 has the honor to communicate the following.

The Russian Side states that the unilateral presentation by the Ukrainian Side of the course of consultations between the Russian and Ukrainian delegations is not in line with the universally recognized international practice. It is the Russian Side that has the the exclusive prerogative to set out its the negotiating position, and the Russian Side rejects all attempts of the Ukrainian Side to present its own interpretation of this position as an allegedly objective picture of the course of consultations. Such approach does not contribute to constructive and good faith examination of the issues that may relate to the implementation of the rights under the International Convention on the Elimination of All Forms of Racial Discrimination. The Russian Side believes that the question of necessity

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and the manner of presenting the course of discussions must be determined in the established frameworks of the negotiating process.

The Russian Side notes that the first round of the consultations between the Russian and Ukrainian delegations on the issues that may relate to the 1965 International Convention on the Elimination of All Forms of Racial Discrimination lasted about 3 hours due to the schedule of the Ukrainian delegation's visit to Minsk. Upon the proposal of the Ukrainian delegation, most of the time was spent setting out the factual circumstances of situations that might relate to the implementation of the Convention and, therefore, the delegations could not engage in a substantive discussion of all the issues on the agenda.

The Russian Federation reaffirms its commitment to rigorous implementation of the provisions of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination and stresses its willingness to pursue consultations with the Ukrainian Side on the issues that may relate to the application of the Convention, primarily, with a view of ensuring the fullest implementation of the rights and legitimate interests of persons enjoying the protection of the Convention.

The Russian Side is ready to provide the Ukrainian Side with additional information in response to the questions of the Ukrainian Side and, in turn, expects to receive from the Ukrainian Side responses to the information presented by the Russian delegation during the negotiations in Minsk regarding a number of facts related to the fulfillment by Ukraine of its obligations under the Convention. Some of the abovementioned facts were set out for

the Ukrainian Side in the Ministry's note No 8761/DHCHR dated 9 July 2015.

At the same time, the Russian Side reaffirms its willingness to provide the Ukrainian Side with the information on the issues mentioned in the note No 72/22-194/510-2006 of the MFA of Ukraine dated 17 August 2015.

The Ministry underlines that the aforementioned does not prejudice the position of the Russian Federation with regard to the declarations and allegations of the Ukrainian Side set out in the relevant diplomatic correspondence.

The Ministry avails itself of this opportunity to renew to the Embassy of Ukraine in Moscow the assurances of its high consideration.

Moscow, 28 September 2015

Seal: Ministry of Foreign Affairs of the Russian Federation No. 1

Translation

No. 384/dnv

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in the Russian Federation and has the honor to submit the following in reply to Note of the Ministry No. 72/22-620-2894 dated 23 November 2015.

The Russian Party reminds once again that generalization of the course of the consultations in the notes of one of the participants of these consultations is improper and does not comply with international practice. For the purposes of establishing constructive dialog the Russian Party urges the Ukrainian Party to abandon this practice.

The Russian Party draws attention to the fact that the proposal to include into the agenda of the Russian-Ukrainian consultation on the issues related to the 1999 International Convention for the Suppression of the Financing

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of Terrorism ("the ICSFT") of the issue of MH 17 Malaysian Boeing crash on 17 July 2014 was sent to the Russian Party at the last moment prior to the consultation. Moreover, the Ukrainian Party has not justified the necessity of discussion of this issue within the framework of the bilateral consultative process on the ICSFT.

The Russian Party, in the Ministry's note No. 13457/dnv dated 16 October 2015, proposed in good faith to the Ukrainian Party to provide concrete materials in confirmation of its position on extension of the consultations agenda. It was pointed out that in the absence of such data the discussion will be a priori senseless, which would be at variance with the approach to conduct the consultations in a constructive manner. It was also proposed to send these materials via the established channels within the framework of the valid treaties between the Parties in the sphere of legal assistance and criminal legal assistance as earlier agreed by the Parties. The Russian Party expressed its readiness to provide the comments after such materials have been obtained and carefully studied.

Notwithstanding this, the said materials have not been sent to the Russian Federation neither prior to the next round of consultations held on 29 October 2015, nor after it. During the consultations the Russian Federation resumed its request to provide concrete evidential materials and data but this request remained unanswered.

The reference in the note of the Ministry of Foreign Affairs of Ukraine to the "circumstances and a number of facts concerning the aforementioned

terrorist organizations and the terrorist activity including significant amount of information available in the Russian Party's public sources" cannot be considered a responsible provision of information, and the appeal to the Russian Party to "properly examine every concrete fact and argument regarding terrorist attacks and terrorist activity" without providing concrete information and factual data may evidence the lack of conscientiousness in the Ukrainian Party's intentions and absence of disposition for constructive dialog.

The Russian Party emphasizes that the Russian-Ukrainian consultations imply discussion of concrete facts with relation to the ICSFT and must not serve as a platform for putting forward knowingly false claims.

In view of the aforementioned, the Russian Party once again proposes to the Ukrainian Party to provide the information and concrete data justifying the declarations made in the notes of the Ministry of Foreign Affairs of Ukraine No. 72/22-620-2245 dated 15 September 2015 and No. 72/22-620-2894 dated 23 November 2015. The Russian Party is especially interested in concrete data confirming the necessity of discussing the issue of the plane crash on 17 July 2014 in the course of the consultations on the issues related to the ICSFT.

The Ministry emphasizes that the fact of discussion of any problems in the course of consultations or in note communications between the Parties does not in itself pre-determine the issue of regulation of the problems by the Convention, nor does it pre-determine existence or absence of a dispute on application and interpretation of the Convention.

Nothing in this note prejudices the Russian Party's position in respect of the declarations and statements made by the Ukrainian Party contained in the note communications on this issue.

The Ministry avails itself of this opportunity to resume its assurance of its consideration to the Embassy of Ukraine.

Moscow, 25 January 2016

Seal: Ministry of Foreign Affairs * No. 1

Translation

No. 3219/dnv

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and submits the following in reply to note of the Embassy No. 6111/22-012-297 dated 10 February 2016.

The Russian Party gives its consent to conducting the fourth round of Russian-Ukrainian consultations on the issues of the 1999 International Convention for the Suppression of the Financing of Terrorism ("the Convention") on 17 March 2016, as proposed by the Ukrainian Party in the aforementioned note.

At the same time the Ministry refers to its notes No. 13457/dnv dated 15 October 2015 and 384/dnv dated 25 January 2016 and again draws the Ukrainian Party's attention to inadmissibility of using assumed information and unsubstantiated accusations in official diplomatic correspondence. Violation of the generally established procedure and style of inter-state communications does not favor effective dialog.

The Russian Party emphasizes again that the Russian-Ukrainian consultations imply discussion of concrete facts with relation to the Convention and must not serve

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as a platform for putting forward knowingly false claims let alone deliberate provocations.

The Russian Party points to the declaration made in the note of the Ministry of Foreign Affairs of Ukraine No. 72/22-620-264 dated 10 February 2016, asserting that "no real progress was reached as regards systematic violations of the Convention from the Russian side", as to an example of such non-constructive approach. Notwithstanding the bold and confrontational nature of this statement, the Ukrainian Party again was unable to provide any substantiation of its position. Until today - more than a year after the events in Kharkov, Kiev and Odessa mentioned in note of the Ministry of Foreign Affairs of Ukraine No. 72/22-620-264 dated 10 February 2016 - the Ukrainian Party has not sent to the Russian Party any official inquiries on any of the "cases" mentioned in the said note within the valid international assistance channels, as agreed earlier between the Parties in the course of the consultations. Instead of the concrete materials confirming the reasonableness of the Ukrainian Party's declarations, note No. 72/22-620-264 of the Ministry of Foreign Affairs of Ukraine dated 10 February 2016 mentions some unknown "representatives of the Russian authorities", "Russian security services agents" and "Russian Federation agents" whose involvement is supported by anonymous statements of "a 30-year old woman from Luhansk" as well as "suspicions" of Ukrainian law enforcement authorities in respect of "a few persons" who are not named either.

Moreover, Ukrainian nationals V. Dvornikov, V. Tetyutsky and S. Bashlykov are called "terrorists" in the aforementioned note of the Ministry of Foreign Affairs of Ukraine, though pursuant to paragraph 2 of Article 14 of the 1966 International Covenant on Civil and Political Rights and paragraph 2 of Article 6 of the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, every person accused of commission of a criminal offense is entitled to being considered

innocent until his or her guilt is not proved in accordance with the law. The Russian Party has no data available on the court sentence which established the said persons' guilt. The Ukrainian Party refers to the "confessions" of V. Dvornikov, V. Tetyutsky and S. Bashlykov, not taking into consideration the fact that, according to their statements published in the media, these "confessions" were given under torture. To the Russian Party's knowledge, so far Ukraine has not made any statements regarding derogation from its obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms in respect of Kharkov.

The Russian Party confirms its interest in receiving from the Ukrainian Party the concrete materials containing evidential data in support of the declarations made by the Ministry of Foreign Affairs of Ukraine No. 72/22-620-264 dated 10 February 2016.

The Ministry of Foreign Affairs of the Russian Federation repeatedly declares that, in the absence of the materials containing actual data in support of the declarations made by the Ukrainian Party in the note communications, the discussion will be a priori senseless, which would be at variance with the focus on the constructive character of the consultations agreed by the Russian and Ukrainian Parties. The Russian Party proposes to the Ukrainian Party to send these materials via the established channels within the framework of the valid treaties between the Parties in the sphere of legal assistance and criminal legal assistance as earlier agreed between the Parties. After careful examination thereof, the Russian Party will be ready to submit the relevant comments.

The Ministry points out that the fact of discussion of any problems in the course of consultations or in note communications between the Parties does not in itself pre-determine the issue of regulation of the problems by the Convention, nor does it pre-determine existence or absence of a dispute on application and interpretation of the Convention.

Nothing in this note prejudices the Russian Party's position in respect of the declarations and statements made by the Ukrainian Party contained in the note communications on this issue.

The Ministry avails itself of this opportunity to resume its assurance of its consideration to the Embassy of Ukraine.

Moscow, 4 March 2016

Seal: Ministry of Foreign Affairs * No. 1

Translation

No. 72/22-620-954

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and has the honor to declare the following in connection to the negotiations between Ukraine and the Russian Federation regarding interpretation and application of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention").

The Ukrainian Party reminds that a number of diplomatic notes were sent to the Russian Party in connection to the negotiations within the framework of the Convention, including but not limited to notes: dated June 21, 2014 No. 610/22-110-1591, dated July 4, 2014 No. 610/22-110-1695, dated July 16, 2014 No. 610/22-110- 1798, dated July 17, 2014 No. 610/22-110-1805, dated July 22, 2014, No. 610/22-110-1827, dated July 23, 2014 No. 610/22-110-1833, dated July 28, 2014 No. 72/22-484- 1964, dated August 12, 2014 No. 72/22-620-2087, dated August 22, 2014 No. 72/22-620-2185, dated August 29, 2014 No. 72/22-620-2221, dated September 24, 2014 No. 72/22- 620-2406, dated September 30, 2014 No. 72/22-620-2443, dated October 7, 2014 No. 72/22-620-2495, dated October 10, 2014 No. 72/22-620-2529, dated October 29, 2014 No. 72/22- 620-2674, dated November 3, 2014 No. 72/22-620-2717, dated November 4, 2014 No. 72/22-620-2732, dated December 8, 2014 No. 72/22-620-3008, dated December 19, 2014 No. 72/22- 620-3114, dated January 13, 2015 No. 72/22-620-48, dated February 13, 2015 No. 72/22-620-352, dated February 13, 2015 No. 72/22-620-351, dated April 2, 2015 No. 610/22-110- 504, dated April 24, 2015 No. 72/22-620-967, dated May 7, 2015, No. 72/22-620-1069, dated May 12, 2015 No. 72/22- 484-1103, dated May 27, 2015 No. 72/22-620-1233, dated June 11, 2015 No. 72/22-620-1407, dated September 15, 2015 No. 72/22-620-2245, dated September 25, 2015 No. 72/22- 620-2363, dated October 23, 2015 No. 72/22-620-2583, dated October 23, 2015 No. 72/22-620-2604, dated October 23, 2015 No. 72/22-620-2605, dated November 23, 2015

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No. 72/22-620-2894, dated February 10 2016 No. 72/22-620-264, dated February 29, 2016 No. 72/22-620-533 and dated April 13, 2016 No. 72/22-620-915.

The Ukrainian Party also reminds that the Parties took part in four rounds of the negotiations within the framework of the Convention, which took place in the city of Minsk, Belarus on January 22, 2015, July 2, 2015, October 29, 2015 and March 17, 2016.

The Ukrainian Party confirms its position stated during the negotiation process that the Russian Federation bears international responsibility for violation of the Convention and must effect full reimbursement of the damage caused to Ukraine. The Russian Federation violated its obligations under the Convention by willful provision of support, including supplying weapons, to terrorist organizations acting in the territory of Ukraine. With such support on the part of the Russian Federation, the terrorist organizations committed a number of terrorist attacks in the territory of Ukraine, including shooting down a civil aircraft of the Malaysian airlines, flight MH17, shooting at civilians in Kramatorsk, Mariupol and Volnovakh, explosions targeting civilian population in Ukrainian cities including the city of Kharkiv, and other similar unlawful actions. The Russian Federation was providing support to the terrorist organizations being aware that such support would be used for effecting the aforementioned attacks as well as that civilians would be killed or wounded as a result of these attacks. Apart from being responsible for financing acts of terrorism, the Russian Federation violated its obligation with regards to providing to Ukraine multifaceted assistance in investigating the facts of financing terrorism, did not cooperate with Ukraine with the aim of preventing the financing of terrorism, as well as violated other obligations under the Convention.

The Ukrainian Party regrets that notwithstanding the long negotiation process, which has lasted nearly two years, the Parties have not reached any significant progress in resolution of their dispute within the framework of the Convention. The Ukrainian Party notes that the Russian Party has not demonstrated its wish to discuss on the merits Ukraine's declarations as regards international legal liability of the Russian Federation and left unanswered the repeated calls of the Ukrainian Party to discuss the key aspects of the dispute.

The Ukrainian Party has to conclude that the process of negotiations between the Parties as regards resolution of disputable issues in accordance with the Convention proved to be fruitless, and that further attempts to resolve the dispute by negotiations will be without effect. The Ukrainian Party is also convinced that further delay with exercising of its right to resolve the dispute using the obligatory procedures, while the Russian Federation continues to violate its obligations under the Convention and refuses to take part in a satisfactory discussion as regards its responsibility for the previous violations, can prejudice the rights and fundamental national interests of Ukraine.

In view of the foregoing, pursuant to paragraph 1 of Article 24 of the Convention, Ukraine addresses the Russian Party with a request to submit the dispute to arbitration in compliance with the rules that must be agreed by the Parties.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to resume its assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 19 April 2016

(Seal)

Translation

No. 8808/dnv

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and has the honor to submit the following in reply to Notes of the Ministry No. 72/22-620-915 dated 13 April 2016, and No. 72/22-620-954 dated 19 April 2016, of the Ministry of Foreign Affairs of Ukraine on issues related to the International Convention for the Suppression of the Financing of Terrorism (ICSFT).

The Russian Side expresses incomprehension of and regret at the unexpected refusal of the Ukrainian Side to hold consultations on the ICSFT.

The decision of the Ukrainian Side to interrupt the consultation process until the work on implementation of the Ukrainian and Russian requests is complete demonstrates absence of intention of the Ukrainian Side to engage constructively with the Russian Side within the ICSFT framework and the striving of the Ukrainian Side to use the consultations only as a formal pretext to resort to arbitration or the International Court of Justice.

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The Russian Side does not consider the interpretation or application of the Convention as disputable and reaffirms its adherence to the obligations under this agreement. However, the systematic reluctance of the Ukrainian Side in carrying out effective cooperation with the Russian Side, in conducting consultation in good faith, in implementation of agreements reached during the consultations, a unilateral distorted description of the progress of consultations and positions of the Sides prevent the creation of conditions suitable for an objective assessment of the statements made by the Ukrainian Side.

The Russian Side invites the Ukrainian Side to return to a constructive dialogue, to continue cooperation within the framework of the arrangements previously reached and to carry out the fifth round of bilateral consultations on the ICSFT issues in Minsk on 21, 22 July or the week of 25 July of this year.

Nevertheless, without any prejudice the position stated above, the Russian Side is ready to discuss the organization of arbitration requested by the Ukrainian Side, taking into consideration the provisions of Article 24 of the Convention.

The Ministry points out that the fact of discussion of any problems in the course of consultations or in note communications between the Sides does not in itself pre-determine the issue of regulation of the problems by the Convention, nor does it pre-determine existence or absence of a dispute on application and interpretation of the Convention.

Nothing in the present note is of prejudice to the position of the Russian Side in respect of statements and declarations

made by the Ukrainian Side as set forth in the note communications on this issue.

The Ministry avails itself of this opportunity to renew to the Embassy the assurances of its consideration.

Moscow, 23 June 2016

Seal: Ministry of Foreign Affairs * No. 1

Translation

No. 72/22-620-1806

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and submits the following in reply to Note of the Ministry of Foreign Affairs of the Russian Federation No. 9974/dnv dated July 14, 2016.

The Ministry of Foreign Affairs of Ukraine informed the Russian Party of its position that further attempts to resolve the dispute through negotiations will be fruitless, by note dated April 19, 2016 №72/22-620-954. However, without prejudice to its proposal to submit the dispute to arbitration and acting in good faith, the Ukrainian Party agreed to take part in the next round of negotiations. Accordingly, the Ukrainian Party announces its readiness to take part in the next round of negotiations concerning the interpretation and application of the International Convention for the Suppression of the Financing of Terrorism, 1999 (the Convention) on August 4, 2016 in Minsk, the Republic of Belarus. The Ukrainian Party hopes that during this round of negotiations the Russian Party is ready to discuss all statements and problematic issues raised by Ukraine within the framework of the Convention, as well as that it provides a response to the proposal of the Ukrainian Party to submit the dispute to arbitration.

The Ukrainian Party reminds that it repeatedly expressed its position on the qualification of the so-called "Donetsk People's Republic" ("DPR") and "Lugansk People's Republic" ("LPR") as terrorist organizations, among others, during the first, second and third rounds of negotiations and sent to the Russian Party decisions of the Ukrainian courts in this regard.

The Ukrainian Party also notes that despite its repeated requests in diplomatic notes and during the last round of negotiations, the Russian Party has not submitted the written information to support its statements about alleged terrorist attacks against its diplomatic missions and about undermining power lines in the territory of Ukraine. Thus, if the Russian Party still has questions regarding the qualification of "DPR" and "LPR" as terrorist

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organizations, or if it has reasonable statements about attacks on its diplomatic missions and undermining power lines, the Ukrainian Party proposes sending the relevant information in the form of a diplomatic note.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to resume its assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 28 July 2016

(Seal)

Translation

No. 72/22-620-2049

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in reference to the parties' dispute concerning interpretation and implementation of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter, the "Convention"), has the honour to state the following.

The Ukrainian Side refers to its note No. 72/22-620-954 of April 19, 2016, in which it informed the Russian Side of its conclusion that the parties' extensive negotiations concerning the Convention have become futile, and proposed to submit the dispute to arbitration. The Ukrainian Side recalls that the Russian Side provided no response to this note until June 23, 2016, and in its eventual response did not state clearly whether it was willing to proceed to arbitration. Instead, the Russian Side proposed to hold a further round of negotiations. The Ukrainian Side promptly responded and reiterated its conclusion that the negotiations had turned to be futile. At the same time, in a spirit of good faith, the Ukrainian Side agreed to participate in the further round of negotiations proposed by the Russian Side, without prejudice to the Ukrainian proposal of April 19, 2016 to submit the dispute to arbitration, and without withdrawing that proposal.

The Ukrainian Side recalls that on August 4, 2016, the parties met in Minsk, Belarus for the further round of negotiations the Russian Side had requested, at which the parties also engaged in a preliminary discussion of arbitration. The Russian Side continued to refuse to discuss central aspects of the merits of the dispute. In the view of the Ukrainian Side, the Russian Side remained unwilling to attempt in good faith to achieve a negotiated resolution. The Ukrainian Side additionally

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was confirmed in its conclusion, previously expressed in its note of April 19, 2016, that its attempt to reach a negotiated resolution to the dispute had failed and that further negotiations were futile.

The Ukrainian Side stated its view that the parties should first agree to proceed to arbitration, and then discuss the details of the organization of the arbitration. The Russian Side stated that the Ukrainian Side has a "unilateral" right to proceed to arbitration, which does not require the consent of the Parties regarding the existence of the dispute or its subject. The Ukrainian Side proceeds from understanding that the Russian Side did not clearly state its agreement to participate in an arbitration under the Convention, at the same time, agreed to discuss the question of its organizing.

Without prejudice to its view that the Russian Side should first unequivocally agree to proceed to arbitration, the Ukrainian Side nonetheless offered its initial views on the organization of the arbitration. The Russian Side provided no comment on the organization of the arbitration, but requested to receive the Ukrainian Side's proposal in writing. As a response to the aforementioned request, the Ukrainian Side by means of this diplomatic note provides its suggestion.

As the Ukrainian Side has previously stated, its view is that the first step in negotiating the arbitration is for the Russian Side to expressly agree to proceed to arbitration and confirm that it will participate in the arbitration. After that, the Parties would be to agree on other questions of organizing the arbitration. Also, the Ukrainian Side contends that, if the Russian Side is prepared to agree to participate in an arbitration, the parties should agree that the arbitration should be held through the mechanism of an *ad hoc* chamber of the International Court of Justice constituted pursuant to Article 26, paragraph 2 of the Statute of the Court, and on the basis of a Special Agreement between Ukraine and the Russian Federation, which will be negotiated and executed for that purpose.

The Ukrainian Side considers that in view of the important public international law questions presented by this arbitration, including the opportunity for an international institution to interpret and apply the Convention for the first time, an arbitration for this case should involve significant participation of judges of the UN International Court of Justice. Constituting arbitration under the auspices of an *ad hoc* chamber would efficiently serve this goal.

If the Russian Side agrees that an *ad hoc* chamber would be an appropriate mechanism for the arbitration of this dispute, it would next be necessary to negotiate and agree on the details of the organization of the arbitration. The issues that could be discussed by the Parties at this phase include, but are not necessarily limited to, the following:

- Both parties should agree that they are: will participate fully in the arbitration; will timely make all submissions required by the applicable rules and the tribunal's orders; will accept as binding the tribunal's judgment, including its decision concerning jurisdiction and international responsibility; and will commit to honoring any relief ordered by the tribunal. In this respect, the Ukrainian Side notes the recent practice of the Russian Federation of not participating in international arbitrations in which it is a respondent, including the *Arctic Sunrise* case under the 1982 UNCLOS Convention, and various arbitrations under the bilateral investment treaty between Ukraine and the Russian Federation. In particular, the Ukrainian Side would consider it inappropriate and prejudicial if the Russian Side were to negotiate the organization of an arbitration and then refuse to participate. In view of the past practice of the Russian Side, the Ukrainian Side proposes that any agreement establishing an arbitration should include a provision committing both sides to full participation and to comply with the decisions of the tribunal, with advance consent that the dispute should automatically be referred to the International Court of Justice for resolution if either party violates the aforementioned obligation.

- The parties should negotiate the size and composition of the tribunal. The Ukrainian Side's initial view is that the tribunal should consist of five or seven judges of the International Court of Justice. The Ukrainian Side further considers that the parties should endeavor to select the members of the tribunal by mutual agreement.

- The parties should negotiate the timing of submitting its positions in written proceedings, including submissions on any admissibility objections. The Ukrainian Side's preliminary view is that in order to reach an expeditious conclusion to the matter, the parties should agree to include both admissibility and merits submissions together in the one written proceeding, rather than breaking the proceeding in two parts and addressing admissibility questions separately.

The Ukrainian Side invites the Russian Side to state its considerations regarding the aforementioned suggestions on organization of an arbitration to judge the dispute between the parties under the Convention. If the Russian Side confirms in writing that it agrees to submit the matter to arbitration and will participate in arbitral proceedings constituted under the auspices of an *ad hoc* chamber of the International Court of Justice, it would then be appropriate to discuss additional organizational details regarding the arbitration between the parties. The Ukrainian Side considers that the parties should then develop detailed proposals concerning all aspects of the organization of the arbitration, including but not limited to the composition of the tribunal. At this stage, the Parties can arrange a meeting to discuss the organization of the arbitration.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Russian Federation the assurances of its highest consideration

Kyiv, 31 August 2016

(Seal)

THE MINISTRY OF FOREIGN AFFAIRS OF UKRIANE

№72/22 - 194/510 - 2518

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in reference to the parties' dispute concerning interpretation and implementation of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter, the "Convention"), has the honor to state the following.

The Ukrainian Side recalls that on 18 October 2016, the parties met in The Hague to discuss their respective proposals for the organization of the arbitration. The Russian Side presented its proposal based on the arbitration rules of the Permanent Court of Arbitration, with significant modifications. The Ukrainian Side discussed in detail why it believed an arbitration through the *ad hoc* chamber mechanism of the International Court of Justice is appropriate. As the Ukrainian Side explained, the differences between the two proposals raised questions over whether the two sides share a common understanding of the fundamental attributes an arbitration of their dispute should have.

Before discussing further a potential agreement and rules governing the organization of the arbitration, given that the two sides are far apart on certain fundamental issues, the Ukrainian Side considers it advisable to first attempt to reach agreement on core principles concerning the organization of the arbitration. As promised at the conclusion of the meeting in The Hague, this note elaborates the core principles on which Ukraine believes the parties must agree.

1. Transparency. In light of the significant public interest, in Ukraine and elsewhere, concerning the subject matter of the dispute under the Convention, the arbitration should be premised on the principle of maximum possible transparency. All written pleadings should be publicly available. All hearings should be open to the public, and transcripts and video of the proceedings should be publicly accessible. Any award issued by the tribunal should be publicly available.

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Any exceptions to the principle of full transparency should be narrowly tailored and require a decision of the tribunal. No party should be entitled to insist on confidential treatment of evidence introduced by the other party. If one side wishes to introduce evidence that it considers too sensitive to be publicly disclosed, it should be required to share that evidence with the tribunal and the other side and, where necessary, explain in detail why public release of the evidence would compromise the security of the state or raise a similarly compelling concern. The tribunal should make the final determination on whether a party has met this standard and on whether to permit the evidence to be introduced under conditions of confidentiality.

2. Governed By Principles Of International Law. The tribunal should resolve the dispute based on applicable rules and principles of international law.

3. Composition of the Tribunal. Ukraine considers that the dispute should be resolved by a tribunal comprised of highly qualified experts in public international law. In particular, Ukraine believes that the following principles should be followed with respect to the constitution of the tribunal:

- The tribunal should be comprised of five members.
- Considering that the dispute raises significant matters of public international law, and will mark the first occasion for any international dispute settlement body to interpret and apply the Convention, Ukraine considers it necessary to ensure that the most qualified experts will sit on the tribunal. Ukraine also notes the significant practice in inter-state arbitration to constitute tribunals that include significant participation by judges of the International Court of Justice ("ICJ"), including arbitrations in which the tribunal has consisted entirely of judges of the ICJ. Ukraine therefore considers that, in recognition of the significant public interest in the subject matter of the dispute and the important public international law issues it raises, the tribunal should be composed of ICJ members.
- Ukraine's preference is that the parties agree on the identity of all five arbitrators in their arbitration agreement. If the parties ultimately decide to include an appointment process in their agreement, Ukraine proposes that each side choose one party-appointed arbitrator, with three arbitrators to be selected by an appointing authority. For reasons similar to the desirability of participation in the panel by ICJ judges, and consistent with practice in other arbitrations, Ukraine considers that members of the tribunal not appointed by the parties should be appointed by the President of the ICJ, acting as appointing authority. The parties

should stipulate that the President of the ICJ, acting in this capacity, would be permitted to appoint himself as the presiding arbitrator, if he chooses.

4. Cost Efficiency. Cost is a consideration and the arbitration should be organized in a manner that minimizes the cost burdens. Ukraine notes that it has proposed an option for constituting the arbitration through the mechanism of an *ad hoc* chamber of the ICJ, in part in order to obtain significant cost savings. Ukraine suggests that if the Russian Side remains opposed to this approach, the Russian Side should propose alternative measures to address Ukraine's concerns, including by informing the Ukrainian Side if the Russian Side is willing to bear the costs of administering the proceeding.

5. Guarantees of Participation and Commitment to the Arbitration Process, Including Compliance with the Arbitration Agreement. In light of the recent practice of the Russian Federation in matters of international adjudication, Ukraine's view is that guarantees of Russia's sustained participation in an arbitration pursuant to Article 24 of the Convention are essential. In this regard, Ukraine welcomes the statement by the Russian Federation, in its note No 12566/2 ДСНГ of 10 October 2016, indicating for the first time a clear intent of the Russian Side to participate in the arbitration, if the parties come to an agreement on organization of the arbitration. To ensure that this commitment is maintained throughout the proceeding, the parties should specifically agree to continued participation, including in the event of a ruling on jurisdiction and admissibility with which either side may disagree. The parties should also agree that in the event of a failure to participate or other material breach of the arbitration agreement or rules, the other party will be free to submit the dispute to the ICJ pursuant to Article 24 of the Convention. The circumstances in which a party would be entitled to proceed to the ICJ would include, without limitation:

- Failure by the other side to timely appoint its arbitrator.
- Withdrawal from the arbitration by the other side.
- Failure to participate in any hearing.
- Failure to file any required written pleading.
- Substantial delay, without good cause, by the other side in paying any required contribution to the costs of the arbitration.
- Failure by the other side, without good cause, to comply with any order of the tribunal to produce documents, witnesses or other evidence.
- Failure by the other side to comply with an award of provisional measures issued by the tribunal.

6. Guarantees of Enforcement and Implementation of Arbitral Decisions and Awards. The parties should also agree in advance to full compliance with and implementation of any award issued by the tribunal. In order to demonstrate that both sides are entering into the arbitration with a good faith intention to implement the award of the tribunal, the parties should confirm in writing that the United Nations Security Council may take appropriate steps to ensure implementation, pursuant to Chapter VI of the United Nations Charter. The parties should also confirm in writing their understanding that pursuant to Article 27(3) of the Charter, both sides to the dispute would abstain from voting on any resolution of the Security Council, acting under Chapter VI of the Charter, relating to implementation of the arbitral award.

7. Timely Resolution of the Dispute. Ukraine believes that the arbitration should be structured in order to ensure efficiency and timely resolution of the dispute. In order to ensure that there is no undue delay, the parties should agree to the following:

- Arbitrators should be appointed promptly in accordance with strict deadlines reflecting practice under systems of arbitration rules to which Russia has previously consented, such as Annex VII to the UN Convention on the Law of the Sea.
- Because the Russian Federation has already indicated that it intends to raise jurisdictional and/or admissibility objections, it should file a statement of defense that discloses those objections, on a prompt basis after Ukraine files its Statement of Claim.
- The parties' arbitration agreement should provide that the schedule for written pleadings to be established by the tribunal should provide a fair and efficient process for resolving the parties' dispute and avoid unnecessary delay and expense.
- The tribunal should decide whether bifurcation of proceedings between jurisdiction/admissibility and the merits is warranted.

8. Provisional Measures. The tribunal should have the power to issue an award of provisional measures, with which the parties must comply.

9. Possible Participation of Interested Parties. The tribunal should have the power to grant requests by interested third states or other interested parties to intervene or otherwise participate in the proceeding. As the Russian Federation is aware, the alleged violations of the Convention at issue in this dispute, including the shooting down of Malaysian Airlines Flight MH-17, is a subject of significant concern to states and other interested parties other than Ukraine.

10. Entry into Force. In the interest of moving the proceeding forward without delay, and to ensure that neither side can frustrate or obstruct the decision to commence arbitration, the parties should agree that the arbitration agreement will enter into force promptly.

The Ukrainian Side hopes that the parties can agree to these core principles, and on that basis proceed to reach agreement on the remaining details of the organization of the arbitration. Ukraine continues to hold the view that an arbitration constituted through the mechanism of an *ad hoc* chamber of the ICJ would be well-suited to satisfying these principles. Ukraine hopes the Russian Federation has given further consideration to Ukraine's explanation at the meeting in The Hague for why a proceeding before an *ad hoc* chamber constitutes an arbitration within the meaning of the Convention, and that the Russian Federation will reconsider its opposition to an *ad hoc* chamber arbitration.

Absent an agreement on *ad hoc* chamber arbitration, and given the Ukrainian Side's concerns with the proposal set forth by the Russian Federation, the Ukrainian Side proposes that the parties' first attempt to reach agreement on the core principles outlined above in an effort to find a path forward. Ukraine looks forward to receiving the Russian Side's agreement that the core principles, as elaborated above, should be reflected in any arbitration agreement and arbitration rules that the parties may negotiate to govern the organization of an arbitration of their dispute pursuant to Article 24 of the Convention. If the Russian Federation is unable to confirm its agreement, the Ukrainian Side expects that the Russian Side will explain in detail the basis of any disagreement it may have with Ukraine's core principles, as set forth in this diplomatic note.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Russian Federation the assurances of its highest consideration.

Kyiv, November 2, 2016

Translation

No. 16866/2dsng

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and has the honor to submit the following in reply to Note of the Ministry of Foreign Affairs of Ukraine No. 72/22-194/510-2718 of 24 November 2016 related to the International Convention for the Suppression of the Financing of Terrorism (ICSFT).

The Russian Side has carefully reviewed the proposals made by the Ukrainian Side in the diplomatic note No. 72/22-194/510-2518 of 2 November 2016. With the aim of reaching an agreement on organization of arbitration the Russian Side is prepared to accept the vast majority of these proposals. As the Russian Side explained during the meeting on 18 October 2016 its preference is to conduct discussions on organization of arbitration on the basis of draft instruments that may govern the conduct of such arbitration. Hence, the Russian Side provides together with this note amended drafts of the arbitration agreement and

Attachment:
mentioned,
on 16 pp.

TO THE EMBASSY OF UKRAINE
Moscow

rules of procedure that, among other things, aim at incorporating the proposals made by the Ukrainian Side to the extent they appear acceptable to the Russian Side.

For the ease of reference the list below indicates the amendments made to the draft arbitration agreement and rules of procedure to incorporate the proposals of the Ukrainian Side (the numbering in the list adopts to the numbering in the list included in the Ukrainian Side's diplomatic note)

1. Transparency. The principle is accepted. Amendments have been made to Articles 20(4) and 25 of the rules of procedure. The suggested changes seek to balance the transparency of proceedings with the needs to conduct them efficiently and preserve confidentiality of respective information.

2. Applicable law. The proposal was already reflected in the previous drafts of the arbitration agreement and the rules of procedure. However, further amendments have been made to reinforce this. The respective changes are made to Article 3(3) of the draft arbitration agreement and Article 30 of the draft rules of procedure that provide for application by the tribunal of principles and norms of public international law.

3. Appointment of arbitrators. The proposals have largely been accepted. Amendments have been made to Article 3(1)

of the draft arbitration agreement and Articles 5 and 6 of the draft rules of procedure. The Russian Side shares the preference of the Ukrainian Side to constitute a tribunal by agreement of both parties. At the same time, the Russian Side considers that the parties should not restrict their choice to the judges of the International Court of Justice and notes that appointment of arbitrators who are not judges of the International Court of Justice is a common practice in inter-state arbitrations.

4. Cost efficiency of arbitration. The principle of cost efficiency of arbitration is accepted. It is envisaged in the amended Article 14(1) of the draft rules of procedure and Article 38 of the rules of procedure. Certain other amendments made by the Russian Side also seek to foster cost efficiency. If the Ukrainian Side has other proposals aimed at conducting proceedings in a more cost-efficient manner the Russian Side invites the Ukrainian Side to make them and will give such proposals serious consideration.

5. Participation in arbitration. Amendments has been made to Article 3(2) of the draft arbitration agreement. Article 22 of the draft rules of procedure should also be noted.

6. Enforcement of the arbitral award. Article 3(6) of the draft arbitration agreement is to be noted. The Russian Side does not see how the proposals made by the Ukrainian Side concern organization of arbitration, the subject matter of discussions and the possible

agreement between the parties under Article 24 of the Convention, as they pertain to the enforcement of the award. Specifically, the exercise by the parties of their rights under the United Nations Charter, including the right to vote in the Security Council, is unrelated to organization of arbitration, and as such falls outside of the subject matter of the discussions. If the Ukrainian Side considers that these matters fall under Article 24 of the Convention, the Russian Side would expect a detailed explanation to be provided in this respect.

7. Time-efficient conduct of arbitration. The principle of conducting proceedings in the time-efficient manner is accepted. Amendments made to Articles 6(3), 17(1) and 18 of the draft rules of procedure provide for various measures seeking to accommodate Ukraine's proposals while at the same time preserving each party's right to present its case.

8. Interim measures. The principle that the tribunal should have the power to indicate interim measures is accepted. New Article 26 has been included in the draft rules of procedure adding a provision on interim measures.

9. Intervention. The principle that the tribunal may permit intervention by other states in arbitration is accepted, although such a procedure to the knowledge of the Russian Side is unprecedented in inter-state arbitration. New Article 27 has been included in the draft rules of procedure.

This provision permits and sets out the procedure for the intervention by other states in the proceedings. The Russian Federation notes that the permission to subjects other than states to intervene in the proceedings is highly unusual for inter-state arbitration and will inevitably increase the costs of the arbitration and delay the proceedings, and therefore, suggests not to allow intervention by such subjects.

10. Entry into force. The principle that the there should be no undue delay in entry into force of the arbitration agreement is accepted. The provision of the draft arbitration agreement on the entry into force was amended, and Article 4 of the draft arbitration agreement was excluded. As the Russian Side explained during the meeting on 18 October 2016, under the Russian law the arbitration agreement if signed will need to be ratified before entry into force. The Ministry of Foreign Affairs of the Russian Federation would take all measures within its powers to facilitate the ratification of the agreement and to expedite the process. At the same time the Russian Side expects that if the arbitration agreement is signed neither party will seize the International Court of Justice during the time internal procedures are being completed.

The Russian Side proposes to hold a meeting to continue the discussions on organization of arbitration. The meeting will provide an opportunity to both Sides to provide further comments on their proposals and discuss the ways

in which they can be implemented. The Russian Side proposes to hold such a meeting during the week of 23 – 29 January 2017 in The Hague.

The Ministry avails itself of this opportunity to resume its assurance of its highest consideration to the Embassy of Ukraine.

Moscow, 30 December 2016

Seal: Ministry of Foreign Affairs * No. 1

ARBITRATION AGREEMENT
between the Russian Federation and Ukraine

The Russian Federation and Ukraine, hereinafter referred to as the Parties,
have agreed as follows:

Article 1. Establishment of the Arbitral Tribunal

In accordance with Article 24 of the International Convention for the Suppression of Financing of Terrorism (hereinafter - the ICSFT) the Parties hereby set up an *ad hoc* Arbitral Tribunal to decide on matters set out in Article 2 of this Agreement (hereinafter – the Arbitral Tribunal).

Article 2. Jurisdiction of the Arbitral Tribunal

1. The Arbitral Tribunal shall have jurisdiction only over such dispute or disputes between the Parties concerning the interpretation or application of the ICSFT that (1) cannot be settled through negotiation within a reasonable period of time and (2) that are submitted to the Arbitral Tribunal in the application and in the counter-memorial (if any) as further described in this Agreement and lodged in accordance with Paragraph 2 of this Article.

2. A Party institutes arbitration by submitting an application that shall describe the nature of the dispute and the claim or claims of the Party. Such application shall be lodged within [30] days of the entry into force of this Agreement. The other Party may lodge its claims against the initial claimant Party which shall be included in that Party's counter-memorial. The Arbitral Tribunal shall have no jurisdiction to entertain any new claims lodged by the Party instituting arbitration after the application has been filed and by the other Party after the counter-memorial has been filed.

3. The Arbitral Tribunal may issue a separate decision or award on its jurisdiction to entertain any application or claim lodged by a Party, and on the admissibility of such application or claim.

4. Nothing in the present Agreement shall be interpreted as conferring on the Arbitral Tribunal jurisdiction more extensive than the International Court of Justice would have had if a Party had submitted its application to the International Court of Justice invoking Article 24 of the ICSFT.

5. Nothing in this agreement shall be interpreted as admission by the Russian Federation of the existence of a dispute concerning the interpretation or application of the ICSFT or as admission that the International Court of Justice would have had jurisdiction under Article 24 of the ICSFT with respect to any dispute. Nothing in this Agreement constitutes a waiver of any objections any of the Parties may raise as to the jurisdiction of the Arbitral Tribunal or as to the admissibility of the application, including but not limited to objections based on the absence of a dispute, the inapplicability of the ICSFT to any dispute or the application of a Party and/or as to the failure of a

Party to satisfy the preconditions to jurisdiction set out in Article 24 of the ICSFT, or relating to objections as to the admissibility of the claim.

6. Nothing in this Agreement constitutes a waiver by any of the Parties of any of the objections to the jurisdiction of the International Court of Justice or admissibility of the claim it may have raised had the application been submitted to the International Court of Justice on the basis of Article 24 of the ICSFT.

Article 3. Arbitral Procedure and Rules of Procedure

1. The Arbitral Tribunal shall be composed of five arbitrators to be appointed in accordance with the rules of procedure. These arbitrators should be of recognized competence in international law.

2. Rules of procedure shall be agreed by the Parties though diplomatic channels and shall be binding on the Parties. Each of the Parties shall participate in the proceedings under this agreement in accordance with the rules of procedure.

3. The Arbitral Tribunal shall make its decision in accordance with the applicable rules and principles of international law

4. The place of Arbitration shall be The Hague, the Netherlands.

5. The language of arbitration shall be English.

6. The award of the Arbitral Tribunal shall be final and binding.

Article 4

This Agreement shall enter into force on the date of receipt via diplomatic channels of the last written notification of completion of internal procedures necessary for entry into force of the Agreement. Each of the Parties shall endeavour to complete these procedures with [reasonable promptness].

Done in _____ on ____ _____ 2016 in two originals each in Russian, Ukrainian and English, the three texts being equally authentic.

RULES OF PROCEDURE
FOR
THE ARBITRATION UNDER ARBITRATION AGREEMENT OF [___]
_____ 2016
BETWEEN
UKRAINE
and
the RUSSIAN FEDERATION

SECTION I. INTRODUCTORY RULES

Scope of Application

Article 1

1. The arbitration shall be conducted under the rules set out in the Arbitration Agreement dated _____ (the 'Arbitration Agreement') and these Rules.

2. [The International Bureau of the Permanent Court of Arbitration / the Registry to be established by the ad hoc tribunal (the 'Registry')] shall act as the Registry of arbitration.

Notice, Calculation of Periods of Time

Article 2

1. For the purposes of these Rules, any notice, including a notification, communication or proposal, is deemed to have been received when it has been delivered to the addressee.

2. For the purposes of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is received. If the last day of such period is an official holiday or a non-work day in the State of the addressee, the period is extended until the first work day which follows. Official holidays or non-work days occurring during the running of the period of time are included in calculating the period.

Commencement of the proceedings

Article 3

The proceedings shall be deemed to commence on the date one of the parties delivers to the other party an application that shall contain a brief description of the subject-

matter of its claims and the underlying facts, but not earlier than entry into force of the Arbitration Agreement.

Representation and Assistance

Article 4

Each party shall appoint an agent or agents. The parties may also be assisted by persons of their choice. The name and address of the agent (or agents) must be communicated in writing to the other party, to the Registry [after it has been established] and to the arbitral tribunal.

SECTION II. COMPOSITION OF THE ARBITRAL TRIBUNAL

Number of Arbitrators

Article 5

1. The arbitral tribunal consists of five arbitrators appointed pursuant to the procedure set out in Articles 6 and 7.

2. The President of the International Court of Justice ('**Appointing Authority**') acts as the appointing authority and performs such functions and exercises such powers as are provided in these Rules.]

Article 6

1. Either of the parties shall appoint one arbitrator within thirty days of commencement of the arbitration or the expiration of the period for appointment of arbitrators by mutual agreement whichever is the latest. The other party shall appoint an arbitrator within thirty days of receipt of the other party's notification of the appointment of arbitrator or the expiration of the period for appointment of arbitrators by mutual agreement whichever is the latest. The remaining arbitrators shall be appointed in accordance with the procedure set out in paragraphs 3 and 4 of this Article.

2. If within thirty days after the receipt of a party's notification of the appointment of an arbitrator or the expiration of the period for appointment of arbitrators by mutual agreement whichever is the latest the other party has not notified the first party of the arbitrator it has appointed the first party may request the Appointing Authority to appoint the second arbitrator. The Appointing Authority may exercise its discretion in appointing the arbitrator.

3. The three remaining arbitrators including the presiding arbitrator shall be appointed by the Parties within 60 days of the receipt by a party of the first notification of appointment of an arbitrator by the other party. In the event the parties fail to agree on the appointment of the three remaining arbitrators within that period, the Appointing Authority shall, at the request of one of the parties, make appointments in consultation with the parties as promptly as possible. In making the appointment the Appointing Authority shall use the following procedure:

(a) The Appointing Authority shall request each of the parties to submit a list of [six] arbitrators that shall be confidential and shall not be disclosed to the other party.

(b) If a name or names on both lists coincide the respective person or persons shall be appointed as an arbitrator (arbitrators).

(c) If three arbitrators are not identified or if the identified arbitrator or arbitrators refuse to accept the appointment the procedure set out in paragraphs (a) and (b) shall be repeated. In comparing the lists and identifying coinciding persons the Appointing Authority shall take into account all the lists submitted by each of the two parties.

(d) In the event more names coincide on the lists submitted by the parties when it is necessary to appoint three arbitrators pursuant to the present procedure the person or persons to be appointed shall be determined by [lot/the Appointing Authority/another mechanism].

[(e) Each of the parties may approach persons it considers for inclusion in the list or lists to inquire whether they are prepared in principle to accept such appointment with the understanding that such inquiries shall be confidential and shall not be disclosed to the other party. Neither party shall make any attempts to determine if any person was approached by the other party.]

(f) The Appointing Authority [shall/should/may] hold consultations to facilitate a prompt and efficient operation of the appointment procedure.
(g) The President of the Arbitral Tribunal is appointed [...].

4. In making the appointments under this agreement, the Appointing Authority shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and shall appoint arbitrators of a nationality other than the nationalities of the parties, except where the Appointing Authority appoints an arbitrator pursuant to paragraph 2, in which case it may appoint an arbitrator or arbitrators of the nationality of the party which failed to appoint an arbitrator.

5. Only persons with recognized competence in international law may be appointed as arbitrators.

Article 7

1. When the Appointing Authority is requested to appoint an arbitrator or arbitrators pursuant to Article 6, the party which makes the request shall send to the Appointing Authority a copy of the application, a copy of the treaty or other agreement out of or in relation to which the dispute has arisen and a copy of the Arbitration Agreement between the Russian federation and Ukriane of xx. Xx 2016. The Appointing Authority may request from either party such information as it deems necessary to fulfill its function.

2. Where the names of one or more persons are proposed for appointment as arbitrators, their full names, addresses and nationalities shall be indicated, together

with a description of their qualifications.

3. In appointing arbitrators pursuant to these Rules, the parties and the Appointing Authority are free to designate persons who are not Members of the Permanent Court of Arbitration at The Hague.

Challenge of Arbitrators (Articles 9 to 12)

Article 8

A prospective arbitrator shall disclose to those who approach him/her in connection with his/her possible appointment any circumstances likely to give rise to justifiable doubts as to his/her impartiality or independence. An arbitrator, once appointed or chosen, shall disclose such circumstances to the parties unless they have already been informed by him/her of these circumstances.

Article 9

1. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence. The standard of impartiality or independence that applies to the judges of the International Court of Justice shall apply to the arbitrators appointed by the parties.

2. A party may challenge the arbitrator appointed by him/her or appointed by agreement of the parties only for reasons of which he/she becomes aware after the appointment has been made.

Article 10

1. A party who intends to challenge an arbitrator shall send a notice of its challenge within thirty days after the appointment of the challenged arbitrator has been notified to the challenging party or within thirty days after the circumstances mentioned in Articles 8 and 9 became known to that party.

2. The challenge shall be notified to the other party, to the arbitrator who is challenged and to the other members of the arbitral tribunal. The notification shall be in writing and shall state the reasons for the challenge.

3. When an arbitrator has been challenged by one party, the other party may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his/her office. In neither case does this imply acceptance of the validity of the grounds for the challenge. In both cases, the procedure provided in Article 6 shall be used in full for the appointment of the substitute arbitrator, even if during the process of appointing the challenged arbitrator a party had failed to exercise his/her right to appoint or to participate in the appointment.

Article 11

1. If the other party does not agree to the challenge and the challenged arbitrator does

not withdraw, the decision on the challenge will be made by [the remaining members of the arbitral tribunal / the Appointing Authority].

2. If the challenge is sustained, a substitute arbitrator shall be appointed or chosen pursuant to the procedure applicable to the appointment or choice of an arbitrator as provided in Articles 6 to 7.

Replacement of an Arbitrator

Article 12

1. In the event of the death or resignation of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in Articles 6 and 7 that was applicable to the appointment or choice of the arbitrator being replaced. Any resignation by an arbitrator shall be addressed to the arbitral tribunal and shall not be effective unless the arbitral tribunal determines that there are sufficient reasons to accept the resignation, and if the arbitral tribunal so determines the resignation shall become effective on the date designated by the arbitral tribunal. In the event that an arbitrator whose resignation is not accepted by the tribunal nevertheless fails to participate in the arbitration, the provisions of paragraph 3 of this article shall apply.

2. In the event that an arbitrator fails to act or in the event of the *de jure* or *de facto* impossibility of his/her performing his/her functions, the procedure in respect of the challenge and replacement of an arbitrator as provided in the preceding articles shall apply, subject to the provisions of paragraph 3 of this article.

3. If an arbitrator on the tribunal fails to participate in the arbitration, the other arbitrators shall, unless the parties agree otherwise, have the power in their sole discretion to continue the arbitration and to make any decision, ruling or award, notwithstanding the failure of one arbitrator to participate. In determining whether to continue the arbitration or to render any decision, ruling, or award without the participation of an arbitrator, the other arbitrators shall take into account the stage of the arbitration, the reason, if any, expressed by the arbitrator for such non-participation, and such other matters as they consider appropriate in the circumstances of the case. In the event that the other arbitrators determine not to continue the arbitration without the non-participating arbitrator, the arbitral tribunal shall declare the office vacant, and a substitute arbitrator shall be appointed pursuant to the provisions of Articles 6 and 7, unless the parties agree on a different method of appointment.

Repetition of Hearings in the Event of the Replacement of an Arbitrator

Article 13

If under Articles 10 to 12 an arbitrator is replaced, such prior hearings may be repeated at the discretion of the arbitral tribunal.

SECTION III. ARBITRAL PROCEEDINGS

General Provisions

Article 14

1. Subject to these Rules, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with equality and that at any stage of the proceedings each party is given a reasonable opportunity of presenting its case and proceedings are conducted in a cost-efficient manner.

2. If either party so requests at any appropriate stage of the proceedings, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of such a request, the arbitral tribunal shall decide whether to hold such hearings or whether the proceedings shall be conducted on the basis of documents and other materials.

3. All documents or information supplied to the arbitral tribunal by one party shall at the same time be communicated by that party to the other party and a copy shall be filed with the Registry.

Place of Arbitration

Article 15

1. The place of arbitration shall be the Hague, the Netherlands .

2. The arbitral tribunal may determine with the agreement of the parties a different place for holding the hearings. It may hold meetings for consultation among its members at any place it deems appropriate, having regard to the circumstances of the arbitration.

3. The award shall be made at the place of arbitration.

Language

Article 16

1. The language of arbitration is English. Parties' submissions both, oral and written, shall be in the language of arbitration.

2. Any documents submitted as evidence or otherwise not as part of submission that are not in the language of arbitration shall be delivered in their original language and be accompanied by a translation into the language of arbitration. If only a part of a voluminous document is relevant for the purposes of the arbitration the party submitting the document shall provide a translation of the relevant part together with a short summary of the content of the entire document. The arbitral tribunal may order the entire document to be translated into the language of arbitration.

3. With respect to witness or expert evidence if the witness or expert evidence is not in the language of arbitration translation of any written statements and reports shall be provided together with the statements and reports in the original language. If oral evidence is given in language other than the language of arbitration, translation shall be arranged for by the Registry.

Order and Content of Submissions

Article 17

1. Following the constitution of the arbitral tribunal it shall expeditiously consult with the parties on the time periods for the presentation of the [Memorial, Counter-Memorial, Reply and Rejoinder]. A procedural meeting in person or via teleconference may be held if the arbitral tribunal deems it necessary or desirable. In prescribing time periods for submission the tribunal shall follow in the first instance the practice of the International Court of Justice, endeavoring to provide a fair and efficient process and shall avoid unnecessary delay and expense.

2. Following consultations with the parties the arbitral tribunal will fix the time periods for the presentation of parties' submissions.]

3. The Counter-Memorial may include a claim by the respondent against the claimant arising out of the interpretation or application of the International Convention for the Suppression of Financing of Terrorism that shall be dealt with by the arbitral tribunal simultaneously with the application.

Pleas as to the Jurisdiction of the arbitral tribunal

Article 18

1. The arbitral tribunal shall have the power to rule on objections that it has no jurisdiction or as to the admissibility of any claims made.

2. A plea that the arbitral tribunal does not have jurisdiction or that a claim or claims are inadmissible shall be raised:

(a) Where the Russian Federation (or Ukraine if the Russian Federation submits an application envisaged in the Arbitration Agreement) requests that the submission be dealt with as a preliminary issue, not later than 3 months from the time of filing of the memorial or counter-memorial respectively;

(b) In all other circumstances, in the counter-memorial, or with respect to the reply, in the rejoinder.

3. If it is requested that certain issues of jurisdiction and admissibility be dealt with as a preliminary matter, the arbitral tribunal shall decide whether to bifurcate the proceedings in order to decide on the relevant issues in a separate stage of the arbitration. The parties shall be given an opportunity to present their comments on bifurcation including a hearing on the issue if one of the parties requests a hearing. In the event the Tribunal decides to bifurcate the proceedings it shall, after consulting the parties, promptly fix the time periods for the presentation of written submissions and for an oral hearing.

Evidence and Hearings

Article 19

1. Each party shall have the burden of proving the facts relied on to support its claim or defence.

2. At any time during the arbitral proceedings the arbitral tribunal may call upon the parties to produce documents, exhibits or other evidence within such reasonable period of time as the tribunal shall determine after consulting with the requested party. The tribunal shall take note of any refusal to produce the requested evidence as well as any reasons given for such refusal.

Article 20

1. In the event of an oral hearing, the arbitral tribunal shall consult with the parties regarding the dates and procedures of the hearing and shall give the parties sufficient advance notice of the date, time and place thereof. The arbitral tribunal should in principle issue a procedural order providing for a detailed procedure of the hearing following consultations with the parties regarding the same.

2. If witnesses are to be heard, at least thirty days before the hearing each party shall communicate to the arbitral tribunal and to the other party the names and addresses of the witnesses it intends to present, the subject upon and the languages in which such witnesses will give their testimony.

3. The Registry shall make arrangements for the translation of oral statements made at a hearing and for a record of the hearing.

4. The arbitral tribunal may require the retirement of any witness or witnesses during the testimony of other witnesses. The arbitral tribunal is free to determine the manner in which witnesses are examined.

5. Evidence of witnesses may also be presented in the form of written statements signed by them.

6. The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

Article 21

1. The arbitral tribunal may appoint one or more experts to report to it, in writing, on specific issues to be determined by the tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.

2. The parties shall endeavor to provide the expert with any relevant information or produce for his/her inspection any relevant documents or goods that he/she may request of them. If requested by the expert the arbitral tribunal may call upon the party or parties to provide such assistance to the expert. The arbitral tribunal shall take note

of any refusal to provide such assistance, as well as of any reasons given for such refusal.

3. Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties who shall be given the opportunity to express, in writing, their opinion on the report. Each party shall be entitled to examine any document on which the expert has relied in his/her report.

4. At the request of either party the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing either party may present expert witnesses in order to testify on the points at issue. The provisions of Article 20 shall be applicable to such proceedings.

Failure to Appear or to Make Submissions

Article 22

1. If, within the period of time fixed by the arbitral tribunal in accordance with Article 17, the claimant has failed to communicate its written submission without showing sufficient cause for such failure, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings. If, within the period of time fixed by the arbitral tribunal in accordance with Article 17, the respondent has failed to communicate its written submission without showing sufficient cause for such failure, the arbitral tribunal shall order that the proceedings continue.

2. If one of the parties, duly notified under these Rules, fails to appear at a hearing, without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.

3. If one of the parties, duly invited to produce documentary evidence, fails or refuses to do so within the established period of time, without showing sufficient cause for such failure or refusal, the arbitral tribunal may make the award on the evidence before it.

Closure of Hearings

Article 23

1. The arbitral tribunal may inquire of the parties if they have any further proof to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.

2. The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to reopen the hearings at any time before the award is made.

Waiver of Rules

Article 24

A party who knows that any provision of, or requirement under, these Rules has not been complied with and yet proceeds with the arbitration without promptly stating its objection to such non-compliance, shall be deemed to have waived its right to object.

Confidentiality

Article 25

1. The parties' pleadings may be published in the manner prescribed by the arbitral tribunal in consultations with the parties.

2. The arbitral tribunal shall in consultations with the parties determine arrangements allowing the public to observe the oral hearings without interfering with the proper and efficient conduct of the hearings and the parties' ability to present their case. Transcripts and video recordings of the hearings shall be published in the manner prescribed by the arbitral tribunal.

3. A party may request that certain evidence or information, including documents or parts of documents submitted as exhibits to its submissions, shall be treated as confidential if such information is not publicly available. Such a request may be made prior to the submission of the evidence or information to the tribunal. The arbitral tribunal shall promptly decide on such a request. If the arbitral tribunal rejects the request it shall allow the requesting party to either agree to introduce the relevant evidence or information into the record as not confidential or withdraw it and amend any pleadings the party submitted to remove references to the affected evidence or information if it has already been provided to the arbitral tribunal. The arbitral tribunal and the Registry shall treat such evidence as confidential unless the requesting party agrees to introduce it into the record as not confidential.

4. If the tribunal grants a party's request to treat certain evidence and information as confidential the arbitral tribunal, the parties and the Registry shall take necessary steps to ensure its confidentiality. The arbitral tribunal shall establish arrangements to preserve confidentiality, including redaction of pleadings and the award before publication and *in camera* arrangements for periods of the hearings when confidential evidence is addressed.

Interim measures

Article 26-1

The arbitral tribunal shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.

Intervention

Article 272

1. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the arbitral tribunal to be permitted to intervene. Such an application shall be filed not later than the closure of the written proceedings. The arbitral tribunal shall decide on the request after hearing the parties and the state requesting intervention.

2. The intervening state shall not have the right to appoint an arbitrator. In submitting its request to intervene it should undertake in writing to comply with the rules of procedure and applicable rules of the Agreement. The intervening state's rights shall be limited to making written and oral submissions on the matter with respect to which it was permitted to intervene. The arbitral tribunal shall prescribe the time-limits for the submission of a written statement by the intervening state and written comments by the parties with each party having the right not to submit any written comments.

SECTION IV. THE AWARD

Decisions

Article 28

1. Any award or other decision of the arbitral tribunal shall be made by a majority of the arbitrators.

2. In the case of questions of procedure, when there is no majority or when the arbitral tribunal so authorizes, the presiding arbitrator may decide on his/her own, subject to revision by the arbitral tribunal.

Form and Effect of the Award

Article 29

1. In addition to making a final award, the arbitral tribunal shall be entitled to render an award or a decision on jurisdiction and admissibility.

2. The award shall be made in writing and shall have the effect provided in the Arbitration agreement. The parties undertake to carry out the award without delay.

3. The arbitral tribunal shall state the reasons upon which the award is based.

4. An award shall be signed by the arbitrators and it shall contain the date on which and the place where the award was made. If one or more of the arbitrators fails to sign, the award shall state the reason for the absence of the signature(s).

5. The award shall be published with possible redactions made in accordance with Article 25 (4) of the rules.

6. Copies of the award signed by the arbitrators shall be communicated to the parties

by the Registry.

Applicable Law

Article 30

1. The arbitral tribunal shall decide such disputes in accordance with international law by applying:
(a) International conventions, whether general or particular, establishing rules expressly recognized by the contesting States;

(b) International custom, as evidence of a general practice accepted as law;

(c) The general principles of law recognized by civilized nations;

(d) Judicial and arbitral decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. The arbitral tribunal does not have the power to decide the case *ex aequo et bono*.

Settlement or Other Grounds for Termination

Article 31

1. If, before the award is made, the parties agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by both parties and accepted by the tribunal, record the settlement in the form of an arbitral award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an award.

2. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the arbitral tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The arbitral tribunal shall have the power to issue such an order unless a party raises justifiable grounds for objection.

3. Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated to the parties by the Registry. Where an arbitral award on agreed terms is made, the provisions of Article 29, paragraphs 2 and 4 to 6, shall apply.

Interpretation of the Award

Article 32

1. Within sixty days after the receipt of the award, either party, with notice to the other

party, may request that the arbitral tribunal give an interpretation of the award.

2. The interpretation shall be given in writing within forty-five days after the receipt of the request. The interpretation shall form part of the award and the provisions of Article 29, paragraphs 2 to 6, shall apply.

Correction of the Award

Article 33

1. Within sixty days after the receipt of the award, either party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. The arbitral tribunal may within thirty days after the communication of the award make such corrections on its own initiative.

2. Such corrections shall be in writing, and the provisions of article 29, paragraphs 2 to 6, shall apply.

Additional Award

Article 34

1. Within sixty days after the receipt of the award, either party, with notice to the other party, may request the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award.

2. If the arbitral tribunal considers the request for an additional award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall complete its award within sixty days after the receipt of the request.

3. When an additional award is made, the provisions of Article 29, paragraphs 2 to 6, shall apply.

Costs

Article 35

The arbitral tribunal shall fix the costs of arbitration in its award. The term 'costs' includes only:

(a) The fees of the arbitral tribunal;

(b) The travel and other expenses incurred by the arbitrators;

(c) The costs of expert advice and of other assistance required by the arbitral tribunal;

(d) The travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;

(e) Any fees and expenses of the Appointing authority as well as the expenses of the Registry.

Article 36

1. The fees of the arbitrators shall be reasonable in amount, taking into account the complexity of the subject-matter, the time spent by the arbitrators, the amount in dispute, if any, and any other relevant circumstances of the case.

2. When a party so requests, the arbitral tribunal shall fix its fees only after consultation with the [Secretary-General of the Permanent Court of Arbitration] who may make any comment he/she deems appropriate to the arbitral tribunal concerning the fees.

Article 37

1. Each party shall bear its own costs of arbitration.

2. When the arbitral tribunal issues an order for the termination of the arbitral proceedings or makes an award on agreed terms, it shall fix the costs of arbitration referred to in article 35 and article 36, paragraph 1, in the text of that order or award.

3. No additional fees may be charged by the arbitral tribunal for the interpretation or correction or completion of its award under Articles 32 to 34.

Deposit of Costs

Article 38

1. The [Registry] following the commencement of the arbitration, may request each party to deposit an equal amount as an advance for the costs referred to in Article 35, paragraphs (a), (b), (c) and (e). All amounts deposited by the parties pursuant to this paragraph and paragraph 2 of this article shall be directed to the Registry, and disbursed by it for such costs, including, *inter alia*, fees to the arbitrators, the Appointing Authority and the Registry.

2. During the course of the arbitral proceedings the arbitral tribunal may request supplementary deposits from the parties.

3. If the requested deposits are not paid in full within sixty days after the receipt of the request, the arbitral tribunal shall so inform the parties in order that one or another of them may make the required payment. If such payment is not made, the arbitral tribunal may order the suspension or termination of the arbitral proceedings.

4. After the award has been made, the Registry shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

Photos available at:

www.tass.ru/mezhdunarodnaya-panorama/1713839

Deputy Minister of Foreign Affairs of Ukraine Yelena Zerkal Interview to the Fifth Channel (Ukraine) from 17 January 2017 (translated from Ukrainian)

G. Good evening, you are watching the Fifth Channel Vzglyad program and our guest is Deputy Minister of Foreign Affairs of Ukraine Yelena Zerkal. Good evening, Yelena.

Y.Z. Good evening.

G. There are lots questions to the Ministry after the New Year holidays, Ukraine starts the new year with a lot of different news. For example, today the head of the Ministry of Internal Affairs, a total opposite of your Ministry, Arsen Avakov declared that we need to get prepared to promptly establish control over the borders once diplomats or politicians reach an agreement on political and diplomatic...political settlement. What does it mean? Probably, he knows more than all of us do. Have politicians or diplomats managed to agree on the establishment of control over the border?

Y.Z. Well, it would be great. The establishment of control over the border has naturally been our goal in the Minsk process and, by and large, this is an issue regularly raised at all international meetings. What we are focused on now is to make Russia ensure control over the border in the framework of the proceedings that we initiated in the International Court of Justice. This is what we ask as part of the preventive measures to be considered by the Court over the next two months. Obviously, to ensure control of the border means to us an end in itself, as it should result in extending control over our territory, and this is what we have discussed many times in the Minsk process referring to it exactly as to a goal…

G. The goal of the Minsk process?

Y.Z. Exactly.

G. And there, apparently, the Ukrainian authorities decided to do a tricky move and lodge another claim with the International Criminal Court in The Hague seeking the Court's assistance in establishing control over the border, right?

Y.Z. Well, we filed a lawsuit with the International Court of Justice, it is a different institution, but the matter is that we filed a lawsuit on the basis of two Conventions: the Convention on Prevention of Terrorism Financing and Convention on Elimination of All Forms of Racial Discrimination. We base our claims on the fact that the border is open, and we are not able to control the weapon supplies, we are not able to control transfer of fighters, we are not able to control actions related to the terrorism financing at all. Russia for its part must ensure full control over the border, this is what we claim among other things. We also claim that Russia withdraw its troops, remove weapons it provided to terrorists and cease further supplies of these weapons - in fact, stop violating the provisions of the Convention.

G. But ... Wait ... What if ... What is the difference between the lawsuits themselves? Between the lawsuit with the International Court of Justice and the lawsuit with the International Criminal Court in The Hague?

Y.Z. I know this is a very complicated matter, but I will try to explain it in plain words. There exists the Rome Statute addressing ...

G. Which we ratified…

Y.Z. ... We did not ratify it, but we actually accepted the jurisdiction of the International Criminal Court over crimes ... war crimes related to Crimea occupation, to Maidan, and the East of Ukraine, too. In fact, the International Criminal Court has already started considering the case, but their procedure is more 'crime-oriented'. It deals with criminals who commit crimes on a very large scale, war crimes and crimes against the peace and security of mankind. The

International Court of Justice addresses other kind of issues – in particular, violations by one state of the rights of another state. This court considers cases between the states. And here we can only base our claims on such instruments where Russia recognized the jurisdiction of the International Court of Justice as well. And there is a very limited number of such instruments, there are only eight of them.

G. Are there any precedents when through this institution, the UN agency, the rights of states to their own borders were ensured?

Y.Z. Well ... in particular ... there was a case between Romania and Ukraine concerning maritime delimitation and the Zmeiny Island was also the matter of the case. And in this case we recognized the jurisdiction of the International Court of Justice. Normally, these are in fact cases relating to the delimitation of maritime boundaries, but as far as the Convention on the Prohibition of Terrorism Financing is concerned, it is really the first precedent when one state is accusing another state of financing of terrorism.

G. Does Ukraine have evidence ... first of all, of terrorism on the part of the Russian Federation, and secondly, of the financing of terrorism?

Y.Z. Of course. The fact is that during these two days while the discussion is under way, we constantly receive questions why we waited so long. In truth, we did not wait. We'd rather go immediately to the Court. But there are issues governed by the Convention. How is a claim filed with the court? First of all, you need to discuss all the violations with the other party, i.e. to hold negotiations on each incident, which you believe constitutes a violation of your rights by the other party, then you need to ensure holding further talks and offer an arbitration solution. We have held five rounds of negotiations with the Russians on the application of the Convention and exchanged notes. We have written more than 45 notes. We conducted two more rounds of exchange of notes on the creation of arbitration and held another round of talks on creation of arbitration. Under the Convention on Elimination of All Forms of Racial Discrimination, we have held three rounds of talks, more than 20 diplomatic notes. And during all this time we were collecting evidence. We did not only rely on the materials available to us or to our law enforcement agencies. We also used everything we could use, and what was provided to us by Bellingcat, other organizations involved in the investigation, for example, investigation of the MN17 plane crash. It is definitely very helpful that there are results of a technical investigation into the MN17 case, and criminal investigation is at its final stage.

G. Ok, could you tell us about the court action? Yet, what are the Ukraine's expectations? What could be your next steps in this court?

Y.Z. This week, after the Court has actually registered our complaint, they should have a session and determine the date of hearings to review our claims to introduce interim measures. In case of Georgia it took them three weeks. Then they proceed with the hearings, and during these hearings we need to prove that the Court should make a decision on the application of provisional measures. And that it's a lot of tension for Ukraine, and that without these preventive measures the situation may worsen. We will have three days for these oral hearings, after which the Court will issue a decision on application of provisional measures. The Court may change our position on the application of provisional measures, it will, of course, be softer, not the one we want, because the Court adopts a sound decision with respect to both parties seeking how to alleviate the situation on the ground. After that, the court schedules the consideration of the case. The case consideration may include several stages. The party which filed the lawsuit is given time to prepare a memorandum. A memorandum is the whole set of evidence. The Court gives eight months, usually it's eight or nine months, depending on the complexity of the proceedings, to collect evidence of breaches of the Convention by the other party. After that, the other side is

given a certain period of time to prepare its position on the presence / absence of those things ... its response to a memorandum. And then the trial begins. After that the claimant is given time to give its comments on the other party's response, that is a long procedure. Typically, such proceedings take two or three years.

G. And yet, what do we want to see in the end?

Y.Z. The end may be different. It may be interim. For us, an interim end now is to have the Court's decision on the application of provisional measures. What does this interim ending give to us? This interim ending will first of all mean that the violations on the Russian part have been established – this will be the first legal recognition of the violations, moreover we will be able to raise this issue any time in the UN Security Council since the Court passes its decision through the UN Secretary General, then to the Security Council, and the Security Council makes sure that the decision is respected by the parties.

G. You mean in other words it's impossible, since in the Security Council the Russian Federation vetoes any decision according to…It's both a party to the proceedings and a party which ensures the execution of the decision.

Y.Z. No. Not in this case. It cannot be affected by the Russian veto. Since Russia will be deprived of its veto right until the Court's decision is enforced. The Court's decision is binding. They cannot vote for complying or not complying with the decision. The Security Council is responsible for control, and we will be able to prove in the Security Council what these violations were. In the meantime, the Court will continue considering the case.

G. All right. Will it concern Crimea or Crimea and Donbass?

Y.Z. As to the Crimea, we insist on violation of human rights in terms of discrimination, basically the cultural erasure of the population of Crimean tatars and the Ukrainian population in Crimea. As to Donetsk and Lugansk, here we have an issue of terrorism financing. I mean these two Conventions combined into one court action, we show that this all is related to the actions of Russia towards Ukraine. That these are different levels of Russia's aggression with different consequences.

G. So, in other words, Ukraine will try to prove in this Court that Russia is carrying out military aggression against it.

Y.Z. In different…carrying out different types of aggression. Aggression may not only be military. We have been through different stages of economic aggression, political aggression, aggression in form of terrorism financing, destruction of cultural identity of Ukrainians and tatars in Crimea. These are different types of aggression.

G. Is it possible to prove that repressions that are being carried out in Crimea are carried out on purpose against Crimean tatars and Ukrainians?

Y.Z. It is possible, of course. We have already proved that, by the resolution of the UN General Assembly, when the resolution on Crimea was supported. It was adopted and constitutes for us in fact the ground for lodging that complaint. Apart from the facts available to us, this complaint includes facts established by international organization, including UN.

G. Can the Court oblige the Russian Federation to withdraw its troops from Donbass and remove militias supported by the Russian Federation? Can the Court oblige the Russian Federation to free the Crimea?

Y.Z. Now we are asking the Court to adopt preventive measures that are associated with the financing of terrorism. Financing of terrorism not only in terms of money, but also in terms of weapon supplies, training of mercenaries, providing financial support to these mercenaries and the whole situation that they have created. Even the fact that they are funding the bodies of DNR and LNR is part of terrorism financing since these organizations are involved in acts of

terrorism on the territory of Ukraine to intimidate citizens, destruct civilian population, exert a special pressure on the authorities of Ukraine in order to change the state system.

G. Well…wait…What is then the difference between insurgents as the Russian Federation call them in Donbass, and terrorists? Where does the border lie here?

Y.Z. Whatever you call them - insurgents, terrorists, or proxies - they are committing atrocities. If they exercise pressure on the government by causing damage to the civilian population - and we remember Mariupol, we remember Kramatorsk, we remember Kharkov, all these terrible events that took place in Volnovakha – these are all civilian casualties. They make demands to change the political system, to change the structure of the government. These are signs of terrorism.

G. Today the General Prosecutor showed the statement of ex-president Viktor Yanukovych as of March 1, 2014 with a request to send troops. What is the origin of this document and what does its existence mean to ... well, these proceedings?

Y.Z. Well, these are not related proceedings, it is about the criminal prosecution of Yanukovich and all former high-ranking officials. Obviously, we do co-operate with the General Prosecutor's Office in this regard, but we are focused on inter-state relations, not prosecution of individuals.

G. Well, the fact that Yanukovich requested to dispatch troops cannot influence those proceedings in the Hague and UN Court, can it? During what period of time may Ukraine receive the first decisions?

Y.Z. The first decision on application of preventive measures may be adopted this March.

G. As early as in March?

Y.Z. That's right.

G. If the decision should not satisfy the claims of the Ukrainian side, what kind of a decision will that be?

Y.Z. Well, first of all, we will work to ensure that they meet our claims. We will take efforts to have our claims met as fully as possible. We should obviously expect their decision to be more balanced than our claims are. But in any case, the fact that we have filed a lawsuit against the Russian Federation concerning terrorism financing means that we are becoming a player in the game on the international arena. That no one can say that it can be agreed with Russia on fighting terrorism, for example, in Syria because there is another state accusing Russia of financing and supporting terrorism. And if the Court decides to introduce interim measures, then actually the role of Russia in terrorism financing in Ukraine will be recognized even before the decision is issued.

G. Is it possible that…May I ask you a man-in-the-street question? Is it possible that the Court's judgment will worsen the already difficult situation in Ukraine? Well, let's say, the fighters in Donbass or, for example, the Crimean occupation will be legalized.

Y.Z. No, this cannot happen, because these lawsuits refer to the Russia's failure to comply with its obligations under the Convention. According to the Convention, Russia must ensure counteracting the terrorism financing, it is Russia's obligation as a state which has ratified and become a party to this Convention. Similarly, under the Convention on the Elimination of All Forms of Racial Discrimination they committed themselves to respect and protect the rights of nationalities. This is the only thing we demand. We don't refer in these complaints either to the occupation, or the status of Crimea. It concerns the consequences of the aggression, and the events which followed that aggression and the types of that aggression. That's why it cannot be worsened. Moreover, we are getting to a new level, to the level of stating our legal position, not only political but also legal.

G. Good. Finally, one more question about one of the greatest new challenges for Ukraine, that is to establish relations with the new US Administration. In the nearest future ... a few days remain before the inauguration of Trump. Will anyone from Ukraine officially attend this inauguration? What measures will Ukraine take to develop this dialogue complicated by a series of circumstances from the criminal case against the head of election headquarters Manafort to many smaller nuances?

Y.Z. Well ... it seems to me that we have certain relations with political forces. And, obviously the Congress, and representatives of all political forces within the Congress, they know the story, they all know what happened in Ukraine. Of course, the transition period may be challenging. And I think it will be difficult not to us, but to the Americans and the new administration, since America is quite a big country with big ambitions, and I believe they will have a lot of work to do inside the country.

G. In other words, they will have other things to do…What are we doing to establish the dialogue?

Y.Z. We are doing our job, working on different levels and I think we will have a lot in common to develop this interaction.

G. Will the Ukrainian official representatives attend the inauguration?

Y.Z. The ambassador will.

G. Only the Ambassador? You mean Mr Chaly?

Y.Z. Yes.

G. And the last thing. As to the visa-free travel to the European Union…This issue is getting forgotten now. When, indeed? When this decision will probably be taken?

Y.Z. We are trying not to forget about it and to maintain contact with the European Union. We do have such partners as France, Germany we pay most of our attention to. Next week I'll be in Berlin.

G. Good. We'll be waiting for your news from Berlin. Our program hosted Yelena Zerkal, Deputy Minister of Foreign Affairs of Ukraine. It's all for today. See you later, thank you.

Ukrainian tanks in Avdiivka, February 2017

OSCE Special Monitoring Mission vehicles and Ukrainian tanks stand in the yard of an apartment house in Avdiivka, eastern Ukraine, Wednesday, Feb. 1, 2017.

The photo is made on 1 February 2017 at 11:13 by Evgeniy Maloletka/AP. The Associated Press ID number: 17032645035410.

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http://binaryapi.ap.org/bb5f4be72ff74faba4cbc5e53d37743b/preview/AP17032645035410.jpg?wm=api&ver=0

Ukrainian tanks in Avdiivka, February 2017

Ukrainian tanks and military vehicles in the yard of apartment block in Avdiivka, 1 February 2017.

The photo is made on 1 February 2017 at 11:08 AM by Yevgeniy Maloletka/AP. The Associated Press ID Number: 17032672633939.

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Ukrainian tanks in Avdiivka, February 2017

Ukrainian soldiers and tanks in residential area of Avdiivka, 2 February 2017.

Photo by Brendan Hoffman/Getty Images, available at:

https://www.bellingcat.com/wp-content/uploads/2017/02/2017-02-03_10-10-49.jpg

Ukrainian soldiers and tanks in Avdiivka, Ukraine, in Feb. 2, 2017. (Brendan Hoffman / Getty Images)

Annex 2

Arseniy Yatsenyuk official website, “Arseniy Yatsenyuk Reported on 10 main goals achieved by the Government in 100 days”, 12 March 2015

(excerpt, translation)

Translation

"Arseniy Yatsenyuk reported on 10 main goals achieved by the Government in 100 days",
12 March 2015 (excerpts)
Arseniy Yatsenyuk (former Prime Minister) official website http://yatsenyuk.org.ua/ua/news/open/1746

Prime-Minister of Ukraine Arseniy Yatsenyuk named 10 principal goals accomplished by the Government in the first 100 days of work. He spoke on this on Thursday, 12 March, delivering the public report of the Cabinet of Ministers on the 100 days of work.

[...]

Arseniy Yatsenyuk also reminded that the Cabinet of Ministers filed judicial claims against the Russian party under the gas transit contract demanding the increase of tariffs. Judicial proceedings against Russia have started in the European Court of Human Rights concerning compensation of damage from the illegal annexation of Crimea and for violation of the International Convention for the Suppression of the Financing of Terrorism.

“We will try Russia for aggression against Ukraine, violation of international law, military theft of the Ukrainian Crimea, establishing of a bloody “Russian world” in Donetsk and Lugansk. We begin the proceedings in the Hague tribunal, and the Ministry of Justice received relevant instructions to collect evidence.” - he emphasised.

[...]

Annex 3

Interview with Olena Zerkal, “Which claims will Ukraine submit against Russia?”, 27 January 2016

(excerpt, translation)

Translation

Interview with Olena Zerkal, "Which claims will Ukraine submit against Russian?",

27 January 2016 (excerpts)

https://zn.ua/columnists/kakie-iski-protiv-rossii-podast-ukraina-202564_.html

[…]

Question: Recently, Petro Poroshenko said that Ukraine and the Ukrainian companies within two weeks would submit claims against the Russian Federation in a number of international courts. Why hasn't the state taken this step before? It has been almost two years since Russia occupied Crimea and unleashed hostilities in the Donbass.

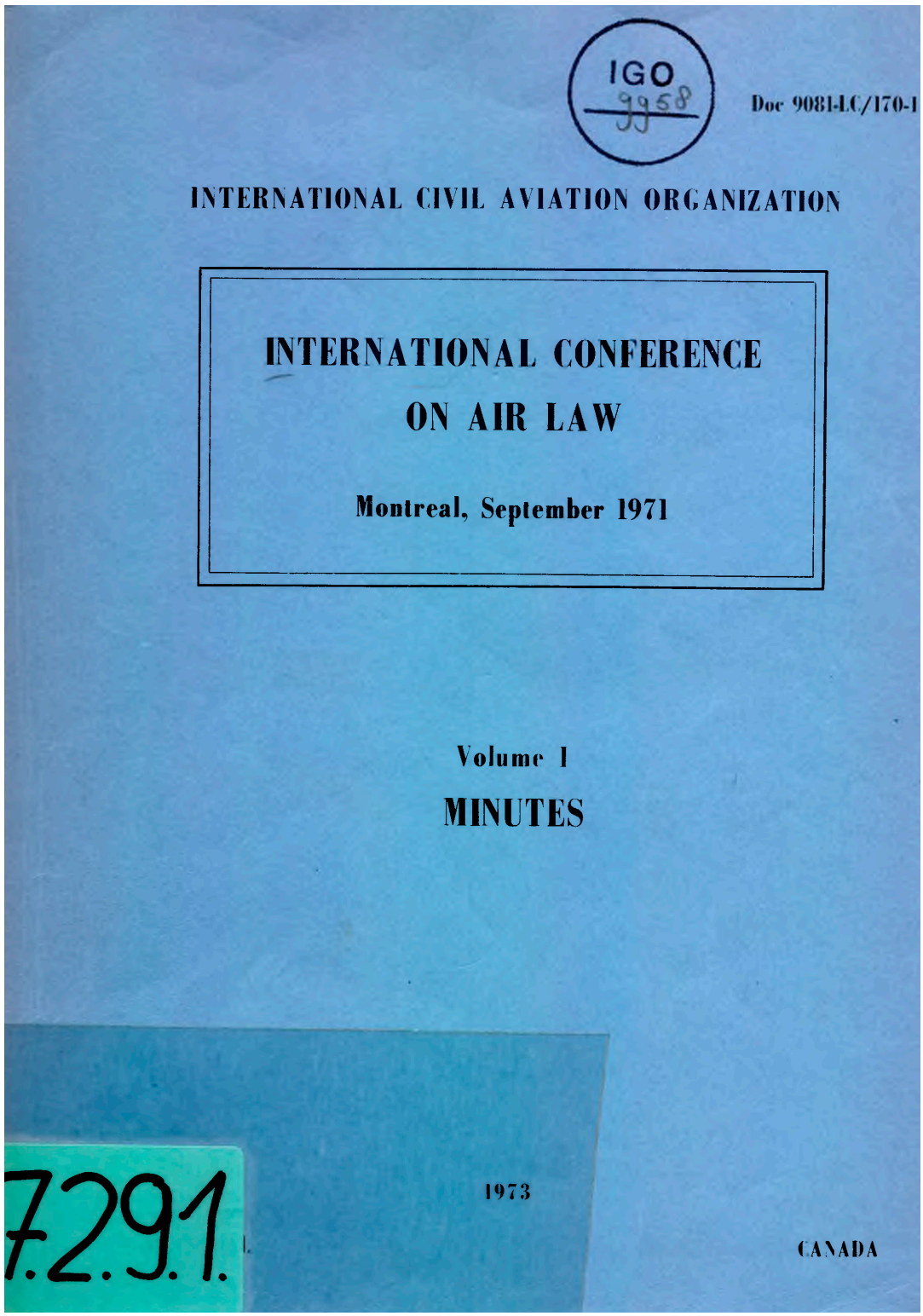
O.Zerkal: The Ukrainian state seeks to protect its sovereign rights and rights of its citizens. Nevertheless, it is limited in actions by the norms of multilateral and bilateral agreements, which are binding both for Ukraine, and for Russia.

[…]

[T]he Ukrainian Side offered the Russians to consider the lawfulness of annexation of Crimea by the Russian Federation in the ICJ. [...] However, the Russians refused to 'legitimise' their actions through the ICJ. Having analysed the existing international agreements, we have outlined several treaties, on the basis of which we could assert our [sovereign] rights. These include the International Convention on the Elimination of All Forms of Racial Discrimination, International Convention for the Suppression of the Financing of Terrorism and the UN Convention on the Law of the Sea, as well as the Ukrainian-Russian Intergovernmental Agreement on the encouragement and mutual protection of investments. […]

Annex 4

ICAO, “International Conference on Air Law, Montreal, September 1971”, Vol. I, 1973, pp. 122, 130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7. The Delegate of the Union of Soviet Socialist Republics stated that his Delegation was also confused about the decision made with respect to Article 4. Inasmuch as it had been decided in principle to apply all the major provisions of the Hague Convention to the Montreal Convention, Article 3, paragraph 3 of the Hague Convention contained an important provision which should have been included in the text. His Delegation expected that the Montreal Convention would cover all cases of unlawful and intentional interference with civil aviation - both international and domestic in character. There were known cases when a domestic flight was affected by very dangerous offences. His Delegation therefore proposed that a paragraph be added to the Article reading as follows: "With reference to paragraph 2, subparagraphs (1) and (2) of this Article it shall be immaterial whether the aircraft is engaged in an international or domestic flight".

8. The Delegate of the Byelorussian S.S.R. supported the proposal.

9. The Delegate of the United States of America did not think that the U.S.S.R. proposal changed the concept of what had been decided in paragraphs (1) and (2) of SRC/9. The President also thought that the situation contemplated by the U.S.S.R. proposal was already covered by the words "place of take-off or landing, actual or intended".

10. The Delegate of the United Kingdom appreciated the validity of those comments but nevertheless his Delegation supported the proposal of the U.S.S.R. because it did not wish any inferences to be drawn or arguments to result from the presence of those words in the Hague Convention, and their absence in the present convention. He suggested that if the President of the Hague Conference (the Delegate of the Kingdom of the Netherlands) could refresh the memory of delegations as to why those words were put in the Hague text, it could be useful to assist in considering the matter.

11. The Delegate of the Kingdom of the Netherlands recalled that those words were put in to cover the case of an aircraft being hijacked on a domestic flight to a place of landing outside the territory of the State of registration. It was very important in the Hague Convention to clarify that situation. The situation in the present convention was different because it was not concerned with diversion of aircraft but, partly at least, with acts on the ground.

12. The Delegate of Ireland said that although he had not attended the Hague Conference, it occurred to him that the wording of Article 3, paragraph 3 referred to in the Hague Convention were designed to cover the situation of an aircraft leased without crew to another State engaged in a domestic flight in that State.

13. The Delegate of the United Kingdom pointed out to the Delegate of the Kingdom of the Netherlands that paragraph (1) as it appeared in SRC/9 did contemplate diversion because it referred to a place of landing, actual or intended.

14. The Delegate of Belgium remarked that he would appreciate personally having a written text because he thought for many delegations it would not be easy, on the basis of all the decisions adopted, to decide immediately whether or not to accept the U.S.S.R. proposal. It did not mean he was opposed to it, he just wanted to be able to examine it in the light of decisions taken.

74. The Delegate of Austria explained that his Delegation had two basic ideas in mind in proposing the amendment in CUI Doc No. 52. First of all it thought that the Preamble should clearly show the close link between the Hague and the Montreal Conventions. Secondly, the United Nations General Assembly in Resolution 2645 stated that all acts of aerial hijacking and other interferences should be condemned. However, on reading the Swiss proposal one could think that only the Montreal Convention dealt with interference with civil aviation.

75. The President noted that the only difference of substance between the first clause in Doc Nos. 40 and 44 was the reference to "international" civil aviation in the latter.

76. The Delegate of Poland commented that the adoption of the Preamble as drafted in Doc No. 40 would be a simple logical consequence of the decision taken with regard to the Soviet proposal to the effect that "it shall be immaterial whether the aircraft is engaged in an international or domestic flight". Another argument in favour of the Soviet proposal was that no reference had been made in the Hague Convention to "international" civil aviation.

77. The Delegate of the Union of Soviet Socialist Republics recalled that in the draft of the Hague Convention the word "international" had been deleted by almost a unanimous majority of votes.

78. The Delegate of France pointed out that the Conference had been convened by the Council of ICAO to prepare a draft convention on acts of unlawful interference against international civil aviation.

79. The Delegate of Australia drew attention to the Austrian amendment to add the word "all" after the word "that" in the first line.

80. The Delegate of the People's Republic of the Congo had objection to the Austrian amendment for the reason that it might lend itself to a different interpretation in regard to the Hague Convention where he was sure it was intended to cover "all" unlawful acts of seizure. Some Courts or judges would question the difference between the two conventions.

81. The Delegate of Denmark agreed with the Delegate of the People's Republic of the Congo. If there had been a need to include "all" it should have been in the Hague Convention rather than in the Montreal Convention because in the former one might think of some interferences that would not jeopardize the safety of civil aviation.

82. The Delegate of Israel supported the proposal of Austria.

83. The Secretary (Mr. P.K. Roy) explained that civil aviation had many aspects and there were many parts of it which would be interfered with. Throughout Article 1 there was constant reference to acts of such a nature as to endanger the safety of flight. Perhaps it would be too dogmatic to say that every act of unlawful interference jeopardized the safety of civil aviation.

Annex 5

United Nations General Assembly, 54th Session, *Official Records, Supplement No. 37*, Report of the Ad Hoc Committee established by General Assembly Resolution 51/210 of 17 December 1996, UN Doc. A/54/37

A/54/37

United Nations

Report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996

General Assembly
Official Records
Fifty-fourth session
Supplement No. 37 (A/54/37)

[Original: Arabic, English, French, Russian, Spanish]
[5 May 1999]

Contents

Chapter I
Introduction

1. The third session of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 was convened in accordance with paragraphs 11 and 12 of Assembly resolution 53/108 of 8 December 1998. The Committee met at Headquarters from 15 to 26 March 1999.

2. In accordance with paragraph 9 of resolution 51/210, the Ad Hoc Committee was open to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency (IAEA).[1]

3. On behalf of the Secretary-General, the Legal Counsel, Mr. Hans Corell, opened the third session of the Ad Hoc Committee.

4. The Director of the Codification Division of the Office of Legal Affairs, Mr. Václav Mikulka, acted as Secretary of the Ad Hoc Committee, assisted by Ms. Sachiko Kuwabara-Yamamoto (Deputy Secretary), Ms. Christiane Bourloyannis-Vrailas, Mr. Vladimir Rudnitsky, Mr. Renan Villacis and Mr. Arnold Pronto of the Codification Division.

5. At the 8th meeting of the Committee, on 15 March 1999, it was agreed that the membership of the Bureau would remain the same as at the previous session, with the exception of one Vice-Chairman. The Bureau was thus constituted as follows:

Chairman:
Mr. Philippe Kirsch (Canada)

Vice-Chairmen:
Mr. Carlos Fernando Diaz (Costa Rica)
Mr. Mohammed Gomaa (Egypt)
Mr. Rohan Perera (Sri Lanka)

Rapporteur:
Mr. Martin Šmejkal (Czech Republic)

6. At the same meeting, the Ad Hoc Committee adopted the following agenda (A/AC.252/L.6):

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Continuation of the elaboration of a draft international convention for the suppression of acts of nuclear terrorism with a view to completing the instrument and elaboration of a draft international convention for the suppression of terrorist financing to supplement related existing international instruments, pursuant to paragraphs 11 and 12 of General Assembly resolution 53/108 of 8 December 1998.
6. Adoption of the report.

7. The Ad Hoc Committee had before it the revised text of a draft convention on the suppression of acts of nuclear terrorism proposed by the Friends of the Chairman (A/C.6/53/L.4, annex), as well as a draft international convention for the suppression of the financing of terrorism submitted by France (A/AC.252/L.7 and Corr.1) together with an explanatory note to the draft convention submitted by the same delegation (A/AC.252/L.7/Add.1).

Chapter II
Proceedings

8. The Ad Hoc Committee held a general exchange of views at its 8th, 9th and 10th meetings, on 15, 16 and 18 March 1999.

9. At the 9th meeting, the Ad Hoc Committee decided to conduct its work in the form of a Working Group of the Whole. The Bureau and secretariat of the Ad Hoc Committee also served as the Bureau and secretariat of the Working Group.

10. The Working Group commenced its work on the elaboration of an international convention for the suppression of terrorist financing. It proceeded in three stages. In its first stage, the Working Group conducted a first reading of those articles unique to the proposed text under consideration, namely articles 1, 2, 5, 8, 12, paragraphs 3 and 4, and 17, as well as of those articles which were similar, but not identical, to the corresponding provisions of the International Convention for the Suppression of Terrorist Bombings, namely articles 3, 6 and 7, paragraphs 1, 2 and 5, on the basis of the text proposed in document A/AC.252/L.7 and Corr.1. Article 4 was also reviewed.

11. In the second stage of the work, the Working Group conducted a second reading of articles 2, 5, 8, 12 and additional provisions, on the basis of a revised text submitted by France (A/AC.252/1999/WP.45; see annex III to the present report), as well as of article 17 on the basis of a revised text submitted by France (A/AC.252/1999/WP.47; see annex III), articles 4 and 7 on the basis of a revised text submitted by Australia (A/AC.252/1999/WP.51; see annex III). The Coordinators of the informal discussions on articles 1 and 2, and 3 and 6, respectively, presented oral reports to the Working Group.

12. Following the completion of the second reading, the Bureau of the Committee prepared a discussion paper on articles 3 to 25 (A/AC.252/1999/CRP.2; see annex I.A) as a basis for consideration by the Working Group of the Sixth Committee at its next session.

13. At the 11th meeting of the Working Group, on 25 March 1999, France submitted a working paper on articles 1 and 2 (see annex I.B), based on the discussion of those provisions during the informal consultations.

14. Written amendments and proposals on the draft international convention on the suppression of terrorist financing were submitted and considered during the discussions (see annex III). Oral amendments and proposals were also discussed.

15. At the 11th meeting, on 26 March 1999, the Ad Hoc Committee adopted the report of its third session.

16. An informal summary of the discussions in the Working Group is contained in annex IV to the present report. The summary was prepared by the Rapporteur for reference purposes only and not as a record of the discussions.

17. Annex III contains a list of the written amendments and proposals submitted by delegates in connection with the elaboration of a draft international convention for the suppression of the financing of terrorism.

Chapter III
Summary of the general debate

18. The Chairman of the Ad Hoc Committee recalled the mandate of the Committee concerning the work at its third session, which was to continue to elaborate a draft international convention for the suppression of acts of nuclear terrorism with a view to completing the instrument and initiating the elaboration of the draft international convention for the suppression of the financing of terrorism. In that connection, the Chairman noted the advanced stage of the work on the draft convention for the suppression of acts of nuclear terrorism and expressed the hope that the remaining issue concerning its scope would be resolved in an expeditious manner. He also welcomed the proposed text of the draft convention for the suppression of the financing of terrorism and invited delegations to present their views on both of the draft conventions before the Committee.

A. Elaboration of the draft international convention for the suppression of acts of nuclear terrorism, proposed by the Russian Federation

19. At the 8th meeting of the Ad Hoc Committee, the representative of the Russian Federation stated that the growing ability of terrorist groups to acquire sophisticated technologies and weapons of mass destruction made international terrorism a most serious problem calling for effective and concerted action by the international community. In that connection, he stressed the importance of completing work on the draft convention for the suppression of acts of nuclear terrorism (see A/C.6/53/L.4), noting that the text of the convention had been almost entirely agreed upon at the previous session of the Working Group, in 1998. It was considered possible to reach a compromise on the remaining issue, on scope of the convention, as the draft convention did not impinge upon acts regulated by other norms of international law and its provisions were consistent with those of other relevant conventions. Furthermore, a failure to arrive at a consensus on the text of the draft convention would send a wrong signal to the terrorist groups.

20. A number of delegations shared the view of the representative of the Russian Federation and expressed support for the early conclusion of the work on the draft convention. It was observed that the draft convention was an important complement to the existing anti-terrorist conventions, providing an effective legal framework for combating and discouraging acts of nuclear terrorism, which posed a real threat to the maintenance of international peace and security. Some delegations reiterated the view that activities of armed forces should be outside the scope of the draft convention and that the relevant provisions of the Terrorist Bombings Convention could be used as the basis for the exclusion clause of the draft convention.

21. Some delegations stressed the need to ensure consistency of the provisions of the draft convention with those of the existing international legal instruments for combating terrorism and noted in particular the importance of paying proper attention to the work of the International Atomic Energy Agency.

22. No formal or informal meetings were held during the third session of the Ad Hoc Committee to discuss the draft convention contained in document A/C.6/53/L.4.

23. At the 11th meeting, concern was expressed about the lack of consultations on the scope of the draft convention during the session. A number of delegations which remained convinced that the special character of the subject matter of the draft convention did not permit the exclusion of the activities of armed forces from its scope reiterated their

position and therefore insisted that its article 4 be deleted. Other delegations expressed the hope that the remaining issues concerning the scope of the draft convention would be resolved successfully with a further exchange of positive and constructive views.

24. The representative of IAEA made a statement regarding the draft international convention for the suppression of acts of nuclear terrorism, recalling that the Agency, at the invitation of the General Assembly, had participated in the work of the Ad Hoc Committee, especially with regard to technical expertise. IAEA regretted that it had not been possible to finalize work on the draft convention and expressed the hope that said result could be attained at the next session of the Committee. IAEA also noted that the draft convention recognized and built upon the Agency's activities. Furthermore, IAEA reiterated its commitment to fight nuclear terrorism and its willingness to assist the Ad Hoc Committee in its work.

25. The Chairman recalled that the General Assembly in its resolution 53/108 of 8 December 1998, had requested the Ad Hoc Committee to continue to elaborate a draft international convention for the suppression of acts of nuclear terrorism with a view to completing the instrument. He urged all delegations to have contacts and hold discussions prior to and at the Working Group of the Sixth Committee in order to resolve the remaining issues concerning the scope of the convention so that the draft convention might be adopted by the General Assembly at its fifty-fourth session.

B. Elaboration of the draft international convention for the suppression of the financing of terrorism, proposed by France

26. The representative of France introduced a revised version of the draft convention for the suppression of the financing of terrorism (A/AC.252/L.7 and Corr.1), the original text of which (A/C.6/53/9) had earlier been submitted by France to the Sixth Committee during the fifty-third session of the General Assembly. It was explained that the revision took into account the views expressed by delegations during the debate in the Sixth Committee and the ensuing consultations on the item.

27. It was stated that existing anti-terrorist conventions did not contain adequate means of countering acts of those who supplied funds or sponsored terrorist attacks. The aim of the draft convention was to fill that gap in international law by adopting an international legal instrument specifically addressing the issue.

28. As regards the definition of financing, it was pointed out that, while the draft convention was focused on the financing of the most serious terrorist acts, all means of financing were covered within the scope of the convention, including both "unlawful" means (such as racketeering) and "lawful" means (such as private and public financing, financing provided by associations, etc.).

29. Moreover, the definition of an offence had been drafted with a twofold aim. First, it was concerned expressly with the financing of acts within the scope of existing anti-terrorist conventions binding upon States parties. Secondly, it was also concerned with the financing of murder, which was not covered by existing conventions (except for the Terrorist Bombings Convention).

30. Concerning the persons at whom the draft convention was aimed, they included those who supplied funds in the knowledge of the intention of recipients to commit terrorist acts. Those who made contributions in good faith were excluded from the scope of the convention. The draft text provided also for a regime of liability for legal entities which might be criminal, civil or administrative in nature.

31. As regards other important elements of the draft convention, the sanctions regime, designed to increase its deterrent effect, provided for the possibility of the seizure or freezing of property assets used in committing the offence, in addition to severe penalties for terrorists. Furthermore, the lifting of banking secrecy for the purposes of mutual legal assistance was an important element of the draft. Some delegations, however, stressed that measures of implementation must be left to national legislation. In addition, the draft provided for preventive measures based on generally accepted principles followed in combating money-laundering, which were designed to encourage States to require financial institutions to improve the identification of their customers.

32. Apart from those new elements, the text of the revised draft was mostly based on the provisions of already existing conventions, adopting, in particular, the formulations of the relevant provisions of the Terrorist Bombings Convention, including the well-established "prosecute or extradite" principle. Thus it was suggested that the discussion should focus primarily on new provisions so as to allow a speedy elaboration of the proposed convention.

33. The draft convention for the suppression of the financing of terrorism was supported by many delegations as a valuable and timely initiative. It was noted that the draft text was intended not only to punish those financing terrorist acts, but also to prevent such financing through mutual legal assistance and cooperation or by alerting those whose

donations were intended for charitable, humanitarian and other legal purposes could be used to finance terrorist activities.

34. Some delegations stressed the difficulty of linking financing and terrorist acts and cautioned against adopting overly broad definitions that would criminalize innocent individuals and genuine charitable organizations.

35. Some delegations indicated that revenues derived from the confiscation of property and assets used to commit terrorist offences under the convention should be allocated to benefit victims and to development activities directed at combating terrorism.

36. Differing views were expressed as regards the issue of whether the scope of the draft convention should go beyond the offences already covered by other conventions.

37. A need to pay full attention to the legal cultures of States in the elaboration of the new convention was stressed. Concerns were also expressed regarding some of the enforcement provisions of the draft.

38. Some delegations emphasized the need to distinguish between legitimate national liberation movements and terrorist groups. They reiterated their view that a universal definition of terrorism should be adopted and that a comprehensive global anti-terrorist convention should be elaborated. It was noted that the work on such a convention should begin following the completion of the two draft conventions currently under the Committee's consideration on the basis of a proposal to be submitted on this issue. Other delegations emphasized that no cause could justify terrorist acts and expressed doubt that a universal definition of terrorism could be elaborated.

39. At both the 8th and the 10th meetings, the point was also made that it should be taken into consideration that international terrorism was linked to other criminal activities such as drug-trafficking and mercenarism, as well as violence pursued as a State policy. Specific examples of terrorist activities which originated in the territory of a foreign State were given. In this connection, special emphasis was placed upon existing State obligations to take effective practical measures to suppress and punish such illegal activities, as well as on the need to introduce restrictive norms regarding the responsibility of States for the prevention and suppression of terrorism in their territories aimed against the security of other States and their citizens. Relevant examples of concrete measures adopted at the national level to combat such criminal acts were also reported.

40. The observer of the International Committee of the Red Cross presented its written comments on the scope of the definition of the offences covered by the draft convention on the suppression of the financing of terrorism[2] and also made a statement in that connection.

41. The Chairman observed that much progress had been made during the third session of the Ad Hoc Committee; the Committee had completed the first and second readings of the main provisions of the convention at the current session and a number of articles had been revised to facilitate further work on the convention. He was of the view that the work on the draft convention could be completed during the current year in the Working Group of the Sixth Committee, for adoption by the General Assembly at its fifty-fourth session.

Notes

[1] For the list of participants of the Ad Hoc Committee at its third session, see document A/AC.252/1999/INF/3.

[2] A/AC.252/1999/INF.2.

Annex I

A. Discussion paper submitted by the Bureau on articles 3 to 25*

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State and no other State has a basis under article 7, paragraph 1, or article 7, paragraph 2, to exercise jurisdiction, except that the provisions of articles 12 to 17 shall, as appropriate, apply in those cases.

Article 4

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of the offences.

Article 5

1. Each State Party shall take the necessary measures to ensure that legal entities carrying out activities or located in its territory or organized under its laws may be held liable when they have, with the full knowledge of one or more persons responsible for their management or control, benefitted from or committed offences set forth in article 2.

2. Such liability may be criminal, civil or administrative, according to the legal principles of the State Party.

3. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

4. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 are subject to effective and proportionate measures.

Article 6

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

Article 7

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

* Originally issued as document A/AC.252/1999/CRP.2.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), in the territory of or against a national of that State; or

(b) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), committed in an attempt to compel that State to do or abstain from doing any act; or

(d) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(e) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 or 2.

5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 8

1. Each State Party shall take appropriate measures for the identification, detection and freezing or seizure of any property, funds or other means used or intended to be used in any manner in order to commit the offences set forth in article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures for the forfeiture of property, funds and other means used or intended to be used for committing the offences set forth in article 2 and the proceeds derived from such offences.

3. Each State Party may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of such proceeds or property, or funds derived from the sale of such proceeds or property.

4. Each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to compensate the victims of criminal acts resulting from the commission of offences referred to in article 2, paragraph 1, subparagraph (a) or (b), or their families.

5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

Article 9

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 7, paragraph 1, subparagraph (b), or paragraph 2, subparagraph (b), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 7, paragraph 1 or 2, and, if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 10

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 7 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate,

such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

Article 11

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 7, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings.

2. States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.

2 *bis*. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

3. States Parties shall carry out their obligations under paragraphs 1 and 2 in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

4. None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. Accordingly, States Parties may not refuse a request for extradition or for mutual legal assistance on the ground that it concerns a fiscal offence.

Article 13

None of the offences set forth in article 2 shall be regarded for the purposes of extradition or mutual legal assistance as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for

extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 14

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 15

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences set forth in article 2 may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent; and

(b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of the present article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State to which he or she was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 16

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.

Article 17

States Parties shall cooperate in the prevention of the offences set forth in article 2, including by:

1. Taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories illegal activities of persons and organizations that knowingly encourage, instigate, organize or engage in the commission of offences set forth in article 2;

(b) Measures requiring their financial institutions and other professions involved in financial transactions to utilize the most efficient measures for the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened. For this purpose, States shall consider:

(i) Adopting regulations prohibiting the opening of accounts whose holder or beneficiary is unidentified or unidentifiable, including anonymous accounts or accounts under obviously fictitious names;

(ii) With respect to the identification of legal entities, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity;

(iii) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international;

(c) Measures for the supervision and licensing of all money-transmission agencies;

(d) Implementation of feasible measures to detect or monitor the physical cross-border transport of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.

2. Exchanging accurate and verified information in accordance with their domestic law, and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences set forth in article 2, in particular, by:

(a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;

(b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:

(i) The identity, whereabouts and activities of persons suspected of being involved in such offences;

(ii) The movement of funds or property relating to the commission of such offences.

Article 18

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 19

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 20

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 21

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 22

1. This Convention shall be open for signature by all States from ... until ... at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 23

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 24

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 25

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on .....

B. Working paper prepared by France on articles 1 and 2

Article 1

For the purposes of this Convention:

1. "Financing" means the transfer [or reception] of funds.

2. "Funds" means cash, assets or any other property, tangible or intangible, however acquired; and notably any type of financial resource, including cash or the currency of any State, bank credits, travellers' cheques; bank cheques, money orders, shares, securities, bonds, drafts, letters of credit or any other negotiable instrument in any form, including electronic or digital form.

3. "Organization" means any group, public or private, of two or more persons, whatever their declared objectives, and legal entities such as companies, partnerships or associations.

4. "State or government facility" means any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully proceeds with the financing, by any means, directly or indirectly, of any person or organization with the intention that the funds should be used, or in the knowledge that the funds are to be used, in full or part, to prepare for or to commit:

(a) Offences as defined in annex I to this Convention; or

(b) Acts intended to cause death or serious bodily injury to a civilian or to any other person not engaged in an armed conflict, when such acts, by their nature or context, are designed to intimidate a government or a civilian population.

2. In order to convict a person for an offence under paragraph 1 of this article, it shall not be necessary to prove that the funds were in fact used to prepare for or to commit a specific offence or an offence within a specified category of offences.

3. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.

4. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 3 of this article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 3 of this article; or

[(c) In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 3 of this article, by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.]

Annex II

Working document submitted by France on the draft international convention for the suppression of the financing of terrorism*

The States Parties to this Convention,

Bearing in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Recalling the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994, in which, "the States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States",

Noting that the Declaration also encouraged States "to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter",

Recalling General Assembly resolution 53/108 of 8 December 1998, in which the Assembly decided that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should "elaborate a draft international convention for the suppression of terrorist financing to supplement related existing international instruments",

Recalling also General Assembly resolution 52/165 of 15 December 1997, in which the Assembly calls upon States to "consider, in particular, the implementation of the measures set out in paragraphs 3 (a) to (f) of its resolution 51/210" of 17 December 1996,

Recalling further General Assembly resolution 51/210 of 17 December 1996, paragraph 3, subparagraph (f), in which the Assembly calls upon all States "to take steps to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have or claim to have charitable, social or cultural goals or which are also engaged in unlawful activities such as illicit arms trafficking, drug dealing and racketeering, including the exploitation of persons for purposes of funding terrorist activities, and in particular to consider, where appropriate, adopting regulatory measures to prevent and counteract movements of funds suspected to be intended for terrorist purposes without impeding in any way the freedom of legitimate capital movements and to intensify the exchange of information concerning international movements of such funds",

Considering that any act governed by international humanitarian law is not governed by this Convention,

Noting that financing which terrorists may obtain increasingly influences the number and seriousness of international acts of terrorism they commit,

* Originally issued as document A/AC.252/L.7 and Corr.1.

Noting also that existing multilateral legal instruments do not specifically address such financing,

Being convinced of the urgent need to enhance international cooperation between States in devising and adopting effective measures for the prevention of the financing of terrorism as well as the prosecution and punishment of the perpetrators of actions contributing to terrorism,

Considering that the financing of terrorism is a matter of grave concern to the international community as a whole,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. "Financing" means the transfer or reception of funds, assets or other property, whether lawful or unlawful, by any means, directly or indirectly, to or from another person or another organization.

2. "Funds" means any type of financial resource, including the cash or currency of any State, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit and any other negotiable instrument in any form, including electronic or digital form.

3. "Organization" means any group of persons, whatever their declared objectives, and legal entities such as companies, partnerships or associations.

4. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally proceeds with the financing of a person or organization in the knowledge that such financing will or could be used, in full or in part, in order to prepare or commit:

(a) An offence within the scope of one of the Conventions itemized in the annex, subject to its ratification by the State Party; or

(b) An act designed to cause death or serious bodily injury to a civilian or to any other person, other than in armed conflict, when such an act, by its nature or context, constitutes a means of intimidating a government or the civilian population.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of the present article.

3. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 2 of the present article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2 of the present article; or

(c) In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 of the present article, by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State and no other State has a basis under article 7, paragraph 1, or article 7, paragraph 2, of this Convention to exercise jurisdiction, except that the provisions of articles 11 to 17 shall, as appropriate, apply in those cases.

Article 4

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2 of this Convention;

(b) To make those offences punishable by effective, proportionate and deterrent penalties which take into account the grave nature of those offences.

Article 5

1. Each State Party shall take the necessary measures to ensure that legal entities located or having their registered offices in its territory may be held liable when they have knowingly, through the agency of one or more persons responsible for their management or control, derived profits from or participated in the commission of offences referred to in this Convention.

2. Subject to the fundamental legal principles of the State Party, said legal entity may incur criminal, civil or administrative liability.

3. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences or of their accomplices.

4. Each State Party shall ensure, in particular, that legal entities responsible for committing an offence referred to in this Convention are subject to effective measures that have substantial economic consequences for them.

5. The provisions of this article cannot have the effect of calling into question the responsibility of the State as a legal entity.

Article 6

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this

Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.

Article 7

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence was directed towards or resulted in the carrying out of an attack against a national of that State; or

(b) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(c) The offence was directed towards or resulted in the carrying out of an attack against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established under its domestic law in accordance with paragraph 2 of the present article. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2 of the present article.

5. When more than one State Party claims jurisdiction over one of the offences referred to in this Convention, the relevant States Parties shall strive to coordinate their actions efficiently, in particular concerning the conditions for prosecuting and the terms and conditions of mutual legal assistance.

Article 8

1. Each State Party shall take appropriate measures to allow for identification, detection, freezing or seizure of any goods, funds or other means used or designed to be used in any manner in order to commit the offences referred to in this Convention, for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures to permit the forfeiture of property, funds and other means used or intended to be used for committing the offences referred to in this Convention.

3. Each State Party may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of such proceeds or property, or funds derived from the sale of such proceeds or property, in accordance with its domestic law.

Article 9

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence as set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 of the present article are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 of the present article shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 of the present article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 7, paragraph 1, subparagraph (b), or paragraph 2, subparagraph (b), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 7, paragraphs 1 and 2, and, if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 of the present article shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 10

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 7 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the

extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1 of the present article.

Article 11

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 7, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences referred to in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

3. States Parties may not claim bank secrecy to refuse mutual legal assistance provided for under the present article.

4. None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. Accordingly, a request for extradition or for mutual legal assistance may not be refused on the sole ground that it concerns a fiscal offence.

Article 13

None of the offences set forth in article 2 shall be regarded for the purposes of extradition or mutual legal assistance as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 14

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 15

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent; and

(b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of the present article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State to which he or she was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 16

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.

Article 17

States Parties shall cooperate in the prevention of the offences set forth in article 2, including:

1. By taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories activities of persons, groups and organizations that knowingly encourage, instigate, organize or engage in the commission of offences as set forth in article 2;

(b) Measures requiring their financial institutions and other professions involved in financial transactions to improve the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened. For this purpose, States shall consider:

(i) Adopting regulations prohibiting the opening of anonymous accounts or the opening of accounts under obviously fictitious names;

(ii) With respect to the identification of legal entities, verifying the existence and the legal structure of the customer by obtaining, from the customer or public records, proof of incorporation as a company, including information on the name of the client, its legal form, its address, its directors and provisions on the legal entity's authority to bind;

(iii) Taking measures for preserving for at least five years the necessary documents in connection with the transactions carried out;

2. By exchanging accurate and verified information in accordance with their domestic law, and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences as set forth in article 2.

Article 18

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 19

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 20

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 21

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of the present article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 22

1. This Convention shall be open for signature by all States from ... until ... at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 23

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 24

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 25

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on .....

Annex

1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.

2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.

3. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.

4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.

5. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980.

6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.

7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.

8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.

9. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

Annex III

Written amendments and proposals submitted by delegates in connection with the elaboration of a draft international convention for the suppression of the financing of terrorism

Contents

1. Proposal submitted by Switzerland (A/AC.252/1999/WP.1)

Article 1

Paragraph 1

The term "financing" includes the following acts:

(a) Any direct transfer of funds, assets or other property to a person or organization;

(b) Any reception of funds, assets or other property by a person or organization;

(c) The organization and implementation of all types of fund-raising on behalf of a person or organization.

In a fund-raising context, the transfer of funds, assets or other property is not covered by the term "financing" if it can be demonstrated or it is recognized that the property is also used for humanitarian purposes by the beneficiary person or organization.

2. Proposal submitted by Switzerland (A/AC.252/1999/WP.2)

Article 2

Paragraph 1

Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally proceeds with the financing of a person or organization in the knowledge that such financing will be used, in full or in part, to commit:

(a) ...

(b) ...

Paragraph 3

Delete subparagraph (c).

3. Proposal submitted by Switzerland (A/AC.252/1999/WP.3)

Article 5

Paragraph 1

Each State Party shall take the necessary measures to ensure that legal entities located or having their registered offices in its territory may be held liable.

4. Proposal submitted by Switzerland (A/AC.252/1999/WP.4)

Article 12

Paragraph 4

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. Accordingly, a request for

extradition or for mutual legal assistance based on article 2 may not be refused on the sole ground that it concerns a fiscal offence, without prejudice to the constitutional limits and the basic legislation of the States Parties.

Article 13

None of the offences set forth in article 2 shall be regarded for the purposes of extradition or mutual legal assistance between States Parties as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on article 2 may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

5. Proposal submitted by Switzerland (A/AC.252/1999/WP.5)

Article 17

Paragraph 1 (b) (i)

Adopting regulations prohibiting the opening of accounts whose beneficiary is unidentified or unidentifiable;

6. Proposal submitted by Austria (A/AC.252/1999/WP.6)

Article 1

Paragraph 1

Delete the term "or reception".

Paragraph 2

"Organization" means any group consisting of a larger number of persons, whatever their declared objectives. Such organizations shall be characterized by a hierarchical structure, strategic planning, continuity of purpose and division of labour.

7. Proposal submitted by Belgium (A/AC.252/1999/WP.7)

Article 1

Paragraph 1

Delete the words "directly or indirectly" and insert them in the *chapeau* of article 2, paragraph 1, after the word "proceeds".

Explanation

These terms pertain not to the definition of the word "financing", but to the definition of the offence itself (article 2).

8. Proposal submitted by Guatemala concerning articles 1 and 2 (A/AC.252/1999/WP.8)

Article 1

Paragraph 1

Delete the words "or reception".

Article 2

Add the following paragraph to article 2:

"A. Any person likewise commits an offence within the meaning of this Convention if that person unlawfully receives funds, assets or other property from another person or organization with the intent of using the funds, assets or other property so received, in full or in part, in order to prepare or commit an offence or an act falling, respectively, within the definitions contained in subparagraphs (a) and (b) of paragraph 1 above."

9. Proposal submitted by Australia (A/AC.252/1999/WP.9)

Article 1

Paragraph 1

"Financing" means the provision of funds or assets directly or indirectly and by whatever means to another person or organization.

10. Proposal submitted by Japan (A/AC.252/1999/WP.10)

Article 1

Paragraph 2

"Funds" means any form of pecuniary benefit.

11. Proposal submitted by Austria on the definition of offences (A/AC.252/1999/WP.11)

Option 1. Articles 2, 20 *bis* and Annex

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally proceeds with the financing of an organization with the knowledge or intent that such financing will be used by that organization, in full or in part, to commit or to prepare the commission of:

(a) An offence within the scope of one of the Conventions listed in the Annex and as specified therein;

(b) An act designed to cause death or serious bodily injury to a civilian or to any other person, other than in armed conflict, when such an act, by its nature or context, constitutes a means of intimidating a Government or the civilian population.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of the present article.

3. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 2 of the present article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2 of the present article.

Article 20 *bis*

On depositing its instruments of ratification, acceptance, approval or accession, a State which is not a party to a treaty listed in the Annex may declare in writing that, in the application of this Convention to that State Party, that treaty shall not be deemed to be included in the Annex. Such declaration shall cease to have effect as soon as that treaty enters into force for that State Party, which shall notify the depositary of that fact, and the depositary shall so notify the other States Parties.

Annex

1. Article 1 (a) of the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970, which reads as follows: ...

2. Article 1, paragraph 1, of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, which reads as follows: ...

3. Article 2, paragraph 1 (a)–(c), of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973, which reads as follows: ...

4. Article 1, paragraph 1, of the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979, which reads as follows: ...

5. Article 7, paragraph 1 (e), of the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980, which reads as follows: ...

6. Article II, paragraph 1, of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988, which reads as follows: ...

7. Article 3, paragraphs 1 (a)–(f) and 2 (c), of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, which read as follows: ...

8. Article 2, paragraphs 1 (a)–(d) and 2 (c), of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988, which read as follows: ...

9. Article 2, paragraph 1, of the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997, which reads as follows: ...

Rationale

1. Chapeau

(a) Deletion of reference to the financing of "a person"

Mere preparatory acts are usually not criminalized under national and international law. However, if the offence is of a particularly dangerous nature, exceptions from this principle are made. In the context of the offences covered by this Convention, this would seem to be true only of organizations. It is this aspect of organization, which typically includes long-term planning, continuity of purpose, division of labour and particular difficulty of detection, which renders these entities and their activities so dangerous that criminalizing the financing of mere preparatory acts seems justifiable. Similar reasoning does not apply to individuals. Furthermore, financing an individual in order to enable that individual to commit terrorist offences would be a participatory offence falling under the scope of the Conventions listed in the Annex.

(b) Deletion of the term "could be used" and inclusion of the term "intent"

The term "could be used" would create too large a scope of application, since it can rarely be excluded that financing *could* be used for committing offences; knowledge may be difficult to prove, hence the addition of "intent".

(c) Retention of preparatory acts insofar as they relate exclusively to organizations

Some reference to preparatory acts should probably be retained since this Convention would otherwise become largely redundant (financing terrorist offences is a participatory crime already covered by existing instruments); by deleting any reference to preparatory acts we would not cover some of the most important cases of financing, such as the financing of a training camp for terrorists.

2. Paragraph 1 (a)

(a) Reference only to the main offences of the Conventions contained in the Annex

The present unqualified reference to "offences within the scope of the Conventions listed in the Annex" creates the danger of very long chains of participation removing a reasonably close nexus to the main offence; the scope of application would become too large.

(b) Deletion of "subject to its ratification by the State Party" and inclusion of an opt-out clause instead

This would be more likely to create a reasonably uniform and certainly a clearer scope of application.

3. Paragraph 3

Deletion of subparagraph (c); same reasoning as in section 2 (a) above.

12. Proposal submitted by Austria on the definition of offences (A/AC.252/1999/WP.12)

Option 2. Articles 1, 2 and 20 *bis*

Article 1

"Main offence" means any offence within the scope of one of the Conventions set forth in the Annex excluding attempts and contributory or participatory offences;

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally proceeds with the financing of an organization with the knowledge or intent that such financing will be used by that organization, in full or in part, to commit or prepare the commission of:

(a) Acts which constitute a main offence within the scope of one of the Conventions listed in the Annex;

(b) An act designed to cause death or serious bodily injury to a civilian or to any other person, other than in armed conflict, when such an act, by its nature or context, constitutes a means of intimidating a Government or the civilian population.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of the present article.

3. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 2 of the present article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2 of the present article.

Article 20 *bis*

On depositing its instruments of ratification, acceptance, approval or accession, a State which is not a party to a treaty listed in the Annex may declare in writing that, in the application of this Convention to that State Party, that treaty shall not be deemed to be included in the Annex. Such declaration shall cease to have effect as soon as that treaty enters into force for that State Party, which shall notify the depositary of that fact, and the depositary shall so notify the other States Parties.

Rationale

1. Chapeau

(a) Deletion of reference to the financing of "a person"

Mere preparatory acts are usually not criminalized under national and international law. However, if the offence is of a particularly dangerous nature, exceptions from this principle are made. In the context of the offences covered by this Convention, this would seem to be true only of organizations. It is this aspect of organization, which typically includes long-term planning, continuity of purpose, division of labour and particular difficulty of detection, which renders these entities and their activities so dangerous that criminalizing the financing of mere preparatory acts seems justifiable. Similar reasoning does not apply to individuals. Furthermore, financing an individual in order to enable that individual to commit terrorist offences would be a participatory offence falling under the scope of the Conventions listed in the Annex.

(b) Deletion of the term "could be used" and inclusion of the term "intent"

The term "could be used" would create too large a scope of application, since it can rarely be excluded that financing *could* be used for committing offences; knowledge may be difficult to prove, hence the addition of "intent".

(c) Retention of preparatory acts insofar as they relate exclusively to organizations

Some reference to preparatory acts should probably be retained since this Convention would otherwise become largely redundant (financing terrorist offences is a participatory crime already covered by existing instruments); by deleting any reference to preparatory acts we would not cover some of the most important cases of financing, such as the financing of a training-camp for terrorists.

2. Paragraph 1 (a)

(a) Reference only to the main offences of the Conventions contained in the Annex

The present unqualified reference to "offences within the scope of the Conventions listed in the Annex" creates the danger of very long chains of participation removing a reasonably close nexus to the main offence; the scope of application would become too large.

(b) Deletion of "subject to its ratification by the State Party" and inclusion of an opt-out clause instead

This would be more likely to create a reasonably uniform and certainly a clearer scope of application.

3. Paragraph 3

Deletion of subparagraph (c); same reasoning as in section 2 (a) above.

13. Proposal submitted by the Republic of Korea (A/AC.252/1999/WP.13)

Article 2

Paragraph 1 (a)

Insert the words ", acceptance, approval or accession thereto" between the words "its ratification" and "by the State Party".

14. Proposal submitted by Egypt (A/AC.252/1999/WP.14)

Article 2

Paragraph 1 (a)

"... Conventions listed in the annex to this Convention, to which that person's State is a Party."

15. Proposal submitted by Belgium (A/AC.252/1999/WP.15)

Article 2

Paragraph 1 (a)

Replace the text with the following text:

"An offence within the scope of one of the Conventions itemized in the annex, provided that the State Party in question is also a party to this Convention."

16. Proposal submitted by Guatemala (A/AC.252/1999/WP.16)

Article 2

Paragraph 1

1. Any person commits an offence within the meaning of this Convention if, without any lawful justification, that person proceeds to the financing of a person or organization in the knowledge that such financing is or is likely to be used, in full or in part, in order to prepare or commit:

(a) An offence of a terrorist nature within the scope of one of the Conventions listed in the Annex hereto, provided that at the material time the State Party concerned was a party to that Convention;

(b) An act designed to cause death or serious bodily injury, in a situation of armed conflict, to civilians, and, in other situations, to any person, when, by its nature or context, such act constitutes a means of intimidating a Government, any other institution or entity or the civilian population.

17. Proposal submitted by the Group of South Pacific Countries (SOPAC) (A/AC.252/1999/WP.17)

(Australia, Fiji, Marshall Islands, Micronesia (Federated States of), New Zealand, Papua New Guinea, Samoa, Solomon Islands)

Annex

8 *bis*. International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly of the United Nations on 4 December 1989.

Article 6

(1) Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.

(2) Each State Party shall not assist either actively or passively any person or organization in the negotiation, conclusion, implementation, execution or enforcement of any contract or agreement to commit an offence created by this Convention or any

other offences created by the Conventions listed in the Annex hereto to which the State is a Party.

18. Proposal submitted by Austria and Belgium (A/AC.252/1999/WP.18)

Article 5

Paragraph 4

Replace the existing text with the following text:

"Each State Party shall ensure, in particular, that legal entities responsible for committing an offence referred to in this Convention are subject to effective and *proportionate* measures".

19. Proposal submitted by Belgium, Canada, Japan and Sri Lanka (A/AC.252/1999/WP.19)

Article 5

Paragraph 1

Delete the words "derived profits from or".

20. Proposal submitted by the United Kingdom of Great Britain and Northern Ireland concerning articles 1 and 2 (A/AC.252/1999/WP.20)

Article 1

For the purpose of this Convention:

1. "Funds" means cash or any other property, tangible or intangible.

2. (a) Terrorist offences means such offences specified in the treaties listed in the Annex to this Convention as are mentioned expressly in the Annex.

(b) On depositing its instrument of ratification, acceptance, approval or accession of this Convention, a State which is not a party to a treaty listed in the Annex may declare that, in the application of this Convention to that State Party, offences specified in that treaty shall not be treated as terrorist offences. Such declaration shall cease to have effect as soon as that treaty enters into force for that State Party, which shall notify the depositary of that fact and the depositary shall so notify the other States Parties.

(c) States Parties may propose the addition to the list in the Annex of offences specified in another treaty. Once the depositary has received such a proposal from [22] States Parties, the Annex shall be deemed to have been so amended [90] days after the depositary has informed all States Parties that he has received [22] such proposals. However, a State Party which is not a party to such treaty may, within the said period of [90] days, declare that the amendment shall not apply to that State Party. Such declaration shall cease to have effect as soon as the treaty enters into force for the State Party. The State Party shall inform the depositary, which shall so notify the other States Parties.

(d) All declarations and other communications concerning the Annex shall be made to or by the depositary and be in writing.

3. "Organization" means ...

Article 2

1. Any person commits an offence within the meaning of this Convention if that person provides funds by any means, lawful or unlawful, directly or indirectly, to any person or organization, either:

(a) With the intention that the funds should be used for the preparation or commission of terrorist offences; or

(b) In the knowledge that the funds are to be used for such purposes; or

(c) When there is a reasonable likelihood that the funds will be used for such purpose.

21. Revised proposal submitted by the United Kingdom of Great Britain and Northern Ireland concerning articles 1 and 2 (A/AC.252/1999/WP.20/Rev.1)

Article 1

For the purposes of this Convention:

1. "Funds" means cash or any other property, tangible or intangible, however acquired.

2. (a) On depositing its instrument of ratification, acceptance, approval or accession of this Convention, a State which is not a party to a treaty listed in the Annex may declare that, in the application of this Convention to that State Party, offences specified in that treaty shall not be treated as offences for the purposes of article 2 (1) (a). Such declaration shall cease to have effect as soon as that treaty enters into force for that State Party, which shall notify the depositary of that fact and the depositary shall so notify the other States Parties.

(b) States Parties may propose the addition to the list in the Annex of offences specified in another treaty. Once the depositary has received such a proposal from [22] States Parties, the Annex shall be deemed to have been so amended [90] days after the depositary has informed all States Parties that he has received [22] such proposals. However, a State Party which is not a party to such treaty may, within the said period of [90] days, declare that the amendment shall not apply to that State Party. Such declaration shall cease to have effect as soon as the treaty enters into force for the State Party. The State Party shall inform the depositary, which shall so notify the other States Parties.

(c) All declarations and other communications concerning the Annex shall be made to or by the depositary and be in writing.

3. "Organization" means ...

4. ...

Article 2

1. Any person commits an offence within the meaning of this Convention if that person knowingly provides funds by any means, lawful or unlawful, directly or indirectly, to any person or organization with the intention that the funds should be used, or in the knowledge that the funds are to be used, in full or in part, to prepare for, or to commit:

(a) Offences as defined in Annex I to this Convention; or

(b) An act ...

2. *bis* In order to convict a person for an offence under paragraph 1 of this article, it shall not be necessary to prove that the funds were in fact used to prepare for or to commit a specific offence or an offence within a specific category of offences.

2. Any person ...

3. ...

22. Proposal submitted by the United Kingdom of Great Britain and Northern Ireland (A/AC.252/1999/WP.21)

Article 5

1. Each State Party shall take the necessary measures to ensure that when a person responsible for the management or control of a legal person, or an employee, has, in that capacity, committed an offence under article 2 of this Convention, that legal person shall incur liability in accordance with the provisions of this article.

2. A legal person which is liable in accordance with paragraph 1 shall be subjected to such civil, administrative or criminal measures as take into account the gravity of the matter.

3. [*no change*]

4/5. [*deleted*]

23. Proposal submitted by Italy (A/AC.252/1999/WP.22)

Article 5

Paragraph 5

The provisions of this article cannot be interpreted as affecting the question of the international responsibility of the State.

24. Proposal submitted by Guatemala (A/AC.252/1999/WP.23)

Article 5

Paragraph 1

Replace the existing text with the following text:

"Each State Party shall, within the limits imposed by its general rules relating to the jurisdiction of its courts and other authorities over legal entities, take the necessary measures to ensure that legal entities controlled from or having their registered offices in its territory or engaging in activities either carried out in or otherwise affecting its territory may be held liable when they have knowingly, through the agency of persons or bodies responsible for their management or control, wrongfully derived profits from or participated in the commission of offences referred to in this Convention".

Paragraph 4

Replace the words "responsible for committing an offence referred to in this Convention" with "that have incurred liability in accordance with paragraph 1 of this article".

New paragraph

Insert at the end of the article a new paragraph which reads as follows:

"Each State Party shall inform the Secretary-General of the United Nations of the measures it has taken to comply with this article".

25. Proposal submitted by the Republic of Korea (A/AC.252/1999/WP.24)

Article 5

Paragraph 1

Delete the words "derived profits from or" and add "or acquiesced" after the word "participated".

Paragraphs 2 and 4

Merge both paragraphs as follows:

"Each State Party shall ensure that, subject to relevant domestic legislation of the State Party, the said legal entity may incur criminal, civil or administrative liability and is subject to effective measures taken as a result of such liability."

26. Proposal submitted by Australia (A/AC.252/1999/WP.25)

Article 8

Paragraph 2

"*Upon the completion of any proceedings connected with an offence set forth in article 2*, each State party shall take appropriate measures to permit the forfeiture of property ..."

27. Proposal submitted by Germany (A/AC.252/1999/WP.26)

Article 2

1. Any person commits an offence within the meaning of this Convention if that person proceeds with the financing of a person or an organization in the knowledge **or with the intention** that such financing will be used, in full or in part, in order to commit:

(a) An offence within the scope of one of the Conventions itemized in the annex, subject to its ratification by the State Party; or

(b) An act designed to cause death or serious bodily injury to a civilian or to any other person other than in armed conflict, when such act, by its nature or context, **is intended and likely to intimidate** a Government or the civilian population.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of the present article.

3. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 of the present article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2 of the present article; or

(c) ...

Rationale

1. Paragraph 1

(a) "unlawfully and intentionally" (second line of the *chapeau*)

Based upon the assumption that the draft is aimed at criminalizing the financing of terrorist acts as a new offence, the mentioning that such financing has to be unlawful seems superfluous. If the financing of terrorist activities constitutes a criminal offence and is not only considered a participatory act, the unlawfulness of such conduct is implied. However, if other States consider a reference to "unlawfully" necessary in the text, the German delegation will not object to retaining it.

The intention of the offender to finance a terrorist act is an essential element of the crime and should therefore be referred to explicitly in the text. The deletion of the words "and intentionally" in the second line of the *chapeau* does not mean that the provision should not refer to the intent. The present proposal suggests dealing with the intention of the offender in connection with the knowledge of the offender, because both knowledge and intention are subjective crime elements. Therefore, the words "or with the intention" were inserted after the word "knowledge" in the third line of the *chapeau*. This makes the words "and intentionally" in the second line redundant.

(b) "or could be used" (third line of the *chapeau*)

As many delegations pointed out during the first reading of article 2, the wording "or could be used" is too vague. The financing should only be a punishable act under this Convention if the money, assets or property provided are likely to be used for terrorist purposes. The language "or could be used" covers all possibilities of a use of the assets or

property for terrorist activities and leaves too much room for interpretation. Therefore, the words "or could be used" do not feature in the German proposal.

(c) "in order to prepare" (third line of the *chapeau*)

The reference to preparatory acts in the *chapeau* is superfluous as it pertains to the preparation of the terrorist crimes as described under subparagraphs (a) and (b) of paragraph 1 but not to the preparation of the financing. Preparatory acts in connection with most crimes under the Conventions referred to in the annex are already criminalized. Thus, there is no need to mention explicitly the preparation of the commission of a terrorist act in paragraph 1 as part of the offence. Consequently, the reference is deleted in the proposed text.

(d) "constitutes a means of intimidating" (subparagraph (b))

The exact meaning of the words "constitutes a means of intimidating a government" is unclear to the German delegation. In our understanding, the intimidation of a Government or the civilian population is one of the purposes of the terrorist act. If an offender within the meaning of this Convention is to finance such a terrorist act, his or her intention should also pertain to the criminal purpose of the terrorist act. This does not mean that the financier of the terrorist act has to share the same motives and beliefs as the person or the organization that commits the terrorist crime. The aim of the Convention is not to criminalize political or religious beliefs. However, in order to consider the financing as a criminal act, the financier of terrorist acts has to know or has to act with the intention that the assets or property, which he or she supplies, will be used not just to kill a person but to commit a terrorist crime.

2. Paragraph 3

In many legal systems, the participation in an attempt of an offence is not a punishable act. It is our understanding that the accomplice will participate in the commission of the offence with a view to achieving the completion of the crime. If the completion of the crime fails, the offender will be punishable for the attempt of the crime, as will be the person who participated as an accomplice, provided that he or she has acted with the intention to complete the crime. As the attempt of the crime is already covered by paragraph 2 of the article, the proposed text deleted the reference to the participation in an attempt in paragraph 3 (b).

28. Proposal submitted by Germany (A/AC.252/1999/WP.27)

Article 17

Paragraph 1

States Parties shall cooperate in the prevention of the offences set forth in article 2, including:

1. ...

(a) ...

(b) ...

(i) ...

(ii) ...

(iii) ...

(c) Measures for the supervision and licensing of all money-transmission agencies;

(d) Implementation of feasible measures to detect or monitor the physical cross-border transport of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.

Rationale

Article 17 is very important in that it provides for methods for the effective cutting-off of funds destined for terrorist purposes. We propose a broadening of the scope of this article with a view to including two components already used in the fight against money-laundering. One is the supervision, insofar as the transfer of funds is concerned, of agencies engaged in money transmission. The other is the introduction of controls over the physical cross-border transportation of cash and bearer negotiable instruments.

Some terrorist groups, like money-launderers, have recourse in the transfer of funds, e.g., from Western Europe to their home regions, to shadow banking systems (e.g., travel agencies or cultural associations) and physical cross-border transport by couriers. In our experience, a great volume of funds is transmitted in such ways. Germany has enacted the necessary legislation with encouraging results.

The text of subparagraph (d) reproduces recommendation No. 22 of the Financial Action Task Force on Money Laundering.

29. Proposal submitted by the Netherlands (A/AC.252/1999/WP.28)

Article 17

Paragraph 1

Subparagraph (b), *chapeau*

Measures requiring their financial institutions and other professions involved in financial transactions to identify, on the basis of an official or other reliable identifying document, their usual or occasional customers as well as customers in whose interests accounts are opened, and to record the identity of their clients.

For this purpose the States shall ensure:

New subparagraph (b) (iv)

Maintaining an information system aimed at recording information about the economic beneficiaries of legal entities. Upon request, States Parties shall consider exchanging this information.

30. Proposal submitted by Austria (A/AC.252/1999/WP.29)

Article 20 *ter*

1. The Annex may be amended by the addition of treaties that:

(a) Are in force, and

(b) Have been ratified by at least 22 States.

2. After the entry into force of this Convention, any State Party may propose such an amendment. Any proposal for an amendment shall be communicated to the depositary in written form. The depositary shall notify proposals that meet the requirements of paragraph 1 to all States Parties and seek their views on whether the proposed amendment should be adopted.

3. If a majority of the States Parties do not object to the proposed amendment by written notification no later than [90] days after its circulation, the proposed amendment shall be deemed adopted.

4. The adopted amendment to the Annex shall enter into force 30 days after the deposit of the twenty-fifth instrument of ratification, acceptance, approval or accession for all those States Parties having deposited such an instrument.

31. Proposal submitted by the Islamic Republic of Iran (A/AC.252/1999/WP.30)

Article 8

1. Each State Party shall take appropriate measures to **identify, detect, freeze or seize** any goods, funds or other means used or designed to be used in any manner in order to commit the offences referred to in this Convention, for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures for the forfeiture of property, funds and other means used or intended to be used for committing the offences referred to in this Convention.

3. ...

32. Proposal submitted by the United States of America (A/AC.252/1999/WP.31)

Article 17

Paragraph 1

...

(c) By establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences established in accordance with article 2 of the Convention; and

(d) By cooperating with one another in conducting inquiries, with respect to the offences established in accordance with article 2 of the Convention, concerning:

(i) The identity, whereabouts and activities of persons suspected of being involved in offences referred to in this Convention; and

(ii) The movement of funds or property relating to the commission of such offences.

33. Proposal submitted by Bahrain (A/AC.252/1999/WP.32)

Article 17

Paragraph 1 (a *bis*)

Measures to prohibit access into their territories of persons, groups and organizations that knowingly encourage, instigate, organize or engage in the commission of offences as set forth in article 2;

34. Proposal submitted by Lebanon (A/AC.252/1999/WP.33)

Article 3

The Lebanese delegation proposes that the eighth preambular paragraph become paragraph 1 of article 3 and that the existing text of article 3 become paragraph 2.

Article 3 would thus read:

"1. Any act governed by international humanitarian law is not governed by this Convention.

2. This Convention shall not apply ..."

35. Proposal submitted by the United States of America (A/AC.252/1999/WP.34)

Article 7

...

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence was directed towards or resulted in the carrying out of an attack in the territory or against a national of that State;

...

Add a new paragraph 2 (d):

(d) The act for which financing is provided in violation of article 2 is committed in an effort to compel that State to do or abstain from doing any act.

...

5. When more than one State Party claims jurisdiction over one of the offences referred to in this Convention, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecuting and the modalities of mutual legal assistance.

Add a new paragraph 6:

6. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

36. Proposal submitted by Ecuador and South Africa (A/AC.252/1999/WP.35)

Addition to article 8

...

4. Subject to its domestic law, each State Party shall consider establishing mechanisms whereby such funds, assets and property, or funds derived from the sale thereof, are utilized to indemnify the victims of offences within the ambit of this Convention, or their families.

37. Proposal submitted by Papua New Guinea (A/AC.252/1999/WP.36)

Article 2

Paragraph 1 (b)

Delete the phrase "other than in armed conflict".

Article 5

Paragraph 5

Delete the paragraph *in toto*.

Article 3

Replace the present text with the following text:

"This Convention shall not apply:

"(a) Where the financing is part of an agreement between States Members of the United Nations in the performance of a bilateral, regional or international obligation recognized by international law; and

"(b) Where the offence is committed within a single State, the alleged offender is a national of and is present in the territory of that State and no other State has a basis under article 7, paragraph 1, or article 7, paragraph 2, of this Convention to exercise jurisdiction, except that the provisions of articles 11 to 17 shall, as appropriate, apply in those cases."

38. Proposal submitted by Australia (A/AC.252/1999/WP.37)

Article 5

1. Each State Party shall take the necessary measures to ensure that legal entities located in or organized under the laws of its territory shall be held liable when they knowingly, through the action or acquiescence of one or more persons responsible for their management or control, benefit from or participate in the commission of offences referred to in this Convention.

2. ...

3. ...

4. Each State Party shall ensure, in particular, that legal entities responsible for committing an offence referred to in this Convention are subject to effective, proportionate and deterrent measures.

5. *Delete*

39. Proposal submitted by Australia (A/AC.252/1999/WP.38)

Article 17

Paragraph 1 (f)

Option 1

(b) Measures requiring their financial institutions and other professions involved in financial transactions to improve the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened. For this purpose, States shall consider:

(i) Adopting regulations prohibiting the opening of anonymous accounts or the opening of accounts under obviously fictitious names;

(ii) With respect to the identification of legal entities, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity;

(iii) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international;

Option 2

(b) Measures requiring their financial institutions and other professions involved in financial transactions to improve the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened. For this purpose, States shall consider:

(i) Adopting regulations prohibiting the opening of anonymous accounts or the opening of accounts under obviously fictitious names and requiring financial institutions to identify, on the basis of an official or other reliable identifying document, and record the identity of their clients, either occasional or usual, when establishing business

relations or conducting transactions (in particular, opening of accounts or passbooks, entering into fiduciary transactions, renting of safe deposit boxes, performing large cash transactions);

(ii) With respect to the identification of legal entities, requiring financial institutions when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity and to verify that any person purporting to act on behalf of the customer is so authorized and to identify that person;

(iii) Requiring financial institutions to take reasonable measures to obtain information about the true identity of the persons on whose behalf an account is opened or a transaction conducted if there are any doubts as to whether these clients or customers are acting on their own behalf, for example, in the case of domiciliary companies (i.e., institutions, corporations, foundations, trusts, etc.) that do not conduct any commercial or manufacturing business or any other form of commercial operation in the country where their registered office is located;

(iv) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic and international, to enable them to comply swiftly with information requests from the competent authorities. Such records should be sufficient to permit reconstruction of individual transactions (including the amounts and types of currency involved, if any) so as to provide, if necessary, evidence for prosecution of criminal behaviour;

(v) Requiring financial institutions to keep records on customer identification (e.g., copies or records of official identification documents like passports, identity cards, driving licences or similar documents), account files and business correspondence for at least five years after the account is closed. These documents should be available to domestic competent authorities in the context of relevant criminal prosecutions and investigations.

40. Proposal submitted by the Netherlands (A/AC.252/1999/WP.39)

Article 8

1. Each State Party shall take appropriate measures for identification, detection, freezing or seizure of any funds, assets or other property used in any manner in order to commit the offences referred to in this Convention, and the proceeds derived from such offences, for purposes of possible forfeiture.

2. Consistent with due process and applicable domestic law, each State Party shall take appropriate measures for the forfeiture of any funds, assets or other property used for committing the offences referred to in this Convention, and the proceeds derived from such offences.

3. *No change*

41. Proposal submitted by Belgium and Japan (A/AC.252/1999/WP.40)

Addition to article 8

Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a Party.

42. Proposal submitted by Australia (A/AC.252/1999/WP.41)

Article 7

1. Each State Party ...

(a) The offence is committed in the territory in that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

2. A State Party ...

43. Proposal submitted by Japan and the Republic of Korea (A/AC.252/1999/WP.42)

Article 4

Paragraph (b)

Replace the words "effective, proportionate and deterrent" by the word "appropriate", so that the paragraph reads:

> "To make those offences punishable by appropriate penalties which take into account the grave nature of those offences."

44. Proposal submitted by Japan (A/AC.252/1999/WP.43)

Article 3

Replace the words "alleged offender" by the following:

> "the alleged offender and the victims of the act or offence set forth in subparagraphs 1 (a) (and 1 (b)) of article 2, the alleged perpetrator of such an act or offence and the person who was financed"

45. Proposal submitted by Bolivia, Colombia, Chile, Ecuador, Mexico and Peru (A/AC.252/1999/WP.44)

Article 12

1. Renumber paragraph 2 as paragraph 3, with the following amendment:

"3. States Parties shall carry out their obligations under *paragraphs 1 and 2* of the present article in conformity ..."

2. Renumber paragraph 3 as paragraph 2.

3. Add a new paragraph 2 *bis* as follows:

"2 *bis*. The Requesting State Party shall not use any information received that is protected by bank secrecy for any purpose other than the proceedings for which that information was requested, unless authorized by the Requested State Party."

46. Proposal submitted by France (A/AC.252/1999/WP.45)

Revised texts of articles 2, 5, 8 and 12 and additional provisions

Article 2

1. Any person commits an offence within the meaning of this Convention if that person [unlawfully and intentionally] provides financing with the knowledge or intent that such financing will be used, in full or in part, to commit [or to prepare the commission of]:

(a) An offence as defined in annex 1; or

(b) An act designed to cause death or serious bodily injury to a civilian or to any other person, other than in armed conflict, when such an act, by its nature or context, is designed to intimidate a Government or the civilian population.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of the present article.

3. Any person also commits an offence if that person:

(a) Participates as an accomplice to an offence as set forth in paragraph 1 or 2 of the present article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2 of the present article; or

[(c) In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 of the present article, by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.]

Article 5

1. Each State Party shall take the necessary measures to ensure that legal entities having their registered offices or carrying out activities in its territory are held liable when they have knowingly, through the agency of one or more persons responsible for their management or

control, [derived profits from or] participated in the commission of offences referred to in this Convention.

2. Such legal entities may incur criminal, civil or administrative liability, according to the fundamental legal principles of the State Party.

3. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

4. Each State Party shall ensure, in particular, that legal entities responsible for committing an offence referred to in this Convention are subject to effective measures that are commensurate with the offence.

[5. No provision of this article can have the effect of calling into question the international responsibility of the State.]

Article 8

1. Each State Party shall take appropriate measures to allow for identification, detection, freezing or seizure of any goods, funds or other means used or designed to be used in any manner in order to commit the offences referred to in this Convention, [as well as the proceeds derived from such offences,] for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures, in accordance with its fundamental legal principles, to permit the forfeiture of property, funds and other means used or intended to be used for committing the offences referred to in this Convention.

3. Each State Party may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of such [proceeds or] property, or funds derived from the sale of such [proceeds or] property.

4. Subject to its domestic law, each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to indemnify the victims of criminal acts resulting from the commission of offences within the ambit of this Convention, or their families.

5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences referred to in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

3. States Parties may not claim bank secrecy to refuse mutual legal assistance provided for under the present article.

4. None of the offences referred to in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. Accordingly, States Parties may not refuse a request for extradition or for mutual legal assistance on the ground that it concerns a fiscal offence.

Additional provisions

1. Reinsert the annex as proposed by the Austrian delegation in document A/AC.252/1999/WP.11.

2. Reinsert the following subparagraphs proposed by the United Kingdom delegation in document A/AC.252/1999/WP.20 under article 1:

> "(b) On depositing its instrument of ratification, acceptance, approval or accession of this Convention, a State which is not a party to a treaty listed in the annex may declare that, in the application of this Convention to that State Party, offences specified in that treaty shall not be treated as **offences within the ambit of this Convention**. Such declaration shall cease to have effect as soon as that treaty enters into force for that State Party, which shall notify the depositary of that fact and the depositary shall so notify the other States Parties."
>
> (c) and (d) *with no changes*

47. Proposal submitted by Guatemala (A/AC.252/1999/WP.46)

Article 5, paragraph 1[a]

Replace the existing text by the following:

"1. To the extent that its fundamental legal principles and international law allow it to do so, each State Party shall take the necessary measures to ensure that legal entities other than States can be held liable or sanctioned whenever they have, with the full knowledge of one or more persons responsible for their management or control, derived profits from or participated in the commission of offences referred to in this Convention."

Explanatory comments

It would seem that the text of paragraph 1 of article 5 proposed in A/AC.252/L.7 does not spell out with sufficient precision and comprehensiveness the cases where a State party is under an obligation to take action under the paragraph. In A/AC.252/1999/WP.23 we sought to remedy this by spelling out those cases. We have now realized, however, that the enumeration of the latter contained in that working paper was not complete and could also raise some difficulties. Instead of trying to rectify this, we have, in this new proposal, adopted an entirely different and far simpler approach, namely, to provide simply that a State party is under an obligation to take action under paragraph 1 whenever it is in a position lawfully and properly to do so. This would cover all cases where the legal entity that misbehaves has links sufficiently close to the territory or authorities of the State party to enable it to do something about the misconduct. The words "other than States" would appear to render paragraph 5 of article 5 unnecessary. (Moreover, in the text of paragraph 1 we are proposing corrections to some mistakes contained in the English translation of that paragraph.)

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[a] See A/AC.252/1999/WP.23.

48. Proposal submitted by France (A/AC.252/1999/WP.47)

Revised text of article 17

Article 17

Option 1

States Parties shall cooperate in the prevention of the offences set forth in article 2, including:

1. By taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories activities of persons, groups and organizations that knowingly encourage, instigate, organize or engage in the commission of offences as set forth in article 2;

(b) Measures requiring their financial institutions and other professions involved in financial transactions to improve the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened. For this purpose, States shall consider:

(i) Adopting regulations prohibiting the opening of anonymous accounts or the opening of accounts under obviously fictitious names;

[Adopting regulations prohibiting the opening of accounts whose beneficiary is unidentified or unidentifiable.]

(ii) With respect to the identification of legal entities, verifying the existence and the legal structure of the customer by obtaining, from the customer or public records, proof of incorporation as a company, including information on the name of the client, its legal form, its address, its directors and provisions on the legal entity's authority to bind;

(iii) Taking measures for preserving for at least five years the necessary documents in connection with the transactions carried out;

(c) Measures for the supervision and licensing of all money-transmission agencies;

(d) Implementation of feasible measures to detect or monitor the physical cross-border transport of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.

2. By exchanging accurate and verified information in accordance with their domestic law, and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences as set forth in article 2, in particular:

(a) By establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences established in accordance with article 2 of the Convention;

(b) By cooperating with one another in conducting inquiries, with respect to the offences established in accordance with article 2 of the Convention, concerning:

(i) The identity, whereabouts and activities of persons suspected of being involved in offences referred to in this Convention;

(ii) The movement of funds or property relating to the commission of such offences.

[3. Each State Party shall not assist either actively or passively any person or organization in the negotiation, conclusion, implementation, execution or enforcement of any contract or agreement to commit an offence as set forth in article 2.]

Option 2

Proposal submitted by Australia (A/AC.252/1999/WP.38).

49. Proposal submitted by India (A/AC.252/1999/WP.48)

Preamble

Recalling General Assembly resolution 53/108 of 8 December 1998, in which the Assembly decided that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should "elaborate a draft international convention for the suppression of terrorist financing to supplement existing international instruments, and subsequently will address means of further developing a comprehensive legal framework of conventions dealing with international terrorism, including considering, on a priority basis, the elaboration of a comprehensive convention on international terrorism".

Article 2

1. ...

(a) ...

(b) An act designed to cause death or serious bodily injury to any person, when such an act, by its nature or context, constitutes a means of intimidating the population or any Government.

Article 5

Delete paragraph 5.

New article

States parties shall cooperate in carrying out their obligations under this Convention and shall refrain from committing, either directly or indirectly, any of the acts prohibited under this Convention and the Conventions in Annex I, or in any manner assisting, encouraging or permitting their commission.

50. Proposal submitted by Austria, Belgium, Japan, Sweden and Switzerland (A/AC.252/1999/WP.49)

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally provides funds, directly or indirectly and however acquired, to any person or organization committing or attempting to commit:[a]

[a] The inclusion of the term "or attempting to commit" in the *chapeau* is subject to the deletion of any reference to attempts and participatory offences under the scope of the Conventions listed in the annex.

(a) Any offence within the scope of one of the Conventions listed in the Annex and as specified therein; or

[(b) ...]

Such financing shall [either] be made with the intention that the funds be used [or in the knowledge that the funds are to be used], in whole or in part, for the commission of the offences mentioned above.

2. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 of the present article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 of the present article.

51. Proposal submitted by the Republic of Korea (A/AC.252/1999/WP.50)

Article 5[a]

Paragraph 1

Include the acts of employees undertaken in the name of the legal entity.

Paragraph 2

Replace the words "the fundamental legal principles" with the words "relevant domestic legislation".

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[a] See A/AC.252/1999/WP.45.

52. Proposal submitted by Australia (A/AC.252/1999/WP.51)

Revised texts of articles 4 and 7

Article 4

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2 of this Convention;

(b) To make those offences punishable by **appropriate** penalties which take into account the grave nature of the offences.

Article 7

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State;

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft registered under the laws of that State at the time the offence is committed;

(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence was directed towards or resulted in the carrying out of an attack in the territory of or against a national of that State;

(b) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State;

(c) The offence was directed towards or resulted in the carrying out of an attack against a state government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State;

(d) An act for which financing is provided in respect of an offence under article 2 is committed in an effort to compel that State to do or abstain from doing any act.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of the present article.

5. When more than one State Party claims jurisdiction over the offences referred to in this Convention, the relevant States Parties shall strive to coordinate their actions **appropriately**, in particular concerning the conditions for prosecution and the terms and conditions for mutual legal assistance.

6. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

53. Proposal submitted by Mexico (A/AC.252/1999/WP.52)

Amendments to article 17[a]

1. Renumber paragraph 1 (c) as paragraph 1 (b) (iv).

2. Renumber paragraph 1 (d) as paragraph 1 (c) with the following change:

"(c) States shall also consider implementing measures to detect or monitor ..."

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[a] See A/AC.252/1999/WP.47.

54. Proposal submitted by the United Kingdom of Great Britain and Northern Ireland (A/AC.252/1999/WP.53)

Article 5

1. Each State Party shall take the necessary measures to ensure that a legal entity located or carrying out activities in its territory is made liable when a person responsible for its management or control knew, or had reasonable cause to believe, that the legal entity was being used in the furtherance of an offence under article 2 of this Convention.

2. Such legal entity shall, in accordance with the domestic law of the State Party, be subjected to such effective measures, whether criminal, civil or administrative, as reflect the degree of knowledge of the offence by officers of the legal entity.

3. Liability under this article is without prejudice to the criminal liability of individuals.

4. [*Deleted*]

5. [*Deleted*]

55. Proposal submitted by Saudi Arabia (A/AC.252/1999/WP.54)

Article 2

We propose to move paragraph 5 of article 8, which is included in the French proposal (A/AC.252/1999/WP.45), to article 2. We propose to change it as follows:

Article 2

Additional paragraph 4:

No provision of this convention shall be construed as prejudicing the rights of third parties acting in good faith.

56. Proposal submitted by Belgium and Sweden (A/AC.252/1999/WP.55)

Delete articles 13 and 14.

57. Proposal submitted by India (A/AC.252/1999/WP.56)

Article 7

Paragraph 2

...

(e) That the State Party has jurisdiction, in accordance with any of the conventions listed in annex I, over the offence for which financing is provided.

58. Proposal submitted by France (A/AC.252/1999/WP.57)

Amend A/AC.252/1999/WP.47 as follows:

Article 17

1. Unchanged

2.

(a)

(b)

(i)

(ii)

(c) In an emergency, and if they consider it necessary, States Parties may exchange information through the International Criminal Police Organization (Interpol).

59. Proposal submitted by the Islamic Republic of Iran and Lebanon (A/AC.252/1999/WP.58)

Article 7, paragraph 6

Subject to the relevant rules and principles of international law, this Convention does not prejudice the criminal jurisdiction of a State established in accordance with its domestic law.

60. Proposal submitted by the Republic of Korea concerning article 2, paragraph 1 (a), and an additional article (A/AC.252/1999/WP.59)

Article 2, paragraph 1 (a)

(a) An offence within the scope of one of the Conventions listed in the Annex, subject to its ratification, acceptance, approval or accession by the State Party;

Article[a]

On depositing its instrument of ratification, acceptance, approval or accession of this Convention, a State which is not a party to a treaty listed in the Annex may declare in writing that, in the application of this Convention to that State Party, offences specified in that treaty shall be treated as offences for the purposes of article 2, paragraph 1 (a).

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[a] The number of this article will be determined at a later stage.

61. Proposal submitted by Papua New Guinea (A/AC.252/1999/WP.60)

Article 1

Definitions

"Financing" means the provision of funds, assets or other property to a person or organization.

"Funds" means cash or any other property, tangible or intangible, however acquired, including but not limited to bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit and any other negotiable instrument, in any form, including electronic or digital.

Note: If article 2 (1) uses the word "funds", then there will be no need for a definition of "financing".

Annex IV

A. Informal summary of the discussion in the Working Group, prepared by the Rapporteur: first reading of draft articles 1 to 8, 12, paragraphs 3 and 4, and 17 on the basis of document A/AC.252/L.7

Article 1

1. The Working Group undertook its first reading of paragraphs 1 to 3 of article 1 on the basis of proposals contained in documents A/AC.252/L.7 and A/AC.252/1999/WP.1 (in the case of para.1).

Paragraph 1

2. Suggestions were made to replace the term "transfer" by the terms "provision", "making available of" or "supply" so as to provide a broader scope of the term "financing" beyond the technical connotations of "transfer". Attention was drawn, however, to the possible interpretation of the phrase "making available" as including assistance other than through financing. The retention of the word "transfer" was preferred by others, as clearly reflecting the content of the term "financing".

3. Different views were expressed as regards the notion of "reception". While some preferred its deletion (see A/AC.252/1999/WP.6 and WP.8) as an offence under article 2 was connected with "financing of a person", others favoured retaining it. In the latter regard, it was noted that the concept of reception could be kept if it was linked to the knowledge of the ultimate use or to the administration of funds. It was suggested further that the word "reception" should be replaced by "receipt".

4. Suggestions were also made to delete the phrase "or other property" as being superfluous. Another view was expressed in favour of the deletion of the word "assets". Still others preferred retaining both terms as distinct notions. Some preferred interpreting "property" as covering only arms, explosives and similar goods. Reference was also made to services in kind.

5. As to the question of retaining the reference to "whether lawful or unlawful", the suggestion was made to move the phrase to before the words "or funds". However, a preference was expressed for the retention of the current formulation. It was also recommended that the phrase be replaced by the words "lawfully or unlawfully acquired".

6. Concerning the phrase "directly or indirectly", a preference was expressed for its deletion, including the possibility of inserting the words in the *chapeau* of article 2 (1), after the word "proceeds". Others supported the retention of the phrase as reflected in article 1 (1). Further suggestions were as follows: to delete "to or from another person or another organization"; and to add at the end of the paragraph the following: "with the intent of aiding the perpetration of offences set forth in article 2".

7. The suggestion was made to replace paragraph 1 with the formulation contained in document A/AC.252/1999/WP.9.

8. With regard to the proposal for article 1 (1) contained in document A/AC.252/1999/WP.1, while some delegations noted that subparagraphs (a), (b) and (c) of the proposal introduced greater precision into the provision, others commented on their restrictive character.

9. Concerning the final paragraph in the proposal contained in document A/AC.252/1999/WP.1, two positions emerged. While some supported its inclusion, others objected to its inclusion on the grounds that it would unnecessarily limit the scope of the convention and diminish its effectiveness. A proposal was made to replace the words "used for humanitarian purposes by the beneficiary person or organization" at the end of the paragraph by the words "meant exclusively to be used for humanitarian purposes". Others favoured the inclusion of the underlying concept contained in the paragraph elsewhere in the text of the draft Convention.

Paragraph 2

10. While support was expressed for the use of a generic definition of "funds" such as "any form of pecuniary benefit" (A/AC.252/1999/WP.10), others spoke in favour of the retention of the current formulation. The following proposals were also made: to insert the phrase "but not limited to" after the word "including"; and to replace the definition of "funds" with a reference to "cash or any other property, tangible or intangible" (see A/AC.252/1999/WP.20).

Paragraph 3

11. Although some supported the retention of the current formulation, others favoured the introduction of more precise and detailed elements of the definition of "organization" (see A/AC.252/1999/WP.6).

12. Further proposals in connection with the paragraph included the insertion of the phrase "of three or more" before the word "persons"; as well as the inclusion of a reference to State terrorism.

Additional definitions suggested for inclusion in article 1

13. In connection with one of the possible options for article 2, a definition of the phrase "main offence" was proposed (see A/AC.252/1999/WP.12). A further proposal included a definition of "terrorist offences", with reference to the list of applicable offences contained in the Annex, as well as, *inter alia*, a mechanism for the addition of Conventions to the Annex in the future (see A/AC.252/1999/WP.20). It was also recommended that the concept of "legal entity" should be defined.

Article 2

14. The Working Group undertook its first reading of article 2 on the basis of the proposal contained in document A/AC.252/L.7. Several additional proposals were submitted during the Working Group's consideration of the draft article.

15. It was suggested that article 2 should be carefully reviewed so as to avoid the criminalization of minor offences. Furthermore, preference was expressed for avoiding the establishment of different regimes for the extradition of perpetrators and financiers, respectively.

Paragraph 1: *chapeau*

16. Different views were expressed regarding the use of the term "person". Some suggested that it should cover both natural and legal persons. Others preferred the insertion of the phrase "or State" after the words "or any person". While the suggestion was made to retain the words "a person" after the phrase "financing of", a preference was also expressed for their deletion, so as not to criminalize the financing of preparatory acts carried out by a person (see A/AC.252/1999/WP.11 and 12).

17. While some considered the expression "unlawfully" to be redundant, others favoured its retention in the text so as not to criminalize otherwise lawful acts of financing which might have the unintended result of aiding the commission of offences under the article. Likewise, although some delegations suggested the deletion of the reference to "intentionally", others preferred its retention. It was further proposed that the phrase "or with the intention" (see A/AC.252/1999/WP.26), or the phrase "or intent", be inserted after the phrase "in the knowledge". With regard to the phrase "and intentionally proceeds", it was proposed to insert the words "directly and indirectly" after "proceeds".

18. The phrase "will or could be used" was the subject of several proposals intended to clarify the scope of the offences being created by draft article 2. Hence, the suggestion was made to replace the phrase "will ... be used" by "is ... to be used"; others recommended either deleting "or could" before the phrase "be used" (see A/AC.252/1999/WP.2) or replacing it by "is designed to" or "is likely to". Alternatively, some spoke in favour of the retention of the phrase "or could" as in the draft text under consideration.

19. Concerning the reference to the preparation or commission of the offences specified in the draft article, the suggestion was made to replace the phrase "in order to prepare or commit" by "to commit or to prepare the commission of" (see A/AC.292/1999/WP.11). Some favoured the deletion of the phrase "to prepare" since ancillary offences were covered by paragraph 3, while others favoured its retention. Likewise, opposing views were expressed as regards the addition of the phrase "threaten to commit" at the end of the *chapeau*.

Paragraph 1 (a)

20. It was suggested further to clarify the notion of offence by inserting after the word "offence" the phrase "of a terrorist nature" (see A/AC.252/1999/WP.16).

21. As regards the means by which the States can become parties to the Conventions listed in the Annex, the suggestion was made to insert the phrase "acceptance, approval or accession thereto" after the word "ratification" (see A/AC.252/1999/WP.13). Regarding the phrase "subject to its ratification by the State Party", in addition to the various suggestions contained in documents A/AC.252/1999/WP. 11, 12 and 14 to 16 (see also WP.20, para. 2 (b)), it was suggested that the above phrase should be deleted.

22. Concerning the Annex to the draft convention, some suggested the inclusion of a provision allowing for future additions to the Annex (see, for example, A/AC.252/1999/WP.20, in the context of article 1), and others specified further Conventions to be added to the Annex, in particular, the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries (see A/AC.252/1999/WP.17) and the 1971 Organization of American States (OAS) Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance. The suggestion was made to add to the future list of offences other acts such as nuclear terrorism and the destruction of the environment. It was also proposed that the list of Conventions in the Annex should include references to the respective articles dealing with major offences, so as to facilitate the judicial application of the draft convention at the national level (see A/AC.252/1999/WP.11).

Paragraph 1 (b)

23. While some delegations expressed reservations regarding the subparagraph as being too broad in scope, even suggesting its deletion, others preferred its retention, maintaining that not all terrorist offences were covered by paragraph 1 (a). As regards the reference to "armed conflict", concerns were expressed regarding the meaning of the phrase. It was suggested that the words "other than in armed conflict" should be deleted (see A/AC.252/1999/WP.36). In addition, a specific modification (A/AC.252/1999/WP.16) was suggested.

24. Suggestions were made to replace the phrase "constitutes a means of intimidating" by "is intended and likely to intimidate" (see A/AC.252/1999/WP.26) and to add the phrase "any other institution or entity" after the word "Government" (see A/AC.252/1999/WP.16). Addition of the notion of damage to infrastructure was also proposed.

25. The following proposals were also made: to replace the entire paragraph by a new text (see A/AC.252/1999/WP.20); and to insert a new paragraph A to article 2 (see A/AC.252/1999/WP.8).

Paragraph 2

26. Suggestions were made both in favour of the deletion of the paragraph, so as to avoid the practical problem of proving attempt in the case of financing, and in favour of its retention, in order to criminalize such acts.

Paragraph 3

27. While a preference for retaining the text of the paragraph in its current formulation was expressed, the following suggestions in regard to subparagraphs (a) and (c) were also made: in relation to subparagraph (a), the deletion of the cross-reference to paragraph 2, as establishing an excessively remote chain of causation; opposing views regarding the retention of subparagraph (c) were also expressed (see A/AC.252/1999/WP.2).

Article 3

28. The Working Group undertook its first reading of article 3 on the basis of the proposal contained in document A/AC.252/L.7.

29. While a preference was expressed for retaining the provision in the form contained in the text under consideration, the suggestion was made to include a reference to "legal entities" in the provision. This was opposed in the Working Group as it unnecessarily extended the scope of application of the article.

30. It was proposed that the phrase "Except as regards article 5", should be added at the beginning of the article. It was also suggested that the article should be modified to include the text as proposed in document A/AC.252/1999/WP.43 after the phrase "alleged offender", so as to broaden the scope of the exclusion clause.

31. It was further suggested that a new paragraph 1 (see A/AC.252/1999/WP.33) should be inserted to expressly exclude the application of humanitarian law from the operation of the convention. Hence, the current text would be included as new paragraph 2.

32. A replacement text for article 3 to include a reference to financial agreements between States in the performance of their international obligations (see A/AC.252/1999/WP.36) was also proposed.

Article 4

33. The Working Group undertook its first reading of article 4 on the basis of the proposal contained in document A/AC.252/L.7.

34. It was proposed that the phrase "effective, proportionate and deterrent" should be replaced by the word "appropriate", so as to be consistent with the corresponding provision of the International Convention for the Suppression of Terrorist Bombings.

Article 5

35. The Working Group undertook its first reading of article 5 on the basis of the proposal contained in document A/AC.252/L.7.

Paragraph 1

36. While general support for the concept underlying the paragraph was expressed, many delegations made suggestions aimed at improving its formulation. Hence, the suggestion was made to replace the phrase "having their registered offices" by "organized under its laws". It was also recommended that the language of the provision should be strengthened by replacing the word "may" by "shall". However, objections were expressed in that regard.

37. Concerns were expressed regarding the specific legal connotation of the word "agency". In that connection, suggestions were made either to delete the phrase "agency of" or the entire phrase "through the agency of one or more persons responsible for their management or control". Alternatively, the preference was also expressed for replacing the word "agency" by the phrase "action or acquiescence of" (see A/AC.252/1999/WP.37).

38. While some delegations highlighted the need to raise the threshold of the offence to require knowledge of the acts in question by the entire management body, others opposed that suggestion.

39. On the question of "derived profits", the following suggestions were made: to delete the phrase "derived profits from or" (see A/AC.252/1999/WP.19 and 24); to replace "derived profits" by the word "benefited"; or to add the word "wrongfully" before the phrase. It was also suggested to add the phrase "or acquiesced" after the word "participated" (see A/AC.252/1999/WP.24).

40. With regard to the phrase "referred to in this Convention", support was expressed for replacing it by "set forth in article 2".

41. Four proposals for new formulations of paragraph 1 were also made (see A/AC.252/1999/WP.3 and 21, against which objections were expressly raised in the Working Group; and A/AC.252/1999/WP.23 and 46).

Paragraph 2

42. While preference was expressed for retaining the text in its current form, suggestions to replace the entire paragraph were also made (see A/AC.252/1999/WP.21 and 24 (which proposed the merger of paras. 2 and 4)). The following drafting suggestions were also made: to replace the word "may" by "shall" so as to create a specific obligation; and to delete the phrase "Subject to the fundamental legal principles of the State Party". The latter proposal was opposed as it would render the draft convention insensitive to the basic norms of different legal systems.

Paragraph 3

43. While some delegations supported the retention of the text in its current form, others suggested the deletion of the phrase "or of their accomplices", so as to be consistent with their national laws, as well as to avoid the criminalization of petty offences.

Paragraph 4

44. While the suggestion was made to delete the paragraph, some delegations offered modifications of its provisions. These included specific suggestions to merge paragraphs 2 and 4 (see A/AC.252/1999/WP.24) or to replace the phrase "responsible for committing an offence referred to in this Convention" in paragraph 4 by the phrase "that have incurred liability in accordance with paragraph 1 of this article" (see A/AC.252/1999/WP.23). Another suggestion was to insert the phrase "in accordance with its domestic legislation" before the word "ensure".

45. In order to avoid ambiguity and to apply traditional notions of proportionality of sanctions, the suggestion was made to insert the phrase "and proportionate" after the word "effective" and to delete the phrase "that have substantial economic consequences for them" (A/AC.252/1999/WP.18). A further proposal called for the inclusion of the phrase "effective, proportionate and deterrent measures" (see A/AC.252/1999/WP.37) so as to take into account the grave nature of the offences in question.

Paragraph 5

46. Some delegations suggested the deletion of paragraph 5 (see A/AC.252/1999/WP.21 and 36) since the concept of State responsibility, as understood in general international law, was beyond the scope of the draft Convention. Others considered the possibility of redrafting the paragraph's provisions so as to make it more specific (A/AC.252/1999/WP.22).

Paragraph 5 *bis*

47. The proposal was made that an additional paragraph 5 *bis* should be introduced requiring that the Secretary-General of the United Nations be informed of the measures taken by each State party to implement the article (see A/AC.252/1999/WP.23).

Article 6

48. The Working Group undertook its first reading of article 6 on the basis of the proposal contained in document A/AC.252/L.7.

49. The insertion of a new paragraph 2 in article 6 was proposed so as to restrict State involvement in the negotiation, conclusion, implementation, execution or enforcement of any contract or agreement to commit any offences within the scope of the draft convention (see A/AC.252/1999/WP.17). Differing views regarding the inclusion of the proposed text were expressed. The suggestion to delete in the proposed text the reference to offences other than those created by the draft convention was put forward in the Working Group.

Article 7

50. The Working Group undertook its first reading of article 7 on the basis of the proposal contained in document A/AC.252/L.7.

51. Differing views were expressed regarding the usefulness of the insertion in the article of a reference to "legal entities".

Paragraph 1

52. The insertion of a reference to the commission of an offence on board a vessel or an aircraft was proposed as a new subparagraph (A/AC.252/1999/WP.41) so as to expand the scope of the jurisdictional clause.

Paragraph 2

53. Concerning subparagraph (a), it was suggested that the phrase "in the territory or" should be inserted after the word "attack", so as to include territorial jurisdiction within the purview of the provision (see A/AC.252/1999/WP.34).

54. Another proposal was the inclusion of a new subparagraph (d) requiring that the act be committed in an effort to compel the State both to do or abstain from doing any act (see A/AC.252/1999/WP.34) .

Paragraph 5

55. The following modifications were suggested: to replace the word "efficiently" by "appropriately" (see A/AC.252/1999/WP.34); and to replace the phrase "terms and conditions" by "modalities". In addition, opposing views were expressed as regards the deletion of paragraph 5.

New paragraph 6

56. The proposal was made to insert a new paragraph 6 so as not to exclude the exercise of any criminal jurisdiction in accordance with the domestic law of a State party (see A/AC.252/1999/WP.34).

Article 8

57. The Working Group undertook its first reading of article 8 on the basis of the proposal contained in document A/AC.252/L.7.

Paragraph 1

58. The suggestion was made to delete the phrase "to allow for" and replace the phrase "identification, detection, freezing or seizure" by the words "identify, detect, freeze or seize" (see A/AC.252/1999/WP.30), thus strengthening the language.

59. Other proposals of a drafting nature were as follows: to insert "and" after the word "detection"; to replace "goods" by the word "property"; and to replace the phrase "goods, funds or other means" by the phrase "funds, assets or other property" (see A/AC.252/1999/WP.39).

60. It was suggested either to delete (see A/AC.252/1999/WP.39) or to replace the phrase "designed to be used" either by more permissive language such as "capable of being used", or by the stronger formulation "intended to be used".

61. The insertion of the phrase "or other deprivation" after the word "forfeiture" was also proposed.

Paragraph 2

62. The following additions to the text were proposed: to insert at the beginning of the paragraph either the phrase "Upon the completion of any proceedings connected with an offence set forth in article 2" (A/AC.252/1999/WP.25), or "Consistent with due process and applicable domestic law" (see A/AC.252/1999/WP.39); and to insert the phrase "or other deprivation" after the word "forfeiture". Though the inclusion of a reference to "proceeds" was also favoured by some (see A/AC.252/1999/WP.39), an objection was raised against such inclusion on the grounds that the notion was unclear in the context of the paragraph. The comment was made that the phrase "intended to be used" was too narrow, and should be replaced by "capable of being used". The deletion of the phrase "permit the" was also put forward (see A/AC.252/1999/WP.30).

Paragraph 2 *bis*

63. Some delegations (A/AC.252/1999/WP.40) expressed a preference for the inclusion as paragraph 2 *bis* of the following text of article 5 (9) of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances:

> "Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a Party."

An objection was voiced against the inclusion of such a provision.

Paragraph 3

64. A preference was expressed for the deletion of the word "proceeds". As regards the use of forfeited property, two suggestions were made. One suggestion envisaged a provision ensuring the use of such property to compensate the victims of terrorist offences, or their relatives (A/AC.252/1999/WP.35) as new paragraph 4, while another was aimed at requiring that such property be utilized towards contributing to development projects that addressed the causes of terrorism.

Article 12, paragraphs 3 and 4

65. The Working Group undertook its first reading of paragraphs 3 and 4 of article 12 on the basis of the proposal contained in document A/AC.252/L.7.

Paragraph 3

66. While some delegations preferred the retention of the current text, the proposal was made to insert a provision, as new paragraph 2 *bis* (see A/AC.252/1999/WP.44), based on article XVI (2) of the 1996 Inter-American Convention against Corruption, which provides:

> "The requesting State shall be obligated not to use any information received that is protected by bank secrecy for any purpose other than the proceeding for which that information was requested, unless authorized by the requested State."

67. It was also proposed that existing paragraph 2 should be renumbered as paragraph 3, and vice versa. New paragraph 3 would then be amended to include a reference to "paragraphs 1 and 2" in the first line (A/AC.252/1999/WP.44).

Paragraph 4

68. While a preference was expressed for the deletion of the paragraph, the following additions to the current text were also proposed: to insert in the second sentence the phrase "based on article 2" (see A/AC.252/1999/WP.4); and to insert the following phrase at the end of the paragraph: "without prejudice to the constitutional limits and the basic legislation of the States Parties" (ibid.). Objections were raised with respect to the latter proposal.

Article 17

69. The Working Group undertook its first reading of article 17 on the basis of the proposal contained in document A/AC.252/L.7.

Paragraph 1 (a)

70. The following additions to the text were proposed: to insert "Effective" before the word "measures"; and to insert the word "illegal" before "activities" in order to take into account, for example, freedom of speech and other constitutional guarantees existing in some States. The latter proposal was opposed in the Working Group. Proposed deletions were as follows: to delete the word "groups"; and to delete the word "knowingly".

71. It was noted that in order for the provision to be successfully implemented, it should also take into account the constitutional norms of States parties.

New paragraph 1 (a) *bis*

72. It was proposed that the paragraph should include as new paragraph 1 (a) *bis* an additional obligation on States parties to prohibit the access into their territories of persons, groups and organizations that knowingly encouraged, instigated, organized or engaged in the commission of offences as set forth in article 2 (A/AC.252/1999/WP.32).

Paragraph 1 (b): *chapeau*

73. As regards the term "other professions", which was deemed to be unclear, the following suggestions were made: to replace it with the phrase "as well as other institutions and individuals"; to replace the phrase "other professions involved in" by the phrase "other institutions or entities that carry out"; and to replace "professions" with the word "entities".

74. Concerning the issue of identification of customers of financial institutions, the following suggestions were made: to replace the phrase "to improve the identification of" by "to identify, on the basis of an official or other reliable identifying document" (see A/AC.252/1999/WP.28); and to insert at the end of the first sentence the phrase "and to record the identity of their clients" (see A/AC.252/1999/WP.28). While some favoured replacing the word "consider" by "ensure" (see A/AC.252/1999/WP.28), others spoke against that.

75. The proposal was made to replace subparagraphs (i) to (iii) by a text based on recommendations 10, 11 and 12 of the Financial Action Task Force on Money Laundering, so as to ensure consistency in language (see A/AC.252/1999/WP.38).

Paragraph 1 (b) (i)

76. It was proposed that the word "regulations" should be replaced by the broader term "measures". Regarding the prohibition of anonymous accounts and accounts opened under fictitious names, the following suggestions were made: to replace the phrase "anonymous accounts or the opening of accounts under obviously fictitious names" by "accounts whose beneficiary is unidentified or unidentifiable" (A/AC.252/1999/WP.5), which was opposed in the Working Group; to replace that phrase by the phrase "accounts whose holders or beneficiaries are not identifiable through formal means"; and to replace it by the phrase "accounts whose holders are not identifiable through formal means". The addition of the word "holder" before "beneficiary" in the formulation contained in document A/AC.252/1999/WP.5 was also proposed.

Paragraph 1 (b) (ii)

77. It was suggested that the word "verifying" should be replaced by the phrase "the adoption of measures requiring financial institutions to verify" so as to clarify the obligations of States and financial institutions, respectively; and that the word "legal" should be inserted before the word "existence". It was also proposed that "directors" be replaced with the broader notion of "legal representatives".

78. Some favoured further clarification of the terms "legal structure", "legal form" and the phrase "the legal entity's authority to bind".

Paragraph 1 (b) (iii)

79. In order to clarify the phrase "for preserving", it was suggested that it be replaced by the phrase "requiring financial institutions to preserve".

New paragraph 1 (b) (iv)

80. A new subparagraph (iv) regarding the establishment of an information system for the purpose of recording and sharing information on the economic beneficiaries of legal entities was proposed (see A/AC.252/1999/WP.28).

New paragraph 1 (c)

81. Two proposals for a new subparagraph (c) (see A/AC.252/1999/WP.27 and 31) were presented to the Working Group, regarding the supervision of money transmission agencies and the exchange of information, respectively.

New paragraph 1 (d)

82. Two proposals for a new subparagraph (d) were presented to the Working Group. The first proposal (see A/AC.252/1999/WP.27) concerned the monitoring of the physical cross-border transport of cash and bearer negotiable instruments. The following modifications to that proposal were made: to delete the phrase "implementation of"; and to delete "physical" and replace the phrase "cash and bearer negotiable instruments" by the phrase "funds, as referred to in article 1".

83. The second proposal (see A/AC.252/1999/WP.31) suggested modalities for cooperation in conducting inquiries with respect to the offences established in accordance with article 2.

B. Informal summary of the discussion in the Working Group, prepared by the Rapporteur: second reading of draft articles 1 to 8, 12 and 17 on the basis of, *inter alia*, documents A/AC.252/1999/WP.45, 47 and 51

Article 1

84. Following informal consultations on article 1, based on the deliberations of the Working Group during the first reading of the provision in document A/AC.252/L.7 and Corr.1, the Coordinator presented an oral report to the Working Group. He outlined the main issues discussed and noted that, *inter alia*, a general trend had emerged favouring the retention of the crime of financing as a main crime, instead of a participatory crime linked to another crime. It was noted that such an approach called for a careful drafting of article 2, clearly limiting its scope of application. The hope was expressed that remaining issues would be dealt with during the inter-sessional period.

85. A working paper on articles 1 and 2 (see annex I.B) was introduced by the sponsor of the draft convention (A/AC.252/L.7 and Corr.1) at the last meeting of the Working Group for consideration at the session of the Working Group of the Sixth Committee in September 1999.

Article 2

86. The Working Group undertook its second reading of article 2 on the basis of the revised text contained in document A/AC.252/1999/WP.45.

87. While some delegations supported the approach taken in the text of criminalizing the financing of terrorism as a distinct offence, others viewed it as a participatory offence. A further reservation was also expressed regarding the criminalization of the act of financing in case the terrorist act was not committed or at least attempted.

Paragraph 1 — *chapeau*

88. While some delegations continued to consider the expression "unlawfully" to be redundant, others favoured its retention (see A/AC.252/1999/WP.49). Support was also expressed for the deletion of the word "intentionally" as being already encapsulated in the word "intent". An alternative was also presented, namely to replace the phrase "unlawfully and intentionally" by "voluntarily".

89. Differing views were expressed regarding the deletion of the phrase "[or to prepare the commission of]" at the end of the paragraph (see A/AC.252/1999/WP.49). Concerning the phrase "will be used", the suggestion to replace it by "is likely to be used" was reiterated. The option of either

replacing the word "or" by "and" after "knowledge" or deleting "knowledge" was proposed.

90. In order to expand the scope of the offence, it was suggested that the phrase "person or organization" be included in the text. Furthermore, some delegations reiterated their preference for the inclusion of the phrase "directly or indirectly".

Paragraph 1 (a)

91. A preference was expressed for replacing the phrase "an offence" by "any offence" or "offences". Opposing views regarding the need to further specify the crimes in the annex to the draft convention were presented. Some delegations reiterated their preference for including a mechanism allowing for the addition of new Conventions to the Annex (see, for example, A/AC.252/1999/WP.20/Rev.1, in the context of article 1), thereby expanding the scope of the draft convention. The recommendation was made that the provision should require that States become parties to the respective Conventions in the annex by the usual means of ratification, approval, acceptance or accession.

Paragraph 1 (b)

92. While reservations were expressed by some delegations regarding the broad scope of the provision, others proposed that reference be made to "any person" and to "population", instead of "civilian" and "a civilian population", respectively (see A/AC.252/1999/WP.48), so as to further expand the scope.

93. Suggestions were made to replace the word "injury" by "harm" so as to be more accurate, and to delete the reference to "armed conflict" (see A/AC.252/1999/WP.48). In particular, concern was expressed over the implication of the use of the phrase "armed conflict" for liberation movements. In addition, concern was expressed that the draft might exclude action by groups not covered by humanitarian law.

94. Support was expressed for the inclusion of the notion of "threat" and of damage to property and the environment.

95. An additional phrase requiring that the financing in question be made with the intention or knowledge that the funds would be utilized for the commission of the offence was proposed for insertion after subparagraph (b) (see A/AC.252/1999/WP.49).

Paragraph 3 (c)

96. Opposing views were expressed regarding the retention of the subparagraph.

Introduction of a revised working paper for future consideration

97. At the last meeting of the Working Group, a working paper on articles 1 and 2 (see annex I.B) was introduced by the sponsor of the draft convention (see A/AC.252/L.7 and Corr.1) for consideration at the meeting of the Working Group of the Sixth Committee in September 1999.

Article 3

98. Informal consultations on article 3, based on the deliberations of the Working Group during the first reading of the provision in document A/AC.252/L.7 and Corr.1, were held during the session. The Coordinator of the informal consultations presented an oral report at the last meeting of the Working Group in which he noted the general preference among delegations for deferring further consideration of the provision until the finalization of articles 1 and 2. Hence, it was recommended that the formulation of article 3 remain as that contained in document A/AC.252/L.7 and Corr.1, subject to further discussions to be held during the session of the Working Group of the Sixth Committee in September 1999.

Article 4

99. Informal consultations on article 4, based on the deliberations of the Working Group during the first reading of the provision in document A/AC.252/L.7 and Corr.1, were held during the session. As a result, the Coordinator of the informal consultations subsequently proposed a revised text of article 4 (see A/AC.252/1999/WP.51). While the new text remained substantially the same as that in A/AC.252/L.7 and Corr.1, it was noted that the original reference to "effective, proportionate and deterrent" penalties had been replaced by "appropriate" penalties.

Article 5

100. The Working Group undertook its second reading of article 5 on the basis of the revised text contained in document A/AC.252/1999/WP.45.

Paragraph 1

101. The suggestion was made to add the phrase ", within the limits imposed by its general rules relating to the jurisdiction of its courts and other authorities over legal entities" after the phrase "Each State Party shall".

102. The following additions and modifications to the reference in the provision specifying the necessary link between the State party and the legal entity concerned were proposed: to replace the phrase beginning with the words

"having their registered offices" and ending with "in its territory" by either "controlled from or having their registered offices or property in its territory or engaging in activities either carried out in or otherwise affecting its territory" or by "located in or organized under the laws of its territory". The suggestion was also made to add the phrase "located in or organized under the laws of its territory" after the phrase beginning with the words "having their registered offices" and ending with "in its territory". A further formulation was proposed in document A/AC.252/1999/WP.53.

103. While some delegations expressed the view that the reference to "are held liable" in the second line was unnecessary since the concept was already covered by the word "shall" in the first line, and therefore that it could be replaced with "may be held liable", others opposed that idea.

104. Several concerns were expressed regarding the need for the various language texts to be closely aligned with the original French text. For example, it was pointed out that the French text referred to knowledge being required of the persons and not the legal entity, as stated in the English version.

105. Similar concerns arose regarding the reference to "carrying out activities", as well as the continued reference to the concept of "agency" in the English text undergoing second reading. Some delegations reiterated their preference for the deletion of the word "agency", which had different legal connotations in certain legal systems and thus could cause confusion. Others proposed that it be replaced by "action or acquiescence of" so as to reflect the legal requirement more precisely.

106. Proposals were made to delete the reference to "one or more" persons, to add the phrase "or bodies" before "responsible", as well as to add the word "wrongfully" before "derived profits".

107. Concerning the inclusion of a reference to "derived profits from or", which the sponsor of the revised text indicated had been left in square brackets to reflect the fact that no clear consensus on the issue existed during the first reading, some delegations expressed the preference for its deletion, while others suggested that it be replaced with the word "benefited".

108. A preference was also expressed for the inclusion of a reference to the vicarious liability of the legal entity derived from the actions of employees undertaken in its name (see A/AC.252/1999/WP.50). This view was opposed in the Working Group.

109. On the question of the reference to participation contained in the phrase "participated in the commission of", while some preferred that it be replaced with "committed", others supported its retention.

110. A further formulation of paragraph 1 was proposed in document A/AC.252/1999/WP.53.

Paragraph 2

111. Opposing views were expressed regarding the more permissive reference to "may". While the preference was expressed for replacing the word with "shall", this was opposed in the Working Group. The suggestion was also made that the reference to the "criminal" liability of legal entities should be deleted.

112. Concerns were expressed regarding the inclusion of the phrase "according to the fundamental legal principles of the State Party". While some favoured its retention, others preferred replacing the phrase with a reference to "relevant domestic legislation" or "in accordance with the domestic law of the State Party" (see A/AC.252/1999/WP.53). A further proposed solution was to delete the reference to "fundamental".

113. Following a request from the Chairman that delegations comment on the possibility raised during the first reading that articles 2 and 4 be merged, some stated their preference for retaining two separate provisions, while others expressed flexibility on the issue. The following two merged texts were proposed: "Each State Party shall ensure that, subject to relevant domestic legislation of the State Party, the said legal entity may incur criminal, civil or administrative liability and is subject to effective measures taken as a result of such liability", and "A legal person which is liable in accordance with paragraph 1 shall be subjected to such civil, administrative or criminal measures that are commensurate with the offence." Concerning the reference in the latter proposal to "that are commensurate with the offence", which existed in paragraph 4 of the text under consideration, a further refinement was proposed so as to replace that phrase by "as take into account the gravity of the matter".

Paragraph 3

114. The suggestion was made to replace the phrase "having committed the offences" with "involved in the commission of the offences". A further text for the provision was proposed in document A/AC.252/1999/WP.53.

Paragraph 4

115. While the preference was expressed by some delegations for the deletion of the entire paragraph (see A/AC.252/1999/WP.53), other delegations preferred its retention with several modifications. It was suggested that the

phrase "in particular" be deleted. Furthermore, the suggestion was made that the various language texts should be aligned with the French original by replacing the reference to "effective measures that are commensurate with the offence" by "effective and proportionate measures". Alternatively, proposals were made to insert the phrase "proportionate and deterrent" after "effective" and to insert the phrase "which take into account the grave nature of the offence" after "measures".

116. The possibility of the merger of paragraphs 2 and 4 was discussed in the Working Group. See the discussion on paragraph 2 above (paras. 111–113) in this regard.

Paragraph 5

117. Opposing views were expressed regarding the retention of the provision. While some expressed a preference for its deletion (see A/AC.252/1999/WP.48 and 53), stating, *inter alia*, that it dealt with matters beyond the purview of the draft convention, others supported either the text under consideration or the following new formulation: "The provisions of this article cannot be interpreted as affecting the question of the international responsibility of the State" (reproduced in A/AC.252/1999/WP.22). A further group of delegations linked the deletion of the provision to the insertion of a precise definition of "legal entity" in article 1.

Article 6

118. Informal consultations on article 6, based on the deliberations of the Working Group during the first reading of the provision in document A/AC.252/L.7 and Corr.1, were held during the session. The Coordinator of the informal consultations presented an oral report at the last meeting of the Working Group in which he commented on an emerging trend, among those delegations that were consulted, to delete the phrase "and are punished by penalties consistent with their grave nature" at the end of the provision. It was explained that the deletion of this phrase would remove the overlap with article 4. Some delegations reserved their positions in that regard. The Coordinator proposed retention of the text of article 6, as amended, for consideration at the session of the Working Group of the Sixth Committee in September 1999.

Article 7

119. The Working Group undertook its second reading of article 7 on the basis of the revised text contained in document A/AC.252/1999/WP.51. The suggestion was made that the provision should indicate the options in paragraphs 1 and 2 as alternatives by adding the word "or" after subparagraphs 1 (a) and (b), and subparagraphs 2 (a), (b) and (c).

Paragraph 2

120. With regard to subparagraphs (a) and (c), the proposal was made to replace the word "attack" by the phrase "offences covered in article 2".

121. Concerning subparagraph (d), the following alternative formulations were proposed: "The offence resulted in an act committed in an effort to compel that State to do or abstain from doing any act"; "The offence for which financing is provided in contravention of article 2 is committed in an attempt to compel that State to do or abstain from doing any act"; "The offence was directed towards compelling that State to do or abstain from doing any act"; or "The offence was directed towards or resulted in an act committed in an attempt to compel that State to do or abstain from doing any act".

122. The following additional subparagraphs were proposed for insertion under paragraph 2: "That State Party has jurisdiction, in accordance with any of the Conventions listed in annex I, over the offence for which financing is provided" (see A/AC.252/1999/WP.56); and "The offence is committed on board an aircraft which is operated by the Government of that State".

Paragraph 5

123. Support was expressed for replacing the phrase "terms and conditions" by "modalities". The suggestion was also made to delete the provision and insert it into article 9.

Paragraph 6

124. While some delegations supported the provision as being common to all anti-terrorism Conventions, others expressed reservations on the necessity of its inclusion in the draft convention under consideration. The insertion of the phrase "Subject to respect for relevant rules of international law" at the beginning of the provision was proposed by way of compromise. A further variation of this proposal was submitted (see A/AC.252/1999/WP.58).

Article 8

125. The Working Group undertook its second reading of article 8 on the basis of the revised text contained in document A/AC.252/1999/WP.45. It was recommended that the various language versions of the text under consideration should be aligned with the original French text. In particular, reference was made to the need for consistency in the use of the words "allow" and "permit", "goods" and "property", and the phrases "designed to be used" and "intended to be used".

126. It was suggested, by way of a general comment, that the provision should be limited to covering financing offences only.

Paragraph 1

127. Concerning the word "allow", while some delegations preferred its deletion, others suggested that it be replaced with "provide for". The insertion of the word "and" after "detection" was supported. Although the inclusion of a reference to proceeds by adding the phrase "as well as the proceeds derived from such offences" was supported, other delegations expressly opposed such expansion of the scope of the provision.

Paragraph 2

128. Support was expressed for retaining the provision in its current form. However, other delegations proposed the following modifications by way of improving its formulation: to add "Consistent with due process and applicable domestic law" at the beginning; to replace the phrase "fundamental legal principles" by "domestic law", which was opposed in the Working Group; to replace "permit" by "provide for"; to delete the phrase "permit the"; to add the phrase "and the proceeds derived from such offences" after "convention", which was opposed in the Working Group; and to delete the reference to "its" before "fundamental legal principles".

Paragraph 3

129. While the preference was expressed for retaining the reference to proceeds contained in the square brackets, its inclusion in the text was opposed in the Working Group.

Paragraph 4

130. While support was expressed for retaining the provision as contained in the text under consideration, others proposed deleting the phrase "subject to domestic law", as well as replacing the word "indemnify" by "compensate".

Paragraph 5

131. Opposing views were expressed in connection with the deletion of the phrase "acting in good faith". A further proposal was made to move the provision to article 2 (see A/AC.252/1999/WP.54).

Additional paragraph suggested for inclusion in article 8

132. It was proposed that the text of article 5 (9) of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances should be included as a new paragraph in article 8.

Article 12

133. The Working Group undertook its second reading of article 12 on the basis of the revised text contained in document A/AC.252/1999/WP.45.

Paragraph 1

134. Concerns were expressed regarding the scope of the term "investigations", which could encompass speculative investigations. It was thus suggested to insert the word "criminal" before "investigations". Other suggested modifications were: to delete the reference to "or criminal"; to delete the word "brought"; and to replace the phrase "at their disposal" by "in their possession".

Paragraph 2

135. Concerns were expressed regarding the consistency of the last sentence of the provision with article 11 (2) of the draft convention, as contained in document A/AC.252/L.7 and Corr.1.

136. It was suggested that the scope of the paragraph should be expanded to include the obligations contained in paragraph 3. The proposal was also made to switch paragraphs 2 and 3, and renumber them accordingly.

Paragraph 3

137. The proposal was made to replace the entire provision by "State Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy". The inclusion of the word "solely" after "assistance" was made by way of further refining the language of the proposed new text.

Additional paragraph 3 *bis* suggested for inclusion in article 12

138. It was proposed that the following provision should be added to article 12 as new paragraph 3 *bis*: "The requesting State shall not use any information received that is protected by bank secrecy for any purpose other than the proceedings for which that information was requested, unless authorized by the requested State Party." The inclusion of this text was opposed in the Working Group.

139. It was further suggested that the scope of the proposed new paragraph should be expanded in accordance with the provisions of article 7 (13) of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Paragraph 4

140. The following two modifications were suggested: to add the phrase "based on article 2" before "on the ground"; and to add the word "sole" before "ground".

Article 17

141. The Working Group undertook its second reading of article 17 on the basis of the revised text contained in document A/AC.252/1999/WP.47, which included a revised text as option 1 and a reference to a text prepared by another delegation, contained in document A/AC.252/1999/WP.38, as option 2. The Working Group limited its discussion to option 1.

Paragraph 1 (a)

142. It was noted that the English text should be aligned with the French original by adding a reference to "illegal" before the word "activities". A preference for the deletion of the word "groups" was expressed.

Paragraph 1 (b)

143. The suggestion was made to replace the word "improve" by the phrase "utilize the most efficient measures for".

144. Regarding subparagraph (i), support was expressed for replacing the word "regulations" by "measures". Of the two proposed formulations for the subparagraph contained in the text under consideration, some delegations expressed a preference for the text in square brackets. It was suggested that the formulation of the text in square brackets could be improved by having the phrase "holder or" inserted before "beneficiary". A further suggestion was made to merge the two proposed texts.

145. Concerning subparagraph (ii), the preference was expressed for expanding its scope of application to include shareholders and officers. It was suggested that the word "verifying" should be replaced by the phrases "the adoption of measures requiring financial institutions to verify", or "requiring financial institutions, when necessary, to take measures to verify". The addition of the word "legal" before "existence", and the deletion of the word "legal" before "structure", was also proposed. It was further suggested that the phrase beginning with the words "from the customer" and ending with "to bind" should be replaced by the following text: "either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity".

146. In connection with subparagraph (iii), it was proposed that the reference to "for preserving" be replaced with "requiring financial institutions to preserve", or that the latter half of the provision beginning from the word "preserving" to the end be replaced with the following: "requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic and international".

Paragraph 1 (c) and (d)

147. It was proposed that subparagraph (c) of paragraph 1 should be renumbered as paragraph 1 (b) (iv), and that subparagraph (d) of paragraph 1 should be renumbered as paragraph 1 (c) and modified to replace the phrase "Implementation of feasible measures to detect or monitor" by "States shall also consider implementing measures to detect or monitor" (see A/AC.252/1999/WP.52).

148. The insertion of a new paragraph was also proposed (see A/AC.252/1999/WP.57).

Paragraph 3

149. Opposing views were expressed regarding the retention of paragraph 3 as contained in square brackets, which was based on the proposal contained in A/AC.252/1999/WP.47. A third group of delegations proposed that the paragraph should begin with the phrase "States shall ensure that no assistance is provided".

Annex 6

Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Visit to Ukraine undertaken from 19 to 25 May and from 5 to 9 September 2016: observations and recommendations addressed to the State party", UN Doc. CAT/OP/UKR/3, 18 May 2017

United Nations CAT/OP/UKR/3

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Visit to Ukraine undertaken from 19 to 25 May and from 5 to 9 September 2016: observations and recommendations addressed to the State party

Report of the Subcommittee*, **

* In accordance with article 16 (1) of the Optional Protocol, the present report was transmitted confidentially to the State party on 3 February 2017. On 27 April 2017, Ukraine requested the Subcommittee to publish the report, in accordance with article 16 (2) of the Optional Protocol.

** The annexes to the present document are being circulated as received, in the language of submission only.

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Contents

I. Introduction

1. In accordance with its mandate under articles 11 and 13 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment undertook its second visit to Ukraine in 2016. The visit, which commenced on 19 May 2016, was suspended by the Subcommittee on 25 May because of a lack of cooperation; the second part of the visit was undertaken from 5 to 9 September 2016.

2. In May 2016, the Subcommittee sought to visit a broad range of institutions in different parts of the country, including pretrial and temporary detention centres, penitentiary institutions, a mental health hospital, a social care institution and facilities under the authority of the State Security Service (see annex I). However, the Subcommittee was unable to fully implement its mandate, having been denied access to all but one State Security Service facility and having experienced delays in respect of the one facility to which access had not been denied, so that the delegation could not have confidence in the integrity of its findings.

3. In addition, despite the cooperation of the authorities during the preparatory phase of the visit, the Subcommittee was not provided a full, comprehensive list of all places of deprivation of liberty and their addresses. Moreover, the credentials provided did not fully accord with the terms of Subcommittee requests and the standards of access required by the Optional Protocol.

4. Concluding it would therefore be unable to fulfil its Optional Protocol-mandated functions, the delegation decided, in consultation with the Bureau of the Subcommittee, to suspend the visit on 25 May 2016. It gave the reasons for the suspension orally and confidentially to the Ukrainian authorities, while briefly summarizing its preliminary observations to date.

5. Following positive talks with the Government of Ukraine, the Subcommittee recommenced and ultimately concluded its visit in September 2016, during which time it visited or revisited nine pretrial and temporary detention centres, in addition to State Security Service facilities. During that period, the delegation was granted full and immediate access to all the places it wished to visit. Nevertheless, the Subcommittee remains concerned at what appears to have been a policy of "sanitizing" facilities prior to its visit in order to minimize the chances of it identifying possible causes for concern; the Subcommittee was left with the clear impression that some rooms and spaces had been cleared in order to suggest that they had not been used for detention.

6. In addition to visiting places of deprivation of liberty, the Subcommittee held discussions with relevant government authorities, the national preventive mechanism and civil society organizations, as well as with representatives of the United Nations and other international organizations in the country (see annex II). The Subcommittee conducted interviews with persons deprived of their liberty, law enforcement officials, medical personnel and staff of detention facilities. The Subcommittee thanks all parties for the valuable information provided and, especially, the United Nations human rights monitoring mission in Ukraine for its technical support.

7. In Ukraine, the Subcommittee was represented by Malcolm Evans (Subcommittee Chair and head of delegation), Victor Zaharia (focal point on reprisals), Mari Amos (in May 2016), June Caridad Pagaduan Lopez (in May 2016) and Marija Definis-Gojanović (in September 2016). The Subcommittee was assisted by human rights officers and security officers from the Office of the United Nations High Commissioner for Human Rights and by interpreters.

8. The Subcommittee considers that its mandate extends over the entirety of the internationally recognized territory of Ukraine, in line with General Assembly resolution 68/262. Despite seeking to visit places of deprivation of liberty in areas of the Donetsk region under the control of armed groups, the Subcommittee regrets that it was ultimately unable to obtain access to those places as it is aware of grave concerns relating to the situation of persons deprived of their liberty with which it was unable to engage.

9. The present report contains the overall findings and recommendations concerning the prevention of torture and ill-treatment of persons deprived of their liberty (also referred to as "detainees" and "detained persons") in Ukraine. In drafting it, the Subcommittee took into consideration the report on its first visit to Ukraine, undertaken in 2011, and the implementation of the recommendations made therein (CAT/OP/UKR/1). The term "ill-treatment" is used to refer to any form of cruel, inhuman or degrading treatment or punishment.[1]

10. **The Subcommittee requests that the Ukrainian authorities reply within six months of the date of transmittal of the present report, giving an account of the actions taken and a road map for full implementation of the recommendations contained herein.**

11. The report is a tool on which to base a dialogue between the Subcommittee and the Ukrainian authorities on the prevention of torture and other forms of ill-treatment. In it, the Subcommittee makes general observations that are applicable to numerous places of deprivation of liberty (also referred to as "places of detention"), with a view to the authorities implementing the recommendations made in specific institutional contexts. While not all places are mentioned in the report, the Subcommittee reserves the right to comment on any place visited in its future dialogue with the State party. The absence of any comment in the report relating to a particular institution visited by the Subcommittee does not imply either a positive or a negative finding in relation to it. The Subcommittee believes that a round-table discussion on follow-up measures would be the most effective and efficient way of furthering dialogue on the issues raised.

12. **The Subcommittee recommends that the State party include in its reply an account of how recommendations will be implemented both in specific institutions and, where appropriate, at the general policy level. It also recommends that, in its reply, the State party include proposals for ways in which the Subcommittee could provide further assistance and advice in furtherance of its mandate under article 11 of the Optional Protocol.**

13. The present report will remain confidential until such time as the State decides to make it public, as provided for in article 16 (2) of the Optional Protocol. The Subcommittee firmly believes that the publication of the report would contribute positively to the prevention of torture and ill-treatment in the State party, as the widespread dissemination of the recommendations would foster a transparent and fruitful national dialogue on the issues covered. **The Subcommittee therefore recommends that the State party permit the report to be published. The Subcommittee further welcomes the oral commitment of the State party to doing so.**

14. Furthermore, the Subcommittee draws the State party's attention to the Special Fund established pursuant to article 26 of the Optional Protocol. Recommendations contained in Subcommittee visit reports that have been made public can form the basis of an application for the financing of specific projects through the Fund.[2]

II. National preventive mechanism

15. The designation of the Ukrainian Parliament Commissioner for Human Rights (the Ombudsman) as the national preventive mechanism has been one of a number of positive developments since the Subcommittee's first visit. Moreover, the creation of a dedicated department within the Ombudsman's Office indicates a recognition of the specialization needed to carry out national preventive mechanism functions (see CAT/OP/UKR/1, paras. 14-16).

16. Despite this positive development, the Subcommittee is concerned that the national preventive mechanism lacks sufficient resources to fully carry out its Optional Protocol-mandated functions, particularly given the thousands of places of detention that exist in Ukraine. While benefiting from productive relationships with international and regional

[1] See the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 16.

[2] See www.ohchr.org/EN/HRBodies/OPCAT/Fund/Pages/SpecialFund.aspx.

networks that have enabled the mechanism to increase its capacity, the Subcommittee is concerned that the mechanism's autonomy may be compromised if it must rely on international donors in order to be fully functioning.

17. The Subcommittee notes approvingly that the national preventive mechanism has conducted hundreds of visits to places of detention, many of them unannounced. In addition, the Subcommittee notes that the mechanism has a strong relationship with civil society, regularly involving civil society actors in its visits and consultations, as well as in its core structure. Nevertheless, the Subcommittee is concerned that the mechanism is not able, in practice, to visit every place of deprivation of liberty given that it has limited access to State Security Service premises, where people may be held for investigative purposes.

18. The Subcommittee considers that the mechanism's preventive activities could be strengthened. In particular, it notes that the mechanism suffers from not being perceived as an entity separate from the Ombudsman's Office. The Subcommittee also notes that much of the mechanism's work is in fact undertaken in response to individual complaints. Moreover, the Subcommittee understands that there is no established procedure through which the State will consider the implementation of the mechanism's recommendations.

19. **Recalling that article 18 (3) of the Optional Protocol obliges States parties to provide national preventive mechanisms with the resources necessary to undertake their work, the Subcommittee recommends that the national preventive mechanism of Ukraine be provided with a budget that is sufficient to enable it to accomplish all mandated tasks. The Subcommittee recommends that such funding be provided through a separate line in the national annual budget referring specifically to the national preventive mechanism (see CAT/C/57/4, annex, paras. 11-12). It also recommends that sufficient funds be allocated to allow the mechanism to carry out its visiting programme, to engage outside experts as and when appropriate, to increase its staffing and to regularly benefit from training, in accordance with its workplan.**

20. **In determining what constitutes a place of deprivation of liberty, the Subcommittee recommends that the State party adopt an approach that maximizes the preventive impact of the mechanism (see CAT/C/57/4, annex, paras. 1-3). In addition, the Subcommittee recommends that the State party ensure that the mechanism has the legal authority and practical capacity to access any place where it, the mechanism, believes that people are or may be deprived of their liberty, in accordance with article 4 of the Optional Protocol.**

21. **Furthermore, the Subcommittee recommends that the State party assist the mechanism in increasing its public profile so that its mandate and work are more widely recognized and known. This might include, for example, coordinating public awareness campaigns, distributing materials on the mandate and activities of the mechanism in various languages to detention personnel, detainees and civil society, and informing associations of service users, lawyers and the judiciary of the mechanism's mandate. The Subcommittee also recommends that the State party establish an institutional means to systematically consider and discuss, with the mechanism, the implementation of the mechanism's recommendations and annual report.**

III. Overarching issues

A. Legal framework

Positive developments

22. A number of positive legal developments have taken place in Ukraine since the Subcommittee's 2011 visit. In particular, the revision of the Criminal Procedure that allows greater use of non-custodial measures during criminal proceedings has resulted in a noticeable reduction in the number of pretrial detainees (see CAT/OP/UKR/1, paras. 59-60, 65-66 and 97-98). This has reduced overcrowding and contributed to improving the provision of services. In addition, the 2011 Law on Free Civil Legal Aid has significantly improved the legal aid system in the State party (see CAT/OP/UKR/1, paras. 28-29), while

the 2015 human rights action plan proposes to strengthen measures against torture and ill-treatment.

23. **The Subcommittee welcomes the positive reforms to the legal system of Ukraine, as they are likely to help reduce the risk of torture and ill-treatment. It recommends that the State party implement the 2015 human rights action plan, including the commitments made to further develop its registry system, strengthen the national preventive mechanism and bolster the system for investigating torture and ill-treatment.**[3]

Criminalization of torture

24. The Subcommittee remains concerned that the Criminal Code does not incorporate into Ukrainian law all elements of the crime of torture as defined by article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see CAT/OP/UKR/1, paras 18-20). In particular, the Subcommittee is concerned that article 127 of the Code, which defines the offence of torture in national legislation, fails to reflect the "public official" component of the crime; further, it restricts the definition to include only suffering as a result of physically violent acts. Moreover, the Subcommittee has been informed that acts that could amount to torture and ill-treatment under article 1 of the Convention against Torture are in practice prosecuted under articles of the Criminal Code relating to abuse of power or authority.

25. **The Subcommittee reiterates its previous recommendation that provisions of the Criminal Code regarding the definition of torture should be brought into full compliance with article 1 of the Convention against Torture, thereby closing actual or potential loopholes for impunity.**[4] **In addition, the Subcommittee recommends that the offence of torture be prosecuted under the provision relating to torture — rather than under those relating to abuse of power or authority — and that acts of torture and ill-treatment be made punishable by penalties commensurate with their gravity.**

B. Institutional framework

Positive developments

26. The Subcommittee notes that, in addition to designating the national preventive mechanism, the State party has made several other institutional changes since 2011. In May 2016, a process was in place to dissolve the penitentiary service, create a probation system and place penitentiary institutions directly under the authority of the Ministry of Justice. The Subcommittee also understands that the State party is considering transferring responsibility for penitentiary medical services to the Ministry of Health. Further, the Subcommittee commends the State party for the steps taken to renovate older detention facilities.

27. **The Subcommittee welcomes reforms to the institutional framework in Ukraine that may contribute to improving the material conditions and the provision of services in places of detention. The Subcommittee recommends that the State party continue its programme of renovating ageing detention facilities and requests that it be provided with information concerning progress made in the framework of that programme. It also recommends that medical services in criminal justice institutions be placed under the authority of the Ministry of Health, as that would help to ensure that persons in detention receive health care that is of a standard equal to that received by persons not in detention and ensure the independence of prison medical services.**

[3] See the decree of the President of Ukraine No. 501/2015 of 25 August 2015 on approval of the national human rights strategy of Ukraine and the Action Plan on Implementation of the National Strategy in the Area of Human Rights for the Period until 2020 (ordinance of the Cabinet of Ministers No. 1393-p of 23 November 2015, appendix, "Countermeasures against torture, cruel, inhuman or degrading treatment or punishment", pp. 14-52).

[4] See the Committee against Torture's general comment No. 2 (2007) on the implementation of article 2, para. 9.

Social reintegration and rehabilitation

28. The Subcommittee notes that, in general, there is a lack of social services and reintegration programmes to prepare detainees for their return to society following their detention. In nearly every institution visited by the Subcommittee, detainees and staff indicated that they were not aware of community reintegration programmes and social services that would support detainees upon release. Where such programmes exist, benefits are not automatic. In mother and baby units, for example, programmes exist for women six months before their release, but they are not made available automatically and only around 50 per cent of women participate in such programmes. The Subcommittee is concerned that an absence of social assistance for mothers could have a detrimental effect on both mothers and their children after release. In addition, limited social support for all detained persons puts them at a high risk of recidivism.

29. **The Subcommittee recommends that the State party strengthen the services provided to detainees in order to ensure that social assistance, such as supported living and counselling, is in place and coordinated in order to ease detainees' transition back into society and prevent their return to detention.**

Mental health and substance abuse interventions

30. The Subcommittee is concerned that, despite an apparently high prevalence of detained persons with mental health problems, there is only a very limited system for mental health intervention in places of detention. The Subcommittee has observed that, in general, mental health assessments are not done routinely and that necessary treatment may be delayed or never provided, putting detained persons at risk of harm.

31. In addition, screening for substance abuse is not carried out on a routine basis. The Subcommittee noted that, in some cases, treatment for drug addiction was terminated upon entry into a place of detention and that, in some institutions, medical professionals were working in units separate from social workers and psychologists. Further, a lack of coordination — or an insufficient overall number of mental health professionals — resulted in a slow response to indicators of ill-health. Moreover, some institutions completely lacked psychologists or social workers.

32. **Recalling that regular monitoring of detainees' psychological well-being is fundamental to reducing the risk of ill-treatment, the Subcommittee recommends that the State party include routine mental health screenings in medical examinations given upon entry to a place of detention and that the State party incorporate assessments of mental health in daily check-ups conducted by adequately trained personnel. The Subcommittee also recommends that the State party ensure prompt access to mental health services and programmes, including access to a psychiatrist, upon referral by staff or through self-referral.**

33. **The Subcommittee further recommends that the State party make drug rehabilitation services universally available to persons in detention and that the State party evaluate ways to improve communication and collaboration between health, psychological and social service providers in detention facilities.**

Torture and ill-treatment

34. The Subcommittee has received numerous and serious allegations of acts that, if proven, would amount to torture and ill-treatment. Persons interviewed by the Subcommittee in various parts of the country have recounted beatings, electrocutions, mock executions, asphyxiations, acts of intimidation and threats of sexual violence against themselves and their family members. In the light of all the work done and experience gained during the visit, the Subcommittee has no difficulty in concluding that these allegations are likely to be true.

35. Many of the above-mentioned acts are alleged to have occurred while the persons concerned were under the control of the State Security Service or during periods of unofficial detention. In such cases, detainees accused of crimes relevant to the armed conflict in eastern Ukraine, such as offences under articles 109-115, 258, 260-261 and 437-438 of the Criminal Code, are alleged to have been tortured in order to extract information regarding their involvement or that of their associates in "separatist" activities and to

identify armed groups' military positions. The Subcommittee also understands that, in some cases, acts were committed by private individuals or volunteer battalions with the consent or acquiescence of public officials.

36. As it did during its 2011 visit (see CAT/OP/UKR/1, paras. 64 and 93-94), the Subcommittee also received allegations about the ill-treatment of detained persons, including juveniles, by the police during their apprehension and interrogation. Reports of juveniles being punched, kicked, burned and shocked with tasers were borne out by consistent interviews, observation of injuries and registers (even if such records were not always complete). Many detainees stated that, following ill-treatment by the police, they were prevented from entering pretrial detention facilities (SIZOs) because they had visible injuries and had therefore been kept in pretrial centres under the authority of the national police (ITTs) for their "faces to heal" before being registered and undergoing a medical examination at a SIZO.

37. In addition, it appears that prosecutors and judges are not particularly sensitive or sympathetic to complaints of torture and ill-treatment. A number of factors may contribute to this, including the already heavy workloads and limited training of prosecutors, the deference shown to police investigators given prosecutors' reliance on them for other cases and a tolerance for torture committed by "defenders" (volunteers fighting in eastern Ukraine), stemming from expressions of sympathy for their cause. During its visit, the Subcommittee observed that allegations of torture and ill-treatment were not raised — or were raised belatedly — by defence lawyers who preferred to focus on the criminal charges made against their clients, as it was only for dealing with those charges that the lawyers would be remunerated. In addition, the Subcommittee met many officials, including administrators, law enforcement officers and medical professionals, who did not feel it was their responsibility to report suspected cases of torture and ill-treatment.

38. When allegations of torture were looked into, some investigative steps, such as medical examinations, witness interviews and the provision of timely access to the scene of the events, were either severely delayed or completely thwarted. Moreover, the Subcommittee observed that accounts of suspicious injuries were treated in a variety of ways. In some cases, a report was forwarded to the prosecutor's office; in others, it was sent to the police. In any event, it was not clear that investigations systematically followed from such reports, perhaps because some were sent to the police officers accused of committing the act. In addition, a number of reports received no reply and others received only an initial acknowledgment.

39. **The Subcommittee recommends that the State party take urgent measures to prevent and punish all acts of torture and ill-treatment occurring at the hands of, or with the consent or acquiescence of, State officials. To that end, the Subcommittee recommends that the State party: (a) investigate all allegations of torture and ill-treatment through processes that are prompt, impartial and transparent, in addition to being efficient and effective; and (b) prosecute those responsible. Persons convicted for acts of torture and ill-treatment should be sanctioned with penalties commensurate with the severity of their crimes.**

40. **The Subcommittee also recommends that allegations of torture and ill-treatment, as well as suspicions of such acts arising from observable injuries and/or medical examinations, be systematically acted upon in the same way and that those making the allegations be protected from reprisals.**

41. **The Subcommittee further recommends that the State party establish and maintain a national register of all allegations of torture and ill-treatment that includes the following information:**

(a) **The details of each allegation received;**

(b) **An indication of the institution or location where the act or condition is alleged to have taken place;**

(c) **The date when the allegation was received;**

(d) **The rationale for the decision taken in respect of the allegation and the date of that decision;**

(e) **Any action taken as a result.**

42. **The Subcommittee recommends that the system of legal aid be reformed so that legal representatives of detainees are remunerated for all work done on behalf of their clients rather than only for the work done on the specific charge brought against them.**

IV. Situation of persons deprived of their liberty

A. Fundamental safeguards

Information on rights and on detention

43. The Criminal Procedure Code provides persons detained in criminal justice institutions the right to have documentation setting out the reasons for their detention and to have information on their rights.[5] The Subcommittee observed, however, that, in practice, many detainees were either not informed of those rights or were not informed of the reasons for their detention from the outset. In some cases, individuals were told at the time of their arrest to sign a document listing the relevant provisions of the Criminal Procedure Code without having had sufficient time to read and understand it. Others were given the document to keep. However, the text was too small, incomplete or barely legible. The Subcommittee noted that little or no information was provided explaining how to file complaints related to the violation of their rights. The Subcommittee is also concerned that many detainees appear to have signed forms waiving their right to legal assistance, suggesting that this is routine practice.

44. **The Subcommittee recommends that the State party ensure that all detained persons are fully informed of the reasons for their arrest or confinement, as well as of their rights as detainees, as soon as they are deprived of their liberty. It also recommends that information on rights be communicated in a clear and easily understandable way, for example through posters displayed in all places of detention, including in rooms and cells, and by distributing factsheets that are comprehensive, legible and intelligible to detainees, in their own language. It further recommends that all persons deprived of their liberty be informed (for instance, through leaflets and posters) of their right to submit direct and confidential complaints to administrators in places of detention and to higher-level authorities, including to those with remedial powers, and of how in practice this can be done in a secure and confidential fashion.**

Notification of custody

45. The Subcommittee regrets that the right to notify a family member or another chosen person of one's detention is not always ensured in practice. In particular, it is concerned that individuals who are held in places not recognized by the State party as official places of detention may be restricted in the information they can provide to an outside contact. For example, they may be permitted to mention the fact but not the place of their detention, or they may be prevented from notifying a third party of their custody for several weeks, which renders their situation a case of enforced disappearance.

46. **The Subcommittee recommends that the State party guarantee that, as a routine matter, all persons deprived of liberty are able to ensure that a third party of their choice is notified of where and when they have been detained from the outset of their detention.**

Access to a lawyer

47. The Subcommittee is concerned that the right to a lawyer is not routinely guaranteed in all institutions. During its visit, the Subcommittee noted instances where investigators had failed to contact detainees' lawyers shortly after apprehension. The Subcommittee also observed that access to a lawyer was sometimes interrupted, for example, when detainees were transferred to ITTs. In addition, in cases of unofficial detention, detainees did not have access to a lawyer as soon as they were deprived of liberty but only after they had been transferred to an institution recognized by the State party as an official place of detention,

[5] Criminal Procedure Code, articles 208 (4) and 212 (3.2).

which means that persons could be held and interrogated for prolonged periods without enjoying their right to legal advice.

48. As mentioned above, the Subcommittee welcomes the creation and continued development of a State-sponsored legal aid system. It is concerned, however, that in many cases lawyers have limited interaction with their clients, whom they often meet for the first time during the pretrial period or even at the court hearings, where they are unable to properly engage with detainees on a defence strategy. This is particularly true for legal aid lawyers provided by the State party, who detainees often consider to be underqualified or not impartial, improperly supporting the work of the investigators and pressuring them to confess.

49. Furthermore, the Subcommittee is concerned that, in some institutions, consultations between lawyers and detainees take place in investigation rooms that are under electronic surveillance. In other cases, written communication between lawyers and detainees is restricted, which means that detainees may only communicate confidentially during face-to-face meetings.

50. **The Subcommittee recommends that the State party ensure that all detainees have access to legal counsel from the outset of their deprivation of liberty and throughout the detention period.**

51. **The Subcommittee also recommends that the State party ensure that legal advice provided through its legal aid system is prompt, professional and given in the interests of the detainee, not of the detaining authorities. Appropriate training should be provided by independent professional bodies to lawyers providing legal aid. The Subcommittee further recommends that such training be extended to include counsel representing detainees accused of crimes in connection with the armed conflict in eastern Ukraine. The Subcommittee reiterates the recommendation made in paragraph 42 above.**

52. **The State party is urged to guarantee the absolute confidentiality of communications between lawyers and their clients.**

Medical care and examination

53. Through its analysis of medical registers at all institutions and its interviews with detainees, the Subcommittee notes that detained individuals undergo a routine medical examination, including screening for HIV and tuberculosis, at the start of their deprivation of liberty. The Subcommittee has observed, however, that, despite this, some detainees' medical records appear repetitive or scant, which suggests that such examinations are superficial in nature. In a number of SIZOs, in particular, detainees are simply asked if they have any medical complaints instead of being examined by a health practitioner. Where injuries are recorded, there is no indication of how the injuries were sustained. Moreover, medical examinations are often performed in the presence of other officials, such as members of the convoy or guards on duty, which infringes upon confidentiality and may discourage a discussion of injuries resulting from torture and ill-treatment. The Subcommittee has also noted that medical examinations have been conducted through cell bars or within metal "cages" in cells.

54. The Subcommittee is concerned that, as with other fundamental safeguards, medical examinations do not appear to be guaranteed to those who, despite being deprived of liberty, are not held in places recognized by the State party as official places of detention.

55. The Subcommittee has also observed that medical personnel are generally unfamiliar with the Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). While the Subcommittee is encouraged to hear that medical professionals in SIZOs, ITTs and penitentiaries feel they are appropriately supported and can perform their work autonomously, the Subcommittee is concerned that medical professionals in places of detention do not consider it their duty to question whether injuries observed may be the result of torture and ill-treatment. The Subcommittee further notes that medical professionals in criminal justice institutions consider the head of the facility as their immediate supervisor. This supervisory chain may result in conflicts of interests that could deter health professionals from reporting injuries evidencing torture or ill-treatment.

56. Moreover, the Subcommittee notes that access to medical care is inconsistent, with many reported cases of medical assistance being delayed or denied. Despite the general availability of medical personnel in places of detention, different institutions are disparately equipped and often detainees must ask family members or donors to provide needed medication and personal hygiene products. Visits to outside specialists and institutions are rarely undertaken. Moreover, during its visit, the Subcommittee regularly encountered medical professionals who were insensitive to the medical needs of detainees, including staff who hesitated to respond to reports of worsening physical and psychiatric symptoms they interpreted as merely bad behaviour.

57. **Reiterating the recommendations made in 2011 (see CAT/OP/UKR/1, paras. 76 and 80), the Subcommittee encourages the State party to guarantee that, as a routine matter, all persons undergo a thorough medical examination as soon as they are deprived of liberty. It is recommended that such an examination record:**

(a) **A detainee's medical history, including any allegations of recent violence, torture or ill-treatment;**

(b) **The existence of any discomfort or symptoms;**

(c) **The result of the clinical examination, including a description of any injuries observed and an account of how such injuries were sustained;**

(d) **An indication of whether the whole body was examined;**

(e) **The health professional's conclusion as to whether all recorded elements are consistent.**

58. **The Subcommittee recommends that all medical examinations maintain the principle of medical confidentiality: only medical personnel should be present during the examination. It also recommends that the State party discontinue the practice of performing medical examinations through bars, since such examinations are demeaning by nature and lack the thoroughness envisioned in the Istanbul Protocol.**

59. **The Subcommittee recommends that the State party ensure that all persons deprived of liberty are given a thorough medical examination, regardless of whether they are held in a location officially registered as a place of detention in the State party or not.**

60. **The Subcommittee also recommends that the State party improve its training of medical personnel working in places of detention, particularly on the Istanbul Protocol and other international standards, as well as on the duty to detect and report torture and ill-treatment. If a health professional has grounds for suspecting the existence of torture or ill-treatment, the Subcommittee recommends that this be registered in a national register of allegations of torture and ill-treatment, either with the consent of the examined person (so that the case may be referred to expressly) or, if such consent is refused, as an anonymous case. In addition, the Subcommittee recommends that health professionals immediately report suspicions of torture and ill-treatment to the appropriate authorities, with the consent of the detainee, so that an independent examination may be conducted in accordance with the Istanbul Protocol. The confidential medical report should be made available to the detainee and to his or her counsel.**

61. **Finally, the Subcommittee recommends that medical care and assistance be guaranteed and accessible to all detained persons upon their request.**

Registers

62. The Subcommittee notes that the current system for recording the status of detainees needs improvement. In particular, during its visit the Subcommittee observed that registers in SIZOs contained individual sheets of paper originating from a number of different institutions that, together, made up a single file. That record-keeping system was made more complicated by the transfer of detainees from SIZOs to ITTs — sometimes in other parts of the country — for investigative purposes and court hearings during which time the files were transferred with them. Such transfers were inconsistently recorded, making it difficult to track the location of a person under investigation. In addition, in some instances, no record was left at the sending institution that would account for a transferred detainee's

presence at or absence from that institution. The system is one in which it is easier to lose persons rather than to find them. It is inefficient, incoherent and, from a preventive perspective, wholly inadequate, as it fails to allow easy independent oversight of the movement of individuals by external mechanisms.

63. The Subcommittee also observed that, in State Security Service facilities, individuals could be deprived of their liberty for periods lasting from several hours to several days before they were considered to have been officially detained. Although the detainees were already under the control of investigate units and processes, there was no systematic recording of their whereabouts or well-being available for scrutiny.

64. **The Subcommittee recommends that the State party review and reform its system of record-keeping in order to ensure that records are, at all times, comprehensive, accurate, precise and up to date. It is recommended that registers be uniform and accessible to detainees' authorized representatives and next of kin, as well as to the national preventive mechanism. Furthermore, the Subcommittee recommends that the system to be introduced is such that a third party may easily follow the movement, location and well-being of a person in detention without the need to locate and examine numerous files, papers or slips.**

65. **The Subcommittee recommends that the State party keep such records for all persons deprived of their liberty, regardless of whether they are kept in a location officially registered as a place of detention by the State party.**

Contact with the outside world

66. The Subcommittee remains concerned that, for persons in pretrial detention, visits by family members and others are only allowed with the express permission of investigating officers (see CAT/OP/UKR/1, paras. 105-106). In practice, such permissions are rarely granted, resulting in detainees' isolation from the outside world. Policies for telephone calls vary among SIZOs and ITTs, with some places allowing video calls so long as a guard is present and others restricting calls entirely. Given the lack of mail service in many areas affected by the conflict in eastern Ukraine, restrictions on the use of telephones can completely disconnect detainees seeking to communicate with individuals in those areas. Authorizations to send letters to relatives and others also vary, with some SIZOs restricting that right. It has also been reported that institutions may excessively limit contacts so that, in practice, visits and telephone calls are more restricted than what is required by law.

67. The situation is exacerbated for detainees accused of crimes in connection with the armed conflict in eastern Ukraine who undergo lengthy investigations and therefore face protracted periods of pretrial detention, a situation which prolongs the period during which their outside contacts are restricted.

68. **The Subcommittee recommends that the State party enable family members and others to visit and communicate with persons in pretrial detention centres as a matter of both law and practice. It also recommends that any restrictions imposed on contacts are made only in exceptional circumstances and that the State party ensure that its policy on outside contacts applies equally in all similar institutions, such as in all SIZOs.**

Complaint and oversight mechanisms

69. As mentioned in paragraphs 18, 37-38 and 43 above, the mechanisms currently in place to respond to procedural concerns, for example about conditions and allegations of torture and ill-treatment, could be strengthened. Detainees have asserted that the complaints mechanisms that exist, including those within the Prosecutor General's Office, the courts and the national preventive mechanism, have proven ineffective since they fail to provide complainants with substantive hearings or meaningful remedies.

70. The Subcommittee is also concerned that an apparent fear of reprisals precludes some detainees from seeking protection through such mechanisms. Detainees have stated that if they submit a complaint they may be accused of "disobedience" (Criminal Code, art. 391) and subject to disciplinary sanctions. They have also cited fear of abuse from detention personnel and from other detainees as additional deterrents. Furthermore, the

Subcommittee has been informed that, in some SIZOs, only submissions sent to the court are sealed whereas general complaints must be passed from guards on duty to the administration in open form, which again has the effect of deterring detainees from reporting concerns.

71. Moreover, the Subcommittee remains concerned about the multiplicity of roles exercised by public prosecutors, who are tasked both with conducting criminal investigations and prosecutions and with overseeing the legality and rights compliance of those same processes (see CAT/OP/UKR/1, paras. 25-27). That inherent conflict of interest may prevent the conduct of speedy and thorough investigations into claims of torture and ill-treatment. For example, during its visit the Subcommittee saw documentation from a case of alleged ill-treatment that had been summarily dismissed by a prosecutor's office with no accompanying rationale given, which implies that no investigation had taken place.

72. **The Subcommittee recommends that the State party guarantee the right to submit complaints, both in law and in practice (see CAT/OP/UKR/1, paras. 18-20). It also recommends that detainees be empowered to submit complaints directly and confidentially to administrators in places of detention, to higher-level authorities, as necessary, and to authorities with remedial powers. The Subcommittee encourages the State party to bolster its monitoring and complaints mechanisms by giving such mechanisms the power to grant effective remedies.**

73. **The State party is urged to protect complainants from reprisals and any other form of prejudice.**

74. **Finally, the Subcommittee reiterates its recommendation that the multiple roles of public prosecution be revised in order to enhance the independence and effectiveness of investigations into allegations of torture and ill-treatment (see CAT/OP/UKR/1, para. 55).**

B. Specific concerns

Detainees accused of crimes in connection with the armed conflict in eastern Ukraine

75. During its visit, the Subcommittee was alarmed to discover that fundamental safeguards were not being applied to detainees accused of crimes in connection with the armed conflict in eastern Ukraine, who claimed, as a pattern, to have been deprived of liberty first in secret places of detention, where they were interrogated for up to several days before being transferred to State-recognized institutions. It was only after they were taken to State-recognized detention centres that their detention was registered, albeit under a misreported time of arrest. It is worrying that detainees were apparently held incommunicado and not afforded a medical examination nor given access to a lawyer at the onset of their detention, official or otherwise.

76. As mentioned above, the Subcommittee has received consistent allegations of torture and ill-treatment in this process (see para. 35).

77. The Subcommittee is further concerned about the fact that, according to article 176 (5) of the Criminal Code, custody is the only measure of restraint for those accused of crimes in connection with the conflict, given the restrictions placed on pretrial detainees and the tendency of their cases to last several months. With courts universally extending detention to the maximum legal limits and frequently postponing hearings, detainees accused of crimes in connection with the armed conflict in eastern Ukraine are held under a regime that greatly restricts occupational activities, outside contacts and access to fresh air for periods exceeding 18 months.

78. **The Subcommittee recommends that the State party ensure that fundamental safeguards, including the right to a lawyer, notification of custody and contact with the outside world, are applicable to all detainees, regardless of the reason for or the place of detention.**

79. **Given the heightened risk of torture and ill-treatment in undisclosed places of detention, the Subcommittee recommends that the State party cease its use of such places.**

80. **The Subcommittee recommends that the State party guarantee to international and national monitors, including the national preventive mechanism, the United Nations human rights monitoring mission in Ukraine, the Special Monitoring Mission to Ukraine of the Organization for Security and Cooperation in Europe and the International Committee of the Red Cross, full and open access to all places where people are or may be deprived of their liberty, regardless of whether those places have been recognized officially as detention facilities.**

81. **Furthermore, the Subcommittee recommends that the State party ensure that all individuals, including those accused of offences under articles 109-115, 258, 260-261 and 437-438 of the Criminal Code, be tried without undue delay, in accordance with fair trial standards established by international human rights law.**

82. **Recalling the absolute prohibition of torture contained in article 2 (2) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which states that "no exceptional circumstances whatsoever, whether state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for torture", the Subcommittee reiterates its recommendation that all allegations of torture and ill-treatment be investigated and prosecuted, and that penalties be imposed that are commensurate with the grave nature of such acts.**

Persons serving a life sentence

83. In line with observations made in its 2011 visit report, the Subcommittee is concerned that the situation of persons serving a life sentence is inhumane (see CAT/OP/UKR/1, paras. 128-132). In SIZOs around the country, including those visited in Kharkiv, Lviv, Bakhmut, Mariupol and Zaporizhzhia, the Subcommittee observed cells that were small, poorly ventilated and humid, with appalling hygiene and a lack of sanitation. The cells were also bare, with inadequate toilet facilities and bedding. Some cells were also dark, while in others detainees were subjected to artificial lighting on a continuous basis.

84. Those conditions were exacerbated by the imposition of a strict regime. Assumed to be dangerous despite not having undergone an individual risk assessment, persons serving a life sentence were obliged to remain in their cells 23 hours a day without the opportunity to undertake occupational or recreational activities. Access to exercise facilities was inadequate. In addition, detainees reported being handcuffed when taken out of the cell for exercise and during medical examinations. Such a blanket regime, which is stricter than that applied to other prisoners, is equivalent to placing such prisoners under disciplinary measures for the duration of their detention.

85. **The Subcommittee reiterates its recommendation that the State party improve the material conditions in cells, including in respect of water and sanitation, and that it remedy the lack of activities for persons serving a life sentence (see CAT/OP/UKR/1, para. 132).**

86. **The Subcommittee recommends that the State party reform the regime applied to persons serving a life sentence so that they are not uniformly punished in excess of what their sentence requires. It also recommends that such prisoners, like other detainees, serve their sentence according to a treatment plan designed on the basis of an individual security assessment.**

Transfers

87. The Subcommittee is concerned about the system of transferring detainees from one institution to another. In particular, frequent transfers between SIZOs in different parts of the country and from SIZOs to ITTs disrupt detainees' daily routines, their contact with the outside world and their access to legal counsel, among other safeguards. Such transfers may also relegate detainees to institutions, such as ITTs, that do not provide the same material conditions and access to occupational activities as penitentiaries, for prolonged periods. Moreover, when carried out without a well-articulated investigative purpose, frequent transfers may be employed to intimidate or punish detainees. As mentioned in paragraph 61 above, the system for registering these transfers is also problematic.

88. Moreover, the Subcommittee observed that the vehicles used for such transfers were dark, lacking in ventilation and divided into small, cramped cages, with one cage measuring a mere 90 cm^2. The Subcommittee is concerned about reports that detainees are not provided food or water when they are transferred to participate in procedural actions and court hearings, even when such transfers last several days.

89. **The Subcommittee recommends that the State party evaluate its system of transfers to ensure that transfers are made only after appropriate justifications and that they do not result in detainees being held in short-term detention centres, such as ITTs, for lengthy periods. The Subcommittee also recommends that the State party guarantee that fundamental safeguards, including access to the outside world, legal counsel and medical care, are not unnecessarily interrupted by frequent transfers.**

90. **The Subcommittee recommends that the State party replace vehicles lacking sufficient space and ventilation. It also recommends that it discontinue the use of full metal cages, which endangers detainees in transport. The Subcommittee further recommends that the State party provide detainees with the food and water to which they are entitled while deprived of their liberty.**

Children and detention

Mother and baby units

91. The Subcommittee positively notes the clean, bright and well-equipped premises for mothers and babies in Chernihiv and Chornomorsk prison colonies. The Chernihiv unit, in particular, includes a playroom, instruments and individual sleeping quarters where detained mothers who have recently given birth can stay with their children. Nevertheless, the Subcommittee considers that these premises can be further adapted for children. For example, rooms for family visits are sterile and lack child-friendly decoration. Visiting rooms in both locations have glass separators, which deprives detainees and their children of the opportunity to bond with visitors in a familial atmosphere. Finally, pregnant women are held with the general prison population in group dormitories located in older, poorly lit facilities.

92. Despite the relatively good material conditions in mother and baby units, the Subcommittee is concerned about the psychological well-being of mothers kept there. It notes with concern the fact that babies are separated from their mothers for several days after birth and during periods of serious illness, which causes anxiety to mothers and could hinder the socialization of their children. While mothers who have given birth live in bright, en suite accommodations with their children in Chernihiv, in Chornomorsk mothers and children do not live together but meet for only two hours twice a day, which is an insufficient bonding period for children's early development. In addition, as mothers and children share mealtimes, mothers who wish to assist their children during that time must forfeit their own food. The Subcommittee notes with approval the placement of a child psychologist as head of unit in Chernihiv, where mothers and children also benefit from a wide range of activities. However, comparable activities were not observed in Chornomorsk, where there was a lack of records documenting detainees' psychological and psychiatric history. Moreover, detainees in Chornomorsk showed signs of emotional distress, including tangible anxiety and visible laceration scars on the arms of some women.

93. The Subcommittee is concerned about the treatment of women in Chornomorsk, where abuse and forced labour have been reported. In particular, the Subcommittee has received reports of staff and caregivers verbally abusing mothers and acting aggressively towards their small children. During its visit, the Subcommittee observed detainees being intimidated and made to stand upon the entrance of unit personnel. In addition, the Subcommittee has been made aware of harsh measures, including isolation for up to 10 days and separation from children, imposed as disciplinary measures for infractions. The Subcommittee further notes that all non-pregnant women detained there are required to work, for negligible compensation. In addition, it is alleged that mothers have been punished as retribution for reporting abuses, including by being forced to carry out uncompensated manual labour.

94. **The Subcommittee recommends that the State party adapt units accommodating mothers and children to enhance familial bonding between detained**

mothers and their children, as well as between them and their visitors. The Subcommittee also recommends that pregnant women be accommodated in renovated facilities in order to maintain both their privacy and their health.

95. **The Subcommittee further recommends that the State party ensure the provision of appropriate psychological care to pregnant women and new mothers to reduce the risk of psychological suffering and to minimize the negative effects of detention on children. The State party should provide additional counselling, health-care treatment and medication, as needed.**

96. **Similarly, the Subcommittee recommends that the State party reorganize the mother and baby unit in Chornomorsk, using the Chernihiv unit as a model, so that mothers and babies may live together in appropriate facilities. It also recommends that mothers and children be separated only in cases of acute medical need and that decisions about such separations be made on a case-by-case basis, keeping in mind the best interests of the mother and child. Furthermore, the Subcommittee recommends that the State party increase resources to these units in order to minimize fiscal dependency on outside donors.**

97. **The Subcommittee requests that the State party urgently address reported ill-treatment of women in the Chornomorsk mother and baby unit. The State party is encouraged to strengthen oversight of that unit and to guarantee effective remedies as a result, including the removal of abusive staff. The Subcommittee recommends that protection against reprisals be guaranteed to ensure the accuracy of information received by oversight mechanisms.**

Reception centres for children

98. The Subcommittee notes that, following the 2012 revision of the Criminal Procedure Code, child reception centres lack a clear legal status and accommodate only a limited number of children. The Kyiv centre, for example, accommodates no more than five children at a time, despite a capacity of 40 and a complement of 20 on-duty staff. The Subcommittee understands that children are kept in such centres as a transitional measure before being sent to another place of detention or transferred abroad. However, as those institutions do not appear to have comprehensive operating principles, their status in the system of detention is unclear and the Subcommittee is concerned that children can be held in them for up to 30 days without benefiting from a regulated regime of educational and social activities.

99. **The Subcommittee recommends that the State party clarify the role of child reception centres in its system of detention, providing an appropriate legal basis and adequate funding for institutions that have been kept open following the revision of the Criminal Procedure Code. It also recommends that the State party provide sufficient resources for age-specific interventions, as in others places of detention, including continuous education, social services and medical care.**

Mental health institutions

100. The Subcommittee is concerned about the process of admitting children to mental health institutions, given that there is apparently no court supervision of the process nor of the medical treatment provided. While administrators confirm that children over 14 years of age are required by law to give consent before being placed in a mental health institution, the Subcommittee is not confident this is always done in practice. In addition, children under 14 years of age are not consulted and do not appear to be informed before they receive psychiatric interventions. For example, the Subcommittee has learned that children who are patients in mental health institutions may have medication put in their meals if they refuse treatment. Furthermore, it appears that the children's unit of the Pavlova City Psychiatric Hospital lacks a formal complaints mechanism. Instead, concerns about involuntary treatment have been expressed and responded to orally.

101. **The Subcommittee recommends that the State party conduct routine, case-by-case verifications of the legal competence of patients upon admission before substituting the decisions of others, including relatives and medical personnel, for that of the patients. For child patients, it is recommended that information about their health status and rights, potential interventions and alternatives to medical treatment**

be provided in an age-appropriate format that enables them to understand their health status, treatment options and the remedies available. Decisions concerning legal capacity, involuntary hospitalization and involuntary treatment should be subject to judicial oversight.

Boarding schools

102. While positively noting the dedicated staff and community atmosphere at Darnytskyi orphanage boarding school in Kyiv, the Subcommittee is concerned that the institution is not provided with sufficient resources to accommodate children living there according to international standards. The Subcommittee found that the ratio of children to teachers is around 15 to 1, which is insufficient given that the children possess a range of intellectual and physical disabilities and that each staff member is tasked with attending to, educating and supervising children under his or her care. The Subcommittee is concerned that the salary of staff, which is around Hrv 2,400 ($90) per month, is not sufficient compensation for the work done and that staff do not have the resources needed to deal with demanding conditions, including inevitable incidents of violence and difficult behaviour. Moreover, the Subcommittee has observed that both children and staff occupy tight living quarters, with many persons sharing relatively small rooms.

103. **The Subcommittee recommends that the State party increase financial and human resources to the Darnytskyi orphanage boarding school and to other similarly situated institutions in order to ensure the ability to accommodate children with intellectual and physical disabilities according to international standards. With additional resources, the Subcommittee recommends that the State party renovate the facilities to increase residents' private sleeping and living space. The Subcommittee further recommends that the State party increase staff salaries.**

Criminal justice institutions

104. While understanding the State party's efforts to ensure that juveniles are not isolated, the Subcommittee is concerned that children may be placed on the same premises as adults in criminal justice institutions, which may, among other things, expose them to sexual violence. The Subcommittee notes, in particular, that female juveniles can be placed with women in Mikolayiv SIZO if authorized by the prosecutor. In addition, during its visit to Kyiv SIZO, the Subcommittee observed a girl sharing a cell with a woman, in a building separate from the one where juvenile males reside, raising the concern that she might not benefit from the same educational opportunities and social interaction as those enjoyed by her male peers. In Kyiv SIZO, the Subcommittee also noticed that boys were accommodated in a men's wing.

105. During its visit, the Subcommittee met children detained in SIZOs with bright rooms, access to books and good hygienic conditions, but notes that the quality of those conditions was subject to parental and other outside support. That being the case, the Subcommittee remains concerned about children in SIZOs and ITTs, where it also observed juveniles detained in dimly lit cells, with poor hygiene and dirty clothes, and where it has received reports of illness-inducing food.

106. **The Subcommittee recommends that the State party introduce alternatives to detention for juveniles, who ought to be detained only as a measure of last resort. Where detention is absolutely necessary, the Subcommittee recommends that the State party ensure that all juveniles benefit from educational and recreational opportunities, as well as peer interaction, on an equal basis. The Subcommittee recalls that international guidelines envisage separate regimes for juveniles and adults in detention.**[6]

107. **The Subcommittee recommends improvements in terms of hygiene, ventilation and climatic conditions in cells occupied by juveniles, according to international**

[6] See the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), rule 29; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), rules 13.4 and 26.3; and the Convention on the Rights of the Child, art. 37.

standards. It recommends that facilities for juveniles receive natural light and that the food provided be of nutritional value and adequate for health.

V. Repercussions of the visit

108. In accordance with article 15 of the Optional Protocol, the Subcommittee calls upon Ukraine to ensure that there are no reprisals following the Subcommittee's visit. To that end, it requests that the State party provide detailed information in its reply on what it has done to prevent potential reprisals against anyone who provided information to the Subcommittee.

109. The Subcommittee urges the State party to cooperate fully with the Subcommittee and to ensure that, during future visits, the Subcommittee face no obstacles in exercising its mandate, which would again cause it to consider the success of its mission to be in jeopardy. Should such obstacles present themselves, the Subcommittee may use all appropriate measures to address them, including the issuance of a public statement or the release of its preliminary findings, as provided for in article 16 (4) of the Optional Protocol. The Subcommittee may also utilize all good offices available within the United Nations system or other appropriate forums.

Annex I

List of places of deprivation of liberty visited by the Subcommittee

I. May 2016

Facilities under the Ministry of Internal Affairs

Pre-trial centre of the Main department of the National Police in Odesa ('Odesa ITT')

Pre-trial centre of the Main department of the National Police in Druzhkivka ('Druzhkivka ITT')

Pre-trial centre of the Main department of the National Police in Kramatorsk ('Kramatorsk ITT')

Reception centre for kids of the Main Department of the National Police in Kyiv

Facilities under the Ministry of Justice

Artemivsk penitentiary institution of the Department of the State Penitentiary Service of Ukraine in Donetsk region (№6) ('Artemivsk SIZO')

Chernihiv Penitentiary Colony of the Department of the Penitentiary Service of Ukraine in Chernihiv region (№ 44)

Kharkiv penitentiary institution of Department of the State Penitentiary Service of Ukraine in Kharkiv region (№ 27)

Kyiv detention facility of the Department of the Penitentiary Service of Ukraine in Kyiv and Kyiv region ('Kyiv SIZO')

Kherson detention facility of the Department of the Penitentiary Service of Ukraine in Kherson region ('Kherson SIZO') (MOJ)

Mykolaiv detention facility of the Department of the State Penitentiary Service of Ukraine in Mykolaiv region ('Mykolaiv SIZO')

Mariupol detention facility of the Department of the State Penitentiary Service of Ukraine in Donetsk region ('Mariupol SIZO')

Odesa penitentiary institution of Department of the State Penitentiary Service of Ukraine in Odesa region (№ 21) ('Odesa SIZO')

Dnipropetrovsk penal institution of the Department of the State Penitentiary Service of Ukraine in Dnipropetrovsk region (№4) ('Dnipropetrovsk SIZO')

Chornomorsk penal colony of Department of the State Penitentiary Service of Ukraine in Odesa region (№ 74)

Facilities under the Ministry of Health

Pavlova City Psychiatric Hospital, Kyiv

Facilities under the Ministry of Social Policy

Darnytskyi orphanage boarding school, Kyiv

Facilities under the State Security Service

SBU Premises in Kharkiv (delayed access)

Places of deprivation of liberty obstructed from visiting

Facilities under the State Security Service

SBU Premises in Kramatorsk

SBU Premises in Konstantinovka

SBU Premises in Mariupol

SBU Premises in Odesa

II. September 2016

Facilities under the Minsitry of Internal Affairs

Pre-trial centre of the Main department of the National Police in Pustomiti ('Pustomiti ITT')

Pre-trial centre of the Main department of the National Police in Mariupol ('Mariupol ITT')

Mariupol

Pre-trial centre of the Main department of the National Police in Kramatorsk ('Kramatorsk ITT')

Facilities under the Ministry of Justice

Lviv pre-trial institution of the State Penitentiary Service of Ukraine in Lviv region ('Lviv SIZO')

Zaporizhzhia pre-trial institution of the State Penitentiary Service of Ukraine in Zaporizhzhia region ('Zaporizhzhia SIZO')

Facilities under the State Security Service

SBU Premises in Lviv

SBU Premises in Zaporizhzhia

SBU Premises in Mariupol

SBU Premises in Kramatorsk

Annex II

List of government officials and other persons with whom the Subcommittee met

I. May 2016

Authorities

Ministry of Foreign Affairs

Antonina Vitaliivna Shlyakotina, First Secretary, Human Rights and Council of Europe Unit, Department for International Organizations

Ministry of Justice

Sergiy Petukhov, Deputy Minister of Justice for European Integration

Natalia Sevosianova, First Deputy Minister of Justice for European Integration

Tamara Andriieva, Director of the International Law Department

Luidmyla Sugak, Deputy Director of the International Law Department

Olena Orendivska, International Law Department, International Treaties Division, Deputy Head of Legal Expertise

Office of the Prosecutor General

Dmytro Volodymyrovych Huzyr, Prosecutor, Division of International Legal Cooperation, International Cooperation Unit

State Penitentiary Service

Vladyslav Ivanovych Klysha, Head of international activities and cooperation with the media

Mykola Petrovych Ityai

Oleksandr Lvovych Etnis

Vitalli Vasylovych Khvedchuk

Oleksandr Volodymyrovych Nuzhnyui

State Migration Service

Ivan Anatoliyovych Rybalko, Head of the organization of reception centers and temporary stay of refugees and foreigners, Department of Foreigners and Stateless Persons

State Border Service

Oleg Oleksiyovych Laba, Head of the analysis of illegal migration and readmission unit; Colonel

State Security Service

Olexander Petrovych Sychevskii, Central Investigation Department

Igor Vasylovych Demchenko, Head of Preliminary Investigation Division; Colonel

Ministry of Defense

Olexandr Radyslavovych Pelts, Head of the Division of Health, Patrol-guard service and Investigation, Main Department of Military Service; Colonel

Ministry of Internal Affairs

Eugeniy Valeriyovych Dziuba, Acting Head of the Human Rights Division, National Police

Olexandr Mykhailovych Guzmenuik, Deputy Head of the Department of Analytical Provision and Rapid Response, National Police

Ministry of Social Policy

Oksana Sulima, Deputy Director of the Department of Social Services

Lilia Voloshenko, Chief Specialist of the Department of Social Protection of Children's Rights and Adoption

Alla Anatoliivna Karpova, Head of the organization of social service institutions unit, Division for the elderly and social services

Olena Mykhailivna Osypenko, Chief Expert of the organization of social service institutions unit, Division for the elderly and social services

Kyrylo Gyrgorovych Dombrowskyi, Head of the sector on protection of housing and property rights of the Department for the protection of children and adoption

Ministry of Education and Science

Viktoriia Borysivna Sydorenko, Chief Specialist, Organizational and educational activities and social issues Unit, Professional and Technical Work Department

Valentyna Oleksandrivna Klemyuk, Chief Specialist, Education of children with Special Needs Unit, Department of Secondary and Primary Education

Ministry of Health

Vasyl Vitaliyovych Kravchenko, Director of the Medical Department

Sergiy Sergiyovych Shum, Member, Acting Commission on Issues of Change (Correction) of Sexuality

Yuriy Borysovych Polischuik, Chief Specialist, Medical Department

Olexandr Vadymovych Tsiomik, Secretary of the Permanent Acting Commission on Issues of Change (Correction) of Sexuality

The Verkhovna Rada (Parliament) of Ukraine

Ruslan Mykhailovych Sydorovych, Member

Igor Sergiyovch Alekseev, Member

Igor Vasyliovych Kolisnyk, Member

Valeriy Vasyliovych Patskan, Member

Tetiana Mykolaivna Kyrylyuk, Senior Consultant of the Secretariat of the Committee on Legal Policy and Justice

Andriy Vasyliovych Koshman, Senior Consultant of the Secretariat of the Committee on Legal Policy and Justice

National Preventive Mechanism

Ukrainian Parliament Commissioner for Human Rights

Valeriya Lutkovska, Parliament Commissioner for Human Rights

Bohdan Kryklyvenko, Head of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights

Ekaterina Chumak, Acting Head of the National Preventive Mechanism Department, Secretariat of the Ukrainian Parliament Commissioner for Human Rights

(And additional staff)

Others

United Nations Agencies

United Nations Human Rights Monitoring Mission in Ukraine

Other International Organizations

European Union Delegation

Organization for Security and Co-operation in Europe Special Monitoring Mission to Ukraine

Civil Society

Amnesty International Ukraine

Centre for Civil Liberties

Health Right International

Human Rights Information Centre

Insight

International Medical Rehabilitation Center

Kharkiv Human Rights Protection Group

Ukrainian Helinski Human Rights Union

II. September 2016

Authorities

Ministry of Foreign Affairs

Antonina Vitaliivna Shlyakotina, First Secretary, Human Rights and Council of Europe Unit, Department for International Organizations

Ministry of Justice

Natalia Sevosianova, First Deputy Minister of Justice for European Integration

Luidmyla Sugak, Deputy Director of the International Law Department

Office of the Prosecutor General

Maksym Vorotintsev, Prosecutor, Department for International Cooperation

Oleksandr Prokopov, Head of Branch for Oversight over Compliance with Laws and Execution of Court Decisions in Criminal Proceedings, Department for Investigation of Crimes against the National Security of Ukraine, Office of the Chief Military Prosecutor

Oleksandr Sorochko, Prosecutor, Branch for Oversight over Compliance with Laws and Execution of Court Decisions in Criminal Proceedings, Department for Investigation of Crimes against the National Security of Ukraine, Office of the Chief Military Prosecutor

State Penitentiary Service

Vladyslav Ivanovych Klysha, Head of international activities and cooperation with the media

State Migration Service

Ivan Anatoliyovych Rybalko, Head of the organization of reception centers and temporary stay of refugees and foreigners, Department of Foreigners and Stateless Persons

State Border Service

Andrii Ivanskyi, Senior Officer, Department of Administrative Proceedings

State Security Service

Oleksandr Tkachuk, Director of the Office of the Head

Oleh Riznychenko, Deputy Head, Centre for International Cooperation

Ihor Huzkov, Central Apparatus

Ministry of Defense

Yurii Khoroshunov, Deputy Head, Department for Organization of Security Patrol, Checkpoint Service and Search, Main Department of Military Police, Armed Forces of Ukraine

Oleh Hushchin, Assistant to the Head of the Administrative Department of the General Staff of the Armed Forces of Ukraine

Ministry of Internal Affairs

Olexandr Mykhailovych Guzmenuik, Deputy Head of the Department of Analytical Provision and Rapid Response, National Police

Ministry of Social Policy

Oksana Sulima, Deputy Director of the Department of Social Services

Ministry of Education and Science

Viktoriia Borysivna Sydorenko, Chief Specialist, Organizational and educational activities and social issues Unit, Professional and Technical Work Department

Valentyna Oleksandrivna Klemyuk, Chief Specialist, Education of children with Special Needs Unit, Department of Secondary and Primary Education

Ministry of Health

Yuriy Borysovych Polischuik, Chief Specialist, Medical Department

National Preventive Mechanism

Ukrainian Parliament Commissioner for Human Rights

Valeriya Lutkovska, Parliament Commissioner for Human Rights

Bohdan Kryklyvenko, Head of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights

Others

United Nations Agencies

United Nations Human Rights Monitoring Mission in Ukraine

United Nations Resident Coordinator and UNDP Resident Representative

Annex 7

Explanatory Note on the draft law of Ukraine on ratification of the International Convention for the Suppression of the Financing of Terrorism [Law No. 149-IV, 12 September 2002]

(translation)

Translation

Explanatory Note
Draft Law of Ukraine on Ratification of the International Convention for the Suppression of the Financing of Terrorism

The draft Law of Ukraine on ratification of the International Convention for the Suppression of the Financing of Terrorism was drawn up by the MFA based on article 7, paragraph 2, of the Law of Ukraine on International Treaties of Ukraine, with a view to becoming a party to the International Convention for the Suppression of the Financing of Terrorism, which was adopted by the UN General Assembly on 9 December 1999. The adoption of this law and, consequently, the formal accession of Ukraine to the Convention are driven by the need to counter, through joint efforts, the social phenomenon of terrorist financing, thereby contributing to suppression and eradication of terrorism itself. Besides, formalizing Ukraine's participation in the Convention is one of its obligations under UN Security Council resolution 1373, which is binding on all UN Member States.

Following the 9/11 events in the United Sates, it became clear that such crimes in terms of number, gravity, and instruments largely depend on the sources of financing terrorists may get access to. Such terror attacks, especially those of international nature, pose a threat to friendly relations between States, territorial integrity and security of States and their citizens. Acknowledging this fact and aiming to create a comprehensive legal framework for combating and eradicating terrorism, as well as taking into account that such financial transactions may be, and in most cases are, of a transboundary nature, the entire international community, of which Ukraine is an integral part, realized the need to bring together as many States as possible around a common goal of addressing this shameful phenomenon. Today, the international community focuses its attention and efforts on fighting terrorism by identifying and blocking funds intended for terrorist purposes.

The Convention qualifies terrorist financing as a criminal offence, whether committed by an individual or a legal entity. The Convention imposes on States Parties the obligation to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have other goals. The Convention also stipulates that funds allocated by an individual or a legal entity for the purpose of financing terrorism, as well as the proceeds derived from such offences, may be seized and utilized to compensate the victims or their families. States Parties must take appropriate measures at the national level for the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing terror attacks without impeding in any way the freedom of legitimate capital movements. It also provides that States Parties shall afford one another the greatest measure of assistance in investigating such offences; in particular, States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.

The draft law contains an interpretative declaration that seeks to establish universal jurisdiction, which is possible under article 7, paragraph 3, of the Convention. This paragraph provides that, upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations, as depositary of the Convention, of the jurisdiction it has established when:

a) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph a) or b), of the Convention in the territory of or against a national of that State;

b) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph a) or b), of the Convention against a State or government facility of that State abroad, including diplomatic or consular premises of that State;

c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph a) or b), of the Convention committed in an attempt to compel that State to do or abstain from doing any act;

d) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State;

e) The offence is committed on board an aircraft which is operated by the Government of that State.

The aforementioned clause of the Convention provides for the right rather than the obligation of States to exercise jurisdiction. In other words, it provides for the so-called optional jurisdiction, which States may establish by taking certain steps at the national level. Such steps, in accordance with the legal system of Ukraine, may include the adoption of a regulation that would enable Ukraine to exercise the respective jurisdiction and apply the regulation set forth in article 8 of the current Criminal Code of Ukraine.

The adoption of paragraph 2 of the law of Ukraine on ratification in the version proposed by the MFA will establish jurisdiction over the aforementioned offences and impose on Ukraine's judicial bodies the obligation to exercise jurisdiction in every case involving offences set forth in article 2 of the Convention.

The Convention complements the body of the existing multilateral treaties on terrorism.

It will enter into force after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession.

Financial and material implications of ratification of the Convention:

Ratification and implementation of the Convention will not entail additional financial or material expenses.

Legal implications of ratification of the Convention:

Ratification of the Convention does not require amendments to the current legislation of Ukraine.

Foreign policy implications of ratification of the Convention:

Ratification of the Convention will strengthen the authority of Ukraine in the international arena and consolidate its status as a State that takes measures to prevent terrorism and enhance security both at the national and international levels. Moreover, Ukraine is a party to almost all international treaties on combating terrorism elaborated within the United Nations system, and ratification of the International Convention for the Suppression of the Financing of Terrorism will reaffirm Ukraine's commitment to a stronger international legal mechanism for fighting terrorism in general and terrorist financing in particular.

Minister of Foreign Affairs of Ukraine A.M.Zlenko

Annex 8

Federal Government Bill on the United Nations
International Convention for the Suppression
of the Financing of Terrorism of 9 December 1999,
Bundestag printed version 15/1507,
2 September 2003

(excerpt, translation)

Translation
Printed edition 15/1507
02.09.2003

German Bundestag

15. Legislation

Federal Government Bill

Draft Law on the International Convention of the United Nations of 9 December 1999 for the suppression of the financing of terrorism

[…]

"The agreement [ICSFT] obliges States Parties to criminalise the collection and provision of funds of every kind that are intended to facilitate offences as defined in its annex. It obliges States to have the tools in place to seise and confiscate funds that are used for terrorist acts. It contains provisions regarding international judicial dispute settlement as well as provisions for mutual legal assistance and extradition that follow the established model of other agreements in this area."

Annex 9

Legal Department of the League of Arab States, Work Paper: The League of Arab States Actions in supporting the United Nations in combatting international terrorism, 11 October 2007

Work paper

The League of Arab States Actions in supporting the United Nations efforts in combatting international terrorism.

Under growing interest to combat terrorism and implementing the resolution of the Arab League Council at the summit level No. 385. D. P (19) - March 29th, 2007, comprising the support of the United Nation's efforts in the fight against terrorism, and emphasizing the importance of the recommendations enclosed in the United Nation's Global Counter Terrorism Strategy adopted by the General Assembly in its resolution No. 288/60/RES/A dated 8 / 09 / 2006, In light of this interest, the League of Arab States formed a team of counter-terrorism experts to follow up and implement the above mentioned strategy at the Arab level. The Group of Experts were briefed on the resolution of the U.N. General Assembly by which the United Nations strategy was adopted to combat global terrorism, and by which the Assembly called upon the Member States and regional and sub-regional organizations to support this strategy and adopt comprehensive and coordinated tactics at the national, regional and international levels in confronting and combating terrorism with emphasis on the need to address the conditions that lead to the spread of terrorism.

The team followed up the most important documents issued within the framework of the League of Arab States in preventing and combating terrorism, cited in the following items:

- The Arab Strategy to Combat Terrorism adopted by the Council of Arab Interior Ministers in 1997 and provisional plans.

- The Arab Convention for the Suppression of Terrorism, signed by the Arab Ministers of Justice and Interior in 1998.
- The Arab recommendations of the Expert Group on Counter-terrorism in their previous meetings.
- The report and recommendations of the Arab regional symposium on combating terrorism (Cairo 16-17/2/2005).
- The recommendations of the Arab conference on the impact of terrorism on Social Development held within the framework of the Council of Arab Ministers of Social Affairs (Sharm el-Sheikh 6-8/12/2006).
- Recommendations of the third meeting of the Permanent Group of Experts assigned to follow-up "The role of media in dealing with the phenomenon of terrorism" emanating from the Council of Arab Information Ministers (Cairo 13-14/5/2007).

- The resolutions of the Arab League Council at the ministerial and the summit levels on international terrorism and ways to combat it.

The affirmation of the above resolutions and recommendations in support of the efforts of the League of Arab States in the

implementation of the United Nations Global Counter Terrorism Strategy and emphasizing the role of the United Nations in the field of combating international terrorism, taking into account the following:

First:

The League of Arab States was the first to develop an Arab strategy for combating terrorism in 1997 adopted by the Council of Arab Interior Ministers, which is complementary to and does not contradict with the strategy of the United Nations. The League of Arab States also called for a global strategy to combat terrorism in a symposium held on combatting terrorism in cooperation between the Council of Arab Ministers of Justice and the United Nations Office on Drugs and Crime in Cairo 16-17/2/2005. The Arab States were also the first to develop a comprehensive Arab Convention against Terrorism in 1998. This Arab coordination in the fight against terrorism is being made through a set of special mechanisms under the League's Council and the Councils of Arab Ministries of Justice and Interior, first and foremost the Arab expert group on combating terrorism and the Arab Bureau of Criminal Police and officials of the Annual Conference on combating terrorism and the Focal Point in the Secretariat with the Counter-Terrorism Committee of the Security Council.

Second:

The Arab states were and still the most suffering countries in the world from terrorism, which claimed the lives of hundreds of thousands of innocent citizens. The Arab countries have taken many of the measures and actions to combat terrorism, both at legislative and legal levels by enacting the necessary legislations or special laws to combat terrorism and money laundering in addition to endorsing or joining the universal conventions on terrorism or at both judicial and security cooperation level or at the international cooperation. This is in addition to supporting the United Nations efforts in combating terrorism and fulfilling international obligations in this field within the international legitimacy resolutions, particularly the relevant Security Council resolutions.

Third:

The League of Arab States emphasizes the importance of following up the implementation of the contents of the United Nations strategy of measures designed to address the conditions and factors that lead to the spread of terrorism, taking into account the measures set forth in the Arab strategy to combat terrorism in 1997 and the decisions of the League's Council and the Arab specialized ministerial councils, recommendations and measures contained in the declaration by the Riyadh International

Conference on Terrorism (February 2005) and other documents issued by the Conference.

Fourth:

Many of the measures stipulated in the United Nations' Global Counter-Terrorism Strategy for the Arab States were already implemented, and others are on their way to implementation, especially in the field of security and judicial cooperation and information exchange. The mechanisms of the League of Arab States and its resolutions, in particular the Arab Convention for the Suppression of Terrorism and the Arab Convention on Money Laundering and Terrorism Financing being prepared would ensure effective cooperation among Arab countries in these areas, taking into account the provisions of the resolutions of the United Nations especially the Security Council and the universal instruments against terrorism.

Fifth:

The emancipation of United Nation's Global Counter Terrorism Strategy from any definition of the concept of terrorism and state terrorism -due to the absence of internationally agreed upon definition of terrorism- would hinder international efforts to combat terrorism. The Arab League emphasizes in this regard on the need to expedite the preparation of the comprehensive United Nation's Convention on Terrorism that includes a specific definition of international terrorism, State terrorism and distinguish between terrorism and the legitimate right of peoples

to resist occupation and aggression similar to the Arab, Islamic and African conventions on the fight against terrorism, taking into account that the murder of innocent civilians is not approved by the heavenly religions and international and regional covenants.

Sixth:

The United Nations Global Counter Terrorism Strategy should not be a substitute for holding an international conference on terrorism under the auspices of the United Nations or convening a special session of the United Nations General Assembly to discuss ways to deal with international terrorism in accordance with the initiatives proposed by Arab leaders.

Seventh:

The crime of terrorism should not be linked to any language or religion, culture or nationality.

Eighth:

Within the efforts of the League of Arab States on follow-up implementation of the United Nations Global Counter-Terrorism Strategy at the Arab level, the League follows up and Recommends the following:

1- Calling for the establishment of a mechanism within the United Nations General Assembly to follow up the application of the

Global Counter-Terrorism Strategy where Arab States are represented to protect their national interests.

2- Working on finding a just and rapid solutions to long-term conflicts, particularly the Israeli occupation of Palestinian territories and the Arab territories in the Golan and the Shaba'a Farms in South Lebanon, and calling upon the international community to move in a speedy and effective manner for the prevention and suppression of serious violations of international humanitarian law and human rights.

3- Promoting dialogue, tolerance and understanding among civilizations, cultures and peoples and religions and working for the criminalization of contempt of religion and interfering with symbols as an incitement to terrorism.

4- The rebuttal of the campaigns that the Islamic religion is subjected to and abuses of symbols as the values of Islam call for tolerance and the rejection of extremism and terrorism.

5- Strengthening the role of the Arab media in raising awareness of the dangers of terrorism and calling the media, especially Arab satellite channels to contribute to the clarification of the right image of Islam and inculcate the values of tolerance, moderation and dialogue between religions, cultures and civilizations, and not to promote the ideologies of terrorism and extremist thinking. This

is in addition to continuing cooperation in the area of information security between the Councils of Arab Ministers of Interior and Information.

6- The importance of the social factor and development in counter-terrorism through working on the implementation of the Arab Poverty Reduction Strategy endorsed by the Arab leaders at the Beirut summit in 2002, and following up the achievement of the Millennium Development Goals, according to the Khartoum summit resolution in March 2006 in this regard, and working on achieving comprehensive development including providing productive employment for youth and achieving a greater social integration in the Arab States.

7- Encouraging civil society to play its role in dealing with and condemning terrorism and to contribute to meeting the needs of the victims of terrorism and their families, as well as strengthening cooperation between the specialized bodies of the United Nations and the League of Arab States to establish national systems to provide assistance to the victims of terrorism through the establishment of funds for this purpose.

8- Activating the provisions of the Arab Convention for the Suppression of Terrorism on measures to prevent and combat terrorism, as well as promoting judicial cooperation and security between the Arab states, particularly in the area of extradition

and mutual legal assistance with the benefit of the Arab model of international judicial cooperation in criminal matters adopted by the Council of Arab Ministers of Justice and the Model Law for the extradition of Offenders adopted by the Council of Arab Interior Ministers. Moreover, work on activating and facilitating procedures of extradition.

9- Intensifying Arab cooperation in the exchange of information on the prevention and combating of terrorism and activate the provisions of Article IV of the Arab Convention for the Suppression of Terrorism and the exchange of information , investigations and experiences.

10- Supporting the Arab States actions to take appropriate practical measures to prevent the use of its territories by any party or organization to carry out terrorist activities, instigating or facilitating or participating in, financing or encouraging or tolerating them.

11- Enhancing coordination and cooperation among Arab states in combating crimes that may be relevant to terrorism such as money laundering, illicit drug and arms, especially small arms and light weapons and calling upon the Arab states that have not ratified or joined the United Nations Convention against Transnational Organized Crime and its Protocols and the United Nations Convention against Corruption to do so.

12 - Take the necessary measures to prevent terrorists from obtaining weapons or nuclear materials or chemical or biological, radiological or other deadly materials or smuggling or using them.

13- The Arab countries are to continue developing their national legislation on combating terrorism and enhancing the capacity of its judicial and security bodies in this area.

14- Coordinating Arab and international efforts to combat terrorist use of the Internet or develop the necessary legislation in this area with the benefit of the Arab Emirates indicative law to combat the crimes of the information systems technology or its similar, and to include in the Arab Convention draft for combating computer crime being prepared detailed provisions specifically for terrorist use of the Internet.

15 – Continuing the Arab efforts for issuing a resolution from the United Nations General Assembly to form a working group to examine the establishment of an international center to combat terrorism in accordance with the recommendation issued by the Riyadh International Counter-Terrorism Conference (February 2005) and the decision of the League's Council at the summit level, No. 385 d. P (19) dated 03/29/2007,and the provisions of the United Nations Global Counter Terrorism Strategy Which consider the question of establishing an international center to

combat terrorism as part of international efforts to strengthen the fight against terrorism.

16- Enhancing cooperation and coordination between ministerial councils and the Arab specialized organizations in the field of combating terrorism and intensifying the exchange of experiences and information between those councils and organizations in the anti-terrorism measures, and holding workshops to be attended by technical experts from the concerned Arab ministerial councils and offer its findings to the Arab Expert Group on Counter- terrorism as a prelude to lifting them to the League's Council at the ministerial level.

17- Coordination between committees or national bodies, which include concerned bodies and actors involved in the fight against terrorism to monitor the implementation of the United Nations Global Counter-Terrorism Strategy.

18- Intensifying cooperation with the United Nations organs and bodies involved in combating terrorism, especially with the United Nations Office on Drugs and Crime (Anti-Terror Branch) and the Counter-Terrorism Committee (CTC) established by Security Council resolution 1373 (2001), the Security Council Committee established pursuant to Security Council resolution 1540 (2004) and calling upon Arab states to submit their requests to the competent organs of the United Nations to obtain technical

assistance necessary to support the capabilities of its security and judiciary systems. This is in addition to organizing and financing workshops and training courses on combating terrorism and assisting in the implementation of the universal instruments and international resolutions on counter-terrorism.

19- Asking the Committee established by Security Council resolution 1267 (1999) to ensure a fair and transparent procedures when placing individuals and entities on the lists of terrorism and abide by the rules of international law and human rights and the rules of criminal justice, as well as the distinction between acts of terrorism and acts of legitimate resistance against occupation and aggression.

20- Strengthening cooperation with international organizations and specialized agencies, including the International Criminal Police Organization and the International Atomic Energy Agency and the World Health Organization and the International Maritime Organization and the World Customs Organization and the International Civil Aviation Organization to obtain the required assistance in building the capacity needed to counter the threat of terrorist use of nuclear materials or chemical or radiological weapons in supporting airport and seaport security, border and transport, and monitoring of the movements of terrorists and dismantling their networks and prosecuting them.

21- Emphasizing the observance of the norms of international law and human rights law and international humanitarian law and the Arab Charter on Human Rights in the implementation of the measures and actions against terrorism.

22- Emphasizing the importance of addressing the causes of terrorism and finding ways to prevent them at the political level, economic, social and cultural summarized as follows:

A) The political level: The principles of good governance should be applied at the level of state institutions through respect for the rule of law and the dissemination of human rights principles within the scope of the constitutional rights of the individual in accordance with the principles and international charters.

B) The Economic and Social level: State institutions try to improve public service provided to individuals as well as successful and realistic solutions to address poverty, underdevelopment and disease commensurate with their rights as a human being first and as a citizen second.

C) The cultural level: facing the diversity and differences, which play a big role in creating a gap between the people of one area, the cultural role was significant in supporting the efforts both at the political level or security, since the discourse , dialogue and

expanding the circle of discussion undoubtedly contribute to the elimination of isolation and unilateralism, as well as tyranny and oppression in addition to supporting government institutions in promoting its cultural project, which works on unification instead of the Fusion and Party.

Ninth:

The League of Arab States- out of concern for common action, which combines between the international community, and international and regional organizations, in confirmation of the above mentioned and based on the premises of the Arab strategy to combat terrorism- records and affirms the following:

1 - The organized violence works which cause horror, fright, or threat are considered terrorist acts. The armed struggle is the legitimate right of people under foreign occupation to liberate their occupied territories and resist aggression, and to obtain the right to self-determination and independence in accordance with the Charter and resolutions of the United Nations.

2 - The religious and moral principles of the Arab nation, especially the call of the true Islam for tolerance and moderation renounce all forms of crime, especially terrorism.

3 - Safeguarding the Arab national security and stability, and territorial integrity of Member States, the foundations of legitimacy and the rule of law requires study of the underlying causes of

terrorism and eliminating them on the one hand and the fight against terrorism on the other hand, all within the framework of a unified Arab strategy.

4 - Combatting terrorism requires enhanced cooperation among States, on the basis of principles of international law and conventions and international treaties, thereby contributing to the deepening of trust between States, and creating a better climate of relations among them.

5 - The absence of a specific definition of terrorism creates a real crisis between the States themselves and between organizations, as each group of States or organization draws a special definition of terrorism out of a private or individual interest, the matter which results in confusion of concepts. This confusion has led to some may see that resistance of aggression and occupation and the right to self-determination as a crime and terrorism.

Thank you

Salim Ahmed El Katheery
Plenipotentiary Minister
Legal Department Affairs
The League of Arab States

Cairo-October 11th, 2007

Annex 10

Note Verbale No. 610/22-110-1695 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 4 July 2014

(translation)

Translation

No. 610 / 22-110-1695

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and has the honour to point out once again further recorded cases of direct involvement of the Russian Side in terrorist activity of illegal armed groups in the territory of Ukraine.

On July 2, 2014, in particular, an organized armed group illegally crossed the Ukrainian-Russian State border from the territory of the Russian Federation and fired mortar shells at an air defense unit of the Armed Forces of Ukraine close to the village of Melovoye in the Luhansk region in the territory of Ukraine. The above-mentioned armed group also fired a number of shells in the direction of Novoshakhtinsk border checkpoint in the territory of the Russian Federation.

On July 3, 2014, an organized armed group from the territory of the Russian Federation reached the Ukrainian-Russian State borderline and fired mortar shells and grenades at Dolzhansky border checkpoint in the territory of Ukraine. The above-mentioned criminal actions claimed the life of one and injured 12 military men from the State Border Guard Service and the Armed Forces of Ukraine who had been responsible for national border control.

The Ministry of Foreign Affairs of Ukraine strongly protests that competent authorities of the Russian Side do not prevent such provocations in the territory of Ukraine.

The Ukrainian Side demands that the Russian Side should immediately stop such actions, fulfill its commitments in good faith under a set of international instruments in the field of preventing and countering international terrorism, refrain from organizing, aiding and abetting, facilitating or getting involved in terror attacks in another State or from conniving at organizational activity in its territory aimed at committing such attacks.

Kiev, 4 July 2014

(Seal)

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

Annex 11

Note Verbale No. 72/22-484-1964 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 28 July 2014

(translation)

Translation

No. 72/22-484-1964

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and believes it necessary to declare the following:

The Ukrainian Party repeatedly applied to the Russian Party with demarches, protests and diplomatic notes as regards the facts of committing acts of terrorism and other crimes falling within the scope of the 1999 International Convention for the Suppression of the Financing of Terrorism. In recent times alone, the Russian Party was notified of commission of internationally wrongful acts in notes No. 610/22- 110-1833 dated 23.07.2014, No. 610/22-110-1827 dated 22.07.2014, No. 610/22-110-1805 dated 17.07.2014, No. 610/22-110-1804 dated 17.07.2014, No. 610/22-110-1798 dated 16.07.2014, No. 610/22-110-1695 dated 04.07.2014, No. 610/22-110-1592 dated 21.06.2014.

The Ukrainian Party informs that in connection with the aforementioned facts the Security Service of Ukraine and internal affairs bodies of Ukraine have initiated criminal proceedings, in particular, based on the elements of the crimes provided for by Section IX of the Criminal Code of Ukraine, which provides for criminal liability, *inter alia*, for financing of terrorism.

The Ukrainian Party declares that the circumstances established within the framework of the mentioned criminal proceedings, as well as other existing facts, evidence that the actions of the Russian Party, including the actions of nationals of the Russian Federation, were directly or indirectly, unlawfully and willfully, aimed at providing or collecting funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out acts of terrorism, which is prohibited by the said Convention.

The Ukrainian Party also declares that inaction and absence of reaction of the Russian Party in connection with the facts stated in the aforementioned notes constitute a breach by the Russian Party of its international legal commitments.

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

The Ukrainian Party underlines that under the provisions of the 1999 International Convention for the Suppression of the Financing of Terrorism, the Russian Party is under an obligation to take such measures, which may be necessary under its domestic law to investigate the facts contained in the information submitted by the Ukrainian Party, as well as to prosecute persons involved in financing of terrorism.

In this connection, the Ukrainian Party proposes to the Russian Party to conduct negotiations on the issue of interpretation and application of the International Convention for the Suppression of the Financing of Terrorism, in particular, on the issue of the need for full compliance by the Russian Federation with its obligations provided for by this treaty.

Kiev, 28 July 2014

(Seal)

Annex 12

Note Verbale No. 72/22-620-2087 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 12 August 2014

(translation)

Translation

No. 72/22-620-2087

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and believe it necessary to report on the crimes within the meaning of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention"), which are committed by nationals of the Russian Federation and legal entities registered and/or present in its territory.

Article 2 of the Convention provides that any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out, *inter alia*, any act intended to cause death or serious bodily injury to a civilian, or to any other person not actively involved in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

In connection with this the Ukrainian Party once again states that since March 2014 the terrorist organizations "the Donetsk People's Republic" (hereinafter - "the DPR") and "the Luhansk People's Republic" (hereinafter - "the LPR") have been illegally operating in the Ukrainian territory; the said organizations deliberately and willfully commit acts of terrorism in the territory of Ukraine, aimed at intimidating the population, killing civilian population, inflicting

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

serious bodily injuries on civilian population, taking hostages and seizure of administrative buildings of state and local authorities with the intention to compel the Ukrainian Government to commit actions aimed at overthrowing the Constitutional order in Ukraine, recognizing the terrorist organizations, as well as other actions threatening Ukraine's territorial integrity and homeland security.

In this context, we inform that the Ukrainian Party has evidence proving participation of Russian nationals and legal entities in the commission of the crimes provided for in Article 2 of the Convention. Based on the available evidence, which is not limited to the following facts and information on the actions, in respect of which the relevant proceedings have been initiated, and pre-trial investigation is being conducted by the Ukrainian Party, we bring the following to the attention of the Russian Party.

On 30 May 2014, near the state border of Ukraine and the Russian Federation, in the zone of activity of Dyakovo border control division, a national of the Russian Federation O.I. Kulygina knowingly, unlawfully and willfully was taking part in loading into a GAZel car of weapons and ammunition that had been smuggled to the territory of Ukraine from the Russian Federation and were intended to be used by the terrorist organizations, the DPR and the LPR, for the commission of the aforementioned terrorist acts, which constitute crimes under the Convention and the treaties listed in the Annex thereto.

The information available to the Ukrainian Party also evidences knowing, unlawful and willful participation of Russian nationals Alexander Grigoryevich Zhukovsky, born on 12.09.1986, resident of Saint Petersburg, and Anton Arkadyevich Raevsky, born on 11.03.1985 in the town of Bolkhov of the Orel Region, in the activities of the terrorist organization the DPR and commission by them of actions aimed at provision and collection of funds with the intention that they should be used or in the knowledge that they are to be used for the DPR's terrorist activities in the territory of Ukraine. In particular, the aforementioned persons have their own pages on the website of the social network "Vkontakte" (http://vk.com/juchkovsky,

http://vk. com/people/Антон_Раевский), where they post personal data, photo and video materials evidencing the commission by the aforementioned persons, directly and/or indirectly, unlawfully and willfully, of actions related to collection of funds in the territory of the Russian Federation, with the intention that they should be used (provided) or in the knowledge that they are to be used (provided), in fully or in part, for purchasing weapons, ammunition and other military supplies and equipment to be used by the terrorist organizations in the territory of Ukraine to carry out the aforementioned terrorist acts, which constitute crimes in accordance with the Convention and the treaties listed in the Annexes thereto.

It was also established that Russian nationals Alexey Valerievich Melkov, Olga Vladimirovna Piletskaya, Tatyana Mikhailovna Kutyumova, Dmitry Alexeevich Yaralov, Alexey Viktorovich Postnikov and Anna Vladimirovna Ovsyannikova are financing the terrorist activities in the territory of Ukraine and systematically, knowingly and willfully transfer for this purpose, via Colibri and Zolotaya Korona payment systems, funds to the accounts opened with PJSC Bank Credit Dnipro (MFO Code 305749) and PJSC Terra Bank (MFO Code 306801). The aforementioned funds are transferred to a Russian national Ms Laura Saralpova who receives them in cash at the cash desks of the aforementioned banks. Thus, during the period from 01.03.2013 to 01.02.2014 the aforementioned person received from abroad funds in the total amount exceeding 150 mln. Russian roubles. As per the information available to the Ukrainian Party, the aforementioned funds are used, in full or in part, to purchase weapons, ammunition and other military supplies and equipment that are intended to be used by terrorist organizations in the territory of Ukraine to carry out the aforementioned terrorist acts, which constitute crimes in accordance with the Convention and the treaties listed in the Annexes thereto.

Moreover, according to the information available to the Ukrainian Party, the following

nationals of the Russian Federation take active part in financing of terrorist activities in the territory of Ukraine: Konstantin Malofeev, founder of Marshal Capital investment fund, co-owner of OJSC Rostelecom, Dmitry Bushmakov, owner of the forum on http://antkvariat.ru/ website and Konstantin Salakhutdinov, born on 27.02.1983. The said persons, directly and/or indirectly, unlawfully and willfully, commit actions related to collection and provision of funds, with the intention that they should be used (provided) or in the knowledge that they are to be used (provided), in full or in part, for purchasing weapons, ammunition and other military supplies and equipment that are intended to be used by terrorist organizations in the territory of Ukraine to carry out the aforementioned terrorist acts, which constitute crimes in accordance with the Convention and the treaties listed in the Annexes thereto.

Article 5 of the Convention provides that each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity, located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in Article 2 of the Convention.

Based on the requirements of the Convention, the Ukrainian Party has established a number of facts, which evidence the participation of the legal entities registered in the territory of the Russian Federation or carrying out activities in the territory of Ukraine, occupied by the Russian Federation contrary to the general norms and principles of international law, in financing of terrorist organizations in the territory of Ukraine. In particular, the details of "online wallets" created for financing of terrorist activities of the DPR and the LPR in the territory of Ukraine, which are used for transferring money from the territory of the Russian Federation, were established (Yandex: 410012230108475, WebMoney: R218190032954, R361724168952, R108809709974). The details of the bank cards, to which the funds for financing of the terrorist organizations' activities in the territory of Ukraine are transferred were also established (card of Sberbank RF (VISA)

4276 4100 1211 9997; card No. 6762 8038 8923 1835 34 issued by OJSC Sberbank of Russia). The information was attained regarding activists of the Russian Sector - Ukraine Liberation Movement collecting funds for financing terrorist organizations in the territory of Ukraine (details: “Beneficiary Bank - Sberbank of Russia, BIC 044525225, corr.acc. 30101810400000000225 with OPERU Moscow, INN: 7707083893, KPP: 775003035, OKATA Code: 45286580000, Beneficiary: Sergey Igorevich Khizhnyak, Account Number: 4082 0810 6382 6060 0708).

According to the information available to the Ukrainian Party, one of the centers of financing of, and providing aid to, terrorist organizations in the territory of Ukraine is the Coordination Center of Aid to Novorussia, which has its representative offices in the Russian Federation (in the cities of Moscow, Saint Petersburg, Irkutsk). In order to collect funds the said organization uses bank accounts and electronic payment system accounts held in the name of Alexey Gennadievich Markov.

The Ukrainian Party declares that the aforementioned actions and facts prove that Russian citizens and legal entities committed crimes within the meaning of the Convention.

In this connection, the Ukrainian Party urges the Russian Party to take all practically possible measures:

- to establish jurisdiction over the individuals and legal entities involved in commission of the crimes evidenced by the aforementioned facts (Article 7 of the Convention);
- to identify, detect, freeze and arrest any funds, which are used or allocated for the purpose of committing the offences evidenced by the aforementioned facts (Article 8 of the Convention);
- to investigate the aforementioned facts (Article 9 of the Convention);
- to prohibit in the territory of the Russian Federation illegal activities of persons and organizations that knowingly encourage, instigate, organize or engage in the commission of the crimes evidenced by the aforementioned facts (Article 18 of the Convention);
- to require the aforementioned financial institutions and

other organizations involved in financing of terrorist activities in the territory of Ukraine, to undertake the most efficient measures available for the identification of their constant or occasional customers, as well as customers in whose interest accounts are opened, and to pay special attention to unusual or suspicious transactions and report transactions suspected of stemming from a criminal activity (Article 18 of the Convention).

The Ukrainian Party draws the Russian Party's attention to its international legal obligation to cooperate in the prevention of crimes defined in Article 2 of the Convention; proceeding from deep concern about the escalation of acts of terrorism in all its forms and manifestations in the Luhansk and Donetsk Regions of Ukraine, the Ukrainian Party requests to be notified promptly of the measures taken by the Russian Federation in order to comply with its international legal obligation and further requests to be provided with the greatest measure of assistance in connection with investigation of the aforementioned facts, including assistance in obtaining any additional evidence in possession of the Russian Party (Articles 12 and 18 of the Convention).

Kiev, 12 August 2014

(Seal)

Annex 13

Note Verbale No. 10471/dnv of the Ministry of Foreign Affairs of the Russian Federation to the Embassy of Ukraine in Moscow, 15 August 2014

(translation)

Translation

No. 10471/dnv

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and, with reference to note of the Ministry of Foreign Affairs of Ukraine No. 72/22-484-1964 dated 28 July 2014, has the honor to inform of the Russian Party's readiness to conduct negotiations on the issue of interpretation and application of the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999.

The Russian Party proceeds from the fact that the agenda of the aforementioned consultations, the time periods and venue could be agreed in September of this year.

Nothing in this note prejudices the position of the Russian Party in respect of the declarations and statements contained in the aforementioned note of the Ukrainian Party.

The Ministry of Foreign Affairs of the Russian Federation avails itself of this opportunity to resume its assurance of its consideration to the Embassy of Ukraine in Moscow.

Moscow, 15 August 2014

TO THE EMBASSY OF UKRAINE
Moscow

Seal: Ministry of Foreign Affairs * No. 1

Annex 14

Note Verbale No. 72/22-620-2406 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 24 September 2014

(translation)

Translation

No. 72/22-620-2406

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in addition to notes No. 72/22-484-1964 dated July 28, 2014, No. 72/22-620-2087 dated August 12, 2014, No. 72/22-620-2185 of August 22, 2014 and No. 72/22-620-2221 dated August 29, 2014, believes it necessary to report on commission by the Russian Party of the crime of financing of terrorism within the meaning of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention").

Article 2 of the Convention provides that any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds (any tangible or intangible, movable or immovable assets), carries out, organizes, directs or contributes to the collection of such funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out, *inter alia*, any act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

In this connection the Ukrainian Party once again states that since March 2014 the terrorist organizations "the Donetsk People's Republic" (hereinafter - "the DPR") and "the Luhansk People's Republic" (hereinafter - "the LPR") have been illegally operating in the Ukrainian territory; the said organizations knowingly and willfully commit acts of terrorism in the territory of Ukraine, aimed at intimidating the population, killing civilian population, inflicting serious bodily injuries on civilian population, taking hostages and seizing administrative buildings of state and local authorities, incitement of armed conflict for the purposes of compelling

To the Ministry of Foreign Affairs of
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the Ukrainian Government to take steps for changing the Constitutional order, territorial division and other actions threatening Ukraine's territorial integrity.

In this connection, the Ukrainian Party states that the Russian Federation, acting through its state authorities, authorized persons, individuals and legal entities, vested with performance of state functions, terrorist organizations acting under guidance and control of the Russian Party, is committing a crime within the meaning of the Convention.

The Ukrainian Party's position is based on the facts that the Russian Party unlawfully, directly and indirectly, willfully sends military equipment, effects financing of the training of terrorists in its territory and in the territory of Ukraine, provides for their material support and their relocation to the territory of Ukraine for participation in the terrorist activity of the DPR and the LPR, etc.

The internationally wrongful acts of the Russian Party and/or acts of the terrorist organizations acting under control and guidance of the Russian Federation are confirmed, *inter alia,* by the following facts and circumstances.

On August 27, 2014, officers of the Security Service of Ukraine apprehended in the Luhansk Region a private of the 9th separate motorized rifle brigade of the Armed Forces of the Russian Federation that is deployed in the Rostov Region. During the interrogation the Russian serviceman, Pyotr Sergeevich Khokhlov, born in 1995, informed that his military unit was transferring to the terrorist organizations the DPR and the LPR military equipment and ammunition, in particular, RSZO BM-21 "Grad" multiple rocket launchers, infantry combat vehicle BMP-2 and armored personnel carrier BTR-80. In order to conceal the involvement of the armed forces of the Russian Federation in supplying of terrorist organizations with heavy armament, based on the order of the military unit commandment, marking, numbers, symbols and emblems on the military equipment, which was prepared for handing over to the terrorist organizations, pointing to the origin of this equipment, were physically destroyed.

According to the operational data of the Headquarters of the Anti-Terrorist Center, in the period from 1 to 16 September 2014 alone, there were recorded illegal movements across the state border of Ukraine from the territories of the Russian Federation of military equipment, which was meant for material and technical support of the DPR

and the LPR units and was used by the latter against the forces taking part in the Anti-terrorist operation in the Donetsk and Luhansk Regions of Ukraine (hereinafter - "the ATO"), in particular:

- up to 200 units of military equipment near the settlements Stanitsa Luhanskaya of the Luhansk Region and Snezhnoye of the Donetsk Region (September 1-2 of this year);
- 20 tanks, 10 "Grad" multiple rocket launchers, 20 KAMAZ and URAL trucks as well as armored personnel carriers near Dibrovka and Novoazovsk settlements of the Donetsk Region (September 8 of this year);
- 8 multiple rocket launchers, 1 armored personnel carrier, 2 fuel tanker trucks, 10 trucks with military cargo near Dibrovka settlement of the Donetsk Region (September 8 of this year);
- 12 tanks, 48 armored personnel carriers, 1 command & reconnaissance vehicle, 28 URAL trucks, 4 air defense motor vehicles, 5 fuel tanker trucks near Izvarino settlement in the Lugansk Region (September 10 of this year);
- 10 tanks, 3 self-propelled artillery platforms, 10 KAMAZ trucks, 5 URAL trucks, 2 power tugs near Dibrovka settlement in the Donetsk Region (September 11 of this year);
- 17 tanks, 8 armored personnel carriers, 22 KAMAZ trucks, 2 "Tochka-U" missile systems, 4 "Smerch" and "Uragan" multiple rocket launchers near Krasnopartizansk settlement of the Luhansk Region (September 15-16 of this year).

The presence of the aforementioned military equipment and cargo in the territory of Ukraine and the fact that the DPR and the LPR used the equipment was evidenced, among others:

- on September 3, 2014, by correspondents of Sky News channel who published materials with regard to deployment of part of the illegally brought in Russian military equipment in the town of Novoazovsk of the Donetsk Region (http://news.sky.com/story/1329691/sky-films-troops-in-russian-gear-in-ukraine):
- on September 7, 2014, by representatives of the ATO forces and OSCE Special Monitoring Mission who recorded movements of 4 Russian T-72 tanks near Slavyanoserbsk settlement of the Luhansk Region.

Moreover, on September 10, 2014, during operational procedures in the ATO zone were apprehended two servicemen of the armed forces of the Russian Federation who are suspected of moving to the territory of Ukraine of man-portable air defense systems and use thereof against the aviation of the Ukrainian armed forces.

The Ukrainian Party also informs that it regards the fact of willful and unlawful moving by the Russian Party across the state border of Ukraine, on August 22, and on September 12 and September 19-20, 2014, of trucks designed for delivery of "humanitarian aid" as a wrongful international legal act against the sovereignty of Ukraine aimed at organization of material and technical support of the DPR's and LPR's activities, which is a crime within the meaning of this Convention, organized and directed by officials of the Russian Federation.

The Ukrainian Party draws attention to another fact of committing of a crime within the meaning of the Convention, as evidenced by the information published by RBC news agency on September 1, 2014 (http://top.rbc.ru/politics/01 /09/2014/946346.shtml). This concerns, in particular, the materials of a RBC correspondent who interviewed the so-called "Chairman of the Supreme Council of the DPR" B. Litvinov. The latter confirmed the fact of funding the DPR activities by the Russian Party by way of transfer to this terrorist organization of funds denominated in the national currency of Ukraine, which had been unlawfully seized from the banks located in the territory of the temporarily occupied Autonomous Republic of Crimea.

The Ukrainian Party once again calls upon the Russian Party to take all practically possible measures for termination of the actions which contain the elements of the crime within the meaning of the Convention and to present proper assurances and guarantees that they will not be repeated in the future.

In this connection, the Ukrainian Party also reserves the right to demand compensation by the Russian Party of the damage caused by the latter's actions within the framework of international judicial and arbitral proceedings.

Kiev, 24 September 2014

(Seal)

Annex 15

Note Verbale No. 72/22-620-2495 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 7 October 2014

(translation)

Translation

No. 72/22-620-2495

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in addition to notes No. 72/22-484-1964 dated July 28, 2014, No. 72/22-620-2087 dated August 12, 2014, No. 72/22-620-2185 dated August 22, 2014, No. 72/22-620-2221 dated August 29, 2014 and No. 72/22-620-2406 dated September 24, 2014, believes it necessary to report on commission by the Russian Party of the crime of financing of terrorism within the meaning of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention").

Article 2 of the Convention provides that any person commits a crime within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds (any tangible and intangible, movable or immovable assets), carries out, organizes, directs or contributes to the collection of such funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out, *inter alia*, any act intended to cause death or serious bodily injury to a civilian, or to any other person not actively involved in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

In this connection the Ukrainian Party repeatedly declares that since March 2014, the terrorist organizations "the Donetsk People's Republic" (hereinafter - "the DPR") and "the Luhansk People's Republic" (hereinafter - "the LPR") have been illegally operating in the Ukrainian territory; the said organizations knowingly and willfully commit acts of terrorism in the territory of Ukraine, aimed at intimidating the population, killing civilian population, inflicting serious bodily injuries on civilian population, taking hostages and seizing administrative buildings of state and local authorities, instigation of armed conflict for the purposes of compelling the Ukrainian Government to take steps for changing the Constitutional order, territorial division and other actions threatening Ukraine's territorial integrity and homeland security.

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

In this connection, the Ukrainian Party declares that the Russian Federation, acting through its state entities, authorized persons, individuals and legal entities, vested with performance of state functions, terrorist organizations acting under guidance and control of the Russian Party, is committing a crime within the meaning of the Convention.

The Ukrainian Party's position stems from the fact that the Russian Party by unlawful means, directly and indirectly, willfully sends military equipment, finances the training of terrorists in its territory and in the territory of Ukraine, provides for their material support and their relocation to the territory of Ukraine for taking part in the terrorist activity of the DPR and the LPR.

The internationally wrongful acts of the Russian Party and/or acts of the terrorist organizations acting under control and guidance of the Russian Federation are confirmed, *inter alia,* by the following facts and circumstances.

According to the operational data of the Headquarters of the Anti-Terrorist Center of Ukraine, in the period from late September through early October of 2014 there were recorded repeated illegal movements of military equipment and cargo across the state border of Ukraine from the territory of the Rostov Region of the Russian Federation; those equipment and cargo were intended for material and technical support of the DPR and LPR units and were used by the latter organizations against the forces taking part in the Anti-terrorist operation in the Donetsk and Luhansk Regions of Ukraine, including:

- on September 26-28 of this year - about 20 units of military equipment as part of self-propelled artillery platforms, armored personnel carriers and multiple rocket launchers;

- on October 1-2 of this year - 1 tank, 18 infantry combat vehicles as well as 20 trucks near Izvarino check point in the Luhansk Region.

The Ukrainian Party once again calls upon the Russian Party to take all practically possible measures for termination of the acts containing the elements of the crime within the meaning of the Convention and to present proper assurances and guarantees that they will not be repeated in the future.

In this connection, the Ukrainian Party also reserves the right to demand compensation by the Russian Party of the damage caused by the acts of the latter that contain the elements of the crime within the meaning of the Convention.

Kiev, 7 October 2014

(Seal)

Annex 16

Note Verbale No. 72/22-620-2529 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 10 October 2014

(translation)

Translation

No. 72/22-620-2529

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in addition to notes No. 72/22-484-1964 dated July 28, 2014, No. 72/22-620-2087 dated August 12, 2014, No. 72/22-620-2185 dated August 22, 2014, No. 72/22-620-2221 dated August 29, 2014, No. 72/22-620-2406 dated September 24, 2014, and No. 72/22-620-2495 dated October 7, 2014, believes it necessary to report on commission by the Russian Federation of the crime of financing of terrorism within the meaning of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention").

Article 2 of the Convention provides that any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds (any tangible or intangible, movable or immovable assets), carries out, organizes, directs or contributes to the collection of such funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out, *inter alia,* any act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

In this connection the Ukrainian Party repeatedly declares that since March 2014, the terrorist organizations "the Donetsk People's Republic" (hereinafter - "the DPR") and "the Luhansk People's Republic" (hereinafter - "the LPR") have been illegally operating in the Ukrainian territory; the said organizations knowingly and willfully commit acts of terrorism in the territory of Ukraine, aimed at intimidating the population, killing civilian population, inflicting serious bodily injuries on civilian population, taking hostages and seizing administrative buildings of state and local authorities, incitement of armed conflict for the purposes of compelling the Ukrainian Government to take steps for changing the Constitutional order, territorial division and other actions threatening Ukraine's territorial integrity and homeland security.

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

In this connection, the Ukrainian Party declares that the Russian Federation, acting through its state entities, authorized persons, individuals and legal entities, vested with performance of state functions, and terrorist organizations acting under guidance and control of the Russian Party, commits a crime within the meaning of the Convention.

The Ukrainian Party's position stems from the fact that the Russian Party unlawfully, directly and indirectly, willfully sends military equipment, finances the training of terrorists in its territory and in the territory of Ukraine, provides for their material support and their relocation to the territory of Ukraine for taking part in the terrorist activity of the DPR and the LPR.

The internationally wrongful acts of the Russian Party and/or acts of the terrorist organizations acting under control and guidance of the Russian Federation are confirmed, *inter alia,* by the following facts and circumstances.

According to the operational data of the Headquarters of the Anti-Terrorist Center of Ukraine, there were recorded repeated illegal movements of military equipment and cargo across the state border of Ukraine from the territory of the Rostov Region of the Russian Federation, which were intended for material and technical support of the DPR and LPR units and are used by the latter against the forces taking part in the Anti-terrorist operation in the Donetsk and Luhansk Regions of Ukraine, including:

1) on August 16 of this year:

- near Izvarino check point 50 armored infantry vehicles, 30 tilt-covered military trucks, 2 GAZ-66 motor vehicles and 1 UAZ motor vehicle;
- near Dolzhansky check point 3 BM-21 Grad artillery mounts accompanied by two buses and 5 tanks;
- near Dibrovka settlement - 15 armored infantry vehicles and 5 military trucks;

2) in the period from 4 to 9 October 2014:

- near Novoazovsk settlement of the Donetsk region armored vehicles convoys comprising 3 tanks and 3 military trucks;
- near Izvarino checkpoint a convoy of 10 buses which were carrying 300 servicemen, 6 military trucks, 1 fuel tanker, 1 armored personnel carrier and 2 armored off-road vehicles.

In this context, we also inform that in accordance with the facts and information available to the Ukrainian Party, the following Russian officials (against whom criminal proceedings have been initiated) participate in financing of terrorist activity in the territory of Ukraine within the meaning of the Convention:

- Minister of Defense of the Russian Federation

Sergey Kuzhugetovich Shoigu;

- Deputy Chairman of the State Duma of the Federal Assembly of the Russian Federation Vladimir Volfovich Zhirinovsky;

- Deputy of the State Duma of the Federal Assembly of the Russian Federation Sergey Mikhailovich Mironov;

- Deputy of the State Duma of the Federal Assembly of the Russian Federation Gennady Andreevich Zyuganov.

In particular, in accordance with the evidence available to the Ukrainian Party, in May 2014, V.V. Zhirinovsky handed over to the terrorist organization the LPR an army off-road vehicle “Tigr”.

Taking the aforementioned in the consideration, the Ukrainian Party once again calls upon the Russian Party to take all possible measures for termination of the acts containing the elements of the crime within the meaning of the Convention and to present proper assurances and guarantees that they will not be repeated in the future.

In this connection, the Ukrainian Party also reserves the right to demand reimbursement by the Russian Party of the damage caused by the acts of the latter that contain the elements of the crime within the meaning of the Convention.

Kiev, 10 October 2014

(Seal)

Annex 17

Note Verbale No. 72/22-620-2717 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 3 November 2014

(translation)

Translation

No. 72/22-620-2717

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in addition to notes No. 72/22-484- 1964 dated July 28, 2014, No. 72/22-620-2087 dated August 12, 2014, No. 72/22-620-2185 dated August 22, 2014, No. 72/22-620-2221 dated August 29, 2014, No. 72/22-620-2406 dated September 24, 2014, No. 72/22-620-2495 dated October 7, 2014 and No. 72/22-620-2529 dated October 10, 2014, believes it necessary to report once again on systematic commission by the Russian Federation of the internationally wrongful acts within the meaning of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention").

Article 2 of the Convention provides that any person commits a crime within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willfully, provides funds (any tangible or intangible, movable or immovable assets), carries out, organizes, directs or contributes to the collection of such funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out, *inter alia*, any act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

The Ukrainian Party repeatedly declares that starting from March 2014 the terrorist organizations "the Donetsk People's Republic" (hereinafter - "the DPR") and "the Luhansk People's Republic" (hereinafter - "the LPR") have been illegally operating in the Ukrainian territory; the said organizations knowingly and willfully commit acts of terrorism in the territory of Ukraine, aimed at intimidating the population, killing civilian population, inflicting serious bodily injuries on civilian population, taking hostages and seizing administrative buildings of state and local authorities, incitement of armed conflict for the purposes of compelling the Ukrainian Government to take steps for changing the Constitutional order, territorial division and other actions threatening Ukraine's territorial integrity and homeland security.

To the Ministry of Foreign Affairs
of the Russian Federation
Moscow

In this connection, the Ukrainian Party states that the Russian Federation, acting through its state entities, authorized persons, individuals and legal entities, vested with performance of state functions performance, and through the terrorist organizations acting under guidance and control of the Russian Party, is committing an internationally wrongful act within the meaning of the Convention.

The Ukrainian Party's position is that the Russian Party, *inter alia*, knowingly, by illegal means, directly or indirectly provides and collects funds, namely sends military equipment, arms, organizes logistic support, trains and finances terrorists in its territory and in the Ukrainian territory, provides for their material support, their transfer to the territory of Ukraine, and so on, being aware that the said funds will be fully or partially used by the terrorist organizations DPR and LPR for commission of the crimes within the meaning of the Convention.

The internationally wrongful acts of the Russian Party and/or acts of the terrorist organizations acting under control and guidance of the Russian Federation are confirmed, *inter alia,* by the following facts and circumstances.

According to the operational data of the Headquarters of the Anti-Terrorist Center of Ukraine, in the period from 10 to 14 October of this year there was recorded collection and transfer of funds for support of the terrorist organizations - the DPR and LPR, ongoing illegal movement of equipment and cargo across the state border of Ukraine from the territory of the Russian Federation, which is confirmed by the following facts:

- a group of persons, comprising up to 100 persons, who have undergone training in the Training Center of the Main Intelligence Directorate of the Headquarters of the Russian Armed Forces in Rostov-on-Don, funded by the Russian Federation and armed with Russian weapons, have arrived in the Donetsk and Luhansk Regions of Ukraine from the territory of the Russian Federation for rendering support to the terrorist organizations the DPR and the LPR;
- a procurement convoy comprising up to 30 Gazel minivans carrying Russian ammunition and war outfit has arrived in the area of Alchevsk settlement from the territory of the Russian Federation;
- funds are raised via trusted representatives of the Ministry of Defense, the Federal Security Service and the Ministry for Emergency Situations of Russia for upkeep of the terrorist organizations the DPR and the LPR, aimed at secret delivery of cargo for military use (from arms and ammunition to armored vehicles) from Russia to the zone of conflict. In coordination with a Russian national O. Zhuchkovsky (registered in the city of Saint Petersburg) delivery of another portion of "aid" to the militants (APS (the so-called Stechkin) pistols and ammunition loads thereto, knives, communication and protection means of different types, sleeping bags, uniform, army boots, fuel, etc.) was effected in the area near Snezhny;

- according to the so-called "Minister of education" of the DPR I. Kostenko, Russian banks opened correspondent accounts for the so-called "Ministry of Education and Science" of the DPR allowing to effect direct financial transactions with the pro-Russian terrorist group.

The aforementioned funds were used by the terrorist organizations the DPR and the LPR for committing acts of terrorism in the territory of Ukraine, including:

- the terrorists from the so-called 32nd circuit of "the Don Army" deployed near the cities of Pervomaysk and Stakhanov made more than 20 salvos and made artillery strikes using the Russian salvo fire systems RSZO BM-21, 29, 30, 31 and 32 on the National Guards checkpoints near Bakhmutka;
- on September 11, use of modern magnetic resonance weapons, supplied by the Russian Party, was recorded near Debaltsevo in the Donetsk Region.

In view of this, the Ukrainian Party once again calls upon the Russian Party to take all possible measures for termination of the internationally wrongful acts containing the elements of the crime within the meaning of the Convention and to present proper assurances and guarantees that such acts will not be repeated in the future.

The Ministry of Foreign Affairs of Ukraine strongly urges the Russian Federation to immediately stop interference in the internal affairs of Ukraine, financing of terrorism and to provide proper assurances and guarantees that the aforementioned illegal activities will not be repeated.

The Ministry of Foreign Affairs of Ukraine also requests the Russian Federation to effect full reimbursement of the damage caused as a result of the aforementioned acts.

Kiev, 3 November 2014

(Seal)

Annex 18

Note Verbale No. 72/22-620-2732 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 4 November 2014

(translation)

Translation

No. 72/22-620-2732

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in addition to notes No. 72/22-484- 1964 dated July 28, 2014, No. 72/22-620-2087 dated August 12, 2014, No. 72/22-620-2185 dated August 22, 2014, No. 72/22- 620-2221 dated August 29, 2014, No. 72/22-620-2406 dated September 24, 2014, No. 72/22-620-2495 dated October 7, 2014, No. 72/22-620-2529 dated October 10, 2014 and No. 72/22-620-2717 dated November 3, 2014, believes it necessary to declare that the Russian Federation has committed the crime of financing of terrorism as determined by the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention").

Article 2 of the Convention provides that any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides funds (any tangible or intangible, movable or immovable assets), carries out, organizes, directs or contributes to the collection of such funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out, *inter alia*, any act intended to cause death or serious bodily injury to a civilian, or to any other person not actively involved in the hostilities in a situation of the armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

In this connection, the Ukrainian Party repeatedly declares that starting from March 2014 the terrorist organizations "the Donetsk People's Republic" (hereinafter - "the DPR") and "the Luhansk People's Republic" (hereinafter - "the LPR") have been illegally operating in the Ukrainian territory; the said organizations knowingly and willfully commit acts of terrorism in the territory of Ukraine, aimed at intimidating the population, killing civilian population, inflicting serious bodily injuries on civilian population, taking hostages and seizing administrative buildings of state and local authorities, incitement of armed conflict for the purposes of compelling the Ukrainian Government to take steps for changing the Constitutional order, territorial division and other actions threatening Ukraine's territorial integrity and homeland security.

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In this connection, the Ukrainian Party states that the Russian Federation, acting through its state entities, authorized persons, individuals and legal entities, vested with performance of state functions, terrorist organizations acting under guidance and control of the Russian Party, is committing a crime within the meaning of the Convention.

The Ukrainian Party's position is that the Russian Party, inter alia, knowingly, by unlawful means, directly or indirectly provides and collects funds, namely sends military equipment, arms, organizes logistic support, trains and finances terrorists in its territory and in the Ukrainian territory, provides for their material support, their transfer to the territory of Ukraine, and so on, being aware that the said funds will be used, in full or in part, by the terrorist organizations DPR and LPR for commission of the crimes within the meaning of the Convention.

The internationally wrongful acts of the Russian Party and/or acts of the terrorist organizations acting under control and guidance of the Russian Federation are confirmed, *inter alia,* by the following facts and circumstances.

According to the operational data of the Headquarters of the Anti-Terrorist Center of Ukraine, there were recorded repeated illegal movements of military equipment and cargo across the state border of Ukraine from the territory of the Rostov Region of the Russian Federation; those equipment and cargo were intended for material and technical support of the "DPR" and "LPR" units and were used by the latter organizations against the forces taking part in the Anti-terrorist operation in the Donetsk and Luhansk Regions of Ukraine, including:

1) in the period of 17-20 October 2014:

- military equipment convoys and sabotage and reconnaissance groups of the Russian armed forces in the areas near Chervonopartizansk (30 tanks), Zolotarevka (14 persons) settlements in the Luhansk Region, Kuznetsy (10 KAMAZ trucks), Telmanovo (8 fuel tanker trucks) settlements of the Donetsk Region;

2) in the period of 22-24 October 2014:

- near Kuznetsy settlement of the Donetsk region - Russian army military equipment convoys comprising 11 KAMAZ trucks and 2 fuel tanker trucks;

3) in the period of 24-28 October 2014:

- Russian army military equipment convoys near the settlements of Dyakovo (14 self-propelled artillery platforms, 16 cannons, 64 URAL trucks with ammunition, 30 KAMAZ trucks, 10 fuel tanker trucks), Kruzhilovka (5 tanks, 3 trucks) of the Luhansk Region, Vanyushkino (2 KAMAZ trucks with trailers), Dibrovka (fuel tanker trucks), Kuznetsy (3 fuel tanker trucks) of the Donetsk

Region, as well as through border check points Dolzhansky (7 trucks with military servicemen numbering 40 persons and ammunition) in the Luhansk Region and Uspenka (10 multiple rocket launchers, 2 armored personnel carriers, several fuel tanker trucks) in the Donetsk Region.

The Ukrainian Party also informs that it regards the fact of willful and unlawful moving by the Russian Party across the state border of Ukraine, in the period from 29 October to 2 November 2014, of trucks designed for delivery of "humanitarian aid" as a wrongful international legal act against the sovereignty of Ukraine aimed at organization of material and technical support of the DPR's and LPR's activities, which is a crime within the meaning of this Convention, organized and directed by officials of the Russian Federation,

The Ukrainian Party would like to draw the attention of the Russian Party to the following available facts and information which confirm the participation of the Russian Federation and its officials, individuals and legal entities, who are vested with performance of state functions, in commission of the crimes of financing terrorism, within the meaning of the Convention, in the territory of Ukraine:

1) Starting from May 2014, financing of terrorist organizations the DPR and LPR has been effected by the Communist Party of the Russian Federation. This is evidenced by a letter of appreciation thanking for humanitarian aid and financial support from the so-called "Prime Minister of the LPR" V. Nikitin, addressed to Chairman of the Central Committee of the Communist Party of the Russian Federation G. Zyuganov (No. 42/03 of June 24, 2014).

Direct confirmation of the aforementioned facts was provided on October 24, 2014 by Deputies of the State Duma of the Federal Assembly of the Russian Federation from the Communist Party of the Russian Federation K. Taysayev and V. Rodin, who were illegally staying in the Ukrainian territory. During their joint press conference with the so-called "Chairman of the Supreme Soviet of the DPR" B. Litvinov, among other things, emphasized that the Communist Party of the Russian Federation handed over to the LPR and the DPR more than 2 thousand tons of "humanitarian" goods as well as provided all kinds of support to those terrorist organizations on the part of the Russian Armed Forces and their management.

In particular, K. Taysayev said: "You know that our servicemen of the Russian Federation do everything in order to provide maximum aid to Novorussia. I suppose there is not a single person here who could doubt that the (State Duma) Defence Committee and the Minister of Defence S. Shoigu are doing all their best within the framework of the opportunities which the Russian Federation possesses now, and even more, they do more that they could do. I believe this aid will be

only increasing" (http://dnr.todav/news/deputatv-gosdumy-rf-posetili-s-rabochim-vizitom-dnr, http://www.youtube.com/watch?yBAJkbJ5DDVKyk);

2) On October 28, 2014, Deputy Chairman of the State Duma of the Federal Assembly of the Russian Federation, leader of the Liberal Democratic Party V. Zhirinovsky, at an event in the Institute of Global Civilizations (Moscow, the Russian Federation) was taking part in preparation of another lot of "humanitarian" goods and equipment for further transfer to representatives of the LPR and DPR.

V. Zhirinovsky confirmed providing aid to these terrorist organization for the total amount of RUB 13 million as well as the fact that 2 UAZ cars, 2 NIVA cars, army offroadster "Tigr" and other motor equipment have been handed over to them (http://www.youtube.com/watch?y=JoMsuOHpqAU#t=15).

In view of this, the Ukrainian Party once again calls upon the Russian Party to take all practically possible measures for termination of the acts containing the elements of the crime within the meaning of the Convention and to present proper assurances and guarantees that they will not be repeated in the future.

In this connection, the Ukrainian Party also reserves the right to demand reimbursement by the Russian Party of the losses caused by the acts of the latter that contain the elements of the crime within the meaning of the Convention.

Kiev, 4 November 2014

(Seal)

Annex 19

Note Verbale No. 14587/dnv of the Ministry of Foreign Affairs of the Russian Federation to the Embassy of Ukraine in Moscow, 24 November 2014

(translation)

Translation

No. 14587/dnv

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and has the honor to submit the following in reply to the Embassy's note No. 6111/22-012-4012 dated 31 October 2014.

The Ministry of Foreign Affairs of the Russian Federation believes inadmissible the use by the Ukrainian Party of assumed information and unsubstantiated accusations in official diplomatic correspondence and points to the need to observe the generally established norms of diplomatic correspondence, including reasonableness and substantiation. In particular, this refers to the declaration of the Ministry of Foreign Affairs of Ukraine about the involvement of state authorities of the Russian Federation to "abductions and use of torture and other inhuman treatment" in respect of Ukrainian nationals as well as about "aggression" of the Russian population towards Ukrainian nationals.

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The Russian Party emphasizes the indisputable fact of the attack on the Embassy of Russia in Kiev and its destruction by the aggressively disposed ultra-right elements against the inaction of the Ukrainian authorities, which is an example of an obvious threat to the safety of any official Russian-Ukrainian events in this city.

In this regard, taking into consideration the lack of readiness of the Ukrainian Party to conduct bilateral consultations in the city of Moscow, the Russian Party proposes as a compromise to conduct them in the city of Minsk (Belarus).

The Russian Party proposes the following agenda for the bilateral consultations with the Ukrainian Party:

- exchange of information, within the framework of 1999 International Convention for the Suppression of the Financing of Terrorism, on persons who have committed or allegedly committed crimes in the sphere of financing of terrorism in the territory of the Russian Federation or Ukraine;
- implementation of cooperation and improvement of mechanisms for rendering mutual assistance within the framework of 1999 International Convention for the Suppression of the Financing of Terrorism in connection with criminal investigations, including extradition procedures, in connection with crimes in the sphere of financing of terrorism;
- the situation in the sphere of security in the city of Kiev for nationals of the Russian Federation and in the city of Moscow for nationals of Ukraine (including for diplomatic personnel);
- international legal basis for suppression of financing of terrorism as applicable to the Russian-Ukrainian relations;

- measures for increasing the effectiveness of investigation of crimes in the sphere of financing of terrorism.

The Russian Party notes that the fact of discussion of whichever issues in the course of the consultations does not pre-determine the issue of whether they are covered by the 1999 International Convention for the Suppression of the Financing of Terrorism.

Taking into account that the consultations are initiated by the Ukrainian Party we would request to be informed of the planned composition of the Ukrainian delegation to attend the upcoming meeting, in order to determine the adequate level of representation of the Russian Party.

Taking into consideration the need to form an interdepartmental delegation and resolve the relevant organizational issues, the Russian Party proposes to conduct the aforementioned consultations in the city of Minsk in the week beginning on 22 December of this year.

The Russian Party draws the Ukrainian Party's attention to the fact that the reply to note of the Ministry of Foreign Affairs No. 10471/dnv dated 15 August of this year was received only on September 30 of this year. In this connection the Russian Party cannot agree with the allegations of the Ukrainian Party addressed to it, as regards "unjustified protraction" in determining the venue and date for the consultations.

The Ministry avails itself of this opportunity to resume its assurance of its consideration to the Embassy of Ukraine.

Moscow, 24 November 2014

Annex 20

Note Verbale No. 17131/dnv of the Ministry of Foreign Affairs of the Russian Federation to the Embassy of Ukraine in Moscow, 29 December 2014

(translation)

Translation

No. 17131/dnv

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and, for the purposes of prevention of procrastination of the decision to conduct consultations on the issues related to the 1999 International Convention for the Suppression of the Financing of Terrorism ("the Convention"), has the honor to agree to organization of the consultations in Minsk on 22 January 2015.

At the same time, the Ministry insists on including in the agenda of the event the issue of safety of diplomatic institutions from terrorist attacks. We emphasize once again that this issue is directly related to the Convention as it covers the financing of actions which constitute crimes in accordance with the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 14 December 1973, indicated in the Annex to the Convention. As regards "submitting concrete facts and evidence proving the concerns of the Ministry of Foreign Affairs of the Russian Federation", they may be brought to the knowledge of the Ukrainian Party

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in the course of the upcoming consultations.

The Ministry notes that references to the incidents of "aggression" in the note of the Ministry of Foreign Affairs of Ukraine are an attempt of the Ukrainian Party to destabilize the dialogue and bring it beyond the framework of the Convention, they demonstrate unreadiness for a meaningful discussion and unprincipled attitude towards the upcoming consultations.

In this connection, the Ministry has to point out again that the fact of discussion of any problems in the course of these consultations or in note communications between the Parties does not in itself pre-determine the issue of regulation of the problems by the Convention, nor does it pre-determine existence or absence of a dispute on application and interpretation of the Convention, or existence of any other dispute between the Parties.

The Ministry avails itself of this opportunity to resume its assurance of its consideration to the Embassy of Ukraine.

Moscow, 29 December 2014

Seal: Ministry of Foreign Affairs * No. 1

Annex 21

Note Verbale No. 72/22-620-351 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 13 February 2015

(translation)

Translation

No. 72/22-620-351

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in addition to notes No. 72/22-484-1964 dated July 28, 2014, No. 72/22-620-2087 dated August 12, 2014, No. 72/22-620-2185 dated August 22, 2014, No. 72/22-620-2221 dated August 29, 2014, No. 72/22-620-2406 dated September 24, 2014, No. 72/22-620-2495 dated October 7, 2014, No. 72/22-620-2529 dated October 10, 2014, No. 72/22-620-2717 dated November 3, 2014 and No. 72/22-620-2732 dated November 4, 2014, believes it necessary to declare that the Russian Federation has committed the crime of financing of terrorism within the meaning of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention") in connection with the terrorist act, which took place on January 13 near Bugas settlement of the Volnovakhsky District of the Donetsk Region of Ukraine.

The Ukrainian Party declares that it has sufficient facts and information, without prejudice to collection and provision of additional evidence as regards the fact that on January 13, 2015 the terrorist organization the Donetsk People's Republic (hereinafter - "the DPR") acting with support and assistance of the Russian Federation, as well as under the guidance and control of the latter, committed a terrorist act against the civilian population near Bugas settlement of the Volnovakhsky District of the Donetsk Region of Ukraine. This attack is an element of the terrorist activity matrix, including the fact that it was targeted at indiscriminate killings of civilian population committed by the so-called "DPR". The circumstances of the terrorist activity including the attack on January 13, are the evidence of existence of will and deliberation in the actions of the Russian Federation with regard to support of terrorism, which is a violation of the Convention. The position of the Ukrainian Party is based on the following facts and circumstances the list of which is not exhaustive.

On January 13, 2015, the terrorists of the DPR from the territory under their control fired 88 free rockets from BM 21 "Grad" multiple rocket launcher at the Ukrainian checkpoint near Bugas settlement of the Volnovakhsky District of the Donetsk Region of Ukraine. The attack was targeted at the checkpoint, through which civilians passed to the nearby Bugas settlement of the Volnovakhsky District

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of the Donetsk Region of Ukraine. In the territory of the checkpoint, there was a bus carrying more than 40 civilians along Zlatoustovka - Donetsk route. One of the rockets exploded 12 meters from the bus, as a result of which 10 persons died at the spot, two more persons died at hospital and 20 persons were brought to the hospital with serious wounds. The killed and wounded persons were mostly pensioners, who were travelling to receive their pensions, and students.

The Ukrainian Party informs that the experts established, and OSCE Special Monitoring Mission confirmed, that the attack had been effected from the territories controlled by the DPR. The attack committed on January 13 is an element of the matrix of terrorist activity conducted by the DPR. The Ukrainian Party repeatedly brought it to the Russian Party's knowledge that beginning from March 2014 the terrorist organization the DPR was unlawfully acting in the Ukrainian territory, violating international law, including carrying out attacks on civilian population with the aim of its intimidation.

The Ukrainian Party declares that the Russian Federation is responsible for financing and support of the terrorist acts committed by the DPR, including the attack on civilians on January 13.

The Ministry of Foreign Affairs of Ukraine informs that according to experts' conclusions the ammunition used during the attack of January 13 was registered as pieces of military equipment of the armed forces of the Russian Federation. Apart from this, the Ukrainian Party repeatedly informed the Russian Party of unlawful movement of military equipment, weapons and cargoes from the territory of the Russian Federation in support of the terrorist organizations the DPR and the LPR. Those supplies included BM-21 "Grad" multiple rocket launchers and uncontrolled missile launchers designed for killing unprotected people. The Russian Federation is aware of the fact that the DPR and the LPR use Russian military equipment against civilian population. These and other facts demonstrate that the Russian Federation knowingly and deliberately supports commission of terrorist attacks again the civilian population of Eastern Ukraine.

Taking this into consideration, the Ukrainian Party once again urges the Russian Federation to such actions: to recognize that the Convention prohibits states, their officials and their agents from financing and supporting acts of terrorism, to acknowledge the continuing supply of the DPR and the LPR with funds, military equipment and providing other support, to recognize its awareness as regards the fact that the DPR and the LPR target and indiscriminately kill civilians for the purpose of their

intimidation, using the equipment and weapons supplied by the Russian Federation, to recognize its responsibility for the attack of January 13 effected by the DPR using Russian military equipment as well as to take all possible measures for termination of the violations of the Convention and to present proper assurances and guarantees of their non-repetition in the future.

The Ukrainian Party also reserves the right to demand compensation from the Russian Party of the damage caused by violation of the Convention.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to resume its assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 13 February 2015

(Seal)

Annex 22

Note Verbale No. 72/22-620-352 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 13 February 2015

(translation)

Translation

No. 72/22-620-352

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in addition to notes No. 72/22-484-1964 dated July 28, 2014, No. 72/22-620-2087 dated August 12, 2014, No. 72/22-620-2185 dated August 22, 2014, No. 72/22- 620-2221 dated August 29, 2014, No. 72/22-620-2406 dated September 24, 2014, No. 72/22-620-2495 dated October 7, 2014, No. 72/22-620-2529 dated October 10, 2014, No. 72/22-620-2717 dated November 3, 2014 and No. 72/22-620-2732 dated November 4, 2014, believes it necessary to declare that the Russian Federation has committed the crime of financing of terrorism as determined by the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention").

Article 2 of the Convention provides that any person commits a crime within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willfully, provides funds (any tangible or intangible, movable or immovable assets), carries out, organizes, manages or contributes to the collection of such funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out, *inter alia*, any act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

In connection with this the Ukrainian Party once again declares that since March 2014 the terrorist organizations "the Donetsk People's Republic" (hereinafter - "the DPR") and "the Luhansk People's Republic" (hereinafter - "the LPR") have been illegally operating in the Ukrainian territory; the said organizations knowingly and willfully commit acts of terrorism in the territory of Ukraine, aimed at intimidating the population, killing civilian population, inflicting serious bodily injuries on it, taking hostages and seizing administrative buildings of state and local authorities, incitement of armed conflict for the purposes of compelling the Ukrainian Government to take steps

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for changing the Constitutional order, territorial division and other actions threatening Ukraine's territorial integrity and homeland security.

The Ukrainian Party declares that the Russian Federation, acting through its state entities, authorized persons, individuals and legal entities, vested with performance of state functions, terrorist organizations acting under guidance and control of the Russian Party, is committing a crime within the meaning of the Convention.

The Ukrainian Party's position is that the Russian Party, *inter alia*, knowingly, by illegal means, directly or indirectly provides and collects funds, namely sends military equipment, arms, organizes logistic support, prepares and finances terrorists in its territory and in the Ukrainian territory, provides for their material support, their transfer to the territory of Ukraine, and so on, being aware that the said funds will be used, in full or in part, by the terrorist organizations DPR and LPR for commission of the crimes within the meaning of the Convention.

The Ukrainian Party's position is confirmed, *inter alia,* by the following facts and information on participation of the Russian Federation and its officials, individuals and legal entities, who are vested with performance of state functions, in commission of the crimes of financing terrorism, within the meaning of the Convention, in the territory of Ukraine.

During the recent period, from the territory of the Russian Federation to the territory of the Donetsk and Luhansk Regions of Ukraine were, *inter alia*, sent military servicemen, weapons and equipment for support of, and taking part in terrorist activity in the territory of Ukraine, namely:

- 104 servicemen of air assault regiment 76 of the air assault division of the Air Assault Forces (the city of Pskov of the Russian Federation) are in Georgievka settlement and in the city of Donetsk;

- 18 servicemen of a separate 58A motorized rifle brigade (the city of Vladikavkaz) are located in Komsomolskoye and Amvrosievka settlements;

-31 servicemen of a separate assault airborne brigade (the city of Ulyanovsk), deployed in the Ukrainian settlements of Kumachevo, Pobeda, Grigoryevka;

-32 servicemen of a separate motorized rifle brigade (Shilovo settlement) occupied the Ukrainian villages of Telmanovo, Vasilievka, Kumachevo;

- 33 servicemen of a separate motorized rifle brigade (Maikop) are in the Ukrainian settlement of Starobeshevo;

- 331 servicemen of airborne regiment (the city of Kostroma) are in the Ukrainian cities of Torez and Snezhnoe;

- 35 and 74 servicemen of a separate motorized rifle brigade (Aleichesk and Vorga settlements) are deployed in Bryanka and Stakhanov settlements;
- 200 servicemen of a separate motorized rifle brigade and 61 servicemen of a separate marine corps brigade (Pechenga and Sputnik settlements) are deployed in Fashchevka settlement and actively participate in committing acts of terrorism in the area of Donetsk airport;
- 7 servicemen of (mountain) air assault division (the city of Novorossiysk) are located near the city of Luhansk and Novosvetlovka settlement;
- 13 servicemen of a tank regiment (the city of Naro-Fominsk) are near Kirovskoe settlement of the Donetsk Region;
- 136 servicemen of a separate motor rifle brigade (Buynaksk settlement) are in Novy Svet settlement;
- 8 servicemen of a separate motor rifle brigade (Khort settlement) are in the town of Makeevka;
- 45 servicemen of a separate stabilization forces regiment (the city of Kubinka) are in the Ukrainian settlement of Novoazovsk.

Provision by the Russian Federation of funds for financing terrorist activities in the territory of Ukraine by means of sending Russian servicemen, weapons and equipment to the Ukrainian territory is confirmed, *inter alia*, by the Report on Extraordinary Circumstances in the Territory of Operational Service of the Division of the Ministry of Internal Affairs of Russia for and in the Tarasovsky District dated 26.08.2014, addressed to the Head of the Main Department of the Ministry of Internal Affairs of Russia for and in the Rostov Region, Major General of Police A. Larionov from the Acting Head of Department of the Ministry of Internal Affairs of Russia for the Tarasovsky District, lieutenant-colonel I.I. Trofimenko. In particular, in this document, it is recorded that on 25.08.2014 at approximately 15:50 local time, in the course of performing "service duty" there occurred a fact of wounding during an armed conflict with the troops of the National Guards of Ukraine 10 km to the North-West from the settlement of Progniy of the Tarasovsky District; the wounded persons were privates of military unit No. 51182 M.V. Polstyankin, O.Yu. Volgin, Yu.A. Alekseev, O.O. Gerasimenko who were serving their duty if military unit 51182 of Millerovo settlement.

Provision by the Russian Federation of funds for financing terrorist activities in the territory of Ukraine is also confirmed by redeployment from the territory of the Russian Federation to the territory of the Donetsk Region of Ukraine and deployment of the military field hospital on the basis of the 529th medical special-purpose unit (the city of Rostov-on-Don) of the Ministry of the Defense of the RF, by the document of the Ministry of Internal Affairs of the RF "Data on Location of the Wounded who Were Received from Ukraine as of September 27", which mentions 237 wounded Russian military servicemen who were taking part in terrorist activities in the territory of Ukraine.

In view of the above, the Ukrainian Party once again calls upon the Russian Party to take all practically possible measures for termination of the acts containing the elements of the crime within the meaning of the Convention and to present proper assurances and guarantees of their non-repetition in the future.

In this connection, the Ukrainian Party also reserves the right to demand compensation by the Russian Party of the damage caused by the latter's acts that contain the elements of the crime within the meaning of the Convention.

Kiev, 13 February 2015

(Seal)

Annex 23

Note Verbale No. 610/22-110-504 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 2 April 2015

(translation)

Translation

No. 610/22-110-504

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in addition to notes No. 72/22-484-1964 dated July 28, 2014, No. 72/22-620-2087 dated August 12, 2014, No. 72/22-620-2185 dated August 22, 2014, No. 72/22-620-2221 dated August 29, 2014, No. 72/22-620-2406 dated September 24, 2014, No. 72/22-620-2495 dated October 7, 2014, No. 72/22-620-2529 dated October 10, 2014, No. 72/22-620-2717 dated November 3, 2014, No. 72/22-620-2732 dated November 4, 2014, No. 72/22-620-351 dated February 13, 2015 and No. 72/22-620-352 dated February 13, 2015, considers it necessary to draw attention to the facts of participation of the Russian citizens in the activities of terrorist groups in certain occupied regions of Donetsk and Lugansk Regions of Ukraine, as well as the support and financing of terrorist activities in Ukraine by the Russian citizens, officials of local authorities and representatives of religious organizations.

In this regard, the Ministry of Foreign Affairs of Ukraine expresses its deep concern about the event on March 12 this year in the Russian Federation, Yekaterinburg, where a "ceremonial" parting of so-called "volunteers" to participate in terrorist activities of terrorist groups "Donetsk People's Republic" and "Lugansk People's Republic", who willfully and knowingly commit terrorist attacks on the territory of Ukraine aimed at intimidating and killing civilians, causing serious bodily harm to them, taking hostages and seizing administrative buildings of state and local authorities, etc.

The Ministry expresses its deep concern about the facts of open support for terrorist activities, encouraging commission of illegal acts in Ukraine and the facts of financing terrorism by the local authorities, as well as the organizers of this shameful event - a citizen of the Russian Federation Vladimir Efimov, local businessmen and politicians - citizens of Russia Vladimir Kon'kov, Andrey Golovanov, Andrey Pisarev.

Calls of an active participant in the event, a priest of Innocent, metropolitan of Moscow temple, a Russian citizen Vladimir Zaitsev, to murder citizens of Ukraine look openly shocking.

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The Ministry considers the statements of V. Efimov as a fact of confirmation of financing and supporting terrorist activities in Ukraine. Thus, according to V. Efimov, "since October, volunteers are profoundly trained at the training base of special forces veterans' foundation", which indicates that the training of Russian citizens to participate in the terrorist activities in Ukraine is conducted in the territory of the Russian Federation with the knowledge and support of the local authorities. V. Efimov also said that local businessmen and politicians, in particular V. Kon'kov, A. Golovanov and A. Pisarev helped with the resources and equipment for terrorists.

The Ministry stresses that the actions of the above-mentioned citizens of the Russian Federation, as well as so-called "volunteers" are public calls for terrorist and extremist activity, incitement to hatred or enmity, by recruiting or drawing persons into the activities of terrorist organizations on the territory of Ukraine.

The Ukrainian Party regards the above-mentioned events, which are contrary to the official statements of Russian top politicians with respect to Russian non-interference in the conflict in Ukraine, as well as to the international obligations of the Russian Party, including in the context of implementation of Minsk agreements of September 5 and 19, 2014, February 12, 2015, as further proof of the support by the Russian Party of the terrorist activity in Ukraine and its financing by Russian citizens and local authorities.

The Ministry demands from the Russian Party to immediately investigate the events of March 12, 2015 in Yekaterinburg and to inform the Ukrainian Party about the qualification of actions of the above citizens of the Russian Federation, preventive measures and penalties selected in accordance with the Russian legislation and commitments of the Russian Party under the Convention for the Suppression the Financing of Terrorism, 1999 (hereinafter - the Convention).

The Ministry also requires to take urgent measures to stop the activities in the Russian Federation aimed at recruiting, training and sending to some regions of Donetsk and Lugansk Regions of Ukraine of the so-called "volunteers", which is also a violation of international obligations of the Russian Party under the Convention.

The Ministry of Foreign Affairs of Ukraine avails itself of the opportunity to resume its assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 2 April 2015

(Seal)

Annex 24

Note Verbale No. 72/22-620-1069 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 7 May 2015

(translation)

Translation

No. 72/22-620-1069

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in addition to notes No. 72/22-484-1964 dated July 28, 2014, No. 72/22-620-2087 dated August 12, 2014,

No. 72/22-620-2185 dated August 22, 2014, No. 72/22-620-2221 dated August 29, 2014, No. 72/22-620-2406 dated September 24, 2014, No. 72/22-620-2495 dated October 7, 2014, No. 72/22-620-2529 dated October 10, 2014, No. 72/22-620-2717 dated November 3, 2014, No. 72/22-620-2732 dated November 4, 2014, No. 72/22-620-351 dated February 13, 2015 and No. 610/22-110-504 dated April 2, 2014, reports on commission of the crime within the meaning of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention") in connection to the terrorist act committed on January 24, 2015 as a result of attack by fire on the city of Mariupol of the Donetsk Region of Ukraine.

The Ukrainian Party declares that it has sufficient facts and information available, without prejudice to collection and submitting of additional evidence, that on January 24, 2015 the terrorist group, the so-called "Donetsk People's Republic" (hereinafter - "the DPR") acting with support and assistance from the Russian Federation as well as under its guidance and control, committed a terrorist act against the civilian population residing in the city of Mariupol of the Donetsk Region of Ukraine. This attack is one of the examples of systematic terrorist activity, including in the part of its being targeted at indiscriminate killings of civilian populations, committed by the so-called "DPR".

The facts of the terrorist activity, including the attack on January 24, are the evidence of existence of will and deliberation in the actions of the Russian Federation with regard to support of terrorism, which is a violation of the Convention. The position of the Ukrainian Party is based on the following facts and circumstances the list of which is not exhaustive.

On January 24, 2015, beginning from 9.25 a.m., the terrorists from the so-called DPR, from the territory controlled by them, launched free rockets of 122 mm caliber from BM-21 "Grad" multiple rocket launchers and 220 mm caliber from BM-27 "Uragan" multiple rocket launchers aimed at the dwelling houses located near the Olimpiyskaya street of the microdistrict "Vostochniy" of Mariupol..

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As a result of these attacks by fire 23 persons including 1 child died on the spot and another 7 persons including 1 child died at hospital. In addition, 108 persons received wounds of varying degrees of severity and were sent to Mariupol hospitals.

The Ukrainian Party informs that experts from the OSCE Special Monitoring Mission in Ukraine confirmed that the attack was effected from the territories controlled by the terrorists from the so-called DPR. Based on shell crater analysis, the OSCE specialists established that BM-21 "Grad" system rockets had been launched from the north-eastern direction, from the area of Oktyabrskoye settlement (located 19 km from the place of the fire attack) and BM-27 "Uragan" system rockets had been launched from the eastern direction, from the area near Zaichenko settlement (15 km from the place of fire attack). According to the data of the OSCE Special Monitoring Mission, the presence of BM-21 "Grad" and BM-27 "Uragan" operated by the terrorists, near the aforementioned settlements was recorded by the OSCE specialists at different periods starting from December 2014 to January 2015.

The attack committed on January 24, 2015 is one of the examples of the systematic terrorist activity conducted by the DPR. The Ukrainian Party repeatedly brought it to the Russian Party's knowledge that beginning from March 2014 the terrorist organization - the so-called "DPR" - was unlawfully acting in the Ukrainian territory, violating international law, including effecting attacks on civilian population with the aim of its intimidation.

The Ukrainian Party declares that the Russian Federation is responsible for financing and support of the terrorist acts committed by the DPR, including the attack against civilians on January 24, 2015.

The Ministry of Foreign Affairs of Ukraine has the grounds to believe that the equipment and ammunition used during the attack on January 24, 2015, originate from the Armed Forces of the Russian Federation. Apart from this, the Ukrainian Party repeatedly informed the Russian Party of unlawful movement of military equipment, weapons and cargoes from the territory of the Russian Federation for support of the terrorist groups, the so-called "DPR" and "LPR". Those supplies included BM-21 "Grad" and BM-27 "Uragan" rocket launchers and uncontrolled missile launchers designed for killing unprotected people. The Russian Federation is aware of the fact that the terrorist groups, the so-called "DPR" and "LPR", use Russian military equipment against civilian population.

These and other facts demonstrate that the Russian Federation knowingly and deliberately supports commission of terrorist attacks against the civilian population of Ukraine.

Taking this into consideration, the Ukrainian Party once again urges the Russian Federation to take the following steps: to recognize that the Convention prohibits states, their officials and their agents to finance and support acts of terrorism; to recognize the continuing supply of the so-called "DPR" and "LPR" with funds, military equipment and rendering other support; to recognize its awareness as regards the fact that the so-called "DPR" and "LPR" target and indiscriminately kill civilians to intimidate them, using the equipment and weapons supplied by the Russian Federation; to recognize its responsibility for the attack of January 24 effected by the so-called "DPR" using Russian military equipment; to undertake all practicable measures for termination of the violations of the Convention and to present proper assurances and guarantees of their non-repetition in the future.

The Ukrainian Party also reserves the right to demand compensation from the Russian Party of the damage caused by violation of the Convention. The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to resume the assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 7 May 2015

(Seal)

Annex 25

Note Verbale No. 6392/dnv of the Ministry of Foreign Affairs of the Russian Federation to the Embassy of Ukraine in Moscow, 8 May 2015

(translation)

Translation

No. 6392/dnv

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and submits the following in reply to note of the Embassy No. 6111/22-012-1305 dated 24 April 2015.

The Russian Party decisively objects to the attempts of the Ukrainian Party in the note communications to present its own interpretation and wording as the position allegedly expressed by the Russian Party in the course of the first round of the bilateral Russian-Ukrainian consultations on the issues related to the 1999 International Convention for the Suppression of the Financing of Terrorism ("the Convention") conducted in Minsk on 22 January 2015. The Ministry emphasizes that it is the Russian delegation only that can express the Russian Party's opinion and distortion of the position of one of the parties is destructive and undermines the foundations of the negotiation process.

As regards the Ukrainian Party's proposal to conduct the second round of negotiations in the city of Tbilisi the Russian Party informs that it is unacceptable due to absence of diplomatic relations between Russia and Georgia.

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The Russian Party proposes to continue the consultations on a tested negotiation platform in the city of Minsk (Belarus).

Taking into account the necessity of forming interdepartmental delegation and solving the relevant organizational issues as well as conducting the necessary checks based on the information received from the Ukrainian Party, as well as the tight schedule of international events in the sphere of anti-terrorist activity, the Russian Party proposes to conduct the aforementioned consultations in the week beginning on 15 June 2015.

Nothing in this note prejudices the Russian Party's position in respect of the declarations and statements made by the Ukrainian Party contained in the relevant note communications.

The Ministry avails itself of this opportunity to resume its assurance of its consideration to the Embassy of Ukraine.

Moscow, 8 May 2015

Seal: Ministry of Foreign Affairs * No. 1

Annex 26

Note Verbale No. 72/22-484-1103 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 13 May 2015

(translation)

Translation

No. 72/22-484-1103

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in addition to notes No. 72/22-484- 1964 dated July 28, 2014, No. 72/22-620-2087 dated August 12, 2014, No. 72/22-620-2185 dated August 22, 2014, No. 72/22- 620-2221 dated August 29, 2014, No. 72/22-620-2406 dated September 24, 2014, No. 72/22-620-2495 dated October 7, 2014, No. 72/22-620-2529 dated October 10, 2014, No. 72/22-620-2717 dated November 3, 2014, No. 72/22-620-2732 dated November 4, 2014, No. 72/22-620-351 of February 13, 2015 and No. 610/22-110-504 dated April 2, 2015, reports on commission of the crime within the meaning of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention") in connection with the terrorist act committed on February 10, 2015 as a result of attack by fire on the city of Kramatorsk of the Donetsk Region of Ukraine.

The Ukrainian Party declares that it has sufficient facts and information, without prejudice to collection and provision of additional evidence as regards the fact that on February 10, 2015 the terrorist organization - the so-called "Donetsk People's Republic" (hereinafter - "the DPR") acting with support and assistance of the Russian Federation, as well as under its guidance and control, committed a terrorist act against the civilian population residing in the city of Kramatorsk of the Donetsk Region of Ukraine. This attack is one of the examples of systematic terrorist activity, including because it is targeted at indiscriminate killings of civilian population, committed by the so-called "DPR". The circumstances of the terrorist activity, including the attack of February 10, are the evidence of existence of will and deliberation in the actions of the Russian Federation with regard to support of terrorism, which is a violation of the Convention. The position of the Ukrainian Party is based on the following facts and circumstances the list of which is not exhaustive.

On February 10, 2015 starting from 11 a.m., the terrorists from the so-called "DPR", from the territory controlled by them, launched free rockets of 300 mm caliber from BM-30 "Smerch" multiple rocket launchers at the areas densely populated by civilians in the city of Kramatorsk.

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As a result of the aforementioned attacks by fire 15 persons died on the spot, another 2 persons died in hospital. In addition, 63 persons were injured, including 40 persons with wounds of various degrees of severity who were sent to hospitals in Kramatorsk.

The Ukrainian Party submits that the experts from the OSCE Special Monitoring Mission in Ukraine confirmed that missiles from BM-30 "Smerch" multiple rocket launchers were launched from the south-south-eastern direction from the area near the town of Gorlovka of the Donetsk Region, currently controlled by terrorists from the so-called "DPR".

The attack committed on February 10, 2015 is one of the examples of the systematic terrorist activity conducted by the DPR. The Ukrainian Party repeatedly brought it to the Russian Party's knowledge that beginning from March 2014 the terrorist organization - the so-called "DPR" - was unlawfully acting in the Ukrainian territory, violating international law, including conducting attacks on civilian population with the aim of its intimidation.

The Ukrainian Party declares that the Russian Federation is responsible for financing and support of the terrorist acts committed by the DPR, including the attack against civilians on February 10, 2015.

The Ministry of Foreign Affairs of Ukraine has the grounds to believe that the equipment and ammunition used during the attack on February 10, 2015 originate from the Armed Forces of the Russian Federation. Moreover, the Ukrainian Party repeatedly informed the Russian Party of unlawful movement of military equipment, weapons and cargoes from the territory of the Russian Federation for support of the terrorist groups, the so-called "DPR" and "LPR". Those supplies included BM-30 "Smerch" multiple rocket launchers and uncontrolled missile launchers designed for killing unprotected people. The Russian Federation is aware of the fact that the so-called "DPR" and "LPR" use Russian military equipment against civilian population. These and other facts demonstrate that the Russian Federation intentionally and deliberately supports commission of terrorist attacks against the civilian population of Ukraine.

Taking this into consideration, the Ukrainian Party once again urges the Russian Federation to such actions: to recognize that the Convention prohibits to states, their officials and their agents to finance and support acts of terrorism, to recognize the continuing supply of the DPR and the LPR with funds, military equipment and rendering of other support, to recognize its awareness as regards the fact that the DPR and the LPR target and without distinction kill civilians for the purpose of their intimidation, using the equipment and weapons supplied by the Russian Federation, to recognize its responsibility for the attack on February 10

effected by the DPR using Russian military equipment as well as to take all practically possible measures for termination of the violations of the Convention and to present proper assurances and guarantees that they will not be repeated in the future.

The Ukrainian Party also reserves the right to demand reimbursement by the Russian Party of the damage caused by violation of the Convention.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to resume the assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 13 May 2015

(Seal)

Annex 27

Note Verbale No. 8395/dnv of the Ministry of Foreign Affairs of the Russian Federation to the Embassy of Ukraine in Moscow, 17 June 2015

(translation)

Translation

No. 8395/dnv

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and submits the following in reply to notes of the Embassy No. 6111/22-012-1740 dated 10 June 2015 and No. 6111/22-012-1756 dated 11 June 2015.

The Russian Party confirms its readiness to conduct the second round of Russian-Ukrainian consultations on the issues related to the 1999 International Convention for the Suppression of the Financing of Terrorism ("the Convention") in Minsk on 2 July 2015.

At the same time, the Russian Party is utterly perplexed in connection with the Ukrainian Party's demand of "maximally prompt reaction of the Russian Party" with regard to the consultations dates proposed by the Ukrainian Party and "receiving the reply within a reasonable period". The Ministry has to remind that the reply to the note of the Embassy of Ukraine in Moscow dated 24 April of this year was sent

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by the Ministry on 8 May of this year, i.e. after two weeks. However, the reply of the Ministry of Foreign Affairs of Ukraine to the Russian note of 8 May of this year was drawn up only on 27 May of this year (that is, after three weeks) and forwarded to the Russian Party by a note of the Embassy of Ukraine in Moscow on 10 June of this year, that is, more than one month after the Russian note. Such belated reaction of the Ukrainian Party put under threat of failure conducting the consultations within the proposed time periods.

The Ukrainian Party's refusal to conduct consultations within the earlier proposed periods (on 18 June of this year) was sent at the end of the day on 11 June of this year, that is, three business days prior to the proposed event date.

The Russian Party has to state its concern in connection with the constant attempts of the Ukrainian Party to propose the venues for the negotiations which are knowingly unacceptable or create unreasonable obstacles (either in the states with which the Russian Federation has no diplomatic relations or where visas for the delegation members and substantial financial expenses are required), instead of using the negotiation platform in the city of Minsk, well-tested by both Parties.

The aforementioned facts put in doubt the validity of the Ukrainian Party's intent to discuss the issues related to the Convention effectively and in good faith. The same facts clearly refute the Ukrainian Party's attempts to shift the responsibility for the created obstacles to the Russian Party. The Russian Party urges the Ukrainian Party to stop the actions causing damage to the consultations.

As regards the Ukrainian Party's accusations of lack of constructiveness and conscientiousness of the Russian Party, the Ministry declares again that in compliance with the established

diplomatic practice authentic statement of the position of every delegation is the exclusive privilege of this delegation. Unilateral submission of own interpretation of the results of the consultations as the position of the partners is not “objective recording” and is incompatible with the principle of good faith.

The Ukrainian Party’s request as to the necessity to formulate in the note communications the detailed objections to the interpretation of the Russian position given by the Ukrainian Party is assessed by the Ministry as an attempt to replace - and in the final end to undermine - the agreed mechanism of consultations. The Russian Party proceeds from the idea that any discussion on this issue must be conducted within the established framework of the negotiation process.

Nothing in this note prejudices the Russian Party’s position in respect of the declarations and statements made by the Ukrainian Party contained in the relevant note communications.

The Ministry avails itself of the opportunity to resume its assurance of its consideration to the Embassy of Ukraine.

Moscow, 17 June 2015

Seal: Ministry of Foreign Affairs * No. 1

Annex 28

Note Verbale No. 72/22-620-2604 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 23 October 2015

(translation)

Translation

No. 72/22-620-2604

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and in addition to note dated September 15, 2015 No. 72/22-620-2245, reports on the events related to the destruction of the aircraft of the Malaysian Airlines, flight MH17, in the Donetsk Region on July 17, 2014.

The publicly known facts of the aforementioned incident evidence that on July 17, 2014 at about 4.20 p.m., Kiev time, MH17 disappeared in the air space above the Donetsk Region of Ukraine, several kilometers from the Russian border. According to the final report made public on October 13, 2015 by the Dutch Safety Board, at 16:20:03, Kiev time, "a warhead detonated outside and above the left hand side of the cockpit of flight MH17. It was a 9N314M warhead carried on the 9M38-series of missiles installed on the Buk surface-to-air missile system". According to the aforementioned report, the missile could have been launched from the territory covering 320 square kilometers in the east of Ukraine. At that moment, the territory defined by the Dutch Safety Board was controlled by the terrorist organization "the Donetsk People's Republic" (hereinafter - "the DPR"). Following that explosion there was an "inflight break up" of MH17. "The break-up resulted in a wreckage" near "the town of Hrabove, Ukraine."

The Ukrainian Party declares that this attack at MH17 civil aircraft constitutes gross violation of international law. In particular, it is not only a serious violation of Ukraine's sovereignty and the United Nations Organization Charter but, *inter alia*, violation of the obligations under the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention"). These violations are not accidental or technical. International law including treaties was violated conscientiously and grossly.

The Ukrainian Party has all the grounds to believe that the Russian Federation directly and/or indirectly, unlawfully and deliberately provided and/or collected funds

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as defined in the Convention, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out acts of terrorism by participants of the "DPR". In particular, the attack on MH17 constitutes violation of the 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation and/or was aimed at causing death or serious bodily injuries to civilians and by its nature and context pursued the aim, *inter alia*, to intimidate the Ukrainian population and/or compel the Ukrainian Government to change the Constitutional order and do other acts or to abstain from doing other acts as requested by the DPR and the Russian Federation. As a result of this terrorist act committed by the DPR and financed by the Russian Federation, 298 civilian passengers and crew members on board of MH17 were killed.

Such conclusion is confirmed, *inter alia*, by the totality of facts given below without prejudice to the information, which may possibly become known in the future.

First, witness testimony/statements, photographs, satellite images and intercepted conversations evidence that the Buk missile used during the attack was provided to the DPR by Russian military servicemen. Moreover, the available data evidence that this Buk missile is on the balance of one of the brigades of the Russian anti-aircraft forces located in the territory of the Russian Federation near the city of Kursk. A Russian motor battalion was accompanying this Buk missile from Kursk to the military air forces base in Millerovo (the Rostov Region, the Russian Federation) and from there - to the border with Ukraine between June 23 and July 16, 2014. On the night of July 16 - 17 the Buk missile crossed the border near Severny settlement (the Luhansk Region, Ukraine) and early in the morning on July 18 the same Buk returned to the territory of the Russian Federation through the same place at the border. On July 19-20, the Russian motor battalion accompanied the Buk missile to the military camp that is located to the north-west of Kamensk-Shakhtinsky settlement (the Rostov Region, the Russian Federation).

Second, witness testimony/statements, photographs, satellite images and intercepted conversations evidence that the participants of the DPR delivered the Buk missile used in the course of the terrorist act to the place of missile launching and transported it back to the border of the Russian Federation. Thus, on July 17, the participants of the DPR transported the Buk missile by a truck from Severny to Donetsk, and further on via Makeevka, Zugres and Torez to Snezhnoe. After the attack

on MH17 the members of the DPR transported the Buk missile from Snezhnoe to the border with the Russian Federation in the Luhansk Region via Debaltsevo.

Third, witness testimony/statements, photographs, satellite images and intercepted conversations evidence that the participants of the DPR have effected the attack on MH17. The heads of the DPR recognized that the DPR possessed Buk missile systems and that the DPR had effected the attack.

Fourth, MH17 was flying at the height of 33,000 ft with the speed natural for a civil aircraft, within the borders of the air corridor designed for commercial flights. MH17, in accordance with its flight plan, was transmitting its tunnel code and the information about the flight was publicly available on the Internet.

Fifth, taking into consideration the existing circumstances, it is evident that the Russian Federation provided support to the DPR being fully aware of the possibility of using the weapons provided by it for effecting unlawful attacks on civilian population. Prior to MH17 destruction, the DPR had already taken part in commission of terrorist acts in Ukraine, and the Russian Federation had all the grounds to expect that the DPR would continue its terrorist activity using the weapons provided by the Russian Federation.

The Ministry of Foreign Affairs of Ukraine expresses deep concern with regard to refusal on the part of the Russian Federation to provide the necessary assistance for ensuring proper investigation of the incident with MH17.

The Ministry of Foreign Affairs of Ukraine also expresses deep concern with regard to the ongoing provision by the Russian Federation of the means which are used for commission of terrorist acts against the civilian population in the territory of Ukraine. In addition to using such means during commission of terrorist acts in violation of the Convention, the destruction of MH17 also gave the Russian Federation convincing grounds to believe that any weapons, which the Russian Party had provided to the DPR and similar terrorist groups, will be used for killing civilian population in the course of unlawful terrorist acts. Notwithstanding this, the Russian Federation continues to provide support to such terrorist organizations and terrorist acts committed by them.

The Ministry of Foreign Affairs of Ukraine believes that the Russian Party's actions with regard to financing

the DPR's terrorist activity in the territory of Ukraine constitute a serious violation of the Convention.

The Ministry of Foreign Affairs of the Russian Federation calls upon the Russian Federation:

- to stop its participation in the terrorist activity in Ukraine, including financing and support of terrorism;
- to recognize its international legal responsibility for commission of terrorist acts in the territory of Ukraine, including for the attack on MH17;
- to consistently perform its international legal obligations including its obligations under the Convention;
- to present proper assurances and guarantees that such internationally wrongful actions will not be repeated in the future;
- to fully reimburse the damage caused as a result of its internationally wrongful actions.

The Ukrainian Party further reserves its legal stance and reserves the right to resort to remedies within the framework of international law in compliance with the Charter of the United Nations Organization and the Convention.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to resume its assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 23 October 2015

(Seal)

Annex 29

Note Verbale No. 72/22-620-2894 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 23 November 2015

(translation)

Translation

No. 72/22-620-2894

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, based on the results of the third round of the negotiations regarding interpretation and application of the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter - "the Convention") conducted on October 29, 2015, hereby applies to the Russian Party with regard to the need to obtain replies to the important questions brought for discussion during the aforementioned meeting.

By its diplomatic note dated October 29, 2015 No. 72/22- 620-2604 and during the latest meeting, the Ukrainian Party expressed its deep concern with regard to the crash of the Malaysian Airlines aircraft, flight MH17 (hereinafter - "MH17") on July 17, 2014 in the Donetsk Region of Ukraine. The definite position of the Ukrainian Party is that the Russian Party's involvement in the attack at MH17 civil aircraft resulting in the death of 298 passengers and crew members is a gross violation of the Convention.

The Ukrainian Party has all the reasons to believe that the Russian Party has effected financing of the aforementioned terrorist attack on MH17 within the understanding of the Convention. During the aforementioned negotiations, the Ukrainian Party presented its position as well as formulated a number of questions in order to specify the position of the Russian Federation with regard to its role in the terrorist attack at MH17. The representatives of the Russian delegation refused to comment on the stated circumstances and facts of the plane crash, and they left unanswered the specifying questions of the Ukrainian delegation on the aforementioned topic. The Russian Party adheres to the position, and has preliminary noted, that the said terrorist attack is beyond the scope of application of the Convention, but no arguments have been given in support of this assertion.

The Ukrainian Party declares that the support by the Russian Federation of the attack on MH17 is an important issue for discussion during the next round of the negotiations between the Parties with regard to interpretation and application of the Convention.

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Moscow

For the purpose of ensuring the effectiveness of further negotiations the Ukrainian Party calls on the Russian Party to immediately provide answers to the questions posed by the Ukrainian Party during the latest negotiations and cited below:

- Did the armed forces of the Russian Federation transfer the "Buk" air force missile complex to the terrorist organization the DPR?

- Did the terrorist organization the DPR effect transportation of the "Buk" complex to the place of missile launching (after which the missile was actually launched) and further transportation of the "Buk" complex to the Russian Federation border?

- Did the terrorist organization the DPR launch the missile from the "Buk" complex, as a result of explosion of which MH17 aircraft, flying at the height and with the speed characteristic of civil aircraft, crashed?

- Was the Russian Federation, rendering assistance to the DPR, fully aware of the possibility of use of the weapons provided by it in the course of the terrorist attacks against the civilian population?

The Ukrainian Party did not receive any reply or explanation with regard to the provided facts regarding involvement of the Russian Party in supplies of weapons to the terrorist organizations, the DPR and the LPR, as well as with regard to the terrorist attacks conducted by these organizations against the civilian population of Volnovakha, Mariupol and Kramatorsk.

During the latest round of the negotiations, the Russian Party regarding this issue confined itself to a reference to its diplomatic note dated October 15, 2015 and refused to further participate in discussion of any issues initiated by the Ukrainian Party on this topic. The Ukrainian Party notes with regret that the Russian Party practically refused to discuss the said topic during the latest two rounds of negotiations.

The circumstances and a number of facts related to the aforementioned terrorist attacks and terrorist activity, including a significant amount of information publicly available in open sources for the Russian Party, support the Ukrainian Party's position as regards violation of the Convention by the Russian Federation by effecting the financing of terrorist attacks against the civil population of Ukraine.

The Ukrainian Party calls upon the Russian Party to examine, duly and in the spirit of good faith, each

specific fact and argument regarding the aforementioned terrorist attacks and terrorist activity as stated by the Ukrainian Party in the diplomatic notes. The Russian Party's refusal to discuss the aforementioned issues will be regarded by the Ukrainian Party as the Russian Party's reluctance to perform in good faith the necessary actions for the settlement of the existing dispute.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to resume its assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Kiev, 23 November 2015

(Seal)

Annex 30

List of OSCE and OHCHR reports recording attacks on the DPR-/LPR-controlled territories as of the end of December 2017

List of reports recording attacks on the DPR-/LPR-controlled territories as of the end of December 2017

1. OHCHR, "Report on the human rights situation in Ukraine 15 June 2014" (http://www.ohchr.org/Documents/Countries/UA/HRMMUReport15June2014.pdf).

2. OHCHR, "Report on the human rights situation in Ukraine 16 May to 15 August 2016" (http://www.ohchr.org/Documents/Countries/UA/Ukraine15thReport.pdf).

3. OSCE, "Latest from the Special Monitoring Mission (SMM) in Ukraine based on information received until 18:00 hrs, 20 July (Kyiv time)", 21 July 2014 (http://www.osce.org/ukraine-smm/121485).

4. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine, based on information received as of 18:00 hrs, 1 August 2014 (Kyiv time)", 2 August 2014 (http://www.osce.org/ukraine-smm/122189).

5. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 hrs, 6 August 2014", 7 August 2014 (http://www.osce.org/ukraine-smm/122466).

6. OSCE, "Latest report by the Special Monitoring Mission to Ukraine (SMM) on Alleged Shelling of Donetsk Hospital and Civilian Buildings", 7 August 2014 (http://www.osce.org/ukraine-smm/122468).

7. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received by 18:00 (Kyiv time)", 7 August 2014 (http://www.osce.org/ukraine-smm/122495).

8. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 (Kyiv time), 12 August 2014", 13 August 2014 (http://www.osce.org/ukraine-smm/122607).

9. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 (Kyiv time), 14 August 2014", 15 August 2014 (http://www.osce.org/ukraine-smm/122661).

10. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 (Kyiv time), 22 August 2014", 23 August 2014 (http://www.osce.org/ukraine-smm/122939).

11. OSCE, "Spot report by the OSCE Special Monitoring Mission to Ukraine (SMM): Shelling of residential areas in Donetsk, the SMM observes civilian fatalities", 24 August 2014 (http://www.osce.org/ukraine-smm/122940).

12. OSCE, "Latest from the Special Monitoring Mission to Ukraine, based on information received as of 18:00 (Kyiv time), 29 August 2014", 30 August 2014 (http://www.osce.org/ukraine-smm/123074).

13. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 (Kyiv time), 3 September 2014", 4 September 2014 (http://www.osce.org/ukraine-smm/123209).

14. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 (Kyiv time), 5 September 2014", 6 September 2014 (http://www.osce.org/ukraine-smm/123256).

15. OSCE, "Spot report by the OSCE Special Monitoring Mission to Ukraine (SMM), 5 September 2014: The Situation in Mariupol, Ukraine", 5 September 2014 (http://www.osce.org/ukraine-smm/123254).

16. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 (Kyiv time), 9 September 2014", 11 September 2014 (http://www.osce.org/ukraine-smm/123407).

17. OSCE, "Spot report by the OSCE Special Monitoring Mission to Ukraine (SMM), 14 September 2014", 14 September 2014 (http://www.osce.org/ukraine-smm/123532).

18. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 (Kyiv time), 16 September 2014", 17 September 2014 (http://www.osce.org/ukraine-smm/123687).

19. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 (Kyiv time), 24 September 2014", 25 September 2014 (http://www.osce.org/ukraine-smm/124328).

20. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 (Kyiv time), 25 September 2014", 26 September 2014 (http://www.osce.org/ukraine-smm/124435).

21. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 (Kyiv time), 1 October 2014", 2 October 2014 (http://www.osce.org/ukraine-smm/124979).

22. OHCHR, "Report on the human rights situation in Ukraine 15 November 2014" (http://www.ohchr.org/Documents/Countries/UA/OHCHR_sixth_report_on_Ukraine.pdf).

23. OHCHR, "Report on the human rights situation in Ukraine 16 November 2015 to 15 February 2016" (http://www.ohchr.org/Documents/Countries/UA/Ukraine_13th_HRMMU_Report_3March2016.pdf).

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82. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 19:30 (Kyiv time), 30 July 2015", 31 July 2015 (http://www.osce.org/ukraine-smm/175591).

83. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 19:30 (Kyiv time), 2 August 2015", 3 August 2015 (http://www.osce.org/ukraine-smm/175736).

84. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 6 August 2015", 7 August 2015 (http://www.osce.org/ukraine-smm/176236).

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91. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 19:30 (Kyiv time), 21 August 2015", 22 August 2015 (http://www.osce.org/ukraine-smm/178411).

92. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 19:30 (Kyiv time), 25 August 2015", 26 August 2015 (http://www.osce.org/ukraine-smm/178806).

93. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 19:30 (Kyiv time), 30 August 2015", 31 August 2015 (http://www.osce.org/ukraine-smm/179246).

94. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 6 September 2015", 7 September 2015 (http://www.osce.org/ukraine-smm/180326).

95. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30hrs, 6 December 2015", 7 December 2015 (http://www.osce.org/ukraine-smm/207706).

96. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30hrs, 7 December 2015", 8 December 2015 (http://www.osce.org/ukraine-smm/208111).

97. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30hrs, 19 January 2016", 20 January 2016 (http://www.osce.org/ukraine-smm/217406).

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99. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30hrs, 7 February 2016", 8 February 2016 (https://www.osce.org/ukraine-smm/221171).

100. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30hrs, 8 February 2016", 9 February 2016 (https://www.osce.org/ukraine-smm/221436).

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103. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30hrs, 10 March 2016", 11 March 2016 (https://www.osce.org/ukraine-smm/227061).

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111. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30hrs, 29 April 2016, 30 April 2016 (http://www.osce.org/ukraine-smm/237706).

112. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 26 May 2016”, 27 May 2016 (http://www.osce.org/ukraine-smm/243356).

113. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 30 May 2016”, 31 May 2016 (http://www.osce.org/ukraine-smm/243941).

114. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 9 June 2016”, 10 June 2016 (http://www.osce.org/ukraine-smm/246186).

115. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 13 June 2016”, 14 June 2016 (http://www.osce.org/ukraine-smm/246731).

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125. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 25 July 2016”, 26 July 2016 (http://www.osce.org/ukraine-smm/256386).

126. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 28 July 2016”, 29 July 2016 (http://www.osce.org/ukraine-smm/257106).

127. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 23 October 2016”, 24 October 2016 (http://www.osce.org/ukraine-smm/276701).

128. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 1 August 2016”, 2 August 2016 (http://www.osce.org/ukraine-smm/257516).

129. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 2 August 2016”, 3 August 2016 (http://www.osce.org/ukraine-smm/257641).

130. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 3 August 2016”, 4 August 2016 (http://www.osce.org/ukraine-smm/257831).

131. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 7 August 2016”, 8 August 2016 (https://www.osce.org/ukraine-smm/258221).

132. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 9 August 2016”, 10 August 2016 (http://www.osce.org/ukraine-smm/258496).

133. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 10 August 2016”, 11 August 2016 (http://www.osce.org/ukraine-smm/258976).

134. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 11 August 2016, August 2016 (http://www.osce.org/ukraine-smm/259316).

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137. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 16 August 2016", 17 August 2016 (http://www.osce.org/ukraine-smm/260211).

138. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 21 August 2016", 22 August 2016 (http://www.osce.org/ukraine-smm/260681).

139. OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 22 August 2016", 23 August 2016 (http://www.osce.org/ukraine-smm/260811).

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150. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 25 November 2016 November 2016 (http://www.osce.org/ukraine-smm/284456).

151. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 2 December 2016”, 3 December 2016 (http://www.osce.org/ukraine-smm/285981).

152. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 4 December 2016”, 5 December 2016 (http://www.osce.org/ukraine-smm/286206).

153. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 12 December 2016”, 13 December 2016 (http://www.osce.org/ukraine-smm/289006).

154. OSCE, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30, 22 to 26 December 2016”, 27 December 2016 (http://www.osce.org/ukraine-smm/291136).

155. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 15 January 2017”, 16 January 2017 (http://www.osce.org/ukraine-smm/294081).

156. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 16 January 2017”, 17 January 2017 (http://www.osce.org/ukraine-smm/294366).

157. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 17 January 2017”, 18 January 2017 (http://www.osce.org/ukraine-smm/294606).

158. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 20 January 2017”, 21 January 2017 (http://www.osce.org/ukraine-smm/294946).

159. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 24 January 2017”, 25 January 2017 (http://www.osce.org/ukraine-smm/295581).

160. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 30 January 2017”, 31 January 2017 (https://www.osce.org/ukraine-smm/296721).

161. OHCHR, “Report on the human rights situation in Ukraine 16 November 2016 to 15 February 2017” (http://www.ohchr.org/Documents/Countries/UA/UAReport17th_EN.pdf).

162. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 31 January 2017”, 1 February 2017 (http://www.osce.org/ukraine-smm/296961).

163. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 1 February 2017”, 2 February 2017 (http://www.osce.org/ukraine-smm/297326).

164. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 2 February 2017”, 3 February 2017 (https://www.osce.org/ukraine-smm/297576).

165. OSCE, “Spot Report by the OSCE Special Monitoring Mission to Ukraine: Casualties, damage to civilian infrastructure registered in Donetsk region following fighting”, 3 February 2017 (http://www.osce.org/ukraine-smm/297606).

166. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 3 February 2017”, 4 February 2017 (https://www.osce.org/ukraine-smm/297646).

167. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 6 February 2017”, 7 February 2017 (https://www.osce.org/ukraine-smm/298216).

168. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 7 February 2017”, 8 February 2017 (http://www.osce.org/ukraine-smm/298361).

169. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 9 February 2017”, 10 February 2017 (http://www.osce.org/ukraine-smm/299151).

170. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 10 February 2017”, 11 February 2017 (http://www.osce.org/ukraine-smm/299181).

171. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 17 February 2017”, 18 February 2017 (http://www.osce.org/ukraine-smm/300816).

172. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 24 February 2017”, 25 February 2017 (http://www.osce.org/ukraine-smm/301841).

173. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 26 February 2017”, 27 February 2017 (http://www.osce.org/ukraine-smm/302051).

174. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 6 March 2017”, 7 March 2017 (http://www.osce.org/ukraine-smm/303391).

175. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 7 March 2017”, 8 March 2017 (https://www.osce.org/ukraine-smm/303666).

176. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 8 March 2017”, 9 March 2017 (http://www.osce.org/ukraine-smm/304031).

177. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 9 March 2017”, 10 March 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/304526).

178. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 13 March 2017”, 14 March 2017, (http://www.osce.org/special-monitoring-mission-to-ukraine/305126).

179. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 14 March 2017”, 15 March 2017, (http://www.osce.org/special-monitoring-mission-to-ukraine/305276).

180. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 15 March 2017”, 16 March 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/305681).

181. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 17 March 2017”, 18 March 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/306076).

182. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 19 March 2017”, 20 March 2017, (http://www.osce.org/special-monitoring-mission-to-ukraine/306306).

183. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 20 March 2017”, 21 March 2017, (http://www.osce.org/special-monitoring-mission-to-ukraine/306426).

184. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 21 March 2017”, 22 March 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/306661).

185. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 22 March 2017”, 23 March 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/306896).

186. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 23 March 2017”, 24 March 2017, (http://www.osce.org/special-monitoring-mission-to-ukraine/307391).

187. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 24 March 2017”, 25 March 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/307446).

188. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 26 March 2017”, 27 March 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/307996).

189. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 28 March 2017”, 29 March 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/308551).

190. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 29 March 2017”, 30 March 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/308861).

191. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 30 March 2017”, 31 March 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/309051).

192. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 31 March 2017”, 1 April 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/309091).

193. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 7 April 2017”, 8 April 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/310746).

194. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 10 April 2017”, 11 April 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/311096).

195. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 14 April 2017”, 15 April 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/311681).

196. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 30 April 2017”, 1 May 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/314571).

197. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 2 May 2017”, 3 May 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/314916).

198. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 3 May 2017”, 4 May 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/315251).

199. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 9 May 2017”, 10 May 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/316596).

200. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 10 May 2017”, 11 May 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/316846).

201. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 14 May 2017”, 15 May 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/317386).

202. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 15 May 2017”, 16 May 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/317666).

203. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 21 May 2017”, 22 May 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/318696).

204. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 23 May 2017”, 24 May 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/319491).

205. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 24 May 2017”, 25 May 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/319666).

206. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 26 May 2017”, 27 May 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/319816).

207. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 28 May 2017”, 29 May 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/320136).

208. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 31 May 2017”, 1 June 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/321041).

209. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 4 June 2017”, 5 June 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/321551).

210. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 5 June 2017”, 6 June 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/321766).

211. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 6 June 2017”, 7 June 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/321951).

212. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 8 June 2017”, 9 June 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/322356).

213. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 11 June 2017”, 12 June 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/322726).

214. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 13 June 2017”, 14 June 2017, (https://www.osce.org/special-monitoring-mission-to-ukraine/323166).

215. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 15 June 2017”, 16 June 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/323786).

216. OHCHR, “Report on the human rights situation in Ukraine 16 August to 15 November 2017” (https://www.ohchr.org/Documents/Countries/UA/UAReport20th_EN.pdf).

217. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 18 June 2017", 19 June 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/324026).

218. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 20 June 2017", 21 June 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/324651).

219. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 21 June 2017", 22 June 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/324881).

220. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 23 June 2017", 24 June 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/325406).

221. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 25 June 2017", 26 June 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/325521).

222. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 29 June 2017",30 June 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/327286).

223. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 2 July 2017", 3 July 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/327506).

224. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 11 July 2017", 12 July 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/329086).

225. OHCHR, "Report on the human rights situation in Ukraine 16 May to 15 August 2017" (https://www.ohchr.org/Documents/Countries/UA/UAReport19th_EN.pdf).

226. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 18 July 2017", 19 July 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/330601).

227. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 19 July 2017", 20 July 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/330981).

228. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 20 July 2017", 21 July 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/331521).

229. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 24 July 2017", 25 July 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/332331).

230. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 26 July 2017", 27 July 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/332696).

231. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 28 July 2017”, 29 July 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/333201).

232. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 30 July 2017”, 31 July 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/333381).

233. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 2 August 2017”, 3 August 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/333961).

234. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 6 August 2017”, 7 August 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/334331).

235. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 15 August 2017”, 16 August 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/335866).

236. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 16 August 2017”, 17 August 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/335931).

237. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 20 August 2017”, 21 August 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/336116).

238. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 21 August 2017”, 22 August 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/336161).

239. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 27 August 2017”, 28 August 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/336926).

240. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 29 August 2017”, 30 August 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/337341).

241. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 10 September 2017”, 11 September 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/338976).

242. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 19 September 2017”, 20 September 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/344126).

243. OSCE, “Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 27 September 2017”, 28 September 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/346731).

244. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 1 October 2017", 2 October 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/347316).

245. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 9 October 2017", 10 October 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/348901).

246. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 18 October 2017", 19 October 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/351036).

247. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 22 October 2017", 23 October 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/351841).

248. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 27 October 2017", 28 October 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/353026).

249. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 29 October 2017", 30 October 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/353491).

250. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 5 November 2017", 6 November 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/354936).

251. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 6 November 2017", 7 November 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/355221).

252. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 23 November 2017", 24 November 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/358736).

253. OSCE, Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 5 December 2017, 6 December 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/360961).

254. OSCE, Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 10 December 2017, 11 December 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/362121).

255. OSCE, Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 12 December 2017, 13 December 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/362576).

256. OSCE, Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 13 December 2017, 14 December 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/362876).

257. OSCE, Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 14 December 2017, 15 December 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/363086).

258. OSCE, Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 15 December 2017, 16 December 2017 (https://www.osce.org/special-monitoring-mission-to-ukraine/363116).

259. OSCE, Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 19 December 2017, 20 December 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/363686).

260. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 21 December 2017", 22 December 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/364021).

261. OSCE, "Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 22 December 2017", 23 December 2017 (http://www.osce.org/special-monitoring-mission-to-ukraine/364071).

Annex 31

Transcript of a video containing alleged intercepted conversation between “Terrorist” and “Pepel”, 24 January 2015

(translation)

Translation

Transcript of the video containing alleged intercepted conversation between "Terrorist" and "Pepel",

24 January 2015

YouTube: https://www.youtube.com/watch?time_continue=44&v=Nu5PjxMQVNs

00:21

[On screen: Call sign "Terrorist", Ponomarenko Sergey Leonidovich, 19.07.1977 year of birth, repeatedly held criminally responsible for theft and robbery]

"Terrorist": So, what's up there?

"Pepel": Not much, I'm working…

"Terrorist": Where exactly?...

"Pepel": A little bit of this, a little bit of that…

"Terrorist": F**k, pour it on "Vostochny", for f**k's sake. Do it right just one time.

"Pepel": F**k, there are 9-storeyed apartment buildings out there, little brother…

"Terrorist": They are f**k knows where, brother. They are at a f**k knows what distance from them. Pour it on the highway, on the checkpoint itself …The 9-storeyed apartment buildings are f**king long way off, they're in some 1.5 km from there, for f**k's sake.

[On screen: "After the shelling"]

"Pepel": Little brother...

"Terrorist": I did ask you, I told you there were "eyes" [on screen: "Eyes" means an observer in army slang"], and you f**king replied: "I'll do it myself"…All right, fine, umm…S**t happens, brother. Well, f**k it, it's f**king rubbish, don't run scared…

"Pepel": Got it, it's OK, they'll f**king bolt faster.

"Terrorist": D**n, you'd better pound f**king Talakovka, right there, shell the s**t out of it.

Annex 32

OSCE, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 (Kyiv time), 25 January 2015", 26 January 2015

OSCE Organization for Security and Co-operation in Europe

Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 18:00 (Kyiv time), 25 January 2015

KYIV 26 January 2015

This report is for media and the general public.

The SMM continued to monitor the implementation of the provisions of the Minsk Protocol and Memorandum and the work of the Joint Centre for Control and Co-ordination (JCCC). The shelling of a residential area in Mariupol city on 24 January resulted in 30 dead and 102 injured, according to latest media reports.

On 24 January, the SMM visited the site of an extremely heavy barrage of Multi Launch Rocket System (MLRS) which impacted in the area of Olimpiiska Street, 8.5km north-east of Mariupol city centre (95km south of **Donetsk**), approximately 400 meters from a Ukrainian Armed Forces checkpoint (see *SMM Spot Report 24 January*). Media reports the death toll to be 30 fatalities and an additional 102 wounded all of which are civilians.

On 24 January, the SMM patrolled Donetsk city centre where it observed substantial damages allegedly caused by shelling on 21-22 January. In Rybatska Street, the SMM observed several residential houses which had suffered structural damage as well as others with shattered windows. Local residents told the SMM that the majority of the neighbourhood was without gas, water and electricity since the shelling on 21 January. On Voziednannia Street, the SMM observed four artillery impacts which caused structural damage to roofs and windows in three houses on the street. In Brusova Street, the SMM observed structural damage to four residential houses allegedly caused by shelling on 22 January. The residents informed the SMM that a woman had died and a man was wounded in the shelling. In Pavla Popovycha Street, the SMM observed the casing of a BM30 series "Smerch" rocket in a garage. In Donetsk city, the SMM observed an increased "police" and military presence at intersections.

When contacted by the SMM, the Major-General of the Ukrainian Armed Forces and Head of the Ukrainian side to the JCCC at the JCCC headquarters in government-controlled Debaltseve (55km north-east of Donetsk) said that officers of the Russian Federation Armed Forces and "Donetsk People's Republic" ("DPR") and "Lugansk People's Republic" ("LPR") members remain in government-controlled Soledar (77km north of Donetsk). He told the SMM that on 24 January the Ukrainian Armed Forces positions at the outskirts of Debaltseve had been targeted by artillery fire originating from the direction of "DPR"-controlled Horlivka (43km north-east of Donetsk) and "LPR"-controlled Fashchivka (84km south-west of Luhansk). The SMM was not able to verify these statements.

When contacted by the SMM, Ukrainian Armed Forces checkpoint personnel near government-controlled Novoluhanske (55km north-east of Donetsk) said that incoming heavy artillery and Grad shelling was on-going for the past four days and impacting in areas

close to government-controlled Zaitseve (67km north-north-east of Donetsk) and government-controlled Myronivsky (75km north-east of Donetsk). When contacted by the SMM, the mayor and the municipal council secretary of Novoluhanske confirmed the information about the shelling and that there were no casualties but there were material damages including to the central heating plant serving the town.

On 24 January, at 16:22hrs, the SMM observed in the outskirts of government-controlled Novoaidar (57.9km north-west of **Luhansk**) what it assessed to be a salvo of six outgoing Grad II missiles outgoing from approximately 5km to the north-east. As the SMM left the scene detonations were heard and pressure waves were felt inside the SMM vehicles. At 16:54hrs while approximately 100 meters from the Ukrainian Armed Forces checkpoint at government-controlled Novokhtyrka (70km north-west of Luhansk) the SMM observed a tank munition fired from the south to the north coming from the direction of Novoaidar. Small arms fire erupted from the same general direction, south to the north, which prompted the SMM to depart from the location. While retreating, the SMM observed an additional two tank munitions being fired from the same direction to the north.

The JCCC duty room in Luhansk informed the SMM that from 08:00hrs on 23 January to 08:00hrs on 24 January, 79 ceasefire violations were recorded which resulted in five civilian deaths and one injured as well as seven houses, nine non-residential buildings and 15 infrastructural objects being damaged. From 08:00hrs on 24 January to 08:00hrs on 25 January, 38 ceasefire violations were recorded which resulted in one person being injured and nine houses, one non-residential building and one infrastructural object being damaged.

On 25 January, the SMM was stopped at a Ukrainian Armed Forces checkpoint north of government-controlled Toshkivka (70km west of Luhansk) and held up without explanation for 35 minutes following which it decided to retreat.

According to media reports, on 24 January, at approximately 20:30hrs, an explosion occurred at a cargo facility near the Balashovka cargo railroad station on **Kharkiv**'s Nekhaenka Street, (Kominternovskyi district). On 25 January, the SMM visited the site but was not able to enter the facility which was sealed off. Local residents on the spot said that a gas tank exploded during a fire inside a carpenter's workshop near the cargo facility. The police said to the SMM that the incident resulted in no injuries and was under investigation by the State Security Service (SBU).

On 25 January, the SMM monitored the regular weekly gathering at Kharkiv's Liberty Square, where some 150 middle aged men and women, including members of Euromaidan, "Pravyy Sektor" (Right Sector) and "Azov" volunteer battalion, commemorated the victims of the Mariupol shelling. The protestors marched to the consulate of the Russian Federation and expressed their concerns about Russian Federation policies. Around 100 police were present at the event which ended peacefully.

According to an official statement, the **Dnepropetrovsk** Regional State Administration held an emergency meeting on 24 January during which an Emergency Operation Centre was established and includes defence, law enforcement and security agencies, regional authorities as well as city, town and village administrators. The statement also made reference to unspecified security measures that had been taken to protect key infrastructure. When contacted by the SMM on 25 January, the Dnepropetrovsk regional police and Kryvbas volunteer battalion both said that there were currently no threats to the region.

In Zaporizhzhia (69km south of Dnepropetrovsk), when contacted by the SMM, the regional police said that the situation was calm. When contacted by the SMM, the SBU also said that the situation was calm and informed the SMM that the checkpoint between Mariupol and Berdiansk (284km south-east of Dnepropetrovsk) was reinforced. When contacted by the SMM, the chief of police and the chief of the State Emergency Services in Berdiansk both said that the situation was calm with no changes to the current security arrangements.

On 25 January, the SMM monitored at **Odessa** airport a demonstration attended by approximately 400 men and women of different ages supporting the Ukrainian troops who had served at the Donetsk airport and called for better equipment for soldiers. Approximately 20 police were present at the event which ended peacefully.

On 25 January, the SMM monitored a protest in front of Odessa's Russian Federation consulate with some 370 protestors, men and women of different ages including 20 men in camouflage uniforms with Ukrainian and Right Sector insignia. The protestors displayed Ukrainian, Svoboda party and Right Sector flags. They shouted slogans against the Russian Federation. Approximately 100 police were present at the event which ended peacefully.

On 25 January, the SMM observed a gathering at **Chernivtsi** Central Square of 100 men and women of all ages commemorating the victims of the Mariupol shelling. The head of the regional Svoboda party called for the mobilization to be implemented in "a proper way". The police were present at the event which ended peacefully.

On 25 January between 13:00 and 15:00hrs, the SMM observed two separate gatherings at the Independence Square (Maidan) in **Kyiv**. The first one was composed of approximately 100 mostly elderly persons demanding further reforms. The second one was composed of approximately 20 persons aged between 20 and 40 who silently held signs reading "I LOVE MARIUPOL". Men and women were equally represented in both cases. Police were not visible and both gatherings ended peacefully.

The situation in **Kherson**, **Ivano-Frankivsk** and **Lviv** was calm.

Annex 33

State Border Guard Service of Ukraine,
"In Kramatorsk terrorists shelled the unit of
the State Border Guard Service",
10 February 2015

(translation)

Translation

"In Kramatorsk terrorists shelled the unit of the State Border Guard Service",
10 February 2015

The official website of the State Border Guard Service of Ukraine: https://dpsu.gov.ua/ua/news/y-kramatorsky-teroristi-obstriljali-pidrozdil-derzhprikordonslyzhbi-/

Attacking Kramatorsk, Russian mercenaries shot the unit of the State Border Guard Service of Ukraine which is stationed in this settlement.

Today at 12.30, attacking Kramatorsk, Russian mercenaries shot the unit of the State Border Guard Service of Ukraine which is stationed in this settlement.

The fire was from the jet systems of the salvo fire from the district of the town of Gorlovka. More than 10 shells hit the territory of the border guard service unit. As a result of the shelling, the unit's building was damaged, and one border guard was injured.

Annex 34

112.UA News Agency, “P. Poroshenko’s speech in Rada and the report on the shelling of Kramatorsk, 10 February 2015”

(partial transcript of the video)

Translation

"P. Poroshenko's speech in Rada and the report on the shelling of Kramatorsk, 10 February 2015" (partial transcript of the video)

112.UA News Agency: https://112.ua/video/vystuplenie-poroshenko-v-rade-i-soobschenie-pro-obstrel-kramatorska-10-fevralya-2015-goda-125788.html

P. Poroshenko:

[...]

A few words about the situation, in which we have to make this important decision.

25 minutes ago, in Kramatorsk, the Tornado fire system stroke at Sarmat, our main headquarters of the ATO. The strike hit the headquarters, but the second salvo landed in residential areas of Kramatorsk, which allegedly is now "in the rear". After all, even those who have served in Kramatorsk were not given the status of a "participant in the ATO" by us - neither in Slavyansk nor in Kramatorsk. As of today, there are reports of wounded servicemen, there are reports of a large number of wounded among the civilian population.

Friends! The situation, in which the country is now, and the responsibility that falls on me as on the supreme commander-in-chief, and on the parliament - requires unity and responsibility. I am sure that we will demonstrate such approach when we vote for the laws, and the same approach will be demonstrated in the issues of ensuring the defense and security of our state.

Annex 35

Frunzensky District Court of Kharkov,
Case No. 645/3612/15-k, Decision,
30 September 2015

(translation)

Translation

Frunzensky District Court of Kharkov, Decision No. 645/3612/15-k on 30 September 2015

Case N 645/3612/15-k

Proceeding N 1-kp/645/306/15

DECISION

IN THE NAME OF UKRAINE

On 30 September 2015 the panel of judges of Frunzensky District Court of Kharkov consisting of:

the presiding judge - O. V. Horpynich
the judges - I.V. Bondarev, G.S. Shevchenko
with participation of the court session secretary- O.I. Denisenko
the parties to the criminal proceeding:
the prosecutor - V.L. Limar
the representative of the victims - PERSON_1,
the victims - PERSON_2, PERSON_3, PERSON_4, PERSON_5,
the defenders of the accused - I.A. Ustymenko, O.S. Shadrin, O.O. Leshchenko,
the accused - PERSON_9, PERSON_10, PERSON_11,

heard in open court in the court room of Kharkov a criminal case against

PERSON_11 on the grounds of criminal offenses under part 3 of Art. 258, part 1 of Art. 263 of the Criminal Code of Ukraine,

PERSON_9 on the grounds of criminal offenses under part 5 of Art. 27, part 3 of Art. 258, part 1 of Art. 263 of the Criminal Code of Ukraine,

PERSON_10 on the grounds of criminal offenses under part 5 of Art. 27 part 3 of Art. 258, part 1 of Art. 263 of the Criminal Code of Ukraine,

DETERMINED:

The Frunzensky District Court in Kharkov hears the aforenamed criminal case.

The accused PERSON_11, PERSON_9, PERSON_10 claimed on trial that they were subjected to unlawful methods of pre-trial investigation during the apprehension conducted on 26 February 2015 by the officials of the SSU for the Kharkov region and during the pre-trial investigation into criminal case N 42015220000000115 under the following circumstances.

PERSON_11 stated before the court that on 26.02.2015 around 8:00 a.m. the officials of the SSU for the Kharkov region, with "balaklavas" on their heads, broke into his house at ADDRESS_1. Then they placed the bag on his head, dragged him into the street and put into a car where he was held bare-chested being struck over his head while the car doors were open. Later, he [one of the accused] was brought to the building of the RASSU in the Kharkov region and sent to the basement where he was subjected to tortures lasting for several hours, he was beaten on the head, torso, and, as a result, he had broken ribs, his shoulders and forearms were bruised. The torture in the

basement of the RASSU for the Kharkov region lasted for several hours during which he was repeatedly losing consciousness, the SSU officers told him that the torture would continue until he confessed to committing the terrorist act that had occurred in February 2015 on Marshal Zhukov Prospect in the city of Kharkov. The accused stated that, knowing that he would no longer be able to withstand the torture, he signed all the documents that were presented by the officers of the RASSU for the Kharkov region: interrogation protocols, search protocols relating to the searches at the place of his residence, and was forced by means of intimidation, violence and torture by RASSU for the Kharkov region officers to confess to committing a terrorist act. The accused also declared that the file in the case (Volume 3a, pp. 69, 73) contains the schemes of the explosive device. However, the scheme at p. 69 was drawn by him only after the officials of the RASSU for the Kharkov region have given him a similar scheme of the explosive device and have forced him to remember it so that he could draw it himself during interrogation as a suspect in the investigator's office. The scheme of the explosive device at p.73 was drawn by the specialist PERSON_12. He [one of the accused] only signed this scheme also due to coercion by the officers of the RASSU for the Kharkov region. The scheme (route) at p. 74 describes the place where he allegedly purchased a switch for an explosive device. However, this scheme was also drawn due to coercion by the officers of the SSU for the Kharkov region, while he never bought a switch for explosive device. PERSON_11 stated before the court that during the pre-trial investigation he was interrogated every day for a month and a half without being fed. He was interrogated in the presence of a lawyer but being afraid for his life he gave testimony in which he admitted the commission of act of terrorism. The defendant also declared that he was subjected to psychological violence during the entire pre-trial investigation as the officers of the SSU for the Kharkov region forced him to confess to the commission of act of terrorism during the entire pre-trial investigation, intimidating him by the use of violence, physical abuse, tortures in case of refusal.

At the trial, the accused PERSON_10 stated that he was detained at his place of residence at ADRESS_2 at 3:00 or 12:00 as indicated in the detention record (vol.3, pp. 96). His grandmother, sister and live-in girlfriend were present at his home. The officers of the Regional Agency of the Security Service of Ukraine for the Kharkov region placed a plastic bag and a sack on his head, forced into a car and, after 15-20 minutes, brought him to the building of the Regional Agency of the Security Service of Ukraine for the Kharkov region, he was taken into a basement, where he was subjected to violence with their hands cuffed, they began firing over his head afterwards, imitating his execution. The officers of the Regional Agency of the Security Service of Ukraine for the Kharkov region demanded to confess the commission of a terrorist act that had taken place on Marshal Zhukov Prospect in Kharkov in February 2015. The accused stated that during torture he was losing consciousness of pain. People who have tortured him in the premises of the USBU in Kharkov were wearing "balaklava", so he could not see their faces. Besides, PERSON_10 reported that they passed an electric current through his neck, and then he lost consciousness, moreover, they put a gas mask on his head and beat in the kidneys, he was beaten with rifle butt in his stomach, and his hands and feet were struck with a metal pipe. In addition, he was taken to the street, placed on the snow-covered ground and injured. He did not say anything about torture to the investigator, as he was afraid for his life. He was forced to admit to committing a terrorist act that took place on Marshal Zhukov Prospect in Kharkov under threat of violence. He was subjected to psychological violence throughout the pre-trial investigation, in particular he was told that in the event of refusal to confess to committing a terrorist act, he will be subjected to violence again.

In the court session the accused, PERSON_9, explained that on February 26, 2015 at 18:40 the armed people in masks "Balaklava" broke into the apartment at the place of residence at

ADDRESS_3, later it appeared that they were officers of the USBU for the Kharkov region. Without giving any documents, they, in the presence of a wife and a young child, INFORMATION_1, they began to strike him with a rifle butt in his stomach, and next, they put him face down on the floor, set the muzzle of the assault rifle to the back of the head, fastened his hands behind his back with a plastic collar, put a sack on his head and taken from his home in a car, in which there were also four armed men. After passing 200-300 meters, the car stopped, he was taken out of the car, placed on the ground with his knees in the snow, they began to beat him with their feet and rifle butts, and put a rifle to the back of the head and said if he did not confess, then he would be shot. PERSON_9 was silent, since he did not know what they were talking about and what he was accused of. A few seconds later, gunshots were fired. Then PERSON_9 was taken to a place resembling a shooting gallery where, presumably 6-8 people, punched him with his feet and hands all over his body, it lasted about 30-40 minutes, these beatings were accompanied by threats to him and to his family. He was also beaten by a metal pipe on his hands and feet, as well as with a rifle butt that was used to beat him on the back and back of the head, it lasted about an hour, after which he was taken to targets; as he could not walk on his own, he was brought to his knees close to the targets; they began to shoot in his direction, imitating his execution. He was threatened to be shot in the knee, then he heard a shot and simultaneously felt punch in the knee and after that he lost consciousness. When he regained consciousness, he was lying on the floor, people in masks surrounding him were attempting to force him to admit his guilt in the commission of the terrorist act that occurred on Marshal Zhukov in Kharkov, thereafter, an electric current was passed through his neck and he again lost consciousness. The accused also reported that a gas mask was placed on his head, the hose of the gas mask was lowered into a bucket of water, at the same time several people held him and beat him with their hands and feet in the kidneys from the side of the back; as soon as he began to drown, the hose was pulled out of water, and then again plunged into the water; such torture lasted about 30 minutes. He was also placed face down on the floor, while one person stood on his feet, and the second person lifted his hands behind him, trying to move his hands towards the floor. Unable to endure the pain anymore, he signed testimony confessing to committing a terrorist act that occurred on Marshal Zhukov Prospect in Kharkov. When the investigator questioned the PERSON_9 [one of the accused], the latter did not mention anything to him about torture and violence, as he was told that if he complained, he would again be tortured or an accident would happen to him. During the entire pre-trial investigation, he was threatened with reprisals against him and his family. Every day he was being taken out for interrogation in the Regional Agency of the Security Service of Ukraine for the Kharkov region where he remained from the morning till the evening without food and water. When he tried to report that he had not committed the crime of which he was accused, he was threatened with "preventive discussion", which means the use of violence. Also PERSON_9 reported that 18.08.2015 he was transferred to the Temnov penal colony No. 100, where he was held until 23.09.2015 and during this period he was denied the right to correspondence, the right to free access to information, the right to freedom of movement within the cell, he was prohibited from taking a horizontal position during the day and he was subject to the video surveillance 24 hours a day, even in the bathroom. In his view, the transfer to the Ternov penal colony No. 100 was carried out in order to break his will by humiliating his honor and dignity. Also PERSON_9 reported at the hearing that the prosecutor of the Prosecutor's Office for the Kharkov region PERSON _15 was aware of the violence and torture exercised by the agents of the Security Service of Ukraine for the Kharkov region. However, he has not responded to any of these events.

At the hearing all parties to criminal proceedings upheld the application for carrying out verification of the defendant’s arguments.

Having heard the views of the parties to criminal proceeding the panel of judges considers it is necessary, in accordance with article 333 of the Criminal procedure code of Ukraine, to instruct the Prosecutor's Office for the Kharkov region and the military Prosecutor for the Kharkov garrison to verify the testimony of the PERSON_11, PERSON_9, PERSON_10 regarding the unlawful methods of conducting pre-trial investigations applied to them, including physical and psychological violence, torture, intimidation exercised by initial inquiry and pre-trial investigation agencies within the frameworks of the criminal proceedings N 42015220000000115 submitted to the Ukrainian Unified Register of Pre-trial investigations on February 22, 2015, and also to meet the requirements enshrined in Article 9 of the Criminal procedure code of Ukraine regarding the comprehensive, full and objective investigation of the circumstances of the case.

In view of the foregoing, the panel of judges identified the need to notify the Prosecutor for the Kharkov region and the military Prosecutor for the Kharkov garrison of the aforementioned circumstances of intimidation and coercion exercised by agents of the Security Service of Ukraine for the Kharkov region in order to respond on it as set out in Article 214 of the Criminal procedure code of Ukraine.

Also the panel of judges draws your attention on the fact that the PERSON_11, PERSON_9, PERSON_10 are in custody, and proposes to conduct an inspection strictly within the time specified in the decision, namely: until 1 November 2015, in order to avoid delays in the consideration of this criminal case and prevent violations of article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by the Law No. 475/97-VR of July 17, 1997.

In the light of the foregoing and on the basis of part 3 of Article 333 of the Criminal procedure code of Ukraine, the panel of judges

FINDS:

To provide a rogatory letter to the Prosecutor for the Kharkov region and the military Prosecutor for the Kharkov garrison within the framework of criminal proceedings N 42015220000000115 concerning the PERSON_11 accused of the criminal offences under part 3, article 258, part 1 of article 263 of the Criminal Code of Ukraine, the PERSON_9 accused of the criminal offences under part 5 article 27, part 3, article 258, part 1 of article 263 of the Criminal Code of Ukraine, the PERSON_10 accused of the criminal offences under part 5 article 27, part 3, article 258, part 1 of article 263 of the Criminal Code of Ukraine; to verify the defendants' arguments regarding unlawful methods of conducting pre-trial investigations exercised by pre-trial investigation agencies and field agents of the Security Service of Ukraine for the Kharkov region; to carry out verification in accordance with the requirements of article 214 of Criminal procedure code of Ukraine, and conduct the pretrial investigation with entering data in the Ukrainian Unified Register of Pre-trial investigations.

To set the deadline for the execution of the court order on 1 November 2015.

To send the copy of the Decision to the Prosecutor for the Kharkov region and the military Prosecutor for the Kharkov garrison in order to organize its execution.

The decision can not be appealed.

Presiding Judge: O.V. Horpinich

Judges: I.V. Bondareva, G.S. Shevchenko

Annex 36

Ukrainian Helsinki Human Rights Union, Kharkiv Human Rights Protection Group and NGO “Truth Hounds”, “Unlawful detentions and torture committed by Ukrainian side in the armed conflict in Eastern Ukraine”, 2017

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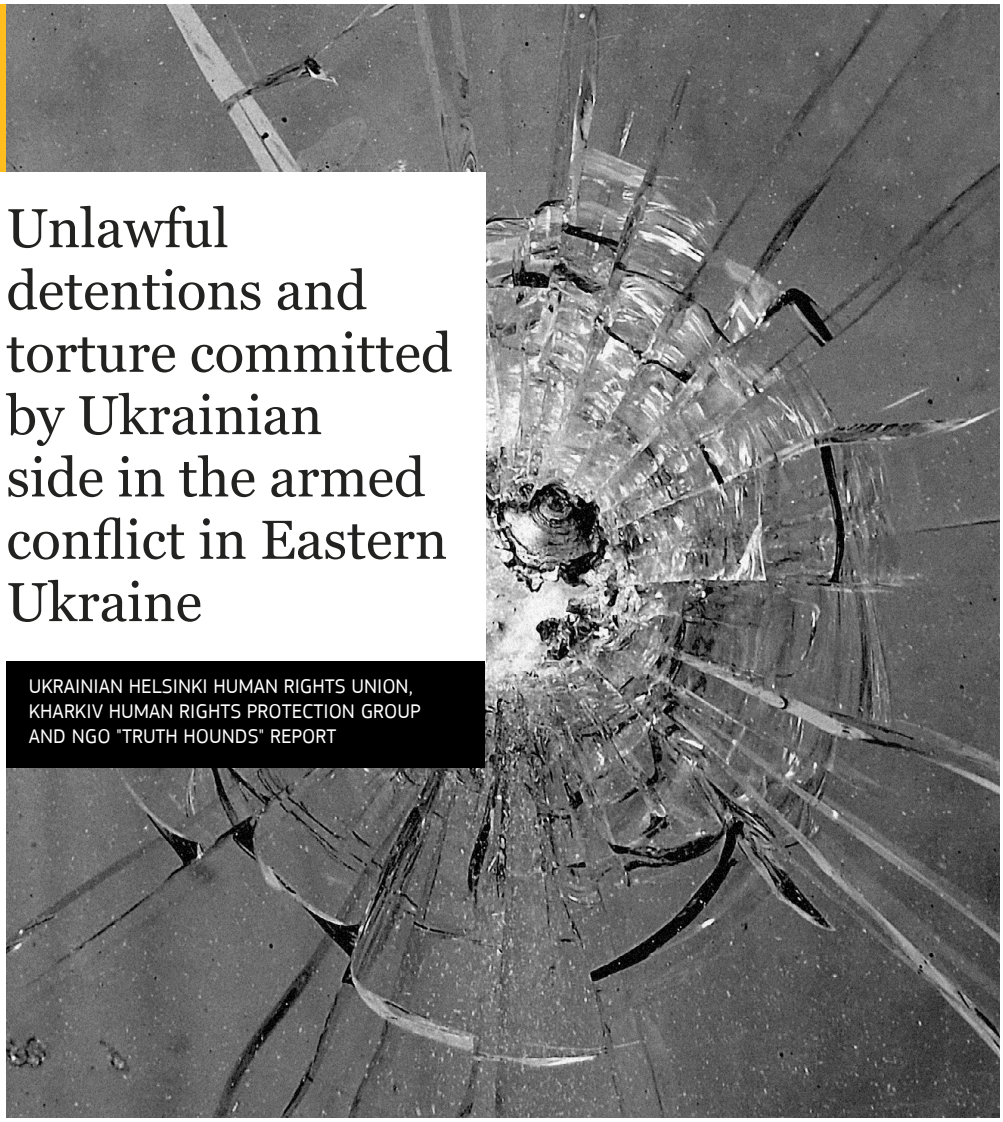
TRUTH HOUNDS



Unlawful detentions and torture committed by Ukrainian side in the armed conflict in Eastern Ukraine

UKRAINIAN HELSINKI HUMAN RIGHTS UNION, KHARKIV HUMAN RIGHTS PROTECTION GROUP AND NGO "TRUTH HOUNDS" REPORT

KYIV-2017

Unlawful detentions and torture committed by Ukrainian side in the armed conflict in Eastern Ukraine: Ukrainian Helsinki Human Rights Union, Kharkiv Human Rights Protection Group and NGO "Truth Hounds" report/ Andrii Gladun, Svitlana Val'ko, Serhiy Movchan, Oleg Martynenko, Yanina Smelyanska/ Ukrainian Helsinki Human Rights Union, Kharkiv Human Rights Protection Group and NGO "Truth Hounds" — Kyiv, 2017.

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Summary

This report is focused on the cases of unlawful detention and torture committed by Ukrainian side in the armed conflict in Eastern Ukraine.

Ukrainian Helsinki Human Rights Union, NGO "Truth Hounds" and Kharkiv Human Rights Protection Group have documented cases of detention of 23 persons based on 20 interviews with victims and witnesses of events, as well as photos and supporting documents. 19 out of 23 detainees were subjected to torture and ill-treatment. Most of the cases described in the report took place in 2014 and 2015. Among the documented arrests, only in three cases the arrested persons had been involved in the acts of violence aimed at overthrow of Ukrainian government. In the remaining cases, the persons arrested had participated in non-violent rallies or had not participated in any political events whatsoever.

The testimonies of victims, collected by the authors during monitoring visits lead to the conclusion that in 2014 and 2015 the practice of detaining local inhabitants of Donetsk and Lugansk regions under the general suspicion of "separatism" was widespread. Such acts were conducted with the violation of Criminal Procedure Code of Ukraine (hereinafter - CPC). Abduction and keeping of the arrested persons in secrecy without any means of communication with the outside world allows qualifying such acts as enforced disappearances. Detainees were subjected to torture, particularly during interrogations with the purpose of obtaining information about alleged possession of weapons and support of the separatists. Under the pressure of torture, detainees were forced to accept the responsibility for crimes they did not commit. In addition, seizure of property and money of the detained persons during unsanctioned searches became a common practice. In some cases, detainees were used as human shields or were forced to work in conditions that threatened their lives. The actions described above violated the national legislation, international human rights law and international humanitarian law. In particular, the torture of civilians and the use of civilians as human shields are classified by the Rome Statute of the International Criminal Court as war crimes.

The perpetrators of torture and unlawful detentions could not be identified in every single case; however, most of the victims reported that the Ukrainian volunteer battalions committed the violations. In particular, the victims recognized some members of "Shakhatrs'k" ("Tornado"), "Aidar", "Dnipro-1" and "Azov" units as perpetrators of torture, enforced disappearances and unlawful detentions.

Our biggest concern is the lack of effective investigation of cases, similar to the ones described in this report. Unlike the situation in 2014, the Ukrainian government has full effective control over law-enforcement in the regions, while the legal status of most of the volunteer units is determined. However, there is very little progress in investigation of war crimes and human rights violations. In particular, the Prosecutor's Offices passed no more than 2 percent of all criminal proceedings, opened according to the facts of unlawful detentions in the Donetsk and Lugansk regions, to the courts. In total, since the beginning of anti-terrorist operation (hereinafter - ATO) only 47 members of the Armed Forces and law enforcement bodies of Ukraine have been prosecuted on charges of unlawful detention in Donetsk and Lugansk regions.

Being committed to the principles of peace, security and justice, the authors believe that it is necessary to conduct a full and thorough investigation of the acts, described in this report, and bring the perpetrators to justice in order to ensure proper respect for fundamental human rights.

Introduction

A large part of reports of Ukrainian human rights organizations concerning human right violations in the East of Ukraine are focused on the violations committed by the self-proclaimed "LPR" and "DPR". In particular, numerous human rights violations, committed in the illegal places of detention in the territories, uncontrolled by Ukrainian government, are analyzed in detail in the report "Surviving hell"[1] and various other publications. However, as of today, the instances of the similar violations, committed by the Ukrainian side have not been analyzed by the national human rights NGOs, and are mainly brought to light by international institutions. For example, "Truth Hounds" in co-operation with the International Partnership for Human Rights published a report[2] with an overview of crimes committed by both sides of the conflict and submitted the obtained evidence to the International Criminal Court in The Hague. However, at the level of the Ukrainian government and civil society, the topic of war crimes committed by the Ukrainian side is swept under the carpet.

First of all, such situation has to do with the lack of access to the testimonies of victims. Former detainees, who were released from captivity of pro-Russian separatists and currently reside on the territory, controlled by the Ukrainian government, provide their testimonies to human rights defenders without fear due to presence of strong system of protection of personal data. However, those, who suffered from the actions of Ukrainian military and law-enforcement officials, are not willing to speak about their personal experience, being afraid of further persecutions and pressure even under conditions of reliable protection of their testimonies. Secondly, documenting of human rights violations on the uncontrolled territory is connected with significant difficulties for Ukrainian human right defenders. Thirdly, Ukrainian law enforcement officials are not ready to publish the complaints against their actions in the zone of ATO. As a result, the civil society today has access to only a small fraction of testimonies of people whose rights have been violated by the Ukrainian law enforcement or the military in the conflict zone. Some of the persons, whose evidence was used in this report, agreed to speak only after two years have passed since after the tragic events that had happened.

Unfortunately, there is a tendency in Ukraine to justify the war crimes, committed by the Ukrainian units, by the state of war. For instance, members of "Tornado" battalion accused of kidnappings, torture and rape, denied their responsibility, claiming that they had kept in the places of detention ("in basements") only the "separatists"[3]. Nevertheless, this report shows that a wide range of people was subjected to torture and ill-treatment. Both ordinary citizens who participated in peaceful rallies, or who did not participate in political events at all, and combatants were held "in Ukrainian basements". The aim of this report is to present the evidence of serious violations of human rights and international humanitarian law committed by the Ukrainian side in 2014-2015 during the armed conflict in Eastern Ukraine. Persons responsible for these violations should face individual criminal liability according

[1] "Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas, http://library.khpg.org/index.php?id=1451396568
[2] IPHR: Fighting impunity in Eastern Ukraine: http://iphronline.org/wp-content/uploads/2016/05/Fighting-impunity-in-Eastern-Ukraine-October-2015.pdf
[3] Hromadske radio: The verdict for "Tornado" battalion declared behind closed doors. "Tornadivtsi" are dancing in court (PHOTO, VIDEO) https://hromadskeradio.org/news/2017/04/07/vyrok-roti-tornado-ogoloshuyut-u-zakrytomu-rezhymi-reportazh-foto

to the international treaties and Ukrainian legislation. A thorough investigation has to be conducted and the perpetrators have to be brought to justice. The authors of the report seek to close the gap of impunity associated with the crimes committed by the Ukrainian side and to assist the international and Ukrainian bodies in bringing the perpetrators to justice.

It is important to note that not all instances of arrests, documented in this report were unjustified. However, torture is strictly prohibited by international humanitarian law and human rights law. No exceptional circumstances whatsoever may be invoked as a justification of torture. All instances of torture should be investigated. Even assuming that the persons who resorted to torture aimed to obtain evidence about actual or committed or planned crimes, their actions were entirely unjustified as the evidence obtained in violation of the CPC of Ukraine (for example, with the use of torture or ill-treatment) cannot be used in courts.

Ukrainian Helsinki Human Rights Union, NGO "Truth Hounds" and Kharkiv Human Rights Protection Group urge the government of Ukraine and law enforcement agencies to make every effort to conduct thorough, effective and impartial investigation of all allegations of unlawful detention, torture and extrajudicial executions committed by the Ukrainian units in the zone of armed conflict in Eastern Ukraine and to bring the perpetrators to justice.

International legal standards

International humanitarian law allows detention during international armed conflicts. In particular, the internment of civilians of a hostile power is allowed under Art.42 of the IV Geneva Convention "Relative to the Protection of Civilian Persons in Time of War"[4] "only if the security of the Detaining Power makes it absolutely necessary". However, according to Art.147 of the IV Geneva Convention, unlawful deportation or transfer or unlawful confinement of a protected person are prohibited. These violations are considered as grave breaches, and the convention imposes an obligation on the parties (including Ukraine) to bring the perpetrators before the court.

The national law and international human rights law regulate detention in case of non-international armed conflict[5]. In particular, Art.9 of the Universal Declaration of Human Rights[6] states that "no one shall be subjected to arbitrary arrest, detention or exile". The International Covenant on Civil and Political Rights[7], ratified by Ukraine, states the rights of the arrested persons. In accordance with Art.9 anyone who is arrested should be informed of the reasons for his arrest. The arrested person should be promptly brought before the court or such a person should be released. Detainees are also entitled to a right to challenge the legality of their detention in court and receive a compensation if the arrest or detention are recognized as unlawful. Unfortunately, all these rights were consistently violated during the detention of persons suspected of "separatism" in the zone of ATO in 2014-2015.

Additionally, on 19 June 2015 Ukraine ratified the "Convention for the Protection of all Persons from Enforced Disappearance"[8]. The enforced disappearances are considered to be the arrests, detentions, abductions 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 concealment of the fate or whereabouts of the disappeared person. The Convention provides that no one should be subjected to enforced disappearance. In particular, secret detention is prohibited. The instances of latter were also documented in the zone of ATO.

International humanitarian law and international human rights law strictly prohibit torture. In particular, torture is prohibited by Art.7 of the International Covenant on Civil and Political Rights and Art.3 of the European Convention on Human Rights[9].

According to the "Convention against torture and other cruel, inhuman or degrading treatment or punishment", "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining information, punishing, or in-

[4] IV Geneva Convention "Relative to the Protection of Civilian Persons in Time of War https://ihl-databases.icrc.org/ihl/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5
[5] IRCC: Customary IHL; Arbitrary deprivation of liberty is prohibited https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule99
[6] Universal Declaration of Human Rights http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf
[7] International Covenant on Civil and Political Rights http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx
[8] International Convention for the Protection of All Persons from Enforced Disappearance http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx
[9] European Convention on Human Rights http://www.echr.coe.int/Documents/Convention_ENG.pdf
Criminal Procedure Code of Ukraine http://zakon2.rada.gov.ua/laws/show/4651-17

timidating or for any reason, inflicted by or at the instigation of or with the consent of a public official. States that are parties to the Convention undertake the obligation to prevent acts of torture and treat them as offences under criminal law. No exceptional circumstances such as state of war or internal instability may be invoked as justification of torture.

Similarly, international humanitarian law contains several provisions that prohibit torture against the prisoners of war and civilians. In particular, according to Art.130 of the III Geneva Convention "Relative to the Treatment of Prisoners of War" and Art.147 of the IV Geneva Convention "Relative to the Protection of Civilian Persons in Time of War", grave breaches are "willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health". Conventions impose an obligation on the states to conduct the search for and bring before the courts the persons, who committed the grave breaches.

Moreover, international humanitarian law prohibits assignment of protected persons to work, which implies their participation in military actions. This provision is enshrined in Art.51 of the IV Geneva Convention "Relative to the Protection of Civilian Persons in Time of War" and Art.52 of III Geneva Convention "Relative to the Treatment of Prisoners of War". Additionally, according to the Rome Statute of the International Criminal Court, the use of protected persons with a purpose of making certain objects immune from military operations is classified as a war crime.

Standards under national law

Criminal Procedure Code of Ukraine establishes the rules that regulate the detention of persons suspected of having committed criminal offenses[10]. According to Art.207 of the CPC of Ukraine, no one shall be arrested without a decision of an investigating judge, except for two cases when a person is arrested:

1. While committing or attempting to commit a criminal offense;

2. Immediately after the criminal offense has been committed or during the continuous pursuit.

Any person can perform such arrests. However, if an unauthorized person performs the arrest, he/she must immediately deliver an arrested person to the authorized officials or notify them about the arrest. An authorized official that performed the arrest should immediately notify the arrested person in a clear manner about:

- the grounds for arrest and suspicion against him/her of having committed a certain crime;
- the right to legal counsel;
- the right to receive medical aid;
- the right of the arrested person to testify or to remain silent about the suspicions against him/her;
- the right to immediately inform other persons about the arrest and its location;
- the right to request the verification of the reasonableness of arrest and other procedural rights.

A police officer conducting the arrest should deliver an arrested person to the nearest pre-trial investigation body, which immediately registers the date and exact time of delivery[11]. The official, who performed the arrest, should immediately notify the responsible persons in a pre-trial investigation body about each case of arrest.

During the arrest, an authorized official, an investigator or a prosecutor can conduct a personal search of the arrested person, if two attesting witnesses or continuous video fixation are available[12]. In the case of a search of a house or other property of the arrested person, the ruling of an investigating judge or a prosecutor and the presence of at least two attending witnesses are required.

No one can be detained for more than 72 hours without ruling of an investigating judge[13]. A person, arrested without the ruling of an investigating judge, should be released or brought to court for selection of a preventive measure no later than 60 hours from the moment of the actual arrest.

According to the "Instruction on the order of preventive arrest in the area of anti-terrorist operation"[14], adopted jointly by the Ministry of Interior, the General Prosecutor's Office of Ukraine and the Security Service of Ukraine, preventive arrests of persons reasonably suspected of terrorism for up to 30 days are allowed in the zone of ATO without the ruling of an investigating judge. Such arrests

[10] Criminal Procedure Code of Ukraine http://zakon2.rada.gov.ua/laws/show/4651-17
[11] Art.210, Ibid.
[12] Art.223, Art.236, Ibid.
[13] Art.211, Ibid
[14] A joint order of the MI, GPO, SSU from 26.08.2014 no. 872/88/537 "On adoption of the Instruction on the order of preventive arrest of persons involved in terrorist activities and special regime of pre-trial investigation under martial law, state of emergency or in the area of anti-terrorist operation" http://zakon3.rada.gov.ua/laws/show/ru/z1038-14

are possible with decision of a prosecutor, which must be taken within 72 hours from the arrest. Such decision is conditional on whether the arrested person was immediately informed of his/her rights. The arrested person is entitled to challenge his/her arrest in court anytime. In addition, he/she should be immediately released if within 30 days from the arrest he/she is not given a reasoned court ruling on his/her detention.

An investigating judge decides upon application of preventive measures[15]. A preventive measure is applied only if there are reasonable grounds to believe that a suspect has committed a criminal offense, and he/she may:

- hide from the pre-trial investigation and/or trial;
- alter any evidence;

  unlawfully influence victims and witnesses;
- obstruct criminal proceedings in any other way;
- commit a criminal offense again.

At the same time, according to Art.206 of the CPC an investigating judge has certain rights and obligations to protect the human rights of the arrested persons, including:

- the right to oblige any public authority or officer to ensure respect for the rights of an arrested person;
- the duty to oblige the authority or officer, who keep a person in custody, to immediately deliver him/her for establishing the reasons for the arrest;
- the obligation to release an arrested person from custody in case of lack of legal grounds for detention;
- the duty to take the necessary measures to ensure the right to protection of a person, deprived of liberty.

If the appearance of a detained person, his/her condition or other known circumstances provide grounds for reasonable suspicion of a violation of law during the arrest, an investigating judge should take the measures, mentioned above.

Art.224 of the CPC of Ukraine allows conducting interrogations. The interrogation may be conducted for no more than 8 hours per day and for no more than two hours without a break. Persons, who are being interrogated, should be explained their rights before interrogation. Persons who are being interrogated have the right not to answer several types of questions. In particular, they may refuse to answer the questions that may cause suspicion against them or their family members or relatives.

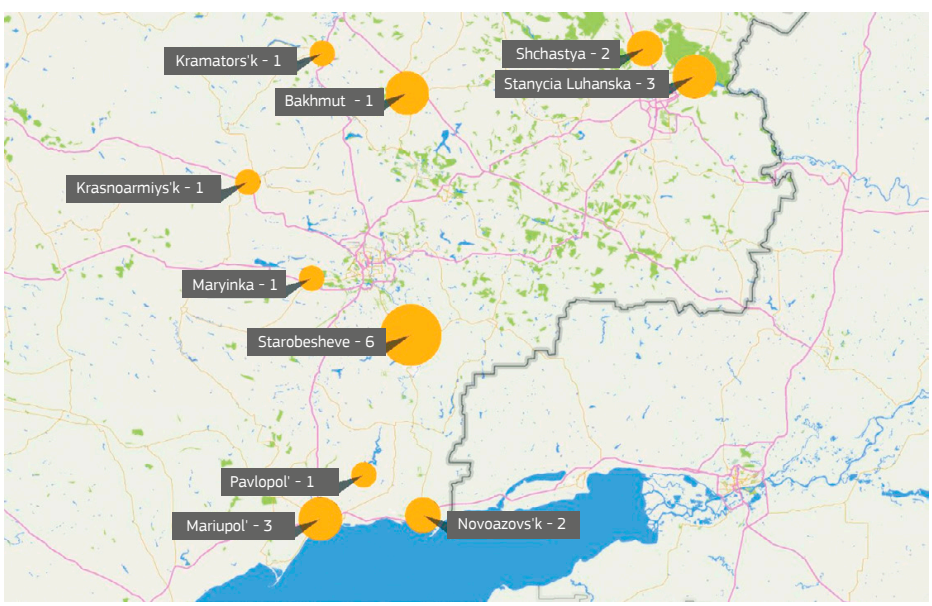
Torture is absolutely prohibited in Ukraine. According to Art.28 of the Constitution of Ukraine, "no one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment". Art.87 of the CPC of Ukraine prohibits the use of evidence obtained in violation of human rights and freedoms, including evidence obtained through torture, cruel or inhuman treatment, or the threat of thereof.

[19] Art.177, Criminal Procedure Code of Ukraine http://zakon2.rada.gov.ua/laws/show/4651-17

Sources of information and methodology of data collection

Apart from the testimonies of victims themselves, the interviews contain information about arrests and/or torture committed against another 56 persons, who were held together with the respondents. According to our information, the testimonies analyzed here, had not been previously published in other human rights reports. The names of all persons whose cases are described in the report were changed. Some of the documented cases are not described in detail at the request of the victims.

NUMBER OF DOCUMENTED CASES OF ILLEGAL DETENTION, BY THEIR APPROXIMATE LOCATION



While collecting the data, the documenters faced a number of difficulties. Firstly, these were practical and administrative obstacles in accessing victims and witnesses of crimes allegedly committed by the Ukrainian side, who resided in the separatist-controlled territory. Secondly, the victims of alleged crimes committed by the Ukrainian side, who live in areas controlled by Ukraine, fear that they may be persecuted if they provide the evidence. To protect such witnesses we ensure full confidentiality. Unfortunately, most of the witnesses of crimes committed by the Ukrainian side are too scared to participate in the investigation on the territory of Ukraine and do not believe that such investigations would be impartial, and that their life and well-being would be protected. Thus, such persons allow using their testimonies only in international courts.

Information about the progress of investigations of crimes, allegedly committed by military and law enforcement officials in Donetsk and Luhansk regions of Ukraine was received in response to the requests for public information, sent to the General Prosecutor's Office of Ukraine.

The organization "Truth Hounds" has submitted some of the evidence analyzed in the report to the International Criminal Court, together with the accompanying data.

Unlawful detentions and torture: individual cases

In this section, we review the individual cases of persons whose rights have been violated during the detention by Ukrainian military or law enforcement authorities in the zone of ATO. The acts described here took place in different locations and were committed by different units. Yet, they represent many commonalities.

As noted above, in 2014-2015 the detentions of local inhabitants as potential "separatists", out of general suspicion or by someone's guidance, were commonplace. Such detentions took place with violations of the CPC of Ukraine. In particular, detentions took place without court rulings, detainees were not informed about the suspicion of having committed a specific crime, they were not explained their rights and they were denied the right to protection. Abduction and keeping of the arrested people in secrecy allows us to classify such detentions as enforced disappearances. Detainees were subjected to violence and torture. In 19 out of 23 cases analyzed, individuals were subjected to torture and ill-treatment, usually in the form of beatings or mock executions. In some cases, torture by electricity or water was used. Typically, torture was used during interrogations in order to obtain the information about the alleged possession of weapons and support for the separatists. Under the influence of torture, detainees often accepted the responsibility for crimes they have not committed. In addition, the seizure of property during unauthorized searches was commonplace. Such property, including cars and computer devices, was frequently not returned to detainees upon release.

STAROBESHEVE

FAMILY OF A SHOP OWNER[16]

An elderly man Sergiy[17], together with his son Andriy and his grandson Oleksiy, ran a shop in the town of Starobesheve. Andriy took part in the referendum on the recognition of "Donetsk People's Republic" in Starobesheve region, and in May 2014 he joined the "DPR" as a combatant. Sergiy and Oleksiy did not participate in the referendum and were not the members of the "DPR"; yet they continued to operate the shop together with Andriy.

In the end of July 2014, a car with four people wearing Ukrainian military uniforms stopped next to Sergiy's house. The uniformed men asked what Sergiy's last name was. After hearing it, they fired two shots in the air and forced Sergiy and his grandson Oleksiy to sit inside the car. Persons in the military uniform did not introduce themselves and did not inform the arrested persons about the reasons for arrest. They took detainees to Andriy's house and later on, to their store, and conducted searches in both locations. During a search in the store, all computers and the system for cashless payments were seized and the video surveillance system and the alarm were broken.

[16] Data from the "Truth Hounds" database
[17] All names of the victims were changed

After the searches, both detainees were taken to the military outpost nearby. The soldiers pulled Sergiy and Oleksiy out of the car and beaten them with riffle butts, forcing them to fall to the ground. As they were lying on the ground, they were beaten with rifle butts and kicked until they lost consciousness. Sergiy was accused of being a "DPR" sniper. During the beating, Sergiy was forced to call one of his employees with the request to bring one of the cars in possession of the shop. Soldiers have seized the car. After the beating, the detainees were placed into separate cars and driven in the direction of Sedove urban settlement. Since then, Sergiy has not seen his grandson, Oleksiy. Persons who transported Sergiy to Sedove called each other by noms de guerre "Doc" and "Butcher" ("Myasnyk").

After the arrival, Sergiy was placed in the basement and interrogated. During the interrogation, he was tortured: Sergiy's head was drowned in a water tank. On the next day, he was brought to Tel'manove village, where he was put in hospital; the hospital staff were ordered to cure Serhiy from the consequences of beatings and torture within 2-3 days so that he could be taken for prisoner exchange. Initially he was held under the guard, but later the guard was removed. In two weeks Sergiy was discharged from the hospital; he was not sent for the exchange.

The body of Oleksiy (Sergiy's grandson) was found on the next day after their arrest on the highway in the suburbs of Starobesheve. The body had numerous signs of violence and torture. During the interview, the relatives showed the photo of the body to the interviewers. The family managed to obtain a copy of the proceedings of criminal case, initiated by the Starobesheve Prosecutor's Office on the matter of Oleksiy's death. According to the proceedings, soldiers of the Armed Forces were suspected of murdering Oleksiy. However, investigation has not identified any suspects.

Although it is impossible to establish accurately who arrested Serhiy and Oleksiy, witnesses claim that these were the representatives of "Azov" battalion. This information is additionally confirmed by the fact, that members of the "Azov" with noms de guerre "Doc" and "Butcher" were mentioned as perpetrators of torture in other interviews.

Sergiy died due to heart problems shortly after the death of his grandson. At the moment, the criminal case and numerous statements of Oleksiy's grandmother, filed to the Prosecutor's office, are not being investigated. The investigators lost all materials of the criminal case file.

HEAD OF AN AGRICULTURAL ENTERPRISE[18]

Petro was the head of an agricultural enterprise in the suburbs of Starobesheve. Ukrainian Armed Forces positions were situated on the premises of the enterprise[19]. There were many conflicts between the military and the employees, particularly due to placement of landmines on the enterprise territory.

In July 2014, the first conflict between Petro and the military occurred at the checkpoint. Petro saw the soldiers open fire in the direction of the car driven by his son, Ivan. According to Petro, military claimed that they thought Ivan was an artillery spotter. The conflict was solved, but

[18] Data from the "Truth Hounds" database

[19] Placement of military positions in residential areas or inside civilian objects legitimizes the warfare in that area, turning the village or quarter into a military object. Thus, shelling of such objects is no longer considered a war crime or an indiscriminate attack on the civilians in accordance with the Rome Statute of the ICC. Placement of military positions inside protected objects renders impossible the preservation of the principle of distinction and definition of an attack as a war crime in accordance with Art.85 of Additional Protocol 1; Art.8 of the Rome Statute of the ICC.

a few days later Ivan was detained by the military. When Petro asked the soldiers about the reasons for Ivan's detention, they answered that Petro had to come and have a talk with them, and they would release his son. The precise reason for the arrest was not provided.

Having arrived to a specified location, a military checkpoint, Petro and his employee, who accompanied him in the same car, were pulled out and thrown on the ground. Somebody put bags over their heads and started kicking and beating them with rifle butts. After the beating, they spent several hours lying on the ground. It was raining all the time. Subsequently, there was mock execution: Petro was brought to the edge of a pit, where he could see a human leg from under the bag on his head. Soldiers fired several shots over his head and took him for interrogation.

> *"I was brought to the tent; there was a man wearing a mask ["balaclava"]. He said that we brought weapons from Russia, hid them in the grain in the warehouses, and at night we distributed them among people. When the bag was removed from my head, I saw [another] man, his face was broken so hard that I wouldn't recognize him if I saw him now with a normal face. He was interrogated before me."*

During the interrogation, soldiers conducted an unauthorized search at the company's warehouses but they have not found anything.

After the interrogation, Petro and his employee were moved to a different checkpoint, where another interrogation took place. Military men checked their mobile phones and numbers which they dialed. According to the victim, soldiers threatened to take away his house and business. After the second interrogation, all detainees, including Petro and his son, were released.

A few days later, there was another conflict between the military and the employees of the enterprise. Soldiers blocked the path to the field for the employees. They called Petro and said that he had to come again. Shortly afterwards, Petro received a second call from the security guard of his company, who claimed that the military seized a tractor and trucks from enterprise's garages, and drove towards Petro's house. Seeing military men in the yard of his house, he left through the back door and fled to Donetsk. Later he moved to Russia with all his family.

MARYINKA

PRISONER OF "TORNADO"[20]

Maksym, a civilian from Maryinka, who did not take part in any political activity, was arrested near his house in early August 2014 by battalion "Shakhtars'k"[21] during the house to house searches in the city. An SUV without the number plates and with broken ignition lock had stopped near the house. Maxim and 5 other civilians from Maryinka were placed inside the car; their hands were tied with plastic ties. Firstly, the detainees were taken to the yard of a house where soldiers shot a lock and conducted a search. Later they were taken further.

[20] Data from the "Truth Hounds" database
[21] Subsequently, the battalion has been reformed into "Tornado" unit

On their way the detainees were used as human shields; soldiers used them to cover from a sniper's fire. According to the victim's testimony, the sniper fired before the car, rather than at the car itself. The practice of using people as human shields is prohibited by the international law and is classified by the Rome Statute of the International Criminal Court as a war crime[22].

Later, the detainees were brought to the territory of a tire-mounting workshop, where they were forced to carry tires. In the evening, they were forcedly moved to Mariupol. Upon their arrival, plastic bags were put on their heads and they were chained in pairs. On the first day detainees were beaten. Maksym has a scar and kidney problems from the beating with a whip.

In Mariupol, the detainees were forced to work: they cleaned toilets and dug pits. During all this time, they slept in the open air. Maksym also stated that he and other detainees were taken to Ilovaysk and Shakhtars'k during the battles, where they were forced to collect body parts on the battlefield[23].

Maksym was held in Mariupol for a month, before being transferred to Volnovakha in September and subsequently - to the camp of "Shakhtars'k" battalion, situated in a boarding house near Novomoskovsk (Dnipropetrovsk region). In the beginning of November 2014, Maksym managed to escape from captivity with the help of one of the soldiers. He spent more than 3 months in captivity.

MARIUPOL' AND SURROUNDINGS

THE BUS DRIVER[24]

Oleksandr worked as a bus driver. Before the conflict, he delivered food in Donetsk region by his own car. Since the beginning of the conflict, he began to earn money by transporting people from the area of the ATO to the territory of other regions of Ukraine and to Russia.

In early August 2014 he was stopped at the checkpoint near Novoazovs'k (Donetsk region), when he was carrying a passenger in the direction of Rostov-on-Don.

At the checkpoint, the soldiers checked his passenger's phone and found the photos from rallies, where "DPR" flags could be seen. They pulled Oleksandr and his passenger out of the bus and forced them to sing the national anthem of Ukraine. When both said that they didn't know the words, they were beaten. Subsequently, they were thrown into a pit, dug near the checkpoint.

> *"We sat in a pit for about an hour. Since the checkpoint wasn't illuminated, VAZ 2110 [car model] crashed into the checkpoint's concrete block. The slam was loud. Soldiers started shooting and screaming. An elderly driver was pulled away from the steering wheel. They started beating [him] and screamed that he wanted to commit a terrorist attack. Yet, apparently the driver simply did not notice [the concrete block]. I have barely managed to stop myself."*

[22] Rome Statute of the ICC
[23] The international humanitarian law strictly prohibits assignment of civilians to work, directly related to the military operations
[24] Data from the "Truth Hounds" database

Subsequently a car with insignia of "Dnipro-1" battalion approached the checkpoint. Five soldiers exited from the car. They tied Oleksandr's and his passenger's hands by ropes, put bags on their heads and took them to Sedove urban settlement.

On the next day, in Sedove, the detainees were brought for an interrogation. During the interrogation, they were forced to sing the national anthem of Ukraine again. They said that they did not know it and were beaten again. According to Oleksandr, his passenger was beaten more severely because of photos found on his mobile phone; there were numerous bloodstains on the floor.

Detainees spent six days in Sedove. They were kept in a small room of about 4 m2. They received some food only on the third day: half a loaf of bread for two people. Oleksandr was not taken outside during all this time, while his passenger was forced to clean the surrounding area.

On the sixth day, the detainees were given some food and they were given an opportunity to wash themselves. They were told that "they were of interest for the Security Service of Ukraine", and they were forced to sign a statement addressed to the commander of the battalion that they had no complaints towards the "Dnipro-1" unit. Having signed the statements, they were moved to Mariupol with their hands tied, where they were put into another bus and driven in unknown direction for several hours.

Upon arrival, Oleksandr was handcuffed to a pole in the street, and was left there until the morning. In the morning, soldiers brought a table and forced him to write a statement that he agrees to collect and send the information about the separatists to the Armed Forces of Ukraine. Then, Oleksandr and his passenger were released. Oleksandr got back all his belongings except for the car, which he managed to return in a few months, after writing an application to the Security Service of Ukraine. As it turned out later, passenger's house was searched while he was detained; his computer, construction tools and his dog disappeared from the house.

In September 2014, Oleksandr was detained again. When Oleksandr was on a walk, a black van stopped near his house. Two men in tracksuits came out of it and forced Oleksandr get into the van. The kidnappers demanded the Oleksandr to tell them about his alleged cooperation with the separatists.

Oleksandr was taken to a local airport and was handcuffed to a pole. His was beaten with a stick and kicked on his back. According to Oleksandr, two people were handcuffed next to him. They were both beaten. One of them had outgoing calls to Russia in his mobile phone journal; soldiers demanded to say whom he passed information to.

Oleksandr spent two days fastened to a pole in the street. He was beaten during all this period. Only at night there were breaks between the beatings, but he remained handcuffed to a pole. He was given a piece of paper and was forced to write a statement about two hunters, whom he knew, who allegedly became "DPR" militants.

> *"I was forced to write that they wore Russian camouflage with St. George's ribbons and carried weapons. I said: "How do I know?" They said: "Do you want to go home?" I wrote everything as they said.*

After writing the statement, Oleksandr was released. For a long time after that, Oleksandr received calls from SSU, who summoned him for questioning.

16

PARTICIPANT OF THE «ANTIMAIDAN» RALLIES [25]

Vasyl worked as a system administrator in Mariupol. In spring of 2014, he participated in "Antimaidan" rallies near the Lenin monument in Mariupol. According to him, he participated in six rallies against the demolition of monuments. He stopped attending the protests when they became more violent as they no longer matched his civic interests. Vasyl was arrested in 2015.

In February 2015, two cars stopped near the shop where he worked; uniformed armed men in "balaclavas" got out of them. They aimed their weapons at Vasyl, forced him to get up and handcuffed him. Those armed men tried to find a bag to put over Vasyl's head, but found nothing and just forced him into the car. They placed a rifle barrel next to him and made him point the way to his brother's apartment.

Armed men took the computer, monitor, and several USB sticks from his brother's house. Vasyl's brother was also forced into the car. Then they drove to the apartment where Vasyl lived. In the apartment, they began to question Vasyl where he allegedly kept weapons. He was thrown on the floor, kicked and beaten with rifle butts. Armed men took two laptops and several hard drives from his apartment. Similarly, the armed men visited several other apartments, where they arrested two of Vasyl's friends and took some devices. In addition, they arrested an unknown drunk person in the street.

In half an hour, all the detainees were brought to the building, where Vasyl and his brother were separated. Vasyl and his friends were put in the basement; their hands were handcuffed behind their backs. In the basement, they were thrown to the ground and beaten by police batons all over the body. Vasyl was asked whom he worked for, how much did he earn and why did he allegedly participate in occupation of the state administration. The interrogation and the beating lasted for about 40 minutes.

After that, Vasyl was thrown into a room in the basement, where two other people already sat. One of them, in his own words, was kept there for six months, another one – Pavlo – has been recently arrested. It was hot in room, as there were no windows.

> *"I did not realize what time it was. After some time, Pavlo was taken to a room nearby, and beaten there behind the metallic doors. I heard an electro shocker being used on him. I heard an electric discharge and a man shouting."*

Vasyl was taken away after Pavlo. He was beaten and forced to write a statement dictated to him, in which he had to confess of committing crimes.

Three days later Vasyl was taken out of the camera and beaten again. People, who were beating him, threw a jacket over Vasyl's head so that he could not see anything. They beat his head and broke the shaft of the shovel against his body. After that, they aimed a gun at Vasyl and pressed the trigger. There was no shot. People, who were beating Vasyl, told him that "next time there won't be a misfire".

After the mock execution, a man entered the room and asked Vasyl whether he wanted to talk to his brother. Vasyl was taken upstairs to the room where his brother was. They were given some food before another interrogation began. They were shown pictures of people and asked if they knew them.

[25] Data from the "Truth Hounds" database

Vasyl was no longer kept in the basement; he stayed in the room with his brother. A few days later a friend of Vasyl joined them. He admitted that Vasyl and his brother were detained because of him.

He told that he once tried to impress a young woman and told her that he and his friends had participated in the occupation of the state administration in Mariupol. She, in turn, shared this information with the Ukrainian military, who arrested all the persons mentioned. During the interrogation, one of them mentioned Vasyl, having known him as the participant of "Antimaidan" rallies.

After this episode, all detainees (according to Vasyl - 14 people at that time) were transferred to another building – a boarding house by the sea. There they were regularly fed, and they were not subjected to physical violence. All detainees, however, were involved in the construction of military fortifications on the coast, which, as mentioned above, violates international humanitarian law.

In the middle of March, Vasyl and rest of the detainees were released. All of them were forced to write a statement that they were "volunteers" and worked without coercion of any kind. Vasyl was not given his seized devices back. They were worth approximately 35 thousand UAH (Approx. 1525 EUR at that time). In total, Vasyl spent about a month in captivity.

RURAL ELECTRICIAN[26]

Vyacheslav worked as an electrician in a village near Mariupol. After the shelling of the village in February 2015, he went to the checkpoint for a help repair of a power line, damaged by the shelling. At the checkpoint he was immediately detained, his passport was seized. Previously, he had no problems with the military.

Vyacheslav's hands were tied behind his back; soldiers pulled a hat over his head so that it covered his eyes and strapped it with a duct tape. Vyacheslav was taken to a housing cooperative in a village nearby. Upon arrival, he was immediately beaten. The beating lasted for about three hours. When he was laying on the ground, soldiers fired a gun between his legs.

After the beating, Vyacheslav was taken to the territory of Mariupol airport. Soldiers continued beating him. Vyacheslav was forced to confess of alleged collaboration with separatists, and soldiers stopped beating him only after he agreed. They pulled out his tongue and ears, threatening to cut them.

> *- Guys, what are you doing? I have little kids at home!*
> *- Never mind, the state will raise them!*
>
> *A dialogue between Vyacheslav and soldiers who beat him.*

Vyacheslav was forced to sign a written undertaking not to leave his place of residence. The man, who made him do it, said that he was an SSU officer. Later on, in the evening, Vyacheslav was released.

As it turned out later, Vyacheslav was detained because Ukrainian soldiers, who entered the village, believed that Vyacheslav provided information to separatists. In early December 2014, the village was briefly under the control of separatists. On the day when Ukrainian soldiers from the "Azov" battalion entered the village, Vyacheslav was on the way to his workplace and saw their vehicles. Thus, Ukrainian soldiers concluded that Vyacheslav warned the separatists of the approach of Ukrainian forces.

[26] Based on the data from UHHRU and KHRPG

BAKHMUT AND SURROUNDINGS

PRISONER OF "AIDAR" [27]

In May 2015, Yaroslav, a middle-aged man, decided to drive his friend to a country house by his own car. They were stopped at one of the checkpoints near Bakhmut, their documents were checked, and they were allowed to go on. However, soon they were overtaken by a car with soldiers. One of the soldiers got into Yaroslav's car and ordered them to drive towards a checkpoint nearby.

At the checkpoint, soldiers began questioning both passengers immediately, accusing them of "separatism" (according to Yaroslav, he never took part in any political events). The military searched the car; they put bags over both passenger's heads, tied their hands and put them in the back of the truck. Yaroslav was hung by his tied hands and he was beaten; all his teeth on one side were broken. One of the soldiers began cutting his ear. Yaroslav's friend saw a "Right Sector" chevron on the uniform of one of the soldiers, who beat them.

The beating continued until the truck has reached its destination – a military outpost. There Yaroslav was interrogated again, but this time without the beating.

After the interrogation, Yaroslav was separated from his friend and brought to a building, which he recognized as one of the factories in Bakhmut. He was kept alone in a warehouse building.

> *"It seems that someone was tortured to death In that cell where I was kept in Artemivsk[28]. I saw specific traces of blood and brains. It was scary ... I realized it was some sort of torture chamber".*

At night, soldiers beat Yaroslav; they came to the room and forced him to confess of being an artillery spotter. They tried to plant a spotter's notebook on Yaroslav. Due to a hit on the back of his head, Yaroslav had the base of his skull fractured, but he found out about it only after his release. According to Yaroslav, the person who beat him was wearing the chevron of the "Aidar" battalion. After the beating, the soldiers tried to convince Yaroslav to testify that members of his family were the artillery spotters, but he refused.

On the next day, Yaroslav's friend was put into a same cell. On the previous night, he was held separately at military post, where he was beaten; his ribs were broken.

In the evening, the detainees were taken to the field with the bags on their heads. Soldiers told them to sit quietly for 15 minutes and then to take off the bags and drive away. The soldiers returned Yaroslav's car, but they pulled out the audio system and took all the money that were inside.

Yaroslav was arrested again in June 2015. That time he was also detained near Bakhmut, at the checkpoint. His car was taken away; he was sat in an another car. Again, his hands were tied and there was a bag on his head. He was brought to the premises of an unknown factory.

Yaroslav was interrogated. During the interrogation he was not beaten. However, there was a mock execution staged: shots were fired near his head and between his legs. He was forced to write a statement that he donated his car to the military in the zone of ATO and another statement that he has no complaints to the people who detained him.

Yaroslav was released on the same day; his car was badly damaged upon return. Yaroslav's new mobile phone has disappeared, but the rest of the items remained intact.

[27] Based on the data from KHRPG
[28] The name of Bakhmut before 2016

Investigation of crimes

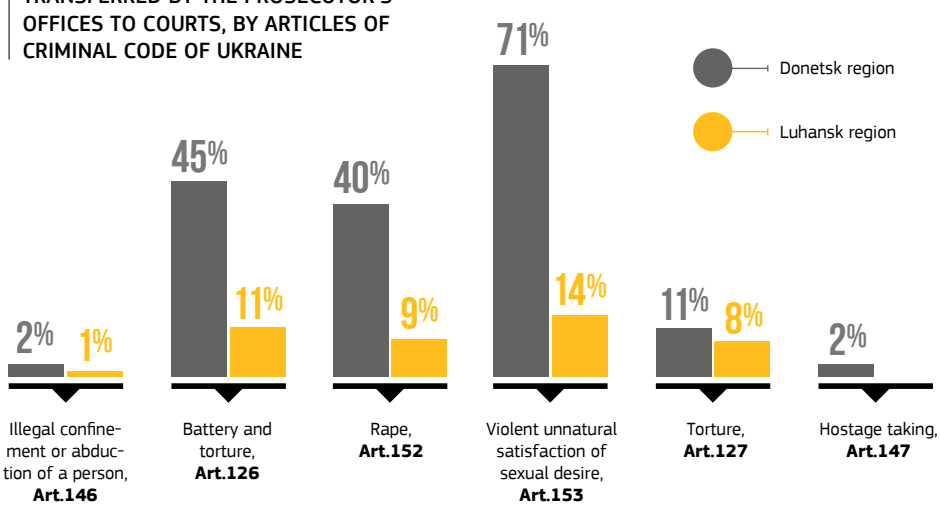
The necessity to investigate crimes committed by Ukrainian military in the zone of ATO has been highlighted on many occasions. In particular, in 2014 the ombudsperson Valeriya Lutkovska stated that some volunteer battalions violated the Ukrainian legislation and such cases should be investigated. Amnesty International and Human Rights Watch in their reports also drew attention to human rights violations committed by some Ukrainian military units. Nevertheless, we have to admit that the investigation of crimes committed by Ukrainian military in the zone of ATO can hardly be characterized as effective and impartial.

In a response to request for public information from UHHRU, the General Prosecutor's Office of Ukraine reported, that between April 2014 and December 2016 the following number of people were prosecuted for crimes committed in Donetsk and Lugansk regions:

- 45 law enforcement officials and 2 servicemen under the Art.146 of the Criminal Code of Ukraine "Illegal confinement or abduction of a person";
- 1 law enforcement official under the Art.153 of the Criminal Code of Ukraine "Violent unnatural satisfaction of sexual desire";
- 4 law enforcement officials under the Art.154 of the Criminal Code of Ukraine "Compulsion to sexual intercourse".

The majority of servicemen and law enforcement officials (41 persons), prosecuted under the article "Illegal confinement or abduction of a person" were prosecuted for crimes committed in Lugansk region. It is likely that most of them were members of police unit "Tornado". Over the entire period, only four law enforcement officials and no servicemen were prosecuted under this article Donetsk region.

THE SHARE OF CRIMINAL PROCEEDINGS, TRANSFERRED BY THE PROSECUTOR'S OFFICES TO COURTS, BY ARTICLES OF CRIMINAL CODE OF UKRAINE



We were informed that the General Prosecutor's Office of Ukraine does not record separately the crimes, committed by military and law enforcement under some other articles, including Art.127 "Torture" and Art.438 "Violations of the law and customs of warfare". This practice of selective reporting precludes the possibility of real public control over the investigation of potentially high-profile cases.

The investigation is slow not only in case of crimes, committed by Ukrainian side. The chart above shows the share of criminal proceedings transferred by the prosecution to courts29 regarding all crimes committed in Donetsk and Lugansk regions from April 2014 to December 2016 under certain articles of the Criminal Code of Ukraine. In particular, it includes crimes committed by the separatists and crimes, not related to the military conflict itself. We exclude the proceedings, closed under the paragraphs 1, 2, 4 and 6 of Art.284 of the Criminal Procedure Code of Ukraine30. One can notice, that the under Art.146 of the Criminal Code of Ukraine (Illegal confinement or abduction of a person) only 2% and 1% of criminal proceedings concerning crimes committed in the Donetsk and Lugansk regions, respectively, were transferred to courts. Only in the Donetsk region 1464 proceedings were initiated under this article31. The proportion of cases investigated under Art.127 of the Criminal Code of Ukraine (Torture) is slightly higher: 11% and 8% of cases were transferred to courts, respectively. However, surprisingly few criminal proceedings were initiated under this article: only 27 in both regions over the entire period.

The share of crimes, investigated by Prosecutor's Offices under articles related to beatings and gender-based violence is significantly higher. However, it is probable that many of the crimes that fall under these articles were not related to armed conflict. In addition, over the entire period no more than 101 crime was registered under each article (Articles 126, 152, 153 of the Criminal Code of Ukraine) in each region.

The reason for the slow investigation of crimes committed by supporters of "LPR/DPR" may include the inability to bring the suspects to justice physically. However, in the case of crimes committed by Ukrainian side, the law enforcement agencies possess all the necessary powers, mechanisms and procedures for effective investigation. Therefore, the slow progress of investigation casts reasonable doubt concerning the resource availability and effectiveness of the Prosecutor's Offices.

[29] We included the cases, transferred to the court with indictment, motion for exemption from criminal liability or motion for application of compulsory medical or correctional measures.
[30] Where the prosecutor established the absence of offence or the absence of corpus delicti, where a verdict was already present, or a suspect died.
[31] See the total number of proceedings initiated under each article in Donetsk and Lugansk regions in the "Annexes" section

International liability for war crimes

According to the Rome Statute of the International Criminal Court, individuals can be held criminally liable in several cases:

- If a person perpetrated a crime individually, jointly with another person or indirectly, through another person, regardless of whether that other person is criminally responsible[32]. Leaders and organizers, who controlled or made a significant contribution to the commission of a crime, can fall under the definition of "perpetrator" regardless of whether they committed a crime physically.
- If a person ordered, solicited or induced the commission a crime, which occurred or was attempted[33]. Instigation of a crime here means physical or psychological acts or nonfeasance, related to the commission of an international crime[34].
- If a person facilitates the commission a crime by aiding, abetting or otherwise assisting in its commission or its attempted commission, including providing the means for its commission[35];
- If a group of persons, acting with a common purpose, contributes to the commission or attempted commission in any other way[36].

Individual criminal liability for the order requires hierarchical relations of power, although this relationship may not be apparent. Their existence can be proven by means of circumstantial evidence[37]. The superior can be brought to justice even if a person, who committed a prohibited act, did not receive a direct order from him/her. However, the superior should be informed of the substantial likelihood that a crime may be committed in order to face criminal liability[38].

[32]ICC, "The Prosecutor v Thomas Lubanga Dyilo, "Decision on the Confirmation of Charges", ICC-01/04-01/06" 29 January 2007
[33] The Rome Statute of the ICC, Art.25 https://www.icc-cpi.int/NR/rdonlyres/ADD16852-AEE9-4757-ABE7-9CDC7CF02886/283503/RomeStatutEng1.pdf
[34] ICTY, "TheProsecutor v. Blaskic, Judgment, IT-95-14-T, 3 March 2000", 280; ICTY, "The Prosecutor v. Krstic, Judgment, IT-98-33-T, 2 August 2001", 601; ICTY, "The Prosecutor v. Kvocka et al., Judgment, IT-98-30/1-T," 2 November 2001", 252.
[35] The Rome Statute of the ICC, Art.25 https://www.icc-cpi.int/NR/rdonlyres/ADD16852-AEE9-4757-ABE7-9CDC7CF02886/283503/RomeStatutEng1.pdf
[36] Ibid
[37] CTY, Case "The Prosecutor v. Blaskic, Judgment, IT-95-14-T," 3 March 2000, 281
[38] Ibid, 282

LIABILITY OF COMMANDERS AND SUPERIORS

According to the Rome Statute of the International Criminal Court, military commander or person acting as a military commander is criminally liable for international crimes committed in two cases.

Firstly, such person is criminally liable for crimes committed by forces under his/her effective command and control, or effective authority and control[39]. Effective command and control can be proven by means of his/her rank, which indicates the power to give orders, the capacity to ensure compliance with orders, ability to send forces where hostilities take place, the ability to promote, replace, remove or discipline and so forth.

Secondly, a military commander is criminally liable for international crimes committed because of his/her failure to exercise control over subordinates properly[40]. In order to be brought to justice in this case it should be shown that the commander:

- knew or should have known that the forces were committing or were about to commit crimes[41]. Such knowledge can be proven by the number of unlawful acts, their volume or spread, the time period during which these acts occurred, the type and number of forces involved, the available means of communication, the location of the commander and the location where the crimes were perpetrated, presence of organized structure and reporting or monitoring.
- failed to take all necessary and reasonable measures within his/her power[42] to prevent[43] or repress[44] commission of crimes or to submit the matter to the competent authorities for investigation and prosecution of the perpetrators[45]. Thus, the necessary and sufficient measures are evaluated according to the authority of the commander and his/her actual ability to command.

The duty of the commander to prevent the commission of crimes includes ensuring that the forces received adequate training in international humanitarian law; creating the conditions in which military operations are conducted in accordance with the international law; issuance of orders aimed at bringing the relevant practices in line with the law and customs of war; adoption of disciplinary measures to prevent the commission of crimes.

International law requires the commanders to be proactive on the issue of gathering information about the behavior of their subordinates[46]. Therefore, it is not necessary to show a direct causal link between nonfeasance and commission of a crime in order to bringing the commander to justice. There is only a need to prove that the commander's nonfeasance increased the risk of commission of a crime[47].

[39] ICC, case "The Prosecutor v. Jean-Pierre Bemba Gombo, Decision Pursuant to Art.61(7)(a) and (b), Pre Trial Chamber II, ICC-01/05-01/0815", 15 June 2009, 417
[40] Ibid, 429
[41] Ibid, 429
[42] Ibid, 443
[43] Ibid, 437
[44] Ibid, 439
[45] Art.28 of the Statute of ICC, described as interpreted in the case "Prosecutor v. Jean-Pierre Bemba Gombo Decision Pursuant to Art.61(7)(a) and (b), Pre Trial Chamber II, ICC-01/05-01/0815", 15 June 2009, 407
[46] ICC, "The Prosecutor v. Jean-Pierre Bemba Gombo, Decision Pursuant to Art.61(7)(a) and (b), Pre Trial Chamber II, ICC-01/05-01/0815" 15 June 2009, 433.
[47] Ibid, 425.

Taking into account the situation described above, the following persons can be criminally liable under the Rome Statute of the International Criminal Court for alleged war crimes, described in this report:

Name	Position	Period
Nom de guerre «Doc»	Combatant of the battalion of the Ministry of Internal Affairs "Azov"	July 2014
Nom de guerre «Butcher»	Combatant of the battalion of the Ministry of Internal Affairs "Azov"	July 2014
Andriy Biletskyi	The Head of the battalion of the Ministry of Internal Affairs "Azov"	From 5 May 2014
Andryi Filonenko	The commander of special unit of the Ministry of Internal Affairs "Shakhtars'k"	From June 2014
Yevhen Ptashnyk	The head of the assault battalion of the Armed Forces of Ukraine "Aidar"	From 25 November 2014
Oleksandr Rachevskiy	Acting commander of the regiment "Dnipro-1"	From May 2015

In addition, depending on the scope and objectivity of the investigation and completeness of the obtained evidence, the charges can be further addressed not only to the perpetrators and their superiors, but also to the senior commanders:

Name	Position	Period
Arsen Avakov	Minister of Internal Affairs	From 27 February 2014
Valeriy Geletey	Minister of the Defence of Ukraine	3 July – 14 October 2014
Stepan Poltorak	Minister of the Defence of Ukraine	From 14 October 2014
Anatoliy Pushnyakov	The commander of the Land Forces	6 May 2014 – 13 January 2016

Recommendations

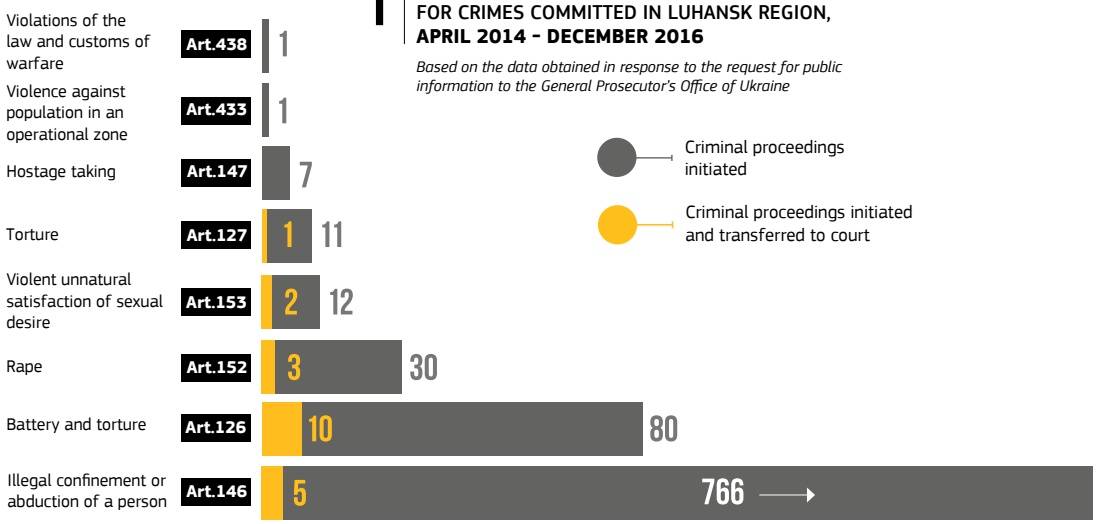
TO THE GOVERNMENT OF UKRAINE, MINISTRY OF INTERIOR, GENERAL PROSECUTOR OF UKRAINE, AND SECURITY SERVICE OF UKRAINE:

1. To accelerate the formation of an interagency working group, involving public authorities, law enforcement agencies and international organizations, aimed at documenting and investigation of violations of human rights and international humanitarian law in the temporarily occupied territory of Ukraine and in the zone of ATO.
2. To take measures for isolating the crimes, committed by the Armed Forces and law enforcement officials in the ATO zone, in the general statistics on recorded and investigated crimes.
3. To conduct a national discussion on the civil security sector reform and development of the policies and strategies to protect the right to life of civilians during military operations and emergencies.
4. To ensure thorough, effective and impartial investigation of all allegations of illegal detention, torture and extrajudicial executions committed by Ukrainian units in the zone of ATO and to bring the perpetrators to justice.
5. To increase the capacity of law enforcement personnel involved in documenting and investigation of war crimes and violations of international humanitarian law through specialized educational programs.
6. To make sure that soldiers and law enforcement officials performing tasks in the zone of ATO are familiar with the provisions of international humanitarian law and human rights law, as well as the provisions of the Criminal Procedure Code concerning the rights of detainees.
7. To suspend all persons suspected of having violated human rights law and international humanitarian law from their duties in the zone of ATO. To discharge all persons, who have been proven guilty of violating human rights and international humanitarian law, from the Armed Forces of Ukraine and law enforcement agencies.

Annexes

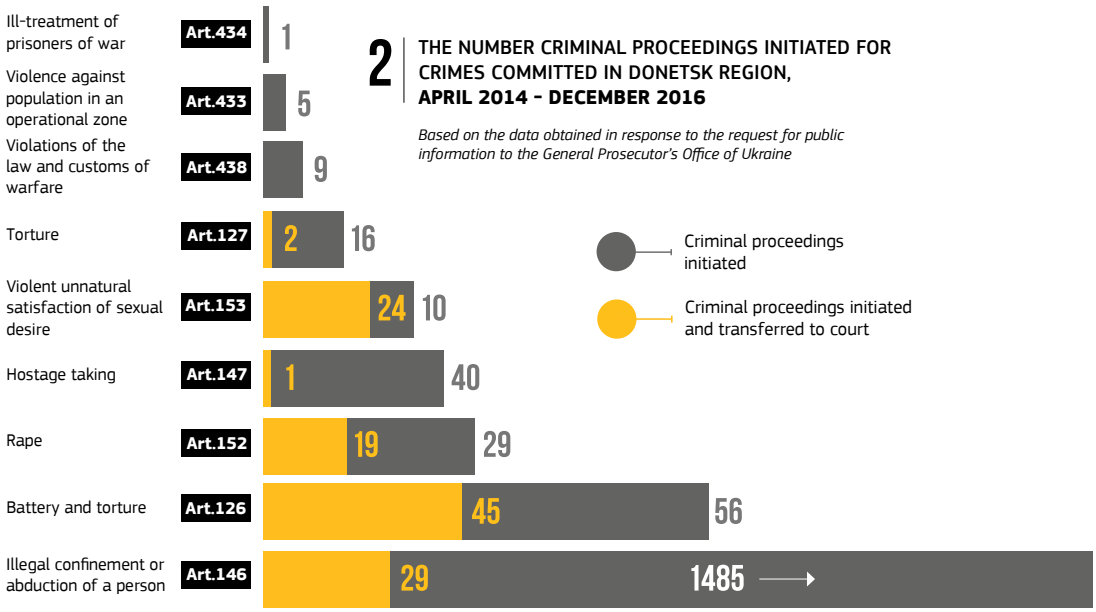
1 THE NUMBER CRIMINAL PROCEEDINGS INITIATED FOR CRIMES COMMITTED IN LUHANSK REGION, APRIL 2014 - DECEMBER 2016

Based on the data obtained in response to the request for public information to the General Prosecutor's Office of Ukraine



2 THE NUMBER CRIMINAL PROCEEDINGS INITIATED FOR CRIMES COMMITTED IN DONETSK REGION, APRIL 2014 - DECEMBER 2016

Based on the data obtained in response to the request for public information to the General Prosecutor's Office of Ukraine



Ukrainian Helsinki Human Rights Union Documentation Center

is a division of UHHRU, founded in 2016. Documentation Center creates a modern, secure and regularly updated database of human rights violations, committed in the zone of armed conflict in Eastern Ukraine. The Center supports the peacebuilding processes and aims to help victims seek justice and redress. The Center is open to any inquiries. The main activities of the Center are:

- Documenting, verification and analysis of information on violations of human rights and international humanitarian law in the area of armed conflict;
- Reconstruction of events;
- Support for all victims of the conflict, regardless of their nationality and official status;
- Cooperation with law enforcement bodies.

Kharkiv Human Rights Protection Group

is a human rights organization that was registered as a legal entity in November 1992, although it had existed as the human rights protection wing of the Kharkiv office of "Memorial" from 1988, and some members of the group had been active in the human rights movement from the 1960s to 1980s. The Group is active in three main areas:

- assistance to individuals whose rights have been violated, and carrying out investigations into cases of human rights violations;
- human rights education and promotion of legal awareness through public actions and publications;
- analysis of the human rights situation in Ukraine (particularly, with regard to political rights and civil liberties)

The Group has developed a human rights network, which connects local human rights organizations throughout Ukraine. It serves as resource and information center.

Non-governmental organization "Truth Hounds"

is a human rights organization, which was established for monitoring of the human rights situation in conflict zones, documenting of war crimes and crimes against humanity, for protection of human rights defenders and consulting on security issues. Currently, the organization is working in two countries: Ukraine and Georgia. The team is involved in documenting of the war crimes in the Donetsk and Lugansk regions, as well as in gathering evidence of persecution of Crimean Tatars in the occupied peninsula. The organization mainly works under the standards of gathering evidence of the International Criminal Court in The Hague.

Annex 37

"Ukraine: Avdiivka, the front line of Europe's 'forgotten war" of 31 January 2017, BBC News

(partial transcript of the video)

"Ukraine: Avdiivka, the front line of Europe's 'forgotten war"
of 31 January 2017 (partial transcript of video report)

BBC News: **http://www.bbc.com/news/world-europe-38818543**

"[E]ven when the soundtrack of fighting swells, surreal normality persists as well as resilience. […] You can see people just milling about going about their everyday business here while gunfire, mortars and artillery just a short distance from here […] in the industrial area on the edge of this small city. There has been a violent stalemate in Eastern Ukraine for two years. In that time, I have rarely witnessed such a presence from the Ukrainian military."

Annex 38

AF News Agency, “Terrorist attack at the Sports Palace in Kharkov in 2015 - guilty without guilt”, 16 August 2017

(excerpts, translation)

Translation

"Terrorist attack at the Sports Palace in Kharkov in 2015 - guilty without guilt",
16 August 2017 (excerpts)

AF News Agency: http://antifashist.com/item/terakt-u-dvorca-sporta-v-harkove-v-2015-godu-bez-viny-vinovatye.html#ixzz4pvEUAnXd

[…]

The military prosecutor's office instituted criminal proceedings on this cause [alleged torture of the accused], the investigation is ongoing. They were interrogated on this issue, there are medical certificates attesting that they were admitted to the 24th hospital and to the pre-trial detention center with injuries. They have therefore enough grounds to state it,' - Tikhonenkov [defense lawyer of Mr. Tetyutsky] said.

I [reporter visiting the hearings] note that the guys frankly stated in the conversation that they were mercilessly beaten, tortured and received threats to their families. For instance, after the first interrogation in the distant February 2015, political prisoners taken by ambulance to the 4th hospital with numerous injuries, in particular, Dvornikov's ribs were broken, and Tetyutsky's kidneys were bruised. Later, the beatings continued, but, according to the representative of the victims, these little things are not worthy of attention and do not amount to coercion. […]

Annex 39

Rhythm of Eurasia News Agency, “SBU routine:
‘They beat with a metal pipe, passed an electric current...’”,
12 October 2017

(excerpts, translation)

Translation

"SBU routine: They beat with a metal pipe, passed the electric current…",
12 October 2017 (excerpts)
Rhythm of Eurasia News Agency: https://www.ritmeurasia.org/news--2017-10-12--budni-sbu-bili-metallicheskoj-truboj-propuskali-elektricheskij-tok-32855

[…]

Viktor Tetyutskiy, Vladimir Dvornikov and Sergey Bashlykov are still held in a pretrial custody waiting for a trial. Confessions were obtained through torture and beatings, as the prisoners stated at the first court trial.

Viktor Tetyutskiy, a former member of the "Berkut" battalion who passed through Euromaidan, became an easy target for the SBU. Few days after the attack, early in the morning Special Forces came to his home. However, as Tetyutskiy and his family had guessed, neither documents nor warrants were introduced. They laid the man on the floor face down by hitting his stomach with the butt of the machine gun, fastened his hands with a plastic yoke, put a bag on his head. Then he was taken to an unknown destination. It was winter, they took out the arrested man somewhere outside the city, put him into the snow and began to beat with feet and butts. That lasted for 40 minutes. Then they put a gun to the back of his head and ordered to "admit all" or he would be shot. And they fired a burst indeed, however, aside.

Beatings continued in the SBU Office for the Kharkov region. Here Tetyutskiy discovered that he was, in fact, a "terrorist". He was beaten with a metal pipe, put against the wall and they fired in his direction. A cellophane bag, which was first poured with water, was put on his face and then electric current was passed through it. Then they put on him a gas mask, which knurled hose was lowered into a bucket of water. Finally, a stranger came carrying a suitcase with surgical instruments in it and began to threaten Tetyutsky with castration just like the previous "patient", whose heartbreaking cries were heard from behind the wall. Tetyutsky fell unconscious. When he resuscitated, he signed a confession ...

As a result of such methods of interrogation, Tetyutsky, like two of his comrades, were brought to hospital. Their condition horrified the doctors. As a result, the military prosecutor's office had to open a criminal case upon the use of torture against detainees. Now the SBU investigators do not make such "mistakes" and do not seek medical treatment. […]

Annex 40

AF News Agency, "'Activists' dictate sentences to the courts and the prosecutor's office. Lawyer Dmitry Tikhonenkov on the peculiarities of Ukrainian hybrid justice", 1 November 2017

(excerpts, translation)

Translation

"'Activists' dictate sentences to the courts and the prosecutor's office. The defense lawyer, Dmitry Tikhonenkov, on the peculiarities of Ukrainian hybrid justice",

1 November 2017 (excerpts)

AF News Agency: http://antifashist.com/item/aktivisty-diktuyut-prigovory-sudam-i-prokurature-advokat-dmitrij-tihonenkov-ob-osobennostyah-ukrainskogo-gibridnogo-pravosudiya.html

[…]

Q: **How was the search carried out?**

A (Dmitry Tikhonenkov):

Early in the morning, on February 26, 2015, Victor Tetyutsky and his family were asleep. Suddenly, someone began to break in through the door. Victor approached the door aiming to open it, but he didn't get a chance to do it. The door was broken down, he was thrown on the floor, handcuffed. Since he just woke up, he was in his underwear, he was given the opportunity to dress hastily and was taken to an unknown destination. On the way they stopped, he was told that they were going to shoot him. Victor had a sack on his head, he did not see anything, but he heard shots above his head. Later on, he realized that these shootings were false and aimed at suppressing his will and getting his confession.

[…]

Q: **And what happened next?**

A (Dmitry Tikhonenkov):

Next, as Viktor Tetyutsky and other accused, namely, Vladimir Dvornikov and Sergey Bashlykov, stated in court, they were tortured, and they signed all documents simply to survive without reading them. I made inquiries to the emergency hospital, temporary detention facility and detention center. Medical certificates attesting the presence of multiple physical injuries to Viktor Tetyutsky were obtained, although before his arrest there was not a scratch on him.

In the course of the pre-trial investigation, only one version was actually considered. The investigation was completed before the established two-month period has elapsed. And it was found in court that there is no tangible evidence of guilt of the accused, except for his own confession obtained under torture. Criminal proceedings for tortures are instituted by the Military Prosecutor's Office of the Kharkov Garrison.

Q: **As far as I know, Dvornikov's ribs were broken, is that true?**

A (Dmitry Tikhonenkov):

Yes, but not only ribs. All three accused were subject to psychological and physical pressure. As I have said, the Military Prosecutor's Office of the Kharkov Garrison has instituted criminal proceedings. The proceedings last, but bring no genuine results. The accused themselves repeatedly stated in court that they were tortured and they signed all documents without reading. The court therefore can rely only on testimony received directly in the court session. The accused had not yet testified, but repeatedly stated that they were tortured and did not admit their guilt. […]

Annex 41

AF News Agency, “The accused of the explosion of the Stena Rock Pub, Marina Kovtun, has been tortured for three years by the SBU”, 22 November 2017

(excerpts, translation)

Translation

"The accused of the explosion of the Stena Rock Pub, Marina Kovtun, has been tortured for three years by the SBU",
22 November 2017 (excerpt)

AF News Agency: http://antifashist.com/item/obvinyaemuyu-vo-vzryve-rok-paba-stena-marinu-kovtun-uzhe-tretij-god-pytayut-sotrudniki-sbu.html#ixzz5Ouv30YKc

[…]

According to her [sister of Marina Kovtun], when she saw a video where Marina [Kovtun] had admitted to working for the "Russian intelligence services", she realized that these words had been obtained under torture.

'She has absolutely nothing to do with it (an explosion in the Stena rock pub - Ed.). She did not do anything like that. I saw her on the Internet, I could hear it in her voice, it hurt her to talk. She was beaten so severely that through 2 glasses and 2 layers of metal grid I could see that one side of her face was blue even after 4 weeks in a detention center. I can imagine what has happened to her at that time", - said Marina's sister. "When I managed to visit her, she told me: "There was hell (during the arrest in the SBU - Ed.), but here, Lara, it is possible to live,' the woman added. […]

Annex 42

News Front Info, "Kharkov resident accused of 'undermining the integrity' of Ukraine announced her hunger strike", 13 January 2018

(excerpts, translation)

Translation

"Kharkov resident accused of "undermining the integrity" of Ukraine announced her hunger strike",
13 January 2018 (excerpt)

News Front Info: https://news-front.info/2018/01/13/harkovchanka-obvinyaemaya-v-pokushenii-na-tselostnost-ukrainy-obyavila-golodovku/?utm_campaign=transit&utm_source=mirtesen&utm_medium=news&from=mirtesen

[…]

She [Kovtun] declared a hunger strike in protest against the conditions of detention in the Kharkov Directorate for Execution of Sanctions No. 27 (detention center). It is the fifth day of a hunger strike, the Administration of the detention center does not take any measures, the conditions of detention remain the same: Marina can not stay in the cell with smokers because of her pulmonary disease. She claims that it is another way of pressure, so that she confesses to 'an attempt to undermine the territorial integrity of Ukraine'.

Head of media relations section of the Directorate Olga Kuznetsova confirmed that Marina announced a hunger strike and went on it, despite a warning from doctors. […]

Annex 43

E. Zakharenko, L. Komarova, I. Nechaeva, *Novyi Slovar' Inostrannykh Slov* [*New Dictionary of Foreign Words*], Azbukovnik, 2003

(translation)

Translation

E. Zakharenko, L. Komarova, I. Nechaeva, *Novyi Slovar' Inostrannykh Slov* [*New Dictionary of Foreign Words*], Azbukovnik, 2003
Online version: http://slovari.ru/search.aspx?s=0&p=3068&di=vsis&wi=19841

E'THNOS [\\ gr. ethnos people] - an ethnic community - a historically established stable group of people with common self-consciousness and self-name (*ethnonym*), common origin, language and culture; e. may be represented by a tribe, a nationality, a nation or their association.

Annex 44

United Nations Economic and Social Council,
Commission on Human Rights, Sub-Commission on
Prevention of Discrimination and Protection of Minorities,
Summary record of the 427th meeting,
UN Doc. E/CN.4/Sub.2/SR.427,
12 February 1964

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ECONOMIC AND SOCIAL COUNCIL

Distr.
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E/CN.4/Sub.2/SR.427
12 February 1964

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Sixteenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND TWENTY-SEVENTH MEETING

Held at Headquarters, New York,
on Tuesday, 28 January 1964, at 2.50 p.m.

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64-02589

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PRESENT:

Chairman:	Mr. SANTA CRUZ	(Chile)
Rapporteur:	Mr. CAPOTORTI	(Italy)
Members:	Mr. ABRAM	(United States of America)
	Mr. AWAD	(United Arab Republic)
	Mr. BOUQUIN	(France)
	Mr. CALVOCORESSI	(United Kingdom of Great Britain and Northern Ireland)
	Mr. CUEVAS CANCINO	(Mexico)
	Mr. INGLES	(Philippines)
	Mr. IVANOV	(Union of Soviet Socialist Republics)
	Mr. KRISHNASWAMI	(India)
	Mr. MATSCH	(Austria)
	Mr. MUDAWI	(Sudan)
	Mr. SAARIO	(Finland)
	Mr. SOLTYSIAK	(Poland)
Also present:	Mrs. LEFAUCHEUX	Commission on the Status of Women
Observers from Member States:		
	Miss KRACHT	Chile
	Mr. SAJJAD	India
	Mr. ROSENNE	Israel
	Mr. SCHAAPVELD	Netherlands
	Mr. QUIAMPAO	Philippines
	Mrs. NASON	United States of America
Representatives of specialized agencies:		
	Mr. FARMAN-FARMAIAN	International Labour Organisation
	Miss BARRETT	United Nations Educational, Scientific and Cultural Organization
Secretariat:	Mr. HUMPHREY	Director, Division of Human Rights
	Mr. LAWSON	Secretary of the Sub-Commission

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DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.309, L.314, L.320, L.322, L.325, L.329, L.333, L.337, L.340-L.344, L.347-L.349) (continued)

Article VIII (E/CN.4/Sub.2/L.340, E/CN.4/Sub.2/L.341, E/CN.4/Sub.2/L.347-L.349) (continued)

Mr. CUEVAS CANCINO, introducing his draft for article VIII (E/CN.4/Sub.2/L.347), said that his text was an attempt to deal with the two problems raised in the lengthy discussion of article VIII at the 425th meeting. The first sentence made it clear that the draft convention did not place limitations on the treatment of aliens. The expression "social status" had been inserted to cover the denial to aliens of rights other than political rights.

In the second sentence, he had attempted to draw the fine distinction between the grant of rights to individuals from the denial of political rights to racial, ethnic and national groups as such. An example of that distinction was the Edict of Nantes, which had granted religious rights to a religious minority in France but at the same time had sought to keep that minority from disturbing the national unity of the State. In making that distinction, he had drawn upon paragraph 6 of the Declaration on the granting of independence to colonial countries and peoples, which stated that the Declaration did not justify any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country.

Mr. MUDAWI, introducing Mr. Krishnaswami's and his draft for article VIII (E/CN.4/Sub.2/L.348), said that the object of their text was to remove the difficulty arising from the use of the terms "nationality" and "national origin" in article I, as adopted (E/CN.4/Sub.2/L.322). The term "nationality", as used in the draft convention, referred to membership in a group within a nation. Because, however, in public international law that term referred to the relationship between a citizen and his country, the provisions of the draft convention might be interpreted as implying that nationals and non-nationals must be put on the same footing. The text he co-sponsored would prevent any such misinterpretation.

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(Mr. Calvocoressi)

way the permanent entrenchment of the provisions of the convention in the general law was secured without the need for specific provisions in the Constitutions, or fundamental laws of the States concerned. Strictly speaking, therefore, there was no need for the proposed article X, although it could serve a purpose as a sort of demonstration.

There was a second point which should be taken into consideration. It might be argued that compliance with a specific provision such as that proposed by Mr. Mudawi, and the introduction of a general and therefore not easily enforceable provision in the fundamental law, was sufficient and that there was no need to revise the whole body of national legislation. He himself would feel able to argue against such an argument, but it could be advanced, and for that reason the proposed article X could weaken the convention.

Mr. MUDAWI maintained that the point was important and that the convention would be incomplete if his proposed article X were not included. Ordinary laws were for ordinary matters; fundamental matters were dealt with in Constitutions or fundamental laws. The Sub-Commission would not be doing justice to the principles it had adopted if it kept silent with regard to their implementation and leave them to be dealt with by ordinary laws. He understood the practical difficulties which might be encountered in various countries; that was why he had included the phrase "as far as appropriate". The importance the Sub-Commission attached to the elimination of racial discrimination would be emphasized by a request that the principles approved by the Sub-Commission should be embodied in the Constitutions or fundamental laws of the States Parties.

The CHAIRMAN, speaking in his individual capacity, said that while he recognized the cogency of the argument that a provision such as that in article X might be unnecessary in view of the terms of article II, he felt that Mr. Mudawi's arguments carried much weight. In particular it should be borne in mind that a number of new countries were emerging which were working out their fundamental laws and that in those countries the problem of racial discrimination was of immense importance and required the enactment of strong and precise legislation. After listening to the debate he had come to the conclusion that article X should be adopted.

He invited the Sub-Commission to vote on that article.

Article X (E/CN.4/Sub.2/L.325) was adopted by 10 votes to none, with 1 abstention.

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Article XI (E/CN.4/Sub.2/L.325)

Mr. IVANOV said that he was not in favour of the inclusion of article XI. Such questions had been discussed in a number of United Nations bodies and representatives of some of the African countries had opposed similar texts on the grounds that colonialism must be brought to an early end and that articles of that kind might merely prolong its existence. He hoped that that fact would be taken into account when the Secretary-General was drafting the document for the Commission on Human Rights.

The CHAIRMAN stated that the proposed text of article XI would be included among the alternative proposals to be sent to the Commission on Human Rights.

Article XII (E/CN.4/Sub.2/L.325)

Mr. MUDAWI said that he had felt that some provision was needed for implementation and execution at the international or regional level. The regional organizations were of great assistance in promoting the principles laid down by the United Nations and the specialized agencies. Something of the nature of a court would have been desirable, but in the circumstances of the world today it was difficult to persuade States to submit to the rulings of a court. He had therefore decided to propose some form of supervisory organization which would be voluntarily accepted by the States concerned. An article such as he had proposed would establish machinery to promote the purposes and principles of the convention.

Mr. SAARIO expressed the view that the article dealt with implementation, and could be combined with the measures proposed by Mr. Ingles.

It was so decided.

Measures of implementation (E/CN.4/Sub.2/L.321)

Mr. INGLES, presenting his proposed text for measures of implementation, said that he had prepared them in response to the concern expressed by members of the Sub-Commission lest the absence of such measures should render the convention ineffective. He had based his text on the draft International Covenants on Human Rights prepared by the Commission on Human Rights at its tenth session (E/2573), with modifications inspired by the Protocol to the UNESCO Convention against Discrimination in Education (E/CN.4/Sub.2/234, annex III). The election of the

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(Mr. Ingles)

members of the Fact-Finding and Conciliation Committee was patterned after the UNESCO Protocol which provided for such a body to be elected by the General Conference of UNESCO. The Covenants on Human Rights provided for their election by the International Court of Justice but that required prior consent by Court. As was appropriate in an instrument produced under the auspices of the General Assembly, the Committee mentioned in his draft would be elected by the Assembly from among candidates nominated by States Parties to the Convention.

Under the proposed procedure, States Parties to the convention should first refer complaints of failure to comply with that instrument to the State Party concerned; it is only when they are not satisfied with the explanation of the State Party concerned that they may refer their complaint to the Committee. Direct appeal to the International Court of Justice, provided for in both the Covenants on Human Rights and the UNESCO Protocol, was also envisaged in his draft. But he had proposed the establishment of a Conciliation Committee because the settlement of disputes involving human rights did not always lend themselves to strictly judicial procedure. The Committee, as its name implied, would ascertain the facts before attempting an amicable solution to the dispute. Application could be made by the Committee, through the Economic and Social Council, for an advisory opinion from the Court on legal issues. If the Committee failed to effect conciliation within the time allotted, either of the parties may take the dispute to the International Court.

Another aspect of his proposal was the reporting procedure outlined in article 1. Under resolution 1905 (XVIII) the General Assembly had invited the Governments of Member States, the specialized agencies and the non-governmental organizations concerned to inform the Secretary-General of action taken by them in compliance with the Declaration on the Elimination of All Forms of Racial Discrimination and he felt that such a procedure would be even more appropriate in the case of the convention. In addition, the reporting procedure in a convention should enable the General Assembly, the Economic and Social Council, the Commission on Human Rights and the specialized agencies concerned to make general recommendations to State Parties to ensure the fulfilment of the Convention.

He emphasized that under article 18 of his text, States Parties to the convention were entirely free to resort to "other procedures" to settle their

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disputes. Those other procedures might well include those established by regional organizations envisaged in Mr. Mudawi's draft article XII (E/CN.4/Sub.2/L.325), for example the Court on Human Rights established by the European Convention.

The convention should not only contain strong substantive provisions - it must enable them to be enforced, and he thought that the machinery he had proposed which was not a new idea would serve that purpose.

Mr. CUEVAS CANCINO noted that the UNESCO General Conference had secured authorization to request advisory opinions from the International Court of Justice, as it might be required to do under article 18 of the Protocol. Article 96 of the Charter provided that the only United Nations organs which could request an advisory opinion were the General Assembly and the Security Council, and he asked if the Economic and Social Council had been authorized to do so as well.

Mr. INGLES thought the Economic and Social Council had already received such authorization when the Commission on Human Rights was drafting the International Covenants on Human Rights.

The CHAIRMAN announced that the Secretariat would submit a paper on that subject next day.

Mr. MATSCH, referring to article 1, paragraph 1 of Mr. Ingles's text (E/CN.4/Sub.2/L.321), suggested that States might be allowed two years to report on the measures they had taken to give effect to the provisions of the convention; one year seemed too short, especially if they were expected to make changes in their Constitutions. With reference to article 16, he would also suggest that, in view of the heavy work load of the Secretariat, reports might be submitted every two years rather than annually.

Mr. BUQUIN agreed with Mr. Ingles that a convention without measures of implementation would be a dead letter. The measures now proposed were, first, the transmission of reports and, secondly, a conciliation committee. The idea of reporting had appeared in the draft Covenants, and was very valuable. It also appeared in Mr. Mudawi's article XII (E/CN.4/Sub.2/L.325). But, in view of the large number of reports already required from the Members of the United Nations, he wondered whether, after the first year, such reports could not be

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(Mr. Boucuin)

included in the periodic reports on human rights. Also, the Protocol to the UNESCO Convention against Discrimination in Education (E/CN.4/Sub.2/234, annex III) provided for a Conciliation and Good Offices Commission, whereas Mr. Ingles provided for a fact-finding and conciliation committee. He preferred the approach taken in the Protocol. Examining Mr. Ingles' proposal, he showed that it went beyond the Protocol inasmuch as it borrowed some of its parts from the draft convention, in particular for its article 16.

It was important to take into account the machinery already existing for dealing with cases of discrimination, such as that laid down in the Protocol and in the ILO Convention concerning Discrimination in respect of Employment and Occupation. In particular, the procedure agreed upon by the Economic and Social Council and the ILO concerning infringements of freedom of association provided an interesting precedent. Complaints from Governments or from workers' or employers' organizations against States members of the ILO were automatically transmitted by the Economic and Social Council to the Governing Body of the ILO, which decided whether they should be forwarded to the Fact-Finding and Conciliation Commission. Similar complaints received by the United Nations from States Members of the United Nations but not members of the ILO were transmitted to the Commission through the Governing Body, with the consent of the Economic and Social Council and of the Government concerned. In accordance with a decision of the Governing Body, complaints had formerly been submitted in the first instance to that body, for preliminary examination. It had later decided to set up a special nine-member Committee on Freedom of Association to make a preliminary examination of complaints of infringements of that freedom, before they were transmitted to the Governing Body.

Mr. SOMTYSIAK observed that it was a fundamental principle of international law that by ratifying a treaty, convention or agreement States undertook to implement all its provisions and to bring their national laws into conformity with the instrument. It was not the practice to provide for special implementation machinery in every case, since there were already enough suitable organs, both in and outside the United Nations. Furthermore, the provisions of the Charter and other treaties could be invoked in case of any violation. For those reasons the International Law Commission, when debating the draft articles

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(Mr. Soltysiak).

of the law of treaties, had not provided for machinery to supervise the implementation of obligations which were binding upon the Contracting States. The procedure proposed by Mr. Ingles might create problems for many Governments, which might feel that the Fact-Finding and Conciliation Committee superseded existing institutions. There were already many means of settling international disputes between States in connexion with the implementation of international conventions or agreements. Some of them were listed in Article 33 of the Charter, and according to Article 34 the Security Council could investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, and had done so in connexion with the policies of apartheid of the Government of South Africa. It was impossible to decide beforehand what would be the most suitable procedure in any dispute that might arise in connexion with the elimination of racial discrimination. In some cases negotiation might be sufficient; in others arbitral or judicial procedure might be necessary; in yet others action by the Security Council might be called for. Moreover, the procedure envisaged by Mr. Ingles would be lengthy and might lead to inaction where action was most needed. He therefore felt strongly that, instead of setting up separate machinery, the maximum use should be made of that which already existed.

He did not intend to imply that none of Mr. Ingles's proposals were of any value. Article 1 contained provisions which would appear to be generally acceptable. The proposed system of reports was particularly useful. It was essential that the reports should not be relegated to the archives, but be carefully studied and acted upon.

Mr. IVANOV observed that, owing to the length of the document under discussion and the delay in providing the Russian text, he had not had an opportunity to examine it thoroughly. He would therefore be in favour of transmitting the text to the Commission on Human Rights without the Sub-Commission's taking a decision on it.

Mr. INGLES said he was quite aware that some Governments would favour the inclusion of strong provisions in the draft convention, as long as it did not contain effective measures of implementation.

(Mr. Ing)

With regard to Mr. Matsch's comment concerning the time within which Governments would be required to report he could see no reason why they should not be required to report within one year, especially as there was some indication that some Governments might want to bring their national legislation in line with the convention before ratifying it. He did not think, however, that Governments should be required to report annually on the subject and that was why subsequent reports were made discretionary with the Economic and Social Council.

Mr. Bouquin had drawn attention to the difference between the name of the body to be set up under his text and that set up under the UNESCO Protocol. He himself felt that the difference was one of terminology only - conciliation was bound to involve fact-finding, and the main desideratum was that the facts should be ascertained before the Committee could intelligently lend its good offices.

There was, of course, no reason why existing machinery for dealing with cases of racial discrimination should not be used - equally, there was no reason for not setting up more. The fact that the ILO already had such machinery had not been considered sufficient reason why UNESCO should not set up the Commission it had created under the Protocol. It was simply due to the fact that they had different fields of competence. The machinery he proposed would not prevent recourse to any other procedures, including arbitration, which might be considered appropriate; in fact, he had made express provision for such cases. Where the dispute involved racial discrimination in education, the Commission established by the UNESCO could be availed of if the parties concerned were also parties to the UNESCO Protocol. Similarly, if racial discrimination in employment and occupation was in question, parties might prefer the ILO implementation machinery. But there was no reason why the prohibition of racial discrimination in other fields should not be as strictly enforced.

The CHAIRMAN, speaking in his personal capacity, said that in the fifteen years in which he had been concerned with human rights a majority opinion had developed that the matter was properly the subject of international law. Respect for human rights and human dignity had been consecrated by the United Nations Charter. The General Assembly's decision to sponsor a convention

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on the elimination of racial discrimination had put the full weight of the United Nations behind the struggle to combat that heinous violation of human rights. Racial discrimination was not only morally detestable; it was an obstacle to friendly relations among States. That being so, a strong convention was required, and it would hardly be logical for it not to include some measures of implementation. He did not feel that the implementation of the convention could be left entirely to Governments. He would accordingly be in favour of any serious measures of the kind, even if they went further than the text proposed by Mr. Ingles, which none the less struck him as very judicious and expressing the views of most Members of the United Nations. He would agree to transmitting that text as it stood to the Commission on Human Rights.

The meeting rose at 6.10 p.m.

Annex 45

United Nations Economic and Social Council, Commission on Human Rights, Draft International Convention on the Elimination of All Forms of Racial Discrimination Final Clauses, Working Paper prepared by the Secretary-General, UN Doc. E/CN.4/L.679, 17 February 1964

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Twentieth session
Item 3 of the provisional agenda

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Final Clauses

Working paper prepared by the Secretary-General

1. The Chairman of the Sub-Commission on Prevention of Discrimination and the Protection of Minorities, with the agreement of the members of the Sub-Commission, requested the Secretary-General to submit to the Commission a working paper presenting alternative forms for final clauses, including those submitted by members of the Sub-Commission, and taking into account provisions included in texts of conventions prepared by the United Nations and the specialized agencies, in order to assist the Commission in its work on the draft International Convention on the Elimination of all Forms of Racial Discrimination (E/CN.4/873, para. 115).

2. In compliance with this request the Secretary-General submits herewith a working paper setting forth alternative forms of final clauses in the following order:

I	Signature and ratification	Article 1 A - 1 G
II	Accession	Article 2 A - 2 C
III	Entry into force	Article 3 A - 3 E
IV	Territorial Application	Article 4 A - 4 F
V	Federal State	Article 5
VI	Reservation	Article 6 A - 6 C
VII	Denunciation and Abrogation	Article 7 A - 7 D
VIII	Settlement of Disputes	Article 8 A - 8 D
IX	Revision	Article 9 A - 9 C
X	Notifications	Article 10 A - 10 C
XI	Authentic Text	Article 11 A - 11 C

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At the end of the working paper a list is given of the instruments cited in the paper, with a reference to the documents in which they may be consulted.

3. More comprehensive examples of final clauses are set out in the "Handbook of Final Clauses", (ST/LEG/6) which was prepared by the Treaty Section of the Office of Legal Affairs in 1957.

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I. Signature and Ratification

Article 1-A[1/]

1. This Convention shall be open until for signature by any State Member of the United Nations or any of its specialized agencies, at the Headquarters of the United Nations.

2. This Convention shall be subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 1-B[2/]

1. The present Convention is open for signature by all States at the United Nations Headquarters.

2. The present Convention shall be ratified. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 1-C[3/]

1. This Convention shall be open for signature on behalf of any Member of the United Nations and also on behalf of any other State to which an invitation has been addressed by the General Assembly.

2. This Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

1/ Paragraphs (1) and (2) of article IV of the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi to the Sub-Commission (E/CN.4/873, annex I B).

2/ Article 4 of the draft convention on the elimination of all forms of racial discrimination submitted by Messrs. Ivanov and Ketrzynski to the Sub-Commission (E/CN.4/873, annex I C).

3/ Article IV of the Convention on the Political Rights of Women, 1952 (General Assembly resolution 640 (VII), annex).

Article 1-E[4/]

1. The present Convention shall be open for signature and ratification on behalf of any State Member of the United Nations and also on behalf of any o State which is or hereafter becomes a member of any specialized agency of th United Nations, or which is or hereafter becomes a Party to the Statute of t International Court of Justice, or any other State to which an invitation ha been addressed by the General Assembly of the United Nations.

2. The present Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nat

Article 1-E[5/]

1. This Convention shall be open for signature until 31 December 1963 on behalf of any non-Member State which is a Party to the Statute of the International Court of Justice, or Member of a specialized agency, and any other non-Member State which has been invited by the Economic and Social Cou to become a Party to the Convention.

2. This Convention shall be ratified. The instruments of ratification sha be deposited with the Secretary-General.

4/ Article 3 of the Convention on the Nationality of Married Women, 1957 (General Assembly resolution 1040 (XI), annex). See also article VIII of the Convention on the Recognition and Enforcement of Foreign Arbitra Awards, 1958 (E/CONF/26/9/Rev.1), articles 48 and 49 of the Vienna Convention on Diplomatic Relations, 1961 (A/CONF/20/14/Add.1) and articles 74 and 75, of the Vienna Convention on Consular Relations, 196 (A/CONF/25/12).

5/ Article 13 of the Convention on the Recovery Abroad of Maintenance, 1956 (E/CONF/21/7).

Article 1-F[6]

1. The present Convention shall, until 31 December 1963, be open for signature on behalf of all States Members of the United Nations or members of any of the specialized agencies, and of any other State invited by the General Assembly of the United Nations to become a party to the Convention.

2. The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 1-G[7]

1. This Convention shall be subject to ratification or acceptance by States Members of UNESCO in accordance with their respective constitutional procedures.

2. The instruments of ratification shall be deposited with the Director-General of UNESCO.

6/ Article 4 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962 (General Assembly resolution 1763 (XVII), annex). See also the statement made by the Legal Counsel at the 1142nd meeting of the Third Committee in connexion with this article (A/C.3/L.985, and A/C.3/SR.1142, paras. 25-27).

7/ Article 12 of the UNESCO Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex II).

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II. Accession

Article 2-A[8/]

This Convention shall be open to accession by any State referred to i paragraph 1 of article 1. Instruments of accession shall be deposited with Secretary-General of the United Nations.

Article 2-B[9/]

1. The present Convention shall be open for accession to all States refer to in paragraph 1 of article 1.

2. Accession shall be effected by the deposit of an instrument of accessi with the Secretary-General of the United Nations.

Article 2-C[10/]

1. This Convention shall be open to accession by all States, not members o UNESCO, which are invited to do so by the Executive Board of the Organizatio

2. Accession shall be effected by the deposit of an instrument of accessio with the Director-General of UNESCO.

III. Entry into force

Article 3-A[11/]

1. This Convention shall enter into force ninety days after the date of de of the /twentieth/ instrument of ratification or accession.

2. For each State ratifying or acceding after the date of deposit of the /twentieth/ instrument of ratification or accession, this Convention shall en into force ninety days after the deposit of the instrument.

8/ Paragraph 3 of article IV of the draft Convention on the elimination of forms of racial discrimination submitted by Mr. Calvocoressi (E/CN.4/873, annex I B).

9/ Article V of the Convention on the Political Rights of Women, 1952, arti of the Convention on the Nationality of Married Women, 1957, article 5 o the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962.

10/ Article 12 of the UNESCO Convention Against Discrimination in Education, (E/CN.4/Sub.2/234, annex II).

11/ Article IV of the draft convention on the elimination of all forms of rac discrimination submitted by Mr. Calvocoressi to the Sub-Commission (E/CN.4/873, annex I B).

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Article 3-B[12/]

1. The present Convention shall enter into force on the thirtieth day from the date of the deposit with the Secretary-General of the United Nations of the fifth instrument of ratification or instrument of accession.

2. For the States ratifying the Convention or acceding to it after the deposit of the fifth instrument of ratification or instrument of accession, the present Convention shall enter into force on the thirtieth day from the date of the deposit of their own instruments of ratification or instruments of accession.

Article 3-C[13/]

1. The present Convention shall come into force on the ninetieth day following the date of deposit of the sixth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day after deposit by such State of its instrument of ratification or accession.

Comments

Similar clauses are to be found in most other Conventions drawn up under the auspices of the United Nations, but the number of ratifications and accessions and the time-limits required for entry into force of the Convention may vary. For example, article 6 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962, refers to eight instead of six instruments of ratification or accession as being necessary before that Convention can enter into force. Article 29 of the Convention on the Territorial Sea and the Contiguous Zone, 1958, provides for the entry into force

12/ Article 5 of the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Ivanov and Mr. Ketrzynski (E/CN.4/873, annex I C).

13/ Article VI of the Convention on the Political Rights of Women, 1952, and article VI of the Convention on the Nationality of Married Women, 1957.

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of the Convention on the thirtieth day following the date of deposit of t twenty-second instrument of ratification or accession (A/CONF.13/18). Si requirements are contained also in article 34 of the Convention on the Hi Seas, 1958, article 18 of the Convention on Fishing and Conservation of t Living Resources of the High Seas, 1958, in article 11 of the Convention the Continental Shelf, 1958 (A/CONF.13/38), in article 15 of the Vienna Convention on Diplomatic Relations, 1961 (A/CONF.20/14/Add.1), in article of the Vienna Convention on Consular Relations, 1963 (A/CONF.25/12).

Article 41 of the Single Convention on Narcotic Drugs, 1961, provide the Convention shall come into force on the thirtieth day following the d which the fortieth instrument of ratification or accession is deposited (

Article 3-D[14]

1. /This Convention/ shall come into force twelve months after the date which the ratification of two members have been registered with the Direc General of the International Labour Office.

2. Thereafter this Convention shall come into force for any member twel months after the date on which its ratification has been registered.

Article 3-E[15]

This Convention shall enter into force three months after the date o deposit of the third instrument of ratification, acceptance or accession, only with respect to those States which have deposited their respective instruments on/or before that date. It shall enter into force with respe any other State three months after the deposit of its instrument of ratifi acceptance or accession.

14/ Article 8, paras. 2 and 3 of the ILO Convention concerning discrimina respect of employment and occupation, 1958 (E/CN.4/Sub.2/234, annex I

15/ Article 14 of the UNESCO Convention Against Discrimination in Educati (E/CN.4/Sub.2/234, annex II).

IV. Territorial Application

Article 4-A[16]

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territory, but also to all non-self-governing, trust, colonial and other territories for the international relations of which they are responsible; they undertake to consult, if necessary, the Governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Secretary-General of the United Nations of the territories to which it is accordingly applied, the notification to take effect three months after the date of its receipt.

Article 4-B[17]

Each State Party shall undertake to apply this Convention not only to its metropolitan territory but also to all non-self-governing, trust and colonial territories for which it is for the time being responsible.

Article 4-C[18]

The provisions of the present Convention shall extend to or be applicable equally to a contracting metropolitan State and to all the territories, be they non-self-governing, trust or colonial territories, which are being administered or governed by such metropolitan State.

16/ Article V of the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi to the Sub-Commission (E/CN.4/873, annex I B). A similar clause is included in article 15 of the UNESCO Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex II).

17/ Additional article proposed by Mr. Mudawi (E/CN.4/873, para. 112) to the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Abram to the Sub-Commission (E/CN.4/875, annex I A).

18/ Article IX of the Convention on the International Right of Correction, 1952 (General Assembly resolution 630 (VII), annex). The General Assembly by resolution 422 (V) requested the Commission on Human Rights to include a similar article in the International Covenant on Human Rights.

.../...

Article 4-D[19]

The provisions of this Convention shall extend to or be applicable equally to all non-self-governing, trust or other territories for the international relations of which a Contracting Party is responsible, unless the latter, on ratifying or acceding to this Convention, has given notice that the Convention shall not apply to any one or more of such territories. Any Contracting Party making such a declaration may, at any time thereafter, by notification to the Secretary-General, extend the application of the Convention to any or all such territories.

Article 4-E[20]

Any Contracting State may at any time, by notification addressed to the Secretary-General of the United Nations extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting State is responsible.

Article 4-F[21]

1. This Convention shall apply to all non-self-governing, trust, colonial and other non-metropolitan territories for the international relations of which any State Party is responsible; the Party concerned shall, subject to the provisions of paragraph 2 of this article, at the time of signature, ratification or accession declare the non-metropolitan territory or territories to which the Convention shall apply ipso facto as a result of such signature, ratification or accession.

19/ Article 12 of the Convention on the Recovery Abroad of Maintenance, 1956 (E/CONF/21/7). A similar clause is included in article 14 of the Convention on the Declaration of Death of Missing Persons, 1950 (United Nations Treaty Series, Vol. 119).

20/ Article 12 of the Convention on the Prevention and Punishment of the Crime of Genocide, 1948 (General Assembly resolution 260 (III), annex). Similar provisions are included in article 40 of the Convention Relating to the Status of Refugees, 1951 (A/CONF.2/108) and article 36 of the Convention Relating to the Status of Stateless Persons, 1954 (E/CONF.17/8/Rev.1).

21/ Article 12 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956 (E/CONF/24/23). A similar clause is included in article 7 of the Convention on the Nationality of Married Women, 1957, and article 42 of the Single Convention on Narcotic Drugs, 1961 (62.XI.1).

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2. In any case in which the previous consent of a non-metropolitan territory is required by the constitutional laws or practices of the Party or of the non-metropolitan territory, the Party concerned shall endeavour to secure the needed consent of the non-metropolitan territory within the period of twelve months from the date of signature of the Convention by the metropolitan State, and when such consent has been obtained, the Party shall notify the Secretary-General. This Convention shall apply to the territory or territories named in such notification from the date of its receipt by the Secretary-General.

3. After the expiry of the twelve-month period mentioned in the preceding paragraph, the States Parties concerned shall inform the Secretary-General of the results of the consultations with those non-metropolitan territories for whose international relations they are responsible and whose consent to the application of this Convention may have been withheld.

V. Federal State

Article 5[22/]

In the case of a Federal or non-unitary State, the following provisions shall apply:

(a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States;

(b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment.

22/ Article 41 of the Convention Relating to the Status of Refugees, 1951. Similar clauses are included in article 37 of the Convention Relating to the Status of Stateless Persons, 1954, and article 11 of the Convention on the Recovery Abroad of Maintenance, 1956.

/...

(c) A Federal State Party to this Convention shall, at the request of an other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federat and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that prov by legislative or other action.

VI. Reservation[23/]

Article 6-A[24/]

Reservation to this Convention shall not be permitted.

Article 6-B[25/]

In the event that any State submits a reservation to any of the articles this Convention at the time of signature, ratification or accession, the Secretary-General shall communicate the text of the reservation to all States which are or may become Parties to this Convention. Any State which objects t the reservation may, within a period of ninety days from the date of the said communication (or upon the date of its becoming a Party to the Convention), no the Secretary-General that it does not accept it. In such case, the Conventio shall not enter into force as between such State and the State making the reservation.

Article 6-C[26/]

1. At the time of signature, ratification or accession, any State may make reservations to any article of the present Convention other than articles ....

23/ See comments at the end of article 6-C below.

24/ Article 9 of the UNESCO Convention Against Discrimination in Education, 1 (E/CN.4/Sub.2/234, annex II). Similar clause is included in article 9 of the Supplementary Convention on the Abolition of Slavery, the Slave Trad Institutions and Practices Similar to Slavery, 1956 (E/CONF/24/23).

25/ Article VII of the Convention on the Political Rights of Women, 1952.

26/ Article 8 of the Convention on the Nationality of Married Women, 1957.

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2. If any State makes a reservation in accordance with paragraph 1 of the present article, the Convention, with the exception of those provisions to which the reservation relates, shall have effect as between the reserving State and the other Parties. The Secretary-General of the United Nations shall communicate the text of the reservation to all States which are or may become Parties to the Convention. Any State Party to the Convention or which thereafter becomes a Party may notify the Secretary-General that it does not agree to consider itself bound by the Convention with respect to the State making the reservation. This notification must be made, in the case of a State already a Party, within ninety days from the date of the communication by the Secretary-General; and, in the case of a State subsequently becoming a Party, within ninety days from the date when the instrument of ratification or accession is deposited. In the event that such a notification is made, the Convention shall not be deemed to be in effect as between the State making the notification and the State making the reservation.

3. Any State making the reservation in accordance with paragraph 1 of the present article may at any time withdraw the reservation, in whole or in part, after it has been accepted, by a notification to this effect addressed to the Secretary-General of the United Nations. Such notification shall take effect on the date on which it is received.

Comment

The Secretary-General draws attention of the Commission to General Assembly resolution 598 (VI) of 12 January 1952 by which the Assembly recommended that organs of the United Nations "should, in the course of preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them".

VII. Denunciation and Abrogation

Article 7-A[27/]

A Contracting State may denounce this Convention on its own behalf or on behalf of any territory for whose international relations it is responsible, by a written

27/ Article VII of the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi to the Sub-Commission (E/CN.4/873, annex I B). A similar clause is included in article 16 of the UNESCO Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex II).

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notification to the Secretary-General of the United Nations. A denunciation sh take effect for that State one year after the date of its receipt by the Secretary-General.

Article 7-B[28/]

Any Contracting State may denounce the present Convention by notification the Secretary-General of the United Nations. Denunciation shall take effect si months after the date of receipt of the notification by the Secretary-General.

Article 7-C[29/]

1. Any Contracting State may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. The present Convention shall cease to be in force as from the date when th denunciation which reduces the number of Parties to less than six becomes effec

Article 7-D[30/]

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labo Office for registration. Such denunciation shall not take effect until one yea after the date on which it is registered.

28/ Article X of the Convention on the International Right of Correction, 1952

29/ Article VIII of the Convention on the Political Rights of Women, 1952, and article 9 of the Convention on the Nationality of Married Women, 1957.

30/ Article 9 of the ILO Convention concerning Discrimination in Respect of Employment and Occupation, 1958 (E/CN.4/Sub.2/234, annex I).

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2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this article.

VIII. Settlement of Disputes

Article 8-A[31/]

Any dispute which may arise between any two or more Contracting States concerning the interpretation or application of this Convention, which is not settled by negotiation, shall at the request of any of the parties to the dispute be referred to the International Court of Justice for decision unless they agree to another mode of settlement.

Article 8-B[32/]

Any dispute which may arise between any two or more Contracting States concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of all the parties to the dispute, be referred to the International Court of Justice for decision, unless the parties agree to another mode of settlement.

31/ Article IX of the Convention on the Political Rights of Women, 1952. Similar provisions are included in article 38 of the Convention Relating to the Status of Refugees, 1951, in article V of the Convention on the International Right of Correction, 1952, in article 34 of the Convention Relating to the Status of Stateless Persons, 1954, in article 10 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and in Article 10 of the Convention on the Nationality of Married Women, 1957.

32/ Article 8 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962.

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Article 8-C[33]

Any dispute which may arise between any two or more States Parties to this Convention concerning the interpretation or application of this Convention, which is not settled by negotiation shall at the request of the parties to the dispute be referred, failing other means of settling the dispute, to the International Court of Justice for decision.

Article 8-D[34]

1. If there should arise between two or more Parties a dispute relating to the interpretation or application of this Convention, the said Parties shall consult together with a view to the settlement of the dispute by negotiation, investigation, mediation, conciliation, arbitration, recourse to regional bodies, judicial process or other peaceful means of their choice.

2. Any such dispute which cannot be settled in the manner prescribed shall be referred to the International Court of Justice for decision.

Comment

There are other examples of clauses concerning arbitration, interpretation and settlement of disputes (see ST/LEG/6, IX), including optional Protocols concerning the compulsory settlement of disputes, such as those connected with the Convention relating to the Law of the Sea, 1958, and Conventions relating to Diplomatic and Consular Relations, 1961 and 1963 respectively. (see A/CONF.13/38, A/CONF.20/14/Add.1 and A/CONF.25/15).

In this connexion attention is drawn also to the preliminary draft of the additional measures of implementation proposed for the draft international convention on the elimination of all forms of racial discrimination which were transmitted by the Sub-Commission to the Commission (E/CN.4/873, para. 123, resolution 2 (XVI), annex).

33/ Article 8 of the UNESCO Convention Against Discrimination in Education, 1960. In addition, the General Conference of UNESCO adopted a Protocol Instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex III).

34/ Article 48 of the Single Convention on Narcotic Drugs, 1961.

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IX. Revision

Article 9-A[35/]

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such a request.

Article 9-B[36/]

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 9-C[37/]

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.

2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession as from the date on which the new revising convention enters into force.

35/ Article XVI of the Convention on the Prevention and Punishment of the Crime of Genocide, 1948. A similar provision is included in article 45 of the Convention Relating to the Status of Refugees, 1951. Similar provisions are included also in article 30 of the Convention on Territorial Sea and the Contiguous Zone, 1958, in article 35 of the Convention on the High Seas, 1958, in article 20 of the Convention on Fishing and Conservation of the Living Resources of the High Seas, 1958, and in article 13 of the Convention on the Continental Shelf, 1958 (A/CONF.13/38, annexes), except that under these Conventions a request for revision may be made only after the expiration of five years from the date of entry of any one of the Conventions.

36/ Article 12 of the ILO Convention concerning Discrimination in Respect of Employment and Occupation, 1958 (E/CN.4/Sub.2/234, annex I).

37/ Article 18 of the UNESCO Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex II).

X. Notifications

Article 10-A[38/]

The Secretary-General of the United Nations shall inform all the States referred to in paragraph (1) of article IV of the following particular:

(a) Signatures, ratifications and accessions under article IV;

(b) Extensions under article V;

(c) The date of entry into force of this Convention under article VI;

(d) Denunciation under article VII;

Article 10-B[39/]

The Secretary-General of the United Nations Organization shall notify all States of:

(a) Signature of the Convention and receipt of the instruments of ratification under article IV;

(b) Receipt of the instruments of accession under article V;

(c) Date of entry into force of the present Convention under article V.

Article 10-C[40/]

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-Member States contemplated in paragraph _____ of article _____ of this Convention on the following:

(a) Signatures and instruments of ratification received in accordance with article _____;

(b) Instruments of accession received in accordance with article _____;

(c) The date upon which this Convention enters into force in accordance with article _____;

(d) Communications and notifications received in accordance with article _____

(e) Notifications of denunciation received in accordance with paragraph _____ of article _____;

(f) Abrogation in accordance with paragraph _____ of article _____.

38/ Article VIII of the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi to the Sub-Commission (E/CN.4/873, annex I B).

39/ Article 6 of the draft convention on the elimination of all forms of racial discrimination submitted by Messrs. Ivanov and Ketrzynski to the Sub-Commiss (E/CN.4/873, annex I C).

40/ Article X of the Convention on the Political Rights of Women, 1952. A simila clause is included in article 11 of the Convention on the Nationality of Marr Women, 1957, and in article 9 of the Convention on Consent to Marriage, Minim Age for Marriage and Registration of Marriages, 1962.

XI. Authentic Text

Article 11-A[41]

In witness whereof the undersigned Plenipotentiaries have signed this Convention.

Done at New York, this ..... day of ..... 196..., in a single copy, of which the Chinese, English, French, Russian and Spanish texts are equally authentic and which shall be deposited in the archives of the United Nations, and certified copies of which shall be sent by the Secretary-General of the United Nations to all the States referred to in paragraph (1) of article IV of this Convention.

Article 11-B[42]

1. The present Convention, the Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the United Nations Organization.

2. The Secretary-General of the United Nations Organization shall communicate certified copies of the this Convention to all States.

Article 11-C[43]

1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit a certified copy of the Convention to all States Members of the United Nations and to the non-Member States contemplated in paragraph _____ of article _____.

41/ This provision is taken from the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi to the Sub-Commission (E/CN.4/873, annex I B).

42/ Article 7 of the draft convention on the elimination of all forms of racial discrimination submitted by Messrs. Ivanov and Ketrzynski to the Sub-Commission (E/CN.4/875, annex I C).

43/ Article XI of the Convention on the Political Rights of Women, 1952, article 12 of the Convention on the Nationality of Married Women, 1957, and article 10 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962.

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Documentary references

Draft convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi to the Sub-Commission on Prevention of Discrimination and Protection of Minorities	E/CN.4/873, annex I B
Draft convention on the elimination of all forms of racial discrimination submitted by Messrs. Ivanov and Ketrzynski to the Sub-Commission on Prevention of Discrimination and Protection of Minorities	E/CN.4/873, annex I C
Convention on the Prevention and Punishment of the Crime of Genocide, 1948	General Assembly resolution 260 (III), annex
Convention on the Declaration of Death of Missing Persons, 1950	United Nations Treaty Series, Vol. 119
Convention Relating to the Status of Refugees, 1951	A/CONF.2/108
Convention on the International Right of Correction, 1952	General Assembly resolution 630 (VII), annex
Convention on the Political Rights of Women, 1952	General Assembly resolution 640 (VII), annex
Convention Relating to the Status of Stateless Persons, 1954	E/CONF.17/5/Rev.1
Convention on the Recovery Abroad of Maintenance, 1956	E/CONF.21/7
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956	E/CONF.24/23
Convention on the Nationality of Married Women, 1957	General Assembly resolution 1040 (XI), annex
ILO Convention concerning Discrimination in Respect of Employment and Occupation, 1958	E/CN.4/Sub.2/234, annex I

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Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958	E/CONF.26/9/Rev.1
Convention on the Territorial Sea and the Contiguous Zone, 1958 Convention on the High Seas, 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas, 1958 Convention on the Continental Shelf, 1958	A/CONF.13/38
UNESCO Convention Against Discrimination in Education, 1960	E/CN.4/Sub.2/234, annex II
Single Convention on Narcotic Drugs, 1961	United Nations Sales No.: 62.XI.1
Vienna Convention on Diplomatic Relations, 1961	A/CONF.20/14/Add.1
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962	General Assembly resolution 1763 (XVII), annex
Vienna Convention on Consular Relations, 1963	A/CONF.25/12

Annex 46

United Nations General Assembly, 20th session,
Official Records, Annexes, Third Committee, Ghana: revised
amendments to document A/C.3/L.1221,
UN Doc. A/C.3./L.1274/REV.1,
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THIRD COMMITTEE
Agenda item 58

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Ghana: revised amendments to the articles relating to measures of implementation submitted by the Philippines (A/C.3/L.1221)

Replace the text of the articles by the following:

Article I

1. The States Parties to this Convention undertake to submit a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention: (a) within one year after the entry into force of the Convention for the State concerned; and (b) thereafter every two years and whenever the Committee constituted in accordance with paragraph 3 of the present article so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations for consideration by the Committee constituted in accordance with paragraph 3 of the present article.

3. The Committee shall consist of eighteen members elected by and from amongst States Parties to this Convention, consideration being given to equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal systems.

4. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years: immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

5. A State Party elected to membership of the Committee in accordance with paragraph 3 of the present article, shall be responsible for the expenses of its representative on the Committee while in performance of Committee duties.

6. The Committee shall request further information from the States Parties if necessary, and make suggestions and general recommendations and report annually to the General Assembly on its activities. However, such suggestions and general recommendations shall only be reported to the General Assembly after prior consultation with the States Parties concerned.

7. The States Parties concerned may, in addition, submit to the General Assembly observations on suggestions or general recommendations made in accordance with paragraph 6 of the present article.

Article II

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

3. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

4. The meetings of the Committee shall be held at the Headquarters of the United Nations.

Article III

1. If a State Party to this Convention considers that another State Party is not giving effect to a provision of the Convention, it may, by written communication, bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall afford the other State an explanation or statement in writing concerning the matter, which should include, to the extent possible and pertinent, references to procedures and remedies taken, or pending, or available in the matter.

2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, constituted in accordance with paragraph 3 of article I, by notice given to the Committee and also to the other State.

Article IV

1. The Committee shall request the State, on which the notice was given, to submit an explanation in writing concerning the matter, which should include, to the extent possible and pertinent, references to procedures and remedies taken, or pending, or available in the matter.

2. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of article III only after it has ascertained that all available remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law.

Article V

In any matter referred to it, the Committee may call upon the States concerned to supply any relevant information.

Article VI

When any matter arising out of article III is being considered by the Committee, the Governments in question shall, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the Governments in question.

Article VII

1. Subject to the provisions of paragraph 2 of article IV, the Chairman of the Committee, after the Committee has obtained and collated all the information it thinks necessary, shall appoint a Conciliation Commission hereinafter referred to as the Commission, of an ad hoc nature comprised of.....members with the full and unanimous consent of the parties to the dispute, whose good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for the Convention.

2. The members of the Commission who shall serve in their personal capacity, must be persons of high moral standing and acknowledged impartiality in whom the parties to the dispute have confidence, but shall neither be nationals of the States Parties to the dispute nor of a State not party to this Convention.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. Before the commencement of its transactions each member of the Commission shall attest and affix his signature to three copies of the oath of impartiality prescribed below, a copy of each then being forwarded to the parties to the dispute and one to the Secretary-General for the archives of the United Nations.

Form of Solemn Declaration

I solemnly declare that I will honourably, faithfully, impartially and conscientiously perform my duties and exercise my powers as a member of the Commission appointed pursuant to article VII of the articles relating to measures of implementation of the Draft International Convention on the Elimination of All Forms of Racial Discrimination, to examine the complaint filed by the Government of_____ concerning the observance by_____ of the provisions of the said Convention, and to help find an amicable solution to the dispute.

5. The meetings of the Commission shall be held at the Headquarters of the United Nations, except where it becomes necessary to visit the disputant States.

6. The secretariat provided in accordance with article II, paragraph 3 shall also service the Commission whenever a dispute among States Parties brings it into being.

7. The States Parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General.

8. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties to the dispute in accordance with paragraph 7 of the present article.

9. The information obtained and collated by the Committee shall be made available to the Commission and the Commission may call upon the States concerned to supply any other relevant information.

Article VIII

1. When the Commission has fully considered the complaint, it shall prepare a report embodying its findings on all questions of fact relevant to determining the issue between the parties and containing such recommendations as it may think proper as to the steps which should be taken to meet the complaint and the time within which they should be taken.

2. The Chairman of the Committee shall communicate the report of the Commission to the Secretary-General of the United Nations and to each of the Governments concerned in the complaint, and the Secretary-General shall cause it to be published.

3. Each of these Governments shall within three months inform the Secretary-General whether or not it accepts the recommendations contained in the report of the Commission; and if not, whether it proposes to refer the complaint to the International Court of Justice.

Article IX

1. With their common consent the parties to a dispute arising out of the interpretation or application of the Convention, whether it has been dealt with by the Commission of Conciliation or not, may submit the dispute to the International Court of Justice.

2. The International Court of Justice may affirm, vary or reverse any of the findings and recommendations of the Commission, if any.

3. The decision of the International Court of Justice in regard to a complaint or matter which has been referred to it in pursuance of the present article shall be final.

Article X

In the event of a State Party to the Convention failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission, or in the decision of the International Court of Justice, as the case may be, the Committee may recommend to the General Assembly or to the Security Council, as the case may be, such action as it may deem wise and expedient to secure compliance therewith.

Article XI

The defaulting Government may at any time inform the Committee that it has taken the steps necessary to comply with the recommendations of the Commission or with those in the decision of the International Court of Justice, as the case may be, and may request it to constitute a Commission of Conciliation to verify its contention. In this case the provisions of articles VII, VIII and IX shall apply,

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and if the report of the Commission or the decision of the International Court of Justice is in favour of the defaulting Government, the Committee shall forthwith recommend the discontinuance of any action taken in pursuance of article X.

Article XII

1. Each State Party to this Convention shall constitute a National Committee consisting of nine members chosen from independent and objective persons not having any official connexion with the Government of the State.

2. Any person within the jurisdiction of the State claiming that any of his rights enumerated in the Covenant has been violated, may submit his case before this Committee.

3. The National Committee shall ascertain the facts and if it deems that the case is well founded, shall endeavour to obtain satisfaction for the petitioner from the Government.

4. In the event the said Committee does not succeed in obtaining satisfaction for the petitioner or should the Committee dismiss the case, either the Committee or the petitioner, as the case may be, shall have the right to appeal to the Committee established in accordance with paragraph 3 of article I.

5. The names of the members constituting the National Committee shall be registered with the United Nations.

6. The National Committee shall have an appropriate register to enter any complaint or alleged violation submitted to it, regardless of whether such complaint or violation is entertained by it or not.

7. Certified copies of the register mentioned in the previous paragraph shall be submitted by the National Committee to the Secretary-General on the understanding that the contents of such certified copies shall not be disclosed and will be kept confidential by the Secretary-General.

Article XIII

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to existing constitutional or other binding provisions of agencies related to the United Nations dealing with the settlement of disputes or complaints in the field of discrimination, and shall not

/...

prevent the States Parties to the Convention from resorting to other procedures for settling a dispute in accordance with the general or special international agreements in force between them.

Article XIV

No reservations shall be made under the present articles of implementation measures of this Convention.

Annex 47

Note Verbale No. 72/22-620-2403 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 23 September 2014

(translation)

Translation

No. 72/22-620-2403

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and states that the Russian Side has breached its international legal obligations under the 1966 International Convention on the Elimination of All Forms of Racial Discrimination.

The Ministry of Foreign Affairs of Ukraine states that the Russian Side, acting through its state bodies, authorized officials, individuals and legal entities entrusted with carrying out public functions, separatist forces acting under the command and control of the Russian Side, engages in acts related to racial discrimination, and sponsors, defends and supports racial discrimination of the Ukrainian and Crimean Tatar population and their representative bodies in the territory of Ukraine temporarily occupied by the Russian Federation – Autonomous Republic of Crimea and the city of Sevastopol.

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 equal rights to everyone, without distinction as to race, color, or national or ethnic origin, notably in the enjoyment of the following rights:

the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution (Article 5 (b));

the right to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, the right to participate in governing the state, as well as in the conduct of public affairs at any level and to have equal access to public service (Article 5 (c);

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the right to freedom of movement and residence within the border of one's country (Article 5 (d));

the right to leave any country, including one's own, and to return to one's country (Article 5 (d));

the right to nationality (Article 5 (d));

the right to own property alone as well as in association with others (Article 5 (d));

the right to freedom of thought, conscience and religion (Article 5 (d));

the right to freedom of opinion and expression (Article 5 (d));

the right to freedom of peaceful assembly and association (Article 5(d)).

Based on the requirements of Articles 2 and 5 of the aforementioned Convention, the Ministry of Foreign Affairs of Ukraine states that the Russian Federation is responsible under international law for committing internationally wrongful acts related to racial discrimination, namely:

- intimidation, committing acts of violence, persecution of ethnic Ukrainians and indigenous Crimean Tatar population of the Autonomy in connection with the use of Ukrainian and Crimean Tatar languages and national symbols in public spaces;
- closing schools teaching in Ukrainian in the Autonomous Republic of Crimea and the city of Sevastopol;
- imposing limitations on political and civil rights of ethnic Ukrainians and indigenous Crimean Tatar population of the Autonomous Republic of Crimea and the city of Sevastopol;
- forcible imposition of Russian citizenship, intimidation and persecution of individuals refusing to adopt Russian citizenship;
- restricting the enjoyment of the right to freedom of thought, conscience and religion.

The aforementioned internationally wrongful acts committed by the Russian Side are confirmed *inter alia* by the following facts and information, namely:

- On 21 April 2014, activists of illegal pro-Russian paramilitary organizations attacked the building of the Mejlis of the Crimean Tatar People seeking to dismantle the Ukrainian flag from the building front. As a result of the attack L.Muslimova, the Mejlis spokesperson, sustained injuries;
- On 22 April 2014, occupation administration decided to ban broadcasting of addresses by the leader of the Crimean Tatar population M.Dzhemilev, the Chair of the Mejlis R.Chubarov and other Mejlis members on the "Krym" Channel of the state-owned TV and radio company;
- On 22 April 2014, upon crossing the administrative border of the Autonomous Republic of Crimea, M.Dzhemilev was served a notification stating that he was banned from entering the territory of the Autonomous Republic of Crimea until 19

April 2019;

- In April 2014, certain Crimean media outlets (“Blackseanews” internet portal, “Chernomorka” TV channel, “Sobitiya Kryma” internet portal) had to move their offices to mainland Ukraine out of concern for their personal security and impediments they had encountered during their work;

- In April 2014, the local authorities of Sevastopol, pursuant to their policy of "savings and streamlining", decided to discontinue classes in the Ukrainian-language boarding school No. 7 effective from the new academic year and to transfer pupils refusing to enroll into Russian schools to a boarding school for mentally-retarded children;

- Since April of 2014, teaching Ukrainian language and literature have been banned in Ukrainian schools, teachers are forced to quit;

- On 4 May 2014, the so-called "Prosecutor of Crimea" N.Poklonskaya read out a warning to R. Chubarov regarding inadmissibility of extremist actions, in particular referring to "an illegal public rally of extremist nature conducted by the Mejlis in several Crimean regions under the guidance of R.Chubarov that involved widespread public unrest, blocking parts of the border with the Russian Federation, impeding the legitimate operation of state bodies and conducting violent actions";

- On 4 May 2014, the occupation administration issued a ruling banning R.Chubarov from entering the Autonomous Republic of Crimea until 4 May 2019, and on 5 June, when returning from a Mejlis retreat session in the Kherson region he was denied access to the Autonomous Republic of Crimea at the administrative border crossing;

- On 6 May 2014, the so-called "Deputy Prosecutor of Crimea" V.Kuznetsov issued a warning on inadmissibility of extremist actions against A.Chiygoz, the Deputy Chair of the Mejlis ;

- On 16 May officials of the Russian Federal Security Service searched the homes of M.Dzhemilev and A.Khamzin, the Director of the Mejlis Foreign Relations Department;

- Constant creation of impediments to public events organization by the Mejlis in June of 2014, among other – celebration of the Crimean Tatar Flag Day on 26 June 2014;

- In June 2014, pressure was exerted on the editorial board of the “Krimskaya Svetlitsa”, the only Crimean newspaper published in Ukrainian, which was ordered to vacate the premises, rented on long-term lease terms; the distribution of the papers' printed copies and its inclusion into the subscription catalog was denied;

- On 24 June 2014, officers of the Russian Federal Security Service exerted

pressure on S.Kaybullayev, the Chief editor of the “Avdet” newspaper, official paper of the Mejlis, for publishing "extremist materials – the Mejlis decisions to boycott the so-called 'State Council elections' in temporarily occupied Autonomous Republic of Crimea and Sevastopol";

- On 3 July 2014, Ombudsman of the Verkhovnaya Rada of Ukraine received a petition signed by over 400 people, detained in a pre-trial detention center in Simferopol, complaining about their discrimination on the ground of Ukrainian nationality. Those refusing to adopt the Russian Federation citizenship were subjected to cruel treatment;
- On 10 September 2014, A.Ozenbash, the Chair of the Audit Commission of the Crimean Tatar Qurultay, a Mejlis member, was forcefully taken off the Simferopol-Lviv train due to a ban on leaving the Autonomous Republic of Crimea;
- On 15 September 2014, the Mejlis building was attacked in an attempt to take the Ukrainian flag off the building front;
- On 16 September 2014, the Mejlis premises on 2 Schmidt St in Simferopol were illegally searched by armed men, who seized meeting minutes, office equipment and personal belongings of M.Dzhemilev;
- On 17 September 2014, the Russian Federation's bailiffs read out a court decision to R.Shevkiyev, the Head of the “Krym” Foundation which has the Mejlis building on its balance sheet, ordering the Foundation to vacate the premises;
- On 18 September 2014, the Russian Federation's bailiffs blocked the Mejlis premises;
- 12 churches of the Kiev Patriarchate of the Ukrainian Orthodox Church have been forcibly closed since the so-called "Crimean referendum".

The Ministry of Foreign Affairs of Ukraine states that the Autonomous Republic of Crimea and the city of Sevastopol are integral parts of Ukraine, as confirmed by the UNGA resolution A/RES/68/262 "Territorial integrity of Ukraine", as well as by the Baku Declaration and the Resolutions of the OSCE Parliament Assembly (28 June – 2 July 2014), and urges the Russian Side to fully comply with duties of the occupying state under the norms and principles of international humanitarian law enshrined *inter alia* in the Convention relative to the Protection of Civilian Persons in Time of War (1949) and in other international treaties on human rights applicable to the international legal regime of occupation of parts of the Ukrainian territory – the Autonomous Republic of Crimea and the city of Sevastopol.

The Ministry of Foreign Affairs of Ukraine strongly urges the Russian Federation to immediately put an end to internationally wrongful acts, investigate all

the crimes listed in this note and hold the perpetrators strictly accountable.

The Ministry of Foreign Affairs of Ukraine demands that the Ukrainian Side is provided with adequate assurances and guarantees of non-repetition of the aforementioned internationally wrongful acts.

The Ministry of Foreign Affairs of Ukraine also demands the Russian Side to fully compensate the damage resulting from the internationally wrongful conduct of the Russian Side. The Ukrainian Side is ready to discuss the nature and amounts of such compensation.

In this regard, the Ukrainian Side proposes the Russian Side to hold negotiations on the application of the International Convention on the Elimination of All Forms of Racial Discrimination (1966), in particular the implementation of international legal responsibility of the Russian Federation pursuant to norms of international law.

Kiev, 23 September 2014

(Seal)

Annex 48

Note Verbale No. 14279/2dsng of the Ministry of Foreign Affairs of the Russian Federation to the Embassy of Ukraine in the Russian Federation, 16 October 2014

(translation)

Translation

No 14279/2dsng

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in the Russian Federation and, referring to the note of the Ministry of Foreign Affairs of Ukraine №72/22-620-2403 dated 23 September 2014, has the honor to communicate its willingness to hold negotiations on the issue of the interpretation and implementation of the 1966 International Convention on the Elimination of All Forms of Racial Discrimination.

Nothing contained in the present note should prejudice the position of the Russian Federation concerning the statements and assertions contained in the abovementioned note of the Ukrainian Side.

The Ministry would be grateful if the Embassy could send a written confirmation of receipt of the present note.

The Ministry avails itself of this opportunity to renew to the Embassy the assurance of its highest consideration.

Moscow, 16 October 2014

Seal: Ministry of Foreign Affairs of the Russian Federation No. 1

(signature)

TO THE EMBASSY OF UKRAINE

Moscow

Annex 49

Note Verbale No. 72/23-620-2673 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 29 October 2014

(translation)

Translation

No. 72/23-620-2673

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and in response to its note No. 14279/2dsng dated 16 October 2014 has the honor to convey the following.

The Ministry of Foreign Affairs of Ukraine proposes to conduct negotiations on the interpretation and application of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination on 21 November 2014 in Kiev (Ukraine) or in Geneva (the Swiss Confederation), Vienna (Austria), Strasbourg (France). The Ukrainian Side has preliminarily addressed the arrangements for conducting negotiations in the aforementioned locations.

The Ukrainian Side will regard a lack of response from the Russian Side within a reasonable period of time or an unjustified delay in resolving the issue regarding the place and date for the negotiations as unwillingness of the Russian Side to settle the dispute under the 1966 International Convention on the Elimination of All Forms of Racial Discrimination through negotiations.

The Ministry of Foreign Affairs of Ukraine suggests discussing the following during negotiations:

- acts or actions committed by the Russian Federation or its state entities, national and local, acts or actions related to racial discrimination against the Ukrainian and Crimean Tatar population;
- acts of sponsoring, defending and supporting racial discrimination committed by any person or organization against the Ukrainian and Crimean Tatar population;
- adoption of effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination;

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- adoption by the Russian Side of all appropriate measures, including legislative, to prohibit racial discrimination by any person, group or organization against the Ukrainian and Crimean Tatar population;
- measures that might be needed for introducing appropriate penalties for the mentioned crimes taking into account their grave nature.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Russian Federation the assurances of its highest consideration.

Kiev, 29 October 2014

(Seal)

Annex 50

Note Verbale No. 17004/2dsng of the Ministry of Foreign Affairs of the Russian Federation to the Ministry of Foreign Affairs of Ukraine, 8 December 2014

(translation)

Translation

No 17004/2dsng

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Ministry of Foreign Affairs of Ukraine in Moscow and has the honor to communicate the following in response to the note of the Ministry of Foreign Affairs of Ukraine №72/22-620-2946 dated 1 December 2014.

The position of the Russian Side regarding the note by the Ministry of Foreign Affairs of Ukraine №72/23-620-2673 dated 29 October 2014 on holding the negotiations on the issues related to the implementation of the 1966 International Convention on the Elimination of All Forms of Racial Discrimination is set forth in the note of the MFA of Russia addressed to the MFA of Ukraine № 15642/2DSNG dated 27 November 2014.

The Ministry of Foreign Affairs of the Russian Federation avails itself of this opportunity to renew to the Ministry of Foreign Affairs of Ukraine the assurance of its highest consideration.

Moscow, 8 December 2014

Seal: Ministry of Foreign Affairs of the Russian Federation No. 1

(signature)

TO THE MINISTRY
OF FOREIGN AFFAIRS
OF UKRAINE
Kiev

Annex 51

Note Verbale No.72/22-620-3070 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 15 December 2014

(translation)

Translation

No.72/22-620-3070

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in addition to note No.72/22-620-2403 dated 23 September 2014, states that the Russian Federation has violated its international legal obligations under the 1966 International Convention on the Elimination of All Forms of Racial Discrimination.

The Ministry of Foreign Affairs of Ukraine believes that the Russian Federation, through its state entities, authorized officials, individuals and legal entities entrusted with carrying out public functions separatist forces acting under the command and control of the Russian Side, engages in acts related to racial discrimination and sponsors, defends and supports racial discrimination of the Ukrainian and Crimean Tatar population and their representative bodies in the territory of Ukraine temporarily occupied by the Russian Federation - the Autonomous Republic of Crimea and the city of Sevastopol.

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, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution (Article 5(b));

the right to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, right to participate in governing the country, as well as in the conduct of public affairs at any level and to have equal access to public service (Article 5(c));

the right to freedom of movement and residence within the border of the State (Article 5(d));

the right to leave any country, including one's own, and to return to one's country (Article 5(d));

the right to nationality (Article 5(d));

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the right to own property alone as well as in association with others (Article 5(d));

the right to freedom of thought, conscience and religion (Article 5(d));

the right to freedom of opinion and expression (Article 5(d));

the right to freedom of peaceful assembly and association (Article 5(d));

Based on the requirements of Articles 2 and 5 of the aforementioned Convention, the Ministry of Foreign Affairs of Ukraine states that the Russian Federation commits internationally wrongful acts related to racial discrimination, namely:

- intimidates, commits violent acts and persecutes ethnic Ukrainians and the indigenous Crimean Tatar population of the Autonomous Republic of Crimea and the city of Sevastopol in connection with the public use of the Ukrainian and Crimean Tatar languages and national symbols;
- closes Ukrainian-language schools in the Autonomous Republic of Crimea and the city of Sevastopol;
- restricts political and civil rights of ethnic Ukrainians and the indigenous Crimean Tatar population of the Autonomous Republic of Crimea and the city of Sevastopol;
- forcibly imposes Russian citizenship as well as intimidates and persecutes persons refusing to adopt Russian citizenship;
- restricts the enjoyment of the right to freedom of thought, conscience and religion.

The above internationally wrongful acts committed by the Russian Side are proved *inter alia* by the following facts and information, namely:

- Criminal prosecution against Khaiser Dzhemilev, the son of Mustafa Dzhemilev, a leader of the Crimean Tatar people, continues;
- Ukrainian schools are being closed, and Ukrainian textbooks are being destroyed. For instance, according to Eskender Bariev, member of the Mejlis of the Crimean Tatar People, books and textbooks in the Ukrainian language were collected and destroyed in plain view of schoolchildren in one of Simferopol district schools;
- On 15 March 2014, Reshat Ametov's body was found in Crimea. There is still no information about the investigation of this case;
- The so-called “Crimean authorities” and the Ukrainian Orthodox Church of the Moscow Patriarchate continue to oppress orthodox Ukrainians by preventing the access of clergymen and believers to the church buildings seized and blocked by the “Crimean self-defense forces” and Russian servicemen: for instance, unlawful searches were regularly conducted in the St. Clement of Rome Church (Sevastopol), and its religious community members were attacked and subjected to pressure; on 13 April and on 1-2 June, there were attempts to seize the building of the Church of the Intercession of the Holy Virgin (village of Perevalnoye) for the benefit of the Ukrainian Orthodox Church of the Moscow Patriarchate and the property belonging to the religious community was damaged;

- In May 2014, Timur Shaimardanov and Sairan Zinedinov, activists of the “Ukrainian People's Home”, disappeared;
- On 6 May 2014, Abduraman Egiz, a Mejlis member, was attacked by about 20 representatives of the “Crimean self-defense force”;
- On 15 May 2014, Maksim Vasilenko, a Ukrainian citizen and a photographer of the “Krymsky Telegraf” newspaper, covering the police task force exercises on the eve of the 70th anniversary of the Crimean Tatars' Deportation, was captured in Simferopol and was ill-treated by the members of “Crimean self-defense forces”;
- On 18 May 2014, a ruling of the Prosecutor General's Office was forwarded to the editor of the QHA news agency demanding that a news item related to anti-government protests which were to take place in Russia be removed from the news feed;
- Osman Pashaev, editor-in-chief of the Open Crimean Channel Internet project, and his team (reporter, cameraman and driver) were arbitrarily detained by members of the Crimean self-defense forces on 18 May 2014, during the commemorative ceremony in honor of the 70th anniversary of the deportation of Crimean Tatar People. Their equipment and personal belongings were confiscated, and they were subjected to physical and psychological pressure and interrogated without lawyers. After their release the confiscated items were never returned;
- On 5 June 2014, Ruslan Yugosh, one of the founders of the “Sobitiya Kryma” web portal, reported the attempts of the Crimean police to put pressure on him as a journalist by repeatedly summoning him and his 73-year-old mother for interrogation;
- On 24 June 2014, in the village of Kolchugino (Simferopol district), unknown men dressed in uniforms with the “Berkut” inscription (identifying themselves as officers of the Federal Security Service of the Russian Federation) seized an Islamic religious school with schoolchildren inside for conducting a search. Their illegal actions resulted in damage to the property of the educational institution and confiscation of the electronic equipment;
- On 24 June 2014, unknown men illegally broke into the home of Aider Osmanov, deputy headmaster of the madrasah in the village of Kolchugino, where he resided together with his wife and his two underage children;
- On 29 June 2014, in Simferopol, there was a recorded case of pasting leaflets in apartment buildings which called for reporting to the Crimean Office of the Federal Security Service those people who "had been opposing the return of Crimea to the Russian Federation or had taken part in regional Maidan";
- On 19 August 2014, the Federal Security Service of the Russian Federation searched a residence of Crimean Tatars (practicing Muslims) in the town of Bakhchysarai where "extremist literature" and a pistol were allegedly found;
- In August 2014, a number of Turkish imams and religious teachers from the Muslim Spiritual Directorate of Crimea were forced to leave

the peninsula because the Federal Migration Service of Russia had refused to extend their residence permits;

- On 26 August 2014, administrative liability was imposed on the Dzhankoy madrasah headmaster for allegedly storing and distributing "extremist literature";
- On 28 August 2014, in the town of Bakhchysarai, under the pretext of searching the building on suspicion of illicit possession of drugs and weapons, a group of police officers and people in camouflage uniform and plain clothes broke into a house of a Crimean Tatar family, but the search resulted in the confiscation of books on the "extremist literature list";
- On 4 and 5 September 2014, police officers and officers of the Federal Security Service of Russian Federation searched at least 10 homes of Crimean Tatars in Simferopol, Nizhnegorsk, Krasnoperekopsk and Bakhchysarai under the pretext of suspected illicit possession of drugs and weapons, but the searches resulted in confiscation of religious literature;
- On 8 September 2014, law enforcement officers searched the home of Elizaveta Bogutskaya, an ethnic Ukrainian and a Crimean activist, and confiscated her electronic equipment. Elizaveta Bogutskaya was detained and interrogated, including as regards her participation in May protests against the prohibition of Mustafa Dzhemilev's entry in the Autonomous Republic of Crimea, her "anti-Russian" online publications allegedly containing "calls for extremism and incitement to inter-ethnic hatred". Elizaveta Bogutskaya had to leave Crimea out of fear of being accused of terrorism and arrested;
- On 9 September 2014, a search was conducted in the Crimean gymnasium in the village of Tankovoe (Bakhchysarai district), in the course of which "illegal literature" was found. Two teachers of the Turkish language were forcefully taken to the Federal Security Service for interrogation;
- On 10 September 2014, unknown armed men conducted unlawful searches for weapons, drugs and "extremist literature" in Crimean Tatars' homes in the village of Kamyanka (Leninsky district). The searches resulted in the confiscation of electronic equipment, a mobile phone and two religious books. The owners of the houses were taken to Simferopol for interrogation, and were set free only after an 18-hour detention under the condition that they signed a paper stating that no moral or physical damage had been caused to them, but nevertheless, their belongings were never returned;
- On 11 September 2014, representatives of the Prosecutor's Office of Crimea searched the library of Crimean State Engineering and Pedagogical University to find "illegal literature";
- On 16 September 2014, a group of masked men in camouflage uniforms who identified themselves as officers of the Crimean Federal Security Service broke into the house of Eskender Bariyev, a member of the Mejlis, searched the house and confiscated electronic equipment to carry out a forensic technical examination. Similar searches were conducted at the homes of Mustafa Asab and Asadul Bairov;

- On 27 September 2014, Islyam Dzhepparov and Dzhevdet Islyamov were kidnapped in the town on Belogorsk;
- On 3 October 2014, Eskendr Apselyamov disappeared;
- On 6 October 2014, Edem Asanov who had been kidnapped on 29 September was found dead in the city of Yevpatoria;
- On 14 October 2014, Bilyal Bilyalov, one of the kidnapped Crimean Tatars and a first year student of the Crimean State Engineering and Pedagogical University, was found dead and Artyom Dayrabekov, a first year student of the Taurida National V.I.Vernadsky University, was taken to intensive care in critical condition;
- On 16, 17 and 22 October 2014, Tair Smerdlyaev, Mussa Apkerimov and Rustam Abdukkharamov were arrested on charges of committing criminal acts in the course of the protests on 3 May this year;
- On 6 December 2014, Natalia Poklonskaya, the Prosecutor of Crimea, handed a warning concerning the inadmissibility of unauthorized assemblies in the peninsula to Akhtem Chiygoz, Deputy Chairman of the Mejlis of the Crimean Tatar People;
- On 10 December 2014, the Committee for the Protection of the Rights of the Crimean Tatar People received a warning from the Prosecutor's Office of Crimea concerning the inadmissibility of holding a rally on International Human Rights Day;

The Ministry of Foreign Affairs of Ukraine states that the Autonomous Republic of Crimea and the city of Sevastopol are an integral part of Ukraine, which was confirmed by UN General Assembly Resolution A/RES/68/262 entitled "Territorial Integrity of Ukraine" and the Baku Declaration as well as the OSCE Parliamentary Assembly resolutions (from 28 June to 2 July 2014), and calls upon the Russian Side as an occupying State to fully comply with its obligations in accordance with the rules and principles of international humanitarian law enshrined in the 1949 Convention relative to the Protection of Civilian Persons in Time of War and in other international human rights treaties applicable to the international legal regime of occupation of a part of the Ukrainian territory - the Autonomous Republic of Crimea and the city of Sevastopol - including the 1966 International Convention on the Elimination of All Forms of Racial Discrimination.

The Ministry of Foreign Affairs of Ukraine calls the Russian Federation to accountability under international law and strongly demands that the Russian Federation immediately stops committing internationally wrongful acts, investigates all the crimes indicated in this and other notes and severely punishes the perpetrators.

The Ministry of Foreign Affairs of Ukraine demands that the assurances and guarantees of non-repetition of the above internationally wrongful acts be provided to the Ukrainian Side.

The Ministry of Foreign Affairs of Ukraine also demands that the Russian Side fully compensates for the damage caused as a result of the internationally wrongful conduct of the Russian Side.

Kiev, 15 December 2014

(Seal)

Annex 52

Note Verbale No. 72/22-620-3069 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 15 December 2014

(translation)

Translation

No. 72/22-620-3069

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and in response to the notes of the Ministry of Foreign Affairs of the Russian Federation No. 15642/2dsng of 27 November 2014 and No. 17004/2dsng of 8 December 2014 has the honor to convey the following.

The Ministry of Foreign Affairs of Ukraine considers that the abovementioned response of the Russian Side constitutes direct evidence of express unwillingness of the Russian Federation to settle the existing dispute with respect to the interpretation and application of the 1966 International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter - "the Convention") through negotiations, of which the Ukrainian Side informed the Russian Side in its note No. 72/22-620-2946 of 1 December 1, 2014.

The position of the Ministry of Foreign Affairs of Ukraine is supported by the fact that the Ukrainian Side proposed to conduct negotiations regarding the interpretation and application of the Convention on 21 November 2014, and the Russian Side responded by the aforementioned note of 27 November 2014 that was received by the Ukrainian Side on December 27, 2014.

Without prejudice to the position of the Ukrainian Side declared previously and driven by the genuine intention to settle the dispute with respect to the interpretation and application of the Convention through negotiations, the Ministry of Foreign Affairs of Ukraine is willing to conduct the mentioned negotiations on 23 January 2016 in Strasbourg (France) in the premises of the Council of Europe, as it was proposed in the previous note of the Ukrainian Side. The Ukrainian Side has preliminarily addressed the arrangements for conducting negotiations at the premises of the Council of Europe.

According to the aforementioned note of the Ministry of Foreign Affairs of the Russian Federation of 27 November 2014, the position of the Russian Side regarding the subject matter of the negotiations is that it is prepared to conduct "negotiations on the issues related to the implementation" of the Convention and "assumes that in the course of the negotiations the Ukrainian Side will be ready to provide the Russian Side with full and objective information on the implementation by Ukraine of its obligations arising from the Convention, in particular in relation to the Russian-speaking population of Ukraine".

To the Ministry of Foreign Affairs
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The Ministry of Foreign Affairs of Ukraine regards the position declared by the Russian Side and its understanding of the subject matter of the negotiations as an attempt to avoid discussion of the issues related to its violations of the Convention by shifting the focus of the discussion towards the issues of the Convention's implementation and general matters related to the fulfillment by Ukraine of its obligations under the Convention in relation to the Russian-speaking population of Ukraine.

In this regard, the Ministry of Foreign Affairs of Ukraine once again states that there exists a dispute with respect to the interpretation and application of the Convention and insists on adhering to the subject matter of negotiations proposed by the Ukrainian Side, to which the Russian Side agreed in its note No. 14279/2dsng of 16 October 2014 and to the agenda that saw no objections from the Russian Side.

At the same time, the ungrounded position of the Russian Side that the Ukrainian Side shall provide full and objective information regarding Ukraine's implementation of its obligations under the Convention in relation to the Russian-speaking population, confirms that the Russian Side lacks any specific and convincing facts and evidence of Ukraine's non-compliance with its obligations under the Convention, in particular in relation to the Russian-speaking population of Ukraine.

Regarding the position expressed by the Russian Side, the Ministry of Foreign Affairs of Ukraine states that Ukraine duly fulfills its obligations under the Convention without any discrimination, including that based on language.

Therefore, the position of the Russian Side that the Ukrainian Side shall provide full and objective information on the implementation of its obligations under the Convention cannot become subject for negotiations proposed by the Ukrainian Side in the absence of specific and well-founded facts confirming the violations by Ukraine of its obligations.

The Ministry of Foreign Affairs of Ukraine states that the Ukrainian Side cannot agree with the Russian Side's understanding and interpretation of the provisions contained in Article 11 of the Convention as requiring to bring any dispute concerning the implementation of the Convention obligations by a State Party before the Committee on the Elimination of Racial Discrimination (hereinafter – "the Committee").

The Ministry of Foreign Affairs of Ukraine believes that the provisions of Article 11 optional and that they should be considered together and in the context of Article 22

of the Convention that establishes the procedure for settling disputes with respect to its interpretation and application.

The Ukrainian Side proceeds from the understanding that the provision of Article 11 of the Convention is worded in non-binding terms and imposes no obligation on the Parties to apply to the Committee; namely it stipulates that a State Party "may bring … to the attention of the Committee" its position that another State Party does not give effect to the provisions of the Convention. In addition, the provision of Article 22 of the Convention concerning the procedure for settling disputes "between two or more States Parties with respect to the interpretation or application of this Convention" stipulates that any dispute should be settled "by negotiation or by the procedures expressly provided for in this Convention". Therefore, prior to referring the dispute for judicial resolution the Convention allows States Parties to choose whether to settle a dispute "by negotiation or" by bringing it before the Committee constituting "the procedure[…] expressly provided for in this Convention".

The Ministry of Foreign Affairs of Ukraine states that the Ukrainian Side will regard yet another lack of response from the Russian Side within a reasonable period of time or another unjustified delay in agreeing on venue and date for the negotiations as a refusal on the part of the Russian Side to settle the dispute with respect to the interpretation and application of the Convention through negotiations and, therefore, will deem it impossible to settle the dispute by negotiation within the meaning of Article 22 of the Convention.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Russian Federation the assurances of its highest consideration.

Kiev, 15 December 2014

(Seal)

Annex 53

Note Verbale No. 72/22-620-297 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 6 February 2015

(translation)

Translation

No. 72/22-620-297

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, in addition to notes No. 72/22-620-2403 dated 23 September 2014 and No. 72/22-620-3070 dated 15 December 2014, states that the Russian Federation has violated its international legal obligations envisaged in the 1966 International Convention on the Elimination of All Forms of Racial Discrimination.

The Ministry of Foreign Affairs of Ukraine believes that the Russian Federation, through its state entities, authorized officials, individuals and entities entrusted with carrying out public functions and separatists acting under the command and control of the Russian Side, commits acts related to racial discrimination as well as sponsors, defends and supports racial discrimination against the Ukrainian and Crimean Tatar population and their representative bodies in the territory of Ukraine temporarily occupied by the Russian Federation - the Autonomous Republic of Crimea and the city of Sevastopol.

According to 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, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution (Article (5)b);

the right to own property alone as well as in association with others (Article 5(d));

the right to freedom of thought, conscience and religion (Article 5(d));

the right to freedom of opinion and expression (Article 5(d));

the right to freedom of peaceful assembly and association (Article 5(d)).

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Based on the requirements of in Articles 2 and 5 of the above Convention, the Ministry of Foreign Affairs of Ukraine states that the Russian Federation commits internationally wrongful acts related to racial discrimination, namely:

- Intimidates, commits violent acts and persecutes ethnic Ukrainians and the indigenous Crimean Tatar population of the Autonomous Republic of Crimea and the city of Sevastopol for publicly using the Ukrainian and Crimean Tatar languages and national symbols;
- Restricts political and civil rights of ethnic Ukrainians and the indigenous Crimean Tatar population of the Autonomous Republic of Crimea and the city of Sevastopol;
- Restricts the enjoyment of the right to freedom of thought, conscience and religion.

The above internationally wrongful acts committed by the Russian Side are proved *inter alia* by the following evidence and information, namely:

- On 26 January 2015, a group of armed officers of security services of the Russian Federation conducted an unjustified search in the premises of the Crimean Tatar "ATR" TV channel and confiscated its computer servers, which led to the suspension in the functioning of this mass media outlet;
- The persecution of Akhtem Chiygoz, the deputy head of the Mejlis of the Crimean Tatar People, continues:

- On 29 January 2015, he was arrested on false charges of organizing and taking part in the mass disorders near the building of the Verkhovnaya Rada of the Autonomous Republic of Crimea on 26 February 2014;
- On 30 January 2015, a group of armed officers of Russian security services conducted searches in Akhtem Chiygoz's private residence, causing damage to the property, seizing electronic equipment, personal belongings and savings and exerting psychological pressure on the members of his family.

The Ministry of Foreign Affairs of Ukraine states that the Autonomous Republic of Crimea and the city of Sevastopol are an integral part of Ukraine, which was confirmed by UN General Assembly Resolution A/RES/68/262 entitled "Territorial Integrity of Ukraine" and the Baku Declaration, as well as OSCE Parliamentary Assembly resolutions (from 28 June to 2 July 2014), and calls upon the Russian Side as an occupying State to fully comply with its obligations in accordance with the rules and principles of international humanitarian law enshrined *inter alia* in the 1949 Convention relative to the Protection of Civilian Persons in Time of War and in other international human rights treaties applicable to the international legal regime of occupation of a part of the Ukrainian territory - the Autonomous Republic of Crimea and the city of Sevastopol -

including the 1966 International Convention on the Elimination of All Forms of Racial Discrimination.

The Ministry of Foreign Affairs of Ukraine calls the Russian Federation to responsibility under international law and strongly demands that the Russian Federation immediately stops committing internationally wrongful acts, investigates all the crimes indicated in this and other notes and severely punishes their perpetrators.

The Ministry of Ukraine demands that the relevant assurances and guarantees of non-repetition of the above internationally wrongful acts be provided to the Ukrainian Side.

The Ministry of Foreign Affairs of Ukraine also demands that the Russian Side fully compensates for the damage caused as a result of the internationally wrongful conduct of the Russian Side.

Kiev, 6 February 2015

(Seal)

Annex 54

Note Verbale No. 2697-n/dgpch of the Ministry of Foreign Affairs of the Russian Federation to the Embassy of Ukraine in Moscow, 11 March 2015

(translation)

Translation

No 2697–n/dgpch

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and has the honor to communicate the following in response to the notes by the MFA of Ukraine №72/22-620-297 dated 6 March 2015, №72/22-620- 3070 and №72/22- 620-3069 dated 15 December 2014.

The Ministry of Foreign Affairs of the Russian Federation underlines the need to comply with the conventional norms of diplomatic correspondence and, in particular, calls on the MFA of Ukraine to refrain from accusing Russia of the alleged "occupation" of the Crimean peninsula. As it is well-known to the Ukrainian side, the Republic of Crimea became part of the Russian Federation in full compliance with the international law, in particular, as a result of the realization of the right of peoples to self-determination enshrined in Article 1 of the UN Charter and Article 1 of the 1966 International Covenant on Civil and Political Rights, as well as Article 1 of the 1966 International Covenant

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on Economic, Social and Cultural Rights, the rights that the Government of Ukraine had been denying to the people of Crimea for many years.

The Russian Federation reaffirms its commitment to the obligations arising from the 1966 International Convention on the Elimination of All Forms of Racial Discrimination and is puzzled by the way the Ukrainian side ignores the consent of the Russian side to hold negotiations on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and to the proposal to hold these negotiations in Moscow or Minsk expressed in the note by the Ministry dated 27 November 2014.

Without any explanations, the Ukrainian Side continues to insist on holding the meeting in Strasbourg, which runs counter to its declared "real intention to hold negotiations". The Russian Side has already exhaustively outlined the reasons why Strasbourg and other cities in Western Europe proposed by the Ukrainian side as negotiating venues are unacceptable and why it is preferable to hold negotiations in Minsk (note by the MFA of Russia № 16599/DNCT dated 17 December 2014). The Ministry would like to draw the attention of the Ukrainian Side to the fact that a substantive debate on matters related to the implementation of the Convention requires the participation of a delegation, which includes delegation of representatives of various governmental bodies.

This means that holding the consultations in Strasbourg as proposed by the Ukrainian Side will entail significant financial expenses and the need to obtain visas for both Russian and Ukrainian sides. Considering these factors, the Russian side would prefer to hold the consultations in Minsk on the week starting on 6 April. If the Ukrainian Side encounters any obstacles to holding the meeting in Minsk as proposed in the note by the Ministry dated 27 November 2014, the Russian Side offers to hold the consultations in Simferopol within the same timeframe.

The Russian Side proposes the following agenda for two-day consultations with the Ukrainian Side:

- exchange of information about the acts that took place or might have taken place in the territory of the Russian Federation or Ukraine and that can be regarded as acts of racial discrimination contrary to the International Convention on the Elimination of All Forms of Racial Discrimination;
- exchange of information regarding legal remedies, before the competent national tribunals and other State institutions of the Russian Federation and Ukraine, against any acts of racial discrimination which violate human rights and fundamental freedoms contrary to the International Convention on the Elimination of All Forms of Racial Discrimination;
- international legal basis for combating all forms of racial discrimination as applied to Russian-Ukrainian relations;

- measures for the improvement of cooperation between the Russian Federation and Ukraine as regards the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination.

The Ministry underlines that nothing of the above should prejudice the position of the Russian Federation concerning the statements and assertions contained in the aforementioned notes by the Ukrainian Side. Discussion of any issues during future consultations should prejudice neither the question of their falling within the scope of the said Convention nor the question of whether domestic remedies or international mechanisms, including the ones envisaged in the Convention, are applicable to them.

The Ministry avails itself of this opportunity to renew to the Embassy of Ukraine in Moscow the assurances of its highest consideration.

Moscow, 11 March 2015

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Annex 55

Note Verbale No. 3962-n/dgpch of the Ministry of Foreign Affairs of the Russian Federation to the Embassy of Ukraine in Moscow, 1 April 2015

(translation)

Translation

No 3962-n/dgpch

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and has the honor to communicate the following in response to the note by the MFA of Ukraine №72/22-620-705 dated 30 March 2015.

The Ministry of Foreign Affairs of the Russian Federation is perplexed by the Ukrainian Side's statements about Russia's alleged unwillingness to hold negotiations on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and the alleged delays. The Russian Federation expressed its consent to hold the relevant meeting with the Ukrainian side in the notes from the Ministry dated 16 October and 27 November 2014. Among other options, the latter note featured a proposal to hold the negotiations in Minsk. Furthermore, as stated in the note dated 11 March 2015, the note from the Ministry dated 17 December 2014 contained

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exhaustive reasons why the Russian Side regards Strasbourg as a less appropriate venue for negotiations, including the financial considerations that Ukraine should find significant as well. Notwithstanding this, in its note dated 15 December 2014, the Ukrainian side continued to insist on holding the negotiations in Strasbourg without any explanation as to the reasons why it considered Minsk unacceptable at the moment. This non-constructive approach to the choice of the venue for negotiations is not indicative of a genuine intention to hold bona fide negotiations.

In its note dated 11 March 2015, the MFA of Ukraine also refers to the alleged consent to the agenda of the negotiations proposed by the Ukrainian Side supposedly expressed by the Russian side in its note dated 16 October 2014. In this connection, the Ministry points out that the said note cannot possibly contain an agreement to the agenda proposed by the Ukrainian Side, as the proposals concerning the agenda only arrived from the MFA of Ukraine in the note № 72/23-620-2673 dated 29 October 2014, and the reaction to them was expressed in the ministerial notes dated 27 November 2014 and 11 March 2015.

The statements made by the Ukrainian Side in its note dated 30 March 2015 concerning the agenda proposed by the Russian Federation in its note dated 11 March 2015 have not been fully understood either. The Russian side proceeds from the understanding that the bona fide negotiations on the Convention should aim at ensuring the fulfillment of Russia and Ukraine's obligations that arise from this international instrument in the best way possible and in the interests of all persons whose rights are guaranteed by the Convention, not at using the negotiations

and the exchange of relevant notes for formal statements in order to, as stated in the note by the MFA of Ukraine dated 30 March 2015, "resort to other means of peaceful resolution of disputes in line with the Convention". This approach of the Ukrainian Side does not indicate a genuine intention to hold bona fide and fruitful negotiations.

For its part, the Russian Federation reaffirms its commitment to the obligations arising from the 1966 International Convention on the Elimination of All Forms of Racial Discrimination and the willingness to hold negotiations on matters related to the International Convention on the Elimination of All Forms of Racial Discrimination as set forth in the note dated 11 March 2015 and is ready to do so on 8 April this year in Minsk.

Nothing of the above should prejudice the position of the Russian Federation concerning the statements and assertions contained in the aforementioned notes by the Ukrainian side. Discussion of any issues at the future consultations should prejudice neither the question of their falling within the scope of the said Convention nor the question of whether domestic remedies or international mechanisms, including the ones envisaged by the Convention, are applicable to them.

The Ministry avails itself of this opportunity to renew to the Embassy of Ukraine in Moscow the assurance of its highest consideration.

Moscow, 1 April 2015

Seal: Ministry of Foreign Affairs of the Russian Federation No. 1

Annex 56

Note Verbale No. 72/22-194/510-2006 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 17 August 2015

(translation)

Translation

No. 72/22-194/510-2006

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and in connection with the first round of the negotiations between Ukraine and the Russian Federation on the interpretation and implementation of the 1965 Convention on the Elimination of All Forms of Racial Discrimination (hereinafter referred to as "the Convention") held on 8 April 2015 in Minsk, Belarus, has the honor to state the following.

During the first round of the negotiations, the Ukrainian and Russian Sides discussed a wide range of issues of the agreed agenda.

At the beginning of the meeting, the Ukrainian Side explained its principled position that:

- the Autonomous Republic of Crimea and the city of Sevastopol constitute an integral part of the territory of Ukraine, which is subject to the sovereignty of Ukraine, but currently is under the effective control of the Russian Federation as a result of its armed aggression;

- according to the universally accepted norms and principles of international law, the territory of the Autonomous Republic of Crimea and the city of Sevastopol is regarded by Ukraine as occupied territory, and such approach is supported by the international community, which was reflected in the decisions of a number of international organizations;

- Given the fact of occupation, the Russian Federation is bound under international law to implement its international human rights obligations, including those undertaken under the Convention, in the occupied territory, particularly in the Autonomous Republic of Crimea and the city of Sevastopol.

The Russian delegation having noted the differences in the positions of the Parties on this issue pointed out that they should not stand in the way of discussion of certain matters related to the protection of human rights, including in the territory of Crimea and the city of Sevastopol, in the context of the implementation of the provisions of the Convention. At the same time, the Russian Side stated its position that the self-proclaimed independence of the so-called Republic of Crimea fully corresponded to the principle of self-determination of peoples enshrined in the Declaration on Principles of International Law and other instruments adopted within the UN.

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In this regard, during the subsequent discussion, the Ukrainian Side proposed to the Russian Side that this issue should be submitted for consideration to the International Court of Justice.

During the discussion of the *agenda item 1* concerning the implementation of the Convention, the Russian Side reviewed its national legislation and measures to implement the Convention, remedies against acts of racial discrimination, as well as the roles of the courts, the Prosecutor's Offices and other competent authorities of the Russian Federation in this process. Meanwhile, special attention was paid to the procedure of adoption and publication of decisions to recognize non-governmental organizations, documents, materials and publications as extremist.

The Russian Side also reported that the 2013 recommendations of the European Commission against Racism and Intolerance to revise the definition of extremism in the Russian legislation were still, in effect, not fulfilled; the Russian courts had canceled or had not supported the decisions of the authorities to recognize materials and publications as extremist only in around 5 percent of the cases; the Russian delegation lacked information on court decisions recognizing the literature seized from Crimean schools, libraries and mosques as extremist. The Russian Side agreed to provide the Ukrainian Side with additional explanations in this regard during further stages of the negotiation process.

During the discussion of the *agenda item 2* concerning information exchange regarding the acts that occurred or could occur in the territory of the Russian Federation or Ukraine and that could be regarded as acts of racial discrimination, in violation of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, the Russian delegation:

- Stated that the events that took place in Ukraine after 21 February 2014 were directed against the Russian Federation, Russian nationals and/or Russian-speaking population of Ukraine;
- The activities of the law enforcement agencies of Ukraine, in particular the ban that was imposed by the Administration of the State Border Guard Service of Ukraine and prevented 20,000 Russian nationals from crossing the State border in March-May 2014, the cancellation of accreditation for the Russian journalists, the events that occurred in Odessa on 2 May 2014, etc. illustrate the organized persecution on the grounds of language or ethnicity;
- The Russian Federation cannot remain indifferent to the plight of the Russian-speaking nationals living in Eastern Ukraine and that is the reason why the Russian Side sends humanitarian aid convoys to that area and provides other support, while condemning certain appeals to oppose the so-called “militia” and separatist forces in Eastern Ukraine and regarding them as manifestations of racial discrimination;

- The Russian Side stated that it had published the so-called “White Book” containing examples of "violation of human rights standards in the territory of Ukraine".

The Ukrainian Side requested to present this information in written form and noted that in case of receiving a note concerning these issues it would respond in an appropriate manner.

The Russian delegation informed that, in accordance with Article 12 of the Criminal Code of the Russian Federation and the rules of international humanitarian law, in particular the 1949 Geneva Conventions, it had initiated investigations into criminal acts against the Russian nationals, including journalists, as well as into the use of "prohibited methods of warfare against the Russian and Russian-speaking population" in Eastern Ukraine applying its universal jurisdiction to "crimes against peace and security of mankind" on the basis of the norms of international law.

The Russian Side regards these facts as examples of Ukraine's non-compliance with its obligations under the Convention. In this respect, the Investigative Committee of the Russian Federation sent 12 inquiries for legal assistance to the competent authorities of Ukraine, which remain unanswered.

In its turn, the Ukrainian Side made the following statement:

- The information, facts and evidence communicated to the Russian Side through the notes sent by the MFA of Ukraine are to be regarded as acts of racial discrimination constituting violations of the Convention;
- The Ukrainian Side announced additional information on the facts and events that had occurred in the territory of the Autonomous Republic of Crimea and the city of Sevastopol and were regarded by the Ukrainian Side as acts of racial discrimination that constitute violations of the Convention, namely violation of the right to security of person and protection by the State against violence or bodily harm; the political rights; the right to freedom of movement and residence within the border of the State; the right to leave any country, including one's own, and to return to one's country; the right to nationality; the right to own property alone as well as in association with others; the right to freedom of thought, conscience and religion; right to freedom of opinion and expression; and the right to freedom of peaceful assembly and association;
- Facts and evidence that the Ukrainian Side had at its disposal and of which the Russian Side was informed in the course of the negotiations and in the notes previously sent by the MFA of Ukraine demonstrated that the relevant events and acts that had occurred in the territory of the Autonomous Republic of Crimea and the city of Sevastopol were of planned and systemic nature;
- These events and acts are evidently directed against the representatives of the Crimean Tatar and

Ukrainian population of the Crimea, as well as against the pro-Ukrainian Crimean residents;

- The nature of these acts reveals a violation of these persons' rights that are protected by the Convention and the respect for which is the obligation of the Parties to the Convention.

The Ukrainian Side commenting on the statements of the Russian delegation regarding the events in Ukraine and the investigations undertaken by the Russian Federation:

- Objected that the Russian Federation had any grounds to apply universal jurisdiction to crimes committed in that region;
- Informed that the Ukrainian jurisdiction had primacy in the whole territory of Ukraine;
- Informed that, upon request of the Ombudsman of the Verkhovnaya Rada of Ukraine on Human Rights, the Prosecutor General's Office of Ukraine initiated criminal proceedings concerning the violations by the representatives of the Armed Forces of Ukraine;
- Informed of the status of the proceedings for the consideration of the Russian inquiries for legal assistance by the Prosecutor General's Office, as well as of the responses provided;
- Drew attention to multiple evidence and presented the examples of crimes and of the participation of Russian nationals in the conflict, which had also been confirmed by international organizations, and informed that the Ukrainian competent authorities conducted an investigation in this regard.

During the discussion of the *agenda item 3* concerning the discussion of certain facts that revealed or could reveal non-compliance of the Russian Federation or Ukraine with the provisions of the 1965 Convention on the Elimination of All Forms of Racial Discrimination, the Russian delegation:

- Provided information on the progress made by the competent authorities of the Russian Federation in the investigation of certain facts submitted by the Ukrainian Side through the notes of the MFA of Ukraine;
- Informed that the investigating authorities of the Russian Federation did not regard the facts presented in the notes of the Ukrainian Side as constituting acts of racial discrimination within the meaning of the Convention;
- Informed also that the investigation had established that the persons who according to the Ukrainian Side's allegations were victims of racial discrimination, had illegally stored firearms, used drugs and were engaged in other types of antisocial activities and at least one of them had committed suicide;
- Provided statistics on disappearances of representatives of different nationalities in Crimea and pointed out that the statistical data corresponded to the ethnic composition of the population in general;

- Informed of the measures that are followed by the competent authorities when a delay in an investigation was established;
- Commented specifically on the legal requirements for organizing peaceful assemblies in the territory of Crimea, as well as on the grounds for refusing permission to hold a number of Crimean Tatar public events, thereby refuting the position that the ban to conduct public gatherings was applied in a discriminatory way against the Crimean Tatars;
- Expressed its willingness to examine new facts that would be presented by the Ukrainian Side or the victims;
- Refuted the position of the Ukrainian Side that the alleged facts should be regarded as racial discrimination on the basis of nationality, language, religion or political views within the meaning of the Convention.

In response to the information provided, the Ukrainian delegation:

- Stated that there were disagreements with respect to the interpretation of and approaches to the implementation of the Convention;
- Pointed out the obvious difference in the approaches taken by the Russian law enforcement agencies to the classification and investigation of violations against the ethnic Ukrainian and Crimean Tatar population of the Crimea, on the one hand, and of the cases where the representatives of those nationalities were brought to administrative or criminal responsibility, on the other hand;
- Stated that, given the facts set out above such attitude to ethnic Ukrainians and Crimean Tatars was obviously of systemic nature and that there were grounds to regard those facts as discrimination on the basis of nationality and religion;
- Demanded that the Russian Side takes measures in respect of all facts and accounts of discrimination provided by the Ukrainian Side both in written form through the notes of the MFA of Ukraine and orally in the course of the negotiations, as well as that it takes steps to stop racial discrimination and prevent its occurrence in the future;
- Protested against the establishment of the Russian *ex tempore* jurisdiction over events and facts that had occurred before the occupation of Crimea by the Russian Federation.

Following the meeting, the Sides stated that there was no common interpretation of the requirements of the Convention and agreed to continue working on overcoming the differences, including through at least one more round of the negotiations.

Summarizing the results of the first round of the negotiations the Ukrainian Side would like to note the following:

1. The Ukrainian Side stated that there were certain facts and events that had occurred in the occupied territories of the Autonomous Republic of Crimea and the city of Sevastopol, which were regarded by the Ukrainian Side as acts of racial discrimination within

the meaning of the Convention; such acts were systemic and planned, while the actions of the Russian competent authorities regarding their investigation were biased and ineffective;

2. The Russian Side stated that the competent authorities of the Russian Federation did not regard the facts and events presented in the notes of the MFA of Ukraine as acts of racial discrimination within the meaning of the Convention, and denied the existence of any bias on the part of its authorities in adopting decisions related to ethnic Ukrainians and Crimean Tatars and of the elements of violations of the Convention requirements by the Russian Side;

3. The Ukrainian Side stated that the obligations of the Russian Federation to comply with Convention provisions in the territory of the Autonomous Republic of Crimea and the City of Sevastopol were imposed on it by international law due to the occupation of a part of the territory of Ukraine;

4. The Russian Side stated that the self-proclaimed [independence] and the subsequent accession to the Russian Federation of the so-called "Republic of Crimea" was in full conformity with international law and in no way affected the commitment of the Russian Federation to ensure the implementation of the Convention in this territory and should not be an obstacle to further process of negotiations;

5. The Ukrainian Side looks forward to receiving in the nearest future the written information from the Russian Side regarding the court decisions recognizing the literature seized from Crimean schools, libraries and mosques as extremist.

6. If the Ukrainian Side receives written information concerning the events regarded by the Russian Side as acts of racial discrimination as discussed during the negotiations, it will provide a substantiated response;

7. The Parties agreed to continue negotiations on the interpretation and implementation of the Convention.

The Ministry of Foreign Affairs of Ukraine avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Russian Federation the assurances of its consideration.

Kiev, 17 August 2015

(Seal)

Annex 57

Note Verbale No. 5774-n/dgpch of the Ministry of Foreign Affairs of the Russian Federation to the Embassy of Ukraine in Moscow, 27 May 2016

(translation)

Translation

No. 5774-n/dgpch

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and, referring to previous note of the Ministry of Foreign Affairs of Ukraine No. 6111/22-012-1116 dated 11 May 2016 has the honor to submit the following.

The Ministry believes that the actions of the Ukrainian Party, that without the Russian Party's consent takes on "the objective statement of the results" of the discussion held in the course of bilateral consultations and, moreover, in reply to the Russian Party's objections regarding such methodology of fixing the results of the discussion, presses the point of its "right to further provide objective statement of the course and result of the negotiations", incompatible with the generally accepted diplomatic practice. Such approach does not favor good faith and constructive dialog for the purpose of the best possible implementation of the 1965 International Convention on the Liquidation of All Forms of Racial Discrimination (hereinafter - "the Convention") in the interests of the persons who are entitled to

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protection under the Convention. The issue of how the results of the consultation are to be recorded must be resolved by agreement between the Parties.

The Russian Party is always open to discussion of any events and incidents which, in the Ukrainian Party's opinion, may be related to implementation of the Convention and which are declared in oral or written form. During the previous round of consultations on 8 April 2015, the Ukrainian delegation fully availed itself of the opportunity to submit materials and pose questions in oral form. In the spirit of openness and establishing constructive dialog, the Russian Party did not object to such form of stating the material and conducting the discussion. At the same time, the Russian Party proceeds from the fact that constructive discussion implies equal opportunities for both delegations, therefore it reserves the right to submit materials and pose questions both in written and oral form.

If the Ukrainian Party is interested in constructive discussion, the Ministry maintains that it should refrain from frequently used non-concrete generalizations, such as "and many others", "and other actions", "thousands of Ukrainians and Crimean Tatars".

The Ministry would like to point out that the future agenda of the consultations must reflect the opinion of both delegations and not pre-determine their results. Responding to the Ukrainian Party's wishes, the Russian Party agreed, in the course of the previous round of discussion on 8 April 2015, to begin the discussion with concrete events or incidents, which could presumably be related

to the implementation of the Convention both by the Russian and Ukrainian Parties. The delegation also reached the understanding that after such discussion the Parties will discuss the general framework of interpretation and application of the Convention. However, due to lack of time, this issue has not been discussed and consequently was reserved for discussion at the next round of consultations. In this connection, the Russian Party insists that it must be discussed in the course of the upcoming meeting in Minsk.

The discussion on the general framework of interpretation and application of the Convention has great practical significance as it will allow the delegations to exchange information on national legislation aimed at implementation of the Conventional provisions and will give better understanding of implementation of the Conventional provisions in this or that situation and of the applicable legal remedies. The discussion of this issue will provide for both delegations the opportunity to specify the standards and expectations they have in relation to application of the Convention as well as to share their best experience in this sphere and provide recommendations to each other on how to improve the situation where necessary. This, in its turn, will allow resolving the concerns in connection to application of the Convention and improving the modalities of its implementation where necessary. In particular, the Ukrainian Party showed interest in the Russian law and judicial practice with regard to extremist literature. This issue may be discussed within this agenda point. Moreover, the Russian Party expects that the Ukrainian delegation in the course of the consultations will be ready to provide information on

its legislation and practice in this sphere, as well as on other legislation and practice related to fulfillment of the obligations under the Convention, in particular the legislation and practice in the sphere of holding meetings, assemblies and rallies, the legislation and practice in the sphere of ensuring freedom of the media, in particular on the issue of bans on broadcasting of channels. Additionally, the Russian Party is interested in obtaining information on the legislation and practice in the sphere of providing access to Russian-language education in the territory of Ukraine, as well as on the dynamics of the number of schools where subjects are taught in the Russian and Ukrainian languages, in particular on the number of such schools in 1991 and 2016.

The Russian Party also believes it necessary to discuss in the course of the consultations the situation with fulfillment of its obligations under the Convention in the territory of the Crimean Peninsula in the period from 1992 to 2013. The Ukrainian Party proposes to discuss the cases and situations, which may be related to implementation of the Convention in this territory after 2013. However, this discussion will not be full or objective without understanding the situation formed with implementation of the Convention in this territory by the moment indicated. Moreover, examination of this issue will allow finding out Ukraine's practical approaches to implementation of the Convention. Taking into account the aforementioned, the Russian Party is ready to provide to the Ukrainian Party specific information on this issue in the course of the upcoming consultations, and proceeds from the fact that the Ukrainian Party will be ready to comment

on the situation with fulfillment of its obligations under the Convention in the territory of the Crimea in the period from 1992 to 2013.

The Russian Party also reckons that the Ukrainian delegation will be able to provide the relevant comments on specific, events and incidents related to implementation of the Convention by Ukraine, which were listed by the Russian delegation in the course of the previous round of consultations on 8 April 2015 and are also listed in note No. 8761-N/DGPCH dated 9 July 2015.

The Russian Party expresses its satisfaction with the fact that the Ukrainian Party is ready to take part in the consultations on May 31 of this year in the city of Minsk, the Republic of Belarus, and hopes for constructive and good faith discussion of the issues related to implementation of the Convention, for the purpose of the best possible implementation of its provisions in the territory of Russia and Ukraine.

The Ministry emphasizes that all the aforementioned does not prejudice the position of the Ukrainian Party in respect of the declarations and assurances contained in the relevant notes of the Ukrainian Party. Discussion of any issues in the course of the previous consultations does not prejudice the issue of whether they fall within the scope of the aforementioned Convention as well as the issue of whether domestic remedies or international mechanisms including those provided for by the Convention are applicable to them.

The Ministry avails itself of this opportunity to resume its assurance of its consideration to the Embassy of Ukraine in Moscow.

Moscow, 27 May 2016

Seal: Ministry of Foreign Affairs of the Russian Federation No. 1

Annex 58

Note Verbale No. 72/22-194/510-1973 of the Ministry of Foreign Affairs of Ukraine to the Ministry of Foreign Affairs of the Russian Federation, 18 August 2016

(translation, annex omitted)

Translation

No. 72/22-194/510-1973

The Ministry of Foreign Affairs of Ukraine presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and in connection with the second round of consultations concerning the interpretation and application of the International Convention on Liquidation of All Forms of Racial Discrimination of 1965 (hereinafter – the Convention) held on 31 May 2016 in Minsk, Republic of Belarus, has the honour to communicate the summary of the discussion that took place in the course of the meeting.

The Ukrainian Side and the Russian Side discussed the items of the agenda, exchanged information concerning the alleged violations of the Convention, discussed the statements made during the first round of consultations and in the correspondence and considered the general issues of application of international treaties and best practices in relation to the Convention.

In the course of discussion of the items of the agenda, the Parties expressed their agreement to consider the following issues:

1) Exchange of information concerning the events that took place in the territory of Ukraine or the Russian Federation and that may be qualified as acts of racial discrimination within the meaning of the Convention;
2) Exchange of information concerning the incidents that were named in the first round of consultations and in diplomatic notes;
3) General issues of application of international agreements and best practices under the Convention.

The Ukrainian Side confirmed its position stated in the course of the first round of consultations and in the diplomatic notes concerning the discussion of the general issues of application of the agreements and best practices under the Convention. The Ukrainian Side also noted that the adequate platform for discussing the third item of the agenda is the Committee on the Elimination of Racial Discrimination, the functions of which include monitoring of application of the provisions of the Convention. The Russian Side insisted on discussing the general practice of performance of the agreements and distinguished the monitoring procedures

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carried out by the Committee on the Elimination of Racial Discrimination and bilateral negotiations and stated that such discussion would be useful for proper understanding and consideration of the claims within the framework of such negotiations. As a compromise, without prejudice to the reservations made by the Ukrainian Side, the Sides agreed to devote time to discussing the general issues of application of the agreements and best practices under the Convention.

Within the framework of discussion of the first item of the agenda, the Russian Side made allegations of infringements of the rights of parishioners of the Ukrainian Orthodox Church of Moscow Patriarchate and the Russian and Russian-speaking journalists in Ukraine.

The Russian Side noted that the Ukrainian Orthodox Church of Moscow Patriarchate is an important element of the cultural and religious life of the Russian and Russian-speaking population in Ukraine. It was stated that since early 2014 the number of alleged aggressive acts against the Ukrainian Orthodox Church of Moscow Patriarchate has increased. The Russian Side also reported that since early 2014 the clergymen and parishioners of the Ukrainian Orthodox Church of Moscow Patriarchate have been subject to psychological coercion, harassment, physical attacks and that their churches have been seized. The Russian Side also alleged that a massive discriminatory campaign against the Ukrainian Orthodox Church of Moscow Patriarchate was launched to stir up hatred against the Russian Orthodox Church in Ukraine. The Russian Side listed the purported incidents and provided brief information concerning the purported facts of each incident.

Moreover, the Russian Side noted the information included in its diplomatic note of 27 May 2016 No. 5787-n/dgpch concerning the acts or actions against the representatives of the Russian or Russian-speaking outlets Media that lived or worked in Ukraine.

In response to the information provided by the Russian Side, the Ukrainian Side reserved the right to fully analyze and give a response in relation to all new materials and information provided by the Russian Side immediately prior to or during the consultations at a later stage. Moreover, the Ukrainian Side suggested and the Russian Side agreed to provide the allegations made by the Russian Side concerning

the Ukrainian Orthodox Church of Moscow Patriarchate in writing. The Ukrainian Side also made preliminary and general comments concerning the facts and events submitted by the Russian Side.

In its turn, within the first item of the agenda the Ukrainian delegation reiterated the statements previously made in diplomatic notes and during the first round of consultations and made new statements in support of its claims under the Convention.

The Ukrainian Side expressed its concern over the disappearances and murders of the Crimean Tatars and Ukrainian activists in the occupied territory of the Autonomous Republic of Crimea and the City of Sevastopol. It was noted that the number of victims and the common features of disappearances show that such disappearances were not accidental but deliberate and coordinated and aimed at harassment of the Crimean Tatars and the Ukrainian population. The Ukrainian Side named the missing and briefly described the circumstances of their disappearance. The Ukrainian Side also noted that many such forced disappearances had extensive Media coverage and were recorded by the UN, OSCE, Council of Europe, unofficial Turkish delegation in Crimea, "Human Rights Watch" and other organizations.

The Ukrainian Side also expressed its concern with the political pressure exerted by the Russian Federation on the Crimean Tatars and the ethnic Ukrainian community. The Ukrainian Side stressed that the measures used by the Russian Federation to exert pressure on the Crimean Tatars and ethnic Ukrainian community and their leaders include the recent ban on Mejlis, restriction of the freedom of movement, numerous searches at Mejlis and homes of Mejlis members and other Crimean Tatars, as well as initiation of knowingly discriminating criminal proceedings. The Ukrainian Side provided a list of specific incidents and names of the injured, as well as a brief description of the facts and circumstances of such incident in support of each allegation. The Ukrainian Side stated that each one separately and all such acts together were aimed at suppression of activity of the Crimean Tatar and ethnic Ukrainian communities and constitute a breach of obligations under this Convention.

The Ukrainian Side also expressed its concern in connection with mass harassment and infringements of property rights of the Crimean Tatars in the occupied Crimea. The Ukrainian Side alleged that

the authorities of the Russian Federation, including the Federal Security Service of the Russian Federation conducted unlawful searches of private dwellings and enterprises of the Crimean Tatars aimed at intimidation of the Crimean Tatar communities. It was also stated that some of these searches were conducted against the background of suppression of Melis activity, attacks on the Media and other deliberate efforts aimed at destroying the social life of the Crimean Tatars.

Moreover, the Ukrainian Side expressed its concern with the restriction of freedom of peaceful assembly of the Crimean Tatars and ethnic Ukrainians imposed by the *de facto* Russian authorities in the occupied territory of the Autonomous Republic of Crimea and the City of Sevastopol. In support of each statement the Ukrainian Side provided a list of specific incidents together with the brief description of facts of each such incident. In particular, the Ukrainian delegation stated that the Russian authorities used legislation retroactively to punish for conducting the rally, which was organized by Mejlis on 26 February 2014 in support of Ukraine's sovereignty. The Ukrainian Side noted that many of these events received extensive coverage in the Media and were recorded by the UN and OSCE. The Ukrainian Side stressed that discriminatory use of legislation and selective retroactive use of new legislation breaches the provisions of the Convention by way of limitation of the freedom of thought, opinion and peaceful assembly of the Crimean Tatars and ethnic Ukrainians.

The Ukrainian Side also expressed its concern over the restrictions and bans imposed by the Russian authorities in relation to the activity of Crimean Tatar and ethnic Ukrainian Media outlets in the occupied territory of the Autonomous Republic of Crimea and the City of Sevastopol. The Ukrainian delegation reminded that many Crimean Tatar and ethnic Ukrainian Media outlets faced various types of harassment, including searches and interrogations of their staff. The Ukrainian Side provided a list of specific incidents and a brief description of the facts of each incident in support of each allegation. According to the Ukrainian Side, these events resulted in complete exile of the independent Crimean Tatar and ethnic Ukrainian Media from the Autonomous Republic of Crimea and the City of Sevastopol. The Ukrainian delegation noted that such systematic activity limits the freedom of thought, opinion and expression of the Crimean Tatars, ethnic Ukrainians and other protected groups and constitutes a breach of the provisions of the Convention.

Furthermore, the Ukrainian Side expressed its concern over the restrictions of the right to education and professional training of the Crimean Tatars and ethnic Ukrainians imposed by the Russian authorities in the occupied territory. Thus, the Ukrainian Side noted several incidents of deliberate searches conducted by the Russian authorities in the Ukrainian schools, confiscation and destruction of their property and biased attitude towards education in the languages of ethnic minorities. Moreover, it was stated that the Crimean Tatar religious schools and madrasahs were also subjected to discriminatory searches. The Ukrainian Side reported that a large number of such events received extensive Media coverage and were recorded by OSCE and the Council of Europe.

Furthermore, the Ukrainian delegation expressed concern with regard to freedoms and rights to free expression of opinion by LGBT community and religious rights of the Crimean Tatars and ethnic Ukrainian communities. The Ukrainian Side provided a list of specific incidents and a brief description of the facts of each such incident in support of each allegation.

In response to the facts and events alleged by the Ukrainian Side the Russian delegation made several clarifying questions. The Russian delegation expressed its doubt that the alleged disappearances of the Crimean Tatars were aimed against the Crimean Tatar population and constituted a breach of Convention. The Russian delegation substantiated its position by statistical data in relation to the number of missing people in Crimea, which allegedly confirm that the number of missing Crimean Tatars constitutes 7% of all missing people. The Ukrainian Side gave answers to the questions of the Russian Side and agreed to clarify some aspects after the Russian Side provides the newly submitted information in writing.

In the course of discussion of the second item of the agenda the Ukrainian delegation handed a *non-paper* to the Russian Side containing answers to the statements made by the Russian Federation in the course of the first round of consultations and its diplomatic notes. The Ukrainian Side also forwards this *non-paper* in the attachment hereto.

The Russian Side did not respond to the statements made by Ukraine in the first round of consultations and its diplomatic notes. In its turn, the Russian delegation raised a number of questions and asked for clarification with regard to specific incidents mentioned in the Ukrainian

diplomatic notes. The Ukrainian Side partially responded to these questions and reserved the right to provide exhaustive replies after they are studied in full. The Ukrainian delegation suggested that the Russian Side forwards all its questions in writing. The Russian Side refused to provide the questions in writing and asserted that the issues concerned are specific enough for the Ukrainian Side to document them. The Ukrainian Side attaches hereto the list of questions raised by the Russian delegation as recorded by the Ukrainian delegation at the meeting and the answers of the Ukrainian Side to these questions.

With regard to the third item of the agenda, the Russian delegation provided information concerning the general issues of application of international agreements and best practices under this Convention.

In the course of the second round of consultations, the Sides agreed to proceed with the discussion of the issues of application and interpretation of the Convention.

This note is forwarded without prejudice to the right of the Russian Side to make any objections or comments in relation to the summary set out herein.

The Ministry of Foreign Affairs of Ukraine stresses the importance of the issues raised in relation to the acts of discrimination that constitute breaches of the Convention. In order to determine whether the dispute in relation to the interpretation and application of the Convention can be settled through negotiations, the Ukrainian Side suggests holding another round of consultations on 13 October 2016 in Minsk.

The Ministry of Foreign Affairs of Ukraine avails itself of the opportunity to resume its assurance of its consideration to the Ministry of Foreign Affairs of the Russian Federation.

Enclosure: Abovementioned on __ pages.

Kiev, 18 August 2016

Annex 59

Note Verbale No. 11042-n/dgpch of the Ministry of Foreign Affairs of the Russian Federation to the Embassy of Ukraine in Moscow, 10 October 2016

(translation)

Translation

No. *11042*-n/dgpch

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of Ukraine in Moscow and with reference to the notes No. 72/22-194/510-1973 of 18 August 2016 and No. 72/22-194/510-2188 of 26 September 2016 has the honour to inform the Embassy of the following.

The Ministry has to reiterate that the unilateral description of the discussion between the delegations is not in conformity with the generally accepted diplomatic practice. The Russian Side proceeds from the premise that the issue of documenting the results of the consultations is to be resolved by an agreement between the sides. Since the Ukrainian Side continues such practice, notwithstanding the objections of the Russian Side, it may be the evidence of the lack of interest of the Ukrainian Side in having a good faith and constructive dialogue aimed at the most efficient implementation of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter – "the Convention") in the interests of the persons entitled to protection under the Convention. Given that the Ukrainian Side continues providing its interpretation of the actual dialogue, the Russian Side would like to draw the attention to certain aspects, without prejudice to its general position as regards the issue of recoding the results of consultations.

TO THE EMBASSY OF UKRAINE

Moscow

The Ministry would like to express its willingness to continue the consultations with the Ukrainian Side and hopes for a constructive and good faith discussion of the issues related to the implementation of the Convention for the purpose of the most efficient implementation of its provisions in the Russian and Ukrainian territories. Given a tight schedule of the members of the Russian interdepartmental delegation for October of this year, as well as the need to ensure the highest possible attendance of the representatives of the Russian agencies at the consultations, the Russian Side suggests holding the consultations on 24 November 2016 in Minsk.

Nothing in this note prejudices the Russian Side's position in respect of the declarations and statements made by the Ukrainian Side contained in the above communications. The discussion of any issues in the course of further consultations does not prejudice the issue of whether the said Convention is applicable, as well as whether the domestic remedies or international mechanisms, including those envisaged by the Convention, are applicable.

The Ministry avails itself of this opportunity to resume assurance of its consideration to the Embassy of Ukraine.

Moscow, 10 October 2016

Seal: Ministry of Foreign Affairs of the Russian Federation No. 1

Annex 60

Extracts from legislation of the Russian Federation

(translation)

INDEX OF MATERIALS CONTAINED IN ANNEX 60:

Extracts from Legislation of the Russian Federation

CONSTITUTION OF THE RUSSIAN FEDERATION

(passed by nation-wide voting of 12 December 1993)

(with the Amendments of 30 December 2008, 5 February, 21 July 2014)

Official text of the Constitution of the Russian Federation as amended on 21 July 2014 is published on the Official Internet Portal of Legal Information http://www.pravo.gov.ru on 01.08.2014, in the Collected Acts of the Russian Federation, 04.08.2014, N 31, art. 4398.

Article 19

1. All people shall be equal before the law and courts.

2. The State guarantees the equality of human and civil rights and freedoms regardless of sex, race, nationality, language, origin, financial situation and official status, place of residence, attitude to religion, convictions, membership of public associations, or of other circumstances. All forms of limitations of human rights on social, racial, national, language or religious grounds shall be prohibited.

3. Men and women shall enjoy equal rights and freedoms and have equal possibilities to exercise them.

Article 29

1. Everyone shall be guaranteed the freedom of ideas and speech.

2. 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.

3. No one may be forced to express their views and convictions or to abandon them.

4. Everyone shall have the right to freely look for, receive, transmit, produce and distribute information by any legal means. The list of data comprising state secrets shall be determined by a federal law.

5. The freedom of mass communication shall be guaranteed. Censorship shall be banned.

Article 45

1. State protection of the human and civil rights and freedoms shall be guaranteed in the Russian Federation.

2. Everyone shall be free to protect his rights and freedoms by all means not prohibited by law.

Article 46

1. Everyone shall be guaranteed judicial protection of his rights and freedoms.

2. Decisions and actions (or failure to act) of bodies of state authority and local self-government, public associations and officials may be appealed against in court.

3. Everyone shall have the right to appeal, according to international treaties of the Russian Federation, to interstate bodies for the protection of human rights and freedoms, if all the existing internal state means of legal protection have been exhausted.

Article 47

1. No one may be deprived of the right to the consideration of his or her case in the court and by the judge that has jurisdiction to adjudicate the given case according to law.

2. A person accused of committing a crime shall have the right to the examination of his case by a jury court in cases envisaged by a federal law.

Article 48

1. Everyone shall be guaranteed the right to professional legal assistance. In cases envisaged by law the legal assistance shall be free.

2. Any person detained, taken into custody or accused of committing a crime shall have the right to receive assistance of a lawyer (counsel for the defence) from the moment of detention, confinement in custody or facing charges.

Article 52

The rights of victims of crimes and of abuse of office shall be protected by law. The State shall provide access to justice for them and compensation for the damage sustained.

Article 53

Everyone shall have the right to state compensation for damage caused by unlawful actions (failure to act) of bodies of state authority and their officials.

Article 118

1. Justice in the Russian Federation shall be administered only by the court.

2. Judicial power shall be exercised by means of constitutional, civil, administrative and criminal proceedings.

3. The judicial system of the Russian Federation shall be instituted by the Constitution of the Russian Federation and the federal constitutional law. The creation of extraordinary courts shall not be allowed.

Article 123

1. Examination of cases in all courts shall be open. Examinations in camera shall be allowed only in the cases envisaged by a federal law.

2. Trial in absentia in criminal courts shall not be allowed except in cases envisaged by a federal law.

3. Judicial proceedings shall be held on the basis of confrontation and equality of the parties.

4. In cases envisaged by a federal law, justice shall be administered by a jury court.

Article 126

The Supreme Court of the Russian Federation shall be the supreme judicial body for civil cases, for settlement of economic disputes, criminal, administrative and other cases under the jurisdiction of courts established in compliance with a federal constitutional law, shall carry out judicial supervision over the activities of these courts according to the procedural forms envisaged in federal law and provide explanations on issues of case-law.

21 July 1994 No. 1-FKZ

FEDERAL CONSTITUTIONAL LAW ON THE CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION

Article 3. Powers of the Constitutional Court of the Russian Federation

To protect the foundations of the constitutional system and the basic human and civil rights and freedoms, and to provide for the supremacy and direct operation of the Constitution of the Russian Federation across the entire territory of the Russian Federation, the Constitutional Court of the Russian Federation shall:

[...]

3) verify constitutionality of a law applied in a specific case with regard to complaints about the breaches of constitutional rights and freedoms of individuals;

[...]

Article 86. Scope of Verification

The Constitutional Court of Russian Federation shall establish the conformity with the Constitution of the Russian Federation of enactments of bodies of state authority and of agreements between them:

1) as to the substance of the norms;
2) as to the form of the enactment or agreement;
3) as to the procedure for their signing, conclusion, adoption, promulgation or entry into effect;
4) in terms of separation of state authority into the legislative, executive, and judicial as provided for by the Constitution of the Russian Federation;
5) in terms of delimitation of competence between the federal bodies of state authority as provided for by the Constitution of the Russian Federation;
6) In terms of the delimitation of jurisdiction and powers between the bodies of State Power of the Russian Federation and the bodies of state authority of constituent entities of the Russian Federation as provided for by the Constitution of the Russian Federation, the Federal Agreement and other agreements on the delimitation of jurisdiction and powers.

The Constitutional Court of the Russian Federation shall verify the constitutionality of the enactments of the bodies of state authority and agreements between them that were adopted before the Constitution of the Russian Federation entered into force, only as to the substance of the norms.

Article 87. Final Decision in the Case

Following consideration of a case on the verification of constitutionality of an enactment of a body of state authority or an agreement between the bodies of state authority, the Constitutional Court of the Russian Federation shall pass one of the following judgments:
(as amended by Federal Constitutional Law of 03.11.2010 No. 7-FKZ)

1) on confirmation of conformity of the enactment or agreement, or individual provisions thereof with the Constitution of the Russian Federation;

1.1) on confirmation of conformity of the enactment or agreement, or individual provisions thereof with the Constitution of the Russian Federation in the interpretation given by the Constitutional Court of the Russian Federation;
(Clause 1.1 is introduced by Federal Constitutional Law of 28.12.2016 No. 11-FKZ)

2) on recognition of non-conformity of the enactment or agreement, or individual provisions thereof with the Constitution of the Russian Federation.

Recognition of non-conformity of a federal law, enactment of the President of the Russian Federation, or an enactment of the Government of the Russian Federation or an agreement, or individual provisions thereof with the Constitution of the Russian Federation, shall constitute grounds for the abrogation, as prescribed, of the provisions of other enactments or agreements that were based (in whole or in part) upon the enactment or agreement declared unconstitutional or that reproduce them or contain the same provisions that were declared unconstitutional.
(Part Two as amended by Federal Constitutional Law of 15.12.2001 No. 4-FKZ)

Recognition of non-conformity of an enactment of a constituent entity of the Russian Federation, an agreement of a constituent entity of the Russian Federation, or individual provisions thereof with the Constitution of the Russian Federation, shall constitute grounds for the abrogation, as prescribed, by the bodies of state authority of other constituent entities of the Russian Federation of the provisions of other enactments or agreements that contain the same provisions that were declared unconstitutional.
(Part Three as amended by Federal Constitutional Law of 15.12.2001 No. 4-FKZ)

The provisions of the enactments or agreements specified in Sections Two and Three of this Article may not be applied by courts, other bodies and officials.
(Part Four was introduced by Federal Constitutional Law of 15.12.2001 No. 4-FKZ)

If after six months of the promulgation of a decision of the Constitutional Court of the Russian Federation, an enactment analogous to the one that was found to be unconstitutional is not repealed or altered, or if the validity of an agreement analogous to the one was found to be unconstitutional is not terminated, in whole or in part, a state body or official duly authorized by a federal law shall lodge a protest or apply to a court with a request to acknowledge that enactment or agreement to be ineffective.
(Part Five was introduced by Federal Constitutional Law of 15.12.2001 No. 4-FKZ)

If an enactment of a body of state authority or agreement between bodies of state authority, or individual provisions thereof are acknowledged to be in conformity with the Constitution of the Russian Federation in the interpretation given by the Constitutional Court of the Russian Federation, any other interpretation shall be ruled out when they are applied, and the provisions of this Federal Constitutional Law and other federal laws concerning the cases when an enactment or agreement, or individual provisions thereof are found to be not in conformity with

the Constitution of the Russian Federation, shall be applicable to such judgment unless otherwise provided for by this Federal Constitutional Law.
(Part Six was introduced by Federal Constitutional Law of 28.12.2016 No. 11-FKZ)

Article 96. Right to Petition the Constitutional Court of the Russian Federation

The right to petition the Constitutional Court with an individual or collective complaint about breaches of the constitutional rights and freedoms shall be vested in the citizens whose rights and freedoms have been violated by a law applied in a specific case, in associations of citizens, and in other bodies and persons specified in federal law.

[...]

FEDERAL CONSTITUTIONAL LAW
ON THE JUDICIAL SYSTEM OF THE RUSSIAN FEDERATION[1]
(as amended on 5 February 2014)

Article 4. Courts in the Russian Federation

1. Justice in the Russian Federation is administered only by courts established in accordance with the Constitution of the Russian Federation and this Federal Constitutional Law. The establishment of extraordinary courts and of courts not envisaged by this Federal Constitutional Law is not allowed.

2. In the Russian Federation there are federal courts, constitutional (charter) courts and justices of the peace of constituent entities of the Russian Federation, that form the judicial system of the Russian Federation.

3. The federal courts are:

the Constitutional Court of the Russian Federation;

the Supreme Court of the Russian Federation;

supreme courts of republics, courts of territories, regions, federal cities, courts of an autonomous region and of autonomous circuits, district courts, military and specialised courts that form the system of federal courts of general jurisdiction;

arbitrazh courts of circuits, appellate arbitrazh courts, arbitrazh courts of constituent entities of the Russian Federation and specialised arbitrazh courts that form the system of federal arbitrazh courts.

(Part 3 as amended by Federal Constitutional Law of 05.02.2014 No. 4-FKZ)

4. Courts of constituent entities of the Russian Federation are: constitutional (charter) courts of constituent entities of the Russian Federation and justices of the peace, who are judges of general jurisdiction of constituent entities of the Russian Federation.

Article 10. Language of Proceedings and Administration in Courts

1. Proceedings and administration in the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, in arbitrazh courts, military courts are conducted in the Russian language – the state language of the Russian Federation. The proceedings and the records management in other federal courts of general jurisdiction can be also conducted in the state language of a republic, on the territory of which the court is located.

(as amended by Federal Constitutional Laws of 05.02.2014 No. 4-FKZ)

2. Proceedings and administration may be conducted by justices of the peace and in other courts of constituent entities of the Russian Federation in the Russian language or in the state language of a republic, on the territory of which a court is located.

[1] Certain institutional changes in the judicial system have been enacted in July 2018, but are not in operation yet.

3. The right to speak in court and give explanations in one's native language or language of choice, as well as to use the services of an interpreter is guaranteed to persons participating in the case, who do not speak the language of proceedings.

Article 19. Supreme Court of the Russian Federation
(as amended by Federal Constitutional Law of 05.02.2014 No. 4-FKZ)

1. The Supreme Court of the Russian Federation is the highest judicial body in civil cases, economic disputes, criminal, administrative and other cases within the jurisdiction of courts established in accordance with this Federal Constitutional Law.

2. The Supreme Court of the Russian Federation exercises judicial supervision in the forms provided for by federal law over the activities of courts established in accordance with this Federal Constitutional Law by considering civil cases, economic disputes, criminal, administrative and other cases within the jurisdiction of the aforementioned courts, as a court of supervision and also, within the framework of its competence, as a court of appeal and a court of cassation.

3. The Supreme Court of the Russian Federation considers cases within its jurisdiction as a court of first instance and also based on new or newly discovered facts.

4. In order to ensure the uniform application of legislation of the Russian Federation, the Supreme Court of the Russian Federation gives the courts clarifications on issues of judicial practice.

5. The powers, manner of establishment and activities of the Supreme Court of the Russian Federation are stipulated in the federal constitutional law on the Supreme Court of the Russian Federation.

Article 20. The Supreme Court of a Republic, the Court of a Territory (Region), Federal City, Autonomous Region, Autonomous Circuit

1. Within its remit, the supreme court of a republic, the court of a territory (region), federal city, autonomous region, autonomous circuit considers cases as a court of first or second instance, as a court of supervision or based on new or newly discovered facts.
(as amended by Federal Constitutional Law of 05.02.2014 No. 4-FKZ)

2. The courts referred to in Part 1 of this Article are directly the higher judicial bodies in relation to the district courts, acting on the territories of the corresponding constituent entities of the Russian Federation.

3. The powers, manner of establishment and activities of the courts referred to in Part 1 of this Article are stipulated in federal constitutional law.

Article 21. District Court

1. Within its remit, a district court considers cases as a court of first or second instance and exercises other powers stipulated in federal constitutional law.

2. A district court is directly the higher judicial body as regards justices of the peace, acting on the territory of the corresponding judicial district.

3. The powers, manner of establishment and activities of a district court are stipulated in federal constitutional law.

Article 22. Military courts

1. Military courts are created based on the territorial principle at the places of stationing of military forces and fleets and exercise judicial power in military forces, bodies and formations, in which federal law stipulated military service.

2. Within the framework of their competence, military courts consider cases as courts of first or second instance, as courts of supervision or based on new or newly discovered facts.
(as amended by Federal Constitutional Law of 05.02.2014 No. 4-FKZ)

3. The powers, manner of establishment and activities of military courts are stipulated in federal constitutional law.

Article 24. Arbitrazh Court of a Circuit
(as amended by Federal Constitutional Law of 05.02.2014 No. 4-FKZ)

1. In accordance with federal law, arbitrazh courts of a circuit (cassation arbitrazh courts) consider cases as courts of first instance, as courts of cassation or based on new or newly discovered facts.
(as amended by Federal Constitutional Laws of 06.12.2011 No. 4-FKZ, of 05.02.2014 No. 4-FKZ)

2. Arbitrazh courts of a circuit are the higher judicial bodies in relation to the appellate arbitrazh courts and arbitrazh courts of constituent entities of the Russian Federation, acting on the territory of the respective judicial circuit, unless otherwise stipulated in the federal constitutional law.
(as amended by Federal Constitutional Laws of 04.07.2003 No. 3-FKZ, of 06.12.2011 No. 4-FKZ, of 05.02.2014 No. 4-FKZ)

3. The powers, manner of establishment and activities of arbitrazh courts of a circuit are stipulated in federal constitutional law.
(as amended by Federal Constitutional Law of 05.02.2014 No. 4-FKZ)

Article 24.1. Appellate Arbitrazh Court
(issued by Federal Constitutional Law of 04.07.2003 No. 3-FKZ)

1. Within its remit, appellate arbitrazh courts consider cases as courts of appeal or based on new or newly discovered facts.
(as amended by Federal Constitutional Law of 05.02.2014 No. 4-FKZ)

2. The powers, manner of establishment and activities of appellate arbitrazh courts are stipulated in federal constitutional law.

Article 25. Arbitrazh Court of a Constituent Entity of the Russian Federation

1. Within its remit, arbitrazh courts of a constituent entity of the Russian Federation consider cases as courts of first instance or based on new or newly discovered facts
(as amended by Federal Constitutional Laws of 04.07.2003 No. 3-FKZ, of 05.02.2014 No. 4-FKZ)

2. The powers, manner of establishment and activities of arbitrazh courts of a constituent entity of the Russian Federation are stipulated in federal constitutional law.

Article 28. Justice of the Peace

1. Within their remit, justices of the peace consider civil, administrative and criminal cases as courts of first instance.

2. The powers and activities of justices of the peace are stipulated in federal law and in the laws of constituent entities of the Russian Federation.

21 March 2014 No. 6-FKZ

FEDERAL CONSTITUTIONAL LAW
ON THE ADMISSION OF THE REPUBLIC OF CRIMEA TO THE RUSSIAN FEDERATION AND THE FORMATION OF NEW CONSTITUENT ENTITIES IN THE RUSSIAN FEDERATION − THE REPUBLIC OF CRIMEA AND THE CITY OF FEDERAL SIGNIFICANCE OF SEVASTOPOL

Article 6. Transition Period

A transition period shall commence on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation that shall exist until 1 January 2015; the matters related to the integration of the new constituent entities of the Russian Federation into the economic, financial, credit and legal systems of the Russian Federation, into the system of state bodies of the Russian Federation, shall be settled during this period.

Article 9. Creation of Courts of the Russian Federation in the Republic of Crimea and the City of Federal Significance of Sevastopol. Administration of Justice in the Transition Period

1. According to the laws of the Russian Federation on the judicial systems, courts of the Russian Federation (federal courts) shall be created during the transition period in the Republic of Crimea and the city of federal significance of Sevastopol with due regard for their administrative and territorial division established in accordance with the legislative (representative) state body of the Republic of Crimea and the legislative (representative) state body of the city of federal significance of Sevastopol.

2. Citizens filling the office of judges in courts operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, shall have a preferential right to fill the office of judges in courts of the Russian Federation created in the said territories provided that they are Russian citizens and comply with other requirements imposed upon candidates for the office of judges established by the laws of the Russian Federation on the status of judges. The Higher Qualification Commission of Judges of the Russian Federation shall hold a competitive selection to fill the office of judges in the said courts.

3. According to the laws of the Russian Federation, judicial districts and offices of magistrates may be created in the Republic of Crimea and the city of federal significance of Sevastopol upon the initiative of the legislative (representative) state body of the Republic of Crimea and the legislative (representative) state body of the city of federal significance of Sevastopol as approved by the Supreme Court of the Russian Federation.

4. The Plenum of the Supreme Court of the Russian Federation shall pass a resolution regarding the day when federal courts shall commence their activity in the Republic of Crimea and the city of federal significance of Sevastopol and make an official announcement to this effect.

5. Until courts have been created in the Republic of Crimea and the city of federal significance of Sevastopol, courts operating on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation in the said territories, shall administer justice on behalf of the Russian Federation. Persons filling the offices of judges in these courts shall continue administering justice until the said courts have been created and commenced their activities in the said territories of the Russian Federation provided that they are Russian citizens.

6. As regards the court resolutions and sentences specified in Part 5 of this Article, courts of appeal operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation and the Supreme Court of the Russian Federation, shall be the supreme judicial authorities.

7. Statements on civil and administrative cases, economic disputes and criminal cases taken over by courts of first instance operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, which were not considered as at that date, shall be considered in accordance with the rules established by the appropriate procedural laws of the Russian Federation, the Code of the Russian Federation on Administrative Offenses. Criminal cases shall be considered when the charge has been supported by the prosecutor of the appropriate territorial prosecutor's body of the Russian Federation on behalf of the Russian Federation.

8. Appeals taken over by appropriate courts of appeal operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, which were not considered as at that date, shall be considered in accordance with the rules established by the appropriate procedural laws of the Russian Federation, the Code of the Russian Federation on Administrative Offenses. Appeals to decrees on criminal cases shall be considered when the charge has been supported by the prosecutor of the appropriate territorial prosecutor's body of the Russian Federation on behalf of the Russian Federation.

9. Decrees of general and administrative courts operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, which entered into force before that day and were appealed in appropriate courts of appeal operating on that day in the said territories, may be appealed in the Judicial Chamber on Administrative Cases of the Supreme Court of the Russian Federation, the Judicial Chamber on Civil Cases of the Supreme Court of the Russian Federation, the Judicial Chamber on Criminal Cases of the Supreme Court of the Russian Federation, respectively, within three months after their entry into force.

10. Decrees on administrative offence cases of courts operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, which entered into force before that day, may be appealed in the Supreme Court of the Russian Federation in accordance with Chapter 30 of the Code of the Russian Federation on Administrative Offenses.

11. Decrees of economic courts operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, which entered

into force before that day and were appealed in the Sevastopol Economic Court of Appeal, may be appealed in the Supreme Commercial Court of the Russian Federation within three months after their entry into force, but no later than 5 August 2014.

12. The Supreme Commercial Court of the Russian Federation shall consider appeals against the court decrees specified in Part 11 of this Article in accordance with Chapter 36 of the Commercial Procedure Code of the Russian Federation.

13. After 5 August 2014 the court decrees specified in Part 11 of this Article may be appealed in the Chamber for Commercial Disputes of the Supreme Court of Russian Federation created in accordance with Law of the Russian Federation on Amending the Constitution of the Russian Federation of 5 February 2014 No. 2-FKZ "On the Supreme Court of the Russian Federation and the Prosecutor's Office of the Russian Federation", within three months after their entry into force.

14. The Supreme Court of the Russian Federation, which operated before the formation of the Supreme Court of the Russian Federation in accordance with Law of the Russian Federation on Amending the Constitution of the Russian Federation of 5 February 2014 No. 2-FKZ "On the Supreme Court of the Russian Federation and the Prosecutor's Office of the Russian Federation", shall consider appeals against decrees of courts operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, in accordance with Chapters 41 and 41.1 of the Civil Procedure Code of the Russian Federation, Chapters 47.1 and 48.1 of the Criminal Procedure Code of the Russian Federation, Chapter 30 of the Code of the Russian Federation on Administrative Offenses.

15. The Supreme Court of the Russian Federation formed in accordance with Law of the Russian Federation on Amending the Constitution of the Russian Federation of 5 February 2014 No. 2-FKZ "On the Supreme Court of the Russian Federation and the Prosecutor's Office of the Russian Federation", shall consider appeals against decrees of courts operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, in accordance with Chapters 41 and 41.1 of the Civil Procedure Code of the Russian Federation, Chapters 47.1 and 48.1 of the Criminal Procedure Code of the Russian Federation, Chapter 30 of the Code of the Russian Federation on Administrative Offenses.

16. Fundamental breaches of the substantive and procedural laws committed by courts operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, shall constitute grounds for the review of the decrees of the said courts which entered into force in the Judicial Chamber on Administrative Cases of the Supreme Court of the Russian Federation, the Judicial Chamber on Civil Cases of the Supreme Court of the Russian Federation, the Judicial Chamber on Criminal Cases of the Supreme Court of the Russian Federation, the Chamber for Commercial Disputes of the Supreme Court of Russian Federation, the Presidium of the Supreme Commercial Court of the Russian Federation.

17. If the Supreme Court of the Russian Federation, the Presidium of the Supreme Commercial Court of the Russian Federation reverses, in whole or in part, a decree of a court operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, and refers the case for review to the appropriate court operating in the Republic of Crimea or the city of federal significance of Sevastopol, the

said case shall be considered in accordance with the rules established by the appropriate procedural laws of the Russian Federation, the Code of the Russian Federation on Administrative Offenses.

18. Rulings of the Judicial Chamber on Administrative Cases of the Supreme Court of the Russian Federation, the Judicial Chamber on Civil Cases of the Supreme Court of the Russian Federation, the Judicial Chamber on Criminal Cases of the Supreme Court of the Russian Federation, the Chamber for Commercial Disputes of the Supreme Court of Russian Federation, passed following the cassation review of appeals to the decrees of courts operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, may be appealed as provided for by Chapter 41.1 of the Civil Procedure Code of the Russian Federation, Chapter 48.1 of the Criminal Procedure Code of the Russian Federation and Chapter 36.1 of the Commercial Procedure Code of the Russian Federation.

19. Effective decrees of courts operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, which were appealed on cassation in the appropriate court of cassation operating on that day in the Republic of Crimea or the city of federal significance of Sevastopol, shall not be subject to appeal in the Supreme Court of the Russian Federation and the Supreme Commercial Court of the Russian Federation.

20. Criminal cases shall be examined by preliminary investigation bodies operating in the Republic of Crimea and the city of federal significance of Sevastopol on the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, in accordance with the criminal procedure laws of the Russian Federation. Criminal cases shall be referred to courts provided that the charge has been supported by the prosecutor of the territorial prosecutor's body of the Russian Federation on behalf of the Russian Federation.

21. The activities of courts shall be provided for and the court resolutions shall be enforced in accordance with the laws of the Russian Federation throughout the transition period.

22. If the Commercial Court of the Republic of Crimea, the Commercial Court of Sevastopol, the 21st Commercial Court of Appeal, the Commercial Court of the Central District and the Chamber for Commercial Disputes of the Supreme Court of Russian Federation consider cases related to stated claims against credit organizations before 31 December 2017, it shall be admissible to accept documents executed in Ukrainian, in whole or in part, as written evidence without any proper certification of the translation of such documents into Russian provided that they were executed before 18 March 2014.
(Part 22 is introduced by Federal Constitutional Law of 31.12.2014 No. 21-FKZ; as amended by Federal Constitutional Law of 29.12.2015 No. 8-FKZ)

CRIMINAL CODE

OF THE RUSSIAN FEDERATION[2]

Article 63. Circumstances Aggravating Punishment

1. The following circumstances shall be deemed to be aggravating:

[...]

e) Commission of a crime by reason of political, ideological, racial, national, or religious hatred or enmity, or by reason of hatred or enmity towards any social group;

[...]

Article 136. Violation of the Equality of Human and Civil Rights and Freedoms

(as amended by Federal Law of 07.12.2011 No. 420-FZ)

Discrimination, that is, violation of the human and civil rights, freedoms and legitimate interests based on gender, race, nationality, language, origin, property or official status, residence, attitude to religion, convictions, or affiliation with public associations or any social groups, carried out by a person through the use of his or her official position -

shall be punishable by a fine in the amount of one hundred thousand to three hundred thousand roubles, or in the amount of a salary or any other income of the convicted person for a period of one year to two years, or by the deprivation of the right to hold specified offices or engage in specified activities for a term of up to five years, or by obligatory labour for a term of up to four hundred and eighty hours, or by corrective labour for a term of up to two years, or forced labor for a period of up to five years, or by the deprivation of liberty for the same term.

Article 205. Act of terrorism

(as amended by Federal Law of 27.07.2006 No. 153-FZ)

1. Committing an explosion, arson or other actions intimidating the population, and creating threat of human death, infliction of significant property damage or other grave consequences, with the purpose of destabilising activities of state authorities or international organizations or influencing the adoption of decisions by them, as well as threat of committing the mentioned actions for the purpose of influencing the adoption of decisions by state authorities or international organizations –

[2] The version reproduced below is valid as of 29 July 2018. There have been amendments made since March 2014 (marked accordingly in the text) that do not affect the availability of local remedies.

(as amended by Federal Laws of 05.05.2014 No. 130-FZ, of 31.12.2017 No. 501-FZ)

shall be punishable by deprivation of liberty for a term of ten to fifteen years.

(as amended by Federal Laws of 27.12.2009 No. 377-FZ, of 09.12.2010 No. 352-FZ, of 06.07.2016 No. 375-FZ)

(part one as amended by Federal Law of 27.07.2006 No. 153-FZ)

[...]

CRIMINAL-PROCEDURAL CODE

OF THE RUSSIAN FEDERATION[3]

Article 24. Grounds for Refusal to Institute a Criminal Case or to Terminate a Criminal Case

1. A criminal case cannot be instituted, and or the instituted criminal case shall be subject to termination on the following grounds:

1) Absence of the event of a crime;

2) Absence of the elements of crime in the actions;

3) Expiry of the limitation period for criminal prosecution;

4) Death of the suspect or the accused, with the exception of cases when the proceedings on the criminal case are necessary for the rehabilitation of the deceased;

5) Absence of the victim's application, if the criminal case may be instituted only upon his or her application, save as otherwise provided for by Part Four of Article 20 of this Code;

6) Lack of a court statement as to the presence of elements of a crime in the actions of one of the persons mentioned in Clauses 2 and 2.1 of Part One of Article 448 of this Code or lack of the consent of the Federation Council, the State Duma, the Constitutional Court of the Russian Federation, the qualification board of judges to the opening of a criminal case or prosecution as the accused of one of the persons mentioned in Clauses 1 and 3-5 of Part One of Article 448 of this Code.

(as amended by Federal Laws of 29.05.2002 No. 58-FZ, of 18.07.2009 No. 176-FZ)

2. The criminal case shall be subject to termination on the grounds provided for by Clause 2 of Part One of this Article, if the criminality and punishability of the action in question have been eliminated by the new criminal law before the sentence comes into legal force.

3. The termination of a criminal case shall simultaneously terminate the criminal prosecution.

4. A criminal case shall be subject to termination when the criminal prosecution in respect of all suspects or accused persons is terminated save as otherwise provided for by Clause 1 of Part One of Article 27 of this Code.

(Part Four is introduced by Federal law of 04.07.2003 No. 92-FZ)

Article 123. The Right to Appeal

(as amended by Federal Law of 30.04.2010 No. 69-FZ)

1. Actions (failure to act) and decisions of the inquirer, the head of an inquiry subdivision, the head of an inquiry body, the inquiry body, the investigator, the head of an investigatory body, the prosecutor and the court, may be appealed against as provided for by this Code by the

[3]The version reproduced below is valid as of 29 July 2018. There have been amendments made since March 2014 (marked accordingly in the text) that do not affect the availability of local remedies.

participants in the criminal court proceedings, as well as by other persons insofar as the performed procedural actions and the adopted procedural decisions affect upon their interests.
(as amended by Federal Law of 30.12.2015 No. 440-FZ)

2. If there is a failure to meet the reasonable time limit of the criminal court proceedings in the course of pretrial proceedings with regard to a criminal case, participants in the criminal court proceedings, as well as other person whose interests are affected, may file a complaint with the prosecutor or the head of an investigatory body which must be considered in the manner and time period established by Article 124 of this Code.

Article 124. Procedure for the Consideration of a Complaint by the Prosecutor, the Head of an Investigatory Body
(as amended by Federal Law of 05.06.2007 No. 87-FZ)

1. The prosecutor, the head of an investigatory body shall consider a complaint within three days since its receipt. In exceptional cases, when it is necessary to demand that additional materials be provided or other measures be taken in order to verify the complaint, it shall be admissible to consider the complaint within a time period of up to ten days, whereof the applicant shall be duly informed.
(as amended by Federal Law of 05.06.2007 No. 87-FZ)

2. Following the consideration of the complaint, the prosecutor, the head of an investigatory body shall pass a resolution to satisfy the complaint, in whole or in part, or to dismiss it.
(as amended by Federal Law of 05.06.2007 No. 87-FZ)

2.1. If a complaint filed in compliance with Part Two of Article 123 of this Code is satisfied, the resolution shall describe the procedural actions performed for speeding up the consideration of the case and the time period for performing them.
(Part 2.1 is issued by Federal Law of 30.04.2010 No. 69-FZ)

3. The applicant shall be immediately notified of the decision regarding the complaint and the further procedure for appealing against it.

4. To the extent provided for by this Code, the inquirer and the investigator may appeal against actions (failure to act) and decisions of the prosecutor or the head of an investigatory body to the superior prosecutor or the head of a superior investigatory body, respectively.
(Part Four as amended by Federal Law of 05.06.2007 No. 87-FZ)

Article 125. Court Procedure for Consideration of Complaints

1. Decisions of the inquiry body, the inquirer, the investigator, the head of an investigatory body to refuse institution of a criminal case or termination of a criminal case, as well as other decisions and actions (failure to act) of the inquirer, the head of an inquiry subdivision, the head of an inquiry body, the body of inquiry, the investigator, the head of an investigatory body and prosecutor that can affect the constitutional rights and freedoms of the participants in criminal

proceedings or interfere with the citizens' access to the administration of justice, may be appealed against with the district court at the place where the offence containing the elements of a crime was perpetrated. If the place of a preliminary investigation is established in accordance with Parts 2-6 of Article 152 of this Code, complaints about actions (failure to act) and decisions of the above-mentioned persons shall be considered by a district court at the place of location of the authority that reviews the criminal case.
(Part 1 as amended by Federal Law of 30.12.2015 No. 440-FZ)

2. A complaint may be filed with a court by the applicant, by his or her counsel for the defence, by his or her legal representative or representative, either directly or through the inquirer, head of an inquiry subdivision, head of an inquiry body, the inquiry body, the investigator, head of an investigatory body or the prosecutor.
(as amended by Federal Laws of 24.07.2007 No. 214-FZ, of 30.12.2015 No. 440-FZ)

3. A judge shall verify the legality and substantiation of actions (failure to act) and decisions of the inquirer, head of an inquiry subdivision, head of an inquiry body, the inquiry body, the investigator, the head of an investigatory body and the prosecutor, within no more than five days after the receipt of the complaint, in a court session with the participation of the applicant and of his or her counsel for the defence, of his or her legal representative or representative, if they participate in the criminal case, as well as of other persons whose interests are directly affected by the action (failure to act) or decision, against which the complaint is filed, as well as with the participation of the prosecutor, the investigator, the head of an investigatory body. A failure to participate of the persons who are duly informed about the time the complaint is to be considered and do not insist upon its consideration with their participation, shall not be deemed to constitute an obstacle to the consideration of the complaint by the court. Complaints to be considered by the court shall be considered in an open hearing unless otherwise provided for by Part Two of Article 241 of this Code.
(as amended by Federal Laws of 08.12.2003 No. 161-FZ, of 24.07.2007 No. 214-FZ, of 02.12.2008 No. 226-FZ, of 30.12.2015 No. 440-FZ)

4. At the beginning of a court session, the judge shall announce what complaint is to be considered, introduce himself or herself to the persons who have come to attend the court session and explain their rights and obligations. Afterwards the applicant, if he or she participates in the court session, shall substantiate the complaint, and then the other persons attending at the court session shall be heard out. The applicant shall have the right to reply.

5. Following the consideration of the complaint, the judge shall pass one of the following decisions:

1) To declare the action (failure to act) or decision of the corresponding official to be illegal or unsubstantiated, and to obligate him or her to remedy the violation;

2) To dismiss the complaint.

6. Copies of the judge's decision shall be forwarded to the applicant, the prosecutor and the head of an investigatory body.
(as amended by Federal Law of 24.07.2007 No. 214-FZ)

7. The filing of a complaint shall not suspend the performance of the appealed action and decision unless the inquirer, head of an inquiry subdivision, head of an inquiry body, the inquiry body, the investigator, the head of an investigatory body, the prosecutor or the judge finds it necessary.
(as amended by Federal Laws of 24.07.2007 No. 214-FZ, of 30.12.2015 No. 440-FZ)

Article 145. Resolutions Adopted after the Consideration of the Report of a Crime

1. After the consideration of the report of a crime, the inquiry body, the inquirer, the investigator, the head of an investigatory body shall take one of the following decisions:
(as amended by Federal Laws of 05.06.2007 No. 87-FZ, of 02.12.2008 No. 226-FZ)

1) To institute a criminal case as provided for by Article 146 of this Code;

2) To refuse to institute a criminal case;

3) To hand over the report to the appropriate investigative jurisdiction in accordance with Article 151 of this Code, and as regards criminal cases of private prosecution to hand over the report - to the court in accordance with Part Two of Article 20 of this Code.

[...]

Article 146. Institution of a Criminal Case of Public Prosecution

1. If there is a reason and sufficient grounds provided for by Article 140 of this Code, the inquiry body, the inquirer, the head of an investigatory body, the investigator shall – within the scope of their competence established by this Code – institute a criminal case by passing a corresponding resolution.

[...]

Article 156. Commencement of the Preliminary Investigation

1. The preliminary investigation shall commence upon the institution of a criminal case, with the investigator, the inquirer, or the inquiry body passing a corresponding resolution to this effect. The investigator or the inquirer shall also state in this resolution that they shall be in charge of the criminal case.

[...]

Article 162. Term of the Preliminary Investigation

1. The preliminary investigation on a criminal case shall be completed within two months from the day of its institution.

2. The term of the preliminary investigation shall include the time period from the institution of the criminal case to the day of its forwarding it to the prosecutor with an indictment or a resolution to hand over the criminal case to a court for its examination as to the application

of compulsory measures of a medical nature, or to the day of adopting a resolution to terminate the criminal proceedings.

3. The term of the preliminary investigation shall not include the time period for the investigator's appeal against the prosecutor's decision as provided for by Clause 2 of Part One of Article 221 of this Code, and the time period for which the preliminary investigation was suspended as provided for by this Code.
(as amended by Federal Law of 28.12.2010 No. 404-FZ)

4. The term of the preliminary investigation established by Part One of this Article may be extended up to 3 months by the head of a corresponding investigatory body.
(as amended by Federal Laws of 05.06.2007 No. 87-FZ, of 03.12.2007 No. 323-FZ)

5. The term of the preliminary investigation in a criminal case, which is especially difficult to investigate, may be extended by the head of an investigatory body of a constituent entity of the Russian Federation; on an equal-status head of an investigatory body and deputies thereof, by up to 12 months. A further extension of the term of the preliminary investigation may be effected only in exceptional cases by the Chairman of the Investigative Committee of the Russian Federation, the head of an investigatory body of an appropriate federal executive body (under a federal executive body) or deputies thereof.

[...]

Article 164. General Rules for Conducting Investigative Actions

1. Investigative actions provided for by Articles 178, Part Three, 179, 182 and 183 of this Code, shall be conducted on the basis of the investigator's resolution.
(as amended by Federal Law of 29.05.2002 No. 58-FZ)

2. As provided for by Clauses 4-9, 11 and 12 of Part Two of Article 29 of this Code, investigative actions shall be conducted on the basis of the court resolution.
(as amended by Federal Law of 01.07.2010 No. 143-FZ)

3. It shall not be permitted to conduct an investigative action at night, except for pressing cases.

4. When conducting investigative actions it shall not be permitted to use violence, threats and other illegal actions or to pose threats to the life and health of persons participating in the investigative action.

[...]

Article 208. Grounds, Procedure and Time Limit for the Suspension of the Preliminary Investigation

1. The preliminary investigation shall be suspended, if there is any of the following grounds:

1) The person to be accused has not been identified;

2) The suspect or accused has fled from the investigation, or the place of his or her stay has not been established for other reasons;
(as amended by Federal Law of 29.05.2002 No. 58-FZ)

3) The place of the stay of the suspect or accused is established, but there is no real possibility of him or her participating in the criminal proceedings;
(as amended by Federal Law of 29.05.2002 No. 58-FZ)

4) Some temporary serious illness of the suspect or accused, certified by a medical conclusion, prevents him or her from participating in investigative or other procedural actions.
(as amended by Federal Law of 29.05.2002 No. 58-FZ)

2. The investigator shall pass a resolution to suspend the preliminary investigation, a copy of which shall be forwarded to the prosecutor.

3. If two or more accused are involved in the criminal case, but the grounds for suspension do not apply to all of them, the investigator may separate out criminal proceedings in relation to certain accused persons and suspend such proceedings.

4. The preliminary investigation shall be suspended as provided for by Clauses 1 and 2 of Part One of this Article only upon the expiry of its term. The preliminary investigation may also be suspended as provided for by Clauses 3 and 4 of Part One of this Article before the expiry of its term.

5. Until the preliminary investigation is suspended, the investigator shall perform all investigative actions that can be performed in the absence of the suspect or accused and shall take measures to search for or identify the person who committed the crime.

[...]

Article 209. Investigator's Actions after Suspending the Preliminary Investigation

[...]

2. After suspending the preliminary investigation, the investigator shall:

1) in the cases provided for by Clause 1 of Part One of Article 208 of this Code take measures to identify the person that shall be declared suspected or accused;
(as amended by Federal Law of 04.07.2003 No. 92-FZ)

2) in the cases provided for by Clause 2 of Part One of Article 208 of this Code locate the suspect or accused, and if he or she has fled, take measures to search for him or her.
(as amended by Federal Law of 04.07.2003 No. 92-FZ)

3. After the preliminary investigation is suspended, no investigative actions shall be performed.

Article 211. Resumption of the Suspended Preliminary Investigation

1. The preliminary investigation shall be resumed in accordance with the investigator's resolution after:

1) The grounds for its suspension have ceased to exist;

2) A need for the performance of investigative actions, which may be carried out without the participation of the suspect and the accused, has arisen;
(as amended by Federal Law of 04.07.2003 No. 92-FZ)

3) The prosecutor has reversed the decision to suspend the preliminary investigation.

[...]

CODE ON ADMINISTRATIVE OFFENCES OF THE RUSSIAN FEDERATION[4]

Article 30.6. Considering an Appeal against a Decision in an Administrative Offence

1. An appeal against a decision in administrative offence cases shall be considered by a single judge or official.

2. When considering an appeal against a decision in administrative offence cases:

[...]

8) the lawfulness and substantiation of the decision issued shall be verified on the basis of the materials of the case, including those additionally submitted, in particular, explanations shall be heard of an individual or of a legal representative of the legal entity in respect of which the decision in the administrative offence case has been issued; where necessary, testimonies of other persons participating in the consideration of the appeal, explanations of a specialist and an opinion of an expert shall be heard, other evidence shall be examined and other procedural actions shall be performed, in compliance with this Code;

[...]

Article 30.7. Determination of an Appeal against a Decision in an Administrative Offence Case

1. Consideration of an appeal against a decision in an administrative offence case may result in one of the following determinations:

[...]

3) to reverse the decision and to terminate proceedings on the case if at least one of the circumstances provided for by Articles 2.9 and 24.5 of this Code is present, as well as when the circumstances, which have served as a basis for rendering the decision, are not proved;

4) to reverse the decision and to return the case for a new trial to the judge, body, or official authorised to consider the case, where there are significant breaches of the procedural requirements provided for by this Code and if such breaches have impeded the comprehensive, full and unbiased consideration of the case, as well as in view of the necessity to enforce a law on an administrative offence that entails the imposition of a stricter penalty, if the victim has appealed against the mildness of the imposed administrative penalty;

[4] The version reproduced below is valid as of 03 August 2018. There have been amendments made since March 2014 (marked accordingly in the text) that do not affect the availability of local remedies.

5) to reverse the decision and to direct it for consideration by the competent authority, if it was established during the consideration of the appeal that the decision had been rendered by a judge, body, or official not authorised to do so.

[...]

Article 30.16. Scope and Time Limits for Consideration of an Appeal or Protest Against an Effective Ruling in an Administrative Offence Case or Decision on an Appeal or Protest
(as amended by Federal Law of 04.06.2014 No. 143-FZ)
(introduced by Federal Law of 03.12.2008 No. 240-FZ)

1. Pursuant to an appeal or protest admitted for consideration, the decision in an administrative offence case or decisions on appeals or protests are verified based on the arguments set out in the appeal or protest and the response to the appeal or protest.
(as amended by Federal Law of 04.06.2014 No. 143-FZ)

2. The judge who has taken up the appeal or protest for consideration, for the sake of legality, may examine the administrative offence case in full.
(as amended by Federal Law of 04.06.2014 No. 143-FZ)

[...]

Article 30.17. Types of Rulings Adopted Following Consideration of an Appeal or Protest Against the Ruling in an Administrative Offence Case or Decisions on Appeals or Protests That Have Come into Force
(as amended by Federal Law of 04.06.2014 No. 143-FZ)
(introduced by Federal Law of 03.12.2008 No. 240-FZ)

1. Following consideration of an appeal or protest against the ruling in an administrative offence case that has come into force, a decision shall be adopted in the form of a ruling.
(as amended by Federal Law of 04.06.2014 No. 143-FZ)

2. Following consideration of an appeal or protest against the rulings in force in administrative offence cases or decisions on appeals or protests, one of the following decisions shall be passed:
(as amended by Federal Law of 04.06.2014 No. 143-FZ)

1) to uphold the ruling in an administrative offence case or decision on an appeal or protest and dismiss the appeal or protest against the ruling in an administrative offence case or against the decision in force on an appeal or protest;
(as amended by Federal Law of 04.06.2014 No. 143-FZ)

2) to amend the ruling in an administrative offence case or the decision on an appeal or protest if the committed breaches of this Code and (or) the law of a constituent entity of the Russian Federation on administrative offences may be remedied without returning the case for a

new trial and the administrative penalty does not become more severe and the position of the individual, in relation to whom such a ruling is made does not deteriorate;

3) to reverse the ruling in an administrative offence case or the decision on an appeal or protest and return the case for a new trial, if there is a material violation of the procedural requirements provided for by this Code that prevented the comprehensive and objective consideration of the case;

4) to reverse the ruling in an administrative offence case or the decision on an appeal or protest and terminate proceedings in the case if there is at least one of the circumstances provided for by Articles 2.9, 24.5 of this Code, as well as if the circumstances on the basis of which the said ruling or decision was adopted were not proved.

ARBITRAZH PROCEDURAL CODE OF THE RUSSIAN FEDERATION[5]

Article 21. Recusal of a Judge

1. A judge may not participate in the consideration of a case and shall be recused if he or she:

[...]

5) is personally, directly or indirectly interested in the outcome of the case or if there are other circumstances which may raise doubts as to the judge's impartiality;

[...]

Article 268. Limits for the Consideration of a Case by an Appellate Arbitrazh Court

1. When considering a case in appellate proceedings, an arbitrazh court again considers the case, based on the evidence which is already available in the case as well as the evidence additionally presented.

[...]

6. Regardless of the arguments made in the appeal, the appellate arbitrazh court ascertains that the court of first instance did not violate any norms of procedural law, which would, in accordance with Part 4 of Article 270 of this Code, constitute grounds for the reversal of the judgment of the arbitrazh court of first instance.

[...]

Article 270. Grounds for the Amendment or Reversal of the Judgment of the Arbitrazh Court of First Instance

1. The following shall be deemed to constitute grounds for the amendment or reversal of the judgment of the arbitrazh court of first instance:

1) Incomprehensive ascertainment of the circumstances material for the case;

2) Failure to prove the circumstances material for the case, that the court has found to be established;

3) Contradiction of the conclusions presented in the judgment to the circumstances of the case;

[5] The version reproduced below is valid as of 03 August 2018. There have been amendments made since March 2014 (marked accordingly in the text) that do not affect the availability of local remedies.

4) Violation or incorrect application of the norms of substantive or procedural law.

2. The following shall be deemed to be the incorrect application of the norms of substantive law:

1) Failure to apply an applicable law;

2) Application of a non-applicable law;

3) Incorrect interpretation of a law.

3. Violation or incorrect application of the rules of procedural law constitute grounds for the amendment or reversal of the judgment of the arbitrazh court of the first instance when such a breach resulted or could have resulted in the adoption of an incorrect judgment.

4. The following shall be deemed to constitute grounds for the reversal of the judgment of the arbitrazh court of first instance in any event:

1) Consideration of the case by an illegal composition of the arbitrazh court;

2) Consideration of the case in the absence of any persons participating in the case who were not properly notified of the time and place of the court session;

3) Violation of the rules regarding the language of proceedings during the consideration of the case;

4) Adoption of the judgment by the court concerning the rights and duties of the persons who were not involved in the case;

5) Failure of a judge or one of the judges, if the case was considered by a panel of judges, to sign the judgment, or signing of the judgment by judges other than those named in the judgment;

6) Absence of the minutes of the court session or signing of the minutes by persons other than those specified in Article 155 of this Code;

7) Violation of the secrecy of judges' conference when adopting the judgment.

5. Part ceased to be effective. – Federal Law of 30.04.2010 No. 69-FZ.

Article 286. Limits for the Consideration of a Case in a Cassation Arbitrazh Court

1. The cassation arbitrazh court shall examine the legality of the judgements and rulings, delivered by the arbitrazh court of first instance and appellate instance by verifying the accuracy of application of the rules of substantive law and procedural law in the course of examination of the case and of adoption of the contested judicial act on the basis of the arguments contained in the cassation appeal and the objections to the appeal, unless otherwise provided for by this Code.

2. Regardless of the arguments contained in the cassation appeal, the cassation arbitrazh court shall verify whether the arbitrazh court of the first and appellate instances has violated the rules of procedural law, which under Part 4 of Article 288of this Code constitute the grounds for reversal of the judgment of the arbitrazh court of first instance or the ruling of the appellate arbitrazh court.

3. During the examination of the case, the cassation arbitrazh court shall verify whether the conclusions of the arbitrazh court of the first and appellate instances concerning the application of the legal rule correspond to the facts of the case established by them as well as the available evidence in the case.

Article 288. Grounds for the Reversal of a Judicial Order, Amendment or Reversal of the Judgment or Ruling of the Arbitrazh Court of First or Appellate Instance

(as amended by Federal Law of 02.03.2016 No. 47-FZ)

1. The inconsistency between the conclusions of the court contained in the judgment or ruling and the facts of the case established by the arbitrazh court of the first or appellate instance and available evidence in the case, a breach or incorrect application of the norms of substantive or procedural law, shall constitute grounds for the amendment or reversal of the judgment or ruling of the arbitrazh court of first or appellate instance.

2. The following shall be deemed to be the incorrect application of the norms of substantive law:

1) Failure to apply the applicable law;

2) Application of a non-applicable law;

3) Incorrect interpretation of law.

3. Violation or incorrect application of the rules of procedural law constitutes grounds for amendment or reversal of the judgment or ruling of the arbitrazh court when such breach resulted or could have resulted in adoption of an incorrect judgment or ruling.

4. The following shall be deemed to constitute grounds for the reversal of the judicial order, judgment or ruling of the arbitrazh court in any event:

(as amended by Federal Law of 02.03.2016 No. 47-FZ)

1) Consideration of the case by an illegal composition of the arbitrazh court;

2) Consideration of the case in the absence of any persons participating in the case who were not properly notified of the time and place of the court session;

3) Violation of the rules regarding language of the proceedings;

4) Adoption of the judgment by the court concerning rights and duties of persons who were not involved in the case;

5) Where a judge or one of the judges, if the case was considered by a panel of judges, fails to sign the judgment or ruling, or where the judgment or ruling is signed by judges other than those named in the judgment or ruling;

6) Where there are no minutes of the court session or where the minutes are signed by persons other than those specified in Article 155 of this Code;

7) Violation of the secrecy of judges' conference when the judgment or ruling is adopted.

Article 308.8. Grounds for the Reversal or Amendment of Judicial Rulings in Supervisory Proceedings

(introduced by Federal Law of 28.06.2014 No. 186-FZ)

Judicial rulings set out in Part 3 of Article 308.1 of this Code shall be reversed or amended if, during the examination of a case in supervisory proceedings, the Presidium of the Supreme Court of the Russian Federation establishes that the relevant contested judicial decision infringes:

1) human and civil rights and freedoms guaranteed by the Constitution of the Russian Federation, by generally acknowledged principles and norms of international law, by international treaties of the Russian Federation;

2) Rights and lawful interests of the general public or other public interests;

3) Uniformity in the application and (or) interpretation of the rules of law by courts.

Article 308.11. Powers of the Presidium of the Supreme Court of the Russian Federation During the Revision of Judicial Orders in Supervisory Proceedings

[...]

2. During examination of a case under supervisory proceedings, the Presidium of the Supreme Court of the Russian Federation shall verify the correctness of the application and (or) interpretation of the norms of substantive law and (or) norms of procedural law by the courts examining the case, within the scope of the arguments set out in the supervisory appeal or prosecutor's supervisory appeal. For the sake of legality, the Presidium of the Supreme Court of the Russian Federation may go beyond the scope of the arguments set out in the supervisory appeal or prosecutor's supervisory appeal. In such a case, the Presidium of the Supreme Court of the Russian Federation shall not verify the lawfulness of judicial acts to the extent that they are not contested and shall not verify the lawfulness of judicial acts that are not contested.

[...]

CODE OF ADMINISTRATIVE JUDICIAL PROCEDURE OF THE RUSSIAN FEDERATION[6]

Article 31. Recusal of a Judge

[...]

2. A judge cannot participate in the consideration of an administrative case and is subject to recusal, if there are other circumstances, not referred to in Part 1 of this Article, which may raise doubts regarding the objectiveness and impartiality of the judge.

[...]

Article 310. Grounds for Reversal or Amendment of a Court Decision on Appeal

1. Decisions of a court of first instance are subject to unconditional reversal, if:

1) The administrative case was considered by an unlawful composition of the court;

2) The administrative case was considered in the absence of one of the persons participating in the case and not duly notified of the time and place of the court session;

3) The rights of persons participating in the case and not speaking the language of proceedings to give explanations, speak in court, file motions and appeals in their native language or language of choice, as well as to use the services of an interpreter were not ensured;

4) The court adopted a decision regarding the rights and obligations of persons not involved in the administrative case;

5) The court decision is not signed by the judge or by one of the judges; or the court decision is signed by a wrong judge or judges, who were not in the composition of the court that considered the administrative case;

6) The minutes of the court session are not in the case file;

7) The secrecy of judges' conference was violated when the decision was adopted.

2. The following are the grounds for reversal or amendment of a court decision on appeal:

1) Wrong findings on the facts that are material for the administrative case;

2) Facts material for the administrative case and established by the court of first instance, were not proved;

[6] The version reproduced below is valid as of 19 July 2018. There have been amendments made since March 2014 (marked accordingly in the text) that do not affect the availability of local remedies. Prior to the adoption of this code similar procedures were available under the Civil Procedural Code of the Russian Federation.

3) Conclusions of the court of first instance, set forth in the court decision, are inconsistent with the facts of the administrative case;

4) Violation or wrongful application of substantive law rules or procedural law rules.

3. The following constitutes wrongful application of substantive law rules:

1) Failure to apply the law that should have been applied;

2) Application of a law that should not have been applied;

3) Wrongful interpretation of law, in particular interpretation of law without regard to the legal positions contained in the rulings of the Constitutional Court of the Russian Federation, the rulings of the Plenary Session of the Supreme Court of the Russian Federation, the rulings of the Presidium of the Supreme Court of the Russian Federation.

4. Violation or wrongful application of procedural law rules constitutes grounds for the reversal or amendment of a decision of instance first instance court, if that violation or wrongful application led to the adoption of an incorrect decision.

5. If a decision of a court of first instance is correct in its nature, it cannot be reversed on formal grounds.

Article 328. Grounds for Reversal or Amendment of Judicial Acts in Cassation

Significant violations of substantive law rules and procedural law rules, that influenced the outcome of the administrative case and that need to be remedied to restore and protect the violated rights, freedoms and lawful interests, as well as to protect legally safeguarded public interests, constitute grounds for reversal or amendment of judicial acts in cassation.

Article 329. Powers of a Court of Cassation

[...]

2. When considering an administrative case in cassation, the court verifies – within the arguments stated in the cassation appeal, prosecutor's cassation appeal – correctness of application and interpretation of substantive and procedural rules of law by the courts that considered the administrative case. The court may go beyond the arguments stated in the cassation appeal, prosecutor's cassation appeal in administrative cases affecting the interests of the general public or in administrative cases affecting the interests of a natural person and and referred to in Chapters 28-31 of this CodeHowever, the court of cassation has no right to verify lawfulness of judicial acts to the extent that they are not challenged, or lawfulness of judicial acts that are not challenged.

[...]

Article 341. Grounds for Reversal or Amendment of Judicial Acts in Supervisory Proceedings

Judicial acts referred to in Part 2 of Article 332 of this Code are subject to reversal or amendment if during consideration of the administrative case in supervisory proceedings the Presidium of the Supreme Court of the Russian Federation finds that a challenged judicial act violates:

1) human and civil rights and freedoms guaranteed by the Constitution of the Russian Federation, by universal principles and norms of international law, by international treaties of the Russian Federation;

2) Rights and lawful interests of the general public or other public interests;

3) Uniformity of the interpretation and application of rules of law by the courts.

Article 342. Powers of the Presidium of the Supreme Court of the Russian Federation in Supervisory Review of Judicial Acts

[...]

2. When considering an administrative case in supervisory proceedings, the Presidium of the Supreme Court of the Russian Federation verifies – within the arguments stated in the supervisory appeal, prosecutor's supervisory appeal – correctness of application and interpretation of substantive and procedural law rules by the courts that considered the administrative case. In the interests of lawfulness, the Presidium of the Supreme Court of the Russian Federation may go beyond the arguments stated in the supervisory appeal, prosecutor's supervisory appeal. However, the Presidium of the Supreme Court of the Russian Federation has no right to verify either the lawfulness of judicial acts to the extent that they are not challenged, or the lawfulness of judicial acts that are not challenged.

[...]

17 January 1992 No. 2202-1

FEDERAL LAW

ON THE PUBLIC PROSECUTION SERVICE OF THE RUSSIAN FEDERATION

Article 10. Consideration and Resolution of Petitions, Complaints and Other Applications by the Bodies of the Prosecutor's Office

1. Within the remit of their powers the bodies of the prosecutor’s office, they shall resolve petitions, complaints and other applications containing information about any breaches of laws. The prosecutor’s decision shall not prevent a person from resorting to court for defense. An appeal against a decision on a complaint relating to a court sentence, resolution, ruling and decree may be taken only to a higher prosecutor.

[...]

3. A reply to a petition, complaint and other application shall be substantiated. Should the applicant's petition or complaint be dismissed, an explanation shall be provided to the applicant as to the procedure for appealing the decision as well as the right to resort to court if such rights is stipulated by law.

4. The prosecutor shall take measures to hold offenders liable in accordance with the procedure established by law.

5. It is prohibited to transmit a complaint to a body or official whose decisions or actions are appealed against.

Chapter 1. SUPERVISION OVER THE OBSERVANCE OF LAW

Article 21. The Subject Matter of Supervision

1. The following shall be subject to supervision:

the observance of the Constitution of the Russian Federation and execution of the laws effective in the territory of the Russian Federation by the federal executive bodies, the Investigative Committee of the Russian Federation, representative (legislative) and executive government bodies of constituent entities of the Russian Federation, local self-government bodies, military bodies, control bodies, their officials, offices for public control over the protection of human rights in detention facilities and assistance to persons in detention facilities, as well as management bodies and heads of commercial and noncommercial organisations;

(as amended by Federal Laws of 01.07.2010 No. 132-FZ, of 22.12.2014 No. 427-FZ)

the compliance of acts issued by the bodies and officials specified in this Clause with the law.

[...]

Article 23. Prosecutor's Protest

1. The prosecutor or deputy thereof shall bring a protest against a legal act conflicting with the law to the body or official which issued this act or to a higher body or official or shall apply to court in accordance with the procedure established by the procedural laws of the Russian Federation.

[...]

Article 24. Prosecutor's Demand

1. A prosecutor's demand regarding the elimination of a breach of law shall be made by the prosecutor or deputy thereof to the body or official which is authorised to eliminate the committed breaches and it shall be subject to urgent consideration.

[...]

Article 25.1. Warning of the Impermissibility of a Breach of Law

To prevent wrongdoing, and if there is information about any preparations for illegal actions, the prosecutor or a deputy thereof shall forward a written warning on the impermissibility of a breach of law to officials, and if there is information about any preparations for illegal actions, bearing the signs of extremist activity to the heads of public (religious) associations and other persons.

[...]

Chapter 2. SUPERVISION OVER THE OBSERVANCE OF HUMAN AND CIVIL RIGHTS AND FREEDOMS

Article 26. Subject Matter of Supervision

1. The subject matter of supervision shall be the observance of human and civil rights and freedoms by the federal executive bodies, the Investigative Committee of the Russian Federation, representative (legislative) and executive government bodies of constituent entities of the Russian Federation, local self-government bodies, military bodies, control bodies, their officials, offices for public control over the protection of human rights in detention facilities and assistance to persons in detention facilities, as well as management bodies and heads of commercial and noncommercial organisations;
(as amended by Federal Laws of 10.02.1999 No. 31-FZ, of 01.07.2010 No. 132-FZ, of 22.12.2014 No. 427-FZ)

[...]

Article 27. Prosecutor's Powers

1. While performing the functions vested in them, the prosecutor shall:

Consider and verify applications, complaints and other reports concerning any breaches of human and civil rights and freedoms;

Explain the procedure for defending the rights and freedoms to the victims;

Take measures to prevent and suppress any breaches of human and civil rights and freedoms, hold offenders liable and compensate the damage inflicted;

Exercise the powers specified in Article 22 of this Federal Law.

2. Should there be any grounds to believe that a breach of human and civil rights and freedoms constitutes a crime, the prosecutor shall take measures to hold the offenders criminally liable in accordance with the law.

3. When a breach of human and civil rights and freedoms constitutes an administrative offence, the prosecutor shall institute administrative proceedings or immediately transfer a report on the offence and inspection materials to the body or official authorised to consider administrative offence cases.

[...]

Article 28. Prosecutor's Protest and Demand

The prosecutor or a deputy thereof shall either bring a protest against an act violating human and civil rights to the body or official which issued the said act or apply to the court following the procedure provided for by the procedural legislation of the Russian Federation.

A prosecutor's demand regarding the elimination of a breach of the human and civil rights shall be made by the prosecutor or a deputy thereof to the body or official which is authorised to eliminate the committed breach.

Protests and prosecutor's demands shall be made and considered in the manner and within the time periods established by Articles 23 and 24 of this Federal Law.

Chapter 3. SUPERVISION OVER THE OBSERVANCE OF LAW BY THE CRIMINAL INTELLIGENCE, INQUIRY AND PRELIMINARY INVESTIGATION BODIES

Article 29. Subject Matter of Supervision

The subject matter of supervision shall be the observance of human and civil rights, the established procedure for resolving applications and reports of committed crimes and crimes in preparation, the performance of criminal intelligence operations and investigation, as well as the legality of decisions adopted by the criminal intelligence, inquiry and preliminary investigation bodies.

Chapter 4. SUPERVISION OVER THE OBSERVANCE OF LAW BY THE ADMINISTRATIONS OF THE BODIES AND INSTITUTIONS CARRYING OUT SENTENCES AND MANDATORY MEASURES ORDERED BY THE COURT, THE ADMINISTRATIONS OF DETENTION AND CUSTODY FACILITIES

Article 32. Subject Matter of Supervision

The subject matter of supervision shall be:

the legality of detention of persons in detention facilities, custody facilities, correctional labour and other bodies and institutions carrying out sentences and mandatory measures ordered by the court;

the observance of the rights and obligations of the detainees, persons in custody, convicted persons and persons subjected to mandatory measures, the procedure and conditions of their detention, established by the laws of the Russian Federation;

the legality of carrying out sentences other than imprisonment.

Article 33. Prosecutor's Powers

1. While performing supervision over the observance of laws, the prosecutor may:

[...]

demand that the administration establishes conditions ensuring the rights of the detainees, persons in custody, convicted persons and persons subjected to mandatory measures, verify the compliance with orders, authorisations, decisions of the administration of the bodies and institutions specified in Article 32 of this Federal Law with the laws of the Russian Federation, demand explanations from officials, submit protests and prosecutor's demands, institute administrative proceedings. The administration of an institution shall suspend the protested act until consideration of the protest has been completed;

(as amended by Federal Law of 05.06.2007 No. 87-FZ)

lift disciplinary sanctions illegally imposed upon persons in custody, convicted persons and immediately release them from an isolation ward, cell-type premises, security housing unit, solitary cell, disciplinary cell by issuing a decree.

2. The prosecutor or deputy thereof shall immediately release every person imprisoned without legal grounds at institutions carrying out sentences and mandatory measures or every person illegally detained, put in custody or at a forensic psychiatric facility by issuing a decree.

19 June 1996 No. 74-FZ

FEDERAL LAW

ON THE NATIONAL CULTURAL AUTONOMY

Article 1. Notion of the National Cultural Autonomy

National cultural autonomy in the Russian Federation (hereinafter referred to as a "national cultural autonomy") is a form of national cultural self-determination which represents an association of the Russian citizens who identify themselves with a certain ethnic community which is in a situation of being a national minority in a respective territory and such association is based on their voluntary self-organization for the purposes of independently dealing with the issues of preservation of their identity, development of their language, education, national culture, strengthening the unity of the Russian nation, harmonizing interethnic relations, contributing to an interreligious dialogue and carrying out activities focused on the social and cultural adaptation and integration of migrants.

National cultural autonomy is a type of public association. National cultural autonomies are created in the form of public organizations.

Article 2. Principles of the National Cultural Autonomy

National cultural autonomies rest upon the following principles:

Free expression of will for citizens to identify with a certain ethnic community;

Self-organisation and self-government;

Diversity of the forms of internal organisation of a national cultural autonomy;

Combination of public initiative with state support;

Respect for the language, culture, traditions and customs of citizens of different ethnic communities;

Legality.

Article 4. Rights of National Cultural Autonomies

National cultural autonomies may:

Obtain support from public authorities and local self-government bodies which is necessary for preserving the national identity, developing the national (native) language and national culture, strengthening the unity of the Russian nation, harmonizing interethnic relations, contributing to an interreligious dialogue and carrying out activities focused on the social and cultural adaptation and integration of migrants;

Apply to the legislative (representative) and executive bodies, local self-government bodies, to represent its national cultural interests;

Create mass media as provided for by the laws of the Russian Federation, receive and distribute information in the national (native) language;

Preserve and enrich the historical and cultural heritage, have free access to national cultural values;

Follow the national traditions and customs, restore and develop folk artistic crafts and handcrafts;

Establish private educational organisations and scientific organisations, cultural establishments and ensure their functioning in accordance with the legislation of the Russian Federation;

Participate through their authorised representatives in the activities of international non-governmental organizations;

Establish and maintain humanitarian contacts with citizens and public organizations of foreign countries without any discrimination in accordance with the laws of the Russian Federation.

Federal laws, constitutions (statutes), the laws of constituent entities of the Russian Federation may provide for other rights of a national cultural autonomy in the areas of education and culture.

Participation or non-participation in the activities of a national cultural autonomy shall not constitute grounds for the restriction of the Russian citizens' rights, nor shall national identity constitute grounds for the restriction of their participation or non-participation in the activities of a national cultural autonomy.

The right to national cultural autonomy is not a right to national and territorial self-determination.

The exercise of the right to a national cultural autonomy shall not affect the interests of other ethnic communities.

Article 5. Organisational Framework of the National Cultural Autonomy

The organisational framework of a national cultural autonomy shall be determined by the peculiarities of settlement of the Russian citizens who identify themselves with certain ethnic communities and by the charters of national cultural autonomies.

National cultural autonomies can be local, regional and federal.

Local national cultural autonomies of the Russian citizens who identify themselves with a certain ethnic community may form a regional national cultural autonomy for the Russian citizens who identify themselves with a certain ethnic community.

Regional national cultural autonomies of two or more constituent entities of the Russian Federation may create bodies for the interregional coordination of their activities. Such bodies are not interregional national cultural autonomies.

A federal national cultural autonomy of the Russian citizens who identify themselves with a certain ethnic community may be established by at least half of the registered regional national cultural autonomies of the Russian citizens who identify themselves with a certain ethnic community.

Federal and regional national cultural autonomies of the Russian citizens who identify themselves with certain ethnic communities that have a respective republic, autonomous district or an autonomous region, and state government bodies of constituent entities of the Russian Federation may coordinate their activities and participate in the elaboration of federal and regional programs in the area of the preservation and development of national (native) languages and national culture on the basis of mutual agreements and treaties of the federal, regional national cultural autonomies and constituent entities of the Russian Federation.

Article 6. Order of Formation, State Registration, Reorganization and (or) Liquidation of the National Cultural Autonomy

The procedures for formation, state registration, reorganisation and (or) liquidation of a national cultural autonomy are provided for by this Federal Law, Federal Law of 19 May 1995 No. 82-FZ "On Public Associations" and other federal laws.

Local national cultural autonomy is established at a general meeting (gathering) of the Russian citizens who identify with a certain ethnic community and permanently reside in the territory of the respective municipality. Registered public associations of the Russian citizens who identify with a certain ethnic community that act in the territory of the respective municipality may also establish a local national cultural autonomy alongside with the Russian citizens.

Regional national cultural autonomy within a constituent entity of the Russian Federation may be established at a conference (congress) by delegates of local national cultural autonomies of the Russian citizens who identify themselves with a certain ethnic community.

Federal national cultural autonomy can be established by delegates of regional national cultural autonomies of the Russian citizens who identify themselves with a certain ethnic community at a congress.

National cultural autonomies form governing and auditing bodies. The procedures for formation, functions and names of such bodies shall be established by the charter of a national cultural autonomy in accordance with the laws of the Russian Federation.

Procedures for admission to a national cultural autonomy shall be established by the charter of the national cultural autonomy.

State registration of local, regional and federal national cultural autonomies shall be conducted in accordance with the laws of the Russian Federation.

State registration of a national cultural autonomy requires submission, *inter alia, of* documents confirming publication in the mass media distributed in the respective territory, of the reports about the forthcoming establishment of the national cultural autonomy. The publication shall be made no less than three months before the holding of a foundation conference (congress) of the federal or regional national cultural autonomy and at least one month before the holding of the foundation meeting (gathering) of the local national cultural autonomy.

The federal executive body of state registration shall maintain a register of national cultural autonomies. The register of national cultural autonomies shall be publicly available.

29 December 1999 No. 218-FZ

FEDERAL LAW

ON THE TOTAL NUMBER OF JUSTICES OF THE PEACE AND THE NUMBER OF JUDICIAL DISTRICTS IN CONSTITUENT ENTITIES OF THE RUSSIAN FEDERATION

Article 1. Pursuant to Article 4 of the Federal Law "On Justices of the Peace in the Russian Federation" and with due regard for the proposals of the legislative (representative) bodies of constituent entities of the Russian Federation approved by the Supreme Court of the Russian Federation, the number of justices of the peace and the appropriate number of judicial districts in the following constituent entities of the Russian Federation shall be established as follows:

[...]

Republic of Crimea - 100;

City with federal status of Sevastopol - 21;

[...]

14 March 2002 No. 30-FZ

FEDERAL LAW

ON BODIES OF THE JUDICIARY IN THE RUSSIAN FEDERATION

Article 19. Powers of Qualification Boards of Judges of Constituent Entities of the Russian Federation

1. Qualification boards of judges of constituent entities of the Russian Federation consider issues referred to their competence by federal constitutional laws, federal laws and adopt reasoned decisions in relation to judges of supreme courts of republics, courts of territories, regions, federal cities, the court of the autonomous region, courts of autonomous circuits, arbitrazh courts of constituent entities of the Russian Federation, justices of the peace, judges of district courts (including presidents and deputy presidents of district courts) and, where stipulated in normative legal acts of constituent entities of the Russian Federation, also in relation to judges of constitutional (charter) courts of constituent entities of the Russian Federation.

2. Qualification boards of judges of constituent entities of the Russian Federation:

[...]

8) Impose disciplinary punishments for disciplinary offences on judges of the respective courts (including the presidents and deputy presidents of district courts);

[...]

26 June 1992 No. 3132-1

LAW

ON THE STATUS OF JUDGES IN THE RUSSIAN FEDERATION

Article 3. Requirements to Judges

[...]

2. When exercising their powers, as well as in their private lives, judges shall avoid everything that may diminish their dignity, the authority of the judiciary or raise doubts regarding their objectiveness, fairness and impartiality.

[...]

2 May 2006 No. 59-FZ

FEDERAL LAW
ON THE PROCEDURE FOR HANDLING APPLICATIONS OF CITIZENS OF THE RUSSIAN FEDERATION

Article 2. The Right of Citizens to Appeal

1. Citizens shall have the right to apply in person as well as to submit individual and collective applications, including applications of groups of citizens and legal entities, to state bodies, local self-government bodies and their officials, state and municipal institutions and other organisations entrusted with functions of public significance, and to their officials.
(Part 1 as amended by Federal Law of 07.05.2013 No. 80-FZ)

2. Citizens shall exercise their right to application freely and voluntarily. Exercise by the citizens' of the right to application shall not violate the rights and freedoms of other persons.

3. The handling of applications made by citizens shall be free of charge.

Article 7. Requirements to a Written Application

1. A citizen, in his or her written application, is obliged to indicate either the name of a state body or local self-government body to which he or she submits the written application, or family name, first name and patronymic of an appropriate official or the position of the appropriate official as well as his or her own family name, first name and patronymic (the latter - if any), mail address for a response, a notice that the application is re-addressed, and shall state the gist of the proposal, petition or complaint, and affix his or her personal signature and date.

2. A citizen shall attach to a written application such documents and materials or copies thereof as may be necessary to support his or her arguments.

3. An application received by a state body, local self-government body or official in the form of an electronic document shall be considered as provided for by this Federal Law. The citizen, in his or her application, is obliged indicate his or her family name, first name and patronymic (the latter - if any), e-mail address for a response, a notice that the application is re-addressed. The citizen may attach to the written application such documents and materials in electronic form as may be necessary.
(Part 3 as amended by Federal Law of 27.11.2017 No. 355-FZ)

Article 10. Handling an Application

1. A state body, local self-government body or official shall:

1) Ensure the objective, comprehensive and timely handling of the application, with the involvement, if necessary, of the citizen who has submitted the application;

2) Request documents and materials (including in electronic form) that may be required to handle the application from other state bodies, local self-government bodies and other officials, except for courts, inquiry bodies and pretrial investigation bodies;

(as amended by Federal Law of 27.07.2010 No. 227-FZ)

3) Take measures to restore or protect the rights, freedoms and legitimate interests of the citizen that have been violated;

4) Provide a response in writing on the merits of the issues raised in the application, with the exception of the cases provided for by Article 11 of this Federal Law;

5) Notify the citizen that his or her application has been forwarded to other state body, local self-government body or other official according to their respective competences;

[...]

Article 12. Time Limits for Handling a Written Application

1. A written application received by a competent state body, local self-government body or official shall be considered within 30 days from its registration, with the exception of the cases as provided for by Part 1.1 of this Article.
(as amended by Federal Law of 24.11.2014 No. 357-FZ)

1.1. A written application received by the highest official of a constituent entity of the Russian Federation (head of the supreme government executive authority of a constituent entity of the Russian Federation) with information about any facts of potential violations of the migration laws of the Russian Federation, shall be handled within 20 days since its registration.
(Part 1.1 is introduced by Federal Law of 24.11.2014 No. 357-FZ)

2. In exceptional cases as well as in the cases where an application as provided for by Part 2 of Article 10 of this Federal Law is submitted, the head of a state body or local self-government body, official or authorised person shall have the right to prolong the time limits for handling the application by no more than 30 days with notification of this adjournment to the citizen who submitted the application.

27 July 2010 No. 210-FZ

FEDERAL LAW

ON THE PROVISION OF STATE AND MUNICIPAL SERVICES

Article 11.1. The Subject Matter of the Applicant's Pre-Trial (Extrajudicial) Appeal against Decisions and Actions (Failure to act) of a State Service Body, Municipal Service Body, Official of a State Service Body or Municipal Service Body, or State or Municipal Employee, Multifunctional Centre, Employee of a Multifunctional Centre and Organisations Provided for by Part 1.1 of Article 16 of this Federal Law, or their Employees

(as amended by Federal Law of 29.12.2017 No. 479-FZ)

The applicant may also lodge an appeal in the following cases:

1) A failure to meet the time limit for the registration of the applicant's request for a state or municipal service, the request specified in Article 15.1 of this Federal Law;

(Clause 1 as amended by Federal Law of 29.12.2017 No. 479-FZ)

2) A failure to meet the time limit for the provision of a state or municipal service. In such a case, the applicant's pre-trial (extrajudicial) appeal against decisions and actions (failure to act) of a multifunctional centre, employee of a multifunctional centre may be lodged when the multifunctional centre, whose decisions and actions (failure to act) are appealed against, is entrusted with the provision of appropriate state or municipal services to the full extent and in the manner provided for by Part 1.3 of Article 16 of this Federal Law;

(Clause 2 as amended by Federal Law of 29.12.2017 No. 479-FZ)

3) A demand that the applicant provides documents that are not envisaged by the regulations of the Russian Federation, the regulations of constituent entities of the Russian Federation and municipal regulations for the provision of a state or municipal service;

4) A refusal to accept documents from the applicant if such submission is envisaged by the regulations of the Russian Federation, the regulations of constituent entities of the Russian Federation and municipal regulations for the provision of a state or municipal service;

5) A refusal to provide a state or municipal service if the grounds for such refusal are not envisaged by federal laws and other regulations of the Russian Federations passed in accordance with such federal laws, laws and other regulations of constituent entities of the Russian Federation and municipal regulations. In such a case, the applicant may file a pre-trial (extrajudicial) appeal against decisions and actions (failure to act) of a multifunctional centre, employee of a multifunctional centre if the multifunctional centre, the decisions and actions (failure to act) of which are appealed against, is entrusted with the provision of appropriate state or municipal services to the full extent and in the manner provided for by Part 1.3 of Article 16 of this Federal Law;

(Clause 5 as amended by Federal Law of 29.12.2017 No. 479-FZ)

6) A demand made during the provision of a state or municipal service that the applicant pay a fee that is not provided for by the regulations of the Russian Federation, the regulations of constituent entities of the Russian Federation and municipal regulations;

7) A refusal of a state service body, municipal service body, official of a state service body or a municipal service body, multifunctional centre, employee of a multifunctional centre and organisations provided for by Part 1.1 of Article 16 of this Federal Law, or their employees, to correct spelling mistakes and errors in the documents issued after the provision of a state or municipal service or a failure to meet the time limit for such corrections. In such a case, the applicant's pre-trial (extrajudicial) appeal against decisions and actions (failure to act) of a multifunctional centre, employee of a multifunctional centre may be lodged if the multifunctional centre, decisions and actions (failure to act) of which are appealed against, is entrusted with the provision of appropriate state or municipal services to the full extent and in the manner provided for by Part 1.3 of Article 16 of this Federal Law;

(Clause 7 as amended by Federal Law of 29.12.2017 No. 479-FZ)

8) A failure to meet the time limit or comply with the procedure for the issuance of documents following the provision of a state or municipal service;

(Clause 8 is introduced by Federal Law of 29.12.2017 No. 479-FZ)

[...]

Article 11.2. General Requirements to the Procedure for Lodging and Considering an Appeal

[...]

6. An appeal submitted to a state service body, municipal service body, multifunctional centre, founder of a multifunctional centre, organisations provided for by Part 1.1 of Article 16 of this Federal Law, or a higher body (if any), shall be considered within fifteen business days from its registration, and if an appeal is lodged against the refusal of the state service body, municipal service body, multifunctional centre, organisations provided for by Part 1.1 of Article 16, to accept the applicant's documents or to correct spelling mistakes and errors, or if an appeal is lodged against the failure to meet the time limit for such corrections – within five business days from its registration.

(Part 6 as amended by Federal Law of 29.12.2017 No. 479-FZ)

7. After an appeal has been considered, one of the following decisions shall be passed:

1) The appeal shall be satisfied, including by way of reversing the adopted decision, correcting the spelling mistakes and errors made in the documents issued after the provision of the state or municipal service, returning the funds to the applicant which are not supposed to be charged in accordance with the regulations of the Russian Federation, the regulations of constituent entities of the Russian Federation and municipal regulations;

2) The appeal shall be dismissed.

(Part 7 as amended by Federal Law of 29.12.2017 No. 479-FZ)

[...]

9. If it is established during or after the consideration of the appeal that there are elements of an administrative offence or crime, an official, employee vested with powers to consider appeals in accordance with Part 1 of this Article shall promptly send the available materials to the prosecutor's office.
(as amended by Federal Law of 29.12.2017 No. 479-FZ)

[...]

23 June 2014 No. 154-FZ

FEDERAL LAW
ON THE CREATION OF COURTS OF THE RUSSIAN FEDERATION IN THE REPUBLIC OF CRIMEA AND THE CITY WITH FEDERAL STATUS OF SEVASTOPOL AND MAKING AMENDMENTS TO CERTAIN LEGISLATIVE ACTS OF THE RUSSIAN FEDERATION

Article 3

1. Cases and appeals taken up by the courts of general jurisdiction operating in the Republic of Crimea and the city with federal status of Sevastopol as at the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, and pending as at that date, shall be referred for consideration following the prescribed procedure to federal courts of general jurisdiction created in accordance with Article 1 of this Federal Law with due regard for their territorial jurisdiction and provisions of Article 9 of the Federal Constitutional Law "On the Admission of the Republic of Crimea to the Russian Federation and Formation of New Constituent Entities in the Russian Federation - the Republic of Crimea and the City with Federal Status of Sevastopol".

2. Cases taken up by the arbitrazh courts of first instance operating in the Republic of Crimea and the city with federal status of Sevastopol as at the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, and pending as at that date, shall be referred for consideration following the prescribed procedure to the Arbitrazh Court of the Republic of Crimea and the Arbitrazh Court of Sevastopol created in accordance with Article 1 of this Federal Law with due regard for their territorial jurisdiction and provisions of Article 9 of the Federal Constitutional Law "On the Admission of the Republic of Crimea to the Russian Federation and Formation of New Constituent Entities in the Russian Federation - the Republic of Crimea and the City with Federal Status of Sevastopol".

3. Appeals taken up by the arbitrazh courts of appeal operating in the Republic of Crimea and the city with federal status of Sevastopol as at the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, and pending as at that date, shall be referred for consideration, as prescribed, to the 21st Arbitrazh Court of Appeal.

4. Cases taken up by the administrative courts of first instance operating in the Republic of Crimea and the city with federal status of Sevastopol as at the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, and pending as at that date, according to the rules of delineation of subject-matter

jurisdiction established by the procedural laws of the Russian Federation, shall be referred for consideration, as prescribed, to courts of general jurisdiction and to the Arbitrazh Court of the Republic of Crimea and the Arbitrazh Court of Sevastopol created in accordance with Article 1 of this Federal Law with due regard for their territorial jurisdiction and provisions of Article 9 of the Federal Constitutional Law "On the Admission of the Republic of Crimea to the Russian Federation and Formation of New Constituent Entities in the Russian Federation - the Republic of Crimea and the City with Federal Status of Sevastopol".

5. Appeals taken up by the administrative courts of appeal operating in the Republic of Crimea and the city with federal status of Sevastopol as at the day of admission of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, and pending as at that date, according to the rules of delineation of subject-matter jurisdiction established by the procedural laws of the Russian Federation, shall be referred for consideration, as prescribed, to the Supreme Court of the Republic of Crimea and the Sevastopol City Court created in accordance with Article 1 of this Federal Law with due regard for their territorial jurisdiction and provisions of Article 9 of the Federal Constitutional Law "On the Admission of the Republic of Crimea to the Russian Federation and Formation of New Constituent Entities in the Russian Federation - the Republic of Crimea and the City with Federal Status of Sevastopol" or to the 21st Arbitrazh Court of Appeal.

6. Until judicial districts and offices of justice of the peace have been created in the Republic of Crimea and the city with federal status of Sevastopol and until justices of the peace have been appointed (selected), cases and appeals that fall within the jurisdiction of justices of the peace under federal laws shall be considered by district (city) courts created in accordance with Article 1 of this Federal Law with due regard for their territorial jurisdiction.

7. To consider a case, appeal, prosecutor's appeal or protest referred to federal courts in accordance with Parts 1-5 of this Article, the composition of the court shall be formed from among the judges who participated in the consideration before such referral, and the court proceedings shall be resumed from the adjourned stage. If at least one of the judges cannot participate in the resumed proceedings, a new composition of the court shall be formed, and the consideration shall commence anew.

23 December 2014 No. 21

PLENUM OF THE SUPREME COURT OF THE RUSSIAN FEDERATION

DECREE

ON THE DAY WHEN FEDERAL COURTS OF THE REPUBLIC OF CRIMEA AND THE FEDERAL CITY OF SEVASTOPOL COMMENCE THEIR WORK

[...]

decrees:

1. To establish that 26 December 2014 shall be the day when the Supreme Court of the Republic of Crimea, the Arbitrazh Court of the Republic of Crimea, district and city courts of the Republic of Crimea, the Crimean Garrison Military Court, the Sevastopol City Court, the Arbitrazh Court of Sevastopol, district courts of Sevastopol, the Sevastopol Garrison Military Court, the 21st Arbitrazh Court of Appeal, commence their work.

[...]

Annex 61

State Committee on Interethnic Relations and on Formerly Deported Peoples of the Republic of Crimea: Regional national cultural autonomies in the Republic of Crimea

(translation)

Translation

State Committee on Interethnic Relations and on Formerly Deported Peoples of the Republic of Crimea

Regional national cultural autonomies of the Republic of Crimea

https://gkmn.rk.gov.ru/ru/structure/31

No.	Name of the national and cultural entity	Name of Director	Statutory seat	Phone number	E-mail address
1.	NGO "Regional Azerbaijani national cultural autonomy of the Republic of Crimea"	Abasov Gafis Gasan ogly	43 Shkolnyi Lane, Simpheropol city	+7978 745 99 05	ranka.rk@mail.ru
2.	NGO "Regional Armenian national cultural autonomy of the Republic of Crimea"	Melkonyan Vagarshak Misakovich	3 Zagorodnaya Street, Yalta city	+7978 841 94 92	kao.org@mail.ru
3.	NGO "Regional Bulgarian national cultural autonomy of the Republic of Crimea [named after] Paisiya Hilendarskogo"	Abazher Ivan Ivanovich	175 apartment, Marshala Zhukova Street, Simpheropol city	+7978 743 43 44	i.abager@yandex.ru
4.	NGO "Regional national cultural autonomy of Greeks of the Republic of Crimea "Tavrida"	Shonus Ivan Aristovich	6/1 Proletarskaya Street, Simpheropol city	+7978 720 81 77	brotskiyan@gmail.com
5.	NGO "Regional national cultural autonomy of Jews of the Republic of Crimea"	Gendin Anatoliy Isakovich	61 Sergeeva-Censkogo, Simpheropol city	+7 978 715 96 40	aeook@mail.ru
6.	NGO "Regional national	Kalfa Ilya Mikhajlovich;	8 apartment, 11 Bespalova Street, Simpheropol city	+7978 751 06 78	info@karai.crimea.ua

	cultural autonomy of Crimean Karaites of the Republic of Crimea”	(Member of the board – Kropotova Natalya Vladimirovna)		+7978 838 49 21	
7.	NGO “Regional national cultural autonomy of Moldovans of the Republic of Crimea “Plaiy”	Erhan Sergey Ivanovich	59 Sevastopolskaya Street, Simpheropol city	+7978 850 28 29	galsion1@yandex.ru
8.	NGO “Regional national cultural autonomy of Estonians of the Republic of Crimea”	Skripchenko Olga Leongardovna	39 apartment, 6 Zheleznodoroznaya Street, Simpheropol city	+7978 756 01 79	esticrimea@mail.ru
9.	NGO “Regional German national cultural autonomy of the Republic of Crimea”	Gempel Yuriy Konstantinovich	83 Kachinskaya Street, Simpheropol city	+7978 746 70 92	masterlife@mail.ru
10.	NGO “Regional Belorussian national cultural autonomy”	Chegrinec Roman Vladimirovich	Simpheropol city	+7978 822 19 77	romi2006@mail.ru
11.	NGO “Regional national cultural autonomy of Crimean Tatars of the Republic of Crimea”	Umerov Eyvaz Asanovich	388/2 Pobedy prospect, Simpheropol city	+7978 842 28 33	umerov@bk.ru
12.	Regional national cultural autonomy of Tatars of the Republic of Crimea	Bagautdinov Marat Kamilyevich	Simpheropol city	+ 7919 681 02 02	rnkatrk@mail.ru

13.	NGO "Regional national cultural autonomy of Ossetians of the Republic of Crimea "Alaniya"	Ilaev Aslanbek Dahcikoevich	113 apartment, 5 Krasnykh partisan Street, Yalta city	+7978 861 56 12	alaniya.yalta@mail.ru
14.	NGO "Regional national cultural autonomy of Koreans of the Republic of Crimea"	Dyu Aleksander Aleksandrovich	67 Titova Street, Simpheropol city	+7978 040 04 11	koreans_crimea@mail.ru