

**Recommendations to the Ukrainian authorities within the civil society consultations:  
“Human Rights situation in Crimea”  
prepared by the experts of the NGO “Regional Center for Human Rights”**

**Recommendation 1**

for Cabinet of Ministers of Ukraine

Include representatives of civil society into the work of the *Inter-Agency Commission on Issues of Unification of Legal Position of the State Regarding Respond to Attack and Deterrence of Armed Aggression of the Russian Federation and Preparation of Consolidated Claim of Ukraine to the Russian Federation concerning International Responsibility for the Armed Aggression against Ukraine* on the permanent basis

Argumentation for recommendation 1:

According to the Resolution of the Cabinet of Ministers of Ukraine No. 1059 of 12 December 2018 the Inter-Agency Commission on Issues of Unification of Legal Position of the State Regarding Respond to Attack and Deterrence of Armed Aggression of the Russian Federation and Preparation of Consolidated Claim of Ukraine to the Russian Federation concerning International Responsibility for the Armed Aggression against Ukraine created. None of representatives of the civil society has been included into the staff of the Commission.

Meanwhile, for five years since the beginning of the aggression of the Russian Federation NGOs of Ukraine has developed great analytic work for formulation of violations of international law and submitted a lot of claims against the Russian Federation to the International Criminal Court (ICC), European Court of Human Rights (ECtHR), UN Committee of Human Rights, etc. As the example can be mentioned the series of reviews “Crimea beyond Rules” published by the Regional Centre for Human Rights in collaboration with the Ukrainian Helsinki Human Rights Union (e.g. see [https://precedent.crimea.ua/wp-content/uploads/2017/04/Crimea\\_beyond\\_rules\\_3\\_en.pdf](https://precedent.crimea.ua/wp-content/uploads/2017/04/Crimea_beyond_rules_3_en.pdf); most of them also available on GoogleBooks).

The results of work of Ukrainian NGOs is the great resource for the Commission that is ignored at the moment.

**Recommendation 2**

for Inter-Agency Commission on Issues of Unification of Legal Position of the State Regarding Respond to Attack and Deterrence of Armed Aggression of the Russian Federation and Preparation of Consolidated Claim of Ukraine to the Russian Federation concerning International Responsibility for the Armed Aggression against Ukraine; Ministry of Justice of Ukraine; Ministry of Foreign Affairs of Ukraine

To develop the claim against the Russian Federation for reimbursement of expenditure of the State and pecuniary and non-pecuniary damage suffered by persons displaced from the territory occupied by the Russian Federation

**Recommendation 3**

for Ministry of Foreign Affairs of Ukraine

To raise the issue of responsibility of the Russian Federation for involuntary displacement of civil population from the occupied territory of Ukraine before international bodies.

Argumentation for recommendations 2 and 3:

The amount of persons displaced from the occupied territory permanently increasing. The average number of IDPs from the territory of the Crimean Peninsula is about 5-6 thousand per year. From 28 thousands of officially registered IDP at the end of 2017 the amount increased to about 32 thousands at the beginning of 2019. Unofficial

number is twice higher. A lot of persons who left the occupied territory are moving to Europe looking for better conditions of life.

Mass displacement is involuntary and caused by the policy implemented by the Russian Federation in the occupied territory (mass violations of human rights are described by the UN Monitoring Mission in Ukraine in their reports).

There is a legal basis for bringing the Russian Federation to justice for the displacement. Beyond ICC, claims can be submitted to the ECtHR, UN HRC and other bodies. The Regional Centre for Human Rights is finalizing research in this context that should be published soon.

Mass displacement is the burden and challenge to Ukraine and the issue of responsibility should be raised on international level with active participation of the Government of Ukraine. The Government is in better position than any NGO.

The main purpose of advocacy campaigns at the diplomatic level regarding the coverage of large-scale violations of international law on the temporarily occupied territories of Ukraine is to systematically keep the topic of armed conflict in Ukraine on the international agenda within international organizations. This will allow the international community to quickly and consistently respond to the changes that are occurring in Ukraine and directly affect its temporarily occupied territories.

#### **Recommendation 4**

for Ministry of Foreign Affairs of Ukraine

To raise the issue of protection citizens of Ukraine from illegal imposition of Russian citizenship before international bodies like the UN General Assembly, PACE, etc. (in the context of hybrid aggression and expansion of the Russian Federation)

#### **Recommendation 5**

for The National Security and Defense Council of Ukraine

To develop consistent policy of protection of the State from the illegal imposition onto Ukrainian citizens Russian citizenship as the way of hybrid aggression and expansion of the Russian Federation

#### Argumentation for recommendations 4 and 5:

The forced imposition of citizenship is the new challenge in cotemporary world. By imposing Russian citizenship onto Ukrainians the Russian Government pursue the goal of expansion, illegal integration of the occupied territory into the Russian Federation and coercing population to loyalty. Although the problem exists for about five years, there is no consistent position of Ukrainian Government regarding the issue. The Government is not ready for possible continuation or repetition of such actions in the future.

For these reasons, the Government of Ukraine should try to address the problems and the experience of Ukrainian NGOs is very valuable in the context.

The analytical findings of the RCHR experts were used for the preparation of the report "Human Rights in the Context of Automatic Naturalization in Crimea" –

<https://www.opensocietyfoundations.org/sites/default/files/report-osji-crimea-20180601.pdf>

#### **Recommendation 6**

for Ministry of Foreign Affairs of Ukraine

To pursue a policy of popularizing through diplomatic channels the problem of the unlawful expulsion and forcible transfer of the population of occupied Crimea by the Russian

Federation, as well as highlighting the likely subsequent adverse impact of migration processes in Europe caused by the above actions of the Russian Federation.

### **Recommendation 7**

for Law enforcement agencies of Ukraine

To monitor and document violations of human rights in occupied Crimea by the Russian Federation regarding the facts of forcible transfer of Crimeans from the occupied territory of Crimea.

#### Argumentation for recommendations 6 and 7:

Implementation of the policy of colonization of the Autonomous Republic of Crimea and the city of Sevastopol by the Russian Federation and latter's urge to colonize this territory with its own population who is loyal to the occupying state, instigated Russia to search for new means of "clearing out" of the occupied territory. According to the results of the Study, presented to the Parliamentary Assembly of the Council of Europe in June 2018 by the Ukrainian non-governmental organization "Regional Centre for Human Rights", at least 2452 persons, both foreigners and Ukrainian nationals, had been unlawfully expelled or deported from the territory of the occupied Peninsula from July 2014 till May 2018 by the Russian Federation. Considering that over 2700 of court decisions issued by the occupying authorities remain closed to the public, allegedly the above mentioned figure is higher and the number of victims of unlawful expulsion/deportation for the moment of January 2019 actually constitutes 4000 persons.

Administrative expulsion and deportation of the Peninsula's population are exercised by the occupying courts based on the violation of the migration legislation of the Russian Federation and Russian laws by such persons. This legislation was unlawfully, in violation of international humanitarian law, extrapolated by the Russian Federation over the part of the sovereign territory of Ukraine, in particular over the territory of the occupied Autonomous Republic of Crimea and the city of Sevastopol.

Monitoring of the court decisions conducted by the non-governmental organisation RCHR within the Study demonstrates that expulsions and deportations occurring in Crimea have become systematic and widespread. Not only they instigate dramatic changes of the demographic composition of the population of the occupied territory, they as well gravely violate human rights, in particular: right to freedom of movement and to choose a place of residence; right to liberty and security; right to respect for private and family life; prohibition of expulsion of a person from the territory of a state of which he is a national etc.

Moreover, actions of the occupying power indicate grave violations of the rules of international humanitarian law. In particular, Article 49 of the Fourth Geneva Convention contains prohibition of deportation and transfer of protected persons from the occupied territory to the territory of the occupying state or to the territory of any other state. The Rome Statute of the International Criminal Court amounts unlawful transfer/deportation and unlawful deprivation of liberty to a war crime and sets forth criminal liability for such actions under Article 8(2)(a)(vii) of the Rome Statute.

### **Recommendation 8**

for Law enforcement agencies of Ukraine

To transfer to Kyiv all law enforcement agencies, that work in exile in the context of occupation of Crimea and avoid their transfer to other regions of Ukraine in future.

#### Argumentation for recommendation 8:

For the time being, only the Prosecutor's Office of the Autonomous Republic of Crimea, which is located in Kyiv and actually assumed a coordinating role in the work of documenting and investigating international crimes, demonstrates effective work. Unfortunately, right now some law enforcement agencies are located in Kyiv, some in Odessa and some in Kherson. For effective work, all law enforcement that work in exile agencies on Crimean issues (Prosecutor's Office of the Autonomous Republic of Crimea, the National Police of the Autonomous Republic of Crimea, the Security Service of Ukraine of the Autonomous Republic of Crimea) should be located in the capital

of Ukraine. The specificity of the lack of control over the territory, the investigation of violations of human rights and war crimes requires regular communications with Ukrainian and international human rights organizations, experts, Embassies of foreign countries. Also, the possibility of effective cooperation with the Office of the Prosecutor of the International Criminal Court also requires the presence of the organization in Kyiv. For the Prosecutor's Office of the Autonomous Republic of Crimea, coordination with the central authorities that deal with Crimea (Ministry of Temporarily Occupied Territories, the Ministry of Justice, the National Security and Defence Council, the Ministry of Foreign Affairs) is also important, since owing to the Prosecutor's Office of the Autonomous Republic of Crimea, these structures receive important information for the formation of foreign and domestic policy. Moreover, courts with jurisdiction over Crimea are also located in Kyiv.

### **Recommendation 9**

for Ministry of Justice of Ukraine; Verkhovna Rada

To harmonize Ukrainian criminal law with international law, namely: 1) to adopt a draft law on amendments to certain legislative acts of Ukraine on ensuring the harmonization of criminal legislation with the provisions of international law;<sup>1</sup> 2) to ratify the Rome Statute of the ICC

#### Argumentation for recommendation 9:

Amendments to the criminal legislation of Ukraine for harmonization with international law are already provided for by registered bill No. 9438. It was developed by scientists together with the Ministry of Justice of Ukraine and non-governmental organizations. Unfortunately, the entire course of the advocacy campaign to promote this bill indicates a weak political will for its adoption. In addition, Ukraine's use of all the rights provided for in the provisions of the Rome Statute will be possible for Ukraine only after the ratification of the Rome Statute by the state.

### **Recommendation 10**

for Ministry of Justice of Ukraine; Verkhovna Rada

To draft and adopt the Law of Ukraine "On the regulation of legal status of persons regarding whom the criminal law, criminal procedure legislation, criminal-executive legislation of Ukraine has been violated in result of armed aggression, armed conflict, or temporary occupation of the territory of Ukraine"<sup>2</sup>, worked out by a related working group under the Justice Ministry.

#### Argumentation for recommendation 10:

The issue of recognizing the status of persons that have served their sentences and have been released from prison in the occupied territories has not yet been resolved. After release, such persons are left alone to deal with all domestic and social problems, while lacking any guarantees and legal status within the legal framework of Ukraine. Re-socialization and re-integration of these individuals in society are at risk. Another unregulated issue is whether they actually served their sentence or not. The Ministry of Justice has formed a working group consisting of representatives of state agencies and NGOs for drafting a law that should resolve the issues on the status of convicted persons in the occupied territories of Ukraine and confirmation of sentence serving.

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<sup>1</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=65266](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=65266)

<sup>2</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=64360](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=64360)