

STANDING AGAINST DISCRIMINATION: HUMAN RIGHTS ABUSES IN CRIMEA

Analytical report



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INTRODUCTION

Since the occupation of the Crimean peninsula and the city of Sevastopol in February–March 2014, the establishment of effective control over the territory, and the spread of its legislation, the Russian Federation has launched a large-scale policy with the ultimate goal of complete and irreversible “integration of new territories into the Russian Federation.” To achieve this, the occupation authorities, as the primary method, have created an atmosphere of fear and uncertainty in Crimea, complemented by a policy of colonizing the occupied territory at the expense of the RF citizens. The peculiarity of this atmosphere is that it affects mainly the disloyal and potentially disloyal part of the population without affecting the way of life and feelings of the people who not only openly seek to express their loyalty but also the part that manifests this loyalty latently.

The ultimate goal of Russia’s top political leadership is at least the partial extermination of Ukrainians as a nation and the forced assimilation of the majority of the Ukrainian population into the Russian nation. The persons involved in this crime aim to eliminate the politically and socially active core of the Ukrainian nation, “re-educating” the passive majority in a spirit that will make it impossible for Ukraine to exist as a sovereign and independent state.

The main instruments of the mentioned policy are the use of discriminatory law enforcement practices against the “disloyal” population, which is mainly composed of Ukrainians and Crimean Tatars, forced assimilation with the Russian identity, destruction of Ukrainian monuments, and “correct” reinterpretation of history, language, and religious dogmas, etc.

In particular, the following categories of the population who are citizens of Ukraine are subject to discrimination:

- Crimean Muslims who do not show loyalty to the occupation authorities and thus are subjected to restrictions on their right to freedom of religion and persecuted on political grounds;
- representatives of the Orthodox Church of Ukraine and other religious communities that oppose the occupation and as a result are subjected to pressure and restrictions on their rights.
- prisoners and convicts who are transferred from the territory of Crimea and Sevastopol to the part of the Russian Federation to serve their sentences;
- pro-Ukrainian activists, journalists, cultural figures who have a pro-Ukrainian position and are persecuted for expressing it;
- students of educational institutions whose Ukrainian national origin is ignored and who are instead forced to feel they belong to the Russian nation;
- members of the LGBTI+ community who are persecuted based on sexual orientation and gender identity;
- owners of land plots in Crimea are deprived of their property rights based on Presidential Decree No. 201, which prohibits “foreigners” from owning land plots in “border areas”.

The actions of the Russian Federation described in this study can be qualified as racial or religious discrimination given the non-discrimination provisions enshrined in a number of international acts, in particular, Article 13(1) of the UN Charter, Articles 1, 2 of the Universal Declaration of Human Rights, Article 26 of the International Covenant on Civil and Political Rights, Articles 2(3), 3 of the International Covenant on Economic, Social and Cultural Rights. There are also grounds to qualify such actions of the Russian Federation as discriminatory persecution under Article 7(1) (h) of the Rome Statute of the International Criminal Court.

This study aims to describe the tools and methods used by the Russian Federation in treating the categories mentioned above of population in Crimea, to qualify such actions of the Russian Federation following international law, and to identify the circle of perpetrators.

A separate component of the study is recommendations for the Ukrainian and international communities on the necessary measures to prevent and stop the unlawful actions of the Russian Federation in Crimea, which may contain elements of racial discrimination or discriminatory persecution.

I. LEGAL FRAMEWORK

Non-discrimination is one of the inalienable and fundamental human rights on which the realization and observance of other rights and freedoms directly depend. The importance of overcoming discrimination is evidenced by the fact that during the drafting of the UN Charter, one of the members of the expert committee expressed the view that the promotion and respect for human rights regardless of race, sex, language and religion was the main task of the new international post-war organization¹. As a result, the non-discrimination provisions are reflected in Article 13(1) of the UN Charter² Articles 1-2 of the Universal Declaration of Human Rights³, Article 26 of the International Covenant on Civil and Political Rights⁴, Articles 2(3) and 3 of the International Covenant on Economic, Social and Cultural Rights⁵. It should be emphasized that the prohibition of racial discrimination is absolute: any manifestation of it is a violation of the international legal order, and any sovereign member of the international community has the right to hold the State committing the wrongful act accountable⁶.

In 2023, following the consideration of the combined twenty-fifth and twenty-sixth periodic report of the Russian Federation, the Committee on the Elimination of Racial Discrimination expressed serious concern that the actions of the Russian Federation in the context of the armed conflict in Ukraine, starting with the occupation of the Crimean peninsula in 2014, could amount to racial discrimination. Among other things, the Committee drew attention to violations of international humanitarian law directed against members of groups protected by the Convention, forced mobilization and conscription that disproportionately affected certain ethnic groups or indigenous peoples, including Crimean Tatars, and the growth of hate speech directed against Ukrainians⁷. Previously, in 2017, the Committee recognized the discriminatory nature of the automatic naturalization of the civilian population of the Crimean peninsula and called on the Russian Federation to immediately reverse all administrative and legislative measures taken after the occupation that discriminate against ethnic groups and indigenous peoples⁸.

In its interim decision on the existence of jurisdiction in the case, which partly concerns the violation of the International Convention on the Elimination of All Forms of Racial Discrimination, in November 2019, the ICJ noted that there are preliminary grounds to consider the discriminatory actions of the Russian Federation as a pattern of conduct, a sustained campaign of racial discrimination⁹. In addition, in 2017, in its Request for the Indication of Provisional Measures, the ICJ noted that certain political, civil, economic, social and cultural rights stipulated

¹ UN document. A/C.3/S.R.100, 7, cited in Warwick Mckean, *Equality and Discrimination under International Law*, 1983, p. 59.

² United Nations Charter. URL: <https://www.un.org/en/about-us/un-charter/full-text>

³ Universal Declaration of Human Rights. URL: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

⁴ International Covenant on Civil and Political Rights.

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

⁵ International Covenant on Economic, Social and Cultural Rights.

https://treaties.un.org/doc/Treaties/1976/01/19760103%2009-57%20PM/Ch_IV_03.pdf

⁶ I.C.J. Report, 1970, pp. 3, 32

⁷ United Nations Office in Geneva. Expert of the Committee on the Elimination of Racial Discrimination Expresses Serious Concern that Incidents in the Context of the Armed Conflict in Ukraine Could Amount to Racial Discrimination.

<https://www.ungeneva.org/en/news-media/meeting-summary/2023/04/expert-committee-elimination-racial-discrimination-expresses>

⁸ Concluding observations on the twenty-third and twenty-fourth periodic reports of the Russian Federation / Committee on the Elimination of All Forms of Racial Discrimination. September 20, 2017. CERD/C/RUS/CO/23-24. P.20

⁹ <https://www.icj-cij.org/sites/default/files/case-related/166/166-20191108-JUD-01-00-EN.pdf>, paras 130-132

in Article 5(c), (d) and (e) of the Convention are of such a nature that prejudice to them is capable of causing irreparable harm, and Crimean Tatars and ethnic Ukrainians in Crimea remain vulnerable to violations of these rights. The court ordered Russia to lift restrictions on the activities of the Mejlis of the Crimean Tatar people and to ensure access to education in the Ukrainian language in Crimea¹⁰. RF has not yet complied with this Request. The Committee on the Elimination of Racial Discrimination, which in 2020-2023 inquired about progress in this area, has not received a response¹¹. At the same time, the final decision of the ICJ in this case should be expected in January-February 2024.

Discriminatory persecution in Crimea using political, military and propaganda methods is aimed at restoring a nostalgic, ethnic sense of loyalty to Russia, which includes the elimination of both the idea of a separate Ukrainian people and the idea of Ukrainian national identity, which is based primarily on common values and patriotism, rather than on ethnic and linguistic markers, "common history and religion, language and culture," i.e., on narratives spread by the ideologues of the "Russian world" seeking to present international crimes as "the protection of Russian-speaking compatriots"¹².

The persecution of Ukrainian national identity holders in Crimea entails systematic discrimination that occurs in several dimensions:

- 1) against persons who have been discriminated against because of their real, attributed or alleged Ukrainian national identity;
- 2) against representatives of minorities, including ethnic Ukrainians, Crimean Tatars, and believers of certain confessions.

For the first group of people, discriminatory treatment is manifested in forced passportization (mostly in the first years after the beginning of the occupation), restrictions on freedom of movement, forced conscription, restrictions on access to justice, and restrictions on freedom of expression and participation in political life.

The second group additionally faced other violations, such as enforced disappearances, illegal searches, widespread and systematic violations of linguistic and cultural rights, including in the field of education.

One of the circumstances that led to discrimination on the Crimean peninsula is the extension of the Russian legal order to the occupied territory, contrary to international law¹³. At the same time, according to the experts of the Committee on the Elimination of Racial Discrimination, Russia lacks comprehensive anti-discrimination legislation that would cover counteraction and guarantees in the field of direct, indirect and multiple discrimination, as well as legal definition, legal and constitutional protection of indigenous peoples and ethnic minorities. Instead, discriminatory violence by the police and other law enforcement agencies is a

¹⁰ Application of the International Convention for the Suppression of the Financing of Terrorism and the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation). 2017. <https://www.icj-cij.org/sites/default/files/case-related/166/166-20170419-ORD-01-00-EN.pdf>

¹¹ United Nations Office in Geneva. Expert of the Committee on the Elimination of Racial Discrimination Expresses Serious Concern that Incidents in the Context of the Armed Conflict in Ukraine Could Amount to Racial Discrimination. <https://www.unhcr.org/en/news-media/meeting-summary/2023/04/expert-committee-elimination-racial-discrimination-expresses>

¹² Mykola Ryabchuk. Ambivalence or ambiguity? Why is Ukraine sunk between the East and the West? // Ukraine, the EU and Russia: History, Culture and International Relations. 2016. p. 83-84

¹³ For example, see Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907. Art. 43

common tool for dealing with disloyal populations. For this purpose, legislation in the field of “combating extremism or terrorism”¹⁴ is most often used, and since the beginning of the full-scale invasion – legislation in the field of “countering fakes”¹⁵. At the same time, the definitions of the terms, and, accordingly, the corpus delicti themselves, are vague and too broad. The overall picture of discriminatory persecution on the Crimean peninsula is complemented by measures to “implement” laws on foreign agents and undesirable organizations, which are used to arbitrarily silence representatives of civil society and independent media¹⁶.

Discrimination against the civilian population of the Crimean peninsula on national ethnic, linguistic, religious, cultural and other grounds is one of the tools used by the Russian Federation to implement a policy of forcibly changing the demographic composition of the population, in particular, the expulsion and unlawful deportation of disloyal persons. The Occupying Power mostly resorts to forming the cumulative effect and various combinations of characteristics, as, for example, in the case of the persecution of Ukrainian citizens, believers of the Orthodox Church of Ukraine (both national and religious group), which allows us to assert the signs of multiple or aggravated discrimination in its actions.

In some cases, in particular in the context of imposing Russian citizenship, as well as Russification, indoctrination and militarization in education, the Russian Federation resorts to indirect discrimination, whereby Ukrainian citizens in the occupied territories are treated the same as Russian citizens in RF, despite the fact that they are in different situations and have a different legal status.

According to the ECtHR judgment in the case of *Thlimmenos v. Greece*, “the failure of the state to treat differently persons whose situations are significantly different may constitute discrimination”¹⁷. In the case of *Derksen v. The Netherlands*, the Human Rights Committee considering the concept of indirect discrimination, stated that “Article 26 (of the International Covenant on Civil and Political Rights) prohibits both direct and indirect discrimination, the latter concept being related to measures that may appear neutral at first glance without any intention to discriminate, but which nevertheless lead to discrimination due to their exclusive or disproportionate adverse impact on a particular category of persons”¹⁸.

For example, while Russian children in the territory of the Russian Federation can preserve their national identity while studying under the educational programs of the aggressor state, Ukrainian children in the occupied territories are deliberately deprived of this right, which, in terms of widespread and systematic nature of Russian actions, can be qualified as discriminatory persecution under Article 7(1) (h) of the Rome Statute of the ICC¹⁹. In turn, in the case of Ukrainian prisoners who are forcibly transferred to the territory of the Russian Federation, indirect discrimination is manifested in the application of Russian legislation to these persons, in particular relating to the serving of criminal sentences, whereas:

¹⁴ Federal Law of 06.03.2006 N 35-FZ “On Combating Terrorism”. https://www.consultant.ru/document/cons_doc_LAW_58840/; Federal Law of 25.07.2002 N 114-FZ “On Combating Extremist Activity”. https://www.consultant.ru/document/cons_doc_LAW_37867/

¹⁵ Articles 280.3, 207.3 of the Criminal Code of the Russian Federation

¹⁶ United Nations Office in Geneva. Expert of the Committee on the Elimination of Racial Discrimination Expresses Serious Concern that Incidents in the Context of the Armed Conflict in Ukraine Could Amount to Racial Discrimination. <https://www.ungeneva.org/en/news-media/meeting-summary/2023/04/expert-committee-elimination-racial-discrimination-expresses>

¹⁷ *Thlimmenos v. Greece*. ECHR. Application no. 34369/97, Judgment of 6 April 2000, § 44

¹⁸ *Derksen v. The Netherlands*. HRC: Communication No. 976/2001, Views of 1 April 2004

¹⁹ Rome Statute of the International Criminal Court. 1998. <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>

1. These persons remain exclusively citizens of Ukraine and have a number of rights as civilians within the meaning of the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War of August 12, 1949²⁰
2. These persons are different from other prisoners transferred by the Russian Federation from the territory of Crimea to its own territory to serve their sentences, primarily Russian citizens who committed a crime on the territory of the occupied peninsula and ended up in the state of their citizenship.

Discrimination makes it impossible to comply with the fundamental obligation of the Occupying Power under IHL to provide the civilian population of the Crimean peninsula with “usual conditions of existence”²¹ and has a significant impact on the duration of the occupation itself, contributing to its actual transformation into annexation. Direct, indirect and multiple discrimination is an instrument of attack on Ukrainian national identity in the occupied territory and contributes to the implementation of the policy of forcible change of the demographic composition of the population. Certain acts caused by discrimination against the civilian population have signs of a war crime (including, but not limited to, murder, torture, unlawful deportation, forced conscription, large-scale destruction and appropriation of property not caused by military necessity and committed unlawfully and senselessly) and a crime against humanity (deportation, unlawful deprivation of liberty, torture, discriminatory persecution)²². In addition, the actions of the Russian Federation aimed at replacing and assimilating Ukrainians on the Crimean peninsula have signs of cultural extermination, and their goal can be compared to changing the environment of upbringing of the younger generation, which is one of the elements of the crime of genocide²³.

²⁰ Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949. <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949>

²¹ For example, see Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907. Art. 43

²² Rome Statute of the International Criminal Court. 1998. <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>

²³ Convention on the Prevention and Punishment of the Crime of Genocide. 1948. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-prevention-and-punishment-crime-genocide>

II. PERSECUTION ON RELIGIOUS GROUNDS ON THE TERRITORY OF THE TEMPORARILY OCCUPIED CRIMEAN PENINSULA (on the Example of Crimean Muslims)

In 2014, the Russian Federation gravely breached international law, occupied the territory of the Crimean peninsula, and extended its legislation to the peninsula territory, which led to violations of the rights of people residing in Crimea.

Immediately after the occupation, politically motivated persecution of people not loyal to the Russian authorities and those they considered potentially disloyal began. The occupation authorities carry out such persecution, mainly on religious grounds. Persecution of persons is carried out through prosecution for participation or organization of activities of extremist and terrorist organizations, public calls for terrorist activities, public justification of terrorism or propaganda of terrorism, propaganda or public display of attributes or symbols of extremist organizations or other characteristics and signs, the propaganda or public display of which is prohibited by law, and for carrying out missionary activities. It is mostly Crimean Tatars who are prosecuted. The majority of those persecuted by the occupation authorities, i.e., 98%, are members of the Crimean Tatar ethnic group, which indicates that they are being targeted.

Criminal prosecutions are often accompanied by violations of criminal procedure, including violations of the right to a fair trial. The occupation authorities conduct searches at night or early in the morning; the persecuted persons are tortured; convicted persons are forcibly transferred to the territory of the Russian Federation to serve their sentences. The primary evidence relied upon by the courts in passing sentences is the results of linguistic examinations and the testimony of anonymous (“secret”) witnesses, many of whom are employees of the FSS of the Russian Federation, as well as the testimony of witnesses during the pre-trial investigation, which they recant during the trial, claiming that they were previously given under pressure. Whereas evidence provided by the defense is often not considered by the court.

1. Political persecution for participation in “extremist and terrorist organizations”

Crimean Tatars are being prosecuted for their involvement in the organizations Hizb ut-Tahrir and Tablighi Jamaat. Before the occupation of Crimea by the Russian Federation, thousands of people belonging to both organizations lived on its territory. After the occupation, in violation of international humanitarian law, the Russian Federation extended its criminal legislation to the peninsula, under which it prosecuted Crimean Muslims for belonging to Hizb ut-Tahrir and Tablighi Jamaat. In Ukraine, the activities of both organizations are not prohibited, and,

accordingly, before the occupation of Crimea by the Russian Federation in 2014, their actions were not restricted in any way. After the Russian Federation occupied the Crimean peninsula, it began active persecution for the participation and organization of the activities of both organizations.

1.1. Participation in Hizb ut-Tahrir

Hizb ut-Tahrir aims to spread world Islam and build a world Islamic state²⁴.

On 14 February 2003, the Supreme Court of RF declared Hizb ut-Tahrir a terrorist organization²⁵. By this decision, Hizb ut-Tahrir, along with fourteen other organizations, was recognized as a terrorist organization²⁶. Since then, the organization's activities have been banned in the Russian Federation. In its decision, the court stated that the organization "aims to eliminate non-Islamic governments and establish Islamic rule globally by recreating a «World Islamic Caliphate», initially in regions with predominantly Muslim populations, including Russia and the CIS countries. The main forms of activity: bellicose Islamist propaganda, combined with intolerance towards other religions; active recruitment of supporters, targeted work to divide society (primarily propaganda with strong financial backing)"²⁷.

Members of Hizb ut-Tahrir are prosecuted mainly for "organizing the activities of a terrorist organization and participation in the activities of such an organization," which is punishable under Article 205.5 of the Criminal Code of the Russian Federation. The amendments that increased criminal liability for this act were introduced to this Article in May 2014, two months after the occupation of the Crimean peninsula²⁸.

The first searches and detentions of Hizb ut-Tahrir members in Crimea took place in January and April 2015²⁹. On 7 September 2016, the North Caucasus District Military Court in Rostov-on-Don found all participants in the case guilty of committing a criminal offense. It sentenced Yuri (Nuri) Primov, Rustem Vaitov, and Ferat Saifulayev to 5 years in a strict regime colony for participation in a terrorist organization (part 2 of Article 205.5 of the Criminal Code of the Russian Federation). Ruslan Zeitullayev was sentenced to 7 years imprisonment for organizing the activities of a terrorist organization (part 1 of Article 205.5 of the Criminal Code of the Russian Federation). On 27 July 2017, the Supreme Court of the Russian Federation increased the sentence for Ruslan Zeitullayev to 15 years in a strict regime colony³⁰.

2022-2023, a new wave of persecution of Crimean Muslims occurred. On 11 August 2022, six Crimean Muslims were arrested: Enver Krosh, Vilen Temerianov, Rinat Aliyev, Edem Bekirov, Murat Mustafayev, and Seitia Abbozov. Enver Krosh was charged with committing an offense under Part 1 of Article 205.5 of the Criminal Code of the Russian Federation, i.e., "organizing the activities of an organization that is recognized as a terrorist organization following the legislation of the Russian

²⁴ Islam in Ukraine. The Crimean News Agency hosted a seminar on the activities of Hizb ut-Tahrir and Tablighi Jamaat. URL: <https://islam.in.ua/ua/novini-u-krayini/v-agentstvi-krimski-novini-vidbuvsya-seminar-prisvyacheniy-diyalnosti-hizb-ut>

²⁵ Decision of the Supreme Court of the Russian Federation of 14 February 2003 N GKPI 03-116. URL:

<https://web.archive.org/web/20230915145619/http://nac.gov.ru/zakonodatelstvo/sudebnye-resheniya/reshenie-ve-rhovnogo-suda-rf-ot-14-fevralya.html>

²⁶ Ibid.

²⁷ Ibid.

²⁸ Article 205.5. Criminal Code of the Russian Federation of 13.06.1996 N 63-FZ (in the edition of 04.08.2023). URL:

https://web.archive.org/web/20230915153818/https://www.consultant.ru/document/cons_doc_LAW_10699/b3c75b6ea12bfa94d8edc4d027b3falab7b6a27e/

²⁹ Crimean Solidarity. The case of Hizb ut-Tahrir. Sevastopol group. URL: <https://crimean-solidarity.org/cases/delo-xizb-uttaxrir-16>

³⁰ Ibid.

Federation”³¹, and the others were charged with committing a criminal offense under Part 2 of Article 205.5 of the Criminal Code of the Russian Federation, i.e., “participation in the activities of an organization that is recognized as a terrorist organization following the legislation of the Russian Federation.”

In January 2023, six more people were arrested: Ekrem Krosh, Ayder Asanov, Refat Seidametov, Osman Abdurazakov, Leman Zekeriyev, and Khalil Mambetov. They are accused of “participation in the activities of an organization that is recognized as a terrorist organization under the legislation of the Russian Federation”, which is punishable under Part 2 of Article 205.5 of the Criminal Code of the Russian Federation³².

As of 2023, the occupation authorities have already prosecuted more than a hundred Crimean Muslims for participating in Hizb ut-Tahrir. Some have already been sentenced to imprisonment and forcibly transferred to serve their sentences from Crimea to RF.

1.2. Participation in the Tablighi Jamaat

The Tablighi Jamaat organization is a “system of preachers” who preach the dogma of the “true Quran”³³. The organization’s ideology is based on the Quran and does not include calls for a change in the social order or the establishment of a Caliphate³⁴. Despite this, in May 2009, the Supreme Court of the Russian Federation recognized Tablighi Jamaat as an extremist organization³⁵. On 3 August 2009, Tablighi Jamaat was included in the Federal List of Extremist Organisations³⁶.

After the occupation of Crimea, RF increased its liability for extremism. On May 5, 2014, amendments were made to Article 282.2 of the Criminal Code of the Russian Federation, which added parts 1.1 and 3 to Article 282.2 of the Criminal Code, introducing liability for “Inducement, recruitment or other involvement of a person in the activities of an extremist organization” and “Acts under parts 1, 1 or 2 of this article committed by a person using his official position” respectively³⁷. Amendments to parts 1 and 2 were introduced on February 3, 2014, actually before the start of the occupation³⁸.

In October 2017, the occupation authorities arrested four supporters of Tablighi Jamaat, Crimean Muslims Renat Suleymanov, Talat Abdurakhmanov, Arsen Kubedinov, and Seyran Mustafayev. In 2019, the “Supreme Court of the Republic of Crimea” found Talat Abdurakhmanov, Arsen Kubedinov, and Seyran Mustafayev guilty of a crime under Part 2 of Art. 282.2 of the Criminal Code of

³¹ Crimean solidarity. The case of Hizb ut-Tahrir. Dzhankoy group. URL: <https://crimean-solidarity.org/cases/delo-xizb-uttaxrir-55>

³² Crimean solidarity. The case of Hizb ut-Tahrir. The second Dzhankoy group. URL: <https://crimean-solidarity.org/cases/delo-xizb-uttaxrir-56>

³³ Islam in Ukraine. The Crimean News Agency hosted a seminar on the activities of Hizb ut-Tahrir and Tablighi Jamaat.

URL: <https://islam.in.ua/ua/novini-u-krayini/v-agentstvi-krimski-novini-vidbuvsya-seminar-prisvyacheniy-diyalnosti-hizb-ut>

³⁴ Radio Azattyk. «Tablighi Jamaat». What kind of religious organisation is this? URL: <https://rus.azattyk.org/a/kyrgyzstan-religion-islam/29501707.html>

³⁵ Sovo (The Owl). Research Center. The international religious organization Tablighi Jamaat is banned in Russia by court decision.

URL: <https://web.archive.org/web/20230915153901/https://www.sova-center.ru/religion/news/extremism/counter-extr-emism/2009/05/d15947/>

³⁶ Ibid.

³⁷ Article 2. Federal Law of 05.05.2014 N 130-FZ (ed. of 03.07.2016) “On Amendments to Certain Legislative Acts of the Russian Federation”.

URL: https://web.archive.org/web/20230915154210/https://www.consultant.ru/document/cons_doc_LAW_162576/b0_04fed0b70d0f223e4a81f8ad6cd92af90a7e3b/

³⁸ Article 282.2 Criminal Code of the Russian Federation of 13.06.1996 N 63-FZ (in the edition of 13.07.2015, with amendments of 16.07.2015) (with amendments and additions effective from 25.07.2015). URL: https://web.archive.org/web/20150831051022/https://www.consultant.ru/document/cons_doc_LAW_10699/985_4c783addde555fa364e762d297c660b9be113/

Article 2. Federal Law of 05.05.2014 N 130-FZ “On Amendments to Certain Legislative Acts of the Russian Federation”

URL: <https://web.archive.org/web/20150831011503/>

http://www.consultant.ru/document/cons_doc_LAW_162576/b00_4fed0b70d0f223e4a81f8ad6cd92af90a7e3b/#dst100072

the Russian Federation, i.e., “inducing, recruiting or otherwise involving a person in the activities of an extremist organization,” and sentenced them to two years suspended imprisonment³⁹.

At the same time, Renat Suleymanov was found guilty of “organizing the activities of an extremist organization” (part 1 of Article 282.2 of the Criminal Code of the Russian Federation) and sentenced to 4 years in a general regime colony and one year of restriction of freedom.

To serve his sentence, Renat Suleymanov was transferred to the territory of the Russian Federation to the Kabardino–Balkar Republic⁴⁰. After serving his sentence and returning to Crimea, Suleymanov was under administrative supervision for eight years.

2. Persecution for possession of religious literature is included in the “list of extremist materials”

The occupation authorities persecute for possession of religious literature that they consider extremist.

Article 20.29 of the Code of Administrative Offences of the Russian Federation provides for liability for “production and distribution of extremist materials”⁴¹.

The determination of whether certain materials are extremist is made on the basis of a list compiled by the Ministry of Justice on the basis of Russian court decisions that have entered into force⁴². The formation of the list is often accompanied by a violation of the principle of legal certainty, which makes it difficult to predict whether the dissemination of certain materials is prohibited and punishable at a given time. The list was first published in 2007⁴³. Since then, it has been updated periodically. It is not legally defined whether the day a particular material is banned is the day the name of the material is included in the list of “extremist” materials on the website of the Ministry of Justice or the day it is published in Rossiyskaya Gazeta (Russian Newspaper), which is later. Moreover, the Ministry of Justice edits the list, clarifying and changing the data in it, but does not additionally inform about it. Such changes are not reflected in Rossiyskaya Gazeta⁴⁴. For example, in 2022, the list was changed more than 20 times⁴⁵.

After the beginning of the occupation in 2014, the occupation authorities began massive searches of madrassas, mosques, and private homes of Muslims in search of banned literature⁴⁶. There are cases of banned literature being planted during

³⁹ Crimean solidarity. Crimean Tatar Renat Suleymanov, who was sentenced to 4 years in the Tablighi Jamaat case, was released.
URL: <https://crimean-solidarity.org/news/2021/01/03/krymskij-tatarin-renat-sulejmanov-osuzhdennyj-na--goda-po-del-u-tabligi-dzhamaat-vyshel-na-svobodu-838>

⁴⁰ Ibid.

⁴¹ Article 20.29 of the Code of the Russian Federation on Administrative Offences of 30.12.2001 N 195-FZ (in the edition of 04.08.2023) (with amendments and additions effective from 01.09.2023).

URL: https://www.consultant.ru/document/cons_doc_LAW_34661/36f65566525347506c3bca47d7b5ddfc19731d6b/

⁴² Ministry of Justice of the Russian Federation. Extremist materials.

URL: <https://web.archive.org/web/20221007115137/https://minjust.gov.ru/ru/extremist-materials/>

⁴³ Sova (The Owl). Research Centre. Chronology of updating the Federal List of Extremist Materials.

URL: <https://web.archive.org/web/20230915155458/https://www.sova-center.ru/directory/2009/12/d17666/>

⁴⁴ Ibid.

⁴⁵ Sova (The Owl). Research Centre. Chronology of updating the Federal List of Extremist Materials.

URL: <https://web.archive.org/web/20230915155458/https://www.sova-center.ru/directory/2009/12/d17666/>

⁴⁶ Ukrinform. FSS conducts mass searches in Muslim schools in Crimea.

URL: https://www.ukrinform.ua/rubric-other_news/1696910-u_krimu_fsb_provodit_masovi_obshuki_u_shkolah_mus_ulman_1964315.html

searches⁴⁷. Searches conducted to find banned literature often become the basis for further prosecution of Crimean Muslims but on more serious charges, such as participation in extremist or terrorist organizations.

On 25 February 2016, the Kyiv District Court of Simferopol found the president of the Association for the Promotion of Social and Cultural Projects, Mohamed Tahu Ali, guilty of possessing prohibited materials in the mosque of the Islamic Cultural Centre and sentenced him to a fine of 2000 rubles⁴⁸.

3. Missionary activities

After adopting the so-called “Yarovaya amendments” in 2016, which tightened the regulation of religious and missionary activities, it became possible to carry out such activities only with written permission from a religious organization and in specially designated places. The law also introduced liability for “carrying out activities by a religious organisation without indicating its official full name, including the publication or distribution of literature, printed, audio and video materials without labeling with the specified name or with incomplete or deliberately false labeling as part of missionary activities” (para. 3 of Article 5.26 of the Code of Administrative Offences of the Russian Federation) and “carrying out missionary activities in violation of the requirements of the legislation on freedom of conscience, freedom of religion and religious associations” (part 4 Article 5.26 of the CoAO)⁴⁹. The amendments pressured and persecuted Crimean Muslims disloyal to the occupation authorities.

The community of the Salgir Baba mosque in the village of Zarichne, Simferopol district, was registered following Ukrainian law. The mosque’s imam, Arsen Kantemirov, was elected to his position in 2008. After the occupation of Crimea, the religious community did not re-register. On 5 July 2019, the mosque was searched. On 27 September 2019, an administrative case was initiated against the imam, Arsen Kantemirov, and an investigation was launched into violating the legislation on freedom of conscience and religion. According to the prosecution, the imam “carried out missionary activities, which manifested itself in the form of a service” without registering a “religious group” with the relevant state body. The imam was accused of “carrying out missionary activities in violation of the requirements of the legislation on freedom of conscience, freedom of religion and religious associations” and violation of part 4 of Article 5.26 of the Code of Administrative Offences⁵⁰. The evidence was based on the results of a survey of witnesses – parishioners of the mosque, who confirmed that they had attended prayers in the last five years in the Zarichne mosque. In October 2019, the case was closed due to non-exculpatory circumstances, i.e., due to the expiration of the time limit for bringing to administrative liability⁵¹.

⁴⁷ Ukrinform. During searches, occupiers plant banned literature on Crimean Tatars – Chubarov. 25 March 2019.

URL: <https://www.ukrinform.ua/rubric-crimea/2668020-v-hodi-obsukiv-okupanti-pidkidaut-krimskim-tataram-zaboro-nenu-literaturu-cubarov.html>

⁴⁸ “Kiev District Court of Simferopol”. Ruling in case No. 5-994/2016.

https://web.archive.org/web/20230915162513/https://kiev-simph--krm.sudrf.ru/modules.php?name=sud_delo&name_op=case&id=284083617&_deloid=1500001&_caseType=0&_new=0&_doc=1&srv_num=1

⁴⁹ Federal Law of 06.07.2016 No. 374-FZ “On Amending the Federal Law «On Countering Terrorism» and Certain Legislative Acts of the Russian Federation in Part of Establishing Additional Measures to Counter Terrorism and Ensure Public Safety”.

URL: <https://web.archive.org/web/20230915164415/http://www.kremlin.ru/acts/bank/41108>

⁵⁰ Crimean Solidarity. The case of Imam Kantemirov. URL: https://www.facebook.com/crimeansolidarity/posts/939657466401710?ref=embed_post

⁵¹ A court in Crimea has stopped administrative prosecution of an imam accused of illegal missionary activities.

URL: <https://graty.me/ru/news/sud-v-krymu-prekratil-administrativn/>

4. Political persecution for public calls for terrorist activities, public justification of terrorism, or propaganda of terrorism

Victims of criminal prosecution by the occupation authorities are also Crimean Muslims engaged in journalistic activities. The Russian Federation uses prosecution for public calls for terrorist activities, public justification of terrorism, or propaganda of terrorism (part 2 of Article 205.2 of the Criminal Code) to pressure disloyal media and citizen journalists.

In 2019, the Southern District Military Court found Nariman Memedeminov, a citizen journalist and media coordinator of the Crimean Solidarity movement, guilty of public calls for terrorist activity (part 2 of Article 205.2 of the Criminal Code) and sentenced him to 2.5 years in prison in a penal colony and banned him from administering websites for two years⁵².

5. Political persecution for propaganda or public display of attributes or symbols of extremist organizations or other attributes or symbols, the propaganda or public display of which is prohibited by law

In addition to criminal prosecution, the occupation authorities bring Crimean Muslims to administrative liability under Article 20.3 of the Administrative Code of the Russian Federation, i.e., for propaganda or public demonstration of attributes or symbols of extremist organizations or other attributes or symbols, the propaganda or public demonstration of which is prohibited by law.

In 2017, the 'Bakhchisarai District Court' found Seytumer Seytumerov guilty of publishing a post on a social network containing the symbols of Hizb ut-Tahrir. He was sentenced to a fine of 2,000 rubles.

Violations of international law and legal qualification

The persecution of Crimean Muslims is a violation of international human rights law. The actions of the Russian Federation violate Article 18 of the ICCPR and Article 9 of the ECHR, which provide for the right of everyone to freedom of thought, conscience and religion, as well as Article 10 of the ECHR and Article 19 of the ICCPR, which enshrine the right to freedom of expression.

As an Occupying Power, Russia must also comply with international humanitarian law. The persecution of Crimean Muslims is a violation of the obligation of the Occupying Power to:

- ensure the right of protected persons to respect for their religious beliefs and prohibit the discrimination on religious grounds (Article 27 of the Geneva Convention IV);
- permit religious ministers to give spiritual assistance to the members of their religious communities (Article 58 of the Geneva Convention IV);
- protect and respect religious personnel and protect places of worship (Articles 15 and 53 of the First Additional Protocol to the Geneva Conventions, respectively).

⁵² Crimean Solidarity. The case of Nariman Memedeminov. URL: <https://crimean-solidarity.org/cases/delo-narimana-memedeminova-10>; Crimean solidarity. The case of Imam Arsen Kantemirov. URL: <https://crimean-solidarity.org/cases/delo-imama-arsena-kantemirova-25>

In addition, such actions of the Russian Federation may be qualified as crimes against humanity, namely: discriminatory persecution - Article 7(1)(h) of the Rome Statute of the ICC, torture - Article 7(1)(f) of the Rome Statute and enforced disappearance of persons - Article 7(1)(i) of the Statute, as well as war crimes: torture or inhuman treatment - Article 8(2)(a)(ii) of the Rome Statute and willfully causing great suffering or serious injury to body or health - Article 8(2)(a)(iii) of the Rome Statute.

Responsible persons

At the federal level, the persons involved in the formation of the relevant discriminatory policy are responsible for the persecution of Crimean Muslims:

- President of the Russian Federation - Vladimir Putin;
- Heads of the Government of the Russian Federation - Dmitry Medvedev (2012-2020), Mikhail Mishustin (2020-present);
- Chairpersons of the State Duma of the Federal Assembly of the Russian Federation - Sergey Naryshkin (2011-2016) and Vyacheslav Volodin (2016-present);
- Ministers of Culture of the Russian Federation - Vladimir Medinsky (2012-2020), Olga Lyubimova (2020-present).

At the level of the "Republic of Crimea":

- Head of the "Republic of Crimea" - Sergey Aksyonov;
- Chairman of the State Council of the "Republic of Crimea" - Vladimir Konstantinov;
- judges of the occupation judicial bodies who participated in the issuance of unlawful decisions that violate the fundamental rights and freedoms of Crimean Muslims;
- representatives of law enforcement agencies involved in the abductions, illegal detentions and torture of Crimean Muslims.

III. PERSECUTION ON RELIGIOUS GROUNDS ON THE TERRITORY OF THE TEMPORARILY OCCUPIED CRIMEAN PENINSULA

(on the Example of the Orthodox Church of Ukraine)

Since the occupation of the Crimean peninsula, the Russian Federation has been systematically exerting pressure and conducting politically motivated persecution of the Orthodox Church of Ukraine (formerly the Ukrainian Orthodox Church of the Kyiv Patriarchate). The OCU has never been loyal and has openly opposed the occupation authorities, which is why it has been persecuted.

Immediately after the occupation of the Crimean peninsula began, the OCU (then the UOC-KP) issued a statement condemning the occupation of Crimea and manifestations of separatism. The Bishops' Council of the UOC-KP stated that Ukraine is united and indivisible, and all its citizens are one Ukrainian people. The Council called the actions of the Russian Federation a grave breach of the foundations of international relations and a number of bilateral agreements and called on religious leaders around the world to condemn the aggression against Ukraine⁵³.

In addition, the OCU did not re-register following the occupation legislation. The decision of the "Arbitration Court of Sevastopol" of 28 July 2017 in the case of the claim of the Crimean Diocese of the UOC-KP to the Ministry of Defence of the Russian Federation stated that "[...] If legal entities, [...] have not brought their constituent documents in compliance with the legislation of the Russian Federation and have not applied to enter information about them in the Unified State Register of Legal Entities by 01.03.2015, then after this date they acquire limited legal personality, i.e., they lose the right to carry out activities in the territory of the Russian Federation (except for activities aimed at fulfilling their obligations) and are subject to liquidation. Consequently, [...] such organizations will not be liquidated. Still, they will lose the right to carry out their economic activities in the territory of the Russian Federation without acquiring the status of a branch or representative office of a foreign legal entity. [...] However, the Court notes that the right to judicial protection of violated rights and the exercise of economic activity are distinct concepts and are not related and/or mutually exclusive [...]"⁵⁴. The OCU, as a religious organization under occupation law, has a minimal legal personality, which means that it cannot carry out economic activities such as concluding contracts, conducting banking transactions, etc. The only right of a religious organization is to protect its interests in court.

⁵³ Statement of the Council of Bishops on the Russian occupation of Crimea and manifestations of separatism. URL: <https://web.archive.org/web/20190426083445/https://www.cerkva.info/church/zayava-arkhiyereyskoho-soboru-z-pryvodu-rosiiskoi-okupatsii-krymu-ta-proiaviv-separatyzmu>

⁵⁴ Decision of the Arbitration Court of Sevastopol of 28 July 2017 in case No. A84-2274/2017. URL: <https://web.archive.org/web/20230912085232/http://kad.arbitr.ru/PdfDocument/d1d4c67b-c7fa-4d57-983f-7737>

Disloyalty to Russian policy results in the occupation authorities persecuting church representatives. Religious personnel and church members are subjected to abduction and torture, prosecuted for missionary activities, and church property is illegally seized. Such actions of the occupation authorities affected the church's activities, in particular, led to its closure. As of 2014, the Crimean Diocese of the OCU consisted of 45 parishes, which 14 clergymen administered. In 2022, their number dropped to 7. At the same time, the number of clergy decreased to 4⁵⁵.

After the occupation of Crimea, the OCU has been one of the symbols of non-violent resistance to the Russian authorities.

1. Abduction and torture of OCU parishioners

In March 2014, the so-called Self-Defence of Crimea abducted two parishioners of the OCU, Andriy Shchekun and Anatoliy Kovalskiy. In captivity, they were subjected to torture and ill-treatment⁵⁶.

In June 2014, the country house ("dacha") of the head of the Crimean Diocese of the UOC, Metropolitan Klyment, was completely burned down⁵⁷.

In March 2019, Metropolitan Klyment was detained at a bus station while trying to travel to the Russian Federation to Rostov-on-Don to attend a court hearing in the case of one of the Ukrainian political prisoners, whom the RF accused of aiding terrorism⁵⁸. The Metropolitan was taken to the police station because he had allegedly "sworn obscenely" near the bus station⁵⁹.

2. Unlawful seizure of property

The Church of the Apostles Peter and Paul and St Nicholas, Archbishop of Myra, was located on the territory of the Training Centre of the Ukrainian Navy in Sevastopol. The Crimean Diocese of the UOC-KP held services there. After the occupation of the Crimean peninsula, the RF Black Sea Fleet Command warned of the church's closure and the need to remove all property. On 1 July 2014, an access control regime was established on the military unit's territory, making it impossible for clergy and believers to access the church and hold services. Since then, the church has been liquidated. An attempt by the UOC-KP to defend in court the right to unimpeded access to the church was unsuccessful. "The Arbitration Court of the city of Sevastopol" ruled that "for the purposes of security and defense capability of the country, unimpeded access to the said object cannot be ensured"⁶⁰.

The Church of the Intercession of the Blessed Virgin Mary of the UOC-KP was located on the territory of a former military unit of the Armed Forces of Ukraine in the village of Perevalne, Simferopol district. Before the occupation, the UOC-KP

⁵⁵ Mission of the President of Ukraine in the Autonomous Republic of Crimea. 28 April 2022.

URL: <https://www.facebook.com/ppu.gov.ua/posts/359525892888109>

⁵⁶ Krym.Realii. Shchekun: Crimea is a constant struggle for the right to be Ukrainian. URL: <https://ua.krymr.com/a/28077061.html>

⁵⁷ KafalNews.The dacha of Archbishop Kliment of the Ukrainian Orthodox Church of the Kyiv Patriarchate was burnt down near Simferopol.

URL: https://web.archive.org/web/20230915165424/https://kafanews.com/novosti/91788/pod-simferopolem-soshgli-dachu-arkhiiepiskopa-upts-kievskogo-patriarkhata-klimenta_2014-07-22

⁵⁸ DW. Archbishop Kliment of the PCU detained in Crimea. URL: <http://surl.li/ldulf>

⁵⁹ Orthodox Church of Ukraine. Archbishop Klyment was detained by occupation police in Simferopol (updated).

URL: <https://www.pomisna.info/uk/vsi-novyny/arhiyepyskop-kliment-zatrymanyj-okupatsijnoyu-politsiyeyu-v-simferopol/>

⁶⁰ Decision of the Arbitration Court of Sevastopol of 28 July 2017 in case No. A84-2274/2017.

URL: <https://web.archive.org/web/20230915165720/https://kad.arbitr.ru/Card/d1d4c67b-c7fa-4d57-983f-77375a0c5a96>

held services there. In July 2014, the Intercession Church in Perevalne village was unlawfully seized. According to Archbishop Klyment of Simferopol and Crimea, on the morning of 1 July morning around 8 o'clock, a "gang of armed Cossacks" broke into the church shouting "schismatics, Satanists, fascists." During the seizure of the building, the occupants destroyed Orthodox relics in the church and blocked and smashed the priest's car, in which he had driven to church. A pregnant parishioner of the church and the priest's daughter with cerebral palsy was also injured⁶¹. In 2017, the Ministry of Defence of the Russian Federation responded to an appeal from the Crimean Diocese of the UOC-KP by saying that the church premises had been transferred to the Moscow Patriarchate.

The Cathedral of the Holy and Equal-to-the-Apostles Princes Volodymyr and Olha was located in the former House of Officers in Simferopol. Since 1995, it has housed a UOC-KP cathedral, priests' offices, warehouses, a charity canteen and a chapel. On 6 June 2014, the so-called 'Cossacks' blocked the entrance to the church. The local police refused to intervene in the events, arguing that "on Sunday, parishioners have the right to gather near the church, and self-defence is hiding in the church"⁶². However, the seizure of the church did not take place then⁶³. In 2015, the "Ministry of Property and Land Relations of the Republic of Crimea" significantly increased the rent for the use of the premises. The rent was set at 90906.62 rubles per month. Until 2014, the UOC-KP used the property free of charge. In addition, in 2014, the occupation authorities held an auction in the form of bidding for the right to conclude a lease agreement for part of the premises. The winner of the auction was a non-profit movement to promote the development of small and medium-sized businesses engaged in consulting, which received the right to occupy the premises. The UOC-KP was notified of the auction only in 2015⁶⁴. In 2016, the decision of the 'Arbitration Court of the Republic of Crimea' deprived the UOC-KP of part of its premises, and the "Twenty-first Arbitration Court of Appeal of Sevastopol" ordered the Crimean Diocese of the UOC-KP to pay the "Ministry of Property and Land Relations of the Republic of Crimea" 591128.65 rubles in penalties for "unjustified use of property for the period from 21 August 2014 to 30 September 2014" and to vacate 112 m² of premises on the first floor of the cathedral. In November 2016, representatives of the "Property Fund of the Republic of Crimea" attempted to seal the cathedral. In 2017, the occupation authorities blocked the cathedral, and bailiffs unlawfully seized church property, i.e. crosses, icons and church utensils. During the bailiffs' entry into the cathedral Archbishop Klyment of Simferopol and Crimea of the UOC-KP was injured. The local police did not find any crime in their actions⁶⁵.

In March 2019, the "Arbitration Court" of Crimea ruled to terminate the lease agreement. The reason for the termination was a debt of UAH 2.30⁶⁶. On

⁶¹ LB.ua. 'Cossacks' destroy UOC-KP church near Simferopol. URL: https://lb.ua/economics/2014/06/01/268490_pod_simferopolem_kazaki.html

⁶² Crimea Beyond Rules. Thematic review of the human rights situation under occupation. Religious occupation: oppression of the Ukrainian Orthodox Church of the Kyiv Patriarchate. p.22.

URL: <https://www.helsinki.org.ua/wp-content/uploads/2016/04/KBP-Relyhyoznaya-okkupatsyya.pdf>

⁶³ Ibid.

⁶⁴ Voice of the Crimea. Halimon O. Culture. Church and War: How Long Will the Ukrainian Church Exist in the Occupied Crimea?

<https://culture.voicecrimea.com.ua/uk/tserkva-i-vijna-ia-k-dovho-she-istuvaty-me-ukrainska-tserkva-v-okupov-anomu-krymu/>

⁶⁵ Ibid.

⁶⁶ Human rights situation in Crimea for 7 years of occupation: Analytical report. p. 31.

URL: <https://zmina.ua/wp-content/uploads/sites/2/2021/06/human-rights-situation-crimea-2014-2020-ua.pdf>

September 3, 2019, the Arbitration Court of the Central District in Kaluga rejected the cassation appeal of the Crimean Diocese of the UOC-KP against the obligation to vacate the premises of the Cathedral within five days⁶⁷.

In October 2022, the Cabinet of Ministers of Ukraine issued a resolution transferring the Cathedral of the Holy and Equal-to-the-Apostles Princes Volodymyr and Olha to the state property of Ukraine⁶⁸.

In May 2023, the occupation authorities seized the church premises. The “Ministry of Property and Land Relations of the Republic of Crimea” took control of the premises of the Cathedral, arguing that the “constituent documents” had not been brought “in line with the legislation of the Russian Federation”⁶⁹. According to the Mission of the President of Ukraine in the AR of Crimea, the occupation law enforcement bodies “broke down the doors” and “stole the property” of the church⁷⁰. Subsequently, the occupation authorities announced their intention to transfer the cathedral to the Russian Orthodox Church on a «free use» basis⁷¹.

3. Prosecution for missionary activities

On 6 June 2016, the President of the Russian Federation signed the Federal Law “On Amendments to the Federal Law ‘On Countering Terrorism’ and Certain Legislative Acts of the Russian Federation in Terms of Establishing Additional Measures to Counter Terrorism and Ensure Public Safety”, which introduced the concept of “missionary activity” into Russian law. Such activities could be carried out only with written permission from a religious organization and in specially designated places. The law also provided for amendments to the Code of Administrative Offences, which introduced liability for “*carrying out activities by a religious organization without indicating its official full name, including the publication or distribution of literature, printed, audio and video materials without labeling with the specified name or with incomplete or deliberately false labeling as part of missionary activities*” (part. 3 of Article 5.26 of the Code of Administrative Offences of the Russian Federation) and “*carrying out missionary activities in violation of the requirements of the legislation on freedom of conscience, freedom of religion and religious associations*” (part 4 of Article 5.26 of the CoAO of the RF).

Part 3 of Article 5.26 of the CoAO of the RF provides for a fine of 30 to 50 thousand rubles with confiscation of literature, printed, audio, and video materials, and part 4 provides for a fine of 5 to 50 thousand rubles for individuals and from 100 thousand to one million rubles for legal entities, respectively.

On 8 August 2021, in the church of the Crimean Diocese of the OCU in the Belogorsk district, “security forces of the Centre for Combating Extremism” broke

⁶⁷ Voice of the Crimea. Halimon O. Culture, Church and War: How Long Will the Ukrainian Church Exist in the Occupied Crimea?

<https://culture.voicecrimea.com.ua/uk/tserkva-i-vijna-iak-dovho-shche-isnuvatyme-ukrainska-tserkva-v-okupov-anomu-krymu/>

⁶⁸ Resolution «Certain issues of acceptance into state ownership of the Cathedral of the Holy Equal-to-the-Apostles Prince Volodymyr and Princess Olha and protection of the right to freedom of worldview and religion of believers of the Crimean Diocese of the Ukrainian Orthodox Church (Orthodox Church of Ukraine)» of October 28, 2022, No. 1213. URL: <https://zakon.rada.gov.ua/laws/show/1213-2022-%D0%BF#Text>

⁶⁹ Radio Liberty. The occupation authorities of Crimea took control of the OCU church in Simferopol.

URL: <https://www.radiosvoboda.org/a/news-krym-khram-ptsu-zakhoplennia/32407415.html>

⁷⁰ LB.ua. Ministry of Foreign Affairs condemns eviction of OCU community from the Cathedral of the Equal-to-the-Apostles Princes Volodymyr and Princess Olha in Simferopol. URL: https://lb.ua/society/2023/05/11/554766_mzs_zasudilo_viselelnyya_gromadi_ptsu.html

⁷¹ Krym.Realii. Metropolitan Klyment of Crimea and Simferopol calls Russian seizure of OCU church in Crimea “an act of ethnocide”.

URL: <https://ua.krym.com/a/news-krym-mytropolyt-klyment-zakhoplennya-khramu-ptsu-akt-etnotsydyu/32410233.html>

into the church and disrupted the service conducted by Archimandrite Damian (whose mundane name is Pavel Georgievich Skokov)⁷². The archimandrite was brought to administrative liability for carrying out missionary activities, even though the liturgy was performed for people who were already Orthodox believers and was not aimed at attracting new members to the church, i.e., could not be considered missionary activity under Russian law⁷³.

Violation of international law and legal qualification

The persecution of OCU representatives is a violation of international human rights law. The actions of the Russian Federation violate Article 18 of the ICCPR and Article 9 of the ECHR, which provide for the right of everyone to freedom of thought, conscience and religion, as well as Article 10 of the ECHR and Article 19 of the ICCPR, which enshrine the right to freedom of expression.

As an Occupying Power, Russia must also comply with international humanitarian law. The persecution of OCU representatives is a violation of the obligation of the Occupying Power to:

- ensure the right of protected persons to respect for their religious beliefs and prohibit the discrimination on religious grounds (Article 27 of the Geneva Convention IV);
- permit religious ministers to give spiritual assistance to the members of their religious communities (Article 58 of the Geneva Convention IV);
- protect and respect religious personnel and protect places of worship (Articles 15 and 53 of the First Additional Protocol to the Geneva Conventions, respectively).

In addition, such actions of the Russian Federation may be qualified as crimes against humanity, namely: discriminatory persecution – Article 7(1)(h) of the Rome Statute of the ICC, torture – Article 7(1)(f) of the Rome Statute and enforced disappearance of persons – Article 7(1)(i) of the Statute, as well as war crimes: torture or inhuman treatment – Article 8(2)(a)(ii) of the Rome Statute and wilfully causing great suffering or serious injury to body or health – Article 8(2)(a)(iii) of the Rome Statute.

Responsible persons

At the federal level, the responsibility for the persecution of representatives of the Orthodox Church of Ukraine in Crimea lies with those involved in the formation of the relevant discriminatory policy:

At the federal level, the persons involved in the formation of the relevant discriminatory policy are responsible for the persecution of the representatives of the Orthodox Church of Ukraine in Crimea:

⁷² Krym.Realii. In Crimea, Russian security forces disrupted the service in the church of the OCU – Shchekun. URL: <https://ua.krymr.com/a/novyny-krymu-ptsu-sylovyky-tserkva/31399374.html>

⁷³ Krym.Realii. Persecution of the OCU priest in Crimea: «He will be tried for praying at home». URL: <https://ua.krymr.com/a/krym-peresliduvannia-sviaschennyka-ptsu-molytva-vdoma/31414479.html>; Religijna Pravda (Religious Truth). Persecution of the OCU in Crimea is systematic and consistent. URL: <https://religionpravda.com.ua/?p=81137>; Mission of the President of Ukraine in the Autonomous Republic of Crimea. 28 April 2022. URL: <https://www.facebook.com/ppu.gov.ua/posts/359525892888109/>

- President of the Russian Federation - Vladimir Putin;
- Heads of the Government of the Russian Federation - Dmitry Medvedev (2012-2020), Mikhail Mishustin (2020-present);
- Chairpersons of the State Duma of the Federal Assembly of the Russian Federation - Sergey Naryshkin (2011-2016) and Vyacheslav Volodin (2016-present);
- Minister of Defense of the Russian Federation - Sergei Shoigu (2012-present);
- Minister of Culture of the Russian Federation - Vladimir Medinsky (2012-2020), Olga Lyubimova (2020-present).

At the level of the "Republic of Crimea":

- Head of the "Republic of Crimea" - Sergey Aksyonov;
- Ministers of "Property and Land Relations of the Republic of Crimea" - Alexander Gordetsky (2014-2015), Anna Anokhina (2015-2020), Larisa Kulinich (2020-present);
- judges of the occupation judicial bodies who participated in the issuance of illegal decisions against representatives of the OCU, in particular, regarding the illegal seizure of property; these include judges of the "Arbitration Court of Sevastopol", "Arbitration Court of the Republic of Crimea" and "Twenty-first Court of Appeal" (Sevastopol);
- representatives of law enforcement agencies who participated in abductions, illegal detentions and torture of believers and representatives of the OCU.

IV. DISCRIMINATION AGAINST CONVICTED AND IMPRISONED CITIZENS OF UKRAINE BY THE RUSSIAN FEDERATION

After the illegal occupation of the Autonomous Republic of Crimea and the city of Sevastopol in February 2014, the Russian Federation extended its criminal and criminal procedure legislation to the occupied territory in violation of international law. Among other things, this has resulted in discrimination against Ukrainian citizens by the Russian Federation. While the occupation and “integration” of the occupied peninsula into the Russian Federation was underway, the Russian authorities launched a policy aimed at forcibly changing the demographic composition of the population, one of the components of which is the transfer of Ukrainian citizens outside the peninsula to “serve their sentences” of deprivation or restriction of freedom, as well as to try certain categories of criminal cases outside the occupied territory.

According to the statistics of the State Penitentiary Service of Ukraine, as of 20 March 2014, 3,295 persons were held in its institutions on the territory of the Autonomous Republic of Crimea.

In particular, 2,209 convicts sentenced to deprivation and restriction of freedom were serving their sentences in penal colonies, including:

- 1,353 in the Simferopol correctional colony (No. 102),
- 789 persons in the Kerch correctional colony (No. 126) and
- 67 persons in the Kerch Correctional Center (No. 139).

In addition, 1,086 prisoners for whom pre-trial detention was imposed were held in the Simferopol pre-trial detention center.

According to Article 10(1) of the ICCPR, persons in detention (deprived of their liberty) shall be considered as being in a particularly vulnerable position.

The similarity between the circumstances of said Ukrainian citizens and Russian citizens sentenced by the occupation courts to criminal punishment in the form of deprivation of freedom is that after conviction, both categories of citizens are transferred by the Russian Federation to its territory to serve their sentences.

Meanwhile, the distinctive position of Ukrainian citizens who find themselves under the authority of the Russian Federation is that:

- a) this occurred against their will, as a result of the occupation by the Russian Federation of a part of the sovereign territory of Ukraine, and the very fact of the unlawfulness of such occupation is recognized by the international community, as confirmed by numerous UN General Assembly resolutions on this issue;

b) in accordance with Article 4 of the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (GC-IV), they enjoy protection under the Convention.

The above circumstances fundamentally differentiate the status of convicted Ukrainian citizens from other prisoners transferred by the Russian Federation from the territory of Crimea to its territory under the pretext of further serving their sentences, primarily from Russian citizens who have committed crimes in Crimea and were subsequently transferred to its territory by the occupying power. This requires the Russian authorities to treat the convicted Ukrainian citizens in a different way compared to the Russian citizens who were convicted in the occupied territory of Crimea.

The discriminatory nature of the Russian Federation's policy of the transfer of Ukrainian prisoners and citizens of Ukraine to its territory is manifested in the following:

1. With respect to the category of citizens from among the convicts

In June 2014, the first group of Ukrainian citizens who had already served a criminal sentence of deprivation of freedom or were sentenced to the above form of punishment in the territory of the Autonomous Republic of Crimea and the city of Sevastopol (most of them by Ukrainian courts) was transferred to the territory of the Russian Federation "to further serve their criminal sentences". Russia justified such actions as necessary to comply with the provisions of Article 73 of its own Criminal Executive Code (KIK), which authorizes the relevant bodies of the Federal Penitentiary Service (FSIN) to determine the place of serving the sentence for convicted persons.

The provisions of the first paragraph of Article 76 of the GC-IV were completely disregarded. This provision stipulates that protected persons, if accused of offenses in the occupied territory, must serve their sentences therein.

Since June 2014, such deportations have become an administrative practice of the Russian Federation, which systematically transfers Ukrainian citizens sentenced to deprivation of liberty to its own territory.

Such transfers have signs of discriminatory treatment, given that the inability of the state to ensure distinctive treatment of persons in fundamentally different situations may constitute discrimination (see, i.e., the judgment of the European Court of Human Rights *Thlimmenos v. Greece*, Greece, Application no. 34369/97, Judgment of April 6, 2000, § 44)⁷⁴.

In paragraph 7 of General Comment No. 18⁷⁵, the UN Human Rights Committee defines "discrimination" as "any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms".

⁷⁴ Judgment of the European Court of Human Rights *Thlimmenos v. Greece*, Greece, Application no. 34369/97, Judgment of April 6, 2000, § 44. URL: <https://hudoc.echr.coe.int/?i=001-58561>

⁷⁵ General Comment No. 18. UN Human Rights Committee. 1989. URL: <https://www.refworld.org/docid/453883fa8.html>

Further, in paragraph 10 of the General Comment, the Committee notes that “the principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant”. For example, in a state where the general condition of a certain part of the population prevents or restricts the exercise of human rights, the state must take specific measures to improve this situation. Such measures may include granting for a certain period of time to this part of the population some preferential treatment in specific areas compared to the rest of the population. However, when such measures are necessary to remedy actual discrimination, the distinction is legitimate under the Covenant.

Thus, the Committee clearly indicates that equal treatment of persons in different (distinct) situations can also be considered discriminatory.

The situation of convicted Ukrainian citizens deported by the Russian Federation from Crimea should be considered indirect discrimination as defined by paragraph 10 of General Comment No. 20⁷⁶ of the Committee on Economic, Social and Cultural Rights, namely discrimination resulting from the existence of laws, policies or practices which appear neutral at face value, but have a disproportionate impact on the exercise of Covenant rights as distinguished by prohibited grounds of discrimination.

In the case of *D.H. and Others v. the Czech Republic* (Application no. 57325/00, Judgment of 13 November 2007)⁷⁷, the Grand Chamber of the European Court of Human Rights found indirect discrimination on the grounds of ethnic origin, noting that a measure of a general nature, which was applied to all Czech children without exception, had a disproportionately prejudicial effect on a certain group (children of the Roma community), although it was not specifically targeted at this group.

In this sense, the situation with convicted Ukrainian citizens in Crimea is similar to the situation of the applicants in the *D.H.* case.

Firstly, the provisions of Article 73(1) of the Criminal Code of the Russian Federation do not directly establish differences in the treatment of citizens and non-citizens of the Russian Federation, i.e. they are seemingly neutral. Moreover, when applying this provision in the territory of the Russian Federation, there is no reason to assert that for non-citizens of the Russian Federation their transfer from one constituent entity of the Federation to another may have a stronger disproportionate impact on them than on any other citizen of the Russian Federation.

However, the situation changes dramatically when the provisions of this Article are applied by the Russian Federation in the occupied territory of another state, Ukraine. In this case, Ukrainian citizens find themselves expelled from the territory of their country of citizenship to the territory of a foreign state. This does not occur in the case of Russian citizens, who, on the contrary, return to their country of citizenship during the displacement.

⁷⁶ General Comment No. 20. Committee on Economic, Social and Cultural Rights. 2009. URL: <https://www.refworld.org/docid/4a60961f2.html>

⁷⁷ Judgment of the European Court of Human Rights *D.H. and Others v. the Czech Republic* (Application no. 57325/00, Judgment of 13 November 2007). URL: <https://hudoc.echr.coe.int/?i=001-83256>

It should be noted that this kind of expulsion is a violation of Article 12(4) of the Covenant and Article 3 of Protocol No. 4 to the European Convention on Human Rights.

Secondly, such expulsion has unfavorable consequences for this category of Ukrainian citizens in the following ways:

- a) they find themselves in a different cultural environment (one that differs from the Ukrainian cultural environment in terms of national traditions, public and religious holidays, interpretation of historical events, etc;)
- b) they are victims of violations of another provision of Article 76 of the GC-IV, which establishes that the regime of places of detention where persons protected by the Convention are serving their sentences must be at least equal to those in prisons in the occupied country (in fact, the conditions of detention in Russian colonies are much harsher than in Ukrainian ones, sometimes even inhuman);
- c) are forced to display loyalty to the Russian Federation, despite the fact that it is the occupying power in relation to Ukraine.

It is quite obvious that Article 76 of the GC-IV is aimed at limiting such implications by establishing the rule that protected persons convicted in the occupied territory shall serve their sentences therein and, if possible, separately from other prisoners.

In turn, prisoners who are citizens of the Russian Federation transferred from the territory of Crimea to the territory of the Russian Federation are not subject to the above consequences: they return to their country of citizenship, to their familiar cultural environment, and there is no change in their loyalty to the authorities to which the places of detention are subordinated.

Since the primary difference between the two groups of prisoners is their nationality (citizens of Ukraine vs. citizens of the Russian Federation), the basis of the alleged discrimination is race. This conclusion is supported by the provision of Article 1 of the UN Convention on the Elimination of All Forms of Racial Discrimination, according to which discrimination based on national origin is a form of racial discrimination.

Such treatment should be assessed as discriminatory, as it has no objective and reasonable justification.

Thus, it is reasonable to assume that the convicted Ukrainian citizens deported by the Russian Federation from the territory of Crimea were victims of racial discrimination (indirect), which is manifested in the fact that an outwardly neutral provision (Article 73(1) of the Criminal Code of the Russian Federation), when applied to members of a particular group (Ukrainian citizens convicted in Crimea), had a disproportionately unfavorable impact on them compared to another particular group (Russian citizens convicted in Crimea).

In order to avoid violating the non-discrimination rights of this category of Ukrainian citizens, it would have been sufficient for the Russian Federation to simply comply with Article 76 of the GC-IV. Such an approach would have

negated the effect of the general rule (provisions of Article 73 of the Criminal Code of the Russian Federation) regarding a certain group - convicted Ukrainian citizens who are protected by the Convention in the occupied territory.

2. With respect to the category of citizens in the status of defendants

Since late 2015, the Russian Federation has been systematically transferring Ukrainian citizens in custody and pending trial in their criminal cases after the pre-trial investigation from the occupied to its own territory. Generally, these are cases of so-called "terrorism", most of the accused are Crimean Muslims, of whom, in turn, the majority are Crimean Tatars.

The Russian Federation justifies such actions as necessary to comply with the provisions of Article 31, paragraph 6.1 of its own Criminal-Procedural Code, which defines the jurisdiction over the Crimean "terrorism" cases to the Southern District Military Court of the Russian Federation, located in Rostov-on-Don. This provision does not establish any differences in the treatment of citizens and non-citizens of the Russian Federation, so it is outwardly neutral.

In applying the provisions of Article 31(6)(1) of the Criminal Procedure Code, the Russian Federation completely disregards the requirements of Article 66(1) of the GC-IV, which stipulates that the trial of persons accused of committing crimes in the occupied country shall take place therein.

During 2015–2016, such deportations became an administrative practice of the Russian Federation, which continues systematically to this day.

The reasoning behind such treatment is similar to that described above. Compared to Russian citizens who are transferred from the occupied territory to the territory of the Russian Federation, Ukrainian citizens find themselves in a much worse situation: on the territory of a hostile Power to which all connections have been lost, from postal to transport, which effectively implies that the convicts cannot see their relatives, receive assistance from them or communicate. In addition, citizens of Ukraine are deprived of the opportunity to openly demonstrate their affiliation with the Ukrainian national group, in particular, to communicate in Ukrainian, to celebrate holidays and memorable occasions, as this may be qualified as a criminal offense under the Russian legislation. An additional obstacle to the manifestation of their own identity is that, in violation of Article 76(1) of the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, the Occupying Power keeps them in detention with its own citizens, rather than separately, as required by the provision. This poses additional threats to Ukrainians deprived of their freedom, who are exposed to aggression from convicted Russian citizens.

Contrary to the situation in the case of convicted citizens, the reason for discrimination in the above situation is that the Russian Federation applies the outwardly neutral provision of Article 31, paragraph 6.1 of the Criminal-Procedural Code, which determines the jurisdiction of the Southern District Military Court of the Russian Federation over Crimean "terrorism" cases and treats Ukrainian citizens in the same way as its own citizens. Such treatment puts Ukrainians at a substantial disadvantage. The apparently neutral provision of the Criminal-

Procedural Code of the Russian Federation has a disproportionately unfavorable impact on Ukrainian citizens compared to another identified group (Russian citizens detained in Crimea), thus indirect discrimination occurs.

Similarly to the first case, the only ground of discrimination is the citizenship of the accused, so this situation should be qualified as racial discrimination.

3. With respect to female convicts, minors and persons suffering from somatic diseases and mental illnesses

The nature of the discriminatory treatment of this category of Ukrainian citizens lies in the fact that the Russian Federation has not provided for the possibility of serving their criminal sentences on the territory of the Crimean peninsula - all of them are mandatorily deported to the Russian Federation with reference to the lack of appropriate penitentiary institutions in Crimea. Such actions are equally violative of the first paragraph of Article 76 of the GC-IV.

This differential treatment is based on the grounds of gender, age and state of health, respectively. Since it lacks a reasonable and objective justification, such treatment should be qualified as direct discrimination.

In any case, the same arguments in favor of indirect discrimination can be used in relation to this category of persons as for the first and second categories of persons mentioned above.

Legal qualification of the discriminatory practice of the Russian Federation against Ukrainian citizens convicted in Crimea

As of 2022, according to the data collected by the Regional Center for Human Rights, the Russian Federation has transferred more than 12,500 convicts from the occupied Crimean peninsula to its territory. Ukrainian citizens from the territory of the peninsula are serving criminal sentences in at least 102 correctional institutions in 42 regions, including Omsk, Orenburg, Penza, Nizhny Novgorod regions, Komi, Mordovia and Yakutia (Sakha) Republics, Krasnoyarsk, Magadan, etc. In addition, a convicted person may be transferred across the territory of the Russian Federation several times during one sentence at the discretion of the Federal Penitentiary Service (FSIN).

Russia's discriminatory policy on the transfer of Ukrainian prisoners violates Customary Rules 129 and 130 of international humanitarian law, as well as Articles 49, 66 and 76 of the Convention (IV) relative to the Protection of Civilian Persons in Time of War.

Deportations in violation of Article 49 of the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War constitute a serious violation of the laws and customs of war under Article 85 of the Additional Protocol (I) to the Geneva Conventions and may be qualified as a war crime under Article 8(2)(b)(viii) or a crime against humanity under Article 7(1)(d), and, under certain conditions, under Article 7(1)(h) of the Rome Statute of the International Criminal Court.

Responsible persons

At the federal level, responsibility for the illegal deportations of Ukrainian citizens from among the convicts lies with the persons who directly make decisions on the formulation of this discriminatory policy, in particular, with the following:

- President of the Russian Federation - Vladimir Putin;
- Prime Ministers - Dmitry Medvedev (2012-2020) and Mikhail Mishustin (since 2020);
- Chairperson of the Federation Council of the Federal Assembly of the Russian Federation - Valentina Matvienko;
- Sergey Naryshkin (2011-2016) and Vyacheslav Volodin (2016-present), Chairpersons of the State Duma of the Federal Assembly of the Russian Federation.

As far as the level of the "Republic of Crimea", the responsible persons are Sergey Aksyonov, the Head of the "Republic of Crimea", and Vladimir Konstantinov, the Chairman of the State Council of the "Republic of Crimea", who facilitated the implementation of Russian federal policy in Crimea and made decisions that affected the exercise and protection of fundamental human rights and freedoms.

The lowest executive level of the policy of transfer of Ukrainian prisoners are the persons who executed the sentences of the occupation courts and were involved in the process of transferring prisoners from the occupied territory, in particular, the Head of the Federal Penitentiary Service for the "Republic of Crimea" Vadim Bulgakov and the Head of the "Penitentiary Service of Russia for the Republic of Crimea and Sevastopol Sevastopol" Ivan Kuz.

V. PERSECUTION OF OTHER PERSONS DISCRIMINATED AGAINST BASED ON NATIONAL OR CULTURAL IDENTITY ON THE TERRITORY OF THE TEMPORARILY OCCUPIED CRIMEAN PENINSULA

The concept of “identity” is not unambiguous and clearly defined. In a general sense, it is commonly understood as an inherent characteristic of a person in recognizing their uniqueness and feeling of belonging to a particular community or group. Hence, there are several categories of identities: national, cultural, religious, gender, digital, etc. This section will focus on discrimination based on national and cultural identity only.

National identity is a subjective sense of belonging to a particular state and/or nation as a single entity represented by distinctive traditions, culture and language. **Cultural identity** is a person’s awareness of belonging to a particular cultural community through self-identification with its models, values, and norms while reproducing them and promoting their transmission to and assimilation by future generations (e.g., language, religious and other beliefs, social behavior, etc.).

Even before the events of 2014, the Russian Federation had been gradually creating a picture of *“mass support for the return of primordially Russian Crimea to its historical homeland”* on the territory of the Crimean peninsula, using various tools and methods. In its policy, the Russian Federation has relied on several existing large groups in the region, holders of Russian⁷⁸, “Soviet” and combined (“Soviet-Russian”) identities. In general, the representatives of these identities hated Ukraine and Ukrainians in every possible way; sometimes, they were nostalgic for the USSR and believed in returning to those times, reuniting fraternal peoples, etc. They were opposed by a small group that identified themselves nationally, culturally, or ethnically as Ukrainians, which was formed under the influence of many factors: family history and upbringing, cultural and media influences, the formation of their own beliefs, lack of experience of life during the Soviet period, etc. An important role here is also played by self-identification with the “mainland” Ukrainian community and an awareness of its historical, traditional, and civic involvement.

After occupying the peninsula, the Russian Federation identified a group of Ukrainians in Crimea as “disloyal and inconvenient” for its purposes on the peninsula. Even before the pseudo-referendum on the status of Crimea on 16 March 2014, RF began to use tools to discriminate against the disloyal population to further oust them from the peninsula and facilitate the occupation of the territory. And it continued to use and intensify these instruments with even greater enthusiasm after the extension of its legislation to the peninsula.

⁷⁸ Note: at least 58% of ethnic Russians lived in Crimea as of 2001 (All-Ukrainian Census)

The instruments of discrimination based on national and cultural identity used by the Russian Federation in Crimea include the following:

- strengthening supervision and control over the activities of the media, especially foreign ones;
- application of Russian legislation to control opinion and freedom of expression in the occupied territory, identifying “disloyal population”;
- winding down activities of Ukrainian NGOs, designating specific religious and cultural organizations as terrorist organizations;
- closure of Ukrainian schools and classrooms, making it impossible to communicate and study in the Ukrainian language using Ukrainian textbooks;
- renaming Ukrainian names in the Russian way, reinterpreting the historical and cultural features of Ukrainian monuments and heritage;
- artificial displacement of the pro-Ukrainian population from the peninsula.

1. Persecution of representatives of Ukrainian media and civil society organizations

Even before the “referendum”, the Russian Federation seized frequencies and blocked access to Ukrainian television and radio broadcasting on the peninsula, replacing these sources with its own. Any public manifestation of a position contradicting the dogmas of Russian propaganda and its narratives was severely prosecuted and punished. Among the first victims of this policy were the Breeze TV and Radio Company of the Ukrainian Navy (Sevastopol) and the Black Sea Broadcasting Company, who were forced to leave the peninsula due to constant attacks on employees and several attempts to set fire to media buildings.

Later, the occupation authorities targeted individual media representatives, their families, and friends for their pro-Ukrainian public position and statements. Against such journalists, Russian security forces used systematic verbal and physical threats, searches, and violence, and a significant number of politically motivated administrative and criminal proceedings against Ukrainian journalists were recorded.

In particular, the most famous cases were criminal cases against journalists Mykola Semena (Krym. Realii)⁷⁹, Andriy Klymenko (BlackSeaNews)⁸⁰, Anna Andrievska (Centre for Investigative Journalism)⁸¹. All were convicted under Article 280.1 of the Criminal Code of the Russian Federation “Public calls for actions aimed at violating the territorial integrity of the Russian Federation”. Another case concerned the journalist of the Krym.Realii project Vladyslav Yesypenko⁸². On 18 August 2022, he was sentenced to 5 years in prison in a general regime colony and fined 110 thousand rubles under Article 223.1(1) of the Criminal Code of the Russian Federation “Illegal manufacture, alteration or repair of firearms, their main parts...”. In particular, the Russian Federal Security Service stated that Yesypenko allegedly conducted “*reconnaissance and subversive activities in the interests*

⁷⁹ Krym. Realii. “The accusation is not legal, but political” - journalist Semena about the prosecution in occupied Crimea. 2017. URL: <https://www.radiosvoboda.org/a/28437186.html>

⁸⁰ Andriy Klymenko. Krym. Realii. “The world must simultaneously realize the global danger of Russia and stop being afraid of Russia”. 2023. URL: <https://ua.krymr.com/a/klymenko-bezpeka-krym-platforma-interviu/32546967.html>

⁸¹ Zmina. Crimean authorities accuse media of separatism. 2015. URL: https://zmina.info/news/krimaska_vlada_zvinuvachuje_zmi_u_separatizmi

⁸² Center for Civil Liberties. Vladislav Esipenko. 2023. URL: <https://ccl.org.ua/conscience/vladyslav-yesypenko/>

of the Ukrainian special services". What all these journalists have in common is that they all said in their public materials that "Crimea is Ukraine" and publicly positioned themselves as Ukrainian journalists, citizens of Ukraine, and Ukrainians.

At the legislative level, the Russian Federation adopted several more regulations besides the existing ones, which directly provided discriminatory and restrictive mechanisms for Ukrainian media and journalists.

In particular, it is Federal Law No. 305-FZ «On Amendments to the Law of the Russian Federation "On Mass Media" of 14 October 2014, which prohibits foreign persons from establishing, owning, managing, or exercising control over the media⁸³. In December 2022, another federal law, No. 255-FZ, was issued, which provides for mandatory labeling on all products issued by organizations, institutions, and agencies defined by the Russian Federation as "foreign agents". The Russian Federation identifies the latter based on the criterion of "foreign influence" on these persons. In other words, any financial or material support that a person receives, for example, from the unoccupied territories of Ukraine, or any other connection with these territories, or any other connection that a person has with the unoccupied territories of Ukraine, automatically turns that person into a "foreign agent". Failure to comply with the labeling requirement may result in fines and criminal prosecution by the Russian authorities, with the risk of imprisonment. Such labeling, in particular, leads to stigmatization and creates grounds for discriminatory treatment of such persons. In Crimea, these are representatives of the Ukrainian, Crimean Tatar, and other communities as well as their media or civil society organizations.

2. Persecution for pro-Ukrainian statements, actions, demonstration of Ukrainian symbols, songs, etc.

On 4 March 2022, the Russian Federation supplemented its administrative code with a new provision (Article 20.3.3), which establishes liability for those persons whose actions or words are considered as "discrediting the use of the armed forces of the Russian Federation to protect the interests of the Russian Federation and its citizens". In case of prosecution for violation of this article, individuals received a fine of 50 thousand rubles and administrative arrest for 5 to 15 days.

On 14 March 2023, additional amendments were made to the articles in the Criminal and Administrative Codes of the Russian Federation, which increased liability for "discrediting the Russian Armed Forces". The maximum sanction for violation is imprisonment for up to 15 years and a fine of up to 5 million rubles. Also, those who "discredit" the activities of volunteer groups, organizations, or individuals performing tasks for the RF Armed Forces will be held liable⁸⁴.

In Crimea, more than 450 people were sentenced under this article in 2022–2023, the vast majority of whom were convicted for posting on social media in support of the Armed Forces of Ukraine or condemning the actions of the Russian Federation, listening to Ukrainian-language songs, slogans "Glory to Ukraine" and similar.

⁸³ Federal Law No. 305-FZ "On Amendments to the Law of the Russian Federation "On Mass Media" of 14 October 2014. URL: https://www.consultant.ru/document/cons_doc_LAW_169740/

⁸⁴ State Duma of the Russian Federation. A law on the prohibition of defamation and slander against participants in a special military operation has been adopted. 2023. URL: <http://duma.gov.ru/news/56548/>

Among the high-profile cases is the administrative prosecution of the organizers and participants of a wedding in Bakhchisarai for listening to the song “Chervona Kalyna” (Red Viburnum). In the decision of the Bakhchisaray District Court it is stated that the song contained lines discrediting the Russian Armed Forces, including the words “to free Ukrainian brothers from Moscow’s chains”. Another young man from Sevastopol was arrested by Russian law enforcement officers for allegedly “discrediting the Russian Armed Forces, in particular for painting pro-Ukrainian symbols on infrastructure facilities”⁸⁵. The occupation court sentenced a man from Simferopol for publishing pro-Ukrainian slogans in a group chat on one of the messengers. He was sentenced to 1.5 years in prison and deprived of the right to post information on the Internet for two years⁸⁶.

There is also information that Crimean telecommunications operators and Internet providers, on the instructions of the central offices, have to transmit data to the FSS about network users who are “suspicious” or use VPNs. In particular, according to the data published by the Atesh guerrilla movement⁸⁷, the FSS urged Crimean telecommunications providers to pay special attention to Crimean Tatars with a pro-Ukrainian position.

Such actions by the occupation authorities in Crimea make it impossible and virtually prevent Ukrainian citizens from freely expressing themselves and demonstrating their political, cultural, or national affiliation. The cases that the occupation courts in Crimea have considered are politically motivated, as numerous violations of fair justice standards have been recorded (court decisions on the day of the offense report, violations of the principles of transparency and independence of judges, objectivity, equality of parties, etc.) The trials were not aimed at establishing the truth but only at identifying and punishing people “inconvenient” to the occupation authorities, suppressing anti-war and pro-Ukrainian sentiment among the civilian population in Crimea.

3. Cessation of activities of Ukrainian cultural and educational institutions, policy of renaming and destruction of objects of Ukrainian cultural heritage in Crimea

In addition to persecuting people for expressing a pro-Ukrainian or other position that does not conform to the narratives of the occupation authorities, the latter also pursues a policy of destroying Ukrainian identity in Crimea through the physical destruction of Ukrainian cultural heritage monuments in Crimea, renaming and reinterpreting names and meanings in the Russian way, etc.

In April 2014, the occupation authorities dismantled a number of monuments to Ukrainian figures or events in Ukrainian history. In particular, these included a memorial to Hetman P. Sahaidachny, a monument to the tenth anniversary of the Ukrainian Navy, and a plaque commemorating the Holodomor victims on the wall of the Ukrainian Cultural and Information Center in Sevastopol.

Since 2015, unlawful archaeological excavations and research have been regularly taking place on the peninsula, most often with the aim of looting and subsequent

⁸⁵ Institute of Mass Information. Resident of Sevastopol detained in Crimea on charges of vandalism of the Russian flag. 2023. URL: <https://imi.org.ua/news/u-krymu-zatrymaly-meshkantsya-sevastopolya-zvinuvatvshy-u-vandalizmi-na-d-praporom-rf-i55726>

⁸⁶ Radio Svoboda. Simferopol resident sentenced in occupied Crimea for “Ukrainian slogans” in messenger. 2022. URL: <https://www.radiosvoboda.org/a/news-krym-sud-ukrayina-gasla/32124393.html>

⁸⁷ Telegram Channel of ATESH. Crimean Internet providers denounce their users to the FSB! 2023. URL: https://t.me/atesh_ua/1765

destruction or export of Ukrainian cultural property to the territory of the Russian Federation. The official website of the Institute of Archaeology of the Russian Academy of Sciences published information about more than 2 million artifacts that Russian academics discovered during their archaeological expeditions to Crimea in 2021. Some of the finds were transported to the territory of the Russian Federation «for further study and exhibition».

In addition, the occupation authorities are implementing a policy of renaming, giving new “correct” meanings to Ukrainian cultural and educational institutions that, in their opinion, indicate or may indicate “Ukraine’s presence in Crimea”. For example, in Simferopol, the word “Ukrainian” was replaced with “academic” in the names of the Ukrainian gymnasium and the Ukrainian music and drama theatre. The All-Ukrainian Cultural and Information Center was “reorganized” and renamed the “Center for Information and Social Technologies for the Development of Interethnic Communications in the Republic of Crimea”. In Sevastopol, the word “Ukrainian” was removed from the name of the city’s Ukrainian Cultural and Information Center.

As for education, according to data published by the Russian side, only 214 students (0.1 percent of all students) across the Crimean peninsula could study in Ukrainian during the 2020/2021 school year. Today, only one school in Crimea provides children with the opportunity to study in Ukrainian, and there are three Ukrainian-language classes in the other three schools on the peninsula. However, education is based on the Russian system and Russian textbooks, which encourage children to love their “true homeland – the Russian Federation” and the Russian Armed Forces and to serve for the benefit of the Russian Federation.

Under such conditions and opportunities “provided” by the occupation authorities to the population of Crimea, the latter was deprived of the possibility to study in, speak Ukrainian, have access to the monuments of Ukrainian history and culture, and research and study them independently.

Legal qualification

Constant oppression and targeted persecution, prohibition to speak Ukrainian freely, to express oneself freely, prohibition to demonstrate Ukrainian symbols, etc. by the Russian Federation on the territory of the Crimean peninsula is a violation of international law.

These include, in particular, the violations of the Universal Declaration of Human Rights (Article 22, Article 27), the International Covenant on Civil and Political Rights (Articles 1, 2, 18, 19), and the European Convention on Human Rights (Articles 9, 10). These documents enshrine the human right to use and “enjoy the arts”, to enrich one’s own culture, and the freedom of thought, conscience, and religion. The 1989 Convention on the Rights of the Child explicitly recognizes the child’s right to identity and imposes an obligation on the state to protect this right. Additionally, the Russian Federation is in violation of the 1978 UNESCO Declaration on Race and Racial Prejudice, which enshrines the freedom of a group to decide for itself how to enrich, develop and preserve its own culture, which constitutes part of its identity, as well as the 2001 Universal Declaration on Cultural Diversity, which links cultural diversity to human dignity.

In addition, the Russian Federation has also violated a number of its obligations under international humanitarian law, in particular, customary norm IHL N. 88, as well as Article 27 of the Geneva Convention IV and Articles 15, 53 of the Additional Protocol I to the Geneva Conventions.

The persecution by the Russian Federation of Ukrainians in Crimea on the basis of racial, cultural or other identity could also be qualified as a crime against humanity, and specifically as discriminatory persecution under Art. 7(1)(h) of the Rome Statute of the ICC with elements of torture (Art. 7(1)(f) of the Rome Statute of the ICC), as well as war crimes: torture or inhuman treatment (Art. 8(2)(a)(ii) of the Rome Statute of the ICC) and wilfully causing great suffering or serious injury to body or health (Art. 8(2)(a)(iii) of the Rome Statute of the ICC).

Responsible persons

At the federal level, the persons involved in the formation of the relevant discriminatory policy are responsible for the persecution of persons on the basis of national and/or cultural identity in Crimea:

- President of the Russian Federation - Vladimir Putin;
- Heads of the Government of the Russian Federation - Dmitry Medvedev (2012-2020), Mikhail Mishustin (2020-present);
- Chairpersons of the State Duma of the Federal Assembly of the Russian Federation - Sergey Naryshkin (2011-2016) and Vyacheslav Volodin (2016-present);
- Ministers of Culture of the Russian Federation - Vladimir Medinsky (2012-2020), Olga Lyubimova (2020-present).

At the level of the "Republic of Crimea":

- Head of the "Republic of Crimea" - Sergey Aksyonov;
- Minister of Culture of the "Republic of Crimea" - Vera (Arina) Novoselskaya (2014-2021), Tatiana Manezhina (2021-present)
- Governors of Sevastopol - Sergey Menailo (2014-2016), Dmitry Ovsyannikov (2016-2019) and Mikhail Razvozhayev (2020-present)
- Heads of the Department of Culture of Sevastopol (formerly the Cultural Office of Sevastopol) in the period from 2014 till now - Tatiana Ulyanova, Tatiana Andreeva, Irina Romanets, Angela Sumakova.

VI. DISCRIMINATION IN THE EDUCATIONAL SPHERE BY THE RUSSIAN FEDERATION ON THE TERRITORY OF THE TEMPORARILY OCCUPIED CRIMEAN PENINSULA

After having annexed the Crimean peninsula in 2014, the Russian Federation launched a large-scale campaign to impose a Russian identity on the population of Ukraine in Crimea. Students of secondary schools also became victims of this discriminatory policy, being most susceptible to the influence of Russian propaganda narratives.

The Russian Federation considers the Autonomous Republic of Crimea and the city of Sevastopol to be part of its own territory and does not recognize the state of occupation. It has extended its legislation to the territory of the peninsula in violation of international humanitarian law, in particular *the principle of status quo ante bellum*, which requires the maintenance of the status quo on the territory that existed before its occupation. Thus, the Federal Law "On Education in the Russian Federation" is binding in Crimea. The law establishes the obligation for all general educational institutions to apply Russian federal educational standards and general educational programs in their teaching activities. Educational institutions are required to implement the provisions of Russian educational concepts and teach subjects in accordance with Russian model curricula. Only textbooks included in a special federal list are allowed for teaching. The list includes only those educational materials that have been examined for compliance with Russian standards. Only the textbooks included in the list can be used for teaching.

For example, the study revealed that the analyzed textbooks from the federal lists are used, in particular, in the "School-Gymnasium No. 10 named after Ye.K.Pokrovsky" in Simferopol⁸⁸, "Yalta Secondary School No. 8 named after the Hero of RF D.M. Grebenkin"⁸⁹, school in the village of Pryvitne near the town of Alushta⁹⁰.

The above-mentioned educational standards, programs and concepts aim to instil in students a pan-Russian civic identity based on the study and respect for the Russian language, culture and history of the Russian Federation. Children are educated in a spirit of patriotism for the Russian Federation as their own homeland, while their Ukrainian or other national origins are ignored. Educational materials encourage the performance of military duty in the ranks of the Russian armed forces as the highest expression of patriotism.

The narratives of Russian propaganda are most clearly seen in textbooks, which deepen and expand the meaning of the above-mentioned theses in standards

⁸⁸ School-Gymnasium No. 10 named after Ye.K.Pokrovsky" in Simferopol. List of textbooks. URL: <https://web.archive.org/web/20230830094707/http://gymnasium10simf.ru/wp-content/uploads/2022/09/Pereche-n-uchebnikov-na-2022-2023g.-1.pdf>

⁸⁹ "Yalta Secondary School No. 8 named after the Hero of RF D.M. Grebenkin. List of textbooks.

URL: <http://web.archive.org/web/20230326211320/http://yalta8.ru/index.php/usloviya-obucheniya/uchebniki-i-uchebn-ye-posobiya>

⁹⁰ School in the village of Pryvitne. List of textbooks.

URL: <http://web.archive.org/web/20230603120145/https://privetnoe.crimea-school.ru/content/uchebniki-i-literatura>

and programs. A striking example is the content of Russian subjects taught in Crimea, in particular:

- “The World Around Us” (1st-4th grades);
- “Social Studies” (5th-11th grades);
- “Basics of Religious Cultures and Secular Ethics (4th grade);
- “Basics of Life Safety” (5th-11th grades);
- “Geography” (5th-11th grades).

On the pages of the textbooks on these subjects, we found many narratives aimed at educating students of educational institutions in Crimea and Sevastopol as Russian citizens and imposing Russian identity on them. Teaching such educational narratives in the territory of the Russian Federation to Russian children is legitimate. At the same time, their use in the occupied territories constitutes “indirect discrimination” because the national origin of the non-Russian children is not taken into account and they study according to the same programs as Russian children.

Among these narratives, we can distinguish the following:

- **Russian ethnicity is the basis of the unity of the Russian multinational people.**

This group of narratives is aimed at supporting the idea that the Russian people play an important role in the creation and development of the Russian state. It is also about fostering a sense of patriotism and pride in the Russian Federation among children from occupied Crimea and Sevastopol, encouraging them to be active citizens and preserve Russia’s historical heritage.

- **Performing military duty in the Armed Forces of the Russian Federation is a “sacred duty” of Russian citizens.**

The goal of this group of narratives is to convince children that serving in the Russian Armed Forces is a patriotic duty they should fulfill. Textbooks present the Russian army as a powerful and invincible force, and children are encouraged to become a hero in its ranks. The need to be ready to defend Russian interests in arms is repeatedly emphasized. Students are led to the conclusion that serving in the Russian army is an honor. The actions of Russian and Soviet soldiers during various wars “to defend the Motherland” are heroized and romanticized. In this way, children are encouraged to engage in armed conflicts on the side of the Russian Federation, including against Ukraine.

- **Self-sacrifice is the highest manifestation of “sacred duty”.**

Russian textbooks are permeated with the narrative of the need for self-sacrifice for the sake of the Motherland as an integral element of fulfilling the “sacred duty.” Examples of participants in the “Great Patriotic War” who sacrificed their lives for the sake of the Motherland-Russia are repeatedly cited, often with minors as the heroes of such stories. Such examples are portrayed through the prism of patriotism and love for Russia.

- **Colonization of territories is the essence of the Russian Federation's existence.**

Children are led to the conclusion that military service in the Russian Armed Forces is an integral element of ensuring the spread of Russian influence beyond its borders and the expansion of state borders. Directly or indirectly, children are taught to have a positive attitude towards the violent conquest of land with subsequent colonization, Russification and assimilation of the local population. In other words, there are attempts to form children's readiness to seize the territory of other states and a positive attitude towards the already conquered territory.

- **There are constant "interethnic conflicts" in the "CIS countries" and the "former USSR countries".**

Children are encouraged to perceive Russia's neighboring states as incapable of independent existence. At the same time, when the conquered territories are separated from the RF, as was the case with the collapse of the USSR, they are supposed to remain under its influence, as they are part of its cultural space. Textbooks condemn the desire of other nations to exist separately from Russia. The separation of such states from the Russian Federation is supposed to result in the spread of nationalist ideas, discrimination against the Russian-speaking population, and the emergence of interethnic conflicts. Children are led to believe that neighboring independent states should be part of the Russian Federation.

- **Interference in the internal affairs of neighboring states is an integral part of Russia's policy.**

Since the Russian Federation believes that it has the right to influence the countries of the so-called "new abroad", i.e., the countries of the former USSR, it seeks to develop its language and culture on their territories through soft power. In the event of various threats, such as alleged violations of the rights of the Russian-speaking population or the development of weapons of mass destruction in such states, Russia is obliged to intervene in the internal affairs of its neighbors, ostensibly to protect its own national interests. Thus, children are being prepared for the further realization of Russian imperialist plans, including those for Ukraine.

- **NATO and the United States are a global threat.**

The textbooks form an image of an external enemy from NATO countries and the United States in particular, which allegedly aim to destroy Russia. The idea is instilled in children that these states are allegedly trying to get closer to Russia's borders, and that is why they staged a coup d'état in Ukraine and brought to power a nationalist government that infringes on the rights of Russian speakers. This, accordingly, is an argument for building up the Russian armed forces, where children must be ready to stand up to the "external enemy".

Thus, Ukrainian children in the occupied territory of Crimea and Sevastopol must become bearers of Russian identity and love their Motherland-Russia above all else. The highest manifestation of this love is service in the Russian Armed Forces and the willingness to sacrifice their lives for the sake of their homeland-Russia.

For the “development” of their country, children must participate in wars aimed, among other things, at expanding its borders and “protecting fraternal peoples” from discrimination and hostile policies of NATO countries.

The absorbing of all the above narratives in complex leads to the destruction of the national identity of children, their potential involvement in hostilities against their own state - Ukraine, to facilitating the colonization of the occupied territories and their annexation, as well as to the actual change in the demographic composition of these territories and the complication of their future reintegration⁹¹.

It is worth emphasizing that formal schooling is not the only way in which Russia and its agents militarize and indoctrinate Ukrainian children in Crimea and Sevastopol. Propaganda narratives are not only contained in textbooks, but are also imposed during extracurricular but compulsory classes, such as “Talking about Important Things” and “Lessons of Courage”. Schools also have “cadet and Cossack classes” to prepare students for military education and military service. There is a wide network of youth organizations on the peninsula aimed at military training of minors and fostering a sense of patriotism for the Russian Federation. These include, in particular: “Yunarmiya”, “Movement of the First”, “Eaglets of Russia” and dozens of other organizations. In addition, various events and contests are regularly held, for example, on the occasion of Russia Day and Victory Day, aimed at instilling Russian patriotism for Russia and encouraging people to join the military through the glorification of the participants of the Great Patriotic War⁹².

Violation of international law

International human rights law

As a result of the use of Russian educational standards and textbooks, Ukrainian children in Crimea and Sevastopol find themselves in a vulnerable position when their national origin is not taken into account in their education. In the occupied territory, Ukrainian children should be provided with education according to Ukrainian standards, but instead they are forced to learn the above-mentioned propaganda narratives. Thus, Ukrainian children in Crimea and Sevastopol and Russian children in the RF are taught according to the same educational standards, which is a prerequisite for secondary education. Such equal treatment of persons in different situations is an example of “indirect discrimination” prohibited by international law, in particular Article 26 of the International Covenant on Civil and Political Rights⁹³.

The educational policy of the Russian Federation in occupied Crimea and Sevastopol violates a number of provisions of the 1989 UN Convention on the Rights of the Child, which the Russian Federation is obliged to respect. Article 8 of the Convention enshrines the right of the child to preserve his or her own identity, including nationality, name and family ties. The enjoyment of all other rights of the child depends on the full realization of the right to identity. The right to preserve one’s identity must be taken into account in the assessment of the best interests of the child, the obligation to which is contained in Article 3 of the Convention.

⁹¹ School Education. Hidden Weapon of the Russian Federation against Ukraine. Regional Center for Human Rights, CCE “Almenda”. 2022.
URL: <https://rchr.org.ua/analytics/shkilna-osvita-pryhovana-zbroya-rf-proty-ukrayiny/>

⁹² For more information, please see the materials on the website: <http://web.archive.org/web/20230606063031/https://almenda.org/category/pub/>

⁹³ International Covenant on Civil and Political Rights.

URL: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

In addition, the teaching of propaganda narratives in the occupied territory may be considered a violation of Articles 12 and 13, which enshrine the rights of the child to freedom of expression and freedom of thought, as openly expressing disagreement with the educational policy of the Russian Federation may pose a danger to the child's life and health. RF does not comply with the requirements set out in Article 29 of the Convention, which stipulates that the education of children shall be directed to the development of respect for human rights and fundamental freedoms, the principles of the Charter of the United Nations, and to the promotion of respect for the child's cultural identity, language and national values of the country in which the child has his or her residence or where he or she comes from⁹⁴. As the UN Committee on the Rights of the Child has noted, a school which allows bullying or other violent and exclusionary practices to occur is not one which meets the requirements of Article 29(1)⁹⁵.

In the context of the militarisation of education and the changing national identity of children, it is important to mention the Concluding Observations of the UN Committee on the Rights of the Child following the consideration of Israel's third and fourth periodic reports on 4 July 2013. The Committee expressed concern about the removal of information about Palestinian history, heritage, flag and cities from school textbooks distributed in all schools in East Jerusalem. The Committee stressed Israel's obligation to ensure that Palestinian children receive an education that respects their cultural identity, language and values. In addition, it called for the lifting of the ban on the use of Palestinian textbooks and curricula and the introduction of education that would contribute to peace⁹⁶. Russia has similar obligations under the UN Convention on the Rights of the Child.

International humanitarian law

The application of Russian educational standards in occupied Crimea and Sevastopol is a violation of international humanitarian law. The aforementioned principle of *status quo ante bellum*, enshrined in the Regulations on the Laws and Customs of War on Land to the Convention on the Laws and Customs of War on Land (IV) of 1907, has been violated. According to Article 43 of the Regulations, the Occupying Power must abide by the laws of the state whose territory it occupies. The extension of Russian legislation, including educational legislation, to the territory of Crimea and Sevastopol constitutes a violation of the specified obligation⁹⁷. In addition, the Russian Federation does not comply with the provisions of the Geneva Convention (IV). In particular, it violates Article 27, which prohibits discrimination, establishing the right of protected persons to personal respect, respect for their honor and family, as well as the duty of States to treat them humanely and to protect them from any act of violence or intimidation. The Russian Federation does not comply with Article 50 of Geneva Convention (IV), which stipulates the obligation of the Occupying Power to ensure that children receive proper and continuous education in a manner consistent with their nationality, language and religion, as well as article 51, which prohibits the Occupying Power from forcing protected persons to serve in its armed forces,

⁹⁴ Convention on the Rights of the Child. URL: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

⁹⁵ General Comment No. 1: The Aims of Education (article 29) (2001). Committee on the rights of the child. URL: <https://www.ohchr.org/en/resources/educators/human-rights-education-training/general-comment-no-1-aims-education-article-29-2001>

⁹⁶ Concluding observations on the second to fourth periodic reports of Israel, adopted by the Committee at its sixty-third session (27 May – 14 June 2013). URL: <https://www2.ohchr.org/english/bodies/crc/docs/co/crc-c-isr-co-2-4.pdf>

⁹⁷ Regulations on the Laws and Customs of War on Land to the Convention on the Laws and Customs of War on Land (IV) of 1907. URL: <https://ihl-databases.icrc.org/en/ihl-treaties/hague-conv-iv-1907/regulations-art-43?activeTab=undefined>

including through propaganda aimed at “voluntary” enlistment into the occupying forces⁹⁸. Such norms should be applied in conjunction with international human rights law, and therefore constitute comprehensive requirements for the Russian Federation in the occupied territory.

The implementation of the Russian educational policy in the occupied territory of Crimea and Sevastopol by Russian officials and its agents has signs of the following international crimes under the Rome Statute of the ICC, in particular, war crimes:

- complicity in compelling a protected person to serve in the armed forces of a hostile Power (Article 8(2)(a)(v));
- complicity in compelling the nationals of the hostile party to take part in the operations of war directed against their own country (Article 8(2)(b)(xv));
- committing outrages upon personal dignity, in particular humiliating and degrading treatment (Article 8(2)(b)(xxi)).

Moreover, they can constitute a crime against humanity, i.e. discriminatory persecution (Article 7(1)(h) of the Rome Statute of the ICC), and serve as evidence of genocidal intent or as an independent act of genocide (Article 6(e) of the Rome Statute of the ICC)⁹⁹.

Bodies responsible for implementing Russian policy in the field of school education

At the federal level, those responsible for formulating and implementing this policy are:

Ministry of Education of the Russian Federation (until 2018, Ministry of Education and Science of the Russian Federation), in particular, the following departments and their heads:

- Department for General Education;
- Department for the Protection of the Rights of the Child;
- Department of Digital Transformation and Big Data;
- Legal Department¹⁰⁰.

The Scientific and Methodological Council on Textbooks that provides the Ministry of Education with recommendations on the possibility of including certain textbooks in the federal list¹⁰¹.

The Council on Federal State Educational Standards for General Education and Vocational Education that reviews draft educational standards and provides the Ministry of Education with its recommendations on the possibility of their approval¹⁰².

⁹⁸ Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.

URL: <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949>

⁹⁹ Rome Statute of the International Criminal Court. 1998. URL: <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>

¹⁰⁰ Official website of the Ministry of Education of the Russian Federation. List of departments.

URL: <http://web.archive.org/web/20220708140711/https://edu.gov.ru/about/departments>

¹⁰¹ Official website of the Ministry of Education of the Russian Federation. The Scientific and Methodological Council on Textbooks.

URL: <http://web.archive.org/web/20220709040944/https://edu.gov.ru/about/apparatus/uchebniki/>

¹⁰² Official website of the Ministry of Education of the Russian Federation. The Council on Federal State Educational Standards for General Education and Vocational Education. URL: http://web.archive.org/web/20220708131912/https://edu.gov.ru/about/apparatus/council_fgos/

At the level of “the Republic of Crimea”:

“Ministry of Education, Science and Youth of the Republic of Crimea”

- “General Education Department”
 - “Division of General Education and Quality Assessment”
- “Mother Tongue Education Sector”¹⁰³

“Department of Education and Science of the City of Sevastopol”

- “Department of State Policy in the Field of Educational Quality Assessment”
 - “Division for Monitoring of Education Quality Assessment, Analysis and Forecast”
- “Department of Education”
 - “Division of General Education”¹⁰⁴.

A detailed study of Russian non-formal education and youth movements in Crimea and Sevastopol, the legal qualification of their activities and the identification of the circle of those responsible requires a separate study.

¹⁰³ Official website of the Ministry of Education, Science and Youth of the Republic of Crimea. URL: <https://archive.ph/tVsQt>

¹⁰⁴ Official website of the Department of Education and Science of the City of Sevastopol. URL: <https://archive.ph/AYxBq>

VII. DISCRIMINATION AGAINST MEMBERS OF THE LGBT+ COMMUNITY IN OCCUPIED CRIMEA AND SEVASTOPOL ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY

Since the occupation of Crimea and Sevastopol in 2014, the Russian Federation has consistently implemented a policy of discrimination against members of the LGBT+ community. The Russian Federation does not recognize the state of occupation, so it has extended its legislation and law enforcement practices to the peninsula, which are discriminatory towards this social group. As a result, LGBT+ people cannot fully exercise their rights. As of 2014, the number of representatives of the community on the peninsula was approximately 16,200, many of whom were forced to move outside the peninsula after the occupation¹⁰⁵.

In its Report on the human rights situation in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine) 13 September 2017–30 June 2018, OHCHR noted that as of 2018, “virtually all LGBT+ initiatives that had existed in Crimea before 2014 have disappeared from the peninsula”¹⁰⁶. In 2014, the organization “ILGA-Europe” noted in its annual list that RF is the most dangerous country in Europe for LGBT+ people¹⁰⁷.

1. Legal framework of the Russian Federation

The Constitution of the Russian Federation contains provisions on the equality of all persons (Article 19, paragraph 2). In its ruling of 2014, the Constitutional Court of the Russian Federation noted that restrictions on the rights and freedoms of people belonging to a group of people with a particular sexual orientation are unacceptable. Sexual orientation, as such, cannot serve as a legal criterion for establishing the different legal statuses of a person and a citizen¹⁰⁸. However, there is still no specialized anti-discrimination legislation in the Russian Federation. Moreover, committing discriminatory acts is not a criminal offense, it is subject only to administrative liability. According to court practice, there have been no cases of prosecution for violation of the prohibition of discrimination on the basis of sexual orientation in the Russian Federation¹⁰⁹.

¹⁰⁵ Report on the Results of the study of the policy of the Russian Federation on forcible change of demographic composition of the occupied Crimean peninsula. Regional Center for Human Rights. 2021. URL: <https://krymbezpravil.org.ua/en/thematic-reviews/report-on-the-results-of-the-study-of-the-policy-of-the-russian-federation-on-forcible-change-of-demographic-composition-of-the-occupied-crimean-peninsula/>

¹⁰⁶ Report on the human rights situation in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine) 13 September 2017–30 June 2018. OHCHR. URL: https://www.ohchr.org/Documents/Countries/UA/CrimeaThematicReport10Sept2018_UKR.pdf

¹⁰⁷ The Council for Global Security. The Facts on LGBT Rights in Russia.

URL: <http://www.globalequality.org/component/content/article/1-in-the-news/186-the-facts-on-lgbt-rights-in-russia>

¹⁰⁸ Resolution of the Constitutional Court on the case of verifying the constitutionality of Part 1 of Article 6.21 of the Code of the Russian Federation on Administrative Offenses in connection with the complaint of citizens N.A. Alekseev, Y.N. Yevtushenko and D.A. Isakov. 2014. URL: <https://rg.ru/2014/10/03/sud-dok.html>

¹⁰⁹ Equal Rights Trust. Justice or judgment? LGBT rights in Russian jurisprudence. 2016.

URL: https://www.equalrightstrust.org/ertdocumentbank/Russia%20LGBT%20report_RUS.pdf

Sectoral legislation also does not provide protection against discrimination. The Family Code of the Russian Federation does not regulate civil partnerships between persons of the same sex. It also prohibits the adoption or custody of children by persons who have entered into a same-sex marriage in a foreign country or by single persons who are citizens of countries that officially recognize same-sex marriage.

The Labour Code contains a general provision prohibiting discrimination. However, practice shows that it is not actually applied to protect against discrimination based on sexual orientation and gender identity. Instead, people belonging to the LGBT+ community who need to undergo a medical examination to be employed face discrimination. Medical records list homosexual orientation as a mental illness (this classification has been banned worldwide since 1999), and people are denied employment opportunities.

Legislation on the protection of the rights of the child is also discriminatory on the basis of sexual orientation and gender identity. For example, the Code of Administrative Offences of the Russian Federation contains a provision that stipulates liability for promoting “non-traditional sexual relations” among minors¹¹⁰. The Federal Law “On Fundamental Guarantees of the Rights of the Child in the Russian Federation” of 24 July 1998 requires that measures be taken to protect children from the propaganda of “non-traditional sexual relations”¹¹¹. According to the Federal Law “On the Protection of Children from Information Harmful to Health and Development” of 29 December 2010 No. 43, information that “promotes non-traditional sexual relations” is prohibited for dissemination among children¹¹².

The Criminal Code of the Russian Federation criminalizes acts aimed at inciting hatred, enmity, or violation of the rights of persons because they belong to a particular social group. However, the motive of hatred towards members of the LGBT+ community is not taken into account when qualifying crimes committed against them and is not considered an aggravating circumstance.

In the autumn of 2022, the State Duma of the RF approved in two readings a bill to completely ban “propaganda of non-traditional sexual relations” among adult citizens. The draft law provides for amendments to a number of laws to ban “the display of information about LGBT+ people on the Internet, in media, books, audiovisual services, cinema, and advertising, as well as information that may cause minors to want to change their sex”¹¹³. In June 2023, a draft law banning sex reassignment surgery was passed in the first reading. In addition, state authorities are prohibited from changing documents based on gender reassignment certificates issued by medical organizations¹¹⁴. If adopted in the third reading and signed by the President, these draft laws will significantly worsen the situation with the rights of LGBT+ people in Crimea and Sevastopol.

¹¹⁰ Code of Administrative Offences of the Russian Federation. 2023 version. URL: <http://docs.cntd.ru/document/901807667>

¹¹¹ Federal Law “On Fundamental Guarantees of the Rights of the Child in the Russian Federation” of 24 July 1998. URL: <http://pravo.gov.ru/proxy/ips/?docbody=&nd=102054607&intelsearch=%B9+124-%D4%C7>

¹¹² Federal Law “On the Protection of Children from Information Harmful to Health and Development” of 29 December 2010 No. 43. URL: <http://pravo.gov.ru/proxy/ips/?docbody&nd=102144583>

¹¹³ DW. Draft law on banning “LGBT propaganda” in the Russian Federation: what is banned. 2022.

URL: <https://www.dw.com/ru/zakonoproekt-o-polnom-zaprete-lgbtpropagandy-v-rf-cto-i-komu-zapresaut/a-63573902>

¹¹⁴ IZ. ru. State Duma passes first reading of bill to ban sex change operations. 2023.

URL: <https://iz.ru/1528340/2023-06-14/gosduma-priniata-v-i-chtenii-proekt-o-zaprete-operacii-po-smene-pola>

Russian legislation and law enforcement practice in the area of protection against discrimination based on sexual orientation and gender identity have been found to be inconsistent with international human rights law in many respects.

The European Court of Human Rights in its decision in the case of *Alekseev v. Russian Federation* noted that the refusal of the Russian authorities to grant permission to hold an Pride march was a violation of the European Convention on Human Rights. In the case of *Baev and Others v. Russian Federation*, the Court rejected the argument that the resistance to the Pride march and the subsequent administrative prosecution of the participants was justified by the interests of children.

The UN Committee Against Torture noted the ineffectiveness and slowness of investigations into cases of violent attacks on members of the LGBT+ community in the Russian Federation.

The UN Human Rights Committee, in the case of *Irina Fedotova v. Russian Federation* (communication No. 1932 (2010)), stated that the applicant's conviction under the Code of Administrative Offences, which prohibits "public actions aimed at promoting homosexuality among minors," violated her right to freedom of expression together with the right to freedom from discrimination¹¹⁵.

2. Violations of the rights of representatives of the LGBT+ community in occupied Crimea and Sevastopol

After 2014, members of the LGBT+ community living in Crimea found themselves in a much worse situation than before the occupation. Discriminatory legislation and Russian law enforcement practices contributed to the growth of homophobic attitudes on the peninsula, both among the population and the occupation authorities.

One of the propaganda narratives used by the Russian authorities is the opposition of "traditional values" to "homosexual Europe". Discrimination against the LGBT+ community is often justified by the fight to "preserve morality". Thus, with the beginning of the occupation of Crimea and Sevastopol, representatives of the community were immediately considered "hostile elements" and "foreign agents", especially given Ukraine's European integration course¹¹⁶. Thus, the "Head of the Republic of Crimea" Sergey Aksyonov, stated that "actions aimed at destroying the moral health of the nation" were unacceptable¹¹⁷. The "governor of Sevastopol," Sergey Menyaylo, said, "our grandfathers did not fight for this". The statement of the Minister of Internal Policy, Information, and Communications of the 'The Republic of Crimea', Dmitry Polonsky, is also indicative:

"We can recommend that they go to free Gayrope and walk the streets of the capitals of European countries where there is complete tolerastii (tolerance, but in a bad way). They shouldn't come to our heroic land and walk around with rainbow ribbons"¹¹⁸.

¹¹⁵ Case of Irina Fedotova v. Russian Federation (communication No. 1932 (2010)). UN Human Rights Committee. URL: <http://hrlibrary.umn.edu/russian/hrcommittee/Rview1932sess106.html>

¹¹⁶ SM. NEWS. Aksyonov: Banderites - LGBT flag, Crimeans - Victory parade. 2020. URL: <https://crimea.sm.news/aksenov-banderovcam-flag-lgbt-krymchanam-parad-pobedy-9913/> Robert Coalson Alice Valsamaki. Radio Azattyq. LGBT activists are concerned about statements by Crimean "leader". URL: <https://rus.azattyq.org/a/lgbt-aktivisty-reakcia-na-zayavlenie-aksyonova/26566139.html>

¹¹⁷ Official Facebook page of Sergey Aksyonov. URL: <https://www.facebook.com/aksenov.rk/posts/582219508618179>

¹¹⁸ ATR. News. Crimean gays and lesbians are sent by occupants to "gayrope" to "tolerasts" URL: <https://atr.ua/news/159248-krymskih-geev-i-lesbijanok-okkupanty-otpravlyayut-v-gejropu-k-tolerastam>

Aggressive rhetoric directed against members of the LGBT+ community in the first months after the occupation resulted in an increase in the number of hate attacks. Thus, in the spring of 2014, an attack on a person with bodily harm was documented, during which the attacker shouted homophobic slogans. At the same time, victims of attacks are not only people who directly belong to the LGBT+ community but also those who can be mistakenly identified as such by certain external features (for example, when they had one earring or a “non-standard” hairstyle)¹¹⁹. Victims are more often men than women. The attacks take place while walking in the city, in nature, or even in the victims’ homes.

The attackers are not only individuals but also organized groups. For example, the right-wing radical movement “Occupy-Pedophile” was active on the peninsula (at least during 2014-2016). Members of the movement fraudulently arranged meetings with representatives of the LGBT+ community, during which they committed violent acts, which were filmed and distributed on the Internet.

Discrimination on the basis of sexual orientation and gender identity is also manifested in the ban on Pride marches in Crimea and Sevastopol. The occupation authorities use Russian federal legislation as the basis for this ban. Russian courts justify this practice by referring to the “legal prohibition of dissemination of information among minors that is harmful to the health and/or development of children, denies family values, promotes non-traditional sexual relations”. According to the courts, this practice “cannot be regarded as discriminatory, as it applies equally to everyone”. As a result of this policy of the occupation authorities, representatives of the LGBT+ community have not been able to hold a single equality march in Crimea and Sevastopol during all the years of occupation¹²⁰. According to LGBT+ activist Nikolai Alekseev, who has repeatedly complained about the actions of the Russian authorities to international institutions, the occupation authorities justify this ban by saying that “there are allegedly no LGBT+ people in Crimea”¹²¹.

Members of the LGBT+ community also face infringement of their labor rights. After the occupation, cases of dismissals of people with homosexual orientation have increased, with representatives of the education sector being particularly vulnerable. The presence of a record of a person’s LGBT+ affiliation in a medical record impedes the exercise of the right to work¹²².

Members of the LGBT+ community who are diagnosed with HIV/AIDS cannot access adequate medical care. After 2014, substitution maintenance therapy programs for people with HIV/AIDS were declared illegal and no longer carried out, which significantly affected the quality of life of many patients, many of whom belong to the LGBT+ community.

Transgender people also face discrimination. After the occupation, the Russian Federation imposed its citizenship on the residents of Crimea and Sevastopol, without which it is impossible to fully exercise their rights. However, people

¹¹⁹ Violation of LGBTI rights in Crimea and Donbass: The problem of homophobia in territories outside of Ukrainian control. Human rights report by ADC Memorial with the support of the Center for Civil Liberties. Center for Civil Liberties. 2016.

URL: https://adcmemorial.org/wp-content/uploads/LGBT_report.pdf

¹²⁰ Equal Rights Trust. Justice or judgment? LGBT rights in Russian jurisprudence. 2016.

URL: https://www.equalrightstrust.org/ertdocumentbank/Russia%20LGBT%20report_RUS.pdf

¹²¹ Krym. Realii. Pavel Kazarin. Peninsula of Intolerance: What is happening to the LGBT community in Crimea. 2017.

URL: <https://ru.krymr.com/a/28823713.html>

¹²² UN News. Injecting drug users and gay men are 22 times more likely to be infected with HIV than the rest of us - UN calls for end to punitive approach. 2019. URL: <https://news.un.org/ru/story/2019/11/1366601>

whose appearance and data did not match those in the old passport were unable to obtain a new one and were effectively left without documents. In addition, persons who did not have time to complete the gender reassignment procedure before the occupation were unable to continue the therapy¹²³.

Minors belonging to the LGBT+ community are deprived of the opportunity to receive the necessary psychological assistance and are forced to live in an atmosphere of fear and rejection by the public.

LGBT+ -friendly businesses are also subjected to harassment. Until 2013, several entertainment venues in Crimea and Sevastopol targeted representatives of LGBT+ communities from all over the "post-Soviet space." With the beginning of the occupation, the situation changed. For example, the owners were forced to close the well-known gay bar "Qbar" in Sevastopol and leave the peninsula, as they were persecuted by the occupation authorities for "promoting non-traditional sexual relations"¹²⁴. In 2018, the "Friends" hotel, which organized entertainment programs for LGBT+ people, ceased its activities. The management justified its decision by receiving numerous threats from the population of the peninsula¹²⁵. The well-known "Yizhaky" bar in the 'LGBT+ resort' Simeiz, although continuing to operate, was forced to significantly reduce its show program in 2023, and its regular host could no longer continue to work in Crimea due to fear of persecution. This state of affairs has significantly affected the tourist flow of LGBT+ people and seasonal migration, as they no longer consider Crimea and Sevastopol as safe places to stay¹²⁶.

Legal qualification

The actions of the Russian authorities aimed at persecuting members of the LGBTI+ community in Crimea and Sevastopol constitute a violation of international human rights law. In particular, a number of articles of the International Covenant on Political and Civil Rights (ICCPR) have been violated, namely

- Article 17, which guarantees freedom from interference with personal and family life;
- Article 19, which enshrines the right to freedom of expression;
- Article 21, which recognizes the right to peaceful assembly;
- Article 26, which contains a general prohibition of discrimination.

In addition, such discriminatory policy of the Russian Federation violates the European Convention on Human Rights, in particular, Articles 8 (right to respect for private and family life), 10 (right to freedom of expression) and 11 (right to freedom of peaceful assembly), as well as Article 14 (prohibition of discrimination) in conjunction with the previously mentioned articles.

The policy of the Russian Federation directed at persecuting and displacing members of the LGBTI+ community contains elements of a crime against humanity under Article 7(1)(h) of the Rome Statute of the ICC (persecution of

¹²³ Krym. Realii. Pavel Kazarin. Peninsula of Intolerance: What is happening to the LGBT community in Crimea. 2017. URL: <https://ru.krymr.com/a/27809417.html>

¹²⁴ Politicus. Gays fleeing Crimea. 2014. URL: <https://politikus.ru/articles/politics/32982-bezhali-gei-iz-kryma.html>

¹²⁵ Vkontakte. Webpage of the owners of "Friends" hotel. URL: https://vk.com/wall295505305_1763

¹²⁶ Andriy Andreev, OstroV. Between Moscow and Simeiz: How Crimea's LGBT community is adapting to new realities. 2023. <https://www.ostro.org/articles/mizh-moskvoyu-ta-simeyizom-yak-lgbt-spilnota-krymu-adaptuyetsya-do-novyh-r-ealij-i426011>

an identified group or community). Moreover, hate-motivated attacks against civilians that are not investigated, tolerated and even approved by the Occupying Power may be qualified as a war crime under Article 8(2)(a)(iii) of the Rome Statute of the ICC – intentionally causing bodily injury or damage to health.

Persons responsible for the persecution of representatives of the LGBT+ community in Crimea and Sevastopol

At the federal level, the following persons are responsible for the implementation of discriminatory policies against members of the LGBT+ community:

- President of the Russian Federation – Vladimir Putin;
- Prime Ministers – Dmitry Medvedev (2012–2020) and Mikhail Mishustin (since 2020);
- Chairperson of the Federation Council of the Federal Assembly of the Russian Federation – Valentina Matvienko.

At the level of the “Republic of Crimea and the city of Sevastopol”, the following persons are responsible:

- Head of the “Republic of Crimea” – Sergey Aksyonov;
- Chairman of the State Council of the “Republic of Crimea” – Vladimir Konstantinov;
- mayors of cities that ban Pride marches;
- officials who do not respond to violent attacks motivated by homophobia and judges of occupation courts who tolerate such practices in the administration of justice;
- persons who fail to supervise compliance with the anti-discrimination provisions of the Occupying Power’s labor laws;
- officials who have spread hostile rhetoric against members of the LGBT+ community;
- persons who do not take measures to exclude homosexuality from the list of mental illnesses that impede the right to work¹²⁷.

¹²⁷ Report on the Results of the study of the policy of the Russian Federation on forcible change of demographic composition of the occupied Crimean peninsula. Regional Center for Human Rights. 2021.
URL: <https://krymbezpravil.org.ua/ru/tematicheskiye-obzori/otchet-o-rezultatakh-ysledovaniya-polytyky-rf-po-prymu-dytelnomu-ymenenyu-demograficheskoho-sostava-naseleniya-okkupyrovannoho-kr-mskoho-poluostrova/>

VIII. DISCRIMINATORY INTERFERENCE WITH THE PROPERTY RIGHTS OF UKRAINIAN CITIZENS IN CRIMEA BASED ON THE DECREE OF THE PRESIDENT OF THE RUSSIAN FEDERATION NO. 201 OF 20.03.2020

Due to its location and unique climatic conditions, the Crimean peninsula is an attractive place to live and acquire property, including land plots and houses. Before the occupation citizens of Ukraine have always made up a significant part of the owners of real estate in Crimea. Since 2014, the RF has focused on ousting Ukrainians from the occupied territory. For this purpose, discriminatory policies were introduced based on citizenship and affiliation with the Ukrainian national group. Accordingly, the property of Ukrainian citizens could not be ignored by the Russian Federation, as it is a property link between them and Crimea. Formal recognition by the Russian Federation of Ukrainian title documents to the property¹²⁸ after the occupation did not protect the population from further persecution.

The deprivation of property rights during the occupation occurs in relation to state, municipal, and private property. Examples include the “legal transfer” of a significant part of the property to Russian state ownership based on decisions of the occupation administrations (Russia called it “nationalization”¹²⁹), the seizure of property by the occupation courts of the Russian Federation allegedly from the “illegal” possession and use of the owners, compulsory “purchase” of property by the state to formally “ensure the functioning of vital facilities” and the simple destruction of property due to the alleged “illegality” of construction¹³⁰.

On 20 March 2020, the President of the Russian Federation introduced a new mechanism for depriving Ukrainian citizens of their ownership of land plots in Crimea, namely Decree No. 201.

1. Consequences of the adoption of the Decree of the RF President No. 201 of 20.03.2020

Decree No. 201 classified most of Crimea as the so-called “border areas of the Russian Federation”: 11 out of 14 districts of the Autonomous Republic of Crimea, 8 out of 11 territories subordinated to town councils of the Autonomous Republic of Crimea, 4 out of 4 districts of the city of Sevastopol (except for two regions of village councils)¹³¹. As the Russian Federation considers Crimea its territory, contrary to international law, it treats it like any other part of the Russian Federation and applies its legislation similarly.

¹²⁸ Article 12 of the Federal Constitutional Law No. 6-FKZ of 21.03.2014

¹²⁹ This does not correspond to the essence of the term, i.e. the transition of private property to the status of state property

¹³⁰ Occupied property. Thematic review. Regional Center for Human Rights. 2021.

URL: <https://krymbezpravil.org.ua/en/thematic-reviews/v-pusk-6-okkupyrovannaia-sobstvennost/>

¹³¹ Decree of the RF President No. 201 of 20.03.2020; territorial division before the administrative reform

In the Russian legal field, foreign citizens and foreign legal entities (i.e., all but Russian ones) are prohibited from owning land plots in the “border areas of the Russian Federation”¹³². If such property is owned by foreigners (including Ukrainian citizens), Russian law requires them to voluntarily alienate it within a year, i.e., in the case of Decree No. 201, by March 2021¹³³. Otherwise, a state or local government body of the Russian Federation has the right to initiate a compulsory sale or transfer of the land plot to state or municipal ownership of the Russian Federation in court. In the first case, the deal is carried out at a public auction, and the proceeds should be transferred to the former owner, less the auction costs. In the second case, the court must determine the amount of money to be paid to the former owner for the land plot¹³⁴. At a public auction, the value of the land plot may be assessed at less than its actual market value¹³⁵, and the total amount of compensation in the bidding process may be reduced by 25% or even 50%¹³⁶. Given the discriminatory treatment of Ukrainian citizens, access to funds may be restricted by special requirements, such as conducting transactions through specially controlled bank accounts.

The threat of property seizure after the one-year “transition period” forced some Ukrainian citizens to “voluntarily” dispose of their property, for example, to sell or gift it to Russian citizens (including relatives), which involves paying taxes to the Russian budget (sale – 30%, deed of gift to a Russian resident – 13%)¹³⁷. If the owner owns immovable property on the land plot itself, he/she is obliged to alienate it together with the land plot¹³⁸. All of the above processes occur in practice, as citizens have gifted¹³⁹ or sold¹⁴⁰ land plots, including those with houses on them¹⁴¹.

An additional proposal from the local occupation authorities of the Russian Federation in Crimea was for the owner to give up the land plot free of charge in favor of the Russian Federation with the subsequent right to enter into a lease agreement if he or she is the owner of the real estate on the plot¹⁴². In other words, it was possible to circumvent the need to alienate the land plot with the property on it but lose the former and find oneself in a lease relationship with an unpredictable occupying entity of the Russian Federation. Citizens also used this option in practice to protect their property¹⁴³.

In addition, the aforementioned Decree No. 201 is a convenient mechanism for further colonization of the peninsula, as Ukrainian citizens had a “simple” way out of the situation, i.e., to obtain a Russian passport, which the occupation structures never failed to remind them of¹⁴⁴. If they received it, Ukrainian citizens were no longer considered foreigners¹⁴⁵, and the RF got the opportunity to involve them

¹³² Article 15 of the Land Code of the Russian Federation

¹³³ provided that the land plot was owned at the time of adoption of Decree No. 201

¹³⁴ Articles 238, 449.1 of the Civil Code of the Russian Federation

¹³⁵ Statistics of the Russian occupation body in Crimea on the number of plots owned by foreigners. 2023. URL: <https://archive.ph/qR9Hy>

¹³⁶ Articles 87, 92 of Federal Law No. 229-FZ; Article 6 of Federal Law No. 101-FZ

¹³⁷ Except for persons who have owned the land plot for more than 5 years (for sale) or in case of its gifting to family members and close relatives (Articles 207, 217, 217.1, 224 of the Tax Code of the Russian Federation)

¹³⁸ Article 35 of the Land Code of the Russian Federation

¹³⁹ Case No. 2-4116/2022. URL: <https://archive.ph/Docpj>; Case No. 2-2468/2022. URL: <https://archive.ph/7caRr>

¹⁴⁰ Case No. 2-394/2023. URL: <https://archive.ph/u2UjL>

¹⁴¹ Case No. 2-1300/2023. URL: <https://archive.ph/c0V3C>; No. 2-2698/2022. URL: <https://archive.ph/7IUxe>

¹⁴² Article 19, clause 9, part 2, Article 39.6. of the Land Code of the Russian Federation, Article 56 of the Federal Law No. 218-FZ of 13.07.2015; Explanation of the State Committee for State Registration and Cadastre of the Republic of Crimea on the terms and methods of alienation of land plots. 2020. URL: <https://archive.ph/GljOu>; <https://feo.rk.gov.ru/ru/article/show/6378>

¹⁴³ Case No. 2-1724/2022. URL: <https://archive.ph/XogLn>

¹⁴⁴ Explanations and statistics of the Russian occupation body in Crimea on Decree No. 201. 2020. URL: <https://archive.ph/xW3hq>; <https://archive.ph/ysl9J>

¹⁴⁵ Russia treats Ukrainian citizens in Crimea as foreigners

in armed aggression against Ukraine in the ranks of the Russian army. It also allows the Russian Federation to identify categorically disloyal Ukrainian citizens who should be subject to more severe legal measures, such as criminal prosecution and deportation as convicts from Crimea to the Russian Federation. Obtaining Russian citizenship is a relatively common way to protect land in Crimea¹⁴⁶.

The above demonstrates that the Russian Federation has tried to create the illusion that no one is being forced and that no property rights are being deprived. After alienation or giving up of property in the above manner, it is much more difficult to defend one's rights; for example, in the European Court of Human Rights¹⁴⁷, and the "former" owners are unlikely to be inspired to do so. In other words, the Russian Federation receives the property of Ukrainian citizens for nothing on a "voluntary" basis and avoids legal claims.

On the other hand, the Russian Federation has created the most uncomfortable conditions for "voluntary" alienation. Under the pretext of limiting the spread of COVID-19, Russia imposed a ban on the entry of Ukrainian citizens into Crimea from March 2020 to 17 March 2022, i.e., immediately after the adoption of Decree No. 201¹⁴⁸. The UN condemned the negative consequences of these restrictions¹⁴⁹. After the end of this period, another limiting factor was the spread of Russia's armed aggression to the entire territory of Ukraine after 24 February 2022.

It is challenging to alienate property remotely, as well as to find a trustee¹⁵⁰. At the same time, on 1 March 2022, the President of the Russian Federation established a particular procedure for obtaining permission for transactions by "citizens of unfriendly states"¹⁵¹. Even if we do not consider this obstacle, it is almost impossible to withdraw funds from Russia under the sanctions regime imposed on it. Moreover, it must be done through a particular bank account¹⁵². It is pretty difficult to imagine that Ukrainian citizens will even try to implement this procedure remotely or enter the territory of the Russian Federation, let alone the occupied part of Ukraine, in the context of active hostilities and persecution by the Russian Federation. At the same time, it will be safer and more accessible for Ukrainian citizens in Crimea to obtain a Russian passport.

2. Progress in the implementation of Decree No. 201

After adopting Decree No. 201, the Russian Federation in Crimea occupation structures publicly announced the number of plots owned by foreign citizens in the "border areas". The data is kept separately for the territory of the Autonomous Republic of Crimea and the city of Sevastopol. In April 2020, there were 13,859 plots owned by foreigners in the "border areas" of Crimea (11,572 in the Autonomous Republic of Crimea and 2,287 in Sevastopol), among which 11,622 belonged to Ukrainian citizens (9,747 in the AR of Crimea and 1,875 in

¹⁴⁶ Case No. 2-2321/2022. URL: <https://archive.ph/JEatt>; No. 2-1462/2022. URL: <https://archive.ph/EqRp0>

¹⁴⁷ Until 16 September 2022

¹⁴⁸ Order of the Government of the Russian Federation dated 27.03.2020 No. 763-r; Order of the Government of the Russian Federation No. 635-r of 16.03.2020

¹⁴⁹ The impact of COVID-19 on human rights in Ukraine. OHCHR. 2020. URL: <https://cutt.ly/mwxH6rgK> (paras. 32-38)

¹⁵⁰ Explanations of the Sevastopol Notary Chamber on transactions. 2023. URL: <https://archive.ph/K17B2>

¹⁵¹ Decree of the President of the Russian Federation dated 01.03.2022 No. 81; Resolution of the Government of the Russian Federation No. 295 of 06.03.2022

¹⁵² Explanation of the Sevastopol Notary Chamber. 2023. URL: <https://archive.ph/K17B2>; <https://archive.ph/sFYMV>

Sevastopol). Separately, it was mentioned that in Sevastopol¹⁵³, 600 plots belong to foreign legal entities¹⁵⁴.

The effect of the threat of losing property was quite significant, as the owners were forced to acquire Russian citizenship or “voluntarily” alienate their property. Although the forced sale of plots in court was initiated by the occupation authorities only in July 2022, as of April 2023, the number of plots owned by foreign citizens had already decreased from 13,859 to 7,003 (5,803 in the AR of Crimea and 1,200 in Sevastopol)¹⁵⁵, i.e., by almost 50%¹⁵⁶.

During June–August 2021, the occupation structures of the Russian Federation in the Autonomous Republic of Crimea and Sevastopol reported on the preparation of lists of plots of foreign citizens for going to court and their subsequent alienation, which increased pressure on the owners to accelerate the “voluntary” alienation of property or their obtaining of Russian citizenship¹⁵⁷.

a. Statistics on the adoption of decisions by occupation courts

On 20 January 2022, the first decisions of the Russian occupation court in Yalta appeared, imposing an obligation on Ukrainian legal entities to alienate land plots in the “border areas” within six months¹⁵⁸. Subsequently, decisions were made both with and without a specified time limit for alienation. This process began shortly before the full-scale invasion and gained significant momentum after 24 February 2022.

The method of interference with property rights chosen by the occupation structures of the Russian Federation entails the imposition of an obligation to alienate and most likely does not involve the sale of the land plot. When the court-ordered period for fulfilling the obligation expires, the occupation structures must reapply to the court with a request to sell the land at auction or transfer it to state or municipal ownership. In other words, the coercion to “voluntarily” alienate the property or acquire Russian citizenship continues. At the same time, it is possible that in the future, such decisions will become the basis for the forced sale of land plots after the expiry of a certain period, i.e., without repeated application to the court.

Later, on 20 July 2022, the occupation court of the Russian Federation in Kerch decided on a Ukrainian citizen’s land plot in the “border area” with an alternative method of execution: forced sale at auction or transfer to municipal ownership. The decision provides for compensation to the owner for the value of the land plot by transferring the proceeds of a public auction (minus the costs of the auction) or, in the case of transfer of the land plot to municipal ownership, providing compensation, the amount of which is to be determined by the court¹⁵⁹. It is the

¹⁵³ Statistics of the Russian occupation authorities in Crimea on the number of land plots owned by foreigners. 2020.

URL: <https://archive.ph/KCKPm>; <https://archive.ph/QawGs>

¹⁵⁴ The results of the meeting of representatives of the Department of State Registration of Rights and Cadastre of Sevastopol and the Department of Property and Land Relations of Sevastopol. 2021. URL: <https://archive.ph/s8IzL>

¹⁵⁵ For the sites in Sevastopol, the information was last updated in March 2021 (see link above)

¹⁵⁶ Statistics of the occupation body of the Russian Federation in Crimea on the number of plots owned by foreigners. 2021, 2023.

URL: <https://archive.ph/ysi9J>; <https://archive.ph/srVla>; <https://archive.ph/qR9Hy>

¹⁵⁷ Announcement by the occupation authorities of the Russian Federation in Crimea on preparations for the implementation of Decree No. 201. 2021. URL: <https://archive.ph/IF9eb>; <https://archive.ph/VeoT3>; <https://archive.ph/mNnCe>

¹⁵⁸ Case No. 2-919/2022. URL: <https://archive.ph/GmDgn>; No. 2-897/2022. URL: <https://archive.ph/75hG7>

¹⁵⁹ Case No. 2-1622/2022. URL: <https://archive.ph/Fllkw>

first decision on the compulsory disposal of a land plot. All subsequent decisions excluded this alternative approach and provided only for the mandatory sale of land plots at auction. Additionally, it was clarified that the initial price of the land plot should be set at the market price for further alienation¹⁶⁰. The process of making decisions on the sale of land plots became widespread in the spring of 2023.

There is a decrease in the number of new decisions imposing an obligation to alienate the property (most were made in 2022) in favor of forced sale at auction. Over time, the decisions already made on the obligation to alienate the plots may become the basis for their sale at auction after the expiration of the specified period for alienation or lead to repeated appeals to the occupation courts for the same purpose.

Several court decisions *imposing an obligation on the owner to alienate the land plot at a public auction* were also identified, different from the two previous groups of decisions. They are typical for only one occupation court of the Russian Federation in the Leninsky district of the AR of Crimea. Russian law stipulates that *public auctions are held* in the course of enforcement proceedings by representatives of an authorized state body or local government body of the Russian Federation¹⁶¹. The owner cannot alienate the property alone, as the state carries out the sale at auction regardless of the owner's will.

As of 1 September 2023¹⁶², the occupation courts of the Russian Federation have already issued 138 decisions on the obligation to alienate and 80 decisions on the forced sale of land plots, i.e., a total of 218 decisions on at least 225 land plots¹⁶³. It is worth noting that Seventy-nine decisions on compulsory sales were made after 16 September 2022. Beyond this date, the European Court of Human Rights has no jurisdiction over violations by the Russian Federation in connection with its expulsion from the Council of Europe¹⁶⁴.

Interference with land ownership covers the territories of 6 (out of 11) districts and 4 (out of 8) territories of town councils of the Autonomous Republic of Crimea (199 decisions in total), as well as 4 (out of 4) districts of Sevastopol (19 decisions in total). In 76% of cases, the decisions were made about Ukrainian owners (161 decisions relating to Ukrainian citizens six decisions relating to Ukrainian legal entities). This percentage may be even higher, as in 27 cases, the information on the owner's nationality is classified. Among the citizens of other countries, the decisions concerned, in particular, representatives of Belarus (6), Kazakhstan (4), Israel (4), Germany (2), the USA (1), Luxembourg (1), Greece (1), UAE (1), Turkey (1), Syria (1) and others.

Both the occupation authorities of local self-government of the Russian Federation, i.e., administrations (70% - 151 decisions), and prosecutors of the respective settlements (15% - 34 decisions), as well as the "Ministry of Property and Land Relations of the Republic of Crimea" (6 decisions) and the "Department

¹⁶⁰ Price must be determined separately by a specialised organisation engaged by the bailiff

¹⁶¹ Article 449.1 of the Civil Code of the Russian Federation

¹⁶² the last identified decision on the imposition of an obligation is dated 18 May 2023 (<https://archive.ph/6wOuR>), and on the forced sale - 1 August 2023 (<https://archive.ph/YIVPy>)

¹⁶³ According to the monitoring conducted by the Regional Center for Human Rights

¹⁶⁴ ECHR resolution on the cessation of Russia's membership to the Council of Europe. 2022. URL: <https://cutt.ly/VwxRTInS>

of Property and Land Relations of Sevastopol” (17 decisions) applied to the courts. Prosecutors additionally exercise control over local administrations to ensure they fulfill their obligation to file a claim. For example, at the initiative of the prosecutor’s office, the head of the occupation administration in the Leninsky district of the AR of Crimea was brought to administrative liability for failure to comply with the prosecutor’s requirements to initiate the deprivation of foreign citizens of their property rights in the relevant settlement¹⁶⁵.

Currently, the majority of decisions have been made about land plots in the territory of Yalta (30% – 65 decisions), Feodosia (16% – 36 decisions) and Kerch (12% – 26 decisions) town councils of the Autonomous Republic of Crimea, as well as Simferopol (10% – 22 decisions) and Razdolnensky districts (8% – 18 decisions) of the Autonomous Republic of Crimea. The decisions relate to land plots with an area of over 1.900.000 sq m.

b. Impact of Decree No. 201 on agricultural land plots

Russian law prohibits foreign nationals from owning agricultural land, regardless of whether it is located in the “border areas”. Since the Russian Federation, contrary to international law, extends its legislation to the territory of Crimea, Ukrainian citizens are also prohibited from owning such plots. The “legal” consequences of violating such a ban coincide with the effects of Decree No. 201, i.e., forced sale at auction or transfer to state or municipal ownership of the Russian Federation¹⁶⁶.

The analysis of court decisions on the implementation of Decree No. 201 revealed about 17% of agricultural land plots (38 decisions), most of which are located in the Razdolnensky (17 decisions) and Chornomorsky (9 decisions) districts of the Autonomous Republic of Crimea. In total, agricultural land plots cover an area of 1,650,000 sq m, i.e., 87% of all land plots subject to alienation.

Thus, in this case, the Russian Federation uses two “legal” grounds for interfering with the property rights of foreign citizens at once, namely the prohibition for foreigners to own land in the “border areas” and agricultural land.

c. Ineffective legal protection

In 97% of cases, the owners were absent during court hearings (212 decisions). In only 36% of cases (80 decisions) did the courts mention the alleged proper notification of citizens, but *most decisions* do not specify how this was done. Therefore, it is impossible to verify the veracity of such statements. In rare cases, the courts refer to the defendants’ notifications by email (1)¹⁶⁷ or telephone (1)¹⁶⁸.

The practice of appointing representatives by appointment to absent owners is quite common (54% – 118 decisions). In 83% of cases, the latter objected to the decision without any legal argumentation (98 decisions), did not know their clients’ position, and could not provide effective legal defense. Sometimes, such representatives did not object to the decision at all, contrary to the interests of

¹⁶⁵ Case No. 5-46/2023. URL: <https://archive.ph/TI3q9>

¹⁶⁶ Articles 3, 5-6, 8 of the Federal Law No. 101-FZ of 24.07.2002

¹⁶⁷ Case No. 2-2450/2022. URL: <https://archive.ph/K5Lh7>

¹⁶⁸ Case No. 2-729/2022. URL: <https://archive.ph/OdKkc>

the owners, or asked the court to decide the case at its discretion (13 decisions)¹⁶⁹. In 31% of cases, the absent defendants were not represented in court (68 decisions). Likely, the vast majority of owners are still unaware of ongoing or completed litigation.

The analysis revealed isolated examples of arguments used by the owners or their appointed representatives to persuade the court to dismiss the claim of the occupation authorities. For instance, it was argued that the owner could not alienate the land due to the martial law in Ukraine, the inability to enter Crimea or to issue a power of attorney to make a transaction remotely¹⁷⁰. Another owner sent written explanations to the court, stating that he was unable to attend the hearing and alienate the land due to raising two children, previous restrictions on entry to Crimea under the pretext of limiting the spread of COVID-19, and current restrictions due to the armed conflict¹⁷¹.

In both cases, the court did not consider the arguments presented. Moreover, the second situation assessed the owner's failure to appear as a waiver of the right to participate in the trial. In the same decision, the court acknowledged that it was impossible to properly notify owners in Ukraine of court hearings by post due to the armed conflict. There was another case where the court agreed that it was impossible to alienate the land but subsequently decided to proceed with the forced sale anyway¹⁷². In addition, in one of the proceedings, the plaintiff's argument about the complications of transactions for "citizens of unfriendly states" after the start of the full-scale invasion of Russia was ignored¹⁷³. Notably, the Russian Federation's actions cause all the objective obstacles, but the entire burden of the negative consequences is placed on the landowners.

In 7 cases, the owners¹⁷⁴ or their designated representatives¹⁷⁵ appealed against the decision *to impose an obligation to alienate the property* within the established time limit to the "Supreme Court of the Republic of Crimea". As a result, the latter changed¹⁷⁶ previous court decisions and ordered the forced sale of the plots, as the previously imposed obligations could not be enforced.

Based on the above, the system of occupation courts of the Russian Federation in Crimea still cannot act as an effective means of "legal" protection. Russian state authorities cannot recognize the occupation of the Crimean peninsula and, therefore, ignore the violation of international humanitarian law. Potential effective defense in the occupation courts of the Russian Federation is possible only under one condition, i.e., Russia's recognition of the occupation of a part of the territory of Ukraine.

¹⁶⁹ Case No. 2-259/2022. URL: <https://archive.ph/Bx61C>; Case No. 2-260/2022. URL: <https://archive.ph/bB3xU>

¹⁷⁰ Case No. 2-424/2023. URL: <https://archive.ph/wLsJF>

¹⁷¹ Case No. 2-1270/2023. URL: <https://archive.ph/BuRnV>

¹⁷² Case No. 33-2594/2023. URL: <https://archive.ph/Zt4DS>

¹⁷³ Case No. 33-3776/2023. URL: <https://archive.ph/rcl4C>

¹⁷⁴ Case No. 33-2455/2023. URL: <https://archive.ph/o7o3e>; Case No. 33-593/2023. URL: <https://archive.ph/Zblzw>

¹⁷⁵ Case No. 33-2453/2023. URL: <https://archive.ph/CYJgB>; Case No. 33-5323/2023. URL: <https://archive.ph/gtnTK>;

Case No. 33-4470/2023. URL: <https://archive.ph/vnm7o>

¹⁷⁶ one decision was upheld. Case No. 33-4043/2022. URL: <https://archive.ph/mZgVb>

d. Land plots owned by Ukrainian citizens residing in the territories annexed by the Russian Federation in 2022

Among all 218 decisions, there were cases where Ukrainian citizens were from Donetsk, Zaporizhzhia and Kherson regions¹⁷⁷. On 30 September 2022, the Russian Federation annexed these territories and automatically recognized their permanent residents as its citizens¹⁷⁸.

The circumstances of such “Russian citizenship” are ignored when depriving people of ownership of land plots in Crimea, although formally Decree No. 201 should not apply to such persons. Court decisions take into account only the fact of issuing a Russian passport. It also applies to Crimean residents who were automatically recognized as Russian citizens after the annexation in 2014. In this way, the Russian Federation is forcing Ukrainian citizens to “voluntarily” apply for Russian passports, which may further complicate relations with Ukrainian state authorities.

Thus, the Russian Federation is interfering with the property rights of Ukrainian citizens on a discriminatory basis based on Decree No. 201. The scheduling of more and more cases for consideration in the occupation courts indicates that this process will continue.

2. Legal assessment

Various UN institutions have repeatedly condemned this behavior of the Russian Federation towards the property of Ukrainian citizens as a violation of international human rights law and international humanitarian law¹⁷⁹.

The Russian Federation has extended its national legislation to the occupied territory in violation of international humanitarian law¹⁸⁰. The chosen method of “voluntary” alienation of property and pushing citizens to obtain a Russian passport indicates that the Russian Federation is forcing Ukrainian citizens to swear allegiance to it¹⁸¹. IHL explicitly prohibits confiscation (seizure of property without compensation) but, under certain conditions, allows requisition (seizure with compensation to the owner)¹⁸². In any case, expropriation of property in the occupied territory in the absence of military necessity is considered a war crime¹⁸³.

The Russian Federation’s approach to the deprivation of ownership of land plots corresponds more to the term requisition, as it provides some compensation for the value. However, during the sale, the value of the land plot may be significantly understated, in particular, due to the subsequent inability to sell it at auction, which

¹⁷⁷ Case No. 2-1804/2023. URL: <https://archive.ph/mW8ap>; Case No. 2-724/2023. URL: <https://archive.ph/Bz9Nd>; Case No. 2-727/2023. URL: <https://archive.ph/FKNPZ>

¹⁷⁸ Federal Constitutional Law No. 5-FKZ, 7-FKZ, 8-FKZ of 04.10.2022; Presidential Decree No. 307 of 27.04.2023

¹⁷⁹ UNGA Resolution A/RES/77/229. 2023. URL: <https://digitallibrary.un.org/record/3999973?ln=en>

¹⁸⁰ Article 43 of the Hague Regulations to the Hague Convention IV of 1907

¹⁸¹ Article 45 of the Hague Regulations to the Hague Convention IV of 1907

¹⁸² Articles 46, 52-53 of the Hague Regulations to the Hague Convention IV

¹⁸³ Articles 8(2)(a)(iv), 8(2)(b)(xiii) of the Rome Statute, Article 147 of Geneva Convention IV, Rules 50-51 of the Customary IHL

may reduce its value by 25%¹⁸⁴ and, in the case of agricultural land, up to 50%¹⁸⁵. In other words, compensation will not be proportional, which contradicts the idea of requisition. In addition, there is no military necessity to deprive Ukrainian citizens of their land in Crimea, and the annexation cannot be the basis for this¹⁸⁶. In principle, the Russian Federation does not use international humanitarian law in its arguments, as to do so, it would need to recognize the fact of occupation of the territory of Ukraine.

The Russian Federation indirectly discriminates against Ukrainian citizens who own land plots, as the impact of the legal provision restricting the right of foreigners to own land plots in the border area on Ukrainian citizens in Crimea is different compared to other Ukrainian citizens within the internationally recognized borders of the Russian Federation¹⁸⁷.

There are two radically different situations. The first concerns Ukrainian citizens who own land plots on the territory of the Russian Federation, where the latter can regulate access of foreign citizens to them. The second concerns Ukrainian citizens, owners of land plots on the territory of Ukraine, i.e., in Crimea, where the Russian Federation, as an Occupying Power, can interfere with private property rights only in case of military necessity following IHL. Under no circumstances could Ukrainian citizens in Crimea have anticipated interference with their property rights according to Russian law, whereas in the territory of the Russian Federation, this is clearly evident. Accordingly, Russia cannot treat similar groups in different situations equally.

The Russian Federation has committed these acts with direct intent and has clearly chosen to target Ukrainian citizens, who make up more than 83% of all foreign owners in Crimea. From the outset, it was clear that the latter would constitute most victims. Moreover, Decree No. 201 should be assessed within the framework of the entire discriminatory policy of the Russian Federation in Crimea, which is holistically aimed at ousting disloyal Ukrainian citizens from Crimea and colonizing the peninsula.

Thus, the expropriation of property based on Decree No. 201¹⁸⁸ is a war crime carried out on a widespread (throughout the peninsula) and systematic (continuously during 2020–2023) basis. Given the features above and the discriminatory nature of the deprivation of property rights, these acts may also be qualified as a crime against humanity (Article 7(1)(h) of the Rome Statute of the ICC)¹⁸⁹, which has already taken place in the practice of international criminal tribunals¹⁹⁰.

¹⁸⁴ Articles 87, 92 of the Federal Law No. 229-FZ of 02.10.2007

¹⁸⁵ Article 6 of the Federal Law No. 101-FZ of 24.07.2002

¹⁸⁶ Article 47 of the Geneva Convention IV of 1949

¹⁸⁷ Articles. 27, 47 of the Geneva Convention IV of 1949

¹⁸⁸ and Federal Law of 24.07.2002 No. 101-FZ

¹⁸⁹ Article 7(1)(h), 7(1)(k) of the Rome Statute, Article 27 of the Geneva Convention IV of 1949

¹⁹⁰ Prosecutor v. Tihomir Blaskić. ICTY. IT-95-14-T. 2000. URL: <https://www.icty.org/x/cases/blaskic/tjug/en/bla-tj000303e.pdf> (para. 227–229)

Prosecutor v. Bosco Ntaganda. ICC-01/04-02/06. 2014. Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute.

URL: https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2014_04750.PDF (para. 58)

In December 2020, the Office of the ICC Prosecutor preliminarily stated that there are identified signs of war crimes and crimes against humanity committed by Russian agents in Crimea, including property seizures and discriminatory persecution¹⁹¹.

Responsible persons

Vladimir Putin, as President of the Russian Federation, is personally responsible for the commission of these crimes. In addition, the perpetrators of the crime are occupation judges, prosecutors, representatives of local administrations, the “Ministry of Property and Land Relations of the Republic of Crimea” and the “Department of Property and Land Relations of Sevastopol”.

¹⁹¹ Report on Preliminary Examination Activities 2020. The Office of the Prosecutor. ICC. 2020.
URL: <https://www.icc-cpi.int/sites/default/files/itemsDocuments/2020-PE/2020-pe-report-eng.pdf> (para. 278-279)

RECOMMENDATIONS

To the UN Human Rights Monitoring Mission in Ukraine, the Office of the UN High Commissioner for Human Rights, Independent International Commission of Inquiry on Ukraine:

- Provide a legal assessment of the interference with the property rights of Ukrainian citizens and other persons on the basis of Presidential Decree No. 201 as a war crime and a crime against humanity, as well as the cultural assimilation of displaced Ukrainian children and children in the occupied territory of Ukraine by means of their integration into the Russian education system and the Russian environment as a crime against humanity at the international level.

To the UN General Assembly:

- Condemn the interference with the property rights of Ukrainian citizens and other persons on the basis of the Presidential Decree No. 201 as a war crime and a crime against humanity, as well as the cultural assimilation of displaced Ukrainian children and children in the occupied territory of Ukraine by means of their integration into the Russian education system and the Russian environment as a crime against humanity aimed at eradicating Ukrainian identity in the following resolution “Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine”, as well as to demand from the Russian Federation ensure that Ukrainian children are able to study according to Ukrainian educational standards, Ukrainian textbooks and in the Ukrainian language.

To the Assembly of States Members of the International Criminal Court:

- Initiate amendments to the Rome Statute to criminalize as an international crime the violation of the principle of status quo ante bellum in the context of occupation of the territory of another state.

To the Office of the Prosecutor of the International Criminal Court:

- Investigate the circumstances of the cultural assimilation of the displaced Ukrainian children as an integral stage after their deportation to the Russian Federation, as well as of children in the occupied territory of Ukraine as a crime of genocide (Art. 6(e) of the Rome Statute) or a crime against humanity (Art. 7(1)(h) of the Rome Statute), and a potential war crime (Articles 8(2)(a)(v), 8(2)(b)(xv) of the Rome Statute), and further request the ICC Pre-Trial Chamber to issue an arrest warrant for the Ministers of Education of the Russian Federation and the former Ministers of Education and Science of the Russian Federation for the period since 2014;

- Investigate the circumstances of religious persecution on the territory of Crimea occupied by the Russian Federation as war crimes (Articles 8(2)(a)(ii), 8(2)(a)(iii) of the Rome Statute) and crimes against humanity (Articles 7(1)(h), 7(1)(f), 7(1)(i) of the Rome Statute);
- Investigate the circumstances of persecution on the basis of sexual orientation and gender identity in the territory of Crimea occupied by the Russian Federation as a war crime (Article 8(2)(a)(iii) of the Rome Statute) and a crime against humanity (Article 7(1)(h) of the Rome Statute).

To the International Criminal Court:

- Amend the arrest warrant for Vladimir Putin to include an additional charge of a crime against humanity (Article 7(1)(h) of the Rome Statute) and/or a war crime (Articles 8(2)(a)(iv), 8(2)(b)(xiii) of the Rome Statute) for the interference with the property rights of Ukrainian citizens and others on the basis of his Decree No. 201 as the President of the Russian Federation, including to prevent further commission of the crime.

To foreign states, the European Union, the National Security and Defense Council of Ukraine, and the Security Service of Ukraine:

- Impose restrictive measures (sanctions) on persons responsible for the implementation of Presidential Decree No. 201 and the cultural assimilation of Ukrainian children, including individual Russian agents within the The Ministry of Education of the Russian Federation, the former Ministry of Education and Science of the Russian Federation, the Council of the Ministry of Education of the Russian Federation on Federal State Educational Standards for General Education and Vocational Education, the “Ministry of Education, Science and Youth of the Republic of Crimea”, the “Department of Education and Science of the City of Sevastopol”, the “Ministry of Property and Land Relations of the Republic of Crimea”, the “Department of Property and Land Relations of the City of Sevastopol”, prosecutors and heads of local administrations of the relevant settlements in Crimea.

To the Office of the Prosecutor General, the Prosecutor’s Office of the Autonomous Republic of Crimea and the City of Sevastopol, the Security Service of Ukraine, the Ministry of Internal Affairs of Ukraine, the courts of Ukraine, the Ministry of Justice of Ukraine, foreign law enforcement agencies and courts:

- Document the interference with the property rights of Ukrainian citizens and other persons on the basis of Russian Presidential Decree No. 201, establish the extent of the damage and the perpetrators in order to hold them accountable for international crimes and to compensate for the damage at the national level, as well as to increase the number of international claims against Russia;.

- Identify the main senior and middle-level officials responsible for the implementation of the Russian assimilation policy towards Ukrainian children and bring them to criminal responsibility at the national level, and to refer the most complex cases of senior officials to the International Criminal Court;
- Investigate and identify senior and mid-level officials involved in religious persecution in the occupied Crimea and bring them to justice at the national level; if necessary, refer the cases of senior officials to the International Criminal Court;
- Establish mechanisms for reporting and investigating hate crimes against members of the LGBTI+ community, while ensuring that such crimes are perceived in the same manner as other hate crimes.

To the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine:

- Include in the Criminal Code of Ukraine provisions on liability for crimes against humanity, including the discriminatory persecution;
- Ensure the implementation of the provisions and the prolongation of the Action Plan for the Implementation of the National Human Rights Strategy for 2021–2023 by adopting legislation on non-discrimination on the basis of sexual orientation and gender identity, and define homophobia as an aggravating circumstance and/or as a qualifying characteristic of a crime;
- Facilitate the activities of non-governmental organizations involved in the protection of LGBTI+ rights by creating favorable conditions for the formation and institutional development of organizations, ensuring effective procedures for the participation of such non-governmental organizations in the development and implementation of state policy, as well as stimulating participation in the socio-economic development and post-war reconstruction of Ukraine;
- Simplify the legal processes for changing gender markers in identity documents for transgender people, including those who were forced to leave the occupied territories of Ukraine;
- Provide financial, material and technical support to non-governmental organizations working on the promotion and protection of the rights of LGBTI+ people, including monitoring and documenting violations of the rights and freedoms of LGBTI+ people in the occupied Crimean peninsula;
- Adopt a law that would determine the status of persons detained on the territory of the occupied Crimean peninsula, convicted in accordance with the legislation of the occupying power and transferred to the territory of the Russian Federation for trial and/or serving the sentence;

- Introduce the necessary amendments to the Law of Ukraine “On Social Adaptation of Persons Serving or Having Served a Sentence of Restriction or Deprivation of Liberty for a Specified Term” to provide for social support and assistance to persons transferred for the purpose of trial and/or serving a sentence from the territory of the occupied Crimean peninsula to the territory of the Russian Federation;
- Establish a special mechanism in the national criminal procedure legislation for the recognition of sentences of the occupying power (for instance, valorization of the sentence of the occupying power), which will fully comply with the Convention on the Transfer of Sentenced Persons of March 21, 1983, but will have a different name to emphasize the exceptional nature of such recognition.

To the Verkhovna Rada of Ukraine, the Ministry of Justice of Ukraine:

- Develop a unified mechanism for the return of persons transferred for trial and/or serving a sentence from the territory of the occupied Crimean peninsula to the territory of the Russian Federation, which should be based on the Convention on the Transfer of Sentenced Persons of March 21, 1983 and be consistent with the victim-centered approach.

To the Verkhovna Rada of Ukraine, the Ministry of Culture and Information Policy of Ukraine, the Ministry of Justice of Ukraine, the Ministry of Foreign Affairs of Ukraine:

- Complete the process of ratification of international treaties on the protection and preservation of cultural heritage – the Nicosia Convention of 2020 and the Second Protocol of 1999 to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954.

To the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Ministry of Justice of Ukraine, the Ministry for Reintegration of the Temporarily Occupied Territories of Ukraine:

- Develop a national compensation mechanism to compensate citizens for the damage they have incurred as a result of the implementation of Presidential Decree No. 201 with the right to retain ownership of land in Crimea;
- Develop a national procedure for the convalidation of transactions under administrative proceedings, which, among other things, should exclude the recognition of transactions made under duress in relation to the property of citizens as part of the implementation of Presidential Decree No. 201 or Federal Law No. 101-FZ of July 24, 2002.

To the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine, the Ministry of Social Policy of Ukraine, the National Social Service of Ukraine, the Ministry of Education and Science of Ukraine, the Ministry of Culture and Information Policy of Ukraine:

- Develop a national program for the rehabilitation and reintegration of Ukrainian children repatriated from the territory of the Russian Federation and the occupied territory of Ukraine and of children residing in the de-occupied territory of Ukraine, as well as implement an information policy aimed at preventing stigmatization of assimilated children in Ukrainian society and government bodies of Ukraine;
- Develop special educational curricula and programs for Ukrainian children who were repatriated from the Russian Federation and the occupied territories of Ukraine and for children residing in the de-occupied regions of Ukraine in order to prevent their re-traumatization and eliminate the negative effects of Russian educational standards and narratives.

To the Ministry of Education and Science of Ukraine, the Institute for Modernization of Education Content:

- Ensure the preparation, review, approval, printing and distribution of textbooks for the de-occupied territory of Ukraine, with primary focus on the textbooks for the Ukrainian language and history of Ukraine.

To the Ministry of Education and Science of Ukraine, the Ministry of Culture and Information Policy of Ukraine:

- Support information campaigns that expand public dialogue on LGBTI+ issues, in particular by integrating inclusive LGBTI+ education programs into secondary and higher education.

To the Ministry of Health, local authorities:

- Guarantee access to gender-specific medical services, including mental health support, hormone therapy and gender reassignment surgery. Ensure unimpeded access to substitution maintenance therapy programs for people with HIV/AIDS.

To the Ministry of Foreign Affairs of Ukraine:

- Organize, ensure and coordinate the activities of foreign diplomatic missions of Ukraine for the timely and due protection of the rights and interests of Ukrainian citizens transferred for trial and/or serving a sentence from the territory of the occupied Crimean peninsula to the territory of the Russian Federation, as well as Ukrainian citizens discriminated against on the basis of religion, sexual orientation and gender identity, national and cultural identity or origin.

To the Ministry of Culture and Information Policy of Ukraine:

- Develop and implement measures in collaboration with other central executive authorities to objectively cover human rights violations on the territory of the occupied Crimean peninsula, in particular, those regarding the illegal transfer of persons for the purpose of trial and/or serving a sentence from the territory of the occupied Crimean peninsula to the territory of the Russian Federation, as well as the violations of the rights of Ukrainian citizens discriminated against on the basis of religion, sexual orientation and gender identity, national and cultural identity or origin;
- Organize the preparation and dissemination of explanatory materials among residents of the occupied Crimean peninsula concerning the mechanism for the protection of violated rights in case of persecution on the basis of sexual orientation and gender identity, religion, national and cultural identity or origin, and in case of illegal transfer of persons for the purpose of trial and/or serving a sentence from the territory of the occupied Crimean peninsula to the territory of the Russian Federation.

To the Ministry of Foreign Affairs of Ukraine, the Office of the President of Ukraine, the Ministry of Justice of Ukraine, the Mission of the President of Ukraine in the Autonomous Republic of Crimea together with the Ministry of Culture and Information Policy of Ukraine:

- Develop and present analytical materials and public appeals to extend the timeframe for registering violations of international law committed by the Russian Federation on the territory of the Crimean peninsula in the Register of damage for Ukraine, established under the Council of Europe, by providing the possibility to register violations starting from 2014.

To Ukrainian citizens, foreign citizens, stateless persons, and legal entities:

- Address the international institutions, law enforcement agencies of Ukraine and foreign countries, and non-governmental organizations to protect property rights from interference as a result of the implementation of Presidential Decree No. 201 or Federal Law No. 101-FZ of July 24, 2002.

CONCLUSIONS

Prohibiting discrimination based on race, sex, language, and religion is a fundamental and inalienable human right. The provisions on non-discrimination are enshrined in a number of international acts, including Article 13(1) of the UN Charter, Articles 1 and 2 of the Universal Declaration of Human Rights, Article 26 of the International Covenant on Civil and Political Rights, and Articles 2(3) and 3 of the International Covenant on Economic, Social and Cultural Rights. The Russian Federation is also a party to the listed international treaties, but it does not abide by them in reality. In particular, Ukrainian and international experts have documented numerous cases of the Russian Federation's discriminatory treatment of the local population in Crimea.

The Russian Federation, having occupied the Crimean peninsula, has extended its legislation to this territory and applies it equally to its citizens and to Ukrainian citizens who resided or were in Crimea at the time of the occupation. In addition, the Russian legal system lacks comprehensive anti-discrimination legislation that would enshrine direct, indirect, and multiple discrimination guarantees, as well as a legal definition of legal and constitutional protection of indigenous peoples and ethnic minorities. The Russian Federation applies its legislation, including to combat the disloyal population. To achieve this, the occupation authorities use legislation in the areas of "combating terrorism or extremism", "countering fakes," and countering "foreign agents and undesirable organizations" to instill fear among the local population and hold accountable those who do not support the occupation policy.

Victims of systematic discrimination by the RF in the occupied Crimea can be divided into two categories:

1. Persons have been discriminated against because of their natural, attributed, or alleged Ukrainian national identity.
2. Representatives of minorities, particularly ethnic Ukrainians, Crimean Tatars, and believers of certain confessions.

The first group of people mainly faces discriminatory treatment in the form of forced passportization, restrictions on freedom of movement, forced conscription, limited access to justice, and restrictions on expression and political participation. The second category of persons is subjected to enforced disappearances, illegal searches, and large-scale and systematic violations of linguistic and cultural rights, particularly in education, religion, cultural expression, etc.

In the study, the authors focused on the facts of discriminatory persecution and treatment of the following categories of people:

1. Religious communities: in particular, representatives of the OCU and Crimean Muslims

The occupation authorities perceive representatives of the OCU as potentially dangerous and disloyal. Parishioners are abducted and tortured, church movable and immovable property is unlawfully seized, and the clergy is prosecuted for missionary activities. In cases of criminal prosecution of both Crimean Muslims and parishioners of the OCU, there is often a lack of compliance with criminal procedure, including violations of the right to a fair trial.

The persecution of Crimean Muslims involves prosecution for participation in or organization of extremist and terrorist organizations, public calls for terrorist activities, public justification of terrorism or propaganda of terrorism, and propaganda or public display of attributes or symbols of extremist organizations or other characteristics and signs, the propaganda or public display of which is prohibited by law, and for carrying out missionary activities. Most Crimean Muslims being persecuted (98%) are Crimean Tatars, indicating that this ethnic group is being targeted.

2. Prisoners and convicts

Citizens of Ukraine sentenced to serve their sentences in Crimea face discriminatory treatment by the Russian authorities based on their nationality. As the least protected social category, prisoners cannot refuse to obtain Russian citizenship. Russian legislation does not provide for special conditions for foreign nationals and stateless persons to serve their sentences, which is not justified in the context of the armed conflict. Prisoners are forcibly transferred to the territory of the Russian Federation. Despite the fact that the transfer mechanism is envisaged in 1983 Convention on the Transfer of Sentenced Persons, its implementation is currently impossible. Ukraine does not recognize the decisions of the occupation courts, and RF, in turn, because of its policy of forced passportization, considers imprisoned Ukrainian citizens to be citizens of the RF and refuses to transfer them to Ukraine.

3. Other persons are discriminated against based on national or cultural identity or origin

Pro-Ukrainian activists and representatives of Ukrainian and Crimean Tatar media are being persecuted. Criminal cases against Ukrainian activists and journalists are being fabricated, accusing them of alleged "terrorist" or "spy" activities or weapons possession. The occupation authorities are shutting down Ukrainian cultural and educational institutions, including canceling Ukrainian-language performances in theatres, changing the names of institutions, or closing them. The Russian Federation appropriates Ukraine's cultural property and destroys and damages it under the guise of the so-called "reconstruction" policy.

In addition, the Russian Federation exerts systematic anti-Ukrainian information and propaganda pressure on the Crimean population and creates a Ukrainophobic moral and psychological climate. The occupation authorities are spreading narratives about the “ineptitude” of the Ukrainian state and nation, denying their existence to create a negative attitude towards Ukraine. At the same time, the Russian Federation is implementing a policy of artificial isolation of Crimea from Ukraine’s information and humanitarian space, in particular, by creating its own media and information channels that spread the abovementioned narratives.

4. Students of schools and lyceums, due to the Russian occupation policy

The occupation authorities use education to change children’s national identity in occupied territories. In particular, students of schools and lyceums in Crimea are forced to study Russian curricula and textbooks that contain narratives about the unity and power of the Russian ethnic group, the foundations of the Russian multinational people, self-sacrifice as the highest expression of love for the homeland, and calls to join the law enforcement and security forces of the Russian Federation. The use of Russian educational standards and textbooks is an example of equal treatment of people in different situations and is evidence of indirect discrimination.

5. Representatives of the LGBTI+ community

The Russian Federation also discriminatorily persecutes members of the LGBTI+ community in Crimea. In particular, there is no specialized anti-discrimination legislation in the Russian Federation to ensure the rights of persons belonging to a group with a specific sexual orientation. Moreover, discriminatory actions against this category of persons are not criminalized. On the territory of Crimea, members of the LGBTI+ community faced aggressive rhetoric from representatives of the occupation authorities containing hate speech and homophobic attitudes, as well as were attacked with bodily harm by organized groups of “Occupy-Pedophiles,” during which violence was used and filmed and distributed on the Internet.

The medical record of affiliation with the LGBT+ community impedes the exercise of the right to work, in particular for representatives of the education sector. Transgender people whose appearance did not match that of their old passports were unable to obtain a new one and were effectively left without documents. People who did not have time to complete gender reassignment before the occupation could not continue their therapy. Minors belonging to the LGBTI+ community are currently deprived of the opportunity to receive the necessary psychological assistance. After the beginning of the occupation, people who received treatment for HIV/AIDS were deprived of this opportunity, as after 2014, substitution maintenance therapy programs were declared illegal and were no longer conducted.

6. Citizens of Ukraine, owners of property and land plots, due to the Decree of the RF President No. 201

Decree No. 201 of 20 March 2022 banned foreigners from owning land plots in the “border areas of the Russian Federation”. About 80% of Crimea’s territory was classified as «border areas». According to the provisions of Decree No. 201, land plots owned by foreigners should have been alienated within a year. If the land plot was not alienated within this period, the Russian state or local government body was entitled to initiate a forced sale or transfer of the plot to the Russian state or municipal ownership in court. Due to the threat of confiscation, Ukrainian citizens who owned property in Crimea were forced to “voluntarily” dispose of it, for example, by selling or gifting it to relatives with Russian citizenship. At the same time, the Russian authorities encouraged Ukrainian citizens to obtain a Russian passport and keep the land plot in their ownership, as there were no restrictions on the ownership of land plots in the “border areas” for Russian citizens.

Certain acts of the Russian Federation, which are part of the discriminatory policy in the occupied territories, can be qualified as crimes against humanity, namely discriminatory persecution (stipulated in Article 7(1)(h) of the Rome Statute of the ICC), torture (Article 7(1)(f) of the Rome Statute) and enforced disappearances (Article 7(1)(i) of the Rome Statute), imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law (Article 7(1)(e) of the Rome Statute) and war crimes: wilful killing (Article 8(2)(a)(i) of the Rome Statute), torture or inhuman treatment (Article 8(2)(a)(ii) of the Rome Statute), wilfully causing great suffering or serious injury to body or health (Article 8(2)(a)(iii) of the Rome Statute), extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly (Article 8(2)(a)(iv) of the Rome Statute), unlawful deportation or transfer or unlawful confinement (Articles 8(2)(a)(vii) and 8(2)(b)(viii) of the Rome Statute).

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