

Ukrainian Centre for Independent Political Research



# THE POLICY TOWARDS CRIMEA. RECOMMENDATIONS (GUIDELINES)

Kyiv, 2018

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The study analyses main decisions by Ukrainian authorities and international institutions on the illegal annexation and occupation of Crimea by the Russian Federation, monitors compliance with human rights, the imposition and application of anti-Russian sanctions, as well as the specifics of Ukraine's information policy towards Crimea.

The study will be useful for civil servants, representatives of international and non-governmental organisations, journalists, and all those concerned about issues of Crimea's de-occupation.

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# INTRODUCTION

The international community and the Ukrainian government define the stance and actions of the Russian Federation as an act of direct aggression against Ukraine as a sovereign state. It is recognised that “the situation in the territory of Russian-annexed Crimea and the city of Sevastopol is equivalent to an international armed conflict between Ukraine and the Russian Federation.”<sup>1</sup> The Russian Federation was named as an occupying power, while Crimea and Sevastopol are being referred to as the temporarily occupied territory.<sup>2</sup>

The illegal occupation of the Autonomous Republic of Crimea by the Russian Federation is identified as an actual threat to the national interests of Ukraine, in particular, it concerns militarisation, information and psychological warfare, humiliation of the Ukrainian language and culture, falsification of Ukrainian history, the formation of an alternative to reality by the Russian mass media, and a distorted information picture of the world.<sup>3</sup>

A number of resolutions and statements were adopted by international organisations, including the United Nations, the Parliamentary Assembly of the Council of Europe, and the European Union that condemn Russia’s aggression against Ukraine. Specifically, within 2014–2017, important decisions have been made that support the territorial integrity of Ukraine, and slam actions of the Russian Federation regarding the occupation and annexation of Crimea. On 27 March 2014, the UN General Assembly adopted the resolution on the territorial integrity of Ukraine, which emphasized that the international community does not recognise the annexation of Crimea by the Russian Federation.

As for Russia, decisions on the illegal occupation of the peninsula were ‘legitimised’ by the so-called referendum on the status of Crimea, which was carried out by breakaway Crimean ‘authorities’ on 16 March 2014 without a relevant legislation, beyond the powers of local authorities, and in the absence of international observers. Preparations for the referendum lasted a little more than a week. The wording of questions put to the referendum did not provide for the possibility of preserving the status of the Autonomous Republic of Crimea as part of Ukraine.

A consolidated position of European institutions on the condemnation of the occupation and annexation of Crimea has been articulated. The European Council, the EU’s Foreign Affairs Council, and the European Parliament have adopted a series of resolutions in support of Ukraine.

In special reports by international organisations on the situation in Crimea in 2014–2017, it is stated that “in accordance with international law, the Russian Federation must abide by its obligations under international human rights law in Crimea since the establishment of effective control over this territory.” Under international law, states are responsible for violations of international humanitarian law attributable to them, in particular:

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<sup>1</sup> <https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-PE-Ukraine.pdf>

<sup>2</sup> <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N16/352/57/PDF/N1635257.pdf?OpenElement>

<sup>3</sup> The presidential decree “*On the Decision by the National Security and Defence Council as of 6 May 2015 “On the National Security Strategy of Ukraine”*”

- a) violations committed by their organs, including their armed forces;
- b) violations committed by persons or entities they have empowered to exercise elements of governmental authority;
- c) violations committed by persons or groups of persons acting in fact on their instructions, or under their direction or control;
- d) violations committed by private persons or groups, which they acknowledge and adopt as their own.<sup>4</sup>

The illegal occupation of the Autonomous Republic of Crimea by the Russian Federation has caused systematic violations by occupation and Russian-installed authorities of Crimea in the field of human and property rights. In general, the state, individuals, and legal entities lost assets of Ukrainian state-owned companies in the energy sector, extraction of minerals, food, shipbuilding, chemical industry, agricultural sector, cultural heritage, archives, museums, libraries, and scientific institutions. Property of private owners was either ‘nationalised’ or ‘redeemed,’ with violations of their rights. However, Russian courts did not satisfy claims of Ukrainian institutions and citizens. In the first year of the annexation, the seized property was largely under the control of the self-proclaimed Crimean government, whereas mass facts of the transfer of such property and resources to Russian state-run structures and the launch of illegal privatisation processes were reported following the ‘nationalisation’ in 2015. Activities of small businesses whose number has declined significantly are very limited. This happens due to the anti-Russian sanctions regime, and the loss of logistic ties. Enterprises of different forms of ownership had to be re-registered under Russian legislation by 1 March 2015, otherwise they were shut down.

In 2014–2015, the United States and EU countries imposed sectoral sanctions against Russia because of the escalation of the conflict in the Donbas and the annexation of Crimea. Ukraine suspended trade with the Crimean peninsula, cut off the supply of water and electricity, and stopped transportation. In 2014–2015, it terminated air, rail, and road communications. The effect of these measures is estimated at billions of losses for the Russian budget. Russia has not been able to take measures to systematically restructure the economy of the peninsula. Despite that occupied Crimea became one of the most subsidised regions for the Russian budget, the main budget transfers are rather ‘eaten’ than spent for the development needs. Among Russia’s large-scale projects in Crimea is the urgent construction of an “energy bridge” and a bridge connecting the Crimean peninsula with Kuban.

After the annexation of Crimea, it did not take Russian authorities long to equalise the status of Crimean regions to that of federal entities, and cancel the Crimean Federal District. The transitional period for adapting the economic, political, and management systems of Crimea to the Russian conditions lasted for 1–2 years, but in actual fact, in some spheres it lasts until present. Citizens of Ukraine who currently live in Russian-occupied Crimea and Sevastopol very quickly felt a change in the political system, mainly in terms of limited political freedoms, e.g. the right to peaceful assembly, incitement of xenophobia against Ukrainians and Crimean Tatars, and political repression.

As stated in reports by international organisations, the opportunity to fully enjoy human rights and fundamental freedoms in Crimea was limited to a large extent for “those who opposed the

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<sup>4</sup> The 2017 spotlight report by the Office of the United Nations High Commissioner for Human Rights entitled “Situation of Human Rights in the Temporarily Occupied Autonomous Republic of Crimea and the City of Sevastopol (Ukraine)”, [http://www.ohchr.org/Documents/Countries/UA/Crimea2014\\_2017\\_Ukrainian.pdf](http://www.ohchr.org/Documents/Countries/UA/Crimea2014_2017_Ukrainian.pdf)

annexation of the peninsula, were not able to refuse the compulsory acquisition of Russian citizenship, and/or did not want to receive Russian passports.” Representatives of international organisations say that in one way or another, the freedom of assembly, the freedom of association, the freedom of movement, the freedom of speech, and the right to access to information were restricted — either formally or through selective prosecution of individuals, or groups of individuals, or socio-political associations who held opposing views and thoughts.

The application of Russian legal framework, and, consequently, the new requirement to register or re-register NGOs, news outlets, and religious organisations under Russian law have resulted in regressive effects on the enjoyment of human rights by non-Russian residents of Crimea. According to available information, this was particularly true for those disloyal to new authorities, considerably limiting the freedom of association, apparently targeting civil society, and essentially reducing the number of independent media organisations.<sup>5</sup> To a large extent, repressive measures also affected an indigenous people, Crimean Tatars, which posed complex challenges in inter-ethnic and inter-religious relations in the Crimean peninsula.

With regard to the occupation of the Crimean peninsula by the Russian Federation, Ukrainian authorities have limited opportunities to influence the situation in Crimea, and ensure the protection of human rights.

After the beginning of the illegal occupation of the Crimean peninsula, a number of laws and normative legal acts regulating certain aspects of the rights of citizens in the temporarily occupied territory have been adopted that concern property rights, determine the boundaries of the temporarily occupied territory, define challenges in the area of national security, shape the main directions of the government education and social policies for Ukrainian citizens residing in the temporarily occupied territory of the peninsula, as well as internally displaced persons (IDPs) from Crimea.

At the same time, many problems remain unsolved for Crimean IDPs and Ukrainians living on the temporarily occupied peninsula. Despite the illegal occupation of Crimea and a lack of communication, high mobility of citizens is reported. Specifically, in 2017, 2,513,300 people have crossed the administrative border with occupied Crimea.<sup>6</sup>

According to official data, 1,493,057 migrants or 1,218,611 families from the Donbas and Crimea have been registered as of 5 February 2018. In general, as of 1 June 2017, 22,903 citizens formerly residing in the territory of the Crimean peninsula and the city of Sevastopol have relocated to mainland Ukraine. 65.8% or 15,061 forced migrants are able-bodied men and women, 26.2% or 6,006 are children, 8% or 1,836 are people with disabilities and the elderly.

In general, based on requests of Crimeans filed with regional state administrations since the beginning of the annexation, the greatest number of applications relates to:

- Issuance and reissuance of documents;
- Receipt of IDP certificates;
- Receipt of social benefits;
- Employment;
- Education.

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<sup>5</sup> <http://www.osce.org/uk/odhr/180606?download=true>

<sup>6</sup> According to the Ministry of Temporarily Occupied Territories and Internally Displaced Persons

One of the most pressing issues is the ability to be provided with migration services (70% of the total number of applications). Since the beginning of the illegal occupation of the Crimean peninsula, 81.7% of the total number of Crimean IDPs in Ukraine have applied for administrative services in a border region. The largest part of applications concern registration, issuance or exchange of Ukrainian passports for traveling abroad; gluing of photos to passports upon reaching the age of 25 or 45 years by citizens of Ukraine; registration, issuance or exchange of passports of Ukrainian citizens; and issuance of ID-card documents. Application for various types of social benefits are relevant as well.<sup>7</sup>

All complex problems are linked to the protection of human and property rights, control over the sanctions regime, assistance to political prisoners on a number of social, humanitarian, and educational problems, faced by citizens of Ukraine on the peninsula, which require systematic coordination of actions of authorities, cooperation with non-governmental organisations, and communication with Crimeans.

The publication of the study is one of the steps for making representatives of different levels of government and experts familiar with the situation on the Crimean peninsula after the Russian occupation, the main policy measures taken for its de-occupation, and international documents.

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<sup>7</sup> According to the Permanent Representative Office of the President of Ukraine in the Autonomous Republic of Crimea, <http://www.ppu.gov.ua/operatyvna-informatsiya-shhodo-vpo-3/>



# 1. LEGAL PRINCIPLES OF PROTECTION OF CIVIL AND PROPERTY RIGHTS IN THE TEMPORARILY OCCUPIED TERRITORY, AS WELL AS OF THE RIGHTS OF THE CRIMEAN TATAR PEOPLE

In accordance with the law “On Amendments to Certain Legal Acts of Ukraine Regarding the Determination of the Date of the Beginning of Temporary Occupation,” **20 February 2014** was fixed as the date of the beginning of the temporary occupation.

**On 15 April 2014**, the Verkhovna Rada of Ukraine passed the law “On Ensuring the Rights and Freedoms of Citizens and on the Legal Regime on the Temporarily Occupied Territory of Ukraine.”<sup>8</sup> According to its Article 3, for the purposes of this law, the temporarily occupied territory is defined as:

- 1) the land territory of the Autonomous Republic of Crimea and the city of Sevastopol, inland waters of Ukraine of these areas;
- 2) internal sea waters and the territorial sea of Ukraine around the Crimean peninsula, the area of the exclusive (maritime) economic zone of Ukraine along the coast of the Crimean peninsula and adjacent to the coast of the continental shelf of Ukraine that are within the jurisdiction of the government of Ukraine in accordance with the norms of international law, the Constitution and laws of Ukraine;
- 3) the airspace over the territories referred to in Paragraphs 1 and 2 of this part.

Under Paragraph 6, Article 6 of the law, the Russian Federation is defined as the state-occupier.

The above law contains a number of principled provisions of a political nature. In particular, according to Paragraph 4, Article 5 of the law, “Forced automatic acquisition of citizenship of the Russian Federation by citizens of Ukraine residing on the temporarily occupied territory is not recognised by Ukraine and is not accepted as a ground for the loss of Ukrainian citizenship.”

The law says that the presence of units of armed forces of other countries in the territory of Ukraine in violation of the procedure established by the Constitution, laws of Ukraine, and other international legal acts is the occupation of part of the territory of a sovereign state of Ukraine and international wrongful acts with all the prescribed international law.

The law establishes the legal basis for the reimbursement of losses for occupation. Paragraph 6, Article 5 of the law provides that “compensation of material and moral damage caused to legal entities, associations, citizens of Ukraine, foreigners and stateless persons in the result of the temporary occupation of the state of Ukraine is fully vested on the Russian Federation as the country that performs the occupation.”

Among other important issues regulated by this law are the institution of property and the legal regime of property in the temporarily occupied territory. First of all, Paragraph 5, Article 11

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<sup>8</sup> <http://zakon2.rada.gov.ua/laws/show/1207-18>

clearly defines: “On the temporarily occupied territory, any transaction in respect of real estate property, including land parcels, committed in violation of this law and other laws of Ukraine, is deemed invalid since its conclusion and does not create legal consequences other than those related of its invalidity.”

The Verkhovna Rada of Ukraine has developed a conceptual approach in relation to property of public law subjects. In compliance with Paragraph 2, Article 11, “the State of Ukraine, the Autonomous Republic of Crimea, territorial communities, including territorial community of the city of Sevastopol, governmental agencies, local government bodies, and other entities of public law retain the right of ownership and other property rights, including the right to real estate and land plots, located on the temporarily occupied territory.”

On a similar basis, Paragraph 3, Article 11 regulates the legal regime of property of individuals, enterprises, institutions and organisations. They “retain the right of ownership and other rights to property, including real property and land, located on the temporarily occupied territory if it was acquired in accordance with the laws of Ukraine.”

The acquisition and termination of the right to immovable property located in the temporarily occupied territory is regulated according to Paragraphs 3 and 4, Article 11 of the law, reading: “Acquisition and termination of property rights on real estate property situated on the temporarily occupied territory shall be in accordance with the laws of Ukraine outside the temporarily occupied territory. If it is impossible for the state registrar to perform the state registration of real estate property and their encumbrances on the temporarily occupied territory, the state registration body is established by the Cabinet of Ministers of Ukraine.”

The Free Economic Zone (FEZ) “Crimea” was set up in the Autonomous Republic of Crimea and the city of Sevastopol. Article 12 of the law “On the Establishment of the Free Economic Zone “Crimea” and the Peculiarities of Economic Activities in the Temporarily Occupied Territory of Ukraine” outlines the following specifics of the functioning of the FEZ “Crimea”:

- national taxes and fees, single contributions to mandatory state social insurance, collection of compulsory state pension insurance are not paid from income received by legal entities, individuals, and other objects of taxation in the temporarily occupied territory, as well as from business transactions carried out in the temporarily occupied territory;
- Since 1 June 2014, tax registration of persons who, as of 31 May 2014, had their place of location (residence) and were registered with controlling bodies in the territory of the Autonomous Republic of Crimea or the city of Sevastopol, was cancelled. Such registration could be restored after a person is moved to mainland Ukraine (“another territory of Ukraine”) following the prescribed procedure.

Since the first days of its publication, experts and journalists criticised the law on FEZ “Crimea” as a lobbyist one that legalises annexation and violates human rights. Civil society representatives urged the President not to sign it, and then to veto, or cancel it. They underscored that the purpose of the “free economic zone” was the legalisation of companies located in Crimea and owned by Ukrainian oligarchs. Human rights activists slammed the law for equalising individuals with a tax address in the territory of the Crimean Economic Zone to non-residents, which, in their point of view, created preconditions for discrimination of the population of the peninsula by prohibiting the repatriation of money in accordance with the law, unequal provision of banking services to Crimean and non-Crimean Ukrainians, and the like. However,

discrimination against banking services was mainly a consequence of the decision by the National Bank of Ukraine No. 699 dated 3 November 2014.<sup>9</sup>

Under the influence of the civil campaign to restrict transportation to Russian-occupied Crimea, the Cabinet of Ministers of Ukraine issued the resolution No. 1035 "On Restrictions on the Transportation of Certain Goods (Works, Services) from the Temporarily Occupied Territory to Another Territory of Ukraine and/or from Another Territory of Ukraine to the Temporarily Occupied Territory for the Period of the Temporary Occupation" as of 16 December 2015. Under the document, transportation of goods (works, services) under all customs regimes from the temporarily occupied territory to another territory of Ukraine and from another territory to the temporary occupied territory of Ukraine was banned, with the exception of:

- personal belongings of citizens, listed in Paragraph 1, Article 370 of the Customs Code of Ukraine (except for the item "other goods intended to meet the daily needs of citizens, the list and quantity of which are determined by laws of Ukraine"), transported in hand luggage and accompanied luggage;
- socially important foodstuffs transported by citizens, the total invoice value of which does not exceed the equivalent of UAH 10,000 and the total weight of which is not higher than 50 kilograms per person in accordance with the list. This list of socially important food products include: flour, bread, pasta, cereals, pork, fat, poultry, cheese, butter, sugar, sunflower oil, potatoes, and chicken eggs. Such amount of transportation of socially important foodstuffs is applicable in the event that a person bringing goods to the temporarily occupied territory of Ukraine enters the said territory no more than once a day.

The establishment of the above rules obviously created barriers for persons who intended to leave the Crimean peninsula for permanent residence in mainland Ukraine.

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<sup>9</sup> <http://www.bank.gov.ua/doccatalog/document?id=11719725>

# 1.1. The list of main decisions by the Verkhovna Rada and the government of Ukraine on various issues of the temporarily occupied territory

## The list of main decisions by the Verkhovna Rada and the government of Ukraine on various issues of the temporarily occupied territory

15 April 2014	The law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and on the Legal Regime on the Temporarily Occupied Territory of Ukraine" <sup>10</sup>	The law determines the status of the territory of Ukraine temporarily occupied as a result of armed aggression of the Russian Federation, establishes a special legal regime in this territory, determines the specifics of activities of authorities, local self-governments bodies, enterprises, institutions, and organisation under this regime, the observance and protection of human and civil rights and freedoms, as well as the rights and legitimate interests of legal entities.
12 August 2014	The law of Ukraine "On the Establishment of the Free Economic Zone "Crimea" and on the Peculiarities of Economic Activities on the Temporarily Occupied Territory of Ukraine" <sup>11</sup>	The Free Economic Zone "Crimea" was set up within two administrative and territorial units of Ukraine, the Autonomous Republic of Crimea and the city of Sevastopol, for the period of ten full calendar years. It was established that it is prohibited to make payments from income received by legal entities, individuals, and other taxation objects in the temporarily occupied territory from operations in the temporarily occupied territory, as well as from state taxes and fees, contributions to mandatory state social insurance, and payments for mandatory state pension insurance. Since 1 June 2014, tax registration of persons who, as of 31 May 2014, had their place of location (residence) and were registered with controlling bodies in the territory of the Autonomous Republic of Crimea or the city of Sevastopol was cancelled. Such registration could be restored after the evacuation of a person to mainland Ukraine ("another territory of Ukraine") in the prescribed manner.
6 May 2014	The law of Ukraine "On Amendments to Article 7 of the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and on the Legal Regime on the Temporarily Occupied Territory of Ukraine (Regarding the Right to Education)" <sup>12</sup>	The law simplifies the mechanism of receiving education for people living in the temporarily occupied territory of Ukraine, and encourages persons who have received education in the temporarily occupied territory of Ukraine to continue education in mainland Ukraine.
4 February 2016	The law of Ukraine No. 990-VIII "On Amendments to the Code of Civil Procedure of Ukraine Regarding the Establishment	The law regulates the specifics of special court proceedings in cases of establishing facts of birth or death of persons in the non-government controlled territory of Ukraine

<sup>10</sup> <http://zakon2.rada.gov.ua/laws/show/1207-18>

<sup>11</sup> <http://zakon2.rada.gov.ua/laws/show/1636-18>

<sup>12</sup> <http://zakon2.rada.gov.ua/laws/show/1038-19>

	of the Fact of Birth or Death on the Temporarily Occupied Territory of Ukraine” <sup>13</sup>	
14 August 2014	The law of Ukraine No.1644-VII “On Sanctions” <sup>14</sup>	The law introduces the institution of “special economic and other restrictive measures” — sanctions. Among grounds for the imposition of sanctions are not only decisions of international organisations, but also “actions of a foreign state, foreign legal or physical individuals, other subjects that ... lead to the occupation of the territory, the expropriation, the restriction of property rights, the problem of property losses, the creation of obstacles for sustainable economic development, or the full exercise by citizens of Ukraine of their rights and freedoms” (Part 1, Paragraph 1, Article 3 of the law). All these were typical of the Crimean situation.

### Resolutions by the Verkhovna Rada of Ukraine

20 March 2014	The resolution by the Verkhovna Rada of Ukraine “On the Statement by the Verkhovna Rada of Ukraine on the Guarantees of the Rights of the Crimean Tatar People within the Ukrainian State” <sup>15</sup>	The resolution recognises Crimean Tatars as an indigenous people, guarantees their right to self-determination within the Ukrainian state, and recognises their representative bodies.
12 November 2015	The resolution by the Verkhovna Rada of Ukraine “On the Recognition of the Genocide of the Crimean Tatar People” <sup>16</sup>	The resolution recognises the deportation as an act of genocide, and the occupation of the Crimean peninsula and repression against the Crimean Tatar people as ethnocide. 18 May was proclaimed as the Day of Remembrance of the Victims of the Genocide of the Crimean Tatar people.
31 March 2016	The resolution by the Verkhovna Rada of Ukraine “On the Appeal of the Verkhovna Rada of Ukraine to the United Nations Organisation, the European Parliament, the Parliamentary Assembly of the Council of Europe, the OSCE Parliamentary Assembly, the NATO Parliamentary Assembly, the Inter-Parliamentary Union, World Leaders, and All Members of the International Community on the Condemnation of Violations of the Rights and Freedoms of the Crimean Tatar People Regarding the Ban by Occupation Authorities of the Russian Federation in the Temporarily Occupied Autonomous Republic of Crimea and the City of	The resolution condemns violations of the rights of the Crimean Tatar people, calls for the immediate cessation of persecution or discriminatory actions committed against Crimean Tatars.

<sup>13</sup> <http://zakon0.rada.gov.ua/laws/show/990-19>

<sup>14</sup> <http://zakon3.rada.gov.ua/laws/show/1644-18>

<sup>15</sup> <http://zakon2.rada.gov.ua/laws/show/1140-18>

<sup>16</sup> <http://zakon2.rada.gov.ua/laws/show/792-19>

	Sevastopol on the Mejlis of the Crimean Tatar People and Its Recognition as an Extremist Organisation <sup>17</sup>	
12 May 2016	The resolution by the Verkhovna Rada of Ukraine "On Renaming Some Population Centres and Districts of the Autonomous Republic of Crimea and the City of Sevastopol" <sup>18</sup>	Under the resolution, the renaming of Crimean population centres and districts was postponed until the return of its occupied territory. Only 75 administrative units of the peninsula should receive the old names, whereas more than a thousand authentic names were renamed as a result of the deportation. Such limitation is linked to the subject of regulation of the law, which explicitly stipulates the commitment to change only those names that contain symbols of the communist totalitarian regime.
<b>Individual resolutions and decisions by the Cabinet of Ministers of Ukraine<sup>19</sup></b>		
16 December 2016	The Cabinet resolution No. 1035 "On Restrictions on Transportation of Certain Goods (Works, Services) from the Temporarily Occupied Territory to Another Territory of Ukraine and/or from Another Territory of Ukraine to the Temporarily Occupied Territory" <sup>20</sup>	<p>Under the resolution, it is prohibited "for the period of the temporary occupation" to supply goods (works, services) under all customs regimes from the temporarily occupied territory to another territory of Ukraine and from another territory of Ukraine to the temporarily occupied territory, except for:</p> <ul style="list-style-type: none"> <li>- personal belongings of citizens, listed in Paragraph 1, Article 370 of the Customs Code of Ukraine (except for the item "other goods intended to meet the daily needs of citizens, the list and quantity of which are determined by laws of Ukraine"), transported in hand luggage and accompanied luggage;</li> <li>- socially important foodstuffs transported by citizens, the total invoice value of which does not exceed the equivalent of UAH 10,000 and the total weight of which is not higher than 50 kilograms per person in accordance with the list. This list of socially important foodstuffs includes: flour, bread, pasta, cereals, pork, fat, poultry, cheese, butter, sugar, sunflower oil, potatoes, and chicken eggs. Such amount of transportation of socially important foodstuffs is applicable if a person who brings goods to the temporarily occupied territory of Ukraine enters the said territory no more than once a day.</li> </ul> <p>The establishment of the aforementioned norms creates barriers for individuals who intend to leave the Crimean peninsula for mainland Ukraine for permanent residence.</p> <p>On 14 June 2017, Kyiv's Administrative Court of appeal has recognised illegal the first item of the Cabinet resolution No. 1035, which imposed</p>

<sup>17</sup> <http://zakon2.rada.gov.ua/laws/show/1602-19>

<sup>18</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=58194](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58194)

<sup>19</sup> Resolutions were endorsed that set the amount of prepayment for the development of engineering facilities in areas adjacent to the Anti-Terrorist Operation zone and the Autonomous Republic of Crimea, regulated administrative and other issues

<sup>20</sup> <http://zakon2.rada.gov.ua/laws/show/1035-2015-%D0%BF>

		A restrictions on the transportation of goods across the border with Russian-annexed Crimea. <sup>21</sup>
2 July 2014	The Cabinet resolution No. 234 "On the Approval of the Procedure for Payment of Pensions and Provision of Social Services to Ukrainian Citizens Living in the Autonomous Republic of Crimea and the City of Sevastopol" <sup>22</sup>	The resolution sets up a mechanism for paying pensions and providing social services to Ukrainian citizens who reside in the Autonomous Republic of Crimea and the city of Sevastopol and who do not receive pensions and social services from the Pension Fund of the Russian Federation or other ministries and agencies that provide pensions in Russia. The document provides for the right to make inquiries to the Russian Federation, which may endanger residents of Crimea.
6 April 2016	The Cabinet resolution No. 263 "On the Temporary Closure of Sea Fishing Ports"	The resolution provides for the closure of the Kerch and Sevastopol sea fishing ports within designated water areas. This decision was made due to the impossibility of servicing vessels and passengers in the sea fishing ports of the Autonomous Republic of Crimea and the city of Sevastopol, carrying out cargo, transportation, forwarding and other related economic activities, ensuring an adequate level of navigation safety and environmental protection.
	The Cabinet resolution "On the Approval of the Action Plan for the Implementation of the National Human Rights Strategy for the Period until 2020	

## 1.2 The response of the international community to the occupation of the Crimean peninsula

This Section identifies the key issues of the international community's response to the illegal occupation of the Crimean peninsula by the Russian Federation, positions of the parties, the main resolutions, terms and definitions.

The response to Russian aggression in Crimea from the international community was complicated, and comprised several components. From the first days of aggression of the Russian Federation in the east of Ukraine, the international community has clearly stated its position on the inadmissibility of such actions. Authoritative international organisations and influential countries condemned the conduct of the illegitimate referendum in Crimea, failed to recognise its results, and supported the territorial integrity of Ukraine.

Statements by foreign leaders and resolutions by international organisations were reinforced by the introduction of individual sanctions against those involved in violating the territorial

<sup>21</sup> <http://www.reyestr.court.gov.ua/Review/65313514>

<sup>22</sup> <http://zakon2.rada.gov.ua/laws/show/234-2014-%D0%BF%20%D0%B8>

integrity of Ukraine. Later, in order to intensify pressure on the Russian Federation, targeted economic sanctions were imposed that restricted economic relations of Western governments and businesses with the occupied peninsula, as well as economic cooperation with the Russian Federation in several sectors. The imposition of international sanctions by the UN was blocked by Russia, which is a permanent member of the UN Security Council, and, accordingly, has the right to veto decisions in this important international organisation.

The third element of the action strategy was the suspension or termination of cooperation with the Russian Federation in some important areas, such as, for instance, participation in the G-8, negotiations on visa liberalisation and a new agreement with the European Union, curtailment of natural gas purchases, limited cooperation with NATO, etc. The Russian Federation was also warned about the further deterioration of relations if it continues aggressive policy. At the same time, the West demonstrates its interest in resuming relations with Russia, provided that some requirements are met.

Western countries have expressed their political support to Ukraine and its intentions to carry out reforms. Despite the demands of the Russian Federation, the Association Agreement between Ukraine and the European Union was signed in Brussels on 21 March 2014 and 27 June 2014, and it came into force on 1 September 2017. Ukraine also received financial, advisory, and technical assistance from European institutions and many Western democracies. In particular, the United Kingdom assists Ukraine in implementing military reforms and in the development of a strategic communications system, while others contribute to the development of democracy and the rule of law, help restore the destroyed infrastructure facilities, and solve the problems of IDPs. Some European countries and the United States provided the Ukrainian government with non-lethal military assistance. Later, the United States agreed to provide lethal weapons to the Ukrainian Army in order to deter the aggressor, and, if necessary, more effectively deflect aggressive actions of the enemy.

In accordance with the rules of international law, mentioned in Chapter VI of the UN Charter,<sup>23</sup> Western countries and international organisations have also called on Russia and Ukraine to peacefully resolve the conflict, and some of them, such as Germany, France, and the United States, as well as the OSCE have taken on the role of intermediaries in the negotiations. Although the Crimean issue does not appear either in the Normandy format, nor in the Minsk talks, it still remains on the international agenda. A lot of efforts are being made by the Foreign Ministry, the Justice Ministry, the Ministry of Information Policy of Ukraine, the Ukrainian PACE delegation, the Ukrainian human rights community, and other representatives of Ukraine on the international scene.

A response from Western countries to Russian aggression clearly demonstrates that since the first days of Crimea's occupation by the Russian Federation, the high-ranking Western politicians had a clear understanding of the nature of the events and their perpetrators. Assessments of the effectiveness of such policy vary, but it is quite obvious that, despite calls for a peaceful settlement of the conflict in the territory of Ukraine, the attitude to its parties has been and remains different from the very start. While actions of the Russian Federation were subjected to condemnation and pressure on Russia, Ukraine received and continues to receive significant support from the international community.

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<sup>23</sup> <http://www.un.org/ru/sections/un-charter/chapter-vi/index.html>



# 1.3. Major international resolutions and decisions

Major international resolutions and decisions	
3 March 2014	<b>The EU's Foreign Affairs Council</b> has condemned the clear violation of Ukraine's sovereignty and territorial integrity by acts of aggression by the Russian armed forces as well as the permission for the use of the Russian armed forces on the territory of Ukraine given by the Federation Council of Russia to the President Vladimir Putin on 1 March. The EU countries members of the G8 have decided to suspend for the time being their participation in activities associated with the preparations for the G8 Summit. The Council stated that in the absence of de-escalating steps by Russia, the EU shall decide about consequences for bilateral relations between the EU and Russia. <sup>24</sup>
7 March 2014	<b>A UN Security Council</b> official told reporters that following consultations convened upon Russia's initiative, the Security Council concluded on the illegality of the referendum on the status of Crimea scheduled for 16 March 2014. <sup>25</sup> At the same time, no official decision by the UN Security Council was made on this matter.
21 March 2014	The European Commission for Democracy through Law, known as the <b>Venice Commission</b> , has recognised the referendum in the Autonomous Republic of Crimea illegal and incompatible with the Constitution of Ukraine, the rules of international law, and European constitutional principles. The Venice Commission criticised the issues put to the referendum, and said that the period of only 10 days between the decision to call the referendum and the referendum itself is excessively short. <sup>26</sup>
27 March 2014	<b>The United Nations General Assembly</b> has approved the Resolution 68/262 entitled "Territorial Integrity of Ukraine". By a vote of 100 in favour to 11 against, with 58 abstentions, the Assembly calls on all States, international organisations and specialised agencies not to recognise any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the 16 March referendum, and refrain from any action or dealing that might be interpreted as recognising any such altered status. <sup>27</sup> Such decisions are usually made by the UN Security Council. The Resolution on Ukraine was passed by the UN General Assembly, because the Russian Federation, as a permanent member of the Security Council with the veto right, had vetoed on 15 March the Resolution by the Security Council that called on other countries not to recognise the results of the de facto referendum in Crimea. <sup>28</sup>
17 April 2014	<b>The European Parliament</b> has adopted the Resolution 2014/2699(RSP) "On Russian Pressure on Eastern Partnership Countries and in Particular Destabilisation of Eastern Ukraine". <sup>29</sup> The document looks upon Russia's acts of aggression as a grave violation of international law and its own international obligations; emphasises that an illegal and illegitimate referendum in the Autonomous Republic of Crimea and the city of Sevastopol was conducted under the control of Russian troops; and underscores that pro-Russian separatists, led in most cases by Russian special forces, stormed local administration buildings in the east of the country. The Resolution

<sup>24</sup> <http://www.consilium.europa.eu/en/meetings/fac/2014/03/03/>

<sup>25</sup> <https://www.kyivpost.com/article/content/ukraine-politics/un-security-council-deems-crimean-status-referendum-illegal-338673.html>

<sup>26</sup> [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)002-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)002-e)

<sup>27</sup> <http://www.un.org/apps/news/story.asp?NewsID=47443#.WmPdZ6iWbIU>

<sup>28</sup> <http://www.un.org/apps/news/story.asp?NewsID=47362#.WmPbCKiWbIU>

<sup>29</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0457+0+DOC+XML+V0//EN>

	also calls for the imposition of economic, trade and financial restrictions in respect of Crimea and its separatist leadership; and reiterates its concern over the fate of the Tatar community in Crimea, and the safety and access to rights of persons belonging to the Ukrainian-speaking community in Crimea.
<b>2 July 2014</b>	<b>The OSCE Parliamentary Assembly</b> has approved the Baku Final Declaration <sup>30</sup> , which, among other things, concludes that actions of the Russian Federation has, since February 2014, violated every one of the ten Helsinki principles in its relations with Ukraine, some in a clear, gross and thus far uncorrected manner, and is in violation with the commitments it undertook in the Budapest Memorandum, as well as other international obligations. The Declaration considers these actions, which include military aggression as well as various forms of coercion designed to subordinate the rights inherent in Ukraine's sovereignty to the Russian Federation's own interests, to have been unprovoked, and to be based on completely unfounded premises and pretexts. The document expresses unequivocal support for the sovereignty, political independence, unity and territorial integrity of Ukraine, and views the referendum in Crimea as an illegitimate and illegal act, the results of which have no validity whatsoever. Besides, the Declaration affirms the right of Ukraine and all participating States to belong, or not to belong, to international organisations, to be or not to be a party to bilateral or multilateral treaties, including the right to be or not to be a party to treaties of alliance, or to neutrality.
<b>27 January 2015</b>	<b>The Parliamentary Assembly of the Council of Europe</b> has adopted the Resolution 2028 (2015) "The Humanitarian Situation of Ukrainian Refugees and Displaced Persons." <sup>31</sup> In the document, the Parliamentary Assembly says that particularly disturbing is the direct involvement of the Russian Federation in the emergence and worsening of the situation in some parts of the Donetsk and Luhansk regions of Ukraine. Among other things, the Assembly deplores the deterioration of the human rights situation in Crimea, in particular, the intimidation, harassment, and discrimination of the ethnic Ukrainian and Crimean Tatar populations. The Assembly calls on the Russian Federation to refrain from destabilising Ukraine and financing and providing military support to illegal armed groups.
<b>26 June 2015</b>	<b>The Parliamentary Assembly of the Council of Europe</b> has approved the Resolution 2067 (2015) "Missing Persons during the Conflict in Ukraine." <sup>32</sup> It says that since the beginning of the Russian aggression in Ukraine, in early 2014, more than 1,300 persons have been reported missing. The Assembly further urges authorities of the Russian Federation to release all prisoners illegally captured in Ukrainian territory.
<b>4 February 2016</b>	<b>The European Parliament</b> has adopted the Resolution 2016/2556(RSP) titled "Human Rights Situation in Crimea, in Particular of the Crimean Tatars". <sup>33</sup> The document details and strongly condemns the unprecedented levels of human rights abuses perpetrated against Crimean residents, most notably Crimean Tatars, particularly after the annexation of the peninsula. It urges Russian and de facto local authorities to investigate effectively, impartially, and transparently all cases of disappearances, torture, and human rights abuses by the police and paramilitary forces; and put an end to repression against Crimean Tatars and Ukrainians who live in Crimea. The European Parliament also calls on Russia to start negotiations with Ukraine and other parties on the de-occupation of Crimea, lift trade and energy embargos, saying it will continue with anti-Russian sanctions until the completion of Crimea's full reintegration into the legal order of Ukraine.

<sup>30</sup> <https://www.oscepa.org/meetings/annual-sessions/2014-baku-annual-session/2014-baku-final-declaration/1850-06>

<sup>31</sup> <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=21480>

<sup>32</sup> <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=21970&lang=en>

<sup>33</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0043+0+DOC+XML+V0//EN>

<p><b>12 October 2016</b></p>	<p><b>The Parliamentary Assembly of the Council of Europe</b> has adopted the Resolution 2133 (2016) “Legal Remedies for Human Rights Violations on the Ukrainian Territories outside the Control of the Ukrainian Authorities”.<sup>34</sup> The Resolution documents the role and responsibility of the Russian military in Crimea and in the conflict zone in the Donbas region. In compliance with the document, the Russian Federation, which exercises de facto control over these territories, is responsible for the protection of their populations under international law., Russia must therefore guarantee the human rights of all inhabitants of Crimea and of the DPR and LPR. The document says that in accordance with reports of authoritative international and non-governmental organisations, there are signs of violations of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination by the Russian Federation in occupied Crimea as regards Crimean Tatars.</p>
<p><b>15 November 2016 and 19 December 2016</b></p>	<p>The Third Committee (Social, Humanitarian and Cultural) of the UN General Assembly has approved a draft resolution on the human rights situation in Crimea.<sup>35</sup> The Russian Federation is referred to as the state-occupier, while Crimea and the city of Sevastopol are recognised as the temporarily occupied territory. The Resolution mentions the norms of international law that the occupying country must comply with, and demands that Russia abide by them. On 19 December, the resolution was adopted by the vote of the UN General Assembly.</p>
<p><b>19 April 2017</b></p>	<p><b>The decision by the UN International Court</b> in the case Ukraine versus Russia over violation of the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention for the Suppression of the Financing of Terrorism. The court recognised prima facie jurisdiction (jurisdiction at first appearance) in relation to both Conventions. By its decision, the court partially satisfied Ukraine’s demands, urging to resume activities of the Mejlis of the Crimean Tatar People, previously unlawfully recognised as an “extremist organisation” and banned by occupation authorities, and to put an end to pressure on national minorities in Crimea. In addition, the court ordered Russia to resume the possibility of receiving education in Ukrainian, in particular, in Sevastopol. The court also ordered both Russia and Ukraine to avoid violations of the Convention on the Elimination of All Forms of Racial Discrimination for the duration of the trial. The preventive measures requested by Ukraine were not implemented under the second Convention, because, in the opinion of the court, Ukraine did not provide enough evidence of the deliberate transfer of funds to the so-called Donetsk People’s Republic (DPR) and Luhansk People’s Republic (LPR).</p>
<p><b>9 July 2017</b></p>	<p>At the summer session in Belarus, <b>the OSCE Parliamentary Assembly</b> has adopted the Minsk Declaration.<sup>36</sup> The document consists of 16 Resolutions on security in the OSCE region, armed conflicts, countering terrorism, energy security, death penalty, migration, and gender equality. The Resolution on “Restoration of the Sovereignty and Territorial Integrity of Ukraine,” proposed by the Ukrainian delegation, was an important result for the country. The document has been voted for right at the session, despite Russia’s protest. 91 members of the OSCE Parliamentary Assembly voted in favour of the Resolution. In the document, Russia is named as an occupying power and sponsor of terrorist activities in the Donbas. The Resolution also calls on the Russian Federation to return Donbas and Crimea to Ukraine.</p>
<p><b>14 November 2017 and 19 December 2017</b></p>	<p>At its meeting in New York, the Third Committee of <b>the UN General Assembly</b> has approved an updated draft of the resolution on the human rights situation in annexed Crimea.<sup>37</sup> As a result of voting, 71 countries favoured the adoption of the document, 25 were against, and 77 abstained. Among those who voted against were Belarus,</p>

<sup>34</sup> <https://goo.gl/TY432L>

<sup>35</sup> <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N16/352/57/PDF/N1635257.pdf?OpenElement>

<sup>36</sup> <https://www.oscepa.org/documents/all-documents/annual-sessions/2017-minsk/declaration-25/3555-declaration-minsk-eng/file>

<sup>37</sup> <https://undocs.org/ru/A/C.3/72/L.42>

	Venezuela, North Korea, and a number of other countries. The draft resolution, among other things, demands that Russia comply with the decision by the UN International Court of Justice on lifting the ban on activities of the Mejlis of the Crimean Tatar People, stresses the need to give international organisations unimpeded access to the occupied peninsula, and ensure instruction in the Ukrainian and Crimean Tatar languages in Crimean educational institutions. On 19 December, the UN General Assembly finally adopted the document by a majority vote.
<b>4 December 2017</b>	<b>The International Criminal Court</b> has delivered a legal opinion on the international conflict between Russia and Ukraine. In paragraph 94 of the 2017 report on the preliminary examination of the situation in Ukraine, <sup>38</sup> it suggested the existence of an international armed conflict in eastern Ukraine from 14 July 2014 at the latest, in parallel to the non-international armed conflict.
<b>23 January 2018</b>	<b>The Parliamentary Assembly of the Council of Europe</b> has adopted the Resolution 2198 (2018) "Humanitarian Consequences of the War in Ukraine," <sup>39</sup> in which the Assembly says that it is alarmed by the humanitarian situation being a consequence of the ongoing Russian war against Ukraine, which is taking place in certain areas of the Donetsk and Luhansk regions, and of the occupation and attempted annexation of Crimea by the Russian Federation. The Assembly regrets that no significant progress has been achieved on the exchange and liberation of captured persons during the war in Ukraine. The process of exchange of captured persons has been highly politicised and blocked by the representatives of illegal armed groups of the Donetsk and Luhansk regions in the humanitarian subgroup of the Minsk Trilateral Contact Group on Ukraine. The Assembly expresses its regret that the Russian Federation continues to ignore the Resolution 2133 (2016) "Legal Remedies for Human Rights Violations on the Ukrainian Territories outside the Control of the Ukrainian Authorities" and has not implemented any of the requests to Russian authorities made therein. The Assembly strongly condemns the Russian policy of shifting the demographic composition of the population of illegally annexed Crimea by forcing the pro-Ukrainian population and, in particular, Crimean Tatars to leave their homeland, while at the same time increasing migration of the Russian population to the peninsula. The Assembly calls on Russian and Ukrainian authorities to take urgent measures for the peaceful settlement of the conflict. The Assembly calls on the international community to convene an international humanitarian conference on Ukraine to raise funding for the humanitarian relief plan and devise strategies for the coordination of humanitarian assistance.

A brief overview of the resolutions and decisions taken by various international organisations and international courts clearly shows that since the very start of the Russian occupation of Crimea, the international community undoubtedly understood who is the aggressor and who violated the territorial integrity of Ukraine. For some time, it was considered that the conflict in the east was purely internal, but when the Russian intervention became more apparent and bold, this attitude changed. The position of the international community on the need for Crimea's liberation from the occupation remains unchanged, but the demands of the occupier are increasing. At the same time, it is impossible to make the occupier free the territory of another country only by means of political statements, therefore, a number of restrictive measures were also imposed by Western countries on individuals and legal entities of the occupying country, so as to exert pressure on the Russian Federation.

<sup>38</sup> The Office of the Prosecutor of the International Criminal Court: [https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE-UKRAINE\\_RUS.pdf](https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE-UKRAINE_RUS.pdf)

<sup>39</sup> <https://goo.gl/kMx9uL>

## 2. MONITORING ACTIVITIES, MONITORING OF VIOLATIONS OF THE RIGHTS AND FREEDOMS OF UKRAINIAN CITIZENS LIVING IN THE TEMPORARILY OCCUPIED TERRITORY OF THE AUTONOMOUS REPUBLIC OF CRIMEA AND SEVASTOPOL

Having faced the problem of the occupation of several regions by the Russian Federation in 2014, Ukraine started to carry out two conceptually different projects for their de-occupation and the restoration of sovereignty — political-military and political-legal. The first approach is being implemented in the non-government controlled areas of the Donetsk and Luhansk regions, and implies military actions of the Armed Forces and the National Guard against the united Russian separatist troops in combination with the diplomatic, international economic pressure on the Russian Federation as the organiser of the puppet separatist regimes in ORDLO (occupied areas of the Donetsk and Luhansk regions) and the supplier of weapons and insurgents there. It should be noted that under the de-occupation project in ORDLO, the issue of human rights and freedoms is practically not raised, since the puppet regimes in ORDLO have long proved that they operate beyond the international standards of human and civil rights and freedoms.

The situation with the restoration of Ukraine's state sovereignty in Crimea is much more complicated. Ukraine is not yet ready for an 'active' stage of returning the peninsula under its jurisdiction. Ukraine has achieved only the imposition of international economic sanctions on the Russian Federation as a result of the occupation. Hence, competencies of Ukrainian public authorities concerning Crimea are very limited. Without regard to the work with Crimean IDPs, control of the regime of entry-exit to and from the territory of Russian-annexed Crimea and movement of goods across the Crimean-Ukraine administrative border, the main function of Ukrainian authorities regarding the occupied territory of the Crimean peninsula could be defined as **monitoring**, that is to say, keeping a close watch on the situation in Crimea and Sevastopol.

Analysis of the regulatory framework for activities of Ukrainian authorities, the object of which is the temporarily occupied territory of the Autonomous Republic of Crimea and Sevastopol, allows distinguishing the following areas of monitoring:

- 1) monitoring of the observance of the rights and freedoms of Ukrainian citizens who reside in the temporarily occupied territory and those who enter Crimea and Sevastopol;
- 2) monitoring of the economic activity of public authorities, enterprises, institutions, and organisations of the occupying state located in the temporarily occupied territory, acquisition of income in the temporarily occupied territory, including that from activities of state-run and municipal enterprises and Ukrainian businesses of other forms of ownership (according to the

Prosecutor General's Office of the Autonomous Republic of Crimea, the number of such enterprises exceeds 4,000);

3) monitoring of exploitation of land and natural resources formerly owned by Ukraine by occupation authorities in the territory of the Crimean peninsula;

4) monitoring of the presence and redeployment of Russian occupation troops in the territory of the Russian-occupied Autonomous Republic of Crimea and Sevastopol;

5) monitoring of the misuse and destruction of the cultural heritage of Ukraine in the occupied territory;

6) monitoring of the economic activity of businesses registered in the EU, the US, and other countries that imposed economic anti-Russian sanctions in connection with the occupation of the peninsula.

**The key function** in relation to the occupied territory of Crimea is to protect the human and civil rights and freedoms of Ukrainian citizens under the occupation, and involve the international community in this process. The establishment of facts of violation of the rights and freedoms of citizens in Crimea is also an additional argument for Western countries to pursue a consistent policy of pressure on Russia through economic sanctions, since violations of human and civil rights and freedoms are very painfully perceived by the EU and US public (it has to be mentioned that the EU Council is currently considers the extension of certain sectoral sanctions against the Russian Federation every six months).

In the authors' opinion, each of the said areas of competence should include if not an exhaustive list of authorities' functions, then, at least, a rather specific list of their responsibilities.

Specifically, according to its Regulations, the Ministry of Temporarily Occupied Territories and Internally Displaced Persons "collects and systematises information on the facts of violation of the rights of Ukrainian citizens." The above wording does not give a clear idea of administrative actions, and a procedure for their implementation by the Ministry. This means that the Ministry can carry out monitoring unsystematically, having no clear algorithm of work. In the authors' opinion, at the by-laws level (decisions by the National Security and Defence Council, presidential decrees, resolutions by the Cabinet of Ministers of Ukraine), the rights of citizens established by the Constitution and laws of Ukraine and international legal acts whose violation is monitored by authorities must be detailed as follows: 1) property rights, civil rights of citizens; 2) the right to freedom of speech; 3) national, language, and cultural rights, including the right to education in the native language, etc.; 4) the right to retain citizenship of Ukraine; 5) the right not to serve in occupation forces, and the like.

In the authors' opinion, the issue of violations of civil and property rights of Ukrainians in the occupied territory is taking on particular importance.

Needless to say, a register of rights and freedoms that are violated in the temporarily occupied territories should be compiled based on the list of Ukrainian and international legal acts, which regulate:

1) human and citizens' rights and freedoms;

2) rights and freedoms of Ukrainian citizens;

3) rights and freedoms of people staying (residing) in the occupied territory.

In the authors' opinion, it is expedient that authorities and officials who carry out monitoring should be guided by an exemplary list of international legal acts and legislative acts of Ukraine detailing the rights and freedoms of Ukrainian citizens in the occupied territory.

**The subject of monitoring** could be actions or inactions of central authorities, municipal bodies of the Russian Federation as the state-occupier that restrict or terminate the rights and freedoms, established by Ukraine's legislation and international legal acts, of Ukrainian citizens living or staying in the territory of Crimea and the city of Sevastopol.

**The object of monitoring should be:**

1) drafts of normative legal acts, normative legal acts of public authorities of the Russian Federation containing norms that restrict or terminate the rights and freedoms of Ukrainian citizens living or staying in the territory of Crimea and in the city of Sevastopol; 2) actions of bodies and officials, first of all, law enforcement agencies of the Russian Federation regarding activists, other citizens of Ukraine; 3) court decisions regarding Ukrainian citizens residing in the territory of Russian-occupied Crimea and Sevastopol; 4) public statements by officials of Russian occupation authorities on the Crimean peninsula, which endanger the rights and freedoms of citizens of Ukraine living under the occupation; 5) statements by citizens of Ukraine residing in the occupied territory of Crimea regarding violations of their rights and freedoms by occupation authorities, commission of acts of violence, etc.; 6) statements by NGOs representing the interests of Ukrainian citizens living in the occupied territory of the Autonomous Republic of Crimea and Sevastopol, Russian and international human rights organisations, and other institutions dealing with violations of the rights and freedoms of Ukrainian citizens; 7) publications in the media, reports on Internet forums, and on social networks, which contain information about violations of the rights and freedoms of Ukrainian citizens in the occupied territory of the Crimean peninsula, and the like.

The novelty of the aforementioned monitoring should be not only recording violations of the rights and freedoms of citizens, but also establishing those guilty in such offenses — officials and employees of central and municipal authorities of the Russian Federation, occupation authorities in Crimea and Sevastopol, communal and state-run businesses, etc.

**The main forms of obtaining information** necessary to monitor the rights and freedoms of Ukrainian citizens living or staying in the territory of Crimea and the city of Sevastopol obviously incorporate:

- 1) content analysis of official Internet resources, printed official publications of public authorities, in which the acts of public authorities of the Russian Federation, including the Russian-installed bodies of Crimea, and information on their activities are published;
- 2) content analysis of mass media (printed and electronic) and news agencies covering the political and social life of Crimea (Ukrainian mass media, Russian mass media, including occupational news outlets, foreign media);
- 3) information messages on Internet forums, on social networks, and in website groups. It is recommended that monitoring authorities have special networking software that would allow them to automatically monitor such communication on the web;
- 4) conclusion of agreements with representatives of mass media of foreign publications and news agencies to feature media pieces about violations of the rights and freedoms of citizens in the Autonomous Republic of Crimea and Sevastopol;
- 5) conclusion of cooperation agreements with international organisations monitoring the human rights protection in the occupied territory of the Crimean peninsula for the provision of relevant information;
- 6) personal reception of citizens of Ukraine residing in the territory of occupied Crimea and Sevastopol;

7) sociological researches (surveys, questionnaires, interviews) with persons coming in mainland Ukraine from the occupied peninsula;

8) information from other public authorities of Ukraine in the form of information sharing, etc.

Most likely, for the effective work with information obtained on the basis of the monitoring results, violations of the rights and freedoms of citizens in the occupied territory of the Crimean peninsula should be documented. In the authors' opinion, verification and documentation of the above-mentioned facts should become one of the priorities of monitoring activities.

Documentation should include:

- applications, complaints of persons whose rights and freedoms were violated in the occupied territory;
- video and photo fixing, confirming violations of the rights and freedoms of citizens;
- screenshots of messages on the Internet, social networks, publications of print media, etc.

The systematisation and "profiling" of specific violations should be yet another direction in enhancing monitoring of the rights and freedoms of citizens in the occupied territory. In particular, on 27 September 2017, a notice has been made available on the website of the Ministry of Temporarily Occupied Territories and Internally Displaced Persons in connection with the decision of the occupation authorities of Crimea in the case of the Mejlis Deputy Chairman, Ilmi Umerov. However, systematic information about the content of this case and its history is absent on the site. That is why it is expedient to create a separate section "Violations of the Rights and Freedoms of Ukrainian Citizens in Occupied Crimea and Sevastopol" on the website of the Ministry of Temporarily Occupied Territories and Internally Displaced Persons featuring specific cases of such violations committed by occupation authorities.

In the authors' opinion, the formalisation of responses to the monitoring results is relevant. In particular, it is necessary to introduce into corresponding documents provisions on bodies, on job descriptions of officials, and on directions of responding to violations of the rights and freedoms of citizens:

- 1) taking measures for legal assistance to citizens of Ukraine, their relatives who stay/reside in the occupied territory and whose rights are violated. This includes judicial assistance, and appeals to the European Court of Human Rights;
- 2) informing (sending) representatives of international human rights organisations and foreign journalists operating in occupied Crimea, so as to draw attention to violations of the rights and freedoms of citizens in the occupied territory;
- 3) initiating consideration of violations of the rights of Ukrainian citizens in the occupied territory by international organisations and the adoption of relevant documents (OSCE, Council of Europe, United Nations Organisation).

When it comes for the organisational support for monitoring of violations of the rights and freedoms of citizens in the occupied territory of the Crimean peninsula, it is currently possible to speak about its discrepancy with the reality, functional imbalance, duplication, etc. First of all, the authors would like to note that there are several bodies responsible for the aforementioned type of monitoring.

Paragraph 5, Article 5 of the law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and on the Legal Regime on the Temporarily Occupied Territory of Ukraine" governs: **"The Cab-**



**inet of Ministers of Ukraine** performs constant monitoring of the rights and freedoms of a human being and a citizen on the temporarily occupied territory, and according to the results of which it publishes and provides the relevant information to the international organisations in the sphere of protection of the rights and freedoms of a human being and a citizen and takes appropriate actions.” The same Article says that **the Ukrainian Parliament Commissioner for Human Rights** “performs under the law the parliamentary control over the observance of constitutional rights and freedoms of a human being and a citizen on the temporarily occupied territory.”

In accordance with its Regulation, **the Ministry of Temporarily Occupied Territories and Internally Displaced Persons of Ukraine is responsible for:** 1) monitoring the state of observance of human and civil rights and freedoms in the temporarily occupied territory of Ukraine; 2) taking measures to protect the rights and legitimate interests of persons, violated as a result of the temporary occupation of part of the territory of Ukraine; 3) collecting and systematising information on violations of the rights of Ukrainian citizens in the temporarily occupied territory of Ukraine. By the way, analysis of news on the website of the Ministry of Temporarily Occupied Territories and Internally Displaced Persons indicates that the Ministry inadequately performs these monitoring functions. Specifically, the results of monitoring of violation of the rights and freedoms of citizens in occupied Crimea in October–December 2017 are not available on the site.

According to the presidential decree “On Issues of Representation of the President of Ukraine in the Autonomous Republic of Crimea,” “In order to ensure the observance of the constitutional rights and freedoms of Ukrainian citizens residing in the temporarily occupied territory,” among the responsibilities of **the Representative Office of the President of Ukraine in the Autonomous Republic of Crimea**, are to enhance activities “on promoting the observance of human and civil rights and freedoms, stipulated by the Constitution and laws of Ukraine, and international treaties, in relation to citizens of Ukraine residing in the temporarily occupied territory...”

Also, the post of **the Authorised Representative of the President of Ukraine on Crimean Tatar Affairs** is currently set up under the President of Ukraine. In accordance with the presidential decree “On the Regulations on the Authorised Representative of the President of Ukraine on Crimean Tatar Affairs,” some of his powers include “monitoring of compliance with the constitutional rights of the Crimean Tatar people in Ukraine.”

According to the nature of monitoring activities, it is the Prosecutor General’s Office of the Autonomous Republic of Crimea and the Office of the Security Service of Ukraine (SBU) in the Autonomous Republic of Crimea that conduct monitoring of the observance of the rights and freedoms of Ukrainian citizens living or staying in the territory of Crimea and the city of Sevastopol.

As is obvious, today there are many bodies that monitor, to a certain extent, the observance of the rights and freedoms of Ukrainian citizens living under the occupation. Anecdotal evidence suggests that they use the same sources, with the exception of the SBU that obviously possesses its own information security system.

In order to eliminate grounds for duplication of powers, it is necessary to simplify the organisational structure of the occupied territories. In particular, it is recommended to repeal the law “On the Representative Office of the President of Ukraine in the Autonomous Republic of Crimea.” It is expedient to transfer its territorial functions to the Ministry of Temporarily Occupied Territories and Internally Displaced Persons, with location in Ukraine’s Kherson region. It

is also appropriate to remove the monitoring function from the Cabinet of Ministers of Ukraine, as well as the preparation of an annual report on the human rights situation in the occupied territory and hand it over to the Ministry of Temporarily Occupied Territories and Internally Displaced Persons. In actual fact, it is the Ministry of Temporarily Occupied Territories and Internally Displaced Persons that should become the main body in the implementation of the said monitoring.

Another direction of organisational improvement of monitoring of violations of the rights and freedoms of Ukrainian citizens in the occupied territory of Crimea is a clear procedure for the exchange of information between authorities who deal with issues relating to the occupied territories — the Ministry of Temporarily Occupied Territories and Internally Displaced Persons of Ukraine, the Ukrainian Parliament Commissioner for Human Rights, the bodies of the SBU, and the Prosecutor General's Office (PGO). In addition, it is recommended that the results of monitoring of violations of the rights and freedoms of citizens in the occupied territory of Crimea be considered from time to time (every three months as an option) at a meeting of the National Security and Defence Council, and reported to the Foreign Minister and the President of Ukraine for appropriate response.

Based on the above, the improvement of activities of central authorities in monitoring violations of the rights and freedoms of citizens in Russian-occupied Crimea should include:

- 1) establishment of clear criteria (parameters) of monitoring, compilation of an exemplary list of the rights and freedoms whose violations are monitored;
- 2) improvement of the organisational basis for monitoring — liquidation of some authorities, redistribution of their competencies and responsibilities, creation of territorial bodies in close proximity to the occupied territory, introduction of an information exchange system (as an option — electronic interaction) to report violations of the rights and freedoms of citizens in Crimea;
- 3) development of typical algorithms for responding to each violation of the rights and freedoms of citizens during the occupation.

## 2.1. Monitoring areas

According to Article 5 of the 2014 law of Ukraine “On Ensuring the Rights and Freedoms of Citizens and on the Legal Regime on the Temporarily Occupied Territory of Ukraine”:<sup>40</sup>

1. “Ukraine takes all necessary measures to guarantee all citizens of Ukraine residing in the temporarily occupied territory the rights and freedoms of a person and a citizen stipulated by the Constitution, the laws of Ukraine and the international treaties.
2. Ukraine commits to maintain and provide economic, financial, political, social, informational, cultural and other relations with the citizens of Ukraine residing on the temporarily occupied territory.

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<sup>40</sup> The law of Ukraine “On Ensuring the Rights and Freedoms of Citizens and on the Legal Regime on the Temporarily Occupied Territory of Ukraine,” <http://zakon0.rada.gov.ua/laws/show/1207-18/page>

3. Responsibility for violations of the rights and freedoms of a human being and a citizen defined by the Constitution and laws of Ukraine on the temporarily occupied territory is placed upon the Russian Federation as the state-occupier in accordance with the norms and principles of international law.”

The law establishes a legal framework for carrying out ongoing monitoring by Ukraine regarding the observance of human and civil rights and freedoms in the temporarily occupied territory.

In particular, “the Cabinet of Ministers of Ukraine performs constant monitoring of the observance of the rights and freedoms of a human being and a citizen on the temporarily occupied territory, and according to the results of which it publishes and provides the relevant information to the international organisations in the field of protection of the rights and freedoms of a human being and a citizen and takes appropriate actions.”

“The Ukrainian Parliament Commissioner for Human Rights performs under the law the parliamentary control over the observance of constitutional rights and freedoms of a human being and a citizen on the temporarily occupied territory.”

Some authorities are engaged in a number of activities in order to hold Russia internationally responsible for the illegal occupation and the attempted annexation of Crimea and Sevastopol, as well as for abuses of human and civil rights of the Crimean population, including:

- Ensure the legal recognition of Russia as an aggressor state by international actors, primarily by the UN, the EU and NATO;
- Carry out negotiations and other non-curial activities to settle disputes with Russia under the International Convention for the Suppression of the Financing of Terrorism of 1999, the Convention on the Elimination of All Forms of Racial Discrimination of 1965, and the United Nations Convention on the Law of the Sea (UNCLOS) of 1982;
- In case of impossibility of resolving disputes with the Russian Federation in a negotiated manner — resolve the issue of their transfer to international judicial institutions;
- Hold Russia legally responsible at the international level under the said Conventions and provide compensation for damage caused as a result of its military aggression and the occupation of Crimea and Sevastopol;
- Participate in disputes between Ukrainian investors and the government of the Russian Federation under the Agreement between the Government of Ukraine and the Government of the Russian Federation on the Promotion and Mutual Protection of Investments as of 1998;
- Assist relevant central executive authorities (CEAs) in the preparation and maintenance of interstate, individual, and collective lawsuits against the Russian Federation in the European Court of Human Rights (ECHR);
- Interact with Ukraine’s international partners regarding the complex and systematic condemnation of the introduction by the Russian Federation of a mechanism for selective non-enforcement of ECHR’s rulings;
- Create mechanisms for monitoring the human rights situation in Russian-occupied Crimea by the Council of Europe, OSCE, UN, UNESCO, and international human rights organisations in accordance with the current legal standards, including through the use of conventional and institutional monitoring mechanisms of international

organisations to supervise the human rights situation in the Autonomous Republic of Crimea;

- Carry out monitoring and take necessary measures concerning the preservation of the tangible and intangible cultural heritage in Crimea; such activities may include monitoring of illegal excavations in Crimea, movement of artefacts and exhibits, and “restoration works”;
- Take measures aimed at ensuring the regular sending of monitoring missions and their access to the territory of occupied Crimea;
- Foster the approval of resolutions/statements by the governing bodies of international organisations on the condemnation of human rights violations by Crimean occupation authorities;
- Solve a complex of problems related to the reintegration of individuals and legal entities residing in the temporarily occupied territory into the legal order of Ukraine;
- Guarantee (in cooperation with other relevant CEAs) the rights and interests of Ukrainian citizens, illegally imprisoned in the Autonomous Republic of Crimea;
- Tackle problems of Ukrainian citizens, caused by the special procedure for entering and leaving the temporarily occupied territory of Ukraine;
- Analyse and examine ways of possible simplification of the procedure for registration of acts of civil status, passport and citizenship documents.

## 2.2. The format of consultations with the public

Monitoring in the field of protection and observance of human and civil rights and freedoms could be carried out through:

- Collection of information on human rights violations, and international sanctions from open sources (media outlets);
- Cooperation with NGOs and initiatives that provide information on systematic human rights abuses to authorities, international institutions, and the media;
- When monitoring and collecting relevant data, it is important to verify them by finding initial sources of information, and checking statistics.

Communication and consultations with the public and non-governmental organisations, which will make it possible to discuss certain decisions, improve procedures, and identify the needs of citizens, are important (problems of Ukrainian citizens living in Crimea in relation to educational issues, documents, etc.)

The formats of such ongoing public consultations could be presented as:

1. Expert councils;
2. Working groups, expert groups, interagency working groups;

3. Specialised councils;
4. Advisory committees.

Consultations could be held in the following formats:

- Conferences, forums;
- Public hearings;
- Roundtable discussions;
- Assemblies, meetings with the public;
- TV or radio debates;
- Internet conferences;
- Online consultations;
- Studying public opinion through sociological polls and observations (surveys, questionnaires, content analysis of information materials, focus groups, etc.);
- Telephone hotlines;
- Online discussions.

## 2.3. Human rights in monitoring practice, the legal framework

Civil, political, human, and socio-economic rights of Ukrainian citizens residing in the territory of the temporarily occupied Autonomous Republic of Crimea are being systematically violated.

The Ukrainian government officially derogated in whole from its human rights obligations to Crimean residents, deferring to the responsibility of the Russian Federation to uphold their human rights, as an occupying power in effective control of the Crimean peninsula.<sup>41</sup> In that regard, the Fourth Geneva Convention applies to the Russian Federation's military occupation of Crimea, as with all cases of partial or total occupation of a foreign state's territory, "even if the said occupation meets no armed resistance," and "even if the state of war is not recognised by one of them." Hence, the Russian Federation as an occupying power has obligations to uphold the rights of Crimean residents under international human rights law, as well as under international humanitarian law.

In its turn, Ukraine is obliged to draw attention of the international community to issues of the human rights protection in Crimea.

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<sup>41</sup> The resolution by the Verkhovna Rada of Ukraine "On Ukraine's Departure from Some Commitments Set by the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms," <http://zakon2.rada.gov.ua/laws/show/462-19>

International organisations emphasise that both Ukraine and the Russian Federation are party to many of the same international human rights and humanitarian law treaties, which thus provide them with common binding standards of conduct and positive obligations toward residents of Crimea, including among others:<sup>42</sup>

- European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, or ECHR);
- Protocol 1 to the European Convention on Human Rights;
- Protocol 4 to the European Convention on Human Rights;
- Framework Convention for the Protection of National Minorities (FCNM);
- International Covenant on Civil and Political Rights (ICCPR);
- International Covenant on Economic, Social and Cultural Rights (ICESCR);
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
- UN Convention on the Rights of the Child (CRC);
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT);
- Fourth Geneva Convention;
- Additional Protocol I to the Geneva Conventions;
- Additional Protocol II to the Geneva Conventions.

In accordance with recommendations by international organisations, human rights monitoring includes active collection of information about a certain human rights issue, keeping track of events (elections, trials, protests, and the like), visits to detention centres and refugee camps, conduct of negotiations with authorities to receive information and take further proactive and other measures. Also, human rights monitoring includes evaluation, fact-finding, and other field activities.

## 2.4. The list of human rights violations

Under international treaties in the field of human rights and humanitarian law, Russia has infringed upon the following civil and political rights after the illegal occupation:

- The right to citizenship through involuntary acquisition of Russian citizenship;
- The right to justice and the right to a fair trial;
- The right to life
- The right to physical and mental integrity;
- The right to freedom and security;

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<sup>42</sup> The Report by the Human Rights Assessment Mission on Crimea (6-18 July 2015), <http://www.osce.org/uk/odhr/180606>

- The right to respect for private and family life;
- Enforced draft;
- The freedom of movement;
- The freedom of thought, consciousness and religion;
- The freedom of peaceful assembly;
- The freedom of expression and the freedom of the media, the right to hold opinions, and the freedom of access to information;
- The freedom of association;
- Economic, social and cultural rights, in particular
- Property rights;
- The right to preserve own identity, culture and traditions;
- The right to labour;
- The right to education in mother tongue;
- The right to health.

It should be noted that human and civil rights violations by the Russian Federation concern Crimean Tatars, ethnic Ukrainians, individuals, and organisations that do not show their loyalty to Russia and the illegal occupation of Crimea. These individuals and organisations are subjected to political pressure and politically charged prosecution.

Civil, political, economic, and social rights <sup>43</sup>	Brief overview of violations (based on reports from NGOs and international institutions)
The right to citizenship	<p>According to statistical data, 1,967,200 million people lived in Crimea in 2013 [13]</p> <p>After the occupation of the peninsula by the Russian Federation, Crimeans were forced to receive Russian citizenship. All citizens of Ukraine and stateless persons permanently residing in the territory of the peninsula (as evidenced by residence registration stamps in their passports) were automatically recognised as citizens of the Russian Federation.</p> <p>It was possible to surrender Russian citizenship. The possibilities were however limited, because the term was only 19 days. Specifically, there were only 2 centres at the Federal Migration Service as of 9 April 2014. On 19 April 2014, the Federal Migration Service reported that 3,247 permanent residents of Crimea had filed applications for the renunciation of their citizenship to automatically acquire citizenship of the Russian Federation.</p> <p>Persons with residence permits have limited rights. In particular, they cannot own agricultural land, vote, hold public actions, may experience problems with employment, provision of health care services, etc. Russian sources say that there are about 19,000 cases of surrender of Ukrainian citizenship. According to international organisations, the citizenship renouncers are mainly public officials. The Ukrainian government considers residents of Crimea to be citizens of Ukraine.</p>

<sup>43</sup> Data from reports by international and non-governmental organisations. The Crimean Human Rights Group, the report on "Encyclopaedia of Repressions in Crimea since Its Annexation by Russia," <http://krymsos.com/files/3/a/3a6275a-report-ua-new--1-.pdf>

Civil, political, economic, and social rights <sup>43</sup>	Brief overview of violations (based on reports from NGOs and international institutions)
The right to justice and the right to a fair trial	<p>The cases of intimidation of lawyers are recorded, courts do not take into account information about torture of persons in population centres outside control of the Ukrainian government; people were convicted for actions that they had committed prior to the coming into force of Russia's legislation in Crimea. As noted by human rights organisations, actions of some judges in Crimea are a political put-up job, because they render verdicts notwithstanding evidence.</p> <p>The Crimean Human Rights Group has released information, according to which, at least another 25 people were imprisoned for politically charged criminal cases in 2017 [14].</p> <p>Politically motivated administrative prosecution was recorded in 167 cases, and it is the most serious reason for repressions against the alleged dissidents.</p>
The right to life, freedom and security	<p>In February, March, and April 2014, 4 people were killed and 2 died during a rally against the illegal annexation of Crimea. In 2015, 2016, and 2017, there were other deaths and killings on the peninsula.</p> <p>Human rights organisations point to 15 deaths of civilians, with the involvement of de facto authorities, of which 7 are killings committed by state authorities of the Russian Federation, 5 are supposedly non-political murders as there was no effective investigation, and another 3 are suicides in protest at actions of occupation authorities ("Encyclopaedia of Repressions in Crimea since Its Annexation by Russia").</p> <p>As of early 2018, the Mejlis of the Crimean Tatar People has claimed that the number of political prisoners jailed in Russian-annexed Crimea exceeds 60 people.</p>
The right to physical and mental integrity	<p>Cases of violence against pro-Ukrainian activists were recorded in 2014, in particular, against those who did not support the annexation and occupation of Crimea by the so-called Crimean Self-Defence, legalised by self-proclaimed Crimean authorities. The measures taken by Russia's Federal Security Service (FSB) and the so-called Crimean police were politically charged. People were illegally detained on 'extremism' and 'terrorism' charges, and deprived of the right of privacy of communication and correspondence.</p> <p>Decisions were made regarding forced psychiatric examination. International organisations report about dozens of enforced disappearances in Crimea. 21 people went missing as of March 2014, some of whom were later found.</p> <p>Among the abducted were pro-Ukrainian activists and Maidan supporters, journalists, Crimean Tatars, former and current Ukrainian servicemen.</p> <p>KrymSOS human rights activists indicate that during the period of annexation, 44 people were victims of enforced disappearances, of whom 19 were later released, 16 are still not found and believed missing, 6 were found dead, 2 were found jailed and sentenced on political charges, and 1 was extradited.</p> <p>Since 27 February 2014, 149 cases of torture, inhuman treatment and punishment have been reported.</p>
The right to respect for private and family life	<p>International organisations report more than 150 searches, raids on private houses in search of "forbidden literature" and evidence of "extremist activity." These actions were carried out by Russian authorities in the format of intimidation, with the use of a large number of law enforcement officers. Victims complained about the "planted books and brochures" banned in the Russian Federation.</p> <p>Also, 38 Ukrainian citizens were put on the extremist list in the Russian Federation "in relation to whom there is information about their involvement in extremist activity or terrorism." According to the law</p>



Civil, political, economic, and social rights <sup>43</sup>	Brief overview of violations (based on reports from NGOs and international institutions)
	<p>of the Russian Federation “On Prevention of Financing of Terrorism” applicable in Crimea, bank accounts of these individuals are subject to ongoing monitoring, and most of their banking operations are suspended.</p> <p>In late 2017, the so-called Anti-Terrorism Commission has listed “extremist branches of Crimean Tatar and Ukrainian national separatism” among the main threats in Crimea.</p>
Enforced draft	<p>Since 2014, some 10,000 young Crimeans have been drafted to the Army of the Russian Federation, including around 5,000 in 2017. Thus far, according to official figures of the Russian Federation, 2,400 people were recruited in Crimea in autumn of 2017 alone, of whom 645 conscripts were sent to serve in military units stationed outside the peninsula.</p> <p>Moreover, the number of draftees has increased by 1,000 in 2017 as compared with the previous year. In 2017, at least 4 criminal cases have been launched over military service evasion: 2 in Simferopol, 1 in Sevastopol, and 1 in Yalta.</p>
The freedom of movement	<p>On 25 April 2014, the Russian Federation installed, contrary to all international agreements, a ‘border’ at the northern entrance to Crimea. Ukrainian activists and Crimean Tatars faced significant difficulties in border crossing, including persistent and long-lasting interrogations. Approximately 30 deportations of Ukrainian citizens were recorded. International organisations however indicate that this number could have been much higher.</p>
The freedom of thought, consciousness and religion	<p>Religious communities were to be re-registered in accordance with legislation of the Russian Federation. Otherwise, they were not able to conduct activities, or lease property. The re-registration in accordance with Russia’s legislation was completed on 1 January 2016. International organisations underscore a lack of transparency. Before the occupation, 2,083 religious organisations functioned in Crimea, and 137 — in Sevastopol, both with and without the legal entity status. As of 17 August 2017, 722 religious communities were registered in Crimea, and 96 in Sevastopol. Among them there are two largest religious organisations of the Orthodox and Muslim communities, various Protestant and Jewish confessions, Roman Catholic and Greek Catholic communities, and other religious groups. In April 2017, Jehovah’s Witnesses denomination was recognised illegal by a ruling by the Supreme Court of the Russian Federation.</p> <p>The Ukrainian Orthodox Church of the Kyiv Patriarchate (UOC KP) in Crimea, which failed to re-register in accordance with the requirements of the Russian Federation, came under attack. Since 2014, 5 UOC KP churches have been either seized by 23 armed units, or closed due to authorities’ failure to extend lease contracts.</p> <p>It is stated that all religious communities, including Christian churches independent of Moscow, face restrictions on their activities. The above difficulties are caused by a blanket restriction on the freedom of assembly, seizures, non-extension of documents, and regular searches in premises of religious organisations [17].</p>
The freedom of peaceful assembly	<p>The freedom of peaceful assembly has been actually limited since April 2014. Applications for holding peaceful public gatherings were rejected on formal grounds, or as a means to counteract extremism. Even the right to stage single pickets was restricted. In 2017, over 80 administrative cases have been opened against Crimean Tatar participants in single pickets, allegedly because of the absence of permission for their conduct and disobedience to police. Over 3 years, 256 people have been prosecuted and 268 sentences have been passed. 235 fines have been imposed for holding peaceful assemblies, totaling the equivalent of UAH 1,359,113.</p>

Civil, political, economic, and social rights <sup>43</sup>	Brief overview of violations (based on reports from NGOs and international institutions)
The freedom of expression and the freedom of the media	<p>In the words of the Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications, Roskomnadzor, the number of the media that were re-registered and authorised to continue broadcasting in Russia and Crimea totals 232, including 207 news outlets registered before the annexation and 25 accredited for the first time. This indicator is much lower compared with some 3,000 media previously registered in compliance with the Ukrainian law. On 9 March 2014, all Ukrainian TV channels, with the exception of Tonis, were switched off from analogue broadcasting network, and some of them were replaced by Russian ones. Although broadcasting of Ukrainian TV channels through cable networks lasted for several months, Black Sea TV, Inter, 1+1, 2+2, 5 channel, ICTV, New Channel, News 24, and Rada TV Channel were turned off on 29 June 2014. Since mid-2015, cable TV networks on the peninsula have not broadcast any TV channels registered in Ukraine. The vast majority of FM radio stations broadcasting in Crimea before the occupation were forced to leave the air because of the forced deprivation of radio frequencies. The news about a ban on some popular Ukrainian websites, including Censor, Novy Region (New Region), and Glavkom, first appeared in August 2014. In general, the blocking of websites for distributing unwanted information is a widespread practice in Russia. The Crimean Tatar ATR Channel stopped broadcasting on the territory of Crimea due to its refusal to re-register in Roskomnadzor on 1 April 2015. In addition to ATR, the Crimean Tatar Children's Channel Lale, Leader, and Meydan radio stations, which are part of the ATR Media Holding, ceased to broadcast. Out of 11 Crimean Tatar-language news outlets, only Holos Kryma (Voice of Crimea) newspaper received a license. Krymska Svitlytsia (Crimean Front Room) Ukrainian-language newspaper was driven out from the peninsula.</p>
The freedom of association	<p>1,814 NGOs have been registered in Crimea and Sevastopol as of 17 August 2017 compared to 4,090 in mid-March 2014. The reorganisation of NGOs was made impossible by the federal laws on foreign agents and on undesirable organisations. A number of NGOs left the peninsula under pressure from the Russian Federation.</p>
Property rights Nationalization of property	<p>In fact, the 'nationalisation' or expropriation of economically valuable assets took place in Crimea, often by means of force. On 27 February 2015, the Crimean Parliament passed the resolution No. 505-1/15, which suspended the process of nationalisation, and placed a ban on making further amendments to the aforementioned Annex, starting 1 March 2015. However, on 16 September 2015, this provision was amended: in particular, "in order to detail" the list, it was permitted to include in it land plots and some other items. International organisations note that since 28 August 2017, the above Annex that listed nationalised property and assets has been changed 56 times, and currently incorporates 4,618 'nationalised' state- and privately-owned real estate units. At that, the resolution neither set criteria for the nationalisation, nor required, in most cases, information about owners of the nationalised property. After March 2015, Ukrainian assets and property owned by the state or private entities were 'privatised.' The 'privatisation', announced by de facto Crimean authorities implied the actual sale of formerly 'nationalised' and 'repurchased' Ukrainian-run businesses. In parallel to this, a number of Ukrainian state-run property units, property of legal entities, and objects of cultural property were transferred to Russian governmental agencies.</p>

Civil, political, economic, and social rights <sup>43</sup>	Brief overview of violations (based on reports from NGOs and international institutions)
The right to preserve own identity, culture and traditions	<p>It is noted that after the annexation of Crimea by the Russian Federation, some residents who wanted to gather and express their non-Russian cultural identities, or their point of view, different from other political opinions, faced severe restrictions on their civil and political rights, imposed by a large number of new rules. In particular, it concerns the freedom of peaceful assembly, the freedom of expression, and the freedom of movement [20].</p> <p>In their reports, international organisations draw attention to the fact that the Ukrainian and Crimean Tatar communities have limited ability to demonstrate national and cultural symbols, and to publicly celebrate dates that are of importance to them. Commemorations and festivities are allowed only if an organisation is loyal to Russia and recognises the status of Crimea.</p> <p>Ukrainian museums and organisations were closed. In February 2015, the Museum of Ukrainian Vyshyvanka (Ukrainian traditional embroidered blouse) was shut down. Books of contemporary Ukrainian authors were removed from the Ivan Franko library in Simferopol.</p> <p>International organisations point out that although Ukrainian and Crimean Tatar are named, along with Russian, as official languages in the so-called Constitution of the Republic of Crimea, this provision is declarative in nature.</p> <p><b>On 29 September 2016</b>, the Supreme Court of the Russian Federation has ruled that the ban on activities of the Mejlis, a representative body of Crimean Tatars, is 'legal.' Earlier, <b>on 26 April 2016</b>, the so-called Supreme Court of the Republic of Crimea recognised the Mejlis of the Crimean Tatar people as an "extremist organisation," and banned its activities in the territory of the Russian Federation. On 18 April 2016, the Justice Ministry of the Russian Federation put the Mejlis on the list of public and religious organisations whose activity was suspended on grounds of extremism. This was done through a decision by the so-called Crimean Prosecutor General dated 12 April. Hence, according to these decisions, the Mejlis is included in the list of non-profit organisations, in respect of which an enforceable court decision on their liquidation or prohibition of activities has been issued on grounds provided by the Federal Law "On Combating Extremist Activity."</p> <p>During a trial, according to media reports, the Russian Prosecutor claimed that the main fault of the Mejlis was the non-recognition of Crimea's annexation by its leaders, and attempts to return the peninsula under Ukraine's jurisdiction.</p>
The right to education in mother tongue	<p>In Crimea, the number of educational institutions has reduced over recently. The same holds true about the opportunities for students to learn Ukrainian and Crimean Tatar languages as a subject, or, at least, study subjects in Ukrainian or Crimean Tatar. In the 2015/2016 school year, 15,200 or 8% of the total number of Crimean school children learnt or studied in the Crimean Tatar language, and 10,200 or 5.3% — in Ukrainian. In the 2016/2017 school year, only 5,300 students or 3% received instruction in the Crimean Tatar language, and 371 students or 0.2% — in the Ukrainian language. In the 2017-2018 academic year, 19,200 students learnt Crimean Tatar as an optional or make-up subject, 12,900 — Ukrainian, 54 — Armenian, 62 — Bulgarian, 136 — New Greek, and 56 — German. In total, there are 15 schools offering tuition in the Crimean Tatar language. Grades with the Crimean Tatar language of instruction are opened on the basis of comprehensive educational institutions that provide education in Russian (137 grades in 37 schools for 1,730 students). At the time of Crimea's occupation, there were 6 Ukrainian-language schools. At present, grades with the Ukrainian language of teaching are opened on the basis of comprehensive educational institutions that provide education in Russian (19 grades in 12 schools for 239 students).</p>

Civil, political, economic, and social rights <sup>43</sup>	Brief overview of violations (based on reports from NGOs and international institutions)
	12,892 students reportedly study Ukrainian at an optional subject. Russian authorities say that parents of students do not have a strong desire that their children study the Ukrainian language. At the same time, there are numerous evidence of pressure on parents, creation of barriers to the opening of grades offering tuition in the Ukrainian language, to say nothing about schools.
The right to health	There have been 7,195 doctors and 17,283 other medical workers in Crimean public health care institutions as of November 2016. Reports by international organisations say that only 62.3% of doctors' positions were filled. Breakaway Crimean authorities acknowledged a lack of medical personnel; health care was not provided to those without Russian citizenship; drug addicts received no substitution treatment.
The right to labour	International organisations state that since the start of the annexation, many residents of the peninsula have been discriminated in their right to work. In particular, because of the absence of Russian passports, Ukrainian citizens faced discrimination, and employment stigmatisation. In Russia, public servants and local self-government officials may not have dual citizenship. The number of public servants in Crimea exceeded 10,000. The Russian Federation claims that 19,000 Crimeans have filed applications to renounce their Ukrainian citizenship. As reported by international organisations, citizens who have Ukrainian citizenship suffer discrimination during employment (doctors, teachers, and others).

Relevant human and civil rights violations in Crimea are reflected in special reports by international organisations of the Office of the United Nations High Commissioner for Human Rights (OHCHR), UNESCO, OSCE ODIHR, OSCE HCNM, PACE, decisions by the European Parliament, and other international structures.

The methodology for preparation of these reports by international organisations is based on international human rights treaties and humanitarian law, and is carried out in accordance with their area of competence and on the basis of:

- long-term observations of the situation;
- collected testimonies of eyewitnesses (meetings, interviews) in Ukraine, and at the administrative border with the Autonomous Republic of Crimea;
- analysis of relevant legislation, previous situation reports, and data with respect to human rights in Crimea;
- communication with Ukrainian authorities, civil society, non-governmental organisations, official statistical data.

Yet, the Russian Federation currently bans access to Crimea for various missions of international organisations. In turn, the influence of Ukrainian authorities on the situation in Crimea is limited, and access to the peninsula is actually restricted. Given the situation, it is recommended that volunteer initiatives and NGOs that deal with Crimean problems in providing information on the actions of Ukrainian institutions in this area be facilitated and provided with legal assistance.

## 2.5. Risks, cooperation with Ukrainian citizens living in the temporarily occupied territory

While working with Ukrainian citizens in the temporarily occupied territories, authorities should be aware of Russia's strict repressive legislation applicable in the occupied territories. Specifically, under Article 280 of the Criminal Code of the Russian Federation, "public appeals for a forcible seizure of state power, its forcible retention, or for a forcible change of the constitutional system of the Russian Federation, shall be punishable by a fine or imprisonment."

According to Paragraph 1 of Article 280.1, "public appeals for a forcible seizure of state power, its forcible retention, or for a forcible change of the constitutional system of the Russian Federation, shall be punishable by a fine in the amount of RUR 100-300,000, or in the amount of the wage or salary, or any other income of the convicted person over a period of 1 to 2 years, or correctional labour for a term of up to 3 years, or arrest for a term of 4 to 6 months, or deprivation of liberty for a term of up to 4 years entailing the deprivation of the right to hold certain jobs or engage in certain occupations for a term of up to three years. The same acts, committed with the use of the mass media, or electronic, or telecommunication means, including social networking sites, shall be punishable by mandatory correctional labour for a term of up to 3 years, or deprivation of liberty for a term of up to 5 years entailing the deprivation of the right to hold certain jobs or engage in certain occupations for a term of up to 3 years.

Another group of 'crimes' that could threaten citizens in the occupied territory is associated with "extremist activity." The Federal Law No. 114-FZ "On Combating Extremist Activity" of 25 July 2002 provides a wide range of activities listed as extremist. In particular, extremist activity is viewed as activity of public and religious associations, or other organisations, or the media, or individuals regarding the planning, organisation, preparation, and implementation of actions aimed at undermining the security of the Russian Federation, staging mass disorder, acts of hooliganism and vandalism with the motives of ideological, political, racial, national or religious hatred or hostility... The Criminal Code of the Russian Federation has some Articles that impose punishment for various types of "extremist activity." In particular, Article 280 of the Criminal Code, provides for the same responsibility for public appeals to extremist activity as Paragraph 1 of Article 280-1. Moreover, if the same acts are committed with the use of the mass media, or social networks, or the Internet, the punishment could be very cruel — community correction for a term of up to 5 years with or without the deprivation of the right to engage in certain positions or engage in certain activities for up to 3 years, or deprivation of liberty for a term of up to 5 years entailing the deprivation of the right to hold certain jobs or engage in certain occupations for a term of up to 3 years.

Under Russia's jurisprudence, public calls for action aimed at violating the territorial integrity of the Russian Federation are broadly interpreted — it is enough to say that "Crimea is Ukrainian" so that to get a real prison term. In 2015-2016, Russian courts imposed 15 sentences under the above 'extremist' Article, of which more than a half were awarded for statements on the status of the Crimean peninsula.

### 3. THE CERTIFICATION OF FACTS OF BIRTH AND DEATH OF INDIVIDUALS LIVING IN THE NON-GOVERNMENT CONTROLLED TERRITORY, "INQUIRIES TO SELF-PROCLAIMED AUTHORITIES AND RUSSIAN GOVERNMENTAL AGENCIES," SOCIAL BENEFITS

According to the results of appeals filed by Crimeans since the start of the annexation with regional state administrations, the largest number of questions concerns the issuance and reissuance of documents; issuance of certificates of internally displaced persons; receipt of social benefits; employment; and education. One of the most urgent issues is a receipt of migration certificates (70% of the total number of applications). Since the beginning of the illegal occupation of the Crimean peninsula, 81.7% of the total number of internally displaced Crimeans have applied for administrative services in Ukraine's border region. The lion's share of applications concerns:

- registration, issuance, or exchange of a passport of a citizen of Ukraine for traveling abroad;
- gluing of photos to passports upon reaching 25 or 45 years of age by citizens of Ukraine;
- registration, issuance, or exchange of passports of citizens of Ukraine;
- issuance of ID-card documents;
- issues of various types of social security permits.<sup>44</sup>

Ukrainian authorities should declare invalid any act (decision, document), issued by authorities and or persons established and operating in the occupied territory contrary to Ukraine's legislation in force. In turn, all documents, issued to citizens in the temporarily occupied territory by de facto authorities since the beginning of the occupation, are deemed invalid.

In February 2016, the law of Ukraine "On Amendments to the Civil Procedure Code of Ukraine Regarding the Establishment of the Fact of Birth or Death of a Person in the Temporarily Occupied Territory of Ukraine" was adopted.<sup>45</sup> The specifics of court proceedings in cases of establishing the fact of birth or death of a person in the temporarily occupied territory of Ukraine was defined.

Article 257-1 of the Civil Procedure Code of Ukraine outlines the specifics of court proceedings in cases of establishing the fact of birth or death of a person in the temporarily occupied terri-

<sup>44</sup> According to the Permanent Representative Office of the President of Ukraine in the Autonomous Republic of Crimea: <http://www.ppu.gov.ua/operatyvna-informatsiya-shhodo-vpo-3/>

<sup>45</sup> <http://zakon5.rada.gov.ua/laws/show/990-viii>

tory of Ukraine. It says that cases regarding the establishment of the fact of birth or death of a person in the temporarily occupied territory of Ukraine, as determined by the Verkhovna Rada of Ukraine, should be considered immediately upon the receipt of a corresponding application by court. A court decision is subject to immediate execution.

At the same time, applications for the establishment of other facts of legal significance, other than birth and death, are subject to general treatment.

The provision of social benefits to citizens of Ukraine residing in the temporarily occupied territory is regulated by law, but poses a number of problems for the security of citizens, and the protection of their personal data from Russian-installed and breakaway authorities in the temporarily occupied territory. Hence, according to Paragraph 2, Article 9 of the 2014 law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and on the Legal Regime in the Temporarily Occupied Territory of Ukraine,"<sup>46</sup> "Any bodies, their officials and officers in the temporarily occupied territories and their activities are considered illegal if the authorities or persons established, elected or appointed in the manner not provided for by law." The law says that any act (decision, document) issued by authorities and/or persons of Paragraph 2 of this Article is invalid and does not create legal consequences.

Meanwhile, the same Article reads: "Establishing connections and cooperation of the government of Ukraine and their officials, local self-government bodies and their officials with illegal bodies (officials), created on the temporarily occupied territory, shall be permitted only to ensure Ukraine's national interests, rights and freedoms of the citizens of Ukraine, implementation of international treaties ratified by the Verkhovna Rada of Ukraine, promote recovery within the temporarily occupied territory of the constitutional order of Ukraine."

The law also regulates the payment of pensions and other social benefits to citizens of Ukraine residing on the temporarily occupied territory. Ukrainian authorities make appropriate social payments to citizens of Ukraine who live in the Autonomous Republic of Crimea and Sevastopol and who do not receive pensions and social benefits from the Pension Fund, other ministries and departments of the Russian Federation. In particular, the Regulations for Payment of Pensions and Provision of Social Services to Ukrainian Citizens Living in the Autonomous Republic of Crimea and the City of Sevastopol<sup>47</sup> govern that the territorial body in Ukraine sends, on the basis of the submitted documents, a pension claim to relevant authorities of the Russian Federation.

The aforementioned provisions pose a number of challenges in ensuring the rights of citizens, protecting their personal data, and indirectly says about a sort of recognition of a certain legitimacy of the activities of Crimean authorities, installed by the Russian Federation. In particular, some bodies practice sending requests to governmental agencies in Russia, and even to self-proclaimed Crimean authorities on matters relating, for instance, to pensions, social benefits, and the like. This is practiced by the Pension Fund, but its representatives claim that they operate in compliance with the law.

Human rights activists point out that any claims and requests to Russian authorities, or breakaway Crimean authorities regarding the payment of pensions and other social benefits to citizens legitimise the annexation of the peninsula and crack down on citizens' right to protection

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<sup>46</sup> The law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and on the Legal Regime on the Temporarily Occupied Territory of Ukraine," <http://zakon0.rada.gov.ua/laws/show/1207-18/page>

<sup>47</sup> <http://zakon2.rada.gov.ua/laws/show/234-2014-%D0%BF/paran8#n8>

of personal data, keep citizens living under the temporarily occupation in Crimea in fear of the intimidation and repression by occupational authorities.<sup>48</sup>

In turn, social payments are made to Ukrainian citizens having the status of internally displaced persons. The government declares that it is taking all possible measures aimed at solving problems of social protection, in particular, the reinstatement of all social benefits to IDPs. Hence, citizens of retirement age, persons with disabilities, and handicapped children, registered as internally displaced persons, are eligible to receive social services in accordance with legislation of Ukraine at the place of registration of their actual place of residence.<sup>49</sup> The Cabinet of Ministers of Ukraine defined the procedure for the allocation (reinstatement) of social benefits for IDPs,<sup>50</sup> the mechanism for the allocation (reinstatement) of pensions (monthly living allowances), life state scholarships, all types of social assistance and compensation, material support, provision of social services, subsidies, and privileges (hereinafter — social benefits) for IDPs from the state budget and compulsory state social insurance funds.

Numerous problems experienced by citizens of Ukraine and foreigners are caused by some provisions of the law “On the Establishment of the Free Economic Zone “Crimea” and the Peculiarities of Economic Activities in the Temporarily Occupied Territory of Ukraine.” The resolution by National Bank of Ukraine No. 699 dated 3 November 2014 is still in force. Under the document, Crimeans and IDPs are referred to as non-residents when using banking services.

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<sup>48</sup> The Pension Fund to Actually Recognise Russia’s Jurisdiction regarding Payment of Pensions in Crimea, [https://uifuture.org/uk/post/pensijnij-fond-fakticno-viznae-urisdikciu-rf-v-castini-zdijsnenna-pensijnih-viplat-na-teritorii-krimu\\_549](https://uifuture.org/uk/post/pensijnij-fond-fakticno-viznae-urisdikciu-rf-v-castini-zdijsnenna-pensijnih-viplat-na-teritorii-krimu_549)

<sup>49</sup> <http://zakon3.rada.gov.ua/laws/show/1706-18>

<sup>50</sup> The Cabinet resolution No. 365 “ On Some Issues of Social Benefits for Internally Displaced Persons” dated 8 June 2016, <http://zakon0.rada.gov.ua/laws/show/365-2016-%D0%BF>



## 4. UKRAINE'S SANCTIONS POLICY

The Russian aggression of 2014 has prompted Ukraine to formulate and begin to implement its own sanctions policy. Although after the end of the Cold War, personal, economic, and sectoral restrictive measures in international politics became an important means of influencing breakers of the international peace, the Verkhovna Rada of Ukraine approved the law "On Sanctions"<sup>51</sup> only in August 2014. A little more than a year later, in early September 2015, the National Security and Defence Council of Ukraine passed its first decision on the imposition of personal, special economic, and other restrictive measures for a period of one year.

As of May 2017, the National Security and Defence Council adopted 7 decisions on imposing or amending sanctions. To date, two of them — adopted on 15 March 2017 and on 28 April 2017 and entered into force by presidential decrees as of 15 March 2015 and 15 May 2017 respectively — are still in force. Economic sanctions in connection with the situation in the war-torn Ukrainian east were also applied by the Ministry of Economic Policy and Trade of Ukraine in compliance with the law of Ukraine "On Foreign Economic Activities." The Ukrainian government also recognises and introduces sanctions regimes adopted by the United Nations.

In international practice, sanctions are part of a coercive diplomacy<sup>52</sup> that strives not only to punish the perpetrator's country, but also to make it change behaviour that destroys peace and poses a threat to international security. As a rule, restrictive measures are part of a broader strategy, but all of them are focused on achieving the same goal. The increased pressure on the perpetrator's country and its political leadership is accompanied, as a rule, by the introduction of specific requirements, the implementation of which will result in a decrease of economic and political pressure. Conversely, non-compliance with the requirements will force the international community to add to pressure. An important prerequisite for the effective application of sanctions is a probability of their imposition. There is even an opinion that a threat of the use of sanctions, in the event the perpetrator's country believes that they will be applied, may sooner change the behaviour of the peace-breaker than sanctions themselves. An additional condition for the success of sanctions is their ability to inflict tangible harm on the perpetrator's country.

Since 1999, in response to Al-Qaida's almost simultaneous attacks on the US Embassy in Tanzania and Kenya, the UN Security Council has started to use anti-terrorism sanctions. Embargo and freezing of assets have been applied to natural persons and economic entities linked to the Taliban. Later, the list of sanctions was expanded to include individuals associated with Osama Bin Laden and Al-Qaida. The use of sanctions to combat terrorism is subject to strong criticism due to a series of human rights violations, including the right to a fair trial, the right to be heard, the right to effective defence, and the right to property. The procedures for imposing and lifting anti-terrorism sanctions on the international scene have been repeatedly revised and improved, so as to avoid criticism, and enhance the effectiveness of measures being taken.

Ukraine's practice differs from the international one in many ways. In particular, the goals and objectives of Ukrainian sanctions are distinguished from the established international practice. At the same time, non-transparent procedures, a lack of opportunities to appeal the

<sup>51</sup> <http://zakon3.rada.gov.ua/laws/show/1644-18>

<sup>52</sup> [http://texty.org.ua/pg/article/editorial/read/67321/Jak\\_pracuje\\_dyplomacija\\_prymusu\\_Chomu\\_Zahid\\_vvazhaje](http://texty.org.ua/pg/article/editorial/read/67321/Jak_pracuje_dyplomacija_prymusu_Chomu_Zahid_vvazhaje)

inclusion in sanctions lists, and the absence of a transparent mechanism for the exclusion from the sanctions list, are among the worst practices that ever existed on the international scene when anti-terrorism sanctions were first applied. The law of Ukraine “On Sanctions” runs counter to other Ukraine’s legislation. The unclear criteria for the successful imposition of sanctions and their arbitrary duration make it impossible to evaluate the effectiveness of restrictive measures.

## 4.1. Ukraine’s law on sanctions

In August 2014, the Verkhovna Rada of Ukraine passed the law “On Sanctions” upon the submission by the Cabinet of Ministers of Ukraine. The bill No. 4453a<sup>53</sup> was registered in the Rada on 8 August, and the President signed it into law on 14 August. The bill received two readings in the parliament over six days between its registration and signing. At the bill’s committee stage, the Main Legal Department of the Verkhovna Rada criticised the document for its non-conformity with some Articles of the Constitution. In its turn, the Rada’s Main Scientific and Expert Department emphasised a number of provisions, which, in the opinion of experts, needed to be detailed. These observations however were not taken into account.

As distinct to the international practice where sanctions are used as an instrument of pressure, Ukrainian lawmakers defined them as restrictive measures imposed to protect the national interests, national security, sovereignty and territorial integrity of Ukraine, to combat terrorism, and to prevent violation of the rights, freedoms and legitimate interests of Ukrainian citizens, public, and state interests (Article 1.1).

**The object of sanctions** could be foreign states, foreign legal entities, legal entities controlled by a foreign legal entity or a non-resident individual, foreigners, stateless persons, and entities involved in terrorism.

The law does not divide entities carrying out terrorist activities by the citizenship principle. The use of sanctions against Ukrainian citizens seems inappropriate, because they are responsible for committed crimes under the Criminal Code of Ukraine. Articles 258-2585 of the Criminal Code set punishment for the following types of terrorist activities: a terrorist act, involvement in a terrorist act, public appeals to commit a terrorist act, the creation of a terrorist group or a terrorist organisation, the facilitation of a terrorist act, and the financing of terrorism. The Criminal Code also fixes punishment for crimes committed on the territory of Ukraine, regardless of the nationality of the perpetrator. According to Paragraph 3, Article 6 of the Criminal Code, “An offense shall be deemed to have been committed on the territory of Ukraine if the principal to such offense, or at least one of the accomplices, has acted on the territory of Ukraine.”

There is also another law, “On Prevention and Counteraction to Legalisation (Laundering) of Proceeds from Crime, Terrorism Financing and the Financing of Proliferation of Weapons of Mass Destruction,” which provides for the establishment of a list of persons who are involved in terrorist activities or against whom international sanctions are applied. Such persons are financially sanctioned. Persons who are subject to punishment by a Ukrainian or foreign court, as well as persons who are subject to international sanctions, are blacklisted.<sup>54</sup>

<sup>53</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=51915](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=51915)

<sup>54</sup> <http://zakon2.rada.gov.ua/laws/show/966-2015-%D0%BF>

**Grounds** for imposing sanctions include:

- 1) actions of a foreign state, foreign legal entity or individual, other entities that pose real and/or potential threat to the national interests, national security, sovereignty, and territorial integrity of Ukraine, support terrorism and/or violate human and civil rights and freedoms, public and state interests, plan the occupation of the territory, or the expropriation, or limitation of property rights, damage property, impede sustainable economic growth and full exercise of rights and freedoms by citizens of Ukraine;
- 2) resolutions by the United Nations General Assembly and the United Nations Security Council;
- 3) decisions and regulations by the Council of the European Union;
- 4) violations of the Universal Declaration of Human Rights and the Charter of the United Nations.

The logic of international sanctions is that restrictive measures are imposed not for certain actions of certain legal entities or individuals, but in order to exert pressure on the perpetrator's country and its leaders. Specifically, a citizen of Russia, Arkady Rottenberg, was sanctioned by Western countries not because of his specific actions, but because of his close relations with the President of the Russian Federation Vladimir Putin. By creating difficulties in movement and the use of property for individuals close to the leadership of the aggressor state, Western countries put pressure on Putin. When it comes to the punishment of particular legal entities or individuals for particular actions, the fact of committing such actions should be proven in court. The punishment without proof of guilt is a violation of the principle of the rule of law, and the right to a fair trial. For this reason, the grounds mentioned in Paragraphs 1 and 4 should be reconsidered.

## 4.2. Procedures for imposing, lifting, and changing sanctions

It is the National Security and Defence Council of Ukraine (NSDC) that decides on the imposition of sanctions. The law distinguishes between two types of sanctions — personal and sectoral.

Decisions on personal sanctions are taken by the NSDC, and enacted by decrees of the President of Ukraine. “The decision on sectoral sanctions is taken by the National Security and Defence Council of Ukraine, and is put in force by the decree of the President of Ukraine. The decision on sectoral sanctions is approved within 48 hours from the date of the issuance of the decree of the President of Ukraine by the resolution by the Verkhovna Rada of Ukraine.” According to Rada’s legal experts, the procedure for the imposition of sectoral sanctions “is non-compliant with the requirements of the Constitution of Ukraine, since the Basic Law does not provide for such authority of the Verkhovna Rada.”<sup>55</sup>

The Main Legal Department of the Verkhovna Rada also noted: “The responsibility of the National Security and Defence Council of Ukraine to make a decision on the imposition, removal,

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<sup>55</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=51915](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=51915)

and modification of sanctions does not take into account the constitutional status of the Council, which, in accordance with Article 107 of the Constitution of Ukraine, is the coordinating body under the President of Ukraine on issues of national security and defence.”<sup>56</sup>

Moreover, the provisions of the law on sanctions are not fully in line with the law on the National Security and Defence Council as to the obligation to implement a decision on the imposition of sanctions. According to the law “On the National Security and Defence Council of Ukraine,” “Decisions by the National Security and Defence Council of Ukraine, enacted by decrees of the President of Ukraine, are binding on executive authorities.”<sup>57</sup> As follows from Article 5.3 of the law “On Sanctions,” decisions by the NSDC on imposing personal sanctions “become effective from the moment the decree of the President of Ukraine is issued and is legally binding.”<sup>58</sup> The law on the National Security and Defence Council limits the number of implementers to the executive. Yet, the application of sanctions requires a response from private institutions as well.

Procedures for the use, removal, and modification of sanctions are **extremely unclear**. Under Article 5.1 of the law “On Sanctions,” proposals for sanctions should be submitted to the National Security and Defence Council for consideration by the Verkhovna Rada, the President, the Cabinet of Ministers, the National Bank, and the Security Service of Ukraine. On 30 November 2016, the Cabinet of Ministers adopted the resolution No. 888<sup>59</sup> that regulates procedures for the application of sanctions, their lifting, and modifications. Documents regulating procedures for submitting proposals for sanctions to the National Security and Defence Council from other entities are unfortunately not available to the public.

Pursuant to the law “On Sanctions,” on 11 September 2014, the Cabinet of Ministers adopted a resolution<sup>60</sup> that introduced proposals for the imposition of personal sanctions, economic and other restrictive measures to be considered by the NSDC. Annex marked “For Official Use Only” contained the list of sanctioned individuals and entities. By its order No. 808-p<sup>61</sup> dated 12 August 2015, the Cabinet has expanded the list of persons subject to restrictive measures, but this list was never published.

**On 2 September 2015**, the NSDC supported the proposals of the Cabinet of Ministers and the SBU, and made a decision on the application of sanctions, which was put into effect by the decree of the President of Ukraine No. 549/2015 dated 16 September 2015.<sup>62</sup> SBU’s proposals are not available to the public as well. The list of sanctioned individuals and companies was published as Annexes to the NSDC’s decision. Sanctions were imposed on 338 natural persons and 105 legal entities.

The law “On Sanctions” governs: “Decision on amending sanctions is taken by the same authority that made the decision on imposing sanctions pursuant hereto at its own initiative or based on proposals from other state authorities set forth in Part 1 of this Article.” In other words, the same authorities make proposals on the imposition and lifting of sanctions. The procedure for appealing the decision on putting individuals and companies on the sanctions list is absent. Such approach is non-transparent, and opens the door to corruption.

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<sup>56</sup> Ibid

<sup>57</sup> <http://zakon5.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80/print1483604283052454>

<sup>58</sup> <http://zakon2.rada.gov.ua/laws/show/1644-18>

<sup>59</sup> <http://zakon3.rada.gov.ua/laws/show/888-2016-%D0%BF>

<sup>60</sup> <http://zakon2.rada.gov.ua/laws/show/829-2014-%D1%80>

<sup>61</sup> <http://zakon2.rada.gov.ua/laws/show/808-2015-%D1%80>

<sup>62</sup> <http://zakon3.rada.gov.ua/laws/show/n0014525-15>

In accordance with the established procedure, as early as 18 September 2015, the NSDC decided to amend Annex 1 to its decision dated 2 September 2015. This decision excluded items 69, 70, 72, 74, 78, and 83 from the list of sanctioned individuals in Annex 1. No explanation or grounds for its adoption were given, which raised a lot of questions.

The list of sanctioned individuals and companies is usually drawn up to inflict as much damage as possible on the perpetrator's country, focusing on its leaders and businesses/industries whose revenues allow the government of the country concerned to continue aggressive behaviour on the international scene. However, the effects of sanctions on the civilian population, as well as on the country applying sanctions and on the third countries, should be minimised. A non-transparent manner of drawing up sanctions lists does not make it possible to assess whether this criterion was met.

### 4.3. The identification and citizenship of sanctioned individuals, monitoring of punishment for non-compliance with sanctions

It is important to clearly identify sanctioned individuals, so as to avoid the misuse of restrictive measures against people whose personal data partly coincide with those of persons on the sanctions list.

The law provides that sanctions apply to non-resident individuals of Ukraine and entities involved in terrorism.

Monitoring of the use of sanctions and punishment of those who violate the sanctions regime is a mechanism that increases the effectiveness of sanctions, because it does not allow black-listed individuals and entities to bypass sanctions. In the United States, companies that fail to break off economic contacts with natural and legal persons on the sanctions blacklists face severe penalties. Ukrainian legislation however does not provide for penalties for non-compliance. Moreover, the procedure for monitoring the application of sanctions is not legally regulated.

In particular, the Cabinet of Ministers said in response to the UCIPR's request that in accordance with the plan for the implementation of the presidential decree No. 133 as of 15 May 2017 "On the Decision of the National Security and Defence Council of Ukraine of 28 April 2017 "On the Imposition of Personal Special Economic and Other Restrictive Measures (Sanctions)," approved by the government on 24 May 2017, Ukraine's Foreign Ministry was appointed responsible for generalising information on the implementation and monitoring of the effectiveness of sanctions imposed by the said decision.

In its response to the same request concerning monitoring of sanctions, the Foreign Ministry said: "In compliance with the Regulations on the Ministry of Foreign Affairs of Ukraine, ... the Ministry is not responsible for methodology and monitoring of the effectiveness of personal special economic and other restrictive measures (sanctions) provided in Paragraph 2 of the decision of the National Security and Defence Council of Ukraine... The Ministry periodically receives from central executive authorities information on the progress of compliance with the

requirements of the said documents and reports the results to the government and the National Security and Defence Council.” The Foreign Ministry also said that the monitoring results pertain to sensitive information.

Hence, there is neither systematic monitoring, nor a mechanism for punishing those who violate Ukrainian sanction legislation.

## 4.4. Grounds for the lifting of sanctions and evaluation of their effectiveness

As already noted above, international sanctions are applied to put pressure on the perpetrator’s country, and it is a flexible tool is used in the context of specific requirements. Say, the implementation of the Minsk peace deal by the Russian Federation is a condition for the withdrawal of international sanctions imposed by the international community. Ukrainian legislation defines only one reason for the lifting of sanctions — the achievement of the goal.

As emphasized earlier, the goal is “to protect the national interests, national security, sovereignty, and territorial integrity of Ukraine.” The criteria for the protection of the national interests, sovereignty, and territorial integrity are not defined. Their unclear nature does not allow measuring the effectiveness of sanctions, since it is defined as achieving the goal with as little loss as possible. A lack of appropriate criteria does not make it possible to understand whether the goal was attained by means of sanctions.

A statement by Ukraine’s Justice Minister that Russia’s lawsuit with the WTO against Ukraine over the imposition of sanctions suggests that sanctions are effective<sup>63</sup> looks rather strange. It could be argued that sanctions are effective, at least, if the aggressor state incurred substantial losses.

## 4.5. Unresolved issues regarding sanctions

As already mentioned, the issues of penalties for non-compliance with sanctions legislation, appeals procedures for inclusion in the sanctions lists, and a few distinctions between the law “On Sanctions” and other laws of Ukraine remain unresolved.

The issue of exceptions to the sanctions regime is unsettled as well. Exceptions could be made both for individuals for humanitarian reasons and for legal entities. There are known cases when sanctioned individuals were allowed entering the banned country, say, for burials of their relatives. As for legal entities, for instance, in the United States, there are so-called special licenses granted to companies by the Office of Foreign Assets Control (OFAC) in the event that

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<sup>63</sup> <https://www.rbc.ua/ukr/news/minyuste-zayavili-reaktsiya-rf-sanktsii-ukrainy-1495450143.html>

economic cooperation that should have been banned is in line with the US national interests. There is a transparent procedure for applying to OFAC for a relevant permission.

The law of Ukraine “On Foreign Economic Activities” also allows the application of economic sanctions.

In particular, the order by the Ministry of Economic Development and Trade of Ukraine No. 1383-17<sup>64</sup> as of 19 September 2017 introduced sanctions in the form of termination of foreign trade activities with more than 20 Russian businesses supplying products to illegal military units in ORDLO. The Main Military Prosecutor’s Office of the Prosecutor General’s Office found that these companies supply nitrogen fertilisers to the temporarily occupied areas outside Ukraine’s customs through suspended or banned checkpoints at the Russian Federation-Ukraine border. According to the agency, funds paid by the separatist DPR and LPR for “customs clearance” of mineral fertilisers were subsequently used to finance the insurgents.

On 30 October 2017, the Ministry of Economic Development and Trade of Ukraine issued orders No. 1582-17<sup>65</sup> and 1583-17<sup>66</sup>, which, based on SBU’s submissions, blacklisted 18 Russian companies due to actions that “could harm the interests of national economic security.” The Annexes to the orders blacklist the names of 8 and 11 businesses respectively, but the reasons for the imposition of sanctions are not detailed. Ukrainian news outlets reported that in 2015, the SBU suspected Yuzhtrans, one of the companies that had fallen under sanctions, in the participation in an illegal scheme for the export of coal from the occupied territories of the Donetsk and Luhansk regions. The SBU alleged that the proceeds had been partly spent for financing the DPR and LPR — illegal, terrorist organisations according to the Ukrainian media.

## 4.6. The improvement of the sanctions policy

Ukraine’s sanctions policy needs to be finalised.

The law of Ukraine “On Sanctions” was adopted very quickly, which prevented its authors from carrying out necessary analysis of the current legal framework and of the international practice of applying sanctions. Almost all stages of the sanctions regime, beginning with the purpose of applying sanctions and continuing with the procedures for their application and monitoring, require changes and refinements. The effective use of sanctions by Ukraine is impossible until this work is completed. To this end, it is recommended:

- Harmonise Ukraine’s sanctions policy with the international practice and make it part of a policy of pressure on the state-occupier. It is needed to set clear requirements for the aggressor country, and to draw up the sanctions list so that to deal the most painful economic blow on the occupying power.

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<sup>64</sup> <http://www.me.gov.ua/Ascod/List?lang=uk-UA&id=d6a26174-d0fd-406b-9c30-7a4043f04e-b5&tag=SistemaOblikuPublichnoiInformatsii&fNum=1383-17>

<sup>65</sup> <http://www.me.gov.ua/Ascod/List?lang=uk-UA&id=d6a26174-d0fd-406b-9c30-7a4043f04e-b5&tag=SistemaOblikuPublichnoiInformatsii&fNum=1582-17>

<sup>66</sup> <http://www.me.gov.ua/Ascod/List?lang=uk-UA&id=d6a26174-d0fd-406b-9c30-7a4043f04e-b5&tag=SistemaOblikuPublichnoiInformatsii&fNum=1583-17>

- Harmonise the law “On Sanctions” with the Constitution and other legislation of Ukraine, differentiate between different types of punishment, strictly adhere to the principles of the rule of law when carrying out the sanctions policy.
- Analyse and harmonise implementing documents, which should establish clear criteria for entering natural persons and legal entities into sanctions lists, identify the categories of personal data needed for the accurate identification of blacklisted individuals.
- Identify the institution that will handle complaints from blacklisted legal and natural persons. This issue should be dealt with by the institution different than the one that decides on the imposition of sanctions. The criteria for lifting sanction must be clearly set. Among them, for example, are the incorrect inclusion in the sanctions blacklists, the execution by the perpetrator’s country of the requirements, the death of a sanctioned person, or a change of circumstances.
- Clearly identify authorities responsible for monitoring the implementation of sanctions. Make relevant changes to the regulations on these authorities.
- Place on the Internet an information resource that will clearly explain the principles of Ukraine’s sanction policy, its purpose, and criteria for its achievement. Furthermore, this information resource will have a list of legal entities and individuals, including those from the separatist DPR and LPR, who are subject to restrictive measures; clearly explain the procedure for appealing; and provide information to private companies and individuals responsible for the implementation of sanctions.



## 5. THE INFORMATION POLICY

In democratic societies, communication of the government with the population is an important element of the relationship between authorities and citizens. The explanation of the government policy, the provision of public information to journalists and civil society organisations, consultations with the public and the expert community before making decisions, and the receipt of a feedback from citizens to the implemented policy are part of the openness and transparency of authorities that allows building trust between citizens and the government.

When it comes to Ukraine's communication with the population of Russian-occupied Crimea, it is possible to say that the overwhelming majority of components of successful strategic communication are absent. In Crimea, the aggressor state deliberately shapes an environment hostile for Ukraine, the vast majority of communication channels are broken, Ukraine's government policy towards Crimea is in the development stage, whereas some of its components contradict each other. The opportunities to receive a feedback are significantly limited. At the same time, the government is making efforts to ensure that communication between Ukraine and its citizens under the occupation is not interrupted, and that Ukrainians and the international community are aware of the developments in Crimea and the policy towards the occupied peninsula.

### 5.1. The information space of the temporarily occupied peninsula

Having occupied the territory of the Crimean peninsula, the Russian Federation also occupied its information space. In the first days of the occupation, Russian troops seized television and radio equipment. Federal TV channels came on the air instead of Ukrainian ones. Subsequently, Ukrainian television also disappeared from cable networks. The Crimean Tatar ATR Channel, which stayed in the occupied peninsula for longest, was forced to stop broadcasting on 1 April 2015.

The same thing happened to radio stations, licensed and frequented by Ukrainian authorities. Russian-installed bodies announced a tender for radio frequencies, in which only radio stations, registered under Russian law, could take part. Radio stations registered in Ukraine did not have enough time to re-register, and thus had no opportunity to take part in the tender. As a result, Russian holding companies received frequencies. In the meantime, several Ukrainian medium-wave radio stations, such as Radio Mayak and First Channel of Ukrainian Radio, have remained accessible to Crimeans.

The period of re-registration of mass media in the occupied peninsula expired on 1 April 2015. More than 3,000 news outlets were registered in Ukrainian Crimea as of the beginning of 2014, whereas, as a result of re-registration, only 250 remained, of which 231 were re-registered publications, and 19 Russian media that only started working on the peninsula. Among the remained 250 news outlets there were 18 TV channels, 36 radio stations, 184 printed publica-

tions, and 12 news agencies.<sup>67</sup> The access of Crimeans to reliable sources of information is also considerably limited through the persecution and harassment of journalists, and a crackdown on the freedom of speech.

To date, the Crimean information space is in the field of Russia's propaganda. The propaganda campaign on the territory of the peninsula began long before its occupation by the Russian military, intensified during the Maidan events in November 2013–February 2014, and became the dominant discourse after the almost complete deprivation of the population of Crimea of alternative sources of information. The access of independent journalists and international monitoring missions to Crimea is limited as well. Such actions of occupation authorities form a biased vision of the events in Crimea not only in the territory of the peninsula, but also in Ukraine and in the world. At the same time, the implications of misinformation and informational-psychological operations are most noticeable in the territory of the Crimean peninsula.

The situation in the southern part of the Kherson region, bordering the occupied territory, is complicated as well. The highest, 220 meters high, telecommunication tower in the Crimean peninsula is located in Krasnoperekopsk. Before the occupation, it was used by Ukrainian TV channels for broadcasting to the southern part of the Kherson region. In March 2014, the tower was seized by occupation authorities, and since then, the population of the southern part of the Kherson region has been strongly influenced by Russian propaganda.

The main efforts of the Russian Federation in the information space are focused on forming a negative image of Ukraine and its authorities. They depict Ukraine as a weak and corrupt country, accentuate radicalisation of the Ukrainian society and numerous social problems, and underscore the collapse of European integration prospects. The legitimisation of the illegal annexation of Crimea is another important aspect of propaganda. Among other things, it is noted that due to the arrival of Russian troops, residents of the peninsula managed to avoid a war ongoing in Ukraine. Conversely, Russian authorities are portrayed mainly in a positive light, with the efforts of the federal government aimed at improving the life of the Crimean population. Russian propaganda also attempts to shape a vision of the future, in which Crimea is not part of the Ukrainian state. It is emphasised that the admission of Crimea to the Russian Federation is ultimate and is not subject to revision. The information space is also dominated by destructive interpretations of the important events in Ukraine, in particular, the Revolution of Dignity, the Anti-Terrorist Operation, decommunization, reforms, the implementation of the Association Agreement with the EU, and the like. Ukraine's efforts to reinstate its territorial integrity are being discredited.

As a result, flagrant violations of the rights of Ukrainian citizens who continue to live under the occupation are recorded. In addition, the propaganda campaign of the Russian Federation promotes the destabilisation of the situation in the southern part of the Kherson region, complicates the restoration of the territorial integrity of Ukraine, and widens the gap between Ukrainians living in the temporarily occupied territory and the Ukrainian state.

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<sup>67</sup> [http://minfo.rk.gov.ru/file/Otchet\\_o\\_rabote\\_Mininfo\\_RK\\_2014.pdf](http://minfo.rk.gov.ru/file/Otchet_o_rabote_Mininfo_RK_2014.pdf)

## 5.2. The information reintegration

After the ousting of Ukrainian broadcasters from the peninsula, satellite TV and the Internet remain the only channels of information from Ukraine for Crimea residents. The Ukrainian government does not have accurate information on the number of households with satellite dishes. Access to the Internet is rather limited, as Russian and Crimean authorities block unwanted websites. Although there are no precise data on the number and names of blocked websites, it is known that the vast majority of Ukrainian social and political Internet platforms are not available to Crimean residents without the use of technologies for bypassing the blocking. The development of other channels of reporting information is one of the priority tasks of the information reintegration.

The government policy for Crimea's Information Reintegration consists of the following components: 1) restore the broadcasting infrastructure in order to send signals of Ukrainian television and radio to households of Crimea and adjacent territories that remained in vacuum as a result of the seizure of television towers on the peninsula. This implies the construction of telecommunication towers, the installation of transmitters and other equipment, and the issuance of licenses for broadcasters; 2) map out a strategy for information reintegration of Crimea, which envisages the development of the government's capacity to provide necessary information to the Crimean population, encourages the advancement of the historical and current narrative of the state regarding Crimea, as well as the special content, which is intended for Crimean residents and focuses the communication efforts of the government towards Crimea in one direction; 3) assist foreign journalists and make pressure on the Russian Federation to allow international monitoring missions on the territory of the peninsula, which should help obtaining first-hand information on the situation in Crimea.

## 5.3. The strategy for Crimea's Information Reintegration

The Strategy for Crimea's Information Reintegration, developed by a working group on the basis of the UCIPR under the Ministry of Information Policy, defines the purpose of Ukraine's information policy for Crimea as follows: "Create preconditions by information tools for the restoration of the territorial integrity and sovereignty over the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol, promote the protection of the rights and freedoms of Ukrainian citizens." Among the main prerequisites for the effectiveness of this policy is the establishment of effective cooperation between authorities and civil society organisations, and the implementation of the government information policy towards Crimea by the single vote principle.

The Strategy incorporates organisational and communication components to stimulate the formation of Crimea's narrative, develop the government's ability to communicate its messages to target audiences, and to formulate relevant messages in accordance with the needs of specific groups. The target audiences of the Strategy's communication part are: 1) residents of the occupied peninsula, 2) residents of mainland Ukraine, and 3) foreign target audiences narrowed to representatives of political and analytical circles in order to optimise the use of resources.

The communication objectives of the Strategy for different audiences, segmented according to the principle of the target groups, including taking into account the ethno-national and regional specifics, are:

- Shape awareness among **Crimean residents** about the inevitability of the restoration of Ukraine's territorial integrity and the understanding of the place of Crimea in the future structure of the Ukrainian state; eliminate the perception of the process of the restoration of territorial integrity as a threat to Crimea; develop the understanding of Ukraine's policy for the period of occupation, and the need to use Ukraine's opportunities for its citizens residing in the temporarily occupied territory;
- Provide the unequivocal support of **Ukrainian citizens** for the restoration of Ukraine's territorial integrity, the understanding of Ukraine's policy for the liberation of the temporarily occupied territories and the reintegration of their population, develop the perception of Crimean Tatars as an indigenous people of Ukraine and an integral part of the Ukrainian political nation; and provide a clear understanding of the place of Crimea in the future structure of the Ukrainian state;
- From an unambiguous understanding of Crimea's status by **foreign target audiences** (non-recognition of the annexation of Crimea by the Russian Federation), knowledge of the situation on the peninsula, the understanding of Ukraine's government policy towards the occupied peninsula and its population; facilitate and support the liberation of Crimea from the occupation.

Coordination of efforts of the government and civil society is needed to attain the above objectives. To this end, the Ministry of Information Policy of Ukraine plans to set up a consultative and advisory body — the Special Expert Commission on the Information Reintegration of the Autonomous Republic of Crimea — which will consist of representatives of central authorities and civil society. At the same time, the Strategy has not yet passed all stages of coordination necessary for the adoption of a relevant Cabinet resolution. Hence, the said body has not yet been set up.

A precondition for a successful communication policy of the government are policies for relevant issues. At present, Ukraine's policy towards the occupied peninsula is in the developmental stage, and human rights organisations often draw attention to the controversy and some violations of human rights by the state in the already adopted documents.

According to a survey, conducted by the Ministry of Information Policy in March 2017, 54% of Ukrainians believe that they do not receive enough information about the government policy towards temporarily occupied Crimea. Consequently, the need to communicate information is quite important.

Although today a single document describing Crimea's return and the strategy for its re-integration is absent, there are a number of key strategic decisions concerning the temporarily occupied Crimean peninsula. Based on these decisions, it is now possible to distinguish the main messages for Ukraine's policy towards the Russian-annexed peninsula. Keeping Ukrainians aware about relevant decisions and their content is an important and integral part of the information policy. These decisions include:

1. The National Security Strategy of Ukraine adopted on 26 May 2015<sup>68</sup> that determines the restoration of Ukraine's territorial integrity as the number one priority

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<sup>68</sup> <http://zakon0.rada.gov.ua/laws/show/287/2015>

in the area of national security. Item 4.1 of the Strategy sets the method and prerequisites for carrying out the de-occupation:

“The restoration of the territorial integrity of Ukraine and the integrity of democratic institutions throughout its territory, the reintegration of the temporarily occupied territories after their liberation is a strategic task of the national security policy.

Based on the priority of peaceful means, Ukraine will take all possible measures, which are not contrary to international law, to protect its territorial integrity.

A key to the national security and the restoration of Ukraine’s territorial integrity are the powerful Armed Forces of Ukraine and other military units formed in accordance with laws of Ukraine and equipped with up-to-date weapons and military hardware, active foreign policy, effective intelligence, counterintelligence, and law enforcement agencies.”

2. The law “On Ensuring the Rights and Freedoms of Citizens and on the Legal Regime on the Temporarily Occupied Territory of Ukraine”<sup>69</sup> sets the fundamental principles of the policy of Ukraine in relation to the population of the occupied peninsula. Among the main provisions is the one governing that Ukraine does not recognise the forced acquisition of Russian citizenship by residents of the occupied territory, and continues to consider them citizens of Ukraine. This provision lays the foundation for the formulation of policies towards Crimea and its population.
3. The Foreign Ministry has identified that the main areas of the government policy towards Crimea on the international scene is the non-recognition of the illegal annexation of the Ukrainian peninsula, the extension of sanctions until the full withdrawal of the Russian military from Crimea, and the protection of the sovereign rights of Ukraine in international courts.
4. The Ministry of Temporarily Occupied Territories and Internally Displaced Persons has been established with the aim of ensuring that Ukraine fulfils its commitments to residents of the occupied territories in compliance with international law.
5. The Commission on Ensuring the Stable Functioning of the National Television and Radio Broadcasting System is actively working to restore Ukraine’s opportunity to deliver information to the viewing and listening audience in the occupied territory.
6. The Ministry of Education and Science has developed simplified procedures for admission to higher educational institutions of Ukraine for residents of the occupied territories.
7. The Office of the Ukrainian Parliament Commissioner for Human Rights in cooperation with civil society and some lawmakers develops directions of Ukraine’s policy towards residents of the occupied territories after the occupation based on the principles of transitional justice.
8. Crimean Tatars and some small indigenous groups of Crimea have been recognised as indigenous peoples of Ukraine; work continues on amendments to Section X of the Ukrainian Constitution that regulates the status of Autonomous Republic of Crimea within the Ukrainian state.

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<sup>69</sup> <http://zakon2.rada.gov.ua/laws/show/1207-VII>

## 5.4. Access to information from the occupied territory

Russian occupation authorities are making every effort to monopolise access to information coming from the occupied territory. Ukraine is interested to provide the international community and residents of mainland Ukraine with objective, up-to-date information about what is going on in Crimea. Such information is also important for Ukrainian authorities to develop and implement a policy of restoring Ukraine's violated sovereignty and reintegrating Crimeans into the Ukrainian state.

With the purpose of encouraging visits of foreign journalists to Crimea, Ukraine's Ministry of Information Policy has agreed with the State Migration Service the most simplified procedure for obtaining a *special permit for entry and exit from Crimea*.<sup>70</sup> As a result of the Ministry's efforts, foreign journalists could receive such permit within 1 day, whereas earlier the issuance of permits lasted for almost 5 days.

*The access of foreign observation missions to the peninsula remains an open question.* The UN Human Rights Monitoring Mission in Ukraine, which releases regular reports on the human rights situation in Crimea, is forced to work from Ukraine, since Russian authorities ignore its request for access to the peninsula. The Foreign Ministry of Ukraine is actively working to ensure that Ukraine's stance on giving international observation missions access to the territory of Crimea is reflected at the level of statements and resolutions by international organisations, thus increasing the pressure on Russia. For the time being, these efforts have not yielded results.

The access of Ukrainian journalists to Crimea is not limited by any of the parties, but at the same time, the stay in the occupied territory for any citizen of Ukraine poses great risks. Attempting to present Ukraine as a country that supports extremism and terrorism, occupation authorities periodically detain Ukrainian citizens and illegally deprive them of their freedoms on the grounds of evidence-free accusations. Journalists who visited Crimea for investigative reporting complain about the intense attention and impediments on the part of occupation authorities.

The conduct of public opinion polls in the occupied territory is considerably complicated as well. Potential pollsters who conduct polls in Ukraine's interests, like journalists, risk being apprehended by occupation authorities and accused of any crime. Besides, data of sociological surveys, obtained under the occupation, are not reliable and could outline only general tendencies, which is not equivalent to receiving the necessary feedback.

Crimean IDPs are one of the channels of communication with the population of the peninsula. The involvement of migrants and organisations dealing with Crimean issues in making decisions on Russian-occupied Crimea could remove some difficulties, caused by Russia's occupation, in obtaining necessary and trustworthy information from Crimea.

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<sup>70</sup> <http://mip.gov.ua/content/vizd-na-timchasovo-okupovanu-teritoriyu-ar-krim-dlya-inozemnih-zhurnalistiv.html>

## 5.5. Ways of communication

Communication with residents of Crimea during the occupation is considerably complicated and, mainly, one-sided. Yet, there are some opportunities for communicating information to Crimeans, and the Ukrainian government is working on their expansion. Although the government policy towards Crimea is not completely mapped out, some strategic decisions were made that outline the general directions of Ukraine's policy for temporarily occupied Crimea. Even under this sketchy policy, the said decisions could serve as a basis for clarifying the main directions of Ukraine's policy towards the Crimean peninsula. To involve internally displaced persons and non-governmental organisations dealing with Crimean issues in decision-making and implementation, it is necessary to set up communication tools.

The Strategy for Crimea's Information Reintegration should become a mechanism facilitating coordination of actions of various authorities in the development of information messages for different target audiences, and stimulating the formulation of a policy on the Crimean peninsula. To this end, it is recommended:

- Identify persons responsible for communication on Crimean issues on behalf of the appropriate authority. Responsibilities of these persons should include explanation of aspects of the government policy towards Crimea, and publication of information in the media and on the website of the relevant authority.
- Familiarise responsible persons with communication tasks in relation to different target audiences defined by the Strategy, and to bring authorities' messages in line with the Strategy's directions.
- Hold communication trainings for responsible persons, if necessary.
- Integrate the monitoring results described in the relevant Section of this Guidelines into information messages of monitoring authorities.
- Intensify communication with the media on Crimean issues, make the general public aware of measures taken by authorities for the de-occupation and reintegration of Crimea, and explain these measures.
- Simplify as much as possible and make clear information messages to Crimean residents on the websites of central authorities, keep the websites up-to-date.
- Introduce webpages in the Crimean Tatar language providing information for the population of the Crimean peninsula and Crimean Tatar IDPs.
- Involve the public in decision-making through conferences, forums, public hearings, round tables, assemblies, public meetings, TV or radio debates, Internet conferences, and electronic consultations.
- Carry out public discussions with the involvement of the Public Council.
- Set up telephone hotlines, which could be used by authorities of Russian-occupied Crimea.

## The inter-ethnic situation after the occupation of the Crimean peninsula

There have been many problems in inter-ethnic relations in Crimea over the past two decades because of different interpretations of history by representatives of the three main ethnic groups of the peninsula, as well as because of different opinions on Crimea's future. Crimea is an increasingly unstable region, often believed to most likely repeat the fate of Chechnya or Kosovo. Contrary to these disappointing forecasts, serious inter-ethnic and inter-religious conflicts have never occurred in Crimea, but some confrontation cases were recorded.

The occupation and annexation of Crimea by the Russian Federation has ended in a deterioration of the situation of human rights and freedoms. Russian-installed authorities opened criminal cases against Crimean Muslims under the pretext of "combating extremism," and repressed members of the Mejlis of the Crimean Tatar People, an organisation banned in Russia. Enforced disappearances and violations of the freedom of speech and the freedom of association were reported. Human rights defenders recorded 422 cases of human rights violations in Crimea.<sup>71</sup> Among them are pressure on the media, detentions and arrests, unlawful restrictions of the freedom of association, and violations of the principles of the freedom of conscience.

Russia has set up and promoted puppet "Ukrainian and Crimean Tatar organisations", intended to demonstrate support for the 'accession' of Crimea to the Russian Federation.

The events of the spring of 2014 further polarised the Crimean society through ethnic division. Experts point out a decline in the percentage of inter-ethnic marriages. The level of domestic xenophobia, by contrast, has grown. Several dozens of thefts and robberies in mosques, acts of vandalism against memorials to the deportation victims, conflicts over the use of the Crimean Tatar language among multi-ethnic employees, and other episodes were reported. The Crimean eparchy of the UOC KP experiences direct pressure on the part of occupation authorities.

**Another manifestation of discrimination was the 29 September 2016 decision** by the Supreme Court of the Russian Federation, confirming the 'legality' of the ban on the Mejlis of the Crimean Tatar People in occupied Crimea. In fact, the ruling by the so-called Supreme Court of the Republic of Crimea dated 26 April 2016, which recognised the Mejlis as an "extremist organisation" and banned its activity in the territory of the Russian Federation, remained in force. Also, on 18 April 2016, the Justice Ministry of the Russian Federation put the Mejlis of the Crimean Tatar People on the list of public and religious organisations whose activity was suspended on grounds of extremism. This was done through a decision by the so-called Crimean Prosecutor General of 12 April. Hence, according to these decisions, the Mejlis is included in the list of non-profit organisations, in respect of which an enforceable court decision on their liquidation or prohibition of activities has been issued on grounds provided by the Federal Law "On Combating Extremist Activity."

<sup>71</sup> <http://crimeamap.krymsos.com/ru/map.html>



During a trial, according to media reports, the Russian Prosecutor claimed that the main fault of the Mejlis was the non-recognition of Crimea's annexation by its leaders, and attempts to return the peninsula under Ukraine's jurisdiction.

Interestingly, Mejlis is named as a "public association" in Russian investigative documents, which contradicts the reality, because it is a representative body, an institute of national self-government of the Crimean Tatar people, formed through general elections among Crimean Tatars.

A recent appeal by the Mejlis, a representative, self-governing body of Crimean Tatars, was not satisfied, which opens the possibility for appealing against the decision by the Supreme Court of the Russian Federation in the European Court of Human Rights.

**On 20 March 2014**, the Verkhovna Rada of Ukraine made the statement on the guarantees of the rights of the Crimean Tatar people in the Ukrainian state.<sup>72</sup> The document ensured the preservation and development of ethnic, cultural, language, and religious identity of Crimean Tatars as an indigenous people and of all national minorities in Ukraine, protection and realisation of the indispensable right to self-determination of the Crimean Tatar people within a sovereign and independent Ukraine. Furthermore, Ukraine recognised the Mejlis of the Crimean Tatar People, Kurultai's executive body, as a representative authority of the Crimean Tatar people. The Verkhovna Rada also expressed its support for the United Nations Declaration on the Rights of Indigenous Peoples, and instructed the Cabinet of Ministers of Ukraine to urgently submit bills and normative legal acts that define and establish the status of Crimean Tatars as an indigenous people of Ukraine, which has not been done yet.

**On 27 February 2015**, the resolution "On the Appeal of the Verkhovna Rada of Ukraine to the United Nations, the European Parliament, the Parliamentary Assembly of the Council of Europe, the OSCE Parliamentary Assembly on the Violation of Human Rights and Freedoms in the Autonomous Republic of Crimea"<sup>73</sup> was adopted. The document listed cases of unlawful arrests, abductions, tortures, persecution on ethnic grounds (primarily of Crimean Tatars and Ukrainians), violations of the freedom of expression, the freedom of the media, the rights to education, the freedom of conscience and religion, as well as private property and entrepreneurship rights.

**On 12 November 2015**, the Verkhovna Rada of Ukraine adopted the resolution "On the Recognition of the Genocide of the Crimean Tatar People." The deportation of 1944 was recognised as an act of genocide, while the occupation of the Crimean peninsula and repression against the Crimean Tatar people as ethnocide. 18 May was proclaimed as the Day of Remembrance of the Victims of the Genocide of the Crimean Tatar people.

After the 'ban,' imposed by Russian authorities and de facto Crimean 'bodies' on the Mejlis of the Crimean Tatar People and its recognition as an "extremist organisation" **on 31 March 2016**, the Verkhovna Rada of Ukraine passed the resolution "On the Appeal of the Verkhovna Rada of Ukraine to the United Nations Organisation, the European Parliament, the Parliamentary Assembly of the Council of Europe, the OSCE Parliamentary Assembly, the NATO Parliamentary Assembly, the Inter-Parliamentary Union, World Leaders, and All Members of the International Community on the Condemnation of Violations of the Rights and Freedoms of the Crimean Tatar People Regarding the Ban by Occupation Authorities of the Russian Federation in the Temporarily Occupied Autonomous Republic of Crimea and the City of Sevastopol on the Mejlis of the Crimean Tatar People and Its Recognition as an Extremist Organisation."

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<sup>72</sup> <http://zakon3.rada.gov.ua/laws/show/1140-18>

<sup>73</sup> [http://search.ligazakon.ua/L\\_doc2.nsf/link1/T150257.html](http://search.ligazakon.ua/L_doc2.nsf/link1/T150257.html)

# The indigenous peoples of Ukraine: formation of occupation authorities by the Russian Federation

A mention of indigenous people is made in three Articles of the Constitution of Ukraine.<sup>74</sup> Specifically, Article 11 governs that in the context of the consolidation of the Ukrainian nation, the state shall promote the development of ethnic, cultural, language, and religious identity of all indigenous peoples and national minorities of Ukraine.

In 1989, with the development of international law in the field of the rights of indigenous peoples, the International Labour Organisation adopted the Indigenous and Tribal People Convention No. 169.<sup>75</sup> The document *recognises indigenous peoples as collective subjects of law; stresses that self-identification as indigenous or tribal peoples is regarded a fundamental criterion for the groups; emphasises the importance of the descent of indigenous or tribal peoples from those who inhabited the country, or a geographical region, to which the country belongs, at the time of conquest or colonisation; and stresses the need for the preservation of original institutions.*

The United Nations Declaration on the Rights of Indigenous Peoples of 2007 contains an exhaustive list of collective and individual rights possessed by indigenous peoples, but without definition for the term of “indigenous peoples.” The document warns States of forced assimilation of indigenous individuals, while emphasising their role in formulating and defending their rights. Notwithstanding its non-binding implementation, the Declaration serves as a valuable source of law for international organisations and national governments in relation to the rights of indigenous peoples.

In fact, the first normative legal document that recognised Crimean Tatars as an indigenous people at the level of the decision-making body, guaranteed their right to self-determination within the Ukrainian state, and recognised representative bodies of the Crimean Tatar people, was the resolution by the Verkhovna Rada “On the Statement by the Verkhovna Rada of Ukraine on the Guarantees of the Rights of the Crimean Tatar People within the Ukrainian State”<sup>76</sup> as of 20 March 2014. In the Statement, lawmakers expressed their support for the United Nations Declaration on the Rights of Indigenous Peoples. It should be noted that later, the similar resolution “On the Statement by the Verkhovna Rada of Ukraine on the Preservation of Diversity and Cultural Heritage of Crimean Karaites (Karai) and Krymchaks” was developed and registered in the Verkhovna Rada of the 8th convocation, but has not yet been presented for consideration.

On 17 April 2014, the Verkhovna Rada approved the law “On the Restoration of the Rights of Persons Deported on Ethnic Grounds.”<sup>77</sup> Despite no direct mention of indigenous peoples, the law answers to a large number of questions relating to Crimean Tatars as deportees. These concern guarantees of their right to reside in places, in which they had lived historically, the provision of social benefits, the creation of conditions and a procedure for compensation for property, as well as guarantees of other property rights. Some issues of collective rights, such as the classification of the deportation as a crime against humanity, the preservation of national memory, the reinstatement of religious structures, and the restoration of language and culture are regulated by separate legal and normative acts.

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<sup>74</sup> <http://zakon2.rada.gov.ua/laws/show/254k/96-bp/>

<sup>75</sup> [http://zakon3.rada.gov.ua/laws/show/993\\_188](http://zakon3.rada.gov.ua/laws/show/993_188)

<sup>76</sup> <http://zakon2.rada.gov.ua/laws/show/1140-18>

<sup>77</sup> <http://zakon3.rada.gov.ua/laws/show/1223-18>