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CRIMEAN
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Introduction and background information

1. This report is a joint contribution to the 28th session of the Universal Periodic Review (UPR) for Ukraine. It was prepared by a coalition of Ukrainian NGOs with the support of the Human Rights House Foundation (HRHF) and People in Need (PiN).
2. The present report focuses on human rights violations linked to the illegal annexation of Crimea by the Russian Federation and in particular on the responsibilities that lie with the Ukrainian authorities in this respect. This report highlights several areas in which the Ukrainian authorities have the possibility to take steps aimed at contributing to the improvement of the rights of current and former inhabitants of the Crimean Peninsula. The authors of this report wish to stress that the underlying responsibility for the current dire human rights situation in Crimea lies with the local *de facto* authorities and with the authorities of the Russian Federation that is to be held accountable as occupying power.
3. The Centre for Civil Liberties (CCL), the Crimean Human Rights Group (CHRG), the Ukrainian Helsinki Human Rights Union (UHHRU) and the Human Rights Information Centre (HRIC) have been monitoring the human rights situation in Crimea since the beginning of the Russian occupation. These organisations have provided first hand and reliable information on the worsening human rights situation in Crimea in the last three years while also addressing shortcomings in Ukraine's policy towards its occupied territories. The information submitted in this report is mainly based on the observations and calls made by these organisations.
4. Since the illegal annexation of Crimea by the Russian Federation, the Ukrainian authorities have adapted their legislative framework to face this new situation. However, a number of measures undertaken by the Ukrainian authorities do not go in the direction of protecting the rights of the Crimean people, including those who have in the meantime left the peninsula and resettled in mainland Ukraine. It is key that the Ukrainian authorities refrain from taking measures that negatively affect the rights of Crimean citizens, create barriers and narrow the opportunities for enjoying rights and exercising freedoms on the Crimean peninsula – including, for instance, freedom of movement and property rights.¹
5. Ukrainian state bodies such as the Ministry of Temporarily Occupied Territories and IDPs, the Ministry of Justice and the Ministry of Foreign Affairs have taken a number of positive

¹ How Ukrainian authorities have to stop violate rights of its citizen in Crimea - recommendations of human rights defenders.

Available at:

https://humanrights.org.ua/en/material/pravozahisniki_rozpovili_shho_treba_zrobiti_vladi_u_nastupnomu_roci_abi_pripiniti_porushennja_prav_krimchan

steps to amend legislation regulating the rights of people living in the occupied Crimean territories. However, such steps need to be taken as part of a strategic vision, rather than simply as ad-hoc reactions to current challenges. It is all the more important to ensure coordination between state bodies that work to improve legislation to protect the rights of persons from the occupied territories.²

6. Although the government does not have the possibility to fully defend the rights and interests of citizens in Crimea, Ukraine still bears the weight of responsibility for ensuring human rights and freedoms on the territories under its control. This duty applies in respect to all of its citizens. Yet, current regulatory frameworks have solidified discriminatory practices with respect to Ukrainian citizens residing in the occupied territories. These citizens are faced with groundless limitations imposed on their fundamental rights and freedoms, as well as socio-economic rights in territories under control of Ukrainian authorities. These discriminatory practices are in no way fostering re-integration of the occupied territories.³

a) Discrimination of Crimeans enshrined in Ukrainian law

7. Following Russian occupation of Crimea, local residents found themselves in a vulnerable position, not only because of the abuses of the *de facto* authorities, but also as a result of the discriminatory policies imposed by the Ukrainian State. The Ukrainian authorities have put in place legislation to adapt to the new reality of the occupation and this has affected directly both the Crimean residents who decided to continue living in the occupied peninsula and those who moved to mainland Ukraine. The laws “On ensuring the rights and freedoms of citizens and legal regime in the temporarily occupied territory of Ukraine”, “On the creation of the free economic zone “Crimea” and on the peculiarities of economic activity in the temporarily occupied territory of Ukraine”, “On ensuring the rights and freedoms for internally displaced persons” include a number of discriminatory provisions.⁴
8. Those Ukrainian citizens who left the territory of Crimea are now included in a separate category of “internally displaced persons” registered as such by relevant state agencies. Those Crimeans who stayed on the occupied territory and travel from time to time to the mainland Ukraine as well as other Crimeans living on the mainland Ukraine who were not registered as IDPs face discrimination using bank services. According to the resolution No. 699 of the national Bank of Ukraine (NBU) “On application of certain norms of currency legislation during the temporary occupation of the territory of the free economic zone of Crimea”, dated 3 November 2014, all Crimeans are considered as non-residents when using banking services.⁵ Applied restrictions include the prohibition to receive payments from residents, the obligation to prove the money’s origin in order to be able to deposit it into a bank account, and the prohibition to purchase foreign currency.⁶ “On 16 December 2014 resolution No.

² How Ukrainian authorities have to stop violate rights of its citizen in Crimea - recommendations of human rights defenders. Available at:

https://humanrights.org.ua/en/material/pravozahisniki_rozpovili_shho_treba_zrobiti_vladi_u_nastupnomu_roci_abi_pripiniti_porushennja_prav_krimchan

³ How Ukrainian authorities have to stop violate rights of its citizen in Crimea - recommendations of human rights defenders. Available at:

https://humanrights.org.ua/en/material/pravozahisniki_rozpovili_shho_treba_zrobiti_vladi_u_nastupnomu_roci_abi_pripiniti_porushennja_prav_krimchan

⁴ Human rights situation on the occupied territory of the Autonomous Republic of Crimea and Sevastopol. Available at: <https://helsinki.org.ua/en/human-rights-situation-on-the-occupied-territory-of-the-autonomous-republic-of-crimea-and-sevastopol/>

⁵ More information available at: <http://www.bank.gov.ua/doccatalog/document?id=11719725> (in Ukrainian)

⁶ “Strengthening the Human Rights Protection of Internally Displaced Persons in Ukraine”, June 2016. Available at:

699 was amended, with a new rule providing that citizens with Crimean residence are not considered as non-residents provided that they provide a certificate of registration as IDPs. This amendment appears to be even more discriminatory when considered in combination with the rules of IDP registration”⁷.

9. On 1 September 2015, the Kyiv Administrative Court of Appeal partially recognised the resolution of the NBU as invalid, but on 24 December 2015 the Supreme Administrative Court overturned all decisions in the case and sent it for retrial.⁸ Thus, the effect of the resolution of the NBU No. 699 and its discriminatory provisions were actually re-established in their entirety.

Recommendations:

- **to remove legal provisions characterising official residents of Crimea as non-residents of Ukraine, thereby hindering their full enjoyment of State services or services from private companies requesting official residency, unless they are formally registered as IDPs with the Ukrainian government.**

b) Obstacles to the moving of property and personal belongings from Crimea

10. In December 2015, the Cabinet of Ministers of Ukraine adopted the Decree No. 1035 “On limiting the supply of specific goods (works, services) from the temporarily occupied territory to another territory of Ukraine and/or from another territory of Ukraine to the temporarily occupied territories”. Following its entry into force on 15 January 2016, thousands of Crimean face challenges on a daily basis to move their property through the checkpoints. The Decree was adopted according to the law “On free economic zone of Crimea” and allegedly aimed to cease any economic relations, including the supply of goods to the peninsula. In fact, its consequence was a grave violation of the rights of ordinary people, who were already in a vulnerable situation following the annexation of Crimea. After the adoption of the Decree with violation of the law “On the rights and freedoms of internally displaced persons” Crimeans had almost no right to evacuate their property.⁹ The decree limits the types and quantities of socially important goods that may be transported to and from Crimea. Thus, the total value of such items shall not exceed UAH 10 000 and shall be below 50 kilograms per person.¹⁰ The document prohibits the import and export of anything that is not in the list of personal belongings provided for in Article 370 of the Customs Code and consists of 24 positions. As a matter of fact,

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806a49d7>

⁷ “Strengthening the Human Rights Protection of Internally Displaced Persons in Ukraine”, June 2016. Available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680697cbc>

⁸ More information available at: <http://legalspace.org/ua/napryamki/zakhist-prav-krimchan/item/6179-vasu-rozhliane-kasatsiunatsbanku-na-rishennia-i-ake-skasovuie-status-nerozydentiv-dlia-krymchan> (in Ukrainian)

⁹ The court delivered a precedential judgment about crossing checkpoints with the occupied peninsula by Crimeans. Available at: <http://helsinki.org.ua/en/articles/the-court-delivered-a-precedential-judgment-about-crossing-checkpoints-with-the-occupied-peninsula-by-crimeans/>

¹⁰ How Ukrainian authorities have to stop violate rights of its citizen in Crimea - recommendations of human rights defenders. Available at:

<https://humanrights.org.ua/en/material/pravozahisniki-rozpovili-shho-treba-zrobiti-vladi-u-nastupnomu-roci-abi-pripiniti-porushennja-prav-krimchan>

inhabitants of Crimea are deprived of their right to transport their belongings to mainland Ukraine.

11. On 26 September 2016, the Odesa district administrative court ruled that Kherson customs department of the State Fiscal Service of Ukraine acted illegally by denying an internally displaced person the entrance to mainland Ukraine from Crimea based on the fact that the person's personal possessions were not on the list of those allowed in accordance with Decree No. 1035.¹¹ The court's decision highlights systemic problems and infringements caused by Decree No. 1035. It also gives hope to many citizens who are not allowed to freely cross the checkpoints between the peninsula and mainland Ukraine with their personal belongings. It is essential to distinguish between the belongings that a person needs in his or her everyday life from goods that are meant for business purposes or to be transferred to others. In its judgement, the Court repeatedly referred to the Constitution of Ukraine as the norms of direct action, including the constitutional guarantees of property rights and the equality of rights and duties for all citizens.¹²

Recommendations:

- Simplify the access of Ukrainian citizens to and from Crimea and ensure their property rights by modifying the Decree No. 1035 regulating crossing the administrative border:
 - to widen the list of products and personal belongings allowed through the boundary;
 - to regulate the procedure for crossing the boundary by trucks and with domestic animals;
 - refuse to equate in law or practice the administrative boundary with Crimea with an international border.

c) Documents of the civilian population in occupied Crimea

12. The legal regime of the occupation poses considerable problems for the citizens of Ukraine residing in the territory of the Crimean Peninsula with relations to the documentary proof of personal status. The problem originates in the invalidation of documents issued by agencies and/or persons carrying out their activities on the occupied territory in accordance with the legislation of Ukraine (Article 9 of the law "On ensuring the rights and freedoms of citizens and legal regime in the temporarily occupied territory of Ukraine"¹³). Due to the absence of any state agencies of Ukraine on the territory of Crimea, *de facto* all documents issued on this territory since the beginning of the occupation are invalid. On the territory of Crimea, it is not possible to replace lost valid documents issued by the Ukrainian authorities.
13. The current conditions result in substantial violations of a number of fundamental rights. For instance, the absence or loss of passport makes it difficult or even impossible for a Ukrainian citizen to move to mainland Ukraine. According to Article 10 of the law "On ensuring the rights and freedoms of citizens and legal regime in the temporarily occupied territory of Ukraine", Ukrainian citizens have the right to a free and safe exit from the temporarily occupied territory through entry and exit control points upon presentation of a document

¹¹ How Ukrainian authorities have to stop violate rights of its citizen in Crimea - recommendations of human rights defenders. Available at:

https://humanrights.org.ua/en/material/pravozahisniki_rozpovili_shho_treba_zrobiti_vladi_u_nastupnomu_roci_abi_pripiniti_porushennja_prav_krimchan

¹² The court delivered a precedential judgment about crossing checkpoints with the occupied peninsula by Crimeans. Available at: <http://helsinki.org.ua/en/articles/the-court-delivered-a-precedential-judgment-about-crossing-checkpoints-with-the-occupied-peninsula-by-crimeans/>

¹³ Full text of the law available at: <http://zakon3.rada.gov.ua/laws/show/1207-18> (in Ukrainian)

certifying their identity or proving their Ukrainian citizenship. According to the Administration of the State Border Guard Service of Ukraine, during a lapse of 11 months in 2015, 55 people were denied to move to mainland Ukraine because they lacked valid documents.

14. Furthermore, the invalidity of documents is a prerequisite for violations of many personal non-property rights, such as the right to a name, right to representative services, inheritance, etc. There are also difficulties concerning the confirmation certificates of birth, death, family relations, general secondary education, labour relations, etc. Given that most of these rights and circumstances are ensured to a person by nature, are integral and are not derived from the state, this situation puts people residing or staying in the temporarily occupied territory of Ukraine in a particularly vulnerable situation.
15. The position of the Ukrainian government in relation to the documents issued by the Russian Federation in occupied Crimea presents some contradictions. On the one hand, Ukraine recognises that the territory of the Autonomous Republic of Crimea and Sevastopol city is occupied by the Russian Federation, and thus, these territories are subject to the provisions of the IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War. Pursuant to Article 50 of this Convention, the occupying power shall take all necessary measures to facilitate the identification of children and registration of their family ties. On the other hand, Ukraine does not fully recognize such documents and develops complicated mechanisms for establishing legal facts, that violate or even completely remove the fundamental rights of citizens residing or staying on the occupied territory of Crimea. The Decree No. 1393-p¹⁴ of the Cabinet of Ministers from 23 November 2015 approved a plan of action to implement the National Human Rights Strategy until 2020. According to this strategy, the State undertakes the commitment to develop an administrative procedure of civil registration of births, deaths and marriages that occurred on the temporarily occupied territory of Ukraine.¹⁵

Recommendations:

- Establish a system to simplify access to public administrative services for Crimean residents, notably with regard to the procedure for obtaining civil registration of births, deaths and marriages
- Develop and introduce amendments to the regulation for admission to and from temporarily occupied territories to avoid violating the right to freedom of movement for Ukrainian citizens under the age of 18.

d) Obstacles to access of foreign monitors to Crimea

16. The *de facto* authorities in Crimea have effectively and systematically denied access to Crimea to nearly all foreign representatives and international institutions responsible for monitoring human rights, including those responsible specifically for monitoring the situation in Crimea such as the the UN Human Rights Monitoring Mission in Ukraine (HRMMU).

¹⁴ Full text of the decree available at: <http://www.kmu.gov.ua/control/uk/cardnpd?docid=248740679> (in Ukrainian)

¹⁵ Human rights situation on the occupied territory of the Autonomous Republic of Crimea and Sevastopol. Available at: <http://helsinki.org.ua/en/human-rights-situation-on-the-occupied-territory-of-the-autonomous-republic-of-crimea-and-sevastopol/>

17. Measures taken by the Ukrainian authorities further complicate access to Crimea for foreign journalists, human rights monitors and lawyers. On 4 June 2015, the Cabinet of Ministers of Ukraine adopted decree No. 367, regulating the entry and exit from Crimea. The decree contains an exhaustive list of grounds on which foreign nationals may be issued a special entry permit and requires foreigners to enter Crimea only through Ukraine (as opposed to through Russia). The grounds for receiving an entry permit did not initially include human rights monitoring, legal support, or journalist activity, which significantly restricted the work of human right activists, lawyers and journalists who are not citizens of Ukraine. In a September 2015 update, human rights activities and journalism were added to the grounds for receiving a permit (whereas legal support is still not included), making it in theory possible for foreign journalists and human rights monitors to travel to Crimea without breaking Ukrainian law.¹⁶

18. Despite small positive improvements, the current regulation is still excessively plagued by red tape, and includes a number of challenges to the work of foreign journalists, lawyers¹⁷ and human rights defenders in Crimea. In order to receive a special permit, foreign journalists and human rights defenders must go through a bureaucratic procedure. From the start of the procedure they have to be physically present in Ukraine, file documents in Ukrainian language, receive a letter of approval from the Ministry of Information Policy or from the Ministry of Foreign Affairs, bring all documentation to the State Migration Service of Ukraine and then wait for up to five days. There is no mechanism to file the documents from abroad through consular and diplomatic offices of Ukraine, and documents cannot be submitted in English. Instead of reporting on the repression in Crimea, foreign journalists are wearing their patience thin, wasting time and money to cut through this red tape.¹⁸

19. While the Ministry of Information Policy has facilitated the access for foreign journalists within the existing procedure (resulting in 70 foreign journalists receiving a permit since the establishment of the procedure¹⁹) there are significant challenges for human rights defenders from foreign countries who apply for a special permit to visit Crimea. In practice it takes at least a month to receive the approval letter from the Ukrainian Ministry of Foreign Affairs which represents a significant obstacle to carry out human rights work in Crimea, specifically when the mission is of urgent nature. There are also cases of denial from the State Migration Service of Ukraine to issue special permits for human rights defenders to enter Crimea. An example of such refusal is the case of Russian human rights activist Dmitriy Makarov²⁰ who worked for the Crimean Human Rights Field Missions – a joint initiative of the Ukrainian and Russian human rights defenders.

Recommendations:

- Simplify the access of foreign citizens to Crimea, including journalists, lawyers, human rights defenders. Modify Cabinet of Ministers decree No. 367 regulating entry and exit from Crimea, in particular by:

¹⁶ Putting a Stop to Impunity – Human Rights Violations in Crimea, Policy Brief. Available here:

<http://humanrightshouse.org/noop/file.php?id=21544>

¹⁷ Russian lawyers are deprived a possibility to receive a special permit in principle as they are not included into the list of the categories of foreign citizens who can obtain a permit.

¹⁸ How Ukrainian authorities have to stop violate rights of its citizen in Crimea - recommendations of human rights defenders. Available at:

https://humanrights.org.ua/en/material/pravozahisniki_rozpovili_shho_treba_zrobiti_vladi_u_nastupnomu_roci_abi_pripiniti_porushennja_prav_krimchan

¹⁹ According to the data of Emine Dzheppar, Deputy Minister on the Informational Policy

²⁰ Human rights activists slam procedure for entry to Crimea -

https://humanrights.org.ua/en/material/pravozahisniki_rozkritkuvali_sistemu_propusku_do_krimu

- transforming the process now requiring prior approval (permits) of travel to Crimea for foreign citizens to one requiring only prior notification
- enabling foreigners to apply from abroad, online, and submit their documents in Russian and English;
- expanding the list of allowed purposes of travel to Crimea for foreign citizens to include legal support and defense.

e) Ukrainian authorities cutting ties with Crimea

20. In July 2016, a group of Parliamentarians registered draft law No. 3593 “On the temporarily occupied territory of Ukraine”. MPs proposed to put together Crimea and parts of Donetsk and Lugansk regions in a single law disregarding the many differences in the nature of the occupations. The impression this draft law gives is the one of attempting to shift responsibilities on the occupied territories away from the Ukrainian authorities, *de facto* assigning them to Russia as the occupying power. An example of this is the proposal to make the Russian authorities responsible for the payment of pensions and social benefits which violates the Constitution and laws of Ukraine.²¹
21. Another practice going in the direction of further cutting links between Ukraine and its occupied peninsula is represented by the decision of the Ukrainian prosecutor office not to open criminal cases nor effectively investigate human rights abuses in Crimea.

Recommendations:

- Refrain from taking measures aiming at further isolating the Crimean population from its legitimate Ukrainian government and lowering the authorities’ responsibilities towards the Ukrainian population living under occupation.

²¹ The norms of the bill on the Occupied Territories violate fundamental human rights. Available at: <http://crimeahrg.org/en/the-norms-of-the-bill-on-the-occupied-territories-violate-fundamental-human-rights/>