

ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE

**Office for Democratic Institutions and Human Rights
&
High Commissioner on National Minorities**

**Report of the Human Rights Assessment Mission on
Crimea (6–18 July 2015)**



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LIST OF ABBREVIATIONS

ABL	Administrative Boundary Line
CESCR	UN Committee on Economic, Social and Cultural Rights
CRC	UN Convention on the Rights of the Child
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
FCNM	Framework Convention for the Protection of National Minorities
FMS	Federal Migration Service (of the Russian Federation)
FSB	Federal Security Service (of the Russian Federation)
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
HCNM	OSCE High Commissioner on National Minorities
HRAM	Human Rights Assessment Mission
ICRC	International Committee of the Red Cross
IDP	Internally displaced person
MFA	Ministry of Foreign Affairs
MSP	Ministry of Social Policy (of Ukraine)
NGO	Non-governmental organization
NPM	National Preventive Mechanism
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OHCHR	Office of the UN High Commissioner for Human Rights
OSCE	Organization for Security and Co-operation in Europe
OST	Opioid substitution therapy
RFE/RL	Radio Free Europe/Radio Liberty
QHA	Crimean News Agency
UCIPR	Ukrainian Center for Independent Political Research
UN	United Nations
UNCAT	UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNHCR	UN High Commissioner for Refugees

Executive Summary

1. Following an invitation by the Government of Ukraine on 15 June 2015, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the OSCE High Commissioner on National Minorities (HCNM) conducted a joint Human Rights Assessment Mission (HRAM) on Crimea from 6 to 18 July 2015.
2. The HRAM evaluated the current human rights situation in Crimea, including the situation of minority groups, as impacted by developments since the release of the previous ODIHR/HCNM report¹ on Ukraine in May 2014, soon after the occupation and annexation of Crimea by the Russian Federation.²
3. Notably, the most critical human rights problems in Crimea today are largely congruent with the concerns and negative trends identified in that previous assessment, which ODIHR and HCNM then called upon *de facto* authorities in Crimea to address.³
4. Despite their clear mandates to monitor the human rights situation in Crimea, the institutions and independent experts of the OSCE, the United Nations and the Council of Europe have all had their access to the Crimean peninsula either fully or partially restricted since the annexation. The *de facto* authorities in Crimea did not respond to requests to facilitate access to Crimea for the HRAM,⁴ for which reason the HRAM primarily conducted fact-finding and

¹ OSCE-ODIHR/HCNM, Report of the Human Rights Assessment Mission to Ukraine (The Hague/Warsaw: 12 May 2014), available at: <http://www.osce.org/odihr/118476>.

² Note on terminology: for the purposes of this report, “occupation” refers to the exercising of control over Crimea by Russian Federation forces since late February 2014 (*see* note 15 below); whereas “annexation” refers to the Russian Federation’s integration of Crimean institutions into the Russian Federation under the imposition of its domestic legal framework, beginning on 21 March 2014 (*see* note 17 below). With regard to the status of Crimea, *see also*, United Nations (UN) General Assembly Resolution No. 68/262 on the “Territorial integrity of Ukraine” (UN Doc. A/RES/68/262; adopted 27 March 2014).

³ In their 2014 joint report (note 1 above), ODIHR and HCNM issued the following recommendations to *de facto* authorities in Crimea, *inter alia*: (i) to apply the principle that the change in authorities exercising effective control over Crimea should not have regressive effects on the enjoyment of rights, with particular attention to the principle of non-discrimination; (ii) to guarantee that all individuals permanently residing in Crimea, including both Russian and Ukrainian citizens, retain all their rights, including permanent residency status, employment rights, property and land rights, without discrimination by authorities or private actors; (iii) to protect participants of public assemblies from attacks, harassment or intimidation; (iv) to protect journalists and activists from attacks, threats, harassment and intimidation so that they can carry out their activities freely and without fear; (v) to protect all persons from arbitrary or unlawful detentions, mistreatment or torture in detention; (vi) to respect in full all fair-trial and due-process rights of persons detained under the law; (vii) to exercise due diligence in the investigation, prosecution and punishment of human rights violations, particularly against activists, journalists, and vulnerable or minority groups; (viii) to promptly disband “self-defence” groups and any other groups *de facto* exercising the functions of law-enforcement agents.

⁴ Letter from the Director of ODIHR to Mr. Sergey Aksyonov (dated 2 April 2015). On 11 June 2015, the Records Management Department of the Crimean Ministers Council confirmed receipt of the letter (upon request), which it informed ODIHR had been reviewed by Mr. Aksyonov and forwarded to Ms.

research in the territory of mainland Ukraine, as well as through remote interviews with relevant contacts in Crimea and elsewhere.

5. Through extensive meetings and interviews with over 100 civil society actors, Ukrainian authorities, internally displaced persons and cross-boundary travellers, the HRAM received numerous credible, consistent and compelling accounts of human rights violations and legal irregularities in Crimea – some of them of a serious nature. The allegations documented and trends established by the HRAM demand urgently to be addressed by Crimean *de facto* authorities, and underscore the need for systematic independent monitoring of the human rights situation in Crimea by impartial international bodies.
6. As a result of the annexation, the changes in government and the legal framework being applied in Crimea have dramatically impacted the enjoyment of the full spectrum of human rights and fundamental freedoms by residents there, particularly of those residents who were opposed to the annexation, were unable to reject forced Russian citizenship, and/or did not seek to acquire Russian passports.
7. Fundamental freedoms of assembly, association, movement, expression and access to information have all been restricted in some fashion – whether through formal measures, or through the sporadic targeting of individuals or communities representing opposing views, voices or socio-political structures.
8. Re-registration requirements by the Russian Federation for non-governmental organizations (NGOs), media outlets, and religious organizations have reportedly been leveraged against those opposed to Russian rule, significantly restricting freedom of association, constricting the space for civil society, and decimating the number of independent voices in the media landscape.
9. Through the justice system, the *de facto* authorities in Crimea have applied vague charges of “extremism” and “separatism” under criminal law of the Russian Federation to a wide variety of assemblies, speech and activities – in some cases retroactively to events prior to annexation and/or outside of Crimea in mainland Ukraine. Based on interviews with those targeted and primary documentation reviewed by the HRAM, numerous such criminal warnings, investigations and prosecutions appeared to be politically motivated – directed at pro-Ukrainian activists, journalists and minority community members – without due process guarantees for the accused, and without effective remedies for alleged procedural violations.
10. In contrast, there appear to have been neither proactive investigations nor any prosecutions of pro-Russian “self-defence” groups accused of committing serious human rights abuses at the start of and since the occupation of Crimea.

Lyudmila Lubina, the Crimean Human Rights Commissioner, under Document No. 6158/01-01 (dated 08 April 2015).

Those alleged abuses included disappearances, extrajudicial killings, torture and ill-treatment, as documented by ODIHR and HCNM in their 2014 joint HRAM report.⁵ Since then, “self-defence” groups have reportedly continued to intimidate, harass, detain and seize the properties of Crimean residents – particularly those suspected of opposing Russian rule – without an adequate legal basis.

11. In terms of accountability, the European Court of Human Rights has extended the Russian Federation’s deadline until 25 September 2015 to submit its observations on the admissibility of two inter-State applications lodged against it by Ukraine – including in relation to forced citizenship, discrimination, property rights, the right to private life, and the prohibition against torture and ill-treatment.⁶ During that extended response period, the Constitutional Court of the Russian Federation issued a concerning ruling on 14 July 2015 that the government would not be required to implement judgments of the European Court of Human Rights if they contravened the Russian Constitution.⁷ Apparently conflicting with the Russian Federation’s obligations under international treaty law,⁸ such a decision could further undermine the right to an effective remedy for claimants, and the execution of judgments by the European Court in future claims, including in the dozens of individual cases that have already been submitted to the Court in relation to recent events in Crimea.
12. In the realm of economic, social and cultural rights, the imposition of Russian Federation citizenship and laws on residents of Crimea has caused problems for those Ukrainian citizens who have not sought Russian passports (despite having Russian citizenship nominally imposed upon them). Without Russian passports, residents face obstacles in every aspect of their lives, including: re-registering and/or selling private properties and businesses; gaining or retaining employment; and accessing education, health care, or other social services. Language studies and native-language education in the Ukrainian and Crimean Tatar languages have also reportedly been reduced in schools and universities throughout Crimea, to the detriment of those communities’ enjoyment of their cultural and language rights.
13. In the penitentiary system, more than 2,000 convicts imprisoned in Crimea at the time of annexation reportedly were unable to opt out of mandatory Russian citizenship, did not benefit from Ukrainian-ordered amnesties and conditional releases in 2014, and are potentially subject to transfer to penal colonies in mainland Russia, as has reportedly transpired in some cases. Injecting drug

⁵ See 2014 joint report of ODIHR/HCNM (note 1 above), paras. 88, 109 *et seq.*

⁶ Registrar of the European Court of Human Rights, Press release, “European Court of Human Rights extends time allowed for Russia’s observations on admissibility of cases concerning Crimea and Eastern Ukraine”, Doc. No. ECHR 122 (2015), issued on 13 April 2015.

⁷ See the Russian Constitutional Court’s statement on the ruling, available at: <http://www.ksrf.ru/ru/News/Pages/ViewItem.aspx?ParamId=3244>.

⁸ Article 27 of the Vienna Convention on the Law of Treaties (1969) provides: “A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.”

users and persons living with HIV/AIDS in the pre-trial detention facility and three penal colonies in Crimea have also reportedly lacked necessary medical care.

14. Exacerbating the legal and practical problems enumerated above are the existence of dual and parallel citizenship records, civil registries, cadastral records, pension systems, and justice systems exercising jurisdiction over the same persons and properties. As neither Russia nor Ukraine recognizes official documentation issued by the other in relation to Crimea, residents are caught between two overlapping and conflicting legal and regulatory systems. In order to navigate these complexities, many Crimean residents keep both Russian and Ukrainian passports, despite both countries not recognizing those residents' dual citizenship of the other.⁹
15. The HRAM received numerous accounts of Crimean residents and displaced persons who were unable to: sell their properties or businesses; acquire Ukrainian birth certificates for newly born children; or have their divorces in Crimea acknowledged by Ukrainian authorities, resulting in restrictions of the freedom of movement of many children with single parents under new Ukrainian regulations on travel to Crimea. Students graduating from Crimean secondary schools since annexation have also been unable to enrol in Ukrainian universities with diplomas issued by unrecognized authorities (and without sufficient opportunities to seek alternative qualifications), spurring surges in migration of families with school-age children from Crimea to mainland Ukraine.
16. The HRAM found in Crimea that those Crimean Tatars and Ukrainians who openly supported the territorial integrity of Ukraine and did not support the *de facto* authorities continued to be in a particularly vulnerable position. The suppression of activities of Mejlis – a self-governing body of Crimean Tatars – as well as intimidation, expulsion, or incarceration of prominent leaders of the Mejlis of the Crimean Tatar People has had a detrimental effect on the exercise of political and civil rights of persons belonging to the Crimean Tatar community.
17. Effectively forcing Crimean Tatar community-run media outlets, such as ATR, to close by denying their registration has not only restricted media freedom and access to information, but also deprived the Crimean Tatar community of a vital instrument to maintain and revitalize its identity.
18. The space for Ukrainian culture in the illegally annexed Crimea has also decreased. Cultural, religious and symbolic elements of Ukrainian identity have been restricted and/or suppressed through various administrative or law-

⁹ See Law of Ukraine No. 1207-VII “On legal guarantees of the rights and freedoms of citizens in the temporarily occupied territory of Ukraine”, Article 5(4); and Federal Law No. 62-FZ “On Russian Federation Citizenship”, Article 6(1); and Constitution of the Russian Federation, Article 62.

enforcement measures. Hostile attitudes in Crimea towards residents of Crimea who support the territorial integrity of Ukraine, display Ukrainian state and cultural symbols and publicly celebrate important dates for the Ukrainian culture and history are widespread.

19. Education in and of the Ukrainian language is disappearing. Pressure on school administrations, teachers, parents and children to discontinue teaching in and of the Ukrainian language is growing, which further curtails the presence of the Ukrainian language and culture on the peninsula. Education both in and of the Crimean Tatar language continues to face obstacles.
20. As obligated under its international human rights commitments and the Constitution of Ukraine,¹⁰ the Ukrainian government has adopted numerous policy measures to meet the needs of its citizens remaining in, or displaced from Crimea, despite lacking effective control over the peninsula. Those measures have reportedly been most effective where conjoined with awareness-raising campaigns to inform affected populations of solutions available for the challenges they face. However, many of those citizens impacted by the political and security challenges in Crimea over the last year have called for more relief and administrative assistance from the Ukrainian government to overcome those problems – particularly in relation to accessing the civil registry and education, and acquiring personal identification or other official documents. People crossing back and forth between Crimea and mainland Ukraine have also criticized newly increased restrictions on freedom of movement between the two regions, and inadequate infrastructure at land crossing points.
21. Through the Crimean *de facto* authorities, the Russian Federation is likewise obligated to respect, protect and fulfil the human rights and fundamental freedoms of persons in Crimea – in line with the international treaties to which it is party, as well as its commitments as an OSCE participating State to uphold those human rights and fundamental freedoms. Those OSCE commitments encompass the Russian Federation’s obligations under international human rights law and international humanitarian law, per its role as an occupying power in effective control of the Crimean peninsula.

¹⁰ See, the Constitution of Ukraine, Article 25: “A citizen of Ukraine shall not be deprived of citizenship and of the right to change citizenship. A citizen of Ukraine shall not be expelled from Ukraine or surrendered to another State. Ukraine guarantees care and protection to its citizens who are beyond its borders.”

Recommendations

To Russian Federation authorities and the de facto authorities in Crimea:

General recommendations:

- Immediately grant unimpeded access to Crimea for international agencies, institutions, special procedures and independent experts of the OSCE, the United Nations and the Council of Europe, as well as for any human rights NGOs or news media that wish to visit, assess and report on the situation in Crimea.
- Expand co-operation with the Office of the Ukrainian Parliament Commissioner for Human Rights (particularly in its mandate as the National Preventive Mechanism, or NPM), including to *inter alia*:
 - Facilitate visits of the NPM to places of detention, orphanages and other social care institutions as relevant; and
 - Negotiate the possible transfer of those persons to mainland Ukraine who were in detention or social care institutions prior to annexation and desire to be transferred.
- Recognize as binding and fully implement all decisions of the European Court of Human Rights, guaranteeing full restitution or other reparations ordered for any violations identified.
- Assist the Government of Ukraine in the facilitation of the execution of any judgments by the European Court of Human Rights in relation to cases submitted prior to the occupation of Crimea by the Russian Federation.
- Refrain from transferring persons in detention or social care institutions to other territories controlled by the Russian Federation.

Citizenship and residency:

- In line with international humanitarian law, refrain from automatically imposing Russian citizenship on residents of Crimea.
- Extend indefinitely the opportunity for Ukrainian citizens from or residing in Crimea – including in places of detention or other public institutions – to retain their Ukrainian citizenship and register as permanent residents in Crimea.
- In particular, provide all prisoners with the opportunities to retain their Ukrainian citizenship, and to transfer to places of detention in mainland Ukraine, if they so desire.
- Extend to permanent residents of Crimea full entitlement to all social services available to citizens of Russia in Crimea.
- Provide all children with the option to retain their Ukrainian citizenship and reject Russian citizenship, upon reaching the age of majority. Until such time as they are presented with the opportunity to reject Russian citizenship, refrain from transferring those children in the custody or care of public institutions outside of Crimean territory, whether in private or public custody or care, unless to facilitate family reunification or otherwise in the best interest of the child.

- Allow permanent residence in Crimea based on Ukrainian documentation, without the need for Russian residency permits.
- In line with international humanitarian law, refrain from conscripting Crimean residents into the armed forces of the Russian Federation.

Law enforcement and justice system:

- In line with international humanitarian law, ensure that Ukrainian penal law remains in force in Crimea, and applied by courts of law, with the exception of provisions that constitute a threat to the security of the occupying power, or an obstacle to the application of relevant international humanitarian law provisions.
- In Crimea, halt all criminal detentions, investigations and prosecutions of persons alleged to have committed crimes under the Criminal Code of the Russian Federation, including those that occurred prior to annexation and/or outside of the territory of the Russian Federation.
- Review any sentences imposed on persons prosecuted and convicted of such charges, with a view to their exoneration or amnesty.
- Refrain from applying any criminal sanctions to Russian citizens in Crimea who fail to disclose dual Ukrainian citizenship, by introducing an exemption through amendments to the legislation providing for such criminal punishments, which will enter into force on 1 January 2016.
- Investigate allegations of discrimination against members of ethnic minority groups in Crimea (including in the sphere of abusive targeting for regulatory inspections of their private enterprises), and adopt necessary measures to halt, prevent and sanction any such discrimination.
- Investigate and as appropriate prosecute all “self-defence” groups, and any other individuals or private parties, alleged to have committed abuses at the time of occupation or since then, particularly in relation to recent arbitrary detentions and seizures of properties – as well as past allegations of disappearances, extrajudicial killings, torture and ill-treatment, including those that were documented by ODIHR and HCNM in their 2014 joint report.
- In line with international humanitarian law, acknowledge the nationality of Ukrainian citizens in any legal procedures; and, as such, in line with the Vienna Convention on Consular Relations, afford them all consular rights.

Penitentiary system:

- Immediately grant access to places of detention in Crimea for ODIHR and other OSCE institutions, international organizations, the International Committee of the Red Cross (ICRC), and any international or local NGOs seeking to monitor places of detention and/or provide needed services to persons in detention, including but not restricted to medical care.

Freedom of assembly:

- Respect and ensure the rights of all people in Crimea to organize and/or participate in public assemblies, for any peaceful purpose they wish, particularly in relation to their cultural, national or religious holidays.
- Refrain from imposing unnecessary or disproportionate restrictions on the right to freedom of peaceful assembly, including in relation to the time, location or content of public assemblies.

Freedom of association:

- Allow all previously operating Ukrainian media, non-governmental and religious organizations to operate freely without re-registration in Crimea, and without being considered unlawful.
- Extend indefinitely all application periods to re-register legal entities that were registered under Ukrainian law (including private enterprises), and provide a simplified procedure to do so without excessive application requirements.
- Facilitate local consultations with all organizations and legal entities seeking to re-register under Russian laws, in order to identify and provide solutions for any obstacles encountered by potential applicants.

Freedom of expression:

- Cease applying politically motivated criminal charges (including “extremism”, “separatism” and “incitement of hatred”) to peaceful public assemblies and public expression of cultural identities or political opinions and beliefs.
- Halt politically motivated criminal investigations and warnings for journalistic or private expression of allegedly “extremist” opinions or topics (including in publications and on social media).

Freedom of the media:

- Facilitate greater media pluralism, including by:
 - Allowing Ukrainian- and Crimean Tatar-language media organizations greater opportunities to establish local media and conduct journalistic reporting freely and openly, without restrictions;
 - Providing adequate time and opportunities for media organizations to apply for any future tenders on broadcast frequencies in Crimea, actively soliciting applications from those organizations previously or presently holding such broadcasting rights.
- Cease online censorship through the blocking of websites, including on vague grounds of “extremist” content.
- Review and remove excessive requirements for media accreditation, particularly where it imposes unnecessary limitations on the number of media, in total or

from any specific outlet, that can attend and report on activities of public institutions.

Freedom of movement:

- Lift the unlawful entry bans against Crimean Tatar leaders, and any other Crimean residents or IDPs from Crimea who have effectively been banned from entering Crimea.
- Prevent any restrictions by government bodies or private actors on the freedom of movement of Crimean residents, particularly in relation to their travel outside of Crimea for participation in civil society activities.
- Rescind any deportations of Russian or Ukrainian residents of Crimea, which run counter to their rights to enter and exit Crimea freely.

Right to property

- Expand co-operation with Ukrainian authorities to facilitate access to and enjoyment of private properties by Crimean residents and IDPs, including through any necessary agreements on suspension of taxes on properties and their sales, or placement of such taxes in escrow for mutually agreed purposes.
- Immediately halt expropriations (“nationalizations”) and other seizures of properties and enterprises in Crimea, by *de facto* authorities and private actors;
- Review the legality of all past expropriations and seizures of properties and enterprises in Crimea, and adopt measures to grant full restitution and other forms of reparations to those who have suffered from damages resulting from any such wrongful actions.

Economic, social and cultural rights:

- For those Ukrainian citizens and other Crimean residents not wishing to become Russian citizens, respect all of their economic, social and cultural rights, including by:
 - Conferring all property and business ownership rights equivalent to those enjoyed under Ukrainian law prior to annexation;
 - Providing education free of charge to all school-age children and youths, without requirement of Russian citizenship;
 - Allowing all Ukrainian citizens and Crimean residents to work in Crimea without Russian documentation or special permits to do so;
 - Providing health insurance and services to all Crimean residents, regardless of their citizenship status, without discrimination;
 - Facilitating the issuance of official copies of live-birth medical certificates by hospitals to the parents of newborn children in Crimea, upon their request and at any time.
- Provide native-language education and language studies in the Ukrainian and Crimean Tatar languages, with a view to reaching, at a minimum, previous

levels of accessibility of such education in schools and universities throughout Crimea.

- Allow harm-reduction specialists to continue provision of opioid substitution therapy for injecting drug users in Crimea, including in places of detention, without criminal liability.

Minority communities:

- Immediately stop the intimidation, expulsion, or incarceration of prominent leaders of the Mejlis of the Crimean Tatar People and members of other community organizations. They should be allowed freedom of movement and residence in Crimea.
- Take immediate action to uphold media freedom and access to information by ensuring that independent Crimea Tatar media outlets obtain registration and are provided appropriate conditions for their operation.
- Maintain unimpeded access and dedicate appropriate resources to education in and of the Ukrainian language at school and university levels.
- Remove obstacles for maintenance and expansion of education both in and of the Crimean Tatar language.
- Restore the availability of instruction in a mother tongue in the upper high school grades.
- Refrain from interfering with parental choice for language of instruction.
- Take action to resolve pre-existing problems concerning the housing and land of Crimean Tatars, which have been compounded by legal uncertainty over property rights.
- Carry out measures related to the rehabilitation and restoration of the rights of formerly deported people, including activities to protect and revitalize the Crimean Tatar language and culture.
- Grant access to the OSCE High Commissioner on National Minorities to visit Crimea.
- Implement all recommendations previously made to *de facto* authorities by the HCNM, including those contained in the 2014 HRAM report.

To Ukrainian authorities:

General recommendations:

- Expand co-operation with the High Commissioner for Human Rights (Ombudsperson) in the Russian Federation to resolve any problems faced by citizens of either Russia or Ukraine resulting from the occupation and annexation of Crimea, including the problems highlighted in this report.
- Facilitate the provision of all necessary documentation for ex-convicts from Crimea, upon or following their release from places of detention, including official documentation recognizing their previous residency in Crimea.

Freedom of movement:

- Amend the requirements provided by Cabinet of Ministers Resolution No. 367¹¹ that unnecessarily restrict the freedom of movement of foreigners (including media, NGOs, and other individuals traveling privately) across the Administrative Boundary Line (ABL).
- Provide necessary funding to relevant authorities to improve transportation infrastructure at the three crossing points of the ABL, in consultation with affected communities and cross-boundary travellers, and in line with the recommendations of the State Border Guard Service of Ukraine.

Right to property:

- Expand co-operation with Crimean *de facto* authorities to facilitate access to and enjoyment of private properties by Crimean residents and IDPs, including through any necessary agreements on suspension of taxes on properties and their sales, or placement of such taxes in escrow for mutually agreed purposes.

Economic, social and cultural rights:

- Facilitate a simpler or consolidated standardized test to more easily allow Crimean students to earn Ukrainian diplomas (for example, to be administered in a single sitting rather than several), and assist Crimean graduates to replace Russian-issued diplomas with Ukrainian diplomas, in order to enter Ukrainian universities if so desired.
- Allow and facilitate the exchange by parents of Russian-issued birth certificates of their Ukrainian children born in Crimea since occupation, for Ukrainian-issued birth certificates at any time requested.
- Allow and facilitate the exchange of other civil registration documents as appropriate (e.g. marriage certificates; divorce certificates; death certificates; etc.).
- Raise awareness of procedures for Crimean residents to claim social entitlements and rights (including to obtain civil registration documents), through targeted information campaigns.
- Conduct inclusive consultations, with the participation of community leaders, both women and men, and vulnerable groups and individuals, in order to identify problems and proactively assist affected individuals and groups to overcome any procedural challenges in their access to economic, social and cultural rights.

¹¹ See note 258 below.

Methodology

22. The *de facto* authorities in Crimea did not respond to requests to facilitate access to Crimea for the HRAM.¹² For that reason, the scope of the fact-finding and field research for this report was restricted to the territory of mainland Ukraine, augmented by remote interviews with relevant contacts in Crimea and elsewhere in Ukraine.
23. The HRAM was carried out by two teams of two researchers each, one team from ODIHR and the other from HCNM. Information on conditions and developments in Crimea were gathered through first-hand witness accounts, meetings and interviews with relevant actors, an on-site visit to the Administrative Boundary Line (ABL) between Crimea and mainland Ukraine, as well as background desk research on relevant legal frameworks and previous human rights reporting on Crimea since March 2014.
24. From 6 to 18 July 2015, the HRAM conducted 50 meetings in Kyiv, Odessa and Kherson Oblasts, with 45 civil society actors (including 6 journalists, 9 Crimean Tatar leaders, and 30 representatives of 20 NGOs) and 45 representatives of 15 government offices. Additionally, the joint team met with 28 Crimean IDPs residing in Kyiv, and interviewed 24 individuals traveling alone or with their families across the ABL, primarily from Crimea into mainland Ukraine. Before, during and after the HRAM, researchers also conducted phone, Skype, and in-person interviews with activists, lawyers, journalists and Crimean Tatar representatives who were either in Crimea at the time of interview, or were in mainland Ukraine yet cross back-and-forth between the two regions.
25. In conformity with their respective institutional mandates and in line with their established methodologies, ODIHR and the HCNM have carried out their fieldwork independently. The HCNM and ODIHR have different mandates and had a different focus in the preparation of this report, which is why a number of reported facts are referenced both in Section 4 and elsewhere in the report. Therefore, the findings from Section 4 should be read in conjunction with the findings in other parts of the report. Successive High Commissioners have been actively engaged in Ukraine since the early 1990s. The HRAM takes relevant long-term observations into account by providing a brief outline of concerns that pre-date the illegal annexation of Crimea, but which have become more urgent in light of the recent developments.
26. The OSCE Representative on Freedom of the Media provided input on the situation of journalists and media professionals in Crimea during the reporting period. The OSCE Special Monitoring Mission to Ukraine also supported the research teams with information and logistical assistance during the HRAM. The co-operation of the Government of Ukraine was essential for the successful

¹² See letter from ODIHR to Mr. Aksyonov (note 4 above).

completion of this research, as was the invaluable input of numerous Crimean residents, displaced persons, activists, journalists and community representatives who provided accounts of their experiences for this report.

International Standards

27. As OSCE participating States, both Ukraine and the Russian Federation have consented and committed to respect, protect and fulfil the human rights of those under their respective jurisdictions, in order to advance both regional and human security. For the purposes of this research and reporting, the HRAM has assessed and presented its findings in light of the human rights standards and obligations of participating States that those OSCE commitments reaffirm.
28. A number of OSCE human dimension commitments notably recognize the vital importance of participating States' realization of their binding human rights obligations under international treaties.¹³ OSCE human dimension commitments also reaffirm the binding nature of States' obligations under international humanitarian law, including the Geneva Conventions.¹⁴
29. 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 power¹⁵ in effective control of the Crimean peninsula.¹⁶ In that regard, the Fourth Geneva

¹³ For instance, Budapest Document (Budapest Declaration, "Towards a Genuine Partnership in a New Era", 6 December 1994), para. 14 (available at: <http://www.osce.org/mc/39554>).

¹⁴ For instance, Helsinki Document ("The Challenges of Change", Helsinki, 10 July 1992), "Decision VI: The Human Dimension", paras. 47–52 (available at: <http://www.osce.org/mc/39530>); Budapest Document (note 13 above), "Code of Conduct on Politico-Military Aspects of Security", paras. 29–35. In its Resolution No. 68/262 on the "Territorial integrity of Ukraine" (*see* note 2 above), the UN General Assembly further recalled the Helsinki Final Act of 1975 ("Conference on Security and Co-operation in Europe Final Act", Helsinki, 1 August 1975), Section 1(a)(IV) on "Territorial Integrity of States" (available at: <https://www.osce.org/mc/39501?download=true>), which provides: "The participating States will likewise refrain from making each other's territory the object of military occupation or other direct or indirect measures of force in contravention of international law, or the object of acquisition by means of such measures or the threat of them. No such occupation or acquisition will be recognized as legal." *See also*, Istanbul Document 1999 (Charter for European Security: III. Our Common Response), para. 22 (available at: <http://www.osce.org/mc/39569>); and Rome Document 1993 (Decision X, "Declaration on Aggressive Nationalism, Racism, Chauvinism, Xenophobia and Anti-Semitism", paras. 4 and 5 (available at: <http://www.osce.org/mc/40401?download=true>)).

¹⁵ Under international humanitarian law, military occupation is defined as follows: "Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised." *See* Article 42, Hague Convention (IV) of 1907, respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (The Hague, 18 October 1907).

¹⁶ The derogation resolution was adopted in line with Article 4 of the ICCPR (note 23 below) and Article 15 of the ECHR (note 19 below), which provide for limited derogations from the rights provided by those instruments. *See* Verkhovna Rada of Ukraine, "Resolution on Approval of statement 'On Ukraine derogation from certain obligations defined by the International Covenant on Civil and

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 recognized by one of them".¹⁷ As an occupying power, the Russian Federation has obligations to uphold the rights of Crimean residents under international human rights law as well as under international humanitarian law.¹⁸

30. 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:

Political Rights and the European Convention on Human Rights" (21 May 2015), available at: <http://zakon2.rada.gov.ua/laws/show/462-19>. See also, Council of Europe statement, "Ukraine derogation from European Convention on Human Rights" (10 June 2015), available at: <http://www.coe.int/en/web/portal/-/ukraine-derogation-from-european-convention-on-human-rights>.

- ¹⁷ Article 2 of the Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 August 1949 (Fourth Geneva Convention), provides: "In addition to the provisions which shall be implemented in peace-time, the present Convention shall apply to all cases of declared war or any other armed conflict which may arise between two or more High Contracting Parties, even if the state of war is not recognized by one of them." The International Law Commission further recognized in its draft Articles on the Responsibility of States for Internationally Wrongful Acts that even "consent" by public authorities to an annexation of territory of one State by another does not make that annexation legitimate under international law, particularly where such consent could be considered to be given under a form of duress (Article 20 and its Commentary, para. 4). The draft Articles also reaffirm the impermissibility of violations of the peremptory norm prohibiting aggression, and obligations on all States not to recognize illegitimate annexations resulting therefrom, including as ordered by the UN Security Council in the case of Iraq's illegitimate "annexation" of Kuwait through aggression (Articles 40 and 41, and their Commentaries). See United Nations, International Law Commission, Report on the work of its fifty-third session (2001), General Assembly, Official Records, Fifty-fifth Session, Supplement No. 10 (A/56/10), available at: <http://www.un.org/ilc>. The UN General Assembly took note of the draft Articles in its Resolution No. A/RES/56/83 of 12 December 2001. The UN General Assembly specifically underscored in Resolution No. 68/262 (see note 2 above) "that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol" (para. 5). The Council of Europe's European Commission for Democracy through Law (Venice Commission) similarly found the referendum and annexation of Crimea to be illegitimate, concluding that "the circumstances in Crimea did not allow the holding of a referendum in line with European democratic standards." See Venice Commission *Opinion No. 762/2014*, Doc. No. CDL-AD(2014)002, para. 28. Available at: [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). Additionally, on 3 April 2014, the Council of Europe's Committee of Ministers "stressed that the illegal referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014 and the subsequent illegal annexation by the Russian Federation cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol." Decisions adopted at the 1196th meeting (2-3 April 2014); Doc. No. CM/Del/Dec(2014)1196 (4 April 2014). Available at: <https://wcd.coe.int/ViewDoc.jsp?id=2180249&Site=CM>.
- ¹⁸ In particular, Articles 47-78 of the Fourth Geneva Convention (ibid.).

- European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, or ECHR);¹⁹
- Protocol 1 to the European Convention on Human Rights;²⁰
- Protocol 4 to the European Convention on Human Rights;²¹
- Framework Convention for the Protection of National Minorities (FCNM);²²
- International Covenant on Civil and Political Rights (ICCPR);²³
- International Covenant on Economic, Social and Cultural Rights (ICESCR);²⁴
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);²⁵
- UN Convention on the Rights of the Child (CRC);²⁶
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT);²⁷
- Fourth Geneva Convention;²⁸
- Additional Protocol I to the Geneva Conventions;²⁹
- Additional Protocol II to the Geneva Conventions.³⁰

31. Respecting and ensuring human rights is the responsibility of governments, yet principally in territories where they exercise effective control. As the scope of this report is primarily focused on the enjoyment of human rights within the territory of Crimea, the majority of recommendations are addressed to the authorities exercising *de facto* control in Crimea, and to the Russian Federation authorities that direct them. There are also recommendations addressed to the Ukrainian government, where it continues to be able to fulfil its human rights-

¹⁹ European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS No. 5, entered into force 3 September 1953.

²⁰ Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, 20 March 1952, ETS No. 9, entered into force 18 May 1954.

²¹ Protocol 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, 16 September 1963, ETS No. 46, entered into force 2 May 1968.

²² Framework Convention for the Protection of National Minorities, 1 February 1995, ETS No. 157, entered into force 1 February 1998.

²³ International Covenant on Civil and Political Rights, GA Res. 2200A (XXI), UN Doc. A/6316 (1966), entered into force 23 March 1976.

²⁴ International Covenant on Economic, Social and Cultural Rights, GA Res. 2200A (XXI), UN Doc. A/6316 (1966), entered into force 3 January 1976.

²⁵ International Convention on the Elimination of All Forms of Racial Discrimination, 660 UNTS 195, entered into force 4 January 1969.

²⁶ Convention on the Rights of the Child, GA Res. 44/25 (20 November 1989), UN Doc. A/44/49, (entered into force Sept. 2, 1990).

²⁷ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, GA Res. 39/46, annex, UN Doc. A/39/51 (1984), entered into force 26 June 1987.

²⁸ Fourth Geneva Convention (note 17 above).

²⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 1125 UNTS 3 (entered into force 7 December 1978).

³⁰ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, 1125 UNTS 609 (entered into force 7 December 1978).

related responsibilities towards its citizens in or displaced from Crimea on account of their current situations and needs.

1. Imposition of Russian Laws and Citizenship

32. In their May 2014 joint report, ODIHR and HCNM raised concerns about the “legal uncertainty that arose from the change in authorities exercising *de facto* control over Crimea”, cautioning specifically of “potential infringements of the rule of law and human rights”, especially with respect to “citizenship and residency status, employment and the right to work, land and property rights, as well as the situation of particularly vulnerable groups.”³¹ ODIHR and HCNM therefore called on *de facto* authorities in Crimea to ensure that the change in government following the referendum and annexation by the Russian Federation did not have “regressive effects on the enjoyment of human rights”, and in particular to “ensure that all individuals permanently resident in Crimea, including both Russian and Ukrainian citizens, retain all their rights, including permanent residency status, employment rights, property and land rights, without discrimination”.³²
33. The Russian Federation and the Crimean *de facto* authorities are obligated to ensure non-discrimination with regard to the enjoyment of all human rights of those in their jurisdictions. The prohibited grounds of discrimination include, among others: national or social origin, political or other opinion, language, religion, property, birth or other status (including nationality, place of residence, health status, sexual orientation, disability, etc.).³³ Notably, the Additional Protocols to the Geneva Conventions also prohibit discrimination on grounds of political or other opinion, national origin, birth or other status, even during armed conflict.³⁴
34. The imposition of automatic Russian citizenship on residents of Crimea was (and continues to be), in and of itself, contrary to international humanitarian law. Specifically, it is impermissible for an occupying power to compel inhabitants of occupied territories to swear allegiance to it, and allegiance to the displaced sovereign cannot be severed under duress.³⁵ Additionally, the actual

³¹ See 2014 joint report of ODIHR/HCNM (note 1 above), paras 97 and 98.

³² See 2014 joint report of ODIHR/HCNM (note 1 above), recommendations to the authorities exercising *de facto* control in Crimea.

³³ See Articles 2(1) and 26, International Covenant on Civil and Political Rights; and Article 2(2), International Covenant on Economic, Social and Cultural Rights, 1966 (993 UNTS 3). See also, UN Committee on Economic, Social and Cultural Rights, *General Comment No 20: Non-Discrimination in Economic, Social and Cultural Rights (Article 2, para. 2)*, UN Doc. E/C.12/GC/20 (10 June 2009), paras. 30–35.

³⁴ See Additional Protocol I (note 29 above), preamble and Articles 9(1) and 75(1); and Additional Protocol II (note 30 above), Articles 2(1) and 4(1).

³⁵ Hague Convention (IV) of 1907 (note 15 above), Article 45. International good practices are also reflected in the European Convention on Nationality (ETS No. 166; Strasbourg, 6 November 1997), which provides in Article 16 that: “A State Party shall not make the renunciation or loss of another

process of imposing forced Russian citizenship was neither transparent nor equitable, providing an inadequate timeframe and insufficient locations for all those wishing to reject Russian citizenship to do so. After the deadline to reject forced Russian citizenship, Russian authorities also enacted criminal penalties for failure to disclose dual citizenship as well as caps on temporary residency permits for foreigners in Crimea.

35. Taken together, these measures run counter to the binding prohibition of discrimination under international human rights law and international humanitarian law, specifically with regard to Ukrainian citizens whose human rights have been limited or prejudiced on account of their nationality since the occupation and annexation of Crimea.
36. Under the Russian legal framework now being applied in Crimea, the conditioning of social entitlements and fundamental freedoms on Russian citizenship or residency permits for foreigners has resulted in regressive effects on the enjoyment of human rights by Crimean residents without those statuses. Among those regressive effects, the new requirements to register or re-register legal entities under Russian law have resulted in excessive limitations on the right to freedom of association for non-Russian citizens.

1.1 Forced citizenship

37. Upon annexation of Crimea in March 2014, the Russian Federation enacted legislation recognizing all permanent residents in Crimea and Sevastopol as Russian citizens.³⁶ The only exceptions were those Ukrainian citizens and stateless persons who informed Crimean *de facto* authorities by 18 April 2014 of their intentions to opt out of Russian citizenship and retain their (and their minor children's) existing citizenship, or remain stateless.³⁷ Since both statuses of citizenship and permanent residency were only open to permanent residents in Crimea, they automatically excluded those without Crimean residency stamps in their passports, if they were unable alternatively to obtain a court's decision proving the fact of their residence.³⁸

nationality a condition for the acquisition or retention of its nationality where such renunciation or loss is not possible or cannot reasonably be required", available at:

<http://conventions.coe.int/Treaty/EN/Treaties/Html/166.htm>.

³⁶ See Article 4(1) of Federal Constitutional Law No. 6-FKZ, "On the Acceptance of the Republic of Crimea into the Russian Federation and the Creation of New Federal Subjects – the Republic of Crimea and the City of Federal Significance Sevastopol" (21 March 2014), Rossiiskaya Gazeta: <http://www.rg.ru/2014/03/22/krym-dok.html>. See also, Article 5 of the "Agreement between the Russian Federation and the Republic of Crimea on the Accession of the Republic of Crimea in the Russian Federation and on Forming New Constituent Entities within the Russian Federation" (18 March 2014).

³⁷ Ibid.

³⁸ For information on application requirements, see the official webpage of the Russian Federation's Federal Migration Service (FMS) at:

38. Crimean residents seeking to reject automatic Russian citizenship within the designated period (from 18 March to 18 April 2014) reportedly faced a variety of obstacles in their efforts to do so. The Russian Federal Migration Service (FMS) only on 1 April 2014 issued instructions on how to reject automatic citizenship in practice.³⁹ According to the Office of the UN High Commissioner for Human Rights (OHCHR), additional requirements were then introduced during the application period, including that applications had to be submitted in person and that both parents had to be present to apply on behalf of minors. Information on where such applications could be submitted was available only starting from 4 April. From 4 to 9 April, there were reportedly only two locations on the Crimean peninsula to formally apply to renounce Russian citizenship, and a total of nine such sites from 10 to 18 April.⁴⁰
39. After the application period expired, the FMS reported that only 3,427 permanent residents of Crimea successfully opted out of automatic Russian citizenship.⁴¹ One successful applicant told the HRAM that he spent several days in line in order to officially submit a refusal form to the FMS, and received a formal certificate acknowledging his decision. According to the resident, the application sites were dually designated also for those seeking to acquire Russian passports, leading to queues of thousands of people, as well as some harassment and intimidation of those wishing to reject Russian citizenship.⁴² In her 2014 annual report, Crimea's local ombudsperson also reported lines of up to 2,000 people at those designated sites.⁴³
40. Those who applied for Russian passports within the designated period likewise reported encountering problems, including procedural irregularities and corruption in some cases. One Crimean resident told the HRAM his mother was requested to pay a US\$1,500 bribe to obtain a Russian passport, since she had

http://www.fms.gov.ru/russian_national/dlya_zhiteley_kryma_i_sevastopolya/ and http://www.fms.gov.ru/russian_national/dlya_zhiteley_kryma_i_sevastopolya/chst_zdvm_vprs/.

³⁹ See 2014 joint report of ODIHR/HCNM (note 1 above), p. 118; Office of the UN High Commissioner for Human Rights, *Report on the human rights situation in Ukraine* (15 May 2014), para. 127; and Ukrainian Center for Independent Political Research (UCIPR), *Problems with a citizenship in Crimea*, p. 17 (http://www.ucipr.org.ua/userfiles/PROBLEMS_CITIZENSHIP_CRIMEA_r_19Dec2014.pdf). Additionally, the FMS only acquired its competence in Crimea as of 28 March 2014; see, Article 14 of Regulation No. 299 “On the Department of the Federal Migration Service in the Republic of Crimea” (28 March 2014), available at: <http://www.fms.gov.ru/about/apparatus/details/101285/>.

⁴⁰ OHCHR report (15 May 2014), *ibid.* Notably, a number of publications by Ukrainian human rights NGOs reported that only eight application sites were ultimately available to reject Russian citizenship, yet that a few were accepting such declarations as early as 1 April 2015.

⁴¹ See, public statement of the Deputy Head of the FMS of the Russian Federation, available at: http://rian.com.ua/CIS_news/20140422/345528247.html.

⁴² Interview with Crimean resident (Kyiv, 7 July 2015).

⁴³ Crimea ombudsperson, *Report of the Human Rights Commissioner of the Republic of Crimea 2014* (Simferopol, 19 January 2015), p. 5; available at: http://ombudsman.rk.gov.ru/file/File/UPCHvRK/%D0%95%D0%B6%D0%B5%D0%B3%D0%BE%D0%B4%D0%BD%D1%8B%D0%B9_%D0%94%D0%BE%D0%BA%D0%BB%D0%B0%D0%B4%E2%84%961.pdf.

not been registered formally as a Crimean resident at the time of the annexation.⁴⁴ Another Crimean resident said he paid a bribe to receive a Russian passport since he lacked the proper documentation required.⁴⁵

41. Crimean residents held in places of detention, as well as legal minors, persons with mental disabilities and others in social care institutions, were reportedly not presented with opportunities to reject Russian citizenship.⁴⁶ However, the Ombudsperson of the Russian Federation reported that 18 Ukrainian citizens in detention successfully rejected Russian citizenship in writing, in addition to 22 convicts who filed petitions asking to be transferred to prisons in mainland Ukraine.⁴⁷ At the time of annexation, the State Penitentiary Service of Ukraine reported that 2,033 imprisoned convicts in Crimea were local residents prior to incarceration, and that there were 1,086 detainees being held at the Simferopol pre-trial detention facility.⁴⁸ Some persons in places of detention have reportedly been subject to potential transfer to other prison facilities in mainland Russia.⁴⁹ Another 5,500 convicts from Crimea were imprisoned at penal colonies in other regions of Ukraine at the time of annexation,⁵⁰ such that they would not have been able to reject or accept Russian citizenship. According to Ukraine's Ministry of Social Policy, there were 4,323 children without parental care residing in social care institutions on the Crimean peninsula at the time of

⁴⁴ Interview with Crimean resident (ABL, 12 July 2015).

⁴⁵ Interview with Crimean resident (10 July 2015).

⁴⁶ Meeting with Ombudsperson of Ukraine and NPM chief (Kyiv, 16 July 2015).

⁴⁷ See, Ombudsperson of the Russian Federation, *Report of the Commissioner for Human Rights in the Russian Federation in 2014* (7 May 2015), Crimea chapter, available at:

<http://ombudsmanrf.org/www/upload/files/docs/appeals/doklad2014.pdf> (Russian); and

http://eng.ombudsmanrf.org/www/upload/files/prezent/doklad_eng_Sample_view.pdf (English).

⁴⁸ State Penitentiary Service of Ukraine, public statement (3 April 2014):

<http://www.kvs.gov.ua/peniten/control/main/en/publish/article/715893>.

⁴⁹ The transfer of criminal defendants detained in Crimea following annexation has also occurred, including in the cases of Mr. Oleg Sentsov and Mr. Oleksandr Kolchenko, who were convicted on 25 August 2015 for alleged pro-Ukrainian terrorism-related charges. Notably, the Ombudsperson of the Russian Federation reported that Mr. Sentsov and Mr. Kolchenko submitted written appeals to Russian authorities through her good offices to confirm their Ukrainian citizenship, yet that those appeals were rejected by the FMS (report of the Ombudsperson of the Russian Federation, note 47 above). In a 10 August 2015 letter to Russian authorities, ODIHR requested to observe the trials of those defendants in Rostov and to be granted access to them in their places of detention, as well as to be granted such access in any other similar cases in the future. In a letter dated 24 August 2015, the day before their convictions, the delegation of the Russian Federation declined to facilitate access to the defendants in their places of detention, though did confirm that any ODIHR monitors would be provided with the same level of access as "Russian citizens" to any public proceedings in Russia. Letter to the Director of ODIHR from the Deputy Permanent Representative of the Delegation of the Russian Federation to the OSCE (dated 24 August 2015). On 27 August 2015, ODIHR observed in a statement on the convictions of Mr. Sentsov and Mr. Kolchenko that OSCE participating States have "reaffirmed their commitment to international humanitarian law guaranteeing fair-trial rights in occupation situations." See ODIHR statement, "ODIHR Director expresses concern about continued detention and sentencing of foreign nationals in the Russian Federation", available at: <http://www.osce.org/odihhr/178921>.

⁵⁰ State Penitentiary Service of Ukraine, public statement of 3 April 2014 (note 48 above).

its occupation and annexation,⁵¹ though only two dozen of those children were able to return to mainland Ukraine at that time.⁵² The National Preventive Mechanism of the Ukrainian Ombudsperson's office was not aware of any public information on additional citizenship options being presented to children from Crimea as they reach the age of majority.⁵³

42. On a larger scale, the Russian Federation's Ombudsperson Ella Pamfilova estimated in a May 2015 report that at least 100,000 Crimean residents were unable to obtain Russian citizenship in the year following annexation. The report asserted that many of that estimated population were long-time Crimean residents from other regions of Ukraine who had never formally re-registered as residents in Crimea.⁵⁴ According to a Ukrainian NGO, some Crimean Tatars have encountered similar difficulties claiming residency status, having only recently returned to Crimea from deportation after long periods away (in Uzbekistan and Tajikistan especially). As a result of long absences, they struggled to prove their place of residence to courts.⁵⁵

1.2 Residency permits

43. Crimean residents who were able to prove their permanent residency status at the time of annexation were able to apply to the FMS for permanent residency permits.⁵⁶ According to the Ombudsperson of the Russian Federation, "All residents of the Republic of Crimea who rejected citizenship of the Russian Federation were granted a temporary residence permit entitling them to live and work in Russia, and to apply (a year after) for permanent residency, if necessary."⁵⁷ Those who were not able to do so could instead apply for

⁵¹ See, Ombudsperson of Ukraine, *Annual report of the Parliamentary Commission on Human Rights of Ukraine on the observance and protection of human rights and citizens in Ukraine*, p. 50: http://lib.rada.gov.ua/LibRada/static/about/text/Dopovid_2015_10b.pdf.

⁵² Meeting with Ministry of Social Policy (Kyiv, 8 July 2015). The circumstances of those children's return is unclear. However, a news article posted to a pro-Ukrainian activist website, EuromaidanSOS, similarly reported in July 2014 that "22 orphan children who refused to accept Russian citizenship were deported from the occupied Crimea," citing Ukrainian MP Iryna Herashchenko, the President's Envoy for Peaceful Regulation of the Conflict in Donetsk and Luhansk Oblasts: <http://euromaidansos.org/en/newsletter-eastern-ukraine-july-17-2014>. The HRAM is unaware of any opportunities presented to children to refuse Russian citizenship, though it is notable that such a refusal may have provoked deportation of children, if that allegation is true.

⁵³ Meeting with Ombudsperson of Ukraine and NPM chief (Kyiv, 16 July 2015).

⁵⁴ See, Ombudsperson of the Russian Federation, *Annual Report 2014*, Crimea chapter (note 47 above). See also, Eva Hartog, "Crimeans Left Stateless in Bureaucratic Fumble" (*Moscow Times*, 10 July 2015).

⁵⁵ UCIPR, "Citizenship, Land and Nationalization of Property in Occupied Crimea: Rights Deficit", Final Analytical Report, p. 6.

⁵⁶ For information on application requirements, see the official webpage of the FMS at: http://www.fms.gov.ru/russian_national/dlya_zhiteley_kryma_i_sevastopolya/chst_zdvm_vprs/.

⁵⁷ See, Ombudsperson of the Russian Federation, *Annual Report 2014*, Crimea chapter (note 47 above).

temporary residency permits.⁵⁸ Without residency permits or Russian passports, Ukrainian citizens and other residents lost not only certain social entitlements – including access to public health care and schools – but also their right to stay in Crimea, making them potentially subject to deportation.⁵⁹ According to numerous Crimean residents and IDPs interviewed by the HRAM, many Crimean residents applied for Russian passports in addition to retaining their Ukrainian passports and citizenship, in order to protect themselves from the adverse consequences of this legal transition, as well as to retain their jobs, properties and social entitlements.

44. In June 2014, however, the Russian Federation passed new legislation requiring its citizens to inform the FMS of any non-Russian citizenship; failing to disclose a second citizenship is now subject to criminal prosecution (as of 1 January 2016, for Crimean residents).⁶⁰ In July 2014, the Russian Federation then additionally established annual caps on the issuance of temporary residency permits, which in 2014 were set at 5,000 permits in the Republic of Crimea and 400 permits in Sevastopol.⁶¹ Those numbers were widely viewed as insufficient to cover even those foreigners already residing in Crimea at the time of annexation, let alone any Ukrainian citizens who were unable to opt out of Russian citizenship and then secure permanent residency status.⁶²
45. After successfully rejecting Russian citizenship, one Ukrainian resident in Crimea said he nonetheless had to pay a bribe to obtain a permanent residency permit, in addition to paying local notaries to certify Russian translations of his Ukrainian documents. Reportedly, only in the spring of 2015 did he finally receive the permit, after living and working in Crimea for a year with only a Ukrainian passport, though he was able to keep his same job informally, despite his lack of a residency permit.⁶³

⁵⁸ Federal Law No. 115-FZ “On the Legal Status of Foreign Citizens in the Russian Federation” (25 July 2002, as amended on 20 April 2014): http://www.consultant.ru/document/cons_doc_LAW_37868/.

⁵⁹ Under Article 5 of the Russian Federal Law “Concerning the Legal Status of Foreign Citizens in the Russian Federation” (ibid.), foreign citizens are prohibited from staying in the Russian Federation more than 90 days in any 180-day period, with violations of those rules punishable by fines and deportation, per Article 18.8.1 of the Russian Federal Law No. 195-FZ, “Code of Administrative Offences of the Russian Federation” (30 December 2001).

⁶⁰ See, Federal Law of the Russian Federation No 142-FZ “On Amendments to Articles 6 and 30 of the Federal Law ‘On Citizenship of the Russian Federation’ and certain legislative acts of the Russian Federation” (4 June 2014, entered into force 4 August 2014).

⁶¹ Regulation No. 1343 (19 July 2014) amending the Order of the Government of the Russian Federation No. 2231-r (30 November 2013) “On establishing quotas for the issuance of temporary residence permits to foreign citizens and stateless persons in the Russian Federation for 2014”.

⁶² Notably, an FMS official previously stated that the cap would not apply to Ukrainian citizens permanently residing in Crimea, though this was not in reference to any official policy or regulation known to the HRAM. “Crimean FMS department explained that more than 5000 foreign citizens can reside in Crimea,” *KrymInform* (23 September 2014), available at: <http://www.c-inform.info/news/id/12604>. Cited in Human Rights Watch, *Rights in Retreat* (17 November 2014), p. 33 (available at: <https://www.hrw.org/report/2014/11/17/rights-retreat/abuses-crimea>).

⁶³ Interview with Crimean resident (Kyiv, 7 July 2015).

46. In contrast, another Crimean resident was reportedly fired from a public hospital where she worked, since she had not obtained either a Russian passport or a residency permit after missing the deadline to reject Russian citizenship; she was reportedly considered ineligible for a temporary residency permit when she later applied, supposedly since she had already been automatically recognized as a Russian citizen.⁶⁴

1.3 Civil registration (birth certificates)

47. International human rights standards recognize every person's right to be registered after birth and acquire a nationality, which are essential to the enjoyment and protection of other human rights without discrimination.⁶⁵
48. As an adverse consequence of both Ukrainian and Russian civil registries now covering the same population, many families told the HRAM they encountered problems acquiring Ukrainian birth certificates in order to recognize their newly born children's Ukrainian citizenship. Hospitals in Crimea reportedly issue only a single official medical certificate recording live birth, for which reason many reported the paying of bribes was a common practice to obtain a second official copy, and then later to acquire a Ukrainian birth certificate in mainland Ukraine issued by the Ministry of Justice.⁶⁶ Additionally, multiple government officials, community leaders, IDPs and NGOs described to the HRAM a lack of clarity, information and awareness among Crimean IDPs and residents on the procedures to acquire Ukrainian birth certificates. Many Crimean residents and IDPs expressed their hope that Ukrainian authorities would make it easier to acquire birth certificates and passports for newly born children in Crimea, including by exchanging Russian-issued birth certificates or through other means.⁶⁷
49. The director of a Kherson-based NGO, which has supported about 100 Crimean families in obtaining Ukrainian birth certificates since October 2014, said he knew of many cases of people who tried but failed to register their children with Ukrainian authorities. He also recounted allegations that Crimean parents have faced intimidation at Crimean hospitals when seeking to acquire second official copies of live-birth medical certificates. Nonetheless, he informed the HRAM that the Ukrainian Ministry of Justice had recently simplified the application process, facilitating the civil registration of children born in Crimea at its

⁶⁴ Interview with Crimean resident (Skype, 17 July 2015).

⁶⁵ See Article 24(2), ICCPR (note 23 above); and, Articles 7 and 24, CRC (note 26 above). Of special relevance to children's rights, see: Human Rights Committee, *General Comment No. 17: Article 24* (7 April 1989), paragraph 7; available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/cc0f1f8c391478b7c12563ed004b35e3?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/cc0f1f8c391478b7c12563ed004b35e3?Opendocument).

⁶⁶ Interviews with Crimean residents and IDPs (Kyiv, Odessa and Kherson, 7 to 15 July 2015). Note that live-birth medical certificates issued by hospitals are separate documents required in turn to apply for birth certificates issued by State authorities.

⁶⁷ Interviews with Crimean residents and IDPs (Kyiv, Odessa and Kherson, 7 to 15 July 2015).

branches in Kherson and Kyiv. He said those authorities also allowed third parties such as his organization to present official second copies of live-birth medical certificates from hospitals, in order to handle civil registration on parents' behalf.

50. The existence of dual civil registries has put parents of newly born children in Crimea in a difficult situation, including as they seek to claim their children's right to Ukrainian citizenship, despite the application of the Russian legal framework in Crimea. Both the *de facto* authorities in Crimea and the Ukrainian government are obligated to uphold the right of Ukrainian parents to register their children at birth, and to acquire any preferred nationality for which they are eligible. The Ukrainian government could accomplish this by uniformly allowing parents to exchange Russian-issued birth certificates for Ukrainian ones. If *de facto* authorities wish also to extend Russian citizenship to children born in Crimea, despite it not being recognized by Ukrainian authorities, they should facilitate the issuance of official copies of live-birth medical certificates by hospitals for that purpose.

1.4 Business re-registration

51. Article 6 of the International Covenant on Economic, Social and Cultural Rights provides the right to gain a living by freely chosen work, and obligates States parties to safeguard that right without discrimination.⁶⁸ The UN Committee on Economic, Social and Cultural Rights elaborated that any "denial of access to work to particular individuals or groups, whether such discrimination is based on legislation or practice" constitutes a violation of the right to work.⁶⁹
52. Under newly introduced Russian regulations, business owners in Crimea were required to re-register their private enterprises by 1 January 2015 (later extended to 1 March 2015), or cease their operations.⁷⁰ However, some Crimean residents and IDPs reported being unable to do so as a consequence of not obtaining Russian citizenship and passports or residency permits, which were required for the application process.⁷¹ In her 2014 annual report, Crimea's local ombudsperson also identified lack of Russian passports as a major problem for those seeking to re-register their businesses, which contributed to the low number of business re-registrations following annexation. The annual report of the Russian Federation's ombudsperson noted that only 12,752 entrepreneurs

⁶⁸ Article 6, ICESCR (note 24 above).

⁶⁹ CESCR, *General Comment No. 18: The Right to Work* (adopted on 24 November 2005), UN Doc. E/C.12/GC/18 (6 February 2006), para. 32.

⁷⁰ See Russian Federal Law No. 124-FZ of 5 May 2014, "On the Introduction of Amendments to the Federal Law 'On the Enactment of the Civil Code of the Russian Federation (First Part)' and to Article 1202 of the Civil Code of the Russian Federation (Third Part)" (entry into force 1 July 2014), available at: http://www.consultant.ru/document/cons_doc_LAW_162572/. See also, UCIPR, "Citizenship, Land and Nationalization of Property in Occupied Crimea: Rights Deficit", Final Analytical Report, p. 6.

⁷¹ Ibid.

had successfully re-registered their businesses as legal entities by the end of 2014, compared to 52,885 that had been locally registered as of 1 March 2014.⁷²

53. Additionally, ethnic Ukrainian and Crimean Tatar residents reported being pressured by *de facto* authorities to close their registered businesses, sometimes being targeted for surprise inspections by authorities, or denied business registrations on various technical grounds. If those allegations are true, that authorities rejected applications to re-register existing businesses under Russian legislation, or engaged in regulatory harassment of some businesses of only certain ethnic communities, those practices could constitute discrimination and denial of business owners' right to work and gain a living.
54. Several Crimean residents and IDPs informed the HRAM that the requirement to re-register local businesses presents the most immediate obstacle for existing business owners in Crimea, and has prevented some Ukrainian citizens from continuing to do business there. A representative of the Mejlis in Kherson said many Crimean Tatar residents owned small- or medium-sized businesses, so were compelled to acquire Russian passports to keep from losing their businesses and means of income, as happened in some cases.⁷³ Another member of the Kherson regional Mejlis, who previously lived on the income of his private business in Crimea, said he was unable to re-register the business without a Russian passport.⁷⁴ At the Administrative Boundary Line between Crimea and mainland Ukraine, a Ukrainian business owner told the HRAM that in order to attempt to re-register his agribusiness in Crimea, he had to apply through a liaison officer, who acquired Russian citizenship and initiated the process on his behalf in 2015.⁷⁵
55. Approximately 30 per cent (7 out of 24) of Crimean residents and IDPs who were asked by the HRAM in Kyiv reported owning their own businesses. Two of those business owners reported observing widespread interethnic pressure on Crimean Tatars and ethnic Ukrainians in Crimea to close their businesses, including harassment by inspection authorities through extensive new regulatory and tax rules under Russian legislation. One commercial property lawyer who still lives in Crimea reported commonplace regulatory harassment of Ukrainian and Crimean Tatar business owners, such as a large fine imposed on one business owner for burning a box that fell off a truck. The lawyer viewed such actions as intended to drive out Ukrainian and Crimean Tatar business owners. This sort of harassment allegedly occurred at all strata of the economy – from beach sellers, to big businesses and hotels that have been nationalized by the *de facto* authorities.⁷⁶

⁷² See, Ombudsperson of the Russian Federation, Annual Report 2014, Crimea chapter (note 47 above).

See also, Crimea ombudsperson, Annual Report 2014 (note 43 above), p. 13.

⁷³ Interview with Mejlis representative in Kherson (14 July 2015).

⁷⁴ Interviews with Kherson regional Mejlis representatives (Genichesk, 13 July 2015).

⁷⁵ Interview with cross-boundary traveller (ABL, 12 July 2015).

⁷⁶ Interview with Crimean residents and IDPs (Kyiv, 7 July 2015).

56. One Crimean resident, who studied tax administration and helped people with their paperwork and documentation, said Crimean *de facto* authorities would seldom officially refuse registrations of businesses, but rather would repeatedly find small problems in paperwork that would need to be fixed, but could not be fixed.⁷⁷ A Mejlis representative in Kherson told the HRAM that he had tried to re-register his own retail business five times, but was denied registration on each occasion, prior to moving to mainland Ukraine with other community members and forfeiting his business outright. An NGO in Kherson assisting IDPs from Crimea reported hearing multiple accounts of surprise tax inspections and sanitation service inspections targeting Crimean Tatar businesses, particularly fast food restaurants.⁷⁸
57. In one case, the café of a Crimean Tatar business owner in Crimea was reportedly destroyed by arson, leading his family to flee to Lviv as IDPs.⁷⁹
58. The aforementioned challenges have led some people to lose their sources of income, and pushed others into displacement. Compounded by the already ailing economy of Crimea, impacted by European Union sanctions and a drop in tourism, the profile of many IDPs fleeing from Crimea has increasingly adopted an economic character, including some seeking to move or re-register their businesses in mainland Ukraine.⁸⁰ According to a Ukrainian activist displaced from Crimea, IDPs have faced additional challenges when seeking to close and move their businesses from Crimea – including the risks of seizure of assets when transporting money and goods across the Administrative Boundary Line between Crimea and mainland Ukraine.⁸¹
59. For those seeking to move their businesses to mainland Ukraine, another major problem is that the Crimean *de facto* authorities reportedly do not allow business owners to access their property and financial papers in order to claim their assets. As many original records are still stored in Crimean government offices,⁸² the Ministry of Justice indicated it is the obligation of Crimean *de facto* authorities to provide that documentation, and incumbent upon individual business owners to appeal internationally for further remedies if necessary.⁸³

⁷⁷ Interview with Crimean resident (10 July 2015).

⁷⁸ Interview with Kherson office director of Crimea-SOS (Kherson, 14 July 2015).

⁷⁹ Ibid. This incident was also relayed to the HRAM by the Crimea Unit of the Office of the Prosecutor General of Ukraine, which had documented the case (Kyiv, 16 July 2015).

⁸⁰ Meeting with Crimea-SOS (Kyiv, 6 July 2015); meeting with Crimean Diaspora (Kyiv, 7 July 2015).

⁸¹ Interview with Andriy Shekun, Chairman of the organization Crimean Center for business and cultural co-operation “Ukrainian House” (Kyiv, 9 July 2015).

⁸² Meeting with Ministry of Justice (Kyiv, 8 July 2015); and meeting with State Emergency Service of Ukraine (Kherson, 14 July 2015).

⁸³ Meeting with Ministry of Justice (Kyiv, 8 July 2015). However, even when business owners successfully re-register their enterprises in Crimea under Russian law, those business registrations are invalid in Ukraine, which does not recognize any documentation emanating from the *de facto* authorities in Crimea. The Department on Business Issues of the Ukrainian Ministry of Justice said that this causes problems for business owners in terms of contracting and sanctions, even if they have dual

1.5 Property re-registration

60. Both Russia and Ukraine are parties to Protocol 1 to the European Convention on Human Rights, Article 1 of which prohibits the deprivation of private property, except in the public interest and in keeping with principles of legality.
61. Under new Crimean legislation, Crimean residents are required to re-register their properties under Russian law prior to 1 January 2017, and are disallowed from selling their properties until doing so.⁸⁴ If they fail to re-register their properties by that deadline, their property rights will be lost entirely.⁸⁵
62. Numerous Crimean landowners recounted facing challenges when trying to re-register and sell their private properties in Crimea, with a majority of IDPs informing the HRAM that they have been unable to sell their properties when they tried. Most concerns stemmed from the reportedly complex new requirements for Crimean residents to re-register their properties, prior to any property sales. A number of Crimean IDPs expressed fears that other Crimean residents would exploit the existence of dual Russian and Ukrainian cadastral records to unlawfully sell the IDPs' properties during their displacement. Significantly, the European Court of Human Rights has recognized that an occupying power is responsible for potential violations of property rights and the right to respect for home in the territory under occupation.⁸⁶
63. All but three of 24 Crimean residents and IDPs in Kyiv (12 men and 12 women) who were asked by the HRAM said they owned land in Crimea. Of the seven landowners who tried to sell their properties, only two were successful; both of those property sales were through unofficial arrangements with people the

registrations, and that wiring payments in some circumstances would appear to Ukrainian authorities to be financing terrorism. For that reason, the Ministry of Justice reported that few Crimean residents register their businesses at Ukrainian business registration offices in Kherson, Mykolaiv and Zaporizhia, except for those moving them outright to mainland Ukraine. (Ibid.) From March to December 2014, the State Registration Service of Ukraine recorded the re-registration of 677 legal entities in mainland Ukraine, which were previously registered in Crimea. See UCIPR, "Citizenship, Land and Nationalization of Property in Occupied Crimea: Rights Deficit", Final Analytical Report, p. 6; citing:

http://www.bbc.co.uk/ukrainian/ukraine_in_russian/2015/03/150302_ru_s_crimea_economy_business.

⁸⁴ Article 3, Law of the Republic of Crimea No 38-LRC "On peculiarities of regulation of property and land relations in the Republic of Crimea" (30 July 2014), available at:

<http://www.rg.ru/2014/08/05/krim-zakon38-reg-dok.html>. This is also in line with Articles 131 and 551 of the Civil Code of the Russian Federation, which conditions legal transfers of properties on their inclusion in the immovable property registry. As defined by Article 132 of the Civil Code of the Russian Federation, immovable property includes both land and "enterprises", defined as "a property complex used for the performance of business activities". See also Russian Federal Law No. 122-FZ "On State Registration of Real Estate and Transactions with it" (21 July 1997), Article 1.

⁸⁵ Article 4, Law of the Republic of Crimea No 38-LRC (ibid.).

⁸⁶ See European Court of Human Rights, *Loizidou v. Turkey*, Application no. 15318/89, Judgment of 23 March 1995; and *Cyprus v. Turkey*, Judgment of 10 May 2001 (Grand Chamber – principal judgment).

sellers knew, and one of them said he sold his property for virtually nothing. Several landowners complained about greater difficulties for Crimean residents without Russian passports to re-register their property titles under Russian law, which was reportedly an expensive process that required new contracts with Russian utilities firms.⁸⁷ Two Crimean landowners (one of them a lawyer) claimed that *de facto* authorities had announced residents would have to become Russian citizens or obtain residency stamps by 2017 to regularize their property ownership – whether as a Russian citizen, or as a foreigner with much more rigid requirements.⁸⁸

64. According to an NGO that assists Crimean IDPs, those who are now leaving Crimea for mainland Ukraine spend sometimes days queuing to navigate Russian bureaucracy, in order to prove they own their properties and sell them before leaving Crimea. Those who are displaced for political reasons have reportedly had a harder time trying to sell their properties, since they are unable to return.⁸⁹ Two families who spoke with the HRAM at the Administrative Boundary Line as they crossed into mainland Ukraine complained about the laborious requirement to re-register their properties in Crimea.⁹⁰ The Deputy Head of the District Administration in Genichesk, who supports IDPs in that border district, reported that many people who cannot re-register their properties are leaving them with relatives in Crimea when moving to Ukraine.⁹¹ According to the Representative office of the President of Ukraine in Crimea, now located in Kherson, people also seek to sell their properties remotely by using powers of attorney under Russian legislation.⁹² The State Emergency Service of Ukraine informed the HRAM that many of the first IDPs arriving in Kherson in early 2014 wanted help selling their properties, and were successful in doing so, yet they then faced problems bringing money into mainland Ukraine, and being able to prove that the money was not obtained illegally.⁹³
65. Compounding those problems, Ukrainian authorities and Crimean *de facto* authorities keep separate cadastral records for properties in Crimea, and neither administration communicates or shares documentation with the other.⁹⁴ Crimean

⁸⁷ Interviews with Crimean residents and IDPs (Kyiv, 7 July 2015).

⁸⁸ The law was supposedly going to be made public by 1 August 2015, yet the HRAM was unable to independently verify these allegations at time of writing.

⁸⁹ Meeting with Crimean Diaspora (Kyiv, 7 July 2015).

⁹⁰ Interviews with cross-boundary travellers (ABL, 12 July 2015).

⁹¹ Meeting with Deputy Head, District State Administration (Genichesk, 13 July 2015).

⁹² Meeting with Ms. Nataliya Popovych, Representative office of the President of Ukraine in the Autonomous Republic of Crimea (Kherson, 14 July 2015).

⁹³ Meeting with State Emergency Service (Kherson, 14 July 2015).

⁹⁴ Interview with Crimean resident (Skype, 17 July 2015); meeting with Ms. Nataliya Popovych (ibid); meeting with State Emergency Service (Kherson, 14 July 2015). In her annual report, the Ombudsperson of the Russian Federation recognized that both Russian and Ukrainian citizens in Crimea faced many of the same problems due to lack of sharing of documentation by both sides, as well as “many other challenges faced by Ukrainian citizens residing in Crimea”, yet that both Ombudsperson institutions of Ukraine and the Russian Federation continued to collaborate to help citizens resolve those problems (see note 47 above).

residents and IDPs also expressed concerns about potential infringements of their security of tenure and property rights in Crimea, including: skyrocketing property taxes; new ambiguities surrounding property inheritance (including due to dual citizenship); fears that former neighbors would attempt to seize their land; and the possibility of forced evictions, due to the ongoing lack of regularization of informal settlements (particularly those of Crimean Tatars).⁹⁵ According to media accounts, *de facto* authorities have also issued a decision to implement a moratorium on the sale and transfers of agricultural land from 1 August 2015 until 1 January 2016.⁹⁶

1.6 Business and property ‘nationalization’ (expropriations)

66. As noted above, the European Court of Human Rights has recognized that an occupying power is responsible for violations of property rights and the right to respect for home when it renders properties inaccessible to their owners in the occupied territory.⁹⁷ Additionally, under international humanitarian law, an occupying power is prohibited from confiscating public or private property in the occupied territories, except where such seizure is required by imperative military necessity.⁹⁸
67. Since March 2014, the Crimean *de facto* authorities have undertaken to expropriate (or “nationalize”) Ukrainian public properties and enterprises, as well as many private properties and businesses of Crimean residents.⁹⁹ The law on nationalization itself does not specify a procedure for property purchase, and provides neither a requirement of actual notification of the owner of the property being nationalized, nor an appeal procedure.
68. According to Crimean lawyers, NGOs, residents and IDPs who spoke with the HRAM, as well as NGO reports, the ensuing seizures of public and private properties and businesses have reportedly been without adequate notification, compensation, legal basis or opportunity for appeal. In some cases the seizures

⁹⁵ Interviews with Crimean residents and IDPs (Kyiv, 7 July 2015).

⁹⁶ News story, “The Ukrainians are in no hurry to sell the land in the Crimea” (24 May 2015): <http://news.allcrimea.net/news/2015/5/24/ukraintsy-ne-toropyatsya-prodavat-zemlju-v-krymu-37247/>.

⁹⁷ European Court of Human Rights, *Case of Loizidou v. Turkey*, Application no. 15318/89, Judgment of 23 March 1995.

⁹⁸ Henckaerts and Doswald-Beck, *Customary International Humanitarian Law: Vol. I* (ICRC and Cambridge University Press, 2009), Rule 51. *See also*, Article 147 of the Fourth Geneva Convention (note 17 above).

⁹⁹ *See*: Decision No.1836-6/14 of the State Council of the Republic of Crimea “On Nationalization of the Property of Companies, Establishments, Organizations of the Agricultural Industry Located in the Territory of the Republic of Crimea” (26 March 2014), and its appendix listing properties to be nationalized in Crimea; and Law No. 47-LRC of the Republic of Crimea “On peculiarities of foreclosure properties in the Republic of Crimea: Law of the Republic of Crimea” (8 August 2014).

were reportedly enforced by “self-defence” militia, or apparently targeting civil society, media organizations, ethnic minorities or religious communities.¹⁰⁰

69. According to a pro-Ukrainian activist who moved to Kyiv at the time of annexation, authorities tried to seize his home in Crimea in May 2014 after he left – posting an unofficial eviction notice at his residence, signed by a neighbourhood police officer. He reported that it was unclear whether he was targeted for his activities, or whether it was simply an act of lawlessness, yet the effort failed and his relative retained ownership of the property.¹⁰¹
70. Crimean *de facto* authorities in February 2015 reportedly identified 250 public enterprises that had been nationalized; while the Ministry of Justice of Ukraine estimated the actual number to include approximately 4,000 such enterprises, valued by Ukrainian authorities at over US\$1 trillion.¹⁰² Additional to the list of 141 public properties Crimean *de facto* authorities designated in March 2014 for nationalization, countless other public and private properties have also reportedly been seized under recently enacted legislation – including a large portion of the tourism and industrial sectors.¹⁰³ The Ukrainian government claims that there have been thousands of cases of expropriations of private properties and enterprises from Crimean residents or IDPs who were the legal owners prior to annexation.¹⁰⁴ An Associated Press investigation throughout Crimea also estimated that, already by December 2014, there had been “thousands of businesses seized from their owners since Crimea was annexed by Russia”, identifying in its detailed report a range of expropriation practices including:

“legal owners strong-armed off their premises; buildings, farms and other prime real estate seized on dubious pretenses, or with no legal justification at all; non-payment of the compensation mandated by the Russian constitution; and targeting of assets belonging to or used by independent news media, the Crimea Tatar ethnic minority and the pro-Kiev branch of the Orthodox Church.”¹⁰⁵

¹⁰⁰ Interviews with Crimean IDPs (Kyiv, 7 July 2015); interview with NGOs and human rights lawyers in Kyiv (9 July 2015); interview with NGO in Odessa (10 July 2015). Interviewees were directly knowledgeable of the expropriations of hotels and a production plant, among other enterprises. For an exhaustive review of the scope and scale of “nationalizations” of properties and enterprises since annexation, see: UCIPR, “Citizenship, Land and Nationalization of Property in Occupied Crimea: Rights Deficit” (3 June 2015), p.11; Final Analytical Report, p. 7. See also, Ukrainian Helsinki Human Rights Union, *Human Rights in Ukraine – 2014* (Kharkiv: 2015), “Situation in AR Crimea and Human Rights” (pp. 35–54), at pp. 47-49 (“Crimea: The Protection of Property Rights”).

¹⁰¹ Interview with activist (Kyiv, 9 July 2015).

¹⁰² See reports cited in note 100 above. Also noted by Ministry of Justice (Kyiv, 8 July 2015).

¹⁰³ Ibid; and interviews with Crimean residents and IDPs (Kyiv, 7 July 2015).

¹⁰⁴ Interview with Andriy Ivanets, Head of the Ukrainian President’s Department on Crimea (Kyiv, 8 July 2015).

¹⁰⁵ Associated Press, “Crimea’s New Russian Overlords Are Seizing Thousands of Businesses” (2 December 2014), reported by Laura Mills and John-Thor Dahlburg; available at: <http://www.businessinsider.com/crimeas-new-russian-overlords-are-seizing-thousands-of-businesses-2014-12>; with profiles of seized properties available at: <http://hosted.ap.org/interactives/2014/crimea>.

71. This systematic pattern of seizures has spurred the submission of individual and inter-State claims to the European Court of Human Rights with regard to “the peaceful enjoyment of possessions” under Article 1 of Protocol 1 to the European Convention on Human Rights. On 25 March 2015, the European Court granted the Russian Federation’s request for an extension until 25 September of its deadline to submit observations on the admissibility of two inter-State applications lodged against it by Ukraine – including in relation to property rights, as well as forced citizenship, the right to private life, discrimination, and the prohibition of torture.¹⁰⁶
72. Potentially diminishing the impact of any future decisions on both the individual and inter-State cases of private property seizures, Russia’s Constitutional Court issued a ruling on 14 July 2015 regarding the Russian Constitution’s provision for the supremacy of international law, in which it found Russia’s government not to be bound to implement judgments of the European Court of Human Rights which it views to contravene the Russian Constitution.¹⁰⁷ Additionally, on 27 May 2015, Russia’s Supreme Court upheld the law on nationalization of property in Crimea, ruling that it corresponds to the Russian Constitution.¹⁰⁸

1.7 Media organization re-registration

73. Article 2 of the ICCPR obligates States to “adopt legislative or other measures as may be necessary to give effect to the rights recognized by the Covenant”, including freedom of expression through any media, as provided by Article 19 of the ICCPR. As such, States are required not only to respect and refrain from interfering with the right to freedom of expression by the media, but also to adopt positive measures to ensure that right through pluralistic media. The European Court of Human Rights has recognized that the imparting of “information and ideas of general interest [...] cannot be successfully accomplished unless it is grounded in the principle of pluralism.”¹⁰⁹
74. In a joint declaration on regulation of the media, the OSCE Special Representative on Freedom of the Media, the UN Special Rapporteur on Freedom of Opinion and Expression, and the Organization of American States (OAS) Special Rapporteur on Freedom of Expression observed that “imposing special registration requirements on the print media is unnecessary and may be abused and should be avoided”, and that “the allocation of broadcast

¹⁰⁶ Registrar of the European Court of Human Rights, Press release, “European Court of Human Rights extends time allowed for Russia’s observations on admissibility of cases concerning Crimea and Eastern Ukraine” (note 6 above).

¹⁰⁷ See the Russian Constitutional Court’s statement on the ruling, available at: <http://www.ksrf.ru/ru/News/Pages/ViewItem.aspx?ParamId=3244>.

¹⁰⁸ Ruling of the Supreme Court of the Russian Federation No.127-APG15-2 of May 27, 2015. Available at: http://www.supcourt.ru/stor_pdf.php?id=1339844.

¹⁰⁹ European Court of Human Rights, *Informationsverein Lentia and Others v. Austria*, 24 November 1993, Application Nos. 13914/88 and 15041/89, para. 38.

frequencies should be based on democratic criteria and should ensure equitable opportunity for access.” Moreover, the three mandate holders declared that “there should be no legal restrictions on who may practice journalism”, additionally “condemning attempts by some governments to limit freedom of expression and to control the media and/or journalists through regulatory mechanisms which lack independence or otherwise pose a threat to freedom of expression.”¹¹⁰

75. Upon annexation, Crimean *de facto* authorities ordered all previously registered media organizations in Crimea to re-register under new Russian rules or cease operations, with an initial deadline of 1 January 2015, which was subsequently extended to 1 April 2015.¹¹¹ When that deadline expired, the Russian media registration agency Roskomnadzor reported the total number of media outlets that had registered and were authorized to work in the Russian Federation and Crimea was 232 (including 207 previously licensed media, and 25 being licensed for the first time) – a decrease from approximately 3,000 registered media under Ukrainian regulations.¹¹² Procedural mistakes were the main reason cited by Roskomnadzor for rejections of applications.
76. Due to repeated denials of their applications on procedural grounds, the most prominent and widely consumed media channels and publications of the Crimean Tatar community were unable to re-register and forced to cease operations in Crimea. Those outlets unable to re-register included the ATR and Lale television channels, the Meydan and Lider radio stations, the Crimean News Agency (QHA), the internet site 15minut, and the widely read newspaper Avdet. The *de facto* authorities have since claimed to have registered at least 30 other media including content in Crimean Tatar language.¹¹³
77. Since October 2014, ATR attempted four times to re-register as a media organization in Crimea under the new Russian regulations, yet all of its applications were rejected for technical reasons. Two applications were rejected

¹¹⁰ See, “Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression” (18 December 2003), available at: <http://www.osce.org/fom/28235>.

¹¹¹ See, Russian Federal Law No. 402-FZ “On the Peculiarities of the Legal Regulation of the Relations in the field of mass media in connection with the Admission of the Republic of Crimea into the Russian Federation and the Establishment of New Constituent Entities within the Russian Federation – the Republic of Crimea and the Federal City of Sevastopol and on the Introduction of Changes to the Federal Law “On Education in the Russian Federation”” (2 December 2014), available at: <http://www.rg.ru/2014/12/03/pravo-dok.html>. See also, Information Policy Directorate Mininform RK, “V Krymu prodlena pereregistratsiya SMI do apreliya 2015 goda” (24 November 2014), available at: <http://rk.gov.ru/rus/index.html/news/289528.htm>.

¹¹² See MFA of the Russian Federation, submission to UNESCO (14 April 2015, available at: <http://russianunesco.ru/eng/article/2070>); and OHCHR, *Report on the human rights situation in Ukraine, 16 February to 15 May 2015* (May 2015), available at: <http://www.ohchr.org/Documents/Countries/UA/10thOHCHRreportUkraine.pdf>.

¹¹³ OHCHR report of May 2015 (ibid.). See also, statements by the OSCE Representative on Freedom of the Media on the media freedom situation in Crimea, available at: <http://www.osce.org/fom/143841>.

without review, in one case because a stamp duty had supposedly been wired to the wrong official bank account.¹¹⁴ After failing to re-register before the ultimate deadline, ATR stopped broadcasting on 31 March 2015, in order to avoid facing criminal charges and asset seizures. On 18 June 2015, ATR began broadcasting by satellite from Kyiv, though the majority of its former staff members have reportedly remained in Crimea. As of July 2015, ATR continued to appeal the rejection of its re-registration application.¹¹⁵

78. According to Amnesty International, QHA initially had applied to re-register in October 2014, then re-applied in November 2014 after consulting with Roskomnadzor to correct supposed procedural mistakes. In February 2015, Roskomnadzor nonetheless rejected the re-registration application – providing as a justification only that the application information “does not correspond to reality”.¹¹⁶
79. Notably, under the Russian Federation’s Law on Mass Media, which outlines the criteria for re-registrations,¹¹⁷ foreign citizens and stateless persons who do not reside permanently in the Russian Federation are not eligible to be founders of mass media organizations. Applications submitted on such persons’ behalf are likewise inadmissible, based on stipulated grounds of rejection that also include (among others) providing application information “that does not correspond to reality”.¹¹⁸
80. Under separate new procedures, six local radio stations lost their broadcasting frequencies in Crimea’s biggest towns, following a sudden and brief tender period (from 15 December 2014 to 29 January 2015) announced by Roskomnadzor to redistribute Crimean frequencies, ultimately to other broadcasters including Russian companies.¹¹⁹ According to the Crimean Field Mission on Human Rights, the competitive bidding for those radio frequencies used criteria designed to exclude existing stations, including by requiring bidders to already have universal broadcasting licenses registered with Russian Federation authorities, which would take at least one month to obtain prior to application.¹²⁰ The three Crimean radio stations that bid on the tenders reportedly received their required universal broadcasting licenses only on 11 February 2015, two weeks after the application deadline, and were therefore

¹¹⁴ Russian Federal Oversight Service for Communications, IT and Mass Communications; Letter No. 04-6235 (dated 26 January 2015), addressed to ATR Director-General, “Re: Returning the registration application to ATR T TV channel without review”.

¹¹⁵ Interview with Lilya Budzhurova, former Deputy Director of ATR-TV (phone interview, 1 July 2015).

¹¹⁶ Amnesty International report, *One Year On: Violations of the Rights to Freedom of Expression, Assembly and Association in Crimea* (March 2015).

¹¹⁷ See Articles 10, 11 and 13 of the Law No. 2124-1 “On Mass Media” (27 December 1991), available at: <http://www.rg.ru/1991/12/27/smi-zakon.html>.

¹¹⁸ Ibid, Article 7(2).

¹¹⁹ Amnesty International, *One Year On* (note 116 above).

¹²⁰ Meeting with Crimean Field Mission on Human Rights (Kyiv, 7 July 2015).

ineligible for the tenders.¹²¹ On a positive note, the Ombudsperson of the Russian Federation appealed to Russian authorities to postpone the tender procedure to “provide all candidates with equal possibilities for participation in the tender”, yet the authorities did not accept the appeal.¹²²

1.8 Non-governmental organization (NGO) re-registration

81. The OSCE Guidelines on the Protection of Human Rights Defenders note that, *inter alia*: “Laws and administrative procedures for NGOs to register officially or obtain legal personality – if they so wish – should be clear and simple and not discriminatory. They should not impose undue and burdensome requirements on the organizations that may obstruct their work.”¹²³
82. As with other legal entities, NGOs were required to re-register with the Crimean *de facto* authorities under the newly applied Russian Federation legal framework. In her 2014 annual report, Crimea’s local ombudsperson reported that only 396 NGOs had successfully re-registered in Crimea under Russian law by the end of 2014, compared to more than 10,000 NGOs that had been locally registered a year earlier.¹²⁴ The ombudsperson’s report blamed an overly complex re-registration process for the low re-registration rate.¹²⁵
83. Under the Civil Code of the Russian Federation, as amended in May 2014 to regulate the re-registration of NGOs in Crimea, the required application documents include, *inter alia*, a new version of the NGO’s statute and a formal decision by the NGO’s executive body to align its founding documents with requirements under Russian Federation legislation. If the NGO is not registered at the local address of a founder who is a Crimean resident, applicants are also required to provide a letter from the owners of the NGO’s intended rental premises guaranteeing that they do not object to such a registration.¹²⁶

¹²¹ *The Fear Peninsula: Chronicle of Occupation and Violation of Human Rights in Crimea* (Kyiv: 2015), p. 59; available at: <https://books.google.pl/books?id=FRTqCAAAQBAJ>. Authors: S. Zayets (Regional Center for Human Rights); O. Matviichuk (Center for Civil Liberties); T. Pechonchuk (Human Rights Information Center); D. Svyrydova (Ukrainian Helsinki Human Rights Union); and O. Skrypnyk (Almenda Civic Education Center).

¹²² See, Ombudsperson of the Russian Federation, Annual Report 2014, Crimea chapter (note 47 above).

¹²³ OSCE-ODIHR, *Guidelines on the Protection of Human Rights Defenders* (Warsaw: 10 June 2014), para. 67 (available at: <http://www.osce.org/odihr/119633>).

¹²⁴ Crimea ombudsperson, Annual Report 2014 (note 43 above), p. 12. Cited in Amnesty International, *One Year On* (note 116 above). In contrast, as of 10 August 2015, the website of the Federal Tax Service of the Russian Federation listed a total of 189 NGOs registered in the Republic of Crimea and Sevastopol. See online registration database of the Federal Tax Service, available at: <http://egrul.nalog.ru/>.

¹²⁵ Crimea ombudsperson, Annual Report 2014 (note 43 above), p. 12. See also, for a similar account, Ombudsperson of the Russian Federation, Annual Report 2014, Crimea chapter (note 47 above).

¹²⁶ Russian Federal Law No.124, “On Amending a Federal Law ‘Entering into force the chapter 1 of the Civil Code of Russian Federation’ and Article 1202(3) of the Civil Code of Russian Federation” (5 May 2014), available at: <http://base.garant.ru/70648870/>.

84. The requirement for all NGOs working in Crimea to align their founding documents with “requirements under Russian Federation legislation” points to the burdensome and restrictive legal environment in which NGOs would be operating under Russian Federation laws on “foreign agents” (Russian NGOs receiving foreign funding for “political activities”) and “undesirable organizations”¹²⁷ (foreign NGOs viewed as “undesirable” by the Russian government).¹²⁸ Since entering into force in 2012, a total of 81 organizations in Russia have been designated as “foreign agents” under the Russian law, seven of which were later removed from the list.¹²⁹
85. According to OHCHR and the Crimean Field Mission on Human Rights, the re-registration of NGOs was stymied in particular by the looming implementation of Russia’s “foreign agents” law in Crimea. Many NGOs reportedly decided not to seek re-registration, including for example an environmentalist organization that previously operated mainly from foreign grants and would thus need to register as a “foreign agent”. Other pro-Ukrainian NGOs reportedly chose not to register as a matter of principle since they would likely or certainly be excluded even if they amended their operational statutes to meet registration requirements.¹³⁰
86. On 7 July 2015, the Russian parliament’s upper house recommended a list of 12 organizations to be blacklisted from Russia under the May 2015 law on “undesirable organizations”. The US-based National Endowment for Democracy was the first organization to be labeled as such, and was officially banned from Russia on 28 July 2015.¹³¹ The proposed list also included the Crimean Field Mission on Human Rights, though it is not a formal organization with legal personality, but rather a loose consortium of human rights activists.¹³² As of August 2015, Russia’s Prosecutor’s Office was still carrying out checks before any decision would be made to include the Crimean Field Mission on

¹²⁷ Russian Federal Law No. 129-FZ “On correction of some legal acts of the Russian Federation” (23 May 2015).

¹²⁸ Russia Federal Law No. 121-FZ “On Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-Commercial Organizations Performing the Function of Foreign Agents” (20 July 2012).

¹²⁹ See Amnesty International, “Russia Begins Blacklisting ‘Undesirable Organizations’” (28 July 2015), available at: <https://www.amnesty.org/en/latest/news/2015/07/russia-begins-blacklisting-undesirable-organizations>.

¹³⁰ Meeting with Crimean Field Mission on Human Rights (Kyiv, 7 July 2015); and OHCHR *Report on the human rights situation in Ukraine* (15 June 2014), para. 309, available at: <http://www.ohchr.org/Documents/Countries/UA/HRMMUReport15June2014.pdf>.

¹³¹ National Endowment for Democracy, “Russia’s crackdown on civil society shows the regime’s weakness” (29 July 2015), available at: www.ned.org/russias-crackdown-on-civil-society-shows-the-regimes-weakness/.

¹³² *Moscow Times*, “Kremlin Human Rights Council Defends Crimean NGO Against ‘Undesirables’ List” (15 July 2015), available at: <http://www.themoscowtimes.com/news/article/kremlin-human-rights-council-defends-crimean-ngo-against-undesirables-list/525692.html>. The Crimean Field Mission on Human Rights has been among the key sources of information on the human rights situation in Crimea following its annexation of the territory and includes human rights activists from both Ukraine and the Russian Federation.

Human Rights on the list of “undesirable organizations”,¹³³ though the process clearly created a form of pressure on the association and its constituent members conducting activities within Crimea.

87. One human rights activist still residing in Crimea informed the HRAM he had considered re-registering his human rights organization, but that the *de facto* authorities’ Ministry of Justice consultant advising on registration of legal organizations informed him that his papers were not in order – and that authorities knew what his organization was interested in doing, implying it would not get approved anyhow. Ultimately he decided not to re-register his organization due to an unrelated lack of private funding, resulting from the economic situation in Crimea.¹³⁴

1.9 Religious organization re-registration

88. The right to freedom of thought, conscience, religion or belief is a fundamental right, as recognized under international human rights treaties¹³⁵ and OSCE commitments.¹³⁶ That right includes the freedom to manifest one’s religion or belief in community with others, including through organizations with legal personality.¹³⁷ The Guidelines on the Legal Personality of Religious or Belief Communities, jointly issued by ODIHR and the Council of Europe’s Venice Commission, further observe that: “Any procedure that provides religious or belief communities with access to legal personality status should not set burdensome requirements”, and “legislation should not deny access to legal personality status to religious or belief communities on the grounds that some of the founding members of the community in question are foreign or non-citizens, or that its headquarters are located abroad.”¹³⁸
89. Legal organizations of religious communities were also required to re-register under Russian legislation in order to continue their organizational activities, such as renting facilities, hiring employees, or inviting foreigners to participate in their religious activities.¹³⁹ Notably, only Russian citizens are legally

¹³³ Phone conversation with Crimean Field Mission on Human Rights (21 August 2015).

¹³⁴ Meeting with Crimean resident (July 2015).

¹³⁵ *Inter alia*, Article 9 of the ECHR (note 19 above); and Article 18, ICCPR (note 23 above).

¹³⁶ For instance, OSCE participating States committed in the Vienna Document (1989) to “grant upon their request to communities of believers, practicing or prepared to practice their faith within the constitutional framework of their States, recognition of the status provided for them in their respective countries”. Concluding Document of the Vienna Meeting (Third Follow-up Meeting to the Helsinki Conference, 15 January 1989, Vienna), para. 16.3.

¹³⁷ OSCE-ODIHR and Venice Commission, *Guidelines on the Legal Personality of Religious or Belief Communities* (Warsaw: 4 February 2015), para. 20; available at: <http://www.osce.org/odihr/139046>.

¹³⁸ *Ibid.*, paras. 25 and 29.

¹³⁹ Russian Federal Law No. 124-FZ of 5 May 2014, “On the Introduction of Amendments to the Federal Law ‘On the Enactment of the Civil Code of the Russian Federation (First Part)’ and to Article 1202 of the Civil Code of the Russian Federation (Third Part)” (entry into force 1 July 2014), available at: http://www.consultant.ru/document/cons_doc_LAW_162572/.

permitted to register religious organizations as legal entities.¹⁴⁰ While the initial deadline for re-registration was 1 January 2015, it was subsequently extended twice after religious communities continued to experience serious difficulties completing the bureaucratic application procedure. The deadline was extended first to 1 March 2015, and then again to 1 January 2016.¹⁴¹

90. Reportedly, the main technical problems faced by religious organizations seeking to re-register were extensive documentation requirements, lack of necessary legal knowledge, and long queues for those seeking to re-register.¹⁴² Those organizations able to subordinate themselves to structures of their religious communities that were already registered in Russia could complete a simplified procedure.¹⁴³ However, those seeking to register for the first time under Russian rules were reportedly required to provide additional information, such as on the organization's doctrine and political views.¹⁴⁴
91. At the time of annexation, over 1,400 religious communities were formally registered as legal entities under Ukrainian law, and 674 additional communities (mostly belonging to the Muftiate) operated informally without registration.¹⁴⁵ Prior to the first deadline of 1 January 2015, 150 applications had reportedly been rejected for technical reasons, including all 20 applications by the Jehova's Witness community, and the applications of the Catholic Church due to providing some documents in the Ukrainian language.¹⁴⁶ At the time of the first extended deadline, Russian authorities reported that only 60 religious organizations (including 9 communities) had successfully re-registered under Russian law.¹⁴⁷ Following the second extended deadline, OHCHR reported that fewer than 200 religious communities had applied for re-registration, and that still only 51 of them had yet been successful as of 8 May 2015 (excluding the 9 religious communities). By 10 August 2015, the website of the Federal Tax Service of the Russian Federation listed as registered in the Republic of Crimea and Sevastopol a total of 53 local religious organizations (excluding any

¹⁴⁰ See Articles 8(1) and 9(1), Russian Federal Law No. 125-FZ of 26 September 1996, "On the Freedom of Conscience and Religious Associations" (with amendments), available at: http://legislationline.org/download/action/download/id/4379/file/RF_Freedom_of_Conscience_Law_1997_am2008_en.pdf.

¹⁴¹ OHCHR report of May 2015 (note 112 above).

¹⁴² Crimean Field Mission on Human Rights, *Brief Review of the Situation in Crimea* (February 2015 report), p. 15 ("Freedom of Conscience and Religion").

¹⁴³ See note 139 above.

¹⁴⁴ Ibid, as prescribed by order No. 53 of the Ministry of Justice "On State Religious Expertise" (18 February 2009).

¹⁴⁵ See MFA of the Russian Federation, submission to UNESCO (14 April 2015, available at: <http://russianunesco.ru/eng/article/2070>); Crimean Field Mission on Human Rights, *Brief Review of the Situation in Crimea* (February 2015 report), p. 15 ("Freedom of Conscience and Religion"); and Forum 18, "Crimea: Only one percent of religious organisations re-registered" (26 March 2015), available at: http://www.forum18.org/archive.php?article_id=2050.

¹⁴⁶ Ibid.

¹⁴⁷ See MFA of the Russian Federation, submission to UNESCO (14 April 2015, available at: <http://russianunesco.ru/eng/article/2070>).

communities registered under Moscow-based legal entities through the simplified procedure).¹⁴⁸

1.10 Summary of findings

92. The post-annexation period has been characterized by a steady consolidation of control by the *de facto* authorities, including through the rapid application of new and existing Russian Federation laws and regulations to all aspects of public and private life in Crimea. For Crimean residents who were in penal or social care institutions at the time of annexation, there was reportedly no option to reject automatic Russian citizenship. For those residents who wished but were unable to renounce Russian citizenship and obtain permanent residency status, or were unwilling to accept Russian passports, the imposition of Russian laws and citizenship has in some cases resulted in the loss of access to employment and social services, and invalidity at the local level of property titles and registrations of businesses, NGOs, media and religious organizations. In her 2014 annual report, Crimea's local ombudsperson noted that the lack of Russian passports had caused problems for Crimean residents to gain employment and access public services, including: re-registration of NGOs and private businesses; cadastral records for property transactions; vehicle registrations; and registration for social security, including pensions and health insurance.¹⁴⁹
93. Under new Russian regulations requiring the re-registration of legal entities, no more than 5 to 10 per cent of the NGOs, media and religious organizations previously registered under Ukrainian law have successfully re-registered with Crimean *de facto* authorities. In some cases, those re-registration processes appeared to be used to administratively exclude pro-Ukrainian organizations and media, and have quite literally decimated the breadth and diversity of civil society space, while simultaneously chilling dissent. The European Court of Human Rights has found that refusal or delay by authorities in the registration of associations, including where necessary to obtain legal personality, may constitute an interference with the freedom of association.¹⁵⁰
94. The Guidelines on Freedom of Association, jointly issued by ODIHR and the Venice Commission, further underscore that “re-registration should not automatically be required following changes to legislation on associations”. Yet even when re-registration is necessary, due to exceptional and fundamental changes in the legal framework, “if they do not re-register, the associations should be able to continue to operate without being considered unlawful.”¹⁵¹

¹⁴⁸ See online registration database of the Federal Tax Service, available at: <http://egrul.nalog.ru/>.

¹⁴⁹ Crimea ombudsperson, Annual Report 2014 (note 43 above), pp. 5, 12.

¹⁵⁰ *Case of Ismayilov v Azerbaijan*, Judgment of the European Court of Human Rights (17 January 2008).

¹⁵¹ See OSCE/ODIHR and Venice Commission, Guidelines on Freedom of Association (17 December 2014), para. 166. Available at: <http://www.osce.org/odihr/132371>. The Guidelines further recall that the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association reaffirmed

95. By excluding thousands of NGOs, media and religious organizations from operating in Crimea (including based on citizenship of founders), under the auspices of mandatory re-registration requirements, *de facto* authorities have also set the table for violations of other interrelated human rights and fundamental freedoms.¹⁵² As ODIHR and the Venice Commission have previously observed, “freedom of association must also be guaranteed as a tool to ensure that all citizens are able to fully enjoy their rights to freedom of expression and opinion, whether practiced collectively or individually.”¹⁵³

2. Civil and Political Rights

96. Following the annexation of Crimea by the Russian Federation, some residents seeking to assemble and express dissenting political opinions or non-Russian cultural identities have had their civil and political rights heavily restricted by multiple new regulations, including their freedoms of peaceful assembly, expression, and movement in particular. Media freedoms have also deteriorated radically as a result of new regulations and criminal punishments restricting freedom of expression, leading to both self-censorship and prosecutions in relation to the content of journalistic work.
97. Those restrictions have appeared to constitute discriminatory measures targeting individuals and groups at least on the prohibited grounds of their ethnicity and political or other opinions.

2.1 Freedom of expression

98. In their May 2014 joint report, ODIHR and HCNM called on the authorities exercising *de facto* control over Crimea, *inter alia*: “to ensure that journalists and activists are protected from attacks, threats, harassment and intimidation so that they can carry out their activities freely and without fear”; and “to ensure that any attacks, harassment, threats or intimidation targeting journalists and activists are effectively, promptly, thoroughly and impartially investigated with a view to bringing those responsible to justice.”¹⁵⁴

that: “Newly adopted laws should not request all previously registered associations to re-register so that existing associations are protected against arbitrary rejection or time gaps in the conduct of their activities.” *Report to the UN Human Rights Council (Best practices that promote and protect the rights to freedom of peaceful assembly and of association)*, UN Doc. A/HRC/20/27 (21 May 2012), para. 62.

¹⁵² The Guidelines on Freedom of Association (para. 17, *ibid.*) observe: “The right to freedom of association is interrelated with other human rights and freedoms, such as the rights to freedom of expression and opinion, freedom of assembly and freedom of thought, conscience and religion.”

¹⁵³ See OSCE/ODIHR and Venice Commission, *Guidelines on Political Party Regulation* (Warsaw: ODIHR, 2011), para. 37. Available at: <http://www.osce.org/odihr/77812>.

¹⁵⁴ See 2014 joint report of ODIHR/HCNM (note 1 above), p. 17.

99. OSCE participating States have committed to promoting and protecting freedom of expression, media freedom and access to information,¹⁵⁵ recognizing in particular the key role of independent and pluralistic media in a free and open society.¹⁵⁶ Participating States have also highlighted that fomenting ethnic tension through the media can lead to increased conflict.¹⁵⁷
100. Both Ukraine and the Russian Federation are legally obligated under the same international human rights treaties to guarantee freedom of expression without discrimination, including the right of all people to hold opinions, and to receive and impart information without interference by public authorities.¹⁵⁸ Freedom of expression includes the right of journalists and media professionals to gather, report and disseminate information freely.¹⁵⁹ Freedom of expression is necessary for the enjoyment of many other human rights and fundamental freedoms, including among others: freedom of assembly; freedom of association; freedom of thought, conscience or religion; the right to participate in public affairs; and the right to take part in cultural life.¹⁶⁰
101. As the UN Human Rights Committee has elaborated, such offenses as “extremist activity” should be “clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression.”¹⁶¹ Moreover, with respect to freedom of the media, “the penalization of a media outlet [including online media], publishers or journalists solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of the freedom of expression.”¹⁶² Also notable, limited accreditation must not be applied to restrict access to information and freedom of expression, based on a process that discriminates against and excludes some media actors based on their political opinions or otherwise.¹⁶³ OSCE participating States have likewise committed that the legitimate pursuit of journalists’ professional activity will neither render them liable to expulsion nor otherwise penalize them and to refrain from taking restrictive measures such as withdrawing journalists’ accreditation or expelling

¹⁵⁵ See, for example, Helsinki Final Act (note 14 above); Vienna Document 1989 (note 136 above); “Concluding Document of the Madrid Meeting 1980 of Representatives of the Participating States of the Conference on Security and Co-operation in Europe, Held on the Basis of the Provisions of the Final Act Relating to the Follow-up to the Conference”, Madrid (9 September 1983), available at: <http://www.osce.org/mc/40871>.

¹⁵⁶ Budapest Document (note 13 above), “Decision VIII: The Human Dimension”, para. 36.

¹⁵⁷ Ibid., para. 38.

¹⁵⁸ Article 19, ICCPR (note 23 above); Article 10, ECHR (note 19 above).

¹⁵⁹ Moscow Document 1991: “Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE”, Moscow (4 October 1991), available at <http://www.osce.org/odihr/elections/14310>.

¹⁶⁰ Articles 18, 21, 22 and 25, ICCPR (note 23 above); Article 15, ICESCR (note 24 above).

¹⁶¹ UN Human Rights Committee, General Comment No. 34, *Article 19: Freedoms of opinion and expression*, UN Doc. CCPR/C/GC/34 (12 September 2011), para. 46. Available at: <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>.

¹⁶² Ibid., para. 42.

¹⁶³ Ibid., para. 44.

them because of the content of their reporting or the reporting of their information media.¹⁶⁴

102. Despite these commitments and obligations, *de facto* authorities in Crimea have applied expansive interpretations of Russian criminal law since annexation. The Criminal Code of the Russian Federation includes newly added provisions banning so-called “extremist” or “separatist” statements,¹⁶⁵ which have been used to prevent and punish the expression of views allegedly opposed to the Russian government or its annexation of Crimea. Those new criminal provisions, which entered into force in May 2014, are punishable by large fines and up to three years in prison; additionally, they provide enhanced punishments for media professionals, including up to five years in prison and/or a ban on conducting journalistic work for up to three years. Criminal charges of “extremism” and “separatism” have frequently been threatened and applied to restrict the rights of activists, journalists, minority communities and other members of the public seeking to present dissenting views on the Russian occupation of Crimea – whether at public assemblies, in private gatherings, through online social media, or in journalistic activities.

2.1.1 Right to hold opinions without interference

103. While Crimean Tatar and pro-Ukrainian activists and media have been especially targeted, restrictions on freedom of expression have likewise been applied to speech at the marketplace, in the streets, in education institutions, and frequently in online social media forums. Crimean residents and IDPs informed the HRAM of the chilling of dissent by public authorities and a widespread climate of discrimination resulting from pro-Russian propaganda in Crimea, which has led to self-censorship as well as intimidation, harassment and threats to those expressing independent voices.¹⁶⁶
104. As an example of common restrictions on freedom of expression, a member of the Crimean Tatar Mejlis in Kherson cited public posters allegedly disseminated by *de facto* authorities in Crimea, which call on residents to inform a hotline of the Russian security services (FSB) about anyone speaking critically against the occupation and annexation.¹⁶⁷ A Ukrainian media channel published an image of one such announcement, allegedly distributed in Simferopol:

“Although peace has been established in our land, there still are scums who want chaos, disorder, and war. They live among us, go to the same shops as we do,

¹⁶⁴ Vienna Document 1989 (note 136 above), para. 39.

¹⁶⁵ Article 280.1, Criminal Code of the Russian Federation (Law No. 63-FZ of 13 June 1996), *as amended by*, Russian Federation Federal Law No. 433-FL “On changes to the Criminal Code of the Russian Federation” (entered into force 9 May 2014), available at: <http://www.rg.ru/2013/12/30/uk-izm-dok.html>.

¹⁶⁶ Interviews with Crimean residents and IDPs in Kyiv (7 July 2015) and at the ABL (12 July 2015).

¹⁶⁷ Interview with Mejlis representative (Kherson, 14 July 2015).

ride with us in public transport. You may know the people who were against the return of Crimea to the Russian Federation or took part in the regional ‘Maidan’. Such personalities should be reported immediately to the FSB at: 13, Franko Boulevard, Simferopol, or by phone: 37-42-76 (anonymity guaranteed).”¹⁶⁸

105. A Crimean IDP in Kyiv informed the HRAM that she and her husband were chased from Crimea by “self-defence” forces, on account of her husband’s pro-Maidan blog. After their neighbours allegedly reported him to the Russian security service, she claimed that a local Russian Cossack organization (which organized the local “self-defence” group) published a list of pro-Ukrainian residents on its VKontakte social media page. She reported that the list included a photo of her husband and threats against him. In October 2014, her husband was attacked and beaten, at which point she said they fled to mainland Ukraine.¹⁶⁹
106. A journalist still operating in Crimea informed the HRAM of Crimean residents receiving heavy sentences for their use of social networks, allegedly on charges of “extremism”, “separatism” or “incitement of ethnic hatred”. In one such case of alleged “hate speech”, reported both by the Crimean journalist and a Ukrainian human rights NGO, a village Imam in Bakhchysarai region received a two-year suspended sentence from Bakhchysarai Raion Court for incitement of hatred.¹⁷⁰
107. A Kyiv resident informed the HRAM that her Crimean Tatar friend in Yalta had received criminal warnings from authorities for the opinions and links he had posted on his Facebook page, which included views he expressed against annexation and about discrimination faced by Crimean Tatars.¹⁷¹
108. As a result of widespread surveillance, multiple sources informed the HRAM that Crimean residents commonly conceal their opinions when speaking publicly or communicating through email, Skype, Viber or other commonly used online media platforms, due to fears of reprisals for expressing their views.¹⁷² A journalist still operating in Crimea said that the journalists remaining there often use social networks to monitor developments, but that people are very afraid to speak with them online, as they “could be accused of anything” by authorities.¹⁷³

¹⁶⁸ SocKraina TV Channel website; available at <http://sockraina.com/news/8571>. Cited also in the report *The Fear Peninsula* (note 121 above), Section 3.2, p. 33.

¹⁶⁹ Interview with Crimean IDP (Kyiv, 7 July 2015).

¹⁷⁰ Interview with journalist in Crimea (Skype, July 2015); *see also*, Kharkiv Human Rights Protection Group, “Convicted of ‘hate speech’ for criticizing Russian annexation of Crimea” (28 July 2015): http://humanrights.org.ua/en/material/convicted_of_hate_speech_for_criticizing_russian_annexation_of_crimea.

¹⁷¹ Interview with Kyiv resident (Kyiv, 17 July 2015). The HRAM reviewed the Yalta resident’s Facebook postings, though not the official warning he allegedly received from authorities in response.

¹⁷² Interview with head of Kherson regional Mejlis (Novooleksiivka, 13 July 2015). Interview with Nataliya Popovych (note 92 above).

¹⁷³ Interview with journalist in Crimea (Skype, July 2015).

109. The HRAM was informed by several sources and reviewed primary documentation indicating that ethnic Ukrainian and Crimean Tatar communities in Crimea have also faced discrimination and threats of prosecution for displaying Ukrainian and Crimean Tatar flags to express their cultural identities. For example, the head of the Kherson regional Mejlis informed the HRAM that a local mullah and another member of the Mejlis in the Soviet Raion of Crimea, were both summoned for questioning by *de facto* authorities – and subsequently fined 10,000 rubles – for displaying the Crimean Tatar flag during the community’s annual flag day on 26 June.¹⁷⁴ After Simferopol authorities reportedly rejected multiple requests by Crimean Tatar youth groups to hold their annual commemoration of Crimean Tatar flag day on 26 June 2015, the Prosecutor’s Office reportedly issued a warning letter on 25 June to members of the Mejlis in Crimea, cautioning them on the inadmissibility of extremist messages in “unsanctioned protest events” dedicated to the day of the Crimean Tatar flag.¹⁷⁵

2.1.2 Freedom of access to information

110. In the Istanbul Document, OSCE participating States reaffirmed their commitments to freedom of access to information, noting: “the importance of independent media and free flow of information as well as the public’s access to information. We commit ourselves to take all necessary steps to ensure the basic conditions for free and independent media and unimpeded transborder and intra-State flow of information, which we consider to be an essential component of any democratic, free and open society.”¹⁷⁶

111. In contrast, since occupation, practically all of the Ukrainian terrestrial television channels have been switched off in Crimea and replaced with channels originating from the Russian Federation.¹⁷⁷ That process began in early March 2014 with the cut-off of seven Ukrainian television stations (including Chernomorskaya, the largest independent broadcaster on the Crimean

¹⁷⁴ Interview with head of Kherson regional Mejlis (Novooleksiiivka, 13 July 2015).

¹⁷⁵ Crimean Field Mission on Human Rights, *Brief Review of the Situation in Crimea* (June 2015 report), p. 11).

¹⁷⁶ See Istanbul Document 1999 (note 14 above), “Charter for European Security”, para. 26. See also the Moscow Document 1991 (note 159 above), in which OSCE participating States committed they “will not discriminate against independent media with respect to affording access to information, material and facilities” (para. 26.2).

¹⁷⁷ See statement by the OSCE Representative on Freedom of the Media, “Media freedom situation in Crimea, Ukraine, at all-time low” (5 March 2015, <http://www.osce.org/fom/143861>). See also, *Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his mission in Kyiv, Moscow and Crimea, from 7 to 12 September 2014* (27 October 2014), Doc. No. CommDH(2014)19, paras. 30–33, available at: [https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH\(2014\)19&Language=lanEnglish](https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH(2014)19&Language=lanEnglish).

peninsula),¹⁷⁸ which *de facto* authorities replaced with Russian channels.¹⁷⁹ At the end of June 2014, Chernomorskaya and a number of other Ukrainian channels were also removed from major cable networks in Crimea.¹⁸⁰

112. Crimean IDPs and a Ukrainian media expert in Kyiv reported that the Crimean media landscape has come entirely under the control of *de facto* authorities, who attribute all positive developments to the Russian Federation and all negative developments to Ukrainian authorities. They noted that residents with Internet access are more exposed to alternative views, but that they are the minority, as media consumption in Crimea is primarily of television, followed by print media, and then by the Internet since there has never been extensive online access.¹⁸¹

113. A human rights activist in Simferopol reported that *de facto* authorities often block websites they find objectionable, thereby limiting people's access to information deemed critical of the government. However, such restrictions are not consistent, he said, as some websites are blocked entirely, while other sites will display an "error" message on one day, and then become accessible again a week later.¹⁸²

114. On 8 August 2015, Crimea's chief prosecutor Natalia Poklonskaya confirmed in a statement on her Facebook page that her office is actively involved in monitoring online content and blocking sites deemed to be "extremist":

"The Prosecutor's Office of the Republic of Crimea has blocked 30 extremist websites. In this respect, a certain procedure is being followed: we are sending information to the Centre to Counter Extremism, the Federal Security Service (FSB), and then we conduct linguistic research, and then send information to the Prosecutor General of the Russian Federation to block these sites. We would be very grateful to our young citizens, who have more knowledge on the Internet, if they could help us to identify extremist Internet resources."¹⁸³

115. Several sources interviewed by the HRAM pointed to the decimation of media voices – and in particular those of Ukrainian and Crimean Tatar linguistic communities – as not only violations of freedom of expression, but also a direct

¹⁷⁸ Inter; Briz; 1+1; Channel Five; First National; STB; and Chernomorskaya Television and Radio Company.

¹⁷⁹ NTV, Channel One, Rossiya24, Rossiya RTR, TNT and Zvezda.

¹⁸⁰ Ukrainian television channels taken off cable networks in Simferopol included: Inter; 1+1; 2+2; 5 Channel Five; ICTV; Novyi Kanal; News 24; NTN; and Rada.

¹⁸¹ Interviews with Crimean IDPs (Kyiv, 7 July 2015); interview with Oksana Romanyuk, Director of the Institute of Mass Information (Kyiv, 17 July 2015).

¹⁸² Interview with Crimean resident (10 July 2015).

¹⁸³ Facebook page of Crimea's chief prosecutor, Natalia Poklonskaya, available at: <http://www.facebook.com/NVPoklonskaya/posts/1620051244946122:0>.

assault on the education and information infrastructure for ethnic and linguistic minorities in Crimea.¹⁸⁴

2.1.3 Freedom of the media

116. As part of the broader crackdown on freedom of expression, *de facto* authorities have singled out independent journalists, media professionals and political activists for some of the most serious restrictions. On top of onerous registration requirements,¹⁸⁵ and additionally restrictive accreditation procedures,¹⁸⁶ news media have been repeatedly targeted for criminal investigations into the content of their reporting.

117. Multiple Crimean journalists informed the HRAM that crackdowns against individual reporters have come in waves over the last year, during which numerous journalists and bloggers have been detained, searched, interrogated, threatened, physically attacked, banned from entry or forced to flee Crimea, and had their equipment confiscated or damaged (including through deletion of stored content).¹⁸⁷ One journalist informed the HRAM that he and his colleagues recorded over 100 instances of attacks against journalists in just the first three months of occupation, while they were still reporting from Crimea.¹⁸⁸

118. In May 2014, Osman Pashayev and Cengiz Kizgin (journalists with Otkritiy Krymskiy Kanal) were reportedly detained, interrogated, beaten and robbed of their equipment in Simferopol by a group of “self-defence” forces in military uniforms.¹⁸⁹ Also in May 2014, journalists from *Tvoya Gazeta* were allegedly attacked by armed men in Crimea while filming a public event.¹⁹⁰ On 8 September 2014, Elizaveta Bohutskaya, a vocal Crimean blogger and contributor to various media outlets, including Radio Free Europe/Radio Liberty’s (RFE/RL) Crimean desk, was reportedly detained and accused of

¹⁸⁴ Interview with Andriy Ivanets (note 104 above). Interview with Andriy Shekun (note 80 above). Meeting with Crimea-SOS (Kyiv, 6 July 2015).

¹⁸⁵ As detailed above in Section 1.7 Media organization re-registration.

¹⁸⁶ See below in this section.

¹⁸⁷ Interviews with Crimean journalists and media organizations (Kyiv, 17 July 2015). *See also* statements by the OSCE Representative on Freedom of the Media on the media freedom situation in Crimea (available at: <http://www.osce.org/fom/143841>), including in particular: , “Media freedom situation in Crimea, Ukraine, at all-time low” (5 March 2015, <http://www.osce.org/fom/143861>); “Conflicting sides should stop targeting media professionals covering Ukraine crisis” (19 May 2014, <http://www.osce.org/fom/118686>); “Attacks on journalists, switching off channels and denial of access continue in Ukraine” (30 May 2014, <http://www.osce.org/fom/119329>); and, “OSCE Representative condemns continued intimidation of free voices in Crimea” (9 September 2014, <http://www.osce.org/fom/123314>).

¹⁸⁸ Interview with Crimean journalist (Kyiv, 17 July 2015).

¹⁸⁹ The annual report of the Russian Ombudsperson also noted their arrest on 18 May 2014 (see note 47 above).

¹⁹⁰ OSCE Representative on Freedom of the Media, public statement, “Attacks on journalists, switching off channels and denial of access continue in Ukraine” (30 May 2014, <http://www.osce.org/fom/119329>).

“extremism”. At 05:30 that morning, law enforcement personnel (four armed and eight in plainclothes) allegedly burst into her apartment, shot her dog, seized equipment and materials related to her work, and interrogated her for a number of hours at the Counter-Extremism Centre in Simferopol. She was charged with disseminating extremist material online, and then was released and fled to mainland Ukraine, where she has continued her reporting since then.¹⁹¹

119. For the entire period since annexation, the Crimean Tatar television station ATR has faced repeated harassment and restrictions by *de facto* authorities. On 16 May 2014, the Crimean Prosecutor’s Office sent a formal warning letter to ATR in relation to its coverage of an unsanctioned gathering of Crimean Tatars on 3 May 2014, at the Armyansk crossing point between Crimea and mainland Ukraine. The letter warned ATR against broadcasting information that may include “incitement to ethnic or other hatred” or “contain characteristics of extremism” – specifically statements by the Crimean Tatar leader Mustafa Dzhemilev – noting that “federal law prohibits mass media organizations from distributing extremist materials or engaging in extremist activities.”¹⁹² ATR viewed the warning letter as an injunction, and subsequently reportedly implemented a policy of self-censorship, omitting footage of unsanctioned meetings, any statements on Crimea being part of Ukraine, as well as terms such as “occupation,” “annexation” or other language that could put ATR at risk of facing criminal charges.¹⁹³ Other media still working in Crimea also informed the HRAM that they exclude terms such as “annexation” or “occupation”, since they now carry potential criminal responsibility for their use. In that sense, they work in line with the restrictive Russian laws that are now being applied in Crimea.¹⁹⁴

120. Despite ATR’s pre-emptive self-censorship, on 24 September 2014, the Counter-Extremism Centre wrote a letter to ATR’s Director General requesting a wide range of information about the station and its individual staff members. The letter relayed claims allegedly received by the FSB from the “Russian Oversight Committee in Crimea and Sevastopol” that:

“the ATR TV channel has changed its media information content and persistently implants the idea about possible national and religious repressions and facilitates development of anti-Russian public opinion and intentionally ignites distrust to the authorities and their actions among Crimean Tatars, which poses an indirect extremist threat.”¹⁹⁵

121. On 26 January 2015, the ATR television office was reportedly raided by about 30 special police armed with automatic weapons. Staff members were allegedly

¹⁹¹ OSCE-SMMU interview with Elizaveta Bohutskaya (Odessa, 26 September 2014).

¹⁹² Letter of warning issued by the Prosecutor’s Office in Simferopol (dated 16 May 2014).

¹⁹³ Interview with Lilya Budzhurova, former Deputy Director of ATR-TV (phone interview, 1 July 2015).

¹⁹⁴ Interview with Crimean journalists (phone interview, July 2015).

¹⁹⁵ Letter issued to ATR Director General by the Ministry of Internal Affairs of Crimea, Counter-Extremism Centre (Simferopol, dated 24 September 2014).

isolated and effectively detained for the day, though they continued to broadcast. For several hours, law enforcement personnel reportedly searched the building for video records of a 26 February 2014 rally in Simferopol, seizing boxes of records from ATR archives, which they copied and mostly returned a few days later.¹⁹⁶

122. As noted above, throughout the course of these incidents, ATR attempted four times to re-register under new Russian media regulations, though was ultimately unsuccessful and ceased broadcasting from Crimea on 31 March 2015.¹⁹⁷
123. On 13 March 2015, in a concerning escalation, the Kyiv-based Crimean journalist Anna Andrievska learned that a criminal investigation had been opened against her under extremism charges in Crimea, following the publication of an online article she wrote in December 2014 – seven months after leaving Crimea for Kyiv in May 2014. Published on the website of the Centre for Journalistic Investigations, the article profiled Crimean civilian volunteers who provided assistance to Ukraine’s “Crimea battalion” fighting pro-Russian rebels in Ukraine’s east. On 13 March 2015, FSB agents searched her parents’ home in Crimea, questioned them regarding her whereabouts and activities, and confiscated their computer, a USB stick and nine notebooks belonging to Ms. Andrievska.¹⁹⁸ Subsequently, the FSB questioned two other Crimean journalists she knew, searched their homes, and seized their equipment, as witnesses in the case against Andrievska. During those interrogations, the *de facto* authorities reportedly mentioned that the charges were being brought against her as a Russian citizen,¹⁹⁹ despite her never having accepted Russian citizenship and having left Crimea almost a year before. A witness of the search of one of the journalists’ homes informed the HRAM that the FSB would not allow a defence attorney into the home during the search, and later collected passport information from journalists gathered outside the FSB building during one of the interrogations, which lasted several hours.²⁰⁰
124. Such incidents have continued more recently as well. In May 2015, the Institute of Mass Information registered five cases of searches and arrests of media in Crimea, including an ATR cameraman who was subsequently detained for two months in relation to his attendance at a 26 February 2014 pro-Ukraine rally in Simferopol.²⁰¹
125. Among other forms of harassment and intimidation faced by media in Crimea over the last year, Crimean journalists reportedly: received anonymous threats over the phone; were followed by plainclothes officers; experienced

¹⁹⁶ Interview with Lilya Budzhurova, former Deputy Director of ATR-TV (phone interview, 1 July 2015).

¹⁹⁷ Ibid. See also, above at Section 1.7 Media organization re-registration.

¹⁹⁸ FSB search protocol (dated 15 March 2015).

¹⁹⁹ Interview with Anna Andrievska (Kyiv, 17 July 2015).

²⁰⁰ Interview with witness (Kyiv, 17 July 2015).

²⁰¹ Interview with Oksana Romanyuk, Director of the Institute of Mass Information (Kyiv, 17 July 2015).

surveillance of their telecommunications; and received periodic phone calls or visits from law enforcement authorities, who would sometimes ask obscure or threatening personal questions. One journalist reported that Crimean law enforcement officers have also started calling news media in Crimea to ask them for the Internet service provider (ISP) addresses of their online readers, whenever they post comments that are critical of either Russia or *de facto* authorities in Crimea.²⁰²

126. Several Crimean journalists reported that most independent and pro-Ukrainian media have left Crimea due to the incumbent risks of working there now. The independent journalists remaining were either operating from hiding (without their names included in their stories), or were working as foreign journalists with accreditation from the Russian Ministry of Foreign Affairs (MFA). However, several journalists said that even those media which are registered or MFA-accredited still face constant obstacles in gaining local accreditation to access *de facto* authorities and their institutions.²⁰³ Media still reporting from Crimea confirmed that assertion, and told the HRAM that they were not invited to the meetings of *de facto* authorities, their phone calls were not returned, and officials would not give them interviews. They could still work on the street, yet reportedly had their documents checked frequently by police.²⁰⁴
127. The HRAM reviewed the Kerch City accreditation regulation, as well as a formal complaint submitted by a Kerch-based media outlet to the local Prosecutor's Office about the local administration's denials of accreditation.²⁰⁵ In response to the complaint, the Prosecutor's Office concurred with the complainant that the Regulation restricted media rights, potentially contrary to the Russian constitution and federal law.²⁰⁶ However, according to a Kyiv-based Crimean journalist familiar with the incident, staff at the complaining media outlet then received anonymous phone calls warning that if they continued to communicate with the Prosecutor, they would have their news outlet shut down.²⁰⁷

²⁰² Interviews with Crimean journalists (Kyiv, 17 July 2015).

²⁰³ Interviews with Crimean journalists (in Kyiv, and in Crimea by phone; July 2015). The MFA of the Russian Federation has noted its application of foreign accreditation rules to Ukrainian journalists, in its submission to UNESCO (14 April 2015), available at: <http://russianunesco.ru/eng/article/2070>.

²⁰⁴ Interviews with Crimean journalists (phone interview, July 2015).

²⁰⁵ Letter to the Prosecutor of the city of Kerch from the media outlet, in relation to the Regulation of Kerch City Council "On the accreditation of media representatives at the Kerch City council of the Republic of Crimea" (30 January 2015), available at: http://hromadskeradio.org/sites/default/files/wp-content/uploads/2-R_Akkreditatsiya_predstavitelej_SMI_2015_01_30_15_14_22_538.pdf.

²⁰⁶ Letter to the media outlet from the Prosecutor of the city of Kerch (dated 26 May 2015).

²⁰⁷ Interviews with Crimean journalists (Kyiv, 17 July 2015).

2.2 Freedom of peaceful assembly

128. OSCE participating States have committed to guarantee the right to freedom of peaceful assembly, and not to restrict the right beyond circumstances permitted by international standards.²⁰⁸ According to Article 11 of the ECHR and Article 21 of the ICCPR, authorities have a responsibility to respect and ensure freedom of peaceful assembly – including by protecting assemblies from attacks or disruption by third parties – and any restrictions of this right must be proportionate to achieve a legitimate aim that is demonstrably necessary in a democratic society.²⁰⁹
129. In their May 2014 joint report, ODIHR and HCNM called on the authorities exercising *de facto* control over Crimea “to ensure that law-enforcement agents effectively protect participants of public assemblies, including journalists and activists, from attacks, harassment or intimidation by State or non-State actors.”²¹⁰
130. Crimean *de facto* authorities have in several prominent instances rejected formal requests to hold peaceful assemblies – or restricted their content and/or locations – on the basis of procedural technicalities, conflicts with previously approved (pro-Russia) events scheduled for the same days, or allegations of “extremist” or “separatist” messages that would purportedly be disseminated at the events. Numerous Crimean residents, IDPs, activists and journalists provided the HRAM with consistent accounts of many of the same such incidents over the last year – primarily targeting pro-Ukrainian activists and ethnic minorities.²¹¹ The HRAM also received and reviewed copies of correspondence between authorities and organizers regarding some requests and denials to hold public assemblies, as well as legal warnings and court decisions on allegedly impermissible content of assemblies, including Ukrainian flags and traditional Ukrainian attire.

2.2.1 Regulatory restrictions on freedom of peaceful assembly

131. Since annexation, Crimean *de facto* authorities have adopted a number of restrictive measures to curtail peaceful assemblies, which have been applied

²⁰⁸ Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (29 June 1990), available at: <http://www.osce.org/odihr/elections/14304>.

²⁰⁹ Article 21, ICCPR (note 23 above).

²¹⁰ See 2014 joint report of ODIHR/HCNM (note 1 above), p. 18.

²¹¹ For more examples, details of which were confirmed by knowledgeable individuals or participants interviewed by the HRAM, see e.g.: *The Fear Peninsula* (note 121 above), Amnesty International, *One Year On* (note 116 above), monthly reports of the Crimean Field Mission on Human Rights, *Brief Review of the Situation in Crimea* (including from June 2015, with details of a series of administrative penalties and warnings in relation to public assemblies); *Human rights in Ukraine 2014: Human rights organizations' report* (Kharkiv: Ukrainian Helsinki Human Rights Union, 2015), “Situation in AR Crimea and Human Rights”, pp. 35 *et seq.*, Available at: <http://helsinki.org.ua/index.php?id=1432628132>.

selectively to prohibit or disproportionately limit events by pro-Ukrainian and ethnic minority groups, including to prevent them from voicing dissenting political opinions. Under new Crimean legislation that entered into force in August 2014, the organizers of public assemblies now must be Russian citizens and must officially request permission to hold an assembly no more than 15 days, and no fewer than 10 days prior to the planned event.²¹² A separate regulation in force since November 2014 introduced further restrictions on the locations where public assemblies can be held, which for instance in Simferopol now include only four official sites.²¹³ Additionally, amendments to Russian federal legislation have provided for criminal punishments of individuals who repeatedly violate rules on the organization of assemblies;²¹⁴ have prohibited children under 14 years old from being present at political assemblies;²¹⁵ and have restricted the hours of permissible assemblies (from 07:00 to 22:00 on any given day), unless the events are to commemorate memorable dates of the Russian Federation.²¹⁶

132. On 16 May 2014, the head of the *de facto* Crimean government Mr. Sergey Aksyonov further issued a decree banning all public assemblies in Crimea – two days prior to the 70th anniversary of the deportation of Crimean Tatars on 18 May 2014 – until 6 June 2014. Mr. Aksyonov justified the order as a measure to “eliminate possible provocations by extremists, who were able to penetrate the territory of the Republic of Crimea, and to avoid disruption of the holiday season”.²¹⁷

²¹² Article 2 (paras. 1 and 4) of the Law of the Republic of Crimea No. 56-LRC “On Ensuring of the Conditions for Realization of the Rights of Russian Citizens to Hold Meetings, Rallies, Demonstrations, and Pickets in the Republic of Crimea” (21 August 2014). This law reflects identical provisions in Article 7 of the Federal Law of the Russian Federation No. 54-FL “On Meetings, Rallies, Demonstrations, Marches and Pickets” (4 July 2004).

²¹³ Council of Ministers of Crimea, Order No. 452 “On the Approval of the List of Places for Public Events in the Republic of Crimea (12 November 2014). See also, Regulation “On the procedure of organization of Public Events on the Territory of the Simferopol City Municipality” (28 January 2015), available at:

http://simadm.ru/media/acts/2015/02/05/%D0%9F%D1%80%D0%B8%D0%BB%D0%BE%D0%B6%D0%B5%D0%BD%D0%B8%D0%B5%D0%BA_29_%D0%BE%D1%82_28.01.2015.pdf.

²¹⁴ Federal Law of the Russian Federation No. 258-FL “On Amendments to Certain Legislative Acts of the Russian Federation in Terms of Improving the Legislation on Public Events” (21 July 2014).

²¹⁵ Ibid.

²¹⁶ Federal Law of the Russian Federation No. 292-FL “On Amendments to Article 9 of the Federal Law ‘On Meetings, Rallies, Demonstrations, Marches and Pickets’” (9 October 2014). *Human rights in Ukraine 2014: Human rights organizations’ report* (note 211 above), p. 44.

²¹⁷ Amnesty International, *One Year On* (note 116 above), p. 16; *The Fear Peninsula* (note 121 above), Section 4.8, p. 67. The decree itself is linked to in the following news story on the banning of the subsequent “Day of Remembrance” in 2015; see “Crimean Tatars barred from holding march in memory of 1944 deportation” (20 May 2015), available at: http://rbth.co.uk/politics/2015/05/20/crimean_tatars_barred_from_holding_march_in_memory_of_1944_deportati_46203.html.

2.2.2 Restrictions imposed prior to assemblies

133. The European Court of Human Rights has found that prior restrictions imposed on assemblies to prevent minor disorder are often disproportionate measures, and that any minor incidents of violence are better dealt with by way of subsequent prosecution or disciplinary actions.²¹⁸ However, the HRAM documented multiple accounts of outright rejections of requests to hold public assemblies, as well as apparently disproportionate restrictions on the time, place and content of those planned assemblies. *De facto* authorities expressly restricted the content of planned assemblies by Crimean-Tatar and Ukrainian organizers, requiring that they exclude political opinions and cultural expression by those groups. In contrast, such restrictions were reportedly not imposed on public assemblies by pro-Russian organizations and civic associations.
134. In one example, on 28 November 2014, a co-ordinator of the informal Committee on the Rights of the Crimean Tatar People, Sinaver Kadyrov, communicated his intention to organize two activities in Simferopol to commemorate International Human Rights Day on 10 December 2014. The activities included a conference on the topic of human rights and freedoms, and a children's competition of chalk drawings about Crimea in the parking lot outside the conference room. Simferopol City authorities rejected the request, indicating that it provided inadequate information about the number of participants. On 5 December 2014, the Committee reapplied with the requested information, which city authorities rejected for a second time – voicing concerns of a “real threat” to participants due to the location of the planned event, as preparation works for Christmas and New Year celebrations were already planned in the same vicinity from 1 December 2014 to 7 January 2015.²¹⁹ In the authorities' second rejection letter of 8 December 2014, they offered to change the location of the 10 December demonstration to a local park, but stated “the organizer shall notify local self-government authorities no later than *three days* prior to the demonstration in written form about acceptance (non-acceptance) of the proposal about change of location for the demonstration” (*emphasis added*).²²⁰ On 9 December 2014, Kadyrov received a three-page warning letter from the Simferopol Prosecutor's Office threatening that any unsanctioned public assembly would be legally impermissible, and

²¹⁸ See Guidelines on Freedom of Peaceful Assembly (2nd ed, 2010), para. 109. For example, European Court of Human Rights, *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria* (2001), para. 94.

²¹⁹ Interview with Sinaver Kadyrov, Committee on the Rights of the Crimean Tatar People (Kyiv, 9 July 2015). Official warning letter by Simferopol City Department of the Interior. Letter from Simferopol City Administration (dated 8 December 2014). Official warning by Simferopol City Office of the Prosecutor (dated 9 December 2014).

²²⁰ Interview with Sinaver Kadyrov, Committee on the Rights of the Crimean Tatar People (Kyiv, 9 July 2015). Letter from Simferopol City Administration (dated 8 December 2014).

could give rise to criminal violations of federal laws on extremism and public assemblies.²²¹

135. In response, Mr. Kadyrov and the two other Committee organizers, Eskender Bariev and Abdulemjit Suleymanov, instead convened a press conference on the prohibition by *de facto* authorities of their planned events on International Human Rights Day. However, the event was disrupted by a group of 10 to 20 unknown men, who sprayed the speakers with green dye. According to Mr. Kadyrov, when the press conference dispersed, the police were already waiting outside, apparently ready to arrest the organizers if they had reacted to the provocation of the assailants, who had left without being detained by police. On 17 January 2015, the organizers finally held a human rights conference, at which their Committee discussed issues of concern and adopted decisions – then transmitting their conclusions to the Ukrainian and Turkish governments, as well as the UN Secretary-General.²²²

136. On the night of 23 January 2015, the three co-ordinators of the Committee attempted to travel from Crimea to mainland Ukraine via the Armyansk crossing, but were stopped and questioned by Russian border personnel. As the other two were released and travelled on after 10 hours, Kadyrov was officially deported from Crimea by court order, as a foreigner who had overstayed the 90 days permitted under Russian law.²²³ After living in Crimea on his Ukrainian passport for almost a year since occupation, Mr. Kadyrov pleaded not guilty and claimed as a citizen of Ukraine that he was staying legally in Crimea. Despite the automatic citizenship imposed on Crimean residents, the Court found Kadyrov to be a foreigner guilty of the administrative offense, and ordered both a fine and deportation.²²⁴ Following an appeal, Crimea's Supreme Court upheld the lower court decision on 6 February 2015.²²⁵ Subsequently, the three organizers were advised that the prosecutor in Crimea had opened criminal

²²¹ Interview with Sinaver Kadyrov, Committee on the Rights of the Crimean Tatar People (Kyiv, 9 July 2015). Official warning by Simferopol City Office of the Prosecutor (dated 9 December 2014).

²²² Interview with Sinaver Kadyrov, Committee on the Rights of the Crimean Tatar People (Kyiv, 9 July 2015). Interview with Abhezhid Suleimanov, Mejlis representative in Kherson (Kherson, 14 July 2015).

²²³ Interview with Sinaver Kadyrov, Committee on the Rights of the Crimean Tatar People (Kyiv, 9 July 2015). Interview with Abhezhid Suleimanov, Mejlis representative in Kherson (Kherson, 14 July 2015).

²²⁴ Decision of Armyansky Municipal Court of the Republic of Crimea rendered on 23.01.2015 on charges of committing an administrative offense by Kadyrov S.A // Case no. 5-49/2015. Interview with Sinaver Kadyrov, Committee on the Rights of the Crimean Tatar People (Kyiv, 9 July 2015). Interview with Abhezhid Suleimanov, Mejlis representative in Kherson (Kherson, 14 July 2015).

²²⁵ Decision of the Supreme Court of the Republic of Crimea rendered on 06.02.2015 on appeal of Kadyrov S.A // Case no. 12-225/2015. Interview with Sinaver Kadyrov, Committee on the Rights of the Crimean Tatar People (Kyiv, 9 July 2015). Interview with Abhezhid Suleimanov, Mejlis representative in Kherson (Kherson, 14 July 2015).

cases against all of them, due to which none has returned to Crimea out of fear of prosecution.²²⁶

137. In another illustrative case on 24 June 2015, several days before Ukraine's Constitution Day, the Ukrainian Cultural Centre organizer Mr. Leonid Kuzmin received a warning letter from the Prosecutor's Office in Simferopol, cautioning him in relation to extremist activities and unapproved public assemblies. The warning letter cited information that "a group of radical Crimean-Tatar and Ukrainian activists are planning to provoke the use of force by Crimean law-enforcement authorities through demonstrating Ukrainian symbols and chanting slogans 'Glory to Ukraine! Glory to the Heroes!'"²²⁷ The warning letter sent by the Prosecutor's Office did not indicate a source of the alleged information, though appeared to discourage any public assemblies involving political speech or cultural expression by ethnic Ukrainian and Crimean Tatar communities.

2.2.3 Sanctions and penalties imposed after assemblies

138. As with prior restraints, the principle of proportionality applies to liability for any offenses allegedly committed in the course of public assemblies. The UN Human Rights Committee and the European Court of Human Rights have found in multiple cases that excessive sanctions of minor violence or disorderly conduct during assemblies may also constitute disproportionate interference with the right to freedom of assembly or expression.²²⁸ Any prosecutions or administrative sanctions should thus be proportionate to the severity of the offence, including when minor in nature.

139. Conversely, *de facto* authorities in Crimea have aggressively prosecuted the organizers and participants of peaceful assemblies for "extremism", which in some cases has appeared to amount only to the peaceful and public expression of participants' cultural identities or political beliefs.

140. For instance, organizers of the Ukrainian Cultural Centre notified the Simferopol authorities of their intention to hold a public assembly on 9 March 2015, in commemoration of the 201st birthday of the revered Ukrainian poet Taras Shevchenko. After initially rejecting the request to hold the event at a

²²⁶ Interview with Sinaver Kadyrov, Committee on the Rights of the Crimean Tatar People (Kyiv, 9 July 2015). Interview with Abhezhid Suleimanov, Mejlis representative in Kherson (Kherson, 14 July 2015).

²²⁷ Letter of warning issued to Leonid Kuzmin by the Prosecutor's Office in Simferopol (dated 24 June 2015).

²²⁸ See Guidelines on Freedom of Peaceful Assembly (2nd ed, 2010), para. 109. For example, *Patrick Coleman v. Australia* (2006) CCPR/C/87/D/1157/2003, para. 7.3 (the UN Human Rights Committee considered a fine and a five-day custodial sentence to be a disproportionate penalty for making a speech without a permit). Also see *Ezelin v. France* (1991) (assembly), and *Incal v. Turkey* (1998) (expression).

central location, authorities permitted it to be held at a more peripheral park.²²⁹ Despite the official approval for the event, police reportedly detained three participants (Mr. Kuzmin, Mr. Shukurdziev and Mr. Kravchenko) for brandishing a Ukrainian flag inscribed with the phrase, “Crimea is Ukraine”. On 12 March 2015, all three were found guilty and ordered to conduct public works for violating the rules of public assemblies by displaying “extremist” symbols (an inscribed Ukrainian flag and an embroidered Ukrainian shirt), which had not been specifically approved as content for the celebration of the Ukrainian poet. The opinion of the court also noted that the use of Ukrainian symbols was not in line with historical facts, since Ukraine had been part of the Russian Empire when the poet was born two centuries earlier.²³⁰ Following an appeal, on 20 April 2015, the Supreme Court of Crimea upheld the lower court’s order based on the impermissibility of the “extremist” content at the peaceful assembly.²³¹

141. Mr. Kuzmin, the nominal organizer the 9 March 2015 event, was reportedly fired the next day from his job as a schoolteacher in Simferopol, and informed that “an employee of the school has no right to participate in political activity”.²³² According to media accounts and interviews with Crimean IDPs in Kyiv who knew them, both Kuzmin and Shukurdziev were then detained and questioned twice more by authorities in May 2015 – respectively in relation to the 26 February 2014 public assembly for Ukrainian unity prior to the referendum on annexation,²³³ and a private outdoor gathering in traditional Ukrainian shirts on the day of Ukrainian embroidery.²³⁴ The third individual found guilty in the 9 March incident, Mr. Kravchenko, had reportedly already moved to mainland Ukraine after being contacted again by the Russian intelligence service.

²²⁹ Letter from the Simferopol City Administration to Mr. Kuzmin (dated 27 February 2015), approving the request to organize the public assembly.

²³⁰ Decisions of Zheleznodorozhniy (Railway) District Court of Simferopol rendered on 12 March 2015 on charges of committing administrative offenses by Kuzmin L.A. (Case no. 5-401/2015), Kravchenko A.S. (Case no. 5-402/2015), and Shukurdziev V.S. (Case no. 5-403/2015). The decisions referred specifically to Article 20.2.5 of the Code of Administrative Offences of the Russian Federation (<http://www.zakonrf.info/koap/20.2/>); Article 16 of the Law of the Russian Federation No. 114-FL from July 25, 2002 "On combating extremist activity" (<http://www.legislationline.org/documents/id/4368>); and Article 6.3.2 of the Federal Law No. 54 “On assemblies, meetings, demonstrations, marches and pickets”.

²³¹ Decision of the Supreme Court of the Republic of Crimea rendered on 20 April 2015, on appeal of Shukurdziev V.S. (Case no. 12-445/2015).

²³² Multiple accounts of interviewees. See also, *The Fear Peninsula* (note 121 above), Section 4.8, p. 71.

²³³ The 26 February 2014 event was documented in the 2014 joint report of ODIHR/HCNM (note 1 above), at pp. 45 (para. 85) and 111.

²³⁴ See the following news stories: “Day embroidered: arrest, interrogation, search and threats” (22 May 2015), available at <http://voicecrimea.com.ua/main/news/developments/den-vishivanki-aresht-dopit-obshuk-i-znovu-pogrozi.html>; and “Pro-Ukrainian activists "invited" for questioning in Crimea (video)”, available at <http://voicecrimea.com.ua/main/news/yak-zaproshuyut-v-krimu-na-dopit-proukra%D1%97nskix-aktivistiv-video.html> (18 May 2015). *The Fear Peninsula* (note 121 above), Section 4.8, p. 71.

142. In more recent cases, the Prosecutor’s Office of the Republic of Crimea has also begun to retroactively prosecute Crimean residents and IDPs under the Criminal Code of the Russian Federation – and as Russian citizens – for their alleged roles as organizers of, or participants in the “Euromaidan” protests in Kyiv. Those cases are remarkable also in that they pertain to incidents that occurred prior to the Russian occupation and annexation of Crimea, as well as outside of the territory of Crimea – thus extending the jurisdiction of Russian courts in Crimea both extraterritorially and to alleged crimes committed prior to the introduction of the Russian criminal code in Crimea.
143. The first prosecution and conviction in such a case was that of Aleksandr Kostenko. Mr. Kostenko was arrested on 6 February 2015 for allegedly throwing a rock at a Ukrainian *Berkut* special police officer a year earlier, on 2 February 2014, during the demonstrations at Independence Square (Maidan) in Kyiv. The court judgment confirming the detention of Mr. Kostenko refers to him as a Russian citizen, who was “aware of the mass public disorder [at Maidan] aimed at unlawful and violent toppling of the Constitutional order of Ukraine”, and who “felt ideological hatred towards law enforcement officers who were securing public order”.²³⁵ According to public accounts of his lawyer, Mr. Kostenko was abducted, beaten, tortured with electricity and subjected to mock execution on 5 February 2015, the day prior to his arrest under a court order issued on 6 February. Though his detention order noted that Kostenko was suspected of “committing a minor crime entailing the sentence for up to two years in detention”, the court ultimately sentenced him to four years and two months in prison.²³⁶
144. The Crimean Prosecutor, who personally prosecuted the case against Kostenko, celebrated the verdict on her Facebook page as a “legitimate and justified [...] restoration of justice”.²³⁷ Two weeks after the verdict in Kostenko’s case, the Crimean Prosecutor announced on her Facebook page that a criminal investigation identified all the other organizers “who gathered in Crimea the supporters of the so-called ‘Euromaidan’ to send them to Kyiv, and they also co-ordinated all the ‘peaceful demonstration’ actions. [...] The people in question have not yet been arrested, but the punishment for them will be inevitable – they soon will be in the dock.”²³⁸ A few days later, partial scanned copies of apparently official documentation from the criminal investigation were leaked to the media, identifying approximately 25 people under investigation for traveling to Kyiv to participate in the Maidan

²³⁵ Kyiv District Court of Simferopol, Judgment of 8 February 2015, Case No. 3/1-30/201.

²³⁶ Crimean Field Mission on Human Rights, *Brief Review of the Situation in Crimea* (May 2015 report), Section 2, p. 4.

²³⁷ Public post on the official Facebook profile of the Chief Prosecutor of Crimea, Natalia Poklonskaya (15 May 2015).

²³⁸ Public post on the official Facebook profile of the Chief Prosecutor of Crimea, Natalia Poklonskaya (29 May 2015).

demonstrations.²³⁹ The list also included information on the current location of alleged participants in demonstrations and whether or not they supported the political opposition.

145. The targeted prosecutions of alleged participants in Euromaidan assemblies in Kyiv appear not only to be politically motivated – and thereby to violate the prohibition on discrimination based on political opinion – but also to conflict with the Russian Federation’s obligations under both international human rights law and international humanitarian law. In particular, Article 15(1) of the ICCPR provides, “No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence [...] at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed.” The Fourth Geneva Convention further observes: (1) that the penal laws of the displaced sovereign State’s legal system should remain in force; (2) that courts in the occupied territory should only enforce laws that were applicable prior to any alleged offence; (3) that courts “shall take into consideration the fact that the accused is not a national of the Occupying Power,” and (4) an occupying power “shall not arrest, prosecute or convict protected persons for acts committed or opinions expressed before the occupation [...] with the exception of breaches of the laws and customs of war.”²⁴⁰
146. Five Crimean Tatars have also been detained and face retroactive prosecution under the Russian criminal code for their crimes allegedly committed while participating in the 26 February 2014 rally in Simferopol. One of those five is Akhtem Ciygoz, vice chairman of the Mejlis in Crimea, who was arrested by Crimean *de facto* authorities on 29 January 2015.²⁴¹ In April 2015, the Russian MFA referred to Mr. Ciygoz as a citizen of Ukraine who “is well known in Crimea for his regular extremist escapades”.²⁴²
147. In contrast, the Crimean Prosecutor has not apparently sought to investigate or prosecute pro-Russian “self-defence” groups, which have been accused of committing serious human rights abuses at the start of and since the occupation of Crimea – including in the context of political assemblies, and against many of the same activists on the prosecutor’s supposed investigation list. As documented by ODIHR and HCNM in their 2014 joint report, those alleged abuses include disappearances, extrajudicial killings, torture and ill-treatment of Euromaidan activists, journalists and others that “self-defence” groups allegedly abducted.²⁴³ Rather than prosecute those groups, the Russian parliament

²³⁹ See Krym Realii, “Who Polonskaya is going to pursue for Euromaidan (LIST)” (3 June 2015), available at: <http://ru.krymr.com/content/article/27052049.html>.

²⁴⁰ Articles 64, 67 and 70, Fourth Geneva Convention (note 17 above).

²⁴¹ MFA of the Russian Federation, submission to UNESCO (14 April 2015, available at: <http://russianunesco.ru/eng/article/2070>); and interviews with Mejlis members (13 and 14 July 2015).

²⁴² MFA, *ibid.*

²⁴³ See, 2014 joint report of ODIHR/HCNM (note 1 above), paras. 88, 109 *et seq.*

proposed measures to amnesty their past abuses (which have not yet been publicly adopted),²⁴⁴ and their legal statuses were formalized in Crimea.²⁴⁵ “Self-defence” groups reportedly continue with impunity to intimidate, harass, detain and seize the properties of Crimean residents, particularly those accused of opposing the Russian annexation, without an adequate legal basis.²⁴⁶

2.3 Freedom of movement

148. International human rights law guarantees everyone the right to freedom of movement within the borders of the State where they are located, and the right to leave and enter their own country.²⁴⁷ OSCE participating States have further committed themselves to removing all legal and other restrictions with respect to travel within their territories and with respect to residence for those entitled to permanent residence within their territories.²⁴⁸ They have further committed to facilitating the voluntary return, in safety and dignity, of internally displaced persons in accordance with international standards, recognizing also that the reintegration of people in their places of origin must be pursued without discrimination.²⁴⁹ The OSCE recognizes the UN Guiding Principles on Internal Displacement as the relevant framework.²⁵⁰
149. In their 2014 joint report, ODIHR and HCNM called on both the Ukrainian authorities and *de facto* authorities in Crimea to ensure that IDPs would not face regressive human rights conditions, including in relation to their citizenship and residency, on account of their displacement. The report also called on Ukrainian authorities to refrain from taking measures to limit the freedom of movement of IDPs in any fashion that could have a negative impact on their enjoyment of human rights, including social and economic rights.²⁵¹
150. Since the establishment of the Administrative Boundary Line (ABL) between Crimea and mainland Ukraine, marked by three main crossing points, both the Ukrainian government and Crimean *de facto* authorities have implemented

²⁴⁴ The State Duma of the Russian Federation on 2 October 2014 considered draft Law No. 613379-6 “On Amendments to the Federal Constitutional Law No. 6-FKZ of 21 March 2014”, available at: <http://asozd2.duma.gov.ru/main.nsf/%28SpravkaNew%29?OpenAgent&RN=613379-6&02>. (As cited in short report “Crimean Self-Defence”, authored by Olga Skrypnyk, director of Almenda and deputy head of the Crimean Field Mission on Human Rights.)

²⁴⁵ Under the “Law on the People’s Militia” (11 June 2014, as amended on 26 November 2014), available at: <http://jankoy.org.ua/wp-content/uploads/2014/05/Zakon-O-narodnom-opolchenii-Kryma.pdf>.

²⁴⁶ For example, see above at notes 100, 169 and 190.

²⁴⁷ Article 12, ICCPR (note 23 above); Articles 2 and 3, Protocol 4 to the ECHR (note 21 above).

²⁴⁸ See Moscow Document (note 159 above), para. 33.

²⁴⁹ Lisbon Document 1996 (Lisbon, 3 December 1996), para. 10. Available at: <http://www.osce.org/mc/39539>.

²⁵⁰ Maastricht Ministerial Council Decision No. 4/03 on Tolerance and Non-discrimination, para. 13.

²⁵¹ See, 2014 joint report of ODIHR/HCNM (note 1 above), at pp. 15–18.

restrictions on the freedom of movement that have impacted Crimean residents and IDPs on both sides of the ABL.²⁵²

2.3.1 Restrictions imposed by de facto authorities in Crimea

151. The most serious restrictions imposed by Crimean *de facto* authorities have targeted Crimean Tatar political leaders, including in the forms of: routine surveillance and interrogations at the ABL; legal summons and abductions, apparently to prevent their travel abroad; bans on re-entry to Crimea; and, in one case, a formal court-ordered deportation from Crimea.
152. On 22 April 2014, the leading member of the Crimean Tatars' Mejlis representative body, Mustafa Dzhemilev, was banned from entering Crimea for a period of five years. On 5 July 2014, another of the highest-ranking Crimean Tatar leaders, Refat Chubarov, was also banned from entering Crimea for five years, and branded as an extremist by *de facto* authorities. Both Dzhemilev and Chubarov are members of parliament in Ukraine.
153. Other Crimean Tatar activists and members of the Mejlis still residing in Crimea have reportedly faced restrictions on their movement, including intensive interrogations whenever entering or leaving Crimea over the Administrative Boundary Line. On 23 January 2015, as noted above, Sinaver Kadyrov was the first Crimean resident since annexation to be formally deported as a foreigner from Crimea by court order, despite having been theoretically granted automatic Russian citizenship in April 2014.²⁵³
154. According to a member of the Mejlis in Crimea, the head of the Mejlis' political-legal department, Nadir Bekirov, was attacked in September 2014 while trying to leave Crimea to attend the UN World Conference on Indigenous Peoples in New York. Masked men allegedly pulled him out of a taxi, beat him, and seized his passport in order to prevent him from attending the meeting. Without his passport, he was unable to leave Crimea and missed the World Conference.²⁵⁴
155. On 28 July 2015, two of the most senior members of the Mejlis in Crimea – first deputy chairman of the Mejlis, Nariman Dzheljalov; and chairman of the central electoral commission of the Kurultay parliamentary body, Zair Smedlyaev – were served with a summons letter by Russian intelligence services for questioning in Crimea on 1 August 2015. The summons was apparently served

²⁵² For an assessment focused solely on the freedom of movement of Crimean IDPs and residents crossing the ABL to and from mainland Ukraine, see the OSCE Special Monitoring Mission to Ukraine thematic report, "Freedom of movement across the administrative boundary line with Crimea" (21 June 2015), available at: <http://www.osce.org/ukraine-smm/165691>.

²⁵³ See above at note 225.

²⁵⁴ Interview with Mejlis member (Kherson, 14 July 2015). The incident was also widely reported in the media.

to prevent them from attending the World Congress of the Crimean Tatars in Ankara, Turkey, on 1–2 August 2015.²⁵⁵ The deputy head of the Mejlis, Ilmi Umerov, was also summoned for 29 July 2015. Prior to the summons, Russian intelligence services reportedly invited many members of the Mejlis to questioning, and warned them they could subsequently face problems re-entering Crimea if they attended the World Congress.²⁵⁶

156. Entry bans and exit restrictions imposed upon Crimean inhabitants run directly counter to the Russian Federation’s aforementioned obligations under the ICCPR and Protocol 4 to the ECHR.
157. In contrast, the Russian Federation’s Migration Service has reportedly accommodated thousands of IDPs from mainland Ukraine into Crimea without any serious restrictions on their freedom of movement. Since occupation, the *de facto* authorities in Crimea have reportedly claimed that as many as 200,000 IDPs from mainland Ukraine have crossed into Crimea.²⁵⁷ According to the ICRC, most such IDPs were given temporary relief for a few weeks, and then resettled through a Russian Federation program to continental Russian destinations, including Siberia. *De facto* authorities have reportedly estimated there to be about 40,000 IDPs from mainland Ukraine residing in Crimea, mostly lodged informally with families or privately without public support.

2.3.2 Restrictions imposed by Ukrainian authorities

158. The Ukrainian authorities have imposed restrictions on travel across the ABL, which have primarily created obstacles for Crimean residents and IDPs without adequate documentation under the new requirements – particularly for young children and their families. The freedom of movement of foreigners has also been heavily restricted under the new regulations on cross-boundary travel.
159. On 4 June 2015, the Ukrainian Cabinet of Ministers adopted Resolution No. 367,²⁵⁸ which imposed widely criticized restrictions on children and foreigners

²⁵⁵ On 28 July 2015, Zair Smedlyayev posted a photo of the summons letter he received on his Facebook page. All three summons were also widely reported in the media.

²⁵⁶ Interview with Mejlis member (Kherson, 14 July 2015).

²⁵⁷ The Ombudsperson of the Russian Federation also cited this number in her Annual Report 2014, Crimea chapter, p. 95 (note 47 above). Such figures are not possible to verify independently, though are magnitudes larger than the numbers of cross-boundary migrants into Crimea as reported by Ukrainian border services. In any event, the true number would also be included in the estimated total of Ukrainian displaced persons who have reportedly sought asylum or refuge in Russia. As of 31 July 2015, the Russian Federation claimed to be hosting 756,600 displaced persons from Ukraine. See UNHCR, “Ukraine Situation: UNHCR Operational Update (16 July – 3 August 2015).

²⁵⁸ See Cabinet of Ministers Resolution No. 367, “Special Order of Entry and Exit from/to Temporarily Occupied Territory of Ukraine”, available at: <http://www.kmu.ua/control/uk/cardnpd?docid=248222450>. The resolution implemented Article 10 of the Law “On Ensuring the Rights and Freedoms of Citizens of Ukraine and the Legal Regime on Temporarily Occupied Territory of Ukraine” (15 April 2014).

seeking to cross the ABL. Under the new regulation, children under 16 years old are newly required to have international travel documents issued by Ukraine in order to cross from mainland Ukraine into Crimea – or, for young children, to be included in their parents’ passports.²⁵⁹ Non-Ukrainian nationals are required to obtain a permit under one of seven qualifying criteria.²⁶⁰

160. In the first month of implementing Resolution No. 367, the State Border Guards Service said that it denied passage to a total of 562 people; 245 of them were foreign nationals. In one 24-hour period (on 12 July 2015), 21 people were refused entry to Crimea, including: 18 Ukrainian citizens (17 of them children without adequate documentation), and 3 Russian citizens without permits.²⁶¹

161. NGOs, IDPs and Crimean residents interviewed by the HRAM identified the new regulation as one of the greatest obstacles to freedom of movement in both directions. Unless foreigners have family or real estate in Crimea, the resolution only foresees granting them permits upon the invitation of the Ukrainian government, and only as either representatives of international organizations, or for activities in the national interest of Ukraine.²⁶² However, those criteria appear not adequately to accommodate the activities of journalists, human rights activists or NGOs, whose presence in Crimea is in all parties’ interests – not only Ukraine’s national interest. In that regard, Resolution No. 367 could restrict freedom of movement according to political opinions or even activities that the Ukrainian government views not to be in its interest. According to the Crimean Field Mission on Human Rights, as of August 2015, the Ukrainian government had established a working group to review and potentially amend those restrictions, including to prevent unnecessary restrictions of human rights organizations’ freedom of movement to and from Crimea.²⁶³

162. One Ukrainian official relayed concerns that excessive restrictions on travel into Crimea could risk ghettoizing Crimea, noting: “If we restrict something, we should offer something else instead – we need to offer some solutions for people.” One key problem, he stated, was that there are no Ukrainian passport

²⁵⁹ Article 3 of Resolution No. 367 (ibid.). Notably, multiple interviewees informed the HRAM that Ukraine’s Ministry of Internal Affairs (MIA) worked extended hours to accommodate increased demand for newly required documents. Prior to the new regulations also, the MIA informed the HRAM that it routinely provided Ukrainian identification documents to Crimean IDPs and residents. From 18 March 2014 until 3 July 2015, the MIA’s National Migration Service informed the HRAM that it issued to persons residing in Crimea: 23,000 passports for international travel; 3,600 internal passports; 1,300 travel documents for children; 8,600 insertions of pictures and names of children in their parents’ passports; 6,150 certificates of resident status to help residents claim their entitlements. During the same period, the Kherson office of the Migration Service reported receiving more than 16,000 visitors from Crimea who travelled to submit applications for official Ukrainian documentation. Those applications included about 10,000 for passports for foreign travel; and 3,000 for insertions of pictures in passports. Meeting with MIA Migration Service (Kherson, 15 July 2015).

²⁶⁰ Article 21, ibid.

²⁶¹ Meeting with State Border Guard Service of Ukraine (Kherson, 13 July 2015).

²⁶² Article 21, Resolution No. 367 (note 259 above).

²⁶³ Phone conversation with Crimean Field Mission on Human Rights (21 August 2015).

offices in Crimea for residents to obtain the newly required documentation – resulting in families with children, in particular, getting stuck on the Ukrainian side while they await new documents for their children. He suggested the process could be streamlined in order to better facilitate freedom of movement and thereby increase access to education and medical assistance, while keeping families from being divided by increased restrictions.²⁶⁴

163. Senior members of the Mejlis agreed that the new requirements of foreign passports have increased both bureaucratic and financial obstacles for travellers – and have resulted in Crimean Tatar families waiting sometimes for weeks to obtain requisite documentation for the new travel documents. The process thus takes money and time that people are short on to navigate transportation and bureaucracy in both directions. Crimean Tatars from Turkey and other countries have also reportedly encountered problems visiting Crimea through the ABL, due to not meeting the strict requirements for foreign nationals under the new regulation; some have instead travelled by air through Moscow as a result, which has then further restricted their rights to re-enter Crimea via mainland Ukraine in the future.²⁶⁵
164. Lack of awareness of new requirements has appeared to be one of the greatest challenges faced as a result of the recent regulation. According to NGOs supporting IDPs at the ABL, a large number of single divorced parents have faced problems when trying to bring their children across the ABL, due to the new requirement of written permission from the other parent if not present.²⁶⁶ Three single mothers from Crimea informed the HRAM that they encountered the same problem, because they lacked letters of permission from their recently divorced ex-husbands, who stayed in Crimea while the mothers moved to mainland Ukraine with the children. They complained that Ukrainian authorities would not recognize the divorce certificates issued by Crimean *de facto* authorities, and that authorities should facilitate some way to obtain recognized divorce papers.²⁶⁷ However, one family interviewed at the ABL informed the HRAM that they had no problem crossing into Crimea from mainland Ukraine with their 1.5-year-old daughter, since the father had researched the new regulations in advance, and entered her into his own passport at the Kharkiv passport office in advance of their travel.
165. Crimean residents, IDPs, NGOs and Ukrainian authorities all agreed that inadequate infrastructure and disruptions of transportation across the ABL have caused considerable problems for those seeking to cross the boundary. Since rail and bus service between mainland Ukraine and Crimea were terminated in December 2014, travellers have either relied on private cars, or had to walk up

²⁶⁴ Meeting with Ukrainian official (Kyiv, 8 July 2015).

²⁶⁵ Interview with Refat Chubarov, member of Mejlis and the Ukrainian parliament (Kyiv, 9 July 2015).

Interview with head of Kherson regional Mejlis (Novooleksiivka, 13 July 2015).

²⁶⁶ Meeting with NGO (Odessa, 10 July 2015).

²⁶⁷ Meetings with Crimean residents and IDPs (Kyiv, 7 July 2015).

to two kilometres across the boundary area between Russian and Ukrainian crossing points. Older persons, persons with disabilities or illnesses, and families with children have been particularly impacted by those difficulties, including by the costs and physical demands of the journey. Some residents reported that those crossing the ABL on foot have faced adverse weather conditions in every season: wading through snowdrifts, rain and floodwaters in winter; and blistering heat in the summer. At an Oblast-level meeting on the topic in July 2015, with all relevant government offices and stakeholders, the State Border Guards Service of Ukraine presented recommendations to improve the infrastructure at the Chongar crossing point in particular, which the Ministry of Infrastructure is the competent body to address. Among the recommended improvements it identified were: service areas; canopies; toilets; fresh water; benches; access roads; and lighting.²⁶⁸

166. In an unpredicted development, long-term prisoners from Crimea who were recently released from State penitentiary facilities in mainland Ukraine have also faced serious problems obtaining the necessary documentation of their previous Crimean residency, in order to gain permission from authorities on both sides to travel home to Crimea after years or decades incarcerated. Statistics published on 3 April 2014 by the State Penitentiary Service indicated that a total of 5,500 convicts from Crimea were imprisoned at penal establishments in mainland Ukraine at the time of annexation.²⁶⁹ Prior to Ukrainian presidential elections in 2014, there were large-scale amnesties and conditional releases of prisoners throughout Ukraine, resulting in the release of many of those long-term convicts from Crimea.
167. According to the State Emergency Service of Ukraine, the phenomenon arose very suddenly and is not addressed adequately in legislation, such that there is little information about the scale of the problem, and no government offices are gathering comprehensive statistics on the topic. Ex-convicts have had problems in particular when they have been released without passports, or with Soviet-era passports that have no residency stamps. In those situations, the people get shuffled between Ukrainian ministries seeking new documentation, yet *de facto* authorities in Crimea also will not admit them. Reportedly, only six such people were successful in getting to Crimea; in those six cases, the individuals had Ukrainian passports, in addition to release certificates. Those seeking to cross back into Crimea only with their release certificates have reportedly been unsuccessful.²⁷⁰
168. According to the Ministry of Internal Affairs, released convicts only have to confirm they are citizens of Ukraine in order to request new passports. For some people it is enough to provide a detailed explanation of where they are from, but situations are handled on a case-by-case basis when information has been lost

²⁶⁸ Meeting with State Border Guard Service of Ukraine (Kherson, 13 July 2015).

²⁶⁹ State Penitentiary Service of Ukraine, public statement of 3 April 2014 (note 48 above).

²⁷⁰ Meeting with State Emergency Service of Ukraine (Kherson, 14 July 2015).

(or is unavailable in Crimea). The Ministry indicated it is possible to establish identity with a certificate of release, yet establishing Crimean residency is more problematic.

169. The HRAM met with one Kherson-based NGO that has provided assistance and shelter to former prisoners from Crimea who were released without passports from places of detention in mainland Ukraine. The primary problems faced by those ex-convicts are that they have been unable to find jobs or homes without passports, when they only have prison release certificates. Yet when seeking to obtain new passports from Ukrainian institutions, they have lacked the paper records of their place of residency, which are still stored with old applications in Crimea. According to the NGO, the State Penitentiary Service indicated as of December 2014 that 92 such persons in detention were up for release in Kherson region alone, who did not have passports in their records. The NGO was working with 36 of them, seven of whom were able to obtain necessary original documentation through friends or family. Six who were released locally obtained Kherson residency stamps, while one got a Crimea residency stamp (though remained in prison as of 15 July 2015).

2.3.3 Demographics of populations impacted by restrictions

170. The official number of Crimean IDPs in mainland Ukraine, as registered with Ukrainian authorities, is approximately 20,000. However, Ukrainian NGOs working closely with IDPs at the ABL and throughout Ukraine estimate the real figure to be closer to 40,000 or 50,000.²⁷¹ The State Emergency Service of Ukraine has likewise observed that many Crimean IDPs do not register with authorities in mainland Ukraine, for a variety of reasons – including the vast majority of displaced Crimean Tatars,²⁷² who are estimated to number as many as 20,000.²⁷³ Those IDPs have reportedly left Crimea for mainland Ukraine in a series of surges marking different human rights-related challenges they faced, such that subsequent restrictions of their freedom of movement have sometimes had ripple effects in relation to their enjoyment of other rights.
171. According to the NGO Crimea-SOS, which is the main implementing partner of the UN refugee agency (UNHCR) in Ukraine, the main surges of displacement occurred: before the Crimea referendum, due to uncertainty of what would happen; immediately after the referendum, as people fled for political reasons; at the end of May 2014, as young people travelled to mainland Ukraine for university entrance exams; and in August and September 2014 as students entered schools and universities in mainland Ukraine.

²⁷¹ Meeting with Crimea-SOS (Kyiv, 6 July 2015); meeting with Crimean Diaspora (Kyiv, 7 July 2015); interview with Andriy Shekun (note 80 above).

²⁷² Meeting with State Emergency Service of Ukraine (Kherson, 14 July 2015).

²⁷³ Meeting with Crimea-SOS (Kyiv, 6 July 2015).

172. In March 2015, a smaller surge was observed of youths fleeing forced conscription notices from *de facto* authorities, as many parents reportedly encouraged their children to flee to mainland Ukraine to avoid conscription.²⁷⁴ Notably, under the Fourth Geneva Convention, an occupying power may not compel civilians in the occupied territory to serve in its armed or auxiliary forces.²⁷⁵
173. Crimea-SOS informed the HRAM that the profile of persons displaced from Crimea has changed since the time of its initial occupation. Those who left early were considered patriots of Ukraine, who often required assistance upon arrival. More recently, those fleeing have often been financially stable business people seeking to move their operations to mainland Ukraine. In combination with the stagnant economy, regulatory harassment of Crimean Tatar businesses has allegedly also driven economic displacement, including surprise tax inspections, sanitation service inspections, and in some instances arson or other attacks targeting business owners.²⁷⁶
174. The formal and informal IDP populations have been augmented by a large traffic of Crimean residents travelling to southern mainland Ukraine to resolve administrative issues – often related to their citizenship status, documentation requirements, and social entitlements (primarily passport applications, standardized school testing, and economic transactions). For both the transit itself and those administrative tasks, Crimean residents and IDPs have encountered numerous interrelated problems with their documentation, which have hampered their freedom of movement, and secondarily their enjoyment of other (primarily economic and social) human rights. Those documentation problems are largely due to original Ukrainian records now being in the possession of *de facto* authorities in Crimea, while both governments implement policies of non-recognition of legal documents issued by the other in relation to Crimean territory.

2.4 Summary of findings

175. Following the annexation of Crimea by the Russian Federation, fundamental freedoms of assembly, expression and movement have been restricted and eroded in Crimea. This is primarily the case for individuals, organizations and communities attempting to express dissenting political opinions or cultural identities.
176. Through regulatory restrictions and stifling administrative procedures, *de facto* authorities have reduced the access and number of independent media in

²⁷⁴ Meeting with Crimea-SOS (Kyiv, 6 July 2015).

²⁷⁵ Article 51, Fourth Geneva Convention (note 17 above).

²⁷⁶ Interview with Crimean residents and IDPs (Kyiv, 7 July 2015), *see* note 76; meeting with Crimea-SOS (Kherson, 14 July 2015), *see* note 78.

Crimea, have cut off the free flow of information to the public (particularly online and broadcast media), and have threatened criminal sanctions against private and public figures for expressing views opposed to Russia's annexation of Crimea.

177. The Crimean Prosecutor has applied “extremism” and “separatism” charges under the Russian criminal code to a wide variety of assemblies and speech, in some cases retroactively to events prior to annexation and/or outside of Crimea. The targeted prosecutions of Crimean activists, journalists and ethnic community leaders under Russian criminal laws appear to conflict with Russia's obligations under both international human rights law and international humanitarian law.²⁷⁷ Additionally, those prosecutions appear to be politically motivated, and thus to violate the prohibition of discrimination based on political or other opinion. On a positive note, the Ombudsperson of the Russian Federation also cautioned Crimean *de facto* authorities in her annual report for 2014 that law enforcement should adopt “a well-balanced approach that rules out any arbitrary, excessively broad interpretation of the notion of ‘extremism’.”²⁷⁸
178. With regard to the freedom of movement, both the Russian and Ukrainian governments have implemented excessive restrictions across the Administrative Boundary Line between Crimea and mainland Ukraine. *De facto* authorities in Crimea have especially restricted the movement of Crimean Tatar community leaders, including through entry bans, restrictive measures to prevent travel abroad, and in one case deportation, despite those targeted individuals' originating from Crimea and theoretically being conferred Russian citizenship following annexation. In the case of Ukraine, restrictions implemented since June 2015 appear disproportionately to restrict the movement of foreigners, including journalists, NGOs and individuals with ethnic or other personal connections to Crimea and its residents. The Ukrainian government could also seek ways to simplify procedures of civil registration, document application and educational testing, among others, in order to reduce the needs and difficulties of Ukrainian citizens residing in Crimea to cross back and forth.
179. Grave breaches of international humanitarian law, as provided under the Fourth Geneva Convention, include *inter alia*: torture and ill-treatment; unlawful detention, transfer or deportation of protected civilians; forced conscription into the armed forces; willful deprivation of the Convention's protections of the right to a fair trial; the taking of hostages; and extensive appropriation of property, where not justified by military necessity.²⁷⁹
180. In light of the prohibition of those forms of conduct, the Russian Federation and Crimean *de facto* authorities should ensure that any instances of torture, ill-

²⁷⁷ See above at note 240.

²⁷⁸ See, Ombudsperson of the Russian Federation, Annual Report 2014, Crimea chapter (note 47 above).

²⁷⁹ Article 147, Fourth Geneva Convention (note 17 above).

treatment, hostage taking and expropriation of properties in Crimea are duly investigated, prosecuted and punished – regardless of whether committed by State or non-State actors. Russian Federation authorities and *de facto* authorities should likewise refrain from any of those forms of conduct in the future, as well as the forced conscription of Crimean residents into the armed forces, and refrain from the transfer or deportation of Crimean residents to outside of Crimea (including detainees, convicts, and other persons residing in social-care institutions).

3. Economic, Social and Cultural Rights

181. Crimean residents and IDPs expressed serious concerns to the HRAM regarding the extensive limitations (and potential violations) of their and their families' economic, social and cultural rights – largely resulting from the changes to the legal framework being applied in Crimea. As detailed above, the imposition of Russian citizenship and laws in Crimea has especially impacted the enjoyment of rights by those unwilling to obtain Russian passports or unable to obtain permanent residency permits. Without Russian passports, residents face obstacles re-registering or selling their private properties and businesses;²⁸⁰ gaining or retaining employment; and accessing education, health care, or other social services. While social services and entitlements are legally available to those few people with permanent residency status,²⁸¹ Crimean residents and IDPs described challenges and denials in service resulting from widespread stigmatization and discrimination against those without Russian passports.
182. In addition to exclusion from services, Crimean residents and IDPs also reported facing daunting challenges to obtain documentation and official records from both the Russian and Ukrainian governments, which are often necessary but inaccessible as they try to claim their rights. Both governments thus have roles to play in remedying the problems faced by those seeking to negotiate the two overlapping and conflicting legal regimes.
183. Notably, under Russian federal law and Crimean regulations, Crimea was in a transitional period until 1 January 2015, during which Ukrainian legislation issued prior to 21 February 2014 continued to be applied until corresponding legal acts were adopted by Crimean *de facto* authorities.²⁸² This was applicable

²⁸⁰ See Section 1 above.

²⁸¹ For instance, see Article 1 of the State Council of the Republic of Crimea Law No. 35-LRC “On measures of social support of Certain Categories of Citizens Residing on the Territory of the Republic of Crimea” (entered into force 1 January 2015, amended on 11 February 2015), which indicates the restriction of social support measures to Russian citizens and foreign nationals or stateless persons with permanent residency status.

²⁸² This was confirmed in an August 2014 letter issued by Crimea’s Ministry of Social Policy, which was reviewed by the HRAM, regarding the clarification of social categories of population entitled to obtain social benefits. See “Resolution of the Crimean State Council on Independence of the Crimea” (17

to the Ukrainian Law on Social Services,²⁸³ among other laws, yet those assurances did not appear to translate fully into practice, as multiple sources reported denial of service based on lack of Russian citizenship or documentation.

3.1 Right to education²⁸⁴

184. Under international human rights law and international humanitarian law, the *de facto* authorities in Crimea are required to uphold the right to education of all children in Crimea, irrespective of their nationality.²⁸⁵ The UN Committee on Economic, Social and Cultural Rights elaborated that: “States parties have immediate obligations in relation to the right to education, such as the ‘guarantee’ that the right ‘will be exercised without discrimination of any kind’”.²⁸⁶ Furthermore, children have the right to receive education in their native language, to the extent provided by international standards.²⁸⁷
185. Since annexation, however, children without Russian citizenship or permanent residency status have lost their right to enrol in public education institutions, and potential exclusion from education has allegedly been leveraged by *de facto* authorities to compel citizens to obtain Russian passports. Russian passports have become required for students to continue their studies in both secondary schools and public universities. In schools throughout Crimea, native-language education and language studies in the Ukrainian and Crimean Tatar languages were widely reduced or eliminated, and parents reportedly have been discouraged from requesting such classes be made available – both to the detriment of those communities’ enjoyment of their cultural and language rights. Books in the Ukrainian language, on Ukrainian topics, and by Ukrainian authors were reportedly removed from schools and public libraries. Additionally, diplomas issued by Crimean schools became invalid overnight in the eyes of Ukrainian universities, spurring secondary surges in migration by families seeking to move their children to mainland Ukraine for schooling purposes.
186. As of 5 May 2014, university students were required to re-register as Russian citizens at Crimean universities, presenting their applications to re-enrol with

March 2014); and Russian Federal Constitutional Law of 21 March 2014, available at: http://consultant.ru/document/cons_doc_LAW_160618.

²⁸³ See Law of Ukraine “On Social Services” (19 June 2003).

²⁸⁴ For further analysis of potential discrimination against minority groups, and socio-political dimensions of the regressive developments in the right to education and mother-tongue education, see Section 4 below.

²⁸⁵ Article 13, ICESCR (note 24 above); Article 2, Protocol 1 to the ECHR (note 20 above); Article 4(3)(a) Additional Protocol II (note 30 above); Articles 28–30, CRC (note 26 above).

²⁸⁶ UN Committee on Economic, Social and Cultural Rights, *General Comment No. 13: The right to education (Article 13 ICESCR)*, 8 July 1999, paras. 6(b), 43, 50.

²⁸⁷ Article 27 ICCPR (note 23 above); Art 15. ICESCR (note 24 above); Articles 12-14, FCNM (note 22 above); Articles 29–30, CRC (note 26 above).

Russian passports at latest by 1 March 2015.²⁸⁸ Also in May 2014, local *de facto* Crimean and federal Russian authorities together visited secondary schools in Crimea and reportedly encouraged families to obtain Russian passports. According to a member of the Mejlis, the officials warned him and other parents at the school his children attended that students over 14 years old would be unable to enter secondary school or study thereafter without Russian passports. The officials reportedly started collecting documents on the same day to facilitate registration and processing of passports. The Mejlis member said he was unaware of students who were excluded, since he believed most of the families sought and obtained passports for their children as instructed.²⁸⁹

187. Under the Constitution and legal framework applied in Crimea since annexation, Russian citizens are entitled to receive pre-school, primary general, and basic general education “in their native languages, including Russian, Ukrainian and Crimean Tatar, and the right to learn their native language”.²⁹⁰

188. In practice, however, native-language education and language studies in the Ukrainian and Crimean Tatar languages have been drastically reduced across Crimea. Despite their legal entitlements, the number of students receiving education in the Ukrainian language has dropped precipitously by almost 85 per cent since annexation. As of 24 December 2014, Crimea’s *de facto* Council of Ministers reported that 1,990 students were receiving their academic lessons in the Ukrainian language during the 2014/2015 academic year, as compared to 12,694 students in the 2013/2014 school year. The number of students with the option to study the Ukrainian language had decreased by over 75 per cent in seven months, from 162,764 students in the 2013/2014 school year to 39,150 in the 2014/2015 school year. According to the *de facto* Council of Ministers, the number of students receiving instruction in the Crimean Tatar language dropped more modestly by 12 per cent, from 5,551 in the 2013/2014 school year (in 576 classes), to 4,895 in the 2014/2015 school year (in 331 classes).²⁹¹

²⁸⁸ See Article 5(5) of the Russian Federation Federal Law No 84-FL “On peculiarities of legal regulation of relations in the sphere of education in connection with the Admission of the Republic of Crimea into the Russian Federation and the Establishment of New Constituent Entities within the Russian Federation – the Republic of Crimea and the Federal City of Sevastopol and on the Introduction of Changes to the Federal Law ‘On Education in the Russian Federation’” (5 May 2014); available at: <http://www.rg.ru/2014/05/07/regulirovanie-dok.html>.

²⁸⁹ Interview with Mejlis member (Kherson, 14 July 2015).

²⁹⁰ See Article 11(2) of Crimea’s Law “On education in the Republic of Crimea”, adopted by the State Council on 17 June 2015 (enters into force on 1 January 2016). Articles 1(3) and 10 of the Constitution of the Crimean Republic (11 April 2014) provide that the official languages of the Republic of Crimea are Russian, Ukrainian and Crimean Tatar. However, Crimea’s newly adopted education program for 2015 to 2017 reportedly has no section dedicated to language rights Ukrainian Center for Independent Political Research, *Annexed’ Education in Temporarily Occupied Crimea* (2015), section I, para. 2. The report cites Crimea’s Council of Ministers Resolution No. 651 “On the Approval of the State Program for the Development of Education and Science in the Republic of Crimea for 2015–2017” (30 December 2014).

²⁹¹ Statistics provided in an official letter from the Council of Ministers of the Republic of Crimea on the number of educational institutions and students studying in the Ukrainian, Russian and Crimean Tatar languages (as of 24 December 2014); facsimile annexed to a submission by Ukrainian NGOs to the

189. An unofficial Turkish delegation to Crimea in May 2015 was informed by Crimean Tatar residents that the hours of instruction in the Crimean Tatar language were reduced in the schools where it was offered.²⁹² One member of the Mejlis in Crimea told the HRAM, “in Crimea, the situation of Ukrainian speakers is even worse in terms of language education [than the situation of Crimean Tatars], since the families are not as well organized as the Crimean Tatar community.”²⁹³
190. According to multiple sources, only about 50 of the 400 classes previously instructed in Ukrainian language remain available to students in Crimean schools.²⁹⁴ However, two sources claimed that officials continue to intimidate parents not to request or enrol their children in those Ukrainian-curriculum classes that are available.²⁹⁵ Out of seven schools instructing solely in the Ukrainian language prior to annexation, only one in Simferopol reportedly remains open. In April 2014, the school’s principal was fired, and subsequently moved to Kyiv.²⁹⁶ The school has since had its Ukrainian-language sign removed; the language of instruction was changed to Russian; and only one course in the Ukrainian language remains available for grades 1 to 9.²⁹⁷
191. *De facto* authorities in Crimea also reportedly closed the Faculty of Ukrainian Philology in the Tauride National University.²⁹⁸ According to one source researching the topic, the faculty had been graduating about 50 Ukrainian-language teachers per year, with three university chairs, which were reduced in the 2014/2015 academic year to a single chair for the Ukrainian language in a “Slavonic” language department, which accepted only 15 students to become

UN Human Rights Committee in its 113th Session. Those statistics were also verified by the Russian MFA on the website of its delegation to UNESCO, available at:

<http://russianunesco.ru/eng/article/2070>.

²⁹² Report of the Unofficial Turkish Delegation to Crimea, *The Situation of the Crimean Tatars since the Annexation of Crimea by the Russian Federation* (5 June 2015), Section 5(g), at pp. 14–15.

²⁹³ Interview with Crimean Field Mission on Human Rights (Kyiv, 7 July 2015).

²⁹⁴ Interview with Andriy Ivanets (note 104 above); interview with Andriy Shekun (note 80 above); also cited as part of Shekun’s presentation of an “Analytical Review: Situation of the Ukrainian Language in Ukraine in 2014–2015”, reported in the news media at http://censor.net.ua/news/343066/v_edinstvennyyu_v_krymu_ukrainskuyu_shkolu_konkurs_57_deteyi_na_mesto.

²⁹⁵ Interview with Andriy Shekun (note 80 above); *see also*, Ukrainian Center for Independent Political Research, *‘Annexed’ Education in Temporarily Occupied Crimea* (2015), section II.

²⁹⁶ Interview with Andriy Shekun (note 80 above); interview with Andriy Ivanets (note 104 above). *See also*, News story, “Crimea closed the only Ukrainian-language school” (10/04/2014), available at: <http://www.aif.ua/politic/ukraine/1147286>.

²⁹⁷ Interview with Andriy Shekun (note 80 above); *See also*: http://censor.net.ua/news/343066/v_edinstvennyyu_v_krymu_ukrainskuyu_shkolu_konkurs_57_deteyi_na_mesto.

²⁹⁸ Interview with Andriy Ivanets (note 104 above); interview with Andriy Shekun (note 80 above); *see also*, Ukrainian Center for Independent Political Research, *‘Annexed’ Education in Temporarily Occupied Crimea* (2015), section II.

Ukrainian-language teachers, only one of whom agreed to attend.²⁹⁹ In August 2014, the Ministry of Education directed 276 teachers of Ukrainian language and literature to be re-trained for ten months in teaching Russian language and literature.³⁰⁰ Ukrainian language and literature are reportedly now taught in some Crimean schools only once a week or optionally.³⁰¹

192. *De facto* authorities have also reportedly removed all textbooks and educational materials issued by the Ministry of Education of Ukraine,³⁰² and seized books written by blacklisted Ukrainian authors.³⁰³ Crimean Tatar residents informed the unofficial Turkish delegation that Crimean Tatar schools are experiencing a shortage of school textbooks, as those used during Ukrainian rule were banned upon annexation, and new textbooks have not yet been supplied.³⁰⁴ Additionally, the Crimean Field Mission on Human Rights observed that Crimean Tatars are no longer able to hire Turkish teachers for cultural education, as those teachers are now unable to work in Crimea so they have left.³⁰⁵

193. According to Crimean IDPs and media accounts, *de facto* authorities have also taken aim at school and public libraries to purge them of some of their Ukrainian-language contents.³⁰⁶ Some libraries reportedly discarded Ukrainian-language periodicals (including *Dumka*, *Crimean Word*, and *Word of Sevastopol*); and schools named after Ukrainian writers (including Olena Teliga and Ivan Franko) have allegedly been renamed.³⁰⁷ The allegations in the media were consistent and reportedly based on eyewitnesses quoted, though the HRAM was unable to independently verify their claims.

²⁹⁹ Interview with Andriy Shekun (note 80 above).

³⁰⁰ Ukrainian Center for Independent Political Research, *'Annexed' Education in Temporarily Occupied Crimea* (2015), section II. The report cites Order No. 132 of the Ministry of Education in Crimea. *See also*, news story, "Kremlin stooge 'smooth out' the Crimea from the teachers of the Ukrainian language" (15 July 2014), available at: http://censor.net.ua/news/293933/marionetki_kremlya_zachischayut_krym_ot_uchitelevi_ukrainskogo_yazyka.

³⁰¹ Ukrainian Center for Independent Political Research, *'Annexed' Education in Temporarily Occupied Crimea* (2015), section I, para. 3. *See also*, news story, "Only in Crimea" (8 July 2014), available at: http://censor.net.ua/news/343066/v_edinstvennuyu_v_krymu_ukrainskuyu_shkolu_konkurs_57_deteyi_na_mesto.

³⁰² MFA of the Russian Federation, in its submission to UNESCO (14 April 2015), available at: <http://russianunesco.ru/eng/article/2070>; interview with Andriy Shekun (note 80 above); Ukrainian Center for Independent Political Research, *'Annexed' Education in Temporarily Occupied Crimea* (2015), section I, para. 1.

³⁰³ Interview with Andriy Shekun (note 80 above); Ukrainian Center for Independent Political Research, *'Annexed' Education in Temporarily Occupied Crimea* (2015), section I, para. 1.

³⁰⁴ Report of the Unofficial Turkish Delegation to Crimea, *The Situation of the Crimean Tatars since the Annexation of Crimea by the Russian Federation* (5 June 2015), Section 5(g), at pp. 14–15.

³⁰⁵ Interview with Mejlis member (13 July 2015).

³⁰⁶ Interview with Crimean IDP (Kyiv, 9 July 2015). News article, "Ukrainian books are being destroyed in front of students in Crimean schools – Mejlis" (14 October 2014): <http://censor.net.ua/n306932>.

³⁰⁷ News article from 30 December 2014: <http://censor.net.ua/p318668>.

³⁰⁷ Interview with Andriy Shekun (note 80 above). *See also*, news story, "Only in Crimea" (note 301 above).

194. Many Crimean residents and IDPs expressed concern to the HRAM about the drop in availability of Ukrainian-language education in Crimean schools.³⁰⁸ One mother from Yalta said that education had previously been available in Russian, Ukrainian and Tatar languages in the local school system. However, only one school in Yalta continued to offer Ukrainian-language education, out of seven that did so previously, which she said presents problems for children seeking to transfer to Ukrainian schools.³⁰⁹ One Yalta school principal, who was a Ukrainian-language teacher, was also fired by *de facto* authorities, she said. Another Crimean resident noted that the primary school his son was entering was Russian-language only, without any option for Ukrainian studies despite the constitutional guarantees. A Crimean IDP from Bakhchysarai claimed that his child's Ukrainian-language school not only dispersed his whole class, but also split the class members across many classes to keep them from staying in touch as a Ukrainian-language group.
195. Children enrolled in Crimean schools now face additional difficulties to enter Ukrainian universities. As diplomas issued by Crimean schools are now invalid in the eyes of Ukrainian universities, there were reportedly numerous families migrating to mainland Ukraine from Crimea in August and September 2014, or traveling back and forth, in order to take standardized tests and enrol their children in the Ukrainian school system.³¹⁰ Crimean residents and IDPs expressed relief to the HRAM that their children are now able to do some distance learning programs to acquire Ukrainian high school diplomas, and hoped those opportunities would be expanded.³¹¹
196. According to the Ukrainian President's representative for Crimea, Natalya Popovych, only 300 of approximately 12,000 school graduates from Crimea received official Ukrainian diplomas in the 2014/2015 school year, including through standardized tests which they took in mainland Ukraine.³¹² Popovych informed the HRAM that she planned to appeal to the Ministry of Education to simplify the process for Crimean students wishing to gain Ukrainian diplomas and transition into Ukrainian universities, including since repeatedly traveling to mainland Ukraine is a stressful process for students wishing to take multiple-phase entrance exams.³¹³

³⁰⁸ Interviews with Crimean journalists (in Kyiv, and in Crimea by phone; July 2015).

³⁰⁹ The drop to one from seven schools previously offering Ukrainian-language education in Yalta is also confirmed in the report by Ukrainian Center for Independent Political Research, *'Annexed' Education in Temporarily Occupied Crimea* (2015), section II.

³¹⁰ Interview with director of NGO Crimean Diaspora (Kyiv, 7 July 2015).

³¹¹ One such distance learning program is available at: <http://educrimea.org>.

³¹² News story, "Out of 12,000 school graduates in Crimean, only 300 persons received Ukrainian diplomas", available at: <http://ru.slovoidilo.ua/2015/05/29/novost/obshhestvo/iz-12-tys.-vypusnikov-krymskix-shkol-ukrainskie-attestaty-poluchili-tolko-300> (29 May 2015).

³¹³ Meeting with Nataliya Popovych (note 92 above).

197. In order to combat discrimination against Crimean IDPs in the field of education, the Crimea Unit of the Office of the Prosecutor General in Ukraine informed the HRAM it supported students seeking to enrol in Ukrainian universities. In November 2014, the unit said it submitted a lawsuit against a public university for not accepting the transfer of a student from Crimea for lack of credits, even though he had all adequate credits, such that it constituted a discriminatory exclusion. The University then allowed the student to enrol, likely in order to avoid a lengthy legal process.³¹⁴

3.2 Right to work

198. In their May 2014 joint report, ODIHR and HCNM said it was critical for the *de facto* authorities in Crimea to prevent discrimination on the basis of citizenship in the enjoyment of the right to work, and “to ensure that all individuals permanently resident in Crimea, including both Russian and Ukrainian citizens, retain their employment rights in Crimea”.³¹⁵

199. Article 6 of the International Covenant on Economic, Social and Cultural Rights provides the right to gain a living by freely chosen work, and obligates States parties to safeguard that right without discrimination.³¹⁶ Under the Fourth Geneva Convention, an occupying power is also prohibited from sanctioning or changing the status of civil servants and judges in the occupied territory for not fulfilling their functions for reasons of conscience.³¹⁷

200. As with other rights, however, the right to work has not been enjoyed equally in Crimea since annexation. According to Crimean human rights lawyers now working from Kyiv, Ukrainian citizens face obstacles obtaining and retaining employment in Crimea, and in some cases have been fired from their jobs due to lack of Russian passports.³¹⁸ Stigmatization is reportedly also very high for Ukrainians without Russian passports, and is coupled with the legal hurdles. One Crimean resident and one IDP from Crimea reported considerable social and economic discrimination against pro-Ukrainian residents who did not obtain Russian passports in Crimea, who they said faced difficulties obtaining both permits and work.³¹⁹ Another Crimean resident was reportedly fired from the public hospital where she worked, since she had not obtained either a Russian passport or a permanent residency permit after the annexation.³²⁰

201. The most serious restrictions of Crimean residents’ right to work have been in the public sector, for those holding government and municipal jobs in Crimea.

³¹⁴ Meeting with the Crimea Unit of the Office of the Prosecutor General of Ukraine (Kyiv, 16 July 2015).

³¹⁵ See, 2014 joint report of ODIHR/HCNM (note 1 above), paras. 101–102.

³¹⁶ Article 6, ICESCR (note 24 above).

³¹⁷ Article 54 of the Fourth Geneva Convention (note 17 above).

³¹⁸ Interview with Crimean lawyers (Kyiv, 9 July 2015).

³¹⁹ Interviews with Crimean resident and Crimean IDP (Kyiv, 7 July 2015).

³²⁰ Interview with Crimean resident (Skype, 17 July 2015).

Under the March 2014 law of the Russian Federation that annexed Crimea, residents with second citizenships or permanent residency status in another country were expressly prohibited from holding civil service positions after one month from the start of annexation.³²¹ In May 2014, a new Crimean law on civil service further required civil servants not only to possess a Russian passport, but also “a copy of the document confirming denial of existing citizenship of another State and the surrender of a passport of another State.”³²² Crimean residents working in the civil service were thus required to either leave their jobs, or forfeit their Ukrainian citizenship and obtain Russian passports. Members of the judiciary were required to do the same, and contrary to international humanitarian law had their status redefined on a temporary basis during a probation period.³²³

202. The Ukrainian government reported the total number of civil servants working in Crimea was 10,670 in 2009.³²⁴ In contrast, the head of the FMS department for citizenship, asylum and readmission in Crimea claimed in the media that 19,000 Crimean residents applied to renounce their Ukrainian citizenship.³²⁵ As judges, lawyers, doctors and other professions also faced limitations in their professions without Russian passports,³²⁶ it is possible workers outside the civil service were likewise compelled to renounce their Ukrainian citizenship in order to keep their jobs, including in the face of reportedly widespread discrimination.

203. One Crimean IDP who had worked as a government lawyer in Sevastopol informed the HRAM that she moved to Kyiv with her colleagues immediately after the referendum, and was thereby able to keep her job.³²⁷ Another Crimean

³²¹ Article 4 of Federal Constitutional Law No. 6- FKZ, “On the Acceptance of the Republic of Crimea into the Russian Federation and the Creation of New Federal Subjects – the Republic of Crimea and the City of Federal Significance Sevastopol” (23 March 2014).

³²² Article 11, Law of the Republic of Crimea “On State Civil Service of Republic of Crimea” from May 29, 2014 No.7-LRC.

³²³ Article 9, Federal Constitutional Law No. 6- FKZ, “On the Acceptance of the Republic of Crimea into the Russian Federation and the Creation of New Federal Subjects – the Republic of Crimea and the City of Federal Significance Sevastopol” (21 March 2014). *See also, Human rights in Ukraine 2014: Human rights organizations’ report* (note 211 above), p. 38.

³²⁴ *See* the website of the National Agency of Ukraine on Civil Service, “Statistical data on civil servants in the Autonomous Republic of Crimea in 2007–2009”, available at:

<http://guds.gov.ua/sub/krym/ua/publication/content/10636.htm?lightWords=%D0%BA%D1%96%D0%BB%D1%8C%D0%BA%D1%96%D1%81%D1%82%D1%8C%20%D0%B4%D0%B5%D1%80%D0%B6%D0%B0%D0%B2%D0%BD%D0%B8%D1%85%20%D1%81%D0%BB%D1%83%D0%B6%D0%B1%D0%BE%D0%B2%D1%86%D1%96%D0%B2>.

³²⁵ *See* news article, “FMS of Russia: 19 thousand people renounced the Ukrainian citizenship in Crimea”: <http://ru.krymr.com/content/news/27024784.html>.

³²⁶ Survey of free legal aid lawyer working in Crimea (August 2015). For instance, lawyers without Russian citizenship are not allowed to provide legal assistance in the territory of the Russian Federation on issues related to State secrets of the Russian Federation. Russian Federal Law No. 63-FZ “On Advocacy and the Legal Profession in the Russian Federation” (31 May 2002), available at: http://www.consultant.ru/document/cons_doc_LAW_36945/.

³²⁷ Interview with Crimean IDP (Kyiv, 7 July 2015).

IDP noted that many civil servants who left their jobs were being replaced with immigrating Russian citizens.³²⁸

3.3 Right to health

204. Under Article 12 of the International Covenant on Economic, Social and Cultural Rights, the Russian Federation and Ukraine are obligated to realize the highest attainable standard of physical and mental health for Crimean residents.³²⁹ In its General Comment No. 14 on the right to health, the UN Committee on Economic Social and Cultural Rights, reminded all States party to the ICESCR of the “minimum essential levels of each of the rights enunciated in the Covenant, including essential primary health care.” Those minimum essential levels include, *inter alia*: “the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups,” including the provision of essential drugs. Of comparable priority is the obligation “to take measures to prevent, treat and control epidemic and endemic diseases”.³³⁰ Additionally, under international humanitarian law, an occupying power is obligated to ensure food, hygiene, public health and medical supplies for the inhabitants of occupied territories.³³¹
205. According to Crimean residents and IDPs, as well as organizations supporting their health needs in mainland Ukraine, there have been multiple retrogressive measures introduced in Crimea since annexation that have undermined enjoyment of the right to health. Namely, the availability of public health care has been restricted for those without Russian citizenship; basic medicines have become much less available; the number of medical doctors has decreased; testing and treatment are widely unavailable for TB and HIV/AIDS;³³² and harm-reduction substitution therapies previously available to injecting drug users have been criminalized and cut off, including for persons in places of detention.
206. The availability of health care to persons in places of detention has been further reduced by the cut-off of access to prisons for NGOs providing medical services.³³³ Additionally, persons in places of detention are unable as-of-yet to seek transfers to Crimean hospitals or to specialized facilities in mainland Ukraine, as many other Crimean residents have chosen to do since annexation.

³²⁸ Interview with Crimean IDP (Kyiv, 7 July 2015).

³²⁹ Article 12, ICESCR (note 24 above).

³³⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)*, 11 August 2000, UN Doc. E/C.12/2000/4, paras. 43 and 44.

³³¹ Articles 55 and 56 of the Fourth Geneva Convention (note 17 above).

³³² Notably, according to media accounts, a TB epidemic was spreading in the Crimean region of Feodosia, which recorded a 39 per cent increase in new cases compared to the preceding year, and led to fears the problem could spread throughout Crimea: <http://grim.in.ua/news/2015/06/12/21883>.

³³³ Email drafted by health-related NGO in Crimea (July 2015).

Notably, the prison-monitoring National Preventive Mechanism of the Ukrainian Ombudsperson institution reported that one-third (six of 18) individual complaints it has received from Crimean places of detention since annexation have been in relation to the right to health, including requests for medical and sanitary support.³³⁴

207. In a positive development, however, *de facto* authorities in Crimea in April 2015 introduced financial support for the prevention and treatment of HIV and hepatitis B and C, under a region-wide long-term health program.³³⁵
208. Three Crimean IDPs, one of whom previously worked in a hospital in Crimea, informed the HRAM that shortages of medicines in Crimea have often forced people to travel to mainland Ukraine to purchase pharmaceuticals, or else to have friends or relatives send them.³³⁶ Three Ukrainian officials independently confirmed that the increased cost and inaccessibility of pharmaceutical drugs in Crimea were some of the driving factors of travel to mainland Ukraine,³³⁷ including for some Crimean residents and IDPs who are in need of special medications for serious illnesses.³³⁸
209. For Crimean residents without Russian passports, there are reportedly challenges to access even those services that are available in Crimea. All Crimean residents and IDPs interviewed who had sought healthcare in Crimea since annexation claimed that it is necessary to have a Russian passport or residency permit to receive treatment at public hospitals.³³⁹ A current Crimean resident without a Russian passport, yet who was able to obtain a permanent residency permit, informed the HRAM that he was technically eligible to go to public hospitals, though he had not tested the system and sought medical

³³⁴ Meeting with Ombudsperson of Ukraine and NPM chief (Kyiv, 16 July 2015). The National Preventive Mechanism and international organizations have had no direct access to prisons in Crimea since annexation, so are unable to monitor conditions directly. However, a legal aid lawyer in Crimea informed the HRAM that pre-trial detention facilities are overcrowded to the point that detainees are forced to sleep in shifts due to lack of beds. Survey of free legal aid lawyer working in Crimea (August 2015).

³³⁵ Council of Ministers of Crimea, Resolution No. 220 “On financial support of purchases of antiviral drugs for the prevention and treatment of people infected with HIV and hepatitis B and C, as well as the implementation of measures for the prevention of HIV and hepatitis B and C. under the State health Development Program in the Republic of Crimea for years 2015–2017” (28 April 2015), available at: http://rk.gov.ru/rus/file/pub/pub_244185.pdf.

³³⁶ Interviews with Crimean IDPs (Kyiv, 7 July 2015).

³³⁷ Meeting with Aslan Omer Kirimli, Chairman of the State Service of Ukraine on issues of the Autonomous Republic of Crimea and city of Sevastopol (Kyiv, 8 July 2015); and meeting with Nataliya Popovych (note 92 above).

³³⁸ Meeting with State Emergency Service of Ukraine (Kherson, 14 July 2015).

³³⁹ See Article 11, Federal Constitutional Law No. 6- FKZ (note 36 above), in conjunction with Russian Federal Law No. 326-FZ “On compulsory health insurance in the Russian Federation” (29 November 2010); and Federal Law No. 313-FZ of 29 November 2010 “On Amendments to Certain Legislative Acts of the Russian Federation in connection with adoption of the Federal Law ‘On Mandatory Medical Insurance in the Russian Federation’” (1 January 2011), available at: <http://www.rg.ru/2010/12/03/medicina-dok.html>.

assistance in Crimea, due to the long lines and bribes that must be paid to receive health care.³⁴⁰ Those without Russian citizenship claimed that they could only go to private clinics. Another current resident observed that the number of medical doctors has now decreased, from about 20 per neighbourhood previously to now only 7 or 8, and is insufficient to meet demand. The resident reported that this was due to recent reductions in doctors' salaries, which did not meet the former promises of high pay or their expectations, and thus drove some doctors to leave Crimea.³⁴¹

210. According to an NGO in Kherson that works with people living with HIV/AIDS, as well as injecting drug users requiring opioid substitution therapy (OST), approximately 1,000 Crimean residents have travelled to mainland Ukraine for the NGO's assistance since annexation.³⁴² Of the OST patients, most of them reportedly came from Sevastopol, Simferopol and Yalta, where they now lack access to substitution therapy in Crimea, as possession of the OST drugs is a criminal offense under Russian law.³⁴³ The NGO estimated that over 100 injecting drug users have come to them for assistance regularly for more than a year, who are not otherwise receiving treatment. Most of those receiving substitution therapy treatment not only have drug addictions, but also HIV and accompanying diseases. The NGO provides them with testing for HIV, TB and other diseases, and refers them to appropriate help as needed. Some recipients of assistance have moved to mainland Ukraine, while others have come for detox and treatment and then returned to Crimea.³⁴⁴
211. Those people coming to the NGO for assistance have reportedly alleged that Crimean *de facto* authorities have searched local NGOs previously providing assistance, and that narcotics units in Crimea frequently harass injecting drug users, plant drugs on them and arrest them. As a result, the network of people needing and providing substitution therapy in Crimea was dispersed. Some care recipients expressed fears that they would be easy to find through health database records, so have decided not to get new passports, due to which they can no longer travel. Other people reportedly crossed the ABL illegally without documentation.³⁴⁵

³⁴⁰ Skype and in-person interviews with Crimean residents and IDPs (July 2015).

³⁴¹ Ibid.

³⁴² Meeting with NGO Mangust in Kherson (15 July 2015). The NGO said that the geographical origins of patients from Crimea were identifiable through their encoded personal case file number.

³⁴³ Articles 188 and 228 of the Criminal Code of the Russian Federation (note 165 above). For further background, see, Human Rights Watch, "Submission to the Committee on Economic, Social and Cultural Rights regarding the Russian Federation's Fifth Periodic Report", available at: http://www2.ohchr.org/english/bodies/cescr/docs/ngos/HRW_RussianFederationWG44.pdf. See also, "Information submitted by the Russian Federation in response to the enquiry of the Special Rapporteurs of the United Nations Human Rights Council", available at: https://spdb.ohchr.org/hrdb/25th/Russie_19.02.14_%2811.2013%29_Trans_Pro.pdf.

³⁴⁴ Ibid.

³⁴⁵ Ibid.

212. In May 2014, the UN Secretary-General's Special Envoy on HIV/AIDS in Eastern Europe and Central Asia forecasted drastic increases in HIV infection rates and increased risks to public health as a consequence of the policy changes in Crimea, including the criminal ban on methadone substitution therapy for injecting drug users.³⁴⁶ According to OHCHR, up to 30 people reportedly died in Crimea due to drug overdoses or chronic illnesses from March 2014 to May 2015.³⁴⁷
213. In April 2014, an OST patient and activist from Simferopol produced a video featuring 10 of the 803 people reportedly receiving substitution therapy at the time of annexation, who each pleaded publicly for their treatment to continue, saying "don't let me die."³⁴⁸ A follow-up video produced by the same filmmaker in December 2014 reported: "2 of 10 participants of this video have died. 3 of 10 left Crimea to survive. In total, more than 20 people died in Crimea after closure of substitution therapy programs. Why should there be any more victims? While we were making this film, one more patient from the Simferopol OST program died."³⁴⁹

3.4 Right to social security (pensions)

214. Under the International Covenant on Economic, Social and Cultural Rights, both the Russian Federation and Ukraine are obligated to ensure social security for their citizens in Crimea.³⁵⁰ The UN Committee on Economic, Social and Cultural Rights has elaborated that the right to social security is broad and multi-faceted:

"The right to social security encompasses the right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, inter alia, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents."³⁵¹

215. In their May 2014 joint report, ODIHR and HCNM called on authorities to "ensure citizenship issues do not negatively affect access to social benefits and

³⁴⁶ Michel Kazatchkineun, UN Secretary-General Special Envoy on HIV/AIDS in Eastern Europe and Central Asia, "Russia's Ban on Methadone for Drug Users in Crimea Will Worsen the HIV/AIDS Epidemic and Risk Public Health" (9 May 2014), available at: <http://www.michelkazatchkine.com/?p=149>.

³⁴⁷ OHCHR Report of May 2015 (note 112 above), para. 171.

³⁴⁸ See online video, "Save 800 OST patients being held hostage in Crimea" (April 2014), available at: <https://www.youtube.com/watch?v=H8gF7SgPbjk>.

³⁴⁹ See online video, "The First Crimean Victims" (December 2014), available at: <https://www.youtube.com/watch?v=G9zhiLK5AGY>.

³⁵⁰ Article 9, ICESCR (note 24 above).

³⁵¹ See, CESCR, General Comment No. 19: The right to social security (Article 9), UN Doc. E/C.12/GC/19 (4 February 2008), para. 2.

pensions for all current residents of Crimea.”³⁵² In July 2015, several Crimean IDPs and residents who did not accept Russian citizenship and pension entitlements in Crimea informed the HRAM of specific difficulties they experienced in seeking to continue to claim their Ukrainian pension payments while in or displaced from Crimea.

216. The Russian Federation has applied a number of social security protections in Crimea under Russian legislation,³⁵³ and thousands of pension-age Crimean residents who acquired Russian citizenship after annexation have reportedly seen their pensions double in size under the Russian system.³⁵⁴ According to the Ombudsperson of the Russian Federation, in spite of the absence of Russian citizenship, those who rejected Russian citizenship and stayed in Crimea “who are pensioners are entitled to pension benefits until December 2015 under Russian legislation.”³⁵⁵ However, Crimean IDPs and residents who rejected Russian passports while retaining their Ukrainian citizenship have experienced obstacles in continuing to receive their Ukrainian pension payments. In large part, those challenges have comprised Ukrainian requirements for pensioners to physically re-register in mainland Ukraine, and present confirmation from Russian authorities that they are not already receiving pensions in Crimea.³⁵⁶
217. According to the Ukrainian Ministry of Social Policy (MSP), IDPs from Crimea in mainland Ukraine are required to present a passport and IDP registration certificate, in order to resume payments at their new residence outside of Crimea. Ukrainian citizens still residing in Crimea are required to physically register to redirect their payments at the local branch office in Kherson Oblast. All Crimean residents and IDPs are required to send a request letter to Moscow authorities (not *de facto* authorities in Crimea) to confirm they are not receiving pensions from the Russian Federation. Even if Russian authorities do not respond, MSP indicated that the effort of confirmation is considered to be a sufficient demonstration. As of 8 July 2015, a total of 2,700 registered IDPs from Crimea had applied to redirect their pension payments to new residences in mainland Ukraine, whereas approximately 200 Ukrainian pensioners still residing in Crimea have applied to continue their pension payments through the Kherson Oblast administration.

³⁵² 2014 joint report of ODIHR/HCNM (note 1 above), at p. 125.

³⁵³ See, e.g., Russian Federal Law No. 326-FL “On mandatory health insurance in the Russian Federation” (2010).

³⁵⁴ The HRAM could not independently confirm this assertion, though notes that the legal framework presently being applied in Crimea did foresee the extension of previously received Ukrainian entitlements during the transition to Russian rule, though only until 31 December 2014 (see note 282 above). See, Ombudsperson of the Russian Federation, Annual Report 2014, Crimea chapter (note 47 above).

³⁵⁵ Ibid.

³⁵⁶ Meeting with MSP in Kyiv (8 July 2015); meeting with Departments on Social Protection of Population (Odessa, 10 July 2015), meeting with Departments on Social Protection of Population (Kherson, 14 July 2015). According to MSP, Resolution No. 234 of 2 July 2014 explains the application procedure in general.

218. Crimean IDPs informed the HRAM that there was a lack of awareness of the requirements for Crimean residents to continue receiving their Ukrainian pensions, as well as difficulties obtaining evidence from Russian authorities that applicants were not receiving Russian pensions.³⁵⁷ An organization that helps Crimean IDPs in Kyiv region said that those who have left Crimea have had few problems claiming pensions in Ukraine, and that it just takes time and some bureaucratic hurdles – including to gain local residency status and request required documentation through Moscow.³⁵⁸
219. The State Emergency Services of Ukraine (SES) informed the HRAM that Crimean residents who are not presently paying into the pension fund will have equivalent funds deducted from later payments, yet that they only have to prove their eligibility to continue receiving payments. However, Ukraine’s Department on Social Protection of Population in Kherson Oblast claimed that IDPs seeking to register for payments are generally unable to obtain official documents previously issued by the Ukrainian government from *de facto* authorities in Crimea. For instance, documentation of Crimean residency and statements of past benefits received, were previously only available in hard copies at local social services offices, which are now in the possession of Crimean *de facto* authorities. The Ministry of Social Policy recently developed electronic forms to simplify the procedure, and liaises with other agencies or ministries to seek and request additional records as necessary to approve disbursements.³⁵⁹ However, not all IDPs are aware of the revised process yet, so it appears that greater awareness raising is necessary to facilitate broader access of Crimean IDPs and eligible residents to their Ukrainian pension entitlements.

3.5 Summary of findings

220. The imposition of Russian citizenship and laws on residents of Crimea has had regressive effects in the enjoyment of economic, social and cultural rights by some residents of Crimea. In particular, the conditioning of social entitlements on Russian citizenship or residency permits for foreigners has resulted in loss of employment, especially in the public sector; and restrictions on access to health care, education and other social services. Crimean residents and IDPs have also reported reductions in the availability of language studies and native-tongue education in the Ukrainian and Crimean Tatar languages.
221. Due to the differential impact of those regressive effects on ethnic Ukrainians and Crimean Tatars, as well as on those refusing Russian citizenship for

³⁵⁷ Interviews with Crimean IDPs and residents (Kyiv, 7 July 2015).

³⁵⁸ Meeting with NGO Crimean Diaspora (Kyiv, 7 July 2015).

³⁵⁹ Meeting with Department on Social Protection of Population (Kherson, 14 July 2015).

political or other reasons, they appear to result in both direct and indirect discrimination in the fulfilment of economic, social and cultural rights.³⁶⁰

222. In keeping with the obligation of progressive realization under the ICESCR, and the presumption against retrogressive measures, *de facto* authorities should facilitate and ensure equal enjoyment by Crimean residents of all economic, social and cultural rights and entitlements.³⁶¹ At a minimum, such entitlements should be equivalent to those provided under the Ukrainian legal framework, including for Ukrainian citizens who continue to reside in Crimea, irrespective of their possession of Russian passports or residency permits.³⁶² As civil servants and members of the judiciary in Crimea are already familiar with the Ukrainian legal framework and its entitlement system, implementation of equivalent entitlements would likely not entail an excessive burden on the bureaucracy of Crimean institutions.

4. Situation of Minority Communities

223. Since the annexation of Crimea in March 2014, the Crimean Tatar and ethnic Ukrainian communities have been subjected to increasing pressure on and control of the peaceful expression of their political views and cultural practices. The situation has become particularly precarious for those who have openly opposed the takeover of Crimea or refused to take Russian citizenship.

224. This section reviews the situation in several areas of particular importance to minority communities, including related to the exercise of their political and civil rights, the functioning of self-government institutions, relevant aspects of freedom of religion, their cultural rights, and their right to education in and of their mother-tongue languages. It also briefly discusses developments related to the future of informal settlements of Crimean Tatars – an important issue in view of the return of Crimean Tatars to Crimea and the necessity of restoring

³⁶⁰ See Article 2(2), International Covenant on Economic, Social and Cultural Rights, 1966 (993 UNTS 3); and, UN Committee on Economic, Social and Cultural Rights, *General Comment No 20: Non-Discrimination in Economic, Social and Cultural Rights (Article 2, para. 2)*, 10 June 2009, E/C.12/GC/20; 16 IHRR 925 (2009), paras. 30-35.

³⁶¹ The Committee on Economic, Social and Cultural Rights has noted there is a “strong presumption of impermissibility of any retrogressive measures.” See CESCR, *General Comment No. 13: The right to education (Article 13)*, 8 December 1999, E/C.12/1999/10; 7 IHRR 303 (2000) at para. 45. See also CESCR, *General Comment No.14: The right to the highest attainable standard of health (Article 12)*, 11 August 2000, E/C.12/2000/4; 8 IHRR1 (2001), at para. 32.

³⁶² Extending equal social entitlements to Ukrainian residents of Crimea as they enjoyed prior to annexation would also reflect international standards and best practices. Though it applies to successor States, as opposed to situations of occupation such as in Crimea, Article 20 of the European Convention on Nationality (note 35 above) similarly provides: “Each State Party shall respect the following principles: nationals of a predecessor State habitually resident in the territory over which sovereignty is transferred to a successor State and who have not acquired its nationality shall have the right to remain in that State; persons referred to in sub-paragraph (a) shall enjoy equality of treatment with nationals of the successor State in relation to social and economic rights.”

their rights as formerly deported people. The situation of the Crimean Tatar media is covered in Section 1.7 above.

4.1. Crimean Tatar community

4.1.1 Self-governing organizations of Crimean Tatars

225. The Mejlis and prominent Crimean Tatar leaders have been the main targets of reprisals by the *de facto* authorities against communities opposing the illegal annexation. The Mejlis is a self-governing body of the Crimean Tatars elected by a people's assembly, the Qurultai.³⁶³
226. Since the beginning of mass return in the late 1980s, the Mejlis has played a key role in protecting and promoting the rights of Crimean Tatar returnees to Crimea.³⁶⁴ After the illegal annexation of Crimea, the Mejlis represented and defended the interests of the community in dealings with the authorities exercising *de facto* control in Crimea.³⁶⁵
227. The Mejlis openly opposed what it sees as the Russian Federation's illegal annexation of Crimea and called on Crimean Tatars to boycott the so-called March 2014 referendum on Crimea's status and the September 2014 *de facto* local elections. It also exposed the targeted actions by so-called "self-defence" militias, who were implicated in a number of serious human rights abuses and in a campaign of intimidation of the Crimean Tatar and other people with pro-Ukrainian views on the peninsula,³⁶⁶ calling on the authorities exercising *de facto* control in Crimea to rein in, disarm and disband the militia.³⁶⁷
228. Prominent Crimean Tatar leaders and Mejlis members have remained staunch and vocal opponents to the rule of the authorities exercising *de facto* control in Crimea and have galvanized the support of the Crimean Tatar community. After initial attempts in March 2015 to win over the support of the Mejlis failed,³⁶⁸ the

³⁶³ The Qurultai is considered to be the highest representative body of Crimean Tatars. Members of the Qurultai are directly elected by the Crimean Tatar community. Between sessions of the Qurultai, the representative and executive powers, on behalf of the Crimean Tatar people, are vested in the Mejlis. The Qurultai elects the members of the Mejlis. The Mejlis was not recognized as a body of self-governance or as a legal entity by the Ukrainian authorities until the Verkhovna Rada adopted a decision on the recognition of Crimean Tatars as an indigenous people on 20 March 2014.

³⁶⁴ OSCE HCNM, *The Integration of Formerly Deported People in Crimea, Ukraine: Needs Assessment* (The Hague: August 2013, available at: <http://www.osce.org/hcnm/104309>); and 2014 joint report of ODIHR/HCNM (note 1 above), pp. 112–113.

³⁶⁵ *Ibid.*, p.116.

³⁶⁶ Human Rights Watch, *Rights in Retreat* (see note 62 above), pp. 20–23.

³⁶⁷ Заявление Президиума Меджлиса "Об эскалации беззакония в Крыму" от 22 апреля 2014 г. (Statement of the Presidium of the Mejlis of Crimean People "On the escalation of lawlessness in Crimea" from 22 April 2014), available in Russian at: <http://qtmm.org/об-эскалации-беззакония-в-крыму>.

³⁶⁸ See 2014 joint report of ODIHR/HCNM (note 1 above), p. 116–117.

authorities exercising *de facto* control in Crimea adopted repressive policies, first and foremost targeting the Mejlis and its most prominent activists.

229. In April and May 2014, the long-time leader of the Crimean Tatar people and former chairperson of the Mejlis, Mustafa Dzhemilev, and QHA news agency general co-ordinator and adviser to the Mejlis, Ismet Yuksel, were declared *personae non grata* and banned from entering Crimea for five years. On 3 May 2014, Dzhemilev attempted to enter the territory of Crimea and was stopped at the administrative border of Kherson Oblast. Up to 2,000 Crimean Tatars gathered to support Dzhemilev and to protest the entry ban.
230. On 5 May 2014, the *de facto* prosecutor of Crimea issued a warning to the Chairperson of the Mejlis, Refat Chubarov, notifying him that the Mejlis could be banned on the grounds of involvement in the organization of extremist activities in connection with the 3 May event (see paragraph above). On 5 July, while he was away from Crimea, Chubarov was also served a notice by the *de facto* Prosecutor's Office of Crimea, banning him from entering the peninsula for five years.
231. The period since early July 2014 has been marked with a wave of "preventive talks" by the security service; warnings from the *de facto* Prosecutor's Office of Crimea; and the interrogation and detention of Crimean Tatar leaders and activists, on charges related to extremism, participation in and membership of radical religious organizations and/or taking part in illegal assemblies. During this period, using the Russian Federation's broad anti-extremism legislation, the authorities exercising *de facto* control in Crimea have issued several "anti-extremist warnings" to the organizations and activists connected with the Mejlis. The pressure mounted further in the run-up to the local elections organized by the *de facto* authorities in September 2014 and especially after the Crimean Tatar community largely heeded the calls of the Mejlis leaders to boycott them.
232. On 16 September 2014, just two days after the elections, the police in Simferopol conducted a 17-hour search of the offices of the Mejlis on the premises owned by the Crimea Fund, a charitable organization that provides administrative support to the Mejlis, and the Mejlis newspaper *Avdet*. The next day, the executive director of the Crimea Fund was given a court order stipulating that the property of the Crimea Fund was to be confiscated. Hence, the Mejlis' property was effectively seized.³⁶⁹
233. On 25 September 2014, the economic court ruled in favour of the company that manages the real estate property of Bakhchysarai City Council to terminate a contract with the public foundation Council of Teachers, which had rented premises to the regional Mejlis in Bakhchysarai. In March 2015, the appeals

³⁶⁹ Interview with Crimean Tatar activists (Kyiv, 20 July 2015).

court in Sevastopol upheld this decision. On 31 March 2015, the regional Mejlis vacated the premises.³⁷⁰

234. In October 2014, the *de facto* Prosecutor's Office of Crimea opened a number of cases related to the 3 May events mentioned earlier, which are known as the "3 May" case. To date, two activists have been tried and sentenced and three more remain under criminal investigation.³⁷¹

235. The authorities exercising *de facto* control in Crimea also initiated and completed administrative proceedings against scores of Crimean Tatars in connection with the 3 May events, fining at least 140 of them for "public disorder" and "unlawful border crossing".³⁷²

236. At the end of January 2015, the *de facto* Prosecutor's Office of Crimea opened a criminal case in relation to the events of 26 February 2014, when Crimean Tatars and pro-Russia demonstrators clashed in front of Crimea's parliament building, events that took place before the annexation of Crimea. Seven people, including the deputy chairperson of the Mejlis and the head of the regional Mejlis in Bakhchysarai, Akhtem Chiyoqoz, were arrested and charged with the organization of and participation in mass riots. The majority of them are facing from four to ten years in prison, in accordance with Article 212(1)(2) of the Criminal Code of the Russian Federation. Chiyoqoz's custody has been extended until 19 November 2015. Dozens of people have been interrogated and over 30 homes have been searched in relation to this case.³⁷³

³⁷⁰ Ibid.

³⁷¹ "May 3" case: five people were arrested in October 2014 and January 2015, namely, Edem Osmanov, Edem Ebulisov, Tair Smedlyayev, Musa Apkerimov and Rustam Abdurakhmanov. Edem Osmanov was released on bail guaranteed by Remzi Ilyasov, the *de facto* Deputy Speaker of the State Council of Crimea. The rest were released on bail guaranteed by Eskander Bilyalov, Advisor to the so called Plenipotentiary Representative of the President of the Russian Federation in the Crimea Federal District and chairman of Sakskiy Regional Mejlis. Musa Abkerimov was tried and sentenced on 28 May 2015 to a suspended sentence of four years and four months with a three-year probation period. On 4 August 2015, the Court of Armyansk tried Edem Ebulisov, who was charged under Article 318 (1) of the Russian Criminal Code – "The use of violence against a state official" – and sentenced him to a fine in view of his pleading guilty. On 18 August, the Court in Armyansk continued to hear the case of Tair Smedlyayev. The next hearing will take place on 7 September 2015. The next hearing in the case of Edem Osmanov will take place on 15 September 2015. The HRAM is not aware of the current status of Rustam Abdurakhmanov's case.

³⁷² Human Rights Watch, *Rights in Retreat* (note 62 above), p. 10.

³⁷³ "26 February" case: Seven Crimean Tatars were initially arrested, namely Akhtem Chiyoqoz (date of arrest – 29 January 2015), Eskender Nabiev (date of arrest – 22 April 2015), Mustafa Degirmenci (date of arrest – 7 May 2015), Ali Asanov (date of arrest – 15 April 2015), Talyat Unusov (date of arrest – 11 March 2015), Eskander Kantemirov (date of arrest – 7 February 2015), and Eskander Emirhvaliev (date of arrest – 18 February 2015). Asan Charukhov was arrested on 6 March 2015, but released after several hours of interrogation. Eskander Kantemirov was bailed on a guarantee provided by Eskander Bilyalov, Advisor to the so-called Plenipotentiary Representative of the President of the Russian Federation in Crimea Federal District and chairperson of Sakskiy Regional Mejlis. On 8 May, on the same conditions, Talyat Unusov, was released on bail. On 18 June, Eskender Nabiev was released on bail guaranteed by the leader of the Spiritual Administration of Muslims of Crimea (DUMK), mufti Emirali Ablaev. Mustafa Degirmenci has remained in the pre-trial detention facility. On 19 August, his

237. In May 2015, a criminal case was brought against Refat Chubarov in Crimea. He was charged under Article 280(1) of the Criminal Code of the Russian Federation for “Public calls to extremist activities” and could face up to five years in prison.
238. As of late, the persecution of the Mejlis members has slightly subsided, but the *de facto* authorities continue to create obstacles to the activities of its leaders. Most recently, on various grounds, several prominent Mejlis leaders were prevented from leaving Crimea to attend the World Congress of Crimean Tatars in Ankara on 2–3 August 2015.
239. In June 2014, a number of smaller organizations that had been traditionally in opposition to the Mejlis merged to create the organization Kyryym Birligi.³⁷⁴ On 20 October 2014, the *de facto* Deputy Speaker of the Crimean Parliament, Remzi Ilyasov,³⁷⁵ announced the establishment of the regional public movement, Kyryym.³⁷⁶ Both organizations have pledged co-operation with the authorities exercising *de facto* control in Crimea in the name of solving problems of the Crimean Tatar community. Thus far, Kyryym has had the upper hand in terms of securing the backing of the authorities exercising *de facto* control in Crimea. Remzi Ilyasov, formally being a member of the Mejlis,³⁷⁷ has not challenged its authority, but announced the intention to organize early elections to the Mejlis to change its composition. So far, this tactic has not been successful, as Ilyasov has not gathered the support of a sufficient number of Qurultai members. The popularity of Kyryym among Crimean Tatars reportedly remains low.³⁷⁸
240. Being deprived of resources and with its leaders in exile, detention or under constant pressure, the Mejlis is blocked from fully performing its functions as a

remand term was extended until 7 November 2015. On 12 August, the remand term was extended for Ali Asanov until 15 October 2015. On 18 August, Akhtem Chiygoz’s remand term was extended until 19 November 2015.

³⁷⁴ Агентство Крымские Новости: В Крыму создана новая общественная организация «Къырым бирлиги» (Crimean News Agency: A new public organisation “Kyryym Birligi” is established in Crimea), news story in Russian, 11 June 2014, available at: <http://qha.com.ua/v-krimu-sozdana-novaya-obschestvennaya-organizatsiya-kirim-birligi-136970.html>.

³⁷⁵ Remzi Pyasov was a close competitor to Refat Chubarov in the September 2013 Mejlis elections. See: Wilson, A., “The Crimean Tatars: A Quarter of a Century after Their Return”, *Security and Human Rights*, 24 (2013) p.427. Available at: http://shron.chtyvo.org.ua/Andrew_Wilson/The_Crimean_Tatars_A_Quarter_of_a_Century_after_Their_Return_en.pdf.

³⁷⁶ Агентство Крымские Новости: В Крыму создается межрегиональное Общественное движение «Къырым» (Crimean News Agency: Establishment of the Inter-regional public movement “Kyryym” in Crimea), news story in Russian, 20 October 2014, available at: <http://qha.com.ua/v-krimu-sozdaetsya-mejregionalnoe-obschestvennoe-dvijenie-kirim-140663.html>.

³⁷⁷ On 23 August 2014, Pyasov’s membership in the Mejlis was suspended by the Mejlis. Решение Меджлиса крымскотатарского народа № 24 от 23 августа 2014 года (Decision of the Mejlis of the Crimean Tatar People No. 24, dated 23 August 2014). Available in Russian at: <http://qtmm.org/>.

³⁷⁸ Interview with Crimean Tatar activists (Kyiv, 20 July 2015).

representative and self-governing body of Crimean Tatars on the territory of Crimea. Its capacity to reach out to the community and solve the daily problems of the Crimean Tatars is significantly constrained by the actions of the *de facto* authorities.

241. Having failed to garner the support of the Mejlis's elected leaders and the Qurultai, the authorities exercising *de facto* control in Crimea have sought to sideline the Mejlis. As the Mejlis commands the support of the majority of the Crimean Tatar community, this policy essentially aims to restrain political participation and, most importantly, undermines the role of the Mejlis as a representative structure that formulates issues of concern on behalf of the community, including at international forums, and that is capable of defending the rights and interests of members of the Crimean Tatar community. Ultimately, these policies and those targeting independent Crimean Tatar media outlets, as described earlier in this report, seek to silence influential voices of dissent among the community.³⁷⁹

4.1.2 Religious organizations of Crimean Tatars

242. The pressure on Crimean Tatar religious organizations exhibits a clear pattern of increasing and subsiding periods. From June to September 2014, the *de facto* Crimean law-enforcement bodies conducted searches in mosques and madrassas (Islamic schools) across the peninsula and interrogated dozens of Crimean Tatars suspected of possession of banned extremist materials or of affiliation with religious organizations banned under Russian Federation legislation, such as *Hizb-ut-Tahrir*. Many of these searches took place in mosques and madrassas that belong to the Spiritual Administration of Muslims of Crimea (DUMK).
243. On 24 June 2014, the Federal Security Service (FSB) raided a madrassa in the village of Kolchugino in the Simferopol district.³⁸⁰ On 13 August 2014, three madrassas in Simferopol, the Education Centre on Victory Avenue, a women's madrassa in Kamenka and Seit-Settar madrassa were also searched.³⁸¹

³⁷⁹ This policy is not new, and the Crimean authorities have always had an ambivalent and often confrontational relationship with the Mejlis. However, the pressure on the Mejlis in the past was largely through political machinations and never took the form of open repression. See: OSCE HCNM, *The Integration of Formerly Deported People in Crimea, Ukraine: Needs Assessment*, p.16, (The Hague: 16 August 2013). Available at: <http://www.osce.org/hcnm/104309>. See also, Wilson, A., "The Crimean Tatars: A Quarter of a Century after Their Return", *Security and Human Rights*, 24 (2013) p.427. Available at: http://shron.chtyvo.org.ua/Andrew_Wilson/The_Crimean_Tatars_A_Quarter_of_a_Century_after_Their_Return_en.pdf.

³⁸⁰ Forum 18 News Service: Felix Corley, "Crimea: Raids, violence, threats – but what protection do victims get?" Available at: http://www.forum18.org/archive.php?article_id=1972.

³⁸¹ Forum 18 News Service: Felix Corley, "Crimea: First known Russian religious literature 'extremism' prosecution". Available at: http://www.forum18.org/archive.php?article_id=1989. Other raids and searches over the summer of 2014 were also reported in this news piece.

244. On 22 September 2014, a seven-hour search was carried out at the Derekoï Mosque in Yalta.³⁸² Three Crimean Tatars, Ruslan Zeytullaev, Nuri Primov and Rustam Vaitov, were charged with participation in extremist religious organizations under Article 205(5) of the Criminal Code of the Russian Federation.³⁸³
245. After the initial wave of raids against religious communities under control of the DUMK, the authorities modified their approach. In January 2015, Sergey Aksyonov, *de facto* head of Crimea, publicly admitted the excessive nature of searches in the homes of religious Crimean Tatars. On 17 February 2015, the Yevpatoria City Court also ruled that the Juma-Jami Mosque in Yevpatoria belonged to the DUMK, and that a recently formed splinter group that had broken away from DUMK, which calls itself *Tavrisheskiy Muftiyat*, has no title to it. The latter was founded by the former head of the Juma-Jami religious community.³⁸⁴ At the end of February 2015, the DUMK was officially registered in accordance with the Russian Federation legislation on registration of religious organizations.
246. The *de facto* authorities most likely changed their policies towards the DUMK due to the more moderate stance of the DUMK's leader mufti Emirali Ablav, who, importantly, is a member of the Mejlis. As of late, he has refrained from direct criticism of the authorities exercising *de facto* control over Crimea, and has participated in official meetings organized by the *de facto* authorities.³⁸⁵

4.1.3 Situation around disputed informal settlements

247. In the reporting period, the situation of disputed informal settlements of Crimean Tatars remained largely unchanged.³⁸⁶

³⁸² Ялтинскую мечеть «трясли» 7 часов (Yalta Mosque was "ransacked" for seven hours), news story in Russian, 23 September 2014, available at: <http://15minut.org/article/jaltinskuju-mechet-trjasli-7-chasov-v-musulmanskij-hram-siloviki-voshli-ne-snim-2014-09-23-18-59-09>.

³⁸³ Е. Скворода, «Боюсь, что будет не один десяток обвиняемых» (Skovoroda, E, "I am afraid there will be more than one dozen persons of the accused), news story in Russian, 18 March 2015, available at: <http://zona.media/story/crimean-tatars-persecution/>.

³⁸⁴ Tavrisheskiy Muftiyat positions itself as a pro-Kremlin and anti-DUMK religious community. In its public statements, it accuses the DUMK of "having links with Hizb-ut-Tahrir and the Mejlis". See, for example, Обращение Президенту Российской Федерации В.В. Путину (Appeal to the President of the Russian Federation V.V. Putin), 27 March 2015. Available in Russian at: <http://cdumk.ru/novosti/175-obrashchenie-prezidentu-rossijskoj-federatsii-v-v-putinu>.

³⁸⁵ Mufti Emirali Ablav allegedly has helped, behind the scenes, individual Crimean Tatars who had been arrested by the *de facto* authorities by negotiating their release on bail. For instance, reportedly, one of the suspects in the 26 February case – the ATR cameraman, Eskender Nabiev – was released from custody on the personal guarantee of mufti Emirali Ablav.

³⁸⁶ The settlements, known as the "fields of protest", have appeared mostly in the last ten years and are the Crimean Tatars' reaction to the lack of progress in restoring their rights, including compensation on lost land and property. See: OSCE HCNM, The Integration of Formerly Deported People in Crimea,

248. The *de facto* authorities have promised to solve this issue by legalizing land plots.³⁸⁷ In 2015, they adopted a number of regulatory acts to this effect.³⁸⁸ Several sites were cleared of unauthorized constructions.³⁸⁹ The process of legalization is going very slowly and meets various obstacles, including resistance from the title holders of these land plots.³⁹⁰
249. The Crimean Tatars are concerned that the procedures for legalizing or applying for a plot of land on the basis of having the status of a formerly deported person is only open for citizens of the Russian Federation. They are also concerned that on 28 January 2015, the *de facto* authorities arrested Seidamet Gemedzhi, a member of the board of *Sebat*, the organization of activists involved in the “fields of protest”. The date of his trial has not been announced and he remains on remand.³⁹¹

4.1.4 Impact of restrictions on public assemblies organized by Crimean Tatar community

250. Another instrument of pressure and control used by *de facto* authorities has been a ban on almost all public gatherings traditionally organized under the auspices of the Mejlis. The requests of the Mejlis or organizations close to the Mejlis to hold these assemblies have been consistently rejected. At the same time, all other kinds of festivities and assemblies organized by pro-Russian groups have been allowed, including among the Crimean Tatar community. In other words, the *de facto* authorities are not banning such events because they are directly related to the history or culture of the Crimean Tatar people, but because they are organized by the Mejlis and independently of the *de facto* authorities. This has an adverse impact on the community’s ability and freedom to maintain its traditions and culture.

Ukraine: Needs Assessment (The Hague: August 2013), available at: <http://www.osce.org/hcnm/104309>.

³⁸⁷ Аксенов рассказал, какие «самозахваты» претендуют на легализацию (Aksyonov stated which “samozakhvaty” [unauthorized taking-over of land] are laying claim to legalization, news story in Russian, 12 November 2014, available at: <http://news.allcrimea.net/news/2014/11/12/aksenov-rasskazal-kakie-samozahvaty-pretendujut-na-legalizatsiju-25252/>).

³⁸⁸ See relevant document at: http://rk.gov.ru/rus/file/pub/pub_246882.pdf.

³⁸⁹ Участникам “полян протеста” в Крыму дали еще неделю на снос своих построек (Members of “fields of protest” [lands seized by Crimean Tatars at will] in Crimea were given one more week to pull down their constructions), news story in Russian, 20 April 2015, available at: http://realty.newsru.com/article/20Apr2015/polyany_krym.

³⁹⁰ Два крымских предприятия отказались отдать землю участникам «полян протеста» (Two Crimean enterprises refused to cede land to members of “fields of protest”), news story in Russian, 12 August 2015, available at: <http://news.allcrimea.net/news/2015/8/12/dva-krymskih-predpriyatiya-otkazalis-otdat-zemlju-uchastnikam-polyan-protesta-42716>.

³⁹¹ Арестованный в Крыму активист «полян протеста» Сейдамет Гемеджи прекратил голодовку (Seidamet Gemedzhi, an activist of “fields of protest”, arrested in Crimea, gave up his hunger-strike) news story in Russian, 4 February 2015, available at: <http://m.rosbalt.ru/federal/2015/02/04/1364527.html>.

251. On 18 February 2015, the Bakhchysarai authorities prohibited the local Mejlis from carrying out a rally commemorating the 97th anniversary of the death of Noman Çelebicihan, an important figure in Crimean Tatar history.
252. In May 2015, on public safety grounds, the authorities refused to issue a permit for a ceremony commemorating the victims of the 1944 deportation, which had been traditionally held on the main square of Simferopol and organized under the auspices of the Mejlis. Instead, the authorities exercising *de facto* control in Crimea held their own commemoration of victims of the 1944 deportation, involving only loyal Crimean Tatar organizations.
253. In June 2015, the Mejlis' application to celebrate the Crimean Tatar Flag Day was also rejected.
254. Repressive measures have not been confined to the Mejlis, but have also been used against other organizations that support or act in association with the Mejlis. The co-ordinator of the Committee on the Rights of Crimean Tatars, Sinaver Kadyrov, received several warnings from the *de facto* prosecutor before eventually being forced to leave Crimea on 23 January 2015.³⁹²
255. There is essentially a blanket ban on public assemblies organized by the Mejlis or other outspoken pro-Ukrainian Crimean Tatar activists, and assemblies dedicated to significant dates of Crimean Tatar history and personalities who are of particular importance for the Crimean Tatar communal memory and identity.³⁹³

4.2 Ukrainian identity and culture

256. The state of Ukrainian culture under the annexation was a recurrent topic mentioned by many HRAM interlocutors. They stated that the *de facto* authorities suppress various manifestations of Ukrainian culture.
257. The HRAM was provided with information that broadcasting in the Ukrainian language on the State-run Crimean TV channel was reduced from three programmes to one (*Ridna Hata*, 13 minutes, twice a week, on the channel Crimea 1). Since the annexation, all Ukrainian TV and radio broadcasts from the mainland have been jammed. The residents of Crimea can only access Ukrainian-language TV from the mainland through satellite services. They are able to listen to limited radio broadcasts from the mainland. The only Ukrainian newspaper *Krymskaya svetlitsa*, which had been funded by the Government of

³⁹² See note 224 above. See also, Crimean News Agency, "Sinaver Kadyrov reportedly deported from Crimea", available at: <http://qha.com.ua/sinaver-kadyrov-reportedly-deported-from-crimea-133001en.html>.

³⁹³ Interview with Crimean Tatar activists (Kyiv, 20 July 2015).

Ukraine since 1992, was banned from distribution and had to vacate its rented premises.³⁹⁴

258. In September 2014, the Ukrainian Academic Music Theatre was renamed the State Music Academic Theatre.³⁹⁵ There are also plans to change a number of geographical names that are connected with Ukrainian history or prominent figures.³⁹⁶ In February 2015, the Museum of Ukrainian Vyshivanka in Crimea was closed.³⁹⁷ On 22 March 2015, three people were arrested and fined for celebrating Vyshyvanka day, a day to celebrate traditional Ukrainian embroidery. Reportedly, books by contemporary Ukrainian authors have been removed from the Franko Library. The Fund of Ukrainian-language literature in the library is not accessible.
259. On 9 March 2015, three people were arrested in Simferopol for brandishing Ukrainian flags inscribed with pro-unity slogans at a public gathering in Simferopol Gagarin Park to mark the anniversary of the birthday of the Ukrainian poet Taras Shevchenko.³⁹⁸
260. As of the 2015/2016 academic year, all Ukrainian-language schools have become mixed schools and studies in the Ukrainian language have dramatically decreased. No first-grade classes in Ukrainian were opened on 1 September 2015. The leading Ukrainian school in Simferopol was renamed during the reporting period. Many Ukrainian language and literature teachers claimed they had to leave Crimea because of job loss or fear of reprisals.³⁹⁹
261. Throughout the reporting period, some residents of Crimea displaying Ukrainian flags or the Ukrainian trident sign were arrested and fined, especially if the flag contained the inscription “Crimea is Ukraine”.⁴⁰⁰

³⁹⁴ Interview with Andriy Shekun, Chairperson of the Crimean Centre for business and cultural co-operation “Ukrainian House” (Kyiv, 9 July 2015).

³⁹⁵ “В Симферополе переименовали украинский театр” (In Simferopol, an Ukrainian theatre was renamed), news story in Russian, 11 September 2014, available at: <http://ru.krymr.com/content/article/26691326.html>.

³⁹⁶ “В Симферополе вместо Франка будет улица Султан-Крым-Гирея” (In Simferopol, Franko street will be renamed Sultan-Kryum-Girei), news story in Russian, 10 November 2014, available at: <http://vesti-ukr.com/krym/76991-v-simferopole-zapridumali-ulicu-sultan-krym-gireja>.

³⁹⁷ В Симферополе закрыли музей украинской вышивки имени Веры Ройк (The Vera Roik Museum of Ukrainian Embroidery was shut down in the city of Simferopol), news story in Russian, 6 February 2015, available at: http://censor.net.ua/news/323574/v_simferopole_zakryli_muzeyi_ukrainskoyi_vyshivki_imeni_very_r_oik_krymrealii.

³⁹⁸ See note 230 above. See also, “У Криму затримали учасників акції з нагоди дня народження Шевченка” (In Crimea, three participants of a gathering to mark the birthday of Shevchenko are arrested), news story in Ukrainian, 9 March 2015, available at: <http://www.pravda.com.ua/rus/news/2015/03/9/7060920/>.

³⁹⁹ See also sub-section 4.3 on education below.

⁴⁰⁰ See also periodic reports of the Crimean Human Rights Field Mission for more details at: <http://crimeahr.org/en/>.

262. In the reporting period, the activities of the Ukrainian Cultural Centre came under scrutiny by law-enforcement bodies of the *de facto* authorities. The activists of this organization were arrested, interrogated, fined and sentenced to community work.⁴⁰¹
263. The October 2014 census conducted by the *de facto* authorities indicated fewer ethnic Ukrainians and native Ukrainian speakers in Crimea compared with the 2001 census conducted by the Ukrainian Government. The share of ethnic Ukrainians was reported at 15.68 per cent compared to 24.12 in 2001; Ukrainian as a native language was named by 3.3 per cent of the Crimean population compared to 9.55 per cent in 2001. Russian was named as a native language by 79.7 per cent of ethnic Ukrainians.⁴⁰² HRAM interlocutors claimed that the *de facto* authorities manipulated these figures to show that ethnic Ukrainians do not comprise a significant part of Crimea and to justify further limiting access of Crimean residents to the Ukrainian language and culture. They also claimed that many residents of Crimea were afraid to indicate that they belong to the ethnic Ukrainian community.⁴⁰³
264. The future of the Ukrainian Orthodox Church of Kyiv Patriarchate remains uncertain. Reportedly, Sergey Aksyonov, *de facto* head of Crimea, has made a proposal to Archbishop Kliment that the land and property of the Kyiv Ukrainian Orthodox Church in Crimea will be protected if Archbishop Clement becomes a member of the Council on Religious Affairs of Crimea. Some legally rented property of the Ukrainian Orthodox Church of Kyiv Patriarchate has been already put to auction.⁴⁰⁴ The deadline for registration of religious communities with the *de facto* authorities was extended to 1 January 2016 and also applies to the Ukrainian Orthodox Church of Kyiv Patriarchate.
265. Soon after the 2014 Russian Federation annexation of Crimea, several places of worship inside what were previously Ukrainian military bases were seized. These were churches of the Ukrainian Orthodox Church Kyiv Patriarchate, such as St. Clement's Church in the Nakhimov Naval Academy in Sevastopol, and the Greek Catholic Church.⁴⁰⁵ The Kyiv Patriarchate reportedly claimed that five of its ten priests in the region had been forced to leave Crimea. Greek

⁴⁰¹ Interview with Andriy Shekun. See also other sections of this HRAM report on the persecution of activists of the Ukrainian Cultural Centre.

⁴⁰² Statistics on the ethnic composition of Crimea from the *de facto* authorities is available at: http://www.gks.ru/free_doc/new_site/population/demo/perepis_krim/tab-krim.htm.

⁴⁰³ Interview with Andriy Shekun.

⁴⁰⁴ За Россию стоит Путин, за крымских татар – весь мир, за украинцев в Крыму – никто. Интервью Оксаны Наумко с Архиепископом Климентом (Putin is standing up for Russia; the entire world for Crimean Tatars; but nobody for Ukrainians in Crimea. Interview with Archbishop Clement by Oksana Naumko), in Russian, 3 June 2015, available at: <http://ru.krymr.com/content/article/27051858.html>.

⁴⁰⁵ Forum 18 News Service: Felix Corley, "Crimea: Religious freedom survey", March 2015, available at: http://www.forum18.org/archive.php?article_id=2051.

Catholic priests also fled Crimea following these church seizures, fearing for their safety.⁴⁰⁶

4.3 Education in mother-tongue

4.3.1 General context

266. The situation regarding teaching in minority languages has long been a complex issue in Crimea, reflecting the peculiarities of the political and linguistic situation on the peninsula. The lack of clear legal guarantees for minority-language education in Ukraine and the fact that this right was not always granted in an equitable manner have been criticized by international monitoring bodies, including the Advisory Committee of the Framework Convention for the Protection of National Minorities (FCNM).⁴⁰⁷ Most of these challenges have remained after the annexation, especially concerning instruction in the Crimean Tatar language.⁴⁰⁸ Meanwhile, instruction in the Ukrainian language, which was a *de facto* minority language on the peninsula prior to the annexation, has become a more acute problem, raising concerns that it may, in the long run, disappear from the education system in Crimea.

267. On 17 June 2015, the State Council of Crimea, a *de facto* legislative body, adopted the Law “on Education”.⁴⁰⁹ In Article 11(1), this Law provides that instruction in State schools is to be conducted in the State language of the Russian Federation. Teaching and study of the State language is organized according to federal education standards. The proposal to introduce teaching, by choice, of the other State languages mentioned in the Constitution of Crimea – the Ukrainian and Crimean Tatar languages – was not supported.⁴¹⁰ The decision drew a negative reaction from the Crimean Tatar community and among ethnic Ukrainians on the peninsula. They consider this a violation of the

⁴⁰⁶ Ibid.

⁴⁰⁷ Advisory Committee on the FCNM, “Third Opinion on Ukraine”, adopted on 22 March 2012, ACFC/OP/III(2012)002 (Strasbourg: Council of Europe, 28 March 2013), paragraph 128.

⁴⁰⁸ The HCNM has addressed this issue extensively in the past, including in the report *The Integration of Formerly Deported People in Crimea, Ukraine: Needs assessment*. The report, *inter alia*, discusses such issues as resource shortages, which disproportionately affected minority-language education given the higher costs involved in teaching to relatively small numbers; factors that impact parental demand for minority-language education, including the opportunity to use that language throughout one’s academic and professional career; and the issue of quality of education, which was affected by the limited supply of teachers in minority languages and poor quality of textbooks. OSCE HCNM, *The Integration of Formerly Deported People in Crimea, Ukraine: Needs Assessment*, (The Hague: August 2013), pp.28–29. Available at: <http://www.osce.org/hcnm/104309>.

⁴⁰⁹ The Law enters into force from 1 January 2016. Text of the Law at: http://rk.gov.ru/rus/file/pub/pub_252464.pdf.

⁴¹⁰ “Госсовет Крыма принял закон «Об образовании»” (State Council adopts the Law “on Education), news story in Russian, 17 June 2015, available at: <http://news.allcrimea.net/news/2015/6/17/gossovet-kryma-prinyal-zakon-ob-obrazovanii-38946/>.

so-called Constitution of Republic of Crimea, which provides for three State languages – Russian, Ukrainian and Crimean Tatar.⁴¹¹

268. According to Article 11(2) of the Law “on Education”, instruction in other mother tongues, including Ukrainian or Crimean Tatar, is regulated depending on the capacity of the education system. The implementation of this right is provided by opening the necessary number of educational institutions, classes and groups, as well as by creating conditions for their functioning. The teaching and study of a mother tongue is organized in line with federal education standards.
269. The *de facto* authorities apply Russian Federation education standards, which provide that instruction in the mother tongue is based on parents applying for it, and can be organized from the first to ninth grades (in the Ukrainian education system, such instruction is formally available up to the 11th grade).⁴¹²
270. There is no clear procedure that regulates the introduction, changing or stopping of instruction in a mother tongue, and there is no numeric threshold for opening such schools or classes.⁴¹³ Several HRAM interlocutors reported numerous examples when applications for instruction or teaching of a mother tongue were not accepted, were not reacted to, or disappeared. They said they suspected that such lack of responsiveness or, at times, direct opposition to Ukrainian or Crimean Tatar language instruction/teaching was aimed at confusing and preventing parents and their children from taking advantage of their right to have instruction for children in their mother tongue.⁴¹⁴
271. The mother tongue can be studied as a subject in its own right or as an optional course. At schools with Russian as the language of instruction, pupils may have up to three hours a week to learn their mother tongue, as per the school and/or regional component of their model curriculum.⁴¹⁵ However, there is no clarity as to how these hours can be claimed by pupils. Often, school administrators justify their decision not to allocate hours to mother-tongue teaching on the grounds that inclusion of teaching in a mother tongue would result in the allocation of fewer hours for other classes and would negatively influence pupils’ academic performance.⁴¹⁶

⁴¹¹ Interview with Crimean residents (Kyiv, 15 July 2015).

⁴¹² Although such a possibility exists under Ukrainian legislation, Crimean Tatar interlocutors stated that it was not fully implemented in Crimea under the Ukrainian regulatory framework (Kyiv, 15 July 2015). See: OSCE HCNM, *The Integration of Formerly Deported People in Crimea, Ukraine: Needs Assessment*, (The Hague: August 2013), p.27. Available at: <http://www.osce.org/hcnm/104309>.

⁴¹³ Phone interview with expert on education issues in Crimea (20 August 2015).

⁴¹⁴ Interview with Crimean civil society activists (Kyiv, 9 July 2015). See: Ukrainian Centre for Independent Political Research, «Annexed» *Education in Temporarily Occupied Crimea*, Monitoring Report, p.7. Available at: http://www.ucipr.kiev.ua/userfiles/monitoring_report_education_ARC_Mar2015e.pdf.

⁴¹⁵ Phone interview with expert on education issues in Crimea (20 August 2015).

⁴¹⁶ Ibid.

272. By the end of the 2014/2015 academic year, the *de facto* Ministry of Education provided the following set of statistics: there were 15 schools with the Crimean Tatar language as a language of instruction (2,814 pupils) and it was taught as a subject in 62 schools (1,926 pupils). The Ukrainian language was studied as a subject in 142 classes (1,990 pupils).⁴¹⁷
273. In comparison, in the 2013/2014 academic year in Crimea, seven secondary schools used Ukrainian as the language of instruction and one in the city of Sevastopol (2,215 pupils, 103 classes). There were 15 secondary schools with Crimean Tatar as the language of instruction (2,982 pupils, 182 classes). There were 142 schools that offered teaching in Ukrainian and Russian, where the Ukrainian-language instruction was provided to 8,536 pupils (602 classes). Thirty-one secondary schools taught in three languages (Ukrainian, Russian and Crimean Tatar), where Ukrainian-language instruction was provided to 1,847 pupils (132 classes). In Sevastopol, ten schools had classes in Ukrainian and Russian as the languages of instruction (994 pupils in Ukrainian). Also in the 2013/2014 academic year, 22 schools provided teaching in the Russian and Crimean Tatar languages, where the Crimean Tatar language was studied by 638 pupils (66 classes). In addition, there were 31 schools with instruction in three languages (Ukrainian, Russian and Crimean Tatar), where 1,284 pupils (111 classes) studied the Crimean Tatar language.⁴¹⁸
274. In the 2014/2015 academic year, pupils in Crimean schools studied with new textbooks, a new curriculum, retrained teachers and a new five-point knowledge-assessment scale that was introduced by the *de facto* authorities. Ukrainian language and literature classes were substituted with Russian

⁴¹⁷ Информация, характеризующая развитие курируемой сферы деятельности на 01.06.2015 года. Приложение к письму МОИМ РК от 21.06.2015 № 01-15/464 (Information on the situation in the supervised sphere of activity as of 1 June 2015. Attachment to the letter of the Ministry of Education of the Republic of Crimea dated 21 June 2015 No. 01-15/464). Document in Russian was uploaded on 1 June 2015 on the site of the *de facto* Ministry of Education and Science of the Republic of Crimea, <http://monm.rk.gov.ru/rus/info.php?id=617082>. Earlier, the Russian Federation gave UNESCO the following figures: in the 2014/2015 school year, there were 184,869 pupils. Instruction in Russian was provided to 177,984 pupils (96.2 per cent), in Crimean Tatar to 4,895 (2.7 per cent) and in Ukrainian to 1,990 (1.1 per cent). This document in Russian was filed under the title “Подробная справка о состоянии дел в Республике Крым (Российская Федерация) в сферах компетенции ЮНЕСКО” (Detailed reference document on the situation in the Republic of Crimea (Russian Federation) in the sphere of UNESCO competence) and was dated 8 April 2015. Available at: <http://russianunesco.ru/rus/article/2069>.

⁴¹⁸ Reply of the Ministry of Education and Science of Ukraine to the HRAM inquiry about the education system in Crimea, dated 17 August 2015, No. 2/1-13-1636-15. According to data provided by the Crimean Ministry of Education and Science in 2013 to the HCNM, of the 576 general schools in Crimea, 331 offered a full educational programme in Russian and another 222 were mixed schools, with some groups taught in Russian and other separate groups taught in Ukrainian and/or Crimean Tatar. Approximately 89 per cent of the pupils in Crimea studied in the Russian language, eight per cent in Ukrainian and three per cent in Crimean Tatar. OSCE HCNM, *The Integration of Formerly Deported People in Crimea, Ukraine: Needs Assessment*, (The Hague, August 2013) p.27. Available at: <http://www.osce.org/hcnm/104309>.

language and literature lessons. Hours for teaching Russian increased significantly, allegedly to catch up with federal education standards.⁴¹⁹

275. New textbooks based on Russian Federation standards in the Crimean Tatar language or in Ukrainian had not yet been published by 1 September 2014. So, teaching in 2014/2015 was carried out based on Russian-language textbooks.⁴²⁰

4.3.2 Education in and of the Ukrainian language

276. Ukrainian language instruction in Crimea is rapidly declining and is confined mostly to those who continued to study in the Ukrainian language after the annexation of Crimea by the Russian Federation. Schools with Ukrainian as the language of instruction are no longer mentioned in the reports of the *de facto* authorities.⁴²¹ Only 20 schools in Crimea still offer some classes with Ukrainian as the language of instruction. Ukrainian continues to be taught as a subject in some schools, but on a constantly decreasing level; and in a few more schools, the language is studied as an elective course (without credit) for one hour per week.⁴²²

277. In 2015/2016, there will be no first-grade classes with Ukrainian as the language of instruction, as school administrations reportedly received no applications from parents requesting such instruction.⁴²³

278. According to the data of the Ukrainian Government, at the start of the 2013/2014 academic year, Crimea had seven secondary schools with Ukrainian as the language of instruction and one secondary school with Ukrainian as the language of instruction in Sevastopol (2,215 pupils, 103 classes).⁴²⁴ By the end of the 2013/2014 academic year, all Ukrainian-language schools introduced instruction in Russian, thereby becoming dual-language schools.

⁴¹⁹ Phone interview with expert on education issues in Crimea (20 August 2015).

⁴²⁰ Ibid.

⁴²¹ See footnote 56 above.

⁴²² Подробная справка о состоянии дел в Республике Крым (Российская Федерация) в сферах компетенции ЮНЕСКО. По состоянию на 8 апреля 2015 г. (Detailed reference document on the situation in the Republic of Crimea (Russian Federation) in sphere of competence of UNESCO as of 8 April 2015'), document in Russian, available at: <http://russianunesco.ru/rus/article/2069>; See also: Информация, характеризующая развитие курируемой сферы деятельности на 01.06.2015 года, Приложение к письму МОИМ РК от 21.06.2015 № 01-15/464) (Information on the situation in the supervised sphere of activity as of 1 June 2015. Attachment to the letter of the Ministry of Education of the Republic of Crimea dated 21 June 2015 No. 01-15/464), document in Russian, available at: <http://monm.rk.gov.ru/rus/info.php?id=617082>.

⁴²³ Министр: сеть крымско-татарских школ в Крыму сохранена (Minister: network of Crimean Tatar schools in Crimea will be retained), news story in Russian, 27 August 2015, available at: <https://news.mail.ru/society/23114851/>.

⁴²⁴ Reply of the Ministry of Education and Science of Ukraine to the HRAM inquiry about the education system in Crimea, 17 August 2015, No. 2/1-13-1636-15.

279. In 2014/2015, secondary education in Ukrainian was provided for 1,990 pupils, which amounts to 1.1 per cent of the total number of pupils (184,869 pupils in the 2013/2014 academic year). Before the annexation, 8.2 per cent of pupils were studying in Ukrainian. This means that in the course of one year, more than 85 per cent of the pupils who studied in Ukrainian classes switched to Russian classes.⁴²⁵
280. Several HRAM interlocutors who are parents of children who entered the first grade in 2014 said that after annexation they felt too intimidated to demand instruction in Ukrainian for their children. Moreover, other parents took the decision to transfer their children from classes with Ukrainian language of instruction to classes with Russian as the language of instruction. Some justified this decision by stating that most likely their children would not be able to study in Ukrainian at university level or it would not be required in their future career any more.⁴²⁶
281. According to one account, there were informal surveys of parents' wishes on language preferences, but the school authorities did not explain that there was a need for every parent to formally request that the Ukrainian language be taught.⁴²⁷ According to one parent, seeing that demand was quite high, the school authorities used every possible pretext not to introduce the teaching of Ukrainian. In one school, the administration promised to provide classes in the Ukrainian language, but never delivered on this promise during the 2014/2015 school year. In other schools, the Ukrainian language ceased to be taught anymore; according to the school administrations, this was due to low demand.⁴²⁸
282. In the previously leading Ukrainian-language school in Simferopol, instruction in Ukrainian is only carried out in nine of 40 classes. Out of 986 pupils in the school, only 147 continue to study in Ukrainian. In April 2015, the long-time director of this school had to leave Crimea for the mainland due to threats and harassment.

⁴²⁵ These changes in the language of instruction taught also led to job losses among teachers of Ukrainian.

⁴²⁶ Interviews with Crimean residents who have children of school age (Chongar administrative border crossing (ABL), interviews with Crimean internally displaced people in Kyiv and Lviv (July 2015).

⁴²⁷ Ibid.

⁴²⁸ Ibid. This line of argumentation continues the one that used to be offered by Crimean officials prior to the annexation in relation to instruction in Crimean Tatar. In the HCNM's 2013 needs assessment on the integration of formerly deported people in Crimea, Ukraine, it was noted that "as is common practice throughout the OSCE area, the parental right to choose their child's language of instruction is contingent upon available resources and sufficient demand. The two are closely linked: parents are less likely to apply for underfunded and lower-quality education for their children, while the authorities can use low applications to justify budgetary cuts to minority-language education. Both of these trends are apparent in Crimea." OSCE HCNM, *The Integration of Formerly Deported People in Crimea, Ukraine: Needs Assessment*, (The Hague: August 2013), p.27. Available at: <http://www.osce.org/hcnm/104309>.

283. The situation with the Ukrainian language at the university level is even more problematic. In September 2014, the Department of Ukrainian Philology was closed down in Vernandskiy Tavrida National University and the majority of its teaching staff was laid off. Currently, Ukrainian philology, the culture of the Ukrainian language, and the theory and history of the Ukrainian language have been merged into one department. Interlocutors informed the HRAM that the department will be closed if there are fewer than 15 applications for the 2015/2016 academic year.⁴²⁹
284. By the end of 2014, the Ukrainian language as a language of instruction was completely removed from university-level education in Crimea. Previously in Crimea, all higher educational institutions offered classes in Ukrainian and/or offered some courses in Ukrainian.⁴³⁰
285. Compared with the preceding year, in the 2015/2016 academic year, the chances of Ukrainian-speaking children from Crimea enrolling at universities in mainland Ukraine are low due to a cumbersome system of registration that the school leavers have to follow, and because they were supposed to take the same exam as their counterparts from mainland Ukraine, which required additional preparation and time. Generally, according to several HRAM interlocutors, the Ukrainian authorities have not done enough to reach out to school leavers in Crimea.⁴³¹

4.3.3 Education in and of the Crimean Tatar language

286. In 2013/2014, 15 schools offered instruction in the Crimean Tatar language (2,982 pupils, 182 classes).⁴³² Also, in the 2013/2014 academic year, 22 schools offered instruction in Crimean Tatar and Russian, where Crimean Tatar was provided as a language of instruction to 638 pupils (66 classes). In 31 schools with three languages of instruction (Ukrainian, Russian and Crimean Tatar), Crimean Tatar was provided as a language of instruction to 1,284 pupils (111 classes).
287. In the reporting period, the number of schools with Crimean Tatar as the language of instruction remained unchanged (15 schools). The authorities announced that they would open 24 first-grade classes with Crimean Tatar as a language of instruction as of September 2015. Two first-grade classes may not be opened, as only a few parents applied. Natalya Goncharova, the *de facto*

⁴²⁹ Министр: сеть крымско-татарских школ в Крыму сохранена (Minister: network of Crimean Tatar schools in Crimea will be retained), news story in Russian, 27 August 2015, available at: <https://news.mail.ru/society/23114851/>.

⁴³⁰ Phone interview with expert on education issues in Crimea (20 August 2015).

⁴³¹ Interviews with Crimean internally displaced people in Kyiv, 7 July 2015.

⁴³² The cities of Evpatoria and Sudak; and the following raions: Bakhchysarai, Belogorodsky, Dzhankoi, Kirov, Krasnovadesky, Pervomaysky, Simferopol and Sovetsky.

Minister of Education, claims that to open a class, the school administration needs to receive at least eight applications from parents.⁴³³

288. The teachers of Crimean Tatar schools assert that the current network of schools is not sufficient for the community and that the *de facto* authorities use every possible excuse not to open classes with Crimean Tatar as the language of instruction or to introduce teaching in the Crimean Tatar language, especially in the areas where the Crimean Tatar population is more dispersed.⁴³⁴
289. The teachers mentioned several cases in the 2014/2015 school year, including in Simferopol and Alushta, where parents' applications for their children to study the Crimean Tatar language were ignored. These situations resolved and the teaching of the Crimean Tatar language reintroduced after official complaints were filed. More recently, in August 2015, classes with Crimean Tatar language of instruction were closed in a school in Leninskiy Raion.⁴³⁵ The Crimean Tatar activists claimed that the school administration blocked the opening of more classes with Crimean Tatar language at a school in Simferopol Raion. They also complained that the number of hours for studying in the Crimean Tatar language in schools with Russian as the language of instruction was not sufficient.⁴³⁶
290. For the 2014/2015 academic year, the schools with Crimean Tatar as the language of instruction did not receive textbooks in the Crimean Tatar language that would reflect the new curriculum. At the same time, they were not allowed to use the textbooks used under the Ukrainian curriculum. At the beginning of the 2015/2016 academic year, the situation remained the same.
291. The basic training for teachers of the Crimean Tatar language and literature was carried out by the Crimean Polytechnic-Pedagogic University and Philology School of Vernadskiy Tavrida National University. This training is no longer offered.

⁴³³ Министр: сеть крымско-татарских школ в Крыму сохранена (Minister: network of Crimean Tatar schools in Crimea will be retained), news story in Russian, 27 August 2015, available at: <https://news.mail.ru/society/23114851/>.

⁴³⁴ Interviews with Crimean Tatar teachers from Crimea (7 July 2015).

⁴³⁵ Родителей крымских школьников заставляют отказываться от уроков крымскотатарского языка (Parents of Crimean school students are under pressure to drop Crimean Tatar language lessons), news story in Russian, 27 August 2015, available at: <http://avdet.org/node/13842>.

⁴³⁶ Крымскотатарские работники образования пожаловались на ущемление родного языка (Crimean Tatar education workers complain about infringement of their mother tongue), news story in Russian, 24 August 2015, available at: <http://nazaccent.ru/content/17319-krymskotatarskie-rabotniki-obrazovaniya-pozhalovalis-aksenovu-na.html>.

4.4 Summary of findings

292. Crimean Tatars and Ukrainians who openly support the territorial integrity of Ukraine and do not support the *de facto* authorities continue to be in a particularly vulnerable position. The Mejlis – a self-governing body of Crimean Tatars – became the main target of administrative and criminal reprisals by the *de facto* authorities. Intimidation, expulsion, or incarceration of prominent leaders of the Mejlis of the Crimean Tatar People has a detrimental effect on the exercise of the political and civil rights of persons belonging to the Crimean Tatar community. The *de facto* authorities have recently imposed severe limits to the right to freedom of assembly of persons belonging to the Crimean Tatar and Ukrainian communities who openly express their identity and opposition to the illegal annexation of Crimea by the Russian Federation. Cultural, religious and symbolic elements of Ukrainian identity have been restricted and/or suppressed through various administrative or law-enforcement measures.
293. Education in and of the Ukrainian language is disappearing in Crimea through pressure on school administrations, teachers, parents and children to discontinue teaching in and of the Ukrainian language. This may further limit the presence of the Ukrainian language and culture on the peninsula. Education both in and of the Crimean Tatar language continues to face obstacles and new challenges brought by the annexation and remains in need of support and revitalization.