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Technical assistance and capacity-building

Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine

Report of the Secretary-General*

Summary

The present interim report is submitted pursuant to General Assembly resolution 76/179, in which the Assembly requested the Secretary-General to report at its seventy-seventh session on the progress made in the implementation of that resolution, including options and recommendations to improve its implementation, and to submit an interim report to the Human Rights Council at its fiftieth session.

* The present report was submitted after the deadline owing to circumstances beyond the submitter's control.

I. Introduction

1. The present interim report is submitted pursuant to General Assembly resolution 76/179 on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, in which the Assembly requested the Secretary-General to report at its seventy-seventh session on the progress made in the implementation of the resolution, including options and recommendations to improve its implementation, and to submit an interim report to the Human Rights Council at its fiftieth session.

2. The present document is the sixth report of the Secretary-General on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine. It covers the period from 1 July to 31 December 2021.

3. In its resolution 68/262, the General Assembly affirmed its commitment to the territorial integrity of Ukraine within its internationally recognized borders. In accordance with relevant Assembly resolutions, in the present report, the Secretary-General refers to the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation as “Crimea”, and to the occupying authorities of the Russian Federation in Crimea as “occupying authorities of the Russian Federation” or “Russian authorities”. The Secretary-General also takes into account the call by the Assembly for the Russian Federation to uphold all of its obligations under applicable international law as an occupying Power.¹

II. Methodology

4. In its resolution 76/179, the General Assembly requested the Secretary-General to continue to seek ways and means, including through consultations with the United Nations High Commissioner for Human Rights and relevant regional organizations, to ensure safe and unfettered access to Crimea by established regional and international human rights monitoring mechanisms, in particular the human rights monitoring mission in Ukraine, to enable them to carry out their mandate. With the objective of implementing that resolution, the Office of the United Nations High Commissioner for Human Rights (OHCHR) transmitted a note verbale to the Russian Federation on 11 February 2021 in which it sought its cooperation to discuss practical arrangements for a mission to Crimea. In its reply of 1 March 2021, the Russian Federation indicated its readiness to “discuss the prospects” of such a mission on the condition that it would be “organized in compliance with the rules governing visits to the territory of the Russian Federation”.

5. Given the conditions stipulated by the Russian Federation, OHCHR was not able to find appropriate modalities to conduct a mission to Crimea in accordance with General Assembly resolution 76/179. The present report is therefore based on information collected through remote monitoring by OHCHR by means of the human rights monitoring mission in Ukraine. The mission has worked in Ukraine and monitored the situation in Crimea remotely on a continuous basis since March 2014, including through visits to the Administrative Boundary Line between Crimea and other parts of Ukraine. The report is primarily based on direct interviews with victims of alleged human rights violations in Crimea, which were further verified by multiple sources, including interviews with relatives of victims, witnesses, lawyers, government officials and representatives of civil society. It also draws on court documents, official records, legislation, open sources and other relevant material. The findings were based on verified information collected from sources that, in accordance with OHCHR methodology, were assessed to be credible and reliable.² Information was included in the report when the “reasonable grounds to believe” standard of proof was met.

6. Unless otherwise specified, the information in the present report was documented and verified by the monitoring mission during the period under review. The report should not be

¹ As the occupying Power, the Russian Federation has obligations under international humanitarian law.

² *Training Manual on Human Rights Monitoring*, Professional Training Series No. 7 (United Nations publication).

regarded as representing an exhaustive list of all issues of concern. The Secretariat was guided by relevant rules of international humanitarian law and international human rights law during the preparation of the report.

III. Human rights

A. Administration of justice, fair trial rights and human rights defenders

7. Under international human rights law, everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.³ International humanitarian law also contains rules concerning the rights of persons accused of an offence that are applicable in occupied territory.⁴

8. The Russian authorities continued to restrict the right of accused persons to a public hearing. While such restrictions were previously mostly confined to high-profile criminal trials (see A/75/334, para. 11), this trend was extended during the period under review to cases concerning offences considered “administrative”⁵ under Russian Federation laws.⁶ In order to justify the public’s exclusion from the courtroom, Crimean courts frequently relied on measures taken by the Russian authorities in response to the coronavirus disease (COVID-19) pandemic, which prohibited access to courts by individuals who were not party to the proceedings.⁷ Interlocutors with OHCHR expressed concern that such sanitary measures were in fact used as a pretext to limit public scrutiny of the administration of justice and to curtail the rights of defendants to due process. OHCHR received information that, in at least two cases (both concerning men), this provision was used to deny access of the defendants’ privately retained lawyers to court hearings in circumstances where the judges had not yet formally admitted them to those proceedings. They were not, as such, formally regarded as “parties” to the proceedings. Family members of defendants and media professionals also reported to OHCHR that they had not been allowed to attend court hearings even though they had followed the procedure in place by submitting written motions to the courts in advance of the hearings. No alternative modalities to observe court hearings, such as offering online hearings, were made available.⁸ In addition, verdicts in these cases were not published in online court registries.⁹ The exclusion of family and the press from court hearings and the

³ International Covenant on Civil and Political Rights, art. 14 (1). See also European Convention on Human Rights, art. 6.

⁴ Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), arts. 64–77; and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 75.

⁵ In Russian law, an administrative offence is a violation of law prescribed by the Russian Code of Administrative Offences (which does not reach the threshold of a criminal offence).

⁶ The European Court of Human Rights has considered that the application of fair trial standards does not depend on whether a defendant is facing charges based on the criminal code or on the administrative code, but rather on the substance of the charge, the nature of the offence and the severity of the potential penalty. See *Menesheva v. Russia*, Application No. 59261/00, Judgment, 9 March 2006, paras. 95–98. This has been affirmed by the Grand Chamber of the Court: see for example *Sergey Zolotukhin v. Russia*, Application No. 14939/03, Judgment, 10 February 2009, paras. 52–57.

⁷ See resolution No. 223 of the so-called “Council of Judges of Crimea” on “measures preventing the new coronavirus infection in Crimean courts”, 9 June 2020, para. 2.

⁸ For more information concerning the requirement of public trials during the pandemic, see Organization for Security and Co-operation in Europe (OSCE), Office for Democratic Institutions and Human Rights, *OSCE Human Dimension Commitments and State Responses to the COVID-19 Pandemic* (Warsaw, 2020), pp. 120–125.

⁹ In paragraph 29 of its general comment No.32 (2007), the Human Rights Committee expressed the view that judgments, including essential findings, evidence and legal reasoning, must be made public except where the interest of juveniles otherwise requires, or the proceedings concern matrimonial

failure to offer online hearings and to publish judgments violate the principle of the open administration of justice, one of the central pillars of a fair trial.¹⁰

9. OHCHR also documented nine cases (all concerning men) where defendants were tried and convicted for offences considered “administrative” under Russian law in the absence of their lawyers, despite their repeated requests for legal assistance. In these cases, the courts either ignored the requests or dismissed them on arbitrary grounds,¹¹ thus denying the defendants their right to be represented in court by a lawyer of their choice. OHCHR also received credible complaints about the systematic failure of judges to adhere to the principle of equality of arms. In at least 14 cases, judges refused to call and examine witnesses requested by the defence, and took into account only the evidence produced by the prosecution. In one case, a judge in an administrative case significantly restricted the defendant’s ability to defend himself by giving his legal team only 10 minutes to familiarize themselves with the case file, which consisted of numerous written testimonies, police protocols and video footage of the alleged offence. The defence indicated that it had not been able to study the case file properly and requested a recess. The judge continued nonetheless to hear the case on the merits, eventually finding the defendant guilty.

10. Human rights defenders and lawyers continued to face prosecution and, in some cases, detention for carrying out their work. On 25 October 2021, while discharging his professional duties, a lawyer was arrested inside a police station in Simferopol for recording a conversation with a police officer on his mobile phone and refusing to undergo a strip search.¹² The police charged him with two counts of police disobedience, an administrative offence under Russian law. Following more than 26 hours in detention, the lawyer was released. On 11 November, he was arrested again on the same charges and sentenced to 12 days of detention and a fine. The lawyer was released after serving his sentence in full.

11. Contrary to international law, the Russian authorities continued to apply the totality of the Russian Federation criminal legislation in Crimea, in replacement of Ukrainian laws in force prior to the occupation.¹³ This resulted in the prosecution of individuals in Crimea for acts that were lawful under Ukrainian law (see paras. 21, 26, 27 and 31 below; see also A/HRC/44/21, para. 36).

disputes or the guardianship of children. See also European Court of Human Rights, *Fazliyski v. Bulgaria*, Application No. 40908/05, Judgment, 16 April 2013, paras. 67–69. Furthermore, Federal Law No. 262-Φ3 of the Russian Federation on “ensuring access to information on activities of courts in the Russian Federation” (22 December 2008) requires the publication of judgments.

¹⁰ See International Covenant on Civil and Political Rights, art. 14 (1); see also A/63/223, para. 30.

¹¹ For instance, although in administrative cases Russian law allows for legal representation by persons who do not have a license to practice law, some individuals were rejected by the court because they had not been formally admitted to the bar.

¹² The lawyer began to record his conversation with police officers in order to document what he believed to be their unlawful actions. The police officers and the court held the view that police stations enjoyed a special status under Russian laws, making it unlawful to use audio recording devices without authorization. Moreover, the court concluded that, at the time when the lawyer was ordered to stop recording, he was not providing legal assistance, as he was in the corridor, where no administrative proceedings or investigative activities were under way.

¹³ According to article 43 of the Regulations respecting the Laws and Customs of War on Land of 1907 (the Hague Regulations), an occupying Power must take all measures in its power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country. According to article 64 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), the penal laws of an occupied territory should remain in force, with the exception where they constitute a threat to the security of the occupying Power or an obstacle to the application of the Fourth Geneva Convention.

B. Right to life, physical and mental integrity, liberty and security

12. International human rights law and international humanitarian law prohibit torture and cruel, inhuman or degrading treatment.¹⁴ In addition, no one may be deprived of liberty except on such grounds and in accordance with such procedures as are established by law.¹⁵

13. OHCHR continued to receive complaints about the use of torture and cruel, inhuman or degrading treatment against Crimean residents by Russian law enforcement officers (both in Crimea and in the Russian Federation in the case of transferees). It verified five cases (all concerning men) occurring during the period under review. In three of the cases, officers of the Federal Security Service (FSB) of the Russian Federation used torture or cruel, inhuman or degrading treatment on Crimean residents with the objective of obtaining self-incriminatory statements and testimony against others or to coerce them into undergoing a polygraph test. Two survivors consistently described to OHCHR how a group of FSB officers electrocuted them in the basement of an unknown building by attaching electric wires to their ears and switching on the current. Both were forced to undergo polygraph tests, following which the officers released them. OHCHR notes that the alleged perpetrators wore balaclavas to conceal their identities, bragged to the victims about impunity for their actions and on at least one occasion called themselves “those who untie tongues”. At least one survivor, as a condition for his release, was forced to write a statement in which he denied that any force had been used on him.

14. Impunity persisted for alleged torture and cruel, inhuman or degrading treatment by Russian law enforcement officers in Crimea. OHCHR is not aware of any cases of alleged perpetrators being brought to justice or formally placed under investigation. The lack of accountability discourages victims from reporting such cases and lodging formal complaints with the Russian authorities. OHCHR documented one case where a survivor of torture decided not to undergo a forensic medical examination in view of the apparent lack of prospects of his torture complaint.

15. During the period under review, OHCHR documented 205 cases of arbitrary arrests in Crimea, representing more than a 10-fold increase in comparison with the same period the previous year. The victims included 183 men, 19 women and three children (one boy and two girls). The majority were arrested either outside court buildings while seeking to attend court hearings or in the vicinity of police or FSB buildings, following spontaneous public assemblies (see paras. 25–29 below). In addition, eight men, including the First Deputy Head of the *Mejlis*,¹⁶ were arrested by FSB officers in connection with an alleged explosion at a gas pipe near Simferopol on 23 August 2021, qualified by the Russian authorities as “sabotage”. At least six of them were held incommunicado for periods from 12 to 38 hours and denied access to lawyers.¹⁷ The whereabouts and fate of at least four of them during their detention were concealed from their relatives, raising concerns of possible enforced disappearances.

C. Rights of detainees

16. International human rights law requires that all persons deprived of their liberty should be treated with humanity and with respect for the inherent dignity of the human person.¹⁸ In addition, everyone has the right to the enjoyment of the highest attainable standard of

¹⁴ See International Covenant on Civil and Political Rights, arts. 7 and 10; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the European Convention on Human Rights, art. 3; the Fourth Geneva Convention, art. 32; and Protocol I thereto, art. 75 (2).

¹⁵ International Covenant on Civil and Political Rights, art. 9 (1). Specific grounds for deprivation of liberty in times of occupation are established by the Fourth Geneva Convention (e.g., art. 78).

¹⁶ Ukraine maintains that the First Deputy Head of the *Mejlis* was detained for his political activities.

¹⁷ Five were eventually released and three were remanded in custody. See OHCHR, Update on the Human Rights Situation in Ukraine, 1 August to 31 October 2021 (available at www.ohchr.org/en/documents/country-reports/update-human-rights-situation-ukraine-1-august-31-october-2021), p. 6.

¹⁸ International Covenant on Economic, Social and Cultural Rights, art. 10 (1).

physical and mental health.¹⁹ International humanitarian law also requires that protected persons who are detained should receive the medical attention required by their state of health.²⁰

17. During the period under review, relatives and lawyers of detainees transferred from Crimea to places of detention in the Russian Federation continued to complain to OHCHR about inadequate medical assistance available for detainees with symptoms of COVID-19. In June 2021, for example, medical personnel of the detention centre No. 5 in Rostov-on-Don refused to test a detainee transferred from Crimea for COVID-19 or to provide him with medical assistance, despite his serious symptoms and request to be tested. The detainee had to rely exclusively on medicines sent by his relatives from Crimea. In another case, in August 2021, a detained man from Crimea with severe lung damage and double pneumonia had to be urgently transferred from detention centre No. 1 in Rostov-on-Don to a medical facility. The detainee's lawyer claimed that the medical personnel of the detention centre had ignored his symptoms and declined to test him for COVID-19 for an unduly long period. He was diagnosed with COVID-19 only after his admission to the medical facility, a fact indicative of the inadequate medical care provided to him in the detention centre. Furthermore, Russian Federation courts granting extensions of the pretrial detention of such detainees consistently failed to take into account their health situation, to assess whether their continued detention was strictly necessary or to consider the availability and suitability of non-custodial measures.²¹

18. Detainees from Crimea also faced cruel, inhuman or degrading treatment and intimidation from prison staff or law enforcement officers. In the most emblematic example, in September 2021, a male Muslim detainee from Crimea was beaten by staff of the "MOTB-19" prison hospital in Rostov-on-Don for his refusal to vote during the Russian State Duma elections.²² That evening, several guards of the prison hospital restrained him and forcefully cut his beard with hair clippers. Another detainee from Crimea, currently serving his sentence in the Republic of Bashkortostan, was subjected to threats and intimidation by a prosecutor following his refusal to withdraw his complaint about his arbitrary placement in a disciplinary cell. Despite his complaint, numerous complaints by his relatives and attention from the international community, the detainee's regular placement in disciplinary cells (including in solitary confinement) on arbitrary grounds continued.

19. Detainees transferred from Crimea to the Russian Federation, contrary to international humanitarian law,²³ also suffered restrictions in communicating with the outside world. Due to the arbitrary and selective application of prison regulations, prison staff frequently withheld correspondence, blocked parcels from family members and did not allow detainees to make phone calls. In some cases, the full enjoyment by detainees of the right of access to a lawyer was affected, particularly with regard to communicating in a private and confidential manner. In one case, having travelled nearly 2,000 km from Crimea to the city of Vladimir in the Russian Federation, a detainee's lawyer was denied private access to his client. The security guard at the colony insisted on remaining present in the room, and recorded the meeting on camera. The lawyer was also prevented from handing over legal documents to his client for signature, as the security personnel insisted that the documents first had to undergo security clearance.

¹⁹ Ibid., art. 12 (1).

²⁰ Fourth Geneva Convention, art. 76.

²¹ In its advice to States parties and national preventive mechanisms relating to the coronavirus disease (COVID-19) pandemic (CAT/OP/10), the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment urged States to, inter alia, reduce prison populations wherever possible by implementing schemes of early, provisional or temporary release where safe to do so, to review all cases of pretrial detention to determine whether strictly necessary in the light of the public health emergency, and to extend bail for all but the most serious of cases. See also www.ohchr.org/en/covid-19/covid-19-guidance.

²² Intimidation or coercion of voters should be prohibited by penal laws; see Human Rights Committee, general comment No. 25 (1996), para. 11.

²³ Fourth Geneva Convention, art. 76.

D. Freedoms of opinion and expression

20. International human rights law guarantees the right to hold opinions without interference, and the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds.²⁴

21. On 8 December 2021, a regional district court in Crimea sentenced a human rights defender, the coordinator of the civic group Crimean Solidarity,²⁵ to 10 days of detention for social media posts he published in 2012 and 2013, prior to the temporary occupation of Crimea. The videos concerned featured a symbol of Hizb ut-Tahrir, a movement recognized as a terrorist group in the Russian Federation but lawful in Ukraine, and religious content on the Russian Federation federal list of extremist materials. The court held that the defendant could be prosecuted for distribution and public display of “extremist” and prohibited materials because the social media posts were continuous in nature and had to be deleted owing to the applicability of Russian laws in Crimea. The conviction raises concerns regarding international human rights law, in particular the principle of legality, and obligations under international humanitarian law.²⁶ Furthermore, OHCHR notes that, in reaching its conclusion, the court endorsed an expert report tendered by the prosecution, which concluded that the posts included prohibited content or referred to prohibited organizations, without engaging in any independent analysis of the conduct.

22. Notably, the defendant had previously been arrested three times in 2021 for breaches of COVID-19 prevention measures when participating in peaceful assemblies. Two of the arrests resulted in a conviction, for which he was fined 10,000 rubles and sentenced to 14 days of detention.²⁷ The human rights defender believed that his multiple arrests were in retaliation for his involvement with Crimean Solidarity, since law enforcement officers had previously told him to cease his human rights work, such as monitoring criminal trials against Crimean Tatars.

23. Since 2014, the media landscape has remained limited and lacked pluralism.²⁸ Analogue broadcasts of Ukrainian television channels have remained cut off, and the frequencies vacated now broadcast Russian television channels.²⁹ According to non-governmental human rights organizations, since December 2021, the websites of numerous online media that report on the situation in Crimea from other parts of Ukraine, including those who have been displaced from Crimea, have been blocked on the peninsula. The blocked media include the Centre for Investigative Journalism, Ukrainska Pravda and

²⁴ International Covenant on Economic, Social and Cultural Rights, art. 19.

²⁵ See OHCHR, “Civic space and fundamental freedoms in Ukraine, 1 November 2019 – 31 October 2021” (available at www.ohchr.org/en/documents/country-reports/civic-space-and-fundamental-freedoms-ukraine-1-november-2019-31-october), 8 December 2021, para. 81.

²⁶ Retroactive application of law is prohibited under article 15 of the International Covenant on Economic, Social and Cultural Rights. Moreover, article 70 of the Fourth Geneva Convention prohibits the arrest, prosecution or conviction of protected persons by the occupying Power for acts committed or for opinions expressed before the occupation.

²⁷ In its resolution 22/6, the Human Rights Council called upon States “to ensure that human rights defenders can perform their important role in the context of peaceful protests” and, in particular, “to ensure that no one is subject to [...] arbitrary arrest or detention [...] abuse of criminal or civil proceedings”.

²⁸ In its general comment No. 34 (2011), the Human Rights Committee noted that a free, uncensored and unhindered press and other media is essential to ensure freedom of opinion and expression; and in its general comment No. 25 (1996), the Committee emphasized the freedom to debate public affairs, to criticize and oppose, to publish political material and to advertise political ideas.

²⁹ OHCHR, “Situation of human rights in temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)”, 18 September 2017 (available at <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session36/list-reports>), paras. 155–158.

Hromadske Radio.³⁰ The organizations also reported that the FM signal of Ukrainian radio stations continued to be routinely blocked in Crimea.³¹

24. According to OHCHR, media freedoms and access to information in Crimea are adversely affected by Russian Federation laws, which impose the status of “foreign agent” on media that receive funding or other forms of ill-defined “support” from foreign States or Governments, international and foreign organizations, or foreign citizens. Radio Free Europe/Radio Liberty and its outlet Crimea.Realities were both listed as foreign agents by the Russian authorities.³² The status carries stringent registration, reporting and public disclosure requirements that do not apply to other media organizations. Materials produced by these media outlets must carry a “foreign agent” label, widely perceived as stigmatizing, and as indicating that the outlet is or may be at risk of monetary fines, criminal prosecution or imprisonment. Radio Free Europe/Radio Liberty and Crimea.Realities reported attempts by Russian authorities to interfere with their reporting because of their alleged non-compliance with requirements attached to their “foreign agent” status.³³ The Venice Commission concluded that the “foreign agent” regulations constituted “serious violations of basic human rights, including the rights to freedom of association and expression, the right to privacy, the right to participate in public affairs, as well as the prohibition of discrimination”.³⁴ An additional adverse consequence is that even funding or other “support” originating from other parts of the territory of Ukraine towards media outlets situated in Crimea triggers the application of “foreign agent” status to them.

E. Freedom of peaceful assembly

25. The expression of dissenting political or alternative views through participation in public assemblies continued to be curtailed in Crimea. In particular, freedom of peaceful assembly was undermined by the blanket requirement of prior authorization by the occupation authorities for any assembly.³⁵ Under Russian law, participants in unauthorized assemblies are subject to prosecution. While international human rights law permits certain limitations or restrictions on freedom of peaceful assembly,³⁶ the Human Rights Committee has noted that having to apply for permission from the authorities to hold an assembly “undercuts the idea that peaceful assembly is a basic right.”³⁷

26. In 2021, OHCHR documented 61 court cases (against 47 men and 14 women) involving the prosecution of participants in peaceful assemblies that had not received “authorization”, as defined in Russian Federation laws, an increase of 73 per cent over the 16 prosecutions documented in 2020. The victims received sanctions ranging from fines between 5,000 and 150,000 rubles, up to 30 hours of community service or up to seven days of detention. Moreover, assemblies were interrupted by law enforcement officers and participants were arrested on the spot and taken to police stations for questioning.³⁸ The prosecution of participants in “unauthorized” gatherings affected political protests, and assemblies of Crimean Tatars protesting the arrests and prosecutions of other Crimean Tatars.

³⁰ For the full list of blocked media, see <https://crimeahrg.org/uk/u-krimu-11-provajderiv-czilkom-blokuyut-21-sajt-ukraïnskih-media/> (in Ukrainian and Russian only).

³¹ “Russian Broadcasters in Northern Crimea Keep on Jamming Ukrainian FM Radio Signal”, the Crimean Human Rights Group, 30 December 2021.

³² The status of “foreign agent” was also imposed on several Russian nationwide media, including Dohzd and Meduza, which reported on the socioeconomic situation in Crimea.

³³ See <https://ru.krymr.com/a/news-radio-svoboda-kreml-zenzura/31689711.html> and <https://ru.krymr.com/a/sayt-krym-realii-zablokirovali-chto-delat/31249170.html> (in Russian only).

³⁴ European Commission for Democracy through Law (Venice Commission), opinion No. 1014, 6 July 2021.

³⁵ Although Russian Federation law refers to the term “notification”, it imposes stringent requirements, which de facto amount to an authorization procedure.

³⁶ International Covenant on Economic, Social and Cultural Rights, arts. 21–22.

³⁷ Human Rights Committee, general comment No. 37 (2020), para. 70.

³⁸ See OHCHR, “Report on the Human Rights Situation in Ukraine, 1 February – 31 July 2021”, 23 September 2021, para. 110.

27. Single-person picketers, who are, in principle, excluded from the pre-authorization requirements, were also prosecuted; for example, on 10 September 2021, a court in Simferopol fined a man 25,000 rubles for holding up a banner calling for accountability for a car accident.

28. Use of COVID-19 regulations by law enforcement officers and courts to interrupt assemblies, and to arrest and prosecute participants, particularly affected people of Crimean Tatar ethnicity who gathered to express support for Crimean Tatar men, including human rights defenders, who had been arrested. According to OHCHR, between September and November 2021, 184 participants in Crimean Tatar public assemblies (163 men, 18 women, two girls and a boy) were arrested, at least 116 (98 men and 18 women) of whom were charged with violating epidemiological regulations.³⁹ At least 22 defendants (all men) were sentenced to administrative detention of up to 14 days. The relevant law does not provide for detention and/or fines, nor does it contain guidelines on when a detention may be imposed. The sanction imposed by the judge nonetheless seemed more directed at discouraging Crimean Tatar peaceful assemblies rather than the offence of “violating epidemiological regulations”, raising concerns about the proportionality of the sanction. In an emblematic case, a woman and her 14-year-old daughter were arrested at a gathering of 50 people next to a police station on the occasion of the release of a Crimean Tatar defence lawyer from detention on 23 November 2021. They were held at a police station and denied access to their lawyer. The girl was detained for nine hours and released without charge, while the woman was detained for 27 hours in a small cell without a toilet or sink. The woman was subsequently fined 11,000 rubles for violating epidemiological regulations.

29. Law enforcement agencies continued to routinely issue written warnings against participation in public assemblies to Crimean residents whom they perceived as potential participants, further stifling the exercise of freedom of peaceful assembly. One recipient described these warnings as “a measure to frighten dissenters who disagree with the current policies in Crimea”. The warnings were often issued ahead of politically significant dates, such as the thirtieth anniversary of Ukrainian Independence Day on 24 August 2021. The warnings contained a list of applicable administrative and criminal sanctions, and cautioned recipients against organizing “ill-defined extremist assemblies aimed at destabilizing the situation”.

F. Freedom of religion or belief

30. International human rights law protects the right to have or to adopt a religion or belief of one’s choice, and to manifest it in worship, observance, practice and teaching.⁴⁰ Furthermore, persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.⁴¹

31. All congregations of Jehovah’s Witnesses in Crimea remained prohibited as “extremist organizations”, and believers continued to face prosecution for collective religious practices (see [A/HRC/44/21](#), para. 35). On 22 October 2021, a male Jehovah’s Witness from Sevastopol was convicted of an extremism-related crime and sentenced to six years for “actions of an organizational character” directed at the “continuation of illegal activities” of a local Jehovah’s Witnesses group.⁴² The court determined that the gatherings of Jehovah’s Witnesses in the defendant’s shop to pray, discuss doctrine and study religious literature amounted to “illegal activities”. OHCHR assessed that the court had adopted a pro forma approach to determining “extremism” and failed to conduct any legal analysis of an overly

³⁹ In addition, according to available information, 50 people were charged with violation of rules governing public assemblies (arts. 20.2.2 and 20.2 of the Code of Administrative Offences of the Russian Federation) and two people with police disobedience, while 16 were released without charges.

⁴⁰ International Covenant on Economic, Social and Cultural Rights, art. 18. See also Universal Declaration of Human Rights, art. 18.

⁴¹ Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, art. 2. See also A/HRC/40/58, annex II, commitment VI.

⁴² The court imposed an additional sanction of a six-year prohibition on conducting educational and awareness-raising activities, publishing materials, appearing in media and posting “materials” online.

broad notion of “organizing activities of an extremist organization”.⁴³ The court’s reasoning, which was based on the testimony of an undercover agent, was limited to finding that the man played the role of moderator in discussions within the group. The defendant’s argument that he was exercising his right to freedom of religion was described by the court as “a desire to escape responsibility for a committed crime”. OHCHR has documented four convictions of Jehovah’s Witnesses (all men) for practising their faith during the temporary occupation of Crimea.⁴⁴

32. On 28 October 2021, the Supreme Court of the Russian Federation issued Decree No. 32 in which it stated that “the conduct of persons consisting exclusively in the realization of their right to freedom of religion or belief, including through individual or collective worship, sermons and other religious rites and ceremonies, if they do not contain any elements of extremism, does not constitute a crime”.⁴⁵ By 31 December, no information had been gathered regarding the way the resolution would be implemented, although it seems to not have had any effect on verdicts against Jehovah’s Witnesses in Crimea or on discontinuing previously initiated criminal cases.

33. Religious groups and individuals in Crimea continued to be prosecuted under a broad and ill-defined prohibition of proselytizing activities under Russian Federation law (A/75/334, para. 28).⁴⁶ In August 2021, a court in Crimea found a priest of the Orthodox Church of Ukraine guilty of “illegal missionary activity” for holding a mass in a small monastery in Bilohirsk district attended by five worshippers, and fined him 15,000 rubles. The court’s verdict was pro forma and largely based on the fact that the Church was not registered as a religious organization under Russian Federation law. The court disregarded the priest’s argument that he delivered his mass to his regular congregation, without any element of proselytizing.

34. In another case, an imam of the Muslim community in Alushta, which refuses to be subordinated to the centralized Spiritual Administration of Muslims of Crimea, was convicted of “illegal missionary activities”. The court labelled routine religious functions of the imam, namely, delivering sermons in a mosque, as illegal proselytism and fined him 5,000 rubles. The finding of “illegality” stemmed from the local authorities’ refusal to recognize the community’s right to use the mosque, which had been granted to them prior to the temporary occupation of Crimea. During the trial, a petition signed by several hundred local Muslim families attested that the imam’s activities met the religious needs of the community. This was the imam’s second conviction for “illegal missionary activities” on the same grounds of delivering sermons in the mosque. Prior to his prosecution, the Prosecutor’s Office summoned the members of his congregation for questioning.⁴⁷

G. Freedom of movement

35. Regulatory measures implemented by the Russian authorities in response to COVID-19 continued to negatively affect freedom of movement of Ukrainian citizens travelling between Crimea and other parts of Ukraine. The Russian Federation continued to apply its general restrictions on entry into the Russian Federation to crossing the Administrative Boundary Line into Crimea from other parts of Ukraine.⁴⁸ Generally, Ukrainian citizens

⁴³ International and regional human rights mechanisms have also criticized laws that criminalize “extremism” for their targeting of non-violent conduct and their use of broad and imprecise definitions (A/73/362, para. 26).

⁴⁴ In addition to interfering with freedom of religion or belief, the documented arrests and detentions of Jehovah’s Witnesses could be considered arbitrary if discriminatory in relation to other religious groups and constituting a punishment for exercising a human right.

⁴⁵ www.supcourt.ru/documents/own/30487/ (in Russian only).

⁴⁶ The Special Rapporteur on freedom of religion or belief has stressed that the application of vague and overly broad definitions of “proselytism” should be avoided; see A/67/303, paras. 44–47 and 68.

⁴⁷ OHCHR, “Report on the Human Rights Situation in Ukraine, 16 February – 31 July 2020”, para. 112.

⁴⁸ According to article 12 (1) of the International Covenant on Civil and Political Rights, everyone lawfully within the territory of a State should, within that territory, have the right to liberty of movement and freedom to choose their residence.

without Russian Federation passports or residence permits in Crimea were prohibited from entering Crimea, with limited exceptions.⁴⁹ Human rights defenders interviewed by OHCHR cited COVID-19-related restrictions as the main impediment to free movement.

36. The Russian authorities granted entry to travellers visiting “close family members” in Crimea provided that the latter held Russian citizenship. “Close family members” comprised spouses, siblings, children, parents, grandchildren or grandparents, but excluded other relatives, such as aunts, uncles, nieces, nephews and cousins. Other relevant exceptions applied to persons travelling to Crimea for medical treatment or in connection with the death of a close relative there, and to caregivers for close relatives residing in Crimea who required care, provided that the medical condition was confirmed by documentation issued by a medical institution (under these exceptions, the relatives do not need to hold Russian citizenship). No exception was provided for Ukrainian citizens who own land plots in Crimea and face the risk of its forcible sale due to restrictions on land ownership by foreigners in “border areas”, as introduced into Russian law by Decree No. 201 of the President of the Russian Federation of 20 March 2020 (see para. 40 below).

37. OHCHR documented cases of individuals who were unable to enter Crimea despite having family connections and humanitarian reasons to travel. In one case, a lesbian woman from Kramatorsk was unable to reunite with her life partner in Crimea who holds Russian citizenship and had tested positive with COVID-19. The applicable exceptions provide no grounds for entry for same-sex couples, which *prima facie* may violate the prohibition of discrimination. In another case, a man, who was born in Crimea but resided in Kyiv, was denied entry into Crimea when he attempted to attend the funeral of his father who had died of COVID-19-related complications. A document provided by a border officer at the crossing informed that he had been banned from entry into the Russian Federation until 2050, which *de facto* denied him access to Crimea. The document provided to him referred to a generic provision of Russian law citing national security, public order and public health grounds as justification for the ban. The document contained no details of the specific risk or reasoning for denying him entry, but cautioned of criminal prosecution if he attempted to enter Crimea while the ban was in force. The man, who is a media worker, considers that the ban is connected to his pro-Ukrainian political position and an enforced disappearance that he survived during his previous trip to Crimea in 2014.⁵⁰ The man now has no possibility of visiting his mother, who continues to reside in Crimea, which seriously infringes on his and his mother’s right to respect for family life.

H. Right to an adequate standard of living and right to adequate housing

38. According to international human rights law, everyone has the right to an adequate standard of living for themselves and their families, including adequate food, clothing and housing.⁵¹ The Committee on Economic, Social and Cultural Rights has noted that instances of forced eviction are *prima facie* incompatible with the International Covenant on Economic, Social and Cultural Rights, and can only be justified in the most exceptional circumstances and in accordance with the relevant principles of international law.⁵² The Committee has also noted that effective remedies, including compensation, should be provided to those who are affected by eviction orders. Forced evictions require that appropriate due process protections are assured and that States take all appropriate measures, to the maximum of their available resources, to ensure that adequate alternative housing is available.⁵³ According to

⁴⁹ Decree No. 635-p, 16 March 2020 (available at <http://government.ru/docs/all/126728/>).

⁵⁰ While performing media work in Crimea during the referendum in March 2014, the man was abducted, beaten, and detained in a basement in an unknown location before being released at the Administrative Boundary Line.

⁵¹ See the International Covenant on Economic, Social and Cultural Rights, art. 11 (1).

⁵² Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991), para. 18; general comment No. 7 (1997), para. 12.

⁵³ *Ibid.*, general comment No. 7 (1997), paras. 13, 15–16.

international humanitarian law, an occupying Power must respect private property and is prohibited from confiscating it.⁵⁴

39. OHCHR continued to document cases of forced demolition of private houses in Crimea without compensation to owners. During the period under review, OHCHR documented 14 cases in which courts in Crimea authorized the demolition of private houses belonging to Crimean residents on the basis of non-compliance with Russian law. Six of the demolition orders were issued without the presence of the residents in court. None of the tenants was provided with compensation. On 24 November 2021, Russian court bailiffs, police officers and Special Purpose Police Detachment (OMON) agents demolished a private house of a 67-year-old Crimean Tatar man in the settlement of Morske, Sudak area, Crimea. The man, who was previously deported in 1944 during the Soviet internal displacement of Crimean Tatars to Central Asia, had been squatting on the land since 2002 and had unsuccessfully attempted to legalize his residence for 10 years prior to the temporary occupation of Crimea. The demolition order was issued by a local court in June 2021, following a court hearing in absentia. The man had reportedly not been informed about the hearing.

40. According to Decree No. 201 of the President of the Russian Federation restricting land ownership to Russian citizens and Russian legal entities in 27 territories of Crimea (see A/75/334, para. 38), “foreign” landowners (including Ukrainian citizens) had one year from March 2020 to either dispose of or re-register their land.⁵⁵ OHCHR received information that, in order to retain their land plots, some landowners had chosen to acquire Russian citizenship.⁵⁶ As a result, by the end of 2021, the number of land plots owned by non-Russian citizens or companies in Crimea had decreased by almost 50 per cent, from 11,572 to 6,600.⁵⁷ OHCHR believes that the majority of the remaining land plots belong to Ukrainian citizens, who are now at risk of losing their land in an enforced sale or direct transfer to the Russian authorities. In December 2021, Russian authorities publicly declared their intention to initiate legal proceedings in Crimean courts for the enforced sale of the land.⁵⁸

I. Measures taken by Ukraine towards residents of Crimea and internally displaced persons

41. In its resolution 76/179, the General Assembly supported the efforts of Ukraine to maintain economic, financial, political, social, informational, cultural and other ties with its citizens in Crimea in order to facilitate their access to democratic processes, economic opportunities and objective information.

42. During the period under review, the Parliament of Ukraine adopted law Law 1618-IX cancelling non-resident taxpayer status for persons originating from Crimea. The status negatively affected those with a registered address in Crimea in their passport and created obstacles in their access to banking services, for such tasks as maintaining bank accounts, receiving loans and conducting financial transactions, in other parts of the territory of Ukraine.⁵⁹

43. OHCHR continued to receive information that the State-owned Privatbank had taken no steps to alter its longstanding practice of blocking access to savings accounts held by

⁵⁴ Hague Regulations, art. 46. Article 53 of the Fourth Geneva Convention moreover prohibits any destruction by the occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations.

⁵⁵ For instance, property owners in Crimea were given the option of surrendering the land on which their property was located to municipal authorities, which would then lease it; see <https://tass.ru/ekonomika/10978903> (in Russian only).

⁵⁶ State Committee of State Registration and Cadastre of Crimea, 9 September 2021.

⁵⁷ Ibid., 3 December 2021.

⁵⁸ Ibid.

⁵⁹ OHCHR, “Report on the human rights situation in Ukraine: 16 November 2017 to 15 February 2018”, para. 130.

Crimean residents at the beginning of the occupation.⁶⁰ As a result, Crimean clients had to litigate against the bank to have access to their savings. The bank routinely refused to deal with the plaintiffs outside of litigation, blocked their access to online banking, and refused to acknowledge contracts or to hand over documentation required by their clients for litigation. As a result, litigation often spanned several years. Blocking access to savings had a negative impact on the economic and social rights of people in vulnerable situations, such as those wishing to pay for medical treatment.⁶¹

44. According to official statistics, 52,310 internally displaced persons from Crimea had registered in other parts of Ukraine as at December 2021, up from 47,897 as of January 2021. Registration as an internally displaced person continued to be a precondition for Ukrainian citizens with a registered address in Crimea to gain access to certain public services and social security in Government-controlled areas.⁶² OHCHR remains concerned that, in the absence of such registration, such services are not available to Ukrainian citizens with a registered address in Crimea.

IV. Conclusions and recommendations

45. In accordance with General Assembly resolution 76/179, the Secretariat undertook all steps necessary to ensure the full and effective coordination of all United Nations bodies with regard to the implementation of the resolution.

46. I continued to seek ways and means to ensure safe and unfettered access to Crimea by established human rights monitoring mechanisms, in particular by supporting the work of OHCHR and the human rights monitoring mission in Ukraine, and by engaging with relevant regional organizations and Member States, including the Russian Federation and Ukraine.

47. I continued to offer my good offices and to pursue my discussions relating to Crimea, involving all relevant stakeholders and including the concerns addressed by the General Assembly in its resolution 76/179. The Secretariat continued to refer to developments in and around Crimea, as appropriate, consistently reaffirming the commitment of the United Nations to the sovereignty, independence and territorial integrity of Ukraine within its internationally recognized borders, in accordance with relevant General Assembly and Security Council resolutions.

48. Despite those efforts, and despite the willingness of the Russian Federation and Ukraine to discuss the issue with the United Nations, it was still not possible to find a mutually acceptable formula to ensure access by OHCHR to Crimea. Such access is essential to ensure first-hand monitoring and reporting, including in the context of the COVID-19 pandemic. I urge the Russian Federation and Ukraine to make every effort to ensure unfettered access to Crimea by OHCHR and international and regional human rights monitoring mechanisms to enable the effective implementation of the relevant General Assembly resolutions. I will continue to seek opportunities and identify practical avenues in this regard.

49. I call upon the Russian Federation to uphold its obligations under international human rights law and international humanitarian law in Crimea. In particular, the Russian authorities are required to comply fully with the absolute prohibition of torture and cruel, inhuman or degrading treatment and to ensure the independent, impartial and effective investigation of all allegations of torture or cruel, inhuman or degrading treatment, enforced disappearance, arbitrary arrest and detention in Crimea. They

⁶⁰ OHCHR, “Report on the human rights situation in Ukraine: 16 August to 15 November 2018”, para. 107.

⁶¹ The cancellation of non-resident taxpayer status for persons originating from Crimea (see para. 42) has had no bearing on this issue.

⁶² The Special Rapporteur on the human rights of internally displaced persons recommends that Governments assist internally displaced persons on the basis of their needs and rights rather than treating the status of internally displaced person as “a precondition for their enjoyment of rights”; see A/HRC/35/27/Add.2, paras. 31–32.

have the further obligation to ensure that the rights of persons deprived of liberty are fully respected in accordance with international law. Lawyers must be able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference. I urge the Russian authorities to stop the practice of demolition of private houses in Crimea, contrary to their obligations under international law, and to provide compensation as appropriate for all those who have lost their homes as a result of such demolitions, where contrary to their obligations under international law. I call on the Russian authorities not to engage in discriminatory practices aimed at compelling inhabitants of the occupied territory to acquire Russian citizenship in violation of its obligation as an occupying Power.

50. I urge the Russian Federation to ensure that the right to the freedoms of opinion, expression, peaceful assembly, association, thought, conscience, religion and belief can be exercised by all individuals and groups in Crimea, without discrimination on any grounds or unjustified interference. COVID-19 prevention should not be used to impose disproportionate sanctions, such as detention for participation in peaceful assemblies in Crimea. I also call upon the Russian authorities to enable a safe environment for independent and pluralistic media outlets and civil society organizations, and to refrain from any retaliation or suppression of critical and alternative views. Media outlets reporting from or on Crimea should not be arbitrarily banned or subject to burdensome registration, reporting or public disclosure requirements, including on the basis of having received funding from foreign States or Governments, international and foreign organizations, or foreign citizens. I urge the Russian authorities to support human rights defenders and not interfere with their work, including during peaceful assemblies and monitoring of criminal trials. No individual in Crimea should be criminally charged or detained for practicing his or her religion or belief, including in the form of collective worship and proselytizing. Religious groups should enjoy access to their places of worship and should be able to gather freely for prayer and other religious practices. The Russian authorities should refrain from restricting freedom of movement between Crimea and other parts of Ukraine, including in the form of entry bans and linking the right to enter Crimea to Russian citizenship. Restrictions on free movement, which are motivated by COVID-19 prevention, must be proportionate, pursue a legitimate aim and be non-discriminatory. I also urge the Russian Federation to lift restrictions imposed on the Crimean Tatar community to conserve its representative institutions, including the ban on the Mejlis. The Russian authorities should also ensure the availability of education and instruction in the Ukrainian and Crimean Tatar languages to the extent possible that satisfies the demand for such education.

51. I call upon the Government of Ukraine to respect its obligations under international human rights law in relation to Crimean residents and to continue to facilitate access to public services for all citizens, regardless of their registration as internally displaced persons. I encourage the Ukrainian authorities to create mechanisms to facilitate access by Crimean residents to their pre-occupation bank accounts and savings.

52. I call upon Member States to support human rights defenders who work for the protection of human rights in Crimea and to continue to support the work of the United Nations to ensure respect for international human rights law and international humanitarian law in Crimea. It remains essential that other Member States encourage the Russian Federation and Ukraine to facilitate unimpeded access to Crimea by international and regional human rights monitoring mechanisms.
