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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

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

Report of the Secretary-General

Summary

The present report is submitted pursuant to General Assembly resolution 74/168, in which the Assembly requested the Secretary-General to report at its seventy-fifth session on the progress made in the implementation of that resolution, including options and recommendations to improve its implementation.

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I. Introduction

1. The present report of the Secretary-General on the situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, is submitted pursuant to General Assembly resolution 74/168, in which the Assembly requested the Secretary-General to report at its seventy-fifth session on the progress made in the implementation of that resolution, including options and recommendations to improve its implementation.

2. The report is the third report of the Secretary-General on the human rights situation in Crimea. The first report (A/74/276), submitted at the seventy-fourth session of the General Assembly, covered the period from January 2014 to 30 June 2019. The second report (A/HRC/44/21), which was an interim report, was submitted at the forty-fourth session of the Human Rights Council and covered the period from 1 July to 31 December 2019. The present and final report, submitted at the seventy-fifth session of the Assembly, covers the period from 1 July 2019 to 30 June 2020.

3. In its resolution 68/262, the General Assembly affirmed its commitment to the territorial integrity of Ukraine within its internationally recognized borders. In line with the relevant Assembly resolutions, in the present report, "the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation" is referred to as "Crimea", and the "Russian occupation authorities" as "Russian authorities in Crimea" and "authorities in Crimea". The report also takes into account, inter alia, the call of the Assembly upon the Russian Federation to "uphold all of its obligations under applicable international law as an occupying Power".

II. Methodology

4. In its resolution 74/168, the General Assembly requested the Secretary-General 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. With the objective of implementing the resolution, the Office of the United Nations High Commissioner for Human Rights (OHCHR) transmitted a note verbale to the Russian Federation on 31 January 2020 in which it sought its cooperation to conduct a mission in Crimea. In its reply of 17 February 2020, the Russian Federation expressed "principled non-acceptance" of the Assembly resolutions "on Crimean and Ukrainian issues", while noting that it was willing to host missions undertaken "in full compliance with the procedures applied for visiting any other subject of the Russian Federation".

5. Given those conditions, to date, OHCHR has not been able to find appropriate modalities to conduct a mission to Crimea in line with General Assembly resolution 74/168. The present report is therefore based on information collected through remote monitoring conducted by OHCHR through 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. The report is primarily based on direct interviews with victims of alleged human rights violations and abuses in Crimea. The mission verifies allegations by interviewing other stakeholders (including relatives of victims, witnesses, and lawyers), collecting documents, meeting officials of the Government of Ukraine and civil society representatives, and analysing court registries of the Russian Federation. It analyses legislation from Ukraine and the Russian Federation that has an impact on the enjoyment of human

rights in Crimea. It also conducts regular monitoring at the Administrative Boundary Line between Crimea and other parts of Ukraine.

6. Unless otherwise specified, the information in the present report was documented and verified by the mission, according to OHCHR methodology.[1] The Secretariat was guided by relevant rules of international humanitarian law and international human rights law in preparing the present report. In a further effort to ensure the implementation of resolution 74/168, OHCHR transmitted notes verbales on specific issues to the Governments of Ukraine and the Russian Federation and requests for information to relevant organizations (see also A/HRC/44/21, para. 7).

III. Human rights

A. Administration of justice and fair trial rights

7. International human rights law provides that, in the determination of any criminal charges, everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. An accused must be informed without delay of the particulars of the alleged charges and must be afforded all necessary rights and means of defence. Other fair trial rights include the presumption of innocence, the right to trial without undue delay, the right to examine (confront), or have examined, the witnesses against the accused, and the right to appeal or review.[2]

8. The Russian Federation has made major changes to the legal system that existed in Crimea before the beginning of the temporary occupation, including by applying the entirety of its criminal legislation to Crimea. International humanitarian law requires the occupying Power to 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.[3] Penal laws of the occupied territory should remain in force "with the exception that they may be repealed or suspended by the occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the [Fourth Geneva] Convention".[4] It further provides that the occupying Power may, however, subject the population of the occupied territory to provisions that are essential to enable the occupying Power to fulfil its obligations under that Convention, to maintain the orderly government of the territory, and to ensure the security of the occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.

9. According to the legal regime applied by the Russian Federation, cases involving allegations of membership of civilians in banned religious groups, espionage and subversive activities in Crimea are typically assigned to military courts

[1] *Training Manual on Human Rights Monitoring*, Professional Training Series No. 7 (United Nations publication, Sales No. E.01.XIV.2). The original 2001 version of the Manual is currently under revision, and the updated chapters are available at www.ohchr.org/EN/PublicationsResources/Pages/MethodologicalMaterials.aspx.

[2] International Covenant on Civil and Political Rights, art. 14; 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; and Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, vol. I, *Rules* (Cambridge, Cambridge University Press, 2005), rule 100.

[3] Regulations respecting the Laws and Customs of War on Land of 1907 (the Hague Regulations), art. 43.

[4] Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), art. 64.

located in the Russian Federation.[5] Contrary to international human rights standards,[6] such trials are held without justification of the necessity of trying this category of civilians in military courts. As at 30 June 2020, OHCHR had documented the convictions of 26 Ukrainian citizens (25 men and one woman) from Crimea by military courts in the Russian Federation since the beginning of the temporary occupation, and trials in military courts against 18 other Ukrainian citizens from Crimea were ongoing.

10. OHCHR received information indicating that such trials in military courts might not meet the fair trial standards and the guarantee of impartiality established under international human rights law. OHCHR also received credible allegations from lawyers that judges of military courts often favoured prosecutors when assessing defence motions, oral statements or evidence. According to the Special Rapporteur on the independence of judges and lawyers, using military courts to try civilians in the name of national security or counter-terrorism is "a common practice" that runs counter to all international standards (A/68/285, paras. 14 and 46).

11. OHCHR continued to document a trend, in high-profile cases, of restrictions to the right to a public hearing by excluding the family of the accused, the public and media from the courtroom on questionable grounds (A/HRC/44/21, para. 9). OHCHR documented seven cases (concerning 16 men) involving charges of membership in religious groups banned by the Russian Federation, espionage and subversive activities, where court hearings were held in camera.[7,8]

12. In at least five of the seven cases, courts delivered guilty verdicts in circumstances that raised concerns as to the right to a fair hearing by an impartial tribunal. In line with the previously documented pattern in Hizb ut-Tahrir cases,[9] judges continued to find defendants guilty almost exclusively on the basis of the testimonies of anonymous witnesses, pretrial written testimonies, and reports of linguistic or theological prosecution experts who had examined the content of defendants' private conversations or video materials. In four cases, judges dismissed without sufficient justification alternative expert reports provided by the defence.

13. Free legal assistance was limited to defendants in criminal cases and was often ineffective. OHCHR documented four criminal cases where the appointed State legal

[5] For example, the first instance military court is seated in Rostov-on-Don, while the appeal hearings often take place in Vlasikha city, Moscow region. The Office of the United Nations High Commissioner for Human Rights (OHCHR) notes that protected persons must be detained in the occupied country and, if convicted, must serve their sentences therein (see Fourth Geneva Convention, art. 76. On the issue of the transfer of prisoners from Crimea to the Russian Federation, see section C of the present report, on the rights of detainees).

[6] International Covenant on Civil and Political Rights, art. 14; and Human Rights Committee, general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 22.

[7] As justification, courts cited the "need to ensure the safety of the participants in the proceedings", without mentioning specific reasons in support of the decision.

[8] In paragraph 29 of its general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, the Human Rights Committee indicated that, even when a court establishes that there are exceptional circumstances justifying excluding the public from trial, "the judgment, including the essential findings, evidence and legal reasoning must be made public, except where the interest of juvenile persons otherwise requires, or the proceedings concern matrimonial disputes or the guardianship of children".

[9] Hizb ut-Tahrir is a Muslim group considered as a terrorist organization under Russian Federation law but not under Ukrainian legislation. Four Crimean Tatar men were arrested for alleged involvement in Hizb ut-Tahrir activities, seven men were sentenced to prison terms ranging from 7 to 19 years, and three individuals were released after serving five-year prison sentences. As at 30 June 2020, 64 Ukrainian citizens had been detained for alleged affiliation with that group, including one placed under house arrest. See also A/HRC/44/21, para. 11.

aid lawyers failed to provide effective representation, sometimes acting contrary to their clients' interests. In particular, lawyers failed to raise basic due process violations,[10] ignored defendants' complaints of torture, objected to their clients' motions during trial, and failed to take any action while present during ill-treatment of their clients by the Federal Security Service of the Russian Federation.

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

14. Both international human rights law[11] and international humanitarian law[12] contain absolute prohibitions of torture and cruel, inhuman or degrading treatment (hereinafter "ill-treatment"). Whenever there is reasonable ground to believe that an act of torture or ill-treatment has been committed in any territory under its jurisdiction, the State must ensure that its competent authorities proceed to a prompt, and impartial investigation.[13] International human rights law protects individuals from arbitrary arrest and detention by the State.[14] The Human Rights Committee has noted that, when private individuals or entities are empowered or authorized by a State to exercise powers of arrest or detention, the State party remains responsible for adherence and ensuring adherence to article 9 of the International Covenant on Civil and Political Rights.[15] The Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) specifies that, in an occupied territory, a civilian may only, at the most, be interned or placed in assigned residence for "imperative reasons of security".[16] Arbitrary deprivation of liberty is also prohibited under customary international humanitarian law.[17]

15. According to the information available to OHCHR, Russian authorities in Crimea have not prosecuted a single individual in relation to the 43 cases of enforced disappearances (39 men and four women) documented since March 2014, which comprise 11 people currently missing, one disappearance that led to a summary execution, one case where the detention of the person was subsequently acknowledged, and the cases of 30 detainees who have been released but provided with no redress.[18] The investigations, if initiated at all, have not reached the trial stage, even though 28 of the disappearances occurred in 2014.

16. In addition to enforced disappearances in the form of undeclared detention with the involvement of State agents, the Russian Federation did not inform the relatives of detainees about their whereabouts during transfers from Crimea to the Russian Federation. These transfers normally involved multiple stops at different penal

[10] Such as a prosecutor's interruption of the defendant's closing arguments, or the acceptance by the court of a witness's pretrial statement without calling the witness for questioning.

[11] International Covenant on Civil and Political Rights, arts. 7 and 10; and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

[12] Fourth Geneva Convention, art. 32; and Protocol I Additional to the Geneva Conventions of 1949, art. 75, para. 2.

[13] Convention against Torture, arts. 12 and 16; and Human Rights Committee, general comment No. 20 (1992) on the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, para. 14.

[14] International Covenant on Civil and Political Rights, art. 9.

[15] Human Rights Committee, general comment no. 35 (2014) on liberty and security of person.

[16] Fourth Geneva Convention, art. 78.

[17] Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*, rule 99.

[18] Enforced disappearances amount to a continuous human rights violation for as long as the person's fate and whereabouts remain unknown (Declaration on the Protection of All Persons from Enforced Disappearance, art. 17, para. 1). See also A/HRC/16/48, para. 39, and A/74/276, para. 17.

colonies and pretrial detention centres across the Russian Federation.[19] According to the Human Rights Committee, the prohibition of abductions and unacknowledged detention is absolute and not subject to derogation,[20] and States should investigate every enforced disappearance with the aim of bringing perpetrators to justice.[21]

17. OHCHR documented seven cases (involving seven men) of the Federal Security Service and other law enforcement agencies allegedly torturing or ill-treating Crimean residents[22] following their arrests on charges associated with the possession of firearms or explosives, espionage, sabotage or terrorism.[23] Five victims informed OHCHR that Federal Security Service officers used torture and ill-treatment to obtain confessions or incriminating testimony against others. Consistent with previously established patterns (A/74/276, para. 21), torture methods included mock executions, beatings, electric shocks and sexual violence.[24]

18. The alleged perpetrators of torture and ill-treatment have not been brought to account. Five of the victims reported torture or ill-treatment to Russian law enforcement agencies or courts. When investigations were initiated, they were usually conducted in the form of "inquiries".[25] The European Court of Human Rights has previously found that such inquiries fall short of what is required for an effective remedy.[26] Investigations were further undermined by the lack of documentation provided by medical personnel, who, in some cases, refused to document the victims' injuries (A/HRC/44/21, para. 15). When victims made complaints of torture or ill-treatment during trials, judges either ignored them, referring to the formal results of "pre-investigative inquiries", or dismissed them as unsubstantiated, leaving victims with no effective remedy.

19. OHCHR documented the arbitrary arrests of 11 men in Crimea.[27] All were arrested on suspicion of terrorism or participation in a terrorist or extremist organization, espionage, subversive activities or illegal storage of firearms or explosives. The victims complained of excessive force applied during their arrests, use of sacks as blindfolds, failure by arresting officers to state the reasons for the arrest or to produce an arrest warrant, and use of false administrative charges to legitimize the deprivation of liberty (A/HRC/44/21, para. 14).

[19] A/HRC/44/21, para. 25. The concealment from relatives of the whereabouts and destination of a detainee during a transfer may amount to an enforced disappearance. See CED/C/10/D/1/2013, paras. 10.4–10.6.

[20] Human Rights Committee, general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency, para. 13.

[21] Declaration on the Protection of All Persons from Enforced Disappearance, arts. 13–14; and European Court on Human Rights, *Yaşa v. Turkey*, Judgment, 2 September 1998, para. 114.

[22] One case occurred during the reporting period.

[23] Six individuals (four men and two women) were arrested in Crimea under those charges. In total, as at 30 June 2020, 19 individuals (16 men and three women) arrested in Crimea remained in detention on charges of State treason, espionage or storage of explosives.

[24] See also, OHCHR, "Report on the human rights situation in Ukraine: 16 August to 15 November 2019", para. 99.

[25] *Proverka soobscheniya o prestuplenii* ("inquiry into a report of a crime").

[26] Owing to the limited number of procedural steps that the inquiring officer is authorized to take and the fact that the victim is not granted any formal status as a "victim". On "pre-investigation inquiries" in the Russian Federation, see European Court of Human Rights, *Lyapin v. Russia*, Judgment of 24 July 2014, paras. 133–137.

[27] Five incidents occurred during the reporting period.

C. Rights of detainees

20. International human rights law requires that all persons deprived of liberty be treated with humanity and with respect for the inherent dignity of the human person.[28] Detainees have the right to the enjoyment of the highest attainable standard of physical and mental health.[29] International humanitarian law stipulates that protected persons accused of offences are to be detained in the occupied territory and that, if convicted, they are to serve their sentences therein.[30] Individual or mass forcible transfers from occupied territory to the territory of the occupying Power are prohibited, regardless of their motive.[31]

21. OHCHR documented that individuals detained in places of incarceration suffered from inadequate conditions of detention and limited access to medical care.[32] The only pretrial detention centre in Crimea remained overcrowded, with an average population of 1,164 in 2019, despite its official capacity of 747.[33] Former detainees complained of lack of personal space, insufficient natural light and air, cold temperatures, failure to meet basic sanitary and hygiene requirements, extremely poor quality of food, as well as lack of privacy as a result of the constant video surveillance of toilets. According to multiple accounts, only basic medicine, such as aspirin, was available, and those needing special medication had to depend on the limited amounts received from relatives.

22. Russian authorities in Crimea continued to transfer prisoners from Crimea to the Russian Federation, where they faced trial or served prison sentences. The actual number of individuals transferred over the course of six years, including pre-conflict prisoners, remains unknown.[34] OHCHR documented the transfers of nine individuals (eight men and one woman) from Crimea to penal colonies located in remote areas of the Russian Federation. The detainees, including prisoners serving life sentences, were consequently essentially divested of their right to family visits. Those who were transferred to face trial could not genuinely exercise their right of access to a lawyer of their choice, given the distance and financial costs of their lawyers' travel from Crimea to the Russian Federation. Ukrainian detainees, considered by the Russian authorities in Crimea to be Russian citizens as their registered address is in Crimea, experienced additional hardships. In addition to being denied Ukrainian consular visits during incarceration, upon release, they were not allowed to leave Crimea or to renounce their Russian citizenship until their post-prison supervision was over.

D. Freedoms of opinion and expression

23. International human rights law guarantees the right to hold opinions without interference, as well as freedom of expression, including the freedom to seek, receive

[28] International Covenant on Civil and Political Rights, art. 10, para. 1.

[29] International Covenant on Economic, Social and Cultural Rights, art. 12.

[30] Fourth Geneva Convention, art. 76.

[31] Ibid., art. 49.

[32] OHCHR received concerns regarding conditions of detention in the context of the coronavirus disease (COVID-19), in particular access to adequate medical care. Owing to the lack of access, however, OHCHR was not able to verify the situation. All Governments are encouraged to implement good practices and recommendations provided by OHCHR and the World Health Organization in their "Interim Guidance on COVID-19: focus on persons deprived of their liberty".

[33] For previous periods, see A/74/276, para. 26.

[34] OHCHR has verified the transfer of 213 prisoners from Crimea to the Russian Federation (202 men and 11 women) but believes that the actual number is much higher. See OHCHR, "Situation of human rights in temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)" (hereinafter "OHCHR first report on Crimea"), para. 116, available at www.ohchr.org/Documents/Countries/UA/Crimea2014_2017_EN.pdf.

and impart information and ideas of all kinds.[35] The Human Rights Committee has noted that a free, uncensored and unhindered press or other media is essential to ensure freedom of opinion and expression.[36]

24. OHCHR continued to document cases of Crimean residents sanctioned for expressing their views on social media or for distributing materials, including images and songs, considered as extremist under Russian Federation law. OHCHR identified 55 cases of individuals charged with extremism-related administrative offences.[37] On the basis of available information, including the nature of the charges, at least four of these cases raised concerns regarding the freedom to impart information.[38]

25. Journalists from Crimea informed OHCHR of ongoing interference with their professional work and with the media, resulting in a lack of independent reporting (see A/HRC/44/21, para. 33, for details). Russian authorities in Crimea continued to ban media workers from entry and work in Crimea. In January 2020, the Federal Security Service issued a travel ban against a prominent Ukrainian reporter known for covering developments in Crimea, including criminal cases against Crimean Tatars.[39] No explanation or elaboration of the specific grounds for the ban was provided, and the official document furnished to the reporter contains only a reference to an all-encompassing provision in Russian Federation legislation that cites grounds of national defence, security, public order and public health.[40] The travel ban will remain in force until 2054, raising questions as to its proportionality.

E. Freedom of thought, conscience and religion

26. International human rights law protects the right to have or to adopt and to manifest a religion or belief of one's choice in worship, observance, practice and teaching,[41] and international humanitarian law provides that protected persons are entitled to respect for their religious convictions and practice.[42]

27. All congregations of Jehovah's Witnesses in Crimea remained under a blanket prohibition (A/HRC/44/21, para. 35). Individual believers faced risks of detention and criminal prosecution under extremism-related charges for manifestation of their religious affiliation in worship, observance, practice and teaching. In an emblematic case, in March 2020, a Dzhankoi resident was convicted of an extremism-related offence for practicing his faith as a Jehovah's Witness,[43] specifically, for engaging in Bible studies, religious songs and prayers at his home. The court found that those

[35] International Covenant on Civil and Political Rights, art. 19.

[36] Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression, para. 13.

[37] Arts. 13.15, para. 2, 20.3 and 20.29 of the Code of Administrative Offences of the Russian Federation. The definition of extremism is contained in Federal Law No. 114-FZ on combating extremism of 25 July 2002 of the Russian Federation.

[38] These cases concern social media posts of songs and graphic symbols of organizations such as Hizb ut-Tahrir and the Azov Battalion, as well as obscene language used against the President of the Russian Federation.

[39] See OHCHR, "Report on the human rights situation in Ukraine, 16 November 2018–15 February 2019", para. 117.

[40] Federal Law of the Russian Federation on the procedures for Entry into and Exit from the Russian Federation, art. 27, para. 1.1.

[41] International Covenant on Civil and Political Rights, art. 18.

[42] Hague Regulations, art. 46; and Fourth Geneva Convention, art. 27.

[43] The person was sentenced to six years of imprisonment and a five-year "denial of the right to conduct outreach, awareness and public speaking activities … including on the Internet". The Supreme Court of Crimea upheld the judgment in May 2020. The victim was subsequently transferred to the Russian Federation to serve his prison sentence.

practices constituted the crime of managing an extremist organization.[44] OHCHR received information that, in the first six months of 2020, law enforcement bodies conducted at least five searches of houses of other Jehovah's Witnesses in Crimea.

28. OHCHR recorded 24 court cases against religious organizations or individuals for proselytizing-related offences, which included nine Protestants, five Muslim organizations, two Messianic Jewish organizations and four Hare Krishna individuals.[45] The cases stem from the application of anti-extremist laws of the Russian Federation commonly referred to as the "Yarovaya package".[46] In practice, groups and individuals are prosecuted for posting religious content on social media, organizing meditations in parks and leading Qur'an study groups and religious dinners on private property without displaying a sign with the full registered name of the religious organization. In 2020, Muslim communities not affiliated with the Spiritual Administration of Muslims of Crimea faced administrative charges and restrictions in the use of mosques. For example, following an inspection by law enforcement authorities of a mosque in the Sovietskyi district in March 2020, an imam was prosecuted in an administrative case for delivering a sermon.[47] The community was banned from using the mosque.[48]

F. Freedoms of peaceful assembly and association

29. While international human rights law permits certain limitations or restrictions on the freedoms of peaceful assembly and association,[49] the Human Rights Committee has noted that having to apply for permission from the authorities to hold any assembly "undercuts the idea that peaceful assembly is a basic right".[50] States must refrain from unduly interfering with freedom of association and must ensure that persons belonging to ethnic, religious or linguistic minorities are not denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.[51]

30. Russian Federation legislation applied in Crimea contains a blanket provision requiring any person seeking to hold an assembly to receive "clearance" from local authorities.[52] This restrictive approach is exacerbated by the practice of issuance by law enforcement authorities of written notices warning potential participants of assemblies that they may be prosecuted for offences, including "extremist" actions, should they

[44] OHCHR is aware of three other such criminal cases, one of which reportedly resulted in a six-year prison sentence.

[45] All judgments were rendered in 2019.

[46] Charges are pressed under paragraph 4 (illegal missionary activities) and paragraph 3 (conduct of activities by religious organizations without indication of the full name, including production of printed and digital content) of article 5.26 of the Code of Administrative Offences. See OHCHR first report on Crimea, paras. 138–139.

[47] The court convicted the imam of "organizing a mass event in a public place that led to the disruption of public order" and fined him 30,000 roubles. The charges were based on the non-recognition of the legal title of the community to the mosque. Between January and June 2020, OHCHR verified two similar administrative cases against Muslims, in Alushta and Simferopol.

[48] The local authorities had granted the community with the right to use the building in 2004. In 2020, they revoked that decision and declared that the community had no legal title to the mosque.

[49] International Covenant on Civil and Political Rights, arts. 21–22.

[50] Human Right Committee, general comment No. 37 (2020) on the right of peaceful assembly, para. 70.

[51] International Covenant on Civil and Political Rights, art. 27.

[52] Federal Law on "Assemblies, protests, demonstrations, pickets, rallies", art. 12. See, on other regulatory restrictions, OHCHR first report on Crimea, paras. 147–151.

proceed to participate.[53] In one case verified by OHCHR, in advance of a public march called for by the Mejlis[54] on 3 May 2020, Crimean police presented a written warning to a Crimean Tatar man, cautioning him from committing a long list of offences, including extremism and separatism-related crimes. When the addressee questioned the basis for issuing such a notice, the police refused to explain the grounds.

31. As at 30 June 2020, notwithstanding the provisional order of the International Court of Justice,[55] the activities of the Mejlis remained banned. Russian authorities in Crimea announced new criminal charges against two key leaders of the Crimean Tatar community, both of whom were banned from entering Crimea in 2014.[56] The charges include allegations of "illegal entry into the Russian territory" related to their entry into Crimea in 2014 in contravention of the travel ban, "possession of firearms and ammunition" and the organization of "mass disturbances" during a protest in support of Ukrainian territorial integrity on 26 February 2014.[57]

G. Right to education in one's native language

32. It is recommended in international human rights standards applicable to education that instruction in one's mother tongue be "extended to as late a stage in education as possible".[58] In addition, education should be aimed at developing, inter alia, respect for the child's parents, cultural identity, language and values, the national values of the country in which the child lives and the country from which the child may originate.[59]

33. In its concluding observations on the sixth periodic report of the Russian Federation, the Committee on Economic, Social and Cultural Rights expressed concern about "restrictions faced by Crimean Tatars and ethnic Ukrainians in exercising their economic, social and cultural rights, particularly the rights to work, to express their own identity and culture and to education in the Ukrainian language" (E/C.12/RUS/CO/6, para. 9). The provisional order of the International Court of Justice includes "ensur[ing] the availability of education in the Ukrainian language" in Crimea.[60]

34. In line with the previously reported trend (A/74/276, para. 50), the 2019/20 academic year was marked by a further decline in the number of schoolchildren educated in the Ukrainian language in Crimea. According to Russian Federation statistics,[61] 206 students (0.1 per cent of all students) were taught subjects in

[53] For example, OHCHR received information regarding the issuance, in April 2020, of at least 19 warnings against participation in peaceful assemblies planned by the Mejlis of the Crimean Tatar People. Other practices inhibiting assemblies and associations included pressure on landlords of facilities where Crimean Tatar civic groups planned to conduct meetings. See A/HRC/44/21, para. 34.

[54] The Mejlis is a self-governing institution of the Crimean Tatar people holding executive powers.

[55] International Court of Justice, *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*, Order of 19 April 2017, General List No. 166, para. 106.

[56] OHCHR first report on Crimea, para. 128.

[57] The latter two charges relate to alleged conduct predating the extension of Russian Federation legislation to Crimea, in disregard of the principle of non-retroactive application of criminal law (see International Covenant on Civil and Political Rights, art. 15).

[58] United Nations Educational, Scientific and Cultural Organization, "Education in a multilingual world", Education Position Paper (Paris, 2003), part III, principle I.

[59] Convention on the Rights of the Child, art. 29; and Committee on the Rights of the Child, general comment No. 1 on the aims of education, CRC/GC/2001/1, 17 April 2001.

[60] *Ukraine v. Russian Federation*, para. 106 (1) (b).

[61] Statistics cited in the present section exclude Sevastopol.

Ukrainian, and 5,261 students learned Ukrainian as a regular subject, an elective course or within extracurricular activities.[62] The number of Russian-language schools offering classes in the Ukrainian language decreased from five in 2018/19 to one in 2019/20. According to authorities in Crimea, this is due to a lack of interest among parents to proactively request classes in Ukrainian.[63]

35. According to Russian Federation statistics, the use of the Crimean Tatar language in school instruction has slightly increased since the previous academic year. In 2019/20, 6,400 students (3 per cent) received instruction in Crimean Tatar, and 31,190 students learned Crimean Tatar as a regular subject, an elective course or within extracurricular activities.[64] The number of Russian-language schools offering classes in Crimean Tatar language decreased from 27 to 22, while the number of Crimean Tatar classes in Crimean Tatar schools continued to rise. Concerns remained about discrepancies between the formal language status of a native language school or class and the de facto use of Crimean Tatar and Ukrainian in the curriculum, and the impact that it could have on the well-being and development of children belonging to those ethnic minorities (A/74/276, para. 52).

H. Property rights

36. The Universal Declaration of Human Rights refers to the right to own property and the right not to be arbitrarily deprived of one's property.[65] The Committee on Economic, Social and Cultural Rights has noted that the right to adequate housing, derived from the right to an adequate standard of living,[66] infers that all persons should possess a degree of security of tenure, which guarantees legal protection against forced eviction.[67] In addition, an occupying Power must respect private property and is prohibited under international humanitarian law from confiscating it.[68]

37. OHCHR documented cases of private homes belonging to Crimean Tatars in the "Strelkovaya" settlement in Simferopol that had been demolished by Russian authorities in Crimea without compensation to the owners. The settlement consisted of unauthorized dwellings constructed on public land by formerly displaced persons.[69] In 2015, Russian authorities in Crimea adopted a legislative framework with the aim of rectifying the unauthorized appropriation of land by allowing those affected to acquire the land plot on which their home was built.[70] Nevertheless, OHCHR documented seven cases of homeowners from "Strelkovaya" being arbitrarily denied

[62] During the previous academic year, the numbers were respectively 249 (0.2 per cent) and 10,600 students.

[63] States are encouraged to approach the provision of education rights proactively. See, for example, Organization for Security and Cooperation in Europe, High Commissioner on National Minorities, *Hague Recommendations regarding the Education Rights of National Minorities and Explanatory Note* (The Hague, 1996), para. 4.

[64] In 2019, the numbers were respectively 6,100 (3.1 per cent) and 27,700 students.

[65] Universal Declaration of Human Rights, art. 17.

[66] See International Covenant on Economic, Social and Cultural Rights, art. 11, para. 1.

[67] Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing, paras. 1 and 8 (a). See also its general comment No. 7 (1997) on forced evictions, para. 12.

[68] Hague Regulations, art. 46. In addition, article 53 of the Fourth Geneva Convention 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".

[69] Returnees from the mass displacement of Crimean Tatars and other minority groups from Crimea in 1944.

[70] Law of Crimea No. 66-ZRK/2015 of 15 January 2015.

that right by local authorities.[71] OHCHR further documented 14 cases of Crimean Tatar residents (10 men and four women) going to court in 2017 and 2018 to secure tenure rights or otherwise oppose the demolition of their houses, albeit with no result. According to available data, by 5 July 2019, 334 of 345 houses previously located in "Strelkovaya" had been demolished. Although Russian authorities in Crimea claim that the affected homeowners have received compensation,[72] OHCHR identified at least three cases (two men and one woman) of courts issuing demolition orders without compensation, which may amount to forced eviction.

38. On 20 March 2020, the President of the Russian Federation issued a decree[73] by which 19 territories in Crimea and 8 in Sevastopol were granted the status of "border areas" of the Russian Federation. This effectively restricts land ownership to Russian citizens and Russian companies. According to Russian authorities in Crimea, 11,572 land plots within the "border areas" of Crimea belong to "foreigners", including 9,747 (more than 82 per cent) that belong to Ukrainian citizens.[74] Unless those people obtain Russian Federation citizenship or dispose of their land by March 2021, they risk losing their land in an enforced sale or nationalization.

IV. Prohibition on forced conscription

39. Under international humanitarian law, an occupying Power may not compel protected persons to serve in its armed or auxiliary forces.[75]

40. The Russian Federation continued to conscript male Crimean residents, including those holding Ukrainian citizenship, into its armed forces. At least 3,000 male residents were enlisted during the tenth conscription campaign.[76] By January 2020, this had brought the total number of male residents of Crimea conscripted since 2015 to at least 21,000 men. During each campaign, a contingent of conscripts from Crimea is deployed to bases located in the Russian Federation.[77]

41. The Russian Federation criminal law, as applied by the Russian Federation in Crimea, prescribes fines, correctional labour and imprisonment for up to two years for draft evasion.[78] OHCHR documented at least 24 new prosecutions for draft evasion[79] and 16 convictions resulting in criminal fines.[80]

[71] Local authorities unlawfully ignored applications filed by owners in 2015 and 2016. In 2016, they leased the land plot on which "Strelkovaya" lies to a private company, which has since begun construction on site of a residential apartment complex.

[72] On 22 August 2019, a Russian parliamentarian from Crimea, Ruslan Balbek, posted on social media that former residents of "Strelkovaya" had received 127 million roubles in compensation from a private developer, that 63 buildings had been voluntarily demolished and that the majority of former residents had received alternative land plots. See www.facebook.com/permalink.php?story_fbid=2277183152594822&id=100009094776367.

[73] Decree of the President of the Russian Federation No. 201 of 20 March 2020.

[74] State Committee of State Registration and Cadastre of Crimea, 13 April 2020.

[75] Fourth Geneva Convention, art. 51.

[76] The number does not include conscripts from Sevastopol which, to the knowledge of OHCHR, have not been reported for this round of conscription.

[77] All figures are approximate and primarily based on the analysis of data made available by the Ministry of Defence of the Russian Federation. See also A/HRC/44/21, para. 39.

[78] Russian Federation, Criminal Code, art. 328. Conviction for draft evasion does not absolve the person from the obligation to complete military service.

[79] OHCHR was in a position to verify the cases that had been brought to court by 1 April 2020.

[80] In other cases, verdicts were not verifiable through the Russian Federation court registry. As at 31 March 2020, the registry listed 87 cases of draft evasion in Crimea since 2017, but not all verdicts were publicly available. Of those, OHCHR documented 71 guilty verdicts issued by courts in Crimea.

V. Population transfers

42. International humanitarian law prohibits individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the occupying Power, regardless of their motive.[81]

43. Courts in Crimea issued 189 transfer orders concerning individuals considered as foreigners under Russian Federation immigration law. According to available judgments, at least 73 Ukrainian citizens (63 men and 10 women) were transferred to other parts of Ukraine because they were considered as not having residency rights in Crimea. The majority of them had residency registration in other parts of Ukraine and lacked legal status under Russian immigration law and legitimate income, family or social ties on the peninsula (see also A/HRC/44/21, paras. 43 and 44).

44. OHCHR noted a decrease in transfer orders issued in Crimea in immigration cases, compared with previous years. There were 278 such transfer orders during the first half of 2018, 145 in the first six months of 2019, and 88 in the same period in 2020. This positive trend may be attributed, in particular in 2019, to a more lenient approach by courts in Crimea to the issuance of monetary fines in immigration-related cases,[82] a simplified procedure for acquiring Russian Federation citizenship in Crimea,[83] and the temporary ban on deportations and transfers imposed from 15 March 2020 to 15 June 2020 in response to the coronavirus disease (COVID-19).[84]

45. Under international humanitarian law, the occupying Power must not deport or transfer parts of its own civilian population into the territory that it occupies.[85] The International Court of Justice stated that this provision also prohibits "any measures taken by an occupying Power in order to organize or encourage transfers of parts of its own population into the occupied territory".[86] According to statistics published by the Russian Federation, 32,206 people changed their residency registration from regions of the Russian Federation to Crimea during 2019, bringing to 172,404 the total number of relocations between 2014 and 2019.[87,88] The statistics for 2019 represent a slight increase from previous years, namely, 31,974 relocations in 2018 and 29,500 in 2017.

[81] Fourth Geneva Convention, art. 49.

[82] For example, during the first six months of 2020, Crimean courts imposed monetary fines against at least 232 individuals considered as foreigners under Russian Federation law. See also A/HRC/44/21, para. 44.

[83] In 2019, 12,290 individuals considered as foreigners acquired Russian Federation citizenship in Crimea. Report of the Ministry of Internal Affairs of the Russian Federation, available at https://мвд.рф/Deljatelnost/statistics/migracionnaya/item/19365693/.

[84] Decree of President of the Russian Federation No. 274 of 18 April 2020. Despite the ban, OHCHR documented five cases where courts issued transfer orders of individuals considered as foreigners.

[85] Fourth Geneva Convention, art. 49, sixth para.

[86] International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, para. 120.

[87] Official figures provided by the Russian Federation are likely to include movements between "the Republic of Crimea" and city of Sevastopol, which are not covered by this prohibition.

[88] A/74/276, para. 63.

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

46. Under international human rights law, Ukraine is obligated to use all available means to ensure respect for the enjoyment of human rights in Crimea.[89]

47. Ukraine took steps to improve the conditions for crossing the Administrative Boundary Line. Ukrainian authorities renovated facilities at the "Chonhar" and "Kalanchak" crossing points[90] and started installing "centres of administrative services".[91] In addition, a new regulation has eased restrictions on travel for some categories of children between Crimea and other parts of Ukraine.[92] However, travellers interviewed by OHCHR indicated the absence of public transport between Crimea and other parts of Ukraine as a key impediment to increasing free movement.[93]

48. According to official statistics, 45,000 internally displaced persons from Crimea had registered in other parts of Ukraine as at 15 April 2020, up from 39,053 as at 31 May 2019. Under Ukrainian legislation, access to a range of benefits and public services, including pension and social security, by individuals with a registered address in Crimea, including current Crimean residents, is linked to internally displaced person registration.[94]

49. Crimean residents lack access to Ukrainian retirement pensions, including amounts accumulated before the beginning of the temporary occupation.[95] Although access to pensions is, in principle, granted to registered internally displaced persons from Crimea, OHCHR noted a pattern of denial of payments by the Pension Fund of Ukraine when applicants could not produce pension case files, which are normally kept by authorities in Crimea. In one case, a disabled female pensioner from Crimea who had refused Russian Federation citizenship and registered as an internally displaced person in Kyiv was barred from access to either a Ukrainian or Russian pension.[96] Broadening access to pensions is a key element of the Sustainable Development Goals.[97]

50. Concerns regarding discrimination suffered by Crimean residents with regard to access to banking services persisted. For banking purposes, Ukrainian legislation treats individuals with a registered address in Crimea in their passports as "non-residents". This either excludes them from banking services or creates significant obstacles (see A/HRC/44/21, para. 49, for details). While the National

[89] See CCPR/C/MDA/CO/2, para. 5; and European Court of Human Rights, *Ilascu and Others v. Moldova and Russia*, Application No. 48787/99, Judgment, 8 July 2004, para. 331.

[90] OHCHR, "Report on the human rights situation in Ukraine, 16 November 2019–15 February 2020", paras. 119–120.

[91] Understaffing and lack of capacity in those centres have hampered the delivery of services, a situation that has been further exacerbated by the COVID-19 pandemic.

[92] The changes became effective on 9 February 2020. See OHCHR, "Report on the human rights situation in Ukraine, 16 November 2019–15 February 2020", para. 121.

[93] Ukraine had abolished all public transportation between Crimea and other parts of Ukraine by 2015. See OHCHR first report on Crimea, para. 129.

[94] Some government services are not linked to internally displaced person registration, such as the issuance and renewal of passports and identification cards. Consequently, 3,888 passports and identification cards were issued or renewed to Crimean residents in Kherson region (the closest government-controlled region to Crimea) in February 2020.

[95] This may amount to an interference with the right to property. See European Court of Human Rights, *Pichkur v. Ukraine*, Judgment, 7 November 2013, paras. 41 and 43.

[96] The person was unable to produce the physical pension files, which remained in Crimea. OHCHR, "Report on the human rights situation in Ukraine, 16 May 2019–15 August 2019", para. 116.

[97] Target 1.3 of the Sustainable Development Goals reads: "Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable".

Bank of Ukraine has amended its regulation to alleviate some restrictions applied to Crimean residents,[98] Ukrainian law remains unchanged.[99]

51. Residents of Crimea remained legally obligated to complete a judicial procedure before registering births or deaths occurring in Crimea with the administrative bodies in parts of Ukraine outside Crimea.[100] Consequently, they face additional filing obligations and costs, which are likely to inhibit the swift registration of births and deaths.[101] Birth registration for all is a Sustainable Development Goal target.[102]

52. The Central Electoral Commission of Ukraine established a simplified procedure for changing a voter's address to the place of factual residence, effective 1 July 2020, in advance of local elections to be held in October.[103] This mechanism will facilitate voter registration for internally displaced persons in the communities where they de facto reside.[104]

VII. Conclusions and recommendations

53. **In line with General Assembly resolution 74/168, the Secretariat undertook all steps necessary to ensure the full and effective coordination of all United Nations bodies with regard to the implementation of that resolution.**

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

55. **I continued to seek opportunities to offer my good offices and pursue discussions relating to Crimea, involving all relevant stakeholders and raising concerns addressed in General Assembly resolution 74/168. During briefings to the Security Council on developments in Ukraine, 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.**

56. **Despite such efforts and 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, as well as**

[98] The amendments entered into force on 27 April 2020.

[99] Law of Ukraine of 12 August 2014 on the establishment of the free economic zone "Crimea" and on specifics of economic activity in the temporarily occupied territory of Ukraine.

[100] A special expedited procedure is foreseen under article 317 of the Civil Procedure Code of Ukraine. The current framework provides no mechanism for recognizing marriages and divorces concluded in Crimea as legally valid under Ukrainian law.

[101] In practice, the judicial procedure does not replace the administrative one. Applicants from Crimea must obtain a formal refusal from an administrative body before making a filing to the court.

[102] Target 16.9 of the Sustainable Development Goals reads: "By 2030, provide legal identity for all, including birth registration".

[103] Resolution 88 of 18 May 2020.

[104] Internally displaced persons had already been able to participate in other types of elections, including the presidential election. The adoption of the Electoral Code and new voter registration procedure has expanded the electoral rights of internally displaced persons.

Ukraine, to undertake all efforts to ensure unfettered access to Crimea by OHCHR and other relevant United Nations entities, as well as international and regional human rights monitoring mechanisms, to enable the effective implementation of General Assembly resolutions 71/205, 72/190, 73/263 and 74/168. I will continue to seek possible opportunities and to identify practical avenues in this regard.

57. **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 ensure the independent, impartial and effective investigation of all allegations of ill-treatment, torture, arbitrary arrests and detentions, and enforced disappearances in Crimea. They have the duty to ensure that persons deprived of liberty benefit from all legal guarantees. The Russian authorities are also urged to ensure that freedoms of opinion and expression and the right to freedoms of peaceful assembly, association, thought, conscience and religion can be exercised by any individual and group in Crimea, without discrimination on any grounds or unjustified regulatory barriers. I call upon the Russian authorities in Crimea to end the practices of requiring prior authorization for peaceful assemblies and issuing warnings to potential participants in those assemblies. I also call upon them to enable a safe environment for independent and pluralistic media outlets and civil society organizations, and to lift restrictions imposed on the Crimean Tatar community to conserve its representative institutions, including the ban on the Mejlis. The Russian authorities in Crimea need to ensure the availability of education in the Ukrainian language. Other recommended measures include ending the conscription of protected persons residing in Crimea into the armed forces of the Russian Federation, restoring property rights of all former owners deprived of their titles owing to "nationalization" and confiscations, and respecting the right to adequate housing of all tenants residing in social housing in Crimea. It is also critical to end the transfers of protected persons, including detainees, outside the occupied territory, and to ensure that all protected persons previously transferred be allowed to return to Crimea.**

58. **I urge Ukraine to respect its obligations under international human rights law in relation to Crimean residents. This includes continuing to facilitate freedom of movement to and from Crimea through improvements to crossing conditions and the removal of regulatory barriers, refraining from requiring internally displaced person registration as a precondition to the enjoyment of rights and simplifying access by current and former residents of Crimea to all public services and benefits guaranteed to residents in other parts of Ukraine, including civil registration procedure, identification documents, social security and banking services.**

59. **It remains essential for other Member States to encourage the Russian Federation and Ukraine to facilitate the granting of unimpeded access to Crimea by international and regional human rights monitoring mechanisms. I urge Member States to continue to advocate respect for international human rights law and international humanitarian law in Crimea. I also urge Member States to support human rights defenders who work 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.**