

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	394
Land:	Ukraine
Kilde:	UN Human Rights Council
Titel:	Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine. Report of the Secretary-General
Udgivet:	19. juni 2020
Optaget på baggrundsmaterialet:	6. oktober 2020



General Assembly

Distr.: General
19 June 2020

Original: English

Human Rights Council

Forty-fourth session

15 June–3 July 2020

Agenda item 2

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Situation of human rights in the 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 74/168, in which the Assembly requested the Secretary-General to report to it at its seventy-fifth 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 forty-fourth session.

* The present document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B.



I. Introduction

1. The present interim 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 to it at its seventy-fifth 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 forty-fourth session.
2. The present report is the second report of the Secretary-General on the human rights situation in Crimea. The first report (A/74/276) covered the period from January 2014 to 30 June 2019. The present report covers the period from 1 July to 31 December 2019.
3. In accordance with General Assembly resolution 68/262, which affirmed the territorial integrity of Ukraine, within its internationally recognized borders, and Assembly resolutions 71/205, 72/190, 73/263 and 74/168, the present report refers to the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation as “Crimea”, and takes into account, inter alia, the fact that the General Assembly urged 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 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 the resolution, on 31 January 2020, the Office of the United Nations High Commissioner for Human Rights (OHCHR) transmitted a note verbale to the Russian Federation seeking its cooperation to conduct a mission in Crimea. In its reply, the Russian Federation expressed “principled non-acceptance” of the General 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, OHCHR has not to date 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 the OHCHR human rights monitoring mission in Ukraine, which has worked in Ukraine and remotely monitored the situation in Crimea on a continuous basis since March 2014, including through regular monitoring at the crossing points of the Administrative Boundary Line between Crimea and the rest of Ukraine. The report is primarily based on direct interviews with victims of alleged human rights violations and abuses in Crimea. The monitoring mission verifies allegations through the collection of information from a range of other sources, including relatives of victims, witnesses, lawyers, government officials, civil society representatives and official government documents and court registries. It also analyses legislation from Ukraine and the Russian Federation that affects the enjoyment of human rights in Crimea.
6. Unless otherwise specified, the information contained in the present report was documented and verified by the monitoring mission, in accordance with OHCHR methodology.¹ Information is considered verified by OHCHR when there are reasonable grounds to believe that the events took place as described. OHCHR is committed to

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. The updated chapters are available at www.ohchr.org/EN/PublicationsResources/Pages/MethodologicalMaterials.aspx.

protecting its sources and systematically assesses the potential risks of harm and retaliation that those who were interviewed might face. The Secretariat was guided by the relevant rules of international humanitarian law and international human rights law in preparing the present report.

7. In further efforts to ensure the implementation of resolution 74/168, OHCHR transmitted notes verbales on specific human rights issues to the Governments of Ukraine and the Russian Federation. The Government of Ukraine provided information on citizens of Ukraine detained in Crimea and on detainees transferred from Crimea to the Russian Federation. The Government of the Russian Federation did not provide the information that OHCHR requested, citing “principled non-acceptance” of the resolution. OHCHR also sent requests for information to relevant organizations, including the Council of Europe, the Organization for Cooperation and Security in Europe and the International Committee of the Red Cross. The Council of Europe provided information on cases that were pending before the European Court of Human Rights.²

III. Human rights

A. Administration of justice and fair trial rights

8. International human rights law provides that in the determination of any criminal charges, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. Other fair trial rights, applicable to any person facing criminal charges, include the presumption of innocence, the right to defend oneself or be assisted by a lawyer of one’s own choice, the right to trial without undue delay and the right to appeal or review.³ 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.⁴ It also provides that the penal laws of the occupied territory shall 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 Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention). It further provides that the occupying Power may, however, subject the population of the occupied territory to provisions which 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.⁵ During the reporting period, the Russian Federation continued to apply its criminal legislation in Crimea.

9. Court hearings concerning allegations of membership of Hizb ut-Tahrir,⁶ espionage and subversive activities, which were likely to attract public attention, were often held in camera, with the public, family members and media banned from the courtroom. In three cases documented by OHCHR, as justification for the closed hearings, courts in Crimea relied on the “need to ensure the safety of the participants in the proceedings” without mentioning specific reasons in support of the decision to restrict the defendants’ right to a public hearing. OHCHR received information from the defendants’ lawyers and relatives asserting that the practice of excluding the public from court hearings had been used to limit public awareness of trials, restrict public scrutiny and exert additional pressure on the

² Between 1 July 2019 and 31 December 2019, 153 individual applications concerning Crimea were introduced and were pending before the European Court of Human Rights. As at 28 February 2020, the total number of individual applications concerning Crimea that were pending was just over 900.

³ International Covenant on Civil and Political Rights, arts. 14–15; Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), art. 6.

⁴ Regulations respecting the Laws and Customs of War on Land of 1907 (the Hague Regulations), art. 43.

⁵ Fourth Geneva Convention, art. 64.

⁶ Hizb ut-Tahrir is a Muslim group considered as a terrorist organization under the law of the Russian Federation, but not under Ukrainian legislation.

defendants. The right to a public hearing was further diminished because the judgments in these cases were not published.⁷

10. In the majority of cases concerning alleged espionage or subversive activities, OHCHR received information that the Federal Security Service of the Russian Federation had deprived defendants of their right to be represented by legal counsel of their own choosing by imposing State-appointed lawyers and subsequently refusing the defendants access to their privately retained lawyers. In some cases, where defendants had the means to retain private lawyers, Federal Security Service agents allegedly sought to coerce the defendants to dismiss their lawyers, reportedly threatening them with ill-treatment if they failed to do so.⁸ Once assigned to the case, State-appointed lawyers often appear not to have provided effective representation, sometimes allegedly failing to act in accordance with their clients' interests. OHCHR documented cases in which State-appointed lawyers failed to raise basic due process violations,⁹ 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 Federal Security Service officers.

11. In four cases verified by OHCHR, courts delivered guilty verdicts in disregard of defendants' right to a fair hearing by a competent, independent and impartial tribunal.¹⁰ In two of these cases, the judges based their verdicts primarily on the testimony of anonymous witnesses. These witnesses gave evidence while screened from the public gallery, using voice-altering equipment, preventing the judge and others from seeing or hearing them in their natural state. In some of these cases, the judges overly relied on reports of prosecution experts examining the contents of the defendants' private conversations. In addition, alternative expert reports provided by the defence were disregarded and motions by the defence to examine the prosecution's experts in court were denied. In at least two other high-profile cases, courts relied on pretrial written testimony and confessions that had been retracted.

B. Right to be free from torture and the rights to life and to liberty and security of person

12. Torture and cruel, inhuman or degrading treatment ("ill-treatment") are prohibited by both international humanitarian law¹¹ and international human rights law.¹² International human rights law requires the State concerned to provide redress for torture and ill-treatment and to ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.¹³ With regard to the right to liberty and

⁷ In 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 that justify excluding the public from a 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", para. 29.

⁸ See, e.g., OHCHR, "Report on the human rights situation in Ukraine: 16 August to 15 November 2019", para. 96. Available at www.ohchr.org/Documents/Countries/UA/28thReportUkraine_EN.pdf.

⁹ Such as a prosecutor's interruption of the defendant's closing arguments or the court's acceptance of a witness's pretrial statement without calling him or her for questioning.

¹⁰ Including courts in the Russian Federation hearing cases concerning citizens of Ukraine living in Crimea.

¹¹ Fourth Geneva Convention, art. 32; 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 (2); and International Committee of the Red Cross, *Customary International Humanitarian Law, Volume I: Rules* (Cambridge, Cambridge University Press, 2005), rule 90.

¹² Universal Declaration of Human Rights, art. 5; International Covenant on Civil and Political Rights, arts. 7 and 10; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and European Convention on Human Rights, art. 3.

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

security of person, international human rights law requires that no one must be deprived of liberty except on such grounds, and in accordance with such procedures, as are established by law.¹⁴

13. According to the information made available to OHCHR, violations involving torture and other ill-treatment by law enforcement agencies in Crimea, particularly the Federal Security Service of the Russian Federation, were especially common immediately after a person's arrest, during periods of incommunicado detention in unofficial places of detention. OHCHR documented five cases in which law enforcement agencies and the Federal Security Service of the Russian Federation allegedly subjected Crimean residents to torture and ill-treatment. In four of the cases, the victims were individuals suspected of possession of firearms, espionage, subversive activities or terrorism.¹⁵

14. In four cases documented by OHCHR, Federal Security Service of the Russian Federation and law enforcement officers reportedly used beatings, electric shocks and suffocation to force victims to incriminate themselves, cooperate with law enforcement or testify against others.¹⁶

15. In all the cases documented by OHCHR in which victims made credible complaints of torture or ill-treatment to the courts and law enforcement authorities in Crimea, no perpetrator has been held accountable. Alleged victims faced difficulties obtaining evidence to support their claims. According to information received by OHCHR, medical personnel of penitentiary institutions were often reluctant to document injuries sustained by victims prior to their admission to these institutions, which is inconsistent with their professional duties to treat and act in the best medical interests of patients, for whom they have a duty of care. When presented with complaints of torture in court, judges allegedly either ignored them or ordered investigations, which, in practice, were carried out in a pro forma fashion and did not result in the identification of suspects or prosecution of perpetrators.¹⁷

16. According to information made available to OHCHR, torture and ill-treatment were frequently preceded by arbitrary arrests. Victims complained to OHCHR of unjustified force being applied during their arrest, use of sacks as blindfolds, and a failure by the arresting officer to state the reasons for the arrest. Occasionally, in order to legitimize arbitrary deprivation of liberty, judges appeared to have accepted without question administrative charges against victims, finding them guilty of offences such as using obscene language in public, and to have ordered their administrative detention. Reportedly, this practice allowed the Federal Security Service of the Russian Federation to deprive victims of liberty without bringing formal criminal charges.

C. Rights of detainees

17. OHCHR has received reports that detainees in Crimea face grossly inadequate conditions of detention in overcrowded cells, a lack of proper medical care, have limited contact with the outside world and risk being transferred far away from family members to facilities located in the Russian Federation. According to these reports, the detainees generally lack access to an effective legal remedy to address their conditions of detention and complaints about human rights violations.

18. On 7 September 2019, the simultaneous release of two groups of 35 detainees took place between Ukraine and the Russian Federation.¹⁸ Of these individuals, 29 were citizens of Ukraine who had originally been arrested and detained in Crimea, including 24

¹⁴ Universal Declaration of Human Rights, art. 9; and International Covenant on Civil and Political Rights, art. 9 (1).

¹⁵ Four citizens of Ukraine (3 men and 1 woman) were arrested in Crimea under these charges during the reporting period. In total, as at 31 December 2019, 17 citizens of Ukraine (15 men and 2 women) were detained in Crimea on charges of State treason, espionage or storage of explosives.

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

¹⁷ Ibid., para. 96.

¹⁸ Ibid., paras. 90–99.

Ukrainian naval crew members seized during the 25 November 2018 incident near the Kerch Strait.¹⁹

1. Rights of detainees in Crimea

19. International human rights law requires that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.²⁰ No prisoner shall be subjected to, and all prisoners shall be protected from, torture and cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification.²¹ In determining the manner and method of executing prison sentences, the State must ensure that detainees' health and well-being are adequately secured.²²

20. OHCHR continued to receive credible reports from former and current detainees about inadequate conditions of detention in Crimea, which could amount to inhuman or degrading treatment or punishment, as well as reports of other forms of ill-treatment. In addition to overcrowding, former detainees complained of systematic beatings and use of excessive force by prison guards, unjustified strip searches during which they were forced to squat naked, and placement in so-called pressing cells, where other detainees were encouraged by the detaining authorities to harass or beat them. OHCHR was informed that detainees who did not possess passports of the Russian Federation faced even worse conditions of detention than the other detainees. Among other mistreatments, they complained of regular insults on ethnic grounds by the detaining authorities and of pressure to apply for citizenship of the Russian Federation in exchange for leniency.

21. The provision of medical assistance in detention remained inadequate. Owing to the general lack of available medication, detainees were frequently forced to rely solely on medicine sent by relatives, which often arrived only after significant delays.²³ Those in need of special care, owing to their poor physical condition, complained that they had to organize care providers from among the other detainees. For instance, relatives of a detained elderly man with a first-degree disability had to choose a cellmate for him who would agree to take care of him in the pretrial detention centre in Simferopol. Given the steep stairs, people with mobility disabilities had limited access to certain areas in the pretrial detention centre in Simferopol, such as attorney-client meeting rooms, public bathrooms and exercise yards.²⁴

22. Amid numerous reports about overcrowding in Crimean detention facilities, a new penitentiary facility called "a corrective labour centre" was established in Simferopol at the end of 2019.²⁵ The Russian Federation also announced plans to build two additional pretrial detention centres in Simferopol by 2027, with capacity for 1,500 prisoners.²⁶

2. Rights of detainees transferred from Crimea to the Russian Federation

23. According to international humanitarian law, protected persons accused of offences shall be detained in the occupied territory and, if convicted, shall serve their sentences

¹⁹ See also OHCHR, "Report on the human rights situation in Ukraine: 16 November 2018 to 15 February 2019", paras. 99–103. Available at www.ohchr.org/Documents/Countries/UA/ReportUkraine16Nov2018-15Feb2019.pdf.

²⁰ International Covenant on Civil and Political Rights, art. 10 (1).

²¹ Ibid., art. 7; and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 2 and 16. See also United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

²² Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health, para. 34; and European Court of Human Rights, *Kudla v. Poland* (application No. 30210/96), judgment of 26 October 2000, paras. 92–94.

²³ OHCHR, "Report on the human rights situation in Ukraine: 16 August to 15 November 2019", para. 99.

²⁴ OHCHR, "Report on the human rights situation in Ukraine: 16 February to 15 May 2019", para. 102. Available at www.ohchr.org/Documents/Countries/UA/ReportUkraine16Feb-15May2019_EN.pdf.

²⁵ As at 31 December 2019, five penitentiary institutions were reported to operate in Crimea: one pretrial detention centre, two colonies, one open prison and one corrective labour centre.

²⁶ See www.interfax-russia.ru/Crimea/main.asp?id=1049923 (in Russian only).

therein.²⁷ Individual or mass forcible transfers, as well as deportations of protected persons, from occupied territory to the territory of the occupying Power, or to that of any other country, occupied or not, regardless of their motive, are prohibited.²⁸

24. Detainees continued to be transferred from Crimea to the Russian Federation at pretrial stages, to stand trial, or to serve sentences, including those imposed by Ukrainian courts prior to the occupation. OHCHR has verified information about the transfer from Crimea to the Russian Federation of 211 detainees (200 men and 11 women), including 125 pre-conflict prisoners. However, the actual number of detainees transferred since 2014 is reported to be significantly higher than that.²⁹

25. During the reporting period, OHCHR documented eight cases of current and former detainees (seven men and one woman) who were transferred from Crimea to penitentiary institutions in the Russian Federation in remote locations. Owing to the distances involved and the financial costs, their relatives were unable to visit them or cover the travel fees of defence lawyers. This is a particular concern for detainees serving life sentences, some of whom have not seen their family members since they were transferred. The relocation of detainees from Crimea to the Russian Federation normally involved multiple stops at different penal colonies and pretrial detention centres across the Russian Federation and, in some cases, the process lasted several weeks. In all eight documented cases, neither the detainees nor their relatives were told in advance where they would be serving their sentences. During the transfers, the relatives were not provided with any information on the whereabouts of those in detention.

26. OHCHR documented three cases in which detainees held in penitentiary institutions in the Russian Federation were not allowed visits from relatives before their conviction came into force. In some cases, the authorities allowed relatives to visit detainees for the first time only a year after their arrest. In addition, the penitentiary system rules of the Russian Federation impose restrictions on visits to penal colonies, including the need to apply for special permission, and denial of visiting rights during periods when detainees are placed in punishment cells.³⁰ Two detainees described the practice of arbitrary placement in a punishment cell owing to the “untidiness” of the detainee, failure to greet a prison guard or on the occasion of a major Russian holiday. Detainees also complained to OHCHR about the denial of requests for visits of a Ukrainian consular officer.³¹ In at least six documented cases, the detaining authorities denied consular access to Ukrainian detainees with registered addresses in Crimea whom they considered to be citizens of the Russian Federation.

27. While many transferred detainees have expressed the wish to be returned to other parts of Ukraine to serve the remainder of their sentences, none have been repatriated since 2017.³² Ukraine does not legally recognize verdicts rendered by the courts in Crimea during the temporary occupation. The Russian Federation has expressed its unwillingness to return to Ukraine those detainees whom it considers to be citizens of the Russian Federation. Neither Ukraine nor the Russian Federation have made use of the Convention on the Transfer of Sentenced Persons (1983), to which both are parties. An acceptable legal

²⁷ Fourth Geneva Convention, art. 76.

²⁸ Ibid., art. 49.

²⁹ E.g., OHCHR, “Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)”, para. 116. Available at www.ohchr.org/Documents/Countries/UA/Crimea2014_2017_EN.pdf.

³⁰ Detainees are placed in a punishment cell for up to 15 days as a sanction for violation of internal prison rules. While in practice the restrictions associated with placement in a punishment cell vary depending on the penal institution, they often include prohibition of visits from relatives and other visitors, telephone calls and receipt of packages, limitations on personal belongings and the withdrawal of access to a prison shop. Detainees placed in punishment cells reported significantly worse conditions from the rest of the penal institution, including sanitary conditions.

³¹ Vienna Convention on Consular Relations, art. 36 (1) (c).

³² On 17 March 2017, 12 detainees who had been sentenced by Ukrainian courts before March 2014 and transferred from Crimea to facilities in the Russian Federation were returned to Ukraine. OHCHR, “Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)”, para. 119.

framework for the return of Ukrainian detainees from the Russian Federation has yet to be found.

D. House searches and raids

28. International human rights law prohibits arbitrary or unlawful interference with a person's privacy, family, home or correspondence.³³ States are required to ensure that there is no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or of the protection of the rights and freedoms of others.³⁴

29. OHCHR has documented the fact that the searches and raids of private homes, businesses and meeting places in Crimea conducted between 1 January 2017 and 30 June 2019 disproportionately affected Crimean Tatars.³⁵ During the last six months of 2019, the number of reported house searches and raids affecting Crimean Tatars decreased, compared with similar periods in previous years. From 1 July to 31 December 2019, OHCHR documented eight searches, half of which affected Crimean Tatars.³⁶ For instance, on 27 September 2019, in Sudak, law enforcement authorities of the Russian Federation searched the private house of a man believed to be associated with the Mejlis. On 14 November 2019, a search was carried out in the private house of a former Kurultai delegate in Bogatovka.

30. As in the previous reporting period, the authorities justified searches affecting Crimean Tatars by the need to seize materials, including handwritten notes or information on electronic devices, linking suspects to political or religious groups and organizations that are banned in the Russian Federation. These groups, however, operate freely and legally in Ukraine.

E. Situation of fundamental freedoms

31. International human rights law guarantees freedom of thought, conscience and religion; freedom of expression and the right to hold opinions; and the right to peaceful assembly and freedom of association. Some manifestations or exercise of these rights may be subject to certain limitations or restrictions specified in international human rights law.³⁷ A free, uncensored and unhindered press or other media is essential to ensure the right to hold opinions and to freedom of expression and the enjoyment of other fundamental freedoms.³⁸ International humanitarian law also provides that protected persons are entitled, in all circumstances, to respect for their religious convictions and practices.³⁹

32. During the reporting period, criminalization of freedom of expression on social media continued in Crimea. OHCHR documented four cases, in which individuals (two men and two women) were convicted by courts in Crimea of administrative offences for their social media posts, with content deemed to be "extremist" under the law of the Russian Federation.⁴⁰ For instance, on 2 July 2019, a city court in Sudak fined a Crimean Tatar man for having posted a video on his social network page six years previously (prior to the occupation of Crimea). He was convicted of "distribution of extremist materials" on

³³ International Covenant on Civil and Political Rights, art. 17; and European Convention on Human Rights, art. 8.

³⁴ European Convention on Human Rights, art. 8 (2).

³⁵ A/74/276, para. 18.

³⁶ During the same semester, 40 of the 42 searches (95 per cent) recorded in 2017 affected Crimean Tatars, as did 20 of the 25 searches (80 per cent) recorded in 2018.

³⁷ International Covenant on Civil and Political Rights, arts. 18–19 and 21–22.

³⁸ Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression, para. 13.

³⁹ Fourth Geneva Convention, art. 27.

⁴⁰ In three cases, the posts concerned Hizb ut-Tahrir; the other case concerned a post that contained symbols of Right Sector. The definition of extremism is contained in the law of the Russian Federation on combating extremist activity, No. 114-FZ (25 July 2002).

the basis of judgments delivered in 2014 by the Yamalo-Nenets and Tatarstan district courts of the Russian Federation, which had found the video in question extremist and included it at that time on the Federal List of Extremist Materials. In all four cases, the determination of the defendants' guilt was reached solely on the basis of judgments of courts in the Russian Federation without any attempt by the courts in Crimea to independently assess the lawfulness of the impugned social media posts, including their compatibility with the defendants' rights to freedom of expression.⁴¹

33. OHCHR received reports that journalists and media workers continued to face interference with their professional activities by the local authorities in Crimea, including law enforcement agencies. These practices included surveillance methods such as phone-tapping, being physically followed by law enforcement officers, threats of physical harm, criminal prosecution, arrests and prohibition of entry into the territory of Crimea. Numerous media outlets and individual journalists informed OHCHR that, owing to these risks, they would self-censor the content of their publications, conceal their authorship or limit their reporting to non-political topics and stories. Other journalists outside of the peninsula decided not to risk physical entry into Crimea or were banned from such entry by the Federal Security Service of the Russian Federation. For example, OHCHR interviewed a Crimean Tatar journalist who became internally displaced in a part of Ukraine that is not Crimea, after her media outlet, ATR, had been forced to relocate from Crimea to another part of Ukraine in 2015.⁴² During the reporting period, the journalist learned that the authorities in Crimea had subsequently opened a criminal case and issued an arrest warrant against her.

34. During the reporting period, several civil society groups faced obstacles in organizing conferences, public discussions and other meetings. OHCHR received information regarding cases in which law enforcement authorities pressured and threatened landlords of facilities where Crimean Tatar civic groups planned to conduct meetings. Meetings could consequently not proceed as scheduled or did not take place. In at least three cases documented by OHCHR, the law enforcement authorities seemed to target actual or perceived critics of the occupation of Crimea and the policies of the Russian Federation on the peninsula, such as the Mejlis and Crimean Solidarity.⁴³

35. OHCHR received reports of continuing arrests and criminal prosecution of Jehovah's Witnesses in Crimea through the application by the Russian Federation of its legal framework to Crimea.⁴⁴ Since 2017, all 22 congregations of Jehovah's Witnesses registered in Crimea have lost their right to operate following the decision of the Supreme Court of the Russian Federation that the group breached the country's law on combating extremist activity.⁴⁵ As a result, Jehovah's Witnesses who practise their faith risk retaliation by law enforcement.

36. The prosecution of perceived sympathizers of the Muslim group Hizb ut-Tahrir also continued. The group operates legally in Ukraine, but is officially listed as a terrorist

⁴¹ OHCHR, "Report on the human rights situation in Ukraine: 16 May to 15 August 2019", para. 110. Available at www.ohchr.org/Documents/Countries/UA/ReportUkraine16May-15Aug2019_EN.pdf.

⁴² ATR was among the Crimean Tatar media outlets that were denied reregistration according to Russian Federation legislation and had to cease operations on the peninsula in 2015. It had previously received warnings from the authorities of the Russian Federation not to "disseminate rumours" and "promote extremism". OHCHR, "Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)", paras. 156–157.

⁴³ In response to cases of criminal prosecution of Crimean Tatars, relatives of detained Crimean Tatars created a civic group, Crimean Solidarity, operating as a platform to exchange information, mobilize support and reach out to lawyers and human rights defenders. OHCHR, "Report on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine: 13 September 2017 to 30 June 2018", para. 53. Available at www.ohchr.org/Documents/Countries/UA/CrimeaThematicReport10Sept2018_EN.pdf.

⁴⁴ During the reporting period, the organization of Jehovah's Witnesses publicly listed the cases of three Jehovah's Witnesses in Crimea who were under criminal prosecution. Information about individual victims can be found at the website of Jehovah's Witnesses in the Russian Federation, available at <https://jw-russia.org/prisoners.html#sort=region>.

⁴⁵ OHCHR, "Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)", para. 144.

organization by the Russian Federation. As at 31 December 2019, 63 citizens of Ukraine were detained for alleged involvement in Hizb ut-Tahrir activities, 20 of whom had been convicted, including 7 individuals who were sentenced during the reporting period to prison terms ranging from 7 to 19 years. These cases have raised concerns with regard to the right to a fair trial, as described in paragraph 9 above.

IV. Prohibition on forced conscription

37. International humanitarian law provides that the occupying Power may not compel protected persons to serve in its armed or auxiliary forces, and that no pressure or propaganda aimed at securing voluntary enlistment is permitted.⁴⁶

38. OHCHR has received information that, during the reporting period, the Russian Federation carried out its tenth military conscription campaign in Crimea, including with respect to citizens of Ukraine resident there. An additional 3,000 male residents of the Autonomous Republic of Crimea were enlisted,⁴⁷ bringing the total number of men conscripted from Crimea to at least 21,000 since the practice began in 2015.⁴⁸ Conscription campaigns in Crimea take place twice a year, in spring and autumn, and last for about three months each. Since the first such enlistment in 2015, the number of conscripts has increased progressively each year. According to the available data, the share of Crimean conscripts allocated to military bases on the territory of the Russian Federation, as opposed to Crimea, has also increased progressively since 2015.⁴⁹

39. The criminal law of the Russian Federation as applied in Crimea prescribes fines or imprisonment for up to two years for draft evasion.⁵⁰ During the reporting period, prosecution for draft evasion continued in Crimea, with at least 20 court cases identified in the court registry of the Russian Federation. OHCHR verified 14 convictions in these cases, with defendants ordered to pay fines ranging from 5,000 to 50,000 Russian roubles (US\$ 67 to 670).⁵¹ Analysis of the available verdicts indicates that the failure to appear for medical examination following receipt of a conscription notice typically serves as the main evidential basis for criminal prosecution. According to the applicable law of the Russian Federation, conviction for draft evasion does not absolve the individual of his obligation to perform military service.

40. OHCHR has received information that fear of conscription also continued to affect freedom of movement between Crimea and the rest of Ukraine, with additional obstacles faced by boys and young men registered in military draft commissions.⁵² Men who had

⁴⁶ Fourth Geneva Convention, art. 51.

⁴⁷ Unlike in the previous conscription campaigns, this number does not include conscripts from the city of Sevastopol, which have not been reported for this specific round of conscription, to the best of the knowledge of OHCHR.

⁴⁸ All figures are approximate and primarily based on periodic announcements of the Ministry of Defence of the Russian Federation. OHCHR noted considerable discrepancies between individual sets of numbers made available by the Ministry at different times in the course of the conscription campaigns. Previously reported figures are available in OHCHR, "Report on the human rights situation in Ukraine: 16 November 2018 to 15 February 2019", para. 114; and OHCHR, "Report on the human rights situation in Ukraine: 16 May to 15 August 2019", paras. 111–112.

⁴⁹ Analysis of periodic announcements of the Ministry of Defence of the Russian Federation indicates that over half of the men from Crimea conscripted during the most recent campaign were sent to the Russian Federation. While some of them perform their military service in southern regions of the Russian Federation, in relative proximity to Crimea, others are deployed to more remote regions.

⁵⁰ Russian Federation, Criminal Code, art. 328.

⁵¹ These are the verdicts verifiable through the court registry of the Russian Federation. As at 31 December 2019, the registry listed 83 cases of draft evasion charges in Crimea since 2017, but the verdicts were not publicly available in all cases. In total, OHCHR documented 69 guilty verdicts issued by courts in Crimea and made available in the court registry during the reporting period. As the court registry does not necessarily list every criminal proceeding, it is possible that the actual number of convictions is higher.

⁵² These include additional checks, delays and/or possible refusal to be allowed to cross the Administrative Boundary Line if a resident of conscription age fails to present confirmation of military registration in Crimea (A/74/276, para. 59).

relocated to other parts of Ukraine stated that they refrained from travelling back to Crimea for fear of conscription or criminal prosecution for draft evasion.

41. Conscription into the armed forces of the Russian Federation is inextricably linked to the automatic extension of citizenship of the Russian Federation to Ukrainians residing in Crimea. As only citizens of the Russian Federation are compelled to serve in the armed forces, the automatic extension of citizenship of the Russian Federation to citizens of Ukraine in Crimea since 2014 enabled the conscription of citizens of Ukraine from Crimea into the armed forces of the Russian Federation.

V. Nationality and 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, or to that of any other country, occupied or not, regardless of their motive.⁵³

43. According to the court registry of the Russian Federation, at least 191 transfer orders were issued in Crimea in 2019 concerning individuals considered foreigners under Russian law.⁵⁴ No fewer than 109 of these orders affected citizens of Ukraine (95 men and 14 women) whom the Russian Federation did not consider as having residency rights in Crimea. When compared to the two previous years, this is more than a twofold decrease in the number of transfer orders against citizens of Ukraine per year.⁵⁵ According to the judgments from the courts in Crimea, the majority of persons transferred to other parts of Ukraine were asserted to have had either no legitimate income, no family and social ties on the peninsula, to have lost their identification documents, failed to take steps to legalize their stay in Crimea, or had prior records for criminal or administrative offences.

44. OHCHR notes that in 2019, the courts in Crimea tended to impose monetary fines instead of transferring citizens of Ukraine when the latter could produce evidence that the possible transfer would violate their right to family and private life. Individuals whose close relatives in Crimea held citizenship of the Russian Federation or had lived in Crimea for a considerable amount of time were likely to be fined rather than transferred.

45. The reduction in the number of transfers of nationals of Ukraine in 2019 could also be partially attributed to the application of Decree No. 187 of the President of the Russian Federation, issued on 29 April 2019, which aimed at simplifying the process of acquiring citizenship of the Russian Federation for nationals of Ukraine living respectively in Crimea or Donbas.⁵⁶ According to the Ministry of Internal Affairs of the Russian Federation, 12,290 individuals considered foreigners acquired citizenship of the Russian Federation in Crimea in 2019.⁵⁷ This almost equals the number of “foreigners” who acquired citizenship of the Russian Federation in Crimea during the three previous years combined.⁵⁸ OHCHR notes that the vast majority were citizens of Ukraine who chose to obtain passports of the Russian Federation in order to avoid the risk of being transferred from Crimea.⁵⁹ According

⁵³ Fourth Geneva Convention, art. 49.

⁵⁴ The authorities of the Russian Federation in Crimea treat citizens of Ukraine who reside on the peninsula without a passport of the Russian Federation as “foreigners”. As such, the courts in Crimea categorize the expulsion of citizens of Ukraine to parts of Ukraine outside Crimea as “deportations”.

⁵⁵ During 2017, Crimean courts ordered the transfer of 512 individuals, 287 of whom were citizens of Ukraine. In 2018, 435 transfer orders were issued, 231 of them concerning citizens of Ukraine.

⁵⁶ Available at <http://publication.pravo.gov.ru/Document/View/0001201905010004?index=0&rangeSize=1#print>, in Russian only.

⁵⁷ Russian Federation, Ministry of Internal Affairs, “Selected indicators of the migration situation in the Russian Federation for January–December 2019 by region”. Available from <https://мвд.рф/Deljatelnost/statistics/migracionnaya/item/19365693/>, in Russian only.

⁵⁸ According to the Russian Federation, from 2016 to 2018, 14,332 individuals considered foreigners under the law of the Russian Federation acquired citizenship of the Russian Federation in Crimea.

⁵⁹ According to the results of the census conducted by the Russian Federation in Crimea in October 2014, citizens of Ukraine constituted 90 per cent of all individuals considered “foreigners” under the law of the Russian Federation who lived in Crimea. See the report of the Federal State Statistics

to statistics from the Russian Federation, as at 31 December 2019, 31,796 individuals were legally residing in Crimea without citizenship of the Russian Federation.⁶⁰

VI. Measures taken by the Government of Ukraine

46. The Government of Ukraine is also bound by its obligations under international human rights law, which include the obligation to use all available means to ensure respect for the enjoyment of human rights in Crimea.⁶¹ In its resolution 74/168, the General Assembly supported the efforts of Ukraine to maintain economic, financial, political, social, informational, cultural and other ties with its citizens in the occupied Crimea in order to facilitate their access to democratic processes, economic opportunities and objective information.

47. OHCHR notes the efforts of the Government of Ukraine to improve the crossing conditions at the Administrative Boundary Line. The Ukrainian authorities began renovations of facilities in autumn 2019 with tangible results, including the provision of additional sheltered areas and better sanitary facilities for that crossing.⁶² During the reporting period, the Ukrainian authorities pursued plans to open administrative service centres in the direct vicinity of the crossing points, which could provide enhanced access for residents of Crimea to Ukrainian public services.

48. OHCHR reiterates its previous concerns about discrimination suffered by current and former Crimean residents in access to banking services in parts of Ukraine outside Crimea. For banking purposes, Ukrainian legislation treats as “non-residents” current Crimean residents and residents outside Crimea with a Crimean registered address in their passport.⁶³ This has the effect of excluding them from banking services or creating significant obstacles for maintaining bank accounts and conducting financial transactions. The law provides for the possibility of avoiding the effects of the non-resident status by registering as an internally displaced person. However, this appears insufficient to guarantee access to all banking transactions and services. OHCHR has documented a pattern of obstacles experienced by internally displaced persons from Crimea in making transactions and their continuous inability to regain access to their savings accounts in some banks.⁶⁴

49. Residents of Crimea remained legally obliged to complete a judicial procedure before being able to register a birth or a death that occurred in Crimea with the administrative bodies in parts of Ukraine outside Crimea.⁶⁵ Consequently, unlike applicants from the government-controlled areas, residents of Crimea face additional filing obligations and costs which are likely to inhibit the swift registration of births and deaths. OHCHR recalls that target 16.9 of the Sustainable Development Goals requires States to provide legal identity for all, including birth registration, by 2030.⁶⁶

Service, available in Russian only from

www.gks.ru/free_doc/new_site/population/demo/perepis_krim/perepis_krim.html.

⁶⁰ 21,385 of these individuals have permanent residence permits and 10,411 have temporary residence permits, which is 15 per cent fewer than in 2018.

⁶¹ 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 of 8 July 2004, para. 331.

⁶² OHCHR, “Report on the human rights situation in Ukraine, 16 November 2019 to 15 February 2020”, paras. 119–120. Available at www.ohchr.org/Documents/Countries/UA/29thReportUkraine_EN.pdf.

⁶³ Ukraine, Law on the establishment of the free economic zone “Crimea” and on the particularities of economic activity in the temporarily occupied territory of Ukraine (12 August 2014). Available at <http://zakon2.rada.gov.ua/laws/show/1636-18?info=1>, in Ukrainian only.

⁶⁴ In 2018, OHCHR noted a persistent pattern of continuous violations of property rights of current and former Crimean residents by the State-owned bank PrivatBank. OHCHR, “Report on the human rights situation in Ukraine: 16 August to 15 November 2018”, paras. 106–107. Available at www.ohchr.org/Documents/Countries/UA/24thReportUkraineAugust_November2018_EN.pdf.

⁶⁵ A special expedited procedure is foreseen under the Civil Procedure Code of Ukraine, art. 317.

⁶⁶ For more information, see <https://unstats.un.org/sdgs/indicators/database>.

VII. Conclusions and recommendations

50. In line with General Assembly resolution 74/168, I have taken all steps necessary to ensure the full and effective coordination of all United Nations bodies with regard to the implementation of that resolution. This has included the gathering and reporting of relevant information by OHCHR.

51. I actively continued to seek ways and means 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. This included consultations with OHCHR and engagement with relevant regional organizations and Member States, including the Russian Federation, as well as Ukraine.

52. In addition, in line with General Assembly resolution 74/168, I continued to seek opportunities to engage my good offices and pursue my discussions relating to Crimea, involving all relevant stakeholders and including the concerns addressed in the resolution. Specifically, the Secretariat and relevant departments, offices and agencies of the United Nations continued to actively engage the Russian Federation, as well as Ukraine, on the issue of access to Crimea and concerning the human rights situation in Crimea. Furthermore, during its 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.

53. Regrettably, 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 during the reporting period. Such access is essential to ensure first-hand monitoring and reporting on the human rights situation in Crimea. I urge the Russian Federation, as well as Ukraine, to make all efforts to ensure unfettered access by OHCHR and other relevant United Nations entities to Crimea to enable the effective implementation of the relevant General Assembly resolutions. I will therefore continue to seek opportunities and identify practical avenues to ensure access to Crimea by OHCHR and other relevant United Nations entities.

54. In line with General Assembly resolution 74/168, I urge the Government of the Russian Federation, as well as the Government of Ukraine, to implement the detailed options and specific recommendations formulated by OHCHR and listed in its previous reports. This includes facilitating the granting of unimpeded access to Crimea for international and regional human rights monitoring mechanisms, pursuant to General Assembly resolutions 71/205, 72/190, 73/263 and 74/168.

55. I urge the Government of the Russian Federation to uphold its obligations under international human rights law in Crimea and to respect obligations that apply to it pursuant to international humanitarian law. I also urge the Government of the Russian Federation to ensure the proper and unimpeded access of international human rights monitoring missions and human rights non-governmental organizations to Crimea, pursuant to General Assembly resolutions 71/205, 72/190, 73/263 and 74/168, and to ensure unimpeded freedom of movement between Crimea and other parts of Ukraine. It is equally essential to comply fully with the absolute prohibition of torture and to ensure prompt, independent, impartial, thorough and effective investigation of all allegations of ill-treatment, torture and enforced disappearances in Crimea, and to ensure that the rights to freedom of expression and to hold opinions, the right to peaceful assembly and freedoms of association, thought, conscience and religion can be exercised by all individuals and groups in Crimea, without discrimination on any grounds. The authorities of the Russian Federation are called upon to ensure that persons deprived of their liberty benefit from all legal guarantees and to lift restrictions imposed on the Crimean Tatar community to conserve its representative institutions, including the ban on the Mejlis. In addition, the authorities of the Russian Federation need to ensure the availability of education in the Ukrainian language, which remains a concern. Other recommended measures include ending the

conscription of Ukrainian nationals residing in Crimea into the armed forces of the Russian Federation and restoring the property rights of all former owners deprived of their title as a result of the “nationalization” and confiscations carried out in Crimea. It is also important to end the transfers of protected persons, including those who are detained, outside the occupied territory and to ensure that all protected persons previously transferred to the Russian Federation be allowed to return to Crimea.

56. The Government of Ukraine for its part is urged to respect its obligations under international human rights law in relation to Crimean residents. Specific recommendations include, but are not limited to, continuing to facilitate freedom of movement to and from Crimea through improvements of crossing conditions and taking down regulatory barriers. In addition, the Ukrainian authorities should consider simplifying access for current and former residents of Crimea to all public services offered to residents in other parts of Ukraine, including banking services, identification documents, social security, and civil registration procedures. They should also support dialogue with the Government of the Russian Federation and between the Ombudspersons of Ukraine and the Russian Federation to facilitate the voluntary transfer of Ukrainian detainees held in Crimea and the Russian Federation to detention facilities in the Ukrainian territory outside Crimea.

57. It remains essential for other Member States to encourage the Russian Federation, as well as Ukraine, to facilitate the granting of unimpeded access to Crimea for international and regional human rights monitoring mechanisms. I also urge 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.
