



# General Assembly

Distr.: General  
27 May 2021

Original: English

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## Human Rights Council

Forty-seventh session

21 June–9 July 2021

Agenda items 2 and 10

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

**Technical assistance and capacity-building**

## **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 75/192, in which the Assembly requested the Secretary-General to report to it at its seventy-sixth 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-seventh session.

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\* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



## 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 75/192, in which the Assembly requested the Secretary-General to report to it at its seventy-sixth 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-seventh session.

2. The present report is the fourth report of the Secretary-General on the human rights situation in Crimea. The first report, submitted to the General Assembly at its seventy-fourth session, covered the period from January 2014 to 30 June 2019.<sup>1</sup> The second report, an interim report submitted to the Human Rights Council at its forty-fourth session, covered the period from 1 July to 31 December 2019.<sup>2</sup> The third report, submitted to the Assembly at its seventy-fifth session, covered the period from 1 July 2019 to 30 June 2020. The present report covers the period from 1 July to 31 December 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 accordance 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 occupation authorities of the Russian Federation in Crimea as “occupation authorities” or “Russian authorities”. The report also takes into account 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 75/192, 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 11 February 2021, seeking its cooperation to discuss the practical arrangements for a mission to Crimea, once the coronavirus disease (COVID-19) crisis allowed. In its reply of 1 March 2021, the Russian Federation indicated its readiness to “discuss the prospects” of such a mission on the condition that it was “organized in compliance with the rules regulating visits to the territory 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 75/192. 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 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 and other government data from the Russian Federation. It analyses legislation from Ukraine and the Russian Federation that has an impact on the enjoyment of human rights in Crimea.

6. Unless otherwise specified, the information in the present report was documented and verified by the mission during the reporting period, in accordance with OHCHR

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<sup>1</sup> A/74/276.

<sup>2</sup> A/HRC/44/21.

methodology.<sup>3</sup> Information is considered verified when there are reasonable grounds to believe that the events took place as described. The issues covered in the present report should not be considered to represent an exhaustive list of all issues of concern. 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 75/192, OHCHR transmitted notes verbales on specific issues to the Governments of Ukraine and the Russian Federation and requests for information to relevant organizations. The European Court of Human Rights and the special procedures of the Human Rights Council provided information on pending cases and communications concerning Crimea that had been sent to the Government of the Russian Federation.<sup>4</sup>

### III. Human rights

#### A. Administration of justice and fair trial rights

7. International human rights law provides that all persons facing criminal charges are entitled to fair trial guarantees.<sup>5</sup> Equality of arms is an inherent feature of a fair trial. It requires that each party be given a reasonable opportunity to present their case under conditions that do not place them at a disadvantage vis-à-vis their opponent.<sup>6</sup> Governments should ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.<sup>7</sup> All arrested, detained or imprisoned persons should be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality.<sup>8</sup> States must ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.<sup>9</sup> International humanitarian law also contains rules concerning the rights of persons accused of an offence that are applicable in occupied territory.<sup>10</sup>

8. Given its previous findings,<sup>11</sup> OHCHR continued to document cases where individuals arrested by law enforcement officers of the Russian Federation in Crimea were denied access to their lawyers. In five cases documented by OHCHR (all concerning men), the police and the Federal Security Service of the Russian Federation refused requests by contracted lawyers to meet with their clients and denied them access to their clients. In four of these cases, law enforcement officers declined to acknowledge that the lawyers' clients had been deprived of their liberty, prompting victims' relatives and lawyers to file complaints about their abduction with the police and the prosecutor's office. The period of time without

<sup>3</sup> *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](http://www.ohchr.org/EN/PublicationsResources/Pages/MethodologicalMaterials.aspx).

<sup>4</sup> Between 1 July and 31 December 2020, the European Court of Human Rights received 57 individual applications on violations in Crimea (54 against the Russian Federation, 2 against both the Russian Federation and Ukraine, and 1 against Ukraine). The total number of individual applications concerning Crimea was more than 1,050. During the same period, the special procedures of the Human Rights Council sent three communications to the Government of the Russian Federation, concerning four individuals (three men and one woman) from Crimea.

<sup>5</sup> International Covenant on Civil and Political Rights, arts. 14–15, and Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights and Fundamental Freedoms), art. 6.

<sup>6</sup> See, for example, European Court of Human Rights, *Öcalan v. Turkey*, Application No. 46221/99, Judgment, 12 May 2005, para. 146.

<sup>7</sup> Basic Principles on the Role of Lawyers, para. 5.

<sup>8</sup> *Ibid.*, para. 8.

<sup>9</sup> *Ibid.*, para. 16.

<sup>10</sup> Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), arts. 64–77; and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 75.

<sup>11</sup> A/HRC/44/21, para. 10.

access to a lawyer in these cases lasted between 3 and 17 hours. OHCHR received information that during this time, the victims were coerced to self-incriminate, testify against others or provide DNA samples outside the standard framework for doing so, which were later used against them as purported evidence of their guilt. In all five cases, the lawyers complained that the Federal Security Service and police allowed them to see their clients only once the occupation authorities had obtained confessions, statements or evidence. In another documented case, the Federal Security Service charged a former witness in a criminal case with providing “false testimony”, a criminal offence under the law of the Russian Federation,<sup>12</sup> after he had retracted his pretrial testimony against a third party that had been given under duress from law enforcement officers.<sup>13</sup>

9. Courts continued to deliver guilty verdicts in high-profile cases in which the fair trial guarantees of the accused might not have been fully respected.<sup>14</sup> OHCHR received credible allegations from lawyers that because of the apparent bias of judges against the defence, defendants had little to no prospects in court of defending themselves against prosecution by the Federal Security Service of the Russian Federation. In such cases, judges frequently denied without explanation defence lawyers’ motions to call and examine defence witnesses, even when the witnesses were present in court and their testimony would have assisted the defendants’ position. Similarly, judges refused to issue court orders compelling third parties to produce evidence, such as personal records or data from global navigation satellite systems, although such evidence was of critical importance to prove the defendants’ innocence and the defence had no other way to obtain it than by court order. At least 10 persons (all men) were convicted almost exclusively based on anonymous witness testimony.<sup>15</sup> Importantly, in these cases, judges limited the right of the defence to cross-examine such witnesses by disallowing most of the questions that could have impeached the witnesses’ credibility.<sup>16</sup>

10. OHCHR continued to verify cases of deliberate hindrance and harassment of practising lawyers who actively defended the rights of their clients in high-profile cases investigated by the Federal Security Service of the Russian Federation in Crimea. Defence lawyers received verbal cautions from judges for “overeagerness” during witness examinations and faced administrative charges on questionable grounds,<sup>17</sup> and even disbarment.<sup>18</sup> Lawyers complained that such sanctions affected the proper discharge of their professional duties and inhibited other lawyers representing clients in high-profile cases.

<sup>12</sup> OHCHR, “Report on the human rights situation in Ukraine: 16 February–31 July 2020”, 22 September 2020, paras. 108–109. The OHCHR reports referred to in the present report are available at [www.ohchr.org/en/countries/enacaregion/pages/uareports.aspx](http://www.ohchr.org/en/countries/enacaregion/pages/uareports.aspx).

<sup>13</sup> In particular, while the victim was on the premises of the Federal Security Service, the perpetrators had threatened him with a long prison sentence for crimes that he had not committed, placed him inside a metal cage, yelled at him and grabbed him by his shirt.

<sup>14</sup> For example, A/75/334, para. 12. During the reporting period, OHCHR documented the convictions of 13 individuals (12 men and 1 woman) that raised fair trial concerns.

<sup>15</sup> The testimony is given orally from behind a screen, using voice-altering equipment. For more information on the use of anonymous witness testimony during trials, see A/HRC/44/21, para. 11, and OHCHR “Human rights in the administration of justice in conflict-related criminal cases in Ukraine: April 2014–April 2020”, para. 154.

<sup>16</sup> In particular, the defence questions concerned inconsistent witness statements, discrepancies in testimony and the witnesses’ competency. In disallowing the defence questions, the judges often relied without sufficient justification on a blanket provision of the law of the Russian Federation authorizing them to disallow questions that may “disclose the identity of an anonymous witness”.

<sup>17</sup> For instance, “failure to comply with the court bailiff’s order” for not leaving a courtroom after a recess.

<sup>18</sup> OHCHR, “Update on the human rights situation in Ukraine: 1 August–31 October 2020”, 30 November 2020, p. 6.

## B. Prohibition of torture and the rights to liberty and security of person

11. Both international human rights law<sup>19</sup> and international humanitarian law<sup>20</sup> prohibit torture and cruel, inhuman or degrading treatment (hereinafter “ill-treatment”). 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.<sup>21</sup> No one may be deprived of liberty except on such grounds and in accordance with such procedures as are established by law.<sup>22</sup> International human rights law further provides that anyone arrested or detained on a criminal charge must be brought promptly before a judge and is entitled to a trial within a reasonable time or to release.<sup>23</sup>

12. OHCHR continued to receive allegations of torture and ill-treatment committed by officers of the Federal Security Service of the Russian Federation and other law enforcement entities against individuals in their custody. During the reporting period, OHCHR verified three such cases (involving three men).<sup>24</sup> In all three cases, torture and ill-treatment were used to coerce victims either to self-incriminate or to provide incriminating information against third parties. The victims described beatings, threats of physical and sexual violence, and deprivation of sleep and food in cases in which nutrition at regular intervals was medically necessary.<sup>25</sup>

13. The apparent pattern of impunity for torture and ill-treatment committed by the occupation authorities persisted. OHCHR is not aware of any case in which the alleged perpetrators were held accountable. Victims who made credible complaints of torture or ill-treatment were regularly denied their right to an effective investigation, with law enforcement entities of the Russian authorities finding an “absence of the elements of a crime”, a standard legal formula applied pro forma when refusing to open a criminal case. In at least one case, after submitting a complaint about his ill-treatment to the Main Military Investigation Department of the Russian Federation, the victim received no response from the authorities for more than a year. In two cases documented by OHCHR, courts rejected the victims’ requests to launch criminal investigations into the alleged acts of torture or ill-treatment.<sup>26</sup> Despite complainants’ requests to attend, such hearings were held in their absence.

14. OHCHR recorded the arbitrary arrests of 19 persons in Crimea (18 men and 1 woman),<sup>27</sup> including 11 Crimean Tatars. These individuals were mostly suspected of terrorism, illegal possession of explosives, and membership in religious groups banned by the Russian Federation such as Hizb ut-Tahrir and Jehovah’s Witnesses. In 13 of these cases, at the time of the arrest, law enforcement officers failed to inform the individuals of the reasons for their arrest and the charges against them. Six of these individuals were effectively deprived of their right to challenge the legality of the detention before a court as a result of the pro forma fashion in which their bail hearings were held, the court’s reliance on clearly

<sup>19</sup> 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 and Fundamental Freedoms, art. 3.

<sup>20</sup> Fourth Geneva Convention, art. 32; Protocol I Additional to the Geneva Conventions of 1949, art. 75 (2); and Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, vol. I, *Rules* (Geneva, International Committee of the Red Cross; Cambridge, United Kingdom, Cambridge University Press, 2005), rule 90.

<sup>21</sup> Convention against Torture, art. 12; and European Court of Human Rights, *Afanasyev v. Ukraine*, Application No. 38722/02, Judgment, 5 April 2005, para. 69.

<sup>22</sup> Universal Declaration of Human Rights, art. 9; and International Covenant on Civil and Political Rights, art. 9 (1). Specific grounds for deprivation of liberty in times of occupation are established by the Fourth Geneva Convention (inter alia, art. 78)

<sup>23</sup> International Covenant on Civil and Political Rights, art. 9 (3).

<sup>24</sup> One case occurred during the reporting period.

<sup>25</sup> The victim had diabetes.

<sup>26</sup> Under the law of the Russian Federation applied by the occupation authorities, victims or their lawyers may seek a court ruling ordering the law enforcement entities of the occupation authorities to launch criminal investigations into the alleged wrongdoing if they have not already done so.

<sup>27</sup> Sixteen persons were arrested during the reporting period.

inadmissible evidence, and the fact that the defence was not allowed to have access to the entire case file or to present their final arguments. In one verified case, a local court held a defendant's hearing in absentia, resulting in the extension of the period of pretrial detention without notifying the defendant or his lawyer, and with no grounds or justification for the extended detention evident from the court's reasoning.<sup>28</sup>

### C. Rights of detainees

15. According to international humanitarian law, protected persons accused of offences must be detained in the occupied territory and if convicted they must serve their sentences therein.<sup>29</sup> According to international human rights law, all persons deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person.<sup>30</sup> Detainees have the right to the enjoyment of the highest attainable standard of physical and mental health.<sup>31</sup> The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment considers prolonged solitary confinement, in excess of 15 consecutive days, as a form of torture or ill-treatment.<sup>32</sup>

16. The practice of transferring prisoners from Crimea to the Russian Federation continued, with at least 16 new cases (all concerning men) verified during the reporting period. The actual number of such transfers remains unknown, as the Russian Federation does not disclose it.<sup>33</sup>

17. Detainees from Crimea, as well as their lawyers and relatives, complained to OHCHR about conditions of detention in penitentiary institutions (prisons and colonies) in Crimea and the Russian Federation, which could amount to inhuman or degrading treatment or punishment, or in some cases even to torture.<sup>34</sup> Their verified complaints included insufficient personal living space in prison cells, poor hygiene conditions, inadequately heated cells, exposure to second-hand tobacco smoke, lack of ventilation and inadequate nutrition. Medical care remained rudimentary, with only basic painkillers available.<sup>35</sup> Requests for medical examinations in external health facilities were often refused without proper justification. In at least two known cases, prison guards forcefully transferred sick detainees to courts for scheduled hearings, despite their critical health condition and without responding to their repeated requests to see a medical doctor. OHCHR received information that the conditions of detention frequently worsened after detainees filed complaints with various Russian authorities, allegedly through reprisal from prison staff.

18. Based on available information, arbitrary placement in disciplinary cells, often in the form of solitary confinement, was used as a form of punishment for minor disciplinary offences,<sup>36</sup> or as a method to coerce statements from detainees incriminating third parties.

<sup>28</sup> OHCHR, "Update on the human rights situation in Ukraine: 1 August–31 October 2020", p. 6.

<sup>29</sup> Fourth Geneva Convention, art. 76.

<sup>30</sup> International Covenant on Civil and Political Rights, art. 10 (1).

<sup>31</sup> International Covenant on Economic, Social and Cultural Rights, art. 12.

<sup>32</sup> A/66/268, para. 26, and A/HRC/43/49, para. 57. Under rules 43 (1), 44 and 45 (1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), solitary confinement refers to the confinement of prisoners for 22 hours or more a day without meaningful human contact. It must be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority.

<sup>33</sup> For further information, see A/75/334, para. 22; and OHCHR, "Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)", 25 September 2017, para. 116.

<sup>34</sup> The alleged violations took place in Simferopol in Ukraine, and in Rostov-on-Don, Novochoerkassk, Krasnodar, Salavat and Tlyustenkhabl in the Russian Federation.

<sup>35</sup> OHCHR, "Update on the human rights situation in Ukraine: 1 August–31 October 2020", p. 6.

<sup>36</sup> In its response to a joint enquiry from the special procedures of the Human Rights Council, the Russian Federation confirmed the use of disciplinary cells as punishment for offences including the following: having an unmade bed; refusing to greet a representative of the colony administration; covering the lens of the video surveillance camera; and curtaining off and getting into bed outside authorized hours. See

OHCHR received complaints about prolonged solitary confinement, whereby a detainee remained confined under constant video surveillance with limited access to the outside world for at least four months. He was required to maintain a standing position and not allowed to sit or lie down on a bed for 16 hours.

#### **D. Freedoms of opinion, expression, peaceful assembly and association**

19. International human rights law guarantees the right to freedom of expression, the right to hold opinions without interference, the right of peaceful assembly and the right to freedom of association. Some exercise of these rights may be subject to certain limitations or restrictions specified in international human rights law.<sup>37</sup> A free, uncensored and unhindered press or other media is essential to ensure freedom of expression and the enjoyment of other fundamental freedoms.<sup>38</sup> Having to apply for permission from the authorities to hold an assembly undercuts the idea that peaceful assembly is a basic right.<sup>39</sup>

20. A Crimean Tatar man, who was a journalist and activist with the civic group Crimean Solidarity,<sup>40</sup> was released after serving a two-and-a-half-year prison sentence for publishing a series of videos online.<sup>41</sup> The man uploaded four of the five videos in 2013, before the temporary occupation of Crimea and extension of the criminal law of the Russian Federation to the peninsula.<sup>42</sup> Upon his arrest by the Federal Security Service of the Russian Federation, with no explanation of the grounds or charges, the man was detained on the premises of the Federal Security Service for at least seven hours without access to the outside world and without any official record of the arrest. The court convicted him of public calls to terrorism based on linguistic and religious expert reports produced by the prosecution, although that act did not constitute a criminal offence at the time when it was performed. The court rejected, without providing justification, alternative expert reports produced by the defence. The court failed to point out any specific statements in the videos that would amount to public calls to terrorism. In addition to his prison sentence, he was also involuntarily institutionalized in a psychiatric hospital for four weeks during pretrial detention,<sup>43</sup> and forcibly transferred to the Russian Federation prior to his conviction. The court also ordered that he be “denied the right to conduct activities connected with administering websites” for two years following his release.

21. The Russian authorities continued to apply a blanket legislative provision requiring any person seeking to hold an assembly to receive “clearance” from the local Russian authorities.<sup>44</sup> They relied on this requirement to prevent assemblies critical of their policies from taking place. In one emblematic case, they prevented a gathering of environmental activists in the Sudak area in November 2020. Local residents had come together to protest against construction works authorized by the Russian authorities in the coastal area, which the activists argued deserved special protection. In advance of the planned assembly, the police called in the protest leader, purportedly for a “conversation”, and presented written warnings to him and his son. The warnings threatened both men with prosecution should they

<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35725>, p. 3.

<sup>37</sup> International Covenant on Civil and Political Rights, arts. 19 and 21–22.

<sup>38</sup> Human Rights Committee, general comment No. 34 (2011), para. 13.

<sup>39</sup> Human Rights Committee, general comment No. 37 (2020), para. 70.

<sup>40</sup> Crimean Solidarity operates as a platform to exchange information and mobilize support. Many of its activists act as “citizen journalists” and report on house searches and court proceedings.

<sup>41</sup> The criminal prosecution started in March 2018, and he had fully served his prison sentence by the time of his release in September 2020. OHCHR was in a position to verify allegations in the case upon the victim’s release.

<sup>42</sup> According to the Russian authorities, the videos contained calls for “armed religious struggle against non-believers and enemies as well as participation in terrorist organization Hizb ut-Tahrir”.

<sup>43</sup> The Russian authorities considered this institutionalization necessary in order to conduct an in-patient psychiatric assessment to determine the defendant’s capacity to stand trial. The Working Group on Arbitrary Detention has noted that psychiatric detention must not be used to jeopardize freedom of expression, nor to punish, deter or discredit someone on account of political, ideological or religious views, convictions or activity (E/CN.4/2005/6, para. 58 (g)).

<sup>44</sup> Federal Law on assemblies, protests, demonstrations, pickets and rallies, art. 12. For other regulatory restrictions, see OHCHR, “Situation of human rights”, 25 September 2017, paras. 147–151.

hold the assembly without the consent or clear instructions of the local Russian authorities. The document listed numerous offences, including extremism- and separatism-related crimes, without mentioning any grounds that would make the planned assembly unlawful. A police officer subsequently threatened the protest leader with detention during a phone call. Consequently, the activists decided to cancel the assembly. The case falls into a previously documented pattern of warnings issued to activists to dissuade them from participating in assemblies.<sup>45</sup>

22. On 3 November 2020, the Simferopol police arrested two journalists and an activist with Crimean Solidarity for alleged violations of the rules of the Russian Federation on public assemblies and of restrictions imposed in response to the COVID-19 pandemic. The men had participated in a picket protesting against the criminal prosecution of Crimean Tatars.<sup>46</sup> The police detained them in the precinct for six hours and denied them access to a lawyer.<sup>47</sup> The court, which subsequently reviewed the accusations against the defendants, dismissed all charges and ordered their release. No compensation was provided to the men.

## E. Freedom of thought, conscience and religion

23. International human rights law protects the right to have or to adopt a religion or belief of one's choice, and to manifest it in worship, observance, practice and teaching.<sup>48</sup> In cases involving occupied territory, the European Court of Human Rights has found violations of this right when parishioners' physical access to their places of worship has been limited owing to restrictions imposed.<sup>49</sup> The Human Rights Committee has held that a refusal to register a religious organization, which limits the scope of its activities, restricts the ability of individuals and groups to exercise their right to religious manifestation and thus also constitutes a violation.<sup>50</sup> International humanitarian law provides that protected persons are entitled, in all circumstances, to respect for their religious convictions and practices.<sup>51</sup>

24. In a continuation of previously documented violations against the Orthodox Church of Ukraine, the Church was facing the loss of its two largest places of worship by the end of 2020.<sup>52</sup> Throughout 2019 and 2020, the occupation authorities adopted decisions and pursued judicial proceedings to evict the Orthodox Church of Ukraine from its central cathedral in Simferopol (250 parishioners) and to dismantle the church in Yevpatoria (100 parishioners). Over that period, the Orthodox Church of Ukraine repeatedly sought official recognition and registration from the Ministry of Justice of the Russian Federation under its laws on religious organizations. The local offices of the Ministry consistently denied registration on the grounds that the Church had missed the legal deadline for reregistration during the transition period, shortly after the beginning of temporary occupation, and that reregistration could not be done retrospectively. The application for registration was also denied on various formalistic grounds, such as allegedly using incorrect legal terminology in their applications.<sup>53</sup> The archbishop of the Orthodox Church of Ukraine in Crimea considered the

<sup>45</sup> A/75/334, para. 30.

<sup>46</sup> The picket involved other participants, but only the three men were detained, for allegedly coordinating the protest.

<sup>47</sup> A lawyer was denied entry to the police station and told that his client did not need a lawyer.

<sup>48</sup> International Covenant on Civil and Political Rights, art. 18.

<sup>49</sup> European Court of Human Rights, *Cyprus v. Turkey*, Application No. 25781/94, Judgment, 10 May 2001, paras. 242–247.

<sup>50</sup> *Malakhovsky and Pikul v. Belarus* (CCPR/C/84/D/1207/2003), para. 7.6.

<sup>51</sup> Regulations respecting the Laws and Customs of War on Land (the Hague Regulations), art. 46; and Fourth Geneva Convention, art. 27.

<sup>52</sup> For background on issues previously faced by the Orthodox Church of Ukraine, see OHCHR, "Situation of human rights", 25 September 2017, paras. 140 and 145; and 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", 10 September 2018, para. 41. Prior to reforms in 2018 and 2019, the Church had been known as the Ukrainian Orthodox Church of the Kyiv Patriarchate.

<sup>53</sup> These denials persisted despite the finding of the Ministry of Culture of Crimea that the documentation submitted met the registration requirements.



denial of registration to be retaliation for his pro-Ukrainian position and that of his parishioners.<sup>54</sup>

25. The Russian authorities consequently claimed, on the basis of the lack of registration, that the Church's property must be returned to the State. In addition, the Russian authorities retroactively reviewed the legality of the construction of the church in Yevpatoria, which had been built prior to the beginning of the temporary occupation, and claimed that the necessary permits were lacking. Two separate legal actions, documented by OHCHR during the reporting period, resulted in final court decisions to evict the parish in Simferopol and to demolish the place of worship in Yevpatoria.<sup>55</sup> These events took place in the context of other related developments, including additional losses of parishes and court proceedings since the beginning of the temporary occupation.<sup>56</sup> Overall, the number of the Church's parishes has decreased from 49 prior to the temporary occupation to only 5 in 2020, with a parallel decrease in the number of priests from 22 to 4.

26. Congregations of Jehovah's Witnesses remained under a blanket prohibition in Crimea. Individual Jehovah's Witnesses continued to face extremism-related criminal charges and prosecution for practising their faith. As at 31 December 2020, at least two Jehovah's Witnesses (both men) from Crimea were serving prison sentences for practising their faith.<sup>57</sup> Furthermore, both men were forcibly transferred from Crimea to a prison in the Russian Federation in mid-2020, making visits by family and friends, already complicated by COVID-19 restrictions, even more difficult.<sup>58</sup> In October 2020, the occupation authorities conducted at least nine searches of the houses of Jehovah's Witnesses and, as a result, detained and charged four believers from Sevastopol (all men).<sup>59</sup>

## F. Freedom of movement

27. Under the International Covenant on Civil and Political Rights, all those who are lawfully within the territory of a State must, within that territory, have the right to liberty of movement and freedom to choose their residence. This freedom of movement must not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with other rights recognized in the Covenant.<sup>60</sup> The laws authorizing restrictions should use precise criteria and may not confer unfettered discretion on those charged with their execution.<sup>61</sup>

<sup>54</sup> In 2018, the police apprehended the archbishop twice when he was on his way to visit a Ukrainian detainee. The police detained him for several hours in the police station and released him without pressing any formal charges.

<sup>55</sup> On 6 August 2020, the Supreme Court in Crimea confirmed the decision of lower courts ordering eviction from the cathedral in Simferopol. Previously, in separate proceedings, the courts in Crimea ordered the eviction of the Church from the first floor of the building in Simferopol. The case in 2019 and 2020 concerned the remaining parts of the buildings still occupied by the Orthodox Church of Ukraine. This judgment represented a departure from the initial recognition, by the State Council of Crimea in 2014, of the rental agreement's validity until 2050. With regard to the demolition of the church in Yevpatoria, on 17 December 2019 a court dismissed the appeal for review of the earlier demolition order. As at 31 December 2020, to the knowledge of OHCHR, the judgments had not been fully executed in either of the two legal actions.

<sup>56</sup> OHCHR, "Situation of human rights", 25 September 2017, paras. 140 and 145; and OHCHR, "Report on the situation of human rights", 10 September 2018, para. 41.

<sup>57</sup> Criminal proceedings against other individual believers were progressing but had not yet resulted in convictions by 31 December 2020.

<sup>58</sup> Under rule 59 of the Nelson Mandela Rules, prisoners must be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation.

<sup>59</sup> Five people were apprehended initially, but one woman was released. As at 31 December 2020, all four men had been denied bail and were being detained in pretrial detention facilities in Simferopol.

<sup>60</sup> International Covenant on Civil and Political Rights, art. 12.

<sup>61</sup> Human Rights Committee, general comment No. 27 (1999), para. 13.

## 1. Restrictions imposed by the Government of the Russian Federation in response to the COVID-19 pandemic

28. Regulatory measures implemented by the Russian authorities in response to the COVID-19 pandemic continued to negatively affect the freedom of movement of Ukrainian citizens across the Administrative Boundary Line between Crimea and other parts of Ukraine. Ukrainian citizens without passports from the Russian Federation or residence permits in Crimea were prohibited from entering Crimea, while Ukrainian citizens who also held passports from the Russian Federation were not allowed to travel from Crimea to other parts of Ukraine. Exceptions applied in limited cases, usually on humanitarian grounds such as the death of a close relative, medical needs or education. Some of these exceptions could be exercised only once during the pandemic.<sup>62</sup>

29. OHCHR collected information from individual travellers living on both sides of the Administrative Boundary Line, who complained that the measures taken were disproportionate, discriminatory and excessive. They claimed that the restrictions on their freedom of movement prevented them from exercising their property rights, making utility payments in relation to real estate in Crimea, visiting their family members and enrolling in universities located in other parts of Ukraine.

30. In addition, OHCHR documented that the occupation authorities prohibited Ukrainian citizens who held passports from the Russian Federation from using their Ukrainian travel documents to cross the Administrative Boundary Line. Those who, despite the prohibition, presented their Ukrainian passports to border guards of the Russian Federation faced fines and/or travel bans.<sup>63</sup>

## 2. Restrictions imposed by the Government of Ukraine in response to COVID-19

31. Between mid-March and June and for three weeks in August 2020, the Government of Ukraine temporarily restricted movement at all three crossing points on the Administrative Boundary Line.<sup>64</sup> Exceptions were made for those who had a registered address on the peninsula to enter Crimea and for those with a registered address in other parts of Ukraine to leave Crimea. In addition, individuals could cross on humanitarian grounds, including family reunification, death or serious illness of relatives, health care and other reasons.<sup>65</sup> The number of crossings decreased significantly in 2020, in comparison to previous years. For example, in June 2020, the number of monthly crossings fell almost 98 per cent compared to June 2019 (from 316,999 to 7,853 crossings). A number of Government-provided services, including essential services such as birth and death registration, issuance of identification documents and passports, and application processes for higher education institutions, were accessible in other parts of Ukraine only, meaning that Crimean residents were obliged to cross the Administrative Boundary Line.<sup>66</sup>

32. The State Border Guard Service of Ukraine did not always apply “humanitarian grounds” in a consistent and transparent manner. In one documented case, the Ukrainian border guards denied a 58-year-old Ukrainian citizen with a registered address in Crimea entry to other parts of Ukraine, despite having written evidence of his lawful residence in the Kyiv region, while his son who accompanied him was allowed to cross the Administrative

<sup>62</sup> OHCHR, “Impact of COVID-19 on human rights in Ukraine: December 2020”, 11 December 2020, paras. 32–34.

<sup>63</sup> OHCHR documented one case in which a Ukrainian citizen, fined by the Federal Security Service for presenting his Ukrainian passport at the Administrative Boundary Line, successfully challenged the fine in a local court, which was upheld on appeal.

<sup>64</sup> See Cabinet of Ministers regulations No. 291-p of 14 March 2020, as amended, and No. 979-p of 8 August 2020, as amended.

<sup>65</sup> No formal list of humanitarian grounds existed at the time, and border guards would often take ad hoc decisions in individual cases. The Government subsequently clarified the meaning of “humanitarian grounds” in regulations.

<sup>66</sup> There were only 75 cases in which passports were issued and identification-related services rendered to Crimean residents in Kherson region in June 2020, compared to 2,031 in June 2019.

Boundary Line. The man spent nearly 25 hours at the Administrative Boundary Line before he had to return to Crimea with 11 other travellers.<sup>67</sup>

## G. Right to adequate housing

33. The right to adequate housing, derived from the right to an adequate standard of living, implies that all persons should possess a degree of security of tenure, which guarantees legal protection against forced eviction.<sup>68</sup> In giving effect to the right to housing, States must guarantee that a person is able to exercise the right without discrimination of any kind as to factors such as national or social origin.<sup>69</sup> The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, has stated that the right to equality requires that housing and related social programmes be non-discriminatory in their effect.<sup>70</sup>

34. According to information obtained by OHCHR during the reporting period, all tenants living in social housing in Crimea on the basis of lease agreements concluded pursuant to Ukrainian legislation were required to enter into new social lease contracts under the law of the Russian Federation in 2016. These measures adversely affected Ukrainian citizens living in Crimea without Russian Federation passports, who were excluded from social housing on the basis of legislation that permits only citizens of the Russian Federation to enter into social lease contracts.<sup>71</sup> Another category of citizens whose security of tenure was threatened were former Ukrainian public officials, employees of public educational institutions and military officers who continued living in State-provided housing in Crimea after their resignation.

35. During the period 2016–2019, based on information received by OHCHR during the reporting period, the Russian authorities initiated at least 73 court proceedings to evict tenants who had been residing in social and other State-provided housing long before the temporary occupation. A total of 45 of these cases, concerning 78 individuals (41 women, 28 men, 6 boys and 3 girls) ended with eviction orders.<sup>72</sup> In addition, in 30 other cases, 35 Crimean tenants (17 women, 16 men and 2 children) initiated cases against the occupation authorities for refusing to offer them a social lease agreement under the law of the Russian Federation. The court dismissed their claims, leaving them at risk of eviction.

36. Courts retroactively applied provisions of housing laws of the Russian Federation when assessing the legality of the allocation of State-provided housing, declined to apply the statute of limitations usually applicable in such cases and failed to engage in any analysis of whether the eviction was proportionate and in pursuit of a legitimate aim.<sup>73</sup> In all of the cases reviewed, no compensation or alternative housing was provided to the victims.

## IV. Prohibition on forced conscription

37. International humanitarian law provides that an occupying Power may not compel protected persons to serve in its armed or auxiliary forces.<sup>74</sup> The Human Rights Committee

<sup>67</sup> Upon his return, the border guards of the Russian Federation considered that he had left “Russian territory” and warned him of criminal liability should he attempt to cross again.

<sup>68</sup> International Covenant on Economic, Social and Cultural Rights, art. 11 (1); and Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991), paras. 1 and 8 (a).

<sup>69</sup> International Covenant on Economic, Social and Cultural Rights, art. 2.

<sup>70</sup> See guideline No. 8 of the Special Rapporteur’s guidelines for the implementation of the right to adequate housing, in A/HRC/43/43, para. 48 (a) and (b).

<sup>71</sup> Russian Federation, Housing Code, art. 49 (5).

<sup>72</sup> The majority of these cases concerned State-provided service-related accommodation (that is, housing provided to families of public service employees and military officers), including dormitories, and social housing.

<sup>73</sup> Article 8 of the European Convention on Human Rights and Fundamental Freedoms, for example, enshrines the right to respect for one’s home and protects individuals against interference by a public authority. See, for example, European Court of Human Rights, *Winterstein and Others v. France*, Application No. 27013/07, Judgment, 17 October 2013, para. 156.

<sup>74</sup> Fourth Geneva Convention, art. 51.

has held that article 18 of the International Covenant on Civil and Political Rights entails the right to conscientious objection for persons whose religious beliefs are incompatible with military service.<sup>75</sup>

38. During two military conscription campaigns in 2020, the Russian Federation continued to conscript male Crimean residents, including those holding Ukrainian citizenship, into its armed forces. At least 5,000 male residents were enlisted in 2020 (2,500 in each campaign).<sup>76</sup> As at 31 December 2020, the total number of male residents conscripted from Crimea since 2015 was at least 26,200.<sup>77</sup> During each campaign, a contingent of conscripts from Crimea has been deployed to bases located in the Russian Federation. The criminal law of the Russian Federation, as applied by the Russian Federation in Crimea, prescribes fines, correctional labour and imprisonment for up to two years for draft evasion.<sup>78</sup>

39. Military draft offices in Crimea are refusing to process the requests of male Jehovah's Witnesses to carry out alternative civilian service in place of military service in exercise of their right to conscientious objection. The employees of military draft offices have reportedly verbally insulted Jehovah's Witnesses, threatened them with sanctions for alleged insincerity of religious beliefs and denied their applications for alternative civilian service.<sup>79</sup> The situation has been further complicated by the fear of criminal prosecution of Jehovah's Witnesses under the anti-extremism laws of the Russian Federation, which restrict the ability of believers to speak openly about their faith. In one case, a 17-year-old boy from Dzhankoi received a conscription notice during the first conscription campaign in 2020, despite his application for alternative civilian service on the grounds of his religious beliefs as a Jehovah's Witness. The military draft commission considered the application during a pro forma hearing, lasting four minutes, and concluded that the applicant had "failed to demonstrate sufficient reasons" as to how his moral and ethical beliefs were incompatible with military service, without providing any explanation of its reasoning.<sup>80</sup>

## V. Population transfers

40. 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.<sup>81</sup>

41. According to official statistics of the Russian Federation, the number of legal residents in Crimea without citizenship of the Russian Federation decreased by more than 22 per cent between 2019 and 2020, reaching its lowest level since 2016.<sup>82</sup> In contrast, 14,586 individuals considered foreigners in Crimea applied for and successfully acquired citizenship of the Russian Federation in 2020, 18.7 per cent more than in 2019.<sup>83</sup> According to the information

<sup>75</sup> *Yoon and Choi v. Republic of Korea* (CCPR/C/88/D/1321-1322/2004), para. 8.4.

<sup>76</sup> All figures are approximate and based on OHCHR analysis of data from the Ministry of Defence of the Russian Federation and military draft offices in Crimea.

<sup>77</sup> The public data made available by the Russian Federation contains considerable discrepancies. OHCHR uses the most conservative numbers, thus the figures on conscription are likely to be higher.

<sup>78</sup> Russian Federation, Criminal Code, art. 328. Conviction for draft evasion does not absolve the person of the obligation to complete military service.

<sup>79</sup> Applicants may challenge a denial in the regional military draft offices and in court.

<sup>80</sup> To the knowledge of OHCHR, the victim was not conscripted in that military campaign, but has been challenging the decision of the military draft commission.

<sup>81</sup> Fourth Geneva Convention, art. 49.

<sup>82</sup> As at 31 December 2020, 24,650 individuals were legally residing in Crimea without citizenship of the Russian Federation (Russian Federation, Ministry of Internal Affairs, "Selected indicators of the migration situation in the Russian Federation for January–December 2020 by country and region", available at <https://мвд.рф/Deljatelnost/statistics/migracionnaya/item/22689602/>, in Russian). As at 31 December 2019, the figure was 31,796 individuals (A/HRC/44/21, para. 45). No official information was publicly available before 2016.

<sup>83</sup> This figure refers to individuals who did not have the right to automatic recognition of citizenship of the Russian Federation and were required to undergo a naturalization procedure. In 2019, 12,290 individuals considered foreigners acquired citizenship of the Russian Federation in Crimea, and the

available to OHCHR, the majority of these individuals were Ukrainian citizens who chose to obtain passports from the Russian Federation in order not to be deprived of some of their rights and to avoid the risk of being transferred from Crimea.<sup>84</sup> Ukrainian citizens without citizenship of the Russian Federation or legal residency in Crimea are excluded from free health insurance and access to public hospitals, and are not entitled to own agricultural land, vote or be elected to public office, register a religious community or apply to hold a public assembly. They are also not permitted to own land in the so-called “border areas” of Crimea.<sup>85</sup>

42. During the reporting period, the temporary ban on forcible transfers (in the form of “forcible removals”) that had been introduced on 15 March 2020 in response to the COVID-19 pandemic continued to apply in Crimea.<sup>86</sup> As a result, there was a further decrease of documented cases of forcible transfers of individuals considered foreigners under the law of the Russian Federation from Crimea.<sup>87</sup> According to the court registry of the Russian Federation, at least 197 orders for such transfers were issued in Crimea in 2020. At least 113 of these orders affected Ukrainian citizens (99 men and 14 women) whom the Russian Federation did not consider as having residency rights in Crimea. In at least 13 cases, affecting at least nine Ukrainian citizens (all men), transfer orders were issued against individuals as punishment for suspected drug use or refusal to undergo a drug test. Consistent with the previously reported trend, the other cases involved persons who had lost their identification documents, had no family members in Crimea or had failed to apply for a residence permit and/or work permit.<sup>88</sup>

## VI. Conclusions and recommendations

43. **In line with General Assembly resolution 75/192, 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.**

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

45. **I continued to offer my good offices and pursue my discussions relating to Crimea, involving all relevant stakeholders and including the concerns addressed in General Assembly resolution 75/192. 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.**

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total figure for the past five years is 41,208 individuals (A/HRC/44/21, para. 45; and Russian Federation, Ministry of Internal Affairs, “Selected indicators of the migration situation in the Russian Federation for January–December 2019 by region”, available at <https://мвд.рф/Deljatelnost/statistics/migracionnaya/item/19365693/>, in Russian).

<sup>84</sup> According to the results of the census conducted by the Russian Federation in Crimea in October 2014, Ukrainian citizens 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 Service, available at [www.gks.ru/free\\_doc/new\\_site/population/demo/perepis\\_krim/perepis\\_krim.html](http://www.gks.ru/free_doc/new_site/population/demo/perepis_krim/perepis_krim.html) (in Russian).

<sup>85</sup> A/75/334, para. 38.

<sup>86</sup> Under the laws of the Russian Federation applied in Crimea, forcible transfers may take the form of either “forcible removals” (when a person is detained in a temporary detention facility while awaiting the removal procedure) or “controlled departures” (when a person must leave the territory within five days).

<sup>87</sup> Under the laws of the Russian Federation applied in Crimea, Ukrainian citizens without a passport of the Russian Federation are considered “foreigners”.

<sup>88</sup> A/HRC/44/21, paras. 43 and 44.

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

47. 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 arrest and detention in Crimea. They have the obligation to ensure that the rights of persons deprived of liberty are fully respected. It is equally essential to ensure that all arrested, detained or imprisoned persons are provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Lawyers must be able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.

48. I also call upon the Russian Federation to respect the right to adequate housing of all Crimean residents and to ensure that access to social housing is consistent with the principle of non-discrimination. All individuals and groups in Crimea should be able to exercise the right to freedom of expression, the right to hold opinions without interference, the right of peaceful assembly and the rights to freedom of association and freedom of thought, conscience and religion, without discrimination on any grounds. In particular, I call upon the Russian authorities to end the practices of requiring prior authorization for peaceful assemblies and issuing warnings or threats to potential participants in those assemblies.

49. I also call upon the Russian authorities to enable a safe environment for independent and pluralistic media outlets and civil society organizations. Religious groups should have unchallenged access to their places of worship and should be able to gather freely for prayer and other religious practices, regardless of any registration requirements. It is important to ensure that any restriction on freedom of movement and other fundamental freedoms for public health reasons is non-discriminatory, provided by law and proportionate and has a legitimate aim. I call upon the Russian Federation to lift restrictions imposed on the Crimean Tatar community to conserve its representative institutions, including the ban on the Mejlis. The Russian authorities 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, ending the criminal prosecution of protected persons for military draft evasion and providing alternative civilian service options to all persons unable to serve in the military owing to their religious or other convictions. 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.

50. The Government of Ukraine is urged to respect its obligations under international human rights law in relation to Crimean residents, including by continuing to facilitate freedom of movement to and from Crimea through improvements to crossing conditions and the removal of regulatory barriers.

51. I call upon Member States to support human rights defenders who work for the protection of human rights in Crimea and to continue to support the work of the United Nations to ensure respect for international human rights law and international humanitarian law in Crimea. It remains essential 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.