



# **CRIMEA**

## **IN THE CONTEXT OF OCCUPATION: Q&A guide for media**



This guide was prepared by the human rights organizations – Human Rights Centre ZMINA and the Crimean Human Rights Group – in cooperation with the Mission of the President of Ukraine in the Autonomous Republic of Crimea. The guide provides straightforward and comprehensive answers to the most common questions related to the Crimean issues in the context of occupation.

Although this publication targets a broad general public, it will be useful primarily to journalists covering Crimean issues. It was created, taking into account the main problem points of the media discourse in the context of the occupation of Crimea.

Publication and distribution of this material or its fragments are welcome provided the correct reference to the authors.

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## What is the correct designation for Crimea?

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**The Autonomous Republic of Crimea and the city of Sevastopol** are two separate administrative-territorial units of Ukraine. At the same time, the Autonomous Republic of Crimea has the status of autonomy determined by the Constitution of Ukraine and the Constitution of the Autonomous Republic of Crimea; the city of Sevastopol has a special status defined by law.

**The Crimean peninsula** is a geographical definition of the part of the territory of Ukraine where the Autonomous Republic of Crimea and the city of Sevastopol are located.

Thus, the correct names are as follows: a) Crimea (in the general context), b) the Autonomous Republic of Crimea and the city of Sevastopol (as a legal name), c) the Crimean peninsula (as a geographical name).

It is incorrect to use the phrase "Republic of Crimea" because it is the name by which the Occupying Power defines Crimea.

According to Article 134 of the Constitution of Ukraine and the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine" the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol is an integral part of the territory of Ukraine to which the Constitution and laws of Ukraine apply.



## Annexation, occupation, “accession” of Crimea or “establishment of control of the Russian Federation” over Crimea – which term is correct?

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When covering Crimea related issues, it is correct to use the term “occupation”. Because in March 2014, the Russian Federation, with the help of its military formations, established control over part of Ukraine’s territory (the Autonomous Republic of Crimea and the city of Sevastopol), thus starting the ongoing international armed conflict.

Since one of the defining features of the occupation is the establishment of control over the territory, it is also permissible to say that **“the Russian Federation has established control over the Crimean peninsula”**. It is a neutral statement that can be used for security purposes, in particular by journalists working in the occupied territories, who may be persecuted by the occupying authorities for the word “occupation”.

In its propaganda, the Russian Federation often calls the fact of its occupation of part of the territory of Ukraine **“the accession of Crimea”**. This expression is used to emotionally emphasize the legitimacy of the extension of their sovereign rights to the territory or part of the territory of another state. It is obviously an unacceptable term to use, as it leaves behind the act of aggression committed by the Russian Federation against Ukraine.

Also, the term **annexation** is often used to refer to Russian control over Crimea. An annexation is a unilateral, illegal act of a state to include in its composition the territory or part of the territory of another state. An annexation is an act that violates international law and, in particular, the UN Charter. Therefore, in terms of international law, state borders do not change as a result of annexation.



## Why are the phrases “annexed Crimea”, “annexation of Crimea” not quite correct?

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**Attempt to annex the Autonomous Republic of Crimea and the city of Sevastopol** is a term associated with an attempt by the Russian Federation to expand its sovereignty (i.e. to include in its membership) to the part of the territory of Ukraine at the legislative level contrary to international law, which is not recognized by other states. It is namely **an attempt** because the countries of the world adhere to the policy of non-recognition of the annexation of the Autonomous Republic of Crimea and the city of Sevastopol. Back in 2014, a UN General Assembly Resolution was adopted calling on all states, international organizations and specialized agencies not to recognize any changes in the status of the Autonomous Republic of Crimea and the city of Sevastopol based on a “referendum” and to refrain from any actions or behaviour that may be interpreted as recognition of any change of the status<sup>1</sup>.

One can also use the phrase **“attempted annexation of Crimea / the Crimean Peninsula”**. It would also be correct to combine both terms – **“the Russian Federation temporarily occupied and tried to annex the Autonomous Republic of Crimea and the city of Sevastopol”**.

It would be incorrect to use the wording – **“the Russian Federation annexed the Autonomous Republic of Crimea and the city of Sevastopol (or Crimea / the Crimean Peninsula)”**. In this case, the question of recognizing the act of incorporation of the Autonomous Republic of Crimea and the city of Sevastopol into the Russian Federation and change of sovereignty may be raised.

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<sup>1</sup> UN GA Resolution № 68/262 2014 “Territorial Integrity of Ukraine”.



## Which is correct, occupied or temporarily occupied territory?

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In fact, occupation is, by definition, a temporary international legal regime and is not related to the transfer of sovereignty over the territory of one state to another. It means that the occupation is always temporary.

However, following the national legislation of Ukraine, the territory of Crimea is recognized as a temporarily occupied territory<sup>2</sup>. This term is widely used in national law, so the use of the construct “temporarily occupied territory” is acceptable and complies with the Ukrainian legislation.

Therefore, one can use both options – occupied and temporarily occupied territory.

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<sup>2</sup> Law of Ukraine «On Ensuring Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine» of April 15, 2014, № 1207-VII.





## What does “effective control” mean in the context of the occupation of Crimea?

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Effective control is the ability of a state to exercise its jurisdiction (apply laws, exercise power, etc.) in a given territory. Although the occupation is not possible without control of the territory, the term **“effective control”** is usually used in the context of determining the actual ability to exercise jurisdiction. In contrast “occupation” is inextricably linked to armed conflict and military control.

Therefore, as a rule, if one doesn’t intend to stress the ability or inability of the Occupying Power to implement its responsibilities, which are associated with the presence or absence of control over the territory of the Autonomous Republic of Crimea and the city of Sevastopol, the term “occupation” should be used.



## When did the occupation of Crimea begin?

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The date of the beginning of the temporary occupation of the Autonomous Republic of Crimea and the city of Sevastopol following the Ukrainian legislation<sup>3</sup> is February 20, 2014. It was on this date that the Russian troops invaded Ukraine. On this date, the first cases of violation by the RF Armed Forces of the order of crossing the state border of Ukraine near the Kerch Strait happened and Russia used its military formations, stationed in Crimea under the Agreement on the Russian Black Sea Fleet, to block Ukrainian military units.

However, a significant date for the modern history of Crimea is also February 26, 2014. It was on this day that a rally of thousands of Crimean Tatars and pro-Ukrainian activists against the holding of an extraordinary session of the Verkhovna Rada of Crimea took place outside the Verkhovna Rada of the Autonomous Republic of Crimea. February 26 was established as the Day of Resistance to the Occupation of the Autonomous Republic of Crimea and the City of Sevastopol following the Decree of the President of Ukraine Volodymyr Zelensky, signed on February 26, 2020<sup>4</sup>.

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<sup>3</sup> Part 2 of Article 1 of the Law of Ukraine «On Ensuring Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine» of April 15, 2014, № 1207-VII.

<sup>4</sup> Decree of the President of Ukraine of 26.02.2020 № 58/2020 «On the Day of Resistance to the Occupation of the Autonomous Republic of Crimea and the City of Sevastopol».



## Which Crimean territory is considered occupied?

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1. The land territory of the Autonomous Republic of Crimea and the city of Sevastopol, internal waters of Ukraine of these territories.
2. Inland sea waters and the territorial sea of Ukraine around the Crimean peninsula, the territory of the exclusive (marine) economic zone of Ukraine along the coast of the Crimean peninsula and the adjacent to the coast of the continental shelf of Ukraine.
3. Subsoil under the territories referred to in paragraphs 1 and 2, as well as the airspace over these territories<sup>5</sup>.

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<sup>5</sup> Article 3 of the Law of Ukraine «On Ensuring Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine» of April 15, 2014, № 1207-VII.



## Why can not the so-called “referendum”, which took place on March 16, 2014, in Crimea, be considered an act of free will of the people of Crimea?

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There are several reasons for this.

The first reason is that the so-called “referendum” contradicts the national legislation of Ukraine, which does not provide for the procedure of holding local referendums. Also, the issue of changing borders should be submitted exclusively to a national referendum (Article 73 of the Constitution of Ukraine). On March 14, 2014, the Constitutional Court of Ukraine declared the decision of the Verkhovna Rada of the Autonomous Republic of Crimea to hold a referendum to be unconstitutional<sup>6</sup>. On March 15, 2014, the Verkhovna Rada of Ukraine prematurely terminated the powers of the Verkhovna Rada of the Autonomous Republic of Crimea.

The second reason is that the preparation and holding of the “referendum” did not meet democratic standards, and the event itself was not aimed at expressing the views of Crimean residents. Thus, the date of the “referendum” was changed several times, and only nine days were given for the entire organization of the “referendum” process. The work of journalists was limited, and the Ukrainian media were blocked. In addition, before the “referendum” (namely, on March 6, 2014), the Crimean parliament announced the entry of Crimea into the Russian Federation<sup>7</sup>. Besides, the questions in the bulletin appeared to be manipulative: **“Are you in favour of the reunification of Crimea with Russia as a subject of the Russian Federation?”** or **“Are you for the restoration of the Constitution of the Republic of Crimea as of 1992 and the status of Crimea as part of Ukraine?”** Simultaneously, the bulletin provided an answer to only one

<sup>6</sup> Decision of the Constitutional Court of Ukraine on the case № 1-13 / 2014 of March 14, 2014: <https://web.archive.org/web/20140314191902/http://www.ccu.gov.ua/dccatalog/document?id=242321>

<sup>7</sup> On March 6, 2014, an extraordinary sitting of the Crimean Parliament was held in the premises of the Verkhovna Rada of the ARC, which remained under the control of the Russian military without identification marks, where a decision was made to hold a referendum on March 16 (i.e. in 9 days). Also, a resolution was adopted on the entry of Crimea into the Russian Federation as a subject of the Russian Federation. At an extraordinary meeting, the Sevastopol City Council made the same decision to include Sevastopol in the Russian Federation as a subject of the Russian Federation.

of these questions and only **“YES”** – by marking in the appropriate box. This choice was not exhaustive, since there was no option of the status of Crimea as part of Ukraine under Ukraine’s current Constitution and the current Constitution of the Autonomous Republic of Crimea. Significant falsifications took place during the “referendum” as well as the counting of the results. According to the media, persons who did not have Ukrainian citizenship and persons without Crimean registration could vote in the “referendum.” Also, there were cases when one person could vote many times in different polling stations. In the territory of Bakhchisaray district in the places of residence of the Crimean Tatars, “polling stations” were not created as there were no volunteers for work in “election commissions”<sup>8</sup>. Journalists recorded numerous violations<sup>9</sup>: ballot stuffing<sup>10</sup>, election day campaigning<sup>11</sup>, forced voting, and so on.

The third reason is that the so-called “Crimean referendum” took place already in the conditions of occupation<sup>12</sup>, the presence of the foreign military, and persecution of Crimean people who opposed the occupation (during the “referendum” there were enforced disappearances, torture of pro-Ukrainian activists, Crimean Tatars who opposed the Russian occupation of Crimea, as well as journalists and documentary filmmakers who came to record the events in Crimea, cases of extrajudicial executions are also known<sup>13</sup>). The presence of a large number of people with weapons and without identification marks is a violation of international standards in the field of elections and, in principle, precludes the possibility of free expression of the will of the people of Crimea.

The fourth reason is that the so-called “referendum” held on March 16, 2014, in Crimea, was not recognized by the international community. The OSCE, engaged in election observation, did not send its observers to this “referendum”, and only representatives of far-right, neo-Nazi, and communist

<sup>8</sup> “Referendum» in Crimean Tatar residential areas in Bakhchisarai is disrupted – Umerov / Radio Svoboda, March 16, 2014: <https://www.radiosvoboda.org/a/25298474.html>

<sup>9</sup> Pseudo-referendum in Crimea: a list of observed violations / LigaBusinessInform, 16.03.2014: [https://news.liga.net/politics/news/psevdoreferendum\\_v\\_krymu\\_perechen\\_zamechennykh\\_narusheniy](https://news.liga.net/politics/news/psevdoreferendum_v_krymu_perechen_zamechennykh_narusheniy)

<sup>10</sup> Falsifications at the «referendum» in Crimea: dead and Russian souls, carousels and forced-choice / Tyzhden, 17.03.2014: <https://tyzhden.ua/News/105105>

<sup>11</sup> Mass agitation «for Russia» continues in Crimea during «referendum» / Radio Svoboda, 16.03.2014: <https://www.radiosvoboda.org/a/25298661.html>

<sup>12</sup> In an interview on June 4, 2014, the President of the Russian Federation Vladimir Putin said that Russian troops stationed in Crimea under an international treaty on the existence of a Russian military base had indeed “helped Crimean residents hold a referendum on their independence and desire to join Russian Federation”. He also noted that Russia could not allow “historic Russian territory with a predominantly ethnic Russian population” to join NATO.

<sup>13</sup> In particular, a number of Ukrainian and Crimean Tatar activists who openly protested against Russia’s actions in Crimea were abducted: Reshat Ametov, Andriy Shchekun, Anatoliy Kovalsky, Oleksiy Hrytsenko, Serhiy Suprun, Natalia Lukyanchenko, Ivan Bondarets, Valery Vashchuk, Vasyly Chernysh, the journalist Olena Maksymenko, documentarians Yuri Gruzynov and Yaroslav Pilunsky and others. Many of them were tortured, Reshat Ametov was brutally killed. There is still no information about Ivan Bondarets, Valery Vashchuk, and Vasyly Chernysh, who disappeared in the first half of March 2014.

European parties<sup>14</sup> came as international observers. Already on March 27, 2014, the UN General Assembly adopted a resolution “Territorial integrity of Ukraine”<sup>15</sup>, which, in particular, emphasizes that the “referendum” in the Autonomous Republic of Crimea and the city of Sevastopol has no legal force and can not be any basis for changing the status of this territory. The OSCE Parliamentary Assembly<sup>16</sup>, the PACE<sup>17</sup>, and the Venice Commission<sup>18</sup> also recognized this “referendum” as an illegal and illegitimate act, which has no legal force.

Therefore, March 16, 2014, was not a day of free expression of the will of the Crimean people, as the Russian authorities are trying to convince everyone. Prior to that, the Russian Federation occupied the territory of the Autonomous Republic of Crimea and the city of Sevastopol through military intervention in the independent state of Ukraine, and the Russian military controlled the “referendum” itself, with numerous falsifications, intimidation, persecution of opponents of the occupation and without respect for democratic freedoms.

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<sup>14</sup> The annexation of Crimea was supported by European neo-Nazis and communists (document) / UNIAN, 04/17/2014: <https://www.unian.ua/politics/908951-aneksiyu-krimu-pidtrimali-evropeyski-neonatsisti-ta-komunisti-dokument.html>

<sup>15</sup> Resolution adopted by the General Assembly on March 27, 2014 68/262. Territorial integrity of Ukraine.

<sup>16</sup> Resolution of the OSCE Parliamentary Assembly “Continuation of obviously gross and irreparable violations of the Russian Federation obligations under the OSCE and international law”. Date of adoption: July 8, 2015.

<sup>17</sup> Resolution of the Parliamentary Assembly of the Council of Europe – 1988 (2014) 121. Date of adoption: March 27, 2014.

<sup>18</sup> Conclusion of the Venice Commission on the question “Does the decision taken by the Verkhovna Rada of the Autonomous Republic of Crimea in Ukraine to organize a referendum on becoming a subject of the Russian Federation or to restore the 1992 Constitution, comply with constitutional principles. ” Number and date of adoption: March 21, 2014, № 762/2014 CDL-AD (2014) 002.



## What rules and norms are established by international law regarding the occupied territories? What are Russia's responsibilities as an Occupying Power?

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According to the Hague Convention respecting the Laws and Customs of War on Land<sup>19</sup>, the Autonomous Republic of Crimea and the city of Sevastopol are covered by the international legal regime of occupation. In this regard, the territory is considered occupied if it is actually under the control of the enemy army. The occupied territory legally continues to be the territory of the state to which it belonged before the occupation. The Occupying Power is obliged to ensure public order and life in the occupied territories.

One of the most important acts in the field of international law governing the behaviour and protection of the rights of the population in the occupied territories is the Convention relative to the Protection of Civilian Persons in Time of War, signed on 12 August 1949 in Geneva (Fourth Geneva Convention). The provisions of the Convention apply in the event of a declared war or any armed conflict, even if one of the belligerents does not recognize the state of war, and in the event of occupation of the territory, even if that occupation does not meet armed resistance.

The Convention, in particular, provides the following:

- it is prohibited, regardless of the reasons, to carry out the forced individual or mass resettlement or deportation of persons from the occupied territory to the territory of the Occupying Power or to the territory of any other state, regardless of whether it is occupied or not;
- the Occupying Power, in cooperation with state and local authorities, should promote the proper functioning of institutions responsible for taking care of children and their education;

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<sup>19</sup> Convention (IV) Respecting the Laws and Customs of War on Land and its annex: Regulations on Laws and Customs of War on Land (1907).

- the Occupying Power has no right to compel persons in the occupied territory to serve in its armed or auxiliary forces;
- persons in the occupied territories may not be compelled to perform any work involving their participation in military operations;
- any destruction by the Occupying Power of movable or immovable property which is the individual or collective property of individuals or of the State, or of other public institutions or social or cooperative organizations, is prohibited;
- the Occupying Power should allow religious leaders to provide spiritual support to their fellow believers;
- the Occupying Power shall not have the right to arrest, prosecute or bring charges against protected persons for actions or beliefs committed or expressed by them before the occupation or during the period of its temporary cessation, except in cases of violation of the laws or customs of war;
- persons who are under protection and accused of committing a crime must stay in the occupied territory, and in case of conviction must serve their sentences there.

One can read more about international humanitarian law and correct terminology in the context of armed conflict in the thematic guide for journalists<sup>20</sup>.

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<sup>20</sup> M. Gnatovsky, T. Korotky, N. Hendel, *International humanitarian law. Guide for journalists /* – 2nd ed., revised. – Odessa: Phoenix, 2015. – 92 p. <https://bit.ly/35YF8kr>





## What is the correct name for the so-called “authorities” operating in Crimea?

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Any bodies, their officials and officers of bodies in the temporarily occupied territory and their activities are considered illegal if these bodies or persons are created, elected or appointed in a manner not provided by the legislation of Ukraine. Therefore, these bodies can correctly be called **“occupying authorities”** or **“illegal authorities”**.

It will also be incorrect to use the names of administrative-territorial entities and illegal authorities in the temporarily occupied territory without the phrase **“so-called”** and / or names in quotation marks. It would be correct, for example, to write: the so-called “Republic of Crimea”, the so-called “Kyiv District Court” of Simferopol.



## Is it correct to name the boundary line between occupied Crimea and mainland Ukraine the border?

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The terms “administrative border / administrative boundary line” are applied to the borders of the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol. The use of only the term “border” is not allowed, because this wording is usually used as an abbreviation of the term “the State Border of Ukraine” and defines the borders of Ukraine.

At the same time, the temporarily occupied territory of Ukraine of the Autonomous Republic of Crimea and the city of Sevastopol is an integral part of the territory of Ukraine, to which the Constitution and laws of Ukraine apply.

For the same reasons, it is incorrect to say, for example, **“left Crimea for Ukraine”** because Crimea is part of Ukraine (instead, it is correct to say: **“left Crimea for mainland Ukraine”**). It is also wrong to use **“Crimea and mainland Russia”**, **“Crimea and Ukraine”**, etc. It is correct to use **“Crimea and Russia”**, **“occupied Crimea and Russia”**, etc.



## What is the correct usage of the terms “political prisoner” and “prisoner of war”?

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At present, there are no terms “political prisoner” and “prisoner of war” in Ukrainian legislation.

At the same time, the Resolution of the Parliamentary Assembly of the Council of Europe № 1900 (2012) “The Definition of Political Prisoner” emphasizes that a person deprived of his or her personal liberty is to be regarded as a ‘political prisoner’ in the following cases:

- a. if the detention has been imposed in violation of one of the fundamental guarantees set out in the European Convention on Human Rights and its Protocols (ECHR), in particular, freedom of thought, conscience and religion, freedom of expression and information, freedom of assembly and association;
- b. if the detention has been imposed for purely political reasons without connection to any offence;
- c. if, for political motives, the length of the detention or its conditions are clearly out of proportion to the offence the person has been found guilty of or is suspected of;
- d. if, for political motives, he or she is detained in a discriminatory manner as compared to other persons; or
- e. if the detention is the result of proceedings which were clearly unfair and this appears to be connected with political motives of the authorities.”

As for the term “prisoner of war”, in accordance with Art. 4 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, this term refers to persons who have fallen into the power of the enemy and belong to one of the following categories:

- members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces;

- members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory;
- members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power;
- persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces;
- members of crews of the merchant marine and the crews of civil aircraft of the Parties to the conflict;
- inhabitants of a non-occupied territory who, on the approach of the enemy, spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

Despite the lack of terms in the national legislation of Ukraine, at the level of government decrees, the categories of persons who have been deprived of liberty in connection with the conflict and who receive state support are defined. In particular, these are:

- persons who have been deprived (had been deprived) of their personal liberty by illegal armed groups, the occupation administration and / or the authorities of the Russian Federation for political reasons, as well as in connection with the public, political or professional activities of such persons<sup>21</sup>;
- persons deprived of their liberty for political reasons or captured as prisoners of war in connection with the protection of the independence, sovereignty and territorial integrity of Ukraine<sup>22</sup>.

Thus, the definition of the terms “political prisoner” and “prisoner of war” is regulated by international law, acts of international organizations and is actually used by the state authorities of Ukraine.

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<sup>21</sup> Resolution of the Cabinet of Ministers of Ukraine of April 18, 2018, № 328 “On approval of the Procedure for using funds provided in the state budget for measures to protect and ensure the rights and freedoms of persons deprived of personal liberty by illegal armed groups, the occupation administration and / or the authorities of the Russian Federation for political reasons, as well as in connection with the public, political or professional activities of such persons, support of these persons and their families, measures for the reintegration of the population of the temporarily occupied territories, payment of state scholarships named after Levko Lukyanenko”.

<sup>22</sup> Resolution of the Cabinet of Ministers of Ukraine of December 11, 2019, № 1122 «Some issues of the social and legal protection of persons deprived of their liberty as a result of armed aggression against Ukraine, after their release».



## Exchange of prisoners or mutual release?

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During the release of Ukrainian political prisoners and prisoners of war who were illegally imprisoned in the territory of the Russian Federation and / or occupied Crimea, state and media representatives often call this process an **"exchange of prisoners"**, which is not entirely correct.

First, people are not commodities and therefore, cannot be exchanged. Secondly, the phrase "exchange of prisoners" implies that Ukraine also holds captive citizens of the Russian Federation, which is not true. Persons released by the Ukrainian side in the framework of mutual release proceedings are suspected, accused or convicted of criminal offences, in particular those related to the armed conflict, committed in the territory of Ukraine. On the other hand, the occupying authorities release those who have indeed been taken prisoner and can be considered captives.

That is why, when covering the process of liberation of Ukrainians illegally detained in the Russian Federation, in the occupied territories of Donbas and Crimea, it is correct to use the terms **"liberation"**, **"mutual liberation"**, **"process of mutual liberation"**, **"simultaneous liberation"**. The use of the words **"exchange"**, **"exchange of citizens of Ukraine"**, **"exchange of prisoners"** is incorrect from the viewpoint of international humanitarian law.



## What is the difference between enforced disappearances and any other disappearance of people?

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People are disappearing everywhere – in the occupied and government-controlled territories, and in the most prosperous countries. However, if the disappearance of a person involves representatives (agents) of the State, and the whereabouts of the missing person are hidden, we can say that there was an enforced disappearance.

As defined in the International Convention for the Protection of All Persons from Enforced Disappearance, **enforced disappearance** is the arrest, detention, abduction or deprivation of liberty in any other form by representatives of a State or persons or groups of persons acting with permission, with the support or with the consent of the State, in case of further refusal to recognize the fact of imprisonment or concealment of data on the fate or whereabouts of the missing person, as a result of which this person was left without the protection of the law<sup>23</sup>.

After the beginning of the occupation of Crimea, the occupying authorities began to apply the practice of enforced disappearances to persons who expressed a position opposing the occupation of Crimea. Thus, dozens of Ukrainian citizens became victims of enforced disappearances.

The first known victim of enforced disappearances was a Crimean Tatar activist Reshat Ametov, abducted on March 3, 2014, from the central square of Simferopol, where he was protesting against the occupation of Crimea. Later he was found dead with traces of torture. According to the Office of the United Nations High Commissioner for Human Rights<sup>24</sup>, since March 2014, OHCHR has identified 42 victims of enforced disappearances (38 men and 4 women) in Crimea. As of June 30, 2019, 28 people who had been abducted or illegally detained had been released; 2 remained in custody; 11 were still missing and 1 was found dead. Among the victims are pro-Ukrainian and Crimean Tatar activists and journalists. Most of the disappearances (24 men and 4 women) took place in 2014, in most cases,

<sup>23</sup> Article 2. International Convention for the Protection of All Persons from Enforced Disappearance: <https://www.ohchr.org/en/hrbodies/ced/pages/conventionced.aspx>

<sup>24</sup> Situation in the field of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine. Report of the UN Secretary General. Date: August 2, 2019: [https://reliefweb.int/sites/reliefweb.int/files/resources/A\\_74\\_276\\_R.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/A_74_276_R.pdf)

it was claimed that a local paramilitary group (“Crimean self-defense”) working with the Russian occupation forces was involved.

In 2018, Ukraine criminalized the crime of enforced disappearances (Article 146-1 of the Criminal Code of Ukraine). As of May 1, 2020, the National Police of the Autonomous Republic of Crimea is investigating 19 criminal proceedings on the fact of enforced disappearances that took place in the occupied territory.



## Does Ukraine recognize Russian citizenship which was obtained by the residents of Crimea?

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No, Ukraine doesn't recognize it. After the occupation, the Russian Federation began a policy of imposing citizenship upon all residents of the peninsula. The Russian authorities had created conditions under which residents of the Autonomous Republic of Crimea and the city of Sevastopol were forced to obtain passports of Russian citizens<sup>25</sup>.

Formally, the Russian Federation stated that in order to avoid "automatic acquisition of citizenship", citizens of Ukraine with a place of registration on the territory of the peninsula should personally submit an application "about the desire to retain Ukrainian citizenship" until April 18, 2014. The Russian Federal Migration Service started to accept these applications only after April 1, i.e. one had only two weeks to do so. Initially, it was possible to apply only in 4 so-called "points of the Federal Migration Service of the Russian Federation" throughout Crimea (including Sevastopol), while the queues were shared with those wishing to obtain a Russian passport. This procedure violates both the legislation of Ukraine and international norms on citizenship, as the Russian Federation has no right to decide on the preservation or deprivation of citizenship of another state – Ukraine.

Besides, Crimean residents, aware of the persecution of Ukrainian activists, feared that by collecting such applications of renunciation of Russian citizenship, the occupying authorities had, in effect, compiled registers of the dissent for further politically motivated persecution.

According to the Federal Migration Service of the Russian Federation, only 3,500 people in Crimea seized the opportunity to renounce Russian citizenship. However, this figure cannot be considered reliable. For example, the cases had been documented when those wishing to submit such an application did not have time to do so due to long queues and short admission deadlines. Persons abroad, the sick, the elderly, and others were also unable to submit such applications.

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<sup>25</sup> More details on the consequences of the forced imposition of Russian citizenship on the residents of the temporarily occupied territory of the Crimean Peninsula can be found in the report «Human Rights in the Context of Automatic Naturalization in Crimea» at: [https://www.irf.ua/crimea\\_citizenship\\_analysis/](https://www.irf.ua/crimea_citizenship_analysis/)



The situation was particularly difficult for orphans and children who are under the guardianship or trusteeship of public authorities, as well as persons deprived of their liberty. Thus, as of August 1, 2014, there were more than 4,000 orphans and children under the state guardianship or trusteeship in Crimea. As the administrations of all Crimean institutions had come under the control of the Russian authorities, the children were deprived of the right to refuse the Russian citizenship imposed on them. The situation was similar to Ukrainian citizens in pre-trial detention centers and colonies, who in some cases were even tortured for wanting to retain Ukrainian citizenship.

In addition, Ukrainian citizens who live in Crimea without Russian passports and do not have registration of a place of residence on the peninsula are administratively persecuted by the occupying authorities, from fines to forcible expulsions from Crimea. The practice of deporting such citizens of Ukraine is continuing now. Among the deportees, there are many Ukrainian citizens who lived permanently in Crimea, have family and housing there. Still, these circumstances are usually ignored by the occupation courts<sup>26</sup>.

Citizens of Ukraine who live in the Autonomous Republic of Crimea and the city of Sevastopol and have imposed Russian passports do not lose their citizenship and remain Ukrainian citizens.

According to Art. 5 of the Law of Ukraine "On Ensuring Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine", forced automatic acquisition of Russian citizenship by citizens of Ukraine residing in the temporarily occupied territory is not recognized by Ukraine and is not grounds for loss of Ukrainian citizenship. It also means that Ukrainian citizens in Crimea cannot be prosecuted for having a "Russian passport" issued in occupied Crimea.

In case residents of the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol refuse to obtain the so-called "passport of a citizen of the Russian Federation", it would lead to limited access to social, medical and other services in the occupied territories. It means that in Crimea they may be denied ownership of the real estate and so on.

The above mentioned position is reflected in the statement of the Ministry of Foreign Affairs of Ukraine on Russian passports illegally imposed on residents of the temporarily occupied Autonomous Republic of Crimea

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<sup>26</sup> Ukrainians are systematically deported from Crimea for lack of Russian passports – research / Crimean human rights group, 08.31.2018: <https://crimeahrg.org/uk/ukrayintsiv-sistemno-deportuyut-z-krimu-za-vidsutnist-pasportiv-rf-doslidzhennya/>

and the city of Sevastopol by the Russian occupation administration<sup>27</sup>, the position of the Mission of the President of Ukraine in the Autonomous Republic of Crimea<sup>28</sup> and is used as argumentation for violations of the International Convention on the Elimination of All Forms of Racial Discrimination in the case "Ukraine v. Russia" in the UN International Court of Justice.

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<sup>27</sup> Statement of the Ministry of Foreign Affairs on Russian passports illegally imposed on residents of the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol by the Russian occupation administration / Ministry of Foreign Affairs of Ukraine, 16.06.2020: <https://mfa.gov.ua/news/zayava-mzs-stosovnorosijskih-pasportiv-protipravno-navyazanih-meshkancyam-timchasovo-okupovanoyi-ar-krim-i-msevastopol-rosijskoyu-okupacijnoyu-administracijeyu>

<sup>28</sup> See the publication of June 16, 2020: <https://www.facebook.com/ppu.gov.ua/posts/1390456178009463>



## Are Crimeans who were conscripted to the Armed Forces of the Russian Federation after the occupation of Crimea considered criminals in Ukraine?

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Under the norms of international humanitarian law, the forced conscription of Crimean residents to the armed forces of the Russian Federation is a war crime. It violates the provisions of the 1949 Convention relative to the Protection of Civilian Persons in Time of War. Therefore, Crimean residents who were conscripted for military service in the armed forces and other military formations of the Russian Federation after the beginning of the occupation of Crimea are not criminals, and they are victims of a war crime committed by the Occupying Power.

During 2014–2020, the Russian Federation illegally conducted ten conscription campaigns for its armed forces and other military formations. The total number of Crimean conscripts reached at least 21,000, some of whom were sent to military bases in the territory of the Russian Federation.

Illegal conscription campaigns in the territory of Crimea are coercive, and the Russian Federation is prosecuting Crimean residents for evading conscription. For such a crime as evasion of conscription, the legislation of the Russian Federation provides for a fine or imprisonment for up to two years.

The specified illegal actions of officials of the Occupying Power concerning compulsory conscription and persecution of Crimean residents for evasion of conscription are the crime provided by Art. 438 of the Criminal code of Ukraine. Ukrainian law enforcement agencies are investigating such facts in criminal proceedings.

## Why are Crimeans, citizens of Ukraine, recognized as non-residents in their country?

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Under the provisions of the Law of Ukraine “On Creation of the Free Economic Zone “Crimea” and on Peculiarities of Economic Activities in the Temporarily Occupied Territory of Ukraine”, a physical person with a tax address (place of residence) in the occupied Crimea is equated to the non-resident for the purpose of taxation and customs relations. This regulation does not mean depriving such persons of Ukrainian citizenship and is not a recognition of them as citizens of the Occupying Power.

A corresponding rule on non-residence appeared in Ukrainian law in August 2014 to prevent double taxation of citizens living in the temporarily occupied territory both by the Occupying Power and Ukraine. Unfortunately, in practice, it contributed to the discrimination against Crimean residents. Thus, for a long time (until March 2020) Crimeans were served in banks in the territory controlled by the government of Ukraine only if they had a certificate of registration of an internally displaced person (IDP)<sup>29</sup>.

In February 2020, at a field meeting of the Verkhovna Rada Committee on human rights, de-occupation and reintegration of the temporarily occupied territories in Donetsk, Luhansk Oblasts and the Autonomous Republic of Crimea, the city of Sevastopol, national minorities and international relations, a decision was made to establish a working group to draft a bill to repeal the Law of Ukraine “On Creation of the Free Economic Zone “Crimea” and on Peculiarities of Economic Activities in the Temporarily Occupied Territory of Ukraine”.

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<sup>29</sup> According to the Resolution of the Board of the NBU dated 03.11.2014 № 699 «On the application of certain rules of currency legislation during the regime of temporary occupation in the free economic zone» Crimea».



## Are people who left Crimea because of the occupation considered migrants or refugees?

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The occupation of the Autonomous Republic of Crimea and the city of Sevastopol forced many people to leave the territory of the peninsula. If they leave for the territory controlled by the Government of Ukraine, they are considered internally displaced persons.

By definition, **an internally displaced person (IDP)** is a citizen of Ukraine, a foreigner or a stateless person who is lawfully on the territory of Ukraine and has the right to permanent residence in Ukraine, who has been forced to leave or escape his or her place of residence as a result or to avoid the negative consequences of the armed conflict, temporary occupation, widespread violence, human rights violations and emergencies of a natural or man-made nature<sup>30</sup>.

Because the phrase “internally displaced persons” often seems too long, too formal, this group of people in the media is also commonly referred to as **“migrants”, “internal migrants”,** or (less precisely) **“forced migrants”**.

If a person, for example, due to the risk of persecution, has been forced to leave the state border, he or she can, if a number of requirements are met, apply for refugee status in the country to which he or she left.

The modern legal definition of the term **“refugee”** may differ slightly in different regions of the world. Still, the key feature of this concept is forced migration outside their country of origin and, consequently, seeking asylum abroad.

That is why it is correct to call Crimean people who moved to the mainland of Ukraine after the occupation of Crimea exclusively internally displaced persons (or migrants, internal migrants), and not refugees. It is essential to understand this terminological difference, because, calling the internally displaced persons “refugees”, journalists de facto admit that they consider occupied Crimea to be part of Russia.

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<sup>30</sup> Article 1 of the Law of Ukraine «On Ensuring the Rights and Freedoms of Internally Displaced Persons» of October 20, 2014, № 1706-VII.



## What does the term “indigenous peoples” mean?

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Indigenous peoples are a specific category of minorities. They usually have a more extensive range of rights than other minorities.

Indigenous peoples inhabit the entire world, from the Arctic to the South Pacific. According to the UN, worldwide 370 million people in more than 70 countries belong to indigenous peoples, many of whom are on the verge of extinction. These peoples are also called primordial because they lived on their lands before the arrival of the population from other areas, but still do not have their statehood. They are the descendants of those who inhabited a country or geographical area when peoples of other cultures and ethnic origins began to move there, and later the latter took dominance by conquest, occupation, colonization or other means.

Among the many indigenous peoples are the Indians of North and South America, the Eskimos, the Aleutians of the subpolar region, the Sami people of Northern Europe, the aborigines and the inhabitants of Torres Strait Island in Australia, and the Maori of New Zealand. These and most other indigenous peoples have retained their inherent social, cultural, economic, and political characteristics, by which they are clearly distinguished from other national groups.

There is no universal definition of **“indigenous people”**. The UN Declaration on the Rights of Indigenous Peoples doesn’t give it either<sup>31</sup>. A more detailed definition is contained in the Convention concerning Indigenous and Tribal Peoples in Independent Countries<sup>32</sup>.

The rights of indigenous peoples are set out in more detail in the UN Declaration on the Rights of Indigenous Peoples, adopted on September 13, 2007. According to the Declaration, these peoples have a number of specific rights, first of all the right to self-determination. The Declaration also recognizes and affirms not only the individual rights of persons belonging to such communities but also the collective rights of indigenous peoples (for example, the right to autonomy or self-government

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<sup>31</sup> The UN Declaration on the Rights of Indigenous Peoples: [http://www.un.org/ru/documents/decl\\_conv/declarations/indigenous\\_rights.shtml](http://www.un.org/ru/documents/decl_conv/declarations/indigenous_rights.shtml)

<sup>32</sup> The Convention was adopted on June 27, 1989, by the General Conference of the International Labor Organization: [http://www.un.org/ru/documents/decl\\_conv/conventions/iol169.shtml](http://www.un.org/ru/documents/decl_conv/conventions/iol169.shtml)

in all matters relating to their internal affairs; the right to participate in decision-making processes, issues concerning their rights through their elected representatives, as well as to maintain and develop their independent institutions, etc.).



## What indigenous peoples are associated with Crimea?

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In Ukraine, three indigenous peoples who live compactly in the territory of the Autonomous Republic of Crimea and the city of Sevastopol are most often identified: Crimean Tatars, Karaites and Krymchaks. However, at the state level, only Crimean Tatars are recognized as indigenous peoples.

The key legal act concerning indigenous peoples at the moment is the resolution of the Verkhovna Rada of Ukraine of March 20, 2014 "On the Statement of the Verkhovna Rada of Ukraine on Guaranteeing the Rights of the Crimean Tatar People within the Ukrainian State". In this resolution, Ukraine guarantees the right to self-determination of the Crimean Tatar people and recognizes the Mejlis of the Crimean Tatar people as the authorized body of the Crimean Tatars.

It should be emphasized that to protect the rights of the indigenous peoples of Ukraine, it is essential to develop and adopt relevant legislation, in particular, the draft laws "On the Indigenous Peoples of Ukraine" and "On the Status of the Crimean Tatar People".

The concepts of **"indigenous peoples"** and **"national minorities"** are not identical. The main difference is that national minorities have ethnically related states outside the countries of their residence, which indigenous peoples lack. Accordingly, in the context of Crimea, it is incorrect to use the term "deportation of peoples" in relation to the Bulgarian, Armenian, Greek, German and other peoples who remained living in their nation-states, only the relevant national minorities were deported. At the same time, the mass deportation of Crimean Tatars, which has all the characteristics of genocide, was indeed the deportation of the entire indigenous people.

When preparing materials about the Crimean Tatars, it should also be remembered that this group is a separate people. They should not be confused, for example, with the Kazan Tatars, who live compactly in Tatarstan (federal district of the Russian Federation), so the use of the term "Tatars" is incorrect. The full name "Crimean Tatars" is correct.





## How can one legally enter the territory of occupied Crimea?

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Due to the temporary occupation in 2014, regular bus, car, rail, sea and air connections with Crimea were suspended.

The crossing of the administrative border with the occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol is carried out in accordance with the Procedure approved by the Government of Ukraine<sup>33</sup>. In particular, it stipulates **that citizens of Ukraine** cross the administrative border according to similar travel documents as the state border of Ukraine.

**Foreigners** (for example, foreign journalists, human rights activists and other persons designated by the Procedure) must additionally obtain a special permit to travel to the temporarily occupied territory of the Autonomous Republic of Crimea and Sevastopol, issued by all Main Territorial Departments of the State Migration Service of Ukraine, as well as by Genichesk and Novotroitsk departments of the Main Territorial Department of the State Migration Service of Ukraine in the Kherson region. The procedure for obtaining a special permit for foreign journalists to enter Crimea is available in more detail on the web-site of the Ministry of Culture and Information Policy of Ukraine<sup>34</sup>.

After obtaining a special permit, a foreign journalist has the right to enter the territory of Crimea. Entry and exit are possible only through the following checkpoints: "Kalanchak", "Chaplynka", "Chongar" (by car); the nearest railway stations are "Kherson", "Melitopol", "Vadim", and "Novooleksiyivka". Also, to pass Russian checkpoints on the administrative border with Crimea, foreign journalists, human rights activists and other categories of foreign citizens must have the appropriate documents entitling them to enter the Russian Federation and the occupied territory of the Crimean Peninsula.

Therefore, it is essential to remember that, according to Ukrainian law, entry into and exit from Crimea is possible only through the mainland of

<sup>33</sup> Resolution of the Cabinet of Ministers of Ukraine of June 4, 2015, № 367 «On approval of the Procedure for entry into and exit from the temporarily occupied territory of Ukraine».

<sup>34</sup> Approval of entry of foreign journalists to the Autonomous Republic of Crimea / Ministry of Culture and Information Policy of Ukraine.: <https://mkip.gov.ua/content/vizd-na-timchasovo-okupovanu-teritoriyu-ar-krim-dlya-inozemnih-zhurnalistiv.html>

Ukraine, through the above-mentioned checkpoints. Entry into occupied Crimea by air or sea, as well as entry through the bridge from the territory of the Russian Federation, is a violation of current Ukrainian legislation, which may lead to a ban on entry into Ukraine.

Entry into the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol outside the entry-exit checkpoints, in particular through the territory of the Russian Federation, is an offence which incurs liability as specified by the law. In particular:

- **administrative liability** – in the form of a fine of one hundred to three hundred non-taxable minimum incomes (Article 204-2 of the Code of Administrative Offences);
- **criminal liability** (when the violation of the Procedure of entry into the temporarily occupied territory of Ukraine and exit from it is carried out with the purpose to harm the interests of the state) – in the form of restriction of liberty for up to three years or imprisonment for the same period (Article 332-1 of the Criminal Code of Ukraine).



## What rights do Crimeans have when receiving administrative services?

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Citizens of Ukraine, residents of the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol, have the same rights to access administrative services as citizens living in other regions of Ukraine.

The State enables the residents of the occupied territory to receive administrative services by expanding the network of administrative service centers in areas close to the administrative border with the temporarily occupied territory, in particular in the service areas of Chongar and Kalanchak entry-exit checkpoints. Also, the territorial subdivisions of the State Migration Service of Ukraine serve citizens who are registered in the Autonomous Republic of Crimea and the city of Sevastopol on passport issues at the place of application throughout Ukraine.

The Mission of the President of Ukraine in the Autonomous Republic of Crimea together with the Cabinet of Ministers of Ukraine and human rights organizations have developed a chatbot for residents of the temporarily occupied peninsula @CrimealsUaBot. With the help of this chatbot in the instant messengers "Telegram" and "Viber" one can obtain complete information about the conditions of crossing the administrative border with TOT Crimea, as well as the access to administrative, educational and other services for the residents of the Autonomous Republic of Crimea and the city of Sevastopol.



## In which international courts are Crimean cases heard?

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Ukraine uses international courts as one of the tools to counter Russian aggression and to bring the aggressor state to justice for violating fundamental principles of international law, including the prohibition of the use or threat of force, respect for territorial integrity and violations of international conventions resulting from large-scale aggressive policies of Kremlin.

**The European Court of Human Rights (ECtHR)**<sup>35</sup> hears cases of human rights violations under the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>36</sup>. The ECtHR is located in Strasbourg, France.

On March 13, 2014, Ukraine filed an inter-State application with the European Court of Human Rights against the Russian Federation for gross violations of human rights by the Russian Federation in occupied Crimea. Among the violations, Ukraine points to cases of killings of Ukrainian military and civilians; instances of torture and arbitrary deprivation of liberty; illegal automatic granting of Russian citizenship to the inhabitants of occupied Crimea; harassment of journalists; use of violence, intimidation of Ukrainian clergy, as well as Crimean Tatars. In September 2019, the first hearings were held in this case, which is being considered. In November 2018, Ukraine appealed against Russia to the European Court of Human Rights over the seizure of Ukrainian warships in the Kerch Strait. The ECtHR is currently considering five applications from Ukraine against Russia.

**The International Criminal Court (ICC)**<sup>37</sup> examines cases relating to war crimes and crimes against humanity under the Rome Statute<sup>38</sup> and is based in the Hague, the Netherlands.

The ICC Prosecutor's Office is considering the Situation in Ukraine case, which concerns, in particular, alleged war crimes and crimes against humanity in Crimea committed by specific individuals. The ICC Prosecutor's Office has equated the situation in occupied Crimea with an international

<sup>35</sup> The web-site of the European Court of Human Rights: <https://www.echr.coe.int/>

<sup>36</sup> Convention for the Protection of Human Rights and Fundamental Freedoms: [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

<sup>37</sup> The web-site of the International Criminal Court: <https://www.icc-cpi.int/>

<sup>38</sup> The Rome Statute of the International Criminal Court: [https://zakon.rada.gov.ua/laws/show/995\\_588](https://zakon.rada.gov.ua/laws/show/995_588)

armed conflict between Ukraine and Russia. Every year, the Prosecutor's Office of the Autonomous Republic of Crimea in mainland Ukraine and human rights organizations provide the ICC Prosecutor's Office with evidence of war crimes and crimes against humanity in Crimea (e.g. forcible deportation of civilians from Crimea; colonization of the peninsula by Russian citizens; expropriation and destruction of property, forced conscription into the Armed Forces of the Russian Federation, etc.). The ICC Prosecutor's Office publishes annual reports on preliminary examination activities. A decision on moving to the next stage of the investigation into the situation in Ukraine is currently pending.

**The United Nations International Court of Justice (ICJ)**<sup>39</sup> addresses cases before it in accordance with international law, including claims for violations of the International Convention for the Suppression of the Financing of Terrorism<sup>40</sup> and the International Convention on the Elimination of All Forms of Racial Discrimination<sup>41</sup>. The ICJ is based in The Hague, the Netherlands.

In 2017, Ukraine applied to the ICJ with claims about the violation by the Russian Federation of both conventions in the context of the conflict in Donbas and Crimea, in particular (in relation to Crimea) concerning discrimination of the Ukrainian and Crimean Tatar people after the occupation, the illegal ban on the Mejlis of the Crimean Tatar people and restricted access to education in the Ukrainian language. In 2017, the ICJ decided apply interim measures<sup>42</sup>, ordering Russia to refrain from maintaining or applying new restrictions on the rights of the Crimean Tatar people to preserve their representative institutions, as well as to ensure the availability of Ukrainian-language education in Crimea. In 2019, the ICJ finally dismissed Russia's objections on jurisdiction. All of Ukraine's claims regarding the financing of terrorism in Eastern Ukraine and racial discrimination in Crimea will now be considered at hearings (Russia has been given time until December 2020 to prepare documents to respond to Ukraine's complaint). The trial is ongoing.

**The International Tribunal for the Law of the Sea**<sup>43</sup> hears legal disputes based on the provisions of the UN Convention on the Law of the Sea<sup>44</sup> and is located in Hamburg, Germany.

<sup>39</sup> The web-site of the UN International Court of Justice: <https://www.icj-cij.org/>

<sup>40</sup> International Convention for the Suppression of the Financing of Terrorism: <https://www.un.org/law/cod/finterr.htm>

<sup>41</sup> International Convention on the Elimination of All Forms of Racial Discrimination: <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>

<sup>42</sup> Order of 19 April 2017: <https://www.icj-cij.org/files/case-related/166/166-20170419-ORD-01-00-EN.pdf>

<sup>43</sup> International Tribunal for the Law of the Sea: <https://www.itlos.org/>

<sup>44</sup> UN Convention on the Law of the Sea: [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)

In November 2018, Ukraine applied to the International Tribunal for the Law of the Sea on the application of interim measures against the Russian Federation for the immediate release of three Ukrainian naval vessels and 24 members of their crews, illegally captured in the Black Sea on November 25, 2018, and detained by Russia. In May 2019, the International Tribunal for the Law of the Sea issued an Order on temporary measures<sup>45</sup>, according to which Russia had to immediately return to Ukraine its warships "Berdyansk", "Nikopol" and "Yani Kapu", as well as immediately release 24 detained Ukrainian sailors and allow them to return to Ukraine.

### **International arbitrations and other courts:**

- the Court of Appeal of Amsterdam is considering the case from 2014 on the return of "Scythian gold" to the territory controlled by the Government of Ukraine;
- in 2016, Ukraine initiated arbitration proceedings in the Permanent Court of Arbitration in The Hague regarding Russia's violation of the UN Convention on the Law of the Sea in the Black and Azov Seas. The hearings are ongoing;
- in 2019, the International Arbitration Court announced a decision to collect from Russia in favour of PJSC "Ukrnafta" \$ 44.4 million of compensation for the expropriation of its property in temporarily occupied Crimea, as well as more than \$ 3.5 million of arbitration costs. The Supreme Court of Switzerland has made a final decision in favour of PJSC "Ukrnafta" on the issue of the Crimean assets of the Ukrainian company;
- in 2019, the NJSC "Naftogaz of Ukraine" and its subsidiaries (Chornomornaftogaz, Ukgazvydobuvannia, Ukrtransgaz, Gaz of Ukraine, Ukrtransnafta) applied to the Tribunal at the Permanent Court of Arbitration in The Hague and the international arbitration against the Russian Federation began (concerning the amount of compensation for damages in the amount of \$ 5.2 billion caused by the expropriation of assets in occupied Crimea);
- in 2019, the National Energy Company Ukrenergo filed a lawsuit with the Permanent Chamber of the UN Arbitration Court (The Hague, the Netherlands) against the Russian Federation for recovery of the assets lost during the occupation of Crimea (the application is based on an agreement on mutual protection of investments between Ukraine and the Russian Federation of 1998);

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<sup>45</sup> Order of 25 May 2019: [https://www.itlos.org/fileadmin/itlos/documents/cases/case\\_no\\_26/C26\\_Order\\_25.05.pdf](https://www.itlos.org/fileadmin/itlos/documents/cases/case_no_26/C26_Order_25.05.pdf)

- in 2019, the Paris Court of Appeal ruled in favour of the Oschadbank, rejecting the attempt of the Russian Federation to suspend the enforcement of the decision of the international arbitration of 26.11.2018 in favour of the Oschadbank. It is acknowledged that the Russian Federation is responsible for the losses caused as a result of the occupation of the Autonomous Republic of Crimea and the city of Sevastopol.

One can read more about the cases against the Russian Federation in international courts on the web-site <https://lawfare.gov.ua>, created by the Ministry of Justice of Ukraine.



## What international sanctions have been imposed due to Russia's occupation of Crimea?

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Sanctions (restrictive measures)<sup>46</sup> are a worldwide recognized element of “coercive diplomacy”, which aims not so much to punish the violators as to force them to change behavior that violates peace and poses a threat to international security. Typically, restrictive measures are part of a broader strategy to achieve a single goal.

There are three types of sanctions: **diplomatic** (a refusal to continue dialogue on specific topics, reduction of diplomatic presence or termination of diplomatic relations); **sectoral** (introduced for critical sectors of the economy: the military-industrial complex, energy, financial sectors, for example, restrictions on investment and credit, on the exchange of goods, embargoes on the supply of weapons and dual-use goods, etc.); **personal** (imposed on individual persons and those related to them in the form of a ban on entry and freezing of assets).

The application of sanctions to a state violating international law does not preclude the continuation of dialogue and cooperation in non-sanctioned sectors of the economy. A complete rupture of economic relations is not applied, as it often leads to the strengthening of the position of authoritarian leaders within the country. Targeted sanctions are designed to put pressure on the most painful points of the state, while not causing significant harm to the population.

Special restrictive measures (sanctions) have become one of the instruments of pressure on the Russian Federation to stop the illegal armed aggression against Ukraine. In response to Russia's illegal armed aggression against Ukraine in Crimea, as well as to force Russia to abide by its commitments made during the signing of the Minsk agreements, targeted economic sanctions were imposed that limited economic relations between Western governments and businesses with the occupied peninsula, sectoral economic cooperation with the Russian Federation in some areas, as well as personal sanctions against persons involved in the violation of the territorial integrity of Ukraine. In particular, such sanctions

<sup>46</sup> Materials used: “The policy towards Crimea. Recommendations (Guidelines)” / By Y. Tyshchenko, Y. Kazdobina, S. Gorobchyshyna, A. Duda; under the general editorship of Yulia Tyshchenko <http://www.ucipr.org.ua/publicdocs/Krym2018.pdf>



have been imposed by the European Union, the United States, Canada, Australia, Switzerland, Norway, the United Kingdom and other countries.

US sanctions in connection with the Russian aggression against Ukraine were introduced by four decrees of the US President: Executive order № 13660 dated 06.03.2014; Executive order № 13661 dated 16.03.2014; Executive order № 13662 dated 20.03.2014 and Executive order № 13685 dated 19.12.2014, as well as the US Congress Countering Russian Influence in Europe and Eurasia Act of 2017 (CRIIEA; P.L. 115-44, Title II; 22 U.S.C. 9501). At the time of publication of this guide, 690 individuals and entities in the United States were subject to sanctions, including selected businesses. Sectoral sanctions against the financial sector, energy and defence sectors of the Russian Federation remain in force. The US sanctions list in connection with the Russian aggression against Ukraine was most recently updated on January 20, 2020, when 8 individuals and 1 legal entity were added.

European sanctions are introduced by three regulations of the Council of the EU: the Council Regulation № 269/2014 of 17.03.2014; the Council Regulation № 692/2014 of 23.06.2014 and the Council Regulation № 833/2014 of 31.07.2014. These sanctions are extended every 6 months. Economic sanctions, for example, were extended on December 19, 2019, and on January 21, 2020, the same individuals as in the United States were added to the lists. Simultaneously with the EU, Canada did the same. Today they apply to 175 individuals and 44 legal entities.

Another element of the West's strategy was the suspension or complete cessation of cooperation with the Russian Federation on such vital issues as the G8, visa liberalization negotiations and a new agreement with the European Union, natural gas purchases, cooperation with NATO, and so on. The introduction of international sanctions at the UN level was blocked by the Russian Federation, which is a permanent member of the UN Security Council and therefore has the right to veto decisions in this important international body.

The introduction of international sanctions had a significant adverse effect on the financial, oil and gas, defence and other sectors of the Russian economy and ultimately led to the devaluation of the Russian ruble, inflation and falling GDP. However, it should be noted that the applied international sanctions have not yet fully achieved the result to which they were aimed, that is, the restoration of Ukraine's territorial integrity and the end of Russia's armed aggression against Ukraine.



## What sanctions have been imposed by Ukraine?

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The Verkhovna Rada of Ukraine adopted the Law of Ukraine “On Sanctions” in August 2014 in response to the aggression of the Russian Federation. Decisions on the application of personal special economic and other restrictive measures are made by the National Security and Defense Council of Ukraine (NSDC) and approved by the Presidential Decree. The first such decision was made in September 2015.

The law provides for at least 24 types of sanctions, but this list needs to be revised as the effectiveness of some of them are questionable. The most effective type of sanctions is considered to be the blocking of assets, which is recommended to be continuously applied, both independently and in combination with other sanctions. For example, such a sanction was recently applied to the Russian Hermitage in conjunction with five other types of sanctions, including cessation of cultural exchanges, scientific cooperation, educational and sports contacts; cancellation of official visits, meetings, negotiations on the conclusion of contracts or agreements<sup>47</sup>.

Decisions of the National Security and Defense Council, enacted by decrees of the President of Ukraine, introduced the application of special economic and other restrictive measures (sanctions) to legal entities and individuals, which were mostly subject to asset blocking and refusal to grant or revoke visas to residents of foreign countries, application of other bans on entry into the territory of Ukraine. At the time of preparation of the guide was the latest Presidential Decree, which put into effect the decision of the National Security and Defense Council on sanctions, signed on May 14, 2020, citing 377 individuals and 235 legal entities against whom sanctions have been imposed.

However, the practice of applying the Law of Ukraine “On Sanctions” has shown its shortcomings and gaps that need to be addressed. In particular, the law contains a non-transparent procedure for adding to the sanctions lists proposals that have significant corruption risks. The law does not provide for a system of control over the implementation

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<sup>47</sup> Decree of the President of Ukraine № 184/2020 «On the decision of the National Security and Defense Council of Ukraine of May 14, 2020 «On the application, abolition and amendment of personal special economic and other restrictive measures (sanctions)».

of sanctions; grounds for lifting sanctions; the punishment of violators of Ukrainian sanctions legislation; a clear mechanism and those responsible for identification of personal and other data on persons involved in gross human rights violations; the body that should be responsible and coordinate the implementation of the state policy in the field of sanctions; monitoring sanctions imposed by foreign states in connection with Russian aggression in Ukraine, as well as monitoring compliance with these sanctions. The consequence of this is the lack of a single consolidated policy in the field of sanctions, which makes Ukrainian sanctions policy ineffective and detached from the global context.



## What is “transitional justice”?

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Ukraine is working to develop a state policy to protect human rights in the context of the armed conflict with the Russian Federation and to overcome its consequences. Various tools can ensure a country's sustainable transition from war to peace.

One of the tools is the introduction of the principles of **transitional justice**. Transitional justice is an instrument for the transition from armed conflict, occupation to a state of peace and stability, and the restoration of the justice system and the system of government. Its fundamental principles are formulated by the United Nations<sup>48</sup>.

It is a political and legal concept used worldwide to emerge from armed conflict, overcome its consequences, achieve peace, ensure that the conflict does not recur, investigate the most serious crimes committed during an armed conflict and guarantee the protection of human rights.

The concept of transitional justice contains four elements:

- steps to provide redress to victims of the armed conflict;
- bringing to justice those guilty of committing serious crimes;
- realization of the right to know the truth about the course of the conflict;
- institutional reforms as a guarantee of non-recurrence of the armed conflict.

The Decree of the President of Ukraine of October 17, 2019, № 758/2019 authorized the Mission of the President of Ukraine in the Autonomous Republic of Crimea to develop proposals on the concept of transitional justice in Ukraine. Also, the Ministry of Reintegration of the Occupied Territories has the power to coordinate measures to restore and build peace aimed at reducing the risk of the emergence or resumption of armed conflict through dialogue, preparation and implementation of

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<sup>48</sup> See, for example, UN Resolutions on Transitional Justice Issues <https://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/Resolutions.aspx>

transitional justice principles, and increasing national capacity to resolve armed conflicts<sup>49</sup>.

The Commission on Legal Reform was established by the Decree of the President of Ukraine of August 7, 2019, № 584/2019, and its staff was approved. The Commission is an advisory body to the President of Ukraine, which, among other things, develops the legal framework for creating conditions for the reintegration of the temporarily occupied territories and the population living in them into the single constitutional space of Ukraine. For this purpose, a working group on the reintegration of the temporarily occupied territories was formed within the Commission, chaired by Anton Korynevych, Permanent Representative of the President of Ukraine to the Autonomous Republic of Crimea.

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<sup>49</sup> Paragraph 4 of the Regulation on the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine of June 8, 2016, № 376 (as amended by the resolution of the Cabinet of Ministers of Ukraine of May 6, 2020, № 371).



## Which state bodies of the Autonomous Republic of Crimea and the city of Sevastopol operate on the mainland of Ukraine for the time of occupation?

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Since 2014, the activities of a number of public authorities of the Autonomous Republic of Crimea and the city of Sevastopol have been resumed in the territory controlled by the Government of Ukraine. In particular, the following bodies operate in mainland Ukraine:

### **Mission of the President of Ukraine in the Autonomous Republic of Crimea**

<http://www.ppu.gov.ua/>

8 Petra Bolbochana Str., Kyiv, 01014

tel: +38 044 255 05 48

e-mail: [ark@ppu.gov.ua](mailto:ark@ppu.gov.ua)

Telegram channel: <https://t.me/ppuark>

Facebook page:

<https://www.facebook.com/ppu.gov.ua/>

For applications from citizens:

42 Ushakov Avenue, Kherson, 73003 (by mail)

Telephone: +38 0552 495 939

e-mail: [zvernennia@ppu.gov.ua](mailto:zvernennia@ppu.gov.ua)

skype: [arkpredstavnictvo](https://www.skype.com/name/arkpredstavnictvo)

Telephone helpline: 0 800 502 192

### **Prosecutor's Office of the Autonomous Republic of Crimea**

<https://ark.gp.gov.ua/>

24 Dilova Str., Kyiv (central office)

69 Kremenchutska Str. (3rd floor), Kherson

### **Main Directorate of the Security Service of Ukraine in the Autonomous Republic of Crimea (located in Kherson)**

<https://ssu.gov.ua/ua/>

5 Perekopska Str., Kherson, 73000

telephone: +38 0552 496 772

### **Main Directorate of the National Police in the Autonomous Republic of Crimea and the city of Sevastopol**

<https://cr.npu.gov.ua/>

128 Admirala Senyavina Str., Kherson, 73034

telephone: +38 0552 337 035

- Main Directorate of the State Fiscal Service in the Kherson region, the Autonomous Republic of Crimea and the city of Sevastopol<sup>50</sup>**  
<http://kherson.sfs.gov.ua/> 75 Ushakov Avenue, Kherson, 73026
- Regional office of the State Property Fund in the Kherson region, the Autonomous Republic of Crimea and the city of Sevastopol**  
<http://www.spfu.gov.ua/ua/regions/kherson.html> 47 Ushakov Avenue, Kherson, 73000  
telephone: +38 0552 224 444;  
+38 0552 261 863
- Representative of the Ukrainian Parliament Commissioner for Human Rights for the Observance of the Rights of Residents of the Autonomous Republic of Crimea and the City of Sevastopol**  
<http://www.ombudsman.gov.ua/> Of. 119, 47 Ushakov Avenue, Kherson, 73000
- Sector of the Ministry of Reintegration of the Temporarily Occupied Territories in Kherson Oblast**  
<https://mtot.gov.ua/> Of. 305, 47 Ushakov Avenue, Kherson, 73000

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<sup>50</sup> By the order of the Cabinet of Ministers of Ukraine of June 4, 2014, № 535-r Crimean and Sevastopol customs were attached to the Kherson customs.



## Can Ukrainian law enforcement agencies investigate crimes committed in Crimea?

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Even without actual access to Crimea Ukrainian law enforcement agencies have been documenting and investigating war crimes, crimes against humanity and gross human rights violations resulting from the actions of the Occupying Power and its officials since the occupation of the Crimean peninsula.

Thus, in the period from January 2017 to May 2020, the Main Directorate of the National Police in the Autonomous Republic of Crimea and the city of Sevastopol investigated 1,126 criminal proceedings. In these investigations, 414 persons were reported as suspects, 40 criminal proceedings were sent to the courts for prosecution.

In 2019, investigators of the Main Directorate of the Security Service of Ukraine in the Autonomous Republic of Crimea conducted 156 criminal proceedings. The pre-trial investigation in 24 criminal proceedings was completed, 12 of which were sent to the courts for prosecution. Among them, for example, are the following: regarding a member of the illegal armed formation "Combined Regiment of the People's Militia of the Republic of Crimea"; regarding former deputies of the Sevastopol city council; investigation against a member of the "Electoral Commission of the Republic of Crimea".

The Prosecutor's Office of the Autonomous Republic of Crimea provides procedural guidance in more than a thousand criminal proceedings concerning crimes related to the occupation of the Autonomous Republic of Crimea and the city of Sevastopol.





## How does the Mission of the President of Ukraine in the Autonomous Republic of Crimea work and what does it do?

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The Mission of the President of Ukraine in the Autonomous Republic of Crimea was established in 1992 to facilitate the exercise of the powers vested in the President of Ukraine in the Autonomous Republic of Crimea.

After the beginning of the temporary occupation of the Crimean Peninsula by the Russian Federation in February 2014, the Mission forcibly terminated its activities in the city of Simferopol. After the beginning of the occupation, the Mission moved to Kherson and continues its activities there. Since then, the activities of the Mission are aimed at ensuring the rights of internally displaced persons, citizens of Ukraine who remained in the occupied territory, as well as the formation and implementation of state policy on reintegration and de-occupation of Crimea.

In 2019, the principal office of the Mission was moved to Kyiv, since the significant part of the tasks assigned to the Mission requires constant cooperation and coordination with other authorities, public and international organizations, most of which are located in the capital. The office of the Mission, which receives citizens and solves urgent problems of IDPs and residents of occupied Crimea, remains in Kherson.

The beginning of the war and the occupation of the part of the territory posed a number of challenges to Ukraine. The Mission is responding to them in the context of Crimea. It suggested and supported the realization of a significant amount of initiatives that enable international pressure on the Occupying Power, non-recognition of the attempt to annex Crimea and increase the "price of occupation" for the Russian Federation. For example, the Mission analyzes legislation in the context of Crimea in order to improve it. It continues the development of strategic documents on de-occupation and reintegration of the temporarily occupied territory continues as well as proposals for the concept of transitional justice and much more.

The Mission systematically informs the President of Ukraine and prepares proposals for the observance of human and civil rights and freedoms of people who live in occupied Crimea or have moved from the temporarily occupied territory; socio-economic and political processes in the temporarily occupied territory; preparation of draft laws, acts of the President of Ukraine on the protection of the rights and legitimate interests of citizens of Ukraine in Crimea, etc.



## Where to get expert, reliable information on Crimea related issues, the human rights situation and reintegration?

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For official information on the situation in Crimea, one should contact the authorized state bodies and officials (see: **Which state bodies of the Autonomous Republic of Crimea and the city of Sevastopol operate on the mainland of Ukraine for the time of occupation?**), the Mejlis of the Crimean Tatar people, international organizations working in Ukraine (for example, the UN Human Rights Monitoring Mission), as well as public organizations and initiatives dealing with Crimean issues, a non-exhaustive list of which is given below:

- Almenda Civic Education Center <http://almenda.org/>
- Association of relatives of Kremlin political prisoners [www.relativespp.org.ua](http://www.relativespp.org.ua)
- Center for Civil Liberties <http://ccl.org.ua/>
- CrimeaSOS <http://krymsos.com/>
- Crimean Human Rights Group <https://crimeahrg.org/>
- Crimean Institute for Strategic Studies
- Crimean Tatar Resource Center <https://ctrcenter.org/uk>
- Human Rights Centre ZMINA <https://zmina.ua/>
- Maidan of Foreign Affairs <https://www.mfa.ua/>
- Regional Center for Human Rights <https://rchr.org.ua/>
- Ukrainian Center for Independent Political Research <http://www.ucipr.org.ua>
- Ukrainian Helsinki Human Rights Union <https://helsinki.org.ua/>





# CRIMEA

## IN THE CONTEXT OF OCCUPATION: Q&A guide for media

