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UN Special Procedures

To UN Special Rapporteur on the rights to freedom of peaceful assembly and of association

Russian Aggression Against Ukraine, Law Enforcement Bodies and Peaceful Protests

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Our Association of Reintegration of Crimea¹, as a registered non-governmental organisation, herewith submits the following responses to the questionnaire of the UN Special Rapporteur on Freedom of Peaceful Assembly and Association, for the development of practical tools to assist law enforcement bodies in promoting and protecting human rights in the context of peaceful protests, to be presented at the 55th session of the UN Human Rights Council²

The response deals with the issues identified by the Association in its work, namely the issue of intentional and organised Russia's policy of discrimination, repressions and elimination the freedom of peaceful assembly and association in the Russia-occupied Crimea and in zone of Russian aggression against Ukraine on its mainland territory and ways of reaction on this satiation by Ukrainian law enforcement bodies.

1-10. The illegal occupation of the Crimea by Russia since 2014 has been condemned in a series of international acts, including UN GA resolutions 2014 68/262, 2016 71/205, 2017 72/190, 2018 73/263 2019 74/168, 2020 75/192, and 2021 76/179³ on the situation of human rights in the Crimea; UN GA resolutions 2018 73/194, 2019 74/17, 2020 75/29, 2021 76/70⁴ on the problem of the militarization of the Crimea; resolutions of the OSCE Parliamentary Assembly, of the Parliamentary Assembly of the Council of Europe 1988 (2014), 2028 (2015), 2067 (2015), 2112 (2016), 2132 (2016), 2145 (2017), 2198 (2018), 2231 (2018) etc., of the European Parliament's resolutions 2014/2841 (RSP), 2014/2965 (RSP), 2016/2556 (RSP), 2016/2692 (RSP), 2017/2596 (RSP), 2017/2869 (RSP), 2018/2754 (RSP), 2018/2870 (RSP), 2019/2734 (RSP), 2019/2202 (INI) etc. Those acts paid special attention to the brutal violation by Russia the fundamental rights including freedom of assembly.

Human rights violations in the Crimea, including oppression the right to assembly now are the subject to consideration in international courts, including the International Court of Justice (case 166)⁵ and the European Court of Human Rights (case 20958/14 and others). In this 20958/14 case's decision on 16th December 2020, European Court declared admissible, without prejudging the merits, the Ukrainian Government's complaints regarding the period under consideration concerning the alleged existence in the Crimea under Russia's effective control,

¹ <https://arcrimea.org/en/>

² <https://www.ohchr.org/sites/default/files/documents/issues/association/cfis/cfi-law-enforcement/civil-society-questionnaire-law-enforcement-en.pdf>

³ for example, <https://undocs.org/en/A/RES/76/179>

⁴ for example, <https://undocs.org/en/A/RES/76/70>

⁵ <https://www.icj-cij.org/public/files/case-related/166/166-20191108-JUD-01-00-EN.pdf>

of an administrative practice of prohibiting public gatherings and manifestations of support, as well as intimidation and arbitrary detention of organizers of demonstrations, in violation of Article 11 of the European Convention on Human Rights⁶

Russia's "authorities" banned the Mejlis of Crimean Tatar People in 2016 and since 2014 they banned and punished hundreds of persons, who tried to hold the meetings, including the meetings against the water policy in the Crimea in 2020. Crimean residents tried to collect signatures against de-facto "authorities" ill management in 2020 in Simferopol⁷ and against water desalination station's construction in Yalta⁸. The organisers of those signatures' collection were "fined" illegally.

The common ways of restriction the civil activism in the Crimea is a total ban the meetings and NGOs, the illegal fines against its participants and organisers and the oppressions the civil activists and bloggers, including arrests, raids and criminal proceedings⁹. In 2021 Russia's de-facto "authorities" proclaimed the criminal proceeding on "international terrorism" and "extremism" against some Ukrainian activists and bloggers, including our Association's members who reflected the negative impact of Russia's policy on the water crisis in the Crimea.

Since 24th of February 2022 Russia committed broad and open military aggression to all Ukraine's territory. Due last eight months of fights Russia occupied some territories of Donetsk, Kherson, Luhansk, Zaporizhzhya regions and strong fights are going in areas with total population with some millions persons near the frontline.

As in Russia-occupied Crimea, so in zone of Russian aggression and occupation on Ukraine's mainland the right of assembly is totally rejected now. There is no any practical possibility to operate safely by any entity that is no under full Russian invaders' control. More, on the districts of Ukraine's southern mainland Russian invaders created zone of total disorder and chaos where any minimal social activities causes strong risks for life and health.

In all Russia-occupied towns and other settlements Russian occupying forces and Russia-controlled so-called "military-civil administrations" and "commandant's service" establish full control over the objects of mobile and Internet communication infrastructure¹⁰.

All war crimes, committed by Russian invaders during ongoing hostilities, are connected with absolutely clear Russia's war targets in maximal destruction the civil infrastructure, including objects, essential for all Ukrainian ethnic and social groups, including mobile, Internet networks¹¹ that are extremely important for modern forms of realization of freedom of association.

Ukraine re-acts on these violations of Ukrainian citizens' rights, including right to assembly. Ukraine immediately filed an Application with the International Court of Justice (ICJ) on 25 February 2022, instituting proceedings against Russian in a dispute concerning the interpretation, application or fulfillment of the UN Convention on the Prevention and Punishment of the Crime of Genocide. Russia refused to execute the ICJ order in this case to stop the aggression¹². Russia-controlled troops and mercenaries committed in Ukraine, during this invasion, gross violation of international law already¹³¹⁴¹⁵¹⁶¹⁷¹⁸¹⁹²⁰.

⁶ <http://hudoc.echr.coe.int/eng?i=001-207622>

⁷ <https://web.archive.org/web/20220608183440/https://arc.construction/5256>

⁸ <https://web.archive.org/web/20220807155026/https://arc.construction/10632>

⁹ <https://web.archive.org/web/20220608184424/https://arc.construction/5735>

¹⁰ <https://web.archive.org/web/20220929175943/https://arc.construction/28973>

¹¹ <https://www.washingtonpost.com/world/interactive/2022/ukraine-before-after-destruction-photos/>

¹² <https://www.icj-cij.org/en/case/182>

¹³ <https://sofrep.com/news/russian-soldiers-gang-raped-ukrainian-woman-as-her-child-was-crying-in-the-next-room/>

¹⁴ <https://www.icj-cij.org/public/files/case-related/182/182-20220307-PRE-01-00-EN.pdf>

Those issues now are the subject of the investigation the International Criminal Court²¹ Due to gross violation the human rights Ukraine filed an application to the ECtHR also²². Russian government refused to execute the demand of the ECtHR and the order of ICJ to immediately suspend the military operations that it commenced on 24 February 2022.²³

On 7 April 2022 the UN General Assembly adopted a resolution ES-11/3²⁴ calling for Russia to be suspended from the Human Rights Council²⁵. The UN Human Rights Council adopted on 12th of May a resolution on the deteriorating human rights situation in Ukraine where pointed that Russia should immediately cease its aggression and provide international human rights and humanitarian institutions with unhindered, immediate and safe access to persons transferred from conflict-affected areas²⁶.

Those decisions are not executed by Russian troops, Russia-controlled mercenaries and terroristic groups, which established policy of terror and repressions over the Russia-occupied territories of Ukraine, including the Crimea, Kherson and Zaporizhzhya regions^{27,28}. From the point of view of international law, such Russia's illegal acts can be considered as terrorism, also as racial discrimination and also as attempted genocide against people of Ukraine^{29,30}.

All Ukraine's attempts for the peace-building, including peace talks and negotiations with Russian government were unsuccessful and Russia rejects all peace propositions and it refuses to execute the demands of ICJ and ECtHR orders to stop the aggression and hostilities that are directly pointed against the Ukrainians' rights, including freedom of assembly.

Freedom of assembly was violated by Russian invaders in Russia-occupied Crimea since 2014. Manipulations, made by Russia in areas of "countering the extremism" and "fighting with terrorism ideology" in the Crimea made strong negative impact on assemblies and other relevant human rights. After the occupation of Crimea in 2014, Russia, in violation of the requirements of Article 64 of the Convention relative to the Protection of Civilian Persons in Time of War 1949, extended the action of its own criminal legislation and legislation on administrative offenses to the occupied territory.

This legislation contains the concepts of "countering the extremism" and "countering the ideology of terrorism". The accusations of extremism are actively used by the Russia's "authorities" to persecute dissidents, in particular Crimean Tatars and Ukrainians who oppose the occupation, representatives of some religious communities, and other individuals and groups deemed undesirable by the occupiers. The very existence of such a concept as "extremism" and "ideology of terrorism" in the criminal legislation of Russia can be considered

¹⁵ <https://www.bbc.com/ukrainian/features-60888528>

¹⁶ <https://hromadske.radio/en/news/2022/03/09/members-of-the-wagner-group-have-been-killed-in-ukraine>

¹⁷ <https://www.bbc.com/news/world-europe-60547807>

¹⁸ <https://web.archive.org/web/20220819172853/https://arc.construction/26892>

¹⁹ <https://news.un.org/en/story/2022/03/1113652>

²⁰ <https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>

²¹ <https://www.icc-cpi.int/ukraine>

²² <https://hudoc.echr.coe.int/eng-press?i=003-7282553-9922068>

²³ <https://www.icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf>

²⁴ <https://digitallibrary.un.org/record/3967950?ln=ru>

²⁵ <https://news.un.org/en/story/2022/04/1115782>

²⁶ <https://web.archive.org/web/20220612122520/https://arc.construction/31039>

²⁷ <https://hromadske.radio/en/news/2022/03/09/members-of-the-wagner-group-have-been-killed-in-ukraine>

²⁸ <https://www.bbc.com/news/world-europe-60547807>

²⁹ <https://web.archive.org/web/20221012012242/https://arc.construction/16791>

³⁰ <https://casebook.icrc.org/case-study/icty-prosecutor-v-galic>

a marker of the authoritarian nature of the Russian political regime. This concept does not exist in international criminal law and criminal law of democratic countries³¹.

The Russia's 2002 Federal Law "On Counteracting Extremist Activity" introduced a very lengthy definition of extremism, which includes incitement of racial, national and religious hatred and violation of human and civil rights and freedoms on protected grounds. However, the first point in the definition is "forcible change of the foundations of the constitutional order and violation of the territorial integrity (including the alienation of a part of the territory of Russia)".

The last phrase about "the alienation of part of the territory of Russia" was added in 2020 in obvious connection with the occupation of Crimea. Also, the definition of extremism under this law includes such actions as "obstruction of the exercise by citizens of their electoral rights and the right to participate in a referendum", "public knowingly false accusation of a person holding a public office of Russia or a public office of a constituent entity of Russia, of commission during the period fulfillment of their official duties of the acts specified in this article and constituting a crime"³².

The very phrase "ideology of terrorism", that is characteristic for the Russian Orwellian "new language", was enshrined in the Russia's Federal Law of March 6, 2006 "On Countering Terrorism". The need for "prevention of extremism and radical ideology" was emphasized by the President of the Russia on December 31, 2015 in the Russia's National Security Strategy. It should be recalled that this Strategy stated that the "split in Ukrainian society" allegedly "affected Russia's national interests". Later, at the request of the Ministry of Education of the Russia³³, the phrase "prevention of the ideology of terrorism" became popular and it appeared in the "orders" of educational institutions, plans and programs of Russia's state and local authorities, as well as of the Russian occupying "administration" in Ukrainian territories³⁴.

So the abovementioned proves the complete falsity of the Russia's "fight against extremism and terrorism" in the Crimea by repressions against freedom of assembly. After all, the real risks for the Crimean residents are clearly not related to the members of the pro-Ukrainian civil society structures or religious units, which the case of the "Kerch shooter" has comprehensively proved. In fact, the occupiers understand this very well, because they did not spend significant funds on "countering extremism and terrorism" in Crimea, except, of course, for the maintenance of their punitive structures. In those cases when some "budget funds" or grants were allocated for these activities, their immediate "development" was primarily virtual in nature and did not affect anything but the well-being of those involved, as it was just a form of plundering and laundering the "federal, republican and municipal budget funding"³⁵.

Also, the politicization and obviousness of these Russian aggressor's crimes, accompanied by statements and demands from both the leaders of the occupying "authorities" in the Crimea, and the Russian leadership as a whole, has all the signs of state terrorism, which was adopted by the Parliamentary Assembly of the Council of Europe on 13th of October 2022 that declared the current Russian regime as a terrorist one³⁶.

Before, on 10th May, 2022, Lithuanian Seimas unanimously adopted a resolution declaring Russia to be a terrorist state that is carrying out genocide against the Ukrainian people³⁷.

³¹ <https://web.archive.org/web/20220704002210/https://arc.construction/16285>

³² <https://web.archive.org/web/20220704002210/https://arc.construction/16285>

³³ http://www.consultant.ru/document/cons_doc_LAW_58840/

³⁴ <https://web.archive.org/web/20221012012242/https://arc.construction/16791>

³⁵ <https://web.archive.org/web/20220816223201/https://arc.construction/16279>

³⁶ <https://pace.coe.int/en/files/31390/html>

³⁷ <https://www.lrt.lt/en/news-in-english/19/1691202/lithuania-recognises-war-in-ukraine-as-genocide-russia-as-terrorist-state>

Also on 11th August 11, the Latvian Saeima declared Russia a state sponsor of terrorism, citing attacks on civilians. Declaration pointed that Russia has been providing support and financing for terrorist regimes and organizations for many years, directly and indirectly³⁸.

Later Riigikogu, Estonia's parliament declared on 18th of October 2022 Russia a terrorist regime over its unprovoked invasion of Ukraine and moves it has made since, including the illegal annexation of parts of Ukraine and thinly veiled threats by President Putin concerning the possible use of nuclear weapons³⁹. On 26th of October 2022 Poland's upper house of parliament, the Senate, has unanimously adopted a resolution recognising Russia as a terrorist regime for its aggression against Ukraine and the Ukrainian people⁴⁰. Lated the similar statements were made by parliaments of Czech Republic and of Slovakia⁴¹.

On January, 26 Parliamentary Assembly of Council of Europe (PACE) adopted the resolution "Legal and human rights aspects of the Russian Federation's aggression against Ukraine" 2482 (2023)⁴² that will have fundamental significance. PACE recalled in resolution that the ongoing aggression is a continuation of the aggression started on 20 February 2014, which included the invasion, occupation and attempted annexation of Crimea by Russia.

Systematic economic, social and political crises, crises of poverty and inequality also make strong negative impact on the Crimean residents' right to assemblies and other relevant human rights also. The real figures of unemployment rates and poverty levels in the modern Crimea are unknown, but some groups of local residents are systematically discriminated by Russia's "authorities" in issues of employment and labour for their ethnic origin and often for "absence of the Russia's citizenship"⁴³. Russian "authorities" did not provide any institutional mechanisms to gather disaggregated data to allow for in-depth analysis of human rights and social and economic development enjoyment across different population groups, including minority groups in the occupied Crimea⁴⁴.

Racial discrimination of the ethnic Ukrainians and Crimean Tatars by Russia's "authorities" in the Crimea made strong negative impact on right to assemblies and other relevant human rights also. Russian "authorities" do not realize any policy or program approaches in the Crimea to protect the human rights of ethnic groups⁴⁵. Their relevant "acts" have the propagandistic role only and are the tools of total embezzlement of relevant costs by the de-facto "authorities" and related criminal groups⁴⁶.

Actions of the Russian de-facto "authorities" are the main reason for the inequalities based on ethnic, religious, linguistic or national identity in relation to social and economic development and the participation of Crimea's ethnic groups⁴⁷. Russia bans any independent monitoring visit to the Crimea for the international organizations and independent legal defenders and human rights' non-governmental structures⁴⁸.

After broad-scale Russian aggression against Ukraine's mainland started in February, 2022, hundreds of Crimean resident were illegally "fined" or "arrested" by Russian invaders for their

³⁸ <https://www.saeima.lv/aktualitates/saeimas-zinas/31308-saeima-pazinojuma-atzist-krieviju-par-terorismu-atbalstosu-valsti>

³⁹ <https://www.riigikogu.ee/en/news-from-committees/foreign-affairs-committee/riigikogu-declared-russia-a-terrorist-regime/>

⁴⁰ <https://www.senat.gov.pl/aktualnoscilista/art,15100,uchwala-senatu-o-uznaniu-wladz-federacji-rosyjskiej-za-rezim-terrorystyczny.html>

⁴¹ <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=519169>

⁴² <https://pace.coe.int/en/files/31620/html>

⁴³ <https://www.ohchr.org/Documents/Issues/Slavery/SR/ReportHRC48/CSOs/ARC.pdf>

⁴⁴ <https://web.archive.org/web/20220929183041/https://arc.construction/13999>

⁴⁵ <https://web.archive.org/web/20220608191423/https://arc.construction/17035>

⁴⁶ <https://web.archive.org/web/20220508202218/https://arc.construction/15073?lang=ru>

⁴⁷ <https://web.archive.org/web/20221005215558/https://arc.construction/15537>

⁴⁸ <https://web.archive.org/web/20220608175937/https://arc.construction/16135>

peaceful protest against Russian aggression, war crimes and terroristic activities. Also tens of Crimean Tatars were illegally “fined” or “arrested” by Russian invaders for their peaceful protest against Russian repressions near so-called “courts”.

We believe that a special research on the connection the right to assemblies and associations in situations of armed conflicts and related “grey zones” like Crimea, and other Russia-occupied territories of Ukraine, regarding demands of Geneva Conventions, 1949, Protocols and Rome Statute, done by UN Special Rapporteur, may be starting point for improvement of situation.

Relevant decisions of international courts and tribunals must be taken into account, including decisions of ECtHR in interstate cases like 20958/14 and 38334/18 where the issues of violation of right to development in conditions of interstate conflict and foreign occupation, including illegal repressions, discriminations, deportations and attempted genocide, are mentioned⁴⁹. Special attention must be paid to the ban of repressions against the bloggers, journalists, human rights defenders, other NGOs and indigenous structures that have goal in supporting and defending the right to assembly and association.

Our Association has direct experience on researches the issues of role of Ukrainian law enforcement officials in reaction on violation the freedom of assemblies in Ukrainian areas, occupied by Russia.

In last year Association’s expert Olexii Plotnikov prepared experts’ opinions upon request of Ukrainian prosecutor offices in criminal proceedings on issues of discriminative repressions against peaceful assemblies in Russia-occupied part of Kherson Region in 2022 and on issues of discriminative deportation of Ukrainian population from Kherson Region to Russia and Russia-occupied Crimea.

As relevant allowance was granted to ARC from prosecutors’ office, our Association’s expert presented in Vienna at OSCE Supplementary Human Dimension Meeting “The Role of Civil Society in the Promotion and Protection of Tolerance and Non-Discrimination” to OSCE conference participants texts of pointed opinions, describing relevant Russia-committed war crimes, which also had character of discrimination on June, 26⁵⁰.

Next urgent, immediate steps of the UN Special Rapporteur must be done, in condition of ongoing interstate conflict and hostilities, of ongoing Russia’s terroristic criminal, discriminative and racist policy against Ukrainians citizens’ rights, including all observation procedures and visits to Ukraine.

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⁴⁹ <https://hudoc.echr.coe.int/eng?i=001-207622>

⁵⁰ <https://arcrimea.org/en/activity/2023/06/26/expert-reported-osce-on-forms-of-counteraction-discrimination-at-russia-occupied-territories/>