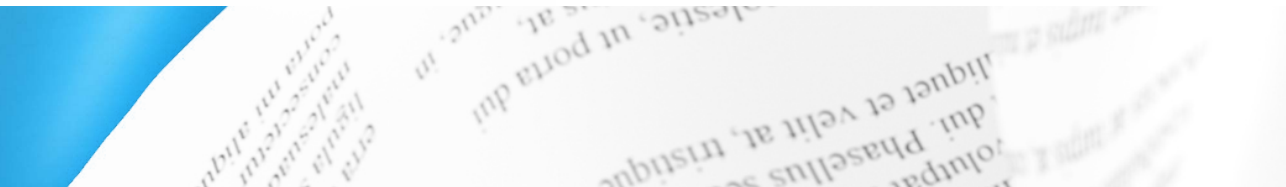
MEDIA FREEDOM IN CRIMEA

REPORT • 2021

IPHR International Partnership for Human Rights



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EXECUTIVE SUMMARY

This report by International Partnership for Human Rights (IPHR) presents evidence of violations of fundamental human rights in relation to individual journalists, media organisations, civil society organisations and the legal community in Crimea.

IPHR collected evidence of procedural and substantive violations of international and regional human rights law and disregard for other international standards in the Russian authorities' treatment of media professionals and other civic actors (lawyers, NGOs). The report seeks to draw the international community's attention to the bigger picture of systematic repression and silencing of dissent and criticism of Russian rule over the Crimean Peninsula.

The six or seven years of Russian occupation of the Crimean Peninsula have been characterised by severe human rights violations, extensive land and asset grabbing and forced displacement. IPHR has previously documented these and other human rights violations in the region in various reports.[1]

The media freedom climate in Crimea has been on a downward trajectory since the occupation of the peninsula by the Russian Federation in 2014. Freedom House's 'Freedom in the World Report 2020' classifies Crimea as 'not free' and a recent report by the UN Secretary General on the human rights situation in Crimea documents interference with the work of journalists and deep incursions on their rights to freedom of opinion and expression and other personal freedoms and liberties.[2] The Media Freedom Representative of the Organization for Security and

1 International Crimes in Crimea: An Assessment of Two and a Half Years of Russian Occupation, September 2016 available at: https://www.iphronline.org/international-crimes-crimea-20160927.html; Fighting Terrorism or Terrorising Activism - persecution of civic activists in Crimea, May 2019 available at: https://www.iphronline.org/new-report-fighting-terrorism-or-terrorising-activism-persecution-of-civic-activists-in-crimea.html

2 Freedom House, Freedom in the World 2020, available at: *https://freedomhouse.org/country/crimea/freedom-world/2020*; UN Report of the Secretary General: Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine - 2 August 2019, A/74/276 available at *https://reliefweb.int/sites/reliefweb.int/files/resources/A_74_276_E.pdf*

Cooperation in Europe (OSCE) has also highlighted and condemned the arrest of citizen journalists in Crimea stating that, "the practice of silencing critical voices in Crimea is unacceptable."[3]

The fight for media freedom in Crimea mirrors a deepening global crisis in this area. The future of journalism stands on a precipice as journalists, bloggers and independent media face increased threats and risk to their day to day work. As the 2020 World Press Freedom Index notes, this decade is "a decisive period for journalism exacerbated by coronavirus".[4]

This report shows that the response of the Russian authorities in relation to media freedom has resulted in violations of key human rights standards, including:

- The Russian authorities have been responsible for arbitrary and/or unlawful detentions of journalists operating inside Crimea. Journalists and other media actors have been subjected to intimidation and harassment, which appear to have been aimed at preventing them from documenting human rights violations perpetrated by the Russian authorities and their proxies. The deliberate targeting of journalists and other media actors, as well as the repeated blocking of internet sites amount to an attack on the right to freedom of expression and the freedom of the press.
- The Russian authorities have failed to comply with international human rights standards guaranteeing fair trial and due process rights in relation to trials of journalists. Of particular concern is the widespread use of 'secret' witnesses at these trials, which raises issues in relation to fair trial and 'equality of arms'. There are also allegations that the Russian authorities forced journalists to sign confessions. Journalists and other media actors have not been allowed access to the legal advice and representation to which they are entitled.

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3 OSCE Media Freedom Representative condemns the arrest of citizen journalists in Crimea, calls for their immediate release, 17 April 2019, available at *https://www.osce.org/representative-on-freedom-of-media/417461*

4 Reporters without Borders, World Press Freedom Index 2020 available at: *https://rsf.org/en/2020-world-press-freedom-index-entering-decisive-decade-journalism-exacerbated-coronavirus*

- The Russian authorities have weaponized the law and used anti-terrorism and anti-extremism legislation as a blunt tool by which to silence critical voices among journalists and other media actors. As a result, many journalists have chosen self-censorship as a precautionary measure.
- The Russian authorities have acted in a particularly egregious manner towards the Tatar community in Crimea and the Tatar independent media has faced severe difficulties in operating fully since the occupation with forced closures of TV and radio stations and arrests, detention and prosecutions of Tatar journalists. The Russian authorities' deliberate prosecution of Tatar journalists on trumped-up charges under anti-terrorism/extremism legislation cannot be considered legitimate and constitutes a violation of human rights standards.
- There are worrying reports that journalists have been subjected to torture and ill treatment contrary to international human rights standards. The Russian authorities have detained journalists in solitary confinement as a means to silence them in violation of international human rights law.
- The freedom of movement of journalists into Crimea and/or Russia has been severely restricted. The travel bans imposed on Ukrainian journalists seeking to work in Crimea are unduly onerous and disproportionate in relation to their activities and it is questionable whether they validly fall within the permitted restrictions (national security, public health etc) under international human rights law. In addition, the pandemic has provided the authorities with a perfect excuse to impose restrictions under the guise of public health which have had a negative impact upon freedom of expression.

SOURCES OF INFORMATION AND METHODOLOGY

The evidence of violations presented in this report has been empirically documented by IPHR through field missions and interviews, or collected from independent, reliable sources by IPHR monitors.

This report is based on information gathered from interviews and testimonies of journalists, local lawyers, media outlet proprietors and employees of civil society organisations (hereafter, 'the stakeholders').

To ensure a consistent methodology of documentation, IPHR developed semi-structured questionnaires to be used as the basis of evidence gathering among key stakeholders. A team of IPHR researchers undertook remote interviews in February 2021 using the semi-structured questionnaires as their guide. Interviews were conducted with the following stakeholders:

- 5 representatives of media organisations;
- 10 journalists and media professionals;
- 9 civil society organisations;
- 4 lawyers

Twenty- nine interviews were carried out in total online.

The documented cases have been analysed with reference to international and regional human rights standards. IPHR also used official documents, law and statements made by the occupying authorities in the preparation of conclusions and recommendations. Additional information was obtained through desk research, using open-source documents.

In order to protect the anonymity of the interviewees, IPHR references their contributions numerically and alphabetically in the report e.g. N03. In some cases, interviewees have waived their right to anonymity and are mentioned, by name, in the report.

OVERVIEW OF EVENTS

Occupation of the Crimea by the Russian Federation

In late February 2014, following the Euromaidan revolution in Ukraine, armed forces of the Russian Federation supported by proxy paramilitary groups invaded the Crimean Peninsula - sovereign territory of Ukraine - in violation of the prohibition of the use of force enshrined in the Charter of the United Nations. The invading forces established control and authority over the Crimean Peninsula, expelling Ukraine's civilian and military authorities.

On 6 March 2014, in a closed session, the Parliament of Crimea allegedly decided to request to become part of the Russian Federation and moved the date of the status referendum from 25 May 2014 to 16 March 2014.[5]

In the run up to the referendum, press freedoms were severely limited, and international observers were forcibly denied entry onto the territory of the peninsula.[6] Repression and violence against anti-occupation activists also intensified.

On 16 March 2014, the occupying authorities held what is widely considered to be an illegal and non-binding referendum on the independence of Crimea and Sevastopol from Ukraine. The ballot paper gave the electorate a choice between joining the Russian Federation or a return to the 1992 Constitution, which gave Crimea the status of an independent entity within Ukraine.[7]

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5 BBC, "Ukraine crisis: Crimea parliament asks to join Russia", 6 March 2014 available at: *https://www.bbc.co.uk/news/world-europe-26465962*

6 BBC, "Is Crimea's referendum legal?", 13 March 2014 available at: *https://www.bbc.co.uk/news/world-europe-26546133*

7 The New York Times, "2 Choices in Crimea Referendum, but Neither in 'No", 14 March 2014 available at *https://www.nytimes.com/2014/03/15/world/europe/crimea-vote-does-not-offer-choice-of-status-quo.html*

On 17 March 2014, the de facto Parliament of Crimea declared independence from Ukraine, requisitioned Ukrainian state property on the peninsula and submitted its request to accede to the Russian Federation.[8]

On 18 March 2014, self-proclaimed representatives of Crimea and Sevastopol signed an agreement with President Putin for the integration of the Crimean Peninsula into the Russian Federation. The agreement was ratified and signed into law on 21 March 2014.[9] Ukraine and the vast majority of states in the international community have refused to recognise the legality of the referendum and subsequent annexation. The annexation was widely condemned by the European Union[10] and the United Nations General Assembly.[11] To date, the only UN member states to have recognised the validity of the referendum are Afghanistan,

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8 Постановление Государственного Совета Республики Крым (ГС РК) "О независимости Крыма", 17 марта 2014, available at: *http://crimea.gov.ru/act/11748*; Постановление ГС РК "О национализации предприятий и имущества морского транспорта сферы управления Министерства инфраструктуры Украины и Министерства аграрной политики и продовольствия Украины, расположенных на территории Республики Крым и г. Севастополя", 20 марта 2014, available at: *http://crimea.gov.ru/act/11761* (last accessed: 12/06/2016); Договор между Российской Федерацией и Республикой Крым о принятии в Российскую Федерацию Республики Крым и образовании в составе Российской Федерации новых субъектов подписан в г. Москве 18 марта 2014, available at: *http://www.consultant.ru/document/cons_doc_LAW_160398/*; See also BBC, "Crimean parliament formally applies to join Russia", 17 March 2014, available at: *http://www.bbc.co.uk/news/world-europe-26609667*.

9 Федеральный конституционный закон N 6-ФКЗ "О принятии в Российскую Федерацию Республики Крым и образовании в составе Российской Федерации новых субъектов - Республики Крым и города федерального значения Севастополя", 21 марта 2014, available at: *http://www.consultant.ru/document/cons_doc_LAW_160618/19bbbbfa6e5a06c0d9e8d958af6464287880b069/*; BBC, "Ukraine: Putin signs Crimea annexation", 21 March 2014, available at: *http://www.bbc.co.uk/news/world-europe-26686949*

10 Ukrainian mission to the European Union, "The EU non-recognition policy for Crimea and Sevastopol", April 2021, see *https://ukraine-eu.mfa.gov.ua/en/2633-relations/spivpracya-ukrayina-yes-u-sferi-zovnishnoyi-politiki-i-bezpeki/politika-neviznannya-yes-shchodo-timchasovo-okupovanoyi-ar-krim-ta-msevastopol*

11 UN General Assembly, "Resolution adopted by the General Assembly on 27 March 2014: 68/262 - Territorial integrity of Ukraine" A/RES/68/262, 1 April 2014 available at:*https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_68_262.pdf*

Cuba, Nicaragua, Venezuela, Syria, North Korea, Kazakhstan, the Kyrgyz Republic and Russia.[12]

The territory of the Crimean Peninsula remains under Russian occupation.[13]

The key law enforcement actors in Crimea are the police, the Federal Security Service (FSS) and the Centre for Combating Extremism (so called Center "E"), a unit within the Ministry of Internal Affairs of the Russian Federation.

The demise of media freedom in Crimea following the Russian occupation: an overview

A climate of fear, intimidation and repression has taken hold in the Crimean Peninsula since the occupation in 2014. In particular, the occupying authorities have made concerted efforts to 'de-Ukrainianise' the Peninsula in the spheres of media, culture, religion and education. They have also cracked down on dissent, criticism of and opposition to the occupation which has seen a sustained attack on journalistic and media freedom in the region. There are very few, if any, professional journalists remaining in Crimea. For many journalists, the only option has been to resort to self-censorship in order to survive and stay safe. International human rights bodies have monitored and documented

12 Insider, "These are the 6 countries on board with Russia's illegal annexation of Russia', 31 May 2016 available at *https://www.businessinsider.com/six-countries-okay-with-russias-annexation-of-crimea-2016-5?r=US&IR=T*; The Jamestown Foundation, "Kazakhstan responds to the Ukraine Crisis", 24 March 2014 available at: *https://jamestown.org/program/kazakhstan-responds-to-ukraine-crisis/*; Statement of the Ministry of Foreign Affairs, Kyrgyz Republic, 20 March 2014 available at: *https://web.archive.org/web/20140321051925/http://www.mfa.kg/mews-of-mfa-kr/zayavlenie-ministerstva-inostrannih-del-kirgizskoi-respubliki-ot-20-marta-2014-goda_en.html*

13 For further information on the history of the Crimean Peninsula see, International Crimes in Crimea: An Assessment of Two and a Half years of Russian Occupation, September 2016, International Partnership for Human Rights available at: *https://iphronline.org/wp-content/uploads/2016/09/Crimea-report-Sept-2016.pdf*

the attacks on fundamental freedoms in Crimea including in relation to violations of the right to freedom of opinion and expression.[14]

In parallel, any actual or perceived opposition to the occupation has been met with extrajudicial and excessive violence, arbitrary detention and other repressive tactics.

In terms of media freedom, Ukrainian TV and radio stations have been blocked.[15] On occupation, media outlets were required to re-register under Russian law.

These issues will be explored in further detail in the body of the report.

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14 OSCE, "Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015), 17 September 2015, para 76, available at: *https://www.osce.org/odihr/report-of-the-human-rights-assessment-mission-on-crimea*; UNGA, "Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine", Report of the Secretary General, 2 August 2019 A/74/276; Human Rights Watch, "Rights in Retreat: Abuses in Crimea", 2014 available at: *https://www.hrw.org/sites/default/files/report_pdf/russia1114web.pdf*

15 OSCE, "Report of the Human Rights Situation in Ukraine 16 February to 15 May 2016, para 137, 140, available at: *https://www.ohchr.org/Documents/Countries/UA/Ukraine_14th_HRMMU_Report.pdf*; see also Human Rights Watch, "Rights in Retreat: Abuses in Crimea" (2014) at pages 23-24 available at: *https://www.hrw.org/sites/default/files/report_pdf/russia1114web.pdf*

INTERNATIONAL LEGAL FRAMEWORK: CRIMEA

Following the onset of the occupation, Russian law became directly applicable, complemented by special legislative measures designed specifically for the occupied territory - Ukrainian law ceased to apply in the region and the Republic of Crimea became a *de facto* federal subject of the Russian Federation.

On 21 March 2014, the occupying authorities introduced the 'automatic citizenship law' which granted automatic citizenship to all legal residents of the Crimean Peninsula on the day of the annexation.[16] This was the cornerstone of legislative measures designed to sever Crimea's legal and administrative links to Ukraine. The occupying authorities also obliged residents to re-register their property, cars, businesses, civil society and media organisations and religious premises.[17]

16 Kremlin.ru, "Agreement on the accession of the Republic of Crimea to the Russian Federation signed", 18 March 2014, available at: *http://en.kremlin.ru/events/president/news/20604*

17 Article 3, Law of the Republic of Crimea No 38-LRC "On peculiarities of regulation of property and land relations in the Republic of Crimea" (30 July 2014), available at: *https://rg.ru/2014/08/05/krim-zakon38-reg-dok.html*; Russian Federal Law No. 124-FZ of 5 May 2014, "On the Introduction of Amendments to the Federal Law 'On the Enactment of the Civil Code of the Russian Federation (First Part)' and to Article 1202 of the Civil Code of the Russian Federation (Third Part) (entry into force 1 July 2014), available at: *https://rg.ru/2014/05/07/grkodeks-dok.html*;

Russian Federal Law No. 402-FZ "On the Peculiarities of the Legal Regulation of the Relations in the field of mass media in connection with the Admission of the Republic of Crimea into the Russian Federation and the Establishment of New Constituent Entities within the Russian Federation - the Republic of Crimea and the Federal City of Sevastopol and on the Introduction of Changes to the Federal Law "On Education in the Russian Federation" (2 December 2014), available at *https://rg.ru/2014/12/03/pravo-dok.html* See also, RBK.UA "V Krymu prodlena perergistratsiya SMI do aprelia 2015 goda" (24 November 2014), available at: *https://www.rbc.ua/rus/news/v-krymu-pereregistratsiya-smi-prodlena-do-aprelya-2015-goda-24112014123900*

Legal framework: Media and Culture

Following the occupation of Crimea, Russia extended its Constitution to the peninsula and made it applicable in the local courts and municipal bodies. The most relevant provision of the Constitution of the Russian Federation relating to media freedom is Article 29 which guarantees freedom of mass communication and bans censorship.[18] It also provides for freedom of opinion and expression, "no one may be forced to express his views and convictions or to reject them" and "everyone should enjoy the freedom of ideas and speech".

Until the end of 2014, Russia enacted several laws that were designed to guide certain types of subjects through the transition period. Thus, the law on mass media in Crimea[19] was adopted on 1 December 2014 which required the reregistration of all media outlets in Crimea according to Russian laws until 1 April 2015. As of 1 April 2015 all reregistered outlets had to comply with Russian law "On Mass Media"[20] and "On the procedure for covering the activities of state authorities in state mass media"[21] – which regulate media activity in the peninsula. Under Article 55 of the *Law on Mass Media*, foreign correspondents who stay in the Russian Federation must be accredited by the Ministry of Foreign Affairs. From the Russian point of view, this article is applicable also to Ukrainian journalists who visit Crimea.

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18 See the Constitution of the Russian Federation, available at: *http://www.constitution.ru/en/10003000-03.htm*

19 Russian Federal Law No. 402-FZ "On the Peculiarities of the Legal Regulation of the Relations in the field of mass media in connection with the Admission of the Republic of Crimea into the Russian Federation and the Establishment of New Constituent Entities within the Russian Federation - the Republic of Crimea and the Federal City of Sevastopol and on the Introduction of Changes to the Federal Law "On Education in the Russian Federation" (2 December 2014), available at *https://rg.ru/2014/12/03/pravo-dok.html*

20 *http://www.consultant.ru/document/cons_doc_LAW_1511/*

21 *http://docs.cntd.ru/document/9010130*

Human rights standards in national legislation

As inscribed on Russian medal "For return of Crimea" and later recognized by Verhovna Rada of Ukraine by the law "On amendments into some laws of Ukraine on fixing a date of the beginning of temporary occupation"[22] the occupation of Crimean Peninsula began no later than on 20 February 2014 and since then, Russian Federation has exercised *de facto* control over Crimea.[23]

Following the introduction of the federal law, *"On the admission to the Russian Federation of the Republic of Crimea and the formation in the Russian Federation of new subjects - the Republic of Crimea and the city of federal significance of Sevastopol"*[24] on 21 March 2014, the Russian Federation began to replace Ukrainian legislation that was still in force during the first month of the occupation. This law confirmed the results of the so-called referendum that was formally used by Russian Federation to proclaim the accession of Crimea as a new subject of the federation and set up a transition period (until 1 January 2015) for the full integration of Crimea into Russian legislative space.

But even before the end of the transition period, the Constitution of the Russian Federation was made applicable in Crimea through the aforementioned law. In Article 15, the Russian Constitution confirms that, 'the universally recognised norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system'. The Constitution also recognises the supremacy of international law through the following passage: 'if an international treaty or agreement of the Russian Federation sets out rules other than those envisaged by the law, the rules of the international agreement shall be applied'. Despite this, the Constitution is considered to have supreme juridical force and therefore may be used – and in several cases has been used – to justify Russia's neglect of international obligations.

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22 *https://zakon.rada.gov.ua/laws/show/685-19#Text*

23 More information on the Russian medal can be found here: *https://en.wikipedia.org/wiki/Medal_%22For_the_Return_of_Crimea%22*

24 *https://www.prlib.ru/en/node/353509*

Chapter 2 of the Constitution contains a comprehensive list of the rights and freedoms that coincide in principle with those provided by the European Convention on Human Rights (ECHR). Thus, the Russian Constitution guarantees personal rights and freedoms, property and economic rights, social and cultural rights, and rights in the administration of justice. Further, the Constitution provides that all people shall be equal before the law and court and that no one, including a husband, wife or close relative, shall be obliged to give incriminating evidence. Similarly to the ECHR, the Russian Constitution stipulates that all those accused of committing a crime shall be considered innocent until proven guilty according to the rules set out by federal law.

International human rights standards in Crimea

International human rights law and standards remain applicable in Crimea, including all the treaties signed by Russia such as the ECHR and the International Covenant on Civil and Political Rights (ICCPR).[25] It is also bound by the obligations set out in the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). As the occupying force, Russia is responsible for any human rights violations perpetrated by its agents, local authorities or proxies and is under a positive obligation to prevent and prosecute any such violations. The European Court of Human Rights retains jurisdiction over Crimea; a number of cases have been brought by Ukraine for Russia's actions in Crimea.[26]

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25 European Convention on Human Rights available at: *https://www.echr.coe.int/documents/convention_eng.pdf*; the International Covenant on Civil and Political Rights available at: *https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx*; the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment available at: *https://www.ohchr.org/en/professionalinterest/pages/cat.aspx*

26 *Ukraine v Russia* (no 20958/14); *Ukraine v Russia* II (no. 43800/14); *Ukraine v Russia III* (no. 49537/14)

KEY AREAS

The interviews with key stakeholders revealed a number of human rights violations of fundamental freedoms and in particular of the rights to freedom of expression and opinion. IPHR documents these particular issues below.

Freedom of expression & opinion: the cornerstone of democracy

The right to freedom of expression is enshrined in international and regional human rights instruments and is the lifeblood in any free society.[27] It is through this right that individuals and groups can share, exchange and debate ideas to help build strong and thriving democracies. The right is broad in scope encompassing freedom of the media and the right to seek, receive and impart information and belongs to everyone. The UN Human Rights Committee notes that the right to freedom of expression includes, for example, political discourse, discussion of human rights, journalism, cultural and artistic expression, teaching, religious discourse and commentary on one's own affairs and on public affairs.[28] It also covers speech which may be deemed to be controversial or offensive.[29] Political speech, in particular, is afforded a high degree of protection under international human rights law. Similarly, international human rights law prohibits certain types of hate speech, war propaganda or incitement to violence.[30]

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27 Article 10, ECHR; Article 19 Universal Declaration of Human Rights (UDHR); Article 13 American Convention on Human Rights; Article 9 African Convention on Human and People's Rights

28 UN Human Rights Committee, General Comment No. 34 'Article 19: freedoms of opinion and expression', 12 September 2011 available at: *https://www.refworld.org/docid/4ed34b562.html* - para 11

29 Handyside v United Kingdom ECtHR 7 Dec 1976 "[F]reedom of expression...is applicable not only to "information" or "ideas" that are favourably received...but also to those which offend, shock or disturb the State or any other sector of the population. Such are the demands of pluralism, tolerance and broadmindedness without which there is no "democractic society".

30 Article 20, ICCPR; Article 17, ECHR;

In terms of the type of discourse, the right covers communications that are both verbal and non-verbal, and all modes of expression, including audio-visual, electronic and internet-based modes of communication.[31] Like other fundamental freedoms, it is not absolute and may be restricted on limited grounds.[32] Any restrictions should be lawful, proportionate, necessary in a democratic society and for a legitimate aim.

States should create a positive environment for the free flow of ideas and information and foster conditions in which independent media can flourish. Conversely, States should not, as a rule, interfere with the right to seek, receive and impart information unless provided for under international law.

International human rights law also protects the stand-alone and unconditional right to freedom of opinion which should be enjoyed without interference. It also affords every individual the right to change their opinion for whatever reason. All forms of opinion are covered including political, scientific, historic, moral or religious; moreover, it is incompatible with the spirit of this right to be criminalized for holding a particular opinion.[33] Any arrest, detention, trial, imprisonment or other forms of harassment of an individual solely on the grounds of their particular opinion is likely to amount to a violation of international human rights law.[34]

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31 UN Human Rights Committee, General Comment No. 34, 12 September 2011 available at: *https://www.refworld.org/docid/4ed34b562.html* - para 12

32 Article 10(2), ECHR including protection of public health and morals, national security, the protection of the rights and reputation of others, preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. See also Article 19(2), ICCPR

33 UN Human Rights Committee, General Comment No. 34, 12 September 2011 available at: *https://www.refworld.org/docid/4ed34b562.html* - para 9

34 Article 19(1) of the ICCPR

INTERNET RESTRICTIONS

> *'We are all connected by the internet, like neurons in a giant brain' Stephen Hawking*

International & regional human rights standards

In a world where some 4.66 billion people use the internet, it has become, for better or worse, the key instrument by which we exercise our right to freedom of expression.[35] The intricate and intertwined relationship between the internet and freedom of expression has been articulated by the OSCE's Representative on Media Freedom, "It has become a human right to have access to the Internet and its services, and to be free to use it. The defence of this online right is the extension of the defence of the universal right to freedom of expression and freedom of the media offline."[36]

Freedom of expression online:

The right to freedom of expression extends to the online space.[37] The UN Human Rights Council has affirmed the "same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice."[38]

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35 see Datareportal, Digital Around the world - *https://datareportal.com/global-digital-overview*

36 OSCE, "Comments by the OSCE Representative on Freedom of the Media, Harlim Désir, Internet Freedom Conference: "The Role and Responsibilities of Internet Intermediaries", Opening Session, 13 October 2017, Hofburg, Vienna available at: *https://www.osce.org/files/f/documents/7/1/350386.pdf*

37 International human rights bodies including the European Court of Human Rights (ECtHR) have recognised the importance of the internet as a critical platform through which we can exercise the right of freedom of expression and has also identified and addressed human rights concerns around its regulation. See Delfi AS v Estonia (para 110) ECtHR 64669/09, 2015; Cengiz and Others v Turkey (para 52) 48226/10 and 14027/11, 2016.

38 Human Rights Council resolutions 26/13 of 26 June 2014 and 32/13 of 18 July 2016 available at https://www.right-docs.org/doc/a-hrc-res-26-13/

A critical element of freedom of expression online encompasses the right to receive information including reliable news sources and quality journalism.[39] In addition, the use of certain sites allowing information to be shared such as YouTube is covered by international human rights law.[40]

Blocking, Filtering and Content Removal

In a bid to clamp down on media freedom online, governments have taken action to block, restrict, filter or remove internet content.[41] States may well have legitimate reasons to remove content on the grounds, for example, that it endangers national security, threatens public health or morals or may contain images of child abuse. Yet, the use of blocking orders may not always be compatible with international human rights standards and has been the subject of consideration by international human rights bodies. It is particularly concerning in those cases of 'prior restraint' when the authorities seek to censor the content pre-publication.

In a recent case against Russia, the ECtHR found that a wholesale blocking order was an extreme measure and had violated the right to freedom of expression.[42] The ECtHR was particularly careful to note that the Government of Russia had not given any justification or provided any legitimate aim for undertaking these very extreme measures; nor had the blocking measures been sanctioned by a court or other independent

39 Article 19(2), ICCPR

40 Cengiz and Others v Turkey (para 52) ECtHR 48226/10 and 14027/11, 2016.

41 National authorities adopt their own regulatory framework and structures to govern media content online which should, at all times, comply with international human rights standards. Intergovernmental organizations such as the UN, Council of Europe, the European Union and the OSCE have all contributed to regulating the digital world through the creation of norms, standards, principles and rules. The UN Internet Governance Forum (IGF) is an important initiative which brings together leading stakeholders to discuss policy issues around internet governance and to share good policies and practice. UN Internet Governance Forum see https://www.intgovforum.org/multilingual

42 OOO Flavus and Others v Russia 2020 ECtHR 12468/15, 2020.

adjudicatory body. Most importantly, the ECtHR established critical guidance in relation to internet blocking mechanisms:

- There must be clear rules identifying the type of content susceptible to blocking.
- There must be procedural safeguards to protect against excessive and arbitrary blocking – in particular, blocking measures must be sanctioned by a court or other independent adjudicator, giving the operator of a website the opportunity to be heard.
- Before the order is made the various interests must be weighed, including the impact of the order on other internet users and the proportionality of the measure must be considered.
- There must be an effective appeal process for challenging the making of blocking orders.[43]

The UN Human Rights Committee (UNHRC) has also made its position clear on the use of internet blocking stating that "generic bans on the operation of certain sites and systems are not compatible" with Article 19 of the ICCPR.[44] The UNHRC states that it is contrary to freedom of expression to prohibit a site from publishing material which is critical of the government or political system supported by the government.[45]

International human rights mechanisms have expressed concern about the use of this measure in a 2011 *Joint Declaration on Freedom of Expression on the Internet* stating that:

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43 Inforrm's Blog, "Case Law: Strasbourg, Four Russian Cases on Internet Blocking, Findings of Violations of Articles 10 and 13", 21 August 2020, available at: *https://inforrm.org/2020/08/21/case-law-strasbourg-four-russian-cases-on-internet-blocking-findings-of-violations-of-articles-10-and-13/*

44 Human Rights Committee, General Comment 34, "Article 19 and freedom of expression", 12 September 2011 available at: *https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf*; para 43

45 Ibid, para 43

> *Mandatory blocking of entire websites, IP addresses, ports, network protocols or types of uses (such as social networking) is an extreme measure – analogous to banning a newspaper or broadcaster – which can only be justified in accordance with international standards, for example where necessary to protect children against sexual abuse.*[46]

In 2019, mandate-holders for freedom of expression published the *Joint Declaration on Challenges to Freedom of Expression in the next Decade.* This non-binding instrument calls upon States and other actors to "refrain from imposing Internet or telecommunications network disruptions and shutdowns" and to "respect international human rights standards, including those of transparency, when seeking to regulate or influence expression on online media platforms."[47]

Crimea: blocking, restrictions and limited access to the internet

The Russian authorities have taken swift action to silence any online anti-Russian/pro-Ukrainian comment in the region. This has been an ongoing issue since the occupation of Crimea in 2014 with the Russian communications regulator, *Roskomnadzor,* taking responsibility, in some

46 See: *Joint Declaration on Freedom of Expression and the Internet,* 2011 issued by The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression; the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media; the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information; available at: *https://www.osce.org/files/f/documents/e/9/78309.pdf*

47 *Joint Declaration on Challenges to Freedom of Expression in the next Decade,* 2019 issued by the UN Special Rapporteur on Freedom of Opinion and Expression; the Organization for Security and Cooperation in Europe, Representative on Freedom of the Media; the Organization of American States, Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights, Special Rapporteur on Freedom of Expression and Access to Information, available at: *https://www.article19.org/wp-content/uploads/2019/07/Joint-Declaration-2019-Final-text.pdf*

cases, for blocking websites.[48] However, it is not always easy to identify the key Russian actors behind these measures. Civil society organisations (CSOs) have undertaken independent monitoring on this issue and, in July 2017, the Kharkiv Human Rights Protection Group (KHRPG) carried out an exercise, checking the networks of five providers in five major Crimean cities (Simferopol; Sevastopol; Yalta; Kerch and Belohorsk).[49] The KHRPG found that 11 sites were blocked by all five providers although *Roskomnadzor* only acknowledged banning five in Crimea and in Russia. The monitoring suggested that at that time, the practice of blocking websites extended to the majority of Ukrainian TV channels or outlets reporting Ukrainain news. According to one interviewee, *Roskomnadzor* blocked their organisation as early as 2016.

Moreover, the Russian authorities have restricted access to certain news sites such as, *Krym.Realii* (Crimean Realities), Radio Svoboda's Crimean service. In 2016, the Russian authorities tried to block this website at the same time as criminal charges were brought against **Mykola Semena**, a well-known Ukrainian journalist, for posting an article on *Krym.realii*'s website, in which he spoke out against Russia's occupation of Crimea. Semena was charged with offences under the Russian Criminal Code for acting against "the territorial integrity of the Russian Federation" and was found guilty on charges of separatism in 2017 and given a suspended sentence of two and a half years. In February 2020, he was released from house arrest and cleared of all charges.[50]

There are some concerns that there is little, if any, legislative basis for blocking websites and that decisions are made 'at will' and unilaterally on the part of the Russian authorities. In theory, any decision to block/restrict a website should comply with the *Law on Information,*

48 Roskomnadzor is a state executive body with responsibility for managing the entire website-blocking process.

49 Kharkiv Human Rights Protection Group, "At least 22 Ukrainian websites blocked in Russian-occupied Crimea", 16 August 2017 available at: *http://khpg.org/en/1501768045*

50 PEN America, "Ukrainian Journalist Mykola Semena released from House Arrest", 4 February 2020 available at: *https://pen.org/press-release/ukrainian-journalist-mykola-semena-released-from-house-arrest/*

Information Technologies and Protection of Information (Federal Law 149 FZ) and the *Law on Personal Data* (Federal Law 152 FZ).[51] Both laws provide a non-exhaustive list of the legal justifications for restricting access to the internet. *Roskomnadzor* can block websites through a special procedure called the "interaction system" by which it receives decisions from courts and other state bodies with a request that the web page, website or IP address with the illegal content should be blocked. Thereafter, *Roskomnadzor* will add the website to an internal register and send a notice to the hosting provider or individuals maintaining the website's information. If the offensive materials are removed within three working days, the website is removed from the register. However, if the offensive content is not removed, *Roskomnadzor* will request the telecom operator to restrict access to the website. However, readers often use a VPN system to bypass firewalls and blocking.[52]

Interviewees reported that the restrictions and blocking often occur without a proper decision of the authorised body and owners and administrators of the websites are often unaware of the reasons for the imposition of the restrictions.[53] In such cases, the website pages are simply unavailable for users because the internet service providers limited access to them on the informal request of the authorities.

One interviewee shared his experience of his organisation's website being blocked:

> *N01: The first time that Roskomnadzor blocked us was in May 2016. The second time they blocked us was in August, only on the territory of Crimea, by the decision of the Prosecutor, at the request of Natalya Poklonska[54]. They blocked all Crimean providers, but they*

51 Gowling WLG, "Roskomnadzor is informing":state protocols for website blocking", 29 September 2017 available at: *https://gowlingwlg.com/en/insights-resources/articles/2017/roskomnadzor-state-protocols-for-website-blocking/*

52 N01

53 N03

54 Natalya Poklonska was Prosecutor General of Crimea from 2014 until 2016.

> *did not block providers from Russia [...] Since then, regional providers are periodically blocked, but they don't inform us, we don't know why, on what grounds. They first block them, then they unblock them. Usually this is for a week, a few weeks, or a day or two.* [55]

Internet blocking - a chilling effect

In light of these internet blocking practices, some media resources and organizations reported that they decided to self-censor their activities, changing their language and tone to write in such a way that complies with Russian counter-terrorism and anti-extremism laws. For instance, the organizations and individuals in question no longer use the term "occupation" as they did in 2015. In one particular case, the Avdet Gazette received warning letters from the FSS and their Chief Editor was frequently invited to the Investigative Committee of the Russian Federation and the FSS office. As a result, the actions of the Russian authorities have had a chilling effect on the activities and reporting of the Avdet Gazette since 2015.[56] The practice of self-censorship by journalists working in Crimea provides a safety net, protecting both the journalists themselves from criminal prosecution and the users of social networks who may repost stories about Crimea and thus become liable to criminal prosecution.[57]

The use of social media networks such as Facebook and YouTube has also come under scrutiny and censure from Russian law enforcement bodies. In one particular case reported to IPHR, an interviewee described coming under pressure from the FSS for liking or reposting news stories on Facebook[58] and being subjected to a home search by the authorities. In another case, the information that was made public was not of a political

55 N03
56 Y02
57 N03
58 Y06

nature but rather concerned allegations of corruption in Crimea.[59] There are similar risks to individuals using YouTube as a means of attacking the authorities; in one case, after a schoolteacher uploaded a video onto YouTube criticizing an administrative decision of the local authorities, FSS officials called her school and questioned her colleagues about her political opinion.[60] Such ad-hoc censorship practices adopted by the Russian authorities raise serious human rights concerns as internet users should be entitled to create, re-use and distribute content as long as it respects the right to the protection of intellectual property, including copyright.[61]

The authorities have taken a particularly dim view of any mention of proscribed/terrorist organizations on social media platforms. A civil activist **Nariman Memedeminov** was sentenced to two and a half years of imprisonment in 2019 for mentioning Hizb ut-Tahrir[62], transnational Islamic movement that is banned in Russia, but legal in Ukraine, in a Facebook post published in 2013 before the occupation.[63] One of the interviewees also experienced her post being deleted by Facebook on the grounds that it contained prohibited information.[64]

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59 Y06

60 Y06

61 Council of Europe, Recommendation of the Committee of Ministers to member States on a Guide to human rights for Internet users (Adopted by the Committee of Ministers on 16 April 2014 at the 1197th meeting of the Ministers' Deputies) available at: *https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804d5b31*

62 Hizb ut-Tahrir (aka Party of Islamic Liberation) is a transnational pan-Islamic political organization. The heart of its political ideology and its primary goal is the unification of Muslim land (the Ummah) under one Caliphate (Khilafah), ruled according to a strict interpretation of the Quran, the Sunnah and Sharia law. It does not participate in elections or political processes in the countries where it operates, believing democracy to be incompatible with the goal of establishing a unified Islamic Caliphate. Hizb ut-Tahrir is not banned in Ukraine and operated freely in Crimea prior to the annexation. In 2003, the Supreme Court of the Russian Federation declared Hizb ut-Tahrir a terrorist organization and banned its operations on Russian territory.

63 Y06

64 R02

The evidence from interviewees suggests that the authorities have, on occasion, acted in an arbitrary way in imposing blocks and restrictions on particular internet websites and portals. Individuals and organizations have been unable to challenge these decisions in a meaningful way. Such measures should be viewed as politically-motivated with little, if any, legal foundation or justification for their use and, thus, in violation of international human rights standards.

MEDIA ORGANISATIONS

Freedom of the media: a shrinking landscape

> *'Freedom of the press is a precious privilege that no country can forgo' Mahatma Ghandi*

Freedom of the media is a fundamental building block of any democracy and is afforded a high degree of protection under international human rights law.[65] The media plays an important and critical public watchdog role in society particularly at a time when "fake news", misinformation and disinformation are on the rise. In such times, the right to know the truth becomes even more critical. The ECtHR has recognised that the role of public watchdog and protections afforded under the ECHR extend to non-governmental organisations, bloggers and other regular social media users.[66]

Yet, there are deep incursions on the right to media freedom globally and the space for independent media and other critical voices is slowly being eroded. In its *World Press Freedom Index (2020),* Reporters Without Borders (RSF) highlights a number of converging crises (geopolitical,

65 Article 10, ECHR; Article 19, ICCPR; Article 13, American Convention on Human Rights; Article 9 of the African Charter on Human and People's Rights; Article 19, Universal Declaration of Human Rights.

66 Animal Defenders International v United Kingdom (para 103) ECtHR 48876/08, 2013; Magyar Helsinki Bizottsag v Hungary (par 168) ECtHR 18033/11, 2016

technological, democratic, economic, trust) which collectively threaten media freedom globally and the future of journalism more widely.[67] Journalists and independent media are increasingly being portrayed as the "enemies of the people" and are seen as a threat to authoritarian regimes around the world. In addition, the COVID-19 pandemic has exacerbated the situation and presents a real threat to press freedom by giving many Governments a 'carte blanche' to step up their attacks on journalists, media outlets and to undermine independent journalism in the name of protecting public health.

Governments around the world have sought to clamp down on media freedom through a variety of legal measures including libel laws, 'fake news' legislation, anti-terrorism legislation, SLAPPS (Strategic Lawsuits against Public Participation), criminal penalties and contempt laws. Such measures are often used in an arbitrary and politicised way and have been applied to government critics including media organisations, journalists and other media professionals alike (see section C).

Relevant International Standards:

Both international and regional human rights instruments afford the media the right to comment on public issues without fear of censorship or restraint, [68] and the right of the public to access media output. In addition, international and regional human rights bodies and courts have noted the importance and centrality of freedom of the media in society.[69]

The right to freedom of expression is guaranteed by Article 19 of the ICCPR and Article 10 of the ECHR. As a state party to the ICCPR and

67 See Reporters Without Borders, World Press Freedom Index 2020 - analysis available at: *https://rsf.org/en/2020-world-press-freedom-index-entering-decisive-decade-journalism-exacerbated-coronavirus*

68 UN Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, 12 September 2011 available at: *https://www.refworld.org/docid/4ed34b562.html*; para 13

69 See Annex 1 *International engagement on Freedom of the Media*

ECHR, Russia has undertaken a legally binding obligation to respect the right set out in those treaties and to ensure that everybody on their territory and subject to their jurisdiction has access to those rights.

Media Freedom in Crimea: silenced, ignored and marginalised

Media freedom and safety of journalists in Crimea has come under the spotlight of the OSCE. In 2015, the Office for Democratic Institutions and Human Rights (ODIHR) and the High Commissioner on National Minorities undertook a Human Rights Assessment Mission (HRAM) to Crimea which included monitoring of freedom of expression (including freedom of the media) and other fundamental freedoms.[70] HRAM found that "*through regulatory restrictions and stifling administrative procedures, de facto authorities have reduced the access and number of independent media in Crimea, have cut off the free flow of information to the public (particularly online and broadcast media), and have threatened criminal sanctions against private and public figures for expressing views opposed to Russia's annexation of Crimea*"[71].The RFoM has also condemned the arrests of citizen journalists in Crimea and called for their release.[72]

According to one interviewee, following the occupation of Crimea, the media space in the peninsula, is akin to zones of restrictions.[73] Other interviewees called Crimea "the new Chechnya" given the severity of measures taken against the media in the region.[74] The evidence bears

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70 ODIHR-HCNM, Human Rights Assessment Mission on Crimea 6-18 July 2015), 17 September 2015 available at: *https://www.osce.org/files/f/documents/0/2/180596.pdf*

71 ODIHR-HCNM, Human Rights Assessment Mission on Crimea 6-18 July 2015), 17 September 2015 available at: *https://www.osce.org/files/f/documents/0/2/180596.pdf*, para 176.

72 OSCE, "OSCE Media Freedom Representative condemns arrest of citizen journalists in Crimea, calls for their immediate release", 17 April 2019, available at: *https://www.osce.org/representative-on-freedom-of-media/417461*

73 N01

74 Y02

this out with reports of shutdowns of pro-Ukrainian media organisations in March 2014 very shortly after the occupation. All independent media were removed from Crimea - including ATR, Crimea's independent Tatar news channel, (closed in 2015[75]) and *Chornomorska*, a pro-Ukrainian television company (shut down even earlier in 2014).[76] As reported by another interviewee, in under seven years, *Krym.Realii* was forced to suspend cooperation with 27 journalists under pressure from Russian security services whilst a further 29 journalists were forced to leave Crimea due to cooperation with *Krym.Realii.*[77]

One interviewee commented on the reporting of an environmental incident in Armiansk where a harmful chemical was released into the air in 2018 from the Crimean Titan plant:

> *N01: An informational concentration camp is functioning in Crimea. For example, after the ecological disaster in Armiansk the occupying powers were forced to evacuate people, Crimean media said that everything was fine in the city, and 'Krym 24'[78] went on air with information that the children of Armiansk are happy, after all they are going on a special holiday. This is all similar to the situation with Chernobyl. These kinds of lies kill people, mentally as well.*[79]

After the occupation, media outlets were obliged to re-register according to Russian law.[80] Some of those that agreed to do so were refused

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75 The Guardian, "Crimea's Independent Tatar TV news channel silenced by 'red tape'", 1 April 2015 available at: *https://www.theguardian.com/world/2015/apr/01/crimeas-independent-tatar-tv-news-channel-silenced-by-red-tape*

76 N02; see also Atlantic Council, "Kremlin Silences Crimea's Last Pro-Ukraine TV station", 7 August 2014 available at: *https://www.atlanticcouncil.org/blogs/ukrainealert/kremlin-silences-crimea-tv*

77 N03

78 *Krym 24 is a popular state run Russian media outlet in Crimea.*

79 N01

80 Y04

reregistration and had to cease operations (for instance, ATR[81], Radio Meydan).[82] ATR and other Crimean-Tatar pro-Ukranian outlets made real efforts to secure a licence in accordance with Russian law but were refused, most probably due to their pro-Ukrainian output although the Russian authorities never acknowledged that their refusal to re register ATR was connected to the content and output of the channel. In public, the Russian authorities simply stated that the refusal to re-register these outlets was connected to legal compliance and regulatory issues. Following the forced closure of the ATR TV channel, Russian occupying authorities launched in 2015 their own Crimean Tatar TV channel, Millet, with significant governmental support.[83] The new channel tried to support the Russian governmental agenda but has never, to date, gained anything like the popularity of its predecessor, ATR.[84] New independent media projects have since begun to proliferate including the Crimean Tatar Portal such as the Aqay Laf project, amongst others.[85] These new media bodies are not officially registered and use alternative platforms such as YouTube, Instagram and TikTok to broadcast their materials or issue a small number of printed copies which do not require official registration. Since political topics have become taboo in terms of broadcasting, new projects fill cultural, historical, and social niches.[86]

One interviewee shared their view of the Russian-sponsored Millet TV channel with IPHR researchers:

> *Y02: Unfortunately, the TV channel Millet didn't take off. They massively abuse propaganda. Well, to be blunt, they try their hardest and it's really repulsive. They tried as much as possible to run disinformation campaigns about the representative body of the*

81 R01
82 Y02
83 Y02; Millet continues to operate as a TV channel can be found at: *http://trkmillet.ru/*
84 Y02
85 Y02
86 N06

> *Crimean Tatars, the Mejlis, which was banned in 2016, as well about certain figures from the ATR channel. They overdid it. A huge amount of propaganda, of very poor quality, bad copies of Skabeeva work there.*[87]

Repression against media actors: sustained and consistent

Ongoing and sustained attacks on journalists began at the start of the occupation in 2014. In response to questions about the waves of repressions against journalists, the interviewees stressed that there were a few periods of extreme pressure: in particular the first months after the occupation; after the institutionalisation of Crimean Solidarity and in 2019 when Russian occupying authorities organized a targeted campaign against Crimean Tatars.[88] Other interviewees mentioned that peaks of assaults against journalists included the detentions of journalists from different media outlets on 18 May 2014 and the rejection of ATR's application for registration under Russian law.[89]

Media freedom and Crimean Tatars: A silenced minority

Relevant International Standards:

The rights and protections in the ECHR are to be enjoyed without discrimination on grounds of sex, race, colour, language, religion, political or other opinion national or social origin, association with a national minority, property, birth or other status.[90] The wording of the ECHR implies that the prohibited discrimination must relate to the enjoyment of another convention right, although it is not necessary to

87 Y02; Skabeeva is an infamous Russian journalist and television host. Her biaised reports about the Russian occupation, occupation of Crimea, war in Ukraine and British investigation of Scripals' attempted murder created her a reputation of being a member of the "special operation forces" of the Russian Federation.

88 Y05

89 R01; Voice of America, "Russia Denies Licence to Tatar-Language TV station in Crimea" 1 April 2015 available at: *https://www.voanews.com/europe/russia-denies-license-tatar-language-tv-station-crimea*; BBC, "Crimean Tatar media 'silenced by Russia'", 1 April 2015 available at *https://www.bbc.co.uk/news/world-europe-32145218*

90 See Article 14, ECHR

prove a violation of that right to prove discrimination. To be qualified as discriminatory, the inequality of treatment must be arbitrary - i.e. show that the distinction has no reasonable and objective justification.

The Russian authorities have acted in a particularly egregious way towards Crimean Tatars.[91] The vast majority of Crimean Tatars are Muslim and their ethnic and cultural identity as a group is closely associated with the Islamic faith and traditions.[92] Their distinction from the Slavic majority is also apparent in their unique language, script, distinctive cultural practices and historic roots.[93] As a community, Crimean Tatars have presented the strongest and most organized opposition to the occupying authorities through peaceful protest, trade blockades and other forms of nonviolent resistance.[94] Political figures, activists as well as ordinary members of the Crimean Tatar community have been subjected to widespread harassment by officials of law enforcement, security services and militia groups, with frequent reports of physical and psychological abuse.[95] A number of Crimean Tatar journalists have been detained by

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91 See IPHR, "Fighting Terrorism or Terrorising Activism - persecution of civic activists in Crimea", May 2019 available at: *https://www.iphronline.org/new-report-fighting-terrorism-or-terrorising-activism-persecution-of-civic-activists-in-crimea.html*

92 International Committee for Crimea, Greta Lynn Uehling, Crimean Tatars, 2000, available at: *http://www.iccrimea.org/scholarly/krimtatars.html*.

93 International Committee for Crimea, Greta Lynn Uehling, Crimean Tatars, 2000, available at: *http://www.iccrimea.org/scholarly/krimtatars.html*.

94 The Sydney Morning Herald, 'In Crimea, Tatars step up resistance to Russian rule', 17 February 2016, available at: *http://www.smh.com.au/world/in-crimea-tatars-step-up-resistance-to-russian-rule-20160215-gmuva3.html*.

95 OHCHR, 'Report on the human rights situation in Ukraine 16 February to 15 May 2016', p.44, available at: *http://www.ohchr.org/Documents/Countries/UA/Ukraine_14th_HRMMU_Report.pdf*

European Parliament, 'European Parliament resolution on Crimean Tatars (2016/2692)', 11 May 2016, available at: *https://www.europarl.europa.eu/doceo/document/RC-8-2016-0582_EN.html*

The Telegraph, 'Special Report: Crimea Tatars endure second tragedy under Russian rule', 7 July 2016, available at: *http://www.telegraph.co.uk/news/2016/07/07/special-report-crimea-tatars-endure-second-tragedy-under-russian/*

European Council on Foreign Relations, 'Europe's duty to help protect Crimean Tatars', 11 Apr. 2019, available at: *https://www.ecfr.eu/article/commentary_europes_duty_to_protect_crimean_tatars*.

the Russian authorities on nebulous terrorism and extremism charges. The use of anti-terrorist legislation has become a useful tool in the armoury of the occupying authorities to silence dissenting voices.

In the media, the voices of the Crimean Tatar community are slowly being silenced. Independent Crimean Tatar media outlets have been shut down and driven from the Peninsula.[96]

In response, former Crimean Tatar journalists have turned to civic journalism to report on and document the political crackdown against the wider community.[97] But this work is very risky and several journalists have been imprisoned - for example **Narima Memedeminov** who was sentenced to two and a half years in prison for "public calls for terrorism in 2019."[98] Memedeminov's actions included documenting politically motivated court hearings and unlawful searches of Crimean Tatar activists on his YouTube channel.

IPHR interviews with Crimea media freedom monitors were particularly insightful on this issue; interviewees noted that Ukrainian and Crimean Tatar journalists are more exposed to pressure from the occupying authorities than Russian journalists and media.[99] According to their accounts, the factors of political opinion and nationality contribute to such a situation.[100] Crimean Tatars, for instance, are encouraged by the

96 E.g.: Closure of ATR Crimean Tatar television channel – OSCE, Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015), 17 September 2015, para. 17; The Guardian, "Crimea's independent Tatar TV news channel silenced by 'red tape", 1 April 2015, available at: *https://www.theguardian.com/world/2015/apr/01/crimeas-independent-tatar-tv-news-channel-silenced-by-red-tape*.

97 Committee to Protect Journalists, "Crimean Tatar civic journalist risk persecution to cover their community in Russian-annexed Crimea", 15 September 2020 - available at: *https://cpj.org/2020/09/crimean-tatar-civic-journalists-risk-persecution-to-cover-their-community-in-russian-annexed-crimea/*

98 Human Rights Watch, "Russia Jails Crimean Tatar Blogger on Bogus 'Terrorism' Charges', 2 October 2019 available at:*https://www.hrw.org/news/2019/10/02/russia-jails-crimean-tatar-blogger-bogus-terrorism-charges*

99 Y04, Y05

100 Y04, Y05

Russian authorities to use the Cyrillic instead of the Latin alphabet when they write.[101]

Media Freedom: Day to day intervention and obstructions

Additionally, the Crimean authorities often interfere in journalists' activities even if they are Russian or work in moderate media.[102] Some interviewees told IPHR that this is a consequence of the occupying officials' desire to demonstrate that they are actively keeping the situation on the peninsula under control.[103]

Interviewee N02 told IPHR that the Crimean authorities want to be seen by their Kremlin patrons as effective managers and therefore have attempted to establish even greater control over the media in recent years. For example, since 2015 they regularly change senior management of the state media outlets and recently have appointed managers from mainland Russia to top positions in Crimean state media outlets, such as DTRK Krym:

> *N02: In recent years, local officials have started to treat local media employees in an even worse way. [...] The effects of this can be felt especially since during that period [since 2015] the leadership of the former DTRK Krym changed twice. Now the leadership is made up of Russians who moved to Crimea. This is apparently a general trend, importing Russians to Crimea. It became more noticeable after 2015, when it became common for Russians to be invited to work in Crimea.*[104]

101 N06
102 N02
103 N02
104 N02

Capturing the story: a wall of silence

Among the common challenges for journalists in Crimea are the difficulties they encounter in undertaking research and, in particular, the reticence of Russian officials in Crimea.[105] Several interviewees were of the view that Russian officials are prohibited from speaking to Ukrainian journalists who are not openly pro-Russian.[106] From the very beginning of the occupation journalists faced difficulties in attending court hearings.[107] The Russian authorities have implemented a system of 'closed' proceedings in the Crimean court system whereby journalists are excluded from attending hearings on national security grounds.[108] International human rights law standards provide that court hearings should, as a rule, be subject to public scrutiny in line with the principle of an "open court".[109] The public and press may be excluded from all or part of a criminal case but only in very narrow, limited circumstances.[110] One of the interviewees told IPHR that, between 2017-2019, she had regularly petitioned the court to attend hearings but in every 100 applications she was only successful in 20 cases.[111]

Journalists in Crimea also face difficulties when trying to film pro-Russian officials or organizations interviewing members of the public about certain issues. As reported by one interviewee, police officers often approach journalists and ask them to refrain from recording the interviews.[112] In relation to high profile news stories, such as the ecological catastrophe in

105 A01

106 A01

107 A04

108 A01, N04

109 See General Comment 32, "Right to equality before courts and tribunals and to a fair trial" UN Human Rights Committee - CCPR/C/GC/32, para 29, 23 August 2007 available at: *https://www.refworld.org/docid/478b2b2f2.html*

110 See Article 14(1), ICCPR, these grounds include: morals (hearings involving sexual offences); public order, national security in a democratic society, when the interests of the private lives of the parties so require, to the extent strictly necessary, in the opinion of the court, in special circumstances where publicity would prejudice the interest of justice.

111 A01

112 A01

Armiansk, Russian law enforcement agencies go even further to prevent any undesired and impartial reporting.[113]

Reports of obstruction of filming by pro-Russian officials is described by one interviewee and shows the overzealousness and overreaction of the authorities in restricting reporting events of public concern:

> *A01: In August 2018 – after the explosion at 'Titan' – I went to gather some materials. It would have been logical for journalists to go into the factory and ask people what happened. But I could only film out of the car window, so that I wouldn't be seen to be filming. After that I returned to Armiansk. I went into the street and saw a nice cat on a bench. I got out my camera, and a police officer came over and asked what I was doing, and I was stunned. I said it was just a pretty little cat.*[114]

Operational challenges

Journalists operating in Crimea face practical challenges in terms of their day to day work. When asked about the obstacles on the Ukrainian side, several journalists mentioned that it was time-consuming to receive permission from the Ukrainian authorities to cross the administrative border with Crimea as a journalist.[115]

The challenges of securing travel permission is documented by one journalist in more detail:

> *A02: When I enter Crimea I need to submit a request to the Ministry of Information. They have to issue me a recommendation to travel. Then you go to the Migration Service and give over your bundle of documents, after which they give you a one-entry journalist's*

113 A01
114 A01
115 A02

> *permit. It is a difficult bureaucratic process – of course at the start it's very annoying, but then I worked out a way so that I could receive permission directly in Kherson: they opened a file, I arrived in the morning, submitted the bundle of documents, received the permit before lunch, went to the administrative border and was in Crimea by evening.*[116]

Accreditation: Challenges and hurdles

The regulation of media workers through registration and/or accreditation schemes has become a contentious issue in many countries around the world and may be seen as an encroachment on the right to freedom of expression. Accreditation schemes are vulnerable to politicisation and can be used as a tool to silence critical voices in cases when the authorities refuse to issue press cards to those journalists deemed to be critical of the government or who fail to report the government line. The UN Human Rights Committee has noted, with respect to such schemes, that "the operation and application must be shown to be necessary and proportionate to the goal in question and not arbitrary... The relevant criteria for the accreditation scheme should be specific, fair and reasonable, and their application should be transparent."[117]

The importance of an independent accreditation scheme has been reiterated by the key mandate holders on freedom of expression in the *Joint Declaration on regulation of the media, restrictions on journalists and investigating corruption* in which they note that the scheme should be "overseen by an independent body and accreditation decisions should be taken pursuant to a fair and transparent process, based on clear and non-discriminatory criteria published in advance." [118]

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116 A02

117 *Gauthier v. Canada*, 7 April 1999, Communication No. 633/1995, UN Doc. CCPR/C/65/D/633/1995, para. 13.6. available at: *http://hrlibrary.umn.edu/undocs/session65/view633.htm*

118 *Joint Declaration on regulation of the media, restrictions on journalists and investigating corruption*, the UN Special Rapporteur on freedom of expression, OSCE Representative on Freedom of the Media, OAS Special Rapporteur on freedom of expression, 18

In Crimea, the limits and restrictions on freedom of the media post-occupation can partly be explained by the fact that Russia considers Crimea to be part of its federation. In light of this, foreign journalists are required to have formal accreditation granted by the Ministry of Foreign Affairs (MFA) of the Russian Federation to enable them to work in Crimea.[119] Yet, this has proved challenging and even when the procedure is followed, as in the **Taras Ibragimov** case in 2020, there is a good chance that the Russian MFA will ignore requests for accreditation.[120] [121]

As reported to IPHR, the Russian authorities have also adopted other strategies to frustrate the process of accreditation: one of which has been to repeatedly postpone the review of accreditation requests or to find flaws with the documents submitted to the authorities as part of the application process.[122] In light of these practical difficulties, most Ukrainian and foreign journalists have been unable to secure the necessary accreditation[123] leaving them with no option but to work in Crimea without accreditation.[124] Journalists working without accreditation are subject to administrative penalties. It is common practice for journalists to work as representatives of NGOs.[125] According to one interviewee, the Ukrainian journalist **Roman Tsymbaliuk** is the only one to have been granted official accreditation in Crimea.[126]

Similarly, foreign journalists visiting Crimea often do so without accreditation. Such actions have come to the attention of the authorities: in 2018, representatives of the FSS on the administrative border warned a

December 2003 available at: *http://www.oas.org/en/iachr/expression/showarticle.asp?artID=88&lID=1*

119 Y01

120 Y01

121 N03, Y07, R01; see Committee to Protect Journalists, "Ukrainian journalist Taras Ibragimov banned from entering Russia from entering Russia for 34 years", 30 January 2020 available at: *https://cpj.org/2020/01/ukrainian-journalist-taras-ibragimov-banned-from-e/*

122 N04

123 Y01, A01

124 A05

125 N04

126 Y03

group of visiting foreign journalists that working without accreditation was illegal in Crimea.[127] According to one interviewee, such warnings had not been issued prior to 2018.[128] In February 2018, the Central District Court of Simferopol fined British journalist Madeline Roache for allegedly carrying out journalistic activities without accreditation from the Russian MFA and not having a "special" medical insurance for Crimea.[129] The journalist was then forced to leave Crimea.

Accreditation is seldom granted to journalists seeking to work in Crimea and thus most Ukrainian journalists work in Crimea without accreditation. As a result, they are routinely arrested by Russian police in the peninsula and fined for operating without the requisite registration.[130]

One journalist recounted their experience of being fined by OMON (the Special Purpose Police Unit):

> *Y01: The last arrest was at a court in Simferopol. It was a very extraordinary situation: five OMON (Special Purpose Police Unit) officers detained me, they didn't restrain me, but they surrounded me holding automatic weapons. They didn't use physical force on me, but they surrounded me, and it was clear that there was no way to get away from them. They put me in a car and took me to the Migration Service, where they fined me 2,000 roubles (approximately 800 hryvnia or 23 Euros) for illegal professional activities on the territory of the Russian Federation. After that they banned me from entering.*[131]

127 A03

128 A03

129 Radio Free Europe/Radio Liberty, "English journalist fined and forced to leave Crimea" 9 February 2018 available at *https://www.svoboda.org/a/29028890.html*.

130 *Y01; Fines are administered under Article 19.20 of the Code of Administrative Offences of the Russian Federation which prohibits their activity without special permission or registration if the laws of the Russian Federation require one. In 2020, the first Russian citizen was fined under this article; previously, Article 19.20 had only been used against foreign journalists. In that case, the journalist cooperated with Belsat TV (a Belarusian media outlet) in trying to help them film a story about an ecological protest in Moscow.*

131 *Y01;*

The rise of civic journalism: a new force for good?

The restrictions imposed by the Russian authorities have led to the rise of so-called civic journalism which has flourished in Crimea over the last five or six years.[132] The new cohort of civic journalists predominantly use online platforms (YouTube, Facebook and Instagram) to share content with their subscribers and readers.[133] Civic journalists often cover issues around political repression, including searches of homes of civil activists and Crimean Tatars, persecution on religious grounds, court hearings and political cases. Unfortunately, civic journalists have, of late, also been targeted for persecution by the Russian authorities[134] and several have been detained and charged with criminal offences. For instance, in 2019 journalists **Ramzy Bekirov** and **Rustem Sheihaliev** were detained and charged with "organising the activities of a terrorist organisation". They are currently awaiting trial and, if convicted, they face up to 20 years in prison.[135]

Civic journalists operate in a 'grey space' without accreditation and their activities have come to the attention of the FSS who have shown an increasing interest in the work of non-accredited journalists. This is a marked deterioration from 2015/2016 when the authorities paid little attention to the work of non-accredited journalists to a now active interest in the activities of individual journalists.

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132 N04, A07; the Pew Center for Civic Journalism defines civic journalism as a practice that "is both a philosophy and a set of values supported by some evolving techniques to reflect both of those in journalism. At its heart is a belief that journalism has an obligation to public life – an obligation that goes beyond just telling the news or unloading lots of facts." available at *https://journalism.fandom.com/wiki/Civic_journalism*

133 R02

134 Y04

135 R02; Council of Europe, "Crimean Tatar Journalists Osman Arifmemetov, Remzi Bekirov and Rustem Sheikhaliev Detained by Russian Authorities", 16 June 2020 available at *https://www.coe.int/en/web/media-freedom/detail-alert?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-2&p_p_col_pos=4&p_p_col_count=9&_sojdashboard_WAR_coesojportlet_alertPK=70029138#block-member-replies*

One civic journalist reported the difficulties he faced in undertaking his work and how he was subject to surveillance by the FSS:

> *Y01: Then they noticed that I was travelling regularly. For instance, I had a business trip, and I was in Crimea for two months, working. Then two weeks or a month later I returned to Kyiv, stayed there and again went back to Crimea. Gradually they noticed that I was regularly travelling back and forth, that I was writing about the same thing, that I was constantly going to one or two courts with my camera, talking to activists and lawyers. There was noticeable tracking, it was noticeable that in court a lot of people, police officers or plain-clothes FSS agents, were filming you. That's already a signal. Then a few times they detained me in different circumstances. But for me it was just nonsense. They arrest me, interrogate me, ask to take my fingerprints, I refuse, and we go our separate ways. I will write to them explaining who I am.*

Ukraine & Russia: the Information war over the airwaves

The Government of Ukraine initially tried to ensure an ongoing presence in the informational space by broadcasting certain radio programmes from the Kherson region in 2017.[136] However, since 2018,[137] the Russian authorities have been intercepting radio broadcasts on the administrative border.[138] In response, Ukraine has installed a more powerful transmitter in Chongar and as of 2021 has been able to cover the peninsula.[139]

136 Ukraine Crisis Media Center, "Four radio stations and a TV channel resume Ukrainian broadcasting to Crimea", 24 March 2017 available at: *https://uacrisis.org/en/54131-krim-sergij-kostinskij*

137 N02

138 N01, N05

139 N02

International human rights law is clear that the right to freedom of expression includes the right of the public to receive information and that audio visual media, such as radio and television, play a vitally important role in that regard. Indeed, states are under a positive obligation to create an enabling environment where free speech can flourish and any such interference with this right should be on limited grounds and in line with key human rights principles (proportionality, reasonableness, lawfulness and for a legitimate aim). The joint mandate holders on freedom of expression in the *Joint Declaration on Media Independence and Diversity in the Digital age (2018),* have called upon states to refrain from "engaging in indirect forms of censorship such as the abuse of controls over newsprint, radio frequencies or infrastructure used to disseminate media content."[140] The interception of Ukrainian radio broadcasts by the Russian authorities is a worrying development and a serious incursion on the right to freedom of expression. These radio broadcasts acted as a unique platform for disseminating information in Crimea particularly with respect to issues on political and social affairs.[141] Such actions by the Russian authorities appear to have no legal foundation and to contravene international human rights standards.

The importance of an independent and free press is critical to any democracy yet journalists around the world are often pressured into reporting the Government's agenda at the expense of journalistic independence. Interviewees, who currently work in Crimea, report that they are obliged to broadcast the position of the Russian government. As one interviewee described, they play the role of the microphone stand.[142] At the beginning of the occupation many journalists with

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140 Joint Declaration on Media Independence and Diversity in the Digital Age, 2018; the United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information available at: *https://www.ohchr.org/Documents/Issues/Opinion/JointDeclaration2May2018_EN.pdf*

141 ECtHR, Cengiz v Turkey

142 A05

independent positions were put under pressure to play such a role and cover the Russian government's agenda.[143]

JOURNALISTS UNDER FIRE IN CRIMEA

In an era of "fake news", we turn to journalists for serious, credible research and to report the news with integrity and honesty. Yet, journalists are now subject to online and offline harassment, cyberstalking, threats, targeted surveillance, scapegoating, persecution, physical violence and even murder.[144]

In Crimea, the independent media community, including journalists, has come under fire from the Russian authorities in several ways which are described below.

Detention of journalists in Crimea

Relevant International Standards

People in detention or custody are particularly vulnerable to human rights abuses at the hands of law enforcement officials. The right to liberty and security of the person is one of the most fundamental human rights given it impacts so profoundly on physical freedoms. The right is protected under a number of international human rights instruments, including the UDHR, the ICCPR and the ECHR.[145] Under international human rights law, any deprivation of liberty must adhere to certain principles of reasonableness, lawfulness, necessity and proportionality.[146] Further, such measures should not be applied in a discriminatory way or for an indefinite period of time (i.e. they should be time bound).

143 Y07

144 *See Annex 2 The current landscape for journalists worldwide: fragile and volatile*

145 Article 9, ICCPR; Article 3, UDHR; Article 5, ECHR

146 Article 5, ECHR

The ECHR allows for the lawful detention of an individual in very limited circumstances.[147] Further, individuals arrested or detained on a criminal charge are afforded a number of important procedural safeguards including the right to challenge the lawfulness of their detention ('habeus corpus'), to trial within a reasonable time or release and to be provided with reasons for their arrest.[148] Most importantly, international human rights law prohibits any *arbitrary* deprivation of liberty.

Since the beginning of the occupation, the Russian authorities have detained journalists in Crimea as part of an ongoing campaign of intimidation. In interviews, several journalists mentioned that their detention by the FSS and so-called Centre 'E'[149] had been a psychologically disturbing experience. While police only have powers to detain journalists for several hours to interview them before release, officials of the FSS and Centre 'E' not only routinely questioned journalists on the premises of these institutions, but also checked the contents of their cameras, listened to Dictaphone records, opened computers and checked messages and notes on smartphones.[150]

The fact that the officials of FSS and Centre E have powers to investigate terrorism and extremism concerns gives them the opportunity to fabricate charges against journalists. In the case of foreign journalists, it is likely that they would just be subject to interrogation by the authorities but there would be more serious consequences for Crimean Tatar journalists.

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147 Article 5(2) of the ECHR permits the lawful detention of an individual on the following grounds: (i) detention after a court conviction; (ii) Arrest or detention for failing to observe a lawful court order or fulfil a legal obligation; (iii) Arrest or detention on remand; (iv) Detention of children by lawful order for educational supervision or in secure accommodation, care or similar; (v) Where lawful, to prevent – as a matter of last resort – the spread of infectious diseases, lawful detention on mental health grounds or other similar grounds; (vi) Where lawful to prevent unauthorised entry into the country or for deportation or extradition

148 See Article 5 (3) - (5), ECHR and Article 9, ICCPR.

149 Centre E is the Centre for Combating Extremism and is a unit within the Ministry of Internal Affairs of the Russian Federation

150 Y01

Torture, cruel, inhuman or degrading treatment or punishment

Relevant International Standards:

International human rights law prohibits torture and ill-treatment at all times. Among others, the ICCPR (Article 7) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) set out this ban.[151] The prohibition of torture is also widely seen as forming part of customary international law and states may not derogate from this prohibition even in times of war or emegency.[152] The definition of torture is set out in UNCAT.[153] Unlike torture, cruel, inhuman or degrading treatment or punishment (CIDT) is not defined in any international human rights treaties and the distinctions will depend upon the nature, purpose and severity of the treatment applied.[154]

Certain abusive acts have been declared by international human rights bodies to amount to violations of the prohibition against torture and other ill-treatment. These include, but are not limited to: infliction of wounds or injuries, electric shocks, severe forms of beatings, rape or other sexual violence or molestation, stress positions, and being forced to witness torture or atrocities being inflicted on others.

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151 Article 7 of the ICCPR provides for the prohibition against torture, or other cruel, inhuman or degrading treatment or punishment.

152 See also UNCAT - Article 2.2; available at: *https://www.ohchr.org/en/professionalinterest/pages/cat.aspx*

153 UN CAT, Article 1 specifies that, for the purposes of the Convention, "torture" is understood to mean, "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

154 See UN Human Rights Comittee, General Comment 20 - Article 7 (Prohibition of Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment), adopted on 10 March 1992 available at: *https://www.refworld.org/docid/453883fb0.html*

There are three known cases of FSS officers using torture and ill-treatment against journalists in order to force them to give confessions or incriminate others.[155]

In March 2021, a Ukrainian journalist, **Vladislav Yesipenko**, was detained by the FSS and his wife reported that he had been ill treated and tortured by the authorities.[156]

One interviewee highlighted the case of **Rayim Aivazov**, a Crimean Tatar activist arrested on 27 March 2019, and was subjected to ill-treatment at the hands of the Russian authorities.[157] The case concerned his alleged involvement in the Hizb ut-Tahrir movement; the trial started on 16 March 2021 and is ongoing at the Military court in Rostov-on-Don.[158] There are worrying allegations that Aivazov was forced to sign a confession incriminating himself and other detainees which would render any trial unfair under international human rights law.

> *N09: One of the most striking examples is the case of Rayim Aivazov. He was detained at the border as he travelled from Crimea to mainland Ukraine. FSS officers detained him, took him to a field near the border, fired in the air over his head, and put pressure on him. Rayim, fearing these threats to his life and health, was forced to sign a large number of documents that incriminated him and others in a case. At trial, he spoke out about the illegal methods used against him and refuted the statements that he had signed, stating that he had done so under threat to his life and health. Another striking*

155 N09

156 Suspilne.Krym, "The detention of Vladislav Yesipenko in Occupied Crimea: all that is known", 22 March 2021 - *https://crimea.suspilne.media/en/articles/48*

157 See, Foreign Policy Centre, 'On Crimea', 26 September 2019 available at: *https://fpc.org.uk/on-crimea/*

158 Kharkiv Human Rights Protection Group, "Russian court blocks evidence confirming FSB torture of Crimean Tatar political prisoner", 27 April 2021 available at: *http://khpg.org/en/1608809021*

> *example is the case of* ***Renat Paralamov****, an activist, who was tortured in the FSS building. A lot of people participated in a rally near the building of the police department in Crimea to try to free Renat. Some time after, Renat Paralamov was thrown out at a bus stop, broken. He could not move, because he had been subjected to torture with electric shocks. He found the courage to speak out afterwards.*[159]

Since 2016, according to respondents, journalists (especially civic journalists) have been placed in solitary confinement, in a bid to stop them spreading their "poisonous philosophy" among other prisoners.[160] International human rights standards define solitary confinement as the 'confinement of prisoners for 22 hours or more a day without meaningful human contact' and refer to prolonged solitary confinement as a period 'in excess of 15 consecutive days'.[161] In addition, the UN Mandela Rules state that solitary confinement must only be used as a method of last resort, subject to independent review and authorized by a competent authority.[162] The medical effects of solitary confinement are well documented; it can lead to delusions, psychosis, depression, anxiety and paranoia; it may even lead to self-injury and suicide. The UN Special Rapporteur on torture and other inhuman or degrading treatment or punishment has stated that prolonged solitary confinement (i.e. beyond 15 days) 'constitutes torture or cruel, inhuman or degrading treatment or punishment, depending on the circumstances'.[163]

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159 N09

160 N06

161 *UN Standard Minimum Rules for the Treatment of Prisoners 2015 ('the UN Mandela Rules'), Rule 44* available at: *https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf*

162 UN Mandela Rules, Rule 45.1

163 UN General Assembly, *2011 Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. A/66/268* available at: *https://www.icj.org/wp-content/uploads/2011/08/Report-SR-Torture-2011-eng.pdf*

Restrictions on Freedom of Movement

Relevant International standards:

The right to freedom of movement allows everyone the right to move freely within a given territory, to enter their own country of nationality and to leave any country. The UN Human Rights Committee has made clear that the right to freedom of movement extends to the whole territory of a State including parts of federal States.[164] However, the right is not absolute and may be lawfully restricted on certain grounds if they are deemed necessary in a democratic society.[165] Any restrictions imposed by a state on these movements should be in compliance with human rights principles and should be lawful, reasonable, necessary and proportionate.

In terms of domestic law, the rules on entering the Russian Federation are set out in the Law "*On the procedure for leaving the Russian Federation and entering the Russian Federation*".[166] Article 2510 grants the government the right to bar certain individuals from entering Russia on a number of legal grounds. One of the grounds that is used in the cases of journalists is a "real threat to the defense or security of the state".

The day to day work of journalists invariably involves travel between different administrative regions/borders in Ukraine. In a bid to frustrate their work, the Russian authorities have made it very difficult for journalists (both domestic and foreign) to travel easily to/from Crimea. Foreign journalists face similar challenges to their domestic counterparts if operating in Crimea without accreditation. However, they are unlikely

164 See UN Human Rights Committee, CCPR, General Comment 27 (Article 12: Freedom of Movement), 2 November 1999 available at: *https://www.refworld.org/docid/45139c394.html*

165 ECHR, Protocol 4, Article 2. Lawful restrictions on freedom of movement may include on grounds of national security or public safety, maintenance of public order, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. See also, ICCPR, Article 12; UDHR, Article 13.

166 *http://www.kremlin.ru/acts/bank/9895/page/7*

to face criminal charges, interrogation or other consequences that their Ukrainian and Crimean Tatar colleagues may face. Once a journalist's activities have come to the attention of the authorities, they often experience difficulties crossing the administrative border with Crimea. A common practice on the part of Russian border guards is to delay giving permission to cross the administrative border, citing malfunctioning software.[167] Another intimidatory tactic is the prolonged questioning of journalists by officials when they cross the administrative border.[168]

The practical difficulties of travelling to Crimea as a journalist is described by one interviewee:

> *Y02: Russian border guards detained my colleague and me, at the administrative border with Crimea, and held so-called conversations – essentially interrogations – with us. This happened each time for a few years. The questions differed a lot. That's how the security services work. These are also some sort of psychological tricks. They're checking your fears, what you're scared of. It's epic. Every time, so that you understand when you come to the window and hand over your passport to Russian passport control, you see that the border guard begins responding strangely. He opens his window, calls someone on his walkie-talkie, they come for you, you are escorted to an outbuilding for interrogation. The comrade major sits down to speak with you.*[169]

Expulsion, Travel Bans and barring of journalists from Crimea:

The Russian authorities have taken draconian measures against journalists to prohibit their ability to report from Crimea and obstacles at the border almost always end with a travel ban. In January 2020,

167 A01
168 Y02
169 Y02

the FSS denied **Taras Ibragimov**, a Ukranian national and freelance reporter for Radio Free Europe/Radio Liberty, entry to Crimea and issued a written notice saying he was barred from entry to Russia until 31 May 2054.[170] According to Ibragimov, the decision was taken by the occupying authorities because of his professional activity in Crimea.[171]

It appears that issuing travel bans against critical journalists is part of the Russian authorities' modus operandi to silence critical voices and is used on a fairly regular basis. In 2019, the Russian authorities banned a Ukranian photographer **Aline Smutko** from entering Crimea until 2028.[172] In November 2018, another Ukrainian journalist, **Alyona Savchuk**, received a 10-year-ban from Crimea and, in 2016, a correspondent from *Ukrainian Truth,* **Anastasiya Ringhis**[173], was issued with a four-year-ban. The interviewees IPHR spoke to for this report confirmed that bans on visiting Crimea may differ in length and can be up to 10[174] or even 35 years.[175]

Covid: a perfect storm

The COVID-19 pandemic has provided a perfect excuse for governments globally to impose limitations and restrictions on fundamental freedoms, including freedom of movement, through various legal measures. The gradual erosion of rights in the name of national security and/or

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170 Committee to Protect Journalists, "Ukrainian journalist Taras Ibragimov banned from entering Russia for 34 years", 30 January 2020 available at: *https://cpj.org/2020/01/ukrainian-journalist-taras-ibragimov-banned-from-e/*; Human Rights Watch,"Crimea Bans for Journalists Are Choking the Truth", 21 January 2020 available at: *https://www.hrw.org/news/2020/01/21/crimea-bans-journalists-are-choking-truth*

171 Y01

172 Krym.Realii, "Photographer who cooperates with Krym.Realii has been barred from entry to Crimea", 18 February 2019 available at: *https://ru.krymr.com/a/news-fotografu-aline-smutko-zapretili-vjezd-v-krym/29776686.html*

173 Ukrainian Truth, "The FSB of the Russian Federation has banned the journalist of "Ukrainian Truth" from entering Crimea", 25 February 2016, available at: *https://www.pravda.com.ua/rus/news/2016/02/25/7100290/*

174 A01

175 Y01, Y06

public health is a worrying development across the world. The Russian authorities have been quick to impose regressive measures and, since 2020, it has become almost impossible for Ukrainian citizens (even those who lived in Crimea but have not received a Russian passport) to enter Crimea due to the coronavirus restrictions.[176] In response to the pandemic, Russia implemented a "high alert" regime on 1 April 2020 by way of federal law, along with highly restrictive measures (both regionally and nationwide) to limit the freedom of movement and other fundamental freedoms of residents.[177] The national borders were shut and certain regions in the country such as Chechnya closed internal borders. Within cities, movement by both vehicle and foot was restricted.

However, the authorities have afforded some discretion to those individuals with family members in Crimea and in such cases it is still theoretically possible to cross the administrative border.[178] By 2021 hardly any Ukrainian journalists were left in Crimea.[179]

Journalists' homes: No safe haven

Relevant International Standards:

The right to respect for private and family life, home and correspondence is protected under international and regional human rights law.[180] The concept of "home" is broadly interpreted and includes not only personal residences (i.e. where private and family life develops) but also extends to business premises or a registered office. More broadly, the "right to private life" includes an individual's right to physical and moral integrity, to develop a personal identity and to privacy of one's personal data

176 A01, N01

177 Order of the Government of the Russian Federation of March 16, 2020 N 635-r On temporary restrictions on the entry into the Russian Federation of foreign citizens and stateless persons, including those arriving from the territory of the Republic of Belarus, as well as citizens of the Republic of Belarus (with amendments and additions), available at: *http://base.garant.ru/73751180/*

178 A01

179 N07

180 Article 8, ECHR; Article 12, UDHR; Article 17, ICCPR.

and other sensitive information. Akin to other rights under the ECHR, it is not absolute and governments may lawfully interfere with this right on limited grounds and in line with human rights principles articulated earlier.[181] Whilst authorities may enter homes to search for and secure physical evidence, all conduct in this respect must be in accordance with the law,[182] necessary for achieving one of the listed aims (i.e. national security etc), and proportionate to the aims pursued. House searches without judicially approved warrants are rarely compliant with Article 8.[183] It is paramount that all safeguards provided for in domestic legislation are complied with during searches.[184] All invasions of family homes must be subject to proper judicial scrutiny - before and after the search.[185]

In light of the politically sensitive and often confidential nature of journalists' work, it is not uncommon for the authorities to search their homes in a bid to harass or intimidate them. Both police entry into and search of a person's home and search and seizure of specific items constitutes an 'interference' under international human rights law.[186] Any actions by the police when entering homes should be proportionate to the aim pursued, lawful and accompanied by safeguards to avoid abuse by the authorities and to protect the human dignity of the individual concerned.[187] Search warrants should not be couched in broad terms and should set out clearly the scope and reasons of the search, items to be seized and premises to be inspected.

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181 Article 8(2) provides that States may interfere with this right on the grounds of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

182 ECtHR, L.M. v Italy, paras 29 and 31

183 ECtHR, Varga v Romania paras 70-74

184 ECtHR, Khamidov v Russia, para 143 - particularly in terrorism cases

185 ECtHR, Modestu v Greece, para 44

186 ECtHR Gutsanovi v Bulgaria, para 217; ECtHR, Murray v United Kingdom, para 86, searches and seizures ECtHR,Funke v France, para 48,

187 ECtHR, McLeod v United Kingdom, para 53-57; ECtHR, Rachwalkski and Ferenc v Poland, para 73

Ukrainian journalists, who previously worked in Crimea, and who continue to write about the region have been subjected to home searches and detentions by the security services; most searches took place during the period 2014-2016.[188] In the most recent case the home of Ukrainian journalist **Yelizaveta Pavlenko** was searched by the FSS for eight hours in March 2021.[189] The FSS confiscated her equipment and personal belongings. Pavlenko was detained together with Vladislav Yesiypenko (see case details below), but was later released.

Whilst the Russian Procedural Criminal Code nominally provides for court authorisation for a search of premises, such measures are not used as a tool to prevent or investigate crimes but for the purposes of intimidation.[190] In conducting these searches against particular journalists (often from the Tatar community), the Russian authorities send a very clear signal that any criticism of the regime will not be tolerated. According to one account, approximately 90 percent of all searches of journalists' homes are in breach of human rights standards.[191] As part of the research for this report, IPHR interviewed Emil Kurbedinov, a Crimean Tatar and high profile lawyer, who has represented Crimean Tatars and human rights activists both in Crimea and elsewhere in Russia (mainly in Rostov). Kurbedinov has documented these widespread violations (although not in a qualitative way) against journalists in Crimea.[192]

Criminal sanctions

On the whole, the Russian authorities have thus far been reticent in instituting criminal proceedings against Ukrainian journalists. One

188 N03, N08

189 Krym.Realii, "The wife of Vladislav Yesipenko, who was detained by FSS in Crimea, appealed to the Russian and Crimean ombudsmen", available at *https://ru.krymr.com/a/news-krym-supruga-jesipenko-obratilas-k-ombudsmenam/31149191.html*

190 In some instances, law enforcement officials may search premises without court authorisation, Article 165, Russian Procedural Criminal Code; in certain cases (listed in article 165) the Code allows to conduct searches even without prior authorisation by the court available at: *https://www.legislationline.org/download/id/4248/file/RF_CPC_2001_am03.2012_en.pdf*

191 N04

192 N09

possible reason for this may be the authorities' fear of attracting attention to certain cases which may spark social unrest. One interviewee noted that government officials and bureaucrats may be penalised by their bosses for allowing these cases to reach the media spotlight. As an alternative, the Russian authorities appear to have chosen to prohibit journalists from entering Crimea. [193]

An important role that journalists play in any society is to expose corruption, human rights violations, bad practice or criminal behaviour. IPHR's research revealed that journalists face legal difficulties when seeking to disclose the names of security officers as they are prohibited from doing so under Russian legislation. Journalists who disclose such information may be subject to criminal charges.

The *Law on Foreign Agents* presents another worrying challenge to international journalists working in Crimea, according to interviewees.[194] Under this law[195], international journalists are now deemed to be "foreign agents" if they report on political developments or collect material or data related to Russia's defence or national security.[196] The vaguely worded provisions of the legislation is open to abuse by the authorities and may be applied in an arbitrary way against journalists. For example, one interviewee indicated that the law could be used to bring criminal charges against them including charges of treason.[197] IPHR is aware of at least one case, that of **Vladislav Yesipenko**, a Ukrainian journalist and freelance contributor to Crimea Realities who was charged with espionage and collecting information for the Ukrainian intelligence.[198]

193 A02

194 N03

195 Law of the Russian Federation "*On amendments to certain legislative acts of the Russian Federation in terms of establishing additional measures to counter threats to national security*", available at: *https://sozd.duma.gov.ru/bill/1057914-7*

196 See, Radio Free Europe/Radio Liberty. "*Russian Lawmakers expand scope of 'Foreign Agents' Law Limiting Press Freedom, work of NGOs*" 23 December 2020 available at: *https://www.rferl.org/a/russian-lawmakers-foreign-agents-law/31015312.html*

197 A02

198 N10; see Radio Free Europe/Radio Liberty, "Journalist Arrested on Espionage Charge in Russian controlled Crimea" 16 March 2021 available at: *https://www.rferl.org/a/ukraine-crimea-russia-journalist-arrested-espionage/31154424.html*

In March 2021, the editor-in-chief of the internet media organisation, "Graty", reported on Facebook that Yesipenko had been tortured by electric shocks while in detention. [199] Yesipenko is currently awaiting the decision of the so-called Supreme Court of Crimea as to whether or not he should remain in detention.

In some instances, the Russian authorities have initiated criminal action against the relatives of journalists working in Crimea as a means of exerting psychological pressure. One interviewee highlighted two cases where law enforcement officials searched the homes of journalists' parents; such actions were of themselves of a threatening nature.[200]

Further, journalists who supported the so-called referendum in March 2014 and the occupation of Crimea may become targets of persecution. Thus, **Serhii Serdyko** from Yalta was sentenced to three days of administrative detention in November 2020[201] because of an article he wrote criticising a local Yalta official.[202]

Moreover, members of the public and/or journalistic sources who provide information to journalists, stream videos, share photos or reports from websites are also at risk of criminal persecution.[203] As mentioned earlier, the right to receive and *impart* information, including on the internet, is an integral part of freedom of expression and users have the right to create, re-use and distribute content on the internet. In some instances, these individuals may be accused of transferring information to Ukrainian intelligence.[204]

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199 Krym.Realii, "Vladislav Yesipenko, who was arrested in the occupied Crimea, was electrocuted as a journalist", available at: *https://www.radiosvoboda.org/a/news-yesypenko-tortury-strum/31166721.html*

200 N01

201 Krym.Realii, ""This is a provocation". Yalta journalist Sergei Sardyko - about the arrest and conditions of detention in the isolation ward", available at: *https://ru.krymr.com/a/yalta-sardyko-arest-intervyu/30964988.html*

202 N01

203 N03

204 N05

The risks of sharing information online is detailed below by one journalist:

> *N03: We know that those people who were filming, streamed, a lot of them were detained. There's a whole range of people who were arrested and convicted, we suspect primarily because they were passing information over the border with Crimea, including to us. Their surnames are well known, the NSJU ('National Union of Journalists of Ukraine') officially declared them to be journalists.*[205]

Journalists who have become subjects of interest to the FSS may face infringements of their rights including restriction of access to legal counsel (see below) and seizure of equipment etc.[206] Often, the equipment is damaged or corrupted and can no longer be used (when returned to the journalist).[207] According to one interviewee, these violations of rights are of a systematic and widespread nature.[208]

Reports of restrictions on access to legal counsel are documented by interviewees:

> *N03: Up to seven journalists, along with Mykola Semena, were not allowed to see lawyers for a long time. By then they were already released. Semena was arrested at 6am, and released at 8 or 9pm. The FSS detained him for so long, and then released him due to his age, as he was over 65. They took away all the journalists' equipment. They effectively confiscated Semena's equipment, and they returned the equipment to other journalists, but not in a working state.*[209]

205 N03

206 N03, Y05, R01; the OSCE Representative on Media Freedom has expressed concern over the seizure of journalists' equipment, see "OSCE Representative over seizure of equipment at Italian journalist's home" 14 September 2018, available at: *https://www.osce.org/representative-on-freedom-of-media/395273*

207 N03

208 Y05

209 N03

On some occasions, pressure is brought to bear on journalists not by instituting criminal proceedings against them, but by involving journalists in criminal trials as witnesses of the alleged crimes.[210] One interviewee, a Ukrainian journalist, was reporting from Crimea in Spring 2014, when she was captured by law enforcement agents and released a few hours later. A short time later, she was designated as a witness in the criminal case related to the killings of Berkut riot police during EuroMaidan protests.

Anti-terrorism legislation: A blunt instrument to silence dissent

In some instances, the authorities have designated certain publications as "extremist" under Russian anti-terrorism legislation and have initiated criminal prosecutions against journalists on these grounds.[211] Whilst international human rights law prohibits incitement to hostility, violence and discrimination which may be classified as "hate speech", a balance is to be drawn with freedom of expression protections.[212] As always, any incursions on fundamental freedoms should be grounded in law, proportionate and for a legitimate purpose. The evidence from interviewees suggests that the Russian authorities have conflated

210 R01

211 N04; See for instance the Russian Federation law "On countering extremist activities" of 2002, available at: *http://base.garant.ru/12127578/*, and articles 282-1 and 282-2 of the Criminal Code of the Russian Federation of 1996 with amendments, available at: *http://www.consultant.ru/document/cons_doc_LAW_10699/*

212 There is no international definition of "hate speech" but note Article 20, International Covenant on Civil and Political Rights, 1966 "Any advocacyof national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law"; European Commission against Racism and Intolerance (ECRI), General Policy Recommendation No 15 on "hate speech" 8.12.2016 "the use of one or more particular forms of expression –namely, the advocacy, promotion or incitement of the denigration, hatred or vilification of a person or group of persons, as well any harassment, insult, negative stereotyping, stigmatization or threat of such person or persons and any justification of all these forms of expression–that is based on a non-exhaustive list of personal characteristics or statusthat includes "race", colour, language, religion or belief, nationality or national or ethnic origin, as well as descent, age, disability, sex, gender, gender identity and sexual orientation"

"extremism" with criticism of the regime and have interpreted the term "extremism" in an overbroad way. In practice, the Russian authorities have misused anti-terrorism legislation in a way that is politically expedient and as a means of curbing the right to freedom of expression of government critics and the opposition.

The misuse of the anti-terrorism legislation is particularly evident in the treatment of the Crimean Tatar community, who has been critical of the Russia's annexation of Crimea. Following the occupation of Crimea, Russian authorities began detaining and prosecuting Crimean Tatars as members of Hizb ut-Tahrir, which is considered by Russia as a terrorist organization. Dozens of Crimean Tatars have been prosecuted for allegedly organizing or participating in activities of Hizb ut-Tahrir under Article 205.5 of the Russian Criminal Code. However, the Russian authorities have presented very little (if any) compelling evidence of their affiliation to Hizb ut-Tahrir, or of their intent to plan or participate in terrorist activities. In a bid to crack down on critical voices, the Russian authorities have prosecuted at least 20 non-cooperative Crimean Tatar journalists on the grounds of being terrorists. One interviewee stressed that at least two dozen civic journalists have been prosecuted for allegedly participating in the activities of the Hizb ut-Tahrir. [213]

Those journalists who are currently detained in pre-trial detention on anti-terrorism charges experience significant health problems. In some instances, the conditions of detention may amount to cruel, inhuman or degrading treatment. Overcrowding and inadequate facilities in respect of heating, sanitation, sleeping arrangements, food and contact with the outside world have been found to be inhuman and degrading.[214]

213 N05

214 ECtHR Kalashnikov v Russia; lack of medical care see ECtHR, Hummatov v Azerbaijan; ECtHR Kotsaftis v Greece. The UN Standard Minimum Rules for the Treatment of Prisoners 2015 ("the UN Mandela Rules") provides a minimum soft law standard for the treatment of prisoners. Rule 1 states that "all prisoners shall be treated with the respect due to their inherent dignity and value as human beings"; available at: *https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf*; see also Article 10.1 ICCPR '1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.' available at:

One interviewee noted that long periods of imprisonment inside the jail without any exposure to the sun was detrimental to their bones and led to tooth loss in some cases.[215] Journalists reported suffering from various medical issues and ailments during their prolonged detention including gastro-intestinal problems.[216] Often, journalists are deprived of medical care and are unable to receive much needed medical help[217]. The denial of or lack of medical treatment has been found to constitute cruel, inhuman treatment and soft law standards, namely the Mandela Rules, make it clear that '...Prisoners should enjoy the same standards of healthcare that are available in the community, and should have access to necessary healthcare services free of charge without discrimination on the grounds of their legal status'.[218]

Attacks, threats and harassment of journalists working in Crimea

Both local and international journalists working in Crimea face serious risks to their health and welfare. However, a number of interviewees noted a slight improvement in the media freedom situation in Crimea and that attacks on journalists are now less common than in 2014 and 2015. Some respondents attributed this to the work of Ukrainian human rights defenders who have kept a spotlight on the situation of journalists in the region.[219] Most early attacks are documented in the Encyclopaedia of Human Rights Violations in Crimea.[220]

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https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx

215 N10

216 N10

217 N10

218 UN Mandela Rules, 24.1

219 N04

220 N04

Early days of the Occupation:

During the first few months of the occupation in Spring 2014 many journalists reported being attacked by paramilitary structures (Cossacks and Crimean 'Samooborona' ('self-defence')) which operate under the control of Russian authorities but are not integrated into any Russian law enforcement or other bodies.[221] One of the most high profile cases was that of **Daniel Geoffrion**, a French journalist at TV channel Plus, who was captured and detained by the authorities in March 2014. His equipment was seized from the press briefing room of Associated Press (or France Press).[222]

Officials from both the FSS and Centre 'E' regularly instruct journalists to refrain from filming any raids they are carrying out.[223] On the whole, journalists report that they feel more inclined to disregard such requests when their lawyer is present; [224] otherwise, it feels perilous to disobey.[225]

The challenges of filming FSS and Centre E agents are noted by one interviewee:

> *A01: During raids, when you're filming, agents of the FSS or Centre 'E' ask you to stop. It's not very pleasant when the person does this with an automatic weapon. Sometimes I stop, but if there is a lawyer at my side I do not stop.*[226]

221 N02; The Council of Europe has noted that the Crimean "Self-Defence" (*Samooborona Kryma)* have performed quasi-police functions and have been responsible for serious human rights violations including abductions, ill-treatment and attacks against journalists. See, "Report of Commissioner for Human Rights following his mission in Kyiv, Moscow and Crimea - 7-12 September 2014 available at: *https://rm.coe.int/ref/CommDH(2014)19*

222 N01; Reuters, "French journalist arrested in Ukraine's Crimea", 13 March 2014, available at: *https://www.reuters.com/article/us-ukraine-crisis-journalist/french-journalist-arrested-in-ukraines-crimea-idUKBREA2C1N220140313*

223 A01

224 A01

225 A01

226 A01

Surveillance and intimidation

Security service officers often keep a careful and close eye on journalists' activities in the region. On one occasion, they mentioned that they knew everything about one of the interviewees during a raid of a political prisoner's apartment which the journalist was trying to document.[227]

Many interviewees mentioned that they had been followed by people allegedly working for the Russian security services.[228] Lawyers who represent journalists advise their clients not to stay in hotels and not to use taxis given concerns that the hotel staff or taxi drivers may be cooperating with the security services.[229]

As mentioned above, the Russian authorities have used anti-terrorism legislation as a tool by which to intimidate and silence journalists. Such threats will often emanate from the security services who threaten journalists with prosecution on terrorism related charges.[230] These threats are taken seriously, since, according to the lawyer Emil Kurbedinov, approximately 10 journalists from Crimea are currently serving time in prisons (both in pre-trial detention and on conviction) on terrorism related charges.[231] In a further bid to exert psychological pressure, security service agents have visited and threatened relatives of journalists who have moved to mainland Ukraine.[232] Some interviewees mentioned that the security services threatened to cause problems for their relative's business.[233] One respondent indicated that he is probably still under surveillance, even after leaving Crimea.[234]

227 N01
228 Y01, A01, Y03
229 A01
230 N03
231 N09
232 N03
233 N03
234 N08

> *N03: Once our journalist was arrested at the administrative Crimea-Kherson border with her whole family: husband, mother-in-law… They were also interrogated, threatened with imprisonment for terrorism. Their car was dismantled, [the officials] said they were looking for contraband. They couldn't reassemble the car properly. There were also several instances of FSS officers coming and interrogating parents of our colleagues who were living on the mainland, putting psychological pressure on them, saying that they were traitors, spies. That they would never see their children again, because they had been arrested. [FSS officers] visited the homes of at least two journalists and put pressure on their parents.*[235]

Similarly, the detention of journalists on minor administrative charges (like smoking in a public place) is also used as a tool of pressure.[236] In March 2019, Yalta Magistrate's Court sentenced Crimean blogger **Yevhen Haivoronsky** for 12-day administrative detention for alleged drug use[237]. Haivoronsky denied the drug use and insisted that the case against him was falsified to punish him for his criticism of the Russian authorities.[238] The authorities will often deploy such strategies as a means of forcing journalists to leave Crimea.[239]

On other occasions, pro-Russian journalists abet the operations of security services. One such case was the campaign, some five years ago, organised by Oleg Kriuchkov,[240] now head of a state TV channel, to discredit particular journalists. Kriuchkov allegedly pointed to **Mykola**

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235 N03

236 A05

237 Article 6.9 "Use of drugs or psychotropic substances without doctor's orders" of the Code of Administrative Offences of the Russian Federation.

238 Krym.Realii, "The arrest of the Yalta blogger Haivoronsky is related to his previous detention. He denies drug use - lawyer". 22 October 2019, available at *https://ru.krymr.com/a/news-krym-evgenij-gajvoronskij-otricaet-upotreblenie-narkotikov/30230998.html*

239 A05

240 N03

Semena as a potential target for the FSS [241] and used individuals, purporting to be representatives of an internet provider, to plant a bug inside Semena's laptop thereby gaining access to the articles and materials that he authored.[242] According to one interviewee, Russian state journalists also spread slander about independent journalists on international platforms such as the Human Dimension Implementation Meetings (HDIM) of the OSCE.[243] There are reports of journalists and filmmakers now residing in mainland Ukraine who were approached directly by the FSS with a view to cooperating with them and providing information about their colleagues.[244]

Non-state groups: Russia's silent allies

Non-state groups (such as Cossacks and Samooborona) have sometimes participated in searches conducted by police or security services at the behest of the Russian authorities. At the outset of the occupation, for example, Samooborona took control of the offices of several independent media organisations allegedly to prevent impartial reporting of the first days of occupation.[245] Members of the group have also reportedly been responsible for harassing journalists and issuing threats to prevent them from publishing materials[246] that are considered anti-governmental.[247]

One interviewee documents their interaction with Samooborona:

- *Y03: I can talk about one incident. My colleague from Turkey and I were filming near the Council of Ministers of Crimea, the one in the*

241 N03

242 N03

243 N07

244 A06

245 R02

246 BBC, "Pashayev's case: journalist demands to deal with Samooborona",available at *https://www.bbc.com/ukrainian/ukraine_in_russian/2014/05/140519_ru_s_pashaev_selfdefense*

247 N04, Y03, Y07

city centre, near Lenin Square. At some point I decided to get a comment from the Cossacks and to ask why they were here and what they had come for. After these two questions someone from the Crimean 'samooborony' (lit. 'self-defence') started shouting, as if I were saying 'Bandera is a champion' or something.[248] *From all sides, along with my videographer, they (the Crimean Samboorony) started forcing us out of the square.*[249] *I immediately phoned my editor and the founder of 'Vidkrytyi Krymskyi Kanal' ('Open Crimea Channel'), Osman Pashayev. At that time the office was based near the centre, maybe five minutes from the square. Within five minutes he was at the square and we started filming everything that was happening, we called the police. The police arrived, but didn't do anything, they just watched as the Cossacks pushed us out of the square, and then journalists from 'Rosiia 1' ('Russia 1') came running from somewhere and started filming. We nevertheless wanted to write a statement about how journalists were not allowed to do their job. We went to the police station. Then we wrote a statement. I can say it is no secret that the police did not take action at that time. And for a couple of days after that both my videographer and I were being watched, I don't know by whom, probably the FSS. On 18th May Osman Pashayev was detained, and then the 'Open Crimea Channel' was shut down.*[250]

The psychological impact: Journalists under pressure

Journalists working in Crimea do so in difficult and dangerous conditions and this fact has invariably impacted upon their mental health. A number of interviewees reported experiencing symptoms of post-traumatic

248 Bandera was a Ukrainian right-wing politician. For many Russians and some Ukrainian who accept Russia's ideological agenda Bandera is a Nazi collaborator and a symbol of radical militant nationalism.

249 The Crimean Samboorony were unidentified military units consisting of Russian speakers, which played a role in taking over Ukrainian military bases in Crimea.

250 Y03

stress disorder.[251] Most worryingly, in recent years, the Russian security services have reportedly started to recruit psychologists to monitor the reactions of detainees and report back to security service officers about their weaknesses.[252]

In order to cope with the dangers of reporting from Crimea, some journalists have taken the precautionary measure of raising their public profile on social media to make it harder for the authorities to target them with threats or through criminal action. Journalists have taken the view that publicity might help, in certain cases, to mitigate the risks of the pressure from law enforcement bodies.[253]

The climate of fear surrounds not only journalists but also their sources, who become increasingly afraid to share information.[254] The confidentiality of journalistic sources has been given a high degree of protection by the ECtHR which views it as a critical element of press freedom and the right to information.[255] The ECtHR has also indicated that any orders to disclose journalists' sources must be subject to the guarantee of judicial review or another independent judicial body. [256] The Committee of Ministers of the Council of Europe has adopted a recommendation on the protection of journalists' sources which sets out the rights of journalists not to disclose their sources and its importance as a "basic condition for journalistic work and freedom as well as for the freedom of the media."[257] Despite these obligations, the Russian authorities have in some cases exerted pressure on and targeted experts

251 Y01, N09

252 A01

253 A01

254 Y04

255 ECtHR, Goodwin v UK

256 ECtHR, Sanoma Uitgevers B.V. v. the Netherlands, paras 90-92

257 Council of Europe Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information adopted on 8 March 2000 available at *https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805e2fd2*

who give interviews or provide commentary to media outlets[258] that are considered by the occupying authorities to be anti-governmental.[259]

The practical difficulties of securing information from sources is detailed by one interviewee:

> *Y04: In our organisation there's the QirimInfo department, journalists who work on Crimea. They are in Kyiv, but they work on Crimea. They have serious difficulties with contacting specific people. People in Crimea are increasingly afraid of using phones, even of using a secure channel to discuss serious political problems. It's very difficult for their morale, when every year everything gets more and more difficult, harder and harder. For the work of journalists, it means losing trusted contacts, it's very bad.*[260]

CIVIL SOCIETY ORGANISATIONS (CSOs)

Relevant International Standards:

The right to freedom of peaceful assembly and association is key to protecting the rights of individuals and groups to meet, engage and to participate in civic life. The rights are set out in international and regional human rights treaties and protect professional organisations such as political parties, trades unions and CSOs and those that are of a voluntary nature or without any legal personality.[261] States may restrict these rights but only on narrow and limited grounds and in line with

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258 Krym.Realii, "Lenora Dyulber: "There will be statehood - there will be Crimean Tatars", available at *https://ru.krymr.com/a/29240785.html*

259 R02

260 Y04

261 Article 11, ECHR; Article 21 & 22, ICCPR; Article 20(1), UDHR.

human rights principles.[262] States are under a positive duty to ensure that associations can operate in a safe and enabling environment.

Civil society organisations such as Crimean Solidarity (see below) and individuals journalists should be viewed as human rights defenders given the nature of their work. As such, these individuals and groups merit protection under the UN Declaration on Human Rights Defenders including the right to meet and assemble peacefully and to conduct human rights works individually and in association with others.[263]

Shrinking civil society space in Crimea

Following the occupation, civil society organisations in Crimea have been at the forefront of exposing human rights violations in the region and seeking justice for victims and their families. Organisations such as 'Crimean Solidarity', an association of family members and representatives of political prisoners and disappeared persons on the Crimean Peninsula under the Russian occupation, have been particularly active and vocal in their advocacy efforts. The association comprises over 200 affiliates - including victims' family members, lawyers, human rights defenders and activists. Since 2017, the Russian authorities have systematically targeted 'Crimean Solidarity' and its members through raids, intimidation, arrests, administrative detention and criminal charges.[264]

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262 Article 11(2), EHCR these grounds include: national security or public safety, prevention of disorder or crime; protection of health or morals or to protect the rights and freedoms of other people.

263 The UN Declaration on Human Rights Defenders was adopted by consensus by the UN General Assembly in 1998; it is a non binding instrument but contains principles and rights enshrined in other legally binding instruments. The treaty can be found here: *https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf*

264 Human Rights Watch, "Crimean Tatars Face Unfounded Terrorism Charges", 12 July 2019 available at: *https://www.hrw.org/news/2019/07/12/crimean-tatars-face-unfounded-terrorism-charges*; Article20.org, "Russia launches new attack on Crimean Solidarity and lawyers defending political prisoners", 28 October 2018 available at: *https://article20.org/news/russia-launches-new-attack-on-crimean-solidarity-lawyers-defending-political-prisoners/*

The attacks on Crimean Solidarity are symptomatic of a shrinking space in Crimea in which civil society organisations operate; these challenges have been documented by IPHR in recent reports.[265] There is now little, if any, room for CSOs to flourish and any dissent is met with harsh repression by the Russian authorities.

Crimea: family ties and reprisals against journalists

If certain media organisations or journalists attract the attention of the security services, they often receive a warning reminding them about legal restrictions in place, namely the obligation not to violate Russian law (among others the anti-terrorism and anti-extremism laws) in Crimea.[266] This practice was similar to the one adopted by the security services, since 2014, on the eve of Crimean Tatar commemorations.[267]

In some instances, family members of journalists have been persecuted because of the professional activities of their relatives. However, on occasion, journalists have become the targets of FSS attention given their family links to Crimean civil activists.[268]

FAIR TRIAL CONCERNS AND LEGAL COMMUNITY

Relevant International Standards:

In Crimea, legal proceedings concerning journalists and other civil society actors are seldom impartial and rarely meet fair trial standards under international human rights law.[269] The right to a fair trial is a general norm of customary international law and is provided for in both

265 IPHR, "Fighting Terrorism or Terrorising Activism? - Persecution of civic activists in Crimea", 2019 available at: *https://www.iphronline.org/wp-content/uploads/2019/05/Crimea-report-new-full-lr.pdf*

266 R02

267 N04

268 N05

269 N10

international and regional human rights treaties.[270] Both instruments provide a full range of rights and guarantees applicable to both criminal and non-criminal proceedings. The minimum guarantees include the right to a fair and public hearing, to be tried without undue delay, to be present and meaningfully participate during trial and the right to prepare a defence and communicate with counsel.[271] The right to legal counsel[272] provides an important safeguard to protect suspects against ill-treatment in detention by the authorities. The right to legal counsel is guaranteed by the Constitution of the Russian Federation.[273]

Any restrictions to fair trial rights should comply with key human rights principles of legality, necessity and proportionality.

Denial of the right to an interpreter

One development of particular concern is the newly established practice (as from 2020) of denying defendants (usually Crimean Tatars) access to an interpreter even when they are critically needed.[274] An important element of any trial is the active participation and engagement of the defendant in the process; if the accused cannot understand or speak the language used by the authorities they are entitled to have an interpreter, free of charge, following arrest, during questioning and at trial.[275]

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270 ICCPR, Article 14; ECHR, Article 6

271 The European Court of Human Rights has stated that the defendant's right to be present at his/her criminal trial is of "capital importance" - Hermi v Italy, 14/02, Grand Chamber 2006

272 International human rights standards pertaining to the right to legal counsel are to be found in both international and regional human rights treaties: ICCPR, Article 14; ECHR, Article 6; UN Basic Principles on the Role of Lawyers available at: *https://www.ohchr.org/en/professionalinterest/pages/roleoflawyers.aspx*

273 Article 48 of the Russian Constitution provides, "Everyone is guaranteed the right to receive qualified legal assistance. In cases stipulated by law, legal assistance is provided free of charge"

274 N10

275 See ICCPR, Article 14(3)(a) and (f)

Denial of the right to legal representation

Right to legal counsel pre-trial

The initial arrest and detention of an individual are, in many ways, the stages of criminal proceedings where an individual is most vulnerable to breaches of right to a fair trial. Thus, international standards provide that anyone arrested or detained - whether or not on a criminal charge - and everyone facing a criminal charge (whether or not in detention) has the right to assistance of legal counsel.[276] The right to counsel, pre trial, includes the rights to access to a lawyer, to confidential consultations and to have them present during questioning. The right to confidential communication with counsel extends to anyone arrested or detained on a criminal charge.[277]

The European Committee for the Prevention of Torture (CPT) has noted that the right of access to counsel should apply even before a person has formally been declared a suspect, including if they are called to a police station as a witness.[278] Similarly, the UN Special Rapporteur on Torture has recommended that anyone who has been arrested "should be given access to legal counsel no later than 24 hours after the arrest."[279]

Any delay in access to legal counsel should be justified on a case-by-case basis.

The authorities have an obligation to ensure that legal counsel are able to advise their clients in line with their professional duties and free from harassment, intimidation or hindrance.[280]

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276 HRC General Comment 32,"Article 14:Right to equality before courts and tribunals and to a fair trial" para 34 available at: *https://www.refworld.org/docid/478b2b2f2.html*

277 Article 14(3)(b) ICCPR; Principle 8 of Basic Principles on Role of Lawyers - see above

278 CPT 21st General Report, CPT/Inf (2011)28, para 19 - available at: *https://rm.coe.int/1680696a88*

279 Special Rapporteur on Torture, UN Doc. E/CN.4/1990/17 (1989) para 272(c) available at: *https://documents-dds-ny.un.org/doc/UNDOC/GEN/G89/140/88/PDF/G8914088.pdf?OpenElement*

280 UN Basic Principles on the Role of Lawyers - see above, Principle 16; HRC, General Comment 32 para 34 - see above

Rights to legal counsel at trial

Under international human rights law, anyone charged with a criminal offence has the right to be assisted by legal counsel before, and during trial and at any subsequent appeals.[281] This is critically important to enable the individual to meaningfully participate in the proceedings. In advance of the hearing and in line with the principle of "equality of arms", defence counsel should be given adequate time and facilities to prepare their defence and have access to case materials.[282]

In terms of access to justice, IPHR's research indicates that the Russian authorities have deliberately obstructed lawyers' efforts to represent their clients.

One interviewee documents the difficulties in securing access to a lawyer:

> *A01: I asked for any lawyer from Crimean Solidarity. A lawyer arrived, but he wasn't allowed to see me for two hours. I was kept in a basement room and I cited Article 81 about the right to a lawyer, but they told me that he hadn't arrived yet. We were in a basement and at some point I saw that my mobile phone had no signal. I went upstairs to make a call. They tried to not allow me, but they didn't stop me. I called and found out that the lawyer was there. I insisted they let him in.*[283]

Poor quality legal representation: A journalist's story

In those cases where individuals cannot afford to pay for legal counsel, the state should provide one free of charge and where the interests of justice require, individuals should be assigned a lawyer.[284] The right to

281 ICCPR, Article 14(3)(d); Principle 1, Basic Principles on the Role of Lawyers

282 HRC General Comment 32, para 13; ECtHR, Jasper v United Kingdom

283 A01

284 ICCPR, Article 14(3)(d)

be represented by an effective legal counsel is a critical element of a fair trial. In cases where individuals are represented by state-appointed lawyers, the state should ensure that the lawyer assigned has the requisite training, skills and competence for the case.[285] State authorities are under a special duty to ensure that the accused is effectively represented by legal counsel. Legal experts who reviewed the work of state appointed lawyers representing detained Crimean journalists assessed the quality of their legal advice as poor.[286]

The poor quality legal representation afforded to journalists mirrors a trend of poor legal representation across the Russian Federation and is not exclusive to Crimea. However, lawyers who voluntarily represent journalists find themselves in an invidious position as they themselves are often exposed to persecution (extending to withdrawal of their legal license).[287]

One interviewee explained the problems in the quality of legal representation afforded to detained journalists:

> *Y05: The illusion of the possibility of having defence is created when you are assigned a lawyer. But because it is a state- appointed lawyer, and the charges are generally related to terrorism… Having witnessed part of the analysis of the documents prepared by these lawyers and how they defended them - it wasn't effective. As a rule, these lawyers are involved in the interrogation stage, in order that the interrogation can be conducted in a provisionally legitimate way. Because if someone is detained, then they have to be interrogated, a suspicion must be declared, and for that you obviously need a*

285 Principle 6 of the Basic Principles on the Role of Lawyers

286 Y05; Article 51 of the Russian Criminal Procedure Code guarantees the right of access to legal aid and provides that, in those cases where the defendant does not instruct a lawyer, the state investigator or the court should ensure the participation of defence counsel in the proceedings.

287 Y05, N09

lawyer present. And in order to make this process legitimate, a state appointed lawyer was present. In my view, this kind of protection cannot be effective.[288]

Use of anonymous witnesses: a worrying practice

In some instances, the State may seek to rely on the evidence of anonymous witnesses as part of the prosecution; this practice is at odds with an accused's right to examine witnesses and may profoundly prejudice their case. International standards and jurisprudence do, in some very exceptional cases, permit the use of anonymous witnesses (for instance to protect witness' security in cases involving drug trafficking, organized crime or terrorism related offences) but with very strict safeguards in place. The ECtHR has urged great caution in adopting this practice and has emphasized that a conviction should not be based solely or decisively on anonymous statements.[289] Similarly, the UN Human Rights Committee has expressed concern about the use of anonymous witnesses in national security cases where the defence has been excluded, on occasion, from the proceedings.[290] The trial court should keep any requests for anonymity orders under regular review and consider any appropriate alternatives.

As reported to IPHR, in Crimea, the use of 'secret' witnesses has become a regular, entrenched and widespread practice in trials related to journalists and has become something of a challenge for the legal community.[291] The Russian Criminal Procedure Code permits the use of 'secret' witnesses on limited grounds.[292] The identity of those witnesses is

288 Y05

289 ECtHR, Van Mechelen and others v The Netherlands

290 HRC Concluding Observations, Netherlands, UN Doc: CCPR/C/NLD/CO/4 (2009), para 13 available at: *https://www.refworld.org/docid/4aa7aa642.html*

291 N10

292 Article 166 of the Russian Criminal Procedure Code states that "If it is necessary to ensure the safety of...witnesses...the investigator...has the right not to provide information about their identity in the protocol of the investigative action, in which... witnesses participate." Article 278 of the same Code provides that, "If it is necessary

unknown to the lawyers representing the journalist and yet they play a crucial evidential role in the case and provide an account which is in line with the demands of the FSS. the most accurate account of the relevant events[293]. Lawyers believe that secret witnesses closely cooperate with FSS and receive information from them.[294]

Crimea: Lawyers under threat

Legal professionals play a critical role in upholding the Rule of Law and ensuring that fair trial standards are followed at all times. Yet, in Crimea, lawyers themselves are often the targets of harassment and persecution by the authorities and their ability to undertake their day to day work is severely hampered. In December 2018, Emil Kurbedinov, a Crimean lawyer, was detained by the authorities on charges under the Russian law forbidding "propaganda or public demonstration of Nazi or other extremist attributes or symbols" for a Facebook post in 2013 relating to a Hizb Ut -Tahrir event in Simferopol.[295]

According to IPHR's research, lawyers in Crimea face difficulties in carrying out their professional duties, due to poor quality legal aid provided by state-appointed lawyers and threats to withdraw their practicing licence. In an interview with IPHR, Kurbedinov confirmed that since the start of the COVID-19 pandemic, the Russian authorities have prohibited private meetings between lawyers and their clients in detention, referring to preventative measures.[296]

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to ensure the safety of a witness...the court, without disclosing the true data about the identity of the witness, has the right to conduct his interrogation in conditions that exclude visual identification of the witness by other participants in the trial..."

293 N10

294 N10

295 Amnesty International, "Crimea: Lawyer detained in latest campaign of harassment of human rights defenders", 6 December 2018 available at: *https://www.amnesty.org/en/latest/news/2018/12/crimea-lawyer-detained-in-latest-campaign-of-harassment-of-human-rights-defenders/*

296 N09

SUMMARY OF KEY FINDINGS

I. FREEDOM OF EXPRESSION AND THE PROTECTION OF JOURNALISTS AND OTHER MEDIA ACTORS:

This report documents cases involving the arbitrary/unlawful detention and harassment of journalists operating inside Crimea or beyond its borders. The deliberate targeting of journalists and other media actors, as well as the repeated blocking of internet sites amount to an attack on the right to freedom of expression and the freedom of the press. Journalists and other media actors have been subjected to intimidation and harassment that appear to have been aimed at preventing them from documenting or publicising information about human rights violations related to the occupation of Crimea.

The abusive and inappropriate use of anti-terrorism and anti-extremism laws as a tool to silence journalists and other media actors is deeply concerning. The evidence suggests that this is a common practice and presents a worrying trend in terms of freedom of expression. Such measures have a chilling effect on freedom of expression as journalists opt to self-censor for fear of being prosecuted.

II. THE RIGHT TO A FAIR TRIAL

The right to fair trial and due process rights provide important and critical safeguards to those individuals deprived of their liberty and subject to criminal proceedings. These rights apply to "everyone" charged with a criminal offence and states should, at all times, adhere to internationally-recognised fair trial standards. The right to competent legal advice and representation is an essential component of the right to a fair trial.

The evidence compiled in this report shows that the Russian authorities have failed to comply with international fair trial rights and due process standards in relation to cases involving journalists. In particular, the poor quality legal representation appointed to journalists by the State raises particular concerns in terms of a fair trial and equality of arms. Put simply:

journalists and other media actors have not been allowed access to the good quality legal advice and representation to which they are entitled. Similarly, the regular use of 'secret' witnesses is troubling and may, in some instances, prejudice the defendant's case. It is of further concern that journalists have alleged being forced to sign confessions. The extraction of confessions through coercion is prohibited under international human rights law and no one should be compelled to confess guilt. The evidence also indicates that the professional activities of lawyers are being actively impeded by the Russian authorities.

All these circumstances have severely compromised the right to a fair trial and have a detrimental impact on trial outcomes.

III. RIGHT TO LIBERTY AND SECURITY

The evidence compiled for this report suggests that the Russian authorities have arrested and detained journalists on potentially unlawful grounds and for purely political aims. In particular, the Russian authorities have detained individual journalists as part of an ongoing and sustained campaign of intimidation. The arbitrary arrests and detention of journalists violate the right to liberty and security of person and the action of the authorities are in clear contravention of international human rights standards and norms.

IV. PROHIBITION ON TORTURE AND OTHER ILL-TREATMENT

The testimonies of interviewees collected for this report indicate that journalists have been subjected to torture and ill-treatment in violation of international human rights standards. Of particular concern, the Russian authorities have unlawfully held detained journalists in solitary confinement as a means to silence them. International human rights standards make clear that solitary confinement should be used as a measure of last resort and in exceptional cases. Moreover, the authorities have failed to promptly and impartially investigate allegations of torture and ill-treatment and bring the perpetrators to justice as required under the UN Convention against Torture and other international human rights treaties ratified by Russia.

V. FREEDOM OF MOVEMENT

The attempts by the Russian authorities to restrict the travel of journalists into Crimea and/or Russia and subsequent travel bans raises serious human rights concerns. The travel bans are unduly onerous and disproportionate in relation to journalists' activities and it is questionable whether they fall within the permitted restrictions (national security, public health etc) under international human rights law. The evidence suggests that freedom of movement restrictions have been imposed as a means to target individual journalists in a bid to silence and censor them. In addition, the pandemic has provided the authorities with a perfect excuse to impose restrictions which have had a negative impact upon freedom of expression.

VI. RIGHT TO PRIVACY

The evidence collected suggests that raids on journalists' homes have been excessive and intentionally intrusive and intimidating and violate human rights standards. The evidence further suggests that these searches are conducted with a view to intimidating journalists and civic activists more than for any lawful reason. As such, the searches amount to unnecessary and disproportionate interference with journalists' private lives and right to respect for home and correspondence.

Further, physical attacks on journalists violate the right to personal and physical integrity which is protected under the right to privacy.

VII. RIGHT TO EQUALITY AND THE PROHIBITION AGAINST DISCRIMINATION

The manner in which the Russian authorities have targeted Tatar journalists and other community members reflects a broader pattern of discrimination against politically active Crimean Tatars in occupied Crimea. The targeting of Tatar media organisations and the harassment and detention of Tatar journalists, more specifically, has been unnecessary and disproportionate. The actions of the Russian

authorities are clearly designed to send a message to the Crimean Tatar community that activism and opposition will not be tolerated. Moreover, the deliberate prosecution of Tatar journalists on terrorism grounds cannot be considered legitimate and do not fall within the prescribed aims under international human rights standards. These charges have been brought purely on the grounds of the defendants' ethnic origin, religion and/or political opinion. The Russian authorities' conduct amounts to discrimination in violation of Article 14 of the ECHR.

RECOMMENDATIONS

On the basis of the findings of this report, we would like to make a series of recommendations to the Russian authorities, the Government of Ukraine and the broader international community:

TO THE GOVERNMENT OF RUSSIA

1. Internet freedom should be guaranteed and the Russian authorities should refrain from mandatory blocking of websites; any restrictions (e.g. blocking, filtering) should be on a lawful basis, proportionate and in line with international human rights standards;
2. Undertake investigations into allegations of ill-treatment, harassment of journalists in line with international human rights standards i.e. prompt, independent and thorough;
3. Ensure an enabling environment for free and independent media whether in print or online in Crimea to flourish and prosper;
4. Allow media officials access to officials, government spokesperson without any discrimination;
5. Guarantee the fair and equitable application of accreditation to journalists reporting on Crimea;
6. Provide safe and secure working conditions for media professionals guaranteed under domestic law and in line with international human rights standards;
7. Bring laws in line with international standards of media freedom and freedom of expression;
8. Guarantee that anti-terrorism and anti-extremism laws are not used in an abusive way against journalists unless expression is intended to incite violence;
9. Ensure that trials are be conducted in line with international fair trial standards;

10. Put a stop to and prevent further reprisals against journalists with family connections to Crimean Tatar activists, journalists' families and sources;
11. Cease arbitrary and unlawful raids on journalists' homes and the confiscation of their property.

TO THE INTERNATIONAL COMMUNITY:

1. Continue to apply sanctions on individuals and entities responsible for serious violations of human rights on the Crimean Peninsula;
2. Ensure that the situation of journalists and other media actors remains firmly on the international agenda and denounce human rights violations as and when they occur;
3. Keep Political, financial and practical support to independent Crimean journalists and media outlets providing coverage of political, economic and social affairs in the Peninsula.

TO THE UKRAINIAN AUTHORITIES:

1. Continue to investigate violations against its citizens with a view to bringing those responsible to justice;
2. Ensure that the process of receiving permission to visit Crimea for Ukrainian journalists and civic activists is as easy, quick and transparent as possible;
3. Protect and support independent Crimean journalists and media outlets that have been forced to be displaced from Crimea to Ukrainian mainland due to ongoing occupation of the Peninsula by the Russian Federation.

Annex 1: International engagement on Freedom of the Media

The international community has stepped up its efforts to work on the issue of media freedom as well as the protection of journalists worldwide. At the UN level, UNESCO has taken the lead on media freedom issues with a specific mandate to promote the "free flow of ideas by word and image".[297] It has also become a leading voice on the safety of journalists with the creation of the *UN Action Plan on the Safety of Journalists and the Issue of Impunity.*[298] Elsewhere in the UN, other actors, programmes and agencies have focused their attention on this issue.[299]

At the regional level, both the Council of Europe (CoE) and the OSCE have played an important role in speaking out on and monitoring this issue. The Council of Europe has developed a body of standards to support media freedom addressing topics including hate speech, gender equality and the safety of journalists.[300] The CoE's Commissioner for Human Rights focuses her efforts on several thematic issues including freedom of expression, media freedom and safety of journalists and the Commissioner has regularly spoken out on issues of concern in this area through comments, Opinions and third party interventions before

297 UNESCO, "Fostering Freedom of Expression", available at: *https://en.unesco.org/themes/fostering-freedom-expression*.

298 See: UNESCO, "UN Action Plan on the Safety of Journalists and the Issue of Impunity" available at: *https://en.unesco.org/un-plan-action-safety-journalists*.

299 For example, on 1 October 2020, the UN Human Rights Council adopted a resolution on the safety of journalists, A/HRC/45/L.42/Rev 1 available at: *https://documents-dds-ny.un.org/doc/UNDOC/LTD/G20/250/13/PDF/G2025013.pdf?OpenElement*; see also UN Special Rapporteur on Freedom of Opinion and Expression.

300 Recommendation on gender equality and the media (2013), CM/Rec (2013) 1 available at: *https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c7c7e*; Recommendation on protection of journalism and safety of journalists and other media actors (2016), CM/Rec(2016) 4 available at: *https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806415d9#_ftn1*; Recommendation on media pluralism and transparency of media ownership (2018), CM/Rec (2018) 1[1] available at: *https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680790e13*/

the ECtHR.[301] In October 2020, the Commissioner issued a Human Rights Comment on the use of SLAPPs as a tool to censor and repress critics.[302] In addition, the CoE has created an online portal, the *Platform for the Protection of Journalism and Safety of Journalists,* which allows contributing partners to document, record and post incidents related to media freedom/safety of journalists via Media Freedom Alerts on the site.[303]

The OSCE has been similarly active on the issue of media freedom through the offices of the OSCE Representative on Freedom of the Media (RFoM).[304] The Representative's mandate extends to both an 'early warning' function in relation to incursions on media freedom in addition to monitoring media developments in OSCE Member States. The OSCE's thematic work on media freedom includes topics such as media pluralism, safety of journalists (including gender) and media freedom on the internet.

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301 See: Council of Europe, Commissioner for Human Rights page on Freedom of expression, media freedom and safety of journalists available at *https://www.coe.int/en/web/commissioner/thematic-work/media-freedom*.

302 Commissioner for Human Rights, "Time to take action against SLAPPs", 27 October 2020 available at: *https://www.coe.int/en/web/media-freedom/-/coe-commissioner-for-human-rights-issues-a-human-rights-comment-on-slapps*/

303 For more information on the Platform for the Protection of Journalism and Safety of Journalists is available at: *https://www.coe.int/en/web/media-freedom/the-platform*; the Contributing partners include Reporters Without Borders, the International Federation of journalists, the European Federation of journalists, the Association of European journalists and Article 19

304 See OSCE Representative on Freedom of the Media available at: *https://www.osce.org/representative-on-freedom-of-media*.

Annex 2: The current landscape for journalists worldwide: fragile and volatile

In an era of "fake news", we turn to journalists for serious, credible research and to report the news with integrity and honesty. Yet, journalists are increasingly risking their lives to get the story: according to the Committee to Protect Journalists (CPJ), some 1400 journalists have been killed between 1992-2021.[305] Journalists have become easy targets for "keyboard warriors" and are now subject to online and offline harassment, cyberstalking, threats, targeted surveillance, scapegoating, physical violence and even murder. More journalists are now killed for their investigative work exposing corruption and political wrongdoing than in conflict zones. In some countries, intimidation against journalists extends to the judicial, legal and economic sphere all of which has a huge psychological toll on journalists individually.

Journalists in many countries are targeted not only for the nature of their reporting of issues which are considered sensitive such as state corruption, exposing human rights abuses, terrorism but also on the grounds of their race, sexual orientation, gender or minority status. Women journalists are at particular risk and often find themselves at the epicentre of abuse and regularly exposed to misogyny online including rape threats, doxing and visceral character assassination. Not surprisingly, there is a high level of fear among journalists which has had a chilling effect upon their work as many choose to self-censor. A climate of impunity is pervasive: according to UNESCO, in nine out of ten cases the perpetrators go unpunished for their actions.[306]

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305 Committee to Protect Journalists, data available at: https://cpj.org/data.killed/?status=Killed&motiveConfirmed%5B%5D=Confirmed&type%5B%5D=Journalist&start_year=1992&end_year=2021&group_by=year.

306 UNESCO, International Day to end Impunity for Crimes against Journalists, available at: *https://en.unesco.org/commemorations/endimpunityday*.

The international community has stepped up its efforts to protect journalists worldwide. In 2016, the CoE adopted a resolution on the protection of journalism and safety of journalists and expressed its alarm at the unacceptable level of threats against journalists in Europe. The resolution provides guidance to member states in the areas of prevention, protection, prosecution and awareness raising.[307] In June 2020, the CoE issued an implementation guide to accompany the resolution to assist member states with the protection and prosecution pillars of the Guidelines.[308] Through other global initiatives such as the Media Freedom Coalition, a partnership of over 40 countries, governments have committed to protect journalists through the global pledge on media freedom.[309] As part of the pledge, governments have committed *inter alia* to taking action on cases where journalists and media organisations are at risk. A further initiative, the UN Global Media Defence Fund, was created with the mandate to provide specialised legal assistance to journalists and other media workers in line with international standards on media freedom and as part of the UN Plan of Action on the Safety of Journalists.[310]

Under international human rights law, states have a positive obligation to provide effective measures of protection to journalists. But, in reality, journalists receive very little protection from states, many of whom sponsor acts of violence against them and act with impunity.

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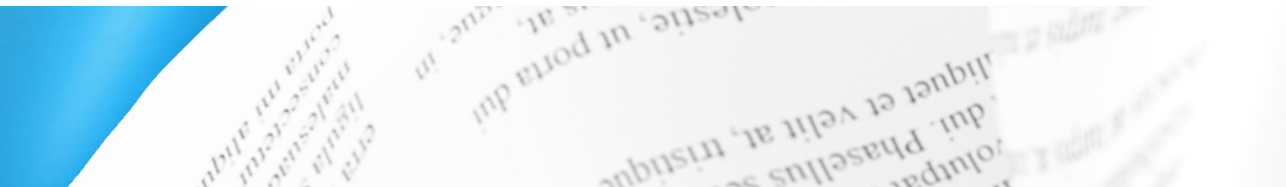
307 Committee of Ministers Recommendation CM/Rec (2016) 4 on the protection of journalism and safety of journalists and other media actors available at: *https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806415d9#_ftn1*.

308 CoE, Implementation Strategy for for Recommendation CM/Rec(2016)4 on the Protection of Journalism and Safety of Journalists and Other media actors, available at: *https://rm.coe.int/implementation-strategy-for-recommendation-cm-rec-2016-4/16808d7194*.

309 The Media Freedom Coalition was formed in July 2019 at the Conference for Media Freedom. The partner states call for media freedom and safety of journalists. More information available at: *https://www.gov.uk/government/publications/media-freedom-coalition-an-overview*; the Global Pledge on Media Freedom is available at: *https://www.gov.uk/government/publications/global-pledge-on-media-freedom/global-pledge-on-media-freedom*.

310 Global Media Defence Fund (UNESCO), more information available at: *https://en.unesco.org/global-media-defence-fund*; UN Plan of Action on the Safety of Journalists and the Issue of Impunity available at: *https://en.unesco.org/un-plan-action-safety-journalists*

IPHR International Partnership for Human Rights