

Crimean Tatars: 10 Years under Russian Occupation

Abstract

Since 2014, Ukraine's civilian population has experienced the worst atrocities since World War II. Not stopping at the annexation of Crimea and parts of territories in eastern Ukraine, Russia launched an unjustified and illegal aggressive war against Ukraine in February 2022. The Crimean Tatars, who had already been persecuted and deported by the USSR authorities almost 100 years ago, have again found themselves targeted by Russia. Since the occupation of Crimea by the Russian Federation, Crimean Tatars have faced grave violations of their rights, such as killings, enforced disappearances, torture and inhuman or degrading treatment, illegal searches and unjustified legal proceedings, "passportisation" and the transfer of detainees from Crimea to the Russian Federation. The purpose of the article is to present Russia's violations of selected rights of Crimean Tatars and to analyze the effectiveness of international legal instruments for the protection of these rights.

KEYWORDS: Crimean Tatars, indigenous peoples, the annexation of Crimea, Mejlis, discrimination.

SŁOWA KLUCZOWE: Tatarzy krymscy, ludność tubylcza, aneksja Krymu, Me-dzlis, dyskryminacja.

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I | Introduction

The Autonomous Republic of Crimea is the only territorial unit of the Ukrainian state where Ukrainians do not remain in the majority relative to other nationalities. According to the 2001 Census, Russians made up 58.3%, Ukrainians 24.3%, and Crimean Tatars 12% of Crimea's population[1].

Under Ukrainian law, Crimean Tatars enjoyed national minority status until 2014[2]. The basic acts regulating the rights of national minorities in Ukraine included: Constitution of June 28, 1996, the Law on National Minorities in Ukraine of 25 June 1992, and the Declaration on the Rights of Nationalities of Ukraine of 1 November 1991, which is, however, not a binding act.

The situation in Ukraine was worse when it comes to protecting the rights of indigenous peoples. Among international regulations, the legally binding definition of indigenous peoples is contained in the Convention concerning Indigenous and Tribal Peoples in Independent Countries, adopted on March 7, 1989 by the International Labour Organization. The Convention provides a partial definition of indigenous peoples, assuming that they are peoples in independent states who are recognized as indigenous by virtue of their descent from the population of that state or geographic region and who, regardless of their legal status, have retained certain social, economic, cultural and political institutions of their own[3]. However, Ukraine is not a party to this international agreement. The case is analogous with the Declaration on the Rights of Indigenous Peoples (UNDRIP), which Ukraine abstained from voting on in 2007. This attitude of the Ukrainian state has made it particularly difficult to realize the rights of indigenous peoples. Among national regulations, only

1 Всеукраїнський перепис населення 2001, <http://2001.ukrcensus.gov.ua/results/general/nationality>, (accessed: 30.02.2025).

2 Both the Constitution of Ukraine and the 1991 Declaration do not formulate a definition of minorities, but acknowledge the fact that citizens of 130 nationalities reside on the territory of Ukraine. As an example of one of the first legal definitions in Europe, the concept of minorities was defined in Article 3 of the 1992 Law. According to this Law national minorities include groups of Ukrainian citizens who are not Ukrainians by descent, show a sense of national consciousness and community among themselves. The Crimean Tatars fulfil the hallmarks of the definition, which is formulated in a very simplistic manner. In 2023, this Law was replaced by the new Law on national minorities (communities) of Ukraine.

3 Art.1 of ILO Convention Concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169).

the 1996 Constitution of Ukraine lists indigenous peoples along with national minorities as subjects, the development and consolidation of which the Ukrainian state supports. By contrast, in the Constitution of the Autonomous Republic of Crimea, passed two years later, indigenous peoples were not included at all[4].

The annexation of Crimea by Russia in 2014 contributed to changes in Ukrainian legislation in the context of the legal status of Crimean Tatars. On 20 March 2014 the Verkhovna Rada of Ukraine adopted a resolution on the guarantees of the rights of the Crimean Tatar people within the Ukrainian state, in which it recognized the Kurultai and Mejlis as the representative bodies of the Crimean Tatar people, and the Crimean Tatars as an indigenous nation[5]. Ukraine guaranteed the protection and realization of the Crimean Tatar people's right to self-determination within the framework of a sovereign and independent Ukrainian state, and endorsed the 2007 United Nations Declaration on the Rights of Indigenous Peoples. Also positive is the appointment, on 3 November 2014, of the Representative of the President of Ukraine for the affairs of the Crimean Tatar people, whose task is to protect the constitutional rights of the Crimean Tatar people as an indigenous nation of Ukraine[6]. In reality, however, the changes introduced by the Ukrainian authorities do not affect the situation of Crimean Tatars on the territory of the annexed peninsula.

The purpose of the article is to present Russia's violations of selected rights of Crimean Tatars and to analyze the effectiveness of international legal instruments for the protection of these rights.

4 See more: Vita Zagórowska, Status prawny Tatarów krymskich, Katedra Ochrony Praw Człowieka i Prawa Międzynarodowego Humanitarnego Uniwersytetu Kardynała Stefana Wyszyńskiego, Warszawa 2015.

5 Постанова Верховної Ради України Про Заяву Верховної Ради України щодо гарантії прав кримськотатарського народу у складі Української Держави, (Відомості Верховної Ради (ВВР), 2014, № 15, ст.581).

6 Указ Президента України Про Положення про Уповноваженого Президента України у справах кримськотатарського народу, № 841/2014, від 3 листопада 2014, <http://zakon4.rada.gov.ua/laws/show/841/2014> (accessed: 30.02.2025).

2 | Violations by Russia of selected rights of Crimean Tatars

Despite the reaffirmation of the territorial integrity of Ukraine in resolutions of the United Nations^[7], the Council of Europe^[8] or the European Union^[9], the effective authority in Crimea continues to be exercised by the Russian state. Under international law, Russia's actions in Crimea in February and March 2014 should be assessed as an act of aggression and the annexation of the peninsula to Russia as an occupation. The annexation of Crimea by Russia does not exclude the application of the provisions of the Geneva and Hague Conventions by the Russian state, authorizing the Russian authorities to issue only such decisions as are necessary in the course of administering the occupied territory. For obvious reasons, Russia has not implemented the provisions contained in the above-mentioned international agreements. In this case, not only the failure to comply with the law in force in the occupied territory, but also the change of the status of the territory in question should be assessed as violations^[10].

Since the occupation of Crimea and the city of Sevastopol (Crimea) by the Russian Federation, Crimean Tatars have faced grave violations of their rights. These include killings, enforced disappearances, torture and inhuman or degrading treatment, illegal searches and unjustified legal proceedings, "passportisation" and the transfer of detainees from Crimea to the Russian Federation^[11].

⁷ Resolution adopted by the General Assembly on 27 March 2014, A/RES/68/262.

⁸ Resolution 1990 (2014), adopted by the Parliamentary Assembly of the Council of Europe (PACE) on April 10, 2014.

⁹ European Parliament resolution on the invasion of Ukraine by Russia (nr 2014/2627) from 13 March 2014.

¹⁰ Crimea: Persecution of Crimean Tatars Intensifies, at: <https://www.hrw.org/news/2017/11/14/crimea-persecution-crimean-tatars-intensifies>, (accessed: 10.03.2025), See more: Elżbieta Karska, Karol Karski, Introduction: Extraterritorial Scope of Human Rights, "International Community Law Review" 2015, t. 17, nr 4-5, s. 395-401, DOI: 10.1163/18719732-12341311.

¹¹ European Parliament resolution of 15 September 2022 on human rights violations in the context of the forced deportation of Ukrainian civilians to and the forced adoption of Ukrainian children in Russia (2022/2825(RSP))

2.1. Freedom of expression

A mandatory re-registration process concerned media outlets in Crimea. This process conducted under Russian law and overseen by the Russian media regulator Roskomnadzor, led to a 90% reduction in the number of media outlets in Crimea. Unlike the Russian-language ones, Crimean Tatar media - such as the news agency QHA, the television channel ATR and the children's television channel Lale - were denied re-registration, despite repeated attempts^[12]. The representatives of the television channel ATR were repressed. Most of the editorial staff had to leave the peninsula as freedom of speech was being violated in Crimea.

In 2021, a court in Crimea fined the editor-in-chief of the Crimean Tatar newspaper Qırım for “abuse of the freedom of mass information” in connection with its publication in 2020 of the report of the UN Secretary-General on the situation of human rights in Crimea. The reason for the punishment was the publication of a Russian translation of the report, which refers to the Mejlis. According to Russian Federation law, as applied in Crimea, the “distribution of information” about the Mejlis, without indicating that its activities are prohibited in Russia, is itself prohibited^[13].

Since 2014, a number of alerts relating to the treatment of journalists have been documented from Crimea, including Crimean Tatar citizen journalists and bloggers. They are usually convicted of “membership in a terrorist organization”, “making calls for extremist activity”, “complicity in sabotage”, disseminating false information of public importance (if the views expressed in the articles contradict the official position of the Russian authorities)^[14]. Often, proceedings in civilian cases are conducted by military courts and detainees are tortured and forced to confess.

After the full-scale invasion of Ukraine, new repressive criminal law provisions were passed by the Russian parliament. They have been used as

¹² Crimean Tatar media will shut down as arbitrary registration deadline expires, Amnesty International, at <https://www.amnesty.org/en/latest/news/2015/03/crimean-tatar-media-will-shut-down-as-arbitrary-registration-deadline-expires/> (accessed: 10.03.2025).

¹³ Report of the Secretary-General on the situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, from 1 July 2020 to 30 June 2021, par. 22.

¹⁴ Crimean Tatars' struggle for human rights by the Council of Europe Commissioner for Human Rights, 18 April 2023, p. 20-21. The list of alerts is available at: <https://fom.coe.int/en/recherche;motCle=Crimean%20tatars>.

a basis for tightening censorship through the criminal prosecution of many Crimean Tatar activists and journalists[15].

Such broadcasting restrictions, the regular blocking of internet sites and harassment of journalists and bloggers leave Crimean Tatars feeling isolated and threatened. Also contributing to Crimea's isolation is the denial of entry to Crimea and the ban on entry into the Russian Federation for many journalists.

2.2. Freedom of religion

Under the occupier's law, all religious communities were required to re-register by 1 January 2016. According to the OHCHR report only 365 religious communities operating in Crimea were re-registered on that date. Over 1,000 religious communities that were recognized under Ukrainian law had not re-registered, and therefore did not have a legal status. Stringent legal requirements under Russian legislation, such as submitting a list of all community members or information on the "basis of the religious belief", have prevented or discouraged the re-registration of many religious communities[16]. Additionally, many members of religious minorities, particularly Crimean Tatars, had reportedly refused Russian citizenship and were unable under occupation law to register a religious community.

In 2014, the Russian occupation government created the Tauride Muftiate as an alternative to the Spiritual Administration of Muslims of Crimea (SAMC), Ukraine's biggest Muslim group. According to the Mejlis, the SAMC was forced to cooperate with Russian occupation authorities and had to represent the views of the occupying power. The SAMC's refusal to cooperate would result in it being replaced by the Tauride Muftiate, which was under the direction of the Russian intelligence services. The decision to cooperate with the occupation authorities was also influenced by the searches carried out in mosques, the withdrawal of religious literature banned in Russia, and the inspections of madrassas carried out by the various agencies[17]. Mejlis leaders stated that the

15 Ibidem, p. 21.

16 Tenth report of OHCHR on the situation of human rights in Ukraine, based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU), from 16 February to 15 May 2015, para. 168.

17 Elmira Muratova, *The Transformation of the Crimean Tatars' Institutions and Discourses After 2014*, *Journal of Nationalism, Memory & Language Politics*, vol. 13(1), 2019, p. 53; See more: Viktoriia Demydova, *Internal and external dimensions of the Crimean crisis before and after 2014*, a Thesis Submitted to the Graduate School of Social Sciences of Middle East Technical University, February 2017.

SAMC no longer represented the views of its worshippers, and they registered an independent SAMC on Ukrainian-controlled territory[18].

At the international conference in 2023, the Mufti of Crimea and Chairman of the SAMC, Aider Rustemov, stated that Russia is “slowly killing the Crimean Tatar people” in the temporarily occupied Crimea. In the context of freedom of religion, he highlighted the “prevailing atmosphere of fear in Crimea due to constant searches of the homes and mosques of Crimean Tatars, surveillance of the mosques, forced collection of data, imprisonment on fabricated charges, and mockery of Muslims’ faith”[19]. It is also worth noting that the police are slow to investigate attacks on Islamic religious properties or refuse to investigate them at all.

2.3. The right to freedom of association

In 2016, the Russian Federation’s escalating pressure on the Tatar community culminated in the prohibition of the Mejlis of the Crimean Tatar People, a self-governing body of the Crimean Tatar people. On 26 April 2016, the “supreme court of Crimea” declared the Mejlis to be an extremist organization and banned its activities in Crimea. Eight members of the Mejlis were fined for holding an “illegal meeting” in September 2016, and Mejlis members have been unable to organize the community’s annual commemoration of the victims of the Soviet deportation of Crimean Tatars[20]. Previously, in 2014, “Russian authorities in Crimea” banned Mustafa Dzhemilev (former Chairman of the Mejlis) and Refat Chubarov (Chairman of the Mejlis) from entering Russia and Crimea for 5 years. In the case of R. Chubarov, in 2015 Russia initiated an international search in relation to crimes allegedly committed under Part 2, Article 280 (public calls for actions meant to destroy the territorial integrity of the Russian Federation) of the Russian Criminal Code. The search was stopped as, according to the Interpol Charter, “any interferences into political or military.... affairs are categorically prohibited”[21].

18 United States Department of State, 2015 Report on International Religious Freedom – Ukraine (Crimea), 10 August 2016, available at: <https://www.refworld.org/docid/57add8of15.html> (accessed: 15.03.2025).

19 <https://zmina.info/en/news-en/russia-is-slowly-killing-the-crimean-tatar-people-in-the-temporarily-occupied-peninsula-mufti-of-crimea/>

20 Request for the indication of provisional measures of protection submitted by Ukraine from 16 January 2017, par. 12, available at: <https://www.icj-cij.org/case/166>.

21 MP Chubarov no longer wanted by Interpol – Avakov, <https://en.interfax.com.ua/news/general/303093.html>, (accessed: 10.03.2025).

Tatar leaders continue to be arrested for “crimes” such as declaring that Crimea is part of Ukraine. Crimean Tatar leader and vice-president of the Mejlis Ilmi Umerov and vice-president of the Mejlis Akhtem Chiyyoz were sentenced to two years’ imprisonment and eight years’ imprisonment, respectively[22].

The full-scale invasion of Ukraine did not reduce persecution in Crimea. Prominent members and activists of the Crimean Tatar community, as well as local lawyers who have represented victims of politically motivated accusations, continue to be the targets of unlawful searches, arbitrary arrests, high fines and administrative detentions. For example, prisoner of conscience N. Dzhelyal, a former member of the Mejlis, was convicted on false charges of sabotage and sentenced to 17 years’ imprisonment. On 15 July 2022, three lawyers were disbarred in retaliation for defending Crimean Tatar activists against politically motivated charges in Russian-occupied Crimea[23].

Russia also uses its anti-extremism and counterterrorism laws against persons whom the Russian authorities deem affiliated with such organizations. This includes the Hizb ut-Tahrir organization, which has been banned in Russia since 2003 but remains legal under Ukrainian law. As of February 2023, there were at least 98 Crimean Tatars prosecuted and detained for their alleged membership or affiliation with Hizb ut-Tahrir, of whom 73 were serving prison sentences ranging between 10 and 20 years in Russian prisons and colonies[24]. Since the start of Russia’s full-scale invasion of Ukraine, Crimean Tatars have also been detained in other parts of Ukraine occupied by Russian troops, and later transferred to detention facilities in Crimea. This was particularly the case for persons allegedly affiliated with the ‘Noman Çelebicihan Crimean Tatar Volunteer Battalion’, which is a Ukrainian paramilitary unit named after the early 20th century Crimean Tatar statesman who was executed by the Bolsheviks. It was also recognized by the Supreme

²² European Parliament resolution on the cases of Crimean Tatar leaders Akhtem Chiyyoz, Ilmi Umerov and journalist Mykola Semena (2017/2869(RSP)), https://www.europarl.europa.eu/doceo/document/B-8-2017-0559_EN.html, (accessed: 14.03.2025).

²³ <https://www.amnesty.org/en/location/europe-and-central-asia/ukraine/report-ukraine/>

²⁴ Crimean Tatars’ struggle..., *op.cit.*, p. 14.

Court of the Russian Federation as a “terrorist organization” in June 2022[25].

Since 2014, the occupation authorities have prevented the Crimean Tatars from taking part in commemorations of the deportation of Crimean Tatars in 1944. In 2015, residents who had taken part in the commemoration were systematically sought out for interrogation. In 2017, city authorities in Simferopol banned such commemorations in the central square. Eight Crimean Tatars were detained for conducting unauthorized actions by walking in the street with a Crimean Tatar flag. In Feodosiia, the police blocked access to a memorial stone where people were planning to lay flowers[26].

2.4. Right to education and the preservation of Crimean Tatar cultural heritage

After the annexation, the President of the Russian Federation, Vladimir Putin, signed a Decree *on Measures of Rehabilitation of Armenian, Bulgarian, Greek, Italian, Crimean Tatar and German Peoples and State Support for Their Revival and Development*. The main aim of the document was restoring historical justice and elimination of consequences of illegal deportation of Crimean Tatar and other peoples from the territory of the Crimean Autonomous Soviet Socialist Republic and violations of their human rights[27]. As a consequence, in the “Constitution of the Republic of Crimea” of 11 April 2014, the Russian Federation recognized the Crimean Tatar language as one of the official languages of the Republic of Crimea[28]. Despite the adopted illegal regulations, Russian is the dominant language in education, the media and public places.

The implementation of the educational policy of the Russian Federation on the peninsula is aimed at drastically reducing the use of Ukrainian and Crimean Tatar languages in the educational process. According to the UNESCO’s follow-up to decisions and resolutions, there is no education in the

25 Crimean Human Rights Group, Review on the human rights situation in Crimea, July – September 2023, p. 6, https://crimeahrg.org/wp-content/uploads/2023/12/2_en-1.pdf, (accessed: 14.03.2025).

26 High Commissioner for Human Rights Report on the human rights situation in Ukraine 16 November 2015 to 15 February 2016, par. 192; High Commissioner for Human Rights Report on the human rights situation in Ukraine 16 May to 15 August 2017, par.142.

27 Decree *On Measures of Rehabilitation of Armenian, Bulgarian, Greek, Italian, Crimean Tatar and German Peoples and State Support for Their Revival and Development* signed by the President of the Russian Federation, Vladimir Putin on 21 April 2014, № 268.

28 Article 10 p.1 of The Constitution of the Republic of Crimea from 11.04.2014.

Ukrainian language left in Crimea at all and there are obvious discrepancies between the formal language status of the school and the *de facto* use of Crimean Tatar in the curriculum. In several documented cases, school administrations rejected parents' requests to organize a Crimean Tatar class or increase the hours the Crimean Tatar language was taught. Moreover, there is a widespread practice whereby school authorities force parents to refuse in writing instruction of their children in any language other than Russian[29].

Additionally, the introduction of so-called "military-patriotic education" programs into the educational system of Ukrainian Crimea is focused on militarizing the consciousness of children and youth in Crimea. The main aim of the program is to form in children a positive attitude not only towards the war, but also towards paramilitary formations, in particular those that were involved in recorded human rights violations in Crimea. The Mejlis of the Crimean Tatar people is repeatedly represented to schoolchildren as a "terrorist organization"[30].

It should also be noted that according to NGOs' information, the Russian Federation is committing attacks on Crimean Tatar cultural heritage trying to erase traces of the cultural presence of the Crimean Tatars on the peninsula.

For example, by 2017 the Russian occupying authorities had registered the illegal appropriation of 32 historic buildings of the Bakhchysarai Palace of the Crimean Khans. Then, Russia launched large-scale, barbaric "restoration works" at this site in total defiance of international law, in particular of the relevant UNESCO Conventions. The Khan's Palace in Bakhchysarai is on the UNESCO World Heritage Tentative List. It constitutes not only a site of national significance for Ukraine, but also an integral part of the cultural heritage of the Crimean Tatar people[31].

The devastation of the Crimean Tatars' cultural heritage, with at least 150,000 objects destroyed, was also highlighted during the debate of the Council of Europe's Congress of Local and Regional Authorities on 15 October

29 Follow-up to decisions and resolutions adopted by the Executive Board and the General Conference at their previous sessions, UNESCO 210 EX/5.I.C, Paris, 9 October 2020, p. 18-19.

30 Ibidem.

31 Follow-up to decisions and resolutions adopted by the Executive Board and the General Conference at their previous sessions, UNESCO 210 EX/5.I.C, Paris, 9 October 2020, p. 10-11.

2024[32].

The occupiers desecrate and destroy memorial sites dedicated to Crimean Tatars, including monuments and tombstones in cemeteries, plaques commemorating Crimean Tatars who perished during World War II, and various monuments bearing Crimean Tatar symbols. In the first six years of occupation, 23 such incidents were recorded. As a rule, acts of vandalism increase around important dates commemorating the deportation of Crimean Tatars in 1944[33].

2.5. Mobilization

Another serious violation of international law, in particular the Fourth Geneva Convention, is forced mobilization in occupied territories. According to the Statute of the International Criminal Court, compelling the nationals of the hostile party to take part in the operations of war directed against their own country amounts to a war crime[34].

The Ukrainian President's representative in the Autonomous Republic of Crimea stated that, in the first few days of mobilization alone, Crimean Tatars received around 1,500 summonses from Russian authorities. Such action had a double justification. The first was to remove the "undesirables" because they were seen as a disloyal part of the population. The second was to show Crimean Tatars' disloyalty to Ukraine by their fighting in the Russian army[35]. There have also been reported cases of convicted Crimean Tatars being forced to accept Russian citizenship and go to war[36].

The announcement of mobilization triggered another wave of Crimean Tatars fleeing the peninsula. The situation of Crimean Tatars is dramatic. Their population decreased from 243,400 in the last Ukrainian census to just 42,254

32 Destruction of cultural heritage in Ukraine, 47th session of Congress of Local and Regional Authorities, 15 October, 2024, <https://www.coe.int/en/web/congress/-/destruction-of-cultural-heritage-in-ukraine>, (accessed: 2.05.2025).

33 Genocide of the Crimean Tatars: an ongoing crime, available at: <https://www.ukrainer.net/en/genocide-of-the-crimean-tatars/>, (accessed: 2.05.2025).

34 Art. 8 (2) (b) (xv) of the Statute of the International Criminal Court, adopted on 17 July 1998 in Rome.

35 Genocide of the Crimean Tatars: an ongoing crime, <https://www.ukrainer.net/en/genocide-of-the-crimean-tatars/>, (accessed: 5.05.2025).

36 <https://crimeahrg.org/en/a-convicted-crimean-tatar-is-forced-to-take-out-russian-citizenship-and-go-to-war/>

since the occupation began^[37].

It is worth noting that fleeing the peninsula was very difficult due to the lack of valid travel documents and/or documents issued by Russia. Cases have been reported at some of the European Union's external borders where Crimean Tatars have been denied entry and turned away^[38].

Also of concern is the situation of dozens of Crimean Tatars who have been taken into Russian captivity. Their names are included on the Ukrainian government's list for negotiations over the release of prisoners of war, but the Russian authorities continue to refuse to agree to the release of Crimean Tatar prisoners^[39].

3 | The protection of Crimean Tatars in the light of international law

Crimea continues to be officially subject to the constitution and laws of Ukraine. The lack of acceptance of the annexation of Crimea, both by the vast majority of countries and international organizations, does not in practice prevent Russia from treating the peninsula as part of its state. Consequently, the Russian Federation has violated a number of agreements on humanitarian law, the law of armed conflict, the international protection of human rights and others. The Russian authorities ban access to the peninsula for international observers and monitoring groups that collect information on violations of human rights in Crimea. Moreover, Russia's position in the international arena, particularly its status as a permanent member of the UN Security Council, significantly impedes the assertion of the rights of the Ukrainian state and its people. Despite that, Ukraine has endeavored to use all judicial means at the international level in relation to the violation of a number

³⁷ Request for the indication of provisional measures of protection submitted by Ukraine in the case Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation).

³⁸ Crimean Tatars' struggle for human rights by the Council of Europe Commissioner for Human Rights, 18 April 2023, p. 24.

³⁹ Ibidem, p. 15; Abductions, Torture, 'Hybrid Deportation': Crimean Tatar Activist Describes Six Years Under Russian Rule, <https://www.rferl.org/a/abductions-torture-hybrid-deportation-crimean-tatar-activist-describes-six-years-under-russian-rule/30493504.html>.

of international agreements by the Russian Federation. These include both compulsory jurisdiction and arbitration.

3.1. Human Rights Council

Despite the positive changes made by the Ukrainian authorities after the annexation of the Crimean peninsula, in particular the granting of indigenous status to Crimean Tatars, the reality is that representatives of this group do not have much choice of effective means to protect their rights at the international level. Within the UN, Crimean Tatars often use the mechanisms provided by the Human Rights Council^[40]. They include such monitoring mechanisms as the UN Permanent Forum on Indigenous Issues, the Special Rapporteur on the Rights of Indigenous Peoples or the Expert Mechanism on the Rights of Indigenous Peoples.

Crimean Tatars make full use of the available means to protect their rights in this regard. For example, in 2023 representatives of the Crimean Tatar Resource Center met with UN Special Rapporteur on the rights of indigenous peoples. They informed the Special Rapporteur about the state of the indigenous peoples of Ukraine in the conditions of war and invited him to take part in the work of the Working Group on the restoration of the rights of indigenous peoples in Crimea^[41].

In April 2025, Refat Chubarov, as a member of the Delegation of Ukraine at the UN Permanent Forum on Indigenous Issues, delivered a statement on the financing of Indigenous Peoples' work and participation across the multilateral and regional system. R. Chubarov highlighted the difficulty of achieving the objectives discussed in the circumstances of the occupation, referring to Russia's annexation of Crimea^[42].

⁴⁰ See more: Elżbieta Karska, Elżbieta H. Morawska, Jakub Czepek, Łukasz D. Dąbrowski, Bartosz Oręziak, Katarzyna Gałka, *Human Rights in the European Paradigm of the Protection of Aliens*, Warszawa: Cardinal Stefan Wyszyński University 2023, p. 21-72, DOI: 10.13166/hr/QHLC7301.

⁴¹ CTRC met with UN Special Rapporteur on the rights of indigenous peoples, <https://ctrcenter.org/en/ctrcc-met-with-un-special-rapporteur-on-the-rights-of-indigenous-peoples>, (accessed: 18.05.2025).

⁴² Statement of the Delegation of Ukraine at the UN Permanent Forum on Indigenous Issues delivered by Mr. Refat Chubarov (23 April 2025), <https://un.mfa.gov.ua/en/news/statement-delegation-ukraine-un-permanent-forum-indigenous-issues-delivered-mr-refat-chubarov-23-april-2025>, (accessed: 18.05.2025).

In 2023, taking into account the situation of the Crimean Tatars and other Indigenous Peoples in the world, the Expert Mechanism on the Rights of Indigenous Peoples prepared a study on the impact of militarization on the rights of Indigenous Peoples. The study concludes with Expert Mechanism Advice No. 16 (2023), which consists of dozens of recommendations to states, focusing, *inter alia*, on establishing effective and credible safeguard mechanisms to address human rights abuses against Indigenous Peoples in the context of militarization and conflict^[43].

The weakness of the special procedures and expert mechanisms, which are available within the UN Human Rights Council, is the lack of binding decisions. They are less effective than binding decisions of international courts.

To date, the international community has not adopted a comprehensive international agreement on the protection of indigenous peoples' rights. The broad scope of protection for this group was outlined in a Declaration on the Rights of Indigenous Peoples, but as a UN General Assembly declaration, UNDRIP is not a legally binding instrument under international law. Although, in many cases, the Declaration recommends that states provide effective mechanisms for prevention and redress^[44], it does not create any control mechanisms at the international level.

3.2. European Court of Human Rights

Taking into account that the protection of indigenous peoples' rights is part of the international protection of human rights, the most effective means of protecting the rights of Crimean Tatars should be sought among the provisions of human rights protection agreements. Before international bodies, Crimean Tatars can assert their rights in two ways. Firstly, their interests can be represented by the Ukrainian state by filing complaints against Russia in the relevant international courts or committees. Secondly, representatives of this people can file individual complaints. Both possibilities are provided for, among others, by the Optional Protocol to the International Covenant on Civil and Political Rights and the European Convention on Human Rights.

After Russia's exclusion from the Council of Europe on 16 March 2022, in response to its aggression against Ukraine, Russia denounced the European

⁴³ The study on the Impact of militarization on the rights of Indigenous Peoples prepared by the Expert Mechanism on the Rights of Indigenous Peoples, A/HRC/54/52.

⁴⁴ Art. 8(2), art. 11(2), art. 20, art. 27 of Declaration on the Rights of Indigenous Peoples.

Convention on Human Rights (ECHR). The European Court of Human Rights (ECtHR) remains competent to deal with applications against Russia concerning actions or omissions occurring up until 16 September 2022. Theoretically, it would seem to be more efficient to assert rights before the ECtHR for complaints filed by 16 September 2022 than to assert them before the Human Rights Committee. For this reason, further consideration will be given to proceedings initiated before the ECtHR^[45].

As of February 2025, there were 9,264 individual applications pending before the Court concerning conflicts in the Autonomous Republic of Crimea, the City of Sevastopol and eastern Ukraine, as well as the Russian Federation's military operations on the territory of Ukraine since February 2022^[46]. There is no data on how many of these were brought by the Crimean Tatars.

Since 2014, Ukraine has filed nine complaints against Russia at the ECtHR. Four inter-State cases are currently pending before the Court. Cases *Ukraine v. Russia (re Crimea)* (nos. 20958/14 and 38334/18) and *Ukraine and the Netherlands v. Russia*^[47] (nos. 8019/16, 43800/14, 28525/20 and 11055/22) are pending before the Grand Chamber of the Court. Cases *Ukraine v. Russia (VIII)* (no. 55855/18) and *Ukraine v. Russia (IX)* (no. 10691/21) are pending before a Section of the Court and concern a naval incident in the Kerch Strait in November 2018 between Russian and Ukrainian armed forces, and the Ukrainian Government's allegations, respectively.

In the case *Ukraine v. Russia (re Crimea)* Ukraine presented facts of violations of numerous rights and freedoms of Ukrainians in Crimea. In particular, considerable attention was paid to the situation of the Crimean Tatars.

The Grand Chamber delivered its judgment on 25 June 2024. The Court held, unanimously, that there had been violations of most of the rights and freedoms enumerated in the Convention. Additionally, the ECtHR stated that Russia had violated Articles 1 and 2 of Protocol No. 1 and Article 2 of Protocol No. 4 to the European Convention.

⁴⁵ Jakub Czepek, ECtHR Case-law Concerning Russian Aggression on Ukraine and the Events Taking Place after 2014, "International Community Law Review" 2023, Vol. 25, Issue 6, p. 573-588, E-ISSN: 1871-9732; ISSN: 1871-9740, DOI: <https://doi.org/10.1163/18719732-bja10115>.

⁴⁶ Update on applications concerning the conflicts and war in Ukraine, Press release issued by the Registrar of the Court on 17.02.2025 (ECHR 047 (2025)).

⁴⁷ This case concerns the conflict in eastern Ukraine from spring 2014, including the shooting down of Malaysia Airlines flight MH17, and Russia's military operations on the territory of Ukraine since 24 February 2022.

In the conclusion of the judgment, the Court found that Russia had violated, *inter alia*, Article 3 of the Convention on account of an administrative practice of ill-treatment of Crimean Tatars; Article 5 of the Convention on account of an administrative practice of unacknowledged and incommunicado detention of Crimean Tatars; Article 10 of the Convention on account of an administrative practice of suppression of non-Russian media, including the closure of Crimean Tatar television stations; Article 11 of the Convention on account of an administrative practice of prohibition of public gatherings and manifestations of support for Ukraine or the Crimean Tatar community, as well as intimidation and arbitrary detention of organizers of demonstrations.

The ECtHR also confirmed an administrative practice targeting Crimean Tatars, in violation of Article 14 of the Convention, taken in conjunction with Articles 8, 9, 10, 11 of the Convention and Article 2 of Protocol No. 4^[48]. The Court took into account that relevant reports of IGOs and NGOs contain consistent information about Crimean Tatars. According to them, the rights of Crimean Tatars, especially those with links to the Mejlis, to freedom of opinion and expression, association, peaceful assembly, movement, thought, conscience and religion, were obstructed through acts of intimidation, pressure, physical attacks, warnings as well as harassment through judicial measures, including prohibitions, house searches, detentions and sanctions. It was highlighted that “invasive” searches of private properties, mosques and Islamic schools, harassment (by Crimea’s prosecutor’s office and the FSB), the shutting down of media outlets, bans on mass public gatherings by Crimean Tatars and sanctions imposed on Crimean Tatars on that account had “disproportionately” affected the Crimean Tatar community^[49].

The decision in this case is very important because the ECtHR not only stated the violations of fundamental rights of Ukrainian nationals in Crimea, but also confirmed an administrative practice which demonstrates that Russia created a legal system fully based on human rights violations. Moreover, the ECtHR effectively confirmed the lack of the rule of law in Crimea since its annexation by the Russian Federation^[50].

⁴⁸ Ukraine v. Russia (re Crimea), par. 1190.

⁴⁹ Ibidem, par. 1183.

⁵⁰ Kanstantsin Dzehtsiarou, Ukraine v. Russia (re Crimea): the European Court of Human Rights Goes ‘All-in’ <https://www.ejiltalk.org/ukraine-v-russia-re-crimea-the-european-court-of-human-rights-goes-all-in/>, (accessed: 25.05.2025).

This unanimous judgment, which was possible due to the absence of a judge elected in respect of Russia, is an undeniable victory for Ukraine and the Crimean Tatar people. But it is also clear that the Russian authorities will not implement this judgment.

In 2014, Ukraine filed yet another interstate complaint against Russia. The Ukrainian Government complained under Articles 2, 3 and 5 of the ECHR about the deprivation of liberty and treatment of H. Dzhemilov^[51]. The applicant is the son of Mustafa Dzhemilev, the former leader of the Mejlis of the Crimean Tatar People and a member of the Ukrainian Parliament since 1998. Despite the decision of the court in Kyiv ordering his urgent release, the Russian authorities refused to do so, allegedly in order to put pressure on the applicant's father^[52]. On 24 September 2015, the ECtHR decided to strike the application out of its list of cases, given that an individual application introduced by H. Dzhemilov and concerning the same subject matter was pending before the Court.

3.3. International Court of Justice

The ICJ jurisdiction *ratione materiae* covers legal disputes concerning, generally, “any question of international law”^[53]. The basis of the Court's jurisdiction in contentious cases is given by the States parties' consent (special agreement). Additionally, according to Article 36 of the Statute, the States parties to the Statute may recognize as compulsory, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes (compulsory jurisdiction). Practice shows that Russia very rarely consents to the jurisdiction of the ICJ and has not made a declaration recognizing the jurisdiction of the Court as compulsory.

Despite the above two options, there is an additional way of expressing the state's consent to the Court's jurisdiction. According to Art. 36 (1), the jurisdiction of the Court comprises all matters specially provided for in treaties and conventions in force. Russia is a party to very few international agreements that contain judicial clauses. Since the establishment of the ICJ, Russia has been sued only three times on this basis. Two of these^[54] were initiated by

⁵¹ Decision in case Ukraine against Russia (Application no. 49537/14) from 24 September 2015.

⁵² Khayser Mustafa Oglu Dzhemilov against Russia (Application no. 49522/14).

⁵³ Art. 36 (2) of the Statute of the International Court of Justice.

⁵⁴ In the third one, *Georgia v. Russia*, the Court upheld the second preliminary objection of the Russian Federation and found the case could not proceed to the merits

Ukraine, which cited Art. 24 (1) and Art. 22 of the International Convention for the Suppression of the Financing of Terrorism (hereinafter the ICSFT) and the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter CERD), respectively, as a basis for the jurisdiction of the Court.

In view of the purpose of the article, the case in which Ukraine accuses the Russian Federation of violating its obligations under the CERD deserves special attention. In its Application Ukraine asserted that Russia had breached its obligations through a campaign of racial discrimination against Crimean Tatars and ethnic Ukrainians in Crimea. With regard to Crimean Tatars, Ukraine has accused Russia of systematically discriminating against them and mistreating them; Ukraine's list of allegations included, *inter alia*: a) systematically discriminating against and mistreating the Crimean Tatars, in furtherance of a state policy of cultural erasure of disfavored groups perceived to be opponents of the occupation regime; b) suppression of the political and cultural expression of Crimean Tatar identity, including through the persecution of Crimean Tatar leaders and the ban on the Mejlis of the Crimean Tatar People; c) prevention of the Crimean Tatars from gathering to celebrate and commemorate important cultural events; d) perpetration and tolerance of a campaign of disappearances and murders of Crimean Tatars; e) harassing the Crimean Tatar community with an arbitrary regime of searches and detention; f) silencing Crimean Tatar media; g) suppression of the Crimean Tatar language education and the community's educational institutions^[55]. For each of the above-mentioned allegations, Ukraine provided convincing evidence, pointing to reports by intergovernmental and non-governmental organizations and to witness statements of the individuals concerned. On 31 January 2024, the ICJ delivered its judgment on the merits of this case.

The Court confirmed that the definition of racial discrimination in CERD covers indirect discrimination. However, the ICJ argued that "mere collateral or secondary effects on persons who are distinguished by one of the prohibited grounds do not, in and of themselves, constitute racial discrimination within

phase. Accordingly, the Order indicating provisional measures ceased to be operative upon the delivery of the Judgment of the Court.

⁵⁵ Judgment in the case concerning Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation) from 31 January 2024, par. 137.

the meaning of the Convention”[56]. In most cases, examining allegations of violations of the CERD by Russia, the Court considered that the context in which the measures were taken indicates that they were in response to the political opposition that these persons and institutions displayed against the exercise of territorial control by the Russian Federation in Crimea[57]. Consequently, the ICJ stated that the measures concerned were not based on ethnic origin and thus do not fall within the scope of Article 1, paragraph 1, of CERD.

The ICJ found that Russia, by the way in which it has implemented its educational system in Crimea after 2014 with regard to school education in the Ukrainian language, has violated its obligations under Art. 2, par. 1 (a), and 5 (e) (v) of the CERD. With regard to the Crimean Tatars, the ICJ stated that Russia did not violate CERD, but by maintaining the ban on the Mejlis, has violated the Order indicating provisional measures. The Court emphasized that the violation of the Order indicating provisional measures on the Mejlis ban cannot be equated with the Mejlis ban as a violation of the CERD.

The decision to reject all other applications submitted by Ukraine for CERD was taken by ten votes to five. President Donoghue, Judge Charlesworth and Judge ad hoc Pocar appended separate opinions, and Judge Sebutinde a dissenting opinion to the judgment relating to the interpretation of CERD. They disagreed with the ICJ decision that the Mejlis ban was in compliance with the Convention[58]. The broadest argumentation was presented by President Donoghue. In her opinion, it is “particularly problematic that the Judgment insists on a bright-line distinction between the political views espoused by the Mejlis and the ethnic origin of its members”[59]. Taking into account the background and history of the Crimean Tatar ethnic group, President Donoghue disagrees with this distinction. In her view, “Even if one accepts the Court’s conclusion that the ban on the Mejlis was based on the political activities of the leaders and members of the Mejlis in opposition to the Russian Federation, this conclusion does not foreclose the possibility that the ban was also based on race and had the purpose or the effect of nullifying or impairing

56 *Ukraine v. Russian Federation*, par. 196.

57 *Ibidem*, par. 217, 248.

58 Separate opinion of Judge Charlesworth, Separate opinion of President Donoghue, Dissenting Opinion of Judge Sebutinde, Separate opinion of Judge Ad Hoc Pocar, <https://www.icj-cij.org/case/166>, (accessed: 28.05.2025).

59 Separate opinion of President Donoghue, par. 22.

the enjoyment or exercise of certain rights and freedoms by persons of Crimean Tatar ethnic origin.”[60]. President Donoghue also disagrees with the Court’s finding that the continued existence of other Crimean Tatar organizations supports the conclusion that the Russian Federation did not engage in racial discrimination when it banned the Mejlis[61].

Judge Charlesworth, in her separate opinion, emphasized that in addition to the Mejlis ban, enforcement measures against Crimean Tatars also violate the Convention. According to her considerations, the Court should have required more convincing evidence from Russia that its law enforcement measures were indeed justified[62].

Despite the rejection of most of the charges, Ukraine welcomed the Court’s decision as a victory. This is due to the fact that the case was brought under two conventions and given the volume of documents and evidence submitted to the Court, and the even greater amount of information collected in the course of the work.

4 | Conclusion

After the conquest of the peninsula by the Russian Empire in the 18th century, the history of Crimean Tatars on the peninsula has been marked by waves of persecution and displacement from their homeland. In 2014, only 30 years after their return to their homeland, Crimean Tatars were again the target of Russian persecution. Because of their political opposition to Russia’s occupation and annexation of Crimea, the Russian authorities have imposed systematic restrictions on their fundamental freedoms. According to the Crimean Tatars, they have faced “hybrid deportation”[63].

Since the annexation of Crimea in 2014, Russia has been violating human rights and fundamental freedoms such as the right to peaceful assembly, the

60 Ibidem, par. 14.

61 Ibidem, par. 25.

62 Separate opinion of Judge Charlesworth, par. 30.

63 In an interview with Radio Free Europe/Radio Liberty, Mumine Saliyeva said that: “In 1944, they called us criminals and deported the Crimean Tatar nation out of Crimea. Today, in a comparable way, they are hanging the label ‘criminal’ on us by calling us ‘terrorists’ and ‘extremists’ and ‘separatists’.” <https://www.rferl.org/a/abductions-torture-hybrid-deportation-crimean-tatar-activist-describes-six-years-under-russian-rule/30493504.html> (accessed: 30.05.2025).

right to freedom of expression and opinion, religion or belief, and association, and the right to education. The Crimean Tatars, due to their condemnation of the annexation by the Russian Federation, are particularly vulnerable to this kind of treatment.

No international organization has been able to gain access to the Crimean peninsula since 2014. The Council of Europe Commissioner for Human Rights, the OSCE High Commissioner for National Minorities and the UN Human Rights Monitoring Mission in Ukraine continue to be denied access to Crimea. In light of such circumstances, it is very difficult to obtain reliable information on violations of Crimean Tatar rights on the peninsula. The work of NGOs cannot be overestimated in this case, which, together with eyewitnesses, remain the only source of information provided not only to the Ukrainian authorities but also to intergovernmental organizations.

The only positive aspect of the annexation of the Crimean peninsula is the change in Ukrainian legislation, namely the recognition of the Crimean Tatars as an indigenous people. Unfortunately, Russia, in applying its laws in Crimea, not only disregards the legal changes made by the Ukrainian authorities, but also violates international law. Based on the considerations presented above, it can be concluded that the Crimean Tatars, in order to protect their rights, can use numerous legal instruments, both in the framework of the UN and the Council of Europe.

The most effective means of the UN framework is the ICJ. However, due to the procedure of transferring the dispute to the jurisdiction of the Court, which depends on the consent of the states parties to the dispute, Ukraine does not have more opportunities to present international agreements in which Russia has agreed to the jurisdiction of the ICJ (taking into account the time frame limited by the denunciation of the ECHR). So far, the ICJ has issued one judgment in a case initiated by Ukraine against Russia, concerning, among other things, violations of the rights of Crimean Tatars under the provisions of the CERD. In its judgment, the Court found that only the measures concerning school education in the Ukrainian language were contrary to the CERD. All other allegations were dismissed as either insufficiently proven or unrelated to CERD.

The Council of Europe seems to be more effective in protecting human rights. This is confirmed by the large number of individual and inter-state complaints filed against Russia since 2014. After Russia's denunciation of the ECHR in 2022, no new complaints can be brought before the ECtHR against the

Russian state. Practically, however, this does not affect the situation of those under Russian occupation, as none of the judgments issued to date, either by the ICJ or the ECtHR, has been implemented by Russia.

In light of the foregoing, the support and protection of Crimean Tatars should be pursued with the involvement of human rights protection institutions and through putting pressure on the responsible governing bodies. It is very important to shed light on all repressions of Crimean Tatars and to gain international recognition in order to combat them.

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