

26

February

CRIMINAL
CASE

Representatives of 6 organizations from 4 countries worked together on drafting Part 1 of the Report “Reconstruction and legal analysis of the events of 26 February 2014 outside the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol”, namely:

- Kirill Koroteev** – The Human Rights Center “Memorial”, Russia
- Roman Martynovskyy** – Regional Centre for Human Rights, Ukraine
- Sergey Ostaf** – Resource Center for Human Rights (CReDO), Moldova
- Vadim Pivovarov** – Association of Ukrainian Human Rights Monitors on Law Enforcement, Ukraine
- Olga Salomatova** – Helsinki Foundation for Human Rights, Poland
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- Aleksandr Sedov** – Ukrainian Helsinki Human Rights Union, Ukraine
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- Vladimir Yavorskiy** – independent expert in the field of freedom of peaceful assembly, Ukraine-Belarus

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This Report presents the results of work of the International Expert Group on the so-called “26 February criminal case”, namely: reconstruction and legal analysis of the events that took place on 26 February 2014 outside the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol, and their consequences. On that day, two people perished and several other protesters were injured during two rallies organized by the party “Russian Unity” and the Mejlis of the Crimean Tatar People. The report also contains conclusions and recommendations of the expert group addressed to the authorities of Ukraine and the Russian Federation, non-governmental and international organizations. The report will be useful to all those who are interested in issues related to observance of international human rights standards.

REPORT
OF THE INTERNATIONAL EXPERT GROUP

26 FEBRUARY
CRIMINAL CASE

Part 1. Reconstruction and legal analysis of the events of 26 February 2014 outside the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol



GLOSSARY

ARC	Autonomous Republic of Crimea
ODIHR	Office for Democratic Institutions and Human Rights
SCARC, SC of the AR of Crimea	Supreme Council of the Autonomous Republic of Crimea
VRU	Verkhovna Rada (Supreme Council) of Ukraine
CPHRFF	Convention for the Protection of Human Rights and Fundamental Freedoms
EU	European Union
ECtHR	European Court of Human Rights
MIA	Ministry of Internal Affairs
SDPU	"Self-Defense Paramilitary Unit", "People's Militia of Crimea", "Self-defense of Crimea"
OSCE	Organization for Security and Cooperation in Europe
UN	United Nations Organization
RF	Russian Federation
SSU	Security Service of Ukraine
USSR	Union of Soviet Socialist Republics
CC	Criminal Code
CPC	Criminal Procedural Code
FZ	Federal Law
FKZ	Federal Constitutional Law

CONTENTS

Glossary	04
Introduction	07
Methodology of the Study	10
Section 1. Reconstruction and legal analysis of the events of 26 February 2014	12
1.1. General description and background of the events	12
1.2. Key individuals and groups that participated in the events	16
1.3. Reconstruction of the events of 26 February 2014	26
Episode 1. Gathering of rallyers, designation of positions (8:00-11:10)	26
Episode 2. First clashes (11:10-13:00)	33
Episode 3. Escalation of confrontation in the inner yard in front of the Supreme Council of the ARC (13:00-15:00)	43
Episode 4. Culmination: the beginning of extraordinary session of the SC ARC, peak tension of the situation in the inner yard. Aggravation of the conflict, occupation of the inner yard by the “pro-Ukrainian” rallyers, breaking into the SC ARC building (15:10-15:50)	50
Episode 5. Partial withdrawal of the rallyers from the inner yard in front of the SC ARC, occupation of positions in the inner yard by the pro-Russian activists (15:50-17:00)	59
Section 2. Investigation of the events of 26 February 2014.	63
2.1. Investigation of the events by law enforcement agencies of Ukraine	63
2.2. Criminal prosecution of some participants of the events pursuant to the legislation of the Russian Federation.	65
2.3. Procedures for qualification and protection of the rights of A. Chygoz in connection with criminal prosecution following the events of 26 February	71
Section 3. Legal analysis of the events of 26 February 2014	72
3.1. Jurisdiction, compliance with the principle of “no punishment without law”	72
3.2. Legal Regulation of the Freedom of Peaceful Assembly.	78
3.2.1. Organization of peaceful assembly.	78
3.2.2. The «peacefulness» of the assembly and the comply with the «requirements of public order»	81
3.2.3. State’s positive obligations, legal regulation of police actions	84
3.2.4. Qualification of events, liability of the organizers and rallyers	89
General conclusions and recommendations	94



SUPREME COUNCIL OF THE AUTONOMOUS REPUBLIC OF CRIMEA

INTRODUCTION

THIS DOCUMENT is the Part 1 of the International Expert Group Report on the “26 February criminal case” and contains reconstruction and legal analysis of the events of 26 February 2014 outside the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol, when two rallies organized by the party “Russian Unity” and the Mejlis of the Crimean Tatar People were held.

The reason for the rallies was the decision of the Chairperson of the ARC SC Vladimir Konstantinov to hold an extraordinary session including possible consideration of the status of the Crimean peninsula.

The rallies were followed by the clashes resulting in the stampede in which two people perished and several other protesters were injured. Subsequently, law enforcement agencies of Ukraine opened criminal proceedings on the facts of deaths and physical injuries.

The Parliamentary Assembly of the Council of Europe, the OSCE Parliamentary Assembly, UN agencies, the Office of the Prosecutor of the International Criminal Court¹ estimated further developments in Crimea as occupation and subsequent illegal annexation of the Crimean peninsula.

There is no doubt that starting from 21 March 2014 the Russian Federation carried out all forms of the effective control² over the territory of the Crimean peninsula. In connection with the actual change of jurisdiction from the Ukrainian law to the legislation of the RF starting from the spring of 2014, the above criminal proceedings were continued by law enforcement agencies of Crimea created after the annexation, and requalified in accordance with the RF legislation. Since January 2015 the investigation of these events was conducted in Crimea in the framework of criminal proceedings on the organization and participation in mass riots (Art. 212 of the RF CC). Totally, several Crimean Tatars have been indicted in connection with this case³.

The consequences of the events of February 26 outside the ARC SC in Simferopol and their implications for human rights preconditioned the creation and work of the International Expert Group.

THE INTERNATIONAL EXPERT GROUP was formed on the basis of the decision taken in December 2015 by the civil society organizations from three countries (Moldova, Poland, Ukraine). The following organizations decided to create the group: the Regional Center for Human Rights; the Resource Center for Human Rights (CReDO); the Ukrainian Helsinki Human Rights Union; the Helsinki Foundation for Human Rights.

¹ Resolution of the UN General Assembly of 27 March 2014 http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/68/262&referer=/english/&Lang=R <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/UARports.aspx>
Resolution of the Parliamentary Assembly of the Council of Europe - 1988 (2014)1 <https://goo.gl/O13sIQ>
Resolution of the Parliamentary Assembly of the OSCE “On the Continuation of Clear, Gross and Uncorrected Violations of OSCE Commitments and International Norms by the Russian Federation”
<https://goo.gl/f9QOqD><http://www.osce.org/ru/odihr/180601?download=true>
Annual report of the Prosecutor of the International Criminal Court of 14 November 2016
https://www.icc-cpi.int/iccdocs/otp/161114-otp-repPE_ENG.pdf
<https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-PE-Ukraine.pdf>

² <https://rg.ru/2014/03/22/krim-site-dok.html>
<http://kremlin.ru/events/president/news/20605>

³ Due to the fact that the key defendant in the case is Ahtem Chiygoz (charged with organizing mass riots, Part 1, Article 212 of the RF CC), who has been in custody from the moment of the indictment on 29 January 2015, and also because of the fact that most of the documents and materials on the events of 26.02.2014 are accumulated in his case, this Report pays particular attention to Ahtem Chiygoz’s case.

The expert group **was created with the following purposes:**

- to collect and systematize information, research and reconstruct the events of 26 February 2014 (preparation, organization and holding of two rallies in the square in front of the supreme Council of the ARC in Simferopol);
- to prepare legal analysis of the events and their consequences with regard to international human rights standards, compliant with the best practices of organizing and holding peaceful assemblies;
- to analyze and evaluate compliance with the principles and standards of international law in connection with the prosecution of individual participants of the events of 26 February 2014;
- to develop recommendations on the results of analysis and evaluation of the events of 26 February 2014, including stakeholders and international structures;
- to present and promote the main findings and recommendations of the Report at the national and international levels.

The results of the Group's work:

- 1) Part 1 of the Report of the International Expert Group "Reconstruction and legal analysis of the events of 26 February 2014 outside the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol".
- 2) Part 2 of the Report "Observance of the right to a fair trial in the case on the events of 26 February 2014 outside the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol".
- 3) Partial or full implementation of the recommendations of the expert group by Ukrainian and Russian authorities.

The International Expert Group for preparation of Part 1 of the Report "Reconstruction and legal analysis of the events of 26 February 2014 outside the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol" included representatives of 6 organizations from 4 countries:

- Association of Ukrainian Human Rights Monitors on Law Enforcement⁴, Ukraine
- Regional Centre for Human Rights⁵, Ukraine
- Resource Center for Human Rights (CReDO)⁶, Moldova
- The Human Rights Center "Memorial"⁷, Russia
- Ukrainian Helsinki Human Rights Union⁸, Ukraine
- Helsinki Foundation for Human Rights⁹, Poland.

The work on the report was supported by member organizations of the international Civic Solidarity Platform¹⁰.

Human rights activists, lawyers, practicing advocates, representatives of the academic community and former employees of law enforcement agencies took part in the work of the group. Experts with experience at the national and international levels in the areas of international human rights law, freedom of peaceful assembly, criminal and criminal procedural law, activities of law enforcement agencies, and media were recommended to participate in the group.

Work on the preparation of Part 1 of the Report lasted for 12 months. There were held five general face-to-face meetings of the international expert group (not less than 3 days each) and a number of individual meetings in subgroups. In between these meetings, individual studies and analysis were conducted.

⁴ <http://umdpl.info>

⁵ <http://rchr.org.ua>

⁶ <http://www.credo.md>

⁷ <http://www.memo.ru>

⁸ <http://helsinki.org.ua>

⁹ <http://www.hfhr.pl/en>

¹⁰ The Civic Solidarity Platform <http://civicsolidarity.org>

The work of the group **was based on the principles** of the rule of law, competence, substantiation, comprehensive assessment of facts, protection of information sources, voluntariness, independence, objectivity, impartiality, joint decision-making, and transparency of goals and results of the group's work.

For the purposes of Part 1 of the Report, neutral terminology was used, as well as the concepts and definitions used in the documents of international organizations (UN¹¹, the Council of Europe¹², OSCE¹³ structures). The report does not assess the political situation before and after the annexation of the Crimean peninsula; the analysis is based on the principles and standards of international law.

The report is aimed at representatives of non-governmental organizations, diplomatic structures and missions, government bodies, scientific community, mass media and the general public.

The conclusions and recommendations of the report are addressed to:

- **State authorities, including law enforcement agencies of Ukraine and the Russian Federation**, to conduct an effective investigation of events; to correct the situation with violations of international law and international human rights standards; to improve the practice of ensuring public safety during peaceful assemblies; to perform systemic changes and improvement of legislation in the sphere of peaceful assemblies (in terms of positive state obligations).
- **Non-governmental and international organizations** (structures of the UN, the Council of Europe, the European Union, etc.), to obtain information about events and their consequences and to form an attitude to the events with the aim of protecting and restoring violated human rights.
- **Mass media**, to inform the general public about the events fully and comprehensively.

The Expert Group **expresses its appreciation** to all those who assisted and supported the collection of materials and preparation of this Report. Special appreciation goes to the TV channel "ATR", the news agency "Krym.Realii", "Radio Svoboda" and "Gromadske.TV", journalist *Stanislav Yurchenko* for the author's videos and photos provided for examination, experts *Vyacheslav Navrotsky* and *Ireneusz Kaminski* for the legal opinions prepared and provided to the expert group.

¹¹ Resolution of the UN General Assembly of March 27, 2014
http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/262
<http://www.ohchr.org/EN/Countries/ENACARegion/Pages/UARports.aspx>

¹² Resolution of the Parliamentary Assembly of the Council of Europe - 1988 (2014) <https://goo.gl/O13sIQ>

¹³ Resolution of the OSCE Parliamentary Assembly on the Continuation of Clear, Gross and Uncorrected Violations of OSCE Commitments and International Norms by the Russian Federation <https://goo.gl/f9QOqD>
<http://www.osce.org/ru/odihr/180601?download=true>

METHODOLOGY OF THE STUDY

THE GROUP SOUGHT TO ACHIEVE THE FOLLOWING OBJECTIVES:

- a) to answer the research questions:
 - did the facts of the “mass riot” occur during the events of 26 February 2014 outside the building of the SC ARC in understanding of international law and national legislation?
 - were the state’s positive obligations fulfilled to ensure security and public order during the analyzed events?
 - which country has jurisdiction over the matters related to qualification of the consequences of the 26 February events, bringing to justice those responsible and protecting the rights of victims?
- 6) to analyze legal qualification of the events of 26 February 2014 both by law enforcement agencies of Ukraine and those established in Crimea after the annexation of the peninsula, in terms of compliance with international norms and national legislation.

For this purpose, the group used the following methods for collection and analysis of the information, taking into account the specified limitations.

COLLECTION OF THE INFORMATION

The expert group carried out a comprehensive work for collecting and systematizing the vast body of the relevant information on the events of 26 February 2014, by means of:

- 1) *Videos and photos.* The information was collected from a variety of sources available to the group: various media, the Internet, private archives, including those provided on the basis of confidentiality or non-distribution. Overall, there were collected 611 videos exceeding 14 hours of total duration (661 files totaling 112 GB from more than 50 independent sources, as well as about 1,200 photographs).
- 2) *Interviews and written testimony.* Interviews in oral and written forms of the eyewitnesses who took part in the events. Collection of witnesses’ statements has been carried out by experienced interviewers in accordance with the principles of the collection of the facts¹⁴.
- 3) *Articles and written materials.* All written materials and articles about the events of 26 February 2014 published by the informational agencies, journalists and freelancers (more than 20 various mass media) were examined.
- 4) *Legislation, both Ukrainian and Russian,* in the field of freedom of peaceful assembly, criminal, criminal procedural and administrative law.
- 5) *Criminal files, related* to the events of 26 February 2014, voluntarily provided by the parties for study by the expert group. Namely, cases being addressed by the law enforcement agencies of Ukraine and those of Crimea created after annexation.
- 6) *Other sources of information,* including responses from official authorities, documents of international bodies, information from official websites of the authorities of Ukraine, Russia and the de facto authorities of Crimea, international organizations.

ANALYSIS OF INFORMATION

In its work the group used a multistage analysis of the available information. The collected information and facts were systematized and analyzed with the purpose to form a reliable picture of events, to obtain relevant evidence, to confirm or refute hypotheses and conclusions. When collecting information, the principle of using several sources for verifying facts and hypotheses was applied (the principle of cross-checking)¹⁵.

¹⁴ http://www.ibanet.org/Fact_Finding_Guidelines.aspx

¹⁵ The expert group has a detailed table of the collected information

Conclusions have been reached on the basis of the consent from all members of the expert team, taking into account the information and materials collected by individual team members and subsequently reviewed and approved by all members of the team.

Methods and types of analysis:

I. *Deconstruction of the events.* Deconstruction of the sequence of the events of 26 February 2014 and the preceding events, with indication of timing of all the events, participating groups and people, as well as their positioning and actions. Furthermore, episodes with the designated role and actions of all involved parties were singled out in the chronology of events, and an understanding of the dynamics of the events of 26 February was reached.

II. *Analysis of the cause-and-effect relationships* between the deconstructed actions, specific episodes and individuals/groups. One of the tasks of this analysis was to identify triggers that led to changes in the situation (heated, escalated, or calmed down, helped to maintain public order), and whether there were individual elements of “mass riot”.

III. *Assessment of the actions of the police to figure out whether they met the standards.* A detailed assessment of the behavior of law enforcement officers associated with the events of 26 February 2014 as to the compliance with best practices, as well as the standards of conduct set forth in the advanced international documents.

IV. *Comparative analysis of Ukrainian and Russian legislation and law enforcement practice* as to the compliance with international law and human rights standards.

V. *Identification of individuals/groups and analysis of their actions.* There was identified the presence and actions of specific individuals and groups, their contribution and role in the events at any given moment in time, as well as their potential impact on possible changes in the situation.

LIMITATIONS OF METHODOLOGY:

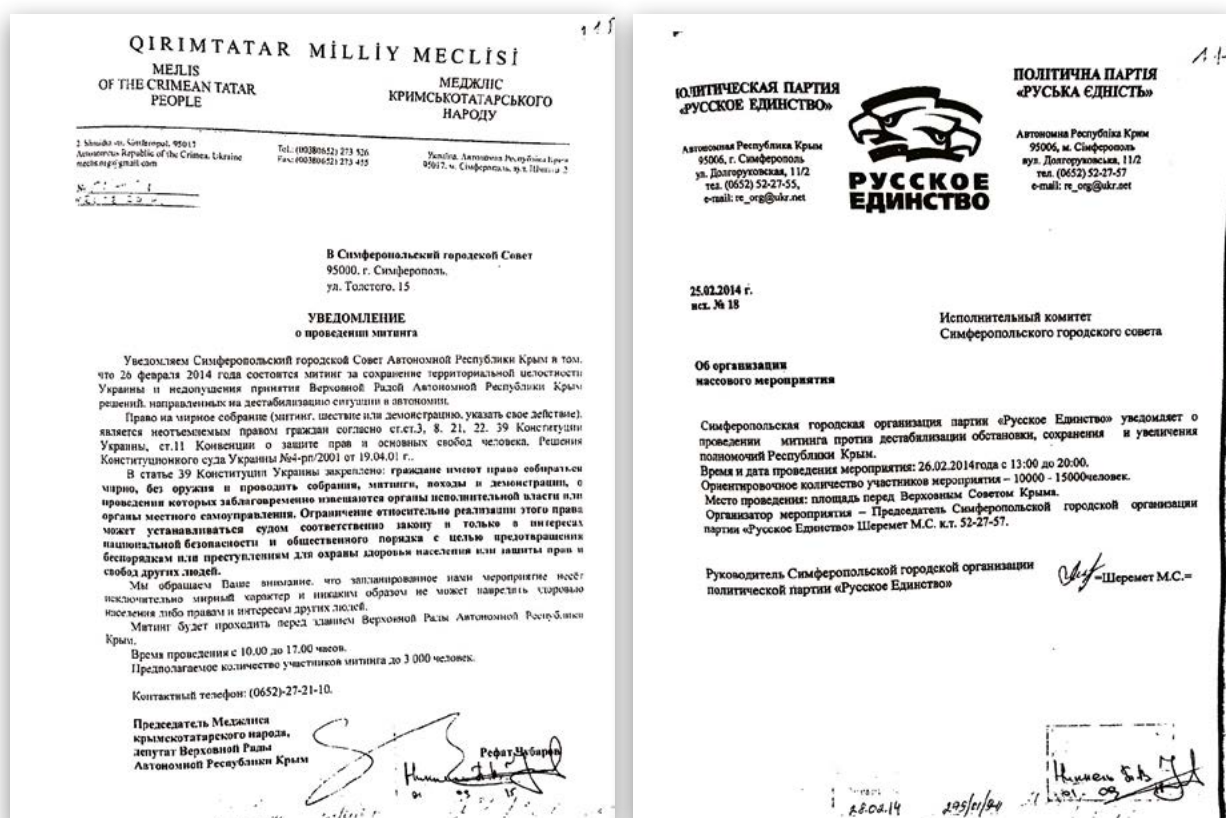
1) The search and collection of information was limited to public sources and materials voluntarily provided by the participants, observers and parties to the events. The collection of information and materials used in the preparation of the Report was carried out until the autumn of 2016.

2) The Report does not contain an analysis of all consequences of the events of 26 February 2014 outside the SC ARC building, including individual violations of human rights, international law and national legislation.

SECTION 1. RECONSTRUCTION AND ANALYSIS OF THE EVENTS OF 26 FEBRUARY 2014

1.1. General description and background of the events

On 26 February 2014, two rallies organized by the “Russian Unity” party and the Mejlis of the Crimean Tatar People were held outside the building of Supreme Council of the Autonomous Republic of Crimea in Simferopol. The “Russian Unity” party initiated a rally in order to “resist destabilization of the situation, preserve and extend the authority of the Republic of Crimea”. The Mejlis initiated a rally in order to “prevent the SC ARC from the adoption of decisions aimed at destabilizing the situation in the autonomy”¹⁶.



The reason for holding two rallies at the same time near the building of the Supreme Council of Crimea on 26 February 2014 was the decision of the Chairman of the SC ARC, Vladimir Konstantinov about the conduct of an extraordinary session on that day¹⁷.

The rally announced by the Mejlis of the Crimean Tatar people at the walls of the SC ARC began around 10:00. Participants of the rally of the “Russian Unity” party began to gather in the same place before the announced time, namely from 9:00. During the confrontation of the rallyers, two people perished and several rallyers were gravely and lightly injured.

The Extraordinary Session of the SC ARC did not take place on 26 February due to the lack of quorum. Only 49 deputies out of 100 attended the session.

The rallies of 26 February were preceded by a series of events: peaceful actions of Evromaydan and Avtomaydan against the actions of the existing authorities (since November 2013), violent dispersals of protesters, administrative persecution of civil activists, adoption of “laws of 16 January”¹⁸ and

¹⁶ Quotations from official notifications about holding a rally of the party “Russian Unity” and the Mejlis of the Crimean Tatar people.

¹⁷ <http://news.allcrimea.net/news/2014/2/25/deputaty-verhovnoi-rady-kryma-sobirajutsya-na-vneocherednuju-sessiju-5818/>

¹⁸ <http://www.osce.org/odihr/111370?download=true>

more. The aggravation of these events occurred on 19-22 February 2014 in the capital of Ukraine: shooting of protesting citizens on the Independence Square (Maidan) in Kiev, fleeing of the then President of Ukraine Victor Yanukovich, coming to power of opposition political forces (change of leadership of the Verkhovna Rada of Ukraine, the Cabinet of Ministers Ukraine, law enforcement agencies).

During this period, the pro-Russian political forces of the Crimean peninsula ("Russian bloc", "Party of Regions" and others) became significantly more active, which resulted in the increased confrontation of active representatives of pro-Ukrainian and pro-Russian moods and forces. The statement "On the political situation"¹⁹ adopted on 22 January 2014 by the SC ARC also contributed to the situation, since it did not help to relieve tension in the society and deescalate the conflict, but actually increased the division of the population according to political views²⁰.

The SC ARC did not publish appeals to the population of the peninsula on reconciliation and search for mutual understanding in the current social and political situation in the region and the country. Whereas, on 23 February 2014, the newly elected chairman of the Verkhovna Rada of Ukraine Alexander Turchinov issued an appeal to the Ukrainian people to stop the confrontation, help to preserve the integrity of the country, and return to the democratic and European development path²¹.

The visit of the Speaker of the Supreme Council of the Autonomous Republic of Crimea Vladimir Konstantinov to Moscow on 20 February 2014 also contributed to strengthening of the pro-Russian moods and growth of confrontation in society. During this visit, V. Konstantinov announced the possibility of considering the issue of the Crimea's secession from Ukraine in case V. Yanukovich resign as the President of Ukraine²².

Starting from 20 February 2014, the active maneuvering of the Russian military received a lot of evidence in the cities of the Crimean peninsula. Such a change in the deployment of troops was not officially agreed with the competent authorities of Ukraine in accordance with the established procedure²³. Thus, for example, on 25 February at about 17:00 two Russian military vehicles "Ural" with soldiers entered and settled on the territory of one of the sanatoria in the city of Yalta²⁴.

On 21 February 2014, at a meeting of the party "Russian Unity", which was headed by Sergey Aksyonov, it was decided to form a regiment of "People's Militia" (testimony of O. Kornienko, vol. 9, case sheet 133²⁵). The establishment of the "People's Militia" regiment was declared on 23 February 2014 outside the building of the SC ARC. The regiment was divided into companies, the commanders of the companies were appointed and the recording of volunteers began²⁶. In total, 17 so-called companies were created, including more than 3,500 persons (testimony of S. Kulikov, deputy commander of a company, vol. 8, case sheet 32). This paramilitary formation was created in violation of Ukrainian laws²⁷.

¹⁹ <http://crimea.gov.ru/act/11551>

²⁰ A quotation from the text of the statement of the Supreme Council of the ARC of 22 January 2014: "If this criminal scenario is implemented, Crimea and Crimeans will face the threat of forced Maydanization and loss of all the gains of autonomy and its status. We will be forced to renounce the centuries-long common history with Russia, forget the Russian language, live with the stigma "Jew", "Moskal", "stranger" and to betray under the Nazi slogans the heroic deeds of our fathers and grandfathers, who fought fascism. Relying on the will of those Crimeans who elected us, we declare that we will not surrender Crimea to extremists and Neo-Nazis, trying to seize power in Ukraine at the cost of splitting the country and the blood of its citizens! Crimeans will neither participate in illegitimate elections, nor recognize their results or live in "Bandera" Ukraine! We are determined to defend the historic choice made 23 years ago at the All-Crimean Referendum on the issue of recreating the Autonomous Republic of Crimea!"

²¹ <http://www.rada.gov.ua/news/Povidomlennya/88092.html>

²² http://www.gazeta.ru/politics/2014/02/20_a_5918729.shtml

²³ The agreement between Ukraine and the Russian Federation on the status and conditions of the Russian Black Sea Fleet's stay on the territory of Ukraine (of 28.05.1997) and the Agreement between the Russian Federation and Ukraine on the issues of the Russian Black Sea Fleet's stay on the territory of Ukraine (of 21.04.2010).

²⁴ https://www.youtube.com/watch?v=7N9y_QJl2SU

²⁵ Hereinafter, we mention the numbers of the volume and the sheets of the criminal case No. 2015417109 in respect of Ahtem Chiygoz.

²⁶ <https://www.youtube.com/watch?v=Do6oRjUqrN8>

²⁷ Article 260 of the Criminal Code of Ukraine, the Law of Ukraine "On participation of citizens in the protection of the public order and the state border".

Representatives of political and civil forces of Crimea with a pro-Ukrainian position also became more active, advocating the integrity and territorial unity of Ukraine. Among them were the Mejlis of the Crimean Tatar people, activists of the "Evromaidan-Crimea" initiative, representatives of all-Ukrainian political parties "Batkivshchyna" and "Svoboda", members of the "ultras" movement of the Tavriya Football Club, etc.

On 23 February 2014, in the Lenin square in Simferopol, the opposition political and civil pro-Ukrainian activists gathered several thousand people for the rally. At the rally, the head of the Mejlis Refat Chubarov called to demolish the Lenin monument in the near future and announced the need to dissolve the SC ARC²⁸.

On the night of 24-25 February 2014, a delegation of representatives of the State Duma of the Russian Federation led by Leonid Slutsky (head of the State Duma Committee on the Commonwealth of Independent States) arrived in Crimea. The delegation was met by members of the Supreme Council of the ARC from the party "Russian Unity" Sergei Aksyonov and Sergei Tsekov. Immediately at the airport in Simferopol, L. Slutsky made a statement: "... as for the accession of Crimea to Russia, in case this position results from the Referendum or the decision of the Supreme Council of Crimea, we will study this situation, and study fairly quickly. Crimeans will announce their decision and, probably, we will be able to find common sense together and take practical steps to implement it"²⁹.

On 25 February 2014 about 400 pro-Russian activists blocked the building of the SC ARC. They put forward their demands to the Speaker of the Supreme Council of the ARC Vladimir Konstantinov to hold an extraordinary session and to vote on holding the referendum on the independence of Crimea. At 3:00 p.m. on the same day, Vladimir Konstantinov came out to the protesters and announced that on 26 February an extraordinary session is planned to be held, the agenda of which would depend on the decision of the Verkhovna Rada of Ukraine about early parliamentary elections in the ARC³⁰.



This statement by the Speaker of the Supreme Council of the ARC and the preceding events indicated that the question of holding a referendum on the status of Crimea might be included in the agenda of an extraordinary session of the Crimean Parliament on 26 February 2014. For the same reasons, the area near the SC ARC building was considered by all parties as the most expedient place for the rally to express its position regarding the possible change in the status of the Crimean peninsula.

On 25 February 2014, the representative of the party "Russian Unity" notified the Executive Committee of Simferopol City Council of hold-

²⁸ <http://www.segodnya.ua/regions/krym/medzhlis-potreboval-raspustit-krymskiy-parlament-i-snesti-pamyatnikleninu-498143.html>

²⁹ https://www.youtube.com/watch?v=w0Nt_KiHOkQ

³⁰ <http://www.radiosvoboda.org/content/article/25276654.html>

ing a rally on 26 February in the square in front of the building of the SC ARC. The notification specified the number of participants in the range of 10-15 thousand people, and the time for the rally from 13:00 to 20:00. The notification was signed by chairperson of the Simferopol organization of the party Mikhail Sheremet³¹. On the same day, leaflets started to be spread in the Crimea with an appeal to come to the building of the SC ARC to the rally on 26 February from 12:00 to 18:00.

After the appearance of information about holding an extraordinary session of the Supreme Council of the Autonomous Republic of Crimea, a decision was taken at a meeting of the Presidium of the Mejlis of the Crimean Tatar People to hold a rally on 26 February at 11:00 outside the building of the Supreme Council of the ARC³². At the end of the meeting, chairperson of the Mejlis of Crimean Tatar People Refat Chubarov and his deputy Zaur Smirnov notified law enforcement officers about the place and time of the rally during a personal meeting with them³³. At 09:15 on 26 February, representatives of the Mejlis submitted to the local authorities a notification of holding a rally signed by R. Chubarov. The notification informed that the rally would be held from 10:00 to 17:00, the number of participants was estimated up to 3,000 people.

Law enforcement officers were informed about the planned meetings, which is confirmed by the calculation of the forces and resources of the Ministry of Internal Affairs involved at the event (vol. 4, case sheet 120) and the testimony of V. Gritsai (at the time of the events he was the head of the Public Security Directorate of the Main Directorate of the Ministry of Internal Affairs of Ukraine in the Autonomous Republic of Crimea).

On the evening of 25 February 2014, head of the regional Mejlis of Alushta Enver Arpatly turned to head of the public movement "Evromaydan-Crimea" Andrei Shchekun with the request to gather as many supporters of the movement as possible at 10:00 o'clock on 26 February outside the building of the SC ARC³⁴.

On the evening of 25 February 2014, leader of the "Russian Unity" party Sergei Aksyonov, after learning that the Mejlis of the Crimean Tatar people would hold a rally, adopted a resolution on bringing the SDPU to "guard" the building of the SC ARC during the rally (testimony of S. Aksyonov, vol. 11, case sheet 3).

Fragment of the testimony of one of the members of the SDPU: "... The commander of our company received a message that a meeting of the Crimean Tatar people protesting against the accession of Crimea to Russia is likely to be held near the building of the Supreme Council on 26 February, and our company has to arrive at 8-9 o'clock in the morning to the said building. We received an order from the commander of the company to help the police..." (vol. 9, case sheet 19).

The analysis of the above facts showed a high level of tension in the society at the end of February 2014, which required special measures and attention of the local authorities and law enforcement agencies of Crimea, in particular, to ensure security and public order during the rallies with opposing goals held simultaneously on 26 February outside of the SC ARC.

³¹ Since 23 February 2014 M. Sheremet was simultaneously the commander of the 1st company of the SDPU.

³² Information from the interview with R. Chubarov on 4 June 2016.

³³ <http://goo.gl/QhFX4C>

³⁴ Information from the interview with A. Shchekun on 13 January 2016.

1.2. Key individuals and groups that participated in the events

Movements, organizations and agencies

MEJLIS OF THE CRIMEAN TATAR PEOPLE³⁵

The Mejlis was established in 1991 as an executive body of the Kurultay³⁶ of the Crimean Tatar People. The Mejlis is composed of the delegates elected by the Kurultay. The term of office for the Kurultay members is 5 years. The Mejlis of the Crimean Tatar People is a single supreme plenipotentiary representative and executive body of the Crimean Tatar People between the sessions of the Kurultay. The Mejlis of the Crimean Tatar People consists of 33 members, including the Chairperson of the Mejlis. There are also regional Mejlises in



Crimea, for example, in Bakhchisaray or Alushta. The current Mejlis and Kurultay are working since October 2013. In February 2014, the Mejlis of the Crimean Tatar People was headed by a member of the SC ARC Refat Chubarov, and Nariman Dzhelyal, Ahtem Chygoz, Zaur Smirnov, Ayder Adzhimambetov and Aslan Omer Kyrymly were his deputies.

On 20 March 2014, by the decision of the Verkhovna Rada of Ukraine, the Mejlis of the Crimean Tatar People was officially recognized as the executive body of the Kurultay of the Crimean Tatar People, and the Kurultay was recognized as the supreme representative body of the Crimean Tatar People³⁷.

On 29 September 2016, the Supreme Court of the Russian Federation dismissed the appeal of the Mejlis against the decision of the Supreme Court established in the territory of Crimea, which recognized the Mejlis to be an extremist organization and banned its activity³⁸.

By the decision of the Prosecutor of the Republic of Crimea on suspension of the activity of the public association of 12 April 2016, the Mejlis of the Crimean Tatar People was included in the list of public and religious associations, functioning of which is suspended because of their extremist activities³⁹.

The Mejlis supported the rallyers on Maidan in Kiev⁴⁰. At the rally on 26 February 2014, its representatives stood with pro-Ukrainian slogans.

³⁵ <http://qtm.org/>

³⁶ Congress of the elected representatives of the Crimean Tatar people <http://goo.gl/Gd8g73>

³⁷ <http://zakon3.rada.gov.ua/laws/show/1140-18>

³⁸ http://memohrc.org/sites/all/themes/memo/templates/pdf.php?pdf=/sites/default/files/kopiya_reshenie_o_priznanii_krymskogo_mezhdlisa_ekstremistskoy_organizaciy.pdf http://www.vsrp.ru/stor_pdf.php?id=1487872

³⁹ http://minjust.ru/nko/perechen_priostanovleni

⁴⁰ <http://vesti-ukr.com/krym/34921-medzhlis-na-mitinge-potreboval-otmenit-diktatorskie-zakony>

“RUSSIAN UNITY” PARTY⁴¹

The “Russian Unity” party was founded in 2008 under the title “Avangard”. Since August 2010, the party has become known as the “Russian Unity”. The party was headed by Sergey Aksyonov. During the elections to the SC ARC in 2010 the party got 4.02% of votes, finishing in fifth place. As a result, the “Russian Unity” party received 3 seats out of 100. Sergey Aksyonov, Sergey Tsekov and Sergey Shuvaynikov became deputies of the Supreme Council of the ARC from the “Russian Unity”.



The “Russian Unity” is a party, the official aim of which is “to protect their cultural and spiritual space: their Russian language, their historical heritage and their Russian future. To save and spread their cultural influence in Crimea - an integral and inalienable part of the Russian Orthodox world”⁴².

There were conflicts on several occasions due to opposing political views between representatives of the Mejlis and the “Russian Unity”⁴³.

On 30 April 2014, the District Administrative Court of Kiev decided to ban the activities of the political party “Russian Unity”, registered with the Ministry of Justice of Ukraine on 28.10.2008 (certificate No. 162-p.p.)⁴⁴, because of their actions aimed at violent modification of the constitutional system, violation of sovereignty and territorial integrity of Ukraine and illegal seizure of the State power. This decision took effect on 4 September 2014.

On 26 February 2014 at the rally, representatives of the “Russian Unity” were the organizers of the assembly with the pro-Russian slogans.

SDPU (“SELF-DEFENSE PARAMILITARY UNIT”, “PEOPLE’S MILITIA OF CRIMEA”, “SELF-DEFENSE OF CRIMEA”)⁴⁵

On 21 February 2014, at the meeting of the “Russian Unity” party, it was decided to form a “People’s Militia” regiment. It was organized on 23 February 2014 and included 17 companies and more than 3500 men. Its declared mission was “maintenance of public order and prevention of provocations”. In fact, the “Russian Unity” party and the SDPU were subordinate directly to Sergey Aksyonov.

From Sergey Aksyonov’s interview of 24 February 2014: “We are organizing special police forces and are ready to meet Maidan rallyers. If the Rada comes with clear Russophobic initiatives, then our resistance will possibly result in such street protests, that Maidan will seem to be a quiet place”⁴⁶.

The SDPU arrived at the venue of the rally on 26 February around 9:00; they identified themselves with black and orange ribbons of St. George tied on their arms.

⁴¹ <http://www.ruscrimea.ru/>

⁴² <http://www.ruscrimea.ru/news.php?point=819>

⁴³ <http://old.kr-eho.mfo/mdex.php?name=News&op=artide&sid=10671>

http://www.2000.ua/v-nomere/derzhava/ukraina_derzhava/nadir-bekirov-v-sovremennoj-ukraine-u-nas-net-sojuznikov_arhiv_art.htm

⁴⁴ <http://www.reyestr.court.gov.ua/Review/38550801>

<http://www.reyestr.court.gov.ua/Review/40430979>

⁴⁵ <http://narodnoe-opolchenie.ru/>

⁴⁶ <http://izvestia.ru/news/566501>

The paramilitary formation was organized in violation of the Ukrainian law⁴⁷.

Later, after the annexation of Crimea, the State Council of Crimea adopted the Law of the Republic of Crimea of 17 June 2014 No. 22-ZRK "On People's Militia - the self-defence militia of the Republic of Crimea"⁴⁸, which legalized this formation.

On 26 February 2014 they supported the "pro-Russian" part of the rally.



FOOTBALL FANS' ULTRAS MOVEMENT OF TAVRIYA FOOTBALL CLUB

The community of fans of the Tavriya Football Club from Simferopol supported the rallyers in Maidan in Kiev and took the pro-Ukrainian position.



On 26 February 2014, around 11:00, about 30 fans arrived at the rally with the "black and red" flag. They wore gauze bandages or scarves on their faces. Apparently, they were treated as representatives of the "Right Sector" national liberation movement⁴⁹. At the rally on 26 February 2014 they were standing with pro-Ukrainian slogans.

⁴⁷ Article 260 of the Criminal Code of Ukraine, the Law of Ukraine "On the participation of citizens in the public order maintenance and the State border protection".

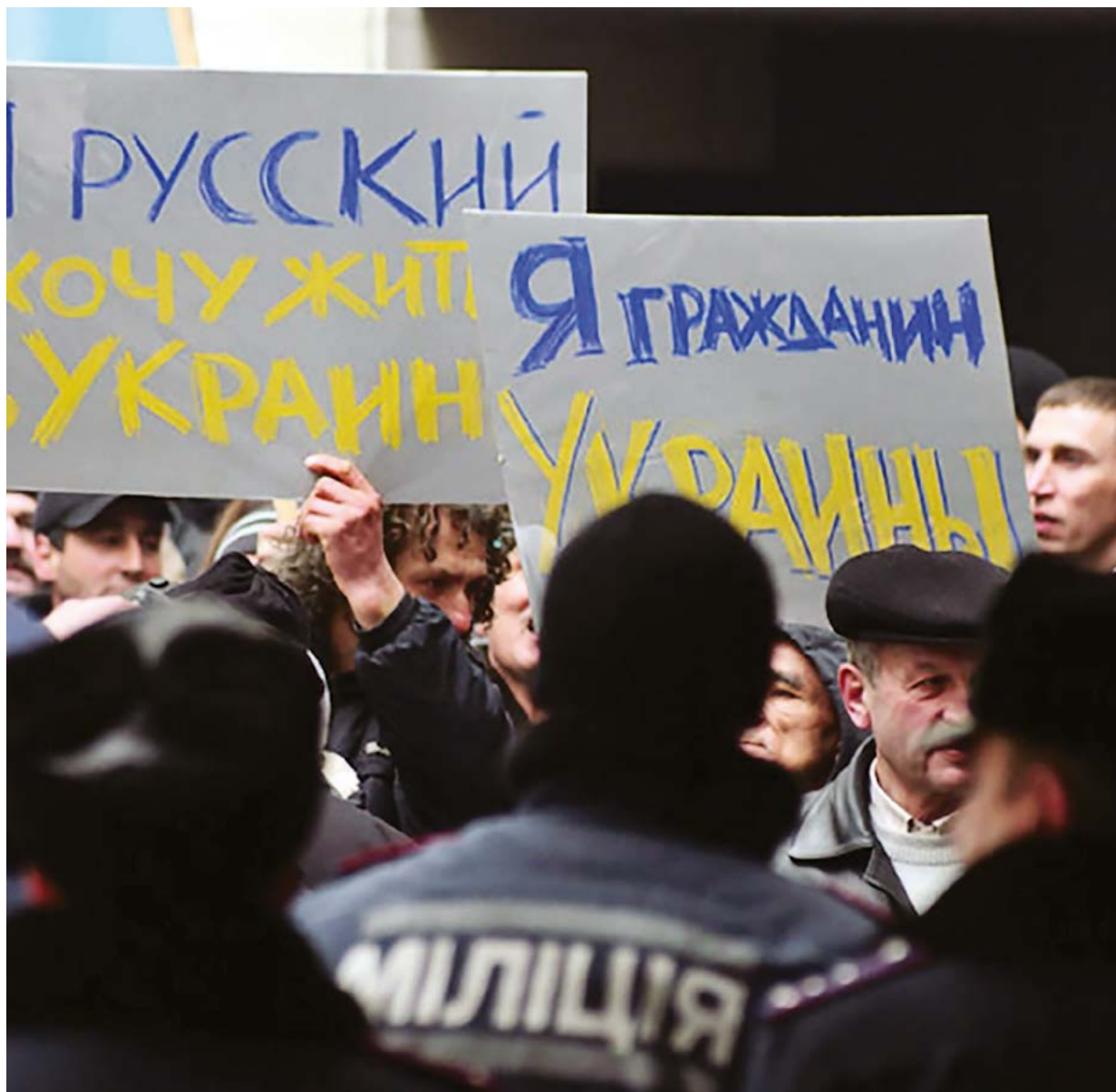
⁴⁸ <https://rg.ru/2014/07/09/krim-zakon22-reg-dok.html>

⁴⁹ <http://pravyysektor.info/about.html>

REPRESENTATIVES OF THE EUROMAIDAN-CRIMEA INITIATIVE AND OTHER PRO-UKRAINIAN ACTIVISTS

The “pro-Ukrainian” rally declared by the Mejlis of the Crimean Tatar People was supported by activists of the Euromaidan-Crimea civil initiative, who, since the very beginning of the events on Maidan in Kiev, were holding peaceful events in Crimea in support of the Maidan ideas. Andrey Shchekun was a coordinator of the Euromaidan-Crimea civil initiative.

On 26 February 2014, they arrived at the rally around 10:00 at the request of the Head of the regional Mejlis in Alushta Enver Arpatly, in the number of up to six hundred people, with Ukrainian flags and three megaphones.



PRO-RUSSIAN ACTIVISTS

Participants of the “pro-Russian” rally declared by the “Russian Unity” party supported the referendum on the status of Crimea.

The most active participants of this part of the rally were representatives of the Cossack organizations in Crimea and a group of people consisting mostly of men who arrived at the rally from Sevastopol and Yevpatoriya. The main difference of the Cossack organizations of Crimea from the “Self-defence Militia” (SDPU) was that they had carried out their activity in Crimea long before

the events of 26 February 2014. They were taking radical pro-Russian position⁵⁰. One of the leaders of the Cossack movement of Crimea was Sergey Shuvaynikov, a deputy of the SC ARC from the “Russian Unity” party.



LAW ENFORCEMENT OFFICERS (AGENCIES OF THE MINISTRY OF INTERNAL AFFAIRS AND THE SECURITY SERVICE OF UKRAINE IN CRIMEA)

According to the official document of the Main Simferopol Department of the Ministry of Internal Affairs of Ukraine in the ARC “Estimate of forces and resources used at the event” (vol. 9, case sheet 120-121), the law enforcement officers in number of 551 persons were involved in the protection of the public order on 26 February 2014. There were representatives of the Ministry of Internal Affairs of Ukraine from different areas of Crimea among them. The Head of the Simferopol City Department of the Ministry of Internal Affairs Colonel Igor Rybalchenko was in charge of the police forces engaged in the event. The following officials were engaged together with him in policing during the rally on 26 February by virtue of their office: Valeriy Radchenko (Head of the MD MIA of Ukraine in the ARC), Aleksandr Kuznetsov (Deputy Head of the MD MIA of Ukraine in the ARC - Head of the Public Security Police), Valeriy Gritsay (Head of the Public Security Department of the MD MIA of Ukraine in the ARC), Igor Mamotenko (Police Colonel, Head of the Public Security Department of Simferopol City Department of MIA of Ukraine in the ARC).

According to the disposition of forces, there were 100 law enforcement officers near the entrance to the SC ARC building. Of them, 90 persons stood in the chain and 10 persons were on patrol. 100 persons were deployed in Zhukovskiy St., 100 - in Serov St., 100 - in Pobedy public garden. 100 people were in reserve (vol. 9, case sheet 120-121).

Approximately till to 14:00 the Ukrainian police officers the rally had no helmets, flak jackets, batons and other riot control weapons. After 14:00 the police officers with batons on the belt started to appear in the cordon. After 15:40 police officers with shields, in helmets and bullet-proof vests were noticed inside the building. During the whole rally in the yard in front of the SC ARC building and inside it, the police officers’ remained passive, and the riot control weapons were not used.

⁵⁰ <http://www.kp.ru/daily/25723/2715116/>

In addition, on the territory in front of the SC ARC building on 26 February 2014 presumably there were officers of Security Service of Ukraine in the ARC, by virtue of their policing duties (Gennadiy Kalachov was Head of the SSU in the ARC at the time of the events).



OTHER PERSONS, NON-RALLYERS

People (common passersby) who were near the building of the Supreme Council of the ARC for a short or long period of time without the intention to take part in the rally and express their position.

MASS MEDIA REPRESENTATIVES, OBSERVERS

Journalists and mass media representatives began to arrive at the square roughly from 9:00. They represented Crimean (ITV Broadcasting Company, Argumenty Nedeli-Krym (Arguments of the week-Crimea), ATR), Ukrainian (TV channels Novyy Kanal, Inter, Ukraina, Espresso.TV, Gromads'ke, etc.), Russian (LifeNews, Novaya Gazeta) and other foreign media (BBC, CBC Canada, British Channel 4)⁵¹.

According to information available for analysis, there is no data about the presence of representatives of human rights organizations and initiatives (regional, national or international) as independent observers at the rally on 26 February 2014.



⁵¹ Mass media and journalists who were identified by means of video analysis.

Key figures

REFAT CHUBAROV



Ukrainian social and political public figure. From May 2009, President of the World Congress of Crimean Tatars. From November 2010, deputy of the SC ARC of the 6th convocation, headed the party list of the People's Movement of Ukraine (Narodnyy Rukh). From November 2013, Chairperson of the Mejlis of the Crimean Tatar People. He filed an application for holding a rally on behalf of the Mejlis of the Crimean Tatar People. From 15 May 2015, People's Deputy of Ukraine. In July 2014 he got a 5-year ban on entry into the territory of the Russian Federation.

In 2015, according to the Prosecutor of Crimea N. Poklonskaya, the Investigative Office of the FSB Department of Russia opened against Refat Chubarov a criminal case under art. 280.1 (public calls for actions aimed at violation the territorial integrity of the Russian Federation)⁵².

SERGEY AKSYONOV



Crimean social and political public figure. From 2008, a leader of the "Russian Unity" party, organized as a result of amalgamation of the "Russian Community of Crimea" under the leadership of Sergey Tsekov, "Most Active Civilians of Crimea", All-Crimean movement "Russian Unity" under the leadership of S. Aksyonov and several other organizations. From December 2010, deputy of the SC ARC of the 6th convocation from the "Russian Unity" party. On 27 February 2014 the SC ARC appointed him as a Chairperson of the Council of Ministers of the ARC. On 9 October 2014 he was elected as a Head of the Republic of Crimea.

On 3 June 2014 the Kyiv Circuit Administrative Court held to declare the decision of the SC ARC of 27 February 2014 unlawful and reversed it⁵³. In February-March 2014, the Main Investigative Department of the Security Service of Ukraine has instituted criminal proceedings against the SC ARC Deputy Sergey Aksyonov under part 1 of art. 109 of the Criminal Code of Ukraine (actions aimed at forceful change or overthrow of the constitutional order or usurpation of state power)⁵⁴.

A witness in the criminal case No. 2015417109 concerning mass riot on 26 February 2014.

AHTEM CHIYGOZ



Crimean social and political public figure. From 2008, Deputy Chairperson of the Mejlis of the Crimean Tatar People. Chairperson of the Bakhchisaray Rayon Mejlis. He was a Deputy of the Bakhchisaray district council. Since January 2015 he is held in custody for organizing mass riot during the events of 26 February 2014 (art. 212 of the Criminal Code of the Russian Federation). The criminal prosecution is being carried out in the case No. 2015417109 by law enforcement agencies established in Crimea after the annexation of the peninsula.

⁵² http://lb.ua/news/2015/05/29/306613_krimu_zaveli_delo_glavu_medzhlisa.html

⁵³ <http://www.reyestr.court.gov.ua/Review/39703430>

⁵⁴ http://www.gp.gov.ua/ua/news.html?_m=publications&_c=view&_t=rec&id=135126&s=prmt

ENVER ARPATLY



Chairperson of the Alushta district Mejlis. Chairperson of the youth public organization “Yanykuvet”. In the autumn of 2013, during the elections of the Chairperson of the Mejlis, he supported the Deputy Head of the Mejlis Remzi Ilyasov, who was the main rival of Refat Chubarov for the office of the Head of the Mejlis. After the annexation of Crimea, he held a position of Deputy Head of Alushta city administration for some time.

A witness in the criminal case No. 2015417109 concerning mass riot on 26 February 2014.

ANDREY SENCHENKO



People’s deputy of the Verkhovna Rada of V, VI, VII convocations (from 2006 to 2014) from the All-Ukrainian Union “Batkivshchyna” (Fatherland), head of its Crimean Republican Organization. At the end of February 2014, he arrived in Crimea as a representative of the Acting President of Ukraine, Head of the Verkhovna Rada of Ukraine Aleksandr Turchynov. He attended the 26 February rally and addressed the rallyers with security assurances on behalf of the central Ukrainian authorities.

VLADIMIR KONSTANTINOV



Deputy of the Supreme Council of Crimea of the 3rd (1998-2002), 5th (2006-2010) and 6th (2010) convocations. Member of the political party “Party of Regions”. From April 2010, the First Deputy Chairman of the Crimean Republican Organization “Party of Regions”. From February 2014, Chairperson of the Crimean Republican Organization “Party of Regions”. From March 2010, Chairperson of the Verkhovna Rada of the Autonomous Republic of Crimea. The initiator of extraordinary session of the SC ARC on 26 February 2014. From 19 September 2014, deputy of the State Council of the Republic of Crimea of the first convocation. Chairperson of the State Council of the Republic of Crimea.

In February-March 2014 the Main Investigative Department of the Security Service of Ukraine instituted criminal proceedings against the SC ARC Chairperson Vladimir Konstantinov under part 1 of art. 109 of the Criminal Code of Ukraine (actions aimed at forceful change or overthrow of the constitutional order or usurpation of state power)⁵⁵.

⁵⁵ http://www.gp.gov.ua/ua/news.html?_m=publications&_c=view&_t=rec&id=135126&s=print

MIKHAIL SHEREMET



From November 2009 to June 2011, deputy director of Simferopol Automotive Equipment Maintenance Plant named after Kuybyshev. From June 2011 to March 2014, Head of the Simferopol Party Organization "Russian Unity". From 23 February 2014, the 1st company commander and one of the organizers and commanders of the SDPU. He filed an application on behalf of the "Russian Unity" party and took part in the rally of 26 February 2014. From 20 March 2014, Vice-Prime Minister of Crimea, in charge of law enforcement agencies. From 5 October 2016, deputy of the State Duma of the Russian Federation from Crimea. The PACE Resolution No. 2132 (2016) condemns and declares invalid the elections to the State Duma of the Russian Federation on 18 September 2016 with regard to the Crimean Deputies (para. 4 of the PACE Resolution No. 2132)⁵⁶.

VALERIY RADCHENKO



In January 2012 he was transferred to the position of the First Deputy Head of the Main Department of the Ministry of Internal Affairs of Ukraine in the ARC. From February 2013, Head of the MIA Department in Sevastopol. On 27 November 2013 he was appointed as the Head of the MD MIA of Ukraine in the ARC. At the time of the events of 26 February 2014, he was a Major General of Police. According to information from open sources, on 1 March 2014 the Minister of the MIA of Ukraine accepted Radchenko's resignation from the position of the Head of the MD MIA of Ukraine in the ARC⁵⁷. As of 30 September 2014, he appeared in public sources as a candidate for the position of the Deputy Mayor of Slavyansk, the Donetsk region. According to the response of the MIA of Ukraine of 16 September 2016, there is no information about Valeriy Radchenko, since he has no employment relations with the Ministry of Internal Affairs of Ukraine.

ALEKSANDR KUZNETSOV



In February 2014, Deputy Head of the Main Department of MIA of Ukraine in the ARC - Head of the Public Security Police, Colonel of Police. From May 2014 he held the position of the Deputy Head - Head of the Public Security Police of the Main Department of the MIA in the Zaporozhye region⁵⁸. According to information from the open sources, in November 2014 he was removed from his position in accordance with the provisions of the Law of Ukraine "On government cleansing".

According to the response of the MIA of Ukraine of 16 September 2016, there is no information about Aleksandr Kuznetsov, since he has no employment relations with the Ministry of Internal Affairs of Ukraine.

⁵⁶ <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=23166&lang=en>

⁵⁷ <https://www.npu.gov.ua/uk/publish/article/990279>

⁵⁸ <http://www.segodnya.ua/ukraine/mvd-naznachilo-zamnachalnika-upravleniya-v-zaporozhskoy-oblasti-kuznecova-vmesto-vasilenko-519793.html>

VALERIY GRITSAY



In February 2014, Head of the Public Security Department of the Main Department of the Ministry of Internal Affairs of Ukraine in Crimea. Since the annexation of the Crimean peninsula he occupies the position of the Head of the Department of Public Order Maintenance and Interaction with Executive Bodies of the Constituent Entities of the Russian Federation and Local Self-Government Authorities of the MIA in the Republic of Crimea.

According to the response of the MIA of Ukraine of 16 September 2016, there is no information about Valeriy Gritsay, since he has no employment relations with the Ministry of Internal Affairs of Ukraine.

V. Gritsay is a witness in the criminal case No. 2015417109 concerning mass riot on 26 February 2014.

IGOR RYBALCHENKO



From February 2014, Head of the Simferopol City Department of the MD of the MIA of Ukraine in the ARC, Colonel of Police. According to an official document of the Main Simferopol Department of the MIA of Ukraine in the ARC "Estimate of forces and resources used at the event", on 26 February 2014 he was in charge of police forces engaged in the event.

According to information from the open sources, from July to November 2014, he held the position of the Acting Head of the Police in Slavyansk⁵⁹.

According to the response of the MIA of Ukraine of 16 September 2016, there is no information about Igor Rybalchenko, since he has no employment relations with the Ministry of Internal Affairs of Ukraine.

IGOR MOMOTENKO



In February 2014, Head of the Public Security Office of the Simferopol City Department of the Ministry of Internal Affairs of Ukraine in the ARC. He participated in the negotiations on policing at the rally on 26 February 2014 with Enver Arpatly (on behalf of the participants of the rally declared by the Mejlis of the Crimean Tatar People) and Denis Goloborodko (on behalf of the participants of the rally declared by the "Russian Unity" party). Since the annexation of the peninsula, he holds the position of the Deputy Head of Police of the Ministry of Internal Affairs of the Russian Federation in the Republic of Crimea.

⁵⁹ <http://www.pravda.com.ua/articles/2014/07/21/7032574/>

1.3. Reconstruction of the events of 26 February 2014⁶⁰

Episode 1 Gathering of rallyers, designation of positions (8:00-11:10⁶¹)



KEY PERSONS AND GROUPS:

1. "Pro-Ukrainian" rallyers⁶² - up to 2000 people.
2. SDPU - about 300 people.
3. Law enforcement officers - 550 people (100 people in the inner yard and 100 people in the cordon from the side of the Pobedy public garden).
4. Participants of the "ultras" movement of Tavriya football club - about 30 people⁶³.
5. Refat Chubarov.
6. Enver Arpatly.
7. Igor Momotenko.

⁶⁰ The reconstruction is based solely on the facts and materials which were available to the group. A slight update of the reconstruction is allowed in future, in the event of new materials received.

⁶¹ When indicating time in the text of the Report, the 24-hour time format is used. Since many sources were taken into account during the reconstruction of the events, which used different time zones and time format, a certain margin of error is possible when giving time of the episodes. This fact cannot not substantially affect the sequence of events reconstructed by the group.

⁶² Hereinafter in the description of the episodes - representatives of the Euromaidan-Crimea initiative, representatives of the Mejlis of the Crimean Tatar People, and other pro-Ukrainian activists.

⁶³ They were participants of the "pro-Ukrainian" rally.

07:30-10:00	<p>The police officers are arriving from different parts of Crimea. During this period, they are standing close to the SC ARC waiting for the command to form up (vol. 10, case sheet 113).</p> <p>From 9.00 the members of the the SDPU are coming. On 25 February evening, company commanders told their subordinates that "Crimean Tatar people will protest against the accession of Crimea to Russia near the SC ARC building, and they (the SDPU) need to arrive at this building by 8-9 o'clock on 26/02/2014" (vol. 9 case sheet 19). The company commanders instructed the subordinates to assist the police officers.</p>
10:00-10:40	<p>Representatives of the Crimean Tatar community, the Mejlis and the pro-Ukrainian activists are coming from the side of Serov St. The arriving rallyers are carrying Ukrainian and Crimean Tatar flags (tarak-tamga).</p>
10:30	<p>About 100 police officers are lining up in front of the entrance to the SC ARC building.</p>
10:35	<p>Representatives of the the SDPU are lining up in the inner yard in front of the SC ARC building, to the right of the police officers.</p>
10:40	<p>Enver Arpatly (as a representative of the Mejlis), representative of the "pro-Russian" rally Denis Goloborodko and Head of the Public Security Office of the MIA Main Department in Simferopol Igor Momotenko agree to avoid provocations, as well as to assign persons responsible for maintaining public order from each of the parties.</p> <p>Goloborodko: <i>I certainly can't say for all those cretins who will yell here "Sevastopol! Crimea! Russia!" and so on. Most of those people have a clear stance: to expand our autonomy rights. There, where we can always agree among ourselves without any intermediary, and only on the expansion of the autonomy rights. Here we will always agree among ourselves, you know and we know about this. It is always easier to agree among ourselves and find a common language. Let's speak together for the expansion of the autonomy rights.</i></p> <p>Arpatly: <i>Yes, I agree. Now look at our stance is, let's first of all formulate that no one, no State, no people have a right to encroach upon Ukraine's territorial integrity. Each of us is a citizen of Ukraine. This is the first.</i></p> <p><i>Second, here they come from other States and say: we will give you passports, we will protect the citizens of our country. If somebody wants to get a passport of the foreign country, he takes his passport and leaves. Moreover, we are ready to buy a ticket for everyone of you who wants to leave. Here are our points. If you want me to explain our stance to these people, I'm ready to stand up now and loudly, without a megaphone, articulate to everyone that we are only for peace, order, and Ukraine's integrity.</i></p> <p><i>We are standing here for Crimea as a part of Ukraine, so that no one intrudes here.</i></p> <p>Goloborodko: <i>Yes, for integrity. This is one thing that people over there professionally announce it. But there are people who think with their own head and do not fall for these slogans. Yes, Ukraine's integrity, Ukraine's integrity, wait just a second, my dear sir. What is the current power of Ukraine?</i></p> <p>Arpatly: <i>The one that we have now. They shall be elected. Who prevented you at that moment to elect a legitimate power? Today you've seen an action. That's it, there is no today, everybody understands that. This is not an armed coup.</i></p> <p>Goloborodko: <i>And what is it?</i></p> <p>Arpatly: <i>This is the acting Supreme Council. It is voting now in its majority.</i></p> <p>Goloborodko: <i>Well! Here we'll go out now together with you to the square with guns, will stand, and you will call us the acting Supreme Council?</i></p> <p>Arpatly: <i>In no way. If the Supreme Council supports us, it will be a legitimate power.</i></p> <p>Goloborodko: <i>We're talking here that, first, the Supreme Council shall assume the responsibility to provide measures and order here in Crimea. After the elections, there will be a new vertical of power,</i></p>

everyone will recognize the elections, this is out of question. At this moment, you must take into account that many people do not recognize that power that came to Kiev with arms. It is not to be sneezed at. We live on the same territory, let us understand each other.

We have a legitimately elected body, our Supreme Council. Let's support it, let's put forward some general demands. Let's do it. Now it is the moment when we can stand together for the expansion of our autonomy rights, when we ourselves can resolve all issues. On the restoration of the rights of deportees, languages and so on. No one is against the Crimean-Tatar language was an official one in Crimea.

Arpatly: So, guys, watch carefully, I know quite well what the decentralization of power is. We are also standing for it, but in Crimean conditions everyone must understand that there is a clear demand of the Mejlis and the Crimean Tatar people that during drafting and development of laws the factor that there is indigenous population here must be taken into account. It exists here, and you should understand this. That's why we're standing here.

Goloborodko: Good. And am I the indigenous population? Let's discuss this straight away.

Arpatly: Let's not go into the history.

Goloborodko: I was born here, and we all are indigenous here.

Arpatly: I explain once more, what we are standing for. For Ukraine's territorial integrity. First. That no one infringes on the territory of the ARC, no one says that here there is a Russian autonomy, some other autonomy.

Goloborodko: We have our common autonomy. Let us stand for the expansion of the autonomy rights.

Arpatly: We cannot stand for the expansion now. We can talk now about the possibility of decentralization of power in Ukraine. And they will come to it. And here it is not necessary to declare separate slogans. For this purpose, for sure, the Supreme Council will consider the draft laws, which will later help to turn all this into reality. This is understandable, it is a step forward, evolutionary one - the decentralization. In this way we'll get great, expanded rights.

A man next to Goloborodko: Let's also discuss the order of holding the today's rally.

Arpatly: I'm just urging not to provoke anyone. Since everyone is worried by yesterday's statements and Russian flags near the ARC. Including me and my fellow countrymen, and my friends, regardless of nationality.

Goloborodko: Then realize that shouts "Glory to the Heroes!" are also very provoking for those people who poured their blood upon this ground. You have some doubts, that it is also a provocation.

Arpatly: This is already a history. It doesn't arouse our indignation.

Goloborodko: But it arouses our indignation, let us understand each other.

Momotenko: My dear, look, let's sidetrack the issue that there will be provocative shouts on the one part, and on the other. There they will shout "Glory to the Heroes", and there they will shout "Russia". Let's just develop a plan.

Arpatly: But what Russia, if the man says to me that they are for Ukraine's integrity to be retained. What Russia?

Momotenko: Listen here, people will just shout. He told you at once, that he can't be responsible for everybody, because the majority of people want like this. But there will be provocative shouts. Let's just pay no attention to them. It is not necessary to radically draw attention to them. We cannot avoid that. We only need to hold people back at this moment.

Arpatly: We can give a guarantee that there will be no directed provocation from our side. If someone can't give it... We also assure that we will not say slogans which can result in any inter-ethnic and inter-religious conflicts. We will only demand territorial integrity. We are not going to present any other demands here. And that the Supreme Council will not have a sitting today in the manner it plans.





10:40	<p>Momotenko: <i>And why don't you just group together?</i></p> <p>Arpatly: <i>But we are not against each other anyway!</i></p> <p>Momotenko: <i>Let's exchange phone numbers, will meet after the rally and outline a joint stance. We are one society, the Crimean one. You agree?</i></p> <p>Momotenko: <i>There will be people on the other side who will maintain order and on your side there will be some too. The most important is to prevent provocation and not fall for them.</i></p> <p>Arpatly: <i>People who are standing in the buffer will be marked with ribbons, and it will be clear. There won't be any problems there⁶⁴.</i></p>
11:00	<p>Arrival of representatives of ultras of Tavriya Football club, about 30 people. They are bringing a black and red flag of the "Right Sector"⁶⁵.</p>
11:10	<p>Refat Chubarov is taking floor before the participants of the rally⁶⁶. For a long time the participants cannot find a megaphone to speak. Someone from the rallyers is handing over a megaphone to Chubarov.</p> <p>Enver Arpatly (is actively leading the rallyers, shouting "Glory to Ukraine!", "Glory to the Heroes!", "Allah Akbar!"), Zaur Smirnov and Akhtem Chygoz (both men with gestures are urging the crowd not to shout and listen to speakers) are standing next to Chubarov. Next to the speakers is Mufti (Emirali Ablayev).</p> <p>Refat Chubarov says: "We warned them yesterday: do not schedule a session, do not blow up the situation in Crimea... Konstantinov and the presidium must declare that neither today nor in any other days there will be a session, at which the issue associated with the status of Crimea will be considered. Today Konstantinov is the most important obstacle to stabilization of the situation in Crimea. We came here to stop the catastrophe".</p> <p>The rallyers are shouting "Gang, go away!", "Crimea-Ukraine!", "Ukraine!"</p>

EPISODE CONCLUSIONS:

The general atmosphere is peaceful. There is an isolated attempt⁶⁷ of a group of Crimean Tatars to move in the direction of the inner yard of the SC ARC. One of the organizers of the rally (R. Chubarov) stood out in the episode. The rallyers outlined their stance. The absence of megaphone and audio equipment evidences a lack of the rally organization. This has greatly weakened the possibilities of the speakers and organizers to inform the rallyers and coordinate their actions. Those responsible for order in the "pro-Ukrainian" and "pro-Russian" parts of the rally were not visually identified.

About 100 police officers (from 550 present ones) encircled the territory of the inner yard in front of the entrance to the SC ARC building. A small group of the officers was allocated to separate rallyers in the outer yard in front of the SC ARC building. The law enforcement officers also had no megaphone and other audio equipment or did not use it.

Representatives of the SDPU arrived at the square in front of the SC ARC building, where they took the right side of the inner yard and lined up in front of the police officers, actually taking the role of security.

The communication was held between the representatives of two rallies and a law-enforcement officer regarding organization and coordination of security actions.

A. Chygoz's position is observed during R. Chubarov's speech - he is behind him, trying to call the rallyers for silence with gestures.

⁶⁴ Transcript of negotiations between E. Arpatly, D. Goloborodko and I. Momotenko; video-recorded and presented by the ATR TV channel.

⁶⁵ <https://www.youtube.com/watch?v=SEX1cEO-BSS>

⁶⁶ Zone 7, a schematic view of the "situation at 11:10"

⁶⁷ Zone 8, a schematic view of the "situation at 11:10"



Episode 2 First clashes (11:10-13:00)



KEY PERSONS AND GROUPS:

1. "Pro-Ukrainian" rallyers – about 3000-4000 persons.
2. SDPU – about 500 persons.
3. Pro-Russian activists - about 1500 persons.
4. Law enforcement officers – about 100 persons in the inner yard in front of the entrance to the SC ARC building, and about 100 persons in the cordon from the side of Pobedy public garden in the outer yard near the SC ARC building.
5. Andrey Senchenko.
6. Sergey Aksyonov.
7. Refat Chubarov.
8. Enver Arpatly.
9. Akhtem Chiygoz.

11:10	Just behind the police cordon ⁶⁸ , from the side of the “pro-Russian” rally, in the outer yard, a representative of the SDPU Yuriy Dorozhkin is coming out with a large flag of the Russian Federation.
11:15	Chubarov’s speech (see episode 1) is interrupted, as nearby, at a distance of 4-5 meters ⁶⁹ , a group of Crimean Tatars is making an attempt to break through the police cordon. R. Chubarov, A. Chygoz and other representatives of the Mejlis are taking place between the pro-Ukrainian rallyers and the police officers calling to calm down. The tension is being reduced for some time.
11:15–11:20	Sergey Aksyonov appears in the outer yard in front of the SC ARC building, and is giving interview to several journalists. In particular, he says: <i>“if the State of Ukraine does not act as an oppressor of Russians, and does not try to adopt stupid Russophobic laws, then everything will be fine, everything will be peaceful... today we have no separatist slogans”</i> ⁷⁰ .
11:20	Sergey Aksyonov had to interrupt the interview because of the scuffle among the rallyers, which is taking place next to him ⁷¹ . The cause of the fight was the attempt of pro-Ukrainian activists, who bypassed the MIA cordon, to take the Russian flag away from Yuriy Dorozhkin (vol. 11, case sheet 187), part of the representatives of the SDPU took Dorozhkin’s part, and the fight started. The police officers, Sergey Aksyonov and so-called “company commanders” of the SDPU quickly separated the parties and quenched the conflict ⁷² .
11:25	The pro-Ukrainian activists moved closer to Zhukovsky St. along the fountain parapet. Presumably in response to this, the representatives of the SDPU formed an additional cordon to block the entrance to the inner yard of the SC ARC. The slogans “Crimea is Ukraine!”, “Mogilyov, go away from Crimea!” ⁷³ are heard from the side of the “pro-Ukrainian” rally. The slogans “Russia!” are heard from the side of the pro-Russian rally.
11:25–11:40	Representatives of ultras of Tavriya football club, activists with the flag of the “Right Sector”, “pro-Ukrainian” rallyers have moved into the inner yard in front of the SC ARC building. Representatives of the Mejlis (including A. Chygoz, E. Arpatly) are in front of the MIA cordons, on the left of the entrance to the SC ARC ⁷⁴ . They are forming a “live cordon” of the rallyers between the “pro-Ukrainian” part of the rally and the police officers. Blue bandages are seen on the arms of some participants of the “pro-Ukrainian” rally, presumably they mark those responsible for public order.
11:30–11:35	The People’s Deputy of the Verkhovna Rada of Ukraine from the political party “Batkivshchyna” Andrey Senchenko ⁷⁵ is taking floor: <i>“... I’ve come here as a representative of Turchinov, the Acting President... I’ve been asked to convey to Crimeans and everyone who is standing here that in Crimea only Crimeans will form the authorities... (applause from the rallyers, slogans “Ukraine!”)... nobody is going to replace “Makeyevka people” with “Lvov” or “Kiev” people. Our goal is to preserve peace and order in Crimea”</i> . Shouts “Crimea is not Russia!”, “Allah Akbar!”, “Gang, go away!”, “Down with the Russian flag!” are heard from the rallyers.

⁶⁸ Zone 2, a schematic view of the “situation at 11:10”

⁶⁹ Zone 2, a schematic view of the “situation at 11:10”

⁷⁰ <https://www.youtube.com/watch?v=m19tXurNCtE>

⁷¹ Zone 4, a schematic view of the “situation at 11:20”

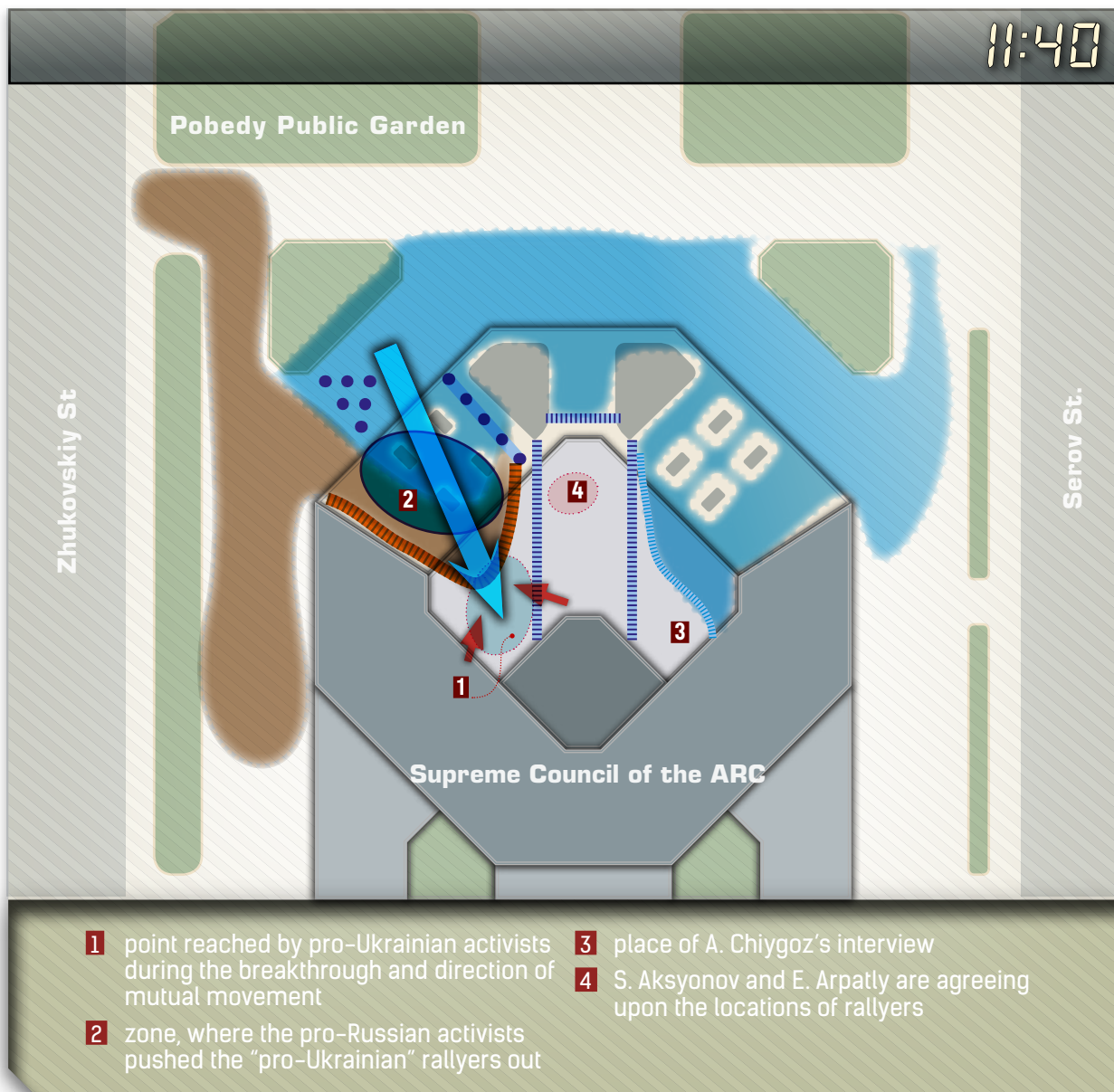
⁷² <https://www.youtube.com/watch?v=LoyXqPiTeJk>

⁷³ Zone 1, a schematic view of the “situation at 11:35”

⁷⁴ Zone 3, a schematic view of the “situation at 11:35”

⁷⁵ Zone 2, a schematic view of the “situation at 11:35”





11:40 The "pro-Ukrainian" rallyers bypassed the MIA cordon, allocated in the outer yard in front of the SC ARC building, broke through the outer cordon of representatives of the SDPU, and tried to occupy a part of the inner yard on the right of the MIA cordon⁷⁶.

Representatives of the SDPU, members of the "Russian Unity" party and some officers from the MIA cordon are pushing the pro-Ukrainian activists out from the right part of the inner yard to the columns⁷⁷.

Among the rallyers, pushing out the pro-Ukrainian activists, one can see Sergey Aksyonov, who is trying to direct the pro-Russian rallyers.

11:41 R. Chubarov, A. Chiygoz and other representatives of the Mejlis at that moment were on the opposite side of the inner yard of the SC ARC, on the left of the MIA cordon.

The breakthrough of the pro-Ukrainian activists lifted the police cordon in the outer yard. The policemen remained only in the inner yard near the entrance to the SC ARC building.

The rally parties' positions within the inner yard of the SC ARC have changed⁷⁸.

⁷⁶ Zone 1, a schematic view of the "situation at 11:40", video <https://www.youtube.com/watch?v=gcST0tUTHPw> (00:00-00:20)

⁷⁷ Zone 2, a schematic view of the "situation at 11:40", video <https://www.youtube.com/watch?v=gcST0tUTHPw> (from 00:20)

⁷⁸ Zone 2, a schematic view of the "situation at 12:30"





11:40	4 buses with pro-Russian activists left Sevastopol to support rallyers in front of the SC ARC building in Simferopol ⁷⁹ .
11:50	Deputy Head - Head of the Public Security Police of the Simferopol Main Department of the Ministry of Internal Affairs of Ukraine in Crimea D. Korzhov says in his interview to ATR TV channel: "... we've come to secure peaceful action of civilians..." In response to a journalist's question, he said that in the square there was and would be no representatives of "Berkut" special police force.
12:00	<p>The pro-Russian activists increase in number approximately up to 1000 people. Rallyers' slogans are: "I am Russian, I want to live in Ukraine!"; "I am a citizen of Ukraine!"; "Mogilyov must be put behind bars!"; "Crimea is not Russia!"; "Crimea is Russia!"; and "Russia!"</p> <p>On the right of the entrance to the SC ARC building there is a "live cordon" formed of representatives of the SDPU, all its participants have ribbons of St. George (ribbon with orange and black stripes).</p> <p>The distance between the police cordon and the pro-Ukrainian activists (on the left of the entrance to the building) is about one meter. The police cordon from the side of pro-Russian activists is close to representatives of the SDPU.</p> <p>The ATR channel makes video records of interviews with the "pro-Russian" rallyers, who cannot articulate the purpose of their participation in the rally and their views, confuse Russian and Crimean flags.</p>
12:08	<p>A. Chygoz is giving an interview to ATR⁸⁰:</p> <p>Journalist: "Tell us what is happening in the Parliament now. Are there negotiations?"</p> <p>Chygoz: <i>Most likely there are no negotiations, I would not call them negotiations. Since Chubarov has gone there to demand the cancellation of this session. We're going to be here until the session... It means that there is a danger that the session will be held. We will not allow to take the rotten decisions that Konstantinov and his gang have prepared now.</i></p> <p>Journalist: <i>What do you think of the fact that the Verkhovna Rada of Ukraine wants to dissolve the Crimean Parliament?</i></p> <p>Chygoz: <i>I think this is an urgent need now to stop separatism in Ukraine, so it is necessary to take these decisions.</i></p> <p>Journalist: <i>Will Mejlis take any active measures?</i></p> <p>Chygoz: <i>Our active measures are to show the stance of the Crimean Tatar people, that here there are indigenous people, and we will not let a gang, a group of provocateurs infringe upon Ukraine's integrity and make statements on behalf of all peoples in Crimea.</i></p> <p>Journalist: <i>According to your information, how many participants are here?</i></p> <p>Chygoz: <i>I know that an hour and a half ago there were more than 10 thousand, but now I've been said that another column has joined the rally and people from regions are still arriving.</i></p> <p>Journalist: <i>The session was scheduled for 15:00. Are you going to stand till that time?</i></p> <p>Chygoz: <i>We will stand!"</i></p>
12:10	<p>E. Arpatly and S. Aksyonov are discussing possible positions of the rallyers with respect to each other. Police officers do not take part in the discussion. Full transcript of the conversation video-recorded by the ATR channel is given below⁸¹:</p> <p>Arpatly: <i>"Now there are 10 thousand people here. We cannot move in any direction. We can only offer you to stand straight, sideways.</i></p> <p>Aksyonov: <i>But our people are arriving!</i></p> <p>Arpatly: <i>Listen to the end, don't interrupt! We are standing. You have two hours, and we have two hours. The same time till two o'clock. Perhaps now they will bring equipment, and Refat Chubarov will take the floor.</i></p> <p>Aksyonov: <i>And we will bring equipment!</i></p>

⁷⁹ <http://sevstory.ru/2016/03/pishem-istoriyu-russkoj-vesny-3.html>
<http://www.8692.ru/news/483754>, <https://www.youtube.com/watch?v=aT-ndm0yFY8>

⁸⁰ Zone 3, a schematic view of the "situation at 11:35"

⁸¹ Zone 4, a schematic view of the "situation at 11:40", a video of the part of the dialogue is available in the Internet <https://www.youtube.com/watch?v=yElR6LG12sI>

12:10	<p>Arpatly: Listen! You as the deputies say that the session will not be held today.</p> <p>Aksyonov: I don't know, whether it will be held.</p> <p>Arpatly: But you must not hold it! And then these people here will disperse. But then you shall understand that we will order our people, and they quietly... Listen to me, do not interrupt me. Then you, calmly, together with your people, take our place in the square, already in our absence, and organize your rally with your ideologies and slogans. But now, I think, in order to avoid any conflict between us and not to hurt people through our actions, we must do as follows. This cordon over there, that does not bind us to anything, should be just moved a little. I assure you that now my activists will give everyone a clear command. We will move a bit to this side, the cordon will be shifted. And people will stand orderly. Then at 14:00, if your people begin to arrive from that side, you'll order your people to gather on the left wing.</p> <p>Aksyonov: But I have already guys coming!</p> <p>Arpatly: So, let them come there already. I assure you that we will make such a cordon that will keep everyone away from there. By two o'clock this rally will be over.</p> <p>Aksyonov: Well, it will not be over! The session will be held...</p> <p>Arpatly: No, there will be no session! You will do your best!</p> <p>Aksyonov: If it would not be held, then it will be a quite different situation</p> <p>Arpatly: So, gather then. There is a lot of place there. I'm making a normal rational proposal to you.</p> <p>A man in a cap: (in Ukrainian) Come on, lift the cordon! I am holding my people back and they are holding. And let's agree upon properly.</p> <p>Aksyonov: We won't lift anything, we are standing all in our places, guys.</p> <p>A man in a cap: (in Ukrainian) Come on, lift the cordon!</p> <p>Someone from the "pro-Russian" rallyers: It won't do, Seryozha, let's just now...</p> <p>Arpatly: Listen here again! I have a clear proposal. We need to talk, we need to invite police officers, let's call them and talk. Let's talk more in private. Stop talking for cameras, we've already told a lot".</p>
12:20	<p>In the inner yard in front of the SC ARC building, on the right of the entrance, representatives of the "pro-Russian" part of the rally have unfurled a large Russian flag⁸².</p>
12:25	<p>Refat Chubarov, under the canopy of the central entrance to the SC ARC building, is giving an interview (video of the ATR channel)⁸³, in which he says that he is demanding from V. Konstantinov to take a decision on rescheduling the session. He also says that Konstantinov has gone to think and consult with his fraction. According to R. Chubarov, the Chairman of the SC ARC does not understand the whole seriousness of the situation.</p>
12:30–12:50	<p>Pro-Ukrainian activists are pushing the police officers back and moving towards the inner yard of the SC ARC building⁸⁴.</p> <p>During this period, representatives of the SDPU and the pro-Russian activists are occupying positions behind the cordon formed from the police officers in the inner yard, which presumably has been a reaction to the pushing the law enforcement officers back⁸⁵.</p>
12:45	<p>The first buses with activists from Sevastopol are arriving, the activists are joining the "pro-Russian" part of the rally.</p> <p>According to mass media, columns of cars with Crimean symbols and flags of the ARC are noticed in Simferopol, blowing the horns and driving along the streets of the central part of Simferopol⁸⁶.</p>

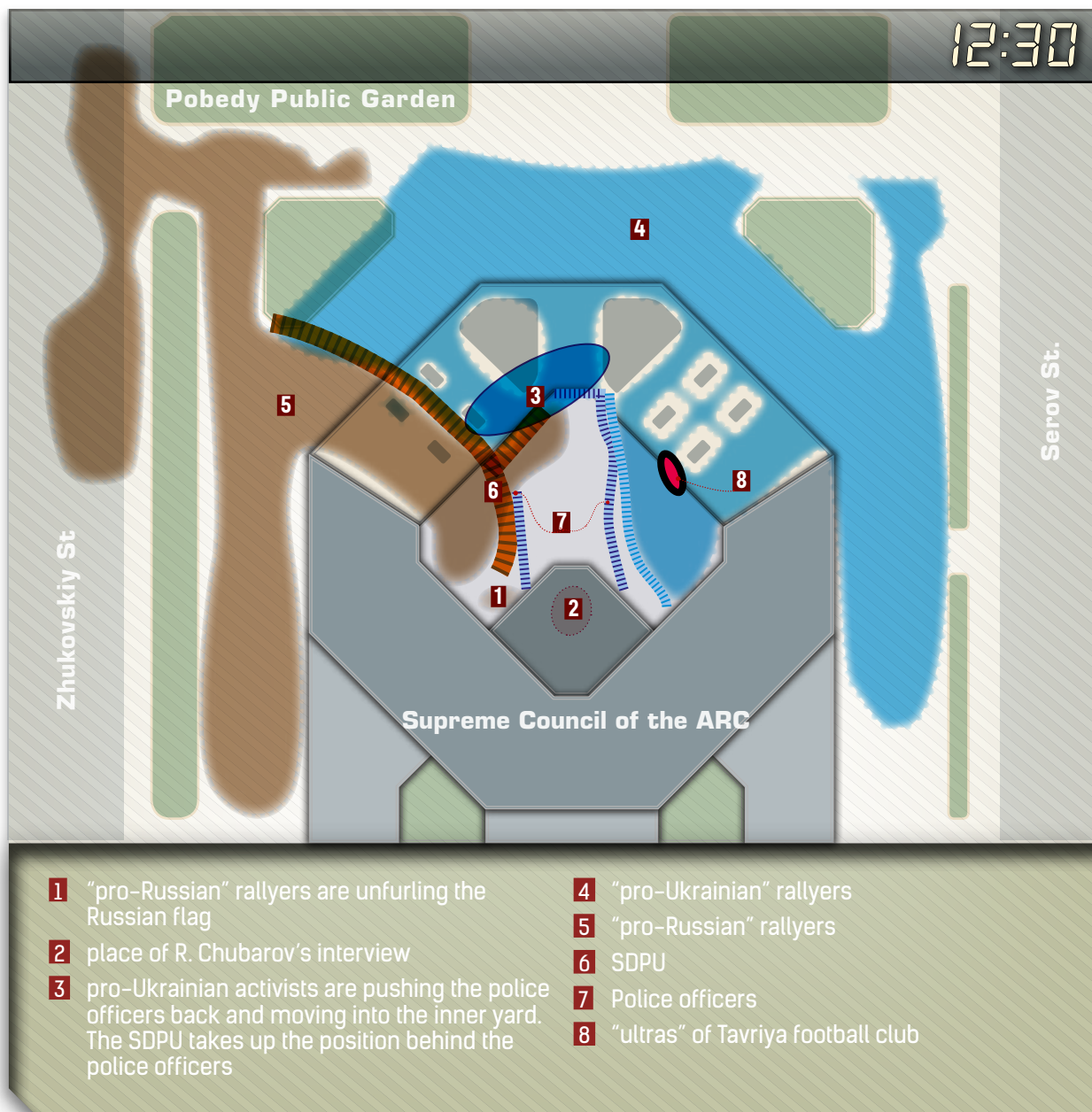
⁸² Zone 1, a schematic view of the "situation at 12:30"

⁸³ Zone 2, a schematic view of the "situation at 12:30"

⁸⁴ Zone 3, a schematic view of the "situation at 12:30"

⁸⁵ Zone 3, a schematic view of the "situation at 12:30" <https://www.youtube.com/watch?v=d5zBF3nu5pQ> (2:27-2:32)

⁸⁶ <http://an-crimea.ru/page/news/58076>



12:55–13:05

The "pro-Ukrainian" rallyers created a corridor in their part, and offered representatives of the SDPU to leave the inner yard in front of the SC ARC building. Representatives of the SDPU refused to leave the square (information is confirmed by open mass media and a video of the ATR channel).

The police officers completely lifted the cordon between the rallyers. The police officers are allocated in the inner yard only at the main entrance to the building⁸⁷.

According to the evidence of one of the victims in the case No. 2015417109, since representatives of the SDPU came to help guard the entrance to the building, they were disappointed when the police had left (vol. 10, case sheet 81)⁸⁸.

⁸⁷ <http://www.3652.ru/news/483644>
<http://www.segodnya.ua/politics/pnews/miliciya-ushla-iz-pod-parlamenta-v-krymu-gde-prohodyat-dva-mitinga-498884>
<http://www.novayagazeta.ru/news/319354.html> (minus 2 hours taking into account the time difference) <https://slon.ru/fast/world/eks-prezidenty-ukrainy-obvinili-rossiyu-v-popytkakh-raskolot-ukrainu-1062497.xhtml> (minus 2 hours taking into account the time difference)

⁸⁸ A schematic view of the "situation at 13:00"

EPISODE CONCLUSIONS:

The general atmosphere of rallies is peaceful. There are a few isolated incidents of conflicts and scuffles between the rallyers. There are changes in rallyers' locations and dispositions, most changes are in the part where the "pro-Russian" rallyers are located.

The pro-Ukrainian activists are occupying a part of the inner yard from the side of the "pro-Russian" rally location, pushing the police officers back closer to the central entrance to the SC ARC building.

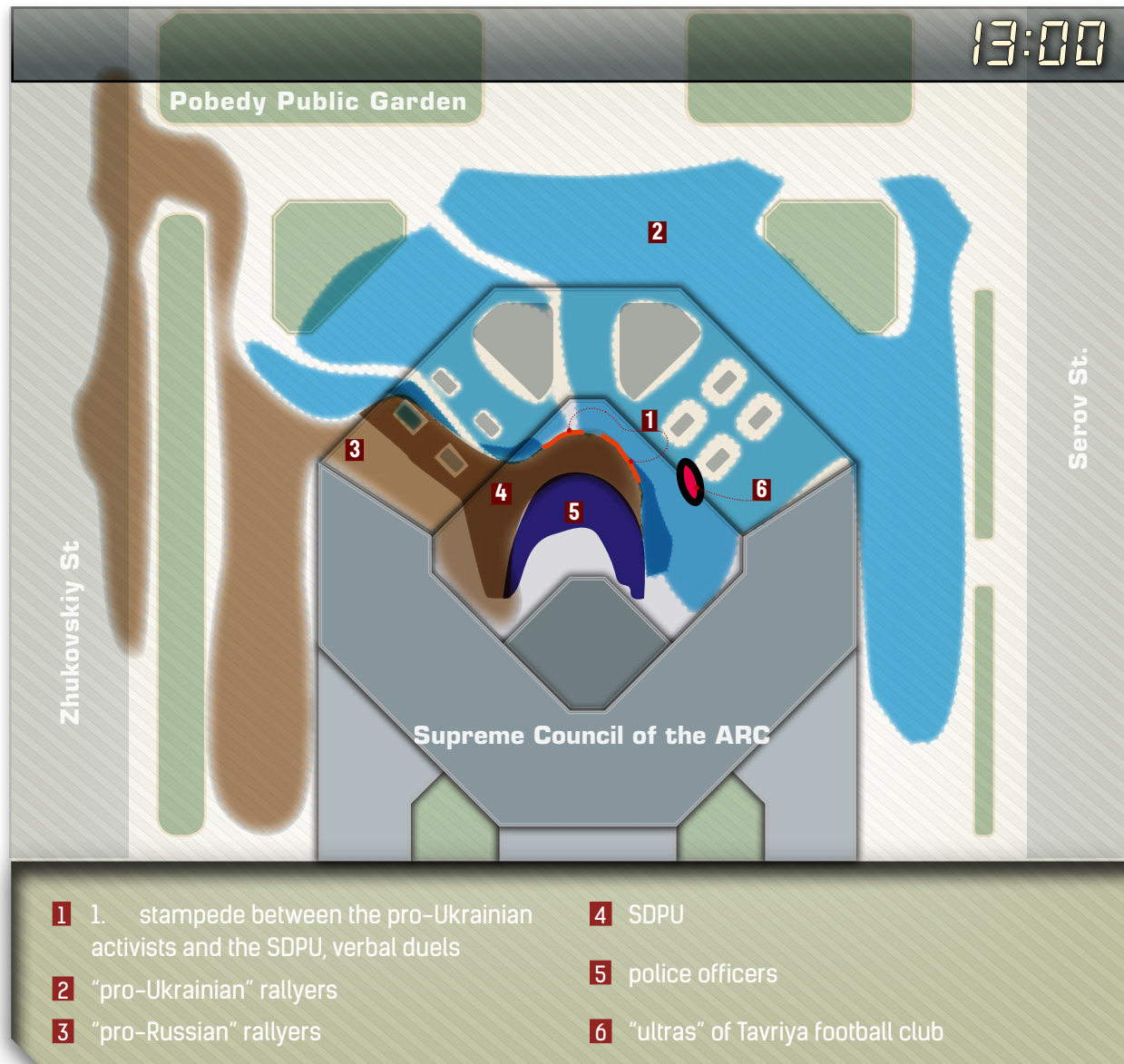
The tension is being escalated between the two groups of rallyers (it manifests itself, in particular, in the slogans, Russian flags and flags of the "Right Sector").

The appearance of one of the representatives of rally organizers S. Aksyonov is documented, who is actively directing the "pro-Russian" rally. E. Arpatly and S. Aksyonov are holding negotiations on the location of the participants of two rallies, as well as on the issue of maintaining order and rally security. The police officers are not participating in these negotiations.

A. Chygoz is spotted along with other representatives of the Mejlis of the Crimean Tatar People forming a "live cordon" separating the pro-Ukrainian activists and the police officers. Moreover, he is giving an interview to the ATR channel, where he is expressing support for the territorial integrity of Ukraine and the necessity of dissolution of the Crimean Parliament.

EPISODE 3

Escalation of the situation – confrontation in the inner yard in front of the Supreme Council of the ARC
(13:00-15:00)



KEY PERSONS AND GROUPS:

1. "Pro-Ukrainian" rallyers - up to 7000 persons.
2. SDPU - up to 500 persons.
3. Pro-Russian activists – about 5000 persons.
 - 3.1 activists from Sevastopol – about 1000 persons.
 - 3.2 activists from Yevpatoriya – about 400 persons.
4. law enforcement officers – about 100 persons at the entrance to the SC ARC.

13:05	<p>Under the canopy of the entrance to the SC ARC building has appeared the audio equipment (loudspeakers, microphone, amplifiers)⁸⁹.</p>
13:15	<p>The rallyers are carrying on the shoulders an elderly man with the Ukrainian and Crimean Tatar flags to the central entrance to the SC ARC building from the side of large columns in the center of the square. They are trying to carry him through the “live cordon” of the SDPU, but without success, since the latter does not let them through.</p> <p>Representatives of the “pro-Russian” and “pro-Ukrainian” rallies are close to each other. There are no physical clashes. Verbal conflicts and disputes are taking place on politically related issues concerning sovereignty of Crimea and objectives of the rallies.</p>
13:25–13:30	<p>Under the canopy of the central entrance to the SC ARC building R. Chubarov and S. Aksyonov, using the audio equipment, are calling the rallyers not to succumb to provocations. Next to them are Z. Smirnov, E. Arpatly, A. Chiygoz, Z. Smedlyayev and several deputies of the SC ARC.</p> <p>R. Chubarov and S. Aksyonov’s calls temporarily relieve tension in the crowd of rallyers. They inform that they are leaving for negotiations with V. Konstantinov and promise to return in an hour. Before leaving, they are again addressing to the rallyers with the call to refrain from conflicts.</p> <p>From the moment when the police officers have left the “cordon” separating the rallyers, the participants of assemblies are trying to organize corridors by themselves. However, the created corridors and the space between the rallyers are again filled with people quickly enough.</p>
13:30–13:40	<p>Some participants are being interviewed by the journalist from the ATR channel, replying to the question why they have come to the square in front of the SC ARC.</p> <p>Participants of the “pro-Russian” rally answer: “Why, don’t you watch TV? The “Right Sector” wanted to prohibit the Russian language”; “We are here to stand for “Berkut”, for Russia”.</p> <p>Participants of the “pro-Ukrainian” rally answer: “We are against holding of the extraordinary session. Crimea is Crimea, it is not Russia”; “We are standing for Crimea to remain a part of Ukraine”.</p>
14:00	<p>The second column of activists from Sevastopol in support of the “pro-Russian” rally is arriving from the side of Zhukovsky St. All of them wear a ribbon of St. George, and some of them are walking with flags in their hands⁹⁰. Around the same time, the column from Yevpatoriya consisting of about 400 persons is arriving in support of the “pro-Russian” rally⁹¹.</p>
14:05–14:20	<p>In the inner yard in front of the SC ARC building, on the contact line between the participants of the two rallies, verbal duels and local fights/skirmishes are constantly taking place.</p>
14:20	<p>The pro-Russian activists are trying to raise a big Russian flag, but they fail⁹².</p>
14:30–14:40	<p>R. Chubarov and S. Aksyonov are urging the rallyers to create a corridor, and the police to go inside the corridor, not letting it lock⁹³. For this purpose, they are going through the crowd creating the corridor.</p> <p>The rallyers are calling on the police to take a position between the two rallies.</p>

⁸⁹ <http://an-crimea.ru/page/news/58076>

<http://www.novayagazeta.ru/news/319354.html> (minus 2 hours taking into account the time difference)

⁹⁰ <http://investigator.org.ua/news/119888/http://an-crimea.ru/page/news/58076/>

⁹¹ <https://www.youtube.com/watch?v=VBsBG-laJnc> (06:50-07:00)

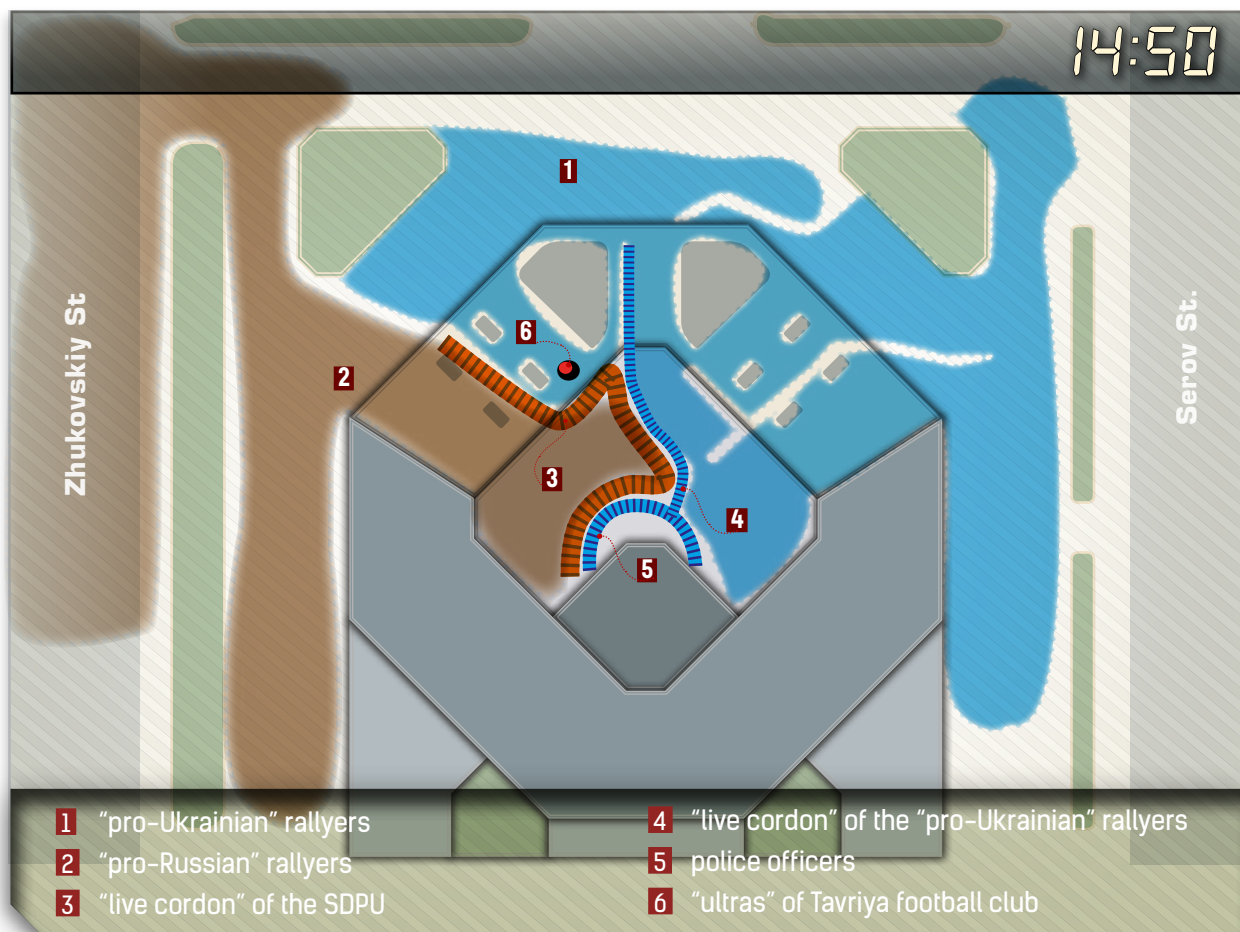
⁹² Zone 1, a schematic view of the “situation at 14:20” <http://www.novayagazeta.ru/news/319354.html>

⁹³ <https://news.pn/ru/public/9775>









14:30–14:40	The police officers are going from the main entrance to the SC ARC building in line, one by one, through the center of the square, along the inner yard of the SC ARC, lining up between the two groups of rallyers (facing the representatives of the SDPU and backing the participants of the “pro-Ukrainian” part of the rally).The police officers have riot control weapons (batons). The presence of policemen on the contact-line of the rallyers reduces the tension of confrontation between the participants ⁹⁴ .
14:45	The pro-Russian rallyers are calling to take the “Bandera Flag” away (this refers to the black and red flag of the “Right Sector”). The pro-Ukrainian activists, in turn, are demanding to take the Russian flags away ⁹⁵ . The speech of the activist, introducing himself as Gani Bekir, under the canopy of the central entrance to the SC ARC: “.. <i>The accession [to Russia] is out of the question... Makeyevka gang, go away!</i> ” At the end of the speech, A. Chygoz is coming up behind him, their conversation is not heard ⁹⁶ .
14:50	A verbal duel is going on between the pro-Russian and pro-Ukrainian rallyers under the canopy at the main entrance to the SC ARC, involving S. Aksyonov. One of the pro-Russian rallyers is putting a question to S. Aksyonov: “ <i>Do you understand that the Nazis have come to power?</i> ” S. Aksyonov answered: “.. <i>We understand everything; I do not want any blood</i> ” ⁹⁷ .
15:00	S. Aksyonov and R. Chubarov are leaving the square for the extraordinary session in the SC ARC building. From all sides of the inner yard the rallyers’ shouts are being heard. Participants of the “pro-Ukrainian” rally are holding posters with slogans: “Crimea is not Russia!”, “Glory to the Heroes!”, “Ukraine!”, one can see a banner in the Crimean Tatar language “Bizim tek bir davamiz bar - vatan davasi” ⁹⁸ . The participants of the “pro-Russian” rally, in turn, are holding posters with slogans: “Glory to the Berkut Heroes!”, “Berkut”, “Russia!” and “Fascism shall not pass!”, “Crimea is Russia”, one can see a banner with the text: “The Nazis don’t need us and you as a nation!” There is a flag of the “Right Sector” in the crowd, on the one pole with the Crimean Tatar flag. In the inner yard, one can see at least three Russian flags, flags of the “Russian Unity” party, St. Andrew’s flag, flags of Crimea, Sevastopol, Yevpatoriya, Ukrainian and Crimean Tatar flags.

EPISODE CONCLUSIONS:

General atmosphere is tense, but restrained. During the periods when the police officers left the “cordons” between groups of rallyers, there was aggravation of local conflicts between participants of the “pro-Russian” and “pro-Ukrainian” rallies. R. Chubarov and S. Aksyonov using audio equipment called for order, organization of corridors, and also urged the police to take actions to separate the two rallies. A. Chygozis was spotted several times on video next to the speakers under the canopy of the central entrance to the SC ARC.

⁹⁴ <http://an-crimea.ru/page/news/58076>

⁹⁵ A schematic view of the “situation at 14:50”

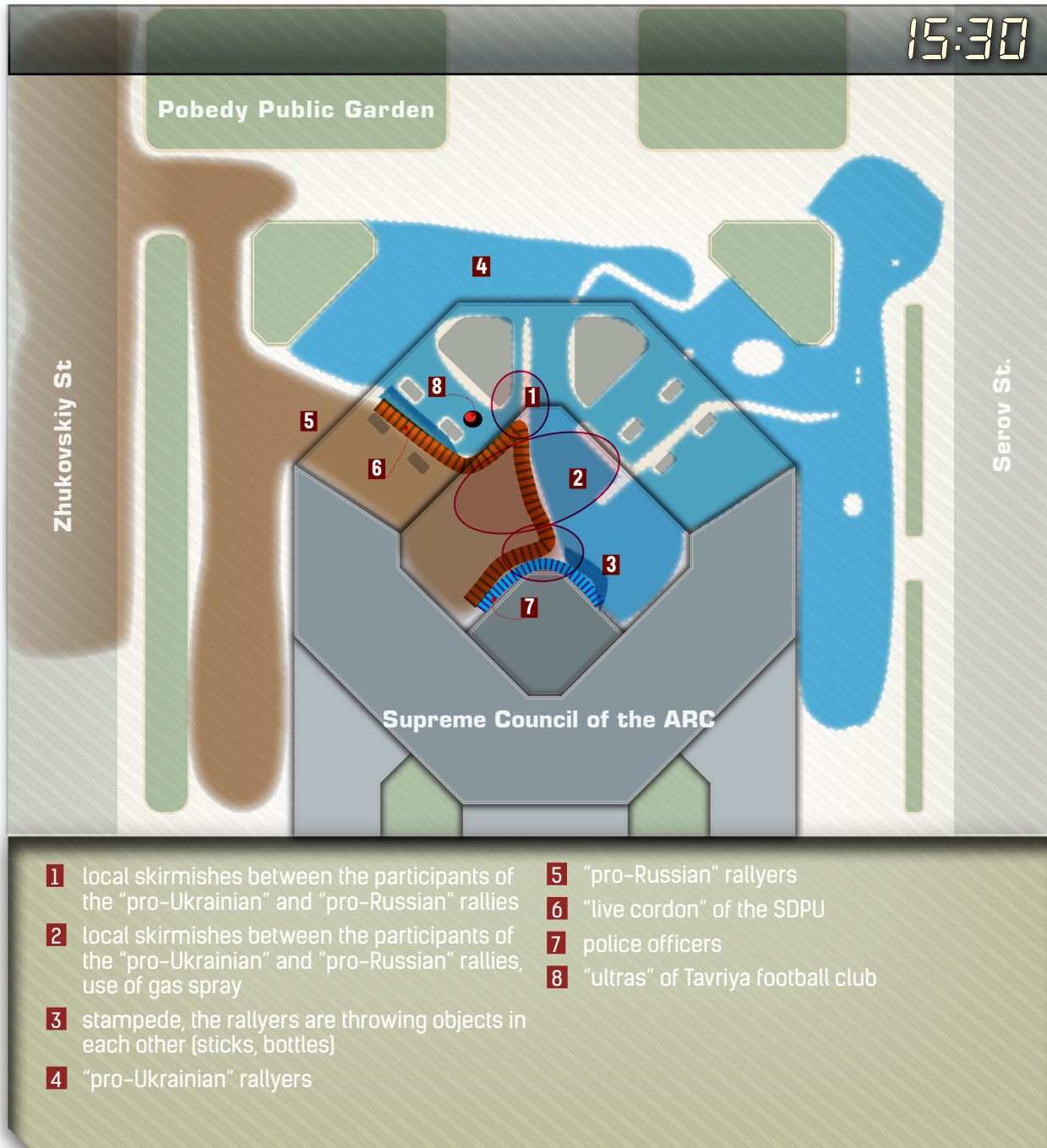
⁹⁶ <https://www.youtube.com/watch?v=nASsJE2MR7Y> (3:55-4:30)

⁹⁷ <https://www.youtube.com/watch?v=he6QXLiXVH><https://www.youtube.com/watch?v=nASsJE2MR7Y> (5:04-7:00)

⁹⁸ Translation into Russian, “We have only one struggle, a struggle for the Homeland”.

EPISODE 4

Culmination: the beginning of the extraordinary session of the SC ARC, peak tension of the situation in the inner yard. Aggravation of the conflict, occupation of the inner yard by the “pro-Ukrainian” rallyers, breaking into the SC ARC building (15:10-15:50)



KEY PERSONS AND GROUPS:

1. “Pro-Ukrainian” rallyers - up to 7000 persons.
2. SDPU - up to 500 persons.
3. Pro-Russian activists – about 5000 persons.
4. Police officers – about 100 persons at the entrance to the SC ARC and police officers inside the SC ARC building (it is not possible to visually identify the number)

Event 1

In the square in front of the SC ARC building

15:10	<p>The “corridor” between the rallyers, where the police officers were, locked, and the law enforcement officers mixed with the crowd of rallyers⁹⁹.</p> <p>Presumably, a pro-Russian blogger Sergey Veselovskiy, staying under the canopy in front of the main entrance to the SC ARC with the microphone, is demanding to take the “Right Sector” flag away: “I’m demanding immediately, in order to avoid provocations, to take the Nazi and black-and-red flag away!” In response, Eskender Nabiyeu is demanding through the microphone to take away the Russian flags. A controversy starts and the flags remain where they were¹⁰⁰.</p>
15:10	<p>The organized police cordon is only at the entrance to the SC ARC building.</p> <p>One can hear shouts from the crowd of rallyers: “Ukraine!”, “Russia!”, shouts through a megaphone: “Stop throwing!”, “Free the space in the middle!”, “Corridor of peace!”, “People, stop fighting!”, “Stop! Open a corridor”, “Open a corridor! Let doctors through”, “Let doctors through!”, “Step back!”, “Open a corridor!”</p> <p>Along the whole contact-line of the rallyers there are constant local conflicts - clashes and fights of the short-time nature, which are stopped by the rallyers themselves.</p>
15:15–15:25	<p>Due to calls on the rallyers through a megaphone, it becomes possible to organize a corridor for medical workers¹⁰¹. In the inner yard, at the location of the participants of the “pro-Ukrainian” rally, at least 3 corridors up to 1.5 meters wide are made within five minutes.</p> <p>Rallyers’ slogans: “Crimea is not Russia!”, “Glory to Ukraine! Glory to the Heroes!” A communist flag is seen in the crowd of rallyers.</p> <p>A man is telling a journalist of the ATR channel that some rallyers were spraying something from a canister¹⁰².</p>
15:30	<p>There starts a stampede on the contact line of the rallyers. There are some calls through the megaphone to protect equipment, calls to the rallyers (“Dzhavat, don’t push”, “People, stop”, “People, calm down”, “Let medical workers through the corridor”, “Stop”, “Free the corridor, that’ll solve nothing”, “Change your mind, Crimeans”, “We all will regret later”)¹⁰³.</p>
15:35–15:40	<p>The video shows a man with the bat among the rallyers. A man is spraying a small canister of tear gas from the main doors of the SC ARC building in the direction of the center of the square where the rallyers are. In a couple of minutes the second spraying of gas is fixed from the side of the “pro-Russian” rally towards the pro-Ukrainian rallyers¹⁰⁴. Presumably, because of spraying the tear gas, the space of 1.5-2 meters in diameter is freed at the main entrance to the SC ARC building, the skirmish starts, which lasts about a minute, the use of a stick and a flagpole by the participants on both sides is fixed¹⁰⁵.</p>

⁹⁹ A schematic view of the “situation at 15:10”

¹⁰⁰ <https://www.youtube.com/watch?v=nASsJE2MR7Y> (13:10-15:00) <https://www.youtube.com/watch?v=0xLR1b69NcY> (2:38-2:43)

¹⁰¹ <https://www.youtube.com/watch?v=nASsJE2MR7Y> (17:00-21:00) <https://www.youtube.com/watch?v=0xLR1b69NcY> (0:44-4:34)

¹⁰² <https://www.youtube.com/watch?v=nASsJE2MR7Y> (17:00-21:00) <https://www.youtube.com/watch?v=0xLR1b69NcY> (0:44-4:34)

¹⁰³ <https://slon.ru/fast/world/eks-prezidenty-ukrainy-obvinili-rossiyu-v-popytkakh-raskolot-ukrainu-1062497>. xhtml <http://www.kommersant.ru/doc/2416976> (minus 2 hours) <http://www.novayagazeta.ru/news/319354.html> (minus 2 hours) <http://an-crimea.ru/page/news/58076/>

<https://www.youtube.com/watch?v=0xLR1b69NcY> (from 4:37) <https://www.youtube.com/watch?v=nASsJE2MR7Y> (from 24:54)

¹⁰⁴ Zone 2, a schematic view of the “situation at 15:30”

¹⁰⁵ <https://www.youtube.com/watch?v=0xLR1b69NcY> (c 07:44)

<https://www.youtube.com/watch?v=nASsJE2MR7Y> (c 28:54)

15:35–15:40

The police are not interfering, remaining under the canopy at the main entrance to the SC ARC building.

The main stampede is fixed on the contact line between the rallyers in the center of the inner yard in front of the SC ARC building. Actually, a “pocket” has been formed from the right side of the inner yard, where the “pro-Russian” part of the rally is, the main stampede is also fixed there¹⁰⁶.

At the same time, the pro-Ukrainian activists are passing along the main entrance to the side door of the SC ARC building¹⁰⁷, which is being guarded by the SDPU. In front of the door, a skirmish begins, presumably between the participants of “pro-Ukrainian” rally with representatives of the SDPU.

Rallyers are chanting “Ukraine!”

The concentration of people in the inner yard in front of the SC ARC is getting lower, it is getting less crowded, the people are moving easily, applauding.

At the same time in the SC ARC building

15:10

V. Konstantinov says that only 49 deputies have registered at the SC ARC extraordinary session. Since there is no quorum, V. Konstantinov is proroguing for one hour.

R. Chubarov is addressing the deputies: “... I’ll go to these people now, but I have nothing to say to them. I’m afraid to go out to them, because they are expecting that your common sense has finally prevailed. Let us have a deputies’ meeting... Don’t go away from responsibility”.

15:25

R. Chubarov “Does he (author’s note - V. Konstantinov) want that blood will spill? Aksyonov and me can hardly stop people there... Let’s reschedule a session for a few days to make these people leave. To make them leave, it is necessary not to hold the session”¹⁰⁸.

Event 2

In the SC ARC building

15:40

A group of rallyers is starting to move actively through a side door into the SC ARC building. The door is opened and people are entering the building, dismantling barricades (they are carrying outside a chair, a wooden staircase, a cover of the table).

The barricades of piled up furniture have been built by the police officers in the SC ARC hall near the passage¹⁰⁹.

A group of the pro-Ukrainian rallyers is going inside the building, gas is being allegedly sprayed towards the incomers. Someone is yelling “gas”, people are running out¹¹⁰. There is a cry coming from the building “Raise visors... those who have sweaters, pull them up”. Some people are moving further into the building. In the hallway there are law enforcement officers equipped with riot control weapons, including shields.

About 10 people are entering the SC ARC hall, shouting “Allah Akbar!”, “Stand down!” A man in civilian dress is going to them. He is negotiating with the rallyers who have entered the building.

The law enforcement officers are forming a “corridor” for the rallyers, letting them pass, presumably to the hall at the main entrance to the SC ARC building.

The main group of rallyers, who have got inside, stops on the ground floor, in the SC ARC hall. The people are arguing, some of them are heatedly talking to the deputies of the SC ARC in the hall, to the representative of the President of Ukraine in Crimea V. Plakida (phrases that are heard: “There will be no Russia here”, “Bring Konstantinov here”, “Dismiss everyone”, “We have elected you”)¹¹¹.

¹⁰⁶ Zone 2-3, a schematic view of the “situation at 15:30”

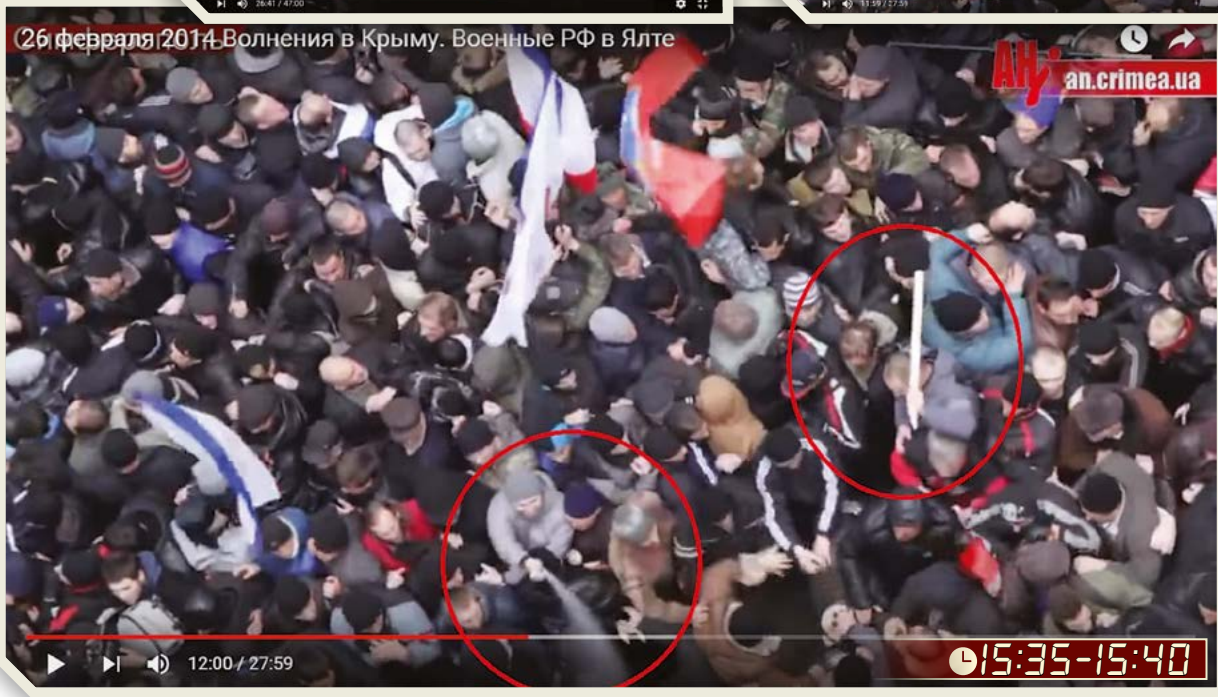
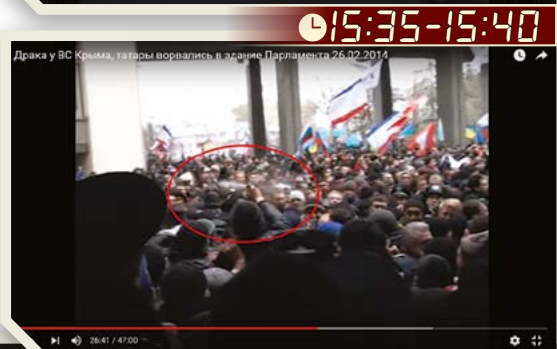
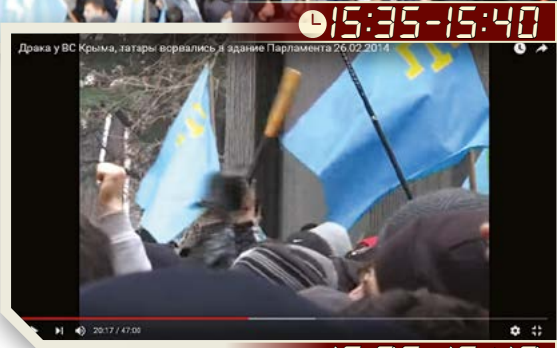
¹⁰⁷ Zone 1, a schematic view of the “situation at 15:42”

¹⁰⁸ https://www.youtube.com/watch?v=alr_AAb5lrg (15:48-17:22)

¹⁰⁹ Testimony in court of the witness Marlen Asanov in the case of Akhtem Chiygoz of 16 November 2016.

¹¹⁰ <https://www.youtube.com/watch?v=nASsJE2MR7Y> (36:00-36:07)

¹¹¹ https://www.youtube.com/watch?v=alr_AAb5lrg (17:25-20:32); <https://www.youtube.com/watch?v=nASsJE2MR7Y> (34:55-42:18)





An aggressive man is present in the hall who is shouting and using foul language (not identified). There are many journalists here. There is also R. Chubarov, who is answering people's questions to cameras.

Below is the transcript of R. Chubarov's interview¹¹²:

"Some deputies have realized, and we are grateful to them for this. Even if only for the fact that they realized that to open a session would be a disaster. And they hadn't come. Only 49 deputies gathered in the room. Each of them voted by themselves, I controlled that myself. Konstantinov prorogued for one hour. Me, Senchenko and my colleague Pilunskiy addressed to the present in the room asking them not to go away. We explained them that they didn't have to register, the session should not be started. Some of them understood that the session should not be started. There would not be such understanding without these people with dignity outside. Therefore, Konstantinov came in 30-40 minutes and said that since deputies did not come, there would be no session that day.

As to how we will work tomorrow, how we will negotiate, I personally know only one - everything we will speak about, all fundamental issues will have to be made public for the Crimean society".

Later S. Aksyonov is giving an interview in the SC ARC hall. Below is the transcript of his interview taken from the materials provided by television company "Krym. Realii":

15:40

S. Aksyonov: *"Inter-ethnic peace, we want Crimeans to built their house together. And today, a dozen of provocateurs from one and the other part. In each crowd there were those who heated the situation that had started peacefully and should have ended peacefully. Look, what has happened. Totally unacceptable situation".*

Journalist: *"Who brought people from Sevastopol?"*

S. Aksyonov: *"I don't know. Many came here from those who yesterday were provocative groups, who tried to convince people that somebody is coming here to slaughter someone. I went out to the people and said: "There is no one. Do not stir up the situation, nobody is coming here, there are only Crimeans here (in his testimony (vol. 11, case sheet 3) he says that it was he who involved the representatives of the SDPU "to confront the coming right sector insurgents"). If we come to an agreement, we and the Crimean Tatars, it will be quiet, peaceful here, there will be order here. And even today if there weren't provocateurs from both parts..."*

Event 3

In the outer yard of the SC ARC

The main stampede of the rallyers from the center of the inner yard is being shifted to the outer yard at the SC ARC building.

The "pro-Russian" rallyers are leaving the inner yard through a relatively narrow passage between the wall of the SC ARC building on the right and the first row of columns¹¹³, going towards Zhukovsky St., where the participants of the rallies and other persons are standing tight already.

The pro-Russian activists are moving into the outer yard and rest again flowerbeds and fountain parapet¹¹⁴.

15:40

The rallyers and other persons standing on the fountain parapet are pulling people out of the crowd, that is moving from the inner yard to the outer one through a narrow passage. Participants of the "pro-Ukrainian" rally are also partly coming outside together with the moving crowd.

Bottles, sticks and other objects are being thrown from both sides¹¹⁵.

Presumably in this place and at this time the main stampede of the rallyers is happening, during which people, including non-participants of the rallies (passersby who were watching the events standing aside) could suffer the most.

¹¹² <https://www.youtube.com/watch?v=nASsJE2MR7Y> (42:18-44:00)

¹¹³ Zone 2, a schematic view of the "situation at 15:42"

¹¹⁴ Zone 3, a schematic view of the "situation at 15:42"

¹¹⁵ <https://www.youtube.com/watch?v=hyzXKODC6QY>

Event 4

Hypothesis of possible circumstances of bodily injuries sustained by V. Korneva and I. Postnyy

15:20–15:45

During the rallies, two people suffered injuries that resulted in death. Namely, the Ukrainian citizens I. Postnyy, born on 16.04.1992, and V. Korneva, born on 16.10.1946.

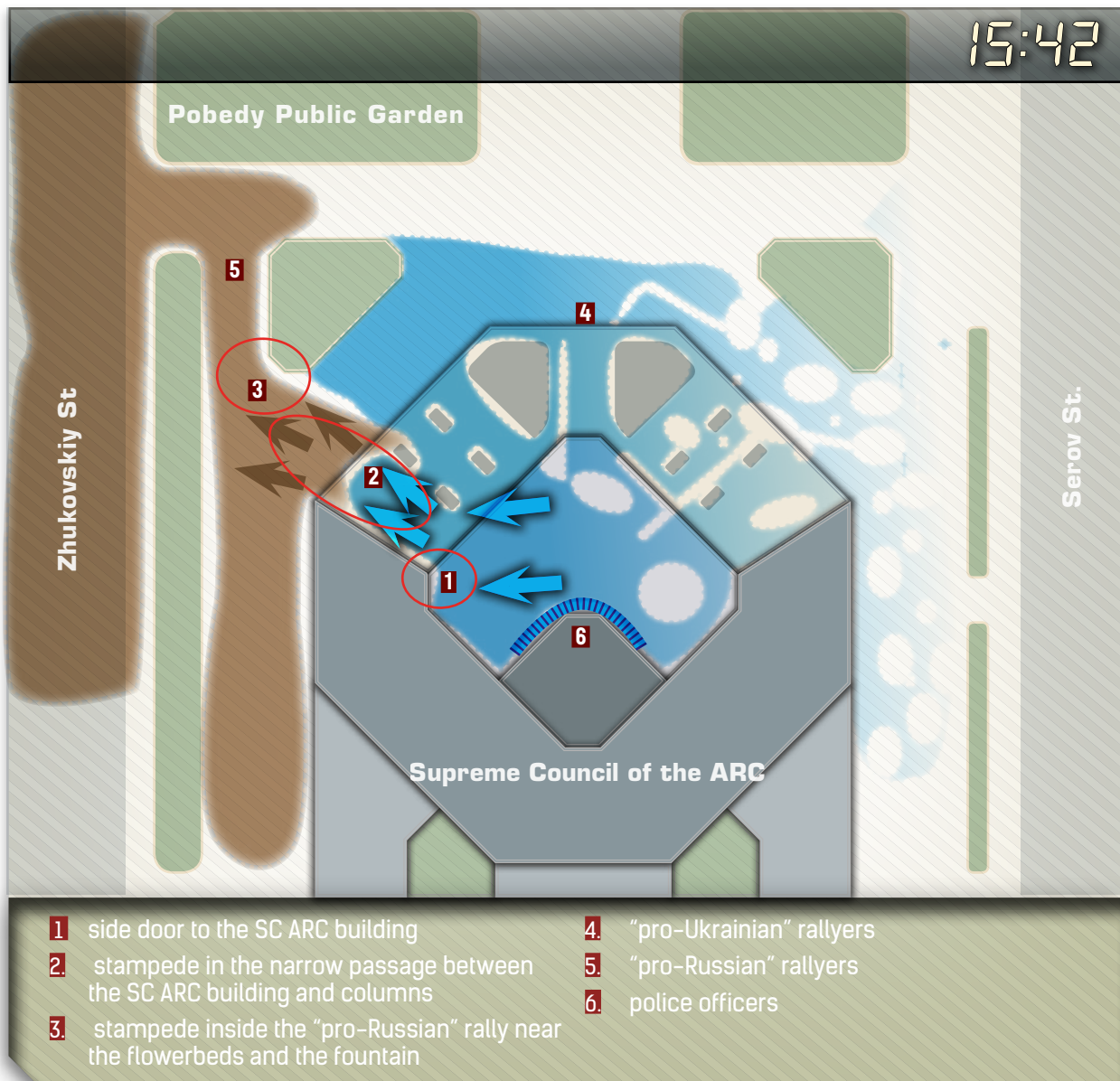
According to V. Leontyev, the husband of the late V. Korneva, he and his wife came to take a walk in the square in front of the SC ARC, where he left her for 15-20 minutes with his friend A. Melnikov.

V. Korneva and A. Melnikov decided to go to the inner yard in front of the SC ARC building, where A. Melnikov lost Korneva out of sight.

At about 15:45 V. Leontyev, according to him, was trying to contact his wife by phone, but she did not respond.

At about 16:00 a doctor from the reanimation department of Simferopol City Hospital No. 6 called V. Leontyev using his wife's phone and asked to come to the hospital to identify his wife (vol. 10, case sheet 16).

According to the materials in the criminal case No. 2015417109, at about 16:00 during a stampede that occurred near the SC ARC building V. Korneva suffered numerous injuries¹¹⁶ which resulted in death (vol. 1, case sheet 24; vol. 3, case sheet 89).



¹¹⁶ Including injuries of the abdomen, chest, closed craniocerebral injury, fracture to the 5th and 7th ribs, brain haemorrhage, spleen and liver rupture, left scapula fracture, traumatic shock, etc.



According to the materials in the criminal case, there were not established the reasons, which had motivated the second victim I. Postnyy to arrive at the SC ARC building, and details of the circumstances that led to injuries incompatible with life. According to the materials in the criminal case, at about 16:00, during the stampede which occurred near the SC ARC building, I. Postnyy suffered numerous injuries¹¹⁷ that resulted in death (vol. 3, case sheet 22-23, 108).

When assessing these circumstances, it can be assumed that at about 16:00 the most likely reason for suffering such injuries could become a stampede of the rallyers and other persons, which occurred in a relatively narrow place between the wall of the SC ARC building on the right and the first row of columns in the direction of Zhukovskiy St. or at the flowerbeds near the fountain in the outer yard of the SC ARC¹¹⁸. Till 15:40 the rallies were taking relatively static positions. The movement of the masses of people was observed only in the period from 15:35 to 15:45.

It is clear from the testimony of the victims in the case, that the highest probability of suffering injuries of this kind, in particular by those who perished, existed at the time when people stumbled on a concrete flowerbed, fell on the ground, bent trying to help others up, or fell for other reasons, thereafter the others stepped on them (vol. 9, case sheet 66, 86, 127).

15:20–15:45



EPISODE CONCLUSIONS:

In the said period, the most tense moments and confrontations between the rallyers are fixed. It was during that period of time, when there were significant shifts in locations of different parties, during which, in particular, the stampede of the rallyers and other persons took place in a relatively narrow place between the wall of the SC ARC building on the right and the first row of columns in the direction to Zhukovsky St. in the outer yard of the SC ARC.

Even in the most critical moments no calls for assault or violence on the part of the rallyers are fixed.

No activity of the police officers is recorded in the inner and outer yards in front of the SC ARC building, as well as any actions to prevent stampede and conflicts.

In this episode, according to the sources, which are at the disposal of the expert group, A. Chiygoz is not seen in a group of people actively changing locations or passing inside the SC ARC building. There is no information or evidence that he is managing any processes in the inner yard of the SC ARC. This information may speak about the absence of a causal relation between A. Chiygoz's actions and human deaths.

¹¹⁷ Including, brain injury, fracture of nasal bones, subarachnoid hemorrhage, multiple injuries of extremities, upper torso, closed chest trauma, bilateral multiple closed fractures of ribs, fractured clavicle, bruised lungs and heart, etc.

¹¹⁸ Zones 2 and 3, a schematic view of the "situation at 15:42"

EPISODE 5

Partial withdrawal of rallyers from the inner yard in front of the SC ARC, occupation of positions in the inner yard by the pro-Russian activists (15:50-17:00)





KEY PERSONS AND GROUPS:

1. "Pro-Ukrainian" rallyers – from 7000 persons at the beginning of the episode to several dozen.
2. SDPU – from 500 persons at the beginning of the episode to several dozen.
3. Pro-Russian activists – from 5000 persons at the beginning of the episode to several hundred.
4. Law enforcement officers – about 50 persons at the entrance to the SC ARC and police officers inside the SC ARC building.

R. Chubarov is coming out to the rallyers and calling on them to leave the square in front of the SC ARC. Next to him are A. Senchenko, E. Arpatly, A. Chiygoz, deputies of the SC ARC.

16:10

R. Chubarov addressed the rallyers using the microphone: *"...I want to thank our Russian neighbours, Russian friends, those who have awoken their dignity, you understand that in Crimea there cannot be a dominant culture, language, religion. We are all equal and we will do, that this will be in all spheres of our life in Crimea... Dear friends, very calmly, despite the fact that here there can be provocateurs, they are few... we orderly disperse... We say to everyone ... that Crimea has won"*

A. Senchenko: *"... Our task is not to allow provocateurs, now not only here, but in our cities and towns, to arrange a provocation, that's why I am asking, people of different nationalities must together protect mosques, churches and synagogues from provocateurs. We will find a formula for creation of Crimean authorities, balanced and understandable for people..."*¹¹⁹.

In response, the slogans of the rallyers "Crimea-Ukraine!", "Gang, go away!" are being heard. The inner yard in front of the SC ARC is visually occupied with the "pro-Ukrainian" rallyers.

Participants of the "pro-Ukrainian" rally are leaving the inner yard of the SC ARC, their number in the inner yard is reduced to several hundred people.

16:10

Several people in the inner yard are burning the flag of the "Russian Unity" party, leaflets, trash, bottles.

In the inner yard there were found empty garden sprayers. Under the colonnade at the wall of the SC ARC building on the right, where throughout the event the participants of the "pro-Russian" rally were staying, there were found jars of wine, empty plastic bottles, disposable cups, a metal rod, and several wooden hafts of shovels.

Several people in the outer yard in front of the SC ARC building, where there was the main stampede before, are clearing away remnants of broken concrete flowerbeds at the fountain and throwing their fragments into the fountain.

¹¹⁹ The transcript of the video provided by the ATR channel.

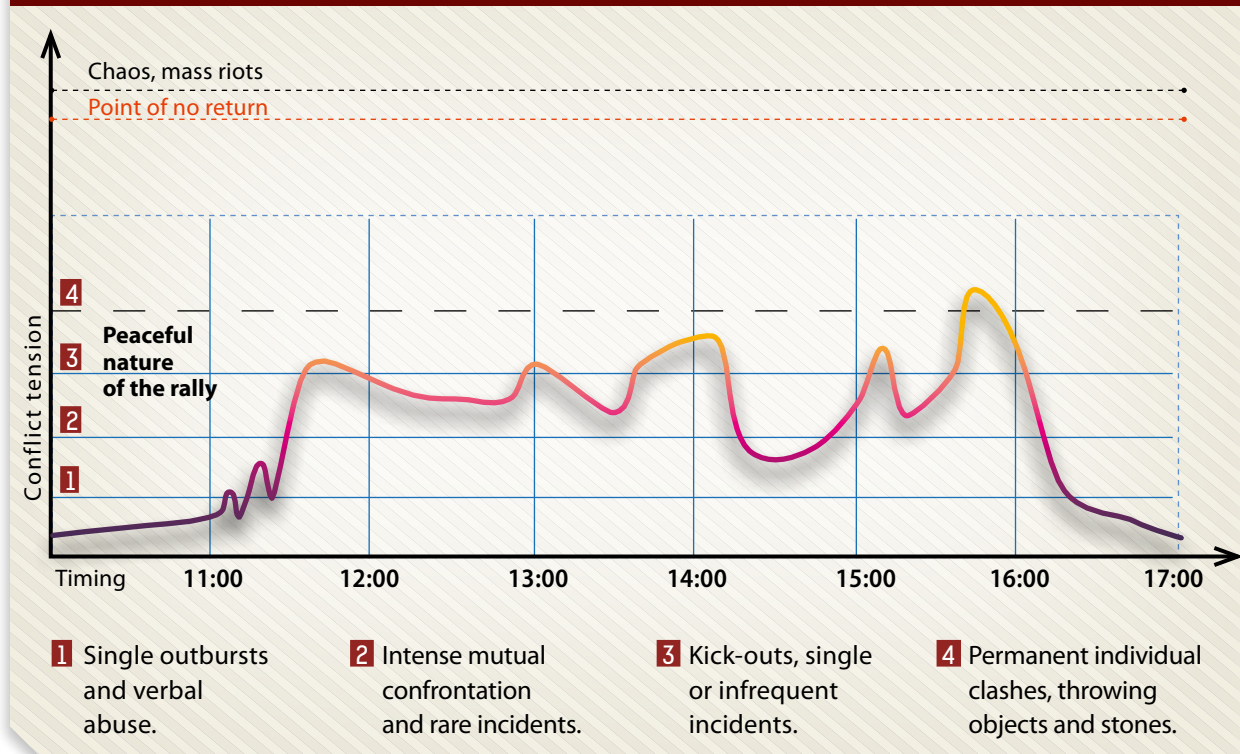
16:15–16:25	<p>E. Arpatly, S. Aksyonov, and other activists are standing on the fountain parapet on the right in the outer yard at the SC ARC building, through the megaphone they are trying to call on the rallyers in the outer yard (where several minutes ago there was a stampede and bottle-throwing) for order and necessity to disperse. People are holding flags of Russia, Crimea and Sevastopol.</p> <p>Transcript of the video-recorded S. Aksyonov’s speech: “... <i>Calm down. The situation in Crimea depends... on how we’ll behave</i>”.</p> <p>Transcript of the video-recorded E. Arpatly’s speech: “... <i>They agreed these actions with me. Now I’m also asking to agree with me, I’m asking, with all responsibility, to finish this event. We don’t need blood. We have achieved together everything that we had to achieve. There is no Supreme Council, no decisions</i>”.</p> <p>The crowd noise is drowning out the speakers’ words. The rallyers are chanting “Peace to Crimea”.</p> <p>During this period of time, in the outer yard, in the place, where a major stampede was fixed, several dozen police officers are appearing, which are taking place between the activists of two rallies</p>
16:30	<p>Almost all participants of the “pro-Ukrainian” rally are leaving the venue of the rallies outside the SC ARC building. The inner yard in front of the entrance to the building is being occupied by the participants of the “pro-Russian” rally, chanting: “Referendum!” They are holding flags of Crimea and Russia.</p> <p>There are still police officers at the entrance to the building¹²⁰.</p>

EPISODE CONCLUSIONS:

The total tension decreased, the atmosphere was stabilized. After the information that the session of the SC ARC wouldn’t take place on that day, the participants of the “pro-Ukrainian” rally reduced the activity and began to leave the venue of the rallies. Participants of the “pro-Russian” rally stayed in the outer yard along Zhukovsky Street, without showing overt aggression against the remaining small groups of the pro-Ukrainian rallyers. Leaders of the rallies (R. Chubarov, S. Aksyonov, E. Arpatly) addressed to the rallyers asking to leave a venue of the rallies and reminded of the need to maintain peace and avoid conflicts. In the square in front of the SC ARC building only pro-Russian rallyers and police officers remained.

¹²⁰ The reconstruction has time limits till 17:00 due to the fact that subsequent events in front of the SC ARC building did not affect the legal assessment of events within the Report and are not considered in the framework of criminal proceedings in the “26 February criminal case”. Further developments can be found in numerous public sources. For example: <http://an-crimea.ru/page/news/58076>
http://helsinki.org.ua/wp-content/uploads/2016/05/PeninsulaFear_Book.pdf
<http://www.kommersant.ru/doc/2416976>

Timed confrontation tension chart



The above chart is a schematic representation of the tension evolution during the rallies on 26 February 2014 introduced by experts in view of the reconstruction of events prepared by the group of experts.

A HORIZONTAL AXIS represents the time of the assembly, as well as the division of the course of rallies in episodes.

A VERTICAL AXIS is represented by several levels of intensity and tension. The upper level of the tension is mass riot, which is defined in the Report as systematic violence that has an intentional focus and is supported by certain forces, followed by crackdowns and numerous incidents of physical violence. However, there are no forces and factors that can stop manifestations of violence. There is the so-called point of no return below, when it is already impossible to calm down or control mass riot.

In the middle of the axis there is a line, where peaceful assemblies turn into non-peaceful ones. There is a difference between non-peaceful demonstration and mass riot. Non-peaceful nature of demonstration does not mean that there is intention to cause violence and there is systematic violence.

Graphically all that is below the level of peaceful nature can have manifestations of:

- 1) Single outbursts and verbal abuse.
- 2) Intense mutual confrontation and rare incidents.
- 3) Kick-outs, single or infrequent incidents.
- 4) Permanent individual clashes, throwing objects and stones.

These are different stages of elements of limited violence, manifesting itself spontaneously and in isolation. All these manifestations can be calmed down and neutralized through actions to control an assembly with the cooperation of organizers, individuals, as well as police officers.

If to relate the above chart with episodes according to the reconstruction of 26 February rallies, we can see that in some episodes there is a certain level of tension when the elements 1 and 2 are noticed. In other ones – the elements of tension 3 and 4 are observed.

Only at one point during the rallies, one can talk about the outbreak of confrontation at the level of the line of peaceful nature of the rally, but in a short period of time the situation has been pacified owing to the efforts of the organizers and rallyers, even without the participation of police.

SECTION 2. Investigation of the events of 26 February 2014

2.1. Investigation of the events by the law enforcement agencies of Ukraine

Taking into account the consequences of the two parallel events held on 26 February 2014 at the walls of the Supreme Council of the Autonomous Republic of Crimea with opposing slogans and objectives, the authorities of Ukraine have faced the task to fulfill positive obligations regarding the investigation into these events from the perspective of identification of persons guilty of causing death and injuries to some rallyers and policemen who had maintained safety during their holding. Actions of the police, in turn, should have been assessed in terms of the proper fulfillment by them of their obligations to maintain the safety and order during the rallies.

It should be noted that investigation of the said circumstances was started quickly, but thereafter the possibility of the law enforcement agencies of Ukraine to conduct effective investigation was to the great extent restricted by the fact of the annexation of Crimea, whereby the originally collected evidence and materials became available for the law enforcement agencies established by the Russian Federation on the territory of Crimea.

Investigation conducted by the law enforcement agencies of Ukraine in Crimea

On 26.02.2014 the acting Head of the Investigative Office of the Central District Office of the Main Department of MIA of Ukraine in the ARC Major N. Grigorenko ordered to institute a pre-trial investigation into the death of Valentina Korneva, born on 04.10.1946 (preliminary legal qualification – negligent homicide – part 1 of art. 119 of the Criminal Code of Ukraine). On 26.02.2014 investigator from the Investigative Office of the Central District Office of the Main Department of MIA of Ukraine in Crimea Lieutenant E. Mamikonjan entered the information about this criminal offence into the Unified Register of Pre-Trial Investigations¹²¹ under No. 12014010390000717¹²².

On 26.02.2014 Major General N. Grigorenko ordered to institute a pre-trial investigation into the death of Igor Postnyy¹²³, born on 16.04.1992 (preliminary legal qualification – grievous bodily harm with intent, resulting in the death of the victim – part 2 of art. 121 of the Criminal Code of Ukraine). On 26.02.2014 investigator E. Mamikonjan entered the information about this criminal offence into the Unified Register of Pre-Trial Investigations under No. 12014010390000718¹²⁴.

On 26.02.2014 Major General N. Grigorenko also ordered to institute a pre-trial investigation into the facts of infliction of moderate bodily harm with intent in eight criminal proceedings (preliminary legal qualification – part 1 of art. 122 of the Criminal Code of Ukraine):

- № 12014010390000719 (injured person V. Pogorelov);
- № 12014010390000720 (injured person R. Oblyatiyev);
- № 12014010390000721 (injured person E. Kurbedinov);
- № 12014010390000722 (injured person Ye. Ponomarenko);
- № 12014010390000723 (injured person R. Bazhanov);
- № 12014010390000724 (injured person V. Kobelev);

¹²¹ Unified Register of Pre-Trial Investigations.

¹²² Hereinafter – criminal proceeding No. 12014010390000717.

¹²³ In the materials in the criminal proceedings one can come across different spelling of the surname Postnyy - Posnyy, Postanyy, Pisnyy. The authors use the surname spelling that corresponds to the passport data of the mother of the killed.

¹²⁴ Hereinafter - the criminal proceeding No. 12014010390000718.

- № 12014010390000725 (injured person I. Yerokhin);
- № 12014010390000726 (injured person V. Fayteyev).

The data about the above criminal offences were entered into the Unified Register of Pre-Trial Investigations by investigator E. Mamikonyan on the same day under the said numbers.

On 20.03.2017 criminal proceedings Nos. 12014010390000719-12014010390000726 were closed¹²⁵ by the decisions of investigator E. Mamikonyan due to the lack of criminal elements.

Investigation conducted by the law enforcement agencies of Ukraine in the mainland

On 27.04.2014 the Law of Ukraine “On ensuring civil rights and freedoms and the legal regime on the temporarily occupied territory of Ukraine” entered into force. According to part 2 of art. 12 of the aforementioned Law, the pre-trial investigation materials regarding the offences, which criminal proceedings were at that time at the stage of pre-trial investigation, should have been forwarded to the pre-trial investigative agencies, determined by the Office of the Prosecutor General of Ukraine.

By order of the acting Prosecutor General of Ukraine of 12.06.2014 No. 33ш, the Prosecutor’s Office of the ARC was temporarily relocated to Kyiv¹²⁶.

According to the official information provided by the Prosecutor’s Office of the Autonomous Republic of Crimea as of June 2016, the following criminal proceedings opened on the same day were entered in the Unified Register of Pre-Trial Investigations in connection with the events of 26 February 2014 in the square in front of the SC ARC:

- №12014010390000717 – negligent homicide of Valentina Korneva (criminal offence under part 1 of art. 119 of the Criminal Code of Ukraine);
- №12014010390000718 – infliction of grievous bodily harm with intent, resulting in death of Igor Postnyy (criminal offence under part 2 of art. 121 of the Criminal Code of Ukraine);
- №12014010390000719-12014010390000726 – infliction of moderate bodily harm to victims V. Pogorelov, R. Oblyatiyev, E. Kurbedinov, Ye. Ponomarenko, R. Bazhanov, V. Kobelev, I. Yerokhin, and V. Fayteyev.

The Prosecutor’s Office of the Autonomous Republic of Crimea entered into the Unified Register of Pre-Trial Investigations the information under No. 42016010000000091 on the criminal offence under art. 340 of the Criminal Code of Ukraine, in connection with the fact of illegal impediment to holding the rally on 26 February 2014 in support of the territorial integrity of Ukraine at the building of the Supreme Council of the Autonomous Republic of Crimea.

In addition, the Prosecutor’s Office of the Autonomous Republic of Crimea entered into the Unified Register of Pre-Trial Investigations the information under No. 42016010000000295 on the fact of improper performance of service duties by the internal affairs officers which maintained the public order on 26 February 2014 at the SC ARC building (criminal offence under part 2 of art. 367 of the Criminal Code of Ukraine).

Currently, the Prosecutor’s Office of the Autonomous Republic of Crimea is exercising procedural control over these criminal proceedings.

The group of experts has no information about other criminal proceedings concerning the events of 26 February 2014 in the square of the SC ARC.

¹²⁵ On 1 September 2014 Deputy Prosecutor of the Republic of Crimea V. Kuznetsov decided to cancel the decisions of investigator E. Mamikonyan of 20 March 2014 and forward the materials to the investigative agency to decide on the issue of criminal prosecution. On 22 January 2015 Prosecutor of the “Republic of Crimea” N. Poklonskaya made a decision to forward the materials to the agency in charge of the preliminary investigation against Chairman of the Mejlis of the Crimean Tatar People R. Chubarov and his Deputy A. Chygoz to decide on the issue of criminal prosecution under part 1 of art. 212 of the Criminal Code of the Russian Federation.

¹²⁶ <http://ark.gp.gov.ua/ua/info.html>

2.2. Criminal prosecution of some participants of the events pursuant to the legislation of the Russian Federation

After the annexation of Crimea, the prosecution bodies, the internal affairs authorities and courts of the Russian Federation were established on the peninsula under the FKZ No. 6 of 21 March 2014¹²⁷.

All the materials and evidence in the "26 February criminal case" collected by the Ukrainian law enforcement agencies were placed at the disposal of the said law enforcement agencies of Crimea. In the summer of 2014, the decisions were taken to institute criminal proceedings on the offences under parts 1 and 2 of art. 212 of the Criminal Code of the Russian Federation (organization of mass riot and participation in mass riot), as well as deaths of V. Korneva and I. Postnyy during the events of 26 February 2014 at the SC ARC building.

In the framework of these criminal proceedings charges were brought against nine participants of the rallies held on 26 February 2014, namely: Ahtem Chiygoz, Ali Asanov, Mustafa Degermendzhi, Eskender Kantemirov, Eskender Emirvaliyev, Arsen Yunusov, Eskender Nebiyev, Talyat Yunusov, Asan Charukhov¹²⁸.

The trial against six of the accused has been lasting at the time of preparation of this report. The courts established in Crimea have sentenced the two more accused (Talyat Yunusov was sentenced on 28.12.2015 by the "Central District Court of Simferopol" to the suspended sentence of 3 years and 6 months; Eskender Nebiyev was sentenced on 12.10.2015 by the "Central District Court of Simferopol" to the to the suspended sentence of 2 years and 6 months). The verdicts in these cases have no legal effect on the cases of other accused¹²⁹.

On 27.06.2014 senior investigator of the "Investigative Office of the Central District of Simferopol of the Main Investigative Department of the Investigative Committee of the Russian Federation in the Republic of Crimea" (hereinafter – "the MIDIC RF in RC") Senior Lieutenant of Justice I. Kochetov instituted two separate criminal cases on the offence under part 1 of art. 109 of the Criminal Code of the Russian Federation, regarding the causing of negligent homicide on 26 February 2014 to V. Korneva (case No. 2014467091) and I. Postnyy (case No. 2014467092).

On 27.11.2014 investigator I. Kochetov decided to suspend the preliminary investigation into the criminal cases No. 2014467091 and No. 2014467092 pursuant to para. 1 of part 1 of art. 208 of the Criminal Procedure Code of the Russian Federation ("a person to be sued was not identified").

On 26.12.2014 "Prosecutor of the Republic of Crimea" N. Poklonskaya decided to cancel the decisions on suspension of the preliminary investigation into these criminal cases and forwarded the materials of the cases to the "Investigative Office of the Central District of Simferopol of the GSU SK RF in RC".

On 19.01.2015 the proceedings in the criminal cases were re-instituted, and the cases were repeatedly accepted by the investigator I. Kochetov. The same day the acting Head of the "Investigative Office of the Central District of Simferopol of the MIDIC RF in RC" Lieutenant Colonel of Justice P. Chernenko decided to join the cases into one proceeding under the case No. 2014467091. That day Deputy Head of the "MIDIC RF in RC" Colonel of Justice V. Arkhangel'skiy decided to relegate the case to investigator in charge of especially significant cases of "the 1st Investigative Office of the Major Crimes Department of the MIDIC RF in RC" Captain of Justice B. Azizov.

¹²⁷ http://www.consultant.ru/document/cons_doc_LAW_160618/

¹²⁸ The investigative agencies established by the Russian Federation on the territory of Crimea are currently unaware of A. Charukhov's whereabouts.

¹²⁹ The trials of the cases of T. Yunusov and E. Nebiyev in the courts established in Crimea after the annexation were conducted in accordance with special procedure, pursuant to chapters 40, 40.1 of the Criminal Procedure Code of the Russian Federation, without examination and evaluation of evidence collected in the case. In the context of articles 90 and 316 of the Criminal Procedure Code of the Russian Federation, the sentences imposed by the courts on T. Yunusov and E. Nebiyeva cannot prejudice the guilt of persons who did not participate in this trial. In this regard, no special attention is paid to the said sentences in this part of the Report.

On 28.01.2015 investigator B. Azizov decided to institute criminal proceedings on the offences under parts 1 and 2 of art. 212 of the Criminal Code of the Russian Federation, regarding the organization of mass riot and participation in mass riot on 26 February 2014 near the building of the Supreme Council of the Autonomous Republic of Crimea (case No. 2015417003).

On 28.01.2015 Head of the "1st Investigative Office of the Major Crimes Department of the MIDIC RF in RC" Colonel of Justice B. Frantsishko decided to join the criminal cases № 2014467091 and № 2015417003 into one proceeding (the case No. 2014467091). The case was forwarded to investigator B. Azizov for instituting a proceeding.

On 30.01.2015 investigator B. Azizov decided to re-qualify the actions of the unidentified persons that entailed the deaths of V. Korneva and I. Postnyy during mass riot from part 1 of art. 109 to part 4 of art. 111 of the Criminal Code of the Russian Federation.

On 06.02.2015 Colonel of Justice V. Arkhangelskiy decided to extend the term of preliminary investigation into the criminal case for 3 months, and for a total of up to 9 months, namely till 19.05.2015.

On 12.05.2015 Colonel of Justice V. Arkhangelskiy decided to extend the term of preliminary investigation into the criminal case for 3 months, and for a total of up to 12 months, namely till 19.08.2015.

On 30.07.2015 Deputy Chairman of the Investigative Committee of the Russian Federation Colonel-General of Justice A. Lavrenko extended the term of preliminary investigation into the criminal case for 3 months, and for a total of up to 15 months, namely till 19.11.2015.

On 10.08.2015 Colonel of Justice B. Frantsishko decided to transfer the case from investigator B. Azizov to investigator in charge of especially significant cases of the "1st Investigative Office of the Major Crimes Department of the MIDIC RF in RC" Senior Lieutenant of Justice P. Nikkel.

On 01.09.2015 investigator P. Nikkel decided to sever from the criminal case No. 2014467091 a criminal case against Akhtem Chiygoz, accused of committing a crime under part 1 of art. 212 of the Criminal Code of the Russian Federation, Ali Asanov, Eskender Kantemirov, Mustafa Degermendzhi, Eskender Emirvaliyev and Arsen Yunusov, accused of committing a crime under part 2 of art. 212 of the Criminal Code of the Russian Federation. The severed criminal case got No. 2015417109.

On 20.07.2016 judge of the "Supreme Court of the Republic of Crimea" V. Zinkov made a decision to sever the cases; the materials of the criminal case against Ali Asanov, Eskender Kantemirov, Mustafa Degermendzhi, Eskender Emirvaliyev and Arsen Yunusov were severed into separate proceeding and passed to the "jurisdiction" of the "Central District Court of Simferopol".

On 02.08.2016 the "Supreme Court of the Republic of Crimea" (judge V. Zinkov) continued the trial in the criminal case against Akhtem Chiygoz.

On 13.09.2016 The "Supreme Court of the Republic of Crimea" (composed of judges L. Kapustina, Yu. Latynina, S. Pogrebnyak) upheld the decision of judge of the "Supreme Court of the Republic of Crimea" V. Zinkov.

On 03.10.2016 the "Central District Court of Simferopol" began a trial in the severed criminal case against Ali Asanov, Eskender Kantemirov, Mustafa Degermendzhi, Eskender Emirvaliyev and Arsen Yunusov.

Chronology related to some participants

Ahtem Chygoz
Was arrested by investigator B. Azizov on 29.01.2015

On 29.01.2015 he was charged with an offence under part 1 of art. 212 of the Criminal Code of the Russian Federation.

On 29.01.2015 judge of the “Kiev District Court of Simferopol” V. Mozhelyanskiy took the decision about his preventive detention till 19.02.2015. The term of detention was repeatedly extended, last time till 08.04.2017.

On 28.08.2015 a specified charge of the offence under part 1 of art. 212 of the Criminal Code of the Russian Federation was brought according to art. 175 of the Criminal Procedure Code of the Russian Federation.

On 01.09.2016 the accused and his defenders A. Lesovoy, E. Kurbedinov and A. Zubarev were notified of the completion of the investigation.

On 24.12.2015 trial in the criminal case was started in the “Supreme Court of the Republic of Crimea”.

On 15.02.2016, by the court ruling, the criminal case was returned to the prosecutor to remove drawbacks that hinder its consideration by the court. The preventive measure against A. Chygoz and the other accused was left unchanged.

On 15.04.2016 the charge of the offence under part 1 of art. 212 of the Criminal Code of the Russian Federation was repeatedly brought in accordance with art. 175 of the Criminal Procedure Code of the Russian Federation.

On 20.07.2016 new trial in the criminal case was started in the “Supreme Court of the Republic of Crimea”. The court took the decision to sever from the criminal case the materials against Ali Asanov, Eskender Kantemirov, Mustafa Degermendzhi, Eskender Emirvaliyev and Arsen Yunusov, accused of the offence under part 2 of art. 212 of the Criminal Code of the Russian Federation, into separate proceeding and to pass it to the “jurisdiction” of the “Central District Court of Simferopol”.

On 02.08.2016 the “Supreme Court of the Republic of Crimea” composed of the judge V. Zinkov continued the trial in the criminal case against Ahtem Chygoz.

Ali Asanov
Was arrested by the investigator P. Nikkel on 15.04.2015 at 22:40

On 17.04.2015 he was charged with an offence under part 2 of art. 212 of the Criminal Code of the Russian Federation.

On 17.04.2015 judge of the “Kiev District Court of Simferopol” T. Rube took the decision on his preventive detention. The term of detention was repeatedly extended, last time till 07.04.2017.

On 31.08.2015 a specified charge of the offence under part 2 of art. 212 of the Criminal Code of the Russian Federation was brought according to art. 175 of the Criminal Procedure Code of the Russian Federation.

On 03.09.2015 the accused and his defender A. Katelin were notified of the completion of the investigation.

On 24.12.2015 trial in the criminal case was started in the “Supreme Court of the Republic of Crimea”.

On 15.02.2016 by the court ruling, the criminal case was returned to the prosecutor to remove drawbacks that hinder its consideration by the court. Preventive measure was left unchanged.

On 03.10.2016 the “Central District Court of Simferopol” began a trial in the criminal case, severed into separate proceedings.

Mustafa Degermendzhi
Was arrested by the investigator P. Nikkel on 07.05.2015

On 08.05.2015 he was charged with an offence under part 2 of art. 212 of the Criminal Code of the Russian Federation.

On 08.05.2015 judge of the “Kiev District Court of Simferopol” M. Belousov took the decision on his preventive detention for 2 months. The term of detention was repeatedly extended, last time till 07.04.2017.

On 28.08.2015 a specified charge of the offence under part 2 of art. 212 of the Criminal Code of the Russian Federation was brought according to art. 175 of the Criminal Procedure Code of the Russian Federation.

On 03.09.2015 the accused and his defender A. Solodkov were notified of the completion of the investigation.

On 24.12.2015 trial in the criminal case was started in the “Supreme Court of the Republic of Crimea”.

On 15.02.2016, by the court ruling, the criminal case was returned to the prosecutor to remove drawbacks that hinder its consideration by the court. Preventive measure was left unchanged.

On 03.10.2016 the “Central District Court of Simferopol” began a trial of the criminal case, severed into separate proceedings.

Eskender Kantemirov

On 06.02.2015 victim S. Berbents identified Kantemirov as a person who threw a punch at his head.

On 06.02.2015 he made a written confession.

On 07.02.2015, at 00:15, he was arrested by investigator P. Nikkel.

On 08.02.2015 he was charged with an offence under part 2 of art. 212 of the Criminal Code of the Russian Federation.

On 08.02.2015 the "Kiev District Court of Simferopol" took the decision on his preventive detention for a period of 2 months till 06.04.2015 inclusive.

On 06.04.2015 the preventive detention was changed to the release under personal recognizance of Eskender Bilyalov, adviser to the Plenipotentiary Representative of the President of the Russian Federation in the "Crimean Federal District".

On 27.08.2015 a specified charge of the offence under part 2 of art. 212 of the Criminal Code of the Russian Federation was brought according to art. 175 of the Criminal Procedure Code of the Russian Federation.

On 01.09.2015 the accused and his defender A. Azamatov were notified of the completion of the investigation.

On 24.12.2015 trial in the criminal case was started in the "Supreme Court of the Republic of Crimea".

On 15.02.2016, by the court ruling, the criminal case was returned to the prosecutor to remove drawbacks that hinder its consideration by the court. Preventive measure of the release under personal recognizance was left unchanged.

On 03.10.2016 the "Central District Court of Simferopol" began a trial in the criminal case, severed into separate proceedings.

Eskender Emirvaliyev

Was arrested by investigator P. Nikkel on 18.02.2015 at 22:25

On 19.02.2015 he was charged with an offence under part 2 of art. 212 of the Criminal Code of the Russian Federation.

On 20.02.2015 a judge of the "Kiev District Court of Simferopol" A. Tikhopoy took the decision on his preventive detention for two months.

On 16.04.2015 the preventive detention was changed to release under personal recognizance of Remzi Ilyasov, Deputy "Chairperson of the State Council of the Republic of Crimea".

On 28.08.2015 a specified charge of the offence under part 2 of art. 212 of the Criminal Code of the Russian Federation was brought according to art. 175 of the Criminal Procedure Code of the Russian Federation.

On 03.09.2015 the accused and his defender T.V. Omelchenko were notified of the completion of the investigation.

On 24.12.2015 trial in the criminal case was started in the “Supreme Court of the Republic of Crimea”.

On 15.02.2016, by the court ruling, the criminal case was returned to the prosecutor to remove drawbacks that hinder its consideration by the court. Preventive measure of the release under personal recognizance was left unchanged.

On 03.10.2016 the “Central District Court of Simferopol” began a trial in the criminal case, severed into separate proceedings.

Arsen Yunusov

On 25.06.2015 the preventive measure was chosen in the form of personal recognizance of Emirali Ablayev, mufti of Crimea, was imposed.

On 02.07.2015 he was charged with an offence under part 2 of art. 212 of the Criminal Code of the Russian Federation.

On 26.08.2015 a specified charge of the offence under part 2 of art. 212 of the Criminal Code of the Russian Federation was brought according to art. 175 of the Criminal Procedure Code of the Russian Federation.

On 02.09.2015 the accused and his defender D. Temishev were notified of the completion of the investigation.

On 24.12.2015 trial in the criminal case started in the “Supreme Court of the Republic of Crimea”.

On 15.02.2016, by the court ruling, the criminal case was returned to the prosecutor to remove drawbacks that hinder its consideration by the court. Preventive measure of the release under personal recognizance was left unchanged.

On 03.10.2016 the “Central District Court of Simferopol” began a trial in the criminal case, severed into separate proceedings.

2.3. Procedures for qualification and protection of the rights of A. Chygoz in connection with criminal prosecution following the events of 26 February

On 30.01.2015, the Prosecutor's Office of Crimea entered the information into the Unified Register of Pre-Trial Investigation under No. 42015010000000001 about the criminal offence under part 1 of art. 146 of the Criminal Code of Ukraine (unlawful detention or kidnapping) regarding the unlawful detention of A. Chygoz on 29.01.2015 on the territory of the ARC¹³⁰.

According to the Prosecutor's Office of the Autonomous Republic of Crimea, the latter, as well as the Investigative Office of the GU MIA of Ukraine in the ARC, carry out no criminal proceedings on suspicion of A. Chygoz of having committed any crime, therefore A. Chygoz is not on national or international wanted lists.

On 26.08.2015 Ukraine filed to the European Court of Human Rights the Inter-States application "Ukraine v. Russia (IV)", during the preparation of which the Prosecutor's Office of the Autonomous Republic of Crimea notified the Commissioner for the ECtHR of the unlawful detention of Deputy Chairperson of the Mejlis of the Crimean Tatar People A. Chygoz on 29.01.2015 on the territory of the ARC for alleged organization and participation in the mass riot on 26.02.2014 outside the Supreme Council of the Autonomous Republic of Crimea. Information about A. Chygoz's unlawful detention was attached to the Inter-States application as an example of human rights violations committed by the Russian Federation and its authorities established in Crimea.

In May 2016, A. Chygoz's defence team complained to the ECtHR about his unlawful detention and politically motivated prosecution by the authorities established by the Russian Federation on the territory of Crimea (Chygoz v. Ukraine and Russia, no. 34556/16).

¹³⁰ The law enforcement agencies of Ukraine qualify the fact of A. Chygoz's detention upon decisions of the courts established in Crimea after the annexation as a criminal offence.

SECTION 3. Legal analysis of the events of 26 February 2014¹³¹

3.1. Jurisdiction, compliance with the principle of “no punishment without law”

The classical principles relating to the application of criminal law imply the criterion of territoriality, under which national law is applicable to all persons within the territory regardless of their citizenship¹³². Although this criterion is basic, national law may invoke other grounds for its application, for example, citizenship of the country (a State has jurisdiction over its citizens irrespective of their place of residence and committed wrongful act which can result in legal liability). Moreover, internal law of many States is subject to the provision, under which national law shall also apply in respect of persons who commit wrongful acts against citizens of that State. In such a case neither place of wrongful acts, nor citizenship of a criminal defendant matter. Finally, there is also the notion of universal jurisdiction when certain wrongful acts (international crimes) shall be prosecuted regardless of who committed them and where.

Brief description of the legal problems in the “26 February criminal case”¹³³

Complaints being earlier the subject of concern of the ECtHR referred to the law applicable or newly drafted on the part of the territory of the State, where the non-recognized entity appeared (for example, Transnistria¹³⁴, Northern Cyprus¹³⁵). Such applicable law was the law of the State, from which the non-recognized entity has separated, or the new law drafted by its de facto authorities. Legal situation of Crimea is quite special because:

a) there was annexation - the forcible joining of part of the territory of one State (Ukraine) to another State (Russia)¹³⁶, as a result of which the Russian Federation has extended its own laws to the annexed territory;

¹³¹ This section has been prepared in partnership with Ireneusz Cezary Kaminski - Polish lawyer, Associate Professor of Legal Sciences, lecturer, Associate Professor of the Institute of Legal Sciences of the Polish Academy of Sciences, specialist in the field of public international law and European law. Since 2014 ad hoc judge of the European Court of Human Rights (2014-2016). <https://www.ncn.gov.pl/o-ncn/rada-ncn/struktura-rady/ireneusz-kaminski>

¹³² The exception may be the situations related to the peculiarities of prosecution of diplomatic representatives of foreign States (see, e.g., part 4 of art. 6 of the Criminal Code of Ukraine).

¹³³ Criminal case against Akhtem Chygoz, accused of committing a crime under part 1 of art. 212 of the Criminal Code of the Russian Federation, Eskender Kantemirov, Eskender Emirvaliyev, Mustafa Degermendzhi, Ali Asanov and Arsen Yunusov, accused of committing a crime under part 2 of art. 212 of the Criminal Code of the Russian Federation.

¹³⁴ Pridnestrovian Moldavian Republic.

¹³⁵ Turkish Republic of Northern Cyprus.

¹³⁶ On 27 March 2014 the UN General Assembly adopted Resolution A/RES/68/262, where it affirmed its commitment to the sovereignty, territorial integrity of Ukraine within its internationally recognized borders and non-recognition of the legitimacy of any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/455/19/PDF/N1345519.pdf?OpenElement>

b) the international community considers this situation as the continued occupation¹³⁷, which imposes a number of obligations on the Russian Federation in accordance with the rules of international humanitarian law¹³⁸.

In any case, regardless of the assessment of legality of the incorporation of Crimea by the Russian Federation in the context of international law, it is clear that until such incorporation the Ukrainian law was applicable in the territory of Crimea.

Under the above principles, the Russian law could be applied to a wrongful acts that occurred on 26 February 2014 in Crimea, only if at least one of the following conditions had existed: a) a wrongful act had been committed by a Russian citizen or b) an offence had been committed against Russian citizens or c) against the interests of the Russian Federation.

It should be noted that the issues related to the exercise of "Russian criminal jurisdiction" on the territory of Crimea and the city of Sevastopol under the Federal Constitutional Law No. 6-FKZ of 21 March 2014¹³⁹ were not regulated.

Implementation of criminal procedure on the territory of Crimea according to the rules established by the criminal procedure legislation of the Russian Federation is based on Article 1 of the Federal Law of the Russian Federation No. 91-FZ "On the application of the provisions of the Criminal Code of the Russian Federation and the Criminal Procedure Code of the Russian Federation on the territories of the Republic of Crimea and the City of Federal Importance Sevastopol"¹⁴⁰, which came into force on 5 May 2014 (hereinafter Law No. 91-FZ).

Article 2 of the Law No. 91-FZ provides for that "criminality and punishment for wrongful acts committed on the territories of the Republic of Crimea and the city of Sevastopol before 18 March 2014 are subject to the criminal legislation of the Russian Federation"¹⁴¹.

Article 3 of the Law No. 91-FZ reads that "materials, in relation to which pre-trial investigation into wrongful acts containing elements of crimes has not been completed yet as of 18 March 2014 (regardless of the citizenship of a person suspected of committing an offence), are forwarded to the Prosecutor to determine the type of prosecution and investigative jurisdiction in accordance with the Criminal Procedure Code of the Russian Federation".

Article 10 of the Law No. 91-FZ sets forth that it (the Law) "is applied to legal relations connected with wrongful acts committed on the territories of the Republic of Crimea and Sevastopol before 18 March 2014".

The possibility of application of the provisions of the said Law to legal relations connected with the investigation into the "26 February criminal case" itself raises a reasonable doubt because the Criminal Procedure Code of the Russian Federation expressly specifies that the procedure for criminal proceedings on the territory of the Russian Federation shall be set forth by this Code, based on the Constitution of the Russian Federation (part 1, art. 1)¹⁴².

¹³⁷ European Parliament Resolution 2016/2556 (RSP) of 4 February 2016 on the human rights situation in Crimea, in particular of the Crimean Tatars <https://goo.gl/HJcuQo>
PACE Resolution 2133 (2016) of 12 October 2016 Legal remedies for human rights violations on the Ukrainian territories outside the control of the Ukrainian authorities <https://goo.gl/YrdAJ2>
UN GA Resolution A/RES/71/205 of 19 December 2016 Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/419/47/PDF/N1641947.pdf?OpenElement>
Annual Report of the Prosecutor of the International Criminal Court of 14 November 2016 https://www.icc-cpi.int/iccdocs/otp/161114-otp-repPE_ENG.pdf

¹³⁸ First of all, this is the Geneva Convention (IV) on the Protection of Civilian Persons in Time of War of 12 August 1949 http://www.un.org/ru/documents/decl_conv/conventions/geneva_civilian.shtml

¹³⁹ "On acceptance of the Republic of Crimea into the Russian Federation and creation within it of new constituent entities of the Russian Federation - Republic of Crimea and the City of Federal Importance Sevastopol".

¹⁴⁰ <http://ivo.garant.ru/#/document/70648922/paragraph/1:2>

¹⁴¹ It is the provisions of this article that the prosecution relied on in the decision of 15 April 2016 to indict Akhtem Chiygoz: "Provided that, pursuant to art. 2 of the Federal Law No. 91-FZ of 05.05.2014 "On the application of the provisions of the Criminal Code of the Russian Federation and the Criminal Procedure Code of the Russian Federation in the territories of the Republic of Crimea and the City of Federal Importance Sevastopol", criminality and punishment for wrongful acts committed in the territories of the Republic of Crimea and Sevastopol are subject to the criminal legislation of the Russian Federation, and pursuant to art. 10 of this Federal Law, it applies to legal relations connected with wrongful acts committed in the territories of the Republic of Crimea and Sevastopol before 18 March 2014, A. Chiygoz is liable to prosecution".

¹⁴² http://base.garant.ru/12125178/1/#block_1100#ixzz3yipuZKjd

Therefore, the Code does not provide for the possibility of determination of grounds and procedure for an investigation otherwise than by the Code itself. At the same time, no amendments have been made to the Criminal Procedure Code of the Russian Federation in connection with the extension of the jurisdiction of the Russian Federation over the events that took place in the territory of Ukraine before 18 March 2014.

Against this background, investigation and prosecution of defendants in the "26 February criminal case" contradict under the provisions of the Law No. 91-FZ, first of all, the principles of criminal proceedings set forth in article 1 of the Criminal Procedure Code of the Russian Federation.

Regarding spatial application of the criminal procedure law

Article 2 of the Criminal Procedure Code of the Russian Federation sets forth:

"1. Criminal proceedings on the territory of the Russian Federation, irrespective of the place of an offence, are carried out pursuant to this Code, unless an international treaty **of the Russian Federation** specifies otherwise..."¹⁴³.

On the basis of the above legal provisions, the general principle of the geographical scope of the criminal procedure law is as follows: for the proceedings on the territory of the Russian Federation the Russian criminal procedure law is applicable.

This principle *relies on the well-established international legal principle of the sovereign equality of States. The downside of the latter is the international principle of non-interference of States in each other's internal affairs.* This means, inter alia, that **no State has the right to issue laws or take actions extending its judicial jurisdiction over the territory of other States without the consent of the latter**¹⁴⁴.

The UN General Assembly, in its Resolution A/RES/68/262 of 27 March 2014, affirmed its commitment to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally-recognized borders (para. 2) and underscored that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, being invalid, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol (para. 5)¹⁴⁵.

Thus, Crimea and Sevastopol are still a part of the territory of Ukraine, what eliminates the possibility of conducting any proceedings in accordance with the Russian Federation on this territory without the consent of the corresponding authorities of Ukraine and in the manner prescribed by the international treaty, parties to which the Russian Federation and Ukraine are¹⁴⁶.

Thus, the proceedings in the course of the investigation carried out by the Russian investigative authorities in Crimea into the events of 26 February 2014 occurred in the territory of Ukraine and the ongoing trial are not based either on the provisions of the Criminal Procedure Code of the Russian Federation or the rules of international law¹⁴⁷.

¹⁴³ http://base.garant.ru/12125178/1/#block_1100

¹⁴⁴ <http://upkod.ru/chast-1/razdel-1/glava-1/st-2-upk-rf/kommentarii>

¹⁴⁵ <http://daccess-dds-nyun.org/doc/UNDOC/GEN/N13/455/17/PDF/N345517.pdf?OpenElement>

¹⁴⁶ With regard to this situation one can refer to the Convention on legal assistance and legal relations in civil, family and criminal cases of 22.01.1993 (http://www.consultant.ru/document/cons_doc_LAW_5942/)

¹⁴⁷ Since the Russian Federation does not recognize the fact of occupation and subsequent annexation of Crimea, it cannot invoke the provisions of articles 64-67 of the Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War in support of its actions.

Regarding retrospectiveness of criminal law application

The extension of Russian criminal law to wrongful acts that were committed prior to the annexation of the Crimean peninsula¹⁴⁸ implies the retroactive effect (*ex post facto*), which is contrary to one of the fundamental principles of criminal procedure recognized in international law – no punishment without law. With regard to the “26 February criminal case” it should be viewed as a violation of the principle of legal certainty and the rule of law in general (punishment without legal basis).

Article 7 of the European Convention for the Protection of Human Rights and Fundamental Freedoms requires that legislation forming the basis for prosecution was of good quality. This term includes the prohibition of retroactivity of criminal law. The principle of prohibition of the retroactive application of criminal law to an accused’s disadvantage was called repeatedly by the European Court of Human Rights among the fundamental principles of criminal proceedings (see, for example, the Court’s judgment in the case *M. v. Germany* of 17.12.2009, application No. 19359/04; or the Court’s judgment in the case of *Kokkinakis v. Greece* of 25.05.1993, application No. 14307/88).

Regarding the application of the criminal procedure law with respect to the persons covered

Part 1 of Article 3 of the Criminal Procedure Code of the Russian Federation sets forth:

“1. Proceedings for criminal offences **committed by foreign citizens or stateless persons on the territory of the Russian Federation** are carried out pursuant to the rules of this Code”¹⁴⁹.

This article implies that the jurisdiction of the Russian Federation in respect of foreign citizens and stateless persons is limited exclusively to the territory of the Russian Federation¹⁵⁰.

In addition, a foreign citizen is defined as a natural person who is not a citizen of the Russian Federation and has a proof of citizenship (nationality) of the other State. All the defendants in the case both at the time of the commission of acts regarded as a crime by the investigative agencies, and at the time of the trial, were and are the citizens of Ukraine; that is also recognized in the text of the indictment.

Application of the principle of extraterritorial jurisdiction in this situation is impossible due to the fact that the crimes, which the citizens of Ukraine are charged with, do not relate to war crimes or crimes against humanity, and do not fall under any of the Conventions on the suppression and punishment of crime¹⁵¹.

Application of criminal law with respect to persons who have committed offences outside the boundaries of the Russian Federation

Part 3 of Article 12 of the Criminal Code of the Russian Federation sets forth:

“3. Foreign citizens and stateless persons not permanently residing in the Russian Federation, who commit a crime outside the Russian Federation, are subject to criminal liability under the current Code if a crime is directed against the interests of the Russian Federation or a citizen of the Russian Federation or a stateless person permanently residing in the Russian Federation, as well as in the cases stipulated by the international treaty of the Russian Federation, if foreign citizens and stateless persons not permanently residing in the Russian Federation are not convicted in a foreign State and prosecuted on the territory of the Russian Federation”¹⁵².

The defendants in the case at the time of the events than took place on 26 February 2014 on the territory of Ukraine were Ukrainian citizens. Other participants of these events recognized as victims in the case also were

¹⁴⁸ In the absence of at least one of the following grounds: Russian citizenship of the accused or victims or the existence of the legitimate interest of the Russian Federation.

¹⁴⁹ http://base.garant.ru/12125178/1/#block_1100

¹⁵⁰ Exceptions may be situations related to the exercise of universal jurisdiction, as discussed above.

¹⁵¹ See, e.g., the Convention on the Suppression and Punishment of the Crime of Apartheid, 30.11.1973., the European Convention on the Suppression of Terrorism, 27.01.1977., etc.

¹⁵² https://www.consultant.ru/document/cons_doc_LAW_36927/5a8b153333736374c4a89895676da9f091b7f14d/

citizens of Ukraine residing on the territory of the Autonomous Republic of Crimea and the city of Sevastopol¹⁵³.

Since the events occurred on the territory of the sovereign State Ukraine and concerned the internal political structure of the country, any reference to the fact that “the crime was directed against the interests of the Russian Federation” is null. The recognition of the interest of the Russian Federation in the procedure and conditions of holding a mass event, which was aimed to preserve the territorial integrity of Ukraine, would mean the Russian intervention into the internal affairs of a sovereign State, which is contrary to the well-established international principles and cannot be considered a legitimate interest of the RF¹⁵⁴.

It should be noted that Article 2 of the Federal Law of the Russian Federation No. 91-FZ “On the application of the provisions of the Criminal Code of the Russian Federation and the Criminal Procedure Code of the Russian Federation on the territories of the Republic of Crimea and City of Federal Importance of Sevastopol”, in fact, sets forth additional rules for geographical and personal scope of the criminal law on the territory of Crimea and Sevastopol that is contrary to the provisions of Article 12 of the Criminal Code of the Russian Federation.

In this case, the accused are actually prosecuted for the crimes, **the object of which was the interests of Ukraine**. Article 294 of the Criminal Code of Ukraine, which criminalizes the organization and participation in mass riots, refers to offences **against public order in Ukraine**. The indictment against all the defendants in the “26 February criminal case” clearly reads that they are charged with violation of Article 39 of the Constitution of Ukraine, which stipulates the order of the realization of the right to peaceful assembly.

In fact, the wrongful act, which the citizens of Ukraine are charged with, lacks elements of *corpus delicti*, which constitutes a violation of the provisions of Russian laws and regulations (in the part of organization and holding of rallies and demonstrations).

On the question of citizenship of persons prosecuted in the “26 February criminal case”

Common for both the prosecution and defence is the fact that at the time of the commission of the actions imputed to the accused, all of them were only citizens of Ukraine. According to the indictment, the investigative agencies rely on the fact that, by virtue of the provisions of the Federal Constitutional Law No. 6-FKZ of 21 March 2014 “On acceptance of the Republic of Crimea into the Russian Federation and creation within it of new constituent entities of the Russian Federation – Republic of Crimea and the City of Federal Importance Sevastopol”, all the accused are recognized as citizens of the Russian Federation at the time of the proceedings and trial.

According to Article 11 of the Federal Law “On citizenship of the Russian Federation”, Russian citizenship is acquired: a) by birth; b) by naturalization; c) by restoration of citizenship of the Russian Federation; g) on other grounds stipulated by this Federal Law or an international treaty of the Russian Federation¹⁵⁵.

Neither of these provisions can give rise to the conclusion about the acquisition of citizenship of the Russian Federation by the Ukrainian citizens accused in the “26 February criminal case”.

The Federal Constitutional Law of 21 March 2014 No. 6-FKZ¹⁵⁶, under which all Ukrainian citizens residing on the territory of Crimea and the city of Sevastopol as of 18 March 2014 are automatically

¹⁵³ If to agree with the position of the prosecution that among more than 80 victims there are two Russian citizens as of 26.02.2014 (S. Kulikov and A. Ivkin), then the jurisdiction of the Russian Federation is limited only to the harm caused to these particular citizens. It should be noted that in respect of these citizens there is no evidence of the fact of receiving injuries by them, and they did not seek medical care after the rally.

¹⁵⁴ It should be noted that the term “legitimate interest of the Russian Federation” is not clearly defined either in its legislation or case law. Criminal liability on the basis of this term may raise reasonable doubts with regards to the predictability of the law, as a component of the principle of legal certainty and the rule of law in general (see, for example, the judgment of the ECtHR in the case *Vasiliauskas v. Lithuania*, 20.10.2015, application No. 35343/05; and the case *Soros v. France*, 6.10.2011, application No. 504425/06).

¹⁵⁵ https://www.consultant.ru/document/cons_doc_LAW_36927/5a8b153333736374c4a89895676da9f091b7f14d/

¹⁵⁶ “On acceptance of the Republic of Crimea to the Russian Federation and creation within it of new constituent entities of the Russian Federation - Republic of Crimea and the City of Federal Importance Sevastopol”.

acknowledged to be citizens of the Russian Federation, contravenes Article 11 of the Federal Law "On citizenship of the Russian Federation".

The reference in paragraph "g" of Article 11 of the Law "On citizenship of the Russian Federation" to the international treaty of the Russian Federation cannot be considered as a ground for the acquisition of Russian citizenship by the accused, in view of the fact that the Agreement on the acceptance of the Republic of Crimea to Russia of March 18, 2014 is not an international treaty in the sense of the Vienna Convention on the Law of Treaties (23 May 1969), since "Republic of Crimea" was not a sovereign State at the time of its signing and was not a subject of international law.

Consistency and transparency of charges

According to paragraph 3 of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, everyone charged with a criminal offence has the following minimum rights... "to be informed promptly, in a language which he understands and in detail, of the **nature and cause** of the accusation against him".

At the same time, the content of the charges brought against the defendants in the "26 February criminal case" does not comply with these principles. The prosecution is limited to generalities, contains no reference to the role of each of the persons accused of the crime. After reading the charges by the public prosecutor at the trial, the defendants stated that they did not understand the accusation and asked to specify it.

In view of the fact that the events of 26 February 2014 have occurred in the territory of Ukraine, the Russian Federation has no jurisdiction to investigate these events and prosecute the Ukrainian citizens for a criminal offence.

These legal problems, together with the unmotivated selective approach of the de facto authorities of Crimea to the prosecution of the organizers and participants of the two rallies, during which, according to the investigative agencies, there were mass riots and, in particular, the fact that only representatives of the Crimean Tatar people, former "pro-Ukrainian" rallyers, who spoke for the preservation of the territorial integrity of Ukraine, are placed in the dock, demonstrate the **politically motivated nature of the criminal prosecution** of A. Chygoz and other persons prosecuted by the Russian Federation as defendants in the "26 February criminal case".

3.2. Legal Regulation of the Freedom of Peaceful Assembly¹⁵⁷

In the context of the assessment of the events that took place on 26 February 2014 in the square in front of the SC ARC building, it is important to analyze legislation that regulates the freedom of peaceful assembly in Ukraine, and to carry out legal evaluation of the conduct of the police and the subsequent actions of the authorities of Ukraine and the Russian Federation. In this context, the key points stand out, which ensure conditions for realization of the right to freedom of peaceful assembly. Both countries are parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Article 11 of the Convention guarantees the right to freedom of peaceful assembly. Pursuant to paragraph 2 of this article: *"No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, 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..."*

When analyzing these provisions, the existing case-law of the European Court of Human Rights and the UN Committee on Human Rights, the provisions of the Guidelines on Freedom of Peaceful Assembly of the OSCE/ODIHR and Venice Commission (2nd edition) should be taken into consideration¹⁵⁸.

3.2.1. Organization of peaceful assembly

Any restrictions imposed on the freedom of assembly must have a formal basis in law and be in conformity with European and international human rights instruments. To this end, an extremely important role is played by clearly formulated legislation that allows defining the limits of permissible powers of the authorities. The legislation itself must be compatible with international human rights standards and be sufficiently precise to enable an individual to assess whether or not his or her conduct would be in breach of the law, as well as the likely consequences of any such breach.

With regard to the events under consideration, it is important to analyze the procedure for organizing the assembly and possible consequences of its violation.

International human rights law does not require that national legislation prescribes prior notification of holding an assembly. Indeed, in an open society, many types of assembly are not subject to any kind of state regulation. Therefore, prior notification should be required only in cases when its purpose is to enable public authorities to carry out preparation necessary to promote freedom of assembly and maintain public order, public security, rights and freedoms of other persons. Any provision of the legislation on this matter may require notification of intent rather than a request for permission to be made by organizers of a public assembly.

The process of notification should not be burdensome or bureaucratic. The deadline for notification should not be too far from the date of the assembly, but sufficient time should remain before the notified date to enable the relevant authorities to prepare for the event in compliance with their positive obligations, as well as to be able to lodge an urgent complaint with the court (and obtain a court's judgment) in the event of challenging the lawfulness of any restriction.

If the authorities do not immediately raise any objection against notification of conducting a public assembly, then organizers of the assembly should be given the opportunity to carry out a planned activity in accordance with the conditions specified in this notice and without any restriction.

¹⁵⁷ In this section, the authors do not provide an analysis of Russian legislation with regard to the events of preparation and conduct of rallies on 26 February 2014 in Simferopol (Autonomous Republic of Crimea), due to the fact that the application of the Ukrainian legislation at the specified time and on the specified territory is not questioned by either party.

¹⁵⁸ <http://www.osce.org/ru/odihr/83237?download=true>

Legislation of Ukraine

In Ukraine there is no clear and predictable legal regulation in the sphere of freedom of peaceful assembly. Article 39 of the Constitution of Ukraine provides:

“1. Citizens have the right to assemble peacefully without arms and hold assemblies, rallies, marches and demonstrations, of which the bodies of executive power or bodies of local self-government are informed in advance.

2. Restrictions on the exercise of this right may be imposed by the court pursuant to the law and only in the interests of national security and public order, for the purpose of preventing riots or crimes, protecting the health of the population or the rights and freedoms of others”.

There is no special law that would regulate the issues of freedom of peaceful assembly in Ukraine, which entails problems in applying restrictions on peaceful assemblies “in accordance with the law”.

In practice, courts, local authorities and law enforcement agencies often used the Decree of the Presidium of the Supreme Council of the USSR No. 9306-X1 of 28 July 1988 “On the procedure for organizing and holding assemblies, rallies, street marches and demonstrations in the USSR”¹⁵⁹, until it has been found unconstitutional by the Constitutional Court of Ukraine on 8 September 2016¹⁶⁰.

By decision No. 1545-X11 of 12 September 1991 the Verkhovna Rada of Ukraine determined that prior to the adoption of the relevant legislative acts of Ukraine the USSR regulations would be applied in the territory of the Republic in relation to matters not regulated by the legislation of Ukraine, provided that they do not contradict the Constitution and laws of Ukraine. Therefore, since there was no clear decision on finding this Decree contrary to the Constitution of Ukraine, as well as there was no decision on the loss of its effect, many authorities applied it despite its obvious contradiction to the Constitution.

In particular, unlike Article 39 of the Constitution, the Decree sets forth a permissive rather than notifying nature of the freedom of peaceful assembly and requires that the purpose of the assembly was in line with the USSR Constitution, which lost its effect long ago. In addition, in accordance with the legislation of the USSR, Decrees of Presidium of the Supreme Council were temporary and remained in force for the period between the sessions of the Supreme Council of the USSR. Moreover, paragraph 1 of Article 92 of the Constitution sets forth that human and civil rights and freedoms, guarantees of these rights and freedoms are only subject to the laws of Ukraine. Part two of Article 39 of the Constitution specifies that only laws shall place restrictions in relation to the realization of the right to peaceful assembly. The Decree of the Presidium of the Supreme Council of the USSR is not a law of Ukraine and therefore cannot either impose additional restrictions on realization of the right to peaceful assembly, or in general regulate issues related to realization of this right.

This position was also confirmed by the Decision of the Constitutional Court of Ukraine of 19 April 2001¹⁶¹. Providing an official interpretation of Article 39 of the Constitution, the Court confirmed that the Decree of the Presidium of the Supreme Council of the USSR had no effect in Ukraine and decided that “the definition of specific deadlines for prior notification, taking into account the types of peaceful assemblies, their mass nature, venue, timing and the like, is subject to legislative regulation”. The Constitutional Court agreed with the message of the constitutional recommendation of the Ministry of Internal Affairs, that “a specific period within which one must notify bodies of executive power or bodies of local self-government of holding these events is not set under the current law of Ukraine”. At the same time, the Court pointed to the existing provision of the Constitution according to which its norms have direct effect. They are applied directly, i.e. regardless of whether relevant laws or other rules and regulations are adopted for their development (part 3 of Article 8 of the Constitution).

¹⁵⁹ Available in Ukrainian: http://search.ligazakon.ua/l_doc2.nsf/link1/PC889306.html

¹⁶⁰ See the decision of the Constitutional Court of Ukraine of 8 September 2016 in Ukrainian: <http://www.ccu.gov.ua/sites/default/files/docs/6-pn.pdf>

¹⁶¹ The judgment of the Constitutional Court of Ukraine in the case on the constitutional recommendation of the Ministry of Internal Affairs of Ukraine concerning formal interpretation of the provision of part one of Article 39 of the Constitution of Ukraine regarding the prior notification of bodies of executive power or bodies of local self-government of assemblies, rallies, marches and demonstrations (case concerning prior notification of peaceful assemblies) <http://legislationline.org/ru/documents/action/popup/id/14429>

Although the Court, in its judgment, did not mention the 10-day time limit set by the Decree for notification of an upcoming assembly, both local authorities and courts continued to use this provision.

The divergent case law also speaks for legal uncertainty and unpredictability of the legal regulation of freedom of peaceful assembly in Ukraine. In some judgments, national courts applied the Decree, in others – did not recollect about it and used the restrictions set forth by Decree, and in the third ones – even pointed out directly that the Decree had lost its effect and could not be applied to those legal relations.

This problem was identified by the European Court of Human Rights as a key one. First in the judgment of 11 April 2013 in the case *Verentsov v. Ukraine*¹⁶², and later in the judgment of 14 November 2013 in the case *Shmushkovich v. Ukraine*¹⁶³, the ECtHR found violations of the right to the freedom of peaceful assembly because of absence in Ukraine of predictable and clear legislation in this field.

The conflict of positions regarding the need to apply the Decree and the denial of the possibility of such application has been exacerbated by the authorities, which at the local level often take their own acts regulating the freedom of peaceful assembly, while this also directly contradicts the Constitution. Most often, the provisions of such local acts duplicate the provisions of the Decree of the Presidium of the Supreme Council of the USSR, in particular, they set a 10-day period of notification, as well as impose additional restrictions on assemblies¹⁶⁴.

Although, in accordance with the Constitution, the period of notification is not set, it should be sufficient to enable the authorities, where necessary, to prepare for such an assembly. The manner, in which one shall notify the authorities of holding a peaceful assembly, is not defined by law.

The Constitution of Ukraine does not provide for “spontaneous” peaceful assembly, conducted without notifying the authorities. This means that for any kind of peaceful assembly, regardless of the number of participants, it is necessary to notify the local authority.

Any restriction of peaceful assembly is possible only on the basis of a court’s judgment.

Main conclusions with regard to the events of 26 February 2014

On 25 February 2014 the Presidium of the Supreme Council of the Autonomous Republic of Crimea decided to convene an extraordinary meeting, which was scheduled for 26 February at 15:00.

On 25 February the Simferopol city organization of the “Russian Unity” political party notified in writing the Simferopol City Council of the rally to be conducted on 26 February from 13:00 to 20:00 “against destabilization of situation, for preservation and extension of powers of the Republic of Crimea”. The rally was planned to be held in front of the building of the Supreme Council of the ARC involving 10-15 thousand participants.

On 26 February at 9:15 the Mejlis of the Crimean Tatar People notified of a rally to be conducted from 10:00 to 17:00 “for preservation of the territorial integrity of Ukraine and prevention of taking by the Supreme Council of the ARC the decisions aimed at the destabilization of the situation in the autonomy”. The rally, with the number of participants up to 3 thousand people, was also planned to be held in front of the Supreme Council of the ARC.

This decision was taken at the meeting of Mejlis of the Crimean Tatar People in the evening of 25 February 2014. After the Mejlis meeting Refat Chubarov and his Deputy Zaur Smirnov met with representatives of law enforcement agencies and discussed the separation of venues of the two rallies by law enforcement officers.

¹⁶² Judgment is available in English here: <http://hudoc.echr.xoe.mt/sites/eng/pages/search.aspx?i=001-118393>

¹⁶³ Judgment is available in English here: <http://hudoc.echr.xoe.mt/sites/eng/pages/search.aspx?i=001-128050>

¹⁶⁴ For example, on 25 February 2011 the Simferopol City Council took decision No. 250 “On the procedure for organizing and holding mass events in Simferopol”. However, this decision was revoked by the Zheleznodorozhny District Court of Simferopol on 14 November 2011. The Sevastopol Administrative Court of Appeal upheld this decision on 11 April 2012.

Thus, the Ministry of Internal Affairs of the Autonomous Republic of Crimea was notified of the upcoming assemblies. The police also knew that they would be held simultaneously at the same place, and that the rallyers had different views. These circumstances themselves could be viewed as prerequisites for possible conflicts.

Considering these events, the following conclusions can be drawn:

- 1) the parties notified the authorities of holding assemblies in accordance with international standards. There is no doubt that the authorities knew about the upcoming assemblies¹⁶⁵;
- 2) authorities had enough time to prepare for the meeting, as evidenced by the fact that they managed to hold a joint meeting with the organizers of both assemblies, defining and separating the venues of rallies;
- 3) it should be noted that mass events take place often enough in front of the SC ARC building, that is why the level of preparedness of the authorities must not be questioned;
- 4) preliminary coordination by the organizers of the rallies of their actions with the authorities was obviously positive;
- 5) since the Ukrainian law does not specify the manner of notification, it can be stated that the organizers complied with the requirements of the Ukrainian legislation regarding the organization of peaceful assembly in part of prior notification;
- 6) there were no formal objections from the authorities to the holding of peaceful assemblies, their venue was agreed upon, the location of the two rallies (with opposing objectives and demands), which partially overlapped in time and place, was agreed upon too;
- 7) both peaceful assemblies were not prohibited or restricted by courts pursuant to the legislation of Ukraine.

3.2.2. “The “peacefulness” of the assembly and the comply with the “requirements of public order”

Only peaceful assembly is subject to protection. An assembly should be deemed peaceful, if its organizers have peaceful intentions and an assembly is of nonviolent nature.

The term “peaceful” should be also extended to such conduct, which can annoy or offend others, and even to such conduct, which temporarily hinders, obstructs or interferes with the actions of a third party¹⁶⁶.

The spectrum of conduct that constitutes “violence” should be narrowly construed but may exceptionally extend beyond purely physical violence to include inhuman or degrading treatment or deliberate intimidation or other aggressive influence on an audience that does not have the opportunity to leave the place of assembly.

The European Court of Human Rights noted that “a person is not deprived of the right to freedom of peaceful assembly as a result of an isolated outbreak of violence or other punishable acts committed in the course of the action by other persons, if this person continues to demonstrate peaceful intentions or conduct”¹⁶⁷.

Article 11 of the ECHR protects only the right to “peaceful” assembly. The possibility of violent counter-demonstrations or extremists joining demonstrations with violent intentions, who are not members of the “association-organizer”, does not eliminate this right¹⁶⁸. Neither a hypothetical risk of mass riots nor

¹⁶⁵ It should be noted that both assemblies could be qualified as “spontaneous”, that is as such which, in accordance with international standards, could be held without notification.

¹⁶⁶ See Guidelines on Freedom of Peaceful Assembly (para. 1.3) and paras. 25-28 of the explanatory note thereto.

¹⁶⁷ See ECtHR judgment in the case *Ezeli v. France*, No. 11800/85, 26.04.1991, as well as the judgment in the case *Zi-liberberg v. Moldova*, No. 61821/00, 01.02.2005.

¹⁶⁸ See *Christians against Racism and Fascism v. the United Kingdom*, No. 8440/78, D.R. 21, p. 153.

the presence of a hostile audience are legitimate grounds for prohibiting a peaceful assembly¹⁶⁹. Any isolated outbreak of violence should be dealt with by way of subsequent arrest and prosecution rather than prior restraint¹⁷⁰.

Such an approach does not cover demonstrations, organizers and participants of which have violent intentions¹⁷¹. However, even if there is a real risk that a mass public event can lead to the disorder as a result of events out of control of its organizers, this event does not go beyond the scope of Article 11, but any restrictions on holding of such event must comply with the requirements of Article 11 § 2 of the ECHR¹⁷².

In certain circumstances, an assembly, which organizers intend to hold it as a peaceful one, can still be prohibited on the legal grounds connected with the need to observe public order¹⁷³. Such restrictions should be applied only if there is evidence that the participants of such an assembly will, with sufficient probability, resort to or incite others to direct unlawful actions that lead to a breach of order. This approach is designed to extend the protection to controversial speech and political criticism, even where this might engender a hostile reaction from others.

The question whether the behaviour constitutes the intentional incitement of violence should be assessed on the basis on particular circumstances¹⁷⁴. Some difficulty arises where the message concerns unlawful actions, or where it could be construed as inciting others to commit non-violent but unlawful acts. Expressing support for unlawful actions can, in many cases, be distinguished from disorderly conduct and, therefore, should not be subject to restrictions on the public-order grounds. The criterion here must be, again, the existence of an imminent threat of violence.

An assembly should, therefore, be deemed peaceful if its organizers have professed peaceful intentions, and this should be presumed unless there is compelling and demonstrable evidence that those organizing or participating in that particular event themselves intend to use, advocate or incite imminent violence.

If this fundamental criterion of peacefulness is met, it triggers the positive obligations entailed by the right to freedom of peaceful assembly on the part of the state authorities.

It should be noted that the assemblies that pass this initial test (and thus, in the absence of evidence in favor of the contrary, merit protection) may still be legitimately restricted due to obligation to maintain public order or on other lawful grounds.

Legislation of Ukraine

Under the Constitution of Ukraine only “peaceful” assemblies are subject to protection. Participants must have no weapons (firearms, pneumatic, cold steel and weapons, pursuant to legislation of Ukraine).

The legislation does not put on organizers the duty to preserve order. This function is fully entrusted to the law enforcement agencies, which are obliged to respond to each wrongful act.

Law enforcement agencies are not entitled to restrict, temporarily or completely, a peaceful assembly, since it can be restricted only upon court’s judgment. However, law enforcement agencies can disperse an assembly if it loses its peaceful nature.

¹⁶⁹ See the ECtHR judgment *Makhmudov v. Russia*, 2007.

¹⁷⁰ See *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, 2001, para. 94.

¹⁷¹ See *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, § 77, ECtHR 2001 IX, and *Galstyan v. Armenia*, No. 26986/03, § 101, 15 November 2007.

¹⁷² See *Schwabe and M.G. v. Germany*, nos. 8080/08 and 8577/08, § 103, ECtHR 2011.

¹⁷³ See *Christian Democratic People’s Party v. Moldova*, No. 2, 2010, para. 23: “The authorities must prove that the organizers of the demonstration intended to use violence”.

¹⁷⁴ In the case of *Incal v. Turkey* (1998), for example, by the European Court established that the applicant’s conviction for helping to prepare a political leaflet that urged the population of Kurdish origins to band together and “set up Neighbourhood Committees based on the people’s own strength” was a violation of applicant’s freedom of expression under Article 10. If to consider the leaflet in the context, it could not be seen as instigation to the use of violence, inciting hatred or hostility between citizens.

Main conclusions with regard to the events of 26 February 2014

Assessing the events of 26 February 2014 outside the Supreme Council of the Autonomous Republic of Crimea, it can be stated that, in general, the rallies were peaceful.

There is no evidence that during preparation for the rallies the organizers planned any violent actions. The organizers' public statements did not contain incitement to violence or hostility. The rallyers did not use weapons. Although video records from the place of the events show some people with sticks and fishing rods used as flagpoles, their usage is not deemed to be the use of weapons within the meaning of Ukrainian legislation¹⁷⁵.

At certain moments of the assembly, tempers flared causing isolated fights and confrontations, from time to time a stampede. In particular, isolated fights started when police left the contact line. But the fact that there were some acts of violence during the rallies, cannot itself be sufficient to conclude that their organizers had violent intentions¹⁷⁶. To accuse the rallyers of organizing mass riot, one must have compelling evidence of violent purposes on their part.

Both before and during the assembly the organizers constantly reminded the participants of the need to keep order and avoid clashes. The rallyers, on their own and with participation of the police, repeatedly built a corridor between the two rallies and were making the attempts to stop isolated fights and clashes. In most cases they succeeded without interference of the law enforcement officers.

According to the materials analyzed by the expert group, during the assembly neither the organizers nor A. Chygoz incited to any violent actions.

It should be stressed that the violence arose during the rallies among some participants, but not against the police.

¹⁷⁵ See <http://zakon3.rada.gov.ua/laws/show/z0637-98>, <http://zakon5.rada.gov.ua/laws/show/en/2471-12>

¹⁷⁶ See *Gun and Others v. Turkey*, No. 8029/07, § 50, 18 June 2013.

3.2.3. State's positive obligations, legal regulation of police actions

The right to peaceful assembly implies the state's positive obligation to facilitate and protect this right¹⁷⁷. It can be assumed that holding of two assemblies, partially overlapping in time and place, with opposing objectives, require more attention of the state to such positive obligations. Participants of such kind of assemblies, which, inter alia, intend to express their disagreement with the views expressed at another assembly, should respect the right of others to demonstrate.

The Guidelines on Freedom of Peaceful Assembly (2nd edition) require special attention from the state to facilitation and protection of simultaneous meetings (or counter-demonstrations). The state must fulfill this duty in relation to each of the assemblies, especially if there is a conflict of interest, including the disagreement between counter-demonstrators.

Public authorities should use sufficient law enforcement forces to facilitate, as far as possible, such interconnected simultaneous assemblies within the limits of mutual "visibility and audibility".

It is the primary responsibility of the state to put in place adequate mechanisms and procedures to ensure that the freedom is practically enjoyed and not subject to undue bureaucratic regulation. In particular, the state should always make its best to facilitate and protect public assemblies at the organizers' preferred location and should also ensure that efforts to disseminate information to publicize forthcoming assemblies are not impeded.

In particular, the state has a positive duty to take reasonable and appropriate measures to enable peaceful assemblies to take place without participants fearing physical violence. Law-enforcement officials must also protect participants of a peaceful assembly from any person or group (including agents-provocateurs and counter-demonstrators) that attempts to disrupt or inhibit the assembly in any way.

Demonstration may annoy or offend the persons opposed to the ideas or claims that it is seeking to promote. Participants must, however, be able to hold the demonstration without fearing that they will be subjected to physical violence by their opponents. Genuine, effective freedom of peaceful assembly cannot, therefore, be reduced to a mere duty on the part of the state not to interfere: a purely negative conception would not be compatible with the object and purpose of Article 11. Like Article 8, Article 11 of the ECHR sometimes requires positive measures to be taken, even in the sphere of relations between individuals, if necessary¹⁷⁸.

When people act in a manner that undermines the rights of third parties under Article 11 of the ECHR, ensuring their protection may require intervention of national authorities into the relationships between these people. This may include the need for active policing to secure these rights and, moreover, entails an obligation to investigate into violent incidents affecting the exercise of these rights¹⁷⁹.

While it is the duty of Contracting States to take reasonable and appropriate measures to ensure the peaceful nature of demonstrations conducted in accordance with the law, they can not give absolute guarantees in this regard, and they have a wide discretion in the choice of the means to be used¹⁸⁰. In this area, Article 11 of the ECHR "obliges States to take action, but does not oblige them to achieve certain results"¹⁸¹.

The state's positive actions are not limited to measures to be taken to protect demonstrators, but also require the conduct of a subsequent effective investigation in relation to all perpetrators of violence.

¹⁷⁷ See paragraphs 2.2., 3.5., 4.3, 4.4. of the Guidelines on Freedom of Peaceful Assembly (2nd edition), 2010, <http://www.osce.org/m/odihr/83237?download=trne>

¹⁷⁸ See the ECtHR judgment in the case of Plattform "Ärzte für das Leben" v. Austria, Series A No. 139, 21.06.1988, § 32.

¹⁷⁹ See Ouranio Toxo and Others v. Greece, No. 74989/01, § 43, ECtHR 2005 X.

¹⁸⁰ See the ECtHR judgment in the case of Plattform "Ärzte für das Leben" v. Austria, Series A No. 139, 21.06.1988, § 34.

¹⁸¹ See Plattform "Ärzte für das Leben" v. Austria, Series A No. 139, 21.06.1988, § 34.

Legislation of Ukraine¹⁸²

During an assembly, law enforcement agencies act in accordance with general provisions of the Law "On police"¹⁸³ and Patrol and Checkpoint Duty Service Regulations. The legislation does not contain any special rules providing for the fulfillment of State's positive obligations on the part of law enforcement agencies.

According to the Law of Ukraine "On police", the Regulations on the Ministry of Internal Affairs of Ukraine approved by the Decree of the President of Ukraine of 6 April 2011, which had effect during the studied events on the territory of the Autonomous Republic of Crimea, the law enforcement and public security during a peaceful assembly were entrusted to the agencies and units of the Ministry of Internal Affairs of Ukraine.

Pursuant to Articles 2, 10 of the Law of Ukraine "On police", the police are obliged to ensure the security of the organizations of citizens, traffic and public order, to prevent violations and to suppress them.

In order to fulfill its duties, the police have been given sufficient powers by Article 11 of this Law, in particular, it is entitled to:

- temporarily restrict or prohibit access of citizens to certain locations or facilities;
- demand from citizens and officials, violating public order, to cease the wrongful acts, and in case of non-fulfillment of these requirements, to apply coercive measures provided for by this law and the like.

The above said means that the main task of the police during peaceful assemblies is to secure the enjoyment by citizens of their right to peaceful assembly and to prevent violations of the right to life and health, honour and dignity, personal inviolability.

Arrangement of policing at the rallies of 26 February 2014

Available materials and information sufficiently indicate that top officials of the Main Department of the Ministry of Internal Affairs in the Autonomous Republic of Crimea, on 26 February 2014 during the policing, did not engaged enough resources needed to protect the participants of the rallies held by the opponents simultaneously.

In particular, the Estimate of forces and resources engaged to ensure public order on 26 February from 10:00 to 20:00 in the square in front of the SC ARC during both rallies with the declared number of 13-18 thousand people, provided for the involvement of only 551 police officers, including:

- 50 officers of the patrol battalion;
- 91 officers from the police territorial district departments of the city of Simferopol;
- 10 officers of traffic inspection¹⁸⁴;
- 300 officers from the police territorial district departments of the ARC, located outside the city of Simferopol;
- 100 officers from the GU MVD ARC police reserve.

According to disposition:

- 100 police officers had to be positioned by the entrance to the SC ARC premises (90 men – in a line, 10 men – on patrol);
- 100 police officers had to be positioned from the side of Serov St. (90 men – in a line, 10 men – on patrol);
- 100 police officers had to be positioned from the side of Pobedy public garden (90 men – in a line, 10 men – on patrol);

¹⁸² The analysis is carried out on the basis of the legislation in effect at the time of the events of 26 February 2014.

¹⁸³ Since 07.11.2015 Ukraine has a new law "On the national police".

¹⁸⁴ State Traffic police.

- 100 police reserve officers were to stay in buses in the streets named after Gorkiy, Serov and Zhukovsky waiting for special orders;
- 10 men from the traffic inspection had to be in the area of the event.

Available documents and information do not clarify, where another 141 policemen provided for with the Estimate of forces and resources should have been deployed. These circumstances indicate that the estimate was drawn up formally, without the purpose of its implementation.

Moreover, available materials indicate that there were not more than 200 policemen at the scene, the vast majority of whom gathered at the entrance to the premises of the SC ARC instead of performing tasks aimed at the maintenance of the public order and safety of the rallyers and persons, not participating in the assemblies (who also suffered during the rallies).

The policemen, who were on the site, had no riot control weapons in the quantity necessary to protect the rallyers. In addition to visual fixation of the lack of adequate riot control weapons, Police Colonel Dmitriy Korzhov, Deputy Head – Head of the Public Security Police of the Simferopol Main Department of the Ministry of Internal Affairs of Ukraine in the ARC, told about that at 11:50 during the interview to the ATR channel. He noted in particular that the policemen had no riot control weapons, because they were going to control a peaceful action.

The State is obliged to secure public safety, and under no circumstances this obligation can be transferred or delegated to an organizer of an assembly, or participants/a group of participants. However, the performed reconstruction of the events reveals that this principle was violated. In fact, public safety was ensured by representatives of the SDPU¹⁸⁵, who lined up next to the police, blocked access to the yard of the SC ARC, etc., as well as by some participants and organizers of the assemblies who built corridors, sought for the return of policemen and separation of participants of the two rallies, etc. The reason why it happened could not be unveiled during the preparation of the Report. It is evident that the police stepped back from the performance of their duties to ensure public safety.

During the policing at demonstrations, it is important to respect the principle of non-discrimination, which requires that assemblies in comparable circumstances do not face differential levels of restriction (if imposed)¹⁸⁶. The performed reconstruction of the events reveals that this principle was also violated. In particular, joint actions of the police and the participants of the “pro-Russian” assembly demonstrate that. For example, around 11:40 policemen together with representatives of the SDPU and “pro-Russian” rallyers were pushing the pro-Ukrainian activists out of the SC ARC yard under columns.

On the basis of the above, the expert group concludes that for the purpose of prevention of possible escalation of events and assessment of potential risks the law enforcement officers should have been initially prepared for taking special response measures in a sustained manner, by reference to the principle of proportionality¹⁸⁷, but that was not done.

In addition, at the specified time Ukraine had regulations in effect that provided for the possibility of taking such special response measures¹⁸⁸, namely:

- put regional and inter-regional special riot police on alert;
- permanently monitor (identify, trace, evaluate and forecast) events that can lead to extreme situations;
- timely block with police units the places of possible exacerbation of the operational situation;
- immediately block the scene of action, warn about the use of force and riot control weapons for taking measures to suppress group violations of public order and arrest perpetrators;
- remove motor transport and citizens from a place of group violations, along predetermined routes, in order to ensure their safety;

¹⁸⁵ Representatives of the SDPU, however, were actually participants of one of the rallies.

¹⁸⁶ See paras. 35, 104 of the explanatory note to the Guidelines on Freedom of Peaceful Assembly.

¹⁸⁷ Principle 2.4, paragraph 39-45 of the Guidelines on Freedom of Peaceful Assembly (2nd edition).

¹⁸⁸ The Instruction approved by the order of the Ministry of Internal Affairs of Ukraine No. 181 of 28.04.2009 on introduction of the plan “Volna”, regulated by Order of Ministry of Internal Affairs of Ukraine No. 1345 of 11.11.2003 “On approval of the Guidelines on the actions of agencies, units of internal affairs of higher educational institutions of the Ministry of Internal Affairs of Ukraine for the elimination of mass riots”.

- immediately transfer identified and detained organizers and perpetrators of group violations of public order to the internal affairs agencies, prevent further growth in the number of participants of unlawful actions;
- provide victims with emergency medical assistance and evacuate them.

Moreover, on 18 September 2013 in Simferopol, a military unit No. 3009 hosted the training exercises for Crimean police units and servicemen of the militarized police forces of more than 500 people, to simulate tactical techniques during mass events, including public order violations and attempted takeover of an administrative building¹⁸⁹. At the same time, according to the training legend, there were actually more than two policemen for one rallyer. The commander of the training exercises was Police Colonel Valeriy Gritsay, Head of the Public Security Department of the Main Department of the Ministry of Internal Affairs of Ukraine in the ARC, who on 26 February 2014, due to his official duties, was responsible for policing during the assemblies in front of the SC ARC building. This also confirms that the Crimean police forces were prepared to perform tasks to ensure public safety during mass events.

It should be further stressed that Ukraine lacks predictable and clear legislation that complies with international human rights standards and governs the freedom of peaceful assembly, including the procedure for its holding, security and adequate reactions in situations requiring special response measures taken by law enforcement agencies¹⁹⁰.

In addition, the expert group has no information about the complete list of existing documents, regulating the actions of law enforcement agencies directed to ensure public order and safety during a peaceful assembly, as well as access thereto.

Best practices, on which the policing could be based, are currently summarized in the OSCE/ODIHR Human Rights Handbook on Policing Assemblies¹⁹¹.

Main conclusions with regard to the events of 26 February 2014

The peaceful assemblies declared by the “Russian Unity” party and the Mejlis of the Crimean Tatar People on 26 February 2014 were, by their nature, two demonstrations with opposing objectives and requirements, which partially overlapped in time and place.

The parties notified authorities of these events. There were held negotiations with representatives of the police and local authorities on the delimitation of the places of two assemblies. Thus, there is no doubt that the parties cooperated in good faith with the authorities for the purpose to hold a peaceful assembly.

The authorities did not ensure safety of the participants of the assemblies in the framework of fulfilling the State’s positive obligations. The main task of the police to secure the enjoyment by citizens of their right to peaceful assembly and the rights to life and health, honour and dignity, personal inviolability was not fulfilled.

Policing errors at the time of preparation for the peaceful assemblies and further inaction during their holding, especially at the time of clashes, when no measures were taken and no available means to save the life and health of citizens were used, lead to the conclusion about inadequate police actions. As a result, these errors and inaction of the police can be regarded as one of the key causes of tragic consequences of the events at the SC ARC building on 26 February 2014¹⁹².

The analysis of the events shows that the major clashes between participants of the assemblies took place when police lifted a cordon separating the participants, consisting of police officers. It is impossible

¹⁸⁹ <http://topnews.pl.ua/incident/2013/09/20/2279.html>

¹⁹⁰ These problems were also addressed in the judgment of the ECtHR *Verentsov v. Ukraine* (application No. 20372/11).

¹⁹¹ <http://www.osce.org/ru/odihhr/247656?download=true>

¹⁹² It can be assumed that in the case these were at least actions that make up the formally defined crime under part 2 of Article 367 of the Criminal Code of Ukraine - neglect of duty, i.e. improper performance of duties by an official due to unconscientious attitude thereto, that caused substantial harm to legally protected rights and interests of individuals, or state or public interests, or the interests of legal entities, and entails serious consequences. <http://zakon4.rada.gov.ua/laws/show/2341-14/print1433748073263040>

to establish exactly why it happened, however, responsibility for such actions rests solely upon the police.

A lack of preparation of policemen for confrontational assembly is striking. It was clear that there could be confrontations among the participants of assemblies due to the heated political situation. Throughout the assembly the police did not take any adequate response measures on a step-by-step basis. Police officers at the rally did not apply any means of protection; at the same time, fully equipped officers were in the parliament building, but not among the rallyers. In general, the police tactics was quite passive and mostly confined to monitoring of the developments. In particular, the police almost did not detain the instigators of fights and provocateurs, applied no tactics of separation of rallyers. Throughout the assembly, the police never once addressed the participants directly.

Thus, we can say that the State has not fulfilled its positive obligation to ensure public order during the peaceful assemblies.

However, the positive obligations of the authorities do not cease with the end of the assemblies, and bind the State to conduct an effective investigation into the offences committed during the rallies. During the assembly on 26 February 2014, two people perished, and several participants suffered various bodily injuries. Therefore, the law enforcement agencies of Ukraine have obligations to conduct effective investigations into all such cases. Objective clarification of all circumstances and establishment of degree of guilt of each of those involved in the events are only possible in the course of an official investigation by law enforcement agencies of Ukraine.

3.2.4. Qualification of events, liability of the organizers and rallyers¹⁹³

According to the Guidelines on Freedom of Peaceful Assembly organizers should not be held liable for failure to perform their responsibilities if they made reasonable efforts to do so.

The organizers should not be liable for the actions of individual participants or of managers which do not fulfil their instructions. The organizers should not be liable for the actions of individual participants, non-participants or agents-provocateurs. Moreover, if an assembly turns into serious mass riot it is the responsibility of the state – not the organizers or event managers – to limit the damage caused¹⁹⁴. In no circumstances should the organizers of a lawful and peaceful assembly be held liable for the harm caused to other persons. Instead, individual liability should arise for any participants if they commit an offence or fail to fulfil the lawful directions of law-enforcement officials.

According to legislation of Ukraine and the Russian Federation liability for certain offences committed during an assembly is imposed respectively within the Criminal Code (art. 294 of the Criminal Code of Ukraine and art. 212 of the Criminal Code of the Russian Federation) and the Code of Administrative Offences (art. 185 of the Code of Administrative Offences of Ukraine and art. 20.2 of the Code of Administrative Offences of the Russian Federation).

One of the consequences of the events of 26 February 2014 was prosecution of “pro-Ukrainian” rallyers by the Crimean law enforcement agencies established by the Russian Federation after the annexation for organization of and participation in mass riots, namely:

- Ahtem Chiygoz (charged with an offence under part 1 of art. 212 of the Criminal Code of the Russian Federation);
- Eskender Kantemirov, Eskender Emirvaliyev, Mustafa Degermendzhi, Ali Asanov, Arsen Yunusov (all five charged with an offence under part 2 of art. 212 of the Criminal Code of the Russian Federation);
- Eskender Nebiyev, Talyat Yunusov (both found guilty and charged with an offence under part 2 of art. 212 of the Criminal Code of the Russian Federation).

A detailed analysis of the relevant provisions of Article 212 of the Criminal Code of the Russian Federation and the definition of “mass riot” were earlier prepared by the International Expert Committee for evaluation of events on Bolotnaya Square in Moscow on 6 May 2012¹⁹⁵. The Commission’s Report, in particular, reads as follows:

“The threshold for engaging Article 212 must therefore involve violent conduct on the part of a substantial number of individuals acting together.

...

However, the term “mass riot” is not synonymous with public events at which some disorder, violence or riotous behaviour occurs”.

...

In the absence of sustained and continuous violent conduct involving the same individuals, incidents that occur over the course of several hours should not be considered a “mass riot” under Article 212 but should instead be treated as separate incidents.

In addition to the number of people involved and the sustained nature of the conduct, one must also take into account the degree of violence necessary to meet the threshold of a “mass riot”.

...

¹⁹³ The aftermath of the events of 26 February 2014 served as a ground for the initial institution of criminal cases by the Ukrainian law enforcement agencies, and subsequently by the Crimean law enforcement agencies established after the annexation (based on Russian legislation). In this regard, the analysis of both the Ukrainian and Russian laws is presented in this section.

¹⁹⁴ See paras. 197-198 of the explanatory note to the Guidelines on Freedom of Peaceful Assembly.

¹⁹⁵ http://6maycommission.org/sites/default/files/book_boloto_2014_ru_0.pdf

Therefore, in order to meet the threshold of a “mass riot”, an act must be sufficiently violent that a person of reasonable firmness would fear for his/her safety (section IV of the Report).

“The courts must ensure that for each individual charged, there is compelling and demonstrable evidence of conduct, which justifies the charge of “participation in”, “organisation of” or “incitement to” a “mass riot”. (Section 4.1. of the Report).

The authors of this Report agree with the above position.

The reconstruction and analysis of the events of 26 February 2014, as well as the above detailed legal analysis, allow arguing that in the square in front of the SC ARC there were two parallel rallies with opposing slogans, which did not contain evidence of a mass riot.

In addition, excerpts from the Opinion of the criminal law expert V. Navrotskyi¹⁹⁶, prepared at the request of the expert group in terms of the prosecution of A. Chygoz under part 1 of art. 212 of the Criminal Code of the Russian Federation (organization of mass riots), are given below.

The expert group agrees with the conclusions of this opinion¹⁹⁷.

Question 2. Are there elements of *corpus delicti* of the “mass riot” offence in the actions of Chygoz Akhtem?

The answer to this question implies to analyze elements of the relevant crime. *Corpus delicti* is a combination (system) of elements, laid down in the relevant articles of the General and Special Parts of the Criminal Code. The solution to the issue of presence or absence of elements of *corpus delicti* of the “mass riot” offence (art. 294 of the Criminal Code of Ukraine) is greatly simplified due to the fact that the disposition of this article is very close in content to the disposition of article “Mass Riots” (art. 212 of the Criminal Code of the Russian Federation), with the violation of which Akhtem Chygoz was charged according to the decision about his prosecution of 15 April 2016 issued in the framework of criminal case No. 2015417109.

Any *corpus delicti* includes four elements:

- 1) object of the crime;
- 2) objective aspect of the crime;
- 3) subject of the crime;
- 4) subjective aspect of the crime.

Each of these elements is characterized by the appropriate number of features. It appears that in this opinion there is no need to pursue obvious things and characterize each of the features of *corpus delicti*, establish its presence or prove the absence thereof. It is enough to pursue exactly those features, which are key for the prosecution of Akhtem Chygoz. These include, above all, the features of objective aspect – the act and causal link between this act and its consequences.

The act, which is a statutory element of the objective side of the “mass riot” offence, is associated with organization of actions of a large number of people (crowds, masses) who apply violence, carry out pogroms, arson and other similar actions. In this case, there is no doubt that a group of people consisting of several thousand participants constituted a relevant mass. There is also no doubt that

¹⁹⁶ Vyacheslav Navrotskyi is a Doctor of Juridical Science, Corresponding Member of the National Academy of Law in Ukraine, Professor of the Legal Theory and Human Rights Department of the Ukrainian Catholic University. One of the leading Ukrainian lawyers in the field of criminal law, he has 40 years of experience in teaching at the Lvov State University of Internal Affairs, the Ivan Franko National University in Lvov and abroad. Author of over 200 scientific and methodical works, including the manuals “Criminal Law of Ukraine”, “Fundamentals of Criminal Law”.

¹⁹⁷ The full text of the Opinion can be found on the website of the Ukrainian Helsinki Human Rights Union: <http://helsinki.org.ua/vysnovok-fahivtstva-v-haluzi-kryminalnoho-prava-schodo-obvynuvachennya-chyjhoza-ahtema/>

certain members of this group committed wrongful acts in the form of violence. This is evident from the results, and can be seen in numerous videos.

However, the organization of mass riot as criminal, socially dangerous conduct, that represents an element of the considered offence, is accompanied by particular specific... actions. In the conventional sense, organization is the actions that lead to mass riot or control of actions of a respective group of persons. This is a gathering of people for participation in mass riot, crowd controlling, incitement to mass riot, provocative actions taken in order to generate the relevant conduct of large groups of people. Ways of organizing mass riots can be different (speeches at rallies, calls, development of plans to incite a crowd, distribution of roles among some participants of mass riots, etc.). Organization of mass riots implies relevant contact (oral, in writing, through means of communication, through other persons) with other people – participants of mass groups, perpetrators of violence, pogroms and the like.

It appears that the investigation provided neither sufficient evidence, nor any other proofs that would point to the commitment of relevant acts by Ahtem Chygoz.

Chairman of the “Russian Unity” party - organizer and leader of the “counter-demonstration” S. Aksyonov, who was interrogated as a witness (vol. 11, case sheet 2-8), gave the fullest characterization of A. Chygoz’s actions during the rally.

He gave evidence, which, probably, in the opinion of the investigator and S. Aksyonov, indicated that citizens R. Chubarov and A. Chygoz organized the rally and instructed its participants, including inciting to violence. In particular, the case files contain the following Aksyonov’s testimony:

“The planned rally of the activists of the “Russian Unity” party had an exclusively peaceful nature, the use of any physical abuse by our followers... was excluded (vol. 11, case sheet 3). However, he admits: “we involved the participants of the early formed “self-defence of Crimea”; “their possession of civil firearms”; “self-defence” forces had means of protection, including shields, helmets, knee guards, hafts of shovels”; “the whole equipment was in the buses near the square” (vol. 11, case sheet 4-5);

“It was clear from the conduct of many followers of the “Mejlis”, that their actions were controlled by A. Chygoz and R. Chubarov, who were in the center of the event and instructed other followers of “Mejlis” about their location in the square and particular conduct during the rally”. In addition, they took floor in front of many of their followers with oral calls to capture buildings of the SC ARC and prevent the SC ARC session”¹⁹⁸ (vol. 11, case sheet 5);

“Therefore, it was clear to me that R. Chubarov, A. Chygoz and a man named Sergey led the masses of followers of the “Mejlis” and the “Right Sector”. When Sergey threatened with violence, R. Chubarov and A. Chygoz stood by and supported him, that spoke for their conspiracy and concurrence of their actions, as well as their full support for threats of violence uttered by Sergey” (vol. 11, case sheet 5);

“I heard that R. Chubarov and A. Chygoz, together with Sergey, in Crimean Tatar language, instructed their followers, controlling their actions and movements” (vol. 11, case sheet 6);

“The leaders of the “Mejlis” followers, Chubarov and Chygoz, again and more decisively started to call upon the crowd to take actions in the Crimean Tatar language” (vol. 11, case sheet 7);

“Later, after regular calls in Crimean Tatar language ...” (vol. 11, case sheet b);

“They broke into the SC ARC building, where they began to destroy SC ARC property...” (vol. 11, case sheet 8);

“It was clear from the situation, that the “Mejlis” followers performed a mission of violence assigned by Chubarov and Chygoz in the form of a physical takeover of the SC ARC building, similar to the events in Kiev, i.e., all of these actions had an organized nature and were performed by order of Chubarov and Chygoz” (vol. 11, case sheet 8);

“The fact of physical violence and damage to property inspired by Chubarov and Chygoz is proved by their factual actions. Therefore, immediately after the breakthrough of the “Mejlis” followers into the SC ARC building, Chubarov and Chygoz personally proceeded into the building behind their followers. Inside the building, Chubarov and Chygoz did not try to stop the crowd of their followers and their illegal violent acts,

¹⁹⁸ The Supreme Council - this is how the representatives of the de facto authorities of the annexed Crimea call the Verkhovna Rada.

did not try to calm them, but instead directed their actions giving instructions in Crimean Tatar language” (vol. 11, case sheet 8).

When evaluating the S. Aksyonov’s testimony, it is important to take into account the following:

- 1) he was unable to quote any particular statement of R. Chubarov and A. Chiygoz, which would prove their calls to commit wrongful acts;
- 2) it is not specified, how far from R. Chubarov and A. Chiygoz S. Aksyonov was and whether he could hear and make out the content of the statements;
- 3) in all cases, except one, there is no information about the language R. Chubarov and A. Chiygoz used to address their followers, and whether S. Aksyonov (born in Moldova, ethnic Russian) speaks this language and to what extent;
- 4) a man named Sergey – the head of the “Right Sector” group, who was not the Crimean Tatar is repeatedly mentioned in his testimony. Representatives of this organization are mentioned as non-residents. It is noted, however, that all instructions to them were given in Crimean Tatar language;
- 5) his statements contain not references to facts, but value judgments (“it was clear... from the conduct”, “it was clear to me”, “it was clear from the situation”) expressed categorically;
- 6) the testimony contradicts the available testimonies of others, according to which R. Chubarov tried to calm his followers and lead them away from the place of clashes;
- 7) it is not specified where S. Aksyonov was at specific moments of the rally, and whether he could see some developments, in particular the breakthrough in the premises of the Supreme Council;
- 8) the investigator did not ask this witness any clarification questions.

In general, the analysis of case files shows that there is no information that would indicate that Ahtem Chiygoz acted as the organizer of mass riots, and was in charge of them. This gives rise to the conclusion that his conduct before and during the rally lacked such elements of incriminated offence as socially dangerous conduct and a causal link between conduct and consequences (damage from mass riots).

The absence of at least one of the statutory elements of *corpus delicti* indicates the absence of *corpus delicti* in full.

Conclusion: There are no elements of *corpus delicti* of the “mass riot” offence (art. 294 of the Criminal Code of Ukraine or art. 212 of the Criminal Code of the Russian Federation) in Ahtem Chiygoz’s conduct.

Question 3. Are there elements of any other offences in Ahtem Chiygoz’s actions, which are investigated in the criminal case No. 2015417109, provided for by the legislation in effect at the place and during the time of commitment by him of these actions?

The materials of the investigation into the criminal case No. 2015417109 do not evidence of any elements of other punishable acts in Ahtem Chiygoz’s conduct.

“Memorial” Human Rights Center has also carried out the analysis of the prosecution and progress of the proceedings against Ahtem Chiygoz on charges of organizing mass riots. As follows from this analysis, the HRC “Memorial” has concluded that the investigation into the case is a flagrant violation of international and Russian law; the case has signs of falsification of evidence and intentional incorrect qualification of the offence; the defendants in the “26 February criminal case” are detained selectively compared to other persons. Based on these findings A. Chiygoz was recognized as a political prisoner. The full text of the analysis can be found on the website of the HRC “Memorial”¹⁹⁹.

¹⁹⁹ <http://memohrc.org/special-projects/chiygoz-ahtem-zeytunavich>

Main conclusions with regard to the events of 26 February 2014

The rallies declared by the "Russian Unity" party and the Mejlis of the Crimean Tatar People on 26 February 2014 were, in their essence, two assemblies with opposing objectives and requirements, which partially overlapped in time and place. Reconstruction of these events and detailed legal analysis allow us to state that they did not contain signs of mass riot.

The conduct of Ahtem Chygoz and other defendants in the "26 February criminal case" has no elements of *corpus delicti* of the "mass riot" offence (art. 294 of the Criminal Code of Ukraine or art. 212 of the Criminal Code of the Russian Federation). The materials of the investigation into the criminal case No. 2015417109 do not evidence of any elements of other punishable acts in Ahtem Chygoz's conduct.

General conclusions and recommendations

Main conclusions

With regard to reconstruction and analysis of the events of 26 February 2014

(1) Till 15:00 on 26 February 2014, the overall atmosphere of the rallies was peaceful. There were a few isolated cases of skirmishes and conflicts between the participants, changes of locations of participants of the two rallies. The slogans “Crimea is Russia”, Russian flags and the flag of the “Right Sector” appeared among the rallyers, which brought to the short-term aggravation of the situation and isolated conflicts.

Police officers held negotiations with the organizers of the rallies on maintenance of public order. Representatives of law enforcement agencies formed a “cordon” for a short period of time separating rallyers in the inner yard in front of the building. Later, the police left the yard and moved to the main entrance of the SC ARC building. Participants and organizers of the rally, using audio equipment, called on the people in the square to stay calm, arrange corridors to remove people, called on police to help with policing.

(2) From 15:00 to 16:00 there was conflict escalation and stampede among the participants of the rallies, isolated skirmishes and fights among rallyers, including the use of different objects (a flagpole, a bottle, etc.). Presumably, it was this hour, when most of the victims in the case were injured and two people perished during the stampede. During this period there were observed no aggravation of the situation in the square in front of the SC ARC, no calls to rallyers for aggressive conduct and disorder. There were also no calls to the rallyers to maintain public order on the part of law enforcement agencies, which in this period of time were mainly passive.

(3) Around 16:00, after the rallyers were informed that the extraordinary session of the SC ARC would not be held, the participants of the “pro-Ukrainian” rally started to leave the square. The pro-Russian rallyers remained outside of the square, but did not demonstrate overt aggression. The overall atmosphere at the SC ARC building after 16:00 was peaceful.

(4) The analysis of the events shows that the major clashes between participants of the assemblies took place when police lifted a cordon separating the rallyers, consisting of police officers. It seems to be impossible to find a true reason for such decisions, however, the responsibility for such actions, definitely, rests with the law enforcement agencies.

(5) On the basis on information sources studied, it can be concluded that in fact the role of organizers and leaders of the rallies was performed by Sergey Aksyonov (on the part of the “pro-Russian” rally), Refat Chubarov and Enver Arpatly (on the part of the “pro-Ukrainian” rally).

(6) Throughout the rally, Ahtem Chiygoz did not manifest himself as a leader or organizer of the rally. His name did not appear in the application for holding the rally, he did not take floor with calls on the participants of the rallies. According to the video available to the group, in one of the episodes A. Chiygoz was standing with other representatives of the Mejlis of the Crimean Tatar People in a “live cordon” separating the pro-Ukrainian activists and the police officers. During the speeches of organizers of the rallies he remained behind them and tried with his gestures to call on the rallyers to keep quiet. These circumstances can not provide a basis for the conclusion about the existence of a causal link between A. Chiygoz’s conduct and deaths during the rallies.

With regard to jurisdiction, as well as compliance with the principle of “no punishment without law”

(1) On the territory of the Autonomous Republic of Crimea, the Russian Federation has no right to carry out any proceedings in relation to the events of 26 February 2014 at the SC ARC building, without the consent of the authorized agencies of Ukraine, and otherwise than in the manner prescribed by the international treaty, the parties to which the Russian Federation and Ukraine are.

(2) The extension of Russian criminal law to wrongful acts that were committed prior to the annexation of the Crimean peninsula implies the retroactive effect (*ex post facto*), which is contrary to one of the fundamental principles of criminal procedure recognized in international law – “no punishment without law”.

(3) Application by the Russian Federation of the principle of extraterritorial jurisdiction in the “26 February criminal case” is impossible due to the fact that the crimes, which the citizens of Ukraine (Ahtem Chygoz and others) are charged with, do not relate either to war crimes or crimes against humanity, and do not fall under any of the Conventions on the Suppression and Punishment of the Crime.

(4) The defendants in the “26 February criminal case” are being prosecuted for crimes, the object of which was interests of Ukraine (organization of and participation in mass riots refers to the offences against public order). In fact, the wrongful act, which the citizens of Ukraine are charged with, lacks elements of *corpus delicti*, which constitutes a violation of the provisions of Russian laws and regulations.

(5) The existing legal problems, together with the unmotivated selective approach of the *de facto* authorities of Crimea to the prosecution of the organizers and participants of the two rallies (among the defendants are only “pro-Ukrainian” rallyers) demonstrate the politically motivated nature of the criminal prosecution of A. Chygoz and other persons by the Russian Federation.

With regard to legal regulation of freedom of peaceful assembly

(1) The analysis of the Ukrainian legislation combined with the ECtHR case law in relation to Ukraine proves the lack of predictable and clear legislation that complies with international human rights standards and governs the freedom of peaceful assembly. However, administrative and judicial practices available in Ukraine at the time of the events required from the organizers of the rally only to notify in advance of its purpose, time and venue, as well as the expected number of participants.

(2) The authorities were informed in advance of the planned rallies and had sufficient time for preparation to policing the rallies. The authorities had no formal objections to holding of the peaceful assemblies. The above-said gives reason to assert that the preliminary organization of the assemblies took place in accordance with international law and the laws of Ukraine.

(3) Assessing the events of 26 February 2014, one can state that, in general, the assemblies were peaceful. There is no evidence of violent actions planned by the organizers during their preparation for the rallies. Public statements of the assembly organizers and leaders did not contain incitement to violence or hostility. Participants of the rallies did not use weapons within the meaning of the law of Ukraine. The fact that there were some acts of violence during the rallies cannot itself be sufficient to conclude that their organizers had violent intentions. There is no compelling evidence for accusing the rallyers of organizing mass riot and the existence of violent goals on their part.

With regard to actions and responsibility of the police and other authorities

(1) The authorities, being timely informed about two planned rallies, were supposed to ensure the safety of participants in the framework of the State's positive obligations.

(2) Policing errors at the time of preparation for the peaceful assemblies and further inaction during their holding, especially at the time of clashes, when no measures were taken and no available means to save the life and health of citizens were used, lead to the conclusion about inadequate police conduct. In general, the police tactics was quite passive and mostly confined to monitoring of the developments. These errors and inaction resulted in tragic consequences.

(3) The unpreparedness of the militia to a conflict assembly is striking. It was clear that there could be confrontations among the participants of assemblies due to the heated political situation. Throughout the assembly, the police did not take any adequate response measures on a step-by-step basis. Police officers at the rally had no means of protection; at the same time, fully equipped officers were in the SC ARC building.

(4) The positive obligations of the authorities do not cease with the end of the assemblies, and bind the State to conduct an effective investigation into offences. During the rally two people were killed, and several other participants were injured. Law enforcement agencies of Ukraine were obliged to investigate into all such cases, assess conduct/inaction of law enforcement officers in charge of safety, and do everything possible to bring the perpetrators to justice.

With regard to responsibility of the organizers and participants of the assemblies, qualification of the events of 26 February 2014

(1) The rallies declared by the Mejlis of the Crimean Tatar People and the "Russian Unity" party on 26 February 2014 were, by their nature, two assemblies with opposing objectives and requirements, which partially overlapped in time and place. Reconstruction of the events and detailed legal analysis make it possible to assert that these rallies held in the square in front of the SC ARC did not contain signs of mass riot.

(2) Reconstruction of the events and evaluation of the materials of case No. 2015417109 prove a lack of data about the existence in Ahtem Chygoz's conduct of elements of *corpus delicti* of the "mass riot" offence (art. 294 of the Criminal Code of Ukraine or art. 212 of the Criminal Code of the Russian Federation), as well as elements of any other punishable acts.

With regard to politically motivated prosecution of A. Chygoz and other defendants in criminal case No. 2015417109

The selective nature of justice and politically motivated prosecution of A. Chygoz and other defendants is proved by the following facts:

(1) only participants of the "pro-Ukrainian" rally, representatives of the Crimean Tatar people, are prosecuted in the criminal case No. 2015417109;

(2) Russian Federation is lacking jurisdiction and legal grounds to investigate into the events of 26 February 2014 both pursuant to international law and national legislation.

In addition, the most victims in the criminal case No. 2015417109 belong to the participants of the "pro-Russian" rally, representatives of the SDPU and law enforcement officers. No participant of the "pro-Ukrainian rally" has been identified as a victim.

Recommendations

To the authorities of Ukraine:

- (1) To conduct an effective investigation into:
 - a) the facts of death and bodily harm during the events of 26 February 2014 outside the building of the SC ARC in Simferopol;
 - b) unlawful actions/inaction of the Ukrainian police officers with regard to positive obligations and safeguards during the rallies on 26 February 2014, to bring those responsible to justice.
- (2) To bring national legislation regulating freedom of peaceful assembly in line with international human rights standards, including the issues of the procedure for its holding, policing and adequate reactions in situations requiring special response measures from law enforcement agencies, relying on the best practice summarized in the OSCE/ODIHR Human Rights Handbook on Policing Assemblies.
- (3) To take all necessary steps under international law and national legislation for the protection and restoration of the rights of persons violated as a result of their unmotivated prosecution for their participation in peaceful assemblies on 26 February 2014.

To the authorities of the Russian Federation:

- (1) To cease the politically motivated prosecution of the participants of the events of 26 February 2014, including Ahtem Chiygoz, Mustafa Degermendzhi, Ali Asanov, Arsen Yunusov, Eskender Kantemirov, Eskender Emirvaliyev.
- (2) With regard to the protection of rights of Ahtem Chiygoz, Mustafa Degermendzhi, Ali Asanov and others, prosecuted in the case No. 2015417109:
 - to free from detention Ahtem Chiygoz, Mustafa Degermendzhi, Ali Asanov, who are detained in this criminal case;
 - to restore the rights and provide adequate compensation for unlawful detention to all the accused in the case No. 2015417109, who had a preventive measure in the form of arrest imposed on them for different periods of time;
 - to conduct an effective and public investigation into the facts of unlawful detention and prosecution of persons in this case by the law enforcement agencies of Crimea, established after the annexation of the peninsula.
- (3) To cancel the regulations of the Russian legislation, which allow retrospective application of criminal legislation of the Russian Federation on the territory of Crimea, as inconsistent with the principles and standards of national and international law.

To the international organizations and institutions (UN, Council of Europe, European Union, others):

- (1) To draft and adopt a resolution on the protection of human rights and the restoration of the rights of persons who have suffered politically motivated criminal prosecution in connection with the events of 26 February 2014 in Simferopol.
- (2) To carry out system control and monitoring over the human rights situation, the effective investigation into the events of 26 February 2014 and the prevention of the practice of politically motivated prosecution of participants of these events.

To mass media:

To thoroughly and objectively cover the consequences of the events of 26 February 2014 in Simferopol for the purpose of public control over the course of the investigation on the "26 February criminal case".

“RUSSIAN UNITY” POLITICAL PARTY

Autonomous Republic of Crimea
95006, Simferopol
Dolgorukovskaya St. 11/2

Tel.: (0652) 52-27-55
e-mail: re_org@ukr.net

25.02.2014
Ref. No. 18

**To the Executive Committee
of the Simferopol City Council**

Re: Organization of a mass event

Herewith the Simferopol city organization of the party “Russian Unity” notifies of a rally to be held against destabilization of the situation, for preservation and extension of powers of the Republic of Crimea.

Time and date of the event: 26.02.2014 from 13:00 to 20:00.

The expected number of participants of the event is 10000 - 15000 people.

Venue: the square in front of the Supreme Council of Crimea.

Organizer of the event – Chairperson of the Simferopol city organization of the party “Russian Unity” M.S. Sheremet, contact phone number 52-27-57.

**Head of the Simferopol city organization
of the party “Russian Unity”**

/signature/ M.S. Sheremet

MEJLIS OF THE CRIMEAN TATAR PEOPLE

2, Shmidt St., Simferopol, 95017
Autonomous Republic of Crimea, Ukraine
meclis.org@gmail.com

Tel.: (00380652) 273 526
Fax: (00380652) 273 455

To Simferopol City Council
95000, Simferopol,
Tolstoy St. 15

NOTIFICATION of holding a rally

Herewith we notify Simferopol City Council of the Autonomous Republic of Crimea that on 26 February 2014 there will be a rally for the preservation of Ukraine's territorial integrity and the prevention of taking by the Supreme Council of the Autonomous Republic of Crimea the decisions aimed to destabilize the situation in the autonomy.

The right to peaceful assembly (rally, march or demonstration, specify) is an essential right of citizens according to arts. 8, 21, 22, 39 of the Constitution of Ukraine, art. 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, the Decision of the Constitutional Court of Ukraine No. 4-rp/2001 of 19.04.01.

Article 39 of the Constitution of Ukraine reads: **citizens have the right to assemble peacefully, without weapon, and hold assemblies, rallies, marches and demonstrations, of which the executive authorities or local self-government authorities are notified in advance. The restriction on the exercise of this right can be imposed by the court pursuant to the law and only in the interests of national security and public order in order to prevent disorder or offences, to protect public health or rights and freedoms of other people.**

We draw your attention to the fact that the planned event has exclusively peaceful nature and by no means can interfere with public order or rights and freedoms of other people.

The rally will be held in front of the Supreme Council of the Autonomous Republic of Crimea.

Time of the rally is from 10:00 to 17:00.

The expected number of participants of the rally is up to 3000 people.

Contact phone number: (0652)-27-21-10.

**Chairperson of the Mejlis
of the Crimean Tatar People,
Deputy of the Supreme Council
of the Autonomous Republic of Crimea**

/signature/ Refat Chubarov

Representatives of 6 organizations from 4 countries have worked on the preparation of the Part 1 of the Report “Reconstruction and legal analysis of the events of 26 February 2014 outside the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol”



Association of Ukrainian Human Rights Monitors on Law Enforcement, Ukraine



Regional Center for Human Rights, Ukraine



Ukrainian Helsinki Human Rights Union, Ukraine



Helsinki Foundation for Human Rights, Poland



Resource Center for Human Rights (CReDO), Moldova



“Memorial” Human Rights Center, Russia

Kyiv 2017