

Short review  
Part 1 of the Report  
International Expert Group

26  
FEBRUARY

CRIMINAL  
CASE

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



## What happened

On 26 February 2014, two rallies organized by the party "Russian Unity" and the Mejlis of the Crimean Tatar People were held near the building of Supreme Council of Crimea (the ARC SC) in Simferopol. The objectives of the announced rallies in fact reflected two principally different views on the status of Crimea.

The rallies were preceded by a series of events in Ukraine (the revolutionary events in Ukraine in 2013-2014 (Euromaidan), the shooting of protesters in the center of Kyiv, the fleeing of the then President of Ukraine Victor Yanukovich). In Crimea, the pro-Russian sentiments started to escalate. Crimean authorities made a public declaration expressing their intention to separate from Ukraine. Besides, the active and unauthorized maneuvering of the Russian military received a lot of evidence on the peninsula.

On 25 February 2014, ca. 400 pro-Russian activists blocked the building of the ARC SC, demanding the Speaker to start an extraordinary session to vote on holding the referendum on the independence of Crimea. The agreement was reached to hold a session the following day. Following this, the two opposing forces - pro-Ukrainian and pro-Russian - came to the rally on that day.



On the one side, the rally participants comprised representatives of the Mejlis of the Crimean Tatar People, other pro-Ukrainian activists, fans of "Tavria" football club of Simferopol. And representatives of the "Russian Unity" party and their allies and supporters, members of the so-called "People's Militia of Crimea" as well as the so-called Cossack organizations of the other side. The organizers informed law enforcement agencies about the announced events in advance. Over 500 law enforcement officers were summoned to ensure the public order.



## Main consequences

During the rally, two people died, while three other protesters were injured.

In this regard, Ukrainian law enforcement agencies opened a number of criminal proceedings on causing bodily harm and death to people during the rallies.

After the occupation of Crimea the Russian Federation authorities started to prosecute some participants of the "pro-Ukrainian" rally of 26 February 2014 from among the Crimean Tatars.

Besides, on that day the ARC SC could not pass a decision which would unleash the subsequent violation of the territorial integrity of Ukraine and change of the status of the Crimean peninsula.

On 27 June 2014, the Investigative Committee of the Russian Federation in the Republic of Crimea launched two criminal cases on grounds of death by negligence caused to two rally participants. On 28 January 2015, one more criminal investigation into the organization of mass disorders and participation in mass riots on 26 February 2014 near the building of the ARC SC was launched. One of the main indicted was Ahtem Chiygoz, Deputy Chair of the Mejlis of the Crimean Tatar People.

In total, in the "26 February criminal case" nine people have been indicted. Six of them (Ahtem Chiygoz, Eskender Kantemirov, Mustafa Degermendzhi, Eskender Emirvaliev, Ali Asanov and Arsen Yunusov) remain in detention being on trial, while two of them (T. Yunusov and E. Nebiev) has already received suspended sentences of 2,5 and 3,5-year respectively and one indicted is a wanted fugitive.



## Who we are

In December 2015, a coalition of civil society organizations decided to establish the International Expert Group on the preparation of Part 1 of the Report "Reconstruction and legal analysis of the events of 26 February 2014 at the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol".

### THE COALITION COMPRISES REPRESENTATIVES OF 6 ORGANIZATIONS FROM 4 COUNTRIES:

- ◆ Association of Ukrainian Monitors on Human Rights Observance in the Activities of Law Enforcement Agencies, Ukraine
- ◆ Regional Centre for Human Rights, Ukraine
- ◆ Resource Center for Human Rights (CReDO), Moldova
- ◆ The Human Rights Center "Memorial", Russia
- ◆ Ukrainian Helsinki Human Rights Union, Ukraine
- ◆ Helsinki Foundation for Human Rights, Poland.



## What has been done and why

The International expert group has worked on the collection and systematization of information, research and preparation of reconstruction of the 26 February events.

It took approximately a year to study and analyze the 26 February events. To help reconstruct the events of that day, a wealth of information was collected.

### ANALYZED IN TOTAL:



**611** videos exceeding **14** hours of total duration



approximately **1200** photos



event witnesses and participants interviewed



The experts' conclusions use the data obtained from the event-related criminal proceedings materials.

### IN ADDITION, THE GROUP HAS PREPARED

A legal analysis of the events and their consequences with regard to international human rights standards, compliant with the best practices of organizing and holding a peaceful assembly.

An analysis and evaluation of compliance with the principles and standards of international law in connection with the prosecution of individual participants of the rallies.



## QUALIFICATION OF THE EVENTS: WHAT WAS IT: RIOTS OR PEACEFUL ASSEMBLY?

Assemblies, declared for 26 February 2014 by the "Russian Unity" party and the Mejlis of the Crimean Tatar People, were by their nature two separate meetings with opposing objectives and demands which partially overlapped in time and place. The reconstruction of these events and profound legal analysis suggest that the rallies outside the ARC SC did not contain evidence of the riots.

Neither Ahtem Chygoz nor the organizers of the rallies incited the participants to any violent actions. The experts have not identified signs of organization of mass riots in the actions of Ahtem Chygoz. The liability of certain individuals vis-à-vis committed offenses should be individualized and qualified based on the nature of their actions and the consequences thereof.

## THE RESPONSIBILITY OF THE AUTHORITIES: WHY DIDN'T THE POLICE PREVENT THE CLASHES?

The available materials and information indicate that the authorities of the Main Department of the Ministry of Internal Affairs of Ukraine in Crimea did not involve enough resources to ensure the safety of the rallies. Thus, to enforce safety of the rallies with opposing slogans and a number totaling 14,000 participants, only 500 police officers have been allocated.

In general, the police deployed a stand-by tactics, resorting, mainly, to event observation. In fact, the police didn't detain fights instigators or other provocateurs, let alone separate the members of two assemblies.

Event analysis shows that the major clashes between the rally participants happened at the moments when the police removed the separating cordon between the participants.

The authorities did not enforce the rally safety in the framework of fulfilling positive obligations of the state. The main task of the police on ensuring the safety of peaceful assembly and protecting the right to life and health of assembly participants was not fulfilled.

## THE QUESTION OF JURISDICTION: DOES THE RUSSIAN FEDERATION HAVE A LEGITIMATE CLAIM TO INVESTIGATE THESE EVENTS?

The jurisdiction of the Russian Federation may not apply to the investigation of the 26 February events, as well as to the criminal prosecution of Ukrainian citizens for alleged criminal offenses.

Extension of the Russian criminal law to the acts that occurred prior to the annexation of the Crimean peninsula has a restrospective nature (retroactive effect), which contradicts one of the basic principles of criminal justice, recognized in international law, namely "no penalty without a law".

The defendants in the "26 February criminal case" are prosecuted for crimes whose objects are the interests of Ukraine (organizing and participating in mass disorder refers to offenses against public order). In fact, the alleged accusation of the Ukrainian citizens lacks evidence of a crime that constitutes a violation of Russian normative legal acts.

## DID UKRAINE CARRY OUT AN EFFECTIVE INVESTIGATION?

By the time of preparation of Part 1 of the Report, Ukraine had not carried out an effective investigation into the events of 26 February 2014. Positive obligations of the authorities did not expire with the adjournment of the assembly and oblige the State to conduct an effective investigation into the crimes committed during the demonstrations.

During the 26 February rally, two persons died and some of the participants were injured. An objective investigation into all the circumstances of the incident and the assessment of guilt of all event participants can only be possible in the result of a formal investigation by law enforcement agencies of Ukraine. The lack of complete information on the Ukrainian investigation of this case does not allow an evaluation of the effectiveness of the investigation.



## The conclusion about the politically motivated persecution

Analysis of the events and actions of the Russian authorities leads to the conclusion that the actual purpose of the actions of the RF in relation to Ahtem Chiygoz was not the investigation into the 26 February events but the persecution of the individual participants of the rally for their pro-Ukrainian position.

The fact that the Russian Federation brings to trial only members of the "pro-Ukrainian" rally, representatives of the Crimean Tatar people, in light of lacking jurisdiction and legal grounds to investigate the 26 February events, both in accordance with international law and national legislation, stipulates that prosecution of Ahtem Chiygoz and other defendants is politically motivated.

In addition, the majority of victims in criminal proceedings belong to the participants of the "pro-Russian" rally, representatives of the "People's militia" and law enforcement officials. No participant of the "pro-Ukrainian rally" has been identified as a victim.



## Recommendations



### TO THE RUSSIAN FEDERATION:

to stop unfounded, politically-motivated prosecution of the participants of the "pro-Ukrainian" rally on 26 February 2014.

to release from custody Ahtem Chiygoz, Mustafa Degermendzhi and Ali Asanov, facing the "mass disorder" charges



### TO UKRAINE:

to conduct an effective investigation:

- a) of the facts of death and bodily injuries during the 26 February 2014 events;
- b) of illegal actions/inaction of Ukrainian police officers in terms of positive obligations and enforcing security during the rallies of 26 February 2014.



The full text 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**" may be accessed at the website of the Ukrainian Helsinki Human Rights Union <http://helsinki.org.ua>

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