

# Crimea beyond rules

Thematic review of the human  
rights situation under  
occupation

Forcible Expulsion  
of the Civilian  
Population from the  
Occupied Territory  
by Russia

A map of the Crimean Peninsula is centered on the page. The landmass is colored in a light blue-grey, while the surrounding sea is a darker blue. The map shows the coastline and major islands of the peninsula.

**SPECIAL ISSUE**

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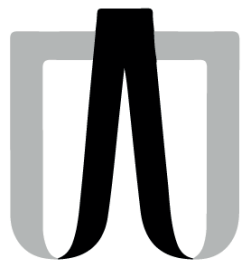
РЕГІОНАЛЬНИЙ ЦЕНТР ПРАВ ЛЮДИНИ

**RCHR**

REGIONAL CENTRE FOR HUMAN RIGHTS

**Regional Centre for Human Rights** - NGO, the nucleus of which consists of professional lawyers from Crimea and Sevastopol, specializing in the field of international human rights law.

[rchr.org.ua](http://rchr.org.ua)



**UKRAINIAN HELSINKI  
HUMAN RIGHTS UNION**

**Ukrainian Helsinki Human Rights Union** - non-profit and non-political organization. The largest association of human rights organizations in Ukraine, which unites 29 NGOs, the purpose of which is to protect human rights.

[helsinki.org.ua](http://helsinki.org.ua)



**CHROT** - expert-analytical group, whose members wish to remain anonymous.

Some results of work of this group are presented at the link below :

[precedent.crimea.ua](http://precedent.crimea.ua)

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Dear readers,

*Crimean events at the beginning of 2014 have challenged the post-war system of international security. They stirred up the whole range of human emotions - from the loss of directions in life to the euphoria, from joyful hope to fear and frustration. Like 160 years ago, Crimea attracted the attention of the whole Europe. In this publication we have tried to turn away from emotions and reconsider the situation rationally through human values and historical experience. We hope that the publication will be interesting to all, regardless of their political views and attitudes towards these events.*

S. Zayets

R. Martynovskyy

D. Svyrydova

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In February 2014, the Russian Federation launched aggressive actions aimed at the occupation and annexation of the part of Ukraine's sovereign territory - the Crimean peninsula. Armed forces of the Russian Federation, with the support of «the Crimean Self-Defense» units, took control of the strategic infrastructure objects, airports and military facilities on the peninsula during several weeks of February-March 2014.

On 16 March 2014, on the territory of the Crimean peninsula there was conducted a survey regarding the entry of the Autonomous Republic of Crimea and the city of Sevastopol into the Russian Federation, which the Russian Federation defines as a «referendum». The above survey is contradicting the Constitution of Ukraine, the basic principles and norms of international law and is not recognized by international community.

On 18 March 2014, the Russian Federation and the so-called «Republic of Crimea» signed the «Agreement on the Accession of the Republic of Crimea to the Russian Federation». On 25 April 2014, the Russian Federation defined its «state border» along the administrative border between the mainland Ukraine (Kherson Oblast) and the Autonomous Republic of Crimea, ignoring the UN General Assembly resolution 68/262<sup>1</sup>.

International community recognized the RF as an Occupying Power exercising effective control over Crimea without the consent of the Ukrainian Government and in the absence of a legally recognized transfer of sovereignty over the part of Ukrainian territory to the Russian Federation. Since February 2014, the territory of the Crimean peninsula has been occupied and «the law of armed conflicts» applies to this situation<sup>2</sup>.

In accordance with Article 43 of the Hague Convention on the Laws and Customs of War on Land, the authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country<sup>3</sup>. This norm is an international custom<sup>4</sup>.

In accordance with Article 23 of the so-called «The Agreement between the Russian Federation and the Republic of Crimea on the Accession of the Republic of Crimea in the Russian Federation and on Forming New Constituent Entities within the Russian Federation»<sup>5</sup>, legislative and other legal acts of the Russian Federation operate in the territories of the Republic of Crimea and the city of Sevastopol from the date of their accession in the Russian Federation.

At the same time, according to the Vienna Convention on the Law of Treaties 1969, the so-called Treaty between the RF and the «Republic of Crimea» is not a treaty within the meaning of the above-mentioned Convention, since «the Republic of Crimea» did not have the status of a subject of international law at the time of its signing<sup>6</sup>.

Hence, the extension of the Russian legislation to the territory of occupied Crimea is

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1 Resolution adopted by the General Assembly on 27 March 2014 A/RES/68/262, available at: [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a\\_res\\_68\\_262.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_68_262.pdf)

2 Resolution adopted by the General Assembly on 27 March 2014 A/RES/68/262, available at: [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a\\_res\\_68\\_262.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_68_262.pdf); Resolution adopted by the General Assembly on 19 December 2016, A/RES/71/205, available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/71/205](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/205)

3 Hague Convention (IV) Respecting the Laws and Customs of War on Land and Annex, 18 Oct. 1907, Article 43.

4 Trial of the Major War Criminals, International Military Tribunal in Nuremberg, published in 41 AJIL (1947) 172, in particular at 248–249; Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 9 July 2004, International Court of Justice, available at <http://www.icj-cij.org/icjwww/idocket/imwp/imwpframe.htm>, at paras. 89 and 124.

5 <http://en.kremlin.ru/events/president/news/20604>

6 Article 2(1)(a) of Vienna convention on the law of treaties: <https://treaties.un.org/doc/publication/unts/volume%201155/volume-1155-i-18232-english.pdf>

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contrary to the basic principles and norms of international law.

Despite this fact, the Russian authorities actively apply in the territory of occupied Crimea, in particular, the provisions of their domestic legislation in the field of migration and the Code of Administrative Offenses, which establish administrative responsibility for their violations.

Article 43 of the Geneva Convention (IV) on the protection of civilians in time of war prescribes that individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive<sup>7</sup>.

At the same time, from the territory of occupied Crimea there take place mass expulsions of civilians - citizens of Ukraine, as well as foreigners and stateless persons who enjoy the status of protected persons. Aforementioned expulsions are based on decisions made by occupying courts and are executed in the form of controlled independent exit or forced expulsion, which provides for the detention of expellees in special institutions located in the territory of the Russian Federation - center for temporary detention of foreign citizens and stateless persons.

Between July 2017 and June 2018, the NGO «Regional Centre for Human Rights» conducted a comprehensive research on violations of human rights and international humanitarian law by the Russian Federation as a result of its policy of expelling protected persons from the occupied territory of Crimea<sup>8</sup>. The research has revealed 2,425 Ukrainian citizens, foreigners and stateless persons, against whom expulsion from the territory of Crimea has been applied since the beginning of occupation. An appropriate evidence base has been collected for all identified individuals, which can be used in the future to bring to justice those responsible for human rights and international humanitarian law violations.

The results of the present research clearly confirm the fact that the active use of the provisions of the Russian migration legislation is one of the tools of the Russian policy to change the demographic composition of the population of the occupied territory through a kind of «cleansing» it for continued colonization by transferring part of its own civilian population to the occupied territory. The purpose of such a policy is to use in the future the thesis about the unwillingness of the «people of Crimea» to return to the jurisdiction of Ukraine.

Such behavior of Russia is contrary to the obligations imposed on it by Articles 49 of the Geneva Convention (IV), Article 43 of the Hague Regulations, by the commitments it voluntarily accepted when joining the Council of Europe (1996) and the European Convention on Human Rights (1998). In addition, such actions by representatives of the Russian Federation can be qualified as a discrete kind of war crimes and crimes against humanity within the meaning of the Rome Statute of the International Criminal Court.

The present Special Issue of the Thematic Review «Crimea beyond Rules» is devoted to the issue of forcible expulsion of Ukrainian citizens, foreigners and stateless persons from the occupied territory of Crimea and is based on the data of the above-mentioned research.

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7 Article 49 of the Geneva Convention (IV): [http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33\\_GC-IV-EN.pdf](http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33_GC-IV-EN.pdf)

8 The full text of this research will become available starting from 25 July 2018 at: <http://precedent.crimea.ua/en/analytics/research-forcible-expulsion-of-the-civilian-population-from-the-occupied-territory-by-russia/>

## Research subject and methodology

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The research subject, which constitutes the basis of this thematic review, is the situation with the forcible expulsion of Ukrainian citizens, foreign citizens and stateless persons<sup>9</sup> from the territory of the occupied Crimea by the Russian Federation. The persons mentioned were transferred to mainland Ukraine<sup>10</sup> or deported to the territory of the Russian Federation or other (third) countries that are not in the state of armed conflict with Ukraine.

Such forcible expulsion has been and continues to be carried out despite the will of the persons being expelled, on the grounds of judicial decisions of the occupying courts - the courts created by the occupying power in the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol.

The research was conducted to ensure the principle of the inevitability of punishment for gross violations of human rights and international humanitarian law.

The research methodology is based on a systematic approach to studying the situation: monitoring, collection of information from open and closed sources, its verification and comprehensive analysis, identification of victims of human rights violations and IHL norms, recording evidence of such violations in accordance with the principles of relevance and admissibility.

Information on violations was obtained directly from the victims of such forcible expulsions, their relatives, lawyers, as well as from public information sources of the Russian Federation official authorities, including the judiciary, documents of international organizations such as the UN and OSCE, the authorized bodies of Ukraine, including the Prosecutor's Office of the Autonomous Republic of Crimea, as well as the media.

In total, 2,425 persons forcibly expelled by the decision of occupation courts were identified.

The formed files of victims and the rest of evidentiary base consist of:

- ) interviews, written explanations, protocols of victim interviews (including audio and video recording of such interviews and interrogations);
- ) occupation courts orders on administrative cases in which they made decisions on the imposition of penalties in the form of forcible expulsion;
- ) copies of administrative cases materials;
- ) documents of official authorities of the Russian Federation (The Ministry of Justice, The Ministry of Internal Affairs) on matters regarding the recognition of presence of foreign citizens on the territory of the Russian Federation as undesirable and their subsequent forced expulsions;
- ) reports of international organizations (in particular, the UN, OSCE);
- ) information, obtained from other open sources and the media.

The methods that were used in the research process are specific, the ones taking into account a number of factors that directly influence the collection of information and verifying its reliability. In particular, the authors of the research used the capabilities of modern means of communication<sup>11</sup> and cross-sectional methods for verifying information and identifying victims of human rights and IHL norms violations.

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9 Here and below, "forcibly expelled" means deported persons, as well as persons forcibly transferred from the territory of the occupied Crimea.

10 Here and below, the "mainland Ukraine" means the not occupied territory of Ukraine, controlled by the legitimate Ukrainian authorities.

11 Mobile communication, Internet, Viber, WhatsApp, Skype, Telegram, Signal.

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The methodology applied allows to state with a high degree of probability that the information collected on the facts of violations is objective, and the evidence meets the requirements of admissibility and can be used in international criminal proceedings and proceedings in other international judicial and quasi-judicial institutions.

Based on the results of the study, its authors came to the conclusion that the problem of forcible expulsion of Ukrainian citizens, foreign citizens and stateless persons from the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol has a pronounced systemic character. It covers the entire territory of the occupied Crimean peninsula and all categories of persons protected under the terms of Article 4 of the Geneva Convention IV (Ukrainian citizens, foreign citizens and stateless persons).



### **Universal Declaration of Human Rights<sup>12</sup>**

#### ARTICLE 13

*(1) Everyone has the right to freedom of movement and residence within the borders of each state.*

*(2) Everyone has the right to leave any country, including his own, and to return to his country.*

### **International Covenant on Civil and Political Rights<sup>13</sup>**

#### ARTICLE 9

*1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.*

*2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.*

*3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.*

*4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.*

*5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.*

#### ARTICLE 12

*1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.*

*2. Everyone shall be free to leave any country, including his own.*

*3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.*

*4. No one shall be arbitrarily deprived of the right to enter his own country.*

#### ARTICLE 13

*An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the*

<sup>12</sup> <http://www.un.org/en/universal-declaration-human-rights/>

<sup>13</sup> <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>



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competent authority.

## ARTICLE 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

## **Convention for the Protection of Human Rights and Fundamental Freedoms<sup>14</sup>**

### ARTICLE 5

#### **Right to liberty and security**

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
  - (a) the lawful detention of a person after conviction by a competent court;
  - (b) the lawful arrest or detention of a person for noncompliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
  - (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
  - (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
  - (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
  - (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

### ARTICLE 8

#### **Right to respect for private and family life**

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

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<sup>14</sup> [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

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## **Protocol No 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>15</sup>**

### ARTICLE 1

#### **Protection of property**

*Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.*

## **Protocol No 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>16</sup>**

### ARTICLE 2

#### **Freedom of movement**

*1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.*

*2. Everyone shall be free to leave any country, including his own.*

*3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

*4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society.*

### ARTICLE 3

#### **Prohibition of expulsion of nationals**

*1. No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national.*

*2. No one shall be deprived of the right to enter the territory of the State of which he is a national.*

### ARTICLE 4

#### **Prohibition of collective expulsion of aliens**

*Collective expulsion of aliens is prohibited.*

## **Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (GC IV)<sup>17</sup>**

### ARTICLE 4

*Persons protected by the Convention are those who at a given moment and in any manner*

<sup>15</sup> [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

<sup>16</sup> [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

<sup>17</sup> [http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33\\_GC-IV-EN.pdf](http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33_GC-IV-EN.pdf)

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whatsoever, find themselves, in case of a conflict or occupation, in the hands of persons a Party to the conflict or Occupying Power of which they are not nationals.

#### ARTICLE 49

*Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.*

*(...)*

*The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.*

#### ARTICLE 147

*Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.*

### **Convention (IV) respecting the Laws and Customs of War on Land<sup>18</sup>**

#### ARTICLE 43

*The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.*

### **Rome Statute of the International Criminal Court<sup>19</sup>**

#### ARTICLE 7

##### **Crimes against humanity**

*For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:*

*(...)*

*d) Deportation or forcible transfer of population;*

#### ARTICLE 8

##### **War crimes**

*For the purpose of this Statute, ‘war crimes’ means:*

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<sup>18</sup> <https://ihl-databases.icrc.org/ihl/INTRO/195>

<sup>19</sup> [https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome\\_statute\\_english.pdf](https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf)

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a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

(...)

vii) Unlawful deportation or transfer or unlawful confinement;

b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

(...)

viii) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory.

## **Guidelines on Population Registration (OSCE)<sup>20</sup>**

### **1.3.2. Freedom of Movement**

Freedom of movement and the free choice of a place of residence within a country are among the basic human rights guaranteed by a number of international legal instruments. At the Third Follow-up Meeting of the Conference on Security and Cooperation in Europe (CSCE) — held in Vienna from 4 November 1986 to 19 January 1989 — participating States concluded that:

20. The participating States will respect fully the right of everyone – to freedom of movement and residence within the borders of each State, and – to leave any country, including his own, and to return to his country.

21. The participating States will ensure that the exercise of the above-mentioned rights will not be subject to any restrictions except those which are provided by law and are consistent with their obligations under international law, in particular the International Covenant on Civil and Political Rights, and with their international commitments, in particular the Universal Declaration of Human Rights. These restrictions have the character of exceptions. The participating States will ensure that these restrictions are not abused and are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured.

22. In this context they will allow all refugees who so desire to return in safety to their homes.

With these conclusions, participating States further reaffirmed their commitments to reinforce protection of the right to freedom of movement and the choice of a place of residence, as set forth in the United Nations' 1948 Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights of 1966.

ODIHR offers expertise to participating States to encourage the development and implementation of procedures and legal provisions regulating the population registration process — and residence registration in particular — that do not interfere with the right to freedom of movement and are in compliance with international standards with regard to data protection and privacy.

### **2.3.5. Facilitating the free movement of people**

Guaranteeing freedom of movement is one of the key commitments made by OSCE participating States. Thus, the population-registration system should facilitate freedom of movement and avoid managing population movements by putting limits on the free choice of place of residence.

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<sup>20</sup> <https://www.osce.org/odihr/39496?download=true>

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### 2.4.3. Place of Residence

Place of residence is usually the place at which the resident actually lives most of the time. Some states register only one place of residence, while others may list multiple addresses, often breaking them down into “permanent” and “temporary” places of residence. In any case, the purpose of registering place of residence is to give the state the ability to contact individuals or deliver specific services to individuals or communities.

Legislation usually defines who is eligible, and who is required, to register their place of residence. In most cases, this applies to citizens of the state. Many OSCE participating States, however, register non-citizens who have residence permits that allow them to live in the state for a certain period, those in the process of changing their place of residence within state, or those who are leaving the state for a certain period (usually exceeding six months).

To register a place of residence, the subject provides the address and date of arrival at that address. Registration is compulsory for all eligible persons, including newborns. Some countries register the date of departure and the place or intended destination state when a person moves abroad and also register the place of residency when a person permanently resides abroad.

Place of residence can be declared either by an individual or by his or her legal representative. The place of residence for minors is declared by their natural parents, adoptive parents, legal guardian, or any other person who is legally entitled to care for them and defend their rights and legal interests. For those placed under legal guardianship, their place of residence is declared by their guardian or by the administration of the institution that has been assigned to act as their guardian.

To register a place of residence or a change of residence, the relevant individual has to provide the required information on the designated form. The name of this form may differ from one participating State to another, but it is often called a declaration of place of residence. Some countries have two declaration forms: one to declare place of residence when a person changes their place of residence within the state or comes to the state from abroad, and the other to declare their departure from the state in order to live abroad. Other countries use the same form for both types of declaration.

This declaration may be provided to the relevant agency either at the person’s new place of residence or at his or her previous place of residence. In some countries, it is necessary to provide this declaration in person, while others allow declarations to be mailed in. Some countries allow declarations to be submitted online or by telephone.

### **Legal consequences of the construction of a wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, International Court of Justice<sup>21</sup>**

In the context of this review - paras 134-137 of the Advisory Opinion concerning the application of International Humanitarian law and standards of freedom of movement in the occupied territories.

### **Recommendation Rec(2000)15 Concerning the Security of Long-Term Migrants<sup>22</sup>**

4. As regards the protection against expulsion:
  - a. Any decision on expulsion of a long-term immigrant should take account, having due

<sup>21</sup> <http://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf>

<sup>22</sup> <http://www.refworld.org/docid/4278e13d4.html>

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regard to the principle of proportionality and in the light of the European Court of Human Rights' constant case-law, of the following criteria:

- the personal behaviour of the immigrant;
- the duration of residence;
- the consequences for both the immigrant and his or her family;
- existing links of the immigrant and his or her family to his or her country of origin.

b. In application of the principle of proportionality as stated in Paragraph 4.a, member states should duly take into consideration the length or type of residence in relation to the seriousness of the crime committed by the long-term immigrant. More particularly, member states may provide that a long-term immigrant should not be expelled:

- after five years of residence, except in the case of a conviction for a criminal offence where sentenced to in excess of two years' imprisonment without suspension;
- after ten years of residence, except in the case of a conviction for a criminal offence where sentenced to in excess of five years of imprisonment without suspension.

After twenty years of residence, a long-term immigrant should no longer be expellable.

Long-term immigrants who are minors may in principle not be expelled.

5. As regards administrative and judicial guarantees:

a. Any decision on withdrawal of a residence permit of a long-term immigrant should take account, having due regard to the principle of proportionality and in the light of the European Court of Human Rights' constant case-law referring to Article 8 of the European Convention of Human Rights, of the following criteria:

- personal behaviour of the immigrant;
- duration of residence;
- consequences for both the immigrant and his/her family;
- existing links of the immigrant and his/her family to his/her country of origin.

b. Before deciding on the expulsion of a long-term immigrant, the competent authority should consider alternative measures (for example, by replacing the permanent residence permit with a non-permanent one).

(...)

d. In case of an expulsion order, procedural guarantees for a long-term immigrant should in particular include the right to a fair hearing and to be given a reasoned decision. They should also include the right to appeal to, and to be represented for that purpose before an independent administrative authority or a court competent to review the case on its merits and on the conformity of the decision with the law.



## General description of the situation with forcible expulsions

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The Russian occupation authorities expel protected persons from the occupied territory to the territory of the Russian Federation, the territory of third countries and to the non-occupied territory of Ukraine based on decisions made by the courts<sup>23</sup> to consider those individuals as subject to administrative liability for violations of the migration legislation of the Russian Federation and other administrative violations (for example, illicit traffic in narcotic drugs - Part 2 of Article 6.8 of the Code of Administrative Offenses).

The application of the Russian migration legislation on the territory of the occupied peninsula harmfully affected primarily Ukrainian citizens:

- whose place of residence was officially registered on the territory of the Autonomous Republic of Crimea and the city of Sevastopol, and who subsequently refused to accept the citizenship of the Occupying Power imposed by the Russian Federation;
- who lived in the mentioned territory before the occupation without official registration (which does not constitute a violation of Ukrainian law);
- who arrived in the specified territory after the beginning of occupation in personal, family and other affairs.

Another category of protected persons should include foreigners and stateless persons who:

- arrived on this territory prior to the beginning of the occupation on legal grounds, with the permission of the competent Ukrainian authorities, and resided there for a long time (had a permission to live, work, study in Ukrainian universities, etc.);
- arrived on this territory before the occupation on legal grounds, but subsequently resided with violations of the migration legislation of Ukraine;
- arrived on this territory after the beginning of the occupation in violation of the procedure established by Ukraine for entry into the occupied territory.

The fact that some of the foreign citizens and stateless persons illegally resided in the occupied territory of Ukraine (in the understanding of Article 2 of Protocol No. 4 to the ECHR and Article 12 of the ICCPR) does not abolish their status of protected persons. Thus, forcible expulsion by the Russian Federation from the occupied territory of Ukraine constitutes an illegal deportation within the meaning of Article 49 of the Geneva Convention (IV).

### ***Key provisions of the Russian immigration legislation***

The immigration legislation of the Russian Federation allows a foreign citizen (a stateless person) to stay on the territory of the Russian Federation without a temporary stay permit or a residence permit within the validity of the visa, but not more than 90 days for a period of 180 days.

According to the immigration rules, at the Russian Federation state border checkpoint such persons must present a completed migration card that confirms the date and legality of entry into the territory of the Russian Federation. The migration card must specify the purpose of entry. The discrepancy of the actual purpose of entry to the one declared in

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<sup>23</sup> Here, courts are considered to be ones established and controlled by the Russian Federation on the territory of the Autonomous Republic of Crimea and the city of Sevastopol. The names of the occupation courts are given in this review in accordance with their official name by the occupation authorities and the authorities of the Russian Federation.



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the migration card is a violation of the immigration legislation and can serve as a basis for administrative expulsion of a person from the territory of the Russian Federation. When passing the state border checkpoint, the passport control officials place a mark of the entry to the Russian Federation on the reverse side of the part «B» of the migration card which remains with the person. Part «A» of the migration card is taken by immigration officers of the checkpoint.

In case of damage or loss of the migration card, a foreign citizen within 3 days must apply to the nearest office of the Federal Migration Service of the Main Directorate of Migration of the Ministry of Internal Affairs of the Russian Federation in order to get a duplicate of the damaged or lost migration card.

Upon arrival in the territory of the Russian Federation, a foreign citizen within 3 days must be registered in the relevant territorial office of the Federal Migration Service.

A foreign citizen has the right to work only if he (she) has a work permit. To obtain such a permit, one must contact the territorial office of the Federal Migration Service at the place of his (her) migration registration<sup>24</sup>.

Violation of these rules entails administrative liability in the form of a fine or administrative expulsion from the territory of the Russian Federation.

### **Grounds for taking decisions on forcible expulsion**

On June 15, 2014, 90 days have elapsed since the signing of the Agreement between the Russian Federation and the Republic of Crimea on the Accession of the Republic of Crimea in the Russian Federation and on Forming New Constituent Entities within the Russian Federation<sup>25</sup>. After this date, citizens of Ukraine, foreign citizens (except citizens of the Russian Federation) and stateless persons who entered Crimea (or resided there) until March 18, 2014 and did not get a *temporary stay permit* or *temporary residence permit* in the Russian Federation, automatically acquired status of violators of Russian immigration law.

Since July 2014, the courts of Crimea and the city of Sevastopol started to massively receive protocols on administrative offences in the field of immigration law, and courts began to make decisions on the use of such types of penalties as a fine and administrative expulsion in the form of forced expulsion or controlled independent exit.

Separate cases of forcible expulsion took place also in June 2014, however, they are applied to those individuals who have arrived in the territory of the Russian Federation before March 2014, and after the occupation of Crimea, they entered its territory and did not leave after 90 days from the moment of crossing the border of the Russian Federation.

Forcible expulsions of Ukrainian citizens who were in Crimea at the time of occupation began in July 2014.

The legislation of the Russian Federation on administrative offences stipulates that administrative expulsion outside the Russian Federation may be appointed by a judge on the results of consideration of an administrative offense case<sup>26</sup>.

Code of Administrative Offences of the Russian Federation provides for 23 administrative offences, for which a penalty in the form of administrative expulsion from the

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24 Work permit is issued within the quotas established for a particular region.

25 Was signed on March 18, 2014, <http://kremlin.ru/events/president/news/20605>

26 In cases when an administrative offence is committed at the entrance to the territory of the Russian Federation (for example, articles 18.1 or 18.4 of the Code of Administrative Offences), the decision on expulsion can be made by the relevant official.

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Russian Federation may be imposed:

**Article 5.26 (Part 5)** - *the implementation of missionary activities in violation of the requirements of the legislation on freedom of conscience, freedom of belief and religious associations committed by a foreign citizen or stateless person,*

- *shall entail the imposition of an administrative fine in the amount of thirty thousand to fifty thousand rubles with administrative expulsion from the Russian Federation or without it;*

**Article 6.8 (Part 2)** - *illicit traffic in narcotic drugs, psychotropic substances or their analogues;*

**Article 6.9 (Part 2)** - *consumption of non-prescribed narcotic drugs or psychotropic substances or new potentially dangerous psychoactive substances;*

**Article 6.13 (Part 1)** - *promotion or unlawful advertising of narcotic drugs, psychotropic substances or their precursors, plants containing narcotic drugs or psychotropic substances or their precursors, and their parts containing narcotic drugs or psychotropic substances or their precursors, as well as new potentially dangerous psychoactive substances;*

**Article 6.161 (Part 2)** - *illegal acquisition, storage, transportation, production, sale or shipment of precursors of narcotic drugs or psychotropic substances;*

**Article 6.21 (Parts 3, 4)** - *promotion of non-traditional sexual relations among minors;*

**Article 18.1 (Part 2)** - *violation of the rules for the crossing of the state border by persons and (or) vehicles or violation of the procedure for movement of such persons and (or) transport vehicles from the state border of the Russian Federation to checkpoints across the border;*

**Article 18.2 (Part 1.1)** - *violation of the rules of entry (passage) into the border zone, temporary stay, movement of persons and (or) vehicles in the border zone;*

**Article 18.4 (Part 2)** - *violation of the regime at checkpoints across the state border of the Russian Federation;*

**Article 18.8 (Parts 1, 1.1, 2, 4)** - *violation of the rules of entry into the Russian Federation or the regime of staying (residence) in the Russian Federation, manifesting itself in:*

- *violation of the established rules for entry into the Russian Federation,*
- *violation of the rules of migration registration,*
- *violation of the order of movement or the procedure for choosing the place of staying or residence,*
- *violation of the rules of transit passage through the territory of the Russian Federation,*
- *failure to fulfill obligations to notify of their residence in the Russian Federation,*
- *absence of documents confirming the right to stay (reside) in the Russian Federation, or*
- *non-submission of an application about their loss to the relevant body,*
- *avoiding leaving the Russian Federation after a certain period of staying,*
- *inconsistency between the declared goal of entry into the Russian Federation and activities or occupation actually carried out during the staying (residence) in the Russian Federation;*

**Article 18.10 (Parts 1, 3)** - *unlawful exercise by a foreign citizen or a stateless person of labour activities;*

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**Article 18.11 (Part 1)** - *failour to pass the immigration control stipulated by the legislation of the Russian Federation, medical examination, personality identification, residing at a temporary detention location, at the temporary accommodation centre for immigrants;*

**Article 18.17 (Part 2)** - *non-observance of the limitations concerning the exercise of certain activities which are established in compliance with federal laws in respect of foreign citizens and stateless persons;*

**Article 19.27 (Part 1)** - *submission of wittingly false data or forged documents while effecting migration registration;*

**Article 20.20 (Part 3)** - *Consumption (drinking) of alcoholic products in prohibited places or consumption of narcotic drugs or psychotropic substances, new potentially dangerous psychoactive substances or intoxicating substances in public places;*

**Article 20.25 (Part 3)** - *evading the performance of an administrative penalty in the form of administrative expulsion from the Russian Federation in the form of a controlled independent exit;*

**Article 20.31 (Parts 4, 5)** - *violation of the rules of behavior of spectators during official sports competitions.*

According to Article 25.10 of the Federal Law No 114-FZ of August 15, 1996, «On the Procedure for Exiting and Entering the Russian Federation», a foreign citizen or a stateless person who has entered the territory of the Russian Federation in violation of the provided rules, or not in possession of the documents evidencing their right to stay (reside) in the Russian Federation, or who has lost such documents and has not applied to a territorial body of the federal executive authority in charge of internal affairs, or are evading leaving the Russian Federation after expiration of the period of stay (residence) in the Russian Federation, and also, who has violated the rules of transit passage through the territory of the Russian Federation is considered to stay illegally in the territory of the Russian Federation and shall be held liable in accordance with the legislation of the Russian Federation.

This rule applies to the entire population of the occupied Crimea, regardless of whether the person lived in that territory before the occupation, or entered it later. Frequently, the victims of such displacement or deportation are persons who have lived in the peninsula for many years (and even those born in this territory) who have spouses, whose marriage is registered or not, and even have common underage children.

In its report OHCHR notes:

*«Non-compliance with immigration regulations imposed by the Russian Federation can lead to court-ordered deportations. For instance, in 2016, a court in Sevastopol ordered a Ukrainian citizen who had overstayed to be deported to mainland Ukraine although he owned property in this city<sup>27</sup>; another court deported a Ukrainian citizen who had a wife and children in Crimea»<sup>28</sup>.*

At the same time, OHCHR expresses concern over the selective approach of the authorities to the application of immigration rules:

*«Rules regulating stay were not consistently applied, sometimes favoring individuals who supported Crimea's accession to the Russian Federation. For example, the Supreme Court of Crimea ruled not to deport a Ukrainian citizen who described himself as "an*

27 Judgment of the Balaklava district court of the Republic of Crimea, 22 November 2016, No. 5-207/2016, <http://sudact.ru/regular/doc/s56ZvgkNvSgw/>

28 UN OHCHR report on situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine) of 25 September 2017, para. 65; Decision of the "Supreme court of the Republic of Crimea" of November 15, 2016, N° 12-2050/2016, <http://sudact.ru/regular/doc/hbZ5VPzDk710/>

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active participant of the Russian Spring in Sevastopol” and claimed his deportation to Ukraine would threaten his life and well-being<sup>29</sup>. The Court accepted the argument that he had a family in Crimea and that his deportation would interfere with his private and family life»<sup>30</sup>.

### **Persons authorized to draw up records on administrative offences**

In accordance with Article 28.3 of the Code of Administrative Offences, officials authorized to draw up records on administrative offences listed are:

- 1) officials of the internal affairs bodies (police);
- 2) officials of the bodies authorized to exercise functions involving the state registration of non-profit organizations, in particular branches of international organizations and foreign non-profit non-governmental organizations, public associations, political parties and religious organizations, and the exercise of control over the activities thereof;
- 3) officials of border guard agencies;
- 4) officials of the body exercising the functions of control and supervision over telecommunications, information technologies and mass communications;
- 5) officials of the National Guard of the Russian Federation.

The results of the monitoring of court decisions indicate that an absolute leader in the drawing up of administrative records on forcible expulsions on the territory of the Autonomous Republic of Crimea and the city of Sevastopol are officials of the internal affairs bodies<sup>31</sup> (police) of the Russian Federation.

After the illegal admission of the territory of Crimea and the city of Sevastopol to the Russian Federation, as well as the proliferation of its Russian legislation, units of the Federal Migration Service were created in that area, that were later reorganized into the Main Directorate for Migration Affairs. Officials of these bodies along with police officers often draw up records on administrative offences in cases where forcible expulsion from the territory of the Crimea is applied.

The grounds for administrative liability of protected persons, according to officials of these bodies, is the illegality of the presence of such persons in the territory of Crimea. At the same time *the legality* of their stay is determined in accordance with the legislation of the Russian Federation, whose action was extended to the temporarily occupied territory of Ukraine in violation of international law.

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29 Judgment of the Supreme court of the Republic of Crimea, 17 November 2016, No. 12-401/2016, <http://sudact.ru/regular/doc/Q9mwes1Qfjb/>

30 UN OHCHR report on situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine) of 25 September 2017, para. 67.

31 The Federal Migration Service, designed to monitor compliance with migration rules as an independent body, was abolished by the Presidential Decree No. 156 of April 5, 2016 “On the improvement of public administration in the sphere of control over the circulation of narcotic drugs, psychotropic substances and their precursors and in the sphere of migration (<http://publication.pravo.gov.ru/Document/View/0001201604050050>). Since April 2016, it is structurally a part of the Ministry of Internal Affairs of the Russian Federation ([https://мвд.рф/mvd/structure1/Glavnie\\_upravlenija/guvm](https://мвд.рф/mvd/structure1/Glavnie_upravlenija/guvm)).

## **Types of expulsions applied by the courts in Crimea and regulation of the procedure for expulsion**

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There are two types of decisions made by occupation courts on administrative expulsions:

1) on administrative expulsion in the form of a **controlled independent exit** from the territory of the Russian Federation (in accordance with such a decision, a person is obliged to leave the Russian Federation within 5 days after its entry into force);

2) on **forced administrative expulsion**<sup>32</sup> from the territory of the Russian Federation.

Most often, decisions on forced administrative expulsions are made in case a person has not left the territory of the occupied Crimea through the procedure of a *controlled independent exit*, in case of a repeated violation of the rules of immigration law, as well as in cases of committing administrative offences in the sphere of illicit drug trafficking. In order to enforce decisions on forced expulsion, the courts generally apply to such persons the detention in a special institution for foreign citizens and stateless persons who are subject to administrative expulsion from the territory of the Russian Federation.

The procedure for the forced expulsion of foreign citizens and stateless persons from the territory of the Russian Federation, applied in Crimea and the city of Sevastopol, is established by Article 34 of the Federal Law of the Russian Federation No. 115-FZ of 25.07.2002 «On the legal position of foreign citizens in the Russian Federation»<sup>33</sup>.

*The specified article provides that the administrative expulsion* of a foreign citizen from the Russian Federation shall be carried out at the expense of the funds of the expelled person, or at the expense of the funds of the body which has invited him or the consular institution of the state of which the expelled person is a citizen.

In certain cases, expenses for administrative expulsion are reimbursed at the expense of the budget of the Russian Federation.

The expulsion is carried out by the Federal Service of Court Bailiffs - the federal executive body responsible for the enforcement of judicial acts, or by the border guard agencies.

The functions of control over the implementation of the decision on administrative expulsion in the form of a controlled independent exit are exercised by the Federal executive authority in the field of migration.

The federal executive body in charge of foreign affairs informs a diplomatic mission or a consular office of a foreign state in the Russian Federation on the administrative expulsion of its citizen from the territory of the Russian Federation.

*The procedure for the execution of the decision* on administrative expulsion from the territory of the Russian Federation is established by Article 32.10 of the Code of Administrative Offences of the Russian Federation<sup>34</sup>, which provides that execution of a decision on administrative expulsion shall be performed through the official transfer of a foreign citizen or stateless person to the a public officer of the foreign state to the territory of which the person is being expelled, or through the controlled independent exit of such person.

Usually, an administrative deportation of a person is carried out in a place determined by the border guard authorities and is issued in the form of a unilateral act that is attached to the decision or to the enforcement proceedings materials.

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32 In some cases, courts refer to such expulsion as "forced and controlled expulsion".

33 See the section "Legislation of the occupant state", p. \_\_\_ of this review.

34 See the section "Legislation of the occupant state", p. \_\_\_ this review.



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Persons who are subject to administrative expulsion in the form of a controlled independent exit are obliged to leave the territory of the Russian Federation within five days after the day on which the judge's decision to impose an appropriate administrative penalty comes into effect.

**Places of detention of citizens of Ukraine, foreign citizens and stateless persons in respect of whom the courts in the occupied territory have decided on their forced expulsion**

Part 5 of the Article 34 of the Federal Law No. 115-FZ of July 25, 2002 «On the legal position of foreign citizens in the Russian Federation» establishes, that the foreign citizens subject to the administrative expulsion from the territory of the Russian Federation shall be held by court decision in the specially allocated premises of the bodies of the state security agencies, or in the special institutions until the execution of the decision on the administrative expulsion.

Since there are no such institutions in the occupied territory of Crimea, in case of the courts decisions on forced administrative expulsion, such persons are transferred from the occupied territory to special institutions located on the territory of the Russian Federation<sup>35</sup>:

1) Specialized institution of temporary accommodation of foreign citizens of the Federal Migration Service of Russian Federation for the Krasnodar region (2 Lvovska street, Vardane settlement, Lazarevsky District, Sochi, Krasnodar region. The center operated until December 2016). It was designed for accommodating up to 500 people at a time.



2) The temporary accommodation center for foreign citizens of the General Administration of the Ministry of Internal Affairs in Krasnodar region (5 Shkolnaya street, Novokrainskoye village, Gulkevichsky District, Krasnodar region. This center was opened in December 2016 instead of the one closed in December of the same year in Vardane settlement). It is designed for accommodating up to 200 people at a time.

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35 Such transfer constitutes a gross violation of international humanitarian law, in particular of article 49 of the Geneva Convention (IV).



3) The temporary accommodation center for foreign citizens of the Inter-District Administration of the Ministry of Internal Affairs of the Russian Federation «Novocherkasskoye» (35 Balochnaya Street, Novocherkassk, Rostov Region). It is designed for accommodating up to 100 people at a time.



4) Federal state institution «Temporary accommodation center of foreign citizens and stateless persons subject to administrative expulsion from the Russian Federation, deportation or readmission «Don» of the Ministry of Internal Affairs of the Russian Federation» (3-A Zapadny lane, Sinyavskoye village, Neklinovsky district of Rostov region). It is designed for accommodating up to 60 people at a time.





5) Federal state institution «Specialized institution of temporary accommodation of foreign citizens» of the General Administration of the Ministry of Internal Affairs of the Russian Federation in the Stavropol Territory (149/2 Oktyabrskaya Street, the city of Georgievsk, Stavropol Territory). It is designed for accommodating up to 86 people at a time.



These institutions carry out their activities on the basis of Federal Law No. 115-FZ of July 25, 2002<sup>36</sup>, Rules governing the conditions of detention of persons in these institutions, approved by Order of the Government of the Russian Federation on 30.12.2013 No. 1306<sup>37</sup>, as well as the Charter, approved by the order of the Federal Migration Service of Russian Federation of October 6, 2014 N° 540<sup>38</sup>.

36 Federal Law No. 115-FZ of July 25, 2002 «On the legal position of foreign citizens in the Russian Federation», [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_37868/](http://www.consultant.ru/document/cons_doc_LAW_37868/)

37 Order of the Government of the Russian Federation on 30.12.2013 No. 1306 «About approval of Rules of content (stay) in special facilities of the Ministry of Internal Affairs of the Russian Federation or its territorial authority of the foreign citizens and persons without citizenship who are subject to administrative expulsion out of limits of the Russian Federation in the form of exclusion out of limits of the Russian Federation, deportation or readmission»; <http://pravo.gov.ru/proxy/ips/?docbody=&nd=102170700&rdk=&backlink=1>

38 Order of the Federal Migration Service of the Russian Federation of 06.10.2014 No. 540 “On Amending the Order of the Federal Migration Service of Russia of May 25, 2011 No. 223 «On approval of the Charter of the Federal state institution of the Federal Migration Service “Center for the accommodation of persons subject to readmission “Don”.

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The foreign citizens and stateless persons placed in them are held in conditions that exclude the possibility of voluntary abandonment of such special institutions. They are obliged to observe the established daily routine of the institution as well as internal regime, as well as the access control arrangements.

Upon admission to a special institution, a personal file is issued for each person, newcomers are also subject to personal examination, fingerprinting and photographing. In addition, their personal belongings must be inspected.

Cell phones are confiscated and handed over to administration for the purpose of storage. It is allowed to use them only at the scheduled time of the day.

Foreign citizens and stateless persons are held in rooms, the sanitary area standard is not less than 6 square meters per person, in case of bunk beds installation - not less than 4.5 square meters per person. They are provided with an individual bed and bedding (mattress, pillow and blanket).

According to the rules, individuals are washed at least once every 7 days.

Thus, the conditions of detention in special institutions resemble the conditions of detention of persons serving criminal sentences.

Many people who were placed in special institutions for the purpose of subsequent expulsion, after their transfer from the territory of Crimea were kept in these institutions for several months and even more than a year. Thus, the Crimean Tatar **Nedim Khalilov**, who arrived to Crimea in 1986 from Uzbekistan, where his parents were deported in 1944 by the Stalin regime, and who lived there legally, was expelled from the territory of Crimea in November 2016 and placed in the specialized institution of temporary accommodation of foreign citizens in Vardane settlement of Krasnodar Territory. Later he was transferred to specialized institution of temporary accommodation of foreign citizens «Gulkevichsky», where he stayed until May 15, 2018, after which he was forcibly taken to Uzbekistan by plane. Until his deportation, Mr. Khalilov spent more than a year and a half at the specialized institution of temporary accommodation of foreign citizens under conditions of imprisonment<sup>39</sup>.

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39 Detailed information about the case of Nedim Khalilov see in the section “Crimean cases”.

## Legal consequences of administrative expulsion

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Administrative expulsion of citizens of Ukraine, foreign citizens and stateless persons from the territory of occupied Crimea poses serious negative consequences for these persons:

a) they cannot get a temporary stay permit in the Russian Federation (part 3 of Article 7 of the Federal Law of July 25, 2002 No. 115-FZ<sup>40</sup>) or a residence permit in the Russian Federation (part 3 of Article 7 of this Law):

- for five years after administrative expulsion from the Russian Federation or deportation, or

- for ten years, if the person repeatedly (two or more times) was subjected to administrative expulsion from the Russian Federation or deportation;

b) they are prohibited from entering the territory of the Russian Federation for five years from the day of their administrative expulsion (part 2 of Article 27 of the Federal Law No. 114-FZ «On the procedure for exiting and entering the Russian Federation») or for 10 years - if such decisions were made regarding the same person two or more times (part 2.7 of Article 27 of this Law).

Since Russia considers Crimea as its territory, persons who have been expelled from this territory are accordingly deprived of their ability to enter it for a long time, including for the purpose of family *reunification*, or to dispose of property remaining in Crimea.

The ban on entry into the territory of the Russian Federation in the described situations should be regarded as an additional penalty for violation of the procedure established by the Russian authorities for the stay of citizens of Ukraine and foreign citizens in Crimea. This penalty applies to all those expelled automatically, extrajudicially and regardless of the specific life circumstances of a person. Many expellees do not know about the restriction of freedom of movement applied to them until they try to enter the territory of Crimea some time after the forcible expulsion.

In fact, a person, who committed a violation of the rules of stay in Crimea established by the Occupying Power, for one violation can be subjected to 3-4 penalties simultaneously:

- fine (or arrest, for example under part 2 of Article 6.8 of the Code of Administrative Offenses);

- expulsion;

- restriction of freedom, in case of forced expulsion with placement of a person in a special institution;

- ban on entry to the territory of Crimea for 5-10 years.

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<sup>40</sup> Federal Law No. 115-FZ of July 25, 2002 "On the legal position of foreign citizens in the Russian Federation".

## **Administrative expulsion of persons who has served a criminal sentence**

In case of the release of a foreign citizen or stateless person from places of deprivation of liberty, the expulsion of that person may be made extrajudicially.

The expulsion is carried out according to the following procedure. During the period of serving the criminal punishment by such a person, the Ministry of Justice of the Russian Federation issues an *Order on undesirability of stay (residence) in the Russian Federation of a foreign citizen or stateless person subject to release from places of deprivation of liberty*. The Ministry of Justice of the Russian Federation justifies its decision by reference to the provisions of part 11 of Article 31 of the Federal Law No. 115-FZ of July 25, 2002 «On the legal position of foreign citizens in the Russian Federation» and part 4 of the Article 25.10 of the Federal Law of August 15, 1996 No. 114-FZ «On the procedure for exiting and entering the Russian Federation».

In accordance with the provisions of part 1 of Article 31 of the Federal Law No. 115-FZ, such person is obliged to voluntarily leave the territory of the Russian Federation within three days after the release. However, for those persons who do not possess valid identification documents, or when these documents are damaged, a procedure of forced deportation is applied. Several days before release the head of the MIA General Administration for the region (territory or another subject of the Federation) makes a decision on deportation, which is subject to compulsory execution. In order to enforce the decision on the deportation of foreign citizens on the day of release from the places of deprivation of liberty, these persons are immediately placed in the Special Institution (Center) for temporary detention of foreign citizens of the Ministry of Internal Affairs of the Russian Federation for up to 48 hours<sup>41</sup>. Thus, the deprivation of liberty of foreign citizens and stateless persons occurs without a court decision.

The rules for the interaction of the Federal Migration Service (FMS), its territorial bodies and the Federal Penitentiary Service (FSIN) in matters relating to forcible expulsion of foreign citizens who have served criminal sentences are established by Government Order No. 728 of July 19, 2012<sup>42</sup>.

After the person is placed in the Center, the court considers the issue of establishing the term of his detention, which is usually 3 months and, in practice, is repeatedly prolonged. After receiving the confirmation of the person's citizenship by the third country, the person is given a corresponding document necessary for return to homeland and is transferred across the state border of the Russian Federation.

According to paragraph 4 of Article 9 of the International Covenant on Civil and Political Rights, anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. In situations involving the deportation of persons who have served their criminal sentence, Russian courts often decide to restrict freedom (by placing them in a special institution) exceeding the 48-hour period after such detention.

Similar actions of the occupying state indicate violation of the right to freedom and personal inviolability of the person.

The legal consequences for persons whose stay (residence) in the Russian Federation is recognized undesirable or who are deported are the same as for persons expelled based on court decisions for violating the requirements of Russian immigration legislation.

<sup>41</sup> In practice, this period is often up to five days or more.

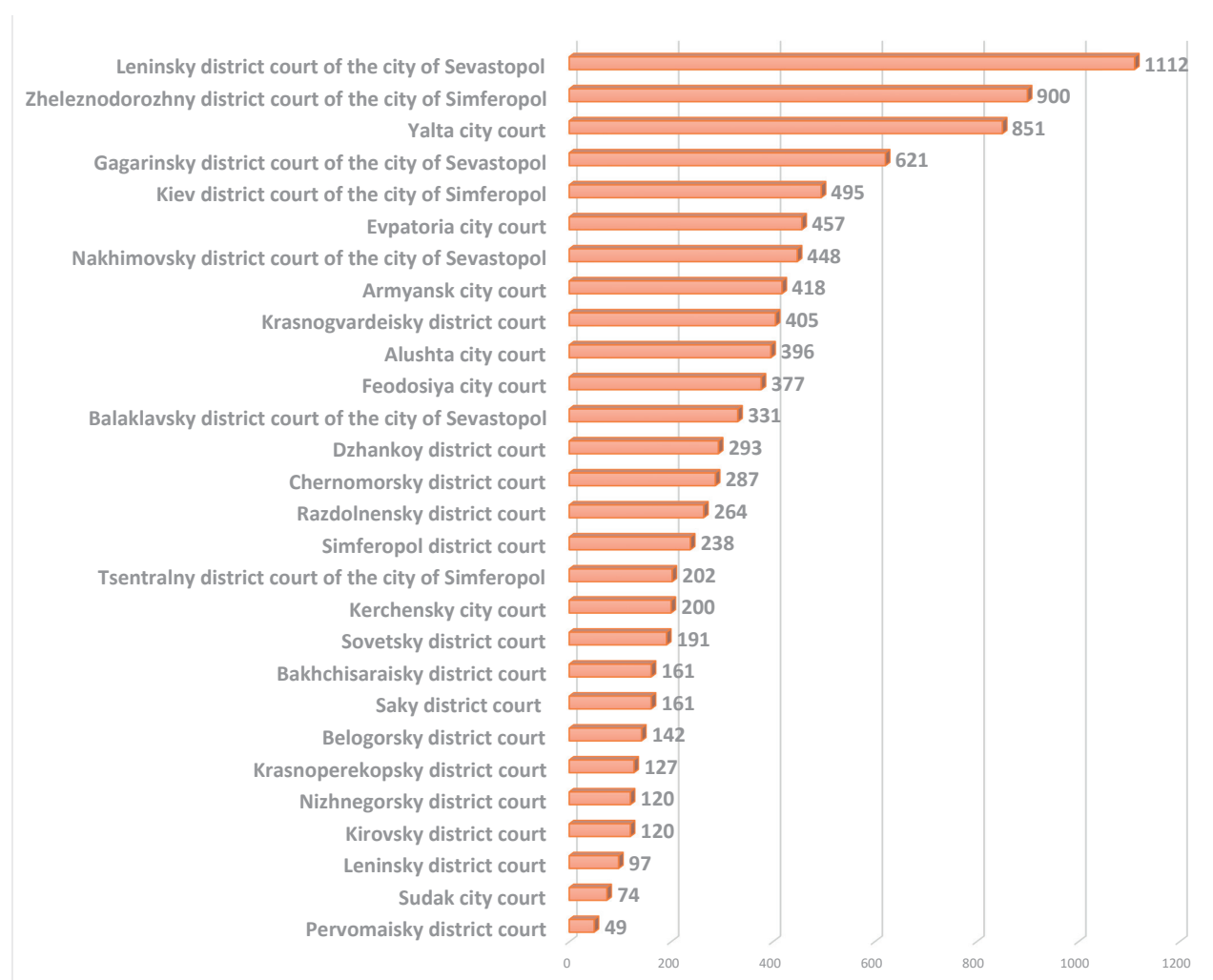
<sup>42</sup> [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_133004/#dst100008](http://www.consultant.ru/document/cons_doc_LAW_133004/#dst100008)

## Brief analysis of the application of the forcible expulsion by the courts of the occupied territory (july 2014 - may 2018)<sup>43</sup>

The total number of administrative offenses cases for which punishment is provided in the form of forcible expulsion (See pages 17-18 of this review), decided by the courts of Crimea and the city of Sevastopol, is **9538**.

The leaders in the number of decided cases are:

- 1) Leninsky district court of the city of Sevastopol - 1112 cases (11.66% of the total number of cases);
- 2) Zheleznodorozhny district court of the city of Simferopol - 900 cases (9.44%);
- 3) Yalta city court - 851 cases (8.92%);
- 4) Gagarinsky district court of the city of Sevastopol - 621 cases (6.51%);
- 5) Kiev district court of the city of Simferopol - 495 cases (5.19%).



The highest density of cases *per capita* of the respective administrative-territorial unit<sup>44</sup> falls on Armiansk city court - 1 case per 58 persons, Zheleznodorozhny district court - 1 case per 89 persons and Leninsky district court of Sevastopol - 1 case per 101 persons.

<sup>43</sup> A more complete analysis may be found in the "Research on forcible expulsion of the civilian population from the occupied territory of Crimea by Russia" (RCHR, June 2018).

<sup>44</sup> Data on the population is provided as of 01.01.2016. "Statistical Yearbook of the Republic of Crimea. 2015"; <http://docplayer.ru/47822451-Statisticheskyy-ezhegodnik-respubliki-krym-2015.html>



During the preparation of this review, it was possible to access information on the results of the court decisions in 9,484 cases, of which 8,261 cases resulted in the imposition of administrative penalty.

Of 8,261 cases, the type of penalty is unknown in 2671 cases. With respect to 2,425 people, the courts imposed administrative penalty in the form of administrative expulsion.

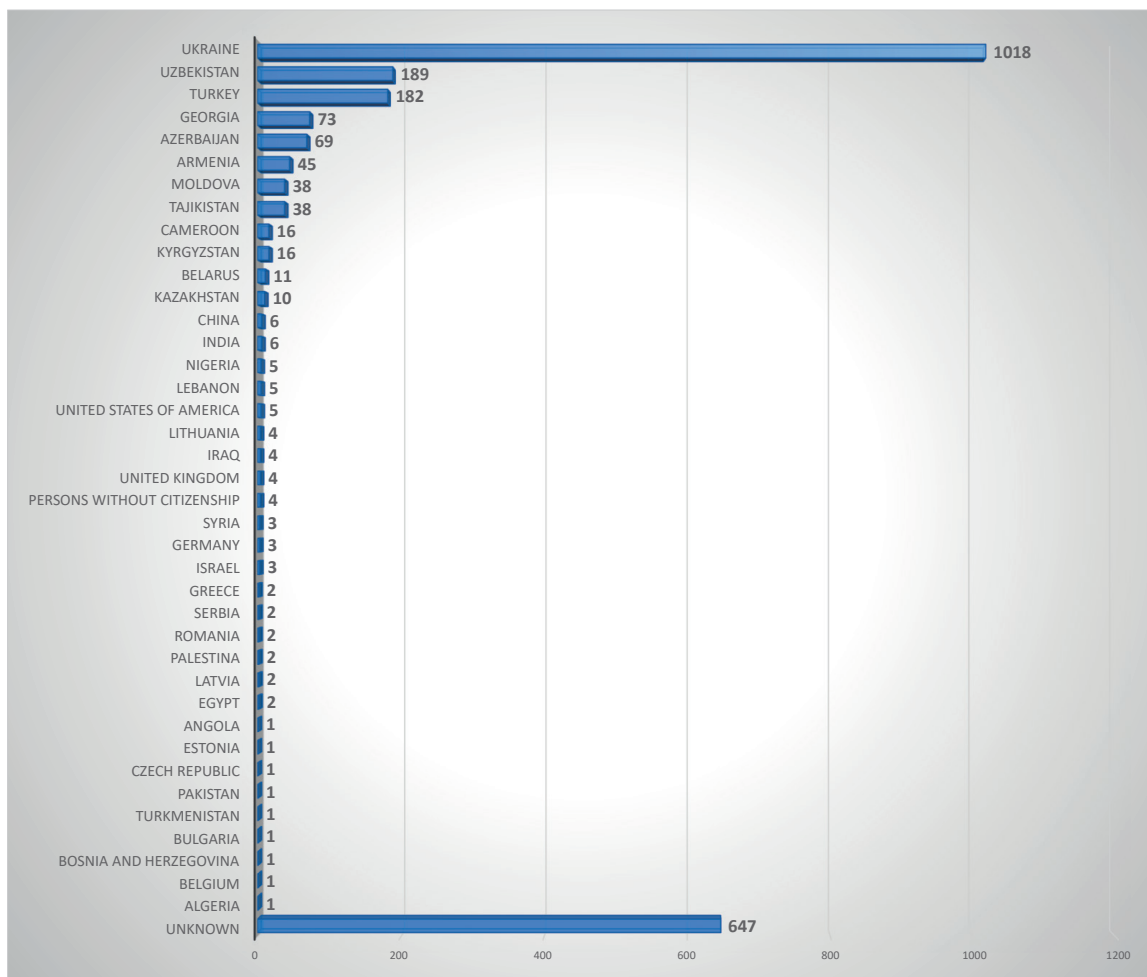
Among expellees there are 2112 men and 313 women (87.1% and 12.9% of the total number of expelled respectively).

By citizenship of persons to whom administrative expulsion was applied

Citizens of Ukraine constitute the largest number among victims of unlawful acts committed by their representatives of occupying authorities and courts. The total number of forcibly expelled Ukrainians is 1018 persons. This number is followed by Uzbekistan - 189 people, Turkey - 182 people, Georgia - 73 people and Azerbaijan - 69 people.

In total, during the occupation, in addition to the citizens of Ukraine, citizens of another 37 countries and 4 stateless persons were expelled.

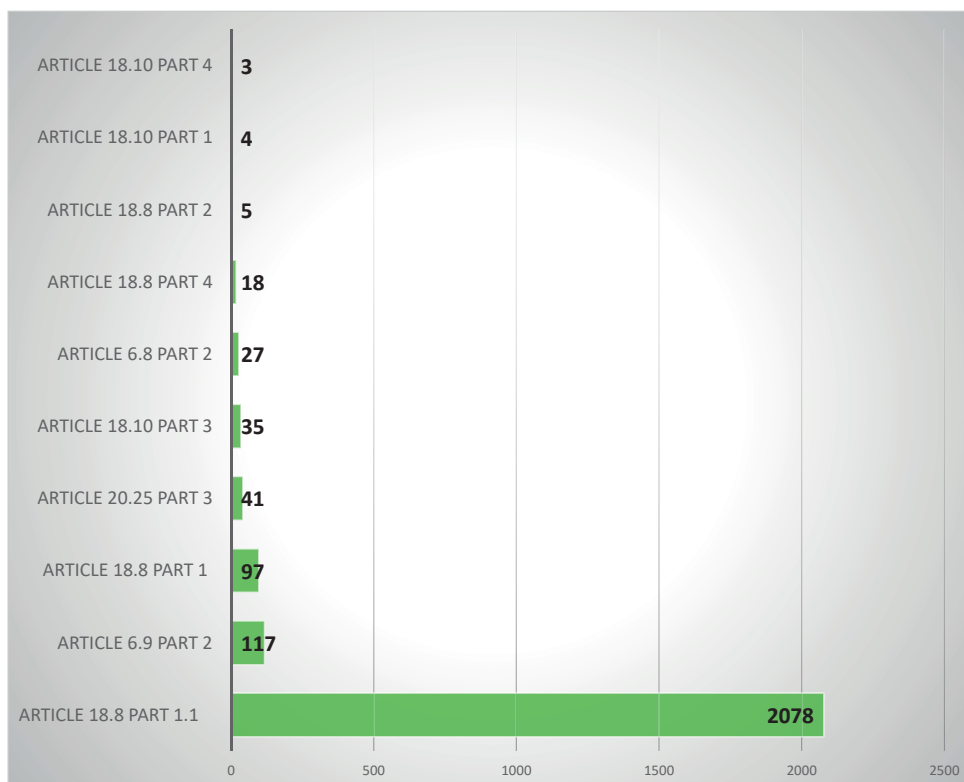
As of the day the research was finished, in 647 cases of forcible expulsion, it was not possible to establish the persons' citizenship.



Analysis of the types of administrative offenses shows that the largest number of offenses imposed on the protected persons constitute violations of the rules of entry into the Russian Federation or the regime of stay (residence) in the territory of the Russian Federation. These include violations of the established rules of entry into the Russian

Federation<sup>45</sup>, the movement or the order of choosing the place of stay or residence, the failure to fulfill the obligation to notify of their residence (part 1 of Article 18.8 of the Code of Administrative Offenses).

2,078 persons (or 85.69% of the total number) were forcibly expelled for such violations.



In the process of investigating the situation with forcible expulsions, the Regional Centre for Human Rights identified cases of their use for 10 out of 23 administrative offenses, which include such penalty as expulsion.

Regarding stable connections the victims have with the occupied territory

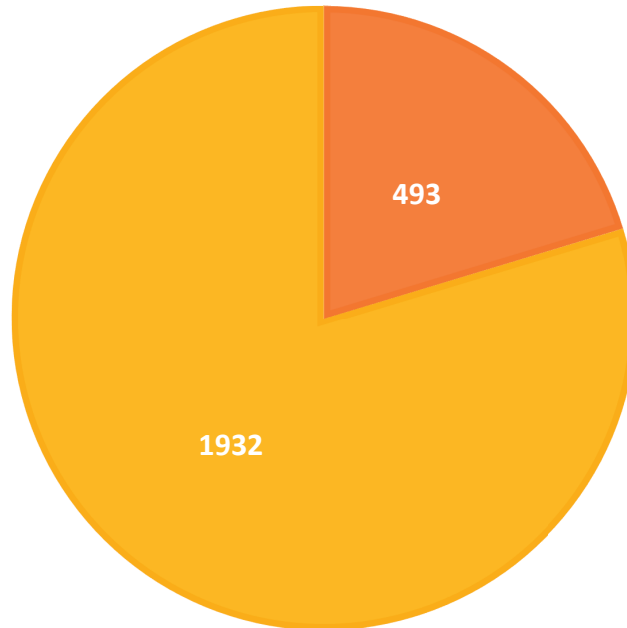
According to administrative cases of 493 expelled persons (25.52%), they had stable personal, social, economic and other relations with the occupied territory at the time of their forcible expulsion. During the assessment of the existence of such relations, the following circumstances were taken into account:

- the fact of birth on the territory of Crimea and the city of Sevastopol;
- duration of stay;
- presence of spouses, children, parents and other close relatives;
- availability of property (primarily, real estate), as well as business;
- availability of a place of study or work, etc.

45 As indicated above, the Russian Federation considers the occupied territory of Crimea and the city of Sevastopol its territory.



■ Those who had stable relations with the territory of Crimea ■ Others



#### Information on the types of forcible expulsions

Despite the fact that OHCHR, in its 23rd Report on the Situation of Human Rights in Ukraine (May 16, 2017 - August 15, 2017) reports on the available information about 20-25 Ukrainian citizens forcibly expelled (with their detention in special institutions on the territory of the Russian Federation, where they were transferred from Crimea by the decision of the occupation courts)<sup>46</sup>, there are much more such persons.

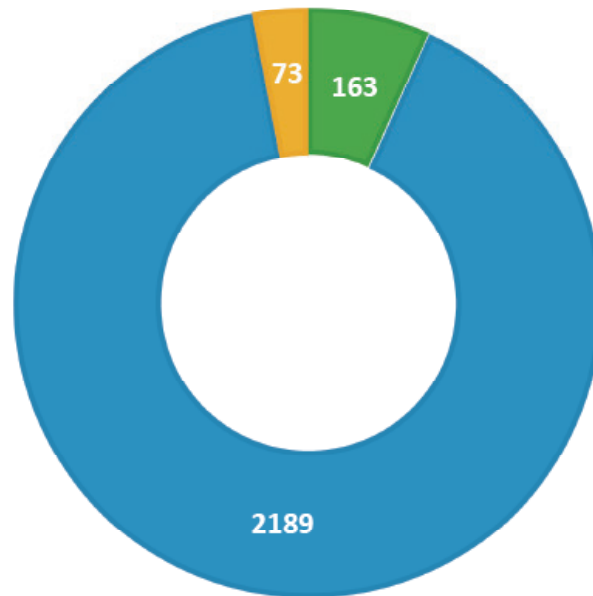
The research conducted revealed **163** (6.72%) protected persons who were subjected to forcible expulsion, connected with the deprivation of liberty for a period from one day to more than one and a half years.

With regard to 2,189 persons, the courts used the expulsion in the form of an independent controlled exit (90.27% of the total number of expelled persons).

In 73 cases the form of expulsion of persons is not specified in the court decisions. It can be assumed that among these persons there are also potential victims of violation of the right to freedom (Article 9 of the ICCPR and Article 5 of the ECHR).

<sup>46</sup> UN OHCHR report on the human rights situation in Ukraine, 16 May 2017 to 15 August 2017, para. 156.

■ Forced expulsion ■ Controlled independent exit ■ Unidentified type of expulsion



Regarding general procedural guarantees of the right to a fair trial

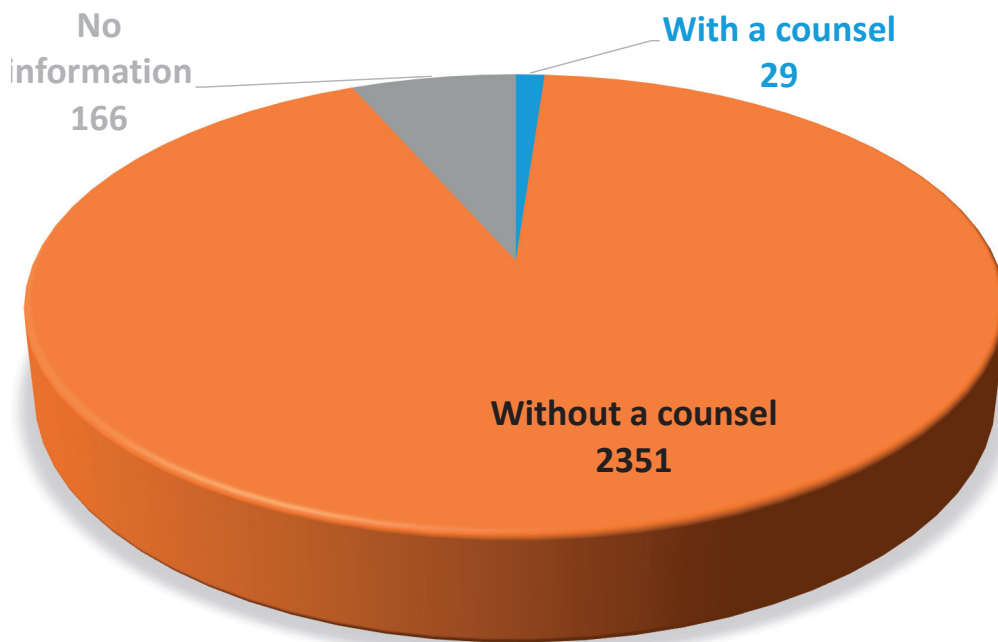
Based on the practice of the ECtHR, cases of forcible expulsion for violation of migration rules, considered in Russian law as administrative ones, fall within the scope of Article 6 of the ECHR and are examined by the Court as criminal ones for the purposes of the application of the Convention.

The analysis of the texts of court decisions and the examination of materials of administrative proceedings allows us to conclude that the main problems of judicial proceedings in the context of observance of the principle of a fair trial (Article 6 of the ECHR) is the disregard of the right to use the services of a counsel and an interpreter.

*a) the right to a legal counsel*

Of the total number of cases of this category, decided by the courts of first instance in the occupied territory, 29 persons were able to use the services of counsels, as indicated directly in the text of court decisions. This is 1.2% of the total number of expellees.

In at least 92.34% of the court proceedings on expulsion, the protected persons did not have a counsel in the court of first instance.



When considering appeals on the decisions of district courts of the Sevastopol city and the Supreme Court of the Republic of Crimea, a larger number of expelled persons was able to benefit from the right to a counsel. The number of such cases is 35.29%.

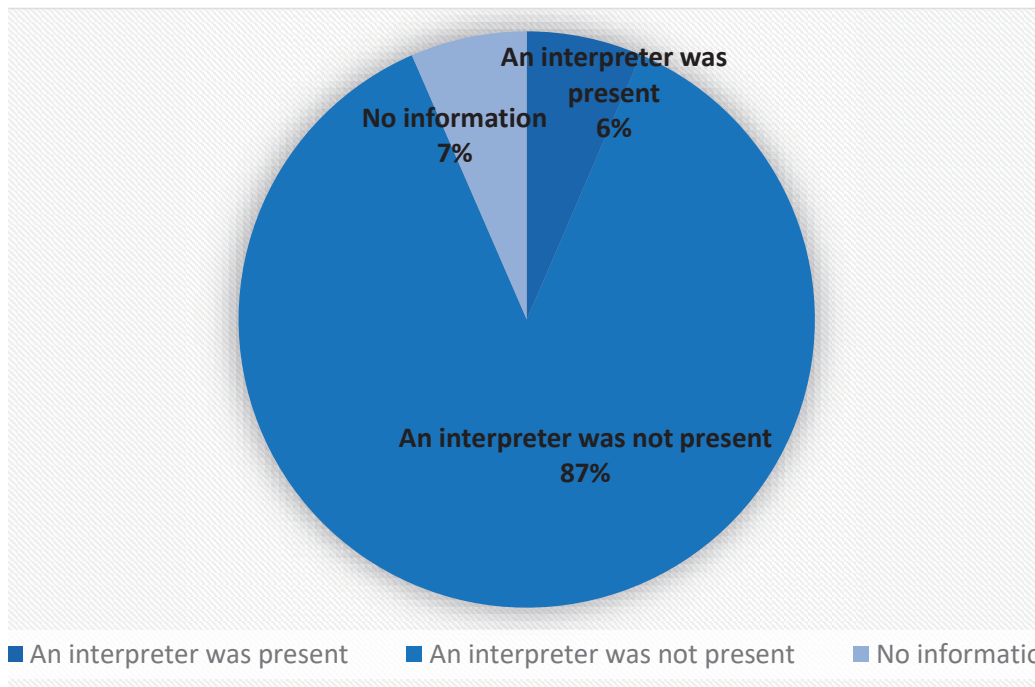
However, in higher courts, the study found another serious problem. Almost half of the appeals on decisions on expulsion are considered without participation of the expellees - 43.79% of the total number of cases examined in the courts of second instance.

*b) the right to an interpreter*

Out of the total number of cases of this category, examined by the courts of first instance in the occupied territory, in 165 cases persons brought to administrative responsibility were able to use the services of an interpreter, as is stated directly in the text of court decisions. This constitutes 6.48% of the total number of cases. The results of the review make it possible to conclude that in at least 86.92% of cases an interpreter was not provided.

In the appeals to the higher courts, many of the expellees and their defenders subsequently complained that the right to an interpreter in the court of first instance was violated.

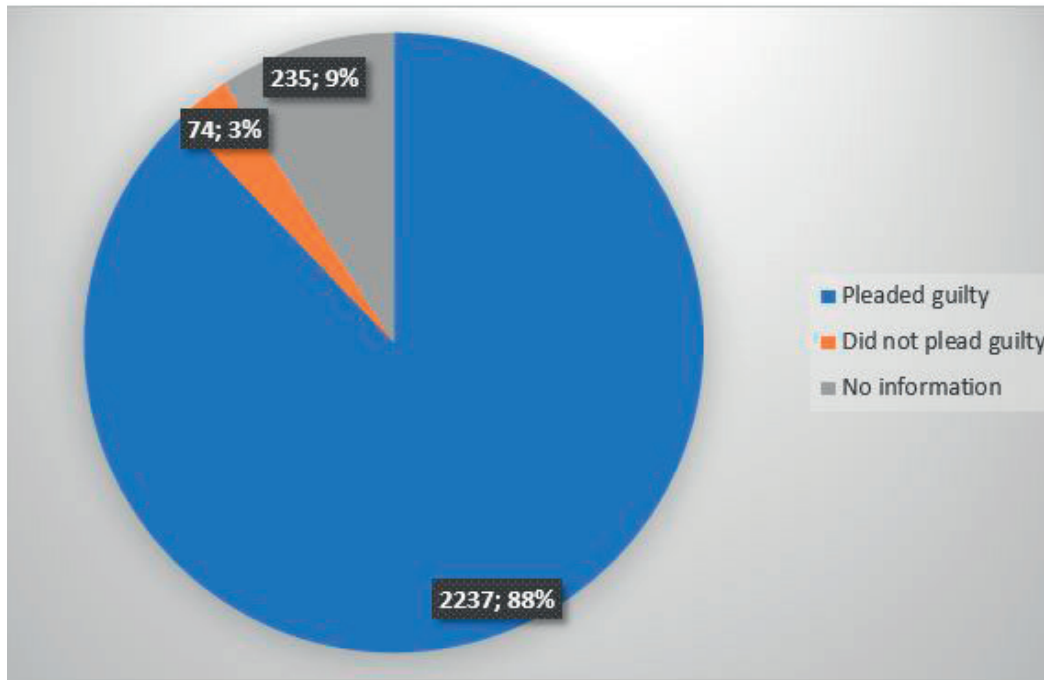
At the same time, in higher courts, no cases of interpreter involvement were identified during the examination of appeals of the expelled persons (306 cases).



*(c) The presumption of innocence*

An analysis of the texts of court decisions shows that out of the total number of persons in relation to whom the issue of expulsion was considered by courts, 87.92% allegedly directly admitted their guilt in the committed offense. At the same time, it follows from interviews with the victims that many of them were subjected to intimidation and powerful psychological influence to recognize their guilt. Such methods also included direct and indirect threats/hints that, if denied, they would be subjected to a forced expulsion (with placement in a special institution for temporary detention of foreign citizens) or they may be accused of illicit trafficking in narcotic drugs or in participating in a terrorist organization. Some of expellees got to know about the alleged recognition of guilt and remorse in the deed only from the text of the court decisions.

It is not possible to check the voluntariness of admission of guilt in a court hearing, as the audio record of the trial is not conducted in such cases, the record of the court hearing is not kept.



Realization of the right to appeal decisions

The higher courts (the Supreme Court of the Republic of Crimea and the Sevastopol City Court) received 306 appeals on the decisions of the courts of first instance (12.02% of the total number of cases in which forcible expulsion was ordered).

Of all the complaints, which simultaneously contained a request to restore the missed deadline for appeal, the majority was returned to the expellees (their defenders) with a refusal to restore the deadline.

In 180 cases, the decisions of the courts of first instance were left unchanged (58.82%), in 67 cases the expulsion as a form of punishment was abolished (21.90%), in 59 cases (19.28%) court decisions were cancelled and sent for re-examination in the courts of first instance.

In most cases, the cancellation of judicial decisions was caused by procedural violations committed by the courts of first instance.

## **Lack of effective remedies in cases on expulsion**

The standard procedure established in the Russian Federation, provided for by Article 30 of the Code of Administrative Offences, applies to appeals against court decisions on the expulsion of citizens of Ukraine, foreign citizens and stateless persons from the territory of Crimea, which has a number of significant drawbacks. These drawbacks are especially evident in the use of such form of administrative expulsion, as forced expulsion (allocating persons in special temporary facilities).

Pursuant to Article 30.1 of the Code of Administrative Offences, the expellees themselves or their lawyers or representatives (including legal ones) may appeal against a court decision in the case of an administrative offence. A court ruling is appealed to a higher court (in the event of the occupied territory this may be the Supreme Court of the Republic of Crimea or the Sevastopol City Court).

Article 30.2 of the Code of Administrative Offences outlines that a complaint is filed through the court that has passed the decision, or directly to a higher court.

A 10-day period from the day a copy of the court decision is delivered (received) is set for appeals (Part 1 of Article 30.3). The judge in case of reasonable default (Part 2 of the Article) can restore this term.

In practice, there are very few cases when missed term is restored. In the vast majority of cases, judges have refused to restore the term, even when the reason for missing thereof is the absence of a lawyer, an interpreter, immediate taking into custody in a courtroom and subsequent allocation in special facilities. In many cases, it was refused to restore the appeal period with reference to *“the court’s doubts about the representative’s powers”*, based on the fact that the representative is in Crimea, and the expellees are already outside it. The expelled persons often filed a complaint in a month or more after their expulsion, when they have already been to the countries of their citizenship. On applying for restoration of the appeal period, they gave such valid reasons of missing thereof as the absence of a lawyer, an interpreter and stated that they had been able to understand the appeal procedure only at home after they had applied to a lawyer. In all such cases, the judges found no grounds to restore the appeal period.

Many of the expellees did not appeal against the court rulings, since they knew nothing about the consequences of such expulsion in the form of a ban on entry to Crimea for 5-10 years, since the court decisions contain no such information. As soon as such persons experienced denial of entry to the territory of Crimea, they tried to restore the time limit for appealing against the expulsion order, but in vain.

Persons to whom the procedure of forced expulsion was applied faced most of problems with the filing of complaints. This is largely due to the conflict of the three rules of the Code of Administrative Offences of the Russian Federation, as well as, in the territory of Crimea, there are no special institutions for temporary detention of foreign citizens and stateless persons to whom the procedure of forced expulsion is applied.

So, the relevant articles of the Code of Administrative Offences stipulate:

- that a complaint against a decision on administrative arrest or administrative expulsion (in the event of forced expulsion) is subject to consideration within 24 hours from the moment of filing the complaint (Article 30.5);
- that the person against whom a decision on expulsion is issued has the right to be present at the hearing of his/her complaint (Article 30.6).

At the same time, there are no special temporary accommodation facilities in the territory of Crimea, and Article 27.19 outlines that a judicial decision on expulsion, ordering the allocation of a person in a special institution (RCFC), is subject to *immediate execution*.

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In fact, this means that a person immediately after announcing a decision is taken into custody and his/her transfer starts through the Kerch Strait to the territory of Krasnodar Territory and further to the village of Novoukrainskoye, where the reception center for foreign citizens (RCFC) is situated, or to Rostov Oblast, or to Stavropol Territory to the location of other RCFC. These people practically fail to prepare and file a complaint against a judicial decision under such conditions. Even if this can be done in some way (or complaints are filed by their lawyers or representatives), they cannot participate in the hearing of their complaints in the Supreme Court of the Republic of Crimea or the Sevastopol City Court, since such a complaint is subject to consideration within 24 hours, and people at this time are on their way to the place of their reception. Under such circumstances, the existing appeal procedure in relation to the Crimean situation cannot be deemed effective, since the procedural guarantees that it secures are cancelled out by administrative and law enforcement practice.

These problems are more evident in the example of the case of Uzbek citizen **Nedim Khalilov** and in the case of the **collective expulsion of 23 citizens of Ukraine** in February 2018 (for more details about these cases, see the section “Crimean Cases”).

On November 7, 2016, by the decision of the Zheleznodorozhny District Court of the city of Simferopol N.A. Khalilov was found guilty of an administrative offence under Part 1 of Article 18.8 of the Code of Administrative Offences of the Russian Federation and was sentenced to the forced expulsion from the Russian Federation. To immediately execute the judgment, Khalilov was taken into custody in the courtroom. He failed to independently file a complaint with a higher court.

Although Nedim’s lawyer filed a complaint on the same day against the decision on expulsion, and its hearing was scheduled in the Supreme Court of Crimea on November 8, immediately after the court issued a judgment, its execution began. On the night of November 7 to 8, Mr. Khalilov was transferred through the Kerch Strait and taken to the RCFC located in Krasnodar Territory.

As a result, Mr. Khalilov was deprived of the opportunity to present his objections to the Supreme Court of the Republic of Crimea during the session dedicated to consideration of the complaint about expulsion, which was held on November 8. The lawyer’s appeal against the expulsion of Mr. Khalilov was dismissed. By that time, he had already been expelled – Mr. Khalilov, being convoyed, crossed the internationally recognized border between Ukraine and Russia running along the Kerch Strait and found himself in the territory of the Russian Federation.

The following example refers to the situation with the expulsion of Ukrainian citizens who were lawfully in Crimea, but they were charged with being illegally engaged in labour activities as foreign citizens in the Russian Federation (actually in the territory of Ukraine - in occupied Crimea), namely with re-committed offence within Part 3 of Article 18.10 of Code of Administrative Offences.

On February 2, 2018, police and FMS officers arrived at the place where the above mentioned group of citizens was located and drew identical records about the administrative offence committed by them. Then, all of them were taken to the Yevpatoriya City Court, which judges found them guilty of committing an offence charged and imposed the identical punishment - 5000 rubles with forced expulsion from the territory of Crimea. Prior to the case consideration, all citizens signed declarations prepared in advance by the court employees that they were not in need of a lawyer and an interpreter.

In the evening, after hearing the cases against all the detainees, they were put in the closed body truck and a few hours later they were brought to the administrative border



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of Crimea with Kherson Oblast. After the procedures were carried out by the border authorities, all 23 citizens of Ukraine were expelled from the territory of Crimea by the morning of February 3, having spent in total about one day under the conditions of illegal restriction of liberty.

The consequences of the said decisions taken by the court in the form of a ban on entering the territory of Crimea for a period of 5 years to those persons were not explained either before or after the court's hearing of the case (Paragraph 11 of Article 27 of the Federal Law No. 114-FZ "On the Procedure for Exit from the Russian Federation and Entry into the Russian Federation").

Under these circumstances, victims of illegal collective expulsion were deprived of any procedural guarantees, first of all the opportunity to file a complaint against the decision of the Yevpatoriya City Court.

In addition, it should be noted that an administrative case law consisting in intimidation, deception, not informing citizens about their rights, etc. has been developed for the above category of cases in Crimea. Many expelled people report that they were asked to admit their guilt before the police officers (FMS) drafted an administrative report; otherwise, they were threatened to be prosecuted for allegedly committing various kinds of crimes, primarily in the sphere of illicit trafficking in narcotic drugs and terrorism. Thus, admitting guilt and hoping for a fair trial, in court they faced the fact that there was no court session per se, and the whole process of case consideration resulted in informal talks with assistants or secretaries of judges, often in the corridor of the court. During such conversations, the court employees urged people to pay a fine in the amount they prescribed and promised if so not to impose forced expulsion with allocation in special institutions, but to be limited to an controlled independent exit. Since the Code of Administrative Offences of the Russian Federation does not provide for either the audio/video recording of a trial, or even the record keeping of a court session, judges have unlimited freedom of discretion in presenting facts of the case. Many of the expellees were surprised to learn from the text of the court's decisions that their rights had been clarified to them or that they had refused the services of a lawyer and an interpreter in court, or, even worse, that they had allegedly admitted their guilt in court. It is impossible to verify the true position of the court presented in the court decision or in the complaints of the victims of expulsion because of lack of trial recording.

With regard to the material aspects of the right to appeal, it should be noted in this connection that the most significant for the victims of expulsion are the arguments based on:

- UN General Assembly Resolution A/RES/68/262 "Territorial Integrity of Ukraine" of 27.03.2014<sup>47</sup>;
- European Parliament resolution of 04.02.2016 on the human rights situation in Crimea, in particular, of the Crimean Tatars<sup>48</sup>;
- PACE Resolution 2133 (2016) of 12.10.2016 on legal remedies for human rights violations on the Ukrainian territories outside the control of the Ukrainian authorities<sup>49</sup>;
- UN General Assembly Resolution A/RES/71/205 of December 19, 2016, "Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol (Ukraine)"<sup>50</sup>;

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47 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/455/19/PDF/N1345519.pdf?OpenElement>

48 <https://goo.gl/HJcuQo>

49 <https://goo.gl/YrdAJ2>

50 <https://goo.gl/2pvmVv>

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- the conclusions contained in the Annual Report of the Prosecutor of the International Criminal Court of 14.11.2016<sup>51</sup>.

These documents confirm the territorial integrity of Ukraine within its internationally recognized borders and determine the status of Crimea as a Ukrainian territory illegally occupied by the Russian Federation.

In light of this, any arguments by the Russian authorities and court decisions based on the fact of “Crimea joining” the Russian Federation and the legality of application of the migration and other legislation of the Russian Federation in this territory appear to be contrary to international law.

In other words, in order to cease the proceedings on an administrative case, the courts established in the occupied Crimea need to recognize the fact of the illegality of annexation by the Russian Federation, and this looks utopian in the current socio-political situation in that country. Moreover, both persons prosecuted and lawyers, who take a risk to file a complaint based on the arguments given, may find themselves accused of a criminal offence (Criminal Code of the Russian Federation, Article 280.1., Public calls for actions aimed at violating the territorial integrity of the Russian Federation).

Thus, effective remedies for situation with expulsion as a consequence of violation of the migration rules of the Russian Federation in the conditions of Crimea do not exist in either a material or procedural aspect.

The results of the study on expulsions carried out by the Regional Centre for Human Rights confirm this thesis, since the monitoring of court decisions brought none to light, where the proceedings on the case of administrative violation had been terminated indicating that the Russian Federation had no jurisdiction in this matter.

There is a well-established case law of the ECtHR, expressed, in particular, in the cases of *Georgia v. Russia (I)*<sup>52</sup>, as well as *Berdzenishvili and others v. Russia*<sup>53</sup> and *Kim v. Russia*<sup>54</sup> in matters concerning the possibility of appealing against the accommodation in a special institution for foreign citizens awaiting expulsion. In these cases, the Court held that the Russian legal system does not provide for an effective procedure capable of preventing the risk of arbitrary deprivation of liberty while awaiting expulsion.

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51 <https://goo.gl/wEQki8>

52 *Georgia v. Russia (I)*, Application no. 13255/07, <http://hudoc.echr.coe.int/rus?i=001-145546>

53 *Berdzenishvili and others v. Russia*, Application nos. 14594/07, 14597/07, 14976/07, 14978/07, 15221/07, 16369/07 and 16706/07, <http://hudoc.echr.coe.int/eng?i=001-169648>

54 *Kim v. Russia*, Application no. 44260/13, <http://hudoc.echr.coe.int/rus?i=001-145584>

## Violation of IHL and IHRL obligations in relation to expulsions

By carrying out the expulsions of civilians from the territory of occupied Crimea, the Russian Federation violates the provisions of (1) international humanitarian law and (2) international human rights law.

### 1) Violation of the provisions of international humanitarian law (IHL)

The protection of civilians within armed conflict is the fundamental principle of international humanitarian law. The prohibition of deportation or forcible transfer of civilians within occupied territory is an important aspect of such protection.

Article 4 of the Geneva Convention (IV) stipulates that “*persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals*”. Such persons are recognized as protected persons under the Geneva Convention (IV)<sup>55</sup>.

The time and circumstances of the entry of such persons into the occupied territory does not affect the recognition of the status of protected ones.

According to Article 49 of the GC (IV), “*individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive*”.

Unlawful deportation or transfer are mentioned in Article 147 of the GC (IV) among the grave breaches requiring the most effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches the present Convention<sup>56</sup>.

The action of the representatives of the Russian Federation on the expulsion of protected persons from Crimea (occupied territory of Ukraine) constitute a war crime within the meaning of Article 8(2)(a)(vii) of the Rome Statute of the International Criminal Court - unlawful deportation or transfer<sup>57</sup>. For this qualification, it does not matter whether the deportation was carried out directly from the territory of Crimea or the victims were previously transferred (deported) from the occupied Ukrainian territory to the territory of the Russian Federation (for example, to special temporary detention facilities for foreign citizens) and then were transferred to the competent authorities of third countries.

The expulsion procedure used by the authorities of the Occupying Power is often related to unlawful deprivation (restriction) of liberty of protected persons.

Thus, one of the forms of deportation used by the courts is *forcible expulsion*, which provides for the placement of a person in special temporary detention facilities for foreign citizens and stateless persons. Such a placement of protected persons has no justification in international law, based on the unlawfulness of the very fact of occupation of the Ukrainian territory and, accordingly, the unlawfulness of the dissemination of Russian legislation to the territory of Crimea as well.

In addition to detaining in these special institutions itself, the freedom of protected persons is also limited from the moment the decision is taken by the court and until they are delivered to the location of special institutions on the territory of the Russian Federation (in the Krasnodar Territory, the Rostov Region and the Stavropol Territory). The distance to

55 Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.

56 GC (IV), article 147.

57 UN General Assembly, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, ISBN No. 92-9227-227-6.

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such centers is from 300 to 900 kilometers, which sometimes takes up to 24 hours, during which the persons are under armed escort of representatives of law enforcement agencies.

In addition, since the very moment the persons whom the occupation authorities accuse of violating the migration legislation are identified, they are actually detained and can not leave the place of drawing up the protocol or the location of the court, where they are sometimes delivered within 4-10 hours. Even after the court has taken a decision on expulsion in the form of a controlled independent exit, there are cases when representatives of the FMS or the police did not release such persons until they pay a fine by court order and give the receipt to the court.

In February 2018, after the Yevpatoria City Court passed decisions on the simultaneous expulsion of 23 citizens of Ukraine, all of them were kept in a covered car (KAMAZ) for almost a day under the protection of police officers and afterward they were taken to the administrative border with the Kherson region and were forcibly expelled from the territory of Crimea.

Such acts by the representatives of the Russian authorities can be qualified as war crimes of **Article 8(2)(a)(vii)** of the ICC Statute on the grounds of *unlawful deprivation of liberty*, since these cases of liberty deprivation do not have the relevant legal grounds provided for in international law.

During the research conducted by the RCHR, numerous facts of unlawful deprivation of liberty were established and 163 victims of this crime were identified.

Widespread and systematic acts of deportation, forcible transfer, deprivation of liberty, in violation of the fundamental norms and principles of international law, can also be qualified as a crime against humanity within the meaning of **Article 7(1)(d)** of the ICC Statute.

Moreover, given that such acts are committed in the context of “persecution” on the basis of citizenship, political, racial, national, ethnic, cultural and religious grounds, they can also be qualified as crimes against humanity within the meaning of **Article 7(1)(h)** of the ICC Statute.

## **2) Violation of the provisions of international human rights law (IHRL)**

Expulsion of Ukrainian citizens, foreign citizens and stateless persons from the occupied territory of Crimea and the city of Sevastopol is a violation of:

- (a) right to liberty of movement and freedom to choose one’s residence;
- (b) right to liberty and security;
- (c) right to respect for private and family life;
- (d) right to the peaceful enjoyment of his possessions;
- (e) prohibition of the expulsion of a person by means either of an individual or of a collective measure, from the territory of the State of which he is a national;
- (f) violation of the prohibition of collective expulsion of aliens;
- (g) right to enter the territory of the State of which he is a national;
- (j) procedural safeguards relating to expulsion of aliens.

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(a) violation of the right to liberty of movement and freedom to choose one's residence  
(Article 12 of the ICCPR, Article 2 of Protocol No. 4 to the ECHR)

According to Article 12 of the ICCPR and Article 2 of Protocol No. 4 to the ECHR, everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

Considering that Ukrainian citizens are in Crimea as citizens of the country to which this territory belongs, they can not be restricted in this law except on the grounds and in the order established by the legislation of Ukraine. Only the State of Ukraine has a right to apply such restrictions. In this regard, the interference of the Occupying Power in the liberty of movement of Ukrainian citizens in the said territory is an interference in the sovereignty of Ukraine. Hence, such acts contradict the international obligations of the Russian Federation and flagrantly violate the rights of Ukrainian citizens to liberty of movement and freedom to choose their residence.

In the General Comment No. 27, the UN Human Rights Committee noted that *“the question whether an alien is “lawfully” within the territory of a State is a matter governed by domestic law, which may subject the entry of an alien to the territory of a State to restrictions, provided they are in compliance with the State’s international obligations”*<sup>58</sup>.

According to Article 12 of the ICCPR and Article 2 of Protocol No. 4 to the ECHR, and taking into account aforementioned Comment based on the general principles of state sovereignty, an assessment of the legality of the stay of foreign citizens and stateless persons on the territory of the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine’s sovereign territory) and interference with their right to liberty of movement within this territory, possibly exclusively on the basis of Ukrainian legislation, and exclusively by the competent authorities of Ukraine.

Article 13 of the ICCPR establishes that an alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law.

Considering the unlawfulness of the dissemination of Russian legislation to the occupied territory, and taking into account the fact that the deportation and transfer of protected persons is a violation of the provisions of international humanitarian law, it could be asserted that there are no legal grounds in the decisions of the Russian authorities for deporting civilians from the territory of the occupied Crimea.

***(b) violation of the right to liberty and security of person***

Article 9 of the ICCPR and Article 5 of the ECHR prescribe the guarantees of the right to liberty and security of person. In particular, no one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law, among which: the lawful arrest or imprisonment of a person against whom measures are being taken to expel him.

According to previous conclusions on the unlawful dissemination of the Russian Federation’s legislation in the occupied territory of Ukraine for the purpose of deportation of citizens within the meaning of general principles of international law, any arrests and detentions in order to enforce such court decisions can not be recognized as corresponding to the provision of subparagraph 1(f) Article 5 of the ECHR and Article 9 of the ICCPR.

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<sup>58</sup> General Comment No. 27 “Freedom of Movement (Article 12)”, 2 November 1999, para. 4.



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In cases *Berdzenishvili and others v. Russia* and *Georgia v. Russia (I)*<sup>59</sup> the ECtHR found that the acts of the Russian authorities in the administrative practice of “collective” detention of Georgian citizens with a view to resolving issues of their deportation and keeping these persons special temporary detention facilities for foreign citizens pending the expulsion is a violation of Article 5 of the ECHR.

**(c) violation of the right to respect for private and family life**

In accordance with Article 17 of the ICCPR and Article 8 of the ECHR, everyone has the right to respect for his private and family life. The guarantees of Article 8 of the ECHR also cover the right of each spouse, as well as the right of parents and children, to be next to each other, and the right to communicate with relatives and friends<sup>60</sup>. The UN Human Rights Committee emphasizes that expulsion of a family member is a serious threat to the unity of the family. In particular, the Committee found a violation of Article 17(1) in conjunction with Article 23 of the ICCPR when the State was unable to “demonstrate additional factors justifying expulsion”, since the family deserved special protection<sup>61</sup>. The special nature of protection is influenced by: the length of the family’s residence in the country, the acquisition by the child of the citizenship of the host country and the presence in the family of young children who may experience traumatic experiences<sup>62</sup>.

Cases of deportations from the territory of the occupied Crimea of Ukrainian citizens, foreign citizens and stateless persons who lived in this territory by one family (in registered and not registered - *civil-marriage*) with another spouse, children, parents, etc., can be considered as constituents violation of the right to respect for personal and family life not only of the person being expelled, but also of his relatives and friends.

Also, violations of the right guaranteed by articles 17 of the ICCPR and 8 of the ECHR are evidenced by the deportation of persons born and/or lived in Crimea for a long time who had stable social ties (place of work, study, occupation, other relatives, real estate, etc.)

According to the research conducted by the Regional Center for Human Rights, materials of administrative cases and judgments concerning 493 expelees (25.52%) make it possible to conclude that they have stable personal, social, economic and other relations with the occupied territory at the time of their forcible expulsion.

**(d) violation of the prohibition of the expulsion of a person by means either of an individual or of a collective measure, from the territory of the State of which he is a national**

In accordance with article 3, paragraph 1, of Protocol No 4 to the ECHR, “no one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national”.

The Convention does not impose any restrictions on the issue of liability for such a violation. In particular, it does not matter which state implements such expulsion - the state from whose own territory the deportation is carried out, or the state that exercises effective control over the territory of another state due to occupation.

Deporting Ukrainian citizens from the territory of Crimea and the city of Sevastopol, the Russian Federation flagrantly violates the provisions of this article.

According to the research conducted by the Regional Center for Human Rights, at least

59 *Berdzenishvili and others v. Russia*, ECtHR, 20 December 2016; *Georgia v. Russia (I)*, ECtHR, 13255/07, 3 July 2014.

60 *McMichael v. the United Kingdom*, ECtHR, 16424/90, 24 February 1995.

61 Communication 930/2000, § 7.3. See also General Comment No 15 “The position of aliens under the Covenant”, 11 April 1986, para. 5.

62 Communication No 1069/2002, § 9.6.

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1,018 Ukrainian citizens were expelled from the territory of Crimea.

The case of simultaneous deportation of 23 Ukrainian citizens in February 2018 is an example of collective expulsion. It was based on the decisions of the Yevpatoria City Court, delivered on the same day – on 2 February 2018.

***(e) violation of the right to enter the territory of the State of which he is a national***

According to Article 12 of the ICCPR and Article 3, paragraph 2, of Protocol No 4 to the ECHR, “no one shall be deprived of the right to enter the territory of the State of which he is a national”.

The automatic restriction (prohibition for 5-10 years) of the right to enter the territory of the Russian Federation (which the Russian Federation extends to the territory of Crimea) against Ukrainian citizens subjected to expulsion is a violation of the aforementioned provisions.

***(f) violation of the prohibition on collective expulsion of aliens***

In accordance with Article 4 of Protocol No 4 to the ECHR, “collective expulsion of aliens is prohibited”.

Individual cases of special events (raids) conducted by law enforcement agencies under the control of the Occupying Power, during which individuals from one state (for example, Turkey, Uzbekistan, Azerbaijan) were detained, brought to court and expelled, testifies to the existence of appropriate administrative practices in the occupied territory, the purpose of which is to purge it of citizens of individual countries or of certain ethnic groups.

Unlawful dissemination of Russian legislation in the occupied territory, lack of jurisdiction of the Russian authorities to bring foreign citizens to administrative responsibility, testifies to a violation of Article 4 of Protocol No 4 to the ECHR.

***(g) violation of procedural safeguards relating to expulsion of aliens***

Article 1 of Protocol No 7 to the ECHR establishes that an alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with law and shall be allowed:

- (a) to submit reasons against his expulsion;
- (b) to have his case reviewed, and
- (c) to be represented for these purposes before the competent authority or a person or persons designated by that authority.

Given that this article refers to the decision taken “in accordance with law”, it is obvious that it means the law of the state from which the deportation occurs.

Thus, taking into account the internationally recognized borders of Ukraine, it is necessary to come to a conclusion about the unlawfulness of the acts of the Russian authorities for expelling Ukrainian citizens and foreigners from the territory of the Autonomous Republic of Crimea and the city of Sevastopol on the basis and in accordance with the national legislation of the Russian Federation.

According to paragraph 2 of Article 1 of Protocol No 7, an alien may be expelled before the exercise of his rights under above guarantees only when such expulsion is necessary in the interests of public order or is grounded on reasons of national security.

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In sections 4, 10 of the present thematic review the examples are given of the fact that the Russian authorities are transferring persons against whom a decision to forcibly expel from the occupied territory to the territory of the Russian Federation has been taken before the expiration of the period for appeals against the decision adopted (usually on the same day as the day such a decision by a court was delivered). There is no legal grounds for such acts.

In fact, at this very moment the expulsion from the territory of Ukraine based on decisions applies, i.e. the violation of the rights of the victims becomes final. It is unlawful to execute a court decision before the decision enters into legal force. In such circumstances, these acts of the Russian authorities may be recognized as a violation of the right guaranteed by Article 1 of Protocol No 7.

**(j) violation of the right to the peaceful enjoyment of his possessions**

Article 1 of Protocol No 1 to the ECHR guarantees everyone the right to respect for their property.

In case *Loizidou v. Turkey* the ECtHR found that the inability of the applicant to use and have access to her land in connection with the occupation of Northern Cyprus by Turkey constitutes an interference with “peaceful enjoyment of her property” under Article 1 of Protocol No 1 to the ECHR.<sup>63</sup>

When taking decisions on the expulsion of persons who own real estate (primarily but not exclusively), the occupation authorities and the RF authorities unreasonably interfere with the right of peaceful possession of the property of such persons.

At the same time, not only the facts of expulsions, as a one-time act, but the introduction of an automatic ban on entry into the territory of the Russian Federation for 5-10 years, which the Russian authorities extend to the territory of the Crimea, have a negative effect (on the basis of the provisions of paragraph 2 of Article 27 of the Federal Law No. 114-FZ “On the procedure for leaving the Russian Federation and entry into the Russian Federation”).

Being outside the territory on which the property (real estate) remains, a citizen of Ukraine can not even execute a power of attorney from a notary to manage and dispose of property. The reason is that the registering and controlling bodies in the territory of Crimea recognize the powers of the authorized representative solely on the condition that the occupation authorities in the territory of Crimea and the city of Sevastopol are correctly and fully listed in the text of the power of attorney, to which the authorized representative has the right to apply on behalf of the principal. It is quite obvious that Ukrainian notaries, on pain of accusation of recognizing the legality of such authorities (separatism), refuse to include in the texts of powers of attorney the names of the occupation bodies on the territory of Crimea and the city of Sevastopol.

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<sup>63</sup> *Loizidou v. Turkey*, ECtHR, 40/1993/435/514, 23 February 1995.

**Kadyrov Sinaver Arifovich**, born on January 01, 1955 in the city of Samarkand, the Republic of Uzbekistan. From 1990 until January 23, 2015, he lived with his family in the city of Simferopol. He is a human rights activist. From 1991 to 2013, he was a delegate of Kurultay and a member of the Mejlis of the Crimean Tatar people. After the occupation of Crimea, Kadyrov S.A. in cooperation with other human rights defenders, representatives of the Mejlis and other pro-Ukrainian activists initiated the peaceful rallies and demonstrations against the occupation regime.



On January 23, 2015 according to the decision of the Armyansky City Court of the Republic of Crimea (judge Likhachev L.A.)<sup>64</sup>, Kadyrov S.A. was expelled from the temporarily occupied territory of the Autonomous Republic of Crimea due to his active civil and political activities.

Expulsion of Kadyrov S.A. was executed under the following circumstances. On January 23, 2015 around 3 o'clock in the morning, Kadyrov S.V. and two other members of Mejlis were in a car owned by the "Crimea" Foundation on the administrative border of the Autonomous Republic of Crimea and the Kherson region at the "Kalanchak" border crossing point. At this time, the border guard officers of the Russian Federation approached them to re-check the documents and ordered to get into the car and not to leave it. After a while, they were forced to go to an unheated room and were locked there. After being detained in this room for about an hour, Kadyrov S.A. and his colleagues were allowed to return to the car and not to leave it without permission.

At about 8 o'clock in the morning, Kadyrov S.A. collapsed and an ambulance was called to him, the doctors of which provided first aid. Later Kadyrov was transported to the migration service department in the city of Armyansk. There, migration service officials filed a report on the administrative violation and took his fingerprints, after which he was brought to court.

In the course of a formal court hearing, the judge found Kadyrov S.A. guilty of committing an administrative offense of exceeding the established period of stay in the territory of Crimea, and decided to expel him through the procedure of an independent controlled exit. Representatives of the migration service of the Russian Federation accompanied Kadyrov S.A. to the administrative border and expelled him from the territory of Crimea. He was also informed about the ban on entry to the territory of the Russian Federation and the Autonomous Republic of Crimea for 5 years from the date of expulsion.

<sup>64</sup> [https://armyanskiy--krm.sudrf.ru/modules.php?name=sud\\_delo&name\\_op=case&\\_id=90756115&\\_delold=1500001&\\_caseType=0&\\_new=0&\\_doc=1&srv\\_num=1](https://armyanskiy--krm.sudrf.ru/modules.php?name=sud_delo&name_op=case&_id=90756115&_delold=1500001&_caseType=0&_new=0&_doc=1&srv_num=1)

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Since that time S. Kadyrov has never been in the temporarily occupied territory of Crimea, where he has a wife, son, a seriously ill father and other close relatives.

**Sizarev Konstantin Konstantinovich**, a citizen of Ukraine, born on December 27, 1958 in the city of Evpatoria, Crimea. He is known for his active human rights activities. After the beginning of the occupation of Crimea in February 2014, Sizarev K. continued to live in the city of Evpatoria. He did not obtain a passport of the citizen of the Russian Federation.



On October 18, 2016, officers of the department of the Ministry of Internal Affairs of the Russian Federation in the city of Evpatoria drafted a protocol on an administrative offense, expressed in the absence of documents confirming the right to stay (reside) in the Russian Federation and evasion from leaving the territory of the Russian Federation after a certain period of stay. Yet, the place of his registration in the city of Evpatoria on the Matveyeva street is confirmed by a corresponding stamp in the passport of a citizen of Ukraine.

In accordance with the decision of the Evpatoria City Court of December 9, 2016 (judge Nanarov A.A.)<sup>65</sup>, Sizarev K. was found guilty of committing an administrative offense under Part 1.1 of Article 18.8 of the Code of Administrative Offenses (*violation by a foreign citizen or a stateless person of the stay (residence) regime in the Russian Federation, expressed in the absence of documents confirming the right to stay (reside) in the Russian Federation*), and he was sentenced with an administrative fine in the amount of 2000 rubles with administrative expulsion outside the Russian Federation through the procedure of a controlled independent exit.

During the court hearing, Sizarev K. referred to the existence of strong social ties with the territory of Crimea (residing on the territory of Crimea throughout his life, the presence of a civil wife and the residence of his son in Crimea), but the court rejected these arguments.

On December 14, 2016, the judge of the “Supreme Court of the Republic of Crimea” Pavlovsky Y.G. left his complaint against the decision of the Evpatoria city court without satisfaction<sup>66</sup>.

Later Sizarev K.K. refused to comply with the decision of the occupation court and did not leave the territory of the occupied Crimea.

On December 26, 2016 the occupying authorities filed a protocol against Sizarev K. on the administrative offense under Part 3 of Article 20.25 of the Code of Administrative Offenses of the Russian Federation (*evasion of a foreign citizen or a stateless person from the execution of an administrative punishment in the form of administrative expulsion outside*

65 [https://evpatoriya--krm.sudrf.ru/modules.php?name=sud\\_delo&name\\_op=case&\\_id=1456087181&\\_deloid=1500001&\\_caseType=0&\\_new=0&\\_doc=1&\\_srv\\_num=1](https://evpatoriya--krm.sudrf.ru/modules.php?name=sud_delo&name_op=case&_id=1456087181&_deloid=1500001&_caseType=0&_new=0&_doc=1&_srv_num=1)

66 [https://vs--krm.sudrf.ru/modules.php?name=sud\\_delo&\\_srv\\_num=1&name\\_op=doc&number=1870804304&delo\\_id=1502001&new=0&text\\_number=1](https://vs--krm.sudrf.ru/modules.php?name=sud_delo&_srv_num=1&name_op=doc&number=1870804304&delo_id=1502001&new=0&text_number=1)



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*the Russian Federation in the form of a controlled independent departure from the Russian Federation).*

In accordance with the decision of the Evpatoria City Court of January 20, 2017 (judge Lobanova G.B.)<sup>67</sup>, Sizarev K.K. was held responsible and was sentenced to administrative penalty in the form of a fine in the amount of 3000 rubles with forced expulsion outside the Russian Federation.

It is noteworthy that at the end of the court hearing Sizarev asked the judge if he could collect his personal belongings, money, documents. In response, he heard from her a phrase that he will remember forever: «If Stalin in 1944, on May 18, gave the Tatars three hours to get ready to leave, I will give you no time. Leave now!»<sup>68</sup>

On February 2, 2017, the “Supreme Court of the Republic of Crimea” (judge Agin V.V.) left Sizarev’s complaint against Judge Lobanova’s decision, without satisfaction<sup>69</sup>.

On the night of 20 to 21 January 2017, to execute the court decision on expulsion, Sizarev was transported from the territory of Crimea to the territory of the Russian Federation and placed in the Center for temporary detention of foreign citizens of the RF in the Krasnodar Territory (Gulkevichsky district, Novoukrainskoye village, 5 Shkolnaya Street). In this institution, he was detained until February 17, 2017 (27 days), after which he was expelled to the territory controlled by the Ukrainian authorities.

Currently, Sizarev K. lives in Odesa and for at least 5 years is not able to reunite with his family - his wife and sons, who remained in Crimea.

**Nedim Khalilov**, a citizen of Uzbekistan, was born in the city of Samarkand, the Republic of Uzbekistan in 1959 in the family of Crimean Tatars, deported from Crimea by the Stalin regime in 1944. He arrived in Crimea in 1986, and since 1991 he legally resided there with his family. Khalilov is a public activist, a coordinator of the non-governmental organization “Movement of the Crimean Tatars Resistance”.



In February 2016 N. Khalilov filed a lawsuit in the Central District Court of the city of Simferopol, in which he asked to recognize the actions of the occupying authorities, as well as the President of the Russian Federation Vladimir Putin, illegal, and to grant the Crimean Tatar people a special status and recognize them as the indigenous people of Crimea.

67 [https://evpatoriya--krm.sudrf.ru/modules.php?name=sud\\_delo&name\\_op=case&\\_id=1456088871&\\_deloid=1500001&\\_caseType=0&\\_new=0&\\_doc=1&srv\\_num=1](https://evpatoriya--krm.sudrf.ru/modules.php?name=sud_delo&name_op=case&_id=1456088871&_deloid=1500001&_caseType=0&_new=0&_doc=1&srv_num=1)

68 <https://ru.krymr.com/a/28337742.html>

69 [https://vs--krm.sudrf.ru/modules.php?name=sud\\_delo&srv\\_num=1&name\\_op=doc&number=1870810173&deloid=1502001&new=0&text\\_number=1](https://vs--krm.sudrf.ru/modules.php?name=sud_delo&srv_num=1&name_op=doc&number=1870810173&deloid=1502001&new=0&text_number=1)



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The punishment for such action was not long in coming.

According to the decision of the Zheleznodorozhny District Court of Simferopol of November 7, 2016 (Judge Belinchuk T.G.)<sup>70</sup>, Khalilov N.A. was found guilty of an administrative offense under Part 1 of Article 18.8 of the Code of Administrative Offenses of the Russian Federation (*violation of the regime of residence on the territory of the Russian Federation, expressed in the absence of documents confirming the right to stay (reside) in the Russian Federation (there is no migration card, documents confirming the right to stay (reside) on the territory of the Russian Federation), as well as evasion from leaving the Russian Federation after a certain period of stay*). He was sentenced to administrative penalty in the form of an administrative fine of 2,000 rubles with administrative expulsion outside the Russian Federation.

In the decision, the court directly indicated that from March 18, 2014, the continued presence of N. Khalilov in the territory of Crimea is subject to the effect of the Russian migration legislation:

*“The citizen of the Republic of Uzbekistan N. Khalilov has been on the territory of the Russian Federation (the Republic of Crimea) since March 18, 2014 to the present, 966 days, instead of 90 days during 180 days. Therefore, the illegal stay of a citizen of the Republic of Uzbekistan N. Khalilov on the territory of the Russian Federation amounted to 876 days”.*

Even though Khalilov’s defense attorney filed an appeal on the decision on expulsion on the same day, and on November 8, 2016 the appeal hearing was scheduled at the Supreme Court of Crimea, on the night of November 7-8, 2016 the decision to expel Khalilov N.A. was immediately executed. He was transported from the territory of Crimea to the CTDFC (the Center for temporary detention of foreign citizens) in the village of Vardan of the Krasnodar Territory, the RF. Khalilov was later transferred to the CTDFC in the Gulkevichsky district of the Krasnodar Territory<sup>71</sup>, and in June 2017 to the CTDFC for the Stavropol Territory, located in the city of Georgievsk, the RF.

On November 8, 2016, the Supreme Court of the Republic of Crimea (Judge Agin V.V.) refused to satisfy the appeal of the defense attorney on the expulsion of Khalilov N. and left the judgment of the court of first instance unchanged.

In protest at the illegal actions of the occupying authorities Khalilov held a 45-day hunger strike.

On May 15, 2018 he was forcibly transported to Uzbekistan by plane. Until his deportation Khalilov spent more than a year and a half in detention.

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<sup>70</sup> [https://zheleznodorozhny--krm.sudrf.ru/modules.php?name=sud\\_delo&name\\_op=case&\\_id=208868041&\\_deloid=1500001&\\_caseType=0&\\_new=0&\\_doc=1&srv\\_num=1](https://zheleznodorozhny--krm.sudrf.ru/modules.php?name=sud_delo&name_op=case&_id=208868041&_deloid=1500001&_caseType=0&_new=0&_doc=1&srv_num=1)

<sup>71</sup> <https://ovdinfo.org/express-news/2017/06/25/krymskotatarskogo-aktivista-nedima-halilova-pereveli-v-specpriemnik>

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**Kovalchuk Alexander Vasilievich**, born on January 13, 1972, a citizen of Ukraine. He lived in the territory of Crimea in the city of Yalta since 2011. After the occupation and annexation of Crimea, he did not acquire Russian citizenship and did not obtain a Russian passport.



On November 16, 2017 in relation to Kovalchuk A.V. an administrative protocol was drawn up on the violation of the migration legislation of the Russian Federation.

Employees of the Russian FSB, through threats and blackmail, forced Kovalchuk to admit guilt and agree to independent exit from Crimea, threatening otherwise to accuse him of terrorism.

According to the decision of the Yalta City Court of November 17, 2017 (judge Smirnov S.G.)<sup>72</sup>, he was found guilty of committing an administrative offense, stipulated in part 1 of Art. 18.8 of the Code of Administrative Offenses of the Russian Federation (*violation by a foreign citizen or stateless person of the residence regime in the Russian Federation, expressed in the absence of documents confirming the right to stay (reside) in the Russian Federation*). He was sentenced to an administrative fine of 2000 rubles with administrative expulsion in the form of a controlled independent exit.

Fearing further arrest and placement in the Center for temporary detention of foreign citizens, Kovalchuk A.V. was forced to leave the territory of Crimea on November 27, 2017. Currently he lives in Kyiv, the entry into the territory of Crimea is banned to him for the period of 5 years. Kovalchuk cannot dispose property left in the occupied territory.

#### One example of mass expulsion of Ukrainian citizens

This case concerns the situation with the forcible expulsion of 23 citizens of Ukraine, who in January 2018 arrived lawfully in the occupied territory with the purpose of employment in the reconstruction of one of the kindergartens in the village of Novoozerno, located on the western coast of Crimea.

On the first days of the work - on January 22, 2018 - they all were detained on the territory of kindergarten and identical records were drawn up for all of them in order to bring them to administrative responsibility under part 1 of Article 18.10 of the Administrative Code for violating the requirements of Article 13 of the Federal Law of the RF of July 25, 2002 “On the Legal Status of Foreign Citizens in the Russian Federation” (the exercise by

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<sup>72</sup> [https://yalta--krm.sudrf.ru/modules.php?name=sud\\_delo&name\\_op=case&\\_id=924680014&\\_deloid=1500001&\\_caseType=0&\\_new=0&\\_doc=1&srv\\_num=1](https://yalta--krm.sudrf.ru/modules.php?name=sud_delo&name_op=case&_id=924680014&_deloid=1500001&_caseType=0&_new=0&_doc=1&srv_num=1)

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a foreign citizen or a stateless person of labor activity in Russia without a work permit or patent).

Records were signed on behalf of the chief of the department of the Ministry of Internal Affairs of the Russian Federation in the city of Yevpatoria (Novoozerno settlement according to the administrative-territorial division is a part of the urban district<sup>73</sup> of the city of Yevpatoria). All decisions are identical in form and content, all provide for the same penalty - 2000 rubles fine. From the point of view of the norms of international law, these decisions are illegal, since citizens of Ukraine were on the territory of Ukraine (in Crimea) lawfully.

On February 2, 2018, the day after the expiry of their appeal period, at about 10 o'clock in the morning the police and the FMS arrived on the territory of the kindergarten and detained all 23 citizens again. Then they drew identical records about the administrative offense committed by these persons - illegal exercise by a foreign citizen of labor activities in the Russian Federation, committed repeatedly, prescribed by part 3 of Article 18.10 of the Code of Administrative Offenses.

After this, all of them were taken to the Yevpatoria City Court, which judges found them guilty of committing an offense charged and imposed the identical penalty - 5000 rubles fine with forced expulsion from the territory of Crimea (in the list of cases of the court as of 02.02.2018 NoNo 5-49/2018; 5-51/2018; 5-50/2018; 5-48/2018; 5-53/018; 5-55/2018; 5-52/2018; 5-54/2018; 5-57/2018; 5-68/2018; 5-68/2018; 5-61/2018; 5-62/2018; 5-56/2018; 5-64/2018; 5-65/2018; 5-67/2018; 5-66/2018; 5-70/2018; 5-63/2018; 5-69/2018; 5-68/2018)<sup>74</sup>. Prior to the commencement of the case, all citizens signed acknowledgments prepared in advance by the court staff that they did not need the services of a counsel and an interpreter<sup>75</sup>.

In the evening, after hearing the cases against all the detainees, they were put in the closed body truck and a few hours later they were brought to the administrative border of Crimea with Kherson Oblast. After the procedures were carried out by the border authorities, all 23 citizens of Ukraine were expelled from the territory of Crimea by the morning of February 3, having spent in total about one day under the conditions of illegal restriction of liberty.

The consequences of the said decisions taken by the court in the form of a ban on entering the territory of Crimea for a period of 5 years to those persons were not explained either before or after the court's hearing of the case (Paragraph 11 of Article 27 of the Federal Law No. 114-FZ "On the Procedure for Exit from the Russian Federation and Entry into the Russian Federation"). At present, these persons are prohibited from entering the territory of Crimea for 5 years, which violates their right to freedom of movement through the territory of Ukraine.

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73 It was established after the occupation of the peninsula by the Russian Federation.

74 [https://evpatoriya--krm.sudrf.ru/modules.php?name=sud\\_delo&srv\\_num=1&H\\_date=02.02.2018](https://evpatoriya--krm.sudrf.ru/modules.php?name=sud_delo&srv_num=1&H_date=02.02.2018). In the list of cases of the court.

75 The judges who examined the cases of the abovementioned citizens: Vilkhovy I.N., Zakharova I.A., Izmailov R.M., Kamenkova I.A., Lobanova G.B., Markina T.I.

### **Federal Law of the Russian Federation No. 115-FZ of July 25, 2002 “On the Legal Status of Foreign Citizens in the Russian Federation”**

#### **ARTICLE 31. Consequences of Overstaying the Authorized Period of Stay or Residence in the Russian Federation by a Foreign Citizen**

1. In case the authorized period of a foreign citizen’s residence or temporary stay in the Russian Federation has been reduced the foreign citizen shall have to leave the Russian Federation within three days.

2. In case the temporary residence permit or residence permit issued to a foreign citizen has been canceled the foreign citizen shall have to leave the Russian Federation within fifteen days.

3. A foreign citizen who has not fulfilled the obligation stipulated in paragraph 1 or 2 of this article shall be subject to deportation.

4. The deportation of foreign citizens as herein provided for shall be effected by the federal executive body in charge of internal affairs or by its territorial unit.

5. Deportation shall be at the expense of the foreign citizen being deported, or, if he/she is unable to pay, or was employed with the violation of the foreign workers employment procedure set by this Federal Law, then the deportation shall be at the expense of the inviting agency, the diplomatic mission or consular post of the foreign state of which he/she is a citizen, the international organization or its office or the natural or legal person as indicated in article 16 hereof.

6. If establishing the inviting party is impossible, the deportation shall be at the expense of the federal budget in the manner prescribed by the Government of the Russian Federation.

(...)

8. The federal executive body in charge of foreign affairs shall notify the diplomatic mission or consular post of the appropriate foreign state in the Russian Federation of its citizen’s deportation.

9. Foreign citizens subject to deportation are held in special institutions until execution of the deportation writ.

(...)

9.3. The placement of a foreign citizen subject to deportation to a special institution for a period not exceeding forty-eight hours is carried out by the federal executive authority in the field of migration or its territorial body on the basis of a decision of the head of the said federal body or his deputy or the head of the corresponding territorial body of the federal executive body in the sphere of migration or his deputy.

9.4. Except in the case provided for in paragraph 9.3 of this article, the placement in a special institution of foreign citizen subject to deportation can only be carried out on the basis of a court decision.

(...)

11. If the federal executive body in charge of justice issues makes a decision on the undesirability of stay (residence) in the Russian Federation with respect to a foreign citizen who is in custody, the decision is sent within three days from the date it was passed to the

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federal executive body in the field of migration, which takes a decision on the deportation of this foreign citizen, or in the event of an international treaty of the Russian Federation on readmission that affects this foreign citizen, the decision on his readmission.

12. The execution of the decision on the deportation of a foreign citizen specified in paragraph 11 of this article, or a decision on its readmission, is carried out after the foreign citizen have served the sentence imposed on the court's verdict.

13. The procedure for the interaction of the federal executive body in the field of migration and the federal executive body that exercises law enforcement functions and control and supervision functions in the sphere of execution of criminal penalties against convicts when implementing international treaties on readmission of the Russian Federation is determined by the Government of the Russian Federation.

#### **ARTICLE 34. Procedure for Administrative Expulsion of a Foreign Citizen from the Russian Federation**

1. The administrative expulsion of a foreign citizen from the Russian Federation shall be at the expellee's expense, or, if he/she is unable to pay, or was employed with the violation of the foreign workers employment procedure set by this Federal Law, then the expulsion shall be at the expense of the inviting agency, the diplomatic mission or consular post of the foreign state of which he/she is a citizen, the international organization or its office or the natural or legal person as indicated in article 16 of this Federal Law.

2. If establishing the inviting party is impossible, the administrative expulsion of a foreign citizen from the Russian Federation shall be at the expense of the federal budget in the manner prescribed by the Government of the Russian Federation.

3. The federal executive body in charge of internal affairs or its territorial unit or the federal executive body with responsibility for the border guard service or its units shall carry out the administrative expulsion of the foreign citizen from the Russian Federation and forward relevant information to the federal executive body in charge of foreign affairs.

4. The federal executive body in charge of foreign affairs shall notify the diplomatic mission or consular post of the appropriate foreign state in the Russian Federation of its citizen's administrative expulsion from the Russian Federation.

5. By court decision, foreign expellees shall **be held in specially designated rooms of internal affairs or border guard service offices, or at special facilities established in the manner prescribed by the law of a constituent entity of the Russian Federation until execution of the administrative expulsion writ.**

...

#### **Federal Law No 114-FZ of August 15, 1996 "On the Procedure for Exit from the Russian Federation and Entry into the Russian Federation"**

##### **Article 25.10.**

A foreign citizen or a person without citizenship who have entered the territory of the Russian Federation with infringement of the established rules, or do not have documents confirming the right to stay (reside) in the Russian Federation, or have lost such documents and do not have corresponding application to the territorial body of the Federal Executive body authorized to exercise functions of control and supervision in sphere of migration or



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avoiding leaving the Russian Federation upon the expiry of the period of stay (residence) in the Russian Federation, as well as having violated the rules of transit through the territory of the Russian Federation, are held to be illegally residing on the territory of the Russian Federation and bear responsibility in accordance with legislation of the Russian Federation.

With respect to a foreign citizen or stateless person, in the presence of grounds provided for in Article 26 of this Federal Law, a decision may be made on non-permitted entry into the Russian Federation. With respect to a foreign citizen or stateless person, in the presence of grounds provided for in part one of Article 27 of this Federal Law, a decision may be made on non-permitted entry to the Russian Federation. In case that decisions are made on the non-permitted entry into the Russian Federation simultaneously with respect to several foreign citizens and/or stateless persons, such decisions may be formalized by drawing up a single document specifying the surname, first name, patronymic (if any) of each foreign citizen or stateless person in respect of whom such a decision is made, the citizenship (nationality) of the foreign citizen, as well as the details of the identity documents of foreign citizens or stateless persons and recognized by the Russian Federation in this capacity. The Procedure for deciding on non-permitted entry into the Russian Federation and the list of federal executive bodies authorized to adopt such decisions shall be established by the Government of the Russian Federation.

In respect of a foreign citizen or stateless person, illegally present on the territory of the Russian Federation, or a person who is not allowed to enter the Russian Federation, and also in case if the stay (residence) of foreign citizens or stateless persons legally staying in the Russian Federation poses a real threat to the defense or security of the state, public order, or public health, to protect the foundations of the constitutional system, morals, the rights and lawful interests of other persons the decision may be taken on undesirability of stay (residence) of foreign citizens or stateless persons in the Russian Federation, except for the cases stipulated by the second paragraph of Part 3 of Article 11 of the Federal Law No. 38-FZ of March 30, 1995 “On Prevention of the spread of the disease caused by the human immunodeficiency virus (HIV-infection) in the Russian Federation”. When confirming the cure of an infectious disease that poses a danger to others, a foreign citizen or stateless person in respect of whom a decision has been made about the undesirability of stay (residence) in the Russian Federation due to the presence of circumstances creating a real threat to the health of the population, such a decision is subject to cancellation . In case of refusal of a foreign citizen or stateless person in respect of whom a decision has been made about the undesirability of stay (residence) in the Russian Federation in connection with the presence of an infectious disease of that foreign citizen or stateless person, which is dangerous for others, to undergo treatment in the Russian Federation and exit for the purpose of treatment in another country, the effect of such a decision may be suspended. The Procedure for the adoption, suspension and cancellation of the decision on the undesirability of the stay (residence) of a foreign citizen or stateless person in the Russian Federation and the list of federal executive bodies authorized to adopt such a decision shall be established by the Government of the Russian Federation.

A foreign citizen or a stateless person, in respect of which the decision on undesirability of stay (residence) in the Russian Federation shall be obliged to exit the Russian Federation in the Order stipulated by the Federal law.

A foreign citizen or a stateless person who have not left the territory of the Russian Federation within the established period, are subject to deportation.

The deportation of a foreign citizen or a stateless person in respect of whom a decision has been made about non-permitted entry into the Russian Federation or a decision on the undesirability of stay (residence) in the Russian Federation is exercised by the federal



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executive body in the field of internal affairs or its territorial body in cooperation with other federal bodies executive power and their territorial bodies within their competence. The procedure for the interaction of the federal executive body in the sphere of internal affairs and its territorial bodies with federal executive bodies authorized to decide on the non-permitted entry into the Russian Federation or the decision on the undesirability of stay (residence) in the Russian Federation and their territorial bodies in exercising control over the execution by foreign citizens and stateless persons of such decisions is established by joint regulatory legal acts of the federal an an executive power in the sphere of internal affairs and interested federal executive bodies.

The decision on undesirability of stay (residence) of a foreign citizen or the person without citizenship in the Russian Federation is the basis for the subsequent refusal of entry to the Russian Federation.

Entry into the Russian Federation of a foreign citizen or stateless person, in respect of which the decision on the undesirability of their stay (residence) in the Russian Federation, is not allowed, except if the specified foreign citizen or stateless person is transferred by a foreign state to the Russian Federation in accordance with an international Treaty of the Russian Federation on readmission.

**Article 27.**

Entry into the Russian Federation for a foreign citizen or stateless person is not permitted if:

(...)

2) with respect to a foreign citizen or stateless person, a decision has been made on administrative expulsion from the Russian Federation, deportation or transfer by the Russian Federation to a foreign state in accordance with the international treaty of the Russian Federation on readmission,

- within five years from the date of administrative expulsion from the Russian Federation, deportation or transfer by the Russian Federation to a foreign state in accordance with the international treaty of the Russian Federation on readmission;

2.1) with respect to a foreign citizen or stateless person, a decision was made (twice or more times) on administrative expulsion from the Russian Federation, on deportation or transfer by the Russian Federation to a foreign state in accordance with the international treaty of the Russian Federation on readmission,

- for ten years from the day of administrative expulsion from the Russian Federation, deportation or transfer by the Russian Federation to a foreign state in accordance with an international treaty of the Russian Federation on readmission;

(...)

7) in respect of a foreign citizen or stateless person, a decision was made on the undesirability of stay (residence) in the Russian Federation, including if this citizen is included in the list of citizens of the United States of America who are prohibited from entering the Russian Federation;

(...)

11) a foreign citizen or stateless person repeatedly (two or more times) within one year was brought to administrative responsibility for committing an administrative offense related to an infringement on public order and public safety or with violation of the regime of stay (residence) of foreign citizens or stateless persons in the Russian Federation or the procedure for their employment in the territory of the Russian Federation,

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- within five years from the date of entry into force of the last decision on bringing to administrative responsibility.

**Extract from the Code of Administrative Offences of the Russian Federation No 195-FZ of December 30, 2001**

*Articles providing for the possibility of applying penalty in the form of expulsion:*

**ARTICLE 5.26. Violation of the Laws on Freedom of Conscience and Freedom of Belief, as well as on Religious Associations**

(...)

5. Implementation of missionary activities in violation of the requirements of the legislation on freedom of conscience, freedom of belief and religious associations committed by a foreign citizen or a stateless person

- shall entail the imposition of an administrative fine in the amount of thirty thousand to fifty thousand rubles with administrative expulsion from the Russian Federation or without it.

**ARTICLE 6.8. Illicit traffic in narcotic drugs, psychotropic substances or their analogues and illegal acquisition, storage, transportation of plants containing narcotic drugs or psychotropic substances or their parts containing narcotic drugs or psychotropic substances**

Illegal acquisition, storage, transportation, manufacturing, processing without the purpose of sale of narcotic drugs, psychotropic substances or their analogues, as well as illegal acquisition, storage, transportation without the purpose of selling plants containing narcotic drugs or psychotropic substances or their parts containing narcotic drugs or psychotropic substances committed by a foreign citizen or stateless person,

- shall entail the imposition of an administrative fine in the amount of four thousand to five thousand rubles with administrative expulsion from the Russian Federation or an administrative arrest for up to fifteen days with administrative expulsion from the Russian Federation.

**Article 6.9. Consumption of narcotic drugs or psychotropic substances without the appointment of a doctor or new potentially dangerous psychoactive substances**

Consumption of non-prescribed narcotic drugs or psychotropic substances or new potentially dangerous psychoactive substances, except in cases provided for by Part 2 of Article 20.20 and Article 20.22 of this Code, or the failure to comply with the legal requirements of an authorized officer to undergo medical examination for intoxication by a citizen, in respect of whom there are sufficient grounds to believe that he consumed non-prescribed narcotic drugs or psychotropic substances or new potentially dangerous psychoactive substances, committed by a foreign citizen or a stateless person - shall entail the imposition of an administrative fine in the amount of four thousand to five thousand rubles with administrative expulsion from the Russian Federation or an administrative arrest for up to fifteen days with administrative expulsion from the Russian Federation.

**ARTICLE 6.13. Promotion of narcotic drugs, psychotropic substances or their precursors, plants containing narcotic drugs or psychotropic substances or their precursors, and their parts containing narcotic drugs or psychotropic substances or their precursors, new potentially dangerous psychoactive substances**

Promotion or unlawful advertising of narcotic drugs, psychotropic substances or their precursors, plants containing narcotic drugs or psychotropic substances or their precursors, and their parts containing narcotic drugs or psychotropic substances or their precursors, as

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well as new potentially dangerous psychoactive substances, committed by a foreign citizen or a stateless person,

- shall entail the imposition of an administrative fine in the amount of four thousand to five thousand rubles with administrative expulsion from the Russian Federation or an administrative arrest for up to fifteen days with administrative expulsion from the Russian Federation.

**ARTICLE 6.16.1. Illegal acquisition, storage, transportation, production, sale or shipment of precursors of narcotic drugs or psychotropic substances, as well as illegal acquisition, storage, transportation, sale or shipment of plants containing precursors of narcotic drugs or psychotropic substances or their parts containing precursors of narcotic drugs or psychotropic substances**

1. Illegal acquisition, storage, transportation, production, sale or shipment of precursors of narcotic drugs or psychotropic substances, as well as illegal acquisition, storage, transportation, sale or shipment of plants containing precursors of narcotic drugs or psychotropic substances or their parts containing precursors of narcotic drugs or psychotropic substances, if these actions do not contain a criminal offense,

- shall entail the imposition of an administrative fine in the amount of four thousand to five thousand rubles or an administrative arrest for up to fifteen days.

2. The same actions committed by a foreign citizen or stateless person,

- shall entail the imposition of an administrative fine in the amount of four thousand to five thousand rubles with administrative expulsion from the Russian Federation or an administrative arrest for up to fifteen days with administrative expulsion from the Russian Federation.

**ARTICLE 6.21. Promotion of non-traditional sexual relations among minors**

(...)

3. The actions provided for by Part 1 of this Article [Promotion of non-traditional sexual relations among minors, manifesting itself in the dissemination of information aimed at the formation of unconventional sexual attitudes of minors, the attractiveness of non-traditional sexual relations, a distorted view of the social equivalence of traditional and non-traditional sexual relations, or the imposing of information on non-traditional sexual relations, causing interest in such relations], committed by a foreign national or a stateless person, if these actions do not contain a criminal offense,

- shall entail the imposition of an administrative fine in the amount of four thousand to five thousand rubles with administrative expulsion from the Russian Federation or an administrative arrest for up to fifteen days with administrative expulsion from the Russian Federation.

4. The actions provided for by Part 1 of this Article [Promotion of non-traditional sexual relations among minors, manifesting itself in the dissemination of information aimed at the formation of unconventional sexual attitudes among minors, the attractiveness of non-traditional sexual relations, a distorted view of the social equivalence of traditional and non-traditional sexual relations, or the imposition of information on nontraditional sexual relations, causing interest in such relations] committed by a foreign national or a stateless person with the use of the media and (or) information and telecommunication networks (including “Internet”), if these actions do not contain a criminal offense,

- shall entail the imposition of an administrative fine in the amount of fifty thousand to one hundred thousand rubles with administrative expulsion from the Russian Federation or an

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administrative arrest for up to fifteen days with administrative expulsion from the Russian Federation.

**ARTICLE 18.1. Violation of the regime of the State Border of the Russian Federation**

(...)

2. Violation of the rules for crossing the State Border of the Russian Federation by persons and (or) vehicles or violation of the procedure for movement of such persons and (or) vehicles from the State Border of the Russian Federation to checkpoints across the State Border of the Russian Federation and in the opposite direction, stipulated by Article 18.5 of this Code, committed by a foreign citizen or a stateless person,

- shall entail the imposition of an administrative fine in the amount of two thousand to five thousand rubles with administrative expulsion from the Russian Federation or without it.

**ARTICLE 18.2. Violation of the border regime in the border zone**

1. Violation of the rules of entry (passage) into the border zone, temporary stay, movement of persons and (or) vehicles in the border zone, committed by a foreign citizen or stateless person,

- shall entail a warning or the imposition of an administrative fine in the amount of five hundred to one thousand rubles with administrative expulsion outside the Russian Federation or without it.

2. The same actions committed by a foreign citizen or stateless person,

- shall entail a warning or the imposition of an administrative fine in the amount of five hundred to one thousand rubles with administrative expulsion from the Russian Federation or without it.

**ARTICLE 18.4. Violation of the regime at checkpoints across the State Border of the Russian Federation**

1. Violation of the regime at the checkpoints across the State Border of the Russian Federation

- shall entail a warning or the imposition of an administrative fine on citizens in the amount of three hundred to one thousand rubles; on officials - from two thousand to five thousand rubles; on legal entities - from five thousand to ten thousand rubles.

2. The same actions committed by a foreign citizen or stateless person -

- shall entail a warning or the imposition of an administrative fine in the amount of three hundred to one thousand rubles with administrative expulsion from the Russian Federation or without it.

**ARTICLE 18.8. Violation by a foreign citizen or stateless person of the rules of entry into the Russian Federation or the regime of staying (residence) in the Russian Federation**

1. Violation by a foreign citizen or a stateless person of the rules of entry into the Russian Federation or the regime of staying (residence) in the Russian Federation, manifesting itself in violation of the established rules for entry into the Russian Federation, violation of the rules of migration registration, movement or order of choosing a place of staying or residence, transit across the territory of the Russian Federation, in failure to fulfil the obligation to notify of their residence in the Russian Federation in cases established by the federal law

- shall entail the imposition of an administrative fine in the amount of two thousand to five

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thousand rubles with administrative expulsion outside the Russian Federation or without it.

1.1. Violation by a foreign citizen or stateless person of the regime of staying (residence) in the Russian Federation, manifesting itself in the absence of documents confirming the right to stay (reside) in the Russian Federation, or in the case of such documents' loss, in non-submission of an application about their loss to the relevant authority or in avoiding leaving the Russian Federation after a certain period of staying, if these actions do not contain any signs of a criminal offense,

- shall entail the imposition of an administrative fine in the amount of two thousand to five thousand rubles with administrative expulsion from the Russian Federation.

2. The violation by a foreign citizen or stateless person of the rules of entry into the Russian Federation or the regime of staying (residence) in the Russian Federation, manifesting itself in the inconsistency between the declared goal of entry into the Russian Federation and activities or occupation actually carried out during the staying (residence) in the Russian Federation,

- shall entail the imposition of an administrative fine in the amount of two thousand to five thousand rubles with administrative expulsion from the Russian Federation or without it.

(...)

4. Repeated commission by an alien or stateless person of an administrative offense provided for in subsections (1) and (2) of this section ,

- shall entail the imposition of an administrative fine in the amount of five thousand to seven thousand rubles with administrative expulsion from the Russian Federation.

5. Repeated commission during one year by a foreign citizen or stateless person of an administrative offense provided for in part 3 of this article,

- shall entail the imposition of an administrative fine in the amount of seven thousand to ten thousand rubles with administrative expulsion from the Russian Federation.

Note. Administrative expulsion from the Russian Federation of a foreign citizen or stateless person in the form of a controlled independent exit from the Russian Federation does not apply to foreign citizens and stateless persons who are held administratively liable for an administrative offense provided for in the Part 4 of this article.

#### **ARTICLE 18.10. Unlawful exercise by a foreign citizen or stateless person of labour activities in the Russian Federation**

1. The exercise by a foreign citizen or stateless person of labour activities in the Russian Federation without a labour permit or licence, if such permit and licence are required under federal law, or exercise by a foreign citizen or stateless person of labour activities in the Russian Federation according to the profession (specialty, position, type of work activity) not specified in the labour permit or licence, if the labour permit or licence contains information about the profession (specialty, position, type of work activity), or exercise by a foreign citizen or stateless person of labour activities outside the constituent entity of the Russian Federation on the territory of which labour permit or licence, or temporary residence was granted to this foreign citizen

- shall entail the imposition of an administrative fine in the amount of two thousand to five thousand roubles accompanied by an administrative expulsion from the Russian Federation or without it.

(...)

3. Repeated within one year the commission by a foreign citizen or stateless person of an



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administrative offense provided for by part 1 of this article,

- shall entail the imposition of an administrative fine in the amount of five thousand to seven thousand rubles with administrative expulsion outside the Russian Federation.

(...)

Note. Administrative expulsion from the Russian Federation of a foreign citizen or stateless person in the form of a controlled independent exit from the Russian Federation is not applied to foreign citizens and stateless persons who are held administratively liable for an administrative offense provided for in part 3 of this article.

#### **ARTICLE 18.11. Violation of immigration rules**

1. Failure by an immigrant to pass the immigration control stipulated by the legislation of the Russian Federation, medical examination, personality identification, residing at a temporary detention location, at the temporary accommodation centre for immigrants or at a place allocated for temporary stay by a territorial body of the federal executive agency authorized to carry out the functions of control and supervision in the sphere of migration, as well as the breach of the rules of residence in the said places or evasion from submitting or submission of untrustworthy information when the status of an immigrant to the Russian Federation is determined,

- shall entail the imposition of an administrative fine in the amount of two thousand to four thousand roubles with or without administrative deportation from the Russian Federation.

**ARTICLE 18.17. Non-observance of the limitations concerning the exercise of certain activities established in compliance with federal laws in respect of foreign citizens, stateless persons and foreign organisations**

(...)

2. Non-observance by a foreign citizen or a stateless person of the limitations concerning the exercise of certain activities which are established in compliance with federal laws in respect of foreign citizens and stateless persons

- shall entail the imposition of an administrative fine in the amount of two thousand to five thousand roubles accompanied by an administrative expulsion from the Russian Federation or without it.

#### **ARTICLE 19.27. Submission of false data while effecting migration registration**

1. Submission of wittingly false data or forged documents by a foreign citizen or a stateless person while effecting migration registration, if these actions do not contain any signs of a criminal offense,

- shall entail the imposition of an administrative fine in the amount of two thousand to five thousand roubles accompanied by an administrative expulsion from the Russian Federation or without it.

**ARTICLE 20.20. Consumption (drinking) of alcoholic products in prohibited places or consumption of narcotic drugs or psychotropic substances, new potentially dangerous psychoactive substances or intoxicating substances in public places**

2. Consumption of narcotic drugs or psychotropic substances without the appointment of a doctor, of new potentially dangerous psychoactive substances or intoxicating substances in streets, stadiums, parks, in a public transport vehicle, as well as in other public places or failure to comply with the legal requirement of an authorized official to pass a medical examination for a state of intoxication by a citizen for whom there are sufficient grounds

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to believe that he consumed narcotic drugs or psychotropic substances without a doctor's prescription, new potentially dangerous psychoactive substances or intoxicants on the street, stadium, park, in a public transport vehicle, as well as in other public places,

- shall entail the imposition of an administrative fine in the amount of four thousand to five thousand rubles or an administrative arrest for up to fifteen days.

3. The actions specified in Part 2 of this Article committed by a foreign citizen or stateless person,

- shall entail the imposition of an administrative fine in the amount of four thousand to five thousand rubles with administrative expulsion from the Russian Federation or an administrative arrest for up to fifteen days with administrative expulsion from the Russian Federation.

#### **ARTICLE 20.25. Evading the performance of an administrative penalty**

3. The evasion of a foreign citizen or stateless person of performance an administrative penalty in the form of administrative expulsion from the Russian Federation in the form of controlled independent exit from the Russian Federation,

- shall entail the imposition of an administrative fine at a rate from 3,000 to 5,000 rubles and forced expulsion from the Russian Federation.

Note:

(...)

Administrative expulsion from the Russian Federation of a foreign citizen or stateless person in the form of a controlled independent exit from the Russian Federation is not applied to foreign citizens and stateless persons who are held administratively liable for an administrative offense provided for in part 3 of this article.

#### **ARTICLE 20.31. Violation of the rules of behavior of spectators during official sports competitions**

(...)

4. Repeated violation of the rules of behavior of spectators during official sports competitions, except for cases provided for by part 3 of this article, committed by a foreign citizen or stateless person,

- shall entail the imposition of an administrative fine in the amount of ten thousand to fifteen thousand rubles with administrative expulsion from the Russian Federation or an administrative arrest for up to fifteen days with administrative expulsion from the Russian Federation.

5. A gross violation of the rules of conduct of spectators during official sports competitions, if these actions do not contain a criminal offense, committed by a foreign citizen or a stateless person,

- shall entail the imposition of an administrative fine in the amount of ten thousand to twenty thousand rubles with administrative expulsion from the Russian Federation or an administrative arrest for up to fifteen days with administrative expulsion outside the Russian Federation.

*Articles of the Code regulating procedural issues related to the application and execution of administrative punishment in the form of expulsion*

#### **ARTICLE 3.2. Types of administrative penalties**

1. The following administrative penalties may be established and imposed for the

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commission of administrative offenses:

(...)

7) administrative expulsion from the Russian Federation of a foreign citizen or stateless person;

### **ARTICLE 3.3. Principal and additional administrative penalties**

2. Confiscation of the instrument or the subject of an administrative offense, the deprivation of a special right in the form of the right to drive a vehicle of the appropriate type, the administrative expulsion of a foreign citizen or stateless person from the Russian Federation, an administrative ban on visiting venues for official sports competitions on their days may be established and to be used as both a basic and additional administrative punishment. Deprivation of a special right in the form of the right to drive a vehicle of the appropriate type is used as an additional administrative penalty for committing administrative offences provided for by Part 1 of Article 11.7.1, Part 1 and 2 of Article 12.8, Part 1 of Article 12.26, Part 3 of Article 12.27 of this Code.

### **ARTICLE 3.10. Administrative expulsion from the Russian Federation of a foreign citizen or stateless person**

1. Administrative expulsion from the Russian Federation of foreign citizens or stateless persons is the forced and controlled transfer of these citizens and persons across the State Border of the Russian Federation outside the Russian Federation (hereinafter - forced expulsion from the Russian Federation), and in cases provided for by the laws of the Russian Federation, in a controlled independent exit of foreign citizens and stateless persons from the Russian Federation.

2. Administrative expulsion from the Russian Federation as a measure of administrative penalty is established in relation to foreign citizens or stateless persons and appointed by a judge, and in the case of an administrative offense committed by a foreign citizen or a stateless person upon entry into the Russian Federation is appointed by appropriate officials.

3. Administrative expulsion from the Russian Federation cannot be applied to servicemen-foreign citizens.

4. When appointing an administrative penalty in the form of administrative expulsion of a foreign citizen or stateless person from the Russian Federation, the judge shall decide on his/her forced expulsion from the Russian Federation or a controlled independent exit from the Russian Federation.

5. For the purpose of executing an administrative penalty imposed on a foreign citizen or stateless person in the form of forced expulsion from the Russian Federation, the judge is entitled to apply to such persons the maintenance in a special institution provided for by Federal Law No. 115-FZ of July 25, 2002 "On the Legal Status of Foreign Citizens in the Russian Federation".

6. Administrative punishment in the form of a controlled independent departure exit from the Russian Federation may be appointed to a foreign citizen or stateless person in the event of an administrative expulsion from the Russian Federation at the expense of such a foreign citizen or stateless person or at the expense of the inviting agency, diplomatic or consular mission of a foreign state, of which the expelled foreign citizen is a citizen, an international organization or its representative office, physical or legal person specified in Article 16 of Federal Law No. 115-FZ of July 25, 2002 "On the Legal Status of Foreign Citizens in the Russian Federation".

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## **ARTICLE 4.1. General Rules for Imposing an Administrative Penalty**

(...)

3.6. In case when appointing an administrative penalty for committing an administrative offense provided for by part 4 or 5 of Article 20.31 of this Code, the court, taking into account the length of residence of a foreign citizen or stateless person in the Russian Federation, his marital status, his attitude to the payment of Russian taxes, the availability of income and housing in the territory of the Russian Federation, occupation and profession, law-abiding behavior, application for admission to Russian citizenship and other conditions will come to the conclusion that administrative expulsion from the Russian Federation is an excessive restriction of the right to respect for private life and is disproportionate to the purposes of administrative penalty, there might be imposed administrative penalty in the form of an administrative fine in the amount of forty thousand to fifty thousand rubles or an administrative ban on visiting venues of official sports competitions in the days of their holding for a period of one to seven years.

3.7. For an administrative offense provided for in part 4 or 5 of Article 20.31 of this Code, administrative penalty in the form of administrative arrest for up to fifteen days with administrative expulsion from the Russian Federation may be assigned to a foreign citizen or stateless person in case such administrative violation is committed during official international sports competitions.

### **ARTICLE 23.1. Judges**

Cases of administrative offenses provided for by Articles 5.38, 7.13 to 7.16, Parts 1 and 4 of Article 14.57, Article 19.3, Parts 18 and 19 of Article 19.5, Article 19.28 (with respect to administrative offenses committed outside the Russian Federation), Articles 19.34, 20.1 - 20.3, 20.18, 20.29, 20.31, 20.34 of this Code shall be considered by the judges of the district courts.

### **ARTICLE 25.1. The person against whom proceedings are being conducted in the case concerning an administrative offense**

(...)

3. A judge, body, or official, which tries a case concerning an administrative offence, shall be entitled to regard the presence of the person, who is on trial in this case, while considering it, as obligatory. When trying a case concerning an administrative offence entailing administrative arrest or administrative expulsion from the Russian Federation of a foreign citizen or stateless person, the presence of the person, who is on trial in connection with this case shall be obligatory.

### **ARTICLE 26.10. Demanding and Obtaining Information**

A judge, body, or official, trying a case concerning an administrative offence shall be entitled to issue a ruling in order to demand and obtain information necessary for settling the case. Demanded information shall be directed within a three-day term as of the date of the ruling's receipt, and with regard to an administrative offence entailing administrative arrest or the administrative expulsion it shall be done without delay. Where it is impossible to submit said information, an organisation shall be obliged within a three-day term to notify thereof in writing the judge, body, or official who issued the ruling.

### **ARTICLE 27.1. Measures to ensure the proceedings in the case of an administrative offense**

1. For the purpose of terminating an administrative offense, establishing the identity of the offender, drawing up a protocol on an administrative offense, if it is impossible to

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compile a report on the location of an administrative offense, ensuring timely and proper consideration of a case of an administrative offense and enforcing an enacted decision, an authorised person shall be entitled within the scope of his authority to take the following measures to ensure proceedings in a case concerning an administrative offence:

(...)

12) the placement of foreign citizens or stateless persons subject to administrative expulsion from the Russian Federation in the form of forced expulsion from the Russian Federation to special institutions provided for by Federal Law No. 115-FZ of July 25, 2002 “On the Legal Status of Foreign Citizens in the Russian Federation”.

#### **ARTICLE 27.5. Terms of administrative detention**

(...)

3. A person in respect of whom proceedings are being conducted in the case of an administrative offense that results in administrative arrest or administrative expulsion from the Russian Federation as an administrative penalty may be subjected to administrative detention for a period not exceeding 48 hours.

#### **ARTICLE 27.19. Placement in special institutions of foreign citizens or stateless persons subject to administrative expulsion from the Russian Federation**

1. The placement in special institutions of foreign citizens or stateless persons subject to forced expulsion outside the Russian Federation consists in their forwarding to special institutions provided for by Federal Law No. 115-FZ of July 25, 2002 “On the Legal Status of Foreign Citizens in the Russian Federation”, or in specially designated for this purpose premises of frontier bodies and in their temporary maintenance in such special institutions prior to forced expulsion from the Russian Federation.

2. Keeping in special institutions in conditions allowing no opportunity for the unauthorised leaving thereof shall be applied to foreign citizens or stateless persons as security measure for the implementation of a judge’s decision on the imposition of an administrative penalty in the form of enforced expulsion from the Russian Federation or a decision of a border-guard body’s official in respect of foreign citizens or stateless persons for administrative offences in the area of protection of the State Border of the Russian Federation.

3. A special institution formed in the established procedure by executive governmental bodies of a subject of the Russian Federation shall be used for the purpose of placing a foreign citizen or stateless person on the basis of a judge’s order which shall be immediately performed by the federal executive governmental body empowered to carry out the functions of enforced implementation of writs of execution and of maintaining the established procedure for the operation of courts, in the procedure established by the federal executive governmental body in charge of the functions of normative legal regulation in the area of maintaining the established procedure for the operation of courts and enforcement of court’s orders and decisions of other bodies

4. On a judge’s order or a decision of the relevant border-guard body’s official premises of a border-guard body designated for the purpose shall be used for the placement of a foreign citizen or stateless person who has committed an administrative offence in the area of protection of the State Border of the Russian Federation.

#### **ARTICLE 28.8. Forwarding a record of (the decision of the prosecutor) on an administrative offense for the consideration of the case of an administrative offense**

(...)



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2. The record of (the decision of the prosecutor) on an administrative offense, the commission of which entails administrative arrest or administrative expulsion, shall be submitted to the judge immediately after it has been drawn up (delivered).

**ARTICLE 29.6. Terms for trying a case concerning an administrative offence**

(...)

3. A case concerning an administrative offence, the commission of which shall entail administrative arrest, shall be tried on the date of receipt of a record of the administrative offence and of other materials of the case, and a case in respect of a person subjected to administrative detention or the administrative expulsion, shall be tried in 48 hours at most, as of the moment of detention thereof.

**ARTICLE 29.10. The decision on the case concerning an administrative offence**

(...)

2. When issuing a ruling on case concerning an administrative offense against a foreign citizen or stateless person, the judge decides whether to place a foreign citizen or stateless person in a special institution if he or she appoints such persons administrative penalty in the form of forced expulsion from the Russian Federation.

**ARTICLE 30.2. The procedure for filing an appeal against a decision in a case concerning an administrative offense**

(...)

2. An appeal against a judge's decision to impose an administrative penalty in the form of administrative arrest or administrative expulsion shall be submitted to a higher court on the day of receipt of the complaint.

**ARTICLE 30.5. Terms for considering an appeal against a decision with regard to a case concerning an administrative offense**

(...)

3. An appeal against the decision on administrative arrest or administrative expulsion is subject to review within 24 hours from the date of filing the appeal, if the person, brought to administrative responsibility, is under an administrative arrest or subject to administrative expulsion.

**ARTICLE 30.8. Announcement of a determination rendered in respect of an appeal against a decision in a case concerning an administrative offence**

(...)

3. A determination in respect of an appeal against a decision about administrative arrest or the administrative expulsion shall be brought to the knowledge of the body or the official which is to carry out the decision, as well as to the knowledge of the person, in respect of whom the determination has been rendered, and of the victim, on the day of rendering it.

**ARTICLE 31.5. Stay of execution and installment of a decision to impose an administrative penalty**

1. In the presence of circumstances making it impossible to execute a decision providing for imposition of an administrative penalty in the form of administrative arrest, for deprivation of a special right or for an administrative fine within an established term, the judge, body, or official, who rendered the decision, may postpone execution thereof for a term of up to one month.

(...)

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The stay of execution or installment of the decision to impose an administrative penalty in the form of an administrative fine shall not apply to foreign citizens and stateless persons who are administratively fined simultaneously with their administrative expulsion from the Russian Federation, as well as against persons who are subject to an administrative fine for the commission of administrative offenses provided for in Articles 11.26, 11.29, 12.9, parts 6 and 7 of Article 12.16, Article 12.21.3 of this Code, in the case of committing these administrative offences using vehicles owned by foreign carriers.

**ARTICLE 32.2. Execution of the decision on imposing an administrative fine**

(...)

1.1. An administrative fine, assigned to a foreign citizen or stateless person simultaneously with administrative expulsion from the Russian Federation, must be paid no later than the next day after the effective date of the relevant decision on the case concerning the administrative offence.

**ARTICLE 32.9. Execution of a decision on administrative expulsion from the Russian Federation of foreign citizens and stateless persons**

A decision about the administrative expulsion from the Russian Federation of foreign citizens and stateless persons shall be executed:

1) by border guard agencies - when committing the administrative offences provided for by Part 2 of Article 18.1 and by Part 2 of Article 18.4 of this Code;

2) by the federal executive governmental body in charge of the functions of maintaining the established procedure for the operation of courts and enforcing court's orders and act of other bodies and officials -- when a judge orders an administrative penalty for a foreign citizen or stateless person as administrative expulsion from the Russian Federation in the form of enforced expulsion from the Russian Federation.

**ARTICLE 32.10. Procedure for executing a decision on administrative expulsion from the Russian Federation of foreign citizens or stateless persons**

1. The execution of the decision on administrative expulsion from the Russian Federation of a foreign citizen or stateless person shall be effected by the official transfer of a foreign citizen or stateless person to a representative of the authorities of a foreign state into whose territory the person is expelled or by a controlled independent exit of a person subject to administrative expulsion outside the Russian Federation.

2. The administrative expulsion of a foreign citizen or stateless person from the border crossing point of the State Border of the Russian Federation shall be notified to the authorities of the foreign state to which the said person is expelled to (or through the territory of which), if the administrative expulsion is provided for by an international treaty of the Russian Federation with that state.

3. If the transfer of a person subject to administrative expulsion from the Russian Federation to a representative of the authorities of a foreign state is not provided for by an international treaty of the Russian Federation with that state, the administrative expulsion of a person shall be carried out at the place designated by the border authorities.

4. The execution of the decision on administrative expulsion from the Russian Federation of a foreign citizen or stateless person is formalized in the form of a bilateral or unilateral act that is attached to the resolution or to the materials of the enforcement proceedings.

(...)

6. A foreign citizen or stateless person who is subject to administrative penalty in the form of administrative expulsion from the Russian Federation in the form of a controlled

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independent exit from the Russian Federation is required to leave the Russian Federation within five days after the day the judge's decision to appoint an appropriate administrative penalty comes into force.

7. The federal executive body exercising federal state control (supervision) in the sphere of migration monitors the execution by a foreign citizen or stateless person of a decision on his/her administrative expulsion from the Russian Federation in the form of a controlled independent exit from the Russian Federation.

**Decree of the Government of the Russian Federation No. 1306 of December 30, 2013 “On Approving the Rules for the Maintenance (Stay) of Foreign Citizens and Stateless Persons in Special Institutions of the Ministry of Internal Affairs of the Russian Federation or Its Territorial Body Subject to Administrative Expulsion from the Russian Federation in the Form of Forced Expulsion from the Russian Federation, Deportation or Readmission”<sup>76</sup>**

1. These Rules define the conditions and procedure for the maintenance (stay), including the issues of primary health care (hereinafter referred to as “maintenance”), in special institutions of the Ministry of Internal Affairs of the Russian Federation or its territorial body (hereinafter - special institutions) of foreign citizens and stateless persons, subject to administrative expulsion from the Russian Federation in the form of forced expulsion from the Russian Federation, deportation or readmission (hereinafter - foreign citizens) ...

2. Foreign citizens held in a special institution shall comply with these Rules and the daily routine of the special institution established by the head (chief) of the special institution, the checkpoint and the in-office regimes (hereinafter - the regime of detention).

3. Foreign citizens are held in special institutions in conditions allowing no opportunity for the unauthorised leaving thereof.

(...)

7. Upon admission to a special institution, foreign citizens are subject to personal examination, fingerprinting and photographing.

For every foreign citizen who has entered a special institution, a personal file is being created.

(...)

9. When a foreign citizen enters a special institution, an employee (specialist) of a special institution or an employee of a territorial body of the Ministry of Internal Affairs of the Russian Federation shall, in the presence of that foreign citizen, inspect the items in his possession.

(...)

10. If a foreign citizen who has entered a special institution possesses a mobile phone, it is transferred to the custodianship of the administration of a special institution. These foreign citizens are allowed to use the mobile phones belonging to them in the time established by the daily routine of the special institution.

11. Foreign citizens are kept in special institutions in rooms, where the norm of sanitary area is not less than 6 square meters per 1 person, and in case 2-storey beds are installed, than not less than 4.5 square meters per 1 person. The room for family accommodation has an area of at least 15 square meters. In the rooms, foreign citizens are provided with an individual bed and bedding (mattress, pillow and blanket).

<sup>76</sup> <http://pravo.gov.ru/proxy/ips/?docbody=&nd=102170700&rdk=&backlink=1>

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43. Foreign citizens held in a special institution are prohibited from:

(...)

j) leave the territory of a special institution without an escort of authorized officials.





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**«CRIMEA BEYOND RULES. Thematic review of the human rights situation under occupation.» - Special issue - Forcible Expulsion of the Civilian Population from the Occupied Territory by Russia. / Edited by S. Zayets, R. Martynovskyy, D. Svrydova. – Kyiv, 2018.**

**The publication is aimed at representatives of international organizations, diplomatic missions, government bodies and professional legal community, who need information on the practical application of international human rights standards under occupation of Crimea.**

**Thematic review is published in electronic form and is for free distribution. The materials are available in two languages - Russian and English. Use of content is permitted with the obligatory reference to the source and authorship. If the author of the material is not explicitly stated, all rights to the material belong to the expert-analytical group CHROT. The materials included in the publication, as well as other materials on the topic can be found on the website [precedent.crimea.ua](http://precedent.crimea.ua)**

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## **CRIMEA BEYOND RULES**

### **Other issues of the series**

**By the time this issue is published, the following issues has already came out or are ready for publication:**

- Issue 1. Right to Property (2015)
- Issue 2. Right to Liberty of Movement and Freedom to Choose Residence (2015)
- Special Issue. Transfer by Russia parts of its own civilian population into the occupied territory of Ukraine (2015)
- Issue 3. Right to Nationality (2017)
- Issue 4. Information Occupation (2017)
- Special Issue. Forcible Expulsion of the Civilian Population from the Occupied Territory by Russia (2018)
- Issue 5. Imitation of Democracy : The right of Crimeans for Political Participation (to be published).
- Special Issue. Religious occupation: Oppression of the Ukrainian Orthodox Church of the Kyiv Patriarchate (to be published)
- Special issue. Territory Cleansing: Transfer of Prisoners from Crimea to the Territory of the Russian Federation (to be published)

**Translation from Russian and Ukrainian into English: Olga Androsova, Vitaliy Nabukhotny, Nataliia Voitseshyna, Zinaida Kosenko.**

**These and other materials devoted to the observance of the international standards of human rights by the authorities of both Ukraine and the Russian Federation with reference to the occupation of the Crimean Peninsula could be found on the website [precedent.crimea.ua](http://precedent.crimea.ua)**

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**Would you like to share your opinion or offer material for publications on the topic of our issues? Contact [help@precedent.crimea.ua](mailto:help@precedent.crimea.ua)**

# Colonization of Crimea as the Kremlin's Neo-Imperial Policy Tool

June 27, 2018 from 01:00 PM till 02:00 PM  
Room 5 of Palais de Europe

The Ukrainian Delegation to the Parliamentary Assembly of the Council of Europe, International Renaissance Foundation, Regional Centre for Human Rights, Ukrainian Helsinki Human Rights Union, Human Rights Information Centre have the honor to hold a side event during the upcoming session of PACE.

Side event – **“Colonization of Crimea as the Kremlin's Neo-Imperial Policy Tool”**.

During the side event, the new issue of the thematic review “Crimea beyond Rules” - “Forcible Expulsion of the Civilian Population from the Occupied Territory by Russia” will be presented. The thematic review was prepared by the team of experts from the Regional Centre for Human Rights and Ukrainian Helsinki Human Rights Union.

The speakers at the side event:

**MUSTAFA DZHEMILEV** – leader of the Crimean Tatar People, member of the Parliament of Ukraine, representative of the President of Ukraine on the issues of the Crimean Tatar People, member of the Permanent Delegation of the Parliament of Ukraine to PACE.

**REFAT CHUBAROV** – member of the Parliament of Ukraine, chairman of the Mejlis of the Crimean Tatar People, President of the Worldwide Congress of Crimean Tatars.

Since the beginning of the occupation of Crimea, the authorities of the Russian Federation have launched a large-scale campaign to persecute the Crimean Tatars, as one of the consolidated resistance groups of the occupation. Hundreds of Crimean Tatars have been brought to administrative and criminal responsibility for peaceful protests. The deputy chairman of the Mejlis, Ahtem Chiygoz, spent 3 years in prison for participating in a rally in support of Ukraine's integrity. The leaders of the Crimean Tatar people and some members of the Mejlis were deported from Crimea. The activity of the Mejlis itself was banned.

At the moment the number of the Ukrainian political prisoners of the Kremlin is more than 70 people. More than half of them are Crimean Tatars. Oleg Senstov and Oleksandr Kolchenko were among the first political prisoners in occupied Crimea.

As a part of the discussion the video clip from **the movie “In a meat wagon across half the Earth. The story of imprisonment of Sentsov and Kolchenko”** will be demonstrated.

**SERHIY ZAYETS** – lawyer, expert of the Regional Centre for Human Rights.

A pro-Ukrainian population of the occupied territories is excluded from political participation. Russian Federation implements the policy of segregation based on personal loyalty. To get the right to be elected or to be appointed to any position in local government, a person must renounce Ukrainian citizenship. So, every unloyal person should “shut up” under the threat of suppression.

**ROMAN MARTYNOVSKYY** – lawyer, expert of the Regional Centre for Human Rights.

The desire to inhabit the territory of Crimea as soon as possible by its own population, loyal to the occupation authorities, pushes Russia to search for new ways of “clearing out”. The most commonly used is the forcing out of a disloyal, primarily ethnic Ukrainian and Crimean Tatar, population from the peninsula to mainland Ukraine. That turns them into a category of internally displaced persons. The occupying authorities also actively use administrative expulsion and deportation of Ukrainian citizens, foreigners and stateless persons. Additionally, since the beginning of the occupation, more than 4,700 civil prisoners were forcibly transferred from Crimea to the territory of the Russian Federation.

Moderator of the side event: **TATIANA PERCHENKO** – lawyer, expert.

Simultaneous translation from Russian to English will be provided.