Crimea beyond rules

Issue № 6

Occupied property

Thematic review of the human rights situation under occupation

UHHRU | RCHR | CHROT

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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 vital references 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 those events.

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INTRODUCTION

More than 6 years have passed since the release of the second issue of the Thematic Review «Crimea beyond Rules», devoted to the observance by the Russian Federation, as an Occupying Power, of the rights of owners of property located on the territory of the Autonomous Republic of Crimea and the city of Sevastopol[1]. A series of events that occurred during this time on the territory of the occupied peninsula encouraged us to prepare a new Thematic Review covering the entire period of the occupation, from February 2014 to June 2021.

With the beginning of the occupation of the Crimean peninsula, the Russian Federation disseminated its legislation to the occupied territory, thereby repealing the effect of Ukrainian legislation in violation of Article 43 of the Hague Convention on the Laws and Customs of War on Land.

In the first days of the «accession», the Russian Federation proclaimed the inviolability of the property rights of the population and legal entities operating in the territory of the Autonomous Republic of Crimea and the city of Sevastopol. However, without delay, the Occupying Power and the bodies of the occupation administration created by it adopted dozens of legal acts aimed at appropriating the property of the state of Ukraine, legal entities and individuals. Such appropriation was carried out using expropriation (called nationalization by the occupation authorities) in the form of the uncompensated seizure (confiscation) and, in some cases, compulsory seizure with payment of the value of the property, which was determined by the occupation authorities themselves (requisition).

Although according to official information, more than 330 objects of state property and property of trade unions were nationalized in this way, there is no reason to doubt that about 4000 organizations and institutions that are state property of Ukraine have suffered the same fate[2]. Dozens of large objects of private property rights were also «nationalized» during 2014-2015.

Since 2016, the occupation authorities started the process of mass revision of the decisions of the Ukrainian authorities on the allocation to private ownership of land plots with various purposes: for individual construction, gardening, garage construction, etc. These decisions were made by the Ukrainian authorities within the limits of their powers provided by Ukrainian legislation long before the beginning of the occupation of the peninsula. The courts created by the Occupying Power received thousands of claims and this process continued actively until 2020.

Simultaneously, the processes of revising the lease agreements for real estate objects and land plots previously concluded with the Ukrainian authorities, as well as refusal to execute them and termination of agreements in court, were initiated.

In addition, the occupation authorities initiated hundreds of claims for the demolition of real estate objects, which, in their opinion, were built before the start of the occupation in violation of the building codes and regulations of the Occupying Power.

According to the results of the study carried out by the NGO RCHR, 3984 victims of illegal seizure and destruction of property were identified, of which 3728 were victims of illegal seizure of property, and 256 were victims of the destruction of their property.

The process of illegal redistribution of the property was continued with the adoption of Decree No. 201, signed by President V. Putin on March 20, 2020. By this Decree, almost the entire territory of the peninsula was assigned to the border territory. As a result, it prohibited the possession of land plots located in these territories for owners without Russian citizenship. About 13.8 thousand people, of which 83.9% are citizens of Ukraine, and 16.1% are citizens of other 56 states, suddenly became potential victims of gross and illegal (from the point of view of international law) interference in their property rights.

1 https://krymbezpravil.org.ua/wp-content/uploads/2017/04/Crimea_Beyond_Rules_2_en.pdf
2 https://issuu.com/dhrpraxis/docs/ucipr_report_crimea_ua

The problem of illegal interference by the Occupying Power in the property rights of legal entities and individuals in 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 who are protected within the meaning of Article 4 of the Geneva Convention IV: citizens of Ukraine, foreign citizens and stateless persons. Such interference is a violation by the Occupying Power of the obligations imposed on it by international humanitarian law, primarily in that part of it, which prohibits the seizure and destruction of enemy's property not caused by military necessity, and requires respect for the private property of individuals (Articles 23 and 46 of the Hague Convention on the laws and customs of war on land), as well as with regard to the prohibition of the destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, except where such destruction is rendered absolutely necessary by military operations (Article 53 Geneva Convention VI).

In its 2020 Report, the Office of the Prosecutor of the International Criminal Court noted that a crime under Article 8(2)(b)(xiii) of the Rome Statute had been committed *prima facie* in the temporarily occupied territory of the Crimean Peninsula since 26 February 2014[3].

These actions of a widespread nature can be qualified as a war crime within the meaning of Article 8 of the Rome Statute of the International Criminal Court, as well as a violation of the right to peaceful possession of property protected by Article 1 of the First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms and, in some cases, other rights (right to respect for private and family life, freedom of religion, etc.).

The policy of mass seizure and destruction of property is one of the tools by which the occupation authorities drive out from the Crimean peninsula part of its population (first of all, those potentially disloyal to the occupation power), which entails a forced change in the demographic composition of the population of the occupied territory in favor of the «colonialists», i.e. the civilian population that the Russian Federation directly relocates from its territory or encourages such relocation.

This Thematic Review, based on the results of many years of study of the policy of gross interference in the property rights of legal entities and individuals, carried out by the Russian Federation as an Occupying Power in the occupied territory of the peninsula, is intended to help the world community, human rights organizations, international and national bodies and structures, as well as everyone who wants to understand the situation, the reasons, essence and scale of violations of human rights in the territory of the Autonomous Republic of Crimea and the city of Sevastopol.

3 ICC Prosecutor's Report on Preliminary Examination Activities 2020 https://www.icc-cpi.int/itemsDocuments/2020-PE/2020-pe-report-eng.pdf

1. METHODOLOGY

The subject of the study underlying this thematic review is the activities of the Russian Federation as an occupying power in the territory of the Autonomous Republic of Crimea and the city of Sevastopol, which have led and continue to lead to systematic illegal and gross interference in the property rights of legal entities and individuals, as well as the state of Ukraine as a whole.

This review is not a scientific study, it is practical in nature and was created with the aim of documenting the facts of violation of property rights in the occupied territory, ensuring the right to the truth about the armed conflict, a general assessment of the situation and preparation of recommendations to international bodies and organizations, as well as shaping Ukraine's policy in relation to the occupied territory and in the process of its de-occupation, informing victims of violations about existing effective means of protecting the violated right.

The authors of the study pursued the goal of ensuring the principle of inevitability of punishment for gross violations of human rights and IHL norms, finding effective means of protecting and restoring violated rights of victims, and ensuring the right to the truth about the armed conflict in the context of violations of the right to peaceful ownership of property during the conflict.

Issues for study:

1) Compliance by the occupying power with standards in the field of peaceful ownership of property during an armed conflict.

2) Identification of the main mechanisms and instruments of interference with property rights.

The study methodology is based on a systematic approach to the examination of the situation: monitoring, collection of information from open and closed sources, its verification and comprehensive analysis, identification of victims of violations of human rights and IHL norms, fixing evidence of such violations in compliance with the principles of relevance and admissibility, identifying the persons involved in the indicated violation and their role in the committed offenses.

The study covers the period from February 2014 to May 2021. The main tasks during its conduct were:

1. Analysis of the relevant provisions of international law and national legislation of Ukraine and the Russian Federation (taking into account the legal acts of the occupation authorities), which regulate issues related to the exercise of the right to peaceful possession of the property and the protection of this right in an armed conflict.

2. Monitoring of normative legal acts and court decisions in order to determine the nature and scale of violations, the quantitative and qualitative composition of the victims of violations and their identification.

3. Analysis of the consequences of the dissemination of the Russian Federation's legislation to the occupied territory of the peninsula in the sphere of property relations.

4. Determination of the main forms and instruments of the RF interference in property rights in the occupied territory in order to prepare legal argumentation for the subsequent protection of victims before international judicial bodies.

5. Identification of typical cases of victims to demonstrate the forms and tools used by the Russian Federation to interfere with property rights.

6. Development of relevant Recommendations addressed to stakeholders.

To resolve the above tasks, the authors of the thematic review conducted a detailed monitoring of the legal acts of occupation authorities, on the basis of which the interference in property rights was carried out; studied individual cases considered by the courts in the occupied territory; carried out a large-scale monitoring of publicly available court decisions, including those posted on the websites of courts; information from open sources, including the media; documents of international organizations such as the UN and the OSCE; the competent authorities of Ukraine, including the prosecutor's office of the Autonomous Republic of Crimea and the city of Sevastopol; performed a detailed analysis of the relationship between the norms of international humanitarian law, international human rights law and national legislation in order to determine the scope of the occupying power's margin of discretion in the context of fulfilling the obligations imposed on it by international humanitarian law.

When selecting court cases for analysis, only completed cases were taken into account, on which the decisions of the courts entered into legal force.

The main method used in the study is a comparative legal method. Its use in the study had its specifics, which takes into account a number of factors that directly affect the collection of information and verification of its reliability. In particular, the impossibility of conducting open monitoring of the situation in the occupied territory; the closed nature of many Russian sources of information, which would be open in civilized European countries; the reluctance of many victims to communicate with investigators and pass on information confirming the facts of gross violations of human rights and others. In this regard, the authors actively used the capabilities of modern IT technologies to identify and document violations and collect information for analysis and assessment.

Due to the inability of the authors of the thematic review to visit the temporarily occupied territory of Crimea, the search and collection of information were limited to open sources and materials, as well as explanations and materials voluntarily provided by victims, lawyers, participants and witnesses of the events. The main method of study was supplemented by the method of content analysis of publications in the media.

In general, the methodology applied in the study process allows us to assert that the information collected on the state of affairs in the field of property rights observance by the Russian Federation is reliable, the evidence meets the admissibility requirements and can be used in the process of international and national legal proceedings.

Treatment of ownership is considered one of the key elements in defining a sustainable and effective legal order. Therefore, the guarantee and protection of the right to property are enshrined in many international and regional treaties, as well as in most national constitutions. And although the right to property often appears as a set of powers (the so-called «triad of powers») of the owner, i.e. the right of ownership, the right of use and the right of disposal, the protection of property rights implies both the protection of the right as a whole and of each of its elements separately.

Below are the provisions from international and regional treaties that form the basis of the modern mechanism for the protection of the right to property.

UNIVERSAL DECLARATION OF HUMAN RIGHTS[4]

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

ADDITIONAL PROTOCOL TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS[5]

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.

DECLARATION ON THE HUMAN RIGHTS OF INDIVIDUALS WHO ARE NOT NATIONALS OF THE COUNTRY IN WHICH THEY LIVE, ADOPTED BY UN GENERAL ASSEMBLY RESOLUTION 40/144 OF 13 DECEMBER 1985[6]

Article 5

2. Subject to such restrictions as are prescribed by law and which are necessary in a democratic society to protect national security, public safety, public order, public health or morals or the rights and freedoms of others, and which are consistent with the other rights recognized in the relevant international instruments and those set forth in this Declaration, aliens shall enjoy the following rights: [...].

(d) The right to own property alone as well as in association with others, subject to domestic law.

Article 9

No alien shall be arbitrarily deprived of his or her lawfully acquired assets.

4 The Universal Declaration of Human Rights https://www.un.org/sites/un2.un.org/files/udhr.pdf

5 Additional Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms https://rm.coe.int/168006377c

6 Declaration on the Human Rights of Individuals Who are not Nationals of the Country in Which They Live General Assembly resolution 40/144 https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.26_Declaration%20on%20the%20Human%20Rights%20of%20Individuals%20who%20are%20not%20nationals.pdf

CONVENTION RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND (THE HAGUE CONVENTION IV)[7]

Article XXIII

In addition to the prohibitions provided by special Conventions, it is especially forbidden: [...].

to destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war.

Article XLVI

[...] Private property cannot be confiscated.

Article LV

The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.

Article LVI

The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property. All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

GENEVA CONVENTION (IV) RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR[8]

Article 53

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

PRACTICAL APPLICATION OF THE SPECIFIED RULES AFTER WORLD WAR II IN INDIVIDUAL CASES

1. In the case of the United States of America vs. Friedrich Flick and others[9], the post-war US Tribunal in Nuremberg sentenced a high-ranking German entrepreneur of the Third Reich Friedrich Flick to 7 years in prison, including for committing a war crime and crimes against humanity in the form of theft, plundering and seizure of enterprises, both in the occupied territories of Western countries (for example, in France), and in the occupied territories of Poland and the USSR.

7 Convention respecting the Laws and Customs of War on Land (The Hague Convention IV) https://www.loc.gov/law/help/us-treaties/bevans/m-ust000001-0631.pdf
8 Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War
https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33_GC-IV-EN.pdf
9 Trial of Friedrich Flick and five others. United States military tribunal, Nuremberg. 20-22 December, 1947
http://www.worldcourts.com/imt/eng/decisions/1947.12.22_United_States_v._Flick2.pdf

Applicable to the situation with the occupation of Crimea, an example of a war crime in the form of seizure of enterprises can be the nationalization and subsequent sale of the Ukrainian National Production and Agricultural Association «Massandra» (see also p. 57-59 of this review).

The case of «Massandra» is also representative of other state and private enterprises, victims of the «nationalization» campaign of 2014-2016, including «Krymavtotrans», «Kyivstar», «Ukrtelecom», «Black Sea Bank for Development and Reconstruction», «Krymkhleb», «Krymenergo» (see also p. 67-72 of this review).

2. In the indictment in the case of the United States of America vs. Alfred Krupp and others[10], the defendants were found guilty of committing war crimes and crimes against humanity by participating in the theft and plundering of public and private property, devastation and exploitation of countries under German occupation, which caused suffering to millions. The military tribunal ruled that if, as a result of hostilities, a belligerent occupies enemy territory, then it does not thereby acquire the right to dispose of property in this territory. At the same time, the plundering of private property is also prohibited from two points of view:

firstly, a person cannot be deprived of private property;

*second*ly, the occupying forces should not seize the economic component of the territory under military occupation or use it to facilitate their military efforts. There is always the reservation that existing exceptions to this rule are strictly limited to the needs of the occupying army to the extent that such needs do not exceed the economic possibilities of the occupied territory.

Applicable to the situation with the occupation of Crimea, an example of large-scale deprivation of protected persons of private property may be the judicial seizure of land plots from at least 3,728 people (citizens of Ukraine and foreign citizens) during 2014-2020 in connection with the «illegality of obtaining land ownership», «change in the designated purpose of the land» or «lack of documents confirming the ownership of the land plot». On March 20, 2020, the President of the Russian Federation issued Decree No. 201[11], which prohibited foreigners from owning land practically throughout the entire territory of the Crimean Peninsula, and, consequently, the number of victims of expropriation of land plots will only increase (see also p. 73-85 of this review).

3. The rules of international law on the protection of property in times of armed conflict have also been applied and interpreted in a number of decisions of the International Criminal Tribunal for the former Yugoslavia. In the 2001 judgement of the case of Kordić and Čerkez[12], the ICTY Trial Chamber highlighted the elements of a war crime in the form of extensive destruction of property, namely:

10 United States of America against Alfried Krupp, et al. Opinion and Judgment of Military Tribunal III. Nuremberg. 31 July 1948 http://www.worldcourts.com/imt/eng/decisions/1948.07.31_United_States_v_Krupp.pdf
11 Presidential decree of the Russian Federation of March 20, 2020 №201 http://www.consultant.ru/document/cons_doc_LAW_348149/
12 ICTY, Kordić and Čerkez case. Judgment. 26 February 2001. §341 https://www.icty.org/x/cases/kordic_cerkez/tjug/en/kor-tj010226e.pdf

i. *the destruction of property occurs on a large scale;*
ii. *the destruction is not justified by military necessity; and*
iii. *the perpetrator acted with the intent to destroy the property in in reckless disregard of the likelihood of its destruction.*

Applicable to the situation with the occupation of Crimea, an example of the destruction of property on a large scale without military necessity is the demolition of private houses belonging to the Crimean Tatars in the village of Streletskaya in Simferopol. The destruction took place in accordance with the «Law of the Republic of Crimea No. 66-3PK/2015» dated January 15, 2015 in order to remedy the situation «with illegal appropriation of land». During 2015-2019, 334 out of 345 houses[13] were destroyed. At the same time, compensation for the property was either not provided at all, or did not correspond to its market value. According to the RCHR judicial monitoring, the occupying authorities are also guilty of destroying at least another 256 properties of Ukrainian and foreign citizens.

4. In 2006, in the case of Hadžihasanović[14], the Trial Chamber of the ICTY, taking into account many military statutes, national criminal codes and national practice, ruled that both partial and total destruction of property when not justified by military necessity is prohibited by international humanitarian law. In addition, the Chamber stressed that, although the criteria for determining whether a crime is large-scale must be assessed on a case-by-case basis, they will usually be met when acts of partial destruction are committed in significant volumes. The Chamber also ruled that senseless destruction constitutes a crime, even if it is committed outside the context of active hostilities. It is sufficient that it be closely linked to an armed conflict. This is particularly relevant for a situation of occupation without armed resistance.

Applicable to the situation with the occupation of Crimea, an example of senseless destruction outside of active hostilities can be the construction of the so-called Tavrida highway, during which monuments of the archaeological heritage of Ukraine were destroyed, including historically significant burials sites and funerary complexes (see also p. 86-90 of this review).

Another example is the demolition with explosives of a 16-storey building on Kapitanskaya Street, on Cape Khrustalny in the city of Sevastopol, which was carried out on December 27, 2014 in accordance with a court decision without any military necessity (see also p. 56 of this review).

5. The ICTY Appeals Chamber in the case of Hadžihasanović noted that the prohibition on the plundering of property applies to «all forms of misappropriation of property in an armed conflict, including those actions that are traditionally called «robbery». At the same time, the rules prohibiting misappropriation of property have the character of customary international law.

13 Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine : report of the Secretary-General. §37 https://digitallibrary.un.org/.../files/A_75_334-EN.pdf
14 ICTY, Hadžihasanović case. Judgment. 15 March 2006. §44, 46 https://www.icty.org/x/cases/hadzihasanovic_kubura/tjug/en/had-judg060315e.pdf

The Chamber also stressed that the prohibition of robbery is contained in numerous military regulations and is an offense under the laws of a large number of states. In addition, the jurisprudence of the ICTY shows that violation of the prohibition on robbery often entails individual criminal liability.

Thus, the Trial Chamber in the Jelisić case[15] found the accused guilty of *«participating in the theft of money, watches and other valuable property of persons detained in the Luka camp», and ruled that «a robbery committed by a person motivated by greed may entail individual criminal liability». The Trial Chamber in the case of Chelebici camp affirmed that «the prohibition on unjustified appropriation of state and private property of the enemy is general in nature and extends both to robberies committed by individual soldiers for personal gain, and to organized seizure of property in the occupied territory».*

> *Applicable to the situation with the occupation of Crimea, the organized seizure of property in some cases was carried out with the participation of the paramilitary units of the «Crimean self-defense forces», which were «legalized» by the occupation authorities[16]. «Crimean self-defense» took part in the seizure of property, in particular, of such companies as «Kyivstar», «Ukrtelecom», «Krymgaz», «Krymavtotrans», «Feodosia shipbuilding company», «More» and others (see also p. 67-72 of this review).*

6. In 1995, the ICTY Trial Chamber considered the case of Nikolić[17], accused of grave breaches of the 1949 Geneva Conventions for participating «in large-scale appropriation of property not justified by military necessity, illegal and unjustified, including, but not limited to, the private property of persons held in the Sušica camp». The Chamber found that these actions could also be considered a sign of persecution for religious reasons.

> *Applicable to the situation with the occupation of Crimea, an example of illegal and unjustified appropriation of property as persecution for religious reasons can be «eviction» from churches, looting and forced transfer of property of the Ukrainian Orthodox Church of the Kyiv Patriarchate (Orthodox Church of Ukraine) by the occupation authorities. By the end of 2014, the Ukrainian Orthodox Church of the Kyiv Patriarchate lost 4 churches out of 15[18]. To date, there are 9 premises left in Crimea, where the priests of the OCU perform services. All other churches and land plots for their construction were seized or transferred to the church of the Moscow Patriarchate[19].*

7. In its 2000 conviction in the case of Blaškić[20], the Trial Chamber stressed that the occupying state is prohibited from destroying movable and immovable property, unless such destruction is absolutely necessary as a result of hostilities. To constitute a serious violation, destruction not justified by military necessity must be extensive, illegal and meaningless. The term «extensive» is assessed according to the facts of a particular case. Thus, even a single act, such as destroying a hospital, may be enough to qualify it as a crime.

15 ICTY, Hadžihasanović case. Appeals Chamber Judgment. 22 April 2008. §37-38 https://www.icty.org/x/cases/hadzihasanovic_kubura/acjug/en/had-judg080422.pdf
16 «Human Rights in Ukraine - 2014», Human Rights Organizations Report, UHHRU, p. 48; Report of 16 September 2014 by the UN OHCHR, par. 165
17 ICTY, Nikolić case. Review of the Indictment. 20 October 1995. §30 https://www.icty.org/x/cases/dragan_nikolic/tdec/en/41104RIB.htm
18 «The Peninsula of Fear: Chronicle of Occupation and Violation of Human Rights in Crimea» / Edited by T. Pechonchik - Kyiv, 2015. P.68.
19 Yevhenii Solonina. "Non-annexed" church in Crimea. Crimea.Realities https://ru.krymr.com/a/neanneksirovannaya-tserkov-v-krymu/29535969.html
20 ICTY, Blaškić case. Judgment. 03 March 2000. §157, 183 https://www.icty.org/x/cases/blaskic/tjug/en/bla-tj000303e.pdf

Applicable to the situation with the occupation of Crimea, it should be emphasized that the Russian Federation cannot justify the commission of war crimes against property on the basis of military necessity. First of all, this follows from the fact that there are no active hostilities on the Crimean peninsula. In addition, the Russian Federation does not recognize the existence of an armed conflict with Ukraine, and, accordingly, deprives itself of any opportunity to invoke military necessity as an excuse.

8. With regard to military necessity, it is worth mentioning the decision of the ICTY Trial Chamber in the case of Kupreškić[21], which ruled in 2000 that the protection of civilians and civilian property provided for by contemporary international law can be completely terminated, diminished or suspended when the target of the attack is a military objective and the belligerents cannot avoid collateral damage to the civilian population. These principles form part of customary international law.

9. International crimes against property have also been the subject of consideration by the International Criminal Court. The ICC Pre-Trial Chamber, in its 2011 judgment in the case of Mbarushimana[22], emphasized that a war crime of destroying property can be committed through such acts as setting fire to, destroying or otherwise damaging enemy property. With reference to the decision of the Trial Chamber in the Katanga case[23], rendered in 2014, it was established that the property in question may be movable or immovable, private or public, but must necessarily belong to individuals or legal entities of one of the parties to the conflict or its satellite. The crime of destruction of property itself includes not only attacks specifically directed at a military objective, but also attacks aimed at destroying civilian property only, and attacks simultaneously directed at both military and civilian objects. However, in the Katanga case, the Chamber emphasizes that this crime does not include accidental destruction during the attack specifically directed at a military objective, or the destruction of property due to military necessity, especially when

(i) the destroyed property was a military objective before falling into the hands of the attacking side;

(ii) fell into the hands of the attacking side, and its destruction was still necessary for military reasons.

10. Of particular interest in terms of the protection of property rights in times of armed conflict are the 2004 decisions on civilian claims of the Eritrea and Ethiopian Claims Commission. It points out that modern jus in bello contains important measures to protect the property of foreigners, starting with the fundamental rules of non-discrimination and proportionality in hostilities. While the requirement for [foreign] citizens to renounce immovable property is not contrary to international law, the [belligerent] state will act in an arbitrary, discriminatory manner and in violation of international law, sharply limiting the time available for expropriation.

21I CTY, Kupreškić case. Judgment. 14 January 2000. §522 https://www.icty.org/x/cases/kupreskic/tjug/en/kup-tj000114e.pdf
22 ICC, Mbarushimana case. Decision on the Confirmation of Charges. 16 December 2011. §171-172 https://www.icc-cpi.int/pages/record.aspx?uri=1286409
23 The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui, ICC-01/04- 01/07-648, at para. 310 https://www.icc-cpi.int/drc/katanga

The Commission stressed that war gives the belligerents broad powers to dispose of the property of their enemy's citizens, which however are not unlimited. In the opinion of the Commission, the belligerent must ensure, as far as possible, that the property of protected persons and other enemy citizens is not plundered or wasted. If the private property of enemy citizens is to be frozen or otherwise rendered harmless in time of war, this must be done by the state under conditions that ensure the protection of the property and its final return to its owners under a post-war agreement[24].

11. In addressing the issue of the partial compensation for the loss of non-resident property in Ethiopia (Eritrea's claim) in 2005, the Eritrea-Ethiopia Claims Commission stated that during the armed conflict, the main international legal rules that govern expropriation continue to apply: «in cases where the property of foreigners is seized for public purposes in time of war, the obligation to provide full compensation continues to apply, even if the payment of this compensation may be delayed due to the interruption of economic relations between the belligerents»[25].

Applicable to the situation with the occupation of Crimea, an example of a violation of the obligation to provide full compensation is the «nationalization» de facto expropriation) of private property through the adoption of resolutions of the «State Council of the Republic of Crimea» and «Legislative Assembly of the city of Sevastopol». For example, as a result of the adoption by the State Council of 28 such resolutions in 2014-2016, dozens of private enterprises were nationalized without any compensation, including «Krymavtotrans», «Kyivstar», «Ukrtelecom», «Black Sea Development and Reconstruction Bank», «Krymkhleb», «Krymenergo», transport infrastructure facilities (bus terminals, bus stations, ticket offices), gas supply system facilities, health centers, boarding houses, hotels, markets, gas stations, as well as many land plots and real estate objects (see. (see also p. 34-40 of this review).

24 Eritrea-Ethiopia Claims Commission, Civilians Claims, Eritrea's Claim. Partial Award. 17 December 2004. §126-128, 136, 151 https://jusmundi.com/fr/document/decision/en-eritrea-ethiopia-claims-commission-partial-award-civilians-claims-eritreas-claims-15-16-23-27-32-wednesday-28th-april-2004
25 Eritrea-Ethiopia Claims Commission, Loss of Property in Ethiopia Owned by Non-Residents, Eritrea's Claim. Partial Award. 19 December 2005. §24 https://legal.un.org/riaa/cases/vol_XXVI/429-444.pdf

RESOLUTIONS OF THE UNITED NATIONS GENERAL ASSEMBLY

«Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine» № 72/190 on 19 December 2017[26]:

> *«[...] Urges the Russian Federation [...] To respect the laws in force in Ukraine and to repeal laws imposed in Crimea by the Russian Federation that allow for forced evictions and the **confiscation of private property** in Crimea, in violation of applicable international law; [...]».*

«Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine» № 73/263 on 22 December 2018[27]:

> *«[...] Urges the Russian Federation [...] To respect the laws in force in Ukraine, repeal laws imposed in Crimea by the Russian Federation that allow for forced evictions and the **confiscation of private property** in Crimea, in violation of applicable international law, and respect the **property rights** of all **former owners** affected by previous confiscations [...]».*

«Problem of the militarization of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, as well as parts of the Black Sea and the Sea of Azov» № 74/17 on 9 December 2019[28]:

> *«[...] Expresses its deep concern over the use of **seized Ukrainian military industry enterprises** in the occupied Crimea by the Russian Federation [...] Calls upon the Russian Federation to return unconditionally and without delay all equipment and weapons seized from the released vessels, the Berdyansk, the Nikopol and the tugboat Yani Kapu, to the custody of Ukraine».*

«Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine» №74/168 on 18 December 2019[29]:

> *«[...] Urges the Russian Federation [...] To respect the laws in force in Ukraine, repeal laws imposed in Crimea by the Russian Federation that allow for forced evictions and the confiscation of private property in Crimea, in violation of applicable international law, and **respect the property rights of all former owners** affected by previous confiscations».*

«Problem of the militarization of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, as well as parts of the Black Sea and the Sea of Azov» № 75/29 on 7 December 2020[30]:

26 https://undocs.org/en/A/RES/72/190
27 https://undocs.org/en/A/RES/73/263
28 https://undocs.org/en/A/RES/74/17
29 https://undocs.org/en/A/RES/74/168
30 https://undocs.org/en/A/RES/75/29

*«[...] Condemns the **use of seized Ukrainian military industry enterprises** in the occupied Crimea by the Russian Federation [...]».*

«Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine» 75/192 on 16 December 2020[31]:

*«[...] Condemning the imposition and retroactive application of the legal system of the Russian Federation, and its negative impact on the human rights situation in Crimea, the imposition of automatic Russian citizenship on protected persons in Crimea, which is contrary to international humanitarian law, including the Geneva Conventions and customary international law, and the deportation, regressive effects on the enjoyment of human rights and **effective restriction of land ownership** of those who have rejected that citizenship [...] Urges the Russian Federation [...] To respect the laws in force in Ukraine, repeal laws imposed in Crimea by the Russian Federation that allow for forced evictions and the **confiscation of private property**, including land in Crimea, in violation of applicable international law, and **respect the property rights of all former owners** affected by previous confiscations».*

RESOLUTIONS OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

31 https://undocs.org/en/A/RES/75/192

«Recent developments in Ukraine: threats to the functioning of democratic institutions» № 1988 (2014) on 9 April 2014[32]:

*«The Assembly expresses its concern about the increasing number of credible reports of violations of the human rights of the ethnic Ukrainian and Crimean Tatar minorities in Crimea, including denying access to their homes, following its annexation by Russia […]. The concerns regarding their safety and access to rights, including the enjoyment of cultural, language, education and **property rights**, have to be duly addressed».*

«The humanitarian situation of Ukrainian refugees and displaced persons» № 2028 (2015) on 27 January 2015[33]:

*«The Assembly therefore calls on all sides of the conflict to: […] take measures to effectively protect the property left behind by IDPs with a view to securing restitution of such **property** in the future».*

«**Humanitarian consequences of the war in Ukraine» № 2198 (2018) on 23 January 2018[34]:**

*«The Assembly takes note of the new Ukrainian law on the peculiarities of the State policy to ensure the State sovereignty of Ukraine over the temporarily occupied territories in Donetsk and Luhansk, adopted by the Ukrainian Parliament on 18 January 2018. This law defines the State policy of restoring Ukraine's sovereignty over the temporarily occupied territories, facilitates the protection of the rights and freedoms of the citizens of Ukraine who live in these territories in the Donetsk and Luhansk regions, including the satisfaction of their social, economic and cultural needs, and safeguards the rights of Ukrainian citizens over their **properties** in the temporarily occupied territories. […] The **problem of private property** in Crimea has become a very acute issue, in particular for people who bought their houses or apartments before the Russian occupation. Around 600 people in Sevastopol have received court decisions cancelling their purchase contracts. This practice is a flagrant violation of international humanitarian law. […] The Assembly urges the Russian authorities to: […] cease recognition of the passports and any other documents, including court decisions and documents confirming property rights, issued on the territories controlled by the illegal armed groups of the Donetsk and Luhansk regions».*

RESOLUTIONS OF THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE)

«Violations of Human Rights and Fundamental Freedoms in the Autonomous Republic of Crimea and the City of Sevastopol», 2016[35]:

«[…] Calls upon the Russian Federation as an occupying power in effective control of the Crimean peninsula to abide by its obligations under international law:

32 https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=20873&lang=en
33 https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=21480&lang=en
34 https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24432&lang=en
35 https://www.oscepa.org/en/documents/all-documents/annual-sessions/2016-tbilisi/declaration-24/3371-tbilisi-declaration-eng/file

*[...] To protect all human rights and fundamental freedoms in the Autonomous Republic of Crimea and the city of Sevastopol in issues related to, inter alia, freedoms of peaceful assembly and association, freedoms of media and expression, access to information, freedom of thought, conscience, religion or belief, freedom of movement, right of residence, citizenship, labour rights, **property** and land **rights**, access to health and education, and all other civil, political, economic, social and cultural rights».*

«Ongoing Violations of Human Rights and Fundamental Freedoms in the Autonomous Republic of Crimea and the City of Sevastopol (Ukraine)», 2018[36]:

*«[...] Calls upon the Russian Federation [...] to protect all human rights and fundamental freedoms in the Autonomous Republic of Crimea and the city of Sevastopol in issues related to, inter alia, freedoms of peaceful assembly and association, freedoms of media and expression, access to information, freedom of thought, conscience, religion or belief, freedom of movement, right of residence, citizenship, labour rights, **property and land rights**, access to health and education, and all other civil, political, economic, social and cultural rights».*

RESOLUTIONS OF THE EUROPEAN PARLIAMENT

«On the human rights situation in Crimea, in particular of the Crimean Tatars» № 2016/2556(RSP) on 4 February 2016[37]:

*«Condemns the severe restrictions on the freedoms of expression, association and peaceful assembly, including at traditional commemorative events such as the anniversary of the deportation of the Crimean Tatars by Stalin's totalitarian Soviet Union regime and cultural gatherings of the Crimean Tatars; stresses that, in line with international law, the Tatars, as an indigenous people of Crimea, have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions; calls for respect for the Mejlis as the legitimate representation of the Crimean Tatar community, and for avoidance of any harassment and systematic persecution of its members; **expresses concern at the infringement of their property rights and liberties**, their intimidation and incarceration, and disrespect of their civic, political and cultural rights; notes with equal concern the restrictive re-registration requirements for media outlets, as well as for civil society organisations [...] Deplores the actions of the de facto administration to hinder the functioning of the Mejlis of the Crimean Tatar People, the highest executive and representative body of the Crimean Tatars, through the closure of its headquarters and seizure of some of its **properties** and through other acts of intimidation».*

«On the Crimean Tatars» № 2016/2692(RSP) on 12 May 2016[38]:

«[...] whereas the European Union and the international community have repeatedly voiced their concern over the situation of human rights in the occupied territories and the systematic persecution of those who do not recognise the new authorities; whereas these

36 https://www.oscepa.org/en/documents/annual-sessions/2018-berlin/declaration-26/3742-berlin-declaration-eng/file
37 https://www.europarl.europa.eu/doceo/document/TA-8-2016-0043_EN.html
38 https://www.europarl.europa.eu/doceo/document/TA-8-2016-0218_EN.html

so-called authorities have targeted the indigenous community of Crimean Tatars, a majority of whom oppose the Russian takeover of the peninsula and boycotted the so-called referendum on 16 March 2014; whereas Crimean Tatar institutions and organisations are increasingly branded as 'extremists' and prominent members of the Crimean Tatar community are, or risk, being arrested as 'terrorists'; whereas the abuses against Tatars include abduction, forced disappearance, violence, torture and extrajudicial killings that the de facto authorities have failed to investigate and prosecute, as well as systemic legal problems over ***property rights*** *and registration. [...] Recalls that the indigenous Crimean Tatar people have suffered historic injustices which led to their massive deportation by Soviet authorities and to the dispossession of their lands and resources; regrets the fact that discriminatory policies applied by the so-called authorities are preventing the return of these* ***properties and resources****, or are being used as an instrument to buy support».*

«On the Ukrainian prisoners in Russia and the situation in Crimea» №2017/2596(RSP) on 16 March 2017[39]:

«Condemns the discriminatory policies imposed by the so-called authorities against, in particular, Crimea's ethnic Tatar minority, the infringement of their ***property rights****, the increasing intimidation of this community and of those that oppose the Russian annexation, and the lack of freedom of expression and association in the peninsula».*

«The cases of Crimean Tatar leaders Akhtem Chiygoz, Ilmi Umerov and the journalist Mykola Semena» № 2017/2869(RSP) on 5 October 2017[40]:

«[...] whereas in Crimea large-scale ***expropriation of public and private property*** *has been conducted without compensation or regard for international humanitarian law provisions protecting* ***property*** *from seizure or destruction [...]».*

REPORTS OF THE INTERNATIONAL CRIMINAL COURT PROSECUTOR'S OFFICE'S

«Report on Preliminary Examination Activities 2017» on 4 December 2017[41]:

*«****Alleged seizure of property****: the de facto authorities in Crimea have reportedly taken measures to transfer ownership of all public property in Crimea to themselves and to seize the private immovable property of individuals who opposed the new status of the peninsula».*

«Report on Preliminary Examination Activities (2018)» on 5 December 2018[42]:

*«****Seizure of property****: immediately after the referendum,* ***all public property in Crimea was reportedly transferred either to the new de facto institutions established in Crimea*** *or to the institutions of the Russian Federation.*

39 https://www.europarl.europa.eu/doceo/document/TA-8-2017-0087_EN.html
40 https://www.europarl.europa.eu/doceo/document/TA-8-2017-0382_EN.html
41 https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE_ENG.pdf
42 https://www.icc-cpi.int/itemsDocuments/181205-rep-otp-PE-ENG.pdf

*Additionally, at least **280 properties of individuals, companies or cultural and scientific bodies have been allegedly seized since February 2014**. The Office considered whether in any instances this alleged conduct may amount to the war crime of seizing the enemy's property that is not imperatively demanded by the necessities of war, pursuant to article 8(2)(b)(xiii)».*

«Report on Preliminary Examination Activities (2019)» on 5 December 2019[43]:

*«The information available provides a reasonable basis to believe that, from 26 February 2014 onwards, in the period leading up to, and/or in the context of the occupation of the territory of Crimea, the following crimes were committed: [...]; **seizing the enemy's property that is not imperatively demanded by the necessities of war, with regard to private and cultural property, pursuant to article 8(2)(b)(xiii) of the Statute**».*

«Report on Preliminary Examination Activities (2020)» on 14 December 2020[44]:

*«More specifically the Office found a reasonable basis to believe that, from 26 February 2014 onwards, in the period leading up to, and/or in the context of the occupation of the territory of Crimea, the following crimes were committed: [...] **seizing the enemy's property that is not imperatively demanded by the necessities of war, with regard to private and cultural property, pursuant to article 8(2)(b)(xiii) of the Statute**».*

43 https://www.icc-cpi.int/itemsDocuments/191205-rep-otp-PE.pdf
44 https://www.icc-cpi.int/itemsDocuments/2020-PE/2020-pe-report-eng.pdf

CONSTITUTION OF UKRAINE[45]

The Constitution of independent Ukraine was adopted on June 28, 1996.

According to Article 13 of the Constitution, the land, its mineral wealth, atmosphere, water and other natural resources within the territory of Ukraine, the natural resources of its continental shelf, and the exclusive (maritime) economic zone, are objects of the right of property of the Ukrainian people. Ownership rights on behalf of the Ukrainian people are exercised by bodies of state power and bodies of local self-government within the limits determined by this Constitution.

Every citizen has the right to utilize the natural objects of the people's right of property in accordance with the law.

According to Article 14 of the Constitution, the land is the fundamental national wealth that is under special state protection.

The right of property to land is guaranteed. This right is acquired and realised by citizens, legal persons and the State, exclusively in accordance with the law.

Article 41 of the Constitution guarantees everyone the inviolability of property rights and prohibits unlawful deprivation of property rights. An exception is compulsory expropriation for reasons of social necessity under martial law or a state of emergency, provided that the cost of such an object is fully reimbursed.

According to paragraph 7 of Article 92 of the Constitution, the legal regime of property is determined exclusively by the laws of Ukraine.

CIVIL CODE OF UKRAINE[46]

The Code has been in effect since January 1, 2004. In addition to the general aspects of the inviolability of the property right, which is guaranteed by the Constitution of Ukraine, part 6 of Article 319 of the Civil Code contains a rule on the obligation of the state not to interfere in the implementation of property rights.

Article 320 grants the owner the right to use their property for business. The law may establish restrictions on such right or conditions for its use.

Article 321, in addition to unlawful deprivation of property rights, also prohibits restriction of property rights. Compulsory expropriation of property is allowed only for reasons of social necessity, provided that the value of such an object is fully reimbursed on the basis of legislation.

Article 324, like Article 13 of the Constitution of Ukraine, establishes a list of objects of property of the Ukrainian people, property rights on behalf of which are exercised by state authorities and local self-government bodies. The list of objects of property rights of the Ukrainian people is similar to that given in Article 13 of the Constitution of Ukraine.

Article 325 establishes that the subjects of private property rights are individuals and legal entities. According to part 3 of this article, the composition, quantity and value of property that can be privately owned by individuals and legal entities is not limited.

Article 326 establishes the right of state ownership. The objects of this right are property, including monetary resources belonging to the state of Ukraine. On behalf of and in the interests of the state, ownership or management of property is carried out by state bodies or other entities.

45 Constitution of Ukraine No. 254k/96-VR dated June 28, 1996 https://rm.coe.int/constitution-of-ukraine/168071f58b
46 Civil Code of Ukraine No. 435-IV dated January 16, 2003 https://zakon.rada.gov.ua/laws/show/435-15#Text

According to article 327, communal property includes property, including monetary resources belonging to the territorial community. The management of such property is carried out by the community itself or by local self-government bodies.

Article 346 establishes the grounds for termination of ownership. These include: alienation of property by the owner; waiver of ownership; prohibition on staying in property according to the law; destruction of property; redemption of monuments of cultural heritage; foreclosure on the obligations of the owner; requisition; confiscation; termination of a legal entity or death of an individual; recognition of the groundlessness of assets and their conversion into state revenue. This list is not exhaustive. In addition, most of its points are disclosed in other norms of the Civil Code of Ukraine or other special laws.

The Civil Code of Ukraine also contains certain norms that reveal the meaning of property rights in relation to certain types of property. Thus, Article 373 reveals the main meaning of ownership in relation to a land plot, Article 380 - in relation to a residential building, Article 381 - in relation to homeownership, Article 382 - in relation to an apartment.

HOUSING CODE OF THE UKRAINIAN SSR[47]

The code was adopted on June 30, 1983 by the Supreme Soviet of the Ukrainian SSR and continues to operate to this day, taking into account the amendments made during the existence of the independent Ukrainian state. It establishes a number of essential provisions on the grounds and procedure for the exercise of the right of ownership of real property used as a dwelling.

According to Article 150, the owners of a house, an apartment, use them for their own residence and the residence of their family members and can dispose of such property at their own discretion.

Article 155 establishes a ban on the expropriation of houses and apartments from owners, except in cases established by law. This provision also establishes a similar prohibition on depriving the owner of the occupancy right.

Article 128 envisage the possibility of providing living space in hostels, including on the basis of decisions of local governments.

Article 171 envisages the provision of other housing, as well as the payment of compensation in the event of the demolition of residential buildings in connection with the expropriation of land plots under these houses for state or public needs.

Article 172 establishes the possibility of transferring residential buildings subject to demolition to a new location. Article 173 envisages the construction of houses in a new location to replace the demolished ones.

LAND CODE OF UKRAINE[48]

The Land Code has been in effect since October 25, 2001. It determines various general and special aspects of land ownership.

According to part 2 of Article 1, the ownership of land in Ukraine is guaranteed.

The Land Code establishes the powers of state authorities and local self-government in the field of transferring land to private ownership from state or municipal ownership. The transfer of land to private ownership from the communal one belongs to the powers of village, settlement and city councils (Article 12), as well as to the powers of the Kyiv and Sevastopol city councils (Article 9).

47 Housing Code of the Ukrainian SSR No. 5464-X dated June 30, 1983 https://zakon.rada.gov.ua/laws/show/5464-10#Text
48 Land Code of Ukraine No 2768-III dated October 25, 2001 https://zakon.rada.gov.ua/laws/show/2768-14#Text

Article 78 establishes the ownership of land in the form of a triad, which is classic for Ukrainian legislation, i.e. possession, use, disposal. The ownership of land is acquired and exercised on the basis of the Constitution of Ukraine, the Land Code of Ukraine, as well as other laws adopted on their basis.

Article 79 defines a land plot as an object of ownership and provides for the extension of ownership within its boundaries to the surface (soil) layer, as well as to water bodies, forests and perennial plantations that are located on it and to the space above and below the surface of the plot to the height and depth required for the construction of residential, industrial and other buildings and structures.

Article 81 establishes the grounds for the acquisition of private ownership over land plots by individuals.

Article 90 specifies the rights of the owner of a land plot, providing that the owner, in particular, has the right: a) to alienate the land plot; b) conclude various transactions in relation to it; c) independently manage the land; d) has the right of ownership to cultivations and plantations of agricultural and other crops, as well as to products produced on the ground; e) use, in accordance with the established procedure, for their own needs, the minerals available on the land plot, peat, forest plantations, water bodies and other useful properties of the land; f) has the right to compensation for losses in cases prescribed by law; g) construct residential buildings, industrial and other buildings and structures.

Article 116 provides for the grounds for the acquisition of land into private ownership from communal and state ownership. Article 118 establishes the procedure for the privatization of land into private ownership.

Also, the Land Code regulates certain issues of ownership in relation to specific categories of land. For example, according to Article 56, forestry land can be in private, state or communal ownership. The same possibility has been established for recreational lands (Article 52), for lands of the natural reserve fund (Article 45), recreational purposes (Article 49), historical and cultural purposes (Article 54), water resources (Article 59), industry (Article 66), transport (Article 67), communications (Article 75), energy system (Article 76). Lands for defense purposes can only be in state ownership (Article 77).

The principle of the impossibility of transferring a land plot that is in ownership to a person before the right of the current owner is terminated in accordance with the procedure established by law is extremely important. This principle is enshrined in part 5 of Article 116. A similar principle, but with respect to the current right of use, is established by part 1 of Article 149.

WATER CODE OF UKRAINE[49]

The Code has been in effect since June 6, 1995 and establishes certain aspects of property rights in relation to water bodies.

According to Article 6, waters (water bodies) are exclusively the property of the Ukrainian people and shall be provided for use only. The Ukrainian people exercise ownership of water bodies through the Supreme Council of Ukraine, the Supreme Council of the Autonomous Republic of Crimea and local councils.

According to paragraph 8 of Article 88, the lands of the coastal protection zones are in state and communal ownership and shall be provided for use only for the purposes envisaged by this Code.

49 Water Code of Ukraine No 213/95-BP dated June 6, 1995 https://zakon.rada.gov.ua/laws/show/213/95-%D0%B2%D1%80#Text

FOREST CODE OF UKRAINE[50]

The Code has been in effect since January 21, 1994 and establishes the main aspects of the right to ownership of forest.

According to Article 7, forests located within the territory of Ukraine are objects of property rights of the Ukrainian people, on whose behalf this right is exercised by state authorities and local self-government bodies.

The article also establishes the possibility of forests being in state, communal or private ownership.

According to Article 10, individuals and legal entities are subjects of private ownership of forests.

According to Article 12, citizens and legal entities can, free of charge or for a fee, acquire enclosed land parcels in forests with a total area of up to 5 hectares as part of peasant, farming and other holdings. Also, citizens and legal entities can own forests created by them on land plots of degraded or unproductive lands acquired in their ownership without limiting their area.

Article 13 establishes the moment when ownership rights arise. This moment is the moment of state registration of ownership of the land plot.

Also, the Code establishes the powers of state authorities, local self-government to transfer forest lands into ownership. Thus, the Cabinet of Ministers of Ukraine transfers into ownership and permanent use for non-forestry needs state-owned forest land plots (Article 27). The Supreme Council of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city, district councils have similar powers in relation to the forest lands of territorial communities (Article 30). In relation to the state-owned forest lands located on the territories of the corresponding settlements, such powers are vested in the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations (Article 31).

Full compensation for losses caused by violation of the rights of forest owners and users is established by Article 24.

CODE OF UKRAINE ABOUT SUBSOIL[51]

The Code has been in effect since July 27, 1994. Article 4 defines the subsoil as the exclusive property of the Ukrainian people, which can only be transferred for use. The article also directly establishes the invalidity of any transactions and actions that, in a direct or veiled form, violate the rights of the Ukrainian people to the subsoil.

LAW OF UKRAINE «ON THE REGULATION OF URBAN PLANNING»[52]

The law has been in effect since February 17, 2011 and establishes the legal and organizational framework for urban planning activities, taking into account state, public and private interests.

50 Forest Code of Ukraine No 3852-XII dated January 21, 1994 https://zakon.rada.gov.ua/laws/show/3852-12#Text
51 Code of Ukraine about Subsoil No 132/94-VR dated July 27, 1994 https://zakon.rada.gov.ua/laws/show/132/94-%D0%B2%D1%80#Text
52 On the Regulation of Urban Planning: the Law of Ukraine No 3038-VI dated February 17, 2011 https://zakon.rada.gov.ua/laws/show/3038-17#Text

According to the second part of Article 24 of the law, a change in the designated purpose of territories does not entail the termination of the ownership right or the right to use land plots that were transferred (granted) to ownership or use before the establishment of a new designated purpose of territories.

LAW OF UKRAINE «ON INVESTMENT ACTIVITY»[53]

The law has been in effect since September 18, 1991 and establishes the investor's ownership of the object of their investment, including reinvestment and trading operations.

LAW OF UKRAINE «ON THE ALIENATION OF LAND PLOTS, OTHER REAL ESTATE OBJECTS LOCATED ON THEM, WHICH ARE IN PRIVATE PROPERTY, FOR PUBLIC NEEDS OR ON THE GROUNDS OF SOCIAL NECESSITY»[54]

The law has been in effect since November 17, 2009 and is a special regulatory legal act that establishes the principles for the alienation of private real estate for public needs or on the grounds of social necessity.

According to the part 2 of Article 4 of this law, the redemption or compulsory alienation of land plots and other real estate objects is allowed only on the basis and in accordance with the procedure established by this law.

Basic principles of alienation of real estate for public needs and on the grounds of social necessity:

- preliminary and full reimbursement of the value of the property;
- exceptionality of the compulsory alienation measure;
- compliance with environmental standards;
- certainty of the purpose of compulsory confiscation (public needs or social necessity);
- the impossibility of granting the seized land plot for ownership or use of an individual or legal entity for reasons not related to public needs or social necessity;
- providing the owner of the seized land plot with an equivalent land plot, unless otherwise agreed with them;
- providing the owner of the seized residential building with an equivalent comfortable residential building, unless otherwise agreed with them.

53 On Investment Activity: the Law of Ukraine No 1560-XII dated September 18, 1991 https://zakon.rada.gov.ua/laws/show/1560-12#Text
54 On the Alienation of Land Plots, Other Real Estate Objects Located on Them, Which Are in Private Property, for Public Needs or on the Grounds of Social Necessity: the Law of Ukraine No 1559-VI dated November 17, 2009 https://zakon.rada.gov.ua/laws/show/1559-17#Text

LAW OF UKRAINE «ON ENSURING THE REALIZATION OF HOUSING RIGHTS FOR RESIDENTS OF HOSTELS»[55]

The law was adopted on September 4, 2008 and regulates legal, property, economic and other issues to ensure the realization of the constitutional right to housing for citizens who, due to the lack of their own housing, have been living in hostels for a long time. The law provides for the right to ownership (privatization) of residential premises in hostels (Article 4 of the Law). This right also applies to children of legal residents of hostels who were born during the residence of their parents in such hostels.

Article 19 of the Law prohibits eviction, relocation and resettlement of persons legally living in hostels without providing them with other housing suitable for permanent residence.

LAW OF UKRAINE «ON ENSURING THE RIGHTS AND FREEDOMS OF CITIZENS AND THE LEGAL REGIME IN THE TEMPORARILY OCCUPIED TERRITORY OF UKRAINE»[56]

The law was adopted on April 15, 2014 and entered into force on April 27, 2014. Part 1 of Article 11 of the Law guarantees the protection of property rights and the legal regime of property in the temporarily occupied territory. According to part 2 of Article 11, all subjects of property rights retain the property right that existed at the time of the beginning of the temporary occupation. The acquisition and termination of ownership of property is carried out outside the temporarily occupied territory in accordance with the legislation of Ukraine (part 4 of Article 11).

LAW OF UKRAINE «ON CREATION OF A FREE ECONOMIC ZONE «CRIMEA» AND PECULIARITIES OF ECONOMIC ACTIVITY IN THE TEMPORARILY OCCUPIED TERRITORY»[57]

The law was adopted on August 12, 2014 and came into force on September 27, 2014. According to Article 8 of the Law, the state guarantees the procedure for providing protection of property and non-property rights of individuals and legal entities on the territory of the FEZ «Crimea». In addition to the general provision on the retention of ownership of property and registration of the transfer of ownership in another territory of Ukraine, it has been established that transactions made by a legal entity which is owned or controlled by the occupying state are not allowed (Article 13.3). If such transactions are concluded, they are considered null and void and not subject to execution.

RESOLUTION OF THE CABINET OF MINISTERS OF UKRAINE «ON APPROVAL OF THE PROCEDURE FOR ENTRY INTO AND EXIT FROM THE TEMPORARILY OCCUPIED TERRITORY OF UKRAINE» NO. 367 DATED JUNE 04, 2015[58]

This Resolution entered into force on June 10, 2015. Article 21 (4), Article 23 (5) determine the existence of ownership of real estate objects that are located in the temporarily occupied territory of Ukraine as a condition for obtaining a special permit by a foreigner or stateless person for the purpose of entering the temporarily occupied territory.

55 On Ensuring the Realization of Housing Rights for Residents of Hostels: Law of Ukraine No 500-VI dated September 04, 2008 https://zakon.rada.gov.ua/laws/show/500-17#Text

56 "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine: Law of Ukraine No 1207-VII dated April 15, 2014 https://zakon.rada.gov.ua/laws/show/1207-18#Text

57 On Creation of a Free Economic Zone "Crimea" and Peculiarities of Economic Activity in the Temporarily Occupied Territory: Law of Ukraine No 1636-VII dated August 12, 2014 https://zakon.rada.gov.ua/laws/show/1636-18#Text

58 On Approval of the Procedure for Entry Into and Exit From the Temporarily Occupied Territory of Ukraine: resolution of the Cabinet of Ministers of Ukraine No 367 dated June 4, 2015 https://zakon.rada.gov.ua/laws/show/367-2015-%D0%BF#Text

DECISION OF THE NATIONAL SECURITY AND DEFENSE COUNCIL OF UKRAINE DATED JULY 20, 2015 «ON THE STATUS OF IMPLEMENTATION OF MEASURES TO PROTECT PROPERTY RIGHTS AND INTERESTS OF THE STATE OF UKRAINE IN CONNECTION WITH THE TEMPORARY OCCUPATION OF A PART OF THE TERRITORY OF UKRAINE»[59]

The decision deals with the accounting for losses inflicted on the state by the occupation of Crimea and Sevastopol (paragraph 2 of part 1). The NSDC ordered the Cabinet of Ministers of Ukraine to take measures to intensify work on compensation for losses caused by the temporary occupation of part of the territory of Ukraine. The Ministry of Justice of Ukraine was urgently instructed to organize the provision of legal assistance to citizens of Ukraine whose rights, including property rights, were violated due to the occupation of a part of the territory of Ukraine.

CONSTRUCTION AMNESTY

Since October 2009, the so-called "construction amnesty" has been periodically granted in Ukraine, during which citizens had the opportunity to formalize the right of ownership of property built without authorization[60]. Initially, the amnesty extended to property built before December 31, 2008. Later this regulation was extended to the period up to 2011.

59 On the Status of Implementation of Measures to Protect Property Rights and Interests of the State of Ukraine in Connection with the Temporary Occupation of a Part of the Territory of Ukraine: Decision of the National Security and Defense Council of Ukraine dated July 20, 2015 https://zakon.rada.gov.ua/laws/show/n0017525-15#Text

60 On approval of the temporary procedure for the acceptance into operation of private homestead-type houses, country and garden houses with outbuildings: Resolution of the Cabinet of Ministers of Ukraine No 1035 dated September 9, 2009 https://zakon.rada.gov.ua/laws/show/1035-2009-%D0%BF#Text

CONSTITUTION OF THE RUSSIAN FEDERATION[61]

Article 8 of the Constitution states that in the Russian Federation recognition and equal protection shall be given to private, state, municipal and other forms of ownership

Article 35

1. The right of private property shall be protected by law.

2. Everyone shall have the right to have property, possess, use and dispose of it both personally and jointly with other people.

3. No one may be deprived of property otherwise than by a court decision. Forced confiscation of property for state needs may be carried out only with the condition that preliminary and complete compensation.

Article *36*

1. Citizens and their associations shall have the right to possess land as private property.

2. Possession, utilization and disposal of land and other natural resources shall be exercised by the owners freely, if it is not detrimental to the environment and does not violate the rights and lawful interests of other people.

3. The terms and rules for the use of land shall be established by a federal law.

CIVIL CODE OF THE RUSSIAN FEDERATION[62]

According to Article 209, the owner shall have the right at their own discretion to perform with respect to the property in their ownership any actions, not contradicting the law and the other legal acts, and not violating the rights and the law-protected interests of the other persons, including the alienation of their property into the ownership of the other persons, the transfer to them, while themselves remaining the owner of the property, of the rights of its possession, use and disposal, the putting of their property in pledge and its burdening in other ways, as well as the disposal thereof in a different manner.

Article 235 sets the grounds for the cessation of the right of ownership: with the alienation by the owner of their property in favour of the other persons, with the owner's renouncement of their right of ownership, with the perish or the destruction of the property and with the loss of the right of ownership in the other law-stipulated cases.

In its turn, the forcible withdrawal of the property from the owner shall not be admitted, with the exception of the cases, when, on the law-stipulated grounds, shall be effected, including the alienation of the property, which by force of the law may not be owned by the given person; the alienation of the realty in connection with the withdrawal of the land plot due to its improper use, requisition, confiscation.

Moreover, the turning into the state ownership of the property, which is in the ownership of the citizens and of the legal entities (the nationalization), shall be effected on the ground of the law with the recompensing of the cost of this property and of the other losses by the state and disputes over compensation for such losses are resolved by the court (Article 306 of the Civil Code of the RF).

61 Adopted by popular vote on December 12, 1993 with amendments approved during a nationwide vote on July 1, 2020 https://constitution.garant.ru/english/
62 Adopted by the State Duma on October 21, 1994, entered into force on January 1, 1995. Current edition dated December 8, 2020 http://base.garant.ru/10164072/

Article 222 regulates issues concerning unauthorized structures. Thus, an unauthorized structure is a building, construction or other structure, erected or created on a land plot that was not allotted in the prescribed manner, or on a land plot, the permitted use of which does not allow the construction of this object on it, or erected or created without obtaining the approvals, permits required by law or in violation of town planning and building codes and regulations, if the permitted use of the land plot, the requirement to obtain appropriate approvals, permits and (or) the indicated town planning and building codes and regulations are established as of the date of commencement of construction or creation of an unauthorized structure and are valid on the date of detection of unauthorized structure.

A building, construction or other structure, erected or created in violation of the restrictions on the use of a land plot established in accordance with the law, if the owner of this object did not know and could not know about these restrictions in relation to the land plot belonging to them, is not considered an unauthorized structure.

An unauthorized structure is subject to demolition or bringing in accordance with the parameters established by the rules of land use and development, documentation for the planning of the territory, or mandatory requirements for the parameters of the building provided by the law, carried out by the person who carried it or at their expense, and in the absence of information about it by the person, who own a land plot or has life-long inherited possession, the permanent (unlimited) use of the land plot on which an unauthorized structure was erected or created, or by a person to whom such a land plot, being in state or municipal ownership, is allocated for temporary possession and use.

Chapter 17 is devoted to issues of ownership and other property rights to land. In particular, Article 261 states that the owner of a land plot has the right to use at his own discretion everything that is over and under the surface of this plot, unless otherwise provided by the laws on the mineral wealth and on the use of the air space and by other laws, and so far as it does not violate the rights of the other persons

Article 279 provides for the possibility of withdrawal of a land plot for state or municipal needs, for which, in turn, Article 281 provides for compensation, which includes the market value of the plot and losses caused by its withdrawal. In the case of the presence of immovable objects on the site, compensation is also provided for it. Forced withdrawal of a land plot for state or municipal needs is allowed subject to prior and equivalent compensation.

Article 196 establishes the general limitation period, which is 3 years from the day when the person learned or should have learned about the violation of their right and who is the proper defendant in the claim for the protection of this right.

LAND CODE OF THE RUSSIAN FEDERATION[63]

Article 15 regulates the ownership of land by citizens and legal entities. Thus, the property of citizens and legal entities (private property) is land plots acquired by citizens and legal entities on the grounds provided for by the legislation of the Russian Federation.

63 Adopted by the State Duma on September 28, 2001, entered into force on October 25, 2001. Current edition dated April 30, 2021 http://base.garant.ru/12124624/

Foreign citizens, stateless persons and foreign legal entities cannot hold property rights to land plots located in the border territories, the list of which is established by the President of the Russian Federation[64].

Article 40 regulates the rights of owners of land plots to use them, Article 41 regulates the rights of land users, landowners and tenants, and Article 41 regulates the obligations of all the listed persons.

Article 49 lists the grounds for the withdrawal of land plots for state and municipal needs. Such withdrawal is carried out in exceptional cases on grounds, including those related to the implementation of international treaties of the Russian Federation, construction, reconstruction of objects of federal, regional or local importance (energy systems, nuclear power facilities, defense, federal transport and communications, highways).

Article 54.1 establishes that the alienation of a privately owned land plot in the event of its withdrawal due to the non-use of such a land plot for its intended purpose or the use of such a land plot in violation of the legislation of the Russian Federation is carried out by selling such a land plot at a public auction.

Chapter VII.1 of the Land Code regulates issues related to the withdrawal of land plots for state or municipal needs.

Article 60 states that the violated right to a land plot must be restored in cases of recognition by the court as invalid of the act of the executive body of state power or an act of a local self-government body that entailed a violation of the right to a land plot, unauthorized occupation of a land plot, as well as in other cases, stipulated by federal laws.

FEDERAL CONSTITUTIONAL LAW NO. 6-FKZ DATED MARCH 21, 2014 «ON THE ACCESSION OF THE REPUBLIC OF CRIMEA TO THE RUSSIAN FEDERATION AND ON FORMING NEW CONSTITUENT ENTITIES WITHIN THE RUSSIAN FEDERATION, THE REPUBLIC OF CRIMEA AND THE FEDERAL CITY OF SEVASTOPOL»[65]

Article 12 of the Law guarantees the validity of documents issued by state and other official bodies of Ukraine, the Autonomous Republic of Crimea and Sevastopol. Thus, on the territories of the Republic of Crimea and the federal city of Sevastopol, there are valid documents, including those confirming civil status, education, ownership, right to use, the right to receive pensions, benefits, compensations and other types of social payments, the right to receive medical care, and also customs and permits (licenses, except for licenses for banking operations and licenses (permits) for the activities of non-credit financial organizations) issued by state and other official bodies of Ukraine, state and other official bodies of the Autonomous Republic of Crimea, state and other official bodies of the city Sevastopol, without limiting their validity period and any confirmation from the state bodies of the Russian Federation, state bodies of the Republic of Crimea or state bodies of the federal city of Sevastopol, unless otherwise provided by article 12.2 of this Federal Constitutional Law, as well as unless otherwise follows from the documents themselves or the essence of the relationship.

64 By the decree of the President of the Russian Federation of March 20, 2020, almost the entire territory of the Crimean Peninsula was added to this List (see below p. 31-32 for more details).

65 https://rg.ru/2014/03/22/krym-dok.html

FEDERAL LAW NO. 377-FZ DATED NOVEMBER 29, 2014 «ON THE DEVELOPMENT OF THE CRIMEAN FEDERAL DISTRICT AND THE FREE ECONOMIC ZONE IN THE TERRITORIES OF THE REPUBLIC OF CRIMEA AND THE FEDERAL CITY OF SEVASTOPOL»[66]

Provides for the establishment of a special legal regime in the territories of Crimea and Sevastopol and the creation of a free economic zone for a period of 25 years.

DECREE OF THE PRESIDENT OF THE RUSSIAN FEDERATION NO. 201 DATED MARCH 20, 2020 «ON AMENDING THE LIST OF BORDER TERRITORIES WHERE FOREIGN CITIZENS, STATELESS PERSONS AND FOREIGN LEGAL ENTITIES CANNOT OWN LAND PLOTS, APPROVED BY THE DECREE OF THE PRESIDENT OF THE RUSSIAN FEDERATION NO. 26 DATED JANUARY 9, 2011»[67]

This Decree added, in particular, the municipalities of the Republic of Crimea and the city of Sevastopol to the list of border territories where, in accordance with Article 15 of the Land Code of the Russian Federation, foreign citizens, stateless persons and foreign legal entities cannot own land plots:

Republic of Crimea

441. Municipal formation Bakhchisaray district of the Republic of Crimea.
442. Municipal formation Dzhankoysky district of the Republic of Crimea.
443. Municipal formation Kirovsky district of the Republic of Crimea.
444. Municipal formation Krasnoperekopsky district of the Republic of Crimea.
445. Municipal formation Leninsky district of the Republic of Crimea.
446. Municipal formation Nizhnegorsk district of the Republic of Crimea.
447. Municipal formation Razdolnensky district of the Republic of Crimea.
448. Municipal formation Saksky district of the Republic of Crimea.
449. Municipal formation Simferopol region of the Republic of Crimea.
4410. Municipal formation Sovetsky district of the Republic of Crimea.
4411. Municipal formation Chernomorsky district of the Republic of Crimea.
4412. Municipal formation urban district Alushta of the Republic of Crimea.
4413. Municipal formation urban district Armyansk of the Republic of Crimea.
4414. Municipal formation urban district Evpatoria of the Republic of Crimea.
4415. Municipal formation urban district of Kerch, Republic of Crimea.
4416. Municipal formation urban district Saki of the Republic of Crimea.
4417. Municipal formation urban district Sudak of the Republic of Crimea.
4418. Municipal formation urban district of Feodosia of the Republic of Crimea.
4419. Municipal formation urban district of Yalta of the Republic of Crimea.

66 https://rg.ru/2014/12/03/krym-dok.html
67 http://www.kremlin.ru/acts/bank/45294

City of Sevastopol

3541. Intraurban municipal formation of the city of Sevastopol Andreevsky municipal district.
3542. Intraurban municipal formation of the city of Sevastopol Balaklava municipal district.
3543. Intraurban municipal formation of the city of Sevastopol Gagarinsky municipal district.
3544. Intraurban municipal formation of the city of Sevastopol Kachinsky municipal district.
3545. Intraurban municipal formation of the city of Sevastopol Leninsky municipal district.
3546. Intraurban municipal formation of the city of Sevastopol Nakhimovsky municipal district.
3547. Intraurban municipal formation of the city of Sevastopol Orlinovsky municipal district.
3548. City of Inkerman, intraurban municipal formation of the city of Sevastopol.

RESOLUTION OF THE CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION NO. 26-P DATED NOVEMBER 7, 2017, CITY OF ST. PETERSBURG «ON THE CASE OF CHECKING THE CONSTITUTIONALITY OF THE PROVISIONS OF PARAGRAPH 1 OF PART 2 OF ARTICLE 2, PARAGRAPH 3 OF PART 1 AND PART 3 OF ARTICLE 2-1 OF THE LAW OF THE REPUBLIC OF CRIMEA «ON THE SPECIFICS OF REGULATION OF PROPERTY AND LAND RELATIONS IN THE TERRITORY OF THE REPUBLIC OF CRIMEA» IN CONNECTION WITH THE COMPLAINTS OF THE LIMITED LIABILITY COMPANIES «DIVING CENTER «SOLARIUS», «PROMHOLDING» AND «FORMAT-IT»[68]

The Constitutional Court recognized the constitutionality of the provisions of paragraph 1 of part 2 of Article 2, paragraph 3 of part 1 and part 3 of Article 2-1 of the Law of the Republic of Crimea «On the Specifics of Regulation of Property and Land Relations in the Territory of the Republic of Crimea" and the resolution of the State Council of the Republic of Crimea «On Issues of Administration of Property of the Republic of Crimea», which provided for the nationalization of the applicants' property.

In the resolution, the Constitutional Court emphasized that the accession of the Republic of Crimea to the Russian Federation is a special case requiring special measures, including those aimed at ensuring the implementation of the property rights of participants in civil relations that developed in the Republic of Crimea before March 2014. In the opinion of the Constitutional Court, the balance of the needs for the integration of new constituent entities and other constitutional values should be achieved due to the presence of a transitional period (provided for in the Treaty between the Russian Federation and the Republic of Crimea and in the Federal Constitutional Law No. 6-FKZ «On the Accession of the Republic of Crimea to the Russian Federation and on Forming New Constituent Entities within the Russian Federation, the Republic of Crimea and the Federal City of Sevastopol»). In addition, the Constitutional Court recalled that the guarantees for the protection of private property, enshrined in the Constitution of the Russian Federation and providing for the inadmissibility of deprivation of property other than in the interests of society and under the conditions provided for by law and general principles of international law, which have been implemented in the principles of civil law, act on the territory of the Republic of Crimea from the moment of their adoption, including during the entire transition period.

68 https://rg.ru/2017/11/16/vs1-dok.html

At the same time, it should be noted that the process of nationalization in Crimea during 2014-2016 was carried out in violation of both the norms of international law and the civil legislation of the Russian Federation[69] (see also p. 67-72 of this review).

The Constitutional Court also concluded that the legislation in the field of property relations in force in the territories of the Republic of Crimea and the federal city of Sevastopol ensures reasonable continuity between the property right of Ukraine and the property right of the Republic of Crimea (with all property being assigned to the latter, which raises questions about the aforementioned «Reasonableness» - *authors' note*). The Constitutional Court still reinforces its position by referring to the peculiarities of the transition period, which allow for such measures to maintain legal certainty and stability of civil turnover during the integration of new constituent entities into the Russian Federation.

However, this review contains a number of representative cases confirming that the regulations of the occupation authorities of Crimea not only did not create legal certainty, but were not communicated to the local population in full and often had internal contradictions.

As for the legality of the termination of the right to private property due to the inclusion in the List of property recorded as the property of the Republic of Crimea, immovable property belonging to individuals and legal entities, the Constitutional Court indicated the following. If the property belonging to individuals and legal entities on the basis of the right of private ownership was included in the List, individuals and legal entities who do not agree with the decision of the state authorities of the Republic of Crimea are not deprived of the opportunity to exercise the right to judicial protection of their violated rights. At the same time, the mere fact of inclusion in the List of specific real estate objects cannot be a reason for refusing to satisfy their legal requirements.

Nevertheless, this review describes cases of violation of the right to private property in exactly this way. The fact is that in the above-mentioned resolution the Constitutional Court, pointing out the possibility of judicial protection, makes an important warning, i.e. the lawfulness of the acquisition of property into private (or state) property is subject to assessment by the court. It is this circumstance that actually unties the hands of the occupation courts, which, with reference to the impossibility of a person to prove the legality of possession of property, deprive them of the right to such possession (see also p. 41-48, 62-64 of this review).

69 However, in its decisions regarding complaints about violation of property rights in connection with the nationalization in Crimea, the Constitutional Court has consistently confirmed the compliance of the regulatory acts of the authorities of the Republic of Crimea with the Constitution and the laws of the Russian Federation (see, for example, Ruling of the Constitutional Court of the Russian Federation No. 443-O dated 10.03.2016 «On refusal to accept for consideration the complaint of the public joint-stock company «Krymkhleb» on violation of constitutional rights and freedoms by paragraph 3 of part 1 and part 3 of article 2.1 of the Law of the Republic of Crimea on the specifics of regulating property and land relations in the territory of the Republic of Crimea»
https://legalacts.ru/sud/opredelenie-konstitutsionnogo-suda-rf-ot-10032016-n-443-o/

RESOLUTION OF THE STATE COUNCIL OF THE REPUBLIC OF CRIMEA «ON ISSUES OF ADMINISTRATION OF PROPERTY OF THE REPUBLIC OF CRIMEA» DATED APRIL 30, 2014[70]

The resolution regulated the issues of property administration during the transitional period («integration period»), i.e. until January 01, 2015. Thus, for this period, all property of the state of Ukraine and ownerless property was recorded as the property of the Republic of Crimea, on whose behalf the Council of Ministers of the Republic of Crimea disposed of property.

The amendments introduced subsequently to the resolution provided for the gradual nationalization of many objects of state, communal and private property.

LAW OF THE REPUBLIC OF CRIMEA «ON THE SPECIFICS OF REGULATION OF PROPERTY AND LAND RELATIONS IN THE TERRITORY OF THE REPUBLIC OF CRIMEA» DATED JULY 30, 2014[71]

The law delineated all land on the territory of the Republic of Crimea: lands that were in communal ownership before the adoption of the Federal Constitutional Law No. 6 are classified as municipal lands, and all lands, except for private and municipal property, are classified as property of the Republic of Crimea.

The right of ownership to land plots and other immovable property in the territory of the Republic of Crimea that arose before the entry into force of the Federal Constitutional Law remains for individuals and legal entities, including foreign citizens, stateless persons and foreign legal entities.

RESOLUTION OF THE COUNCIL OF MINISTERS OF THE REPUBLIC OF CRIMEA «ON APPROVAL OF THE PROCEDURE FOR RE-REGISTRATION OF RIGHTS OR COMPLETION OF REGISTRATION OF RIGHTS TO LAND PLOTS IN THE TERRITORY OF THE REPUBLIC OF CRIMEA» DATED SEPTEMBER 02, 2014[72]

The procedure establishes the rules for the allocation of land plots in the ownership of the Republic of Crimea or being a municipal ownership to individuals and legal entities in the order of re-registration of rights or completion of registration of rights to land plots, which began before the entry into force of the Federal Constitutional Law No. 6.

LAW OF THE REPUBLIC OF CRIMEA NO. 66-ZRK/2015 DATED JANUARY 15, 2015 «ON THE ALLOCATION OF LAND PLOTS IN STATE OR MUNICIPAL OWNERSHIP, AND SOME ISSUES OF LAND RELATIONS»[73]

Establishes the procedure for the allocation of land plots in the ownership of the Republic of Crimea or being a municipal ownership on the territory of the Republic of Crimea.

In accordance with this Law, land plots are allocated for individual housing construction, country house farming, gardening and personal subsidiary farming to privileged categories of citizens, as well as for free use by citizens.

70 https://docs.cntd.ru/document/413901094
71 http://crimea.gov.ru/textdoc/ru/6/act/38z.pdf
72 https://rk.gov.ru/rus/file/pub/pub_233237.pdf
73 https://rk.gov.ru/ru/document/show/10863

DECISION OF THE SEVASTOPOL CITY COUNCIL NO. 7156 DATED MARCH 17, 2014 «ON THE STATUS OF THE HERO CITY OF SEVASTOPOL»[74]

According to this decision, all institutions, enterprises and other organizations established by Ukraine or with its participation on the territory of the city of Sevastopol become institutions, enterprises and other organizations established by the city of Sevastopol.

State property of Ukraine, located on the date of this decision on the territory of the city of Sevastopol, was recognized as the property of the city of Sevastopol.

LAW OF THE CITY OF SEVASTOPOL NO. 3-ZS DATED APRIL 24, 2014 «ON THE FORMER STATE PROPERTY OF UKRAINE AND THE DETERMINATION OF THE ORDER OF INVENTORY, MANAGEMENT AND DISPOSAL OF THE PROPERTY OF THE CITY OF SEVASTOPOL»[75]

It, in particular, establishes that all land within the territorial boundaries of the federal city of Sevastopol, with the exception of privately owned land as of March 17, 2014, is the state property of the federal city of Sevastopol.

The Acting Governor of the city of Sevastopol is responsible for the management of enterprises established by Ukraine and their property.

LAW OF THE CITY OF SEVASTOPOL NO. 46-ZS DATED JULY 22, 2014 «ON THE SPECIFICS OF REGULATING PROPERTY AND LAND RELATIONS IN THE TERRITORY OF THE CITY OF SEVASTOPOL»[76.]

In accordance with the Law, the right of state property within the boundaries of the federal city of Sevastopol and the right of communal property of the city of Sevastopol and territorial communities are recognized as the right of state property of the city of Sevastopol, and all lands, except for private and municipal property, are recognized as state property of the city of Sevastopol.

The right of property to land plots and other immovable property that arose before the entry into force of the Federal Constitutional Law on the territory of the city of Sevastopol for individuals and legal entities, including foreign citizens, stateless persons and foreign legal entities, remains.

Article 6.1 of the Law contains a list of documents confirming the existence of rights that arose before the entry into force of the Federal Constitutional Law (FKZ-6).

Acts of the Sevastopol City State Administration on the allocation of a land plot to a citizen, issued after January 1, 2002 and not related to the replacement of certificates for the right to a land share, as well as other documents issued (drawn up) on the basis of such acts, are not documents, confirming the existence of previously arisen rights subject to state registration.

74 https://docs.cntd.ru/document/543702603
75 https://rg.ru/2014/05/06/sevastopol-zakon3-reg-dok.html
76https://sevzakon.ru/view/laws/bank/iyul_2014/ob_osobennostyah_regulirovaniya_imushhestvennyh_i_zemelnyh_otnoshenij_na_territorii_goroda_sevastopolya/tekst_zakona/

RESOLUTION OF THE GOVERNMENT OF THE CITY OF SEVASTOPOL NO. 67- PP DATED FEBRUARY 8, 2018 «ON APPROVAL OF THE PROCEDURE FOR MAKING DECISIONS ON REIMBURSEMENT OF THE VALUE OF PROPERTY RECOGNIZED AS THE PROPERTY OF THE CITY OF SEVASTOPOL, WHICH WAS PREVIOUSLY PRIVATELY OWNED»[77]

The procedure establishes that «the right for compensation is entitled to a legal entity that has brought its constituent documents in accordance with the legislation of the Russian Federation, information about which is entered in the Unified State Register of Legal Entities, as well as an individual who on the date of entry into force of the decision taken in accordance with Resolution No. 123-PP and Resolution No. 118-PP owned the property recognized as the property of the city of Sevastopol».

The basis for the payment of compensation is the Order of the Government of Sevastopol to pay compensation or to refuse to pay compensation.

The former owner of the property has the right to challenge in the court the amount of compensation for the value of the property and (or) other losses specified in the Order of the Government of Sevastopol.

The issue of losses is being considered by a specially created Commission (see below).

ORDER OF THE GOVERNMENT OF THE CITY OF SEVASTOPOL NO. 189-RP DATED JUNE 7, 2018 «ON THE COMMISSION FOR CONSIDERATION OF ISSUES OF REIMBURSEMENT OF THE VALUE OF PROPERTY RECOGNIZED AS THE PROPERTY OF THE CITY OF SEVASTOPOL, WHICH WAS PREVIOUSLY PRIVATELY OWNED»[78]

The specified Order created a Commission, approved its personal composition and «Regulations on the commission for consideration of issues of reimbursement of the value of property recognized as the property of the city of Sevastopol, which was previously privately owned».

Personal composition of the Commission at the time of its creation:

Chairman - Ponomarjov Ilya Vyacheslavovich - Deputy of the Governor/Chairman of the Government of Sevastopol;

Deputy - Zainullin Rustem Shaukatovich - Director of Directorate for Property and Land Relations of the city of Sevastopol;

Secretary - Kolot Elena Valerievna - Deputy Head of the Property Relations Department of the Directorate for Property and Land Relations of the city of Sevastopol;

Members:

Vavilov Mikhail Yurievich - Head of the Legal Department of the Government of Sevastopol;

Kizilov Andrey Andreevich - Head of the Department of Income Planning and Automation of the Budget Process of the Department of Finance of the city of Sevastopol;

Knutova Elena Nikolaevna - Deputy Director of the Directorate - Head of the Property Relations Department of the Directorate for Property and Land Relations of the city of Sevastopol;

Konyakhin Mikhail Aleksandrovich - Head of the Department of State Registration of Law and Cadastre of the city of Sevastopol;

Sanosyan Andrey Grigorievich - Director of the Directorate for Economic Development of the city of Sevastopol;

Tatarchuk Vladimir Vladimirovich - Director of the Directorate for Public Security of the city of Sevastopol;

77 https://docs.cntd.ru/document/543714697
78 https://docs.cntd.ru/document/543732928

Titov Igor Vadimovich - Director of the Directorate for Transport and Development of Road and Transport Infrastructure of the city of Sevastopol.

ON DECEMBER 30, 2016, BETWEEN THE DIRECTORATE OF THE GOVERNOR'S OFFICE AND THE GOVERNMENT OF SEVASTOPOL AND PRAVOZASHCHITA LLC, A STATE CONTRACT WAS CONCLUDED FOR THE PROVISION OF COMPLEX LEGAL SERVICES[79]

The subject of the contract was the provision of a full range of legal and actual actions to represent in courts the interests of the Directorate for Property and Land Relations of the city of Sevastopol on invalidating acts related to the allocation of land plots for use or ownership, and on the withdrawal of these land plots from the illegal possession.

In accordance with the contract, Pravozashchita LLC was supposed to analyze the legislation, prepare all the necessary documents, file 2,500 claims and represent the interests of the Directorate in the courts.

The Government of the city of Sevastopol, in turn, was obliged to pay Pravozashchita LLC 25 million rubles, i.e. 10 thousand rubles for each judicial act. Claims had to be filed before April 18, 2017 (less than during 4 months).

[...] 1. Subject of the contract

1.1. The State customer entrusts, and the Contractor undertakes to provide them, in accordance with the terms of the contract, complex legal services, and the State customer from their side undertakes to accept these services and pay for them in accordance with the terms of this contract.

1.2. The complex of legal services provided for in clause 1.1 of this Contract includes the provision of the entire range of legal and actual actions to represent in courts the interests of the Directorate for Property and Land Relations of the city of Sevastopol (hereinafter referred to as the Directorate) on invalidating acts related to the allocation of land plots for use or ownership, and / or on the withdrawal of these land plots from the illegal possession.

1.2.1. The complex of legal and actual actions includes:

a) analysis of the legislation of Ukraine and the Russian Federation, judicial practice on the issues of the arisen dispute;

b) analysis of the prospects for litigation on invalidation of acts related to the allocation of a specific land plot for use or ownership, and on the withdrawal this land plot from the illegal possession;

c) request and formation of packages of documents necessary and sufficient for filing relevant claim to an arbitration court or a court of general jurisdiction and litigation;

d) sending the necessary documents to the persons involved in the case (defendants, third parties);

e) observance of the pre-trial (claim) procedure, preparation of the claim, appeals, reviews, explanations, other procedural documents for filing to the address of arbitration courts, courts of general jurisdiction of the first instance, appeal instance in accordance with the rules of judicial and administrative jurisdiction established by the current legislation;

79 See Annex 2, page 110-116.

f) representing the interests of the Directorate for Land and Property Relations in the courts of first instance, and, if necessary, in the courts of appeal;

g) obtaining judicial acts and sending them along with all materials on court cases to the State Customer.

1.2.2. The end and proper result of the provision of services are acts of arbitration courts and courts of general jurisdiction on invalidation of acts on the allocation of land plots for use or ownership and / or on the withdrawal of these land plots from the illegal possession or on the refusal to satisfy the stated requirements that have entered into legal force.

1.3. The estimated number of statements of claim is no more than 2,500. The final number of claims is determined by the Directorate and has to be communicated to the Contractor by March 10, 2017 [...].

2. Amount of the Contract and payment procedure

2.1.1. The amount under the contract is 25,000,000 (twenty five million) rubles 00 kopecks. This amount includes the cost of services provided for in clauses 1.2.1 of the contract, and is calculated as the sum of the values in the amount of 10,000 (ten thousand) rubles for each judicial act on invalidation of acts on the allocation of land plots for use or invalidation of acts on the allocation of land plots for use or ownership and / or on the withdrawal of these land plots from the illegal possession and / or on the refusal to satisfy the stated requirements that have entered into legal force [...].

4. Obligations of the State Customer and the Directorate

[...]

4.3. The Directorate is obliged, by March 10, 2017, to form and send to the Contractor the lists of land plots in respect of which the Contractor is obliged to perform a set of legal and actual actions under this contact.

4.4. The Directorate monitors the process of providing services, including agreeing on action plans for specific land plots, giving binding instructions on how to adjust them based on changes in the current situation, agreeing on a position when participating in legal proceedings, as well as any other actions of the Contractor, the committing of which may entail a refusal to satisfy the claim [...].

5. Duration of the Contract, conditions of its amendment and termination

[...]

5.1. This contract comes into force from the moment it is signed by the Parties, the signatures are stamped, and is valid until the parties fulfill their obligations in full, but no later than December 31, 2017. Claims must be filed by April 18, 2017 [...].

7. Confidentiality

[...]

7.2. Only persons who are directly involved in the execution of the terms of this contract have the right to get acquainted with the transferred documentation, information, results. The circle of persons admitted to the information and documentation on this Contract shall be determined by each Party independently.

7.3. The fact of signing this Contract, the details of the Parties involved and the mutual obligations of the Parties are also confidential information.

ACTS PROVIDING FOR THE NATIONALIZATION AND REDEMPTION OF PROPERTY:

1. Resolution of the State Council of the Republic of Crimea No. 1757-6/14 «On the nationalization of enterprises and property of maritime transport in the sphere of management of the Ministry of Infrastructure of Ukraine and the Ministry of Agrarian Policy and Food of Ukraine located on the territory of the Republic of Crimea and the city of Sevastopol» dated March 17, 2014.
2. Resolution of the State Council of the Republic of Crimea «On amendments to the Resolution of the State Council of the Republic of Crimea 4 No. 1757-6/14 dated March 17, 201 «On the nationalization of enterprises and property of maritime transport in the sphere of management of the Ministry of Infrastructure of Ukraine and the Ministry of Agrarian Policy and Food of Ukraine located on the territory Republic of Crimea and the city of Sevastopol» dated March 26, 2014.
3. Resolution of the State Council of the Republic of Crimea «On the nationalization of property of enterprises, institutions, organizations of the agro-industrial complex located on the territory of the Republic of Crimea» dated March 26, 2014.
4. Resolution of the State Council of the Republic of Crimea «On the nationalization of territorial bodies, enterprises and property in the sphere of management of the Ministry of Ecology and Natural Resources and other state bodies, enterprises located on the territory of the Republic of Crimea» dated March 26, 2014.
5. Resolution of the State Council of the Republic of Crimea «On the nationalization of enterprises and property of the forestry and hunting in the sphere of management of the State Agency for Forest Resources of Ukraine and other state bodies located on the territory of the Republic of Crimea and the city of Sevastopol» dated March 26, 2014.
6. Resolution of the State Council of the Republic of Crimea «On the nationalization of enterprises, organizations and property in the sphere of management of the State Agency for Water Resources of Ukraine located on the territory of the Republic of Crimea» dated April 4, 2014.
7. Resolution of the State Council of the Republic of Crimea «On the nationalization of enterprises and property in the sphere of management of the National Joint Stock Company «Nadra of Ukraine», Public Joint Stock Company «National Joint Stock Company «Nadra of Ukraine», State Service of Mining Supervision and Industrial Safety of Ukraine located on the territory of the Republic of Crimea» dated April 4, 2014.
8. Resolution of the State Council of the Republic of Crimea «On the nationalization of a non-residential building located on 15 Nadinskogo St. in the city of Simferopol» dated April 4, 2014.
9. Resolution of the State Council of the Republic of Crimea «On the nationalization of property and land of the Scientific and Production Center for Poultry Meat Production of the National Academy of Agrarian Sciences of Ukraine» dated April 4, 2014.
10. Resolution of the State Council of the Republic of Crimea «On the nationalization of property of the sanitary and epidemiological service on railway and water transport» dated April 11, 2014.
11. Resolution of the State Council of the Republic of Crimea «On the nationalization of the property of the National University of Bioresources and Environmental Management of Ukraine» dated April 11, 2014.

12. Resolution of the State Council of the Republic of Crimea «On the nationalization of educational institutions, scientific, scientific and technical, research institutions, enterprises located on the territory of the Republic of Crimea» dated April 11, 2014.

13. Resolution of the State Council of the Republic of Crimea «On the nationalization of some educational institutions located on the territory of the Republic of Crimea» dated April 30, 2014.

14. Resolution of the State Council of the Republic of Crimea «On the nationalization of property of territorial bodies, enterprises, institutions in the sphere of management of the State Agency for Fisheries of Ukraine located on the territory of the Republic of Crimea» dated April 30, 2014.

15. Resolution of the State Council of the Republic of Crimea «On amendments to certain resolutions of the State Council of the Republic of Crimea» dated June 25, 2014.

16. Resolution of the State Council of the Republic of Crimea «On issues of property of the Republic of Crimea» dated June 25, 2014.

17. Law of the Republic of Crimea «On the specifics of property redemption in the Republic of Crimea» dated August 8, 2014.

18. Resolution of the Council of Ministers of the Republic of Crimea «On the redemption of property for the needs of the Republic of Crimea» dated September 02, 2014.

19. Resolution of the State Council of the Republic of Crimea «On issues of state property of the Republic of Crimea» dated September 3, 2014.

20. Resolution of the State Council of the Republic of Crimea «On some issues of the nationalization of property» dated September 3, 2014.

21. Order of the Council of Ministers of the Republic of Crimea «On the acceptance into state ownership of the Republic of Crimea of integral property complexes of communal medical institutions and organizations» dated October 28, 2014.

22. Order of the Council of Ministers of the Republic of Crimea «On the acceptance into state ownership of the Republic of Crimea of territorial centers of social services (provision of social services)» dated November 11, 2014.

23. Resolution of the Council of Ministers of the Republic of Crimea «On some issues of property management and redemption of property located in the territories of healthcare institutions» dated December 30, 2014.

24. Resolution of the Government of the city of Sevastopol «On some issues of nationalization of property» No. 118 dated February 28, 2015.

25. Resolution of the Government of the city of Sevastopol «On some issues of nationalization of property» No. 123 dated February 28, 2015.

26. Resolution of the Government of the city of Sevastopol «On amendments to the Resolution of the Government of Sevastopol No. 123 dated February 28, 2015 «On some issues of nationalization of property» dated July 8, 2016.

27. Resolution of the Government of the city of Sevastopol «On approval of the procedure for making decisions on reimbursement of the value of property recognized as the property of the city of Sevastopol, which was previously privately owned» dated February 8, 2018.

7. GENERAL DESCRIPTION OF THE SITUATION

In February-March 2014, the Russian Federation occupied part of Ukraine, the Autonomous Republic of Crimea and the city of Sevastopol, and extended its legislation to this territory.

The so-called 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 (hereinafter referred to as the Agreement), which was signed on March 18, 2014 by the President of the Russian Federation and representatives of the self-proclaimed Republic of Crimea and the city of Sevastopol, provides for the creation of two new constituent entities within the Russian Federation, i.e. the «Republic of Crimea» and «the federal city of Sevastopol». The action of Russian legislation was extended to the occupied territory by the same Agreement[80].

The main normative legal and regulatory act «legalizing» the occupation in the legal field of the Russian Federation was the Federal Constitutional Law No. 6-FKZ dated March 21, 2014 «On the Accession of the Republic of Crimea in the Russian Federation and n Forming New Constituent Entities within the Russian Federation, the Republic of Crimea and the Federal City of Sevastopol» (hereinafter - Law No. 6-FKZ). According to Article 23 of this law, Russian legislation in Crimea and the city of Sevastopol takes effect on March 18, 2014[81]. At the same time, Article 12 guarantees that documents confirming the right of ownership issued by state and other official bodies of Ukraine, state and other official bodies of the Autonomous Republic of Crimea and the city of Sevastopol continue to operate without limiting the period of such validity, unless otherwise provided by Article 12.2 of the Law No. 6-FKZ, as well as unless otherwise follows from the documents themselves or the substance of the relationship[82]. Representatives of the occupation authorities also repeatedly publicly assured that private property would not be confiscated. Such statements, in particular, were made by the self-proclaimed «Chairman of the Council of Ministers of the Republic of Crimea» Sergei Aksyonov[83] and his deputy Rustam Temirgaliev[84].

In the occupied territory, the Russian Federation has established government bodies under its control, including law enforcement and judicial bodies, and local self-government bodies.

Contrary to promises and «legislative guarantees» of the preservation of property rights, since the beginning of the occupation, the occupation authorities in Crimea in the interests of the Russian Federation have unlawfully seized and destroyed property owned by the state of Ukraine, as well as private property owned by individuals and legal entities.

In addition to the appropriation and destruction of real estate, the Russian Federation also pursues a policy of prohibiting persons who are not citizens of the Russian Federation from owning land plots in the territory of the Autonomous Republic of Crimea and the city of Sevastopol.

The following bodies of the occupation authorities are involved in the process of seizure of property: «Council of Ministers of the Republic of Crimea», «State Council of the Republic of Crimea», «Government of the City of Sevastopol», «Legislative Assembly of the City of Sevastopol», procuratorial authorities, Ministry of Defense of the Russian Federation, «Department of Property and Land Relations», courts.

80 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, Article 9
http://www.consultant.ru/document/cons_doc_LAW_160398/b5315c892df7002ac987a311b4a242874fdcf420/

81 «On the Accession of the Republic of Crimea in the Russian Federation and n Forming New Constituent Entities within the Russian Federation, the Republic of Crimea and the Federal City of Sevastopol»: Federal Constitutional Law No 6_FKZ dated 21.03.2014, Article 23
http://www.consultant.ru/document/cons_doc_LAW_160618/44abd5c722d8204c418fbddef6825d679b4c5a18/

82 «On the Accession of the Republic of Crimea in the Russian Federation and n Forming New Constituent Entities within the Russian Federation, the Republic of Crimea and the Federal City of Sevastopol»: Federal Constitutional Law No 6_FKZ dated 21.03.2014, Article 12
http://www.consultant.ru/document/cons_doc_LAW_160618/36a4d6c9b262b91c7ed4bdd992bc76e93583c8f2/

83 «The Prime Minister of Crimea promised to preserve the private property of Crimean residents» Vzglyad https://vz.ru/news/2014/3/11/676562.html

84 The Crimean authorities are planning to nationalize Ukrainian state-owned companies in a short time. Interfax-Ukraine
https://interfax.com.ua/news/economic/195461.html

An analysis of the decisions of the occupation administrations and courts in Crimea, adopted during 2014-2021, shows that the appropriation of state and private property in Crimea is carried out mainly in the following ways:

1) nationalization, i.e. the adoption of acts on the automatic transfer of state or private property to the ownership of the so-called «Republic of Crimea» or «the federal city of Sevastopol» as subjects of the Russian Federation;

2) withdrawal of property on the basis of court decisions;

3) compulsory redemption of property on the basis of acts of the occupation authorities;

4) forcible seizure of the property of «Self-Defense of Crimea».

The nationalization of state property of Ukraine in the territory of the Autonomous Republic of Crimea was carried out on the basis of resolutions of the «State Council of the Republic of Crimea» and orders of the «Council of Ministers of the Republic of Crimea».

Thus, in the period from March 17 to September 3, 2014, the «State Council of the Republic of Crimea» adopted 15 resolutions, on the basis of which the property of all executive authorities of Ukraine and a number of state-owned enterprises was appropriated, including the State Enterprise «Administration of the Sea Ports of Ukraine», Public Joint Stock Company «National Joint Stock Company «Nadra of Ukraine»[85].

By order of the «Council of Ministers of the Republic of Crimea», individual property complexes of communal medical institutions and organizations, as well as territorial centers of social security were nationalized.

On the territory of the city of Sevastopol, the nationalization of state property was carried out on the basis of acts of the «Government of Sevastopol» and «Legislative Assembly of Sevastopol».

Thus, according to paragraph 6 of the decision of the Sevastopol City Council[86] No. 7156 dated March 17, 2014, the state property of Ukraine, which was on the day of the adoption of this act on the territory of the city of Sevastopol, was recognized as the property of the city of Sevastopol[87].

Subsequently, on April 24, 2014, the «Legislative Assembly of the city of Sevastopol» adopted the Law of the city of Sevastopol No. 3-ZS «On the former state property of Ukraine and determining the procedure for inventorying, managing and disposing of the property of the city of Sevastopol»[88]. Its Article 1 stipulates that all lands within the territorial boundaries of Sevastopol, with the exception of those in private ownership, as of March 17, 2014, are declared state property of the federal city of Sevastopol as a constituent entity of the Russian Federation. For a comprehensive understanding of the consequences of this rule, it is necessary to perceive it in conjunction with the corresponding norms of the civil legislation of the Russian Federation, which are of a general nature.

So, according to article 214 of the Civil Code of the Russian Federation, property owned by cities of federal significance is state property of the Russian Federation[89]. Thus, all land within the city of Sevastopol, except for privately owned land, was automatically recognized as state property of the Russian Federation.

85 State Council of the Republic of Crimea. Search for a document (by the keyword «nationalization») http://crimea.gov.ru/document-search?category=legislative-acts&year_from=1990&month_from=1&day_from=1&year_to=2021&month_to=5&day_to=31&q_title=%D0%BD%D0%B0%D1%86%D0%B8%D0%BE%D0%BD%D0%B0%D0%BB%D0%B8%D0%B7%D0%B0%D1%86%D0%B8%D0%B8

86 Later this body was renamed the «Legislative Assembly of the city of Sevastopol».

87 Electronic fund of legal and normative-technical documents. Sevastopol City Council. Decision No. 7156 dated 17.03.2014 «On the status of the hero city of Sevastopol» https://docs.cntd.ru/document/543702603

88 Legislative Assembly of the city of Sevastopol. Law of the city of Sevastopol No. 3-3C dated 04.24.2014 «On the former state property of Ukraine and determining the procedure for inventory, management and disposal of the property of the city of Sevastopol» https://sevzakon.ru/view/laws/bank/aprel_2014/o_byvshej_gosudarstvennoj_sobstvennosti_ukrainy_i_opredelenii_poryadka_inventarizacii-_upravleniya_i_rasporyazheniya_sobstvennostyu_goroda_sevastopolya/

89 Civil Code of the Russian Federation, Article 214 http://www.consultant.ru/document/cons_doc_LAW_5142/c1923b21971e5b9356fe86b94d3beef0a1747f7c/

Law No. 3-ZS later became the basis for other decisions of the «Government of Sevastopol» on the nationalization of state property of Ukraine.

In addition to the state property of Ukraine, during 2014, the private property of the largest enterprises operating on the territory of the peninsula was also subject to nationalization.

Thus, as a result of the adoption of 28 resolutions of the «State Council of the Republic of Crimea» adopted in 2014 and 2015, the property of the PJSC «Joint Stock Company «Krymavtotrans», the Crimean branch of the PJSC «Ukrtelecom», CJSC «Kyivstar», CJSC «East Crimean Energy Company», PJSC «Krymenergo», PJSC «Kerchgaz», the private enterprise «Ukrgazprom», JSC «Commercial bank «Privatbank».

To establish de facto control over some property objects on the territory of the occupied peninsula, paramilitary formations of the so-called «Crimean self-defense» were involved. In particular, the property of the companies CJSC «Kyivstar», JSC «Ukrtelecom», PJSC «Krymgaz», PJSC «JSC «Krymavtotrans», the Union of consumer societies «Krympotrebsoyuz», PJSC «Feodosia shipbuilding company «More» were seized in this way.

Another mechanism for the withdrawal of private property, which the occupying power resorted to, is the judicial procedure. According to the results of the monitoring carried out by the Regional Center for Human Rights, in the period from 2014 to 2019, at least 3,728 people were deprived of the right of ownership of land plots by the occupation authorities in this way. Of them, land plots of 3539 individuals were withdrawn on the basis of decisions of the occupation courts of the city of Sevastopol, 179 were withdrawn on the basis of decisions of the courts operating in the territory of the Autonomous Republic of Crimea.

By 2020, the property withdrawal procedure through the judiciary has ceased to be massive, the number of cases in the courts has decreased significantly.

The judicial procedure of property withdrawal on the territory of the city of Sevastopol was that the city de facto authorities (the «Government of Sevastopol», the «prosecutor's office», «Directorate for Property and Land Relations of the City of Sevastopol») filed lawsuits against individuals and legal entities demanding the withdrawal of land plots into state ownership of a constituent entity of the federation, i.e. the federal city of Sevastopol.

Since the end of 2016, this process has significantly intensified, and in 2017 it has become widespread, especially in the city of Sevastopol. The State Contract No. 290 concluded on December 30, 2016 between the «Department of the Apparatus of the Governor and the Government of Sevastopol» and the Limited Liability Company «Pravozashchita» crucially contributed to that[90]. According to this contract, Pravozashchita LLC undertook to provide legal services (including filing claims in court) aimed at invalidating acts related to the allocation of land plots for use or ownership and / or on reclaiming these land plots from someone else's illegal possession. According to the terms of this contract, the number of claims that were planned to be filed during 2017 was 2500 (see p. 110-116 above). Payment for legal services was carried out at the expense of state budget funds[91].

In some cases, the Ministry of Defense of the Russian Federation also acted as the plaintiff in cases of this category.

The main argument of the representatives of the occupation authorities, used when filing claims, was the thesis about the alleged «illegality of obtaining land ownership» by private individuals. In fact, the occupation authorities were reviewing the decisions which were made by

90 Arbitration court of the city of Sevastopol. Judgment dated January 22, 2018. Case No. A843792/2017https://kad.arbitr.ru/Document/Pdf/89845435-b1d2-41b3-9124-93c4dcb37d44/c69263f5-f938-40a0-97f3-d0c196f38d2e/A84-3792-2017_20180122_Reshenija_i_postanovlenija.pdf?isAddStamp=True

91 Open budget of the city of Sevastopol. Draft dated 12.05.2017 No. 03-19/428 of the Law of the City of Sevastopol «On Amendments to the Law of the City of Sevastopol No. 309-3C» On the Budget of the City of Sevastopol for 2017» dated December 28, 2016 (May). Appendix No. 6 to the explanatory note. Line 115 https://ob.sev.gov.ru/index.php?option=com_dropfiles&task=frontfile.download&&id=405&catid=100

the state and local authorities of Ukraine long before the occupation of the peninsula. The result of this revision was the massive misappropriation of the property of Ukrainian citizens and legal entities by the Russian Federation.

By such actions, the Russian Federation violates the basic norms and principles of international law, in particular, the principle of sovereign equality of states, which does not allow one state to interpret the legislation of another. Sovereignty can be defined as «the supremacy of the power», interpreting it as the competence to establish responsibilities and give rights. Competence means the ability to perform actions that are legally binding. Sovereignty also provides that the competence of a state is limited exclusively by international law, and not by the law of another state. Equality is a rule which provides that no state has jurisdiction over another state and over the legal acts of another state without the consent of the latter, and the court of any state is not competent to decide the validity of the acts of another state within the scope of its national legal order.

Another «ground» for the appropriation of land plots used by the occupying authorities is the alleged illegality of the land ownership by persons in connection with the belonging of the land plot to the category of «forestry fund lands». In this case, the courts refer to the decision of the occupation authorities, adopted after March 18, 2014[92]. By this decision, a state forestry enterprise was created and land plots were transferred to it, including those that were already in the ownership of private individuals.

In addition, the courts unreasonably accept the arguments of the plaintiffs about the alleged lack of original documents in the archival institutions of the city of Sevastopol, on the basis of which the property was transferred to private ownership. It should be noted that these archival institutions have been under the control of the occupation authorities since March 2014.

This approach violates the principle of «good governance», according to which the consequences of any mistake or negligence of a public authority must rely on the state itself and cannot be rectified at the expense of the persons concerned (see, for example, the ECtHR judgment in the case of *Pinkova and Pink v. Czech Republic* dated November 05, 2002, application No. 36548/97, p. 58). The lack of original documents in archival institutions is not a mistake or negligence of the owner of the property and thus he/she can't bear the consequences of it.

Considering that property owners have neither the legal nor the physical ability to verify the assertion about the absence of such documents in the archives, there is a high probability that the occupation authorities will abuse their powers to achieve the illegal goal of withdrawing the land from the population of the city. In the light of the above, it looks especially cynical that the occupation courts do not accept as evidence for consideration and assessment the original Ukrainian documents that citizens have, confirming the legality of the ownership of these land plots.

Many victims of the policy of withdrawal of land plots are secondary owners. They acquired their allotments before the occupation in accordance with the procedure established by Ukrainian legislation on the basis of civil law transactions certified by notaries. When making decisions on the withdrawal of land plots, the occupation judicial authorities simply «do not notice» these facts and withdraw them from bona fide owners without compensation for the costs incurred by them for the purchase of land. Herewith, the transactions on the basis which the land was purchased are not recognized as invalid, while the courts rule decisions on «withdrawal of land plots from illegal possession».

Another method of appropriation of property of Ukrainian citizens and legal entities used by the Russian Federation is compulsory redemption.

92 Government of Sevastopol. Resolution No. 164 dated July 29, 2014 «On the establishment of the state-owned enterprise of Sevastopol» Sevastopol forestry» http://ecosev.ru/images/podvedomstvennie/pp-164.pdf

On August 8, 2014, the «State Council of the Republic of Crimea» adopted Law No. 47-3РК «On the Specifics of Redemption of Property in the Republic of Crimea»[93], which defines the grounds and mechanism for the compulsory redemption of private property of individuals and legal entities located in the territory of the Autonomous Republic of Crimea. The redemption is carried out in the interests of the «Republic of Crimea».

The following cases are defined as grounds for redemption in accordance with the specified law:

- the need to prevent threats to life and health of the population;
- the need for the functioning of objects of vital activity;
- the need to evacuate people as a result of disasters, accidents, incidents, epidemics, epizootics and other emergencies;
- the need to use property as an object of special social, cultural and historical value.

By means of compulsory redemption, the occupation authorities took possession of the property of CJSC «Yalta Film Studio», JSC «Euromedcenter», the private clinic «Genesis» and a number of other enterprises.

As a general rule, the Russian Federation expropriates property without any compensation to its owner, despite the fact that this violates not only the norms of international humanitarian law and international human rights law (see more p. 67-72), but also its own legislation (see more p. 28-33). The occasional attempts by the occupation authorities to «rectify the situation» were more like fraud and were carried out with the aim of reducing social tension in connection with the illegal seizure of property. In particular, on February 8, 2018, the «Government of Sevastopol», after long discussions, approved the «Procedure for making decisions on the reimbursement of the value of property recognized as the property of the city of Sevastopol, which was previously privately owned»[94] on the basis of two resolutions of the «Government» No. 123-PP «On some issues of nationalization of property»[95] and No. 118-PP[96] with the same name, by which the former rightholders were deprived of their property in favor of the «federal city of Sevastopol» (see p. 28-33 for more details).

The aforementioned Procedure provides for the right to receive compensation, the amount of which must be established by a specially created *Commission to consider the issues of compensation for the value of property recognized as the property of the city of Sevastopol, which was previously privately owned*,[97] taking into account the owners' documents on losses based on market value. However, only legal entities have the right to apply for such compensation, and only those that have been re-registered in accordance with Russian law. The deadline for applying for compensation was limited on September 1, 2018. Thus, the number of victims who could apply for compensation was as limited as possible. There is no information on the results of the Commission's work in open sources, which confirms the statements of the victims that it existed only on paper.

The destruction of property in the occupied territory was carried out (and continues to be carried out) by the occupation authorities both on the basis of decisions of the occupation courts and on the basis of decisions of other bodies, legal entities created by the occupation power.

93 Law of the Republic of Crimea No. 47-ZRK dated August 08, 2014 «On the Specifics of the Redemption of Property in the Republic of Crimea» https://rg.ru/2014/08/08/krim-proekt-vikup-reg-dok.html

94 Resolution of the Government of Sevastopol on the approval of the Procedure for making decisions on reimbursement of the value of property recognized as the property of the city of Sevastopol, which was previously privately owned, dated February 08, 2018 https://sevastopol.gov.ru/files/iblock/d9a/67_pp.pdf

95 Resolution of the Government of Sevastopol No. 123-PP dated February 28, 2015 «On some issues of the nationalization of property» https://docs.cntd.ru/document/543714697

96 Resolution of the Government of Sevastopol No. 118-PP dated February 28, 2015 «On some issues of the nationalization of property» http://base.garant.ru/23704984/

97 Order of the Government of Sevastopol No. 189-RP dated June 7, 2018 on the Commission for the consideration of issues of reimbursement of the value of property recognized as the property of the city of Sevastopol, which was previously privately owned https://docs.cntd.ru/document/543732928

In the course of monitoring carried out by the Regional Center for Human Rights, it was possible to identify 55 persons who became victims of the demolition of real estate by the decision of the occupation «courts» of the city of Sevastopol in the period from 2014 to 2019.

Monitoring of court decisions of the occupation «courts» operating in the territory of the Autonomous Republic of Crimea made it possible to identify 201 persons who became victims of the demolition of real estate.

The main argument of the occupation authorities when making decisions on the demolition of property is their conclusion about «the illegality of construction permits» issued by the competent authorities of Ukraine on the territory of the city of Sevastopol (in some cases, the lack of permits), in relation to objects that were built by victims before the occupation of the peninsula.

The destruction by the Russian authorities of immovable property belonging to individuals violates the provisions of international humanitarian law, since it is carried out without military necessity, and is also incompatible with the obligation of the occupying power to maintain the status quo in the territories occupied by it in relation to the current laws and legal relations that do not threaten public order in these territories.

In addition to the private property of citizens and the property of enterprises, the occupation authorities are also seizing real estate being a property or legally owned by religious organizations: communities of the Orthodox Church of Ukraine (until 2019 - the Ukrainian Orthodox Church of the Kyiv Patriarchate), Muslim communities, etc.

Throughout 2014, the Church of the Apostles Peter and Paul and the Church of St. Nicholas (the city of Sevastopol) as well as the Church of the Intercession of the Most Holy Theotokos (the village of Perevalnoe, Simferopol region) were taken away from the Simferopol and Crimean dioceses of the Ukrainian Orthodox Church of the Kyiv Patriarchate. Also, since 2014, the occupation authorities of Crimea have been trying, with the help of the occupation courts, to deprive the diocese of the building of the Cathedral of Saints Prince Vladimir and Princess Olga, Equal to the Apostles.

In addition, in 2019, the Evpatoria City Court satisfied the claim of the local authorities for the demolition of the temple in the name of the Most Pure Image of the Mother of God «Burning Bush» (for more details see p. 59-60). Although the court decision has not been executed to date, the risk of demolition of the temple remains.

In September 2018, the occupation authorities arbitrarily terminated the right to use the Yukhary-Jami mosque (city of Alushta), which belongs to the Muslim community «Alushta» (for more details see p. 60-61).

Despite the fact that international humanitarian law prohibits the occupying state from destroying and appropriating cultural values, historical sites, places of worship and objects that make up the cultural or spiritual heritage of peoples in the occupied territory[98], the Russian Federation continues to seize the Ukrainian material heritage, conduct large-scale archaeological excavations (only during 2014-2018, the Ministry of Culture of the Russian Federation issued more than 90 permits for archaeological excavations), destroy architectural constructiions and natural complexes without taking into account the opinion of the local population by carrying out so-called «conservation works» or construction of large infrastructure facilities (for example, construction of the Tavrida highway, for more details see p. 86-90).

In addition, the collections of Ukrainian museums in Crimea are exported to Russia, where they are exhibited as artifacts of Russian history.

98 In this context, see the following sources of international law: the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Additional Protocols 1954 and 1999, the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War of 1949 and Additional Protocols I and II to the 1977 Geneva Conventions, Code of Customary International Humanitarian Law of the International Committee of the Red Cross.

As of the beginning of 2014, there were 14,000 cultural monuments, 54 museums, 300,000 museum objects, 6 historical and cultural reserves on the Crimean peninsula[99]. By the end of 2014, the Russian Federation had created a legal and regulatory framework[100] that made it possible to integrate the entire cultural heritage of Crimea into the legal framework of the occupying state.

In addition to the illegal withdrawal and destruction of property, the occupation authorities also banned persons who are not citizens of the Russian Federation from owning land plots in most of the territory of Crimea (for more details see p. 73-85).

In accordance with the Decree of the President of the Russian Federation No. 26[101] dated January 9, 2011, the ownership of land plots within the border territories of the Russian Federation by foreigners, stateless persons and foreign legal entities is prohibited.

On March 20, 2020, by Decree of the President of the Russian Federation No. 201, the effect of Decree No. 26 was extended to the occupied territory, since 80% of the territory of the Autonomous Republic of Crimea and 99.95% of the territory of the city of Sevastopol[102] are referred to the border territories. The Russian authorities, in violation of international law, obliged the legal owners of such land plots to carry out their mandatory alienation within a year, that is, until March 20, 2021.

In case of non-fulfillment of the requirement of voluntary alienation, the occupation authorities will carry out the compulsory redemption of land plots through a judicial procedure on the basis of Article 238 of the Civil Code of the Russian Federation[103].

Thus, the Decree of the President of the Russian Federation No. 201 dated March 20, 2020 violated the rights of the following categories of land owners:

a) citizens of all states other than the Russian Federation;

b) citizens of Ukraine who, as of March 18, 2014, permanently resided in the Autonomous Republic of Crimea and the city of Sevastopol and who subsequently applied for the retention of Ukrainian citizenship (renounced the Russian citizenship imposed on them in the manner established by the occupying state);

c) citizens of Ukraine who did not permanently reside in the Autonomous Republic of Crimea and the city of Sevastopol on March 18, 2014;

d) stateless persons;

e) legal entities that have foreign status in terms of the legislation of the Russian Federation.

The facts of illegal withdrawal and destruction by the occupation authorities of objects of private property of individual citizens and enterprises were repeatedly reflected in the reports of the UN, the Council of Europe and the OSCE.

The annual reports of the Office of the Prosecutor of the International Criminal Court indicate that it is studying the issue of the possible commission of war crimes in the occupied territory of Crimea and the city of Sevastopol in the form of seizing the enemy's property that is not imperatively demanded by the necessities of war (see p. 19-20 above).

99 Cultural heritage under the influence of the armed conflict in Ukraine: challenges and answers. Hromadskyi prostir (Public Space) https://www.prostir.ua/?news=kulturna-spadschyna-pid-vplyvom-zbrojnoho-konfliktu-v-ukrajini-vyklyky-ta-vidpovidi

100 Federal Law «On the peculiarities of the legal regulation of relations in the field of culture and tourism in connection with the accession of the Republic of Crimea in the Russian Federation and on forming new constituent entities within the Russian Federation, the Republic of Crimea and the city of federal significance Sevastopol» № 9-FZ dated 12.02.2015 https://docs.cntd.ru/document/420252866

101 Decree of the President of the Russian Federation № 26 dated 09.01.2011 "On approval of the list of border areas in which foreign citizens, stateless persons and foreign legal entities cannot own land plots" (as amended) http://base.garant.ru/12181778/#friends

102 Decree of the President of the Russian Federation No. 201 dated March 20, 2020 «On Amending the List of Border Territories Where Foreign Citizens, Stateless Persons and Foreign Legal Entities Cannot Own Land Plots, Approved by the Decree of the President of the Russian Federation No. 26 dated January 9, 2011» https://rg.ru/2020/03/23/granica-zemlya.html

103 Civil Code of the Russian Federation. Article 238. Cessation of the right of ownership to the property in the person, who may not own it http://www.consultant.ru/document/cons_doc_LAW_5142/4f37c70c81d4b942cef2a8d7be6d97a1cf2586f4/

These actions may constitute a war crime within the meaning of Article 8(2)(a)(iv) of the Rome Statute of the International Criminal Court.

By these actions, the Russian Federation violates the rights of individuals to peaceful ownership of property, protected by Article 1 of the Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, and in some cases other rights (right to respect for private and family life - Article 8, freedom of religion - Article 9 and others).

The massive violation by the Russian Federation of the rights of property owners in occupied Crimea tends to continue, at least until the moment when the Russian Federation recognizes the fact that the territory of the Autonomous Republic of Crimea and the city of Sevastopol are occupied by it and they are subject to the norms of international humanitarian law.

The seizure of property that is the main means of production (land, real estate, equipment, integral property complexes, etc.) led to the termination of activities of many Ukrainian companies and enterprises in Crimea and Sevastopol.

In turn, the withdrawal/destruction of property that is housing or a source of income for citizens, leads to the termination of the close ties of owners with the occupied territory, which in turn increases the likelihood of their relocation (forced relocation) from this territory.

The withdrawal of property used for religious purposes often leads to the liquidation of a religious community, as a result of which its members are forced either to join another community, or to leave for a territory where the free practice of their religion is possible.

In addition, the arbitrary withdrawal and destruction of property, being a gross violation of human rights, in itself causes fear and anxiety, which can become a driving factor in the decision to leave the occupied territory, not only by those who have been victims of such violations, but also those on whose eyes it happens.

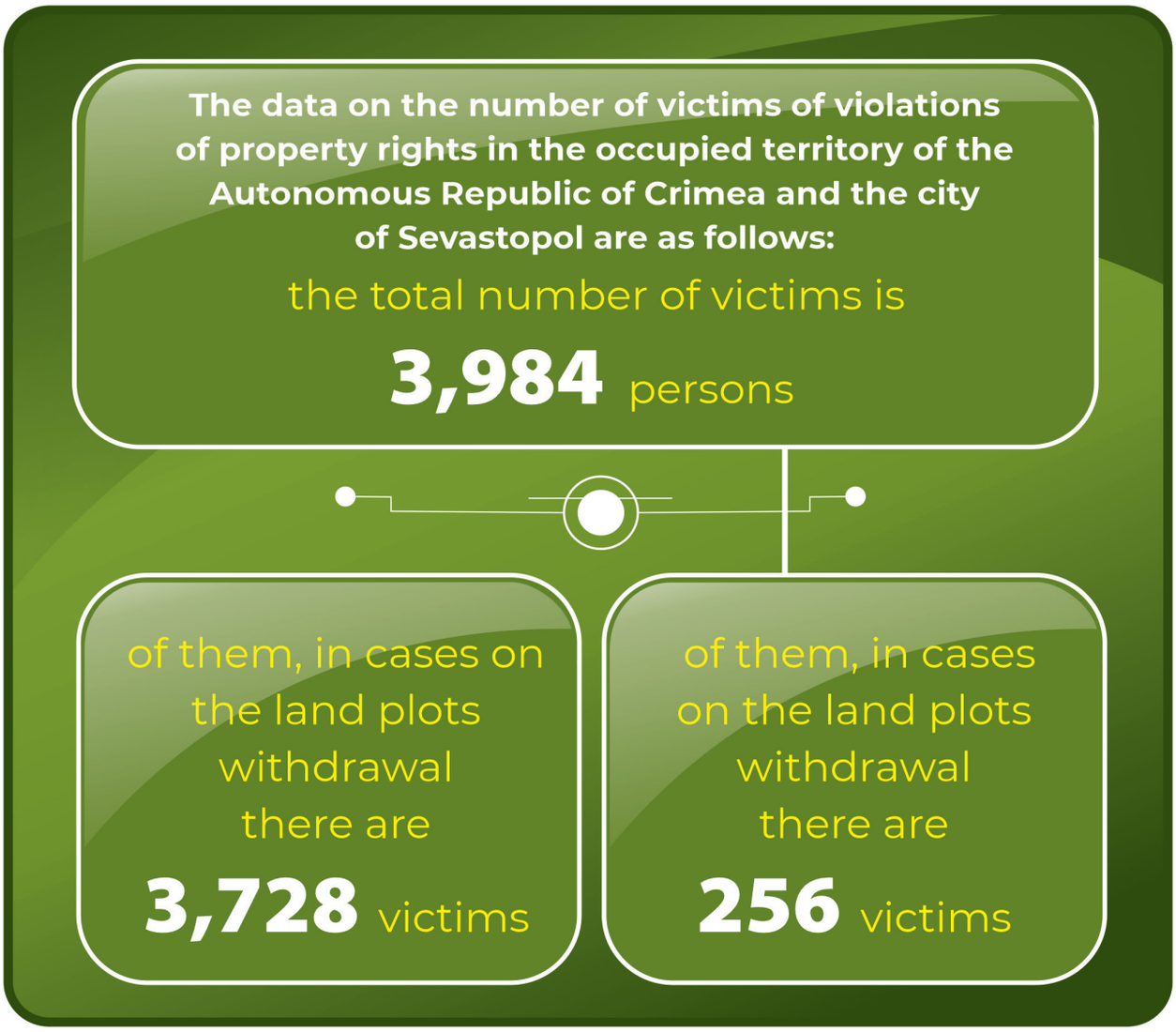
The policy of mass withdrawal and destruction of property objects can and should be considered as one of the tools by which the occupation authorities drive out part of the population from the Crimean peninsula, which entails a forced change in the demographic composition of the population of the occupied territory in favor of the «colonialists», i.e. citizens of the Russian Federation who move to the Autonomous Republic of Crimea and the city of Sevastopol from the territory of the occupying state.

The monitoring of the activities of the courts in the occupied territory conducted by the Regional Center for Human Rights covered the period from March 2014 to June 2019.

Decisions for which there was information about their revision in cassation, including by the Supreme Court of the Russian Federation, were also monitored for the results of the cassation appeal (including, for the period until June 2021).

In general, in the course of the study, more than 9 thousand court decisions were subjected to the primary analysis. Many of them were associated with the court consideration of disputes over property, the right to ownership of which was acquired by the owners already after the occupation, in violation of the legislation of Ukraine. Information on the results of the court proceedings of many cases that potentially fell under the selection criteria for analysis is not available on the websites of the occupation courts, and therefore it was not possible to draw a conclusion about the presence or absence of human rights violations in these cases. For these reasons, both categories of cases were excluded from monitoring.

The overall monitoring result is based on the analysis of 3,623 cases in which court decisions have entered into legal force, or in which there is no information on appeal in the records of the occupation courts. Of these, there are 3,475 cases on the land plots withdrawal and 148 cases on the demolition of real estate objects.

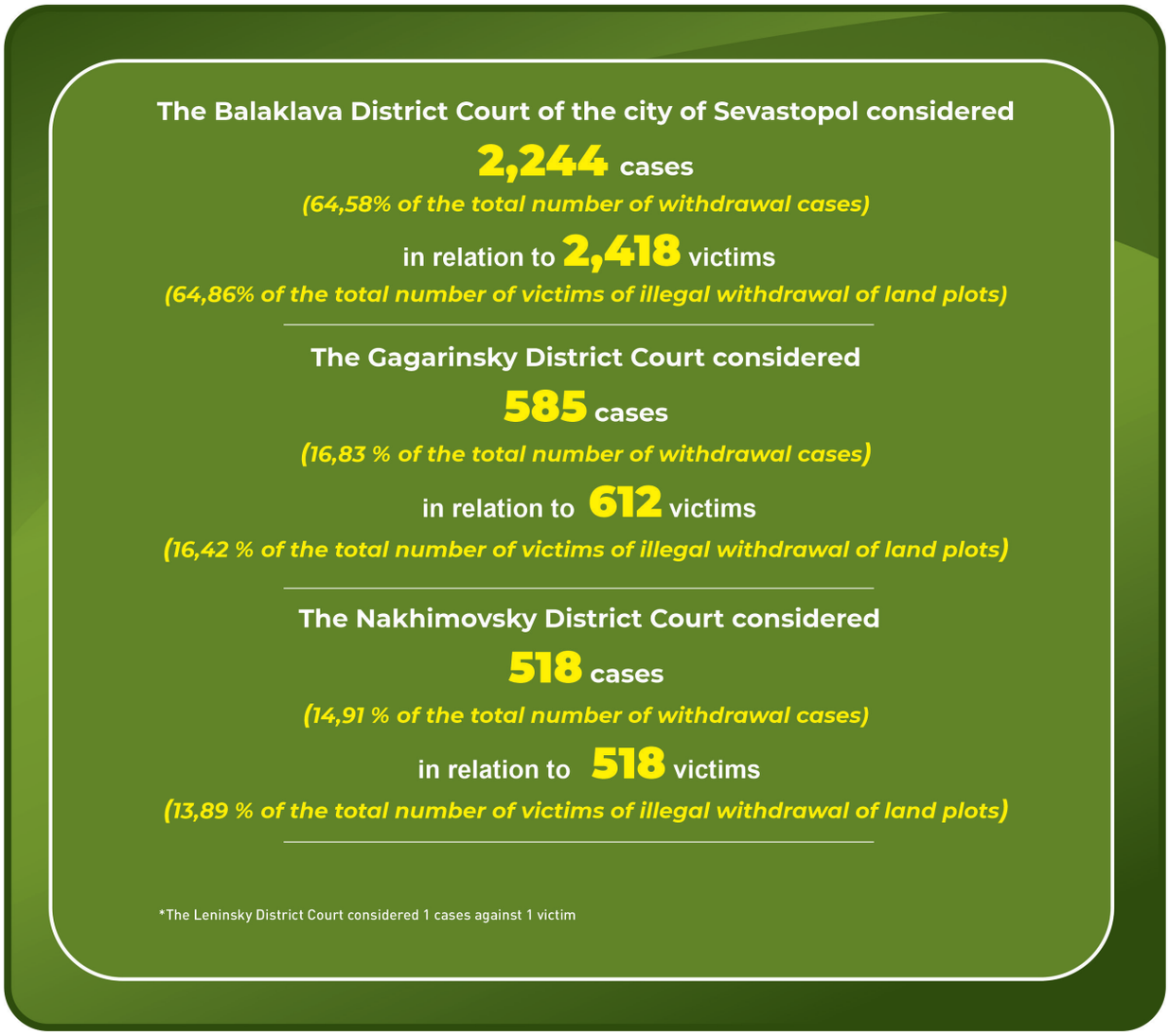


The data on the number of victims of violations of property rights in the occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol are as follows:

- the total number of victims is 3,984 persons;
- of them, in cases on the land plots withdrawal there are 3,728 victims;
- in cases on the demolition of real estate objects there are 256 victims.

The fact that the number of court decisions and the number of victims does not coincide is explained by the fact that as a result of the adoption of certain court decisions, simultaneously several victims were deprived of their ownership of land plots or real estate objects. In addition, some victims have been deprived of ownership of several land plots or real estate objects. For example, a citizen of Ukraine B.K.V.[104] was deprived of the right to ownership of 62 land plots by the Gagarinsky District Court of the city of Sevastopol. All of them were acquired by him on the basis of purchase and sale contracts, notarized in accordance with Ukrainian legislation, during the period 2009-2010.

Withdrawal of land plots



104 Complete data are at the disposal of the NGO RCHR.

The authorities of the city of Sevastopol approached the issue of the withdrawal of land plots most systematically. They developed a special scheme, which was actively implemented in the courts by lawyers of Pravozashchita LLC, with which December 30, 2016, the «Directorate of the Governor's Office and the Government of Sevastopol» concluded a contract for the provision of complex legal services on the withdrawal of land plots from the city's population (see p. 110-116 of this review).

This «organization of work» by the occupation authorities led to the fact that it was the courts of the city of Sevastopol that became leaders in the violation of the rights of land owners. In total, they considered 3,348 cases on the withdrawal of land plots in relation to 3,549 victims.

The population of the Balaklava (mainly rural) district of the city of Sevastopol suffered the most from the actions of the occupation authorities. At least 7,55% of the total population of the district[105] lost land plots previously allocated to them by the Ukrainian authorities or acquired by them in the manner determined by the legislation of Ukraine.

The results of the consideration of cases on the withdrawal of land plots and the demolition of real estate objects by years are as follows

The total number of cases considered by the courts in the occupied territory by years is as follows:

2014	3	0,08%
2015	170	4,69%
2016	212	5,85%
2017	2543	70,19%
2018	605	16,70%
2019*	90	2,49%

total 3623

* For January-June

105 According to the 2014 census, the total population of the Balaklava district was 32,042 people http://www.gks.ru/free_doc/new_site/population/demo/perepis_krim/tab-krim.htm

It is in this area that the maximum number of partnerships and cooperatives is located, both on the Black Sea coast and on the borders of protected areas, where the value of the land is highest.

Demolition of real estate objects

The sole leader in the number of cases on the demolition of real estate objects is the Yalta City Court, which considered 55 cases in relation to 121 victims. In percentage terms, it is equivalent to 37,16% and 57,81% of the total number of cases and victims, respectively.

In second place is the Nakhimovsky District Court of the city of Sevastopol with 34 cases in relation to 39 victims (in percentage terms it is equivalent to 22,97% and 15,23%).

Thus, the number of cases on withdrawal of land plots peaks in 2017 and constitutes 70,19% of the total number of cases considered in 2014-2019. The leader in the number of cases considered this year is the city of Sevastopol, which is explained by the existence of a contract between the «Directorate of the Governor's Office and the Government of Sevastopol» and Pravozashchita LLC. According to this contract, the deadline for its execution is December 31, 2017, and the number of claims to be filed with the courts is 2,500, which actually corresponds to the total number of cases considered by the Sevastopol courts in 2017.

According to the type of interference with property rights, victims can be divided into two categories:

1) victims of illegal demolition of real estate objects, totaling 256 persons, 55 of them in the city of Sevastopol and 201 in the Autonomous Republic of Crimea;

2) victims of illegal withdrawal of land plots, totaling 3,728 persons, of which 3,549 are in the city of Sevastopol, and 179 are in the Autonomous Republic of Crimea.

Among the victims of illegal withdrawal of land plots, at least 642 (17,22%) can be attributed to the secondary owners, i.e. those who acquired ownership of the land plots on the basis of notarized purchase and sale contracts, which were concluded in accordance with the current legislation of Ukraine. Despite the fact that all these persons are good-faith purchasers, the occupation courts held them fully responsible for the «inconsistency of the acts» of state bodies, on the basis of which the primary owners received the land plots. At the same time, realizing that there were no legal grounds for recognizing sale and purchase contracts, the occupation courts did not even investigate this issue, but simply indicated in their decisions that the land plots should be «withdrawn from illegal possession» of these persons. The court decisions do not provide for any compensation for such «withdrawal».

In addition to individual owners, entire collectives of various kinds of partnerships also suffered from the actions of the occupation authorities, i.e. partnerships of individual developers, servicing cooperatives, summer cottages, gardeners and others. As a result of monitoring, 73 of them were identified.

The total area of land plots withdrawn by court decisions is at least 478 hectares (4,780,000 square meters), of which 388 hectares are in the city of Sevastopol, and 90 hectares are in the Autonomous Republic of Crimea.

These indicators are confirmed by the texts of court decisions. In fact, the amount of the withdrawn land is much larger. For example, the register of court decisions does not contain data on the withdrawal of land from members of such partnerships as «Sunbriz», «Salgir», «Alkadar» (a total of at least 150 owners) and some others. The register contains only 25 court decisions on the housing and construction partnership «Gorny-2», while in fact, the land was withdrawn from all its members (more than 160 people), and the total area of the withdrawn land plot was 17 hectares. A similar situation is in the partnerships «Opushka», «Siesta», «Planet Plus» and others.

An analysis of the participation of the parties in the trial proceedings before the courts indicates that in most of them the occupation authorities for «property and land relations» took part, in 2,886 cases (79,66%), while the role of the prosecutor was often limited only to filing a claim to court. Thus, representatives of the prosecutor's office took part in the consideration of 252 cases, or 6,96% of their total number.

Victims of illegal deprivation of property rights took part in only 341 trial proceedings (9,41%), and their representatives in 1,229 (33.92%).

1,250 cases (34.50%) were considered in absentia[106].

Special attention should be paid to the fact that claims were received from the prosecutor's office, bodies of «property and land relations» of the Ministry of Defense of the Russian Federation, as a rule, after the statute of limitations expired. The statute of limitations was skipped in at least 2,361 cases (65,17% of the total number of cases), which the victims or their representatives stated in court hearings or in their written objections to the claim in 616 cases. In the remaining 1,745 cases, the victims were either deprived of such an opportunity due to the fact that the cases were considered in absentia (1,250 cases), or did not declare this for other reasons (495 cases).

It is worth noting that the judges who moved to occupied Sevastopol to administer justice were those who considered the largest number of cases related to the withdrawal of land from Sevastopol residents. The aforementioned judges considered 3,180 cases in the courts of first instance and appeal.

The distribution of claims filed with the courts was often organized in such a way that, in fact, certain partnerships and cooperatives were assigned to certain judges. For example, in the Balaklava District Court of the city of Sevastopol, all 10 cases against owners of land plots from HCAID[107] «Mys Zeljony» were considered by the same judge, A.M. Dybets. Judge of the same court E.Yu. Fedulavnina considered all 10 cases against members of HCAID «Usadba», judge V.S. Zmeevskaya (Livshits) considered all 4 cases against members of HCAID «Yuzhny», and judges I.A. Anashkina and N.V. Miloshenko divided among themselves cases of members of HCAID «Vishnyovy sad».

106 Without the participation of defendants or their representatives.
107 Housing and construction association of individual developers.

The largest number of cases on the withdrawal of land plots were considered by the following judges:

Anashkina Irina Alexandrovna, Balaklava District Court of the city of Sevastopol (currently is the judge of the Sevastopol City Court)	Previously she was a judge of the Russian Federation (Altai Territory)	**748**
Miloshenko Nadezhda Vladimirovna, Balaklava District Court of the city of Sevastopol	Previously she was a judge of the Russian Federation (Altai Territory)	**741**
Livshits (Zmeevskaya) Victoria Sergeevna, Balaklava District Court of the city of Sevastopol (resigned on September 7, 2018)	Previously she lived in Crimea, was appointed judge in 2017	**348**
Fedulavnina Elena Yurievna, Balaklava District Court of the city of Sevastopol (resigned on October 12, 2018)	Previously she lived in Crimea, was appointed judge in 2017	**318**
Gavura Olga Vladimirovna, Gagarinsky District Court of the city of Sevastopol	Until March 2014 she was a judge of the District Administrative Court of the city of Sevastopol	**281**
Motsny Nikolay Vladimirovich, Gagarinsky District Court of the city of Sevastopol	Until March 2014 he was a judge of the Court of Appeal of the city of Sevastopol	**232**
Zhilyaeva Olga Ivanovna, Sevastopol City Court	Previously she was a judge of the Russian Federation (Rostov Region)	**518**
Vaulina Anna Viktorovna, Sevastopol City Court	Previously she was a judge of the Russian Federation (Orenburg Region)	**304**
Balatsky Evgeny Vasilievich, Sevastopol City Court	Previously he was a judge of the Russian Federation (Krasnoyarsk Territory)	**448**
Volodina Lyubov Vasilievna, Sevastopol City Court (resigned in October 2019)	Until March 2014 she was a judge of the Court of Appeal of the city of Sevastopol	**554**
Gerasimenko Elena Viktorovna, Sevastopol City Court	Previously she was a judge of the Russian Federation (Krasnoyarsk Territory)	**421**

The situation with the distribution of cases is similar in other Sevastopol courts. Thus, in the Gagarinsky District Court, all 35 cases against members of HCAID «Fregat» were considered by Judge N.V. Motsny, and judge O.V. Gavura considered 120 out of 122 cases against members of HCAID «Berkut – 08». In the Nakhimovskiy District Court, all 37 cases against members of HCAID «Izumrudny – 09» were considered by Judge E.M. Mokh.

It should be noted that the cases were distributed to the same judges even when claims were filed with the court at different times, which is confirmed by the case numbers that were assigned to them upon admission, as well as data on the progress of the case published on the courts' websites.

It should be noted, furthermore, that, as a rule, decisions in this category of cases were written by judges «according to a template», when the text of decisions remained the same, only the names of the participants in the proceedings, the names of HCAIDs, the numbers and sizes of land plots changed.

The situation with the consideration of cases in the Court of Appeal of the city of Sevastopol looks even worse from the point of view of impartiality. Five judges of this court (out of 21 judges according to the staffing table) participated in the consideration on appeal of cases of this category 2,245 times[108]. In fact, they considered almost all the cases that were submitted to this court.

This approach to the distribution of cases left the victims no chance of an impartial trial by the judges of the occupation courts. Perhaps this explains the fact that only 32,46% of the decisions of the courts of the first instance (1,176 out of 3,623) were appealed by the victims in the appeal procedure and in the cassation procedure even several times less. In total, 47 decisions were overturned on appeal and cassation, with the cases being remitted for new consideration. Based on the data of the court registers of the occupation courts, in 31 cases the courts of cassation left the decisions of the lower courts unchanged[109].

Many owners who became victims of illegal withdrawal of land plots drew attention to the change in the normative evaluation of land in the period of 2015-2017, which decreased by 30-50%, mainly for those lands in respect of which the occupation authorities decided to withdraw them[110]. There were also cases of withdrawal from the register open data of information on the normative (cadastral) evaluation of land plots in respect of which the cases were considered by the Sevastopol courts. This behavior of the authorities, apparently, is connected with the assessment of the prospects for the submission of applications to the European Court of Human Rights by the former owners and the desire to reduce the amount of possible compensation for the illegally withdrawn land, which the Court can determine in case of recognition of the violation of Article 1 of Protocol No. 1 to the Convention.

108 This figure exceeds the total number of cases considered on appeal, since, according to the law, cases in the court of appeal are considered by a panel of 3 judges.
109 These data are probably inaccurate since the authors are aware of at least 100 cases of victims' applications to the European Court of Human Rights, which could have been done only after passing the cassation appeal procedure in the Supreme Court of the Russian Federation.
110 The cadastral evaluation was introduced later, starting from 2019-2020 and it was already much higher than the original normative evaluation.

DEMOLITION OF A 16-STOREY BUILDING IN THE CITY OF SEVASTOPOL

On December 27, 2014, the occupation authorities demolished an object under construction, a 16-storey building, located in the center of Sevastopol at 12 Kapitanskaya Street (Cape Khrustalny)[111].

The reason for the demolition of the building was the court decision of the Economic Court of Sevastopol of June 27, 2014 (case № 919/320/14-RF)[112], whereby the authorities tried to create the appearance of legitimacy of the destruction of this object. The court's decision was based on the fact that the conditions of the permits issued by the Ukrainian authorities were allegedly violated during the construction of the building. At the same time, violations that could indicate a threat to human life and health were not proven during the trial. The court recognized the building to be an «arbitrarily erected object» and ordered the service cooperative «Housing and Construction Association «Anit» to demolish the building at its own expense.

The «legality» of this decision was confirmed by the decision of the Sevastopol Economic Court of Appeal dated July 30 - August 6, 2014[113].

As the service cooperative «Housing and Construction Association «Anit» didn't carry out demolition of the object at own expense within the established term, its demolition was carried out by executive service by way of compulsory execution of the court decision. Sergei Menyailo, the «governor of Sevastopol» who was present at the demolition operation, said that 400 kg of TNT-equivalent explosives had been used for this purpose[114].

After the demolition of the building, the service cooperative «Housing and Construction Association «Anit» continued to challenge the legality of the previous court decisions in cassation. However, their complaints were denied first by the decision of the Arbitration Court of the Central District (the city of Kaluga) dated December 7, 2015[115], and then by the Supreme Court of the Russian Federation dated April 11, 2016[116].

Article 53 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (IV), inter alia, prohibits any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, except where such destruction is rendered absolutely necessary by military operations. By virtue of this prohibition, many decisions and actions that could be recognized as permissible for the state on its own territory become illegal if they are committed in the territory that is occupied.

The occupation authorities, as well as the court in their decision, did not mention military necessity as the reason for the destruction of the building. Consequently, such destruction is contrary to the requirements of the Geneva Convention (IV) and is a violation of the right to peaceful possession of property guaranteed by Article 1 of the First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms.

111 https://tass.ru/obschestvo/1676067

112 Decisions of the first instance courts http://sevastopol.arbitr.ru/sites/sevastopol.arbitr.ru/files/pdf/919_320_14-%D0%A0%D0%A4_1.pdf http://sevastopol.arbitr.ru/sites/sevastopol.arbitr.ru/files/pdf/919_320_14-%D0%A0%D0%A4_2.pdfhttp://sevastopol.arbitr.ru/sites/sevastopol.arbitr.ru/files/pdf/919_320_14-%D0%A0%D0%A4_3.pdf http://sevastopol.arbitr.ru/sites/sevastopol.arbitr.ru/files/pdf/919_320_14-%D0%A0%D0%A4_4.pdf

113 Decision of the Court of Appeal http://21aas.arbitr.ru/node/13332

114 https://sevastopol.su/news/i-vsyo-taki-ruhnul-tretiy-vzryv-16-etazhki-v-sevastopole-proveden-uspeshno-dom-lezhit-na-zemle?page=2

115https://kad.arbitr.ru/Document/Pdf/a14f755d-9923-4be5-8c77-50dc010989bb/202d5b88-0537-49af-aef7-d9932bfcb7a0/A84-350-2015_20151207_Reshenija_i_postanovlenija.pdf?isAddStamp=True

116 https://kad.arbitr.ru/Document/Pdf/a14f755d-9923-4be5-8c77-50dc010989bb/9e35d1a4-4813-45cd-bccf-524a5322269e/A84-350-2015_20160411_Opredelenie.pdf?isAddStamp=True

STATE CONCERN «NATIONAL PRODUCTION AND AGRICULTURAL ASSOCIATION «MASSANDRA»

An example of a war crime against property committed by the occupation authorities on the territory of the Crimean Peninsula is the seizure of the Ukrainian National Production and Agricultural Association «Massandra». By the time of the armed aggression of the Russian Federation, as of 2014, the association included 9 factories of primary and secondary winemaking, as well as three independent factories. The area of the land plot of «Massandra» was 104,8 hectares, and the area of its premises was about 988 thousand square meters. More than 2,800 people worked at the production facilities[117].

The seizure of «Massandra» is an ongoing war crime that consists of multiple episodes.

Episode 1. Nationalization

On March 17, 2014, the «State Council of Crimea» announced the beginning of the nationalization of the state property of Ukraine located on the territory of the Crimean peninsula. According to the occupation authorities, in general in the «Republic of Crimea» 250 objects of state property were nationalized by the end of March of the same year, although there are objective prerequisites to consider this number to be underestimated[118]. Among the seized enterprises, several were from the wine industry: the state-owned «Magarach Institute of Grape and Wine» (with an agricultural firm and factories), National Production and Agricultural Association «Massandra»[119] and the factory of champagne wines «Novy Svet»[120].

On October 21, 2014, in accordance with the Resolution of the «Council of Ministers of the Republic of Crimea» No. 389[121], «Massandra» was transferred to the Administrative Department of the President of the Russian Federation as a state unitary enterprise.

Episode 2. Destruction

A separate episode related to the common goal of the seizure of «Massandra» is the appropriation and subsequent destruction of valuable specimens of its enoteca, that contains more than 1 million bottles and is listed in the Guinness Book of Records as the largest collection of wines in terms of number and uniqueness[122]. For Ukraine, this enoteca is not only a part of the property of a state enterprise, but also a national cultural heritage.

On September 11, 2015, during a visit of Vladimir Putin and Silvio Berlusconi to the winery «Massandra», the then director of the association, Yanina Pavlenko, gave permission to open for guests one of five bottles of Jerez de la Frontera wine dated 1775. The bottle was written off the balance sheet for 44 rubles 12 kopecks, while back in 2001, by special order of the President of Ukraine, the same bottle was auctioned off at Sotheby's for 43.5 thousand US dollars[123].

117 Crimean Massandra winery was «bought» by structures close to «Putin's friends» https://biz.liga.net/ekonomika/prodovolstvie/novosti/krymskiy-vinzavod-massandra-kupila-dochka-banka-rossiya-za-2-mlrd-grn

118 Citizenship, land, «nationalization of property» in the conditions of the occupation of Crimea: lack of rights. Analytical report / Ukrainian Center for Independent Political Research: edited by Yu. Tishchenko: Agency «Ukraine». 2015. P.11

119 Resolution of the State Council of the Republic of Crimea N 1836-6 / 14 dated March 26, 2014 «On the nationalization of property of enterprises, institutions, organizations of the agro-industrial complex located on the territory of the Republic of Crimea» https://docs.cntd.ru/document/450201803

120 "Parliament" of Crimea allowed to privatize winery «Massandra», stolen by the Russian Federation from Ukraine https://investigator.org.ua/ua/news-2/225586/

121 Resolution of the Council of Ministers of the Republic of Crimea №389 dated October 21, 2014 «On approval of the Procedure for granting gratuitous use of property being in state ownership of the Republic of Crimea» https://docs.cntd.ru/document/413903040

122 Crimean authorities auctioned off the winery «Massandra» https://www.interfax.ru/business/737537

123 Sherry for Putin: How the Crimean wine factory «Massandra» came under the control of the presidential administration and what happened to it after that. Report by Ilya Zheguljov https://meduza.io/feature/2017/04/25/heres-dlya-putina

On September 17, 2015, the Prosecutor's Office of the Autonomous Republic of Crimea opened criminal proceedings against Yanina Pavlenko on the fact of the misappropriation of property on an especially large scale (part 5 of Article 191 of the Criminal Code of Ukraine)[124].

Episode 3. Misappropriation

While the production facilities of «Massandra» were transferred to the Administrative Directorate of the President of the Russian Federation, part of the land under the vineyards was transferred / sold to Russian business entities at a minimal price. Among the most indicative violations are the following: the alienation of 12 hectares of vineyards adjacent to the territory of the sanatorium-resort complex «Mriya» in favor of the Russian «Sberbank» and the sale of land under vineyards in Gurzuf. Elite grape varieties were grown on both land plots, in particular, for the production of «Red Stone White Muscat». However, the land was sold at a price at least 10 times lower than the market price (for example, the cost of 0.1 ha near Gurzuf at the auction was only 576 US dollars at the exchange rate)[125].

On December 9, 2015, the Prosecutor's Office of the Autonomous Republic of Crimea opened criminal proceedings on the fact of illegal misappropriation by officials of the Council of Ministers of the Republic of Crimea of agricultural lands located on the territory of the occupied Crimea (part 5 of article 191 of the Criminal Code of Ukraine).

Episode 4. Privatization

On February 22, 2019, the so-called «State Unitary Enterprise «Massandra» was transferred back to the disposal of the «Ministry of Property and Land Relations of the Republic of Crimea»[126]. On March 13, 2019, it was included in the list of objects to be privatized.

Finally, on December 14, 2020, at an illegal auction held on the United Electronic Trading Platform, the Ukrainian property complex of the State Concern National Production and Agrarian Association «Massandra» was sold in just 12 minutes at a price of 5 billion 327 million rubles (about 60 million Euro at the exchange rate) to the company «Yuzhny Project» owned by Yu. Kovalchuk. This Company is part of the bank «Russia», which is the «new owner» of the formerly Ukrainian factory of champagne wines «Novy Svet». Only one company participated in the auction («Estate Group» by Alexander Voloshin) except for the company «Yuzhny Project»[127]. Despite the assurances of the occupation authorities regarding an independent assessment of the assets of «Massandra», according to experts, its wine collection alone is actually worth about 4 billion Euro[128]. Considering this fact, as well as the fact that the initial and final prices for «Massandra» at the auction are almost the same, it can be stated that the auction was a «showcase» deliberately organized by the occupying state to give at least minimal legitimacy to its actions.

However, the very fact of such an auction and the subsequent «privatization» of «Massandra» is an obvious continuation of the war crime that began with the illegal nationalization of the enterprise in 2014. Even if we assume that the real value of the concern would have been obtained at the auction, it remains illegal *per se*, since the occupying state, in accordance with the norms of

124 The ARC prosecutor's office opened a case over sherry drunk by Putin and Berlusconi https://lb.ua/news/2015/09/17/316189_prokuratura_ark_zavela_delo_izza.html
125 Stolen means sold. Vagit Alekpjorov is an ordinary Russian thief http://argumentua.com/stati/ukradeno-prodano-vagit-alekperov-obychnyi-russkii-vor
126 Order of the Council of Ministers of the Republic of Crimea No. 272-r dated March 13, 2019 «On the adoption of the Federal State Unitary Enterprise «Production and Agricultural Association «Massandra» of the Administrative Directorate of the President of the Russian Federation into the state ownership of the Republic of Crimea https://rk.gov.ru/ru/document/show/16009
127 The Crimean authorities auctioned off the winery «Massandra» https://www.interfax.ru/business/737537
128 «Massandra» was poured into the «Lake» (cooperative society «Ozero»). The Crimean government sold the famous winery to the president's friend Yuri Kovalchuk for nothing https://novayagazeta.ru/articles/2020/12/15/88380-massandru-slili-v-ozero

international humanitarian law, is prohibited from appropriating both private and public property in the occupied territory without military necessity. Consequently, the illegal nationalization, which began the process of transfer of ownership of the concern, cannot be a legal basis for its subsequent «privatization»[129].

Article 8(2)(b)(xiii) of the Rome Statute of the International Criminal Court classifies as war crimes «destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war»[130]. The latter, among other things, provides that the Occupying Power can use objects that belong to the state property of the enemy, if this is necessary to achieve military advantage and only in compliance with the principle of proportionality. Given the absence of active hostilities on the territory of the Crimean Peninsula, as well as the nature of the property (wine-making enterprise), the Russian Federation cannot refer to military necessity as a legitimate aim for derogation from its obligations under international humanitarian law.

Among the international legal mechanisms for the protection of property rights to the National Production and Agricultural Association «Massandra» are the following:

- appeal to the International Investment Arbitration on the basis of the 1998 Intergovernmental Agreement on the Encouragement and Reciprocal Protection of Investments[131];
- an application to the ECHR for a violation of Article 1 of Protocol 1 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms;
- bringing the perpetrators to individual criminal responsibility in the International Criminal Court;
- the imposition of economic sanctions on the enterprise, its new owners, as well as on other legal entities involved (in particular, those who purchased land under vineyards) and on the organizers of the illegal auction, i.e. legal entities and individuals.

THE DECISION OF THE OCCUPATION AUTHORITIES TO DEMOLISH THE TEMPLE IN EVPATORIA

The temple in the name of the Most Pure Image of the Mother of God «Burning Bush» in the city of Evpatoria was built in 2013. This chapel-church is the only temple of the Orthodox Church of Ukraine (OCU) in Evpatoria and adjacent areas.

In 2014, during the absence of the senior priest of the church, Fr. Yaroslav, in connection with his departure to Kiev, an attack was made on the church building, as a result of which its dome was burned. After a while, the dome was restored at the expense of the parishioners.

On November 6, 2019, the Evpatoria City Court (judge Galina Borisovna Lobanova)[132] issued a default judgement, which satisfied the claim of the local authorities for the demolition of the temple. The Office of the Crimean Diocese of the OCU filed an application for revising this default judgement, but it was rejected by the ruling of the Evpatoria City Court dated December 17, 2019.

On January 17, 2020, the Office of the Crimean Diocese through the postal service filed an appeal against the judgement of November 6, 2019.

On July 23, 2020, the Office of the Crimean Diocese received a copy of the request for the bailiff's order regarding the demolition of the temple. Also, the Office of the Diocese found that the appeal filed by it against the default judgement was not received by the court for unknown reasons.

129 «Ex injuria jus non oritur»

130 Rome Statute of the International Criminal Court https://www.icc-cpi.int/nr/rdonlyres/add16852-aee9-4757-abe7-9cdc7cf02886/283503/romestatuteng1.pdf

131 Agreement between the Cabinet of Ministers of Ukraine and the Government of the Russian Federation on the promotion and mutual protection of investments https://zakon.rada.gov.ua/laws/show/643_101#Text

132 Prior to her appointment to the position in the occupation court, she worked as a justice of the peace at the court section No. 11 of the city of Taganrog, Rostov region.

On August 5, 2020, the Evpatoria City Court rejected the request of the Office of the Crimean Diocese to restore the deadline for the appeal. The Office of the Crimean Diocese appealed against this decision. However, such an appeal does not stop the execution of the court decision concerning the forced demolition of the church building by the Russian authorities.

On August 13, 2020, the Evpatoria City Court changed the order of execution of the judgement of November 6, 2019. The Evpatoria City Administration was given the right to destroy the chapel on its own. This decision was also appealed by the Office of the Crimean Diocese.

On December 1, 2020, the Office of the Crimean Diocese of the UOC (OCU) received a resolution No. 82011/20/20731 dated November 3, 2020 from the department of bailiffs in Yevpatoria in an administrative offense case. The document notes that in connection with the failure to comply with the decision of the Evpatoria City Court regarding the dismantling of the temple in the name of the Most Pure Image of the Mother of God «Burning Bush» in the city of Evpatoria, the Office of the Diocese is obliged to pay an administrative fine of 30 thousand rubles. On the same day, the Office of the Crimean Diocese received protocol No. 1399/20/82011 dated November 18, 2020 on an administrative offense and an order to set a new deadline for"the execution of the judgement of the Evpatoria City Court. The order on the appointment of a new execution deadline notes that the debt of the Office of the Crimean Diocese for enforcement proceedings as of November 18, 2020 is already 50,000 rubles, and the new deadline for the execution of the court judgement is determined until December 03, 2020.

On March 15, 2021, Metropolitan of Ukrainian Simferopol and Crimean Orthodox Church Kliment received another demand from the so-called «Office of the Federal Bailiff Service for the Republic of Crimea in the city of Evpatoria» for the immediate dismantling of the parish church in the name of the Dormition of the Icon of the Mother of God «Burning Bush».

According to the requirement of the occupation authorities, the dismantling of the temple and the release of the land plot must be completed by March 24, 2021.

According to the information of the senior priest of the temple, Fr. Yaroslav, in 2021, divine services in the temple continue as usual, the authorities have not bothered with demands for demolition for some time. However, the risk of destruction of the temple remains as the demolition order is still in force.

THE SEIZURE OF A MOSQUE FROM A MUSLIM COMMUNITY IN THE CITY OF ALUSHTA

The Yukhary-Jami (Yukary Jami) mosque in Alushta was built in the 30s of the 19th century. During its almost two-century history, it has gone through difficult times of closure and transfer to the management of various agencies. Since 1962, it housed a children's and youth sports school, and in the spring of 1986 the mosque building was declared a cultural monument of local importance and taken under state control.

On September 8, 1994, by the decree of the Crimean government No. 150, the Yukhary-Jami mosque was transferred for the free unlimited use of the Muslim community «Alushta». The actual transfer of the mosque to the Muslim community took place on August 30, 1996 on the basis of the certificate of acceptance and transfer. From that moment on, the mosque is actively used by the religious community for its intended purpose, i.e. joint prayers of community members, divine services and other religious activities are held there.

After the beginning of the occupation of the peninsula by the Russian Federation, the mosque continued to be used by the religious community for several years. Afterwards, on the basis of the Order of the Council of Ministers of the Republic of Crimea No. 1111-r dated September 18, 2018 «On

assignment of property»[133], the mosque building, despite the already existing right to use it, was assigned to the State Committee for Interethnic Relations and Deported Citizens of the Republic of Crimea on the basis of the right of operational management[134].

This Order was challenged in court by the local religious Muslim community «Alushta». The plaintiff requested that this order be declared illegal and canceled.

By the decision of the Alushta City Court of the Republic of Crimea dated February 14, 2019 (judge Tatiana Leonidovna Zakharova[135]), the community was denied the claim. The plaintiff filed an appeal against this decision.

By the appellate ruling of the Supreme Court of the Republic of Crimea dated June 25, 2019 (presiding judge Evgeny Gennadievich Pavlovsky[136], judges Natalya Rudolfovna Mostovenko[137] and Zoya Ilyinichna Kurapova[138]) the appeal was dismissed, and the decision of the first instance court was left unchanged.

On June 10, 2019, two weeks before the consideration of the case by the Supreme Court of the Republic of Crimea, the chairman of the religious community Lenur Khalilov (who signed and filed a claim to invalidate Order No. 1111-r and an appeal against the decision of the Alushta City Court), as well as a member of the revision commission of the community Ruslan Mesutov and two other members of the community were arrested and charged with committing criminal offenses under Part 1 of Article 205.5 («Organization of the activities of a terrorist organization») and Part 1 of Article 30, Article 278 («Preparation for the violent seizure of power») of the Criminal Code of the Russian Federation.

CASES OF THE INDIVIDUALS

A.Z.M.

A.Z.M. was deprived of the right to use a land plot with an area of 72.5163 hectares from agricultural land for running a personal peasant farm under a lease agreement. The agreement was concluded on April 23, 2007, with the Pervomaiskaya regional state administration of the Autonomous Republic of Crimea for 49 years (from 2007 to 2056) with the obligation to pay the rent within the terms established by the agreement (monthly).

After the beginning of the occupation of the Crimean peninsula, the state bodies of Ukraine lost effective control over the territory of the Autonomous Republic of Crimea. As a result, A.Z.M., like many other residents of the peninsula, found herself in a situation of legal uncertainty about the amount of rent payments, the actual lessor and the method of payment. In addition, the occupation authorities did not bill the tenants for annual payments because no cadastral valuation of the land had been carried out. For these reasons, in 2015-2016, A.Z.M. was unable to pay for the land. In addition, the tenant did not receive the claim to repay the resulting debt for the use of the land plot and the penalty at the address of her residence, as well as the agreement on early termination of the above mentioned land lease agreement.

133 https://rk.gov.ru/ru/document/show/13986

134 https://rk.gov.ru/ru/get-attachment/60969f58f455bfbea3d955c1a69eeee101464bbd6d2e2c82f6030dff9a30bb22a8b862e03cf5155b0773878c45e46d62380459364d5da8872c334e543c80634d

135 Before the occupation, she lived in Crimea, was appointed to the position of a judge by the Decree of the President of the Russian Federation No. 294 dated June 22, 2016.

136 Prior to his appointment to the occupation court, he worked as a judge of the Oktyabrsky District Court of the city of Omsk.

137 Prior to her appointment to a position in the occupation court, she worked as a judge of the Serovsky District Court of the Sverdlovsk Region.

138 Before the occupation of the Autonomous Republic of Crimea and the city of Sevastopol, she was a judge of the Sevastopol Administrative Court of Appeal, and subsequently continued to work in the occupation court established by the Russian Federation.

On August 10, 2017, the land lease agreement between the «Pervomaisky District State Administration of the Republic of Crimea»[139] and Abduraimova Zarema Mamutovna was terminated ahead of schedule by the decision of the Pervomaisky District Court of the Republic of Crimea (judge was Mikhailova Lyudmila Aleksandrovna)[140], at the suit of the Ministry of Property and Land Relations of the Republic of Crimea. Herewith, the plot was withdrawn from the tenant. The trial took place without the participation of the victim and her representative.

The court concluded that the debt of A.Z.M. for land rent amounted to 66071.78 rubles. This amount was derived through simple calculations without taking into account the cadastral value of the land plot. Moreover, the court proceeded from the defendant's unwillingness to challenge the existence of a debt and provide evidence of the proper execution of the terms of the contract, although the meeting was held in absentia.

On May 23, 2018, by the decision of the «Supreme Court of the Republic of Crimea» (judges Rogozin Konstantin Viktorovich[141], Podlesnaya Irina Anatolyevna, Khmaruk Natalya Sergeevna)[142], the decision of the court of first instance was canceled due to the consideration of the case by the court without the participation of the victim and her representative. However, this was only a «procedural formality», since, based on the results of the appeal review, the «Supreme Court» made exactly the same decision as the district court. The court decision came into force on the same day.

On August 7, 2018, by the decision of the judge of the «Supreme Court of the Republic of Crimea», it was refused to transfer the cassation appeal of A.Z.M. for consideration in the court session of the court of cassation.

M.N.V.

M.N.V. was deprived of the right to use two land plots for individual housing construction of 0,1 hectares each, which were acquired in April 2010 from the previous owner for 105,000 US dollars. Herewith contracts for the purchase for ach land plot were executed before a notary. The previous owner received the land on the basis of the order of the Sevastopol City State Administration dated February 6, 2009 as a member of one of the cooperatives on the territory of the Crimean Peninsula, as provided for in the the legislation of Ukraine in force at that time.

On March 28, 2017, the «Directorate of Property and Land Relations of the City of Sevastopol» applied to the court with claims to invalidate both certificates of ownership of the land plots, to recognize the ownership of land plots as missing and to reclaim them from the possession of M.N.V. The Directorate 's claims were justified by the need to reclaim the property from the «illegal possession», since the land plots were removed from state ownership of Ukraine contrary to the provisions of Ukrainian legislation in force as of 2009, and therefore must be returned to state ownership, but this time the ownership of the Russian Federation.

On September 18, 2017, the Balaklava District Court of the city of Sevastopol (cases No. 2-964 / 2017 and 2-958 / 2017, judge Miloshenko N.V.[143]) decided to satisfy both claims of the «Directorate» and to withdraw land plots. In support of the decision, the court referred to a certificate from the Archive of the city of Sevastopol stating that the originals of the order dated February 6, 2009 were not in the materials of the Archive, as well as to the «lack of authority» of the Sevastopol City State Administration to issue an order to allocate land plots to the ownership of the primary owner. At the same time, the burden of proving the presence of the originals of documents in the Archive, which

139 A court was illegally created by the Russian Federation on the territory it occupied.
140 Ukrainian judge who joined the service of the occupying state.
141 Russian judge moved to the occupied territory from the territory of the Russian Federation (Stavropol Territory).
142 Both are Ukrainian judges who joined the service of the occupying state.
143 Russian judge moved to the occupied territory from the territory of the Russian Federation (Altai Region)

was seized by the occupation authorities in March 2014, was actually placed on the defendant, who, unlike the occupation authorities, did not have access to it.

It should be emphasized that the appeal of the «Directorate for Property and Land Relations of the City of Sevastopol», the prosecutor's office of the Russian Federation or the Ministry of Defense to the Archive with the subsequent conclusion of the Archive about the «absence» of originals of documents confirming ownership, which cannot be refuted in conditions of limited access to the Archive, is a widespread scheme of depriving individuals of ownership of land in occupied Crimea.

It is noteworthy that the court session lasted only 22 minutes, taking into account the time taken to prepare the resume part of the decision, which indicates that the text of the latter was prepared in advance, and the results of the court session were determined long before it was held[144].

M.N.V. appealed against both decisions, however, the Sevastopol City Court, by a ruling dated February 5, 2018, dismissed the appeal. At the same time, the trial itself in the Court of Appeal lasted 1 minute, and the representative of M.N.V. did not have the opportunity to present the reasons for the appeal before the court.

On June 13, 2018, the Presidium of the Sevastopol City Court refused to satisfy the cassation appeal of M.N.V. On October 1, 2018, the Supreme Court of the Russian Federation made a similar decision.

L.A.B.

L.A.B. owned a land plot located in the city of Sevastopol on the territory of the service cooperative «Housing and Construction Association «Sloboda». The land plot was allocated to L.A.B. on April 14, 2010 on the basis of the decision of the Sevastopol City Council on the transfer of ownership of land plots in the area of Sapun Mountain to members of the service cooperative «Housing and Construction Association «Sloboda» for the construction and maintenance of houses, household buildings and structures.

In August 2015, the «Sevastopol Interdistrict Environmental Prosecutor» appealed to the Balaklava District Court of the city of Sevastopol with a request to withdraw land plot in the area of Sapun Mountain from the «illegal possession» of L.A.B. According to the prosecutor, the said decision of the Sevastopol City Council is illegal, since it «actually changed the purpose of the land plot in violation of the provisions of Ukrainian legislation». Among other arguments, the prosecutor referred to other violations of the requirements of the legislation of Ukraine in force at that time and the «damage to the economic interests of the constituent entities of the federation in the field of rational land use» caused by the decision.

On February 03, 2016, the Balaklava District Court of the city of Sevastopol (judge - Muradyan Ruzanna Pergevovna[145]) decided to refuse the «Sevastopol Interdistrict Environmental Prosecutor» to satisfy the requirements for invalidating the state act on the ownership of the land plot, annulling the entry in the state real estate cadaster about the land plot and withdrawing the land plot, as the plaintiff did not present the court with proper evidence to make a conclusion about the «illegality of ownership». At the same time, the court referred to the fact that the above-mentioned ruling of the District Administrative Court of the city of Sevastopol of June 1, 2012 has prejudicial effect for the resolution of the «dispute».

144 An analysis of such cases indicates that the court sessions on them lasted within 22-25 minutes, which is a kind of «standard» of this court for considering a dispute of this category

145 Before the occupation of the Autonomous Republic of Crimea and the city of Sevastopol, she was a judge of the Balaklava district court of the city of Sevastopol, and subsequently continued to work in the occupation court created by the Russian Federation

The Court also took into account that the act of inspection of the «authorized body of state power and management in the field of geodesy, cartography and land management» did not confirm the overlapping of the disputed land plot with the designated forest land.

Nevertheless, on April 21, 2016, the Judicial Collegium for Civil Cases of the Sevastopol City Court (presided by Judge Elena Viktorovna Kozub[146]) satisfied the appeal of the Sevastopol Interdistrict Environmental Prosecutor and canceled the decision of the Balaklava District Court of the city of Sevastopol. The panel of judges did not agree that the ruling of the District Administrative Court of the city of Sevastopol dated June 1, 2012 was prejudicial to the dispute under consideration and referred to a violation of the requirements of the land legislation of Ukraine while transferring the land plot to the ownership of the defendant.

Although the occupying state does not have the right to interpret the provisions of the legislation of the occupied state, as well as to determine the legality of decisions of its state and judicial authorities, it is in this way that the Russian Federation justifies the majority of the decisions regarding the withdrawal of land in occupied Crimea.

I.A.L.

I.A.L. was deprived of the right to use a land plot of 0,2357 hectares, as well as a non-residential premises of a pumping station with an area of 80 sq.m. located in the Pobeda (Victory) park in the city of Sevastopol. The property was purchased in December 1999 from the OJSC «Ozelenitel». With the acquisition of ownership of real estate, to I.A.L. obtained the right to use the land on which it was located. In January 2015, the real estate object was put on cadastral registration and received a cadastral passport of the Russian Federation.

In 2016, by order of the State public institution «Capital Construction», the open joint-stock company «Institute Novgorodgrazhdanproekt» developed a project for organizing work on the demolition or dismantling of capital construction projects. In December 2016, the «Directorate for Architecture and Urban Planning of the city of Sevastopol» issued a permit for the reconstruction and construction of the Pobeda (Victory) Park to the contractor JSC «Rabochaya-1».

On September 22, 2017, JSC «Rabochaya-1» demolished the premises of the pumping station on the basis of a contract with State public institution «Capital Construction». I.A.L. learned about it in 3 days.

By order of I.A.L. an independent assessment of the market value of the pumping station building and the land plot was carried out, which amounted to 6,290,120.00 and 26,575,580.00 rubles, respectively.

Law enforcement agencies several times opened criminal proceedings on the fact of illegal destruction of property based on the notice of an offence submitted by I.A.L. However, in the end they issued a final decision to terminate the criminal case. Appeals to the Directorate for Architecture and Urban Planning of the city of Sevastopol, to the State Budgetary Institution «Directorate of Capital Construction» and to the Directorate of Capital Construction have failed. Therefore, I.A.L. went to court with a claim to protect property rights.

On October 29, 2018, the Leninsky District Court of Sevastopol (judge S.V. Kalganova) dismissed I.A.L. claim for the recovery of losses caused by the demolition of the building and the deprivation of the right to use the land plot. The decision is based on the conclusion of the court that I.A.L. never had the property right for the land plot.

146 Before the occupation of the Autonomous Republic of Crimea and the city of Sevastopol, she was a judge of the Court of Appeal of the city of Sevastopol, and subsequently continued to work in the occupation court created by the Russian Federation

In addition, the court referred to the fact that I.A.L. did not provide evidence confirming the fact and amount of damage caused, as well as evidence that the defendants are the persons who caused the harm and / or who, by virtue of the law, are obliged to compensate for it.

On February 7, 2019, the appeal to I.A.L. was dismissed by the ruling of the Sevastopol City Court (judges Zh.V. Grigorova, E.V. Kozub[147], A.S. Suleimanova).

On May 31, 2019, by a ruling of the Sevastopol City Court (judge E.V. Makarova[148]), it was refused to transfer the cassation appeal for consideration at the session of the cassation instance court.

On August 21, 2019, by the ruling of the Supreme Court of the Russian Federation (Judge V.V. Gorshkov), it was also refused to transfer the cassation appeal for consideration in the court session of the Judicial Collegium for Civil Cases of the Supreme Court of the Russian Federation.

I.A.L. applied to the European Court of Human Rights for the protection of his violated property rights.

K.M.P.

K.M.P. is a victim of arbitrary demolition of the three upper floors (second, third and fourth) of a private house located at 6/2 Tolstogo Street, the city of Yalta. As a result of the demolition the house became uninhabitable.

The real estate object, part of which was later demolished, became the property of K.M.P. on December 13, 2013 on the basis of a gift contract. According to the Declaration on the start of construction work, registered by the Crimean Republican Permit Center of the Inspectorate for State Architectural and Construction Control in the Autonomous Republic of Crimea, on January 8, 2014, a superstructure was erected on this one-story facility (the second, third and fourth floors were built).

On June 11, 2014, the executive committee of the Yalta City Council made a decision to suspend construction work for K.M.P.

On July 08, 2014, K.M.P.'s neighbor, who lives in the same house, filed a lawsuit against her. In her lawsuit, she asked to oblige K.M.P. to dismantle the superstructure. In support of the lawsuit, she indicated that the construction of the superstructure over the K.M.P.'s building was carried out in the absence of urban planning conditions and restrictions on the land plot, as well as that new floors limit the ability to service the neighbor's part of the house and block access to light.

On July 09, 2014, construction works on the erection of a superstructure over the house of K.M.P. have been completed.

On July 23, 2014, the occupation authorities represented by the «Architectural and Construction Inspection of the Republic of Crimea» officially accepted the reconstructed house of K.M.P. into operation.

On July 30, 2014, the Yalta City Council filed a lawsuit for the demolition of the second, third and fourth floors of K.M.P.'s house. The lawsuit was supported by the argument that the defendant allegedly carried out the construction without a proper permit and without a state examination of the project documentation.

On May 20, 2015, the «Yalta City Court of the Republic of Crimea» satisfied the lawsuits of both an individual and the Yalta City Council and ruled to dismantle the second, third and fourth floors of K.M.P.'s house.

147 Before the occupation of the Autonomous Republic of Crimea and the city of Sevastopol, she was a judge of the Court of Appeal of the city of Sevastopol, later continued to work in the occupation court created by the Russian Federation https://zakon.rada.gov.ua/laws/show/1294-19#Text

148 S.V. Kalganova., Zh.V Grigorova., A.S. Suleimanova and E.V. Makarova are Russian judges, displaced to the occupied territory from the territory of the Russian Federation https://xn--d1aiaa2aleeao4h.xn--p1ai/sudii/view/2558; https://xn--d1aiaa2aleeao4h.xn--p1ai/sudii/view/15373; http://gs.sev.sudrf.ru/modules.php?name=press_dep&op=1&did=138

The appeal ruling of the «Supreme Court of the Republic of Crimea» dated May 18, 2016, canceled the decision of the «Yalta City Court of the Republic of Crimea» and made a new decision to dismiss the lawsuits.

On August 17, 2016, the «Presidium of the Supreme Court of the Republic of Crimea» ruled to cancel the appeal ruling of May 18, 2016 and to send the case for a new consideration to the court of appeal.

The appeal ruling of the «Supreme Court of the Republic of Crimea» dated October 11, 2016, canceled the decision of the «Yalta City Court of the Republic of Crimea» in terms of satisfying the claims of an individual and upheld in terms of the claims of the Yalta City Council on dismantling the superstructure.

In 2017, the court decision on dismantling was executed, i.e. the second, third and fourth floors of the house were demolished by the bailiff service, after which the house became uninhabitable.

10.1. NATIONALIZATION OF PROPERTY

The nationalization of state and private property on the territory of the Crimean peninsula, which began in 2014 immediately after its occupation by the Russian Federation, is a blatant violation of a number of norms of international humanitarian law and international human rights law, namely: the prohibition to seize enemy's property without urgent military necessity, the prohibition of confiscation private property, requisition of state and private property without payment of adequate compensation, prohibition of expropriation of public and private property without compensation for its value, and so on (see also p. 8-14 of this review).

Moreover, such activities of the occupying state also violate its own legislation.

On March 18, 2014, in accordance with the Federal constitutional law No. 6 «On the Accession of the Republic of Crimea to the Russian Federation and on Forming New Constituent Entities within the Russian Federation, the Republic of Crimea and the Federal City of Sevastopol», Russian legislation was extended to the territory of the Crimean peninsula, and the process of incorporation of the peninsula into the Russian legal system began[149].

According to Article 235 of the Civil Code of the Russian Federation, the nationalization of property owned by citizens and legal entities should be carried out in accordance with the procedure established by federal law, and full or partial redemption of such property by the state is possible on the basis of ordinary sales and purchase agreements[150]. However, today in the Russian Federation there is no special law that would regulate the process of nationalization of property alienated from the property of legal entities and individuals. Therefore, the nationalization of state property in the occupied territory of the Autonomous Republic of Crimea was carried out on the basis of resolutions of the «State Council of the Republic of Crimea» (formerly the Verkhovna Rada of the Autonomous Republic of Crimea) and orders of the «Council of Ministers of the Republic of Crimea» without compensation for the value of property and other losses, which contradicts the norms of the Civil Code of the Russian Federation and does not fit into the legal framework of the occupying state[151].

By the Resolution of the Verkhovna Rada of the Autonomous Republic of Crimea dated March 17, 2014 «On the independence of Crimea»[152] it was established that the state property of Ukraine located on the territory of the Republic of Crimea on the day of the adoption of the Resolution is the state property of the Republic of Crimea. In turn, the property of trade union and other public organizations of Ukraine, located at the time of the adoption of the Resolution on the territory of the Republic of Crimea, was declared the property of the divisions of the relevant organizations located in the Republic of Crimea, and in the absence of such, the state property of the Republic of Crimea.

Since then, illegal nationalization in the occupied territory of the Autonomous Republic of Crimea was carried out in most cases by the adoption of subsequent resolutions of the «State Council of the Republic of Crimea». All state property of Ukraine located in the occupied territory of the Autonomous Republic of Crimea fell within the scope of these resolutions.

149 Federal constitutional law № 6-FKZ dated 21.03.2014 (as amended on 30.12.2020) «On the Accession of the Republic of Crimea to the Russian Federation and on Forming New Constituent Entities within the Russian Federation, the Republic of Crimea and the Federal City of Sevastopol»
http://www.consultant.ru/document/cons_doc_LAW_160618/

150 «Civil Code of the Russian Federation (Part One)» No. 51-FZ dated 30.11.1994 (as amended on 09.03.2021)
http://www.consultant.ru/document/cons_doc_LAW_5142/8164301022c75a87e7eb4ca24cbeee288288d53c/

151 Milkina I.V., Zaboeva M.F. Nationalization in Crimea: a violation of Russian law or a forced necessity https://www.elibrary.ru/item.asp?id=22922078

152 Resolution of the Verkhovna Rada of the Autonomous Republic of Crimea dated March 17, 2014 «On the independence of Crimea» http://crimea.gov.ru/act/11748

Thus, only in the period from March 17 to September 3, 2014, the «State Council of the Republic of Crimea» adopted 15 resolutions[153], on the basis of which the property of the following state bodies and organizations was seized:

1) Ministry of Infrastructure of Ukraine;
2)Ministry of Agrarian Policy and Food of Ukraine;
3) Ministry of Emergency Situations of Ukraine;
4) Ministry of Ecology and Natural Resources of Ukraine;
5) Ministry of Education and Science of Ukraine;
6) Ministry of Infrastructure of Ukraine;
7) property of many state-owned enterprises, in particular:

- State enterprise «Administration of the seaports of Ukraine»;
- Public Joint Stock Company «National Joint Stock Company «Nadra of Ukraine»;
- state services (offices) and inspections of Ukraine, located on the peninsula;
- enterprises, institutions, organizations of the agro-industrial complex and many other objects.

In accordance with the lists of enterprises contained in the resolutions, more than 330 objects of state ownership and property of trade unions were nationalized in this way.

However, according to the Ministry of Justice of Ukraine, at the time of the occupation in the occupied territory of the Autonomous Republic of Crimea there were about 4,000 organizations and institutions that are state property of Ukraine[154]. There is no reason to doubt that all these objects were also nationalized by the occupying power.

153 See in particular: Resolution of the State Council of the Republic of Crimea «On the nationalization of educational institutions, scientific, scientific and technical, research institutions, enterprises located on the territory of the Republic of Crimea» No. 2042-6/14 dated April 24, 2014 http://crimea.gov.ru/ua/act/12077
Resolution of the State Council of the Republic of Crimea «On the nationalization of some educational institutions located on the territory of the Republic of Crimea» No. 2079-6/14 dated April 30, 2014 http://crimea.gov.ru/act/12112
Resolution of the State Council of the Republic of Crimea «On the nationalization of property of territorial bodies, enterprises, institutions in the sphere of management of the State Agency for Fisheries of Ukraine located on the territory of the Republic of Crimea» № 2084-6/14 dated April 30, 2014 http://crimea.gov.ru/act/12117
Resolution of the State Council of the Republic of Crimea «On the nationalization of enterprises and property of maritime transport in the sphere of management of the Ministry of Infrastructure of Ukraine and the Ministry of Agrarian Policy and Food of Ukraine located on the territory of the Republic of Crimea and the city of Sevastopol» No. 1757-6/14 dated March 17, 2014 http://crimea.gov.ru/act/11761
Resolution of the State Council of the Republic of Crimea «On the nationalization of territorial bodies, enterprises and property of the management sphere of the Ministry of Ecology and Natural Resources and other state bodies, enterprises located on the territory of the Republic of Crimea» No. 1837-6/14 dated March 26, 2014 http://crimea.gov.ru/act/11842
Resolution of the State Council of the Republic of Crimea «On the nationalization of enterprises, organizations and property of the management sphere of the State Agency for Water Resources of Ukraine located on the territory of the Republic of Crimea» No. 1948-6/14 dated April 4, 2014 http://crimea.gov.ru/act/11930
Resolution of the State Council of the Republic of Crimea «On Amending Certain Resolutions of the State Council of the Republic of Crimea» No. 2267-6/14 dated June 25, 2014 http://crimea.gov.ru/act/12328
Resolution of the Civil Service of the Republic of Crimea «On the nationalization of property of the sanitary and epidemiological service on railway and water transport» No. 2026-6/14 dated April 11, 2014 http://crimea.gov.ru/act/12055
Resolution of the State Council of the Republic of «On the nationalization of a non-residential building located on 15 Nadinskogo St. in the city of Simferopol» No. 1950-6/14 dated April 4, 2014 http://crimea.gov.ru/act/11932
154 «Citizenship, land, «nationalization of property» in the conditions of the occupation of Crimea: lack of rights. Analytical report, UCIPR, for general ed. Yulia Tishchenko, Kyiv-2015 https://issuu.com/dhrpraxis/docs/ucipr_report_crimea_ua

Among other things, integral property complexes of 20 enterprises, natural parks, reserves and scientific laboratories («Alushta forestry», «Bakhchisaray forestry», «Dzhankoy forest and hunting ground», Karadag natural reserve, Kazantip natural reserve, «Crimean forest and seed laboratory» and others) were included into the list of objects subject to nationalization into the ownership of the Republic of Crimea in accordance with the decision of the Presidium of the State Council of the Republic of Crimea No. 1804-6/14 dated March 24, 2014 «On the nationalization of enterprises and property of forestry and hunting in the sphere of management of the State Agency for Forest Resources of Ukraine and other state bodies located on the territory of the Republic of Crimea and the city of Sevastopol»[155].

Although the above mentioned 15 resolutions of the «State Council of the Republic of Crimea» are very similar to each other, it is worth dwelling in more detail on the Resolution of the State Council of Crimea No. 2085-6/14 dated April 30, 2014 «On the management of the property of the Republic of Crimea»[156]. The peculiarity of this resolution is not only the fact that it is impossible to get acquainted with the list of property transferred to the management of the Republic in the public domain. Additionally, more and more new objects are constantly added to this «virtual» list, including objects of private property, in respect of which, as mentioned above, nationalization in accordance with Russian law should take place in a different order. In order not to be included in the list of such objects, it was necessary either to go through the procedure for re-registering a legal entity in the manner prescribed by the regulatory legal acts of the occupying state, or to open a foreign representative office (with the registration of an enterprise as a foreign resident), which is contrary to the norms of the Ukrainian legislation and international law. In addition, the occupation authorities also adapted a separate scheme for private property, i.e. at first, only the property of the enterprise was included in the list, while, *de jure*, its owner remained the same. Later the owner was changed in the registers[157].

Nationalization of private property in the occupied territory of the Autonomous Republic of Crimea through the adoption of resolutions of the «State Council of the Republic of Crimea» was carried out until 2016. As a result of the adoption of 28 such resolutions in 2014-2016, dozens of private enterprises were nationalized, including «Krymavtotrans», «Kyivstar», «Ukrtelecom», «Black Sea Development and Reconstruction Bank», «Krymkhleb», «Krymenergo», objects of transport infrastructure (bus terminals, bus stations, ticket offices), gas supply facilities, health centers, boarding houses, hotels, markets, gas stations, as well as many land plots and real estate objects.

The nationalization of all of these, as well as many other objects, was carried out without any guarantees and compensation for the owners of the property, and in fact was the confiscation of private property. Resolutions and orders of the «State Council of the Republic of Crimea» and «Council of Ministers of the Republic of Crimea» were also supplemented by decisions in their favor made by the occupation courts and courts of the Russian Federation (including the Constitutional Court of the Russian Federation).

155 Decision of the Presidium of the State Council of the Republic of Crimea No. 1804-6/14 dated March 24, 2014 «On the nationalization of enterprises and property of forestry and hunting in the sphere of management of the State Agency for Forest Resources of Ukraine and other state bodies located on the territory of the Republic of Crimea and the city of Sevastopol» (there is no link in open sources).

156 Resolution of the State Council of the Republic of Crimea No. 2085-6/14 dated April 30, 2014 «On issues of property management of the Republic of Crimea» https://docs.cntd.ru/document/413901094

157 Zanina A., Rayskiy A., Nikiforov V. Tavrida in its own juice. How Crimea got the property of Ukraine and Ukrainians https://www.kommersant.ru/doc/2679334

In this context, it is worth mentioning the Ruling of the Constitutional Court of the Russian Federation No. 443-O dated 10.03.2016 «On refusal to accept for consideration the complaint of the public joint-stock company «Krymkhleb» on violation of constitutional rights and freedoms by paragraph three of part 1 and part 3 of Article 2.1 of the Law of the Republic of Crimea «On the peculiarities of regulation of property and land relations in the territory of the Republic of Crimea»[158]. In the ruling, the Court concluded that Article 2.1 of Law No. 38-ZRK, which provides for the termination of the ownership of Ukraine (Ukrainian trade union and other public organizations) to property, including land plots and other real estate objects, located on the territory of the Republic of Crimea as of March 17 2014, does not violate the provisions of the Constitution that guarantee constitutional protection and inviolability of private property. In support of its position, the Court emphasized that the incorporation of Crimea into the Russian Federation is a special case «requiring the adoption of a number of special measures»[159].

Complaints to the occupying authorities themselves were also unsuccessful. For example, in July 2020, Sevastopol Regional Public Organization for Assistance in Protecting the Interests of Owners of Small Vessels «PRICHAL 75» applied to the acting Governor of the city of Sevastopol Razvozhaev M.V.[160] in connection with the inclusion in the Property Register of the city of Sevastopol berth base No.186 in accordance with the Order of the Government of Sevastopol No. 336-RP dated April 27, 2015 «On granting the right to exercise operational management over the property to the State Unitary Enterprise "Sevastopol Sea Port»[161]. Members of more than 300 families have never been able to return the ownership of their property, or receive adequate compensation.

The nationalization of integral property complexes of communal medical institutions and organizations, as well as territorial centers of social services (provision of social services) was carried out through the adoption of orders of the «Council of Ministers of the Republic of Crimea».

For example, in accordance with the order of the «Council of Ministers of the Republic of Crimea» dated October 28, 2014, simultaneously 84 communal property objects, including hospitals, clinics, maternity hospitals and other medical institutions were simultaneously nationalized[162].

In some cases, the seizure of property was carried out with the participation of paramilitary formations of the «Crimean self-defense», which were «legalized» by the occupation authorities[163]. The Office of the United Nations High Commissioner for Human Rights has been able to document several such violations. On August 24, 2014, «Crimean self-defense» seized the shipyard «Zaliv», not allowing its management to enter the territory of the enterprise.

158 Ruling of the Constitutional Court of the Russian Federation No. 443-O dated 10.03.2016 «On refusal to accept for consideration the complaint of the public joint-stock company «Krymkhleb» on violation of constitutional rights and freedoms by paragraph three of part 1 and part 3 of Article 2.1 of the Law of the Republic of Crimea «On the peculiarities of regulation of property and land relations in the territory of the Republic of Crimea»
https://legalacts.ru/sud/opredelenie-konstitutsionnogo-suda-rf-ot-10032016-n-443-o/

159 It is difficult to agree with such an approach of the Court, since judicial mechanisms are created at the national and international levels precisely to protect against such «special measures»

160 An open appeal to Mikhail Razvozhaev from the Sevastopol fishermen. INFORMER, dated July 30, 2020
https://ruinformer.com/page/otkrytoe-obrashhenie-k-mihailu-razvozhaevu-ot-sevastopolskih-rybakov

161 Order of the Government of Sevastopol No. 336-RP dated April 27, 2015.
«On securing property on the right of economic management for the State Unitary Enterprise «Sevastopol Sea Port» (no link in open sources).

162 Order of the Council of Ministers of the Republic of Crimea «On the acceptance into state ownership of the Republic of Crimea of integral property complexes of communal medical institutions and organizations» No. 1119-r dated October 28, 2014 http://rk.gov.ru/rus/file/pub/pub_235197.pdf

163 Human Rights Organizations Report, UHHRU, p. 48 https://helsinki.org.ua/files/docs/1432628242.pdf and Report on the human rights situation in Ukraine 16 September 2014, UN OHCHR, para. 165 https://www.globalsecurity.org/military/library/report/2014/ukraine-rights-report06_ohchr.pdf

Later, a new administration from Zelenodolsk (Republic of Tatarstan) was introduced to the company. On August 27, 2014, members of the «Crimean self-defense» entered the headquarters of the Ukrainian gas company «Krymgaz» and seized all documents and seals. The entrances were blocked, and employees were advised to either quit or sign applications for transfer to the appropriate positions in the newly created gas company[164].

«Crimean self-defense» also took part in the seizure of the property of such companies as «Kyivstar», «Ukrtelecom», «Krymavtotrans», «Feodosia shipbuilding company «More» (the Sea)» and others.

Separate procedures for the nationalization of property were also applied in the occupied territory of the city of Sevastopol, which has a special status. For example, in accordance with the decision of the Sevastopol City Council of March 17, 2014 «On the Status of the Hero City of Sevastopol», the state property of Ukraine, located at the time of this decision on the territory of the city of Sevastopol, was declared the property of the city of Sevastopol.

Subsequently, on April 24, 2014, the «Legislative Assembly of the city of Sevastopol» adopted the Law of the city of Sevastopol «On the former state property of Ukraine and determining the procedure for inventorying, managing and disposing of the property of the city of Sevastopol»[165]. On the basis of this law, the subsequent nationalization of property took place through the adoption of appropriate resolutions by the «Government of the city of Sevastopol».

All transport infrastructure objects, i.e. seaports, bus stations, train stations, airport «Belbek», as well as many markets, shops, gas stations were nationalized on the basis of such resolutions adopted in 2015-2016.

At the same time, nationalization affected both state and communal property, as well as private property of legal entities and individuals. For example, «Sevmorzavod», «Sevmortrans», «Sevmorsudoremont», «Sevmorenergo» and other enterprises that «did not bring their constituent documents in accordance with the legislation of the Russian Federation, and did not apply for entering information about them in the unified state register of legal entities before March 1, 2015» were nationalized by the Resolution of the «Government of the city of Sevastopol» No. 118-PP dated February 28, 2015 «On some issues of nationalization of property» (based on the fact that the resolution was adopted the day before, i.e. February 28, we can conclude that the owners of the enterprises had no chance to retain their ownership)[166]. The history of the hasty adoption of the Resolution No. 118-PP is worth recalling separately. The fact is that at first the nationalization of private property of legal entities and individuals should have been enshrined in the relevant Law of the city of Sevastopol. Especially for its adoption, Sergei Menyailo (at that time the «governor of Sevastopol») convened an extraordinary meeting of the «Legislative Assembly of the city of Sevastopol». Then, in the preliminary list of objects for nationalization, there were 63 enterprises, of which after the adoption of the resolution 12 remained.

164 Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine). OHCHR, para 172 https://www.ohchr.org/Documents/Countries/UA/Crimea2014_2017_EN.pdf

165 Law of the city of Sevastopol «On the former state property of Ukraine and determining the procedure for inventorying, managing and disposing of the property of the city of Sevastopol» № 3-ZS dated April 24, 2014 https://rg.ru/2014/05/06/sevastopol-zakon3-reg-dok.html

166 Resolution of the Government of Sevastopol «On some issues of the nationalization of property» No. 118-PP dated February 28, 2015 https://sev.gov.ru/files/iblock/1b5/convert_jpg_to_pdf.net_2015_05_29_09_07_12.pdf

As a result, even with such a number of objects, the bill was rejected by the deputies as one that does not comply with the legislation of the Russian Federation, in connection with which it was adopted in a more loyal version by the Government of the city of Sevastopol[167].

This provoked a protracted conflict between the two branches of the occupation authorities in Sevastopol, and eventually led to the resignation of Aleksei Chaly from the post of chairman of the «Legislative Assembly of the City of Sevastopol».

In the texts of many resolutions and orders, the goal of the nationalization of objects was vaguely formulated. For example, the following phrases were used: «restoring social justice», «ensuring security, uninterrupted functioning of enterprises of strategic importance», «protecting the labor rights of workers», «proper use and development of infrastructure facilities», «preservation of property of enterprises and institutions», «ensuring development», and most importantly, the need to act «in the interests of citizens and society». At the same time, none of the aforementioned acts provided for any prior notification of the owners or any subsequent compensation for them. Also, not a single procedure was mentioned with the help of which it would be possible to challenge the nationalization of property. Moreover, all existing legal mechanisms, including the Constitutional Court of the Russian Federation, turned out to be ineffective, since the local occupation courts openly defended the position of the «governor» and «Government» of the city, and the higher courts of the Russian Federation supported them.

Kateryna Rashevska,
lawyer of the Regional Center for Human Rights

167 Abramov S. Who Will Legalize Nationalization in Sevastopol. ForPost, January 25, 2018 https://sevastopol.su/news/kto-uzakonit-nacionalizaciyu-v-sevastopole

10.2. WIDESPREAD VIOLATION OF THE RIGHTS OF LAND PLOTS OWNERS IN CRIMEA IN CONNECTION WITH THE ADOPTION OF THE DECREE No. 201 DATED MARCH 20, 2020[168]

With the beginning of the occupation of the Crimean peninsula, the Russian Federation, in violation of the norms of international humanitarian law, by the Law No. 6-FKZ dated March 21, 2014 «On the Accession of the Republic of Crimea into the Russian Federation and the Formation of new Constituent Entities within the Russian Federation, the Republic of Crimea and the Federal City of Sevastopol» (hereinafter - Law 6-FKZ)[169] extended to the occupied territory the action of its legislation. At the same time, the government of the Russian Federation began to actively implement the policy of total elimination of the legal system of Ukraine.

The aforementioned law covered almost all spheres of legal relations of citizens living on the peninsula, in particular, land title regulation. Among other things, it was envisaged that the state authorities of the Russian Federation and the «Republic of Crimea» recognize the documents confirming the ownership, issued by the state authorities of Ukraine or local authorities of the Autonomous Republic of Crimea or the city of Sevastopol prior to the entry into force of this law[170]. This implied that the Ukrainian title documents issued before the occupation of Crimea were recognized as valid and did not need any verification by the occupation authorities.

Throughout 2014, in pursuance of Law 6-FKZ, the occupation authorities adopted many regulations governing land legal relations in the occupied territory[171]. The most significant in this regard was and remains the Law of the «Republic of Crimea» No. 38-ZRK dated July 31, 2014 «On the Specifics of Regulation of Property and Land Relations in the Territory of the Republic of Crimea»[172]. It is extremely important to note that this «law» guaranteed the right of ownership of individuals and legal entities (including foreigners and stateless persons) to land plots and other immovable property, which arose before the entry into force of the aforementioned Law 6-FKZ[173].

However, in practice, the effect of these guarantees was extremely limited. During 2014-2021, the occupation authorities carried out a large-scale campaign to seize (primarily in the form of nationalization) public and private property. This fact was repeatedly confirmed in the reports of international organizations[174]. The report of the Office of the Prosecutor of the International Criminal Court for 2020 concluded that an analysis of the situation with deprivation of property rights in the occupied territory of the peninsula indicates that a crime under Article 8(2)(b)(xiii) of the Rome Statute was committed in the temporarily occupied territory of the Crimean peninsula, namely «destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war»[175].

168 Full version of this article https://krymbezpravil.org.ua/analytics/shyrokomasshtabnoe-narushenye-prav-sobstvennykov-zemel-n-kh-uchastkov-v-kr-mu-v-svyazy-s-prynyatyem-ukaza-201-ot-20-marta-2020-hoda/

169 Federal Constitutional Law of March 21, 2014 No. 6-FKZ «On the Accession of the Republic of Crimea into the Russian Federation and the Formation of New Constituent Entities within the Russian Federation, the Republic of Crimea and the Federal City of Sevastopol» http://www.consultant.ru/document/cons_doc_LAW_160618/

170 Ibid., Article 12.

171 See also section «Regulation system of the occupation authorities (Crimea and the city of Sevastopol)» of this review.

172 http://crimea.gov.ru/textdoc/ru/6/act/38z.pdf

173 Ibid., Article 2.

174 Report of the Human Rights Assessment Mission on Crimea (6–18 July 2015) https://vatican.mfa.gov.ua/storage/app/sites/82/imported_content/5df3c50a61b89.pdf

175 OTP ICC Report on Preliminary Examination Activities 2020, dated 14 December 2020 https://www.icc-cpi.int/itemsDocuments/2020-PE/2020-pe-report-eng.pdf

On March 20, 2020, the President of the Russian Federation Vladimir Putin issued the Decree No. 201[176], which attributed most of the territory of the Autonomous Republic of Crimea and the city of Sevastopol to the so-called border territories of the Russian Federation[177].

It should be noted that the land legislation of the Russian Federation establishes a special legal regime for foreigners and stateless persons for lands attributed to this category. Under this regime, they are prohibited from the ownership of land plots located in these territories[178]. For the first time, the list of territories classified as border territories was established by Presidential Decree No. 26 dated January 09, 2011 «On Approving the List of Border Territories Where Foreign Citizens, Stateless Persons and Foreign Legal Entities Cannot Own Land Plots»[179].

In connection with the adoption of the Decree No. 201, foreigners and stateless persons who are owners of land plots in Crimea have an obligation to alienate them within a year from the date of entry into force of the Decree[180]. In the event that during the year such a person does not alienate the land plot, the Civil Code of the Russian Federation provides for the existence of two alternative types of legal consequences:

- its forced sale at a public auction with the payment of the proceeds to the owner minus the costs of organizing and holding the auction;

- transferring it to state or municipal ownership with compensation to the former owner of the value of the property determined by the court (requisition)[181].

Thus, after the adoption of the Decree, all owners of land plots in the «border territories», whom the Russian authorities consider as foreigners or stateless persons, were under the threat of being deprived of the rights to their property.

As can be seen, having declared in 2014 about the inviolability of property rights, in 2020 the Occupying Power radically changed its attitude towards the private property of the population of the occupied territory. At the same time, for this category of persons, there is only one way to preserve the right to property, to take Russian citizenship since only citizens of the Russian Federation can own land in the border territories.

The actions of the Russian Federation aimed at changing the status of land plots in Crimea immediately generated condemnation from the government of Ukraine[182], and also acquired an international resonance in connection with the announced position of the European Union[183].

176 Decree of the President of the Russian Federation No. 201 dated March 20, 2020 «On Amending the List of Border Territories where foreign citizens, stateless persons and foreign legal entities cannot own land plots, approved by the Decree of the President of the Russian Federation No. 26 dated January 9, 2011»
http://www.kremlin.ru/acts/bank/45294

177 The list of border areas did not include only some settlements and regions of the Autonomous Republic of Crimea, namely: Dzhankoy, Krasnoperekopsk, Simferopol, as well as Belogorsk, Krasnogvardeisky and Pervomaisky districts.

178 See part 3 of Article 15 of the Land Code of the Russian Federation.

179 http://www.kremlin.ru/acts/bank/32451

180 This conclusion can be drawn from a systematic analysis of the norms of part 3 of article 15 of the Land Code and part 1 of Article 238 of the Civil Code of the Russian Federation.

181 See part 2 of article 238 of the Civil Code of the Russian Federation.

182 Commentary of the Ministry of Foreign Affairs of Ukraine in connection with the signing by the President of the Russian Federation V. Putin of the decree on depriving Ukrainian citizens of the opportunity to own land in the temporarily occupied Crimea dated March 27, 2020
https://rsa.mfa.gov.ua/news/komentar-mzs-ukrayini-u-zvyazku-z-pidpisannyam-prezidentom-rf-vputinim-ukazu-shchodo-pozbavlennya-ukrayinskih-gromadyan-mozhlivosti-volodinnya-zemleyu-v-timchasovo-okupovanomu-krimu

183 In the official statement of the representative of the European Union on April 1, 2020, it was argued that the EU considers this decree illegal, noting that it is another attempt to forcibly integrate the illegally annexed peninsula into the Russian Federation
https://eeas.europa.eu/headquarters/headquarters-homepage/76884/ukraine-statement-spokesperson-russian-land-ownership-decree-affecting-crimea_en
This position was re-stated by the EU representative one year after the adoption of the Decree, on March 23, 2021
https://eeas.europa.eu/headquarters/headquarters-homepage/95505/ukraine-statement-spokesperson-russian-land-ownership-decree-affecting-crimea_en

The scale of the violation

At the moment, the real scale of the problem that has arisen can be judged, perhaps, by the only source of information that can be taken into account in this context, i.e. the data of the occupation authorities.

On April 13, 2020, shortly after the adoption of the Decree, the so-called «State Committee for State Registration and Cadaster of the Republic of Crimea»[184] published statistics based on data from the «Unified State Register of Real Estate». According to it, as of April 2020, foreigners in Crimea owned 11,572 land plots on «border territories». The owners of these land plots included citizens of 55 states. Moreover, the overwhelming majority of owners are citizens of Ukraine (9,747 land plots, which is 84,2% of their total number)[185].

The scale of violations (AR of Crimea)

Citizenship of owners of land plots	Number	Per cent
Ukraine	9747	84,2 %
Belarus	430	3,7 %
Germany	303	2,6 %
Kazakhstan	235	2,0 %
Uzbekistan	187	1,6 %
Armenia	156	1,3 %
Israel	82	0,7 %
Moldova	63	0,5 %
Latvia	40	0,3 %
Lithuania	42	0,4 %
USA	30	0,3 %
Other countries: (Australia, Austria, Azerbaijan, Argentina, Bahrain, Belgium, Bosnia and Herzegovina, Great Britain, Vietnam, Greece, Georgia, Denmark, Egypt, Jordan, Iraq, Iran, Italy, Canada, Cyprus, Kyrgyzstan, China, South Korea, Lebanon, Luxembourg, Mongolia, Netherlands, Norway, UAE, Palestine, Poland, Portugal, Saudi Arabia, Serbia, Syria, Tajikistan, Turkey, Finland, France, Czech Republic, Switzerland, Sweden, Estonia).	282	2,4 %
Total:	11 572	100 %

As for the territory of the city of Sevastopol, the total number of such land plots, according to the data of the occupation administration of the Russian Federation as of April 22, 2020, was 2287. Of these, the citizens of Ukraine owned 1875 plots (82% of the total).

184 The body of the occupation administration of the Russian Federation in Crimea, which is entrusted with the authority to register immovable property, in particular, land plots.

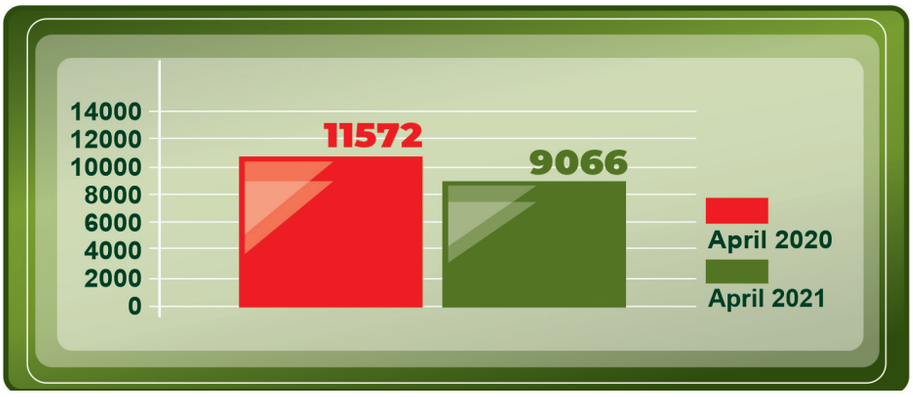
185 https://gkreg.rk.gov.ru/ru/article/show/3039?fbclid=IwAR3cd3uDCYiLMgCGQWVrT4jmk2X6UYl-KKlsyGT9C_6rt9XQXI4FOJic9D0

The scale of violations (Sevastopol)

Citizenship of owners of land plots	Number	Per cent
Ukraine	1875	82 %
Kazakhstan	129	5,6 %
Belarus	60	2,6 %
Germany	44	1,9 %
Moldova	42	1,8 %
Israel	14	0,6 %
Lithuania	14	0,6 %
Latvia	12	0,5 %
Estonia	11	0,5 %
Kyrgyzstan	11	0,5 %
USA	10	0,4 %
Other countries: (Armenia, Azerbaijan, Bulgaria, Georgia, Great Britain, Italy, Iran, Spain, Canada, Netherlands, Tajikistan, Turkmenistan, Turkey, Uzbekistan, France, Czech Republic, Switzerland, South Africa).	65	2,8 %
Total:	2287	100 %

It should be noted that as of April 1, 2021, only 9066 land plots remained in the ownership of foreign individuals and legal entities and stateless persons on the territory of the Autonomous Republic of Crimea. Thus, in the year since the publication of the above-mentioned Decree, the number of land plots is expected to have decreased by more than 2,000, or 21% of their total.

The ratio of the number of land plots owned by citizens of Ukraine and foreign states on the territory of the Autonomous Republic of Crimea (for 2020 and 2021)



Representatives of the Russian Federation authorities indicated that the reason for the reduction in the number of such land plots was either their voluntary alienation or the acquisition of Russian citizenship, which automatically removed any restrictions from the owners[186]. Since the statistics provided are based solely on data from the occupation authorities, there can be no assurance that they are accurate and reliable[187].

There are no similar data for the city of Sevastopol.

186 Information from the official website of the «State Committee for State Registration and Cadastre of the Republic of Crimea» https://gkreg.rk.gov.ru/ru/article/show/3372

187 Moreover, the occupation authorities themselves admit that when calculating the number of land plots of foreigners, objects that were not included in the Unified State Register of Real Estate were not taken into account https://gkreg.rk.gov.ru/ru/article/show/3372. This is due to the fact that at the time of the occupation, a large number of land owners did not re-register them in accordance with the land legislation of the Russian Federation.

Based on the provisions of Article 15 of the RF Land Code, potential victims of deprivation of ownership of land plots in border territories can be three categories of persons: foreign citizens, stateless persons and foreign legal entities.

It is important to note that from the very beginning of the occupation, the Russian Federation authorities have been pursuing a policy of imposing Russian citizenship on the residents of Crimea. Experts of the RCHR, UHHRU and the Open Society Justice Initiative have devoted several studies to this problem, in which they described in detail the essence and nature of this policy[188].

However, throughout the entire period of the occupation, there have been repeatedly recorded cases of deprivation of persons living in Crimea of the previously imposed Russian citizenship on formal grounds[189]. This concerned those to whom passports of the Russian Federation were issued in violation of certain «technical requirements»[190], as well as those who ceased to show loyalty to the occupation authorities.

Based on these considerations, we can come to the conclusion that even those owners of land plots whom the Russian Federation, as a general rule, recognizes as its citizens, may be at risk of applying the Decree No. 201 since none of them are immune to becoming another exception to the rule.

The national judicial and administrative practice of the Russian Federation

In general, judicial practice regarding the application of the procedure for the forced sale of land plots owned by foreigners is widespread and very well-established in the Russian Federation. Based on the analysis of individual court decisions taken from public registers (see Annex 1, p. 106-109), the following trends can be identified:

1. State or municipal authorities file two types of claims on the basis of Article 238 of the Civil Code of the Russian Federation:

(a) on the obligation to sell the land plot within the time period established by the court;

(b) on the alienation of the land plot by selling it at a public auction.

2. Claims are unpredictable and haphazard because the authorities view foreign ownership of land plots in the border territories as a continuing violation, which allows them to file claims several years after the owner «has not fulfilled the alienation obligation» on their own. In other words, the authorities (plaintiffs), in fact, are not bound by the procedural terms of going to court.

3. The courts satisfy these categories of claims if all the basic requirements for the application of Article 238 of the Civil Code of the Russian Federation coincide, namely: (a) the person is indeed a foreigner or a stateless person, (b) such a person owns a land plot (or a share thereof) on the border territory of the Russian Federation and (c) this person did not alienate the land plot within a year, from the moment when the land plot could not belong to them on the basis of ownership by virtue of Article 15 of the Land Code of the Russian Federation.

188 Thematic review «Crimea Beyond rules», Issue №3. Right to nationality (citizenship)
https://krymbezpravil.org.ua/wp-content/uploads/2017/04/Crimea_beyond_rules_3_en.pdf
Report «Human Rights in the Context of Automatic Naturalization in Crimea»
https://www.justiceinitiative.org/publications/human-rights-context-automatic-naturalization-crimea

189 It means that the authorities of the Russian Federation recognized the receipt of a passport document of a citizen of the Russian Federation as illegal and on this basis the person in practice could not use the guarantees of a citizen of the Russian Federation.

190 According to the occupation authorities of Crimea, from 2 to 4 thousand people found themselves in such a situation https://ru.krymr.com/a/news/28877591.html

4. If the owner of the land plot (the defendant), in addition to foreign citizenship, also has Russian citizenship, the statement of claim of the authorities is rejected[191].

Until now, in the practice of the national courts of the Russian Federation, the question of the fate of real estate erected on a «border» land plot owned by a foreigner remains unresolved. The fact is that the land law of the Russian Federation is based on the principle of the unity of the fate of land plots and objects firmly connected with them. This principle means that all objects strongly associated with land plots (for example, a house or other capital structures) follow the fate of the land plots[192]. One example of the manifestation of this principle is the rule on the inadmissibility of the alienation of a land plot without a building (structure) located on it, if they belong to the same person[193].

Therefore, in the case when foreigners simultaneously own land and a residential building (or other real estate objects) built on it, the national courts of the Russian Federation impose on them the obligation to sell both[194].

It is important to note that such court decisions directly contradict the position of the Constitutional Court of the Russian Federation, which, in its ruling of November 12, 2019, concluded that the obligation of foreigners to alienate a land plot in accordance with Article 15 of the Land Code of the Russian Federation is not subject to broad interpretation, and therefore cannot apply to real estate objects. Thus, the court pointed out that the forced sale of a land plot should not be carried out to the detriment of the property right to real estate, and the authorities have at their disposal other tools to comply with the requirements of the law, for example, instead of a forced sale, they can carry out requisition under Article 238 of the Civil Code of the RF with the subsequent transfer of the land plot to foreigners for use (lease)[195].

Despite the fact that the interpretation of legislation by the Constitutional Court is decisive for the entire judicial system of the Russian Federation, the courts of general jurisdiction ignore its conclusions and satisfy the claims of the authorities for the forced sale of residential buildings and other buildings of foreign citizens located on this category of land. There is no reason to believe that the practice of courts in relation to real estate located on land plots of the Crimean Peninsula, classified as «border», will differ from the already established practice of Russian courts.

Although at the moment there is no information on the filing of claims against the owners of «border» land plots in Crimea, nevertheless, the administrative bodies of the occupation authorities are conducting an active information campaign to force the owners of real estate objects located on their land plots to renounce their land ownership in favor of the occupation authorities with the simultaneous conclusion of a lease agreement[196].

191 See Judicial Precedent No. 31 (Annex 1).

192 See para 5, Part 1 of Article 1 of the Land Code of the Russian Federation.

193 See Part 4 of Article 35 of the Land Code of the Russian Federation.

194 See Judicial Precedents No. 7, 11, 23, 30 (Annex 1). The arguments of the courts are that in practice the decision on the forced sale of a land plot cannot be executed, since the principle of the unity of the fate of the land plot and the real estate located on it operates. Thus, the courts impose an additional obligation to sell the property itself

195 Ruling of the Constitutional Court of the Russian Federation of November 12, 2019 No. 2970-O at the request of the Gelendzhik City Court of the Krasnodar Territory on the verification of the constitutionality of paragraph 4 of Article 35 in conjunction with paragraph 3 of Article 15 and paragraph 1 of Article 35 of the Land Code of the Russian Federation, paragraphs 1 and 2 of Article 238 and Article 552 of the Civil Code of the Russian Federation, see § 3 http://publication.pravo.gov.ru/Document/View/0001201912030001. Note: In this Case, the district court stated that it was considering 16 civil cases in which there was a question of the forced sale of land plots owned by foreigners and located in the border territory of the Russian Federation. The district court was concerned that, on the one hand, Article 15 of the RF Labor Code obliges foreigners to alienate a land plot, but does not oblige them to sell real estate, and on the other hand, the principle of unity of fate, enshrined in Article 35 of the Code, puts the court in a situation where it cannot but impose this obligation on them, since in practice it is impossible to sell a land plot without the real estate located on it.

196 See, for example, information from the official website of the so-called «Government of Sevastopol» http://sevreestr.ru/article/restrict_out and one of the «municipalities of the Republic of Crimea» http://xn--e1afglddjl3e.xn--p1ai/?p=5421

Taking into account the existing practice of withdrawal of land plots by the courts of the Russian Federation since 2010, there is no doubt that in the near future the filing of claims against citizens of Ukraine, foreign citizens and stateless persons on the basis of the Decree No. 201 will become widespread.

International humanitarian law

Despite the fact that the Russian Federation government invariably pursues a policy of non-recognition of the armed conflict it has unleashed with Ukraine, this does not exempt the Occupying Power from its obligations to comply with the norms and principles of IHL[197]. In the context of the issue under discussion regarding land plots, two main blocks of obligations can be distinguished that are imposed on the Occupying Power pursuant to IHL.

The first block follows from the principle of the *status quo ante bellum* (the duty of the Occupying Power to ensure in the occupied territory the rule of law that existed before the occupation)[198], with the exception of a few cases, for example, if there is a need to maintain effective management of the territory and ensure the security of the Occupying Power and its armed forces, or administrations.

The second block concerns the protection of civilians and their property. The norms of customary and treaty IHL very exhaustively define the scope of obligations and powers of the occupation authorities in relation to property: the prohibition of confiscation and reprisals against the property of protected persons, the possibility of requisitioning private property in kind, but only for the needs of the occupying army, the prohibition of demolition, illegal, arbitrary and large-scale destruction and appropriation of property, and so on (see also p. 8-14 of this review).

Based on the above norms, it can be concluded that the classification of most areas of the Crimean peninsula as «border territories of the Russian Federation» without military necessity and providing the protected persons with the necessary protection of their private property violates the provisions of IHL (see also p. 94-98 of this review). Although the Decree No. 201 itself does not contain provisions on any form of expropriation, it became a kind of trigger for the application of the relevant legislation of the Russian Federation and the launch of mechanisms for the forced sale or appropriation of private land.

Assessment of the intervention to ensure it complies with the ECHR and ICCPR standards

By virtue of the effective control over the territory of the Crimean Peninsula, the Government of the Russian Federation is obliged to observe human rights[199].

In the situation with the Decree No. 201, there are simultaneously two types of interference with the right to peaceful enjoyment of possessions guaranteed by Article 1 of Protocol No. 1 to the ECHR: firstly, the obligation to alienate a land plot itself can be characterized as *control* over the property, and secondly, the subsequent deprivation of property in the form of forced sale or requisition can be characterized as *deprivation of property (expropriation).*

197 Article 2 of the 1949 Geneva Convention IV.

198 This principle is reflected in Article 43 of the Hague Regulations of 1907, which states that 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.

199 European Court of Human Rights, Decision in the case of Ukraine v. Russia (as regards Crimea), no. 20958/14 and 38334/18), 16 December 2020 https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%2220958/14%22],%22documentcollectionid2%22:[%22DECISIONS%22],%22itemid%22:[%22001-207622%22]}

Thus, the status of a victim of a violation of the Convention arises from the moment the territory on which their land plot is located is referred to the «border territories of the Russian Federation», since already at that moment the state imposes on the person the burden of «voluntarily» losing property. In addition, the status of a potential victim of expropriation remains for the entire period when the Decree is in force, even if the expropriation has not yet been carried out.

Based on the case-law of the ECtHR, an interference with the right can be considered compatible with the Convention if it is a) based on law, b) pursues a legitimate aim and c) is proportionate to the aim.

a) Legality

As a general rule, the assessment of legality under Article 1 of Protocol No.1 is based on an analysis of two components: national legislation and general principles of international law.

However, in this situation, there is no need to analyze the national legislation of the Russian Federation, since it extended its effect to the occupied territory in violation of international law.

Proceeding from this, the reasoning regarding the illegality of the RF interference in the ownership of the owners of «border land plots» can be stated as follows.

The first argument follows from the violation by the Russian Federation of the principle of respect for sovereignty and the prohibition of the use of force against the territorial integrity of states (Article 2(4) of the UN Charter). Having carried out an act of aggression, by means of a military invasion of the territory of Crimea and its annexation, the Russian Federation violated the peremptory norms of international law and can neither justify them by the provisions of its legislation, nor benefit from these illegal actions. In this regard, it is important to recall that the UN General Assembly appealed to all member states of the organization not to recognize any change in the status of the sovereign territory of Ukraine on the basis of the «referendum» of March 16, 2014. Thus, the establishment of the state border of the Russian Federation on the territory of the peninsula, as well as the granting of the status of «border territory» to certain regions of Crimea was *a priori* contrary to the provisions of international law.

The second argument proceeds from the violation by the Russian Federation of the relevant norms and principles of the law of armed conflict (occupation regime) set out above. In this regard, attention should be paid to the correlation between the norms of IHL and IHRL. Nowadays, there are several approaches to solving this legal problem[200], but in order to study the subject of this article, we use a complementary approach, which still prevails in the practice of the ECtHR and other mechanisms for the protection of human rights[201]. Therefore, Article 1 of Protocol No. 1 to the Convention should be interpreted in the light of the rules and principles of IHL, which limit the margin of appreciation of the state regarding the property of protected persons during the occupation. Thus, since the land legislation of the Russian Federation was extended to the territory of Crimea arbitrarily, and control over land plots in the form of forcing owners to sell them under the threat of expropriation was not justified from the point of view of military necessity, such interference contradicts IHL and is therefore illegal.

200 For more details, see Marco Sassòli, International Humanitarian Law Rules, Controversies, and Solutions to Problems Arising in Warfare, Edward Elgar Publishing, 2019, p. 433-442.

201 This approach means that the norms of both branches of international law are not mutually exclusive, but, on the contrary, complement each other during armed conflicts. See General Comment No. 31, «The Nature of the General Legal Obligation Imposed on States Parties to the Covenant», CCPR / C / 21 / Rev.1 / Add.13, 26 May 2004, § 11. In the practice of the ECtHR, this approach is represented by the position that the Convention cannot be interpreted in a vacuum, but should, as far as possible, be interpreted in harmony with other norms of international law of which it is a part (see, for example, the judgment of the ECtHR in the case «Al-Adsani v. the United Kingdom» [GC], no. 35763/97, § 55 or in Hassan v. The United Kingdom, [GC], no. 29750/09, § 77).

b) Legitimate aim

Based on the analysis of the case-law and the nature of legislative restrictions on foreigners, it is obvious that the Russian Federation declares a legitimate aim in the form of protecting national security. Indeed, the ban on foreign ownership of land in border territories is a common practice of states[202] and can be justified, since the massive and compact settlement of foreign citizens in border regions has repeatedly caused political crises and even armed conflicts[203]. But in occupied territory, the Occupying Power does not have this margin of appreciation, because the security of the Occupying Power cannot be achieved by violating the rules of IHL.

Taking into account the context of what is happening in Crimea, it can be argued that the Russian Federation, due to the enactment of the Decree No. 201 also violates the prohibition on the application of the restrictions provided for by the Convention for other (hidden) purposes[204]. There is every reason to assert that by its actions the Russian Federation is trying to achieve a number of unlawful goals, namely:

1. to strengthen the process of colonization of Crimea by creating incentives for the transfer of citizens of the Russian Federation to the occupied territory (firstly, a land plot can only be sold to citizens of the Russian Federation, because only they have the right to own land located in the «border territories» and, secondly, the population of the Russian Federation, taking into account the statistics of movement[205], is more interested in buying such land plots than residents of Crimea).

2. to continue the policy of imposing Russian citizenship on foreigners and citizens of Ukraine in the occupied territory, forcing property owners to loyalty under the threat of expropriation.

3. to force the citizens of Ukraine to break all ties with Crimea and finally oust the population of the peninsula, disloyal to the occupation authorities (because it is the citizens of Ukraine who constitute the overwhelming majority of the victims of this violation).

Moreover, the forthcoming mass expropriation of «border land plots» should be viewed in light of the large-scale policy of the Russian Federation on the appropriation of private and public property, which the Russian Federation began from the first days of the occupation of the peninsula.

The above considerations give grounds to assert that there has been a violation by the Russian Federation of Article 1 of Protocol No. 1, either separately or in conjunction with Article 18 of the Convention.

c) Proportionality

As a main rule, there is no need to consider this issue when there are compelling reasons to believe that the interference was unlawful.

However, we note that the actions of the Russian Federation authorities, in any case, cannot be proportional. Even assuming that there might be a need to protect national security, this goal could have been achieved using other, less aggressive methods than expropriation. For example, in order to use a land plot in order to gain military superiority, the hostile army can take the land plot for temporary use and compensate the owner for the rental cost.

202 Similar or the like restrictions on land ownership in border territories can be found in the legislation of Argentina, Peru, Mexico, Spain and others.
203 Probably the most telling example in this regard is the annexation of the Sudetenland of Czechoslovakia by Germany in 1938, although the Turkish occupation of Northern Cyprus in 1974, the Nagorno-Karabakh conflict of 1992-1994 and the conflict in Transnistria in 1990 have similar reasons.
204 Article 18 of the Convention.
205 See Thematic Review «Crimea beyond Rules «Transfer by the Russian Federation parts of its own civilian population into the occupied territory of Ukraine» https://krymbezpravil.org.ua/wp-content/uploads/2017/04/Crimea_Beyond_Rules_special-issue_en.pdf

Moreover, the interference with property rights will be proportional only when it is compensated in an amount close to its real value[206]. At the same time, the compensation mechanism specified in Article 238 of the Civil Code of the Russian Federation does not guarantee that the amount of compensation will necessarily correspond to the market value of the land plot. On the contrary, there is a risk that such land plots will be sold at a reduced cost at public auction.

In the context of the proportionality assessment, it should also be taken into account that citizens of Ukraine and foreigners living outside the occupied territory during 2020 were deprived of the opportunity to enter the territory of Crimea due to restrictions related to the spread of COVID-19. Even if they had agreed to fulfil their obligations to alienate «border land plots», they would have been unable to do so due to the indicated restrictions on freedom of movement established by the Russian authorities[207].

Discriminatory nature of the intervention

An analysis of the situation from the point of view of anti-discrimination standards indicates that interference with the property rights of foreign citizens in Crimea on the basis of the Decree No. 201 is clearly discriminatory.

Firstly, it is not denied that the interference is based on the citizenship status of the land owners. Only those owners who do not have Russian citizenship (foreigners and stateless persons) are subject to such interference.

Secondly, the specificity of the situation of potential victims of violation consists in the circumstances of Crimea's falling under the jurisdiction of the Russian Federation and in the internationally recognized status of this territory as occupied. On this basis, most of them have the status of protected persons in accordance with Geneva Convention IV.

Thirdly, since their situation differs from the situation of other foreigners and stateless persons who own land plots on the territory of the Russian Federation, the latter cannot treat them in the same way.

Based on the case-law of the ECtHR, a failure of the state to ensure *different treatment of persons who are in significantly different situations* may amount to discrimination (see, for example, Thlimmenos v. Greece, no. 34369/97, 6 April 2000, § 44).

In paragraph 7 of CCPR General Comment No. 18, the UN Human Rights Committee considers «discrimination» as «any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms»[208]. Further, in paragraph 10 of the Comment, the Committee notes that "the principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant. For example, in a State where the general conditions of a certain part of the population prevent or impair their enjoyment of human rights, the State should take specific action to correct those conditions. Such action may involve granting for a time to the part of the population concerned certain preferential treatment in specific matters as compared with the rest of the population. However, as long as such action is needed to correct discrimination in fact, it is a case of legitimate differentiation under the Covenant».

206 Judgment of the ECHR in the case «Gladysheva v. RF» dated 6 December 2011, No. 7097/10, § 67.

207 § 35 of the UN OHCHR Report «Impact of the COVID-19 Pandemic on Human Rights in Ukraine» for December 2020 states the following: «[…] restrictions related to COVID-19, introduced by the authorities of the Russian Federation on the administrative border of Crimea, prevented owners who do not have Russian passports from entering Crimea to sell their property».

208 CCPR General Comment No. 18: Non-discrimination https://www.refworld.org/docid/453883fa8.html

Thus, the Committee makes it clear that *equal treatment of persons in different (differing) situations may be considered discriminatory.*

This interference in the property rights of citizens of Ukraine, foreigners and stateless persons who own land in the occupied territory of the peninsula should be considered as *indirect discrimination* in the meaning of paragraph 10 of General Comment No. 20 of the Committee on Economic, Social and Cultural Rights[209], namely, as discrimination, arising from the existence of laws, policies or practices that appear to be neutral at first glance, but have disproportionately serious implications for ensuring the rights enshrined in the Covenant, as evidenced by prohibited grounds of discrimination.

In the case of D.H. and Others v. the Czech Republic (no. 57325/00, 13 November 2007) the Grand Chamber of the ECtHR found indirect discrimination based on ethnicity, stating that a general measure applied to all Czech children without exception had a disproportionate adverse effect on a certain group (children of Roma community), although it was not specifically targeted or directed at this group.

In this sense, the situation of foreign landowners who found themselves in Crimea is similar to that of the applicants in the case of D.H. Indeed, neither the provisions of the Decree No. 201, nor the provisions of Article 15 of the Land Code directly establish differences in the treatment of citizens and non-citizens of the Russian Federation, i.e. they are outwardly neutral.

However, the situation changes radically when the provisions of these legal acts begin to be applied by the Russian Federation on the occupied territory of another state, i.e. Ukraine. In this case, non-citizens of the Russian Federation who acquired land plots on the territory of Ukraine find themselves in a worse situation, since they could not and should not have assumed the fact of a possible occupation of the territory of Ukraine by the Russian Federation in the future. At the same time, all the negative consequences of the illegal «annexation of Crimea» to the Russian Federation in the form of deprivation of their ownership of land were assigned by the Occupying Power to the owners of the land plots.

Taking into account the above arguments about the illegality of the very fact of annexation and the dissemination of the legislation of the Russian Federation to the occupied territory, given the absence of an urgent military necessity, which could (under certain conditions) justify the discriminatory nature of the interference from the point of view of IHL norms, it should be concluded that it is illegal and has no legitimate aim.

It is quite obvious that Articles 23 and 46 of the Hague Convention on the Laws and Customs of War on Land and Article 53 of the IV Geneva Convention were intended to minimize the possibility of interference with the property rights of non-citizens of the Russian Federation in the occupied territory. In order to avoid discrimination, the Occupying Power only had to not violate their provisions.

Since the main difference between the two groups of foreign land owners, in Crimea and on the territory of the Russian Federation, consists in the territorial feature, it is this feature that is the basis on which discrimination is based[210].

In such circumstances, there is every reason to assert that in the actions of the Russian Federation there are signs of a violation of Article 14 of the ECHR in conjunction with Article 1 of Protocol No.1 to the Convention.

209 General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights) https://www.refworld.org/docid/4a60961f2.html

210 Under certain conditions, it is s possible to speak of racial discrimination on the basis of citizenship.

If the deadline for applying to the European Court is missed, victims of discrimination can apply for protection of the violated right to the UN Human Rights Committee, despite the fact that the ICCPR does not protect the right to peaceful ownership of possessions.

In this case, taking into account the case-law of the Committee, one should not complain about the fact of deprivation of property rights, but about discrimination on the basis of Article 26 of the Covenant, which, unlike Article 14 of the ECHR, does not require applicants to prove the existence of a link between discrimination and interference with substantive law (protected by one of the articles of the Covenant)[211].

Lack of effective remedies

Victims of these violations do not have effective remedies as required by Article 13 of the Convention. They cannot count on the Russian Federation to restore and protect their land ownership, because, for this, the occupying courts and courts of the Russian Federation would have to recognize that Crimea is an occupied territory, and not the territory of the Russian Federation. It may be recalled that the Constitutional Court of the Russian Federation in March 2014 recognized constitutional the so-called. Crimea's «accession» into the Russian Federation[212], which effectively deprives the victims of any chance of getting their claims satisfied in national courts. In addition, the same Court has already checked for compliance with the Constitution of the Russian Federation the norm of Article 15 of the Land Code, which establishes restrictions for foreigners on the ownership of land plots on the basis of ownership in the border territories, and recognized it as constitutional[213]. Consequently, the possibility of challenging the legality of interference with property rights in the occupation courts and national courts of the Russian Federation is illusory.

With regard to the alleged discrimination, it should be noted that potential victims of this violation do not have effective remedies, since, in order to avoid interference, they must prove either the fact that they are citizens of the Russian Federation, or that the land plot is not included in the list of border territories specified by the Decree.

Conclusions and recommendations

The Decree of the President of the Russian Federation No. 201 became another reason for the massive violation of human rights and international law in the occupied territory of Crimea. The government of the Russian Federation has again openly demonstrated disregard for its obligations of the Occupying Power and is implementing a policy of colonizing the Crimean peninsula that is harmful to Ukraine and its citizens. Among the victims of this arbitrariness, the largest number are citizens of Ukraine, but this situation is one of the few when citizens of other states also suffered from the occupation of Crimea. Thus, the negative consequences of these actions, in addition to the citizens of Ukraine, also affected at least citizens of 56 states, including 25 states of the Council of Europe.

211 Communication No. 774/1997 Robert Brock at al. v. Czech Republic, 31 October 2001https://www.ohchr.org/Documents/Publications/SDecisionsVol7EN.pdf p. 85-89. Communication No. 586/1994 Joseph Frank Adam v. Czech Republic, 23 July 1996 https://www.ohchr.org/Documents/Publications/SDecisionsVol6EN.pdf p. 121-125. Communication No. 747/1997 Karel Des Fours Walderode and Johanna Kammerlander v. Czech Republic, 30 October 2001 https://www.ohchr.org/Documents/Publications/SDecisionsVol7EN.pdf p. 65-69.

212 See Resolution of the Constitutional Court of the Russian Federation of March 19, 2014, No. 6-P on the case «on checking the constitutionality of an international treaty that has not entered into force between the Russian Federation and the Republic of Crimea on the acceptance of the Republic of Crimea into the Russian Federation and the formation of new subjects within the Russian Federation» https://rg.ru/2014/03/19/ks-site-dok.html

213 See Resolution of the Constitutional Court of the Russian Federation of April 23, 2004 in the case «on the verification of the constitutionality of the Land Code of the Russian Federation in connection with the request of the Murmansk Regional Duma» http://pravo.gov.ru/proxy/ips/?docbody=&prevDoc=102107300&backlink=1&&nd=102086507

In this regard, the Government of Ukraine should take all necessary measures to inform the international community about the illegality of changing the status of the territory of Crimea and the inadmissibility of the illegal and discriminatory practice of expropriating land plots belonging to persons who are not citizens of the Russian Federation.

Such actions of the Russian Federation authorities should also not go unpunished. States whose citizens have suffered from this interference should do their utmost to hold the Russian Federation and its senior officials accountable for violations of its international obligations, in particular at the European Court of Human Rights and the International Criminal Court.

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10.3. BURIED UNDER THE ASPHALT: CULTURAL HERITAGE AS A VICTIM OF THE «LARGE CONSTRUCTION» IN OCCUPIED CRIMEA[214]

By occupying the Crimean Peninsula in 2014, the Russian Federation gained control over all cultural heritage sites of Ukraine in Crimea. Archaeological sites located in the territory of the Autonomous Republic of Crimea and the city of Sevastopol, among other things, became the actual possession of the invaders.

In accordance with the Part 2 of Article 17 of the Law of Ukraine No. 1805-III dated 08.06.2000 «On the Protection of Cultural Heritage», all monuments of archeology, including those that are under water, including movable objects, are the state property.

According to all the norms and standards of waging war, an occupying state that has occupied the territory of another state is strictly prohibited from destroying cultural values, historical monuments, places of worship and objects that constitute the cultural or spiritual heritage of peoples, as well as using them in order to achieve success in hostilities. In particular, this provision is enshrined in the 1954 Hague Conventions, in Article 16 II of the 1977 Additional Protocol to the 1949 Geneva Conventions. And Article 8(2)(b)(ix) of the Rome Statute of the ICC defines the fact of damage and destruction of cultural monuments as a war crime.

However, immediately after the occupation of the Crimean peninsula, the Russian Federation began its attack on the cultural heritage of Ukraine in Crimea and, without the permission of Ukraine, organized and illegally carried out archaeological excavations, appropriated archaeological values, appropriated and destroyed monuments of the archaeological heritage of Ukraine using the assistance of a network of scientific institutions of the Russian Federation.

The possibility of control over the illegal actions of Russian archaeologists in Crimea is excluded not only for Ukraine, as a sovereign state, but also for the international community as a whole.

Grossly violating the norms of international humanitarian law, the Russian Federation is carrying out the actual disclosure of archaeological heritage sites and the removal of archaeological artifacts from them. Illegal excavations, damage and destruction of objects of the archaeological heritage of Ukraine in Crimea are taking place. Violations of international humanitarian law were particularly evident during the implementation of large infrastructure projects.

Thus, during the construction of the «Tavrida» highway (the aforementioned highway passes through Kerch, Feodosia, Bilohirsk (Belogorsk), Simferopol, Bakhchisarai and Sevastopol), the total length of which is 253.5 km, illegal «archaeological activities» were carried out during 2017-2018 on a section with a total length of slightly less than 300 km.

This illegal activity was carried out by employees of four institutes of the archaeological profile of the Russian Federation under the scientific and methodological guidance of the Russian Academy of Sciences, in particular: the Institute of Archeology of the Russian Academy of Sciences, the Institute of the History of Material Culture of the Russian Academy of Sciences, the Institute of Archeology and Ethnography of the Siberian Branch of the Russian Academy of Sciences and the «Institute of Archeology of Crimea of the Russian Academy of Sciences». Representatives of other scientific institutions of the Russian Federation were also involved in these activities.

214 Ukrainian version of this article https://24tv.ua/yak-kulturna-spadshhina-stala-zhertvoyu-okupantiv-novini-krimu_n1652518

Views of the excavations of the Kermen-Burun settlement, mid-2nd - 1st half of the 3rd century AD, discovered near the village Frontovoye (Sevastopol) on the left bank of the river Belbek in November 2016 during the «planned reconnaissance» of the construction sites of the «Tavrida» highway

Actually, illegal archaeological excavations were carried out on an area of more than 90 hectares. According to their results, more than 90 archaeological sites of various eras were destroyed[215]. Description of objects and their locations are presented on the map[216].

Map of archaeological sites of Ukraine, destroyed during the construction of the «Tavrida» highway in 2017-2018 (according to the Institute of Archeology of the Russian Academy of Sciences)

Neither at the time of the construction of the specified highway, nor at present moment, both Ukraine and international organizations had no opportunity to directly monitor the quality of archaeological research. At the same time, the analysis of publicly available data allowed Ukrainian researchers to single out certain facts of violations and draw the conclusions set out below.

215 Crimea - Taurida. Archaeological research in Crimea in 2017–2018. in 2 volumes - M.: Institute of Archeology of the RAS, 2019. - T. 1. - 420 p.

216 https://www.google.com/maps/d/u/0/embed?mid=1vBo1tHfZCKDe1Bgx6qdL9DVKf-Xn-_LP&ll=44.95002899753809%2C34.70280405625853&z=11&fbclid=IwAR26iYEFKC3ILOwvQvJvVr8ZGzR3TAO9pvWgR0h9vYce5tx_iaGbbnZLLTI

In accordance with the construction standards in force in the Russian Federation, during the construction of the so-called «Tavrida» highway, a large amount of soil was removed (for Category I roads, it is 12 meters on each side of the road surface), the work was carried out on wide areas. The route chosen by the authorities and the method of construction of the highway excluded the possibility of preserving the monuments of the archaeological heritage of Ukraine along the route of the construction.

During illegal excavations, structures intended for housing and industrial complexes were revealed. Excavations were also carried out on the territories of individual burials and burial complexes[217].

«Exploration» of the burial ground of the Roman time of Alexander Rock 1, located 10 km north-west of Kerch

In most of the locations of cultural monuments, the work was carried out before the full disclosure/excavation of the object. Inconsistency in the actions of the builders and those who carried out illegal archaeological excavations (correction of the route, issuance of technical specifications) several times led to the start of construction on unexposed parts of the monuments. For example, the Kyrk-Azizler necropolis was exposed on an area smaller than the area of construction work. And on the settlement of the Scythian time, Kermen-Burun, only the trading quarter was exposed, the settlement itself fell under the embankment of the roadbed[218].

217 http://www.ppu.gov.ua/wp-content/uploads/2020/03/Stan-kulturnoyi-spadshhyny-Krymu.pdf?fbclid=IwAR1HYjcQIm7TRVjVc9AoMQNrqUzLVnqPB_o1NbSkOoy-4fobtIFUB-Zhio70

218 The same.

Burial ground and settlement Kyrk-Azizler. Quadrocopter photo taken by a group of Russian archaeologists

The excavations were carried out hastily, by persons who do not have sufficient experience in working with the Crimean material, in extremely limited periods of time, which, according to Ukrainian experts, do not allow a proper examination of the object under study. The attribution of artifacts was not carried out in accordance with generally accepted rules of the scientific community[219].

The total number of artifacts that are the property of Ukraine, seized during illegal excavations during the construction of the so-called «Tavrida» highway is not known. According to one of the leaders of the illegal excavations, only in the area of the eighth section of the highway under construction, at the Kil-Dere burial ground near Inkerman, more than one thousand artifacts were taken from the excavation site[220].

Scientists of Ukraine believe that most of the items of the archaeological heritage of Ukraine are trafficked out Crimea by the Russian Federation for the purpose of subsequent transfer to the collections of Russian museums[221]. The Vice-President of the Russian Academy of Sciences, Director of the Institute of Archeology of the Russian Academy of Sciences has not only failed to hide, but also directly confirms the facts of the movement of items of the archaeological heritage of Ukraine from Crimea to the Russian Federation and the illegal appropriation of property of Ukraine by scientific institutions of the Russian Federation. In his words, *«Materials from excavations in Crimea have become the most important component of the two largest archaeological collections in Russia, the State Hermitage and the State Historical Museum»*[222].

219 https://youtu.be/zL-P5afO3_k
220 https://crimea.ria.ru/culture/20210201/1119213352/Chto-nashli-arkheologi-vozle-trassy-Tavrida-v-Sevastopole--FOTO.html
221 https://youtu.be/HGJwBGsaIC0
222 Crimea - Taurida. Archaeological research in Crimea in 2017–2018. in 2 volumes - M.: Institute of Archeology of the RAS, 2019. T. 1. 420 p.

As can bee seen, the Russian Federation ignores any norms and principles established by international law and continues to implement its state policy, which causes significant harm to the cultural heritage of Ukraine and Crimea, in particular.

In 2019 and 2020, personal economic and other restrictive measures (sanctions) were applied in relation to the Institute of Archeology of the Russian Academy of Sciences, the Institute of the History of Material Culture of the Russian Academy of Sciences, the «Institute of Archeology of Crimea of the Russian Academy of Sciences», as well as their individual employees and other scientists of the Russian Federation by decrees of the President of Ukraine in connection with the illegal activities of these scientific institutions of the Russian Federation and their employees, damaging the national interests of Ukraine[223].

The non-recognition by the Russian Federation of the fact of the occupation of the Crimean Peninsula and, accordingly, the operation of the norms of international humanitarian law and international law on the protection of cultural heritage, clearly demonstrates the tendency for the further continuation of gross and significant violations by the Russian Federation of the rights of Ukraine as the unconditional owner of cultural heritage objects in Crimea.

In order to stop the Russian Federation and put an end to further committing crimes against the cultural heritage of Ukraine in Crimea, it is necessary to properly investigate absolutely all facts of encroachment on cultural heritage sites, to identify and make public violations of the norms of both international and national law, to identify the perpetrators, to bring criminal and other charges against them. The active cooperation of our state with international partners, attracting their efforts to counteract the Russian Federation, highlighting the illegal activities of the Russian political and scientific communities, disclosing the specific names of persons responsible for the destruction/damage of our cultural heritage should make such persons (both individuals and legal entities) toxic to any civilized country in the world.

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223 https://www.president.gov.ua/documents/822019-26290
https://www.president.gov.ua/documents/1842020-33629

10.4. Appropriation by the occupation authorities of the archaeological monument «The Complex of the Necropolis of Tauric Chersonesos and the Monastery of the Mother of God of Blachernae». Circumstances of the damage to the monument.

Appropriation of the monument by the occupation authorities

The archaeological monument "The Complex of the Necropolis of Tauric Chersonesos and the Monastery of the Mother of God of Blachernae" is a monument of the cultural heritage of Ukraine of national importance[224]. In addition, it is part of the buffer zone of the monument «Tauric Chersonesos», included in the UNESCO World Heritage List. In accordance with the Law of Ukraine dated 08.06.2000 No. 1805-III «On the Protection of Cultural Heritage», the buffer zone ensures the protection of the integrity and authenticity of the outstanding universal value of this object, and within it the appropriate regime of use is established.

In accordance with the second part of Article 17 of the said Law, all monuments of archeology, including those that are under water, among them movable objects, are state property.

After the beginning of the occupation of the Autonomous Republic of Crimea and the city of Sevastopol by the Russian Federation, all objects of cultural heritage located in these territories, including the «The Complex of the Necropolis of Tauric Chersonesos and the Monastery of the Mother of God of Blachernae», fell under its actual control. A year and a half after the beginning of the occupation, this archaeological site was included in the Unified State Register of Cultural Heritage Objects (Historical and Cultural Monuments) of the peoples of the Russian Federation (hereinafter referred to as the Register). At the same time, *de jure* the monument was divided into two objects, each of which was entered into the Register separately. Thus, on October 17, 2015, the archaeological monument of federal significance «The Monastery of the Mother of God of Blachernae» (number in the Register 921540368220006) was added to the Register[225]. The archaeological monument of federal significance "The Necropolis at the Quarantine Bay" was added to the Register on August 8, 2016 (number 921640447820006)[226]. Both monuments are in federal ownership, since they are archaeological heritage and, according to Article 50 of the Federal Law No. 73-FZ «On objects of cultural heritage (historical and cultural monuments) of the peoples of the Russian Federation» dated June 25, 2002, are not subject to transfer to other forms of ownership.

It should be noted that from the beginning of the occupation until the moment the data was entered into the Register, the monument was actually without legal protection. Ukrainian legislation is not observed by the occupation authorities, and, according to the Russian legislation, one part of the monument was placed under protection in October 2015, and the second part was placed in August 2016. Also, a significant violation is the documentary division of a single monument into two separate ones and a change in its name. Thus, the original name of the object testified to the fact that the necropolis and the monastery constituted a single complex, associated in their turn with Tauric Chersonesos. After the division, the single complex of the monument turned into two different objects that have no connection with each other and with Tauric Chersonesos.

Thus, the occupation authorities unlawfully appropriated the archeological monument, which is in the state ownership of Ukraine, and arbitrarily made its documentary division into two separate monuments with changed names.

224 Resolution of the Cabinet of Ministers of Ukraine No. 929 dated 10.10.2012 «On the inclusion of objects of cultural heritage of national significance in the State Register of Immovable Landmarks of Ukraine» https://zakon.rada.gov.ua/laws/show/929-2012-%D0%BF#Text

225 The Monastery of the Mother of God of Blachernae. Information from the Unified State Register of Cultural Heritage Objects (Historical and Cultural Monuments) of the peoples of the Russian Federation. Open data portal of the Ministry of Culture of the Russian Federation https://opendata.mkrf.ru/opendata/7705851331-egrkn/

226 The Necropolis at the Quarantine Bay. Information from the Unified State Register of Cultural Heritage Objects (Historical and Cultural Monuments) of the peoples of the Russian Federation. Open data portal of the Ministry of Culture of the Russian Federation https://opendata.mkrf.ru/opendata/7705851331-egrkn/

Circumstances of damage to the monument

Due to the neglect of the occupation authorities of their responsibilities for the protection of cultural heritage, there is a significant damage to the archaeological monument «The Complex of the Necropolis of Tauric Chersonesos and the Monastery of the Mother of God of Blachernae».

After the beginning of the occupation of the city of Sevastopol, a chaotic and uncontrolled construction of apartment buildings began on the territory of the necropolis and the area around the Temple of the Mother of God of Blachernae. Today, the holistic perception of the ancient temple complex and the historical landscape is distorted by four-story and five-story buildings constructed in the area of Ulyanov, Shostak, Eroshenko streets. These buildings, in fact, change the historical landscape of the monument, they break the previously unified space between the Necropolis Complex with the Temple of the Mother of God of Blachernae and the Vladimir Cathedral of Chersonesos[227].

Analysis of the situation from the point of view of Ukrainian legislation and international law

Crimea is an integral part of the territory of Ukraine, and its occupation by the Russian Federation, according to international humanitarian law (hereinafter, IHL), qualifies as an international armed conflict. In this regard, the process of damage and destruction of cultural heritage should be analyzed both from the point of view of Ukrainian legislation and from an international law perspective.

In accordance with Articles 43 of the 1907 Hague Regulations on the Laws and Customs of War on Land, the Russian Federation, as an occupying power, must adhere to the laws in force in Crimea before the beginning of the occupation, unless this is absolutely impossible. This obligation also applies to legislation on the protection of cultural heritage.

In accordance with Article 56 of the same 1907 Hague Regulations, it is prohibited to destroy or intentionally damage historical monuments, works of art and science in the occupied territory.

In accordance with Article 5, paragraph 1, of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, the occupying power should, as far as possible, support the efforts of the competent national authorities of the occupied territory in safeguarding and preserving its cultural property.

Thus, the Russian Federation is obliged to fully comply with the legal regime of protection of the monument «The Complex of the Necropolis of Tauric Chersonesos and the Monastery of the Mother of God of Blachernae», established by the Ukrainian authorities. This concerns, among other things, obtaining construction permits within the protection zones of the monument, preserving the authenticity of the monument and its properties.

In particular, the construction work near the necropolis and the monastery must be preceded by informing the UNESCO World Heritage Committee in accordance with Article 37-2 of the Law of Ukraine «On the Protection of Cultural Heritage». This is due to the fact that this object, being itself a monument of national significance to Ukraine, moreover, is still located in the buffer zone of the UNESCO World Heritage Site «Tauric Chersonesos».

227 There is no more road to the temple. Information resource «Notes». Access mode https://primechaniya.ru/sevastopol/stati/dorogi_k_hramu_bolshe_net

However, the overall policy of the Russian Federation on non-recognition of the operation of the IHL norms in the specified territory and on ousting Ukrainian legislation from Crimea by Russian legislation, implemented since the beginning of the occupation, does not contain exceptions regarding the cultural heritage located in the territory occupied by it. The result of this policy is the disregard of the Russian Federation for the above-mentioned norms of Ukrainian legislation and international law on the protection of cultural heritage in Crimea.

This circumstance, together with the chaotic and uncontrolled development of the territory adjacent to the monument, has already caused significant damage to it and in the future may lead to even more serious damage or its complete destruction. According to the information provided by the Prosecutor's Office of the Autonomous Republic of Crimea and the city of Sevastopol, the Ukrainian authorities guides the procedural aspects of criminal prosecutions in this matter.

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Source: https://primechaniya.ru/

10.5. WAR CRIMES AGAINST PROPERTY: PECULIARITIES OF LEGAL QUALIFICATION

According to Gerhard Werle's definition, a war crime is a violation of a rule of international humanitarian law that creates direct criminal responsibility under international law. The body of law that makes up the institution of war crimes in the doctrine has a number of alternative names, i.e. the law of war crimes, international criminal law of war, violations of humanitarian law during armed conflicts[228]. Although the latter definition is probably the most correct in legal terms, the term «war crime» was preferred during the drafting of the Rome Statute, as it is shorter and has already been enshrined in the Statute of the Nuremberg Tribunal.

The law of war crimes does not cover issues related to the commencement of hostilities (formerly - jus ad bellum), as they are regulated separately within the framework of international security law and the institution of the crime of aggression.

The intention to create special courts, enshrined in Article 229 (2) of the Treaty of Versailles of June 28, 1919[229], is one of the first cases of international criminal prosecution for war crimes. These courts should include representatives of allied countries to prosecute war criminals, whose victims were citizens of more than one state. Due to the lack of political will, the intention remained lettre morte («only intention»). Subsequently, international responsibility for war crimes was enshrined in Article 6 of the Charter of the Nuremberg Tribunal, in particular for «plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity»[230]. It was after World War II that individuals were first convicted of war crimes under international law.

In particular, in the case of USA vs. Friedrich Flick and others, the post-war tribunal in Nuremberg found a German businessman from the Third Reich Friedrich Flick guilty and sentenced him to 7 years in prison, including for war crimes in the form of theft and robbery in the occupied territories, as well as seizure of enterprises, both in the occupied territories of Western countries (for example, France) and in the occupied territories of Poland and the USSR[231].

The criminalization process of war crimes at the international level has continued with the establishment of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. These courts also had jurisdiction over individuals for war crimes, including property crimes, and made significant contributions to clarifying the content and development of the law of war crimes.

Today, under Article 8 of the Rome Statute[232], the International Criminal Court has jurisdiction to prosecute individuals for war crimes. The mentioned article contains 52 corpus delicti, among which a special place is occupied by crimes against property. At the same time, in the case of an international armed conflict, the qualification of a crime does not require even the minimum intensity of force, so war crimes can be committed outside of active hostilities, which is especially relevant in the context of temporary occupation of the Crimean peninsula. Thus, in the judgment in the case of the Prosecutor v. Ahmad al-Faqi al-Mahdi, it was confirmed that a direct attack could be carried out not in the context of active military confrontation[233].

228 Gerhard Werle, Principles of International Criminal Law (TMC Asser Press, 2005) para. 929.
229 Traité de Versailles de 1919 https://mjp.univ-perp.fr/traites/1919versailles7.htm
230 Agreement for the prosecution and punishment of the major war criminals of the European Axis. Signed at London, on 8 August 1945 https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.2_Charter%20of%20IMT%201945.pdf
231 Trial of Friedrich Flick and five others. United States military tribunal, Nuremberg. 20-22 December, 1947 http://www.worldcourts.com/imt/eng/decisions/1947.12.22_United_States_v_Flick2.pdf
232 Rome Statute of the International Criminal Court https://www.icc-cpi.int/nr/rdonlyres/add16852-aee9-4757-abe7-9cdc7cf02886/283503/romestatuteng1.pdf
233 ICC, The Prosecutor v. Ahmad al Faqi al Mahdi. Judgment and Sentence. Trial Chamber VIII. 27 September 2016, §59.

Among other provisions, five deal directly with the criminalization of expropriation and destruction of property. Under Article 8(2)(a)(iv), individual international criminal responsibility is provided for «extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly». This provision is based on Article 147 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, which classifies the acts described as serious violations of the Convention.

Article 8(2)(b)(xiii) of the Rome Statute (in the context of international armed conflicts (corresponding to Article 8(2)(e)(xii) regarding non-international armed conflicts) criminalizes «destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war».

Article 8(2)(b)(xvi) of the Rome Statute provides for international criminal liability for pillaging a town or place during international armed conflicts, and Article 8(2)(e)(v) for the same act in the context of non-international armed conflicts.

Finally, Article 8(2)(b)(xiv) of the Statute criminalizes the restriction of the rights and claims of the nationals of the hostile party.

In its 2020 Report, the Office of the Prosecutor of the International Criminal Court stated that a crime under Article 8(2)(b)(xiii) of the Rome Statute had been committed prima facie in the temporarily occupied territory of the Crimean Peninsula since 26 February 2014[234]. It can be assumed that this conclusion is explained, inter alia, by the lack of active hostilities in the area, which led to the qualification not under Article 8(2)(a)(iv), which is substantively placed in part of those crimes committed in phase of active confrontation.

Consider in more detail the constituent elements of the crime of «destruction or appropriation of enemy property not justified by military necessity», including: the fact of destruction or appropriation of certain property (1), which was the property of the hostile party (2) and was protected from such destruction or appropriation in accordance with international law of armed conflict (3). In this case, the perpetrator was aware of the factual circumstances that established the status of the property (4), and the destruction or appropriation was not justified by military necessity (5) and was carried out in the context of international armed conflict (6)[235].

In the question of qualifying a separate act as an international war crime against property, it is important to establish the existence of an armed conflict (in the case of temporary occupation of the Crimean peninsula it is an international armed conflict), as well as the exclusion of military necessity as a justification for destruction or appropriation. It should be noted that the property under Article 8 of the Rome Statute means those civil objects that belong to both private and state property.

With regard to the first aspect, without going into details, «an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State. International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached»[236]. As for the occupation, under Article 2, common to the four Geneva Conventions of 1949, it falls within the definition of an international armed conflict, even if it encounters no military resistance.

In the case of an international armed conflict, the threshold to be reached by an armed confrontation between states is quite low (the so-called «first shot rule»). In addition, if the territory of

234 ICC Prosecutor's Report on Preliminary Examination Activities 2020 https://www.icc-cpi.int/itemsDocuments/2020-PE/2020-pe-report-eng.pdf
235 International Criminal Court. Elements of Crimes https://www.icc-cpi.int/Publications/Elements-of-Crimes.pdf
236 ICTY, The Prosecutor v. Dusko Tadić, IT-94-1-AR72, Appeals Chamber, Decision, 2 October 1995, §70 https://casebook.icrc.org/case-study/icty-prosecutor-v-tadic

one state is effectively controlled by another state (according to Article 42 of the Hague Regulations of 1907, the territory is «actually placed under the authority of the hostile army»)[237], such a state is considered an occupation, and the latter is, accordingly, an international armed conflict within the meaning of Article 2, common to the four Geneva Conventions of 12 August 1949.

As for military necessity, it is a generally accepted ground for derogation from certain obligations under international humanitarian law, and therefore has the potential for abuse of rights. References to military necessity are contained not only in the Geneva Conventions of 1949 and the Rome Statute, but also in national regulations (for example, in Ukraine, military necessity is referred to in a special Order of the Ministry of Defense of Ukraine dated 23.03.2017 «On approval of the Instruction on the procedure for compliance with international humanitarian law in the Armed Forces of Ukraine»[238], in the Russian Federation - in the Order of the Minister of Defense of the Russian Federation dated 03.12.2015 «On approval of the Guidelines for legal work in the Armed Forces of the Russian Federation»)[239].

In order to understand what «military necessity» is, it is worth mentioning that a compromise between achieving military superiority and considerations of humanity is the basis of international humanitarian law, which originated in an era when a war was a legitimate means of resolving international disputes. This, in turn, leads to two core principles, proportionality and distinction. The first principle is a safeguard against the total destruction of humanity and the planet, because the response must not exceed the limits of the intensity of the initial attack. A striking example of the violation of the principle of proportionality was the destruction by the Nazis with artillery shelling of indigenous tribes, armed with sticks and bows, in Ethiopia in 1935-1936. The second principle is to distinguish between combatants and civilians, between military and civilian objects. Any person and object involved in or used in an armed attack is a legitimate military target and may be destroyed. Therefore, IHL allows only those actions that are aimed at achieving the legitimate goal of the conflict, and prohibits actions that lie outside that goal. The legitimate aim of an armed conflict is to subjugate the enemy to one's own will, as soon as possible to subdue the enemy completely or partially with minimal expenditure of human and other resources[240]. When the goal is achieved, there can be no question of military necessity, otherwise, the use of this circumstance to exclude liability for war crimes against property may indicate that the ultimate goal of the occupying state is not a separate territory, but the opposing state as a whole, which falls under the definition of another international crime. i.e. aggression.

The concept of «military necessity» is subject to constant evolution. Thus, in Article 23 of the Hague Regulations of 1907[241], in a number of decisions of post-war military tribunals[242], the Statute of the International Criminal Court (Article 8(2)(b)(xiii) we find the term «necessities of war». In turn, the Statute of the Nuremberg Tribunal[243], the Statute of the International Criminal Tribunal for the Former Yugoslavia[244], the Statute of the International Criminal Tribunal for Rwanda[245], the Control

237 Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907 https://ihldatabases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=61CDD9E446504870C12563CD00516768

238 Order of the Ministry of Defense of Ukraine dated 23.03.2017 «On approval of the Instruction on the procedure for compliance with international humanitarian law in the Armed Forces of Ukraine» https://zakon.rada.gov.ua/laws/show/z0704-17#Text

239 Order of the Minister of Defense of the Russian Federation dated 03.12.2015 «On approval of the Guidelines for legal work in the Armed Forces of the Russian Federation» http://docs.cntd.ru/document/901822686

240 International humanitarian law. Manual for a lawyer / [M.M. Gnatovsky, T.R. Korotky, A.O. Korynevych, V.M. Lysyk, O.R. Poyedinok, N.V. Hendel]; edited by T.R. Korotky. Kyiv-Odessa: Ukrainian Helsinki Human Rights Union, Phoenix, 2016, P.13.

241 Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907 https://ihldatabases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=61CDD9E446504870C12563CD00516768

242 Operating in Germany in accordance with Control Council Law No.10.

243 Agreement for the prosecution and punishment of the major war criminals of the European Axis. Signed at London, on 8 August 1945 https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.2_Charter%20of%20IMT%201945.pdf

244 International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991. Updated Statute https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf

245 Statute of the International Tribunal for Rwanda https://legal.un.org/avl/pdf/ha/ictr_EF.pdf

Council Law No.10[246] and the Statute of the International Criminal Court (Article 8(2)(a)(iv))[247] state «military necessity». Meanwhile, the term from Article 53 of the Geneva Convention (IV) is the most complete, i.e. «absolutely necessary by military operations»[248]. Although it should be emphasized that it is not identical to the previous two, because it clearly limits the need by the active military action, which reaches the threshold of strategic importance (what the word «absolutely» indicates).

According to the definition developed by the International Committee of the Red Cross, «military necessity» in the context of Article 53 of the Geneva Convention (IV) means «the movements, manoeuvres and other action taken by the armed forces with a view to fighting»[249]. Therefore, the destruction of property is allowed only to the extent that is absolutely necessary for the conduct of hostilities. If there is no active confrontation, this, a priori, excludes a reference to military necessity as a basis for waiving obligations under international humanitarian law. References to military necessity for purely punitive purposes, for deterrence, prevention or administrative purposes shall not be permitted.

Determining the existence of an absolute military necessity initially belongs to the competence of the party to the conflict. After all, the practice of international criminal tribunals shows that the absence of a state of necessity is not an element of the crime that the Prosecution should establish, removing any reasonable doubts about it[250]. Therefore, the onus probandi (burden of proof) will lie particularly on the side of the conflict if the other party considers that such a necessity did not exist. That is why it is necessary to try to interpret the exception in good faith, adhering to the principle of proportionality between military superiority and harm. Any action that may be permitted in abstracto is not yet permissible in concreto when it does not bring real strategic benefit (embodied in the term «wantonly»), is reckless and excessive[251].

It should also be emphasized that military superiority is interpreted in the context of using the military necessity exception as narrowly as possible. For example, in von Manstein's case, the British military tribunal concluded that destruction prohibited by Article 23 of the Hague Regulations could be permissible only out of urgency. If the retreating army leaves destruction on its way, it creates obvious difficulties for the enemy and corresponding advantages for the retreating military forces, but such advantages are not sufficient to justify such destruction[252]. Therefore, military superiority must also be obvious and necessary, and the destruction of property must be proportional to it. For example, self-defense is not included in the concept of «military necessity».

With regard to the seizure of property in connection with military necessity, the nature of such facilities can be traced in the decision in the Krupp case: «garages for their vehicles, stables for their horses, urgently needed equipment and supplies for the proper functioning of the occupation authorities, food for the army of occupation»[253]. In some national legal acts, the list of such property is extended to «liquor and tobacco, cloth for uniforms, leather for boots, and the like»[254]. However, it should be borne in mind that, under Article 27 of the Vienna Convention on the Law of Treaties of 1969, a «A party may not invoke the provisions of its internal law as justification for its failure to

246 Control Council Law No.10. Art. II(1)(b) https://www.legal-tools.org/doc/ffda62/pdf/
247 Rome Statute of the International Criminal Court https://www.icc-cpi.int/nr/rdonlyres/add16852-aee9-4757-abe7-9cdc7cf02886/283503/romestatuteng1.pdf
248 Geneva Convention relative to the protection of civilian persons in time of war of 12 august 1949 https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33_GC-IV-EN.pdf
249 ICRC, «Interpretation by the ICRC of Article 53 of the Fourth Geneva Convention of 12 August 1949, with particular reference to the expression 'military operations», official statement, 25 November 1981.
250 ICTY, Kordić and Čerkez case. Judgment. 26 February 2001, §452 https://www.icty.org/x/cases/kordic_cerkez/tjug/en/kor-tj010226e.pdf
251 David E. Principles of the Law of Armed Conflict: A course of lectures given at the Faculty of Law of the Open University of Brussels. M .: International Committee of the Red Cross, 2011. P.266.
252 Johansen S.R. Destruction and Seizure of Property When Military Necessity Requires. Cambridge University Press, 2019. P.353-354.
253 United States of America against Alfried Krupp, et al. Opinion and Judgment of Military Tribunal III. Nuremberg. 31 July 1948. P.18 http://werle.rewi.hu-berlin.de/KRUPP-Case%20Judgment.pdf
254 Australia, The Manual of the Law of Armed Conflict, Australian Defence Doctrine Publication 06.4, Australian Defence Headquarters, 11 May 2006, § 12.51 https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_cou_au_rule51_sectionc

perform a treaty»[255]. Therefore, it can be concluded that it is permissible to seize only those things that are not needed in the long run, but to meet the daily needs of the enemy, which excludes from this list, such objects as factories, plants, mineral deposits, cultural heritage sites. Moreover, seized property and its components are prohibited from being exported outside the occupied territory.

Finally, it should be emphasized that the war crime provided for in Article 8(2)(b)(xiii) of the Rome Statute is the destroying or seizing the property without military necessity. This means that under international law, the occupying power may, in certain circumstances, dispose of property in the occupied territories, namely: has the right to requisition private property, the right to confiscate any movable property that may be used for military operations and the right to manage and use real estate property belonging to the occupied state. However, any seizure of private property must be accompanied by full compensation, even if its payment may be deferred, and any use of the property must be on a usufruct basis only.

International humanitarian law considers occupation as a temporary phenomenon, hence the relevant regulation and exceptions to prohibitions are used. In circumstances where the occupying power abuses its rights and evades its obligations, the possibility of invoking any exceptions is limited. In the case of the Russian Federation's occupation of the Crimean peninsula, where active military operations have not been conducted since 2014, the reference to «military necessity» is impossible at all. Moreover, a state that does not recognize the existence of an international armed conflict is unlikely to invoke the rules of international humanitarian law to justify its behavior.

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255 Vienna Convention on the Law of Treaties https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

10.6. THE CASE LAW OF THE ECTHR ON VIOLATION OF PROPERTY RIGHTS IN THE OCCUPIED TERRITORIES

Case of Loizidou v. Turkey[256]

This case is related to the Turkish occupation of the northern part of Cyprus in 1974. A Cypriot citizen, Titina Loizidou, among other things, complained about the violation by the Turkish government of Article 1 of Protocol No. 1 due to the fact that because of the Turkish troops, which exercise full control over the administrative border with northern Cyprus, she was denied access to her property (a house and land plots) located in the occupied territory.

The applicant stated that due to the continued impossibility of exercising the right of access to the property, she had actually lost all control over it, as well as the possibilities to use, to sell, to bequeath, to mortgage, to develop her land, etc. She insisted that, although there was no formal expropriation of her property, there were still attempts of de facto expropriation (§§ 36, 58 of the judgment).

Addressing the issues of Turkey's responsibility for alleged violations of the Convention, the Court noted that the responsibility of States under international law may also arise from acts or omissions of their authorities that lead to consequences outside their own territory. In accordance with the principles of international law, the responsibility of a state can also arise when, as a result of hostilities, lawful or unlawful, it exercises effective control over an area outside its national territory (§ 52 of the judgment). It was decisive for the Court that a significant number of Turkish troops were present in northern part of Cyprus, and therefore concluded that Turkey was exercising effective control over this part of the island, which, in the light of the circumstances of this case, entails responsibility for policy and action of the «Turkish Republic of Northern Cyprus» (§ 56 of the judgment).

The Court agreed with the applicant's arguments. Taking into account the long and ongoing denial of access to property, it qualified her situation as de facto expropriation of property and ascertained a violation by Turkey of Article 1 of Protocol No. 1.

Case of Cyprus v. Turkey[257]

The case also concerned the armed conflict in the northern part Cyprus and its aftermath. In the context of property rights, this case is a logical continuation of the situation that occurred in the Loizidou case, but on a much larger scale, since it was an inter-State complaint.

The Cypriot government, inter alia, claimed that more than 211,000 Greek Cypriots who own property in northern Cyprus were denied the ability to access, manage, use and own their property, as well as any compensation for interference with their property rights. In addition, in the event of a long departure from this region, they lost the right to peaceful possession of their property, and in the event of death, the inheritance rights of relatives living in the south of Cyprus were not recognized.

Claiming that the «Turkish Republic of Northern Cyprus» («TRNC») is an illegal entity under international law and that Turkey is responsible for a wide range of violations of the Convention in the region, Cyprus insisted on the application of the concept of effective monitoring and compensation for victims of violations.

256 «Loizidou v. Turkey», № 15318/89, 18 December 1996 https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-58007%22]}
257 «Cyprus v. Turkey», № 25781/94, 10 May 2001 https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-59454%22]}

In its judgment, the Court emphasized that Turkey's responsibility under the Convention cannot be limited to the actions of its own soldiers and officials operating in the northern part of Cyprus, as it is also responsible for the actions of the local administration («TRNC»), which exists thanks to the Turkish military and other support. On this basis, the Court concluded that Turkey has jurisdiction under the Convention.

As regards the violation of Article 1 of Protocol No. 1, the Court emphasized that the continuing and total denial of access to the property to displaced Greek Cypriots constitutes a clear violation of their right to peaceful possession of property in accordance with the first sentence of that Article. The court also noted that no compensation was paid to the displaced persons as victims of violations (§ 187 of the judgment).

During the hearings before the Court, the respondent State tried to justify this interference by referring to intercommunal negotiations and the need to provide new housing for the settlers - Turkish Cypriots (who moved from the south to the north), but the Court did not agree with such explanations of the reasons for the interference with the property rights of the Greek Cypriots.

In these circumstances, taking into account that Greek-Cypriot owners of property in northern Cyprus are being denied access to and control, use and enjoyment of their property as well as any compensation for the interference with their property rights, the Court concluded that there had been a continuing violation of Article 1 Protocol No. 1 (§189 of the judgment).

Case of Sargsyan v. Azerbaijan[258]

The case concerns the consequences of the Nagorno-Karabakh conflict. The applicant in the case was the ethnic Armenian Minas Sargsyan, who previously lived with his family in the village of Gulistan in the Shahumyan district of the Azerbaijan SSR. Due to active hostilities in the area near Gulistan, he was forced to leave his property and flee to Armenia.

An important aspect of this case is that the village of Gulistan was located on the front line between the troops of Azerbaijan and the «Nagorno-Karabakh Republic», and therefore it was controversial whether it was under the effective control of Azerbaijan. When deciding on the issue of jurisdiction, the Court proceeded from the fact that Gulistan was located in the internationally recognized territory of Azerbaijan, and the respondent state itself did not provide any evidence that this settlement was under the effective control of another state or a separatist regime. Therefore, the Court applied the principle of the presumption of territorial jurisdiction reflected in Article 1 of the Convention and recognized the jurisdiction of Azerbaijan in this case (§§ 133, 144 of the judgment).

The applicant complained that the denial of his right to return to the village of Gulistan and to have access to, control, use and enjoy his property or to be compensated for its loss amounted to a continuing violation of Article 1 of Protocol No. 1 (§ 152 of the judgment).

Referring to its case-law, the Court considered that, as long as access to property was not possible, the State had a duty to take alternative measures to secure property rights, regardless of whether the State can be held responsible for the displacement of the persons in question (§ 234).

The Court noted that the Government had not provided a single example of a case that would have been decided in Azerbaijani courts in favor of persons in a similar situation (§ 118 of the judgment). The fact that the Azerbaijani government participated in the peace negotiations and had to deal with the needs of the huge number of internally displaced persons did not exempt it from the obligation to take measures to protect or restore the applicant's property rights in accordance with international standards for the restitution of housing and property of internally displaced persons and refugees. (§ 235 of the judgment).

258 «Sargsyan v. Azerbaijan», № 40167/06, 16 June 2015 https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-155662%22]}

Thus, the Court found that the impossibility for the applicant to have access to his property without the adoption by the state of alternative measures to restore his property rights or provide him with compensation for the loss of the ability to exercise these rights, imposed and continues to impose an excessive burden on him, which means that there is the continuing breach of the applicant's rights guaranteed by Article 1 of Protocol No. 1 (§ 242 of the judgment).

Case of Chiragov and Others v. Armenia[259]

The case concerned complaints from six Azerbaijani refugees that they could not return to their homes and dispose of their property in the Lachin district of Azerbaijan, from where they were forced to flee in 1992 during the Nagorno-Karabakh conflict. The applicants complained, in particular, about the loss of all control over, as well as of all potential to use, sell, bequeath, mortgage, and develop their properties. Moreover, they insisted that no effective remedy was available to them.

The applicants argued that their rights under Article 1 of Protocol No. 1 had been violated as a result of the actions of Armenia, and their property had been destroyed or pillaged. The complaint also concerned the inability to use land plots and lack of access to them. The applicants considered that such interference with the exercise of their property rights was unlawful and disproportionate, did not provide for compensation or prospects for return (§ 189 of the judgment).

Despite Armenia's objections that it did not have jurisdiction over the «Nagorno-Karabakh Republic», the Court found that it exercised effective control over it and the surrounding territories and thus had jurisdiction over the Lachin district, where the applicants' property was located.

Armenia also insisted, inter alia, that the applicants could not prove ownership of the land and property (§ 123 of the judgment).

The Court recalled that in its practice, taking into account the Piñeiro Principles[260], it has developed a sufficiently flexible approach to the evidence required from the applicants. Flexibility is manifested in the fact that, in the event of the loss of one's property in situations of international or internal armed conflict, it is sufficient to prove the ownership of the property *prima facie*[261] (§ 136 of the judgment).

Finally, the Court held that there had been a violation of Article 1 of Protocol No. 1, as there was no reason to deny the applicants access to their property without compensation.

In the Court's opinion, in practice it was unrealistic and impossible for Azerbaijanis to return to these territories in the circumstances that existed during this time and include the prolonged presence of Armenian troops, violations of the ceasefire regime on the contact line, generally hostile relations between Armenia and Azerbaijan and the absence of visible prospects for a political settlement.

The fact that peace talks are ongoing does not relieve the Armenian government of its obligation to take other measures. The Court also noted that in the circumstances, at the national level, an easily accessible mechanism was required to enable the applicants and others in their situation to recover their property rights and obtain compensation.

259 «Chiragov and Others v. Armenia», № 13216/05, 16 June 2015 https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-155353%22]}

260 Sub-Commission on the Promotion and Protection of Human Rights. Housing and property restitution in the context of the return of refugees and internally displaced persons. Final report of the Special Rapporteur, Paulo Sérgio Pinheiro. Principles on housing and property restitution for refugees and displaced persons (E/CN.4/Sub.2/2005/17) https://documents-dds-ny.un.org/doc/UNDOC/GEN/G05/146/95/PDF/G0514695.pdf?OpenElement

261 On the first impression.

Case of Sandu and Others v. the Republic of Moldova and Russia[262]

The case resulted from the consolidation of 49 individual applications into one proceeding about the applicants' lack of access and other restrictions on their ownership of land plots located on the territory of the «Moldavian Republic of Transdniestria» («MRT»).

The applicants argued that although the land they owned in 2004-2006 had not been formally expropriated, the imposed lease agreements and the need to pay the related fees limited their property rights in the same way as the rights of Cypriot citizens who lost access to their property under effective control of the self-proclaimed «Turkish Republic of Northern Cyprus». Moreover, their property lost much of its value because of the limits on its use (§ 65 of the judgment).

The Court noted that both Republic of Moldova and Russia have jurisdiction in this case.

Having examined the circumstances of the case, the ECtHR decided that the applicants' property rights were limited. Although the interference with the exercise of the property rights in this case cannot be qualified as either deprivation of property or control over its use, the Court considers that the applicants' inability to cultivate their land should be examined in accordance with the general principle of peaceful enjoyment of possessions (§ 79 of the judgment).

It also ruled that the applicants' property rights had been violated because the «MRT» authorities had no legal basis to require the conclusion of land lease agreements with persons who already owned the land, or to deny them access to their land.

When determining the measure of responsibility of each state, the Court emphasized that the Republic of Moldova, although it did not exercise effective control over the «MRT», nevertheless had a positive obligation to take diplomatic, economic, judicial and other measures that were available to it in accordance with international law. The Court ruled that Moldova adhered to its obligations to regain control over the region and compensate the victims of the restrictive policy of the «MRT», and did not find a violation of the Convention on its part.

The Russian Federation stated that the applicants' complaints were inadmissible, referring to the fact that many of them failed to submit documents proving that they were owners of land in the relevant area or that they rented such land. Thus, the Russian Government argued that the applicants did not have «possessions» within the meaning of Article 1 of Protocol No. 1 (§ 73 of the judgment).

The Court rejected the arguments of the Russian Federation and noted that copies of identity cards, certificates from the State Land Register of Moldova with cadastral numbers, plans of land plots, documents confirming the facts of donation or inheritance are sufficient to establish that all applicants owned land in the relevant region. The court also noted that despite the fact that the land in question being situated across a road controlled by the «MRT» and allegedly on «MRT territory», the latter's authorities did not object to distribution of that land by the Moldovan authorities to the applicants (§ 74 of the judgment).

Thus, since it was established that the Russian Federation provided substantial assistance to the «MRT» both militarily and financially, without which the «MRT» could not exist, the Russian Federation should be held liable under the Convention for the violation of the applicants' property rights.

262 «Sandu and Others v. the Republic of Moldova and Russia», № 21034/05, 17 July 2018 https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-184651%22]}

Case of Georgia v. Russia (II)[263]

The case concerns the consequences of the armed conflict between Georgia and the Russian Federation, which began in August 2008. Among the numerous violations of the Convention reported by the Georgian Government, there was also a violation of the right to peaceful possession of property guaranteed by Article 1 of Protocol No. 1. In the statement of Georgia, it was mentioned about the robberies and arson of houses, which were committed after the cessation of active hostilities, namely after 12 August 2008.

According to Georgia's allegations, violence, arson and looting were committed in South Ossetia and the adjacent buffer zone by the Russian armed forces and the «South Ossetian forces», in violation of Article 1 of Protocol No. 1. At the same time, the aim was the ethnic cleansing of the Georgian population in South Ossetia (§ 177 of the judgment). Georgia also argued that the killings, evictions of local residents, looting and destruction of houses were committed intentionally, and were a manifestation of administrative practice by the Russian Federation.

The Court found that the Russian Federation exercised effective control over, inter alia, South Ossetia and the buffer zone from 12 August to 10 October 2008, based on the military presence as well as the economic, military and political support of the de facto authorities.

With regard to the violation of Article 1 of Protocol No. 1, the Court found that the predominantly illegal acts were committed by «South Ossetian forces», including many irregular militias. At the same time, the Russian Federation was responsible for the actions of the latter in those territories, without it being necessary to provide proof of «detailed control» of each of those actions (§§ 212, 214 of the judgement).

The Russian Government did not dispute the facts of looting, violence and other actions. Moreover, the peacekeeping and law enforcement forces of the Russian Federation, despite the existing order to protect the civilian population, stated that the measures taken on their part were not enough to prevent violations.

The Court agreed with the position of Georgia that illegal actions in these territories were an administrative practice, in particular due to the «official tolerance» on the part of the Russian Federation, since the higher authorities not only allowed the commission of illegal acts, but also being aware of such violations, they showed indifference in matters investigating, punishing or preventing the recurrence of such incidents (§§ 216, 219). Ultimately, the Court found that there had been a violation of Article 1 of Protocol No. 1 by the Russian Federation.

The material was prepared by
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263 «Georgia v. Russia No. 2», № 38263/08, 21 January 2021 https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-207757%22]}

To the Verkhovna Rada of Ukraine:

1. To develop and approve the legal framework (principles) for the restoration of the rights of affected property owners after Ukraine's jurisdiction over the territory of the Autonomous Republic of Crimea and the city of Sevastopol is recovered.

To the Cabinet of Ministers of Ukraine:

1. To carry out constant monitoring of the state of observance of human rights (including property rights and related rights) in the occupied territories of the Autonomous Republic of Crimea and the city of Sevastopol.

2. To systematically publish information on violations of human rights and fundamental freedoms (including property rights and related rights) in these territories.

3. To ensure:

- documenting violations of human rights and fundamental freedoms (including property rights and related rights) in the occupied territories;

- creation of a register of victims of violations of property rights in the occupied territories and their recording.

4. To develop a methodology for determining the amount of harm caused to the state, citizens of Ukraine and other persons - victims of violations of property rights in the occupied territories of Ukraine.

5. To provide an opportunity for individuals and legal entities who possess now and those who used to possess property in the temporarily occupied territories to inform the state about changes in their property status, facts of violations of their rights, and transfer information and copies of relevant documents that confirm the violation of their rights or a change in status property in the occupied territories to the state authorities.

6. In order to further ensure by the state of Ukraine the right to truth and proper organization of the fulfillment of the requirements of Article 6 of the Law of Ukraine «On the Specifics of the State Policy to Ensure the State Sovereignty of Ukraine in the Temporarily Occupied Territories in Donetsk and Luhansk regions» to create a Center for Documenting Human Rights Violations in the occupied territories of Ukraine.

7. To provide systematic information to the citizens of Ukraine, living both in the temporarily occupied territories and in other regions of Ukraine, regarding possible ways / tools to protect their property rights violated in connection with the temporary occupation of the Crimean peninsula.

To the Ministry of Foreign Affairs of Ukraine:

1. to apply diplomatic means in order to ensure the protection of the national interests of Ukraine, in particular (but not exclusively):

- to formulate the official position of the state on the violation by the Russian Federation of the rights of property owners in the occupied territories in order to present it to the international community;

- to formulate the official position of the state on the elements of the «policy of non-recognition» in connection with violations of property rights in occupied Crimea;

- to ensure proper informing of foreign diplomatic institutions of Ukraine on this issue.

To the Ministry for the Reintegration of the Temporary Occupied Territories

1. To carry out work on the preparation of sanctions lists in relation to persons involved in gross violations of human rights in the territory of the Autonomous Republic of Crimea and the city of Sevastopol, in particular, violations of property rights of legal entities and individuals.

To the Ministry of Justice of Ukraine:

1. To consider the issue of preparation and submission to the European Court of Human Rights of an inter-State application on the protection of property rights of individuals and legal entities violated by the Russian Federation in the occupied territories of the Autonomous Republic of Crimea and the city of Sevastopol.

To the Prosecutor General's Office, the Prosecutor's Office of the Autonomous Republic of Crimea and the city of Sevastopol, the Security Service of Ukraine, the Ministry of Internal Affairs of Ukraine:

1. To carry out, within their competence, investigations of violations of property rights in the territories of the Autonomous Republic of Crimea and the city of Sevastopol temporarily occupied by the Russian Federation.

2. To periodically publish information on the state of the investigation in criminal proceedings on violation of property rights in the occupied territories, in particular with respect to persons involved in the commission of crimes.

3. To periodically inform the International Criminal Court about additional facts / evidence that officials of the Russian Federation and the occupation authorities have committed war crimes related to violations of property rights in the temporarily occupied territories of the Autonomous Republic of Crimea and the city of Sevastopol.

ANNEX 1. CASE-LAW OF THE COURTS OF THE RUSSIAN FEDERATION

(on the application of Article 238 of the Civil Code of the Russian Federation)

№	Case Number /Type of decision, Court, Date of adoption	The essence of the adopted court decision
Decisions on compulsory alienation		
1	Case № 2-78/2020 Decision of the Vyborg City Court of the Leningrad Region dated 01.06.2020 https://cutt.ly/IvPd1it	To conduct the compulsory alienation of a land plot belonging to a citizen of Norway by alienation at auction with the transfer of the money received from the sale to him, minus the costs incurred in the process of alienation of the specified land plot, within 6 months from the date the court decision comes into legal force.
2	Case № 2-90/2020 Decision of the Lomonosov District Court of the Leningrad Region dated 05.02.2020 https://cutt.ly/PvPgd1g	To sell at public auction the land plot owned by the right of ownership within 5 months from the date of entry into force of the court decision, with the transfer of the proceeds from the sale minus the cost incurred in the process of alienation of the property.
3	Case № 2-280/2020 Decision of the Rubtsovsky City Court of the Altai Territory dated 17. 02.2020 https://cutt.ly/gvPjRds	To sell a land plot at auction with payment to the owner, a citizen of Kazakhstan, of the proceeds from the sale minus the cost incurred in the process of alienation of the property.
4	Case № 2-2046/2020 Decision of the Sverdlovsk District Court of the city of Belgorod dated 21.08.2020 https://cutt.ly/wvPhTj9	To alienate a land plot located in the border area, which belongs to a citizen of Ukraine, by selling at public auction, with the transfer of the proceeds to the former owner, minus the costs incurred in the process of alienation of the property.
Decisions on the obligation of alienation		
5	Case № 2-44/2020 Decision of the Gdovskiy District Court of the Pskov Region dated 17.02.2020 https://cutt.ly/IvOZW0z	To oblige a citizen of Estonia to take legally significant actions to terminate the ownership of the land plot within 6 months from the date of entry into force of the court decision.
6	Case № 2-190/2020 Decision of the Sortavala City Court of the Republic of Karelia dated 26.02.2020 https://cutt.ly/XvOXsdP	To oblige a citizen of the Republic of Belarus to alienate land plots within 6 months from the date of entry into force of the court decision.
7	Case № 33-23899/20 Appellate ruling of the Krasnodar Regional Court dated 24.11.2020 https://cutt.ly/DvPs8H1	By the decision of the Anapa City Court of the Krasnodar Territory of August 30, 2019, it was decided to oblige a citizen of Ukraine, within 30 days from the date of entry into force of the court decision, to sell at tenders, competitions, auctions, his dwelling and land plot. The Court of Appeal found the decision of the first instance court lawful and well-grounded.

№	Case Number /Type of decision, Court, Date of adoption	The essence of the adopted court decision
8	Case № 33-2897/2020 Appellate ruling of the Leningrad Regional Court dated 22.06.2020 https://cutt.ly/PvPdkiq	By a decision of the Lomonosov District Court of the Leningrad Region dated December 11, 2019, it was decided to oblige a citizen of the Republic of Belarus to alienate a land plot. The Court of Appeal recognized the decision of the first instance court as lawful and upheld it.
9	Case № 2-344/2020 Appellate ruling of the Astrakhan Regional Court dated 12.08.2020 https://cutt.ly/JvPdc03	By the decision of the Liman District Court of the Astrakhan Region dated June 8, 2020, it was decided to oblige a citizen of the Republic of Kazakhstan to alienate the land plot belonging to him by right of ownership within 6 months from the date the court decision entered into legal force. The Court of Appeal recognized the decision of the first instance court as lawful and upheld it.
10	Case № 2-70/2020 Decision of the Ershovsky District Court of the Saratov Region dated 27.04.2020 https://cutt.ly/HvPdEkw	To oblige a citizen of the Republic of Kyrgyzstan to alienate 1/5 of the share in the right of common shared ownership of a land plot.
11	Case № 33-33050/2020 Appellate ruling of the Krasnodar Regional Court dated 03.12.2020 https://cutt.ly/JvPdK8C	By the decision of the Oktyabrsky District Court of the city of Novorossiysk dated September 1, 2020, it was decided to oblige a citizen of Ukraine to sell at auction his 2/25 shares in the right of common shared ownership of a land plot, as well as 2/25 shares in the right of common shared ownership of a residential building. The Court of Appeal recognized the decision of the first instance court as lawful and upheld it.
12	Case № 2-29/2020 Decision of the Khomutovsky District Court of the Kursk Region dated 12.03.2020 https://cutt.ly/8vPd3A4	To force a foreign citizen to sell her land plot at auction.
13	Case № 2-108/2020 Decision of the Kaa-Khem District Court of the Republic of Tuva dated 16.03.2020 https://cutt.ly/VvPd6Fi	To impose an obligation on the citizen of Ukraine to alienate the ownership of the land plot within 1 month from the date of entry into force of the court decision.
14	Case № 2-39/2020 Decision of the Shimanovsky District Court of the Amur Region dated 26.02.2020 https://cutt.ly/yvPfuFM	To impose an obligation on a foreign citizen to alienate the land plot within 3 months from the date of entry into force of the court decision.
15	Case №2-170/2020 Decision of the Rylsky District Court of the Kursk Region dated 08.06.2020 https://cutt.ly/SvPjses	To oblige a citizen of Ukraine to alienate 1/3 of the share in the common shared ownership of a land plot belonging to her by right of ownership within 3 months from the date of entry into force of the decision.

№	Case Number /Type of decision, Court, Date of adoption	The essence of the adopted court decision
16	Case №2-2-30/2020 Decision of the Nevelsky District Court of the Pskov Region dated 24.01.2020 https://cutt.ly/NvPjke1	To oblige a citizen of the Republic of Lithuania to alienate the land plot within 6 months from the date of entry into force of the court decision.
17	Case № 2-1603/2020 Decision of the Oktyabrsky District Court of the city of Belgorod dated 19.05.2020 https://cutt.ly/QvPjKA3	To oblige a citizen of Germany within 2 months from the date of the decision to sell at an auction a share in the amount of 31/100 in the right of common shared ownership of a land plot. If she does not comply with the decision within the prescribed period, the bailiff-executor has the right to sell the share at auction with payment to the owner of the proceeds minus the costs incurred in the process of the execution of the court decision.
18	Case №2-8/2020 Decision of the Rudnyansky District Court of the Smolensk Region of 26.02020 https://cutt.ly/avPjM58	To oblige a foreign citizen to alienate the land plot within 8 months from the date of the decision.
19	Case №2-152/2020 Decision of the Pogarsky District Court of the Bryansk Region dated 21.09.2020 https://cutt.ly/FvPj6f1	To oblige a citizen of Ukraine, within 6 months from the date of entry of this decision into legal force, to alienate the land plot belonging to her by right of ownership.
20	Case №2-750/2020 Decision of the Moscow District Court of the city of Kaliningrad dated 10.03.2020 https://cutt.ly/uvPkobg	To oblige a foreign citizen to alienate the land plot within 1 year from the date of entry into force of the court decision.
21	Case №2-375/2020 Decision of the Karasuksky District Court of the Novosibirsk Region dated 02.06.2020 https://cutt.ly/bvPkjHj	To oblige a citizens of the Republic of Kazakhstan to take legally significant actions to alienate the shares of the land plot within 3 months from the date of entry into force of the court decision.
22	Case № 2-95/2020 Decision of the Kazan District Court of the Tyumen Region dated 27.07.2020 https://cutt.ly/wvPkmjN	To oblige a citizens of the Republic of Uzbekistan to alienate the shares belonging to them on the right of ownership in the common shared ownership of the land plot. In case of non-execution of the court decision, to provide the bailiffs with the right to independently carry out actions for the sale at the auction with the attribution of all costs to the defendants.
23	Case № 2-528/2020 Decision of the Bagrationovskiy District Court of the Kaliningrad Region dated 13.11.2020 https://cutt.ly/LvPkIkI	To oblige a foreign citizen to alienate a land plot within 1 year from the date of entry into force of a court decision

№	Case Number /Type of decision, Court, Date of adoption	The essence of the adopted court decision
24	Case № 2-985/2020 Decision of the Akhtubinsky District Court of the Astrakhan Region dated 26.08.2020 https://cutt.ly/WvPkGp9	To oblige a citizen of the Republic of Uzbekistan to alienate a land plot and a residential building at a public auction within 8 months from the date of entry into force of the court decision.
25	Case № 2-3162/2020 Decision of the Leningradsky District Court of the city of Kaliningrad dated 17.09.2020 https://cutt.ly/ZvPkV3g	To oblige a citizen of the Republic of Armenia, within 1 year from the date of entry into force of the court decision, to alienate 1/3 of the share in the ownership of the land plot.
26	Case № 2-60/2020 Decision of the Korenevsky District Court of the Kursk Region dated 06.04.2020 https://cutt.ly/LvPk6so	To oblige a foreign citizen to alienate the land plot belonging to her by right of ownership within 3 months from the date of entry into force of the court decision.
27	Case № 2-303/2020 Decision of the Derbentsky District Court of the Republic of Dagestan dated 05.06.2020 https://cutt.ly/OvPlspA	To oblige a foreign citizen to alienate a land plot.
28	Case № 2-40/2020 Decision of the Sovetsky City Court of the Kaliningrad Region dated 07.04.2020 https://cutt.ly/6vPlcTU	To oblige a foreign citizen to alienate the land plot within 6 months from the date of the decision.
29	Case № 2-339/2020 Decision of the Limansky District Court of the Astrakhan Region dated 18.05.2020 https://cutt.ly/8vPlEeu	To oblige a citizen of the Republic of Uzbekistan to alienate the land plot belonging to him by right of ownership within 6 months from the date of entry into force of the court decision.
30	Case № 2-802/2020 Decision of the Kingiseppsky City Court of the Leningrad Region dated 27.08.2020 https://cutt.ly/tvPlPzn	To oblige citizens of Estonia to alienate the shares in the common shared ownership of the land plot belonging to them by right of ownership by December 31, 2021.
31	Case №2-388/2019 Decision of the Yeisk District Court of the Krasnodar Territory dated 19.08.2019 https://sudact.ru/regular/doc/dWLOoBJzpI61/	To oblige a citizen of Ukraine, within 6 months from the date of entry of this court decision into legal force, to alienate 1/6 of the share of the land plot, as well as 1/3 of the share of a residential building, belonging to her by the right of common ownership.

ANNEX 2. STATE CONTRACT FOR THE PROVISION OF COMPLEX LEGAL SERVICES BETWEEN THE DIRECTORATE OF THE GOVERNOR'S OFFICE AND THE GOVERNMENT OF SEVASTOPOL AND PRAVOZASHCHITA LLC, CONCLUDED ON DECEMBER 30, 2016

ГОСУДАРСТВЕННЫЙ КОНТРАКТ № 290
на оказание комплексных юридических услуг

г. Севастополь 30 декабря 2016 года

Департамент аппарата Губернатора и Правительства Севастополя, именуемый в дальнейшем Государственный Заказчик, в лице исполняющего обязанности директора Департамента Чайкина Юрия Викторовича, действующего на основании Положения о Департаменте аппарата Губернатора и Правительства Севастополя, утвержденного постановлением Правительства Севастополя от 16.09.2016 № 871-ПП «Об утверждении Положения о Департаменте аппарата Губернатора и Правительства Севастополя», с одной стороны, и Общество с ограниченной ответственностью «Правозащита» (далее -ООО «Правозащита»), в лице директора Реуцкого Владимира Вацлавовича, действующего на основании Устава, именуемое в дальнейшем «Исполнитель», с другой Стороны, в соответствии с Федеральным законом от 05.04.2013 № 44-ФЗ «О контрактной системе в сфере закупок товаров, работ, услуг для обеспечения государственных и муниципальных нужд» и постановлением Правительства Севастополя от 22.04.2016 № 399-ПП «Об утверждении порядка осуществления закупок товаров, работ и услуг для обеспечения государственных нужд города федерального значения Севастополя в 2016 году» заключили настоящий Контракт о нижеследующем:

1. Предмет Контракта

1.1. Государственный Заказчик поручает, а Исполнитель обязуется предоставить ему, в соответствии с условиями контракта, комплексные юридические услуги, а Государственный Заказчик со своей Стороны обязуется принять указанные услуги и оплатить их согласно условий настоящего контракта.

1.2. В комплекс юридических услуг, предусмотренных п.1.1, данного Контракта, входит оказание всего комплекса юридических и фактических действий по представлению в судах интересов Департамента по имущественным и земельным отношениям города Севастополя (далее – Департамент) по признанию недействительными актов, связанных с предоставлением земельных участков в пользование или в собственность, и/или об истребовании данных земельных участков из чужого незаконного владения.

1.2.1. Комплекс юридических и фактических действий включает в себя:

а) анализ законодательства Украины и Российской Федерации, судебной практики по вопросам возникшего спора;

б) анализ перспектив судебного разбирательства по признанию недействительными актов, связанных с предоставлением конкретного земельного участка в пользование или в собственность, и об истребовании данного земельного участка из чужого незаконного владения;

в) запрос и формирование пакетов документов, необходимых и достаточных для подачи соответствующих исковых заявлений в арбитражный суд или суд общей юрисдикции и ведения судебных дел;

г) направление необходимых документов в адрес лиц, участвующих по делу (ответчиков, третьих лиц);

д) соблюдение досудебного (претензионного) порядка, подготовка направление исковых заявлений, апелляционных жалоб, отзывов, пояснений, иных процессуальных документов в адрес арбитражных судов, судов общей юрисдикции первой, апелляционной инстанций в соответствии с правилами подведомственности и подсудности, установленными действующим законодательством;

е) представление интересов Департамента по земельным и имущественным отношениям в судах первой инстанции, а в случае необходимости в судах апелляционной инстанции;

ж) получение судебных актов и направление их вместе со всеми материалами по судебным делам в адрес Государственного Заказчика.

1.2.2. Конечным и надлежащим результатом оказания услуг являются акты арбитражных судов и судов общей юрисдикции о признании недействительными актов о предоставлении

земельных участков в пользование или в собственность и/или об истребовании данных земельных участков из чужого незаконного владения или об отказе в удовлетворении заявленных требований, вступившие в законную силу.

1.3. Предполагаемое количество исковых заявлений - не более 2500 единиц.

Окончательное количество исковых заявлений определяется Департаментом и доводится до Исполнителя до 10 марта 2017 года.

2. Сумма Контракта и порядок расчетов

2.1.1. Сумма по контракту составляет 25000000,00 (двадцать пять миллионов) рублей 00 копеек. Данная сумма включает в себя стоимость услуг, предусмотренных п.п.1.2.1 контракта, и рассчитана как сумма стоимостей в размере 10000 (десять тысяч) рублей за каждый судебный акт о признании недействительными актов о предоставлении земельных участков в пользование или в собственность и/или об истребовании данных земельных участков из чужого незаконного владения и/или об отказе в удовлетворении заявленных требований, вступившими в законную силу.

2.2. Стоимость комплекса юридических и фактических действий приведен в Приложении № 1 к Контракту.

Сумма Контракта является твердой и определяется на весь срок исполнения Контракта, за исключением случаев, установленных пунктом 2.2 Контракта.

2.3. В общую цену Контракта включены все расходы Исполнителя, необходимые для осуществления им своих обязательств по Контракту в полном объеме и надлежащего качества, в том числе все подлежащие к уплате налоги, сборы и другие обязательные платежи, связанные с оказанием услуг.

2.4. Порядок расчетов между Сторонами:

2.4.1. Порядок расчетов между Сторонами - безналичный.

2.4.2. Исполнитель имеет право предъявить к оплате не более 2500 судебных актов арбитражных судов и/или судов общей юрисдикции, принятых по итогам рассмотрения исковых заявлений, поданных в интересах Департамента и вступивших в законную силу, что оформляется соответствующим Актом приема оказанных услуг по контракту, который подписывает представитель Департамента и Исполнителя по форме, указанной в Приложении № 2 к настоящему договору, а Государственный Заказчик обязуется оплатить оказанные услуги в течение 10 календарных дней с момента его подписания сторонами.

2.5. Изменение стоимости услуг по Контракту после его исполнения в полном объеме не допускается.

2.6. После установления Департаментом в соответствии с пунктом 1.3 настоящего контракта окончательного количества исковых заявлений, которое должно быть подано Исполнителем по настоящему контракту, Сторонами оформляется дополнительное соглашение с указанием окончательной суммы контракта с учетом положений пункта 2.1 настоящего контракта.

Расходы, связанные с исполнением настоящего Контракта на оказание юридических услуг - государственная пошлина и издержки, связанные с рассмотрением дела, несет Государственный Заказчик.

3. Права и обязанности Исполнителя

Обязанности:

3.1. Исполнитель обязан оказать услуги качественно и максимально оперативно в соответствии с действующим законодательством РФ, а также обеспечить конфиденциальность сведений, касающихся оказания услуг и полученных результатов.

3.2. Исполнитель обязуется применять при оказании услуг законные и объективные методы и средства.

3.3. Исполнитель обязан запросить у соответствующих органов и организаций необходимые для обоснования правовой позиции и исковых требований документы.

3.4. Исполнитель обязан немедленно приступить к осуществлению комплекса

юридических и фактических действий по настоящему контракту после получения перечней земельных участков, указанных в пункте 4.3 настоящего контракта.

3.5. Исполнитель обязан предоставить Департаменту акты судов, указанные в пункте 1.2.2 настоящего контракта в течение 3 рабочих дней с момента их изготовления судами в окончательной форме и получения Исполнителем.

3.6. Исполнитель обязан предпринять все зависящие от него действия по восстановлению при утрате или повреждении документов, переданных ему Департаментом в соответствии с пунктом 4.1 настоящего контракта.

Права:

3.7. Исполнитель может привлекать для исполнения обязательств любых других лиц по своему усмотрению, без сообщения об этом Государственному Заказчику. Департамент обязан обеспечить условия выполнения работ путем выдачи соответствующих доверенностей на лиц, указанных Исполнителем.

3.8. Если во время исполнения услуг станет очевидным, что она не будет выполнена надлежащим образом и в надлежащие сроки, Исполнитель вправе отказаться от выполнения услуг и потребовать расторжения контракта.

4. Обязанности Государственного Заказчика и Департамента

4.1. Департамент обязан обеспечить Исполнителя всей информацией и документами, в том числе, оригиналами документов (в случае наличия данных документов), доверенностями на ведение дел, доверенностями на представление интересов Департамента или перечисленными в запросе Исполнителя. Департамент в пределах своей компетенции в случае необходимости обязан всячески способствовать Исполнителю в исполнении его обязательств по настоящему контракту, в том числе требовать от исполнительных органов власти города Севастополя предоставления не более чем в 10-дневный срок со дня поступления запроса ответов и документов на запросы Исполнителя.

4.2. Государственный Заказчик обязан оплачивать работу Исполнителя в порядке, установленном разделом 2 настоящего Контракта.

4.3. Департамент обязан до 10 марта 2017 года формировать и направлять в адрес Исполнителя перечни земельных участков, в отношении которых Исполнитель обязан выполнить комплекс юридических и фактических действий по настоящему контракту.

4.4. Департамент осуществляет контроль процесса оказания услуг, в том числе согласует планы мероприятий по конкретным земельным участкам, дают обязательные к исполнению указания по их корректировке на основе изменения текущей ситуации, согласует позицию при участии в судебных разбирательствах, а также любые иные действия Исполнителя, совершение которых может повлечь отказ в удовлетворении исковых требований.

5. Срок действия Контракта, условия его изменения и расторжения

5.1. Настоящий Контракт вступает в силу с момента его подписания Сторонами, скрепления подписей печатями, и действует до полного исполнения обязательств сторонами, но не позднее 31 декабря 2017 года.

Исковые заявления должны быть поданы до 18 апреля 2017 года.

5.2. Контракт может быть расторгнут по инициативе Исполнителя в случае:

- необеспечения Департаментом Исполнителя, при условии получения письменного запроса, информацией, требуемой для выполнения Исполнителем своих обязательств по настоящему Контракту;
- создание Государственным Заказчиком и или Департаментом условий, препятствующих выполнению Исполнителем принятых по Контракту обязательств.

5.3. Государственный Заказчик вправе в одностороннем порядке отказаться от исполнения контракта в случае неисполнения, ненадлежащего исполнения Исполнителем обязательств предусмотренных пунктов 3.1, 3.2, 3.3 настоящего контракта.

Если во время исполнения услуг станет очевидным, что она не будет выполнена надлежащим образом и в надлежащие сроки, Исполнитель также вправе отказаться от выполнения услуг и потребовать расторжения контракта.

5.4. В случае прекращения контракта по инициативе любой из Сторон, в том числе по п. 5.3. Государственный Заказчик обязуется оплатить фактически выполненную Исполнителем на момент прекращения контракта работу в соответствии с ценой, определенной разделом 2 настоящего контракта.

6. Ответственность Сторон и разрешение споров

6.1. За неисполнение или ненадлежащее исполнение условий данного Контракта Стороны несут ответственность в соответствии с действующим законодательством Российской Федерации и настоящим Контрактом.

6.2. Все споры по настоящему Контракту разрешаются по согласованию Сторон, если Стороны не смогли урегулировать возникшие разногласия самостоятельно, спор передаются на рассмотрение в суд.

7. Конфиденциальность

7.1. Стороны отвечают за обеспечение конфиденциальности документации, информации, полученных результатов.

7.2. С переданной документацией, информацией, результатами вправе ознакомиться лишь те лица, которые непосредственно участвуют в исполнении условий данного Контракта. Круг лиц, допущенных к информации и документации по данному Контракту, определяет каждая Сторона самостоятельно.

7.3. Факт подписания данного Контракта, реквизиты участвующих Сторон и взаимные обязательства Сторон также являются конфиденциальной информацией.

8. Особые условия

8.1. Стороны не вправе разглашать ставшие им известными сведения о финансовой, хозяйственной, и правовой деятельности друг друга, как в период действия настоящего Контракта, так и после его прекращения.

8.2. В случае совершения Государственным Заказчиком или третьими лицами в его интересах действий по настоящему Контракту, не согласованных с Исполнителем, действие настоящего Контракта прекращается. При этом наступают последствия, установленные в п.5.4, настоящего контракта.

8.3. При необходимости Исполнитель вправе привлечь к разрешению возникающих вопросов соответствующие учреждения, организации, предприятия, специалистов соответствующих квалификаций и специальностей.

8.4. Исполнитель не несет ответственности за последствия, связанные с представлением Департаментом документов, несоответствующих действительности.

9. Форс-мажор

9.1. Ни одна из Сторон не будет нести ответственности за полное или частичное невыполнение любых своих обязательств, если невыполнение будет являться прямым следствием обстоятельств непреодолимого (форс-мажорного) характера, находящихся вне контроля Сторон, возникших после заключения Контракта.

10. Прочие условия

10.1. Настоящий Контракт составлен в двух оригинальных экземплярах на русском языке,

имеющих одинаковую юридическую силу, по одному экземпляру для каждой из Сторон.

10.2. Стороны подписывают каждую страницу Контракта.

10.3. Стороны обязуются письменно уведомлять друг друга об изменении своих реквизитов (места регистрации) в течение 10-ти календарных дней с момента его изменения.

11. Юридические адреса и реквизиты Сторон

Государственный заказчик	Исполнитель
Департамент аппарата Губернатора и Правительства Севастополя	ООО «ПРАВОЗАЩИТА»
Юридический адрес: 299011, г. Севастополь, ул.Ленина,2 Почтовый адрес: 299011, г. Севастополь, ул. Ленина,2 ОГРН 1149204005609 ИНН 9204003006 КПП 920401001 л/с 03742D49860 в Управлении Федерального казначейства по городу Севастополю отделение Севастополь р/с 40201810067110000001 БИК 046711001 Тел. 8 692 54 20 69	Адрес регистрации: 299057, г. Севастополь, ул. Адм. Юмашева, 15-В-корп.1, кв. 14. ОГРН 1149204034187 ИНН 9201011231, КПП 920101001 АО «ГЕНБАНК» БИК 043510123 ИНН 7750005820, КПП 920101001 к\сч 30101810835100000123 р\сч 40702810909230000007
_____ / Ю.В. Чайкин / "___" _____ 201 г. М.П.	_____ / В.В. Реуцкий / _____ 201 г. М.П.

Приложение № 1
к государственному контракту на оказание комплексных юридических услуг
№ 290 от 30 декабря 2016 года

Стоимость комплекса юридических и фактических действий складывается из стоимости этапов (стоимость судебного дела):

Этап	Действия	Стоимость, руб.
1.	анализ законодательства Украины и Российской Федерации, судебной практики по вопросам возникшего спора; анализ перспектив судебного разбирательства по признанию недействительными актов, связанных с предоставлением конкретного земельного участка в пользование или в собственность, и об истребовании данного земельного участка из чужого незаконного владения; запрос и формирование пакетов документов, необходимых и достаточных для подачи соответствующих исковых заявлений в арбитражный суд или суд общей юрисдикции и ведения судебных дел; направление необходимых документов в адрес лиц, участвующих по делу (ответчиков, третьих лиц); подготовка направление исковых заявлений, пояснений, иных процессуальных документов в адрес арбитражных судов, судов общей юрисдикции первой, апелляционной инстанций в соответствии с правилами подведомственности и подсудности, установленными действующим законодательством	3500,00
2.	представление интересов в судах первой инстанции	4000,00
3.	представление интересов в судах апелляционной инстанции; получение судебных актов и направление их вместе со всеми материалами по судебным делам в адрес Заказчика	2500,00

Государственный заказчик

Департамент аппарата Губернатора и Правительства Севастополя

Юридический адрес: 299011,
г. Севастополь, ул.Ленина,2
Почтовый адрес: 299011,
г. Севастополь, ул. Ленина,2
ОГРН 1149204005609
ИНН 9204003006 КПП 920401001
л/с 03742D49860 в Управлении Федерального казначейства по городу Севастополю отделение Севастополь
р/с 40201810067110000001
БИК 046711001
Тел. 8 692 54 20 69

_____ / Ю.В.Чайкин /
"__" _____ 201 г.
М.П.

Исполнитель

ООО «ПРАВОЗАЩИТА»
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к\сч 30101810835100000123
р\сч 40702810909230000007

_____ В.В.Реуцкий /
"__" _____ 201 г.
М.П.

Приложение № 2
к государственному контракту на оказание комплексных юридических услуг
№ 190 от 30 декабря 2016 года

УТВЕРЖДАЮ
Директор ООО «ПРАВОЗАЩИТА»
_____
М.П.

УТВЕРЖДАЮ
Департамент аппарата Губернатора и Правительства Севастополя
_____
М.П.

Акт приема оказанных услуг
по государственному контракту на оказание комплексных юридических услуг
№ _____ от 30 декабря 2016 года

Мы, нижеподписавшиеся, представитель Департамента, с одной стороны, и представитель Исполнителя ООО «Правозащита»,
с другой стороны, составили настоящий акт о том, что на основании следующих документов:
Контракт № на услуги
Исполнителем были оказаны следующие услуги

№ п/п	Реквизиты судебного акта, вступившего в законную силу	Кадастровый номер и адрес месторасположения земельного участок, в отношении которого принят судебный акт	Сумма оказанных по контракту услуг, руб.

Вышеперечисленные услуги выполнены полностью и в срок.
Департамент претензий по объему, качеству и срокам оказания услуг не имеет.
Департамент Исполнитель

ООО «ПРАВОЗАЩИТА»

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_____/ В.В.Реуцкий /
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ANNEX 3. LINKS ON INTERVIEWS AND PUBLICATIONS CONCERNING THE VIOLATION OF PROPERTY RIGHTS IN CRIMEA

№	Title / Hyperlink	Summary
1	How to protect property rights in Crimea? https://hromadske.radio/podcasts/byuro-sudovoyi-informaciyi/yak-zakhystyty-prava-na-mayno-v-krymu?fbclid=IwAR3OVFFQpnwby1NRb3ozNBKMvzG52_fW2N1ZvKfpHQYvzPguN0ooILz9roU 18.08.2020	Prosecutor's office of the Autonomous Republic of Crimea together with the Regional Center for Human Rights submitted to the International Criminal Court a submission about 3952 victims of property rights violation in Crimea.
2	«Massandra» for sale | Crimean evening https://www.youtube.com/watch?v=v8vvUxYOtcA 18.11.2020	The Russian government of Crimea sells 100% of the Massandra winery. The enterprise was put up for an electronic auction with an opening bid of 5.3 billion rubles. Now the procedure for accepting applications is underway, the auction itself will be held on December 14. According to the appendix to the auction notice, the obligation to preserve cultural heritage sites will be transferred to the future owner. Ukraine considers such deals illegal. All the sales and purchase transactions under the conditions of the Russian annexation of the peninsula are subject of Ukraine's appeals to international courts. What is known about the sale of the Massandra winery? How was the fact of the auction being perceived on the mainland Ukraine? And how can Ukraine influence on the process of sale? These and other to relevant topics are discussed by the host Elena Removskaya in the studio of «Radio Krym. Realii» in the talk show «Crimean Evening». Her interlocutors: - Permanent Representative of the President of Ukraine in Crimea Anton Korinevich; - Former adviser to the Minister of Agrarian Policy of Ukraine Oleksandr Liev; - Lawyer of Regional Center for Human Rights Kateryna Rashevska.
3	«Abandoned» property will be confiscated in Crimea Rashevskaya | Theme of the day https://crimea.suspilne.media/ua/programs/239 09.12.2020	The occupying authorities of Crimea are going to seize abandoned property. Firstly, property will be registered as ownerless. A year later, the local occupation administration can claim recognition of the ownership of such an object. Today we will talk about these and other violations of property rights in the occupied Crimea with Kateryna Rashevska, a lawyer of the Regional Center for Human Rights.

4	«Putin's businessmen» on the Crimean land https://www.facebook.com/watch/live/?v=791620548351011&ref=watch_permalink 09.12.2020	The Russians want to sell Massandra by auction. This is already called the biggest land scam. Lawyer Kateryna Rashevska suggests to apply to the International Arbitration as there are already positive examples of decisions in favor of Ukrainian business.
5	From whom will Putin take away land in Crimea | Crimean evening https://www.youtube.com/watch?v=QEKrkH4ZdT0 04.01.2021	Two submissions were submitted to the ICC and 3952 people were fully identified in the context of Decree No. 201. R. Martynovsky considers why it is only now the Decree has been expanded on Crimea, and emphasizes that the Decree affected the most those who have renounced Russian citizenship. Also the procedure of the future seizure is still unknown.
6	«We turned out to be foreigners in our own home»: how Ukrainians can defend their land in Crimea https://ru.krymr.com/a/ukraincy-zemlya-krym-ukaz-putina-sovety-yurista/31033218.html 06.01.2021 (aired 04.01.2021)	In 2021, citizens of Ukraine may lose their land plots in Crimea. In March 2020, Russian President Vladimir Putin signed the Decree No. 201, which included almost all peninsula in the list of territories where land plots cannot be owned by «foreigners» and «foreign legal entities». De facto, according to Russian laws, these restrictions also apply to Ukrainians without Russian passports who own property in Crimea. «The State Registration Committee», controlled by the Kremlin, reported earlier that Ukrainian citizens own almost 10 thousand plots on the peninsula that may fall under the Decree. Roman Martynovskyy, an expert from the Regional Center for Human Rights, talks on the air of «Radio Krym.Realii» how to protect the property in Crimea.
7	Status of Russian citizens in Crimea after deoccupation Kikkas, Pavlichenko, Chiygoz | Theme of the day https://www.youtube.com/watch?v=hiD6FrB3Yo4&feature=youtu.be 08.02.2021	The head of the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine Oleksiy Reznikov told what the Ukrainian authorities plan to do with a half of a million of the Russian people who were relocated to the Crimea. According to him, Kyiv will give such people a choice: staying or returning to their historical homeland. Comments: Mykola Kikkas - lawyer of the Regional Center for Human Rights; Oleksandr Pavlichenko - Executive Director of the Ukrainian Helsinki Human Rights Union; Akhtem Chiygoz - Ukrainian MP, Deputy Speaker of the Crimean Tatar People's Majlis.

8	Crimea. Dacha for Putin - Crimean evening https://ru.krymr.com/a/news-krym-dacha-dlya-putina/31096174.html 10.02.2021	The structures of the bank «Rossiya», owned by the Russian billionaire Yuri Kovalchuk, are involved in the acquisition of the boarding house «Glycyniya» in the annexed Crimea. In Soviet times, «Glycyniya» was known as Leonid Brezhnev's dacha, after the collapse of the Soviet Union, the Russian VTB Bank tried to acquire it. The sale of the object to private owners took place after the annexation of Crimea by Russia, in 2019 (according to Ukrainian law, the deal is illegal). Crimean authorities controlled by Russia did not disclose the name of the new «Glycyniya» owner. These and other relevant topics are discussed by Elena Removskaya in «Radio Krym.Realii» studio during the talk show «Crimean Evening». Her interlocutors: journalist from Crimea Kateryna Reznikova; Russian political commentator Kirill Martynov; Lawyer of the Regional Center for Human Rights Kateryna Rashevska.
9	How to save property in Crimea? | Kikkas, Babin https://www.youtube.com/watch?v=43LI61CunyI 11.02.2021	The occupation administration of Feodosia announced on February 9 about preparation of an application to the occupation Ministry of Property and Land Relations of Crimea. It asks to explain the mechanism of a land expropriation from people and companies without Russian citizenship or registration. Comments: Mykola Kikkas - lawyer of the Regional Center for Human Rights; Borys Babin - Doctor of Law, Professor, former Permanent Representative of the President of Ukraine to the Autonomous Republic of Crimea.
10	Fata Morgana. Russia's policy of landlessness of Ukrainians in the Crimea and a little beyond Odessa https://www.youtube.com/watch?v=jsvS_ou0ND8 23.03.2021	In this episode we talk about a land seizure in Crimea - on March 20, a criminal ban on land ownership in Crimea came into force for the Ukrainians who did not obtain Russian passports, and foreigners who own land in the coastal areas of Crimea, which Putin announced to be frontier. How to protect property rights in Crimea? Mykola Kikkas, lawyer and expert of the Regional Center for Human Rights, talks about the nuances.
11	Channel 4. Putin wants to seize property from Crimeans who do not have Russian passports https://www.facebook.com/watch/?v=450587449387494 24.03.2021	M. Kikkas, lawyer and expert of the Regional Center for Human Rights, talks about the possibility to save property in Crimea by a re-registration to confidants with Russian passports.

12	THE OCCUPIER DEPRIVES LAND IN CRIMEA. Putin's law for «foreigners» https://www.youtube.com/watch?v=XOd00vBsRfM 30.03.2021	Stories about those who left the occupied Crimea and now lives on the territory controlled by Ukraine. What is happening on the peninsula is lawlessness and arbitrariness that violates the norms of international law. The fact is that according to Decree №201, those Ukrainians who own land in Crimea lose their property. Therefore, foreigners are prohibited from owning land on the peninsula. Property can be forcibly sold or transferred to the ownership of the occupying authority.
13	«The voice of Crimea. Crimea. The future» (TV program) https://voicecrimea.com.ua/main/video/golos-krimu-krim-majbutnye-tv-programa.html 31.03.2021	Experts spoke on the following topics: «Mechanisms for bringing to justice for crimes committed in the context of armed conflict» (Roman Martynovsky, lawyer, expert of the Regional Center for Human Rights; «Restoring property rights, the fate of property built in the occupied territory» (Nikolai Kikkas, lawyer of the Regional Center for Human Rights) «International liability of legal entities for the crimes against property in Crimea» (Kateryna Rashevska, lawyer of the Regional Center for Human Rights).
14	How to protect your property rights in Crimea - experts explain https://helsinki.org.ua/articles/yak-zakhystyty-svoie-pravo-vlasnosti-na-zemelnu-dilianku-v-krymu-poiasniuiut-eksperty/ 01.04.2021	The expert of the Regional Center for Human Rights Mykola Kikkas advised landowners to start submitting documents to the European Court of Human Rights. If seized property had more than just a monetary value, but a significant value for a person's private life (for example, it is the only home or the only source of income), it is necessary to provide confirmation of these circumstances. Evidence of the real value of the property also is needed to be presented.
15	The right to property https://i-ua.tv/programs/holos-krymu-chas-okupatsii/27642-pravo-na-volodinnia-mainom?fbclid=IwAR2evaG1a88ntm8j4ERGiuzJnCttUelfeEWos3oQhg2PLIx_VCRcer6ToZk 30.04.2021	R. Martynovskyy tells about the property ownership in conditions of Crimean occupation: few words about the fair amount of compensation, the cadastral value of land plots, Crimean property of Ukrainian officials, which needs to be declared. Also we`ll discuss future restoration of property rights in Crimea.

16	Where to complain if the occupiers seize land in Crimea https://cripo.com.ua/likbez/kudi-skarzhitisya-yakshho-okupanti-vidbirayut-zemlyu-v-krimu/ 10.09.2020	In Crimea, the occupying authorities are trying to seize 26 land plots in the village of Koktebel for the reconstruction of the embankment. This is not the first case of such land seizures by the occupying authorities. Mykola Kikkas claims: during 2014-2020, the occupation authorities confiscated thousands of land plots and destroyed hundreds of real estate owned by individuals. Mykola Kikkas tells how to protect the property that occupation authorities decided to take away
17	Invaders seized land from nearly 4,000 Crimeans - human rights activist https://www.ukrinform.ru/rubric-crimea/3073271-okkupanty-zabrali-zemlu-pocti-u-4000-krymcan-pravozasitnik.html 30.07.2020	There are massive and systematic violations of property rights of Ukrainian citizens in the occupied Crimea. This was stated at a press conference in Kyiv by the expert of the Regional Center for Human Rights Roman Martynovskyy. As the human rights activist noted, «the occupation authorities recognized as illegal Ukrainian decisions about land transfers in period from 2008 to 2010. In fact, in most of these cases, the occupation power violates the principles of international law, which indicate the inadmissibility of assessing the decisions of state bodies of one state by the courts of another state», concluded Martynovskyy.
18	Niceties of European Court of Human Rights decision and its consequences for Ukraine and affected citizens (interview) https://voicecrimea.com.ua/main/articles/tonkoshhi-rishennya-yevropejskogo-sudu-z-prav-lyudini-ta-jogo-naslidki-dlya-ukraïni-j-postrazhdalix-gromadyan.html 20.01.2021	On January 14, 2021, the European Court of Human Rights ruled on the admissibility of a claim in the Ukraine v. Russia (concerning Crimea). However, it recognized the claim «partially admissible», on which almost all Russian media immediately focused. Together with Mykola Kikkas, Regional Center for Human Rights expert, we figured out the niceties of the court decision and found out its consequences both for Ukraine and for all affected citizens.

19	Who and where will be responsible for the expropriated industrial facilities in Crimea? https://voicecrimea.com.ua/main/articles/xto-i-de-ponese-vidpovidalnist-za-eksproprijovani-promislovi-obyekti-v-krimu.html?fbclid=IwAR1FSG1-ggYUynV9ulp_aJlWri8rd-36kHeM3RH1wQkb1ATFsuqTCvh9S9w 24.02.2021	The victims of the Russian occupation of the Crimean peninsula were originally industrial facilities belonging to Ukraine or its citizens. Now they, one after another, are sold by auction at a price far below the market into the hands of V.Putin`s retinues, contrary to the norms of international humanitarian law and international human rights law. As an occupying country, Russian Federation will be responsible in accordance with Article 147 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, and its senior officials - in accordance with paragraph 2 (a) of Article 8 of Rome Statute of the International Criminal Court. However, does international law provide liability for legal entities? Kateryna Rashevska - on the concept of liability of legal entities.
20	Land and property of Ukrainian officials in Crimea: cannot be declared cannot be sold https://voicecrimea.com.ua/main/articles/zemlya-ta-neruxomist-ukraïnskix-chinovnikiv-v-krimu-deklaruvati-nemozhna-prodati.html 03.03.2021	From the end of March, 2021 on the occupied territory of the Autonomous Republic of Crimea, Ukrainian citizens who have not received Russian passports issued by the occupying authority will be deprived of land ownership and buildings located within that land. As the Russian Federation illegally considers Crimea as its territory, the citizens of Ukraine are considered to be foreigners to the occupying authority. Accordingly, their land is also subject to this Decree №201. What mechanism will be used during the seizures? Is there anything what can be done? And what an unusual situation arose for Ukrainian officials with the crimean property declaration - read in the article by RCHR expert M. Kikkas.
21	PUTIN'S LAW FOR «FOREIGNERS»: HOW THE OCCUPIER SEIZE LAND IN CRIMEA https://www.5.ua/polityka/zakon-putina-dlia-inozemtsiv-iak-okupant-vidbyraie-zemliu-u-krymu-240698.html 30.03.2021	Stories about those who left the occupied Crimea and now lives on the territory controlled by Ukraine. What is happening on the peninsula is lawlessness and arbitrariness that violates the norms of international law. The fact is that according to Decree №201, those Ukrainians who own land in Crimea lose their property. Therefore, foreigners are prohibited from owning land on the peninsula. Property can be forcibly sold or transferred to the ownership of the occupying authority.
22	«Voice of Crimea: time of occupation. How to save property in Crimea? Kikkas, Babin» (TV program) https://voicecrimea.com.ua/main/video/golos-krimu-chas-okupaciï-pravo-na-volodinnya-majnom-tv-programa.html?fbclid=IwAR0CgYjVdHBbjLiB1RgQuU_eY9AAL0-eBNlOX2hHBGuL1wlrxVGI2KJCdVQ 11.05.2021	The topic of conversation is the right to peaceful possession of property in the occupied Crimea. Guest of the program - Roman Martynovskyy, leading expert of the Regional Center for Human Rights.

NOTES

«CRIMEA BEYOND RULES. Thematic review of the human rights situation under occupation». - Vol. 6 - Occupied property.
Edited by R. Martynovskyy. – Kyiv, 2021. – 124 p.

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 the Crimea.

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. The right to liberty of movement and freedom to choose residence.
Issue 2. Right to property.
Special issue. Transfer by the Russian Federation of parts of its own civilian population into the occupied territory of Ukraine.
Issue 3. Right to nationality (citizenship).
Issue 4. Information occupation.
Special Issue. Forcible Expulsion of the Civilian Population from the Occupied Territory by Russia
Special Issue. Religious Occupation: Oppression of the Ukrainian Orthodox Church of the Kyiv Patriarchate
Issue 5. Occupied Justice. Part 1
Issue 6. Occupied property.
Issue 5. Occupied Justice. Part 2 (to be published)

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 eh website krymbezpravil.org.ua

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