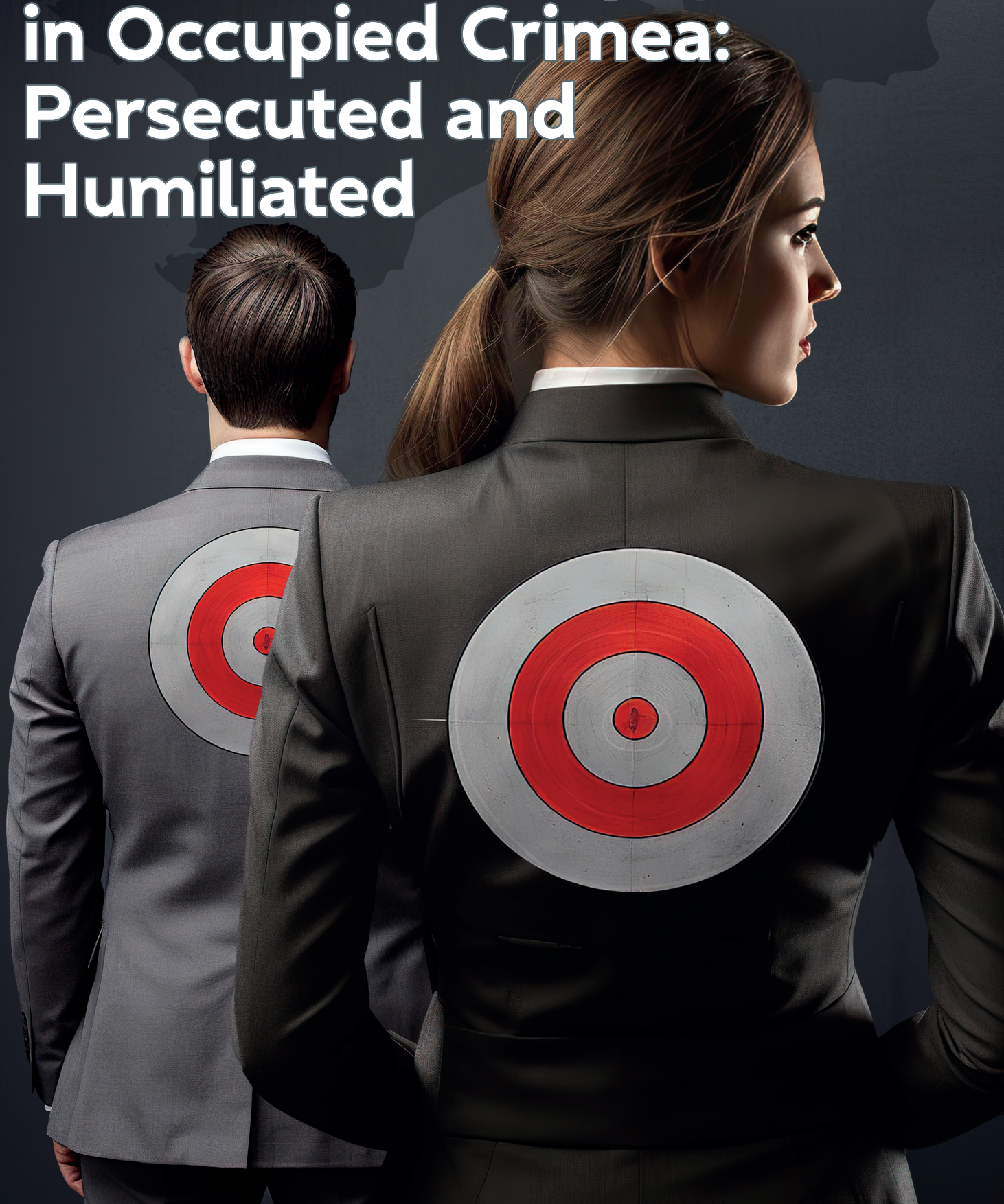


5:00 AM

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# Situation of Lawyers in Occupied Crimea: Persecuted and Humiliated





Ministry of Foreign Affairs

5:00 AM

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The report is drafted by a group of international law experts. The report is supported by the CEELI Institute and Ukraine 5 a.m. Coalition

This publication is completely or partly financed by Human Rights Fund Programme of the Embassy of the Kingdom of the Netherlands in Ukraine. Its content is the exclusive responsibility of the authors and does not necessarily reflect the position of the Embassy”.

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Kyiv, 2023

# Situation of Lawyers in Occupied Crimea: Persecuted and Humiliated

## INTRODUCTION AND METHODOLOGY

1. Since 2014 the occupied Crimean Peninsula is considered by Kremlin to be a part of the Russian Federation comprising two of its constituent entities: so-called Republic of Crimea, and so-called City of Sevastopol. The Russian courts of general jurisdiction, including military garrison courts and justices of peace, and commercial (*arbitrazh*) courts are functioning on the peninsula. Likewise, lawyers admitted to the Bar in Russia are practicing in that part of occupied Ukrainian territories. Some of them continue as lawyers admitted to the Ukrainian Bar as well.
2. The objectives of this paper are (a) analysis of the situation of lawyers in Crimea, (b) detection of common trends in their status, and (c) formulation of recommendations to the international community.
3. This paper analyzes the factual situation with reference to the international standards embodied in the Basic Principles on the Role of Lawyers ("Basic Principles") adopted on 7 September 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba. In the European context, the relevant legal standards are provided in Recommendation (2000)21 of the Committee of Ministers of Council of Europe to member States on the Freedom of Exercise of the Profession of Lawyer adopted on 25 October 2000.

## GENERAL PICTURE

4. In 2022 leading Crimean human rights defenders and defense counsel were arrested and prosecuted for “participation in a mass simultaneous gathering of citizens with a violation of sanitary norms” in relation to short media interviews they gave during a gathering of Crimean Tatars on 25 October 2021.<sup>1</sup>
5. In 2022 the Human Rights Committee, while examining Russia’s compliance with the provisions of the International Covenant on Civil and Political Rights, expressed its grave concern about the prevailing harassment of and violence against lawyers, and further concern about the lawyers facing unwarranted disciplinary proceedings and criminal prosecutions in connection with their professional activities, such as defending participants in anti-war protests.<sup>2</sup>
6. The Human Rights Committee ruled, that the authorities of the Russian Federation should immediately end acts of harassment and intimidation of lawyers, and conduct thorough and independent investigations into all allegations of harassment, intimidation, unwarranted prosecution and violence against lawyers, and ensure that perpetrators of those atrocities are prosecuted and, if convicted, punished with commensurate sanctions, and that victims are provided with effective remedies, in full accordance with Article 2, para. 3, of the International Covenant on Civil and Political Rights.<sup>3</sup>
7. Likewise, in 2023, in her first report, the newly appointed United Nations Human Rights Council Special Rapporteur on the situation of human rights in the Russian Federation stated, that “lawyers who have voiced dissenting views and/or represented human rights defenders, journalists, opposition activists, anti-war protesters or victims of human rights violations in the Russian Federation have come under severe pressure”<sup>4</sup> which included “disciplinary, administrative and criminal harassment and prosecution, and physical violence amounting to torture and ill-treatment”.<sup>5</sup>
8. The Special Rapporteur recommended, that the Russian authorities refrain from any form of harassment, and review the detention of all lawyers, and immediately release those arbitrarily detained.<sup>6</sup> She further recommended, that the international community support “the vital work” of Russian lawyers, both inside and outside the country.<sup>7</sup>

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1 Office of the United Nations High Commissioner for Human Rights, *Report on the Human Rights Situation in Ukraine 1 February to 31 July 2022* (27 September 2022), para. 128.

2 Human Rights Committee, Concluding observations on the eighth periodic report of the Russian Federation, UN doc. CCPR/C/RUS/CO/8 (1 December 2022), para. 26.

3 *Ibid.*, para. 27.

4 *Situation of human rights in the Russian Federation*, Report of the Special Rapporteur on the situation of human rights in the Russian Federation, Mariana Katzarova, UN doc. A/HRC/54/54 (15 September 2023), para. 95.

5 *Ibid.*

6 *Ibid.*, para. 112 (l).

7 *Ibid.*, para. 113 (b).

9. There is no realistic prospect that those recommendations of the leading treaty body, and country-specific mandate holder will be carried out any time soon. They show the critical situation in which the practicing lawyers find themselves throughout the Russian Federation, including those in occupied areas which are claimed by Kremlin to constitute Russia's "new territories", such as Crimean Peninsula.
10. Lawyers practicing in the Russian Federation report various administrative hurdles and bureaucratic constraints, as well as outright intimidation in their day-to-day work. Professional sources inside Russia who asked for anonymity due to fear of reprisals on the part of the authorities referred to such intimidating techniques as searches by the law-enforcement in the offices and even residences of lawyers, failure to grant lawyers access to their detained clients, in particular, those held by police, in the pre-trial detention centers, and correctional colonies, taking cell phones away from detainees in order to prevent them contacting their lawyers. Pretexts such as sanitary requirements caused by spread of covid-19 are still widely used. There are no reasonable conditions ensuring confidentiality of meetings between lawyers and their detained clients. Those challenges and threats present in the day-to-day work of lawyers and defense counsel are also relevant for the situation in the territories occupied by the Russian Federation, such as Crimea.

## ARMED CONFLICT AND STATUS OF LAWYERS

11. On 2 March 2022 the United Nations General Assembly deplored "in the strongest terms" the aggression by the Russian Federation against Ukraine in violation of Article 2, para. 4, of the United Nations Charter.<sup>8</sup>
12. Specifics of occupation and, by extension, situation of international armed conflict in Crimea adds additional element to the conditions in which professional lawyers continue to practice in Crimea, including when appearing before Russian "courts", "prosecutors, and "investigators" in the peninsula.
13. The Human Rights Committee expressed grave concern about the persecutions, arrests, and convictions of lawyers, who provide professional assistance to victims of political repression, and about "the serious deficiencies of the judicial system"<sup>9</sup> in occupied Crimea.
14. Ukrainian prisoners of war are in a particularly vulnerable situation. They are reportedly ill-treated while in Russian custody, including in occupied Crimea, and they are "compelled to waive their rights to legal counsel during interrogation".<sup>10</sup> Lack of

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8 Resolution ES-11/1, A/RES/ES-11/1 (18 March 2022), para. 2.

9 *Supra* note 2, para. 38.

10 *Treatment of Prisoners of War and Persons Hors de Combat in the Context of the Armed Attack by the Russian Federation against Ukraine*, 24 February 2022 – 23 February 2023, published by the Office of the United Nations High Commissioner for Human Rights (24 March 2023), at pp. 22-23, para. 84.

- appropriate legal assistance leads to the confessions of prisoners of war obtained under duress, and violations of the right to defense, and other relevant infringements of the applicable rules of international humanitarian law concerning status of prisoners of war.<sup>11</sup>
15. Everyday reality in Crimea is exacerbated by systemic discrimination against Crimean Tatars and ethnic Ukrainians, as explained by Ukraine in the ongoing case against the Russian Federation before the International Court of Justice.<sup>12</sup>
  16. Ukrainian lawyers, who remained in occupied Crimea, were forced to obtain nationality of the Russian Federation and to pass a bar exam according to the legislation of the Russian Federation. Mr Gennadiy Sharov, Vice President of the Federal Bar Association of the Russian Federation, was responsible for the “integration” of the Crimean lawyers, the Bar Association of the “Republic of Crimea”, and the Bar Association of the City of Sevastopol, into the Russian legal profession. The Federal Bar Association, in particular, organized initial admission of the Crimean lawyers to the bar associations organized on the territory of occupied peninsula according to the Russian legislation.
  17. International armed conflict, a war of aggression that the Russian Federation is unlawfully waging against Ukraine, led to adoption of repressive legislation in the Russian Federation, including criminalization of “fakes about the Russian army”. This legislation is also used against practicing lawyers in connection with their professional activities. For example, Ms Maria Bontzler, a Kaliningrad-based lawyer who was collaborating with human rights project *OVD-Info*, was fined for spreading “fakes about the Russian army” for calling war “a war” publicly during the court session, while defending her client.<sup>13</sup> Lawyers – including Messrs Mikhail Benyash and Alexei Baranovsky – were disbarred for public anti-war statements. Some other lawyers – including Mr Ivan Pavlov and Ms Valeria Vetoshkina – were designated ‘foreign agents’<sup>14</sup>. Mr Pavlov had to leave Russia due to the criminal proceedings initiated against him, and the St Petersburg Bar Association ‘suspended’ his membership.<sup>15</sup>
  18. Military censorship, stifling of all dissenting voices, and omnipresent pressure over regional bar associations and the Federal Bar Association of the Russian Federation on the part of the Ministry of Justice and its regional directorates, Office of Prosecutor General, and regional prosecutors’ offices, investigators and judges are unabating. In this environment practicing lawyers have to consider their every step and every

11 *Ibid.*, at p. 23, para. 85.

12 *Application of the International Convention for the Suppression of the Financing of Terrorism, and of the International Convention on the Elimination of All Forms of Racial Discrimination* (Ukraine v. Russian Federation), General List No. 166, currently under deliberation pending judgment of the Court on the merits.

13 Lawyer Maria Bontzler was fined by a court for 60 000 roubles for discreditation of the Russian army (in Russian), available at: <https://www.newkaliningrad.ru/news/briefs/community/23999296-advokata-mariyu-bontzler-sud-oshtrafoval-na-60-tys-rub-za-diskreditatsiyu-rossiyskoy-armii.html>.

14 Read more Federal law of the Russian Federation “On control over the activities of persons under foreign influence”, 07.14.2022 N255-FL, available at: [https://www.consultant.ru/document/cons\\_doc\\_LAW\\_421788/](https://www.consultant.ru/document/cons_doc_LAW_421788/)

15 Bar Association suspended status of Ivan Pavlov (in Russian), available at: <https://www.rbc.ru/society/16/03/2022/6230fcd99a7947187e86a32d>.

word. In such a coercive atmosphere a genuine independence of legal profession, which is indispensable for effective legal assistance, is hardly attainable.

19. Those systemic issues should not remove individual stories of repression and resistance from the public's focus. However, it is important to remember that those individual stories are just illustrations of general patterns. So-called bar associations established by the occupation authorities in Crimea and Sevastopol are forced to express loyalty to the Russian occupation authorities in the region, and the Federal Bar Association of the Russian Federation.

## TRENDS OF VIOLATIONS OF LAWYERS' PROFESSIONAL AND HUMAN RIGHTS IN CRIMEA

20. Ukrainian lawyers who continue practicing in occupied Crimea, in particular, those who defend political activists and dissidents, face character assassination campaigns by the Kremlin-controlled propaganda outlets.
21. One of the leading Crimean lawyers, Mr Emil Kurbedinov, was repeatedly detained by the occupation authorities, presumably for the content of his posts on Facebook. According to *Amnesty International*, Mr Kurbedinov was "deliberately targeted by Russian authorities" for being a "prominent member of the human rights community". They added: "The authorities' abuse of social media to target and harass activists is a cause of growing concern in Crimea".<sup>16</sup>
22. Other Ukrainian lawyers who are practicing in occupied Crimea, particularly those who are working with clients hailing from Crimean Tatar community, face pressure orchestrated by the *de facto* Russian authorities, such as threats, physical barriers on movement, attempts to question them as witnesses in cases where they are involved as defense counsel with the aim to challenge their participation due to having obtained a status of witness in the case, searches in their offices and residences under various pretexts, such as tax audits, unofficial 'conversations'.
23. Lawyers are detained, and proceedings are brought against them which led to them being imprisoned and fined.<sup>17</sup> In particular, in May 2022 three Crimean lawyers – Mr Nazim Sheykhmambetov, Mr Ayder Azamatov, and Ms Emine Avamileva – were sentenced in closed hearings to eight days' imprisonment each for anti-war texts posted on Facebook. Those lawyers who attempted to defend the persecuted lawyers were detained themselves.

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16 Crimea: Lawyer detained in latest campaign of harassment of human rights defenders, 6 December 2018, Press Release, available at: <https://www.amnesty.org/en/latest/press-release/2018/12/crimea-lawyer-detained-in-latest-campaign-of-harassment-of-human-rights-defenders/>.

17 Russian Federation is involved in a new cycle of repressions in occupied Crimea. Human rights defenders protest against detention of Crimean layers (in Ukrainian), available at: <https://zmina.ua/statements/rf-perejshla-do-novogo-vytka-represij-v-okupovanomu-krymu-pravozahysnyky-zasudzhuyut-zatrymannya-krymskyh-advokativ/>.

24. In October 2023 Mr Alexei Ladin was fined for “a public discrediting of the Russian army” and jailed for “a public demonstration of forbidden symbols”.<sup>18</sup> The forbidden symbol published in a social network of Mr Ladin was a symbol of Crimean Tatars’ military detachments.
25. According to the Russian legislation on legal profession, an individual lawyer should be a member of the regional bar association. There is only one regional bar association in each constituent entity of the Russian Federation. However, members of all regional bar associations are entitled to practice law throughout the territory of the Russian Federation. Moreover, a member of one regional bar association may easily transfer to another regional bar association, for example, in case of change of his or her residential address. In order to escape pressure in Crimea, some lawyers who represent Crimean Tatars became members of the Bar Association of Chechen Republic. However, the authorities tried to eliminate this opportunity either.
26. In particular, two Crimean lawyers – Ms Lila Gemedzhi and Mr Rustem Kyamilev – were effectively disbarred, when a “court” in occupied Simferopol, administrative center of Crimea, effectively annulled their bar licenses in 2023.<sup>19</sup> Dozens of political activists were deprived of their right to defense.
27. Inefficient legal assistance rendered by State-appointed lawyers is a matter of serious concern in occupied Crimea. There are strong reasons to believe that some of those lawyers collaborate closely with the Federal Security Service (FSB), and other Russian law-enforcement agencies present on the territory of the occupied peninsula. As an example, in 2021 Mr Vladislav Yesipenko, a journalist and a Ukrainian nationalist detained in Simferopol by the Federal Security Service officers, was provided with legal assistance rendered by a State-appointed counsel, Ms Violetta Sineglazova. Independent lawyers or lawyers of his choice were not granted access to Mr Yesipenko. Ms Sineglazova has previously appeared in politically motivated cases fabricated against Ukrainian nationals in the occupied Crimea effectively defending not her clients but interests of investigation. Before the so-called “Supreme Court of the Republic of Crimea” Mr Yesipenko complained about the use of torture against him in the placed of detention on the territory of occupied Crimea and provided relevant and comprehensive details of what he endured in the hands of Russian captors. However, Ms Sineglazova did nothing in order to defend her client’s interests. Moreover, she attempted to persuade Mr Yesipenko to collaborate with investigators. Mr Yesipenko called for the disbarment of his *ex officio* lawyer.<sup>20</sup>
28. Ukrainian lawyers practicing in occupied Crimea do not receive adequate support from the National Association of Lawyers of Ukraine in Kyiv either. In particular, Mr Volodymyr Klochkov, then chairperson of the Committee for the Protection of Rights

18 [https://t.me/tribunal\\_crimean/33](https://t.me/tribunal_crimean/33) (in Russian).

19 “Between two chambers”. Court in Crimea upon the application of a local bar association deprived Crimean Tatar lawyers of their licenses which were issued by the bar association in Chechnya (in Ukrainian), available at: <https://graty.me/mizh-dvoh-palat-sud-u-krimu-za-vimogoyu-miscevo%d1%97-advokatsko%d1%97-palati-pozbaviv-krimskotatarskih-advokativ-licenzi%d1%97-yaki-vidala-palata-u-chechni/>.

20 “Court” in Crimea refused to examine complaint of lawyer Sineglazova concerning the arrest of journalist of “Crimea. Realities” Yesipenko (in Ukrainian), available at: <https://zmina.info/news/sud-v-krymu-vidhylyv-skargu-advokatky-syneglazovoyi-pro-aresht-zhurnalista-krym-realiyi-yesypenka/>.



of Lawyers and Guarantees of the Activities of Lawyers of the National Association of Lawyers of Ukraine, wrote to one of the Ukrainian civil society leaders in relation to the complaints about the collaboration activities of the Ukrainian lawyers in Crimea, including Ms Yelena Kanchi who having been chairwoman of the Bar Association of the Republic of Crimea retained her status as a Ukrainian lawyer, and some other colleagues.<sup>21</sup> Another Ukrainian lawyer who is reportedly cooperating with the Federal Security Service in occupied Crimea is Mr Oleg Glushko in respect of whom Ukrainian civil society groups also complained to the National Association of Lawyers in Ukraine<sup>22</sup> which however failed to meaningfully react to those complaints. In particular, Mr Glushko is reported to be giving witness testimony against his former clients, displaying highly unethical conduct for any practicing lawyer.<sup>23</sup>

29. The National Association of Lawyers of Ukraine ignores the situation of systemic and gross violations of rights of Ukrainian lawyers in the occupied Crimea. This conclusion is confirmed by the public statements of the National Association of Lawyers of Ukraine, which fail to draw attention to the situation of lawyers in Crimea, and in the Association's replies to the requests of Ukrainian human rights defenders, in which the Association informs that it is not going to react to the situation of violations of professional rights of lawyers in Crimea until the end of aggressive war. This position of the National Association of Lawyers of Ukraine does not contribute to the protection of rights of the Ukrainian lawyers in the occupied territories of Ukraine, and provides space for manipulations<sup>24</sup>.
30. Independent and meaningful legal counsel is unimaginable without independent courts and impartial judiciary. Kremlin-appointed so-called "judges" in occupied Crimea, like in Russia, are under constant pressure and effective control by the law-enforcement authorities, above all operatives of the Federal Security Service, and have no ability to render independent decisions, in particular in politically motivated cases. In such circumstances, lawyers have to resist not only prosecutorial discretion but also judicial abuse.

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21 Letter no. 1344/0/2-23 of 21 July 2023.

22 Letter no. 130/06 dated 15 June 2023 of *Zmina* human rights centre addressed to the National Association of Lawyers of Ukraine and the Supreme Qualification and Disciplinary Commission of the Ukrainian Bar.

23 Information provided in the complaint of a former client of Mr Glushko addressed to the Federal Bar Association of the Russian Federation against the refusal of the Bar Association of the Republic of Crimea to disbar Mr Glushko, seen by the author of this report.

24 For more details on the actions of the Ukrainian authorities to protect Ukrainian lawyers in occupied Crimea, see the link: <https://ulag.org.ua/reports-and-materials/analytical-report-attorneys-under-occupation-in-crimea>

## BREACHED PROVISIONS

31. Impediments on the access of lawyers to their clients in detention are incompatible with the indispensable right of all arrested, detained, or imprisoned persons to be provided with adequate opportunities, time, and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception, or censorship, and in full confidentiality (Basic Principles, para. 8).
32. In order to be meaningful and genuine legal assistance, including that provided by a State-appointed counsel, should be effective and, if necessary, free for the client. According to the Basic Principles, any such person, who does not have a lawyer, shall in all cases in which the interests of justice so require be entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to him or her in order to provide effective legal assistance, without payment by him or her, if he or she lacks sufficient means to pay for such legal services (para. 6). Without such legal assistance genuine adversarial character of judicial proceedings and, consequently, fair justice is impossible.
33. Intimidation and harassment of practicing lawyers are incompatible with the obligation imposed by international law upon all Governments to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment, or improper interference, and to ensure that lawyers are not threatened with criminal prosecution or administrative or other sanctions for the professional actions taken by lawyers in accordance with their recognized professional duties, standards, and ethics (Basic Principles, para. 16).
34. Further, where the security of lawyers is threatened as a result of discharging their functions, authorities should adequately safeguard security of lawyers (Basic Principles, para. 17), something that is impossible to attain in occupied Crimea currently.
35. Lawyers are deprived of their right to freedom of expression of which they are entitled like all other citizens (Basic Principles, para. 23).

## RECOMMENDATIONS

36. International community is encouraged to support trial monitoring and human rights observation missions in occupied Crimea with particular focus to professional guarantees of practicing lawyers, and fair-trial principles.
37. Russian Federation should stop persecution of independent lawyers in occupied Crimea and should not interfere in their professional activities.
38. The National Association of Lawyer of Ukraine, and other competent Ukrainian agencies should conduct systematic monitoring of violations of rights of lawyers in occupied Crimea and react to those violations, including through public statements.
39. Parliamentary Assembly of Council of Europe and Committee of Experts on the Protection of Lawyers (CJ-AV) should consider standards of protection of professional status and inviolability of lawyers working in the occupied territories in Europe, such as Ukraine, while drafting and adopting a legally binding instrument aiming at strengthening the protection of the profession of lawyer, and the right to practice the profession without prejudice or restraint.
40. Professor Margaret Satterthwaite, United Nations Human Rights Council Special Rapporteur on the independence of judges and lawyers, is invited to draw attention to the situation of lawyers in occupied Crimea, with particular focus on applicable international human rights law and international humanitarian law standards.



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