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**Information Documents
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**Please find appended the Report presented to me by Ambassador Gérard
Stoudmann on his human rights visit to Crimea
(25-31 January 2016)**

In a decision taken during their 1225th meeting on 15 April 2015 (Item 1.8, paragraph 5) the Ministers' Deputies expressed their "serious concern regarding the continued deterioration of the human rights situation in Eastern Ukraine and Crimea; underlined once again the need to secure respect for all human rights, including for persons belonging to national minorities, in particular the Crimean Tatars, and to ensure that the relevant human rights bodies of the Council of Europe can carry out their monitoring activities unimpeded; to this end". In this respect, they invited the Secretary General to "hold political consultations with the Russian Federation and Ukraine in order to propose viable solutions".

The Secretary General, after consultations with the two Governments, managed to send the first human rights delegation to Crimea following a period of 18 months during which no international organisations were present on the Peninsula. The delegation was headed by Ambassador Gérard Stoudmann, a prominent Swiss diplomat. The delegation, after having stayed for 7 days in Crimea and having had more than 50 meetings with representatives of civil society, minorities, religious communities and media, prepared a report.

This report does not deal with any issue related to the status of Crimea. The Council of Europe fully respects the territorial integrity of Ukraine as repeatedly expressed by its Committee of Ministers.

**Report to the Secretary General of the Council of Europe
by Ambassador Gérard Stoudmann
on his human rights visit to Crimea
(25-31 January 2016)**

11 April 2016

EXECUTIVE SUMMARY

Following consultations with the governments of Ukraine, as well as the Russian Federation, Secretary General Thorbjørn Jagland announced on 20 January 2016 to the Ministers' Deputies that he was sending a Human Rights delegation to Crimea, having taken into account the various calls from the Committee of Ministers, the Parliamentary Assembly and from individual member States for the Council of Europe to review the human rights situation in Crimea. The delegation's objective was to assess the Human Rights and Rule of Law situation of the 2.5 million people who live on the Peninsula and are covered by the European Convention on Human Rights, as well as to make relevant recommendations. The delegation was bound by the relevant decisions of the Committee of Ministers of the CoE relating to Crimea, and was not to deal with any issue related to the status of Crimea.

The delegation was led by a Swiss diplomat, Ambassador Gerard Stoudmann, accompanied by three members of the Secretariat of the Council of Europe. It left for Kyiv on 23 January and arrived in Simferopol on 25 January after having visited Moscow. It left Crimea for Moscow on 31 January. The Head of Delegation visited Kyiv again on 8 February.

During its stay in Crimea, it met without obstacles with numerous representatives of civil society, NGOs, religious communities, national minorities (in particular the Crimean Tatars), media, as well as local authorities in Simferopol, Yalta, Bakhchisaray and Sebastopol. In particular, there were meetings with the Crimean Tatar community expressing critical and dissenting views. They were held privately, in locations chosen by the interlocutors or the delegation. It also visited Crimean Tatar and Ukrainian classes in two schools. The Head of the delegation was allowed, at his specific request, to visit Mr Akhtem Chygoz, Vice Chairman of the "Mejlis of the Crimean Tatar People" at his place of detention.

The following report contains the main points that were raised, notably the issues related to standards and commitments enshrined in the European Convention on Human Rights ("the ECHR" or "the Convention"), as well as recommendations and proposals for possible rapid action, for the attention of the Secretary General. Among the issues that required rapid action, the transfer of 16 Ukrainian citizens in prison in Crimea, requesting their transfer to another prison in Ukraine-controlled territory was raised by the delegation at the request of Ukrainian authorities, with a view to facilitating this transfer on humanitarian grounds. Moreover, also at the request of the Ukrainian side, the issue of persons currently in pre-trial detention elsewhere in Ukraine but whose criminal files remained in Crimea in 2014 was raised with a view to ensuring the transfer of those files.

Issues that have been raised regularly and which are directly relevant to certain ECHR provisions, such as Article 2 (right to life), Article 3 (prohibition of torture or inhuman or degrading treatment or punishment), Article 5 (right to liberty and security) and Article 6 (right to fair trial) relate in particular to alleged abuses by law enforcement officers, such as when conducting searches. The disappearance of Ukrainian and Crimean Tatar opponents was also raised.

The searches (at times without warrant) and the behaviour of some law enforcement officers, (in some cases with clear indications of disproportionate use of force), as well as intimidation and threats of

abduction, combined with the fact that many interlocutors indicated that any complaint against such behaviour was “useless”, are indicative of the existing tensions.

It appears that the law on extremism is applied and extensively interpreted as a basis for such operations. They seem to target mostly Crimean Tatars, often with links to family members or friends in exile, as they are considered by the local authorities as the biggest threat of extremism and dissent towards the present order. In this context, the creation in the Kherson region (to the North of the Peninsula) of a paramilitary unit known as the “Tatar battalion” (which is however allegedly not only recruiting Crimean Tatars, but is open to all Muslim volunteers), is regularly mentioned: on the one hand, the threat of violent action by this group is referred to as a reason for the application of the law on extremism, for searches and other operations; on the other hand, some of the Crimean Tatar interlocutors of the delegation expressed the fear that the use of violence by this group would turn part of the population against the Crimean Tatars and lead to a deterioration of the interethnic relations on the Peninsula.

Regarding the disappearances, the delegation asked for information on cases concerning a total of 21 persons. It noted that there are no major divergences between the sources on the number of particularly problematic cases – which vary from 10 to 15 individuals, both Crimean Tatars and Ukrainians, 5 of them found dead. Many of the suspect cases mentioned date back to 2014. According to the prosecutor, there is one case of murder under investigation, one person has been found alive and all other cases are still under investigation. To be noted, 2 most recent cases (2016) were solved at the time of the departure of the delegation and had apparently no political connotation. It is important that independent, diligent and transparent investigations are carried out and that ongoing developments and conclusions are presented publicly to instil confidence and to avoid further rumours; families and the public in general should be informed regularly on the state of the investigations, including through the reactivation of the Contact Group created to this effect.

Today, the perception of the delegation is that the cases of repression, as severe as they may be, seem more targeted against individual opponents, whether they are Crimean Tatars, Ukrainians or others, rather than reflecting a collective repression policy against the Crimean Tatars as an ethnic group.

However, in this sensitive context, the procedure aiming at declaring “the Mejlis of the Crimean Tatar people” an “extremist organisation”, should it lead to a court decision on a ban, would indicate a new level of repression targeting the Crimean Tatar community as a whole. It should be noted in this context that the Court in Simferopol has already postponed the procedure several times. Today some members of the Mejlis are sitting in senior local positions, while others are in exile or in prison – a clear indication of a split within the Crimean Tatar leadership. The Mejlis is an important traditional and social structure of the Tatar community. Its qualification as an extremist organisation would considerably increase the risk of further alienation of the Crimean Tatar community and of isolating it from the rest of the population living in the Peninsula. Additionally, the ban of the Mejlis would appear to contradict some of the policy measures adopted up to now, such as the recognition of the Crimean Tatar as an official language, the rehabilitation of deported Crimean Tatars, the building of a mosque in Simferopol and the continuation of the Crimean Tatar curricula in schools.

Finally, many of the recurring issues that came out of the meetings with civil society representatives did not always have a direct link with relevant articles of the ECHR. They are related to complaints

about inefficient bureaucracy, widespread corruption, the effect of the blockade (in particular on water and energy supplies), the effect of sanctions on prices, trade, travel and communications. They reflected at times an emotionally loaded atmosphere and frustration.

Conclusions

The present situation significantly affects the population of Crimea in many ways. This report is an attempt at presenting some of the issues related to the application of the European Convention on Human Rights, as requested under the delegation's mandate. It is only through the establishment of a regular access to the Peninsula, under the authority of the Secretary General of the Council of Europe, that some issues could be addressed in a more comprehensive manner.

Therefore, the main overriding conclusion of this report is the need to re-open the Peninsula for the Council of Europe monitoring structures and other relevant international mechanisms, and to identify viable solutions, allowing for their effective functioning under the present circumstances. It is also important to allow for contacts with and access to civil society and their representatives in Crimea, in particular through facilitation of travel procedures.

It is indeed neither normal, nor acceptable, that a population of 2.5 million people should be kept beyond the reach of the human rights mechanisms established to protect all Europeans. In this context, many interlocutors, in particular from the Crimean Tatar community, expressed the hope that the visit of this delegation would not be a one-off visit and that the Council of Europe monitoring structures would soon be allowed back.

I. Introductory remarks

1. In accordance with the mandate given by the Secretary General, the present report does not deal with any issue related to the status of Crimea. In addition, the present report does not interfere with the pending applications before the European Court of Human Rights against the Russian Federation and Ukraine (including inter-State cases)¹, the supervision of the Court's judgments related to Crimea by the Committee of Ministers in the framework of its functions under Article 46 of the Convention, nor the Council of Europe programmes and projects in Ukraine, or the work of the International Advisory Panel².
2. The delegation spent seven days in Crimea, carrying out more than 50 meetings. It operated in full independence, including with respect to the possibility of holding meetings originally not included in the preliminary negotiated programme. It met representatives from all sectors in Crimea and held meetings in several cities, including Simferopol, Yalta, Sebastopol and Bakhchisaray. Ambassador Stoudmann was also able to visit Mr Akhtem Chiygoz, Vice Chairman of the Mejlis of the Crimean Tatar People, who is detained in Simferopol pending his trial. Before the visit to Crimea, Ambassador Stoudmann visited both Kyiv and Moscow. In Kyiv on 23 January, he had meetings with Mr Pavlo Klimkin, Minister for Foreign Affairs of Ukraine, Ms Valeriya Lutkovska, the Ombudsperson of Ukraine, as well as with representatives of the Crimean Tatar minority Refat Chubarov and Mustafa Dzhemilev and with NGOs. On 25 January, Ambassador Stoudmann had meetings in Moscow with Deputy Foreign Minister and Secretary of State Grigory Karasin and Ombudsperson Ella Pamfilova. Upon the delegation's return, Ambassador Stoudmann had meetings in Kyiv and Moscow.

II. Law Enforcement

3. An issue regularly brought to the attention of the Council of Europe's team concerns the conduct of some law enforcement officers. It would appear that searches, arrests and identity controls would be in many cases carried out without respecting the necessary legal safeguards and in some cases with clear indication of disproportionate use of force (including in the presence of children), based on the provisions regarding the fight against extremism and terrorism. Although in some cases discussed by the delegation, law enforcement authorities carried out their duties correctly, concurring elements seem to indicate the existence of misconduct by law enforcement officers in the exercise of their functions, leading to a consequent degree of mistrust of part of the population towards the law enforcement authorities. This can also explain the fact that complaints about such alleged violations are often not formally submitted to the competent authorities.

¹ There are currently three inter-State applications lodged by Ukraine against Russia: For more information see the press release: <http://hudoc.echr.coe.int/eng-press?i=003-5187816-6420666>.

² The International Advisory Panel was constituted by the Secretary General of the Council of Europe to oversee that the investigations into the violent incidents which took place in Ukraine from 30 November 2013 onwards met all the requirements of the European Convention on Human Rights and the case-law of the European Court of Human Rights.

4. The delegation can confirm the 2011 findings and recommendations of the European Commission against Racism and Intolerance (ECRI)³ about the need to intensify efforts to put a stop to racist or racially discriminatory misconduct by the police and to investigate any allegations of misconduct by law enforcement officials towards persons coming within ECRI's mandate.
5. Concerning allegations of ill-treatment and torture, there is at least one pending case before the North Caucasus District Military Court concerning allegations against members of the FSB during the detention and interrogations of a Ukrainian citizen, Mr Oleksandr Kostenko. It would be important to ensure effective investigations of this and of other reported cases of ill-treatment⁴ and, where appropriate, impartial judicial proceedings.

"Self-defence forces"

6. A separate aspect of the issue concerns the so-called "self-defence forces". The delegation was informed by the regional leadership that they had been disbanded and transformed into two separate security companies, one armed and the other without weapons. However it has not been possible to fully clarify their current legal status and functions nor the allegations about their involvement in enforced disappearances and other violations, and the state of investigations on such cases. Legislative initiatives proposing immunity from prosecution ("amnesty law") for actions committed by the "self-defence forces" after February 2014 have not been pursued; an issue raised by the Council of Europe Commissioner for Human Rights during his visit in 2014.⁵ However, the delegation noted that members of the unarmed security company created after the "self-defence forces" were disbanded still use military-type uniforms and insignia, which can create confusion as to their actual status and powers.

Recommendations:

- *To ensure that effective investigations are carried out in alleged cases of ill-treatment and other human rights violations by law enforcement forces and by former "self-defence forces".*
- *To ensure that law enforcement authorities always carry out their functions in accordance with applicable law and that appropriate safeguards protecting the rights of individuals involved in law enforcement operations are fully respected.*
- *It is important that initiatives are taken to provide training to law enforcement authorities about applicable internal and international human rights standards, and to recommend*

³ ECRI 4th report on Ukraine, adopted on 9 December 2011, paragraphs 164, 166 and 168. See also ECRI Conclusions on the Implementation of the Recommendations in respect of Ukraine subject to interim follow-up, paragraph 3.

⁴ Such as, for instance: Andriy Shekun and Anatoly Kovalsky, allegedly abducted by "self-defence forces" and brought first to a police station and then to a secret place, where they would have been detained (and one of them tortured) for 11 days; Gennadiy Afanasiev, involved in the case of Oleg Sentsov and Alexander Kolchenko, who withdrew his testimony declaring he had testified under torture.

⁵ See the report of the Council of Europe Commissioner for Human Rights, document CommDH(2014)19, paras. 36-40.

particular attention in the exercise of their functions when dealing with minorities, in order to avoid any perception of discrimination based on ethnic, religious or other grounds.

- *To avoid that members of security companies wear uniforms that could lead to confusing them with law enforcement or military personnel.*

III. Disappearances

7. Suspicious cases of disappearances brought to the attention of the delegation concern a relatively limited number of persons (between 10 and 15, both Crimean Tatars and Ukrainians), a large part of which occurred in 2014, although this remains a highly sensitive issue as already stressed in the report of the Council of Europe Commissioner for Human Rights⁶. The delegation's interlocutors were convinced that, in certain cases, the disappeared had been killed.
8. In light of the seriousness of the allegations, it is essential to ensure effective investigations – especially in cases where persons had been abducted or subsequently found dead – and to inform their families and the general public. A Contact Group for the families of disappeared persons was set up in October 2014, but it has not met since April 2015, while disappearances have continued to occur. The prosecutor has been cooperative in providing information to the delegation on a number of cases⁷, and recognised the need to increase transparency about the state of investigations. The prosecutor declared a readiness to take steps in this respect, for instance through regular press briefings.

Recommendations:

- *Investigations in cases of alleged abductions and disappearances must be effective and in accordance with the relevant standards of the European Convention on Human Rights (“the Convention”), with particular regard to the requisites of adequacy, thoroughness, impartiality, independence, promptness and public scrutiny.*
- *It is vital to provide appropriate information to the families of alleged victims and to the general public.*

⁶ See the report of the Council of Europe Commissioner for Human Rights, document CommDH(2014)19, pp. 5-7.

⁷ Information was provided upon request regarding: Reshat Ametov, found dead on 15 March 2014, with signs of ill-treatment; Mark Ivanyuk, found dead on 21 April 2014 as a result of a road accident; Timur Shaymardanov and Seyran Zinedinov, disappeared on 26 and 30 May 2014; Leonid Korzh (whose disappearance was announced on 28 May 2014 in connection with those of Mr Shaymardanov and Mr Zinedinov) still living in Crimea today and – according to information provided by the prosecutor – denying having been victim of unlawful acts; Izlyam Dzhapparov and Dzhavdet Islyamov, allegedly abducted on 27 September 2014; Edem Asanov, disappeared and subsequently found hanged on 5 October 2014. Other cases where further information is expected include: Ivan Bondarets and Vladislav Vashchuk, disappeared on 7 March 2014; Vasyl Chernish, disappeared on 15 March 2014; Eskender Apselyamov, disappeared on 3 October 2014; Fyodor Kostenko, father of Oleksandr, disappeared on 3 March 2015 on his way from Kyiv to Crimea; Kachok Mukhiddin, killed on 26 July 2015; Mukhtar Arislanov, 45, allegedly abducted in a minibus on 27 August 2015; Memet Selimov and Osman Ibragimov, disappeared and then found dead on 29 August 2015; Arlen Terikhov and Ruslan Ganiev, disappeared on 15 December 2015 in Kerch. The cases of two minor Crimean Tatar girls disappeared in early 2016 was also solved by the time of departure of the delegation.

- *It is important to re-activate the Contact Group for the families of disappeared persons as a confidence-building measure.*

IV. The Judiciary

9. In the short time available, the delegation was not able to make a comprehensive and detailed assessment of the current functioning of the judiciary in Crimea. It was mentioned during the meetings that information on the Convention case-law is offered *via* trainings, and that the European Court of Human Rights (“the Court”) case-law is published and disseminated. Further, the modernisation of court rooms was noted.
10. However, the delegation received information on allegations of important shortcomings in the functioning of the local criminal justice, including of persisting corruption. In this context, the delegation received reports on alleged discrepancies with respect to arrest or pre-trial detention and noted in particular the allegations of applicants’ representatives that arrest and/or pre-trial detention lacked legal basis and that pre-trial detention was often prolonged without justification. Those matters fall under the Convention (Article 5-right to liberty and security). It is worth recalling in this respect that in older judgments concerning Crimea the Court had found violations of that provision of the Convention.
11. The prosecutor noted that these Convention requirements are taken into account by law enforcement officials. However, from discussions in various meetings, the delegation observed that the pertinent Convention standards as interpreted by the Court are not, in some instances, well understood by all sides.
12. This wide range of information led the delegation to observe a strong feeling of mistrust in the application of justice, and not only amongst members of the opposition. This lack of confidence hampers the possibility to lodge complaints and seek reparation for alleged human rights violations. Despite some positive measures, such as those mentioned above, the delegation believes that much more needs to be done to ensure that the Convention requirements regarding the right to a fair trial are enshrined among the judiciary but also in the society in general.
13. It should be noted that during the meeting between the Head of the delegation and Mr Akthem Chygoz, Vice Chairman of the Mejlis of the Crimean Tatar People (meeting referred to in detail below under “the penitentiary establishments”), Mr Chygoz requested that his trial be public and monitored by the Council of Europe.
14. At the request of the Ombudsperson of Ukraine, the issue of persons currently in pre-trial detention elsewhere in Ukraine but whose criminal files remained in Crimea in 2014 was raised with a view to ensuring the transfer of those files, thus allowing access to the criminal files.

15. In addition, the delegation noted two specific issues with implications on the effective functioning of the Judiciary:
 - *The adaptation of legislation after March 2014 and its impact on rights and freedoms*
16. According to information given by the prosecutor, 1557 legal acts have been enacted since March 2014. The prosecutor indicated that the public is informed of the enactment of new acts via a weekly television programme. Given however the proliferation of new laws, it is not clear for the delegation whether those information measures are adequate.
17. The delegation noted the general perception in the society that legislation became more restrictive and had an impact on fundamental rights and freedoms (see below notably under Freedom of expression, Freedom of association and assembly).
18. The delegation heard several accounts that the re-registration process imposed in many sectors (e.g. business, associations, property, media, identity documents, license plates, etc.) had an impact on the related rights and freedoms, and also created new opportunities for corruption. The latter is more generally seen as a longstanding problem. The delegation was informed about positive measures adopted to tackle corruption, including the creation of anti-corruption committees. The delegation was also informed of specific cases of corruption that led to dismissals and/or charges against officials. Despite the efforts deployed, which were acknowledged by several interlocutors, results would still be below the public's expectations. Whilst the delegation perceives the importance of the matter, it is not within its mandate to further explore the issue. The same goes for questions of citizenship and the related issue concerning residence permits; also outside the scope of the mandate.
 - *The legal basis for criminal proceedings*
19. The delegation noted that, in certain instances, persons have been convicted or indicted on the basis of legislation introduced after March 2014 for facts which occurred before that date. Two cases in particular were brought to the delegation's attention. The case of Mr Oleksandr Kostenko - sentenced in May 2015 to 4 years and 2 months for "intentional infliction of bodily harm" for having hit a Ukrainian policeman in Kyiv with a stone on 18 February 2014, and for "illegal possession of firearms", and the case currently pending involving six people, among others Mr Akthem Chygoz, in connection with the events which occurred in Simferopol on 26 February 2014.
20. The issue of indictments and convictions on the basis of laws which did not exist in Crimea at the time of the events (which amounts to retroactively applying a new legislation) or applied to facts occurred in Kyiv, was addressed at the meeting with the prosecutor. The prosecutor underlined the absolute need not to leave the crimes unpunished and further noted that the indictments were subsequent to the lodging of applications by the families of the victims. Subject to further analysis and verification of the specific legal provisions, the delegation observes that these indictments or convictions might raise concerns as to their compatibility

with the principle of legality, also in the sense of Article 7 (No punishment without law) of the Convention, as interpreted by the Court. It appears that a review of these cases needs to be considered.

21. The prosecutor informed the delegation that 118 offences were decriminalised after March 2014 in line with the applicable legislation, and that a review of sanctions was carried out, which led to the reduction of sanctions and to the release of 2783 inmates out of 3142 between March 2014 and January 2016. The prosecutor indicated that this measure could also prevent overcrowding in prisons.

Recommendations:

- *Cases where the legal basis for indictment/conviction appears based on a retroactive application of the legislation should be reviewed.*

V. Penitentiary Establishments

22. The situation regarding the conditions of detention in penitentiary establishments in Crimea had in the past been examined by the Court⁸ and the CPT⁹. In its last visit to the Peninsula (2013), the CPT underlined a number of areas of concern regarding the material conditions in the Simferopol pre-trial establishment-SIZO.
23. Although short-term measures focusing on the improvement of food and health care were reported to the delegation, the local authorities acknowledged that there is still a need for substantive work in this area in order to bring the material conditions of detention in the local penitentiary establishments up to international standards. To this end, the construction of two new detention centres was noted.
24. A number of technical and specific questions fall within the CPT's expertise and mandate, and require more time for their consideration.
25. During the visit, Mr Stoudmann was also allowed to visit Mr Akthem Chiygoz, who is detained in Simferopol pending his trial. During that meeting, in addition to his other requests (see under Judiciary, p.7), Mr Chiygoz challenged the lawfulness of his arrest. Mr Chiygoz did not make complaints about his treatment by the penitentiary administration or ill-treatment in prison, but mentioned health problems having led him to request to be examined by a civil doctor in order to get appropriate medication and treatment. However, no civil doctor had accepted to examine him despite the agreement of prison authorities. In addition, while acknowledging that he received regular visits by family members, he expressed the wish that it be made possible to receive a visit by his elderly mother who suffers from mobility problems.

⁸ For instance in *Dvoynykh* (App. No. 72277/01) of 12 October 2006 (regarding conditions of detention the Simferopol pre-trial establishment-SIZO); *Yakovenko* (App. No. 15825/06) of 25 October 2007 regarding the Sevastopol Temporary Detention Isolator- ITT.

⁹ Report to the Ukrainian Government on the visit to Ukraine from 9 to 21 October 2013, doc. CPT/Inf (2014)15; see in particular Appendix I List of CPT Recommendations, comments and requests for information.

Both requests have been transmitted to the prosecutor who noted that she would personally follow up on the matter. This attitude of refusal by “ordinary civilians” (in this instance, civil doctors) to intervene in politically delicate cases is, however, an element that contributes to corroborate the allegations about a climate of intimidation and of isolation of those who are perceived as opponents. Additionally, the issue of Mr Chygoz’s health should also be examined from a humanitarian perspective.

26. The case of 16 Ukrainian citizens¹⁰ convicted before March 2014 and serving their sentence in Crimea was raised, as they formally requested their transfer to another prison in Ukraine. This issue was raised originally in December 2015 by the Ukrainian Foreign Minister Pavlo Klimkin with Secretary General Jagland, requesting him to help in securing this transfer. The issue was thus discussed by the delegation with interlocutors at all levels, in particular with the Ombudsperson in Kyiv, with a view to the identification of a suitable solution on a humanitarian basis.

Recommendations:

- *All interested parties should find a viable solution to guarantee CoE monitoring bodies’ access to the places of detention in the Peninsula.*
- *To encourage the training of law enforcement officials (judges and prosecutors) as well as of lawyers regarding the ECHR requirements pertaining to arrest and pre-trial detention.*

VI. Crimean Tatars and other minorities

27. General difficulties and concerns affecting the rights of minorities – and notably Crimean Tatars – had already been largely identified in previous reports of Council of Europe monitoring structures¹¹, and have been confirmed by many interlocutors of the delegation, including Crimean Tatars in Kyiv.
28. In the context of the current crisis, the allegations of abuses by law enforcement authorities on the one side and the accusations of religious-based radicalisation on the other contributed to create a situation in which Crimean Tatars are particularly exposed to violations and restrictions of their rights and freedoms. Today, the repression seems more targeted towards those perceived as opponents and/or those close to them, rather than reflecting a systematic policy against the Crimean Tatars as a minority, which does not exclude cases of discriminations as reported below.

¹⁰ Originally, 22 convicts reportedly filed petitions requesting their transfer. However, it was explained to the delegation that the situation now concerns only 16 of them.

¹¹ See, in particular: the report of the Advisory Committee on the Framework Convention for the Protection of National Minorities following its ad hoc visit to Ukraine (21-26 March 2014); the Committee of Ministers’ resolution CM/ResCMN(2013)8 on the implementation of the Framework Convention for the Protection of National Minorities by Ukraine (adopted on 18 December 2013); the Third Opinion on Ukraine by the Advisory Committee on the Framework Convention for the Protection of National Minorities adopted on 22 March 2012; the 4th ECRI report on Ukraine, adopted on 9 December 2011.

29. Indeed, a number of measures adopted after March 2014 are perceived by the interested persons as having a discriminatory effect - directly or indirectly – on Crimean Tatars. This is the case, for instance, of procedures for re-registration of business – which would have according to some interlocutors disproportionately affected small business owned by Crimean Tatars - and for the recognition of land property rights. With respect to the latter, a procedure of regularisation of property rights for land occupied by Crimean Tatars after their return in Crimea had been set up prior to March 2014, and the delegation had been informed that those who had not completed such procedures by then are now experiencing difficulties. Clarifications were obtained from the local authorities on these two particular issues, which nevertheless need to be further examined (see recommendation below).
30. Note was taken of a number of measures recently adopted aiming to address some concerns of the Crimean Tatar community, combining “symbolic” recognition with more concrete action, such as the rehabilitation of Crimean Tatars (which also implies an increase in pensions of ex-deported people), the recognition of Crimean Tatar as an official language, the building of a mosque in Simferopol, the continuation of the Crimean Tatar curricula in schools. The adoption of these measures is positively perceived by the concerned population.
31. At the same time, another part of the Crimean Tatar minority sees itself as the deliberate target of discrimination and human rights violations and consider such measures ineffective or irrelevant. Most allegations of disappearances and of violations committed by law enforcement authorities indeed concern Crimean Tatars (see above).
- *Representation of Crimean Tatars / freedom of assembly issues*
32. Several interlocutors also reported difficulty for the Crimean Tatar community in obtaining authorisations to hold rallies. These allegations were however nuanced by other representatives of the Crimean Tatar community who argued that past restrictions in 2014 were linked to the specific political context at the time.
33. It should be noted that, due to the boycott of the September 2014 local elections by part of the community, the number of Crimean Tatars elected drastically diminished, from around 1290 before the elections to only 138.
34. In addition, the delegation learned after its visit that the prosecutor requested, on the basis of the law on countering extremist activity, that the “*Mejlis*” (the permanent executive body of the “*Kurultay*” – the traditional Crimean Tatar assembly) be declared as an extremist organisation and be banned, which would undoubtedly have consequences for all *Mejlis* members, should this decision be taken by the Court (it should be noted that the Court has already postponed the procedure several times). Such a decision would indicate a new level of repression targeting this time the Crimean Tatar community as a whole.

35. One should bear in mind the importance of the “Mejlis” for the Crimean Tatar people, as underlined by many different sources; and therefore the risk that such a negative decision would further alienate the Crimean Tatar community, as well as the importance of maintaining traditional organs to ensure their representation.
36. Moreover, in the context of the current crisis, some of the most prominent members of the “Mejlis” left Crimea and have been charged and others such as Mr Chiygoz are detained, while others occupy important official positions in Crimea. Against this background, the growing tensions and divisions within the Crimean Tatar community are obvious.
37. The delegation also took note of the information (confirmed by both sides), on the creation and training of a paramilitary group in the Kherson region to the North of the Peninsula – “the Tatar battalion”, open both to Crimean Tatars and other Muslim volunteers. There is increasing fear within the Crimean Tatar community living in Crimea that, should this group be in the future involved in violent action against Crimea, this would fuel anti-Tatar sentiments, deepen the divisions within the community, and lead to the adoption of even more severe measures, in particular based on the law against extremism, limiting the exercise by Crimean Tatars of their rights. The situation is in any event very tense and could lead to serious security implications.
 - *Freedom of expression / media*
38. The delegation noted that Crimean Tatars are generally free to display flags and Crimean Tatar symbols in public. Public buildings visited by the delegation continue to carry inscriptions in Tatar alongside other official languages.
39. However, regarding the Crimean Tatar media, the delegation also took note of concerns about a reduction in media diversity, as illustrated by the case of “ATR TV.” An online daily newspaper (previously printed), continued to operate at the time of the visit.¹²
40. On 1 April 2015, private Crimean Tatar ATR TV was taken off the air along with the children’s TV channel “Lale” and radio station “Meydan”, all belonging to the same group.¹³ Whatever was the administrative process leading to the shutting down of ATR (the re-registration process seems to have played a role in this case), the delegation took in any event note of the attachment towards ATR TV and of the sense of loss and frustration caused by its shutting down – which can therefore be considered as having significantly reduced media diversity in Crimea. This sentiment of frustration was probably one the main reasons which led to the establishment of the new public Crimean Tatar TV “Millet TV” – re-hiring part of former ATR staff and which had just started operating at the time of the visit. It remains therefore to be seen whether “Millet” will be considered as a representative media outlet by the Crimean Tatar community.

¹² The Crimean Tatar newspaper “Advet” reportedly turned into an online newspaper only after it faced difficulties in the re-registration process. Reportedly, it also received warnings on the basis of the legislation against extremism.

¹³ Headed by Lenur Islamov, one of the main Crimean Tatar leaders now outside Crimea.

- *Other minorities*

41. The delegation had the opportunity to meet with representatives of most of other minorities living in Crimea (Armenians, Germans, Greeks, Italians, Jewish, Karaites, Krimchak) on various occasions – but it did not have the opportunity to meet with Roma representatives. They reported no deterioration in access to their rights but rather expectations that their situation may in fact improve (e.g. restitution of religious property to the Karaites, rehabilitation decree regarding the Crimean Italians). They deplored the effect of their current isolation on the possibility of travel and exchanges with countries of origin, including with respect to family reunion when part of a family lives abroad and/or with respect to possible financial support.

Recommendations:

- *To find a viable solution for access to the territory of Crimea to the competent Council of Europe structures, and other international institutions dealing with minority issues.*
- *The newly created public Crimean Tatar TV “Millet” programmes and approach should respond to the needs and expectations of the whole Crimean Tatar community, so as to be perceived as a representative channel, truly contributing to media diversity.*
- *To refrain from taking measures that may have a detrimental effect on the representation of the Crimean Tatar community, or have a directly or indirectly discriminatory effect.*
- *The procedure for regularisation of land of Crimean Tatars should be completed smoothly and all legal and practical obstacles should be overcome.*
- *To identify viable ways to facilitate contact between members of a minority and their country of origin.*

VII. Freedom of Religion

42. After the 2014 referendum, legal organisations of religious communities (as other legal entities) were required to re-register in order to continue exercising their organisational activities. Most representatives of religious communities, including those sitting in the Council of inter-ethnic and inter-confessional relations, indicated that re-registration did not cause major difficulties. However a sharp reduction in the number of registered religious organisations was noted – from over 1400 to a number variable between 250 and 400 according to the sources. Reportedly, many of them were not active.
43. Two Muslim holidays have now been recognised as public holidays in Crimea, and the construction of a central mosque in Simferopol has been announced. Representatives of smaller religious communities, such as the Karaites, welcomed recent efforts for the restitution of religious property and attention paid to the particular significance of religious buildings and monuments for their cultural and religious identity.
44. This notwithstanding, the delegation noted the particular attention of law enforcement authorities as regards Islam, particularly in connection with the application of the legislation against extremism. Reportedly, many of the religious organisations that have ceased to exist were Muslim organisations allegedly funded from abroad. The search for prohibited extremist

literature (as well as for weapons and proof of connections with extremist and terrorist groups) has been one of the main reasons given for repeated interventions of law enforcement authorities in mosques, madrassas and private homes of Muslims, in most cases Crimean Tatars. According to the Chief Mufti of Crimea and the Mufti of Sebastopol, this has led religious authorities to replace their religious literature with religious publications from Russia.

45. This issue should be considered also in light of the requirements under Article 9 of the Convention (freedom of thought, conscience and religion) as interpreted by the Court.
46. Ambassador Stoudmann met Archbishop Clement in Kyiv, representing the Ukrainian Orthodox Church of the Kyiv Patriarchate, who declared that there are 250 believers remaining in Crimea and complained about difficulties with regard to the full use and access to their administrative buildings in Simferopol.

Recommendations:

- *Favourable and secure conditions for the practice of all religions must be guaranteed.*

VIII. Freedom of expression and media freedom

47. During its visit, many interlocutors confirmed to the delegation the restrictive effect of the application of the new legislation (since March 2014) to media outlets and journalists in Crimea. There are also concerns that stricter requirements, interpretation of the legislative framework or administrative bias led to a reduction of media diversity. This impression of limited media diversity emerged clearly from a meeting of the delegation with local media representatives.

- *Freedom of expression*

48. The delegation took note of allegations of restrictions to freedom of expression under the argument of “extremist contents”, including through the monitoring of social media. Several interlocutors underlined the risk faced under the applicable law (e.g. the legislation against extremist and/or separatists statements) by activists and/or bloggers who express their objection to the March 2014 referendum and to its outcome. The same interlocutors insisted on the climate of intimidation by law enforcement officials, threats to individual journalists, and the practice of addressing warnings to individuals over the content they publish online, based on the legislation against extremism. These concerns were raised with the prosecutor. This issue should be looked at in light of the level of protection afforded by the Court to a pluralistic public debate, journalistic freedom and the protection of journalistic sources¹⁴. Any interference with freedom of expression under Article 10 of the Convention should comply with the requirements set in Article 10 §2 as interpreted by the Court.

¹⁴ See judgments *Castells* (App. No. 11798/85, 23 April 1992), *Roemen and Schmit* (App. No. 51772/99, 25 February 2003) and *Ernst & Others* (App. No. 33400/96, 15 July 2003).

- *Media freedom*

49. The delegation received information that, apart from ATR TV and its affiliated outlets (see under the “Crimean Tatars and other minorities”), most media outlets completed the re-registration process after March 2014.¹⁵ However, beside the Crimean Tatar media, it was also confirmed that several Ukrainian newspapers ceased their activities after March 2014, reportedly for financial and/or other reasons. There are indications however that a limited access to dedicated Ukrainian media is possible in some regions or through satellite TV. The situation regarding both Crimean Tatar and Ukrainian media confirms a reduction in media diversity after March 2014. In this context, the launch of a new Crimean Tatar media – “Millet TV” – should be considered as recognition of the needs and expectations of the Crimean Tatar community. Still, an in-depth analysis of the media situation would require more time and expertise on a case-by-case basis, looking in particular at the re-registration process.
50. Based on discussions with representatives of media and civil society, the delegation had an overall impression that local Crimean media are rather hesitant to dig into sensitive issues – political or not. Some civil society representatives shared the view that it is easier to attract the attention of media in Moscow than that of local media on issues of high sensitivity. In the same vein, some civil society representatives expressed concerns that access to air time with the local public TV/Radio company (e.g. for advocacy purposes) is rather limited in Crimea. Increased exchanges and contact of local journalists with international journalists could help in strengthening the role of local media as a “public watchdog”¹⁶.

Recommendations:

- *An easier access for foreign journalists to Crimea would be very important.*
- *Programmes and approach of the newly created public Crimean Tatar TV “Millet” should respond to the needs and expectations of the whole Crimean Tatar community, so as to be perceived as a representative channel, truly contributing to media diversity.*

IX. Freedom of association and assembly

51. Like other entities, Crimean NGOs had to re-register after March 2014. According to figures provided during the visit there would be 2,833 registered non-profit organisations in Crimea. Many are still in the process of re-registration, and 331 NGOs were denied registration in 2015. It was explained that the decrease in the numbers was partly due to the fact that the applicable legislation is particularly complicated and administratively demanding (as confirmed by NGOs met by the delegation, especially in order to comply with the “Foreign Agents” provisions), and partly to the fact that a large number of previously registered NGOs

¹⁵ According to local authorities, 207 medias that were already registered in Crimea prior to March 2014 successfully managed to re-register after March 2014.

¹⁶ According to the case-law of the European Court of Human Rights, the press performs a vital role of “public watchdog” in a democratic society. The Court has emphasised that “freedom of the press and other news media affords the public one of the best means of discovering and forming an opinion of the ideas and attitudes of political leaders.”

were reportedly not active. NGO representatives complained about the difficulty to maintain and/or develop contacts with their counterparts abroad due to communication and travel restrictions.

52. Based on preliminary information, the delegation is under the impression that the re-registration process had a shrinking effect on the Crimean civil society sector, and that the Crimean NGOs seem to be rather weak and still uncertain about how to operate under the current conditions. One of the meetings organised with NGOs – at the office of the Crimean ombudsman - left the delegation with serious doubts about the independence of many of them. At the same time, the delegation was told by re-registered associations and NGOs active in the social field (for instance supporting elderly people, people with disabilities, etc.) that they now have access to greater opportunities for public financial support for their activities.
53. The delegation also raised the issue of restrictions on freedom of assembly targeting opposition activists and/or Crimean Tatar groups¹⁷. It was reported that in the second half of 2015 alone around 1000 mass rallies took place, that 4 public areas in Simferopol are allocated for the holding of rallies, and that authorisations are granted in accordance with the applicable legislation. However, these figures do not allow for concerns to be eluded about arbitrary or politically-oriented decisions in the treatment of requests to hold rallies, and possibly in the related sanctions. The delegation notes in this context that it is essential that any interference with the right to association be in conformity with Article 11 para. 2 of the Convention (freedom of assembly and association) as interpreted by the Court.

Recommendations:

- *Registration of associations should be granted in a non-discriminatory manner and without unjustified obstacles.*
- *Authorisation of rallies and other public gatherings should be granted in a non-discriminatory manner and without unjustified obstacles.*
- *It would be important to identify viable ways of facilitating contacts between Crimean civil society actors and civil society actors from outside Crimea.*

¹⁷ For instance, the delegation heard allegations that rallies organised and/or attended by pro-Ukraine protesters usually lead to administrative sanctions. Law enforcement authorities are reportedly particularly zealous, notably when Ukrainian symbols are displayed.

X. Education

54. The question of the right to receive education in and of minority languages in Crimea had already been addressed by Council of Europe monitoring structures in the past¹⁸. As regards schooling in Crimean Tatar language, the delegation did not identify evident signs of a deterioration of the situation. Although some uncertainty on the provided figures persists,¹⁹ the delegation found that the number of classes providing teaching in Crimean Tatar may have diminished, but not to a significantly worrying extent, at least for the current academic year. The same is true as regards, for instance, newly trained teachers and the availability of textbooks which have been adapted and re-edited in Tatar language in 2015.
55. For schooling in Ukrainian language, the delegation can, on the contrary, confirm that the number of schools and classes providing teaching in Ukrainian language has sensibly diminished compared to 2013. This is, according to local authorities, the result of a free choice of parents who now prefer to pursue the education of children in Russian. It was not in a position to verify allegations about the inadequacy of information of parents, pressures not to choose Ukrainian or Crimean Tatar as schooling languages and unjustified refusals.
56. An important change in the legal framework is that Article 10 of the Constitution of the Republic of Crimea, adopted on 11 April 2014, recognises Crimean Tatar, Russian and Ukrainian as official languages. The delegation visited “model” schools where renovation had been recently carried out, and received concurrent information that investments are being carried out throughout Crimea to renovate and build new schools.

Recommendations:

- *To facilitate the full information of parents about possible choices for main languages of schooling.*

XI. Humanitarian issues

57. During the visit the humanitarian situation in Crimea was addressed by many interlocutors, in particular as a result of the blockade of the Peninsula. Several civil society interlocutors in Crimea indicated to the delegation that the situation had worsened for citizens as a result of the successive blockades (water, food and electricity). Based on preliminary findings, there are reasons to believe that these blockades had and/or still have a non-negligible impact on living

¹⁸ See in particular the concerns expressed in the Committee of Ministers Resolution CM/ResCMN(2013)8 on the implementation of the Framework Convention for the Protection of National Minorities by Ukraine, adopted on 18 December 2013, which recommended *inter alia* to “provide clear legal guarantees for the right to receive education in and of minority languages and regularly monitor their effective implementation; increase and diversify opportunities to study in minority languages at university level; increase efforts to provide minority language institutions with adequate supplies of quality textbooks and strengthen opportunities for the training of minority language teachers; adopt clear law provisions in order to ensure the use of minority languages for access to higher education”.

¹⁹ The delegation received information by local authorities that demand of classes providing teaching in Crimean Tatar is further decreasing, but the same local authorities also confirmed that this would not lead to the suppression of further schools or classes.

conditions in Crimea. The main concern in that regard is related to the “water blockade” (see below). The blockades notably had a negative impact on prices, and were depicted as a form of collective punishment. While the electricity blockade still has a negative impact, notably on hospitals (e.g. for new born babies or intensive care patients), allegations of victims directly linked to electricity shortages were not confirmed. The delegation also took note of concerns expressed by several interlocutors with regard to restrictions to freedom of movement along the crossing points, notably resulting from excessively tight crossing regulations imposed by both sides, and by the lack of adequate documentation.

- *Water blockade*

58. The Peninsula has experienced water shortages after the Ukrainian authorities decided, in May 2014, to shut off the supply of water from the Dnieper River via the North Crimean Canal. It was mentioned to the delegation that the water blockade had important negative effects on agricultural activities due to the lack of irrigation, in particular for rice culture. According to different sources, residents were also directly affected in their daily life by the reduction of water supply – which would still affect some areas. Moreover, it was reported to the delegation that alternative solutions – relying on artesian wells – may have contributed to a salinization of underground reserves, and ecological concerns were raised. The delegation is not in a position to draw any conclusion on the matter, which should be examined by experts.

Recommendations:

- *A technical assessment visit from international experts would clarify the impact of the water blockade.*