



ASSOCIATION OF REINTEGRATION
OF CRIMEA

France, Paris, 14 Avenue de l'Opera, 75001
Ukraine, Kyiv, 56 Kharkivske highroad, 02175
arcconstructionofcrimea@gmail.com

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To UN Special Rapporteur on the Negative Impact of the Unilateral Coercive Measures on the Enjoyment of Human Rights

**Sanctions as the Tool of the International Crimes Prevention:
Situation in the Crimea**

Submissions for Report

Borys Babin, DrHab, Prof., expert of ARC, +380639495556

Olexiy Plotnikov, Dr(PhD), expert of ARC, +380674870415

Andrii Chvaliuk, Dr(PhD), expert of ARC, +380953266061

Eduard Pleshko, Dr(PhD) expert of ARC

Andrii Klymenko, Black Sea Institute of Strategic Studies

Tetyana Guchakova, Black Sea Institute of Strategic Studies

The Association of Reintegration of Crimea¹, as a registered non-governmental organisation, herewith submits the following responses (submission) to the questionnaire of the UN Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights, for the Special Rapporteur's forthcoming annual thematic reports to be presented to the UN Human Rights Council at its 48th session in September 2021 and the UN General Assembly at its 76th session in October 2021, the deadline for which has been extended until 31 March 2021².

Our responses (submission) are devoted to the situation of sanction policy as a tool of international crimes prevention and of reaction on the systematic and brutal violation the human rights, rights of the indigenous peoples, minorities and other vulnerable groups in the Autonomous Republic of Crimea and city of Sevastopol (hereinafter – Crimea). The responses deal with the issues, identified by the Association in its work, namely the issue of intentional and organised Russia's repressive policy in the Crimea directly not in compliance with demands of the international humanitarian and human rights law.

The illegal occupation and attempted annexation of Crimea by Russian Federation (hereinafter – RF) since 2014 have been condemned in a series of international acts, including UN General Assembly resolutions 2014 68/262, 2016 71/205, 2017 72/190, 2018 73/263 2019 74/168, 2020 75/192, 2018 73/194, 2019 74/17, 2020 75/29³, resolutions of the OSCE Parliamentary Assembly, of the Parliamentary Assembly of the Council of Europe 1988 (2014), 2028 (2015), 2067 (2015), 2112 (2016), 2132 (2016),

¹ <https://arc.construction/>

² <https://www.ohchr.org/EN/Issues/UCM/Pages/SRCoerciveMeasures.aspx>

³ for example, <https://undocs.org/en/A/RES/73/263>

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2145 (2017), 2198 (2018), 2231 (2018) etc., of the European Parliament's resolutions 2014/2841 (RSP), 2014/2965 (RSP), 2016/2556 (RSP), 2016/2692 (RSP), 2017/2596 (RSP), 2017/2869 (RSP), 2018/2754 (RSP), 2018/2870 (RSP), 2019/2734 (RSP), 2019/2202 (INI) etc. Those acts paid special attention to the brutal violation by the RF the fundamental rights of the indigenous peoples and minorities in the Crimea, to the Russia's ongoing aggression against Ukraine, on committing by the RF's representatives the war crimes and crimes against humanity in the Ukraine's occupied territories.

Prosecutor of the International Criminal Court in her reports in 2019 and in 2020 pointed, that during the occupation the Crimea by Russia such international crimes allegedly were committed by Russia's authorized representatives on the peninsula, as brutal violations, reflected by the points 'i', 'ii', 'v', 'vi' and 'vii' of part 2 'a' and by the points viii, xiii and xxi of part 2 'b' of article 8 of the ICC Rome Statute⁴.

The attempted annexation the Crimea by Russia was never recognized by the international community. Human rights violations in the Crimea, including racial and other discrimination of the Crimean Tatars and ethnic Ukrainians now are the subject to consideration in international courts, including the International Court of Justice (case 166)⁵ and the European Court of Human Rights (case 20958/14 and others). European Court established in its Decision on 16 December 2020 that such administrative practices exist in the Crimea since 2014 – the enforced disappearances and lack of an effective investigation, the ill-treatment, the unlawful detentions, the illegal extending the RF's laws to Crimea, the unlawful automatic imposition of Russian citizenship, the arbitrary raids of private dwellings, the harassment and intimidation of religious leaders, arbitrary raids of places of worship and confiscation of religious property, the suppression of non-Russian media, prohibiting public gatherings and manifestations of support, as well as intimidation and arbitrary detention of organizers of demonstrations, the expropriation without compensation of property from civilians and private enterprises, the suppression of the Ukrainian language in schools and harassment of Ukrainian-speaking children, restricting the freedom of movement between Crimea and mainland Ukraine, discrimination the Crimean Tatars⁶.

Russia's intervention, aggression and attempted annexation of the Crimea were the grounds for the unilateral sanctions imposed by the Ukraine, by European Union and by some third states, including Japan, Switzerland, United States etc. U.S. sanctions over RF's aggression against Ukraine have been imposed by the four presidential decrees (executive orders): EO 13660 of 06 March 2014; EO 13661 of 16 March 2014; EO 13662 of 20 March 2014; EO 13685 of 19 December 2014. In the following years, new names were added to the U.S. sanctions lists, based on the decisions of the U.S. Department of the Treasury. The last update took place on 2020.

European sanctions have been imposed by the three EU Council regulations: № 269/2014 of 17 March 2014; № 692/2014 of 23 June 2014; № 833/2014 of 31 July 2014 with further regular amendments⁷. Ukrainian sanctions lists have appeared as National Security and Defense Council's decisions and they have been approved by

⁴ <https://www.icc-cpi.int/itemsDocuments/2020-PE/2020-pe-report-ukr-rus.pdf>

⁵ <https://www.icj-cij.org/public/files/case-related/166/166-20191108-JUD-01-00-EN.pdf>

⁶ <http://hudoc.echr.coe.int/eng?i=001-207622>

⁷ <https://www.blackseanews.net/en/read/163288>

decrees of the President since September 2015. The latest current sanctions decrees are: № 133/2017 of 15 May 2017; № 57/2018 of 06 March 2018; № 126/2018 of 14 May 2018; № 176/2018 of 21 June 2018; № 82/2019 of 19 March 2019; № 184/2020 of 14 May 2020; № 36/2021 of 29 January 2021; № 43/2021 of 2 February 2021; № 64/2021 of 19 February 2021; № 81/2021 of 27 February 2021; № 107/2021 of 19 March 2021; № 109/2021 of 23 March 2021⁸ etc.

Such unilateral sanctions are the effective tool of counteraction the Russia's illegal activities on and from peninsula. For example, punitive activities of RF's de-facto authorities and militarization of the Crimea are impossible without the financial and bank infrastructure. Before the occupation, Crimea had an extensive network of commercial banks' branches. The total of 67 banking institutions registered in mainland Ukraine had their branches on the peninsula, as well as 2 Crimea-registered banks. The RF after 2014 planned to use Ukrainian financial institutions to mitigate its problems of the "transition period". However, none of the Ukrainian banks with branches in Crimea consented to continue working in the occupied territory under the Russian legislation, so the Russia's banks tried to fill the void. Over the period of occupation, at different times, 34 Russian banks started operations in the Crimea. In addition, 2 local banks began operations under the RF's jurisdiction, bringing the total to 36. As of the beginning of 2020, 28 banks have had their licenses revoked. Out of these, 4 banks have already been liquidated, 24 are currently in bankruptcy proceedings. 2 Russian banks that left the Crimea after a brief attempt at work are still operating in the RF. As of 2020, only 6 Russian banks have remained on the peninsula and all of them are now under international sanctions. Due to those sanctions, the large Russian banks that used to operate in the Crimea before the occupation, namely "Sberbank", "Alfa-Bank" and "VTB" have since stopped operations there and do not intend to resume them⁹.

Also sanctions limit the real Russia's possibilities to militarize the Crimea. For example, "Zaliv" Shipyard, located in Kerch, in 2015-2020 missed deadlines for three off-shore maritime zone missile corvettes of the new "Project 22160" for the Russian Black Sea Fleet¹⁰. "Morye" Shipyard, located in Feodosia, missed deadlines for the production the "Karakurt" missile corvettes for this Russia's Fleet¹¹.

According to Russia's statistic, during the occupation, investment in fixed capital in the A.R. Crimea and Sevastopol has totaled \$ 8.6 billion and \$ 1.9 billion respectively. This was mainly the investment in the facilities under the so-called Federal Target Program "The Socio-Economic Development of the Republic of Crimea and Sevastopol until 2020". Almost 76 % of this Program's funds were spent on implementing megaprojects in the areas of transport (56.1 %), energy (10.5 %), engineering infrastructure and water supply (9 %). They were: the underwater power cable and gas pipeline, the road and railway bridges across the Kerch Strait; two power plants with notorious "Siemens" turbines in Sevastopol and Simferopol; the "Tavrida" motorway from Kerch to Sevastopol; the reconstruction of the airport in Simferopol and many smaller-scale projects. All those projects have direct and strong military impact.

⁸ <https://zakon.rada.gov.ua/laws/find/a?text=&textl=1&bool=and>

⁹ <https://www.blackseanews.net/en/read/163289>

¹⁰ <https://www.blackseanews.net/en/read/163311>

¹¹ <https://www.blackseanews.net/en/read/163310>

The budget activities listed under code 84.22 “Defense activities” are the main ingredient of this Russian mix of military defense and “social security”. Those Program’s funds, spending under code 84.22, include the expenses on administration, supervision, and operation of military defense affairs and land, sea, air and space defense forces such as: combat forces of army, navy, and air force, engineering, transport, communications, intelligence, material, personnel forces and commands, reserve and auxiliary forces of the defense establishment, military logistics (provision of equipment, supplies, structures, etc.), health activities for military personnel in the field.

The reason for Russia’s usage the Crimea as a militarized “island” is perhaps of its role as a world’s largest military base of global geopolitical importance with the latest weapons. The main Russia’s activities on peninsula are the production, repair, and maintenance of military equipment, housing construction for the Russian military, intelligence officers and officials. The civilian, military, industrial, logistical, and service infrastructure of the Crimea as “Russian island” were created in 2014-2020 mainly on the basis of “trophy” Ukrainian property. Its development and maintenance are funded by the RF’s government, by its “state budgetary investments” and by quasi-private companies; such activities are performed mainly by Russian companies, subject to sanctions¹².

Therefore, the “Crimean” sanctions regime must be adapted to the new situation. The goals of the updated sanctions regime should be:

- increased response to Russia’s ongoing attempted annexation of the Crimea, to new facts, trends, and processes that have emerged in the Crimea since 2014;
- prevention of the attempted annexation by Russia of the Sea of Azov and the Black Sea, which is taking place now with the usage of the military-political and geostrategic capabilities created by the RF in the Crimea;
- prevention of possible military operations of the RF from occupied Crimea in the direction of the Kherson Region by land to seize the North Crimean Canal and resume the supply of the Dnipro water to the Crimean peninsula;
- the prevention of possible aggressive actions of the RF in the direction of the Black Sea coast in the Odesa, Mykolaiv, and Kherson regions; as well as in the direction of the Ukrainian coast of the Sea of Azov;
- creating obstacles to the use by the RF the occupied Crimea as its industrial, scientific, service, and logistical base for further Russian military expansion¹³.

Responses to Questions

1. Ukraine applies sanctions to persons and companies directly related with ongoing Russian aggression, with violation the human, indigenous and minorities’ rights and with committing international crimes in the Crimea. Also Ukraine implements the sanctions, provided by the UN Security Council to the third countries.

2. Ukraine implements the UN Security Council’s sanctions by the decisions of Ukraine’s National Defense and Security Council adopted by the Presidents’ decrees (for example, there are decrees № 65/2021 and № 65/2021 of 19 February 2021, adopted regarding the Yemen¹⁴ and Mali¹⁵ issues).

¹² <https://www.blackseanews.net/en/read/163314>

¹³ <https://www.blackseanews.net/en/read/163357>

¹⁴ <https://zakon.rada.gov.ua/laws/show/65/2021#Text>

¹⁵ <https://zakon.rada.gov.ua/laws/show/67/2021#Text>

3. Sanctions in Ukraine are adopted by the National Defense and Security Council's decisions regarding the procedure, established by the Law of Ukraine, 2014 № 1644-VII. Kinds of sanctions are established by art. 4 of this Law, they include blocking of assets, restriction of trading activities, prevention of conclusion of the capitals out of limits of Ukraine, suspension of execution of economic and financial liabilities etc.¹⁶ Ukraine's sanctions are not the criminal or administrative punishment, they may be cancelled by lawsuit, applied to the Supreme Court against the relevant President's Decree.

4. Ukraine implements sanctions of the UN Security Council by the same procedure, established by the Law of Ukraine, 2014 № 1644-VII, as for the own sanctions.

5. Sanctions, adopted by the Ukraine's National Defense and Security Council regarding the procedure established by the Law № 1644-VII, may be applied against the foreign physical and legal persons out of Ukraine's jurisdiction, but they may be realized under Ukrainian jurisdiction only.

6. Ukrainian legislation does not establish the secondary sanctions.

7. Ukraine's authorities have reasonable and balanced external policy in the sanctions' framework. Ukraine asks other states to correlate their own Crimea-related sanctions with Ukrainian ones.

8. Ukraine's authorities view the persons and companies, directly related with ongoing Russian aggression, with violation the human, indigenous and minorities' rights and with committing international crimes in the Crimea as targets of unilateral sanctions. Absolute majority of sanctions' kinds have economic character, so they affect on rights to make business and to have property. Also some sanctions' tools limit the freedoms of movement and association (as ban to entry Ukraine or ban to create company in Ukraine).

Summary

The Association of Reintegration of Crimea believes that a special research on the sanctions policy in situations of armed conflicts, attempted annexation, committing international crimes of aggression, war crimes and crimes against humanity, as in happen now in the Crimea, done by the UN Special Rapporteur, may be a starting point for improvement of the situation. The Special Rapporteur's visit to Ukraine, including Crimea would contribute to collection of information, and would enable the Rapporteur to make a first-hand impression of the situation with unilateral coercive measures in the region.

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Representative of the Association of Reintegration of Crimea

Dr. Borys Babin



¹⁶ <https://zakon.rada.gov.ua/laws/show/1644-18#Text>