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To UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

**Durban Declaration and Contemporary Forms of Racism, Xenophobia and Racial Discrimination in the Crimea**

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Our Association of Reintegration of Crimea<sup>1</sup>, presents the following submission to the UN Special Rapporteur, for his forthcoming report to the General Assembly on the 20th anniversary of the Durban Declaration and Programme of Action. This submission is devoted to the issues of contemporary forms of racism, xenophobia and racial discrimination in the Crimean peninsula. Our submission reflects the situation of systematic human rights violation by Russia in the Crimea in the framework of Russia's policy of so-called "countering extremism and terrorism" and fuelling by Russia's de-facto "authorities" the contemporary forms of racial discrimination, xenophobia and related intolerance against ethnic Ukrainians and Crimean Tatars in the Crimea.

The illegal occupation and attempted annexation of Crimea by Russia since 2014 have been condemned in a set of international acts, including UN GA resolutions<sup>2</sup>, resolutions of the OSCE Parliamentary Assembly, of the Parliamentary Assembly of the Council of Europe, of the European Parliament's resolutions etc. Human rights violations in the Crimea are now subject to consideration in international courts, including the International Court of Justice (Case 166 Ukraine v. Russia)<sup>3</sup> and the European Court of Human Rights (Case 20958/14 and others).<sup>4</sup> In this Case 166 International Court researches exactly the issue of the violation the International Convention on the Elimination of All Forms of Racial Discrimination by Russian de-facto "authorities" in the Crimea.

In this Case 166 Ukraine requested the Court to adjudge and declare that the Russia has violated its conventional obligations by: systematically discriminating against and mistreating the Crimean Tatars and ethnic Ukrainian communities in Crimea, in furtherance of a State policy of cultural erasure of disfavoured groups perceived to be opponents of the occupation regime; suppressing the political and cultural expression of Crimean Tatar identity, including through the persecution of Crimean Tatar leaders and the ban on the Mejlis of the Crimean Tatar People; preventing Crimean Tatars and ethnic Ukrainians from gathering to celebrate and commemorate important cultural events; perpetrating and tolerating a campaign of disappearances and murders of Crimean Tatars; harassing the Crimean Tatar community with

<sup>1</sup> <https://arc.construction/>

<sup>2</sup> for example, <https://undocs.org/en/A/RES/73/263>

<sup>3</sup> <https://www.icj-cij.org/public/files/case-related/166/166-20191108-JUD-01-00-EN.pdf>

<sup>4</sup> <http://hudoc.echr.coe.int/eng?i=001-207622>



an arbitrary regime of searches and detention; silencing Crimean Tatar and ethnic Ukrainian media; suppressing Ukrainian language education and Crimean Tatar language education and the community's educational institutions.

International Court of Justice in its judgment on 9 November 2019 in Case 166 found that it has jurisdiction, on the basis of Article 22 of the International Convention on the Elimination of All Forms of Racial Discrimination, to entertain the claims made by Ukraine under this Convention, and that the Ukraine's application in relation to those claims is admissible<sup>5</sup>.

But Russia uses the mechanisms of "countering the extremism" and "countering the ideology of terrorism" to discriminate ethnic Ukrainians and Crimean Tatars. After the occupation of Crimea in 2014, Russia, in violation of the requirements of Article 64 of the Convention relative to the Protection of Civilian Persons in Time of War 1949, extended the action of its own criminal legislation and legislation on administrative offenses to the occupied territory. This legislation contains the pointed concepts of "countering the extremism" and "countering the ideology of terrorism".

The accusations of extremism are actively used by the Russia's "authorities" to persecute dissent, in particular Crimean Tatars and Ukrainians who oppose the occupation, belongs to the ethnic-related religious communities. The very existence of such a concept as "extremism" and "ideology of terrorism" in the criminal legislation of Russia and its usage by Russian punitive structures and "courts" in the Crimea to violate the rights of Crimean Tatars and Ukrainians on ethnic grounds are de-facto the modern form of racial discrimination, xenophobia and related intolerance as a part of Russia's official policy. More, this Russia's concept of "countering the extremism" does not exist in international criminal law and in the criminal law of democratic countries<sup>6</sup>.

The very broad concept of "extremism" and "ideology of terrorism" in the Russian criminal law, which allows for almost unlimited interpretation, cannot but lead to analogies with the notorious article 58 of the Soviet-time Stalinist criminal code. The term "counter-revolutionary activity" was replaced in Russia by the terms "extremist activity" and "ideology of terrorism", and the term "enemy of the working people" was replaced by "extremist". However, the ideology of the creators of these norms, aimed at ensuring unlimited state arbitrariness in relation to anyone whom the authorities may consider their enemy, remained unchanged.

As the xenophobia and racial discrimination are the part of Russian state policy in the invaded Crimea, Russia has no urgent need to support the "private" neo-Nazis and skinhead groups. But Russian punitive bodies since 2014 used actively the squads of "Crimean Self-Defence"<sup>7</sup> and "Crimean Cossacks" in the Crimea to threaten, to torture and to kill the activists who belong to Crimean Tatars and Ukrainians<sup>8</sup>. Now both those chauvinist and xenophobic structures of "Crimean Self-Defence" and "Crimean Cossacks" are directly supported by Russian "authorities" in the Crimea<sup>9,10</sup> and they became the part of punitive regime, created on the peninsula.

Russian de-facto "authorities" create the ground for the related incidents and manifestations against Crimean Tatars and Ukrainians, brutally violating the Russia's international human rights obligations, in particular article 4 of the International Convention on the Elimination of

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

<sup>6</sup> <https://arc.construction/16285>

<sup>7</sup> <https://arc.construction/6276?lang=ru>

<sup>8</sup> <https://arc.construction/13001?lang=ru>

<sup>9</sup> <https://arc.construction/15159?lang=ru>

<sup>10</sup> <https://arc.construction/4379?lang=ru>





Racial Discrimination. They broadcast the hate speech and incitement to violence based on racial superiority and hatred against ethnic Crimean Tatars and Ukrainians. The main topics of such hate speech are that allegedly “ethnic Ukrainians are nazists”, “ethnic Ukrainians are enemies of Russia and Russian Crimea”; “Crimean Tatars are nazi collaborators”; “Crimean Tatars are historic enemies of Russia”; “Crimean Tatar support terrorism and they are dangerous extremists”. Such hate speech is disseminated by the Russia-controlled bloggers, “officials” and media, such as “Krymskaya Pravda”<sup>11</sup> etc.

Article 14 of Durban Declaration recognizes that colonialism has led to racism, racial discrimination, xenophobia and related intolerance, and that indigenous peoples were victims of colonialism and continue to be victims of its consequences. This thesis directly apply to Crimean situation as Crimean Tatars and Ukrainians are the peoples who are victims of Russia’s colonialism and imperialism and Crimean Tatars are the indigenous people, recognised in such statute by the international community and by the Ukrainian state<sup>1213</sup>. Racial discrimination of Crimean Tatars as the indigenous peoples is a part of a modern Russian policy and a ground for myth on the allegedly “historically Russian Crimea”<sup>14</sup>

Article 15 of Durban Declaration recognizes that that genocide in terms of international law constitute crimes against humanity and are major sources and manifestations of racism, racial discrimination, xenophobia and related intolerance, and acknowledges the untold evil and suffering caused by these acts and affirm that wherever and whenever they occurred, they must be condemned and their recurrence prevented. This thesis directly apply to Crimean situation as exactly Ukrainians and Crimean Tatars become in XX century the victims of the genocides committed by the Russian Soviet authorities, as Holodomor of 1932-1933 against the Ukrainians and the Surgun (illegal deportation from the Crimea) of 1944-1967 against the Crimean Tatars. And modern Russia’s policy in the Crimea is the direct attempt to justify those genocides and to create the prerequisites for their repeated commission.

Article 20 of Durban Declaration recognizes that racism, racial discrimination, xenophobia and related intolerance are among the root causes of armed conflict and very often one of its consequences and recall that non-discrimination is a fundamental principle of international humanitarian law. This thesis directly apply to Crimean situation as the Russian chauvinist and discriminative policy against Ukrainians and Crimean Tatars is the main ground of the ongoing Russian-Ukrainian armed conflict, including the illegal occupation and the attempted annexation of the Crimea by Russia since 2014. Modern Russian authorities, making attempts to justify the Russia’s aggression against Ukraine, even refuse to recognise the existence of Ukrainians as a segregate people, distinct ethnic group<sup>15</sup>.

So our Association believes that a Special Rapporteur’s report on the 20th anniversary of the Durban Declaration will reflect the urgent duty to enforce the monitoring of the situation of gross and systematic violation the Declaration’s demands in the modern conditions. We believe that the Rapporteur’s visit to Ukraine, including Crimea, would contribute to collection of information, and would enable her to make a first-hand impression of the situation in the region.

7<sup>th</sup> August, 2021

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<sup>11</sup> <https://c-pravda.ru/>

<sup>12</sup> [https://www.ohchr.org/Documents/HRBodies/CEDAW/DGD24June2021/Oral\\_statements/Part1/31.DOC](https://www.ohchr.org/Documents/HRBodies/CEDAW/DGD24June2021/Oral_statements/Part1/31.DOC)

<sup>13</sup> <https://www.aa.com.tr/en/europe/ukraine-s-parliament-adopts-law-on-indigenous-peoples-2291885>

<sup>14</sup> [https://www.ohchr.org/Documents/Issues/IPeoples/SR/Urban-](https://www.ohchr.org/Documents/Issues/IPeoples/SR/Urban-areas_Submissions/Indigenous_Organisations_Civil_Society/association-of-reintegration-of-crimea.pdf)

[areas\\_Submissions/Indigenous\\_Organisations\\_Civil\\_Society/association-of-reintegration-of-crimea.pdf](https://www.ohchr.org/Documents/Issues/IPeoples/SR/Urban-areas_Submissions/Indigenous_Organisations_Civil_Society/association-of-reintegration-of-crimea.pdf)

<sup>15</sup> <https://www.atlanticcouncil.org/blogs/ukrainealert/putins-new-ukraine-essay-reflects-imperial-ambitions/>

