



## Enforced citizenship and human rights in Crimea Russia's mass naturalisation of Crimeans

### Information Note

Sergei Zayets, Lawyer and expert, Regional Centre for Human Rights and Sevastopol Human Rights Group

Prior to Russia's occupation of Crimea, there were no official legal ties whatsoever between Crimeans and the Russian Federation. These ties have arisen as a consequence of the decision taken by the Russian authorities to naturalise *'en masse'* Crimean residents.

The Russian Federation interfered in a crippling manner with the loyalty that existed between the local Crimean population and the centralised Ukrainian authorities, forcibly changing the personal identity of the peninsula's inhabitants. Such interference is arguably incompatible with the provisions of Article 8 of the European Convention on Human Rights.

The naturalisation of persons outside Russian sovereign territory *'en masse'* showed little, if any, respect for the wishes of individual citizens. The lack of a special status for inhabitants of the occupied territories, and the fact that they are treated as ordinary foreign nationals under *de facto* Russian jurisdiction, has made living in Crimea without a Russian passport difficult, if not virtually impossible.

### Background

At the beginning of 2014, Russia committed an act of aggression against a sovereign Ukraine and attempted to annex part of its territory – the Crimean peninsula. The period from 20 to 28 February 2014 must be regarded as the beginning of the active phase of these actions.<sup>1</sup>

The occupation took place under cover of the so-called 'green men' – armed men who wore no identifying insignia or uniform. Later, the Russian President Vladimir Putin admitted in a documentary ("Crimea: The Way Back to the Homeland") – that they were soldiers from the Russian Armed Forces.<sup>2</sup> According to numerous press reports, many of those who were involved in the occupation were awarded a medal "For the Return of Crimea", but there is no official list of recipients.<sup>3</sup>

On 27 February 2014, the Supreme Council of the Autonomous Republic of Crimea (ARC) (which at that time was under control of armed persons) called a Crimea-wide referendum.<sup>4</sup> The date of the referendum was initially set for the day on which presidential elections were due to be held in Ukraine – 25 May 2014, but was preponed to 30 March 2014, and eventually to 16 March 2014 when it actually took place. During this brief period, not only was no public discussion organized, but Ukrainian and Crimean Tatar activists were also unlawfully persecuted for their support of Crimean unity with Ukraine.<sup>5</sup>

There are no reliable figures regarding the results of the vote, and the public statements made by its organisers give contradictory information.<sup>6</sup> Nevertheless on 18 March 2014, (two days after the referendum),

---

<sup>1</sup> On 23 February 2014, Aleksei Chaly (a Russian citizen) was elected as a so-called 'people's mayor' during a meeting on Nakhimov Square in Sevastopol. After that, checkpoints were set up around the city. On 26 February 2014, a rally of pro-Russian and pro-Ukrainian forces (the latter included Crimean Tatars) took place outside the building of the Supreme Council of the Autonomous Republic of Crimea (ARC), which at that time had been seized by persons whose identities were unknown. However, the dates 20.02.14 – 18.03.14 are inscribed on the medal "For the Return of Crimea" which was introduced by way of Order No. 160 of the Russian Ministry of Defence of 21 March 2014. By way of a law of 15 September 2015, the Supreme Council of Ukraine clarified the date on which the occupation began: the occupation is officially regarded as having begun on 20 February 2014. <https://goo.gl/FfrMA5>

<sup>2</sup> Andrei Kondrashov: Film "Crimea: The Way Back to the Homeland" (2015). The film is subtitled in English. For involvement of Russian soldiers, see from 01:05:00 onwards. <https://goo.gl/iMU4Jy>

<sup>3</sup> Approximately 300 Russians have been awarded the medal "For the Return of Crimea".

<sup>4</sup> Decision of the Supreme Council of the Autonomous Republic of Crimea "On the holding of the Crimean referendum", <https://goo.gl/GN1T9c>

<sup>5</sup> See, for example, the report of the Office of the United Nations High Commissioner for Human Rights on the situation in Ukraine (April 2014), <https://goo.gl/SkzYxp>

<sup>6</sup> According to a statement made by Mikhail Malyshev, the so-called Chairman of the Committee of the Supreme Council of Crimea for the

the Agreement “On the acceptance into the Russian Federation of the Republic of Crimea and the creation of new constituent territories within the Russian Federation” (hereinafter “Agreement”) was signed.<sup>7</sup>

In its decision the very next day, the Constitutional Court of the Russian Federation recognised the Agreement as being compliant with the Russian Constitution (see below).<sup>8</sup>

The occupation was, and still is being, accompanied by numerous violations of human rights: freedom of movement; the right to own property; freedom of speech; freedom of religion; the right to a fair trial. At the same time, some of these violations are also international crimes: for example, displacing inhabitants of the occupied territory outside it; and conversely, moving civilians from the Russian Federation into the occupied territory, which significantly changes the demographic make-up of the peninsula. Inhabitants of occupied Crimea are now subject to conscription for the Russian military. Arbitrary imposition of Russian citizenship is a pre-requisite for all such actions.

### Relevant Russian legislation

On 21 March 2014, the Russian President signed a law on the ratification of the aforementioned Agreement and Federal Constitutional Law No. 6 “On the acceptance into the Russian Federation of the Republic of Crimea and the creation of new constituent territories within the Russian Federation – the Republic of Crimea and the city of federal importance of Sevastopol” (hereinafter – Law 6).<sup>9</sup>

Law No. 6 entered into force on 1 April 2014. Since then, its provisions have begun to be officially enforced by the occupying authorities in the Crimean peninsula. However, it should be pointed out that according to Article 1 of the Agreement, the so-called Republic of Crimea is regarded as having joined the Russian Federation on the date on which this agreement was signed, i.e. 18 March 2014.

According to Article 4 of Law No. 6, *“from the day on which the Republic of Crimea joins the Russian Federation and new constituent territories are formed within the Russian Federation, citizens of Ukraine and stateless persons who are permanently resident on this day on the territory of the ‘Crimean peninsula’ shall be recognized as citizens of the Russian Federation, with the exception of persons who, within one month after this day, declare that they wish to retain the different citizenship that they and/or their children who are minors have or to continue to be stateless persons”*.<sup>10</sup>

According to the Agreement, the ‘Republic of Crimea’ is regarded as having joined the Russian Federation on 18 March 2014.<sup>11</sup> The period for submitting declarations of intent with regard to the acquisition of Russian citizenship began from that date. It expired on 18 April. However, Russian Federal law officially began to apply to the territory of Crimea only from 1 April 2014 onwards. As a result of this, the overall time limit for submitting the aforementioned *de jure* and *de facto* declaration was also reduced to 18 days.

The amended Law “On citizenship of the Russian Federation” has been in force in the Russian Federation since 4 June 2014. According to Article 6 of this law, citizens of the Russian Federation (except those who are permanently resident outside the Russian Federation) who also hold another citizenship or a permit to reside in another country, must inform the local office of the Federal Migration Service of these circumstances in writing. Citizens of the Russian Federation who are permanently resident outside Russia must provide this information within thirty days after entering the Russian Federation. No exceptions were made for Crimeans who had Ukrainian citizenship at the time of the occupation, and these provisions became mandatory for them, effective from 1 January 2016. Failure to comply with these requirements is a criminal offence under Article 330.2 of the Criminal Code of the Russian Federation. Failure to comply with the time-limits for giving notice is an administrative offence.

---

organization of the Referendum, 1,250,426 people voted in Crimea. The city of Sevastopol is not included in this result. If the city of Sevastopol is included, 1,724,563 people voted. <https://goo.gl/aiyn4F>. According to this announcement, more than 474,000 people voted in the city of Sevastopol, whereas the city's total population (including those ineligible to vote, such as children) was just over 385,000 people.

<sup>7</sup> In accordance with Article 133 of the Constitution of Ukraine, two administrative units with equal status were created on the peninsula – the ARC and the city of Sevastopol. This set up dates from Ukraine's declaration of independence from the Soviet Union in 1991. Despite this, the referendum was also held within the city of Sevastopol. Terms for the city of Sevastopol were also tangentially included in the “Agreement”, <https://goo.gl/GgBGni>

<sup>8</sup> Decision No. 6 by the Constitutional Court of the Russian Federation of 19 March 2014, <https://goo.gl/CuNYc80n> 10 September 2015, at a conference of European constitutional courts in Batumi, the so-called Batumi Declaration was signed. It noted the key role played by the Constitutional Court of the Russian Federation in sanctioning the occupation and annexation of the Crimean peninsula.

<sup>9</sup> <https://goo.gl/xxzx1F>

<sup>10</sup> Law 6, *ibid.*

<sup>11</sup> <https://goo.gl/wqQrqA>

## The international perspective

Ukraine's territorial integrity is guaranteed by a whole range of agreements under international law, from the UN Charter to the Final Act of the Conference on Security and Cooperation in Europe.

In Resolution No. 3314 of the UN General Assembly of the United Nations of 14 December 1974, 'aggression' is defined as the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations.<sup>12</sup> Under the so-called Budapest Memorandum,<sup>13</sup> to which the Russian Federation is a party alongside Great Britain and the USA, the signatories undertook to respect the independence, sovereignty and existing borders of Ukraine, and pledged to refrain from threatening or using force against the territorial integrity or political independence of Ukraine. Signatories gave assurances that none of their weapons would ever be used against Ukraine, except for the purposes of self-defence or in any other manner in accordance with the UN Charter.<sup>14</sup>

In its Resolution No. 68/262 of 27 March 2014 on the "Territorial integrity of Ukraine", the UN General Assembly called upon all states, international organizations and specialist institutions not to recognise any alteration of the status of the ARC and the city of Sevastopol on the basis of the referendum of 16 March 2014, and to refrain from any action or dealing that might be interpreted as recognizing any such altered status.<sup>15</sup>

## International case law

In its Advisory Opinion OC-4/84 of 19 January 1984 on proposed amendments to the naturalization provision of the Constitution of Costa Rica, the Inter-American Court of Human Rights stated that the classic doctrinal position that citizenship is an attribute which is granted by the state has gradually evolved to the point where nationality is today perceived as involving the jurisdiction of the state as well as being a human rights issue (paras. 32, 33).<sup>16</sup>

In the case of *Ramadan v. Malta* (No. 76136/12) 21.06.2016, the ECtHR extended the application of the ECHR to matters of citizenship: *"The Court has previously stated that although the right to citizenship is not as such guaranteed by the Convention of its Protocols, it cannot be ruled out that an arbitrary denial of citizenship might in certain circumstances raise an issue under Article 8 of the Convention because of the impact of such a denial on the private life of the individual. The private life of an individual is a concept that is wide enough to embrace aspects of a person's social identity"* (para. 62).

---

<sup>12</sup> Resolution No. 3314 of the UN General Assembly, 14 December 1974, <https://goo.gl/noKoQT>

<sup>13</sup> Memorandum on Security Assurances in connection with Ukraine's accession to the Treaty on the Non-Proliferation of Nuclear Weapons of 5 December 1994, <https://goo.gl/AVeUgy>

<sup>14</sup> Memorandum on Security Assurances in connection with Ukraine's accession to the Treaty on the Non-Proliferation of Nuclear Weapons. <https://goo.gl/LxZGzo> [http://zakon2.rada.gov.ua/laws/show/998\\_158](http://zakon2.rada.gov.ua/laws/show/998_158)

<sup>15</sup> Resolution No. 68/262 of the General Assembly of the United Nations of 27 March 2014 "Territorial integrity of Ukraine", <https://goo.gl/5dm63J>

<sup>16</sup> <https://goo.gl/BsQzkw>