



ASSOCIATION OF REINTEGRATION
OF CRIMEA

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Special Rapporteur on the Independence of Judges and Lawyers

Independence of Lawyers and Ongoing Interstate Conflict Regarding the Crimea

In response to the call for submissions for report to the Human Rights Council (2022) will focus on protection of lawyers from undue interferences, the Association of Reintegration of Crimea has an honor to present the following input. Our Association is a non-government organization registered and operating in France and Ukraine. It brings together experts in the field of international law, human rights, transitional justice working on issues related to peaceful reintegration of the Crimea – a part of Ukraine occupied by Russia since 2014¹.

The illegal occupation and attempted annexation of Crimea by Russia since 2014 have been condemned in a set of international acts, including UN GA resolutions², resolutions of the OSCE Parliamentary Assembly, of the Parliamentary Assembly of the Council of Europe, of the European Parliament's resolutions etc. Gross human rights violations in the Crimea, including the rights to justice are now subject to consideration in international courts, including the International Court of Justice (case 166 Ukraine v. Russia)³ and the European Court of Human Rights (case 20958/14 and others).⁴

European Court established in its Decision on 16 December 2020 in case 20958/14 that such Russian de-facto "authorities" established in the Crimea administrative practices of extending application of Russian law to the Crimea with the result that as from 27 February 2014 the courts in the Crimea could not be considered to have been "established by law" within the meaning of Article 6 of the European Convention on Human Rights⁵.

Association gives such information for the questions, pointed by the Rapporteur:

1. Russian de-facto "authorities" established in the Crimea established the organizational and normative regime that makes lawyers impossible to exercise their professional activities in favor of their clients in a free and independent manner. All persons, allowed by such "authorities" to act as a "lawyer" has to do it in the "Russian legal framework" and under full control of the Russian special services and punitive bodies.

2. There are any mechanisms in the Crimea to prevent and/or punish interferences with the free and independent exercise of the legal profession. Russian de-facto "authorities" have no goal to establish the rule of law in Crimea, even the "rule of Russian law".

¹ <https://arc.construction/>

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

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

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

⁵ <http://hudoc.echr.coe.int/eng?i=001-207622>

3. Persons who wish to be a lawyer in the Crimea, have to get the “Russian citizenship” and to establish a confidential cooperation with Russian special services that is obligatory for such candidates.

4. “Association of Lawyers of Russia” as government-controlled structure of Russian lawyers, established illegally own branches in the Crimea⁶, but the effectiveness of their protection the lawyers is extremely small. As a fresh example the case of Edem Semedlyaev may be pointed who was “fined” and “arrested” in November, 2021 by the “Central District Court” in Simferopol just for attempts to help his clients from “Crimean Solidarity” in the political case⁷. All statements of the “association of lawyers”⁸ and some lawyers’ actions⁹ on this issue gave no practical result.

5. There is no available statistics how many lawyers were punished in the Crimea since 2014 as Russian de-facto “authorities” do not make it public.

6. The information of Russia’s intimidation, hindrance, harassment or improper interference to the lawyers’ activities in the Crimea is reflected in the annual reports of UN Secretary General 47/58¹⁰, 76/260¹¹ and periodic reports of UN Human Rights Monitoring Mission in Ukraine¹². But we want to draw attention of the Special Rapporteur to the example of the intimidation, hindrance, stigmatization and harassment, done both by the Russia and Ukraine against the lawyer, who concentrated his professional activities on the help to the victims of the attempted annexation of the Crimea, exactly – the expert of jur Association professor Borys Babin.

Dr. Babin since 2014 presented more than twenty Crimean individuals and legal entities in cases pending before the European Court of Human Rights. He published more than thirty expert and scientific publications regarding the human rights situation in the Crimea and make strong civil activities for making common attention to those issues, presented own reports on the UN and OSCE conferences. In 2015 Dr. Babin was appointed as the Agent of Government of Ukraine before the European Court of Human Rights¹³ and in 2017 he was appointed as the Permanent Representative of President of Ukraine in the Crimea¹⁴. Inter alia Dr. Babin participated in preparing the Ukraine’s legal position in the above-pointed interstate case 20958/14 before the European Court of Human Rights.

Russia-controlled media made some defamation publication against Dr. Babin, and in 2018 he was included to the Russia’s sanction lists established by the Russian Governments’ prescript 1656 on 25th December, 2018¹⁵. In 2021 Russian de-facto “authorities” in the Crimea accused Dr. Babin in the “terrorist attack, public appeals and justification of terrorist activities, organization of a terrorist community and participation in it, sabotage, ecocide, an act of international terrorism”¹⁶ just for his legal activities for help the victims of Russian attempted annexation of peninsula.

⁶ <http://eng.alrf.ru/bodies-of-the-association/regional-departments/>

⁷ <https://ovdinfo.org/express-news/2021/11/12/v-simferopole-arestovali-na-12-sutok-advokata-po-state-o-nepovinoventii>

⁸ <https://apr.k.fparf.ru/about/нормативные%20документы/Решение%20%20Совета%20АПРК,%20принятое%20по%20обращению%20адвоката%20Семедляева%20Э.С.,%20%20о%20защите%20профессиональных%20прав.pdf>

⁹ <https://crimea.suspilne.media/ru/news/6211>

¹⁰ https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_47_58_E.pdf

¹¹ https://reliefweb.int/sites/reliefweb.int/files/resources/A_76_260_E.pdf

¹² <https://www.ohchr.org/en/countries/enacaregion/pages/uaindex.aspx>

¹³ <https://www.kmu.gov.ua/npas/248263121>

¹⁴ <https://zakon.rada.gov.ua/laws/show/220/2017>

¹⁵ <http://static.government.ru/media/files/qSyVuMSGVf6rKgETIDIFSzvCgkRyvzfZt.pdf>

¹⁶ <https://www.kommersant.ru/doc/4799070>

Also Ukrainian authorities were responsible for some violations the labor rights of Dr. Babin during his public service and since 2017 the criminal proceeding 5201700000000361 is going against him, started by the National Anti-Corruption Bureau¹⁷, for the alleged unjustified payments for execution the decisions of the European Court of Human Rights, reflected in some media¹⁸¹⁹.

Some violations of the Dr. Babin's labor rights as a Permanent Representative of President were established by the Ukraine's Supreme Court (cases 420/7423/19²⁰, 420/603/20²¹ and 420/1736/20²²), but without adequate compensation; also Ukrainian courts refused to confirm the violations of the Dr. Babin's labor rights as an Agent of Government of Ukraine (case 420/2489/20²³). Civil proceedings that Dr. Babin started or participated to prove own good reputation last for years without any result (cases 910/22855/17²⁴ and 758/978/20²⁵) and in criminal proceeding 5201700000000361 Ukraine's High Anti-Corruption Court refused to arrest Dr. Babin in 2020²⁶ but also refused in 2021 to recognize the excessive lengths of the proceeding²⁷ pending and refused to confirm the established fact of the anti-Semitic actions of the prosecutors against Dr. Babin in that proceeding²⁸.

7. Our Association sends submissions to the bodies of the UN and Council of Europe, participates in the UN and OSCE events and makes systematic publications regarding the human rights situation in the Crimea including the right to justice. Our expert, Professor Borys Babin presented the report on the violation the human rights in the Crimea and the problems of relevant legal work in the World Law Congress 2021 in Barranquilla²⁹.

8. Russian de-facto "authorities" did not provide in the Crimea the measures because of the Covid-19 pandemic, affected the exercise of the independence of the legal profession or security of lawyers. Those issues are out of interests of such authorities.

9. Our Association believes that a special research on the protection and guarantees the free exercise of the legal profession in conditions of the armed conflicts and related "grey zones" like 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 the Crimea would contribute to collection of information, and would enable the Rapporteur to make a first-hand impression of the situation with the protection and guarantees the free exercise of the legal profession in the region of conflict.

6th December, 2021

Association of Reintegration of Crimea



¹⁷ <https://nabu.gov.ua/novyny/shistom-osobam-povidomleno-pro-pidozru-u-zavolodinni-54-mln-grn>

¹⁸ <https://kp.ua/politics/665854-eks-chynovnyk-uz-mynulista-v-snbo-poshel-na-sdelku-so-sledstvyem-rady-uslovnoho-sroka>

¹⁹ https://zn.ua/UKRAINE/logvinskiy-bernackaya-i-babin-podozrevayutsya-v-dele-zolotogo-mandarina-nabu-342896_.html

²⁰ <https://reyestr.court.gov.ua/Review/95010369>

²¹ <https://reyestr.court.gov.ua/Review/95653634>

²² <https://reyestr.court.gov.ua/Review/100439920>

²³ <https://reyestr.court.gov.ua/Review/96219457>

²⁴ <https://reyestr.court.gov.ua/Review/101555018>

²⁵ <https://reyestr.court.gov.ua/Review/87547436>

²⁶ <https://reyestr.court.gov.ua/Review/88230496>

²⁷ <https://reyestr.court.gov.ua/Review/94913267>

²⁸ <https://reyestr.court.gov.ua/Review/100905010>

²⁹ <https://barranquilla.worldlawcongress.com/program/>